

**AGENDA**  
**REDEVELOPMENT COMMISSION**  
**June 7, 2021 at 5:00 p.m.**

*Per the Governor's Executive Orders 20-04, 20-08, and 20-09, this meeting will be conducted electronically.  
The public may access the meeting at the following link:*

*<https://bloomington.zoom.us/j/91011551134?pwd=YmRCOU45N2pMS0tnME51VENhUllhQT09>  
Meeting ID: 910 1155 1134  
Passcode: 524302*

- I. ROLL CALL**
- II. READING OF THE MINUTES** – May 17, 2021
- III. EXAMINATION OF CLAIM REGISTER** –May 28, 2021 for \$3,328,827.34
- IV. EXAMINATION OF PAYROLL REGISTERS**–May 21, 2021 for \$33,630.43
- V. REPORT OF OFFICERS AND COMMITTEES**
  - A. Director's Report
  - B. Legal Report
  - C. Treasurer's Report
  - D. Business Development Updates
- VI. NEW BUSINESS :**
  - A. Resolution 21-31: Approval of Project Review and Approval Form for 7-Line Construction
  - B. Resolution 21-32: Approval of Design Consultant Contract for 1<sup>st</sup> Street Reconstruction Project
  - C. Resolution 21-33: Approval of Addendum to Design Contract Funding for Multimodal Improvements Along 17<sup>th</sup> Street between Monroe Street and Grant Street
  - D. Resolution 21-34: Approval of Agreement for EV Connect for Charging Stations for the Fourth Street Parking Garage
  - E. Resolution 21-35: Approval of Electronic Meeting Policy
- VII. BUSINESS/GENERAL DISCUSSION**
- IX. ADJOURNMENT**

*Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call [812-349-3429](tel:812-349-3429) or e-mail [human.rights@bloomington.in.gov](mailto:human.rights@bloomington.in.gov).*

***THE REDEVELOPMENT COMMISSION OF THE CITY OF BLOOMINGTON, INDIANA MET on  
Monday, May 17, 2021, at 5:00 p.m. via ZOOM, with Nicholas Kappas, President Presiding  
<https://catstv.net/m.php?q=9706>***

**I. ROLL CALL**

Commissioners Present: Nicholas Kappas, David Walter, Deborah Myerson, Cindy Kinnarney; Deb Hutton, Cathy Fuentes-Rohwer (MCCSC Representative)

Commissioners Absent: None.

Staff Present: John Zody, Director, Housing & Neighborhood Development (HAND); Brent Pierce, Assistant Director, HAND; Christina Finley, Financial Specialist, HAND

Others Present: Larry Allen, Attorney, City Legal Department; Dave Askins, B Square Beacon; Alex Crowley; Director, Economic and Sustainable Development; BEDC

**II. READING OF THE MINUTES** – Deb Hutton moved to approve the May 3, 2021, minutes. Cindy Kinnarney seconded the motion. The motion passed unanimously.

**III. EXAMINATION OF CLAIM REGISTER** – David Walter moved to approve the claim register for May 14, 2021, for \$281,760.42 Cindy Kinnarney seconded the motion. The motion passed unanimously.

**IV. EXAMINATION OF PAYROLL REGISTERS** – Cindy Kinnarney moved to approve the payroll register for May 7, 2021, for \$33,630.43. David Walter seconded the motion. The motion passed unanimously.

**V. REPORT OF OFFICERS AND COMMITTEES**

**A. Director's Report.** John Zody reported that the Historic Preservation Program Manager, Conor Hertrich has resigned and today is his last day. The position has been posted and we will be accepting applications until May 25.

**B. Legal Report.** Larry Allen stated the Redevelopment Commission met in executive session prior to this meeting, at 4:30 p.m. via zoom for the purposes of discussing various real property transactions. Those conversations are confidential because they involve ongoing transactions.

**C. Treasurer's Report.** Jeffrey Underwood was available to answer questions.

**D. Business Development Updates:** Alex Crowley stated progress continues on the Economic Development Administration Grant. Crowley said he submitted a requested follow-up environmental study and is waiting for a response. Crowley said the Economic Development Commission approved a tax abatement for 1730 S. Walnut, last week. It will go to Council June 2 and if approved go back to Council on June 16 for a confirmatory resolution.

**VI. NEW BUSINESS**

**A. Resolution 21-23: Approval of Neighborhood Improvement Grant Distribution.** Resolution Angela Van Rooy briefly explained each grant request and recommendation. The recommendations are as follows:

- **Bloomington Housing Authority Resident Council**--Awarded \$5,019.16 to place additional trash cans, cigarette butt disposal cans, and pet waste stations throughout the three Bloomington Housing Authority properties (Rev. Butler, Crestmont, and Walnut Woods).
- **EverGreen Village Neighborhood**--Awarded \$1,107.60 to place a neighborhood entrance sign at the corner of Susie Street and RCA Park Drive.
- **Near West Side Neighborhood Association**--Awarded \$2,743.00 to paint murals on the five traffic calming circles within the neighborhood. The theme of the murals will celebrate the diverse history of the Near West Side.
- **Prospect Hill Neighborhood Association**--Awarded \$4,410.00 to place seven way finding signs in the Rose Hill Cemetery. This is the continuation of a grant request that was partially funded in 2020.
- **St. James Woods Neighborhood Association**--Awarded \$5,491.79 to revitalize the landscaping on a City-owned parcel at the entrance to their neighborhood, along E Moores Pike.
- **Village of Ridgfield Homeowners Association**--Awarded \$3,973.85 to place four ADA-compliant benches along the sidewalks within their neighborhood.
- **Woodlands-Winding Brook Homeowners Association**--Awarded \$4,254.60 to place new neighborhood signs on either side of their neighborhood entrance. Their previous signs were removed when the City constructed a new walking path in the area.

Nick Kappas asked for public comment. There were no comments from the public.

David Walter made a motion to approve Resolution 21-23, via roll-call vote. Cindy Kinnarney seconded the motion. The board unanimously approved.

- B.** Resolution 21-27: Amendment to the Community Development Block Grant Agreement with the Bloomington Housing Authority (BHA). Matt Swinney stated that complications have arisen as a result of errors in the architectural drawings which have necessitated an extension of the June 30, 2021, deadline. Therefore, staff is requesting an amendment to their agreement for a one year extension. There is no change in cost, procedure, or funding deadlines.

Nick Kappas asked for public comment. There were no comments from the public.

David Walter made a motion to approve Resolution 21-27, via roll-call vote. Cindy Kinnarney seconded the motion. The board unanimously approved.

- C.** Resolution 21-28: Approval of Funding for Construction of Cascades Park Trail Phase 5. Tim Street stated the design for the first portion of Phase 5 was completed in early 2021 and called for installation of ¼ of a mile of trail from the Sycamore Shelter to the waterfall parking lot, a new accessible boardwalk to the waterfall, and stabilization of 430 feet of streambank. This project will be funded through a mix of TIF funding, Bicentennial Bonds, and 2016 Parks general obligation bonds. Street stated this project will increase accessibility, connectivity and safety. The funding request is for \$300,000.

Nick Kappas asked for public comment. Dave Askins had a few questions. Staff will reach out to him directly to answer those questions.

David Walter made a motion to approve Resolution 21-28, via roll-call vote. Deb Hutton seconded the motion. The board unanimously approved.

- D. Resolution 21-29: Addendum to Extend Purchase Agreement for 1730 S. Walnut Street with RealAmerica. John Zody stated 1730 S. Walnut is now the Retreat at Switchyard Park. Zody said it is a 64-unit affordable housing project. The project will break ground this year. As part of the conveyance of the property, the agreement called for all governmental approvals, including site plan design, and financing to be completed within one year of the execution date of the agreement, which was June 9, 2020. City staff and RealAmerica have negotiated an addendum to the agreement for an extension until September 10, 2021.

Nicholas Kappas asked for public comment. There were no comments from the public.

Debra Myerson made a motion to approve Resolution 21-29, via roll-call vote. Cindy Kinnarney seconded the motion. The board unanimously approved.

- E. Resolution 21-30: Approval of Payment to Add Insurance Coverage for the Trades District Parking Garage. Larry Allen stated one of the conditions of finishing the Trades District Parking Garage is that the risk transfers over from the Construction Manager as Constructor to the City of Bloomington. Allen said the City added the Trades District parking Garage to the City's general liability insurance roles with Highland Insurance. The additional cost is \$10,860 for this year. Next year the cost will be folded into the general City budget.

Nicholas Kappas asked for public comment. There were no comments from the public.

Deb Hutton made a motion to approve Resolution 21-30, via roll-call vote. Debra Myerson seconded the motion. The board unanimously approved.

**VII. BUSINESS/GENERAL DISCUSSION**

**VIII. ADJOURNMENT – David Walter moved to adjourn. The meeting adjourned.**

\_\_\_\_\_  
Nicholas Kappas, President

\_\_\_\_\_  
David Walter, Vice President

\_\_\_\_\_  
Date

**21-31  
RESOLUTION  
OF THE  
REDEVELOPMENT COMMISSION  
OF THE  
CITY OF BLOOMINGTON, INDIANA**

**APPROVAL OF PROJECT REVIEW AND APPROVAL FORM FOR 7-LINE  
CONSTRUCTION**

**WHEREAS**, the City of Bloomington (“City”) has brought the Redevelopment Commission a Project Review & Approval Form (“Form”) which seeks the support for the construction of the 7-Line, which will include a protected bicycle lane, improved bus stops, and pedestrian access along 7th Street from the B-Line Trail to Woodlawn Avenue, known as the 7-Line (“Project”); and

**WHEREAS**, a copy of the Form is attached to this Resolution as Exhibit A;

NOW, THEREFORE, BE IT RESOLVED BY THE REDEVELOPMENT COMMISSION OF THE CITY OF BLOOMINGTON, INDIANA, THAT:

1. The Redevelopment Commission finds that the Project has a valid public purpose, and approves the Project.
2. The expenditure of funds is not approved by this Resolution. Funding will be approved at a later date when the Project Manager brings a Contract or Contracts that have been prepared after complying with the appropriate City procurement process for the Project.

BLOOMINGTON REDEVELOPMENT COMMISSION

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Nicholas Kappas, President

ATTEST:

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David Walter, Vice President

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Date

City of Bloomington  
Redevelopment Commission  
Project Review & Approval Form

**Please Note:**

- Approval of the project by the Redevelopment Commission through this Project Review & Approval Form does not represent an authorization to begin work or expend funds.
- Authorization of work and the commitment of funds shall be done when the Redevelopment Commission reviews and approves: (1) a Purchase Order or Contract prepared after complying with the appropriate procurement process for the type of item, service or construction being sought and (2) the estimated costs associated with the Purchase Order or Contract.
- No payment of funds shall be made without a duly authorized and approved Purchase Order or Contract. All claims for payment against a duly authorized Purchase Order or Contract shall be submitted to the Redevelopment Commission for their review and approval along with any required departmental inspections, reviews and approvals prior to the payment of any funds.

To Be Completed by Requesting Party:

**Project Name:** 7-Line, 7<sup>th</sup> Street Protected Bike Lane Improvement Project

**Project Manager:** Roy Aten, Senior Project Manager  
Andrew Cibor, City Engineer

**Project Description:** Building on the success and transformative effect of the B-Line Trail, the 7-Line will provide a protected east-west bicycle lane, improved bus stops, and improved pedestrian features transforming 7<sup>th</sup> Street from the B-Line Trail to Woodlawn Avenue. The multimodal corridor will connect the B-Line, downtown, and Indiana University campus while improving comfort, safety, and efficiency for all road users.

**Project Timeline:** December 2018 – May 2022

**Financial Information:**

Estimated full cost of project:	\$3,200,000
Sources of funds:	Bicentennial Bond
CBU (Rain Gardens)	\$150,000
Bicentennial Bond Series ‘A’	\$1,800,000
General Fund (101)	\$315,372.50
Cum Cap Dev (601)	\$58,901.60
Alternative Transportation (454)	\$202,116.90
Consolidated TIF	\$673,609

**Project Phases:**

<u>Phase/Work to Be Performed</u>	<u>Cost</u>	<u>Timeline</u>
1. Design	\$338,019.00	Dec 2018 - Oct 2021
2. Construction Engineering	\$233,600.00	Nov 2020 - May 2022
3. Construction	\$2,572,455.00	June 2021- Oct 2021

**TIF District:** Downtown

Resolution History: 21-31: Project Review and Approval Form

*To Be Completed by Redevelopment Commission Staff:*

Approved on \_\_\_\_\_

By Resolution \_\_\_\_\_ by a vote of \_\_\_\_\_

**21-32  
RESOLUTION  
OF THE  
REDEVELOPMENT COMMISSION  
OF THE  
CITY OF BLOOMINGTON INDIANA**

**APPROVAL OF DESIGN CONSULTANT CONTRACT FOR 1st STREET  
RECONSTRUCTION PROJECT**

- WHEREAS, pursuant to Indiana Code 36-7-14 *et seq.*, the Redevelopment Commission of the City of Bloomington (“RDC”) and the Common Council of the City of Bloomington created an economic development area known as the Consolidated Economic Development Area (“Consolidated TIF”); and
- WHEREAS, the Consolidated TIF is an allocation area for purposes of tax increment financing; and
- WHEREAS, tax increment from the Consolidated TIF may be used—among other things—to pay expenses incurred by the RDC for local public improvements that are in the Consolidated TIF or that serve the Consolidated TIF; and
- WHEREAS, in Resolution 18-10, the RDC approved a Project Review and Approval Form (“Form”) which sought the support of the RDC for the purchase and redevelopment the Old Bloomington Hospital Site; and
- WHEREAS, part of the redevelopment of the site includes making infrastructure improvements in the area referenced in the Bloomington Hospital Reuse Master Plan as Phase 1 East on the block that is bounded by 2nd Street to the north, 1st Street to the south, the B-Line Trail to the east, and Rogers Street to the west; the project objectives include site demolition, utility coordination, transportation and public facilities, and property platting (“Project”); and
- WHEREAS, City staff solicited bids for an engineer and design consultant to perform civil site designs and landscape architecture (“Services”); and
- WHEREAS, City staff have negotiated an agreement with Shrewsberry and Associates, LLC to perform the Services for an amount not to exceed One Million Forty-Eight Thousand Eight Hundred Eighty Dollars (\$1,048,880.00) (“Agreement”), which is attached to this Resolution as Exhibit A; and
- WHEREAS, the Board of Public Works is scheduled to vote on approval of the Agreement at its meeting on June 8, 2021; and
- WHEREAS, there are sufficient funds in the Consolidated TIF to pay for the Services pursuant to the terms of the Agreement; and
- WHEREAS, the City has brought the RDC an Amended Project Review Form (“Amended Form”), which is attached to this Resolution as Exhibit B.

NOW, THEREFORE, BE IT RESOLVED BY THE BLOOMINGTON REDEVELOPMENT COMMISSION THAT:

1. The RDC reaffirms its support of the Project, as set forth in the Amended Form, and reiterates that it serves the public’s best interests.
2. The RDC finds the Project is an appropriate use of TIF, and that the Project serves the public’s best interests.
3. The RDC hereby approves the Agreement and authorizes the City of Bloomington to expend an amount not to exceed One Million Forty-Eight Thousand Eight Hundred Eighty Dollars (\$1,048,880.00) to pay for the Services, to be payable in accordance with the terms of the Agreement (“Payment”).
4. The Payment authorized above may be made from the Consolidated TIF. Nothing in this Resolution shall remove the requirement to comply with the City or the RDC’s claims process.
5. The funding authorization contained in this Resolution is contingent upon the Board of Public Works approval of the Agreement. In the event that the Board of Public Works does not approve the addendum, the funding authorizations contained in this Resolution shall have no effect. Staff is asked to ensure a fully executed copy of the amended Agreement is retained in the RDC’s records.
6. Unless extended by the Redevelopment Commission in a resolution, the authorizations provided under this Resolution shall expire on December 31, 2023.

**BLOOMINGTON REDEVELOPMENT COMMISSION**

\_\_\_\_\_  
Nicholas Kappas, President

ATTEST:

\_\_\_\_\_  
David Walter, Vice President

\_\_\_\_\_  
Date

**PROJECT NAME:      Bloomington Hospital Re-Use (BHRU) Infrastructure & Site Engineering  
                                  – Phase 1 East**

**AGREEMENT FOR CONSULTING SERVICES**

This Agreement, entered into on this \_\_\_\_\_ day of \_\_\_\_\_ June \_\_\_\_\_, 2021, by and between the City of Bloomington Engineering Department through the Board of Public Works (hereinafter referred to as "Board"), and Shrewsberry and Associates, LLC (hereinafter referred to as "Consultant"),

**WITNESSETH:**

WHEREAS, the Board wishes to take the first step toward the redevelopment of the IU Health Bloomington Hospital site; and

WHEREAS, the project limits of the BHRU Phase 1 East are bounded by 2<sup>nd</sup> Street to the north, 1<sup>st</sup> Street to the south, the B-Line Trail to the East, and Rogers Street to the west; and,

WHEREAS, the Board requires the services of a professional engineering consultant in order to perform tasks including the preparation of civil site designs and landscape architecture, coordination with City, CBU, and private utilities staff, and also the preparation of plans, specifications, and cost estimates, which shall be hereinafter referred to as "the Services"; 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 Board;

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

**Article 1. Scope of Services:** Consultant shall provide professional engineering design services for the demolition of existing buildings and related facilities, along with the platting of a new commercial subdivision including the construction of new roadway and utility improvements in the BHRU Phase 1 East project limits noted above. These design services shall include the preparation of subdivision plats, plans, specifications and estimates for work on street pavements, markings, curb ramps, cross walks, sanitary sewers, water mains, storm sewer systems and detention facilities, landscape architecture and other incidental construction that is found necessary to complete the development of the proposed subdivision. The tasks associated with this work, and assumptions that are applicable to those tasks, are set forth in Exhibit A, Scope of Work and Fee Estimate. Exhibit A is attached hereto and incorporated herein by reference as though fully set forth.

Consultant shall diligently pursue its work under this Agreement and shall complete the Services as described in Exhibit A in a timely manner. Consultant shall perform all Services as expeditiously as is consistent with professional skill and care and the orderly progress of the work.

In the performance of Consultant's work, Consultant agrees to maintain such coordination with the Board as may be requested and desirable, including primary coordination with the Engineering Department officials designated by the Board as project coordinator(s).

Consultant agrees that any information or documents, including digital GIS information, supplied by the Board pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any purpose.

**Article 2. Standard of Care:** Consultant shall perform all services under this Agreement in a skillful and competent manner in accordance with normally accepted standards of the architectural and engineering professions and with that degree of care and skill which a professional engineer or architect would exercise under the same or similar circumstance.

**Article 3. Responsibilities of the Board:** The Board shall have the following responsibilities under this Agreement and shall meet these responsibilities in a timely manner so as not to delay the orderly progress of the Services, and Consultant shall be entitled to rely upon the accuracy and completeness of information supplied by the Board:

**A. Information/Reports**

Provide Consultant with reports, studies, site characterizations, regulatory decisions and similar information relating to the Services that Consultant may rely upon without independent verification unless specifically identified as requiring such verification.

**B. Representative**

The Board hereby designates Patrick Dierkes, Project Engineer, Engineering Department (“Dierkes”), to serve as the Board’s representative for the project. Dierkes shall have the authority to transmit instructions, receive information, interpret and define the Board’s requirements and make decisions with respect to the Services.

**C. Decisions**

Provide all criteria and full information as to Board's requirements for the Services and make timely decisions on matters relating to the Services.

**Article 4. Compensation:** The Board shall pay Consultant a fee based on the payment schedule set forth in Exhibit B – Compensation. Exhibit B is attached hereto and incorporated herein by reference as though fully set forth. The total compensation paid, including fees and expenses, shall not exceed the amount of **One Million, Forty-Eight Thousand, Eight Hundred Eighty Dollars (\$1,048,880.00)**. This sum includes salaries, payroll taxes and insurance, employee fringe benefits, general overhead costs, profit, and project related expenses. Payments will be made according to Consultant's monthly progress statements for each phase and shall be invoiced for the work completed only.

Additional assignments or additional services not set forth in Exhibit A, changes in work, or incurred expenses in excess of the rates set forth in Exhibit B must be authorized in writing by the Board or the Board's designated representative prior to such work being performed, or expenses incurred. The Board shall not make payment for any unauthorized work or expenses. Claims for additional work or expenses must be submitted within thirty (30) days of the completion of the work or expenditure, and must be accompanied by a statement of itemized costs.

**1. Timing and Format for Billing:**

Invoices shall be submitted monthly for Services completed at the time of billing and are due upon receipt. Invoices shall be considered past due if not paid within forty-five (45) calendar days of the due date. Such invoices shall be prepared in a form supported by documentation as the Board may reasonably require.

Tasks shall be invoiced separately, either as separate lines on a single invoice, or on separate invoices at the Board's direction.

**2. Billing Records:**

Consultant shall maintain accounting records of its costs in accordance with generally accepted accounting practices. Access to such records will be provided during normal business hours with reasonable notice during the term of this Agreement and for 3 years after completion.

**Article 5. Appropriation of Funds:** Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Board are at any time not forthcoming or are insufficient, through failure of any entity, including the Board itself, to

appropriate funds or otherwise, then the Board shall have the right to terminate this Agreement without penalty as set forth in Article 7 herein.

**Article 6. Schedule:** Consultant shall perform the Services according to the schedule set forth in Exhibit C, Project Schedule. Exhibit C is attached hereto and incorporated herein by reference as though fully set forth. 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 Board may terminate or suspend performance of this Agreement at the Board's prerogative at any time upon written notice to the Consultant. The Consultant shall terminate or suspend performance of the Services on a schedule acceptable to the Board, and the Board 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 the 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 Board, as set forth in Article 11 herein.

**Article 8. Identity of Consultant:** Consultant acknowledges that one of the primary reasons for its selection by the Board to perform the duties described in this Agreement is the qualification and experience of the principal personnel whom Consultant has represented will be responsible there for. Consultant thus agrees that the work to be done pursuant to this Agreement shall be performed by the principal personnel described in Exhibit D, Key Personnel, and such other personnel in the employ under contract or under the supervision of Consultant. Exhibit D is attached hereto and incorporated herein by reference as though fully set forth. The Board reserves the right to reject any of the Consultant's personnel or proposed outside professional subconsultants, and the Board reserves the right to request that acceptable replacement personnel be assigned to the project.

**Article 9. Cost Estimates:** All estimates of 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 Board 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, Consultant 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 Documents:** 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 Board or others on modifications or extensions of this project or on any other project. The Board may elect to reuse such documents; however, any reuse without prior written verification or adaptation by Consultant for the specific purpose intended will be at the Board's sole risk and without liability or legal exposure to the Consultant. The Board shall indemnify and hold harmless the Consultant against all judgments, losses, damages, injuries and expenses arising out of or resulting from such reuse. Any verification or adaptation of documents by the Consultant will entitle the Consultant to additional compensation at rates to be agreed upon by the Board and the Consultant.

**Article 11. Ownership of Documents and Intellectual Property:** All documents, drawings and specifications, including digital format files, prepared by Consultant and furnished to the Board as part of the Services shall become the property of the Board. Consultant shall retain its ownership rights in its design, drawing details, specifications, data bases, computer software and other proprietary property. Intellectual property developed, utilized or modified in the performance of the Services shall remain the property of the 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 Board.

**Article 13. Indemnification:** To the fullest extent permitted by law, Consultant shall indemnify and hold harmless the City of Bloomington, the Board, and the officers, agents and employees of the City and the Board from any and all claims, demands, damages, costs, expenses or other liability arising out of bodily injury or property damage (collectively "Claims") but only to the extent that such Claims are found on a comparative basis of fault to be caused by any negligent act or omission of Consultant or Consultant's officers, directors, partners, employees, or subconsultants in the performance of services under this Agreement.

**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 combined single limit of \$1,000,000 for each occurrence, and \$2,000,000 in the 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 Board, and the officers, employees and agents of each shall be named as additional insured under both the General Liability Insurance and Automobile Liability Insurance policies, and the policies shall stipulate that the insurance will operate as primary insurance and that no other insurance effected by the City will be called upon to contribute to a loss hereunder.

Consultant shall provide evidence of each insurance policy to the Board prior to the commencement of work under the Agreement. Approval of the insurance by the Board shall not relieve or decrease the extent to which Consultant may be held responsible for payment of damages resulting from service or operations performed pursuant to this Agreement. If Consultant fails or refuses to procure or maintain the insurance required by these provisions, or fails or refuses to furnish the Board required proof that the insurance has been procured and is in force and paid for, Board shall have the right at Board's election to forthwith 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 required under this Agreement. The 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 Board nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party; provided, however, Consultant may assign its rights to payment without the Board's consent. 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 Board and the 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 County 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 employment.

Consultant understands that the City of Bloomington prohibits its employees from engaging in harassment or discrimination of any kind, including harassing or discriminating against independent contractors doing work for the City. If the Consultant believes that a City employee engaged in such conduct towards Consultant and/or any of its employees, Contractor or its employees may file a complaint with the City department head in charge of the Consultant's work and/or with the City human resources department or the Bloomington Human Rights Commission. The City takes all complaints of harassment and discrimination

seriously and will take appropriate disciplinary action if it finds that any City employee engaged in such prohibited conduct.

**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. When appropriate, Consultant shall advise Board of any and all applicable regulations and approvals required by the Federal Environmental Management Agency (FEMA). Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction on 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 Board in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 23. Notices:** Any notice required by this Agreement shall be made in writing to the addresses specified below:

Board:

City of Bloomington  
Engineering Dept.  
Attn: Patrick Dierkes  
401 N. Morton Street, Suite 130  
Bloomington, Indiana 47404

Consultant:

Shrewsberry and Associates, LLC  
Attn: D. Blake Wilson  
7321 Shadeland Station, Suite 160  
Indianapolis, Indiana 46256

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

**Article 24. Intent to be Bound:** The Board and the Consultant each bind 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 25. Integration and Modification:** This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Board 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.

**Article 26. Verification of New Employee' Employment Status:** 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 E, 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 8U.S. Code Chapter 12 or by the U.S. Attorney General.

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

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

Exhibit E is attached hereto and incorporated herein by reference as though fully set forth.

**Article 27. No 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 F, affirming that Consultant has not engaged in any collusive conduct.

Exhibit F is attached hereto and incorporated herein by reference as though fully set forth.  
This Agreement may be modified only by a written amendment signed by both parties hereto.

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

Owner

Consultant

City of Bloomington  
Board of Public Works

Shrewsberry and Associates, LLC

By: \_\_\_\_\_  
Dana Palazzo, President

\_\_\_\_\_  
D. Blake Wilson  
Principal

By: \_\_\_\_\_  
Beth H. Hollingsworth, Vice President

By: \_\_\_\_\_  
Kyla Cox Deckard, Secretary

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

**EXHIBIT A**  
**SCOPE OF WORK AND FEE ESTIMATE**

*See the attached Scope of Services document*



June 3, 2021

Mr. Andrew Cibor  
City Engineer  
City of Bloomington, IN

Shrewsberry is pleased to present the following scope of services for the design of the Bloomington Hospital Re-Use (BHRU) Infrastructure & Site Engineering – Phase 1 East project for the City of Bloomington (Client). We are excited about the opportunity to work with the City of Bloomington on this transformational redevelopment project.

## BHRU Phase I – East - Scope of Services

### Project Administration

Shrewsberry shall provide coordination of subconsultants, project status updates to the Client and boards and committees as appropriate, subdivision and platting submittal coordination, and outreach to the public to give updates on the projects. Additionally, Shrewsberry shall attend project coordination meetings (virtually) every other week from the initial kickoff meeting through completion of bidding. Shrewsberry will prepare and distribute agendas prior to meetings so all interested parties in the Client's organization can prepare accordingly.

### Survey and Platting

Topographic survey, boundary survey, and platting of the BHRU Phase 1 East project site.

- A. Establish horizontal control points and temporary benchmarks for use throughout the project.
  - a. Use NAVD 1988 datum unless use of NGVD 1929 is somehow otherwise warranted for this project.
  - b. Use Indiana State Plane coordinates or another recognized local coordinate system.
- B. Full boundary retracement survey of subject properties as needed to establish the plat boundary.
- C. Full topographic survey with existing surface model and points included.
  - a. Topo from R/W line to R/W line for the following public roadways:
    - i. 2<sup>nd</sup> Street from the B-Line to Rogers St.
    - ii. Morton Street and the B-Line from 1<sup>st</sup> St. to 2<sup>nd</sup> St.
    - iii. Rogers St. from 1<sup>st</sup> St. to 2<sup>nd</sup> St.
  - b. Topo from north R/W line to the pavement centerline for 1<sup>st</sup> St. from the B-Line to Rogers St.
  - c. Topo for the interior of the project site as indicated in Exhibit A
  - d. Locate southern curb line of 2<sup>nd</sup> Street from Rogers Street to the existing hospital parking garage that is to remain.
  - e. Locate the north face of the existing hospital parking garage that is to remain.
  - f. All sanitary sewers on the subject properties and adjacent R/W plus on manhole upstream and downstream.
    - i. Include manhole material (conc., masonry, brick, etc.)



- ii. Include pipe sizes and materials (VCP, PVC, etc.)
    - iii. Include elevations for top of casting, pipe inverts, sump, etc.
  - g. All storm sewers on the subject properties and adjacent R/W plus on structure upstream and downstream.
    - i. Include manhole/structure material
    - ii. Include pipe sizes and materials
    - iii. Include elevations for top of casting, pipe inverts, sump, etc.
    - iv. Include lid type (solid, grate, beehive, etc.)
  - h. All visible and overhead utilities on the subject properties and the adjacent R/W.
    - i. All underground utilities as marked in the field.
- D. Assist with easement and/or alley vacations: prepare descriptions and exhibits for vacation request.
- E. Prepare Primary Plat with coordination from the project team.
  - a. Assist with the preparation of the application and related documentation.
  - b. Attend pre-application meeting.
  - c. Attend Development Review Committee meeting.
  - d. Attend public hearing.
- F. Prepare Secondary Plat
  - a. Attend plat committee meeting and make any revisions as required
- G. Set all new property corner monuments as required.

## Environmental Services

Completion of Phase I and Phase II Environmental Site Assessments for properties identified on the BHRU Phase I-East project site.

It is assumed that access for building inspections can be provided so that this task can be completed during one scheduled time period - meaning no intermittent breaks between building access and that access for Phase I and Phase II ESAs can be provided so that those tasks can be completed during one scheduled time period. It is assumed the proposed boring locations are accessible with a track-mounted drill rig. It is also assumed that schedule and scope will not be impacted by subsurface conditions, physical obstructions, or items harmful to the field crew or environment that was not evident prior to conducting field activities.

Deliverables are one (1) Phase I report inclusive of all properties, one (1) Phase II report inclusive of all properties, and soil boring reports for eight (8) boring locations.

### Phase I Environmental Site Assessments

- A. Up to 3 Phase I Environmental Site Assessments for the properties identified below, consistent with the ASTM International (ASTM) Standard E 1527-13 and the “*Standards and Practices for All Appropriate Inquiry*” 40 CFR 312 (AAI rule). The purpose of this project is to identify *recognized environmental conditions*, as defined by ASTM.  
No sampling will be conducted as part of this assessment. Furthermore, a discussion of non-ASTM issues (asbestos, mold, lead based paint, wetlands, cultural resources, etc.) is not included



- B. Review of previous environmental information and provide recommendations on parcel 413 for mitigation, materials management or further assessment if warranted.

### Phase II Environmental Site Assessments

- A. Up to 3 Phase II Environmental Site Assessments for properties within the project footprint not currently owned and evaluated consistent with ASTM E1903 standard and applicable IDEM RCG guidance.
- B. The site assessments will involve collection of soil and/or groundwater samples for comparison to IDEM RCG default screening levels. The data collected will be used to develop potential mitigation measures for subsurface environmental impairment.

Phase I and Phase II ESAs to be performed at the below addresses and as shown in Exhibit B:

1. 400 W. 1st/635 Rogers;
2. 605 S. Madison
3. 314 W. 1<sup>st</sup> Street

### Building Materials Assessments

The following Assessments will be provided for the following on-site buildings shown on Exhibit A:

#### Building Assessments

- A. Building Material Assessments
- B. Asbestos surveys
- C. Lead-based paint surveys
- D. Complete a survey of other potentially hazardous or regulated materials associated with the buildings.
- E. Prepare Environmental Specifications to be incorporated into the building demolition specifications based on findings.

#### Building Locations

1. 321 W. 2<sup>nd</sup> Street
2. 635 S. Rogers Street
3. 301, 303, 311, and 313 W. 2<sup>nd</sup> Street
4. 409/407 W. 2<sup>nd</sup> Street
5. 605 S. Madison Street
6. 640 S. Morton Street, and
7. 408 W 1<sup>st</sup> Street

### Demolition Recommendations

The August Mack Phase II Environmental Site Assessment, previously conducted by IU Health for several properties on the Project Site, will be reviewed. Any existing potential contaminants and/or underground storage tanks that may require remediation and/or removal will be incorporated into the Demolition Bid Package.



## Public Outreach

Up to two (2) Public Outreach events will be coordinated to update interested parties on the progress of the BHRU Phase 1-East Project. The event dates and locations are yet to be determined, although Mid-October and Mid-January have been preliminarily identified. The events could be either virtual or in-person, which will be determined closer to the actual event dates. Notifications and invitations will be coordinated with the Client to reach maximum participation. All materials for display and/or distribution will be submitted to the Client one week prior to each event for comment and approval.

## Project Package 1 Site Demolition and Pavement Removal

Shrewsberry shall review the topographic and property surveys and develop demolition plans for the structures and pavement on all property controlled by the City of Bloomington within the BHRU Phase 1 East boundaries, along with grading to prepare the site for the construction of infrastructure, roadway, and greenway improvements. Shrewsberry will begin utility coordination to determine retirement and relocation of existing utilities on the site. The demolition design will consider and implement sustainable practices and material reuse where applicable. It is anticipated that the Site Demolition and Pavement Removal will be bid as an early package separate from the remaining improvements. Shrewsberry will coordinate necessary public outreach and notifications, and submit for all necessary permits for this early package.

It is anticipated that City review submittals will occur at 75% and 100%

### Section 1 Construction Documents

Shrewsberry anticipates the following sheets in our plan set:

- A. Cover sheet
- B. Clearing and Demolition Plans
- C. Maintenance of Traffic Plans for temporary lane closures as needed for demolition and restoration work.
- D. Sediment & Erosion Control Plans
- E. Sediment & Erosion Control Details
- F. SWPPP Information Sheet
- G. Site Restoration Plans
- H. Miscellaneous Construction Details.

Shrewsberry will create a Project Manual containing the following:

- A. Contract / "Front End" sections
- B. Technical Specifications (utilizing Master Spec)

### Section 2 Utility Coordination

Shrewsberry will initiate the Utility Coordination process during this phase of the project, and shall provide the following services:

- A. Send copies of the topographic survey drawings to each utility and request that they verify their facilities are shown accurately and properly.



