

**AMENDMENT NO. 1**  
**TO AGREEMENT**  
**BETWEEN**  
**TOWN OF WHITELAND, INDIANA**  
**AND**  
**WESSLER ENGINEERING, INC.**  
**FOR**  
**WASTEWATER TREATMENT PLANT UV REPLACEMENT PROJECT**

THIS AMENDMENT NO. 1 to existing AGREEMENT, entered into by and between the Town of Whiteland, 549 N. Main Street, Whiteland, IN 46184 (hereinafter named OWNER) and Wessler Engineering, Inc., 6219 S. East Street, Indianapolis, IN 46227 (hereinafter named ENGINEER) executed on January 5, 2023:

OWNER and ENGINEER hereto mutually covenant and agree as follows:

**ARTICLE I**  
**SCOPE OF SERVICES**  
**SHALL BE AMENDED AS FOLLOWS:**

ADD the paragraphs C and D to Article I as follows:

C. UV Replacement - Construction Administration and RPR Phase

Upon successful completion of the Quote Phase for the PROJECT, and upon written authorization from OWNER, ENGINEER shall begin Construction Administration Phase services upon issuance of a Notice-to-Proceed to the successful Contractor.

1. Conform Contract Documents. Prepare conformed contract documents of the Project Manual and Drawings to incorporate addendum items and other changes made during the Quote Phase. Conformed documents shall be issued to all parties for use during the Construction Phase.
2. General Administration of Construction Contract. Consult with OWNER and act as OWNER's representative as provided in the General Conditions. The extent and limitations of the duties, responsibilities, and authority of ENGINEER as assigned in

- the General Conditions shall not be modified, except as ENGINEER may otherwise agree in writing. All of OWNER's instructions to Contractor will be issued through ENGINEER, which shall have authority to act on behalf of OWNER in dealings with Contractor to the extent provided in this Agreement and the General Conditions except as otherwise provided in writing.
3. Pre-Construction Conference. Participate in a Pre-Construction Conference prior to commencement of Work at the Site.
  4. Schedules. Receive, review, and determine the acceptability of schedules that Contractor is required to submit to ENGINEER, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
  5. Baselines and Benchmarks. As appropriate, provide information on baselines and benchmarks for locating the Work which in ENGINEER's judgment are necessary to enable Contractor to proceed.
  6. Visits to Site and Observation of Construction. In connection with observations of Contractor's Work while it is in progress:
  7. Make visits to the Site at intervals appropriate to the various stages of construction, as ENGINEER deems necessary, to observe as an experienced and qualified design professional the progress and quality of Contractor's executed Work. Such visits and observations by ENGINEER, and the Resident Project Representative are not intended to be exhaustive or to extend to every aspect of Contractor's Work in progress or to involve detailed inspections of Contractor's Work in progress beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on ENGINEER's exercise of professional judgment as assisted by the Resident Project Representative. Based on information obtained during such visits and observations, ENGINEER will determine in general if the Work is proceeding in accordance with the Contract Documents, and ENGINEER shall keep OWNER informed of the progress of the Work.
  8. The purpose of ENGINEER's visits to, and representation by the Resident Project Representative at the Site, will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by the exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. ENGINEER shall not, during such visits or as a result of such observations of Contractor's Work in progress, supervise, direct, or have control over Contractor's Work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety on the Site, for safety precautions and

- programs incident to Contractor's Work, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
9. ENGINEER will provide the services of a part time (up to 16 hours per week, for a total of 128 hours) Resident Project Representative (RPR) at the project site to assist ENGINEER and to provide observation of Contractor's Work. Duties, responsibilities, and authority of the RPR are as set forth in Attachment No. 3 to this Agreement. The furnishing of such RPR services will not limit, extend, or modify ENGINEER's responsibilities or authority except as expressly set forth in Attachment No. 3 to this Agreement.
  10. ENGINEER does not have or assume any obligation for safety of any CONTRACTOR personnel. Any notifications of potential or perceived safety concerns are exclusively for the benefit of the OWNER and in support of the OWNER's interest in avoiding injuries on its property.
  11. Defective Work. Recommend to OWNER that Contractor's Work be rejected while it is in progress if, on the basis of ENGINEER's observations, ENGINEER believes that such Work will not produce a completed Project that conforms generally to the Contract Documents or that it will threaten the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.
  12. Clarifications and Interpretations; Field Transmittal Memorandums. Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. ENGINEER may issue Field Transmittal Memo's (FTM's) authorizing minor variations in the Work from the requirements of the Contract Documents.
  13. Change Orders and Work Change Directives. Recommend Change Orders and Work Change Directives to OWNER, as appropriate, and prepare Change Orders and Work Change Directives as required.
  14. Shop Drawings and Samples. Review and take appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and actions will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. ENGINEER shall meet any Contractor's submittal schedule that ENGINEER has accepted.
  15. Substitutes and "or-equal." Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of the Contract Documents.

