



601 S. Third Street  
Terre Haute, IN 47807  
hwcengineering.com

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February 15, 2024

Mr. Josh Hawkins  
Town Superintendent  
Town of Jamestown  
PO Box 165  
Jamestown, IN 46147

Re: Engineering "On-Call" Services Agreement

Dear Josh,

As we have recently discussed, we have been assisting the Town over the last year at various times on some INDOT projects which required some coordination with Town utilities. While we have not billed for our time for these services provided, the current project on SR 75 appears as though a re-location of a sanitary sewer may be required which would require more time and effort on our part to assist you and the Town.

We have on-call agreements with many clients (cities and towns) to cover minor services like this that come up from time to time, particularly clients that don't have staff to complete the work required. Accordingly, I have prepared the attached on-call services agreement between the Town and HWC. The agreement allows for us to invoice for services provided to the Town on an hourly basis (plus expenses, typically mileage). We would only invoice if we were requested by designated Town representatives to complete services. As indicated, these services could be coordinating with INDOT, assisting with utility matters or regulatory issues, evaluating service to new developments or any other matters that might require our expertise. Keep in mind that you will only be billed if our services are requested and if desired, we can provide an estimate of time/cost for a task assignment in advance.

If acceptable, please return one signed copy of the attached agreement. If you or the Town Council have any questions or concerns, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Eric M. Smith".

Eric M. Smith, P.E.  
Vice President/Director Water Resources

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Attachment



INDIANAPOLIS | TERRE HAUTE | NEW ALBANY | LAFAYETTE | HAMMOND | MUNCIE | NORTH VERNON

HWC ENGINEERING  
135 N. Pennsylvania Street, Suite 2800  
Indianapolis, IN 46204  
(317) 347-3663  
(317) 347-3664 (fax)

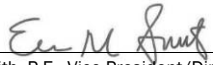
MEMORANDUM OF AGREEMENT FOR ENGINEERING SERVICES

Client: Town of Jamestown, Indiana  
Client Address: PO Box 165  
Jamestown, IN 46147  
Project Name: Town On-Call Engineering Services Retainer  
Project Number: 2024-055-S  
  
Services to be provided: General engineering consulting services for the Town of Jamestown (CLIENT) related to municipal utilities and infrastructure on an "as needed" basis as directed by designated Town representatives. Detailed Scope of Services included in Exhibit A.  
  
Schedule: Commencing February 1, 2024  
  
Fees: Hourly "As Needed Basis"  
2024 HWC Billing Rates included as Exhibit B

Invoicing/Payments: Billing is monthly unless otherwise noted. Payments are due within ~~30~~ 45 days of invoice receipt. The rates identified in this Agreement are subject to change each December 31<sup>st</sup> without notification or modification to this Agreement. If a maximum fee amount is indicated, this amount will not be exceeded without further authorization by the client. The terms and conditions under which we are providing these services are set forth on pages 2 - 3 and are incorporated herein by reference. Additional services requested or unusual problems or difficulties may necessitate a higher fee.

The above is intended as a summary of our agreement for the performance of the work described. Please examine same carefully and, if accurate, indicate your approval and acceptance in space provided below.

HWC ENGINEERING, INC.

Date: February 1, 2024 By:   
Printed Name & Title: Eric M. Smith, P.E., Vice-President/Director-Water Resources Division

CLIENT:

The undersigned hereby states that they are the person or duly authorized agent of the person or organization contracting for the above services for the above-described project and that the terms and conditions stated are understood and herewith agreed to and accepted. HWC Engineering, Inc. is hereby authorized to proceed with the services outlined herein.

Date: \_\_\_\_\_ By: \_\_\_\_\_  
Printed Name & Title: \_\_\_\_\_



## TERMS AND CONDITIONS

To assure an understanding of matters related to our mutual responsibilities these terms and conditions for professional engineering services are part of this agreement for our services.

**COMPENSATION FOR HWC'S SERVICES** - The basis for compensation will be as identified in the agreement. When "Lump Sum" payment is utilized it shall include all labor and expenses (for the scope of work as defined in the agreement) incurred by HWC and shall not exceed the fixed payment amount without prior authorization of the CLIENT. When hourly (no limit) and hourly not-to-exceed (NTE) is utilized, all labor and reimbursable expenses will be billed according to the rate schedule attached to this agreement.

