

AGENDA
REDEVELOPMENT COMMISSION
February 20, 2023 at 5:00 p.m.
Bloomington City Hall, 401 North Morton Street
McCloskey Conference Room, Suite 135

Zoom Link

<https://bloomington.zoom.us/j/83350949365?pwd=RlZCNUZ0aTN2VmlNQjdLZHk3YWJFQT09>

Meeting ID: 833 5094 9365

Passcode: 444927

- I. ROLL CALL**
- II. READING OF THE MINUTES** – February 6, 2023
- III. EXAMINATION OF CLAIMS** – February 17, 2023 for \$312,913.63
- IV. EXAMINATION OF PAYROLL REGISTERS**–February 10, 2023 for \$35,571.22
- 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 23-15: Approval of Funding for Tree Removal for 1st Street Reconstruction Project
 - B. Resolution 23-16: Addendum to Agreement with FC Tucker
 - C. Resolution 23-17: Addendum to Agreement with Sarge Property Management
 - D. Resolution 23-18: Addendum to Contract for Landscape Maintenance with Nature’s Way
 - E. Resolution 23-19: Extension of Funding for Lighting Installation for Hopewell Phase 1 East
 - F. Resolution 23-20: Addendum to Lease Agreement with Baird for Space at College Square

*****BEGIN PUBLIC HEARING*****

- G. HOME Investment Partnerships American Rescue Plan (HOME-ARP) Allocation Plan

*****END PUBLIC HEARING*****

- VII. BUSINESS/GENERAL DISCUSSION**

- VIII. 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.

***THE REDEVELOPMENT COMMISSION OF THE CITY OF BLOOMINGTON, INDIANA MET on Monday, February 6, 2023, at 5:00 p.m. in the McCloskey Conference Room, 401 North Morton Street, and via Zoom, with RDC President Cindy Kinnarney presiding:
<https://catstv.net/m.php?q=12099>***

I. ROLL CALL

Commissioners Present: Cindy Kinnarney, Sarah Bauerle Danzman, Randy Cassady, and Deborah Myerson met in person. Deb Hutton attended via Zoom.

Commissioners Absent: None

Staff Present: John Zody, Director, Housing & Neighborhood Development (HAND); Brent Pierce, Assistant Director, HAND; Christina Finley, Financial Specialist, HAND; Barry Collins, Rehab Specialist, HAND; Matt Swinney, Program Manager, HAND; Cody Toothman, Program Manager, HAND

Others Present: Larry Allen, Assistant City Attorney; Alex Crowley, Director, Economic and Sustainable Development; Jen Pearl, BEDC; Deb Kunce, JS Held; Sam Dove; Patrick Dierkes, Project Engineer, Engineering

II. READING OF THE MINUTES – Sarah Bauerle Danzman moved to approve the January 23, 2023 minutes and the January 23, 2023 executive summary, via roll-call vote. Deborah Myerson seconded the motion. The motion passed unanimously.

III. EXAMINATION OF CLAIM REGISTER – Randy Cassady moved to approve the claim register for February 3, 2023, for \$2,506,100.07, via roll-call vote. Deborah Myerson seconded the motion. The motion passed unanimously.

IV. EXAMINATION OF PAYROLL REGISTERS – Deborah Myerson moved to approve the payroll register January 27, 2023, for \$37,391.93, via roll-call vote. Sarah Bauerle Danzman seconded the motion. The motion passed unanimously.

V. REPORT OF OFFICERS AND COMMITTEES

A. **Director's Report:** John Zody informed the commission that we will have another public hearing for the federal HOME Investment Partnerships American Rescue Plan Program (HOME-ARP) allocation plan at the February 20th RDC meeting.

B. **Legal Report:** Larry Allen reported that the purchase of the CFC Showers building located at 320 West 8th Street was approved by City Council. Allen said we closed last Tuesday and have officially taken over the building.

C. **Treasurer's Report:** Larry Allen was available to answer questions.

D. **Business Development Updates:** Alex Crowley was available to answer questions.

VI. NEW BUSINESS

A. **Hopewell Presentation:** Deb Kunce and John Zody gave an update on the Hopewell project. Alex Crowley, Larry Allen, and Patrick Dierkes were also available to answer questions. The slides from the presentation are attached to the minutes.

Public Hearing Begins

B. **Resolution 23-11: Approval of Community Development Block Grant (CDBG)**

Recommendations by the Citizens Advisory. John Zody stated this resolution is for the annual CDBG allocations. The City of Bloomington is eligible to receive approximately \$875,000 for 2023. Fifteen percent (15%) of the grant can be used for social services, twenty percent (20%) for administration and sixty-five (65%) for physical improvements. The advice and input of the community for the allocation of the CDBG funds has been solicited and received through the efforts of the Citizens' Advisory Committee (CAC). The CAC also made recommendations on how to distribute funds received that are more or less than the estimated amount in the event that the final allocation amount varies.

Zody pointed out that on Exhibit B there is a typo. The Boys & Girls Club should be replaced with Beacon, Inc.

Cindy Kinnarney asked for public comment. There were no comments from the public.

Deborah Myerson moved to approve Resolution 23-11, as amended with the corrected typo on Exhibit B, via roll-call vote. Deb Hutton seconded the motion. The motion passed unanimously.

Public Hearing Ends

C. **Resolution 23-12: Approval to Increase Funds for a Home Modification for Accessible Living (HMAL) Project at 750 S. Walker Lot 94.**

Barry Collins explained the project details to the commission. The approved bid amount for the project is \$6,478.12, including a 10% contingency which is \$2,978.12 over the maximum grant amount listed within the HMAL guidelines (\$3,500 per grant for a mobile home). The total amount needed to complete this project is \$6,478.12. There are currently allocated CDBG funds for Home Modification Program.

Cindy Kinnarney asked for public comment. There was no comments from the public.

Randy Cassady moved to approve Resolution 23-12. Sarah Bauerle Danzman seconded the motion. The motion passed unanimously via roll-call vote.

D. **Resolution 23-13: Approval to Increase Funds for an Emergency Home Repair (EHR)**

Project at 1600 Willis Drive Lot 128. Barry Collins explained the project details to the commission. Collins distributed photos of needed repairs. The photos will be attached to the minutes. The approved bid amount for this project is \$7,766.44, including a 10% contingency, which is \$4,266.44 over the maximum grant amount listed within the EHR guidelines for mobile homes (\$3,500 per grant). The total amount needed to complete this project is \$7,766.44. There are currently allocated CDBG funds for the EHR program.

Cindy Kinnarney asked for public comment. There were no comments from the public.

Randy Cassady moved to approve Resolution 23-13, via roll-call vote. Deborah Myerson seconded the motion. The motion passed unanimously.

E. **Resolution 23-14: Approval to Increase Funding for an Emergency Home Repair (EHR)**

Project at 623 West Smith Avenue. Barry Collins explained the project details to the commission. The approved bid amounts for the project are \$7,100 and \$8,085 for a grand total of \$15,185, which is \$5,185 over the maximum grant amount listed within the EHR guidelines (\$10,000 per grant). The total amount needed to complete this project is \$15,185. There are currently allocated CDBG funds for the EHR program.

Deborah Myerson requested that, in the future, the staff quote for the projects be included in the resolution.

Cindy Kinnarney asked for public comment. There were no comments from the public.

Randy Cassady moved to approve Resolution 23-14, via roll-call vote. Sarah Bauerle Danzman seconded the motion. The motion passed unanimously.

Public Hearing Begins

- F. HOME ARP Allocation Plan: John Zody gave a presentation on the HOME ARP allocation plan he is currently working on. Zody and the commission members discussed the allocation plan and possible uses of the funds. The slides are attached to the minutes. A second hearing on the HOME ARP allocation will take place on February 20, 2023, during the regularly scheduled RDC meeting

Cindy Kinnarney ask for public comment. There were no comments from the public.

Public Hearing Ends

VII. BUSINESS/GENERAL DISCUSSION – None.

VIII. ADJOURNMENT – Deborah Myerson moved to adjourn. Randy Cassady seconded the motion. The meeting adjourned at 6:45 p.m.

Cindy Kinnarney, President

Deborah Myerson, Secretary

Date: _____



HOPEWELL DEVELOPMENT OPPORTUNITIES

February 6, 2023



AGENDA



- Hopewell Neighborhood Vision
- Overall Schedule Update
- Progress and Challenges
- What's Coming



HOPEWELL NEIGHBORHOOD VISION



- **Bloomington must diversify and expand opportunities for all.** Hopewell should be an inclusive neighborhood where people from all walks of life and all ages, incomes, abilities and backgrounds can thrive.
- **Bloomington must create sustainable neighborhoods to advance toward a zero-carbon future.** Hopewell should exhibit best practices in sustainable redevelopment, as a blueprint for a more equitable, livable, and resilient Bloomington.
- **Bloomington must continue to be a place of beauty and excellent design for all.** Hopewell should be an inspiring neighborhood of excellent design and public and private amenities.



OVERALL SCHEDULE UPDATE



Hopewell Project Schedule



UPDATE



PROGRESS

- Steering Committee meetings continues
- Outreach with neighbors
- Rezoning complete
- Parceling of Blocks 1, 2, and 3 complete
- Overlay District Adopted
- IUH Demolition over 75% complete above ground
- RFI on street for Design – Jackson St
- 1st St reconstruction out to bid
- 2nd St modernization in design
- Overlay District Adopted
- Kohr Building Developer identified
- Phase I East Demolition complete
- Promoting Hopewell with signage
- First development RFI released soon
- Leveraging federal funds to assist with infrastructure projects
- Potential grant award for additional infrastructure and design







CHALLENGES

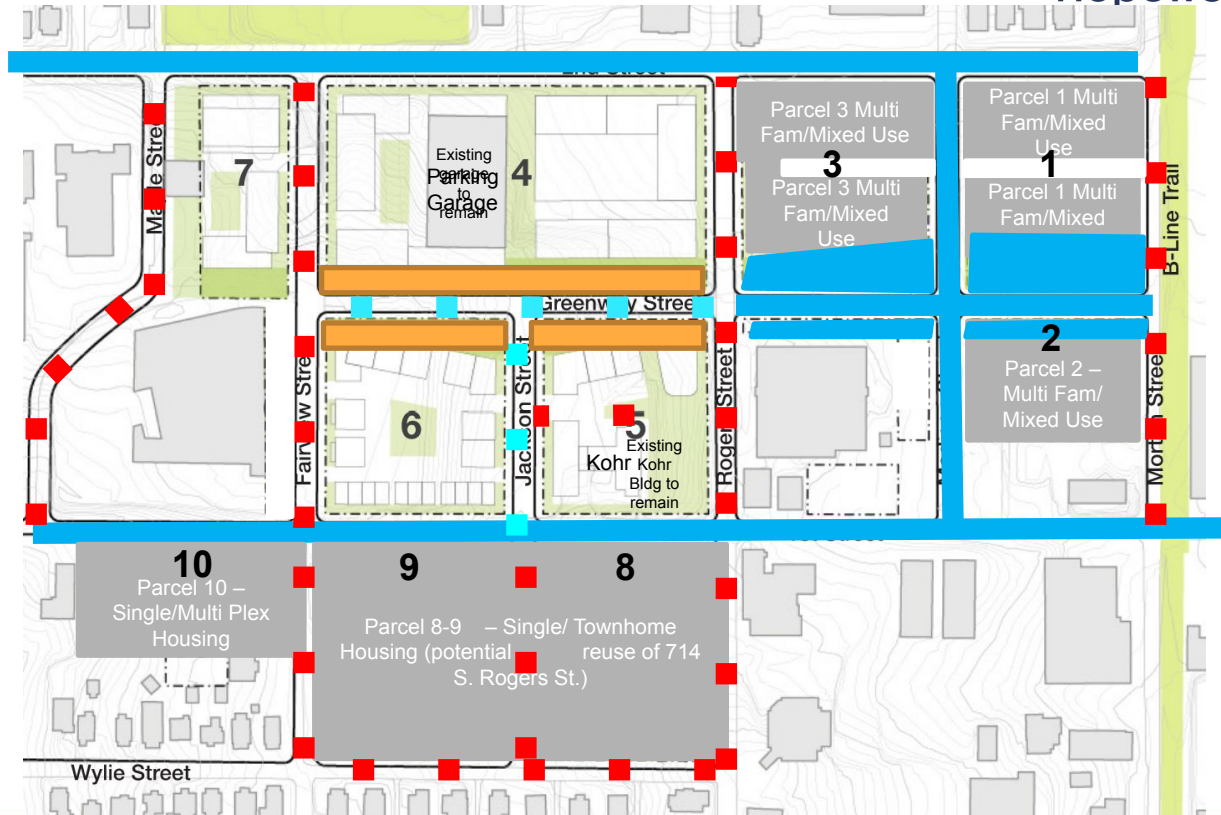
- Construction costs are high
- Phase I East infrastructure bid over budget. Actively rebidding.
- Council approval of alley ROWs

DEVELOPMENT OPPORTUNITIES



Hopewell

-  Funded
-   To Be Funded Infrastructure
-   To Be Grant Funded Street (60% design only at University St)
-  Un-Funded Parks



Note: By end of Dec 31, 2023, IUH will transfer parcels 4, 5, 6, and 7 to CoB

Mixed Use Non-Residential First Floor



Hopewell

DEVELOPMENT OPPORTUNITIES IDENTIFIED IN THE MASTER PLAN

- Workspace
- Lobby space
- Childcare
- Adult daycare
- Social services
- Fitness/wellness
- Makerspace/workshop
- Shared Kitchen
- Job Training
- Café/Coffee shop
- Barbershop/Salon
- Community & event space
- Gallery/Art studio

NOTE: Use must be specific to UDO



DEVELOPMENT



- Sustainability LEED Silver
- Housing 20% Affordable
 Home Ownership
 Workforce Housing

Income Category	Income Level
Market rate	Greater than 120% AMI
"Workforce" housing	80%-120% AMI
Affordable	below 80% AMI

WHAT'S COMING NEXT



- Phase I East Infrastructure Rebidding
- Public Land Offerings for Kohr Building Redevelopment
- Land swap with Centerstone at Phase I East
- Additional RFI's for Development (Blocks 1-2-3) and subsequent Public Land Offerings
- Retain Engineer for design of Jackson St and University St (between 1st St and 2nd St)
- IUH land transfer (legacy hospital)
- Name the park along University St
- Potential reuse of 714 S. Rogers and the Trahan Arts Study
- 501c3 potential



Thank You







HOME-ARP Funds Allocation Plan

- Bloomington is receiving \$2.045 M in American Rescue Plan Act (ARPA) funds through U.S. Housing & Urban Dev. (HUD) HOME program.
- Funds must be used to serve four qualifying populations as defined under federal regulations:
 1. Homeless
 2. At-risk of homelessness
 3. Fleeing, or attempting to flee domestic or dating violence, sexual assault, stalking or human trafficking
 4. Other populations requiring services or housing assistance to prevent homelessness/others at greatest risk of housing instability

Uses of Funds & Outreach

- Supportive services
- Non-profit operation and capacity building
- Rental housing development
- Acquisition and development of non-congregate shelter
- Tenant Based Rental Assistance (TBRA - existing program)

- Outreach ongoing since November to local stakeholders:
 - 32 meetings/conversations with service providers, housing agencies, community groups and elected officials
 - Three public meeting presentations/invitations for comment
 - Two public hearings (RDC meetings)

Recommendations on Use of Funds (thus far)

- Focused approach to supportive services
 - Assessment services (Coordinated Entry tools)
 - Case management/housing navigation
 - Case management/ongoing
 - Street outreach
 - Ongoing
 - Medical services
- Rental projects with supportive housing
- Support Heading Home efforts



Draft Budget

Supportive services grants	\$783,926
Acquisition/development of non-congregate shelter	–
Tenant-based Rental Assistance (TBRA)	–
Development of affordable rental housing	\$750,000
*Non-profit operating (5%)	\$101,261
*Non-profit capacity building (5%)	\$101,261
*Administration and planning (15%)	\$306,786
Total allocation:	\$2,045,237

**amounts statutorily capped*

➤ **Funds must be spent by September 30, 2030**

Public Comment Opportunities & Plan Submission

- Public hearing at Redevelopment Commission February 20
- Official public comment period will be early-mid March
- Draft plan due to HUD by end of March
- Thoughts? Send an e-mail to John Zody at hand@bloomington.in.gov by March 15.

**RESOLUTION 23-15
OF THE
REDEVELOPMENT COMMISSION
OF THE
CITY OF BLOOMINGTON INDIANA**

**APPROVAL OF FUNDING FOR TREE REMOVAL 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 and allocation area known as the Consolidated Economic Development Area (“Consolidated TIF”); 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 20-79, the RDC approved the design contract for the 1st Street Reconstruction Project (“Project”), which is partially federally funded; and
- WHEREAS, part of the Project includes tree removal (“Services”) prior to construction, and Staff solicited bids for the Services; and
- WHEREAS, the City received four bids to perform the Services and selected J.R. Ellington Tree Experts as the lowest responsible and responsive bidder; and
- WHEREAS, an Agreement with J.R. Ellington Tree Experts to perform the Services for an amount not to exceed \$10,800.00 (“Agreement”) is attached to this Resolution as Exhibit A; and
- WHEREAS, the Board of Public Works approved the Agreement at its meeting on February 14, 2023; and
- WHEREAS, the Project is taking place within the Consolidated TIF (Expanded Adams Crossing Area); and
- WHEREAS, there are sufficient funds in the Consolidated TIF to cover the costs of this Project; and
- WHEREAS, the City has brought the RDC an Amended Project Review Form (“Amended Form”) which updates the expected cost of the Project and 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 approves the Agreement and authorizes funding to pay for the Services in an amount not to exceed Ten Thousand Eight Hundred Dollars (\$10,800.00) for tree clearing services.
3. The Payment authorized above may be made from the Consolidated TIF. The Controller shall make the determination of specific funding source from the Consolidated TIF areas 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.
4. Unless extended by the Redevelopment Commission in a resolution prior to expiration, the authorizations provided under this Resolution shall expire on December 31, 2023.

BLOOMINGTON REDEVELOPMENT COMMISSION

Cindy Kinnarney, President

ATTEST:

Deborah Myerson, Secretary

Date

AGREEMENT
BETWEEN
CITY OF BLOOMINGTON
ENGINEERING DEPARTMENT
AND
J.R. ELLINGTON TREE EXPERTS

FOR

WEST 1ST STREET TREE REMOVAL PROJECT

THIS AGREEMENT, executed by and between the City of Bloomington, Indiana, Engineering Department, through the Board of Public Works (hereinafter CITY), and J.R. Ellington Tree Experts, (hereinafter CONTRACTOR);

WITNESSETH THAT:

WHEREAS, CITY desires to retain CONTRACTOR'S services for the clearing of trees from the right of way on West 1st Street from approximately Maple Street to College Avenue as depicted in the plans, (more particularly described in Attachment A, "Scope of Work"); and

WHEREAS, CONTRACTOR is capable of performing work as per his/her Quote on the Quote Summary sheet; and

WHEREAS, in accordance with Indiana Code 5-16-13 *et seq.*, incorporated herein by reference, Contractor is a Tier 1 or General Contractor for this project; and

WHEREAS, CONTRACTOR was determined to be the lowest responsible and responsive Quoter for said project.

