



February 8, 2022

Tom Murtaugh  
Tippecanoe County Commissioner  
20 N. Third Street  
Lafayette, IN 47901

Subject: **Wabash River at US 231 Hydraulic Analysis  
Professional Services Proposal**

Dear Commissioner Murtaugh:

Christopher B. Burke Engineering, LLC is pleased to provide this proposal for professional engineering and planning services related to hydraulic modeling of the Wabash River near US 231 in West Lafayette, Indiana. The following is our understanding of the assignment, scope of services, schedule, and estimated fee in support of the project.

### **UNDERSTANDING OF THE ASSIGNMENT**

The project will update the topography, bridge data, and discharges in the effective Flood Insurance Study (FIS) model between approximately the confluence of Jordan Creek 4 miles downstream of US 231 upstream to approximately one-half mile upstream of the Harrison Bridge crossing. This updated model will serve as a basis for investigating the impact of the downstream US 231 bridge on development near State Street in West Lafayette and potential options for reducing that impact. The results of the modeling may indicate a need for an official revision of the effective FIS data through IDNR and FEMA. The effort associated with such a potential map revision is not included in the current assignment but could be undertaken in a follow-up phase if needed.

### **SCOPE OF SERVICES**

**Task 1 – Gathering Existing Data:** Burke will gather existing modeling of the river reach, high-water marks, USGS gage data, bridge plans and/or photos, and bathymetric data to be used in the modeling update.

**Task 2 – Discharge Evaluation:** Burke will use USGS gage station data to evaluate the need for revising discharges for use in the modeling. Discharges will be compared to FIS discharges and Coordinated Discharges. If resulting 100- or 500- year discharges are different from discharges used in the FIS, Burke will discuss the findings and pros/cons for using the revised discharges in this study.

**Task 3 – Hydraulic Model Update:** Burke will use the gathered data to create a new model of the river reach that will be calibrated to 2003 or more recent high-water marks and USGS gage data. A copy of this model with and without the US 231 bridge will be created. If there is a difference in water surface elevations at the State Street development areas due to the US 231 bridge, additional modeling will be done to provide an estimate of the size of an additional bridge structure at US 231 that would eliminate the impact at the development site. Mapping of the 100- and 500- year floodplains for these models will be provided. Documentation of the model and results will be provided.

## SCHEDULE

Findings will be provided according to the following schedule based on number of weeks following notice to proceed:

Task	Timeline
Results and implications of discharge evaluation	4 weeks from NTP
Model results for existing condition, US 231 impact and alternatives	16 weeks from NTP
Completed documentation	22 weeks from NTP

## ESTIMATED FEE

We have estimated the total fee for completing this project shall not exceed **\$58,000**. We will bill you monthly, on a time and material basis, for assigned tasks in accordance with our attached standard charges for professional services.

In addition, our contract will be established in accordance with the attached general terms and conditions, which are expressly incorporated into and are an integral part of this contract for professional services. It should be emphasized that any requested additional meetings or additional services that are not included in the preceding fee will be billed at the attached hourly rates.

If this proposal meets with your approval, please sign where indicated and return an executed original to us as our notice to proceed. The executed proposal, along with the estimated fee, and the attached standard charges for professional services and general terms and conditions constitute the whole of our agreement. Any modification to any part of this agreement without prior acknowledgement and consent by Burke will make null and void this agreement. Any time commitment made by Burke as part of the agreement does not begin until Burke has received an executed original.

We appreciate the opportunity to submit this proposal and look forward to working with you on this project. Please contact me, Dave Eichelberger, or Peggy Shepherd at the number listed above if you have any questions.

Sincerely,



Jon D. Stolz, PE  
Managing Vice President

**THIS PROPOSAL, ESTIMATED FEE, STANDARD CHARGES FOR PROFESSIONAL SERVICES AND GENERAL TERMS AND CONDITIONS ARE ACCEPTED BY TIPPECANOE COUNTY:**

Signature: \_\_\_\_\_

Name (Printed): \_\_\_\_\_

Title: \_\_\_\_\_

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

Enclosures:           Standard Charges for Professional Services  
                              Tippecanoe County General Terms and Conditions  
                              Tippecanoe County Additional Terms and Conditions



