

*ITR Concession Company LLC
52551 Ash Road
Granger, Indiana 46530*

REQUEST FOR PROPOSAL

FROM: Robert D. Ladson, PE
Infrastructure Manager

DATE: November 7, 2013

SUBJECT: **Professional Engineering Services**
Str 1-4 EB & WB – over Wolf Lake – Construction Inspection Services
Str 4-3 EB & WB – over Columbia & 2 RR - Construction Inspection Services

Invitation for Bids (IFB)
 Request for Proposals (RFP)

Overview:

ITR Concession Company (ITRCC) is requesting fee based proposals from responsible engineering firms for construction inspection services.

Str 1-4 is located in Lake County near Mile Marker 2.1 and Str. 4-3 is located near Mile Marker 5.4

The structures are multi-span bridges carrying two lanes in each direction with reinforced concrete decks supported by a steel beam superstructure on reinforced concrete multi-column piers and vaulted abutments. The structures were originally constructed in the mid-1950s with the decks receiving a latex-modified concrete overlay at a later date.

Improvements to each structure generally consist of removal of deteriorated concrete, surface preparation of repair areas, replacement of deteriorated reinforcing bars, installation of galvanic anode protection, and placement of formed/shotcrete repairs to restore the original deck, bridge rail, and substructure cross sections.

Existing bridge deck joints will be replaced or eliminated. The work is designed to ensure 2 lanes are open in each direction in accordance with the ITR Lane Closure Policy.

1.0 INSTRUCTIONS:

1.1 SUBMIT PROPOSALS TO:	LABEL BID/PROPOSAL CONTAINER:
ITR Concession Company LLC Attn: Robert D. Ladson, PE Email: rladson@indianatollroad.org	Project Title: Construction Inspection – Str 1-4 – EB & WB over Wolf Lake Str 4-3 – EB & WB over Columbia Avenue & 2 RR

1.2 DUE DATE & TIME FOR SUBMISSION:
Date: November 25, 2013
Time: Noon (EST)

1.3 SUBMITTALS: Proposals are limited to 10 pages and must be submitted electronically. Proposal must include a design schedule. (WBE / MBE certificates are not included in the 10 pages.)

1.4 **PROPOSAL FIRM TIME:** 90 Days from Receipt of Proposal

1.5 **SECURITY:** Offer \$ N/A Performance \$ N/A

1.6 **VENDOR CONFERENCE/SITE VISIT:** Yes X No
Mandatory Attendance: Yes X No

1.7 **PROJECT CONTACT:**

Attn: ITR Concession Company LLC
Title: Nathan Edwards, EI
Email: Infrastructure Engineer
nedwards@indianatollroad.org
Phone: (574) 651-2464

1.8 **CRITERIA FOR EVALUATION AND AWARD**

Request for Proposals. The ITRCC will evaluate how well each proposal meets the requirements in terms of “responsiveness” to the specifications. Consideration will be given based upon the best price, best product, and best service.

2.0 **SPECIFIC TERMS AND CONDITIONS**

2.1 **INDOT Pre-Qualifications**

13.1 – Construction Inspection

2.2 **RESERVATION**

ITR Concession Company reserves the right to reject any or all proposals.

The ITR Concession Company intends to issue a single contract for Construction Inspection services for both Str 1-4 & Str 2-3, but reserves the right to issue 2 separate contracts should it be deemed advantageous to do so.

2.3 **PAYMENT OF TOLLS**

The Contractor shall be required to pay the full amount of tolls, if any, incurred by it during the duration of the contract. Said tolls will not be refunded by ITR Concession Company.

2.4 **COMPLIANCE WITH APPLICABLE LAW**

The Firm warrants that it shall comply with all Federal, State, and local laws, statutes, ordinances, rules and regulations.

2.5 **WAGE RATES** N/A

2.6 **SUBCONTRACTING/JOINT VENTURES** X Allowed Not Allowed

ITR Concession Company intends to contract with one entity per contract and that one entity shall be contractually responsible for performance. Assignments for subcontracting are allowable, but information or assignees and subcontractors will be required prior to finalization of a contract. For any joint venture to be acceptable, one vendor must take full contractual responsibility for the obligation.

