

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

**AGENDA**

City of Bloomington Board of Park Commissioners  
Regular Meeting: Tuesday, May 22, 2018 4:00pm – 5:30pm

Council Chambers  
401 North Morton

**CALL TO ORDER - ROLL CALL**

**A. CONSENT CALENDAR**

- A-1. Approval of Minutes of April 24, 2018
- A-2. Approval of Claims Submitted April 25, 2018 – May 21, 2018
- A-3. Approval of Non-Reverting Budget Amendments
- A-4. Review of Business Report
- A-5. Approval of Surplus

**B. PUBLIC HEARINGS/APPEARANCES**

- B-1. Public Comment Period -
- B-2. Bravo Award -
- B-3. Parks Partner Award -
- B-4. Staff Introductions - Interns:  
Blake Richardson (Sports)  
Nancy Le (Health/Wellness)  
Zac Clark (Operations)

**C. OTHER BUSINESS**

- C-1. Review/Approval of Policy changes for Cemetery grave decorations (Joanna Sparks)
- C-2. Review/Approval of Contract with Wilds Security for July 4<sup>th</sup> Parade (Bill Ream)
- C-3. Review/Approval of Contract with Professional Golfcar Corporation for July 4<sup>th</sup> Parade golf cart rental (Bill Ream)
- C-4. Review/Approval of Partnership Agreement with Downtown Bloomington Inc. for July 4<sup>th</sup> Parade (Bill Ream)
- C-5. Review/Approval of Contract with Big Bounce Fun House (Bill Ream)
- C-6. Review/Approval of Contract with Southside Rental for tent rentals (Bill Ream)
- C-7. Review/Approval of Partnership Grant Agreement with Summer STAR Foundation for Banneker Summer Nature Days (Elizabeth Tompkins)
- C-8. Review/Approval of Partnership Grant Agreement with Summer STAR Foundation for Griffy Lake Nature Days (Elizabeth Tompkins)
- C-9. Review/Approval of contract with Umphress Masonry, Inc (Barb Dunbar)
- C-10. Review/Approval of Contract with Ann-Kriss, LLC for Operations Division (Barb Dunbar)
- C-11. Review/Approval of Contract with Nashville Party Rentals, Inc. for event tents (Marcia Veldman)
- C-12. Review/Approval of Contract with Bartlett Tree Experts for ash tree treatment (Lee Huss)
- C-13. Review/Approval of Contract with Bluestone Tree for tree removals (Lee Huss)
- C-14. Review/Approval of Contract with Mominee Tree for tree pruning services (Lee Huss)
- C-15. Review/Approval of Contract Tree Guy for tree treatments (Lee Huss)
- C-16. Review/Approval of Contract for Environmental Property Assessment (Dave Williams)
- C-17. Review/Approval of B-Line Trail Utility Easement (Dave Williams)

- C-18. Review/Approval of Alcohol Permit submitted by WCLS Radio (Crystal Ritter)  
C-19. Review/Approval of Partnership Agreement with Middleway House for use of Mills Pool (Chelsea Price)  
C-20. Review/Approval of Contract with Freiji-RSC Engineered Solutions for services at Frank Southern Center (Hsiung Marler)

**D. REPORTS**

- D-1. Recreation Division - Smithville Foundation grant award (Erik Pearson)  
D-2. Operations Division -  
D-3. Sports Division -  
D-4. Administration Division -

**ADJOURNMENT**



CITY OF BLOOMINGTON  
parks and recreation

A-1

05-22-2018

Board of Park Commissioners  
Regular Meeting  
Minutes

Tuesday, April 24, 2018  
4:00 p.m. – 5:30 p.m.

Council Chambers  
401 N. Morton St.

**CALL TO ORDER**

The meeting was called to order by Ms. Kathleen Mills at 4:02 p.m.

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

**Staff Present:** Ms. Paula McDevitt, Mr. Dave Williams, Mr. John Turnbull, Ms. Becky Higgins, Ms. Julie Ramey, Ms. Kim Clapp, Ms. Leslie Brinson, Mr. Mark Marotz, Mr. Lee Huss, Ms. Hannah Buddin, Ms. Elizabeth Tompkins, Ms. Marcia Veldman, Mr. Steve Cotter, Ms. Joanna Sparks, Mr. Bill Ream, Ms. Barb Dunbar, Ms. Amy Shrake, Ms. Dee Tuttle, Ms. Sarah Owen, Ms. Jess Klein and Ms. Ellen Campbell

**A. PUBLIC HEARINGS/APPEARANCES**

**A. CONSENT CALENDAR**

- A-1. Approval of Minutes of April 10, 2018 Meeting
- A-2. Approval of Claims Submitted April 10, 2018 through April 23, 2018
- A-3. Approval of Non-Reverting Budget Amendments
- A-4. Review of Business Report
- A-5. Approval of Surplus - None

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

**B. PUBLIC HEARINGS/APPEARANCES**

**B-1. Public Comment Period** - None

**B-2. Bravo Award** – None

**B-3. Parks Partner Award** – None

**B-4. Staff Introduction- Jess Klein**

Ms. Jess Klein, recently accepted the position of Health & Wellness Coordinator. In 2016, Ms. Klein graduated from the Indiana University School of Public Health with a Master's in Kinesiology, with a major in Physical Activity, Fitness & Wellness. While at IU, Ms. Klein was part of a group that conducted a case study of the Bloomington Parks and Recreation Department. She was inspired and excited by the diverse range of programs and projects being offered at any given time. Ms. Klein looks forward to being part of this collaborative, hard-working team to provide active wellness opportunities to the people of Bloomington.

**C. OTHER BUSINESS**

*Mayor John Hamilton approached the podium.* It's very nice to be here. I am the fourth, in a series of mayors, which

has worked on this project. The Switchyard Park is an investment that will have major impact on the Bloomington community. The Parks Department is part of a project that future generations will be enjoying. I am excited to be part of the development of this park, and seeing it to its completion. We are proud of the leadership the Parks Department has shown on this project.

The Redevelopment Commission has committed so much in resources for this park, with the view that this is a long term major redevelopment investment for our community. It recognizes the values our community has built over the years. This type of amenity, is a key asset for the future development of prosperity, opportunity, fairness and welcoming of a city to grow.

Thank you for your stewardship through this time. It's an incredible day, to note the opportunity to invest the major resources, provided by the Redevelopment Commission, to help create a beautiful future. The City is committed to considering the areas around the Switchyard Park, affordable housing, connectivity, access, and impact. Thank you on behalf of the community.

The Board thanked Mayor Hamilton for his support and leadership in this project.

#### **C-1. Review/Approval of Switchyard Park Construction Contract**

Mr. Dave Williams, Operations Division Director, the Department wishes to provide the community with a new park at 1611 S. Rogers Street, and requires the services of a professional consultant to complete the construction of the Switchyard Park, a 58 acre facility. Staff recommends the approval of this contract with Weddle Brothers Building Group LLC at a total cost of \$25,857,200. Two bids were received on April 11, 2018, with Weddle Brothers being the lowest responsible Bidder. The Contractor has 753 calendar days from the Notice to Proceed to complete the project.

Mr. Les Coyne made a motion to approve the Switchyard Park Construction Contract. Ms. Darcie Fawcett seconded the motion. Motion unanimously carried.

The Board thanked Mr. Williams and staff for their hard work and dedication to this project.

#### **C 2. Review/Approval of Consultant Contract Agreement RCA Park Trail Rehabilitation**

Mr. Dave Williams, Operations Division Director, the loop walking trail at RCA Park requires rehabilitation. The Department wishes to acquire design plans for the restoration, and requires the services of a professional consultant to provide professional landscape architectural services. Staff recommends the approval of this contract with Mader Design, in the amount of \$25,500.

Mr. Joseph Hoffman made a motion to approve the Agreement with Mader Design. Ms. Darcie Fawcett seconded the motion. Motion unanimously carried.

#### **C-3 Review/Approval of Consultant Contract Agreement Addendum – Peoples Park.**

Mr. Dave Williams, Operations Division Director the Department wishes to extend the August 22, 2017 Agreement with Rundell Ernstberger Associates, to prepare conceptual design alternatives for Peoples Park. To amend the Agreement to reflect the continuation of the project and extension of the contractual schedule and completion date to December 31, 2018. All other terms of original Agreement are still intact.

Mr. Les Coyne made a motion to approve the Contract Agreement Addendum with Rundell Ernstberger Associates. Ms. Darcie Fawcett seconded the motion. Motion unanimously carried.

#### **C-4 Review/Approval of Partnership Agreement with Ryder Film Series**

Ms. Leslie Brinson, Community Events Manager the Department wishes to provide free outdoor movies for the benefit of the general public. The purpose of this Agreement is to outline a program partnership which provides increased affordable entertainment opportunities for the Bloomington community by combining available resources from each partner to the Agreement. Ms. Brinson invited Mr. Peter Lopilato, Ryder Films to the podium.

*Mr. Lopilato approached the podium.* We are looking forward to this summer series of films. I think it will be a successful year. Thank you.

Ms. Mills abstained from voting, due to her spouse's association with Ryder Film Series.

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

**C-5 Review/Approval of Service Agreement with Aramark Uniform & Career Apparel Group, Inc.**

Ms. Barb Dunbar, Operations Coordinator the Department wishes to offer Operations staff, the opportunity to participate in a cost sharing uniform laundry program. The Department requires the services of a professional consultant to provide laundry services for staff uniforms and mat services. Staff recommends the approval of this contract with Aramark Uniform & Career Apparel Group, Inc.

Mr. Les Coyne made a motion to approve the Service Agreement with Aramark Uniform & Career Apparel Group, Inc. Ms. Darcie Fawcett seconded the motion. Motion unanimously carried.

**C-6 Review/Approval of Service Agreement with Ronnie G. Pursell**

Ms. Joanna Sparks, City Landscaper many of the old headstones at the Rose Hill Cemetery are in need of attention. The Department wishes to maintain these headstones, and is in need of a professional consultant to provide the skilled services to repair and reset the headstones. Staff recommends the approval of this Service Agreement with Ronnie G. Pursell, all fees and expenses are not to exceed \$2,499.

Mr. Les Coyne made a motion to approve the Service Agreement with Ronnie G. Pursell. Ms. Darcie Fawcett seconded the motion. Motion unanimously carried.

**C-7 Review/Approval of Contract with Rural Transit**

Mr. Bill Ream, Community Events Coordinator during the 50+ Expo, the Department wishes to provide shuttle services to attendees and exhibitors. The Department requires the services of a professional consultant to provided bus services between the Twin Lakes Recreation Center and the Twin Lakes Sports Park parking lot. Staff recommends the approval of this Service Agreement with Rural Transit, all fees and expenses are not to exceed \$500.

Mr. Les Coyne made a motion to approve the contract with Rural Transit. Ms. Darcie Fawcett seconded the motion. Motion unanimously carried.

**C-8 Review/Approval of Contract with Mader Design, LLC**

Mr. John Turnbull, Division Director Sports there is a need to store and discard tree and yard waste produced by the City of Bloomington, and improve erosion control at the Lower North Cascades parking lot. The Department wishes to improve the parking lot conditions, and create a Green Yard Waste storage at Lower Cascades Park. The Department requires a professional consultant to provide landscaping design services for these two projects. Staff recommends the approval of the contract with Mader Design, LLC, all fees and expenses are not to exceed \$19,500.

Mr. Les Coyne made a motion to approve the Contract with Mader Design, LLC. Ms. Darcie Fawcett seconded the motion. Motion unanimously carried.

**C-9 Review/Approval of Service Agreement with Spear Corporation**

Mr. John Turnbull, Sports Division Director the Department wishes to maintain Bryan and Mills Pools in good working condition, and requires the services of a professional consultant to repair, adjust, and/or replace pool pumps and pool equipment. Staff recommends the approval of this Service Agreement with Spears Corporation. The previously approved Agreement, listed an incorrect price for emergency call outs. All fees and expenses shall not exceed \$4,000.

Mr. Les Coyne made a motion to approve the Service Agreement with Spear Corporation. Ms. Darcie Fawcett seconded the motion. Motion unanimously carried.

**C-10 Review/Approval of Partnership Agreement with Ivy Tech/College for Kids**

Ms. Amy Shrake, Facility/Program Coordinator there is a need to provide summer teen programming in Bloomington as well as a combined art and recreation experience for K-5<sup>th</sup> graders. The purpose of this Agreement is to establish a partnership that will provide children an educational and fun summer program, that incorporates a wide variety of

structured activities, including but not limited to swimming, off-site field trips and indoor and outdoor recreation opportunities. Staff recommends the approval of this Partnership with Ivy Tech for College for Kids, and Ivy Arts for Kids programs.

Mr. Les Coyne made a motion to approve the Partnership Agreement with Ivy Tech/College for Kids. Ms. Darcie Fawcett seconded the motion. Motion unanimously carried.

**C-11 Review/Approval of Lake Monroe Sailing Association Partnership Agreement**

Ms. Amy Shrake, Facility/Program Coordinator the Department wishes to provide a sailing instruction program for the general public. The purpose of this Agreement is to outline a program partnership, which will provide an opportunity to the Bloomington community to participate in a divers sailing program, not otherwise available, designed to introduce beginner participates to the sport as well as to provide skill advancement. Staff recommends the approval of this Partnership Agreement with Lake Monroe Sailing Association.

Mr. Les Coyne made a motion to approve the Lake Monroe Sailing Association Partnership Agreement. Ms. Darcie Fawcett seconded the motion. Motion unanimously carried.

**C-12 Review/Approval of Partnership Agreement with Special Olympics Indiana – Monroe County**

Ms. Amy Shrake, Facility/Program Coordinator there is an apparent need for Special Olympics programs in Bloomington. The purpose of this Agreement is to outline a program partnership that will provide an opportunity for the Bloomington community to participate in a Special Olympic sports program, not otherwise available, that is designed to introduce beginner participants to a sport and allow for skill advancement. Staff recommends the approval of this Partnership with Special Olympics Indiana – Monroe County.

Mr. Les Coyne made a motion to approve the Partnership Agreement with Special Olympics Indiana-Monroe County. Ms. Darcie Fawcett seconded the motion. Motion unanimously carried.

**C-13 Review/Approval of Partnership Agreement with Monroe County Senior League Baseball Association.**

Ms. Dee Tuttle, Sports Facility/Program Manager there is an apparent need for baseball programs in Bloomington. The department wishes to provide an opportunity for the community to participate in specialized recreation programs that are designed to meet the needs of youth and to promote health and well-being. This Agreement outlines a partnership which will combine available resources from each party, to allow the Bloomington/Monroe community to participate in an affordable, effective and diverse youth baseball program designed to introduce beginners to the sport as well as provide for skill advancement. Staff recommends the approval of this Partnership with Monroe County Senior League Baseball Association. Projected revenue is approximately \$4,000.

Mr. Les Coyne made a motion to approve the Partnership Agreement with Monroe County Senior League Baseball Association. Ms. Darcie Fawcett seconded the motion. Motion unanimously carried.

**C-14 Review/Approval of Winslow Sports Complex North Concessions Agreement**

Ms. Dee Tuttle, Sports Facility/Program Manager this Agreement outlines a partnership which will allow the Bloomington Junior League Baseball Association (BJLBA) to operate the concessions area at Winslow Sports Complex. BJLBA uses profits to offset program costs and other related expenses. BJLBA is in good standings with the department, and will pay the Department a fee of \$7,500 for use of the area.

Mr. Les Coyne made a motion to approve the Winslow Sports Complex North Concessions Agreement. Ms. Darcie Fawcett seconded the motion. Motion unanimously carried.

**C-15 Review/Approval of Amend Contract with Rick Patrick Tree Care**

Mr. Lee Huss, Urban Forester on February 27, 2018 the Department entered into a service Agreement with Rick Patrick Tree Care, to perform street pruning of 500 trees in the Adams Hill and The Stands neighborhood. The Department wishes to extend the project timeline and expand the scope of work to include 19 additional street trees that were missed in the original Agreement. This Addendum will extend the completion date to December 31, 2018 and will reflect the additional compensation in an amount not to exceed \$570. Staff recommends the approval of this Addendum with Rick Patrick Tree Care.

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

## **D REPORTS**

D-1. Operations Division – No Report

D-2. Recreation Division

### **Farmers Market Advisory Council Annual Report**

*Ms. Kathy Aiken, Farmers' Market Advisory Council Chair approached the podium* and presented the 2017 Report

- The Market exceed the 2017 revenue goal – generated 104% of the budget.
- April weather was poor which reflected in lower customer counts.
- Over the course of the Market Season - Saturday customer counts were a record high of 224,961.
- The November Market numbers were the second highest in the last five years.
- A Fair of the Arts are not officially counted, but were estimated to have an average of 1,300 in attendance.
- Vendor counts in April were slightly less.
- May through October showed the third highest vendor counts over the last five years.
- Saturday vendors were overall down from the high in 2013 of 2,525. There are now more available markets.
- Tuesday Market customers totaled 3,300 - which is in the low average range over a five year period.
- There were new vendors on Tuesday - vendors totaled 250 which is the second highest in a five year period.
- Since 2013 the Market has secured funding of \$100,000 to provide an incentive of doubling of the Snap benefits.
- 2017 the Initiative Farm Arrangement continued to function as intended – two vendors applied.
- Revenue from Prepared Food Vendor continues to grow.
- 2018 applications will clarify the expectations for PPF vendors to utilize locally purchased products.
- Three food truck/push carts were added.
- Discussion on Market Point System – at this time no changes will be made.
- Wild mushroom inspection continues and is going well.
- 2018 Farm Vendors are allowed to sell traditionally fermented foods as homebased vendors.
- 2017 Homeland Security concern for safety of vendors and customers. Blockades were used to prevent vehicle intrusion.
- Switchyard Park is of interest and discussed by the Farmers Market Advisory Council.

The Board thanked Ms. Aiken and the Farmers Market Advisory Council.

D-3. Sports Division – No Report

D-4 Administrative Division

### **Bloomington Parks Foundation**

*Mr. Travis Vencel, Past-President of Bloomington Parks Foundation approached the podium.* Congratulation to the Board and staff, they have done a great job on this project. The Parks Foundation is totally behind the Switchyard Park, and continues to support this project. The Foundation's Development Committee and Executive Committee has worked on putting together a plan to raise additional funds, to take the Park to the next level. The goal is to be able to fund everything we ever could have imagined for the Switchyard Park. The Foundation is still working on this process, and hopefully will have more news to report in the months to come. The Foundation will continue to support the Switchyard Park, and will do everything possible to help make this Park the best we can.

The Board thank Mr. Vencel and the Bloomington Parks Foundation.

### **2017 Annual Report**

*Ms. Julie Ramey, Community Relations Manager approached the podium.* Ms. Ramey presented a draft of the 2017 Annual Report. The Annual report is our report card to the community. It gives the public an idea of the Department's 2017 accomplishments, and the things we are looking forward to in the future. This is an unaudited financial data, just intended to be a snap shot. Please review the draft and let the Department know of any admissions, errors or questions regarding the report.

Ms. Paula McDevitt a groundbreaking event has been planned for the Switchyard Park. The event will be held at 11:30 a.m., on May 11, 2018 at the Grimes Lane location. The Board and community is invited to attend this event.