16. Inspections and Tests. Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. ENGINEER's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. ENGINEER shall be entitled to rely on the results of such tests.
17. Disagreements between OWNER and Contractor. Render formal written decisions on all duly submitted issues relating to the acceptability of Contractor's Work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Contractor's Work. Review each duly submitted Claim by OWNER or Contractor, and in writing either deny such Claim in whole or in part, approve such Claim, or decline to resolve such Claim if ENGINEER in its discretion concludes that to do so would be inappropriate. In rendering such decisions, ENGINEER shall be fair and not show partiality to OWNER or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
18. Applications for Payment. Based on ENGINEER's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
19. Determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to OWNER, based on such observations and review, that, to the best of ENGINEER's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the quality of such Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of subsequent tests called for in the Contract Documents, and to other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe Contractor's Work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to subsequent adjustments allowed by the Contract Documents).
20. By recommending payment, ENGINEER shall not thereby be deemed to have represented that observations made by ENGINEER to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. Neither ENGINEER's review of Contractor's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment including final payment will impose on ENGINEER

- responsibility to supervise, direct, or control Contractor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, materials, or equipment has passed to Owner free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.
21. Contractor's Completion Documents. Receive, review, and transmit to OWNER maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as provided under *Paragraph I.E.10*, and the annotated record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. The extent of such review by ENGINEER will be limited as provided in *Paragraph F.10*.
  22. Substantial Completion. Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with OWNER and Contractor, conduct an inspection to determine if the Work is substantially complete. If after considering any objections of OWNER, ENGINEER considers the Work substantially complete, ENGINEER shall deliver a certificate of Substantial Completion to OWNER and Contractor.
  23. Final Notice of Acceptability of the Work. Conduct a final inspection to determine if the completed Work of Contractor is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, ENGINEER shall also provide a notice that the Work is acceptable (subject to the provisions of *Paragraph F.14.b*) to the best of ENGINEER's knowledge, information, and belief and based on the extent of the services provided by ENGINEER under this Agreement.
  24. Closeout Documentation: Obtain from the Contractor the warranty certification, releases, waiver of liens, and other closing documents as required by the Contract Documents. Review and submit the documents to the OWNER for the OWNER's permanent file and record.
  25. Duration of Construction Phase. The Construction Phase will commence with the execution of the first construction Contract for the Project or any part thereof and will terminate upon written recommendation by ENGINEER for final payment to Contractors. If the Project involves more than one prime contract, Construction Phase services may be rendered at different times in respect to the separate contracts. ENGINEER shall be entitled to an equitable increase in compensation if Construction

Phase services are required after the original date for final completion of the Work as set forth in the construction Contract.

26. Limitation of Responsibilities. ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any subcontractors, suppliers, or other individuals or entities performing or furnishing any of the Work. ENGINEER shall not be responsible for the failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.
27. Record Drawings. Prepare Record Drawings involving revisions to the CAD and Revit drawings issued for quoting to show significant changes to the Work made during construction based on marked-up prints, drawings, and other data furnished by the Contractor. Record Drawing deliverables shall include 2 sets of prints and (1) CD in pdf format.

ENGINEER's services under the Construction Administration Phase will be considered complete upon issuance of ENGINEER's recommendation for final acceptance and payment to Contractor and when the record drawings have been delivered to OWNER.

D. Preliminary Engineering Report – WWTP Expansion and Collection System Improvements

1. WWTP Expansion Evaluation

- a. Obtain and review readily available flow and operations data for the past three (3) years to determine actual average and peak flows and organic loadings to the WWTP. Estimate future design flows to determine future design organic loading and hydraulic capacities anticipated over a 20-year design life, including potential flows from known or anticipated future development within the Town's Service Area.
- b. Review applicable previous engineering drawings, specifications, shop drawings, O&M manuals, IDEM Construction Permit and Design Summary, NPDES Permit and other available information related to the existing WWTP facilities. These items shall be furnished by the Owner.
- c. Request a Wasteload Allocation from IDEM for preliminary NPDES limits based on anticipated future design flows.
- d. Compare the design criteria for existing plant processes and equipment to Ten States Standards and other published design criteria to determine excess capacity in the various processes and equipment.
- e. Develop a hydraulic profile for the WWTP and compare to existing design. Determine if or where hydraulic bottlenecks are present and excess capacity exists to increase the design peak flow.
- f. Attend up to two (2) review meetings with the Owner's staff to review the status of the evaluation and obtain Owner review and feedback on processes and

equipment considered for increasing capacity. Attend one (1) meeting with IDEM to discuss the potential plant re-rating and capacity increase.