Standard Charges for Professional Services, January 2022

<u>Personnel</u>	<u>(\$/Hr)</u>
Engineer VI.....	225
Engineer V.....	210
Engineer IV.....	175
Engineer III.....	155
Engineer I/II.....	113
Resource Planner V.....	175
Resource Planner IV.....	150
Resource Planner III.....	130
Resource Planner I/II.....	105
Engineering Technician IV.....	165
Engineering Technician III.....	139
Engineering Technician I/II.....	105
CAD II.....	130
CAD I.....	107
GIS Specialist IV.....	160
GIS Specialist III.....	150
GIS Specialist I/II.....	100
Environmental Resource Specialist V.....	175
Environmental Resource Specialist IV.....	145
Environmental Resource Specialist III.....	125
Environmental Resource Specialist I/II.....	105
Environmental Resource Technician.....	100
Administrative.....	85
Engineering Intern.....	60
Information Technician I/II.....	85

Direct Costs

Outside Copies, Blueprints, Messenger, Delivery Services, Mileage ..... Cost + 12%

*\*Charges include overhead and profit*

*Christopher B. Burke Engineering, LLC reserves the right to increase these rates and costs by 5% if the contract is executed after December 31, 2022.*



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Tippecanoe County General Terms and Conditions

1. **Relationship Between Engineer and Client:** Christopher B. Burke Engineering, LLC (Engineer) shall serve as Client's professional engineer consultant in those phases of the Project to which this Agreement applies. This relationship is that of a buyer and seller of professional services and as such the Engineer is an independent contractor in the performance of this Agreement and it is understood that the parties have not entered into any joint venture or partnership with the other. The Engineer shall not be considered to be the agent of the Client.
2. **Responsibility of the Engineer:** Engineer will strive to perform services under this Agreement in accordance with generally accepted and currently recognized engineering practices and principles, and in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document, or otherwise.

Notwithstanding anything to the contrary which may be contained in this Agreement or any other material incorporated herein by reference, or in any Agreement between the Client and any other party concerning the Project, the Engineer shall not have control or be in charge of and shall not be responsible for the means, methods, techniques, sequences or procedures of construction, or the safety, safety precautions or programs of the Client, the construction contractor, other contractors or subcontractors performing any of the work or providing any of the services on the Project. Nor shall the Engineer be responsible for the acts or omissions of the Client, or for the failure of the Client, any architect, engineer, consultant, contractor or subcontractor to carry out their respective responsibilities in accordance with the Project documents, this Agreement or any other agreement concerning the Project. Any provision which purports to amend this provision shall be without effect unless it contains a reference that the content of this condition is expressly amended for the purposes described in such amendment and is signed by the Engineer.

3. **Changes:** Client reserves the right by written change order or amendment to make changes in requirements, amount of work, or engineering time schedule adjustments, and Engineer and Client shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes, if commercially possible.
4. **Suspension of Services:** Client may, at any time, by written order to Engineer (Suspension of Services Order), require Engineer to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order, Engineer shall immediately comply with its terms and take all reasonable steps to minimize the costs associated with the services affected by such order. Client, however, shall pay all costs incurred by the suspension, including all costs necessary to maintain continuity and for the resumption of the services upon expiration of the Suspension of Services Order. Engineer will not be obligated to provide the same personnel employed prior to suspension, when the services are resumed, in the event that the period of suspension is greater than thirty (30) days.
5. **Termination:** This Agreement may be terminated by either party upon thirty (30) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. This Agreement may be terminated by Client, under the same terms, whenever Client shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by Engineer either before or after the termination date shall be reimbursed by Client.

6. **Ownership of Documents:** All documents and electronic files, including survey data, tracings, drawing files, reports, estimates, specifications, field notes, etc. (“the Documents”), completed or partially completed by the Engineer under the terms of the Contract shall become and remain the property of the Client upon demand or completion or termination of this Contract. It is the understanding of the parties that the Documents may become public records upon submittal to the Client. Any use of the Documents by the Client, its assigns, or any person, firm or corporation acting on behalf of the Client, shall be without additional compensation to the Engineer. Details prepared by the Engineer as part of its specific Scope of Work under this Contract may be transmitted to other persons, firms or corporations acting on behalf of the Client without Engineer’s approval. Engineer retains all of its copyrights not otherwise transferred to the Client under this Contract including its copyright in any habitable buildings represented in the Documents.