2.7 **EQUAL OPPORTUNITY AND M./W.B.E. PROGRAM**

ITR Concession Company is committed to providing fair and representative opportunities for MBE / W.B.E.s in all contracts related to the ITR. Neither ITR Concession Company nor its Contractors shall discriminate on the basis of race, color, religion, sex or national origin in the award and performance of contracts related to the ITR. Furthermore, affirmative action will be taken, consistent with sound procurement policies and applicable Law, to ensure that MBE / W.B.E.s are afforded a fair and representative opportunity to participate in ITR Concession Company's contracts related to the ITR.

The goals for dollar value of MBE / W.B.E. participation in contracts related to the ITR shall be 6% for each. This is a requirement not a goal. MBE / WBE must be certified with the Indiana Department of Administration.

2.8 **PROJECT DRAWINGS AND SPECIFICATIONS**

Project drawings and specifications are uploaded to the ITRCC website at www.ezpassin.com under "Doing Business with Us".

SCOPE OF SERVICES

Provide limited periodic construction inspection services such as observation of the work, submittal review, consultation, and related communications during the construction period. The overall goal is to ensure the work is generally being performed in a manner indicating that, when completed, it will be in accordance with the plans and specifications.

For both Str 1-4 and Str 4-3, provide a **separate** time & materials with a not-to-exceed fee (include all related expenses) for construction inspection services.

For both Str 1-4 and Str 4-3, provide a **separate** itemized, hourly break out and itemized expenses used to determine the not-to-exceed. For both Str 1-4 and Str 4-3, assume an equivalent of 75 one-person, full day (8 hrs) site visits with travel or an equivalent duration devoted to items such as submittal reviews. Assume 45 site visits during the construction period and the remaining 30 days associated with office time. (i.e a total of 150 one-person)

While specific inspection services will be wide and varied, many of the following services will be performed in conjunction with site visits carried out at a frequency specified by the ITRCC and that ITRCC representatives may also provide some or all of these services.

- a. Review required technical, materials, quality control, staging, and shop drawing submittals.
- b. Assist Contractor and the ITRCC with commissioning the remote video monitoring system at each bridge so that all requested ITRCC representatives have secure web access.
- c. Review initial repairs (ie. concrete repairs, bearing work, etc) for technical conformance and appearance, and when completed satisfactorily will serve as the standard of expected quality for the remainder of the project.
- d. Review areas of unsound concrete identified by Contractor for removal. Contractor to clean and mark all surfaces and provide access for Consultant review.
- e. Review final surface preparation, installation of supplemental reinforcement, and placement of galvanic anodes prior to concrete placement for each element type at the beginning of the work and periodically thereafter.
- f. Review suitability of temporary shoring plan and supporting calculations submitted by Contractor's licensed professional engineer for bearing replacement.
- g. Review condition of steel after cleaning and prior to application of the coating.
- h. Review weld peening operations.

- i. Provide engineering support consistent with contractor's working hours and MOT installation when lane closures are required. It is anticipated that Consultant's staff will be on-site full-time during the initial closure for each of the structures to expedite the resolution of differing site conditions or address Contractor's requests for information.
- j. Document on-site observations and the status of the work. Maintain electronic construction period services records for each bridge including quantities, design changes, and project diary.
- k. Participate in periodic construction and coordination meetings with Contractor and the ITRCC. For budgeting purposes, assume bi-weekly meetings over a period of three months.
- l. Evaluate quantities submitted with contractor's invoices and review invoice amounts.
- m. Process required change orders, construction change directives, and minor changes in the work; exclusive of claims and disputes, should any arise.
- n. Recommend final payment when work has been completed as show in the plans and specifications.
- o. Review Contractor's closeout paperwork including project record documents (e.g. as-built drawings, RFIs, payment applications, and warranties, among others). Engineering tasks will be limited to assembling documents prepared by the Contractor. Documents will be provided to the ITRCC on a CD. Generation of as-built drawings by Consultant is not included in this scope of work.
- p. Endeavor, within the constraints of the scope of work, to guard the ITRCC against defects and deficiencies in the work.

