

AGENDA
BOARD OF PUBLIC WORKS
Tuesday, September 25, 2012 @ 5:30 p.m.
(This Meeting May be Televised)

A Regular Meeting of the Board of Public Works to be Held Tuesday, September 25, 2012 at 5:30 p.m., in the City Council Chambers of City Hall at Showers, 401 N. Morton Street, Bloomington, Indiana.

I. MESSAGES FROM BOARD MEMBERS

II. APPROVAL OF MINUTES – September 11, 2012

III. PETITIONS & REMONSTRANCES

IV. TITLE VI ENFORCEMENT

1. Approve Time Extension on Order to Repair Un-1280 E. Short Street
2. Approve Bid for Abatement on Order to Repair-1500 W. 8th Street

V. HEARINGS FOR NOISE APPEAL

VI. OLD BUSINESS

VII. NEW BUSINESS

1. Resolution 2012-72: Request to Encroach into Public Right of Way with Tiered Wall/Landscape at 1722 S. High Street from Arden Place Neighborhood Association
2. Resolution 2012-73: Request to Encroach into Public Right of Way with Sign at 107 W. 9th Street from Bloomington Playwrights Project
3. Approve Agreement to Use Public Right of Way to Construct Springhill Suites Hotel at 501 N. College Avenue
4. Resolution 2012-74: Request to Encroach into Public Right of Way from Springhill Suites Hotel at 501 N. College Ave
5. Resolution 2012-75: Service by Publication Appropriate for Order to Repair Unsafe Structure and Solicit Bids at 2526 S. Spicewood Lane
6. Resolution 2012-76: Use of Public Sidewalk at 108 W. 4th Street for the Joe LaMantia Sculpture Fabrication (Wednesday, 9/26 – Friday, 10/12)
7. Resolution 2012-77: Use of Public Streets for National Night Out Event (Friday, 10/26)
8. Resolution 2012-78: Use of Public Streets for Out of the Darkness Walk (Saturday, 10/27)
9. Resolution 2012-79: Allow Itinerant Merchant to Operate in the Public Right of Way (Pit Boss BBQ)
10. Resolution 2012-80: Use of Public Streets for IU Student Alumni Association Homecoming Concert (Friday, 10/5)
11. Resolution 2012-81: Use of Public Streets for Take Back the Night Walk (Thursday, 10/4)
12. Request to Add 4th Street to Adopt A Road Program
13. Approval of INDOT-LPA Contract for Construction Services for the S. Rogers Street Project

VIII. STAFF REPORTS & OTHER BUSINESS

IX. APPROVAL OF CLAIMS

X. ADJOURNMENT

The Board of Public Works meeting was held on Tuesday, September 11, 2012 at 5:30 p.m. in the Council Chambers of City Hall at Showers, 401 N. Morton Street, Bloomington, Indiana with James McNamara presiding.

**REGULAR MEETING
OF THE BOARD OF
PUBLIC WORKS**

Present: James McNamara
Frank Hrisomalos

ROLL CALL

City Staff: Chris Smith – Public Works
Rick Alexander – Engineering
Miah Michaelson – ESD
Laurel Archer – Public Works

No Messages

**MESSAGES FROM
BOARD MEMBERS**

Hrisomalos made motion to approve minutes from August 28, 2012. McNamara seconded the motion. The motion passed. Minutes approved.

**APPROVAL OF
MINUTES**

None

**PETITIONS &
REMONSTRANCES**

None

**TITLE VI
ENFORCEMENT**

None

**HEARINGS FOR NOISE
APPEALS**

OLD BUSINESS

NEW BUSINESS

Lew May, General Manager for Bloomington Transit, introduced himself. He explained this request is for an encroachment on the north south alley that bisects the property owned by Bloomington Transit at 3rd & Walnut. This alley goes over to Washington. This will be the new Downtown Passenger Transit Facility. The site plan and design were approved by the Planning Commission. The original encroachment request has been changed to see a full encroachment of the entire length of the alley from 3rd Street to the east west alley. This will allow Transit to give the Fleener Building access to the shed in the back of their building where they store supplies for their apartment management business. They will need access for the occasional delivery truck. Bloomington Transit does not have an issue with this

**Resolution 2012-54:
Request to Encroach into
Public Right of Way for
the New Transit Facility
at 3rd & Walnut
(Attachment A)**

access. Transit proposes to erect a barrier at the 3rd Street entrance to the alley that could be moved whenever the Fleener Building had deliveries. There would be a barrier where the Fleener property ends to prevent vehicles from going any further south because that will be a pedestrian channel for passengers going to the boarding island. At the southern end of the alley there were two proposals. There is an east/west alley that runs along the southern edge of the Transit property and is currently about 12 feet in width. The proposal is to widen that to almost 20 feet in width. This will improve the access there and allow delivery trucks to use that east/west alley to park while making deliveries to places such as Middle Way House without blocking the entire alley as they unload. It would also make the turn easier for northbound traffic. The other proposal is to accommodate the occasional semi-truck by putting a gate, or some type of removal barrier, so that the truck could come onto the Transit property to complete the turn.

Hrisomalos asked about emergency vehicles. May stated emergency vehicles would also be able to access the alley, as well as any utility vehicle. There will be underground utility lines running underneath the alley as the overhead electric lines will be relocated to underground

Margie Rice, Corporation Counsel, introduced herself. She pointed out to the Board that their resolution refers to Exhibit A and a new Exhibit A will be attached that shows the encroachment all the way to 3rd Street; therefore, the resolution is accurate.

McNamara asked about #3 in the Resolution [*The terms of this agreement shall be in effect upon execution of this document by Owner and acknowledgement by Owner that the Board of Public Works may alter the terms and conditions to address unanticipated problems or may revoke permission if Board determines the encroachment is undesirable in terms of the general welfare of the City*]. McNamara asked if that should be interrupted as this Resolution is also an acknowledgement by the Owner that at the Board's discretion this can change. Rice stated it will be accepted and agreed to by the Bloomington Public Transit Corporation, and therefore, by signing will acknowledge all the terms of the Resolution.

McNamara stated he has some concerns about granting perpetual access to the property owner of Fleeners. However, it seems that if it were to become a problem at some point in time then it could be addressed.

Hrisomalos was concerned about vehicular traffic using this alley. He

thinks this needs to be monitored from day one because any hard surface brings cars and trucks. Rice felt this has been addressed with the revised proposal to block 3rd Street.

McNamara asked Mr. May if it was the plan to put up a canopy, and if it will be extended with the new proposal. Mr. May stated in the north/south alley there will be a canopy over the portion that is the pedestrian channel. The canopy will be high enough so that buses can get underneath it. The buses will be traveling in an east/west direction at a right angle to the canopy. There are also canopies going in an east/west direction and those will be the boarding areas for passengers.

McNamara asked if the buses will use the east/west alley. May said there was no plan for Transit to use the east/west alley; it is strictly for non Transit vehicular access.

McNamara thought this project was exciting for the downtown area. McNamara thanked the HT for the article and photos in the paper today, and the architect, Parsons Brinckerhoff.

McNamara asked Mr. May to explain about the joint facility aspect of this building. May stated this will be a shared use facility. Transit will be on the ground floor of the building and will encompass a waiting hall for passengers, with public restrooms and multi-purpose room used for employee training. There will be passenger ticketing and pass sales located there, as well as other creature comforts like air conditioning. There will be more room for growth not available at 4th & Washington. The 4th & Washington facility was built in 1987 when Transit was a much smaller operation. This will give Transit the potential to add additional routes and buses in the future. May added City/County 911 Emergency Dispatch Center will be adding a second story onto the building to house the 911 Emergency Dispatch Center. This is exciting because it will give a police presence right next to the Transit Terminal. Security is an important consideration in people's decision to use public transportation. This will have the on-going presence of uniform police personnel that will be coming and going to the facility each day. The facility is designed in a way that the police personnel will enter into the Transit portion of the building through the passenger waiting hall where there will be secure elevators and stairways for them to get to the second floor. Another agreement made with the 911 Dispatch Center is to have ample surveillance cameras inside and outside the building. Part of their responsibilities will be to monitor those surveillance systems. Emergency Dispatch will also have room for growth which they do not have in their present facility.

Hrisomalos asked Mr. May about the restroom facilities. May stated there will be public restrooms on site. They will be airport style with no closed door so staff can better hear what is going on. There will also be restroom facilities for employees in a secure area.

Hrisomalos made a motion to approve revised Resolution 2012 – 54: Request to Encroach in Public Right of Way for the New Transit Facility at 3rd & Walnut. McNamara seconded the motion. The motion passed. Resolution 2012-54 approved.

Miah Michaelsen with ESD explained this is the 15th year for the Breast Cancer Awareness Walk in Bloomington which takes off from, and ends, at Shower's Plaza. The walk begins at 9:30 a.m. on the 20th of October and should be complete in an hour. The walkers head east on 8th from Showers to College, South to Kirkwood, east to Indiana, and reverse the route back to Showers. This walk is designed to take place on sidewalks, but occasionally, walkers may stray out into the street. They anticipate between 800 and 1000 walkers who all may participate for free, but they do except donations. The Bloomington Police Department has issued a parade permit for the event, pending Board of Public Works approval. Staff recommended approval.

Resolution 2012-70: Use of Public Streets for the Breast Cancer 5K Walk (Saturday, 10/20) (Attachment B)

Karen Shacklett and Susan Shick introduced themselves. They represented the Bloomington Breast Cancer Awareness Walk. Both ladies have been on the committee for many years. This walk is about awareness. The walk is one mile so young and old and well behaved pets can also join the walk. The walk also has a program for survivors and usually has 70 to 80 survivors walk across the stage to receive recognition as well as a small gift. Registration will begin at 8:30 a.m. and the ceremony begins at 9:00 a.m. Walking begins about 9:30.

Hrisomalos asked about the donations. Those donations go to cancer causes. There are also free t-shirts to the first 1000 people that show up.

Hrisomalos made a motion to approve Resolution 2012-70, Use of Public Streets for Breast Cancer 5K Walk on Saturday, October 20th. McNamara seconded the motion. Motion passed. Resolution 2012-70 approved.

Miah explained Sherwood Oaks Church is holding a 50 year celebration featuring live music, fireworks, and midway type carnival activities. The date for this event is October 7th from 5 to 9pm on the Sherwood Oaks Campus. The Church does have insurance coverage for the fireworks which will be programmed by a company from

Request for Noise Permit for Sherwood Oaks 50th Year Celebration Event (Sunday 10/7)

Indianapolis. This is a family event which is free and open to the public. Staff recommended approval.

McNamara would like to know if after the event there is an issue with the fireworks.

Hrisomalos made a motion to approve the request for Noise Permit for Sherwood Oaks 50th Year Celebration event on Sunday, October 7th. McNamara seconded the motion. Motion passed. Noise permit approved.

Miah explained this is International PARKing day which is an annual event that intends to educate the public about the relationship between parking, transportation, and land use and the impact to the environment, society, and urban quality of life. Dozens of U.S. cities participate by temporarily converting automobile parking spaces into public parks, or public space for recreation and human interaction. Volunteers from B-Top and partner organizations in Bloomington would like to organize a PARKing Day event on E. 6th Street, on Friday, September 21. One parking space in front of Boxcar Books (former home of Dr. Frank), will be used from 12 to 5:00 p.m. Volunteers will staff the space to engage with members of the public and educate regarding transportation issues. Temporary changes to the space will include bringing house plants and furniture to create an attractive environment. Activities will be non-commercial in nature and may include eating, drinking, talking, reading, and playing games, for example, chess, cards, and simple lawn games. Attendance will likely consist of people walking or biking past who decide to stop and see what's going on, probably no more than a few at any given time. This is not expected to impact through traffic of vehicles, bikes, or people. Staff supported the request.

Miah added a few years ago PARKing Day was celebrated by designating a space in front of WFHB radio. That event was quite successful.

McNamara asked about partner organizations. A representative stated other partnering organizations are WFHB, BTOP, and BoxCar Books.

Hrisomalos made a motion to approve the use of one (1) parking space for National PARKing Day Event at 408 E. 6th Street on Friday, September 21. McNamara seconded the motion. Motion passed.

Alexander stated the St. James Neighborhood Association asked permission to install landscaping on the eastside of their entrance. The addition is located on the northwest corner of Smith & Moore's Pike.

**Approval of Use of One
(1) Parking Space for the
National PARKing Day
Event at 408 E. 6th Street
(Friday, 9/21)**

**Resolution 2012-71:
Request to Encroach into
the Public Right of Way**

In 2009 the Neighborhood Association came to the Board and asked to install plantings on the northwest side. The landscaping has been done well and been taken care of. There have been no complaints about the plantings. This will help the Neighborhood Association reduce mowing. There is a fence that makes it difficult for individual homeowners to get around to mow this area.

**from St. James Woods
Neighborhood
Association
(Attachment C)**

David Cummings and Mrs. Cummings were present. Mr. Cummings stated they are trying to turn an eyesore into a woodland walkway. This will also reduce some of the maintenance in this area. The area is currently weedy and there is poison ivy. Weed screen will be put down and mulch.

Hrisomalos made a motion to approve Resolution 2012-71: Request to Encroach into the Public Right of Way from St. James Woods Neighborhood Association. McNamara seconded the motion. Resolution 2012-71 approved.

Chris Smith stated the Board would be asked to sign Outdoor Seating and Merchandising Permits for the following businesses:

**STAFF REPORTS &
OTHER BUSINESS**

The Bishop – 123 S. Walnut Street – Permit #12-034
El Norteno – 206 N. Walnut Street – Permit #12-035
The Player’s Pub – 424 S. Walnut Street – Permit #12-036
Scotty’s Brewhouse – 302 N. Walnut Street – Permit 12-037

Hrisomalos made a motion to approve claims. McNamara seconded the motion. Motion passed. Claims approved.

**APPROVAL OF
CLAIMS**

Hrisomalos made a motion to adjourn the meeting. McNamara seconded Meeting adjourned at 6:07 p.m.

ADJOURNMENT

Accepted by:

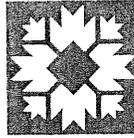
Charlotte Zietlow, President

James McNamara, Vice President

Dr. Frank N. Hrisomalos, Secretary

Date:

Attest to:



**City of Bloomington
Housing and Neighborhood Development**



City of Bloomington
H.A.N.D.

**Board of Public Works
Staff Report:**

Meeting Date: 25 September 2012

Petition Type: Request for Extension of Time

Address: legal description, address

Petitioner: Floyd Clark

Inspector: Michael Arnold

Staff Report: 28 August 2012 Responded to complaint about unsafe structure
 30 August 2012 Sent Orders to repair
 05 September 2012 Spoke to Tim at Hoosier Rentals about procedure to request additional time to repair the structure. Sent letter explaining the procedure
 12 September 2012 Received written request from Floyd Clark requesting additional time to repair the structure.

Staff recommendation: Per the phone conversation with Tim, the repairs are scheduled for October.

Conditions: Bring the structure into compliance with Title 17 of the Bloomington Municipal Code

Compliance Deadline: 30 November 2012

Attachments: Photos, orders.



**City of Bloomington
Housing and Neighborhood Development**

ORDER TO REPAIR

30 August 2012

Floyd K. and Mildred G. Clark Trust
1420 S. Smith Rd.
Bloomington IN 47401

Re: 015-70160-00 PT SW NW 10-8-0W 1.00A, commonly known as 1280 E. Short St.

Dear Floyd K. and Mildred G. Clark Trust:

The City of Bloomington's Housing and Neighborhood Development Department (HAND), pursuant to Indiana Code Section 36-7-9-5, is issuing this Order to Repair. HAND is required to give all substantial property interest holders in the above-referenced property notice of this Order to Repair.

You have until 30 September 2012 to repair the structure. See the attached Notice of Ordinance Violation (NOV) for the details of this violation and a summary of the violation history.

This order becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a person holding a full interest, life estate interest, mortgage interest, or equitable interest of a contract purchaser in these premises. If a hearing is requested, it will be held on this matter on 11 September 2012, at 5:30 p.m. in the Council Chambers of City Hall located in the Showers Building at 401 North Morton Street, Bloomington, Indiana. You are entitled to appear at this hearing, with or without legal counsel. You are entitled to present evidence, cross-examine opposing witnesses and present arguments at this hearing.

If the Order to Repair is not complied with, the following may occur:

1. HAND may hire a contractor to fulfill the obligations of the Order to Repair.
2. HAND may fulfill the obligations of the Order to Repair itself.
3. If HAND has to hire a contractor to fulfill the obligations of the Order to Repair or must fulfill the obligations of the Order to Repair itself, each person who holds a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the date of this Order to Repair to the time that the work is completed, is jointly and severally responsible for certain costs; including the actual cost of the work performed and reasonable processing expenses.
4. If any assessed costs remain unpaid, HAND shall execute a judgment in the Monroe Circuit Court against any and all of the aforementioned

parties; said judgment is a debt and lien on all real and personal property of each named individual.

Per Indiana Code § 36-7-9-27, if, after you have been issued and received notice of this order and you have not complied, you must supply full information regarding this order to a person who takes or agrees to take a substantial property interest in the unsafe premises before transferring or agreeing to transfer that interest, and within five (5) days after transferring or agreeing to transfer a substantial property interest in the unsafe premises, you must supply HAND with written copies of the full name, address, and telephone number of the person taking a substantial property interest in the property, and the legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

I hereby affirm, to the best of my knowledge, under the penalties of perjury, that the foregoing representation is true.



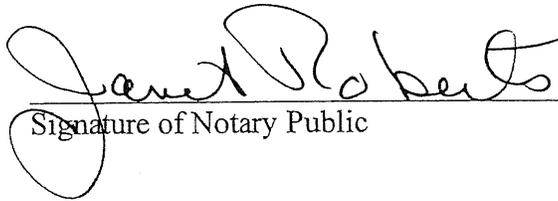
Lisa Abbott
Director
Housing and Neighborhood Development
401 North Morton Street/P.O. Box 100
Bloomington, Indiana 47402
(812) 349-3401

State of Indiana)
)SS:
County of Monroe)

Subscribed and sworn to before me a Notary Public this 29~~th~~ day of August 2012.



Name of Notary Public



Signature of Notary Public



Notary Public's County of Residence

11/22/2015
Commission Expires

CITY OF BLOOMINGTON NOTICE OF ORDINANCE VIOLATION

Date NOV issued: **30 August 2012**

Person(s) NOV issued to: **Floyd K. and Mildred G. Clark Trust**

Date violation discovered: **28 August 2012**

Location/address of violation: **015-70160-00 PT SW NW 10-8-1W 1.00A,
commonly known as 1280 E. Short St.**

Nature of violation/code provision violated: **Bloomington Municipal Code (BMC) § 17.16**

Inspector's Report

A complaint was received regarding an unsafe structure located at 1280 E. Short St. During a drive by inspection it was noted the roof of the house and porch has holes and that the porch ceiling is falling. The following steps shall be completed to bring the structure into compliance:

1. The Monroe County Building Department shall be contacted to determine if a Building Permit is required for the work to repair the structure.
2. Damage to the structure and to the exterior shall be repaired.
3. All debris, associated with this work shall be removed from the premises.
4. HAND shall be notified when work is completed at this location

Relevant Code Citations

BMC § 17.16.020 adopts Indiana Code §§ 36-7-9-1—36-7-9-28 by reference. Indiana Code § 36-7-9-4, Unsafe building and unsafe premises described, states in section (a) "For purposes of this chapter, a building or structure, or any part of a building or structure, that is:

- (1) In an impaired structural condition that makes it unsafe to a person or property;
- (2) A fire hazard;
- (3) A hazard to the public health;
- (4) A public nuisance;
- (5) Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or
- (6) Vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance;

is considered an unsafe building.



1280 E SHOPT ST
28 AUGUST 2012

City of Bloomington

Housing and Neighborhood Development

September 11, 2012

Dear Mr. Arnold,

We are requesting an extension of time for the repairs to the property located at 1280 Short St. We would like an extension to November 30, 2012 (original date September 30, 2012). We had originally planned to have the work started the 2ne week if October before your repair letter dated August 30, 2012. We have since applied for permits and ordered roofing materials (10-14 day delivery). We are also waiting the setting of a dumpster on site for all the debris at their 1st opportunity.

Due to the time of year we will probably run into encumber weather. We intend to comply with the repair order and all codes pertaining to said work order. What we are asking for is additional time to complete repairs and clean up the site.

Thank you for your consideration in this matter.

