

**CITY OF BLOOMINGTON**  
**parks and recreation**

**AGENDA**

City of Bloomington Board of Park Commissioners  
Regular Meeting: Tuesday, April 10, 2018 4:00 – 5:30 p.m.

Council Chambers  
401 North Morton

**CALL TO ORDER - ROLL CALL**

**A. CONSENT CALENDAR**

- A-1. Approval of Minutes of February 27, 2018,
- A-2. Approval of Claims Submitted February 28, 2018 – April 9, 2018
- A-3. Approval of Non-Reverting Budget Amendments
- A-4. Review of Business Report

**B. PUBLIC HEARINGS/APPEARANCES**

- B-1. Public Comment Period -
- B-2. Bravo Award - Pam Roberts (Sarah Owen)
- B-3. Parks Partner Award - Youth Services Bureau/Safe Place (Sarah Owen)
- B-4. Staff Recognition -

**C. OTHER BUSINESS**

- C-1. Review/Approval of Partnership Agreement with PROS Consultants Inc. (Becky Higgins)
- C-2. Review/Approval of Partnership Agreement with Centerstone (Dave Williams)
- C-3. Review/Approval of Trademark License Agreement with Pedcor Investments (Julie Ramey)
- C-4. Review/Approval of Partnership Agreement with Jazzercise (Alison Miller)
- C-5. Review/Approval of Contract with Mike Green & Assoc. for Carrie Newcomer concert (Crystal Ritter)
- C-6. Review/Approval of Service Agreement with New Life United Pentecostal Church (Bill Ream)
- C-7. Review/Approval of Contract with Chef for Hire for Banneker summer program (Erik Pearson)
- C-8. Review/Approval of Contract with Wildlife Removal Inc. (Erik Pearson)
- C-9. Review/Approval of Partnership Agreement with Diamond Dynamics (Hsiung Marler)
- C-10. Review/Approval of Contract with Designscape for tree care and tree planting (Lee Huss)
- C-11. Review/Approval of Service Agreement with Steve's Welding (John Turnbull)
- C-12. Review/Approval of Service Agreement with Price Electric (John Turnbull)
- C-13. Review/Approval of Service Agreement with DEEM, LLC. (John Turnbull)
- C-14. Review/Approval of Partnership Agreement with Monroe County United Ministries (Chelsea Price)
- C-15. Review/Approval of Partnership Agreement with Indiana Scuba (Chelsea Price)
- C-16. Review/Approval of Contract with C&H Lawn & Landscaping Inc. for mowing services (Joanna Sparks)
- C-17. Review/Approval of Contract with Green Dragon Lawn Care for mowing services (Joanna Sparks)
- C-18. Review/Approval of Contract with Ecologic for vegetation monitoring (Steve Cotter)
- C-19. Review/Approval of Contract Addendum for Chris Doran's soccer program at TLRC (John Turnbull)
- C-20. Review/Approval of Contract with VET Environmental Engineering (John Turnbull)
- C-21. Review/Approval of a contract for Griffy Lake Aquatic Vegetation Management (Elizabeth Tompkins)

**D. REPORTS**

- |      |                         |   |                                |                  |
|------|-------------------------|---|--------------------------------|------------------|
| D-1. | Operation Division      | - | Park Bond Project update       | (Dave Williams)  |
| D-2. | Recreation Division     | - | 2018 Community Events Calendar | (John Turnbull)  |
| D-3. | Sports Division         | - |                                | (Leslie Brinson) |
| D-4. | Administration Division | - |                                |                  |

## **ADJOURNMENT**



CITY OF BLOOMINGTON  
parks and recreation

A-1

02-27-2018

Board of Park Commissioners  
Regular Meeting  
Minutes

Tuesday, February 27, 2018  
4:00 p.m. – 5:30 p.m.

Utilities Boardroom  
600 E. Miller Dr.

**CALL TO ORDER**

The meeting was called to order by Ms. Kathleen Mills at 4:00 p.m.

**Board Present:** Ms. Kathleen Mills, Ms. Darcie Fawcett, and Mr. Les Coyne

**Staff Present:** Ms. Paula McDevitt, Mr. Dave Williams, Mr. John Turnbull, Ms. Becky Higgins, Ms. Julie Ramey, Ms. Kim Clapp, Ms. Leslie Brinson, Ms. Hannah Buddin, Ms. Elizabeth Tompkins, Ms. Marcia Veldman, Mr. Steve Cotter, Ms. Crystal Ritter, Ms. Joanna Sparks, Mr. Bill Ream, and Mr. Erik Pearson

**A. PUBLIC HEARINGS/APPEARANCES**

**A. CONSENT CALENDAR**

- A-1. Approval of Minutes of January 23, 2018 Meeting
- A-2. Approval of Claims Submitted January 24, 2018 through February 26, 2018
- A-3. Approval of Non-Reverting Budget Amendments
- A-4. Review of Business Report
- A-5. Approval of Surplus

Ms. Darcie Fawcett made a motion to approve the Consent Calendar. Mr. Les Coyne seconded the motion. Motion unanimously carried.

**B. PUBLIC HEARINGS/APPEARANCES**

**B-1. Public Comment Period**

*Mr. David Slaybaum approached the podium.* Mr. Slaybaum, resident of eastside of Bloomington, commended the Parks and Recreations Department as well as the Bloomington Police Department for doing a really nice job of maintaining the Parks, in regards to the criminal activity that was taking place in the parks. Mr. Slaybaum also congratulated the Department on the deer cull at Griffy Lake. Mr. Slaybaum, would like to put out for the public record, that a cull be done with archers, do it City wide, and on City property. It showed, by doing it at Griffy that they successfully harvested approximately sixty deer, and were able to donate that venison to the food bank which is sorely needed. It cost quite a bit of money to do that, and Mr. Slaybaum would like to see feedback and input on having the local guys do the hunt. There are a couple of local organizations, the Archery Club and others that hunt and have target practice. By doing it with archery, people don't have to worry about noise and ricochet. The archers will be able to get to where the deer are at, which has shown by having it at Griffy, where the water is at and the food source is at is where the deer are at. And by expanding it to where the rest of the deer are at, because this was only about a fourth of the City property, approximately. So if we could look at it and say what can be done in areas where we know the deer are there, people tell us the deer are there. Maybe combine the effort, and do a little more do diligence across the City with it. The big winners here are the property owners, because they can get rid of the animal that is chewing up their garden, and the food bank can get the protein source. To expand it so where the whole City can benefit from it, and not just the Parks and Recreation. I know it was a thing that was necessary to do at Griffy. I would like to see it expanded and do it with bows and arrows instead of bullets.

The Board responded, staff is working with the Department of Natural Resources to put together a plan for a new DNR program, which has been established for bow hunting on municipal properties. If this works, we will see what the law allows beyond that point.

The Department is working on some non-smoking policies in the parks.

Mr. Slaybaum commented, I have talked to the Mayor's Office and the City Council. This is on the City Council's schedule, but not on their agenda yet. I have been contact by one of the Council members, and she has agreed to come forward to and band smoking in the City parks. So if you will keep pressure on the Council to step up and do the right thing.

The Board responded, the Department has been in contact with the Council member. The process is more difficult than it sounds. There is a commitment to move forward with this item.

Mr. Slaybaum commented, I think if we can codify it, it will just give everybody a little bit more of a chance to enjoy the parks, like they are meant to be enjoyed.

The Board thanked Mr. Slaybaum for his commitment and comment.

### **B-2. Bravo Award - None**

### **B-3. Parks Partner Award – None**

### **B-4. Staff Introduction- None**

## **C. OTHER BUSINESS**

### **C-1. Review/Approval of Amendment to STR Resources Agreement for Roofing Projects.**

Mr. Dave Williams Operations Director, on May 30, 2017, the Department entered into a contract with STR Building Resources LLC to survey existing condition, prepare specification and construction documents for bidding, administer, and inspect contracted for the projects at Banneker Community Center, and Twin Lakes Recreations Center, and make limestone wall rehabilitations and roof repairs to the Rosehill Cemetery Mausoleum. The Twin Lakes Recreations Center and Banneker Center roofing projects were removed from the Consultant's project responsibility and assigned to Energy Systems Group project. At this time the Department wishes to add facility roofing projects at the Olcott Park Howard Young Shelter, RCA Park Group Shelter, Bryan Park Group Shelter and Goat Farm Barn in place of the removed projects. STR's fees for these services are \$12,500, well below the free balance remaining in their original contract.

Ms. Darcie Fawcett made a motion to approve the Amendment to STR Resources Agreement for roofing projects. Mr. Les Coyne seconded the motion. Motion unanimously carried.

### **C 2. Review/Approval of Encroachment Agreement with Pedcor Companies**

Mr. Dave Williams, Operations Director, Pedcor Investments is redeveloping a property, for affordable housing, adjacent to the B-Line Trail, at 611 N. Rogers Street. Pedcor desires to encroach onto the City Property with a connecting pathway and utility connections. The property has been remediated for certain environmental conditions through the Indiana Brownfields Program. Pedcor agrees to comply with Section II.7 of the Covenant. A Work Plan was submitted and approved by IFA on January 4, 2018.

Ms. Darcie Fawcett made a motion to approve the Encroachment Agreement with Pedcor Companies. Mr. Les Coyne seconded the motion. Motion unanimously carried.

### **C-3 Review/Approval of Service Agreement with JB Salvage for Landscaping Area.**

Ms. Joanna Sparks, City Landscaper the Department wishes to divert green waste from the trash dumpster and dispose green waste at a local composting facility. The Department requires the services of Professional Consultant to provide a 30 yard dumpster, for collection and disposal of green waste. In the last two years, 600 cubic yards of green waste has been diverted from the landfill. Department shall pay JB Salvage for services in an amount not to exceed \$2,500.

Ms. Darcie Fawcett made a motion to approve the Service Agreement with JB Salvage for the landscaping area. Mr. Les Coyne seconded the motion. Motion unanimously carried.

**C-4 Review/Approval of Contract with Ecologic for Rail Trail Invasive Species Removal**

Joanna Sparks City Landscaper to clear the line of site, the Department wishes to remove invasive plant species along the Bloomington Rail Trail. The Department is in need of a Professional Consultant to provide material, labor and equipment for forestry mowing services along the Bloomington Rail Trail. The Department shall pay Ecologic for fees and expenses in an amount not to exceed \$5,000.

Ms. Darcie Fawcett made a motion to approve the Contract with Ecologic for Rail Trail invasive species removal. Mr. Les Coyne seconded the motion. Motion unanimously carried.

**C-5 Review/Approval of Contract with Ed Santos for Various 2018 Events**

Ms. Hannah Buddin, Community Events Specialist to make events more enjoyable for attendees, the Departments wishes to provide entertainment at various events throughout 2018. The Department requires the services of a Professional Consultant to provide caricature portraits of attendees at these events. The Department shall pay Ed Santos for all fees and expenses in an amount not to exceed \$2,000.

Ms. Darcie Fawcett made a motion to approve the Contract with Ed Santos for various 2018 events. Mr. Les Coyne seconded the motion. Motion unanimously carried.

**C-6 Review/Approval of Partnership Agreement with Civic Theater**

Ms. Crystal Ritter, Community Events Coordinator the purpose of this Agreement is to outline a program partnership which will provide for greater services in theater programming and production by combining available resources for each partner. To provide free performances of "Shakespeare in the Park" in Third Street Park for the Bloomington community. This partnership has been in place for more than 20 years. The production for 2018, is the Tempest.

Ms. Darcie Fawcett made a motion to approve the Partnership Agreement with the Civic Theater. Mr. Les Coyne seconded the motion. Motion unanimously carried.

**C-7 Review/Approval of Contract with Oracle Elevator for Banneker Community Center**

Mr. Erik Pearson, Program/Facility Coordinator for the safety of the public, the Department wishes to maintain the elevator at BCC in good working order. The Department requires the services of a Professional Consultant to provide routine maintenance and inspections of the elevator at Banneker Community Center. The Department shall pay Oracle Elevator for all fees and expenses in an amount not to exceed \$1,500.

Ms. Darcie Fawcett made a motion to approve the Contract with Oracle Elevator for Banneker Community Center. Mr. Les Coyne seconded the motion. Motion unanimously carried.

**C-8 Review/Approval of ERAC Advisory Council Member**

Ms. Elizabeth Tompkins, Natural Resources Coordinator staff recommends the approval of Environmental Resources Advisory Council appointment, Leanne Dzravecky, to fill one of the two vacant positons. Staff believes her participation in the Bloomington Citizens Academy, and interest in parks and the Community will provide a valuable perspective for the advisory council.

Ms. Darcie Fawcett made a motion to approve the ERAC Advisory Council Member. Mr. Les Coyne seconded the motion. Motion unanimously carried.

**C-9 Review/Approval of Contract with Aerialogy for Spring Fling**

Ms. Hannah Buddin, Community Events Specialist to make a more enjoyable experience for attendees, the Department wishes to provide entertainment at the Spring Fling. The Department is in need of a Professional Consultant to provide aerial silk demonstrations and learning sessions to participants at the event. The Department shall pay Aerialogy for all fees and expenses in an amount not to exceed \$200.

Ms. Darcie Fawcett made a motion to approve the Contract with Aerialogy for Spring Fling. Mr. Les Coyne seconded the motion. Motion unanimously carried.

**C-10 Review/Approval of Contract with Mominee Tree for RCA Park**

Mr. Lee Huss, Urban Forester due to location not allowing room for heavy equipment, the Department wishes to have hazardous trees removed, and pruning of trees along the south property line at RCA Park. The Department requires the services of a Professional Consultant to remove three hazard trees and the pruning of two trees overhanging adjacent property. The Department shall pay Mominee for all fees and expenses in the amount not to exceed \$3,750.

Ms. Darcie Fawcett made a motion to approve the Contract with Mominee Tree for RCA Park. Mr. Les Coyne seconded the motion. Motion unanimously carried.

**C-11 Review/Approval of Contract with Rick Patrick Tree Care for Street Tree Pruning**

Mr. Lee Huss, Urban Forester due to staff's workload and to provide sidewalk clearance, the Department wishes to have 500 street trees pruned located in Adams Hill and The Stands Neighborhood. The Department is in need of the services of a Professional Consultant to preform street tree pruning - crown raising and correctional pruning at these locations. The Department shall pay Rick Patrick for all fees and expense in an amount not to exceed \$15,000.

Ms. Darcie Fawcett made a motion to approve the Contract with Rick Patrick Tree Care for street tree pruning. Mr. Les Coyne seconded the motion. Motion unanimously carried.

**C-12 Review/Approval of Service Agreements for the Sports Division**

Mr. John Turnbull, Sports Division Director to continue to provide the community with facilities in good condition, the Department wishes to maintain facilities within the Sports Division in good working order. The Department requires the services of nine Professional Consultant to provide routine repair and maintenance of HVAX, plumbing, food and beverage equipment, doors, windows and locks, aquatic mechanical/plumbing/electrical equipment, and FSC Ammonia Cooling System. The following is a list of the nine consultants: Commercial Services, R&S Plumbing, Gooldy & Sons, Indiana Door & Hardware, City Glass of Bloomington, Spear Corporation, DEEM, Young Plumbing, and Keller Heating. Services will be paid for out of the public fund.

Ms. Darcie Fawcett made a motion to approve the nine Service Agreements with Commercial Services, R&S Plumbing, Gooldy & Sons, Indiana Door & Hardware, City Glass of Bloomington, Spear Corporation, DEEM, Young Plumbing, and Keller Heating. Mr. Les Coyne seconded the motion. Motion unanimously carried.

**C-13 Review/Approval of Farmers Market Advisory Council Members**

Marcia Veldman, Program Coordinator staff recommends the approval of Farmers' Market Advisory Council (FMAC) members. Four farmer representative: reappointment of Bruce McCallister, and appointment of Cortland Carrington, Jeff McEvelly, and Becky Vadas. Reappointment of four customer representatives: Rachel Rosolina, Leslie Sommer, Carmen Siering and Kathy Aiken.

*The Board inquired* what the Farmers Market Advisory Council provides to the Department.

*Ms. Veldman responded*, the Farmers Market Advisory Council helps guide the development of the Market and guides the Department through any issues that may arrive.

Ms. Darcie Fawcett made a motion to approve the Farmers Market Advisory Council Members. Mr. Les Coyne seconded the motion. Motion unanimously carried.

**C-14 Review/Approval of Farmers Market Prepared Food Vendors for 2018 Season**

Ms. Marcia Veldman, Program Coordinator Request for Proposal (RFP) were sent to 53 individuals and organizations who expressed interest in selling prepared food at the Market. A second version for Food Trucks/Push Carts was sent to all businesses holding a license with the City, for Food Trucks/Push Carts. Additionally Legal Notices ran in the Harold-Times. Staff recommends continuing the agreement with nine returning PFV, recommends five vendors share a space, recommends two new vendors, and two Food Truck vendors. The committee recommends allowing staff to enter into agreements with interested applicants for selling at Tuesday Market.

Ms. Darcie Fawcett made a motion to approve the Farmers Market Prepared Food Vendors for 2018 Season. Mr. Les Coyne seconded the motion. Motion unanimously carried.

## **D REPORTS**

D-1. Operations Division – Switchyard Park Logo and Project Bidding Schedule

Mr. Dave Williams, Operations Director approached the podium. Mr. Williams presented the logo to brand the new Switchyard Park. The completed logo has two parts, the “symbol” composed of the “S” marker, and “type” wordmark (Switchyard Park Bloomington Indiana). The design services were provided by RLR Associates.

Mr. Williams provided an overview of the Switchyard Park plans, and the bid document schedule. The bid documents for the Switchyard Park project will be available Monday, March, 5, 2018. A pre-bid meeting will be held on Monday, March 19, 2018 at 10am at 1611 S. Rogers St, Bloomington. Attendance at the pre-bid meeting is mandatory for general contractors wishing to bid the project. Sealed bids are due to the Parks and Recreation main office on or before 2:00pm on Tuesday, April 3, 2018. Bid award will occur at the April 24, 2018 Board of Park Commissioners meeting. The Department hopes to begin construction in May, with 19 months of construction. A substantial completion ribbon cutting will be held in November of 2019. Contractor is to complete all work by May 15, 2020.

Environmental Resources Advisory Council Annual Report

Ms. Melissa Laney, Chair of ERAC approached the podium. Ms. Laney Presented the 2017 Environmental Resources Report. The 2017 Initiatives and topics of interest were as follows,

- a. Integrated Pest Management Plan – Staff training occurred and brought the number of staff certification for chemical applicators up to nine, reviewed and suggested revisions to the plan that streamlined the process and corrected details.
- b. Trail Updates – Adopt-a-Trail is to continue, trail projects were discussed and Bicentennial projects where trails are a central focus were discussed.
- c. Griffy Lake Deer Management – Council supported the management plans, enclosure data and data from Brown County State Parks were encouraging.
- d. Switchyard Park – Council was kept updated on progress of the Switchyard Park plans, interested in details of remediation, addition of naturalization features, such as daylighting of stream, and location of “hot spots”.
- e. Goat Farm Prairie Planting – Council was integral in planning the prairie planting, members reviewed details of the site preparation plan, including use of glyphosate to treat existing vegetation before planting, and provided assistance with maintenance plans. The project was funded by US Fish and Wildlife and DNR. ERAC will continue to help with maintenance plans, and public education of the prairie.
- f. Wapehani Project – Council was updated on construction of trails to reconnect the loop trail due to the land purchase of the I-68 project. Discussions included, options for the dam, and to breach the dam to eliminate the hazard. The trail will be rerouted to get riders across the stream channel and back onto the existing trail. The lake bottom will be left in place. Invasive species will be treated before the new planting are seeded.
- g. Outreach – Regular updates were given by staff on education on outreach within BPR and the community.

The Board thanked Ms. Laney, and the ERAC for their dedication and hard work.

D-2. Recreation Division – Community Foundation Grant Award

Erik Pearson, Program/Facility Coordinator approached the podium. Banneker Community Center has been awarded \$45,000 through the Community Impact Grant Initiative by way of the Community Foundation. BCC will use these funds to purchase a new 14-passenger mini-bus, giving the opportunity to increase the transportation radius from 1.5 miles to 3.5 miles surrounding BCC as it relates to summer, teen and after school programing. Giving more children the chance to participate in BCC programs. This vehicle will not require a CDL, and will be available for other events within the Department. The purchase will be made through a Non-Reverting grant line.

The Board thanked Mr. Pearson.

D-3. Sports Division – No Report

D-4 Administrative Division – IPRA Awards

Julie Ramey, Community Relations Manager approached the podium. The Indiana Park and Recreation Association, at their annual conference in Fort Wayne January 31, presented the Bloomington Parks and Recreation Department with the Clark Ketchum Conservation Award for the Goat Farm Prairie Project.

The Clark Ketchum Conservation Award recognizes a park and recreation agency that has achieved excellence in conservation stewardship.

The Goat Farm Prairie Project involves converting a five-acre field of fescue at the "Goat Farm" into a prairie with native grasses and wildflowers.

IPRA also presented property management company CFC Properties with their 2017 Corporate Partner of the Year award. CFC Properties was nominated for the honor by the Bloomington Parks and Recreation Department.

CFC Properties has been a partner and supporter of the Department for the past 20 years. They are annual sponsors of the Performing Arts Series, have helped provide free health screenings to children at the Children's Expo, and are superb neighbors to the Bloomington Community Farmers' Market. CFC Properties President Jim Murphy has served on the Board of the Bloomington Parks Foundation, and has supported numerous Foundation projects including the Olcott Scholarship Fund and the Downtown Square Tree Campaign.

The Board thanked Ms. Ramey

Ms. McDevitt, Administrator reminded the Board and public, the next Park Board meeting will be held Tuesday, March 27, 2018, and will be located in Council Chambers.

**ADJOURNMENT**

Meeting adjourned at 5:10 p.m.

Respectfully Submitted,



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Kim Clapp, Secretary Board of Park Commissioners











# Journal Edit Listing

Sort By Entry

Department	Number	Journal Type	Sub Ledger	G/L Date	Description	Source	Reference	Reclassification	Journal Type
Parks - Parks & Recreation	2018-00004443	BA	GL	03/23/2018	Budget Amendment-Dwtwn Buss Purchase of Tree Grate				
<i>G/L Date</i>	<i>G/L Account Number</i>	<i>Account Description</i>			<i>Description</i>	<i>Source</i>		<i>Increase Amount</i>	<i>Decrease Amount</i>
03/23/2018	201-18-189503-52420	Other Supplies			Budget Amendment-Dwtwn Buss Purchase of Tree Grate			1,875.18	.00
							Number of Entries: 1	<u>\$1,875.18</u>	<u>\$ .00</u>

REVENUES AND EXPENSES: COMPARISON REPORT								
Expenses	2017	2017	2017	2017	2018	2018	2018	
February 2018	Total	Actual	Expenses	% of Expenses	Total	Expenses	% of Expenses	
	Expense	Expenses	as of	Spent	Expense	as of	Spent	%
	Budget	for Year	February	to date	Budget	February	to date	change
<b>General Fund</b>								
Administration	750,594	739,993	253,410	34.24%	621,831	254,717	40.96%	0.52%
Health & Wellness	105,197	97,753	16,497	0.00%	105,923	17,399	15.57%	5.47%
Community Relations	423,303	378,011	100,509	26.59%	416,453	60,768	24.13%	-39.54%
Aquatics	330,688	297,537	13,090	4.40%	328,839	13,091	3.98%	0.01%
Frank Southern Center	341,117	338,165	83,098	24.57%	359,800	95,657	26.59%	15.11%
Golf Services	885,638	864,187	321,901	37.25%	935,271	332,855	35.59%	3.40%
Natural Resources	370,961	320,835	41,040	12.79%	392,366	41,914	10.68%	2.13%
Youth Programs	59,844	55,165	8,959	16.24%	60,195	11,407	18.95%	27.33%
TLRC	282,216	280,198	48,617	17.35%	284,750	48,659	17.09%	0.09%
Community Events	384,284	347,783	52,513	15.10%	414,238	59,260	14.31%	12.85%
Adult Sports	288,431	266,304	31,952	12.00%	323,760	31,504	9.73%	-1.40%
Youth Sports	267,398	267,488	28,570	10.68%	271,744	27,489	10.12%	-3.79%
BBCC	304,977	275,756	50,019	18.14%	289,803	50,279	17.35%	0.52%
Inclusive Recreation	72,632	73,771	11,640	15.78%	78,403	8,468	10.80%	-27.25%
Operations	1,546,438	1,434,103	203,410	14.18%	1,890,127	192,722	10.20%	-5.25%
Landscaping	283,362	227,841	22,147	9.72%	311,041	24,655	7.93%	11.32%
Cemeteries	173,285	162,628	27,696	17.03%	182,605	21,172	11.59%	-23.56%
Urban Forestry	400,381	386,720	48,378	12.51%	585,324	48,293	8.25%	-0.18%
<b>General Fund total:</b>	<b>7,270,746</b>	<b>6,814,238</b>	<b>1,363,447</b>	<b>20.01%</b>	<b>7,852,474</b>	<b>1,340,310</b>	<b>17.07%</b>	<b>-1.70%</b>
<b>Non-Reverting Fund</b>								
Administration	27,640	3,328	1,320	39.65%	14,650	2,045	13.96%	54.96%
Health & Wellness	1,914	1,172	2	0.15%	1,240	73	5.86%	4007.91%
Community Relations	4,650	1,465	0	0.00%	4,650	0	0.00%	0.00%
Aquatics	64,433	38,939	280	0.72%	69,543	308	0.44%	10.02%
Frank Southern Center	94,423	77,769	15,172	19.51%	97,498	24,101	24.72%	58.85%
Golf Services	126,105	98,300	100	0.10%	133,709	731	0.55%	630.87%
Natural Resources	50,992	23,820	10	0.04%	53,485	42,338	79.16%	0.00%
Youth Programs	178,521	198,464	9,342	4.71%	209,805	9,982	4.76%	6.84%
*TLRC - day to day	970,663	835,622	86,079	10.30%	470,943	100,173	21.27%	16.37%
Community Events	190,881	166,067	22,195	13.37%	181,069	20,145	11.13%	-9.24%
Adult Sports	230,225	164,008	3,477	2.12%	199,830	2,180	1.09%	-37.29%
Youth Sports	26,845	19,068	1,365	7.16%	18,754	1,392	7.42%	1.99%
BBCC	25,403	44,054	5,988	13.59%	15,892	3,886	24.45%	-35.10%
Inclusive Recreation	0	0	0	0.00%	0	0	0.00%	0.00%
Operations	19,195	56,104	37,911	67.57%	52,861	890	1.68%	100.00%
Dog Park	0	0	0	0.00%	0	0	0.00%	0.00%
Switchyard	14,800	32,436	1,167	3.60%	12,877	7,842	60.90%	0.00%
Landscaping (CCC Prop.)	0	0	0	0.00%	0	0	0.00%	0.00%
Cemeteries	0	0	0	0.00%	0	0	0.00%	0.00%
Urban Forestry	0	0	0	0.00%	4,750	0	0.00%	0.00%
<b>N-R Fund subtotal:</b>	<b>2,026,690</b>	<b>1,760,617</b>	<b>184,407</b>	<b>10.47%</b>	<b>1,541,556</b>	<b>216,085</b>	<b>14.02%</b>	<b>17.18%</b>
TLRC - bond	539,104	539,104	429,574	79.68%	671,946	430,026	64.00%	0.00%
<b>N-R Fund total:</b>	<b>2,565,794</b>	<b>2,299,721</b>	<b>613,981</b>	<b>26.70%</b>	<b>2,213,502</b>	<b>646,111</b>	<b>29.19%</b>	<b>5.23%</b>
<b>Other Misc Funds</b>								
MCCSC 21st Com Learn Cnt G	29,950	41,391	5,859		884	5,254		
G14004 Tree Planting			0					
G14006 Out-of School Prg.			0					
G15008 Summer Food Prg.	11,115	17,606	0		11,115	0		
G15009 Nature Days S/Star		4,318	0			0		
Griffy Lake Nature Day		5,137	1,900	36.98%		1,940	0.00%	0.00%
Wapehani I-69 Mitigation		201,075	0	0.00%		0	0.00%	0.00%
Leonard Springs Nature		3,841	1,701	44.29%		1,964	0.00%	0.00%
Banneker Nature Day		0	0			0		
DNR Grant		0		0.00%		0	0.00%	0.00%
Kaboom Play			0		451			
Goat Farm		1,777				0		
Giffy LARE		17,286				0		
<b>Other Misc Funds total:</b>	<b>41,065</b>	<b>273,367</b>	<b>9,460</b>	<b>3.46%</b>	<b>12,450</b>	<b>9,159</b>	<b>73.57%</b>	<b>0.00%</b>
<b>TOTAL ALL FUNDS</b>	<b>9,877,604</b>	<b>9,387,327</b>	<b>1,986,888</b>	<b>21.17%</b>	<b>10,078,425</b>	<b>1,995,579</b>	<b>19.80%</b>	<b>0.44%</b>

\*NR BACC/Project School has been combined with TLRC

<b>REVENUES AND EXPENSES: COMPARISON REPORT</b>								
<b>Revenues February 2018</b>								
	2017	2017	2017	2017	2018	2018	2018	
	Projected	Actual	Revenue	% of Revenue	Projected	Revenue	% of Revenue	
	Revenue	Revenue	as of	Collected	Revenue	as of	Collected	%
	Budget	for year	February	to date	for year	February	to date	change
<b>General Fund</b>								
Taxes/Misc Revenue	6,030,050	6,065,105	6,065,105	100.00%	6,258,520	6,258,520	100.00%	3.19%
Administration	500	1,966	0	0.00%	500	193	38.60%	#DIV/0!
Community Relations	0	0	0	0.00%	0	0	0.00%	0.00%
Aquatics	153,500	194,506	0	0.00%	168,000	0	0.00%	#DIV/0!
Frank Southern	219,900	184,531	86,422	46.83%	224,900	90,381	40.19%	4.58%
Golf Services	568,500	542,711	21,191	3.90%	526,700	4,608	0.87%	-78.25%
Natural Resources	0	0	0	0.00%	0	0	0.00%	0.00%
Youth Services	0	0	0	0.00%	0	0	0.00%	0.00%
Community Events	10,700	12,340	1,080	8.75%	10,700	1,200	11.21%	11.11%
Adult Sports	78,000	63,772	0	0.00%	71,000	0	0.00%	#DIV/0!
Youth Sports	33,900	28,995	-12	-0.04%	32,000	-21	-0.07%	81.42%
BBCC	12,000	12,223	2,034	16.64%	11,000	890	8.09%	-56.25%
Operations	0	25	25	100.00%	0	0	0.00%	0.00%
Landscaping	0	0	0	0.00%	0	0	0.00%	0.00%
Cemeteries	39,700	26,833	8,550	31.86%	31,050	4,500	14.49%	-47.37%
Urban Forestry		0	0	0.00%		0	0.00%	0.00%
G17011 Urban Forestry		12,000	0			0	0.00%	
<b>Subtotal Program Rev</b>	<b>1,116,700</b>	<b>1,067,902</b>	<b>119,290</b>	<b>11.17%</b>	<b>1,075,850</b>	<b>101,751</b>	<b>9.46%</b>	<b>-14.70%</b>
<b>General Fund Total</b>	<b>7,146,750</b>	<b>7,133,007</b>	<b>6,184,395</b>	<b>86.70%</b>	<b>7,334,370</b>	<b>6,360,271</b>	<b>86.72%</b>	<b>2.84%</b>
<b>Non-Reverting Fund</b>								
Administration	40,650	36,327	13,257	36.49%	40,600	13,120	32.31%	-1.04%
Health & Wellness	3,550	3,124	279	8.94%	2,739	347	12.67%	24.28%
Community Relations	4,650	3,000	1,000	33.33%	4,650	1,000	21.51%	0.00%
Aquatics	126,373	113,789	1,480	1.30%	122,700	868	0.71%	-41.35%
Frank Southern	153,400	126,988	23,165	18.24%	151,900	20,235	13.32%	-12.65%
Golf Services	151,300	163,579	6,444	3.94%	158,500	682	0.43%	-89.41%
Natural Resources	58,525	70,821	394	0.56%	60,890	810	1.33%	105.72%
Youth Programs	189,866	218,910	10,299	4.70%	215,060	12,482	5.80%	21.20%
*TLRC -Operational	782,329	750,934	165,551	22.05%	763,029	165,749	21.72%	0.12%
Community Events	191,760	214,892	42,299	19.68%	193,752	56,526	29.17%	33.63%
Adult Sports	216,500	147,655	10,464	7.09%	207,000	696	0.34%	-93.35%
Youth Sports	25,000	25,624	1,186	4.63%	19,500	1,608	8.25%	35.58%
BBCC	29,420	59,280	2,428	4.10%	5,150	635	12.33%	-73.85%
Operations	51,640	57,121	7,626	13.35%	56,440	7,312	12.96%	-4.11%
Dog Park	400	0	0	0.00%	400	0	0.00%	0.00%
Switchyard (CCC Propt)	82,800	73,736	9,550	12.95%	0	0	0.00%	-100.00%
Landscaping	0	0	0	0.00%	0	0	0.00%	0.00%
Cemeteries	0	0	0	0.00%	0	0	0.00%	0.00%
Urban Forestry	9,300	17,911	0	0.00%	9,300	6,280	67.53%	#DIV/0!
<b>N-R Fund subtotal:</b>	<b>2,117,463</b>	<b>2,083,690</b>	<b>295,423</b>	<b>14.18%</b>	<b>2,011,610</b>	<b>288,350</b>	<b>14.33%</b>	<b>-2.39%</b>
<b>Other Misc Funds</b>								
G14006 Out-of-School Prg		20	0			0		
G14007 MCCSC 21st Com	60,000	21,410	0		60,000	0		
G14009 Summer Food Grant	13,744	19,059	0		27,864	0		
G14004 Tree Planting						0		
Kaboom Play Everywhere						0		
Urban Forestry EAB		2,000	0			0		
Wapehani Mitigation I69		233,543	14,903			0		
Griffy LAE Veg. Mgt		14,453	0			0		
G15008 Leonard Spring		0	0			0		
G15009 Griffy Nature Days		4,988	0			0		
(902) Rose Hill Trust		445	0			91		
G17007 - Goat Farm		0	0			0		
Banneker Nature Days		0	0			0		
Nature Days Star		4,340	0			0		
<b>Other Misc Funds total:</b>	<b>0</b>	<b>300,258</b>	<b>14,903</b>		<b>87,864</b>	<b>91</b>		
<b>TOTAL ALL FUNDS</b>	<b>9,264,213</b>	<b>9,516,954</b>	<b>6,494,721</b>	<b>68.24%</b>	<b>9,433,844</b>	<b>6,648,712</b>	<b>70.48%</b>	<b>2.37%</b>
*BACC/Project School has been combined with TLRC								

Correction was made to Urban Forestry and Community Event totals. At the end of December, \$15,001.44 of revenue was entered into incorrect account line. Was placed in Community Events (Performing Art Series), should have been deposited in Urban Forestry.