3.0 PROPOSAL FORMAT AND CONTENT

All proposals must be prepared in a comprehensive manner as to content, but there is no need for expensive binders, color displays, or other promotional materials that are not germane to the proposal.

Proposal

- ◆ Submit proposals electronically.
- ◆ Submit a maximum of 10 pages for the Proposal plus a design schedule. (Cover letter and MBE / WBE do not count toward the page limit.)
- ◆ A cover letter explaining the consultant's interest in the contract, including a general outline of the materials attached and name and telephone number of the contact person.
- ◆ Experience of firm on projects with similar magnitude and complexity, including experience with transportation systems and related issues, and familiarity with the operations of the ITR.
- ◆ Written narrative of the skills, experience, and **cost containment strategy** to be employed by the consultant in order to achieve the goals of ITR Concession Company.
- ◆ Each proposal shall include the names and qualifications of key individuals designated for the project and outline their commitment to this project.
- ◆ Proposal shall identify the MBE and WBEs needed to meet the MBE / WBE **requirement** of 6% each.

EXHIBIT A

Sample Contract

**CONSULTANT SERVICES CONTRACT
ITR CONCESSION COMPANY LLC**

Agreement made this _____ day of _____ in the year 2013

Between: ITR Concession Company LLC (ITRCC)
52551 Ash Road
Granger, Indiana 46530

And the Consultant: xxxxxxxxxxxxxxxx
xxxxxxxxxxxxxxxxxxxx
xxxxxxxxxxxxxxxxxxxx

The Project is: Construction Inspection Services

Article 1 - The Work of this Contract

The Scope of Work and other particulars is set forth in Attachments A, B and C to this Contract, attached hereto and made an integral part hereof.

Article 2 – Date of Commencement and Date of Completion

2.1 The Date of Commencement shall be the date of Consultant’s receipt of a Notice to Proceed issued by the Owner. Time of Contract Completion shall be **as specified in Exhibit B.**

2.2 Time limits stated in the contract documents are of the essence of the Contract. By executing the agreement the Consultant confirms that the Contract Time is a reasonable period for performing the Work.

Article 3 – Contract Sum

In accordance with the Proposal dated xxxxxxxxxxxxxxxx, the work will be done on a Not-to-Exceed amount (the “**Contract Sum**”) for the Contract is: \$xxxxxxxxxxxxx inclusive of all reimbursable expenses. The Contract Price shall not be subject to change or escalation, except as expressly provided for in this Contract.

Article 4 – Payments

4.1 Payments made by the Owner to the Consultant with respect to the Work shall be based on the percentage of the Work actually performed in accordance with the Contract Documents and shall be in a form satisfactory to Owner.

4.2 Payments will be made within 45 days of receipt of the invoice by Owner. In the event there are any disputes regarding invoice amounts, only the undisputed amount will be paid by the Owner.

4.3 Retention: 5% will be retained by the Owner from every invoice submitted pursuant to this Article 4. Upon issuance by the Owner of a Certificate of Final Completion in accordance with Section 4.7 below, the retainage amount will be remitted to the Consultant.

4.4 The Consultant warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Consultant further warrants that upon submittal of an Application for Payment all Work for which Certificates for payment have been previously issued and payments received from the Owner shall, to the best of the Consultant's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the owner's interests.

4.5 Payments to the Consultant – The Consultant shall promptly pay each subconsultant, upon receipt of payment from the Owner, out of the amount paid to the Consultant on account of such subconsultant's portion of the work, the amount to which said subconsultant is entitled, reflecting percentages actually retained from payments to the Consultant on account of such subconsultant's portion of the work. The Consultant shall, by appropriate agreement with each subconsultant, require each subconsultant to make payments to subconsultants in a similar manner.

4.6 The Owner shall not have an obligation to pay or see to the payment of money to a subconsultant except as may otherwise be required by law.

4.7 Final Completion and Final Payment – Upon receipt of written notice that the work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection, and when the Owner finds the Work acceptable under the Contract Documents and the Contract fully performed, the Owner will promptly issue a final Certificate for Payment stating that to the best of the Owner's knowledge, information and belief, that the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Consultant and noted in the final Certificate is due and payable. The Owner's final Certificate for Payment will constitute a further representation that the Consultant is entitled to Final Payment.

