

**CITY OF BLOOMINGTON**  
Parks and Recreation

**AGENDA**

City of Bloomington Board of Park Commissioners  
Regular Meeting: Tuesday, January 22, 2019 4:00 – 5:30 p.m.

Council Chambers  
401 N. Morton St.

**CALL TO ORDER - ROLL CALL**

**A. CONSENT CALENDAR**

- A-1. Approval of Minutes of December 10, 2018
- A-2. Approval of Claims Submitted January 1, 2019 – January 21, 2019
- A-3. Approval of Non-Reverting Budget Amendments
- A-4. Review of Business Report
- A-5. Declaration of Surplus

**B. PUBLIC HEARINGS/APPEARANCES**

- B-1. Public Comment Period -
- B-2. Bravo Award - Teri Watkins (Sarah Owen)
- B-3. Spotlight Award -
- B-4. Staff Introductions -

**C. OTHER BUSINESS**

- C-1. Review/Approval of Resolution 19-01 to Appropriate the Parks Non-Reverting Fund (Paula McDevitt)
- C-2. Review/Approval of addendum to lease contract and memorandum with South Central Indiana Housing Opportunities – Switchyard Apartments, LLC (Paula McDevitt)
- C-3. Review/Approval of addendum to the 2019 Special Use Permit Application (Crystal Ritter)
- C-4. Review/Approval of addendum to KingSnake Sound Company contract (Crystal Ritter)
- C-5. Review/Approval of the 2019 A Fair of the Arts exhibitor agreement (Crystal Ritter)
- C-6. Review/Approval of the 2019 Performing Arts Series performance agreement (Crystal Ritter)
- C-7. Review/Approval of partnership agreement with Hilltop Garden (Sarah Mullin)
- C-8. Review/Approval of partnership agreement with Plant-A-Row partners (Sarah Mullin)
- C-9. Review/Approval of Prepared Food Vending and Food Truck contract template (Marcia Veldman)
- C-10. Review/Approval of service agreement with SPORT AIDE (Daren Eads)
- C-11. Review/Approval of contract with Recreation Insites for Bryan Park fitness equipment (Barb Dunbar)
- C-12. Review/Approval of service agreement with JB Salvage (Joanna Sparks)
- C-13. Review/Approval of MOU for CBU Sewer Utility-Switchyard Park (Dave Williams)
- C-14. Review/Approval of consultant contract agreement addendum #3-Switchyard Park (Dave Williams)
- C-15. Review/Approval of appointments to the Environmental Resources Advisory Council (Elizabeth Tompkins)
- C-16. Review/Approval of contract with Mader Design for Griffy Lake Fishing Pier design (Elizabeth Tompkins)
- C-17. Review/Approval of contract with Tennis Technology, Inc for sport court coating (John Turnbull)
- C-18. Review/Approval of lease purchase agreement with Professional Golf Car (John Turnbull)
- C-19. Review/Approval of appointments to Cascades Golf Course Advisory Council (John Turnbull)
- C-20. Review/Approval of service agreement with Harrell-Fish, Inc. (Erik Pearson)
- C-21. Election of officers

**D. REPORTS**

- D-1. Operations Division - Vegetation Management Update (Jon Behrman)
- D-2. Recreation Division -
- D-3. Sports Division -

D-4. Administration Division -

**ADJOURNMENT**



**A-1**  
**1-22-2018**

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Board of Park Commissioners  
Regular Meeting  
Minutes

Monday, December 10, 2018  
4:03 p.m. – 4:59 p.m.

Council Chambers  
401 N. Morton St.

**CALL TO ORDER**

The meeting was called to order by Kathleen Mills at 4:03 p.m.

**Board Present:** Kathleen Mills, Les Coyne, Joseph Hoffman, and Darcie Fawcett

**Staff Present:** Paula McDevitt, Dave Williams, John Turnbull, Julie Ramey, Kim Clapp, Lee Huss, Leslie Brinson, Sarah Owen, Erik Pearson, Barb Dunbar, Joanna Sparks, Amy Shrake, and Hannah Buddin

*Kathleen Mills* under “Other Business” the Board will add to the agenda, item C-17 Review Approval of Agreement with John Bethell Title, Company, Inc. for Title search and insurance for 3255 N. Russell Road property.

*Les Coyne* made a motion to approve the addition of agenda item C-17 Review Approval of Service Agreement with John Bethell Title Company, Inc. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried

**A. CONSENT CALENDAR**

- A-1. Approval of Minutes of November 27, 2018 meeting
- A-2. Approval of Claims Submitted November 27<sup>th</sup> through December 9<sup>th</sup>.
- 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** – None

**B-2. Bravo Award** – None

**B-3. Parks Partner Award** – None

**B-4. Staff Introduction** – Cory Hawkins

Cory Hawkins has accepted the Program Specialist position at Benjamin Banneker Community Center (BBCC). Cory has been working with the Department, in a seasonal position, as a Natural Resource Education Specialist. During that time, Cory had the opportunity to participate in the Banneker Camp summer program, and the Banneker after school program. Cory previously worked for five years, as an Education Program Manager with the California State Parks in Sand Diego.

The Board welcomed Cory to the department.

### **B-5. Staff Recognition – Mark Thrasher**

*Mick Renneisen*, Deputy Mayor approached the podium. The City would like to recognize Mark Thrasher for his years of service and dedication. Mark will be retiring in the very near future.

*Mr. Renneisen* read the following Proclamation from the Mayor's Office: Whereas, Mark Thrasher began working at the Cascade Golf Course part time in 1969 under his father, who was superintendent of the golf course from 1947 to 1979. Mark became a full time working foreman in 1973, and began serving as superintendent of the course in 1983, until his retirement in 2018. A total of four Thrasher family members have worked at the course, Mark, his uncle, his brother and his father, bring a true sense of family to course staff, which Mark still encourages to this day.

Whereas, when Mark first started at Cascades there was minimal competition from other golf course in the market locally. He continued his career as other courses began to be built and expanded. While competition became stiffer, and it became harder to maintain the usually 34,000 annual rounds, Mark's dedication and hard work only increased, allowing Cascades to remain a local treasure.

Whereas, Mark is known by his colleagues as a straight shooter. Always honest and up front, even if it wasn't what you wanted to hear. His great mechanic skills and fix it attitude, has saved the City hundreds of thousands of dollars in new equipment and maintenance cost. Mark consistently finished each year under budget, as he would never spend money on something he couldn't fix his self. According to his colleagues, there wasn't much he couldn't fix his self.

Whereas, there is no one in Bloomington that knows Cascades as well as Mark. He knows every piece of grass, every irrigation pipe, every buried rock to avoid when aerating the course.

For over 49 years, Mark Thrasher has been an integral part of the City of Bloomington. Mark's dedication to the City has lasted nearly five decades, and his service to the community has been provided with honor, grace and distinction. Now therefore I, John Hamilton, Mayor of Bloomington, do proclaim today, December 10, 2018 as Mark Thrasher Day.

*Mark Thrasher* approached the podium. I want to thank the Board for has always being helpful, and easy to work with. It's been a pleasure to work at the golf course, and I appreciate the opportunity to work at Cascades Golf Course all of these years.

The Board thanked Mark for his years of service and dedication.

## **C. OTHER BUSINESS**

### **C-1. Review/Approval of Parks Foundation Naming Request**

*Debbie Lemon*, President Bloomington Parks Foundation approached the podium. The Community Foundation of Bloomington and Monroe County has submitted a donor naming request. The request is for approval of the Switchyard Plaza/Platform be named the Community Foundation of Bloomington and Monroe County Plaza. The agreement would be a grant of 5 years, and include a contribution of \$200,000 to the Switchyard Park Endowment Fund established by the Bloomington Parks Foundation in 2017. The naming would be a commitment of 20 years and subject to first right to renewal.

*Les Coyne* made a motion to approve the Community Foundation of Bloomington and Monroe County for the naming of the Switchyard Plaza/Platform. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried

*The Board and Paula McDevitt*, Administrator thanked Debbie Lemon for her support and the hard work of the Bloomington Parks Foundation.

### **C-2 Review/Approval of Buskirk-Chumley Theater (BCT) Partnership Agreement**

*Paula McDevitt*, Administrator the Department wishes to renew the Agreement with BCT Management, Inc. (BCTM) to continue to manage and operate the Buskirk-Chumley Theater (BCT). The BCTM is an Indiana non-profit corporation which has the capacity and commitment to manage the BCT as an accessible and affordable community resource. The Agreement offers and promotes entertainment services to the public.

Funding of \$55,000, will be provided in the 2019 City Council budget to assist BCTM with duties related to their operation of the Theater. The City's Consolidated TIF fund, will provide \$74,000 for building related improvement to



the BCT. The Parks Operations General Fund, will provide \$18,200 for replacement of carpet at the BCT. Total support for the BCT in 2019 will be \$147,200.

Paula McDevitt invited Danielle McClelland, Director of BCTM to the podium.

*Danielle McClelland* approached the podium. Thank you for BCTM's ongoing partnership with Parks and Recreation. BCTM is thrilled in the negation this year, to move forward with some of the capital improvement the Theater needs. It's been 18 years since the original renovation of the building. Many of the amenities are needing replaced or repaired. BCTM is truly partnering with Parks and Recreation to make those improvements and repairs to the building. In January, half of the carpeting will be replaced. In 2019, BCTM will be doing the first phase, of what will be the complete interior repainting of the building. Through donations from BCTM strong supports, hairpin railings will be installed in the upper balcony. This will be a great comfort to BCTM patrons.

2017 was BCTM's busiest year ever, with 64,000 visits, 287 days of use, and 226 public events. That included three full performances by Cardinal Stage Company. As Cardinal Stage would be pulling back in 2018, due to reorganizations, BCTM was concerned about maintaining the level of activity. 2018 will end with 245 days of use, and close to the same number of public events. BCTM is maintaining and continues to strive to bring an even wider array of activity into the theater.

The Board thanked BCTM for preserving this icon and for the range of events that are provided.

*Les Coyne* made a motion to approve the Partnership Agreement with BCT Management, Inc. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried

### **C-3 Review/Approval of Contract Addendum with Izzy's Rentals**

Bill Ream, Community Events Coordinator on January 9, 2018 the Department entered into a service agreement with Izzy's Rental for the rental of portable toilets. The original agreement was to end on or before December 31, 2018, both parties wish to amend the agreement to extend the completion of service date to on or before December 31, 2019. Staff recommends the approval of this addendum. Fees and expenses will not exceed \$2,499.

*Les Coyne* made a motion to approve the contract addendum with Izzy's Rental. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried

### **C-4 Review/Approval of Contract Template for 2019 Concessions Vendors**

Bill Ream, Community Events Coordinator the Department wishes to have food available at various 2019 events and programs. The Department requires the services of professional consultants to sell their products onsite at these events. The Department recommends the approval of the 2019 Concessions Agreement template for the various events and vendors. There are no major changes to the template.

*Les Coyne* made a motion to approve the contract template for the 2019 concessions vendors. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried

### **C-5 Review/Approval of Seven 2019 Service Agreements for Operation Department**

Barb Dunbar, Operations Coordinator the Department wishes to manage emergency and/or standard repairs, services and maintenance, while meeting all public work project requirements. The Department requires the services of qualified vendors to provide routine/emergency repair, routine/emergency maintenance of existing structures, buildings or real property. Staff recommends the approval of service agreements with Big Dipper, Bruce's Welding, Cassidy Electrical, Harrell Fish, J&S Locksmith, Professional Contracting (Steve's Roofing), and Woods Electric.

*Les Coyne* made a motion to approve the 2019 service agreements with Big Dipper Building Services, LLC, Bruce's Welding, Cassidy Electrical Contractor's, Inc., Harrell Fish, Inc., J&S Locksmith Shop, Inc., Professional Contracting, LLC, and Woods Electric. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried.

### **C-6 Review/Approval of Service Agreements with Izzy's Rentals & Tuff-Jon**

Barb Dunbar, Operations Coordinator, the Department wishes to provide portable toilets at various locations. The Department requires the services of qualified vendors to provide rental equipment, and cleaning services. Staff recommends the approval of service agreements with Izzy's Rentals and Tuff-Jon.

*Les Coyne* made a motion to approve the service agreements with Izzy's Rentals and Tuff-Jon. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried

#### **C-7 Review/Approval of Farmers Market Vendor 2019 Contract Template**

Marcia Veldman, Program Coordinator staff recommends the approval of the 2019 Farmers' Market Farm Vendor Contract and Exhibits. Exhibit E has been added for the sale of shell egg (no from chicken), no other significant changes were made to the contract.

*Les Coyne* made a motion to approve the 2019 contract template for Farmers Market vendors. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried

#### **C-8 Review/Approval of Community Garden 2019 Agreement Template**

Sarah Mullin, Community Gardens Specialist staff recommends the approval of the 2019 Community Garden Agreement template. The agreement outlines the responsibilities of any person renting a community garden plot. No significant changes have been made to the agreement.

*Les Coyne* made a motion to approve the Community Garden 2019 contract template. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried.

#### **C-9 Review/Approval of Consultant Agreement Addendum #2 for 3<sup>rd</sup> Street Park**

Dave Williams, Operations Director on January 23, 2018 the department entered into an agreement with Cornerstone PDS to develop a site plan and construction document for renovations to lawn area between band pavilion and fountain at Waldron, Hill, Buskirk Park. After further review, the Department wishes to expand the scope of work to include stairwell and pervious pavers. Both parties agree to this #2 addendum, compensation for the additional work is not to exceed \$4,800.

*Les Coyne* made a motion to approve the consultant agreement addendum #2 with Cornerstone PDS. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried

#### **C-10 Review/Approval of Consultant Agreement for Cascades Trail South Branch Review**

Dave Williams, Operations Director the Department wishes to review and update trail planning work that was previously conducted in 2009 for Lower Cascades Park, along Old SR 37 between Miller Showers Park and Club House Drive. The Department requires the services of a professional consultant in order to evaluate design and route options for a bicycle/pedestrian trail. Staff recommends the approval of this contract with Eagle Ridge, in the amount of \$18,000.

*Les Coyne* made a motion to approve the consultant agreement with Eagle Ridge Civil Engineering Services, LLC. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried

#### **C-11 Review/Approval of Contract Agreement for Topographic Survey at Building Trades Park**

Dave Williams, Operations Director due to condition, the Department wishes to reconstruct the elevated boardwalk located along the east boarder of Building Trades Park. The Department requires the services of a professional consultant to perform a topographic and east boundary survey. Staff recommends the approval of this agreement with Bledsoe Riggert Cooper James, all fees and expenses shall not exceed \$5,250.

*Les Coyne* made a motion to approve the contract agreement with Bledsoe Riggert Cooper James. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried

#### **C-12 Review/Approval of Contract Agreement with Cassidy Electric for Olcott Park Pathway Lighting Project**

Dave Williams, Operations Director for safety, and at the numerous request received from the community, the Department wishes to install pathway lighting at Olcott Park. The Department requires the services of a professional consultant to purchase and install lighting and poles at 13 locations. Staff recommends the approval of this contract with Cassidy Electric, in the amount of \$33,960. This project is funded by 2017 GF Reversion Funds.

*Les Coyne* made a motion to approve the contract with Cassidy Electric. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried

### **C-13 Review/Approval of Ten 2019 Service Agreements for the Sports Division**

*John Turnbull*, Sports Division Director to continue to provide the community with facilities in good condition, the Department wishes to maintain facilities within the Sports Division in good working order. The Department requires the services of ten Professional Consultant to provide routine repair and maintenance of HVAX, plumbing, food and beverage equipment, doors, windows and locks, aquatic mechanical/plumbing/electrical equipment, and FSC Ammonia Cooling System. The following is a list of the ten consultants: Commercial Services, Gooldy & Sons, Indiana Door & Hardware, City Glass of Bloomington, DEEM, Young Plumbing, Steve's Welding, Price Electric, Koorsen Fire & Security, and Keller Heating. Services will be paid for out of the public fund. Staff recommends the approval of these service agreements.

*Les Coyne* made a motion to approve the 2019 service agreements with Steve's Welding, Price Electric, DEEM. City Glass, Commercial Service, Gooldy & Sons, Koorsen Fire & Security, Indiana Door & Hardware, Keller Heating & Air Conditioning, and Young Plumbing & Mechanical. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried

### **C-14 Review/Approval of Contract with Gilles for Fitness Equipment Maintenance**

*John Turnbull*, Sports Division Director to continue to provide the community with equipment in good condition, the Department wishes to maintain the fitness and cardio equipment in good working order. The Department requires the services of a professional consultant to provide preventative maintenance and repairs to the equipment at Twin Lakes Recreation Center. Staff recommends the approval of this contract with Gilles Home Sales and Service. This agreement is not to exceed \$5,000.

*Les Coyne* made a motion to approve the contract with Gilles. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried

### **C-15 Review/Approval of Contract Agreement with Davey Resource for Urban Forest Assessment**

*Lee Huss*, Urban Forester to assist in determining tree inventory, the Department wishes to perform an urban forest assessment. The Department requires the services of a professional consultant to provide urban tree canopy assessment, tree inventory, Treekeeper, summary reports, field equipment, and presentations. Staff recommends the approval of this contract with Davey Resources in the amount of \$125,250. This project will be funded from the General Fund.

*Les Coyne* made a motion to approve the contract with Davey Resource. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried.

### **C-16 Review/Approval of Land Donation Adjacent to Griffy Lake Nature Preserve**

*Steve Cotter*, Natural Resource Manager, Julie Heiman, owner of real estate located at 3255 N. Russell Rd, Bloomington, IN, wishes to donate the 20 acre parcel of land to the Department. Julia Heiman desires that the Real Property, be protected and allowed to be an undisturbed nature preserve for human and environmental health and esthetics. At this time there is no public access to the property. Staff recommends the approval of this land donation adjacent to Griffy Lake Nature Preserve.

*Julie Heiman* approached the podium. I never expected to own land here, as I was living in Seattle. Nor to love it so much. I believe that is what stimulated my desire to allow more people access to it, than might get it if it was sold off individually. I came to a point in my own career when I could do that. I feel lucky to have the opportunity to do that and to work with Steve Cotter on this process. The fact that my wishes to keep it in a preserved quality, as opposed to a lot of other uses, jived well with what Griffy is about. Griffy itself is such a wonderful resource, and I am happy to

contribute to the “lungs of Bloomington” and to the esthetics. The land is quite beautiful, and I hope it inspires other, both in terms of its beauty and for others to give land.

*Les Coyne* made a motion to approve the land donation adjacent to Griffy Lake Nature Preserve. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried, The Board thanked Julie Heiman for her generous donation of land.

**C-17 Review/Approval of Contract Agreement with John Bethell Title Company, Inc.**

Steve Cotter, Natural Resource Manager the Department desires to accept the donation of land located at 3255 N. Russell Rd, Bloomington, and wishes to have a title search and insurance for this property. The Department requires the services of a professional consultant for owner’s title insurance policy, document preparation, closing fee, closing protection letter, and transfer & recording fees. Staff recommends the approval of this agreement with John Bethell Title Company, Inc. in the amount of \$1,194.

*Les Coyne* made a motion to approve the contract with John Bethell Title Company, Inc. *Joe Hoffman* seconded the motion. *Kathleen Mills* any public comments or questions, seeing none. Motion unanimously carried.

*The Board, Paula McDevitt* and the Department thanked Darcie Fawcett for her support and service to the Board of Park Commissioners. This will be Darcie last meeting as she will be moving onto the Monroe County Circuit Court.

*Darcie Fawcett* thanked everyone. It’s been a pleasure to be on the Park Board, this department is one of the hardest working departments I have seen.

*Paula McDevitt*, Administrator the Board of Park Commissioners next meeting will be held on January 22<sup>nd</sup>. Board members will be receiving the 2019 schedule.

*Joe Hoffman* has been reappointed to the Board of Park Commissions for another four year term. Staff appreciates the Board’s time and dedication that is given to the department.

**D REPORTS**

D-1. Operations Division – No Report

D-2 Recreations Division – No Report

D-3 Sports Division – No Report

D-4 Administration Division – No Report

**ADJOURNMENT**

Meeting adjourned at 4:59 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	2019-00000336	BA	GL	01/09/2019	Budget Amendment-Rotary Donation for Purchase of trees				
<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>
01/09/2019	201-18-189503-52220	Agricultural Supplies			Budget Amendment-Rotary Donation for Purchase of trees			5,000.00	.00
Number of Entries: 1								\$5,000.00	\$ .00



# Journal Edit Listing

Sort By Entry

Department	Number	Journal Type	Sub Ledger	G/L Date	Description	Source	Reference	Reclassification	Journal Type
Parks - Parks & Recreation	2018-00020630	BA	GL	12/27/2018	Budget Amendment				
G/L Date	G/L Account Number	Account Description	Description	Source	Increase Amount	Decrease Amount			
12/27/2018	201-18-G15012-52420	Other Supplies	Budget Amendment		535.16	.00			
12/27/2018	201-18-G15012-53990	Other Services and Charges	Budget Amendment		4,842.98	.00			
12/27/2018	201-18-G16021-51120	Salaries and Wages - Temporary	Budget Amendment		611.22	.00			
12/27/2018	201-18-G16021-51210	FICA	Budget Amendment		46.74	.00			
12/27/2018	201-18-G17002-53170	Mgt. Fee, Consultants, and Workshops	Budget Amendment		2,800.00	.00			
12/27/2018	201-18-G17012-51120	Salaries and Wages - Temporary	Budget Amendment		750.00	.00			
12/27/2018	201-18-G17012-51210	FICA	Budget Amendment		57.37	.00			
12/27/2018	201-18-G17012-52420	Other Supplies	Budget Amendment		168.50	.00			
12/27/2018	201-18-G17012-53990	Other Services and Charges	Budget Amendment		3,349.96	.00			
12/27/2018	201-18-G17013-51120	Salaries and Wages - Temporary	Budget Amendment		9,072.68	.00			
12/27/2018	201-18-G17013-51210	FICA	Budget Amendment		688.55	.00			
12/27/2018	201-18-G18003-53990	Other Services and Charges	Budget Amendment		8,164.80	.00			
12/27/2018	201-18-G18010-52420	Other Supplies	Budget Amendment		597.96	.00			
12/27/2018	201-18-G18005-51120	Salaries and Wages - Temporary	Budget Amendment		3,302.07	.00			
12/27/2018	201-18-G18005-51210	FICA	Budget Amendment		252.59	.00			
12/27/2018	201-18-G18005-52420	Other Supplies	Budget Amendment		437.35	.00			
12/27/2018	201-18-G18005-53990	Other Services and Charges	Budget Amendment		807.99	.00			
12/27/2018	201-18-G18009-52420	Other Supplies	Budget Amendment		685.04	.00			
12/27/2018	201-18-G18009-53990	Other Services and Charges	Budget Amendment		2,963.80	.00			
12/27/2018	201-18-G18010-53990	Other Services and Charges	Budget Amendment		2,263.53	.00			
					Number of Entries: 20			\$42,398.29	\$ .00



# Journal Edit Listing

Sort By Entry

Department	Number	Journal Type	Sub Ledger	G/L Date	Description	Source	Reference	Reclassification	Journal Type
Parks - Parks & Recreation	2019-00000708	BA	GL	01/16/2019	Wapehani Mt Bike Park Grant				
<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>
01/16/2019	201-18-G19002-53990	Other Services and Charges			Wapehani Mt Bike Park Grant			17,400.00	.00
Number of Entries: 1								\$17,400.00	\$ .00



# Journal Edit Listing

Sort By Entry

Department	Number	Journal Type	Sub Ledger	G/L Date	Description	Source	Reference	Reclassification	Journal Type
Parks - Parks & Recreation	2018-00020629	BA	GL	12/27/2018	Amendment Ops				
<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>
12/27/2018	201-18-189000-53990	Other Services and Charges			Amendment Ops			3,525.00	.00
Number of Entries: 1								\$3,525.00	\$ .00





# Journal Edit Listing

Sort By Entry

Department	Number	Journal Type	Sub Ledger	G/L Date	Description	Source	Reference	Reclassification	Journal Type
Parks - Parks & Recreation	2018-00020137	BA	GL	12/19/2018	Budget Amendment				

REVENUES AND EXPENSES: COMPARISON REPORT								
Expenses	2017	2017	2017	2017	2018	2018	2018	
December-18	Total	Actual	Expenses	% of Expenses	Total	Expenses	% of Expenses	
	Expense	Expenses	as of	Spent	Expense	as of	Spent	%
	Budget	for Year	December	to date	Budget	December	to date	change
<b>General Fund</b>								
Administration	750,594	739,993	739,993	100.00%	621,831	750,225	120.65%	1.38%
Health & Wellness	105,197	97,753	97,753	100.00%	105,923	104,807	92.29%	7.22%
Community Relations	423,303	378,011	378,011	100.00%	416,453	391,579	90.77%	3.59%
Aquatics	330,688	297,537	297,537	100.00%	328,839	283,787	86.30%	-4.62%
Frank Southern Center	341,117	338,165	338,165	100.00%	359,800	354,519	98.53%	4.84%
Golf Services	885,638	864,187	864,187	100.00%	935,271	959,712	102.61%	11.05%
Natural Resources	370,961	320,835	320,835	100.00%	392,366	369,344	94.13%	15.12%
Youth Programs	59,844	55,165	55,165	100.00%	60,195	59,033	98.07%	7.01%
TLRC	282,216	280,198	280,198	100.00%	284,750	283,707	99.63%	1.25%
Community Events	384,284	347,783	347,783	100.00%	414,238	399,144	96.36%	14.77%
Adult Sports	288,431	266,304	266,304	100.00%	323,760	272,567	84.19%	2.35%
Youth Sports	267,398	267,488	267,488	100.00%	271,744	293,957	108.17%	9.90%
BBCC	304,977	275,756	275,756	100.00%	289,803	304,133	104.94%	10.29%
Inclusive Recreation	72,632	73,771	73,771	100.00%	78,403	77,988	99.47%	5.72%
Operations	1,546,438	1,434,103	1,434,103	100.00%	1,890,127	1,612,174	85.29%	12.42%
Landscaping	283,362	227,841	227,841	100.00%	311,041	283,395	91.11%	24.38%
Cemeteries	173,285	162,628	162,628	100.00%	182,605	177,353	97.12%	9.05%
Urban Forestry	400,381	386,720	386,720	100.00%	585,324	427,208	72.99%	10.47%
<b>General Fund total:</b>	<b>7,270,746</b>	<b>6,814,238</b>	<b>6,814,238</b>	<b>100.00%</b>	<b>7,852,474</b>	<b>7,404,634</b>	<b>94.30%</b>	<b>8.66%</b>
<b>Non-Reverting Fund</b>								
Administration	27,640	3,328	3,328	100.00%	14,650	4,294	29.31%	29.02%
Health & Wellness	1,914	1,172	1,172	100.00%	1,240	1,006	81.13%	-14.17%
Community Relations	4,650	1,465	1,465	100.00%	4,650	2,739	58.90%	0.00%
Aquatics	64,433	38,939	38,939	100.00%	69,543	81,141	116.68%	108.38%
Frank Southern Center	94,423	77,769	77,769	100.00%	97,498	96,262	98.73%	23.78%
Golf Services	126,105	98,300	98,300	100.00%	133,709	93,048	69.59%	-5.34%
Natural Resources	50,992	23,820	23,820	100.00%	53,485	67,116	125.48%	0.00%
Youth Programs	178,521	198,464	198,464	100.00%	209,805	226,311	107.87%	14.03%
*TLRC - day to day	970,663	726,092	726,092	100.00%	470,943	431,896	91.71%	-40.52%
Community Events	190,881	166,067	166,067	100.00%	181,069	171,651	94.80%	3.36%
Adult Sports	230,225	164,008	164,008	100.00%	199,830	161,782	80.96%	-1.36%
Youth Sports	26,845	19,068	19,068	100.00%	18,754	9,622	51.31%	-49.54%
BBCC	25,403	44,054	44,054	100.00%	15,892	20,083	126.37%	-54.41%
Inclusive Recreation	0	0	0	0.00%	0	0	0.00%	0.00%
Operations	19,195	56,104	56,104	100.00%	52,861	70,185	132.77%	25.10%
Dog Park	0	0	0	0.00%	0	0	0.00%	0.00%
Switchyard	14,800	32,436	32,436	100.00%	12,877	14,847	115.30%	-54.23%
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	19,451	17,121	17,121	100.00%	4,750	5,700	119.99%	0.00%
<b>N-R Fund subtotal:</b>	<b>2,046,141</b>	<b>1,668,209</b>	<b>1,668,209</b>	<b>100.00%</b>	<b>1,541,556</b>	<b>1,457,685</b>	<b>94.56%</b>	<b>-12.62%</b>
TLRC - bond	539,104	539,104	539,104	100.00%	671,946	671,945	100.00%	0.00%
<b>N-R Fund total:</b>	<b>2,585,245</b>	<b>2,207,313</b>	<b>2,207,313</b>	<b>100.00%</b>	<b>2,213,502</b>	<b>2,129,630</b>	<b>96.21%</b>	<b>-3.52%</b>
<b>Other Misc Funds</b>								
MCCSC 21st Com Learn Cnt G	29,950	41,391	41,391		884	38,189		
Community Banneker Bus			0			45,000		
G14006 Out-of School Prg.			0			0		
G15008 Summer Food Prg.	11,115	17,606	17,606		11,115	16,451		
G15009 Nature Days S/Star		4,318	4,318			0		
Griffy Lake Nature Day		5,137	5,137	100.00%		7,187		
Wapehani I-69 Mitigation		201,075	201,075	100.00%		0		
Leonard Springs Nature		3,841	3,841	100.00%		9,027		
Banneker Nature Day		0	0			4,800		
DNR Grant		0	0	0.00%		0		
Kaboom Play			0		451	451		
Youth & Adolescent Phy Act						7,341		
Goat Farm		1,777	1,777			0		
Giffy LARE		17,286	17,286			10,965		
<b>Other Misc Funds total:</b>	<b>41,065</b>	<b>292,430</b>	<b>292,430</b>	<b>100.00%</b>	<b>12,450</b>	<b>139,411</b>	<b>1119.80%</b>	<b>0.00%</b>
<b>TOTAL ALL FUNDS</b>	<b>9,897,056</b>	<b>9,313,981</b>	<b>9,313,981</b>	<b>100.00%</b>	<b>10,078,425</b>	<b>9,673,675</b>	<b>95.98%</b>	<b>3.86%</b>

