CITY OF BLOOMINGTON
parks and recreation

AGENDA

City of Bloomington Board of Park Commissioners
Special Meeting: Monday, October 2, 2017 4:30pm – 5:00pm.

Parks and Recreation
401 North Morton

CALL TO ORDER - ROLL CALL

A. PUBLIC HEARINGS/APPEARANCES

A-1. Public Comment Period -

B. OTHER BUSINESS

B-1	Review/Approval of contract with B&L Sheet Metal & Roofing Inc. for Rosehill Mausoleum roofing project	(Dave Williams)
B-2.	Review/Approval of contract with Keman Restoration for Rosehill Mausoleum limestone rehab.	(Dave Williams)
B-3.	Review/Approval of contract with Rudy Fields for environmental assessment	(Dave Williams)
B-4.	Review/Approval of contract with RLR Associates for Switchyard Park logo design	(Julie Ramey)
B-5.	Review/Approval of Fee Waiver for Parks Foundation Golf Outing	(John Turnbull)

C. REPORTS

No Reports

ADJOURNMENT

Board packets/reports are available to the public by contacting the Department at 349-3700.

CITY OF BLOOMINGTON
parks and recreation

STAFF REPORT

Agenda Item: B-1 Date: 10/2/2017

Administrator Review\Approval PM

TO: Board of Park Commissioners
FROM: Dave Williams, Operations Director
DATE: September 25, 2017
SUBJECT: **REVIEW/APPROVAL OF CONTRACT AWARD CONTRACTUAL ROOFING AND RELATED REPAIRS ROSEHILL CEMETERY MAUSOLEUM**

Recommendation
It is recommended the Board approve a Parks G.O. Bond funded construction contract award for roofing and related repairs to the Rosehill Cemetery Mausoleum to B&L Sheet Metal of Bloomington, IN at a bid price of $51,900.00.

Background
Bids were solicited for a new roof, gutter, and downspouts on this facility with specifications and bidding documents provided by our consultant STR Building Resources and three bids received on September 22nd. Based on a review of the bids received, and the recommendation of STR, we are requesting award of the project contract to the low bidder; B&L Sheet Metal. The bid tabulation with recommendation for award from STR has been added to the October 2 meeting information. The project will begin as soon as possible with completion by December 31.

RESPECTFULLY SUBMITTED,

Dave Williams, Operations Director

CONTRACT
BETWEEN
CITY OF BLOOMINGTON
PARKS AND RECREATION DEPARTMENT
AND
B&L SHEET METAL AND ROOFING INC.
FOR
ROSEHILL MAUSOLEUM ROOF REPLACEMENT

THIS CONTRACT is executed by and between the City of Bloomington, Indiana, Parks and Recreation Department through the Board of Park Commissioners (hereinafter City), and B&L Sheet Metal & Roofing Inc., (hereinafter Contractor);

WITNESSETH THAT:

WHEREAS, the City desires to retain Contractor's services for the **Scope of Work** (more particularly described in Attachment A, "Scope of Work") ; and

WHEREAS, Contractor is capable of performing the Services as per its Bid, as set forth on the Bid 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 Bidder for said project.

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

ARTICLE 1. TERM

1.01 This Contract shall be effective upon execution of this Contract 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 required under this Contract no later than February 6, 2018, unless the parties mutually agree to a later completion date. "Substantial Completion" shall mean completion of all work.

2.02 Contractor agrees that no charges or claims for damages shall be made by it for any delays or hindrances, from any cause whatsoever, during the progress of any portion of the services specified in the Contract. 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 the City of any of its rights herein.

ARTICLE 3. COMPENSATION

3.01 Contractor shall provide services as specified in Attachment A, "Scope of Work" ("Services"), attached hereto and incorporated into this Contract.

3.02 Contractor shall submit an invoice to the City upon the completion of the Services described in Article 3.01. Upon the submittal of an invoice, the City shall compensate Contractor in a lump sum not to exceed Fifty One Thousand Nine Hundred Dollars and zero cents ($51,900) within forty-five (45) days of receipt of invoice. Invoices may be sent via first class mail postage prepaid or via email. The invoice shall be sent to:

Dave Williams
City of Bloomington
401 N. Morton, Suite 250
Bloomington, Indiana 47404

The 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 the City.
- Failure of Contractor to make payments due to subcontractors, material suppliers or employees.
- Damage to the City or a third party.

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

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 under this Contract 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 the City's representatives during reasonable business hours.

3.05 For projects utilizing federal funding, the Contractor shall submit time sheets (WH-347) for its own and all subcontracted employees, to the Director of the Parks and Recreation

Department ("Director") or his/her representative for approval and review, including review for compliance with Davis Bacon requirements.

3.06 Director

The Director or his/her designee shall act as the City's representative and assume all duties and responsibilities and have all the rights and authority assigned to the Director in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 4. GENERAL PROVISIONS

4.01 Contractor agrees to indemnify and hold harmless the 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 its 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 its officers, agents, officials, employees, or subcontractors has supplied to the City or has used in connection with this Contract and regardless of whether or not it is caused in part by a party indemnified herein. Such indemnity shall include attorney's fees and all costs and other expenses arising therefrom 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 the 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.

4.02 Abandonment, Default and Termination

4.02.01 The City shall have the right to abandon the work contracted for in this Contract without penalty. If the City abandons the work described herein, Contractor shall deliver to the City all surveys, notes, drawings, specifications and estimates completed or partially completed and these shall become the property of the City. The earned value of the work performed shall be based upon an estimate of the difference between the portion of the work performed by Contractor under this Contract and the work which Contractor was obligated to perform under this Contract. This difference shall be mutually agreed upon by the City and Contractor. The payment made to Contractor shall be paid as a final payment in full settlement of its services hereunder.

4.02.02 If Contractor defaults or fails to fulfill in a timely and proper manner its obligations pursuant to this Contract, the 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, the City may, at its option, terminate this Contract 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 such

action exceeds the unpaid balance of the sum amount, Contractor or its surety, shall pay the difference to the City.