NOW, THEREFORE, in consideration of the mutual promises hereinafter enumerated, the parties agree as follows:

ARTICLE 1. TERM

1.01 This Agreement shall be in effect upon execution of this Agreement by all parties. In accordance with Indiana Code 5-16-13 *et seq.*, incorporated herein by reference, Contractor is a Tier 1 contractor or general contractor for this project.

ARTICLE 2. SERVICES

2.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described in Attachment A, "Scope of Work".

2.02 All work required under this Agreement shall be substantially completed by the CONTRACTOR within thirty (30) calendar days from the date of the Notice to Proceed, unless the parties mutually agree to a later completion date. Substantial Completion shall mean that all work is sufficiently completed in accordance with the plans and specifications, as modified by any approved change orders, so that it can be used for its intended purpose.

2.03 It is hereby understood by both parties that time is of the essence in this Agreement. Failure of CONTRACTOR to complete all work as herein provided will result in monetary damages to CITY. It is hereby agreed that CITY will be damaged for every day the work has not been performed in the manner herein provided and that the measure of those damages shall be determined by reference Section 13.00 of the General Conditions for Each Day of Overrun in Contract Time. CONTRACTOR agrees to pay CITY said damages or, in the alternative, CITY, at its sole discretion, may withhold monies otherwise due CONTRACTOR. It is expressly understood by the parties hereto that these damages relate to the time of performance and do not limit CITY's other remedies under this Agreement, or as provided by applicable law, for other damages.

2.04 CONTRACTOR agrees that no charges or claims for damages shall be made by him or her for any delays or hindrances, from any cause whatsoever during the progress of any portion of the services specified in the Agreement. Such delays or hindrances, if any, may be compensated for by an extension of time for a reasonable period as may be mutually agreed upon between the parties, it being understood, however, that permitting CONTRACTOR to proceed to complete any service, or any part of the services / project, 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 CITY of any of its rights herein.

ARTICLE 3. COMPENSATION

3.01 CONTRACTOR shall provide services as specified in Attachment A, "Scope of Work", attached hereto and incorporated into this Agreement.

3.02 CITY shall pay Contractor for completion of the Work in accordance with the Contract Documents, subject to adjustment under the Contract, at the unit prices stated in Contractor's Quote, attached hereto as Attachment 'D'. CITY may withhold payment, in whole or in part, to the extent necessary to protect itself from a loss on account of any of the following:

Defective work.

Evidence indicating the probable filing of claims by other parties against CONTRACTOR which may adversely affect CITY.

Failure of CONTRACTOR to make payments due to subcontractors, material suppliers or employees.

Damage to CITY or a third party.

3.03 The submission of any request for payment shall be deemed a waiver and release by CONTRACTOR of all liens and claims with respect to the work and period to which such payment request pertains except as specifically reserved and noted on such request.

3.04 CONTRACTOR shall maintain proper account records for the scope of all services of this Agreement and provide an accounting for all charges and expenditures as may be necessary for audit purposes. All such records shall be subject to inspection and examination by CITY's representatives at reasonable business hours.

3.05 For projects utilizing federal funding the CONTRACTOR shall submit time sheets (WH-347) for his or her own and all subcontracted employees, to City Engineer or his or her representative for approval and review, including review for compliance with Davis Bacon requirements, if federal funds are used.

3.06 **Engineer** The City Engineer shall act as the CITY's representative and assume all duties and responsibilities and have all the rights and authority assigned to the Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 4. RETAINAGE

For contracts in excess of \$100,000 and for which Contractor requested Progressive Payments on its Quote Form, the CITY requires that retainage be held set out below.

4.01 Escrow Agent The retainage amount withheld shall be placed in an escrow account. First Financial Bank, Bloomington, Indiana, shall serve as the escrow agent.

4.02 Retainage Amount The escrow agent, Owner and Contractor shall enter into a written escrow agreement. Under that agreement, the Owner shall withhold five percent (5%) of the dollar value of all work satisfactorily completed until the Contract work is complete. The escrow agent shall invest all escrowed principal in obligations selected by the escrow agent. The escrow agent shall be compensated for the agent's services by a reasonable fee, agreed upon by the parties, that is comparable with fees charged for the handling of escrow accounts of similar size and duration. The fee shall be paid from the escrow income. The escrow agent's fee may be determined by specifying an amount of interest the escrow agent will pay on the escrowed amount, with any additional earned interest serving as the escrow agent's fee. The escrow agreement may include other terms and conditions as deemed necessary by the parties. However, if Contractor intends to receive a Single Lump Sum payment upon acceptance of this project, retainage will not be required and an Escrow Agreement will not be required.

4.03 Payment of Escrow Amount The escrow agent shall hold the escrowed principal and income until receipt of the notice from the Owner and Contractor that the Contract work has been substantially completed to the reasonable satisfaction of the Owner, at which time the Owner shall pay to the Contractor the balance to be paid under this Contract and execute such documents as are necessary to authorize the escrow agent to pay to the Contractor the funds in the escrow account, including both specifying the part of the escrowed principal to be released from the escrow and the person to whom that portion is to be released. After receipt of the notice, the escrow agent shall remit the designated part of the escrowed principal and the escrowed income, minus the escrow agent's fees, to the person specified in the notice. However, nothing in this section shall prohibit Owner from requiring the escrow agent to withhold amounts necessary to complete minor items of the Contract, following substantial completion of the Contract in accordance with the provisions of paragraph 4.04.

4.04 Withholding Funds for Completion of Contract If, upon substantial completion of the Contract, there still remains minor Contract work that needs to be completed, or minor Contract work that needs to be performed to the satisfaction of the Owner, Owner may direct the escrow agent to retain in the escrow account, and withhold from payment to the Contractor, an amount equal to two hundred percent (200%) of the value of said work. The value of said work shall be determined by the architect/engineer. The escrow agent shall release the funds withheld under this section after receipt of notice from the Owner that all work on the Contract has been satisfactorily completed. In the event that said work is not completed by the Contractor, but by Owner or another party under contract with the Owner, said funds shall be released to the Owner.

ARTICLE 5. GENERAL PROVISIONS

5.01 CONTRACTOR agrees to indemnify and hold harmless CITY and its officers, agents, officials and employees for any and all claims, actions, causes of action, judgments and liens arising out of any negligent act or omission by CONTRACTOR or any of his or her officers, agents, officials, employees, or subcontractors or any defect in materials or workmanship of any supply, materials, mechanism or other product or service which it or any of his or her officers, agents, officials, employees, or subcontractors has supplied to CITY or has used in connection with this Agreement and regardless of whether or not it is caused in part by a party indemnified herein under. Such indemnity shall include attorney's fees and all costs and other expenses arising there from or incurred in connection therewith and shall not be limited by reason of the enumeration of any insurance coverage required herein.

CONTRACTOR shall indemnify and hold harmless CITY and its officers, agents, officials and employees for any and all damages, actions, costs, (including, but not limited to, attorney's fees, court costs and costs of investigation) judgments and claims by anyone for damage to property, injury or death to persons resulting from the collapse or failure of any trenches, ditches or other excavations constructed under or associated with this contract.

5.02 Abandonment, Default and Termination

5.02.01 CITY shall have the right to abandon the work contracted for in this Agreement without penalty. If CITY abandons the work described herein, CONTRACTOR shall deliver to CITY all surveys, notes, drawings, specifications and estimates completed or partially completed and these shall become the property of CITY. The earned value of

the work performed shall be based upon an estimate of the proportion between the work performed by CONTRACTOR under this Agreement and the work which CONTRACTOR was obligated to perform under this Agreement. This proportion shall be mutually agreed upon by CITY and CONTRACTOR. The payment made to CONTRACTOR shall be paid as a final payment in full settlement of his services hereunder.

5.02.02 If CONTRACTOR defaults or fails to fulfill in a timely and proper manner the obligations pursuant to this Agreement, CITY may, after seven (7) days' written notice has been delivered to CONTRACTOR, and without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due to CONTRACTOR. In the alternative, CITY, at its option, may terminate this Agreement and take possession of the site and of all materials, equipment, tools and construction equipment and machinery thereon owned by CONTRACTOR, and may finish the project by whatever method it may deem expedient, and if the such action exceeds the unpaid balance of the sum amount, CONTRACTOR or his surety, shall pay the difference to CITY.

5.02.03 Default: If CONTRACTOR breaches this Agreement or fails to perform the work in an acceptable manner, he or she shall be considered in default. Any one or more of the following will be considered a default:

Failure to begin the work under this Agreement within the time specified.

Failure to perform the work with sufficient supervision, workmen, equipment and materials to insure prompt completion of said work within the time limits allowed.

Unsuitable performance of the work as determined by CITY ENGINEER or his or her representative.

Neglecting or refusing to remove defective materials or failure to perform anew such work as shall have been rejected.

Discontinuing the prosecution of the work or any part of it.

Inability to finance the work adequately.

If, for any other reason, CONTRACTOR breaches this Agreement or fails to carry on the work in an acceptable manner.

5.02.04 CITY shall send CONTRACTOR a written notice of default. If CONTRACTOR, or his or her Surety, within a period of ten (10) days after such notice, fails to remedy the default, then CITY shall have full power and authority, without violation of the Contract, to take the prosecution of the work out of the hands of said CONTRACTOR, to appropriate or use any or all materials and equipment on the ground as may be suitable and acceptable, and may, at its option, turn the work over to the Surety, or enter into an agreement with another Contractor for the completion of the Agreement according to the terms and provisions thereof, or CITY may use such other methods as, in its opinion, shall be required for the completion of said Contract in an acceptable manner.

5.02.05 All cost of completing the work under the Contract shall be deducted from the monies due or which may become due to said CONTRACTOR. In case the expenses so incurred by CITY shall be less than the sum which would have been payable under the Contract if it had been completed by said CONTRACTOR, CONTRACTOR shall be entitled to receive the difference. However, in case such expense shall exceed the sum which would have been payable under the Contract, CONTRACTOR and his or her Surety will be liable and shall pay to CITY the amount of said excess. By taking over the prosecution of the work, CITY does not forfeit the right to recover damages from CONTRACTOR or his or her Surety for his or her failure to complete the work in the time specified.

5.02.06 Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of the Agreement by CITY are at any time not forthcoming or are insufficient, through failure of any entity to appropriate the funds or otherwise, then CITY shall have the right to terminate this Agreement without penalty by giving prior written notice documenting the lack of funding in which instance, unless otherwise agreed to by the parties, this Agreement shall terminate and become null and void.

5.02.07 CITY agrees that it will make its best effort to obtain sufficient funds, including but not limited to, including in its budget for each fiscal period during the term hereof a request for sufficient funds to meet its obligations hereunder in full.

5.03 Successors and Assigns

5.03.01 Both parties agree that for the purpose of this Agreement, CONTRACTOR shall be an Independent Contractor and not an employee of CITY.

5.03.02 No portion of this Agreement shall be sublet, assigned, transferred or otherwise disposed of by CONTRACTOR except with the written consent of CITY being first obtained. Consent to sublet, assign, transfer, or otherwise dispose of any portion of this Agreement shall not be construed to relieve CONTRACTOR of any responsibility of the fulfillment of this Agreement.

5.04 Extent of Agreement: Integration

5.04.01 This Agreement consists of the following parts, each of which is as fully a part of this Agreement as if set out herein:

1. This Agreement and its Attachments.
2. All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto.
3. All Addenda to the Quote Documents.
4. The Invitation to Quoters.
5. The Instructions to Quoters.
6. The Special Conditions.
7. All plans as provided for the work that is to be completed.
8. The Supplementary Conditions.
9. The General Conditions.
10. The Specifications.
11. The current Indiana Department of Transportation Standard Specifications and the latest addenda.
12. CONTRACTOR'S submittals.
13. The Performance Bond and the Payment Bond.
14. The Escrow Agreement.
15. Request for Taxpayer Identification number and certification: Substitute W-9.

5.04.02 In resolving conflicts, errors, discrepancies and disputes concerning the Scope of Work to be performed by CONTRACTOR, and other rights and obligations of CITY and CONTRACTOR, the document expressing the greater quantity, quality or other scope of work in question, or imposing the greater obligation upon CONTRACTOR and affording the greater right or remedy to CITY shall govern; otherwise the documents shall be given precedence in the order as enumerated above.

5.05 Insurance

5.05.01

CONTRACTOR shall, as a prerequisite to this Agreement, purchase and thereafter maintain such insurance as will protect him or her from the claims set forth below which may arise out of or result from CONTRACTOR'S operations under this Agreement, whether such operations be by CONTRACTOR or by any SUBCONTRACTORS or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

<u>Coverage</u>	<u>Limits</u>
A. Worker's Compensation & Disability	Statutory Requirements
B. Employer's Liability Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$500,000 policy limit

Bodily Injury by Disease	\$100,000 each employee
C. Commercial General Liability (Occurrence Basis) Bodily Injury, personal injury, property damage, contractual liability, products-completed operations, General Aggregate Limit (other than Products/Completed Operations)	\$1,000,000 per occurrence and \$2,000,000 in the aggregate
Products/Completed Operation	\$1,000,000
Personal & Advertising Injury Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Fire Damage (any one fire)	\$50,000
D. Comprehensive Auto Liability (single limit, owned, hired and non-owned)	\$1,000,000 each accident
Bodily injury and property damage	
E. Umbrella Excess Liability	\$5,000,000 each occurrence and aggregate
The Deductible on the Umbrella Liability shall not be more than	\$10,000

5.05.02 CONTRACTOR’S comprehensive general liability insurance shall also provide coverage for the following:

Premises and operations;

Contractual liability insurance as applicable to any hold-harmless agreements;

Completed operations and products; which also must be maintained for a minimum period of two (2) years after final payment and CONTRACTOR shall continue to provide evidence of such coverage to CITY on an annual basis during the aforementioned period;

Broad form property damage - including completed operations;

Fellow employee claims under Personal Injury; and

Independent Contractors.

5.05.03 With the prior written approval of CITY, CONTRACTOR may substitute different types or amounts of coverage for those specified as long as the total amount of required protection is not reduced.

5.05.04 Certificates of Insurance showing such coverage then in force (but not less than the amount shown above) shall be on file with CITY prior to commencement of work. These Certificates shall contain a provision that coverage afforded under the policies will not be canceled or non-renewed until at least sixty (60) days’ prior written notice has been received by CITY. The CITY shall be named as an additional insured on the Commercial General Liability, Automobile Liability, and Umbrella Excess Liability policies. The CONTRACTOR shall agree to a waiver of subrogation on its Worker’s Compensation policy.

5.06 **Necessary Documentation** CONTRACTOR certifies that it will furnish CITY any and all documentation, certification, authorization, license, permit or registration required by the laws or rules and regulations of the City of Bloomington, the State of Indiana and the United States. CONTRACTOR further certifies that he or she is now and will maintain in good standing with such governmental agencies and that he or she will keep its license, permit registration, authorization or certification in force during the term of this Agreement.

5.07 Applicable Laws CONTRACTOR agrees to comply with all federal, state, and local laws, rules and regulations applicable to CONTRACTOR in performing work pursuant to this Agreement, including, but not limited to, discrimination in employment, prevailing wage laws, conflicts of interest, public notice, accounting records and requirements. CONTRACTOR shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination, including but not limited to employment. This Agreement shall be governed by the laws of the United States, and the State of Indiana, and by all Municipal Ordinances and Codes of the City of Bloomington. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

5.08 Non-Discrimination

5.08.01 CONTRACTOR and subcontractors shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to hire, tenure, terms, training, conditions or privileges of employment, because of race, sex, color, religion, national origin, ancestry, disability, sexual orientation, gender identity, veteran status, or housing status. Breach of this covenant may be regarded as a material breach of the Agreement.

5.08.02 CONTRACTOR certifies for himself and all his or her subcontractors compliance with existing laws of the City of Bloomington, the State of Indiana and the United States regarding:

Prohibition of discrimination in employment practices on the basis of race, sex, color, religion, national origin, ancestry, disability, sexual orientation, gender identity, veteran status, housing status, or any other legally protected classification;

The utilization of Minority and Women Business Enterprises. CONTRACTOR further certifies that he or she:

- a. Has formulated his or her own Affirmative Action plan for the recruitment, training and employment of minorities and women, including goals and timetable; which has been approved by the City's Contract Compliance Officer.
- b. Encourages the use of small business, minority-owned business and women-owned business in his or her operations.

CONTRACTOR 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 CONTRACTOR believes that a City employee engaged in such conduct towards CONTRACTOR and/or any of his or her employees, CONTRACTOR or his or her employees may file a complaint with the City department head in charge of the CONTRACTOR'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.

5.08.03 FURTHER, PURSUANT TO INDIANA CODE 5-16-6-1, CONTRACTOR AGREES:

A) That in the hiring of employees for the performance of work under this Agreement or any sub agreement hereunder, no contractor, or subcontractor, nor any person acting on behalf of such CONTRACTOR or subcontractor, shall by reason of race, sex, color, religion, national origin, ancestry, or any other legally protected classification, discriminate against any citizen of the State of Indiana who is qualified and available to perform the work to which the employment relates.

B) That no contractor, subcontractor, or any person on their behalf, shall, in any manner, discriminate against or intimidate any employee hired for performance of work under this Agreement on account of race, religion, color, sex, national origin, ancestry, or any other legally protected classification.

C) That there may be deducted from the amount payable to CONTRACTOR, by CITY, under this Agreement, penalty of Five Dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this Agreement. Any such person

discriminated against retains the right to file a discrimination complaint with the appropriate civil rights agency or court.

D) That this Agreement may be canceled or terminated by CITY and all money due or to become hereunder may be forfeited, for a second or any subsequent violations of the terms or conditions under this section of the Agreement.

5.09 Workmanship and Quality of Materials

5.09.01 CONTRACTOR shall guarantee the work for a period of one (1) year from the date of substantial completion. Failure of any portion of the work within one (1) year due to improper construction, materials of construction, or design may result in a refund to CITY of the purchase price of that portion which failed or may result in the forfeiture of CONTRACTOR's Performance Bond.

5.09.02 OR EQUAL: Wherever in any of the Agreement Documents an article, material or equipment is defined by describing a proprietary product, or by using the name of a manufacturer or vender, the term "Or Equal" or the term "The Equivalent" if not inserted, shall be implied, and it is done for the express purpose of establishing a basis of durability and efficiency and not for the purpose of limiting completion. Whenever material or equipment is submitted for approval as being equal to that specified, the submittal shall include sufficient information and data to demonstrate that the material or equipment conforms to the Contract requirements. The decision as to whether or not such material or equipment is equal to that specified shall be made by the ENGINEER. The approval by the ENGINEER of alternate material or equipment as being equivalent to that specified, shall not in any way relieve CONTRACTOR of responsibility for failure of the material or equipment due to faulty design, material, or workmanship, to perform the function required by the Contract Documents. Specifications as determined by other entities within the City of Bloomington such as City Utilities shall only be substituted or changed by their approval which shall be submitted in writing to the ENGINEER.