	<b>Non-Reverting Cash Balances</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
		<b>Beginning</b>	<b>Revenue</b>	<b>Other</b>	<b>Expenses</b>	<b>Expenses</b>	<b>Current Year ONLY</b>	<b>Accumulated</b>
		<b>Balance</b>	<b>as of</b>	<b>Misc.</b>	<b>as of</b>	<b>from</b>	<b>Revenue</b>	<b>Balance</b>
		<b>1/1/2018</b>	<b>3/26/2018</b>	<b>revenue</b>	<b>3/26/2018</b>	<b>RESERVE *</b>	<b>Expense</b>	
							<b>Over/Under</b>	
						<b>see explanation below*</b>	<b>(does not include expenses taken from RESERVE)</b>	<b>THIS IS THE TOTAL ACCUMULATED AMOUNT</b>
181000	Administration	200,804.78	13,922.25		2,045.31		<b>11,876.94</b>	212,681.72
181001	Health & Wellness	7,379.62	397.00		185.80		<b>211.20</b>	7,590.82
181100	Community Relations	34,889.04	1,000.00		0.00		<b>1,000.00</b>	35,889.04
182001	Aquatics	389,566.90	3,269.00		733.19		<b>2,535.81</b>	392,102.71
182500	Frank Southern Center	175,036.20	21,900.41		34,468.59		<b>(12,568.18)</b>	162,468.02
183500	Golf Course	208,121.70	2,506.91		8,803.87		<b>(6,296.96)</b>	201,824.74
184000	Natural Resources	248,977.29	826.00		42,342.64		<b>(41,516.64)</b>	207,460.65
184500	Allison Jukebox	170,562.07	25,953.94		13,439.23		<b>12,514.71</b>	183,076.78
*185000	TLRC	<b>(878,837.80)</b>	190,627.54		567,586.52		<b>(376,958.98)</b>	<b>(1,255,796.78)</b>
185009	TLRC Reserve	569,299.15	14,687.50		0.00		<b>14,687.50</b>	583,986.65
186500	Community Events	471,824.72	68,188.77		26,358.22		<b>41,830.55</b>	513,655.27
187001	Adult Sports	74,000.53	3,011.66		7,741.98		<b>(4,730.32)</b>	69,270.21
187202	Youth Sports	104,401.59	1,910.73		1,908.29		<b>2.44</b>	104,404.03
187209	Skate Park	543.88	0.00		0.00		<b>0.00</b>	543.88
187500	Benjamin Banneker Comm Cente	56,647.65	13,603.96		3,958.49		<b>9,645.47</b>	66,293.12
189000	Operations	137,207.83	43,457.00		2,540.11		<b>40,916.89</b>	178,124.72
189005	Dog Park	5,993.79	0.00		0.00		<b>0.00</b>	5,993.79
**189006	Switchyard Property	230,940.52	0.00		8,771.77		<b>(8,771.77)</b>	222,168.75
189500	Landscaping	12,704.36	0.00		0.00		<b>0.00</b>	12,704.36
189501	Cemeteries	1,497.00	0.00		0.00		<b>0.00</b>	1,497.00
189503	Urban Forestry	7,093.63	7,780.00		0.00		<b>7,780.00</b>	14,873.63
10002.01	Change Fund	0.00	0.00		0.00		<b>0.00</b>	0.00
201-24105	Deposits	0.00	0.00		0.00		<b>0.00</b>	0.00
	<b>TOTALS</b>	<b>2,228,654.45</b>	<b>413,042.67</b>	<b>0.00</b>	<b>720,884.01</b>	<b>0.00</b>	<b>(307,841.34)</b>	<b>1,920,813.11</b>

\* In 2017 \$298,280.63 of TLRC Expense is for Bloomington Park District Refunding Bonds

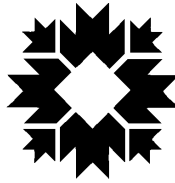
\*\* Switchyard Park expenses are paid from 2014 through 2017 Switchyard revenue.

Correction was made to Urban Forestry and Community Event totals. At the end of December, \$15,001.44 of revenue was entered into incorrect account line. Was placed in Community Events (Performing Art Series), should have been deposited in Urban Forestry.

**(307,841.34)**

**INCREASE/DECREASE FOR THE CURRENT**





**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: B-2  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Sarah Owen—Community Relations Coordinator  
**DATE:** April 10, 2018  
**SUBJECT:** **BRAVO Award—Pam Roberts**

**Recommendation**

The Bloomington Parks and Recreation Department would like to recognize Pam Roberts for her time and commitment to the Leonard Springs Nature Day (LSND) program. Since its inception in 2007, LSND has been a vital program for natural resource education. Sixth-grade students from every elementary school within Monroe County are given the opportunity to visit Leonard Springs Nature Preserve and interact with natural resources such as creeks, forest, karst, and wetlands. The volunteer help for LSND is invaluable, and we would not be able to provide this amazing program without their help. Pam Roberts is one of the most consistent and reliable LSND volunteers and she enthusiastically gives her time and effort to the visiting students.

**Background**

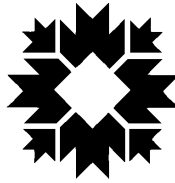
Pam retired from Indiana University's Kelley School of Business in 2014. While there she was the Executive Director of the MBA Program and Graduate Career Services. Pam joined Kelley in 2004 and prior to that she worked for Cummins for 18 years in a variety of financial roles including VP Finance for the Filtration Business Unit, Executive Director – Internal Audit and also as the leader for International Shared Services for Cummins.

She graduated from Indiana University's Kelley School of Business with an MBA in finance in 1986. Her undergraduate degree is in Microbiology from Ball State University. She has lived in Bloomington on and off over the past 35 years. During her retirement, Pam has been engaged in completing items on her "bucket list" while also spending time scuba diving, reading, hiking, and wine tasting. She volunteers with the VITAL program at the Public Library, assisting non-native speakers with learning English; the Department of Natural Resources; Earthwatch, including orca research in Iceland and lions in Africa; and with Bloomington Parks and Recreation. In her own words, "She LOVES working with students at Leonard Springs and truly hopes the brief experience of touching nature stays with them for life."

On behalf of the Bloomington Parks and Recreation Department, we are proud to recognize Pam Roberts as our March BRAVO Award recipient.

**RESPECTFULLY SUBMITTED,**

Sarah Owen, Community Relations Coordinator



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: B-3  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Sarah Owen, Community Relations Coordinator  
**DATE:** April 10, 2018  
**SUBJECT:** Park Partner Award – Youth Services Bureau/Safe Place

**Recommendation**

The Bloomington Parks and Recreation Department would like to recognize Youth Services Bureau/Safe Place as the recipient of the Winter-Spring 2018 Park Partner Award. The Park Partner Award is a component of the Department's sponsorship program and recognizes our most outstanding collaborators and supporters.

Youth Services Bureau/Safe Place began sponsoring Bloomington Parks and Recreation youth sports and community events in 2016, and they have since become one of our most enthusiastic supporters. Not only have they been vital in helping provide a variety of programming, they utilize popular Parks and Recreation programs and events as opportunities to interact directly with youth, and to share information about the services they offer. The staff of Youth Services Bureau/Safe Place regularly demonstrate their commitment to making sure the children of Bloomington and Monroe County have a place to go for help when in need.

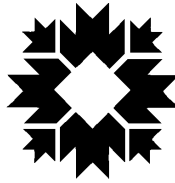
**Background**

Established in 1972, Youth Services Bureau has been supporting Monroe County families through counseling services, crisis intervention, and safe housing for children ages 8-17. They provide 24-hour access to their resources through a hotline and with the help of a dedicated staff. Safe Place is the community outreach initiative of Youth Services Bureau, whereby children of all ages can easily identify a building or business where they can receive help in times of crisis.

Bloomington Parks and Recreation is incredibly grateful for the support of Youth Services Bureau/Safe Place and we are proud to have them on site at our events, helping serve the young people throughout Monroe County. It is with great pleasure that we present them with the Park Partner Award.

**RESPECTFULLY SUBMITTED,**

Sarah Owen, Community Relations Coordinator



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-1  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Paula McDevitt, Administrator  
**DATE:** April 3, 2018  
**SUBJECT:** PROS Consulting Contract

**Recommendation**

Staff recommends the approval of the contract with PROS Consultants, Inc. for \$31,080 to conduct a comprehensive organizational review of the department.

**Background**

PROS Consulting, Inc. are leaders in the field of consulting services for parks and recreation departments. Their work with the department will include:

Task I - Project Kick-off/Coordination & Situational Analysis including data collection, SWOT analysis with full time staff to evaluate operational and financial opportunities and constraints, and demographic and recreation trend analysis.

Task II - Operational and Financial Analysis to include staffing and internal operation process review, establishing Switchyard Park Operational Standards and Switchyard Park financial plan/pro forma.

Task III – Reporting and Implementation to include staffing and organizational plan development and final report.

Task IV – Service Classification Analysis to evaluate governance of the department's core functions in the overall structure with recommendations on how to operate in the most effective functional and efficient manner.

Time frame for the project is April 19, 2018 – July 30, 2018.

**RESPECTFULLY SUBMITTED,**

*Paula McDevitt*

Paula McDevitt, Administrator

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
PROS CONSULTING, INC.  
FOR  
BPRD ORGANIZATIONAL DEVELOPMENT PLAN**

This Agreement, entered into on this \_\_\_\_ day of March, 2018, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and PROS Consulting Inc. (“Consultant”),

**WITNESSETH:**

WHEREAS, the Department wishes to undergo an organizational development review; and

WHEREAS, the Department requires the services of a professional consultant in order to perform the organizational development review (the “Services” as further defined below); and

WHEREAS, it is in the public interest that such Services be undertaken and performed; and

WHEREAS, Consultant is willing and able to provide such Services to the Department.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**Article 1. Scope of Services**

Consultant shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2.

Consultant shall complete the Services required under this Agreement on or before July 31, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

In the performance of Consultant’s work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Paula McDevitt as the Department’s Project Manager. Consultant agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care**

Consultant shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances (“Standard of Care”). The Department shall be the sole judge of the adequacy

of Consultant's work in meeting the Standard of Care; however, the Department shall not unreasonably withhold its approval as to the adequacy of Consultant's performance. Upon notice to Consultant and by mutual agreement between the parties, Consultant will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

**Article 3. Responsibilities of the Department**

The Department shall provide all necessary information regarding requirements for the Services. The Department shall furnish such information as expeditiously as is necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness of such information. The Department's Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation**

The Department shall pay Consultant for all fees and expenses in an amount not to exceed Thirty One Thousand Eighty Dollars and Zero cents (\$31,080). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. The invoice shall be sent to:

Paula McDevitt  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

**Article 5. Appropriation of Funds**

Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Department are at any time not forthcoming or are insufficient, through failure of any entity, including the Department itself, to appropriate funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty.

**Article 6. Schedule**

Consultant shall perform the Services according to the schedule set forth in Exhibit B, Project Schedule, attached hereto and incorporated herein by reference. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination**

In the event of a party's substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

The Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to Consultant. Consultant shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Consultant for all the Services performed up to the date that written notice is received, plus

reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Consultant's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Consultant in connection with this Agreement shall become the property of the Department, as set forth in Article 10 herein.

**Article 8. Identity of the Consultant**

Consultant acknowledges that one of the primary reasons for its selection by the Department to perform the Services is the qualifications and experience of Consultant. Consultant thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Consultant. Consultant shall not subcontract any part of the Services without the prior written permission of the Department. The Department reserves the right to reject any of the Consultant's personnel or proposed outside professional sub-consultants, and the Department reserves the right to request that acceptable replacement personnel be assigned to the project.

**Article 9. Opinions of Probable Cost**

All opinions of probable construction cost to be provided by Consultant shall represent the best judgment of Consultant based upon the information currently available and upon Consultant's background and experience with respect to projects of this nature. It is recognized, however, that neither Consultant nor the Department has control over the cost of labor, materials or equipment, over contractors' method of determining costs for services, or over competitive bidding, market or negotiating conditions. Accordingly, Department cannot and does not warrant or represent that the proposals or construction bids received will not vary from the cost estimates provided pursuant to this Agreement.

**Article 10. Reuse of Instruments of Service**

All documents, including but not limited to, drawings, specifications and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to this project. They are not intended or represented to be suitable for reuse by the Department or others on modifications or extensions of this project or on any other project. The Department may elect to reuse such documents; however any reuse or modification without prior written authorization of Consultant will be at the Department's sole risk and without liability or legal exposure to Consultant. The Department shall indemnify, defend, and hold harmless the Consultant against all judgments, losses, claims, damages, injuries and expenses arising out of or resulting from such unauthorized reuse or modification.

**Article 11. Ownership of Documents and Intellectual Property**

All documents, drawings and specifications, including digital format files, prepared by Consultant and furnished to the Department as part of the Services shall become the property of the Department. Consultant shall retain its ownership rights in its design, drawing details, specifications, databases, computer software and other proprietary property. Intellectual property developed, utilized or modified in the performance of the Services shall remain the property of Consultant.

**Article 12. Independent Contractor Status**

During the entire term of this Agreement, Consultant shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the Department. Consultant shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security,

unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of employees.

**Article 13. Indemnification**

Consultant shall defend, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, agents and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent act or failure to act or any misconduct on the part of the Consultant or its agents or employees, or any independent contractors directly responsible to it (collectively “Claims”).

**Article 14. Insurance**

During the performance of any and all Services under this Agreement, Consultant shall maintain the following insurance in full force and effect:

- a. General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate.
- b. Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- c. Professional Liability Insurance (“Errors and Omissions Insurance”) with a minimum limit of \$1,000,000 annual aggregate.
- d. Workers’ Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code.

All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers, employees and agents of each shall be named as insureds under the General Liability, Automobile, and Worker’s Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City’s will be called upon to contribute to a loss hereunder.

Consultant shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement. Approval of the insurance by the Department shall not relieve or decrease the extent to which Consultant may be held responsible for payment of damages resulting from Consultant’s provision of the Services or its operations under this Agreement. If Consultant fails or refuses to procure or maintain the insurance required by these provisions, or fails or refuses to furnish the Department’s required proof that the insurance has been procured and is in force and paid for, the Department shall have the right at its election to terminate the Agreement.

**Article 15. Conflict of Interest**

Consultant declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Consultant agrees that no person having any such interest shall be employed in the performance of this Agreement.



**Article 16. Waiver**

No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 17. Severability**

The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 18. Assignment**

Neither the Department nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

**Article 19. Third Party Rights**

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Department and Consultant.

**Article 20. Governing Law and Venue**

This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

**Article 21. Non-Discrimination**

Consultant shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in all regards, including, but not limited to, employment.

**Article 22. Compliance with Laws**

In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction over the project are in conflict, Consultant shall proceed using its best judgment only after attempting to resolve any such conflict between such governmental agencies, and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 23. E-Verify**

Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Consultant shall sign an affidavit, attached as Exhibit C, affirming that Consultant does not knowingly

employ an unauthorized alien. "Unauthorized alien" is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code chapter 12 or by the U.S. Attorney General.

Consultant and any subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Consultant or subcontractor subsequently learns is an unauthorized alien. If the City obtains information that the Consultant or subcontractor employs or retains an employee who is an unauthorized alien, the City shall notify the Consultant or subcontractor of the contract violation and require that the violation be remedied within 30 days of the date of notice. If the Consultant or subcontractor verified the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that the Consultant or subcontractor did not knowingly employ an unauthorized alien. If the Consultant or subcontractor fails to remedy the violation within the 30 day period, the City shall terminate the contract, unless the City Commission or department that entered into the contract determines that terminating the contract would be detrimental to the public interest or public property, in which case the City may allow the contract to remain in effect until the City procures a new Consultant. If the City terminates the contract, the Consultant or subcontractor is liable to the City for actual damages.

Consultant shall require any subcontractors performing work under this contract to certify to the Consultant that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Consultant shall maintain on file all subcontractors' certifications throughout the term of the contract with the City.

**Article 24. Notices**

Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

**Department:**

**Consultant:**

City of Bloomington	PROS Consulting, Inc.
Attn: Paula McDevitt	Austin Hochstetler
401 N. Morton, Suite 250	201 S. Capitol Avenue, Suite 505
Bloomington, Indiana 47402	Indianapolis, Indiana

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Consultant.

**Article 25. Intent to be Bound**

The Department and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

**Article 26. Integration and Modification**

This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Consultant. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject

matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties hereto.

**Article 27. Non-Collusion**

Consultant is required to certify that it has not, nor has any other member, representative, or agent of Consultant, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Consultant shall sign an affidavit, attached hereto as Exhibit D, affirming that Consultant has not engaged in any collusive conduct. Exhibit D is attached hereto and incorporated by reference as though fully set forth.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year first written above.

**CITY OF BLOOMINGTON**

**PROS Consulting, Inc.**

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel

\_\_\_\_\_  
Leon Younger, President

**CITY OF BLOOMINGTON PARKS AND RECREATION**

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Kathleen Mills, President, Board of Park Commissioners

## EXHIBIT A

### “Scope of Work”

The Services shall include the following:

#### *Project Understanding*

- A. The City of Bloomington Parks and Recreation Department (BPRD) desires an organizational development plan that will include a systematic process to collect and evaluate information regarding the Department’s internal capacity. The plan will focus on organizational structure, functionality, capacity, and effectiveness as it relates to responsibilities within the organization. With the impending development of Switchyard Park, our goal is to support this new system addition by building a functional and strategic structure. In summary, we propose a proven approach that can aid BPRD in this endeavor.
- B. The following is a detailed approach to develop the Bloomington Organizational Development Plan related to implementing specific action items.

#### *Project Approach*

##### **Task 1 – Project Kick-off/Coordination & Situational Analysis**

- A. Kick-off Meeting & Project Management – A kick-off meeting should be attended by BPRD leadership staff members and the Consulting Team members to confirm project goals, objectives, and expectations that will help guide actions and decisions of the Consulting Team. A “windshield tour” of the park system will be conducted. An “all staff” presentation should be made during the kick-off meeting trip as well.
- B. Data Collection – The Consulting Team will utilize the available documents including but not limited to current BPRD leadership, Master Plan, annual reports, previous organizational assessments, and any other pertinent reports/plans that are available. Additional data requests may include budget reports, program efforts, capital expenditure focus, site master planning efforts, policies and procedures, organizational structure, and other relevant information.
- C. SWOT Analysis – The Consulting Team members will perform on-site review with BPRD staff to evaluate operational and financial opportunities and constraints. PROS will work with the staff to develop a SWOT analysis highlighting existing Strengths, Weaknesses, Opportunities and Threats faced by BPRD as it prepares for the development of Switchyard Park.
- D. **Demographic & Recreation Trends Analysis** – The Consulting Team will utilize census tract demographic data obtained from Environmental Systems Research Institute, Inc. (ESRI), the largest research and development organization dedicated to Geographical Information Systems (GIS) and specializing in population projections and market trends. This analysis will provide an understanding of the demographic environment for the following reasons:



The County’s demographic analysis will be based on 2017 projections (2018 if available), and 5 (2023) and 10 (2028) year projections. The following demographic characteristics will be included:

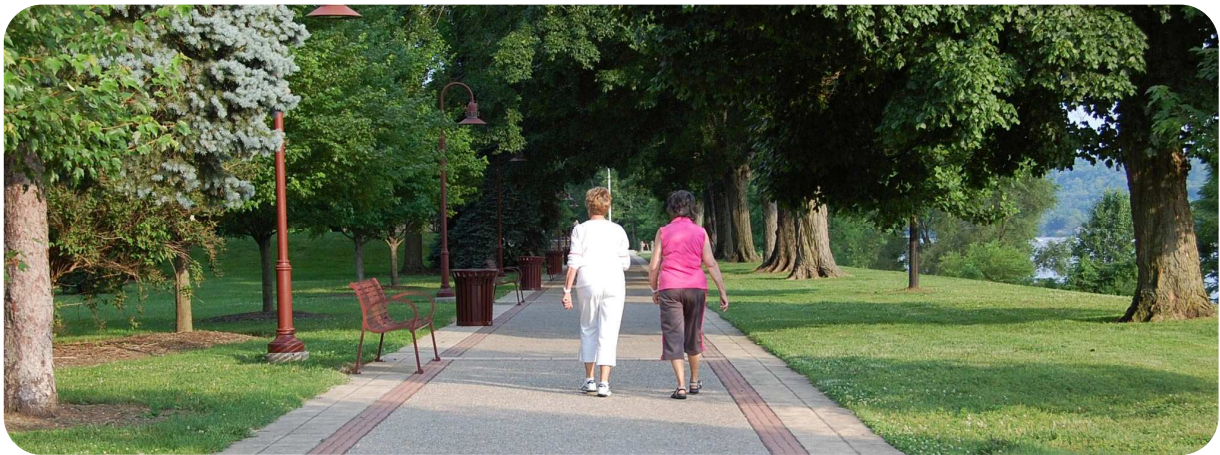
- Population density; Age Distribution ; Households; Gender; Ethnicity; Household Income

From the demographic base data, sports, recreation, and outdoor trends are applied to the local populace to assist in determining the potential participation base within the community. For the sports and recreation trends, the Consulting Team utilizes the Sports & Fitness Industry Association’s (SFIA) 2017 Study of Sports, Fitness and Leisure Participation (2018 if available), ESRI local market potential, as well as participation trends from the Outdoor Foundation on outdoor recreation trends.

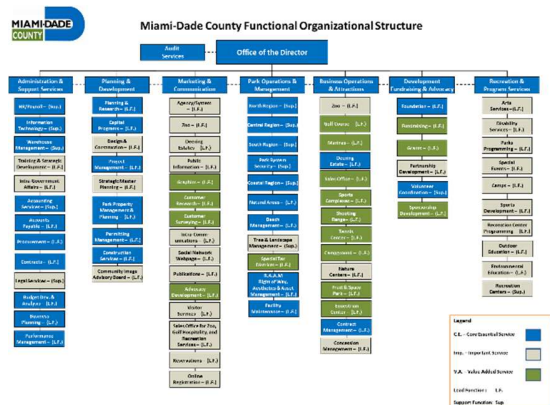
## Task 2 – Operational Analysis

**E. Key Skill Set and Competency Questionnaire** – The Consulting Team will implement an online questionnaire to determine current and needed knowledge, skills, and abilities (KSAs) in job performance. The questionnaire will be completed by all staff and submitted directly to the Consulting Team.

This will provide yet another mechanism for staff input as a means for verifying information from the SWOT Analysis and provides a more anonymous communication tool. The questionnaire includes specific topic areas for employees to address and results will help indicate capacity gaps.



**F. Staffing and Internal Operational Process Review** – The Consulting Team will document and analyze the staffing levels and internal operations of BPRD, as well as methods and processes as they relate to agency leadership and development. The internal operational assessment will be centered on sustainability, efficiency, and organizational alignment. This analysis will identify the staffing situation of BPRD and will identify appropriate staffing levels as well as the ideal organizational structure to successfully help bring Switchyard Park online. In addition, “best practice” recommendations will be identified for implementation.



**G.** The Consulting Team will assess the internal structures and systems of the organization including divisions and departments and their respective business and functional units. Through this process, outcomes will be provided that will enable leadership to determine capacities that need to be maintained, strengthened, or fundamentally changed. This assessment will aid the Department in streamlining its organizational structure and current staffing levels to ensure the highest levels of efficiencies and effectiveness.

**H. Service Classification Analysis (OPTIONAL)** – PROS will evaluate governance of the Department’s core functions in the overall structure with recommendations on how to operate in the most effective functional and efficient manner. The Consulting Team will conduct a work session with key management staff on what they consider to be core essential services, important services, and value-added services based on observations, individual interviews, focus group interviews and operating practices. The outcomes of these work sessions will be:

- All services and functions of the agency are classified as (a) Core/Essential, (b) Important, or (c) Value-Added based on definitions and criteria agreed upon with the Project Team.
- Appropriate performance measures for each classification of service will be determined and applied to all functions and services.
- The Consultant Team will compile the results of the work session into a summary of services and functions by classification. Additionally, broad performance standards for each service and function that align with their classification will be developed. An example of how these performance standards as cost recovery expectations can be applied is illustrated in the following table.

Service Category	Description	Cost-Recovery Expectations
<b>Core</b>	Services the agency <u>must</u> provide to meet its mission, and statutory and/or regulatory obligations; maintains valuable assets and infrastructure investments; essential to protect visitor safety; preserves the integrity of natural and cultural resources; reasonably expected and supported (or demanded) by visitors	Largely supported by taxes with little or no cost-recovery
<b>Important</b>	Services the agency <u>should</u> provide or are important to effectively serve visitors; may expand or enhance provision of core services; broadly supported and utilized by visitors, although support may be conditional upon the perceived benefit, quality, and pricing of the services	Supported by a balance of taxes & earned revenues
<b>Value Added</b>	Services the agency <u>may</u> provide when they are fiscally sustainable through visitor support; add value above and beyond what is required or expected of the agency’s core functions; are easy opportunities to integrate alternative providers and operators into providing services at one or more sites	Heavily or fully supported by earned revenues

**I. Switchyard Park Operational Standards** – The Consulting Team will establish operational standards and costs for Switchyard Park based on full operations. The analysis will be based on established and agreed upon outcomes. Standards can include facility hours of operation, staffing levels, and other requirements necessary for full operations.

**J. Switchyard Park Financial Plan/Pro Forma** – Based on the program, operations, and conceptual Switchyard Park master plan, the Consulting Team will develop a detailed financial pro forma. The Consulting Team will identify best practices for funding and maintaining the site, with an emphasis on operational costs. Working with the City, the Consulting Team will determine feasible methods for implementation of improvements. Assumptions

regarding park usage/participation will be provided for the pro forma. The pro forma model will include a detailed expenditure summary and revenue model.

### Task 3 - Report and Implementation

- A. Staffing and Organizational Plan Development** – Upon consensus of the Key Findings from the Operational and Staffing Review, the Consulting Team will prepare two (2) preliminary organizational structure recommendations and present to leadership for review and input. This will be reviewed with BPRD leadership staff in a half-day workshop. Following this review, one (1) final organizational structure recommendation will be determined.
- B. Draft and Final Report** – The Consulting Team will prepare the draft Organizational Development Plan with strategies taking into account all analysis performed. Once the draft assessment is approved, the Consulting Team will prepare a final summary report and present to BPRD.
- C. Fee Proposal**
- D.** The following fee breakdown is based on the project approach described in the Scope of Work for the BPRD Organizational Development Plan. The PROS Team has based this fee on our current understanding of BPRD’s goal for the project. This fee is a not-to-exceed amount and includes all costs, both direct and indirect, including any reimbursable expenses.

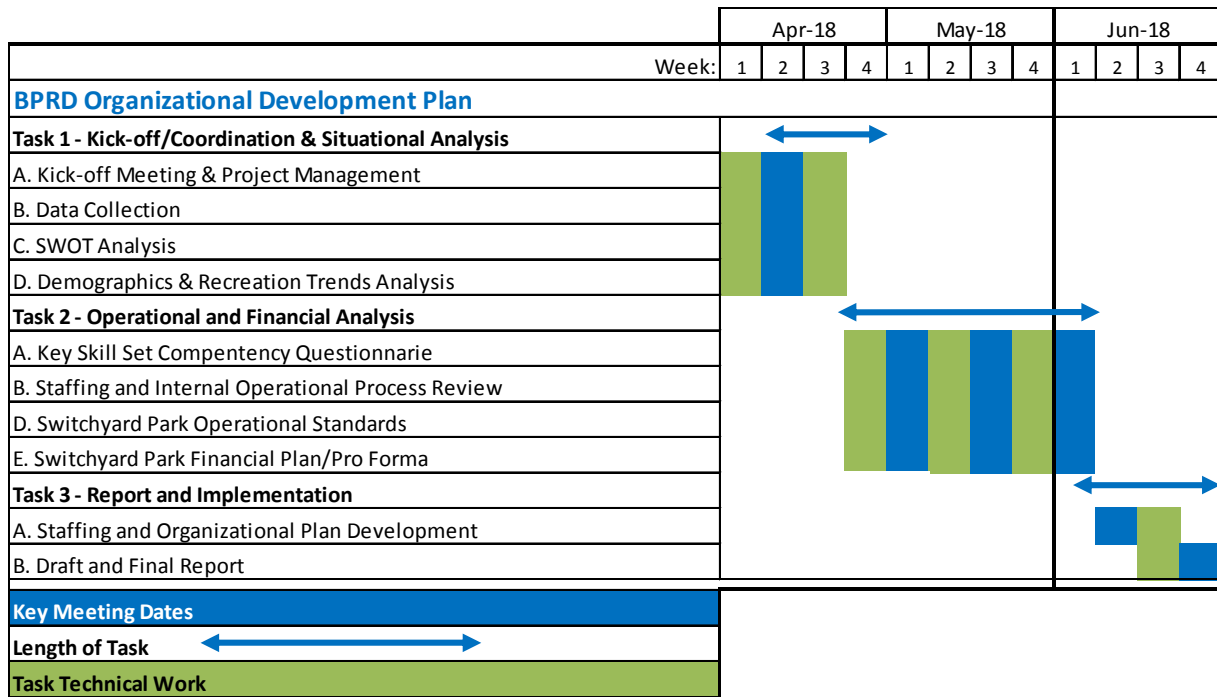
<b>Task 1 - Kick-off/Coordination &amp; Situational Analysis</b>	
A. Kick-off Meeting & Project Management	\$ 1,200
B. Data Collection	\$ 270
C. SWOT Analysis	\$ 2,730
D. Demographics & Recreation Trends Analysis	\$ 2,080
<b>Expenses</b>	<b>\$ 800</b>
<b>Subtotal Dollars</b>	<b>\$ 7,080</b>
<b>Task 2 - Operational and Financial Analysis</b>	
A. Key Skill Set Competency Questionnaire	\$ 2,080
B. Staffing and Internal Operational Process Review	\$ 6,540
D. Switchyard Park Operational Standards	\$ 2,000
E. Switchyard Park Financial Plan/Pro Forma	\$ 3,500
<b>Expenses</b>	<b>\$ 800</b>
<b>Subtotal Dollars</b>	<b>\$ 14,920</b>
<b>Task 3 - Report and Implementation</b>	
A. Staffing and Organizational Plan Development	\$ 2,940
B. Draft and Final Report	\$ 2,940
<b>Expenses</b>	<b>\$ 800</b>
<b>Subtotal Dollars</b>	<b>\$ 6,680</b>
<b>TOTAL EXPENSES</b>	<b>\$ 2,400</b>
<b>TOTAL FEES</b>	<b>\$ 26,280</b>
<b>TOTAL DOLLARS</b>	<b>\$ 28,680</b>
<b>ADDITIVE / OPTIONAL SERVICES</b>	
2C. Service Classification Analysis	\$ 2,400

## EXHIBIT B

### “Project Schedule”

#### Schedule

- A. The project approach and scope of work detailed in this proposal can be completed by the PROS Team collaboratively with BPRD. PROS can begin the project immediately and has the capability and availability to meet the end of June 2018 deadline. Specific dates will be set during the kick-off meeting process and the PROS Team will consider any special requirements by BPRD in regards to scheduling to meet your expectations.







**EXHIBIT D**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

**NON-COLLUSION AFFIDAVIT**

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

PROS Consulting, Inc.

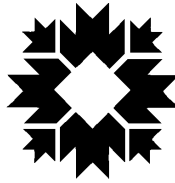
By: \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public's Signature      My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public      County of Residence: \_\_\_\_\_



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-2  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Paula McDevitt, Administrator  
**DATE:** April 3, 2018  
**SUBJECT:** Partnership Agreement with Centerstone

**Recommendation**

Staff recommends approval of the partnership agreement with Centerstone for contracted services to provide a park maintenance crew for Seminary Park, Peoples Park, Building Trades Par, Waldron, Hill and Buskirk Park and Rev. Ernest D. Butler Park, and Kirkwood Avenue between Indiana and Walnut St.