4.02.03 **Default**: If Contractor breaches this Contract or fails to perform the work in an acceptable manner, it shall be considered in default. Any one or more of the following will be considered a default:

- Failure to begin the work under this Contract within the time specified.
- Failure to perform the work with sufficient supervision, workers, equipment and materials to insure prompt completion of said work within the time limits allowed.
- Unsuitable performance of the work as determined by Director or his/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 Contract or fails to carry on the work in an acceptable manner.

4.02.04 The City shall send Contractor a written notice of default. If Contractor, or its Surety, within a period of ten (10) days after such notice, fails to remedy the default, then the City shall have full power and authority, without violation of the Contract, to take the prosecution of the work out of the hands of 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 Contract with another Contractor for the completion of the Contract according to the terms and provisions thereof, or the City may use such other methods as, in its opinion, shall be required for the completion of this Contract in an acceptable manner.

4.02.05 All cost of completing the work under this Contract shall be deducted from the monies due or which may become due to said Contractor. In case the expenses so incurred by the 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 Surety will be liable and shall pay to the City the amount of said excess. By taking over the prosecution of the work, the City does not forfeit the right to recover damages from Contractor or its Surety for failure to complete the work in the time specified.

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

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

4.03 Successors and Assigns

4.03.01 Both parties agree that for the purposes of this Contract, Contractor shall be an Independent Contractor and not an employee of the City.

4.03.02 No portion of this Contract shall be sublet, assigned, transferred or otherwise disposed of by Contractor except with the written consent of the City. Consent to sublet, assign, transfer, or otherwise dispose of any portion of this Contract shall not be construed to relieve Contractor of any responsibility of the fulfillment of this Contract.

4.04 Extent of Contract: Integration

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

1. This Contract 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 Contract and are not attached hereto.
3. All Addenda to the Bid Documents.
4. The Invitation to Bidders.
5. The Instructions to Bidders.
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. Contractor's submittals.
12. The Performance and Payment Bonds.
13. The Escrow Contract.
14. Request for Taxpayer Identification number and certification: Substitute W-9.

4.04.02 In resolving conflicts, errors, discrepancies and disputes concerning the Scope of Work to be performed by Contractor, and other rights and obligations of the 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 the City shall govern; otherwise the documents shall be given precedence in the order as enumerated above.

4.05 Insurance

4.05.01 Contractor shall, as a prerequisite to this Contract, purchase and thereafter maintain such insurance as will protect it from the claims set forth below which may arise out of or result from Contractor's operations under this Contract, 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:

	Coverage	Limits
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

4.05.02 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 Contracts;
- 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 the 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.

4.05.03 With the prior written approval of the 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.

4.05.04 Certificates of Insurance showing such coverage then in force (but not less than the amount shown above) shall be on file with the 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 the City. The City shall be named as an additional insured on the Commercial General Liability, Automobile Liability, and Umbrella Excess Liability policies. Contractor shall agree to a waiver of subrogation on its Worker's Compensation policy.

4.06 Necessary Documentation

Contractor certifies that it will furnish the 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 it is now and will maintain in good standing with such governmental agencies and that it will keep its license, permit registration, authorization or certification in force during the term of this Contract.

4.07 Applicable Law

Contractor agrees to comply with all federal, state, and local laws, rules and regulations applicable to Contractor in performing work pursuant to this Contract, including, but not limited to, discrimination in employment, prevailing wage laws, conflicts of interest, public notice, accounting records and requirements. This Contract 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 Contract shall be in the Monroe Circuit Court, Monroe County, Indiana.

4.08 Non-Discrimination

4.08.01 Contractor and subcontractors shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, 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 Contract.

4.08.02 Contractor certifies for itself and all its subcontractors compliance with existing laws of 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 it:

a. Has formulated its own Affirmation 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 its operations.

4.08.03 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 Contract or any sub Contract 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 Contract 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 the City, under this Contract, 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 Contract. Any such person discriminated against retains the right to file a discrimination complaint with the appropriate civil rights agency or court.

D) That this Contract may be canceled or terminated by the 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 Contract.

4.09 Workmanship and Quality of Materials

4.09.01 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 the City of the purchase price of that portion which failed or may result in the forfeiture of Contractor's Performance Bond.

4.09.02 OR EQUAL: Wherever in any of the Contract Documents an article, material or equipment is defined by describing a proprietary product, or by using the name of a manufacturer or vendor, 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 Director. The approval by the Director 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 upon prior written approval of the Director.

4.09.03 The City shall be the sole judge of the sufficiency of workmanship and quality of materials. Disputes shall be resolved by the Director and are not subject to arbitration.

4.10 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.

4.11 Amendments/Changes

4.11.01 Except as provided in Paragraph 4.11.02, this Contract may be amended only by written instrument signed by both the City and Contractor.

4.11.02 Without invalidating the Contract and without notice to any surety, the 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 Contract Documents.

4.11.03 If Contractor believes that any direction of the City under paragraph 4.11.02, or any other event or condition, will result in an increase in the Contract time or price, he shall file written notice with the 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.

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

4.12 Performance Bond and Payment Bond

4.12.01 For contracts in excess of $100,000, Contractor shall provide the City with a Performance Bond and a Payment Bond in the amount of one hundred percent (100%) of the contract amount.

4.12.02 Failure by Contractor to perform the work in a timely or satisfactory fashion may result in forfeiture of Contractor's Performance Bond.

4.12.03 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 the City.

4.13 Payment of Subcontractors

Contractor shall pay all subcontractors, laborers, material suppliers and those performing services to Contractor on the project under this Contract. The 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, the City shall withhold money due to Contractor in a sufficient amount to pay the subcontractors, laborers, material suppliers, and those furnishing services to Contractor.

4.14 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		B&L Sheet Metal & Roofing Inc
Attn: Dave Williams, Operations Director		Dan Mirer
401 N. Morton, Suite 250		1301 N. Monroe Street
Bloomington, Indiana 47404		Bloomington, IN 47404

4.15 Severability and Waiver

In the event that any clause or provision of this Contract 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 Contract. Failure of either party to insist on strict compliance with any provision of this Contract shall not constitute waiver of that party's right to demand later compliance with the same or other provisions of this Contract.

4.16 Notice to Proceed

Contractor shall not begin the work pursuant to the "Scope of Work" of this Contract until it receives an official written Notice to Proceed from the City. Contractor shall start active and continuous work on the Contract 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 Contract 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.