- g. Provide an engineering evaluation for improvements to the existing WWTP to determine future process expansion and additional equipment and/or property needed to meet the anticipated NPDES permit limits, future design flows, and current standards, to include the following:
    - 1) Two (2) scenarios for overall WWTP expansion
    - 2) Include new facilities for phosphorus removal to meet the anticipated NPDES permit limit, and evaluate biological phosphorus removal as an option;
    - 3) Evaluate existing unit processes for capacity and future expansion
    - 4) Upgrade of non-potable water system
  - h. Prepare opinions of construction cost for the wastewater treatment alternatives evaluated.
2. Collection System Evaluation
- a. Obtain and review:
    - 1) The collection system hydraulic model in EPA SWMM4.2 format from the Town.
    - 2) The collection system GIS layers developed as part of and presented in the Sanitary Sewer Master Plan.
  - b. Convert the EPA SWMM4.2 model to XPSWMM format.
  - c. Meet with the Town to determine upcoming development flows. Update model with anticipated flows from current planned developments and any interceptor improvements made since the Sanitary Sewer Master Plan.
  - d. Using the existing model, evaluate:
    - 1) Interceptor and/or force main extension needed to accommodate planned flows from the Saddlebrook Lift Station. Evaluate lift station hydraulics in the case of force main extension. Flow rates from the lift station will be provided by the Developer/Town.
    - 2) Interceptor and/or force main extension needed to accommodate planned flows from the Interstate Lift Station. Evaluate lift station hydraulics in the case of force main extension. Flow rates from the lift station will be provided by the Developer/Town.
    - 3) Eliminating the Canary Ditch WWTP proposed in the Town's Sanitary Sewer Master Plan and rerouting to the Town's existing WWTP. Evaluate interceptor improvements needed to accommodate this additional service area.
    - 4) Evaluate the Chad Lo Relief Sewer proposed in Phase 1 of the Sanitary Sewer Master Plan based on current development plans.
    - 5) Evaluate whether current development in the Briar Creek area necessitates lift station/interceptor improvements proposed in Phase 2 of the Sanitary Sewer Master Plan.
    - 6) Capacity of interceptor into WWTP.

- e. Provide an engineering evaluation for improvements to the collection system in the areas noted above to meet the anticipated future design flows, and current standards.
3. Preliminary Engineering Report (PER)
- a. After completing the wastewater treatment plant and collection system evaluations, summarize the results of the investigations, engineering evaluations, recommendations, schedule, and cost estimates in a Preliminary Engineering Report (PER). The PER will be prepared in a format acceptable to the Indiana Finance Authority (IFA) State Revolving Fund (SRF) loan program.
  - b. The PER will include the following:
    - 1) General characteristics of the wastewater/collection system service areas including location and background information, population trends, and projections of future needs for a 20-year planning period.
    - 2) Description of current wastewater/collection system facilities gathered from previous reports/studies and from calculations made during the evaluation phase, including:
      - a) the physical condition of facilities,
      - b) existing capacities of the system components,
      - c) identification of known overflow issues within the service areas,
      - d) demands placed on the facilities (both existing and future needs),
      - e) health and safety concerns,
      - f) operation and maintenance issues, and
      - g) corresponding deficiencies in the system documenting the need for improvements and rehabilitation.
    - 3) Development and evaluation of feasible capital improvement alternatives to address the identified needs. Include for each feasible alternative:
      - a) a description of the proposed improvements and facilities,
      - b) design criteria,
      - c) land and easement requirements,
      - d) conceptual layout,
      - e) probable construction and non-construction costs, and
      - f) advantages and disadvantages.
    - 4) After reviewing identified problems and evaluation of alternatives with OWNER, and addressing OWNER's comments, prepare conclusions and recommendation of improvements to the system.
    - 5) Description of recommended improvements prioritized based upon OWNER input, as well as constructability factors such as bypass flow management requirements, potential for supplementary roadway and drainage improvements, and impacts of the method of construction, including open cut versus trenchless methods of installation; evaluation of project routes and site



layout to minimize cost and environmental impacts; and an evaluation of the environmental impacts of the alternatives.