Article 5 – General Provisions

5.1 Contract Documents – The Contract Documents consist of this Contract, Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, including all attachments hereto, the Request for Proposal and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, or (2) a Change Order. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Consultant. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Consultant shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

5.2 The Contract Documents form the Contract. The Contract represents the entire, integrated agreement between the Owner and Consultant and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification as described herein. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Owner and a Subconsultant or sub-

subconsultant, or (2) between any persons or entities other than the Owner and Consultant. The Work – The term “Work” means the services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Consultant to fulfill the Consultant’s obligations. The Work may constitute the whole or a part of the Project.

5.3 Execution of the Contract – Execution of the Contract by the Consultant is a representation that the Consultant has visited the site, become generally familiar with the job conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

5.4 During the period of this Contract, the Consultant shall not engage, on a full or part time or other basis, any ITRCC personnel who remain in the employ of ITRCC.

5.5 The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, ITRCC shall have the right to annul this Contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

Article 6 – Warranty

6.1 Consultant warrants to ITRCC that: (i) Consultant shall exercise reasonable professional care to conform its Services to all of the Specifications of this Contract and Contract Documents; (ii) the Services shall be in compliance with all applicable laws, rules and regulations of applicable Governmental Authorities as reasonably construed in accordance with reasonable professional care, (iii) the Services shall not infringe any Intellectual Property. All warranties shall survive inspection, acceptance and payment by ITRCC.

6.2 The Consultant shall pay all costs of and incidental to the discharge of warranty obligations.

Article 7 – Ownerships of Documents

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

7.2 ITRCC agrees that the Consultant shall have no liability for any claims, demands, injury, loss or damage arising out of, or relating to, the use by ITRCC, its assigns or any person,

firm or corporation acting on behalf of ITRCC, 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 Consultant's pre-existing or proprietary computer programs or software developed by Consultant outside of and unrelated to this Contract shall remain the exclusive property of the Consultant, except to the extent that such programs or software may be necessary to read or access the Documents, in which case the Consultant agrees to grant ITRCC 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 Consultant.

Article 8 – Access to Records

8.1 The Consultant and its sub-Consultants shall maintain all books, documents, papers, accounting records and other evidence pertaining to cost incurred and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for three years from the date of final payment under the terms of this Contract, for inspection or audit by ITRCC, or its authorized representative, and copies thereof shall be furnished if requested.

8.2 The Consultant agrees that, upon request by any agency participating in federally assisted programs with whom the Consultant has contracted or seeks to Contract, ITRCC may release or make available to the agency any working papers from an audit performed by ITRCC of the Consultant and its sub-Consultants in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.

Article 9 – Responsibility of the Consultant

9.1 The Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications and other services furnished by the Consultant under this Contract. The Consultant shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services if the errors or deficiencies resulted, independently of all other causes, from negligence of the Consultant. The Consultant shall not be responsible for errors, omissions or deficiencies in the design, drawings, specifications, reports or other services of other consultants, including without limitation, surveyors and geotechnical engineers, who have been retained by ITRCC. The Consultant shall have no liability for errors or deficiencies in its designs, drawings, specifications and other services that were caused, or contributed to, by errors or deficiencies (unless such error, omissions or deficiencies were known or should have been known by the Consultant) in the designs, drawings, specifications and other services furnished by other consultants retained by ITRCC. Neither ITRCC's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Consultant shall be and remain liable to ITRCC in accordance with applicable law for all damages to ITRCC caused by the Consultant's negligent performance of any of the services furnished under this Contract.

9.2 Except to the extent expressly assigned to the Consultant under the terms of this Contract, the Consultant shall have no responsibility for supervising, directing or controlling the work of the Consultants or other consultants retained by ITRCC, nor shall the Consultant have

authority over, or responsibility for, the means, methods, techniques, sequences or procedures of construction (except those required by the Contract plans, specifications, special provisions, etc. prepared by the Consultant) selected by the Consultants. The Consultant shall have no responsibility for the safety of persons on or off the job site, and whether or not engaged in the work, for safety precautions and programs incident to the work of Consultants, or for any failure of Consultants or others to exercise care for the safety of any person, including employees of Consultants or to comply with laws, rules, regulations, ordinances, codes or orders applicable to Consultant's performance of the work. The rights and remedies of ITRCC provided for under this Contract are in addition to any other rights and remedies provided by law.

