

JOINT FUNDING AGREEMENT
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This Agreement (“this Agreement”), entered into by and between **Indiana Department of Natural Resources** (the “State”) and **United States Geological Survey** (the “Survey”), is executed pursuant to the terms and conditions set forth herein. The Survey is authorized to perform collaborative work and prosecute projects in cooperation with the State pursuant to 43 USC §36c, 43 USC §50 and receive payment in arrears from the State by 43 USC §50b. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Duties of Survey. The Survey shall provide the following tasks relative to this Agreement on a fixed price basis:

Task A:

Collect and analyze data at forty (40) streamgaging stations as listed below:

Station Number	Station Name
03274650	Whitewater River near Economy
03275600	EFK Whitewater River at Abington
03302220	Buck Creek near New Middletown
03302680	West Fork Blue River at Salem
03302849	Whiskey Run at Marengo (stage only)
03303300	Middle Fork Anderson R at Bristow
03324300	Salamonie River near Warren
03325519	Mississinewa River at Ridgeville
03328500	Eel River near Logansport
03329000	Wabash River at Logansport
03330241	Tippecanoe River at North Webster
03330500	Tippecanoe River at Oswego
03331500	Tippecanoe River near Ora
03335000	Wildcat Creek near Lafayette
03335500	Wabash River at Lafayette
03340800	Big Raccoon Creek near Fincastle
03342500	Busseron Creek near Carlisle
03347000	White River at Muncie
03353200	Eagle Creek at Zionsville
03353800	White Lick Creek at Mooresville
03361000	Big Blue River at Carthage (stage only)
03362000	Youngs Creek near Edinburgh
03363500	Flatrock River at St. Paul

03364000	East Fork White River at Columbus
03364500	Clifty Creek at Hartsville
03366500	Muscatatuck River near Deputy
03368000	Brush Creek near Nebraska
03376300	Patoka River at Winslow
03376500	Patoka River near Princeton
04093000	Deep River at Hobart
04094000	Little Calumet River at Porter
04099750	Pigeon River near Scott
04100222	NBR Elkhart River at Cosperville
04101000	St. Joseph River at Elkhart
04101370	Juday Creek near South Bend
04177720	Fish Creek at Hamilton
04181500	St. Marys River at Decatur
04182000	St. Marys River near Fort Wayne
04183000	Maumee River at New Haven
05522500	Iroquois River at Rensselaer

Task B:

Collect and analyze data at thirty-five (35) ground-water observation well stations listed below:

Station Number	Station Name
391627085534401	Bartholomew 4
402851087213501	Benton 4
400532086183901	Boone 17
403407086175701	Cass 3
392022085371801	Decatur 2
400541085213701	Delaware 4
413121085481301	Elkhart 4
405829086175801	Fulton 7
403836085374401	Grant 10
382323086044501	Harrison 8
382156085382401	Clark 20
405902087141501	Jasper 13
384949085251901	Jefferson 5
383247087361001	Knox 7
384951087202501	Knox 8
414318085200601	Lagrange 2

413559087270301	Lake 13
412350086512801	LaPorte 9
394632086092701	Marion 35
383659086545901	Martin 5
400247086482101	Montgomery 7
393423086161001	Morgan 4
410428087231501	Newton 8
413106085232701	Noble 9
393619087043001	Parke 6
380758087551001	Posey 3
410739086365201	Pulaski 7
401532085085301	Randolph 3
393943085490901	Shelby 2
402734087033402	Tippecanoe 18
380626087344401	Vanderburgh 7
392820087242601	Vigo 7
394426085080601	Wayne 6
404331085064701	Wells 4
410337085264201	Whitley 3

Task C:

Collect and analyze data at two (2) lake-level monitoring stations listed below:

Station Number	Station Name
04100180	Sylvan Lake at Rome City
04177700	Hamilton Lake in Hamilton

Task D:

Installation, operation, maintenance and performance of special investigations, including but not limited to, special instrumentation, rapid deployment gages, flood inundation mapping studies, flow frequency statistics (both flood and low-flow frequency), and periodic updating of StreamStats for Indiana.

