
**Indiana University
Agreement Between Owner
And Consultant for Non-Construction Projects**

This AGREEMENT is made: (Date)

BETWEEN the Owner:

The Trustees of Indiana University
1800 N. Range Road
Bloomington, IN 47408

and the Consultant:

for the following Project:
(project name & project number)
(insert or attach project description)

The Owner and Consultant agree as follows:

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ARTICLE 1
CONSULTANT’S RESPONSIBILITIES

1. During the Preliminary Phase, the Consultant and Consultant’s subcontractors or other consultants engaged or employed by Consultant shall perform the following tasks:
 - 1.1 Visit the project facility, inspect the area to be studied and gather data to prepare a scope of work, budget, and schedule;
 - 1.2 Provide the Owner a written description/scope of work required to meet project goals. Include as much relevant data as possible and as required;
 - 1.3 Provide the Owner with an estimated cost to accomplish the work, including cost of materials, cost of labor, and other related costs;
 - 1.4 Develop a preliminary design solution or report based on the approved project requirements; arrange meetings with the Owner, Consultant and Users to review design, report, budget and schedule;
 - 1.5 Submit schedules, as applicable, of all key events such as: program meetings; review of document meetings, drawing submittal dates, bid date and projected completion of the work;
 - 1.6 Utilize Indiana University’s Architecture and Engineering standards when applicable. The standards are meant as a guideline. In no case should the project Consultant violate applicable codes, regulations, or good building practices.

ARTICLE 2
TRANSFER OF COPYRIGHT

The Consultant acknowledges and agrees that all reports, design, drawings, specifications and other documents or works prepared by, or hereafter to be prepared by, the Consultant, in whole or in part, in connection with the project (“Project Drawings”), including, but not limited to, all works based upon, derived from or incorporating the Project, are intended to be the sole property of the Owner. The Consultant hereby expressly transfers to the Owner the exclusive right to any and all copyright interest in the Project and to any material object in which all or any part of the Project is embodied.

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ARTICLE 3
TERMINATION, SUSPENSION OR ABANDONMENT

- 3.1 In the event of the Owner termination, suspension or abandonment of the project, the Consultant shall be equitably compensated by the Owner for services performed to the date of termination, suspension or abandonment.
- 3.2 Either the Consultant or the Owner may terminate this Agreement with or without cause after giving no less than seven (7) days written notice to the other party.
- 3.3 In the event of termination, suspension, abandonment or completion of the project, the Consultant shall deliver to the Owner within seven (7) days all Project Drawings, whether complete or incomplete, not previously delivered to the Owner during the course of the project. The Owner, as the holder of the exclusive right to any and all copyright interest in the Project Drawings, as provided in Article 2, shall have the right to use and reuse any and all Project Drawings, Study conclusions, and other supporting documents for any purpose in connection with the project, including, but not limited to, its completion using entities other than the Consultant, at the Owner's sole discretion and at no additional cost to the Owner.
- 3.4 Since the documents provided under 3.3 may be incomplete, in the event that the Owner chooses to use the Documents provided to continue or complete the project using the services of others, the Owner agrees to release the Consultant from any damage, liability or cost to the Owner arising out of the use of the Documents provided.

ARTICLE 4
MISCELLANEOUS PROVISIONS

- 4.1 This agreement shall be governed by the law of the State of Indiana.
- 4.2 The Owner and Consultant respectively bind themselves, their partners, successors, assigns and legal representatives to this Agreement. Neither party to this Agreement shall assign the Contract in whole or in part without the advance written consent of the other.
- 4.3 The Consultant shall have no responsibility for the identification,

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discovery, presence, handling, removal or disposal of, or exposure of persons to hazardous materials in any form at the project site.