Sincerely,



Floyd Clark



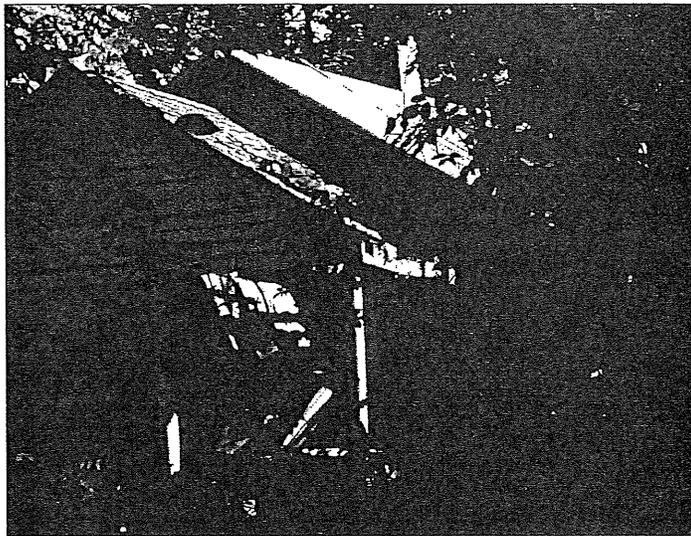
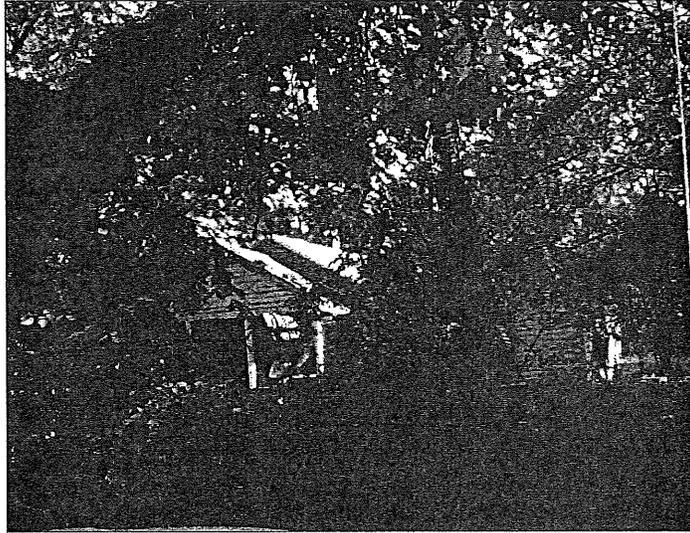
Mildred Clark

BMC § 17.16.040 (f) states, in part, “Unsafe building or structure means any building or structure or part of building or structure that is ... in any of the conditions or possesses any of the defects described below, provided that such conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered:

- (ll) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure, provided by the building regulations of this city, or of any law or ordinance of this state or city relating to the condition, location, or structure of buildings;

- (nn) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities, or otherwise, is determined by the enforcement authority to be unsanitary, unfit for human habitation, or in such condition that it is likely to cause sickness or disease.

1280 E. Short St.
28 August 2012





City of Bloomington
Housing and Neighborhood Development



City of Bloomington
H.A.N.D.

**Board of Public Works
Staff Report: Request**

Meeting Date: 25 September 2012

Petition Type: Request to approve bid for abatement

Address: Waterman PT Lot 103; commonly known as 1500 W. 8th St.

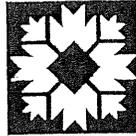
Petitioner: Housing and Neighborhood Development

Inspector: Michael Arnold

Staff Report: 05 June 2012 BPW upheld Order to Remove unsafe structure
28 August 2012 BPW approved HAND request to do Notice by
Publication
25 September 2012 HAND is requesting approval of the contract.

HAND is asking for approval of the contract so the contractor can begin removal of the unsafe structures on the property.

Attachments: Photos, orders.



**City of Bloomington
Housing and Neighborhood Development**

ORDER TO REPAIR OR REMOVE

01 March 2012

American Acceptance CO, LLC
c/o Glen Vician
8605 Broadway
Merrillville IN 46410

Re: Property located at Waterman's PT Lot 103, commonly known as 1500 W. 8th St.,
Bloomington, IN

Dear David Mowery,

The City of Bloomington's Housing and Neighborhood Development Department (HAND), pursuant to Indiana Code Section 36-7-9-5, is issuing this Order to Repair. HAND is required to give all substantial property interest holders in the above-referenced property notice of this Order to Repair.

You have until 01 May 2012 to repair the structure. See the attached Notice of Ordinance Violation (NOV) for the details of this violation and a summary of the violation history.

This order becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a person holding a full interest, life estate interest, mortgage interest, or equitable interest of a contract purchaser in these premises. If a hearing is requested, it will be held on this matter on 27 March 2012, at 5:30 p.m. in the Council Chambers of City Hall located in the Showers Building at 401 North Morton Street, Bloomington, Indiana. You are entitled to appear at this hearing, with or without legal counsel. You are entitled to present evidence, cross-examine opposing witnesses and present arguments at this hearing.

If the Order to Repair is not complied with, the following may occur:

1. HAND may hire a contractor to fulfill the obligations of the Order to Repair.
2. HAND may fulfill the obligations of the Order to Repair itself.
3. If HAND has to hire a contractor to fulfill the obligations of the Order to Repair or must fulfill the obligations of the Order to Repair itself, each person who holds a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the date of this Order to Repair to the time that the work is completed, is jointly and severally



**City of Bloomington
Housing and Neighborhood Development**

ORDER TO REPAIR OR SEAL

02 March 2012

Advantage Assets
c/o Highest Officer Thereof
PO Box 15718
Wilmington DE 19850

Re: Property located at Waterman's PT Lot 103, commonly known as 1500 W. 8th St.,
Bloomington, IN

Dear David Mowery,

The City of Bloomington's Housing and Neighborhood Development Department (HAND), pursuant to Indiana Code Section 36-7-9-5, is issuing this Order to Repair. HAND is required to give all substantial property interest holders in the above-referenced property notice of this Order to Repair.

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CITY OF BLOOMINGTON NOTICE OF ORDINANCE VIOLATION

Date NOV issued: **01 March 2012**

Person(s) NOV issued to: **David Mowery**

Date violation discovered: **27 February 2012**

Location/address of violation: **Waterman's PT Lot 103, commonly known as 1500 W. 8th St., Bloomington, IN**

Nature of violation/code provision violated: **Bloomington Municipal Code (BMC) § 17.16**

Inspector's Report

On 27 February 2012 it was noted that the front door is broken open and that the roof is collapsing on the main structure at this location. This is also an abundance of trash and debris along W. 8th St. and N. Hopewell St. The openings into the structure shall be sealed and the roof properly repaired or the structure shall be removed so it is in compliance with Title 17 of the BMC.

Relevant Code Citations

BMC § 17.16.020 adopts Indiana Code §§ 36-7-9-1—36-7-9-28 by reference. Indiana Code § 36-7-9-4, Unsafe building and unsafe premises described, states in section (a) "For purposes of this chapter, a building or structure, or any part of a building or structure, that is:

- (1) In an impaired structural condition that makes it unsafe to a person or property;
- (2) A fire hazard;
- (3) A hazard to the public health;
- (4) A public nuisance;
- (5) Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or
- (6) Vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance;

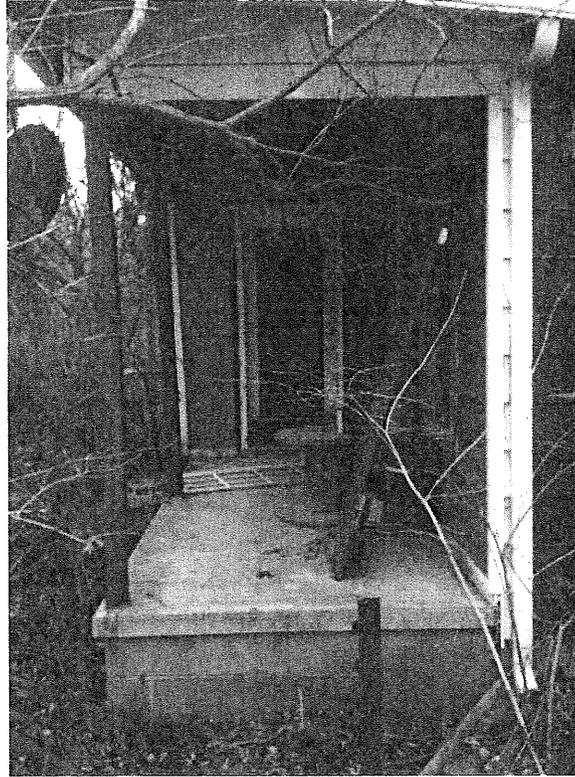
is considered an unsafe building.

BMC § 17.16.040 (f) states, in part, “Unsafe building or structure means any building or structure or part of building or structure that is ... in any of the conditions or possesses any of the defects described below, provided that such conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered:

- (ll) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure, provided by the building regulations of this city, or of any law or ordinance of this state or city relating to the condition, location, or structure of buildings;

- (nn) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities, or otherwise, is determined by the enforcement authority to be unsanitary, unfit for human habitation, or in such condition that it is likely to cause sickness or disease.

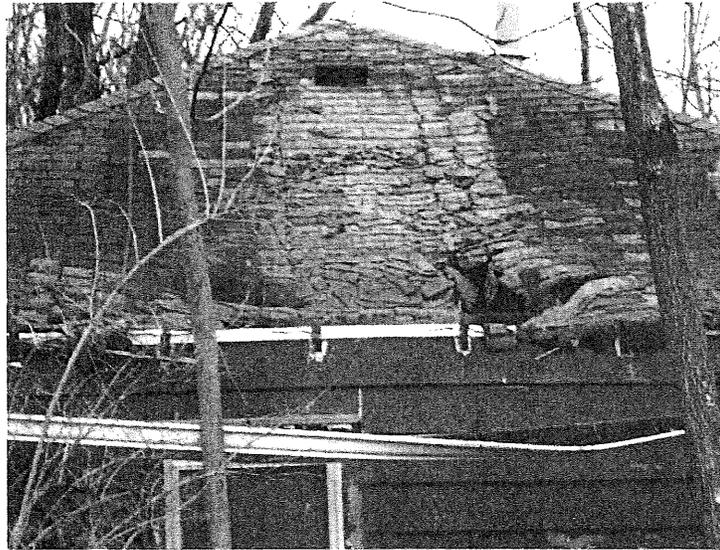
**1500 W. 8th St.
27 February 2012**



Plywood removed from door and the glass is missing



Scattered litter and trash



Roof is collapsing





Board of Public Works Staff Report

Project/Event: Arden Place Neighborhood Landscaping/Wall Encroachment
Petitioner/Representative: Elspeth D. Thibos
Staff Representative: Justin Wykoff
Meeting Date: September 25, 2012

The City of Bloomington Engineering Department has received a request from a representative of the Arden Place Neighborhood Association to make additional improvements to their neighborhood sign located at the northwest corner of High Street and Arden Drive.

These improvements would include the placement of a segmental block retaining wall terraced with landscaping to provide improved aesthetics.

Previously the Board of Public Works approved the placement (Res. 2011-104) of neighborhood signs at three locations that provide entry to the Arden Place Neighborhood.

Staff has has worked with City Legal to draft this resolution which addresses staff concerns such as vegetation/wall height for visibility, as well as location within the public right of way.

Recommend Approval Denial by

Handwritten signature of Justin D. Wykoff in blue ink, written over a horizontal line.

RESOLUTION 2012-72
Landscaping and Wall Encroachment
Arden Place Neighborhood Association

WHEREAS, the Arden Place Neighborhood Association was awarded a Neighborhood Grant in 2011 through the City of Bloomington Housing and Neighborhood Department to assist in paying for the construction and installation of a sign at the intersection of High Street and Arden Drive; and

WHEREAS, the Arden Place Neighborhood Association desires to enhance its neighborhood by installing a tiered block retaining wall with landscaping around their previously approved neighborhood sign at the intersection of High Street and Arden Drive;

WHEREAS, the Board of Public Works is responsible for maintaining and managing all right of way in the City limits and does not object to the described encroachments but may, from time to time, need to enter onto this right of way for various maintenance, health and safety purposes and does not desire to vacate this right of way; and

NOW, THEREFORE, BE IT RESOLVED, That the City of Bloomington Board of Public Works agrees not to initiate any legal action against the Arden Place Neighborhood Association, herein after referred to as "Owner," regarding the placement of landscaping and a retaining wall in the public right of way provided that:

1. The Neighborhood Association will verify the property line location and make any and all separate and necessary arrangements with the current owner should the need arise to further encroach upon private property with said encroachments.
2. The City retains the right for the City and all public utilities to enter onto this right of way when, in its opinion, such entry is necessitated in order to maintain said right of way, or to perform other duties or functions for which entry on said right of way is, in the opinion of the City, needed.
3. If at any time it is determined that the street should be improved to better serve the public or other public improvements need to be made in the right of way, and the encroaching improvements interfere with the planned public improvements, then the Owner will move said encroachments upon notification by City, without compensation by City.
4. The Neighborhood Association shall be allowed to install landscaping plants that do not create a hazard or block visibility at the intersection and are approved by the City of Bloomington Engineering Department.
5. Should the tiered block retaining wall and/or landscaping become unmaintained, or unsuitable as determined by the City of Bloomington, then the wall and/or landscaping shall be removed upon written notice to the Neighborhood Association. Following removal of wall and/or landscaping, the adjacent property owner will become responsible for maintenance of this area per the applicable Bloomington Municipal Code at such time.
6. By executing this agreement on behalf of the Association, Elspeth D. Thibos represents and certifies that she has been fully empowered to execute this agreement and that all necessary corporate action for the execution of this agreement has been taken and done.

**RELEASE, HOLD HARMLESS
AND
INDEMNIFICATION AGREEMENT**

WHEREAS, the Arden Place Neighborhood Association, in Bloomington, IN, (hereinafter referred to as "RELEASOR") desires to use the facilities or public property of the CITY OF BLOOMINGTON (hereinafter referred to as "RELEASEE"), and specifically the use of the public right of way around a previously approved neighborhood sign at the intersection of High Street and Arden Drive: and

WHEREAS, the RELEASEE wishes to cooperate in said endeavor by allowing such encroachments to be placed upon its property;

NOW, THEREFORE, in consideration for the use of the property of RELEASEE for said purposes, the RELEASOR, for its officers, directors, agents, employees, members, successors and assigns, does hereby acknowledge and agree to assume full and complete responsibility for all bodily and personal injuries, including injuries resulting in death, and property damage, claims, actions, damages, liabilities and expenses, including reasonable attorneys' fees and court costs, which may occur as a result of the use of said property, and for the same consideration hereby agrees to indemnify, defend, hold harmless, release, waive and forever discharge the RELEASEE, its officers, directors, agents, employees, successors and assigns, and all other persons and entities associated with the RELEASEE, for all bodily and personal injuries, including injuries resulting in death, and property damage, claims, actions, damages, liabilities and expenses, including reasonable attorneys' fees and court costs, which may occur as a result of the use of said property, including, but not limited to, any claim or claims brought by third parties, whether or not sounding in tort or contract.

RELEASOR expressly agrees that the foregoing RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT is intended to be as broad as permitted by law and if any portion thereof is not found to be enforceable, it is agreed that the balance shall, notwithstanding, continue in full force and effect.

Elsbeth D. Thibos represents and certifies that she has been fully empowered to execute this RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT on behalf of RELEASOR.

THE PARTIES, INTENDING TO BE BOUND, have executed this RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT.

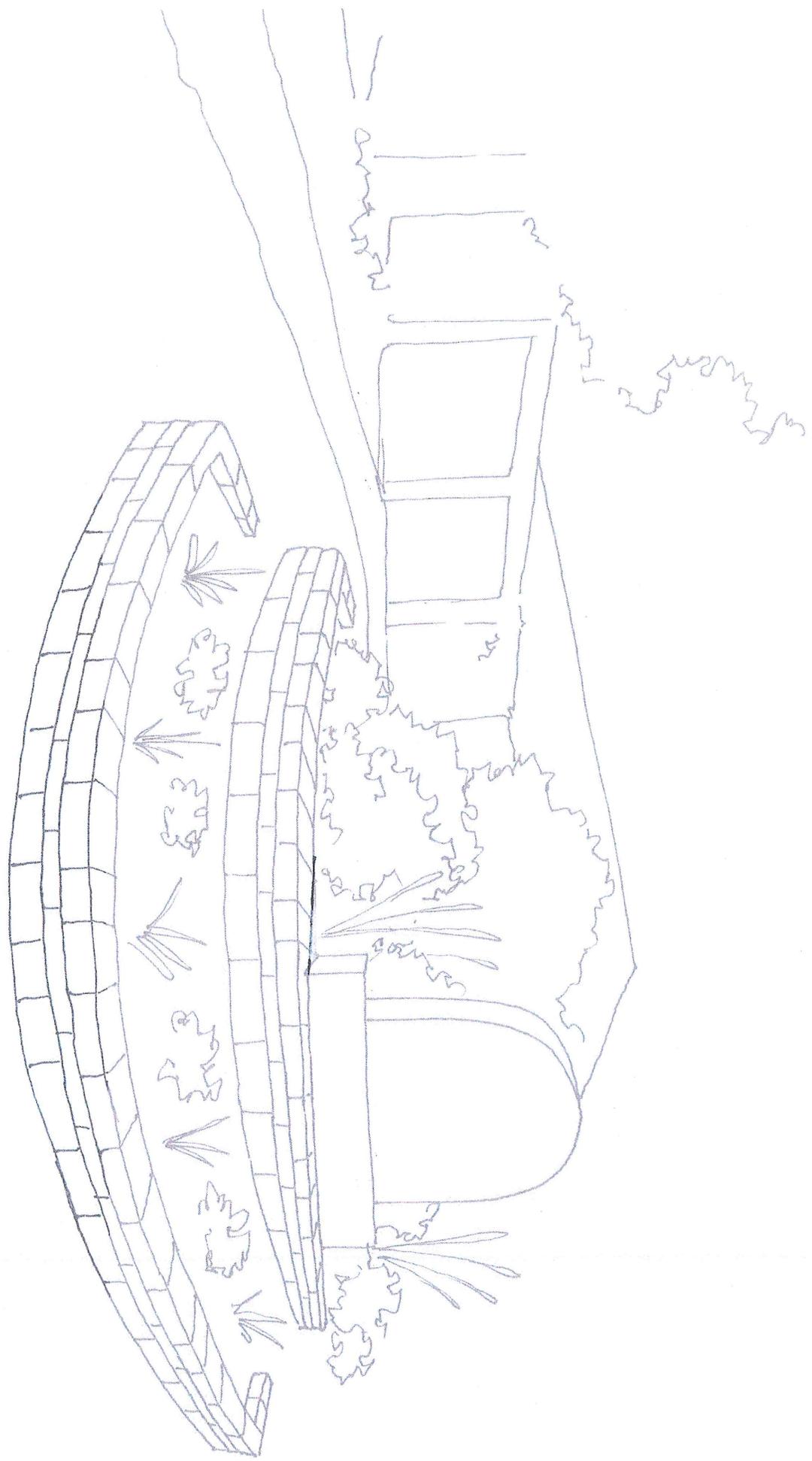
"RELEASOR"

"RELEASEE"

Arden Place Neighborhood Association,
by its member, Elspeth D. Thibos

City of Bloomington

ADDENDUM PLACE SIGN SITE
FOR 1770 HIGHWAY



PAUL HILL



Board of Public Works Staff Report

Project/Event: Encroachment with Blade Sign at Bloomington Playwrites Project

Staff Representative: Rick Alexander

Petitioner/Representative: BPP/Chad Rabinovitz

Date: September 21, 2012

Report: The Bloomington Playwrites Project is located at 107 West 9th Street. They have asked to install a blade sign on the front of their building in order to help identify their location. The sign is simple and only reads "BPP".

Recommendation and Supporting Justification: A resolution has been prepared to allow the encroachment into the right of way for the sign. Staff has inspected the site and the proposed sign location and found it to be acceptable. They have applied for a sign permit thru the Planning Department and approval of the encroachment will allow the permit to move forward. Staff recommends approval.

Recommend **Approval** **Denial** by Rick Alexander

**BOARD OF PUBLIC WORKS
RESOLUTION 2012-73**

Sign Encroachment at Bloomington Playwrights Project at 107 West 9th Street

WHEREAS, Jordan Bukas, (“Owner”) owns the real property located at 107 West 9th Street;
and

WHEREAS, the City of Bloomington (“City”) has authority pursuant to IC 36-9-2-5 to establish, vacate, maintain, and operate public ways, including air ways over sidewalks; and

WHEREAS, Owner has requested that he be allowed to install a sign over the public sidewalk adjacent to his business known as Bloomington Playwrites Project. The sign, which is five (5) tall, would extend three (3) feet out from the building, five (5) feet high encroaching over the public right of way starting at a point twelve (12) feet west of the east property line of West 9th Street. Said sign will be a minimum of nine (9) feet above the sidewalk and will be supported from the building without additional supports onto the sidewalk; and

WHEREAS, Owner has agreed to release and forever discharge and hold harmless and indemnify the City of Bloomington, its departments, officers, agents, employees, its successors and assigns ("City") for any and all causes of action including attorney's fees, loss or injury of whatsoever character that occur as a result of Owner’s request to utilize described right of way;

NOW, THEREFORE, BE IT RESOLVED that the City of Bloomington agrees not to initiate any legal action against Owner for the installation of the sign over the public right of way, provided that:

1. Owner agrees to maintain the sign and to keep it in a safe and good condition.
2. The sign shall not deviate from the design which is attached as Exhibit A of this resolution, without the Owner resubmitting the design to the Board of Public Works for approval. Exhibit “A” is attached hereto and incorporated herein.
3. This resolution is not intended to relieve Owner of any provisions of any applicable zoning or other ordinance or statute that may apply to the property.
4. The terms of this agreement shall be in effect upon execution of this document by Owner and acknowledgment by Owner that the Board of Public Works may alter the terms and conditions to address unanticipated problems or may revoke permission if Board determines the encroachment is undesirable in terms of the general welfare of the City.
5. Owner understands and agrees that if City or public utility need to work in said

area for any reason, and the sign needs to be removed to facilitate City or utility, the removal shall be at the sole expense of Owner and that the City shall not be responsible for any damage which may occur to the sign by City's workers or contractors, or by those of a public utility. Owner shall not be compensated for any expense which it may incur.

6. In the event the Owner sells the business during the term of this authorization, this authorization shall continue under the original conditions and be binding on his successor. However, if successor wishes to change the sign in any way, successor shall return to the Board of Public Works for permission to replace or modify said sign prior to any change being made.

7. Jordan Bukas, as owner, agrees by signing that he has full power by proper action to enter into the agreement and has authority to do so.

Signed this _____ day of _____, 2012.