9.3 The Consultant shall comply with all applicable laws and governmental regulations and orders, federal, state, local as well as all applicable provisions of the Indiana Toll Road Concession and Lease Agreement.

9.4 The Consultant shall have an affirmative duty to advise ITRCC of any known or obvious errors, omissions or deficiencies in the designs, drawings, specifications, reports or other services of ITRCC or consultants retained by ITRCC.

9.5 The Consultant shall produce the most cost effective design for ITRCC to build.

Article 10 – Change in Work

In the event ITRCC requires a material change in scope, character or complexity of the work after the work has progressed as directed by ITRCC, adjustments in compensation to the Consultant and in time for performance of the work as modified shall be determined by ITRCC, subject to the Consultant's approval. The Consultant shall not commence the additional work or the change of the scope of work until a supplemental Contract is executed and the Consultant is authorized in writing by ITRCC to proceed with the work. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

Article 11 – Delays

The Consultant agrees that no charges or claims for damages shall be made by it for any minor delays from any cause whatsoever during the progress of any portion of the services specified in this Contract. Such delays, if any, shall be compensated for by an extension of time for such period as may be determined by ITRCC subject to the Consultant's approval, it being understood, however, that the permitting of the Consultant to proceed to complete any services, or part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of ITRCC of any of its rights herein.

Article 12 – Termination

12.1 The Parties agree and acknowledge that the Indiana Finance Authority ("IFA") may, at its sole discretion, terminate this Agreement by written, facsimile or telegraphic notice, or verbal notice confirmed in writing. If the IFA terminates this Agreement pursuant to this Section 12.1, any claim of the Consultant shall be settled on the basis of the reasonable costs it has incurred in the performance of the Contract prior to the date of such termination.

12.2 ITRCC may terminate this Contract at any time by giving written notice to the Consultant if the Consultant fails to carry out any provision of this Contract, or abandons or fails

to timely perform any of its duties under this Contract, and fails to remedy that failure within 7 days after receiving notice requiring the Consultant to do so.

12.3 If the Contract is terminated under Section 12.1 or 12.2:

(a) The ITRCC is relieved from future performance with respect to the Contract without prejudice to any rights that exists at the date of termination

(b) Any claim of Consultant shall be settled on the basis of the reasonable costs it has incurred in the performance of the Contract prior to the date of such termination. ITRCC is relieved from future performance with respect to the Contract without prejudice to any right of action that exists at the date of termination;

(c) ITRCC retains the rights that ITRCC had against Consultant in respect of any breach, in addition to any other rights, powers or remedies provided by law; and

(d) the Consultant shall indemnify ITRCC in respect of any loss ITRCC may incur in acquiring similar Services from alternative Consultants.

12.4 ITRCC may at any time for its convenience terminate this Contract, in whole or in part, by written, facsimile or telegraphic notice, or verbal notice confirmed in writing. If this contract is terminated for ITRCC's convenience, any claim of Consultant shall be settled on the basis of the reasonable costs it has incurred in the performance of this Contract prior to the date of such termination.

12.5 In case of termination for any reason provided above, the Consultant shall deliver to ITRCC all data, reports, drawings, specifications and estimates completed or partially completed.

Article 14 – Deduction or Set-Off

All claims for money due or to become due Consultant from ITRCC shall be subject to deduction or setoff by ITRCC by reason of any claim arising out of this or any other transaction with Consultant for which Consultant has been adjudged to be liable to ITRCC.

Article 15 – Confidentiality

All information furnished by ITRCC to Consultant is confidential and Consultant shall not disclose any such information to any other person, or use such information for any purpose other than performing this Contract, unless Consultant obtains written permission from ITRCC to do so. This paragraph shall apply, without limitation, to Specifications, drawings or other documents prepared by Consultant for ITRCC in connection with this Contract. Consultant shall not advertise or publish the fact that ITRCC has contracted to purchase goods from Consultant, nor shall any information relating to the Contract be disclosed without ITRCC's written permission.