- B. Make corrections and/or updates to the topographic survey data as needed.
- C. Send copies of the demolition drawings to each public utility to initiate the process of retiring and/or abandoning respective service connections, as well as abandonment of mains.
- D. Initiate the relocation of utilities to serve the proposed subdivision.

### Section 3      Permitting and Approvals

Shrewsberry shall follow the Demolition Delay Permit section of the Bloomington UDO and provide the following services:

- A. Request and attend a Pre-Submittal meeting.
- B. Submit for and attend a Development Review Committee (DRC) meeting.
- C. Submittal of Petition for review.
- D. Attend review meetings and/or public hearing to represent the project.
- E. Address review comments on the construction documents.
- F. Submit a SWPPP for local review. This item also includes running the required legal advertisement.
- G. Prepare a draft Notice of Intent (NOI). Submit to Client for review and signature.
- H. File the NOI with IDEM through their web portal.

### Section 4      Bid Phase Services

Shrewsberry will provide the following services:

- A. Coordinate the running of the Advertisement for Bids in the appropriate print and online venues.
- B. Coordinate a Pre-Bid Meeting. This item includes recording attendance and taking meeting minutes for inclusion in addenda.
- C. Taking questions from bidders and issuing addenda as needed.
- D. Attending the bid opening. This item includes reviewing the Contractor's bids for completeness, preparing a Bid Tabulation, and providing a written Recommendation of Award letter.

### Section 5      Contract and Construction Phase Services

Shrewsberry will provide limited construction administration for the specific elements identified herein. Additional inspection and related services can be provided under a supplemental agreement.

Shrewsberry will provide the following services:

- A. Coordinate a Pre-Construction conference meeting with the contractor. This item includes recording attendance and taking meeting minutes.
- B. Attend up to five (5) Site Visits as needed to answer contractor questions or address unforeseen site conditions.
- C. Attend regularly scheduled construction progress meetings (virtual attendance via video conferencing).
- D. Review and approve contractor pay applications, RFIs, and Change Order requests.
- E. Review product submittals and shop drawings.
- F. Attend a site visit for substantial completion request. This item includes preparing a punch list for the contractor and verifying completion of items noted therein.



## Project Package 2      Subdivision Design

Shrewsberry will design the project area, bounded by 2<sup>nd</sup> Street to the north, 1<sup>st</sup> Street to the south, the B-Line Trail to the east, and Rogers Street to the west. The final design will create development-ready lots, upgrade and create new roadways, and implement a new greenway and pedestrian street. The final design will also determine the utility service capacities required for proposed and future development, and design stormwater retention within the greenway to serve portions of the Phase 1-East site as well as future development outside of the project limits. Shrewsberry will utilize the Master Plan as a starting point and reference for the final design, but also present new ideas to improve upon the Master Plan. Shrewsberry will present up to two (2) concepts of the Subdivision layout to the Client for consideration and approval.

Upon approval of the conceptual design, Shrewsberry will begin development of the design. This step in the design process will be a two-stage process: Preliminary Design and Final Design. During the Preliminary Design phase, the construction plans will be developed to approximately 30%. The Preliminary plans will then be submitted to the Client for review and comment. Upon receipt of review comments, Shrewsberry will then develop plans to approximately 95% completion for the Final Design stage. The Final Design documents will then be submitted to the Client for review and comment. Shrewsberry will then make any necessary corrections or additions to the Final Design.

Shrewsberry will also submit a less formal review set at approximately 60% design development for review and comment by the Client. It is anticipated that design will continue during the Client's review to meet the proposed schedule.

### Section 1      Lot Grading and Stormwater Detention

Shrewsberry shall prepare grading of the overall subdivision site and design of the stormwater system including all inlets, pipe networks, and BMPs. The stormwater design shall utilize sustainable practices and Low Impact Development (LID) elements where practical utilizing the proposed Greenway area as outlined in the Master Plan. Shrewsberry shall also provide design and permitting of erosion and sediment control during construction as well as the permanent, post-construction stormwater quality BMPs.

For the stormwater design, Shrewsberry will take into account the future areas of development identified in the Master Plan that will drain to the proposed stormwater detention area in the proposed greenway. Due to grading, it is anticipated that the stormwater on the eastern half of the Phase 1-East project site will not be captured by the proposed stormwater detention in the greenway. Shrewsberry will evaluate other sustainable and low-impact measures for these areas and recommend if additional measures can be implemented as a part of this project or if they should be a part of the future development of the lots.

### Section 2      Roadway Improvement Design

Roadway design for Phase 1-East includes street improvements on Morton Street between 1<sup>st</sup> and 2<sup>nd</sup> Streets, on Rogers Street between the new Greenway Street and 2<sup>nd</sup> Street, and 2<sup>nd</sup> Street between the B-Line and Rogers Street. It also includes the design of the new Madison Street between 1<sup>st</sup> and 2<sup>nd</sup> Street, and a new Greenway shared street (pedestrian, bicycle, and cars) between the B-Line and Rogers Street.



Proposed roadway sections and typology will be based on the Street Network portion of the Master Plan. Comprehensive Maintenance of Traffic planning in coordination with the City and adjacent areas and neighborhoods is also included.

Shrewsberry will design 2<sup>nd</sup> Street between the B-Line and Rogers Street to 30% completion. The remainder of the design and the construction of 2<sup>nd</sup> street will be in a future project.

Shrewsberry will provide the following services:

- A. Prepare typical roadway cross-sections for the improvements to the following public streets:
  - a. 2<sup>nd</sup> Street
  - b. Rogers Street
  - c. Madison Street
  - d. Morton Street / B-Line
  - e. Greenway Street
- B. Establish / Re-establish the horizontal centerline alignments for each roadway.
- C. Establish / Re-establish the vertical profile grades for each roadway.
- D. Cut roadway cross-sections at 50' intervals for each roadway, plus additional sections at intersections and drives.
- E. Establish the necessary right-of-way widths for each roadway and coordinate the inclusion of new right-of-way on the subdivision plat.
- F. Design inlet spacing in coordination with overall stormwater plan.
- G. Design intersection details
- H. Coordinate with the 1<sup>st</sup> Street reconstruction project
- I. Prepare Maintenance of Traffic plans for each roadway. Below is the anticipated MOT design, but is subject to change.
  - a. 2<sup>nd</sup> Street – minimal construction anticipated.
  - b. Rogers Street – road closure from 1<sup>st</sup> to 2<sup>nd</sup> Streets. Local detour to be designed.
  - c. Madison Street – construction activities contained within the project site. Temporary lane closures for vehicles and pedestrian detours to be designed at the intersection with 1<sup>st</sup> and 2<sup>nd</sup> Streets.
  - d. Morton Street / B-Line – road closure of Morton Street from 1<sup>st</sup> to 2<sup>nd</sup> Streets. Local detour to be designed.
  - e. Greenway Street – construction activities contained within the project site. Temporary lane closures for vehicles and pedestrian detours to be designed.
  - f.

### Section 3 Sanitary Sewer, Water Main Design, and Utility Coordination

Shrewsberry shall provide assessments of existing utility systems, design and sizing of public utilities, and coordination with private utilities and Bloomington ITS for removal or relocation as necessary. All utilities will be analyzed and sized for the purpose creating development-ready lots, using the densities and type of development identified in the Master Plan.



It is anticipated that Shrewsberry will participate in up to two (2) meetings with City of Bloomington Utilities for coordination purposes.

Shrewsberry will provide the following services:

- A. Review utility records along with survey data to understand the existing sanitary sewer and water main systems.
- B. Identify all existing service connections that are to be retired or relocated as part of the demolition phase of the project.
- C. Identify all existing public mains that are to be retired or relocated as part of the project.
- D. Develop proposed service connection points for all lots within the proposed subdivision.
- E. Prepare preliminary layouts for new sanitary sewer and water mains to serve the proposed subdivision.
- F. Identify easement needs for the proposed water and sanitary sewer facility and coordinate the inclusion of said easements on the subdivision plat.
- G. Prepare proposed sanitary sewer flow calculations based on the land use and occupancy densities listed in the Master Plan.
- H. Prepare plan & profile sheets for all proposed sanitary sewer and water mains.
- I. Prepare typical construction detail sheets based on the City of Bloomington standards and typical details.
- J. Prepare technical specification sections as needed for inclusion in the Project Manual.
- K. Coordinate with utilities including power, natural gas, communications, and Bloomington ITS for removal or relocation.

## Section 4      Permitting and Approvals

### Subsection A   Stormwater Drainage

Shrewsberry will provide the following services:

- A. Prepare and submit a Preliminary Storm Water Drainage Report, proposed subdivision plat and associated plans to the City and/or Utility for review and comment.
- B. Address any comments from the preliminary review.
- C. Prepare and submit a Final Storm Water Drainage Report, plat, and associated plans to the City and/or Utility for review and comment.
- D. Prepare a Storm Water Pollution Prevention Plan (SWPPP) and submit to the City (or other agency having jurisdiction) for review and comment.
- E. Address any comments from the SWPPP review as needed until approved.
- F. Prepare Notice of Intent (NOI). Coordinate signature by authorized agent.
- G. Run the required legal advertisement and request Proof of Publication.
- H. Submit the NOI to IDEM through their web portal.

### Subsection B   Roadway Design

Shrewsberry will provide the following services:

- A. Submit the preliminary plans and specifications to the City for review and comment.



- B. Address any comments from the preliminary plan review.
- C. Resubmit final plans and specifications to the City.
- D. Address any review comments as needed.
- E. Attend Board of Public Works meeting (or other agencies/boards having jurisdiction) to represent the project for plan approval.

#### Subsection C Sanitary Sewer and Water Main Design

Shrewsberry will provide the following services:

- A. Prepare IDEM Sanitary Sewer Construction Permit application.
- B. Research adjoining property owners as required for the IDEM permit submission.
- C. Submit the preliminary plans and specifications to the City for review and comment.
- D. Address any comments from the preliminary plan review.
- E. Resubmit final plans and specifications for local plan approval.
- F. Upon local approval and receipt of the Capacity Certification Letter, submit the sanitary sewer package to the Indiana Department of Environmental Management.
- G. Upon local approval of the plans and specifications, submit the Notice of Intent to Construct a Water Main Extension.
- H. Address review comments as needed for permit/approval procurement.

#### Section 5 Bid Phase Services

Shrewsberry will provide the below services: It is assumed the Client will coordinate bidding through their website, coordinate the bid opening and prepare bid tabs and award letters.

- A. Assist the Client as needed for the running of the Advertisement for Bids in the appropriate print and online venues.
- B. Coordinate a Pre-Bid Meeting. This item includes recording attendance and taking meeting minutes for inclusion in addenda.
- C. Taking questions for bidders and issuing addenda as needed.
- D. Attend the bid opening and assist the Client in reviewing the Contractor's bids.

#### Section 6 Contract and Construction Phase Services

Shrewsberry will provide limited construction administration for the specific elements identified herein. It is assumed the Client will review and approve contractor pay applications, RFI's, and Change Order Requests. It is also assumed the Client will prepare a punch-list for the contractor and verify the completion of the items noted therein. Additional inspection and related services can be provided under a supplemental agreement.

Shrewsberry will provide the following services:

- A. Coordinate a Pre-Construction conference meeting with the contractor. This item includes recording attendance and taking meeting minutes.
- B. Attend up to six (6) site Visits as needed to answer contractor questions or address unforeseen site conditions.



- C. Attend regularly scheduled construction progress meetings (virtual attendance via video conferencing).
- D. Assist the Client in reviewing contractor pay applications, RFIs, and Change Order requests if required.
- E. Review product submittals and shop drawings.
- F. Attend a site visit for substantial completion request. Assist the Client in preparing a punch list for the contractor and verifying completion of items noted therein if required.

## Project Package 3      Centerstone Parking Reconfiguration

Shrewsberry will coordinate and design the parking replacement reconfiguration for Centerstone based on proposed property negotiations and possible land swap opportunities.

### Section 1      Conceptual Site Design

Conceptual design plans identify the layout and materials to be used on the project. This step of the design process will include the following:

- A. Research the Bloomington UDO to develop the local design requirements such as maximum parking count, required bicycle parking, setback, landscaping and greenspace, etc.
- B. Develop two (2) layouts for the proposed parking.
  - a. Layout 1 assumes Madison Street runs due north and south in line with the existing Madison Street alignment north of 2<sup>nd</sup> St.
  - b. Layout 2 assumes Madison Street will curve and connect to 1<sup>st</sup> Street at (or near) the intersection of the existing alley.
- C. Meet with the City and/or Centerstone for conceptual design approval.
- D. Establish the lot boundaries for the Centerstone parcel in the proposed plat.

### Section 2      Site Design Engineering

Upon approval of the conceptual design, Shrewsberry will begin development of the design. This step in the design process will be a two-stage process: Preliminary Design and Final Design. During the Preliminary Design phase, the construction plans for this parking lot will be developed to approximately 30%. The Preliminary plans will then be submitted to the Client for review and comment. Upon receipt of review comments, Shrewsberry will then develop plans to approximately 95% completion for the Final Design stage. The Final Design documents will then be submitted to the Client and Centerstone for review and comment. Shrewsberry will then make any necessary corrections or additions to the Final Design.

Shrewsberry will also submit a less formal review set at approximately 60% design development for review and comment by the Client. It is anticipated that design will continue during the Client's review to meet the proposed schedule.



The plan set is anticipated to include the following sheets:

- A. Site Plan
- B. Grading Plan
- C. Erosion & Sediment Control Plan
- D. Landscaping Plan with Planting Schedule
- E. Landscaping Details

Assumptions and Clarifications:

- A. Storm water detention for the Centerstone parking will be provided in the detention facilities for the proposed subdivision.
- B. The post-construction stormwater quality BMPs provided for the proposed subdivision will count as part of the treatment train for the Centerstone parking reconfiguration.

### Section 3 Permitting and Approvals

Shrewsberry shall follow the Major Site Plan Review Process as specified in the Bloomington UDO and provide the following services:

- A. Request and attend a Pre-Submittal meeting.
- B. Submit for and attend a Development Review Committee (DRC) meeting.
- C. Coordinate and hold a Neighborhood Meeting, if needed. This item includes preparing and sending out written notices, recording attendance, and taking meeting minutes.
- D. Submittal of Petition for Site Plan review.
- E. Attend review meetings and/or public hearing to represent the project.
- F. Address review comments on the construction documents.

### Section 4 Bid Phase Services

This Project Package will be bid together with the Subdivision Package. No additional Bid Phase Services are included for this portion of the project.

### Section 5 Contract and Construction Phase Services

This Project Package will be bid together with the Subdivision Package. No additional Bid Phase Services are included for this portion of the project.

## Project Package 4 Greenway Street (combined Shared Street and Greenway/Linear Park space) and B-Line Crossing at 2<sup>nd</sup> Street

As identified in the Master Plan, Greenway Street will serve as the primary public space of the Phase 1 East project and serve as the initial 2-block long phase of a future 4-block long east/west linear park that runs through the center of the development. Specific design intent, features, and elements include:



- A public space that combines a shared street and linear park (or greenway) bringing access into the middle of the site and connecting the B-Line into the project site, while creating a series of human scaled outdoor spaces.
- In addition to acting as space for new public amenities, the street and greenway will provide an important stormwater management function.
- The new, slow traffic, shared street will be a curbsless environment with shared travel lanes and on street parking and be designed primarily with the interests of pedestrians and cyclists in mind and as a social space where people can meet and children can safely play.
- Active ground floor uses in the adjacent development will be located along the Greenway with a primary focus on community. Residential lobbies and, in some instances, residential units will be located along this corridor further activating and adding eyes on the street.
- Greenway Street will accommodate smaller, interconnected programmable spaces including a wetland gardens, tree grove, lawn panel, community pavilion and plaza, an interactive fountain, traffic-calmed tabled intersections, and the B-Line Plaza.
- Materials recommendations include permeable pavers with limited use of stabilized stone paving, native hardwood structures, limestone walls and benches, movable tables and chairs, smart litter receptacles, contemporary materials, pedestrian-scaled light fixtures, and native trees (including street, specimen canopy, and ornamental), perennial, and shrub plantings.
  - Final design materials, standards, and guidelines, updated from those shown in the Master Plan and actually used within this project, will be provided as a stand-alone packet.

The Master Plan identifies a preliminary construction budget for the Phase 1 East Greenway Street of range of \$5,265,000 to \$5,820,000. The proposed services and fees are based on this budget range and the scope of design identified in the Master Plan. Upon completion of the Schematic Design phase, we understand the final design components and features will be determined based on the preliminary construction cost opinion and the project construction budget. Design services for features or components beyond the project construction budget, will be considered additional services.

The design of the B-Line Crossing of 2nd Street will include up to Schematic Design (30%) only. The design services for the Greenway will include those for electrical engineering (The Engineering Collaborative), interactive water feature (Delta Fountains), and irrigation (Hines).

## Section 1 Schematic Design (30%)

- A. Utilize the master plan concepts to develop the Schematic Design documents for the project that will develop the overall site layout, define the form and character of the site design and features, and illustrate the scale and relationship of the project components and connections to adjacent and proposed buildings and site development.
- B. Refinement of the conceptual plan layout and design components, confirmation of the site's horizontal and vertical geometries based on the topographic survey, review and evaluation of preliminary material and furnishings, and identification and confirmation of programmatic and infrastructure needs (power, lighting, etc.). Information and feedback collected during coordination with the City will be integrated into the schematic design.



## Section 2 Design Development (60%):

Upon approval of the Schematic Design documents, Design Development will be prepared to include preliminary layout, grading, detailing of site amenities, structures, and materials, electric/lighting, landscape plans and details.

## Section 3 Construction Documents (95% Design & Final Plans):

Upon approval of the Design Development documents, prepare a final construction document package will be prepared that will include construction drawings and specifications. The construction drawings will include layout, grading, detailing of site amenities, structures, and materials, electric/lighting, landscape plans and details. Technical specifications for the Greenway components will also be prepared. It is anticipated that no more than two (2) bid alternates will be included in the final Construction Documents.

Upon approval of the 95% set of construction documents, the final plans, details, technical specifications, and estimates required for bidding will be prepared.

## Section 4 Bid Phase Services

This Project Package will be bid together with the Subdivision Package.

## Section 5 Construction Administration:

Once a construction contract has been awarded, limited construction administration services will be provided for specialty Greenway items on an as-needed basis. Attendance at the pre-construction meeting is included. During construction, we will attend construction progress meetings and conduct site visits as requested, which is anticipated not to exceed a total of ten (10) combined progress meetings/site visits. Site visits will include observation of construction activities and preparation of a brief report to be submitted. We will review shop drawings, submittals, and respond to RFI's / ASI's for items under our direct design responsibility. We will participate in a final walkthrough inspection and prepare a substantial completion punch list.

## Geotechnical Study (Allowance):

If required, a geotechnical investigation for the purpose of determining soil characteristics for pavement and foundation design and stormwater infiltration, to determine approximate depth of rock, and to identify potential problems with in-situ. We anticipate the geotechnical report will include a preparation of boring logs and coring records, a summary report of results, and recommendations for pavement and foundation design and stormwater infiltration design.



## Deliverables and Schedule

Below is a comprehensive list of all expected deliverables to the Client and the project schedule.

### Notice to Proceed – June 9, 2021

#### Due Diligence

- **July 30, 2021 – Survey complete and submitted to Client - CAD file(s)**
- **July 7, 2021 - Phase I ESAs – One Report - Electronic**
- **July 28, 2021 - Building Materials Assessments**
- **August 18, 2021 - Phase II ESAs - One Report – Electronic**

#### Demolition Package

- **September 15, 2021 – 75% Demolition Plans and Specifications**
  - Cover Sheet
  - Clearing/Demolition
  - Maintenance of Traffic
  - SWPP Info Sheet
  - Sediment & Erosion Control Plan
  - Restoration Plan and Grading Model
  - Miscellaneous Details
  - Front End Specifications
  - Technical Specifications
  - Environmental Specifications
  - Preliminary Opinion of Probable Cost
- **September 29, 2021 - City review of 75% Demo Submission Complete**
- **November 1, 2021 – 100% Demolition Plans and Specifications**
  - Cover Sheet
  - Clearing/Demolition
  - Maintenance of Traffic
  - SWPP Info Sheet
  - Sediment & Erosion Control Plan
  - Restoration Plan and Grading Model
  - Miscellaneous Details
  - Front End Specifications
  - Technical Specifications
  - Environmental Specifications
  - Final Opinion of Probable Cost
- **November 15, 2021 - City review of 100% Demo Submission Complete**



- **December 1, 2021 – Demo Package out for Bid**
- **January 15, 2022 – Demolition of Site Begins**

#### **Platting Process**

- **September 23, 2021 - Plat Pre-Submittal Meeting with Plan Commission**
- **October 10, 2021 - Tentative Primary Plat Filing**
- **November 15, 2021 - Primary Plat Public Hearing**
- **January 10, 2022 - Secondary Plat Filing**

#### **Conceptual Design**

- **July 15, 2021 – Conceptual Subdivision and Centerstone Parking Design Submittal**
  - Up to two (2) layouts for proposed parking solution
  - Up to two (2) concepts for subdivision layout
- **July 29, 2021 - City review of Conceptual Site Design complete**

#### **Preliminary Design (30%)**

- **September 16, 2021 – Preliminary (30%) Design Submittal**
  - Cover Sheet
  - Existing Conditions Sheet
  - Utility Coordination Sheet
  - Lot Grading and Stormwater Drainage
    - Existing watershed boundary exhibits
    - Preliminary Narrative of Existing Drainage Conditions
    - Drainage Layout Sheet
    - Preliminary Drainage Report
    - Grading Sheet
    - Spot Elevation Sheet
    - Preliminary Opinion of Probably Costs
    - Preliminary Table of Contents for Front End and Technical Specifications
  - Centerstone Parking Reconfiguration
    - Site Plan
    - Grading Plan
    - Utility Plan
    - Landscaping Plan with Planting Schedule
    - ADA & Site Construction Details
    - Landscaping Details
    - Preliminary Opinion of Probably Costs
    - Preliminary Table of Contents for Front End and Technical Specifications
  - Roadway Improvements for 2<sup>nd</sup> Street, Rogers Street, Morton Street, and Madison Street
    - Typical Cross-Sections Sheets
    - Plan and Profile Sheets
    - Cross-Sections Sheets
    - Right-of-Way Sheets
    - Maintenance of Traffic Sheets



- Intersection Details Sheets
- Miscellaneous Details Sheets
- Preliminary Opinion of Probably Costs
- Preliminary Table of Contents for Front End and Technical Specifications
- Utilities
  - Water and Sewer Main plan and profile Sheets
  - Construction Detail Sheets
  - Preliminary Opinion of Probably Costs
  - Preliminary Table of Contents for Front End and Technical Specifications
- Greenway and Pedestrian Street
  - Schematic Design presentation with a rendered and annotated final schematic plan,
  - Sketches and precedent imagery
  - Two to three (2-3) illustrations of key design components
  - Preliminary Opinion of Probably Costs
- **September 30, 2021 – City review of 30% submittal complete**

#### **60% Design Development**

- **November 10, 2021 – 60% Design Development submittal**
  - Cover Sheet
  - Existing Conditions Sheet
  - Utility Coordination Sheet
  - Lot Grading and Stormwater Drainage
    - Drainage Layout Sheet
    - Grading Sheet
    - Spot Elevation Sheet
    - Updated Opinion of Probably Costs
    - Updated Table of Contents for Front End and Technical Specifications
  - Centerstone Parking Reconfiguration
    - Site Plan
    - Grading Plan
    - Utility Plan
    - Landscaping Plan with Planting Schedule
    - ADA & Site Construction Details
    - Landscaping Details
    - Updated Opinion of Probably Costs
    - Updated Table of Contents for Front End and Technical Specifications
  - Roadway Improvements for Rogers Street, Morton Street, and Madison Street
    - Typical Cross-Sections Sheets
    - Plan and Profile Sheets
    - Cross-Sections Sheets
    - Right-of-Way Sheets
    - Maintenance of Traffic Sheets
    - Intersection Details Sheets
    - Miscellaneous Details Sheets
    - Updated Opinion of Probably Costs



- Updated Table of Contents for Front End and Technical Specifications
- Utilities
  - Water and Sewer Main plan and profile Sheets
  - Construction Detail Sheets
  - Updated Opinion of Probably Costs
  - Updated Table of Contents for Front End and Technical Specifications
- Greenway and Pedestrian Street
  - Preliminary layout Sheet
  - Grading Sheet
  - Site Amenities Details
  - Structures Details
  - Materials Details
  - Electric/lighting layout
  - Landscape Plan Sheets
  - Landscape Details
  - table of contents for anticipated technical specifications
  - Updated Opinion of Probably Costs

- **November 17, 2021 – City review of 60% submittal complete**

#### **Final Submittal (95%)**

- **January 4, 2022 – Final Submittal (95%)**
  - Cover Sheet
  - Existing Conditions Sheet
  - Utility Coordination Sheet
  - Lot Grading and Stormwater Drainage
    - Final Narrative of Existing Drainage Conditions
    - Drainage Layout Sheet – Storm network
    - Drainage Layout Sheet - Detention Facility
    - Drainage detail sheets – cross sections, outlet control
    - Erosion and Sediment Control Plan
    - Drainage and detention Easement Sheet
    - Final Drainage Report
    - Grading Sheets
    - Spot Elevation Sheets
    - Final Opinion of Probably Costs
    - Final Front End and Technical Specifications
  - Centerstone Parking Reconfiguration
    - Site Plan
    - Grading Plan
    - Erosion & Sediment Control Plan
    - Landscaping Plan with Planting Schedule
    - Landscaping Details
    - Final Opinion of Probably Costs
    - Final Front End and Technical Specifications



- Roadway Improvements for Rogers Street, Morton Street, and Madison Street
  - Typical Cross-Sections Sheets
  - Plan and Profile Sheets
  - Cross-Sections Sheets
  - Right-of-Way Sheets
  - Maintenance of Traffic Sheets
  - Intersection Details
  - Drainage/Inlet Location Sheet
  - Driveway Details
  - Miscellaneous Details
  - Final Opinion of Probably Costs
  - Final Front End and Technical Specifications
- Utilities
  - Water and Sewer Main plan and profile Sheets
  - Water and Sewer connections, valves, and hydrant layout Sheets
  - Construction Detail Sheets
  - Final Opinion of Probably Costs
  - Final Front End and Technical Specifications
- Greenway and Pedestrian Street
  - Layout Sheet
  - Grading Sheet
  - Site Amenities Details
  - Structures Details
  - Materials Details
  - Electric/lighting layout
  - Landscape Plan Sheets
  - Landscape Details
  - Technical Specifications
  - Final Opinion of Probably Costs
- **January 18, 2022 – City review of 95% submittal complete**

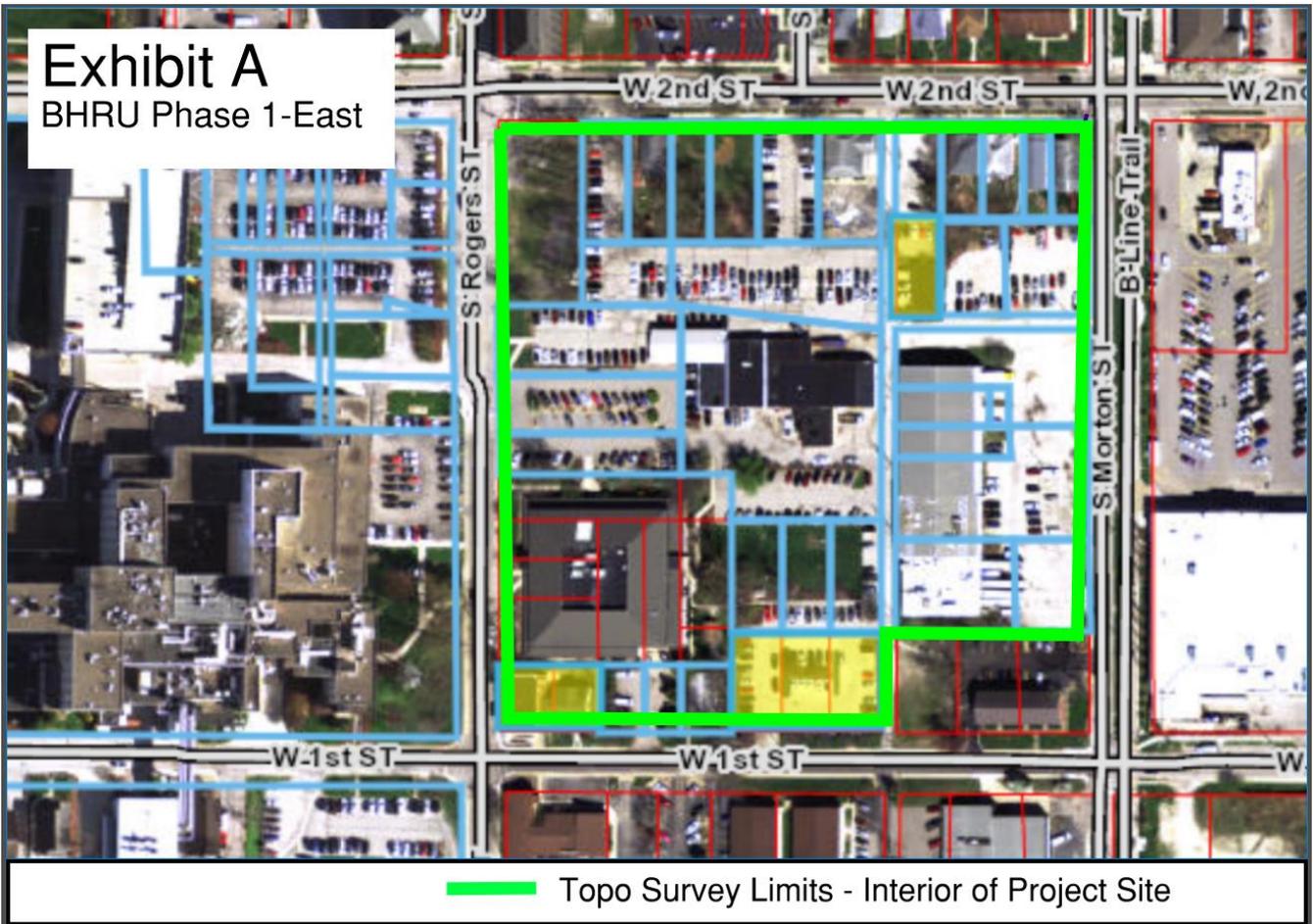
#### **Construction Documents**

- **February 4, 2022 – Construction Documents Complete and Out for bidding**
  - *Final Construction Documents and Specifications as listed in the 95% Submittal, updated and all comments from 95% review addressed.*

#### **April 2022 – Construction Begins**



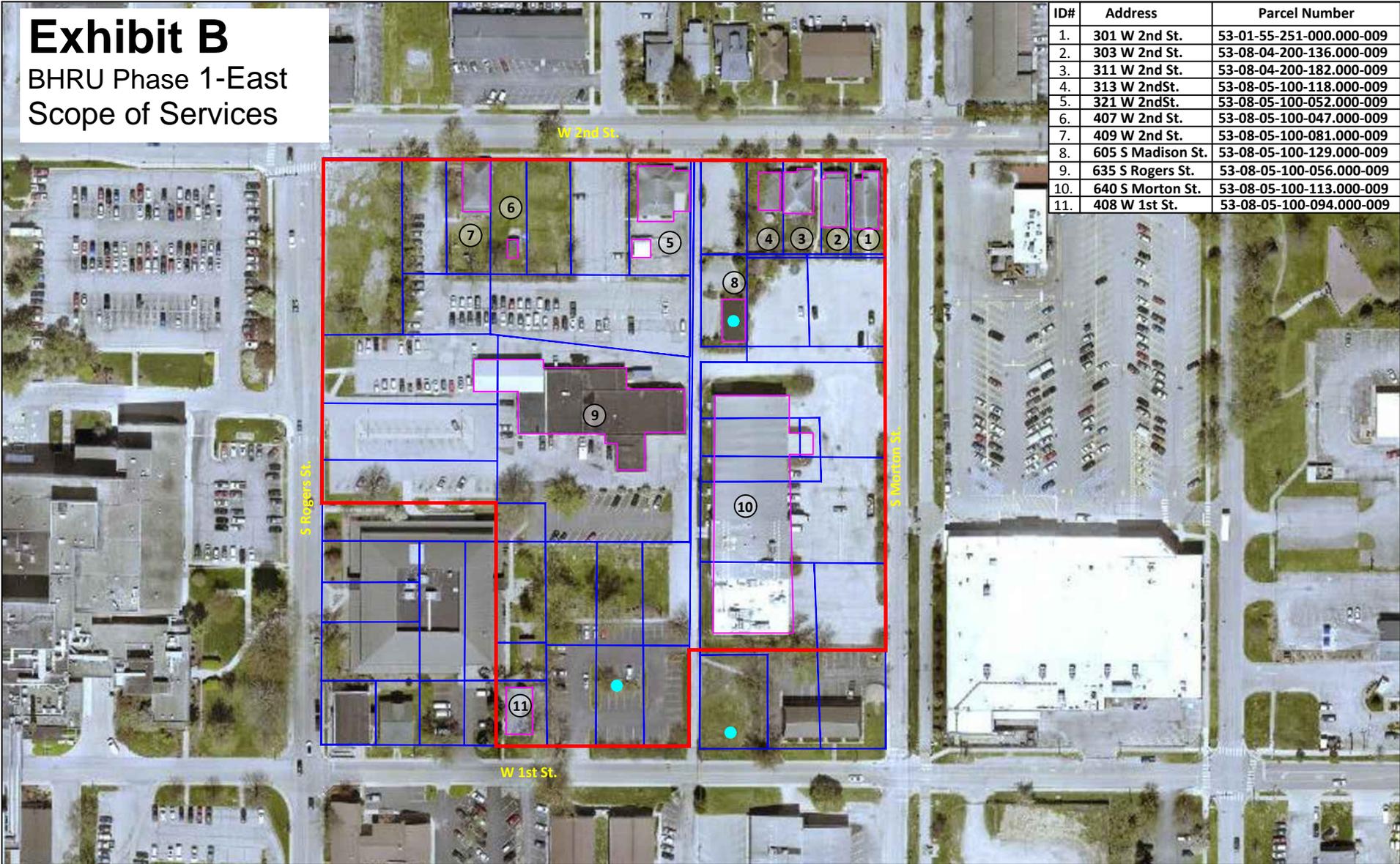
**Exhibit A**  
BHRU Phase 1-East



# Exhibit B

## BHRU Phase 1-East Scope of Services

P:\2021\21-0098 -Shrewsbury - Bloomington - Bloomington Hospital Re-Use\5 - Deliverables\Exhibits\Proposals\Site Map 06012021.dwg



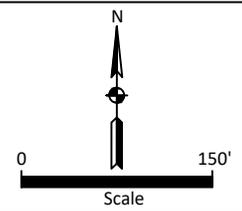
ID#	Address	Parcel Number
1.	301 W 2nd St.	53-01-55-251-000.000-009
2.	303 W 2nd St.	53-08-04-200-136.000-009
3.	311 W 2nd St.	53-08-04-200-182.000-009
4.	313 W 2nd St.	53-08-05-100-118.000-009
5.	321 W 2nd St.	53-08-05-100-052.000-009
6.	407 W 2nd St.	53-08-05-100-047.000-009
7.	409 W 2nd St.	53-08-05-100-081.000-009
8.	605 S Madison St.	53-08-05-100-129.000-009
9.	635 S Rogers St.	53-08-05-100-056.000-009
10.	640 S Morton St.	53-08-05-100-113.000-009
11.	408 W 1st St.	53-08-05-100-094.000-009

Source: <https://monroe.in.elevatemaps.io/#extent=3108000.7493267483,3107334.0826600813,1425664.5816117919,1425360.3281395698,2245>

**Project Site Map**  
 Proposal for Environmental Services  
 Bloomington Hospital Re-Use Phase I East Development  
 Bloomington, Monroe County, Indiana

Note: All locations are approximate

- Phase I/II
- Building for Assessment inside of red border



Drawn by: ILJ  
 Checked by: MJ  
 Approved by: PL  
 Date: June, 2021

**EXHIBIT B**  
**COMPENSATION**

This project is to be completed and invoiced using a Lump Sum basis with portions of the work being added to the total cost using a Cost Plus to a Maximum. Each work area has an agreed maximum cost presented in the attached Fee Summary. In the event that additional services are needed, additional compensation will be determined using the same rates that appear in Exhibit A. Additional services will only proceed with prior written approval from the Board or Engineering Department officials designated by the Board as project coordinator(s).

