

# Town of Georgetown, IN

Resolution # R-05-06

## A RESOLUTION OF THE TOWN COUNCIL OF GEORGETOWN APPOINTING AN ENGINEER OF RECORD FOR THE TOWN AND SPECIFYING WORKING PARAMETERS

**WHEREAS**, the Town Council for the Town of Georgetown, Indiana is the entity responsible to authorize and appoint the Town's Engineer of Record; and,

**WHEREAS**, the Town Council has duly advertised the solicitation of Requests for Proposals for Professional Engineering services; and,

**WHEREAS**, the Town Council has interviewed selected professional engineers which had expressed interest in representing the Town; and,

**WHEREAS**, the Town Council discussed and considered the proposals made by the engineers interviewed.

**NOW THEREFORE, BE IT RESOLVED** by the Town Council for the Town of Georgetown as follows:

### APPOINTMENT OF TOWN ENGINEER OF RECORD

The Town Council of the Town of Georgetown hereby appoints \_\_\_\_\_

Heritage Engineering as the Town's Engineer of Record.

The Town's Engineer shall serve at the pleasure of the Town Council, shall work for the Town Council, and shall work with the Town Manager as the Town Council's representative. The Engineer shall be paid in accordance with mutual agreements with the Town Council, which may be changed from time to time.

Adopted by the Town Council of the Town of Georgetown, Indiana, this

16 day of June, 2005.

Gary L. Smith  
Gary Smith, President

Jeff McCaffrey  
Jeff McCaffrey, Vice President

Jay Davis  
Jay Davis, Member

Dean Hammersmith  
Dean Hammersmith, Member

Chris Carter  
Chris Carter, Member

ATTEST:

Douglas Cook  
Douglas Cook, Clerk/Treasurer

4801 Paoli Pike, Suite 200  
Floyds Knobs, Indiana 47119  
Phone: 812.923.8250  
Fax: 812.923.8215

**HERITAGE ENGINEERING, LLC**

**Consultant Services Agreement  
For  
Town of Georgetown  
Engineer of Record**

This is an agreement made as of this 17 day of June 2005, between Heritage Engineering, LLC (Consultant) and Town of Georgetown.

Town of Georgetown hereby retains Consultant to perform services in connection with the Work as described in Attachment A. Consultant agrees to perform the services in consideration of the compensation described in Attachment A and in accordance with the terms described in Attachment B.

This Agreement consists of this document together with Attachment A – Work Requirements, and Attachment B – Terms and Conditions. This agreement supercedes all prior written and oral understandings. This agreement may only be amended, supplemented, modified or cancelled by a duly executed written instrument.

In executing this Agreement, the undersigned also acknowledges their authority to bind the parties to all terms and conditions.

In witness whereof, the parties hereto have made and executed this Agreement as of the day and year first written.

**Consultant**

Heritage Engineering  
4801 Paoli Pike  
Suite 200  
Floyds Knobs, Indiana  
Phone: 812-923-8250  
Fax: 812-923-8215

**Owner**

Town of Georgetown  
P.O. Box 127  
9110 State Road 64  
Georgetown, Indiana 47122  
Phone: 812-951-3012  
Fax: 812-951-2034

By Robert L. Woosley  
Name: Robert L. Woosley  
Title: Vice President

By Gary L. Smith  
Name: Gary Smith  
Title: President Town Council

**Subconsultant Services Agreement**  
**Attachment A**  
**Work Requirements**

**Consultant:**

Heritage Engineering, LLC

**Project Description:**

Town of Georgetown Engineer of Record

**Scope of Services Included:**

Provide miscellaneous engineering support services to the Town of Georgetown on an as-needed basis.

**Scope of Services Not Included:**

N/A

**Project Schedule:**

To be coordinated with the Town Manager.

**Method of Compensation:**

Lump Sum: \$18,000 (covers a 12 month period)

Billings: \$1,500 per month (invoiced on 2<sup>nd</sup> Thursday of each month)

Heritage Engineering proposes to perform the above listed tasks and work efforts on a lump sum basis of **\$18,000**. This amount shall cover work for a 12 month period. Invoices shall be submitted monthly at **\$1,500** per month. Invoices shall be submitted on the second Thursday of each month.