Board of Public Works

Charlotte Zietlow, President

Jordan Bukas, Owner

James McNamara

Date

Dr. Frank N. Hrisomalos

**RELEASE, HOLD HARMLESS
AND
INDEMNIFICATION AGREEMENT**

WHEREAS, Jordan Bukas, owner of the real property located at 107 West 9th Street, in Bloomington, IN, (hereinafter referred to as "RELEASOR") desires to use the facilities or public property of the CITY OF BLOOMINGTON (hereinafter referred to as "RELEASEE"), and specifically the airway above the sidewalk adjacent to the building at 107 West 9th Street, which is operated, supervised and maintained by the RELEASEE'S Board of Public Works, to install a sign over RELEASEE'S property; and

WHEREAS, the RELEASEE wishes to cooperate in said endeavor by allowing such encroachments to be placed upon its property;

NOW, THEREFORE, in consideration for the use of the property of RELEASEE for said purposes, the RELEASOR, Jordan Bukas, for RELEASOR and the officers, directors, agents, employees, members, successors and assigns, does hereby acknowledge and agree to assume full and complete responsibility for all bodily and personal injuries, including injuries resulting in death, and property damage, claims, actions, damages, liabilities and expenses, including reasonable attorneys' fees and court costs, which may occur as a result of the use of said property, and for the same consideration hereby agrees to indemnify, defend, hold harmless, release, waive and forever discharge the RELEASEE, its officers, directors, agents, employees, successors and assigns, and all other persons and entities associated with the RELEASEE, for all bodily and personal injuries, including injuries resulting in death, and property damage, claims, actions, damages, liabilities and expenses, including reasonable attorneys' fees and court costs, which may occur as a result of the use of said property, including, but not limited to, any claim or claims brought by third parties, whether or not sounding in tort or contract.

RELEASOR expressly agrees that the foregoing RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT is intended to be as broad as permitted by law and if any portion thereof is not found to be enforceable, it is agreed that the balance shall, notwithstanding, continue in full force and effect.

THE PARTIES, INTENDING TO BE BOUND, have executed this RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT.

"RELEASOR"

"RELEASEE"

Jordan Bukas, Owner

City of Bloomington

Date



Gil Sans MT Bold

5' h x 24" w - 1 ft off wall



Board of Public Works Staff Report

Project/Event: Springhill Suites Hotel Memo of Understanding

Staff Representative: Rick Alexander

Petitioner/Representative: Urbanhospitality1, LLC/Paul Pruitt

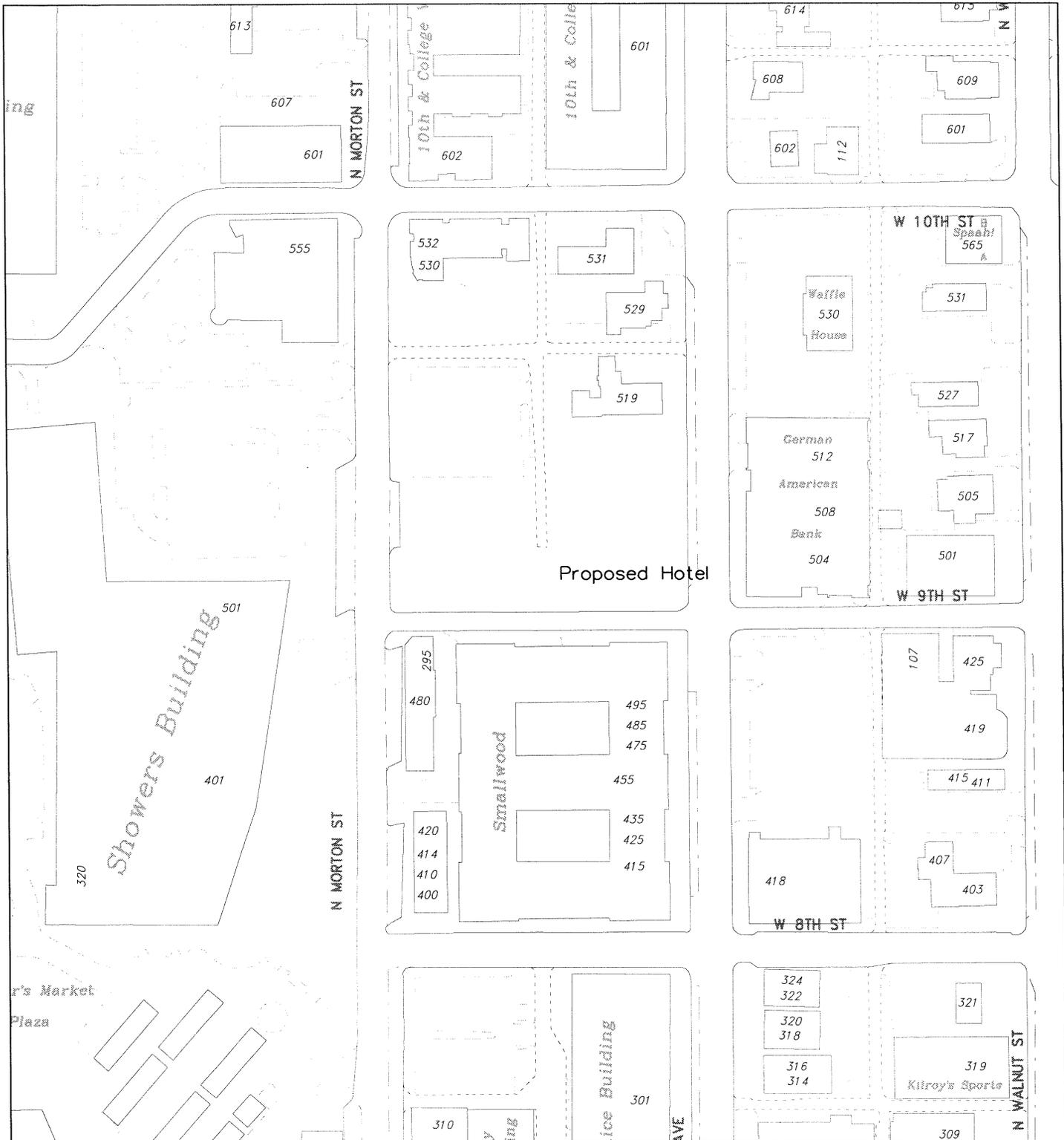
Date: September 19, 2012

Report: We have a new hotel coming to 501 North College. Springhill Suites Hotel is being constructed by Paul Pruitt. The hotel will be bounded by North College, West 9th and North Morton. In order to build the hotel, Mr. Pruitt is asking for the use of the public right of way on three sides of the property. A memo of understanding has been prepared, reviewed by the Legal Department and signed by the mayor. The MOU would allow the use of the adjoining travel lane of west 9th, the parking lane of north College and the parking area of North Morton. The area will be fenced to delineate the construction area from the area of general use. Mr. Pruitt anticipates that the construction will take 13 months to complete. If approved, the memo would take effect tomorrow and continue until the project is complete, or until October 26th, 2013.

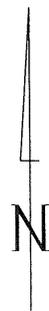
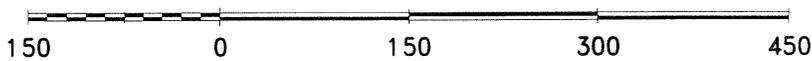
Recommendation and Supporting Justification: Both parties have reviewed the memo of understanding and agree to the terms. This will eliminate the parking on West 9th's south side for most of the duration of the project. However, the city will gain 3 additional spaces on North Morton when all is complete. Staff recommends approval.

Recommend **Approval** **Denial** by

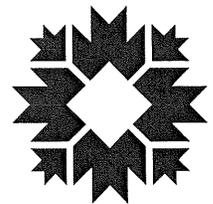
A handwritten signature in black ink, appearing to read "Rick Alexander", is written over a horizontal line.



By: alexandr
19 Sep 12



City of Bloomington
Engineering



Scale: 1" = 150'

For reference only; map information NOT warranted.

**Memorandum of Understanding
Between
City of Bloomington Public Works Department
And
Urbanhospitality1, LLC**

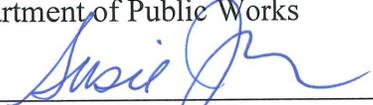
This Memorandum of Understanding (hereinafter "MOU") between the City of Bloomington Public Works Department, (hereinafter "Public Works") and Urbanhospitality1, LLC, (hereinafter "Contractor") outlines the binding conditions placed upon and agreed to by Contractor, in exchange for use by Contractor, its agents and subcontractors, of certain public right-of-way during the construction of the Springhill Suites Hotel, at the real property located 501 North College Avenue in Bloomington, Indiana (hereinafter the "Construction Site.")

1. This MOU shall cover the time period from September 26, 2012, through October 26, 2013, inclusive.
2. Public Works shall allow Contractor to block and restrict from general public usage the sidewalk and parking spaces east and west of the property, and to block and restrict from general public usage the sidewalk south of the property and directly adjacent to the Construction Site. Contractor shall coordinate the placement of any and all construction notification and detour signage with the City Engineering Department including vehicular and pedestrian signage.
3. Contractor shall install and maintain, to the satisfaction of the City of Bloomington Engineering Department, all signage associated with providing notice to the public of restrictions on right-of-way usage. Such signage shall reflect the form and content specified by the Manual on Uniform Traffic Control Devices (M.U.T.C.D), and must be approved by the City Engineering Department.
4. Contractor shall also be solely responsible for any and all costs associated with any non-scheduled outages of the Bloomington Digital Underground system which might occur as a result of work done in conjunction with the Construction Site.
5. Contractor shall coordinate the removal and replacement of all permanent signage and parking meters at, or adjoining, the Construction Site through the City of Bloomington Traffic Division at all requested points for permanent signage replacement, which will be performed by the Traffic Division.
6. The City shall have the right to avail itself of any legal action and remedy as necessary to maintain the free flow of traffic along the streets in the Construction Site area.

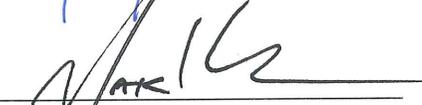
7. Nothing in this MOU shall be construed to prohibit the City of Bloomington from issuing any Stop Work Orders during construction on this project, in addition to any remedy or action spelled out in this MOU or available under law.
8. Should any part of this MOU be found in violation of any federal, state, or local law or ordinance, all unaffected parts shall remain in effect and enforceable provided that the intent of the MOU is still served.
9. Contractor agrees to release, forever discharge and hold harmless and indemnify the City of Bloomington, Indiana, its departments, officers, agents, employees, its successors and assigns from any and all claims or causes of action including attorney's fees that may arise from personal injury, including injuries resulting in death, property damage, and/or any other type of claim which may occur as a result of Contractor's use of the described right-of-way.
10. Public Works agrees to allow Contractor to utilize the westbound travel lane of West 9th Street between North College and North Morton for construction purposes following the installation of a perimeter fence that clearly delineates the approved construction area from the area intended for public use.
11. Any and all closures of the travel lanes will require a one (1) week advance notice to the City Engineering Department, the City transit service and emergency services. Any lane closed without proper prior notification is subject to a fine of \$500.00 for each violation of this notice requirement.
12. Contractor agrees to pay for the removal and re-installation of the parking meter station currently located within the Construction Site. This meter station may be removed and stored during construction but shall be re-installed at, or near, its current location. This shall be coordinated with the Division Supervisor of the Parking Enforcement Division.
13. Prior to beginning work, Contractor shall provide the City Engineering Department with a phone contact list for their supervisory personnel and for their sub-contractors.
14. Contractor shall make its on-site supervisory personnel available for bi-weekly meetings with the City Engineering Department staff for progress updates.

15. Paul Pruitt, member of Urbanhospitality1, LLC, agrees by signing that he has full power by proper action to enter into this MOU and has authority to do so.

City of Bloomington
Department of Public Works

By: 
Susie Johnson, Director

Date: 9/19/2012

By: 
Mark Kruzan, Mayor

Date: 9.17.2012

Urbanhospitality1, LLC

By: _____
Paul Pruitt, member

Date: _____

CITY OF BLOOMINGTON
Legal Department
Reviewed By: Jackie Moore
DATE: 9-17-12



Board of Public Works Staff Report

Project/Event: Encroachments at Springhill Suites at 501 N. College

Staff Representative: Rick Alexander

Petitioner/Representative: Urbanhospitality1, LLC/Paul Pruitt

Date: September 19, 2012

Report: A new hotel is being built at 501 North College to be known as the Springhill Suites Hotel. The hotel has several features that extend into the public right of way. These include canopies on the east and west sides. Blade signs on the east and west sides and an architectural feature on the east side.

Recommendation and Supporting Justification: None of the encroachments extend into the right of way by more than 5 feet. Only the architectural feature extends all the way to the ground so the encroachments cause little in the way of impediments to pedestrian traffic and yet they enhance the face of the new hotel. Staff recommends approval.

Recommend **Approval** **Denial** by

Rick Alexander

BOARD OF PUBLIC WORKS
RESOLUTION 2012-74
Encroachments at 501 N. College Avenue

WHEREAS, Urbanhospitality1, LLC, (“Owner”) owns the real property located at 501 N. College Avenue; and

WHEREAS, the City of Bloomington (“City”) has authority pursuant to IC 36-9-2-5 to establish, vacate, maintain, and operate public ways, including air ways over sidewalks; and

WHEREAS, Urbanhospitality1, LLC intends to build a Springhill Suites Hotel at this location: and

WHEREAS, Owner has requested that it be allowed to install the following multiple encroachments over the public sidewalk adjacent to its business including canopies, blade signs and an architectural accent wall: 1. On the eastern wall of the hotel, a glass and metal canopy would extend four (4) feet out from the building, encroaching over the public right of way commencing at the south property line and extending for a length of not more than thirty-four (34) feet along the building front on N. College Avenue and shall be at least ten (10) feet above the sidewalk and without additional support; 2. An architectural accent wall shall begin thirty-four (34) feet from the south property line and be one and one-half (1 ½) feet wide and extend from the sidewalk to the top of the building; 3. A metal canopy shall begin at the north edge of the architectural accent wall and continue north for another thirty four (34) feet and shall be at least ten (10) feet above the sidewalk and without additional support; 4. A blade sign located on the eastern wall will extend into the right of way for no more than four (4) feet and begin at least twenty-three (23) feet above the sidewalk and extend upward for thirty (30) feet. The blade sign will be two (2) feet in width and will be cantilevered from the building without additional supports; 5. Along the western wall adjoining North Morton Street, a second metal canopy will extend no more than three (3) feet into the right of way without additional support, shall be at least 10 feet above the sidewalk and shall be no more than thirty-five (35) feet in length and will commence at the south property line; 6. A third metal canopy shall extend no more than three (3) feet into the right of way along North Morton Street for a length of no more than twenty (20) feet and shall be at least ten (10) feet above the sidewalk; and 7. A second blade sign, also on the west face of the building, will be two (2) feet in width and shall be at least twenty-three (23) feet above the sidewalk and without additional supports and shall extend upward for twenty (20) feet; and

WHEREAS, Owner has agreed to release and forever discharge and hold harmless and indemnify the City of Bloomington, its departments, officers, agents, employees, its successors and assigns ("City") for any and all causes of action including attorney's fees, loss or injury of whatsoever character that occur as a result of Owner's use of described right of way; and

NOW, THEREFORE, BE IT RESOLVED that the City of Bloomington agrees not to initiate any legal action against Owner for the installation of the canopies, blade signs or accent wall over the public right of way, provided that:

1. Owner agrees to maintain all described encroachments and to keep them in a safe and good condition.
2. Encroachments shall not deviate from the design which is attached as Exhibits A and B of this resolution, without the Owner resubmitting the design to the Board of Public Works for approval. Exhibits A and B are attached hereto and incorporated herein.
3. This resolution is not intended to relieve Owner of any provisions of any applicable zoning or other ordinance or statute that may apply to the property.
4. The terms of this agreement shall be in effect upon execution of this document by Owner and acknowledgment by Owner that the Board of Public Works may alter the terms and conditions to address unanticipated problems or may revoke permission if Board determines the encroachment is undesirable in terms of the general welfare of the City.
5. Owner understands and agrees that if City or public utility need to work in said area for any reason, and the encroachments need to be removed to facilitate City or utility, the removal shall be at the sole expense of Owner and that the City shall not be responsible for any damage which may occur to them by City's workers or contractors, or by those of a public utility. Owner shall not be compensated for any expense which it may incur.
6. In the event the Owner sells the business during the term of this authorization, this authorization shall continue under the original conditions and be binding on its successor. However, if successor wishes to change any of the encroachments in any way, successor shall return to the Board of Public Works for permission to replace or modify said encroachments prior to any change being made.
7. Paul Pruitt , as member of Urbanhospitality1, LLC, agrees by signing that he has full power by proper action to enter into the agreement and has authority to do so.

Signed this _____ day of _____, 2012.

Board of Public Works

Urbanhospitality1, LLC

Charlotte Zietlow, President

Paul Pruitt, Member

James McNamara

Date

Dr. Frank N. Hrisomalos

**RELEASE, HOLD HARMLESS
AND
INDEMNIFICATION AGREEMENT**

WHEREAS, Urbanhospitality1, LLC, which is located at 501 N. College Avenue, in Bloomington, IN, (hereinafter referred to as "RELEASOR") desires to use the facilities or public property of the CITY OF BLOOMINGTON (hereinafter referred to as "RELEASEE"), and specifically the airway above the sidewalk adjacent to the building at 501 N. College Avenue, which is operated, supervised and maintained by the RELEASEE'S Board of Public Works, to install canopies, blade signs and an architectural feature over RELEASEE'S property; and

WHEREAS, the RELEASEE wishes to cooperate in said endeavor by allowing such encroachments to be placed upon its property;

NOW, THEREFORE, in consideration for the use of the property of RELEASEE for said purposes, the RELEASOR, for RELEASOR and its officers, directors, agents, employees, members, successors and assigns, does hereby acknowledge and agree to assume full and complete responsibility for all bodily and personal injuries, including injuries resulting in death, and property damage, claims, actions, damages, liabilities and expenses, including reasonable attorneys' fees and court costs, which may occur as a result of the use of said property, and for the same consideration hereby agrees to indemnify, defend, hold harmless, release, waive and forever discharge the RELEASEE, its officers, directors, agents, employees, successors and assigns, and all other persons and entities associated with the RELEASEE, for all bodily and personal injuries, including injuries resulting in death, and property damage, claims, actions, damages, liabilities and expenses, including reasonable attorneys' fees and court costs, which may occur as a result of the use of said property, including, but not limited to, any claim or claims brought by third parties, whether or not sounding in tort or contract.

RELEASOR expressly agrees that the foregoing RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT is intended to be as broad as permitted by law and if any portion thereof is not found to be enforceable, it is agreed that the balance shall, notwithstanding, continue in full force and effect.

Paul Pruitt, as member of Urbanhospitality1, LLC, represents and certifies that he has been fully empowered to execute this RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT on behalf of RELEASOR.

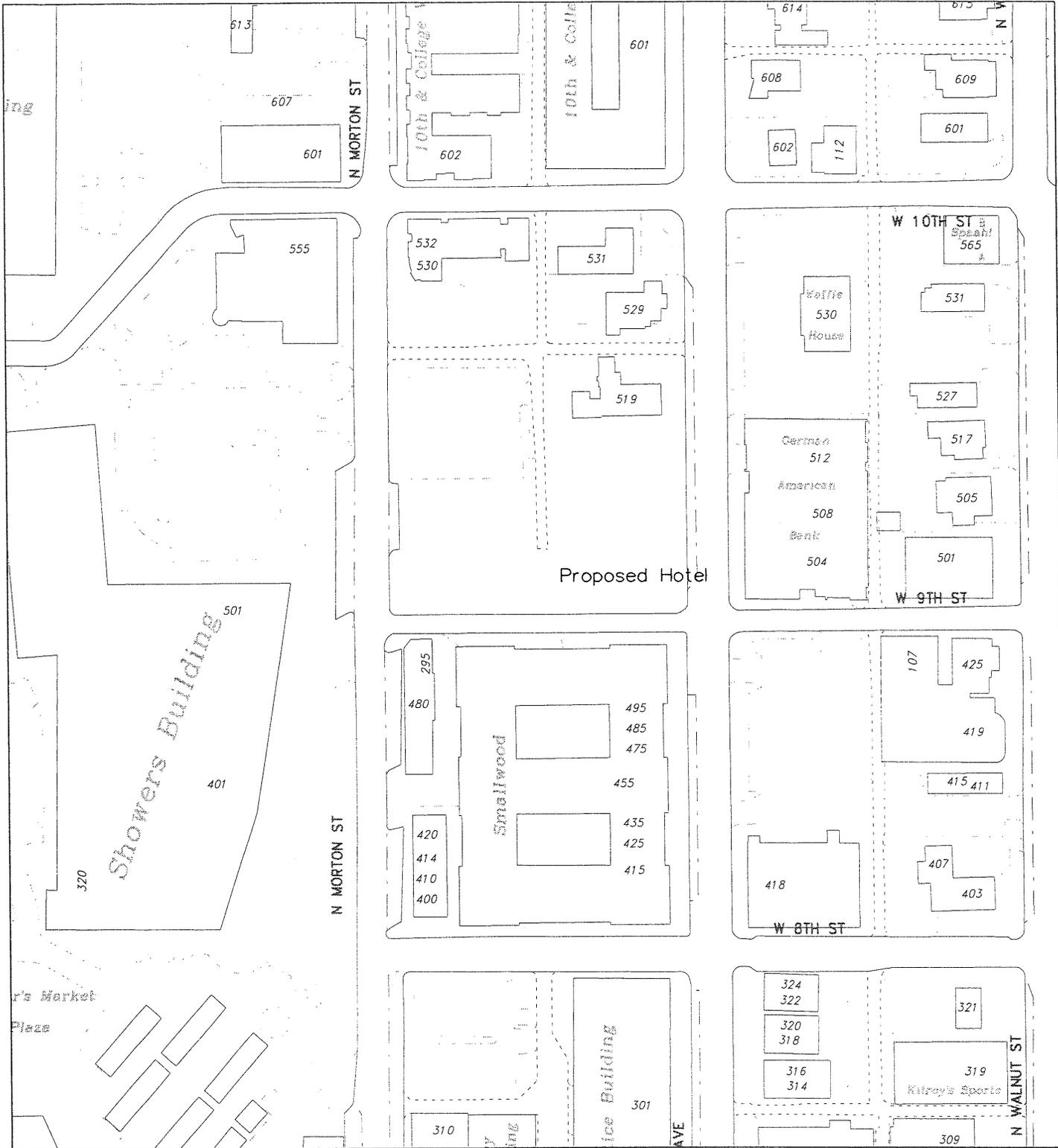
THE PARTIES, INTENDING TO BE BOUND, have executed this RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT.