*See the attached Fee Summary and Schedule of Hourly Rates*



**Bloomington Hospital Re-Use (BHRU) Infrastructure & Site Engineering Phase 1 - East**

6/3/2021

**Shrewsberry Proj. No. 21-0049**

<b>Shrewsberry &amp; Associates, LLC</b>	<b>Total Estimated Fee</b>	<b>Contract Type</b>
Section 1.0 - Project Admin, Meetings, & Coordination	\$ 42,700.00	Lump Sum
Section 2.0 - Pavement Removal and Building Demolition Package	\$ 58,000.00	Lump Sum
Section 3.0 - Subdivision Design: Lot Grading and Stormwater Drainage	\$ 111,400.00	Lump Sum
Section 3.1 - Subdivision Design: Roadway Improvements and Subdivision Layout	\$ 165,100.00	Lump Sum
Section 3.2 - Subdivision Design: Sanitary Sewer & Water Mains	\$ 32,600.00	Lump Sum
Section 4.0 - Centerstone Parking Reconfiguration	\$ 37,400.00	Lump Sum
Section 5.0 - Bid Phase Services	\$ 8,500.00	Lump Sum
Section 6.0 - Contract Phase Services	\$ 12,200.00	Hourly Rate / NTE
Expenses	\$ 2,000.00	Actual
<b>Subtotal - Original Agreement</b>	<b>\$ 469,900.00</b>	
Section 6.1 - Additional Fee if Centerstone Parking Reconfiguration is Bid Separately	\$ 13,300.00	Lump Sum

<b>Bynum Fanyo &amp; Associates, Inc.</b>	<b>Total Estimated Fee</b>	<b>Contract Type</b>
Retracement Boundary Surveys	\$ 7,280.00	Lump Sum
Full topographicsurvey	\$ 8,520.00	Lump Sum
Subdivision Platting (Primary & Final)	\$ 8,880.00	Lump Sum
Project Progress Meetings	\$ 3,000.00	Lump Sum
Allowance for Additional Services	\$ 4,500.00	Hourly Rates
<b>Subtotal</b>	<b>\$ 32,180.00</b>	

<b>Metric Environmental, LLC</b>	<b>Total Estimated Fee</b>	<b>Contract Type</b>
Phase I ESAs	\$ 15,900.00	Lump Sum
Phase II ESAs	\$ 26,600.00	Hourly Rate / NTE
Building Materials Assessments	\$ 67,200.00	Hourly Rate / NTE
Demolition Recommendations	\$ 1,500.00	Lump Sum
<b>Subtotal</b>	<b>\$ 111,200.00</b>	



**Bloomington Hospital Re-Use (BHRU) Infrastructure & Site Engineering Phase 1 - East**

6/3/2021

**Shrewsberry Proj. No. 21-0049**

<b>Rundell Ernstberger Associates</b>	<b>Total Estimated Fee</b>	<b>Contract Type</b>
Schematic Design Phase	\$ 81,200.00	Lump Sum
Design Development Phase	\$ 91,850.00	Lump Sum
Construction Document Phase	\$ 139,150.00	Lump Sum
Bid Phase Services	\$ 6,500.00	Lump Sum
Construction Admin Services	\$ 34,400.00	Hourly Rate / NTE
Expenses	\$ 1,500.00	Actual
Sub: The Engineering Collaborative - Electrical Engineering	\$ 10,000.00	Lump Sum
Sub: Delta Fountains - Interactive Water Feature	\$ 25,000.00	Lump Sum
Sub: Hines - Irrigation Design	\$ 12,000.00	Lump Sum
<b>Subtotal - Estimate for</b>	<b>\$ 401,600.00</b>	

<b>Kirkwood Design Studio, PC</b>	<b>Total Estimated Fee</b>	<b>Contract Type</b>
Public Meetings and Input/Review of Greenway	\$ 19,000.00	Lump Sum
<b>Subtotal</b>	<b>\$ 19,000.00</b>	



**Bloomington Hospital Re-Use (BHRU) Infrastructure & Site Engineering Phase 1 - East**

6/3/2021

**Shrewsberry Proj. No. 21-0049**

Consultant	Total Estimated Fee
Shrewsberry & Associates, LLC	\$ 469,900.00
Bynum Fanyo & Associates, Inc.	\$ 32,180.00
Metric Environmental, LLC	\$ 111,200.00
Rundell Ernstberger Associates	\$ 401,600.00
Kirkwood Design Studio, PC	\$ 19,000.00
Allowance for Geotechnical Borings and Testing, if required	\$ 15,000.00
<b>Total Fee</b>	<b>\$ 1,048,880.00</b>



**2021-2022 BILLING RATE TABLE**

**Effective Date: 02/07/21**

Project Number & Description: 21-0049 - City of Bloomington - BHRU Infrastructure & Site Engineering - Phase 1 East

GROUP CLASSIFICATIONS/STAFF TYPES	2021 GROUP HOURLY LABOR RATE	2021 GROUP HOURLY LABOR RATE X OVERHEAD @ 142.28%	2021 GROUP HOURLY LABOR RATE + OH	2021 GROUP HOURLY LABOR RATE + OH x PROFIT @ 15.00%	2021 GROUP HOURLY LABOR RATE TIMES COST OF MONEY @ 0.49%	2021 HOURLY BILLING RATE
<b>MANAGEMENT</b>						
Principal 7	\$ 79.96	\$ 113.77	\$ 193.73	\$ 29.06	\$ 0.39	\$ 223.18
<b>ENGINEERING</b>						
Engineer 7	\$ 96.99	\$ 138.00	\$ 234.99	\$ 35.25	\$ 0.48	\$ 270.71
Engineer 6	\$ 74.73	\$ 106.33	\$ 181.06	\$ 27.16	\$ 0.37	\$ 208.58
Engineer 5	\$ 70.96	\$ 100.96	\$ 171.92	\$ 25.79	\$ 0.35	\$ 198.06
Engineer 4	\$ 59.50	\$ 84.66	\$ 144.16	\$ 21.62	\$ 0.29	\$ 166.07
Engineer 3	\$ 48.32	\$ 68.75	\$ 117.07	\$ 17.56	\$ 0.24	\$ 134.87
Engineer 2	\$ 43.51	\$ 61.91	\$ 105.42	\$ 15.81	\$ 0.21	\$ 121.44
Engineer 1	\$ 33.80	\$ 48.09	\$ 81.89	\$ 12.28	\$ 0.17	\$ 94.34
Designer 5	\$ 53.63	\$ 76.30	\$ 129.93	\$ 19.49	\$ 0.26	\$ 149.69
Designer 4	\$ 45.91	\$ 65.32	\$ 111.23	\$ 16.68	\$ 0.22	\$ 128.14
Designer 3	\$ 38.19	\$ 54.34	\$ 92.53	\$ 13.88	\$ 0.19	\$ 106.59
Designer 2	\$ 27.45	\$ 39.06	\$ 66.51	\$ 9.98	\$ 0.13	\$ 76.62
Designer 1	\$ 27.32	\$ 38.87	\$ 66.19	\$ 9.93	\$ 0.13	\$ 76.25
CADD Drafter 2	\$ 25.50	\$ 36.28	\$ 61.78	\$ 9.27	\$ 0.12	\$ 71.17
CADD Drafter 1	\$ 19.69	\$ 28.02	\$ 47.71	\$ 7.16	\$ 0.10	\$ 54.97
<b>LANDSCAPE ARCHITECTURE</b>						
Landscape Architect 6	\$ 64.64	\$ 91.97	\$ 156.61	\$ 23.49	\$ 0.32	\$ 180.42
Landscape Architect 5	\$ 44.66	\$ 63.54	\$ 108.20	\$ 16.23	\$ 0.22	\$ 124.65
Landscape Architect 4	\$ 40.61	\$ 57.78	\$ 98.39	\$ 14.76	\$ 0.20	\$ 113.35
Landscape Architect 3	\$ 30.90	\$ 43.96	\$ 74.86	\$ 11.23	\$ 0.15	\$ 86.25
Landscape Architect 2	\$ 29.71	\$ 42.27	\$ 71.98	\$ 10.80	\$ 0.15	\$ 82.92
Landscape Architect 1	\$ 25.48	\$ 36.26	\$ 61.74	\$ 9.26	\$ 0.12	\$ 71.12
<b>CONSTRUCTION SERVICES</b>						
Inspector 5	\$ 80.25	\$ 114.18	\$ 194.43	\$ 29.16	\$ 0.39	\$ 223.99
Inspector 4	\$ 60.10	\$ 85.51	\$ 145.61	\$ 21.84	\$ 0.29	\$ 167.75
Inspector 3	\$ 42.87	\$ 61.00	\$ 103.87	\$ 15.58	\$ 0.21	\$ 119.66
Inspector 2	\$ 32.93	\$ 46.85	\$ 79.78	\$ 11.97	\$ 0.16	\$ 91.91
Inspector 1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>SUPPORT</b>						
Administration 6	\$ 61.90	\$ 88.07	\$ 149.97	\$ 22.50	\$ 0.30	\$ 172.77
Project Manager 5	\$ 79.23	\$ 112.73	\$ 191.96	\$ 28.79	\$ 0.39	\$ 221.14
Administration 4	\$ 40.05	\$ 56.98	\$ 97.03	\$ 14.55	\$ 0.20	\$ 111.78
Administration 3	\$ 38.80	\$ 55.20	\$ 94.00	\$ 14.10	\$ 0.19	\$ 108.30
Administration 2	\$ 24.53	\$ 34.90	\$ 59.43	\$ 8.91	\$ 0.12	\$ 68.47
Administration 1	\$ 20.86	\$ 29.68	\$ 50.53	\$ 7.58	\$ 0.10	\$ 58.22
Intern	\$ 15.45	\$ 21.98	\$ 37.43	\$ 5.61	\$ 0.08	\$ 43.12

As verified and Approved as to the date indicated.

Signed: *D Blake Wilson*

5/12/2021



## INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue  
Room N749  
Indianapolis, Indiana 46204

Eric Holcomb, Governor  
Joe McGuinness, Commissioner

July 8, 2020

Robert Boyd, Controller  
Shrewsberry & Associates, LLC  
7321 Shadeland Station  
Suite 160  
Indianapolis, IN 46256

Dear Mr. Boyd:

We have performed a cognizant review of the examination, and supporting workpapers, of the Indirect Cost Rate of Shrewsberry & Associates, LLC as presented in the Statement of Direct Labor, Fringe Benefits, and General Overhead for the year ended December 31, 2019 in accordance with our role as Cognizant Agency as defined in 23 U.S.C. 112(b)(2)(c) and 23 CFR 172.3 and 172.7. The audit was performed by the independent CPA firm Somerset CPAs. The CPA represented that the audit was conducted in accordance with the *Government Auditing Standards*, as promulgated by the Comptroller General of the United States of America, and the audit was designed to determine that the indirect cost rate was established in accordance with Cost Principles contained in the Federal Acquisition Regulation, 48 CFR Part 31. Our cognizant review was performed in accordance with the AASHTO *Review Program for CPA Audits of Consulting Engineers' Indirect Cost Rates*.

In connection with our cognizant review, nothing came to our attention that caused us to believe that the examination, supporting workpapers for the Indirect Cost Rate, and the related Accountant Report we reviewed, did not conform in all material respects to the aforementioned regulations and auditing standards.

Accordingly, we recommend acceptance of the following rates:

Home Office: 142.28%

Facilities Capital Cost of Money (FCCM): 0.49%

Branch/Field Office: 163.09%

Facilities Capital Cost of Money (FCCM) 0.09%

Yours truly,

A handwritten signature in cursive script that reads "Penny Royer-Pitcock".

Penny Royer-Pitcock  
External Auditor



## STANDARD FEE AND REIMBURSEMENT SCHEDULE

Indianapolis, IN | Louisville, KY

Effective January 2020

Rates indicated are subject to semi-annual review and revision

### PROFESSIONAL AND TECHNICAL STAFF

Principal LA/Planner	\$210.00/hour
Planner 1	\$200.00/hour
Sr. Project Manager	\$184.00/hour
Civil Engineer I	\$163.00/hour
Associate LA/Planner	\$158.00/hour
Professional Staff (Registered LA)	\$137.00/hour
Planner II	\$132.00/hour
Technical Staff (Graduate LA/Planner)	\$110.00/hour
Administrative	\$84.00/hour
Construction Inspection Manager	\$117.00/hour
Construction Inspection Field Technician	\$98.00/hour

A surcharge of fifty percent (50%) will be added to hourly rates for expert witness testimony and/or for participation at hearings, depositions, etc.

### REIMBURSABLE EXPENSES

Mileage	Standard mileage rate
Travel, Lodging, and Meals	Cost
Postage, Handling, etc.	Cost
Copies	
Black & White (8 1/2 x 11)	\$0.05/copy
Black & White (11 x 17)	\$0.10/copy
8 1/2 x 11 Inkjet	\$1.00
8 1/2 x 11 Presentation	\$1.50
8 1/2 x 11 Photo Paper	\$2.50
11 x 17 Inkjet	\$2.00
11 x 17 Presentation Paper	\$2.75
11 x 17 Photo Paper	\$3.50
Plots	
Black & White In-House Plots	
Bond	\$1.00 SF
Color In-House Plots	
Heavy bond	\$4.00 SF
Semi-Gloss	\$5.00 SF
High-Gloss	\$6.00 SF
Materials	Cost + 5%
Equipment Rental	Cost + 5%
Subcontract Services	Cost + 5%

### INVOICES

Invoicing and payment schedule are detailed in the contract. Balances remaining unpaid after thirty (30) days are subject to a monthly finance charge of 1.5% (18% annually) until paid.

**EXHIBIT C**  
**PROJECT SCHEDULE**

*See the attached Project Summary*



## BHRU Phase 1 - East - Schedule Summary

BHRU Phase 1 - East Schedule Summary		
Date	Activity	Notes
6/9/2021	NTP	
7/30/2021	Survey Complete	
7/7/2021	Phase I	
8/18/2021	Phase II	
7/28/2021	Building Assessments	
9/15/2021	75% Demo Submission	7 weeks from final survey complete
9/29/2021	Complete	2 weeks for city review and comments
11/1/2021	100% Demo Submission	5 weeks for final Demo design
11/15/2021	Complete	2 weeks for city review and comments
12/1/2021	Demo Package out for Bid	2 weeks to address comments and put out on the street for bids
1/15/2022	Demolition of Site Begins	
9/23/2021	Commission	
10/10/2021	Tentative Primary Plat Filing	
11/15/2021	Primary Plat Public Hearing	
1/10/2022	Secondary Plat Filing	
7/15/2021	Conceptual Site Design Submittal	Conceptual Design based off of existing topo/GIS info - NOT survey yet
7/29/2021	City review of Conceptual Site Design complete	2 weeks to review and select preferred options
9/16/2021	30% Roadway, drainage, utility, and greenway submittal	7 weeks from final survey complete
9/30/2021	City review of 30% submittal complete	2 weeks to review
10/7/2021	30% comments addressed, design continues	1 week - includes meeting between design team and city to go through comments comprehensively
Mid-October	Public Informational Outreach Meeting	
11/10/2021	60% Roadway, drainage, utility, and greenway submittal**	5 weeks from 30% comments reviewed. There will be a 60% submittal, but design team will continue to move forward with design during the city review process
11/17/2021	City review of 60% submittal complete	1 week to review 60% plans and provide comments
1/4/2022	Final (95%) roadway, drainage, utility, and greenway submittal	7 weeks from 60% review and comments from City
1/18/2022	City review of 95% submittal complete	2 weeks to review and provide comments
End of January	Public Informational Outreach Meeting	
2/4/2022	Construction Documents Complete and Out for Bidding	2 weeks to address 95% comments from City
April 2022	Construction Begins	

**EXHIBIT D**  
**KEY PERSONNEL**

CONSULTANT will provide the following key team members to provide the services described in Exhibit A. Key team members may not be changed without the approval of the Board.

<b><u>Position / Responsibility</u></b>	<b><u>Name</u></b>
Project Director	Karen Valiquett, PE
Project Manager	Matthew Wallace, PE, LEED AP
Project Engineer / Roadway Design	Bret Schnurpel, PE
Project CAD Manager/Technician	Ron Richardson



**EXHIBIT F  
NON-COLLUSION AFFIDAVIT**

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

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 \_\_\_\_\_, 20\_\_\_\_\_.

Shrewsberry and Associates, LLC  
(Name of Organization)

By: \_\_\_\_\_  
D. Blake Wilson  
Principal

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

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

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

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

My Commission Expires: \_\_\_\_\_  
County of Residence: \_\_\_\_\_ Commission Number: \_\_\_\_\_

City of Bloomington  
 Redevelopment Commission  
**Amended** Project Review & Approval Form

**Please Note:**

- Approval of the project by the Redevelopment Commission through this Project Review & Approval Form does not represent an authorization to begin work or expend funds.
- Authorization of work and the commitment of funds shall be done when the Redevelopment Commission reviews and approves: (1) a Purchase Order or Contract prepared after complying with the appropriate procurement process for the type of item, service or construction being sought and (2) the estimated costs associated with the Purchase Order or Contract.
- No payment of funds shall be made without a duly authorized and approved Purchase Order or Contract. All claims for payment against a duly authorized Purchase Order or Contract shall be submitted to the Redevelopment Commission for their review and approval along with any required departmental inspections, reviews and approvals prior to the payment of any funds.

**Project Name:** Purchase and Redevelopment of IU Health Bloomington Hospital Site at 2<sup>nd</sup> and Rogers (“Hospital Site”)

**Project Manager:** Mick Renneisen; Jeff Underwood; Philippa Guthrie

**Project Description:**

Project will involve purchase of the Hospital Site at 2<sup>nd</sup> and Rogers from IU Health at such point as IU Health has vacated, razed some or all buildings on the site, and cleaned the site to a development-ready condition, in accordance with a definitive purchase agreement to be executed between the City and IU Health. The site is located in the Consolidated TIF and the City will be seeking funding for the real property purchase and for activities that will support future redevelopment of the site. If it were not for this project, it is very likely the site would be abandoned and underutilized or not utilized at all for years, as has happened across the country with similar hospital relocations and closings. This project will allow the city to prepare the site for and encourage redevelopment and best use of a prime location in the heart of downtown, and adjacent to the new Switchyard Park.

It is the Legal Department’s position that this project is a permissible use of Tax Increment under Indiana Code § 36-7-14-39(b)(3).

**Project Timeline:**

Start Date: January 2018  
 End Date: December 31, 2023

**Financial Information:**

Estimated full cost of project:	\$10,000,000.00
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Sources of funds:	
Consolidated TIF	\$10,000,000.00
Federal Roadway Reconstruction	\$2,905,934.00

**Project Phases:** This breakdown should mirror the contract(s) expected to be issued for this project. Each phase should include a description of the work to be performed, the cost, and the timeline for the contract.

Step	Description	Estimated Cost	Timeline
1	Urban Land Institute Consulting Contract	\$135,000	Services to be Completed by July 2018
2	Appraisals	\$50,000	2018-2020
3	Project Agreement with IU Health	\$6,500,000	2021
4.	Due Diligence with Environmental Assessment	Total: \$79,865.63 Legal Fees: \$29,275.63 Engineering: \$11,800 Phase 1: \$15,200 Phase 2: \$23,590	Nov.2018-Mar. 2019
5.	Master Planner	\$410,000	2020-21
6.	1st Street Reconstruction	Total: \$4,935,959.03	2020-2023
6a	Design – VS Engineering	\$720,959.03	Oct. 2020 – Dec. 2023
6b.	Right of Way Acquisition	Estimated \$90,000	Nov. 2021 – May 2022
6c	Construction Inspection	Estimated \$475,000	Apr. 2023 – Nov. 2023
6d.	Construction	Estimated \$3,650,000 (including \$2,905,934 federal funding)	Apr. 2023 – Nov. 2023
7.	Additional Property Acquisition	\$350,000.00	Feb. 2021
7a	Phase II Assessment	\$26,094.00	Jan. 2021
8.	Phase I Design – Shrewsberry & Associates, LLC	\$1,048,880	June 2021 – Dec. 2023

**TIF District:** Consolidated TIF (Walnut-Winslow, South Walnut, Tapp Road, Expanded Tapp Road, Fullerton Pike)

**Resolution History:** 18-13 Project Review and Approval Form  
18-17 Approval of Contract with Urban Land Institute

- 18-31 Approval of Agreement with IU Health for Purchase of Old Hospital Site
- 18-61 Approval of Funding for Phase 1 Environmental Assessment
- 18-85 Approval of Funding for Due Diligence and Phase 2 Environmental Assessment
- 19-28 Approval of Funding for Due Diligence and Legal Fees
- 19-44 Approval of Third Amendment to Purchase Agreement
- 19-94 Approval to Keep Parking Garage
- 19-95 Approval of Fourth Amendment to Purchase Agreement
- 20-09 Approval of Amended Project Review Form
- 20-12 Agreement with Master Planner – SOM
- 20-79 Design Contract for 1st Street Reconstruction
- 20-86 Purchase Agreement for 413 W. 2nd Street
- 20-93 Approval of Phase II Assessment for 413 W. 2nd Street
- 21-32 Design Contract for Phase 1 East

To Be Completed by Redevelopment Commission Staff:

Approved on \_\_\_\_\_

By Resolution \_\_\_\_\_ by a vote of \_\_\_\_\_

**21-33  
RESOLUTION  
OF THE  
REDEVELOPMENT COMMISSION  
OF THE  
CITY OF BLOOMINGTON, INDIANA**

**APPROVAL OF ADDENDUM TO DESIGN CONTRACT FUNDING FOR  
MULTIMODAL IMPROVEMENTS ALONG 17<sup>TH</sup> STREET  
BETWEEN MONROE STREET AND GRANT STREET**

- WHEREAS, in Resolution 17-52, the Bloomington Redevelopment Commission (RDC) approved a project review form for improvements along 17th Street; and
- WHEREAS, as part of a federally funded project, the scope of the project has changed to include multimodal improvements along 17th Street between Monroe and Grant Streets (“Project”); and
- WHEREAS, in Resolution 19-60, the RDC approved an Amended Project Review & Approval Form; and
- WHEREAS, the RDC approved the design and preliminary engineering agreement for the Project with the Lochmueller Group, Inc. in Resolution 19-72 for an amount not to exceed \$636,115.00 (“Agreement”), which is attached to this Resolution as Exhibit A; and
- WHEREAS, City staff believe it is in the best interest of the project to add services to the Agreement, including right of way acquisition and survey and design services for unexpected conditions (“Additional Services”); and
- WHEREAS, Staff have negotiated an amendment to the Agreement for Lochmueller to perform the Additional Services for an amount not to exceed Two Hundred Three Thousand Six Hundred Thirty Dollars (\$203,630.00), which is attached to this Resolution as Exhibit B (“Amendment”); and
- WHEREAS, the new total amount for the amended agreement shall not exceed Eight Hundred Thirty-Nine Thousand Seven Hundred Forty-Five Dollars (\$839,745.00); and
- WHEREAS, the Amendment was approved by the Board of Public Works at its meeting on May 25, 2021; and
- WHEREAS, there are sufficient funds in the Consolidated TIF to pay for the design services for the Project pursuant to the terms of the Agreement; and
- WHEREAS, the City has brought the RDC an Amended Project Review Form (“Amended Form”) which updates the expected cost of the Project, which is attached to this Resolution as Exhibit C;

NOW, THEREFORE, BE IT RESOLVED BY THE REDEVELOPMENT COMMISSION OF THE CITY OF BLOOMINGTON, INDIANA, THAT:

1. The Redevelopment Commission finds that the Project has a valid public purpose, and approves the Project as detailed in the Amended Form, which is attached as Exhibit C.
2. The RDC finds the Project is an appropriate use of TIF, and that the Project serves the public's best interests.
3. The RDC hereby approves the Amendment and authorizes the City of Bloomington to expend an amount not to exceed an additional Two Hundred Three Thousand Six Hundred Thirty Dollars (\$203,630.00) for the Additional Services, and approves an overall amount not to exceed Eight Hundred Thirty-Nine Thousand Seven Hundred Forty-Five Dollars (\$839,745.00) to pay for all of the design and right of way acquisition services and, to be payable in accordance with the terms of the Agreement as amended.
4. The payment authorized above may be made from the Consolidated TIF, the 2015 TIF Bond, or a combination of the Consolidated TIF and the 2015 TIF Bond. The Controller shall make the determination of funding source as requests for payment are received in accordance with the terms of the Agreement. Nothing in this Resolution shall remove the requirement to comply with the City or the RDC's claims process.
5. Unless extended by the Redevelopment Commission in a resolution, the authorizations provided under this Resolution shall expire on December 31, 2023.

BLOOMINGTON REDEVELOPMENT COMMISSION

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Nicholas Kappas, President

ATTEST:

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David Walter, Vice President

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Date

## LPA - CONSULTING CONTRACT

This Contract ("this Contract") is made and entered into effective as of August 6, 2019 ("Effective Date") by and between the City of Bloomington, Indiana, acting by and through its proper officials ("LOCAL PUBLIC AGENCY" or "LPA"), and Lochmueller Group, Inc. ("the CONSULTANT"), a corporation organized under the laws of the State of Indiana.

Des. No.: 1900402

Project Description: 17<sup>th</sup> Street Multimodal Improvements from Monroe Street to Grant Street

### RECITALS

WHEREAS, the LPA has entered into an agreement to utilize federal monies with the Indiana Department of Transportation ("INDOT") for a transportation or transportation enhancement project ("the Project"), which Project Coordination Contract is herein attached as Attachment 1 and incorporated as reference; and

WHEREAS, the LPA wishes to hire the CONSULTANT to provide services toward the Project completion more fully described in Appendix "A" attached hereto ("Services");

WHEREAS, the CONSULTANT has extensive experience, knowledge and expertise relating to these Services; and

WHEREAS, the CONSULTANT has expressed a willingness to furnish the Services in connection therewith.

NOW, THEREFORE, in consideration of the following mutual covenants, the parties hereto mutually covenant and agree as follows:

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

**SECTION I SERVICES BY CONSULTANT.** The CONSULTANT will provide the Services and deliverables described in Appendix "A" which is herein attached to and made an integral part of this Contract.

**SECTION II INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA.** The information and services to be furnished by the LPA are set out in Appendix "B" which is herein attached to and made an integral part of this Contract.

**SECTION III TERM.** The term of this Contract shall be from the date of the last signature affixed to this Contract to the completion of the construction contract which is estimated to be May 2023. A schedule for completion of the Services and deliverables is set forth in Appendix "C" which is herein attached to and made an integral part of this Contract.

**SECTION IV COMPENSATION.** The LPA shall pay the CONSULTANT for the Services performed under this Contract as set forth in Appendix "D" which is herein attached to and made an integral part of this Contract. The maximum amount payable under this Contract shall not exceed **\$636,115.00**.

**SECTION V NOTICE TO PROCEED AND SCHEDULE.** The CONSULTANT shall begin the work to be performed under this Contract only upon receipt of the written notice to proceed from the LPA and shall deliver the work to the LPA in accordance with the schedule contained in Appendix "C" which is herein attached to and made an integral part of this Contract.

**SECTION VI GENERAL PROVISIONS**

1. **Access to Records.** The CONSULTANT and any SUB-CONSULTANTS shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by the LPA, INDOT and/or the Federal Highway Administration (“FHWA”) or its authorized representative, and copies thereof shall be furnished free of charge, if requested by the LPA, INDOT, and/or FHWA. The CONSULTANT agrees that, upon request by any agency participating in federally-assisted programs with whom the CONSULTANT has contracted or seeks to contract, the CONSULTANT may release or make available to the agency any working papers from an audit performed by the LPA, INDOT and/or FHWA of the CONSULTANT and its SUB-CONSULTANTS in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.
  
2. **Assignment; Successors**
  - A. The CONSULTANT binds its successors and assignees to all the terms and conditions of this Contract. The CONSULTANT shall not assign or subcontract the whole or any part of this Contract without the LPA’s prior written consent, except that the CONSULTANT may assign its right to receive payments to such third parties as the CONSULTANT may desire without the prior written consent of the LPA, provided that the CONSULTANT gives written notice (including evidence of such assignment) to the LPA thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.
  
  - B. Any substitution of SUB-CONSULTANTS must first be approved and receive written authorization from the LPA. Any substitution or termination of a Disadvantaged Business Enterprise (“DBE”) SUB-CONSULTANT must first be approved and receive written authorization from the LPA and INDOT’s Economic Opportunity Division Director.
  
3. **Audit.** The CONSULTANT acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with 48 CFR part 31 and audit guidelines specified by the State and/or in accordance with audit requirements specified elsewhere in this Contract.
  
4. **Authority to Bind Consultant.** The CONSULTANT warrants that it has the necessary authority to enter into this Contract. The signatory for the CONSULTANT represents that he/she has been duly authorized to execute this Contract on behalf of the CONSULTANT and has obtained all necessary or applicable approval to make this Contract fully binding upon the CONSULTANT when his/her signature is affixed hereto.
  
5. **Certification for Federal-Aid Contracts Lobbying Activities**
  - A. The CONSULTANT certifies, by signing and submitting this Contract, to the best of its knowledge and belief after diligent inquiry, and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT, the CONSULTANT has complied with Section 1352, Title 31, U.S. Code, and specifically, that:
    - i. No federal appropriated funds have been paid, or will be paid, by or on behalf of the CONSULTANT to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contracts, the making of any federal grant, the making of any federal loan, the

entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- B. The CONSULTANT also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

6. **Changes in Work.** The CONSULTANT shall not commence any additional work or change the scope of the work until authorized in writing by the LPA. The CONSULTANT shall make no claim for additional compensation or time in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may be amended, supplemented or modified only by a written document executed in the same manner as this Contract. The CONSULTANT acknowledges that no claim for additional compensation or time may be made by implication, oral agreements, actions, inaction, or course of conduct.

7. **Compliance with Laws**

- A. The CONSULTANT shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. If the CONSULTANT violates such rules, laws, regulations and ordinances, the CONSULTANT shall assume full responsibility for such violations and shall bear any and all costs attributable to the original performance of any correction of such acts. The enactment of any state or federal statute, or the promulgation of regulations thereunder, after execution of this Contract, shall be reviewed by the LPA and the CONSULTANT to determine whether formal modifications are required to the provisions of this Contract.
- B. The CONSULTANT represents to the LPA that, to the best of the CONSULTANT'S knowledge and belief after diligent inquiry and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT:
  - i. *State of Indiana Actions.* The CONSULTANT has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana pending, and agrees that it will immediately notify the LPA of any such actions. During the term of such actions, CONSULTANT agrees that the LPA may delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
  - ii. *Professional Licensing Standards.* The CONSULTANT, its employees and SUBCONSULTANTS have complied with and shall continue to comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the CONSULTANT pursuant to this Contract.

- iii. *Work Specific Standards.* The CONSULTANT and its SUB-CONSULTANTS, if any, have obtained, will obtain and/or will maintain all required permits, licenses, registrations and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the LPA.
  - iv. *Secretary of State Registration.* If the CONSULTANT is an entity described in IC Title 23, it is properly registered and owes no outstanding reports with the Indiana Secretary of State.
  - v. *Debarment and Suspension of CONSULTANT.* Neither the CONSULTANT nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State and will immediately notify the LPA of any such actions. The term “principal” for purposes of this Contract means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the CONSULTANT or who has managerial or supervisory responsibilities for the Services.
  - vi. *Debarment and Suspension of any Sub-consultants.* The CONSULTANT’s SUB-CONSULTANTS are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The CONSULTANT shall be solely responsible for any recoupment, penalties or costs that might arise from the use of a suspended or debarred SUBCONSULTANT. The CONSULTANT shall immediately notify the LPA and INDOT if any SUB-CONSULTANT becomes debarred or suspended, and shall, at the LPA’s request, take all steps required by the LPA to terminate its contractual relationship with the SUB-CONSULTANT for work to be performed under this Contract.
- C. *Violations.* In addition to any other remedies at law or in equity, upon CONSULTANT’S violation of any of Section 7(A) through 7(B), the LPA may, at its sole discretion, do any one or more of the following:
- i. terminate this Contract; or
  - ii. delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
- D. *Disputes.* If a dispute exists as to the CONSULTANT’s liability or guilt in any action initiated by the LPA, and the LPA decides to delay, withhold, or deny work to the CONSULTANT, the CONSULTANT may request that it be allowed to continue, or receive work, without delay. The CONSULTANT must submit, in writing, a request for review to the LPA. A determination by the LPA under this Section 7.D shall be final and binding on the parties and not subject to administrative review. Any payments the LPA may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC 5-17-5.
8. **Condition of Payment.** The CONSULTANT must perform all Services under this Contract to the LPA’s reasonable satisfaction, as determined at the discretion of the LPA and in accordance with all applicable federal, state, local laws, ordinances, rules, and regulations. The LPA will not pay for work not performed to the LPA’s reasonable satisfaction, inconsistent with this Contract or performed in violation of federal, state, or local law (collectively, “deficiencies”) until all deficiencies are remedied in a timely manner.

**9. Confidentiality of LPA Information**

- A. The CONSULTANT understands and agrees that data, materials, and information disclosed to the CONSULTANT may contain confidential and protected information. Therefore, the CONSULTANT covenants that data, material, and information gathered, based upon or disclosed to the CONSULTANT for the purpose of this Contract, will not be disclosed to others or discussed with third parties without the LPA's prior written consent.
- B. The parties acknowledge that the Services to be performed by the CONSULTANT for the LPA under this Contract may require or allow access to data, materials, and information containing Social Security numbers and maintained by the LPA in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the CONSULTANT and the LPA agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by the CONSULTANT, the CONSULTANT agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Contract.