Article 16 – Assignment & Subcontracting and Binding Effect

16.1 Consultant shall not assign or subcontract any part of the Contract without the written approval of ITRCC. In the event that ITRCC approves of an assignment or subcontract, Consultant agrees to bind its successors, executors, subconsultants, administrators and assigns to all covenants of this Contract.

16.2 This contract shall be binding upon and inure to the benefit of ITRCC and Consultant and their respective successors and authorized assigns. Consultant specifically agrees that ITRCC may assign all of its rights, title and interest in, to and under this Contract to the Indiana Finance Authority (IFA) as collateral security to the IFA for the observation and performance by ITRCC of its covenants and obligations under the Indiana Toll Road Concession and Lease Agreement dated April 12, 2006 (ITR Concession and Lease Agreement) by and between ITRCC and IFA, as amended from time to time. Further, Consultant also agrees that ITRCC may assign as security to a Leasehold Mortgagee (as defined in the ITR Concession and Lease Agreement). These permitted assignments shall include this Contract and all present and future specifications, plans, software (including source code), drawings, information and documentation in relation to Toll Road Operations (as defined in the ITR Concession and Lease Agreement) arising out of or relating to this Contract.

Article 17 – Negation of Employment & Agency

This contract does not create a relationship of employment, agency or partnership between the Consultant and ITRCC. In the event that Consultant's obligations hereunder require or contemplate performance of services by Consultant's employees, or persons under contract to Consultant, to be done on ITRCC's property, Consultant agrees that all such Services shall be done as an independent Consultant and that the persons doing such work shall not be considered employees of ITRCC. Consultant shall maintain all necessary insurance coverages, including public liability and workers' compensation insurance. Consultant shall indemnify, save harmless and defend ITRCC from any and all claims or liabilities arising out of such work that were caused by Consultant, its subconsultants, agents and anyone action on its behalf.

Article 18 – Insurance

18.1 The Consultant shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located insurance for protection from claims under workers' compensation acts and other employee benefit acts which are applicable, claims for damages because of bodily injury, including death, and claims for damages, other than to the Work itself, to property which may arise out of or result from the Consultant's operations under the Contract, whether such operations be by the Contractor or by a Subcontractor or anyone directly or indirectly employed by any of them. This insurance shall be written for not less than the limits of liability specified in the Contract Documents or required by law, whichever coverage is greater, and shall include contractual liability insurance applicable to the Consultant's obligations. Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner.

THE FOLLOWING ARE THE MINIMUM AMOUNTS OF CONTRACTORS INSURANCE:

<i>Type of Insurance</i>	<i>Limits of Liability</i>
General Liability: Comprehensive Form Premises – Operations Products/Completed Operations Hazard Contractual Insurance	Bodily Injury and Property Damage Combined: \$1,000,000 each occurrence
Broad Form Property Damage Independent Contractors	Personal Injury: \$1,000,000 aggregate
Personal Injury Explosion and Collapse Hazard Underground Hazard	
Automobile Liability Comprehensive Form Owned Hired Non-Owned	Bodily Injury and Property Damage Combined: \$1,000,000 each occurrence
Excess Liability: Umbrella Form	Bodily Injury and Property Damage Combined: \$1,000,000 each occurrence-GP \$1,000,000 aggregate-GP
Professional Liability	\$2,000,000 aggregate
Employer’s Liability and Worker’s Compensation	\$500,000 each occurrence-GP Statutory Minimum Amount

18.2 With the exception of Professional Liability, the insurance required above shall be endorsed to name as additional insureds ITR Concession Company LLC, the Indiana Finance Authority, the State of Indiana and any mortgagee or construction lender identified in writing to Consultant (collectively, the “Additional Insureds”). Wherever used, the term “Additional Insureds” shall be deemed to include the officers, employees and representative of all of the Additional Insureds. All issuing underwriters shall have rating of A:VII or better in the latest edition of Best’s Key Rating Guide or comparable ratings reasonably acceptable to the Owner.