2. Consideration. The Survey will be paid at the rate of \$320,437 for performing the duties set forth in Tasks A – C. The Survey will be paid for duties performed in Task D upon agreement of an investigation-specific budget and scope of services. Total remuneration under this Agreement shall not exceed \$1,000,000 annually.

In addition, the Survey will be responsible for providing Federal matching funds of no less than \$210,613 annually, with total Federal matching funds not to exceed fifty percent (50%) of the funding. The Survey, through the Federal Priority Streamgages Program

(FPS) will contribute funding of \$46,000 annually via direct federal allocation towards FPS stream gages supported in this agreement.

Payment of up to \$320,437 will be made in arrears, upon submittal of a quarterly invoice to the State.

3. Term. This Agreement shall be effective for a period of **five (5) years**. It shall commence on **September 1, 2018** and shall remain in effect through **August 31, 2023**

4. Access to Records. The Survey and its agents, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Agreement. They shall make such materials available at their respective offices at all reasonable times during this Agreement, and for three (3) years from the date of final payment under this Agreement, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested. The parties understand that USGS cannot be subject to a contingent liability or future obligation that would cause USGS to be in violation of the Anti-Deficiency Act.

5. Assignment; Successors. The Survey binds its successors and assignees to all the terms and conditions of this Agreement. The Survey shall not assign or subcontract the whole or any part of this Agreement without the State's prior written consent. The Survey may assign its right to receive payments to such third parties as the Survey may desire without the prior written consent of the State, provided that the Survey gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Agreement and shall not be made to more than one party.

6. Assignment of Antitrust Claims. - Deleted by Agreement of the Parties.

7. Audits. The Survey acknowledges that it may be required to submit to an audit of funds paid through this Agreement. Any such audit shall be conducted in accordance with IC §5-11-1, *et seq.*, and audit guidelines specified by the State to the extent consistent with federal guidelines. If the funds used to pay for the investigations that are the subject of this Agreement are subject to different or additional federal audit requirements, Survey shall comply with federal statutes, rules or guidelines as may be required by the particular circumstances. Cost incurred for the audit will be at the expense of the State. The parties understand that USGS cannot be subject to a contingent liability or future obligation that would cause USGS to be in violation of the Anti-Deficiency Act.

8. Authority to Bind Survey. - Deleted by Agreement of the Parties.

9. Changes in Work. The Survey shall not commence any additional work or change the scope of the work until authorized in writing by the State. No claim for additional compensation in the absence of a prior written approval and amendment executed by all

signatories hereto. This agreement may only be amended, supplemented or modified by a written document, executed in the same manner as this agreement.

10. Compliance with Laws.

- A. The Survey shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference to the extent that they are not inconsistent with federal statutes, federal law or federal regulations. The enactment of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Agreement shall be reviewed by the State and the Survey to determine whether the provisions of this Agreement require formal modification.
- B. The Survey and its employees shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC §4-2-6, *et seq.*, IC §4-2-7, *et seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27,2004. If the Survey is not familiar with these ethical requirements, the Survey should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <http://www.in.gov/ig/>. If the Survey or its employees violate any applicable ethical standards, the State may, in its sole discretion, terminate this Agreement immediately upon notice to the Survey.
- C. The Survey certifies by entering into this Agreement that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State. The Survey agrees that any payments currently due to the State may be withheld from payments due to the Survey. Additionally, further work or payments may be withheld, delayed, or denied and/or this Agreement suspended until the Survey is current in its payments and has submitted proof of such payment to the State.
- D. The Survey warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Survey agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other Agreement-related device issued pursuant to this Agreement.
- E. If a valid dispute exists the parties agree to resolve it in accordance with Paragraph 16 below. F. Any payments that the State may legally delay, withhold, deny, or apply under this section, due to a dispute, shall not be subject to penalty or interest (IC § 5-17-5).
- F. The Survey warrants that the Survey and its contractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, as well as

comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination and denial of further work with the State.