- 10. Delays and Extensions.** The CONSULTANT agrees that no charges or claim for damages shall be made by it for any minor delays from any cause whatsoever during the progress of any portion of the Services specified in this Contract. Such delays, if any, shall be compensated for by an extension of time for such period as may be determined by the LPA subject to the CONSULTANT's approval, it being understood, however, that permitting the CONSULTANT to proceed to complete any services, or any part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LPA of any of its rights herein. In the event of substantial delays or extensions, or change of any kind, not caused by the CONSULTANT, which causes a material change in scope, character or complexity of work the CONSULTANT is to perform under this Contract, the LPA at its sole discretion shall determine any adjustments in compensation and in the schedule for completion of the Services. CONSULTANT must notify the LPA in writing of a material change in the work immediately after the CONSULTANT first recognizes the material change.

**11. DBE Requirements**

- A. Notice is hereby given to the CONSULTANT and any SUB-CONSULTANT, and both agree, that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification and failure to promptly cure such breach, may result in termination of this Contract or such remedy as INDOT deems appropriate. The referenced section requires the following assurance to be included in all subsequent contracts between the CONSULTANT and any SUB-CONSULTANT:

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

- B. The CONSULTANT shall make good faith efforts to achieve the DBE percentage goal that may be included as part of this Contract with the approved DBE SUB-CONSULTANTS identified on its Affirmative Action Certification submitted with its Letter of Interest, or with approved amendments. Any changes to a DBE firm listed in the Affirmative Action Certification must be requested in writing and receive prior approval by the LPA and INDOT's Economic Opportunity Division Director. After this Contract is completed and if a DBE SUB-CONSULTANT has performed services thereon, the CONSULTANT must complete, and return, a Disadvantaged Business Enterprise Utilization Affidavit ("DBE-3 Form") to INDOT's

Economic Opportunity Division Director. The DBE-3 Form requires certification by the CONSULTANT AND DBE SUB-CONSULTANT that the committed contract amounts have been paid and received.

**12. Non-Discrimination**

- A. Pursuant to I.C. 22-9-1-10, the Civil Rights Act of 1964, and the Americans with Disabilities Act, the CONSULTANT shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Contract, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin, ancestry or status as a veteran. Breach of this covenant may be regarded as a material breach of this Contract. Acceptance of this Contract also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.
- B. The CONSULTANT understands that the LPA is a recipient of federal funds. Pursuant to that understanding, the CONSULTANT agrees that if the CONSULTANT employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the CONSULTANT will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The CONSULTANT shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's Title VI enforcement shall include the following additional grounds: sex, ancestry, age, income status, religion and disability.)

- C. The CONSULTANT shall not discriminate in its selection and retention of contractors, including without limitation, those services retained for, or incidental to, construction, planning, research, engineering, property management, and fee contracts and other commitments with persons for services and expenses incidental to the acquisitions of right-of-way.
- D. The CONSULTANT shall not modify the Project in such a manner as to require, on the basis of race, color or national origin, the relocation of any persons. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability).
- E. The CONSULTANT shall not modify the Project in such a manner as to deny reasonable access to and use thereof to any persons on the basis of race, color or national origin. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability.)
- F. The CONSULTANT shall neither allow discrimination by contractors in their selection and retention of subcontractors, lessors and/or material suppliers, nor allow discrimination by their subcontractors in their selection of subcontractors, lessors or material suppliers, who participate in construction, right-of-way clearance and related projects.
- G. The CONSULTANT shall take appropriate actions to correct any deficiency determined by itself and/or the Federal Highway Administration ("FHWA") within a reasonable time period,

not to exceed ninety (90) days, in order to implement Title VI compliance in accordance with INDOT's assurances and guidelines.

H. During the performance of this Contract, the CONSULTANT, for itself, its assignees and successors in interest (hereinafter referred to as the "CONSULTANT") agrees as follows:

- (1) **Compliance with Regulations:** The CONSULTANT shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
- (2) **Nondiscrimination:** The CONSULTANT, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for SUBCONSULTANTS, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential SUBCONSULTANT or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) **Information and Reports:** The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the LPA or INDOT to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall so certify to the LPA, or INDOT as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the CONSULTANT'S noncompliance with the nondiscrimination provisions of this contract, the LPA shall impose such contract sanctions as it or INDOT may determine to be appropriate, including, but not limited to:
  - (a) withholding of payments to the CONSULTANT under the Contract until the CONSULTANT complies, and/or
  - (b) cancellation, termination or suspension of the Contract, in whole or in part.
- (6) **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The CONSULTANT shall take such action with respect to any SUBCONSULTANT procurement as the LPA or INDOT may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a SUBCONSULTANT or supplier as a result of such direction, the CONSULTANT may request the LPA to enter into such litigation to protect the interests of the LPA, and, in

addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

**13. Disputes**

- A. Should any disputes arise with respect to this Contract, the CONSULTANT and the LPA agree to act promptly and in good faith to resolve such disputes in accordance with this Section 13. Time is of the essence in the resolution of disputes.
- B. The CONSULTANT agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the CONSULTANT fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs (including reasonable attorneys' fees and expenses) incurred by the LPA or the CONSULTANT as a result of such failure to proceed shall be borne by the CONSULTANT.
- C. If a party to this Contract is not satisfied with the progress toward resolving a dispute, the party must notify the other party of this dissatisfaction in writing. Upon written notice, the parties have ten (10) business days, unless the parties mutually agree in writing to extend this period, following the written notification to resolve the dispute. If the dispute is not resolved within ten (10) business days, a dissatisfied party may submit the dispute in writing to initiate negotiations to resolve the dispute. The LPA may withhold payments on disputed items pending resolution of the dispute.

**14. Drug-Free Workplace Certification**

- A. The CONSULTANT hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it will give written notice to the LPA within ten (10) days after receiving actual notice that an employee of the CONSULTANT in the State of Indiana has been convicted of a criminal drug violation occurring in the CONSULTANT's workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of this Contract and/or debarment of contracting opportunities with the LPA.
- B. The CONSULTANT certifies and agrees that it will provide a drug-free workplace by:
  - i. Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the CONSULTANT's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
  - ii. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the CONSULTANT's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
  - iii. Notifying all employees in the statement required by subparagraph 14.B.i above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the CONSULTANT of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
  - iv. Notifying in writing the LPA within ten (10) days after receiving notice from an employee under subdivision 14.B.iii(2) above, or otherwise receiving actual notice of such conviction;

- v. Within thirty (30) days after receiving notice under subdivision 14.B.iii(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and
- vi. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs 14.B.i. through 14.B.v. above.

15. **Employment Eligibility Verification.** The CONSULTANT affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

The CONSULTANT shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The CONSULTANT is not required to participate should the E-Verify program cease to exist. Additionally, the CONSULTANT is not required to participate if the CONSULTANT is self-employed and does not employ any employees.

The CONSULTANT shall not knowingly employ or contract with an unauthorized alien. The CONSULTANT shall not retain an employee or contract with a person that the CONSULTANT subsequently learns is an unauthorized alien.

The CONSULTANT shall require his/her/its subcontractors, who perform work under this Contract, to certify to the CONSULTANT that the SUB-CONSULTANT does not knowingly employ or contract with an unauthorized alien and that the SUB-CONSULTANT has enrolled and is participating in the E-Verify program. The CONSULTANT agrees to maintain this certification throughout the duration of the term of a contract with a SUB-CONSULTANT.

The LPA may terminate for default if the CONSULTANT fails to cure a breach of this provision no later than thirty (30) days after being notified by the LPA.

16. **Force Majeure.** In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of fire, natural disaster, acts of God, acts of war, terrorism, civil disorders, decrees of governmental bodies, strikes, lockouts, labor or supply disruptions or similar causes beyond the reasonable control of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give written notice to the other party of the occurrence of the Force Majeure Event (with a description in reasonable detail of the circumstances causing such Event) and shall do everything reasonably possible to resume performance. Upon receipt of such written notice, all obligations under this Contract shall be immediately suspended for as long as such Force Majeure Event continues and provided that the affected party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. If the period of nonperformance exceeds thirty (30) days from the receipt of written notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

17. **Governing Laws.** This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and the suit, if any, must be brought in the State of Indiana. The CONSULTANT consents to the jurisdiction of and to venue in any court of competent jurisdiction in the State of Indiana.

18. **Liability.** If the CONSULTANT or any of its SUB-CONSULTANTS fail to comply with any federal requirement which results in the LPA's repayment of federal funds to INDOT the CONSULTANT shall be responsible to the LPA, for repayment of such costs to the extent such costs are caused by the CONSULTANT and/or its SUB-CONSULTANTS.

19. **Indemnification.** The CONSULTANT agrees to indemnify the LPA, and their agents, officials, and employees, and to hold each of them harmless, from claims and suits including court costs, attorney's fees, and other expenses caused by any negligent act, error or omission of, or by any recklessness or willful misconduct by, the CONSULTANT and/or its SUB-CONSULTANTS, if any, under this Contract, provided that if the CONSULTANT is a "contractor" within the meaning of I.C. 8-3-2-12.5, this indemnity obligation shall be limited by and interpreted in accordance with I.C. 8-23-2-12-5. The LPA shall not provide such indemnification to the CONSULTANT.
20. **Independent Contractor.** Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents or employees of the other party. The CONSULTANT shall be responsible for providing all necessary unemployment and workers' compensation insurance for its employees.
21. **Insurance - Liability for Damages**
- A. The CONSULTANT shall be responsible for the accuracy of the Services performed under this Contract and shall promptly make necessary revisions or corrections resulting from its negligence, errors or omissions without any additional compensation from the LPA. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction of its negligent act, error or omission or for clarification of ambiguities. The CONSULTANT shall have no liability for the errors or deficiencies in designs, drawings, specifications or other services furnished to the CONSULTANT by the LPA on which the Consultant has reasonably relied, provided that the foregoing shall not relieve the CONSULTANT from any liability from the CONSULTANT'S failure to fulfill its obligations under this Contract, to exercise its professional responsibilities to the LPA, or to notify the LPA of any errors or deficiencies which the CONSULTANT knew or should have known existed.
- B. During construction or any phase of work performed by others based on Services provided by the CONSULTANT, the CONSULTANT shall confer with the LPA when necessary for the purpose of interpreting the information, and/or to correct any negligent act, error or omission. The CONSULTANT shall prepare any plans or data needed to correct the negligent act, error or omission without additional compensation, even though final payment may have been received by the CONSULTANT. The CONSULTANT shall give immediate attention to these changes for a minimum of delay to the project.
- C. The CONSULTANT shall be responsible for damages including but not limited to direct and indirect damages incurred by the LPA as a result of any negligent act, error or omission of the CONSULTANT, and for the LPA's losses or costs to repair or remedy construction. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction.
- D. The CONSULTANT shall be required to maintain in full force and effect, insurance as described below from the date of the first authorization to proceed until the LPA's acceptance of the work product. The CONSULTANT shall list both the LPA and INDOT as insureds on any policies. The CONSULTANT must obtain insurance written by insurance companies authorized to transact business in the State of Indiana and licensed by the Department of Insurance as either admitted or non-admitted insurers.
- E. The LPA, its officers and employees assume no responsibility for the adequacy of limits and coverage in the event of any claims against the CONSULTANT, its officers, employees, sub-consultants or any agent of any of them, and the obligations of indemnification in Section 19 herein shall survive the exhaustion of limits of coverage and discontinuance of coverage beyond the term specified, to the fullest extent of the law.

F. The CONSULTANT shall furnish a certificate of insurance and all endorsements to the LPA prior to the commencement of this Contract. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the CONSULTANT. Failure to provide insurance as required in this Contract is a material breach of Contract entitling the LPA to immediately terminate this Contract.

I. Professional Liability Insurance

The CONSULTANT must obtain and carry professional liability insurance as follows: For INDOT Prequalification **Work Types** 1.1, 12.2-12.6 the CONSULTANTS shall provide not less than \$250,000.00 professional liability insurance per claim and \$250,000.00 aggregate for all claims for negligent performance. For **Work Types** 2.2, 3.1, 3.2, 4.1, 4.2, 5.5, 5.8, 5.11, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 – 10.4, 11.1, 13.1, 14.1 – 14.5, the CONSULTANTS shall carry professional liability insurance in an amount not less than \$1,000,000.00 per claim and \$1,000,000.00 aggregate for all claims for negligent performance. The CONSULTANT shall maintain the coverage for a period ending two (2) years after substantial completion of construction.

II. Commercial General Liability Insurance

The CONSULTANT must obtain and carry Commercial / General liability insurance as follows: For INDOT Prequalification **Work Types** 2.1, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 – 10.4, 11.1, 13.1, 14.1 – 14.5, the CONSULTANT shall carry \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate. Coverage shall be on an occurrence form, and include contractual liability. The policy shall be amended to include the following extensions of coverage:

1. Exclusions relating to the use of explosives, collapse, and underground damage to property shall be removed.
2. The policy shall provide thirty (30) days notice of cancellation to LPA.
3. The CONSULTANT shall name the LPA as an additional insured.

III. Automobile Liability

The CONSULTANT shall obtain automobile liability insurance covering all owned, leased, borrowed, rented, or non-owned autos used by employees or others on behalf of the CONSULTANT for the conduct of the CONSULTANT's business, for an amount not less than \$1,000,000.00 Combined Single Limit for Bodily Injury and Property Damage. The term "automobile" shall include private passenger autos, trucks, and similar type vehicles licensed for use on public highways. The policy shall be amended to include the following extensions of coverage:

1. Contractual Liability coverage shall be included.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT shall name the LPA as an additional insured.

IV. Watercraft Liability (When Applicable)

1. When necessary to use watercraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT, or any SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the watercraft shall carry watercraft liability insurance in the amount of \$1,000,000

Combined Single Limit for Bodily Injury and Property Damage, including Protection & Indemnity where applicable. Coverage shall apply to owned, non-owned, and hired watercraft.

2. If the maritime laws apply to any work to be performed by the CONSULTANT under the terms of the agreement, the following coverage shall be provided:
  - a. United States Longshoremen & Harbor workers
  - b. Maritime Coverage - Jones Act
3. The policy shall provide thirty (30) days notice of cancellation to the LPA.
4. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

V. Aircraft Liability (When Applicable)

1. When necessary to use aircraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT or SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the aircraft shall carry aircraft liability insurance in the amount of \$5,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Passenger Liability. Coverage shall apply to owned, non-owned and hired aircraft.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

22. **Merger and Modification**. This Contract constitutes the entire agreement between the parties. No understandings, agreements or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.

23. **Notice to Parties**: Any notice, request, consent or communication (collectively a "Notice") under this Contract shall be effective only if it is in writing and (a) personally delivered; (b) sent by certified or registered mail, return receipt requested, postage prepaid; or (c) sent by a nationally recognized overnight delivery service, with delivery confirmed and costs of delivery being prepaid, addressed as follows:

Notices to the LPA shall be sent to:

City of Bloomington  
 Planning and Transportation Dept.  
 Attn: Neil Kopper, PE  
 401 N. Morton St., Suite 130  
 Bloomington, Indiana 47404

Notices to the CONSULTANT shall be sent to:

Lochmueller Group, Inc.  
 6200 Vogel Road  
 Evansville, Indiana 47715

or to such other address or addresses as shall be furnished in writing by any party to the other party. Unless the sending party has actual knowledge that a Notice was not received by the intended recipient, a Notice shall be deemed to have been given as of the date (i) when personally delivered; (ii) three (3) days after the date deposited with the United States mail properly addressed; or (iii) the next day when delivered during business hours to overnight delivery service, properly addressed and prior to such delivery service's cut off time for next day delivery. The parties acknowledge that notices delivered by facsimile or by email shall not be effective.

24. **Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract and attachments, (2) RFP document, (3) the CONSULTANT's response to the RFP document, and (4) attachments prepared by the CONSULTANT. All of the foregoing are incorporated fully by reference.
25. **Ownership of Documents and Materials.** All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the CONSULTANT prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the CONSULTANT assigns and transfers any ownership claim to the LPA and all such materials ("Work Product") will be the property of the LPA. The CONSULTANT agrees to execute and deliver such assignments or other documents as may be requested by the LPA. Use of these materials, other than related to contract performance by the CONSULTANT, without the LPA's prior written consent, is prohibited. During the performance of this Contract, the CONSULTANT shall be responsible for any loss of or damage to any of the Work Product developed for or supplied by INDOT and used to develop or assist in the Services provided herein while any such Work Product is in the possession or control of the CONSULTANT. Any loss or damage thereto shall be restored at the CONSULTANT's expense. The CONSULTANT shall provide the LPA full, immediate, and unrestricted access to the Work Product during the term of this Contract. The CONSULTANT represents, to the best of its knowledge and belief after diligent inquiry and other than as disclosed in writing prior to or contemporaneously with the execution of this Contract by the CONSULTANT, that the Work Product does not infringe upon or misappropriate the intellectual property or other rights of any third party. The CONSULTANT shall not be liable for the use of its deliverables described in Appendix "A" on other projects without the express written consent of the CONSULTANT or as provided in Appendix "A". The LPA acknowledges that it has no claims to any copyrights not transferred to INDOT under this paragraph.
26. **Payments.** All payments shall be made in arrears and in conformance with the LPA's fiscal policies and procedures.
27. **Penalties, Interest and Attorney's Fees.** The LPA will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC 5-17-5, I. C. 34-54-8, and I. C. 34-13-1.
28. **Pollution Control Requirements.** If this Contract is for \$100,000 or more, the CONSULTANT:
- i. Stipulates that any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
  - ii. Agrees to comply with all of the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder; and
  - iii. Stipulates that, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the Federal Highway Administration of the receipt of any knowledge indicating that a

facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA Listing of Violating Facilities.

29. **Severability**. The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.
30. **Status of Claims**. The CONSULTANT shall give prompt written notice to the LPA any claims made for damages against the CONSULTANT resulting from Services performed under this Contract and shall be responsible for keeping the LPA currently advised as to the status of such claims.
31. **Sub-consultant Acknowledgement**. The CONSULTANT agrees and represents and warrants to the LPA, that the CONSULTANT will obtain signed Sub-consultant Acknowledgement forms, from all SUB-CONSULTANTS providing Services under this Contract or to be compensated for Services through this Contract. The CONSULTANT agrees to provide signed originals of the Sub-consultant Acknowledgement form(s) to the LPA for approval prior to performance of the Services by any SUB-CONSULTANT.
32. **Substantial Performance**. This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification or Amendment thereof.
33. **Taxes**. The LPA will not be responsible for any taxes levied on the CONSULTANT as a result of this Contract.
34. **Termination for Convenience**
- A. The LPA may terminate, in whole or in part, whenever, for any reason, when the LPA determines that such termination is in its best interests. Termination or partial termination of Services shall be effected by delivery to the CONSULTANT of a Termination Notice at least fifteen (15) days prior to the termination effective date, specifying the extent to which performance of Services under such termination becomes effective. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of termination. The LPA will not be liable for Services performed after the effective date of termination.
- B. If the LPA terminates or partially terminates this Contract for any reason regardless of whether it is for convenience or for default, then and in such event, all data, reports, drawings, plans, sketches, sections and models, all specifications, estimates, measurements and data pertaining to the project, prepared under the terms or in fulfillment of this Contract, shall be delivered within ten (10) days to the LPA. In the event of the failure by the CONSULTANT to make such delivery upon demand, the CONSULTANT shall pay to the LPA any damage (including costs and reasonable attorneys' fees and expenses) it may sustain by reason thereof.
35. **Termination for Default**
- A. With the provision of twenty (20) days written notice to the CONSULTANT, the LPA may terminate this Contract in whole or in part if
- (i) the CONSULTANT fails to:
1. Correct or cure any breach of this Contract within such time, provided that if such cure is not reasonably achievable in such time, the CONSULTANT shall have up to ninety (90) days from such notice to effect such cure if the CONSULTANT promptly commences and diligently pursues such cure as soon as practicable;
  2. Deliver the supplies or perform the Services within the time specified in this Contract or any amendment or extension;

3. Make progress so as to endanger performance of this Contract; or
  4. Perform any of the other provisions of this Contract to be performed by the CONSULTANT; or
- (ii) if any representation or warranty of the CONSULTANT is untrue or inaccurate in any material respect at the time made or deemed to be made.
- B. If the LPA terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the LPA considers appropriate, supplies or services similar to those terminated, and the CONSULTANT will be liable to the LPA for any excess costs for those supplies or services. However, the CONSULTANT shall continue the work not terminated.
- C. The LPA shall pay the contract price for completed supplies delivered and Services accepted. The CONSULTANT and the LPA shall agree on the amount of payment for manufactured materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause (see Section 13). The LPA may withhold from the agreed upon price for Services any sum the LPA determine necessary to protect the LPA against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of the LPA in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.
- E. **Default by the LPA.** If the CONSULTANT believes the LPA is in default of this Contract, it shall provide written notice immediately to the LPA describing such default. If the LPA fails to take steps to correct or cure any material breach of this Contract within sixty (60) days after receipt of such written notice, the CONSULTANT may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination, including reasonable attorney fees and expenses, provided that if such cure is not reasonably achievable in such time, the LPA shall have up to one hundred twenty (120) days from such notice to effect such cure if the LPA promptly commences and diligently pursues such cure as soon as practicable. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of such termination. The CONSULTANT agrees that it has no right of termination for non-material breaches by the LPA.
36. **Waiver of Rights.** No rights conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver or excuse is approved in writing and signed by the party claimed to have waived such right. Neither the LPA's review, approval or acceptance of, nor payment for, the Services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the CONSULTANT shall be and remain liable to the LPA in accordance with applicable law for all damages to the LPA caused by the CONSULTANT's negligent performance of any of the Services furnished under this Contract.
37. **Work Standards/Conflicts of Interest.** The CONSULTANT shall understand and utilize all relevant INDOT standards including, but not limited to, the most current version of the Indiana Department of Transportation Design Manual, where applicable, and other appropriate materials and shall perform all Services in accordance with the standards of care, skill and diligence required in Appendix "A" or, if not set forth therein, ordinarily exercised by competent professional; doing work of a similar nature.
38. **No Third-Party Beneficiaries.** This Contract is solely for the benefit of the parties hereto. Other than the indemnity rights under this Contract, nothing contained in this Contract is intended or shall be construed to confer upon any person or entity (other than the parties hereto) any rights, benefits or remedies of any kind or character whatsoever.

39. **No Investment in Iran.** As required by IC 5-22-16.5, the CONSULTANT certifies that the CONSULTANT is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as an imposition of a civil penalty.
40. **Assignment of Antitrust Claims.** The CONSULTANT assigns to the State all right, title and interest in and to any claims the CONSULTANT now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

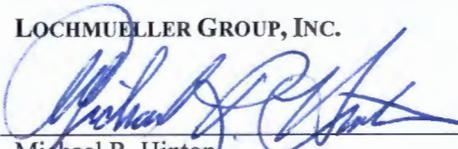
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**Non-Collusion**

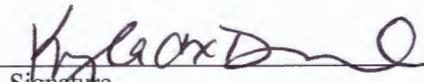
The undersigned attests, subject to the penalties for perjury, that he/she is the CONSULTANT, or that he/she is the properly authorized representative, agent, member or officer of the CONSULTANT, that he/she has not, nor has any other member, employee, representative, agent or officer of the CONSULTANT, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC §4-2-6-1, has a financial interest in the Contract, the Party attests to compliance with the disclosure requirements in IC §4-2-6-10.5.**

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

LOCHMUELLER GROUP, INC.

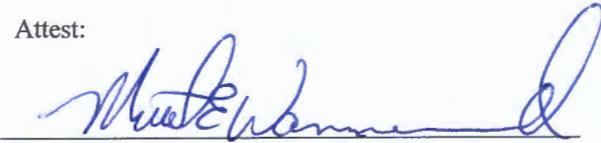
  
\_\_\_\_\_  
Michael R. Hinton  
President/Chief Executive Officer

CITY OF BLOOMINGTON

  
\_\_\_\_\_  
Signature

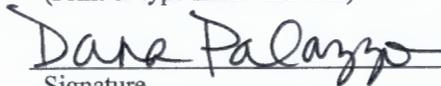
KYLA COX DECARAD, PRESIDENT, BPW  
(Print or type name and title)

Attest:

  
\_\_\_\_\_  
Matthew E. Wannemuehler  
Vice President/Chief Administrative Officer

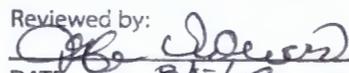
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Signature

(Print or type name and title)

  
\_\_\_\_\_  
Signature

Dana Palazzo, Member, BPW  
(Print or type name and title)

**CITY OF BLOOMINGTON**  
Legal Department  
Reviewed By: Jackie Moore  
DATE: 8.1.19

CITY OF BLOOMINGTON  
Controller  
Reviewed by:   
DATE: 8/1/19  
FUND/ACCT: 432-15-399

APPENDIX "A"

SERVICES TO BE FURNISHED BY CONSULTANT

In fulfillment of this Contract, the CONSULTANT shall comply with the requirements of the appropriate regulations and requirements of the Indiana Department of Transportation and Federal Highway Administration.

1.0 TOPOGRAPHIC SURVEY DATA COLLECTION

The CONSULTANT shall perform the topographic survey data collection in accordance with I.C. 25-21.5, 865 I.A.C. 1-12, and the Indiana Design Manual, Part III, Location Surveys. The survey limits shall begin approximately 300 feet east of Monroe Street and run easterly approximately 4,650 feet to the center of the intersection of Grant Street, excluding that section of 17<sup>th</sup> Street at the intersection of Kinser Pike/Madison Street, which had been surveyed previously under a separate project. The survey coverage shall extend up to 50 feet north of the centerline of 17<sup>th</sup> Street or to the face of existing buildings, whichever is less. The survey coverage shall also extend up to 35 feet south of the centerline of 17<sup>th</sup> Street or to the face of existing buildings, whichever is less.

2.0 ENVIRONMENTAL DOCUMENT

The CONSULTANT shall perform the following:

2.1 Project Organization/Coordination: Perform file management, coordination with other team members and general project management activities.

2.2 NEPA Documentation: Carry out environmental analyses and develop National Environmental Policy Act (NEPA) documentation for a Level 3 Categorical Exclusion (CE-3). The environmental services required to develop this project shall be in accordance with the *Procedural Manual for Preparing Environmental Documents* (2008) and the most recent *INDOT Categorical Exclusion Manual*. The tasks to be performed shall include the following:

2.2.1 Field Inspection – The CONSULTANT shall complete a field inspection of the proposed area. The field inspection shall include a survey by biologists to document potential environmental resources, including water resources, recreational facilities, hazardous materials, etc. Because this project occurs within the known karst area of the state, the field inspection shall also include the completion of a field survey by an Environmental Geologist.

2.2.2 Red Flag Investigation (RFI) – Conduct a RFI for the project in accordance with current INDOT policies and procedures. The RFI shall include a preliminary analysis of publicly available infrastructure, environmental, hydrological and cultural resources data within the project corridor. In addition, the IDEM Virtual File Cabinet shall be reviewed to assess the potential for sites requiring additional investigation due to potential soil and/or groundwater contamination. A narrative summary and maps depicting findings of the RFI shall be produced. The RFI shall be prepared in accordance with the INDOT Site Assessment & Management (SAM) guidance (2018).

- 2.2.3 Early Coordination – Develop early coordination packages (including letters, general location mapping, Red Flag Investigation maps, and photographs) and distribute to the appropriate resource agencies listed in the most recent *INDOT Categorical Exclusion Manual*.
- 2.2.4 IPaC Coordination – Complete the Range-wide Programmatic Informal Consultation process with the INDOT Seymour District and U.S. Fish and Wildlife Service. It shall be anticipated that the project effect finding will be a “May Affect – Not Likely to Adversely Affect” finding.
- 2.2.5 Section 4(f)/6(f) Documentation – Prepare the necessary documentation and coordinate with the Official with Jurisdiction (OWJ), the City of Bloomington’s Parks and Recreation Department, in an attempt to gain their written concurrence that the project qualifies under the Federal Highway Administration’s (FHWA) Section 4(f) exception covering “Transportation enhancement activities, transportation alternatives projects, and mitigation activities, where the use of the previously constructed Section 4(f) property is solely for the purpose of preserving or enhancing an activity feature, or attribute that qualifies the property for Section 4(f) protection” (23 CFR 774.13(g)).
- 2.2.6 Karst Review – Since the project is located in the known karst area of the state, a review of potential karst features shall be completed. This task shall include the completion of a literature review and review of existing GIS karst data for the project area.
- 2.2.7 CE-3 Documentation – Due to the anticipated number of relocations exceeding five (5), a draft Categorical Exclusion Level 3 (CE-3) shall be prepared prior to the public hearing. Following the completion of the public involvement requirements, the draft CE-3 shall be updated and the commitments summary spreadsheet for the project shall be completed and submit for final approval and distribution. If it is determined that a CE document Level other than a Level 3 is required, an amendment to this Contract will be required to modify the scope of services to be provided and the CONSULTANT’s compensation for preparing the document.
- 2.2.8 Section 106 Consultation and Documentation – Full Section 106 consultation is anticipated due to the potential relocation of an apartment building near east of the 17<sup>th</sup> Street and Lincoln Street intersection. The CONSULTANT shall prepare the appropriate Section 106 documentation in accordance with the *INDOT Cultural Resources Manual*. This tasks to be performed shall include the following:
- 2.2.9 Consulting Party Early Coordination – Prepare a list of potential consulting parties that shall be invited to participate in the Section 106 process. Prepare an early coordination letter and distribute to consulting parties following approval by the INDOT Cultural Resources Office (CRO).
- 2.2.10 Area of Potential Effects (APE) Delineation and Field Inspection – Upon review of preliminary design information, formulate an APE, which shall define the limits of the survey for aboveground resources that are listed or

determined eligible for inclusion in the NRHP. The APE may extend beyond the defined survey limits. A Historian-Section 106 Specialist, who meets the *Secretary of the Interior's Professional Qualification Standards* as per 36 CFR Part 61, shall complete the field inspection documenting properties and rating them as Contributing, Notable, and Outstanding.

- 2.2.11 Historic Properties Short Report (HPSR) – Prepare an HPSR that documents the results of the Qualified Professional’s survey of aboveground resources and make National Register of Historic Places (NRHP)-eligibility recommendations. It is assumed no properties eligible for inclusion in the NRHP will be identified within the APE that would warrant the preparation of a full Historic Properties Report. The HPSR shall be submitted to INDOT CRO for approval prior to disseminating to the consulting parties.
- 2.2.12 Archaeological Investigations – Perform an Archaeological Records Review in accordance with DHPA guidelines for the project area and a one (1) mile buffer. In order to obtain the required archaeological clearance, perform a Phase Ia Investigation following standard archaeological methods. If no archaeological sites are found, document the investigation in an Indiana Archaeological Survey Short Report. Prepare a written report and site survey forms following guidance provided in the current *Guidebook for Indiana Historic Sites and Structures Inventory-Archaeological Sites* for up to one (1) found site.
- 2.2.13 Effects Finding Preparation (No Historic Properties Affected) – Prepare the appropriate level of effects documentation for the project. It is anticipated the project will result in a finding of “No Historic Properties Affected.” The effects documentation shall be submitted to INDOT CRO for approval prior to distribution to consulting parties. In addition, prepare a public notice advertising the opportunity for the public to comment on the effects finding, and coordinate the publication with the appropriate newspaper. Should it be determined that the project will result in a finding of “No Adverse Effect” or “Adverse Effect,” additional services will be required to complete the Section 106 process. These additional services will be considered out of scope, and additional or supplemental services will be required to complete the required consulting parties coordination and/or the preparation of a Memorandum of Agreement.

### 3.0 PUBLIC INVOLVEMENT

The CONSULTANT shall prepare for and administer one (1) public meeting and two (2) individual property owner meetings, and if required, administer one (1) formal public hearing in accordance with INDOT requirements immediately following the public meeting. The tasks to be performed are as follows:

- 3.1 Prepare the displays to be used for the public meeting, and if required, the public hearing.
- 3.2 If a public hearing is required, perform the following tasks:
  - 3.2.1 Prepare the public hearing presentation, displays, handouts and comment forms.

- 3.2.2 Prepare a legal notice for the public hearing and publish it two (2) times within a local newspaper. Identify existing nearby property owners and mail them a copy of the public notice. Print and send copies of the environmental document to the LPA and a local library to make it available for public review.
- 3.2.3 Provide for attendance at the public hearing by five (5) individuals. Four (4) people will be available to answer questions and one (1) will assist with a sign in table.
- 3.2.4 Record and transcribe all public comments and develop responses to the comments.
- 3.2.5 Revise the CE text and appendices to include updated right-of-way information prior to re-submittal to INDOT for public hearing approval. After the public hearing, compile the public hearing certification documentation and submit to INDOT for approval. In addition, revise the CE to incorporate minor design changes (not requiring additional field work or resource agency coordination) as well as the public hearing documentation. Resubmit the revised CE document to INDOT for approval.

#### 4.0 WATER RESOURCE/STORMWATER PERMITTING

The CONSULTANT shall prepare the IDEM Rule 5 Permit in accordance with current INDOT guidelines. The tasks to be performed shall include the following:

- 4.1 Rule 5 Erosion Control Plan – Complete the Storm Water Pollution Prevention Plan (SWPPP), incorporate into the overall design plans and the complete the NOI (Notice of Intent) for the project.

#### 5.0 ROAD DESIGN AND PLANS

5.1 The CONSULTANT shall prepare plans, specifications, opinions of probable construction costs and other required submittal documentation for the project at each submittal stage, which shall be in accordance with the accepted standards for such work and in accordance with the following documents in effect at the time the plans or reports are submitted:

- Chapter 7 (Plan Preparation) of the “INDOT LPA Guidance Document for Local Federal-Aid Projects” (dated September 2017),
- INDOT’s Standard Specifications, Design Memoranda and Indiana Design Manual except as modified by supplemental specifications and special provisions, if any,
- INDOT Standard Drawings
- American Association of State Highway and Transportation Officials (AASHTO) “A Policy on Geometric Design of Highways and Streets”,
- AASHTO Roadside Design Guide, latest edition,
- Indiana Manual on Uniform Traffic Control Devices (IMUTCD).

5.2 Plan Submittals: The CONSULTANT shall, utilizing the preliminary Road Plans developed for the 17<sup>th</sup> Street and Kinser Pike/Madison Street intersection improvements under a separate contract, prepare necessary information and submit plans at each development stage in accordance with the “INDOT LPA Guidance Document for Local Federal-Aid Projects” and the Indiana Design Manual. Each submission shall be transmitted to INDOT via ERMS upload with a hard copy to the LPA. Hard copy

submissions shall include a CD containing the submittal documents in PDF format along with one 24" x 36" paper copy set of plans. Plan submittals shall be as follows:

- Preliminary Field Check Plans
- Stage 3 Plans
- Final Tracings

5.3 The Preliminary Field Check Plans shall define preliminary right-of-way limits and a preliminary opinion of probable construction cost.