**Background**

The department has been meeting with a Downtown Outreach group since early 2016. The department has shared with this group the difficulty in maintaining the heavily used parks in the downtown area including Seminary Park, Peoples Park, Building Trades Park and Rev. Ernest D. Butler Park, and Waldron, Hill and Buskirk Park. In an effort to maintain these locations the department entered into a pilot partnership agreement with Centerstone last year. The pilot program successfully operated June 2017 through December 1, 2017 seven days per week.

Due to the success of the program the 2018 partnership agreement was created for the upcoming season. Once again a Centerstone crew will spend 4 hours per day performing routine maintenance tasks under the on-site supervision of a certified trained Centerstone case worker. Centerstone will invoice the department the hourly rate of employment for clients who work in the program.

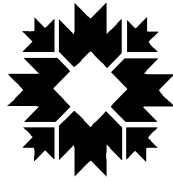
The Operations Division will provide training, equipment and general oversight of the four designated parks to ensure they are maintained to the high standard under which the department operates. The program will be evaluated following the conclusion of the program.

Two changes to the partnership include an increase in the hourly wage from \$10.71/hour to \$11.61/hour and the program will operate May 1, 2018 through December 1, 2018.

**RESPECTFULLY SUBMITTED,**

*Paula McDevitt*

Paula McDevitt



CITY OF BLOOMINGTON  
parks and recreation

## COOPERATION SERVICES AGREEMENT PROGRAM PARTNERSHIP

### Partner(s):

This Agreement is made and entered into this \_\_\_\_ day of March, 2018, by and between the City of Bloomington Parks and Recreation Department (“BPRD”) and, Centerstone. (“CS”).

WHEREAS, BPRD and CS desire to cooperate in a park maintenance pilot program; and

WHEREAS, CS is qualified to perform such services for BPRD; and

WHEREAS, BPRD is authorized to plan and develop partnerships and contractual arrangements with non-city organizations to ensure delivery of services.

NOW, THEREFORE, the parties do mutually agree as follows:

**1.0 Purpose of Agreement:** The purpose of this Agreement is to outline a program partnership, which will provide an opportunity for CS clients to work for CS in BPRD parks by combining available resources from each party to the Agreement.

**2.0 Duration of Agreement:** This Agreement is in effect from the date of signing until December 31, 2018 unless terminated earlier as provided under Article 7.0.

### **3.0 Bloomington Parks & Recreation:**

3.1 The goal of BPRD is to provide well maintained parks for the community to enjoy.

3.2 BPRD agrees to:

1. Designate Seminary Park, Peoples Park, Butler Park, Building Trades Park, the Waldron, Hill and Buskirk Park and along Kirkwood Avenue between Indiana and Walnut Streets as sites for the park maintenance program
2. To provide on-site training park maintenance training for CS crew
3. Provide maintenance equipment and supplies necessary to maintain the parks.
4. Provide personal protection equipment for members for the park maintenance pilot program.
5. Pay CS invoiced amounts for labor costs of the park maintenance pilot

program. Amounts not to exceed an hourly rate of \$11.61 per hour, plus Federal Insurance Contributions Act (“FICA”) tax at 30 hours per week for May 1, 2018 through November 30, 2018.

#### **4.0 CENTERSTONE Agrees to:**

- 4.1 The goal of Centerstone is to conduct an employment placement program for park maintenance.
- 4.2 CS agrees to:
  - Hiring-interviews, hire, pay maintenance crew, assume liability/risk coverage
  - Invoice Parks monthly for reimbursement (\$11.61 per hour plus FICA tax)
  - Transportation to the sites (People’s Park, Seminary Park, Building Trades Park, Butler Park, the Waldron, Hill and Buskirk Park and along Kirkwood Avenue between Indiana and Walnut Street)
  - Provide a Supervisor to transport and supervise crew on site
  - Have substitute workers available to fill in or permanently take a spot on the crew
  - Address behavioral issues that come up at sites
  - Complete maintenance log daily per site
  - Communicate with designed park staff on issues, progress, and supply needs

#### **5.0 Agreement Terms Mutually Agreed To By All Partners to This Agreement.**

- 5.1 The intent of this Agreement is to document a mutually beneficial partnership between CS and BPRD.
- 5.2 The staff and personnel involved in this Agreement will at all times represent all parties to this Agreement in a professional manner and reflect the commitment of all parties to quality services and customer satisfaction.
- 5.3 CS shall maintain comprehensive general liability insurance, with a minimum combined single limit of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate. The policy shall name the City of Bloomington Parks and Recreation Department as an additional insured, and CS shall provide Parks with a certificate of insurance prior to the commencement of operations under this Agreement. CS and its insurer shall notify Parks within ten (10) days of any insurance cancellation.
- 5.4 The commitment of personnel, facilities, supplies and payments will be honored according to the timetable agreed upon by all partners.
- 5.5 CS is recognized as having the expertise and experience to hire and supervise the park maintenance work crew safely and effectively. BPRD shall have the right to review risk management, agreement terms, and service quality issues.
- 5.6 Municipal Code sections 6.12.020 and 14.36.090, respectively, prohibit smoking inside city facilities and the consumption of alcoholic beverages on city property.
- 5.7 Pursuant to Indiana code 35-47-11.1-2 and 3, the City is prohibited from enforcing a firearms policy in public parks and city facilities as of July 1, 2011. However, per Indiana Code 35-47-11.1-4(10), CS may develop and implement, at

its own discretion, rules of conduct or admission regarding the carrying and storage of firearms, upon which attendance at and participation in its activities is conditioned, and the City is hereby authorized to enforce said policy for purposes of this Agreement. If CS implements such a policy, it shall provide a copy of the policy to the City to be attached to this Agreement and incorporated herein by reference.

- 5.8 The parties will evaluate this Agreement and the services provided during the month of February 2019.
- 5.9 CS shall release, hold harmless, and indemnify the City of Bloomington, its Parks and Recreation Department, and its officers, employees, agents, and assigns (Releasees) from any and all claims which may arise as a result of CS's activities under this Agreement. This includes claims for personal injury, property damage, or any other type of claim which might be brought against CS, its employees, agents or patrons, by any third party, even if caused by the negligence of Releasees.

**6.0 Notice:**

- 6.1 Notice regarding any significant concerns or issues of non-compliance shall be given to those contacts as follows:

<b>Centerstone</b>	<b>BPRD</b>
Greg May	Paula McDevitt
645 S. Rogers St.	401 N. Morton, Suite 250
Bloomington, IN 47403	Bloomington, IN 47404
(812)337-2237	(812) 349-3711

- 6.2 Representatives for the day-to-day operational implementation of this Agreement are:

<b>Centerstone</b>	<b>BPRD</b>
Greg May	Dave Williams
645 S. Rogers St.	401 N. Morton, Suite 250
Bloomington, IN 47403	Bloomington, IN 47404
(812)337-2237	(812) 349-3706

**7.0 Termination**

This Agreement may only be terminated in writing by the mutual agreement of all partners.

**8.0 E-Verify**

Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Consultant shall sign an affidavit, attached as Exhibit A, affirming that Consultant does not knowingly employ an unauthorized alien. "Unauthorized alien" is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not

lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code chapter 12 or by the U.S. Attorney General.

Consultant and any subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Consultant or subcontractor subsequently learns is an unauthorized alien. If the City obtains information that the Consultant or subcontractor employs or retains an employee who is an unauthorized alien, the City shall notify the Consultant or subcontractor of the contract violation and require that the violation be remedied within 30 days of the date of notice. If the Consultant or subcontractor verified the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that the Consultant or subcontractor did not knowingly employ an unauthorized alien. If the Consultant or subcontractor fails to remedy the violation within the 30 day period, the City shall terminate the contract, unless the City Commission or department that entered into the contract determines that terminating the contract would be detrimental to the public interest or public property, in which case the City may allow the contract to remain in effect until the City procures a new Consultant. If the City terminates the contract, the Consultant or subcontractor is liable to the City for actual damages.

Consultant shall require any subcontractors performing work under this contract to certify to the Consultant that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Consultant shall maintain on file all subcontractors' certifications throughout the term of the contract with the City.

Signed and Agreed to this \_\_\_\_ day of \_\_\_\_\_, 2018.

**CENTERSTONE:**

\_\_\_\_\_  
Suzanne Koesel, CEO

\_\_\_\_\_  
Date

**CITY OF BLOOMINGTON:**

\_\_\_\_\_  
Paula McDevitt, Administrator, BPRD

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kathleen Mills, President,  
Board of Park Commissioners

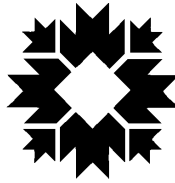
\_\_\_\_\_  
Date

\_\_\_\_\_  
Philippa M. Guthrie, Corporate Counsel

\_\_\_\_\_  
Date







**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-3  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Paula McDevitt  
**DATE:** April 3, 2018  
**SUBJECT:** B-Line Trademark License Agreement

**Recommendation**

Staff recommends the approval of a trademark license agreement with Pedcor Investments to utilize the “B-Line” trademarked name for the to be constructed apartment community located at 611 N. Rogers St, adjacent to the north end of the B-Line Trail.

**Background**

The City trademarked B-Line and B-Line Trail back in 2006 and every five years since then. The department has used the B-Line logo and name on marketing items and print materials to promote the trail.

Pedcor Investments is starting construction on a housing development community pursuant to a Project Agreement between the City of Bloomington, the Bloomington Redevelopment Commission and Pedcor Investments.

The City’s Legal Department drafted the trademark license agreement which highlights the following:

- A limited, royalty-free license, with no right to sublicense, to use the “B-Line” in connection with its housing development, B-Line Heights, and for promotional and advertising materials related to B-Line Heights, and for no other purposes.
- Pedcor Investments agrees that goods or services associated with the “B-Line” will be of high quality, at least equal to or better than the quality of other similar housing developments in Indiana, and that Pedcor Investments will conduct itself in a manner so as to preserve the goodwill associated with the “B-Line”, will not do anything that would damage or depreciate such goodwill, and will cooperate with the department in taking such actions as are reasonably necessary or desirable to ensure quality compliance, as may be reasonably specified by department from time to time.

- Pedcor Investments shall provide copies of advertising and promotional materials and other signage or uses of the Mark for review by Licensor prior to their use in conjunction with the “B-Line”.

The effective date of the agreement will be upon approval and will continue as long as B-Line Heights exists as a housing development and is owned and managed by Pedcor Investments.

Pedcor Investments has submitted in the park board packet a letter requesting approval to name the development B-Line Heights.

**RESPECTFULLY SUBMITTED,**



---

Paula McDevitt, Administrator

## TRADEMARK LICENSE AGREEMENT

This Trademark License Agreement is entered into between Pedcor Investments-2015-CXLIX, L.P., a limited partnership (“Licensor”), and the City of Bloomington Board of Parks Commissioners (“Licensee”).

### RECITALS

A. Licensor is owner of the trademark “B-Line” in word form and in all style and design variations (the “Mark”); and

B. Licensee desires to license the right to use the Mark in connection with its housing development currently being constructed pursuant to the Project Agreement By and Between City of Bloomington, Indiana, by and through the Bloomington Redevelopment Commission and Pedcor Investments-2015-CXLIX, L.P., dated November 29, 2016, which housing development is located at 611 N. Rogers Street in Bloomington, IN (“B-Line Heights”).

NOW, THEREFORE, the parties agree as follows:

1. Grant of License. Licensor grants to Licensee a limited, royalty-free license, with no right to sublicense, to use the Mark in connection with its housing development, B-Line Heights, and for promotional and advertising materials related to B-Line Heights, and for no other purposes.

2. Quality Control. Licensee agrees that goods or services associated with the Mark will be of high quality, at least equal to or better than the quality of other similar housing developments in Indiana, and that Licensee will conduct itself in a manner so as to preserve the goodwill associated with the Mark, will not do anything that would damage or depreciate such goodwill, and will cooperate with Licensor in taking such actions as are reasonably necessary or desirable to ensure quality compliance, as may be reasonably specified by Licensor from time to time. Licensee shall provide copies of advertising and promotional materials and other signage or uses of the Mark for review by Licensor prior to their use in conjunction with the Mark.

3. Termination. This license will continue so long as B-Line Heights exists as a housing development and is owned and managed by Licensee. This license may be terminated by Licensor at any time based upon any breach by Licensee of this Trademark License Agreement that is not reasonably cured 90 days after Licensee receives written notice thereof.

4. Assignment. This Trademark License may not be assigned or otherwise transferred without the express prior written consent from Licensor.

5. Retention of Ownership. Licensee acknowledges that Licensor is the owner of the Mark and that Licensor retains all ownership rights, subject to the limited license granted pursuant to this Trademark License Agreement, and that Licensor makes no representations or

warranties, express or implied, except as expressly set forth in this Agreement. All usage of the name shall inure to the benefit of Licensor. Licensor has the right, but not the obligation, to apply to register the Mark, and or renew registrations, in all forms and variations, as a trademark or service mark, as the case may be, with any or all state, federal or foreign trademark authorities as Licensor shall, in its sole discretion, determine. Licensee shall cooperate with Licensor to sign all documents, provide adequate specimens and information, and to take all steps reasonably necessary to allow Licensor to register the Mark as so determined.

6. Responsibility for Licensed Goods/Services. Licensee shall be solely responsible for and assume all costs and liabilities related to: (a) the quality of the goods and services associated with Licensee's use of the Mark, (b) any defect in or of licensed goods or services, (c) conformance of licensed products/services with all applicable laws, rules, regulations and standards, including health and safety regulations, and (d) the promotion, sale, documentation and marketing of licensed products/services.

7. Licensee Protection of Licensor. During the term of this Trademark License Agreement, and continuing after the expiration or termination of this Agreement, Licensee shall indemnify, reimburse, hold harmless and defend Licensor from any loss, liability, damage, cost or expense arising out of any claims or suits which may be brought or made against Licensor by reason of: (i) any breach of Licensee's covenants and undertakings hereunder; (ii) any unauthorized use of the Mark; (iii) any breach of Licensee's responsibilities or promises set forth in Section 6 hereof; (iv) Licensee's non-compliance with any applicable federal, state or local laws or with any other applicable regulations; and (v) any product liability, any alleged defect in materials or workmanship, or alleged inherent dangers (whether obvious or hidden) in the goods or services in association with which Licensee is using the Mark.

8. Relationship. Nothing in this Agreement shall be construed as creating a joint venture, partnership, agency or employment relationship between the parties hereto. Except as specified herein, neither party shall have the right, power or implied authority to create any obligation or duty, express or implied, on behalf of the other party hereto.

9. Governing Law. The rights and liabilities of the parties arising out of or relating to this agreement will be governed by the laws of the state of Indiana

10. Effective Date. This Trademark License Agreement will be effective on the date first written above.

IN WITNESS WHEREOF, this Trademark License Agreement is intended to be effective as of this \_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY OF BLOOMINGTON  
BOARD OF PARKS COMMISSIONERS**

**PEDCOR INVESTMENTS**

By: \_\_\_\_\_

By: \_\_\_\_\_

Kathleen Mills

Brandon Delk

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

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

Title: Vice President of Development



March 6, 2018

Ms. Paula McDevitt, Director  
Parks & Recreation Department  
City of Bloomington  
401 N. Morton Street  
Bloomington, IN 47402

**RE: B-Line Heights Apartments - Naming Rights Request**

Dear Ms. McDevitt:

I am writing this letter to request that the Parks & Recreation Department of the City of Bloomington, IN permit Pedcor Investments-2015-CXLIX, L.P. ("Pedcor") to utilize the "B-Line" trademarked name for the to-be-constructed **B-Line Heights** apartment community located at 611 N. Rogers St., Bloomington, IN 47404.

In January of 2016, Pedcor ventured to several communities across our great State to identify a transit-oriented community with forward-thinking goals suitable for a workforce housing development. The concept was bi-centennial designated by the Lieutenant Governor's office and is known as the Moving Forward initiative set forth by the Indiana Housing and Community Development Authority and supported by Energy Systems Network. The goal of the initiative is to reduce housing + transportation costs through the co-location of highly efficient housing with multi-modal transit availability.

The location mentioned above exceeded our expectations with direct access to the B-Line trail, Bloomington Transit bus routes, walkability to downtown services / jobs, and dedicated biking paths. Pedcor fully expects that each of these multi-modal options will help our residents decrease their transportation budgets below the standard 15% of gross monthly income. In conjunction with transit-oriented goals, Pedcor is also utilizing unique construction techniques to build energy-efficient rental units. Our design efforts will also reduce typical housing expenses to less than 30% of gross monthly income via lower utility costs to the tenants.

In addition to the design and location of the project, Pedcor has also partnered with Indiana University, Purdue University, Duke Energy, Carrier, the City of Bloomington and several Bloomington / Monroe County organizations. Our strategic partnerships have brought services, solar power, and soft monies to the project which would not have been possible without their participation.

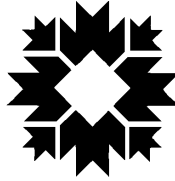
As a hyper-community focused development, Pedcor would be thrilled to utilize the name “B-Line” given it is synonymous with transit, sustainability, quality-of-life, and redevelopment – all characteristics we believe residents will enjoy when they’re able to call B-Line Heights “home.”

We appreciate the board’s consideration for this request. If additional information is necessary, please do not hesitate to contact me at 317-218-1026 or by email at [bdelk@pedcor.net](mailto:bdelk@pedcor.net).

Best,



Brandon Delk  
Vice President of Development  
Pedcor Investments, A Limited Liability Company



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-4  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Alison Miller, Health and Wellness Coordinator  
**DATE:** March 27, 2018  
**SUBJECT:** **REVIEW/APPROVAL OF JAZZERCISE PARTNERSHIP AGREEMENT**

**Recommendation**

To approve the proposed agreement between the department and the local Jazzercise® franchise.

**Background**

This document outlines the terms of agreement between the Department and the Jazzercise franchise holder, Kris Heeter, for the provision of Jazzercise class instruction. The Department has held this agreement since 1997.

Participation fees are collected by Jazzercise. An end of month statement is prepared by Jazzercise and received by the Department indicating the total number of participants and monthly gross. Twenty percent of monthly gross is paid to the department for facility use and marketing.

There are no significant changes from 2017.

**RESPECTFULLY SUBMITTED,**

---

Alison Miller  
Health and Wellness Coordinator





## **COOPERATION SERVICES & PROGRAM PARTNERSHIP AGREEMENT**

### **Partner(s):**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between the Bloomington Parks & Recreation Department (“BPRD”), and Jazzercise Franchise Owner Kristin Heeter (“Jazzercise”).

WHEREAS, BPRD and Jazzercise desire to cooperate in the organization and implementation of health and wellness programs and offer such programs to the community at large; and

WHEREAS, Jazzercise is dedicated to reaching out into the community and partnering with agencies that promote healthy lifestyles; and

WHEREAS, BPRD would like to expand program offerings to incorporate more fitness opportunities; and

WHEREAS, BPRD is authorized to plan and develop partnerships and contractual arrangements with non-city organizations to ensure delivery of services; and

WHEREAS, services provided to the community by each party will reflect on the other, so clear communication and an outline of expectations is necessary.

NOW THEREFORE, the partners do mutually agree as follows:

### **1.0 Purpose of Agreement:**

The purpose of this Agreement is to outline a program partnership which will provide quality health and wellness programs for the community by combining available resources from each organization.

### **2.0 Duration of Agreement:**

The term of this Agreement shall begin upon signing and run through April 30, 2019. The partners may agree in writing only, to renew or extend the term of the Agreement.

### **3.0 Jazzercise agrees to the following:**

3.1 Jazzercise shall provide class instruction in the Jazzercise dance fitness program, at specified sites, for BPRD. Jazzercise shall be available for demonstrations and instruction at BPRD events.

3.2 Jazzercise may use promotions for new and/or existing participants. Promotions may vary from month to month at the discretion of Jazzercise.

- 3.3 Jazzercise shall provide BPRD with documentation attesting to qualification as a Jazzercise instructor/substitute instructor. Jazzercise may substitute other qualified Jazzercise instructors as the need arises.
- 3.4 Jazzercise shall provide a sound system and tapes/records for class instruction, and pay any applicable music royalty fees (ASCAP and BMI).
- 3.5 Jazzercise shall pay the continuing franchise fee to Jazzercise, Inc. for the development of Jazzercise choreography, continuing instructor education, a toll-free student information line, use of the Jazzercise name and trademark, and national promotions.
- 3.6 Jazzercise shall register participants, collect class fees, and obtain signed BPRD participant waiver forms, for all “adult” Jazzercise programs. Jazzercise shall also provide materials for student registration and fitness education.
- 3.7 Jazzercise shall keep and maintain receipts, records, and accounts accurately reflecting participation and sums received. These receipts, records and accounts shall be open to inspection at all reasonable times by a duly authorized agent of BPRD, the City of Bloomington’s Controller’s Office, and/or the Indiana State Board of Accounts.

**4.0 Bloomington Parks & Recreation Department agrees to the following:**

- 4.1 If a temporary conflict arises with a BPRD site/facility, BPRD will notify Jazzercise, in advance, of that site/facility conflict. In the event an unexpected permanent conflict arises with a BPRD or non-BPRD site/facility, BPRD shall make every effort to notify Jazzercise and assist Jazzercise in finding an alternate location for the program. In the event this is not possible, and after all possible resources have been exhausted, the program shall be declared, by mutual consent of both parties, to be canceled at that particular site/facility.
- 4.2 BPRD shall provide limited promotion/advertising, including space in BPRD’s three (3) seasonal program guides. The BPRD marketing division shall assist Jazzercise in the preparation and submission of one (1) news release and public service announcement. Jazzercise shall be responsible for additional promotion of classes through fliers and mailing lists. Jazzercise shall be fully responsible for hosting, organizing, and promoting any fundraisers or promotions sponsored or promoted by Jazzercise, Inc.
- 4.3 BPRD will provide Jazzercise use of a BPRD computer, upon request, for design and printout of monthly newsletters and special fliers to be distributed through classes and community bulletins. Any distribution of newsletters, special handouts, promotional materials, etc. shall first meet with the approval of BPRD staff.

**5.0 Agreement Terms Mutually Agreed to By All Partners:**

- 5.1 The intent of this Agreement is to document a mutually beneficial partnership between BPRD and the Jazzercise.

- 5.2 The staff, volunteers and personnel of the BPRD and Jazzercise who are involved in these partnership programs will at all times represent all partners in this partnership in a professional manner and reflect the commitment of all partners to quality services and customer satisfaction.
- 5.3 Jazzercise shall pay BPRD twenty percent (20%) of the gross monthly receipts for all adult class sites. Settlement shall be made monthly for the preceding month. In the event there is an additional rental cost involved for the use of a non-BPRD facility, BPRD shall distribute site rental payments to the appropriate entities.

5.4 Fees shall be charged according to the following schedule\*:

<u>Class</u>	<u>Cost</u>	<u>Pass Type</u>
Walk-in	\$12	Daily
Unlimited Classes (auto-debit only)	\$35	Monthly
Unlimited Classes (cash, check, or credit)	\$88	2 months
Join Fee	\$35 (one time)	

\*Discounts for IU and Ivy Tech students and for seniors over age 65.

- 5.5 Jazzercise shall make all initial facility/site arrangements. BPRD shall make a reasonable attempt to assist Jazzercise in locating facilities which accommodate class size (approximately 1 square yard per student). Facilities/sites shall be mutually agreeable to both parties. BPRD will make every effort to use low cost rental facilities, school sites and BPRD sites.
- 5.6 In the event that Jazzercise programs are canceled at a specific location, whether it is a BPRD or non-BPRD site/facility, it will be the responsibility of Jazzercise to issue the appropriate refunds and/or prorated refunds to all Jazzercise participants affected by the canceled site. These records shall be accessible to BPRD, and shall be included in the monthly gross receipts statement given by Jazzercise to BPRD. Jazzercise shall notify BPRD of any schedule changes five (5) working days prior to the cancellation.
- 5.7 Classes which do not meet minimum participation registration requirements shall be canceled. Minimum participation requirements shall be mutually agreed upon by all parties. In the event of such cancellation, Jazzercise shall be responsible for the refunding of monies to the appropriate Jazzercise participants. A record of these refunds shall be included in the monthly gross receipts statement given by Jazzercise to BPRD. Jazzercise shall notify BPRD of any schedule changes five (5) working days prior to the cancellation.
- 5.8 BPRD and Jazzercise shall not provide the use of fee waivers to participants who cannot otherwise afford the scheduled class fees. Due to the nature of this program, i.e., Jazzercise being a franchise, neither BPRD nor Jazzercise have the resources to provide for such services.
- 5.9 Jazzercise shall abide by all BPRD rules and regulations relating to facility use.

Jazzercise shall also comply with all local, state and federal laws in its programming on BPRD premises.

- 5.10 Pursuant to Ind. Code 22-5-1.7-11(a), which was adopted on July 1, 2011, BPRD and Jazzercise shall enroll in and verify the work eligibility status of all newly hired employees through the E-Verify program. Jazzercise is not required to continue this verification if the E-Verify program no longer exists. Jazzercise shall sign an affidavit affirming that they do not currently knowingly employ an unauthorized alien. The affidavit is attached to and incorporated into this Agreement as Exhibit A.
- 5.11 The possession of drugs and other illegal controlled substances, fireworks, air rifles, paintball guns, bow and arrows, cross bows, swords, and pellet guns is strictly prohibited in any park or park facility. In addition, pursuant to Blomington Municipal Code 14.20.020, the discharge of a firearm is strictly prohibited within the City's jurisdiction.
- 5.12 During the term of this Agreement Jazzercise, and all employees, agents and representatives, shall be an independent contractor, and not an employee of City.

**6.0 Release of Liability:**

Jazzercise shall release, hold harmless, and forever indemnify the City of Bloomington, its Parks and Recreation Department, and its officers, employees, agents, and assigns from any and all claims, which may arise as a result of Jazzercise's activities. This includes claims for personal injury, property damage, or any other type of claim which might be brought by the Jazzercise, its employees, agents or patrons, or any third party, even if caused by the negligence of releasees.

**7.0 Insurance**

Jazzercise shall maintain general liability insurance in the minimum amount of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate. Jazzercise shall name BPRD as an additional insured under the policy, which shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. Jazzercise shall provide BPRD with a certificate of insurance on or before May 1, 2018.

**8.0 Termination**

- 8.1 Termination by mutual agreement: Unless otherwise terminated per the terms of this Agreement, this Agreement shall be in effect from the date signed until April 30, 2018.
- 8.2 This Agreement may be terminated by mutual written consent only. Should one party decide to terminate this Agreement, at least thirty (30) days written notice must be provided by the terminating party. In this event, Jazzercise shall be responsible for the refunding of monies to the appropriate Jazzercise participants. A record of these refunds shall be included in the monthly growth receipts statement given by Jazzercise to BPRD.
- 8.3 Should Jazzercise lose franchise affiliation with the Jazzercise, Inc. organization,

Jazzercise agrees to notify BPRD immediately of such loss of credentials. Such loss of affiliation shall cause an immediate termination of this Agreement. In the event of such termination, Jazzercise shall be responsible for any unpaid rental or lease payments that are due to facilities not under the control of BPRD. In the event of such termination, Jazzercise shall also be responsible for the refunding of monies to the appropriate Jazzercise participants. A record of these refunds shall be included in the monthly gross receipts statement given by Jazzercise to BPRD.

8.4 Unilateral termination: In the event that one of the partners to this Agreement breaches any of its terms and conditions, the non-breaching party shall serve written notice of the breach to the breaching party by certified mail. The breaching party shall then have ten (10) days from the date of mailing in which to cure the breach. If the breaching party fails to cure the breach within ten (10) days, the non-breaching party may, at its option and in writing, unilaterally terminate the Agreement.

**9.0 Notice**

9.1 Notice regarding any significant concerns or issues of non-compliance shall be given to the following contacts:

<b>Bloomington Parks &amp; Recreation</b> Becky Barrick-Higgins Recreation Services Division Director 401 N. Morton, Suite 250 Bloomington, IN 47402 812-349-3713	<b>Jazzercise</b> Kristin Heeter Owner 2605 Trenton Overlook Bloomington, IN 47404 (812) 876-2158
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9.2 Representatives for the day-to-day operational implementation of this Agreement are:

<b>Bloomington Parks &amp; Recreation</b> Alison Miller Health/Wellness Coordinator 401 N. Morton St. Suite 250 Bloomington, IN 47402 milleal@bloomington.in.gov 812-349-3771	<b>Jazzercise</b> Kristin Heeter Owner 2605 Trenton Overlook Bloomington, IN 47404 krisheeter@yahoo.com (812) 876-2158
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IN WITNESS WHEREOF, the partners have signed this Agreement on the date first set forth.

**City of Bloomington:**

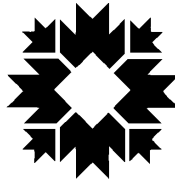
\_\_\_\_\_  
Paula McDevitt, Director  
Bloomington Parks & Recreation Department

\_\_\_\_\_  
Kathleen Mills, President  
Board of Park Commissioners

\_\_\_\_\_  
Philippa M. Guthrie  
City of Bloomington Corporation Council

**Jazzercise:** \_\_\_\_\_  
Kristin Heeter, Jazzercise Franchise Owner





**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-5  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Crystal Ritter, Community Events Coordinator  
**DATE:** **March 27, 2018**  
**SUBJECT:** **Review/Approval of the Performing Arts Series Performance Artist Agreement with Mike Green & Associates**

**Recommendation**

Staff recommends the approval of an updated 2018 Performing Arts Series Artist Agreement with Mike Green & Associates for a performance by Carrie Newcomer on Friday, July 6<sup>th</sup> at Waldron, Hill, and Buskirk Park. Mike Green & Associates is the booking agency for Carrie Newcomer.

**Background**

Carrie Newcomer is an adored local musician and we would like to bring her back for a special July 4<sup>th</sup> weekend performance as part of our 2018 Performing Arts Series. Mike Green & Associates, Carrie's booking agency, requested some changes to our 2018 Performing Arts Series Agreement which you approved at the January 23<sup>rd</sup> Parks Board meeting. Changes to that agreement include use of a room at the Alison Jukebox Community Center for changing, a longer set up time, an earlier sound check, the booking agency will waive the requirement for a City of Bloomington staff member to facilitate merchandise sales, and the listing of the Sound Technicians that will be on site to facilitate sound for the event. This agreement will be used in place of the City signing their contract.

**RESPECTFULLY SUBMITTED,**

---

Crystal Ritter, Community Events Coordinator

**2018 PERFORMING ARTS SERIES**  
**ARTIST ENGAGEMENT AGREEMENT**

This Agreement (“Agreement”), entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2018, by and between Mike Green & Associates, the booking agent for Carrie Newcomer (“Artist”), and the City of Bloomington Parks and Recreation Department (“City”) WITNESSETH:

WHEREAS, the City operates an Outdoor Performance Series in various locations in Bloomington; and

WHEREAS, the Artist wishes to perform in said Outdoor Performance Series;

NOW, THEREFORE, the City hereby engages the Artist to perform (“Performance”), and the Artist hereby agrees to perform in the Outdoor Performance Series upon the terms and conditions contained in this Agreement, as follows:

Payment: Weather-Related Cancellation. The City agrees to pay to the Artist an honorarium in the amount of Three Thousand Dollars (\$3,000.00) for the Performance. The Artist agrees to provide the City with appropriate information to enroll the Artist in the City’s payment system as well as provide an invoice to the City for the Agreement amount. The City of Bloomington will provide a check made out to WindChime Promotions for said payment immediately following the performance.

If the Performance is terminated early due to weather conditions, and if more than one-half of the show has been performed, the Artist will receive full payment. If the Performance is terminated early due to weather prior to one-half of the show being completed, or prior to commencement of the show, then the Artist and the City agree to reschedule the Performance at a mutually agreeable time, and the Artist will not receive any payment for performing on the date of the canceled show.

The City of Bloomington Parks and Recreation will provide a dressing room inside of the Alison Jukebox Community center for between 5:30 pm and 9:00 pm (the length of the performance time) and will provide the sound engineering services by KingSnake Sound Inc..

1. Time and Place of Performance. The Artist agrees to the following:

**Performance Date: Friday, 07/06/2018**

**Performance Location: Waldron, Hill, & Buskirk Park,**

**Arrival Time: 5:00 pm**

**Sound Check Time: 5:30 pm**

**Opener Sound Check Time: 6:00 pm**

**Opener Start Time: 6:30 pm**

**Performance Time: 7:00 pm**

**Length of Performance: 75-minute to 90-minute**

**Agreement’s Termination Date: September 30, 2018**



**Artist Reports To: Crystal Ritter or Bloomington Parks Representative**

2. Members of Artist: Authority. “Artist,” as used in this Agreement, includes each person who performs under this Agreement. The person signing this Agreement on behalf of the Artist, hereby represents that he or she has full authority to bind the Artist to the terms of this Agreement and that the City is entitled to rely upon the representations and authority made by the person signing this Agreement on behalf of the Artist.

The names, addresses and phone numbers of persons intending to perform under this Agreement, including any opening or guest performers, are:

Mike Green on behalf of Carrie Newcomer  
1224 Saunders Crescent  
Ann Arbor, MI 48103  
Phone: 734-769-7254

The Artist shall inform the City’s representative at the time of the Performance of any changes to the list of performers.