"Reimbursable Expenses" means the actual expenses incurred directly or indirectly in connection with the work including but not limited to the following: Transportation and subsistence, toll telephone calls, facsimile transmissions, reproduction or printing, HWC's computer time, and outside aerial photographs or topography, testing, geotechnical, layout, inspection, and other outside consultants.

**TIME OF PAYMENT** - HWC may submit monthly statements for services and expenses based upon the proportion of the actual work completed at the time of billing. If the CLIENT fails to make any payment due HWC for services and expenses within ~~30~~ 45 days after receipt of HWC's invoice the amounts due HWC will be increased at the rate of 1.5% per month from the thirtieth day from invoicing. In addition, HWC may, after giving fourteen days written notice to CLIENT, suspend services under this Agreement until HWC has been paid in full all amounts due for services, expenses, and other related charges. In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

~~If the CLIENT fails to make payments when due and HWC incurs any costs in order to collect overdue sums from the CLIENT, the CLIENT agrees that all such collection costs incurred shall immediately become due and payable to HWC. Collection costs shall include, without limitation, legal fees, collection agency fees and expenses, court costs, collection bonds and reasonable HWC staff costs at standard billing rates for HWC's time spent in efforts to collect. This obligation of the CLIENT to pay HWC's collection costs shall survive the term of this Agreement or any earlier termination by either party. Notwithstanding any term or condition in this Agreement to the contrary, in the event litigation is commenced to enforce any term or condition of this Agreement, the prevailing party shall be entitled to costs and expenses of litigation including a reasonable attorney fee. The prevailing party shall be defined (1) as the party that is awarded net 51 percent of its affirmative claim, after any offsets for claims or counterclaims by the other party, and (2) as a defendant/respondent against whom a net award of 50 percent or less of a claimant's claim is granted.~~

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**INDEMNITIES** - HWC and the CLIENT each agree to indemnify and hold the other harmless, and their respective officers, employees, agents, and representatives from and against liability for all claims, losses, damages, and expenses, ~~including reasonable attorney fees~~, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors, or omissions.

In addition to the indemnity of this Agreement, and to the fullest extent permitted by law, CLIENT shall indemnify and hold harmless HWC, HWC's ~~Subconsultants and the~~ officers, directors, partners, employees of HWC, from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from the presence of asbestos, toxic materials, or any other hazardous, toxic or dangerous environmental condition, on or about the Project site (the "Site"), whether known or unknown to CLIENT, provided that nothing in this Article shall obligate CLIENT to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

The CLIENT agrees to extend any and all liability limitations and indemnifications for performance of services under this Agreement to, in and including, but not limited to HWC's officers and employees, their heirs and assigns. ~~and HWC's Subconsultant's their heirs and assigns.~~

**USE AND OWNERSHIP** - All reports, tables, figures, drawings, specifications, boring logs, field data, field notes, laboratory test data, calculations, estimates and other documents (hereinafter "Documents") prepared by HWC as instruments of service shall remain the property of HWC. The CLIENT shall be entitled to copies or reproducible sets of any of the Documents for information and reference in connection with use on the Project by CLIENT.

HWC will retain all pertinent records relating to the services performed for a period of five (5) years following performance of work, during which period the records will be made available to the CLIENT at all reasonable times for inspection or copying.

HWC agrees that the CLIENT is not required to use any plan, report, drawing, specifications, advice, map, document or study prepared by HWC and HWC waives all right of redress against the CLIENT if the CLIENT does not utilize same. Such Documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the Project or any other project. Any such reuse or modification without written verification or adaptation by HWC, as appropriate for the specific purpose intended, shall be at CLIENT's sole risk and without liability or legal exposure to HWC. CLIENT shall indemnify and hold harmless HWC from all claims, damages, losses and expenses, ~~including attorney's fees~~ arising out of or resulting there from.

CLIENT hereby acknowledges that due to the status of the Documents as instruments of professional service and the value associated therewith such designation, that HWC is entitled to enforce the prohibition against misuse of the Documents by CLIENT by obtaining an injunction to enjoin and restrain the unauthorized use of the Documents. Additionally, the improper utilization of the Documents hereunder shall be considered to be a breach of this Agreement and entitle HWC to all rights and remedies provided herein.