5.4 The CONSULTANT shall attend a preliminary field check review with the LPA and affected utilities.

5.5 Prior to submitting Final Tracings, the CONSULTANT shall submit Final Plans for review to the LPA, including the City of Bloomington Utilities.

5.6 The Final Tracings submission shall include:

One hard copy set of final approved tracings of the contract plans drawn to a suitable scale on standard 24" x 36" sheets. Additionally, the following information shall be provided in Adobe Acrobat® .pdf format (latest version at the time of completion of the plans) on CD-ROM.

- Final Tracing Plans
- Complete set of Special Provisions
- Opinion of probable construction cost
- All design computations, indexed, page numbered and bound

#### 6.0 TRAFFIC SIGNAL DESIGN AND PLANS

The CONSULTANT shall utilize the preliminary Traffic Signal Plans developed for the 17<sup>th</sup> Street and Kinser Pike/Madison Street intersection improvements under a separate contract and provide additional traffic engineering design services necessary to finalize the design of a new traffic signal to replace the existing traffic signal at the intersection of 17<sup>th</sup> Street and Kinser Pike/Madison Street. Modifications to the existing traffic signal have been recommended to accommodate the proposed roadway and pedestrian facility improvements related to the implementation of a proposed multi-use path along the north side of 17<sup>th</sup> Street.

The CONSULTANT shall also provide traffic engineering design services necessary to modify the existing traffic signals at the intersections of 17<sup>th</sup> Street at North College Avenue and North Walnut Street. The proposed traffic signal related improvements at the North College Avenue and North Walnut Avenue intersections shall be limited to relocating the existing strain poles in the northeast and northwest quadrants to avoid a future multi-use path along the north side of 17<sup>th</sup> Street. Implementation of pedestrian push button devices at these two intersections shall not be included as a part of this project; however, the existing pedestrian signal heads would continue to provide indications for all intersection crossings via pedestrian recall mode within the existing signal controller. The services to be provided by CONSULTANT shall include the following:

##### 6.1 Preliminary Design and Plans

6.1.1 Perform one (1) field site visit to ensure accuracy of existing topography survey base sheets and determine potential conflicts with proposed roadway improvements.

6.1.2 Perform the following additional preliminary design tasks related to the proposed traffic signal at the intersection of 17<sup>th</sup> Street and Kinser Pike/Madison Street:

- 6.1.2.1 Coordinate with local power company to determine preferred type and locations of power source and service point, as well as allowable locations for proposed traffic signal mast arms in relation to existing overhead utility lines.
- 6.1.2.2 The installation of all new traffic signal equipment at the intersection of 17<sup>th</sup> Street and Kinser Pike/Madison Street based on all unnecessary existing traffic signal equipment being removed. The traffic signal shall be designed to INDOT standards. The plans shall reflect and/or assume the following:
  - 6.1.2.2.1 The installation of new mast arm configuration, which matches the existing configuration.
  - 6.1.2.2.2 The proposed mast arms can be placed behind the existing mast arms, thereby allowing the existing signal to remain in operation during the installation of the proposed signal equipment, thereby eliminating the need for the preparation of construction staging or maintenance of traffic plans.
  - 6.1.2.2.3 The concrete foundations for proposed mast arms will be spread footings based on existing geotechnical information and will follow INDOT standard design criteria shown in standard drawing E 805-TSCS-18 (“Traffic Signal Cantilever Structure, Spread Footing Foundation, Type C, for Arm of 35 ft. or Less”).
  - 6.1.2.2.4 The installation of new multi-use path along the north side of 17th Street.
  - 6.1.2.2.5 The use of video equipment for stop bar detection (i.e., no Sensys or loops).
  - 6.1.2.2.6 The implementation of advanced loops along 17th Street, Kinser Pike, or Madison Street will not be required by the LPA for this project.
  - 6.1.2.2.7 The use of wireless interconnect infrastructure, similar to what is in place today.
  - 6.1.2.2.8 The installation of a Battery Back-Up system, which would be attached to the side of the traffic signal controller cabinet.
  - 6.1.2.2.9 The installation of an Emergency Vehicle Pre-emption (EVP) system.
  - 6.1.2.2.10 The installation of PROWAG compliant Accessible Pedestrian (APS) units for each street crossing.
  - 6.1.2.2.11 The installation of new street name signs and pertinent regulatory signs to be attached to the new mast arms.
  - 6.1.2.2.12 The following miscellaneous design elements:
    - Flashing Yellow Arrow (FYA) signal heads to be used for protected/permissive left-turn phasing

- Backplates for all traffic signal heads
  - Countdown pedestrian signal heads
  - All signal mast arms, poles, and posts should be steel and powder coated black
- 6.1.3 Perform the following preliminary design tasks related to the proposed traffic signal at the intersections of 17th Street at North College Avenue and North Walnut Street:
- 6.1.3.1 Coordinate with local power company to determine if existing power sources and service points can be reused, assuming relocation of the existing strain poles in the northeast and northwest quadrants at both intersections. Input from power company shall also be sought for allowable locations for relocated strain poles in relation to existing overhead utility lines.
- 6.1.3.2 Design the relocation of existing strain poles in the northeast and northwest quadrants to accommodate the proposed multi-use path along the north side of 17<sup>th</sup> Street and based on all unnecessary existing traffic signal equipment being removed. The traffic signal shall be designed to INDOT standards and the plans shall reflect and/or assume the following:
- 6.1.3.2.1 The relocation of existing strain poles in the northeast and northwest quadrants.
- 6.1.3.2.2 No other traffic signal related equipment (e.g., southeast and southwest strain poles, traffic signal cabinet, handholes, etc.) will be required.
- 6.1.3.2.3 The relocation of the existing strain poles will take place during non-peak traffic periods, thereby allowing stop-controlled operation to be implemented while the signal is shutdown during equipment relocation operations.
- 6.1.3.2.4 The concrete foundations for proposed mast arms will be spread footings based on existing geotechnical information and will follow INDOT standard design criteria shown in standard drawing E 805-TSCS-18 (“Traffic Signal Cantilever Structure, Spread Footing Foundation, Type C, for Arm of 35 ft. or Less”) or E 805-TSCS-19 (“Traffic Signal Cantilever Structure, Spread Footing Foundation, Type D, for Arm of Greater than 35 ft. to 65 ft.”).
- 6.1.3.2.5 The installation of new multi-use path along the north side of 17th Street.
- 6.1.3.2.6 The modification or replacement of the existing stop bar and advanced detection systems due to the proposed roadway and pedestrian facility improvements along 17<sup>th</sup> Street.

- 6.1.3.2.7 The relocation of existing traffic signal heads, pedestrian heads, EVP devices, wireless interconnect devices, and street name signs currently attached to the to-be-relocated existing strain poles.
  - 6.1.3.2.8 Modifications to intersection curb ramps associated with the proposed roadway and pedestrian facility improvements along 17<sup>th</sup> Street.
  - 6.1.3.3 Prepare and submit Preliminary Field Check Plans to the LPA and Utilities for review comments.
  - 6.1.3.4 Revise the Preliminary Field Check Plans based upon review comments from the LPA and Utilities and submit Stage 3 Plans to the LPA.
  - 6.1.3.5 Prepare a preliminary construction cost estimate based on the improvements as shown in the Stage 3.
  - 6.1.3.6 Attend one (1) meeting with LPA to discuss review comments during either the Preliminary Field Check or Stage 3 Plan submittal.
- 6.2 Final Tracings
- 6.2.1 Revise the Stage 3 based upon review comments from the LPA and Utilities.
  - 6.2.2 Prepare all necessary remaining traffic signal related plan and detail sheets for Final Tracings submittal.
  - 6.2.3 Prepare a construction cost estimate based on the improvements shown in the Final Tracings.
  - 6.2.4 Prepare project special provisions, unique special provisions, technical specifications, as well as all bid book related documentation pertaining to the proposed traffic signal work and include with Final Tracings in submittal.
  - 6.2.5 Attend one (1) meeting with LPA to discuss review comments during the Final Tracing submittal process.
- 7.0 PROJECT MANAGEMENT/PROJECT WEBSITE UPDATE  
CONSULTANT shall:
- 7.1 Attend the project scoping meeting with INDOT and LPA, prepare and review the LPA quarterly reports, attend LPA quarterly review meetings with INDOT, prepare monthly project status reports, general project coordination with LPA and INDOT personnel and other project stakeholders and overall management of the design team.
  - 7.2 Prepare a graphic depiction of the project and project description and place on the LPA project website.
- 8.0 UTILITY COORDINATION  
The CONSULTANT shall perform Utility Coordination as required in Chapter 104 of the Indiana Design Manual. Specific tasks within this scope for utility coordination include the following: research of existing facilities, initial notice letters, verification of existing facilities, attend preliminary field check, conflict review, work plan development, prepare reimbursable agreements, and tracing documents (special provisions, utility certification, and approved work plans).
- 9.0 SUBSURFACE UTILITY ENGINEERING

The CONSULTANT shall perform, or cause to have performed, Quality Level "A" Subsurface Utility Engineering utilizing vacuum excavation to locate the horizontal position of buried utilities at up to fifteen (15) locations within the project limits on the north side of existing 17<sup>th</sup> Street. Potholes created during excavation shall be filled with dry native spoils. Any holes in paved areas shall be capped with asphalt cold patch.

10.0 GEOTECHNICAL ENGINEERING INVESTIGATION

The CONSULTANT shall perform or cause to have performed a geotechnical investigation of the existing subsurface conditions to develop recommendations necessary for the design and construction of the soil and/or rock supported elements. The investigation shall be performed in general conformance to the Indiana Department of Transportation Geotechnical Services Division guidelines for geotechnical investigations and shall more specifically include the following:

- 10.1 Drill up to seventeen (17) test borings. Up to fourteen (14) of the borings shall include coring bedrock to be able to extend the borings to a minimum depth of 20 feet below the ground surface.
- 10.2 Obtain split-barrel samples (ASTM D-1586) at 2.5 foot intervals in the overburden soils and the bedrock below the auger refusal depths shall be cored using duel barrel N-series rock coring method to extend the borings to a depth of 20 feet below the existing ground surface.
- 10.3 Observe ground water level made during drilling operations and immediately after withdrawal of the augers from the borings.
- 10.4 Perform three (3) soundings along the project length to a depth of ten (10) feet and collect 24-hour water level readings.
- 10.5 Backfill borings with auger cuttings and plug the upper one (1) foot of the boreholes in pavement areas with concrete.
- 10.6 Perform laboratory tests required to establish the significant engineering characteristics and parameters of the subsurface soils. Resilient modulus values for the pavement subgrade soils shall be estimated based on classification results.
- 10.7 Prepare a report containing recommendations to guide the design and construction of the proposed traffic signal foundations, the pavement foundations and the earth related elements of the pavement.

11.0 RIGHT-OF-WAY ENGINEERING

CONSULTANT shall provide right-of-way engineering services for up to fifty-five (55) parcels. The services to be provided shall include:

- 11.1 Title Research – Complete a title search covering an interval of time including one (1) valid transfer of fee title beyond a twenty-year period from the date of search that includes all liens (taxes, mortgages, easements, recorded judgments, etc.) and any encumbrances against the property found to be of record.
- 11.2 Right-of-Way Engineering – Prepare a legal description, right-of-way parcel plat and other materials for up to fifty-five (55) parcels to be used in the acquisition of right-of-way in accordance with the Right-of-Way Engineering Procedure Manual and in accordance with Indiana Administrative Code 865 IAC 1-12 (Rule 12).
- 11.3 Right-of-Way Staking – Set stakes at right-of-way break points (and at intermediate points as necessary to allow visual inspection of the right-of-way line, if necessary) to

delineate the location of the proposed permanent and temporary right-of-way lines for the benefit of the property owner, the appraiser, and the buying agent.

11.4 Appraisal Problem Analysis (APA) – Complete an Appraisal Problem Analysis Report which shall include performing the following:

- 11.4.1 An examination of the right-of-way plans to determine the extent of the acquisition.
- 11.4.2 An on-site inspection of each parcel requiring right-of-way acquisition.
- 11.4.3 A determination of the type of appraisal needed for each parcel according to FHWA Regulations (49 CFR Part 24, dated March 2, 1989).
- 11.4.4 Completing an Appraisal Problem Analysis form for each parcel to be acquired.

12.0 CONSTRUCTION PHASE OFFICE SERVICES

The CONSULTANT shall provide construction phase office services including the following:

- 12.1 Review and respond to Contractor questions submitted during bidding.
- 12.2 Attend one (1) Pre-construction Conference with the responsible agent(s) of the LPA and the Contractor.
- 12.3 Review shop drawings.
- 12.4 Make his/her services available to the LPA during construction of the work for the interpretation of the plans where disagreement may arise and for consultation during construction in the event unforeseen or unusual conditions may arise.

13.0 SERVICES NOT BEING PROVIDED BY CONSULTANT

The services not being provided by CONSULTANT under this Contract include, but are not limited to, the following:

- 13.1 Rule 5 Inspections during construction or completion of the Notice of Termination.
- 13.2 Phase I Site Assessment or Phase II Limited Site Investigation
- 13.3 Preparation of an Environmental Remediation Plan
- 13.4 Preparation of an “Appendix D: Bridge/Structure Assessment Form”
- 13.5 Development of a formal Karst Report or coordination through the INDOT Ecology and Waterway Permitting Office (EWPO)
- 13.6 Development of a full Historic Properties Report
- 13.7 Completion of the Section 106 process if a “No Adverse Effect” or “Adverse Effect” finding is determined.
- 13.8 Preparation of a Level 4 Categorical Exclusion Document
- 13.9 Design of advanced loops with the signal improvements at the Kinser Pike/Madison Street intersections
- 13.10 Preparation of Maintenance of Traffic Plans associated with the traffic signal improvements.
- 13.11 Field testing of wireless connectivity associated with the traffic signal improvements
- 13.12 Design of corridor or intersection street lighting
- 13.13 Restitution for landscape damage associated with the geotechnical investigation.
- 13.14 Remediation of hazardous materials found in the soil.
- 13.15 Additional reporting and curation if more than one (1) archaeological site is found.

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APPENDIX "B"

INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA

The LPA shall furnish the CONSULTANT with the following:

- 1.0 LPA shall designate an Employee in Responsible Charge (ERC) who has completed the requisite training as described in the INDOT LPA Process Guidance Document to coordinate activities between CONSULTANT and LPA.
- 2.0 Assistance to the CONSULTANT by placing at its disposal all available information pertinent to the project, including but not limited to the following:
  - 2.1 Available historic and current traffic data.
  - 2.2 Existing ambient air quality data available from the State and Local Air Pollution Control Agency.
  - 2.3 Existing water quality data, if available and required.
  - 2.4 Ambient noise measurements and computer noise analyses, if available and required.
  - 2.5 If required, aerial photographs and/or planimetric mapping of the watershed area in which the project lies and which can be used for any required drainage analysis.
  - 2.6 Utility plans provided by the LPA covering utility facilities and the location of facilities throughout the project area.
  - 2.7 Assistance in obtaining property owner information, deeds, plans of adjacent developments and/or roadway facilities, section corner information and any other pertinent information necessary to perform work under this Contract.
  - 2.8 Project Funding Sources
- 3.0 Local criteria for design and details for signs, signals, highway and structures such as grades, curves, sight distances, clearances, design loadings, etc.
- 4.0 Local specifications and standard drawings applicable to the project, including proprietary material request documentation for similar prior projects.
- 5.0 All written views pertinent to the location and environmental studies that are received by the LPA.
- 6.0 Relocation, land acquisition and document recording fees
- 7.0 Traffic Assignments, if required
- 8.0 A determination if the existing wireless interconnect infrastructure (e.g., yagi antennas, serial modem or Ethernet module, etc.) are to be relocated to the new mast arms, or if all new equipment should be implemented.
- 9.0 A determination as to whether a specific Emergency Vehicle Pre-emption (EVP) system manufacturer should be specified and the type of devices (e.g., infrared or GPS detectors).
- 10.0 A determination as to the preferred stop bar and/or advanced detection methods to be specified (e.g., video, Sensys, or loops).
- 11.0 Guarantee access to enter upon public and private lands as required for the CONSULTANT to perform the services under this Contract.

APPENDIX "C"

SCHEDULE

No work under this Contract shall be performed by the CONSULTANT until the CONSULTANT receives a written notice to proceed from the LPA.

All design services by the CONSULTANT under this Contract shall be completed and delivered to INDOT and the LPA at least 30 calendar days prior to the Ready for Contracts (RFC) date for the project. The anticipated Ready for Contracts Date for the project shall be August 4, 2021.

For purposes of contract control, the work will be submitted by the CONSULTANT to INDOT and the LPA for review and approval within the following approximate time periods.

- 1.0 Topographic Survey Data Collection completed within 90 calendar days after receipt of notice to proceed.
- 2.0 Environmental Documentation completed within 360 calendar days after sufficient Road Design is completed.
- 3.0 Road, Sewer and Lighting Design
  - 3.1 Conduct Field Check within 120 calendar days after completion of topographic survey data collection.
  - 3.2 Stage 3 Submission at least 75 calendar days prior to RFC date.
  - 3.3 Final Tracings with an Opinion of Probable Construction Costs and Special Provisions at least 30 calendar days prior to the RFC date.

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APPENDIX "D"

COMPENSATION

1.0 AMOUNT OF PAYMENT

1.1 The CONSULTANT shall receive compensation for such professional services under Appendix "A" of this Contract in the amount of a total fee not-to-exceed Six Hundred Thirty-Six Thousand One Hundred Fifteen Dollars (\$636,115.00), unless an amendment to this Contract is approved in writing by the LPA.

1.2 The CONSULTANT shall receive compensation for providing the services set forth in Items 1.0 through 8.0, inclusive, of Appendix "A" on a lump sum basis in accordance with the following schedule:

1.2.1	Topographic Survey Data Collection.....	\$39,700.00
1.2.2	Environmental Document .....	\$49,300.00
1.2.3	Public Involvement	
1.2.3.1	Public and Property Owners Meetings.....	\$12,000.00
1.2.3.2	Public Hearing (if required) .....	\$3,500.00
1.2.4	Water Resource/Stormwater Permitting .....	\$7,100.00
1.2.5	Road Design and Plans .....	\$230,800.00
1.2.6	Traffic Signal Design and Plans .....	\$18,700.00
1.2.7	Project Management/Project Website Update .....	\$14,700.00
1.2.8	Utility Coordination.....	\$20,000.00

1.3 The CONSULTANT shall receive payment for Subsurface Utility Engineering services performed under Item 9.0 of Appendix "A" of this Contract on a unit price basis per the schedule set forth below. The total payment for these services shall not exceed \$16,295.00, unless approved by the LPA.

1.3.1	SUE Locating/Test Holes (unit)-A .....	\$600.00/hole
1.3.2	SUE Maint of Traff 4 (unit).....	\$1,400.00/day
1.3.3	SUE Mobilization (Traffic Maint).....	\$115.00/day
1.3.4	SUE Mobilization (Vac).....	\$200.00/day
1.3.5	SUE Per Diem.....	\$150.00/day

1.4 The CONSULTANT shall receive payment for Geotechnical Investigation Services performed under Item 10.0 of Appendix "A" of this Contract on a unit price basis per the schedule set forth in Exhibit "1", attached to this Contract and made an integral part hereof. The total payment for these services shall not exceed \$37,050.00, unless approved by the LPA.

1.5 The CONSULTANT shall receive as payment for the Right-of-Way Engineering Services performed under Item 11.0 of Appendix "A" of this Contract based on the specific cost per unit multiplied by the actual units of work performed, in accordance with the following schedule:

	<u>Quantity</u>	<u>Unit Price</u>	<u>Subtotal</u>
1.5.1	Title Search	55 Each @ \$2,300.00	\$126,500.00
1.5.2	Right-of-Way Engineering	55 Parcels @ \$350.00	\$19,250.00
1.5.3	Right-of-Way Staking	55 Each @ \$400.00	\$22,000.00
1.5.4	Appraisal Problem Analysis	55 Parcels @ \$240.00	\$13,200.00
1.5.5	Combined or Eliminated Parcels	0 Parcels @ \$500.00	\$0.00
		Total	\$180,950.00

- 1.6 The CONSULTANT shall receive payment for Revising Parcel Plats and Descriptions and Re-Staking services performed pursuant to the following:
  - 1.6.1 Revision - \$200.00/Each  
Estimated two (2) Revisions @ \$200.00/Each ..... \$400.00
  - 1.6.2 Re-Staked Parcels - \$310/Parcel  
Estimated two (2) Re-Staked Parcel @ \$310.00/Parcel ..... \$620.00
- 1.7 The LPA, for and in consideration of the rendering of the services provided in Section 12.0 Construction Phase Office Services of Appendix "A" of this Contract, agrees to pay the CONSULTANT on the basis of the aggregate total of the actual hours of work performed by essential personnel exclusively working on the Contract. The total amount to be paid to CONSULTANT shall be the sum of the total direct salary and wages of each employee, plus the amount of the CONSULTANT's overhead cost which shall be computed by multiplying the sum of the direct salary and wages by the CONSULTANT's INDOT approved provisional overhead rate at the time the services were provided, plus 9.5% profit. The total compensation to be paid to the CONSULTANT shall not exceed \$5,000.00, unless approved by the LPA.

2.0 METHOD OF PAYMENT

- 2.1 The CONSULTANT may submit a maximum of one (1) invoice voucher per calendar month for work covered under this Contract. The invoice voucher shall be submitted to the LPA. The invoice voucher shall represent the value, to LPA, of the partially completed work as of the date of the invoice voucher. The CONSULTANT shall attach thereto a summary of each pay item in Item 1.2 of this Appendix, percentage completed and prior payments.
- 2.2 The LPA, for and in consideration of the rendering of the services provided for in Item 1.0 through Item 12.0 of Appendix "A", agrees to pay to the CONSULTANT for rendering such services the fees established above in the following manner.
  - 2.2.1 For completed work and upon receipt of invoices from the CONSULTANT and the approval thereof by the LPA, payments covering the work performed shall be due and payable to the CONSULTANT. From the partial payment thus computed, there shall be deducted all previous partial fee payments made to the CONSULTANT.
- 2.3 In the event of a substantial change in the scope, character or complexity of the work on the project, the maximum fee payable and the specified fee shall be adjusted in accordance with item 6, (changes in work) of the General Provisions, set out in this Contract.
- 2.4 It is anticipated that all services set forth in Appendix "A", excluding Construction Phase Office Services, shall be completed prior to May 2023. If for any reason the project progresses past this timeline, the CONSULTANT may be due an increase in fee due to inflationary costs for any unfinished services. Any fee increase shall be negotiated between the LPA and the CONSULTANT.

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	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Unit Total</u>
<b><u>GEOTECHNICAL FIELD</u></b>				
1. Mobilization and Field Coordination				
a. SPT Rig	1	ea	\$270.00	\$270.00
b. CPT		ea	\$450.00	\$0.00
c. Field and utility coordination	1	LS	\$400.00	\$400.00
d. Field coordination with property owners				
i. 1 - 10		LS	\$320.00	\$0.00
ii. 11 - 25	1	LS	\$510.00	\$510.00
iii. Over 25		LS	\$710.00	\$0.00
e. Mileage	140	mi	\$3.50	\$490.00
2. Truck mounted borings with split-spoon sampling				
a. Standard	170	ft	\$19.00	\$3,990.00
b. Night time		ft	\$22.42	\$0.00
3. Truck mounted borings with drilling fluid				
a. Standard		ft	\$19.00	\$0.00
b. Night time		ft	\$22.42	\$0.00
4. Truck mounted core drilling				
a. Standard	210	ft	\$39.00	\$8,190.00
b. Night time		ft	\$46.00	\$0.00
5. Truck mounted borings				
a. Truck mounted borings through bedrock or boulders or concrete pavement				
i. Standard		ft	\$39.00	\$0.00
ii. Night time		ft	\$46.02	\$0.00
b. Bridge deck coring and restoration				
i. Standard		ea	\$350.00	\$0.00
ii. Night time		ea	\$413.00	\$0.00
6. Cone penetrometer testing				
a. Set up				
i. Standard		ea	\$80.00	\$0.00
ii. Night time		ea	\$94.40	\$0.00
b. Subsurface profiling				
i. Standard		ft	\$12.25	\$0.00
ii. Night time		ft	\$14.46	\$0.00
c. Profiling with pore pressure measurement				
i. Piezometric Saturation				
a. Standard		ea	\$93.00	\$0.00
b. Night time		ea	\$109.74	\$0.00
ii. Penetration				
a. Standard		ft	\$14.50	\$0.00
b. Night time		ft	\$17.11	\$0.00
iii. Pore water dissipation test				
a. Standard		hr	\$190.00	\$0.00

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b. Night time		hr	\$224.20	\$0.00
iv. Hydraulic conductivity and consolidation				
a. Standard		ea	\$75.00	\$0.00
b. Night time		ea	\$88.50	\$0.00
d. Profiling with Shear wave Velocity Measurement				
i. Standard		ft	\$15.75	\$0.00
ii. Night time		ft	\$18.59	\$0.00
e. Sample				
i. Standard		ea	\$24.00	\$0.00
ii. Night time		ea	\$28.32	\$0.00
7. Hand or truck soundings				
a. Standard	30	ft	\$12.50	\$375.00
b. Night time		ft	\$14.75	\$0.00
8. Hand auger drilling				
a. Standard		ft	\$13.00	\$0.00
b. Night time		ft	\$15.34	\$0.00
9. Skid mounted borings with split-spoon sampling				
a. Standard		ft	\$30.00	\$0.00
b. Night time		ft	\$35.40	\$0.00
10. Skid mounted borings using drilling fluid				
a. Standard		ft	\$30.00	\$0.00
b. Night time		ft	\$35.40	\$0.00
11. Skid mounted core drilling				
a. Standard		ft	\$43.00	\$0.00
b. Night time		ft	\$50.74	\$0.00
12. Skid mounted boring through bedrock or boulders				
a. Standard		ft	\$45.00	\$0.00
b. Night time		ft	\$53.10	\$0.00
13. Skid mounted soundings				
a. Standard		ft	\$17.50	\$0.00
b. Night time		ft	\$20.65	\$0.00
14. Skid Mounted Cone Penetrometer Testing (CPT)				
a. Set up				
i. Standard		ea	\$115.00	\$0.00
ii. Night time		ea	\$135.70	\$0.00
b. Subsurface profiling				
i. Standard		ft	\$17.75	\$0.00
ii. Night time		ft	\$20.95	\$0.00
c. Profiling with pore pressure measurement				
i. Piezometric Saturation				
a. Standard		ea	\$110.00	\$0.00
b. Night time		ea	\$129.80	\$0.00
ii. Penetration				

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a. Standard		ft	\$20.50	\$0.00
b. Night time		ft	\$24.19	\$0.00
iii. Pore Water Dissipation Test				
a. Standard		hr	\$220.00	\$0.00
b. Night time		hr	\$259.60	\$0.00
iv. Hydraulic Conductivity and Consolidation				
a. Standard		ea	\$85.00	\$0.00
b. Night time		ea	\$100.30	\$0.00
d. Profiling with Shear wave Velocity Measurement				
i. Standard		ft	\$25.00	\$0.00
ii. Night time		ft	\$29.50	\$0.00
e. Sample				
i. Standard		ea	\$32.00	\$0.00
ii. Night time		ea	\$37.76	\$0.00
15. Furnishing of a boat		Actual Cost	1.0	\$0.00
16. Barge set-up expenses				
a. Navigable water				
i. Barge set-up		ea	\$6,000.00	\$0.00
ii. Rental of support equipment and/or boat		Actual Cost	1.0	\$0.00
iii. Drill rig down time		hr	\$150.00	\$0.00
b. Non-navigable water barge set-up		ea	\$5,000.00	\$0.00
17. Additional disassembly and reassembly				
a. Navigable water		ea	\$2,100.00	\$0.00
b. Non-navigable water		ea	\$1,900.00	\$0.00
18. Barge mounted borings with split spoon sampling		ft	\$33.00	\$0.00
19. Barge mounted core drilling		ft	\$45.00	\$0.00
20. Barge mounted boring through bedrock or boulders		ft	\$45.00	\$0.00
21. Barge mounted soundings		ft	\$20.00	\$0.00
22. Casing through water		ft	\$8.50	\$0.00
23. Uncased sounding through water		ft	\$5.50	\$0.00
24. Set up for borings and machine soundings				
a. Borings and machine soundings less than 20 ft deep	9	ea	\$70.00	\$630.00
b. Rock core borings		ea	\$120.00	\$0.00
25. Additional 2-in. split spoon sampling	27	ea	\$21.00	\$567.00
26. 3-in. split spoon samples		ea	\$23.00	\$0.00
27. 3-in. Shelby tube samples	1	ea	\$63.00	\$63.00
28. Bag samples				
a. 25-lb sample	1	ea	\$51.00	\$51.00
b. 5-lb sample	3	ea	\$33.00	\$99.00
29. Field vane shear test				
a. Standard		ea	\$115.00	\$0.00
b. Night time		ea	\$135.70	\$0.00
30. 4½-in. cased hole		ft	\$12.50	\$0.00

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31. Installation of Geotechnical Instruments				
a. Inclinator casing installation				
i. Standard		ft	\$15.00	\$0.00
ii. Night time		ft	\$17.70	\$0.00
b. Piezometer installation up to 25 ft below surface		ea	\$270.00	\$0.00
c. Piezometer installation deeper than 25 ft below surface		ea	\$300.00	\$0.00
d. Metal protective outer cover for inclinometer and piezometer casings		ea	\$125.00	\$0.00
32. Geotechnical Engineer	15	hr	\$120.00	\$1,800.00
33. Railroad expenses		Actual Cost	1.0	\$0.00
34. Twenty-four hour water levels				
a. Field measurements per borehole				
i. Standard	3	ea	\$38.00	\$114.00
ii. Night time		ea	\$44.84	\$0.00
b. PVC slotted pipe	30	ft	\$6.00	\$180.00
35. Special borehole backfilling				
a. 0 to 30 ft				
i. SPT				
a. Standard	9	ea	\$110.00	\$990.00
b. Night time		ea	\$129.80	\$0.00
ii. CPT				
a. Standard		ea	\$46.00	\$0.00
b. Night time		ea	\$54.28	\$0.00
b. More than 30 ft				
i. SPT				
a. Standard	0	ft	\$6.50	\$0.00
b. Night time		ft	\$7.67	\$0.00
ii. CPT				
a. Standard		ft	\$1.90	\$0.00
b. Night time		ft	\$2.24	\$0.00
c. Pavement restoration				
i. Standard	9	ea	\$60.00	\$540.00
ii. Night time		ea	\$70.80	\$0.00
36. Dozer rental		Actual Cost	1.0	\$0.00
37. Traffic control				
a. Flag crew	0	day	\$750.00	\$0.00
b. Equipment Rental and professional traffic control services	\$5,250.00	Actual Cost	1.0	\$5,250.00
c. Flag crew with equipment	0	day	\$850.00	\$0.00
d. Traffic Control Coordination with Subcontractor	1	LS	\$600.00	\$600.00
38. Centerline surveying		Actual Cost	1.0	\$0.00
		<b>Subtotal (Geotechnical Field)</b>		<b>\$25,109.00</b>

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<b><u>GEOTECHNICAL LABORATORY</u></b>				
39. Sieve analysis for soils	13	ea	\$49.00	\$637.00
40. Hydrometer analysis	13	ea	\$58.00	\$754.00
41. Sieve analysis for Aggregates				
a. Analysis by Washing (AASHTO T-11)		ea	\$77.00	\$0.00
b. Analysis by Using (AASHTO T-27)		ea	\$135.00	\$0.00
42. Liquid limit	13	ea	\$39.00	\$507.00
43. Plastic limit & plasticity index	13	ea	\$28.00	\$364.00
44. Liquid Limit Ratio		ea	\$75.00	\$0.00
45. pH test	13	ea	\$15.50	\$201.50
46. Loss on Ignition Test				
a. Loss on Ignition Test (Conventional)	3	ea	\$24.00	\$72.00
b. Loss on Ignition Test (Sequential)		ea	\$52.00	\$0.00
c. Organic content based on Colorimeter		ea	\$24.00	\$0.00
47. Topsoil Tests				
a. Phosphorus tests	3	ea	\$21.00	\$63.00
b. Potassium tests	3	ea	\$21.00	\$63.00
48. Moisture Content Test				
a. Moisture Content Test ( Conventional)	76	ea	\$6.75	\$513.00
b. Moisture Content Test (Microwave)		ea	\$8.20	\$0.00
49. Expansion Index of Soils		ea	\$235.00	\$0.00
50. Specific Gravity Test		ea	\$36.00	\$0.00
51. Unit weight determination	3	ea	\$17.50	\$52.50
52. Hydraulic Conductivity Test				\$0.00
a. Constant Head		ea	\$235.00	\$0.00
b. Falling Head		ea	\$285.00	\$0.00
53. Unconfined Compression Test on soils & Rocks				
a. Unconfined Compression Test (Soils)	3	ea	\$45.00	\$135.00
b. Remolding of soil samples with chemical admixtures in chemical soil modification/stabilization (3 samples is equal to 1 unit)		ea	\$115.00	\$0.00
c. Point Load Strength Index of Rock		ea	\$43.00	\$0.00
54. Compressive Strength and Elastic Moduli of Intact Rock				\$0.00
a. Compressive Strength of Intact Rock		ea	\$110.00	\$0.00
b. Elastic Moduli of Intact Rock		ea	\$430.00	\$0.00
55. Consolidation Test		ea	\$450.00	\$0.00
56. Triaxial test				\$0.00
a. Unconsolidated - Undrained (UU)		ea	\$350.00	\$0.00
b. Consolidated - Undrained (CU)		ea	\$520.00	\$0.00
c. Consolidated - Drained (CD)		ea	\$725.00	\$0.00
d. Pore Pressure measurement with a. or b. and use of back pressure for saturation		ea	\$250.00	\$0.00
57. Direct Shear Test		ea	\$530.00	\$0.00