REVENUES AND EXPENSES: COMPARISON REPORT								
Revenues December 2018								
	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	%
	<u>Budget</u>	<u>for year</u>	<u>December</u>	<u>to date</u>	<u>for year</u>	<u>December</u>	<u>to date</u>	<u>change</u>
<b>General Fund</b>								
Taxes/Misc Revenue	6,030,050	6,065,105	6,065,105	100.00%	6,258,520	6,296,466	100.61%	3.81%
Administration	500	1,966	1,966	100.00%	500	813	162.60%	-58.64%
Community Relations	0	0	0	0.00%	0	0	0.00%	0.00%
Aquatics	153,500	194,506	194,506	100.00%	168,000	201,570	119.98%	3.63%
Frank Southern	219,900	184,531	184,531	100.00%	224,900	214,260	95.27%	16.11%
Golf Services	568,500	542,711	542,711	100.00%	526,700	577,582	109.66%	6.43%
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	12,340	100.00%	10,700	12,135	113.41%	-1.66%
Adult Sports	78,000	63,772	63,772	100.00%	71,000	57,603	81.13%	-9.67%
Youth Sports	33,900	28,995	28,995	100.00%	32,000	28,507	89.09%	-1.68%
BBCC	12,000	12,223	12,223	100.00%	11,000	14,685	133.50%	20.14%
Operations	0	25	25	100.00%	0	1,365	0.00%	0.00%
Landscaping	0	0	0	0.00%	0	0	0.00%	0.00%
Cemeteries	39,700	26,833	26,833	100.00%	31,050	35,833	115.40%	33.54%
Urban Forestry		0	0	0.00%		30	0.00%	0.00%
G17011 Urban Forestry		12,000	12,000			0	0.00%	
<b>Subtotal Program Rev</b>	<b>1,116,700</b>	<b>1,079,902</b>	<b>1,079,903</b>	<b>100.00%</b>	<b>1,075,850</b>	<b>1,144,383</b>	<b>106.37%</b>	<b>5.97%</b>
<b>General Fund Total</b>	<b>7,146,750</b>	<b>7,145,007</b>	<b>7,145,007</b>	<b>100.00%</b>	<b>7,334,370</b>	<b>7,440,849</b>	<b>101.45%</b>	<b>4.14%</b>
<b>Non-Reverting Fund</b>								
Administration	40,650	36,327	36,327	100.00%	40,600	34,893	85.94%	-3.95%
Health & Wellness	3,550	3,124	3,124	100.00%	2,739	2,651	96.79%	-15.14%
Community Relations	4,650	3,000	3,000	100.00%	4,650	3,789	81.47%	26.28%
Aquatics	126,373	113,789	113,789	100.00%	122,700	90,670	73.90%	-20.32%
Frank Southern	153,400	126,988	126,988	100.00%	151,900	118,136	77.77%	-6.97%
Golf Services	151,300	163,579	163,579	100.00%	158,500	147,204	92.87%	-10.01%
Natural Resources	58,525	70,821	70,821	100.00%	60,890	68,318	112.20%	-3.53%
Youth Programs	189,866	218,910	218,910	100.00%	215,060	232,716	108.21%	6.31%
*TLRC -Operational	782,329	750,934	750,934	100.00%	763,029	751,990	98.55%	0.14%
Community Events	191,760	214,892	214,892	100.00%	193,752	202,786	104.66%	-5.63%
Adult Sports	216,500	147,655	147,655	100.00%	207,000	150,971	72.93%	2.25%
Youth Sports	25,000	25,624	25,624	100.00%	19,500	10,500	53.85%	-59.02%
BBCC	29,420	59,280	59,280	100.00%	5,150	28,916	561.47%	-51.22%
Operations	51,640	57,121	57,121	100.00%	56,440	104,076	184.40%	82.20%
Dog Park	400	0	0	0.00%	400	0	0.00%	0.00%
Switchyard (CCC Propt)	82,800	73,736	73,736	100.00%	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	17,911	100.00%	9,300	17,454	187.67%	-2.55%
<b>N-R Fund subtotal:</b>	<b>2,117,463</b>	<b>2,083,690</b>	<b>2,083,690</b>	<b>100.00%</b>	<b>2,011,610</b>	<b>1,965,070</b>	<b>97.69%</b>	<b>-5.69%</b>
<b>Other Misc Funds</b>								
G14006 Out-of-School Prg		20	20			0		
G14007 MCCSC 21st Com	60,000	21,410	21,410		60,000	32,434		
G14009 Summer Food Grant	13,744	19,059	19,059		27,864	20,102		
Communit Banneker Bus						45,000		
Kaboom Play Everywhere						0		
Urban Forestry EAB		0	0			0		
Wapehani Mitigation I69		233,543	233,543			0		
Griffy LAE Veg. Mgt		14,453	14,453			10,965		
G15008 Leonard Spring		0	0			15,000		
G15009 Griffy Nature Days		4,988	4,988			4,967		
(902) Rose Hill Trust		445	445			745		
G17007 - Goat Farm		2,000	2,000			0		
Banneker Nature Days		0				4,860		
Yth & Adolescent Phy Act						6,417		
Nature Days Star		4,340	4,340			0		
<b>Other Misc Funds total:</b>	<b>0</b>	<b>300,258</b>	<b>300,258</b>		<b>87,864</b>	<b>140,489</b>		
<b>TOTAL ALL FUNDS</b>	<b>9,264,213</b>	<b>9,528,954</b>	<b>9,528,955</b>	<b>100.00%</b>	<b>9,433,844</b>	<b>9,546,409</b>	<b>101.19%</b>	<b>0.18%</b>

	<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>12/31/2018</b>	<b>revenue</b>	<b>12/31/2018</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	34,892.62		4,294.42	0.00	<b>30,598.20</b>	231,402.98
181001	Health & Wellness	7,379.62	2,651.00		1,006.02	0.00	<b>1,644.98</b>	9,024.60
181100	Community Relations	34,889.04	3,788.53		2,738.62	0.00	<b>1,049.91</b>	35,938.95
182001	Aquatics	389,566.90	90,670.43		81,141.16	0.00	<b>9,529.27</b>	399,096.17
182500	Frank Southern Center	175,036.20	118,136.17		96,261.86	0.00	<b>21,874.31</b>	196,910.51
183500	Golf Course	208,121.70	147,204.09		93,048.38	0.00	<b>54,155.71</b>	262,277.41
184000	Natural Resources	248,977.29	68,317.96		67,116.00	0.00	<b>1,201.96</b>	250,179.25
184500	Allison Jukebox	170,562.07	232,716.08		226,310.76	0.00	<b>6,405.32</b>	176,967.39
*185000	TLRC	<b>(878,837.80)</b>	663,864.80		1,093,841.34	0.00	<b>(429,976.54)</b>	<b>(1,308,814.34)</b>
185009	TLRC Reserve	569,299.15	88,125.00		10,000.00	0.00	<b>78,125.00</b>	647,424.15
186500	Community Events	471,824.72	202,786.45		171,651.31	0.00	<b>31,135.14</b>	502,959.86
187001	Adult Sports	74,000.53	150,971.23		161,782.42	0.00	<b>(10,811.19)</b>	63,189.34
187202	Youth Sports	104,401.59	10,737.50		9,622.36	0.00	<b>1,115.14</b>	105,516.73
187209	Skate Park	543.88	0.00		0.00	0.00	<b>0.00</b>	543.88
187500	Benjamin Banneker Comm Center	56,647.65	28,678.14		30,502.38	0.00	<b>(1,824.24)</b>	54,823.41
189000	Operations	137,207.83	104,075.93		70,185.25	0.00	<b>33,890.68</b>	171,098.51
189005	Dog Park	5,993.79	0.00		0.00	0.00	<b>0.00</b>	5,993.79
**189006	Switchyard Property	230,940.52	0.00		14,846.70	0.00	<b>(14,846.70)</b>	216,093.82
189500	Landscaping	12,704.36	0.00		0.00	0.00	<b>0.00</b>	12,704.36
189501	Cemeteries	1,497.00	0.00		0.00	0.00	<b>0.00</b>	1,497.00
189503	Urban Forestry	7,093.63	17,453.68		5,699.75	0.00	<b>11,753.93</b>	18,847.56
10002.01	Change Fund	0.00	0.00		0.00	0.00	<b>0.00</b>	0.00
201-24105	Deposits	0.00	0.00		0.00	0.00	<b>0.00</b>	0.00
	<b>TOTALS</b>	<b>2,228,654.45</b>	<b>1,965,069.61</b>	<b>0.00</b>	<b>2,140,048.73</b>	<b>0.00</b>	<b>(174,979.12)</b>	<b>2,053,675.33</b>
* In 2017 \$298,280.63 of TLRC Expense is for Bloomington Park District Refunding Bonds								<b>(174,979.12)</b>
** Switchyard Park expenses are paid from 2014 through 2017 Switchyard revenue.								<b>INCREASE/DECREASE FOR THE CURRENT</b>

	<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>1/1/2019</b>	<b>1/16/2019</b>	<b>revenue</b>	<b>1/16/2019</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	231,402.98	3,275.70		0.00	0.00	<b>3,275.70</b>	234,678.68
181001	Health & Wellness	9,024.60	56.00		0.00	0.00	<b>56.00</b>	9,080.60
181100	Community Relations	35,938.95	0.00		0.00	0.00	<b>0.00</b>	35,938.95
182001	Aquatics	399,096.17	487.50		0.00	0.00	<b>487.50</b>	399,583.67
182500	Frank Southern Center	196,910.51	11,369.00		903.16	0.00	<b>10,465.84</b>	207,376.35
183500	Golf Course	262,277.41	242.96		0.00	0.00	<b>242.96</b>	262,520.37
184000	Natural Resources	250,179.25	750.00		153.41	0.00	<b>596.59</b>	250,775.84
184500	Allison Jukebox	176,967.39	2,714.00		1,672.81	0.00	<b>1,041.19</b>	178,008.58
*185000	TLRC	(1,308,814.34)	52,099.50		5,882.99	0.00	<b>46,216.51</b>	(1,262,597.83)
185009	TLRC Reserve	647,424.15	0.00		0.00	0.00	<b>0.00</b>	647,424.15
186500	Community Events	502,959.86	208.00		2,707.11	0.00	(2,499.11)	500,460.75
187001	Adult Sports	63,189.34	0.00		129.02	0.00	(129.02)	63,060.32
187202	Youth Sports	105,516.73	133.00		258.06	0.00	(125.06)	105,391.67
187209	Skate Park	543.88	0.00		0.00	0.00	<b>0.00</b>	543.88
187500	Benjamin Banneker Comm Center	54,823.41	0.00		334.33	0.00	(334.33)	54,489.08
189000	Operations	171,098.51	1,998.00		0.00	0.00	<b>1,998.00</b>	173,096.51
189005	Dog Park	5,993.79	0.00		0.00	0.00	<b>0.00</b>	5,993.79
**189006	Switchyard Property	216,093.82	0.00		0.00	0.00	<b>0.00</b>	216,093.82
189500	Landscaping	12,704.36	0.00		0.00	0.00	<b>0.00</b>	12,704.36
189501	Cemeteries	1,497.00	0.00		0.00	0.00	<b>0.00</b>	1,497.00
189503	Urban Forestry	18,847.56	0.00		0.00	0.00	<b>0.00</b>	18,847.56
10002.01	Change Fund	0.00	0.00		0.00	0.00	<b>0.00</b>	0.00
201-24105	Deposits	0.00	0.00		0.00	0.00	<b>0.00</b>	0.00
	<b>TOTALS</b>	<b>2,053,675.33</b>	<b>73,333.66</b>	<b>0.00</b>	<b>12,040.89</b>	<b>0.00</b>	<b>61,292.77</b>	<b>2,114,968.10</b>
* In 2017 \$298,280.63 of TLRC Expense is for Bloomington Park District Refunding Bonds								<b>61,292.77</b>
** Switchyard Park expenses are paid from 2014 through 2017 Switchyard revenue.								<b>INCREASE/DECREASE FOR THE CURRENT</b>

# Bloomington Parks and Recreation Surplus Declaration Form

Jan-19

Date	Area/Staff	Quantity/Item	Means of Disposal	Date Disposed
6-Dec	Ops Mark Marotz	old damaged cedar fence pickets	trash	
11-Dec	Ops Mark Marotz	old pushed mower used for parts	JB Salvage recycle	
12-Dec	CE Bill Ream	old semi-portable movie screen	trash	
14-Dec	Ops Mark Marotz	old restroom door	surplus	
14-Dec	Ops Mark Marotz	dbl door from AJB	trash	
14-Dec	Ops Mark Marotz	grill left in park	recycle	
17-Dec	Ops Mark Marotz	old metal shelving	recycle	
17-Dec	Ops Mark Marotz	20 old B line banner brackets	recycle	
20-Dec	Ops Mark Marotz	1 old damaged light post	recycle	
20-Dec	Ops Mark Marotz	1 oil drum cart	surplus	
20-Dec	Ops Mark Marotz	1 pull behind dump trailer	recycle	
20-Dec	Ops Mark Marotz	mobile blue print rack	recycle	
20-Dec	Ops Mark Marotz	old push mower used for parts	recycle	
8-Jan	Ops Mark Marotz	old chicken wire	recycle	
9-Jan	Daren - TLRC	Two (2) old upright vacumm cleaners	TLRC Dumpster	
14-Jan	BBCC-Erik Pearson	Commercial Ice Maker	Trash	
14-Jan	BBCC-Erik Pearson	Overhead Projector	trash	
14-Jan	BBCC-Erik Pearson	Teen Room Chair	Trash	
14-Jan	BBCC-Erik Pearson	Black Chair-broken	Trash	
14-Jan	BBCC-Erik Pearson	Red Chair-Broken	Trash	
14-Jan	BBCC-Erik Pearson	Wheeled Desk Chair-Broken	Trash	
14-Jan	BBCC-Erik Pearson	Black Filing Cabinet-Broken	Trash	
14-Jan	BBCC-Erik Pearson	Sign Holder-Broken	Trash	
14-Jan	BBCC-Erik Pearson	Iron Rod	Trash	

14-Jan	BBCC-Erik Pearson	2 Cash Registers-out dated and not needed	Trash	
14-Jan	BBCC-Erik Pearson	3 Computer Speakers-broken	Trash	
14-Jan	BBCC-Erik Pearson	Misc. Power Cords and Wires	Trash	
14-Jan	BBCC-Erik Pearson	Lost and Found Clothes	Salvation Army	
14-Jan	BBCC-Erik Pearson	Sand Activity Table-Broken	Trash	
14-Jan	BBCC-Erik Pearson	Plywood Board	Trash	
14-Jan	BBCC-Erik Pearson	DVD Player-Broken	Trash	
14-Jan	BBCC-Erik Pearson	Denver Nugget Figurines	Salvation Army	
14-Jan	BBCC-Erik Pearson	Metal/Wood Tables-Broken (3)	Trash	
14-Jan	BBCC-Erik Pearson	Poster Board Paper Cart	Teacher's Warehouse	
14-Jan	BBCC-Erik Pearson	Wheeled Scooters (3)-Broken	Trash	
14-Jan	BBCC-Erik Pearson	Plastic Riding Toys (5)-Broken	Salvation Army/Trash	
14-Jan	BBCC-Erik Pearson	Recreational Parachute-Ripped	Trash	
		January Form is closed, please do not add any items.		



## STAFF REPORT

Agenda Item: B-2  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Sarah Owen, Community Relations Coordinator  
**DATE:** January 22, 2019  
**SUBJECT:** BRAVO Award—Teri Watkins

### **Recommendation**

The Bloomington Parks and Recreation Department would like to recognize Teri Watkins for her long term service to the annual Holiday Market, as well as other Farmers' Market events.

### **Background**

Last year, on a Saturday in late November, Teri Watkins braved the winter cold for several hours, serving as a volunteer with what would be her seventh Holiday Market. According to Crystal Ritter, our Community Events Coordinator who oversees the annual event, "Teri has become an integral volunteer at the Holiday Market. She has repeatedly taken on the role of scheduling and coordinating the carriage rides which is a position that requires excellent organizational skills and the ability to communicate in a warm and friendly manner with the public. Teri often signs up to work the entire day, regardless of the weather, and is someone that we can reliably reach out to when we are need of volunteers."

In addition to her service at the Holiday Market, Teri has also volunteered at our Saturday Farmers' Market, offering her time and efforts to such events as our annual Tomato Tasting and our Salsa Contest. Furthermore, she will often lend a hand even when she hasn't been actively recruited to volunteer! Simply out of kindness and consideration, Teri will chip in and help staff clean up after other events such as Movies in the Park.

Her service to the community is not limited to Parks and Recreation. Teri has also volunteered for Lotus Festival for the past 16 years, has volunteered for five years at the Taste of Bloomington, helps fundraise for the Community Kitchen, and served as an usher at the Buskirk-Chumley Theater for several years before becoming a part-time employee there.

Teri is originally from Nebraska and graduated college from the University of Nebraska—Lincoln. She relocated to Bloomington in 2000 after visiting family members who were living here. She has worked in customer service at Author Solutions for more than 18 years and in her free time she enjoys painting, traveling, and visiting Indiana wineries with friends.

Once again, we thank her for her service and, on behalf of the Bloomington Parks and Recreation Department, we are delighted to recognize Ms. Teri Watkins as our January BRAVO Award recipient.

**RESPECTFULLY SUBMITTED,**

Sarah Owen, Community Relations Coordinator





## STAFF REPORT

Agenda Item: C-1  
Date: 1/16/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Paula McDevitt, Administrator  
**DATE:** January 22, 2019  
**SUBJECT:** **RESOLUTION 19-01 APPROPRIATING PARKS NON-REVERTING EXPENDITURES FOR THE 2019 FISCAL YEAR.**

### Recommendation

It is recommended that the Board of Park Commissioners appropriate Parks Non-Reverting Operating Fund not otherwise appropriated for the 2019 fiscal year, as set forth in Section 1 of Resolution 19-01.

### Background

Expenditure amounts for each Non-Reverting Fund are based on 2018 actual expenditures and Division Directors' estimates of program activities for 2019.

**RESPECTFULLY SUBMITTED,**

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Paula McDevitt, Administrator

## RESOLUTION 19-01

### A RESOLUTION OF THE BOARD OF PARK COMMISSIONERS OF THE CITY OF BLOOMINGTON SPECIFICALLY APPROPRIATING PARKS NON-REVERTING FUND EXPENDITURES NOT OTHERWISE APPROPRIATED

#### BOARD OF PARK COMMISSIONERS City of Bloomington, Indiana

**WHEREAS**, funds will be made available for appropriation in the Parks Non-Reverting Operating Fund as a result of fees, charges, donations and grants monies collected; and,

**WHEREAS**, Indiana Code 36-10-5-2 allowed the creation and 36-10-4-16 authorizes the appropriation and expenditure of such funds; and,

**WHEREAS**, said funds were not appropriated as part of the annual budget of the Bloomington Board of Park Commissioners,

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Park Commissioners that:

Section I: For the expenses of said Board the following additional sums of money are hereby appropriated and ordered set apart from the fund herein named and for the purposes herein specified, subject to the laws governing same, for the Fiscal Year January 1 to December 31, 2019:

Administration	\$14,150
Health & Wellness Grant	\$ 1,377
Marketing	\$ 5,350
Aquatics	\$61,716
Frank Southern Ice Arena	\$82,697
Golf Services	\$70,000
Natural Resources	\$63,030
Youth Services	\$213,181
Twin Lakes Recreation Center	\$930,963
Community Events	\$184,028
Adult Sports	\$128,907
Youth Sports	\$ 8,920
Benjamin Banneker Community Center	\$ 1,610
Operations	\$49,610
Urban Forestry	\$ 6,150
2019 Summer Food Service Grant	\$11,500
2019 MCCSC Grant	\$37,330
<b>TOTAL</b>	<b>\$1,870,519</b>

Section II: This resolution shall be in full force and effect from January 23, 2019 after its passage by the Board of Park Commissioners of the City of Bloomington.

**PASSED AND ADOPTED** at a regular meeting thereof on this 22nd day of January, 2019 by the following roll call vote:

**Ayes:**

**Noes:**

**Absent:**

**Kathleen Mills, President**

**ATTEST:**

**Paula McDevitt  
Administrator**



## STAFF REPORT

Agenda Item: C-2  
Date: 1/16/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Paula McDevitt, Administrator  
**DATE:** January 22, 2019  
**SUBJECT:** ADDENDUM I TO LEASE AGREEMENT and MEMROANDUM OF GROUND LEASE WITH SOUTH CENTRAL INDIANA HOUSING OPPORTUNITIES CORPORATION

### Recommendation

Staff recommends approval of Addendum I to Lease Agreement and Memorandum of Ground Lease with South Central Indiana Housing Opportunities Corporation – Switchyard Apartments, LLC.

### Background

The department by and through the Board of Park Commissioners entered into a lease agreement with South Central Indiana Housing Opportunities Corporation – Switchyard Apartments, LLC (SCIHO-SYA, LLC) on December 15, 2017. Addendum I reflects the following updates to the original lease:

- Name of the original lender for the project's financing changed from "BloomBank" to "Mutual Bank"
- The project was required to begin no later than September 30, 2019 and is now scheduled to begin February 28, 2019
- Clarification that SCIHO-SYA, LLC is only leasing Lot 2, whereas Exhibit A of the Agreement depicts both Lot 1 and Lot 2

The Memorandum of Ground Lease was requested by SCIHO-SYA, LLC in order to close on their construction loans for Phase 1 of Switchyard Apartments. The Memorandum of Lease is a recorded public document of the lease tied to the property and required by the one of the lenders, MutualBank.

**RESPECTFULLY SUBMITTED,**

Paula McDevitt, Administrator

**ADDENDUM I**  
**TO**  
**AGREEMENT FOR LEASE REAL ESTATE**  
(Entered into this \_\_\_\_ day of \_\_\_\_\_, 2019)

WHEREAS, on **December 15, 2017**, the City of Bloomington Department of Parks and Recreation (the “BPRD”) by and through the City of Bloomington Board of Park Commissioners (“Board”) and SCIHO-Switchyard Apartments, LLC (SCIHO-SYA, LLC) entered into an Agreement for Lease of Real Estate (“Agreement”); and

WHEREAS, Article 1 of the Agreement contains the legal description of the “Park Place Subdivision” which contains two (2) separate lots, Lot 1 and Lot 2 (Agreement is attached hereto and incorporated as **Exhibit 1**); and

WHEREAS, **Exhibit A** of the Agreement depicts both Lot 1 and Lot 2; and

WHEREAS, the name of lender has changed from “BloomBank” to “MutualBank”; and

WHEREAS, SCIHO-SYA, LLC requested the Agreement to reflect said name change; and

WHEREAS, under Section 4(A) of Article IV, the construction was required to commence no later than September 30, 2018; and

WHEREAS, as of January 22, 2019, the construction has not commenced yet; and

WHEREAS, BPRD and SCIHO-SYA, LLC wish to amend the Agreement to clarify that SCIHO-SYA, LLC is leasing Lot 2 only, and to incorporate the name change and the new construction commencement date;

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

**Article 1.** To delete Section 1 of Article I of the Agreement and replace it with the following:

Section 1. Description. Board represents and warrants that it holds the authority to enter into this Agreement for the lease of certain real property in Monroe County commonly known as 1901 South Rogers Street, Bloomington, Indiana (“Property”), consisting of the parcel depicted as Lot 2 in the drawing in Exhibit A attached hereto and incorporated herein by reference. The size of Lot 2 is 0.62 acres.

**Article 2.** To replace all references to “BloomBank” with “MutualBank” throughout the Agreement and on page 3 of the Agreement remove and replace the email address for Mr. Dave Landis with “DLandis@bankwithmutual.com”.

**Article 3.** To revise Section 4(A) of Article IV to replace “September 30, 2018”, with “February 28, 2019” to reflect the new construction commencement date.

**Article 4.** All other terms of the Agreement (entered into on December 15, 2017) are still intact and unchanged. Any other modification to said Agreement shall be agreed to in writing by the parties.

IN WITNESS WHEREOF, the parties execute this Amendment to the Agreement on the date first set forth above.