18.3 Certificates of Insurance, copies of policies, and all applicable endorsements for the above-described insurance shall be furnished to the Owner before the commencement of any Work. All insurance policies required hereunder shall be endorsed to provide that (i) the insurance carrier will give written notice to the Owner at least thirty (30) days prior to any material change in or cancellation or non-renewal of the policies, and (ii) the named insured shall not cancel the insurance or amend the policy to reduce the coverage required. All insurance shall be endorsed as primary and not contributory with respect to other insurance. All liability

insurance policies shall be endorsed to include contractual liability, with the exception of Professional Liability.

Article 19 – Indemnity

The Consultant shall indemnify, defend and hold harmless, ITRCC, its officers, employees and directors, from and against all losses, damages, expenses including, without limitation, reasonable attorneys' fees and costs arising from: (a) any action or claim for alleged infringement of any Intellectual Property rights, by reason of the purchase, possession or use of the Goods and/or Services; (b) any negligent willful or unlawful act or omission by the Consultant in connection with this Contract; (c) any misuse or disclosure by Consultant of personal information or breach by Consultant of any obligation of confidence; (d) any breach by Consultant of any warranty provided under or any other term or provision of this Contract and, (e) the use by ITRCC of the Services except to the extent that the loss, damage, expense or legal cost was caused by the negligent or unlawful act or omission of ITRCC.

19.2 The liability of Consultant, as herein provided, is not limited by any insurance coverage required of Consultant under this Agreement. Owner hereby releases Consultant from liability for consequential damages, including without limitation, loss of use or loss of profits, regardless of whether such damages are caused by breach of contract, negligence or other wrongful acts to the extent that such consequential damages exceed the cumulative value of the Work performed by Consultant during the preceding twelve months or \$500,000, whichever is less. Notwithstanding the foregoing, this release/limitation of liability shall not apply to the extent the claim for consequential damages results from Consultant's gross negligence or willful misconduct.

Article 20 – Governing Law & Forum

20.1 Except as otherwise provided herein, this Contract and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by the internal laws of the State of Indiana, including the Uniform Commercial Code as enacted in that jurisdiction, without giving effect to that jurisdiction's choice of law principles and, where applicable Federal Law of the United States of America. The jurisdiction and venue of any legal proceedings for the resolution of disputes arising under or in connection with this Contract shall be in the federal or state courts sitting in Indiana, U.S.A.

20.2 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the American Arbitration Association. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. Mediation shall proceed in advance of legal, but not equitable, proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or by court order.

Article 21 – Compliance with laws

21.1 In fulfilling this Contract, Consultant shall comply with all applicable laws and governmental regulations and orders, federal, state, local and foreign.

21.2 Maintaining a Drug Free Workplace

(a) Consultant hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. Consultant will give written notice to the ITRCC within ten (10) days after receiving actual notice that Consultant or an employee of Consultant has been convicted of a criminal drug violation occurring in the ITRCC's workplace.

(b) Consultant certifies and agrees that it will provide a drug-free workplace by:

A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in ITRCC's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) Consultant's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

C. Notifying all employees in the statement required by subparagraph (i) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify ITRCC of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

D. Notifying in writing ITRCC within ten (10) days after receiving notice from an employee under subdivision (iii)(2) above, or otherwise receiving actual notice of such conviction;

E. Within thirty (30) days after receiving notice under subdivision (iii)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs A through E above.

21.3 Non-Discrimination

(a) Federal Requirements

It will be unlawful employment practice for the Consultant (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, or the terms, conditions, or privileges of his employment, because of such individual's race, color, religion, sex, age, handicap or national origin; (2) to limit, segregate or classify his employees or applicants in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, age, handicap or national origin.

Consultant will comply with the Civil Rights Act of 1964, 42 U.S.C. sec. 2000 et seq. (1988), as amended. Attention is called to Exec. Order No 11,246.30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000 (e) note, as amended by Exec Order No. 11,375.32 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. sec. 6101-6106 (1988); Rehabilitation Act of 1973, 29 U.S.C. sec. 793-794 (1988); Americans with Disabilities Act, 42 U.S.C. sec. 12101; and 41 C.F.R. Part 60 (1990).

(b) State Requirements

Pursuant to IC 22-9-1-10, Consultant shall not discriminate with respect to the 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.