"RELEASOR"

"RELEASEE"

Paul Pruitt, Member
Urbanhospitality1, LLC

City of Bloomington



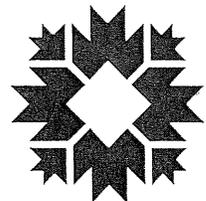
By: alexandr
19 Sep 12



For reference only; map information NOT warranted.

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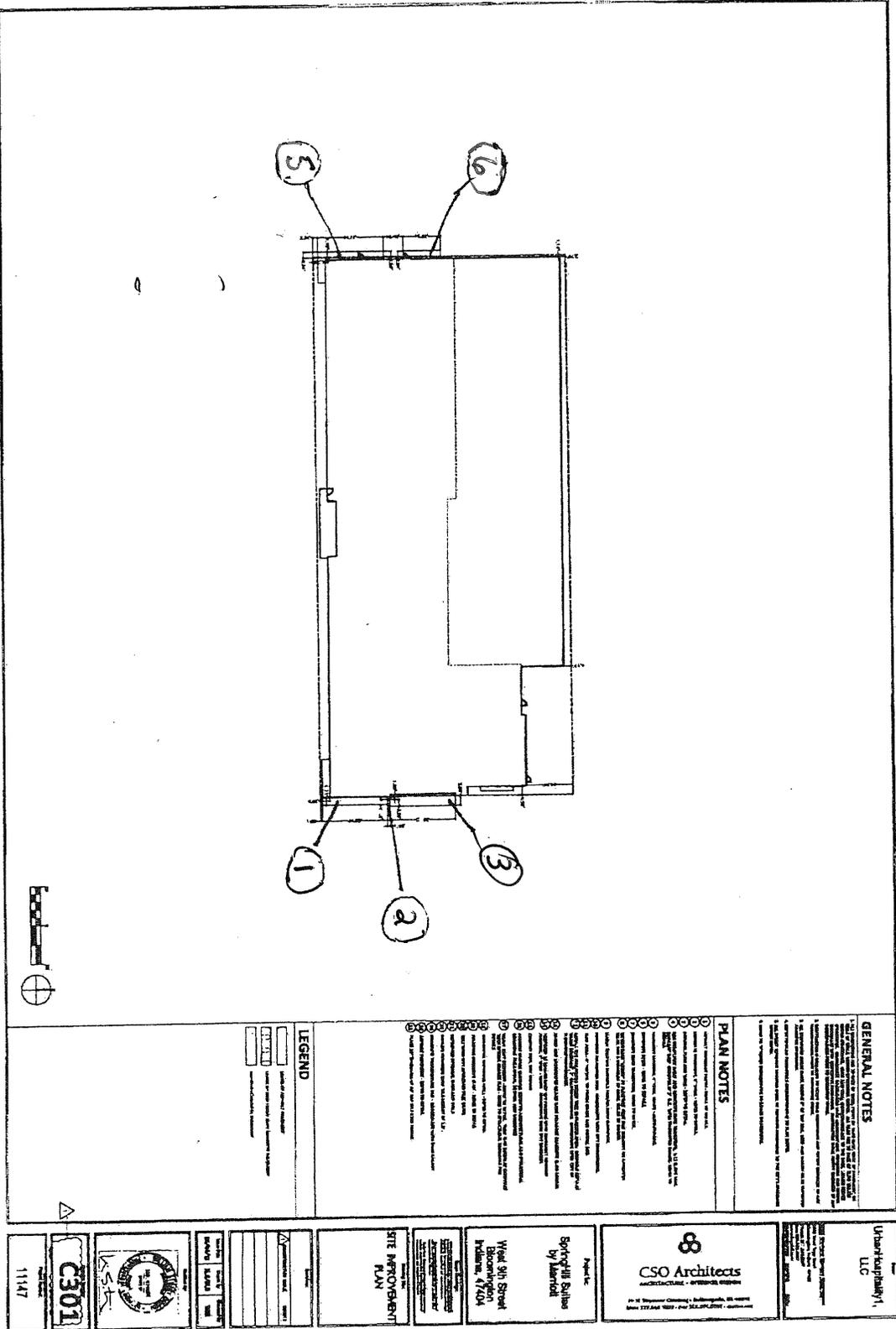
City of Bloomington
Engineering



Scale: 1" = 150'



EXHIBIT "A"



GENERAL NOTES

1. ALL DIMENSIONS ARE SHOWN IN FEET AND INCHES. DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
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PLAN NOTES

1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
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LEGEND

- 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
- 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
- 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
- 4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
- 5. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
- 6. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
- 7. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
- 8. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
- 9. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
- 10. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

UrbanSolutions, LLC

CSO Architects
ARCHITECTURAL - INTERIOR DESIGN

Project No:
Sportville Suites
by Harford

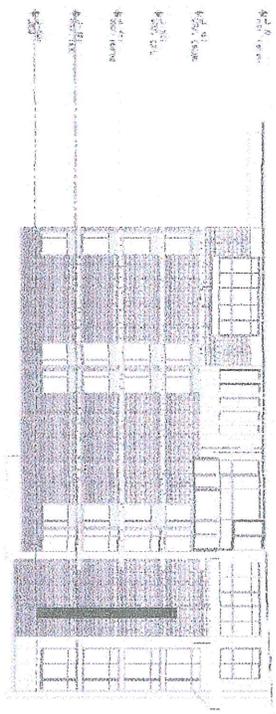
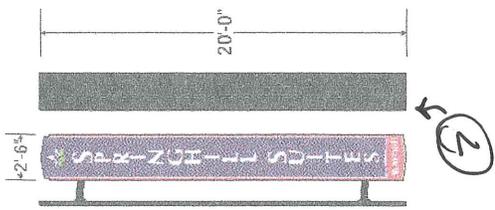
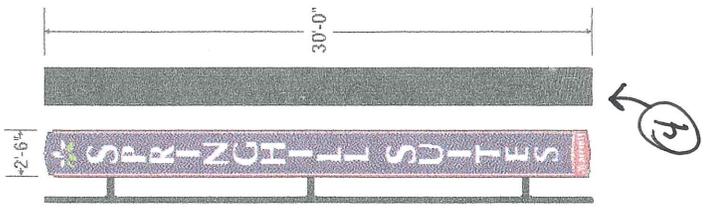
1147 W. 30th Street
Portland, Oregon 97204

SITE IMPROVEMENT PLAN

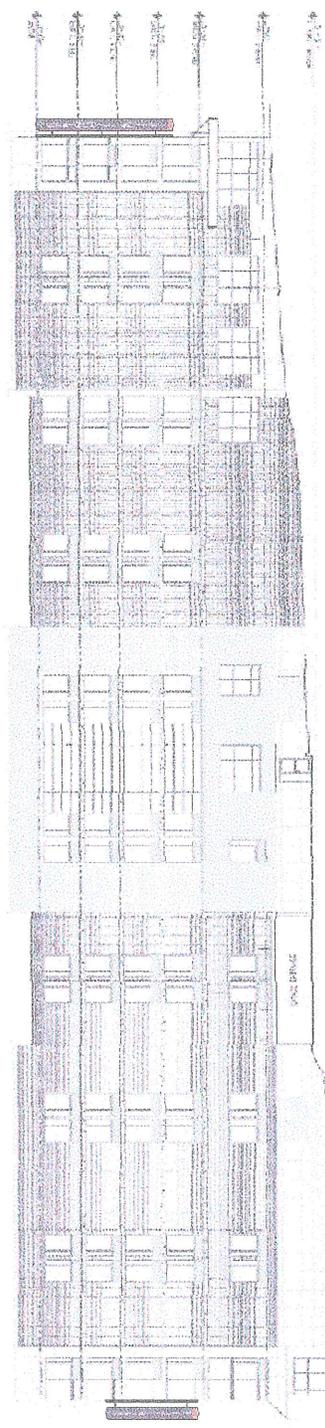
C301

1147

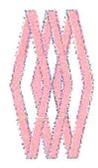
Exhibit "B"



EAST ELEVATION



SOUTH ELEVATION

 ENTERA Your total branding solution	 Underwriters Laboratories Inc. LIST 30	<small> WE DESIGN, MANUFACTURE AND INSTALL SIGNAGE FOR COMMERCIAL BUSINESSES AND INSTITUTIONS. WE ARE A LEADING PROVIDER OF SIGNAGE SOLUTIONS FOR BUSINESSES AND INSTITUTIONS. WE ARE A LEADING PROVIDER OF SIGNAGE SOLUTIONS FOR BUSINESSES AND INSTITUTIONS. </small>	CLIENT: SPRINGHILL SUITES	SCALE: 1/32" = 1'-0"
			LOCATION: BLOOMINGTON, IN	DATE: 4 - 30 - 12
			DRAWN BY: ANT	DWG. NO.: BLOOMINGTON, IN



City of Bloomington
H.A.N.D.



**City of Bloomington
Housing and Neighborhood Development**

**Board of Public Works
Staff Report: Request**

Meeting Date: 25 September 2012

Petition Type: Resolution for Notice by Publication and Request for bids to abate

Address: 015-40240-00 Spicewood Sec 4 Lot 72; commonly known as 2526 S. Spicewood Ln.

Petitioner: Housing and Neighborhood Development

Inspector: Michael Arnold

Staff Report: 15 June 2012 Investigate complaint for unsafe structure
 20 June 2012 Sent Order to Repair
 15 August 2012 Past deadline. Sent letter from City Legal Department with a compliance date of 07 September 2012 deadline.
 13 September 2012 Drive by inspection. Not in compliance. Request permission to abate at 25 September 2012 BPW meeting
 19 September 2012 Sent letter explaining intent to abate if not in compliance by 23 October 2012

HAND received a complaint regarding an unsafe structure at this address. Mail has been returned for the owner, and the owner's guardian. HAND is requesting a resolution to do Notice by Publication to inform the interested parties of intentions to abate the unsafe roof and fence. HAND is also requesting permission to get bids for this work in order to be prepared to move forward if the structures have not been abated by 23 October 2012

Attachments: Photos, orders.

BOARD OF PUBLIC WORKS
RESOLUTION 2012 – 75
Service by Publication Appropriate for
Unsafe Structure at 2526 S. Spicewood Lane

WHEREAS, the City of Bloomington Housing and Neighborhood Development (HAND) has issued an Order to Repair the structure located at 2526 S. Spicewood Ln. (the Property) because said structure is unsafe as defined by both Indiana Code 36-7-9 and Title 17 of the Bloomington Municipal Code; and

WHEREAS, HAND has issued a Notice to the owner of record for the Property, and those individuals or corporations who are believed to have a substantial interest in the Property, that if the Order to Repair is not complied with then HAND will seek bids from private contractors to repair the structures itself and that any costs associated therewith may be assessed as a lien against the Property; and

WHEREAS, HAND has attempted to notify the owner of record of the Property, and those individuals or corporations who are believed to have a substantial interest in the Property, of both the Order to Repair and the Notice of Bid Letting in accordance with the notice requirements of Indiana Code 36-7-9-25, but said attempts have been unsuccessful despite all reasonable efforts made by HAND; and

WHEREAS, the Board of Public Works specifically concludes that HAND made a reasonable effort to obtain service of the Order to Repair and the Notice of Bid Letting in accordance with the notice requirements of Indiana Code 36-7-9-25(a), but that said efforts were unsuccessful.

WHEREAS, the Board of Public Safety feels that as the service required by Indiana Code 36-7-9-25(a) has been unsuccessful, despite all reasonable attempts to perfect service, that it is appropriate for HAND to obtain legal service in accordance with Indiana Code 36-7-9-25(b) (i.e. via publication in the Herald Times Newspaper);

NOW, THEREFORE, BE IT RESOLVED:

That HAND shall provide service of its Order to Remove and Notice of Bid Letting via publication in the Herald Times Newspaper in accordance with the requirements of Indiana Code 36-7-9-25(b).

CITY OF BLOOMINGTON
BOARD OF PUBLIC WORKS

By: _____
Charlotte Zietlow, President

By: _____
Dr. Frank N. Hrisomalos

By: _____
James McNamara, Vice President

STATE OF INDIANA)
)SS:
COUNTY OF MONROE)

Before me, a Notary Public in and for said County and State, personally appeared Charlotte Zietlow, James McNamara, and Dr. Frank N. Hrisomalos, of the City of Bloomington Board of Public Works, who acknowledged the execution of the foregoing Resolution as their voluntary act and deed.

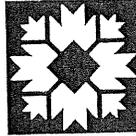
WITNESS, my hand notarial seal this _____ day of _____, 2012.

My Commission Expires: _____

Notary Public Signature

Resident of _____ County

Printed Name of Notary



City of Bloomington
Housing and Neighborhood Development

17 September 2012

Wemonrat Pok
2526 S. Spicewood Lane
Bloomington IN 47401

Re: **Order to Repair Unsafe Structure at 2526 S. Spicewood Ln., Bloomington, IN 47401; 015-40240-00 Spicewood Sec 4 Lot 72 and Parcel ID number 53-08-10-413-004.000-009.**

Notification of work to be performed by the City of Bloomington pursuant to Indiana Code Section 36-7-9-11

To Whom It May Concern:

The City of Bloomington's Housing and Neighborhood Development Department (HAND), pursuant to Indiana Code 36-7-9-5, is issuing this Order to Remove. HAND is required to give all substantial property interest holders in the above-referenced property notice of this Order to Remove. The City believes that you may have a property interest in 2526 S. Spicewood Ln., Bloomington, Indiana.

You have until Tuesday, October 23, 2012, to repair the structure at 2526 S. Spicewood Ln. See that attached Notice of Violation (NOV) for the details of what shall be removed and a summary of the violation history.

This Order to Remove is being issued for two reasons. First, the general condition of the building and the fence (it is structurally unsound and in violation of State and local building codes) warrants its repair.

The City of Bloomington's Board of Public Works will conduct a hearing on this Order to Repair, in which the Board will affirm, deny or modify said Order. This meeting will occur on Tuesday, October 23, 2012, at 5:30 p.m. in the Council Chambers of City Hall—located at 401 North Morton Street, Bloomington, Indiana.

You may appear at the Board's October 23rd hearing, or you may appear by counsel. Each person who appears at the hearing is entitled to present evidence, cross-examine opposing witnesses and present arguments.

In the event that you fail to comply with this Order to Remove the City will seek public bids from a licensed and qualified contractor to perform the necessary repairs. A

description of the work to be performed by the contractor is attached to this Notification as Exhibit A and is incorporated herein in its entirety.

In an effort at efficiency and preparedness, public bids for this project are to be let on October 12, 2012 in order to move quickly with complying with the Board's Order should the structure not be repaired by an owner, or a person with interest in the property, by the October 23, 2012 deadline. The City expects all bids to be returned to the City on or before 3:00 p.m. on October 19, 2012; with all bids being opened at a public meeting in the Hooker Conference Room on October 19, 2012 at 3:00 p.m. If a responsible bidder is discovered, HAND will ask the Board of Public Works to award a contract to said bidder, with a condition that the contract only is awarded should the structure not be removed by the October 23, 2012, deadline.

If the structure is not removed as required by this Order, HAND will hire a private contractor, from the contractors who submitted bids by the aforementioned deadline, to remove the structure. Should a private contractor be needed, HAND will bill the owner of record for the expenses of the bid price of the licensed contractor who removes the structure and an amount representing a reasonable estimate of the costs incurred by HAND in processing the matter of this unsafe structure. If the owner of records fails to reimburse HAND for any of these expenses or costs, HAND, upon conclusion of a hearing on the matter, may assess a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchase in the property. HAND believes you have an interest in the property.

Per Indiana Code § 36-7-9-27, if, after you have been issued and received notice of this order and you have not complied, you must supply full information regarding this order to a person who takes or agrees to take a substantial property interest in the unsafe premises before transferring or agreeing to transfer that interest, and within five (5) days after transferring or agreeing to transfer a substantial property interest in the unsafe premises, you must supply HAND with written copies of the full name, address, and telephone number of the person taking a substantial property interest in the property, and the legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

If you have questions concerning this Notification you may contact HAND at (812) 349-3401. HAND is located at 401 North Morton Street, Bloomington, Indiana 47404.

Sincerely,

A handwritten signature in cursive script that reads "Lisa Abbott".

Lisa Abbott, Director
HAND

Notice by Publication

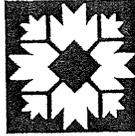
Order to Repair the Unsafe Structure at 2526 S. Spicewood Ln. & Notification of Bid Letting for the Repair of the Unsafe Structure at 2526 S. Spicewood Ln.

The individuals listed at the bottom of this Notice are hereby notified that the City of Bloomington HAND Department has issued an Order to Repair, pursuant to Ind. Code 36-7-9-5, the structure located at 2526 S. Spicewood Ln., whose legal description is **015-40240-00 Spicewood Sec 4 Lot 72 and Parcel ID number 53-08-10-413-004.000-009**. Per Indiana Code § 36-7-9-27, if, after you have been issued and received notice of this order and you have not complied, you must supply full information regarding this order to a person who takes or agrees to take a substantial property interest in the unsafe premises before transferring or agreeing to transfer that interest, and within five (5) days after transferring or agreeing to transfer a substantial property interest in the unsafe premises, you must supply HAND with written copies of the full name, address, and telephone number of the person taking a substantial property interest in the property, and the legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished. The following structures on the property are to be repaired; the roof and the fence. The aforementioned structure(s) shall be repaired by October 23, 2012. A hearing will be held by the Board of Public Works on October 23, 2012 at 5:30 p.m. in the Council Chambers of City Hall, located at 401 North Morton Street, Bloomington, Indiana; any of the listed individuals, or their counsel, are permitted to attend this hearing where they may present evidence, cross-examine opposing witnesses and present arguments. If the structure is not repaired by October 23, 2012, HAND will hire a private contractor to effectuate the terms of this Order. In preparation of the possibility that the structure may not be repaired by October 23, 2012, the City of Bloomington is letting bids for the removal. The bids will be let on, October 12, 2012, with a submission date of October 19, 2012; at 3:00 p.m. HAND may be contacted at 812-349-3401 or 401 North Morton Street, P.O. Box 100, Bloomington, Indiana 47402.

Wemonrat Pok
Soriya Pok-Todd



2526 S SPICENWOOD LN



**City of Bloomington
Housing and Neighborhood Development**

ORDER TO REPAIR

20 June 2012

Wemonrat Pok Soriya Pok-Todd
2526 S. Spicewood Dr. 921 E. Parkview Dr.
Bloomington IN 47401 South Elgin IL 60177

Re: 015-40240-00 Spicewood Sec 4 Lot 72; commonly known as 2526 S. Spicewood Dr.

Dear Wemonrat Pok and Soriya Pok-Todd;

The City of Bloomington's Housing and Neighborhood Development Department (HAND), pursuant to Indiana Code Section 36-7-9-5, is issuing this Order to Repair. HAND is required to give all substantial property interest holders in the above-referenced property notice of this Order to Repair.

You have until 01 August 2012 to repair the structure. See the attached Notice of Ordinance Violation (NOV) for the details of this violation and a summary of the violation history.

This order becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a person holding a full interest, life estate interest, mortgage interest, or equitable interest of a contract purchaser in these premises. If a hearing is requested, it will be held on this matter on 03 July 2012, at 5:30 p.m. in the Council Chambers of City Hall located in the Showers Building at 401 North Morton Street, Bloomington, Indiana. You are entitled to appear at this hearing, with or without legal counsel. You are entitled to present evidence, cross-examine opposing witnesses and present arguments at this hearing.

If the Order to Repair is not complied with, the following may occur:

1. HAND may hire a contractor to fulfill the obligations of the Order to Repair.
2. HAND may fulfill the obligations of the Order to Repair itself.
3. If HAND has to hire a contractor to fulfill the obligations of the Order to Repair or must fulfill the obligations of the Order to Repair itself, each person who holds a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the date of this Order to Repair to the time that the work is completed, is jointly and severally responsible for certain costs; including the actual cost of the work performed and reasonable processing expenses.
4. If any assessed costs remain unpaid, HAND shall execute a judgment in the Monroe Circuit Court against any and all of the aforementioned

parties; said judgment is a debt and lien on all real and personal property of each named individual.

Per Indiana Code § 36-7-9-27, if, after you have been issued and received notice of this order and you have not complied, you must supply full information regarding this order to a person who takes or agrees to take a substantial property interest in the unsafe premises before transferring or agreeing to transfer that interest, and within five (5) days after transferring or agreeing to transfer a substantial property interest in the unsafe premises, you must supply HAND with written copies of the full name, address, and telephone number of the person taking a substantial property interest in the property, and the legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

I hereby affirm, to the best of my knowledge, under the penalties of perjury, that the foregoing representation is true.