In the event that extra work is required that is deemed outside of the scope of this contract it is agreed that said work shall be performed on either a lump sum or hourly basis. The hourly rates that shall apply to this contract are listed below:

Senior Engineer (P.E.)	\$110/Hr.
Engineer I (P.E.)	\$ 90/Hr.
Engineer II (E.I.T.)	\$ 70/Hr.
Engineering Technician/Designer	\$ 65/Hr.
Technician/Field Personnel	\$ 45/Hr.
Administrative Assistant	\$ 65/Hr.

**Consultant Services Agreement  
Attachment B  
Terms & Conditions**

**Services** Consultant will perform professional services for the Project as set forth in Attachment A and in accordance with these Terms & Conditions.

**Authorized Representatives** The officer assigned to the Project by Town of Georgetown (Client) is the only authorized representative to make decisions or commitments on behalf of Client. The Consultant shall designate a representative with similar authority.

**Project Requirements** Client shall confirm the objectives, requirements, constraints, and criteria for the Project based on Client input. If the Client has established design standards, they shall be furnished to Consultant at Project inception. Consultant will review the Client design standards and may recommend alternate standards considering the standard of care provision.

**Site Access** The Client shall obtain all necessary approvals for Consultant to access the Project site(s).

**Period of Service** Consultant shall perform the services for the Project in a timely manner consistent with sound professional practice. Consultant will strive to perform its services according to the Project schedule set forth in Attachment A. The services of each task shall be considered complete when deliverables for the task have been presented to the Client.

**Compensation** In consideration of the services performed by Consultant, Client shall pay Consultant in the manner set forth in Attachment A. The parties acknowledge that terms of compensation are based on an orderly and continuous progress of the Project.

**Payment Definitions** The following definitions shall apply to methods of payment:

- Salary cost is defined as the individual's base salary plus customary and statutory benefits. Statutory benefits shall be as prescribed by law and customary benefits shall be as established by Consultant employment policy.
- Cost plus is defined as the individual's base salary plus actual overhead plus professional fee. Overhead shall include customary and statutory benefits, administrative expense, and non-project operating costs.
- Lump sum is defined as a fixed price amount for the scope of services described.
- Subcontracted services are defined as Project related services provided by other parties to Consultant.
- Reimbursable expenses are defined as actual expenses incurred in connection with the Project.

**Payment Terms** Consultant shall submit statements for services performed and Client shall pay the full invoice amount within thirty (30) days.

**Additional Services** The Consultant and Client acknowledge that additional services may be necessary for the Project to address issues that may not be known at Project initiation or that may be required to address circumstances that could not be foreseen. In that event, Consultant shall notify the Client of the need for additional services and Client shall pay for such additional services in the amount and manner as Client and Consultant may subsequently agree.

**Independent Consultant** Consultant shall serve as an independent consultant for services provided under this agreement. Consultant shall retain control over the means and methods used in performing their services and may retain subconsultants to perform certain services as determined by Consultant.

**Standard of Care** Services provided by Consultant will be performed with the care and skill ordinarily exercised by members of the same profession practicing under similar circumstances.

**Compliance with Laws** Consultant shall perform its services consistent with sound professional practice and endeavor to incorporate laws, regulations, codes, and standards applicable at the time the work is performed.

**Permits and Approvals** Consultant will assist Client in preparing applications and supporting documents to secure permits and approvals from agencies having jurisdiction over the Project. Consultant understands all application and review fees will be paid by the Client.

**Ownership of Documents** Upon Owner's payment in full for all work performed under the Contract Documents, Consultant shall grant Owner a limited license to use the work product conditioned on Owner's express understanding that its use of the work product is at Owner's sole risk and without liability or legal exposure to Consultant or anyone working by or through the Consultant.

**Insurance** Consultant will maintain the following insurance and coverage limits during the period of service. The Client will be named as additional insured on the Commercial General Liability and Automobile Liability policies.