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58				
Moisture-Density Relationship Test				
a. Standard Proctor	1	ea	\$140.00	\$140.00
b. Modified Proctor		ea	\$155.00	\$0.00
59				
Soil Support Testing				
a. California Bearing Ratio Test		ea	\$525.00	\$0.00
b. Resilient Modulus on remolded soil sample		ea	\$620.00	\$0.00
c. Resilient modulus on Shelby tube sample		ea	\$400.00	\$0.00
60				
Collapse Potential Evaluation Test				
a. Silty Soil (Loess)		ea	\$380.00	\$0.00
b. Cohesive or Expansive Soils		ea	\$450.00	\$0.00
61	10	ea	\$105.00	\$1,050.00
62		ea	\$105.00	\$0.00
63		ea	\$135.00	\$0.00
64				
Shale Durability Tests				
a. Slake Durability Index Test		ea	\$125.00	\$0.00
b. Jar Slake Test		ea	\$13.25	\$0.00
			<b>Subtotal (Geotechnical Laboratory)</b>	<b>\$4,552.00</b>
<b><u>GEOTECHNICAL ENGINEERING</u></b>				
65				\$0.00
Geotechnical report				\$0.00
a. Without soil subgrade investigation				\$0.00
i. First mile	0	LS	\$1,800.00	\$0.00
ii. Each additional mile		mi	\$750.00	\$0.00
b. With soil subgrade investigation				\$0.00
i. First mile	1	LS	\$2,000.00	\$2,000.00
ii. Each additional mile		mi	\$850.00	\$0.00
c. Soil subgrade investigation (only)				\$0.00
i. First mile		LS	\$650.00	\$0.00
ii. Each additional mile		mi	\$400.00	\$0.00
d. Soil profile Drawing				
I. First mile		LS	\$1,265.00	\$0.00
II. Each additional mile		mi	\$600.00	\$0.00
66				
a. Geotechnical Data Report for Design Build Projects				
i. First mile		LS	\$900.00	\$0.00
ii. Each additional mile		mi	\$400.00	\$0.00
b. Technical Memo				
i. First mile		LS	\$600.00	\$0.00
ii. Each additional mile		mi	\$300.00	\$0.00
67				\$0.00
Settlement analysis and recommendations for embankment				\$0.00
a. Proposed embankment		ea	\$510.00	\$0.00
b. Proposed and existing embankment		ea	\$570.00	\$0.00
68		ea	\$1,500.00	\$0.00
Ground modification design				
69				\$0.00
Slope stability analysis				\$0.00
a. C, $\phi$ or C & $\phi$ analysis		ea	\$800.00	\$0.00
b. Corrective measures		ea	\$800.00	\$0.00

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c. Stage construction corrective method		ea	\$1,400.00	\$0.00
70 Bridge foundation analysis and recommendations				\$0.00
a. Shallow foundation		ea	\$500.00	\$0.00
b. Deep foundation				\$0.00
i. Deep foundation analyses		ea	\$875.00	\$0.00
ii. Wave equation analyses		ea	\$335.00	\$0.00
iii. Liquefaction analysis		ea	\$270.00	\$0.00
iv. Group - 3D analysis		ea	\$430.00	\$0.00
c. Settlement analysis for bridge pier foundation				\$0.00
i. Bridge pier		ea	\$400.00	\$0.00
ii. Embankment plus pier		ea	\$440.00	\$0.00
iii. Embankment plus pier plus all other loads		ea	\$510.00	\$0.00
d. Foundation on bedrock		ea	\$380.00	\$0.00
71 Retaining structure analysis recommendations				\$0.00
a. Conventional retaining structures and other types such as MSE Walls and Bin walls				\$0.00
i. Shallow foundation	3	ea	\$880.00	\$2,640.00
ii. Deep foundation		ea	\$1,160.00	\$0.00
iii. Settlement analysis for retaining wall foundation	3	ea	\$380.00	\$1,140.00
b. Pile retaining structure analysis and recommendations				\$0.00
i. Free standing structure		ea	\$1,050.00	\$0.00
ii. Retaining structure with tie-back system		ea	\$1,500.00	\$0.00
c. Drilled-in-pier retaining structure analysis				\$0.00
i. Free standing structure		ea	\$1,050.00	\$0.00
ii. Retaining structure with tie-back system		ea	\$1,500.00	\$0.00
d. Soil nailing wall analysis		ea	\$1,000.00	\$0.00
72 Seepage analysis		ea	\$1,450.00	\$0.00
73 Deep dynamic compaction analysis		ea	\$1,450.00	\$0.00
			<b>Subtotal (Geotechnical Engineering)</b>	<b>\$5,780.00</b>
<b><u>CONSTRUCTION INSPECTION AND MONITORING</u></b>				
74 Pressuremeter Testing services		day	\$1,650.00	\$0.00
75 Mobilization of testing equipment		LS	\$165.00	\$0.00
76 a. Monitoring geotechnical instrumentation		hr	\$80.00	\$0.00
b. Field Inspector		hr	\$80.00	\$0.00
77 Integrity testing		Actual Cost	1.0	\$0.00
78 Field Compaction Testing				\$0.00
a. Dynamic Cone Penetration Test (DCPT)		hr	\$80.00	\$0.00
b. Light Weight Deflectometer Test (LWD)		hr	\$80.00	\$0.00
79 Dynamic pile analysis		ea	\$1,050.00	\$0.00
80 Static load test		ea	\$1,050.00	\$0.00
81 Dynamic pile load test		Actual Cost	1.0	\$0.00
82 CAPWAP-C analysis		ea	\$550.00	\$0.00
83 Final construction inspection report		ea	\$1,000.00	\$0.00

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			<b>Subtotal (Construction Inspection and Monitoring)</b>	<b>\$0.00</b>	
<b><u>FOUNDATION EVALUATION BY NON-DESTRUCTIVE METHODS</u></b>					
84	a. Surface test/Pier or foundation		Actual Cost	1.0	\$0.00
	b. Borehole test/Pier or foundation		Actual Cost	1.0	\$0.00
<b><u>GEOPHYSICAL INVESTIGATION</u></b>					
85	Geophysical Investigations		Actual Cost	1.0	\$0.00
<b><u>GEOTECHNICAL PROJECT MANAGEMENT</u></b>					
86	Project Management				
	a. Project Coordination	mi	\$1,650.00		\$0.00
	b. Project Website	LS	\$3,500.00		\$0.00
87	Geotechnical Review				\$0.00
	a. Structure Report	ea	\$350.00		\$0.00
	b. Roadway Report	mi	\$290.00		\$0.00
<b><u>PAVEMENT INVESTIGATION</u></b>					
1.	Mobilization of coring equipment	LS	\$210.00		\$0.00
2.	Mobilization mileage for coring equipment	mi	\$1.90		\$0.00
3.	Pavement core (partial depth)	ea	\$130.00		\$0.00
4.	Pavement core (full depth)				\$0.00
	a. Standard	5	ea	\$200.00	\$1,000.00
	b. Night time		ea	\$230.00	\$0.00
5.	Sub-base sample	5	ea	\$62.00	\$310.00
6.	Cement concrete pavement core density determination		ea	\$34.00	\$0.00
7.	Cement concrete core compressive strength test		ea	\$33.00	\$0.00
8.	Bituminous extraction test		ea	\$86.00	\$0.00
9.	Sieve analysis of extracted aggregate test		ea	\$58.00	\$0.00
10.	Recovery of asphalt from solution by Abson method		ea	\$360.00	\$0.00
11.	Theoretical maximum specific gravity test		ea	\$72.00	\$0.00
12.	Bulk specific gravity test		ea	\$32.00	\$0.00
13.	Air voids calculation		ea	\$29.00	\$0.00
14.	Core report for partial depth core		ea	\$50.00	\$0.00
15.	Core report for full depth core	5	ea	\$50.00	\$250.00
16.	Pavement analysis and report		ea	\$800.00	\$0.00
			<b>Subtotal (Pavement Investigation)</b>	<b>\$1,560.00</b>	

**Summary of Fees**

Geotechnical Field	\$25,109.00
Geotechnical Laboratory	\$4,552.00
Geotechnical Engineering	\$5,780.00
Construction Inspection and Monitoring	\$0.00
Pavement Investigation	\$1,560.00
<b>Estimated Total</b>	<b>\$37,001.00</b>



# Board of Public Works Staff Report

**Project/Event:** Amendment #1 to LPA-Consulting Contract with Lochmueller Group, Inc. for the 17<sup>th</sup> Street (Monroe to Grant) Multimodal Improvements Project

**Petitioner/Representative:** Engineering Department

**Staff Representative:** Neil Kopper, Senior Project Engineer

**Date:** 05/25/2021

**Report:** This project will construct multiuse path on the north side of 17th Street from Monroe Street to Grant Street, replace the traffic signal at the intersection of 17th Street and Madison Street/Kinser Pike, and provide other multimodal safety improvements within the corridor. The project is programmed in the MPO TIP for construction (\$2,052,000 in federal funds). Construction of this project is expected in 2022.

Lochmueller Group, Inc. is currently under contract for preliminary engineering services. This addendum will add right of way acquisition services for the project as well as unexpected design services including additional survey and design. This addendum increases the previous not-to-exceed amount of \$636,115.00 by \$203,630 for a new total of \$839,745. This contract is TIF funded and requires RDC approval.

<u>Project Approvals Timeline</u>		
<u>Approval Type</u>	<u>Status</u>	<u>Date</u>
Funding Approval (INDOT-LPA Contract)	Approved	2021
Design Services Contract	Approved	8/6/2019
<b>ROW Services Contract*</b>	<b>Current Item</b>	<b>5/25/2021</b>
Public Need Resolution	Future	2021
Construction Inspection Contract	Future	2021
Construction Contract	N/A**	2022

\* Amendment 1 updates the original design services contract to include ROW services.

\*\*Construction contracts for federally funded projects are approved and managed by INDOT.

# City of Bloomington Contract and Purchase Justification Form

Vendor: Lochmueller Group, Inc.

Contract Amount: \$839,745

This form should be completed and attached to the contract documents and forwarded to the Legal Department Attorney assigned to your Department. Contracts will not be approved by the Controller if a completed form is not included with the contract documents.

**PURCHASE INFORMATION**

1. Check the box beside the procurement method used to initiate this procurement: (Attach a quote or bid tabulation if applicable)

<input type="checkbox"/> Request for Quote (RFQ)	<input type="checkbox"/> Request for Proposal (RFP)	<input type="checkbox"/> Sole Source	<input type="checkbox"/> Not Applicable (NA)
<input type="checkbox"/> Invitation to Bid (ITB)	<input checked="" type="checkbox"/> Request for Qualifications (RFQu)	<input type="checkbox"/> Emergency Purchase	

2. List the results of procurement process. Give further explanation where requested.

	Yes	No	
# of Submittals: 24			Was the lowest cost selected? (If no, please state below why it was not.)
Met city requirements?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Met item or need requirements?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The RFQu was issued seeking statements of qualifications to establish a list of qualified firms that may be contacted for projects. 14 firms are currently on the City's pre-approved engineering consultant list. Lochmueller Group was previously selected for this particular project based on their expertise.
Was an evaluation team used?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Was scoring grid used?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Were vendor presentations requested?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

3. State why this vendor was selected to receive the award and contract:

Lochmueller Group was selected to design this project from the City's pre-approved engineering consultant list due to their expertise as well as the efficiencies gained by the work they had already completed at the 17th-Kinser intersection.

\_\_\_\_\_  
Neil Kopper

\_\_\_\_\_  
Senior Project Engineer

\_\_\_\_\_  
Engineering

Print/Type Name

Print/Type Title

Department

**AMENDMENT NO. 1**

THIS AMENDMENT NO. 1 IS MADE AND ENTERED INTO THIS <sup>25<sup>th</sup></sup> DAY OF May, 2021 BY AND BETWEEN THE CITY OF BLOOMINGTON, HEREINAFTER REFERRED TO AS LPA AND LOCHMUELLER GROUP, INC. HEREINAFTER REFERRED TO AS CONSULTANT.

W I T N E S S E T H

WHEREAS, the LPA and CONSULTANT did on August 6, 2019 enter into an Agreement to provide services for the 17<sup>th</sup> Street Multimodal Improvements from Monroe Street to Grant Street, and

WHEREAS, it has been determined that a Public Hearing is not required for the project, and

WHEREAS, the LPA desires to have CONSULTANT complete and submit an ADA Technical Waiver for multiple non-compliant curb ramp waivers through the INDOT Technical Advisory Committee to avoid reconstruction of the existing adjacent roadways, and

WHEREAS, additional topographic survey data collection is required to obtain current existing conditions within the project limits that have changed since the completion of the original topographic survey and additional topographic survey to obtain additional data to complete the design of the project, and

WHEREAS, six (6) additional curb ramps within the project limits will need to be designed and detailed to current ADA guidelines, and

WHEREAS, the LPA desires to have CONSULTANT modify the design of the project from its beginning east of Monroe Street to Kinser Pike by eliminating the previously planned mill and overlay, and

WHEREAS, the project has advanced to a point where Right-of-Way Services can commence, and

WHEREAS, the LPA desires the CONSULTANT to provide the additional required services, and

WHEREAS, the CONSULTANT has expressed an interest in providing the additional required services, and

WHEREAS, in order for the CONSULTANT to provide the additional services, it is necessary to amend the original agreement, and

NOW, THEREFORE, it is agreed by and between both parties that the original agreement be amended as follows:

**I. Section IV Compensation on page one of the original Contract is modified as follows:**

**SECTION IV COMPENSATION.** The LPA shall pay the CONSULTANT for the Services performed under this Contract as set forth in Appendix "D" which is herein attached to and made an integral part of this Contract. The maximum amount payable under this Contract shall not exceed **\$839,745.00**.

**II. Item 3.0 PUBLIC INVOLVEMENT of Appendix “A” is replaced with the following:**

**3.0 PUBLIC INVOLVEMENT**

The CONSULTANT shall prepare the plans for public involvement and administer one (1) public meeting and two (2) individual property owners meetings.

**4.0 Item 14.0 RIGHT-OF-WAY SERVICES is added to Appendix “A” as follows:**

**14.0 RIGHT-OF-WAY SERVICES**

**14.1 Management and Supervision Services**

14.1.1 Administer, schedule and coordinate the following activities necessary to certify that the right-of-way has been acquired and the project is clear for construction letting: meetings, conferences, and communications with the Property Owner(s), the Relocatee(s), the Attorney(s), the Engineer(s), the Appraiser(s), the Buying Agent(s), the Relocation Agent(s), the LPA, the Indiana Department of Transportation (INDOT), and the Federal Highway Administration (FHWA).

14.1.2 Deliver documentation to the LPA in order to process payments for parcel secured through negotiations.

14.1.3 Provide the LPA with a complete negotiator file for each parcel secured through negotiations.

14.1.4 Provide the LPA with the complete negotiator file and a recommendation for condemnation for each parcel referred to the LPA’s Legal Counsel for condemnation.

**14.2 Waiver Valuation Services**

14.2.1 Prepare, or cause to have prepared, a waiver valuation for each parcel as recommended by the approved Appraisal Problem Analysis in accordance with the Appraisal Procedures chapter of the RED Manual and Indiana Law. If applicable, the report shall comply with the Uniform Standard of Professional Appraisal Practice (USPAP).

**14.3 Appraisal Services**

14.3.1 The appraiser(s) shall be subject to approval by the LPA.

14.3.2 Prepare an appraisal for each parcel as recommended by the approved Appraisal Problem Analysis and in compliance with the following:

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (URA) Public Law 91-646 dated January 2, 1971 (The Uniform Act). All appraisals must conform to Title III of the Uniform Act and appropriate federal regulations.
- 49 CFR (Code of Federal Regulations) part 24; updated January 4, 2005; Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs; Final Rule.
- Uniform Standard of Professional Appraisal Practice (USPAP).
- Appraisal Procedures Chapter of the RED Manual.
- Indiana Law

- 14.4 Review Appraisal Services
- 14.4.1 The review appraiser shall perform the review appraisal work covered by this Contract, shall be a licensed appraiser in the State of Indiana, and on INDOT's approved Appraisers/Review Appraisers list.
- 14.4.2 The appraisals under review shall comply with the following:
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (URA) Public Law 91-646 dated January 2, 1971 (The Uniform Act). All appraisals must conform to Title III of the Uniform Act and appropriate federal regulations.
  - 49 CFR (Code of Federal Regulations) part 24; updated January 4, 2005; Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs; Final Rule.
  - Uniform Standard of Professional Appraisal Practice (USPAP).
  - Appraisal Procedures Chapter of the RED Manual.
  - Indiana Law
- 14.5 Buying
- 14.5.1 The Buyer shall be a licensed real estate broker in the State of Indiana, and on INDOT's approved Buyer's list. No work by the Buyer shall be sublet, assigned or otherwise performed by someone other than the Buyer.
- 14.5.2 Complete the buying services for each parcel in accordance with the current Indiana Department of Transportation's Real Estate Division Manual at the time the buying services are performed, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (Public Law 91-646) as amended (The Uniform Act) and the Code of Federal Regulation Titled 49 CFR Part 24 and Indiana Law.
- 14.6 Revisions and Re-Staking Right-of-Way
- 14.6.1 Revise the right of way engineering as required, including but not limited to the legal descriptions, right-of-way parcel plat, right-of-way plans, and other materials to be used in the acquisition of right-of-way in accordance with the Right-of-Way Engineering Procedure Manual and also in accordance with Indiana Administrative Code 865 IAC 1-12, ("Rule 12"). The Revision shall be minor in nature and take less than two (2) hours to complete per parcel revision.
- 14.6.2 Perform a one-time re-staking of right-of-way break points (and at intermediate points as necessary to allow visual inspection of the right-of-way line, if necessary) to delineate the location of the proposed permanent and temporary right of way lines(s) for the benefit of the property owner, the appraiser, and the buying agent, per parcel in which the right-of-way has been revised.
- 14.6.3 Re-staking right-of-way shall include the removal of lathes, stakes, pins, hubs, or other physical monuments placed along the right-of-way line that are no longer valid.
- 14.7 Condemnation Services
- 14.7.1 Provide expert testimony and trial preparation services as requested by the LPA, from the Right-of-Way Services Manager, Appraiser, Review Appraiser, Buyer, Relocation Agent, Relocation Reviewer, and/or Design Engineer.

**5.0 Items 12.0 through 22.0 are added to Appendix “B” INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA as follows:**

- 12.0 Copies of location and/or design study reports (if not prepared by the CONSULTANT).
- 13.0 Copies of the environmental studies and/or approvals (if not prepared by the CONSULTANT).
- 14.0 The Transfer Document templates (acquisition instruments) which have been prepared and/or approved by the LPA's Legal Counsel.
- 15.0 Guarantee access to and make all provisions for the CONSULTANT to enter upon public and private lands as required for the CONSULTANT to perform the work under this Agreement.
- 16.0 Legal Services for the acquisition of all parcels through Eminent Domain proceedings.
- 17.0 The LPA shall have the executed documents recorded and deliver payment to each property owner.
- 18.0 The LPA shall make all payments due to the court for condemnation proceedings.
- 19.0 Copies of recorded transfer documents for all secured parcels and copies of court documents on all condemned parcels necessary to ensure Right-of-Way Certification if required by INDOT.
- 20.0 Copies of property owner checks for settled parcels.
- 21.0 Copies of checks and receipts for all payments made to the court for condemnation proceedings.
- 22.0 Legal Counsel or LPA designated agent to hear and make judgment on proposed administrative settlements and Eminent Domain proceedings.
- 23.0 The disposition of acquired improvements through auction, salvage, owner retention, etc.
- 24.0 Lease and Rental Agreements as prepared or approved by the LPA's attorney.

**6.0 Items 4.0 through 10.0 are added to Appendix “C” SCHEDULE as follows:**

- 4.0 All services provided by the CONSULTANT under 14.2 through 14.5 of Appendix “A” of this Contract shall be completed and delivered to the LPA no later than 210 calendar days after notification to proceed from the LPA and exclusive of agency(s) review time.
- 5.0 For the purpose of contract control the work will be submitted by the CONSULTANT to the LPA for review and approval with the following approximate time periods:
- 6.0 Appraisals and documentation within 90 calendar days after the notice to proceed with the appraisals.
- 7.0 Review appraisals and documentation within 30 days calendar days after receipt of each appraisal from the appraiser.
- 8.0 Buying and documentation within 90 calendar days after receipt of notice to proceed with buying on each parcel.
- 9.0 An additional 120 to 180 days should be provided in the LPAs schedule for condemnation proceedings after a parcel is referred to condemnation by the buyer.
- 10.0 Project ready for R/W Certification within 14 days after the final documentation and proof of all transfer documents being recorded and proof of property owner payments have been received by the CONSULTANT from the LPA, and/or final documentation for condemnation is received from the LPA indicating funds have been deposited with court and the County Auditor has been notified to make the transfer of property.

**7.0 Appendix “D” is replaced in its entirety with the following:**

**1.0 AMOUNT OF PAYMENT**

- 1.1 The CONSULTANT shall receive compensation for such professional services under Appendix “A” of this Contract in the amount of a total fee not-to-exceed Eight Hundred

Thirty-Nine Thousand Seven Hundred Forty-Five Dollars (\$839,745.00), unless an amendment to this Contract is approved in writing by the LPA.

1.2 The CONSULTANT shall receive compensation for providing the services set forth in Items 1.0 through 8.0, inclusive, of Appendix “A” on a lump sum basis in accordance with the following schedule:

1.2.1	Topographic Survey Data Collection .....	\$47,100.00
1.2.2	Environmental Document .....	\$49,300.00
1.2.3	Public Involvement	
1.2.3.1	Public and Property Owner Meetings .....	\$12,000.00
1.2.4	Water Resource/Stormwater Permitting .....	\$7,100.00
1.2.5	Road Design and Plans.....	\$257,900.00
1.2.6	Traffic Signal Design and Plans .....	\$15,900.00
1.2.7	Project Management/Project Website Update .....	\$14,700.00
1.2.8	Utility Coordination .....	\$20,000.00

1.3 The CONSULTANT shall receive payment for Subsurface Utility Engineering services performed under Item 9.0 of Appendix “A” of this Contract on a unit price basis per the schedule set forth below. The total payment for these services shall not exceed \$16,295.00, unless approved by the LPA.

1.3.1	SUE Locating/Test Holes (unit)-A .....	\$600.00/hole
1.3.2	SUE Maintenance of Traffic 4 (unit).....	\$1,400.00/day
1.3.3	SUE Mobilization (Traffic Maintenance).....	\$115.00/day
1.3.4	SUE Mobilization (Vac).....	\$200.00/day
1.3.5	SUE Per Diem.....	\$150.00/day

1.4 The CONSULTANT shall receive payment for Geotechnical Investigation Services performed under Item 10.0 of Appendix “A” of this Contract on a unit price basis per the schedule set forth in Exhibit “1”, attached to this Contract and made an integral part hereof. The total payment for these services shall not exceed \$37,050.00, unless approved by the LPA.

1.5 The CONSULTANT shall receive as payment for the Right-of-Way Engineering Services performed under Item 11.0 of Appendix “A” of this Contract based on the specific cost per unit multiplied by the actual units of work performed, in accordance with the following schedule:

	<u>Quantity</u>	<u>Unit Price</u>	<u>Subtotal</u>
1.5.1 Title Research	42 Parcels	@ \$400.00	\$16,800.00
1.5.2 Right-of-Way Engineering	34 Parcels	@ \$2,300.00	\$78,200.00
1.5.3 Right-of-Way Staking	34 Parcel	@ \$350.00	\$11,900.00
1.5.4 Appraisal Problem Analysis	34 Parcels	@ \$240.00	\$8,160.00
1.5.5 Combined or Eliminated Parcels	8 Parcels	@ \$500.00	\$4,000.00
	Total		\$119,060.00

1.6 The CONSULTANT shall receive payment The CONSULTANT shall receive payment for Revising Parcel Plats and Descriptions and Re-Staking services performed pursuant to the following:

- 1.6.1 Revision - \$200.00/Each  
Estimated two (2) Revisions @ \$200.00/Each .....\$400.00
- 1.6.2 Re-Staked Parcels - \$310/Parcel  
Estimated two (2) Re-Staked Parcel @ \$310.00/Parcel .....\$620.00
- 1.7 The CONSULTANT shall receive payment for Items 14.1 through 14.7 of Appendix “A” of this Contract in accordance with the following fee schedule:

<b>Work Performed</b>	<b>Fee Per Parcel</b>
Appraising-Waiver Valuation	\$680.00
Appraising-Value Finding	\$1,930.00
Appraising-Short Form: Any Property Type (Improved or Unimproved)	\$2,835.00
Appraising-Short Form: Residential /AG (with affected improvements or total take)	\$3,175.00
Appraising-Short Form: Commercial/Industrial/Multi-family/Special/Billboard (WAITT)	\$4,530.00
Appraising-Long Form: Any Property Type (Unimproved)	\$3,405.00
Appraising-Long Form: Residential AG (Improved)	\$4,530.00
Appraising-Long Form: Commercial/Industrial/Multi-family/Special (Improved)	\$11,340.00
Appraising-Excess Land Appraisal	\$650.00
Review-Waiver Valuation	\$410.00
Review-Value Finding	\$970.00
Review-Short Form: Any Property Type (Improved or Unimproved)	\$1,360.00
Review-Short Form: Residential /AG (with affected improvements or total take)	\$1,535.00
Review-Short Form: Commercial/Industrial/Multi-family/Special/Billboard (WAITT)	\$2,160.00
Review-Long Form: Any Property Type (Unimproved)	\$1,620.00
Review-Long Form: Residential AG (Improved)	\$2,160.00
Review-Long Form: Commercial/Industrial/Multi-family/Special (Improved)	\$5,220.00
Buying-Total/Partial Acquisition	\$2,030.00
Buying-Temporary/Access Rights	\$1,695.00
Minor Revision to R/W	\$500.00
Re-Staking Parcel	\$750.00
Right-of-Way Management	\$1,230.00

- 1.8 The fee for Items 14.2 through 14.7 of Appendix “A” is estimated based on the number of parcels, type of work performed for each parcel, a contingency for additional parcels and/or changes to the work type performed for each parcel, and the potential need for Condemnation Proceedings. The estimated fee is based on the following schedule:

Work Performed	Estimated Number of Parcels	Fee Per Parcel	Totals
Appraising-Waiver Valuation	5	\$680.00	\$3,400.00
Appraising-Value Finding	25	\$1,930.00	\$48,250.00
Appraising-Short Form: Residential/AG (with affected improvements or total take)	1	\$3,175.00	\$3,175.00
Appraising-Short Form: Commercial/Industrial/Multi-family/Special/Billboard (WAITT) AG (with affected improvements or total take)	1	\$4,530.00	\$4,530.00
Appraising-Long Form: Commercial/Industrial/Multi-family/Special (Improved)	2	\$11,340.00	\$22,680.00
Review-Waiver Valuation	5	\$410.00	\$2,050.00
Review-Value Finding	25	\$970.00	\$24,250.00
Review-Short Form: Residential/AG (with affected improvements or total take)	1	\$1,535.00	\$1,535.00
Review-Short Form: Commercial/Industrial/Multi-family/Special/Billboard (WAITT)	1	\$2,160.00	\$2,160.00
Review-Long Form: Commercial/Industrial/Multi-family/Special (Improved) Residential AG (Improved)	2	\$5,220.00	\$10,440.00
Buying-Total/Partial Acquisition	29	\$2,030.00	\$58,870.00
Buying-Temporary/Access Rights	5	\$1,695.00	\$8,475.00
Right-of-Way Management	34	\$1,230.00	\$41,820.00
Contingency			\$5,685.00
Total Estimated Fee			\$237,320.00

1.9 In consideration of condemnation proceedings, the LPA agrees to pay the Right-of-Way Manager, Appraiser, Review Appraiser, Buyer, Relocation Agent, and Design Engineer on a daily basis (or on a pro-rata basis for less than an eight-hour day) the following sums:

	Pre-Trial Conference and Preparation:	Expert Witness Testimony in Court:
R/W Manager	\$1,200/Day	\$1,200/Day
Appraiser	\$1,000/Day	\$1,000/Day
Review Appraiser	\$1,200/Day	\$1,200/Day
Buyer	\$1,000/Day	\$1,000/Day
Design Engineer	\$1,200/Day	\$1,200/Day

1.10 The amount of final compensation will be adjusted according to the actual number and type of units of work performed.

1.11 The LPA, for and in consideration of the rendering of the services provided in Item 12.0 Construction Phase Office Services of Appendix “A” of this Contract, agrees to pay the CONSULTANT on the basis of the aggregate total of the actual hours of work performed by essential personnel exclusively working on the Contract. The total amount to be paid to CONSULTANT shall be the sum of the total direct salary and wages of each employee,

plus the amount of the CONSULTANT's overhead cost which shall be computed by multiplying the sum of the direct salary and wages by the CONSULTANT's INDOT approved provisional overhead rate at the time the services were provided, plus 9.5% profit. The total compensation to be paid to the CONSULTANT shall not exceed \$5,000.00, unless approved by the LPA.

## 2.0 METHOD OF PAYMENT

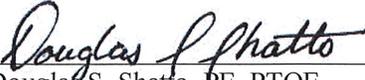
- 2.1 The CONSULTANT may submit a maximum of one (1) invoice voucher per calendar month for work covered under this Contract. The invoice voucher shall be submitted to the LPA. The invoice voucher shall represent the value, to LPA, of the partially completed work as of the date of the invoice voucher. The CONSULTANT shall attach thereto a summary of each pay item in Item 1.2 of this Appendix "D", percentage completed and prior payments.
- 2.2 The LPA, for and in consideration of the rendering of the services provided for in Item 1.0 through Item 12.0 of Appendix "A", agrees to pay to the CONSULTANT for rendering such services the fees established above in the following manner.
- 2.3 The LPA agrees to pay the CONSULTANT for the percentage of work completed for Right-of-Way Services Management. The CONSULTANT shall not request partial payments for the remaining per-parcel-fee items unless prior approval is given by the LPA.
- 2.4 For completed work and upon receipt of invoices from the CONSULTANT and the approval thereof by the LPA, payments covering the work performed shall be due and payable to the CONSULTANT. From the partial payment thus computed, there shall be deducted all previous partial fee payments made to the CONSULTANT.
- 2.5 In the event of a substantial change in the scope, character or complexity of the work on the project, the maximum fee payable and the specified fee shall be adjusted in accordance with item 6, (changes in work) of the General Provisions, set out in this Contract.
- 2.6 It is anticipated that all services set forth in Appendix "A", excluding Construction Phase Office Services, shall be completed prior to May 2023. If for any reason the project progresses past this timeline, the CONSULTANT may be due an increase in fee due to inflationary costs for any unfinished services. Any fee increase shall be negotiated between the LPA and the CONSULTANT.

Except as herein modified, changed, and amended, all terms and conditions of the original Agreement dated August 6, 2019 shall continue in full force and effect.

This Amendment No. 1 increases the original not-to-exceed fee of \$636,115.00 by \$203,630.00 to a new not-to-exceed fee of \$839,745.00.

IN WITNESS WHEREOF, the parties have hereunto executed this Amendment No. 1 effective the day and year first above written.

**LOCHMUELLER GROUP, INC.**

  
\_\_\_\_\_  
Douglas S. Shatto, PE, PTOE  
President/Chief Operating Officer

Attest:

  
\_\_\_\_\_  
Matthew E. Wannemuehler  
Vice President/Chief Administrative Officer

**CITY OF BLOOMINGTON  
BOARD OF PUBLIC WORKS**

  
\_\_\_\_\_  
Dana Palazzo  
President

  
\_\_\_\_\_  
Beth H. Hollingsworth  
Vice President

  
\_\_\_\_\_  
Kyla Cox Beckard  
Secretary

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

City of Bloomington  
 Redevelopment Commission  
 Project Review & Approval Form

**Please Note:**

- Approval of the project by the Redevelopment Commission through this Project Review & Approval Form does not represent an authorization to begin work or expend funds.
- Authorization of work and the commitment of funds shall be done when the Redevelopment Commission reviews and approves: (1) a Purchase Order or Contract prepared after complying with the appropriate procurement process for the type of item, service or construction being sought and (2) the estimated costs associated with the Purchase Order or Contract.
- No payment of funds shall be made without a duly authorized and approved Purchase Order or Contract. All claims for payment against a duly authorized Purchase Order or Contract shall be submitted to the Redevelopment Commission for their review and approval along with any required departmental inspections, reviews and approvals prior to the payment of any funds.

To Be Completed by Requesting Party:

**Project Name:** 17<sup>th</sup> Street Multimodal Improvements **from Monroe Street to Grant Street**

**Project Manager:** Neil Kopper

**Project Description:**

This project will improve the pedestrian and vehicular signal infrastructure at the intersection of 17<sup>th</sup> Street and Madison Street/Kinser Pike and also construct a multiuse path on the north side of 17<sup>th</sup> Street from Monroe Street to Grant Street. Intersection improvements will include enhanced pedestrian and accessibility features (such as accessible ramps, pedestrian countdown signals, and push buttons) as well as vehicular enhancements (such as new signal indications that will incorporate backplates and flashing yellow arrow left-turn indications). The project is also expected to include sidewalk improvements along the south side of 17<sup>th</sup> Street and improvements to the lane alignments at the 17<sup>th</sup> Street and College Avenue intersection.

**Project Timeline:**

Start Date: August 21, 2017

End Date: December 31, 2023

**Financial Information:**

Estimated full cost of project:	<b>\$5,386,745</b>
Sources of funds:	

Federal Highway Administration <sup>1</sup>	\$2,052,000
Consolidated TIF / 2015 TIF Bond	\$3,334,745

**Project Phases:** This breakdown should mirror the contract(s) expected to be issued for this project. Each phase should include a description of the work to be performed, the cost, and the timeline for the contract.

Step	Description	Estimated Cost	Timeline
1	Design Contract	<del>\$636,115</del> \$839,745	August 2017 – December 2023 <sup>2</sup>
2	Right-of-Way Acquisition	\$1,590,000	January 2020 – December 2021
3	Construction Inspection	\$355,000	May 2021 – December 2023
4	Construction	\$2,602,000	February 2022 – December, 2022

**TIF District:** Consolidated TIF (West 17<sup>th</sup> Street)

**Resolution History:** 17-52 Approval of Project Review and Approval Form  
 19-60 Update to Project Review and Approval Form  
 19-72 Approval of Design Contract  
 21-33 Amendment #1 to Design Contract

To Be Completed by Redevelopment Commission Staff:

Approved on \_\_\_\_\_

By Resolution \_\_\_\_\_ by a vote of \_\_\_\_\_

<sup>1</sup> INDOT administers the distribution of federal funding to local transportation projects.

<sup>2</sup> This will extend through the construction phase to ensure engineering services are available throughout the construction process.

**21-34**  
**RESOLUTION**  
**OF THE**  
**REDEVELOPMENT COMMISSION**  
**OF THE**  
**CITY OF BLOOMINGTON, INDIANA**

**APPROVAL OF AGREEMENT WITH EV CONNECT FOR CHARGING STATIONS  
FOR THE FOURTH STREET PARKING GARAGE**

WHEREAS, on October 15, 2018, the Redevelopment Commission of the City of Bloomington (“RDC”) approved in Resolution 18-67 a Project Review and Approval Form (“Form”), which sought the support of the RDC regarding the construction of a new 4th Street Garage (“Project”); and

WHEREAS, the RDC approved the issuance of a tax increment revenue bond for the financing of the Project in Resolution 18-68 (“Bonds”); and

WHEREAS, one requirement of the Project as outlined in the Form was the inclusion of electric vehicle charging stations in the 4th Street Garage; and

WHEREAS, in 2017, the City selected EV Connect through competitive bid to provide all of its EV stations in the City’s parking garage and entered into an agreement with EV Connect, which is attached to this Resolution as Exhibit B; and

WHEREAS, City staff have negotiated an addendum to the existing agreement with EV Connect to acquire and service new EV stations for the garage in amount that shall not exceed Thirty-Eight Thousand Two Hundred Eighty-Five Dollars (\$38,285.00) (“Agreement”), which is attached to this Resolution as Exhibit A; and

WHEREAS, there are sufficient funds in the Consolidated TIF and the Bonds to pay for the EV stations and related services pursuant to the terms of the Agreement; and

WHEREAS, the City has brought the RDC an Amended Project Review Form (“Amended Form”) which updates the expected cost of the Project, which is attached to this Resolution as Exhibit C;

NOW, THEREFORE, BE IT RESOLVED BY THE REDEVELOPMENT COMMISSION OF THE CITY OF BLOOMINGTON, INDIANA, THAT:

1. The Redevelopment Commission reaffirms its support for the Project, as set forth in the Amended Form, and reiterates that it serves the public’s best interest.
2. The RDC reaffirms that the Project has a valid public purpose and is an appropriate use of the Consolidated TIF.