The next Park Board meeting will be held May 22, 2018, in the Council Chambers.

**ADJOURNMENT**

Meeting adjourned at 5:00 p.m.

Respectfully Submitted,



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Kim Clapp, Secretary Board of Park Commissioners





# Journal Edit Listing

Sort By Entry

Department	Number	Journal Type	Sub Ledger	G/L Date	Description	Source	Reference	Reclassification	Journal Type
Parks - Parks & Recreation	2018-00007589	BA	GL	05/15/2018	NR Budget Adjustment				

<i>G/L Date</i>	<i>G/L Account Number</i>	<i>Account Description</i>	<i>Description</i>	<i>Source</i>	<i>Increase Amount</i>	<i>Decrease Amount</i>
05/15/2018	201-18-181000-53310	Printing	NR Budget Adjustment		1,900.00	.00
05/15/2018	201-18-181000-53990	Other Services and Charges	NR Budget Adjustment		600.00	.00
Number of Entries: 2					\$2,500.00	\$.00

REVENUES AND EXPENSES: COMPARISON REPORT								
Expenses	2017	2017	2017	2017	2018	2018	2018	
Apr-18	Total	Actual	Expenses	% of Expenses	Total	Expenses	% of Expenses	
	Expense	Expenses	as of	Spent	Expense	as of	Spent	%
	Budget	for Year	April	to date	Budget	April	to date	change
<b>General Fund</b>								
Administration	750,594	739,993	402,769	54.43%	621,831	338,846	54.49%	-15.87%
Health & Wellness	105,197	97,753	37,472	0.00%	105,923	40,073	35.38%	6.94%
Community Relations	423,303	378,011	152,395	40.31%	416,453	152,439	36.59%	0.03%
Aquatics	330,688	297,537	29,226	9.82%	328,839	29,051	8.83%	-0.60%
Frank Southern Center	341,117	338,165	161,377	47.72%	359,800	166,473	46.27%	3.16%
Golf Services	885,638	864,187	419,864	48.58%	935,271	432,811	46.28%	3.08%
Natural Resources	370,961	320,835	107,744	33.58%	392,366	107,825	27.48%	0.08%
Youth Programs	59,844	55,165	19,565	35.47%	60,195	25,617	42.56%	30.93%
TLRC	282,216	280,198	105,334	37.59%	284,750	106,106	37.26%	0.73%
Community Events	384,284	347,783	113,846	32.73%	414,238	129,995	31.38%	14.18%
Adult Sports	288,431	266,304	74,317	27.91%	323,760	79,909	24.68%	7.52%
Youth Sports	267,398	267,488	69,834	26.11%	271,744	76,777	28.25%	9.94%
BBCC	304,977	275,756	98,215	35.62%	289,803	102,453	35.35%	4.31%
Inclusive Recreation	72,632	73,771	22,811	30.92%	78,403	20,313	25.91%	-10.95%
Operations	1,546,438	1,434,103	444,365	30.99%	1,890,127	509,631	26.96%	14.69%
Landscaping	283,362	227,841	56,837	24.95%	311,041	67,986	21.86%	19.62%
Cemeteries	173,285	162,628	54,098	33.27%	182,605	50,928	27.89%	-5.86%
Urban Forestry	400,381	386,720	139,603	36.10%	585,324	121,473	20.75%	-12.99%
<b>General Fund total:</b>	<b>7,270,746</b>	<b>6,814,238</b>	<b>2,509,671</b>	<b>36.83%</b>	<b>7,852,474</b>	<b>2,558,705</b>	<b>32.58%</b>	<b>1.95%</b>
<b>Non-Reverting Fund</b>								
Administration	27,640	3,328	1,563	46.96%	14,650	2,936	20.04%	87.86%
Health & Wellness	1,914	1,172	85	7.25%	1,240	59	4.74%	-30.94%
Community Relations	4,650	1,465	0	0.00%	4,650	0	0.00%	0.00%
Aquatics	64,433	38,939	1,332	3.42%	69,543	1,192	1.71%	-10.48%
Frank Southern Center	94,423	77,769	28,250	36.33%	97,498	38,431	39.42%	36.04%
Golf Services	126,105	98,300	32,108	32.66%	133,709	24,132	18.05%	-24.84%
Natural Resources	50,992	23,820	4,628	19.43%	53,485	43,765	81.83%	0.00%
Youth Programs	178,521	198,464	31,742	15.99%	209,805	28,759	13.71%	-9.40%
*TLRC - day to day	970,663	835,622	165,506	19.81%	470,943	184,553	39.19%	11.51%
Community Events	190,881	166,067	48,596	29.26%	181,069	41,562	22.95%	-14.47%
Adult Sports	230,225	164,008	54,365	33.15%	199,830	13,660	6.84%	-74.87%
Youth Sports	26,845	19,068	3,514	18.43%	18,754	3,447	18.38%	-1.91%
BBCC	25,403	44,054	10,722	24.34%	15,892	4,081	25.68%	-61.94%
Inclusive Recreation	0	0	0	0.00%	0	0	0.00%	0.00%
Operations	19,195	56,104	38,430	68.50%	52,861	4,561	8.63%	100.00%
Dog Park	0	0	0	0.00%	0	0	0.00%	0.00%
Switchyard	14,800	32,436	11,363	35.03%	12,877	10,910	84.72%	0.00%
Landscaping (CCC Prop.)	0	0	0	0.00%	0	0	0.00%	0.00%
Cemeteries	0	0	0	0.00%	0	0	0.00%	0.00%
Urban Forestry	0	0	500	0.00%	4,750	1,193	25.12%	0.00%
<b>N-R Fund subtotal:</b>	<b>2,026,690</b>	<b>1,760,617</b>	<b>432,705</b>	<b>24.58%</b>	<b>1,541,556</b>	<b>403,242</b>	<b>26.16%</b>	<b>-6.81%</b>
TLRC - bond	539,104	539,104	429,574	79.68%	671,946	430,026	64.00%	0.00%
<b>N-R Fund total:</b>	<b>2,565,794</b>	<b>2,299,721</b>	<b>862,279</b>	<b>37.49%</b>	<b>2,213,502</b>	<b>833,269</b>	<b>37.64%</b>	<b>-3.36%</b>
<b>Other Misc Funds</b>								
MCCSC 21st Com Learn Cnt G	29,950	41,391	16,795		884	17,208		
G14004 Tree Planting			0					
G14006 Out-of School Prg.			0					
G15008 Summer Food Prg.	11,115	17,606	0		11,115	0		
G15009 Nature Days S/Star		4,318	0			109		
Griffy Lake Nature Day		5,137	1,918	37.33%		1,940	0.00%	0.00%
Wapehani I-69 Mitigation		201,075	0	0.00%		0	0.00%	0.00%
Leonard Springs Nature		3,841	1,808	47.08%		3,230	0.00%	0.00%
Banneker Nature Day		0	0			0		
DNR Grant		0		0.00%		0	0.00%	0.00%
Kaboom Play			0		451	451		
Youth & Adolescent Phy Act						4,801		
Goat Farm		1,777				0		
Giffy LARE		17,286				2,800		
<b>Other Misc Funds total:</b>	<b>41,065</b>	<b>273,367</b>	<b>20,521</b>	<b>7.51%</b>	<b>12,450</b>	<b>30,539</b>	<b>245.30%</b>	<b>0.00%</b>
<b>TOTAL ALL FUNDS</b>	<b>9,877,604</b>	<b>9,387,327</b>	<b>3,392,471</b>	<b>36.14%</b>	<b>10,078,425</b>	<b>3,422,513</b>	<b>33.96%</b>	<b>0.89%</b>
*NR BACC/Project School has been combined with TLRC								

<b>REVENUES AND EXPENSES: COMPARISON REPORT</b>								
<b>Revenues April 2018</b>								
	2017	2017	2017	2017	2018	2018	2018	
	Projected	Actual	Revenue	% of Revenue	Projected	Revenue	% of Revenue	
	Revenue	Revenue	as of	Collected	Revenue	as of	Collected	%
	Budget	for year	April	to date	for year	April	to date	change
<b>General Fund</b>								
Taxes/Misc Revenue	6,030,050	6,065,105	6,030,050	99.42%	6,258,520	6,258,520	100.00%	3.79%
Administration	500	1,966	45	2.29%	500	218	43.60%	0.00%
Community Relations	0	0	0	0.00%	0	0	0.00%	0.00%
Aquatics	153,500	194,506	70	0.04%	168,000	90	0.05%	0.00%
Frank Southern	219,900	184,531	105,158	56.99%	224,900	122,887	54.64%	16.86%
Golf Services	568,500	542,711	128,317	23.64%	526,700	104,410	19.82%	-18.63%
Natural Resources	0	0	0	0.00%	0	0	0.00%	0.00%
Youth Services	0	0	0	0.00%	0	0	0.00%	0.00%
Community Events	10,700	12,340	6,930	56.16%	10,700	9,970	93.18%	43.87%
Adult Sports	78,000	63,772	34,540	54.16%	71,000	27,800	39.15%	-19.52%
Youth Sports	33,900	28,995	-12	-0.04%	32,000	171	0.53%	-1555.41%
BACC	12,000	12,223	3,423	28.01%	11,000	4,634	42.13%	35.38%
Operations	0	25	25	100.00%	0	0	0.00%	0.00%
Landscaping	0	0	0	0.00%	0	0	0.00%	0.00%
Cemeteries	39,700	26,833	13,000	48.45%	31,050	11,400	36.71%	-12.31%
Urban Forestry		0	0	0.00%		30	0.00%	0.00%
G17011 Urban Forestry		12,000	0			0	0.00%	
<b>Subtotal Program Rev</b>	<b>1,116,700</b>	<b>1,067,902</b>	<b>291,498</b>	<b>27.30%</b>	<b>1,075,850</b>	<b>281,609</b>	<b>26.18%</b>	<b>-3.39%</b>
<b>General Fund Total</b>	<b>7,146,750</b>	<b>7,133,007</b>	<b>6,321,548</b>	<b>88.62%</b>	<b>7,334,370</b>	<b>6,540,129</b>	<b>89.17%</b>	<b>3.46%</b>
<b>Non-Reverting Fund</b>								
Administration	40,650	36,327	16,339	44.98%	40,600	15,689	38.64%	-3.98%
Health & Wellness	3,550	3,124	506	16.21%	2,739	727	26.54%	43.55%
Community Relations	4,650	3,000	1,000	33.33%	4,650	1,000	21.51%	0.00%
Aquatics	126,373	113,789	12,596	11.07%	122,700	10,664	8.69%	-15.33%
Frank Southern	153,400	126,988	31,813	25.05%	151,900	28,470	18.74%	-10.51%
Golf Services	151,300	163,579	31,003	18.95%	158,500	19,074	12.03%	-38.48%
Natural Resources	58,525	70,821	5,813	8.21%	60,890	3,930	6.45%	-32.40%
Youth Programs	189,866	218,910	57,234	26.15%	215,060	60,906	28.32%	6.42%
*TLRC -Operational	782,329	750,934	296,738	39.52%	763,029	314,388	41.20%	5.95%
Community Events	191,760	214,892	94,627	44.03%	193,752	92,793	47.89%	-1.94%
Adult Sports	216,500	147,655	56,747	38.43%	207,000	29,953	14.47%	-47.22%
Youth Sports	25,000	25,624	7,684	29.99%	19,500	2,603	13.35%	-66.12%
BACC	29,420	59,280	8,388	14.15%	5,150	14,488	281.32%	72.73%
Operations	51,640	57,121	21,641	37.89%	56,440	52,245	92.57%	141.41%
Dog Park	400	0	0	0.00%	400	0	0.00%	0.00%
Switchyard (CCC Propt)	82,800	73,736	25,882	35.10%	0	0	0.00%	-100.00%
Landscaping	0	0	0	0.00%	0	0	0.00%	0.00%
Cemeteries	0	0	0	0.00%	0	0	0.00%	0.00%
Urban Forestry	9,300	17,911	500	2.79%	9,300	12,505	134.46%	0.00%
<b>N-R Fund subtotal:</b>	<b>2,117,463</b>	<b>2,083,690</b>	<b>668,513</b>	<b>32.08%</b>	<b>2,011,610</b>	<b>659,435</b>	<b>32.78%</b>	<b>-1.36%</b>
<b>Other Misc Funds</b>								
G14006 Out-of-School Prg		20	0			0		
G14007 MCCSC 21st Com	60,000	21,410	10,506		60,000	8,211		
G14009 Summer Food Grant	13,744	19,059	0		27,864	0		
G14004 Tree Planting						0		
Kaboom Play Everywhere						0		
Urban Forestry EAB		2,000	0			0		
Wapehani Mitigation I69		233,543	14,903			0		
Griffy LAE Veg. Mgt		14,453	3,120			2,800		
G15008 Leonard Spring		0	0			0		
G15009 Griffy Nature Days		4,988	0			0		
(902) Rose Hill Trust		445	102			198		
G17007 - Goat Farm		0	0			0		
Banneker Nature Days		0	0			0		
Yth & Adolescent Phy Act						3,999		
Nature Days Star		4,340	0			0		
<b>Other Misc Funds total:</b>	<b>0</b>	<b>300,258</b>	<b>28,631</b>		<b>87,864</b>	<b>15,208</b>		
<b>TOTAL ALL FUNDS</b>	<b>9,264,213</b>	<b>9,516,954</b>	<b>7,018,692</b>	<b>73.75%</b>	<b>9,433,844</b>	<b>7,214,772</b>	<b>76.48%</b>	<b>2.79%</b>
*BACC/Project School has been combined with TLRC								

	<b>Non-Reverting Cash Balances</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
		<b>Beginning</b>	<b>Revenue</b>	<b>Other</b>	<b>Expenses</b>	<b>Expenses</b>	<b>Current Year ONLY</b>	<b>Accumulated</b>
		<b>Balance</b>	<b>as of</b>	<b>Misc.</b>	<b>as of</b>	<b>from</b>	<b>Revenue</b>	<b>Balance</b>
		<b>1/1/2018</b>	<b>5/15/2018</b>	<b>revenue</b>	<b>05/15/2018/</b>	<b>RESERVE *</b>	<b>Expense</b>	
							<b>Over/Under</b>	
						<b>see explanation below*</b>	<b>(does not include expenses taken from RESERVE)</b>	<b>THIS IS THE TOTAL ACCUMULATED AMOUNT</b>
181000	Administration	200,804.78	15,856.00		3,136.24		<b>12,719.76</b>	213,524.54
181001	Health & Wellness	7,379.62	740.80		118.52		<b>622.28</b>	8,001.90
181100	Community Relations	34,889.04	1,000.00		1,250.00		<b>(250.00)</b>	34,639.04
182001	Aquatics	389,566.90	14,315.99		13,238.05		<b>1,077.94</b>	390,644.84
182500	Frank Southern Center	175,036.20	28,489.73		39,334.35		<b>(10,844.62)</b>	164,191.58
183500	Golf Course	208,121.70	24,476.56		26,628.67		<b>(2,152.11)</b>	205,969.59
184000	Natural Resources	248,977.29	8,416.50		44,404.37		<b>(35,987.87)</b>	212,989.42
184500	Allison Jukebox	170,562.07	72,557.13		29,212.85		<b>43,344.28</b>	213,906.35
*185000	TLRC	<b>(878,837.80)</b>	305,904.12		630,716.95		<b>(324,812.83)</b>	<b>(1,203,650.63)</b>
185009	TLRC Reserve	569,299.15	29,375.00		0.00		<b>29,375.00</b>	598,674.15
186500	Community Events	471,824.72	97,436.02		45,105.03		<b>52,330.99</b>	524,155.71
187001	Adult Sports	74,000.53	31,603.87		18,861.72		<b>12,742.15</b>	86,742.68
187202	Youth Sports	104,401.59	2,667.48		3,704.91		<b>(1,037.43)</b>	103,364.16
187209	Skate Park	543.88	0.00		0.00		<b>0.00</b>	543.88
187500	Benjamin Banneker Comm Cente	56,647.65	14,487.96		4,080.53		<b>10,407.43</b>	67,055.08
189000	Operations	137,207.83	54,817.31		4,561.34		<b>50,255.97</b>	187,463.80
189005	Dog Park	5,993.79	0.00		0.00		<b>0.00</b>	5,993.79
**189006	Switchyard Property	230,940.52	0.00		10,909.65		<b>(10,909.65)</b>	220,030.87
189500	Landscaping	12,704.36	0.00		0.00		<b>0.00</b>	12,704.36
189501	Cemeteries	1,497.00	0.00		0.00		<b>0.00</b>	1,497.00
189503	Urban Forestry	7,093.63	12,505.18		1,576.90		<b>10,928.28</b>	18,021.91
10002.01	Change Fund	0.00	0.00		0.00		<b>0.00</b>	0.00
201-24105	Deposits	0.00	0.00		0.00		<b>0.00</b>	0.00
	<b>TOTALS</b>	<b>2,228,654.45</b>	<b>714,649.65</b>	<b>0.00</b>	<b>876,840.08</b>	<b>0.00</b>	<b>(162,190.43)</b>	<b>2,066,464.02</b>
								<b>(162,190.43)</b>
								<b>INCREASE/DECREASE FOR THE CURRENT</b>

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

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





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

**STAFF REPORT**

Agenda Item: B-4  
Date: 5/16/2018

Administrator  
Review/Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Blake Richardson, Administrative Intern  
**DATE:** May 15, 2018  
**SUBJECT:** Intern Introduction – Sports and Banneker Community Center

**Background**

My name is Blake Richardson and I am an administrative intern this summer working for Erik Pearson and Scott Pedersen in the City of Bloomington Parks and Recreation Department.

I was born and raised in Bloomington and graduated from Bloomington North in 2014. I played baseball all four years of high school and was very successful. After high school I earned a scholarship to continue my baseball career at the University of Indianapolis. I am currently a senior at the University of Indianapolis where I am a student athlete and study sports management. After completing all of my major coursework, this internship is one of the last requirements needed to complete my undergraduate degree. Through this internship I look to gain more knowledge and details of the Parks and Recreation Department, and how to organize programs and services for citizens of the Bloomington community.

This summer I will be assisting in several events and camps that require planning and organization which are both key skills of an operating parks and recreation department. Some of the events that I will be assisting in are softball tournaments at Twin Lakes Sports Park, the youth basketball camp at the TLRC, and the Banneker Camp summer program.

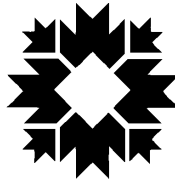
By participating in this internship, I will be able to grow and expand my knowledge of sports management that applies to an area such as the Parks and Recreation Department. It will also give me a great opportunity to work in the community that I love and grew up in.

This internship will be a great opportunity for me and is a great privilege and I look forward to working with Erik Pearson and all the other staff members.

**RESPECTFULLY SUBMITTED,**

**Blake Richardson**

Blake Richardson



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

**STAFF REPORT**

Agenda Item: B-4  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Nancy Le  
**DATE:** May 22, 2018  
**SUBJECT:** Intern Introduction – Health/Wellness

**Background**

My name is Nancy Le and I graduated from Indiana University School of Public Health on May 5<sup>th</sup>, 2018 with a Bachelor's in Community Health and a minor in Nutrition. In order to finalize my degree, I am interning with the Health and Wellness Coordinator of the Parks and Recreation Department this summer, and I look forward to putting all I've learned from my undergraduate degree into practice.