The Client agrees that the Engineer shall have no liability for any claims, demands, injury, loss or damage arising out of, or relating to, the use by the Client, its assigns or any person, firm or corporation acting on behalf of the Client, of the documents, or copies of the documents, for any work or project not included within the specific Scope of Work under this contract. All of the Engineers pre-existing or proprietary computer programs or software developed by Engineer outside of and unrelated to this Contract shall remain the exclusive property of Engineer, except to the extent that such programs or software may be necessary to read or access the Documents, in which case Engineer agrees to grant the Client a license to use the programs or software for the limited purpose of reading or editing said documents and/or electronic files. In that situation, such license shall be granted without additional compensation to the Engineer.

All plans or “as-built” drawings submitted to the Client for their approval will be subject to the conditions stated above. The plans shall be submitted in both a digital format and on paper before the Client will grant final approval of said plans or “as-built” drawings.

The digital submittal will be one copy each in a .DXF and .PDF/.DWF format. Other formats for digital submittals may be used with prior written approval of the Client.

7. **Standard of Practice:** The Engineer will strive to conduct services under this agreement in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions as of the date of this Agreement.
8. **Compliance with Laws:** The Engineer will strive to exercise usual and customary professional care in his/her efforts to comply with those laws, codes, ordinance and regulations which are in effect as of the date of this Agreement.
9. **Indemnification:** Client shall indemnify and hold harmless Engineer under this Agreement, from loss or expense, including reasonable attorney's fees, for claims for personal injuries (including death) or property damage arising out of the sole negligent act, error omission of Client.
10. **Opinions of Probable Cost:** Since Engineer has no control over the cost of labor, materials or equipment, or over the Contractor(s) method of determining process, or over competitive bidding or market conditions, his opinions of probable Project Construction Cost provided for herein are to be made on the basis of his experience and qualifications and represent his best judgment as a design professional familiar with the construction industry, but Engineer cannot and does not guarantee that proposal, bids or the Construction Cost will not vary from opinions of probable construction cost prepared by him/her. If prior to the Bidding or Negotiating Phase, Client wishes greater accuracy as to the Construction Cost, the Client shall employ an independent cost estimator Consultant for the purpose of obtaining a second construction cost opinion independent from Engineer.

11. **Governing Law:** This Agreement shall be governed by and construed in accordance with Articles previously set forth by (Item 8 of) this Agreement, together with the laws of the State of Indiana.
12. **Successors and Assigns:** The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns, provided, however, that neither party shall assign this Agreement in whole or in part without the prior written approval of the other.
13. **Waiver of Contract Breach:** The waiver of one party of any breach of this Agreement or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof, shall be limited to the particular instance, shall not operate or be deemed to waive any future breaches of this Agreement and shall not be construed to be a waiver of any provision, except for the particular instance.
14. **Entire Understanding of Agreement:** This Agreement represents and incorporates the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. Client and the Engineer hereby agree that any purchase orders, invoices, confirmations, acknowledgments or other similar documents executed or delivered with respect to the subject matter hereof that conflict with the terms of the Agreement shall be null, void and without effect to the extent they conflict with the terms of this Agreement.
15. **Amendment:** This Agreement shall not be subject to amendment unless another instrument is duly executed by duly authorized representatives of each of the parties and entitled "Amendment of Agreement."
16. **Severability of Invalid Provisions:** If any provision of the Agreement shall be held to contravene or to be invalid under the laws of any particular state, county or jurisdiction where used, such contravention shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular provisions held to be invalid in the particular state, country or jurisdiction and the rights or obligations of the parties hereto shall be construed and enforced accordingly.
17. **Force Majeure:** Neither Client nor Engineer shall be liable for any fault or delay caused by any contingency beyond their control including but not limited to acts of God, wars, strikes, walkouts, fires, natural calamities, or demands or requirements of governmental agencies.
18. **Subcontracts:** Engineer may subcontract portions of the work, but each subcontractor must be approved by Client in writing.
19. **Access and Permits:** Client shall arrange for Engineer to enter upon public and private property and obtain all necessary approvals and permits required from all governmental authorities having jurisdiction over the Project. Client shall pay costs (including Engineer's employee salaries, overhead and fee) incident to any effort by Engineer toward assisting Client in such access, permits or approvals, if Engineer perform such services.
20. **Designation of Authorized Representative:** Each party (to this Agreement) shall designate one or more persons to act with authority in its behalf in respect to appropriate aspects of the Project. The persons designated shall review and respond promptly to all communications received from the other party.
21. **Notices:** Any notice or designation required to be given to either party hereto shall be in writing, and unless receipt of such notice is expressly required by the terms hereof shall be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed, and addressed to the party to whom such notice is directed at such party's place of business or such other address as either party shall hereafter furnish to the other party by written notice as herein provided.