**SCIHO-Switchyard Apartments, LLC**

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Signature

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Printed name and title

**CITY OF BLOOMINGTON  
COMMISSIONERS**

**BOARD OF PARK**

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Paula McDevitt, Director  
Parks and Recreation Department

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Kathleen Mills, President  
Board of Park Commissioners

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Philippa M. Guthrie, Corporation Counsel

## MEMORANDUM OF GROUND LEASE

This Memorandum of Lease (this "Memorandum") made this \_\_\_\_\_ day of \_\_\_\_\_, 2019, between Bloomington Parks and Recreation Department ("BPRD") by and through the City of Bloomington of Park Commissioners ("Board") and SCIHO- Switchyard Apartments, LLC ("SCIHO-SYA, LLC"), a subsidiary of South Central Indiana Housing Opportunities Corporation.

1. Property. Board and SCIHO-SYA, LLC have entered into an Agreement for Lease of Real Estate (the "Lease") dated December 15, 2017, and as amended by Addendum I on January 22, 2019, regarding certain real property in Monroe County commonly known as 1901 South Rogers Street, Bloomington, Indiana ("Property"), consisting of the parcel depicted as Lot 2 in the drawing in Exhibit A attached hereto and incorporated herein by reference. The size of Lot 2 is 0.62 acres.
2. Term and Renewal Options. The Lease commences January 1, 2018, and expires at midnight on December 31, 2117.
3. Taxes. Tax bills may be mailed to SCIHO-SYA, LLC c/o South Central Indiana Housing Opportunities Corporation, 1007 N Summit St, Bloomington, IN 47404.
4. Incorporation of Lease. This Memorandum is for informational purposes only and nothing contained in this Memorandum shall be deemed to in any way modify or otherwise affect any of the terms and conditions of the Lease, the terms of which are incorporated in this Memorandum by reference. This instrument is merely a memorandum of the Lease and is subject to all of the terms, provisions and conditions of the Lease. In the event of any inconsistency between the terms of the Lease and this instrument, the terms of the Lease shall prevail.
5. Binding Effect. The rights and obligations set forth in this Memorandum shall be binding upon and inure to the benefit of the parties to this Memorandum and their respective heirs, personal representatives, successors and assigns.

The parties have executed this Memorandum of Lease the day and year first set forth above.

### **SCIHO-Switchyard Apartments, LLC for South Central Indiana Housing Opportunities, Corporation**

By: \_\_\_\_\_  
Deborah Myerson, Executive Director

### **City of Bloomington**

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

By: \_\_\_\_\_  
Paula McDevitt, Parks Administration

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

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF MONROE        )

Before me, a Notary Public in and for said county and state, appeared Deborah Myerson, Executive Director of South Central Indiana Housing Opportunities Corporation, sole member of SCIHO-Switchyard Apartments, LLC, and executed the foregoing document this \_\_\_\_ day of \_\_\_\_\_, 2019.

My Commission Expires:

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

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

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF MONROE        )

Before me, a Notary Public in and for said county and state, appeared Paula McDevitt, Director, Parks and Recreation Department, City of Bloomington, Indiana, and executed the foregoing document this \_\_\_\_ day of \_\_\_\_\_, 2019.

My Commission Expires:

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

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

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF MONROE        )

Before me, a Notary Public in and for said county and state, appeared Kathleen Mills, President, Board of Park Commissioners, and executed the foregoing document this \_\_\_\_ day of \_\_\_\_\_ , 2019.

My Commission Expires:

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

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

*I affirm under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law. Christine Bartlett*

This Memorandum prepared by Christine Bartlett of Ferguson Law, 403 E 6th St, Bloomington, IN, 47408



# EXHIBIT 1

## AGREEMENT FOR LEASE OF REAL ESTATE

THIS Agreement for Lease of Real Estate ("Agreement"), made and entered into this 15 day of December, 2017, by and between the Bloomington Parks and Recreation Department ("BPRD") by and through the City of Bloomington Board of Park Commissioners ("Board") and SCIHO-Switchyard Apartments, LLC (SCIHO-SYA, LLC), a subsidiary of South Central Indiana Housing Opportunities Corporation.

WITNESSETH THAT:

WHEREAS, the BPRD owns property located at 1901 South Rogers Street, Bloomington, Indiana; and

WHEREAS, the Board has declared the property surplus; and

WHEREAS, the property is zoned Residential High-Density Multifamily ("RH") district; and

WHEREAS, the Board supports the development of affordable housing adjacent to the Switchyard Park; and

WHEREAS, SCIHO-SYA, LLC is willing and able to develop and maintain an affordable housing project.

Now, therefore, in consideration of the mutual promises hereinafter set forth and other good and valuable consideration, Board and SCIHO-SYA, LLC agree as follows:

### **ARTICLE I** **DESCRIPTION AND LEASE OF THE PROPERTY**

Section 1. Description. Board represents and warrants that it holds the authority to enter into this Agreement for the lease of certain real property in Monroe County commonly known as 1901 South Rogers Street, Bloomington, Indiana ("Property") consisting of the parcel depicted in the drawing, attached hereto as Exhibit A and incorporated herein by reference, and legally described as follows:

"A part of the Northeast quarter of Section 8, Township 8 North, Range 1 West, Monroe County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of said Northeast quarter; thence NORTH 00 degrees 29 minutes 49 seconds WEST along the east line of said quarter a distance of 1224.54 feet; thence leaving said east line SOUTH 89 degrees 30 minutes 11 seconds WEST 197.64 feet to the northeast corner of the tract conveyed to Robert V. and Nancy L. Shaw by deed recorded in Deed Book 425, page 359 in the office of the Recorder of Monroe County, Indiana and the POINT OF BEGINNING; thence SOUTH 88 degrees 16 minutes 15 seconds WEST along the north line of said Robert V. and Nancy L. Shaw a distance of 523.96 feet; thence leaving said north line NORTH 00 degrees 32 minutes 56 seconds EAST a distance of 784.40 feet; thence NORTH 00 degrees 16 minutes 13 seconds EAST a distance of 140.57 feet to a point

on the southern line of the 12.04 acre tract conveyed to the City of Bloomington by deed recorded as instrument number 2003036240 in the office of the Recorder of Monroe County, Indiana and the beginning of a non-tangent curve concave to the southwest having a radius of 428.30 feet and a chord which bears SOUTH 39 degrees 02 minutes 19 seconds EAST 144.26 feet; thence southeasterly along the south and west lines of said City of Bloomington tract the next three (3) courses:

1. SOUTHERLY along said curve an arc distance of 144.95 feet; thence
2. SOUTH 29 degrees 20 minutes 35 seconds EAST 565.07 feet to the beginning of a curve concave to the west having a radius of 2808.41 feet and a chord which bears SOUTH 25 degrees 53 minutes 19 seconds EAST 338.47 feet; thence
3. SOUTHERLY along said curve an arc distance of 338.67 feet to the POINT OF BEGINNING and containing 6.01 acres, more or less."

Section 2. Lease of the Property. Board hereby demises and leases unto SCIHO-SYA, LLC, and SCIHO-SYA, LLC hereby leases from the Board, the Property, for and in consideration of the rents, covenants and agreements, and upon the terms and conditions set forth herein, subject to any and all encumbrances, conditions, covenants, easements, restrictions, rights-of-way, and all other matters of any nature affecting the Premises during the Term (in each case whether or not of record), such matters as may be disclosed by an inspection or survey, and all zoning, land use, subdivision, and all other laws, rules, regulations and judicial or administrative orders now or hereafter applicable to the Premises or any part thereof or any use or occupancy thereof (herein collectively called "Restrictions").

## **ARTICLE II**

### **TERM OF AGREEMENT**

The Initial Term ("Term") of this Agreement shall be for Ninety Nine (99) years, commencing on January 1, 2018 ("Commencement Date") and expiring at midnight on December 31, 2117.

In the event that the SCIHO-SYA, LLC fails to receive approval from either the Plan Commission or the City Council by September 30, 2018, either party shall have the ability to terminate this Agreement.

## **ARTICLE III**

### **PAYMENTS**

Section 1. Payments for Use. SCIHO-SYA, LLC agrees to make an annual payment to the BPRD for use of the parcel in the amount of One Dollar (\$1.00), payable on or before the 1st day of February each year. Payments are to be made to:

City of Bloomington Department of Parks and Recreation  
P.O. Box 848  
Bloomington, IN 47402

## **ARTICLE IV**

### **USE OF THE PROPERTY**

Section 1. Business Use. SCIHO-SYA, LLC shall only use and occupy the Property for the sole and exclusive purpose of the construction and management of affordable housing units on the Property as an ongoing business concern. Housing will be considered affordable if it is affordable to households earning below 80% of the Area Median Income. SCIHO-SYA, LLC will maintain documentation of its compliance with this provision will provide such documentation to the City of Bloomington Housing and Neighborhood Development on an annual basis.

Section 2. Mortgaging the Property. SCIHO-SYA, LLC shall not allow, permit or otherwise cause any mortgage, lien, or other encumbrance to be placed upon the Property, except with prior, written consent of Board in Board's sole discretion. The Parks Administrator shall have the ability to provide the necessary consent on behalf of the Board. BPRD acknowledges and consents to SCIHO-SYA, LLC seeking a construction loan, which will be converted to a twenty-five (25) year permanent loan upon issuance of occupancy permits, the payment of which will be secured by a leasehold mortgage, conditional assignment of this Agreement, assignment of rents, a security interest in fixtures and tangible personal property, and such other financing documents as reasonably is required by the Lender, defined below.

BPRD will notify BloomBank ("Lender") in writing if SCIHO-SYA, LLC defaults on its obligations under the Agreement or any renewals, extensions, amendments, modifications, substitutions or replacements thereof. Board shall not exercise the remedies for default set forth in this Agreement unless and until Board has delivered to SCIHO-SYA, LLC and to the Lender a notice describing such breach and the same is not cured within 30 days after delivery of the notice, provided that if the breach reasonably cannot be cured within such 30 day period, Board will not exercise its remedies under the Agreement if the Lender or SCIHO-SYA, LLC commences curative action within the 30 day period and diligently pursues the same to completion. Further, if such default is of a nature that cannot be cured reasonably by the Lender (e.g., bankruptcy) or reasonably cannot be cured by the Agreement until it obtains possession of the Property demised under the Agreement, then upon the Lender's acquisition of the leasehold interest of SCIHO-SYA, LLC (by the exercise of its remedies under the financing instruments), Board will enter into a direct Agreement with the Lender on the same terms and conditions as the Agreement, upon the Lender's request, provided that the Lender cures all then existing defaults under the Agreement. The Lender shall provide Board with a plan to cure all defaults within 30 day of the default. Said plan is subject to acceptance by Board in its sole discretion. The rights of the Lender hereunder shall apply to such lender's successors and assigns.

All notices to be given to the Lender shall be in writing and shall be deemed to have been given: (a) when delivered personally to the recipient; (b) when sent to the recipient by electronic mail (with receipt confirmed by a reply email) if during normal business hours of the recipient, otherwise on the next Business Day; or (c) one Business Day after the date when sent to the recipient by reputable express courier service (charges prepaid). Such notices, demands, and other communications shall be sent to the Lender at Dave Landis, BloomBank, 2111 S. Liberty Drive, Bloomington, IN 47403 Or via electronic mail to DLandis@bloombank.com, the Lender may change the address to which notice is to be given; provided, however, that such change shall not become effective until 10 days after actual receipt of such change by the person giving notice. For

purposes of this Section, the term "Business Day" means any day except Saturday, Sunday, or any other day that is a federal or State of Indiana holiday.

Section 3. Compliance with Law and Regulations. SCIHO-SYA, LLC shall comply with all applicable laws, rules, regulations, orders, ordinances, directions and requirements of any governmental authority or agency, now in force or which may hereafter be in force (including, but not limited to, all safety rules and regulations). SCIHO-SYA, LLC shall use the premise for no unlawful purpose or act and shall commit or permit no waste or damage to the parcel.

Section 4. Construction and Restoration.

- A. As soon as reasonably possible, but in no event later than September 30, 2018, SCIHO-SYA, LLC shall commence and thereafter diligently prosecute to completion the construction on the Premises, at SCIHO-SYA, LLC's sole cost and expense, of improvements. Construction of improvements shall include, but not be limited to, demolition of existing structures and improvements, removal of all demolition debris and construction of new affordable housing units. Failure to commence or thereafter diligently prosecute to completion such construction of improvements shall constitute a default under this Agreement. After obtaining a Right of Entry from the Parks Administrator, SCIHO-SYA, LLC may utilize the immediate area surrounding the property during the construction period.
- B. If at any time the Property, or any part thereof, is damaged or suffers loss (other than ordinary wear and tear) by reason of any matter or thing whatsoever, foreseen or unforeseen, insured or uninsured, including, but without limitation on the generality of the foregoing, any fire, earthquake or other calamity, SCIHO-SYA, LLC, at its own cost and expense, and whether or not insurance proceeds, if any, shall be sufficient for the purpose, shall proceed with all reasonable diligence and speed (considering the availability of labor and materials) to obtain all necessary governmental permits for such repair or restoration and thereafter to repair, replace and restore the Property as nearly as possible to the same value, condition and character as existed immediately prior to such damage or loss. However, if such loss occurs in the last ten years of the Agreement or if the cost to restore the Property would be equal to or exceed 50% of the full replacement cost of the improvements, SCIHO-SYA, LLC may, at its option, terminate this Agreement by notice given to BPRD no later than 30 days after such event. If SCIHO-SYA, LLC chooses to terminate the Agreement, or otherwise not repair, replace and restore the Property to the same value, condition and character as prior to the loss, SCIHO-SYA, LLC shall be responsible for the cost of demolishing and/or removing all facilities and improvements and returning the Property to the same condition it was in prior to the execution of this Agreement within sixty (60) days of terminating the Agreement.
- C. Neither the Board nor BPRD shall have no obligation to make any repairs, replacements, restorations, alterations, additions or improvements whatsoever in or about the Property or any part thereof, or to restore the same or any part of the same in the event of its loss, destruction or damage unless such loss, destruction or damage is solely due to the fault of the BPRD, and SCIHO-SYA, LLC hereby waives any right it may have to make repairs at the expense of the Board or BPRD.

- D. In the event that SCIHO-SYA, LLC finds it necessary to obtain plan, use, or zoning approval or permits with respect to the Property ("Zoning Approvals"), BPRD agrees, from time to time upon request by SCIHO-SYA, LLC, to provide a letter of support for SCIHO-SYA, LLC obtaining such Zoning Approvals provided that BPRD, at its sole discretion, believes the Zoning Approvals being sought are appropriate.

Section 5. Standard of Work. All construction, restoration, maintenance and repairs, demolition, removal, replacement and alteration of the Property or any part thereof required or permitted to be made by SCIHO-SYA, LLC under this Agreement (collectively hereinafter called "SCIHO-SYA, LLC's Work") shall be performed in accordance with the following:

- A. SCIHO-SYA, LLC shall comply with all applicable laws, ordinances, rules and regulations (including, but not limited to, all safety rules and regulations) relating to or governing SCIHO-SYA, LLC's Work and, without limitation on the generality of the foregoing, shall procure and maintain all permits and authorizations required to be obtained from any governmental authority in connection therewith.
- B. All SCIHO-SYA, LLC's Work shall be performed diligently and in a good and workmanlike manner, free from defects of any kind and nature, and free from liens or claims of any kind and nature.
- C. Prior to commencement of any of SCIHO-SYA, LLC's Work, SCIHO-SYA, LLC shall demonstrate to the reasonable satisfaction of BPRD that SCIHO-SYA, LLC has the funds necessary to fully pay for the cost of all SCIHO-SYA, LLC's Work, and the cost of all SCIHO-SYA, LLC's Work shall be paid promptly by SCIHO-SYA, LLC.
- D. SCIHO-SYA, LLC shall maintain a complete set of "as built" structural, mechanical and similar plans and specifications with respect to all improvements and any other of SCIHO-SYA, LLC's Work and an "as built" survey showing the location of all improvements on the Premises and shall, upon written request of BPRD, deliver a copy thereof to City, at no cost to the Board or BPRD. SCIHO-SYA, LLC shall also deliver to BPRD, upon written request of BPRD and at no cost to the Board or BPRD, a copy of any and all other reports which SCIHO-SYA, LLC may have related to the Property, including, but not limited to, environmental surveys and assessments.
- E. All SCIHO-SYA, LLC's Work shall be commenced promptly after SCIHO-SYA, LLC has obtained all necessary permits and approvals. SCIHO-SYA, LLC shall perform all work in accordance with the approved specifications and working drawings and prosecute the work diligently to completion. SCIHO-SYA, LLC shall secure all sign-offs and final certificates from appropriate authorities.
- F. SCIHO-SYA, LLC's Work shall be subject to BPRD's inspection during construction and after completion.

Section 6. Maintenance. SCIHO-SYA, LLC, at its own cost and expense, shall keep and maintain the Property and all landscaping, sidewalks, parking lots, alleys and passages surrounding the same and each and every part thereof in a good, orderly, clean, safe and sanitary state of decor, repair and condition and as otherwise required by this Agreement including, but not limited to, trash removal, mowing, snow and ice removal from all walkways, parking lots, driveways and the like, and noise and parking control both during any periods of construction and during all times that the property is open for occupancy by SCIHO-SYA, LLCs. SCIHO-SYA, LLC shall perform all repairs and replacements necessary to accomplish the foregoing obligations, whether foreseen or unforeseen, structural or nonstructural, ordinary or extraordinary.

Section 7. Hazardous Materials. SCIHO-SYA, LLC shall not in any manner use, maintain or allow the use or maintenance of the Property in violation of any law, ordinance, statute, regulation, rule or order (collectively "Laws") of any governmental authority, including but not limited to Laws governing zoning, health, safety (including fire safety), occupational hazards, and pollution and environmental control. Except when done in a commercially reasonable manner consistent with SCIHO-SYA, LLC's business, SCIHO-SYA, LLC shall not use, maintain or allow the use or maintenance of the Property or any part thereof to treat, store, dispose of, transfer, release, convey or recover hazardous, toxic or infectious waste, except for materials used in the ordinary course of SCIHO-SYA, LLC's business on or about the Property. Hazardous, toxic or infectious waste shall mean any solid, liquid or gaseous waste, substance or emission or any combination thereof which may (i) cause or significantly contribute to an increase in mortality or in serious illness, or (ii) pose the risk of a substantial present or potential hazard to human health, to the environment or otherwise to animal or plant life, and shall include without limitation hazardous substances and materials described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended; the Resource Conservation and Recovery Act, as amended; and any other applicable federal, state or local Laws.

Section 8. Ownership of Improvements. It is expressly understood and agreed that any and all Improvements, including the fixtures, machinery, and equipment of whatsoever nature at any time constructed, placed, or maintained upon any part of the Property by SCIHO-SYA, LLC, shall be and remain property of SCIHO-SYA, LLC so long as this Agreement is in effect. SCIHO-SYA, LLC shall have the right at any time during SCIHO-SYA, LLC's lawful occupancy of the Property, to remove any and all Improvements owned or placed by SCIHO-SYA, LLC, in, under, or upon the Property, or acquired by SCIHO-SYA, LLC, whether before or during the Term or any renewals thereof, but SCIHO-SYA, LLC shall not be obliged to do so. In the event this Agreement is terminated for any reason, whether by expiration, operation of law or otherwise, all such Improvements shall become the property of the Board, subject to all covenants, conditions, restrictions, easements, and leases previously consented to by SCIHO-SYA, LLC.

## **ARTICLE V**

### **UTILITIES AND SERVICES**

SCIHO-SYA, LLC shall be responsible for the costs of any and all associated building permits, site plan petitions, sign permits, Right-of-way excavation permits and bonding, grading permits and erosion control bonding, utility connection fees, and inspection fees.

SCIHO-SYA, LLC shall pay for providing utilities onsite and any and all cost of extension of the sewer or water main line and services based upon or in connection with its affordable housing development, including trash removal, custodial services, electrical, water, wastewater, stormwater, heat and air conditioning for normal office use.

SCIHO-SYA, LLC shall be responsible for the cost of any communications and data services and installation required for SCIHO-SYA, LLC's needs.

SCIHO-SYA, LLC is responsible for compliance with Bloomington Municipal Code Title 16: Residential Rental Unit and Lodging Establishment Inspection Program and shall promptly and timely pay to the City of Bloomington Housing and Neighborhood Development Department all costs associated therewith including all registration and inspection fees.

## **ARTICLE VI**

### **TAXES**

During the Term, SCIHO-SYA, LLC shall promptly and timely pay any and all applicable Indiana State, County and Municipal personal property taxes in the event such taxes may now or hereafter be assessed against the building furniture, fixtures, equipment and supplies installed or maintained by SCIHO-SYA, LLC upon the Property and all Federal, State and Local taxes levied against SCIHO-SYA, LLC on account of the business conducted by it upon the Property. SCIHO-SYA, LLC shall promptly and timely payment of all real property taxes that may now or hereafter be assessed against the Property.

## **ARTICLE VII**

### **LIABILITY INSURANCE; INDEMNIFICATION**

SCIHO-SYA, LLC, at SCIHO-SYA, LLC's sole expense, shall cause to be issued and shall maintain from the date of delivery thereof to BPRD and during the term of this Agreement and any renewal thereof, a policy of Commercial General Liability insurance insuring SCIHO-SYA, LLC against any and all claims, actions, damages, liabilities and expenses in connection with loss of life, personal injury, bodily injury or damage to personal and/or real property occasioned by accident occurring upon, in or about the Property at any time such policy is in effect, with such policy of insurance to provide coverage with an aggregate and per-occurrence limit not less than One Million Dollars (\$1,000,000.00) . SCIHO-SYA, LLC shall also insure itself for Fire Legal Liability at a minimum limit of One Hundred Thousand Dollars (\$100,000.00). BPRD shall be named as an additional insured on all policies required by the terms of this agreement.

A certificate of insurance of these policies shall be delivered to BPRD prior to the commencement date of this Agreement. All policies shall contain a provision that the policy will not be cancelled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to BPRD.

SCIHO-SYA, LLC shall maintain during the term of this Agreement and any renewal thereof such Worker's Compensation Insurance as may from time to time be required by law. Evidence of such insurance shall be delivered to BPRD prior to the commencement of the term of this Agreement and, thereafter, at such times as BPRD may require.

SCIHO-SYA, LLC will indemnify and hold harmless the Board, BPRD, its officers, directors, agents, employees, successors and assigns from and against any and all claims, actions, damages, liabilities and expenses in connection with loss of life, personal injury, bodily injury or damage to real and/or personal property arising from, or out of any occurrence in, upon or at the Premises or Building, from or out of the occupancy or use by SCIHO-SYA, LLC of the Premises or Building or any part thereof, or occasioned wholly or in part by any act or omission of SCIHO-SYA, LLC, its agents, contractors, employees, lessees, or invitees.

## **ARTICLE VIII**

### **DEFAULT AND REMEDIES**

Section 1. Default. If SCIHO-SYA, LLC makes any default in respect of its covenants under this Agreement and such default is not cured by or on behalf of SCIHO-SYA, LLC within thirty (30) days after written Notice of the existence of such default has been given to SCIHO-SYA, LLC and the Lender (as set forth in Section 2 of Article IV) by BPRD, the BPRD may exercise any remedy available at law or in equity.

## **ARTICLE IX**

### **NOTICES, COVENANTS AND REPRESENTATIONS, MISCELLANEOUS**

Section 1. Notices. All notices to be given hereunder shall be in writing and shall be deemed to be properly given if sent by certified mail, postage prepaid and, in the case of notices by BPRD to the SCIHO-SYA, LLC, they are addressed to SCIHO-SYA, LLC:

SCIHO\_Switchyard Apartments, LLC  
Attn: Deborah Myerson  
Executive Director South Central Indiana Housing Opportunities  
1007 N. Summit St.  
Bloomington, IN 47404  
812-339-3491 x117

or to such other address as SCIHO-SYA, LLC may from time to time furnish to BPRD in writing for such purpose and in the case of notices by SCIHO-SYA, LLC to BPRD, if they are addressed to BPRD:

Administrator, Parks and Recreation Department  
City of Bloomington  
P.O. Box 848  
Bloomington, IN 47402

With a copy to:

Corporation Counsel  
City of Bloomington  
P.O. Box 100  
Bloomington, IN 47402



or to such other address as BPRD may from time to time furnish to SCIHO-SYA, LLC in writing for such purpose. The Parks Administrator is authorized by the Board to manage this Agreement and any and all day to day activities related to it.

Section 2. Covenants and Representations. The covenants and representations contained in this Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. This Agreement contains the entire agreement between the Board and SCIHO-SYA, LLC and shall not be modified in any manner except by an instrument in writing executed by the Board and SCIHO-SYA, LLC.

Section 3. Governing Law. This Agreement shall be governed according to the laws of the State of Indiana. Any dispute arising from this Agreement shall be venued in Monroe County, Indiana.

Section 4. Titles. Titles inserted herein for articles and sections are for convenience and do not constitute a part of the text.

Section 5. Waiver. The waiver by any party hereto of any term, covenant, or condition contained in this Agreement shall be in writing, and any waiver in one instance shall not be deemed to be a waiver of such term, covenant, or condition in the future, or any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement.

Section 6. Assignment and Subletting. Except for the leasing of rental units pursuant to SCIHO-SYA, LLC's RFP Response, SCIHO-SYA, LLC may not encumber, assign or sublet the Premises, or any part thereof without the written consent of Board, which shall be supplied in Board's sole discretion. The Parks Administrator shall have the ability to provide the necessary consent on behalf of the Board. BPRD acknowledges and consents to SCIHO-SYA, LLC seeking a construction loan, which will be converted to a twenty-five (25) year permanent loan upon issuance of occupancy permits, the payment of which will be secured by a leasehold mortgage, conditional assignment of this Agreement, assignment of rents, a security interest in fixtures and tangible personal property, and such other financing documents as reasonably is required by the Lender. In the event that SCIHO-SYA, LLC is no longer able to maintain the affordable housing project on the Property and has to transfer the maintenance to another entity, SCHIO shall notify BPRD in writing at the minimum thirty (30) days prior to any final decision is made. Board shall have the final approval of the proposed entity.

Section 7. Quiet Enjoyment. BPRD agrees that if SCIHO-SYA, LLC observes and performs all of its covenants hereunder, then, at all times during the Term, SCIHO-SYA, LLC shall have the exclusive, peaceable and quiet enjoyment and possession of, the Premises, without any manner of hindrance from BPRD or parties claiming under, by or through BPRD, subject to the terms and conditions of this Agreement.

Section 8. Right of Entry. BPRD shall have the right to enter the Property (without causing or constituting a termination of this Agreement or an interference with SCIHO-SYA, LLC's possession) at all reasonable times for the purposes of examining its condition or use.

SO EXECUTED the day and year first above written by duly authorized officers of the parties hereto.