I was born in California but was raised in Indiana since the age of 3. My parents are hard workers and have been since the day I was born and I admire their perseverance for a better future and for a better life. I grew up knowing I wanted to take care of the people around me the way my parents help take care of my entire family from California to Indiana, and Vietnam. It was because of my parents that I was able to go to Indiana University and learn the skills of teamwork, research, time management, perseverance, and most importantly empathy. I want to give back to the community in order to help better the well-being of those Bloomington.

I hope interning in this field will assist me in deciding what I want to do in the future within public health. I look forward to increasing my knowledge and experience, and to work alongside those who also have a passion for improving the health and wellness of the community.

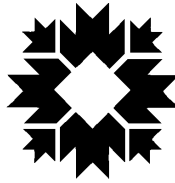
Thank you,

**RESPECTFULLY SUBMITTED,**

*Nancy Le*

Health/Wellness Intern





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

**STAFF REPORT**

Agenda Item: B-4  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Zac Clark  
**DATE:** 5-22-2018  
**SUBJECT:** Operations Division Intern Introduction

**Background**

My name is Zac Clark and I will be interning under the City Landscaper, Joanna Sparks, as an Operations Division intern.

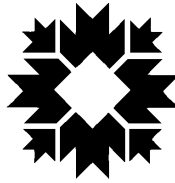
I am currently a senior studying Outdoor Recreation, Parks, and Human Ecology at Indiana University and am scheduled to graduate December 2018. I have previously worked with the Operations Division landscaping crew and vegetation management crew and I look forward to expanding my knowledge of local parks and city government as an Operations Division intern. During my time at Indiana University I have studied in areas such as: lake and watershed management; management in recreation, parks, and tourism and interpretation and tour guiding. During my time at Indiana University, I took a two year hiatus during which I worked industrial maintenance in Lafayette Indiana. This experience helped to peak my interest in the maintenance and administration side of local parks and upon my return to Indiana University I knew I wanted to be involved with park operations at the local level.

I believe my well rounded education and experience will be a valuable asset to the Operations Division and I am grateful for the opportunity to learn and serve the City of Bloomington during my internship and I look forward to gaining valuable insight, experience, and knowledge from the experienced staff at the Operations Division

**RESPECTFULLY SUBMITTED,**

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Zac Clark  
Operations Division Intern



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

**STAFF REPORT**

Agenda Item: C-1  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Joanna Sparks, City Landscaper  
**DATE:** May 14, 2018  
**SUBJECT:** **Review/Approval of Policy Changes for Rose Hill and White Oak Cemetery Grave Decorations**

**Recommendation**

Staff recommends the review and approval of proposed policy changes for grave decorations at Rose Hill and White Oak Cemeteries.

**Background**

Rose Hill and White Oak Cemeteries have been managed by the Parks and Recreation Department since 1997. Rose Hill has approximately 14,500 monuments over 26.29 acres and White Oak has approximately 1000 monuments over 3.7 acres. The grounds maintenance is completed by two fulltime staff and three seasonal staff, this includes interments, daily trash pickup, mowing and trimming, upkeep of the mausoleum, maintaining the landscaping, road upkeep, grave decoration cleanup, and numerous other tasks as needed.

Staff have researched cemetery policies throughout the region and determined our current policies are considerably more lenient than common practice. So in order to maintain the highest level of grounds maintenance and safety, as well as providing a reasonable level of control over appearance issues throughout both cemeteries, Staff proposes the following policy changes regarding 'grave decorations':

**Current Grave Decorations Policy:**

**GRAVE DECORATIONS**

- ☞ Artificial and fresh cut flowers and wreaths are permitted at all times in the cemetery. They must be firmly attached to the monuments or markers (e.g. in permanent chalices or grave saddles). Cemetery staff may dispose of decorations that have been blown away or damaged.
- ☞ Artificial and fresh decorations placed on **Easter, Mother's Day, Memorial Day and Father's Day** may be removed four weeks after the holiday.
- ☞ Miscellaneous grave decorations such as flags and flag holders will be permitted to remain on graves only so long as they don't become unsightly or present an obstacle to grounds maintenance.
- ☞ Cemetery staff and the City of Bloomington are not responsible for grave decorations which are stolen, vandalized or damaged.

## Updated Grave Decorations Policy:

### GRAVE DECORATIONS

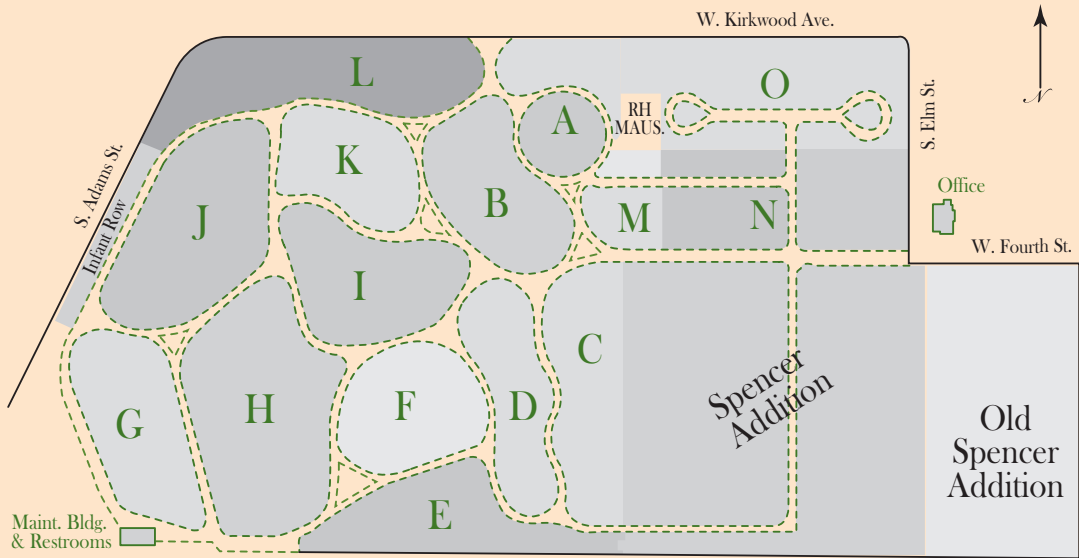
- ⌘ Artificial and fresh cut flowers and wreaths are permitted at all times in the cemetery. They must be firmly attached to the monuments or markers (e.g. in permanent chalices or grave saddles). No decorations may be placed on or anchored to the ground.
- ⌘ NOT PERMITTED: Shepherd's hooks and glassware (e.g. vases, jars, candleholders, and figurines) will not be permitted at any time. No decorations may be placed on or anchored to the ground. All items must be placed securely on the monument so as not to present a hazard to cemetery workers or visitors.
- ⌘ Flags and flag holders will be permitted to remain on graves only so long as they don't become unsightly or present an obstacle to grounds maintenance. Flags placed in the cemetery on Memorial Day may be removed four weeks after the holiday.
- ⌘ **Spring and Fall cleanups will be conducted throughout the months of March and October of each year, and all floral arrangements, broken or damaged items will be cleared from graves.** In order for a family to save any decorations placed on a grave, the decoration should be removed prior to March 1 and October 1. Please contact the cemetery office to find out when the cleanup has been completed, and new decorations may be placed.
- ⌘ The cemetery may remove, without notice or consent, any planting, decoration or other object placed on or about any interment space which the cemetery determines to be improper, unsightly or dangerous to persons or equipment. The cemetery assumes no liability for damage, removal, or storage. Cemetery staff and the City of Bloomington are not responsible for grave decorations which are stolen, vandalized or damaged.

To notify the public regarding Cemetery policies Staff maintain an email contact list for anyone who requests to be contacted; the information is also posted on the Parks and Recreation Department website, Facebook page, and via press releases. Additionally, an information kiosk is to be installed soon in the entrance area of Rose Hill Cemetery.

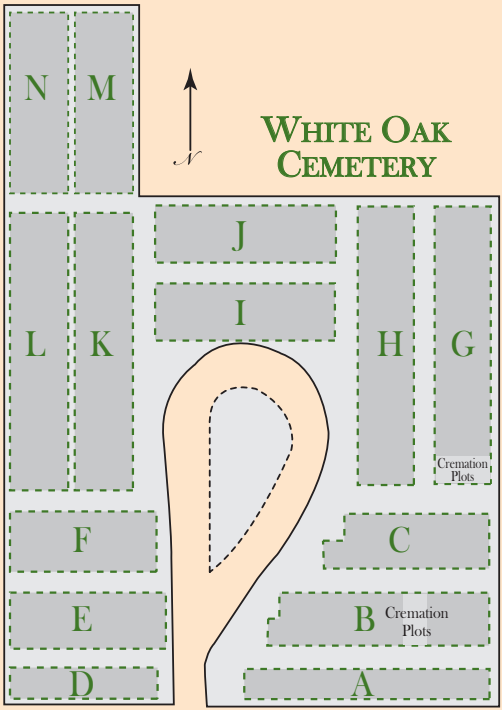
RESPECTFULLY SUBMITTED,

*Joanna Sparks*

Joanna Sparks  
City Landscaper



**ROSE HILL CEMETERY**



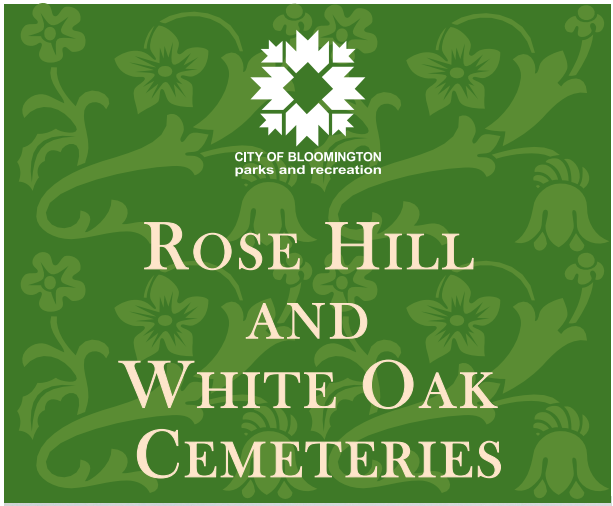
**WHITE OAK CEMETERY**

The grounds of Rose Hill and White Oak Cemeteries are the final resting places for our families and loved ones. As we dedicate memorials at the graves, we recognize that it is only a symbol of our enduring love for the ones we have lost. So that our actions will help us keep these grounds sacred to their memories, these rules and regulations have been set forth ensuring these grounds will reflect our respect for the departed.



CITY OF BLOOMINGTON  
parks and recreation  
401 N. Morton, Ste. 250  
Bloomington IN 47404

**ROSE HILL AND  
WHITE OAK  
CEMETERY OFFICES**  
930 W. FOURTH ST.  
(812) 349-3498



**RULES & GUIDELINES  
FOR PLOT OWNERS**



**W**hite Oak Cemetery is located at 1200 W. Seventh St. on Bloomington's west side. White Oak is one of the remaining cemeteries for Bloomington's earliest settlers. Originally the United Presbyterian Cemetery, it was bought by the City in 1914 and renamed White Oak in 1983.

**R**ose Hill Cemetery is located at 1100 W. Fourth St. The original cemetery began around 1818-1820. In 1892, the Ladies Cemetery Association, a civic committee, assumed management of the cemetery and named it Rose Hill for the wild and cultivated roses that were spread over the grounds.

**S**ince 1997, White Oak and Rose Hill cemeteries have been managed by the City of Bloomington Parks and Recreation Department.

## GENERAL RULES

- ☞ Speed limit is 10 mph.
- ☞ Parking is permitted only on asphalt roadways or driveways.
- ☞ Cemetery hours are from dawn to dusk.
- ☞ Picking flowers at cemeteries, whether wild or cultivated, is prohibited.
- ☞ Anyone caught littering or vandalizing will be prosecuted to the fullest extent of the law.
- ☞ Dogs on cemetery grounds must be leashed at all times. Owners are responsible for pick-up and proper disposal of animal waste.
- ☞ Prolonged parking or meetings on cemetery grounds are not permitted.
- ☞ Vehicles left on cemetery property will be towed at owner's expense unless prior approval has been obtained.

## SERVICES PROVIDED

**C**emetery staff provide opening and closing services only. Your funeral director will arrange any other services (canopies, lowering devices, chairs, etc.)

## CREMATION

**A**shes may be interred either in the ground or in mausoleum niches. Single niches can accommodate up to two urns, depending on size.

## GREEN BURIALS

**G**reen burials are permitted only at White Oak Cemetery in a prescribed section. For more information, contact the cemetery office.

## BURIAL PROCEDURES

- ☞ 24-hour notice is required from funeral directors prior to burials.
- ☞ Burials and graveside services cannot be scheduled on Sundays and City holidays.
- ☞ Funeral directors will be required to furnish exact grave location by information gathered from family members, deeds, records, or by confirming necessary location information at the cemetery office.
- ☞ Funeral directors will produce a burial permit and a check for opening and closing of grave site. This is due upon arrival at the cemetery prior to or after the graveside service.
- ☞ A licensed funeral director must be present at the time of interment for all burials (traditional or cremation).
- ☞ Funeral directors will immediately notify the cemetery office of any changes concerning upcoming funerals or arrangements.

## GENEALOGY RESEARCH

**L**imited information is available at the Rose Hill Cemetery office, 930 W. Fourth St., (812) 349-3498. Additional information may also be available at the Monroe County Historical Society at (812) 332-2517.

## MONUMENTS AND MARKERS

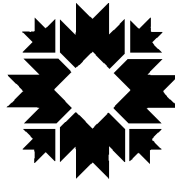
- ☞ There shall be permitted only one monument per grave space, with the following exceptions:
  - The installation of a foot marker, in addition to a regular headstone shall be permitted if the foot marker is at ground level to allow mowing over it.
  - Veterans' plaques may be used as foot markers on spaces with stones already marking the head of the grave, but must be installed at ground level.
- ☞ All monuments and markers installed must have a two-part foundation consisting of poured concrete footer at a 36" depth to prevent settling of the monument or marker, and a concrete or limestone pad set level with the ground and extending beyond the base of the monument or marker at least 3" on all sides to permit safe mowing adjacent to the monument.
- ☞ Upright monuments must stay within the boundaries of the lot. Cremation sections allow marker memorials only with the exception of Section H in Rose Hill.
- ☞ The installation of pens, walls or benches on any lot is not permitted.

## LANDSCAPING OF CEMETERY LOTS

- ☞ The planting of trees, shrubs and ground covers is prohibited. Perennial plants or bulbs are permitted within the grave site boundaries only on the sides of headstones.
- ☞ Annual plants may be planted within grave site boundaries, and will be permitted to remain only so long as they are maintained by the lot owner in such a manner as to not become unsightly or interfere with regular maintenance performed by cemetery staff.
- ☞ The maintenance of all plantings on a cemetery lot are the responsibility of the lot owner and the maintenance practices must include:
  - Keeping the plant materials in a healthful, neat and attractive condition (being both disease and insect free).
  - Keeping the plant materials pruned so as to prevent their covering any monument or marker, or encroaching onto adjacent lots.
- ☞ The failure of lot owners to maintain plantings as described will result in the cemetery staff taking corrective steps as deemed necessary.
- ☞ The cemetery staff is not responsible for damages to plantings due to the necessary performance of their work duties.
- ☞ The cemetery grounds are well maintained by our professional staff throughout the year. Perpetual care includes mowing, weeding, tree trimming, removal of snow and debris, landscaping of common gardens, and maintenance and disposal of burial decorations.

## GRAVE DECORATIONS

- ☞ Artificial and fresh-cut flowers, wreaths and grave blankets are permitted at all times in the cemetery if they are firmly attached to monuments or markers (e.g. in chalices or grave saddles). Cemetery staff may dispose of decorations that have been blown away or damaged.
- ☞ Artificial and fresh decorations placed on Easter, Mother's Day, Memorial Day and Father's Day may be removed four weeks after the holiday.
- ☞ Miscellaneous grave decorations such as flags and flag holders will be permitted to remain on graves only so long as they don't become unsightly or present an obstacle to grounds maintenance.
- ☞ Cemetery staff and the City of Bloomington are not responsible for grave decorations which are stolen, vandalized or damaged.



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

**STAFF REPORT**

Agenda Item: C-2  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Bill Ream, Community Events Coordinator  
**DATE:** May 22, 2018  
**SUBJECT:** Contract for Services with Bruce Wilds Security for the Fourth of July Parade

**Recommendation**

Staff recommends the approval of the contract for services with Bruce Wilds Security for the Fourth of July Parade on Wednesday July 4<sup>th</sup>, 2018.

**Background**

Bruce Wilds and his security staff will be providing security at several designated areas in the parade staging area and along the parade route.

We have utilized Bruce Wilds Security for these services for several years and we are very happy with their work.

**RESPECTFULLY SUBMITTED,**

*Bill Ream*

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

## **AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND BRUCE WILDS SECURITY**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and Bruce Wilds Security ("Contractor").

**Article 1. Scope of Services** Contractor shall provide security services at designated locations during the Fourth of July Parade ("Services"). Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before July 4, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Contractor's work, Contractor agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Bill Ream as the Department's Project Manager. Contractor agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Contractor for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

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

**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 Contractor shall be entitled to rely upon the accuracy and completeness of such information. The Department's Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation** The Department shall pay Contractor for all fees and expenses in an amount not to exceed Two Thousand Four Hundred Ninety Nine Dollars (\$2,499). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Bill Ream, City of Bloomington, 401 N. Morton, Suite 250, Bloomington, Indiana 47404. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor within forty-five (45) days of receipt of invoice. Additional funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty.

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

**Article 6. Schedule** Contractor shall perform the Services on Wednesday July 4, 2018 from 7am-12pm ("Schedule"). 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 Contractor. Contractor shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Contractor for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Contractor's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Contractor in connection with this Agreement shall become the property of the Department, as set forth in Article 9 herein.

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

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

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

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

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

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

**Article 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 Contractor shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

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

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

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

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

**Department:** City of Bloomington, Attn: **Bill Ream, 401 N. Morton St., Suite 250, Bloomington, IN 47402. Contractor: Bruce Wilds Security, 602 E. Waterloo Ct, Bloomington, IN 47401.** Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Contractor.

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

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

**CITY OF BLOOMINGTON**

**BRUCE WILDS SECURITY**

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

\_\_\_\_\_  
Bruce Wilds, Owner

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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





**EXHIBIT B**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**Bruce Wilds Security**

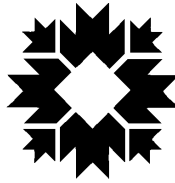
By: \_\_\_\_\_  
\_\_\_\_\_

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

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

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

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



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

**STAFF REPORT**

Agenda Item: C-3  
Date: 3/16/2018

Administrator  
Review\Approval  
PM

**TO:** Administrator  
**FROM:** Bill Ream, Community Events Coordinator  
**DATE:** May 22, 2018  
**SUBJECT:** Contract for Services with Professional Golfcar Corporation

**Recommendation**

Staff recommends the approval of the contract for services with Professional Golfcar Corporation to rent golfcars for department staff at the Fourth of July Parade.