- 6) Evaluation of the environmental impacts of the recommended improvements, including historic preservation, the need for an archaeological reconnaissance by a certified archaeological firm, farmland conversion impact rating, wetlands and 100-year floodplain maps, and construction concerns. The Environmental chapter will follow the SRF guidelines. It is understood that the Grant Administrator hired by OWNER will perform the Environmental Review as required by OCRA.
  - 7) Identification of potential regulatory and permitting requirements.
  - 8) Conceptual layouts and preliminary cost estimates of the recommended improvements. Preliminary cost estimates will include construction, land and right-of-way acquisition, legal counsel, engineering, financial consultant, contingencies, and other costs associated with the proposed improvements.
  - 9) Prioritized list and implementation schedule for short-term and long-term recommended improvements.
  - 10) Supporting documentation including exhibits, tables, maps, photos, records, etc.
  - 11) Color-coded system maps.
  - 12) Identification of capital project financing options (e.g. OCRA, Rural Development, SRF).
- c. Submit two (2) bound copies of a Draft PER and review with OWNER prior to final publication.
  - d. Incorporate OWNER's review comments into a Final PER.
  - e. Upon OWNER's approval of the Final PER, submit one (1) digital (PDF) and four (4) bound copies of the Final PER to OWNER and attend a public hearing to present the PER.
  - f. After submittal of the Final PER to IFA for review and approval, address review comments from SRF required to obtain an approved report.
  - g. Funding Agency Coordination
    - 1) Funding Agency Coordination
    - 2) Assist with completing and submitting the SRF application.
    - 3) Attend the funding agency project planning meeting with OWNER.

**ARTICLE III  
COMPENSATION  
SHALL BE AMENDED AS FOLLOWS:**

REPLACE paragraph A in its entirety with the following:

- A. Compensation for Professional Services described in Article I.A through I.F shall be on a time and materials basis in the not-to-exceed amount of \$159,000.00 as follows. ENGINEER may allocate dollars between the individual tasks within the not-to-exceed fee; however, the total not-to-exceed fee shall not be exceeded without prior written approval of the OWNER.

Article I.A – UV Replacement - Design Services	\$16,000.00
Article I.B – UV Replacement - Quote Phase	\$9,000.00
Article I.C – UV Replacement - Construction Administration and RPR	\$41,000.00
Article I.D – Preliminary Engineering Report - WWTP Expansion and Collection System Improvements	<u>\$93,000.00</u>
Total Estimated Fee:	<b>\$159,000.00</b>

**ARTICLE IV  
SCHEDULE  
SHALL BE AMENDED AS FOLLOWS:**

ADD the following items to the proposed schedule:

<b>Activity</b>	<b>Days from Notice-to-Proceed</b>
Article I.C – UV Replacement - Construction Administration	110
Article I.D – Preliminary Engineering Report - WWTP Expansion and Collection System Improvements	80

All other terms and conditions contained in the AGREEMENT shall remain unchanged and continue in full force and effect.

This AMENDMENT to AGREEMENT may be executed in counterparts, each of which shall be deemed to be an original, and all such counterparts together shall constitute one and the same AMENDMENT to AGREEMENT. An electronic, telecopied, or facsimile signature shall be equivalent to and as binding as an original signature.

IN WITNESS WHEREOF, the parties have made and executed this AMENDMENT No. 1 to existing AGREEMENT, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**ENGINEER**  
**WESSLER ENGINEERING, INC.**

**OWNER**  
**TOWN OF WHITELAND, INDIANA**

\_\_\_\_\_  
Robert W. Holden, II, Ph.D., P.E.  
Senior Vice President

\_\_\_\_\_  
Jim Lowhorn  
Town Manager

Attest:\_\_\_\_\_  
Derek C. Urban, P.E.  
Project Manager

Attest:\_\_\_\_\_  
Angela K. Petrow  
Executive Administrative Assistant

Date: 1/5/2023

Date:\_\_\_\_\_

ADDRESS FOR GIVING NOTICE:  
Wessler Engineering, Inc.  
6219 South East Street  
Indianapolis, IN 46227

ADDRESS FOR GIVING NOTICE:  
Town of Whiteland  
549 North Main Street  
Whiteland, IN 46184

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Attachments: No. 1 – RPR Duties, Responsibilities, and Limitations