3. The RDC hereby approves the Addendum to the Agreement with EV Connect attached to this Resolution as Exhibit A and authorizes the City of Bloomington to expend an amount not to exceed Thirty-Nine Thousand Seven Hundred Eighty Dollars (\$38,285.00) to pay for the EV charging stations and related services for the new 4th Street Parking Garage, pursuant to the terms of the Agreement.
4. The Payment authorized above may be made from either the Consolidated TIF (Downtown Area Account: 439-15-159002-53990), the 2019 4th Street Garage Bonds (981 Account), or a combination thereof. Nothing in this Resolution shall remove the requirement to comply with the City or the RDC's claims process.
5. Unless extended by the Redevelopment Commission in a resolution prior to expiration, the authorizations provided under this Resolution shall expire in accordance with the expiration date of the Agreement and Addendum.

**BLOOMINGTON REDEVELOPMENT COMMISSION**

\_\_\_\_\_  
Nicholas Kappas, President

ATTEST:

\_\_\_\_\_  
David Walter, Vice President

\_\_\_\_\_  
Date

**RESOLUTION 21-34**

**EXHIBIT A**

**ADDENDUM TO AGREEMENT BETWEEN CITY OF BLOOMINGTON AND  
EV CONNECT**

This Addendum supplements the Agreement for EV charging stations between the City of Bloomington (“City”) and EV Connect, Inc. (“EV Connect”) (“Agreement”) executed on June 13, 2017, as follows:

1. Pursuant to the terms of the agreement, the City wishes to purchase additional EV Charging Stations for its new Trades District Garage.
2. Scope of Services: Therefore, the City shall add the equipment and services detailed in Exhibit 1 to this Addendum.
3. Compensation: The RDC shall pay EV Connect an amount not to exceed **\$39,780.00** for the additional equipment and services. Any unused amount attributed in Exhibit 1 to an allowance or alternate shall remain with the City.
4. In all other respects, the Agreement shall remain in effect as originally written.

IN WITNESS WHEREOF, the parties have caused this Addendum to be executed the day and year last written below:

**CITY OF BLOOMINGTON**

**EV CONNECT, INC.**

\_\_\_\_\_  
Philippa Guthrie, Corporation Counsel

\_\_\_\_\_  
John Karambelas, Chief Revenue Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**BLOOMINGTON REDEVELOPMENT COMMISSION**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name, Title

\_\_\_\_\_  
Date

**EXHIBIT 1**

**[See Attached]**



# City of Bloomington 4th St Garage

**Ryan Daily**

dailyr@bloomington.in.gov

812.320.3154

**Reference: 20210331-102242853**

Quote created: March 31, 2021

Quote expires: June 29, 2021

Quote created by: Ahmed Mineissi

amineissi@evconnect.com

+1 (213) 884-4667

## Products & Services

Item & Description	Quantity	Unit Price	Total
BTCPower Level 2 Dual Port Wall Mount (30A) white dual port wall mount charging station with 7" Color Monitor, RFID Reader, Cellular Modem, QTY (2) J1772 Connector w/ 25ft Cable Length and NEMA 3R Rated. This charging station includes two-year parts only warranty. EVP-2002-30-W-0001	5	\$3,900.00	\$18,675.00 after \$825.00 discount
BTCPower ADA Compliant Cable Retractor Single BTC ADA Compliant cable retractor for L2 charging stations. (Two cable retractors will be needed for dual port stations).	10	\$300.00	\$2,800.00 after \$200.00 discount
BTCPower 3 Yr Dual Port Warranty + On Site Labor L2 Extended warranty for parts and on-site labor for Level 2 (30A/40A) pedestal and wall mount stations.  Extends standard 2-year Level 2 parts warranty to 3-year parts warranty and 3-year onsite labor warranty, covering power boards, firmware, BTC software, internal connectors, antennas, CAT5, SIM card, internal breaker, station model specifications. Excludes from Standard Limited Warranty apply.	4	\$1,220.00	\$4,280.00 after \$600.00 discount
BTCPower 5 Yr Dual Port Warranty + on site labor L2	1	\$2,340.00	\$2,340.00

Extended warranty for parts and on-site labor for Level 2 (30A/40A) pedestal and wall mount stations.

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BTCPower Level 2 Shipping (per unit)	5	\$200.00	\$875.00 after \$125.00 discount
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EV Connect Operate 3 Year Network Software License	10	\$1,081.00 / three years	\$10,810.00 / three years for 3 years
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The Operate yearly subscription provides the driver mobile app, the management software and support services. The iOS/Android mobile app provides for driver station locations and access along with 24/7 support via the app and phone. The management software provides site hosts with live station status view on PlugShare, charge price control, dashboard view of station activity, station health & use reports, performance and sustainability reports, personal station usage & transaction reports for drivers, in-dashboard trouble ticket management, technical software support, proactive station health monitoring & level 1 hardware support.

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L2 Charge Station Commissioning & On-boarding	1	\$395.00	\$0.00 after 100% discount
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Remote configure of stations with preferred pricing policies and access controls, provide admin access to web based EVC portal, activate cellular data plan, set station hours of availability and pricing policies via EVC App, set stations to Private or Public and add to PlugShare network if requested

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## Subtotals

Per three year subtotal			\$10,810.00
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One-time subtotal			\$28,970.00 after \$2,145.00 discount
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<b>Total</b>			<b>\$39,780.00</b>
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## Purchase Terms

Current Terms & Conditions can be found at:  
<https://www.evconnect.com/legal/#terms>

- Taxes will be calculated at billing when applicable
- 25% of hardware cost is billed at execution
- 75% of hardware cost is billed at shipment
- All remaining items billed at project commissioning

Subject to change based on program requirements

## Signature

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Signature

---

Date

---

Printed name

## Questions? Contact me



Ahmed Mineissi  
amineissi@evconnect.com  
+1 (213) 884-4667

EV Connect  
615 North Nash Street, Suite 203  
El Segundo, CA 90245  
US



CITY OF BLOOMINGTON

Board of Public Works  
Staff Report

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**Project/Event:** Installation of EV Charging Stations  
**Petitioner/Representative:** Public Works/Parking Garages  
**Staff Representative:** Ryan Daily  
**Meeting Date:** June 13, 2017

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The City of Bloomington, Public Works Department, has requested quotes to replace and purchase electric charging Stations on the 2<sup>nd</sup> Floor of the Walnut Street Garage and the 3<sup>rd</sup> Floor of the Morton Street Garage.

Quotes were requested from the following contractors with quotes as follows:

**EV Charging Stations**

SemaConnect	\$12,760
LilyPad	\$19,264
National Car Charging LLC.	\$23,738
Carbon Day	\$21,383
<b>EVConnect</b>	<b>\$12,007</b>

**Electrical Wiring Install**

Cassidy Electric	\$17,550
<b>Multicraft Electric</b>	<b>\$12,600</b>
Woods Electric	\$14,500

Staff Recommends using EVConnect at the quoted price of \$12,007 for EV Station Purchase and MultiCraft Electrical at the quoted price of \$12,600 for Electrical Wiring Installation.

---

**Recommend**            **X Approval**    **Denial**            **by: Ryan Daily**

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Board of Public Works  
Staff Report

**EVConnect**                      **\$10,011**

**Electrical Wiring Install**

Cassidy Electric              \$17,550

**Multicraft Electric**              **\$12,600**

Woods Electric                \$14,500

Staff Recommends using EVConnect at the quoted price of \$10,011 for EV Station Purchase and MultiCraft Electrical at the quoted price of \$12,600 for Electrical Wiring Installation. We budgeted a total of \$48,000 for this project in 2017 in line 54420.



**Quote**

Quote Number: 2111

Payment Terms: Net 45 days  
Expiration Date: 06/30/2017

**Quote Prepared For**

**Ryan Daily**  
**City of Bloomington, IN**  
401 North Morton St  
Bloomington, IN 47404  
United States  
Phone:812-349-3844  
dailyr@bloomington.in.gov

**Quote Prepared By**

**Jaime Duyck**  
**EV Connect**  
615 N. Nash Street, Suite 203  
El Segundo, CA 90245  
United States  
Phone:310-341-2180  
Fax:310 425 7992  
[jduyck@evconnect.com](mailto:jduyck@evconnect.com)

Item#	Quantity	Item	Unit Price	Adjusted Unit Price	Extended Price
<b>Yearly_Items</b>					
1)	4	EV Charge Station Management System - Self-Managed, Level 2, 1 Yr Includes network software license, personalized web based portal with dashboard and reporting tools, mobile app for drivers, cellular data services, payment processing via Credit Card & PayPal, 24x7x365 driver phone support. 1 Year Subscription per charging port.	\$249.00	\$249.00	\$996.00
<b>Yearly Total</b>					<b>\$996.00</b>
<b>One-Time Items</b>					
2)	4	EV-Box Business Line, Single - Connected (HUB) 32A 18ft Cable - 2yr parts warranty included Business Line, 1-Phase/32A, one 18ft J1772 cable; GSM modem; RFID Reader; 2 year warranty	\$1,695.00	\$1,695.00	\$6,780.00
3)	4	Business Line Wall Mount kit BusinessLine Adapter kit for CombiPole	\$65.00	\$65.00	\$260.00
4)	1	Charge Station Commissioning	\$395.00	\$395.00	\$395.00
5)	4	EV-Box 1 Year Parts-Only Extended Warranty (Business Line - Single) 1 year parts-only extended warranty for Business Line - Single. (Applies to years 3 through 5)	\$95.00	\$95.00	\$380.00
6)	4	3 Year Labor Warranty Per Port	\$699.00	\$699.00	\$2,796.00
7)	4	Charging Station Shipping - Standard Ground - US only	\$100.00	\$100.00	\$400.00
<b>One-Time Total</b>					<b>\$11,011.00</b>
<b>Subtotal</b>					<b>\$12,007.00</b>
<b>Total Taxes</b>					<b>\$0.00</b>
<b>Total</b>					<b>\$12,007.00</b>

Authorizing Signature   
Date 6.13.17

EV Connect is a total solutions provider to the rapidly growing and evolving electric vehicle charging and management industry. The Company has developed and delivers the most flexible and robust electric vehicle (EV) charging network and cloud-based management platform in the industry. The EV Connect platform ensures that customers get the lowest Total Cost of Ownership (TCO) and highest return from their EV charging investment (ROI). The Company is a one-stop-shop for workplace, governmental, educational, retail and multi-family residential charging station solutions.

The purchase of EV charging station equipment and/or installation services requires a 25% deposit of the total amount for equipment and installation services, if ordered, which is due and payable by the customer upon acceptance of the quote or delivery of a customer purchase order. Upon shipping of the charging station equipment from the manufacturer, the customer is required to pay the balance due (the remaining 75%) for the equipment. Upon charging station commissioning, the customer is required to pay the balance of the installation charges (the remaining 75%), if ordered, any commissioning fees, and the first management software term, as stated in this quote.

This quote is subject to the [EV Connect Terms of Sale](#), [Master Services & Subscription Agreement](#) and any additional supplements attached hereto. Customer signature on this quote signifies explicit agreement with the terms contained therein. Please contact [customer\\_support@evconnect.com](mailto:customer_support@evconnect.com) or (888) 780-0062, should you have any questions.

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CITY OF BLOOMINGTON  
 Legal Department  
 Reviewed By: Jackie Moore  
 DATE: 6.9.17

CITY OF BLOOMINGTON  
 Controller  
 Reviewed by: [Signature]  
 DATE: 6-9-17  
 FUND/ACCT: 40 40



# EV Connect Terms & Conditions

(Effective January 1, 2016)

## 1. Definitions

- A. **Customers.** Customers are defined as those entities (companies or individuals) which purchase charging station equipment; charging station services; charging station management services; or any other products or services which EV Connect sells.
- B. **Charging Stations.** Electric vehicle charging stations which are manufactured by other entities, but resold by EV Connect to Customers.
- C. **SaaS Services or Management Services.** Software-as-a-Service or Management Services refer to the management service and platform provided by EV Connect to the Charging Stations or charge stations not purchased from or through EV Connect.
- D. **Charging Systems.** Charging Systems include Charging Stations, installation of Charging Stations (even if the installation is not for charging stations purchased from or through EV Connect), and SaaS Services (even if management is not for charging stations purchased from or through EV Connect).
- E. **Parties.** Refers to EV Connect and Customers jointly.

## 2. Placement of Orders

- A. **Purchase of Charging Systems.** These Terms and Conditions of Purchase ("Terms") govern the Customer's purchase of Charging Systems from EV Connect. Customer's initial purchase and all future purchases of Charging Systems made by Customer shall be made by a binding, written purchase order from the Customer specifying (i) the number of Charging Station(s) to be purchased; (ii) models of Charging Station(s) to be purchased, (iii) requested delivery date(s) (which, absent agreement between the parties, shall be a date that is no less than sixty (60) days after the date of the purchase order from the Customer), and (iv) that Customer's purchase of Charging Systems is subject to all of the terms and conditions contained in these Terms. Any additional printed terms and conditions in Customer's purchase order which conflict with, vary or add to the terms and conditions of these Terms, shall be of no force and effect, unless the parties hereto agree in writing, in advance, to accept such additional terms and conditions.
- B. **Acceptance of Purchase Orders.** All purchase orders and modifications to purchase orders are subject to acceptance or rejection by EV Connect in its sole discretion. No purchase order shall be binding upon EV Connect unless and until so accepted in writing by an authorized representative of EV Connect. EV Connect agrees to use commercially reasonable efforts to notify Customer of its acceptance or rejection of Customer's order within ten (10) business days after receipt thereof. Any Customer purchase order accepted by EV Connect is referred to in these Terms as, an "Accepted Order." Accepted Orders are non-cancelable, non-returnable and non-refundable.
- C. **Refusal of Purchase Orders.** EV Connect may withhold shipments to Customer if Customer has (i) exceeded its applicable credit limit, if any, and not provided for prepayment, (ii) is in violation of its payment obligations or otherwise is in material breach of these Terms, (iii) is deemed by EV Connect, in its sole discretion, to be a competitive attempt to damage the reputation of or intellectual property of EV Connect.
- D. **Stations Require Subscription to SaaS Offerings.** The Charging Stations are designed to work with EV Connect's cloud-based application services ("SaaS Offerings"). Access to SaaS Offerings requires the

Customer to enter into a Master Services and Subscription Agreement with EV Connect for such SaaS Offerings.

### 3. Delivery

- A. **Shipping Costs; Terms.** All shipping, unless otherwise agreed to by the Parties in writing, shall be FOB Origin (typically, the Charging Station manufacturer's production or warehouse facility). Customer shall be responsible for all costs of shipping, transportation, insurance, warehousing, and other charges and costs associated with shipment of the Charging Systems to Company. All shipping dates are approximate and are based upon prompt receipt of all necessary information from the Customer. In no event shall EV Connect be liable for any costs related to delays in delivery of the Charging Systems. Customer's sole remedy for any material delay in delivery of the Charging Systems shall be cancellation of the order, which must be made in writing to EV Connect no later than 24 hours before the expected (materially delayed) shipment day of the Charging Systems.
- B. **Transfer of Title.** Delivery of the Charging Systems to Customer shall be completed upon delivery of the Charging Systems to Customer's location as specified in the Customer's purchase order to EV Connect. Risk of loss and damage to the Charging Systems shall pass to Company upon the delivery of such Charging Systems. EV Connect shall use commercially reasonable efforts to deliver Charging Systems ordered by Customer on the scheduled delivery date. All claims for non-conforming shipments must be made in writing to EV Connect within twenty (20) days of the passing of risk of loss and/or damage, as described above. Any claims not made within such period shall be deemed waived and released.
- C. **Substitutions.** EV Connect shall have the right to make reasonable substitutions and modifications to Charging Systems and in the specifications of Charging Systems to be delivered under the terms of any applicable purchase order, provided that such substitutions or modifications will not materially affect overall Charging Station form, fit, function or safety specifications.

### 4. Invoicing and Payment

- A. **Invoicing; Charging Stations.** Unless otherwise agreed in writing by the Parties, EV Connect shall issue an invoice to the Customer on or after the date it or the manufacturer ships the ordered Charging Stations; provided that, EV Connect may condition its acceptance of a purchase order on such credit and/or prepayment terms as EV Connect, in its reasonable discretion, determines appropriate due to, among other things, Customer's prior payment history and/or the size of the order. In the case of any change to the applicable credit and/or prepayment terms, no purchase order or acceptance thereof will be effective unless and until Company has consented in writing thereto. If Company causes a delay in delivery, EV Connect may issue its invoice at any time on or after the scheduled delivery date.
- B. **Invoicing; Installation and Management.** Unless otherwise agreed in writing by the Parties, EV Connect shall begin issuing invoices for Charge Station installation and Management Services to the Customer on or after the date the ordered Charging Stations are activated and connected to the EV Connect network. If Company causes a delay in delivery and/or installation of the Charging Stations, EV Connect may issue its invoice at any time on or after the scheduled delivery date for all components of the Charging Systems.
- C. **Payment Terms.** All invoices shall be paid within forty-five (45) days of Customer's receipt thereof. Fees for SaaS Services subscriptions, unless pre-paid, shall be invoiced on each anniversary date of the Charge Station's activation. Invoices not paid when due are subject to interest at the rate of one and one-half percent (1.5%) per month or, if less, the highest rate allowed under applicable law.

- D. **Payment Default.** Should Customer not make payment for SaaS Services within sixty (60) days of an invoice for said Services, EV Connect may, at its sole discretion, (i) discontinue offering SaaS Services to the Customer, (ii) deactivate the Charging Station(s) related to the unpaid invoices, and (iii) only restore functionality to the affected Charging Stations upon full-payment of all outstanding invoices for SaaS Services and payment of a \$250 reactivation charge.
- E. **No Right of Set-Off; No Right of Return.** Invoiced amounts are not subject to reduction by set-off or otherwise without the express written permission of EV Connect. All sales are final and Customer shall have no right of return, provided, that, EV Connect shall comply with its obligations under the Warranty (as defined below).
- F. **Taxes, Duties, Etc.** All amounts due to EV Connect under these Terms and/or any applicable purchase order are net of any duties, any sales, use, excise, value-added, withholding, or similar tax of any kind and any and all other fees and charges of any nature (collectively, "Taxes") imposed by the United States or any foreign, state or local governmental entity or instrumentality thereof on the purchase, shipment, use or sale of the Charging Systems by or to the Customer, other than taxes measured by EV Connect's income, corporate franchise, or personal property ownership. Where applicable, EV Connect shall bill Customer for the full amount of such taxes and shall include such amount as a separate line item on the invoice(s) sent to the Customer; provided that, EV Connect's failure to so bill the Customer shall not relieve Customer from the obligation to pay any Taxes described in this Section 3.E.
- G. **Payment in Dollars.** All amount payable under these Terms shall be paid in United States Dollars. If Company is located outside of the United States, Customer agrees to take all necessary actions required, including registration of these Terms and application for permission to make payments to EV Connect hereunder, with the appropriate government authorities in the Customer's jurisdiction, or such other institution or official, and to take such other measures as may be necessary to comply with any government currency controls in effect in Customer's jurisdiction, as soon as reasonably practicable after execution of these Terms. Customer shall remit payment to EV Connect, at Customer's option:
- i. via wire or ACH transfer to an account designated by EV Connect in writing from time-to-time; or
  - ii. by check drawn on a registered and certified bank or financial institution, made out to "EV Connect, Inc."
- H. **All Orders Subject to Credit Approval.** All orders are subject to credit approval by EV Connect. The amount of credit or terms of payment may be changed or credit withdrawn by EV Connect in its reasonable discretion without advance notice. EV Connect may, in its sole discretion, withhold further manufacture, performance or shipment; require immediate cash payments for past and future shipments or performance; or require other security satisfactory to EV Connect before further manufacture, performance or shipment is made; and may, if shipment has been made, recover the goods from the carrier pending receipt of such assurances.
- I. **Provisions Relating to Shipments in Lots.** If these Terms require or authorize delivery of goods in separate lots, shipments or milestones to be separately accepted by Customer, Customer may only refuse such portion of a lot, shipment or milestone that fails to comply with the requirements of these Terms. Customer may not refuse to receive any lot or portion thereof for failure of any other lot or portion or a lot to be delivered or to comply with these terms, unless such right of refusal is expressly provided for on the face hereof. Customer shall pay for each lot in accordance with the terms hereof. Products held for Customer are at Customer's sole risk and expense.
- J. **Prices do not include Freight, Etc.** Except to the extent expressly stated in these Terms, EV Connect's prices do not include any freight, storage, insurance, taxes, excises, fees, duties or other government charges related to the goods, and Customer shall pay such amounts or reimburse EV Connect for any amounts EV Connect pays. If Customer claims a tax or other exemption or direct payment permit, it shall

provide EV Connect with a valid exemption certificate or permit and indemnify, defend and hold EV Connect harmless from any taxes, costs and penalties arising out of same. EV Connect's prices include the costs of its standard domestic packing, only. Any deviation from this standard packing (domestic or export), including U.S. Government sealed packing, shall result in extra charges to the Customer. To determine such extra charges, Customer should consult with EV Connect's sales personnel. Any and all increases, changes, adjustments or surcharges (including, without limitation, fuel surcharges) which may be in connection with the freight charges, rates or classification included as part of these terms, shall be for Customer's account.

- K. **Disputes.** In the event Customer disputes any portion or all of an invoice, it shall notify EV Connect in writing of the amount in dispute and the reason for its disagreement within twenty-one (21) days of receipt of the invoice. The undisputed portion shall be paid when due, and finance charges on any unpaid portion shall accrue, from the date due until the date of payment, to the extent that such amounts are finally determined to be payable to EV Connect.
- L. **Remedies upon Payment Default.** Upon Customer's default of these Terms, EV Connect may, in addition to any other rights or remedies it may have at law or otherwise, subject to any cure rights of Customer, declare the entire balance of Customer's account immediately due and payable or foreclose any security interest in the goods delivered. If any unpaid balance is referred for collection, Customer agrees to pay EV Connect, to the extent permitted by law, reasonable attorneys' fees in addition to all damages otherwise available, whether or not litigation is commenced or prosecuted to final judgment, pay any court costs or expenses incurred by EV Connect, and any finance charges accrued on any unpaid balance owed by Customer. In addition to these remedies, Customer may also be sanctioned by the terms stated in Section 4.C. above.
- M. **Suspended Shipments.** EV Connect reserves the right to suspend further shipments of goods if Customer is over forty-five (45) days late in payment of an undisputed invoice. EV Connect reserves the right to terminate the order if Customer is over sixty (60) days late in payment of an undisputed invoice

## 5. Installation

- A. Unless specifically contracted with EV Connect, Customer shall be responsible for arranging for the installation and provisioning of the Charging Systems and for the costs thereof. At Customer's request, EV Connect may provide the names and contact information of one or more installers of Charging Systems; provided that, in providing such information EV Connect makes no representation or warranty of any kind, nor does it undertake any liability, with respect to or regarding the quality of any installation or other services performed by any such installer. EXCEPT AS SPECIFICALLY AGREED TO IN WRITING, EV CONNECT IS NOT RESPONSIBLE FOR AND WILL NOT BE LIABLE FOR, THE QUALITY OF ANY INSTALLATION SERVICES OR ANY CLAIM IN ANY WAY RELATING TO OR RESULTING FROM SUCH SERVICES.

## 6. Warranties/Limitation of Liability

- A. **Warranty.** Unless expressly contracted with EV Connect, the Charging Station(s) is covered by the terms of the Charging Station's manufacturer's standard parts-only product Warranty (the "Warranty"), which will expire on one year from the date of installation. All applicable warranties with respect to the Charging Station are set forth in the manufacturer's warranty, and are hereby incorporated by reference into these Terms.

- B. **Post-Warranty Maintenance.** Customer acknowledges and agrees that in order to obtain warranty and/or other maintenance services for the Charging Systems after expiration of the Warranty, Company must purchase extended warranties and/or maintenance agreements directly from EV Connect.
- C. **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 6, EV CONNECT MAKES NO WARRANTY WITH RESPECT TO THE PERFORMANCE OF THE CHARGING STATIONS, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. EV CONNECT EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS BY THE CHARGING STATIONS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. EV CONNECT DOES NOT WARRANT UNINTERRUPTED OR ERROR FREE OPERATION OF CHARGING STATIONS.
- D. **Limitation of Liability.**
- i. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THESE TERMS, EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS HEREUNDER, IN NO EVENT SHALL EV CONNECT BE LIABLE TO COMPANY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF THESE TERMS OR THE TRANSACTIONS CONTEMPLATED HEREUNDER, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, AND WHETHER OR NOT SUCH PARTY OR ITS AGENTS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
  - ii. CUSTOMER'S SOLE REMEDY FOR ANY BREACH BY EV CONNECT OF ITS OBLIGATIONS OR WARRANTIES UNDER THESE TERMS SHALL BE LIMITED TO, AT EV CONNECT'S OPTION, REPAIR OR REPLACEMENT OF THOSE CHARGING STATIONS TO WHICH SUCH BREACH IS APPLICABLE OR REFUND BY EV CONNECT OF ALL OR A PART OF THE PURCHASE PRICE OF THE NON-CONFORMING CHARGING STATIONS.
- E. **Warranty Exclusions.** The Warranty set forth in these Terms is subject to certain exclusions as more fully set forth in the Warranty. CUSTOMER HAS BEEN INFORMED AND UNDERSTANDS THAT, IN THE EVENT ANY SUCH EXCLUSION BECOMES APPLICABLE, ALL REPRESENTATIONS AND WARRANTIES CONTAINED IN THESE TERMS SHALL IMMEDIATELY BECOME NULL AND VOID.
- F. **Exclusive Remedies.** THE REMEDIES CONTAINED IN SECTION 6 ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES AND ARE IN LIEU OF ANY OTHER RIGHTS OR REMEDIES COMPANY MAY HAVE AGAINST EV CONNECT WITH RESPECT TO NONCONFORMANCE OF THE CHARGING STATIONS.

## 7. Intellectual Property

- A. **Restrictions on Use.** Company shall not:
- i. create derivative works based on the Charging Systems or the SaaS Services (including mobile applications);
  - ii. copy, frame or mirror any part or content of the Charging Systems;
  - iii. reverse engineer any Charging Station, Charging Systems software, SaaS Services; or
  - iv. access the Charging Systems for any improper purpose whatsoever, including, without limitation, in order to (A) build a competitive product or service, or (B) copy any features, functions, interface, graphics or "look and feel" of the Charging Systems.
- B. **Ownership of Intellectual Property.** All right, title and interest in and to any intellectual property related in any way to the Charging Systems (including SaaS Services and mobile applications) is, and shall remain,

the exclusive property of EV Connect. For these purposes, the term "intellectual property" shall mean, all of a party's patents, patent applications, patent rights, copyrights, moral rights, algorithms, devices, application programming interfaces, databases, data collections, diagrams, inventions, methods and processes (whether or not patentable), know-how, trade secrets, trademarks, service marks and other brand identifiers, network configurations and architectures, proprietary information, protocols, schematics, specifications, software (in any form, including source code and executable code), techniques, interfaces, URLs, web sites, works of authorship, and all other forms of technology, in each case whether or not registered with a governmental entity or embodied in any tangible form and all rights and forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world in any way arising prior to or during the term of these Terms. 7. General A. Attorneys' Fees. If any action at law or in equity is necessary to enforce the terms of these Terms, the prevailing party shall be entitled to reasonable attorneys' fees, costs and expenses in addition to any other relief to which the prevailing party is otherwise entitled.

- C. **Force Majeure.** Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account strikes, shortages, riots, insurrection, fires, flood, storm, explosion, acts of God, war, governmental action, labor conditions, earthquakes, or any other cause which is beyond the reasonable control of such party.
- D. **Waiver.** The failure of either party to require performance by the other party of any provision hereof shall not affect such party's full right to require such performance at any time thereafter, nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.
- E. **Severability.** In the event that any provision of these Terms shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render these Terms unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted as to best accomplish the objectives of such provisions within the limits of applicable law or applicable court decisions.
- F. **Assignment.** The rights and liabilities of the parties hereto shall bind and inure to the benefit of their successors, executors or administrators, provided, however, that neither EV Connect nor Company may assign or delegate these Terms or any of its licenses, rights or duties under these Terms, whether by operation of law or otherwise, without the prior written consent of the other party in its reasonable discretion; provided, however, that Company and EV Connect shall each be entitled to assign these Terms to an affiliate or to its successor in interest by way of merger, acquisition of substantially all of the assets of assignor or any similar event (collectively, "Acquisition Transactions"); and provided further, however, that notwithstanding any Acquisition Transaction, Company shall not assign these Terms to any competitor of EV Connect without EV Connect's prior written consent, in its sole discretion. Any attempted assignment in violation of this provision shall be void.
- G. **Notices.** Any notice, request, demand or other communication by the terms hereof required or permitted to be given by one part to the other shall be given in writing by email with confirmation of receipt, certified or registered mail, return receipt requested, fax or courier addressed to such other party or delivered to the address for each party set forth below their respective signatures, or at such other fax, email address or office address as may be given from time to time by either of the parties.
- H. **Controlling Law.** These Terms shall be governed in all respects by the laws of the State of California, exclusive of conflicts of law principles.
- I. **Venue.** The State and Federal courts located in Los Angeles County, California shall have exclusive jurisdiction and venue over any dispute arising out of or relating to these Terms. Each of the Parties submits to the jurisdiction and venue of these courts.

- J. **Entire Agreement.** These Terms and the attachments hereto constitute the entire agreement between the parties regarding its subject matter. It supersedes, and its terms govern, all prior proposals, agreements, or other communications between the parties, oral or written, regarding such subject matter. These Terms shall not be modified unless done so in a writing signed by an authorized representative of each party.

## EV CONNECT MASTER SERVICES AND SUBSCRIPTION AGREEMENT

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This Master Services and Subscription Agreement (this "Agreement"), is hereby made a part of, and effective as of the date of acceptance (the "Effective Date") of, each Subscription Order accepted by EV Connect, Inc., a California corporation ("EVC"), with respect to the subscriber named therein ("Subscriber").

1. **DEFINITIONS.** The following terms shall have the definitions set forth below when used in this Agreement:
  - 1.1. "Addendum" means an addendum to this Agreement which amends or supplements the terms of the Agreement, but is otherwise incorporated into and made a part hereof.
  - 1.2. "Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of fifty percent (50%) or more of the voting interests of the subject entity.
  - 1.3. "Authorized User" means any person authorized by Subscriber to access and use its Charging Stations.
  - 1.4. "Charging Station" means the electric vehicle charging station(s) owned by Subscriber or provided by EVC pursuant to a subscription hereunder, which have embedded within them EV Connect hardware and/or firmware, enabling Subscriber to register and activate such charging stations on the EVC Charging Network.
  - 1.5. "Cloud Services" means the various "software as a service" offerings made available for subscription to Subscriber by EVC.
  - 1.6. "Documentation" means written information (whether contained in user or technical manuals, product materials, specifications or otherwise) pertaining to EVC Charging Network Services and/or the EVC Charging Network and made available from time to time by EVC to Subscriber in any manner (including on-line).
  - 1.7. "EVC" means EV Connect, Inc., a California corporation.
  - 1.8. "EVC Charging Network" means the open-platform network of electric vehicle charging stations and the vehicle charging applications it delivers, that is operated and maintained by EVC in order to provide various services to, among others, Subscriber, its employees, and Authorized Users.
  - 1.9. "EVC Charging Network Portals" means any of the secure Internet web portals and mobile smart phone applications established and maintained by EV Connect which will allow Subscriber to access EVC Charging Network Services.
  - 1.10. "EVC Charging Network Services" means, collectively, the various software as a service offerings made available for subscription by EVC.
  - 1.11. "EVC Intellectual Property" means all Intellectual Property Rights of EVC relating to the EVC Marks, the EVC Charging Network, the EVC Charging Network Services, Radio Frequency Identification Cards, EVC Charging Network Portals, and all related accounts, mobile or web-based client applications, and all other Intellectual Property Rights of EVC, regardless of the nature of such rights.
  - 1.12. "EVC Marks" means the various trademarks, service marks, names and designations used in connection with the EV Connect products and services, including, without limitation, EVC Charging Network.
  - 1.13. "Installation Services" means, if provided under this Agreement, the installation, network provisioning and testing by EVC of Charging Stations at Subscriber's facilities. Installation Services will be subject to a separate agreement with EVC or its subcontractor.
  - 1.14. "Intellectual Property Rights" means all intellectual property rights, including, without limitation, patents, patent applications, patent rights, trademarks, trademark applications, trade names, service marks, service mark applications, copyrights, copyright applications, franchises, licenses, inventories, know-how, trade secrets, Subscriber lists, proprietary processes and formulae, all source and object code, algorithms, architecture, structure, display screens, layouts, inventions, development tools and all documentation and media constituting, describing or relating to the above, including, without limitation, manuals, memoranda and records.
  - 1.15. "Maintenance Services" means, if selected, the hardware maintenance services to be performed by EVC with respect to Charging Stations. Maintenance Services will be subject to a separate agreement executed by Subscriber and EVC.
  - 1.16. "Malicious Code" means viruses, worms, time bombs, Trojan horses and all other forms of malicious code, including without limitation, malware, spyware, files, scripts, agents or programs.
  - 1.17. "Party" means each of EVC and Subscriber.
  - 1.18. "Regulatory Charges" means any and all charges that are imposed on the use of electric vehicle charging stations by applicable state and federal regulatory authorities.