Any verification or adaptation of the Documents for extensions of the Project or for any other Project shall entitle HWC to further compensation at rates to be agreed upon by CLIENT and HWC.

**PROFESSIONAL RESPONSIBILITY** - HWC will exercise reasonable skill, care, and diligence in the performance of services and will carry out all responsibilities in accordance with customarily accepted professional engineering practices. Failure by the CLIENT to report any defect or suspected defect to HWC within ~~one-two (21) years~~ from the completion of HWC's services for the Project shall relieve HWC of the obligation to cure the defect or suspected defect or any costs associated with the efforts to cure the defect or suspected defect.



Neither the professional activities of HWC, nor the presence of HWC or its employees and sub-consultants at a construction/project site, shall relieve the construction professional or company contracted (hereinafter "CONTRACTOR") with the CLIENT to provide construction services of its obligations, duties and responsibilities, including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the work in accordance with the contract documents and any health or safety

precautions required by any regulatory agencies. HWC and its personnel have no authority to exercise any control over the CONTRACTOR or its employees in connection with their work or any health and safety programs or procedures. The CLIENT agrees that the CONTRACTOR shall be solely responsible for job site safety and warrants that this intent shall be carried out in the CLIENT's contract with the CONTRACTOR. The CLIENT also agrees that the CLIENT, HWC and HWC's sub-consultants shall be indemnified by the CONTRACTOR and shall be made additional insureds under the CONTRACTOR's policies of general liability insurance.

HWC shall not be required to sign any documents, no matter by whom requested, that would result in HWC having to certify, guarantee or warrant the existence of conditions whose existence HWC cannot ascertain. The CLIENT also agrees not to make resolution of any dispute with HWC or payment of any amount due to HWC in any way contingent upon HWC's signing any such certification.

HWC shall not be responsible for errors, omissions or deficiencies in the designs, drawings, specifications, reports or other services of the CLIENT or other consultants, including, without limitation, surveyors and geotechnical engineers, who have been retained separately by CLIENT. HWC shall have no liability for errors or deficiencies in its designs, drawings, specifications and other services that were caused, or contributed to, by errors or deficiencies (unless such errors, omissions or deficiencies were known or should have been known by HWC) in the designs, drawings, specifications and other services furnished by the CLIENT, or other consultants retained by the CLIENT. Additionally, HWC shall not be responsible for the use of the Documents by CLIENT, or consultants retained by the CLIENT, for any purposes other than in conjunction with the Project.

HWC's opinions of probable construction costs provided under this Agreement are to be made on the basis of HWC's experience and qualifications and represent HWC's best judgment as an experienced and qualified professional within the industry. However, since HWC has no control over the cost of labor (including but not limited to wage scales for public works projects), materials (or changes in materials requested by CLIENT), equipment or services furnished by others, changes in applicable laws (including, but not limited to, building codes, flood plain designation, etc.) or over the CONTRACTOR's methods of determining prices or over competitive bidding or market conditions, HWC cannot and does not guarantee that proposals, bids or actual construction cost will not vary from opinions of probable construction costs prepared by HWC.

**ABANDONMENT** - Services may be terminated by the CLIENT for any reason and by HWC by thirty (30) days' notice in the event of CLIENT's substantial failure to perform in accordance with the terms hereof by the other party through no fault of the terminating party. HWC so long as such nonperformance has not been caused by delays outside of the control of HWC CLIENT. If so abandoned, HWC shall deliver to the CLIENT copies of all data, reports, drawings, specifications and estimates completed or partially completed along with a summary of the progress of the work completed within twenty (20) days of the abandonment. In the event of the failure by HWC to make such delivery upon demand, then and in that event HWC shall pay to the CLIENT any damages sustained by reason thereof. The earned value of the work performed shall be based upon an estimate of the portions of the total services as have been rendered by HWC to the date of the abandonment for all services to be paid for on a lump sum basis. HWC shall be compensated for services properly rendered prior to the effective date of abandonment on all services to be paid on a cost basis or a cost plus fixed fee basis. The payment as made to HWC shall be paid as the final payment in CLIENT's full settlement and release for the services hereunder unless otherwise provided hereunder.