SCIHO - Switchyard Apartments, LLC for  
SOUTH CENTRAL INDIANA HOUSING OPPORTUNITIES, CORPORATION <sup>8m</sup>

By: Schur Meyer

DEBORAH MYERSON, EXECUTIVE DIRECTOR  
Printed name and title

CITY OF BLOOMINGTON

BOARD OF PARK COMMISSIONERS

By: Philippa M. Guthrie  
Philippa M. Guthrie

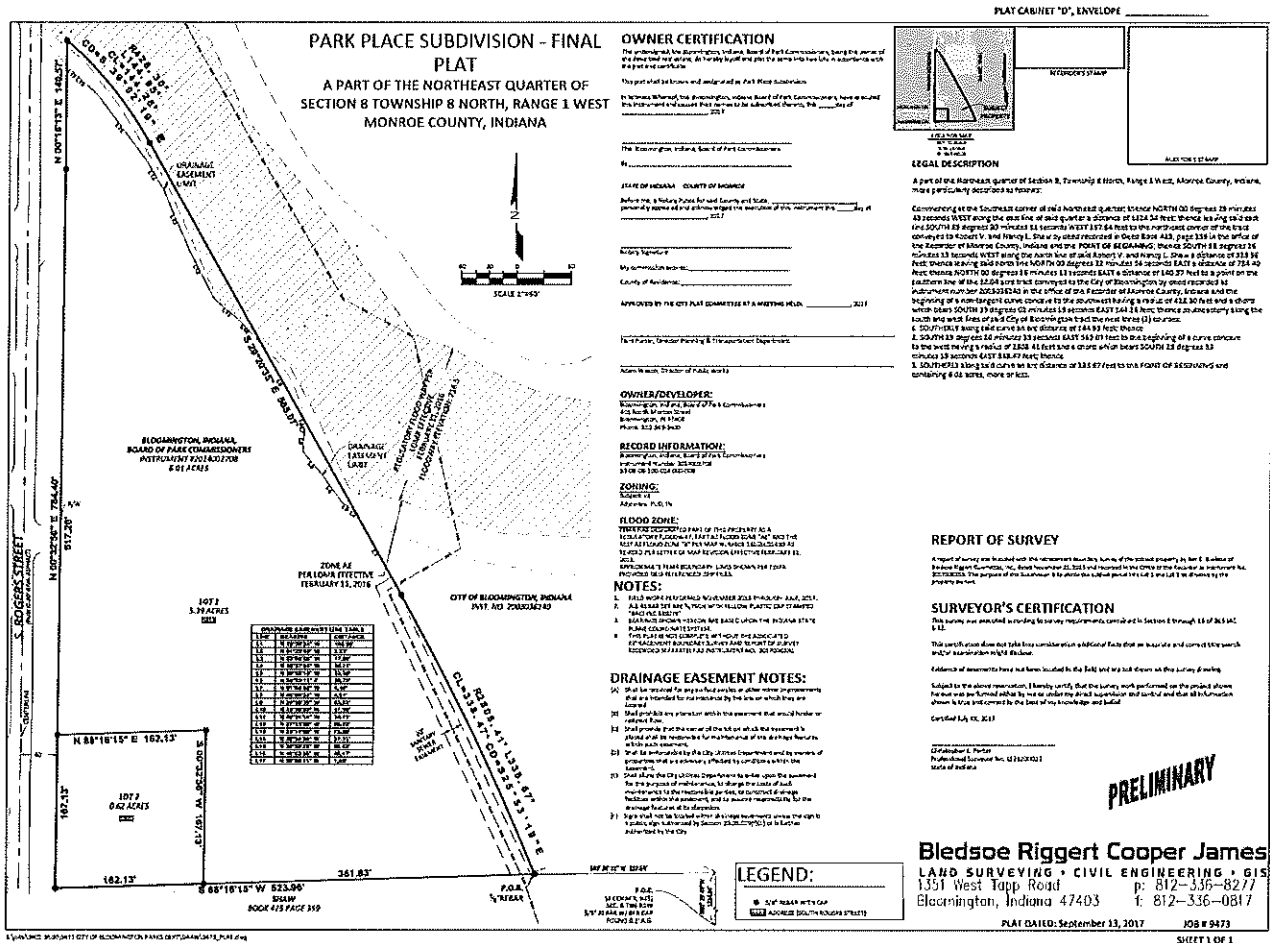
By: Leslie J. Coyne  
Leslie J. Coyne, President

By: Paula McDevitt  
Paula McDevitt, Parks Administrator

CITY OF BLOOMINGTON  
Controller  
Reviewed by: [Signature]  
DATE: 12/16/17  
FUND/ACCT: 20000000-0000 N/A

CITY OF BLOOMINGTON  
Legal Department  
Reviewed By: anahit behr  
DATE: 12-09-17

## Exhibit A



### Parcels Available for Lease:

**A: 1901 S. Rogers St**

<b>Address:</b>	1901 S. Rogers St.
<b>Type:</b>	House
<b>Size:</b>	0.62 acres
<b>Description:</b>	Limestone house
<b>Zoning:</b>	High-Density Multifamily Residential
<b>Leasing Price:</b>	\$1/per year for 99 years



## STAFF REPORT

Agenda Item: C-3  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Crystal Ritter, Community Events Coordinator  
**DATE:** January 22, 2019  
**SUBJECT:** ADDENDUM TO THE 2019 PARKS AND RECREATION PARK SPECIAL USE PERMIT APPLICATION

### Recommendation

Staff recommends approval of addendum to the Parks and Recreation park special use permit application for 2019.

### Background

The 2019 Parks and Recreation Special Use Permit was approved by the Park board of Commissioners at the November 27, 2018 meeting. This application is for rental of Parks and Recreation properties and facilities for special events. The added section to this application is by request of the Indiana Department of Homeland Security. The added section informs permit applicants of the Amusement and Entertainment Permit and safety inspection which is required for qualifying events.

**RESPECTFULLY SUBMITTED,**

A handwritten signature in black ink, appearing to be "Crystal Ritter", written in a cursive style.

Crystal Ritter, Community Events Coordinator



## PARK SPECIAL EVENT APPLICATION

City of Bloomington  
Parks and Recreation Department  
401 N. Morton Street, Suite 250  
Bloomington, IN 47401  
812-349-3700

- Park operating hours are 5:00a.m. to 11:00p.m.
- Permit applications must be submitted to the Department at least **six weeks prior** to event
- An application for Special Use shall not become a permit until it has been approved and signed by the Department.
- Application approval will not be finalized without submittal of an application, certificate of insurance and payment of all fees/charges/deposits.

### 1. Applicant Information

Contact Name: \_\_\_\_\_  
Contact Phone: \_\_\_\_\_ Mobile Phone: \_\_\_\_\_  
Title/Position: \_\_\_\_\_  
Organization: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Contact Email Address: \_\_\_\_\_  
Organization Email and URL: \_\_\_\_\_  
Organization Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

### 2. Event Information

Name of Event: \_\_\_\_\_  
Type of Event: ☐ Concert ☐ Cultural ☐ Reunion ☐ Entertainment  
☐ Fundraiser ☐ Parade ☐ Sports ☐ Walk/ Run  
☐ Festival ☐ Public Info

(All Events: A map detailing placement of event (site map) will be required for all events. If you are requesting that any public street be partially closed/blocked off, please contact the City of Bloomington Economic and Sustainable Development Department (812)349-3700. GIS maps are available on line at <http://bloomington.in.gov/maps/>. A copy of your proposed route must be attached to this application.)

Date (s) of Event: \_\_\_\_\_  
Time of Event: \_\_\_\_\_ Date: \_\_\_\_\_ Start: \_\_\_\_\_  
Date: \_\_\_\_\_ End: \_\_\_\_\_  
Setup/Teardown time Needed: Date: \_\_\_\_\_ Start: \_\_\_\_\_  
Date: \_\_\_\_\_ End: \_\_\_\_\_

Description of Event:

\_\_\_\_\_  
\_\_\_\_\_



Expected Number of Participants: \_\_\_\_\_  
Peak Attendance: \_\_\_\_\_ at Time: \_\_\_\_\_

Requested Event Location: Park Name \_\_\_\_\_

Facilities in Park (e.g. shelter, park, grounds, etc.) \_\_\_\_\_

(If event is on park grounds or more than one facility is being used, please provide map showing parking, activity venues, first aid, etc.)

### 3. Event Specifics

Will any signs, banners or flyers be hung or posted? \_\_\_\_\_

Do you plan to erect temporary structures such as stages, tents, booths, tables, bounce houses, etc. for this event? \_\_\_\_\_

(If yes, please describe below, including size, capacity, how many, etc. Location of all items must be shown on your site map. **Tents may not be staked without prior approval. All components of vendor display, including tents, umbrellas and signs, must be properly secured on all sides**)

Company contracting with on above items: \_\_\_\_\_

Company Name: \_\_\_\_\_ Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Company Name: \_\_\_\_\_ Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Is this event open to the public? ☐ Yes ☐ No

Does your event require an Indiana Department of Homeland Security Amusement & Entertainment Permit? ☐ Yes ☐ No

(Notice: It is your responsibility to contact the Department of Homeland Security to see if your event requires an Amusement and Entertainment Permit and an inspection. The Department of Homeland Security can be reached at (317)232-2222 or online at <https://www.in.gov/dhs/2795.htm>.)

Accommodations you are providing for person with special needs:

Will donation/contributions be accepted during this event? ☐ Yes ☐ No

Will there be an admission charge to attend/participate? ☐ Yes ☐ No

Type Fee(s): \_\_\_\_\_ Fee Amount: \_\_\_\_\_

Do you plan to sell, distribute or give away refreshments and/or merchandise?

☐ Yes ☐ No

List Type and Number of Booths:

(Bloomington Parks and Recreation will charge a \$25.00-\$35.00 vending fee for each vendor/booth selling food/merchandise and/or any admission charges or monies collected while on park property.)



Do you plan to sell or distribute alcohol?

(Alcohol sales in City-owned parks, trails, and spaces require the approval of Board of Park Commissioners and Director of Parks and Recreation. Please see the “2019 Guidelines for Requesting/Approval of Alcohol Sales with an Approved Event Permit”.)

☐ Yes ☐ No

Will there be displays, literature, or other types of solicitation?

☐ Yes ☐ No

Do you request access to the restrooms in the Allison- Jukebox Community Center?

(There is a minimum charge of \$35/hr to open the Allison-Jukebox for restroom use. Use of the “Whole Building” at the Alison Jukebox Community Center includes the 2 available activity rooms, the restrooms, and the kitchenette area of the building.)

☐ Yes ☐ No

Please check all that is needed:

	Per Hour
<input type="checkbox"/> Activity Room – Carpet	\$35-\$55 per hour
<input type="checkbox"/> Activity Room - Tile	\$35-\$55 per hour
<input type="checkbox"/> Restroom only with Park Use	\$30-\$50 per hour
<input type="checkbox"/> Whole Building	\$55-\$85 per hour

Are you providing additional portable toilets for your event? ☐ Yes ☐ No

How Many? \_\_\_\_\_ Location: (show on map) \_\_\_\_\_

(Notice: The City of Bloomington Parks and Recreation Department requires you to have 1 (one) rest room facility for every 500 participants. If number needed exceeds what park has available, it will be the organization’s/event organizer/s responsibility to acquire the necessary number. Proof of payment will be required with application.)

Please describe how you plan to remove trash from the event site:

Person responsible for cleanup: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Relationship to Organization: \_\_\_\_\_

Contact Number: \_\_\_\_\_

### 1. Event Security

What are your plans for severe weather?

\_\_\_\_\_

Do you have a scheduled rain date or location? ☐ Yes ☐ No

If yes, please list: \_\_\_\_\_

Who will be the on-site person responsible for making weather/emergency decisions?

(In the event of an emergency at your event, please notify Bloomington Parks and Recreation within 24 hours of the emergency situation occurring. Please contact 812.349.3725.)

Contact Person: \_\_\_\_\_



Contact Phone Number: \_\_\_\_\_

What are your plans for providing security, traffic and/or crowd control:

\_\_\_\_\_

Contact Person: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

What are your parking plans? Overflow Parking?

\_\_\_\_\_

What are your plans for providing emergency/medical services?

\_\_\_\_\_

## **2. Event Entertainment**

Do you plan on providing musical entertainment for this event? ☐ Yes ☐ No

Describe: \_\_\_\_\_

Will any type of sound amplifying equipment or devices be used in conjunction with this event?

☐ Yes ☐ No

Type of Equipment: \_\_\_\_\_

Quantity: \_\_\_\_\_

If musical entertainment is used, please list contact information for sound technicians:

\_\_\_\_\_

Do you plan to provide other entertainment for this event? ☐ Yes ☐ No

Attach planned program: \_\_\_\_\_

Events with animals require additional considerations and Animal Control approval. Are you planning to pursue permission for animals at your event?

☐ Yes ☐ No

Are you providing a generator as a power source? ☐ Yes ☐ No

Electrical Needs: \_\_\_\_\_

Are there any special provisions pertaining to your event that have not been addressed on this application? ☐ Yes ☐ No

If yes, please list: \_\_\_\_\_

\_\_\_\_\_





**APPLICATIONS MUST HAVE THE FOLLOWING TO BE ACCEPTED**

- |   |   |
|---|---|
| <input type="checkbox"/> <b>Application for Rental Agreement</b>    | <input type="checkbox"/> <b>Event Site Plan</b>                 |
| <input type="checkbox"/> <b>Application Fee \$25/non-refundable</b> | <input type="checkbox"/> <b>Event Agenda/List of Activities</b> |

**By signing and submitting this application, the permit applicant agrees to abide by the rules and regulations of the Department of Parks and Recreation including, but not limited to, the conditions as stated on this application and the City of Bloomington Parks and Recreation Department Rental Agreement.**

**Please Read Carefully :**

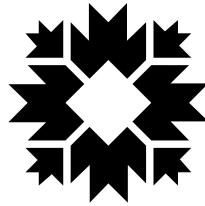
I, a duly authorized representative of the applicant, hereby affirm that the submitted information is true and correct to the best of my knowledge. As such, I have been authorized by the applicant to apply for this permit and have read, understand and agree to comply with all rules concerning the use of a Bloomington Parks and Recreation park. The applicant agrees that while renting the park, the applicant will not exclude anyone from participation in, deny anyone benefits of, or otherwise subject anyone to discrimination because of that person's race, color, sex, religion, creed, sexual orientation, national origin or ancestry, age or handicap. Under this Special Event Permit, the applicant assumes all responsibility for proper conduct in the park as outlined above, including assuring there is no consumption of alcoholic beverages.

I \_\_\_\_\_, on behalf of the permit applicant, shall agree to release, hold harmless, and forever indemnify the City of Bloomington, its employees, officers, and agents from any and all claims or causes of action that may arise from the activities described herein. This includes claims for personal injury, property damage, and/or any other types of claim which may arise from these activities, whether such claims may be brought by the permit applicant or any of its agents, or by any third party.

I have read this release and understand all of its terms. I agree with its terms and sign it voluntarily.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-4  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Crystal Ritter, Community Events Coordinator  
**DATE:** January 22, 2019  
**SUBJECT:** ADDENDUM TO CONTRACT FOR SERVICES WITH KINGSNAKE SOUND COMPANY

### Recommendation

Staff recommends approval of the addendum to the 2018 contract for services with KingSnake Sound Company for sound engineering services and equipment rental for Parks and Recreation events in the 2019 calendar year. As the addendum states we would like to renew this contract for 2019.

### Background

This contract is for sound engineering services, set-up and tear-down of sound equipment, and sound equipment rental for the Bloomington Street Fair, the Summer Sampler event, the Bloomington Symphony Orchestra concert in Waldron, Hill, & Buskirk Park, the Pumpkin Launch, and the Holiday Market. We have used KingSnake Sound Company for several years and they are reliable and continue to be well priced.

Total Dollar Amount of Contract: Not to exceed \$1, 625.00

Approximate breakdown:

200-18-186507-53730=\$975

201-18-186500-53730=\$325

200-18-186500-53990=\$325

RESPECTFULLY SUBMITTED,

Crystal Ritter, Community Events Coordinator

# AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND KINGSLAKE SOUND COMPANY

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and KingSnake Sound Company ("Consultant").

**Article 1. Scope of Services** Consultant shall provide sound engineering services and equipment for community events hosted by Bloomington Parks and Recreation (the "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 1, 2019, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Consultant's work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Crystal Ritter as the Department's Project Manager. Consultant agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

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

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

**Article 4. Compensation** The Department shall pay Consultant for all fees and expenses in an amount not to exceed One Thousand Six Hundred Twenty Five Dollars (\$1625). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Crystal Ritter, City of Bloomington, 401 N. Morton, Suite 250, Bloomington, Indiana 47404. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

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

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

Sunday, April 28th- Bloomington Street Fair on Kirkwood Ave. between Indiana Ave. and Washington St.

Saturday, May 24th- Summer Sampler event in Bryan Park, 1020 S Woodlawn Ave

August- Bloomington Symphony Orchestra Concert in Waldron, Hill and Buskirk Park, 331 S Washington St

October- Bloomington Pumpkin Launch at the Monroe County Fairgrounds, 5700 W Airport Rd

Saturday, November 30th- Holiday Market at Bloomington's City Hall, 401 N. Morton St.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Department:** City of Bloomington, Attn: Crystal Ritter, 401 N. Morton, Bloomington, IN 47402. **Consultant:** KingSnake Sound Company. 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.

**Article 25: Renewal** This Agreement may be renewed for three additional one-year terms so long as none of the terms and conditions herein are modified in any way. Renewal shall only occur upon advanced written notice by the City to the Contractor that the City wishes to renew the Agreement at least thirty (30) days, but not more than sixty (60) days, prior to the end of the current term

**CITY OF BLOOMINGTON**

**KingSnake Sound Company**

---

Philippa M. Guthrie, Corporation Counsel

---

Chris Ramsey (Owner)

**CITY OF BLOOMINGTON PARKS AND RECREATION**

---

Paula McDevitt, Director

---

Kathleen Mills, President, Board of Park Commissioners

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

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

**AFFIDAVIT**

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

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

\_\_\_\_\_  
Signature

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

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

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_ day of \_\_\_\_\_, 2019.

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

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

**EXHIBIT B**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**KingSnake Sound Company**

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 \_\_\_\_\_, 2019.

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

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



## STAFF REPORT

Agenda Item: C-5  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Crystal Ritter, Community Events Coordinator  
**DATE:** January 22, 2019  
**SUBJECT:** REVIEW AND APPROVAL OF THE 2019 A FAIR OF THE ARTS EXHIBITOR AGREEMENT AND EXHIBITOR INFORMATION

### Recommendation

Staff recommends approval of the A Fair of the Arts Exhibitor Agreement and Exhibitor Information for the 2019 A Fair of the Arts season. This is an agreement between the participating artist vendors and the City of Bloomington Parks and Recreation Department detailing the expectations and policies for both parties.

### Background

A Fair of the Arts is an arts and fine crafts fair that is held the second Saturday of every month May through October in conjunction with the Bloomington Community Farmers' Market. A Fair of the Arts was established in 1998 and moved to the current location in 2000. Dates and information about the jury process for the art fair were updated for 2019.

**RESPECTFULLY SUBMITTED,**

A handwritten signature in black ink, appearing to be "Crystal Ritter", written in a cursive style.

---

Crystal Ritter, Community Events Coordinator

## **A FAIR OF THE ARTS 2019 EXHIBITOR AGREEMENT**

In consideration of the privilege to participate in A Fair of the Arts (“Fair”) for 2019, the City of Bloomington (“City”), and the undersigned exhibitor(s) (“Exhibitor”), agree to the following, and to the accompanying Fair Information, which is attached to and incorporated into this Agreement by reference as Appendix A.

### **1. ADMINISTRATION**

The Fair is administered by the Parks and Recreation Department of the City following this Agreement. The City sets fees and determines Fair policies. The Fair On-Site Supervisor oversees the Fair and has authority to assign exhibiting space, settle disputes, and disqualify exhibitors for violations of regulations.

### **2. ELIGIBILITY OF EXHIBITORS**

“Exhibitor” is a person whose works of art or whose crafts have been accepted by the Fair Jury for exhibition and sale at the Fair pursuant to this Agreement, or the immediate family of such person, as defined in this Agreement, and who has signed this Agreement.

“Immediate family” is defined in this Agreement to be a parent, child, spouse, or domestic partner of a person whose works of art or crafts have been accepted by the Fair Jury for exhibition and sale at the Fair pursuant to this Agreement.

Only individuals who are named as Exhibitors in this Agreement may exhibit and sell at the Fair. An Exhibitor may exhibit and sell only works which the Exhibitor or the Exhibitor’s immediate family has produced in accordance with the guidelines set forth in this Agreement.

The Exhibitor agrees to abide by all applicable federal, state, and local laws and ordinances, and agrees that any violation by the Exhibitor of such a law or ordinance may be deemed by the City to be a material breach of this Agreement.

### **3. WORKS PERMITTED FOR EXHIBITION AND SALE**

All works must be approved by the Fair Jury prior to exhibition and sale. All works must be original and made by the Exhibitor. Significant alteration of commercial components in any work is required. Works must be safe, be a durable good, and exhibit quality of craftsmanship. In works made from or including dried flowers, the flowers must be grown by the Exhibitor.

Unacceptable work includes: work made from kits, work made from molds not made by the Exhibitor, work made by someone other than the Exhibitor (including commercially made products, imports, and products bought for resale).

The City reserves the right to verify that works exhibited meet the above criteria. The Exhibitor must display legible price markers for works offered for sale.

### **4. REGISTRATION TO EXHIBIT AND SELL**

The Exhibitor must have signed this Agreement or be named in this Agreement or have authorized another person to sign on his behalf and have paid all applicable fees before exhibiting or selling any works. Agreements must be signed and returned to the Parks and Recreation office at 401



North Morton Street, Suite 250 (mailing address: P.O. Box 848, Bloomington, Indiana 47402) by the deadlines set forth in the Fair Information, Appendix A.

## **5. CANCELLATION AND NO SHOWS**

Any Exhibitor who cancels must notify the City **in writing**. Cancellations received **in writing** at least thirty (30) days prior to the Fair will receive a refund, less a \$15.00 administrative fee. Cancellations received with less than thirty (30) days prior to the Fair will not receive a refund. An Exhibitor's absence without prior notification will be taken into consideration when determining entrance into future fairs. There is no indoor rain location. Each Exhibitor is responsible for providing his/her own protection from the elements for work, and display of materials. There will be no refund of fees because of undesirable weather.

## **6. GIFT CERTIFICATE PROGRAM**

Exhibitors are encouraged to participate in the Farmers' Market Gift Certificate Program/Food Stamp Initiative (GCP) organized by the City. Information on the GCP is included in the Fair Information, Appendix A.

If the Exhibitor chooses to participate in the GCP, the Exhibitor agrees to attend training or read the Fair Information and abide by the rules established in the Fair Information.

The Exhibitor understands he is responsible for Gift Certificates from the time the Exhibitor receives them for payment until the time they are turned in for redemption.

## **7. APPROVED WAITLIST EXHIBITORS**

Exhibitors whose applications are submitted by the original due date and are selected to participate in at least one Fair will be considered "APPROVED WAITLIST EXHIBITORS." On Fair dates which Approved Waitlist Exhibitors are not scheduled to participate, Approved Waitlist Exhibitors will be accepted on a first come, first serve basis in the event that a confirmed Exhibitor is not at the Fair by 7:00 AM.

Approved Waitlist Exhibitors must check in with the Fair On-Site Supervisor immediately upon arriving at the Fair and then wait for further instruction. Approved Waitlist Exhibitors may arrive anytime between 6:45 AM and 7:45 AM, and are not guaranteed a spot at the Fair. If a spot should become available, payment of the Fifty-five Dollars (\$55.00) booth space rental fee is due immediately, before the Exhibitor will be allowed to set up display.

## **8. EQUIPMENT AND SUPPLIES**

Each Exhibitor must supply the Exhibitor's own tables and other display equipment. Exhibitors are required to provide a tent and four (4) proper tent weights. Tents are supplied by the Exhibitor, who is solely responsible for damages or personal injury resulting from the use thereof.

## **9. PROPERTY MAINTENANCE AND UTILIZATION**

Fair hours are 8:00 AM until 1:00 PM (9:00 AM until 1:00 PM in October) **The Exhibitor must have display set-up completed and be ready to sell by 7:00 AM (8:00 AM in October) or attendance points will not be counted and rights to guaranteed booth space will be forfeited. The Exhibitor may not begin to tear down his/her display until 1:00 PM.** The Exhibitor must vacate the premises by 3:00 PM and remove all personal items and equipment. Exhibitors must

clean litter and debris before leaving or be subject to a garbage removal fee of One Hundred Dollars (\$100.00).

#### **10. CITY'S REMEDIES FOR BREACH**

Violation of any material provision of this Agreement is a material breach and default by the Exhibitor. Upon notice by the City to the Exhibitor of the occurrence of a breach or default during Fair hours, and the Exhibitor's failure to correct the breach within a reasonable time, the Exhibitor agrees to remove personal equipment, clean the area, and vacate the Fair premises. Failure to vacate may subject the Exhibitor to civil and criminal remedies including, but not limited to, remedies for civil and criminal trespass. Upon occurrence of a material breach of this Agreement, the City reserves the right to declare this Agreement terminated, by so stating in a written notice to the Exhibitor, and to retain, as liquidated damages and not as a penalty, any fees prepaid by the Exhibitor. The City may also, in its sole discretion, determine that it will not contract with some or all of the individuals listed as Exhibitors in this Agreement to sell at the Fair in future seasons.

#### **11. COVENANT NOT TO SUE**

The Exhibitor will not institute any action or suit at law or in equity against the City or the City's agents or employees as a result of operations under this Agreement. The Exhibitor will not aid in the institution or prosecution of any claim for damages, costs, loss of services, expenses, or compensation for or on account of any damages, loss or injury to person or property as a result of operation under this Agreement.

#### **12. INDEMNIFICATION**

The Exhibitor hereby agrees to indemnify, hold harmless, release, waive, and forever discharge the City of Bloomington, Indiana, its employees, agents, and officers, and the members of the Fair Steering Committee and Fair Jury, for all bodily and personal injuries, including injuries resulting in death, and property damage, claims actions, damages, liabilities, and expenses, including reasonable attorney fees and court costs, which may occur as a result of the Exhibitor's participation in the Fair, whether or not sounding in tort or contract, and whether or not caused by a negligent act or omission of the City of Bloomington, its employees, agents, or officers, or the Fair Steering Committee or the Fair Jury.

***\*PLEASE SAVE THIS COPY FOR YOUR RECORDS***

<b>EXHIBITOR COPY</b> - - - - -
------------------------------------

**SIGNATURES**

**Exhibitor Information**

\_\_\_\_\_  
Print full name of each Exhibitor (Primary Exhibitor)

\_\_\_\_\_  
(Additional Exhibitors)

Print mailing address(es)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Exhibitors' phone number(s) \_\_\_\_\_

**This Agreement is effective when both the Exhibitor and the Administrator of the Bloomington Parks & Recreation Department have signed and dated it.**

\_\_\_\_\_  
Primary Exhibitor's Signature      Date  
Market Registrant

\_\_\_\_\_  
Additional Exhibitor's Signature      Date  
Market Registrant

\_\_\_\_\_  
Additional Exhibitor's Signature      Date

\_\_\_\_\_  
Additional Exhibitor's Signature      Date

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

The above-signed Primary Exhibitor gives the City permission to release my name, address and phone number to customers interested in contacting you for information and/or special orders?

Yes \_\_\_\_\_ No \_\_\_\_\_

**Initial one:**      Exhibitor chooses to participate in the Gift Certificate Program      \_\_\_\_\_  
                         Exhibitor chooses NOT to participate in the Gift Certificate Program      \_\_\_\_\_

**\*(SEND THIS PAGE OF THE AGREEMENT BACK TO CRYSTAL RITTER ALONG WITH PAYMENT. BOOTH SPACE WILL NOT BE SECURED UNTIL THE SIGNED AGREEMENT AND FULL PAYMENT HAVE BEEN RECEIVED.)**

**SIGNATURES**

**Exhibitor Information**

\_\_\_\_\_  
Print full name of each Exhibitor (Primary Exhibitor)

\_\_\_\_\_  
(Additional Exhibitors)

\_\_\_\_\_  
Print mailing address(es)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Exhibitors' phone number(s)\_\_\_\_\_

**This Agreement is effective when both the Exhibitor and the Administrator of the Bloomington Parks & Recreation Department have signed and dated it.**

\_\_\_\_\_  
Primary Exhibitor's Signature      Date  
Market Registrant

\_\_\_\_\_  
Additional Exhibitor's Signature      Date  
Market Registrant

\_\_\_\_\_  
Additional Exhibitor's Signature      Date

\_\_\_\_\_  
Additional Exhibitor's Signature      Date

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

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

The above-signed Primary Exhibitor gives the City permission to release my name, address and phone number to customers interested in contacting you for information and/or special orders?