<u>Worker's Compensation</u>	As required by applicable state statute
<u>Commercial General Liability</u>	\$1,000,000 per occurrence (bodily injury including death & property damage) \$1,000,000 aggregate, \$5,000,000 aircraft.
<u>Automobile Liability</u>	\$1,000,000 combined single limit for bodily injury and property damage
<u>Professional Liability</u>	\$1,000,000 each claim and in the aggregate

**Waiver of Subrogation** Consultant shall endeavor to obtain a waiver of subrogation against the Client, if requested in writing by the Client, provided that Consultant will not increase its exposure to risk and Client will pay the cost associated with any premium increase or special fees.

**Indemnification** Consultant shall indemnify Client from any reasonable damages caused solely by the negligent act, error, or omission of Consultant in the performance of services under the Project. If such damage results in part by the negligence of others, Consultant shall be liable to the extent of their negligence.

**Cost Opinions** Consultant shall prepare cost opinions for the Project based on experience and historical information that represent the judgment of a qualified professional.

**Shop Drawing Review** If included in the scope of service, Consultant shall review shop-drawing submittals from the contractor for their conformance with the design intent of and performance criteria specified for the Project.

**Construction Review** If included in the scope of service, Consultant shall observe the progress and content of the work to determine if the work is proceeding in general accordance with the Contract Documents. This construction review is intended to observe, document, and report information concerning the construction process. Observation of work at the Project site shall not make Consultant responsible for the work performed by another party, the means, methods, techniques, sequences, or procedures selected by another party, nor the safety precautions or programs of another party.

**Rejection of Work** Consultant may only recommend that the Client reject work by construction contractors that does not conform to the requirements of the Project.

**Safety** Consultant shall be responsible for the safety precautions or programs of its employees.

**Information from Other Parties** Consultant and Client acknowledge that Consultant will rely on information furnished by other parties in performing its services under the Project.

**Construction Record Drawings** If included in the scope of service, Consultant will deliver construction record drawings to Client incorporating information furnished by construction contractors. In that construction record drawings are based on information provided by others, Client will not warrant their accuracy.

**Defects in Service** Client shall promptly notify Consultant of any defect or suspected defect in the services performed. Consultant will take timely action to minimize the consequences of any confirmed defect. Consultant shall correct defects at their cost.

**Dispute Resolution** Consultant and Client agree that they shall diligently pursue resolution of all disagreements within 45 days of either party's written notice using a mutually acceptable form of mediated

dispute resolution prior to exercising their rights under law. Consultant shall continue to perform services for the Project and the Client shall pay for such services unless the Client issues a written notice to suspend or terminate work.

**Suspension of Work** Client may suspend services performed by Consultant with cause upon fourteen (14) days written notice. Consultant shall submit an invoice for services performed up to the effective date of the work suspension and Client shall pay Consultant all outstanding invoices within fourteen (14) days of receiving payment from the Client. If the work suspension exceeds thirty (30) days from the effective work suspension date, Consultant shall be entitled to renegotiate the Project schedule and the compensation terms for the Project.

**Termination** Consultant or Client may terminate services on the Project upon seven (7) days written notice in the event of substantial failure by the other party to fulfill its obligations of the terms hereunder. Consultant shall submit an invoice for services performed up to the effective date of termination and Client shall pay Consultant all outstanding invoices within thirty (30) days of receiving the Consultant invoice. Client may withhold an amount for services that may be in dispute provided that Client furnishes a written notice of the basis for their dispute and that the amount withheld represents a reasonable value.

**Governing Law** The terms of agreement shall be governed by the laws of the state where the services are performed provided that nothing contained herein shall be interpreted in such a manner as to render it unenforceable under the laws of the state in which the Project resides.

**Assignment** Neither party shall assign its rights, interests or obligations under the Project without the express written consent of the other party.

**Waiver of Rights** The failure of either party to enforce the provisions of these terms and conditions shall not constitute a waiver of such provisions nor diminish the right of either party to the remedies of such provisions.

**Warranty** Consultant warrants that they will deliver products under the Project within the standard of care.

**Severability** Any provision of these terms later held to violate any law shall be deemed void and all remaining provisions shall continue in force. In such event, Consultant and Client will work in good faith to replace an invalid provision with one that is valid with as close to the original meaning as possible.

**Survival** All provisions of these terms that allocate responsibility or liability between Consultant and Client shall survive the completion or termination of services for the Project.