3. Independent Contractor; Control of Performance. During the term of this Agreement the Artist shall be an independent contractor, and not an employee of City. City shall not withhold any federal or state income taxes, social security or any other federal or state payments. The Artist shall have exclusive control over the means, method and details of fulfilling the Artist’s obligation under this Agreement, except for performance time, date and minimum and maximum length of the Performance.
4. Indemnification. The Artist shall defend, indemnify and hold harmless the City, the City of Bloomington Board of Park Commissioners, and their employees, agents and officers from any and all claims, damages, costs, attorney fees, and other liability arising out of this Agreement, even if arising from the negligence of releasees, or caused by the reckless, negligent or intentional actions or omissions of the Artist during the performance of, and in connection with, this Agreement, including any claim for infringement of copyright, patent right or other property right.
5. General. Bloomington Municipal Code sections 6.12.030 and 14.36.090, respectively, prohibit smoking in public places and the consumption of alcoholic beverages on City of Bloomington property. The possession of alcoholic beverages, drugs and other illegal controlled substances, fireworks, air rifles, paintball guns, bow and arrows, cross bows, swords, and pellet guns is strictly prohibited in any park or park facility. In addition, pursuant to Bloomington Municipal Code 14.20.020, the discharge of a firearm is strictly prohibited within the City’s jurisdiction. Amplified music, or the promotion or sale of any article is expressly prohibited without a Special Use Permit.
6. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Indiana, and by all applicable municipal ordinances or codes of the City and of Monroe County. Suit, if any, shall be brought in Monroe County, Indiana.
7. State Immigration Law Requirements. Ind. Code 22-5-1.7-11(a) requires the City to obtain the following from business entities who have employees before it enters into a contract for services with those entities:
  - documentation that the business entity has enrolled in and participates in the E-verify program, unless the E-verify program no longer exists; and
  - an affidavit, provided in Appendix A, affirming that the business entity does not currently knowingly employ an immigrant who is not authorized to work in the U.S.

8. Copyright. In performing under this Agreement, the Artist shall not infringe upon the copyright, patent right or other property right of anyone else.
9. Sale of Merchandise. At and immediately following the Performance, the Artist may sell merchandise related to or promoting the Artist, such as CDs, records, and T-shirts, on the condition that ten percent (10%) of the gross sales proceeds from the Performance is paid to the City. Payment is due within thirty (30) days of the Performance date. The Artist shall be responsible for collection and payment of all sales tax and other taxes due upon the proceeds. The Artist shall keep accurate records of all sales proceeds, and shall provide copies of its sales records for the Performance to the City upon request. The City reserves the right to disapprove particular items of merchandise that it determines are not sufficiently related to the Artist.

Artist will be responsible for finding someone to run merchandise table and sales.

**Contact -- City:**

Crystal Ritter  
 PO Box 848  
 Bloomington, IN 47402  
 ritterc@bloomington.in.gov  
 (812) 349-3725

**Contact – Agent:**

Mike Green  
 1224 Saunders Crescent  
 Ann Arbor, MI 48103  
 contracts@mikegreenassociates.com  
 (734) 769-7254

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

**ARTIST:**

By: \_\_\_\_\_

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

**CITY OF BLOOMINGTON  
 PARKS AND RECREATION DEPARTMENT**

By: \_\_\_\_\_  
 Paula McDevitt, Director

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

\_\_\_\_\_  
 Philippa M. Guthrie, Corporation Counsel

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

\_\_\_\_\_  
 Kathleen Mills, President,  
 Board of Park Commissioners

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

**APPENDIX A**

STATE OF INDIANA           )  
  ) SS:  
COUNTY OF \_\_\_\_\_ )

AFFIDAVIT

The undersigned, being duly sworn, hereby affirms and says that:

1. The undersigned is the \_\_\_\_\_ of \_\_\_\_\_.  
  (job title)                                 (company name)
2. The company named herein that employs the undersigned:
  - has contracted with or is seeking to contract with the City of Bloomington to provide services; OR
  - is a subcontractor on a contract to provide services to the City of Bloomington.
3. The undersigned hereby states that, to the best of his/her knowledge and belief, the company named herein does not knowingly employ an “unauthorized alien,” as defined at 8 United State Code 1324a(h)(3).
4. The undersigned hereby states that, to the best of his/her knowledge and belief, the company named herein is enrolled in and participates in the E-Verify program.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed name

STATE OF INDIANA           )  
  ) SS:  
COUNTY OF MONROE       )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_  
and acknowledged the execution of the foregoing this \_\_\_ day of \_\_\_\_\_, 2018.

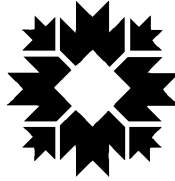
\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed name

My Commission Expires: \_\_\_\_\_

Residing in \_\_\_\_\_ County





**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-6  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Administrator  
**FROM:** Bill Ream, Community Events Coordinator  
**DATE:** March 27, 2018  
**SUBJECT:** Contract for Services with the New Life United Pentecostal Church for assistance with the Bicentennial Street Fair, the Fourth of July Parade and the Bloomington Pumpkin Launch.

**Recommendation**

Staff recommends the approval of the contract for services with the New Life United Pentecostal Church.

**Background**

These services include trash pick-up and trash bag removal at the Bicentennial street fair on Sunday April 29, 2018, barricade pick-up, placement and return and parade route clean-up for the Fourth of July Parade on Wednesday July 4, 2018 and parking assistance for the Bloomington Pumpkin Launch event at the Monroe County Fairgrounds on Saturday October 27, 2018.

New Life United Pentecostal Church has performed services for the department for several years and we are very happy with their work.

**RESPECTFULLY SUBMITTED,**

*Bill Ream*

\_\_\_\_\_  
Bill Ream, Community Events Coordinator

# AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND NEW LIFE UNITED PENTECOSTAL CHURCH

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and New Life United Pentecostal Church ("Consultant"),

**Article 1. Scope of Services** Consultant shall provide the following services ("Services"):

1. As directed and coordinated by the Project Manager, pick up trash and coordinate trash bag removal at the Bicentennial Street Fair on Kirkwood Ave. for a fee of \$400.
2. As directed and coordinated by the Project Manager, pick up, distribute, and return wooden barricades from IU Campus Division and/or the Monroe County Fairgrounds and/or the City of Bloomington depending on the number available at each location and after the parade is complete, clean up the parade route for the Fourth of July Parade for a fee \$650.
3. As directed and coordinated by the Project Manager, assist with parking during the Bloomington Pumpkin Launch at the Monroe County Fairgrounds for a fee of \$200.

Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Consultant shall complete the Services required under this Agreement on or before October 27, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Consultant's work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Bill Ream as the Department's Project Manager. Consultant agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care** Consultant shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances ("Standard of Care"). The Department shall be the sole judge of the adequacy of Consultant's work in meeting the Standard of Care; however, the Department shall not unreasonably withhold its approval as to the adequacy of Consultant's performance. Upon notice to Consultant and by mutual agreement between the parties, Consultant will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

**Article 3. Responsibilities of the Department** The Department shall provide all necessary information regarding requirements for the Services. The Department shall furnish such information as necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness of such information. The Department's Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation** The Department shall pay Consultant for all fees and expenses in an amount not to exceed One Thousand Two Hundred and Fifty Dollars (\$1,250). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Bill Ream, City of Bloomington, 401 N. Morton, Suite 250, Bloomington, Indiana 47404. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty Five (45) days of receipt of invoice. Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

**Article 5. Appropriation of Funds** Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Department are at any time not forthcoming or are insufficient, through failure of any entity, including the Department itself, to appropriate funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty.

**Article 6. Schedule** Consultant shall perform the Services according to the following schedule ("Schedule"):

Sunday April 29<sup>th</sup>, 2018 from 12pm-4pm  
Tuesday July 3<sup>rd</sup>, 2018 from 5-8pm  
Wednesday July 4<sup>th</sup>, 2018 from 11:30am- 2:30pm  
Saturday October 27<sup>th</sup>, 2018 from 10:30am-2pm

The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination** In the event of a party's substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party. Additionally, the Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to Consultant. Consultant shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Consultant for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Consultant's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Consultant in connection with this Agreement shall become the property of the Department, as set forth in Article 9 herein.

**Article 8. Identity of the Consultant** Consultant acknowledges that one of the primary reasons for its selection by the Department to perform the Services is the qualifications and experience of Consultant. Consultant thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Consultant. Consultant shall not subcontract any part of the Services without the prior written permission of the Department. The Department reserves the right to reject any of the Consultant's personnel or proposed outside professional sub-consultants, and the Department reserves the right to request that acceptable replacement personnel be assigned to the project.

**Article 9. Ownership of Documents and Intellectual Property** All documents, drawings and specifications, including digital format files, prepared by Consultant and furnished to the Department as part of the Services shall become the property of the Department. Consultant shall retain its ownership rights in its design, drawing details, specifications, databases, computer software and other proprietary property. Intellectual property developed, utilized or modified in the performance of the Services shall remain the property of Consultant.

**Article 10. Independent Contractor Status** During the entire term of this Agreement, Consultant shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the Department. Consultant shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of employees.

**Article 11. Indemnification** Consultant shall defend, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, agents and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent act or failure to act or any misconduct on the part of the Consultant or its agents or employees, or any independent contractors directly responsible to it (collectively "Claims").

**Article 12. Insurance** During the performance of any and all Services under this Agreement, Consultant shall maintain the following insurance in full force and effect: a) General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate; b) Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident; c) Workers' Compensation Insurance

in accordance with the statutory requirements of Title 22 of the Indiana Code; and d) Professional Liability Insurance (“Errors and Omissions Insurance”) with a minimum limit of \$1,000,000 annual aggregate. All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers, employees and agents of each shall be named as insureds under the General Liability, Automobile, and Worker’s Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City’s will be called upon to contribute to a loss hereunder. Consultant shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement.

**Article 13. Conflict of Interest** Consultant declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Consultant agrees that no person having any such interest shall be employed in the performance of this Agreement.

**Article 14. Waiver** No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party’s right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 15. Severability** The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 16. Assignment** Neither the Department nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

**Article 17. Third Party Rights** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the parties.

**Article 18. Governing Law and Venue** This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

**Article 19. Non-Discrimination** Consultant shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in all regards, including, but not limited to, employment.

**Article 20. Compliance with Laws** In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction over the project are in conflict, Consultant shall proceed using its best judgment only after attempting to resolve any such conflict between such governmental agencies, and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 21. E-Verify** Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Consultant shall sign an affidavit, attached as Exhibit A, affirming that Consultant does not knowingly employ an unauthorized alien. Consultant shall require any subcontractors performing work under this contract to certify to the Consultant that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Consultant shall maintain on file all subcontractors’ certifications throughout the term of the contract with the City.

**Article 22. Notices** Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

**Department:** City of Bloomington Parks and Recreation, **Attn: Bill Ream, 401 N. Morton Suite 250, Bloomington, IN 47404.** **Consultant: New Life Pentecostal Church, Attn: Jorge Orellana, PO Box 58, Harrodsburg, IN 47434.** Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Consultant.

**Article 23. Integration and Modification** This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Consultant. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties hereto.

**Article 24. Non-Collusion** Consultant is required to certify that it has not, nor has any other member, representative, or agent of Consultant, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Consultant shall sign an affidavit, attached hereto as Exhibit B, affirming that Consultant has not engaged in any collusive conduct. Exhibit B is attached hereto and incorporated by reference as though fully set forth.

**CITY OF BLOOMINGTON**

**NEW LIFE UNITED PENTECOSTAL CHURCH**

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel

\_\_\_\_\_  
Jorge Orellana, Director of Student Ministries

**CITY OF BLOOMINGTON PARKS AND RECREATION**

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Kathleen Mills, President, Board of Park Commissioners





**EXHIBIT B**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

**NON-COLLUSION AFFIDAVIT**

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.  
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**New Life United Pentecostal Church**

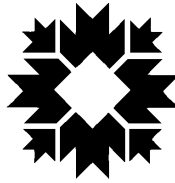
By: \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
Notary Public's Signature

\_\_\_\_\_ County of Residence: \_\_\_\_\_  
Printed Name of Notary Public



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-7  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Erik Pearson-Program/Facility Coordinator  
**DATE:** April 10<sup>th</sup>, 2018  
**SUBJECT:** Contract with Chef for Hire

**Recommendation**

Staff recommends the approval of Contracts with Chef for Hire for Banneker Camp summer program food service.

**Background**

Chef for Hire-The Banneker Camp summer program is grant funded through the USDA Summer Food Service Program to provide nutritious meals at the Banneker Center. Banneker is reimbursed through the grant for every meal served. For the past several years, Banneker has worked with Chef for Hire who provides pre-packaged meals twice per week that meet the nutrition requirements set forth within the USDA grant. This has been a successful partnership that we would like to continue in 2018.

**RESPECTFULLY SUBMITTED,**

*Erik Pearson*

Erik Pearson  
Program/Facility Coordinator

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
CHEF FOR HIRE  
FOR  
BANNEKER CAMP SUMMER PROGRAM**

This Agreement, entered into on this First day of June, 2018 by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Chef for Hire (“Consultant”),

**WITNESSETH:**

WHEREAS, the Department wishes to vend meals for summer food service program; and

WHEREAS, the Department requires the services of a professional consultant in order to perform the development of meals to follow State guidelines (the “Services” as further defined below); and

WHEREAS, it is in the public interest that such Services be undertaken and performed; and

WHEREAS, Consultant is willing and able to provide such Services to the Department.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**Article 1. Scope of Services**

Consultant shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2.

Consultant shall complete the Services required under this Agreement on or before July 27, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

In the performance of Consultant’s work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Erik Pearson as the Department’s Project Manager. Consultant agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care**

Consultant shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under

similar circumstances (“Standard of Care”). The Department shall be the sole judge of the adequacy of Consultant’s work in meeting the Standard of Care; however, the Department shall not unreasonably withhold its approval as to the adequacy of Consultant’s performance. Upon notice to Consultant and by mutual agreement between the parties, Consultant will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

**Article 3. Responsibilities of the Department**

The Department shall provide all necessary information regarding requirements for the Services. The Department shall furnish such information as expeditiously as is necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness of such information. The Department’s Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation**

The Department shall pay Consultant for all fees and expenses in an amount not to exceed Twenty Thousand Dollars (\$20,000). Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to:

Erik Pearson  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

**Article 5. Appropriation of Funds**

Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Department are at any time not forthcoming or are insufficient, through failure of any entity, including the Department itself, to appropriate funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty.

**Article 6. Schedule**

Consultant shall perform the Services according to the schedule set forth in Exhibit B, Project Schedule, attached hereto and incorporated herein by reference. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination**

In the event of a party’s substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

The Department may terminate or suspend performance of this Agreement at the Department’s prerogative at any time upon written notice to Consultant. Consultant shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall

pay the Consultant for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Consultant's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Consultant in connection with this Agreement shall become the property of the Department, as set forth in Article 10 herein.

**Article 8. Identity of the Consultant**

Consultant acknowledges that one of the primary reasons for its selection by the Department to perform the Services is the qualifications and experience of Consultant. Consultant thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Consultant. Consultant shall not subcontract any part of the Services without the prior written permission of the Department. The Department reserves the right to reject any of the Consultant's personnel or proposed outside professional sub-consultants, and the Department reserves the right to request that acceptable replacement personnel be assigned to the project.

**Article 9. Opinions of Probable Cost**

All opinions of probable construction cost to be provided by Consultant shall represent the best judgment of Consultant based upon the information currently available and upon Consultant's background and experience with respect to projects of this nature. It is recognized, however, that neither Consultant nor the Department has control over the cost of labor, materials or equipment, over contractors' method of determining costs for services, or over competitive bidding, market or negotiating conditions. Accordingly, Department cannot and does not warrant or represent that the proposals or construction bids received will not vary from the cost estimates provided pursuant to this Agreement.

**Article 10. Independent Contractor Status**

During the entire term of this Agreement, Consultant shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the Department. Consultant shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of employees.

**Article 11. Indemnification**

Consultant shall defend, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, agents and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent act or failure to act or any misconduct on the part of the Consultant or its agents or employees, or any independent contractors directly responsible to it (collectively "Claims").

**Article 12. Insurance**

During the performance of any and all Services under this Agreement, Consultant shall maintain the following insurance in full force and effect:

- a. General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate.

- b. Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- c. Professional Liability Insurance (“Errors and Omissions Insurance”) with a minimum limit of \$1,000,000 annual aggregate.
- d. Workers’ Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code.

All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers, employees and agents of each shall be named as insureds under the General Liability, Automobile, and Worker’s Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City’s will be called upon to contribute to a loss hereunder.

Consultant shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement. Approval of the insurance by the Department shall not relieve or decrease the extent to which Consultant may be held responsible for payment of damages resulting from Consultant’s provision of the Services or its operations under this Agreement. If Consultant fails or refuses to procure or maintain the insurance required by these provisions, or fails or refuses to furnish the Department’s required proof that the insurance has been procured and is in force and paid for, the Department shall have the right at its election to terminate the Agreement.

**Article 13. Conflict of Interest**

Consultant declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Consultant agrees that no person having any such interest shall be employed in the performance of this Agreement.

**Article 14. Waiver**

No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party’s right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 15. Severability**

The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 16. Assignment**

Neither the Department nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

**Article 17. Third Party Rights**

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Department and Consultant.

**Article 18. Governing Law and Venue**

This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

**Article 19. Non-Discrimination**

Consultant shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in all regards, including, but not limited to, employment.

**Article 20. Compliance with Laws**

In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction over the project are in conflict, Consultant shall proceed using its best judgment only after attempting to resolve any such conflict between such governmental agencies, and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 21. E-Verify**

Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Consultant shall sign an affidavit, attached as Exhibit C, affirming that Consultant does not knowingly employ an unauthorized alien. "Unauthorized alien" is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code chapter 12 or by the U.S. Attorney General.

Consultant and any subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Consultant or subcontractor subsequently learns is an unauthorized alien. If the City obtains information that the Consultant or subcontractor employs or retains an employee who is an unauthorized alien, the City shall notify the Consultant or subcontractor of the contract violation and require that the violation be remedied within 30 days of the date of notice. If the Consultant or subcontractor verified the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that the Consultant or subcontractor did not knowingly employ an unauthorized alien. If the Consultant or subcontractor fails to remedy the violation within the 30 day period, the City shall terminate the contract, unless the City Commission or department that entered into the contract determines that terminating the contract would be detrimental to the public interest or public property, in which case the City may allow the contract to remain in effect until the City procures a new Consultant. If the City terminates the contract, the Consultant or subcontractor is liable to the City for actual damages.

Consultant shall require any subcontractors performing work under this contract to certify to the Consultant that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Consultant shall maintain on file all subcontractors' certifications throughout the term of the contract with the City.

**Article 22. Notices**

Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

**Department:**

**Consultant:**

City of Bloomington	Chef for Hire
Attn: Erik Pearson	Monty Degenhardt
401 N. Morton, Suite 250	P.O. Box 44156
Bloomington, Indiana 47402	Indianapolis, IN 46244

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Consultant.

**Article 23. Intent to be Bound**

The Department and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

**Article 24. Integration and Modification**

This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Consultant. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties hereto.

**Article 25. Non-Collusion**

Consultant is required to certify that it has not, nor has any other member, representative, or agent of Consultant, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Consultant shall sign an affidavit, attached hereto as Exhibit D, affirming that Consultant has not engaged in any collusive conduct. Exhibit D is attached hereto and incorporated by reference as though fully set forth.



**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year first written above.

**CITY OF BLOOMINGTON**

**CHEF FOR HIRE**

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel

\_\_\_\_\_  
Monty Degenhardt, Owner

**CITY OF BLOOMINGTON PARKS AND RECREATION**

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Kathleen Mills, President, Board of Park Commissioners

## **EXHIBIT A**

### **“Scope of Work”**

The Services shall include the following:

- Chef for Hire will produce, package, and deliver breakfast, lunch, and dinner meals to the Banneker Community Center twice per week.
- They will produce and package meals to the standards of the USDA Summer Food Service Program for which the Banneker Community Center complies.
- Chef for Hire will receive order of number of meals needed and supply the appropriate amount twice per week
- Chef for Hire will keep multiple refrigerators at the Banneker Community Center to store meals prepared by Chef for Hire

## **EXHIBIT B**

### **“Project Schedule”**

- Meals will be delivered prior to the start of Banneker Camp on June 4<sup>th</sup> for the first week of camp
- Each week of camp from June 4-July 27 meals will be produced and delivered twice per week

**EXHIBIT C  
E-VERIFY AFFIDAVIT**

STATE OF INDIANA )  
 )SS:  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT**

The undersigned, being duly sworn, hereby affirms and says that:

1. The undersigned is the \_\_\_\_\_ of \_\_\_\_\_.  
(job title) (company name)
2. The company named herein that employs the undersigned:
  - i. has contracted with or seeking to contract with the City of Bloomington to provide services; OR
  - ii. is a subcontractor on a contract to provide services to the City of Bloomington.
3. The undersigned hereby states that, to the best of his/her knowledge and belief, the company named herein does not knowingly employ an "unauthorized alien," as defined at 8 United States Code 1324a(h)(3).
4. The undersigned hereby states that, to the best of his/her belief, the company named herein is enrolled in and participates in the E-verify program.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

STATE OF INDIANA )  
 )SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public's Signature My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public County of Residence: \_\_\_\_\_

**EXHIBIT D**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

**NON-COLLUSION AFFIDAVIT**

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**CHEF FOR HIRE**

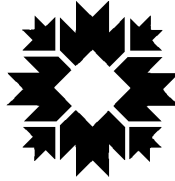
By: \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public's Signature      My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public      County of Residence: \_\_\_\_\_



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-8  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Erik Pearson-Program/Facility Coordinator  
**DATE:** April 10<sup>th</sup>, 2018  
**SUBJECT:** Contract with Wildlife Removal Inc.

**Recommendation**

Staff recommends the approval of Contracts with Wildlife Removal Inc. for services at the Banneker Community Center.

**Background**

Wildlife Removal Inc.-Given the age of the building and recent roof work at Banneker, brown bats have again been spotted within the facility. In 2016-2017 we worked with Wildlife Removal Inc. to remove and prevent wildlife from entering the facility. We would like to continue to work with Wildlife Removal Inc. for that purpose in 2018.

**RESPECTFULLY SUBMITTED,**

*Erik Pearson*  
Erik Pearson  
Program/Facility Coordinator

## **AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND WILDLIFE REMOVAL INC.**

This Agreement, entered into on this 27<sup>th</sup> day of March, 2018 by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and Wildlife Removal Inc. ("Consultant").

**Article 1. Scope of Services** Consultant shall provide services related to wildlife removal at the Banneker Community Center ("Services"). These services include responding to service calls to remove wildlife from the facility in a safe and appropriate manner. Inspect facility for areas where wildlife are entering or have an opportunity to do so. Install measures structurally inside and outside of the building to prevent wildlife from getting into the facility and allow for wildlife currently in the facility to get out but not re-enter.

Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Consultant shall complete the Services required under this Agreement on or before March 27th 2019, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Consultant's work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Erik Pearson as the Department's Project Manager. Consultant agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care** Consultant shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances ("Standard of Care"). The Department shall be the sole judge of the adequacy of Consultant's work in meeting the Standard of Care; however, the Department shall not unreasonably withhold its approval as to the adequacy of Consultant's performance. Upon notice to Consultant and by mutual agreement between the parties, Consultant will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

**Article 3. Responsibilities of the Department** The Department shall provide all necessary information regarding requirements for the Services. The Department shall furnish such information as necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness of such information. The Department's Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation** The Department shall pay Consultant for all fees and expenses in an amount not to exceed Seven Hundred Fifty Dollars (\$750). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Erik Pearson, City of Bloomington, 401 N. Morton, Suite 250, Bloomington, Indiana 47404. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

**Article 5. Appropriation of Funds** Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Department are at any time not forthcoming or are insufficient, through failure of any entity, including the Department itself, to appropriate funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty.

**Article 6. Schedule** Consultant shall perform the Services as needed. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination** In the event of a party's substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party. Additionally, the Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to Consultant. Consultant shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Consultant for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Consultant's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Consultant in connection with this Agreement shall become the property of the Department, as set forth in Article 9 herein.

**Article 8. Identity of the Consultant** Consultant acknowledges that one of the primary reasons for its selection by the Department to perform the Services is the qualifications and experience of Consultant. Consultant thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Consultant. Consultant shall not subcontract any part of the Services without the prior written permission of the Department. The Department reserves the right to reject any of the Consultant's personnel or proposed outside professional sub-consultants, and the Department reserves the right to request that acceptable replacement personnel be assigned to the project.

**Article 9. Ownership of Documents and Intellectual Property** All documents, drawings and specifications, including digital format files, prepared by Consultant and furnished to the Department as part of the Services shall become the property of the Department. Consultant shall retain its ownership rights in its design, drawing details, specifications, databases, computer software and other proprietary property. Intellectual property developed, utilized or modified in the performance of the Services shall remain the property of Consultant.

**Article 10. Independent Contractor Status** During the entire term of this Agreement, Consultant shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the Department. Consultant shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of employees.

**Article 11. Indemnification** Consultant shall defend, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, agents and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent act or failure to act or any misconduct on the part of the Consultant or its agents or employees, or any independent contractors directly responsible to it (collectively "Claims").

**Article 12. Insurance** During the performance of any and all Services under this Agreement, Consultant shall maintain the following insurance in full force and effect: a) General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate; b) Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident; c) Workers' Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code; and d) Professional Liability Insurance ("Errors and Omissions Insurance") with a minimum limit of \$1,000,000 annual aggregate. All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers, employees and agents of each shall be named as insureds under the General Liability, Automobile, and Worker's Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City's will be called upon to contribute

to a loss hereunder. Consultant shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement.

**Article 13. Conflict of Interest** Consultant declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Consultant agrees that no person having any such interest shall be employed in the performance of this Agreement.

**Article 14. Waiver** No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 15. Severability** The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 16. Assignment** Neither the Department nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

**Article 17. Third Party Rights** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the parties.

**Article 18. Governing Law and Venue** This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

**Article 19. Non-Discrimination** Consultant shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in all regards, including, but not limited to, employment.

**Article 20. Compliance with Laws** In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction over the project are in conflict, Consultant shall proceed using its best judgment only after attempting to resolve any such conflict between such governmental agencies, and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 21. E-Verify** Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Consultant shall sign an affidavit, attached as Exhibit A, affirming that Consultant does not knowingly employ an unauthorized alien. Consultant shall require any subcontractors performing work under this contract to certify to the Consultant that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Consultant shall maintain on file all subcontractors' certifications throughout the term of the contract with the City.

**Article 22. Notices** Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

**Department:** City of Bloomington, Attn: Erik Pearson, 401 N. Morton, Bloomington, IN 47402. **Consultant:** Wildlife Removal Inc.. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Consultant.

**Article 23. Integration and Modification** This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Consultant. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties hereto.

**Article 24. Non-Collusion** Consultant is required to certify that it has not, nor has any other member, representative, or agent of Consultant, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Consultant shall sign an affidavit, attached hereto as Exhibit B, affirming that Consultant has not engaged in any collusive conduct. Exhibit B is attached hereto and incorporated by reference as though fully set forth.

**CITY OF BLOOMINGTON**

**WildLife Removal Inc.**

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel

\_\_\_\_\_  
Lee Trussler-Owner

**CITY OF BLOOMINGTON PARKS AND RECREATION**

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Kathleen Mills, President, Board of Park Commissioners



**EXHIBIT A**  
**E-VERIFY AFFIDAVIT**

STATE OF INDIANA            )  
  )SS:  
COUNTY OF \_\_\_\_\_)

AFFIDAVIT

The undersigned, being duly sworn, hereby affirms and says that:

1. The undersigned is the \_\_\_\_\_ of \_\_\_\_\_.  
(job title) (company name)
2. The company named herein that employs the undersigned:
  - i. has contracted with or seeking to contract with the City of Bloomington to provide services; **OR**
  - ii. is a subcontractor on a contract to provide services to the City of Bloomington.
3. The undersigned hereby states that, to the best of his/her knowledge and belief, the company named herein does not knowingly employ an "unauthorized alien," as defined at 8 United States Code 1324a(h)(3).
4. The undersigned hereby states that, to the best of his/her belief, the company named herein is enrolled in and participates in the E-verify program.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

STATE OF INDIANA            )  
  )SS:  
COUNTY OF \_\_\_\_\_)

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public's Signature            My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public            County of Residence: \_\_\_\_\_

**EXHIBIT B**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

**NON-COLLUSION AFFIDAVIT**

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**WildLife Removal Inc.**

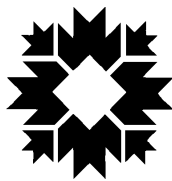
By: \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
Notary Public's Signature

\_\_\_\_\_ County of Residence: \_\_\_\_\_  
Printed Name of Notary Public



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-9  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Scott Pedersen, Youth Sports Coordinator  
**DATE:** February 21<sup>st</sup>, 2018  
**SUBJECT:** **REVIEW/APPROVAL OF PARTNERSHIP AGREEMENT WITH Longevity  
Massage LLC D.B.A. Diamond Dynamics Baseball and Softball.**

**Recommendation**

Staff recommends approval of this agreement.

**Background**

We partnered with Diamond Dynamics in 2017 and they took over the 6U/8U division. They will now take over the 10U/12U/14U age groups. We anticipate this helping grow the softball program over time. Here are the first year numbers.

2017 6U/8U- 40 participants

Longevity Massage LLC D.B.A. Diamond Dynamics Baseball and Softball is a softball/baseball organization that specializes in high level softball instruction. By partnering with Longevity Massage LLC D.B.A. Diamond Dynamics Baseball and Softball, we are hoping the clinics will help bolster our youth softball numbers. They practice once a week for eight weeks at Twin Lakes Sports Park ballfields. They also will play 16 friendly scrimmages for the 6U/8U/10U/12U/14U divisions. Participation is open to all Bloomington community players and surrounding areas.

**RESPECTFULLY SUBMITTED,**

\_\_\_\_\_  
Scott Pedersen  
Youth Sports Coordinator

**CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
COOPERATIVE SERVICE  
AND  
PROGRAM PARTNERSHIP**

This Agreement is made and entered into \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the Bloomington Parks and Recreation Department (“BPRD”) and Longevity Massage LLC D.B.A. Diamond Dynamics Baseball and Softball (“Diamond Dynamics”).

**WHEREAS**, there is an apparent need for softball instruction in Bloomington; and

**WHEREAS**, BPRD and Diamond Dynamics desire to cooperate in the provision of a softball instructional program and clinics for the general public; and

**WHEREAS**, BPRD will provide the fields; and

**WHEREAS**, Diamond Dynamics will provide programming; and

**WHEREAS**, BPRD is authorized to plan and develop partnerships and contractual arrangements with other community organizations to ensure delivery of services; and

**WHEREAS**, services provided by each partner will reflect on the other in the Agreement requiring clear communication and an outline of expectations.

**NOW, THEREFORE**, the partners do mutually agree as follows:

**1.0 Purpose of Agreement:**

The purpose of this Agreement is to outline a program partnership which will provide an affordable and effective softball instructional 6U/8U/10U/12U/14U Academy and softball clinics for the Bloomington community by combining available resources from each partner to the Agreement.

**2.0 Duration of Agreement:**

This Agreement is in effect from May 1, 2018 to August 1st, 2018, unless terminated by the BPRD for failure of Diamond Dynamics to comply with the terms of this Agreement.

**3.0 Bloomington Parks and Recreation:**

3.1 The goal of BPRD is to provide an opportunity for the Bloomington community to participate in a diverse softball instructional 6U/8U/10U/12U/14U Academy program and clinic. Another goal is to introduce beginner participants to the sport, as well as for skill advancement.

3.2 BPRD agrees to:

- 3.2.1 Market the programs and clinics. The program will be listed in the Program Guide. Other marketing as available.
- 3.2.2 Provide a registration system. Participants will register through the Parks and Recreation Department Rec Trac system.
- 3.2.3 Provide availability and facility maintenance, including trash pick-up and removal, field maintenance such as dragging fields and mowing, maintaining and stocking restrooms, and upkeep of buildings and common areas at the ballfields.
- 3.2.4 Provide a post-program and clinic survey. Results will be shared with Diamond Dynamics.
- 3.2.5 Provide and maintain necessary equipment such as practice balls, bats, helmets, and catcher's gear.
- 3.2.6 Provide an information Hotline for field closure or reschedule. The Hotline phone number shall be (812) 349-3610.
- 3.2.7 Provide a Facility Supervisor to open and close the ballfields and to assist with field-related matters.
- 3.2.8 Provide maintenance staff who shall be assigned to maintain and prepare the facility on a daily basis. Provide additional maintenance support staff as needed to perform other repairs, tasks, and services.
- 3.2.9 Provide a Facility Manager to act as a liaison, consultant and contact person between Diamond Dynamics and BPRD.
- 3.2.10 Communicate with and ask for input from Diamond Dynamics on all matters relating to the softball instructional programs and clinics.
- 3.2.11 Twenty-four hour turn around response to citizens' concerns.