Yes \_\_\_\_\_ No \_\_\_\_\_

**Initial one:**      Exhibitor chooses to participate in the Gift Certificate Program      \_\_\_\_\_  
                         Exhibitor chooses NOT to participate in the Gift Certificate Program      \_\_\_\_\_

## **A FAIR OF THE ARTS 2019 EXHIBITOR INFORMATION**

### **Appendix A**

#### **FAIR DATES AND HOURS**

A Fair of the Arts takes place on the second Saturdays of each month during the Bloomington Community Farmers' Market season: May 11, June 8, July 13, August 10, and September 14 from 8 AM until 1 PM and October 12 from 9 AM until 1 PM.

#### **FAIR SITE**

A Fair of the Arts takes place on Showers Civic Plaza at 401 North Morton Street in Bloomington, Indiana, (adjacent to the Showers Building, between Eighth and Ninth Streets and The City of Bloomington City Hall building).

#### **CONTRACT**

All Exhibitors selling at A Fair of the Arts are required to sign the 2019 A Fair of the Arts Exhibitor Agreement in advance of selling at any fair. Spaces will not be secured until payment and contracts have been received. The information on the contract is public record.

#### **SELECTION OF ARTIST FOR A FAIR**

Artists are selected through a jury process. The jury will be comprised of local individuals who have vested interest in A Fair of the Arts and/or the local arts. The jury will score and select artists using the applications and photos submitted by artists.

The following criteria will be used to select artists for A Fair of the Arts.

1. **Product Guidelines** - Work meets guidelines established in contract (see contract section 3 "Works Permitted for Exhibition and Sale"). All works must be created by the exhibitor.
2. **Style of Work** - Applications will be divided into 10 categories (clay, drawing/painting/photography, fiber arts, glass, jewelry, metalwork/woodwork, natural materials, recycled arts, surface decoration, and personal care). Artists must choose ONE category that best represents the majority of product created and sold. A minimum of 80% of the product the artist sells must be within that category. Artists may apply to sell in multiple categories. Artists applying in multiple categories must fill out an application and pay all applicable fees for each category in which they apply.
3. **Quality of Work** - Works must be safe, be a durable good, and exhibit quality of craftsmanship. Works will be juried based on application materials submitted.
4. **Price Range** - Consideration is given to artists who include reasonably priced pieces.
5. **Variety of Artists** - Consideration will be given to including a variety of qualified artists and styles of work.

#### **UNLOADING, LOADING, AND PARKING**

Exhibitors may idle their vehicles along the west side of Morton Street facing south beginning at 6:00 AM to unload (7:00 AM in October). After unloading, please move vehicle to the IU EMS permit lot off Morton Ave., which can be entered from the 9<sup>th</sup> Street and Morton Ave. alley. At the end of the day exhibitors may once again idle their vehicles in the same way beginning at 1 PM.

*Artists must check-in by 7:00 AM (8:00 AM in October) unless written arrangements have been made and confirmed by the event coordinator before 4 PM on the Friday before the event. Reserved spaces can be given to an artist on the waitlist after that time. If you are running late, contact the cell phone of the event organizer BEFORE 7:00 AM. The number to call will be provided by email several days before each show.*

All exhibits must be set-up by 7:30 AM and Exhibitors may not begin to tear displays down until 1 PM. Exhibitors must vacate the premises by 3:00 PM.

A landscaping cart is available for use during loading and unloading.

### **ASSIGNMENTS AND LIMITS OF SPACE**

Each Exhibitor is limited to one reserved space unless otherwise assigned. Each space is 10' x 10' in size.

### **WAIT LIST**

All artists on the approved wait list may arrive on the morning of A Fair of the Arts to fill an available space. If a spot should become available, payment of the Fifty-five Dollars (\$55.00) booth space rental fee is due immediately. The spots will be assigned by the On-Site Supervisor on a first come, first served basis starting at 7:00 AM (8:00 AM in October).

### **CANCELLATIONS**

Any Exhibitor who cancels must notify the City **in writing**. Cancellations received **in writing** at least thirty (30) days prior to the Fair will receive a refund, less a \$15.00 administrative fee. Cancellations received with less than thirty (30) days prior to the Fair will not receive a refund. An Exhibitor's absence without prior notification will be taken into consideration when determining entrance into future fairs. There is no indoor rain location. Each Exhibitor is responsible for providing his/her own protection from the elements for work, and display of materials. There will be no refund of fees because of undesirable weather.

### **GIFT CERTIFICATES**

Exhibitors are encouraged to participate in the Gift Certificate Program (GCP) offered by Parks. Customers can purchase Market Gift Certificates, vouchers which are valued at \$5 or \$20 each, good towards the purchase of products at both the Bloomington Community Farmers' Market and A Fair of the Arts. Customers can purchase Gift Certificates with cash or check during Market hours at the Parks and Recreation information table or in the Parks and Recreation main office in City Hall, Monday - Friday from 8:00 AM – 5:00 PM with cash, check or credit card. Gift Certificates are good for one year from date of issue. *Exhibitors may give change for Gift Certificate purchases.*

***DO NOT ACCEPT THE BLUE "MARKET BUCKS" FOR ART WORK. THEY ARE FOR ELIGIBLE FOOD ITEMS ONLY.***

#### **GCP Participation**

***In order to participate Exhibitors must:*** 1) Indicate on Exhibitor Contract intention to participate on your 2019 A Fair of the Arts Exhibitor Agreement. 2) Attend a training or read and understand the Gift Certificate information in this information sheet. Trainings are available on an individual bases at A Fair of the Arts or by appointment. 3) All vendors who wish to participate in GCP must complete the City's W-9 and Electronic Funds Transfer (EFT) approval form. This form will be emailed to all accepted Exhibitors. If you prefer to receive one by mail, please contact the fair administrator.

#### **Redeeming Gift Certificates for Payment**

Once W-9 and EFT forms have been processed, vendor will receive a Vendor Card. Present this card along with Gift Certificate at the time of redemption. You may redeem these vouchers on Bloomington Community Farmers' Market Saturdays in the atrium of Bloomington's City Hall from 8:00 AM – 12:30 PM (9:00 AM -12:30 PM in October.) At the Holiday Market, redemptions

may be turned in at the Market Information Table from 10:00 AM – 3:00 PM. All Gift Certificates should be submitted at Market no later than the Holiday Market (November 30, 2019).

### **Payment Disbursement**

The City of Bloomington processes the redemption forms every two weeks. Vendors will receive an EFT for the value for the redemption within four to six weeks. Vendors with email will receive an email notifying them that the funds will be available through an electronic transfer directly to their bank account on a specified date.

### **FEES**

Each Exhibitor pays a fee of \$55.00 per Saturday. Fees cover direct costs of the Fairs.

### **RECEIPTS AND COMMISSIONS**

Exhibitors should issue receipts when customers request them. Commissions on sales are not collected.

### **TAXES**

Exhibitors are responsible for collecting required taxes and for keeping appropriate records. Indiana Department of Revenue Registered Retail Merchants Certificate applications are available by calling (317) 232-2165.

### **DEMONSTRATIONS**

Exhibitors are encouraged to provide demonstrations of their art or craft with prior approval. An area will be made available for such demonstrations if necessary.

### **BOOTH SITTERS**

Booth sitters are available to enable Exhibitors to take restroom and food breaks.

### **HAWKING**

Vociferous hawking and selling outside of booth space is not allowed.

### **ELECTRONIC MUSIC**

Audible music from radios, tape players, or CD players is strictly prohibited.

### **FAIR STAFF**

There will be an on-site supervisor at each fair. Questions or comments during the business week will be welcomed by the fair administrator:

Crystal Ritter  
City of Bloomington Parks and Recreation Department  
401 North Morton Street, Suite 250  
(812) 349-3725  
ritterc@bloomington.in.gov



## STAFF REPORT

Agenda Item: C-6  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Crystal Ritter, Community Events Coordinator  
**DATE:** January 22, 2019  
**SUBJECT:** REVIEW AND APPROVAL OF THE 2019 PERFORMING ARTS SERIES PERFORMANCE AGREEMENT

### Recommendation

Staff recommends approval of the 2019 Performing Arts Series Performance Artist Agreement. This agreement outlines the policies and expectations for the performing artists who participate in the summer Performing Art Series, Peoples Park Concert Series and perform at other Parks events. As well as outlining the policies and expectations for Parks and Recreation Department as we host these events.

### Background

For the past 38 years, the Bloomington Parks and Recreation Department has brought free concerts to our community parks through the Performing Arts Series and, for the last 13 years, through the People's Park Concert Series. This agreement is used for the performers for the Performing Arts Series, the Peoples Park Concert Series, Nature Sounds concerts, and for special events. There are no significant changes to this year's agreement. Dates were updated for 2019.

**RESPECTFULLY SUBMITTED,**

A handwritten signature in black ink, appearing to be "Crystal Ritter", is written over a horizontal line.

Crystal Ritter, Community Events Coordinator



**2019 PERFORMING ARTS SERIES**  
**ARTIST ENGAGEMENT AGREEMENT**

This Agreement, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between \_\_\_\_\_, (“Artist”) and the City of Bloomington Parks and Recreation Department (“City”) WITNESSETH:

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

WHEREAS, the Artist wishes to perform in the City’s series.

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

1. Payment: Weather-Related Cancellation. The City agrees to pay to the Artist an honorarium in the amount of \$\_\_\_\_.00 Dollars for the Performance. The Artist agrees to provide The City with appropriate information to enroll the Artist in the City’s payment system as well as provide an invoice to the City for the contract amount. Payment should be made to \_\_\_\_\_.

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

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

**Performance Day:**

**Performance Date:**

**Performance Location:**

**Arrival Time:**

**Rehearsal Time:**

**Performance Time:**

**Length of Performance:**

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

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

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

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

4. Independent Contractor; Control of Performance. During the term of this Agreement the Artist shall be an independent contractor, and not an employee of City. City shall not withhold any federal or state income taxes, social security or any other federal or state payments. The Artist shall have exclusive control over the means, method and details of fulfilling the Artist's obligation under this Agreement, except for performance time, date and minimum and maximum length of the Performance.
5. Indemnification. The Artist shall defend, indemnify and hold harmless the City, the City of Bloomington Board of Park Commissioners, and their employees, agents and officers from any and all claims, damages, costs, attorney fees, and other liability arising out of this Agreement, even if arising from the negligence of releasees, or caused by the reckless, negligent or intentional actions or omissions of the Artist during the performance of, and in connection with, this Agreement, including any claim for infringement of copyright, patent right or other property right.
6. General. Bloomington Municipal Code sections 6.12.030 and 14.36.090, respectively, prohibit smoking in public places and the consumption of alcoholic beverages on City of Bloomington property.

The possession of alcoholic beverages, drugs and other illegal controlled substances, fireworks, air rifles, paintball guns, bow and arrows, cross bows, swords, and pellet guns is strictly prohibited in any park or park facility. In addition, pursuant to Bloomington Municipal Code 14.20.020, the discharge of a firearm is strictly prohibited within the City's jurisdiction. Amplified music, or the promotion or sale of any article is expressly prohibited without a Special Use Permit.

7. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Indiana, and by all applicable municipal ordinances or codes of the City and of Monroe County. Suit, if any, shall be brought in Monroe County, Indiana.
8. State Immigration Law Requirements. Ind. Code 22-5-1.7-11(a) requires the City to obtain the following from business entities who have employees before it enters into a contract for services with those entities:
  - documentation that the business entity has enrolled in and participates in the E-verify program, unless the E-verify program no longer exists; and
  - an affidavit, provided in Appendix A, affirming that the business entity does not currently knowingly employ an immigrant who is not authorized to work in the U.S.

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

Contact -- City:

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

Contact – Artist:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

**ARTIST:**

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

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

**CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT**

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

Paula McDevitt, Director

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

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

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

## APPENDIX A

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

# AFFIDAVIT

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

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

Signature

Printed name

[illegible]

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_ day of \_\_\_\_, 2019.

Notary Public

Printed name

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

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



## STAFF REPORT

Agenda Item: C-7  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Sarah Mullin, Community Events Program Specialist  
**DATE:** 1/22/19  
**SUBJECT:** REVIEW AND APPROVAL OF THE PARTNERSHIP AGREEMENT  
WITH HILLTOP GARDEN AT INDIANA UNIVERSITY

### Recommendation

Staff recommends approval of the Partnership Agreement with Hilltop Garden at Indiana University. The purpose of this Agreement is to establish a partnership that supports collaborative garden education programming and a sharing of resources between Bloomington Parks & Recreation Department and Hilltop Garden at Indiana University.

### Background

The Partnership Agreement with Hilltop Gardens allows for Parks Department use of indoor and outdoor space at Hilltop for garden education, cross-promotion of events, and collaboration among staff. This spring, three gardening classes will be offered by the Parks Department at Hilltop Garden.

RESPECTFULLY SUBMITTED,

A handwritten signature in blue ink, reading "Sarah S. Mullin".

---

Sarah Mullin, Community Events Program Specialist



## **COOPERATION SERVICES AGREEMENT PROGRAM/ FACILITY PARTNERSHIP**

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

This Agreement is made and entered into this \_\_\_\_ day of January, 2019 by and between the City of Bloomington Parks & Recreation Department (“BPRD”), and The Trustees of Indiana University, which operates Hilltop Gardens at Indiana University (“Hilltop”).

WHEREAS, the BPRD and Hilltop desire to cooperate in providing gardening classes; and

WHEREAS, Hilltop is dedicated to reaching out into the community to promote garden programs and classes for the general public; and

WHEREAS, the BPRD would like to expand gardening class offerings to incorporate more hands-on experience; and

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

NOW THEREFORE, the partners do mutually agree as follows:

### **Purpose of Agreement:**

The purpose of this Agreement is to establish a partnership which will provide for collaborative programming and a sharing of resources to better serve the community.

### **1.0 Duration of Agreement:**

The term of this Agreement shall begin January 1, 2019 and run through December 31, 2019. The partners may agree to renew or extend the term of this Agreement in writing only.

### **2.0 Bloomington Parks & Recreation Department Agrees to:**

- a. Maintain close communication with Hilltop staff, and bring any related issues to their attention.
- b. Assist with the distribution of promotional materials produced by BPRD, including flyers and registration information.
- c. Register all program participants, collect class charges and fees through the BPRD, maintain a database of registrant information, and distribute class information to participants.

- d. Provide up-to-date program publicity by publishing information in the BPRD's seasonal program brochure and on its website.
- e. Provide and pay instructors to teach gardening classes for the Community Garden Program (CGP) offered at Hilltop Gardens.
- f. Provide a site supervisor for all CGP programs.

### **3.0 Hilltop Gardens at Indiana University Agree to:**

- a. Maintain close contact with BPRD staff, and address with them any related facility issues.
- b. Assist with identifying potential instructors and coordinating class schedules for CGP.
- c. Assist with the distribution of promotional materials, including flyers and registration information.
- d. Provide program publicity on CGP programs on the Hilltop Gardens website.
- e. Provide the facility where the classes will be taught, and the appropriate garden area for seed starting, planting, maintenance and other class and event activities.
- f. Coordinate with BPRD the provision of any gardening tools necessary for class use, which include, but are not limited to, wheelbarrows, shovels, and rakes.
- g. Provide a safe, clean, and accessible facility that includes trash removal and restroom cleaning.
- h. Provide the BPRD staff with means to access and lock the facility. In the event this Agreement is terminated by either party, the method of access will be released back to Hilltop within 30 days of termination.

### **4.0 Agreement Terms Mutually Agreed to By Both Partners:**

- a. All marketing/promotional materials and public relations information will be shared between both partners involved **prior to** any advertising.
- b. BPRD and Hilltop staff will coordinate class schedules for the CGP.
- c. The staff and personnel involved in this Agreement will at all times represent themselves to this Agreement in a professional manner, and reflect the commitment of both partners to quality services and customer satisfaction
- d. Both partners agree that the following policies will apply to all activities undertaken at Hilltop pursuant to this Agreement:
  - 1. Indiana University Bloomington campus firearm policy, which prohibits

introducing, possessing, using, buying, or selling unauthorized weapons in university facilities and at university activities regardless of whether the owner has a valid state permit to carry the firearm.

2. Indiana University Bloomington campus prohibitions of smoking and the consumption of alcoholic beverages shall apply to all participants in and visitors to gardening classes.
  3. Indiana University Bloomington campus tobacco policy, which prohibits the use or sale of tobacco on university-owned, -operated, and -leased property as well as in university-owned, -operated, and -leased vehicles.
  4. Indiana University Bloomington campus substance-free policy, which prohibits the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance or alcohol on university property or while conducting university business off university property.
  5. Pursuant to Ind. Code 22-5-1.7-11(a), BPRD and Hilltop shall enroll in and verify the work eligibility status of all newly hired employees through the E-Verify program. None of the Partners to this Agreement are required to continue this verification if the E-Verify program no longer exists.
- g. The Parties acknowledge and agree that, as of the execution date of this MOU, BPRD is planning only programming for adult participants at Hilltop. BPRD acknowledges that the University has adopted a policy entitled Programs Involving Children, a copy of which is attached ("PIC Policy"). Additional resources and information concerning the Policy, may be found at: <http://policies.iu.edu/policies/categories/administration-operations/public-safety-institutional-assurance/PS-01.shtml> BPRD agrees that if it adds programming that is directed at youth participation, including one-off events, it will comply with the PIC policy.

## **5.0 Insurance**

The Trustees of Indiana University and City of Bloomington Parks & Recreation Department shall furnish each other with a certificate of insurance upon execution of this partnership Agreement. Each party will maintain comprehensive general liability insurance.

## **6.0 Termination**

- a. Termination by mutual agreement: The partners may terminate this Agreement prior to December 31, 2019 by mutual written agreement only.
- b. In the event that one of the partners to this Agreement breaches any of its terms and conditions, the other party shall serve written notice of the breach to the other party by certified mail. The offending party shall then have ten (10) days from the date of mailing in which to cure the breach. If the breach is not cured within ten days, the non-breaching party may, at its option and in writing, unilaterally terminate this



Agreement.

## 7.0 Notice

a. Notice regarding any significant concerns or issues of non-compliance shall be given to:

**Bloomington Parks & Recreation**

Becky Higgins  
401 N. Morton, Suite 250  
Bloomington, IN 47404  
barrickb@bloomington.in.gov  
812-349-3713

**Hilltop Gardens at Indiana University**

Mia Williams  
Indiana University  
Service Building, 1800 N. Range Road  
Bloomington, IN 47405  
812-855-1266

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

**Bloomington Parks & Recreation**

Sarah Mullin  
812-349-3704  
mullins@bloomington.in.gov

**Hilltop Gardens at Indiana University**

Lea Woodard  
812-855-8808  
lemawood@indiana.edu

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

**CITY OF BLOOMINGTON**

**THE TRUSTEES OF INDIANA  
UNIVERSITY**

---

Kathleen Mills, President  
Board of Park Commissioners

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Donald S. Lukes, Treasurer

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Paula McDevitt, Director  
Bloomington Parks and Recreation

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Mia Williams,  
University Landscape Architect

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Philippa M. Guthrie, Corporation Counsel



## STAFF REPORT

Agenda Item: C-8 Date: 1/17/2019
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Administrator Review\Approval PM
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**TO:** Board of Park Commissioners  
**FROM:** Sarah Mullin, Community Events Program Specialist  
**DATE:** 1/22/19  
**SUBJECT:** **REVIEW AND APPROVAL OF THE PARTNERSHIP AGREEMENT  
WITH THE PLANT-A-ROW PROGRAM**

### **Recommendation**

Staff recommends approval of the Partnership Agreement with the Plant-A-Row Program. The purpose of this agreement is to establish a partnership that encourages members of the community to share the bounty of their gardens with local people in need of fresh, nutritious foods. Plant-A-Row partners include Hoosier Hills Food Bank, Mother Hubbard's Cupboard, Hilltop Garden at Indiana University, and Bloomingfoods.

### **Background**

Plant-A-Row is a national public service campaign that encourages farmers and gardeners to donate extra produce to local food pantries and food banks. In 2018, the Bloomington Plant-A-Row program donated over 20,000 pounds of fresh produce to local people experiencing food insecurity.

**RESPECTFULLY SUBMITTED,**

*Sarah S. Mullin*

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Sarah Mullin, Community Events Program Specialist



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

**MEMORANDUM OF UNDERSTANDING BETWEEN PARTNERS IN SUPPORT  
OF PLANT A ROW FOR THE HUNGRY, A COMMUNITY PROGRAM**

**Partner(s):**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between the Bloomington Parks & Recreation Department by its Board of Park Commissioners (“BPRD”), Hilltop Gardens at Indiana University (“Hilltop”), Bloomingfoods Market and Deli (“Bloomingfoods”), Mother Hubbard's Cupboard (“MHC”) and Hoosier Hills Food Bank (“HHFB”).

WHEREAS, the BPRD, Hilltop, Bloomingfoods, MHC and HHFB desire to cooperate in the implementation of a community support program, Plant a Row for the Hungry (“PAR”), in order to provide people in need with fresh, locally produced food; and

WHEREAS, BPRD may from time to time develop partnerships with non-City organizations in order to promote such support addressing local food security; and

WHEREAS, BPRD has partnered with Hilltop, Bloomingfoods, MHC and HHFB in past years in order to support this joint community service, and the parties desire to continue their partnership; and

WHEREAS, it is in the public interest that such partnership continue.

NOW THEREFORE, in consideration of the terms and conditions set forth herein, the parties agree as follows:

**1. PURPOSE OF AGREEMENT**

The purpose of this Agreement is to outline a program partnership which will encourage members of the Bloomington community and vendors at the Bloomington Community Farmers' Market to grow food with the intention of donating it to those in need, by means of HHFB's existing distribution system available to people in need.

**2. DURATION OF AGREEMENT**

This Agreement shall begin on January 1, 2019 and run through December 31, 2019, unless early termination occurs as described in paragraph 11, below.

**3. BLOOMINGTON PARKS AND RECREATION**

The goal of BPRD is to assist with the implementation of PAR in order to provide people in need with fresh, locally produced food. BPRD agrees to:

- a. Promote PAR in its Program Guide and in newsletters to Community Gardening Program participants and Farmers' Market vendors, listing all partners to the Agreement as co-sponsors in all publicity.

- b. Have the Bloomington Community Farmers' Market serve as a drop-off site for produce grown by PAR participants.
- c. Maintain an e-mail list of PAR organizers.
- d. Provide one (1) staff person to participate in meetings and assist with events associated with PAR.

**4. HILLTOP GARDENS AT INDIANA UNIVERSITY**

The goal of Hilltop is to assist with the implementation of PAR in order to provide people in need with fresh, locally produced food. Hilltop agrees to:

- a. Promote PAR to visitors at the center and participants in its community garden program.
- b. Provide participants in the Family Gardening Program with information about PAR.
- c. Provide one (1) staff person to participate in meetings and assist with events associated with PAR.

**5. BLOOMINGFOODS MARKET AND DELI**

The goal of Bloomingfoods is to assist with the implementation of PAR in order to provide people in need with fresh, locally produced food. Bloomingfoods agrees to:

- a. Promote PAR in its e-newsletter (including an article in the Bloomingfoods newsletter), listing all partners to the Agreement as co-sponsors.
- b. Provide one (1) staff person to participate in meetings and assist with events associated with PAR.

**6. MOTHER HUBBARD'S CUPBOARD**

The goal of MHC is to assist with the implementation of PAR in order to increase its access to fresh fruits and vegetables through the HHFB, enabling MHC to provide high quality food to people in need. MHC agrees to:

- a. Promote PAR to clients and visitors at the pantry and at various events in the community.
- b. Serve as a drop-off site for produce grown by PAR participants.
- c. Provide one (1) staff person to participate in meetings and assist with events associated with PAR.

**7. HOOSIER HILLS FOOD BANK**

The goal of HHFB is to assist with the implementation of PAR in order to provide people in need with fresh, locally produced food. HHFB agrees to:

- a. Coordinate the collection of produce donations at the drop-off sites and track the number of pounds donated.
- b. Serve as a drop-off site for produce grown by PAR participants.

- c. Provide one (1) staff person to participate in meetings and assist with events associated with PAR.

**8. TERMS MUTUALLY AGREED TO BY ALL PARTNERS IN THIS AGREEMENT**

The intent of this Agreement is to document a mutually beneficial partnership between BPRD, Hilltop, Bloomingfoods, MHC and HHFB.

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. The commitment of personnel, facilities, supplies/materials and payments will be honored according to the timetable agreed upon by all partners.

Any activities covered by this Agreement and taking place in any park or park facility are subject to the following policies: The possession of alcoholic beverages, drugs and other illegal controlled substances, fireworks, air rifles, paintball guns, bow and arrows, cross bows, swords, and pellet guns is strictly prohibited in any park or park facility. In addition, pursuant to Bloomington Municipal Code 14.20.020, the discharge of a firearm is strictly prohibited within the City's jurisdiction. Amplified music, or the promotion or sale of any article is expressly prohibited without a Special Use Permit.

**9. INSURANCE**

Each partner shall furnish to BPRD, and BPRD shall furnish to each partner, a certificate of insurance upon execution of this partnership Agreement. Each partner will maintain comprehensive general liability insurance. Any Partner whose participation is limited to promotion of the program is exempted from this requirement.

**10. NOTICE AND AGREEMENT REPRESENTATIVES**

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

Bloomington Parks & Recreation  
Rebecca Barrick  
401 N. Morton St., Ste. 250  
Bloomington, IN 47404  
812-349-3713

Hoosier Hills Food Bank  
Dan Taylor  
2333 W. Industrial Park Dr.  
Bloomington, IN 47401  
812-334-8374

Hilltop Garden at Indiana University  
Mia Williams  
1800 N. Range Rd.  
Bloomington, IN 47408  
812-855-1266

Bloomingfoods Market and Deli  
Dee Bohler  
316 W. 6th St.  
Bloomington, IN 47404  
812-333-7312

Mother Hubbard's Cupboard  
Amanda Nickey  
1100 W. Allen St. Suite A  
Bloomington, IN 47404  
812-355-6843

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

Bloomington Parks & Recreation  
Sarah Mullin  
401 N. Morton St., Ste. 250  
Bloomington, IN 47404  
812-349-3704

Hoosier Hills Food Bank  
Dan Taylor  
2333 W. Industrial Park Dr.  
Bloomington, IN 47401  
812-334-8374

Hilltop Gardens at Indiana University  
Lea Woodard  
2367 E. 10th St.  
Bloomington, IN 47405  
812-855-8808

Bloomingfoods Market and Deli  
Dee Bohler  
316 W. 6th St.  
Bloomington, IN 47404  
812-333-7312

Mother Hubbard's Cupboard  
Erika Wheeler  
1100 W. Allen St. Ste. A  
Bloomington, IN 47404  
812-355-6843

Any partner may terminate this Agreement upon giving written notice of the intention to do so one (1) month prior to the intended date of termination.