G. Deleted by agreement of both parties.

H. Consistent with IC §5-22-3-7:

(1) The Survey and any principals of the Survey certify that (A) the Survey, except for de minimis and nonsystematic violations, has not violated the terms of (i) IC 24-4.7 [Telephone Solicitation Of Consumers], (ii) IC §24-5-12 [Telephone Solicitations], or IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) the Survey will not violate the terms of IC 24-4.7 for the duration of the Agreement, even if IC 24-4.7 is preempted by federal law.

(2) The Survey and any principals of the Survey certify that an affiliate or principal of the Survey and any agent acting on behalf of the Survey or on behalf of an affiliate or principal of the Survey (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days; and (B) will not violate the terms of IC 24-4.7 for the duration of the Agreement.

11. Condition of Payment. All services provided by the Survey under this Agreement must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Agreement or performed in violation of any federal, state or local statute, ordinance, rule or regulation.

12. Confidentiality of State Information. The Survey understands and agrees that data, materials, and information disclosed to the Survey may contain confidential and protected information; therefore the Survey agrees to protect that data, material, and information gathered to the fullest extent possible under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. The Survey will notify the State of any FOIA requests. Through this mechanism the State will be able to evaluate on a case by case basis the scope of the request and submit any objections to disclosure. For a complete review of the Department of Interior's regulations regarding FOIA and notification of submitters, the State should refer to 43 C.F.R Part 2, Subpart B.; therefore, the Survey promises and assures that data, material, and information gathered, and disclosed to the Survey by the State for the purpose of this agreement, will not be disclosed to others or discussed with other parties without the prior written notification to the State.

13. Continuity of Services. Deleted by Agreement of the Parties.

14. Debarment and Suspension. Deleted by Agreement of the Parties.

15. Default by State. Deleted by Agreement of the Parties.

16. Disputes.

A. Should any disputes arise with respect to this Agreement, the Survey and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

B. The Survey agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Agreement that are not affected by the dispute. Should the Survey fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Survey as a result of such failure to proceed shall be borne by the Survey, and the Survey shall make no claim against the State for such costs.

If the State and the Survey cannot resolve a dispute within fifteen (15) working days following notification in writing by either party of the existence of a dispute, then the following procedure shall apply:

1. The parties agree to resolve such matters through submission of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Survey and the State within thirty (30) working days after presentation of such dispute for action. The Commissioner's decision shall be the final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within fifteen (15) working days after receipt of the Commissioner's decision, a written appeal. Within fifteen (15) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within fifteen (15) working days or resolution provided acceptable to both parties then the parties may mutually agree to submit the dispute to arbitration or mediation for a determination, or otherwise the dispute may be submitted to a court of competent jurisdiction in the State of Indiana.

2. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Survey of one or more invoices not in dispute in accordance with the terms of this Agreement will not be cause for Survey to terminate this Agreement, and the Survey may bring suit to collect these amounts without following the disputes procedure contained herein.

17. Drug-Free Workplace Certification. As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Survey hereby covenants

and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Survey will give written notice to the State within ten (10) days after receiving actual notice that the Survey, or an employee of the Survey in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Agreement and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Agreement is in excess of \$25,000.00, the Survey certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Survey's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Survey's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will: (1) abide by the terms of the statement; and (2) notify the Survey of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

18. Employment Eligibility Verification. As required by IC § 22-5-1.7, the Survey swears or affirms under the penalties of perjury that the Survey does not knowingly employ an unauthorized alien. The Survey further agrees that:

A. The Survey shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3. The Survey is not required to participate should the E-Verify program cease to exist. Additionally, the Survey is not required to participate if the Survey is self-employed and does not employ any employees.

B. The Survey shall not knowingly employ or contract with an unauthorized alien. The Survey shall not retain an employee or contract with a person that the Survey subsequently learns is an unauthorized alien.