5.09.03 CITY shall be the sole judge of the sufficiency of workmanship and quality of materials. Disputes shall be resolved by the City Engineer and are not subject to arbitration.

5.10 Safety. CONTRACTOR shall be responsible for the safety of employees at all times and shall provide all equipment necessary to insure their safety. CONTRACTOR shall ensure the enforcement of all applicable safety rules, regulations, ordinances and laws, whether federal, state or local. Contractor's Superintendent of Safety shall make daily inspections upon the arrival and leaving of the site at the close of each workday.

5.10.01 CONTRACTOR is required to comply with IOSHA regulations 29 C.F.R 1926, Subpart P, Excavations for all trenches of at least five (5) feet in depth. All cost for trench safety systems shall be the responsibility of the CONTRACTOR and included in the cost of the principal work with which the safety systems are associated. CONTRACTOR shall sign an affidavit, attached as Attachment B, affirming that CONTRACTOR shall maintain compliance with IOSHA requirements for excavations of at least five (5) feet in depth.

5.11 Amendments/Changes

5.11.01 Except as provided in Paragraph 5.11.02, this Agreement may be amended only by written instrument signed by both CITY and CONTRACTOR.

5.11.02 Without invalidating the Agreement and without notice to any surety, CITY may, at any time or from time to time, order, in writing, additions, deletions, or revisions in the work. Upon receipt of any such document, CONTRACTOR shall promptly proceed with the work involved, which will be performed under the applicable conditions of the Agreement Documents.

5.11.03 If CONTRACTOR believes that any direction of CITY under paragraph 5.11.02, or any other event or condition, will result in an increase in the Contract time or price, he or she shall file written notice with CITY no later than twenty (20) calendar days after the occurrence of the event giving rise to the claim and stating the general nature of the claim with supporting data. No claim for any adjustment of the Contract time or price will be valid if not submitted in accordance with this Paragraph.

5.11.04 CONTRACTOR shall carry on the work and adhere to the progress schedule during all disputes or disagreements with CITY. No work shall be delayed or postponed pending resolution of any dispute or disagreement except as CONTRACTOR and CITY may otherwise agree in writing.

5.12 Performance Bond and Payment Bond

5.12.01 For contracts in excess of \$100,000, CONTRACTOR shall provide CITY with both a Performance Bond and a Payment Bond in the amount of one hundred percent (100%) of the contract amount.

5.12.02 Failure by CONTRACTOR to perform the work in a timely or satisfactory fashion may result in forfeiture of CONTRACTOR’S Performance Bond.

5.12.03 Failure by CONTRACTOR to pay for labor and services performed, material furnished or services rendered may result in forfeiture of CONTRACTOR’s Payment Bond.

5.12.04 If the surety on any bond furnished by CONTRACTOR becomes a party to supervision, liquidation, or rehabilitation action pursuant Indiana Code 27-9 et seq. or its right to do business in the State of Indiana is terminated, CONTRACTOR shall, within thirty (30) calendar days thereafter, substitute another bond and surety, both of which must be acceptable to CITY.

5.13 Payment of Subcontractors CONTRACTOR shall pay all subcontractors, laborers, material suppliers and those performing services to CONTRACTOR on the project under this Agreement. CITY may, as a condition precedent to any payment hereunder, require CONTRACTOR to submit satisfactory evidence of payments of any and all claims of subcontractors, laborers, material suppliers, and those furnishing services to CONTRACTOR. Upon receipt of a lawful claim, CITY shall withhold money due to CONTRACTOR in a sufficient amount to pay the subcontractors, laborers, material suppliers, and those furnishing services to CONTRACTOR.

5.13.01 The surety of the Payment Bond and Performance Bond may not be released until one (1) year after the Board’s final settlement with the CONTRACTOR.

5.14 Written Notice Written notice shall be considered as served when delivered in person or sent by mail to the individual, firm, or corporation, or to the last business address of such known to CONTRACTOR who serves the Notice. Notice shall be sent as follows:

TO CITY:

TO CONTRACTOR:

City of Bloomington	J.R. Ellington Tree Experts
Attn: Matt Smethurst	Attn: Jeff Ellington
401 N. Morton St., Suite 130	680 West That Road
Bloomington, Indiana 47404	Bloomington, Indiana 47403

5.15 Severability and Waiver In the event that any clause or provision of this Agreement is held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any other provision of this Agreement. Failure of either party to insist on strict compliance with any provision of this Agreement shall not constitute waiver of that party’s right to demand later compliance with the same or other provisions of this Agreement.

5.16 Notice to Proceed CONTRACTOR shall not begin the work pursuant to the “Scope of Work” of this Agreement until he or she receives an official written Notice to Proceed (NTP) from the City. Contractor shall start active and continuous work on the Agreement within fifteen (15) calendar days after the date of the Notice to Proceed. In no case shall work begin prior to the date of the Notice to Proceed. If a delayed starting date is indicated in the proposal, the fifteen (15) calendar day limitation will be waived. Work day charges will then begin on a date mutually agreed upon, but not later than the delayed starting date specified. In the event that any Agreement is

canceled after an award has been made but prior to the issuing of the Notice to Proceed, no reimbursement will be made for any expenses accrued relative to this contract during that period.

5.17 Steel or Foundry Products

5.17.01 To comply with Indiana Code 5-16-8, affecting all contracts for the construction, reconstruction, alteration, repair, improvement or maintenance of public works, the following provision shall be added: If steel or foundry products are to be utilized or supplied in the performance of any contract or subcontract, only domestic steel or foundry products shall be used. Should CITY feel that the cost of domestic steel or foundry products is unreasonable; CITY will notify CONTRACTOR in writing of this fact.

5.17.02 Domestic Steel products are defined as follows:

“Products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two (2) or more of such operations, from steel made in the United States by open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.”

5.17.03 Domestic Foundry products are defined as follows:

“Products cast from ferrous and nonferrous metals by foundries in the United States.”

5.17.04 The United States is defined to include all territory subject to the jurisdiction of the United States.

5.17.05 CITY may not authorize or make any payment to CONTRACTOR unless CITY is satisfied that CONTRACTOR has fully complied with this provision.

5.18 Verification of Employees' Immigration Status

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

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

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

IN WITNESS WHEREOF, the parties of this Agreement have hereunto set their hands.

DATE: _____

City of Bloomington
Bloomington Board of Public Works

BY:

BY:

Kyla Cox Deckard, President

Contractor Representative

Elizabeth Karon, Vice President

Printed Name

Jennifer Lloyd, Secretary

Title of Contractor Representative

John Hamilton, Mayor of Bloomington

ATTACHMENT 'A'

"SCOPE OF WORK"

WEST 1ST STREET TREE REMOVAL PROJECT

This project shall include, but is not limited to the clearing of trees from the right of way on West 1st Street from approximately Maple Street to College Avenue as depicted in the plans. All trees that are cut down or cleared shall be removed from the project site. Tree stumps under one (one) foot in height may remain in place.

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: 1st Street Reconstruction

Project Manager: Patrick Dierkes; Andrew Cibor

Project Description: This project will reconstruct W. 1st Street between Fairview Street and College Avenue. Work may extend west as far as Patterson Drive or as far east as Walnut Street depending on detailed design. The Project will include full roadway reconstruction, replacement of underground utilities, and replacement of the traffic signal at the S. College Avenue and 1st Street intersection.

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: October 2020

End Date: December 31, 2023

Financial Information:

Estimated full cost of project:	\$4,935,959.03
Sources of funds:	
Consolidated TIF	\$2,030,025.00
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.	1st Street Reconstruction	\$4,935,959.03	2020-2023
	1a. Design – VE Engineering	\$669,763.63	Oct. 2020 – Dec. 2023
	1b. Right of Way Acquisition – VE Engineering	Total: 67,980 \$31,380.00	2022
	Additional ROW Acquisition	\$36,600	
	1c. Construction Inspection	Estimated \$475,000	Apr. 2023 – Nov. 2023
	1d. Construction	Estimated \$3,650,000 (including \$2,905,934 federal funding)	Apr. 2023 – Nov. 2023
	1e. 1st Street Tree Removal – Ellington Tree Experts	\$10,800	Feb. 2023 – Mar. 2023

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

Resolution History: 20-79 Design Contract for 1st Street Reconstruction
 21- 85 Addendum to Design Contract
 22-50 Approval of ROW Services
 22-98 Payment of Invoice for ROW Acquisition
 23-15 Tree Removal Agreement and Funding

To Be Completed by Redevelopment Commission Staff:

Approved on _____

By Resolution _____ by a vote of _____



Board of Public Works Staff Report

Project/Event:	Award Construction Agreement for West 1 st Street Tree Removal Project
Petitioner/Representative:	Engineering Department
Staff Representative:	Matt Smethurst
Date:	February 14th, 2023

Report: This project shall include the clearing of trees from the right of way on West 1st Street from approximately Maple Street to College Avenue. Bids were opened at a public meeting on December 19th, 2022. The City received four bids:

- J.R. Ellington Tree Experts- \$10,800.00
- Groomer Construction Inc.- \$24,600.00
- Bluestone Tree- \$28,465.75
- Monroe LLC- \$42,700.00

J.R. Ellington Tree Experts were the lowest responsive and responsible bidder. Construction is anticipated to begin in February, 2023. Single lane restrictions will be in place during construction utilizing flaggers. This project is TIF funded and will require RDC approval.

**RESOLUTION 23-16
OF THE
REDEVELOPMENT COMMISSION
OF THE
CITY OF BLOOMINGTON, INDIANA**

ADDENDUM TO AGREEMENT WITH FC TUCKER

- 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”), the purpose of which is to facilitate economic development and revitalization in Bloomington; and
- WHEREAS, the Consolidated TIF is an allocation area for purposes of tax increment financing; and
- WHEREAS, in Resolution 18-73, the RDC approved a Project Review and Approval Form (“Form”) supporting the hiring of a commercial broker for the marketing, sale, and procurement of RDC-owned and funding property (“Project”); and
- WHEREAS, the RDC approved an agreement with FC Tucker in Resolution 18-77 and addenda in Resolutions 19-04, 21-20, and 22-28; and
- WHEREAS, the RDC approved a purchase agreement for 320 W. 8th Street, also formerly known as the CFC Showers Business Plaza, (“Property”) in Resolution 22-49; and
- WHEREAS, on January 25, 2023, the Bloomington Common Council approved the purchase agreement, and the RDC closed on the Property on January 31, 2023; and
- WHEREAS, as part of the purchase, the RDC assumed multiple leases and requires the assistance of a broker to manage the arrangements and terms of those leases; and
- WHEREAS, upon negotiation with FC Tucker, the proposed addendum will add services for Christopher Cockerham working for FC Tucker to assist with tenant engagement and management of the leases and extend the term of the Agreement until December 31, 2023 (“Addendum”); and
- WHEREAS, the Addendum 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 RDC reaffirms its support of the Project, finds that the related expenditures for the Project serve the public’s best interests, and are an appropriate use of the Consolidated TIF.
2. The RDC hereby approves the Addendum attached to this Resolution as Exhibit A.

3. The RDC authorizes Cindy Kinnarney to sign the Addendum on its behalf.

BLOOMINGTON REDEVELOPMENT COMMISSION

Cindy Kinnarney, President

ATTEST:

Deborah Myerson, Secretary

Date

**THIRD ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT between the
CITY OF BLOOMINGTON**

and

T.A. BLOOMINGTON, INC. d/b/a F.C. TUCKER/BLOOMINGTON, REALTORS

This Third Addendum ("Addendum") amends the Professional Services Agreement ("Agreement") between the City of Bloomington ("City") and T.A. Bloomington, Inc. d/b/a F.C. Tucker/Bloomington, Realtors ("F.C. Tucker") for brokerage services, entered into on December 21, 2018, as follows:

1. Changes to Term of Service: The parties believe it is in the best interest of the RDC and the public to extend the date for the completion of services until July 1, 2024, unless further extended in writing by the parties.

All deadlines reflected in the Agreement shall be extended to correspond with the extended Services completion date.

2. Sale or Lease of Property: Article 4b states that Contractor shall serve as the listing broker for any property that is "specified to Contractor in advance by the City and RDC." This serves as notice pursuant to Article 4b that the City desires to have Contractor serve as the agent to manage in accordance with Exhibit A to this Addendum the commercial leases located within the Showers Business Complex located 320 W. 8th Street, Bloomington, IN 47404 (Parcel No. 53-05-33-309-003.000-005; Legal Description: 013-69780-03 SHOWERS OFFICE & RESEARCH CENTER; LOT 3).

3. In all other respects, the Agreement shall remain in effect as originally written.

WHEREFORE, the parties execute this Addendum to the Agreement on the date last written below.

REDEVELOPMENT COMMISSION


By: _____
Cindy Kinnarney, President

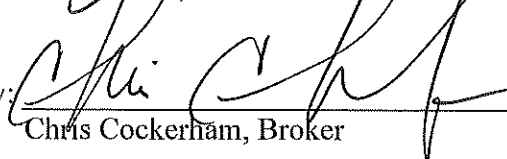
Date: _____

CITY OF BLOOMINGTON

By: _____
Beth Cate, Corporation Counsel

**T.A. BLOOMINGTON, INC dba F.C.
TUCKER/BLOOMINGTON, REALTORS**

By:  _____
John L. West, President

By:  _____
Chris Cockerham, Broker

Date: _____

Date: _____

EXHIBIT A
LEASE MANAGEMENT SCOPE OF WORK

- o Review existing leases
- o Meet with tenants to discuss facilities needs and options
- o Identify potential new locations for current tenants (prioritizing other City and CFC properties)
- o With tenant consent, negotiate lease transfers, terminations, potential short-term extensions
- o Coordinate parking permits; identify options for available spaces during transition and (as appropriate) design and construction of public safety facilities
- o Coordinate changes to leases and needs with City staff and be available for presentation at any necessary board or commission (such as the Redevelopment Commission) meetings for votes of approval

Redevelopment Commission
Resolution 23-16
Exhibit B

Professional Services Agreement

This Professional Services Agreement is by and between T.A. Bloomington, Inc. d/b/a F.C. Tucker/Bloomington, Realtors (referred to herein as "Contractor," "F.C. Tucker") and the City of Bloomington, Indiana, and its Redevelopment Commission (referred to herein collectively as the "City"), effective this 21st day of December, 2018. The City retains the Contractor on the terms and conditions set forth below:

RECITALS

WHEREAS, the City desires to retain Contractor and Contractor desires to be retained to provide professional property consulting services to the City.

WHEREAS, the Parties enter this Agreement to set forth the terms and conditions of Contractor's services to the City, to address certain, specific matters related to such services.

Now, therefore, in exchange for mutual and beneficial consideration, which the parties agree is sufficient, the parties agree to the following terms of this Agreement:

1. **Term of Service.** The term of this Agreement shall begin on the 21st day of December, 2018, and shall continue for successive one (1) year periods, automatically renewing for one (1) year periods, except as expressly provided by this Agreement.
2. **Duties and Position.** City retains the Contractor to perform consulting services relating to real estate and property matters. The specific duties of the position are described in Exhibit "A," attached hereto and by reference incorporated herein. It is agreed and understood by the parties that the scope of the Agreement shall be modified from time-to-time and over the course of this Agreement to reflect and include specific projects and properties on which the City consults with Contractor.
3. **Compensation.** Upon performance of its consulting duties, City will pay the Contractor a base rate of One Hundred and Twenty-Five Dollars (\$125.00) per hour for services of Contractor ("Compensation"). In addition, Contractor shall receive reimbursement for pre-approved actual out-of-pocket expenses incurred by Contractor not including routine, day-to-day office expenses incurred in the normal course. Contractor shall invoice for services on a monthly basis, detailing the services provided, including reference to specific properties where applicable, and such invoice shall be paid by the City within forty-five (45) days of the date of such invoice. Unpaid invoices shall accrue interest at the rate of 1.5% monthly until paid in full.
4. **Additional Commission.** Contractor shall be entitled to Additional Commission for the sale and/or purchase of property by the City as follows:

4a. Purchase or Lease of Property. During the term of this Agreement and for a period of one hundred and eighty days (180) after termination, for whatever reason, in the event the City or RDC (or its related parties or assignees) purchase or lease property and Contractor has advised

and consulted with the City regarding that property, Contractor shall represent the City as the City's broker and shall be entitled to receipt of a Commission on the purchase or lease of the property, if a commission is included as a condition of the transaction, unless otherwise agreed to in writing by the Parties. Such Commission, if paid to Contractor, may be subject to and reduced by the amount of Compensation paid to the Contractor for consultation services, but only with regard to consultation on that specific property subject to purchase or lease, as identified on an Addendum executed by and between the Parties.

4b. Sale or Lease of Property. In the event the City or RDC (or its related parties or assignees) elects to sell or Lease a property specified to Contractor in advance by the City and RDC, Contractor shall serve as the listing broker for the transaction and the City shall enter into a Listing Agreement in form and substance as provided in Exhibit "B," attached hereto with a broker commission of six percent (6%). Contractor shall be entitled to a Commission in the amount of four percent (4%) of the sale or lease price if no other broker or party representative is entitled to cooperative share or commission in the transaction, and Contractor shall be entitled to a commission of three percent (3%) as a cooperative share of the sale or lease price if there is another broker representing a buyer in the transaction, unless otherwise agreed to in writing by the Parties, payable in accordance with the Listing Agreement, less any consulting fees associated with the sale of such property.

4c. Leases. For the purposes of this Agreement, Consultant shall be paid only an hourly rate for services provided for leaseholds negotiated on behalf of the City that constitute bargain or charitable leases (e.g., significantly below market-value); or, capital-financed or public-private partnership leases (such as a capital improvement project) and Consultant shall not earn commissions for those type of transactions, which transactions shall be identified by the parties as such at inception of the work.

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

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

b. Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident (maintained by Chris Cockerham for purposes of this Agreement).

c. Professional Liability Insurance ("Errors and Omissions Insurance") with a minimum limit of \$2,000,000 annual aggregate.

All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the RDC, and the officers, employees and agents of each shall be named as insureds under the General Liability, Automobile policies, and such policies

shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City's will be called upon to contribute to a loss hereunder.

Contractor shall provide evidence of each insurance policy to the City prior to the commencement of work under this Agreement. Approval of the insurance by the City shall not relieve or decrease the extent to which Contractor may be held responsible for payment of damages resulting from Contractor's provision of the Services or its operations under this Agreement. If Contractor fails or refuses to procure or maintain the insurance required by these provisions, or fails or refuses to furnish the City's required proof that the insurance has been procured and is in force and paid for, the City shall have the right at its election to terminate the Agreement. In the event Contractor has employees or subcontractors working under this Professional Services Agreement, then in such event, Contractor shall ensure that each person working hereunder is included as insured under any policy held by Contractor.