4.17 Steel or Foundry Products

4.17.01 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 the City feel that the cost of domestic steel or foundry products is unreasonable, the City will notify Contractor in writing of this fact.

4.17.02 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."

4.17.03 Domestic Foundry products are defined as follows:

> "Products cast from ferrous and nonferrous metals by foundries in the United States."

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

4.17.05 The City may not authorize or make any payment to Contractor unless the City is satisfied that Contractor has fully complied with this provision.

4.18 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 B, 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 its 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 its subcontractors learns is an unauthorized alien. If the City obtains information that the Contractor or any of its subcontractors employs or retains an employee who is an unauthorized alien, the City shall notify the Contractor or its subcontractors of the Contract violation and require that the violation be remedied within thirty (30) calendar days of the date of notice. If the Contractor or any of its 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 its subcontractor did not knowingly employ an unauthorized alien. If the Contractor or its subcontractor fails to remedy the violation within the thirty (30) calendar 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 its 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 this Contract with the City.

4.19 Non-Collusion

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

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

DATE: _____

City of Bloomington	**Contractor**
Board of Park Commissioners	
BY:	BY:
_____	_____
Les Coyne, President	Contractor Representative
_____	_____
Paula McDevitt, Director	Printed Name
_____	_____
Philippa M. Guthrie, Corporation Counsel	Title of Contractor Representative

ATTACHMENT A
"SCOPE OF WORK"

Rosehill Mausoleum Roofing Repairs

This project shall include, but is not limited to the following:

- Removal and disposal of the existing roof system down to the structural deck
- Installation of a new fully adhered 60 mil EPDM roof membrane, new scuppers, collector boxes, and downspouts, and prefinished metal flashings around the perimeter of the roof area.

The work will consist of furnishing labor, equipment and materials as described in the Specifications and Bid Documents.

ATTACHMENT B
"E-VERIFY AFFIDAVIT"

STATE OF INDIANA)
)SS:
COUNTY OF _____)

AFFIDAVIT

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

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

_____
Signature

_____
Printed Name

STATE OF INDIANA)
)SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____ and acknowledged the execution of the foregoing this _____ day of _____, 2017.

_____ My Commission Expires: _____
Notary Public's Signature

_____ County of Residence: _____
Printed Name of Notary Public

ATTACHMENT C
"NON-COLLUSION AFFIDAVIT"

STATE OF _____)
) SS:
COUNTY OF _____)

AFFIDAVIT

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

OATH AND AFFIRMATION

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

Dated this _____ day of _____, 2017.

B&L Sheet Metal and Roofing Inc.

By: _____

_____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____ and acknowledged the execution of the foregoing this _____ day of _____, 2017.

_____ My Commission Expires: _____
Notary Public's Signature

_____ County of Residence: _____
Printed Name of Notary Public

STR BUILDING RESOURCES LLC
16848 SOUTHPARK DRIVE, SUITE 300
WESTFIELD, IN 46074

T 317.867.8505
F 317.867.8506
www.str-seg.com

September 25, 2017

Mr. Dave Williams
City of Bloomington Parks and Recreation
401 N. Morton St. Suite 250
Bloomington, IN 47408

Re: Rosehill Mausoleum– 2017 Roof Replacement
STRBR Project No. 14275

Dear Mr. Williams:

Proposals for the 2017 Roof Replacement Project at the Rosehill Mausoleum were received by the City of Bloomington, Indiana Department of Parks and Recreation located at Showers City Hall. 401 N. Morton St., Suite 250, Bloomington, Indiana until September 22, 2017, at 2 p.m. Three contractors submitted proposals for the envelope repairs and related work. Based upon the solicitation for proposals, review of the bids for completeness and response to the specifications and scope of work, it was determined that B&L Sheet Metal & Roofing Inc. was the apparent low bidder for the envelope repair project.

We recommend that the following work be awarded to B&L Sheet Metal & Roofing Inc. for a combined total contract of **$ 51,900.00**:

Base Bid #1: Rosehill Mausoleum Envelope Repairs

A copy of the bid tabulation sheet is attached for your use and reference.

Upon board approval and award of the above recommendations, City of Bloomington Parks and Recreation will prepare the A.I.A. Contract between B&L Sheet Metal & Roofing Inc. and the City of Bloomington Parks and Recreation

STR Building Resources would like to thank you and City of Bloomington Parks and Recreation for your continued support and consideration. We look forward to an early and successful completion of the 2017 envelope repair project.

Yours truly,
STR Building Resources LLC

Patrick Wells
Account Manager

Enclosures

Cc: Ben Brown, STR-SEG
Ben Ringle, STR-SEG

Project Quote Tabulation | City of Bloomington - Department of Parks and Recreation | 9/22/2017

Project: *Rosehill Mauseleum Roofing*
Project Number: N.A.
Quotes Due: September 22, 2017 2:00PM

	Contractor	Base Bid Amount	Exceptions Receipt of Addendum #1	Exceptions	Subs		Affirmative Action Plan Approval	Performance/ Payment Bond	Quote Bond
1	Nu-Tec Roofing	$82,700.00	✓				✓	NA	NA
2	B&L Sheet Metal & Roofing	$51,900.00	✓				✓	NA	NA
3	Danco Roofing Services Inc.	$73,922.00	✓				✓	NA	NA
4								NA	NA
5								NA	NA

Park Board Meeting: October 2, 2017 (Executive Session)
Action: _____

CITY OF BLOOMINGTON
parks and recreation

STAFF REPORT

Agenda Item: B-2 Date: 10/2/2017

Administrator Review\Approval PM

TO: Board of Park Commissioners
FROM: Dave Williams, Operations Director
DATE: September 25, 2017
SUBJECT: **REVIEW/APPROVAL OF CONTRACT AWARD CONTRACTUAL LIMESTONE MASONRY REHABILITATION ROSEHILL CEMETERY MAUSOLEUM**

Recommendation
It is recommended the Board approve a Parks G.O. Bond funded construction contract award for repairs to limestone masonry on the Rosehill Cemetery Mausoleum to Kemna Restoration of Indianapolis, IN at a bid price of $80,000.00.