C. The Survey shall require his/her/its subcontractors, who perform work under this Agreement, to certify to the Survey that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Survey agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if the Survey fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

19. Employment Option. Deleted by Agreement of the Parties.

20. Force Majeure. In the event that either party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a “Force Majeure Event”), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.

21. Funding Cancellation. When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Agreement, this Agreement shall be canceled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

Nothing herein contained shall be construed as binding the Survey to expend, in any one fiscal year, any sum in excess of appropriations made by Congress or administratively allocated for the purpose of this Agreement for the fiscal year, or to involve the Survey in

any agreement or other obligation for the further expenditure of money in excess of such appropriations or allocations.

22. Governing Law. This Agreement shall be construed in accordance with and governed by applicable federal and Indiana State law and suit, if any, must be brought in federal courts in the State of Indiana.

23. HIPAA Compliance. - Deleted by agreement of the parties.

24. Indemnification. - Deleted by agreement of the parties.

25. Independent Contractor; Workers' Compensation Insurance. Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or sub-contractors of the other party.

26. Information Technology Enterprise Architecture Requirements. Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or sub-contractors of the other party.

27. Insurance. - Deleted by Agreement of the Parties.

28. Key Person(s). - Deleted by Agreement of the Parties.

29. Licensing Standards. The Survey and its employees and contractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules, or regulations governing services to be provided by the Survey pursuant to this Agreement. The State shall not be required to pay the Survey for any investigations performed when the Survey, its employees or contractors are not in compliance with such applicable standards, laws, rules or regulations. If licensure, certification or accreditation expires or is revoked, or if disciplinary action is taken against an applicable licensure, certification or accreditation, the Survey shall notify the State immediately and take immediate steps to obtain appropriate licensure and/or provide suitable personnel. The State, at its option, may immediately terminate this Agreement.

30. Merger & Modification. This Agreement constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Agreement will be valid provisions of this Agreement. This

Agreement may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.

31. Minority and Women's Business Enterprises Compliance. The Survey agrees to comply fully with the provisions of 25 IAC 5 and the Survey's MBE/WBE participation plan.

32. Nondiscrimination Consistent with IC 22-9-1-10, and the Civil Rights Act of 1964, the Survey and its contractors agree that it shall not discriminate against any employee or applicant for employment in the performance of this Agreement. The Survey shall not discriminate with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

The Survey's execution of this Agreement also signifies compliance with applicable federal laws, regulations and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability, or status as a veteran.

The Survey understands that the State is a recipient of federal funds. Pursuant to that understanding, the Survey agrees that if the Survey employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the Survey will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The Survey shall comply with Section 202 of Executive Order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of this Agreement.

33. Notice to Parties. Whenever any notice, statement or other communication is required under this Agreement it shall be sent by first class mail or via an established courier/delivery service to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

Ryan Mueller
Director
402 W. Washington Street, Room W264
Indianapolis, IN 46204
rmueller@dnr.in.gov
317-232-4158

B. Notices to the Survey shall be sent to:

Michael Griffin
Director
Ohio-Kentucky-Indiana Water Science Center
5957 Lakeside Boulevard
Indianapolis, IN 46278
mgriffin@usgs.gov

As required by IC §4-13-2-14.8, payments to the Survey shall be made via electronic funds transfer in accordance with instructions filed by the Survey with the Indiana Auditor of State.

34. Order of Precedence; Incorporation by Reference - Deleted by Agreement of the Parties.

35. Ownership of Documents and Materials.

All documents, records, programs, data, film, tape, articles, memoranda, and other materials developed under this agreement will be the property in the public domain of Indiana and the United States. During the performance of the investigations, specified herein, the Survey shall be responsible for any loss or damage to these materials developed for or supplied by the State and used to develop or assist in the investigations provided herein, while they are in possession of the Survey and any loss or damage thereto shall be restored at the Survey's expense. The Survey's assumption of risk is limited to losses attributable to the negligent acts or omissions of Survey employees acting within the scope of their employment, under the terms of the Federal Tort Claims Act (28 U.S.C. 2671 et seq.). Full, immediate and unrestricted access to the data of the Survey during the term of this agreement shall be available to the State, specifically, the Survey will provide that access to the data as is required under Section 1, such as providing to the State those copies as would customarily be provided to interested parties in such a circumstance. The Survey shall have the right to use and publish the data collected in its investigations. The State understands that the Survey is under certain obligations to release the final product to the public simultaneously.