6. **Liability and Indemnification.** City and Contractor acknowledge and agree that the services to be performed by Contractor under this Agreement are to be performed at Contractor's risk and Contractor assumes all responsibility for any damages or injuries that may result from the performance of services under this Agreement and for any worker retained by Contractor, whether as an employee or subcontractor. Contractor agrees to indemnify and hold harmless City from any and all liability for any injuries (including death), damages, loss or claims based upon, arising out of, or in any manner connected with Contractor's services provided under this Agreement, which includes but is not limited to claims for indemnification and attorney fees. Contractor shall bear any and all costs of obtaining and maintaining for the term of this Agreement expenses for work performed, required licensing, permits, liability insurance. Notwithstanding the above, in the event of City negligence, by act and/or omission Contractor shall not be liable for any damages arising therefrom and the City shall indemnify and hold Contractor Harmless, including all damages and reasonable attorney fees incurred by Contractor.
7. **Tax Liability.** Contractor shall exonerate, indemnify, and hold harmless City from and against, and shall assume full responsibility for, payment of taxes, all federal, state and local taxes, or contributions imposed or required under unemployment insurance, social security, and income tax laws or other assessment, liens or charges with respect to all of Contractor's services under this Agreement, which indemnification shall include damages, costs, and attorney fees.
8. **Termination of Services.** The parties agree and understand that the services are "at-will" and may be terminated by Contractor or the City, with or without cause, by providing a written notice of not less than thirty (30) days prior to the date of termination. At the time of termination, all sums due Contractor and executory contract obligations of the parties shall be enforceable according to its terms, which obligations shall survive termination of this Agreement.
9. **Breach.** In the event of a breach of this Agreement, the non-breaching party shall be entitled to exercise all rights and remedies available at law and/or equity and shall further be entitled to damages, reimbursement of expenses, including reasonable legal fees.

10. **Jurisdiction.** Any claim arising out of or relating to this Agreement shall be determined by a court sitting in Monroe County, Indiana.
11. **Effect of Prior Agreements.** This Agreement supersedes any prior agreement with City, except that this Agreement shall not affect or operate to reduce any benefit or compensation inuring to the Contractor of any kind elsewhere provided and not expressly provided in this Agreement.
12. **Limited Effect of Waiver by City.** A waiver of any breach of any provision of this Agreement shall not operate or be construed as a waiver of later breaches.
13. **Severability.** In the event any term, covenant, or condition hereof is declared, by a Court of competent jurisdiction, to be invalid or otherwise unenforceable, the validity and/or enforceability of the remaining terms, covenants, and conditions shall in no way be affected or impaired. In any such event, this Agreement shall be enforced as if such invalid or unenforceable term, covenant, or condition were not included.
14. **Modifications.** Upon execution, this instrument represents the entire Agreement of City and the Contractor. It may be altered only by a written agreement signed by the parties and the parties agree that each Addendum and/or Listing Agreement executed by and between the parties shall constitute and form a part of this Agreement and subject to the terms hereof.
15. **Choice of Law.** This Agreement is entered into in the State of Indiana and the laws of this state shall apply to any dispute concerning the Agreement.
16. **Non-discrimination.** Contractor shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in employment.
17. **E-Verify.** Contractor is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. Contractor shall sign an affidavit, attached as Exhibit C, affirming that Contractor does not knowingly employ an unauthorized alien. "Unauthorized alien" is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code chapter 12 or by the U.S. Attorney General. Contractor and any subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Contractor or subcontractor subsequently learns is an unauthorized alien. If the City obtains information that the Contractor or subcontractor employs or retains an employee who is an unauthorized alien, the City shall notify the Contractor or subcontractor of the contract violation and require that the violation be remedied within 30 days of the date of notice. If the Contractor or subcontractor verified the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that the Contractor or subcontractor did not knowingly employ an unauthorized alien. If the Contractor or subcontractor fails to remedy the violation within the 30 day period, the City shall terminate the contract, unless the City determines that terminating the contract would be detrimental to the public interest or public property, in which case the City may allow the contract to remain in effect until the City procures a new Contractor. If the City terminates

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

18. **Non-Collusion.** Service Provider is required to certify that it has not, nor has any other member, representative, or agent of Service Provider, entered into any collusion by agreement or otherwise 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. Service Provider shall swear under oath, via signed affidavit, attached as Exhibit "D" and by this reference incorporated herein, that Service Provider has not engaged in any collusive conduct.
19. **Notices.** Any notice to be given under this Agreement shall be deemed given in person or, in writing, if sent by certified mail to the address of the party below except if a party has provided an alternative address for notice purposes:

F.C. Tucker: John L. West, FC Tucker/Bloomington, Realtors
487 S. Clarizz Blvd.
Bloomington, Indiana 47401

City: City of Bloomington Legal Department
P.O. Box 100
401 N. Morton Street, Suite 220
Bloomington, IN 47404

Copy to: Redevelopment Commission
P.O. Box 130
401 N. Morton Street, Suite 220
Bloomington, IN 47404

20. **Intent to be Bound.** The City 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.
21. **Integration and Modification.** This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the City 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.

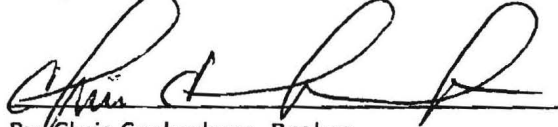
IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

CONTRACTOR

T.A. Bloomington, Inc. dba F.C. Tucker/
Bloomington, Realtors

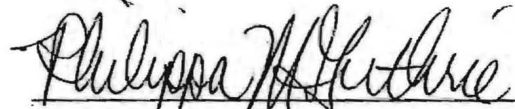


By: John L. West, President & Principal Owner



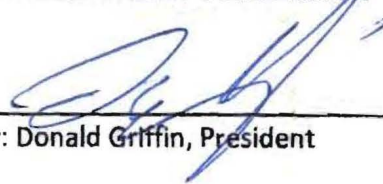
By: Chris Cockerham, Broker

CITY OF BLOOMINGTON, INDIANA



By: Philippa Guthrie, Corporation Counsel

REDEVELOPMENT COMMISSION



By: Donald Griffin, President

This Agreement Prepared by:
Angela F. Parker, Attorney at
Law CARMINPARKER, PC
PO Box 2639
Bloomington, IN 47402
angela@carminparker.com
Tele: 812.332.6556. Ext 2

412203/7088.32/12.20.2018

EXHIBIT C

STATE OF INDIANA)
)SS:
COUNTY OF Monroe)

E-VERIFY AFFIDAVIT

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

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

[Handwritten Signature]
 Signature
President
 Title

STATE OF INDIANA)
)SS:
COUNTY OF Monroe)

Before me, a Notary Public in and for said County and State, personally appeared John L Vest Jr and acknowledged the execution of the foregoing this 21st day of December, 2018.

Cheryl H Patton
Notary Public's Signature

Cheryl H Patton
Printed Name of Notary Public

My Commission Expires: April 5, 2023
County of Residence: Monroe
Commission Number: 664794



EXHIBIT D

STATE OF INDIANA)
) SS:
COUNTY OF Monroe)

NON-COLLUSION AFFIDAVIT

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

OATH AND AFFIRMATION

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

Dated this 21st day of December, 2018.

By: [Signature]

Title: President

STATE OF INDIANA)
) SS:
COUNTY OF Monroe)

Before me, a Notary Public in and for said County and State, personally appeared John L West Jr and acknowledged the execution of the foregoing this 21st day of December, 2018.

[Signature]
Notary Public's Signature

Cheryl H Patton
Printed Name of Notary Public

My Commission Expires: April 5, 2023
County of Residence: Monroe
Commission Number: 664794



**ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT between the
CITY OF BLOOMINGTON
and
T.A. BLOOMINGTON, INC. d/b/a F.C. TUCKER/BLOOMINGTON, REALTORS**

This Addendum (“Addendum”) amends the Professional Services Agreement (“Agreement”) between the City of Bloomington (“City”) and T.A. Bloomington, Inc. d/b/a F.C. Tucker/Bloomington, Realtors (“F.C. Tucker”) for brokerage services, entered into on December 21, 2018, as follows:

1. Changes to Term of Service:
 - a. The following shall be added to Article 1: “Agreement shall be renewed for an additional term from December 21, 2020, through December 31, 2021, and may continue for an additional term of one (1) year from January 1, 2022, through December 31, 2022, upon written notice from the City to the F.C. Tucker that is provided no earlier than 60 days from the end of the current term and no later than 30 days from the end of the current term.
2. Sale or Lease of Property:
 - a. Article 4b states that Contractor shall serve as the listing broker for any property that is “specified to Contractor in advance by the City and RDC.” This serves as notice pursuant to Article 4b that the City desires to have Contractor serve as the listing agent for the lease of commercially available space within the new 4th Street Parking Garage with a legal description of 013-10840-00 ORIG PLATS 36 & 35 & VAC ALLEY & 34 & VAC ALLEY & N1/2 33 (6,000 SF Retail).
3. Listing Agreement:
 - a. Pursuant to Article 4b, Exhibit B to the Agreement included sample listing agreements, which the City was to enter into with Contractor for the sale or lease of any property. The City shall enter into a Listing Agreement to lease the property mentioned above provided that the Listing Agreement does not contradict or violate the terms of the Agreement or this Addendum.
4. In all other respects, the Agreement, shall remain in effect as originally written.

[Signature Page Follows]

WHEREFORE, the parties execute this Addendum to the Agreement on the date last written below.

REDEVELOPMENT COMMISSION

By: David P. Walter
David P. Walter, Vice President
Date: April 22, 2021

**T.A. BLOOMINGTON, INC dba F.C.
TUCKER/BLOOMINGTON, REALTORS**

By: John L. West 05/14/2021
John L. West, President
By: _____
Chris Cockerham, Broker

CITY OF BLOOMINGTON

By: Philippa M. Guthrie
Philippa M. Guthrie, Corporation Counsel
Date: 4/30/21

Date: _____



General Office Policies Regarding Agency of FC Tucker/Bloomington, REALTORS®

In compliance with Indiana Code §25-34.1-10-13 and Standards of Practice 1-2 and 1-13 of the National Association of Realtors, F.C. Tucker/Bloomington, REALTORS® ("Tucker") states its general office policies regarding agency as follows:

General Office Policies

Tucker will represent sellers or landlords in the sale or lease of their real estate, and buyers or tenants in the purchase or lease of real estate. Tucker's licensees will practice disclosed **LIMITED AGENCY** in transactions where the licensee represents both sides in a single transaction, or where the Principal/Managing Broker is personally representing a party in the transaction. Tucker's licensee will make full disclosure to and obtain the informed consent of both parties to limited agency either at the time of entering into a brokerage relationship or when the limited agency situation becomes known to the licensee. Tucker and its licensees will cooperate with all licensees operating as buyer/tenant agent, and will offer compensation through the Multiple Listing Service to licensees acting in that agency capacity. Neither Tucker nor its licensees will practice or cooperate with subagents.

Implementation of Policies

To implement the above-stated general office policies, Tucker will take the following steps:

1. When listing real estate, the Tucker licensee will (a) provide the seller/landlord with a copy of Tucker's general office policies regarding agency; (b) describe the different agency relationships and the corresponding duties; (c) disclose the potential for limited agency where the licensee representing the seller/landlord also represents the buyer/tenant in the same transaction; and, (d) obtain the seller or landlord's informed written consent to the licensee acting as a limited agent as set forth in Indiana Code §25-34.1-10-12(a).
2. When entering into an agency relationship with the buyer/tenant, the Tucker licensee will (a) provide a copy of Tucker's general office policies regarding agency; and (b) describe the duties of the licensee as a buyer or tenant's agent.
3. If Tucker's licensee represents a buyer/tenant interested in real estate for which that licensee also represents the seller/landlord, the licensee will (a) disclose to both parties the potential of limited agency; and (b) obtain the buyer or tenant's informed written consent to the licensee acting as a limited agent as set forth in Indiana Code §25-34.1-10-12(a).
4. Tucker will offer compensation to non-Tucker buyer/tenant agents through the Multiple Listing Service, however, Tucker will not make offers of subagency or cooperate with, compensate or otherwise associate with subagents on any real estate transaction.

Agency Duties

The agency relationship is based on one person representing the interests of another person. Real estate agents (licensees) are licensed by the state to represent a person for the sale or leasing of a property. The responsibility of the real estate agent is defined by the state law relating to agents, the REALTORS® Code of Ethics, and general principles of agency law.

The type of relationship formed between the agent and the client is called a fiduciary relationship. A fiduciary relationship is one based on trust because the agent owes the following duties to the client:

- Loyalty
- Diligence
- Confidentiality
- Obedience
- Disclosure
- Accounting
- Reasonable Care

The courts strictly enforce the agency duties so that the client can rely on the agent putting the client's interests before those of anyone else. The courts also require that the real estate agent be fair and honest to all parties in all respects of the transaction.

The source of compensation does not, in and of itself, determine agency. It can be paid by the buyer, seller, both or neither (subject to restrictions under applicable state law). However, there must be informed consent, written in advance as to who is paying.

Recordings at the Property

Buyer should be aware that an owner may utilize audio and/or video devices to monitor their property. Buyer should not discuss negotiation strategies or other confidential information within a property. Buyer hereby releases Broker, Broker Company and its agents from any liability which may result from any recordings occurring within a property.

Acknowledgment of Receipt

David P. Walter

April 22, 2021

Signature

Date

Signature

Date

David Walter, RDC Vice-President

Printed Name

Printed Name



**RESOLUTION 23-17
OF THE
REDEVELOPMENT COMMISSION
OF THE
CITY OF BLOOMINGTON, INDIANA**

ADDENDUM TO AGREEMENT WITH SARGE PROPERTY MANAGEMENT, INC.

- 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”), the purpose of which is to facilitate economic development and revitalization in Bloomington; and
- WHEREAS, the Consolidated TIF is an allocation area for purposes of tax increment financing; and
- WHEREAS, the RDC approved a purchase agreement for 320 W. 8th Street, also formerly known as the CFC Showers Business Plaza, (“Property”) in Resolution 22-49; and
- WHEREAS, on January 25, 2023, the Bloomington Common Council approved the purchase agreement, and the RDC closed on the Property on January 31, 2023 (“Project”); and
- WHEREAS, as part of the purchase, the RDC requires the assistance of a professional property manager to coordinate payment of rent, maintenance, emergency requests, and cleaning of the Property (“Services”); and
- WHEREAS, upon negotiation with Sarge Property Management, Inc., the proposed addendum will add the Services and extend the term of the Agreement until December 31, 2023 (“Addendum”); and
- WHEREAS, the Addendum 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 RDC finds that the related expenditures for the Project serve the public’s best interests and are an appropriate use of the Consolidated TIF.
2. The RDC hereby approves the Addendum attached to this Resolution as Exhibit A.
3. The RDC authorizes Cindy Kinnarney to sign the Addendum on its behalf.

BLOOMINGTON REDEVELOPMENT COMMISSION

Cindy Kinnarney, President

ATTEST:

Deborah Myerson, Secretary

Date

**ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT between the
CITY OF BLOOMINGTON REDEVELOPMENT COMMISSION
and
SARGE PROPERTY MANAGEMENT, INC.**

This Addendum ("Addendum") amends the Agreement between the City of Bloomington Redevelopment Commission ("RDC") and Sarge Property Management, Inc. ("Sarge"), for property management services, entered into in March of 2022, ("Agreement") as follows:

1. Changes to Term of Service: The parties believe it is in the best interest of the RDC and the public to extend the date for the completion of services until December 31, 2023, unless further extended in writing by the parties.

All deadlines reflected in the Agreement shall be extended to correspond with the extended Services completion date.

2. Property to be managed: In addition to the property listed in the Agreement known as College Square located at 200 S College Avenue, the RDC desires to have Sarge manage, in accordance with Exhibit A to this Addendum, the commercial property located within the Showers Business Complex located 320 W. 8th Street, Bloomington, IN 47404 (Parcel No. 53-05-33-309-003.000-005; Legal Description: 013-69780-03 SHOWERS OFFICE & RESEARCH CENTER; LOT 3).
3. In all other respects, the Agreement, shall remain in effect as originally written.

WHEREFORE, the parties execute this Addendum to the Agreement on the date last written below.

REDEVELOPMENT COMMISSION

By: _____
Cindy Kinnarney, President

Date: _____

SARGE RENTALS

By:  _____
Paul Prather, President

Date: 2/9/23

CITY OF BLOOMINGTON

By: _____
Beth Cate, Corporation Counsel

Date: _____

EXHIBIT A
Scope of Work – 320 W. 8th Street (Showers Business Complex)

The Services shall include the following:

1. Invoice rent to tenants, and collect all rents as they become due, giving receipts therefore, and to render to the Bloomington Redevelopment Commission a monthly accounting of rents received and expenses paid out. To remit to Commission all income, less any sums paid out. Rents will be deposited/mailed to Commission by the 5th of each following month.

2. To make or cause to be made all decorating, maintenance, alterations and repairs to the property and to hire and supervise all employees and other labor and service providers for the accomplishment of same. Repairs and Maintenance shall be billed to the Commission. Such services shall include but not be limited to:
 - a) Professional management of buildings and grounds,
 - b) Coordinate access and securing/opening the building for operating hours
 - c) Management, supervision, and coordination of all third-party contracts
 - d) Prompt general maintenance services for repair and minor construction as necessary
 - e) Primary point-of-contact for Tenant inquiries/issues. Availability 24 hours per day, seven days per week. Tenants and City/Commission representatives will be provided with requisite phone/email contact information to easily contact Sarge
 - f) Perform any necessary move out coordination and inspections as directed under the lease agreements
 - g) Comply with Commission's/City's procurements and purchasing procedures
 - h) Coordination of necessary Property inspections with City's Facilities Director
 - i) Coordinate Tenant lease alterations, modifications, and management with F.C. Tucker's Chris Cockerham and City staff as needed
 - j) Coordinate parking permits and/or access on Property's surface lot in accordance with the lease agreements

**AGREEMENT
BETWEEN
CITY OF BLOOMINGTON
REDEVELOPMENT COMMISSION
AND
SARGE PROPERTY MANAGEMENT, INC.,
FOR
PROPERTY MANAGEMENT SERVICES**

This Agreement, entered into on this 30 day of March, 2022, by and between the City of Bloomington and its Redevelopment Commission (the "Commission"), and Sarge Property Management, Inc., dba Sarge Rentals, ("Sarge"),

WITNESSETH:

WHEREAS, the Commission purchased properties located at 200 S College Avenue, Bloomington, Indiana, also known as the College Square Building and 627 N. Morton Street ("Property"); and

WHEREAS, the Property contains commercial spaces and a parking lot; and

WHEREAS, the Commission requires the services of a professional in order to manage the property, its maintenance, and repair (the "Services" as further defined below); and

WHEREAS, Sarge is willing and able to provide such Services to the Commission;

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

Article 1. Scope of Services

Sarge shall provide the Services as specified in Exhibit A, "Scope of Work", attached hereto and incorporated into this Agreement. Sarge shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Sarge shall perform the Services required under this Agreement until no later than December 31, 2022, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

In the performance of Sarge's work, Sarge agrees to maintain such coordination with the Commission as may be requested and desirable, including primary coordination J.D. Boruff, Facilities Director for the City of Bloomington, and secondary coordination with Alex Crowley, Director of Economic and Sustainable Development, as the Commission's Project Manager.