Background
Bids were solicited for limestone masonry rehabilitation on this facility with specifications and bidding documents provided by our consultant STR Building Resources and two bids received on September 22nd. Based on a review of the bids received, and the recommendation of STR, we are requesting award of the project contract to the low bidder; Kemna Restoration. The bid tabulation with recommendation for award from STR has been added to the October 2 meeting information. The project will begin as soon as possible with completion by December 31.

RESPECTFULLY SUBMITTED,

Dave Williams, Operations Director

CONTRACT
BETWEEN
CITY OF BLOOMINGTON
PARKS AND RECREATION DEPARTMENT
AND
KEMAN RESTORATION
FOR
ROSEHILL MAUSOLEUM BUILDING ENVELOPE REPAIRS

THIS CONTRACT is executed by and between the City of Bloomington, Indiana, Parks and Recreation Department through the Board of Park Commissioners (hereinafter City), and Kemna Restoration, (hereinafter Contractor);

WITNESSETH THAT:

WHEREAS, the City desires to retain Contractor's services for the **Scope of Work** (more particularly described in Attachment A, "Scope of Work"); and

WHEREAS, Contractor is capable of performing the Services as per its Bid, as set forth on the Bid 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 Bidder for said project.

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

ARTICLE 1. TERM

1.01 This Contract shall be effective upon execution of this Contract 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 required under this Contract no later than February 6, 2018, unless the parties mutually agree to a later completion date. "Substantial Completion" shall mean completion of all work.

2.02 Contractor agrees that no charges or claims for damages shall be made by it for any delays or hindrances, from any cause whatsoever, during the progress of any portion of the services specified in the Contract. 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 the City of any of its rights herein.

ARTICLE 3. COMPENSATION

3.01 Contractor shall provide services as specified in Attachment A, "Scope of Work" ("Services"), attached hereto and incorporated into this Contract.

3.02 Contractor shall submit an invoice to the City upon the completion of the Services described in Article 3.01. Upon the submittal of an invoice, the City shall compensate Contractor in a lump sum not to exceed Eighty Thousand Dollars and Zero cents ($80,000) within forty-five (45) days of receipt of invoice. Invoices may be sent via first class mail postage prepaid or via email. The invoice shall be sent to:

Dave Williams
City of Bloomington
401 N. Morton, Suite 250
Bloomington, Indiana 47404

The 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 the City.
- Failure of Contractor to make payments due to subcontractors, material suppliers or employees.
- Damage to the City or a third party.

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

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 under this Contract 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 the City's representatives during reasonable business hours.

3.05 For projects utilizing federal funding, the Contractor shall submit time sheets (WH-347) for its own and all subcontracted employees, to the Director of the Parks and Recreation

Department ("Director") or his/her representative for approval and review, including review for compliance with Davis Bacon requirements.

3.06 Director

The Director or his/her designee shall act as the City's representative and assume all duties and responsibilities and have all the rights and authority assigned to the Director in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 4. GENERAL PROVISIONS

4.01 Contractor agrees to indemnify and hold harmless the 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 its 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 its officers, agents, officials, employees, or subcontractors has supplied to the City or has used in connection with this Contract and regardless of whether or not it is caused in part by a party indemnified herein. Such indemnity shall include attorney's fees and all costs and other expenses arising therefrom 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 the 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.

4.02 Abandonment, Default and Termination

4.02.01 The City shall have the right to abandon the work contracted for in this Contract without penalty. If the City abandons the work described herein, Contractor shall deliver to the City all surveys, notes, drawings, specifications and estimates completed or partially completed and these shall become the property of the City. The earned value of the work performed shall be based upon an estimate of the difference between the portion of the work performed by Contractor under this Contract and the work which Contractor was obligated to perform under this Contract. This difference shall be mutually agreed upon by the City and Contractor. The payment made to Contractor shall be paid as a final payment in full settlement of its services hereunder.

4.02.02 If Contractor defaults or fails to fulfill in a timely and proper manner its obligations pursuant to this Contract, the 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, the City may, at its option, terminate this Contract 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 such

action exceeds the unpaid balance of the sum amount, Contractor or its surety, shall pay the difference to the City.

4.02.03 **Default**: If Contractor breaches this Contract or fails to perform the work in an acceptable manner, it shall be considered in default. Any one or more of the following will be considered a default:

- Failure to begin the work under this Contract within the time specified.
- Failure to perform the work with sufficient supervision, workers, equipment and materials to insure prompt completion of said work within the time limits allowed.
- Unsuitable performance of the work as determined by Director or his/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 Contract or fails to carry on the work in an acceptable manner.

4.02.04 The City shall send Contractor a written notice of default. If Contractor, or its Surety, within a period of ten (10) days after such notice, fails to remedy the default, then the City shall have full power and authority, without violation of the Contract, to take the prosecution of the work out of the hands of 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 Contract with another Contractor for the completion of the Contract according to the terms and provisions thereof, or the City may use such other methods as, in its opinion, shall be required for the completion of this Contract in an acceptable manner.

4.02.05 All cost of completing the work under this Contract shall be deducted from the monies due or which may become due to said Contractor. In case the expenses so incurred by the 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 Surety will be liable and shall pay to the City the amount of said excess. By taking over the prosecution of the work, the City does not forfeit the right to recover damages from Contractor or its Surety for failure to complete the work in the time specified.

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

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

4.03 Successors and Assigns

4.03.01 Both parties agree that for the purposes of this Contract, Contractor shall be an Independent Contractor and not an employee of the City.

4.03.02 No portion of this Contract shall be sublet, assigned, transferred or otherwise disposed of by Contractor except with the written consent of the City. Consent to sublet, assign, transfer, or otherwise dispose of any portion of this Contract shall not be construed to relieve Contractor of any responsibility of the fulfillment of this Contract.

4.04 Extent of Contract: Integration

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

1. This Contract 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 Contract and are not attached hereto.
3. All Addenda to the Bid Documents.
4. The Invitation to Bidders.
5. The Instructions to Bidders.
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. Contractor's submittals.
12. The Performance and Payment Bonds.
13. The Escrow Contract.
14. Request for Taxpayer Identification number and certification: Substitute W-9.

4.04.02 In resolving conflicts, errors, discrepancies and disputes concerning the Scope of Work to be performed by Contractor, and other rights and obligations of the 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 the City shall govern; otherwise the documents shall be given precedence in the order as enumerated above.