36. Payments.

- A. All payments shall be made thirty five (35) days in arrears in conformance with State fiscal policies and procedures and, consistent with IC §4-13-2-14.8, the direct deposit by electronic funds transfer to the financial institution designated by the Survey in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Agreement except as permitted by IC §4-13-2-20.
- B. The State Budget Agency and the Survey acknowledge that if the Survey is being paid in advance for the maintenance of equipment and / or software, based on IC §4-13-2-20(b)(14), Survey agrees that if it fails to perform the maintenance required under this Agreement, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

37. Penalties/Interest/Attorney's Fees. The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by controlling law between Federal law 31 USC 3717 and Indiana law, in part, IC §5-17-5, IC §34-54-8, IC §34-13-1 and IC § 34-52-2-3. If the Federal law is found controlling, invoices not paid within 60 days from date of bill will bear Interest, Penalties, and Administrative cost at the annual rate pursuant the Debt Collection Act of 1982, (codified at 31 U.S.C. § 3717) established by the U.S. Treasury.

Notwithstanding the provisions contained in IC §5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

38. Progress Reports. The Survey shall submit progress reports to the State upon request. The report shall be written, unless otherwise approved by the State. The progress reports shall serve the purpose of assuring the State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

39. Public Record. The Survey acknowledges that the State will not treat this Agreement as containing confidential information, and will post this Agreement on its website as required by Executive Order 05-07. Use by the public of the information contained in this Agreement shall not be considered an act of the State.

40. Renewal Option. This Agreement may be amended or renewed under the same terms and conditions, subject to the written approval by the USGS and the Commissioner of the Department of Administration and the State Budget Director (IC 5-22-17-4). The term of the renewed Agreement may not be longer than the term of the original Agreement.

41. Severability. The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Agreement.

42. Substantial Performance. This Agreement shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

43. Taxes. The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Survey as a result of this Agreement.

44. Termination for Convenience. This Agreement may be terminated, in whole or in part, by the State, which shall include and is not limited to IDOA and the State Budget

Agency whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Survey of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Survey shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The Survey shall be compensated for services herein provided but in no case shall total payment made to the Survey exceed the original Agreement price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date. For the purposes of this paragraph, the parties stipulate and agree that IDOA shall be deemed to be a party to this agreement with authority to terminate the same for convenience when such termination is determined by the Commissioner of IDOA to be in the best interests of the State. The Survey may also terminate this Agreement for convenience by providing written notice at least thirty (30) days prior to the termination effective date, specifying the extent to which it applies.

45. Termination for Default.

- A. With the provision of thirty (30) days' notice to the Survey, the State may terminate this Agreement in whole or in part if the Survey fails to:
 - 1. Correct or cure any breach of this Agreement; the time to correct or cure the breach may be extended beyond thirty (30) days if the State determines progress is being made and the extension is agreed to by the parties;
 - 2. Deliver the supplies or perform the services within the time specified in this Agreement or any extension;
 - 3. Make progress so as to endanger performance of this Agreement; or
 - 4. Perform any of the other provisions of this Agreement.

- B. If the State terminates this Agreement in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Survey will be liable to the State for any excess costs for those supplies or services. However, the Survey shall continue the work not terminated.

- C. The State shall pay the agreement price for completed supplies delivered and services accepted. The Survey and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

- D. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Agreement.