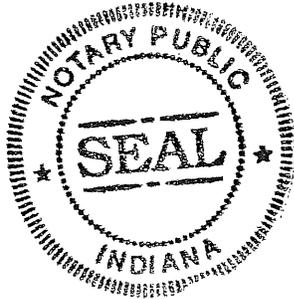
Lisa Abbott

Lisa Abbott
Director
Housing and Neighborhood Development
401 North Morton Street/P.O. Box 100
Bloomington, Indiana 47402
(812) 349-3401

State of Indiana)
)SS:
County of Monroe)

Subscribed and sworn to before me a Notary Public this 20th day of June 2012.

DANIEL BIXLER
Name of Notary Public



Daniel Bixler
Signature of Notary Public

MONROE COUNTY, IN.
Notary Public's County of Residence

April 09, 2015
Commission Expires

CITY OF BLOOMINGTON NOTICE OF ORDINANCE VIOLATION

Date NOV issued: **20 June 2012**

Person(s) NOV issued to: **Wemonrat Pok, Soriya Pok-Todd**

Date violation discovered: **15 June 2012**

Location/address of violation: **015-40240-00 Spicewood Sec 4 Lot 72;
commonly known as 2526 S. Spicewood Dr.**

Nature of violation/code provision violated: **Bloomington Municipal Code (BMC) § 17.16**

Inspector's Report

A complaint was received regarding unsafe structure at 2526 S. Spicewood Dr. During a drive by inspection it was noted that there was a tarp on a portion of the roof and there were portions of the privacy fence that are falling or damaged. The following steps are required for the property to be in compliance with Title 17 of the Bloomington Municipal Code:

1. Properly repair the roof. All repairs shall be completed using appropriate roofing materials.
2. Properly repair the damaged and falling sections of the privacy fence.
3. HAND shall be notified when work is completed at this location so a drive by inspection can be conducted to determine if compliance with Title 17 has been met.

Relevant Code Citations

BMC § 17.16.020 adopts Indiana Code §§ 36-7-9-1—36-7-9-28 by reference. Indiana Code § 36-7-9-4, Unsafe building and unsafe premises described, states in section (a) "For purposes of this chapter, a building or structure, or any part of a building or structure, that is:

- (1) In an impaired structural condition that makes it unsafe to a person or property;
- (2) A fire hazard;
- (3) A hazard to the public health;
- (4) A public nuisance;
- (5) Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or
- (6) Vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance;

is considered an unsafe building.

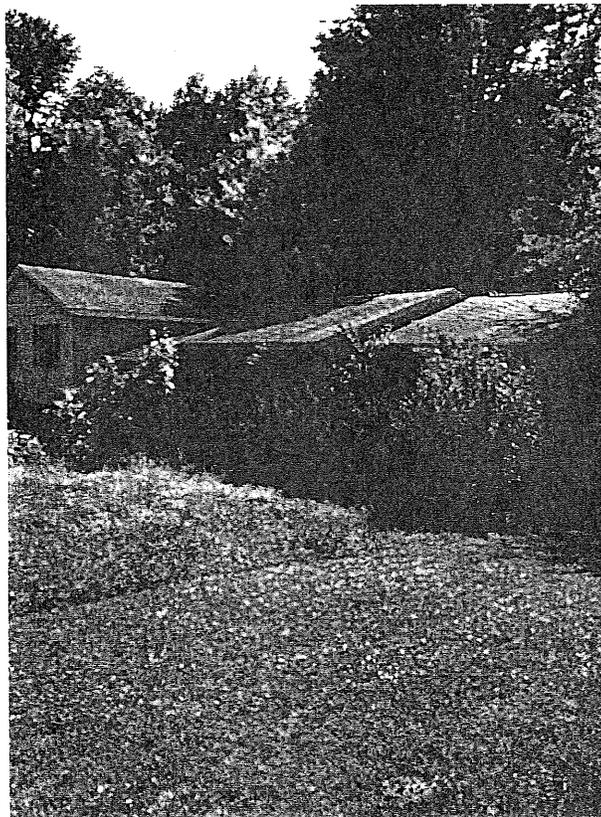
BMC § 17.16.040 (f) states, in part, "Unsafe building or structure means any building or structure or part of building or structure that is ... in any of the conditions or possesses any of the defects described below, provided that such conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered:

- (ll) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure, provided by the building regulations of this city, or of any law or ordinance of this state or city relating to the condition, location, or structure of buildings;

- (mn) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities, or otherwise, is determined by the enforcement authority to be unsanitary, unfit for human habitation, or in such condition that it is likely to cause sickness or disease.

2526 S. Spicewood Dr.







Mike Arnold <arnoldm@bloomington.in.gov>

Fwd: 2526 S. Spicewood Lane

3 messages

Lisa Abbott <abbottl@bloomington.in.gov>

Tue, Jun 12, 2012 at 1:28 PM

To: Norman Mosier <mosiern@bloomington.in.gov>, Mike Arnold <arnoldm@bloomington.in.gov>

Can you two update me on this since Doris is out? Thanks.

Lisa

*Do O to Rep
for Rod
& fence*

----- Forwarded message -----

From: **Amy Anderson** <adj7000@yahoo.com>
Date: Mon, Jun 11, 2012 at 11:55 AM
Subject: 2526 S. Spicewood Lane
To: "abbottl@bloomington.in.gov" <abbottl@bloomington.in.gov>

Hello,

I believe that you are the one to contact about a home in my neighborhood that is in code violation.(2526 S. Spicewood Lane) The house next door has been empty for 3 or more years. The yard and bushes are over grown, the fence is falling down and is an eyesore. Last year the yard was mowed a few times but not this year. The house has deteriorated a great deal over the past year and something needs to be done. It appears that at least two others have complained as there are notices on the door.

Please let me know what our next steps should be to see how we can get the house/yard cleaned up.

Your help is greatly appreciated!

Thank you,

Amy Anderson
2534 S. Spicewood Lane
323-2162

*from front not unsafe
need adjacent prop access
to see the back*

possibly unsafe fence

--
Housing and Neighborhood Development Department
City of Bloomington
(812) 349-3420

may need legal →

Mike Arnold <arnoldm@bloomington.in.gov>
To: Lisa Abbott <abbottl@bloomington.in.gov>

Tue, Jun 12, 2012 at 2:13 PM

This is Norm's hood. Are you concerned about possible unsafe here?

[Quoted text hidden]

*backside
roof tarped*



Board of Public Works Staff Report

Project/Event: Use of 4th Street Right of Way for Sculpture Fabrication

Petitioner/Representative: Joe LaMantia

Staff Representative: Miah

Meeting Date: September 25, 2012

Event Dates: September 26 – October 12, 2012

Joe LaMantia is creating a sculpture to be installed on the exterior of Auto Heaven facing the B-Line Trail. He will be using scrap metal which includes old City street signs and posts and old license plates to create the 30' sculpture.

He wants to include the community by constructing the piece in a public area and is requesting use of the loading zone next to the Ivy Tech John Waldron Arts Center and WFHB Radio. This area would be approximately 35 ½ feet long and come out 14 ½ feet from the sidewalk. A 6' sidewalk will remain opened for pedestrians. He is requesting use of the area beginning on September 26 and ending on October 12. Both Ivy Tech John Waldron Arts Center and WFHB support the request. Joe will be responsible for installing a barrier between his work area and the vehicular traffic zone.

The resolution waives the noise ordinance during daylight hours. It states that work must happen on a regular basis and that no more than 48 hours can lapse without work occurring after he has closed the area off.

Joe did a similar project in the ROW in this same area in September of 2009. Staff approves the request.

Recommend **Approval** **Denial by**

RESOLUTION 2012-76
Use of 4th Street Right of Way
For Sculpture Fabrication

WHEREAS, Joe LaMantia wishes to construct a sculpture which will be visible to users of the B-Line Trail; and

WHEREAS, Joe LaMantia would like community involvement through working in a public place in the downtown; and

WHEREAS, Joe LaMantia has requested permission form the Board of Public Works to utilize the loading zone in the 100 block of W. 4th Street; and

WHEREAS, the City of Bloomington Board of Public Works has authority pursuant to IC 36-9-2-5 to establish, vacate, maintain, and operate public ways, including sidewalks; and

WHEREAS, the Board of Public Works agrees that this project benefits the public by allowing them to see the process of the fabrication of a sculpture; and

WHEREAS, Joe LaMantia, agrees to hold the City harmless for any and all actions, losses or claims arising from said event, a copy of which is attached hereto and made a part hereof and to provide the City with a Certificate of Insurance which names the City as an additional insured.

NOW, THEREFORE, BE IT RESOLVED, that the City of Bloomington Board of Public Works agrees to allow Joe LaMantia (Artist) to temporarily block off an area of right of way in the 100 block of W. 4th Street and adjacent to the Ivy Tech John Waldron Arts Center and WFHB Radio Station under the following conditions:

1. Artist may use an area approximately 35 ½ feet long and 14 ½ feet in depth from the adjacent sidewalk on the north side of 4th Street and agrees that a 6 foot sidewalk will be maintained at all times for pedestrians and that the rest of the parking adjacent to the Waldron will remain opened for pubic use.
2. Artist may use this area between September 26 and October 12, 2012.
3. Artist agrees that he will do whatever is necessary to facilitate WFHB to be able to access their storage which is directly adjacent to this work area and recognizes that they will have a need to remove large items from the area at specific times.
4. Artist agrees that he will be working at the location on a regular basis and no more than 48 hours will lapse without work activity once the area has been made inaccessible to the public.
5. Artist agrees that every effort will be taken to protect the public from injury upon

exposure to the materials being used and that he will work with the City of Bloomington Engineering Department to ensure that safety measures are in place for both vehicular and pedestrian traffic.

6. If at any time it is determined that any of the work area become unsafe or a nuisance to the general public, then the Artist will move said encroachments upon notification by City, without compensation by City.

7. Artist agrees that all materials will be removed and that the area will be opened back for public use by midnight on October 31, and that any extensions to that will require the artist to return to the Board of Public Works.

8. The City of Bloomington will not be responsible for any theft, damages or vandalism to the materials or to the sculpture or to the artist's equipment.

9. The Board of Public Works acknowledges that there may be noise associated with this project and that the City noise ordinance may be waived to allow the artist to work during the hours of daylight.

BOARD OF PUBLIC WORKS:

ACCEPTED AND AGREED TO:

Charlotte Zietlow, President

Joe LaMantia

James McNamara

Dr. Frank N. Hrisomalos

Date: _____

Date: _____

**RELEASE, HOLD HARMLESS
AND
INDEMNIFICATION AGREEMENT
For Use of 4th Street Right of Way
For Sculpture Fabrication**

WHEREAS, Joe LaMantia, (“RELEASOR”), desires to use the facilities or public property of the City of Bloomington (“RELEASEE”), specifically, public roadway in the 100 block of W. 4th Street on the north side of the street adjacent to the John Waldron Art Center and WFHB, which is operated, supervised, and maintained by the RELEASEE’S Board of Public Works, for the construction of a public arts project on the RELEASEE’s property, beginning on September 26, 2012 and ending on October 12, 2012.

WHEREAS, the RELEASEE wishes to cooperate in said endeavor by allowing such activities to be conducted on its property;

WHEREAS, RELEASOR hereby agrees to accept the legal responsibility and to acquire related and professionally determined insurance coverage as to the described use of the facilities and public property and therefore hold RELEASEE defended, harmless, and indemnified regarding the RELEASOR'S and public's use of the facilities and premises and any claims arising from and regarding RELEASOR'S alleged acts or omissions creating a legal liability for damages as to RELEASOR or as to RELEASEE.

NOW, THEREFORE, in consideration of the permission hereby granted for the use of the property of RELEASEE by Joe LaMantia to construct said art project and the above recitals incorporated as terms of this agreement, the RELEASOR by its undersigned agent, for RELEASOR and its officers, directors, agents, employees, members, successors and assigns, does hereby acknowledge and agree to assume responsibility for bodily and personal injuries and expenses, including injuries resulting in death, and property damage, claims, actions, damages, liabilities and expenses, including reasonable attorney's fees and court costs, which may occur as a direct result of RELEASOR'S negligent act or acts or failure to act or that of RELEASOR'S employees or agents in using RELEASEE's property as described above, and for the same consideration hereby agrees to indemnify, defend, hold harmless, release, waive, and forever discharge RELEASEE, its officers, directors, agents, employees, successors and assigns, and all other persons and entities associated with RELEASEE, for all bodily and personal injuries, including injuries resulting in death, and property damage, claims, actions, damages, liabilities and expenses including reasonable attorney's fees and court costs, which may occur as a direct result of RELEASOR'S negligence in using RELEASEE'S property for the art project, including but not limited to, any claim or claims brought by third parties, whether or not sounding in tort or contract.

This agreement shall be liberally applied and construed to fulfill its purposes herein expressed to thereby include and provide insurance coverage for any tort claim liability of RELEASEE allegedly caused by the acts or omissions of RELEASOR in conducting this art project.

THE PARTIES, INTENDING TO BE BOUND HEREBY, have executed this RELEASE,
HOLD HARMLESS AND INDEMNIFICATION AGREEMENT on the dates indicated below.

"RELEASOR"

"RELEASEE"

Joe LaMantia

Charlotte Zietlow, President
City of Bloomington

Date _____

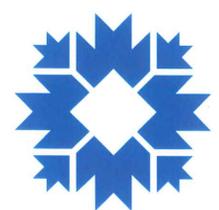
Date _____



By: smithc
21 Sep 12



City of Bloomington
Public Works



Scale: 1" = 150'

For reference only; map information NOT warranted.



Board of Public Works Staff Report

Project/Event: National Night Out, Fall Fair and Haunted House

Petitioner/Representative: Bloomington Housing Authority

Staff Representative: Miah Michaelsen

Meeting Date: September 25, 2012

Event Date: Friday, October 26, 2012

Report: Bloomington Housing Authority has requested use of N. Summit Street to provide a safe environment for the residents and the general public that wish to participate in National Night Out which this year will be combined with a Halloween-themed Fall Fair and Haunted House sponsored by the Resident Council, Big Brothers Big Sisters and the Crestmont Boys and Girls Club. Informational tables and activities will take place on Summit Street between 12th Street and Monroe Street during the evening hours. They request permission to close the street between the hours of 3:00 and 8:00 p.m.

The resolution includes a noise waiver.

Recommendation and Supporting Justification: This is an opportunity to get educational information out to the residents and a community-building activity.

Recommend **Approval** **Denial by** Miah Michaelsen

RESOLUTION 2012-77
NATIONAL NIGHT OUT, FALL FAIR AND HAUNTED HOUSE

WHEREAS, the Board of Public Works is empowered by I.C. 36-9-6-2 to supervise city streets; and

WHEREAS, the Bloomington Housing Authority, is desirous of using North Summit Street between 12th Street and Monroe Street, including the intersection at 13th Street, to participate in “National Night Out” and host a Halloween-themed Fall Fair and Haunted House; and

WHEREAS, the Board of Public Works supports educational events that are free and open to the general public; and

WHEREAS, the Bloomington Housing Authority has agreed to hold the City of Bloomington, City of Bloomington Board of Public Works and any of their agents or employees harmless for any and all actions, losses or claims arising from said event, a copy of which is attached hereto and made a part hereof:

NOW, THEREFORE, BE IT RESOLVED, that the City of Bloomington Board of Public Works declares that North Summit Street between 12th Street and Monroe Streets and including the intersection at 13th, shall be temporarily closed to motor vehicles from 3:00 p.m. until 8:00 p.m. on Friday, October 26, 2012 for the purpose of staging a neighborhood block party to participate in “National Night Out”, under the following provisions:.

1. By granting permission to utilize City property to facilitate this activity, the Board of Works also waives the City Noise Ordinance in accordance with Section 14.09.070 of the Bloomington Municipal Code, and therefore amplified announcements and music may be played during the hours of the event.
2. The sponsors in conjunction with this event agree to the following:
 - A. To clean up the street both before and after the event. The clean-up shall include but not be limited to picking up litter, sweeping any broken glass, and the placing, emptying and removal of trash cans. Clean-up after the event shall be completed by 9:00 p.m., on Friday, October 26, 2012.
 - B. To be responsible for placing barricades to close the street, not before 3:00 p.m., and to be removed by 9:00 p.m., Friday, October 26, 2012. Barricades are not provided by Public Works, but must be approved by the City of Bloomington Traffic Engineer for type and placement.
 - C. To be responsible for obtaining any required permits or licenses.
 - D. To notify all parties on the Engineering Department’s Road Closing Notification List and the media of the street closing at least 48 hours in advance of the closing.

ADOPTED THIS ____ DAY OF _____, 2012

BOARD OF PUBLIC WORKS

Agreed to by:

Charlotte Zietlow, President

Bloomington Housing Authority

Frank N. Hrisomalos

James McNamara

**RELEASE, HOLD HARMLESS AND
INDEMNIFICATION AGREEMENT
NATIONAL NIGHT OUT, FALL FAIR AND HAUNTED HOUSE**

WHEREAS, the undersigned, the Bloomington Housing Authority, hereinafter referred to as "Releasor," is sponsoring a "National Night Out" and hosting a Halloween-themed Fall Fair and Haunted House on Friday, October 26, 2012; and

WHEREAS, in connection with the performance the Releasor seeks to use the public property of the City of Bloomington, specifically North Summit Street between 12th Street and Monroe Streets and including the intersection at 13th Street; and

WHEREAS, the Releasor seeks permission by the City of Bloomington Board of Public Works to use the described property, and in partial consideration of such permission, agrees to execute this Release, Hold Harmless and Indemnification Agreement, and to provide the City with a Certificate of Insurance.

NOW THEREFORE, in consideration of permission from the City of Bloomington Board of Public Works for use of the described property, the Releasor hereby agrees to release, hold harmless and indemnify the City of Bloomington, its officers, employees, agents and assigns from any and all claims, causes of action, suits, proceedings or demand which may arise as a result of Releasor's use of the described property. This includes, but is not limited to, claims for personal injury, property damage, and/or breach of contract, whether brought by the Releasor, its employees or agents, or any third party.

IN WITNESS WHEREOF, the undersigned has executed this Agreement with full knowledge of its significance and with the intent to be bound by it.

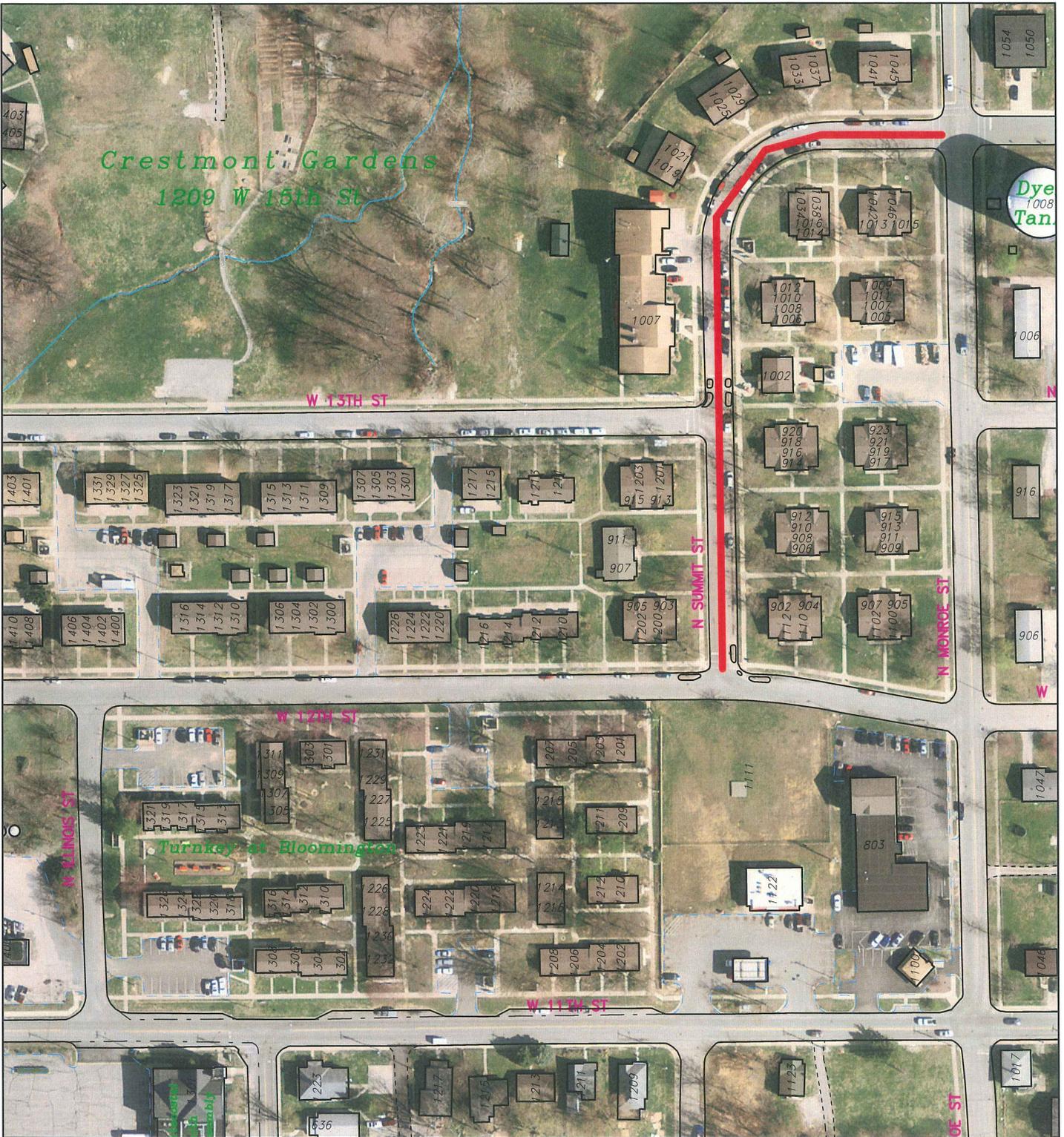
Bloomington Housing Authority

Signature

Date

Printed Name

Position



Dye
1008
Tan.