**4.0 Longevity Massage LLC D.B.A. Diamond Dynamics Baseball and Softball:**

- 4.1 The goals of Diamond Dynamics are to offer a softball instructional 6U/8U/10U/12U/14U Academy and clinic to introduce its association to the public and provide programming for the City of Bloomington citizens.
- 4.2 Diamond Dynamics agrees to:
  - 4.2.1 Allow a BPRD representative to serve as consultant at board meetings.
  - 4.2.2 Allow only qualified individuals to participate in coaching/instructing softball.

- 4.2.3 Receive 80% of activity fee. First week in June, Diamond Dynamics will send an invoice to the city for 40% of the registrations fees. At the conclusion of the program Diamond Dynamics will send an invoice to the city for the remaining 40% of the registrations fees.
- 4.2.4 Create a program outline which is essentially a practice progression document. This document will be the property of BPRD.
- 4.2.5 Provide all instruction and staff for the clinics and programs, this includes providing for some form of umpiring for the scrimmages.
- 4.2.6 Provide all equipment necessary for the program (current existing City inventory may be used including practice balls—any new equipment will be purchased by Diamond Dynamics and will be property of Diamond Dynamics).
- 4.2.7 Provide BPRD with a certificate of general liability insurance naming BPRD as an additional insured.
- 4.3.8 Refer any citizen concerns, reports, or problems regarding the fields, improvements to the facility, services provided by staff or other issues to BPRD within twenty-four (24) hours of observation.
- 4.3.9 Provide participant t-shirts exclusively for the 6U/8U/10U/12U/14U Academy participants. Academy participant t-shirts will include the program name, the City of Bloomington logo, and Diamond Dynamics logo. The City will provide Diamond Dynamics with participant t-shirt sizes.

**5.0 Terms Mutually Agreed on by all Partners:**

- 5.1 The intent of this Agreement is to document a mutually beneficial partnership between Diamond Dynamics and BPRD.
- 5.2 The staff and personnel involved in this Agreement will at all times represent all partners to this Agreement in a professional manner, and reflect the commitment of all partners to quality services and customer satisfaction.
- 5.3 Diamond Dynamics is recognized as having the experience to operate a softball instructional program and clinic.
  - 5.3.1 BPRD shall have the right to review risk management, coaching, participant behavior, and service quality issues. All participants at the ballfields are subject to behavioral guidelines as outlined in BPRD Administrative Policy 2050 which can be reviewed here: [http://bloomington.in.gov/documents/viewDocument.php?document\\_id=772](http://bloomington.in.gov/documents/viewDocument.php?document_id=772)  
[2](#) Disruptive behavior may be reviewed by BPRD personnel following these

policies.

- 5.3.2 Diamond Dynamics shall be allowed to exclusively deal with curriculum, learning objectives, teaching techniques, and any softball activities of Diamond Dynamic activities.
- 5.3.3 BPRD shall be provided copies of all Diamond Dynamic documents, curriculum, learning objectives, teaching techniques and softball activities when requested.
- 5.3.4 Pursuant to Ind. Code 22-5-1.7-11(a), BPRD and Diamond Dynamics shall enroll in and verify the work eligibility status of all newly hired employees through the E-Verify program. Diamond Dynamics is not required to continue this verification if the E-Verify program no longer exists. Diamond Dynamics shall sign an affidavit affirming that it does not currently knowingly employ an unauthorized alien. The affidavit is attached to and incorporated into this Agreement as Exhibit A.
- 5.3.5 The possession of alcoholic beverages, drugs and other illegal controlled substances is strictly prohibited in any park or park facility. Pursuant to Bloomington Municipal Code 14.20.020, the discharge of a firearm is strictly prohibited within the City's jurisdiction. Amplified music, or the promotion or sale of any article is expressly prohibited without a Special Use Permit.
- 5.3.6 Pursuant to Indiana Code 35-47-11.1-2 and 3, the City is prohibited from enforcing its former policy on firearms in public parks and city facilities as of July 1, 2011. However, per Indiana Code 35-47-11.1-4(10), a person or organization who rents space in a Parks facility may develop and implement, at its own discretion, rules of conduct or admission regarding the possession, carrying, and storage of firearms, upon which attendance at and participation in its activities is conditioned. If a person or organization who rents space in a Parks facility develops such a policy for its activities, it will be responsible for implementation and enforcement of such a policy, and it shall provide a copy of the policy to the City which shall be attached to this Agreement as Exhibit B.

**6.0 Notice and Agreement Representatives:**

- 6.1 Notice regarding any significant concerns and/or breaches of this Agreement shall be given to those contacts as follows:

**Longevity Massage LLC  
D.B.A. Diamond  
Dynamics Baseball and Softball  
-Amanda Ragan  
7555 S. Strain Ridge Rd.**

**BPRD-Scott Pedersen**  
401 N. Morton St. Suite 250  
P.O. Box 848  
Bloomington, IN 47402  
pederses@bloomington.in.gov

Bloomington, IN 47401  
amanda@diamond-dynamics.com  
(812) 606-8014

Office: (812) 349-3774

- 6.2 Agreement representative for the day-to-day operations and implementations of this Agreement shall be:

**Longevity Massage LLC  
D.B.A. Diamond  
Dynamics Baseball and Softball  
-Amanda Ragan**  
7555 S. Strain Ridge Rd.  
Bloomington, IN 47401  
amanda@diamond-dynamics.com  
(812) 606-8014

**BPRD-Scott Pedersen**  
401 N. Morton St. Suite 250  
P.O. Box 848  
Bloomington, IN 47402  
pederses@bloomington.in.gov  
Office: (812) 349-3774

Signed and agreed this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF BLOOMINGTON:

\_\_\_\_\_  
Paula McDevitt, Director  
Parks and Recreation Department

\_\_\_\_\_  
Kathleen Mills, President  
Board of Parks Commissioners

\_\_\_\_\_  
Philippa M. Guthrie, Corporate Counsel

\_\_\_\_\_  
Amanda Ragan, Longevity Massage LLC D.B.A.  
Diamond Dynamics Baseball and Softball Owner



**EXHIBIT A**

STATE OF INDIANA        )  
  )  
COUNTY OF MONROE     )

**AFFIDAVIT**

The undersigned, being duly sworn, hereby affirms and says that:

1. The undersigned is the \_\_\_\_\_ of Longevity Massage LLC D.B.A. Diamond Dynamics Baseball and Softball.
2. Longevity Massage LLC D.B.A. Diamond Dynamics Baseball and Softball has contracted with the City of Bloomington to provide services.
3. Longevity Massage LLC D.B.A. Diamond Dynamics Baseball and Softball is enrolled in and participates in the State of Indiana E-Verify program.
4. The undersigned is authorized by Longevity Massage LLC D.B.A. Diamond Dynamics Baseball and Softball, to sign affidavits on its behalf.
5. The undersigned states that, to the best of his/her knowledge and belief, Longevity Massage LLC D.B.A. Diamond Dynamics Baseball and Softball , does not knowingly employ an “unauthorized alien,” as defined at 8 U.S.C. §1324a. (h)(3), and participates in E-verify to check the eligibility status of all its newly hired employees, and requires the same from its sub-contractors who work under this Agreement.

Amanda Ragan, Longevity Massage LLC D.B.A. Diamond Dynamics Baseball and Softball Owner	Date
---	------

STATE OF INDIANA     )  
  )  
COUNTY OF MONROE    )

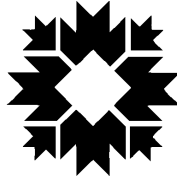
Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed name

Residing in \_\_\_\_\_ County

My Commission Expires: \_\_\_\_\_



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-10  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Lee E Huss - Urban Forester  
**DATE:** 3/20/2018  
**SUBJECT:** Contract to perform tree care and tree planting

**Recommendation**

Asking to utilize the services of Designscape Horticultural Services for three tree care related projects.

**Background**

Scope #1 Air Spade work on 7 Red Maples at City Hall (401 N Morton St). Cut and remove girdling roots. Backfill trench with compost. Clean-up and fix disturbed areas created.

Scope #2 Install 3 Ginkgo "Princeton Sentry" minimum 2" caliper trees in median north of White River Co-op (W Bloomfield Rd). Rack back and top dress stone for re-use. Stake and guy all trees. Clean-up and fix any disturbed areas.

Scope # 3 Transplant 3 existing trees from the city nursery to locations at Ferguson Dog Park. Clean-up and fix any disturbed area created.

**RESPECTFULLY SUBMITTED,**

---

Lee E Huss  
Urban Forester

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
DESIGNSCAPE HORTICULTURAL SERVICES INC.  
FOR  
TREE CARE**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Designscape Horticultural Services Inc. (“Consultant”),

**WITNESSETH:**

WHEREAS, the Department wishes to hire the services of Consultant; and

WHEREAS, the Department requires the services of a professional consultant in order to perform the removal and pruning of hazardous trees along the south property line at RCA Park (the “Services” as further defined below); and

WHEREAS, it is in the public interest that such Services be undertaken and performed; and

WHEREAS, Consultant is willing and able to provide such Services to the Department.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**Article 1. Scope of Services**

Consultant shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2.

Consultant shall complete the Services required under this Agreement on or before July 31, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

In the performance of Consultant’s work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Lee Huss, Urban Forester as the Department’s Project Manager. Consultant agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care**

Consultant shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under

similar circumstances (“Standard of Care”). The Department shall be the sole judge of the adequacy of Consultant’s work in meeting the Standard of Care; however, the Department shall not unreasonably withhold its approval as to the adequacy of Consultant’s performance. Upon notice to Consultant and by mutual agreement between the parties, Consultant will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

**Article 3. Responsibilities of the Department**

The Department shall provide all necessary information regarding requirements for the Services. The Department shall furnish such information as expeditiously as is necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness of such information. The Department’s Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation**

The Department shall pay Consultant for all fees and expenses in an amount not to exceed Four Thousand Three Hundred Fifty Four Dollars and 10 Cents (\$4,354.10). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. The invoice shall be sent to:

Lee Huss  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

**Article 5. Appropriation of Funds**

Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Department are at any time not forthcoming or are insufficient, through failure of any entity, including the Department itself, to appropriate funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty.

**Article 6. Schedule**

Consultant shall perform the Services according to the schedule set forth in Exhibit B, Project Schedule, attached hereto and incorporated herein by reference. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination**

In the event of a party’s substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

The Department may terminate or suspend performance of this Agreement at the Department’s prerogative at any time upon written notice to Consultant. Consultant shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall

pay the Consultant for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Consultant's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Consultant in connection with this Agreement shall become the property of the Department, as set forth in Article 10 herein.

**Article 8. Identity of the Consultant**

Consultant acknowledges that one of the primary reasons for its selection by the Department to perform the Services is the qualifications and experience of Consultant. Consultant thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Consultant. Consultant shall not subcontract any part of the Services without the prior written permission of the Department. The Department reserves the right to reject any of the Consultant's personnel or proposed outside professional sub-consultants, and the Department reserves the right to request that acceptable replacement personnel be assigned to the project.

**Article 9. Opinions of Probable Cost**

All opinions of probable construction cost to be provided by Consultant shall represent the best judgment of Consultant based upon the information currently available and upon Consultant's background and experience with respect to projects of this nature. It is recognized, however, that neither Consultant nor the Department has control over the cost of labor, materials or equipment, over contractors' method of determining costs for services, or over competitive bidding, market or negotiating conditions. Accordingly, Department cannot and does not warrant or represent that the proposals or construction bids received will not vary from the cost estimates provided pursuant to this Agreement.

**Article 10. Reuse of Instruments of Service**

All documents, including but not limited to, drawings, specifications and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to this project. They are not intended or represented to be suitable for reuse by the Department or others on modifications or extensions of this project or on any other project. The Department may elect to reuse such documents; however any reuse or modification without prior written authorization of Consultant will be at the Department's sole risk and without liability or legal exposure to Consultant. The Department shall indemnify, defend, and hold harmless the Consultant against all judgments, losses, claims, damages, injuries and expenses arising out of or resulting from such unauthorized reuse or modification.

**Article 11. Ownership of Documents and Intellectual Property**

All documents, drawings and specifications, including digital format files, prepared by Consultant and furnished to the Department as part of the Services shall become the property of the Department. Consultant shall retain its ownership rights in its design, drawing details, specifications, databases, computer software and other proprietary property. Intellectual property developed, utilized or modified in the performance of the Services shall remain the property of Consultant.

**Article 12. Independent Contractor Status**

During the entire term of this Agreement, Consultant shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent

themselves to be, employees of the Department. Consultant shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of employees.

**Article 13. Indemnification**

Consultant shall defend, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, agents and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent act or failure to act or any misconduct on the part of the Consultant or its agents or employees, or any independent contractors directly responsible to it (collectively “Claims”).

**Article 14. Insurance**

During the performance of any and all Services under this Agreement, Consultant shall maintain the following insurance in full force and effect:

- a. General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate.
- b. Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- c. Professional Liability Insurance (“Errors and Omissions Insurance”) with a minimum limit of \$1,000,000 annual aggregate.
- d. Workers’ Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code.

All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers, employees and agents of each shall be named as insureds under the General Liability, Automobile, and Worker’s Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City’s will be called upon to contribute to a loss hereunder.

Consultant shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement. Approval of the insurance by the Department shall not relieve or decrease the extent to which Consultant may be held responsible for payment of damages resulting from Consultant’s provision of the Services or its operations under this Agreement. If Consultant fails or refuses to procure or maintain the insurance required by these provisions, or fails or refuses to furnish the Department’s required proof that the insurance has been procured and is in force and paid for, the Department shall have the right at its election to terminate the Agreement.

**Article 15. Conflict of Interest**

Consultant declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Consultant agrees that no person having any such interest shall be employed in the performance of this Agreement.

**Article 16. Waiver**

No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 17. Severability**

The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 18. Assignment**

Neither the Department nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

**Article 19. Third Party Rights**

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Department and Consultant.

**Article 20. Governing Law and Venue**

This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

**Article 21. Non-Discrimination**

Consultant shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in all regards, including, but not limited to, employment.

**Article 22. Compliance with Laws**

In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction over the project are in conflict, Consultant shall proceed using its best judgment only after attempting to resolve any such conflict between such governmental agencies, and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 23. E-Verify**

Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Consultant shall sign an affidavit, attached as Exhibit C, affirming that Consultant does not knowingly

employ an unauthorized alien. "Unauthorized alien" is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code chapter 12 or by the U.S. Attorney General.

Consultant and any subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Consultant or subcontractor subsequently learns is an unauthorized alien. If the City obtains information that the Consultant or subcontractor employs or retains an employee who is an unauthorized alien, the City shall notify the Consultant or subcontractor of the contract violation and require that the violation be remedied within 30 days of the date of notice. If the Consultant or subcontractor verified the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that the Consultant or subcontractor did not knowingly employ an unauthorized alien. If the Consultant or subcontractor fails to remedy the violation within the 30 day period, the City shall terminate the contract, unless the City Commission or department that entered into the contract determines that terminating the contract would be detrimental to the public interest or public property, in which case the City may allow the contract to remain in effect until the City procures a new Consultant. If the City terminates the contract, the Consultant or subcontractor is liable to the City for actual damages.

Consultant shall require any subcontractors performing work under this contract to certify to the Consultant that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Consultant shall maintain on file all subcontractors' certifications throughout the term of the contract with the City.

**Article 24. Notices**

Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

**Department:**

**Consultant:**

City of Bloomington	Designscape Horticultural Services Inc
Attn: Lee Huss	Attn: Gabriel Gluesenkamp
401 N. Morton, Suite 250	2877 T.C. Steele Road
Bloomington, Indiana 47402	Nashville, IN 47488

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Consultant.

**Article 25. Intent to be Bound**

The Department and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

**Article 26. Integration and Modification**

This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Consultant. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject



matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties hereto.

**Article 27. Non-Collusion**

Consultant is required to certify that it has not, nor has any other member, representative, or agent of Consultant, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Consultant shall sign an affidavit, attached hereto as Exhibit D, affirming that Consultant has not engaged in any collusive conduct. Exhibit D is attached hereto and incorporated by reference as though fully set forth.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year first written above.

**CITY OF BLOOMINGTON**

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel

**CITY OF BLOOMINGTON PARKS AND RECREATION**

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Kathleen Mills, President, Board of Park Commissioners

**DESIGNSCAPE HORTICULTURAL SERVICES INC.**

\_\_\_\_\_  
Gabriel Gluesenkamp, VP

## EXHIBIT A

### “Scope of Work”

Consultant to provide tree work for the following location:

**Locations 1** 401 N Morton St – City Hall. Air Spade 7 Red Maples trees, cut and remove girdling roots, backfill trench with compost, clean-up/fix any disturbed areas created.

**Location 2** 1300 Block of W Bloomfield Road. Install 3 Ginkgo ‘Princeton Sentry’ min 2” caliper in median. Rake back top dress stone for re-use. Stake and guy all trees. Clean-up/fix disturbed areas created.

**Location 3** Ferguson Dog Park. Transplant 3 existing tree at City Nursery site to Dog Park site at location provided by the Urban Forester. Clean up/fix any disturbed areas created.

**Project Contact:** This work is being coordinated by the City of Bloomington Department of Parks and Recreation Urban Forester and will be paid by the City.

**EXHIBIT B**  
**Schedule**

Work can begin April 1st, 2018. Completion date shall be no later than July 31, 2018.



**EXHIBIT D**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

**NON-COLLUSION AFFIDAVIT**

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**Designscape Horticultural Services Tree.**

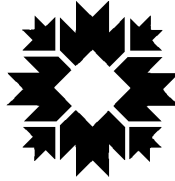
By: \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public's Signature My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public County of Residence: \_\_\_\_\_



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C11, C-12,C-13  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** John Turnbull, Division Director Sports  
**DATE:** March 3, 2018  
**SUBJECT:** REVIEW/APPROVAL OF THREE SERVICE AGREEMENTS

**Recommendation**

Staff recommends the review/approval of three service agreements for the Operations and Sports Division. The service agreements are with the following consultants.

1. Steve's Welding – general repairs/adjustments to equipment
2. Price Electric – general repairs to electric systems
3. DEEM – general repairs/adjustments to Ammonia Cooling systems at FSC

**Background**

The City of Bloomington Financial Policies Manual requires all public work projects to be approved in contract form by the Board of Park Commissioners. "Public Work" means any service done on city property that is paid for out of a public fund. The manual outlines that if the work involves routine operation, routine repair, or routine maintenance of existing structures, buildings or real property, the Board may award a contract for the public work in the manner provided in IC 5-22 for Public Purchasing. These service contracts are to manage emergency or standard repairs and/or service as the need arises.

**RESPECTFULLY SUBMITTED,**

---

Sports Division Director

## AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND STEVE'S WELDING

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and Steve's Welding ("Consultant").

**Article 1. Scope of Services** Consultant will perform welding repairs at City park properties and facilities ("Services") at an hourly rate of Sixty Five Dollars (\$65.00), with a minimum of one (1) hour charge plus materials. Consultant shall provide the Services for a set price per hour Monday-Friday 7:00am to 6:00pm and all other times for an afterhours rate of Sixty Five Dollars (\$65.00) with a minimum of one (1) hour charge plus materials. Parks Department would give Consultant at least two (2) working days' notice on repair. Repairs requiring more immediate action, ("Emergencies"), may be billed at an emergency hourly rate of Sixty Five Dollars (\$65.00) with a minimum of one (1) hour charge plus materials. Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Consultant shall complete the Services required under this Agreement on or before December 31, 2018 unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Consultant's work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Hsiung Marler for Frank Southern Ice Arena or Twin Lakes Sports Park, Aaron Craig for Golf Course, Dee Tuttle for Winslow Sports Complex, Olcott Park and Frank Southern Ice Arena, Chelsea Price for Pools, Daren Eads for Twin Lakes Recreation Center as the Department's Project Manager. Consultant agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care** Consultant shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances ("Standard of Care"). The Department shall be the sole judge of the adequacy of Consultant's work in meeting the Standard of Care; however, the Department shall not unreasonably withhold its approval as to the adequacy of Consultant's performance. Upon notice to Consultant and by mutual agreement between the parties, Consultant will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

**Article 3. Responsibilities of the Department** The Department shall provide all necessary information regarding requirements for the Services. The Department shall furnish such information as necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness of such information. The Department's Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation** The Department shall pay Consultant for all fees and expenses in an amount not to exceed Four Thousand Dollars (\$4,000). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Hsiung Marler for Frank Southern Ice Arena or Twin Lakes Sports Park, Aaron Craig for Golf Course, Dee Tuttle for Winslow Sports Complex, Olcott Park and Frank Southern Ice Arena, Chelsea Price for Pools, Daren Eads for Twin Lakes Recreation Center at City of Bloomington, 401 N. Morton, Suite 250, Bloomington, IN 47404. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

**Article 5. Appropriation of Funds** Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Department are at any time not forthcoming or are insufficient, through failure of any entity, including the Department itself, to appropriate funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty.

**Article 6. Schedule** Consultant shall perform the Services as needed. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination** In the event of a party's substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party. Additionally, the Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to Consultant. Consultant shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Consultant for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Consultant's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Consultant in connection with this Agreement shall become the property of the Department, as set forth in Article 9 herein.

**Article 8. Identity of the Consultant** Consultant acknowledges that one of the primary reasons for its selection by the Department to perform the Services is the qualifications and experience of Consultant. Consultant thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Consultant. Consultant shall not subcontract any part of the Services without the prior written permission of the Department. The Department reserves the right to reject any of the Consultant's personnel or proposed outside professional sub-consultants, and the Department reserves the right to request that acceptable replacement personnel be assigned to the project.

**Article 9. Ownership of Documents and Intellectual Property** All documents, drawings and specifications, including digital format files, prepared by Consultant and furnished to the Department as part of the Services shall become the property of the Department. Consultant shall retain its ownership rights in its design, drawing details, specifications, databases, computer software and other proprietary property. Intellectual property developed, utilized or modified in the performance of the Services shall remain the property of Consultant.

**Article 10. Independent Contractor Status** During the entire term of this Agreement, Consultant shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the Department. Consultant shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of employees.

**Article 11. Indemnification** Consultant shall defend, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, agents and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent act or failure to act or any misconduct on the part of the Consultant or its agents or employees, or any independent contractors directly responsible to it (collectively "Claims").

**Article 12. Insurance** During the performance of any and all Services under this Agreement, Consultant shall maintain the following insurance in full force and effect: a) General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate; b) Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each

accident; c) Workers' Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code; and d) Professional Liability Insurance ("Errors and Omissions Insurance") with a minimum limit of \$1,000,000 annual aggregate. All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers, employees and agents of each shall be named as insureds under the General Liability, Automobile, and Worker's Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City's will be called upon to contribute to a loss hereunder. Consultant shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement.

**Article 13. Conflict of Interest** Consultant declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Consultant agrees that no person having any such interest shall be employed in the performance of this Agreement.

**Article 14. Waiver** No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 15. Severability** The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 16. Assignment** Neither the Department nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

**Article 17. Third Party Rights** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the parties.

**Article 18. Governing Law and Venue** This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

**Article 19. Non-Discrimination** Consultant shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in all regards, including, but not limited to, employment.

**Article 20. Compliance with Laws** In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction over the project are in conflict, Consultant shall proceed using its best judgment only after attempting to resolve any such conflict between such governmental agencies, and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 21. E-Verify** Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Consultant shall sign an affidavit, attached as Exhibit A, affirming that Consultant does not knowingly employ an unauthorized alien. Consultant shall require any subcontractors performing work under this contract to certify to the Consultant that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Consultant shall maintain on file all subcontractors' certifications throughout the term of the contract with the City.

**Article 22. Notices** Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

**Department:** City of Bloomington, Attn: Hsiung Marler for Frank Southern Ice Arena or Twin Lakes Sports Park, Aaron Craig for Golf Course, Dee Tuttle for Winslow Sports Complex, Olcott Park and Frank Southern Ice Arena, Chelsea Price for Pools, Daren Eads for Twin Lakes Recreation Center, 401 N. Morton, Bloomington, IN 47402. **Consultant:** Young Plumbing & Mechanical, INC 5161 North Old State Road 37, Bloomington, IN 47408. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Consultant.

**Article 23. Integration and Modification** This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Consultant. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties hereto.

**Article 24. Non-Collusion** Consultant is required to certify that it has not, nor has any other member, representative, or agent of Consultant, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Consultant shall sign an affidavit, attached hereto as Exhibit B, affirming that Consultant has not engaged in any collusive conduct. Exhibit B is attached hereto and incorporated by reference as though fully set forth.

**CITY OF BLOOMINGTON**

**Steve's Welding**

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel

\_\_\_\_\_  
Name of Signatory, Title

**CITY OF BLOOMINGTON PARKS AND RECREATION**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Kathleen Mills, President, Board of Park Commissioners





**EXHIBIT B**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

**NON-COLLUSION AFFIDAVIT**

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**Steve's Welding**

By: \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
Notary Public's Signature

\_\_\_\_\_ County of Residence: \_\_\_\_\_  
Printed Name of Notary Public

## AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND PRICE ELECTRIC, INC.

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and Price Electric, Inc. ("Consultant").

**Article 1. Scope of Services** Consultant shall repair, adjust, and/or replace lighting and electrical components at City park properties and facilities ("Services") at an hourly rate of Fifty Nine Dollars (\$59.00), with a minimum of one (1) hour charge plus materials. Consultant shall provide the Services for a set price per hour Monday-Friday 7:00am to 6:00pm and all other times for an afterhour's hourly rate of Eighty Eight Dollars and Fifty Cents (\$88.50) with a minimum of one (1) hour charge plus materials. Consultant may charge a Twenty-Five Dollar (\$25.00) trip fee. Repairs requiring more immediate action ("Emergencies") may be billed at an emergency hourly rate Eighty Eight Dollars and Fifty Cents (\$88.50) with a minimum of one (1) hour charge plus materials. Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent the Standard of Care identified in Article 2. Consultant shall complete the Services required under this Agreement on or before Sunday, December 31, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related and desirable, including primary coordination with Hsiung Marler and/or Chris Lamb for Frank Southern Ice Arena, Aaron Craig for Golf Course, Dee Tuttle for Winslow Sports Complex, Frank Southern Ice Arena and Olcott Park, Chelsea Price for Pools, Daren Eads for Twin Lakes Recreation Center as the Department's Project Manager. Consultant agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department. Upon agreement with both parties this agreement may be extended for one year.

**Article 2. Standard of Care** Consultant shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances ("Standard of Care"). The Department shall be the sole judge of the adequacy of Consultant's work in meeting the Standard of Care; however, the Department shall not unreasonably withhold its approval as to the adequacy of Consultant's performance. Upon notice to Consultant and by mutual agreement between the parties, Consultant will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

**Article 3. Responsibilities of the Department** The Department shall provide all necessary information regarding requirements for the Services. The Department shall furnish such information as necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness of such information. The Department's Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation** The Department shall pay Consultant for all fees and expenses in an amount not to exceed Four Thousand Dollars (\$4,000). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Hsiung Marler for Frank Southern Ice Arena or Twin Lakes Sports Park, Aaron Craig for Golf Course, Dee Tuttle for Winslow Sports Complex, Frank Southern Ice Arena and Olcott Park, Chelsea Price for Pools, Daren Eads for Twin Lakes Recreation Center at City of Bloomington, 401 N. Morton, Suite 250, Bloomington, IN 47404. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within Forty Five (45) days of receipt of invoice. Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

**Article 5. Appropriation of Funds** Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Department are at any time not forthcoming or are insufficient, through failure of any entity, including the Department itself, to appropriate funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty.

**Article 6. Schedule** Consultant shall perform the Services as needed. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination** In the event of a party's substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party. Additionally, the Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to Consultant. Consultant shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Consultant for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Consultant's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Consultant in connection with this Agreement shall become the property of the Department, as set forth in Article 9 herein.

**Article 8. Identity of the Consultant** Consultant acknowledges that one of the primary reasons for its selection by the Department to perform the Services is the qualifications and experience of Consultant. Consultant thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Consultant. Consultant shall not subcontract any part of the Services without the prior written permission of the Department. The Department reserves the right to reject any of the Consultant's personnel or proposed outside professional sub-consultants, and the Department reserves the right to request that acceptable replacement personnel be assigned to the project.

**Article 9. Ownership of Documents and Intellectual Property** All documents, drawings and specifications, including digital format files, prepared by Consultant and furnished to the Department as part of the Services shall become the property of the Department. Consultant shall retain its ownership rights in its design, drawing details, specifications, databases, computer software and other proprietary property. Intellectual property developed, utilized or modified in the performance of the Services shall remain the property of Consultant.

**Article 10. Independent Contractor Status** During the entire term of this Agreement, Consultant shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the Department. Consultant shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of employees.

**Article 11. Indemnification** Consultant shall defend, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, agents and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent act or failure to act or any misconduct on the part of the Consultant or its agents or employees, or any independent contractors directly responsible to it (collectively "Claims").

**Article 12. Insurance** During the performance of any and all Services under this Agreement, Consultant shall maintain the following insurance in full force and effect: a) General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate; b) Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each

accident; c) Workers' Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code; and d) Professional Liability Insurance ("Errors and Omissions Insurance") with a minimum limit of \$1,000,000 annual aggregate. All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers, employees and agents of each shall be named as insureds under the General Liability, Automobile, and Worker's Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City's will be called upon to contribute to a loss hereunder. Consultant shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement.

**Article 13. Conflict of Interest** Consultant declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Consultant agrees that no person having any such interest shall be employed in the performance of this Agreement.

**Article 14. Waiver** No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 15. Severability** The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 16. Assignment** Neither the Department nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

**Article 17. Third Party Rights** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the parties.

**Article 18. Governing Law and Venue** This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

**Article 19. Non-Discrimination** Consultant shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in all regards, including, but not limited to, employment.

**Article 20. Compliance with Laws** In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction over the project are in conflict, Consultant shall proceed using its best judgment only after attempting to resolve any such conflict between such governmental agencies, and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 21. E-Verify** Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Consultant shall sign an affidavit, attached as Exhibit A, affirming that Consultant does not knowingly employ an unauthorized alien. Consultant shall require any subcontractors performing work under this contract to certify to the Consultant that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Consultant shall maintain on file all subcontractors' certifications throughout the term of the contract with the City.

**Article 22. Notices** Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

**Department:** City of Bloomington, Attn: Hsiung Marler for Frank Southern Ice Arena or Twin Lakes Sports Park, Aaron Craig for Golf Course, Chelsea Price for Pools, Dee Tuttle for Winslow Sports Complex, Frank Southern Ice Arena and Olcott Park, Daren Eads for Twin Lakes Recreation Center, 401 N. Morton, Bloomington, IN 47402. **Consultant:** Price Electric, INC, 724 E Thornton Drive Bloomington, IN 47401. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Consultant.

**Article 23. Integration and Modification** This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Consultant. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties hereto.

**Article 24. Non-Collusion** Consultant is required to certify that it has not, nor has any other member, representative, or agent of Consultant, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Consultant shall sign an affidavit, attached hereto as Exhibit B, affirming that Consultant has not engaged in any collusive conduct. Exhibit B is attached hereto and incorporated by reference as though fully set forth.

**CITY OF BLOOMINGTON**

**PRICE ELECTRIC, INC.**

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel

\_\_\_\_\_  
Name of Signatory, Title

**CITY OF BLOOMINGTON PARKS AND RECREATION**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Kathleen Mills, President, Board of Park Commissioners

**EXHIBIT A**  
**E-VERIFY AFFIDAVIT**

STATE OF INDIANA )  
 )SS:  
COUNTY OF \_\_\_\_\_)

AFFIDAVIT

The undersigned, being duly sworn, hereby affirms and says that:

1. The undersigned is the \_\_\_\_\_ of \_\_\_\_\_.  
(job title) (company name)
2. The company named herein that employs the undersigned:
  - i. has contracted with or seeking to contract with the City of Bloomington to provide services; **OR**
  - ii. is a subcontractor on a contract to provide services to the City of Bloomington.
3. The undersigned hereby states that, to the best of his/her knowledge and belief, the company named herein does not knowingly employ an "unauthorized alien," as defined at 8 United States Code 1324a(h)(3).
4. The undersigned hereby states that, to the best of his/her belief, the company named herein is enrolled in and participates in the E-verify program.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

STATE OF INDIANA )  
 )SS:  
COUNTY OF \_\_\_\_\_)

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public's Signature      My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public      County of Residence: \_\_\_\_\_

**EXHIBIT B**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

**NON-COLLUSION AFFIDAVIT**

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**Price Electric, Inc.**

By: \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
Notary Public's Signature

\_\_\_\_\_ County of Residence: \_\_\_\_\_  
Printed Name of Notary Public

## AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND DEEM, LLC

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and DEEM, LLC ("Consultant").

**Article 1. Scope of Services** Consultant shall repair, adjust, and/or replace at City park properties and facilities ("Services") as needed. Provisions of services at an hourly rate of One Hundred Dollars (\$100.00) per technician plus materials. Consultant shall provide the Services for a set price per hour Monday—Friday 7:00 a.m. to 6:00 p.m. and all other times for an hourly rate of One Hundred Fifty Dollars (\$150.00) per technician plus materials. Consultant may charge a Sixty Dollars (\$60.00) truck charge.

Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Consultant shall complete the Services required under this Agreement on or before December 31, 2018 unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Consultant's work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Hsiung Marler for Frank Southern Ice as the Department's Project Manager. Consultant agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care** Consultant shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances ("Standard of Care"). The Department shall be the sole judge of the adequacy of Consultant's work in meeting the Standard of Care; however, the Department shall not unreasonably withhold its approval as to the adequacy of Consultant's performance. Upon notice to Consultant and by mutual agreement between the parties, Consultant will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

**Article 3. Responsibilities of the Department** The Department shall provide all necessary information regarding requirements for the Services. The Department shall furnish such information as necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness of such information. The Department's Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation** The Department shall pay Consultant for all fees and expenses in an amount not to exceed Four Thousand Dollars (\$4000). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Hsiung Marler for Frank Southern Ice Arena, 401 N. Morton, Suite 250, Bloomington, IN 47404. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

**Article 5. Appropriation of Funds** Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Department are at any time not forthcoming or are insufficient, through failure of any entity, including the Department itself, to appropriate funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty.

**Article 6. Schedule** Consultant shall perform the Services as needed.

The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination** In the event of a party's substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party. Additionally, the Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to Consultant. Consultant shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Consultant for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Consultant's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Consultant in connection with this Agreement shall become the property of the Department, as set forth in Article 9 herein.

**Article 8. Identity of the Consultant** Consultant acknowledges that one of the primary reasons for its selection by the Department to perform the Services is the qualifications and experience of Consultant. Consultant thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Consultant. Consultant shall not subcontract any part of the Services without the prior written permission of the Department. The Department reserves the right to reject any of the Consultant's personnel or proposed outside professional sub-consultants, and the Department reserves the right to request that acceptable replacement personnel be assigned to the project.

**Article 9. Ownership of Documents and Intellectual Property** All documents, drawings and specifications, including digital format files, prepared by Consultant and furnished to the Department as part of the Services shall become the property of the Department. Consultant shall retain its ownership rights in its design, drawing details, specifications, databases, computer software and other proprietary property. Intellectual property developed, utilized or modified in the performance of the Services shall remain the property of Consultant.

**Article 10. Independent Contractor Status** During the entire term of this Agreement, Consultant shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the Department. Consultant shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of employees.

**Article 11. Indemnification** Consultant shall defend, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, agents and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent act or failure to act or any misconduct on the part of the Consultant or its agents or employees, or any independent contractors directly responsible to it (collectively "Claims").

**Article 12. Insurance** During the performance of any and all Services under this Agreement, Consultant shall maintain the following insurance in full force and effect: a) General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate; b) Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident; c) Workers' Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code; and d) Professional Liability Insurance ("Errors and Omissions Insurance") with a minimum limit of \$1,000,000 annual aggregate. All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers, employees and agents of each shall be named as insureds under the General Liability, Automobile, and Worker's Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City's will be called upon to contribute

to a loss hereunder. Consultant shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement.

**Article 13. Conflict of Interest** Consultant declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Consultant agrees that no person having any such interest shall be employed in the performance of this Agreement.

**Article 14. Waiver** No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 15. Severability** The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 16. Assignment** Neither the Department nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

**Article 17. Third Party Rights** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the parties.

**Article 18. Governing Law and Venue** This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

**Article 19. Non-Discrimination** Consultant shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in all regards, including, but not limited to, employment.

**Article 20. Compliance with Laws** In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction over the project are in conflict, Consultant shall proceed using its best judgment only after attempting to resolve any such conflict between such governmental agencies, and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 21. E-Verify** Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Consultant shall sign an affidavit, attached as Exhibit A, affirming that Consultant does not knowingly employ an unauthorized alien. Consultant shall require any subcontractors performing work under this contract to certify to the Consultant that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Consultant shall maintain on file all subcontractors' certifications throughout the term of the contract with the City.

**Article 22. Notices** Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

**Department:** City of Bloomington, **Attn: Hsiung Marler for Frank Southern Ice Arena, 401 N. Morton, Bloomington, IN 47402.** **Consultant:** DEEM, LLC, 6831 East 32<sup>nd</sup> Street, Ste 200, Indianapolis, IN 46226. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Consultant.

**Article 23. Integration and Modification** This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Consultant. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties hereto.

**Article 24. Non-Collusion** Consultant is required to certify that it has not, nor has any other member, representative, or agent of Consultant, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Consultant shall sign an affidavit, attached hereto as Exhibit B, affirming that Consultant has not engaged in any collusive conduct. Exhibit B is attached hereto and incorporated by reference as though fully set forth.

**CITY OF BLOOMINGTON**

**DEEM, LLC**

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel

\_\_\_\_\_  
Name of Signatory, Title

**CITY OF BLOOMINGTON PARKS AND RECREATION**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Kathleen Mills, President, Board of Park Commissioners





**EXHIBIT B**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

**NON-COLLUSION AFFIDAVIT**

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**DEEM, LLC**

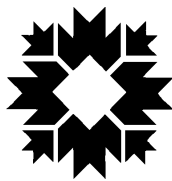
By: \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
Notary Public's Signature

\_\_\_\_\_ County of Residence: \_\_\_\_\_  
Printed Name of Notary Public



CITY OF BLOOMINGTON  
parks and recreation

STAFF REPORT

Agenda Item: C-14  
Date: 4/3/2018

Administrator  
Review/Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Chelsea Price, Aquatic Program Coordinator  
**DATE:** March 24, 2018  
**SUBJECT:** **REVIEW/APPROVAL OF AGREEMENT WITH MONROE COUNTY UNITED MINISTRIES (MCUM)**

**Recommendation**

Staff recommends the approval of this agreement. Staff and participants in MCUM program who enter the facility shall either pay an admissions fee of \$3 per person, or fee waiver for regular admittance. MCUM shall track daily attendance and provide payment at the end of the season based on the aforementioned fee structure.

**Background**

Monroe County United Ministries has a long history of using Mills Pool for their Childcare program. Their visit occurs one hour before normal operating hours. Some pre-existing pricing structures have allowed them to do this at a reduced rate from what would typically be defined as a pool rental.

Because of the long history of cooperation and MCUM's charitable structure, we are agreeing to continue this practice. MCUM will cover direct staffing costs during their visit, in addition, they will pay regular admission fees for children in their program that do not qualify for seasonal fee waiver passes. This arrangement results in a more affordable price for MCUM than charging them for a one hour rental.

**RESPECTFULLY SUBMITTED,**

---

Chelsea Price, Aquatics Coordinator



**AGREEMENT FOR THE USE  
OF  
CITY OF BLOOMINGTON  
MILLS POOL**

**WHEREAS**, Monroe County United Ministries (hereinafter referred to as “MCUM”), located at 827 West 14<sup>th</sup> Court, Bloomington, Indiana, desires the use of a Mills Pool for its summer day camp programs; and

**WHEREAS**, the City of Bloomington Department of Parks and Recreation (hereinafter referred to as “City”) owns and operates the Mills Swimming Pool (“Mills Pool”); and

**WHEREAS**, the City wishes to allow MCUM the use of the Mills Pool at a discounted rate.

**NOW, THEREFORE**, in consideration of the terms and conditions set forth below, the parties agree as follows:

- 1. Purpose of the Agreement.** The purpose of the Agreement is for the City to allow MCUM limited use of Mills Swimming Pool for MCUM’s morning pre-school childcare program at a discounted rate.
- 2. Duration of Agreement.** This Agreement shall be in full force and effect from the date both parties sign this Contractual Agreement until August 4, 2018, unless terminated in accordance with paragraph nine (9) of this Agreement.
- 3. Days and Hours of Use.** The City hereby grants MCUM permission to use Mills Swimming Pool as follows:

MCUM shall be permitted to use the facility’s family activity pool area (Splash Zone) as part of MCUM’s preschool childcare program activities (for children ages 3-6 years) every Tuesday, Wednesday, and Thursday from June 26<sup>th</sup>, 2018 through August 2<sup>nd</sup>, 2018 from 10:00 a.m. to 11:00 a.m.
- 4. Participant Fees.** Staff and participants in the MCUM program who enter the facility shall either pay an admissions fee of \$4 per person or fee waiver for regular admittance. MCUM shall track daily attendance and provide payment at the end of the season based on the above pay structure.
- 5. Life Guards.** MCUM agrees to pay the City the cost of providing a supervisor and lifeguard at the time that the preschoolers are using the family activity pool area. The rate is fifteen dollars (\$15.00) per hour for the supervisor and thirteen dollars (\$13.00) per hour for the lifeguard.
- 6. Supervision.** MCUM agrees to provide supervisory personnel at a ratio of one (1) supervisor to every five (5) children during the time that the preschoolers are

using the family activity pool area. Their supervisors must be in the water with the children, and within arm's length of children 5 and under.

- 7. Responsibility for Damages; Indemnification.** MCUM agrees to assume full responsibility for the actions and behavior of all MCUM program participants and accompanying supervisors while using said facility.

In consideration for the use of Mills Pool, MCUM agrees to assume full and complete responsibility for all bodily injury, including death, and property damage which may occur as a result of the acts and omissions of MCUM, its officers, director, agents, employees, members, participants, successors and assigns, in the use of Mills Swimming Pool.

Further, in consideration for the use of Mills Swimming Pool, MCUM agrees to release, hold harmless, and indemnify the City of Bloomington, its Department of Parks and Recreation, and all City of Bloomington and Parks and Recreation officers, employees, and agents from any and all claims for personal injury, including death, or property damage that may occur as a result of the acts and omissions of MCUM, its officers, director, agents, employees, members, participants, successors and assigns, in the use of Mills Swimming Pool.

- 8. Rules and Regulations.** MCUM shall comply with all rules and regulations established by the City's Department of Parks and Recreation for use of Mills Swimming Pool. MCUM shall further require its preschool program participants and accompanying supervisors to comply with all said rules and regulations.

**Notice and Agreement Representatives**

Notice regarding any significant concerns and/or breaches of this Agreement shall be given to:

**Monroe County United Ministries**  
Erin Predmore, Executive Director  
827 W. 14<sup>th</sup> Court  
Bloomington, IN 47404  
(812) 339-3429 ext. 11

**Bloomington Parks and Recreation**  
Mark Sterner, General Manager  
1700 W. Bloomfield rd  
Bloomington, IN 47403  
(812) 349-3768

Representatives for the day-to-day operations and implementation of this Agreement shall be:

**Monroe County United Ministries**  
Jen Smallwood, Director of Operations  
827 W. 14<sup>th</sup> Court  
Bloomington, IN 47404  
(812) 339-3429 ext. 10  
childcare@mcum.org

**Bloomington Parks and Recreation**  
Chelsea Price, Aquatics Coordinator  
1700 W. Bloomfield rd  
Bloomington, IN 47403  
(812) 349-3769  
Pricec@bloomington.in.gov

- 9. Termination.** This contract may only be terminated in writing and by the mutual agreement of all parties to this Contractual Agreement.

WHEREFORE, the parties have entered into this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

**Bloomington Parks and Recreation**

**Monroe County United Ministries**

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Erin Predmore, Executive Director

\_\_\_\_\_  
Kathleen Mills, Park Board President  
Board of Park Commissioners

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel



CITY OF BLOOMINGTON  
parks and recreation

STAFF REPORT

Agenda Item: C-15  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Parks Commissioners  
**FROM:** Chelsea Price  
**DATE:** March 1, 2018  
**SUBJECT:** SOUTHERN INDIANA SCUBA AGREEMENT INVOLVING BRYAN AND MILLS POOL.

**Recommendation**

Staff recommends the approval of this contract with IN Scuba.

**Background**

Southern Indiana Scuba uses Mills Pool to teach scuba classes in exchange of having discover scuba days and helping to sponsor movies at the pool in the amount of \$500.00.

**RESPECTFULLY SUBMITTED,**

Chelsea Price, Aquatics Coordinator



**PROGRAM PARTNERSHIP AGREEMENT  
BETWEEN  
THE CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
SOUTHERN INDIANA SCUBA**

This agreement is made and entered into this \_\_\_\_\_day of May 2018, by and between the Bloomington Parks and Recreation Department, (BPRD) and Southern Indiana Scuba, (SIS).

**WHEREAS**, the BPRD and SIS desire to cooperate in the provision of Professional Association of Diving Instructors (“PADI”)/ Scuba Schools International (“SSI”) Scuba programs and,

**WHEREAS**, SIS is qualified to perform such services with BPRD; and

**WHEREAS**, the BPRD is authorized to plan and develop partnerships and contractual arrangements with non-city organizations to ensure delivery of diverse services.

**NOW THEREFORE**, in consideration of the terms and conditions set forth herein, the parties agree as follows:

- 1. Purpose of Agreement:** The purpose of this agreement is to outline a program partnership which provides for scuba diving opportunities for the Bloomington community by combining available resources from each party to the agreement.
- 2. Duration of Agreement:** This agreement shall be in full force and effect from May 1, 2018 to September 30, 2018 unless early termination occurs as described in Article 9.0 below.
- 3. Bloomington Parks & Recreation:** The goal of BPRD is to build a positive relationship with SIS in order to provide a variety of scuba diving opportunities and adventures for the Bloomington community in a safe environment. BPRD agrees to:
  - a. Provide pool time/space at Mills Pool for two (2) Discover Scuba classes, (one hour each), during the summer months of May, June, July and August.
  - b. Provide pool time and space at Mills Pool for two (2) Open Water Dive certification classes, (6-8 hours each), during the summer months of May, June, and July. Site locations will be at the discretion of BPRD to ensure efficient use of staff resources.
  - c. Provide a pool supervisor on site to open and close the facility and assist with facility-related manners.
  - d. Promote the Discover Scuba program in Spring/Summer Program Guide listing SIS as a partner.
  - e. SIS will pay \$500 toward the staffing of one (1) Bryan Park Pool movie.
- 4. Southern Indiana Scuba:** The goals of SIS are to provide opportunities for water enthusiasts to experience scuba free which may lead to further interests in scuba diving programs. SIS agrees to:

- a. Work closely with BPRD on the planning and implementation of scuba programs.
- b. Accept the limitations of pool use days and times for the provision of scuba programs.
- c. Provide experienced and qualified scuba instructors for all scuba related programs taking place at Bryan Park and/or Mills Pool.
- d. Work closely with BPRD to plan, implement and provide a professionally trained Master Scuba Diver guide during scuba trip to the Florida Keys as a culminating event of Scuba Camp.
- e. Help to sponsor at least one (1) *Evening with the Stars* movie event to take place at Bryan Park Pool.
- f. Promote Bloomington Parks and Recreation Department programs through the distribution of program guides in SIS's shop and recognition in SIS's quarterly newsletter.

**5. Agreement Terms Mutually Agreed To By All Partners to this Agreement:**

- a. The intent of this agreement is to document a mutually beneficial partnership between SIS and BPRD.
- b. The staff and personnel involved in this agreement will at all times represent all parties to this agreement in a professional manner and reflect the commitment of all parties to quality services and customer satisfaction.
- c. The commitment of personnel, facilities, supplies, materials, and payments will be honored according to the timetable agreed upon by all partners.
- d. SIS is recognized as having the expertise and experience to run the production safely and effectively. BPRD shall have the right to review risk management, agreement terms, and service quality issues.
- e. Bloomington Municipal Code sections 6.12.020 and 14.36.090 `respectively prohibit smoking inside city facilities and the consumption of alcoholic beverages on city property.
- f. The possession of alcoholic beverages, drugs and other illegal controlled substances is strictly prohibited in any park or park facility. In addition, pursuant to Bloomington Municipal Code 14.20.020, the discharge of a firearm is strictly prohibited within the City's jurisdiction. Amplified music, or the promotion or sale of any article is expressly prohibited without a Special Use Permit.
- g. This Agreement and the services provided will be evaluated in January 2019

**6. Insurance:** SIS shall maintain comprehensive general liability insurance, with a minimum combined single limit of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate. The policy shall name the City of Bloomington Parks and Recreation Department as an additional insured, and SIS shall provide BPRD with a certificate of insurance prior to the commencement of operations under this Agreement. SIS and its insurer shall notify BPRD within ten (10) days of any insurance cancellation.

**7. Mutual Indemnity and Release of Liability:** Each party agrees to release, hold harmless and forever indemnify the other party and its employees, officer and agents from any and all claims or causes of action that may arise from its reckless, negligent or intentional acts or failure to act in performance of this Agreement. This includes claims for personal injury, property damage, and/or any other type of claim which may arise

from these activities, whether such claims may be brought by the undersigned or by any third party.

- 8. Notice and Agreement Representatives:** Notice regarding any significant concerns and/or breaches of this Agreement shall be given to:

**Southern Indiana Scuba**  
Mark T. Brooks  
(812) 336-2527  
[info@southernindianascuba.com](mailto:info@southernindianascuba.com)  
6500 S. Empire Rd.  
Bloomington, IN 47401

**Bloomington Parks and Recreation:**  
Chelsea Burris, Aquatics Coordinator  
(812) 349-3769  
[pricec@bloomington.in.gov](mailto:pricec@bloomington.in.gov)  
1700 W. Bloomfield Rd.  
Bloomington, IN 47403

- 9. Termination.** This contract may only be terminated in writing and by the mutual agreement of all parties to this Contractual Agreement.

WHEREFORE, the parties have entered into this Agreement on this\_day of \_\_\_\_\_2018.

**Bloomington Parks and Recreation**

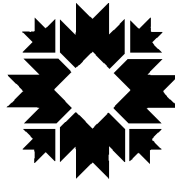
**Southern Indiana Scuba**

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Mark T. Brooks

\_\_\_\_\_  
Kathleen Mills, Park Board President  
Board of Park Commissioners

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-16  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Joanna Sparks, City Landscaper  
**DATE:** April 3, 2018  
**SUBJECT:** Contractual Mowing Services by C&H Lawn & Landscaping Inc.

**Recommendation**

Staff recommends the approval of this Contract with C&H Lawn & Landscape Inc. to perform regular mowing services at 24 locations during 2018 for \$47,500.00.

**Background**

The Operations Division has increasingly turned to mowing service contractors for grounds maintenance at selected park properties, facilities, and public right-of-ways in an ongoing effort to increase efficiency and lower costs. Four companies submitted quotations for the mowing contract. C&H Lawn & Landscaping Inc. of Bloomington was the lowest bidder. They met all bidding requirements and received positive comments from references contacted.

**RESPECTFULLY SUBMITTED,**

*Joanna Sparks*

Joanna Sparks, City Landscaper

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
C&H LAWN & LANDSCAPING INC.  
FOR  
2018 MOWING SERVICES AT 24 LOCATIONS**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and C&H Lawn & Landscaping Inc. (“Contractor”),

**WITNESSETH:**

WHEREAS, the Department wishes to retain the Contractor’s services for 2018 mowing (more particularly described in Exhibit A, “Scope of Work”); and

WHEREAS, the Department requires the services of a professional contractor in order to perform these mowing services (the “Services” as further defined below); and

WHEREAS, it is in the public interest that such Services be undertaken and performed; and

WHEREAS, Contractor is willing and able to provide such Services to the Department.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**Article 1. Scope of Services**

Contractor shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2.

Contractor shall complete the Services required under this Agreement on or before November 30, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. The term of this contract shall be for one year with the option to renew for two more terms (three year maximum) under exact terms of original contract.

In the performance of Contractor’s work, Contractor agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Joanna Sparks, City Landscaper, as the Department’s Project Manager. Contractor agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Contractor for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care**

Contractor shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances (“Standard of Care”). The Department shall be the sole judge of the adequacy of Contractor’s work in meeting the Standard of Care; however, the Department shall not unreasonably withhold its approval as to the adequacy of Contractor’s performance. Upon notice to Contractor and by mutual agreement between the parties, Contractor will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care. Standard of Care is specified in, but is not limited to, Exhibit B, “Standard of Care”, attached hereto and incorporated into this Agreement.

**Article 3. Responsibilities of the Department**

The Department shall provide all necessary information regarding requirements for the Services. The Department shall furnish such information as expeditiously as is necessary for the orderly progress of the work, and Contractor shall be entitled to rely upon the accuracy and completeness of such information. The Department’s Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation**

The Department shall pay Contractor for all fees and expenses in an amount not to exceed Forty Seven Thousand Five Hundred Dollars and Zero Cents (\$47,500.00) as specified in Exhibit F, “Mowing Quote Form”, attached hereto and incorporated into this Agreement. Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor within Forty Five (45) days of receipt of invoice. The invoice shall be sent to:

Joanna Sparks, City Landscaper  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

**Article 5. Appropriation of Funds**

Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Department are at any time not forthcoming or are insufficient, through failure of any entity, including the Department itself, to appropriate funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty.

**Article 6. Schedule**

Contractor shall perform the Services according to the schedule set forth in Exhibit C, Project Schedule, attached hereto and incorporated herein by reference. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination**

In the event of a party’s substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The

nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

The Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to Contractor. Contractor shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Contractor for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Contractor's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Contractor in connection with this Agreement shall become the property of the Department, as set forth in Article 10 herein.

**Article 8. Identity of the Contractor**

Contractor acknowledges that one of the primary reasons for its selection by the Department to perform the Services is the qualifications and experience of Contractor. Contractor thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Contractor. Contractor shall not subcontract any part of the Services without the prior written permission of the Department. The Department reserves the right to reject any of the Contractor's personnel or proposed outside professional sub-contractors, and the Department reserves the right to request that acceptable replacement personnel be assigned to the project.

**Article 9. Opinions of Probable Cost**

All opinions of probable construction cost to be provided by Contractor shall represent the best judgment of Contractor based upon the information currently available and upon Contractor's background and experience with respect to projects of this nature. It is recognized, however, that neither Contractor nor the Department has control over the cost of labor, materials or equipment, over contractors' method of determining costs for services, or over competitive bidding, market or negotiating conditions. Accordingly, Department cannot and does not warrant or represent that the proposals or construction bids received will not vary from the cost estimates provided pursuant to this Agreement.

**Article 10. Reuse of Instruments of Service**

All documents, including but not limited to, drawings, specifications and computer software prepared by Contractor pursuant to this Agreement are instruments of service in respect to this project. They are not intended or represented to be suitable for reuse by the Department or others on modifications or extensions of this project or on any other project. The Department may elect to reuse such documents; however any reuse or modification without prior written authorization of Contractor will be at the Department's sole risk and without liability or legal exposure to Contractor. The Department shall indemnify, defend, and hold harmless the Contractor against all judgments, losses, claims, damages, injuries and expenses arising out of or resulting from such unauthorized reuse or modification.

**Article 11. Ownership of Documents and Intellectual Property**

All documents, drawings and specifications, including digital format files, prepared by Contractor and furnished to the Department as part of the Services shall become the property of the Department. Contractor shall retain its ownership rights in its design, drawing details, specifications, databases, computer software and other proprietary property. Intellectual property

developed, utilized or modified in the performance of the Services shall remain the property of Contractor.

**Article 12. Independent Contractor Status**

During the entire term of this Agreement, Contractor shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the Department. Contractor shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of employees.

**Article 13. Indemnification**

Contractor shall defend, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, agents and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent act or failure to act or any misconduct on the part of the Contractor or its agents or employees, or any independent contractors directly responsible to it (collectively "Claims").

**Article 14. Insurance**

During the performance of any and all Services under this Agreement, Contractor shall maintain the following insurance in full force and effect:

- a. General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate.
- b. Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- c. Professional Liability Insurance ("Errors and Omissions Insurance") with a minimum limit of \$1,000,000 annual aggregate.
- d. Workers' Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code.

All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers, employees and agents of each shall be named as insureds under the General Liability, Automobile, and Worker's Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City's will be called upon to contribute to a loss hereunder.

Contractor shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement. Approval of the insurance by the Department shall not relieve or decrease the extent to which Contractor may be held responsible for payment of damages resulting from Contractor's provision of the Services or its operations under this Agreement. If Contractor fails or refuses to procure or maintain the insurance required by these provisions, or



fails or refuses to furnish the Department's required proof that the insurance has been procured and is in force and paid for, the Department shall have the right at its election to terminate the Agreement.

**Article 15. Conflict of Interest**

Contractor declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Contractor agrees that no person having any such interest shall be employed in the performance of this Agreement.

**Article 16. Waiver**

No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 17. Severability**

The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 18. Assignment**

Neither the Department nor the Contractor shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

**Article 19. Third Party Rights**

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Department and Contractor.

**Article 20. Governing Law and Venue**

This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

**Article 21. Non-Discrimination**

Contractor shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in all regards, including, but not limited to, employment.

**Article 22. Compliance with Laws**

In performing the Services under this Agreement, Contractor shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction over the project are in conflict, Contractor shall proceed using its

best judgment only after attempting to resolve any such conflict between such governmental agencies, and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 23. E-Verify**

Contractor is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Contractor shall sign an affidavit, attached as Exhibit D, affirming that Contractor does not knowingly employ an unauthorized alien. “Unauthorized alien” is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code chapter 12 or by the U.S. Attorney General.

Contractor and any subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Contractor or subcontractor subsequently learns is an unauthorized alien. If the City obtains information that the Contractor or subcontractor employs or retains an employee who is an unauthorized alien, the City shall notify the Contractor or subcontractor of the contract violation and require that the violation be remedied within 30 days of the date of notice. If the Contractor or subcontractor verified the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that the Contractor or subcontractor did not knowingly employ an unauthorized alien. If the Contractor or subcontractor fails to remedy the violation within the 30 day period, the City shall terminate the contract, unless the City Commission or department that entered into the contract determines that terminating the contract would be detrimental to the public interest or public property, in which case the City may allow the contract to remain in effect until the City procures a new Contractor. If the City terminates the contract, the Contractor or subcontractor is liable to the City for actual damages.

Contractor shall require any subcontractors performing work under this contract to certify to the Contractor that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Contractor shall maintain on file all subcontractors’ certifications throughout the term of the contract with the City.

**Article 24. Notices**

Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

**Department:**

**Contractor:**

City of Bloomington	C&H Lawn & Landscaping Inc.
Attn: Joanna Sparks, City Landscaper	Attn: Clay Holmstrom
401 N. Morton, Suite 250	4388 West Vernal Pike
Bloomington, Indiana 47402	Bloomington, IN 47404

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Contractor.

**Article 25. Intent to be Bound**

The Department and Contractor each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

**Article 26. Integration and Modification**

This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Contractor. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties hereto.

**Article 27. Non-Collusion**

Contractor is required to certify that it has not, nor has any other member, representative, or agent of Contractor, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Contractor shall sign an affidavit, attached hereto as Exhibit E, affirming that Contractor has not engaged in any collusive conduct. Exhibit E is attached hereto and incorporated by reference as though fully set forth.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year first written above.

**CITY OF BLOOMINGTON**

**C&H LAWN & LANDSCAPING INC.**

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel

\_\_\_\_\_  
Clay Holmstrom, Owner

**CITY OF BLOOMINGTON PARKS AND RECREATION**

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Kathleen Mills, President, Board of Park Commissioners

## EXHIBIT A

### “Scope of Work”

The Services shall include the following:

#### **A. Mowing Locations**

- 4th Street & Dunn Street Parking Lot
- Building and Trades Park
- College Mall Road & Moores Pike (NE Corner)
- Dodds Street Triangle Median Islands (2)
- Frank Southern Ice Arena
- Highland Village Park
- Mills Pool
- Park Ridge East Park
- Park Ridge Park
- Peoples Park
- Polly Grimshaw Trail
- Schmalz Farm Park
- Seminary Park
- South Sare Road and East Rhorer Road, NE corner
- South Sare Road Medians (6)
- South Sare Road (Eastside Wall)
- South Sare Road (West Side Hill)
- Southeast Park
- SR 46 Median Islands
- Waldron, Hill, & Buskirk Park (includes BPD & AJB)
- West 8th Street, Adams Street, & Vernal Pike
- Winslow Road, Rogers Road, High Street Round-A-Bout
- Winslow Sports Complex
- Winslow Woods Park

## Exhibit B

### “Standard of Care”

#### **A. Technical Specifications**

1. Prior to mowing, the Contractor shall inspect the property and remove all litter and debris within the mowing area and dispose of it properly. If in the course of mowing, trash is overlooked and shredded by mowers, it shall be collected and disposed of properly by the Contractor.
2. Typically the amount of trash and litter is minimal and the removal by the Contractor shall be considered within the scope of the Agreement. If the Contractor encounters a situation where an excessive amount of time would be required to clean up the site, the Contractor shall contact the City Landscaper or their designee, who will assign City staff to assist with the cleanup of the site.
3. If a question arises over where the extents (dimensions, scale, property boundaries, etc.) of mowing work under the Agreement are, the City Landscaper or their designee, will make the final determination.
4. Grass shall be cut to a height of three (3) to five (5) inches. All turf areas shall be mowed as needed so that no more than one-third (1/3) of the leaf blades are removed per mowing.
5. All lawn and grass mower blades must be kept sufficiently sharp to provide a clean and even cut.
6. All chain link fences require complete removal of vegetation from beneath the fence line.
7. The frequency of mowing should allow clippings to remain on site, but any windrow or clumping that occurs or clippings that remain on the surface which would be harmful to the turf, or unsightly, must be removed and/or disposed of by the Contractor.
8. Care should be taken not to allow grass clippings to cover sidewalks, mulch beds, infields, playground safety surfaces, etc. Any clippings that cover these areas must be removed by the Contractor.
9. Contractor’s equipment shall not be permitted in any mulch bed or landscaped area of any type. This includes traversing the mulch bed while moving equipment from one area to another.
10. Concrete curbs and sidewalks shall be edged to remove any overgrowth of turf.
11. Areas under construction will be cut as much as possible and upon completion of the construction, the Contractor will complete the cutting required in the construction area.
12. During wet periods, the Contractor should avoid utilizing equipment on soft hillsides or areas where rutting of the sod might result. Work in these areas shall be rescheduled when dry conditions permit, or be string trimmed to prevent rutting of the turf.
13. The Contractor will arrange to keep sidewalks and trails open at all times. Normal mowing operations do not constitute a closure of a trail or sidewalk. Parking vehicles, trailers, or equipment on a sidewalk or trail is considered a closure of it.

14. All elements of the mowing and trimming cycle at an individual location shall be completed the same day they are started. No partial mowing will be allowed unless inclement weather forces delay. If rain or wet turf conditions exist, the Contractor shall finish the cycle as soon as favorable conditions allow.

15. All debris collected in regards to mowing services shall be disposed of off-site by the Contractor in a manner and place to ensure that no city, county, or state ordinances or laws are violated.

16. No use of herbicides around playgrounds, swimming pools, or dog park enclosures will be permitted. Herbicide use in any other area requires the prior approval of the City Landscaper or their designee. See Section 6- the [Bloomington Parks and Recreation Department IPM Plan](#) for more information.

17. If the Contractor notices any vandalism, or damage of any kind to turf, trees, bushes or any amenity located in the park area, or within of the extents of any contractually mowed area, they shall be reported to the City Landscaper or their designee, as soon as possible.

18. No tree limbs, other than those already fallen to the ground, shall be removed, trimmed, or cut without permission of the City Landscaper, Urban Forester, or their designee.

**B. Provision of Labor, Tools and Equipment.**

The Contractor agrees to furnish and pay all necessary expenses for all labor, tools and equipment in connection with the contracted work. The Contractor shall provide a sufficient number of operators and equipment to insure the timely completion of each mowing cycle. All equipment that is to be used on the job site must be safe and in good working order. Equipment used must have safety features and accessories as required by the Occupation Safety and Health Agency (OSHA) regulations and laws. Safety devices, guards, etc. shall be in good working order and shall not be removed or altered.

At any time during the term of the contract, the City Landscaper or their designee, has the right to inspect all equipment and materials used in carrying out the terms of the contract. Any equipment or material that does not comply with the terms of the Agreement may be rejected by the City of Bloomington.

**C. Personnel**

The Contractor's personnel shall, at all times, present a neat appearance, and perform all mowing services in a safe manner and with courtesy to the recreating public. The City Landscaper or their designee, and the Contractor will each be promptly notified by the other of any complaints received from members of the public. The Contractor shall utilize competent employees in performing the work specified in this Agreement. The Contractor shall assume sole responsibility for the performance of their employees and shall address any concerns promptly and to the satisfaction of the City Landscaper or their designee.

Contractor shall have a competent person in charge of its work at all times to whom the City Landscaper or their designee, may issue directives, and who shall accept and act upon such directives.

#### **D. Safety**

Mower decks shall be disengaged and string trimmers pulled up from work and allowed to idle whenever a member of the public is within fifty (50) feet of the equipment. Contractor will shut off mower, or any motorized hand equipment, if approached by a member of the public. Rotation of string trimmers and the discharge chutes of mowing equipment shall always be directed away from the street and/or members of the public. Discharge chutes on mowing equipment shall be down and in place while mowing.

The Contractor shall exercise caution at all times for the protection of persons and property. Safety provisions and all applicable OSHA safety rules, laws and ordinances shall be strictly observed. The City Landscaper or their designee, will require the Contractor to immediately discontinue all hazardous work practices upon verbal, or written, notice.

It is the Contractor's responsibility to provide all necessary safety equipment to their employees. The Contractor's personnel will adhere to all applicable OSHA standards, laws, and ordinances with regards to the use of personal protection equipment, such as safety glasses, hearing protection, clothing, and footwear.