**Background**

We have rented golfcars for the event from them for several years and we are very happy with their equipment and services.

**RESPECTFULLY SUBMITTED,**

*Bill Ream*

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

## AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND PROFESSIONAL GOLFCAR CORPORATION

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and Professional Golfcar Corporation ("Contractor").

**Article 1. Scope of Services** Contractor shall provide the rental of golfcars for Bloomington Parks and Recreation staff at the Fourth of July Parade ("Services"). Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before July 4, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Contractor's work, Contractor agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Bill Ream as the Department's Project Manager. Contractor agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Contractor for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

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

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

**Article 4. Compensation** The Department shall pay Contractor for all fees and expenses in an amount not to exceed Five Hundred Dollars (\$500). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Bill Ream, City of Bloomington, 401 N. Morton, Suite 250, Bloomington, Indiana 47404. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor 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** Contractor shall perform the Services according to the following schedule ("Schedule"): Deliver golfcars at agreed upon location in the afternoon of Tuesday July 3, 2018 and pick them up on the morning of Thursday July 5, 2018. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

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

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

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

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

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

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

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

**Article 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 Contractor shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

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

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

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

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

**Department:** City of Bloomington, Attn: Bill Ream, 401 N. Morton St. , Suite 250 Bloomington, IN 47402. **Contractor:** Professional Golfcar Corporation, 255 Robert Curry Dr, Martinsville, IN 46151. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Contractor.

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

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

**CITY OF BLOOMINGTON**

**PROFESSIONAL GOLFCAR CORPORATION**

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

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

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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



**EXHIBIT B**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**Professional Golfcar Corporation**

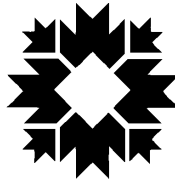
By: \_\_\_\_\_  
\_\_\_\_\_

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

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

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

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



CITY OF BLOOMINGTON  
parks and recreation

STAFF REPORT

Agenda Item: C-4  
Date: 5/16/2018

Administrator  
Review/Approval  
PM

**TO:** Administrator  
**FROM:** Bill Ream, Community Events Coordinator  
**DATE:** May 22, 2018  
**SUBJECT:** Review/Approval of Downtown Bloomington, Inc. (DBI) Partnership Agreement for Fourth of July Parade

**Recommendation**

Staff recommends approval of a partnership agreement between the City of Bloomington Parks and Recreation Department (BPRD) and Downtown Bloomington, Inc. (DBI) for the Fourth of July Parade.

**Background**

This is the twelfth year for this partnership. The goal of the partnership is to combine resources from BPRD and DBI to provide a Fourth of July parade for the Bloomington community and a performance by the Bloomington Community Band prior to the parade on the courthouse lawn. We are looking forward to once again working with DBI on this annual community tradition.

The parade will be on Wednesday July 4, 2018 from 10:00 a.m. to noon with a performance by the Bloomington Community Band at 9a.m. on the south courthouse lawn.

This year's parade route is the same as last year and starts at 7<sup>th</sup> Street and Indiana Avenue and heads west on 7<sup>th</sup> Street turns right (north) on Walnut Ave then turns left (west) on 8<sup>th</sup> Street then turns left (south) on College Ave. It will then head down College Ave. and turn left (east) on Kirkwood Ave. and go past the courthouse and end at the Sample Gates.

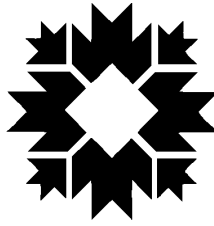
Applications for parade entries are available online at the parks website [bloomington.in.gov/parks](http://bloomington.in.gov/parks), in person at the BPRD office, or by calling 812-349-3748.

**RESPECTFULLY SUBMITTED,**

---

Bill Ream  
Community Events Coordinator





**CITY OF BLOOMINGTON  
parks and recreation**

**2018 COOPERATION SERVICE AGREEMENT  
PROGRAM PARTNERSHIP**

**Partner(s):**

This Agreement is made and entered into this \_\_\_\_\_ day of May, 2018, by and between the Bloomington Parks and Recreation Department (“BPRD”) and Downtown Bloomington, Inc. (“DBI”).

**WHEREAS**, BPRD and DBI desire to cooperate in the provision of Fourth of July festivities including a parade for the community; and

**WHEREAS**, DBI is qualified to perform such services; and

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

**NOW THEREFORE**, BPRD and DBI do mutually agree as follows:

**1. Purpose of Agreement**

The goals of this project by DBI and BPRD are to outline Fourth of July festivities including a parade and a performance by the Bloomington Community Band on the Courthouse lawn for the Bloomington community by combining available resources from each party to this Agreement.

**2. Duration of Agreement**

This Agreement commences on May 22, 2018, and expires on August 31, 2018, unless terminated earlier as provided under Article 8 of this Agreement.

**3. Bloomington Parks & Recreation**

The goals of BPRD are to partner with another community agency and provide a Fourth of July parade for the Bloomington community. The event, to be held in downtown Bloomington, on Wednesday, July 4, 2018, from 9:00 a.m. to noon is designed to create a social and safe environment for the community to celebrate the Fourth of July. The event will be open to the general public. BPRD agrees to do the following:

- a. Maintain close contact with Talisha Coppock, Director, Downtown Bloomington Inc., and bring any related issues to her attention.
- b. Mail/email parade applications to past participants.
- c. Collect applications and fees from parade participants.
- d. Organize and coordinate parade participants prior to and on the day of the parade.

- e. Share all marketing/promotional material with DBI prior to advertising.
- f. Include parade application information in its summer program guide.
- g. Provide Fourth of July parade publicity by publishing information in BPRD's seasonal program brochure and Summer Kids Kraze newsletter and by creating and distributing posters.
- h. Secure parade sponsorships.
- i. Secure golf carts, portable toilets, and security for the parade.
- j. Work with DBI to create a budget.
- k. Assist community groups to create new entries for the parade.
- l. Provide a Community Events Coordinator and full-time/part-time staff for the parade.
- m. Apply for a permit to the Board of Public Works for road closures.
- n. Apply for parade permit from Bloomington Police Department.
- o. Coordinate payment of all invoices and maintenance of all financial records

**4. Downtown Bloomington, Inc.**

The goals of DBI are to partner with BPRD and provide a Fourth of July parade for the Bloomington community. The event, to be held in downtown Bloomington, on Wednesday, July 4, 2018, from 9:00 a.m. to noon, is designed to create a social and safe environment for the community to celebrate the Fourth of July. The event will be open to the general public. Downtown Bloomington, Inc. agrees to do the following:

- a. Maintain close contact with Bill Ream, Community Events Coordinator, Bloomington Parks and Recreation and address any related issues to his attention.
- b. Schedule Bloomington Community Band to perform from 9 – 10am.
- c. Secure tents, judges reviewing and announcing stands, and sound systems for the parade and provide invoices to BPRD for payment.
- d. Provide staff and volunteers for the day of the parade.
- e. Organize and coordinate emcee, judges, and reviewing stand prior to and on the day of the parade.
- f. Assist security staff with title sponsor's VIP area next to reviewing stand.
- g. Order and secure sponsorship for awards.
- h. Secure appropriate insurance through the May Agency.

**5. Terms Mutually Agreed to By Both Partners**

- a. Both parties agree to provide a copy of all marketing/promotional material regarding the Fourth of

July parade to the other party **prior to** any advertising.

- b. Both parties agree to assist with the distribution of pre-parade route information as well as no parking signs along the parade route.
- c. Both parties will equally split the application fee revenue after all expenses are paid in full.
- d. Both parties agree to coordinate safety management and regulate parade participants and spectators at the Fourth of July parade.
- e. Both parties agree to coordinate acknowledgement and thank-you notices for sponsors of the Fourth of July parade.
- f. The staff and personnel involved in this Agreement will at all times represent all parties to this Agreement in a professional manner, and reflect the commitment of all parties to quality services and customer satisfaction.
- g. The commitment of personnel, facilities, supplies/materials and payments will be honored according to the timetable agreed upon by all partners.
- h. Bloomington Municipal Code sections 6.12.030 and 14.36.090, respectively, prohibit smoking in public places and the consumption of alcoholic beverages on City of Bloomington property. The possession of alcoholic beverages, drugs and other illegal controlled substances, fireworks, air rifles, paintball guns, bow and arrows, cross bows, swords, and pellet guns is strictly prohibited in any park or park facility. In addition, pursuant to Bloomington Municipal Code 14.20.020, the discharge of a firearm is strictly prohibited within the City's jurisdiction.
- i. State Immigration Law Requirements. Ind. Code 22-5-1.7-11(a) requires the City to obtain the following from business entities who have employees before it enters into a partnership with those entities:
  - documentation that the business entity has enrolled in and participates in the E-verify program, unless the E-verify program no longer exists; and
  - an affidavit affirming that the business entity does not currently knowingly employ an immigrant who is not authorized to work in the U.S. The affidavit is attached to and incorporated into this Agreement as Appendix A.

## **6. Insurance & Indemnity**

DBI agrees to furnish BPRD with a certificate of insurance upon execution of this Partnership Agreement. Partners shall maintain comprehensive general liability insurance, which shall include premises, operations and product liability. Coverage shall be in the amount of one million dollars (\$1,000,000) for bodily injury per person in any one occurrence and two million dollars (\$2,000,000) in the aggregate. The policy shall name the City of Bloomington Parks and Recreation Department and DBI as additional insured parties, and DBI shall provide Parks with a certificate of insurance prior to the commencement of operations under Agreement/Contract. DBI and its insurer shall notify BPRD within ten (10) days of any insurance cancellation.

Each party agrees to release, hold harmless and forever indemnify the other party and its volunteers, employees, officers and agents from any and all claims or causes of action that may arise from its reckless, negligent or intentional acts or failure to act in performance of this Agreement. This includes claims for personal injury, property damage, and/or any other type of claim which may arise from these activities, whether such claims may be brought by the parties or any third party.

**7. Notice and Agreement Representatives**

a. Notice regarding any significant concerns and/or breaches of this Agreement shall be given to:

DBI:	Bloomington Parks and Recreation:
Talisha Coppock, Executive Director	Becky Higgins
(812)336-3681	(812) 349-3713

b. Representatives for the day-to-day operations and implementation of this Agreement shall be:

DBI	Bloomington Parks and Recreation
Talisha Coppock, Executive Director	Bill Ream, Community Events Coordinator
(812) 336-3681	(812) 349-3748

**8. Termination:**

This Agreement may only be terminated by mutual written agreement of all partners.

IN WITNESS WHEREOF, the parties have signed this agreement on the date first set forth.

**City of Bloomington**

**Downtown Bloomington, Inc.**

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

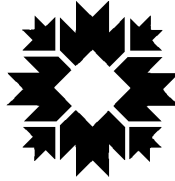
\_\_\_\_\_  
Talisha Coppock, Executive Director

**City of Bloomington Parks and Recreation**

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

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





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

**STAFF REPORT**

Agenda Item: C-5  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Administrator  
**FROM:** Bill Ream, Community Events Coordinator  
**DATE:** May 22, 2018  
**SUBJECT:** Contract for Services with Big Bounce Fun House Rentals for rental of entertainment equipment for various events in 2018.

**Recommendation**

Staff recommends the approval of the contract for services with Big Bounce Fun House Rentals to rent bounce houses and other equipment for Banneker Center events, Touch a Truck and the Holiday Market.

**Background**

We have rented items from them for several years and the equipment is always high quality and their staff is very conscientious regarding the safety of event attendees using the equipment.

**RESPECTFULLY SUBMITTED,**

*Bill Ream*

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

## AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND BIG BOUNCE FUN HOUSE RENTALS

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and Big Bounce Fun House Rentals ("Contractor").

**Article 1. Scope of Services** Contractor shall provide rental of entertainment equipment for various events coordinated by Bloomington Parks and Recreation ("Services"). The Services shall include set up and tear down of equipment and staffing to coordinate the use of equipment at the events. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before December 31, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Contractor's work, Contractor agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Bill Ream as the Department's Project Manager. Contractor agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Contractor for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

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

**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 Contractor shall be entitled to rely upon the accuracy and completeness of such information. The Department's Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation** The Department shall pay Contractor for all fees and expenses in an amount not to exceed Two Thousand Four Hundred Ninety Dollars (\$2,490). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Bill Ream, City of Bloomington, 401 N. Morton, Suite 250, Bloomington, Indiana 47404. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor 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** Contractor shall perform the Services as needed for various events ("Schedule"). 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 Contractor. Contractor shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Contractor for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Contractor's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Contractor in connection with this Agreement shall become the property of the Department, as set forth in Article 9 herein.

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

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

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

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

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

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

**Article 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 Contractor shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

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

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

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

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

**Department:** City of Bloomington, Attn: Bill Ream, 401 N. Morton St. , Suite 250 Bloomington, IN 47402. **Contractor: Big Bounce Fun House Rentals, Attn: Susan Lorimer, 3583 E. State Rd. 240, Greencastle, IN 46135.** Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Contractor.

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

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

**CITY OF BLOOMINGTON**

**BIG BOUNCE FUN HOUSE RENTALS**

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

\_\_\_\_\_  
Susan Lorimer, Owner

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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





**EXHIBIT B**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**Big Bounce Fun House Rentals**

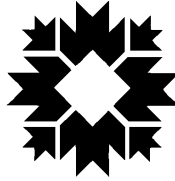
By: \_\_\_\_\_  
\_\_\_\_\_

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

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

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

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



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

**STAFF REPORT**

Agenda Item: C-6  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Administrator  
**FROM:** Bill Ream, Community Events Coordinator  
**DATE:** May 22, 2018  
**SUBJECT:** Contract for Services with Southside Rental for rental of tents and other equipment at the Fourth of July Parade and the Holiday Market

**Recommendation**

Staff recommends the approval of the contract for services with Southside Rental to rent tents and other equipment for the Fourth of July Parade and the Holiday Market.

**Background**

We have rented equipment from them for several years and we are very happy with their equipment and services.

**RESPECTFULLY SUBMITTED,**

*Bill Ream*

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

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
SOUTHSIDE RENTAL  
FOR  
FOURTH OF JULY PARADE AND HOLIDAY MARKET**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Southside Rental (“Contractor”),

**WITNESSETH:**

WHEREAS, the Department wishes to rent tables, chairs, stage risers, tents, and accompanying equipment to assemble and secure them; and

WHEREAS, the Department requires the services of a professional contractor in order to provide, delivery, set up, take down, and removal of the rented tables, chairs, stage risers, and tents (the “Services” as further defined below); and

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

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

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

**Article 1. Scope of Services**

Contractor shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before November 26, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

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

**Article 2. Standard of Care**

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

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

**Article 3. Responsibilities of the Department**

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

**Article 4. Compensation**

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

Bill Ream  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

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

**Article 5. Appropriation of Funds**

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

**Article 6. Schedule**

Contractor shall perform the Services according to the schedule set forth in Exhibit 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 Contractor. Contractor shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay

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

**Article 8. Identity of the Contractor**

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

**Article 9. Opinions of Probable Cost**

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

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

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

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

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

**Article 12. Independent Contractor Status**

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

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

**Article 13. Indemnification**

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

**Article 14. Insurance**

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

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

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

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

**Article 15. Conflict of Interest**

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

**Article 16. Waiver**

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

**Article 17. Severability**

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

**Article 18. Assignment**

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

**Article 19. Third Party Rights**

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

**Article 20. Governing Law and Venue**

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

**Article 21. Non-Discrimination**

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

**Article 22. Compliance with Laws**

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

**Article 23. E-Verify**

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



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

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

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

**Article 24. Notices**

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

**Department:**

**Contractor:**

City of Bloomington	Southside Rental
Attn: Bill Ream	Attn: Chris Hoke
401 N. Morton, Suite 250	1717 S. Walnut Street
Bloomington, Indiana 47402	Bloomington, IN 47401

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

**Article 25. Intent to be Bound**

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

**Article 26. Integration and Modification**

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

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

**Article 27. Non-Collusion**

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

**SOUTHSIDE RENTAL**

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

\_\_\_\_\_  
Chris Hoke, President

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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

## **EXHIBIT A**

### **“Scope of Work”**

The Services shall include the following:

#### Fourth of July Parade:

- Deliver and set up 20’x40’ tent and 90 chairs on the south lawn of the Monroe County Courthouse on Kirkwood Ave.
- Deliver and set up stage risers, two (2) 10’x10’ tents, four (4) 6’ banquet tables, and 20 chairs in front of the Fountain Square Mall entrance on Kirkwood Ave.

#### Holiday Market:

- Deliver and set up two (2) 30’x30’ and one (1) 30’x40’ tent in the south parking lot of the Showers Building on Morton St.

## **EXHIBIT B**

### **“Project Schedule”**

#### Fourth of July Parade:

- Delivery and set up of equipment will be Tuesday July 3, 2018 and take down and removal of equipment will be immediately following the parade (approx. 1pm) on Wednesday July 4, 2018.

#### Holiday Market:

Delivery and set up of tents will be Friday November 23, 2018 and take down and removal of tents will be completed by Monday November 26, 2018.



**EXHIBIT D**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**Southside Rental**

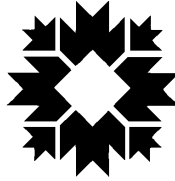
By: \_\_\_\_\_  
\_\_\_\_\_

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

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

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

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



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

**STAFF REPORT**

Agenda Item: C-7  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Elizabeth Tompkins, Natural Resources Coordinator  
**DATE:** May 22, 2018  
**SUBJECT:** REVIEW/APPROVAL OF SUMMER STAR FOUNDATION PARTNERSHIP AGREEMENT FOR BANNEKER NATURE DAYS

**Recommendation**

Staff recommends approval of a partnership agreement between the City of Bloomington Parks and Recreation Department (BPRD) and Summer Star Foundation for Banneker Summer Nature Days.

**Background**

This is the seventh year for this partnership. The goal of the partnership is to combine resources from BPRD and Summer Star Foundation to provide environmental education programming to participants of the Banneker Summer Food Program.

The program will run Monday-Thursday, June 4-July 26, 2018. BPRD staff will facilitate experiential environmental education programming for participants each day. They will lead hands-on activities, games, and field trips for participants in Kindergarten through sixth grade.

The Summer Star Foundation fully funds the program, providing funding for two seasonal staff, supply purchases for games and activities, snacks, and transportation and entry fee costs for field trips. BPRD coordinates staff, creates lesson plans, facilitates programs, and completes regular planning reports for the Summer Star Foundation.

We are excited to continue this partnership with the Summer Star Foundation, who also supports our Griffy Lake Nature Day program for fourth grade students throughout the school year.

**RESPECTFULLY SUBMITTED,**

Elizabeth Tompkins, Natural Resources Coordinator

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON PARK AND RECREATION  
AND  
SUMMER START FOUNDATION  
FOR NATURE, ART AND HUMANITY, INC.**

This Agreement is made and entered into as of this \_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Parks and Recreation Department (hereinafter, “BPRD”), and Summer Star Foundation for Nature, Art and Humanity, Inc. (hereinafter, “Summer Star Foundation”), sometimes collectively referred to hereinafter as the “Parties.”