Crestmont Gardens
1209 W 15th St

Turnkey at Bloomington

W 13TH ST

N SUMMIT ST

N MONROE ST

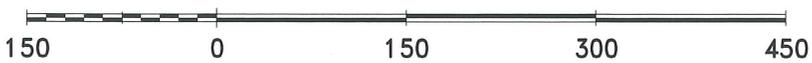
W 12TH ST

W 11TH ST

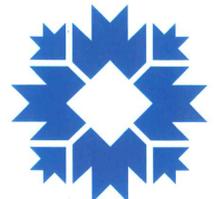
W 10TH ST

W 9TH ST

By: smithc
21 Sep 12



City of Bloomington
Public Works



Scale: 1" = 150'

For reference only; map information NOT warranted.



Board of Public Works Staff Report

Project/Event: 2012 Bloomington "Out of the Darkness" Walk Saturday

Petitioner/Representative: Community Health – Indiana University Health

Staff Representative: Miah Michaelsen

Meeting Date: 9/25/2012

Event Date: Saturday, October 27, 2012

Local walkers in the community will be walking to help raise awareness about the issue of suicide in young people and to support research in suicide prevention strategies.

The walk starts at the IU Football Stadium, goes south on Fee Lane, through the IU Arboretum, east on 7th to Jordan Ave., south on Jordan, west on 3rd, north on Indiana to 17th and returns to stadium. They will be using the sidewalks but needing to cross some major streets, which will be covered by IU Police.

The walk is meant to take place on sidewalks but occasionally walkers will stray out into the street, especially when they are in more congested areas. They anticipate 300- 400 walkers.

Bloomington Police Department has issued a Parade Permit pending BPW approval.

Staff recommends approval of the request.

Recommend Approval Denial by Miah Michaelsen

RESOLUTION 2012-78
Out of the Darkness Walk

WHEREAS, the Board of Public Works is empowered by I.C. 36-9-6-2 to supervise city streets;
and

WHEREAS, Indiana University Health Bloomington's Community Health program will sponsor the Out of the Darkness Walk in Bloomington; and

WHEREAS, the Out of the Darkness Walk has requested use of public streets and sidewalks for the 2012 Breast Cancer Awareness Walk; and

WHEREAS, the Out of the Darkness Walk has agreed to provide all traffic control as deemed necessary and as instructed by Bloomington Engineering Department and/or Bloomington Police Department and to incur the complete cost; and

WHEREAS, the Out of the Darkness Suicide Walk herein after "Sponsor", has agreed to execute the "Release, Hold Harmless and Indemnification Agreement" regarding the use of the City of Bloomington's property as described on Attachment A and has agreed to provide the city with a Certificate of Insurance which names the City of Bloomington as an additional insured.

NOW, THEREFORE, BE IT RESOLVED:

- 1) That the City of Bloomington Board of Public Works agrees that public streets and sidewalks may be utilized to conduct the Out of the Darkness Walk between the hours of 9:00 and 11:30 a.m. on Saturday, October 27, 2012.
- 2). The City of Bloomington Board of Public Works agrees that vehicular traffic may be restricted for short periods of time as walkers use sidewalks and cross the following streets: 17th Street, Fee Lane, Jordan Avenue, 3rd Street and Indiana Avenue during the hours of the event.
- 3) The sponsor agrees to be responsible for setting up barricades as instructed by City of Bloomington Engineering Department.
- 4) The sponsor shall be responsible for obtaining any and all required permits as well as being responsible for all legal and financial expenditures.
- 5) The sponsor shall be responsible for all clean-up that may be necessary as a result of the event to be completed by noon, Saturday, October 27, 2012.
- 6) _____, by signing this agreement, represents that he/she has been fully empowered by proper action of the entity to enter into the agreement and has authority to do so.

ADOPTED THIS ___ DAY OF _____, 2012.

BOARD OF PUBLIC WORKS:

Charlotte Zietlow, President

James McNamara

Dr. Frank N. Hrisomalos

AGREED TO THIS _____ DAY OF _____, 2012

OUT OF THE DARKNESS WALK

Signature

Printed Name

Position

**RELEASE, HOLD HARMLESS AND
INDEMNIFICATION AGREEMENT
Out of the Darkness Walk**

WHEREAS, the undersigned, the Out of the Darkness Walk, hereinafter referred to as “Releasers” is sponsoring a walk on October 27, 2012, and

WHEREAS, in connection with the Walk, the Releasers seek to use the public property of the City of Bloomington, specifically sidewalks adjacent to 17th Street, Fee Lane, Jordan Avenue, 3rd Street Avenue and Indiana Avenue; and

WHEREAS, the Releasers seek permission by the City of Bloomington Board of Public Works to use the described property, and in partial consideration of such permission, agrees to execute this Release, Hold Harmless and Indemnification Agreement; and

NOW THEREFORE, in consideration of permission from the City of Bloomington Board of Public Works for use of the described property, the Releasers hereby agree to release, hold harmless and indemnify the City of Bloomington, its officers, employees, agents and assigns from any and all claims, causes of action, suits, proceedings or demand which may arise as a result of Releasers’ use of the described property. This includes, but is not limited to, claims for personal injury, property damage, and/or breach of contract, whether brought by the Releasers’, their employees or agents, or any third party.

IN WITNESS WHEREOF, the undersigned has executed this Agreement with full knowledge of its significance and with the intent to be bound by it.

Out of the Darkness Walk

Signature

Date

Printed Name

Position



Board of Public Works Staff Report

Project/Event: Itinerant Merchant in right of way

Petitioner/Representative: Mark Baker DBA Pitt Boss BBQ LLC

Staff Representative: Miah

Meeting Date: September 25, 2012

Mark Baker has applied for an Itinerant Merchant Permit. It has been determined that when the applicant wants to operate in the right of way, that before the permit is issued, permission must be obtained from the Board of Public Works. The Department of Economic & Sustainable Development has reviewed the application and the Board of Public Works' approval to operate in the public right of way is one of the items on the check list that is required before a permit can be issued. ESD will confirm that all rules and regulations have been met prior to a permit being issued.

The name of the business is Pitt Boss BBQ and will operate from a food cart or trailer.

This application is for one year.

Staff is supportive of the request.

Recommend **Approval** **Denial by** Miah Michaelsen

RESOLUTION 2012-79
Food Vendor in Public Right of Way
Pitt Boss BBQ, LLC

WHEREAS, the Board of Public Works is empowered by I.C. 36-9-6-2 to supervise City streets, alleys, sewers, public grounds, and other City property; and

WHEREAS, Mark Baker, doing business as Pitt Boss BBQ LLC, is desirous of using public on-street parking and sidewalks within the downtown area of Bloomington for the purpose of selling food via a mobile kitchen and food cart; and

WHEREAS, Mark Baker has agreed to hold the City of Bloomington, City of Bloomington Board of Public Works, or any of their agents or employees harmless for any and all actions, losses or claims arising from said event, a copy of which is attached hereto and made a part hereof;

NOW, THEREFORE, BE IT RESOLVED that the City of Bloomington Board of Public Works declares that Mark Baker has permission to use on-street public parking and sidewalks located within the downtown area of Bloomington for the purposes of selling food via a mobile kitchen for one year beginning on the day that License is issued by the City. _____, 2012 thru _____ 2013.

The following conditions attach to this approval:

1. Mark Baker agrees to maintain a clear five-foot path for pedestrians at all times.
2. Mark Baker will comply with all other laws, ordinances, rules and regulations in effect at the time it conducts their business.
3. Mark Baker will have obtained a valid Itinerant Merchant license issued by the City of Bloomington Controller's Office prior to operation on City property.
4. Mark Baker shall not conduct business on the same side of the street and within fifty (50) feet of a primary entry way into a ground level retail establishment which offers the same types of goods, wares, services, foods, or products.
5. Mark Baker shall honor parking restrictions as posted for any parking spot that they may utilize, but may not park in a street median strip or an alleyway.
6. Mark Baker shall locate his business a reasonable distance from any posted bus stop, taxi stand, crosswalk, driveway, alleyway, building entrance or walk-up window.
7. Mark Baker shall locate his business a reasonable distance from another mobile kitchen, food cart or food stand.
8. Mark Baker shall not locate his business in front of the primary entrance to a retail business, office building or church.
9. Mark Baker shall not locate his business on the following portions of the B-Line Trail:
 - a) From the north side of Country Club Road to the south side of Dodds Street;
 - b) From the north side of 2nd Street to the south side of 3rd Street; and
 - c) From the north side of 4th Street to the south side of 6th Street.
10. Mark Baker shall not locate his business within a one block radius of the following

special events during the hours of their operation unless prior written consent has been provided by the coordinator or director of the special event:

- a) City of Bloomington Farmers' Market;
 - b) City of Bloomington Holiday Market;
 - c) The Taste of Bloomington;
 - d) Lotus World Music and Arts Festival;
 - e) The Fourth Street Festival;
 - f) Arts Fair on the Square;
 - g) Strawberry Festival;
 - h) Canopy of Lights;
 - i) Fourth of July Parade; and
 - j) Any other special events approved by the City Controller.
11. Mark Baker may locate his business in a public parking space according to parking restrictions for that space including Bloomington Municipal Code section 15.32 which is attached as Exhibit A of this document.
12. Mark Baker shall not locate his business in a manner which would significantly impede or prevent the use of any City of Bloomington property, or which would endanger the safety or property of the public.
13. Mark Baker shall conduct their business in accordance with the Standards of Conduct noted in Bloomington Municipal Code section 4.16.100.

This approval may be renewed by the Director of Public Works no more than once a year provided Mark Baker has complied with all conditions of this approval; complied with all applicable laws, ordinances, rules and regulations; and the City has received no valid complaints regarding Mark Baker's activities associated with this approval.

ADOPTED THIS _____ DAY OF _____, 2012.

BOARD OF PUBLIC WORKS:

Charlotte Zietlow, President

James McNamara

Dr. Frank N. Hrisomalos

ALL TERMS AND CONDITIONS CONTAINED IN THIS RESOLUTION 2012-79 ARE ACCEPTABLE AND AGREED TO FOR PITT BOSS BBQ, LLC:

Mark Baker

Date: _____



Itinerant Merchant, Solicitor and Peddler License Application Checklist

City of Bloomington Office of the Controller
401 N. Morton St. Suite 240 Bloomington, Indiana
812-349-3412

Applicant Information

Name: Mark Baker
Physical Address: 1040 Dunceaster Ct.
Phone Number: 812-360-3565
Date of Birth: 10/21/74
markbaker005@yahoo.com

Corporate Contact Information

Name of Employer: _____
Physical Address of Employer: _____
Phone Number of Employer: _____
Length of Employment: _____

Employer is a:

- Firm Limited Liability Corporation Corporation Partnership Sole Proprietor

Description of product or service to be sold and any equipment to be used (may attach additional information as needed):

Polled Pork Sandwiches, Polled Chicken Sandwiches,
Shrimp, Sausage, Water, Cola Products.
Served from food trailer.

Length of Permit:

- 24 Hour-\$15 72 Hour-\$40 1 Calendar Week-\$75 30 Days-\$125
 6 Months-\$175 1 Year-\$240

You Must Obtain The Following:

- Proof of insurance in accordance with the limits described in Section 4.16.070 of the Bloomington Municipal Code:
 • Personal Injury: \$100,000.00 per occurrence and \$300,000 in the aggregate
 • Property Damage: \$25,000.00 per occurrence and \$50,000.00 in the aggregate
 Release of liability wherein the Applicant agrees to indemnify and hold harmless the City of Bloomington for losses or expenses arising out of the operation of his/her business.

You May Need To Obtain And Provide The Following (staff will advise):

- If you will be using, handling, selling or distributing food, you must submit a copy of the Monroe County Health Department permit.
- If you will conduct business in the City of Bloomington public right-of-way, you need to obtain a letter of approval from the Board of Public Works.
- If you will conduct business in or on property owned and/or managed by the City of Bloomington Parks and Recreation Department, you need to obtain a letter of approval from the Parks Department.
- If your product or service will produce any type of spark, flame or fire in the course of your business, you need to submit a copy of a Permit for Open Burning issued by the City of Bloomington Fire Department.

Food Service Establishment

Monroe County Health Department

Bloomington, IN 47404-3989

812-349-2542

Pitt Boss BBQ LLC

1040 Dumcaster Court

Bloomington, IN 47401

Having complied with the rules and regulations of the Monroe County Health Department as authorized by the Indiana Administrative Code and the Board of Commissioners of Monroe County, Indiana, is hereby authorized to operate a Food Service Establishment at the above location for the calendar year.

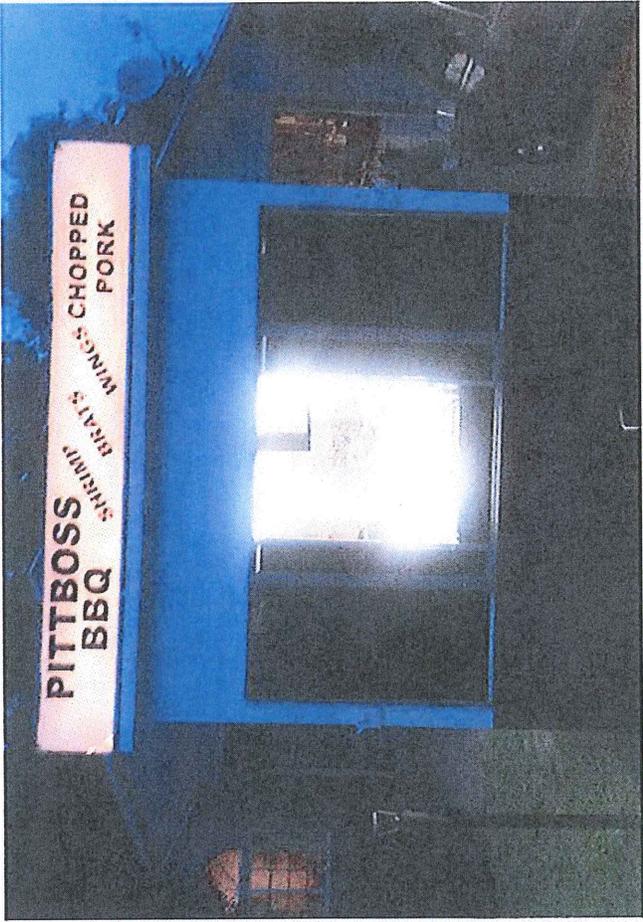
Issued SEP 12 2012

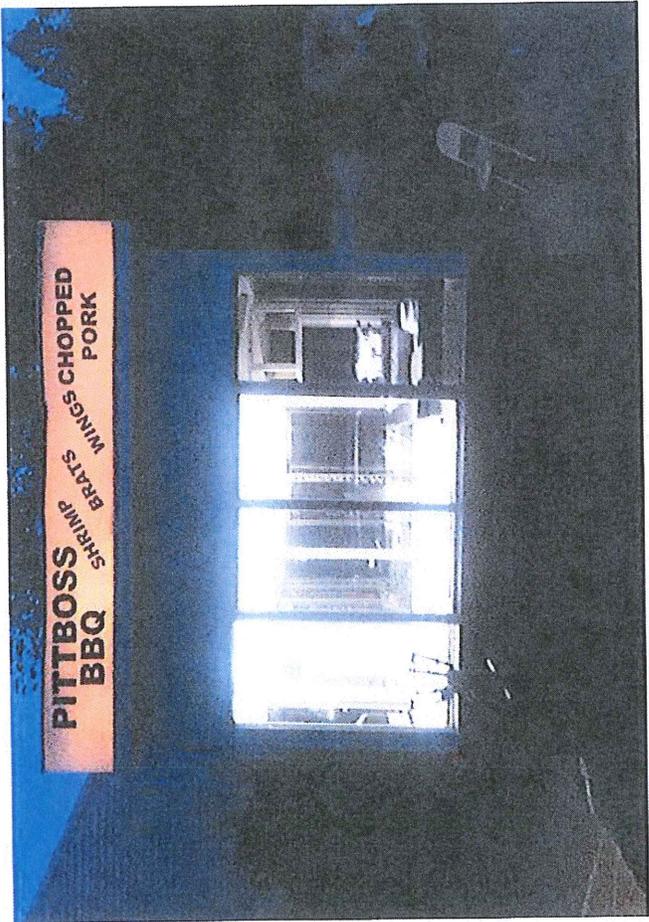
By *Thomas W. [Signature]*

2012

Expires 1/31/13

This License Is Not Transferable to Another Individual or Location





PITTBOS
SHRIMP
BRATS
WINGS
CHOPPED
PORK



Board of Public Works Staff Report

Project/Event: Homecoming Concert
Petitioner/Representative: IU Student Alumni Association
Staff Representative: Miah Michaelsen
Meeting Date: September 25, 2012
Event Date: Friday, October 5, 2012

The IU Student Alumni Association is planning a Homecoming Concert that will take place Friday, Oct. 5 from 7 - 9:30 pm in Dunn Meadow. IUSAA is partnering with Union Board on this concert, and it will feature the band South Jordan as well as Zach Majors and Brice Fox and Daniel Weber ("This is Indiana").

This event is planned to be a "finale" for Homecoming week and to get Bloomington excited for Saturday's game. They are requesting to close 7th Street between Indiana and Woodlawn between 6 p.m. – 11:00 p.m. in order to provide parking for food trucks that will serve guests as part of the Homecoming Concert and to facilitate guests safely accessing the food trucks.

Indiana University Police Department will be staffing the event and providing security. Bloomington Police Department supports the closure request.

A noise permit for the concert is also included in the resolution.

ESD staff is supportive of this request.

Recommend **Approval** **Denial by** Miah Michaelsen

RESOLUTION 2012-80
IUSAA HOMECOMING CONCERT

WHEREAS, the Board of Public Works is empowered by I.C. 36-9-6-2 to supervise City Streets; and

WHEREAS, the City has committed itself to promoting Bloomington festivals and community celebrations; and

WHEREAS, Indiana University Student Alumni Association is desirous of using the portion of 7th Street between Indiana Avenue and Woodlawn Avenue to host the Indiana University Homecoming Concert; and

WHEREAS, Indiana University Student Alumni Association has requested that the Board close certain streets in downtown Bloomington to traffic and parking from 6:00 pm to 11:00 pm on Friday the 5th of October so that Indiana University Student Alumni Association can have control over the streets for the purposes of providing a homecoming concert event for the benefit of the community; and

WHEREAS, Indiana University Student Alumni Association has agreed to indemnify and to hold harmless the City of Bloomington, City of Bloomington Board of Public Works or any of their agents or employees for any and all actions, losses or claims arising from said event, a copy of which is attached hereto and made a part hereof, and has agreed to provide the City with a Certificate of Insurance.

NOW, THEREFORE, BE IT RESOLVED:

1. That the City of Bloomington Board of Public Works declares that 7th Street, between the east intersection with Indiana Avenue and the west intersection with Woodlawn Avenue will be temporarily closed to traffic and parking from 6:00 pm to 11:00 pm on Friday the 5th of October.
2. That the street closure outlined above is for the purposes of allowing Indiana University Student Alumni Association to provide a concert event of high quality that is beneficial to the community on Friday, October 5th.
3. That City noise ordinance is waived for this event.
4. That vendors who have not received explicit authorization from Indiana University Student Alumni Association, or their representatives or agents, to participate in the Homecoming Concert will not be permitted to utilize the closed off portions of the streets outlined above for the purposes of performing, displaying, producing or selling items or goods.
5. That by approval of this Resolution, the city noise ordinance is waived for performers and artists who have received explicit authority from Indiana University Student Alumni Association to participate in the Grant Street Arts and Jazz Festival.

6. That by approval of this Resolution, the President of the Board of Public Works is authorized to sign the attached Release, Hold Harmless and Indemnification Agreement.

7. That in addition to agreeing to the above restrictions, Indiana University Student Alumni Association agrees to the following, as evidenced by the signature of their representative below:

- A. Indiana University Student Alumni Association agrees to clean up the streets both before and after the event. The clean-up shall include, but not be limited to, removal of temporary "no parking" signs, picking up litter, sweeping any broken glass and the placing, emptying and removal of trash cans and removal of drink, food and grease residue from street and sidewalk surfaces. Clean-up after the event shall be completed by 11:00 p.m. Friday, the 5th day of October, 2012.
- B. Indiana University Student Alumni Association must provide barricades in order to indicate that the street is closed and shall be responsible for placement and removal of these barricades. Indiana University Student Alumni Association is responsible for contacting the City of Bloomington Engineering Department for instructions on the type of and placement of said barricades.
- C. Indiana University Student Alumni Association shall be responsible for notifying the Press and affected businesses in advance of the street closing, along with posting "no parking" signs as required by City Ordinance.
- D. Indiana University Student Alumni Association agrees to submit a layout plan for any booths to the Fire Chief and City Engineer for approval, in advance of the festival.

ADOPTED THIS _____ DAY OF _____, 2012.