46. Travel. No expenses for travel will be reimbursed unless specifically permitted under the scope of services or consideration provisions. Expenditures made by the Survey for travel will be reimbursed at the current rate paid by the State and in accordance with the State Travel Policies and Procedures as specified in the current Financial Management Circular. Out-of-state travel requests must be reviewed by the State for availability of funds and for appropriateness per Circular guidelines.

47. Indiana Veteran’s Business Enterprise Compliance. - Deleted by Agreement of the Parties.

48. Waiver of Rights. No right conferred on either party under this Agreement shall be deemed waived, and no breach of this Agreement excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State’s review, approval or acceptance of, nor payment for, the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and the Survey shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Survey’s negligent performance of any of the services furnished under this Agreement.

49. Work Standards. The Survey shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards as set forth in its Agency Fundamental Scientific Practice. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Agreement, the State may request in writing the replacement of any or all such individuals, and the Survey shall grant such request.

50. State Boilerplate Affirmation Clause. I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State’s Boilerplate Agreement clauses (as contained in the *2016 OAG/ IDOA Professional Services Contract Manual*) in any way except for the following clauses which are named below: The term “Contractor” was replaced with the “Survey”, the term “Contract” was replaced with “Agreement.”

6. Assignment of Antitrust Claims. Deleted by Agreement of the Parties.

8. Authority to Bind Survey. Deleted by Agreement of the Parties.

10. Compliance with Laws, subparagraph “G” only – Deleted by Agreement of the Parties.

13. Continuity of Services. Deleted by Agreement of the Parties.

14. Debarment and Suspension. Deleted by Agreement of the Parties.

15. Default by State. Deleted by Agreement of the Parties.

19. Employment Option. Deleted by Agreement of the Parties.

23. HIPAA Compliance. - Deleted by agreement of the parties.

24. Indemnification. - Deleted by agreement of the parties.

44. Termination for Convenience – Modified to include termination by the Survey

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Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

Agreement to Use Electronic Signatures

I agree, and it is my intent, to sign this Contract by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Contract to the State of Indiana. I understand that my signing and submitting this Contract in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Contract and this affirmation. I understand and agree that by electronically signing and submitting this Contract in this fashion I am affirming to the truth of the information contained therein. I understand that this Contract will not become binding on the State until it has been approved by the Department of Administration, the State Budget Agency, and the Office of the Attorney General, which approvals will be posted on the Active Contracts Database:

https://hr.gmis.in.gov/psp/pa91prd/EMPLOYEE/EMPL/h/?tab=PAPP_GUEST

In Witness Whereof, the Contractor and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below agree to the terms thereof.

US DEPARTMENT OF INTERIOR

Indiana Department of Natural Resources

By: *Michael S. Griffin*

By: Greg Sorrels for Mike Smith

Title: Director

Title: Director

Date: 09/18/2018

Date: 9/19/2018

<p>Electronically Approved by: Department of Administration</p> <p>By: _____ (for) Lesley A. Crane, Commissioner <i>Refer to Electronic Approval History found after the final page of the Executed Contract for details.</i></p>	
<p>Electronically Approved by: State Budget Agency</p> <p>By: _____ (for) Jason D. Dudich, Director <i>Refer to Electronic Approval History found after the final page of the Executed Contract for details.</i></p>	<p>Electronically Approved as to Form and Legality: Office of the Attorney General</p> <p>By: _____ (for) Curtis T. Hill, Jr., Attorney General <i>Refer to Electronic Approval History found after the final page of the Executed Contract for details.</i></p>

Electronic Approval History

	User ID	Approver Name	Datetime	Description
1	J005987	Odaffer,Jeannette	09/21/2018 8:28:26AM	Agency Fiscal Approval
2	S004382	Redding,Sandra D	09/21/2018 1:32:43PM	IDOA Legal Approval
3	H320040	Dickson,Harry C	09/24/2018 1:48:42PM	SBA Approval
4	M338811	Skarbeck,Molly H	09/24/2018 2:00:33PM	Attorney General Approval
5	S210690	Gard,Susan W	09/24/2018 2:03:21PM	Attorney General Approval