Article 2. Standard of Care

Sarge shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances ("Standard of Care"). The Commission shall be the sole judge of the adequacy of Sarge's work in meeting the Standard of Care; however, the Commission shall not unreasonably withhold its approval as to the adequacy of Sarge's performance. Upon notice to

Sarge and by mutual agreement between the parties, Sarge will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

Article 3. Responsibilities of the Commission

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

Article 4. Compensation

The Commission shall pay Sarge for all fees and expenses in an amount as follows:

1. Commission shall pay Sarge a monthly management fee equal to ten percent (10%) times the gross monthly rental income, including pass through income, collected each month from tenants occupying the Property.
2. Sarge's response to maintenance/repair requests shall be billed to Commission at a reasonable fair market cost per hour, not to exceed forty-five dollars (\$45) per hour.
3. Maintenance/repair requests responded to by their party providers shall be billed directly to Commission at cost.
4. Service contracts shall be billed directly to Commission at cost.
5. Sarge shall provide project management services, as appropriate, to Commission at a cost reasonably agreed to between Commission and Sarge at the commencement of each project.

Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Sarge within forty-five (45) days of receipt of invoice. Sarge shall submit an invoice to the Commission upon the completion of the Services described in Article 1. The invoice shall be sent to:

Director, Economic & Sustainable Development
c/o Alex Crowley
City of Bloomington
401 N. Morton, Suite 150
Bloomington, Indiana 47404
crowleya@bloomington.in.gov

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

Article 5. Appropriation of Funds

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

Article 6. 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 Commission may terminate or suspend performance of this Agreement at the Commission's prerogative at any time upon written notice to Sarge. Sarge shall terminate or suspend performance of the Services on a schedule acceptable to the Commission and the Commission shall pay Sarge for all the Services performed up to the date that written notice is received. In the event of restart, an equitable adjustment shall be made to Sarge'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 Sarge in connection with this Agreement shall become the property of the Commission, as set forth in Article 10 herein.

Article 7. Identity

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

Article 8. Independent Contractor Status

During the entire term of this Agreement, Sarge 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 Commission. Sarge shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of employees.

Article 9. Indemnification

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

Article 10. Insurance

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

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

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

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

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

Article 11. Conflict of Interest

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

Article 12. 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 13. 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 14. Assignment

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

Article 15. Third Party Rights

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

Article 16. Governing Law and Venue

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

Article 17. Non-Discrimination

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

Sarge 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 Sarge believes that a City employee engaged in such conduct towards Sarge and/or any of its employees, Sarge or its employees may file a complaint with the City department head in charge of the Sarge'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 18. Compliance with Laws

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

Article 19. E-Verify

Sarge 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). Sarge shall sign an affidavit, attached as Exhibit B, affirming that Sarge 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.

Sarge and any subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that Sarge or subcontractor subsequently learns is an unauthorized alien. If the Commission obtains information that Sarge or subcontractor employs

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

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

Article 20. Notices

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

Commission:

Sarge:

City of Bloomington	Sarge Rental
Alex Crowley	Heather Anderson
401 N. Morton, Suite 150	2623 N Walnut Street
Bloomington, Indiana 47402	Bloomington IN 47404

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

Article 21. Intent to be Bound

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

Article 22. Integration and Modification

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

Article 23. Non-Collusion

Sarge is required to certify that it has not, nor has any other member, representative, or agent of Sarge, 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. Sarge shall sign an affidavit, attached hereto as Exhibit C, affirming that Sarge has not engaged in any collusive conduct. Exhibit C is attached hereto and incorporated by reference as though fully set forth.

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

SARGE RENTALS

DocuSigned by:
By: Paul Prather
Paul Prather, President

CITY OF BLOOMINGTON

By: Beth Cate
Beth Cate, Corporation Counsel

EXHIBIT A**Scope of Work**

The Services shall include the following:

1. To collect all rents as they become due, giving receipts therefore, and to render to Commission a monthly accounting of rents received and expenses paid out. To remit to Commission all income, less any sums paid out. Rents will be deposited/mailed to Commission by the 5th of each following month.
2. To make or cause to be made all decorating, maintenance, alterations and repairs to the property and to hire and supervise all employees and other labor and service providers for the accomplishment of same. Repairs and Maintenance shall be billed to the Commission. Such services shall include but not be limited to:
 - a) Professional management of buildings and grounds
 - b) Management, supervision, and coordination of all third-party contracts
 - c) Prompt general maintenance services for repair and minor construction as necessary
 - d) Primary point-of-contact for Tenant inquiries/issues. Availability 24 hours per day, seven days per week. Tenants and City/Commission representatives will be provided with requisite phone/email contact information to easily contact Sarge
 - e) Project management expertise
 - f) Understanding of Commission's/City's procurements and purchasing procedures
 - g) Coordination of Property inspections with City's Facilities Director:
 - a. General inspection (bi-monthly)
 - b. HVAC inspection (annual, or as needed)
 - c. Roof inspection (annual, or as needed)
 - h) Tenant attraction (Commission and Sarge recognize that short-term leases are to be prioritized pending evaluation of long term plans for Property)
 - i) Coordinate parking permits and/or access on Property's surface lot

EXHIBIT B

E-VERIFY AFFIDAVIT

STATE OF INDIANA)
)SS:
COUNTY OF _____)

AFFIDAVIT

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

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

Paul Prather
204EAC8B51904AF...
Signature
Paul Prather
Printed Name

STATE OF INDIANA)
)SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____ and acknowledged the execution of the foregoing this _____ day of _____, 2022.

Notary Public's Signature

Printed Name of Notary Public

County of Residence: _____

My Commission Expires: _____

EXHIBIT C

STATE OF INDIANA)
) SS:
COUNTY OF _____)

NON-COLLUSION AFFIDAVIT

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

OATH AND AFFIRMATION

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

Dated this 30 day of March, 2022.

SARGE RENTAL

By: Paul Prather

DocuSigned by:
Paul Prather
2C4EAC8D519C4AF...

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____ and acknowledged the execution of the foregoing this _____ day of _____, 2022.

Notary Public's Signature

Printed Name of Notary Public

County of Residence: _____

My Commission Expires: _____

**23-18
RESOLUTION
OF THE
REDEVELOPMENT COMMISSION
OF THE
CITY OF BLOOMINGTON INDIANA**

ADDENDUM TO CONTRACT FOR LANDSCAPE MAINTENANCE WITH NATURE’S WAY

- WHEREAS, the Redevelopment Commission of the City of Bloomington (“RDC”) approved the acquisition and redevelopment of 12 acres of land included within the City’s Certified Technology Park (“CTP”) to create a geographical center of innovation called the Trades District; and
- WHEREAS, as part of the upkeep of the newly renovated infrastructure in the Trades District and the Trades District Garage, the RDC approved an agreement with Nature’s Way in Resolution 23-08 to perform landscaping and maintenance in the Trades District; and
- WHEREAS, Nature’s Way and City staff believe it is in the best interest of the Trades District to add tree trimming services to the agreement for a price not to exceed \$625.00; and
- WHEREAS, additionally, the RDC acquired 320 W. 8th Street, formerly known as the CFC Showers Business Plaza, (“Property”), on January 31, 2023; and
- WHEREAS, part of the management of the Property includes maintenance of interior plants, which costs approximately \$264.00 per month; and
- WHEREAS, City Staff have brought an Addendum to the Agreement with Nature’s Way, which is attached to this Resolution as Exhibit A, to provide the additional services of tree trimming in the Trades District and maintenance of interior plants within the Property for an amount not to exceed Four Thousand Dollars (\$4,000.00); and
- WHEREAS, this would bring the amount under the Agreement with the Addendum to a total not to exceed \$44,000.00 for 2023; and
- WHEREAS, the RDC has available funds from its maintenance and services account to pay for the Services;

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

1. The RDC finds the above described expenditures to be an appropriate use of the available funds, and finds that the Services serve the public’s best interest.
2. The RDC hereby approves the Addendum to the Agreement attached to this Resolution as Exhibit A, and authorizes funding for the agreement from Account Number 444-15-150000-

53990 in amount not to exceed an additional Four Thousand Dollars (\$4,000.00) and a grand total not to exceed Forty-Four Thousand Dollars (\$44,000.00).

3. The funding authorization contained in this Resolution shall terminate on December 31, 2023, unless extended by the RDC in advance.

BLOOMINGTON REDEVELOPMENT COMMISSION

Cindy Kinnarney, President

ATTEST:

Deborah Myerson, Secretary

Date

ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT
between the
CITY OF BLOOMINGTON
and
NATURE’S WAY, INC.

This Addendum (“Addendum”) amends the Agreement (“Agreement”) between the City of Bloomington Redevelopment Commission (“RDC”) and Nature’s Way, Inc. (“Nature’s Way”) for landscaping maintenance services, entered into on January 30, 2023, as follows:

1. Article 24 of the Agreement provided that the parties could modify the agreement by a signed, written agreement.
2. Changes to Scope of Service: The parties believe it is in the best interest of the RDC and the public to add services to the agreement to include tree pruning as proposed in Exhibit A to this addendum, and interior plant maintenance at 320 W. 8th Street, also known as the Showers Business Plaza (“Additional Services”).
3. Compensation: The RDC shall pay an amount not to exceed four thousand dollars (\$4,000.00) to pay for the additional services, and the total compensation under the Agreement with the Addendum shall not exceed Forty-Four Thousand Dollars (\$44,000.00).
4. In all other respects, the Agreement, shall remain in effect as originally written.

WHEREFORE, the parties execute this Addendum to the Agreement on the date last written below.

**BLOOMINGTON
REDEVELOPMENT COMMISSION**

NATURE’S WAY, INC.

By: _____
Cindy Kinnarney, President

By: _____
Zachary R. Young

Date: _____

Date: _____

CITY OF BLOOMINGTON

By: _____
Beth Cate, Corporation Counsel

Date: _____

Nature's Way, inc.

P.O. Box 6896
7330 N. Wayport Rd.
Bloomington, IN 47407
Phone: (812) 876-7888

EXHIBIT A

QUOTE

Date:	02/16/2023
Quote #:	233006

Submitted To:
BLOOMING REDEVELOPMENT
401 N. MORTON SUITE 150
ATTN: ALEX CROWLEY
BLOOMINGTON, IN 47404

Location:
THE TRADES DISTRICT

BLOOMINGTON, IN 47404

2023 EXTERIOR MAINTENANCE FOR SERVICES AS PROPOSED

NOTE: TREES TO BE PRUNED ACCORDING TO ANSI A300 STANDARDS

Item	Quantity	U/M	Materials	Unit Price	Ext. Price
	1.000	EA	PRUNE APPROXIMATELY (28) STREET TREES TO CREATE A 7' FOOT CLEARANCE FOR PEDESTRIAN RIGHT OF WAY	625.000	\$625.00

Monthly itemized invoice for services performed. Payment is due within 30 days from receipt of invoice. A monthly finance charge of 2% may be applied after 30 days. Sign and return 1 copy of this contract.

Non Taxable: \$625.00
Taxable:
Tax:
Total Due: \$625.00

Customer

Date

Zachary R. Young

Nature's Way, inc.

Nature's Way, inc.

P.O. Box 6896
7330 N. Wayport Rd.
Bloomington, IN 47407
Phone: (812) 876-7888

QUOTE

Date:	02/16/2023
Quote #:	233006

Submitted To:
BLOOMING REDEVELOPMENT
401 N. MORTON SUITE 150
ATTN: ALEX CROWLEY
BLOOMINGTON, IN 47404

Location:
THE TRADES DISTRICT

BLOOMINGTON, IN 47404

2023 EXTERIOR MAINTENANCE FOR SERVICES AS PROPOSED

NOTE: TREES TO BE PRUNED ACCORDING TO ANSI A300 STANDARDS

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Monthly itemized invoice for services performed. Payment is due within 30 days from receipt of invoice. A monthly finance charge of 2% may be applied after 30 days. Sign and return 1 copy of this contract.

Non Taxable: \$625.00
Taxable:
Tax:
Total Due: \$625.00

Customer

Date

Zachary R. Young
Nature's Way, inc.



Nature's Way, inc.

An investment that keeps on growing

812-876-7888 • NaturesWay.net

P.O. Box 6896
7330 N. Wayport Rd.
Bloomington, IN 47408

Invoice

Date	Invoice #
2/1/2023	59276

Bill To
CITY OF BLOOMINGTON REDEVELOPMENT COMMISSION ATTN: CONTROLLER'S OFFICE P.O. BOX 100 BLOOMINGTON, IN 47402

Location
SHOWERS PLAZA EMAIL PREFERENCE

P.O. No.	Terms
	Net 30

Quantity	Description	Rate	Amount
	Monthly Interior Maintenance Billing - Labor	263.67	263.67
		Total	\$263.67

PLEASE DETACH AND RETURN BOTTOM PORTION WITH PAYMENT

Invoice #	Total	\$263.67
59276		
Bill To		
CITY OF BLOOMINGTON REDEVELOPMENT COMMISSION ATTN: CONTROLLER'S OFFICE P.O. BOX 100 BLOOMINGTON, IN 47402		

Please remit payment to:
Nature's Way, Inc.
P.O. Box 6896
Bloomington, IN 47407

**AGREEMENT
BETWEEN
CITY OF BLOOMINGTON
REDEVELOPMENT COMMISSION
AND
NATURE'S WAY, INC.
FOR
LANDSCAPING IN THE TRADES DISTRICT**

This Agreement, entered into on this 20th day of January, 2023, by and between the City of Bloomington Redevelopment Commission (the "RDC"), and Nature's Way, Inc. ("Contractor"),

WITNESSETH:

WHEREAS, the RDC wishes to have landscape maintenance within the Trades District and at its properties within the Consolidated TIF area; and

WHEREAS, the RDC requires the services of a professional Contractor in order to perform the desired maintenance (the "Services" as further defined below); and

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

WHEREAS, Contractor is willing and able to provide such Services to the RDC.

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

Article 1. Scope of Services

Contractor shall provide the Services as specified in Exhibit A, "Scope of Work", attached hereto and incorporated into this Agreement. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before December 31, 2023, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

In the performance of Contractor's work, Contractor agrees to maintain such coordination with the RDC as may be requested and desirable, including primary coordination with Alex Crowley, or his designee, as the RDC's Project Manager.

Article 2. Standard of Care

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

Article 3. Responsibilities of the RDC

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

Article 4. Compensation

The RDC shall pay Contractor for all fees and expenses in an amount not to exceed Forty Thousand Dollars (\$40,000.00). Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor within forty-five (45) days of receipt of invoice. Contractor shall submit an invoice to the RDC upon the completion of the Services described in Article 1. The invoice shall be sent to:

Bloomington Redevelopment Commission
ATTN: Alex Crowley
401 N. Morton, Suite 150
Bloomington, Indiana 47404

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

Article 5. Appropriation of Funds

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

Article 6. Schedule

Contractor shall perform the Services as detailed in Exhibit A through December 31, 2023, and in coordination with the RDC's Project Manager. The time limits established by this Agreement 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 RDC may terminate or suspend performance of this Agreement at the RDC's prerogative at any time upon written notice to Contractor. Contractor shall terminate or suspend performance of the Services on a schedule acceptable to the RDC, and the RDC shall pay the Contractor for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Contractor's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Contractor in connection with this Agreement shall become the property of the RDC, as set forth in Article 10 herein.

Article 8. Identity of the Contractor

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

Article 9. Ownership of Documents and Intellectual Property

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

Article 10. Independent Contractor Status

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

Article 11. Indemnification

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

Article 12. Insurance

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

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

All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the RDC, and the officers, employees and agents of

program. Contractor shall maintain on file all subcontractors' certifications throughout the term of the contract with the City.

Article 22. Notices

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

RDC:

City of Bloomington
ATTN: Alex Crowley
401 N. Morton, Suite 150
Bloomington, Indiana 47404

Contractor:

Nature's Way, Inc.
ATTN: Zachary R. Young
7330 N. Wayport Road
Bloomington, Indiana 47408

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

Article 23. Intent to be Bound

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

Article 24. Integration and Modification

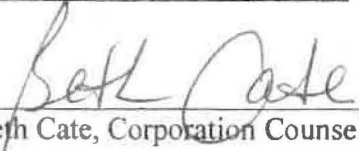
This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the RDC and the Contractor. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this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

Article 25. Non-Collusion

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


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

CITY OF BLOOMINGTON



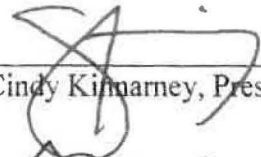
Beth Cate, Corporation Counsel

NATURE'S WAY, INC.




Zachary R. Young

CITY OF BLOOMINGTON
REDEVELOPMENT COMMISSION



Cindy Kimmarney, President



Deborah Myerson, Secretary

EXHIBIT A - "Scope of Work"

1. Site Locations

- a. The areas requiring landscape maintenance services are shown in Attachment A and Attachment B. The areas include, irrigated and non-irrigated landscape beds, tree grates, paver grates, paver brick sidewalks and plazas, planter pots, mulched rings at bases of trees, and an irrigation system with backflow preventer.
- b. Contractors are encouraged to conduct a site visit of the service locations prior to submitting a quote. The Contractor is responsible for becoming familiar with the existing site conditions.

2. Manual Weed Control

- a. Remove weeds by hand from the following areas twice per month:
 - i. Landscape Beds
 - ii. Tree Grates and Paver Grates
 - iii. Mulched rings at bases of trees
 - iv. Paver Brick Areas

3. Chemical Weed Control

- a. Herbicides may not be used to control weeds without prior approval of the City of Bloomington. To request approval to use herbicides, the Contractor must submit a plan in writing to the City that includes the exact areas to be treated, the reason for treatment, the name of the herbicide(s) that will be used, the proposed dates and times of chemical application, proof of required pesticide applicator licenses, and the signage or access restrictions the contractor will implement to prevent exposure to the public.
- b. Any use of herbicides must be consistent with the City of Bloomington Parks and Recreation Integrated Pest Management Plan. A copy can be downloaded.

4. Mulching

- a. Annually in the spring (March-April), inspect condition of mulch and re-mulch as needed to maintain a 3"-4" thickness of mulch in the landscape beds. Ensure filter fabric and drip irrigation lines are not exposed in the beds.
- b. Annually in the spring (March-April), remove and replace at 3"-4" thickness the mulched rings at bases of trees. Mulch must not be piled against bases of trees.
- c. Annual quantity of mulch required: Assume 100 cy of mulch.
- d. Mulch type: Hardwood bark mulch (non-colored)

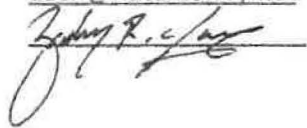
5. Edging

- a. Annually in the spring (March-April), re-cut/edge the borders of the spade-edge landscape beds and mulched rings at bases of trees to maintain a clean edge between the grass and mulch.