- 1.19. "Removal Services" means, if applicable, upon termination of the subscription applicable to one or more Charging Stations under this Agreement, the disconnection and removal by EVC of such Charging Stations. Removal Services will be subject to a separate agreement with EVC or its subcontractor.
- 1.20. "Services Fees" means the fees payable by Subscriber to EVC for, as applicable, (a) subscribing to any EVC Charging Network Services as set forth in an applicable purchase order issued by Subscriber and accepted by EVC; (b) EVC Charging Stations; (c) Installation Services; (d) Maintenance Services; and (e) Removal Services.
- 1.21. "Session" or "Charging Session" means a session during which an Authorized User is using a Charging Station to charge his or her electric vehicle that lasts for a continuous period of time measuring not less than five (5) minutes, commencing when an Authorized User has accessed such Charging Station and ending when such Authorized User has terminated such access.
- 1.22. "Session Fees" means the fees set by the Subscriber for each Charging Session, including any applicable Taxes and/or Regulatory Charges.
- 1.23. "Subscriber" means the party ordering EVC Charging Network Services via a Subscription Order.
- 1.24. "Subscriber's Charging Station" means a Charging Station that is owned by Subscriber or an Affiliate of Subscriber, or that is leased to or otherwise made available to Subscriber by a party other than EVC.
- 1.25. "Subscription Order" means a written order for EVC Charging Network Services that is accepted by EVC. EVC may accept or reject any request for services in its sole discretion.
- 1.26. "Net Session Fees" means the total amount of Session Fees collected on behalf of the Subscriber by EVC less Taxes, Transaction Fees, and Regulatory Charges, if any, required by law to be collected by EVC from Authorized Users in connection with the use of Charging Stations. Except as required by law, Subscriber shall be responsible for the payment of all Taxes and Regulatory Charges incurred in connection with the Charging Stations.
- 1.27. "Taxes" means sales, use and other taxes imposed on the use of electric vehicle charging stations by applicable taxing authorities.
- 1.28. "Transaction Fees" means, for each Charging Session, the amount set forth in the Subscription Order, which may be a percentage of the total Session Fees or a fixed dollar amount, to cover the transaction and processing fees incurred during processing of credit card or other payment methods.

## 2. EVC'S RESPONSIBILITIES AND AGREEMENTS.

- 2.1. Network Operation. EVC agrees to provide and shall be solely responsible for: (i) provisioning and operating, maintaining, administering and supporting the EVC Charging Network infrastructure (other than Subscriber's Charging Stations and infrastructure for transmitting data from Subscriber's Charging Stations to any EVC Charging Network operations center); (ii) provisioning and operating, maintaining, administering and supporting the EVC Charging Network Web Portal; and (iii) operating the EVC Charging Network in compliance with all applicable laws.
- 2.2. Limitations On Responsibility. EVC shall not be responsible for, and makes no representation or warranty with respect to the following: (i) Specific location(s) or number of charging stations now, or in the future, owned, operated and/or installed by persons other than Subscriber, or the total number of charging stations that comprise the EVC Charging Network; (ii) Continuous availability of electrical service to any Charging Station; (iii) Continuous availability of any wireless or cellular communications network or Internet service provider network necessary for the continued operation by EVC of the EVC Charging Network; (iv) Availability of or interruption of the EVC Charging Network attributable to unauthorized intrusions; and/or (v) Charging Stations that are not registered with and activated on the EVC Charging Network.

## 3. SUBSCRIBER'S RESPONSIBILITIES AND AGREEMENTS.

- 3.1. General. Subscriber shall be solely responsible for: (i) Keeping current its contact information, email address for the receipt of notices hereunder, and billing address for invoices; (ii) updating on the EVC Charging Network Web Portal, within five (5) business days, the registered location to which any of Subscriber's Charging Stations are moved; (iii) The non-warranty maintenance, service, repair and/or replacement of Subscriber's Charging Stations as needed, including informing EVC of the existence of any Subscriber's Charging Stations that are non-operational and not intended to be replaced or repaired by Subscriber; (iv) registration of and activation of Subscriber's Charging Stations on the EVC Charging Network; and (v) Operating and maintaining Subscriber's Networked Charging Stations in compliance with all applicable laws.
- 3.2. Representations and Warranties of Subscriber. Subscriber represents and warrants to EVC that: (i) It has the power and authority to enter into and be bound by this Agreement and to install (or authorize EVC to install) the Charging Stations and any other electrical vehicle charging products to be registered and activated on the EVC Charging Network at Subscriber Location(s); (ii) The electrical usage to be consumed by Charging Stations will not violate or otherwise conflict with the terms and conditions of any applicable electrical purchase or other agreement including, without limitation, any lease, to which

Subscriber is a party; and (iii) It has not installed or attached, and will not authorize or direct EVC to install, Charging Stations on or to infrastructure not owned by Subscriber without proper authority, or in a manner that will block any easement or right of way.

3.3. Further Agreements Related to Use of the EVC Charging Network. Subscriber further acknowledges and agrees with EVC that: (i) Subscriber will not remove, conceal or cover the EVC Marks or any other markings, labels, legends, trademarks, or trade names installed or placed on the Charging Stations or any peripheral equipment for use in connection with Charging Stations; (ii) Subscriber shall comply with, and shall have responsibility for and cause its employees and agents accessing or using EVC Charging Network Portals to comply with, all of the rules, regulations and policies of EVC; (iii) Subscriber shall be responsible for using the EVC Charging Network Services in compliance with this Agreement, and in particular, shall: (A) use commercially reasonable efforts to prevent unauthorized access to EVC Charging Network Services, (B) not sell, resell, license, rent, lease or otherwise transfer the EVC Charging Network Services to a third party, (C) not interfere with or disrupt the integrity of the EVC Charging Network, the EVC Charging Network Services or any third party data contained therein, and (D) not attempt to gain unauthorized access to the EVC Charging Network or the EVC Charging Network Services or their related systems or networks. All data collected by EVC in connection with the operation of the EVC Charging Network shall be owned by EVC; provided that Subscriber shall have the right to access and use such data, as it pertains to Subscriber's Charging Stations, through a subscription to one or more EVC Charging Network Services.

#### 4. FEES AND PAYMENTS FOR EVC CHARGING NETWORK SERVICES.

4.1. Services Fees. Subscriber shall pay all Services Fees defined in the Subscription Order within forty-five (45) days of its receipt of an invoice with respect thereto. Except as otherwise specified herein, (i) Services Fees are quoted in and payable in U.S. Dollars, (ii) Services Fees for EVC Charging Network Services and Maintenance Services are based on Subscriber's choice of subscription or maintenance plan and not on actual usage, (iii) Service Fees for Installation Services and Removal Services are quoted per Charging Station, and may vary by model and location of the Charging Station; (iv) payment obligations are non-cancelable and are non-refundable, and (v) Services are non-transferable; provided that, Services may be transferred to a Charging Station that is purchased by Subscriber to replace a de-commissioned, previously networked, Charging Station.

4.2. Overdue Services Fees. If any invoiced Services Fees are not received by EVC by the due date, then such charges: (i) may accrue late interest at the rate ("Interest Rate") of one and one-half percent (1.5%) of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until paid, and (ii) in the event Subscriber has not paid Services Fees within forty-five (45) days of the due date, EVC may condition future Services renewals and acceptance of purchase orders for additional EVC Charging Network Services on payment terms other than those set forth herein.

4.3. Acceleration And Suspension of EVC Charging Network Services. If any amount owing by Subscriber under this Agreement is more than forty-five (45) days overdue, EVC may, without otherwise limiting EVC's rights or remedies under this Agreement, terminate this Agreement, and/or suspend the use by Subscriber of the EVC Charging Network Services until such amounts are paid in full.

4.4. Payment Disputes. EVC shall not exercise its rights under Section 4.2 (Overdue Services Fees) or Section 4.3 (Suspension of EVC Charging Network Services) if the applicable charges are under reasonable and good faith dispute and Subscriber is cooperating diligently to resolve the dispute.

4.5. Session Fees. Subscriber shall have sole authority to determine and set in real-time the Session Fees (which shall include all applicable Taxes and Regulatory Charges) applicable to Charging Stations. The Subscriber is enabled to set the Session Fee on the basis of dollars per hour in increments of whole dollars and other per session or per kilowatt hour options.

4.6. Deductions from Session Fees. In exchange for EVC collecting Session Fees on behalf of the Subscriber, the Subscriber hereby authorizes EVC to deduct Transaction Fees and, to the extent required by Section 4.8, applicable Taxes and Regulatory Charges.

4.7. Payment to Subscriber of Net Session Fees. EVC shall remit the US\$ equivalent of the Net Session Fees to Subscriber not more than thirty (30) days after the end of each calendar quarter to the address set forth in Subscriber's Account information registered on the applicable Network Web Portal.

4.8. Taxes, Regulatory Charges and Transaction Fees. Subscriber is responsible for the payment of all Taxes and Regulatory charges incurred in connection with Session Fees; provided that, EVC shall be responsible for collection and remittance of all Taxes and Regulatory Charges required by law to be collected and/or remitted to the appropriate taxing or regulatory authorities. In addition, for each Charging Session, EV Connect will charge a Transaction Fee equal to **10%** of the total Session Fees, or as otherwise agreed in writing, to cover transaction and payment processing fees.

**5. PROPRIETARY RIGHTS.**

5.1. Reservation of Rights. EVC reserves all right, title and interest in and to the EVC Charging Network Services, including all related Intellectual Property Rights. No rights are granted to Subscriber hereunder except as expressly set forth herein. EVC shall have a royalty-free, worldwide, transferable, sublicensable, irrevocable perpetual license to use or incorporate in the EVC Charging Network Services any suggestions, enhancement requests, recommendations or other feedback provided by Subscriber or Authorized Users relating to the EVC Charging Network Services.

5.2. Restrictions On Use. Except as otherwise agreed in writing, Subscriber shall not: (i) create derivative works based on the EVC Charging Network Services, (ii) copy, frame or mirror any part or content of the EVC Charging Network Services, other than copying or framing on Subscriber's own intranets or otherwise for Subscriber's own internal business purposes, (iii) reverse engineer any Charging Station or Cloud Service, or (iv) access the EVC Charging Network, any EVC Charging Network Web Portal or the EVC Charging Network Services for any improper purpose whatsoever, including, without limitation, in order to (A) build a competitive product or service, or (B) copy any features, functions, interface, graphics or "look and feel" of any EVC Charging Network Web Portal or the EVC Charging Network Services.

5.3. Grant of Limited License For EVC Marks.

- (a) License Grant. Subscriber is granted under this Agreement the nonexclusive privilege of displaying the EVC Marks during the Term of this Agreement in connection with Charging Stations. Subscriber warrants that it shall not use any of the EVC Marks for any products other than Charging Stations. From time to time, EVC may provide updated trademark usage guidelines with respect to Subscriber's use of the EVC Marks, which will be made available on a EVC Charging Network Web Portal, in which case Subscriber thereafter shall promptly comply with such guidelines. If no such guidelines are provided, then for each initial use of the EVC Mark, Subscriber must obtain EVC's prior written consent, which shall not be unreasonably withheld or delayed, and after such consent is obtained, Subscriber may use the EVC Mark solely in the approved manner. The EVC Marks may not be used under this Agreement as a part of the name under which Subscriber's business is conducted or in connection with the name of a business of Subscriber or its Affiliates.
- (b) No Registration of EVC Marks By Subscriber. Subscriber shall not directly or indirectly register or apply for or cause to be registered or applied for any EVC Marks or any patent, trademark, service mark, copyright, trade name, domain name or registered design that is substantially similar to an EVC Mark, patent, trademark, service mark, copyright, trade name, domain name or registered design of EVC, or that is licensed to, connected with or derived from confidential, material or proprietary information imparted to or licensed to Subscriber by EVC .
- (c) Termination And Cessation of Use of EVC Marks. Upon termination of this Agreement, Subscriber will immediately discontinue all use and display of the name EVC and the EVC Marks.

**6. LIMITATIONS ON EVC'S AND SUBSCRIBER'S LIABILITY.**

6.1. Limitation of Liability. EVC's aggregate liability under this Agreement shall not exceed the greater of (i) aggregate Services Fees paid by Subscriber to EVC in the calendar year prior to the event giving rise to the Claim or (ii) Ten Thousand Dollars (\$10,000).

6.2. EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES. REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOST REVENUE OR PROFIT, LOST OR DAMAGED DATA, BUSINESS INTERRUPTION, LOSS OF CAPITAL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY OR WHETHER ARISING OUT OF THE USE OF OR INABILITY TO USE THE EVC CHARGING NETWORK, ANY EVC CHARGING NETWORK SERVICES, THIS AGREEMENT OR OTHERWISE OR BASED ON ANY EXPRESSED, IMPLIED OR CLAIMED WARRANTIES BY SUBSCRIBER NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY; PROVIDED THAT, IN SUCH INSTANCES, EVC'S LIABILITY IN SUCH CASES SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

6.3. EXCLUSION OF WARRANTIES. THE EVC CHARGING NETWORK AND THE EVC CHARGING NETWORK SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" FOR SUBSCRIBER'S USE, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NO INFRINGEMENT. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, THE ABOVE EXCLUSION OF IMPLIED WARRANTIES MAY NOT APPLY;

PROVIDED THAT, IN SUCH INSTANCES THE IMPLIED WARRANTIES GRANTED BY EVC SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

6.4. Electrical, Cellular And Internet Service Interruptions. Neither EVC nor Subscriber shall have any liability whatsoever to the other with respect to damages caused by: (i) electrical outages, power surges, brown-outs, utility load management or any other similar electrical service interruptions whatever the cause; (ii) interruptions in wireless or cellular service linking Charging Stations to the EVC Charging Network; (iii) interruptions attributable to unauthorized EVC Charging Network intrusions; or (iv) interruptions in services provided by any Internet service provider not affiliated with EVC. This includes the loss of data resulting from such electrical, wireless, cellular or Internet service interruptions.

## 7. TERM AND TERMINATION.

7.1. Term of Agreement. This Agreement shall become effective on the Effective Date and shall continue until the expiration or termination of all applicable Subscription Orders.

7.2. Subscription Term. Subscriptions to EVC Charging Network Services shall commence (i) if such services are acquired for use with a new Charging Station, on the earlier to occur of (x) the date such new charging station is installed and provisioned on the EVC Charging Network or (y) forty five (45) days after the date such new charging station is installed and (ii) in all other cases, the start date specified in the purchase order related thereto. EVC Charging Network Services subscribed to by Subscriber shall continue for the applicable subscription term (the "Subscription Term"), unless this Agreement is otherwise terminated, changed or canceled by EVC or Subscriber as allowed by the terms and conditions set forth herein.

7.3. Termination.

- (a) By EVC. This Agreement, all Subscription Terms and Subscriber's continuing access to EVC Charging Network Services may be immediately suspended or terminated: (i) if Subscriber is in material breach of any of its obligations under this Agreement, and has not cured such breach within thirty (30) days, or five (5) days in the case of any payment default, of the date of its receipt of written notice thereof, (ii) Subscriber becomes the subject of a petition in bankruptcy or any other proceeding related to insolvency, receivership, liquidation or an assignment for the benefit of creditors, (iii) upon the determination by any regulatory body that the subject matter of this Agreement is subject to any governmental regulatory authorization or review that imposes additional costs of doing business upon EVC, or (iv) if, pursuant to the terms of this Agreement, EVC is otherwise permitted the right to terminate upon the occurrence of an event or events.
- (b) By Subscriber. This Agreement may be immediately terminated by Subscriber: (i) if EVC is in material breach of any of its obligations under this Agreement, and has not cured such breach within thirty (30) days of the date of its receipt of written notice thereof, or (ii) EVC becomes the subject of a petition in bankruptcy or any other proceeding related to insolvency, receivership, liquidation or an assignment for the benefit of creditors. This Agreement may be terminated by Subscriber for convenience upon the voluntary deactivation and removal from registration via the applicable EVC Charging Network Web Portal of all Subscriber's Charging Stations from the EVC Charging Network, at which time this Agreement shall terminate effective immediately; provided, that Subscriber shall not be entitled to any refund of any Service Fees as a result of such termination for convenience and Subscriber shall remain liable for the payment of Service Fees for any period prior to the termination date through the end of the applicable subscription term. For the avoidance of doubt, Subscriber shall not be entitled to voluntarily deactivate or remove from registration any EVC Charging Stations.

7.4. Refund Or Payment Upon Termination. Upon any termination of this Agreement for cause by Subscriber pursuant to Section 7.3(b)(i), or (ii) the election of EVC to terminate this Agreement pursuant to Section 7.3(a)(iii), EVC shall refund to Subscriber a pro-rata portion of any pre-paid Service Fees based upon the Subscription Term for which such fees were paid and the remaining period of such Subscription Term. Upon any termination for cause by EVC pursuant to Section 7.3(a)(i), (ii) or (iv) or upon the voluntary removal from registration and activation of all of Subscriber's Network Charging Stations from the EVC Charging Network, Subscriber shall pay any unpaid Service Fees covering the remainder of all Subscription Terms. In no event shall any termination relieve Subscriber of any liability for the payment of Service Fees for any period prior to the termination date.

## 8. MISCELLANEOUS.

8.1. Amendment Or Modification. No modification, amendment or waiver of this Agreement shall be effective unless in writing and either signed or electronically accepted by the Party or Parties against whom the amendment, modification or waiver is to be asserted.

8.2. Waiver. The failure of any Party at any time to require performance by the other Party or Parties of any obligation hereunder will in no way affect the full right to require such performance at any time thereafter. The waiver by a Party of a breach of any provision hereof will not constitute a waiver of the provision itself. The failure of a Party to exercise any of its rights provided in this Agreement will not constitute a waiver of such rights. No waiver will be effective unless in writing and signed by an authorized representative of each Party against whom such waiver is sought to be enforced. Any such waiver will be effective only with respect to the specific instance and for the specific purpose given.

8.3. Force Majeure. Except with respect to payment obligations, neither EVC nor Subscriber will be liable for failure to perform any of its obligations hereunder due to causes beyond such party's reasonable control and occurring without its fault or negligence (a "Force Majeure Event"). A Force Majeure Event will include, but not be limited to, fire, flood, earthquake or other natural disaster (irrespective of such party's condition of any preparedness therefore); war, embargo; riot; strike; labor action; any lawful order, decree, or other directive of any government authority that prohibits a party from performing its obligations under this Agreement; material shortages; shortage of transport; and failures of suppliers to deliver material or components in accordance with the terms of their contracts.

8.4. Applicable Law. This Agreement will be construed, and performance will be determined, according to the laws of the State of California without reference to such state's principles of conflicts of law and the state and federal courts located in Los Angeles County, California, shall have exclusive jurisdiction over any claim arising under this Agreement.

8.5. Waiver of Jury Trial. Each Party hereby waives any right to jury trial in connection with any action or litigation arising out of this Agreement.

8.6. Survival. Those provisions dealing with the Intellectual Property Rights of EVC, limitations of liability and disclaimers, restrictions of warranty, indemnification, applicable law and such other provisions which by their nature or terms are intended to survive the termination of this Agreement will remain in full force and effect as between the Parties hereto notwithstanding expiration or termination of this Agreement.

8.7. Severability. Except as otherwise specifically provided herein, if any term or condition of this Agreement or the application thereof to either Party will to any extent be determined jointly by the Parties or by any judicial, governmental or similar authority, to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to this Agreement, the Parties or circumstances other than those as to which it is determined to be invalid or unenforceable, will not be affected thereby. If, however such invalidity or unenforceability will, in the reasonable opinion of either Party cause this Agreement to fail of its intended purpose and the Parties cannot by mutual agreement amend this Agreement to cure such failure, either Party may terminate this Agreement for cause as provided herein above.

8.8. Assignment. Subscriber may not assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of EVC (not to be unreasonably withheld). In the event of any purported assignment in breach of this Section 8.8, EVC shall be entitled, at its sole discretion, to terminate this Agreement upon written notice given to Subscriber. In the event of such a termination, Subscriber shall pay any unpaid Service Fees covering the remainder of the Service Term for any accepted Purchase Orders. In no event shall any termination relieve Subscriber of any liability for the payment of Service Fees or Transaction Fees for any period prior to the termination date. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns. EVC may assign its rights and obligations under this Agreement.

8.9. Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes and cancels all previous and contemporaneous agreements, negotiations, commitments, understandings, representations and writings. All purchase orders issued by Subscriber shall state that such purchase orders are subject to all of the terms and conditions of this Agreement, and contain no other term other than the type of Subscription, the number of stations for which such Subscription is ordered, the term of such subscriptions and applicable subscription fees. To the extent of any conflict or inconsistency between the terms and conditions of this Agreement and any purchase order, the Agreement shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in any other documentation shall be incorporated into or form any part of this Agreement, and all such purported terms and conditions shall be null and void.

8.10. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute but one and the same document.

**Master Services and Subscription Agreement**  
**Additional Terms:**

- 9. Appropriation of Funds:** Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of the Agreement by the City of Bloomington are at any time not forthcoming or are insufficient, through failure of any entity, to appropriate funds or otherwise, then the City of Bloomington shall have the right to terminate this Agreement without penalty. (Indiana Code 5-22-17-5)
- 10. Verification of New Employee Employment Status:** EV Connect 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.) EV Connect shall sign an affidavit attached as Exhibit A, affirming that EV Connect 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. (Indiana Code 22-5-1.7-11)
- 11. No Collusion:** EV Connect is required to certify that it has not, nor has any other member, representative, or agent of EV Connect, entered into any combination or collusion or agreement with any person relative to the price to be offered by any person nor prevent 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. EV Connect shall sign an affidavit attached as Exhibit B affirming that EV Connect has not engaged in any collusive conduct. (Indiana Code 5-22-16-6)

Subscription Order  
EV Connect Network Services and Fees

This Subscription Order is subject to, and expressly incorporates and is made a part of, the EV Connect Master Services and Subscription Agreement attached hereto (the "Agreement"). The Subscription shall become binding only upon acceptance by EVC. Capitalized Terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Agreement.

**Term**

Upon acceptance by EVC, this Subscription Order shall be effective:

Start Date: \_\_\_\_\_, 201\_ through

End Date: \_\_\_\_\_, 201\_.

**Services**

EV Connect grants Subscriber license to the following Services, subject to payment of the appropriate fees as set forth below.

EV Connect Management Services (including 24x7 driver support)

Installation Services

Removal Services

Maintenance Services

Other, please specify: \_\_\_\_\_

**Equipment**

Subject to Subscriber's obligation to pay the fees related to Installation Services, Maintenance Services and Removal Services and execution of a separate agreement related to such services, during the Term EV Connect will provide to Subscriber the Charging Station(s) set forth below, to be installed at the locations set forth below and used in connection with the EV Connect Network Services.

Description of Equipment	Serial Number	Installation Location
Qty: 4 - EV-Box Business Line, Single - Connected (HUB) 32A 18ft Cable - 2yr parts warranty included	TBD	401 North Morton St Bloomington, IN 47404
_____	_____	_____
_____	_____	_____

**Service Fees**

Subscriber agrees to pay EV Connect in advance on an annual basis for the Services and Equipment identified above.

Product	Fee <sup>1</sup>
EV Connect Management Services (including 24x7 driver support)	\$249.00
Installation Services <sup>2</sup>	
Maintenance Services	
Removal Services <sup>2</sup>	
Subscribed Charging Stations	

<sup>1</sup> Fee is accounted on per charge port basis; due at time of network commissioning (the "Subscription Date")

<sup>2</sup> This is a one-time fee per Charging Station

In Witness Whereof, Subscriber and EV Connect, through their duly authorized representatives, hereby agree to the foregoing Subscription Order, subject to the terms and conditions of the EV Connect Master Services and Subscription Agreement.

EV CONNECT, INC.

By: *Carlton B. Williams*

(Signature)

Name: Carlton B. Williams

Title: Director of Operations

Address: 615 N. Nash Street, Suite 203

City: El Segundo

State: CA Zip Code: 90245

Email Address for Notices: cwilliams@evconnect.com

Date: 6/8/17

Subscriber: City of Bloomington, Indiana \_\_\_\_\_

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

(Signature)

Name: Ryan Daily *Ryan Daily*

Title: Parking Garage Manager

Address: P. O. Box 100, Suite 120 \_\_\_\_\_

City: Bloomington \_\_\_\_\_

State: Indiana Zip Code: 47402 \_\_\_\_\_

Email Address for Notices: DailyRebloomington.in.g.or

Date: 6/13/17

By: *AW*

Adam Wason, Director, Public Works Dept.

By: *Philippa M. Guthrie*  
Philippa M. Guthrie, Corporation Counsel

CITY OF BLOOMINGTON  
Legal Department  
Reviewed By: Jackie Moore  
DATE: 6.9.17

CITY OF BLOOMINGTON  
Controller  
Reviewed by: \_\_\_\_\_  
DATE: 6-9-17  
FUND/ACCT: 452-442

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

EXHIBIT A  
AFFIDAVIT REGARDING E-VERIFY

STATE OF CA )  
 ) SS:  
COUNTY OF Los Angeles )

AFFIDAVIT REGARDING E-VERIFY

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

1. The undersigned is the Director of EV Connect.  
(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.
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.

Carlton B. Williams

Signature

Carlton B. Williams

Printed name

STATE OF Ca )  
 ) SS:  
COUNTY OF Los Angeles )

Before me, a Notary Public in and for said County and State, personally appeared Carlton Baltimore Williams and acknowledged the execution of the foregoing this 8th day of June, 2017.

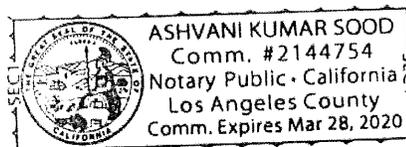
Ashvani Kumar Sood

Notary Public

Ashvani Kumar Sood

Printed name

My Commission Expires: 3/28/20  
County of Residence: Los Angeles



# JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles } ss

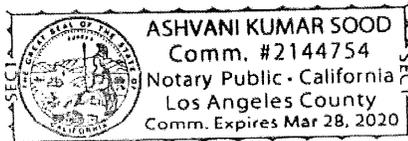
Subscribed and sworn to (or affirmed) before me on this 8th day of June.

20 18 By Carlton Baltimore Williams proved to me on

the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature *Ashvani Kumar Sood*

(Notary Seal)



## OPTIONAL

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) other than named above: \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

EXHIBIT B  
NON-COLLUSION AFFIDAVIT

STATE OF CA )  
COUNTY OF Los Angeles ) SS:

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 8 day of June, 2017.

EV Connect  
(Name of Organization)

By: Ashvani Kumar Sood  
Director of Operations  
(Name and Title of Person Signing)

STATE OF Ca )  
COUNTY OF Los Angeles ) SS:

Subscribed and sworn to before me this 8th day of June, 2017.

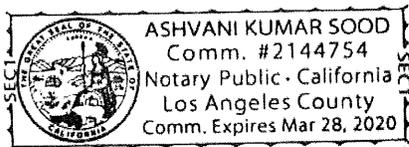
My Commission Expires:

3/28/20

Ashvani Kumar Sood  
Notary Public Signature

Resident of Los Angeles County

Ashvani Kumar Sood  
Printed Name



### JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles ss

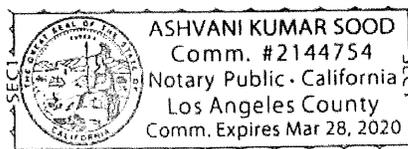
Subscribed and sworn to (or affirmed) before me on this 8th day of June

20 17 . By Carlton Baltimore Williams . proved to me on

the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature AKS

(Notary Seal)



### OPTIONAL

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) other than named above: \_\_\_\_\_

City of Bloomington  
Redevelopment Commission  
Project Review & Approval Form

**Please Note:**

- Approval of the project by the Redevelopment Commission through this Project Review & Approval Form does not represent an authorization to begin work or expend funds.
- Authorization of work and the commitment of funds shall be done when the Redevelopment Commission reviews and approves: (1) a Purchase Order or Contract prepared after complying with the appropriate procurement process for the type of item, service or construction being sought and (2) the estimated costs associated with the Purchase Order or Contract.
- No payment of funds shall be made without a duly authorized and approved Purchase Order or Contract. All claims for payment against a duly authorized Purchase Order or Contract shall be submitted to the Redevelopment Commission for their review and approval along with any required departmental inspections, reviews and approvals prior to the payment of any funds.

To Be Completed by Requesting Party:

**Project Name:** 4<sup>th</sup> Street Parking Garage

**Project Manager(s):** Deb Kunce and Josh Scism, CORE Planning Strategies; Mick Renneisen; Jeff Underwood; Alex Crowley; Adam Wason.

**Project Description:**

This is a project to retain all necessary design, construction management, and contracting for the design and construction of the 4<sup>th</sup> Street Parking Garage. The 4<sup>th</sup> Street Garage includes demolition of the existing garage and construction of no more than 550 parking spaces.

Included with the anticipated project costs below, the 4<sup>th</sup> Street Garage shall also include the following sustainable design features as have been contemplated by the RDC and the City:

- At least ten (10) electric vehicle charging stations in an area of priority parking with a design (conduit throughout the facility) that allows for the garage to be retrofitted for more charging stations as demand for the stations requires;
- Solar panels to offset the electric needs of the facility, at a minimum of 12,000 kilowatts. This level of coverage may be revisited after design details have been determined to see if additional solar can be added;
- Bicycle parking for a minimum of fifty (50) bikes, which shall include ten (10) bike lockers. The lockers may be located either inside or outside, or both, as the design determines;
- 25% of all parking spaces in the garage designed for use by compact vehicles;
- Dedicated carpool parking;
- A maintenance and caretaking plan for the life of the garage;
- Retail space on the ground floor;
- Two public restrooms;
- A designated area for transportation pickup and dropoff (car share, taxi, Uber, Lyft, etc.);
- Parksmart Sustainability Certification with the goal of achieving silver depending on ultimate facility design; and
- The design will include public art and be architecturally significant.



*To Be Completed by Redevelopment Commission Staff:*

Approved on \_\_\_\_\_

By Resolution \_\_\_\_\_ by a vote of \_\_\_\_\_

**21-35  
RESOLUTION  
OF THE  
REDEVELOPMENT COMMISSION  
OF THE  
CITY OF BLOOMINGTON, INDIANA**

**APPROVAL OF ELECTRONIC MEETING POLICY**

WHEREAS, in its 2021 Regular Session, the Indiana General Assembly adopted House Enrolled Act (HEA) 1437, which amended Indiana Code Section 5-14-1.5-3.5 to provide new requirements by which members of a governing body of a public agency of a political subdivision may participate in a meeting by mean of electronic communication (the “Act”); and

WHEREAS, the RDC is such a governing body; and

WHEREAS, in order for members of the RDC to participate in meetings electronically, the Act requires the RDC to adopt a written policy establishing procedures for electronic participation; and

WHEREAS, City staff have developed an Electronic Meeting Policy for the RDC, which is attached to this Resolution as Exhibit A;

NOW, THEREFORE, BE IT RESOLVED BY THE REDEVELOPMENT COMMISSION OF THE CITY OF BLOOMINGTON, INDIANA, THAT:

1. The Redevelopment Commission adopts the Electronic Meeting Policy governing the participation of commissioners, staff, and members of the public in a meeting by an electronic means of communication, which is attached to this Resolution as Exhibit A. All future meetings shall be held in accordance with the policy.

**BLOOMINGTON REDEVELOPMENT COMMISSION**

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Nicholas Kappas, President

ATTEST:

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David Walter, Vice President

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Date

**Redevelopment Commission of the City of Bloomington, Indiana**  
**Electronic Meetings Policy**

In accordance with Indiana Code § 5-14-1.5-3.5, the Redevelopment Commission of the City of Bloomington, Indiana (“RDC”) adopts the following electronic meeting policy.

Section 1. Electronic Participation and Quorum.

(a) Subject to Sections 2 and 4, any member may participate in a meeting by any electronic means of communication that:

- (1) allows all participating members of the governing body to simultaneously communicate with each other; and
- (2) other than a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting.

(b) A member who participates by an electronic means of communication:

- (1) shall be considered present for purposes of establishing a quorum; and
- (2) may participate in final action only if the member can be seen and heard.

(c) All votes taken during a meeting at which at least one (1) member participates by an electronic means of communication must be taken by roll call vote.

(d) Any technological failure in the electronic means of communication that disrupts or prevents:

- (1) the simultaneous communication between a member who is not physically present at the meeting and the RDC; or
- (2) a member of the public who is not present at the meeting from attending and observing the meeting;

does not prevent the RDC from conducting the meeting or affect the validity of an action taken by the RDC at the meeting if the sum of the RDC members physically present at the meeting and the RDC members participating by electronic communication without technological failure satisfy the quorum and (if a final action is taken) the voting requirements of the RDC.

Section 2. Attendance.

(a) At least fifty percent (50%) of the members must be physically present at a meeting at which a member will participate by means of electronic communication. Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.

(b) A member may not attend more than a fifty percent (50%) of the meetings in a calendar year by an electronic means of communication unless the member's electronic participation is due to:

- (1) military service;
- (2) illness or other medical condition;
- (3) death of a relative; or
- (4) an emergency involving actual or threatened injury to persons or property.

(c) A member may attend two (2) consecutive meetings (a set of meetings) by electronic communication. A member must attend in person at least one (1) meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to:

- (1) military service;
- (2) illness or other medical condition;
- (3) death of a relative; or
- (4) an emergency involving actual or threatened injury to persons or property.

Section 3. Minutes. The memoranda and any minutes prepared for a meeting at which any member participates by electronic means of communication must:

- (1) identify each member who:
  - (A) was physically present at the meeting;
  - (B) participated in the meeting by electronic means of communication; and
  - (C) was absent; and
- (2) identify the electronic means of communication by which:
  - (A) members participated in the meeting; and
  - (B) members of the public attended and observed the meeting, if the meeting was not an executive session.

Section 4. Electronic Participation Prohibited. No member of the RDC may participate by means of electronic communication in a meeting if the RDC is attempting to take final action to:

- (1) adopt a budget;

- (2) make a reduction in personnel;
- (3) initiate a referendum;
- (4) impose or increase a fee;
- (5) impose or increase a penalty;
- (6) use the RDC's eminent domain authority; or
- (7) establish, raise or renew a tax.

Section 5. Declared Emergency. In the event the governor declares a disaster emergency under IC 10-14-3-12 or the executive (as defined in IC 36-1-2-5) of a political subdivision declares a local disaster emergency under IC 10-14-3-29, the RDC may meet by any means of electronic communication if the following requirements of IC 5-14-1.5-3.7 are satisfied:

- (1) At least a quorum of the members of the RDC participate in the meeting by means of electronic communication or in person.
- (2) The public is able to simultaneously attend and observe the meeting. However, this subdivision does not apply to a meeting held in executive session.
- (3) The memoranda and any minutes prepared for a meeting held under this section must:
  - (A) state the name of each member of the RDC who:
    - (i) participated in the meeting by using any electronic means of communication; and
    - (ii) was absent; and
  - (B) identify the electronic means of communication by which:
    - (i) members of the RDC participated in the meeting; and
    - (ii) members of the public attended and observed the meeting, if the meeting was not an executive session.
- (4) All votes taken during a meeting under this section must be taken by roll call vote.

Section 6. Public Participation. Members of the public shall be able to attend and observe meetings of the RDC via electronic means. Subject to the RDC's rules for making public comment, members of the public may also participate in the meeting via electronic means. Meeting notices shall be posted as required by law, and will include information about how to access meetings electronically.

Section 7. Staff Participation. Staff members may participate in meetings of the RDC via electronic means, provided there is no actual need for a staff member to be physically present at a particular meeting.

Section 8. Severability. If any sections, sentence or provision of this resolution, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared to be severable.

This policy is hereby passed and adopted by the Redevelopment Commission of the City of Bloomington, Indiana, this \_\_\_\_ day of June, 2021.

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Nicholas Kappas, President

ATTEST:

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David Walter, Vice President