- 4.4 The Consultant, its agents, employees, or consultants shall not discriminate against any person regarding employment because of race, sex, religion,
- 4.5 The Consultant shall provide the University Architect's Office with sets of electronic files representing the final study report including all relevant drawings and supporting documentation as directed by the UAO staff. These shall be provided upon review and approval of the final submittal and follow the University Architect's CADD standards when applicable.
- 4.6 Reimbursable Expenses
 - a. Receipts and other relevant records must be furnished for all reimbursable costs. Credit card statements are not acceptable records.
 - b. When Consultant employees are away from the home office for twenty-four hours or more, meals will be reimbursed at the then-current University per diem rate.
 - c. Motel costs will be reimbursed at the single room rate. Telephone calls other than those related to University business, from motels will not be reimbursed.
 - d. Rental car costs are not reimbursable expenses unless approved in advance by the Owner. The use of Economy Class vehicles is recommended.
 - e. Airline travel costs are not reimbursable expenses unless approved in advance by the Owner. Approved airline travel arrangements shall be made through travel agents designated by the Owner. Consultants should travel "Coach Class" and should purchase tickets at least 14 days in advance of travel when possible.
 - f. There will be no reimbursement for travel including mileage, lodging, meals or parking within the state of Indiana.
 - g. Out-of-state vehicle travel will be reimbursed at the then-current University mileage rate.

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- h. Expense of filing fees for securing approval from governing authorities will be reimbursed.
- i. The Owner does not reimburse for miscellaneous overhead expenses, Including but not limited to telefax, incidental printing and copying, office supplies, computer discs, couriers, federal express, postage, mail services, and local and long distance telephone service charges. For other miscellaneous expenses, the Consultant may seek approval for reimbursement. Approved reimbursement of miscellaneous expenses will be at a rate of of 1.1 times the expense incurred by the Consultant.

Printing Costs

- All printing for pre-bid or Owner-required reviews (“review sets”), and renderings/presentations shall be produced and distributed by the approved Indiana University Centralized Printing Vendor (“Printing Vendor”). Any expenses associated with such drawing and specification printing shall be borne by Indiana University and shall not be a reimbursable item to the Owner. Consultants shall coordinate submission of either paper copies or electronic files of the review sets to the Printing Vendor along with instructions to the Printing Vendor for distribution of the review sets.
- All printing for project construction bid drawings, specifications, and addenda will be produced and distributed by the Printing Vendor. The Printing Vendor will also host an online web-based planroom that will list current and upcoming IU construction bid projects for information as well as bid set ordering. Consultants shall work with the Printing Vendor to coordinate the direct upload or mailing on construction document files/originals.
- Any expenses associated with reports or documentation above the standard incidental printing, approved by I.U. in advance, shall be borne by Indiana University and not as a reimbursable item to the Owner.

ARTICLE 5

COMPENSATION AND PAYMENTS TO THE CONSULTANT

- 5.1 The Consultant’s fees shall be: \$_____.
- (Indicate method of fee calculation and dollar amount of fees, e.g., based on an hourly rate with a “not to exceed” amount; or as a percentage of

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project cost.)

- 5.2 Reimbursable expenses anticipated by the Consultant.
(List items and anticipated costs.)
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- 5.3 Consulting services not covered by this Agreement include, among other things, revisions due to changes in the scope, quality or budget.

ARTICLE 6

INDIANA UNIVERSITY MINIMUM INSURANCE REQUIREMENTS FOR CONSTRUCTION, NON-CONSTRUCTION AND PROFESSIONAL DESIGN CONTRACTS

Obligations of Contractors and Consultants

Contractors and Consultants (whether corporation, sole proprietorship or partnership) shall procure and maintain during the term of the contract and until final acceptance of the completed work under the contract, insurance of the types of coverages and minimum limits as identified here and shall provide the Owner with Certificate(s) of Insurance evidencing these coverages prior to beginning work. With the exception of their "hold harmless" obligations, which are addressed separately below, Contractors and Consultants shall be referred to herein as "Contractor," irrespective of their area of expertise.

- ◆ It is the responsibility of the Contractor and Subcontractors to become familiar with Owner's insurance requirements and to ensure that they can meet these requirements prior to submitting a bid to perform the work. **Please provide this exhibit to your insurance agent so the correct certificate can be issued without delay.**
- ◆ No Contractor or Subcontractor of any tier shall be on the jobsite or proceed with work, and shall not be paid for any work performed, until proper certificate(s) of insurance have been submitted to and approved by the Owner. All required insurance policies shall be written by a company(s) authorized to do business in Indiana. The Owner shall not be liable to

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any person for the failure of the Contractor or any Subcontractor to carry specified insurance.