Quote and Bid Documents

CITY OF BLOOMINGTON
Landscape Maintenance Services – Trades District

Item	Description	Unit Price		Quantity	Total
1	Manual Weed Control	\$924.00	/visit	16	\$14,784.00
2	Chemical Weed Control	\$798.60	/visit	ITEMIZED SERVICE	
3	Mulching	\$6,600.00	/visit	1	\$6,600.00
4	Edging	\$352.00	/visit	1	\$352.00
5	Fall Pruning	\$330.00	/visit	1	\$330.00
6	Spring Pruning Grasses	\$554.40	/visit	1	\$554.40
7	Watering	\$42.00	/hour	ITEMIZED SERVICE	
8	Fall Clean-Up	\$1,108.80	/visit	1	\$1,108.80
10	Seasonal Plantings	\$2,062.50	/season	3	\$6,187.50
11	Irrigation System O&M	\$55.00	/hour	ITEMIZED SERVICE	
12	Backflow Testing	\$95.00	/visit	1	\$95.00

Company: Nature's Way, inc.
 Name: Zachary R. Young
 Address: 7330 N. Wayport Rd.
 Phone: (812)-876-7888
 Email: Zach@naturesway.net
 Signature: 

6. Pruning

- a. Annually in the fall, prune perennials to promote growth and form for the following season, including the following special requirements:
 - i. All Grow-Low Sumac (Rhus aromatic 'Gro-low') should be sheared to 12"18" above ground in first fall (2019) and as needed in subsequent years to promote tighter growth and large massing.
 - ii. Shrubs must be hand-pruned. Use of shears or hedge trimmers on shrubs is not allowed, except for Gro Low Sumac per instruction noted above.
 - iii. Do not prune trees. City of Bloomington staff will perform all tree pruning.
 - iv. Do not prune ornamental grasses in the fall. Grasses are to remain through the winter months.
- b. Annually in early spring, prune the ornamental grasses.

7. Watering

- a. Monitor and water the following on an as needed basis using the on-site water source (on-site water is accessible from the irrigation system via quick coupler valves):
 - i. Planter Pots (25) ii. Non-irrigated landscape beds iii. Non-irrigated sod
- b. Vendor must supply hoses and adaptors for the quick coupler valves.

8. Fall Clean-Up

- a. Annually in the fall (November), perform a fall clean up to remove accumulated fallen leaves and other debris/waste from the following:
 - i. Landscape Beds, including removing debris from the stone channels that are located in six of the beds/infiltration planters ii. Tree Grates and Paver Grates iii. Paver Brick Areas

9. Seasonal Plantings in Planter Pots

- a. In 2023, replant the twenty-five planter pots, once in spring, once in summer, and once in fall (3 rotations) with appropriate seasonal color plantings.

10. Irrigation System

- a. Provide operational and maintenance oversight for the irrigation system according to the manufacturer's recommendations.
 - i. Controller Type: Rainbird ESP-LXD Controller
- b. Promptly notify the City of Bloomington of any irrigation system operational issues or maintenance needs that are outside this scope of work.
- c. Annually, perform backflow testing for the irrigation system. Submit the required reports, and provide a file copy to the City.

EXHIBIT B

STATE OF INDIANA)
)SS:
COUNTY OF MONROE)

E-VERIFY AFFIDAVIT

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

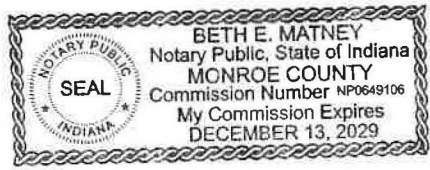
1. The undersigned is the UP Exterior Maintenance of Nature's Way, Inc.
(job title)
2. The company named herein that employs the undersigned:
 - i. has contracted with or seeking to contract with the City of Bloomington to provide services; **OR**
 - ii. is a subcontractor on a contract to provide services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

[Signature]
Signature
Zachary R Young
Printed Name

STATE OF INDIANA)
)SS:
COUNTY OF MONROE)

Before me, a Notary Public in and for said County and State, personally appeared Zachary Young and acknowledged the execution of the foregoing this 30th day of January, 2023.

[Signature]
Notary Public's Signature
Beth E. Matney
Printed Name of Notary Public



My Commission Expires: 12/13/2029
County of Residence: MONROE
Commission Number: NP0649106

CITY OF BLOOMINGTON
Landscape Maintenance Services – Trades Garage (New Plantings Only)

Item	Description	Unit Price		Quantity	Total
1	Manual Weed Control	\$95.00	/visit	16	\$1,520.00
2	Chemical Weed Control	\$65.00	/visit	ITEMIZED SERVICE	
3	Mulching	\$1,205.00	/visit	1	\$1,325.50
4	Edging	\$352.00	/visit	1	\$352.00
5	Spring/Fall Pruning	\$150.00	/visit	2	\$300.00
6	Spring Pruning Grasses	N/A	/visit		
7	Watering	\$50.00	/hour	ITEMIZED SERVICE	
8	Fall Clean-Up	\$415.80	/visit	1	\$415.80
10	Seasonal Plantings	N/A	/season		
11	Irrigation System O&M	N/A	/hour		
12	Backflow Testing	N/A	/visit		

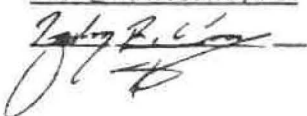
Company: Nature's Way, inc.
 Name: Zachary R. Young
 Address: 7330 N. Wayport Rd.
 Phone: (812)-876-7888
 Email: Zach@naturesway.net
 Signature: 

EXHIBIT C

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

NON-COLLUSION AFFIDAVIT

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

OATH AND AFFIRMATION

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

Dated this 30 day of January, 2023.

Nature's Way, Inc.

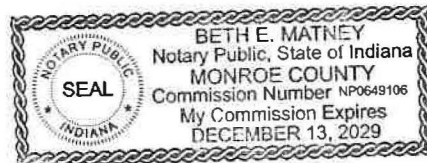
By: *Zachary R. Young*
VP Exterior Maintenance

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Before me, a Notary Public in and for said County and State, personally appeared Zachary Young and acknowledged the execution of the foregoing this 30th day of January, 2023.

B. Richman
Notary Public's Signature

Beth E. Matney
Printed Name of Notary Public



My Commission Expires: 12/13/2029

County of Residence: MONROE

Commission Number: NP0649106

**23-19
RESOLUTION
OF THE
REDEVELOPMENT COMMISSION
OF THE
CITY OF BLOOMINGTON INDIANA**

**EXTENSION OF FUNDING FOR LIGHTING INSTALLATION FOR HOPEWELL PHASE 1
EAST**

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, 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 (“Hopewell”); and

WHEREAS, in Resolution 22-95, the RDC approved an Agreement with Cassady Electrical Contractors to reconnect lighting in the Hopewell Phase 1 East Site; and

WHEREAS, the funding approval in that Resolution expired on February 1, 2023; and

WHEREAS, in order to complete the Project a extension of the funding is necessary; and

WHEREAS, no additional services or funding is required;

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

1. The RDC reaffirms its support of the Project as an appropriate use of the Consolidated TIF, as set forth in the Amended Project Review and Approval Form, and reiterates that it serves the public’s interest.
2. The RDC reaffirms its authorization for the City of Bloomington to expend an amount not to exceed Seventy-Three Thousand Five Hundred Fifty Dollars (\$73,550.00), to be paid in accordance with the terms of the Agreement (“Payment”).
3. The authorizations provided under this Resolution shall expire on May 1, 2023.

BLOOMINGTON REDEVELOPMENT COMMISSION

Cindy Kinnarney, President

ATTEST:

Deborah Myerson, Secretary

Date

**23-20
RESOLUTION
OF THE
REDEVELOPMENT COMMISSION
OF THE
CITY OF BLOOMINGTON, INDIANA**

**ADDENDUM TO LEASE AGREEMENT WITH BAIRD FOR SPACE AT
COLLEGE SQUARE**

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”), the purpose of which is to facilitate economic development and revitalization in Bloomington;

WHEREAS, in Resolution 19-34, the RDC approved a purchase agreement for the real estate located at at the 200 block of S. College Avenue known as College Square;

WHEREAS, as part of the purchase, the RDC assumed leases that were part of the College Square Building including 202 S. College Avenue, which included a lease with Robert W. Baird & Co. Inc. (formerly J.J.B. Hilliard, W.L. Lyons, LLC) (“Property”);

WHEREAS, Staff has brought the RDC an addendum to the lease for the Property (“Addendum”), which is attached to this Resolution as Exhibit A; and

WHEREAS, the Addendum includes a notice provision for a tenant option to terminate the lease upon thirty-days’ of prior written notice and extends the term of the lease through January 31, 2024;

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

1. The RDC finds that the Addendum to the Lease of the Property has a valid public purpose.
2. The RDC approves the Addendum attached to this Resolution as Exhibit A.

BLOOMINGTON REDEVELOPMENT COMMISSION

Cindy Kinnarney, President

ATTEST:

Deborah Myerson, Secretary

Date

Addendum To Lease

This ADDENDUM ("**Addendum**") is entered into on February __, 2023, by and between RBOWA, LLC, an Indiana Limited Liability Company ("**Landlord**") and Robert W. Baird & Co. Incorporated, a Wisconsin corporation ("**Tenant**"). Effective November __, 2022 the parties mutually agree to amend the original Lease between the parties dated June 16, 1999 ("**Lease**") and its Addenda to Lease dated October 25, 2004 ("**Addendum 1**"), September 26, 2006 ("**Addendum 2**"), May 14, 2010 ("**Addendum 3**"), August 9, 2013 ("**Addendum 4**"), and July 6, 2021 ("**Addendum 5**") as follows:

WITNESSETH:

WHEREAS, the term of the Lease was previously extended through July 31, 2023; and

WHEREAS, LANDLORD and TENANT desire to modify the Lease in the manner hereafter provided.

NOW THEREFORE, in consideration of the premises, the payments to be made under the Lease and the covenants and agreements therein undertaken to be kept and performed, it is agreed as follows:

1. The term of the Lease is extended through January 31, 2024, at the current monthly rent installment due under the Lease. The term of the lease shall thereafter continue on a month-to-month tenancy basis until terminated by one of the Parties by providing at least thirty (30) days' written notice prior to the desired termination date which must occur on the last day of a calendar month
2. The Tenant may terminate this Lease at any time and for any reason provided that (i) the Tenant shall be required to provide the Landlord with a prior thirty (30) days' written notice of the effective date of such termination (the "**Termination for Convenience Date**"); (ii) on the Termination for Convenience Date, the Tenant shall pay the Landlord all rent and other amounts due through the Termination for Convenience Date and shall reimburse the Landlord for its reasonable costs and expenses incurred through the Termination for Convenience Date. The Tenant shall not be responsible for the payment of any fees/rent beyond the Termination for Convenience Date specified in Tenant's written notice of its intent to terminate.

All other terms and conditions of the original Lease and Addenda thereto shall remain in full force and effect.

IN WITNESS WHEREOF the parties have caused this Addendum to be duly executed as of the date first written above.

Landlord:
**Bloomington Redevelopment
Commission**

Tenant:
Robert W. Baird & Co. Incorporated

By: _____
Cindy Kinnarney, President

By: _____
Name: _____
Its: _____

ATTEST:

By: _____
Deborah Myerson, Secretary

LEASE AGREEMENT

This Lease, made this 16th day of JUNE, 1999, by and between RBOWA, LLC ("Landlord") and Hilliard Lyons Investments ("Tenant"). In consideration of the mutual covenants and agreements of Landlord and Tenant, the parties hereby enter into the following Lease:

Article I

Lease of Premises

Section 1.01. Property Leased. Landlord hereby leases to Tenant certain space in an office building located in Bloomington, Indiana, (the "Building"). The space to be leased in the Building by Tenant is identified in Exhibit A attached hereto and made a part hereof (the "Premises").

Section 1.02. Basic Lease Provisions.

(a) Building Address: 202 South College, Bloomington, Indiana 47404.

(b) Rentable Area Premises: 4,580 square feet (see Exhibit B).

(c) Tenant's Share: 16.53% (see Exhibit B)

(d) Monthly Rent: Months 1 through 60 - \$5,344.00

(e) Term: Commences on the Commencement Date (as defined in Section 2.01) and continues for sixty (60) months from (i) the Commencement Date if such date is the first day of a calendar month, or (ii) the first day of the calendar month immediately following the Commencement Date if such date is not the first day of a calendar month.

(f) Projected Commencement Date: June 1, 2000

(g) Address for payments and notices as follows:

LANDLORD

RBOWA, LLC
226 South College Square
P.O. Box 910
Bloomington, IN 47402-0910

TENANT

Hilliard Lyons Investments
202 South College
Bloomington, IN 47404

Section 1.03. Additional Provisions. Landlord shall provide Tenant a Five Thousand Dollar (\$5,000.00) moving allowance for moving from Tenant's current location to the Premises.

Article II

Term and Possession

Section 2.01. Term. The term of this Lease shall be for a period of sixty (60) months and shall commence on the earlier of (i) the date on which the Premises are first used and occupied by Tenant's personnel for carrying on the normal functions of its business, or (ii) the date five (5) days after Landlord gives written notice to Tenant that the improvements to be constructed by Landlord pursuant to this Lease are substantially completed and the Premises are ready for occupancy provided Tenant is able to cancel its current Lease at no cost to Tenant, otherwise the commencement shall be no earlier than June 1, 2000. The date of commencement determined as provided above shall be called the "Commencement Date".

Section 2.02. Construction of Tenant Finish Improvements and Possession. Subject to events and delays due to causes beyond reasonable control, Landlord agrees to perform and complete the work on the tenant finish improvements in the Premises as set out in Exhibit C.

Section 2.03. Surrender of the Premises. Upon expiration or earlier termination of this Lease or upon the exercise by Landlord of its right to re-enter the Premises without terminating this Lease, Tenant shall immediately surrender the Premises to Landlord, together with all alterations, improvements, and other property as provided herein, in a clean condition and otherwise in good order, condition and repair except for ordinary wear and tear. Tenant shall have the right to remove its trade fixtures and equipment and Tenants shall, at its expense, restore the Premises to the condition existing prior to installation of its trade fixtures and equipment.

Section 2.04. Option to Extend. Tenant shall have the option to renew this Lease for two (2) additional five (5) year terms at a rental rate equal to the annual rate charged for the final year of the previous lease term increased by two percent (2%) for each year of the previous lease term. To exercise such option Tenant must notify Landlord in writing, via certified mail or overnight mail return receipt requested, no less than one hundred eighty (180) days prior to the last day of the current lease term.

Article III

Rent

Section 3.01. Base Rent. Monthly rent shall be paid as specified in Section 1.02 (d) and shall be due in advance of the first day of each calendar month during the term, as the basic

rent per month for the Premises. Additional rent shall be paid pursuant to Section 3.02.

Section 3.02. Additional Rent.

(a) Definitions. As used herein, the following terms shall have the meanings indicated.

(i) "Operating Expenses" shall mean the amount of all Landlord's direct costs and expenses paid or incurred in operating and maintaining the Building (including the Common Areas) for a particular calendar year as determined by Landlord in accordance with generally accepted accounting principles, consistently applied, including by way of illustration and not limitation: all general real estate taxes and all special assessments levied against the Building, other than penalties for late payment; costs and expenses of contesting the validity or amount of real estate taxes; sewage treatment costs; insurance premiums; water, electrical and other utility charges; service and other charges incurred in the operation and maintenance of the heating, ventilation and air-condition system; cleaning and other janitorial services; tools and supplies; repair costs; landscape maintenance costs; security services; license, permit and inspection fees, management fees; wages and related employee benefits payable for the maintenance and operation of the Building; and additional direct costs and expense of operation and maintenance of the building which Landlord reasonably determines it would have paid or incurred during the applicable calendar year if the Building has been fully occupied; amortization of capital improvements that produce a reduction in operating costs, ~~together with interest at a rate of ten percent (10%) per annum on the unamortized balance thereof,~~ and in general all other costs and expenses which would, under generally accepted accounting principles, be regarded as operating and maintenance costs and expenses. *APL*
Law

(ii) "Tenant's Share" shall mean the percentage specified in Section 1.02 (c).

(iii) "Annual Operating Expense Adjustment" shall mean for each calendar year falling wholly or partly within the Term, Tenant's Share of the amount by which the Operating Expenses for such year exceed the product of Two Dollars and Fifty Cents (\$2.50) times the rentable area in the Building.

(b) Obligation to Pay Additional Rent. In addition to the Monthly Rent, Tenant agrees to pay as additional rent as provided herein the annual Operating Expense Adjustment for each Calendar year falling wholly or partially within the Term.

(i) Estimated Annual Operating Expense Adjustment.

The Annual Operating Expense Adjustment shall be estimated annually by Landlord, and written notice thereof shall be given to Tenant. Tenant shall then pay to Landlord each month, at the same time the installment of Monthly Rent is due, an amount equal to one-twelfth (1/12) of the estimated Annual Operating Expense Adjustment.

(ii) Increases in Estimated Annual Operating Expense Adjustment. Landlord shall have the right to revise the estimated Annual Operating Expense Adjustment for a given calendar year upon not less than fifteen (15) days prior to written notice to Tenant, provided that the actual amount of the Annual Operating Expense Adjustment for such calendar year will, in Landlord's reasonable judgment, exceed Landlord's prior estimate for such calendar year.

(iii) Annual Adjustment. Within ninety (90) days after the end of each calendar year (or as soon thereafter as is reasonably practicable), Landlord shall prepare and deliver to Tenant a statement showing the actual Annual Operating Expense Adjustment for such calendar year, and within fifteen (15) days of such date, Tenant shall pay Landlord any deficiency, or Landlord shall pay Tenant any overpayment, of the Annual Operating Expense Adjustment for such calendar year. Landlord's failure to timely deliver any statement of an estimated Annual Operating Expense Adjustment or any statement of an actual Annual Operating Expense Adjustment shall not relieve Tenant of its obligation to pay, when such statement is provided, the estimated Annual Operating Expense Adjustment or the actual Annual Operating Expenses Adjustment, as the case may be. Tenant shall have the right to inspect and review the Landlord's books regarding the Operating Expenses.

Article IV

Occupancy and Use

Section 4.01. Occupancy. Tenant shall use and occupy the Premises for a brokerage and securities firm and for no other purpose without the prior written consent of Landlord.

Section 4.02. Use of Premises. In connection with the use of the Premises, Tenant agrees to conduct business in a safe, careful, reputable and lawful manner and shall comply with and obey all laws, regulations and orders of any governmental authority or agency and all requirements, rules and regulations of the Landlord as the Landlord may develop from time to time.