4.05 Insurance

4.05.01 Contractor shall, as a prerequisite to this Contract, purchase and thereafter maintain such insurance as will protect it from the claims set forth below which may arise out of or result from Contractor's operations under this Contract, 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:

	Coverage	Limits
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

4.05.02 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 Contracts;
- 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 the 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.

4.05.03 With the prior written approval of the 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.

4.05.04 Certificates of Insurance showing such coverage then in force (but not less than the amount shown above) shall be on file with the 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 the City. The City shall be named as an additional insured on the Commercial General Liability, Automobile Liability, and Umbrella Excess Liability policies. Contractor shall agree to a waiver of subrogation on its Worker's Compensation policy.

4.06 Necessary Documentation

Contractor certifies that it will furnish the 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 it is now and will maintain in good standing with such governmental agencies and that it will keep its license, permit registration, authorization or certification in force during the term of this Contract.

4.07 Applicable Law

Contractor agrees to comply with all federal, state, and local laws, rules and regulations applicable to Contractor in performing work pursuant to this Contract, including, but not limited to, discrimination in employment, prevailing wage laws, conflicts of interest, public notice, accounting records and requirements. This Contract 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 Contract shall be in the Monroe Circuit Court, Monroe County, Indiana.

4.08 Non-Discrimination

4.08.01 Contractor and subcontractors shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, 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 Contract.

4.08.02 Contractor certifies for itself and all its subcontractors compliance with existing laws of 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 it:

a. Has formulated its own Affirmation 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 its operations.

4.08.03 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 Contract or any sub Contract 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 Contract 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 the City, under this Contract, 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 Contract. Any such person discriminated against retains the right to file a discrimination complaint with the appropriate civil rights agency or court.

D) That this Contract may be canceled or terminated by the 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 Contract.

4.09 Workmanship and Quality of Materials

4.09.01 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 the City of the purchase price of that portion which failed or may result in the forfeiture of Contractor's Performance Bond.

4.09.02 OR EQUAL: Wherever in any of the Contract Documents an article, material or equipment is defined by describing a proprietary product, or by using the name of a manufacturer or vendor, 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 Director. The approval by the Director 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 upon prior written approval of the Director.

4.09.03 The City shall be the sole judge of the sufficiency of workmanship and quality of materials. Disputes shall be resolved by the Director and are not subject to arbitration.

4.10 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.

4.11 Amendments/Changes

4.11.01 Except as provided in Paragraph 4.11.02, this Contract may be amended only by written instrument signed by both the City and Contractor.

4.11.02 Without invalidating the Contract and without notice to any surety, the 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 Contract Documents.

4.11.03 If Contractor believes that any direction of the City under paragraph 4.11.02, or any other event or condition, will result in an increase in the Contract time or price, he shall file written notice with the 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.

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

4.12 Performance Bond and Payment Bond

4.12.01 For contracts in excess of $100,000, Contractor shall provide the City with a Performance Bond and a Payment Bond in the amount of one hundred percent (100%) of the contract amount.

4.12.02 Failure by Contractor to perform the work in a timely or satisfactory fashion may result in forfeiture of Contractor's Performance Bond.

4.12.03 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 the City.

4.13 Payment of Subcontractors

Contractor shall pay all subcontractors, laborers, material suppliers and those performing services to Contractor on the project under this Contract. The 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, the City shall withhold money due to Contractor in a sufficient amount to pay the subcontractors, laborers, material suppliers, and those furnishing services to Contractor.

4.14 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		Kemna Restoration
Attn: Dave Williams		Jerry L. Kemna
401 N. Morton, Suite 250		1122 Deloss Street
Bloomington, Indiana 47404		Indianapolis, IN 46203

4.15 Severability and Waiver

In the event that any clause or provision of this Contract 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 Contract. Failure of either party to insist on strict compliance with any provision of this Contract shall not constitute waiver of that party's right to demand later compliance with the same or other provisions of this Contract.

4.16 Notice to Proceed

Contractor shall not begin the work pursuant to the "Scope of Work" of this Contract until it receives an official written Notice to Proceed from the City. Contractor shall start active and continuous work on the Contract 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 Contract 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.

4.17 Steel or Foundry Products

4.17.01 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 the City feel that the cost of domestic steel or foundry products is unreasonable, the City will notify Contractor in writing of this fact.

4.17.02 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."

4.17.03 Domestic Foundry products are defined as follows:

> "Products cast from ferrous and nonferrous metals by foundries in the United States."

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

4.17.05 The City may not authorize or make any payment to Contractor unless the City is satisfied that Contractor has fully complied with this provision.

4.18 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 B, 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 its 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 its subcontractors learns is an unauthorized alien. If the City obtains information that the Contractor or any of its subcontractors employs or retains an employee who is an unauthorized alien, the City shall notify the Contractor or its subcontractors of the Contract violation and require that the violation be remedied within thirty (30) calendar days of the date of notice. If the Contractor or any of its 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 its subcontractor did not knowingly employ an unauthorized alien. If the Contractor or its subcontractor fails to remedy the violation within the thirty (30) calendar 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 its 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 this Contract with the City.

4.19 Non-Collusion

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

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

DATE: _____

City of Bloomington	**Contractor**
Board of Park Commissioners	
BY:	BY:
_____	_____
Les Coyne, President	Contractor Representative
_____	_____
Paula McDevitt, Director	Printed Name
_____	_____
Philippa M. Guthrie, Corporation Counsel	Title of Contractor Representative

ATTACHMENT A
"SCOPE OF WORK"

Rosehill Mausoleum Building Envelope Repairs

This project shall include, but is not limited to the following:

- Removal and legal disposal of existing damaged limestone units
- Providing new matching limestone units
- Replacing any exposed anchors with stainless steel to match existing configuration
- Limestone crack and spall rehabilitation
- Cast-in-place concrete crack and spall rehabilitation
- To remove existing plastic sheet at windows and provide new plexiglass at window
- landscape repairs, and raising grade.

The work will consist of furnishing labor, equipment and materials as described in the Specifications and Bid Documents.

ATTACHMENT B
"E-VERIFY AFFIDAVIT"

STATE OF INDIANA)
)SS:
COUNTY OF _____)

AFFIDAVIT

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

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

_____
Signature

_____
Printed Name

STATE OF INDIANA)
)SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____ and acknowledged the execution of the foregoing this _____ day of _____, 2017.