**1. Purpose of Agreement:**

Both Parties recognize that the need exists to provide wholesome and constructive educational and recreational activities for children in Bloomington, Indiana, that will effectively contribute to the mental, physical, social and educational enrichment of children. The purpose of this Agreement is to set forth terms under which the Summer Star Foundation will provide funding for environmental educational programming at the Banneker Community Center in Bloomington for children in grades K-6 (the “Nature Day Project”).

**2. Duration of Agreement:**

This Agreement commences on the date set forth above, and expires one month after the evaluation report referenced in Paragraph 5(g) is due, unless terminated earlier as provided under Paragraph 10 or renewed as provided under Paragraph 11. Notwithstanding the foregoing, BPRD’s obligations under Paragraph 5(g) (regarding the evaluation report) and Paragraph 5(i) (regarding the return of any unused funds) shall survive the termination of this Agreement.

**3. City of Bloomington Parks & Recreation Department:**

The Bloomington Parks and Recreation Department is a municipal organization dedicated to providing essential services, facilities and programs necessary for the positive development and well-being of the community through the provision of parks, greenways, trails and recreational facilities while working in cooperation with other service providers in the community in order to maximize all available resources. One goal of BPRD is to provide outdoor education experiences that connect children to nature in ways that increase their knowledge, interest, and respect for the environment and natural spaces.

**4. Summer Star Foundation:**

Summer Star Foundation for Nature, Art, and Humanity, Inc. is a non-profit based in Greater Boston that helps in establishing educational programs to enrich children’s lives through arts and nature programs and in assisting such programs as are already in existence.

**5. Banneker Summer Nature Days Project**

Summer Star Foundation agrees to pay to BPRD the amount of Four Thousand Eight Hundred Sixty Dollars (\$4,860.00) on June 30, 2018, to be used to provide funding for the Banneker Summer Nature Days Project (the “Nature Day Project”).



The Summer Star grant governed by this Agreement shall be used for the following expenses relating to the Nature Day Project: personnel, curriculum development, logistical coordination, transportation, supplies, and program materials.

In connection with the administration of the Nature Day Project, the BPRD agrees as follows:

- a. BPRD shall oversee the design and implementation of the Nature Day Project. The exact location and station topics will be determined during the planning phase to commence in May 2018.
- b. Nature Day Project activities will take place as part of a Nature Club to be held at the Banneker Community Center four days a week during the period from June 4, 2018, to July 27, 2018, inclusive. On each day that the Nature Club meets there will be an afternoon session that will last approximately 2 hours.
- c. Nature Day Project activities will include some or all of the following:
  - (i) Field trips to local parks and nature preserves to experience hiking and exploration of various ecosystems;
  - (ii) Camping skills and fire-building;
  - (iii) Bluebird box building, installation, and monitoring on-site;
  - (iv) Weather station building and monitoring on-site;
  - (v) Nature crafts; and
  - (vi) Investigations of living wildlife such as frogs, butterflies, fish, ladybugs, and turtles.
- d. While the target audience of the Nature Day Project will be children in grades K-6, students in grades 7-12 may participate in the project as unpaid group leaders and assistants.
- e. BPRD shall perform participant assessments, staff evaluations, and take photographs of program activities during the course of the Nature Day Project.
- f. BPRD shall cause the BPRD Staff to provide Summer Star Foundation with planning reports by the end of each month, beginning with the month in which planning for the Nature Day Project starts.
- g. BPRD shall provide Summer Star Foundation an evaluation report of the Nature Day Project by September 30, 2018, including a summary of the budget and expenditures for the Nature Day Project, and an evaluation of the Nature Day Project effectiveness, and a summary of the assessments and evaluations.
- h. Should BPRD and the Banneker Community Center decide to continue and/or expand the Nature Day Project after August 31, 2018, BPRD shall offer to the Summer Star Foundation the opportunity to provide funding before other outside private sources of funding are sought or accepted. This provision shall not be interpreted to impose any obligation on the Summer Star Foundation to continue or expand its support of the

Nature Day Project beyond its stated contribution under this Agreement for the 2018 summer.

- i. BPRD shall, by September 30, 2018, return to the Summer Star Foundation any remaining funds contributed by the Summer Star Foundation to BPRD that have not been used for the purposes set forth in this Paragraph 5.

**6. BPRD General Administration Responsibilities.**

BPRD agrees that with respect to the Nature Day Project, it shall:

- a. Use the funds received from the Summer Star Foundation only for the charitable and public purposes set forth in this Agreement.
- b. Maintain financial, attendance, enrollment and other necessary administrative records with respect to the Nature Day Project funded under this Agreement sufficient to provide the reports to the Summer Star Foundation required under this Agreement.
- c. Recognize Summer Star Foundation in promotional materials including the City of Bloomington Parks and Recreation Summer and Fall Program Guide distributed two times per year to every city resident, using the Summer Star Foundation logo in a manner to be approved by the Summer Star Foundation.
- d. Communicate to the public and participants regarding the Summer Star Foundation's support of the Nature Day Project.
- e. Provide all other information as requested by Summer Star Foundation.

**7. Summer Star Foundation Responsibilities.**

In addition to providing the funding for the Nature Day Project as set forth in this Agreement, the Summer Star Foundation shall provide information to BPRD, if requested by BPRD, to be included in Parks promotional materials.

**8. Terms Mutually Agreed to By the Parties:**

- a. The intent of this Agreement is to document a mutually beneficial relationship between Summer Star Foundation and the BPRD.
- b. Summer Star Foundation is making the grant hereunder to the BPRD in reliance on the BPRD's agreement to administer the funds in accordance with the terms of this Agreement. Summer Star Foundation reserves the right to take whatever steps it deems necessary to monitor the Nature Day Project to ensure compliance with the provisions of this Agreement relating to the operation of said project.
- c. The BPRD staff and personnel involved in this Agreement will at all times represent the Parties to this Agreement in a professional manner, and reflect the commitment of the Parties to quality services and customer satisfaction.
- d. The Parties agree that Summer Star Foundation shall have no responsibility with respect to

the operation of the Nature Day Project and shall have no liability to any party relating to the operation of or any other aspect of said project.

- e. The commitment of personnel, facilities, supplies/materials and payments will be honored according to the timetable set forth in this Agreement, unless such timetable is modified in writing by the Parties.
- f. The Summer Star Foundation's obligation to make any future payments under this Agreement is conditioned on BPRD's fulfillment of its reporting obligations under this Agreement and its use of prior and future payments from Summer Star Foundation in accordance with the terms of this Agreement.
- g. The Parties acknowledge and agree that this Agreement may be enforced by BPRD and Summer Star Foundation.
- h. Each of the Parties represents and warrants that it has full power and authority to enter into this Agreement and the individuals signing on behalf of such party are duly authorized to do so.

**9. Notice and Agreement Representatives:**

- a. Notice regarding any significant concerns and/or breaches of this Agreement shall be given to the following persons at the addresses and/or numbers listed below:

**Bloomington Parks and Recreation**

Elizabeth Tompkins  
Natural Resources Coordinator  
Phone: 812-349-3759  
Fax: 812-349-3705

**Summer Star Foundation**

Shalin Liu  
P.O. Box 138  
Belmont, MA 02478

AND

Barbara Freedman Wand, Esq.  
Day Pitney LLP  
One International Place  
Boston, MA 02110  
Phone: 617.345.4628  
Fax: 413.241.8019

- b. Representatives for the day-to-day operations and implementation of this Agreement shall be:

**Bloomington Parks and Recreation**

Elizabeth Tompkins  
Natural Resources Coordinator  
Phone: 812-349-3759  
Fax: 812-349-3705

**Summer Star Foundation**

Shalin Liu  
P.O. Box 138  
Belmont, MA 02478

AND

Barbara Freedman Wand, Esq.  
Day Pitney LLP  
One International Place  
Boston, MA 02110  
Phone: 617.345.4628  
Fax: 413.241.8019

**10. Termination:**

This Agreement may only be terminated, except as expressly provided above, prior to its stated expiration in writing by the mutual agreement of the Parties and delivered to the Notice and Agreement Representatives listed in Paragraph 9. Upon such termination, all funds not used for the purposes set forth in this Agreement shall be returned to the Summer Star Foundation.

**11. Option for Renewal:**

The Parties have the option to renew this Agreement for any subsequent years by the mutual agreement of the Parties and upon the same terms as provided herein or such other terms as agreed to between the Parties. Such renewal must be in writing, signed by the Parties and delivered to the Notice and Agreement Representatives listed in Paragraph 9. This provision shall not be interpreted to impose any obligation on the Parties to renew this Agreement.

IN WITNESS WHEREOF, the Parties have signed this Agreement on the date first set forth above.

**City of Bloomington Parks and  
Recreation Department**

**Summer Star Foundation for Nature,  
Art, and Humanity, Inc.**

By:

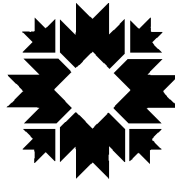
By:

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

\_\_\_\_\_  
Shalin Liu, President

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

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



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

**STAFF REPORT**

Agenda Item: C-8  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Elizabeth Tompkins, Natural Resources Coordinator  
**DATE:** May 22, 2018  
**SUBJECT:** REVIEW/APPROVAL OF SUMMER STAR MEMORANDUM OF AGREEMENT  
– GRIFFY LAKE NATURE DAY

**Recommendation**

Staff recommends the Board of Park Commissioners approve the agreement with the Summer Star Foundation to fund the Griffy Lake Nature Day program for the 2018-2019 school year.

**Background**

Griffy Lake Nature Day, currently in its eleventh year, is an experiential environmental education program for fourth grade students. Over the course of nine program days throughout the school year, all Monroe County Community School Corporation fourth grade students have the opportunity to attend this program. The program has been funded by the Summer Star Foundation since its beginning. The grant covers the cost of supply purchases for activities, bus transportation for students, and a portion of Bloomington Parks and Recreation staff costs.

We look forward to continuing our relationship with the Summer Star Foundation and providing this outdoor experience to our local youth for years to come.

**RESPECTFULLY SUBMITTED,**

Elizabeth Tompkins, Natural Resources Coordinator

## MEMORANDUM OF AGREEMENT

This Agreement is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Parks and Recreation Department (hereinafter, "BPRD"), and Summer Star Foundation for Nature, Art and Humanity Inc. (hereinafter, "Summer Star Foundation").

**1. Purpose of Agreement:**

Both parties recognize that the need exists to provide wholesome and constructive educational and recreational activities for children in Bloomington, Indiana that will effectively contribute to the mental, physical, social and educational enrichment of children. This Agreement is for the purpose of providing school year environmental educational programming to fourth graders in the Monroe County Public Schools (the "Nature Day Project").

**2. Duration of Agreement:**

This Agreement commences on September 1, 2018 and expires on September 30, 2019, unless terminated earlier as provided under Article 10 or renewed as provided under Article 11.

**3. Bloomington Parks & Recreation Department:**

BPRD is a municipal organization dedicated to providing essential services, facilities and programs necessary for the positive development and well-being of the community through the provision of parks, greenways, trails and recreational facilities while working in cooperation with other service providers in the community in order to maximize all available resources. One goal of BPRD is to provide outdoor education experiences that connect children to nature in ways that increase their knowledge, interest, and respect for the environment and natural spaces. This Agreement pertains to Environmental Education Nature Days at Leonard Springs and Griffy Lake parks.

**4. Summer Star Foundation:**

Summer Star Foundation is a non-profit based in Greater Boston that helps in establishing educational programs to enrich children's lives through arts and nature programs and in assisting such programs that are already in existence.

**5. Fourth Grade Environmental Education Nature Day Project**

Summer Star Foundation agrees to contribute up to a maximum of \$5,000 to BPRD's costs relating to the Fourth Grade Environmental Education Nature Day Project (the "Nature Day Project") for the 2018/2019 school year. The Nature Day Project was modeled on the sixth grade Monroe County Community School Corporation Leonard Springs Nature Day Project, which provides all sixth grade students with a day spent in hands-on environmental education at Leonard Springs Park. The Summer Star Foundation contribution shall be used to permit fourth grade students in the Monroe County Community School Corporation to participate in this project during the 2018/2019 school year, with preference to be given to students in schools within the City of Bloomington.

The Summer Star Foundation contribution shall be used for the following expenses relating to the Nature Day Project: personnel, curriculum development, logistical coordination, transportation, supplies, and program materials.

In connection with the administration of the Nature Day Project, the BPRD agrees as follows:

- a. BPRD shall oversee the design and implementation of the Nature Day Project. The exact location and station topics will be determined during the planning phase. Teacher contacts will begin as soon as possible to ensure adequate preparation for teachers and student participants.
- b. Nature Day activities will include environmental education based stations that incorporate local natural resources into the 4<sup>th</sup> grade curricula.
- c. BPRD shall perform student assessments, teacher and facilitator evaluations, and take photographs during program component.
- d. BPRD shall provide Summer Star Foundation with a planning report within fourteen (14) days from the beginning of the 2018/2019 school year. Such planning report shall identify any changes to the Nature Day Project curriculum from prior years, schools that will participate in the Nature Day Project and a budget of expenses.
- e. At the conclusion of the 2018/2019 school year, but no later than June 30, 2019, BPRD shall submit a written evaluation report to Summer Star Foundation, including a summary of the 2018/2019 school year's total expenditures and receipts for the Nature Day Project, an evaluation of the Nature Day Project effectiveness, and a summary of the assessments and evaluations. Summer Star Foundation shall then submit its contribution, as provided above, by July 20, 2019.
- f. Should BPRD and the Monroe County Community School Corporation decide to continue and/or expand the Nature Day Project for fourth grade students following the 2018/2019 school year, BPRD shall offer to Summer Star Foundation the opportunity to provide funding before other outside private sources of funding are sought or accepted. This provision shall not be interpreted to impose any obligation on Summer Star Foundation to continue or expand its support of the Nature Day Project beyond its stated contribution under this Agreement for the 2018/2019 school year.

**6. BPRD General Administration Responsibilities.**

BPRD agrees that with respect to the Nature Day Project, it shall:

- a. Recognize Summer Star Foundation in promotional materials using the Summer Star Foundation logo in a manner to be approved by Summer Star Foundation, including, without limitation, on all materials relating to the Nature Day Project.
- b. Use the funds received from Summer Star Foundation only for the purposes set forth in this Agreement.

- c. Maintain financial, attendance, enrollment and other necessary administrative records with respect to the Nature Day Project funded under this Agreement sufficient to provide the reports to Summer Star Foundation required under this Agreement.
- d. Communicate to the public and participants regarding Summer Star support of the programs.
- e. Provide all other information as requested by Summer Star Foundation.

**7. Summer Star Foundation Responsibilities.**

- a. Summer Star Foundation shall provide the funding for the Nature Day Project as set forth in this Agreement and shall also provide any relevant information to BPRD to be included in promotional materials.

**8. Terms Mutually Agreed to By All Parties:**

- a. The intent of this Agreement is to document a mutually beneficial relationship between Summer Star Foundation and BPRD.
- b. Summer Star Foundation is making the grant hereunder to BPRD in reliance on BPRD's agreement to administer the funds in accordance with the terms of this Agreement. Such monitoring shall include, without limitation, monitoring the Nature Day Project supported by this Agreement to insure compliance with the provisions of the Agreement relating to the operation of the program.
- c. BPRD staff and personnel involved in this Agreement will at all times represent all parties to this Agreement in a professional manner, and reflect the commitment of all parties to quality services and customer satisfaction.
- d. The parties agree that Summer Star Foundation shall have no responsibility with respect to the operation of the programs described in this Agreement and shall have no liability to any party relating to the operation of or any other aspect of such programs.
- e. The commitment of personnel, facilities, supplies/materials and payments will be honored according to the timetable agreed upon by all parties.
- f. Municipal Code sections 6.12.020 and 14.36.090 respectively prohibit smoking inside City of Bloomington facilities and the consumption of alcoholic beverages on City of Bloomington property.
- g. Summer Star Foundation's obligation to make any future payments under this Agreement is conditioned on BPRD's fulfillment of its reporting obligations under this Agreement and its use of prior payments in accordance with the terms of this Agreement.
- h. The parties acknowledge and agree that this Agreement may be enforced by Summer Star Foundation.
- i. Each of the parties represents and warrants that it has full power and authority to enter into this Agreement and the individuals signing on behalf of such party are duly authorized to do so.



**9. Notice and Agreement Representatives:**

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

**City of Bloomington Parks and Recreation  
Department**  
Dave Williams  
Operations Division Director  
Phone: 812-349-3706  
Fax: 812-349-3705

**Summer Star Foundation**  
Shalin Liu  
P.O. Box 138  
Belmont, MA 02478

AND  
Barbara Freedman Wand, Esq.  
Day Pitney LLP  
One International Place  
Boston, MA 02110  
Phone: 617-345-4628  
Fax: 413-241-8019

- b. Agreement representatives for the day-to-day operations and implementation of this Agreement shall be:

**Bloomington Parks and Recreation  
Department**  
Elizabeth Tompkins  
Natural Resources Coordinator  
Phone: 812-349-3759  
Fax: 812-349-3705

**Summer Star Foundation**  
Shalin Liu  
P.O. Box 138  
Belmont, MA 02478

AND  
Barbara Freedman Wand, Esq.  
Day Pitney LLP  
One International Place  
Boston, MA 02110  
Phone: 617-345-4628  
Fax: 413-241-8019

**10. Termination:**

This Agreement may only be terminated prior to its stated expiration in writing by the mutual agreement of all parties. Upon such termination, all funds not used for the purposes set forth in this Agreement shall be returned to Summer Star Foundation.

**11. Option for Renewal:**

The parties have the option to renew this Agreement for any subsequent years by the mutual agreement of the parties and upon the same terms as provided herein or such other terms as agreed to between the parties. Such renewal must be in writing, signed by the parties and delivered to the Notice and Agreement Representatives listed in Article 9. This provision shall not be interpreted to impose any obligation on the parties to renew this Agreement.

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

**Summer Star Foundation for Nature,  
Art, and Humanity, Inc.**

**City of Bloomington Parks and  
Recreation Department**

By:

By:

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Shalin Liu, President

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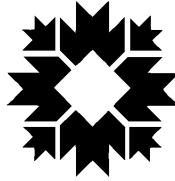
Paula McDevitt, Director

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Kathleen Mills, Park Board President,  
Board of Park Commissioners

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Philippa Guthrie, Corporation Counsel



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

**STAFF REPORT**

Agenda Item: C-9  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Barb Dunbar, Operations Coordinator  
**DATE:** May 2, 2018  
**SUBJECT:** Review/Approval of Mid-Service Contract with Umphress Masonry, Inc

**Recommendation**

Staff recommends the review/approval of a Mid-Service Contract with Umphress Masonry, Inc. The contractor will make tuck-point repairs to the South wall of Rose Hill Cemetery and perform cleanup of loose debris caused by repair work. Work will not begin until after May 22, 2018 and be completed by July 27, 2018.

**Background**

This 1,525' stretch of wall is part of the original structure constructed by the WPA in 1936, about 44 years after the establishment of the Cemetery in 1892. Over the years, repairs have been made to the wall to maintain the structure's original integrity. It is our intention to continue making these necessary annual contractual tuck-point repairs as well as stone masonry and stone cap repairs to the wall as budgeted funds will allow.

These ongoing repairs will be crucial for the preservation of the wall and its future existence, allowing it to remain as a viable piece of history in the Bloomington Community.