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

**CITY OF BLOOMINGTON**

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

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

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

**HOOSIER HILLS FOOD BANK**

**HILLTOP GARDEN AND NATURE  
CENTER**

\_\_\_\_\_  
Dan Taylor, Assistant Director  
Landscape Architecture at Indiana University

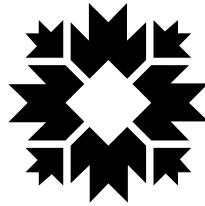
\_\_\_\_\_  
Mia Williams, Director,

**MOTHER HUBBARD'S CUPBOARD**

**BLOOMINGFOODS MARKET AND DELI**

\_\_\_\_\_  
Amanda Nickey, President and CEO

\_\_\_\_\_  
Dee Bohler, Interim General Manager



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-9  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Marcia Veldman, Program Coordinator  
**DATE:** January 22, 2019  
**SUBJECT:** PREPARED FOOD AND FOOD TRUCK VENDOR CONTRACT TEMPLATE

### Recommendation

Staff recommends approval of the Agreement for Prepared/Processed Food and Beverage Vending contract template and the Agreement for Food Truck/Push Cart Vending contract template for the Farmers' Market.

### Background

Each year the Market utilizes a Request for Proposal process to assist in the selection of prepared food and food truck vendors to sell at the Market. The deadline for proposals for the 2019 season is January 29, 2019.

**RESPECTFULLY SUBMITTED,**

---

Marcia Veldman, Program Coordinator

## **Agreement for Prepared/Processed Food and Beverage Vending Bloomington Community Farmers' Market**

This Agreement, entered into this \_\_\_\_ day of February, 2019, by and between the City of Bloomington Parks and Recreation Department ("Parks") and Prepared/Processed Food and Beverage Vendor ("Food Vendor"),

### **WITNESSETH:**

WHEREAS, Parks manages the Bloomington Community Farmers' Market ("Market") at Showers Common, 401 North Morton Street, Bloomington, Indiana; and

WHEREAS, the Food Vendor wishes to operate a stand in this location.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

#### **A. TERM OF AGREEMENT**

The term of this Agreement shall begin on April 6, 2019 and end on November 23, 2019. The terms of this Agreement may be extended one (1) additional year if agreeable to both parties. The extension, however, is not automatic and must be agreed to in writing by both parties.

#### **B. FOOD VENDOR'S RESPONSIBILITIES**

1. **Vending Fee:** Food Vendor shall pay Parks a vending fee of ten percent (10%) of gross proceeds. The fee shall be paid monthly on or before the 15<sup>th</sup> of the month following the month gross proceeds were collected. In addition to the payment of ten percent (10%) of gross proceeds, the Food Vendor shall include documentation of gross proceeds earned at each Market.
2. **List and Price:** The Food Vendor shall furnish Parks with a complete list of product to be sold and prices charged per item by March 25, 2019. Such product list and pricing is subject to the approval of the Parks Administrator. The Food Vendor must display legible price markers for goods offered for sale.
3. **Insurance:** The Food Vendor 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) per occurrence and two million dollars (\$2,000,000) in the aggregate. The policy shall name the City of Bloomington and the Food Vendor as insured parties, and the Food Vendor shall provide Parks with a certificate of insurance prior to the commencement of operations under this Agreement. The Food Vendor and its insurer shall notify Parks within ten (10) days of any insurance cancellation.
4. **Employees:** The Food Vendor shall employ all personnel necessary for the operation of the food stand, and shall pay all necessary wages and payroll tax for



such employees. Food stand attendants must be a minimum of sixteen (16) years of age.

5. **Recordkeeping:** The Food Vendor shall keep and maintain accurate records reflecting the revenues of the food stand. These documents shall be open to inspection at all reasonable times by authorized agents of Parks.

On or before August 15, 2019 Food Vendor shall provide Parks with documentation regarding the sourcing of Indiana grown product for the 2019 season to date, including the types of products purchased and the names of the farms from which they were purchased.

6. **Rules and Regulations:** The Food Vendor shall also comply with all local, state and federal laws, including health codes regarding preparation of food, operation of open-air stand and employment of all personnel.

The Food Vendor shall obtain all necessary permits from Monroe County Health Department, Indiana Alcohol and Tobacco Commission, Federal Tax and Trade Bureau, Indiana State Excise Tax Police, and from any and all other controlling agencies or boards, prior to commencement of operations under this Agreement. Copies of pertinent permits shall be submitted along with the signed copy of the contract.

If the Food Vendor is selling as a Home Based Vendor, Food Vendor is responsible for ensuring all products are “non-potentially hazardous foods” and are required to have an analysis completed to determine if a product in question is indeed a “non-potentially hazardous food” and provide written report of said analysis.

7. **Days and Hours of Operation:** The Food Vendor agrees to attend and sell at Market each and every Saturday beginning April 6, 2019 through September 28, 2019 from 8:00 am until 1:00 pm, and October 5, 2019 through November 23, 2019 from 9:00 am until 1:00 pm.
8. **Entering and Exiting the Market:** The Food Vendor must occupy the assigned space by 15 minutes prior to Market opening time. The Food Vendor may park along the curb next to B-Line plaza to unload. The vehicle must be removed from the curb by a schedule set in advance of the season.
9. **Assignments and Limits of Space:** The Food Vendor will be assigned by Parks one vending space limited to 10 feet wide by 10 feet deep prior to commencement of this Agreement.
10. **Gift Certificate Program/SNAP:** The Food Vendor agrees to participate in the Farmers’ Market Gift Certificate Program/SNAP (GCP/SNAP) organized by the City. A Farmer/Prepared Food Vendor Training Guide will be provided. The

Food Vendor agrees to read the Training Guide and abide by the rules established in the Training Guide. Completion of a Substitute W9 form and Electronic Funds Transfer form is necessary for first-time participants in the GCP/SNAP. If the Food Vendor has participated in previous years, no further paperwork is necessary.

11. **Property Maintenance and Utilization:** The Food Vendor must vacate premises by 2:00 pm and remove all personal items and equipment. The Food vendor must remove all recyclable and compostable materials from site. The Food Vendor must protect brick pavers within vending space from soiling due to food and beverage spills. The Food Vendor must ensure that weather protection devices are securely anchored. The Food Vendor must utilize compostable serving materials whenever possible.
12. **Indemnification:** The Food Vendor hereby agrees to release, hold harmless, and forever indemnify the City of Bloomington, its Department of Parks and Recreation, and its employees, officers, agents and assigns from any and all claims, causes of action, suits, proceedings or demands which may arise from or in any way be connected to Food Vendor's activities under this Agreement, even if arising from the negligence of releasee. This release, hold harmless and indemnification includes claims which may be brought by any third party against the City of Bloomington and its related entities as set forth above.
13. **Verification of New Employees' Immigration Status:** The Food Vendor 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). The Food Vendor shall sign an affidavit, attached as Exhibit A, affirming that The Food Vendor 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.

The Food Vendor and any subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Food Vendor or subcontractor subsequently learns is an unauthorized alien. If the City obtains information that the Food Vendor or subcontractor employs or retains an employee who is an unauthorized alien, the City shall notify the Food Vendor or subcontractor of the contract violation and require that the violation be remedied within 30 days of the date of notice. If the Food Vendor or subcontractor verified the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that the Food Vendor or subcontractor did not knowingly employ an unauthorized alien. If the Food Vendor or subcontractor fails to remedy the violation within the 30 day period, the City shall terminate the contract, unless the City or City 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 Food Vendor or subcontractor is liable to the City for actual damages.

The Food Vendor shall require any subcontractors performing work under this contract to certify to the Food Vendor 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. The Food Vendor shall maintain on file all subcontractors' certifications throughout the term of the contract with the City.

**C. RESPONSIBILITY OF PARKS**

Parks shall not invoice the Food Vendor for ten percent (10%) of gross sales.

**D. ASSIGNMENT OF AGREEMENT**

The Food Vendor shall not assign or sub-contract this Agreement or any of its terms, except with prior written approval of the Parks Administrator.

**E. BREACH OF AGREEMENT**

In the event one of the parties to this Agreement breaches any of its terms and conditions, the non-breaching party shall serve written notice of the breach to the other party by certified mail. The offending party shall then have seven (7) days from the date of mailing in which to cure the breach. If the offending party fails to cure the breach within seven (7) days, the non-breaching party may, at its option and in writing, unilaterally terminate the Agreement.

**F. TERMINATION**

1. **Termination by mutual agreement:** The parties may terminate this Agreement prior to November 23, 2019 by mutual written agreement.

**G. MISCELLANEOUS**

1. **Enforcement:** In the event that either party must resort to litigation in order to enforce the terms of this Agreement, the party found to be in breach of the Agreement shall bear expenses of such litigation, including, but not limited to, court costs and reasonable attorney fees.
2. **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.
3. **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 other 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.
4. **Safety:** 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. Pursuant to Bloomington Municipal Code 14.20.020, the discharge of a firearm is strictly prohibited within the City's jurisdiction.

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

**Parks:** Parks and Recreation Department  
ATTN: Marcia Veldman.  
City of Bloomington, P.O. Box 100  
Bloomington, IN 47402

**Food Vendor:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. **Intent to be Bound:** Parks and the Food Vendor each bind itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.
7. **Integration and Modification:** This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between Parks and the Food Vendor. 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.

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

\_\_\_\_\_  
Food Vendor

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

\_\_\_\_\_  
Paula McDevitt, Parks Administrator

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

# EXHIBIT A

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

## E-VERIFY 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 \_\_\_\_\_, 2019.

Notary Public's Signature

Printed Name of Notary Public

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

County of Residence: \_\_\_\_\_

## **Agreement for Food Truck/Push Cart Vending Bloomington Community Farmers' Market**

This Agreement, entered into this \_\_\_\_\_ day of February, 2019, by and between the City of Bloomington Parks and Recreation Department ("Parks") and Prepared/Processed Food and Beverage Vendor ("Food Vendor"),

### **WITNESSETH:**

WHEREAS, Parks manages the Bloomington Community Farmers' Market ("Market") at Showers Common, 401 North Morton Street, Bloomington, Indiana; and

WHEREAS, the Food Vendor wishes to operate a stand in this location.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

#### **A. TERM OF AGREEMENT**

The term of this Agreement shall begin on April 6, 2019 and end on November 30, 2019.

#### **B. FOOD VENDOR'S RESPONSIBILITIES**

1. **Vending Fee:** Food Vendor shall pay Parks a vending fee of ten percent (10%) of gross proceeds. The fee shall be paid monthly on or before the 15<sup>th</sup> of the month following the month gross proceeds were collected. In addition to the payment of ten percent (10%) of gross proceeds, the Food Vendor shall include documentation of gross proceeds earned at each Market.
2. **List and Price:** The Food Vendor shall furnish Parks with a complete list of product to be sold and prices charged per item by March 25, 2019. Such product list and pricing is subject to the approval of the Parks Administrator. The Food Vendor must display legible price markers for goods offered for sale.
3. **Insurance:** The Food Vendor 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) per occurrence and two million dollars (\$2,000,000) in the aggregate. The policy shall name the City of Bloomington and the Food Vendor as insured parties, and the Food Vendor shall provide Parks with a certificate of insurance prior to the commencement of operations under this Agreement. The Food Vendor and its insurer shall notify Parks within ten (10) days of any insurance cancellation.
4. **Employees:** The Food Vendor shall employ all personnel necessary for the operation of the food stand, and shall pay all necessary wages and payroll tax for such employees. Food stand attendants must be a minimum of sixteen (16) years of age.

5. **Recordkeeping:** The Food Vendor shall keep and maintain accurate records reflecting the revenues of the food stand. These documents shall be open to inspection at all reasonable times by authorized agents of Parks.

On or before August 15, 2019, Food Vendor shall provide Parks with documentation regarding the sourcing of Indiana grown product for the 2019 season to date, including the types of products purchased and the names of the farms from which they were purchased.

6. **Rules and Regulations:** The Food Vendor shall also comply with all local, state and federal laws, including health codes regarding preparation of food, operation of food truck/push cart and employment of all personnel.

The Food Vendor shall obtain all necessary permits from Monroe County Health Department, Indiana Alcohol and Tobacco Commission, Federal Tax and Trade Bureau, Indiana State Excise Tax Police, and from any and all other controlling agencies or boards, prior to commencement of operations under this Agreement. Copies of pertinent permits shall be submitted along with the signed copy of the contract.

If the Food Vendor is selling as a Home Based Vendor, Food Vendor is responsible for ensuring all products are “non-potentially hazardous foods” and are required to have an analysis completed to determine if a product in question is indeed a “non-potentially hazardous food” and provide written report of said analysis.

7. **Days and Hours of Operation:** The Food Vendor agrees to attend and sell at Market each and every Saturday beginning April 6, 2019 through September 28, 2019 from 8:00 am until 1:00 pm, and October 5, 2019 through November 23, 2019 from 9:00 am until 1:00 pm.

8. **Entering and Exiting the Market:** The Food Vendor must occupy the assigned space by 15 minutes prior to Market opening time.

9. **Gift Certificate Program/SNAP:** The Food Vendor agrees to participate in the Farmers’ Market Gift Certificate Program/SNAP (GCP/SNAP) organized by the City. A Farmer/Prepared Food Vendor Training Guide will be provided. The Food Vendor agrees to read the Training Guide and abide by the rules established in the Training Guide. Completion of a Substitute W9 form and Electronic Funds Transfer form is necessary for first-time participants in the GCP/SNAP. If the Food Vendor has participated in previous years, no further paperwork is necessary.

10. **Property Maintenance and Utilization:** The Food Vendor must vacate premises by 2:00 pm and remove all personal items and equipment. The Food vendor must remove all recyclable and compostable materials from site. The Food Vendor must ensure that weather protection devices are securely anchored. The Food Vendor must utilize compostable serving materials whenever possible.

11. **Indemnification:** The Food Vendor hereby agrees to release, hold harmless, and forever indemnify the City of Bloomington, its Department of Parks and Recreation, and its employees, officers, agents and assigns from any and all claims, causes of action, suits, proceedings or demands which may arise from or in any way be connected to Food Vendor's activities under this Agreement, even if arising from the negligence of releasee. This release, hold harmless and indemnification includes claims which may be brought by any third party against the City of Bloomington and its related entities as set forth above.

12. **Verification of New Employees' Immigration Status:** The Food Vendor 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). The Food Vendor shall sign an affidavit, attached as Exhibit A, affirming that The Food Vendor 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.

The Food Vendor and any subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Food Vendor or subcontractor subsequently learns is an unauthorized alien. If the City obtains information that the Food Vendor or subcontractor employs or retains an employee who is an unauthorized alien, the City shall notify the Food Vendor or subcontractor of the contract violation and require that the violation be remedied within 30 days of the date of notice. If the Food Vendor or subcontractor verified the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that the Food Vendor or subcontractor did not knowingly employ an unauthorized alien. If the Food Vendor or subcontractor fails to remedy the violation within the 30 day period, the City shall terminate the contract, unless the City or City 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 Food Vendor or subcontractor is liable to the City for actual damages.

The Food Vendor shall require any subcontractors performing work under this contract to certify to the Food Vendor 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. The Food Vendor shall maintain on file all subcontractors' certifications throughout the term of the contract with the City.

#### C. **RESPONSIBILITY OF PARKS**

Parks shall not invoice the Food Vendor for ten percent (10%) of gross sales.



**D. ASSIGNMENT OF AGREEMENT**

The Food Vendor shall not assign or sub-contract this Agreement or any of its terms, except with prior written approval of the Parks Administrator.

**E. BREACH OF AGREEMENT**

In the event one of the parties to this Agreement breaches any of its terms and conditions, the non-breaching party shall serve written notice of the breach to the other party by certified mail. The offending party shall then have seven (7) days from the date of mailing in which to cure the breach. If the offending party fails to cure the breach within seven (7) days, the non-breaching party may, at its option and in writing, unilaterally terminate the Agreement.

**F. TERMINATION**

1. **Termination by mutual agreement:** The parties may terminate this Agreement prior to November 30, 2019 by mutual written agreement.

**G. MISCELLANEOUS**

1. **Enforcement:** In the event that either party must resort to litigation in order to enforce the terms of this Agreement, the party found to be in breach of the Agreement shall bear expenses of such litigation, including, but not limited to, court costs and reasonable attorney fees.
2. **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.
3. **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 other 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.
4. **Safety:** 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. Pursuant to Bloomington Municipal Code 14.20.020, the discharge of a firearm is strictly prohibited within the City's jurisdiction.
5. **Notices:** Any notice required by this Agreement shall be made in writing to the addresses specified below:

**Parks:** Parks and Recreation Department  
ATTN: Marcia Veldman.  
City of Bloomington, P.O. Box 100  
Bloomington, IN 47402,

**Food Vendor:** \_\_\_\_\_

\_\_\_\_\_

- 
6. **Intent to be Bound:** Parks and the Food Vendor each bind itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.
7. **Integration and Modification:** This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between Parks and the Food Vendor. 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.

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

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Food Vendor

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Philippa M. Guthrie, Corporation Counsel

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Paula McDevitt, Parks Administrator

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Kathleen Mills, President Board of Park Commissioners

## EXHIBIT A

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

## E-VERIFY 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 \_\_\_\_\_, 20\_\_\_\_.

Notary Public's Signature

Printed Name of Notary Public

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



## STAFF REPORT

Agenda Item: C-10  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Daren Eads, Facility Coordinator  
**DATE:** January 22, 2019  
**SUBJECT:** REVIEW/APPROVAL OF SPORT AIDE SERVICE AGREEMENT

### **Recommendation**

Staff recommends the review/approval of the SPORT AIDE service agreement for the Sports Division. SPORT AIDE is an independent synthetic turf and running track cleaning, repair, and maintenance company. SPORT AIDE service technicians are located in Indianapolis, IN and Columbus, OH to respond quickly and efficiently to your needs.

### **Background**

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

**RESPECTFULLY SUBMITTED,**

---

Sports Facility Coordinator

# AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND SPORT AIDE

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and SPORT AIDE. ("Contractor").

**Article 1. Scope of Services** Contractor will repair, service, test, and/or disinfect, the indoor turf at City park properties and facilities ("Services"). Contractor shall provide the Services for a set price of \$1,500 for turf maintenance, \$400 for Disinfectant application, \$400 for GMAX testing and \$25 per lineal foot for repairs.. Parks Department will work Contractor to schedule repairs and/or maintenance around turf schedule and Contractor availability.

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 Monday December 31, 2019, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Contractor's work, Contractor agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with the following individual as the Department's Project Manager: Daren Eads for TLRC..

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. Upon agreement with both parties this agreement may be extended for one year.

**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 Four Thousand Dollars (\$4,000). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Daren Eads for TLRC, 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. 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: Daren Eads – TLRC, 401 N. Morton, Bloomington, IN 47402. **Contractor:** SPORT AIDE, 14385 Colby Court, Carmel, IN 46032. 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**

**SPORT AIDE**

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

\_\_\_\_\_  
Name and Title

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

\_\_\_\_\_  
Signature

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

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

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

**AFFIDAVIT**

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

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

\_\_\_\_\_  
Signature

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

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

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_ day of \_\_\_\_\_, 2019.

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

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

**EXHIBIT B**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.  
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**SPORT AIDE**

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 \_\_\_\_\_, 2019.

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

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





## STAFF REPORT

Agenda Item: C-11  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Barb Dunbar, Operations Coordinator  
**DATE:** January 22, 2019  
**SUBJECT:** REVIEW/APPROVAL OF CONTRACT WITH RECREATION INSITES, LLC

### Recommendation

Staff recommends the review/approval of a Mid-Service Contract with Recreation InSites, LLC.

### Background

This project is funded by the 2017-2020 Park Bond. Project cost is \$37,168.25.

The vendor will install a fitness station and crushed stone surfacing at Bryan Park. This will replace the existing equipment installed in the 1980's. Work will not begin until after January 31, 2019 and be completed on or before May 3, 2019.

**RESPECTFULLY SUBMITTED,**

Barb Dunbar, Operations Coordinator

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
RECREATION INSITES, LLC  
FOR  
BRYAN PARK FITNESS STATION**

This Agreement, entered into on this \_\_\_\_ day of January, 2019, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Recreation InSites, LLC (“Consultant”),

**WITNESSETH:**

WHEREAS, the Department wishes to install a replacement fitness station at Bryan Park; and

WHEREAS, the Department requires the services of a qualified vendor and contractor in order to secure the equipment and materials and perform the labor to install the new equipment; and

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

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

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

**Article 1. Scope of Services**

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

Consultant shall complete the Services required under this Agreement on or before May 3, 2019 unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

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

**Article 2. Standard of Care**

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

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

**Article 3. Responsibilities of the Department**

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

**Article 4. Compensation**

The Department shall pay Consultant for all fees and expenses in an amount not to exceed Thirty Seven Thousand One Hundred Sixty-eight Dollars and Twenty-five Cents (\$37,168.25). Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to:

Barbara J Dunbar  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

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

**Article 5. Appropriation of Funds**

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

**Article 6. Schedule**

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

**Article 7. Termination**

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

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

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

#### **Article 8. Identity of the Consultant**

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

#### **Article 9. Opinions of Probable Cost**

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

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

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

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

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

#### **Article 12. Independent Contractor Status**

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

#### **Article 13. Indemnification**

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

#### **Article 14. Insurance**

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

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

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

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

**Article 15. Conflict of Interest**

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

**Article 16. Waiver**

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

**Article 17. Severability**

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

**Article 18. Assignment**

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

**Article 19. Third Party Rights**

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

**Article 20. Governing Law and Venue**

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

**Article 21. Non-Discrimination**

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

**Article 22. Compliance with Laws**

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

and shall notify the Department in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 23. E-Verify**

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

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

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

**Article 24. Notices**

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

<b>Department:</b>	<b>Consultant:</b>
City of Bloomington	Recreation InSites, LLC
Attn: BARBARA J DUNBAR	Attn: MELISSA GUFFEY
401 N. Morton, Suite 250	12237 Westmorland Dr.
Bloomington, Indiana 47402	Fishers, Indiana 46037

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

**Article 25. Intent to be Bound**

The Department and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party

to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

**Article 26. Integration and Modification**

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

**Article 27. Non-Collusion**

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

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

**CITY OF BLOOMINGTON**

**RECREATION INSITES**

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

\_\_\_\_\_  
Melissa Guffey, 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:

#### **Department Responsibilities:**

##### Site Preparation

- Remove existing equipment
- Grading and removal of soil and debris
- Underground utility locates
- Any special site preparation

Removal of soil and final debris from site

Add 1” of ¼-minus over top of 2” #11 stone placed by Consultant

Final inspection

#### **Contractor Responsibilities:**

Order equipment

Install concrete footers, according to manufacturer’s specifications

Install equipment according to the final grade agreed upon between the Department and the Consultant

Add 2” of #11 stone

Provide dumpster and dispose of packing material

## **EXHIBIT B**

### **“Project Schedule”**

Work shall not begin before February 1, 2019 and shall be completed by May 3, 2019.

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

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

- 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 \_\_\_\_\_, 2019.

\_\_\_\_\_  
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 \_\_\_\_\_, 2019.

**Recreation InSites, LLC**

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

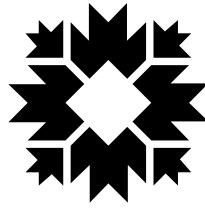
\_\_\_\_\_

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 \_\_\_\_\_, 2019.

\_\_\_\_\_  
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-12  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Joanna Sparks, City Landscaper  
**DATE:** January 22, 2019  
**SUBJECT:** SERVICE AGREEMENT WITH JB SALVAGE FOR GREEN WASTE  
DUMPSTER

### Recommendation

Staff recommends the approval of this Service Agreement with JB Salvage.

### Background

JB Salvage will provide a 30 cubic yard dumpster for collection and disposal of green waste at a local composting facility. This dumpster is located at the Operations Center, 545 South Adams Street, Bloomington, Indiana. It is emptied on an "as needed" basis. Since we implemented this program in the autumn of 2016 we have diverted 600 cubic yards green waste from the trash dumpster at the Operations Center.

**RESPECTFULLY SUBMITTED,**

*Joanna Sparks*

Joanna Sparks, City Landscaper

# AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND JB SALVAGE

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and Salvage ("Contractor").

**Article 1. Scope of Services** Contractor shall provide a 30 cubic yard dumpster ("Services") for collection and disposal of green waste generated by the Operations Division Staff. This dumpster is located at the Operations Center, 545 South Adams Street, Bloomington, Indiana. It is emptied on an "as needed" basis. 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, 2019, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Contractor's work, Contractor agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Joanna Sparks, City Landscaper, as the Department's Project Manager. Contractor agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Contractor for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

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

**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 Five Hundred Dollars (\$2500.00). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Joanna Sparks, City landscaper, 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 depending on Department needs. 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: Joanna Sparks, 401 N. Morton, Bloomington, IN 47402. **Contractor:** JB Salvage, ATTN: Kent Robinson, 1803 West Fountain Drive, Bloomington, IN 47404. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Contractor.

**Article 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**

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

**JB SALVAGE**

\_\_\_\_\_  
Kent Robinson, Vice President

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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

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

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

**AFFIDAVIT**

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

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

\_\_\_\_\_  
Signature

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

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

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_ day of \_\_\_\_\_, 2019.

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

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



**EXHIBIT B**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.  
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**JB SALVAGE**

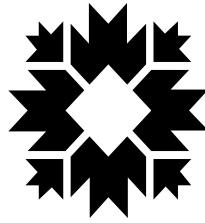
By: \_\_\_\_\_  
\_\_\_\_\_

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 \_\_\_\_\_, 2019.

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

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



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-13  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Dave Williams, Operations Director  
**DATE:** **January 22, 2019**  
**SUBJECT:** **MOU FOR CBU SEWER UTILITY IN SWITCHYARD PARK**

### **Recommendation**

Staff recommends approval of the Memorandum of Agreement between City Parks and Utilities regarding future maintenance activities on CBU's sanitary sewer interceptor that runs through the center of Switchyard Park.

### **Background**

The route for CBU's new 42" sanitary sewer interceptor was not finalized until design had begun on the Switchyard Park project. Ultimately, the department allowed CBU to run the interceptor through the center of the park and under the south section of the B-Line Trail. Out of concern that granting CBU their customary 50' wide easement would adversely affect the park's design and location of structures and buildings, a 25' easement width was established and agreed to by both departments. Follow-up discussions with CBU regarding future maintenance and repair needs resulted in this Memorandum of Understanding between Parks and Utilities to outline responsibilities and restrictions and to ensure parks facilities and utilities services are maintained with minimal interruptions in service to the public.

**RESPECTFULLY SUBMITTED,**

---

Dave Williams, Operations Director

**Cross references:**

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
CITY OF BLOOMINGTON UTILITIES DEPARTMENT  
AND  
BLOOMINGTON, INDIANA BOARD OF PARK COMMISSIONERS  
FOR  
SANITARY SEWER LINE AT SWITCHYARD PARK**

**THIS MEMORANDUM OF UNDERSTANDING** is entered into by and between the City of Bloomington Utilities Department (Hereinafter referred to as “CBU”) acting through its Utilities Service Board (Hereinafter referred to as “USB”), and the Bloomington, Indiana, Board of Park Commissioners (Hereinafter referred to as “Parks”).