_____ My Commission Expires: _____
Notary Public's Signature

_____ County of Residence: _____
Printed Name of Notary Public

ATTACHMENT C
"NON-COLLUSION AFFIDAVIT"

STATE OF _____)
) SS:
COUNTY OF _____)

AFFIDAVIT

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

OATH AND AFFIRMATION

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

Dated this _____ day of _____, 2017.

Kemna Restoration

By: _____

_____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____ and acknowledged the execution of the foregoing this _____ day of _____, 2017.

_____ My Commission Expires: _____
Notary Public's Signature

_____ County of Residence: _____
Printed Name of Notary Public

STR BUILDING RESOURCES LLC
16848 SOUTHPARK DRIVE, SUITE 300
WESTFIELD, IN 46074

T 317.867.8505
F 317.867.8506
www.str-seg.com

September 25, 2017

Mr. Dave Williams
City of Bloomington Parks and Recreation
401 N. Morton St. Suite 250
Bloomington, IN 47408

Re: Rosehill Mausoleum– 2017 Building Envelope Repairs
STRBR Project No. 14198

Dear Mr. Williams:

Proposals for the 2017 Building Envelope Repair Project at the Rosehill Mausoleum were received by the City of Bloomington, Indiana Department of Parks and Recreation located at Showers City Hall. 401 N. Morton St., Suite 250, Bloomington, Indiana until September 22, 2017, at 2 p.m. Two contractors submitted proposals for the envelope repairs and related work. Based upon the solicitation for proposals, review of the bids for completeness and response to the specifications and scope of work, it was determined that Kemna Restoration was the apparent low bidder for the envelope repair project.

We recommend that the following work be awarded to Kemna Restoration for a combined total contract of **$ 80,000.00**:

Base Bid #1: Rosehill Mausoleum Envelope Repairs

A copy of the bid tabulation sheet is attached for your use and reference.

Upon board approval and award of the above recommendations, City of Bloomington Parks and Recreation will prepare the A.I.A. Contract between Kemna Restoration and the City of Bloomington Parks and Recreation

STR Building Resources would like to thank you and City of Bloomington Parks and Recreation for your continued support and consideration. We look forward to an early and successful completion of the 2017 envelope repair project.

Yours truly,
STR Building Resources LLC

Patrick Wells
Account Manager

Enclosures

Cc: Ben Brown, STR-SEG
Ben Ringle, STR-SEG

Project Quote Tabulation City of Bloomington - Department of Parks and Recreation 9/22/2017

Project: *Rosehill Mauseleum Limestone Rehabilitation*
Project Number: N.A.
Quotes Due: September 22, 2017 2:00PM

	Contractor	Base Bid Amount	Exceptions Receipt of Addendum #1	Exceptions	Subs		Affirmative Action Plan Approval	Performance/ Payment Bond	Quote Bond
1	Browning Chapman	$ 149,250.00	✓				✓	NA	NA
2	Kenna Restoration	$ 80,000.00	✓				✓	NA	NA
3								NA	NA
4								NA	NA
5								NA	NA

Park Board Meeting: October 2, 2017 (Executive Session)
Action: _____

CITY OF BLOOMINGTON
parks and recreation

STAFF REPORT

Agenda Item: B-3 Date: 10/2/2017

Administrator Review\Approval PM

TO: Board of Park Commissioners
FROM: Dave Williams, Operations Director
DATE: September 20, 2017
SUBJECT: **REVIEW/APPROVAL OF CONSULTANT CONTRACT AGREEMENT ENVIRONMENTAL ASSESSMENT-108 W. CLUBHOUSE DR.**

Recommendation
It is recommended the Board approve a consultant contract agreement with Fields Environmental to conduct a Phase 1 environmental assessment for property located at 108 W. Clubhouse Dr. at a cost of $2,350.

Background
The department is considering acquisition of the Dagom Gaden Tensung-Ling Monastery property located in Lower Cascades Park using appropriations from the Parks G.O. Bond. In keeping with department policy, this report, along with a real estate property appraisal and title search are required.

RESPECTFULLY SUBMITTED,

_____
Dave Williams, Operations Director

AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND FIELDS ENVIRONMENTAL, INC.

This Agreement, entered into on this ___ day of October, 2017, by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and Fields Environmental, Inc. ("Consultant").

Article 1. Scope of Services Consultant shall provide Phase I Environmental Site Assessment (ESA) at 108 W Club House Drive, Bloomington, Indiana, 47404 (Parcel ID #: 53-05-21-300-009.000-005) ("Services"). Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Consultant shall complete the Services required under this Agreement on or before October 13, 2017, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Consultant's work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Mr. Dave Williams as the Department's Project Manager. Consultant agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

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

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

Article 4. Compensation The Department shall pay Consultant for all fees and expenses in an amount not to exceed Two-Thousand Three-Hundred and Fifty Dollars ($2,350.00). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Mr. Dave Williams, City of Bloomington, 401 N. Morton, Suite 250, Bloomington, Indiana 47404. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

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

Article 6. Schedule Consultant shall perform the Services according to the following schedule:
October 2, 2017 – assumed contract approval
October 4, 2017 – notice to proceed
October 13, 2017 – project completion
The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

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

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

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

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

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

Article 12. Insurance During the performance of any and all Services under this Agreement, Consultant shall maintain the following insurance in full force and effect: a) General Liability Insurance, with a minimum combined single limit of $1,000,000 for each occurrence and $2,000,000 in the aggregate; b) Automobile Liability Insurance, with a minimum combined single limit of $1,000,000 for each person and $1,000,000 for each accident; c) Workers' Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code; and d) Professional Liability Insurance ("Errors and Omissions Insurance") with a minimum limit of $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 Department, and the officers,

employees and agents of each shall be named as insureds under the General Liability, Automobile, and Worker's Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City's will be called upon to contribute to a loss hereunder. Consultant shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement.

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

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

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

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

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

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

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

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

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

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

City of Bloomington Department of Parks and Recreation, Attn: Mr. Dave Williams, 401 N. Morton, Bloomington, IN 47402. Consultant: Fields Environmental, Inc. 2335 W. Fountain Drive, Bloomington. 47404.