Section 4.03. Signage. Tenant may place signage on the building subject to Landlord's prior approval and consent. Landlord will provide signage on at least one location on the

building. Any additional signage shall be at Tenant's expense and shall be subject to Landlord's specific review and approval.

Article V

Utilities and Other Building Services

Section 5.01. Services to be Provided. Landlord shall furnish Tenant the following utilities and other building services to the extent reasonably necessary for Tenant's comfortable use and occupancy of the Premises for general office use.

- (a) Common area, heating, ventilation.
- (b) Electricity.
- (c) Water in the common areas for lavatory and drinking purposes.
- (d) At Tenant's expense, cleaning and janitorial services on Monday through Friday of each week except legal holidays; provided, however, the Tenant shall be responsible for carpet cleaning other than routine vacuuming.
- (e) Washing of exterior and common area windows at intervals reasonably established by Landlord.
- (f) Cleaning and maintenance of the common areas, including the removal of rubbish and snow and landscaping services.
- (g) Replacement of all lamps, bulbs, starters and ballasts in the Building Standard lighting (see Exhibit C) as required from time to time as a result of standard usage.

Article VI

Repairs and Maintenance

Section 6.01. Repair and Maintenance of Building. Landlord shall make all necessary repairs to the exterior walls, exterior doors, windows, corridors and other common areas of the building, and Landlord shall keep the building in a safe, clean and neat condition and use reasonable efforts to keep all equipment used in common with other tenants, such as elevators, plumbing, heating, air-conditioning and similar equipment, in good condition and repair.

Section 6.02. Repair and Maintenance of Premises. Landlord shall keep and maintain the Premises in good order, condition and repair, except for those services that are specifically an obligation of the Tenant to provide or pay for under this Lease.

Tenant understands and agrees that except for the services specified in Sections 5.01 (e), (f) and (g); the costs of all such repairs and maintenance to the Premises shall be paid by Tenant as additional rent pursuant to Section 3.02.

Section 6.03. Alterations and Improvements. Tenant shall make no leasehold improvements, alterations or addition to any part of the premises without Landlord's prior written consent.

Section 6.04. Trade Fixtures. All of the Tenant's trade fixtures and equipment installed in the Premises may be removed by Tenant upon expiration or earlier termination of this Lease provided that (i) Tenant at its expense shall repair any damage to the Premises in the building caused by such removal and (ii) Tenant is not in default under this Lease.

Section 6.05. Mechanic's Liens. Tenant shall not permit or cause the filing of any mechanic's lien against the Premises or any part of the Building or land.

Article VII

Insurance

Section 7.01. Public Liability Insurance. Tenant agrees to procure and maintain at Tenant's expense a policy or policies of insurance written by a reasonable insurance company insuring Landlord and Tenant from any and all claims, demands or action for injury or death of any one person of not less than Five Hundred Thousand Dollars (\$500,000.00) and for injury to or death of more than one person in any one accident or occurrence to a limit of not less than One Million Dollars (\$1,000,000.00). Additionally, this public liability insurance shall cover property damages in an amount of not less than One Hundred Thousand Dollars (\$100,000.00). Tenant shall furnish Landlord certificate evidencing the existence of such insurance.

Section 7.02. Casualty Insurance. Landlord shall at all times during the term of this Lease carry a policy of fire and extended coverage insurance which insures the building, including the Premises, against loss or damage by fire or other casualty; provided, however, that Landlord shall not be responsible for, and shall not be obligated to insure against any loss of or damage to any personal property of Tenant or which Tenant may have in the building or the Premises or any trade fixtures installed by or paid for by Tenant on the Premises.

Article VIII

Assignment and Subletting

Tenant may not assign this Lease or sublet any or all of the Premises without Landlord's consent. The assignment of the Lease or the subletting of any portion or all of the Premises may be considered a default at Landlord's option. If Landlord consents to such action by written consent, Tenant is not relieved of any liability or duty under this Lease.

Article IX

Defaults and Remedies

Section 9.01. Defaults by Tenant. The occurrence of any one or more of the following events shall be a default under and breach of this Lease by Tenant:

(a) Tenant shall fail to pay any payment of Monthly Rent when the same shall be due and payable, or any other amounts due to Landlord from Tenant as additional rent or otherwise (including any amounts owed by Tenant for Building Non-Standard Work) within thirty (30) days after the same shall be due and payable.

(b) Tenant shall fail to perform or observe, whether by action or inaction, any covenant, term, provision or condition of this Lease (other than payment of rent or other charges payable hereunder) within the fifteen (15) day period after written notice of default has been given by Landlord to Tenant; provided that in the case of a default which by its nature cannot be cured within fifteen (15) days, Tenant shall have an additional reasonable period of time ("Additional Period") to cure the default if, and only if, Tenant promptly and within such fifteen (15) day period commences to cure the default and in good faith and with due diligence pursues the curing of the default throughout the Additional Period until cured.

(c) Tenant shall vacate or abandon the Premises for any period, or fail to occupy the Premises or any substantial portion thereof for a period of more than thirty (30) days.

(d) A trustee or receiver shall be appointed to take possession of all or substantially all of Tenant's assets in, of or about the Premises or of Tenant's interest in this Lease (and Tenant does not regain possession with sixty (60) days after such appointment); Tenant makes an assignment for the benefit of creditors; or substantially all of Tenant's assets in, on or about the Premises or all of Tenant's assets in, on or about the Premises or Tenant's interest in this Lease are attached or

levied under execution (and Tenant does not discharge the same within sixty (60) days thereafter).

(e) A petition in bankruptcy or insolvency or for reorganization or arrangement is filed by or against Tenant pursuant to any federal or state statute (and, with respect to any such petition filed against it, Tenant fails to secure a dismissal thereof within sixty (60) days after such filing).

Section 9.02. Remedies of Landlord. Upon the occurrence of any event or default set forth in Section 9.01, Landlord shall have the following rights and remedies, in addition to those allowed at law or in equity, any one or more of which may be exercised without further notice to or demand upon Tenant:

(a) Landlord may apply the security deposit or re-enter the Premises and cure any default of Tenant, in which event Tenant shall reimburse Landlord as additional rent for any costs and expenses which Landlord may incur to cure such default; and Landlord shall not be liable to Tenant for any loss or damage which Tenant may sustain by reason of Landlord's action, regardless of whether caused by Landlord's negligence or otherwise.

(b) Landlord may terminate this Lease, in which event (i) neither Tenant nor any person claiming under or through Tenant shall thereafter be entitled to possession of the Premises, and Tenant shall immediately thereafter surrender the Premises to Landlord; (ii) Landlord may re-enter the Premises and dispossess Tenant or any other occupants of the Premises by any means permitted by law, and may remove their effects, without prejudice to any other remedy which Landlord may have for possession or arrearages in rent; and (iii) notwithstanding the termination of this Lease, Landlord may declare all rent which would have been due under this Lease for the balance of the Term to be immediately due and payable, whereupon Tenant shall be obligated to pay the same to Landlord, together with all loss or damage which Landlord may sustain by reason of such termination, it being expressly understood and agreed that the liabilities and remedies specified in this Subsection shall survive the termination of this Lease.

(c) Landlord may, without terminating this Lease, re-enter the Premises and re-let all or any part of the Premises for a term different from that which would otherwise have constituted the balance of the Term and for rent and on terms and conditions different from those contained herein, whereupon Tenant shall be obligated to pay Landlord as liquidated damages the difference between the rent provided for herein and that provided for in any lease covering a subsequent re-letting of the Premises, for the period which would otherwise have constituted the balance of the Term of this Lease, together with all of Landlord's reasonable

costs and expenses for preparing the Premises for re-letting, including all repairs, tenant finish improvements, brokers' and attorneys' fees, and all loss or damage which Landlord may sustain by reason of such re-entry and re-letting.

(d) Landlord may sue for injunctive relief or to recover damages for any loss resulting from the breach.

Section 9.03. Attorneys' Fees. If either Landlord or Tenant brings suit against the other to recover any sums owed under this Lease or otherwise to enforce compliance with the terms, covenants and conditions of this Lease, the prevailing party shall be entitled to receive from the other part reasonable attorneys' fees and other costs and expenses incurred by such party in connection with such suit regardless of whether such suit is prosecuted to judgment. As used herein, "prevailing party" shall mean, in the case of a claimant, one who is successful in obtaining substantially all of the relief sought, and in the case of a defendant or respondent, one who is successful in denying substantially all of the relief sought by the claimant.

Article X

Miscellaneous General Provisions

Section 10.01. Condition of Premises. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the Premises or the Building or with respect to the suitability or condition of any part of the building for the conduct of Tenant's business except as provided in this Lease.

Section 10.02. Insolvency or Bankruptcy. In no event shall this Lease be assigned or assignable by operation of law, and in no event shall this Lease be an asset of Tenant in any receivership, bankruptcy, insolvency, or reorganization proceeding.

Section 10.03. Common Areas. The term "Common Areas," as used in this Lease, refers to the areas of the building and the Land which are designed for use in common by all tenants of the Building and of the other buildings, if any, on the Land and their respective employees, agents, customers, invitees and others, and includes, by way of illustration and not limitation, entrances and exits, hallways, restrooms, sidewalks, driveways, parking areas, landscaped areas and other areas as may be designated by Landlord as part of the Common Areas of the Building. Tenant shall have the non-exclusive right, in common with others, to the use of the common Areas, subject to such nondiscriminatory rules and regulations as may be adopted by Landlord. Landlord reserves the right to change or modify the

Building, the Common Areas and other improvements and facilities located on the Land provided that (i) neither the Premises nor the general character of the Building shall be changed and (ii) Tenant's access to and use of the Premises shall not be materially impaired by reason of such changes or modifications.

Section 10.04. Choice of Law. This Lease shall be governed by and construed pursuant to the laws of the State of Indiana.

Section 10.05. Successors and Assigns. Except as otherwise provided in this Lease, all of the covenants, conditions and provisions of this Lease shall be binding upon and shall insure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

Section 10.06. Prior Agreements. This Lease, and its exhibits, contain all the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreement, understanding or representation pertaining to any such matter shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest.

Section 10.07. Severability of Invalid Provisions. If any provision of this Lease shall be held to be invalid, void or unenforceable, the remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

Section 10.08. Definition of the Relationship Between the Parties. Landlord shall not, by virtue of the execution of this Lease or the leasing of the Premises to Tenant, become or be deemed a partner of or joint venturer with Tenant in the conduct of Tenant's business on the Premises or otherwise.

Section 10.09. Force Majeure. Landlord shall be excused for the period of any delay in the performance of any obligation hereunder when such delay is occasioned by causes beyond its reasonable control, including, but not limited to, war, invasion or hostility; work stoppages, boycotts, slow-downs or strikes; shortages of materials, equipment, labor or energy; man-made or natural casualties; weather conditions; acts or omissions of governmental or political bodies; or civil disturbances or riots.

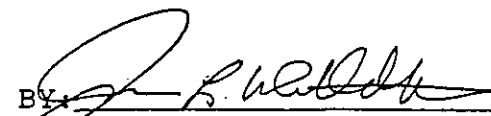
Section 10.10. Quiet Enjoyment. Landlord agrees that if Tenant performs all of the covenants and agreements herein provided to be performed by Tenant, Tenant shall, at all times during the Term of this Lease, have the peaceable and quiet enjoyment of the Premises without any manner of hindrance from Landlord or any persons claiming under Landlord.

Section 10.11. Notice. Any notice given pursuant to this Lease shall be given in writing and delivered to the addresses set forth in Section 1.02 (g).

IN WITNESS WHEREOF, the parties hereto have executed the Lease as of the day and year first above written.

RBOWA, LLC

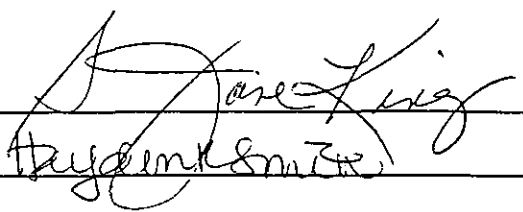
HILLIARD LYONS INVESTMENTS

BY: 
ITS: Member

BY: David B. Estes
ITS: SR. VICE PRESIDENT

WITNESS:

WITNESS:


Hayden Smith

North ↑

EXISTING
MAIN FLOOR
1/4" = 1'-0"

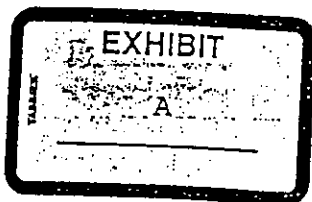
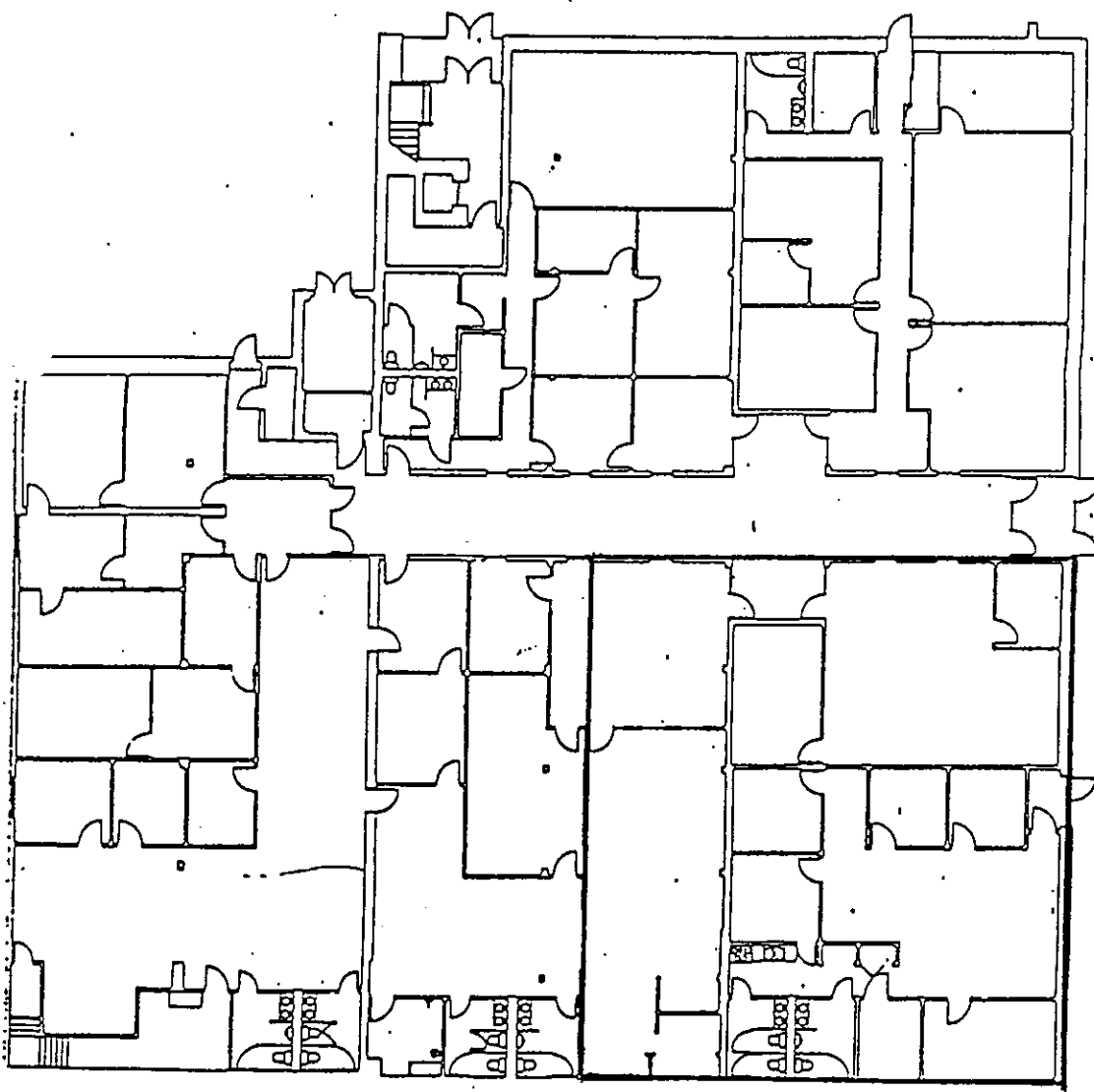


EXHIBIT B

Rentable Area

The term "Rentable Area" as used in the Lease shall mean:

(a) As to each floor of the Building on which the entire space rentable to tenants is or will be leased to one tenant (hereinafter referred to as "Single Tenant Floor" Rentable Area shall be the entire area bounded by the inside surface of the glass on the four permanent exterior walls on such floor, including all areas used for elevator lobbies, corridors, special stairways, restrooms, mechanical rooms, electrical rooms and telephone closets without deduction for columns and other structural portions of the Building or vertical penetrations that are included for the special use of Tenant. Rentable Area shall exclude the area contained within the exterior walls of the Building stairs, fire towers, vertical ducts, elevators, flues, vents, stacks and pipe shafts, which areas are reserved to Landlord.

(b) As to each floor of the Building on which space is or will be leased to more than one tenant (hereinafter referred to as "Multi-Tenant Floor"), Rentable Area attributable to each such lease shall be the total of (i) the entire areas included within the Premises covered by such lease, being the area bounded by the inside surface of any permanent exterior walls of the Building bounding such Premises, the exterior of all walls separating such Premises from any public corridors or other public area on such floor, and the centerline of all walls separating such Premises from other areas leased or to be leased to other tenants on such floor, and (ii) a pro rate portion of the area covered by the elevator, lobbies, corridors, restrooms, mechanical rooms, electrical rooms, and telephone closets situated on such floor.

(c) For purposes of establishing the initial Tenant's Share as shown in Section 1.02 (c) of this Lease, Rentable Area of the Premises is deemed to be as set forth in Section 1.02 (b) of this Lease of the Basic Lease Provisions, and Rentable Area of the Building is deemed to be 27,707 square feet. Prior to the Commencement Date, and from time to time thereafter at Landlord's option, Landlord shall determine the actual Rentable Area of the Premises and the Building, which determinations shall be conclusive, and thereupon Tenant's Share shall be adjusted accordingly.

EXHIBIT C

Landlord's and Tenant's Work

In addition to the mutual covenants contained in the Lease to which this Exhibit C is a part, Landlord and Tenant further mutually agree as follows:

1. Plans and Specifications for the Premises.

(a) Tenant agrees to cooperate with Landlord's architects and engineers, who shall prepare at Landlord's expense detailed space Plans for tenant finish improvements for the Premises which shall include, but not be limited to, locations of doors, partitioning, reflected ceiling, electrical fixtures, outlets and switches, telephone outlets, plumbing fixtures, extraordinary floor loads and other special requirements, and Tenant shall approve such other space Plans in writing on or before July 31, 1999.

(b) Tenant may require work (hereinafter referred to as "Building Non-Standard Work") different from or in addition to Building Standard Work as described in paragraph 2 of this Exhibit C. In such event, any architectural, mechanical, electrical and structural engineering drawings, plans and specifications required shall be prepared by Landlord's architect or engineer at Tenant's expense and shall be subject to the approval of Landlord.