**RESPECTFULLY SUBMITTED,**

*Barbara J. Dunbar*

---

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
UMPHRESS MASONARY, INC.  
FOR  
ROSE HILL CEMETERY WALL REPAIRS**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Umphress Masonry, Inc. (“Contractor”),

**WITNESSETH:**

WHEREAS, the Department wishes to make repairs to the South wall of Rose Hill Cemetery; and

WHEREAS, the Department requires the services of a professional Contractor in order to perform tuck-point work and repairs (the “Services” as further defined below); and

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

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

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

**Article 1. Scope of Services**

Contractor shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before July 27, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

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

**Article 2. Standard of Care**

Contractor shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances (“Standard of Care”). The Department shall be the sole judge of the adequacy of Contractor’s work in meeting the Standard of Care; however, the Department shall not unreasonably

withhold its approval as to the adequacy of Contractor's performance. Upon notice to Contractor and by mutual agreement between the parties, Contractor will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

**Article 3. Responsibilities of the Department**

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

**Article 4. Compensation**

The Department shall pay Contractor for all fees and expenses in an amount not to exceed Four Thousand Four Hundred Seventy Five Dollars (\$4,475.00). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor within forty-five (45) days of receipt of invoice. The invoice shall be sent to:

Barb Dunbar, Operations Coordinator  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

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

**Article 5. Appropriation of Funds**

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

**Article 6. Schedule**

Contractor shall perform the Services according to the schedule set forth in Exhibit 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 Contractor. Contractor shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Contractor for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Contractor's

compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Contractor in connection with this Agreement shall become the property of the Department, as set forth in Article 10 herein.

**Article 8. Identity of the Contractor**

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

**Article 9. Opinions of Probable Cost**

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

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

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

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

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

**Article 12. Independent Contractor Status**

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

**Article 13. Indemnification**

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

**Article 14. Insurance**

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

- a. General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate.
- b. Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- c. Professional Liability Insurance ("Errors and Omissions Insurance") with a minimum limit of \$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.

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

**Article 15. Conflict of Interest**

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

**Article 16. Waiver**

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

any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 17. Severability**

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

**Article 18. Assignment**

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

**Article 19. Third Party Rights**

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

**Article 20. Governing Law and Venue**

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

**Article 21. Non-Discrimination**

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

**Article 22. Compliance with Laws**

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

**Article 23. E-Verify**

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



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

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

**Article 24. Notices**

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

**Department:**

**Contractor:**

City of Bloomington	Umphress Masonry, Inc.
Attn: Barb Dunbar, Operations Coord.	Attn: Dave Umphress
401 N. Morton, Suite 250	8383 W. Hinds Road
Bloomington, Indiana 47402	Bloomington, IN 47403

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

**Article 25. Intent to be Bound**

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

**Article 26. Integration and Modification**

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

**Article 27. Non-Collusion**

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

**UMPHRESS MASONRY**

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

\_\_\_\_\_  
Dave Umphress, Owner

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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

## **EXHIBIT A**

### **“Scope of Work”**

The Services shall include the following:

Tuck-pint repairs to the South wall, (along 3<sup>rd</sup> St), of Rose Hill Cemetery.  
Clean-up al all loose debris resulting from repair work.

**EXHIBIT B**

**“Project Schedule”**

Work will not begin before May 22, 2018 and will be completed by July 27, 2018.

**EXHIBIT C**  
**E-VERIFY AFFIDAVIT**

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

AFFIDAVIT

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

1. The undersigned is the \_\_\_\_\_ of \_\_\_\_\_.  
  Owner    Umphress, Masonry, 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 hereby states that, to the best of his/her belief, the company named herein is enrolled in and participates in the E-verify program.

\_\_\_\_\_  
Signature

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

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

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

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

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

**EXHIBIT D**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**Umphress Masonry, Inc.**

By: \_\_\_\_\_  
Dave Umphress

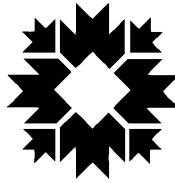
\_\_\_\_\_  
Title

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

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

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

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



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

**STAFF REPORT**

Agenda Item: C-10  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Barb Dunbar, Operations Coordinator  
**DATE:** May 9, 2018  
**SUBJECT:** Mid-Service Contract with Ann-Kriss LLC

**Recommendation**

Staff recommends the review/approval of a Mid-Service Contract with Ann-Kriss LLC. The contractor will paint the exterior of the Cemeteries/Operations Office and replace the gutters, downspouts and soffit on the entire building. Work will not begin until after May 22, 2018, and be completed by July 27, 2018.

**Background**

This facility is located at 930 West Fourth Street, in the Prospect Hill Neighborhood and is a residential building. The building has original aluminum siding which is in need of new paint to maintain the longevity of its presence and as well bring it up to date. In addition, the existing gutters and downspouts are cracking and leaking; are very old and therefore needing replaced.

**RESPECTFULLY SUBMITTED,**

*Barbara J. Dunbar*

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**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
ANN-KRISS LLC.  
FOR  
PAINTING AND REPLACEMENT GUTTERS/  
DOWNPOUTS  
OF  
ROSE HILL/ OPS OFFICE**

This Agreement, entered into on this \_\_\_\_\_ day of May, 2018, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Ann-Kriss LLC (“Contractor”),

**WITNESSETH:**

WHEREAS, the Department wishes to hire a contractor to paint the exterior of above specified building, remove and replace existing gutters, downspouts and soffits; and

WHEREAS, the Department requires the services of a professional contractor in order to perform the labor, order and purchase materials and install new replacement items (the “Services” as further defined below); and

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

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

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

**Article 1. Scope of Services**

Contractor shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before July 27, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

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



**Article 2. Standard of Care**

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

**Article 3. Responsibilities of the Department**

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

**Article 4. Compensation**

The Department shall pay Contractor for all fees and expenses in an amount not to exceed Five Thousand Nine Hundred Fifty Seven Dollars and Fifty Eight Cents (\$5,957.58). Invoices may be sent via first class mail postage prepaid or via email to dunbarb@bloomington.in.gov. Payment will be remitted to Contractor within forty-five (45) days of receipt of invoice. Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to:

BARB DUNBAR  
City of Bloomington Park & Recreation Dept.  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

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

**Article 5. Appropriation of Funds**

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

**Article 6. Schedule**

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

**Article 8. Identity of the Contractor**

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

**Article 9. Opinions of Probable Cost**

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

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

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

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

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

**Article 12. Independent Contractor Status**

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

**Article 13. Indemnification**

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

**Article 14. Insurance**

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

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

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

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

**Article 15. Conflict of Interest**

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

**Article 16. Waiver**

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

**Article 17. Severability**

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

**Article 18. Assignment**

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

**Article 19. Third Party Rights**

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

**Article 20. Governing Law and Venue**

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

**Article 21. Non-Discrimination**

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

**Article 22. Compliance with Laws**

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

**Article 23. E-Verify**

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

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

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

**Article 24. Notices**

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

**Department:**

**Contractor:**

City of Bloomington	Ann-Kriss LLC
Attn: Barb Dunbar, Operations Coord.	736 S. Morton
401 N. Morton, Suite 250	Bloomington, IN 47403
Bloomington, Indiana 47402	davedpadgett@yahoo.com

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

**Article 25. Intent to be Bound**

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

**Article 26. Integration and Modification**

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

**Article 27. Non-Collusion**

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

**Ann-Kriss LLC**

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

\_\_\_\_\_  
Dave Padgett, Owner

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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

## EXHIBIT A

### “Scope of Work”

The Services shall include the following:

**Location: 930 West Fourth St. ~ Bloomington, IN**

#### EXTERIOR PAINTING:

- Power wash exterior
- Scrape as needed
- Prime exterior/Spray (new replacement panels)
- Spray finish coat (2 coats)
- Paint all trim
- Paint porch
- Clean area

#### SOFFITT:

- Remove and dispose of and install new soffit on all of office  
Note: Department Project Manager will decide at a later date on aluminum or vinyl soffit; material choice **will not** affect compensation amount as outlined in this contract.

#### GUTTERS/DOWNSPOUTS:

- Remove and dispose of and install new 6” seamless white gutters and downspouts on all of office using a .027 gauge of steel

**EXHIBIT B**

**“Project Schedule”**

Work shall not begin before May 22, 2018 and shall be completed by July 27, 2018.



**EXHIBIT C**  
**E-VERIFY AFFIDAVIT**

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

AFFIDAVIT

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

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

\_\_\_\_\_  
Signature

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

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

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

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

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

**EXHIBIT D**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**Ann-Kriss LLC**

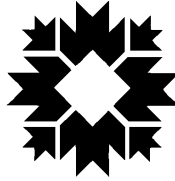
By: \_\_\_\_\_  
David Padgett

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

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

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

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



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

**STAFF REPORT**

Agenda Item: C-11  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Marcia Veldman, Program/Facility Coordinator  
**DATE:** May 22, 2018  
**SUBJECT:** CONTRACT FOR SERVICES WITH NASHVILLE PARTY RENTAL

**Recommendation**

Staff recommends the approval of the contract for services with Nashville Party Rental to rent a tent, tables and chairs for the Homegrown Indiana Farm Tour at Harvest Moon Flower Farm on Sunday, July 15.

**Background**

The Department has rented from them for over ten years for the Farm Tours and has been happy with their equipment and services.

**RESPECTFULLY SUBMITTED,**

---

Marcia Veldman  
Program/Facility Coordinator

## AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND NASHVILLE PARTY RENTALS, INC.

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and Nashville Party Rentals, Inc. ("Contractor").

**Article 1. Scope of Services** Contractor shall deliver and set up event supplies for the upcoming Farm Tour ("Services"). Supplies will include tents, tables and chairs. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before Sunday, July 15, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Contractor's work, Contractor agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Marcia Veldman as the Department's Project Manager. Contractor agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Contractor for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

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

**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 Contractor shall be entitled to rely upon the accuracy and completeness of such information. The Department's Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation** The Department shall pay Contractor for all fees and expenses in an amount not to exceed One Thousand Two Hundred Dollars (\$1,200). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Marcia Veldman, 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 Contractor 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** Contractor shall perform the Services according to the following schedule: Delivery and set up will take place on or before Sunday, July 15 at noon and take down will take place between 10:00 p.m. on Sunday, July 15 and 5:00 p.m. on Monday, July 16, 2018 ("Schedule").

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 Contractor. Contractor shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Contractor for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Contractor's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Contractor in connection with this Agreement shall become the property of the Department, as set forth in Article 9 herein.

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

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

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

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

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

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

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

**Article 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 Contractor shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

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

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

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

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

**Department:** City of Bloomington, **Attn: Marcia Veldman, 401 N. Morton, Bloomington, IN 47402.** **Contractor: Ryan Seward, Nashville Party Rentals, Inc.** Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Contractor.

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

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

**CITY OF BLOOMINGTON**

**NASHVILLE PARTY RENTALS, INC.**

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

\_\_\_\_\_  
Ryan Seward (Owner)

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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



**EXHIBIT B**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**Nashville Party Rentals, Inc.**

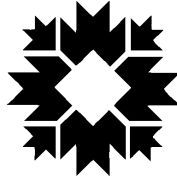
By: \_\_\_\_\_  
\_\_\_\_\_

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

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

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

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



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

**STAFF REPORT**

Agenda Item: C-12  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Lee E Huss - Urban Forester  
**DATE:** 5/15/2018  
**SUBJECT:** Consultant agreement with Bartlett Tree Experts to perform injections for 700 diameter inches of public ash trees to suppress Emerald Ash Borer

**Recommendation**

Asking to utilize the services of Bartlett Tree Experts to provide the second injection of Ash trees to prevent damage from Emerald Ash Bore. Injections are being utilized every three years, Park facilities will be Olcott Park, Twin lakes Sports Complex, Miller Showers, Rosehill Cemetery and various public street trees.

**Background**

Perform tree services at several city parks. Perform root flare injections treatment for 700 diameter inches of public Ash trees.

**RESPECTFULLY SUBMITTED,**

---

Lee E Huss  
Urban Forester



**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
BARTLETT TREE EXPERTS  
FOR  
ASH TREE ROOT FLARE INJECTION**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Bartlett Tree Experts (“Contractor”),

**WITNESSETH:**

WHEREAS, the Department wishes to perform an Ash Tree root flare injection treatment for prevention of Emerald Ash Borer; and

WHEREAS, the Department requires the services of a professional contractor in order to perform the root flare injection treatment (the “Services” as further defined below); and

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

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

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

**Article 1. Scope of Services**

Contractor shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before August 1, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

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

**Article 2. Standard of Care**

Contractor shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances (“Standard of Care”). The Department shall be the sole judge of the adequacy of Contractor’s work in meeting the Standard of Care; however, the Department shall not unreasonably

withhold its approval as to the adequacy of Contractor's performance. Upon notice to Contractor and by mutual agreement between the parties, Contractor will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

**Article 3. Responsibilities of the Department**

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

**Article 4. Compensation**

The Department shall pay Contractor for all fees and expenses in an amount not to exceed Four Thousand Three Hundred Twenty Six Dollars (\$4,326.00). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor within forty-five (45) days of receipt of invoice. The invoice shall be sent to:

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

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

**Article 5. Appropriation of Funds**

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

**Article 6. Schedule**

Contractor shall perform the Services no later than August 1, 2018. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination**

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

The Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to Contractor. Contractor shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Contractor for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Contractor's compensation and the schedule of services. Upon termination or suspension of this Agreement, all

finished or unfinished reports, drawings, collections of data and other documents generated by Contractor in connection with this Agreement shall become the property of the Department, as set forth in Article 10 herein.

**Article 8. Identity of the Contractor**

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

**Article 9. Opinions of Probable Cost**

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

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

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

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

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

**Article 13. Indemnification**

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

**Article 14. Insurance**

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

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

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

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

**Article 15. Conflict of Interest**

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

**Article 16. Waiver**

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

**Article 17. Severability**

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

**Article 18. Assignment**

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

**Article 19. Third Party Rights**

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

**Article 20. Governing Law and Venue**

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

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

**Article 22. Compliance with Laws**

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

**Article 23. E-Verify**

Contractor is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Contractor shall sign an affidavit, attached as Exhibit 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 subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Contractor or subcontractor subsequently learns

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

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

**Article 24. Notices**

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

**Department:**

**Contractor:**

City of Bloomington	Bartlett Tree Experts
Attn: Lee Huss	Attn: Rick Barker
401 N. Morton, Suite 250	PO Box 681521
Bloomington, Indiana 47402	Indianapolis, IN 46268

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

**Article 25. Intent to be Bound**

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

**Article 26. Integration and Modification**

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

**Article 27. Non-Collusion**

Contractor is required to certify that it has not, nor has any other member, representative, or agent of Contractor, entered into any combination, collusion, or agreement with any person relative to the price

to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Contractor shall sign an affidavit, attached hereto as Exhibit C, affirming that Contractor has not engaged in any collusive conduct. Exhibit C is attached hereto and incorporated by reference as though fully set forth.

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

**CITY OF BLOOMINGTON**

**Bartlett Tree Experts**

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

\_\_\_\_\_  
Rick Barker, So. Indiana Representative

**PARKS AND RECREATION**

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

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

## **EXHIBIT A**

### **“Scope of Work”**

The Services shall include the following:

Perform a systematic root flare injection treatment to the following plant to help suppress Emerald Ash Borer: Ash (~700 diameter in.) located at the various locations as directed.

Provide 1 treatment at \$4,326.00 per treatment.

Estimated treatment date: 6/1/2018



**EXHIBIT B**

**E-VERIFY AFFIDAVIT**

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

**AFFIDAVIT**

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

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

\_\_\_\_\_  
Signature

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

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

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

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

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

**EXHIBIT C**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**Bartlett Tree Experts**

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

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

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

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

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



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

**STAFF REPORT**

Agenda Item: C-13  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Lee E Huss - Urban Forester  
**DATE:** 5/15/2018  
**SUBJECT:** **Consultant agreement with Bluestone Tree to perform hazard tree removals at various locations in the public right-of-way.**

**Recommendation**

Asking to utilize the services of Bluestone Tree to remove several hazardous and dead public trees. These trees are in locations of that are high traffic, public utility lines and nearby private structure that city crews are not equipped to provide quick and safe service.

**Background**

Perform public tree removal services at several locations around Bloomington. Several trees are Ash trees declining from Emerald Ash Bore. Clean-up of debris.

**RESPECTFULLY SUBMITTED,**

---

Lee E Huss  
Urban Forester

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
BLUESTONE TREE, LLC  
FOR  
TREE REMOVALS**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Bluestone Tree, LLC (“Contractor”),

**WITNESSETH:**

WHEREAS, the Department wishes to remove several hazardous and dead trees; and

WHEREAS, the Department requires the services of a professional Contractor in order to perform the tree removals (the “Services” as further defined below); and

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

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

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

**Article 1. Scope of Services**

Contractor shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before September 15, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

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

**Article 2. Standard of Care**

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

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

**Article 3. Responsibilities of the Department**

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

**Article 4. Compensation**

The Department shall pay Contractor for all fees and expenses in an amount not to exceed Seventeen Thousand Fifty Dollars and Zero Cents (\$17,050.00). Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor within forty-five (45) days of receipt of invoice. Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to:

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

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

**Article 5. Appropriation of Funds**

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

**Article 6. Schedule**

Contractor shall perform the Services no later than September 15, 2018. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination**

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

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

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**Department:**

**Contractor:**

City of Bloomington	Bluestone, LLC
Attn: Lee Huss	Attn: Jerad Oren
401 N. Morton, Suite 250	PO Box 345
Bloomington, Indiana 47402	Clear Creek, IN 47426

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

**Article 25. Intent to be Bound**

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

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

**Article 27. Non-Collusion**

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

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

**CITY OF BLOOMINGTON**

**BLUESTONE TREE, LLC**

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

\_\_\_\_\_  
Jerad Oren, Owner

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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

**EXHIBIT A**  
**“Scope of Work”**

The Services shall include the following:

**Estimate #1392**



<b>Billing Address</b> City Of Bloomington 301 N. Morton St. Bloomington IN 47401 USA hussl@bloomington.in.gov 18123275251	<b>Service Address</b> City Of Bloomington hussl@bloomington.in.gov 18123275251  <b>Contact:</b> Lee Huss 18123275251	<b>Send Payment To</b> Bluestone, LLC P.O. Box 345 Clear Creek IN 47426 United States 8128243335 bluestonebloomington@gmail.com	<b>Date</b> 04/27/18 <b>Total</b> \$17,050.00 <b>Payments</b> \$0.00 <b>Balance</b> \$17,050.00
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**Charges**

<b>Item</b>	<b>Description</b>	<b>Unit Cost</b>	<b>Tax</b>	<b>Quantity</b>	<b>Line Total</b>	
Services	Remove large ash tree and all debris in unimproved right of way at 1865 S. Covey Ln.	\$4,150.00		1.0	\$4,150.00	
Services	Remove dead Ash tree and all debris in unimproved Alley at 616 E. University St.	\$900.00		1.0	\$900.00	
Services	Remove 50 inch silver maple in all debris near the corner of 651 South Walker St.	\$1,000.00		1.0	\$1,000.00	
Services	Remove 50 inch maple tree and all debris near 2105 E. Meadow Bluff Court along S. High St.	\$3,900.00		1.0	\$3,900.00	
Services	Remove 45 inch silver maple and all debris in front of 341 South Jackson St.	\$2,600.00		1.0	\$2,600.00	
Services	Remove 43 inch Siberian elm tree and all debris at Cascades golf course near the entrance of Kinser Pike	\$1,300.00		1.0	\$1,300.00	
Services	Remove 35 inch ash tree and all debris on Kinser Pike near skyline Drive intersection	\$1,100.00		1.0	\$1,100.00	
Services	Remove dead trees and ash trees along the street right of way near East Moore's Pike along side AMC theater. Group of trees together.	\$2,100.00		1.0	\$2,100.00	
					Subtotal	\$17,050.00
					Tax	\$0.00
					<b>Total</b>	<b>\$17,050.00</b>

**Notes**

**Terms**

- 1: Our first priority is to make you happy and feel that the work done was what we agreed upon, below is some things to avoid miscommunication, but if there is an issue we will work with you to resolve it!
- 2: Due to changing conditions and rates of decline, estimates are honored for six months.
- 3: Stump grinding is for grinding of stump and roots close to main stump. Root removal, also known as chasing roots, is a much more invasive and time consuming task. This is not included in stump grinding price unless stated and agreed upon. Stumps are ground down to 8"-17" deep.
- 4: Removing excess stump chips is usually not included but can be for an additional fee.
- 5: We usually take all wood and debris unless otherwise stated. Leaving wood means it is left at the base of the tree or near it, cutting into firewood size is also a time intensive task that would be an additional charge and would not be included unless stated and agreed upon.