**INSURANCE** - HWC shall procure and maintain Professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, which shall be either: General Office Coverage or Project Specific Professional Liability Insurance, with a per occurrence limit of not less than \$2,000,000.00. The Professional Liability Insurance shall contain prior acts coverage sufficient to cover all Services performed by HWC, and Worker's Compensation, disability benefit, or any other similar employee benefit laws, including bodily injury, occupational sickness or disease of an employee; Commercial General Liability Insurance, with a per occurrence limit of not less than \$1,000,000.00; CLIENT shall be named as an additional insured. Additionally, HWC shall require its Subconsultants to maintain Commercial General Liability and Comprehensive Automobile Liability coverage equal to or greater than HWC. Subconsultants shall also name CLIENT as an additional insured.

CLIENT shall procure and maintain Commercial General Liability Insurance, with a per occurrence limit of not less than \$2,000,000.00; ~~shall cause HWC and HWC's Consultants to be listed as additional insured on any general liability or property insurance policies carried by CLIENT which are applicable to the Project; and shall require Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause HWC and HWC's Consultants to be listed as additional insured with respect to such liability and other insurance purchased and maintained by Contractor for the Project.~~

CLIENT and HWC shall each deliver to the other certificates of insurance evidencing the coverage indicated in this Agreement. Such certificates shall be furnished prior to commencement of HWC's services and at renewals thereafter during the life of the Agreement.

~~All policies of property insurance shall contain provisions to the effect that HWC's and HWC's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insured's or additional insured's there under.~~

**DISPUTES** - All claims or disputes of HWC and the CLIENT arising out of or relating to the Agreement, or the breach thereof after notice and a reasonable opportunity to cure, shall be first submitted to non-binding mediation. **Any and all applicable statutes of limitation whether contained herein or at law shall be tolled until the date upon which the HWC and CLIENT participate in said non-binding mediation.** If a claim or dispute is not resolved by mediation, the party making the claim or alleging a dispute shall have the right to institute any legal or equitable proceedings in a court located in Marion County, Indiana.

**AMENDMENTS** - This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and shall be deemed to supersede all prior and contemporaneous agreements, representations and understandings, whether written or oral, and the same shall be deemed to have been merged into this Agreement. No amendment or modification to this Agreement shall have any force or effect unless in writing and signed by both the CLIENT and HWC.

**NON-COLLUSION** - **The undersigned offeror or agent of HWC, being duly sworn on oath, says that he or she has not, nor has any other member,**

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representative, or agent of HWC, entered into any combination, collusion, or agreement with any person relative of the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

**NON-DISCRIMINATION** – Pursuant to Ind. Code § 22-9-1-10, HWC represents that it and its subcontractors shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to the employee's or applicant's hiring tenure, terms, conditions, or privileges of employment or any matter directly or indirectly relating to employment because of the employee's or applicant's race, color, creed, religion, ancestry, national origin, sex, disability, age, familial status, status with regard to public assistance, sexual orientation, and veteran status.

**COMPLIANCE WITH TITLE VI** – It is the intent and goal of CLIENT to ensure that all new construction within the corporate boundaries of CLIENT shall comply with all TITLE VI guidelines. HWC in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination In Federally assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes, issued pursuant to such Acts, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of religion, race, color, national origin, sex, sexual orientation, gender identity, age, disability/handicap, and low income in consideration for an award.

**COMPLIANCE WITH ACCESSIBILITY** - It is the intent and goal of the CLIENT to ensure that all new construction within the Town of Jamestown shall comply with all ADA and PROWAG guidelines.

For Facilities located within the Town of Jamestown, the 2010 ADA SAD standards shall be met for new construction and alterations for projects within the corporate boundaries of CLIENT.

Fair Housing Act (FHA) and Section 504 of the Rehabilitation Act, and The Architectural Barriers Act (ABA) standards and guidelines shall be followed.

Accessibility guidelines shall be met on all projects requiring compliance with the FHA, Section 504, or the ABA.

Projects found to not be in compliance with these standards and guidelines will be assessed fines, as follows:

\_\_\_\_\_ Non-compliant fee (\$250 per day), and a "Stop Work" order will be issued.

\_\_\_\_\_ If after (3) violations and (10) business days to correct non-compliance issues, your contract will be revoked.