#### **E. Damage Provision**

1. If property, other than a tree or shrub, is damaged resulting from the Contractor's negligence and has to be repaired or replaced by the City of Bloomington, the Contractor may be required to repair or replace same at the Contractor's own expense.
2. *Any damage* to the bases of trees or shrubs caused by the Contractor's equipment is strictly prohibited and will be investigated. Damage as a result of the Contractor's negligence shall result in a penalty of Seventy Five Dollars (\$ 75.00) multiplied by the diameter of the tree or shrub in inches. This penalty shall be assessed in the form of a reduction in the monthly contractual payment. At the Contractor's request, the City Landscaper will accompany the Contractor for an inspection of mowing sites specified in the contract documents prior to the first mowing cycle. During this inspection, the Contractor and City Landscaper would determine, if any, what damage already exists prior to Contractor beginning work.

## EXHIBIT C

### “Project Schedule”

1. The time period for these services shall begin on or about April 1, 2018 and terminate on or about November 1, 2018.
2. Work performed by the Contractor shall involve *approximately* 26 weekly mowing cycles and *approximately* seven monthly cycles during the Agreement.
3. Frequency of mowing cycles will be at the discretion of the City Landscaper or their designee. Typically they will be every seven (7) to ten (10) days, depending on weather conditions.
4. The Contractor shall communicate with the City Landscaper or their designee, regarding hours, schedules, and any other conditions affecting performance of the work.
5. The Contractor may perform the work at any time, or on any day(s) of the week, except where prohibited by City of Bloomington noise ordinances, or at such times that it would be unsafe to operate mowing equipment due to the presence of the recreating public. The City of Bloomington Noise Ordinance can be found at: <http://bloomington.in.gov/noise>
6. The City Landscaper or their designee, may require that the Contractor alter their mowing schedule to prevent a conflict with a special event scheduled for any location. Notice will be given to the Contractor at least one week prior to the date of the event. The Contractor may alter the mowing schedule to prevent conflicts with the public without giving prior notice to the City.





**EXHIBIT E**

STATE OF \_\_\_\_\_ )  
  ) SS:  
COUNTY OF \_\_\_\_\_ )

**NON-COLLUSION AFFIDAVIT**

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**C&H Lawn & Landscaping Inc.**

By: \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
  ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
Notary Public’s Signature

\_\_\_\_\_ County of Residence: \_\_\_\_\_  
Printed Name of Notary Public

**EXHIBIT F**

**Mowing Quote Form- Primary Locations**

Location	Cost Per Mowing Cycle
4th Street & Dunn Street Parking Lot	\$ 38
Duiking and Trades Park	\$ 25
College Mall Road & Moores Pike (NE Corner)	\$ 55
Dodds Street Triangle Median Islands (2)	\$ 125
Frank Southern Ico Arch	\$ 88
Highland Village Park	\$ 25
Mills Pool	\$ 38
Park Ridge East Park	\$ 45
Park Ridge Park	\$ 65
Peoples Park	\$ 25
Polly Grimshaw Trail	\$ 95
Schmatz Farm Park	\$ 285
Seminary Park	\$ 50
South Sare Road and East Rhorer Road, NE corner	\$ 95
South Sare Road Medians (0)	\$ 88
South Sare Road (Eastside Wall)	\$ 68
South Sare Road (West Side Hill)	\$ 67
Southeast Park	\$ 60
SR 46 Median Islands	\$ 68
Walcron, Hill, & Buskirk Park (includes BPD & AJB)	\$ 76
West 6th Street, Adams Street, & Vernal Pike	\$ 77
Winslow Road, Rogers Road, High Street Round-A-Bout	\$ 68
Winslow Sports Complex	\$ 68
Winslow Woods Park	\$ 68
<b>Total cost of all locations per mowing cycle</b>	<b>\$ 1826.92</b>
<b>Multiply by 26 (average number of cycles per year)</b>	<b>X 26</b>
<b>Total Average Yearly Cost</b>	<b>\$ 47,500</b>

(91827)

**Please Remember:**

- Quoted prices **MUST** remain in effect for the duration of the one (1) year contract.
- No guaranteed minimum or maximum number of mowing cycles is stated or implied.

Name of Company: C+H Lawn & Landscaping, Inc

Signature of Responsible Party: [Signature]

Printed Name of Responsible Party: Clay Holmstrom

Date: 2-20-18

**Contact Information**

Address: 4388 W Vernal Pike

City: Bloomington

State & ZIP: IN 47404

Phone #1: 812 340 3802

Phone #2: 812 320 2447

Email: clandscaping123@yahoo.com

**Reminder**

An approved affirmative action plan must be on file with the City of Bloomington prior to submitting quote.

The following must be submitted with Quote:

1. Proof of insurance, or proof of ability to obtain insurance.
2. List of mowing equipment inventory
3. Provide two or more references
4. Provide details of experience in the Lawn Care business.



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-17  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Joanna Sparks, City Landscaper  
**DATE:** 4/3/2018  
**SUBJECT:** Contractual Mowing Services by Green Dragon Lawn Care

**Recommendation**

Staff recommends the approval of this Contract with Green Dragon Lawn Care to perform regular mowing services at 13 locations during 2018 for \$51,610.00.

**Background**

The Operations Division has increasingly turned to mowing service contractors for grounds maintenance at selected park properties, facilities, and public right-of-ways in an ongoing effort to increase efficiency and lower costs. Four companies submitted quotations for this mowing contract. Green Dragon Lawn Care of Bloomington was the lowest bidder. They met all bidding requirements and received positive comments from references contacted.

**RESPECTFULLY SUBMITTED,**

*Joanna Sparks*

Joanna Sparks, City Landscaper

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
GREEN DRAGON LAWN CARE  
FOR  
2018 MOWING SERVICES AT 13 LOCATIONS**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Green Dragon Lawn Care (“Contractor”),

**WITNESSETH:**

WHEREAS, the Department wishes to retain the Contractor’s services for 2018 mowing services at thirteen locations (more particularly described in Exhibit A, “Scope of Work”) ; and

WHEREAS, the Department requires the services of a professional contractor in order to perform these mowing services (the “Services” as further defined below); and

WHEREAS, it is in the public interest that such Services be undertaken and performed; and

WHEREAS, Contractor is willing and able to provide such Services to the Department.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**Article 1. Scope of Services**

Contractor shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2.

Contractor shall complete the Services required under this Agreement on or before November 30, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. The term of this contract shall be for one year with the option to renew for two more terms (three year maximum) under exact terms of original contract.

In the performance of Contractor’s work, Contractor agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Joanna Sparks, City Landscaper, as the Department’s Project Manager. Contractor agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Contractor for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care**

Contractor shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances (“Standard of Care”). The Department shall be the sole judge of the adequacy of Contractor’s work in meeting the Standard of Care; however, the Department shall not unreasonably withhold its approval as to the adequacy of Contractor’s performance. Upon notice to Contractor and by mutual agreement between the parties, Contractor will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care. Standard of Care is specified in, but is not limited to, Exhibit B, “Standard of Care”, attached hereto and incorporated into this Agreement.

**Article 3. Responsibilities of the Department**

The Department shall provide all necessary information regarding requirements for the Services. The Department shall furnish such information as expeditiously as is necessary for the orderly progress of the work, and Contractor shall be entitled to rely upon the accuracy and completeness of such information. The Department’s Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation**

The Department shall pay Contractor for all fees and expenses in an amount not to exceed Fifty-one Thousand, Six Hundred Ten Dollars and Zero Cents (\$51, 610.00) as specified in Exhibit F, “Mowing Quote Form”, attached hereto and incorporated into this Agreement. Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor within forty-five (45) days of receipt of invoice. The invoice shall be sent to:

Joanna Sparks, City Landscaper  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

**Article 5. Appropriation of Funds**

Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Department are at any time not forthcoming or are insufficient, through failure of any entity, including the Department itself, to appropriate funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty.

**Article 6. Schedule**

Contractor shall perform the Services according to the schedule set forth in Exhibit C, Project Schedule, attached hereto and incorporated herein by reference. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination**

In the event of a party’s substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The

nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

The Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to Contractor. Contractor shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Contractor for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Contractor's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Contractor in connection with this Agreement shall become the property of the Department, as set forth in Article 10 herein.

**Article 8. Identity of the Contractor**

Contractor acknowledges that one of the primary reasons for its selection by the Department to perform the Services is the qualifications and experience of Contractor. Contractor thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Contractor. Contractor shall not subcontract any part of the Services without the prior written permission of the Department. The Department reserves the right to reject any of the Contractor's personnel or proposed outside professional sub-contractors, and the Department reserves the right to request that acceptable replacement personnel be assigned to the project.

**Article 9. Opinions of Probable Cost**

All opinions of probable construction cost to be provided by Contractor shall represent the best judgment of Contractor based upon the information currently available and upon Contractor's background and experience with respect to projects of this nature. It is recognized, however, that neither Contractor nor the Department has control over the cost of labor, materials or equipment, over contractors' method of determining costs for services, or over competitive bidding, market or negotiating conditions. Accordingly, Department cannot and does not warrant or represent that the proposals or construction bids received will not vary from the cost estimates provided pursuant to this Agreement.

**Article 10. Reuse of Instruments of Service**

All documents, including but not limited to, drawings, specifications and computer software prepared by Contractor pursuant to this Agreement are instruments of service in respect to this project. They are not intended or represented to be suitable for reuse by the Department or others on modifications or extensions of this project or on any other project. The Department may elect to reuse such documents; however any reuse or modification without prior written authorization of Contractor will be at the Department's sole risk and without liability or legal exposure to Contractor. The Department shall indemnify, defend, and hold harmless the Contractor against all judgments, losses, claims, damages, injuries and expenses arising out of or resulting from such unauthorized reuse or modification.

**Article 11. Ownership of Documents and Intellectual Property**

All documents, drawings and specifications, including digital format files, prepared by Contractor and furnished to the Department as part of the Services shall become the property of the Department. Contractor shall retain its ownership rights in its design, drawing details, specifications, databases, computer software and other proprietary property. Intellectual property

developed, utilized or modified in the performance of the Services shall remain the property of Contractor.

**Article 12. Independent Contractor Status**

During the entire term of this Agreement, Contractor shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the Department. Contractor shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of employees.

**Article 13. Indemnification**

Contractor shall defend, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, agents and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent act or failure to act or any misconduct on the part of the Contractor or its agents or employees, or any independent contractors directly responsible to it (collectively "Claims").

**Article 14. Insurance**

During the performance of any and all Services under this Agreement, Contractor shall maintain the following insurance in full force and effect:

- a. General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate.
- b. Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- c. Professional Liability Insurance ("Errors and Omissions Insurance") with a minimum limit of \$1,000,000 annual aggregate.
- d. Workers' Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code.

All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers, employees and agents of each shall be named as insureds under the General Liability, Automobile, and Worker's Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City's will be called upon to contribute to a loss hereunder.

Contractor shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement. Approval of the insurance by the Department shall not relieve or decrease the extent to which Contractor may be held responsible for payment of damages resulting from Contractor's provision of the Services or its operations under this Agreement. If Contractor fails or refuses to procure or maintain the insurance required by these provisions, or



fails or refuses to furnish the Department's required proof that the insurance has been procured and is in force and paid for, the Department shall have the right at its election to terminate the Agreement.

**Article 15. Conflict of Interest**

Contractor declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Contractor agrees that no person having any such interest shall be employed in the performance of this Agreement.

**Article 16. Waiver**

No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 17. Severability**

The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 18. Assignment**

Neither the Department nor the Contractor shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

**Article 19. Third Party Rights**

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Department and Contractor.

**Article 20. Governing Law and Venue**

This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

**Article 21. Non-Discrimination**

Contractor shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in all regards, including, but not limited to, employment.

**Article 22. Compliance with Laws**

In performing the Services under this Agreement, Contractor shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction over the project are in conflict, Contractor shall proceed using its

best judgment only after attempting to resolve any such conflict between such governmental agencies, and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 23. E-Verify**

Contractor is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Contractor shall sign an affidavit, attached as Exhibit D, affirming that Contractor does not knowingly employ an unauthorized alien. “Unauthorized alien” is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code chapter 12 or by the U.S. Attorney General.

Contractor and any subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Contractor or subcontractor subsequently learns is an unauthorized alien. If the City obtains information that the Contractor or subcontractor employs or retains an employee who is an unauthorized alien, the City shall notify the Contractor or subcontractor of the contract violation and require that the violation be remedied within 30 days of the date of notice. If the Contractor or subcontractor verified the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that the Contractor or subcontractor did not knowingly employ an unauthorized alien. If the Contractor or subcontractor fails to remedy the violation within the 30 day period, the City shall terminate the contract, unless the City Commission or department that entered into the contract determines that terminating the contract would be detrimental to the public interest or public property, in which case the City may allow the contract to remain in effect until the City procures a new Contractor. If the City terminates the contract, the Contractor or subcontractor is liable to the City for actual damages.

Contractor shall require any subcontractors performing work under this contract to certify to the Contractor that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Contractor shall maintain on file all subcontractors’ certifications throughout the term of the contract with the City.

**Article 24. Notices**

Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

**Department:**

**Contractor:**

City of Bloomington	Green Dragon Lawn Care
Attn: Joanna Sparks, City Landscaper	Attn: Brian Obery, Owner
401 N. Morton, Suite 250	P.O. Box 296
Bloomington, Indiana 47402	Clear Creek, IN 47426

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Contractor.

**Article 25. Intent to be Bound**

The Department and Contractor each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

**Article 26. Integration and Modification**

This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Contractor. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties hereto.

**Article 27. Non-Collusion**

Contractor is required to certify that it has not, nor has any other member, representative, or agent of Contractor, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Contractor shall sign an affidavit, attached hereto as Exhibit E, affirming that Contractor has not engaged in any collusive conduct. Exhibit E is attached hereto and incorporated by reference as though fully set forth.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year first written above.

**CITY OF BLOOMINGTON**

**GREEN DRAGON LAWN CARE**

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel

\_\_\_\_\_  
Brian Obery, Owner

**CITY OF BLOOMINGTON PARKS AND RECREATION**

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Kathleen Mills, President, Board of Park Commissioners

**EXHIBIT A**

**“Scope of Work”**

The Services shall include the following:

**A. Mowing Locations**

6th Street & Lincoln Street
7th Street & Morton Street
Banneker Community Center
City Hall/ Showers Commons
Crestmont Park
Ferguson Dog Park
Kirkwood Avenue & North Adams Street (SW corner)
Latimer Woods
McDoel Gardens
Miller-Showers Park
Patterson Drive
RCA Community Park
Rev. Ernest D. Butler Park

## Exhibit B

### “Standard of Care”

#### A. Technical Specifications

1. Prior to mowing, the Contractor shall inspect the property and remove all litter and debris within the mowing area and dispose of it properly. If in the course of mowing, trash is overlooked and shredded by mowers, it shall be collected and disposed of properly by the Contractor.
2. Typically the amount of trash and litter is minimal and the removal by the Contractor shall be considered within the scope of the Agreement. If the Contractor encounters a situation where an excessive amount of time would be required to clean up the site, the Contractor shall contact the City Landscaper or their designee, who will assign City staff to assist with the cleanup of the site.
3. If a question arises over where the extents (dimensions, scale, property boundaries, etc.) of mowing work under the Agreement are, the City Landscaper or their designee, will make the final determination.
4. Grass shall be cut to a height of three (3) to five (5) inches. All turf areas shall be mowed as needed so that no more than one-third (1/3) of the leaf blades are removed per mowing.
5. All lawn and grass mower blades must be kept sufficiently sharp to provide a clean and even cut.
6. All chain link fences require complete removal of vegetation from beneath the fence line.
7. The frequency of mowing should allow clippings to remain on site, but any windrow or clumping that occurs or clippings that remain on the surface which would be harmful to the turf, or unsightly, must be removed and/or disposed of by the Contractor.
8. Care should be taken not to allow grass clippings to cover sidewalks, mulch beds, infields, playground safety surfaces, etc. Any clippings that cover these areas must be removed by the Contractor.
9. Contractor's equipment shall not be permitted in any mulch bed or landscaped area of any type. This includes traversing the mulch bed while moving equipment from one area to another.
10. Concrete curbs and sidewalks shall be edged to remove any overgrowth of turf.
11. Areas under construction will be cut as much as possible and upon completion of the construction, the Contractor will complete the cutting required in the construction area.
12. During wet periods, the Contractor should avoid utilizing equipment on soft hillsides or areas where rutting of the sod might result. Work in these areas shall be rescheduled when dry conditions permit, or be string trimmed to prevent rutting of the turf.
13. The Contractor will arrange to keep sidewalks and trails open at all times. Normal mowing operations do not constitute a closure of a trail or sidewalk. Parking vehicles, trailers, or equipment on a sidewalk or trail is considered a closure of it.

14. All elements of the mowing and trimming cycle at an individual location shall be completed the same day they are started. No partial mowing will be allowed unless inclement weather forces delay. If rain or wet turf conditions exist, the Contractor shall finish the cycle as soon as favorable conditions allow.

15. All debris collected in regards to mowing services shall be disposed of off-site by the Contractor in a manner and place to ensure that no city, county, or state ordinances or laws are violated.

16. No use of herbicides around playgrounds, swimming pools, or dog park enclosures will be permitted. Herbicide use in any other area requires the prior approval of the City Landscaper or their designee. See Section 6- the [Bloomington Parks and Recreation Department IPM Plan](#) for more information.

17. If the Contractor notices any vandalism, or damage of any kind to turf, trees, bushes or any amenity located in the park area, or within of the extents of any contractually mowed area, they shall be reported to the City Landscaper or their designee, as soon as possible.

18. No tree limbs, other than those already fallen to the ground, shall be removed, trimmed, or cut without permission of the City Landscaper, Urban Forester, or their designee.

**B. Provision of Labor, Tools and Equipment.**

The Contractor agrees to furnish and pay all necessary expenses for all labor, tools and equipment in connection with the contracted work. The Contractor shall provide a sufficient number of operators and equipment to insure the timely completion of each mowing cycle. All equipment that is to be used on the job site must be safe and in good working order. Equipment used must have safety features and accessories as required by the Occupation Safety and Health Agency (OSHA) regulations and laws. Safety devices, guards, etc. shall be in good working order and shall not be removed or altered.

At any time during the term of the contract, the City Landscaper or their designee, has the right to inspect all equipment and materials used in carrying out the terms of the contract. Any equipment or material that does not comply with the terms of the Agreement may be rejected by the City of Bloomington.

**C. Personnel**

The Contractor's personnel shall, at all times, present a neat appearance, and perform all mowing services in a safe manner and with courtesy to the recreating public. The City Landscaper or their designee, and the Contractor will each be promptly notified by the other of any complaints received from members of the public. The Contractor shall utilize competent employees in performing the work specified in this Agreement. The Contractor shall assume sole responsibility for the performance of their employees and shall address any concerns promptly and to the satisfaction of the City Landscaper or their designee.

Contractor shall have a competent person in charge of its work at all times to whom the City Landscaper or their designee, may issue directives, and who shall accept and act upon such directives.

#### **D. Safety**

Mower decks shall be disengaged and string trimmers pulled up from work and allowed to idle whenever a member of the public is within fifty (50) feet of the equipment. Contractor will shut off mower, or any motorized hand equipment, if approached by a member of the public. Rotation of string trimmers and the discharge chutes of mowing equipment shall always be directed away from the street and/or members of the public. Discharge chutes on mowing equipment shall be down and in place while mowing.

The Contractor shall exercise caution at all times for the protection of persons and property. Safety provisions and all applicable OSHA safety rules, laws and ordinances shall be strictly observed. The City Landscaper or their designee, will require the Contractor to immediately discontinue all hazardous work practices upon verbal, or written, notice.

It is the Contractor's responsibility to provide all necessary safety equipment to their employees. The Contractor's personnel will adhere to all applicable OSHA standards, laws, and ordinances with regards to the use of personal protection equipment, such as safety glasses, hearing protection, clothing, and footwear.

#### **E. Damage Provision**

1. If property, other than a tree or shrub, is damaged resulting from the Contractor's negligence and has to be repaired or replaced by the City of Bloomington, the Contractor may be required to repair or replace same at the Contractor's own expense.
2. *Any damage* to the bases of trees or shrubs caused by the Contractor's equipment is strictly prohibited and will be investigated. Damage as a result of the Contractor's negligence shall result in a penalty of Seventy Five Dollars (\$ 75.00) multiplied by the diameter of the tree or shrub in inches. This penalty shall be assessed in the form of a reduction in the monthly contractual payment. At the Contractor's request, the City Landscaper will accompany the Contractor for an inspection of mowing sites specified in the contract documents prior to the first mowing cycle. During this inspection, the Contractor and City Landscaper would determine, if any, what damage already exists prior to Contractor beginning work.

## EXHIBIT C

### “Project Schedule”

1. The time period for these services shall begin on or about April 1, 2018 and terminate on or about November 1, 2018.
2. Work performed by the Contractor shall involve *approximately* 26 weekly mowing cycles and *approximately* seven monthly cycles during the Agreement.
3. Frequency of mowing cycles will be at the discretion of the City Landscaper or their designee. Typically they will be every seven (7) to ten (10) days, depending on weather conditions.
4. The Contractor shall communicate with the City Landscaper or their designee, regarding hours, schedules, and any other conditions affecting performance of the work.
5. The Contractor may perform the work at any time, or on any day(s) of the week, except where prohibited by City of Bloomington noise ordinances, or at such times that it would be unsafe to operate mowing equipment due to the presence of the recreating public. The City of Bloomington Noise Ordinance can be found at: <http://bloomington.in.gov/noise>
6. The City Landscaper or their designee, may require that the Contractor alter their mowing schedule to prevent a conflict with a special event scheduled for any location. Notice will be given to the Contractor at least one week prior to the date of the event. The Contractor may alter the mowing schedule to prevent conflicts with the public without giving prior notice to the City.



**EXHIBIT D  
E-VERIFY AFFIDAVIT**

STATE OF INDIANA )  
 )SS:  
COUNTY OF \_\_\_\_\_ )

AFFIDAVIT

The undersigned, being duly sworn, hereby affirms and says that:

1. The undersigned is the \_\_\_\_\_ of \_\_\_\_\_.  
(job title) (company name)
2. The company named herein that employs the undersigned:
  - i. has contracted with or seeking to contract with the City of Bloomington to provide services; **OR**
  - ii. is a subcontractor on a contract to provide services to the City of Bloomington.
3. The undersigned hereby states that, to the best of his/her knowledge and belief, the company named herein does not knowingly employ an "unauthorized alien," as defined at 8 United States Code 1324a(h)(3).
4. The undersigned hereby states that, to the best of his/her belief, the company named herein is enrolled in and participates in the E-verify program.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

STATE OF INDIANA )  
 )SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public's Signature

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public

County of Residence: \_\_\_\_\_

**EXHIBIT E**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

**NON-COLLUSION AFFIDAVIT**

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Green Dragon Lawn Care

By: \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public's Signature      My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public      County of Residence: \_\_\_\_\_

**EXHIBIT F**

**Mowing Quote Form- Alternate Locations**

Location	Cost Per Mowing Cycle
5th Street & Lincoln Street	= \$ 35 <sup>00</sup>
7th Street & Motion Street	= \$ 35 <sup>00</sup>
Bunneker Community Center	= \$ 65 <sup>00</sup>
City Hall Showers Commons	= \$ 100 <sup>00</sup>
Crestmont Park	= \$ 320 <sup>00</sup>
Ferguson Dog Park	= \$ 400 <sup>00</sup>
Kirkwood Avenue & North Adams Street (SW corner)	= \$ 75 <sup>00</sup>
Lalimer Woods	= \$ 70 <sup>00</sup>
McDoel Gardens	= \$ 50 <sup>00</sup>
Miller-Showers Park	= \$ 265 <sup>00</sup>
Peterson Drive	= \$ 80 <sup>00</sup>
RCA Community Park	= \$ 240 <sup>00</sup>
Row Ernest D. Butler Park	= \$ 250 <sup>00</sup>
<b>Total cost of all locations per mowing cycle</b>	<b>= \$ 1985<sup>00</sup></b>
Multiply by 26 (average number of cycles per year)	X 26

**Total Average Yearly Cost** = \$ 51,610<sup>00</sup>  
 Please Remember:

- Quoted prices **MUST** remain in effect for the duration of the one (1) year contract.
- No guaranteed minimum or maximum number of mowing cycles is stated or implied.

Name of Company: GREEN DRAGON LAWN CARE

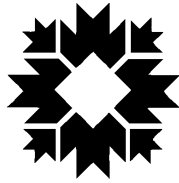
Signature of Responsible Party: [Signature]

Printed Name of Responsible Party: BRIAN DEERY

Date: 3/5/18

**Contact Information**  
 Address: P.O. Box 296  
 City: CLEAR CREEK  
 State & ZIP: IN 47426  
 Phone #1: 312.824.5619  
 Phone #2:  
 E-mail:

**Reminders**  
 An approved affirmative action plan must be on file with the City of Boonville prior to submitting quote.  
 The following must be submitted with Quote:  
 1. Proof of insurance or proof of ability to obtain insurance.  
 2. List of mowing equipment inventory.  
 3. Provide two or more references.  
 4. Provide details of experience in the Lawn Care business.



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-18  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Steve Cotter, Natural Resources Manager  
**DATE:** April 10, 2018  
**SUBJECT:** **REVIEW/APPROVAL OF CONTRACT TO MONITOR VEGETATION AT THE GRIFFY LAKE NATURE PRESERVE**

**Recommendation**

Staff recommends approval of this contract with Eco Logic LLC to monitor vegetation at the Griffy Lake Nature Preserve.

**Background**

Deer management at the Griffy Lake Nature Preserve is focused on the health of native vegetation within the preserve. Vegetation height data collected at 12 research plots by the Eco Logic botanist will be used to determine whether the 2017 deer cull succeeded in reducing browse pressure on native plants in the preserve. The data will also be used to determine future deer management goals at the Preserve.

**RESPECTFULLY SUBMITTED,**

Steve Cotter, Natural Resources Manager

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
ECO LOGIC, LLC  
FOR**

**VEGETATION MONITORING AT GRIFFY LAKE NATURE PRESERVE**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Eco Logic, LLC (“Consultant”),

**WITNESSETH:**

WHEREAS, the Department wishes to determine the health of the plant community at the Griffy Lake Nature Preserve following the 2017 deer cull; and

WHEREAS, the Department requires the services of a professional consultant in order to perform said Services as further defined in the Scope of Services below; and

WHEREAS, it is in the public interest that such Services be undertaken and performed; and

WHEREAS, Consultant is willing and able to provide such Services to the Department.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**Article 1. Scope of Services**

Consultant shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2.

Consultant shall complete the Services required under this Agreement on or before August 31, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

In the performance of Consultant’s work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Joanna Sparks as the Department’s Project Manager. Consultant agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care**

Consultant shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently

practicing under similar circumstances (“Standard of Care”). The Department shall be the sole judge of the adequacy of Consultant’s work in meeting the Standard of Care; however, the Department shall not unreasonably withhold its approval as to the adequacy of Consultant’s performance. Upon notice to Consultant and by mutual agreement between the parties, Consultant will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

**Article 3. Responsibilities of the Department**

The Department shall provide all necessary information regarding requirements for the Services. The Department shall furnish such information as expeditiously as is necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness of such information. The Department’s Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation**

The Department shall pay Consultant for all fees and expenses in an amount not to exceed Five Thousand dollars (\$5000.00). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. The invoice shall be sent to:

Steve Cotter, Natural Resources Manager  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

**Article 5. Appropriation of Funds**

Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Department are at any time not forthcoming or are insufficient, through failure of any entity, including the Department itself, to appropriate funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty.

**Article 6. Schedule**

Consultant shall perform the Services according to the schedule set forth in Exhibit B, Project Schedule, attached hereto and incorporated herein by reference. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination**

In the event of a party’s substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

The Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to Consultant. Consultant shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Consultant for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Consultant's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Consultant in connection with this Agreement shall become the property of the Department, as set forth in Article 10 herein.

**Article 8. Identity of the Consultant**

Consultant acknowledges that one of the primary reasons for its selection by the Department to perform the Services is the qualifications and experience of Consultant. Consultant thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Consultant. Consultant shall not subcontract any part of the Services without the prior written permission of the Department. The Department reserves the right to reject any of the Consultant's personnel or proposed outside professional sub-consultants, and the Department reserves the right to request that acceptable replacement personnel be assigned to the project.

**Article 9. Opinions of Probable Cost**

All opinions of probable construction cost to be provided by Consultant shall represent the best judgment of Consultant based upon the information currently available and upon Consultant's background and experience with respect to projects of this nature. It is recognized, however, that neither Consultant nor the Department has control over the cost of labor, materials or equipment, over contractors' method of determining costs for services, or over competitive bidding, market or negotiating conditions. Accordingly, Department cannot and does not warrant or represent that the proposals or construction bids received will not vary from the cost estimates provided pursuant to this Agreement.

**Article 10. Reuse of Instruments of Service**

All documents, including but not limited to, drawings, specifications and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to this project. They are not intended or represented to be suitable for reuse by the Department or others on modifications or extensions of this project or on any other project. The Department may elect to reuse such documents; however any reuse or modification without prior written authorization of Consultant will be at the Department's sole risk and without liability or legal exposure to Consultant. The Department shall indemnify, defend, and hold harmless the Consultant against all judgments, losses, claims, damages, injuries and expenses arising out of or resulting from such unauthorized reuse or modification.

**Article 11. Ownership of Documents and Intellectual Property**

All documents, drawings and specifications, including digital format files, prepared by Consultant and furnished to the Department as part of the Services shall become the property of the Department. Consultant shall retain its ownership rights in its design, drawing details, specifications, databases, computer software and other proprietary property. Intellectual property developed, utilized or modified in the performance of the Services shall remain the property of Consultant.

**Article 12. Independent Contractor Status**

During the entire term of this Agreement, Consultant shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the Department. Consultant shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of employees.

**Article 13. Indemnification**

Consultant shall defend, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, agents and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent act or failure to act or any misconduct on the part of the Consultant or its agents or employees, or any independent contractors directly responsible to it (collectively "Claims").

**Article 14. Insurance**

During the performance of any and all Services under this Agreement, Consultant shall maintain the following insurance in full force and effect:

- a. General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate.
- b. Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- c. Professional Liability Insurance ("Errors and Omissions Insurance") with a minimum limit of \$1,000,000 annual aggregate.
- d. Workers' Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code.

All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers, employees and agents of each shall be named as insureds under the General Liability, Automobile, and Worker's Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City's will be called upon to contribute to a loss hereunder.

Consultant shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement. Approval of the insurance by the Department shall not relieve or decrease the extent to which Consultant may be held responsible for payment of damages resulting from Consultant's provision of the Services or its operations under this Agreement. If Consultant fails or refuses to procure or maintain the insurance required by these provisions, or fails or refuses to furnish the Department's required proof that the insurance has been procured and is in force and paid for, the Department shall have the right at its election to terminate the Agreement.



**Article 15. Conflict of Interest**

Consultant declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Consultant agrees that no person having any such interest shall be employed in the performance of this Agreement.

**Article 16. Waiver**

No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 17. Severability**

The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 18. Assignment**

Neither the Department nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

**Article 19. Third Party Rights**

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Department and Consultant.

**Article 20. Governing Law and Venue**

This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

**Article 21. Non-Discrimination**

Consultant shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in all regards, including, but not limited to, employment.

**Article 22. Compliance with Laws**

In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction over the project are in conflict, Consultant shall proceed using its best judgment only after attempting to resolve any such conflict between such governmental agencies, and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 23. E-Verify**

Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Consultant shall sign an affidavit, attached as Exhibit C, affirming that Consultant does not knowingly employ an unauthorized alien. "Unauthorized alien" is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code chapter 12 or by the U.S. Attorney General.

Consultant and any subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Consultant or subcontractor subsequently learns is an unauthorized alien. If the City obtains information that the Consultant or subcontractor employs or retains an employee who is an unauthorized alien, the City shall notify the Consultant or subcontractor of the contract violation and require that the violation be remedied within 30 days of the date of notice. If the Consultant or subcontractor verified the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that the Consultant or subcontractor did not knowingly employ an unauthorized alien. If the Consultant or subcontractor fails to remedy the violation within the 30 day period, the City shall terminate the contract, unless the City Commission or department that entered into the contract determines that terminating the contract would be detrimental to the public interest or public property, in which case the City may allow the contract to remain in effect until the City procures a new Consultant. If the City terminates the contract, the Consultant or subcontractor is liable to the City for actual damages.

Consultant shall require any subcontractors performing work under this contract to certify to the Consultant that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Consultant shall maintain on file all subcontractors' certifications throughout the term of the contract with the City.

**Article 24. Notices**

Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

**Department:**

**Consultant:**

City of Bloomington Parks and Recreation	Eco Logic, LLC
Attn: Steve Cotter	ATTN: Spencer Goehl, Executive Director
PO Box 848	8685 W. Vernal Pike
Bloomington, Indiana 47402	Bloomington, IN 47404

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Consultant.

**Article 25. Intent to be Bound**

The Department and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

**Article 26. Integration and Modification**

This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Consultant. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties hereto.

**Article 27. Non-Collusion**

Consultant is required to certify that it has not, nor has any other member, representative, or agent of Consultant, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Consultant shall sign an affidavit, attached hereto as Exhibit D, affirming that Consultant has not engaged in any collusive conduct. Exhibit D is attached hereto and incorporated by reference as though fully set forth.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first written above.