**CITY OF BLOOMINGTON
BOARD OF PUBLIC WORKS**

Charlotte Zietlow, President

James McNamara

Dr. Frank N. Hrisomalos

ALL TERMS AND CONDITIONS CONTAINED IN RESOLUTION 2012-80 ARE AGREED TO AND ARE ACCEPTABLE:

**RELEASE, HOLD HARMLESS
AND
INDEMNIFICATION AGREEMENT**

WHEREAS, Indiana University Student Alumni Association, (hereinafter referred to as "RELEASOR") desires to use the facilities or public property of the CITY OF BLOOMINGTON (hereinafter referred to as "RELEASEE"), and specifically 7th Street between Indiana Avenue and Woodlawn Avenue and said facilities or public property is owned and is operated, supervised and maintained by the RELEASEE'S Board of Public Works, for the purpose of sponsoring the Indiana University Homecoming Concert, on RELEASEE'S property with set up beginning at 6:00 pm on Friday, October 5, 2012, and with tear down and clean up ending by 11:00 p.m., and

WHEREAS, the RELEASEE wishes to cooperate in said endeavor by allowing such activities to be conducted upon its property;

WHEREAS, RELEASOR hereby agrees to accept the legal responsibility and to acquire related and professionally determined insurance coverage as to the described use of the facilities and public property and therefore hold RELEASEE defended, harmless, and indemnified regarding the RELEASOR'S and the public's use of the facilities and premises and any claims arising from and regarding RELEASOR'S alleged acts or omissions creating a legal liability for damages as to RELEASOR or as to RELEASEE.

THEREFORE, in consideration for the permission hereby granted use of the property of RELEASEE for said Homecoming Concert, and the above recitals incorporated as terms of this agreement, the RELEASOR by its undersigned agent, for RELEASOR and its officers, directors, agents, employees, members, successors and assigns, does hereby acknowledge and agree to assume responsibility for bodily and personal injuries and expenses, including injuries resulting in death, and property damage, claims, actions, damages, liabilities and expenses, including reasonable attorneys' fees and court costs, which may occur as a direct result of RELEASOR'S negligent act or acts or failure to act or that of RELEASOR'S employees or agents is using RELEASEE'S property as described above, and for the same consideration hereby agrees to indemnify, defend, hold harmless, release, waive and forever discharge the RELEASEE, its officers, directors, agents, employees, successors and assigns, and all other persons and entities associated with the RELEASEE, for all bodily and personal injuries, including injuries resulting in death, and property damage, claims, actions, damages, liabilities, and expenses, including reasonable attorneys' fees and court costs, which may occur as a direct result of the RELEASOR'S negligence in using RELEASEE'S property for the Homecoming Concert, including, but not limited to, any claim or claims brought by third parties, whether or not sounding in tort or contract.

This agreement shall be liberally applied and construed to fulfill its purposes herein expressed to thereby include and provide insurance coverage for any tort claim liability of RELEASEE allegedly caused by the acts of omission of RELEASOR in sponsoring said concert.

THE PARTIES, INTENDING TO BE BOUND HEREBY, have executed this
RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT on the dates
indicated below.

“RELEASOR”

“RELEASEE”

Indiana University Student Alumni Association

City of Bloomington

Date

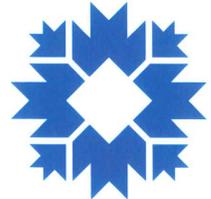
Date



By: smithc
21 Sep 12



City of Bloomington
Public Works



Scale: 1" = 250'

For reference only; map information NOT warranted.



Board of Public Works Staff Report

Project/Event: Take Back the Night Walk

Petitioner/Representative: Feminist Law Forum and IU's Women's Student Association

Staff Representative: Miah Michaelsen

Meeting Date: September 25, 2012

Event Date: Thursday, October 4, 2012

The Feminist Law Forum (FLF) is collaborating with IU's Women's Student Association (WSA) on a Take Back the Night (TBTN) event on Thursday, October 4th, from 6 p.m. to 9 p.m. TBTN is a conscious-raising event that began in the U.S. in the 1970s, and its primary goal is two-fold: 1) raise awareness about sexual violence against women, and 2) encourage women to literally "take back the night" (as opposed to remaining in the private sphere for fear of being attacked) by having an evening walk.

The walk will begin at Dunn Meadow to Indiana Ave. to the Sample Gates, then up Kirkwood Ave. and ending at the Monroe County Courthouse.

Traffic control will be provided by WSA. WSA will provide traffic control at each intersection.

Bloomington Police Department has issued a Parade Permit pending BPW approval.

Staff recommends approval of the request.

Recommend **Approval** **Denial** by Miah Michaelsen

RESOLUTION 2012-81
Take Back the Night Walk

WHEREAS, the Board of Public Works is empowered by I.C. 36-9-6-2 to supervise city streets;
and

WHEREAS, Indiana University's Feminist Law Forum (FLF) and Women's Student Association (WSA) will jointly sponsor the Take Back the Night Walk in Bloomington; and

WHEREAS, Take Back the Night has requested use of public streets and sidewalks for the 2012 Walk; and

WHEREAS, the Take Back the Night Walk has agreed to provide all traffic control as deemed necessary and as instructed by Bloomington Engineering Department and/or Bloomington Police Department and to incur the complete cost; and

WHEREAS, the Take Back the Night Walk herein after "Sponsor", has agreed to execute the "Release, Hold Harmless and Indemnification Agreement" regarding the use of the City of Bloomington's property as described on Attachment A and has agreed to provide the city with a Certificate of Insurance which names the City of Bloomington as an additional insured.

NOW, THEREFORE, BE IT RESOLVED:

- 1) That the City of Bloomington Board of Public Works agrees that public streets and sidewalks may be utilized to conduct the Take Back the Night Walk between the hours of 6:00 and 9:00 p.m. on Thursday, October 4, 2012.
- 2). The City of Bloomington Board of Public Works agrees that vehicular traffic may be restricted for short periods of time as walkers use sidewalks and cross the following streets: Indiana Avenue, Kirkwood Avenue and Walnut Street during the hours of the event.
- 3) The sponsor agrees to be responsible for setting up barricades as instructed by City of Bloomington Engineering Department.
- 4) The sponsor shall be responsible for obtaining any and all required permits as well as being responsible for all legal and financial expenditures.
- 5) The sponsor shall be responsible for all clean-up that may be necessary as a result of the event to be completed by 9:00 p.m., Thursday, October 4, 2012.
- 6) _____, by signing this agreement, represents that he/she has been fully empowered by proper action of the entity to enter into the agreement and has authority to do so.

ADOPTED THIS ____ DAY OF _____, 2012.

BOARD OF PUBLIC WORKS:

Charlotte Zietlow, President

James McNamara

Dr. Frank N. Hrisomalos

AGREED TO THIS _____ DAY OF _____, 2012

TAKE BACK THE NIGHT WALK

Signature

Printed Name

Position

**RELEASE, HOLD HARMLESS AND
INDEMNIFICATION AGREEMENT
Take Back the Night Walk**

WHEREAS, the undersigned, the Take Back the Night Walk, hereinafter referred to as “Releasers” is sponsoring a walk on October 4, 2012, and

WHEREAS, in connection with the Walk, the Releasers seek to use the public property of the City of Bloomington, specifically sidewalks adjacent to Indiana Avenue, Kirkwood Avenue and Walnut Street; and

WHEREAS, the Releasers seek permission by the City of Bloomington Board of Public Works to use the described property, and in partial consideration of such permission, agrees to execute this Release, Hold Harmless and Indemnification Agreement; and

NOW THEREFORE, in consideration of permission from the City of Bloomington Board of Public Works for use of the described property, the Releasers hereby agree to release, hold harmless and indemnify the City of Bloomington, its officers, employees, agents and assigns from any and all claims, causes of action, suits, proceedings or demand which may arise as a result of Releasers’ use of the described property. This includes, but is not limited to, claims for personal injury, property damage, and/or breach of contract, whether brought by the Releasers’, their employees or agents, or any third party.

IN WITNESS WHEREOF, the undersigned has executed this Agreement with full knowledge of its significance and with the intent to be bound by it.

Take Back the Night Walk

Signature

Date

Printed Name

Position



Board of Public Works Staff Report

Project/Event: Adopt A Road Program

Petitioner/Representative: Monroe County Solid Waste

Staff Representative: Christina Smith

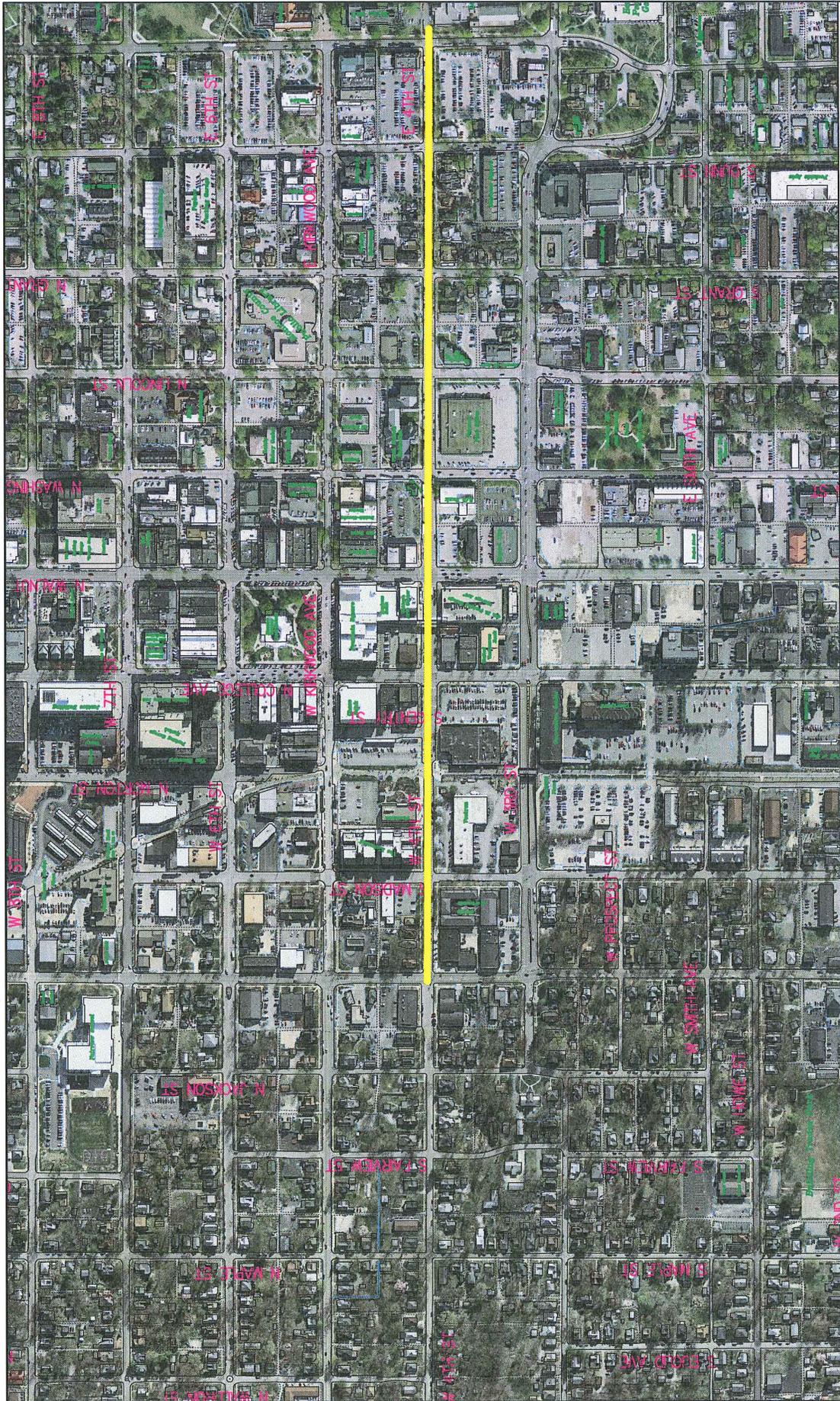
Meeting Date: September 25, 2012

Monroe County Solid Waste District runs the Adopt A Road Program which includes City Streets, and have requested that 4th Street between Indiana Avenue and Rogers Street be added to the program on behalf of the Indiana University Maurer School of Law.

The Adopt A Road Program requires four (4) organized litter clean ups each year and the City welcomes the assistance of this group with the overall maintenance of 4th Street. City Risk Management Division has evaluated this section and agrees that it could be part of the program.

Recommendation and Supporting Justification: Staff recommends approval of this section of roadway.

Recommend Approval Denial by Christina Smith



City of Bloomington
Public Works



Scale: 1" = 500'



By: smithc
20 Sep 12

For reference only; map information NOT warranted.



Board of Public Works Staff Report

Project/Event: South Rogers Street INDOT-LPA Construction Contract
Petitioner/Representative: n/a
Staff Representative: Adrian Reid
Date: 09/25/2012

Report:

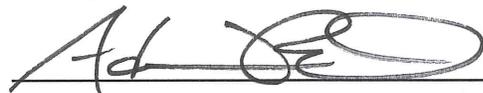
The South Rogers Street project from Rockport Road to Watson Street includes an 8' wide multi-use path on the west side of Rogers Street, a 5 ft. sidewalk on the east side, road reconstruction, storm water improvements and a connector path to the B-Line. The project is scheduled for a December 12th letting date through INDOT and will be constructed in 2013-2014.

Staff is requesting approval of the construction contract with INDOT in the amount of \$3,475,935 which is split 80% INDOT (\$2,780,747) and 20% City of Bloomington (\$695,188).

The contract reflects the amount programmed in the MPO 2012-2015 TIP and includes a large portion of CBU's utility relocation costs. In accordance with a MOU between Board of Works and Utility Service Board (Mar. 4, 2008), those costs will be reimbursed 80/20.

Recommendation and Supporting Justification: Staff recommends approval of the INDOT-LPA contract for construction of the project.

Recommend Approval Denial by





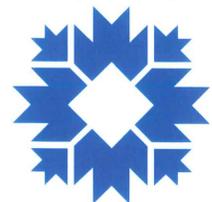
South Rogers Street Improvements

By: reida
20 Sep 12



For reference only; map information NOT warranted.

City of Bloomington
Engineering



Scale: 1" = 500'



**INDIANA DEPARTMENT OF TRANSPORTATION - LOCAL PUBLIC AGENCY
PROJECT COORDINATION CONTRACT**

EDS #: A249-10-321221

Des. No.: 0600496

CFDA No.: 20.205

This Contract is made and entered into effective as of the date of the Indiana Attorney General signature affixed to this Contract, by and between the State of Indiana, acting by and through the Indiana Department of Transportation, (hereinafter referred to as INDOT), and the City of Bloomington, a local public agency in the State of Indiana (hereinafter referred to as the LPA), and collectively referred to as the PARTIES.

NOTICE TO PARTIES

Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following address, unless otherwise specifically advised.

- A. Notice to INDOT, regarding contract provisions shall be sent to:

Office of LPA/MPO & Grant Administration
Attention: LPA/MPO & Grant Administration Director
100 North Senate Avenue, Room N955
Indianapolis, Indiana 46204

- B. Notices to INDOT regarding project management shall be sent to respective District Office:

INDOT Seymour District
185 Agrico Lane
Seymour, Indiana 47274

- C. Notices to the LPA shall be sent to:

Mr. Adrian Reid, City Engineer
City of Bloomington
401 North Morton Street, PO Box 100
Bloomington, Indiana 47402

RECITALS

WHEREAS, LPA has applied to INDOT, and INDOT has approved the LPA's application to receive federal funds for the Project described in Attachment A, and

WHEREAS, LPA agrees to pay its share of the Project cost as stated in this Contract, and

WHEREAS, the PARTIES desire to contract on certain project description, scheduling, and funding allocation, and

WHEREAS, the PARTIES have determined the Project, is in the best interests of the citizens of the State of Indiana, and

WHEREAS, the PARTIES execute this Contract pursuant to Indiana Code §§ 8-23-2-5, 8-23-2-6, 8-23-4-7, 36-1-4-7, and 36-1-7-3, and Titles 23 and 49 of the United States Code and Titles 23 and 49 of the Code of Federal Regulations, and

WHEREAS, the LPA desires to expedite delivery of the Project, comply with all Federal requirements and fiscally manage the Project, and

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained, the LPA and INDOT agree as follows:

The "Recitals" and "Notice to Parties" above are hereby made an integral part and specifically incorporated into this Contract.

SECTION I **PROJECT DESCRIPTION.** INDOT and the LPA enter into this Contract to complete the project described in Attachment A (the "Project"), herein attached to and made an integral part of this Contract.

SECTION II **LPA RESPONSIBILITIES.** The LPA will provide the information and services, or shall cause the information and services to be provided, as set out in Attachment B (LPA's Rights and Duties), herein attached to and made an integral part of this Contract. The LPA will follow all applicable INDOT procedures, guidelines, manuals, standards, specifications and directives.

SECTION III **INDOT RESPONSIBILITIES.** INDOT will provide the information and services as set out in Attachment C (INDOT's Rights and Duties), herein attached to and made an integral part of this Contract.

SECTION IV **PROJECT FUNDS.** INDOT will not share in the cost of the Project. INDOT will disburse funds from time to time; however, INDOT will be reimbursed by the Federal Highway Administration (FHWA) or the LPA. Payment will be made for the services performed under this Contract in accordance with Attachment D (Project Funds), which is attached to and made an integral part of this Contract.

SECTION V **TERM AND SCHEDULE.**

- A. If the LPA has the plans, special provisions, and cost estimate (list of pay items, quantities, and unit prices) for the Project ready such that federal funds can be obligated (INDOT obligates the funds about 7 weeks before the date bids are opened for the construction contract.) between October 1, 2012 and September 30, 2013, INDOT will make the federal funds shown in section I.B of Attachment D available for the Project, provided the Project is eligible.
- B. In the event that federal funds for the Project are not obligated during the time listed in section V.A, but the LPA has the plans, special provisions, and cost estimate for the Project ready such that federal funds can be obligated between October 1, 2013 and September 30, 2015. INDOT will schedule the contract for letting, provided the federal funds shown in section I.B of Attachment D are available.
- C. In the event that federal funds for the Project are not obligated during the period listed in section V.A or section V.B, the LPA may (1) request INDOT's approval to transfer the federal funds to another eligible project or (2) in extenuating circumstances, submit a

written request to INDOT at least 90 days before the last date listed in section V.B and request that the dates in sections V.A and V.B be modified; otherwise, the federal funds allocated to the Project will lapse.

- D. If the Program shown on Attachment A is Group I or Group II, Sections V.A, V.B, and V.C do not apply.

SECTION VI **GENERAL PROVISIONS**

- A. **Access to Records.** The LPA shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by INDOT and/or the Federal Highway Administration (“FHWA”) or its authorized representative, and copies thereof shall be furnished free of charge, if requested by INDOT, and/or FHWA. The LPA agrees that, upon request by any agency participating in federally-assisted programs with whom the LPA has contracted or seeks to contract, the LPA may release or make available to the agency any working papers from an audit performed by INDOT and/or FHWA of the LPA 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.
- B. **Audit.** The LPA acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with 48 CFR part 31 and audit guidelines specified by the State and/or in accordance with audit requirements specified elsewhere in this Contract.
- C. **Certification for Federal-Aid Contracts Lobbying Activities.** The LPA certifies, by signing and submitting this Contract, to the best of its knowledge and belief that the LPA has complied with Section 1352, Title 31, U.S. Code, and specifically, that:
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, (Disclosure Form to Report Lobbying), in accordance with its instructions.
 3. The LPA also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

D. Compliance with Laws.

1. The LPA shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations there under, after execution of this Contract shall be reviewed by INDOT and the LPA to determine whether the provisions of this Contract require formal modification.
2. The LPA acknowledges that federal requirements provide for the possible loss of federal funding to one degree or another when the requirements of Public Law 91-646 and other applicable federal and state laws, rules and regulations are not complied with.
3. The LPA acknowledges paragraph 7 of the Federal Highway Program Manual, Volume 7, Chapter 1, Section 3, entitled "Withholding Federal Participation" which is herewith quoted in part as follows: "Where correctable noncompliance with provisions of law or FHWA requirements exist, federal funds may be withheld until compliance is obtained. Where compliance is not correctable, the FHWA may deny participation in parcel or project costs in part or in total."
4. The LPA 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.*, Indiana Code § 4-2-7, *et seq.*, the regulations promulgated there under, and Executive Order 05-12, dated January 12, 2005. If the LPA is not familiar with these ethical requirements, the LPA should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <<<http://www.in.gov/ethics/>>>>. If the LPA or its agents violate any applicable ethical standards, INDOT may, in its sole discretion, terminate this Contract immediately upon notice to the LPA. In addition, the LPA may be subject to penalties under Indiana Code §§ 4-2-6, 4-2-7, 35-44-1-3 and under any other applicable State or Federal laws.
5. The LPA represents and warrants that the LPA and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities under this agreement. Failure to do so may be deemed a material breach of this Contract and grounds for termination and denial of further work with the State.
6. As required by I.C. 5-22-3-7: (1) the LPA and any officials of the LPA certify that (A) the LPA, except for de minimis and nonsystematic violations, has not violated the terms of (i) I.C. 24-4.7 [Telephone Solicitation Of Consumers], (ii) I.C. 24-5-12 [Telephone Solicitations] , or (iii) I.C. 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by Federal law; and (B) the LPA will not violate the terms of I.C. 24-4.7 for the duration of the Contract, even if I.C. 24-4.7 is preempted by Federal law. (2) The LPA and any officials of the LPA certify that an affiliate or official of the LPA and any agent acting on behalf of the LPA or on behalf of an affiliate or official of the LPA: (A) except for de minimis and nonsystematic violations, has not violated the terms of I.C. 24-4.7 in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by Federal law; and (B) will not violate the terms of I.C. 24-4.7 for the duration of the Contract, even if I.C. 24-4.7 is preempted by Federal law.

- E. **Disadvantaged Business Enterprise Program.** Notice is hereby given to the LPA or a LPA Contractor that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification, may result in termination of this Contract or such remedy as INDOT deems appropriate.