\* SEPT 15<sup>TH</sup>

**EXHIBIT B**

**E-VERIFY AFFIDAVIT**

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

**AFFIDAVIT**

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

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

\_\_\_\_\_  
Signature

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

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

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

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

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

**EXHIBIT C**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**Bluestone Tree, LLC**

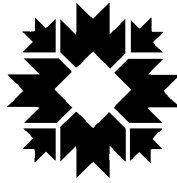
By: \_\_\_\_\_  
\_\_\_\_\_

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

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

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

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



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

**STAFF REPORT**

Agenda Item: C-14  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Lee E Huss - Urban Forester  
**DATE:** 5/15/2018  
**SUBJECT:** Consultant agreement with Mominee Tree for Public tree pruning

**Recommendation**

Asking to utilize the services of Mominee Tree for tree pruning services for several trees at Bryan, Butler and Peoples Park as well as area surrounding Mill's Pool area.

**Background**

Perform tree services at several city parks. Crown cleaning and structural pruning. Clean-up of debris created from the operation. 19 tree pruned.

**RESPECTFULLY SUBMITTED,**

---

Lee E Huss  
Urban Forester

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
MOMINEE TREE  
FOR  
TREE PRUNING**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Mominee Tree (“Contractor”).

**WITNESSETH:**

WHEREAS, the Department wishes to prune trees in Bryan, Butler, and People’s Park as well as the area surrounding Mill’s Pool; and

WHEREAS, the Department requires the services of a professional contractor in order to perform the tree pruning (the “Services” as further defined below); and

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

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

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

**Article 1. Scope of Services**

Contractor shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before October 1, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

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

**Article 2. Standard of Care**

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

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

**Article 3. Responsibilities of the Department**

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

**Article 4. Compensation**

The Department shall pay Contractor for all fees and expenses in an amount not to exceed Six Thousand Five Hundred Sixty Dollars and Zero Cents (\$6,560). Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor within forty-five (45) days of receipt of invoice. Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to:

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

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

**Article 5. Appropriation of Funds**

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

**Article 6. Schedule**

Contractor shall perform the Services no later than October 1, 2018. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination**

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

The Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to Contractor. Contractor shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Contractor for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Contractor's



compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Contractor in connection with this Agreement shall become the property of the Department, as set forth in Article 10 herein.

**Article 8. Identity of the Contractor**

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

**Article 9. Opinions of Probable Cost**

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

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

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

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

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

**Article 12. Independent Contractor Status**

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

**Article 13. Indemnification**

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

**Article 14. Insurance**

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

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

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

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

**Article 15. Conflict of Interest**

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

**Article 16. Waiver**

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

**Article 17. Severability**

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

**Article 18. Assignment**

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

**Article 19. Third Party Rights**

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

**Article 20. Governing Law and Venue**

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

**Article 21. Non-Discrimination**

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

**Article 22. Compliance with Laws**

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

**Article 23. E-Verify**

Contractor is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Contractor shall sign an affidavit, attached as Exhibit 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 subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Contractor or subcontractor subsequently learns

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

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

**Article 24. Notices**

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

**Department:**

**Contractor:**

City of Bloomington	Mominee Tree
Attn: Lee Huss	Attn: Bret Mominee
401 N. Morton, Suite 250	4101 E Boltinghouse Rd
Bloomington, Indiana 47402	Bloomington, IN 47408

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

**Article 25. Intent to be Bound**

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

**Article 26. Integration and Modification**

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

**Article 27. Non-Collusion**

Contractor is required to certify that it has not, nor has any other member, representative, or agent of Contractor, entered into any combination, collusion, or agreement with any person relative to the price

to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Contractor shall sign an affidavit, attached hereto as Exhibit C, affirming that Contractor has not engaged in any collusive conduct. Exhibit C is attached hereto and incorporated by reference as though fully set forth.

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

**CITY OF BLOOMINGTON**

**MOMINEE TREE**

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

\_\_\_\_\_  
Bret Mominee, Owner

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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

## EXHIBIT A

### “Scope of Work”

The Services shall include the following:

#### **People’s Park**

- Crown clean pruning for 1 Hackberry Tree
- Crown clean pruning for 1 Locust Tree
- remove all debris created from operations

#### **Bryan Park**

- Crown clean & structural pruning for 3 Oak Trees
- Crown clean & structural pruning for 1 Tulip Tree
- Crown clean & structural pruning for 4 Ash Trees
- Crown clean & structural pruning for 1 Locust Tree
- Remove deadwood out of 1 Maple Tree
- Remove all debris created from operations.

#### **Butler Park**

- Crown clean pruning for 1 Oak Tree
- Remove all debris created from operations

#### **Mill’s Pool Area**

- crown clean & raise pruning for 6 Oak Trees
- remove all debris created from operations

**EXHIBIT B**

**E-VERIFY AFFIDAVIT**

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

**AFFIDAVIT**

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

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

\_\_\_\_\_  
Signature

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

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

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

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

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

**EXHIBIT C**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**Mominee Tree**

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

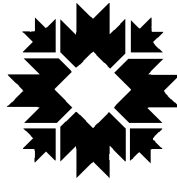
STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

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

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

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





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

**STAFF REPORT**

Agenda Item: C-15  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Lee E Huss - Urban Forester  
**DATE:** 5/15/2018  
**SUBJECT:** Consultant agreement with Tree Guy Inc. for Pin Oak and Ash tree treatments

**Recommendation**

Asking to utilize the services of Tree Guy Inc. treatment to encourage root system repair of 5 Pin Oaks at Park Ridge Park. Also to provide trunk injections on two Ash trees in Bryan Park for Emerald Ash Bore prevention.

**Background**

This treatment for repair of root loss due to the installation of new playground equipment three years ago. A repeat treatment is needed.

Treatment of two mature Ash trees in Bryan Park. This treatment is also for public education purposes for the June 2<sup>nd</sup> Bicentennial tree concert.

**RESPECTFULLY SUBMITTED,**

---

Lee E Huss  
Urban Forester

## AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND TREE GUY, INC

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

**Article 1. Scope of Services** Contractor shall provide the treatment to encourage root system repair on 5 Pin Oaks at Park Ridge Park and treat two Ash Trees in Bryan Park for prevention of Emerald Ash Borer ("Services"). Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before August 1<sup>st</sup>, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Contractor's work, Contractor agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Lee Huss as the Department's Project Manager. Contractor agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Contractor for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

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

**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 Contractor shall be entitled to rely upon the accuracy and completeness of such information. The Department's Project Manager shall act on its behalf with respect to this Agreement.

**Article 4. Compensation** The Department shall pay Contractor for all fees and expenses in an amount not to exceed One Thousand Eight Hundred Sixty Eight Dollars and Zero Cents (\$1,868.00). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Lee Huss, 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 Contractor 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** Contractor shall perform the Services no later than August 1, 2018 ("Schedule"). 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 Contractor. Contractor shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Contractor for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Contractor's compensation and the schedule of services. Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Contractor in connection with this Agreement shall become the property of the Department, as set forth in Article 9 herein.

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

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

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

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

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

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

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

**Article 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 Contractor shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

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

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

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

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

**Department:** City of Bloomington, Attn: Lee Huss, 401 N. Morton, Bloomington, IN 47402. **Contractor:** Kerry Bridges, 3011 S Stratford Dr, Bloomington, IN 47401. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Contractor.

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

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

**CITY OF BLOOMINGTON**

**TREE GUY, INC**

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

\_\_\_\_\_  
Kerry Bridges, Owner

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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



**EXHIBIT B**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**Tree Guy, Inc.**

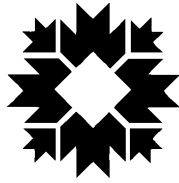
By: \_\_\_\_\_  
\_\_\_\_\_

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

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

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

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



CITY OF BLOOMINGTON  
parks and recreation

**STAFF REPORT**

Agenda Item: C- 16  
Date: 05-16-18

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Dave Williams, Operations Director  
**DATE:** May 4, 2018  
**SUBJECT:** **REVIEW/APPROVAL OF ENVIRONMENTAL SERVICES CONTRACT  
POTENTIAL PROPERTY DONATION**

**Recommendation**

It is recommended the Board approve an environmental services contract to complete a Phase I Assessment of a privately owned land parcel next to Griffy Lake that may be donated to the department.

**Background**

In consultation with the Parks Foundation, communications with the private property owner regarding a possible property donation have proceeded satisfactorily to the point where land acquisition due diligence steps should proceed. These steps include an Environmental Phase I Assessment, Title Search, and Property Appraisal. The cost of the environmental report is \$2,100. If the environmental report comes back positive, staff will proceed with the next steps.

**RESPECTFULLY SUBMITTED,**

---

**Dave Williams, Operations Director**

## AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND VET ENVIRONMENTAL ENGINEERING, LLC

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

**Article 1. Scope of Services** Consultant shall perform a Phase I Environmental Site Assessment at the property located at 3255 North Russell Road, Bloomington, IN, Parcel # 53-01-22-200-000.000-004 ("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 December 31, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Consultant's work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with 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 One Hundred Dollars and Zero Cents (\$2,100.00). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: 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 complete the Services no later than December 31, 2018. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination** In the event of a party's substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party. 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.

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

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

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

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

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

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

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

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

**Department:** City of Bloomington, Attn: Dave Williams, 401 N. Morton, Bloomington, IN 47402. **Consultant:** VET Environmental Engineering, LLC, Sara Rae Hamidovic, 2335 West Fountain Drive, Suite B, Bloomington, IN 47404. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Consultant.

**Article 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**

**VET ENVIRONMENTAL ENGINEERING, LLC**

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

\_\_\_\_\_  
Sara Rae Hamidovic, President

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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





**EXHIBIT B**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**VET Environmental Engineering, LLC**

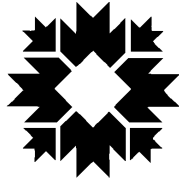
By: \_\_\_\_\_  
\_\_\_\_\_

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

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

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

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



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

**STAFF REPORT**

Agenda Item: C- 17  
Date: 05-16-18

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Dave Williams, Operations Director  
**DATE:** May 4, 2018  
**SUBJECT:** **REVIEW/APPROVAL OF B-LINE TRAIL UTILITY EASEMENT  
PEDCOR DEVELOPMENT**

**Recommendation**

It is recommended the Board approve a utility easement crossing the B-Line Trail for the Pedcor affordable housing development project at 611 N. Rogers Street.

**Background**



An encroachment permit was approved by the Board for this development in February. Two crossings under the trail are required for connection to City of Bloomington Utilities infrastructure.

**RESPECTFULLY SUBMITTED,**

---

**Dave Williams, Operations Director**

**LEGEND**

-  PERMANENT EASEMENT
-  PROPERTY LINE

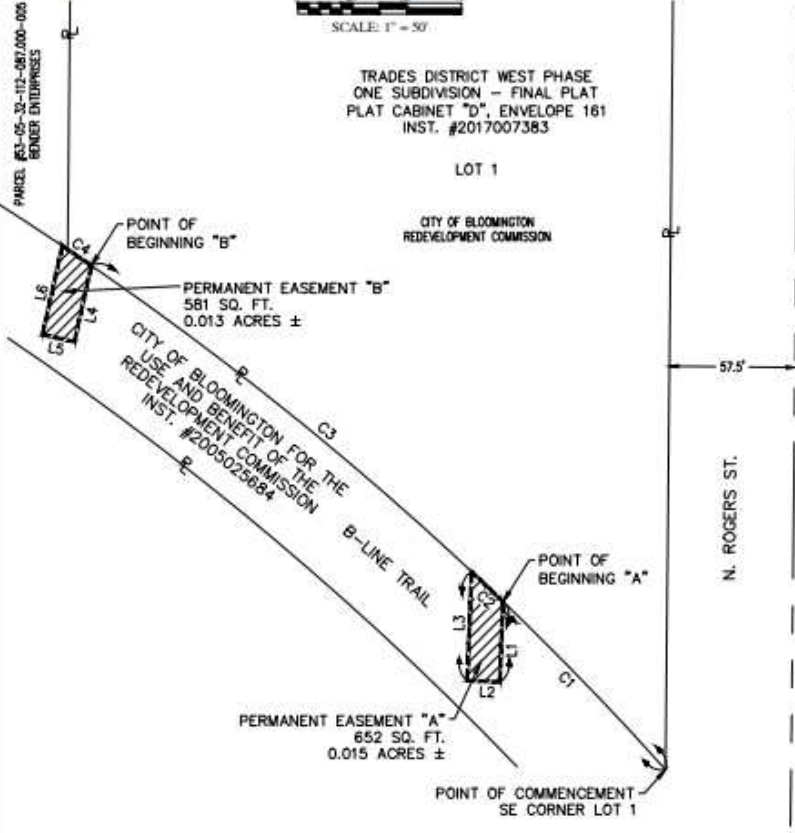
**EXHIBIT "A"**



TRADES DISTRICT WEST PHASE  
ONE SUBDIVISION - FINAL PLAT  
PLAT CABINET "D", ENVELOPE 161  
INST. #2017007383

LOT 1

CITY OF BLOOMINGTON  
REDEVELOPMENT COMMISSION



File Name: C:\pedcor\2015-217 Pedcor - Moving Forward Project\Design\Comments Development\2015-217.dwg  
 Plot Date: May 03, 2018  
 Plot Time: 4:07:39 PM

CITY OF BLOOMINGTON FOR THE  
USE AND BENEFIT OF THE  
REDEVELOPMENT COMMISSION  
INST. #2005025684

PERMANENT EASEMENT "B"  
581 SQ. FT.  
0.013 ACRES ±

PERMANENT EASEMENT "A"  
652 SQ. FT.  
0.015 ACRES ±

Line Table		
Line #	Length	Direction
L1	36.85'	S02°19'50"W
L2	15.00'	N87°40'10"W
L3	49.98'	N02°19'50"E
L4	35.78'	S12°36'02"W
L5	15.00'	N77°23'58"W
L6	41.72'	N12°36'02"E

Curve Table				
Curve #	Length	Radius	Chord Bearing	Chord Length
C1	107.13'	1490.96'	N44°02'33"W	107.11'
C2	19.93'	1490.96'	S46°29'02"E	19.93'
C3	350.98'	1490.96'	N48°43'40"W	350.17'
C4	16.13'	1490.96'	S55°46'54"E	16.13'

PREPARED BY



**HWC**  
ENGINEERING

135 N. PENNSYLVANIA ST. SUITE 2800  
INDIANAPOLIS, IN 46204  
317-347-3663  
INDIANAPOLIS - TERRE HAUTE  
LAFAYETTE - MUNCE - NEW ALBANY  
www.hwcengineering.com

PEDCOR  
MOVING FORWARD  
PERMANENT EASEMENT  
BLOOMINGTON, INDIANA

This drawing is not intended to be represented  
as a retracement or original boundary survey,  
a route survey, or a Surveyor Location Report.

DRAWN BY KKE	JOB NUMBER 2015-217
CHECKED BY MGJ	
DATE 05/03/2018	
SCALE 1" = 50'	

# EXHIBIT "A"

## PERMANENT EASEMENT "A"

Part of the East Half of Section 32, Township 9 North, Range 1 West of the Second Principal Meridian in Monroe County, Indiana, described as follows:

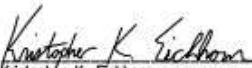
COMMENCING at the southeast corner of Lot 1 in Trades District West Phase One Subdivision, the plot of which is recorded in Plat Cabinet "D", Envelope 161, Instrument Number 2017007383 in the Office of the Recorder of Monroe County, Indiana; thence northwesterly along the south line of said Lot 1 a distance of 107.13 feet along an arc to the left having a radius of 1490.96 feet and subtended by a long chord having a bearing of North 44 degrees 02 minutes 33 seconds West (grid bearing based upon Indiana State Plane - West Zone, NAD 83(2011) EPOCH 2010.0000) and a length of 107.11 feet to the POINT OF BEGINNING; thence South 02 degrees 19 minutes 50 seconds West a distance of 36.85 feet; thence North 87 degrees 40 minutes 10 seconds West a distance of 15.00 feet; thence North 02 degrees 19 minutes 50 seconds East a distance of 49.96 feet to a point on said south line being on a non-tangent curve; thence southeasterly along said south line a distance of 19.93 feet along an arc to the right having a radius of 1490.96 feet and subtended by a long chord having a bearing of South 46 degrees 29 minutes 02 seconds East and a length of 19.93 feet to the POINT OF BEGINNING, containing 0.015 acres, more or less.

## PERMANENT EASEMENT "B"

Part of the East Half of Section 32, Township 9 North, Range 1 West of the Second Principal Meridian in Monroe County, Indiana, described as follows:

COMMENCING at the southeast corner of Lot 1 in Trades District West Phase One Subdivision, the plot of which is recorded in Plat Cabinet "D", Envelope 161, Instrument Number 2017007383 in the Office of the Recorder of Monroe County, Indiana; thence northwesterly along the south line of said Lot 1 a distance of 350.98 feet along an arc to the left having a radius of 1490.96 feet and subtended by a long chord having a bearing of North 48 degrees 43 minutes 40 seconds West and a length of 350.17 feet to the POINT OF BEGINNING; thence South 12 degrees 36 minutes 02 seconds West a distance of 35.78 feet; thence North 77 degrees 23 minutes 58 seconds West a distance of 15.00 feet; thence North 12 degrees 36 minutes 02 seconds East a distance of 41.72 feet to a point on said south line being on a non-tangent curve; thence southeasterly along said south line a distance of 16.13 feet along an arc to the right having a radius of 1490.96 feet and subtended by a long chord having a bearing of South 55 degrees 46 minutes 54 seconds East and a length of 16.13 feet to the POINT OF BEGINNING, containing 0.013 acres, more or less.