22. **Client's Responsibilities:** The Client agrees to require the Contractor, to the fullest extent permitted by law, to indemnify, hold harmless, and defend the Engineer, its consultants, and the employees and agents of any of them from and against any and all claims, suits, demands, liabilities, losses, damages, and costs ("Losses"), including but not limited to costs of defense, arising in whole or in part out of the negligence of the Contractor, its subcontractors, the officers, employees, agents, and subcontractors of any of them, or anyone for whose acts any of them may be liable, regardless of whether or not such Losses are caused in part by a party indemnified hereunder. Specifically excluded from the foregoing are Losses arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications, and the giving of or failure to give directions by the Engineer, its consultants, and the agents and employees of any of them, provided such giving or failure to give is the primary cause of Loss.

The Client further agrees to require the Contractor to name the Engineer, its agents and consultants on the Contractor's policy or policies of comprehensive or commercial general liability insurance. Such insurance shall include products and completed operations and contractual liability coverages, shall be primary and noncontributing with any insurance maintained by the Engineer or its agents and consultants, and shall provide that the Engineer be given thirty days, unqualified written notice prior to any cancellation thereof.

In the event the foregoing requirements, or any of them, are not established by the Client and met by the Contractor, the Client agrees to indemnify and hold harmless the Engineer, its employees, agents, and consultants from and against any and all Losses which would have been indemnified and insured against by the Contractor, but were not.

23. **Information Provided by Others:** The Engineer shall indicate to the Client the information needed for rendering of the services of this Agreement. The Client shall provide to the Engineer such information as is available to the Client and the Client's consultants and contractors, and the Engineer shall be entitled to rely upon the accuracy and completeness thereof. The Client recognizes that it is impossible for the Engineer to assure the accuracy, completeness and sufficiency of such information, either because it is impossible to verify, or because of errors or omissions which may have occurred in assembling the information the Client is providing. Accordingly, the Client agrees, to the fullest extent permitted by law, to indemnify and hold the Engineer and the Engineer's subconsultants harmless from any claim, liability or cost (including reasonable attorneys' fees and cost of defense) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the Client to the Engineer.
24. **Payment:** Client shall be invoiced once each month for work performed during the preceding period. Client shall endeavor to pay each invoice within thirty (30) days of its receipt.

**Collection Costs.** In the event legal action is necessary to enforce the payment provisions of this Agreement, the Engineer shall be entitled to collect from the Client any judgment or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by the Engineer in connection therewith and, in addition, the reasonable value of the Engineer's time and expenses spent in connection with such collection action, computed at the Engineer's prevailing fee schedule and expense policies.

**Suspension of Services.** If the Client fails to make payments when due or otherwise is in breach of this Agreement, the Engineer may suspend performance of services upon five (5) calendar days' notice to the Client. The Engineer shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client. Client will reimburse Engineer for all associated costs as previously set forth in (Item 4 of) this Agreement.

January, 2010





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Tippecanoe County Additional Terms and Conditions

The attached and forgoing agreement between Tippecanoe County, in the state of Indiana (County) and Christopher B. Burke Engineering, LLC (Contractor) is amended to incorporate by reference the following terms and conditions. Any provisions in the attached agreement which may be inconsistent with the following provisions shall be ineffective to the extent of any such inconsistency.

**Funding for a Multi-year agreement**-In the event that the County is not able to obtain funding, after affirmatively requesting such funding, for the provision of the goods and or services to be provided in accordance with this Agreement, County may terminate this Agreement on thirty (30) days written notice to **Contractor**. In such event, County agrees that it shall reimburse **Contract** for all expenses incurred under this Agreement before written notice of termination is received. Such charges, however, shall not exceed the total purchase price under this Agreement. **Contractor** and County understand that the funding for a multi-year agreement is done on a year-to-year basis, and this provision applies annually.

**Non-Discrimination**-Pursuant to IC 22-9-1-10, **Contractor** and its subcontractors, if any, shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to 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 the covenant may be regarded as a material breach of this Agreement.

**Default**-If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

**Indemnification**-**Contractor** shall indemnify and hold County, and its agents, officers and employees from and against any and all losses, claims, demands, judgments, costs and expenses arising out the performance of this Agreement.