**WHEREAS**, Parks owns two parcels of land as evidenced by a quit claim deed at Instrument Number 2012009513 recorded on June 18, 2012, and a quit claim deed at Instrument Number 2009022206 recorded on December 30, 2009, which comprise the majority of what is now commonly known as Switchyard Park and are attached hereto, marked as **Exhibit “A”**, and by this reference incorporated herein; and

**WHEREAS**, CBU, in advance of Parks developing Switchyard Park, and with Parks consent, installed a sewer line that crosses through Switchyard Park. A map showing the approximate location of the sewer line is attached hereto, marked as **Exhibit “B”**, and by this reference incorporated herein; and

**WHEREAS**, Parks granted Permanent Sanitary Sewer Line Easements to CBU for the sewer line in Switchyard Park. The permanent sewer line easements are attached hereto, marked as **Exhibit “C”**, and by this reference incorporated herein; and

**WHEREAS**, Parks thereafter developed the parcels of real estate into what is now known as Switchyard Park and the final plans can be found in the Switchyard Park Construction Plans hereinafter referred to as the “**Final Plans**”; and

**WHEREAS**, CBU and Parks wish to establish this Memorandum of Understanding to delineate responsibilities of each party where they concern future maintenance, repair or replacement of the sanitary sewer line.

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

1. The following permanent structures, approved in the **Final Plans** for Switchyard Park, currently encroach into the Permanent Sanitary Sewer Line Easements and shall remain as such:
  - a. Berm
  - b. Dog park pad
  - c. Chain link fence
  - d. Climbing stones
  - e. Log hurdles
  - f. Log beam
  - g. Shade structure
  - h. Benches

- i. Swing gates

All as shown on Switchyard Park Plans, Sheets SD 2.20, SD 2.21.

2. CBU shall be permitted access into and onto the two parcels as described in **Exhibit "A"**, as necessary to inspect, maintain, repair and replace the sanitary sewer line located therein.
3. Where the berm identified in paragraph 1.a above is located, and in the event of any maintenance, repair or replacement of the sanitary sewer line which may take place within the berm, CBU shall be permitted to place any and all berm excavation spoils up to 60 feet outside of the 25 foot Permanent Sanitary Sewer Line Easement. CBU shall replace all spoils and return the berm back to as good a condition as the berm was immediately prior to said maintenance, repair and/or replacement of the sanitary sewer line.
4. Parks shall erect any and all necessary signage during maintenance, repair and/or replacement of the sanitary sewer line. Said signage shall serve to notify the public of construction and resultant park area restrictions;
5. In the event any CBU maintenance, repairs and/or replacements of the sanitary sewer line impact the dog park, CBU shall notify Parks' Operation and Development Director or designee, and Parks shall erect temporary fencing to safely separate any and all dog and patron activity in the dog park from any and all CBU construction activity.
6. CBU shall place any and all park lands impacted by CBU construction activity back in as good a condition as the same were immediately prior to any construction activity occurring in Switchyard Park.
7. CBU shall pay for any and all repair and/or replacement of any permanent structure identified in Paragraph 1 above which is impacted by CBU maintenance, repairs and/or replacements of the sanitary sewer line.
8. Parks shall pay for repair and/or replacement of any permanent structures which may be erected that encroach upon and into the easement after full execution of this Memorandum of Understanding and which may become impacted by CBU any and all future maintenance, repairs and/or replacements of the sanitary sewer line.
9. This Memorandum may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Memorandum.

**IN WITNESS WHEREOF**, the parties hereto have executed this Memorandum of Understanding which shall become effective as of the date last entered below.

**CITY OF BLOOMINGTON  
UTILITIES SERVICE BOARD**

**BLOOMINGTON INDIANA BOARD  
OF PARK COMMISSIONERS**

Julie Roberts, President	Date
-----------------------------	------

Kathleen Mills, \_\_\_\_\_ Date  
President

**Attest:** \_\_\_\_\_  
Holly McLaughlin, Date  
Secretary to the Board



## STAFF REPORT

Agenda Item: C-14  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Dave Williams, Operations and Development Division Director  
**DATE:** January 14, 2019  
**SUBJECT:** REVIEW/APPROVAL OF CONSULTANT CONTRACT AGREEMENT  
ADDENDUM #3 – SWITCHYARD PARK DESIGN

### **Recommendation**

It is recommended the Board approve consultant contract agreement Addendum #3 with Rundell Ernstberger Associates (REA) in the amount of \$13,287.70.

### **Background**

Switchyard Park design consultant Rundell Ernstbrger (REA) has requested compensation for cost overruns in reimbursable expenses related to the preparation of bidding documents for the Switchyard Park project. Cost overruns were incurred in the printing costs for plan sheets due to the unanticipated requests for additional plan review sets from State regulatory review agencies and City of Bloomington departments. In addition, in order to expedite the placement of legal ads for the project bid, REA made direct payment for ad placements in the Indy Star, the costs of which were not included as a reimbursable expense and need to be reimbursed. Finally, State of Indiana plan review fees were more expensive than the costs originally estimated for these required project reviews.

The total reimbursement amount from REA has been reduced \$2,551.68 from the original request with a recommendation that the payment of an additional \$13,287.70 is reasonable and justified. The additional funds will be charged to the total Switchyard Park project contingency that was approved by the Redevelopment Commission in April 2018. The Controller has reviewed the billings and has approved the expenditure of additional funds for the reimbursable project expenses. The Redevelopment Commission approved the additional expenditure per Resolution on December 17, 2018.

**RESPECTFULLY SUBMITTED,**

Dave Williams, Operations and Development Division Director

**18-88  
RESOLUTION  
OF THE  
REDEVELOPMENT COMMISSION  
OF THE  
CITY OF BLOOMINGTON, INDIANA**

**APPROVAL OF A THIRD ADDENDUM TO THE CONTRACT BETWEEN  
THE CITY OF BLOOMINGTON AND RUNDELL ERNSTBERGER ASSOCIATES,  
FOR THE DESIGN OF THE SWITCHYARD PARK PROJECT**

WHEREAS, the Redevelopment Commission of the City of Bloomington ("RDC") issued its "Redevelopment District Tax Increment Revenue Bonds of 2015" (the "Bond") to pay for, among others things, the development of the Switchyard Park, and

WHEREAS, on June 16, 2015, the RDC approved in Resolution 15-30 a Project Review and Approval Form ("Form") for the construction of Switchyard Park; and

WHEREAS, pursuant to that authorization, Staff negotiated a contract for the design of Switchyard Park with Rundell Ernstberger Associates, LLC ("Design Contract"); and

WHEREAS, the RDC approved funding for the Design Contract in its Resolution 15-41; and

WHEREAS, a copy of the approved Design Contract is attached to this Resolution as Exhibit A; and

WHEREAS, Resolution 15-41 provided, "In the event that the City's project manager finds that it is desirable to have [Rundell Ernstberger] provide additional services, as referenced in the [Design] Contract, the RDC will evaluate such a proposal at that time;" and

WHEREAS, the RDC has approved two prior addendums to Rundell Ernstberger's contract in Resolutions 17-06 and 17-101; and

WHEREAS, the RDC approved funding not to exceed thirty-four million dollars (\$34,000,000) for the construction of Switchyard Park in Resolution 18-25; and

WHEREAS, Staff believes it is desirable for Rundell Ernstberger to provide additional design services as outlined in the Third Addendum to the Design Contract that is attached to this Resolution as Exhibit B ("Addendum"); and

WHEREAS, Rundell Ernstberger is willing to provide the Additional Services for an amount not to exceed Thirteen Thousand Two Hundred Eighty-Seven Dollars and Seventy Cents (\$13,287.70), and the total contract is for an amount not to exceed Three Million Forty Nine Thousand One Hundred Forty-One Dollars and Seventy Cents (\$3,049,141.70); and

WHEREAS, Resolution 15-41 identified the Bond as the source of funds for the project; and

WHEREAS, the RDC has available Bond Funds to pay for the Additional Services as set forth in the Addendum; and


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

1. The RDC reaffirms its support of the Project and reiterates that it serves the public's best interest.
2. The RDC finds that the above described expenditures are an appropriate use of the Bond.
3. The RDC approves payment of an amount not to exceed Thirteen Thousand Two Hundred Eighty-Seven Dollars and Seventy Cents (\$13,287.70) to be payable in accordance with the terms of the Design Contract.
4. This funding approval shall comply with all of terms and limitations outlined in the approval for funding for Switchyard Park in Resolution 18-25, and shall expire on December 31, 2020, unless extended by the RDC beforehand.
5. The RDC hereby authorizes Donald Griffin to sign the Addendum.

BLOOMINGTON REDEVELOPMENT COMMISSION

  
Donald Griffin, President

ATTEST:

  
Mary Alice Rickert, Secretary

12-17-18  
Date

AGREEMENT FOR CONSULTING SERVICES

This Agreement, entered into on this 21<sup>st</sup> day of July, 2015, by and between the City of Bloomington (hereinafter referred to as "CITY"), and Rundell Ernstberger Associates, LLC. (hereinafter referred to as "Consultant"),

WITNESSETH:

WHEREAS, the CITY wishes to complete a comprehensive construction design of the McDoel Switchyard Park property, including creation of construction documents and specifications, creation of bid documents and construction contract administration; and

WHEREAS, the CITY requires the services of a professional design and construction consultant in order to complete schematic design, design development, construction documents, permitting and approvals, project bidding and construction administration, which shall be hereinafter referred to as "the Services";

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

WHEREAS, Consultant is willing and able to provide such Services to the CITY;

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

**Article 1. Scope of Services:** Consultant shall provide the Services for the CITY as set forth in Exhibit A, Scope of Services. Exhibit A is attached hereto and incorporated herein by reference as though fully set forth.

Consultant shall diligently pursue its services under this Agreement and shall complete the Services as described in Exhibit A in a timely manner consistent with the Standard of Care identified in Article 2.

In the performance of Consultant's work, Consultant agrees to maintain such coordination with the CITY as may be requested and desirable, including primary coordination with the Parks and Recreation Department official(s) designated by the CITY as project coordinator(s). Consultant agrees that any information or documents, including digital GIS information, supplied by the CITY pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any purpose.

**Article 2. Standard of Care:** Consultant shall 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. Upon notice to the Consultant



and by mutual agreement between the parties, the Consultant will without additional compensation, correct those services not meeting such a standard.

**Article 3. Responsibilities of the CITY:** The CITY shall provide all necessary information regarding requirements for the Services. The CITY shall furnish such information as expeditiously as is necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness of such information. The CITY shall designate who is authorized to act on its behalf with respect to this Agreement.

**Article 4. Compensation:** The CITY shall pay Consultant a fee based on the payment schedule set forth in Exhibit B, Compensation. Exhibit B is attached hereto and incorporated herein by reference as though fully set forth. The total compensation paid, including fees and expenses, shall not exceed the amount of Two Million Four Hundred Ten Thousand 00/100 Dollars (\$2,410,000.00). The payments will be made according to Consultant's monthly progress statements for each phase and shall be invoiced for the percentage of work completed only.

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

**Article 5. Appropriation of Funds:** Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the CITY are at any time not forthcoming or are insufficient, through failure of any entity, including the CITY itself, to appropriate funds or otherwise, then the CITY shall have the right to terminate this Agreement without penalty as set forth in Article 7 herein.

**Article 6. Schedule:** Consultant shall perform the Services according to the schedule set forth in Exhibit C, Schedule. Exhibit C is attached hereto and incorporated herein by reference as though fully set forth. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination:** In the event of a party's substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

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

Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Consultant in connection with this Agreement shall become the property of the CITY, as set forth in Article 11 herein.

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

**Article 9. Opinions of Probable Cost:** All opinions of probable construction cost to be provided by Consultant shall represent the best judgment of Consultant based upon the information currently available and upon Consultant's background and experience with respect to projects of this nature. It is recognized, however, that neither Consultant nor the CITY has control over the cost of labor, materials or equipment, over contractors' method of determining costs for services, or over competitive bidding, market or negotiating conditions. Accordingly, Consultant cannot and does not warrant or represent that the proposals or construction bids received will not vary from the cost estimates provided pursuant to this Agreement.

**Article 10. Reuse of Instruments of Service:** All documents, including but not limited to, drawings, specifications and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to this project. They are not intended or represented to be suitable for reuse by the CITY or others on modifications or extensions of this project or on any other project. The CITY may elect to reuse such documents; however any reuse or modification without prior written authorization of the Consultant will be at the CITY's sole risk and without liability or legal exposure to the Consultant. The CITY shall indemnify, defend, and hold harmless the Consultant against all judgments, losses, claims, damages, injuries and expenses arising out of or resulting from such unauthorized reuse or modification. Any verification or adaptation of documents by the Consultant will entitle the Consultant to additional compensation at rates to be agreed upon by the CITY and the Consultant.

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

**Article 12. Independent Contractor Status:** During the entire term of this Agreement, Consultant shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the CITY.

**Article 13. Indemnification:** Consultant shall defend, indemnify and hold harmless the City of Bloomington, the Bloomington Redevelopment Commission ("RDC"), and the officers, and employees of the City and the RDC from any and all damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance or attempted performance of its professional services, including, any reckless or negligent act or omission to act or any willful misconduct on the part of the Consultant, its employees, subconsultants, or anyone for whom the Consultant is legally liable, except that the above shall not apply to the sole negligence or willful misconduct of the CITY or the CITY's agents, servants or independent contractors who are directly responsible to the CITY. This indemnification provision shall apply even if there is concurrent or joint negligence of the Consultant and the CITY, and even if there is active or passive negligence by either or both parties.

**Article 14. Insurance:** During the performance of any and all Services under this Agreement, Consultant shall maintain the following insurance in full force and effect:

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

All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the RDC, and the officers, employees and agents of each shall be named as insured 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 affected by the City will be called upon to contribute to a loss hereunder.

Consultant shall provide evidence of each insurance policy to the CITY prior to the commencement of work under the Agreement. Approval of the insurance by the CITY shall not relieve or decrease the extent to which Consultant may be held responsible for payment of damages resulting from service or operations performed pursuant to this Agreement. If Consultant fails or refuses to procure or maintain the insurance required by these provisions, or fails or refuses to furnish the CITY required proof that the insurance has been procured and is in



force and paid for, CITY shall have the right at CITY's election to forthwith terminate the Agreement.

**Article 15. Conflict of Interest:** Consultant declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services required under this Agreement. The Consultant agrees that no person having any such interest shall be employed in the performance of this Agreement.

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

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

**Article 18. Assignment:** Neither the CITY nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party; provided, however, Consultant may assign its rights to payment without the CITY's consent. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

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

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

**Article 21. Non-Discrimination:** Consultant shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in employment.

**Article 22. Compliance with Laws:** In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment. When appropriate, Consultant shall advise CITY of any and all applicable regulations and approvals required by the Federal Environmental Management Agency (FEMA). Where such statutes,

ordinances, plans or regulations of any public authority having any jurisdiction on the project are in conflict, Consultant shall proceed using its best judgment only after attempting to resolve any such conflict between such governmental agencies, and shall notify the CITY in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 23. Verification of New Employees' Immigration Status.** Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Consultant shall sign an affidavit, attached as Exhibit E, affirming that Consultant does not knowingly employ an unauthorized alien. "Unauthorized alien" is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code chapter 12 or by the U.S. Attorney General.

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

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

**Article 24. No Investment in Iran:** Consultant is required to certify that it does not engage in investment activities in Iran as more particularly described in Indiana Code 5-22-16.5. (This is not required if federal law ceases to authorize the adoption and enforcement of this statute.) Consultant shall sign an affidavit, attached hereto as Exhibit F and incorporated herein by reference, affirming that Consultant is not engaged in said investment activities.

**Article 25. Notices:** Any notice required by this Agreement shall be made in writing to the addresses specified below:

**CITY:**

Bloomington Parks Department  
Attn: Dave Williams  
401 N. Morton  
Bloomington, IN 47402

**Consultant:**

Rundell Ernstberger Associates, LLC  
Kevin Osburn, RLA, ASLA  
429 E. Vermont St. Suite 110  
Indianapolis, Indiana 46202

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

**Article 26. Intent to be Bound:** The CITY and the Consultant each bind itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

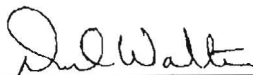
**Article 27. Integration and Modification:** This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the CITY and the Consultant. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement.

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

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

**REDEVELOPMENT COMMISSION**

BY:

  
David Walter, President

Date: 7/22/15

**CITY OF BLOOMINGTON**

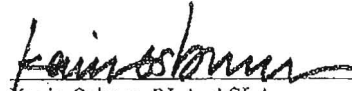
BY:

  
Mark Krizan, Mayor

Switchyard Park Consultant Contract

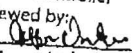
**CONSULTANT**

BY: Rundell Ernstberger Associates, LLC

  
Kevin Osburn, RLA, ASLA  
Title: Principal

Date: 7/23/15

CITY OF BLOOMINGTON  
Controller

Reviewed by:   
DATE: 7/23/15  
FUND/ACCT: 016

CITY OF BLOOMINGTON  
Legal Department  
Reviewed By:  
Thomas Cameron  
DATE: 7-21-2015



## APPENDIX "A"

### Project Description

Project involves the design and construction of a signature urban park for the City of Bloomington to be located on a 58-acre parcel of land owned by the City and bounded approximately by Grimes Lane, Walnut Street, Country Club Drive and Rogers Street. The project design will be based on the *Switchyard Park Master Plan* approved by the Board of Parks and Recreation in 2012. Project components may include an events lawn; performance pavilion; park maintenance and restroom building; linear platform plaza with skatepark, spray plaza, playground, community gardens, grand shelter, entry pavilion, and court games; parking areas; multipurpose trails; best practice stormwater management features; and the integration of public art. Final project components will be determined based on project construction budget and discussions with City. It is anticipated that the floodway limits will be revised as part of a separate map revision process currently in process by the City. In addition to design and engineering, project services will include environmental remediation, permitting, and construction administration.

### Scope of Services

- 1.) **Project Initiation:** CONSULTANT will meet with the City to discuss project design parameters, process, and schedule. CONSULTANT and our team will visit the project site to take photographs and document existing conditions.
- 2.) **Topographic Survey:** CONSULTANT will provide a topographic survey of the park property as needed for the completion of the project. Survey will utilize survey data collected as part of 2012 Master Planning Phase and will be supplemented with additional data as needed for the project.
  - a. Survey will include a master drawing with all of topographical features, apparent R/W, control point locations, bench marks and one-foot vertical contours.
  - b. The survey will include property information, right-of-way and property lines, and easements based on observed physical evidence and record documents, topographic data, utilities, buildings, bridges, walls, walks, signs, vaults, fences, gates, drives, species, drip line, and size of trees 6 inches in diameter and greater, and natural and man-made features, as evidenced by facilities at the ground surface and marks by others, as necessary for the development of project plans.
  - c. Survey will include spot grades at all edge of pavements, 25 ft. on center along curblines and centerline of street, changes in curb direction, top and bottom of walls, trees (6" diameter and larger), breaks in grade, ramps and top and bottom of curbs and on a 100' grid pattern throughout the survey area.
  - d. Survey will include coordination with all utility companies to locate and mark their utilities in field. CONSULTANT will notify the utilities via the call before you dig notification system (Indiana Underground Plant Protection Service (I.U.P.P.S.)). CONSULTANT will verify that each utility has field located their facilities during the course of the design survey. The existing facilities located, at the time of the field survey, shall be incorporated into the design survey. Survey will include all storm and sewer structures including inverts, sizing of pipes and rim elevations.
  - e. The final survey will be provided in both hard copy and digital format certified by a Licensed Land Surveyor in the State of Indiana.
- 3.) **Geotechnical Study:** CONSULTANT will have a geotechnical study prepared in order to determine requirements for structural foundation systems for buildings and site structures as well as the feasibility of green infrastructure systems for stormwater management. The study will include an investigation of subsurface soil and groundwater conditions, lab analysis of field results, and recommendations regarding foundations types and soil permeability assembled into a final report prepared by a registered professional engineer. We anticipate approximately six to eight borings will be needed.



4.) *Environmental Remediation:*

a. *Environmental Investigation Services:*

1. CONSULTANT will complete additional sampling near Clear Creek to save trees rather than remove them and cover with soil. Doing this will minimize the number of trees removed and potentially save costs by minimizing the amount of soil cover material needed.
2. Some limited areas on site may require soil removal and offsite disposal and/or capping greater than 12 inches. It is not anticipated that these areas will be large. However, the size and extent cannot be determined without a final Remediation Work Plan and soil testing or similar document approved by the IDEM. CONSULTANT will complete additional sampling in these areas to determine the extent (if any) of soil excavation and if soil cover is needed.
3. CONSULTANT will complete sampling on the planned Rogers Street entrance property (Triple C) to investigate the Recognized Environmental Conditions outlined in the Phase I ESA completed by Fields Environmental, Inc.
4. CONSULTANT will complete sampling on the planned Walnut Street entrance property (once identified). CONSULTANT assumes that the City of Bloomington will complete an AAI compliant Phase I ESA on this site once it is identified and within six (6) months prior to site acquisition. Phase II activities completed by CONSULTANT will include sampling to investigate the Recognized Environmental Conditions outlined in the Phase I ESA provided by City. The Phase I ESA is not included in this scope of services.

b. *Environmental Remediation Construction Design and Oversight:*

1. CONSULTANT will meet with IDEM to determine the expected remedial action necessary to obtain site closure through a Site Status Letter with an Environmental Restrictive Covenant (ERC) limiting the site use to recreational.
2. CONSULTANT will work with the site design engineer to develop a site plan that integrates IDEM requirements into environmental design that is integrated with the engineered design of the site.
3. CONSULTANT will prepare bid specifications related to environmental remediation activities including remediation plans as required by IDEM.
4. CONSULTANT will provide bid support related to environmental remediation activities.
5. CONSULTANT will observe, monitor, document and confirm remediation activities in the field as part of overall Construction Administration activities.
6. Upon completion of the remediation, CONSULTANT will prepare a Closure Report documenting the remediation and the report will be submitted to the Indiana Brownfield Program with a request for a Site Status Letter for closure of the site.

5.) *Schematic Design:*

- a. *Master Plan Review / Program Definition:* CONSULTANT will engage in discussions and meetings with City to review the 2012 Master Plan project scope and cost opinions in order to determine the preferred project components and budget alignment. This work may include preparation of revised updated cost opinions, discussions with subconsultants and preliminary plan diagrams in order to determine a project scope that aligns with the construction budget. This work will also include confirmation with the City on the status of the LOMAR process and land acquisitions and their impact on project design components. The result of this task will be agreement on a design program that defines the components to be included in the design process.

- b. **Schematic Design Documents:** Utilizing the master plan, design program, and topographical survey information, CONSULTANT will prepare preliminary drawings and other documents to define the general project scope and design components, including a site plan, preliminary building plans, sections and elevations; sketches and digital modeling; and preliminary selections of major building systems and construction materials. CONSULTANT will prepare a preliminary utilities plan that identifies utility service point locations and a preliminary drainage plan that identifies stormwater tie-in points to existing system, preliminary locations of trunklines, stormwater management best practices, and types of stormwater quality and quantity control measures. CONSULTANT will coordinate utility service requirements and processes with applicable utility companies. CONSULTANT will prepare a preliminary outline of anticipated permitting and approval requirements and a preliminary cost opinion. CONSULTANT will meet with the City as necessary to coordinate and review the progress of the work and receive approval for the Schematic Design documents.

**6.) Design Development:**

- a. **Design Development Documents:** Upon approval of the Schematic Design by the City, CONSULTANT will prepare design development drawings of the proposed site improvements. Design Development drawings to be prepared will include preliminary site demolition, layout, grading, drainage, utility plans and typical site details; architectural drawings, plans, sections, elevations, typical construction details; diagrammatic layouts of architectural, structural, mechanical and electrical systems. Site utility (sanitary sewer, water service, and gas) and drainage plans and details will be prepared and engineering calculations will be performed to determine the size, type, and location of stormwater lines and stormwater quality and quantity control measures. CONSULTANT will ready preliminary permitting documents in anticipation of permit submittals. CONSULTANT will also prepare outline specifications (major materials, systems, quality levels) and an updated cost opinion for the proposed work. CONSULTANT will meet with the City as necessary to coordinate and review the progress of the work and receive approval for the Design Development documents.

**7.) Construction Documents:**

- a. **Construction Documents:** Upon approval of the Design Development documents, CONSULTANT will finalize the project design documentation, which will include construction drawings and specifications. Construction drawings will include, but not be limited to, site demolition, layout, grading/drainage, erosion control, stormwater pollution prevention, utility, architectural, electric, mechanical, plumbing, structural, landscape, and irrigation plans and details. CONSULTANT will prepare technical specifications and utilize front end documents (bidding requirements, general conditions, instructions to bidders, etc.) provided by the City. CONSULTANT will prepare the final project cost opinion. CONSULTANT will review the Construction Documents with the City at the 50% and 95% completion stages and receive final approval of the Construction Documents prior to preparation of final bid documents.
- b. **Final Bid Documents:** Upon approval of the 95% review set of construction documents, CONSULTANT will proceed with the preparation of final plans, details, technical specifications, and estimates, required for bidding of the project. CONSULTANT will provide the City with one digital set of bid documents for posting to the City's "Bloomberg Bid" website. CONSULTANT will also provide digital bid documents to a local print shop for printing and distribution of bid documents. CONSULTANT will have print shop prepare limited hard copies of bid documents for distribution to the City and the Consultant team; printing expenses for these sets will be paid by the City.

8.) **Permitting/Approvals:** CONSULTANT will prepare the following documentation for permitting and approval of the work:

- a. **State of Indiana Design Release:** CONSULTANT will electronically file the project with the Indiana Department of Fire and Building Services and make any necessary revisions to obtain a Construction Design Release from the State Building Commissioner.
- b. **City of Bloomington Permits /Approvals:** CONSULTANT will work with City to review the project with and receive approvals from local agencies with jurisdiction over the project area and components.
- c. **Stormwater Pollution Prevention Plan (SWPPP) and Rule 5 Compliance:** CONSULTANT will prepare a Stormwater Pollution Prevention Plan (SWPPP) and Rule 5 documentation as required by local, state and federal requirements detailing the temporary and permanent practices that will be implemented to minimize the potential for pollution of receiving waters during the construction phase of the project and post-construction phase.
- d. **Wetland/ "Waters" Delineation and Report:** CONSULTANT will complete an investigation of the site to determine the limits of wetlands/"Waters of the U.S." present. The wetland delineation will be completed based on observations made during the field visit and information collected from soils maps, topographic data, aerial photography, available stream gage data, floodplain data, and the National Wetlands Inventory. Information collected on the other jurisdictional waters (streams) will include presence or absence of an ordinary high water mark (OHWM), OHWM dimensions, photo documentation, and GPS location of identified potentially jurisdictional streams. The wetland delineation will be completed based on the methodology established by the U.S. Army Corps of Engineers (USACE) in the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Midwest Region. The boundaries of any wetland communities and other jurisdictional waters will be flagged so they can be located by survey crews and regulatory authorities. CONSULTANT will map any wetlands found on-site using a sub-meter accurate GPS unit. This method of wetland mapping has been approved by the USACE.

The results of the field reconnaissance will be summarized into a wetland/"Waters of the U.S." delineation report. The report will be based on the USACE Midwest regional supplement. Included exhibits will depict the approximate wetland and stream/OHWM and approximate property boundaries, National Wetland Inventory, Soil Survey, floodplain, USGS topography, site photographs and their locations. The USACE Midwest Region data forms for the properties will also be attached. The GPS wetland and stream survey will be used as the base wetland boundary map. The report will include an opinion of federal and state jurisdiction over the subject wetland and stream areas. If no wetlands or jurisdictional stream channels are identified on-site, this will be clearly stated in the summary report and background data supporting this opinion will be provided.