- ◆ It is the responsibility of all Contractors to ensure that all of its Subcontractors also meet these insurance requirements.
- ◆ If any part of any coverage includes a deductible, self insurance, a captive insurance company or a fronting arrangement, the amount so covered must be disclosed on the certificate or in a separate letter from the Contractor. Owner reserves the right to approve of this coverage.
- ◆ NOTE: Contractor is required to meet the insurance specifications during the time of construction *and* during the warranty period, usually two years after the project is accepted by Owner.

CERTIFICATE HOLDER:

**The Trustees of Indiana University
1800 N. Range Road
Bloomington, In. 47405-2206**

Insurance Requirements

1. General Liability

- **Construction Contracts**
 - Each occurrence: \$1 million
 - General aggregate: \$2 million
 - Products and Completed Operations: \$1 million
 - The "COMMERCIAL GENERAL LIABILITY" box must be checked
 - The "OCCUR" box must be checked
 - Per Project box must be checked

- **Design/Consultant Contracts**
 - Each occurrence: \$1 million
 - General aggregate: \$2 million

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- The "COMMERCIAL GENERAL LIABILITY" box must be checked
- The "OCCUR" box must be checked

2. Automobile Liability

- The box(es) that is/are checked must include a check in the box for Any Auto or All Owned, Hired and Non-Owned Autos
- Combined Single Limit coverage: \$1 million.
- If separate Bodily Injury and Property Damage limits are purchased, each must be \$1 million.

3. Excess/Umbrella

- Excess coverage *per se* is not required. However, any of the dollar amount requirements can be met by a combination of primary and excess coverage.
- Excess/umbrella coverage must be *per occurrence* coverage.

4. Professional Liability

Any type of design or consulting contract requires Professional Liability coverage of at least \$1 million.

Owner reserves the right to require increased limits of coverage if, in the opinion of the Owner, project is hazardous in nature or poses a higher than usual risk.

5. Worker's Compensation

The Contractor shall procure and maintain a Workers' Compensation policy to cover its obligation under the applicable laws of any state or federal government to its employees employed on the jobsite or elsewhere on this project, including its liability as an employer under common law (commonly known as Employer's Liability Coverage "B") with limits of not less than that listed below. Before commencing work, Contractor shall submit to the Owner a valid State Form 41321 (Certificate of Compliance – Worker's Compensation and Occupational Diseases) or a facsimile thereof at Owner's option. **If the Contractor has no employees** (i.e., a one-person shop) then a Certificate of Exception must be obtained from the State.

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<u>Worker's Compensation:</u>	Statutory
<u>Employer's Liability:</u>	\$ 500,000 each accident or disease \$ 500,000 policy limit \$ 500,000 each employee

6. Builder's Risk Insurance

The Owner shall maintain during the course of construction Builder's Risk Insurance in an amount of not less than one hundred percent (100%) of the insurable value of the completed work, including materials, equipment, and supplies on the site and to become a part of the completed work, subject to a \$25,000 deductible. The Contractor shall bear responsibility for that deductible.

The insured shall be the Owner and the Contractor(s) as their respective interests may appear. The Contractor's loss, if any, is to be adjusted with and payable to the Contractor upon written request to the Owner. The Contractor shall be responsible for and shall insure, if required by the Owner, all materials, equipment, supplies not on the site and to become a part of the completed work, Contractor's equipment, tools, scaffolding, staging, towers, forms and temporary buildings, and other materials, equipment and supplies not intended to become a part of the completed work.

This provision shall not release the Contractor from its obligation to complete, according to plans and specifications, the work covered by the Contract and the Contractor and its Surety shall be obligated to the full performance of the Contractor's undertaking.

NOTE: Prompt notice of potential claims is required. In the advent of a n occurrence that might be covered by Builders Risk insurance, notice must be given to the University within one work day of the occurrence. Except for emergency repairs, no changes to damaged property will be made until an inspection is made.