The referenced section requires the following policy and disadvantaged business enterprise ("DBE") assurance to be included in all subsequent contracts between the LPA and any contractors, vendors or suppliers:

The LPA shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The LPA shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the LPA to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as INDOT, as the recipient, deems appropriate.

As part of the LPA's equal opportunity affirmative action program, it is required that the LPA shall take positive affirmative actions and put forth good faith efforts to solicit proposals or bids from and to utilize disadvantaged business enterprise contractors, vendors or suppliers.

F. **Disputes.**

1. Should any disputes arise with respect to this Contract, the LPA and INDOT agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
2. The LPA agrees that, the existence of a dispute notwithstanding, it shall continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the LPA fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by INDOT or the LPA as a result of such failure to proceed shall be borne by the LPA.
3. If a party to the contract is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the parties have ten (10) working days, unless the parties mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, a dissatisfied party will submit the dispute in writing according to the following procedure:
4. The parties agree to resolve such matters through submission of this dispute to the Commissioner of INDOT. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the LPA within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the parties concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party may submit the dispute to an Indiana court of competent jurisdiction.

5. INDOT may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by INDOT to the LPA of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for LPA to terminate this Contract, and the LPA may bring suit to collect these amounts without following the disputes procedure contained herein.

G. Drug-Free Workplace Certification. The LPA hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it shall give written notice to the INDOT and the IDOA within ten (10) days after receiving actual notice that an employee of the LPA in the State of Indiana has been convicted of a criminal drug violation occurring in the LPA's workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of the Contract and/or debarment of contracting opportunities with the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total Contract amount set forth in this Contract is in excess of \$25,000, LPA hereby further agrees that this Contract is expressly subject to the terms, conditions and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the IDOA is requiring the inclusion of this certification in all contracts with and grants from the State of Indiana in excess of \$25,000. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000, shall be valid, unless and until this certification has been fully executed by the LPA and made a part of the contract or agreement as part of the contract documents.

The LPA certifies and agrees it shall provide a drug-free workplace by:

1. Publishing and providing to all of its employees a Statement notifying their employees the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the LPA's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and
2. Establishing a drug-free awareness program to inform their employees of (1) the dangers of drug abuse in the workplace; (2) the LPA's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties which may be imposed upon an employee for drug abuse violations occurring in the workplace.
3. Notifying all employees in the Statement required by subparagraph (1) above as a condition of continued employment the employee shall (1) abide by the terms of the Statement; and (2) notify the LPA of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
4. Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision (3)(2) above, or otherwise receiving actual notice of such conviction;
5. Within thirty (30) days after receiving notice under subdivision (3)(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) take appropriate personnel action against the employee, up to and including termination; or (2) require 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

6. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (1) through (5) above.
- H. **Force Majeure.** In the event either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies 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 the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.
- I. **Funding Cancellation Clause.** When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of the performance of this Contract, this Contract shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.
- J. **Governing Laws.** This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.
- K. **Indemnification.** The LPA agrees to indemnify, defend, exculpate, and hold harmless the State of Indiana, INDOT, and their officials and employees from any liability due to loss, damage, injuries, or other casualties of whatever kind, or by whosoever caused, to the person or property of anyone on or off the Project arising out of, or resulting from the work covered by this Contract or the work connected therewith, or from the installation, existence, use, maintenance, condition, repairs, alteration or removal of any equipment or material, to the extent of negligence of the LPA, including any claims arising out of the Worker's Compensation Act or any other law, ordinance, order or decree. The LPA agrees to pay all reasonable expenses and attorney's fees incurred by or imposed on the State and INDOT in connection herewith in the event that the LPA shall default under the provisions of this Section. INDOT shall not provide such indemnification to the LPA.
- L. **Merger & Modification.** This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.
- M. **Non-Discrimination.**
1. Pursuant to I.C. 22-9-1-10 and the Civil Rights Act of 1964, the LPA, shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Contract, 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, ancestry or status as a veteran. Breach of this covenant may be regarded as a material breach of this Contract. Acceptance of this Contract also signifies compliance with applicable Federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.

2. The LPA understands that INDOT is a recipient of Federal Funds. Pursuant to that understanding, the LPA, agrees that if the LPA employs fifty (50) or more employees and does at least \$50,000 worth of business with the State and is not exempt, the LPA will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The LPA shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.
3. During the performance of this Contract, the LPA, for itself, its assignees and successors in interest (hereinafter referred to as the "LPA") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:
 - a. Compliance with Regulations: The LPA shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
 - b. Nondiscrimination: The LPA, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, sex, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The LPA shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
 - c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the LPA of the LPA's obligations under this Contract, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, national origin, religion, disability, ancestry, or status as a veteran.
 - d. Information and Reports: The LPA shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Indiana Department of Transportation and Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of an LPA is in the exclusive possession of another who fails or refuses furnish this information, the LPA shall so certify to the Indiana Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

- e. Sanctions for Noncompliance: In the event of the LPA's noncompliance with the nondiscrimination provisions of this Contract, the Indiana Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to the LPA under the Contract until the LPA complies, and/or (b) cancellation, termination or suspension of the Contract, in whole or in part.
- f. Incorporation of Provisions: The LPA shall include the provisions of paragraphs a through f in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The LPA shall take such action with respect to any subcontract or procurement as the Indiana Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the LPA becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the LPA may request the Indiana Department of Transportation to enter into such litigation to protect the interests of the Indiana Department of Transportation, and, in addition, the LPA may request the United States of America to enter into such litigation to protect the interests of the United States of America.

- N. Payment. All payments made by INDOT, if any, shall be made in arrears in conformance with State fiscal policies and procedures and, as required by I.C. 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the LPA in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by I.C. 4-13-2-20.
- O. Penalties, Interest and Attorney's Fees. INDOT will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, I.C. 5-17-5, I.C. 34-54-8, and I.C. 34-13-1.
- P. Pollution Control Requirements. If this Contract is for \$100,000 or more, the LPA:
 - 1. Stipulates any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
 - 2. Agrees to comply with all of the requirements of the Clean Air Act (including section 114) and the Federal Water Pollution Control Act (including section 308) and all regulations and guidelines issued there under; and
 - 3. Stipulates, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the FHWA of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA List of Violating Facilities.

- Q. Severability.** The invalidity of any section, subsection, clause or provision of the Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of the Contract.
- R. Status of Claims.** The LPA shall be responsible for keeping INDOT currently advised as to the status of any claims made for damages against the LPA resulting from services performed under this Contract. The LPA shall send notice of claims related to work under this Contract to:

Chief Counsel
Indiana Department of Transportation
100 North Senate Avenue, Room N758
Indianapolis, Indiana 46204-2249

The remainder of this page is intentionally left blank

Non-Collusion

The undersigned attests, subject to the penalties for perjury, that he/she is the LPA, or that he/she is the properly authorized representative, agent, member or officer of the LPA, that he/she has not, nor has any other member, employee, representative, agent or officer of the LPA, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

In Witness Whereof, LPA and the State of Indiana have, through duly authorized representatives, entered into this Contract. The parties having read and understand the forgoing terms of this Contract do by their respective signatures dated below hereby agree to the terms thereof.

CITY OF BLOOMINGTON

Mark Krutzan, Mayor
Print or type name and title

[Signature] 9.17.12
Signature and date

Print or type name and title

Signature and date

Print or type name and title

Signature and date

Attest

Auditor or Clerk Treasurer

This instrument prepared by:
Brenda E. Fox
September 10, 2012

**STATE OF INDIANA
Department of Transportation**

Recommended for approval by:

Robert D. Cales, Director
Contract Administration Division

Date: _____

Executed by:

(FOR)
Michael B. Cline, Commissioner

Date: _____

Department of Administration

Robert D. Wynkoop, Commissioner

Date: _____

State Budget Agency

Adam M. Horst, Director

Date: _____

Approved as to Form and Legality:

(FOR)
Gregory F. Zoeller, Attorney General of Indiana

Date: _____

CITY OF BLOOMINGTON
Legal Department
Reviewed By:
Jackie Moore
DATE: 9-17-12

ATTACHMENT A
PROJECT DESCRIPTION

Des. No.: 0600496

Program: Group II

Type of Project: Road Reconstruction (3R/4R Standards)

Location: Reconstruction of South Rogers Street from Rockport to Watson in the City of Bloomington, Monroe County, Indiana.

Please see the following pages of Attachment A for municipal utility items that are included in this Contract with the exception of the upgrade costs to be paid by the LPA:

ATTACHMENT B

LPA'S RIGHTS AND DUTIES

In addition to any other rights and duties required by Indiana or federal law, regulations, rules, policies or procedures, or described elsewhere in this Contract, the following are the LPA's rights and duties under this Contract for the Project.

1. The LPA has requested and intends to use federal funds to partially pay for the Project. The LPA asserts that the LPA has completed or will complete the Project in accordance with INDOT's Design Manual (See <http://www.in.gov/div/contracts/standards/dm.html>) and all pertinent state and federal laws, regulations, policies and guidance. The LPA or its consultant shall prepare the environmental document(s) for the Project in accordance with INDOT's Environmental Manual (See <http://www.in.gov/indot/7287.htm>). Land acquisition for the Project by the LPA or its consultant shall be in accordance with INDOT's Real Estate Manuals (See <http://www.in.gov/indot/3018.htm>).
2. The LPA acknowledges that in order for the cost of consultant services to be eligible for federal funds or federal credits, the consultant selection must be in accordance with INDOT's consultant selection procedure or INDOT's Alternative Architectural and Engineering Firm Selection Process for Local Public Agencies (See <http://www.in.gov/dot/div/legal/rfp/LPASection/information/ConsultantSelection/Consultant%20Selection%20index.htm>).
3. REQUIREMENTS FOR ADDITIONAL CONTRACTS
 - A. If the LPA wishes to contract with a consultant, contractor or other agent to complete work on the Project, LPA may:
 1. use the "LPA-CONSULTANT Agreement", which is found at <http://www.in.gov/indot/div/projects/LPASection/> and is incorporated by reference; or
 2. use a form of agreement that has been reviewed and approved by INDOT.
4. The LPA agrees to provide all relevant documents including, but not limited to, all plans, specifications and special provisions, to INDOT for review and approval, and such approval will not be unreasonably withheld. If INDOT does not approve an LPA submittal, the LPA shall cause the submittal to be modified in order to secure INDOT's approval. The LPA understands that if it fails to provide a submittal, submits it late, or the submittal is not approvable, the schedule, cost, and federal funds for the Project may be jeopardized.
5. The LPA agrees to complete all right-of-way acquisition, utility coordination and acquire the necessary permit(s) and submit documentation of such to INDOT. The utility coordination shall be in accordance with 105 IAC 13.
6. At least sixty (60) calendar days prior to INDOT's scheduled construction letting for the project, the LPA will submit to INDOT documentation of the LPA's fiscal body's resolution or other official action irrevocably committing the LPA to fund the LPA's cost of the Project as described in section 2. Consideration.

7. If the LPA has failed to meet any of the requirements of sections 1, 2, 4, 5, or 6 above, INDOT will not let the construction project. If INDOT, and FHWA where necessary, approve LPA's submittals, INDOT shall schedule the Project for letting at the next reasonable date.
8. The LPA shall pay the cost of the invoice of the construction, utility, and/or railroad work within thirty (30) calendar days from the date of INDOT's award of the construction contract.
9. The LPA understands time is of the essence regarding the Project timeline and payment of costs by the LPA. Delays in payment may cause substantial time delays and/or increased costs for the Project. If the LPA has not paid the full amount of the amount billed by INDOT, in accordance with Attachment D, within sixty (60) calendar days past the due date, INDOT shall be authorized to cancel all contracts relating to this contract including the contracts listed in II.A.1 of Attachment D and/or proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds from the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account.
10. The LPA shall also be responsible for all costs associated with additional provisions and/or expenses in excess of the federal funds allocated to the project. The LPA, in conjunction with FHWA (if applicable) and INDOT, shall review and approve all change orders, and such approvals shall not be unreasonably withheld.
11. The LPA shall provide competent and adequate engineering, testing, and inspection service to ensure the performance of the work is in accordance with the construction contract, plans and specifications and any special provisions or approved change orders. If, in INDOT's opinion, the services enumerated in this section are deemed to be incompetent or inadequate or are otherwise insufficient or if a dispute arises, INDOT shall, in its sole discretion, have the right to supplement the services or replace the engineers or inspectors providing these services at the sole expense of the LPA.
 - A. If project inspection will be provided by LPA employees:

The personnel must be employees of the LPA. Temporary employment or retainage-based payments are not permissible. INDOT must pre-approve, in writing, the LPA's personnel. Only costs incurred after INDOT's written notice to proceed to the LPA shall be eligible for federal-aid participation. All claims for federal-aid shall be submitted to the District office, referenced in 30.B. Notice to Parties, for payment.

or

- B. If project inspection will be provided by the LPA's consultant:

INDOT must approve, in writing, the consultant personnel prior to their assignment to the project. The LPA shall execute a contract with a consultant setting forth the scope of work and fees. The LPA shall submit this contract to INDOT prior to INDOT's construction letting for the Project. Only costs incurred after INDOT's written notice to proceed to the LPA and the LPA's written notice to proceed to the consultant shall be eligible for federal aid participation. All claims for federal-aid shall be submitted to the District office, referenced on page 1, for payment.

12. The LPA shall submit reports to INDOT regarding the project's progress and the performance of work per INDOT standard reporting methods.
13. The LPA hereby agrees that all utilities which cross or otherwise occupy the right-of-way of said Project shall be regulated on a continuing basis by the LPA in accordance with INDOT's Utility Procedure and Accommodation Policy (See <http://www.in.gov/indot/2376.htm>). The LPA shall execute written use and occupancy contracts as defined in this Policy.
14. If FHWA or INDOT invokes sanctions per Number 9.2., or otherwise denies or withholds federal funds (hereinafter called a citation or cited funds) for any reason and for all or any part of the Project, the LPA agrees as follows:
 - a. In the case of correctable noncompliance, the LPA shall make the corrections, to the satisfaction of FHWA and INDOT, in a reasonable amount of time. If the LPA fails to do so, paragraph 14.b. and/or 14.c. below, as applicable, shall apply.
 - b. In case a citation for noncompliance is not correctable or if correctable and the LPA does not make any corrections, or if correctable and the LPA makes corrections that are not acceptable to FHWA and INDOT, or for whatever reason the FHWA citation continues in force beyond a reasonable amount of time, this paragraph shall apply and adjustments shall be made as follows:
 1. The LPA shall reimburse INDOT the total amount of all right-of-way costs that are subject to FHWA citation that have been paid by INDOT to the LPA.
 2. If no right-of-way costs have as yet been paid by INDOT to the LPA or to others, INDOT will not pay any right-of-way claim or billing that is subject to FHWA citation.
 3. The LPA agrees that it is not entitled to bill INDOT or to be reimbursed for any of its right-of-way liabilities or costs that are subject to any FHWA citation in force.
 - c. If FHWA issues a citation denying or withholding all or any part of construction costs due to LPA noncompliance with right-of-way requirements, and construction work was or is in progress, the following shall apply:
 1. INDOT may elect to terminate, suspend, or continue construction work in accord with the provisions of the construction contract.
 2. INDOT may elect to pay its obligations under the provisions of the construction contract.
 3. In the case of correctable noncompliance, the LPA shall make the corrections in a reasonable amount of time to the satisfaction of FHWA and INDOT.

4. In case the noncompliance is not correctable, or if correctable and the LPA does not make any corrections, or if correctable and the LPA makes corrections that are not acceptable to FHWA or INDOT, or for whatever reason the FHWA citation continues in force beyond a reasonable amount of time, and construction work has been terminated or suspended, the LPA agrees to reimburse INDOT the full amount it paid for said construction work, less the amount of federal funds allowed by FHWA.
- d. In any case, the LPA shall reimburse INDOT the total cost of the Project, not eligible for federal participation.
 - e. If for any reason, INDOT is required to repay to FHWA the sum or sums of federal funds paid to the LPA or any other entity through INDOT under the terms of this Contract, then the LPA shall repay to INDOT such sum or sums within forty-five (45) days after receipt of a billing from INDOT. Payment for any and all costs incurred by the LPA which are not eligible for federal funding shall be the sole obligation of the LPA.

ATTACHMENT C

INDOT'S RIGHTS AND DUTIES

In addition to any other rights and duties required by Indiana or federal law or regulations or described elsewhere in this Contract, the following are INDOT's rights and duties under the Contract:

1. INDOT shall have full authority and access to inspect and approve all plans, specifications and special provisions for the Project regardless of when those plans, specifications, special provisions or other such Project documents were created.
2. INDOT shall complete all railroad coordination for the Project on behalf of the LPA.
3. After the LPA has submitted and INDOT has accepted and/or approved all pre-letting documents, INDOT will prepare the Engineer's Estimate for construction of the Project.
4. If the LPA owes INDOT money which is more than 60 days past due, INDOT will not open the construction bids for the Project.
5. Not later than sixty (60) calendar days after receipt by INDOT of a certified copy of a resolution from the LPA's fiscal body authorizing the LPA to make payment to INDOT according to the terms of Attachment D, and fulfillment of all other pre-letting obligations of this contract, INDOT shall, in accordance with applicable laws and rules (including I.C. 8-23-9, I.C. 8-23-10, and 105 I.A.C. 11), conduct a scheduled letting.
6. Subject to the LPA's written approval, INDOT shall award the construction contract for the Project according to applicable laws and rules.
7. Not later than seven (7) calendar days after INDOT awards the construction contract described above, INDOT shall invoice the LPA for the LPA's share of the construction cost.
8. If INDOT has received the LPA's share of the Project construction cost and if the lowest qualified bidder has not otherwise been disqualified, INDOT shall issue notice to proceed for the Project to the contractor within fourteen (14) calendar days of its receipt of the LPA share of the construction cost.
9. INDOT shall have the right and opportunity to inspect any construction under this Contract to determine whether the construction is in conformance with the plans and specifications for the Project.
10. In the event the engineering, testing, and inspection services provided by the LPA, in the opinion of INDOT, are deemed to be incompetent or inadequate or are otherwise insufficient or a dispute arises, INDOT shall, in its sole discretion, have the right to supplement the engineering, testing, and inspection force or to replace engineers or inspectors employed in such work at the expense of the LPA. INDOT's engineers shall control the work the same as on other federal aid construction contracts.
11. After the final Project audit is approved by INDOT, the LPA shall, within forty-five (45) days after receipt of INDOT's bill, make final payment to INDOT pursuant to Attachment D or INDOT shall, within forty-five (45) days after approval of the audit, refund any Project overpayment to the LPA.

ATTACHMENT D

PROJECT FUNDS

I. Project Costs.

- A. The federal amount of Group II funds made available to the LPA by INDOT will be used to pay **80 %** of the eligible Project costs. The maximum amount of federal funds allocated to the Construction and Construction Engineering phases for this Project is **\$ 2,780,747.00 (\$ 2,533,500.00 is to be used for Construction and \$ 247,247.00 is to be used for Construction Engineering).**
- B. The LPA understands and agrees that federal reimbursement for construction inspection and testing construction materials is limited to:
- (1) 17% of the final construction cost if the final construction cost is less than or equal to \$500,000; or
 - (2) 15% of the final construction cost if the final construction cost is greater than \$500,000.
- C. The remainder of the Project cost shall be borne by the LPA. For the avoidance of doubt, INDOT shall not pay for any costs relating to the Project unless the parties have agreed in a document (which specifically references section I.D of Attachment D of this contract) signed by an authorized representative of INDOT, the Indiana Department of Administration, State Budget Agency, and the Attorney General of Indiana.
- D. Costs will be eligible for FHWA participation provided that the costs:
- (1) Are for work performed for activities eligible under the section of title 23, U.S.C., applicable to the class of funds used for the activities;
 - (2) Are verifiable from INDOT's or the LPA's records;
 - (3) Are necessary and reasonable for proper and efficient accomplishment of project objectives and meet the other criteria for allowable costs in the applicable cost principles cited in 49 CFR section 18.22;
 - (4) Are included in the approved budget, or amendment thereto; and
 - (5) Were not incurred prior to FHWA authorization.

II. Billings.

A. Billing:

1. When INDOT awards and enters into a contract (i.e., construction, utility, and/or railroad) on behalf of the LPA, INDOT will invoice the LPA for its share of the costs. The LPA shall pay the invoice within thirty (30) calendar days from date of INDOT's billing.
2. The LPA understands time is of the essence regarding the Project timeline and costs and delays in payment may cause substantial time delays and/or increased costs for the Project.
3. If the LPA has not paid the full amount due within sixty (60) calendar days past the due date, INDOT shall be authorized to cancel all contracts relating to this Contract, including the contracts listed in II.A.1 of Attachment D and/or proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds from the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account.

B. Other Costs:

1. In accordance with I.C. 8-23-2-14, the LPA shall pay INDOT the actual cost, less the amount eligible for Federal-aid reimbursement, for performing laboratory testing of materials. The cost of providing material testing is included in the maximum limitation number shown in section I.C of Attachment D.
2. The LPA shall pay INDOT for expenses incurred in performing the final audit less the amount eligible for Federal-aid reimbursement.
3. The LPA shall pay INDOT for expenses incurred in supervising the Project out of the maximum limitation shown in section I.C of Attachment D.

III. Repayment Provisions.

If for any reason, INDOT is required to repay to FHWA the sum or sums of federal funds paid to the LPA or on behalf of the LPA under the terms of this Contract, then the LPA shall repay to INDOT such sum or sums within thirty (30) days after receipt of a billing from INDOT. If the LPA has not paid the full amount due within sixty (60) calendar days past the due date, INDOT may proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds for the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account until the amount due has been repaid.