E-VERIFY AND DEALING WITH THE GOVERNMENT OF IRAN AFFIDAVIT. HWC verifies compliance with E-Verify and the Dealing with the Government of Iran regulations required by Indiana Code Sections 22-5-1.7-11 and 5-22-16.5-11.

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EXHIBIT A

Scope of Services

Town of Jamestown  
On-Call Engineering Services Retainer  
Jamestown, Indiana

February 2024

HWC Engineering (HWC) shall provide general engineering consulting services to the Town of Jamestown (CLIENT) related to municipal utilities and infrastructure on an "as needed" basis as directed by designated Town representatives. Basic services include time and expenses including travel and meeting attendance time (if meeting regarding specific separately contracted projects are conducted simultaneously, travel time shall be billed to those projects and not to this retainer agreement). The fee for these basic services shall be billed on an hourly basis based on the hourly rates as shown in Exhibit B. If requested, HWC shall serve as CLIENT'S professional representative on an "as needed" basis and as defined and agreed to for work (based on time and billable rates shown in Exhibit "B") on an hourly basis per month. Larger individual projects when identified shall be defined and negotiated separately.

Each individual project excluded from the retainer agreement assigned to HWC by the CLIENT will require separate authorization by the CLIENT following negotiation with HWC and approval of a separate agreement. Said authorization by the CLIENT can be made verbally, but must be followed with a written agreement within thirty (30) days.

HWC may perform professional services as requested, including normal surveying, civil and other consulting services related to Town infrastructure, utilities and operations. Coordination with agencies affecting the Town's public works including INDOT are also included in services provided under this agreement including utility relocations. Services provided under the base monthly fee retainer or as extra services shall be identified and billed under the following tasks or additional tasks added at a later date as required:

- (01) General
- (02) Streets/Traffic
- (03) Water
- (04) Wastewater
- (05) Storm Water

HWC shall perform all professional services necessary to accomplish the work required to be performed under this Agreement, in accordance with this Agreement and applicable Local, State, and Federal requirements.

CLIENT shall make available all information and personnel pertinent to the services including previous reports, studies, drawings, and any other data relative to the performance of the request.



EXHIBIT "B"

Confidence in the built environment.  
135 N. Pennsylvania, Suite 2800  
Indianapolis, Indiana 46204  
[www.hwcengineering.com](http://www.hwcengineering.com)

**2024 Hourly Billing Rates**

| Position                  | Hourly Rate (\$) |
|---------------------------|------------------|
| Principal                 | 250.00           |
| Sr. Team Lead             | 230.00           |
| Sr. Project Manager       | 210.00           |
| Project Manager           | 180.00           |
| Sr. Project Engineer      | 175.00           |
| Project Engineer I        | 145.00           |
| Project Engineer II       | 125.00           |
| Sr. Designer/Technician   | 135.00           |
| Designer/Technician       | 110.00           |
| Project Coordinator       | 100.00           |
| Landscape Architect I     | 135.00           |
| Landscape Architect II    | 110.00           |
| Planner I                 | 135.00           |
| Planner II                | 110.00           |
| Project Surveyor I        | 140.00           |
| Project Surveyor II       | 120.00           |
| Survey Crew Lead I        | 125.00           |
| Survey Crew Lead II       | 100.00           |
| Survey Member I           | 90.00            |
| Survey Member II          | 75.00            |
| Clerical Support          | 80.00            |
| Inspection Manager        | 185.00           |
| Sr. Inspector             | 140.00           |
| Construction Inspector I  | 120.00           |
| Construction Inspector II | 110.00           |
| Intern                    | 60.00            |

REIMBURSABLE EXPENSES

- Direct Travel Expense - including mileage (the current rate allowed by the IRS), air fare, car rental, lodging, meals, large blueprint and copying runs, etc.
- Large format black and white prints at \$.40 per square foot.
- Plots at \$2.00 per square foot.
- Black and white copies at \$.10 per sheet.
- Color copies at \$.50 per sheet.
- USB's at \$25.00 each.
- Actual cost photographs and postage and other expenses.
- Expenses will be billed at cost plus a 10% administrative fee.
- Hours worked in excess of 8 hours per day or 40 hours per week will be billed at an overtime rate of 1.5 times the rates listed for non-exempt employees.

Indianapolis | Hammond | Lafayette | Muncie | New Albany | Terre Haute

[www.hwcengineering.com](http://www.hwcengineering.com)