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

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

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

CITY OF BLOOMINGTON

_____

Philippa M. Guthrie, Corporation Counsel

Fields Environmental, Inc.

_____

Rudy D. Fields, President

CITY OF BLOOMINGTON PARKS AND RECREATION

_____

Paula McDevitt, Director

_____

Leslie J. Coyne, President, Board of Park Commissioners

EXHIBIT A
E-VERIFY AFFIDAVIT

STATE OF INDIANA)
)SS:
COUNTY OF _____)

AFFIDAVIT

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

1. The undersigned is the President of Fields Environmental, Inc.
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 herby states that, to the best of his/her belief, the company named herein is enrolled in and participates in the E-verify program.

_____
Signature

_____
Printed Name

STATE OF INDIANA)
)SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____ and acknowledged the execution of the foregoing this _____ day of _____, 2017.

_____ My Commission Expires: _____
Notary Public's Signature

_____ County of Residence: _____
Printed Name of Notary Public

EXHIBIT B

STATE OF _____)
) SS:
COUNTY OF _____)

NON-COLLUSION AFFIDAVIT

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

OATH AND AFFIRMATION

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

Dated this _____ day of _____, 2017.

Fields Environmental, Inc.

By: _____

_____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____ and acknowledged the execution of the foregoing this _____ day of _____, 2017.

_____ My Commission Expires: _____
Notary Public's Signature

_____ County of Residence: _____
Printed Name of Notary Public

CITY OF BLOOMINGTON
parks and recreation

STAFF REPORT

Agenda Item: B-4 Date: 10/2/2017

Administrator Review\Approval PM

TO: Board of Park Commissioners
FROM: Julie Ramey, Community Relations Manager
DATE: January 18, 2017
SUBJECT: **REVIEW/APPROVAL OF CONTRACT FOR SWITCHYARD PARK LOGO DESIGN**

Recommendation
Staff recommends approval of a contract with RLR Associates (RLR) to create a logo and branding guidelines for Switchyard Park

Background
RLR is a design firm of creative professionals recognized for award-winning branding, identity, and environmental graphics. Based in Indianapolis, RLR has worked with Switchyard Park architects Rundell Ernstberger Associates (REA) on other projects and come highly recommended by REA for their in-depth process to develop image strategies.

The design services agreement with RLR includes the creation of a Switchyard Park identity/logo that is compatible with the look, feel, and culture of Switchyard Park. This identity/logo will be used to exclusively brand the park.

The cost for the research and discovery, logo design and development, and creation of artwork and brand guidelines by RLR is $3,500. The City of Bloomington will hold all rights to the reproduction and use of the Switchyard Park identity/logo and brand guidelines, and will receive the logo in all applicable digital formats.

RESPECTFULLY SUBMITTED,

Julie Ramey

Julie Ramey, Community Relations Manager

AGREEMENT
BETWEEN
CITY OF BLOOMINGTON
PARKS AND RECREATION DEPARTMENT
AND
RLR Associates, Inc.
FOR
Switchyard Park Logo

This Agreement, entered into on this _____day of _____, 2017, by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and RLR Associates, Inc. ("Consultant"),

WITNESSETH:

WHEREAS, the Department wishes to acquire a logo design for the Switchyard Park that encapsulates the history, culture and spirit of the Switchyard area; and

WHEREAS, the Department requires the services of a professional consultant in order to perform these design services (the "Services" as further defined below); and

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

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

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

Article 1. <u>Scope of Services</u>
Consultant shall provide the Services as specified in Exhibit A, "Scope of Work", attached hereto and incorporated into this Agreement.

Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2.

Consultant shall complete the Services required under this Agreement on or before November 7, 2017, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

In the performance of Consultant's work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Julie Ramey, Community Relations Manager, as the Department's Project Manager. Consultant agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.
Article 2. <u>Standard of Care</u>

Consultant shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances ("Standard of Care"). Upon notice to Consultant and by mutual agreement between the parties, Consultant will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

Article 3. Responsibilities of the Department

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

Article 4. Compensation

The Department shall pay Consultant for all fees and expenses in an amount not to exceed Three Thousand Five Hundred Dollars and Zero cents ($3,500). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. The invoice shall be sent to:

Julie Ramey
City of Bloomington
401 N. Morton, Suite 250
Bloomington, Indiana 47404

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

Article 5. Appropriation of Funds

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

Article 6. Schedule

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

Article 7. Termination

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

The Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to Consultant. Consultant shall terminate or suspend

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

Article 8. Identity of the Consultant

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

Article 9. Opinions of Probable Cost

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

Article 10. Reuse of Instruments of Service

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

Article 11. Ownership of Documents and Intellectual Property

The final construction documents prepared under this Agreement shall become the property of the Client upon completion of the services and payment in full of all monies due to the Consultant. Consultant shall retain its ownership rights in its design, drawing details, specifications, databases, computer software and other proprietary property. Intellectual property developed, utilized or modified in the performance of the Services shall remain the property of Consultant.

Article 12. Independent Contractor Status

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

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

Article 13. Indemnification

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

Article 14. Insurance

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

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

b. Automobile Liability Insurance, with a minimum combined single limit of $1,000,000 for each person and $1,000,000 for each accident.

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

d. Workers' Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code.

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

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

Article 15. Conflict of Interest

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

Article 16. Waiver
No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

Article 17. Severability
The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

Article 18. Assignment
Neither the Department nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

Article 19. Third Party Rights
Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Department and Consultant.

Article 20. Governing Law and Venue
This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

Article 21. Non-Discrimination
Consultant shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in all regards, including, but not limited to, employment.

Article 22. Compliance with Laws
In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction over the project are in conflict, Consultant shall proceed using its best judgment only after attempting to resolve any such conflict between such governmental agencies, and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

Article 23. E-Verify
Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists).

Consultant shall sign an affidavit, attached as Exhibit C, affirming that Consultant does not knowingly employ an unauthorized alien. "Unauthorized alien" is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code chapter 12 or by the U.S. Attorney General.