Insurance Policy Endorsements

All insurance policies must provide the following endorsements to the policy and must be noted on the certificate(s):¹

1. Additional Insured Endorsement (CG2010 10 01 and CG2037) or equivalent form required on General Liability, Automobile Liability and Excess/Umbrella Liability policies

¹ An addendum to the COI can be used if additional space is needed.
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naming the Owner and/or Other Parties as defined in Owner's Contract and including coverage for completed operations. Owner shall be identified as: "The Trustees of Indiana University, its officers, agents and employees." *If additional insured status is automatically granted by the insurance form "where required by written contract" then it is sufficient to note that on the certificate with a reference to the form number. This must include information about the Excess/Umbrella coverage, e.g., "Excess coverage is following form."*

2. Aggregate Per–Project Endorsement (CG2503) to the General Liability Policy indicating that the general aggregate applies separately to each project.
3. Waiver of Subrogation on General Liability, Automobile Liability, and Employer's Liability/Workers' Compensation Policies in favor of the Owner.
4. All insurance policies shall be primary and non-contributing with respect to any insurance carried by the Owner, and shall contain a severability of interests clause in respect to liability, protecting each insured as though a separate policy had been issued to each.
5. All policies shall contain a covenant requiring (30) days written notice by the insurer to the Indiana University Office of Risk Management before cancellation, reduction or other modifications of coverage for any reason, *whenever possible*.

Certificate Details

Description of Operations

The DOO must include the Indiana University project name and project number to which this coverage applies.

Insurance Companies

All insurance carriers selected by contractor must be rated "A-" or above in the most recent edition of the "A.M. Best's Key Rating Guide."

Hold Harmless Agreement

Contractor shall indemnify and save harmless the Owner from any and all losses, costs, damages, liability and expenses, including reasonable attorney fees ("Losses"), arising out of or in conjunction with claims or suits for damage to any property not included in the scope of work and/or injury to persons, including Contractor's employees and all Subcontractor's employees of any tier, including death, alleged or claimed to have been

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caused by or through the performance of the work or operations incidental to the work by the Contractor, its agents or employees, or by its Subcontractors of any tier, their agents or employees, whether through negligence or willful act; and Contractor shall, at the request of Owner, undertake to investigate and defend any and all such claims or suits against Owner.

Hold Harmless Agreement—Consultants

With regard to losses, costs, damages, liability and expenses, including reasonable attorney fees (“Losses”) that may be covered by Consultant’s professional liability insurance, Consultant shall indemnify and save harmless the Owner from any and all Losses arising out of or in conjunction with claims or suits for damage to any property not included in the scope of work and/or injury to persons, including Consultant’s employees and all employees of a Sub-Consultant, if any, of any tier, including death, caused by or through the performance of the work or operations incidental to the work by the Consultant, its agents or employees, or by its Sub-Consultants, if any, of any tier, their agents or employees, whether through negligence or willful act and Consultant.

With regard to losses, costs, damages, liability and expenses, including reasonable attorney fees (“Losses”) that may be covered by Consultant’s other liability insurance programs, Consultant shall indemnify and save harmless the Owner from any and all losses, costs, damages, liability and expenses, including reasonable attorney fees (“Losses”), arising out of or in conjunction with claims or suits for damage to any property not included in the scope of work and/or injury to persons, including Consultant’s employees and all employees of a Sub-Consultant, if any, of any tier, including death, alleged or claimed to have been caused by or through the performance of the work or operations incidental to the work by the Consultant, its agents or employees, or by its Sub-Consultants, if any, of any tier, their agents or employees, whether through negligence or willful act and Consultant shall, at the request of Owner, undertake to investigate and defend any and all such claims or suits against Owner.

ARTICLE 7
OTHER PROVISIONS

(Insert description of other services and modifications to the terms of this Agreement.)

This Agreement entered into as of the day and year first written above.

OWNER

CONSULTANT

(Signature)

(Signature)

Joy Stephens, Purchasing Agent

(Printed name, title and address)

(Printed name, title and address)

Capital Projects Business Office

1800 N. Range Road

Bloomington, IN 47408

Project Consultant List

Please list all sub consultants and their fee percentage of participation to the complete projects. Minority participation is not mandatory but highly recommended by the university. If sub consultants change during the project, a revised Project Consultant List should be submitted to the University Architect's Office.

Consultant Name & Address

Fee % of Participation
indicate by dollar amount

MBE/WBE