(c) All interior decorating items and services selected by Tenant in excess of Building Standard shall be provided by Tenant at Tenant's sole cost and expense.

(d) All plans and specifications referred to in subparagraphs (a) and (b) of this paragraph are subject to Landlord's approval, which approval shall not be unreasonably withheld.

(e) Tenant's plans and specifications shall not be in conflict with building codes of the City of Bloomington or with applicable insurance regulations for a fire resistant building. All plans and specifications shall be in a form satisfactory for filing with appropriate governmental authorities for permits and licenses required for construction.

(f) The extent to which any of Tenant's requirements are Building Non-Standard work otherwise exceed Building Standard shall be determined by Landlord's architect or engineer.

2. Building Standard Work at Landlord's Cost and Expense.

Landlord agrees, at its sole cost and expense, to furnish and install all of the following building Standard Work

limited to the quantities specified by Landlord below or as indicated on Tenant's final approved plans:

(a) Entry Door. Size (3'0" X 8'0"), flush panel, solid core, prefinished oak veneer door, with full height glass sidelight, and mail drop in chrome metal frame. Hardware to include lockset in U.S. 26 finish. Allowance: One (1) per tenant.

(b) Interior Doors. Size (3'0" X 8'0"), flush panel, solid core, prefinished oak veneer door. Hardware to be passage type in U.S. 26 finish. Allowance: One (1) door for each 250 square feet of split floor usable area.

(c) Demising Partitions. Ceiling high 5/8" drywall over 3 5/8" metal studs, painted in a color selected by Tenant from Samples furnished by Landlord. Wall cavity to receive sound attenuation batt insulation. Resilient base to be 4" vinyl.

(d) Interior Partitions. Ceiling high, 5/8" drywall on both sides over 3 5/8" metal studs, painted in a color selected by Tenant from samples furnished by Landlord. Resilient base to be 4" vinyl. Allowance: One (1) foot per 12 square feet of split floor usable area.

(e) Ceiling. 2' X 2' suspended acoustical panels on white grid.

(f) Lighting. 2' x 4', 4-tube recessed fluorescent fixtures. Allowance: One (1) fixture for each 75 square feet of split floor usable area. Emergency lighting as required by code.

(g) Switches. Allowance: One (1) per 250 square feet of split floor usable area.

(h) Duplex Electrical Wall Outlets. Allowance: One (1) for each 125 square feet of split floor usable area.

(i) Telephone Wall Outlets. Allowance: One (1) for each 250 square feet of split floor usable area.

(j) Heating and Air-Conditions. Year round heating and air-conditioning system including ducted supply and return distribution system above ceiling providing conditioned air to all tenant offices and rooms. System designed to maintain temperature in normal comfort zones based on a standard lighting and electrical load not to exceed four watts per square feet or rentable area and occupancy of one person per 100 square feet of split floor usable area.

(k) Floor Covering. All floors within Tenant's Leased Premises shall be carpeted in a color selected by Tenant from sample furnished by Landlord.

(l) Blinds. Metal "Levelor" or similar blinds for all perimeter windows in Tenant's suite.

3. Building Non-Standard Work.

In addition to the Building Standard Work listed in this Exhibit C, Landlord agrees to furnish and install Building Non-Standard Work requested by Tenant and approved by Landlord. Building Non-Standard Work shall be at Tenant's sole cost and expense unless otherwise agreed to in writing by Landlord.

4. Substitutions and Credits.

Tenant may select different new materials in place of Building Standard materials which would otherwise be initially furnished and installed by Landlord in the interior of the Premises under the provisions of this Exhibit C, provided such selection is indicated on Tenant's complete plans and specifications approved by Landlord. If Tenant shall make any such selection and if the cost of such different new materials of Tenant's selection shall exceed Landlord's cost of Building Standard materials thereby replaced, Tenant shall pay to Landlord, as hereinafter provided, the difference between the cost of such different new materials thereby replaced plus a fee of twelve percent (12%) of the difference, if any for Landlord's additional costs resulting from such substitution.

All amounts payable by Tenant to Landlord pursuant to this Exhibit C shall be paid by Tenant promptly after the rendering of bills therefore by Landlord or its contractor to Tenant, it being understood that such bills may be rendered during the progress of the performance of the work and/or the furnishing and installation of the materials to which such bills related. Any such different new materials shall be surrendered by Tenant to Landlord at the end of the initial or other expiration of the term of the Lease.

ADDENDUM TO LEASE

THIS ADDENDUM entered into this 9th day of August, 2013 by and between RBOWA, LLC, an Indiana Limited Liability Company ("Landlord") and J.J.B. HILLIARD, W.L. LYONS, LLC ("Tenant") hereby replaces the Addendum to Lease entered into on February 14, 2013. Effective August 1, 2013 the parties mutually agree to amend the original Lease between the parties dated June 16, 1999 ("Lease") and its Addenda to Lease dated October 25, 2004 ("Addendum 1"), September 26, 2006 ("Addendum 2") and May 14, 2010 ("Addendum 3") as follows:

Section 1.01 entitled Property Leased shall be amended as follows:

Exhibit A attached to this addendum hereby replaces Exhibit A attached to the original lease and any subsequent addendums.

Section 1.02 entitled Basic Lease Provisions shall be amended as follows:

- (b) Rentable Area Premises: 5808 square feet (see Exhibit B)
- (c) Tenant's Share: 15.57 (see Exhibit B)
- (d) Monthly Rent: Months 1 – 12 shall equal the monthly rent corresponding to the commencement date of this Addendum to Lease and the date on the attached rent schedule. (See Appendix I)
- (f) Projected commencement date: August 1, 2013

The following paragraph shall be added to Section 1.03 entitled Additional Provisions:

Landlord agrees to provide tenant a cash allowance up to \$97,000 for costs incurred to design and improve the interior of the expansion space excluding the two windows adjacent to the two 10ft. by 7 ft. workstations shown on the attached plan (Cost of two windows installed=\$8,200). Upon occupancy tenant shall reimburse landlord for interior design and improvement costs in excess of this allowance amount. This \$97,000 shall be amortized over sixty months in tenant's monthly rent as additional monthly rent due and payable with Tenants base rent each month. The additional rent due each month for these costs equals \$1,852.81 per month.

Section 2.01 entitled Term shall be amended as follows:

The term of this Lease shall be for a period of sixty (60) months and shall commence on the earlier of (i) the date on which the Premises are first used and occupied by Tenant's personnel for carrying on the normal functions of its business or (ii) the date five (5) days after Landlord gives written notice to Tenant that the improvements to be constructed by Landlord pursuant to this Lease are substantially completed and the premises are ready for occupancy. The date of commencement determined as provided above shall be called the "Commencement Date".

Section 2.04 entitled Option to Extend shall be amended as follows:

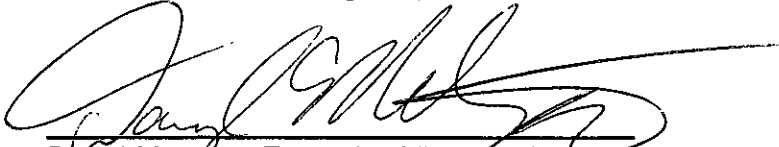
Tenant shall have the Option to Extend this lease for two (2) additional five (5) year terms at an initial rental rate equal to the rental rate for the final year of the previous lease term plus an increase of two percent (2%) and an increase of two percent (2%) annually thereafter during the extended term. To exercise such option Tenant shall provide written notice no less than one hundred eighty (180) days prior to the last day of the current lease term.

Landlord shall have the right to terminate remaining Options to Extend at the time an Option to Extend is exercised by providing written notice no less than sixty (60) days after the current option is exercised. In addition Landlord shall have the right to terminate remaining Options to Extend at any time should it enter into an arrangement to sell, transfer, or otherwise convey title to the building. To exercise this right to terminate Landlord must provide written notice no less than one hundred eighty (180) days prior to the last day of Tenant's current lease term.

All other terms and conditions of the original Lease shall remain in full force and effect.

IN WITNESS WHEREOF, on the date and year first above written, the parties hereby execute and agree to this Addendum.

J.J.B. Hilliard, W.L. Lyons, LLC



Darryl Metzger, Executive Vice President

RBOWA, LLC.



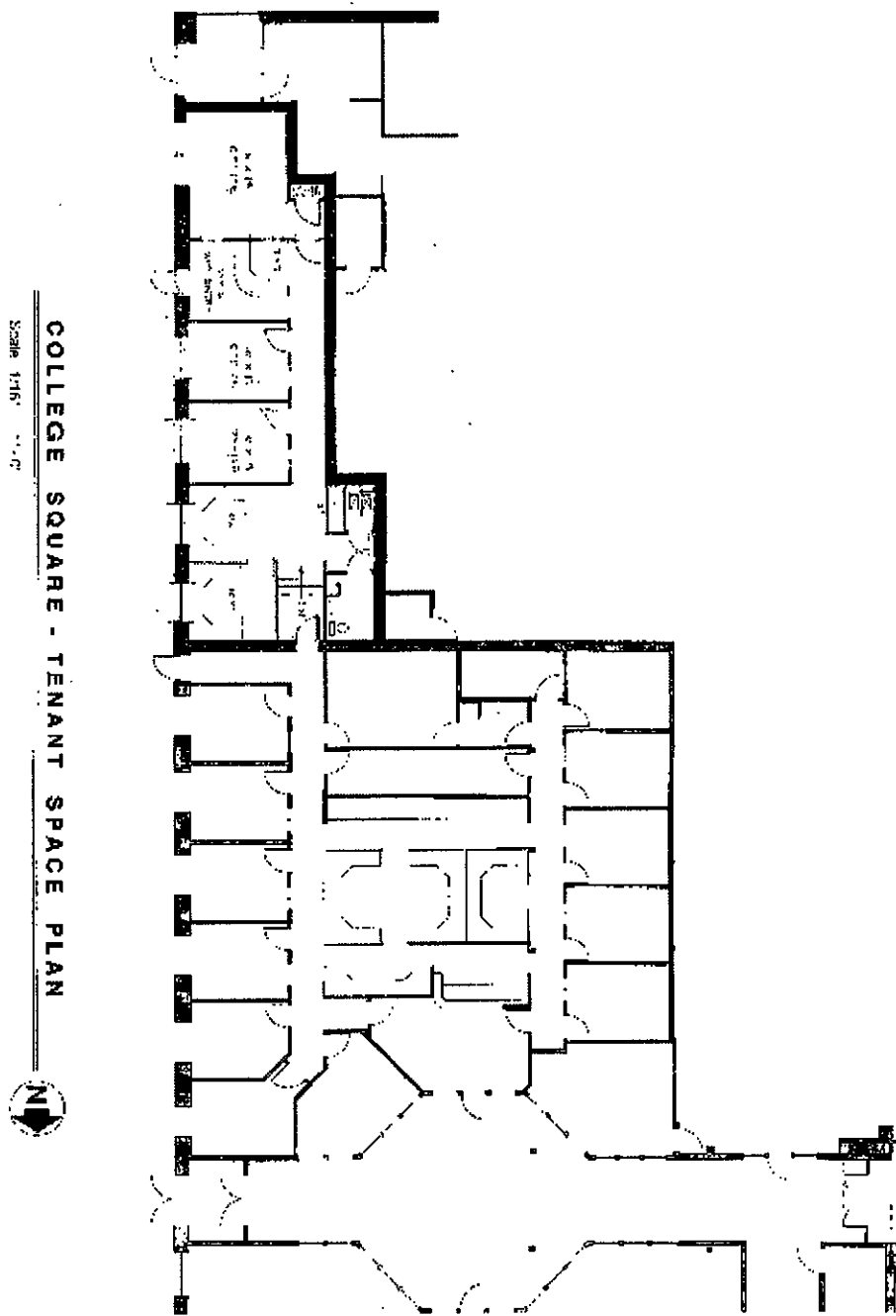
James L. Whitlatch, Member

Appendix I

Hilliard Lyons College Square Expansion Rent Schedules:

		<u>Sq</u> <u>Ft</u>	<u>Rent/Sq</u> <u>Ft/Yr</u>	<u>Annual Rent</u>	<u>Monthly</u> <u>Rent</u>
Current square feet		4315			
Expansion square feet		1493			
Total Square feet		5808			
1) Expansion Base Rent schedule without	6/1/13-5/31/14	5808	16.67	96,819.36	8,068.28
amortization of improvements:	6/1/14-5/31/15	5808	17.00	98,755.75	8,229.65
(Scheduled out 7 years from 6/1/13)	6/1/15-5/31/16	5808	17.34	100,730.86	8,394.24
	6/1/16-5/31/17	5808	17.69	102,745.48	8,562.12
	6/1/17-5/31/18	5808	18.04	104,800.39	8,733.37
	6/1/18-5/31/19	5808	18.41	106,896.40	8,908.03
	6/1/19-5/31/20	5808	18.77	109,034.32	9,086.19
2) Additional Monthly Rent		5808	3.83	22,233.75	1,852.81
(Equals 60 month amortization of \$97,000 of expansion space improvement costs)					

Exhibit A



ADDENDUM TO LEASE

THIS ADDENDUM is entered into this 14th day of MAY, 2010 by and between RBOWA, LLC, an Indiana Limited Liability Company ("Landlord") and J.J.B. HILLIARD, W.L. LYONS, LLC ("Tenant"). Effective June 1, 2010 the parties mutually agree to amend the original Lease between the parties dated June 16, 1999 ("Lease") and its Addenda to Lease dated October 25, 2004 ("Addendum 1") and September 26, 2006 ("Addendum 2") as follows:

Section 1.02 entitled Basic Lease Provisions shall be amended as follows:

(d) Monthly Rent: Months 1 – 12 \$5,649.00
and then increases of two percent (2%) at the beginning of each new twelve (12) month period.

Section 2.04 entitled Option to Extend shall be amended as follows:

Tenant shall have the Option to Extend this lease for three (3) additional five (5) year terms at an initial rental rate equal to the rental rate for the final year of the previous lease term plus an increase of two percent (2%) and an increase of two percent (2%) annually thereafter during the extended term. To exercise such option Tenant shall provide written notice no less than one hundred eighty (180) days prior to the last day of the current lease term.

Landlord shall have the right to terminate remaining Options to Extend at the time an Option to Extend is exercised by providing written notice no less than sixty (60) days after the current option is exercised. In addition Landlord shall have the right to terminate remaining Options to Extend at any time should it enter into an arrangement to sell, transfer, or otherwise convey title to the building. To exercise this right to terminate Landlord must provide written notice no less than one hundred eighty (180) days prior to the last day of Tenant's current lease term.

All other terms and conditions of the original Lease, Addendum 1, and Addendum 2 shall remain in full force and effect.

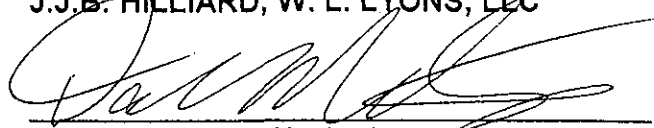
IN WITNESS WHEREOF, on the date and year first above written, the parties hereby execute and agree to this ADDENDUM.

RBOWA, LLC

J.J.B. HILLIARD, W. L. LYONS, LLC



Landlord Signature (Authorized Agent)



Tenant Signature (Authorized Agent)

James L. Whitlatch, member

Printed Name & Title

DARRYL METZGER EVP

Printed Name & Title

5/20/10

Date

5-11-10

Date

ADDENDUM TO LEASE

THIS ADDENDUM entered into this 26th day of September, 2006 by and between RBOWA, LLC, an Indiana Limited Liability Company ("Landlord") and Hilliard Lyons Investments ("Tenant"). The parties mutually agree to amend the original Lease between the parties dated June 16, 1999 ("Lease") and its addendum to Lease dated October 25, 2004 ("Addendum") as follows:

Effective October 1, 2006

Section 1.02 entitled Basic Lease Provisions shall be amended as follows:

- (a) Rentable Area Premises: 4315 square feet (see Exhibit B)
- (b) Tenant's Share: 15.57 (see Exhibit B)
- (c) Monthly Rent: Months 77 through 120 - \$5,538.00
- (d) Exhibit A attached to this addendum hereby replaces Exhibit A attached to the original Lease.

The following paragraph shall be added to Section 1.03 entitled Additional Provisions:

Tenant shall have the right to relet the same two hundred sixty-five square feet of rentable area terminated by this addendum. The reletting terms shall be the same as the terms remaining on Tenant's current Lease with Landlord. To relet the space Tenant must provide Landlord written notice of its request no less than 180 days prior to its desired date of occupancy.

All other terms and conditions of the original Lease shall remain in full force and effect.

IN WITNESS WHEREOF, on the date and year first above written, the parties hereby execute and agree to this Addendum.

HILLIARD LYONS INVESTMENTS

Michael J. Smith V.P. R. M.
 Name, Title

RBOWA, LLC

[Signature]
 James L. Whitlatch, Member

Addendum to Lease

THIS ADDENDUM is entered into this 25th day of October, 2004 by and between Hilliard Lyons Investments ("Tenant"), and RBOWA, LLC ("Landlord"). This addendum hereby documents Tenant's desire to exercise its first option to renew its lease for an additional five (5) year term as provided for in Section 2.04 Option to Extend of the Lease between the parties dated June 16, 1999. Thus, Tenant and Landlord mutually agree to amend the Lease as follows:

Subparagraph (d) of Section 1.02 Basic Lease Provisions shall be amended as follows:

(d) Monthly Rent: Months 61 through 120 - \$5878.00

All other terms and conditions of the original Lease shall remain in full force and effect.

IN WITNESS WHEREOF, on the date and year first above written, the parties hereby execute and agree to this Addendum.

Hilliard Lyons Investments

BY: David B. Estes

ITS: SR. VICE PRESIDENT

RBOWA, LLC

BY: James L. Whitatch
JAMES L. WHITATCH

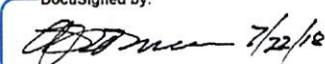
ITS: Member

OPTION TO EXTEND

This **OPTION TO EXTEND** entered into this 19th day of July, 2018 by and between RBOWA, LLC, an Indiana Limited Liability Company ("Landlord") and J.J.B. HILLIARD, W.L. LYONS, LLC ("Tenant") hereby exercises Tenant's Option to Extend ("Option") its' lease for an additional five (5) year term based on the terms outlined in Section 2.04 of the attached Addendum To Lease entered into on August 9, 2013. By accepting this Option Landlord hereby waives, for this one-time only, Tenant's written one hundred and eighty (180) day notice requirement required to exercise such Option.


IN WITNESS WHEREOF, on the date and year first above written, the parties hereby execute and agree to this **OPTION TO EXTEND**.

J.J.B. Hilliard, W.L. Lyons, LLC

DocuSigned by:

4B90BA3F3EAF487...

Alan H. Newman, EVP & Director, Private Wealth

RBOWA, LLC.

 , member
James L. Whitlatch, Member