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

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

Article 24. <u>Notices</u>
Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

Department:		**Consultant:**
City of Bloomington		RLR Associates, Inc.
Attn: Julie Ramey		Rodney Reid
401 N. Morton, Suite 250		1302 North Illinois Street
Bloomington, Indiana 47402		Indianapolis, IN 46202

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

Article 25. <u>Intent to be Bound</u>
The Department and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

Article 26. Integration and Modification
This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Consultant. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties hereto.

Article 27. Non-Collusion
Consultant is required to certify that it has not, nor has any other member, representative, or agent of Consultant, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Consultant shall sign an affidavit, attached hereto as Exhibit D, affirming that Consultant has not engaged in any collusive conduct. Exhibit D is attached hereto and incorporated by reference as though fully set forth.

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

CITY OF BLOOMINGTON

_____
Philippa M. Guthrie, Corporation Counsel

RLR Associates, Inc.

_____
Rodney Reid, President

CITY OF BLOOMINGTON PARKS AND RECREATION

_____
Paula McDevitt, Director

_____
Leslie J. Coyne, President, Board of Park Commissioners

EXHIBIT A
"Scope of Work"

The Services shall include the following:

September 8, 2017

Mr. Dave Williams, Operations Director
Bloomington Parks & Recreation
Bloomington Building, LLC
401 North Morton Street, Suite 250
Bloomington, IN 47402

Project Name: Switch Yard Park – Identity (Logo) Design **RLR Project No.**: BTON-001

DESIGN SERVICES AGREEMENT

This letter is in confirmation of an agreement between RLR Associates, Inc. (RLR) and Bloomington Parks & Recreation (BPR) for the professional design services related to the Switchyard Park (Project) in Bloomington, Indiana. RLR will perform services as a consultant to BPR as detailed below.

Scope of Work

RLR will create a Switchyard Identity or Logo that establishes an image compatible with the *look, feel* and *culture* of the Switchyard. We understand that the Switchyard identity will be used to exclusively brand the park.

The design of the logo will be achieved through the use of color, illustration and typography. Designs will be presented and refined based on client input. RLR will then create an identity that reflects the culture and style of the park. Listed below are components of our work:

A. **Discovery** - RLR will gather historic data, research and review background information on Switchyard Park in order to shape ideas for "look" and identity development. We will talk with stakeholders and BPR leadership to become more familiar with existing perceptions and desired image of Switchyard Park.

B. **Visual Identifier (Logo)** - Create a logo or visual identifier that encapsulates the park's unique image. Logo may be a typographic (letterform) or symbolic graphic. Present 5-6 design concepts of the logo.

C. **Identity Style Guide** - Write and layout an updateable guide that describes and details the use of the established guides (i.e., color, font, material finishes, size) and production specifications for communications materials (print, web, signage, etc.).

Deliverables:	Create and present design concepts for selection. Refine one selected logo and prepare artwork suitable for output. Final logo artwork will be provided in digital formats (i.e., eps, jpg, png, and pdf) all in high- and low-resolution sizes. Provide a simple two-page *Usage Guideline* of logo or wordmark to illustrate recommended applications.
Schedule:	3-4 weeks depending upon BPR's response and approval process.
Meetings:	Participate in 2-3 client presentations and reviews as determined in a project kick-off/discovery meeting.

RLR ASSOCIATES INC 1302 North Illinois Street Indianapolis IN 46202 USA tel 317 632 1300 fax 317 632 1302

Compensation

RLR Associates will provide the above scope of work for a lump sum fee of Three Thousand Five Hundred Dollars as follows:

Step 1 – Research & Discovery	$500.00
Step 2 – Logo Design & Development	$2,500.00
Step 3 – Artwork & Guideline	$500.00
Total Compensation	**3,500.00**

Reimbursable Expenses - Any reimbursable expenses not included in above compensation will be invoiced at 1.15 times our direct cost. These expenses may include reproductions, specification samples, font libraries, art supplies, express mail services, etc.

Terms – An Invoice for the total design fee will be sent at the time of presentation of design concepts. Subsequent invoices will be sent based on expenses incurred. All invoices are due upon receipt. Unpaid invoice balances at 30 days will bear interest of 2% per month accrued.

ACCEPTANCE

Authorized for
RLR Associates, Inc.:

9/8/2017

Signature Date

Rodney Reid President

Name (Printed) Title

Authorized for
Bloomington Parks & Recreation:

Signature Date

Name (Printed) Title

EXHIBIT B

"Project Schedule"

All work to be completed on or before: 11/7/17

EXHIBIT C
E-VERIFY AFFIDAVIT

STATE OF INDIANA)
)SS:
COUNTY OF _____)

AFFIDAVIT

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

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

_____
Signature
_____
Printed Name

STATE OF INDIANA)
)SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____ and acknowledged the execution of the foregoing this _____ day of _____, 2017.

_____ My Commission Expires: _____
Notary Public's Signature

_____ County of Residence: _____
Printed Name of Notary Public

EXHIBIT D

STATE OF _____)
) SS:
COUNTY OF _____)

NON-COLLUSION AFFIDAVIT

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

OATH AND AFFIRMATION

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

Dated this _____ day of _____, 2017.

RLR Associates, Inc.

By: _____

_____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____ and acknowledged the execution of the foregoing this _____ day of _____, 2017.

_____ My Commission Expires: _____
Notary Public's Signature

_____ County of Residence: _____
Printed Name of Notary Public

CITY OF BLOOMINGTON
parks and recreation

STAFF REPORT

Agenda Item B-5
Date: 10/2/2017

Administrator
Review\Approval
PM

TO: Administrator
FROM: John Turnbull, Sports Division Director
DATE: September 22, 2017
SUBJECT: Bloomington Coummunity Park and Recreation Foundation/Don Brineman Memorial Golf Scramble;Waiving Fees

Recommendation

Staff recommends that the Board of Park Commissioners waive cart and green fees for the 22nd Annual Parks and Recreation Foundation Don Brineman Golf Scramble to be held on Wednesday, October 4.

Background

This event is the primary fund raiser for the Bloomington Parks Foundation which supports the Lloyd Olcott Youth Endowment Fund for scholarships. This tournament generally raises between $7,000 and $10,000. We welcome any Park Board members that would like to participate in lunch at 11:30am and golf at 1:00 pm.

RESPECTFULLY SUBMITTED,

John Turnbull, Division Director Sports