**Governing Law-Exclusive Jurisdiction; Exclusive Venue**-This Agreement is entered into in Indiana and all matters arising under or related to this Agreement shall be governed by and construed in accordance with the substantive law (and not the law of conflicts) of the State of Indiana. Courts of competent authority located in Tippecanoe County, Indiana shall have sole and exclusive jurisdiction of any action arising out of or in connection with the Agreement, and such courts shall be the sole and exclusive venue for any such action.

**Severability**-Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

**Force Majeure**-In the event that any party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of natural disaster, actions or decrees of governmental bodies or communication line failure 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 other parties 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 such notice of the Force Majeure Event, the part whose ability to perform has not been so affected may be given written notice to terminate this Agreement.

**Affirmative Action**-The Contractor for the work specified in this Contract agrees to take affirmative action to ensure that applicants and employees of the **Contractor** (and any Subcontractors) are treated in a manner which provides equal employment opportunity and tends to eliminate inequality, based upon race, color, creed, religion, ancestry, national origin, sex, disability, age, marital status with regard to public assistance. Affirmative action shall include but not be limited to the issuance of a policy statement regarding equal employment and its communication to all personnel involved in recruitment, hiring, training, assignment, and promotion; notification of all employment sources of company policy and active efforts to review the qualifications of all applicants regardless of race, color, creed, religion, ancestry, national origin, sex, disability, age, marital status, or status with regard to public assistance; recruiting in the minority/female group community for employees; and establishing and internal system of reporting concerning equal employment, recruiting, hiring, training, upgrading and the like. Breach of the obligation to take affirmative action shall be a material breach of the contract for which the County shall be entitled to at its option: (1) Cancel, terminate, or suspend the contract in whole or in part; and/or (2) Declare the **Contractor** or Vendor ineligible for further County contracts.

**E-Verify Employment Eligibility Verification**-In accordance with IC 22-5-1.7, if **Contractor** has any employees or subcontractors, and the E-Verify program as defined in IC 22-5-1.7-3 is in existence, **Contractor** shall enroll in and verify the work eligibility status for all of **Contractor's** newly hired employees through the E-Verify program. **Contractor** shall not knowingly employ or contract with an unauthorized alien, nor shall **Contractor** retain an employee or contract with a person that **Contractor** subsequently learns is an unauthorized alien.

**Contractor** shall:

1. Sign and deliver to County a sworn affidavit that affirms that the **Contractor** has enrolled and is participating in the E-Verify program;
2. Provide documentation to County substantiating that **Contractor** has enrolled and is participating in the E-Verify program; and
3. Sign and deliver to County an affidavit affirming that **Contractor** does not knowingly employ an unauthorized alien.

**Contractor** shall require all subcontractors, who perform work under this contract, to certify to **Contractor** in a manner consistent with federal law that the subcontractor, at the time of certification, does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. **Contractor** agrees to maintain this certification throughout the duration of the term of each subcontract.

County may terminate the contract if **Contractor** fails to cure a breach of this provision no later than thirty (30) days after being notified thereof by County or another state agency or political subdivision. In accordance with IC 22-5-1.7, any challenge by **Contractor** to a termination pursuant to this provision must be made in Tippecanoe County Circuit or Superior Court not later than twenty (20) days after **Contractor** receives notice of such termination.



The undersigned, on behalf of Christopher B. Burke Engineering, LLC certifies that, as required by IC 5-22-16.5-13, Christopher B. Burke Engineering, LLC is not engaged in investment activities in Iran.

Signature:  Date: 02/07/2022

Printed Name: Jon D. Stolz

Title: Managing Vice President

Company Name: Christopher B. Burke Engineering, LLC

Address: 115 W. Washington Street, Suite 1368 South, Indianapolis, IN 46204



Employee Eligibility Verification Certification

Christopher B. Burke Engineering, LLC has enrolled in and is verifying the work eligibility of all newly hired employees through the E-Verify program operated by the United States Department of Homeland Security. The undersigned affirms under the penalty of perjury that Christopher B. Burke Engineering, LLC does not knowingly employ an unauthorized alien.

Company Name: Christopher B. Burke Engineering, LLC

Address: 115 W. Washington Street, Suite 1368 South, Indianapolis, IN 46204

Signature:  Date: 02/07/2022

Printed Name: Jon D. Stolz, PE

Title: Managing Vice President