21.4 Ethics and Conflict of Interest Requirements

(c) Ethics Consultant and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6 et seq., the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004 and Executive Order 05-12, dated January 10, 2005.

(d) Conflict of Interest.

(i) As used in this section:

(1) "Immediate family" means the spouse and the unemancipated children of an individual.

(2) "Interested party" means:

a. The individual executing this Contract;

b. An individual who has an interest of three percent (3%) or more of Consultant; or

c. Any member of the immediate family of an individual specified under subdivision (1) or (2).

d. Consultant has an affirmative obligation under this Contract to disclose to the ITRCC when an Interested Party is or becomes an employee of the State. The obligation under this section extends only to those facts that Consultant knows or reasonably could know.

21.5 Non-Collusion and Acceptance Consultant attests, subject to the penalties for perjury, that no employee, representative, agent or officer of Consultant, directly or indirectly, to the best of the Consultant's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay any sum of money or other consideration for the execution of this Contract other than that which is expressly set forth in this Contract.

21.6 MBE/WBE Requirements ITRCC is required to comply with the requirements of IC 4-13-16.5 and 25 IAC 5 to maximize the utilization of minority and women business enterprises ("M./W.B.E.s") in the procurement and contracting processes. The Consultant has agreed to a goal for minority business enterprises (MBE) of 6% and woman's business enterprises (WBE) of 6%. All M/WBEs must be certified by the Indiana Department of Administration, Minority and Women Business Enterprises Division. This policy shall be stated in all subcontracts related to this Contract, circulated to all employees of the Consultant in affected departments, and made known to minority and women business enterprises with whom Consultant may subcontract.

21.7 Buy Indiana Presumption If Consultant subcontracts any of the work to be performed pursuant to this Contract, Consultant agrees to subcontract work only to an "Indiana businesses" as such term is defined in IC 5-22-15-20.5.

21.8 Telephone Solicitation As required by IC 5-24-3-7, Consultant, on its behalf and on behalf of its principals, affiliates, and sub-Consultants agrees that neither it nor they shall violate the terms of IC 24-4.7 during the Term, even if IC 24-4.7 is preempted by federal law.

Article 22 – Penalties, Interest and Attorney's Fees

ITRCC will in good faith perform its obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as may be required by Indiana law.

Article 23 – Variation and Waiver

23.1 No agreement or understanding varying or extending this contract, will be legally binding upon the Consultant or Owner unless in writing and signed by the Consultant and ITRCC.

23.2 No provision of this contract shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party charged with waiver or consent. Any consent by any party to, or waiver of, a breach of the other party, whether expressed or implied, shall not constitute consent to, waiver of, or excuse for any different or subsequent breach.

Article 24 – Remedies

All rights and remedies of the Owner herein stated are nonexclusive and in addition to other rights and remedies provided by law.

Article 25 – Severability

The invalidity of any section, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of the Contract.

Article 26 - Section Headings

Section headings have been included in this Agreement merely for convenience of reference. They are not to be considered part of this Agreement, or to be used in the interpretation hereof.

Article 27 – Status of Claims

The Consultant shall be responsible for keeping the Owner currently advised as to the status of any claims made for damages against the Consultant in any way related to this Contract. The Consultant shall send notice of claims related to Work under this Contract to:

Robert D. Ladson, PE
ITR Concession Company LLC
52551 Ash Road
Granger, Indiana 46530-7226
rladson@indianatollroad.org

CONTRACT FOR CONSULTING SERVICE
Construction Inspection Services

XXXX Corporation

ITR Concession Company LLC:

Signature

Signature

Title

Title

Date

Date

EXHIBIT A
SCOPE OF SERVICES

SCOPE OF SERVICES

EXHIBIT B

SCHEDULE OF WORK

As set forth in Article 2 of this Contract, the date of commencement of the Work shall be the date of Consultant's receipt of a Notice to Proceed issued by the Owner.

Contract completion shall be thirteen (13) calendar weeks from the Notice to Proceed date.

EXHIBIT C

MBE / WBE Certifications

Subconsultant Name	LIST IF WBE/MBE	Percent
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____