**CITY OF BLOOMINGTON**

**ECO LOGIC, LLC**

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel

\_\_\_\_\_  
Spencer Goehl, Executive Director

**CITY OF BLOOMINGTON PARKS AND RECREATION**

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Kathleen Mills, President, Board of Park Commissioners

## **EXHIBIT A**

### **“Scope of Work”**

The Services shall include the following:

#### Vegetation Monitoring at Griffy Lake Nature Preserve

Eco Logic will count and measure native and non-native herbaceous vegetation and trees along 12 research transects in the Griffy Lake Nature Preserve. The goals of this project are to measure whether the 2017 deer cull was successful and to determine whether deer browse pressure in the Preserve is high enough to warrant the removal of additional deer in 2018.

## **EXHIBIT B**

### **“Project Schedule”**

Herbaceous vegetation will be monitored in April and May. Trees will be monitored in June and July. Consultant shall complete the Services required under this Agreement on or before August 31, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

**EXHIBIT C  
E-VERIFY AFFIDAVIT**

STATE OF INDIANA )  
   )SS:  
 COUNTY OF \_\_\_\_\_ )

AFFIDAVIT

The undersigned, being duly sworn, hereby affirms and says that:

1. The undersigned is the \_\_\_\_\_ of \_\_\_\_\_.  
   (job title)    (company name)
2. The company named herein that employs the undersigned:
  - i. has contracted with or seeking to contract with the City of Bloomington to provide services; **OR**
  - ii. is a subcontractor on a contract to provide services to the City of Bloomington.
3. The undersigned hereby states that, to the best of his/her knowledge and belief, the company named herein does not knowingly employ an “unauthorized alien,” as defined at 8 United States Code 1324a(h)(3).
4. The undersigned hereby states that, to the best of his/her belief, the company named herein is enrolled in and participates in the E-verify program.

\_\_\_\_\_ Signature

\_\_\_\_\_ Printed Name

STATE OF INDIANA )  
   )SS:  
 COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
 Notary Public’s Signature

\_\_\_\_\_ County of Residence: \_\_\_\_\_  
 Printed Name of Notary Public

**EXHIBIT D**

STATE OF \_\_\_\_\_ )  
                                  ) SS:  
COUNTY OF \_\_\_\_\_ )

**NON-COLLUSION AFFIDAVIT**

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**Spencer Goehl, Executive Director**

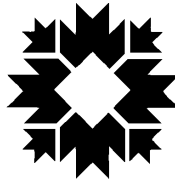
By: \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
                                  ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public's Signature    My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public    County of Residence: \_\_\_\_\_



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-19  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** John Turnbull, Division Director Sports  
**DATE:** March 3, 2018  
**SUBJECT:** REVIEW/APPROVAL OF ADDENDUM TO SERVICE AGREEMENT PROGRAM  
PARTNERSHIP WITH CHRIS DORAN (Bloomington Soccer League, LLC)

**Recommendation**

Staff recommends approval of this addendum.

**Background**

The Department has had an annual cooperative service agreement partnership with Chris Doran for his group to run soccer leagues and programs at Twin Lakes Recreation Center. We have been very happy with this arrangement. Chris has sold his entire operation including website and services to David Prall and this addendum extends the same agreement terms to him.

**RESPECTFULLY SUBMITTED,**

\_\_\_\_\_  
Sports Division Director



**ADDENDUM  
TO  
COOPERATIVE SERVICE AGREEMENT  
PROGRAM PARTNERSHIP  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
CHRIS DORAN  
FOR  
TWIN LAKES RECREATION CENTER**  
(Entered in this \_\_\_\_ day of \_\_\_\_\_, 2018)

WHEREAS, on **October 24, 2017**, the City of Bloomington Department of Parks and Recreation (the “BPRD”) and Chris Doran entered into an Agreement (“Agreement”) to provide specialized recreational soccer programs at Twin Lakes Recreation Center; and

WHEREAS, Chris Doran sold his entire business and services to David William Prall; and

WHEREAS, BPRD and David William Prall wish to continue operating under said Agreement.

NOW, THEREFORE, the parties hereto mutually agree as follows:

**Article 1. Change of the Party to the Agreement:** To amend the Agreement to reflect the change of the contracting party from Chris Doran to David William Prall.

**Article 2. Notice and Agreement Representatives:** To amend item number 7 of the Agreement to update the contact information to:

David William Prall  
President of Bloomington Soccer  
2020 E. Kensington Place  
Bloomington, IN 47401  
812-361-7986

**Article 3. Modification:** All other terms of the original Agreement (entered in on October 24, 2017) are still intact. Any other modification to said Agreement shall be in writing.

IN WITNESS WHEREOF, the parties execute this Amendment to the Agreement on the date first set forth.

**CITY OF BLOOMINGTON**

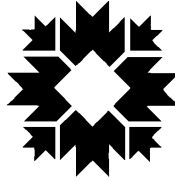
**Bloomington Soccer**

\_\_\_\_\_  
Paula McDevitt, Director  
Parks and Recreation Department

\_\_\_\_\_  
David Prall, President

\_\_\_\_\_  
Kathleen Mills, Park Board President  
Board of Park Commissioners

\_\_\_\_\_  
Phillippa M. Guthrie, Corporation Counsel



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-20  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** John Turnbull, Division Director Sports  
**DATE:** March 3, 2018  
**SUBJECT:** REVIEW/APPROVAL OF CONTRACT WITH VET ENVIRONMENTAL  
ENGINEERING, LLC

**Recommendation**

Staff recommends approval of this contract for services.

**Background**

Tabor/Bruce Architecture & Design is the lead architect on the new Cascades Clubhouse project. They have recommended this study to be done because demolition of the old building is part of the project. This report would eliminate any delays or any risks associated with contaminated materials once demolition begins. The two primary elements to be studied are asbestos and lead paint.

Only one firm responded to a request for proposals and this firm is the only local one that does this type of work with their own staff. One firm in Illinois could not do this economically and it was too small of a project for others to be interested. VET Environmental has done other inspections for us and they are very respected and responsive. We have been pleased with their previous work.

**RESPECTFULLY SUBMITTED,**

\_\_\_\_\_  
Sports Division Director

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
VET ENVIRONMENTAL ENGINEERING, LLC  
FOR  
CASCADE GOLF COURSE CLUBHOUSE DEMOLITION SURVEY**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and VET Environmental Engineering, LLC (“Consultant”),

**WITNESSETH:**

WHEREAS, the Department wishes to have the Clubhouse inspected for Lead-Based Paint and Asbestos pre-demolition; and

WHEREAS, the Department requires the services of a professional consultant in order to perform this inspection survey (the “Services” as further defined below); and

WHEREAS, it is in the public interest that such Services be undertaken and performed; and

WHEREAS, Consultant is willing and able to provide such Services to the Department.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**Article 1. Scope of Services**

Consultant shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Consultant shall complete the Services required under this Agreement on or before April 27, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

In the performance of Consultant’s work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with John Turnbull as the Department’s Project Manager. Consultant agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care**

Consultant shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances (“Standard of Care”). The Department shall be the sole judge of the adequacy

of Consultant's work in meeting the Standard of Care; however, the Department shall not unreasonably withhold its approval as to the adequacy of Consultant's performance. Upon notice to Consultant and by mutual agreement between the parties, Consultant will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

**Article 3. Responsibilities of the Department**

The Department shall provide all necessary information regarding requirements for the Services. The Department shall furnish such information as expeditiously as is necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness of such information. The Department's Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation**

The Department shall pay Consultant for all fees and expenses in an amount not to exceed Three Thousand Two Hundred Sixteen Dollars (\$3,216.00). Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to:

John Turnbull  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

**Article 5. Appropriation of Funds**

Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Department are at any time not forthcoming or are insufficient, through failure of any entity, including the Department itself, to appropriate funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty.

**Article 6. Schedule**

Consultant shall perform the Services by April 27, 2018. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination**

In the event of a party's substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

The Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to Consultant. Consultant shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Consultant for all the Services performed up to the date that written notice is received, plus

reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Consultant's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Consultant in connection with this Agreement shall become the property of the Department, as set forth in Article 10 herein.

**Article 8. Identity of the Consultant**

Consultant acknowledges that one of the primary reasons for its selection by the Department to perform the Services is the qualifications and experience of Consultant. Consultant thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Consultant. Consultant shall not subcontract any part of the Services without the prior written permission of the Department. The Department reserves the right to reject any of the Consultant's personnel or proposed outside professional sub-consultants, and the Department reserves the right to request that acceptable replacement personnel be assigned to the project.

**Article 9. Opinions of Probable Cost**

All opinions of probable construction cost to be provided by Consultant shall represent the best judgment of Consultant based upon the information currently available and upon Consultant's background and experience with respect to projects of this nature. It is recognized, however, that neither Consultant nor the Department has control over the cost of labor, materials or equipment, over contractors' method of determining costs for services, or over competitive bidding, market or negotiating conditions. Accordingly, Department cannot and does not warrant or represent that the proposals or construction bids received will not vary from the cost estimates provided pursuant to this Agreement.

**Article 10. Reuse of Instruments of Service**

All documents, including but not limited to, drawings, specifications and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to this project. They are not intended or represented to be suitable for reuse by the Department or others on modifications or extensions of this project or on any other project. The Department may elect to reuse such documents; however any reuse or modification without prior written authorization of Consultant will be at the Department's sole risk and without liability or legal exposure to Consultant. The Department shall indemnify, defend, and hold harmless the Consultant against all judgments, losses, claims, damages, injuries and expenses arising out of or resulting from such unauthorized reuse or modification.

**Article 11. Ownership of Documents and Intellectual Property**

All documents, drawings and specifications, including digital format files, prepared by Consultant and furnished to the Department as part of the Services shall become the property of the Department. Consultant shall retain its ownership rights in its design, drawing details, specifications, databases, computer software and other proprietary property. Intellectual property developed, utilized or modified in the performance of the Services shall remain the property of Consultant.

**Article 12. Independent Contractor Status**

During the entire term of this Agreement, Consultant shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the Department. Consultant shall be solely responsible for the

payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of employees.

**Article 13. Indemnification**

Consultant shall defend, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, agents and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent act or failure to act or any misconduct on the part of the Consultant or its agents or employees, or any independent contractors directly responsible to it (collectively “Claims”).

**Article 14. Insurance**

During the performance of any and all Services under this Agreement, Consultant shall maintain the following insurance in full force and effect:

- a. General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate.
- b. Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- c. Professional Liability Insurance (“Errors and Omissions Insurance”) with a minimum limit of \$1,000,000 annual aggregate.
- d. Workers’ Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code.

All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers, employees and agents of each shall be named as insureds under the General Liability, Automobile, and Worker’s Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City’s will be called upon to contribute to a loss hereunder.

Consultant shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement. Approval of the insurance by the Department shall not relieve or decrease the extent to which Consultant may be held responsible for payment of damages resulting from Consultant’s provision of the Services or its operations under this Agreement. If Consultant fails or refuses to procure or maintain the insurance required by these provisions, or fails or refuses to furnish the Department’s required proof that the insurance has been procured and is in force and paid for, the Department shall have the right at its election to terminate the Agreement.

**Article 15. Conflict of Interest**

Consultant declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Consultant agrees that no person having any such interest shall be employed in the performance of this Agreement.

**Article 16. Waiver**

No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 17. Severability**

The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 18. Assignment**

Neither the Department nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

**Article 19. Third Party Rights**

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Department and Consultant.

**Article 20. Governing Law and Venue**

This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

**Article 21. Non-Discrimination**

Consultant shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in all regards, including, but not limited to, employment.

**Article 22. Compliance with Laws**

In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction over the project are in conflict, Consultant shall proceed using its best judgment only after attempting to resolve any such conflict between such governmental agencies, and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 23. E-Verify**

Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists).

Consultant shall sign an affidavit, attached as Exhibit B, affirming that Consultant does not knowingly employ an unauthorized alien. "Unauthorized alien" is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code chapter 12 or by the U.S. Attorney General.

Consultant and any subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Consultant or subcontractor subsequently learns is an unauthorized alien. If the City obtains information that the Consultant or subcontractor employs or retains an employee who is an unauthorized alien, the City shall notify the Consultant or subcontractor of the contract violation and require that the violation be remedied within 30 days of the date of notice. If the Consultant or subcontractor verified the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that the Consultant or subcontractor did not knowingly employ an unauthorized alien. If the Consultant or subcontractor fails to remedy the violation within the 30 day period, the City shall terminate the contract, unless the City Commission or department that entered into the contract determines that terminating the contract would be detrimental to the public interest or public property, in which case the City may allow the contract to remain in effect until the City procures a new Consultant. If the City terminates the contract, the Consultant or subcontractor is liable to the City for actual damages.

Consultant shall require any subcontractors performing work under this contract to certify to the Consultant that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Consultant shall maintain on file all subcontractors' certifications throughout the term of the contract with the City.

**Article 24. Notices**

Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

<b>Department:</b>	<b>Consultant:</b>
City of Bloomington	Aaron Norton
Attn: John Turnbull	VET Environmental Engineering, LLC
401 N. Morton, Suite 250	2335 West Fountain Drive
Bloomington, Indiana 47402	Bloomington, IN 47404

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Consultant.

**Article 25. Intent to be Bound**

The Department and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

**Article 26. Integration and Modification**

This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Consultant. It supersedes all prior and contemporaneous



communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties hereto.

**Article 27. Non-Collusion**

Consultant is required to certify that it has not, nor has any other member, representative, or agent of Consultant, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Consultant shall sign an affidavit, attached hereto as Exhibit C, affirming that Consultant has not engaged in any collusive conduct. Exhibit C is attached hereto and incorporated by reference as though fully set forth.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year first written above.

**CITY OF BLOOMINGTON**

**VET Environmental Engineering, LLC**

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel

\_\_\_\_\_  
Aaron Norton, Project Manager

**CITY OF BLOOMINGTON PARKS AND RECREATION**

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Kathleen Mills, President,  
Board of Park Commissioners

## **EXHIBIT A**

### **“Scope of Work”**

The Services shall include the following:

- A pre-demolition lead-based paint survey
- A pre-demolition asbestos inspection
- Production of a report on the findings that can be forwarded to the general contractor who is awarded the construction contract for the new Cascades Clubhouse. That contract is expected to be awarded in May 2018.

**EXHIBIT B**  
**E-VERIFY AFFIDAVIT**

STATE OF INDIANA )  
 )SS:  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT**

The undersigned, being duly sworn, hereby affirms and says that:

1. The undersigned is the \_\_\_\_\_ of \_\_\_\_\_.  
(job title) (company name)
2. The company named herein that employs the undersigned:
  - i. has contracted with or seeking to contract with the City of Bloomington to provide services; **OR**
  - ii. is a subcontractor on a contract to provide services to the City of Bloomington.
3. The undersigned hereby states that, to the best of his/her knowledge and belief, the company named herein does not knowingly employ an “unauthorized alien,” as defined at 8 United States Code 1324a(h)(3).
4. The undersigned hereby states that, to the best of his/her belief, the company named herein is enrolled in and participates in the E-verify program.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

STATE OF INDIANA )  
 )SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public’s Signature My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public County of Residence: \_\_\_\_\_

**EXHIBIT C**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

**NON-COLLUSION AFFIDAVIT**

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

VET Environmental Engineering, LLC

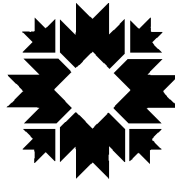
By: \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public's Signature My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public County of Residence: \_\_\_\_\_



**CITY OF BLOOMINGTON**  
**parks and recreation**

**STAFF REPORT**

Agenda Item: C-21  
Date: 4/4/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Elizabeth Tompkins, Natural Resources Coordinator  
**DATE:** April 10, 2018  
**SUBJECT:** REVIEW/APPROVAL GRIFFY LAKE AQUATIC VEGETATION  
MANAGEMENT CONTRACT

**Recommendation**

Staff recommends approval of the contract for treatment of invasive aquatic vegetation and updates to the aquatic vegetation management plan.

**Background**

Funding from the Indiana Department of Natural Resources Lake and River Enhancement Program has been used to create and update aquatic vegetation management plans, and to treat invasive weeds in Griffy Lake, since 2004. BPR has once again been awarded grant funding to manage vegetation at Griffy Lake. The funding will cover 80% of the cost of treatment of Eurasian watermilfoil and updating of the aquatic vegetation management plan. The management plan will provide information on the health of the vegetation community in the lake. The Eurasian watermilfoil treatment will prevent excessive weed growth, which would have negative effects on boating and fishing at the lake.

**RESPECTFULLY SUBMITTED,**

---

Elizabeth Tompkins, Natural Resources Coordinator

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
AQUATIC CONTROL INC.  
FOR  
GRIFFY LAKE AQUATIC VEGETATION MANAGEMENT PLAN UPDATE AND  
INVASIVE PLANT CONTROL**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Aquatic Control Inc. (“Consultant”).

**WITNESSETH:**

WHEREAS, the Department wishes to update the Griffy Lake Aquatic Vegetation Management Plan and control invasive species in Griffy Lake; and

WHEREAS, the Department requires the services of a professional consultant in order to perform Griffy Lake AVMP Plan Update and Invasive Plant Control; and

WHEREAS, it is in the public interest that such Services be undertaken and performed; and

WHEREAS, Consultant is willing and able to provide such Services to the Department.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**Article 1. Scope of Services**

Consultant shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Consultant shall complete the Services required under this Agreement on or before May 31, 2019, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

In the performance of Consultant’s work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Elizabeth Tompkins as the Department’s Project Manager. Consultant agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care**

Consultant shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under

similar circumstances (“Standard of Care”). The Department shall be the sole judge of the adequacy of Consultant’s work in meeting the Standard of Care; however, the Department shall not unreasonably withhold its approval as to the adequacy of Consultant’s performance. Upon notice to Consultant and by mutual agreement between the parties, Consultant will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

**Article 3. Responsibilities of the Department**

The Department shall provide all necessary information regarding requirements for the Services. The Department shall furnish such information as expeditiously as is necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness of such information. The Department’s Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation**

The Department shall pay Consultant for all fees and expenses in an amount not to exceed **Fourteen Thousand Five Hundred Dollars (\$14,500)**. Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. The invoice shall be sent to:

Elizabeth Tompkins  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

**Article 5. Appropriation of Funds**

Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Department are at any time not forthcoming or are insufficient, through failure of any entity, including the Department itself, to appropriate funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty.

**Article 6. Schedule**

Consultant shall perform the Services according to the schedule set forth in Exhibit B, Project Schedule, attached hereto and incorporated herein by reference. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination**

In the event of a party’s substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

The Department may terminate or suspend performance of this Agreement at the Department’s prerogative at any time upon written notice to Consultant. Consultant shall terminate or suspend

performance of the Services on a schedule acceptable to the Department and the Department shall pay the Consultant for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Consultant's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Consultant in connection with this Agreement shall become the property of the Department, as set forth in Article 10 herein.

**Article 8. Identity of the Consultant**

Consultant acknowledges that one of the primary reasons for its selection by the Department to perform the Services is the qualifications and experience of Consultant. Consultant thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Consultant. Consultant shall not subcontract any part of the Services without the prior written permission of the Department. The Department reserves the right to reject any of the Consultant's personnel or proposed outside professional sub-consultants, and the Department reserves the right to request that acceptable replacement personnel be assigned to the project.

**Article 9. Opinions of Probable Cost**

All opinions of probable construction cost to be provided by Consultant shall represent the best judgment of Consultant based upon the information currently available and upon Consultant's background and experience with respect to projects of this nature. It is recognized, however, that neither Consultant nor the Department has control over the cost of labor, materials or equipment, over contractors' method of determining costs for services, or over competitive bidding, market or negotiating conditions. Accordingly, Department cannot and does not warrant or represent that the proposals or construction bids received will not vary from the cost estimates provided pursuant to this Agreement.

**Article 10. Reuse of Instruments of Service**

All documents, including but not limited to, drawings, specifications and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to this project. They are not intended or represented to be suitable for reuse by the Department or others on modifications or extensions of this project or on any other project. The Department may elect to reuse such documents; however any reuse or modification without prior written authorization of Consultant will be at the Department's sole risk and without liability or legal exposure to Consultant. The Department shall indemnify, defend, and hold harmless the Consultant against all judgments, losses, claims, damages, injuries and expenses arising out of or resulting from such unauthorized reuse or modification.

**Article 11. Ownership of Documents and Intellectual Property**

All documents, drawings and specifications, including digital format files, prepared by Consultant and furnished to the Department as part of the Services shall become the property of the Department. Consultant shall retain its ownership rights in its design, drawing details, specifications, databases, computer software and other proprietary property. Intellectual property developed, utilized or modified in the performance of the Services shall remain the property of Consultant.



**Article 12. Independent Contractor Status**

During the entire term of this Agreement, Consultant shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the Department. Consultant shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of employees.

**Article 13. Indemnification**

Consultant shall defend, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, agents and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent act or failure to act or any misconduct on the part of the Consultant or its agents or employees, or any independent contractors directly responsible to it (collectively "Claims").

**Article 14. Insurance**

During the performance of any and all Services under this Agreement, Consultant shall maintain the following insurance in full force and effect:

- a. General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate.
- b. Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- c. Professional Liability Insurance ("Errors and Omissions Insurance") with a minimum limit of \$1,000,000 annual aggregate.
- d. Workers' Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code.

All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers, employees and agents of each shall be named as insureds under the General Liability, Automobile, and Worker's Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City's will be called upon to contribute to a loss hereunder.

Consultant shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement. Approval of the insurance by the Department shall not relieve or decrease the extent to which Consultant may be held responsible for payment of damages resulting from Consultant's provision of the Services or its operations under this Agreement. If Consultant fails or refuses to procure or maintain the insurance required by these provisions, or fails or refuses to furnish the Department's required proof that the insurance has been procured and is in force and paid for, the Department shall have the right at its election to terminate the Agreement.

**Article 15. Conflict of Interest**

Consultant declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Consultant agrees that no person having any such interest shall be employed in the performance of this Agreement.

**Article 16. Waiver**

No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 17. Severability**

The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 18. Assignment**

Neither the Department nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

**Article 19. Third Party Rights**

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Department and Consultant.

**Article 20. Governing Law and Venue**

This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

**Article 21. Non-Discrimination**

Consultant shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in all regards, including, but not limited to, employment.

**Article 22. Compliance with Laws**

In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction over the project are in conflict, Consultant shall proceed using its best judgment only after attempting to resolve any such conflict between such governmental agencies,

and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 23. E-Verify**

Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Consultant shall sign an affidavit, attached as Exhibit C, affirming that Consultant does not knowingly employ an unauthorized alien. “Unauthorized alien” is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code chapter 12 or by the U.S. Attorney General.

Consultant and any subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Consultant or subcontractor subsequently learns is an unauthorized alien. If the City obtains information that the Consultant or subcontractor employs or retains an employee who is an unauthorized alien, the City shall notify the Consultant or subcontractor of the contract violation and require that the violation be remedied within 30 days of the date of notice. If the Consultant or subcontractor verified the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that the Consultant or subcontractor did not knowingly employ an unauthorized alien. If the Consultant or subcontractor fails to remedy the violation within the 30 day period, the City shall terminate the contract, unless the City Commission or department that entered into the contract determines that terminating the contract would be detrimental to the public interest or public property, in which case the City may allow the contract to remain in effect until the City procures a new Consultant. If the City terminates the contract, the Consultant or subcontractor is liable to the City for actual damages.

Consultant shall require any subcontractors performing work under this contract to certify to the Consultant that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Consultant shall maintain on file all subcontractors’ certifications throughout the term of the contract with the City.

**Article 24. Notices**

Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

<b>Department:</b>	<b>Consultant:</b>
City of Bloomington Parks and Recreation	Aquatic Control Inc.
Attn: Elizabeth Tompkins	Attn: Nathan Long
401 N. Morton, Suite 250	PO Box 100
Bloomington, Indiana 47402	Seymour, Indiana 47274

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Consultant.

**Article 25. Intent to be Bound**

The Department and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party

to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

**Article 26. Integration and Modification**

This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Consultant. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties hereto.

**Article 27. Non-Collusion**

Consultant is required to certify that it has not, nor has any other member, representative, or agent of Consultant, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Consultant shall sign an affidavit, attached hereto as Exhibit D, affirming that Consultant has not engaged in any collusive conduct. Exhibit D is attached hereto and incorporated by reference as though fully set forth.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year first written above.

**CITY OF BLOOMINGTON**

**Aquatic Control**

\_\_\_\_\_  
Philippa M. Guthrie, Corporation Counsel

\_\_\_\_\_  
Nathan W. Long, VP Lake Management Services

**PARKS AND RECREATION**

\_\_\_\_\_  
Paula McDevitt, Director

\_\_\_\_\_  
Kathleen Mills, President,  
Board of Park Commissioners

**EXHIBIT A**

**“Scope of Work”**

The Services shall include the following:

<b>Griffy Lake Aquatic Vegetation Management Plan Update</b>	
Pre-treatment distribution map for each exotic species	\$750.00
Treatment map with treatment details and acreage	\$0.00
Post-treatment Tier II Survey	\$1,250.00
Post-treatment map with the herbicide(s) and acreage	\$0.00
Public meeting to present results (prior to permit meeting)	\$250.00
Permit meeting with DNR and local sponsors	\$250.00
Plan Update document preparation	\$1000.00
<b>Eurasian Watermilfoil Treatment</b>	
Granular herbicide treatment of 30 acres	<u>\$11,000.00</u>
	\$14,500.00

**EXHIBIT B**  
**“Project Schedule”**

Pre-treatment distribution map for each exotic species	April 15-May 31, 2018
Eurasian watermilfoil treatment	June 2018
Post-treatment Tier II Survey	July 15-August 31, 2018
Public meeting to present results	prior to permit meeting
Permit meeting with DNR and local sponsors	October 2018

**EXHIBIT C**  
**E-VERIFY AFFIDAVIT**

STATE OF INDIANA )  
)SS:  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT**

The undersigned, being duly sworn, hereby affirms and says that:

1. The undersigned is the \_\_\_\_\_ of \_\_\_\_\_.  
(job title) (company name)
2. The company named herein that employs the undersigned:
  - i. has contracted with or seeking to contract with the City of Bloomington to provide services; **OR**
  - ii. is a subcontractor on a contract to provide services to the City of Bloomington.
3. The undersigned hereby states that, to the best of his/her knowledge and belief, the company named herein does not knowingly employ an "unauthorized alien," as defined at 8 United States Code 1324a(h)(3).
4. The undersigned hereby states that, to the best of his/her belief, the company named herein is enrolled in and participates in the E-verify program.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

STATE OF INDIANA )  
)SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public's Signature My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public County of Residence: \_\_\_\_\_

**EXHIBIT D**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

**NON-COLLUSION AFFIDAVIT**

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**Aquatic Control Inc.**

By: \_\_\_\_\_  
\_\_\_\_\_

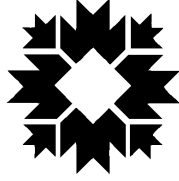
STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public's Signature My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary Public County of Residence: \_\_\_\_\_





CITY OF BLOOMINGTON  
parks and recreation

STAFF REPORT

Agenda Item: D-2  
Date: 4/3/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Leslie Brinson, Community Events Manager  
**DATE:** April 10, 2018  
**SUBJECT:** FOR INFORMATION ONLY-2018 COMMUNITY EVENTS UPDATE

**Background**

This report is for information purposes only. The following is a description of 2018 events. Included in the Community Events area are concerts, movies, events, Farmers' Market, community gardens, A Fair of the Arts, and dog related programs.

*Events for 2018 include:*

**Winter Palooza** – This event was February 10<sup>th</sup> and is a winter festival done Bloomington Style. It featured winter-themed activities and games with no snow required. There were 200 attendees at the event.

**Seusspicious Behavior** – This event was March 4<sup>th</sup> and is a collaboration with the Monroe County Public Library. Bloomington High School North provided a live performance throughout the event and there were 450+ attendees at the event.

**Spring Fling** – This event was March 15<sup>th</sup> and featured active family games and activities designed to fling off the winter blues during spring break. New this year were the addition of two Zorb balls. There were 270 attendees at the event.

**Children's Expo** was March 24<sup>th</sup> at the Monroe County Convention Center and featured active games and activities, wellness assessments, and exhibitors with child and family related products and services. This was the 33<sup>rd</sup> year for this event. There were a record number 1200 attendees.

The **Bloomington Community Farmers' Market** begins on April 7<sup>th</sup> and runs from 8am – 1pm through September and 9am-1 during October and November. The Tuesday Market runs 4-7pm from June through September on Madison just outside of Bloomingfoods.

The **Community Gardens** will open around April 15<sup>th</sup>, weather dependent. Willie Streeter Community Gardens and the Rev. Butler Park Community Gardens offer 217 garden plots for rent. Plant a Row for the Hungry generated 27,500 lbs of food in 2017 and has generated 403,452 pounds of food since 2002.

**Nature Sounds** –A unique listening experience that pairs acoustic music with songs of the wild. Each program includes an introduction to the park’s featured music makers, an hour-long concert, and a guided nature walk. The programs will be April 20<sup>th</sup>, May 18<sup>th</sup>, October 12<sup>th</sup> and November 7<sup>th</sup>.

**The Bicentennial Street Fair** – This opportunity to meet new neighbors and find out more about local businesses and organizations starts from Noon to 4 PM on April 29<sup>th</sup>. This event will feature live, local artists, interactive activities, and much more! So what are you waiting for? Come help us celebrate Bloomington’s 200<sup>th</sup> birthday!

The **50+ Expo** will be May 9<sup>th</sup> from 3-6pm at the Twin Lakes Recreation Center. This popular event is geared toward people who are 50 and over and features a large expo hall with a variety of exhibitors and free health screenings and a community area with representatives from recreation, art, music, and other local area clubs. This is the 44<sup>th</sup> year for the event.

**Yappy Hours** – This free series of events allows dogs and their humans to socialize, exercise, try some hands (or paws) at activities such as agility, and even celebrate the holidays. The first event is June 9<sup>th</sup>. Yappy Hours will be offered seasonally throughout the year at Ferguson Dog Park.

**Summer Sampler** – At this event on June 2<sup>nd</sup>, we will be celebrating the start of summer with, live music, tasty food from local vendors, a Play Day with active games and activities, and “The Lorax” on the big screen under Bryan Park trees.

**Performing Arts Series** – This series features free outdoor musical and theater performances at parks throughout the city. The Tuesday Peoples Park concerts will start May 8<sup>th</sup> and will be from 4:30-6pm. The Sunday night concerts at Bryan Park will begin July 15<sup>th</sup> and will feature performances from two bands.

**A Fair of the Arts** will be held on the second Saturdays of the month from May through October at Showers Civic Plaza. Local and regional artists will once again display, demonstrate and sell their beautiful and well crafted objects. This event is held in conjunction with the Farmers’ Market.

**Touch a Truck** will be June 13<sup>th</sup> from 10am-2pm. It will be held in Winslow Sports Park Parking Lot. This popular event allows children the chance to get up close and personal with trucks of all different sizes and shapes. The rain date is June 15<sup>th</sup>.

**The Fourth of July Parade** is held in partnership with Downtown Bloomington Inc. Entry registration forms will be available online and at the parks office on May 1. There is a \$25 entry fee and space is limited to the first 100 entries.

**Messy Mania** -This popular event will be July 10<sup>th</sup> from 9am – noon at Bryan Park. Kids can get crazy when they experiment with all kinds of messy mediums. Hands-on activities will delight every youngster who loves to squish, splatter, and fling!

The **Movies in the Parks** series is back with a line up of movies that are sure to please. Partnering with the Ryder Film Series and a curated a new schedule, we will be showing movies at dusk in Bryan Park, Butler Park, and the TLSP beginning on June 2<sup>nd</sup>.

**Slip & Foam** – This new event will allow residents to battle the summer heat with a slip in slide and foam pit activities. This will take place July 28<sup>th</sup> from 1-4 PM.

**Drool in the Pool** celebrates its 14<sup>th</sup> anniversary and will be held on August 8<sup>th</sup> & 9<sup>th</sup> at Mills Pool. Dogs will swim and splash in this annual event after the pool is closed for the season to humans. Admission is \$5/dog.

**Junk in the Trunk** is our version of a community rummage sale and will be held on August 18<sup>th</sup> at the Frank Southern Ice Arena from 8am – 1pm. The event will be inside AND outside the arena this year.

The B-Line Bicentennial Event – will allow residents to time travel through Bloomington's: past, present, and future. This event will take place on the B-Line Trail on October 6<sup>th</sup>.

Halloween programs in 2018 will include the **Trick or Treat Trail** in RCA Park on October 20<sup>th</sup> and the **Festival of Ghost Stories** on October 26<sup>h</sup> in Bryan Park.

**The Bloomington Pumpkin Launch** continues to provide great entertainment for children and adults alike. This event will be held October 27<sup>th</sup> this year. We will once again partner with WonderLab and Monroe County Fairgrounds for the event.

The **Holiday Market** will finish our events season on November 24<sup>th</sup> from 10am – 3pm. This Bloomington tradition will feature some of your favorite, locally-grown farm products, arts and crafts, entertainment and much, much more.

**RESPECTFULLY SUBMITTED,**

A handwritten signature in cursive script that reads "Leslie Brinson". The signature is written in black ink and is positioned below the text "RESPECTFULLY SUBMITTED,".

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Leslie Brinson, Community Events Manager