This description prepared by:

  
Kristopher K. Eichhorn  
Professional Surveyor #21000230  
May 3, 2018  
keichhorn@hwcengineering.com



Note:  
This drawing is not intended to be represented as a retracement or original boundary survey, a route survey, or a Surveyor Location Report.

PREPARED BY

  
**HWC**  
**ENGINEERING**  
135 N. PENNSYLVANIA ST., SUITE 2800  
INDIANAPOLIS, IN 46204  
317-347-3663  
INDIANAPOLIS - TERRE HAUTE  
LAFAYETTE - MUNCIE - NEW ALBANY  
www.hwcengineering.com

PEDCOR  
MOVING FORWARD  
PERMANENT EASEMENT  
BLOOMINGTON, INDIANA

DRAWN BY  
KKE  
CHECKED BY  
MGJ  
DATE  
05/03/2018  
SCALE  
N/A

JOB NUMBER  
2015-217

PG 2 OF 2

©2018

**PERMANENT STORMWATER DRAINAGE EASEMENTS**

THIS INDENTURE WITNESSETH, that the City of Bloomington, hereinafter called GRANTOR, for and in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to Pedcor Investments-2015-CXLIX, L.P., hereinafter called GRANTEE, two (2) permanent stormwater drainage easements and right-of-ways (the "Easements") across and beneath portions of the real estate located in Monroe County, Indiana, and legally described in the deed recorded as Instrument Number 2005025684 QC on 12/29/05, in the office of the Recorder of Monroe County, Indiana (the "Servient Property"), designated as PERMANENT EASEMENT A and PERMANENT EASEMENT B (together, the "Easement Areas"), both of which cross the B-Line Trail and are shown on and described in Exhibit "A" which is attached hereto and made a part hereof. GRANTOR intends the Easements to run with the land.

The Easements shall constitute two right-of-ways and are granted for the sole purpose of permitting the GRANTEE, its employees, agents, and independent contractors the right to enter upon the Servient Property to operate, maintain, repair, and replace stormwater drainage infrastructure in Easement Areas as necessary.

It is further understood and agreed that as an additional consideration for the granting of these Easements, GRANTEE hereby promises and agrees that after any construction, installation, maintenance, repair, or replacement performed by or on behalf of GRANTEE, GRANTEE shall repair or cause to be repaired any and all damage done to the Easement Areas and agrees to place such lands in as good condition as the same were immediately prior to the execution of this Permanent Stormwater Drainage Easements and prior to such construction, installation, maintenance, repair or replacement. Other conditions of the Easements are as follows:

1. No utility installations by any entity other than GRANTEE or its successors, employees, agents or independent contractors, are permitted.
2. No permanent structures within the Easement Areas will be permitted with the exception of fences or decorative landscaping structures which may be erected by GRANTOR, provided that any such fences or structures shall not unreasonably interfere with GRANTEE's use and enjoyment of the Easement Areas.
3. GRANTOR shall be permitted to continue to use the surface of the land within the Easement Areas for the B-line Trail which shall include the right to continue improving, paving, and landscaping (trees, grasses, native flora, shrubs, perennial and annual flora), installing fencing and/or decorative landscaping structures, or changing the grade of the land as necessary for the purpose of maintaining and improving upon the B-Line Trail which is a benefit to the community at large as well as to the GRANTEE as an attractive amenity to GRANTEE, provided that GRANTOR's use of the land within the Easement Areas shall not unreasonably interfere with GRANTEE's use and enjoyment of the Easement Areas.

The Easements above described are appurtenant to and servient solely to that real estate constituting the dominant estate, which is located at the common street address of 611 N. Rogers Street, Bloomington, County of Monroe, State of Indiana and legally described as:

LOT 1 IN TRADES DISTRICT WEST PHASE ONE SUBDIVISION – FINAL PLAT, A SUBDIVISION OF PART OF THE EAST HALF OF SECTION 32 TOWNSHIP 9 NORTH, RANGE 1 WEST, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 01, 2017 AS DOCUMENT 2017007383 IN PLAT CABINET "D", ENVELOPE 161, MONROE COUNTY, INDIANA.

The GRANTOR states that it is the sole owner of the Servient Property. Undersigned certifies that he or she has full authority to execute this document on behalf of GRANTOR.

IN WITNESS WHEREOF, the party/parties have hereunto set their hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2018.

GRANTOR

\_\_\_\_\_

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

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

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF MONROE        )

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

My Commission Expires:

\_\_\_\_\_

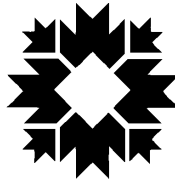
\_\_\_\_\_

Resident of \_\_\_\_\_ County

Name Printed: \_\_\_\_\_  
Notary Public

I affirm under penalties of perjury, that I have taken reasonable care to redact each social security number in this document unless required by law. Anahit Behjou.

This instrument prepared by Anahit Behjou, Assistant City Attorney, City of Bloomington Legal Department, P. O. Box 100, Bloomington, IN 47401-0100.



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

**STAFF REPORT**

Agenda Item: C-18  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Parks Commissioners  
**FROM:** Crystal Ritter  
**DATE:** May 22, 2018  
**SUBJECT:** **REVIEW/APPROVAL OF ALCOHOL PERMIT REQUEST FOR 2018 WCLS Fest in Waldron, Hill, and Buskirk Park**

**Recommendation**

Staff recommends approval of the permit application to sell beer/wine at the 2018 WCLS Fest to be held on Saturday, September 22<sup>nd</sup> at Waldron, Hill, and Buskirk Park.

**Background**

WCLS Fest has been approved for an event permit for the festival held on Saturday, September 22<sup>nd</sup> in Waldron, Hill, and Buskirk Park. This is the first year for the event. They hope to make it an annual event. We feel this event is appropriate to include the sale of beer/wine.

Event organizers are prepared to adhere to all local and state laws along with any rules and regulations from Bloomington Parks and Recreation. Brock Security owned by Steve Brock will provide the appropriate security for the event and the sale of alcohol. Once approved, organizers will apply for the temporary beer/wine permit from the State of Indiana, Alcohol & Tobacco Commission. Organizers will provide us a copy of the state permit prior to their event. In addition, they will be assessed an alcohol permit fee of \$200 or ten percent of gross, whichever is greater.

**RESPECTFULLY SUBMITTED,**

Crystal Ritter, Community Events Coordinator



**WCLS Fest Schedule of Events:**

Saturday, September 22<sup>nd</sup>

Waldron Hill and Buskirk Park

2:00 Festival Starts

3:00 Straight David - band

4:00 Hoosier Darling - band

5:30 - 7:00 Soul Stricken - band

7:30 - 9:00 8-Track Mind - band

9:00 - 10:00 Soul Stricken & 8-Track Mind together - band

10:00 Festival ends

In between each music act, we plan to schedule local groups to perform. We are currently arranging these acts (along the lines of hula-hoops, juggling or dance groups).

Monroe County, IN

N



portable restrooms

ADA Accessible

possible sponsor vendors

Entry Bouncer

tables & seating

Beer + Wine sales  
Bartenders

Perry

Bloomington

Fencing

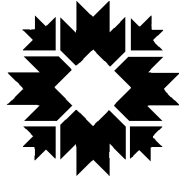
Alcohol Fenced Area

65' Fence

56'

Parking = Food Trucks (will not take full parking)

S



CITY OF BLOOMINGTON  
parks and recreation

STAFF REPORT

Agenda Item: C-19  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Parks Commissioners  
**FROM:** Chelsea Price, Aquatics Coordinator  
**DATE:** April 19, 2018  
**SUBJECT:** REVIEW/APPROVAL OF AGREEMENT WITH MIDDLE WAY HOUSE

**Recommendation**

Staff recommends the approval of this agreement. Staff and participants in the Middleway House program who enter the facility shall either pay an admissions fee of \$4 per person, or fee waiver for regular admittance. Middleway House shall track daily attendance and provide payment at the end of the season based on the aforementioned fee structure.

**Background**

Middle Way House provides shelter for women and children fleeing violence at home. The shelter is a safe place available to families until they have found an appropriate, affordable place to live. This program reflects the agency's intention to provide a continuum of housing to its target population and support housing development for low-income individuals and families in our community.

Park Board records indicate similar intermittent park board action beginning May 1987. A return to this policy exemption was approved by the park board for the 2009 pool season in November, 2008 and has continued annually since.

**RESPECTFULLY SUBMITTED,**

Chelsea Price, Aquatics Coordinator

**AGREEMENT  
FOR  
THE USE OF CITY OF BLOOMINGTON  
MILLS POOL**

This agreement is made and entered into this \_\_\_\_\_day of May 2018, by and between the Bloomington Parks and Recreation Department, (BPRD) and, Middleway House.

**WHEREAS**, Middleway House desires the use of the Ralph Mills Swimming Pool (“Mills Swimming Pool”) for its summer day camp programs; and

**WHEREAS**, BPRD owns and operates the Mills Swimming Pool; and

**WHEREAS**, BPRD wishes to allow Middleway House the use of the Mills Swimming Pool at a discounted rate.

**NOW, THEREFORE**, in consideration of the terms and conditions set forth below, the parties agree as follows:

**Purpose of the Agreement.** The purpose of the Agreement is for the BPRD to allow Middleway House limited use of Mills Swimming Pool at a discounted rate.

**Duration of Agreement.** This Agreement shall be in full force and effect from the date both parties sign this Contractual Agreement until August 4, 2018, unless terminated in accordance with paragraph seven (7).

**Days and Hours of Use.** The BPRD hereby grants Middleway House permission to use Mills Swimming Pool as follows:

Middleway House shall be permitted to use the facility’s family activity pool area (Splash Zone) as part of Middleway House’s summer program activities every Monday, Tuesday, Thursday, and Friday from June 4<sup>th</sup>, 2018 through August 3<sup>rd</sup>, 2018 from 1:00 p.m. to 3:00 p.m.

**Participant Fees.** Staff and participants in the Middleway House program who enter the facility shall either pay an admissions fee of \$4 per person or fee waiver for regular admittance. Middleway House and Mills Swimming Pool staff shall track daily attendance. Middleway House shall provide payment at the end of the season based on the above pay structure.

**Supervision.** Middleway House agrees to provide supervisory personnel at a ratio of one (1) supervisor to every five (5) children during the time that the program is using the family activity pool area. Their supervisors must be in the water with the children, and within arm’s length of children 5 and under.

**Responsibility for Damages; Indemnification.** Middleway House agrees to assume full responsibility for the actions and behavior of all Middleway House program participants and accompanying supervisors while using said facility.

In consideration for the use of Mills Pool, Middleway House agrees to assume full and complete responsibility for all bodily injury, including death, and property damage which may occur as a result of the acts and omissions of Middleway House, its officers, director, agents, employees, members, participants, successors an assigns, in the use of Mills Swimming Pool.

Further, in consideration for the use of Mills Swimming Pool, Middleway House agrees to release, hold harmless, and indemnify the City of Bloomington, its Department of Parks and Recreation, and all City of

Bloomington and Parks and Recreation officers, employees, and agents from any and all claims for personal injury, including death, or property damage that may occur as a result of the acts and omissions of Middleway House, its officers, director, agents, employees, members, participants, successors and assigns, in the use of Mills Swimming Pool.

**Rules and Regulations.** Middleway House shall comply with all rules and regulations established by the BPRD for use of Mills Swimming Pool. Middleway House shall further require its preschool program participants and accompanying supervisors to comply with all said rules and regulations.

**Notice and Agreement Representatives.** Notice regarding any significant concerns and/or breaches of this Agreement shall be given to:

Middle Way House  
Debra Morrow  
812-333-7404

Bloomington Parks and Recreation:  
Mark Sterner, General Manager TLRC  
812-349-3768

Representatives for the day-to-day operations and implementation of this Agreement shall be:

Middle Way House  
Priscilla Cueves  
812-337-4510  
401 S. Washington St.  
Bloomington, IN 47401  
priscilla@middlewayhouse.org

Bloomington Parks and Recreation  
Chelsea Burris, Aquatics Coordinator  
812-349-3769  
1700 W. Bloomfield rd.  
Bloomington, IN 47403  
pricec@bloomington.in.gov

**Termination.** This contract may only be terminated in writing and by the mutual agreement of all parties to this Contractual Agreement.

WHEREFORE, the parties have entered into this Agreement on this \_\_\_\_ day of \_\_\_\_\_ 2018.

**Bloomington Parks and Recreation**

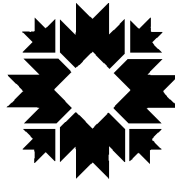
**Middleway House**

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

\_\_\_\_\_  
Debra Morrow, Director

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

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



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

**STAFF REPORT**

Agenda Item: C-20  
Date: 5/15/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Hsiung Marler  
**DATE:** 5/16/17  
**SUBJECT:** Frank Southern Ice Arena Compressor #1 Rebuild

**Recommendation**

After reviewing the quotes I would recommend Parks and Recreation award the Frank Southern Ice Arena Compressor #1 rebuild project to Freiji Engineered Solutions.

**Background**

The funds for this work would come from Reversion money.

The project was originally quoted out last year. However problems with Stellar, the winning bid vendor, delayed the project until it was not possible to complete the work in the necessary timeframe. Compressor #1 was used for start up this past season, however it did leak oil extensively during the process.

Compressor #1 is vital to the operation of Frank Southern Ice Arena. It is the machinery that keeps temperature for the floor allowing for ice. The compressor is over eleven years old, approximately four years past life expectancy for that type of machinery. Failure to rebuild/replace the compressor would leave a high possibility that Frank Southern Ice Arena would not be able to open for business next season.

The rebuild project requires a thorough knowledge of compressor technology. Only two remaining vendors in the area possess the requisite ability to complete the rebuild and maintenance tasks. Both vendors have provided quotes:

\$19,209 Freije Engineered Solutions (last year's quote \$18,453)  
\$23,338 Deem Mechanical and Electrical Company (last year's quote \$19,647)

**RESPECTFULLY SUBMITTED,**

Hsiung Marler, Sports Facility/Program Manager

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
FREIJE RCS ENGINEERED SOLUTIONS  
FOR  
SCREW COMPRESSOR #1 REBUILD**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Freije-RSC Engineered Solutions (“Contractor”),

**WITNESSETH:**

WHEREAS, the Department wishes to have the Screw Compressor #1 rebuilt; and

WHEREAS, the Department requires the services of a professional Contractor in order to perform the Screw Compressor rebuild (the “Services” as further defined below); and

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

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

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

**Article 1. Scope of Services**

Contractor shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before October 1, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

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

**Article 2. Standard of Care**

Contractor shall be responsible for completion of the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances (“Standard of Care”). The Department shall be the sole judge of the adequacy of Contractor’s work in meeting the Standard of Care; however, the Department shall not unreasonably

withhold its approval as to the adequacy of Contractor's performance. Upon notice to Contractor and by mutual agreement between the parties, Contractor will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

**Article 3. Responsibilities of the Department**

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

**Article 4. Compensation**

The Department shall pay Contractor for all fees and expenses in an amount not to exceed Nineteen Thousand Two Hundred Eight dollars and Fifty Four (\$19,208.54). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor within forty-five (45) days of receipt of invoice. The invoice shall be sent to:

Hsiung Marler  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

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

**Article 5. Appropriation of Funds**

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

**Article 6. Schedule**

Contractor shall perform the Services no later than October 1, 2018. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination**

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

The Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to Contractor. Contractor shall terminate or suspend performance of the Services on a schedule acceptable to the Department and the Department shall pay the Contractor for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Contractor's compensation and the schedule of services. Upon termination or suspension of this Agreement, all



finished or unfinished reports, drawings, collections of data and other documents generated by Contractor in connection with this Agreement shall become the property of the Department, as set forth in Article 10 herein.

**Article 8. Identity of the Contractor**

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

**Article 9. Opinions of Probable Cost**

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

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

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

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

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

**Article 12. Independent Contractor Status**

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

**Article 13. Indemnification**

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

**Article 14. Insurance**

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

- a. General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate.
- b. Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- c. Professional Liability Insurance ("Errors and Omissions Insurance") with a minimum limit of \$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.

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

**Article 15. Conflict of Interest**

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

**Article 16. Waiver**

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

**Article 17. Severability**

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

**Article 18. Assignment**

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

**Article 19. Third Party Rights**

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

**Article 20. Governing Law and Venue**

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

**Article 21. Non-Discrimination**

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

**Article 22. Compliance with Laws**

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

**Article 23. E-Verify**

Contractor is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Contractor shall sign an affidavit, attached as Exhibit 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 subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Contractor or subcontractor subsequently learns

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

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

**Article 24. Notices**

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

**Department:**

**Contractor:**

City of Bloomington	John Mills
Attn: Hsiung Marler	Industrial Account/Service Manager
401 N. Morton, Suite 250	11800 Exit Five Pkwy, Suite 106
Bloomington, Indiana 47402	Fishers, IN 46037

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

**Article 25. Intent to be Bound**

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

**Article 26. Integration and Modification**

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

**Article 27. Non-Collusion**

Contractor is required to certify that it has not, nor has any other member, representative, or agent of Contractor, entered into any combination, collusion, or agreement with any person relative to the price

to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Contractor shall sign an affidavit, attached hereto as Exhibit C, affirming that Contractor has not engaged in any collusive conduct. Exhibit C is attached hereto and incorporated by reference as though fully set forth.

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

**CITY OF BLOOMINGTON**

**FREIJE- RSC ENGINEERED SOLUTIONS**

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

\_\_\_\_\_  
John Mills,  
Industrial Service Manager Signatory

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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

## **EXHIBIT A**

### **“Scope of Work”**

The Services shall include the following:

- Pump down, isolate and remove screw compressor #1, RXF 39H
- Place on skid and ship to Frick for rebuild
- Once compressor has been rebuilt, transport back to Frank Southern Ice Arena
- Re-install compressor
- Add oil and oil filter
- Start and test for proper operation
- Perform vibration analysis for future testing



**EXHIBIT C**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**Freije-RSC Engineered Solutions**

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

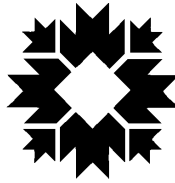
STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

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

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

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





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

**STAFF REPORT**

Agenda Item: D-1  
Date: 5/16/2018

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Erik Pearson-Program/Facility Coordinator  
**DATE:** April 25<sup>th</sup>, 2018  
**SUBJECT:** Smithville Charitable Foundation Grant Award

**For Information Only**

Staff are pleased to announce that we have been awarded \$10,000 through the Smithville Charitable Foundation to be used for staffing costs for the Banneker Camp summer program.

**Background**

Representatives from Banneker submitted a grant application in March for the opportunity to receive funding for staffing costs associated with the Banneker Camp summer program. We were notified in April that we had received \$10,000 for that purpose. This funding will help support the recreational leaders and building supervisors who work at the Banneker Camp program. Banneker Camp has shown steady growth over the last several years, hitting all-time highs in attendance and meals served in 2017. This funding will go through the Bloomington Parks Foundation in order to serve the Banneker Center.

**RESPECTFULLY SUBMITTED,**

*Erik Pearson*

Erik Pearson  
Program/Facility Coordinator