- e. **Wetland Mitigation / Monitoring Plan:** CONSULTANT will identify an appropriate wetland mitigation site. It is assumed that all required mitigation can be completed onsite. CONSULTANT will design a conceptual wetland mitigation plan that will include specific locations, amounts and dimensions for on-site mitigation measures. This plan will be based on typical guidelines and requirements of the Indiana Department of Environmental Management (IDEM) and the USACE. The conceptual plan will include a written report consisting of a narrative with maps and graphics describing the mitigation site and the measures to be implemented. The plan will also include a proposed schedule for monitoring the mitigation site as required by the regulatory agencies. CONSULTANT will work with IDEM and the USACE to make revisions to the plan as needed. The mitigation plan and report will be submitted as part of the 401/404 permit applications.

Upon approval of the mitigation plan by IDEM and USACE, the final design will be prepared as part of the design documents for the overall project. CONSULTANT will prepare the appropriate plan sheets and specifications to adequately describe the contractor's contractual obligations for the wetland mitigation area.



- f. **IDEM/USACE 401/404 Water Quality Permit:** CONSULTANT will prepare and submit a Regional General Permit No. 1 to USACE with attachments, including exhibits, tables, photographs, wetland/"Waters" delineation report, mitigation and monitoring plan, and overall project plans. CONSULTANT will also prepare and submit an IDEM Individual Section 401 Water Quality Certification and attachments. CONSULTANT will coordinate the overall review of the applications, mitigation plan and bridge design plans with the USACE and IDEM and will attend two additional meetings to discuss the permit applications.
  - g. **IDNR Construction in a Floodway Permit:** CONSULTANT will prepare and submit the application for a construction in a floodway permit to the Indiana Department of Natural Resources (IDNR) for construction of the proposed Master Plan elements within the floodway of Clear Creek. CONSULTANT will rely on updated floodway limits to be provided by the City as a result of the Letter of Map Revision (LOMAR) process. Items to be submitted to the IDNR include the project plans, floodway exhibits and data, and the appropriate non-modeling hydraulic analysis worksheet. The application process also includes submittal of public notices to adjacent landowners and submittal of documentation of the public notice process to IDNR. CONSULTANT will also periodically check with IDNR staff after the permit is submitted regarding its status and respond to technical and environmental questions as needed.
- 9.) **Bidding:** CONSULTANT will prepare addenda, clarifications, and answer contractor questions as required during the bidding period. CONSULTANT will assist the City in the facilitation of the pre-bid meeting and in evaluating the bids received for the project.
- 10.) **Construction Administration:** CONSULTANT will provide the following services during construction:
- a. **Project Representative:** CONSULTANT will provide a full time Project Representative on site for the duration of construction activities.
  - b. **Pre-Construction Meeting:** CONSULTANT will attend the preconstruction meeting and assist the City to review lines of communication, correspondence, schedule, procedures, meeting dates, and unique construction items with the Contractor.
  - c. **Progress Meetings:** CONSULTANT will attend and assist the City in facilitating bi-weekly construction progress meetings to review progress of work, construction schedule, and outstanding issues.
  - d. **Evaluations of the Work:** CONSULTANT will observe and evaluate construction activities to determine if the Work observed is being performed in accordance with the Contract Documents; report on the progress and quality of the portion of the Work completed; and report to the City known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and defects and deficiencies observed in the Work.
  - e. **Certificates for Payment to Contractor:** CONSULTANT will review and certify the amounts due the Contractor and issue certificates in such amounts. Certification for payment shall constitute a representation to the City, based on CONSULTANT's evaluation of the Work and on the data comprising the Contractor's Application for Payment, that, to the best of CONSULTANT's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. CONSULTANT will maintain a record of the Applications and Certificates for Payment.
  - f. **Submittals:** CONSULTANT will review the Contractor's submittal schedule and take action on submittals in accordance with the approved submittal schedule; review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the purpose of checking for conformance with information given and the design concept expressed in the Contract Documents; and maintain a record of submittals and copies of submittals supplied by the Contractor.

- g. **Requests for Information (RFI) and Architect's Supplemental Instructions (ASI):** CONSULTANT will review and respond to requests for information about the Contract Documents and, if appropriate, prepare and issue supplemental Drawings and Specifications in response to requests for information. CONSULTANT will prepare and issue ASI's as necessary to the Contractor to clarify Contract Documents. CONSULTANT will maintain a record of RFI's and ASI's.
- h. **Changes in the Work:** CONSULTANT will review and evaluate proposal requests from the Contractor. At the City's discretion and in coordination with the City, CONSULTANT will authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time; prepare Change Orders and Construction Change Directives for the City's approval and execution in accordance with the Contract Documents; and maintain records relative to changes in the Work.
- i. **Project Completion:** CONSULTANT will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the City, for the City's review and records, as-built drawings, operations and maintenance manuals, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents. Final inspections shall be conducted with the City to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected. When the Work is found to be substantially complete, CONSULTANT will inform the City about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work. CONSULTANT will forward to the City the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the City against liens; and (3) any other documentation required of the Contractor under the Contract Documents. Prior to the expiration of one year from the date of Substantial Completion, CONSULTANT will conduct a One Year Warranty Inspection with the City and prepare a list of warranty items to be addressed by the Contractor.

accordance with Attachment B-1.

2. The CITY for and in consideration of the rendering of the engineering services provided for in Appendix "A", agrees to pay the CONSULTANT for rendering such services the fee established above upon completion of the work thereunder, acceptance thereof by the CITY, and upon the CONSULTANT submitting an invoice as described above.
3. In the event of a substantial change in the scope, character or complexity of the work on the project, the maximum fee payable and the specified fee shall be adjusted by a Contract Supplement in accordance with Article 4 as set out in this Contract.

**APPENDIX "B-1"**  
**Hourly Rates and Reimbursable Expenses**

**RUNDELL ERNSTBERGER ASSOCIATES, LLC**  
**HOURLY RATE SCHEDULE**

<u>Classification</u>	<u>Hourly Rate</u>
Principal	\$195.00
Associate	\$138.00
Professional Staff (Registered Land. Arch.)	\$116.00
Technical Staff (Graduate Land. Arch.)	\$96.00
Clerical	\$70.00

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

Billing rates may be adjusted by a Contract Supplement to reflect changes in the compensation payable to the CONSULTANT, if agreed upon by both the CITY and the Consultant.

**Reimbursable Expenses**

Mileage	Standard Mileage Rate
Travel, Lodging, and Meals	Cost
Telephone, Telex, Telecopy, Faxes, etc.	Cost
Postage, Handling, etc.	Cost
Copies	
Black & White (8 1/2 x 11)	\$0.05/copy
Black & White (11 x 17)	\$0.10/copy
Color In-House Printer	
8 1/2 x 11 Inkjet	\$1.00
8 1/2 x 11 Presentation	\$1.50
8 1/2 x 11 Photo Paper	\$2.50
11 x 17 Inkjet	\$2.00
11 x 17 Presentation Paper	\$2.75
11 x 17 Photo Paper	\$3.50
CD Copies	\$5.00
Plots	
Black & White In-House Plots	
Bond	\$1.00 SF
Vellum	\$1.50 SF
Mylar	\$1.75 SF
Color In-House Plots	
Heavy bond	\$4.00 SF
Semi-Gloss	\$5.00 SF
High-Gloss	\$6.00 SF
Materials	Cost + 5%
Equipment Rental	Cost + 5%
Subcontract Services	Cost + 5%

**APPENDIX "D"**  
**Consultant Team Roles and Principal Personnel**

<b>FIRM/ PERSONNEL</b>	<b>ROLE</b>
<i>Rundell Ernstberger Associates, LLC</i> Kevin Osburn, PLA, ASLA Cheryl Chalfant, ASLA Dan Liggett, PLA, ASLA, LEED AP Jeff Maydak, ASLA John Zant, PE	<i>Project Lead   Landscape Architecture + Civil Engineering</i> Principal in Charge & Project Team Leader Project Manager Project Landscape Architect Project Landscape Architect Project Civil Engineer
<i>Axis Architecture + Interiors</i> Drew White, FAIA, LEED AP Eric Anderson, AIA, LEED AP	<i>Architecture</i> Principal in Charge—Architecture Project Architect
<i>Bruce Carter Associates, LLC</i> John Kilmer, CHMM Joel Markland Len Hinrichs, LPG	<i>Environmental Remediation</i> Principal, Technical Oversight & Remediation Design Principal, Project Oversight & Coordination Project Manager, Remediation Design & Field Oversight
<i>Christopher B. Burke Engineering, LLC</i> Brian McKenna, PE, CFM Kerry Daily, EI, CFM, CPESC Sarah Wright	<i>Floodway / Wetland Permitting</i> Principal in Charge – Permitting Project Manager, IDNR Permitting Project Manager, Wetlands Consulting; 401/404 Permitting
<i>The Engineering Collaborative</i> Samuel L. Hurt, PE, RA, LEED AP John T. Lowe, QCP Gregory M. Hofer	<i>Mechanical, Electrical, Plumbing Engineering</i> Principal in Charge - MEP Engineering Principal in Charge - HVAC Senior Electrical Designer
<i>Lynch Harrison Brumleve</i> Wes Harrison, PE	<i>Structural Engineering</i> Principal in Charge – Structural Engineering
<i>VS Engineering, Inc.</i> Sanjay Patel, PE Dennis Clark, PE Jim Barker, PE	<i>Structural Engineering – Former Railroad Bridges</i> Principal in Charge – Structural Engineering Project Engineer Historic Bridge Engineer
<i>Delta Fountains</i> Scott Johnston	<i>Fountain Consultants</i> Principal – Fountain Design
<i>Bledsoe Riggert &amp; Guerretaz, Inc.</i> Ben Bledsoe	<i>Surveying</i> Project Manager, Surveying
<i>Eco Logic, LLC</i> Spencer Goehl	<i>Ecological Services</i> Project Manager, Ecological Services





## STAFF REPORT

Agenda Item: C-15  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Elizabeth Tompkins, Natural Resources Coordinator  
**DATE:** January 22, 2019  
**SUBJECT:** REVIEW/APPROVAL OF ENVIRONMENTAL RESOURCES ADVISORY COUNCIL APPOINTMENTS

### Recommendation

Staff recommends approval of Environmental Resources Advisory Council appointments, Cathy Meyer, Sarah Murray, Dan Myers, David Parkhurst, and Melissa Laney.

### Background

The Environmental Resources Advisory Council (ERAC) acts as an advisory board for Bloomington Parks and Recreation in all policy matters pertaining to operations of city natural areas and/or facilities. ERAC is made up of nine (9) members and one (1) ex-officio member. There are currently five positions on the advisory council up for reappointment.

Four applications were received from current members and one application from outside the advisory council. Staff values the input of members seeking reappointment and would be pleased to have them serve an additional term. In addition, staff believes the new applicant, Sarah Murray's experience in planning and work with the Eppley Institute for Parks and Public Lands will provide valuable insight.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to be "ET", is written over a horizontal line.

Elizabeth Tompkins, Natural Resources Coordinator



CITY OF BLOOMINGTON  
parks and recreation

## APPLICATION

### ADVISORY COUNCILS

Date: 12/10/18

Council for which you are applying: **Environmental Resources Advisory Council**

Name: Cathy Meyer

Address: 933 S. Ballantine Rd., Bloomington 47401

Home phone: \_\_\_\_\_ Work/Cell phone: 812-360-5802

E-mail:

cmeyer@co.monroe.in.us

Are you a City resident? yes

If not, are you a county resident applying for a special member position? \_\_\_\_\_

Occupation:

Naturalist

Why are you interested in applying for this position?

I care about environmental education in the area and the preservation and improvement of natural habitats. I would like to influence city decisions about deer management and other issues.

What are your qualifications for this position?

Master's degrees in Biology and Environmental Science from IU, 40 year experience in environmental education, volunteer for Sycamore Land Trust, Girl Scouts, Sassafras Audubon, and other agencies.



CITY OF BLOOMINGTON  
parks and recreation

## APPLICATION

### ADVISORY COUNCILS

Date: December 6, 2018

Council for which you are applying: **Environmental Resources Advisory Council**

Name: Sarah Murray

Address: 515 W Wylie St., Bloomington, IN 47403

Home/Cell phone: 269-332-4623      Work phone: 812-855-4962

E-mail: sarahjmurray09@gmail.com

Are you a City resident? Yes

If not, are you a county resident applying for a special member position? \_\_\_\_\_

Occupation: Research Associate/Program Manager at Indiana University's Eppley Institute for  
Parks and Public Lands

Why are you interested in applying for this position?

Where a person lives has a direct correlation to their educational attainment, employment opportunities, personal health, and quality of life. A key component of this equation is the access to quality environmental resources, which play an integral role in public health and economic development within a community. I experienced the magnitude of this first-hand when I lived in Flint, Michigan, during the city's water crisis. As a result, I'm committed to building healthy systems and interactions between people, the built environment, and the surrounding natural resources.

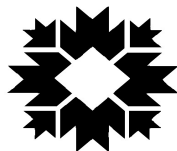
What are your qualifications for this position?

I believe my background in community development, my advanced degree in Urban and Regional Planning, and my experience working with the Environmental Program at the C.S. Mott Foundation and the Eppley Institute for Parks and Public Lands will make me successful in this position. Please see attached resumé for further experience and qualifications.

Thank you for applying. Please return the completed form in person to the  
Parks and Recreation Department,  
401 N. Morton Street, Suite 250, Bloomington IN,

By mail to P.O. Box 848, Bloomington IN 47402,

Or by email to: [tompkine@bloomington.in.gov](mailto:tompkine@bloomington.in.gov)



CITY OF BLOOMINGTON  
parks and recreation

## APPLICATION

### ADVISORY COUNCILS

Date: December 5, 2018

Council for which you are applying: **Environmental Resources Advisory Council**

Name: Dan Myers

Address: 474 E Melrose Ave

Home phone: n/a Work/Cell phone: 231-675-7149

E-mail: myersdt@iu.edu

Are you a City resident? Yes

If not, are you a county resident applying for a special member position? \_\_\_\_\_

Occupation: PhD Student and Associate Instructor, Indiana University Bloomington

Why are you interested in applying for this position?

Prior to graduate school, I spent 4.5 years as Water Resource Specialist at the Tip of the Mitt Watershed Council in Petoskey, MI. I worked with various communities to develop cooperative plans to manage lakes, streams, and watersheds. I served on many committees and coordinated community events like river cleanups, volunteer monitoring programs, and youth education. I then spent two years assisting a local government alliance by studying and providing recommendations for management of an urban trout stream in Grand Rapids, MI during my Master's education. Natural resources management is important to me because I grew up enjoying the outdoors and parklands. I believe my experience with water resources management and partnerships could benefit Bloomington's community and parks.

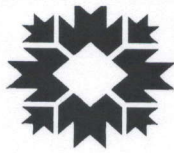
What are your qualifications for this position?

I have a B.S. Fisheries and Wildlife Management, M.S. Biology (Aquatic Sciences Emphasis), and Professional Certificate in Watershed Management. I have broad experience with Geographic Information Systems and management of lakes, streams, and invasive species. I do have a strong focus with aquatic resources but would not limit myself to them. I also served on the ERAC for the end of the previous term.

Thank you for applying. Please return the completed form in person to the  
Parks and Recreation Department,  
401 N. Morton Street, Suite 250, Bloomington IN,

By mail to P.O. Box 848, Bloomington IN 47402,

Or by email to: [tompkine@bloomington.in.gov](mailto:tompkine@bloomington.in.gov)



CITY OF BLOOMINGTON  
parks and recreation

## APPLICATION

### ADVISORY COUNCILS

Date: Dec. 6, 2018

Council for which you are applying: **Environmental Resources Advisory Council**

Name: David Parkhurst

Address: 1210 S. Collinswood Drive, B'Ton 47401

Home phone: 812-333-2945 Work/Cell phone: —

E-mail: parkhurst@indiana.edu

Are you a City resident? yes

If not, are you a county resident applying for a special member position? —

Occupation: gardener (Retired from IU, 2006)

Why are you interested in applying for this position?

I have been a member for about 2 years, representing ERAC to The Bloomington Environmental Commission, and vice versa. I find ERAC issues interesting, and believe

What are your qualifications for this position?

B.S., Applied math

Ph.D., Plant ecology

I was on The B'ton Environmental Commission from 1974-1988, and again from about 2013 to now. I'm treasured of the B'ton Food Policy Council.

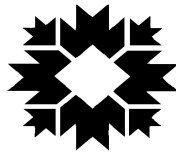
I have contributed positively to it.

Thank you for applying. Please return the completed form in person to the  
Parks and Recreation Department,

401 N. Morton Street, Suite 250, Bloomington IN.

By mail to P.O. Box 848, Bloomington IN 47402.

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CITY OF BLOOMINGTON  
parks and recreation

## APPLICATION

### ADVISORY COUNCILS

Date: 1/8/19

Council for which you are applying: **Environmental Resources Advisory Council**

Name: Melissa Laney

Address: 800 N. Washington St., Bloomington, IN 47408

Home phone: 812-360-6121 Work/Cell phone: 812-855-6905

E-mail: mlaney@indiana.edu

Are you a City resident? yes

Occupation: Senior Lecturer

Why are you interested in applying for this position?

*This would be my 7<sup>th</sup> or 8<sup>th</sup> term that I've served on the ERAC. I'm very interested in the Parks and Rec Department's effort to ensure protection of their environmental resources while expanding the opportunities to get the community involved and engaged in these great parks. In addition the community involvement, I have integrated Parks and Rec into my curriculum. In Lake and Watershed Management, I use the many park water resources as case studies in the curriculum. I regularly partner with the City, sometimes specifically the Parks and Rec Depart with various class service learning projects. My lab group has applied for funds multiple times to study the recovery of Griffy Lake. While we hope for those resources to come through, the lab has still studied the lake through class support and BSES thesis research.*

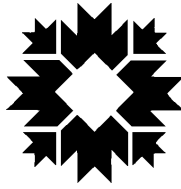
What are your qualifications for this position?

*I have a Masters in Environmental Science and teach at SPEA as a Senior Lecturer. Specifically, I teach courses that cover terrestrial and aquatic habitat, environmental management, and environmental sustainability, limnology, and lake/watershed management. These courses cover many issues that would align with the efforts of Parks and Rec. I am the director of the Indiana Clean Lakes Program, which has a strong Citizen Scientist Volunteer Water Monitoring component and education/outreach component. I am also a Certified Lake Professional.*

Thank you for applying. Please return the completed form in person to the  
Parks and Recreation Department,  
401 N. Morton Street, Suite 250, Bloomington IN,

By mail to P.O. Box 848, Bloomington IN 47402,

Or by email to: [tompkine@bloomington.in.gov](mailto:tompkine@bloomington.in.gov)



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

## **STAFF REPORT**

Agenda Item: C-16  
Date: 01/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Elizabeth Tompkins, Natural Resources Coordinator  
**DATE:** January 22, 2019  
**SUBJECT:** REVIEW/APPROVAL GRIFFY LAKE ACCESSIBLE FISHING PIER DESIGN  
CONTRACT WITH MADER DESIGN LLC

### **Recommendation**

Staff recommends approval of a contract with Mader Design LLC to provide detailed design and construction documents to re-align the entry drive into the parking lot, create a central node serving as a pedestrian road crossing and park entrance identifier, and create a wooden deck overlook and fishing pier structure.

### **Background**

Mader Design LLC completed design plans for the project in April 2018. Before construction bids can be obtained, construction documents need to be created. This contract with Mader Design will provide the detailed construction documents needed for bidding the project to construct the accessible fishing pier and construction phase services to assist with project management.

The original design plan is attached.

**RESPECTFULLY SUBMITTED,**

Elizabeth Tompkins, Natural Resources Coordinator

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
MADER DESIGN LLC  
FOR  
GRIFFY LAKE ACCESSIBLE FISHING PIER**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Mader Design LLC (“Consultant”),

**WITNESSETH:**

WHEREAS, the Department wishes to complete construction documents for the accessible fishing pier at Griffy Lake; and

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

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

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

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

**Article 1. Scope of Services**

Consultant shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Consultant shall complete the Services required under this Agreement on or before July 31, 2020, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

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

**Article 2. Standard of Care**

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



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

**Article 3. Responsibilities of the Department**

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

**Article 4. Compensation**

The Department shall pay Consultant for all fees and expenses in an amount not to exceed Sixty Three Thousand Seven Hundred Fifty Dollars (\$63,750). Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to:

ELIZABETH TOMPKINS  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

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

**Article 5. Appropriation of Funds**

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

**Article 6. Schedule**

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

**Article 7. Termination**

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

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

in connection with this Agreement shall become the property of the Department, as set forth in Article 10 herein.

**Article 8. Identity of the Consultant**

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

**Article 9. Opinions of Probable Cost**

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

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

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

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

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

**Article 12. Independent Contractor Status**

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

**Article 13. Indemnification**

Consultant shall defend, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, agents and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent

act or failure to act or any misconduct on the part of the Consultant or its agents or employees, or any independent contractors directly responsible to it (collectively “Claims”).

#### **Article 14. Insurance**

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

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

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

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

#### **Article 15. Conflict of Interest**

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

#### **Article 16. Waiver**

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

#### **Article 17. Severability**

The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement

to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 18. Assignment**

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

**Article 19. Third Party Rights**

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

**Article 20. Governing Law and Venue**

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

**Article 21. Non-Discrimination**

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

**Article 22. Compliance with Laws**

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

**Article 23. E-Verify**

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

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

interest or public property, in which case the City may allow the contract to remain in effect until the City procures a new Consultant. If the City terminates the contract, the Consultant or subcontractor is liable to the City for actual damages.

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

**Article 24. Notices**

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

**Department:**

**Consultant:**

City of Bloomington	Mader Design LLC
Attn: ELIZABETH TOMPKINS	Attn: JEFF MADER
401 N. Morton, Suite 250	302 Main Street
Bloomington, Indiana 47402	Beech Grove, Indiana 46107

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

**Article 25. Intent to be Bound**

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

**Article 26. Integration and Modification**

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

**Article 27. Non-Collusion**

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

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

**CITY OF BLOOMINGTON**

**MADER DESIGN LLC**

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

\_\_\_\_\_  
Jeff Mader, Principal/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:

The project is for the detailed design and construction documents to re-align the entry drive into the parking lot, create a central node serving as a pedestrian road crossing and park entrance identifier, create a wooden deck overlook and fishing pier structure. Design will consider trail or boardwalk connections to the overlook to the north and the south, and boardwalk extension(s) may be considered as alternates in bidding. Design work is anticipated to be based on preliminary design drawings developed in April, 2018. We understand the budget for the project to be \$500,000.

We have engaged LandWorx to serve as Civil Engineer, primarily focused on work within the right-of-way and coordination with County Highway and DNR review processes. We have also engaged LHB as structural engineers to assist with structural engineering of deck/overlook structures.

The Mader Design team shall provide professional landscape architectural services to provide:

#### **A. Design Development**

1. Attend up to 2 meetings with Project Team and/or Owner to discuss design activities, updates, and coordinate Project progress.
2. Refine layout, begin developing detailed layout of the central node and deck/piers, including beginning development of construction details.
3. Coordinate with County Highway Dept to review plans for improvements within the Road and generally within the right- of-way. Continue conversations with DNR to establish parameters for what is needed for construction in floodway reviews/permits.
4. Finalize design and facilitate meeting with Client and Project Team to review and obtain approval by Client and Owner prior to beginning Construction Documents.
5. Develop and provide cover sheet, drawing index, drawings, typical construction details and specification index.
6. All drawings, shall be submitted to Client in electronic pdf format and hard copy drawings as appropriate.

**B. Construction Documents** Upon approval by the Client and Owner, we will prepare Construction Documents for the Project. The documents shall include the following:

1. Develop plans, details, and appropriate specifications on drawings for the purpose of obtaining bids and completing construction by successful contractor. Drawings shall include:
  - a. Cover
  - b. Site Demolition
  - c. Site Layout
  - d. Site Grading & Erosion Control
  - e. Road/ROW Improvement drawings and details as required by County Highway Dept.
  - f. Enlarged Overlook/deck plans

- g. Site Planting Plan
  - h. Site and Structural Details
  - i. Written specifications shall be developed for pavements, carpentry, and plantings
  - j. Note, some drawings may be combined where appropriate.
2. Provide Plans to Client or Civil Engineering for submittal to regulatory agencies, including County Highway and DNR.
  3. Attend up to 3 meetings with Project team to discuss design activities, updates, and coordinate Project progress and finalize landscape materials and design.
  4. Finalize Construction Documents, obtain Client approval, and make drawings available for Client to solicit public bids.

Drawings shall be developed as 24x36 sheets and provided to Client digitally as PDF's. 5. Provide recommendations of appropriate contractors to Client.

#### C. Bidding

- a. Provide Drawings to Client for issuing package for bids through their online plan room, and coordination with Client's front end requirements as needed.
- b. Response to written Contractor requests for clarification and preparation of addenda for clarification of bid documents during the bid/quote phase.

#### D. Construction Phase Services

1. Review of shop drawings and submittals as required under Specifications, review Contractor's Payment Applications and advise client regarding percentage complete.
2. Response to written Requests for Information for landscape related work elements.
3. A representative of Landscape Architect Team shall perform up to 6 site visits during the construction phase of the Projects, including a pre-construction meeting, meetings/site reviews during construction, and a final walkthrough prior to issuance of substantial completion.

A written site observation report/summary and photographs of our site observations will be provided to Client.



## **EXHIBIT B**

### **“Project Schedule”**

Design work to be completed July 31, 2019.

Bidding and construction phase oversight to be completed by July 31, 2020.

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

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.

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 \_\_\_\_\_, 2019.

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 \_\_\_\_\_, 2019.

**Mader Design 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 \_\_\_\_\_, 2019.

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

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

November 29, 2018  
*Revised December 3, 2018*

Elizabeth Tompkins  
City of Bloomington Parks and Recreation Department  
401 N. Morton St. Suite 250  
PO Box 848  
Bloomington, IN 47402



302 main street, beech grove, indiana, 46107  
p: 317-889-1775  
www.maderdesignllc.com

RE: Letter of Agreement  
Landscape Design Services – Griffy Fishing Pier

Dear Elizabeth,

Thank you for the opportunity to submit this Letter of Agreement for the landscape assessment and design for the proposed boardwalk updates at Griffy Lake in Bloomington, Indiana between Bloomington Parks & Recreation (Client) and Mader Design LLC (Landscape Architect).

### **Assumptions**

1. Scope is based on phone discussions and emails with Client, and prior concept planning efforts, including the plans dated April 3, 2018, focusing on the realignment of the entry drive, road crossing, and central node/overlook/fishing pier.
2. Information provided by Client is complete and accurate and assumed to be true for the purposes of the Project. Client shall be available to answer questions and provide design input throughout the Project process.
3. Drawing shall be submitted to Client as digital PDF formats. Large format printing shall be by Client or others, or shall be a reimbursable expense.
4. Base drawings in CAD format shall be developed from survey conducted in previous phase.
5. Landscape Architect shall not be responsible for determining if any areas on site are environmentally sensitive (i.e. underground tanks, asbestos materials, etc.) or may require special environmental permitting.
6. Detailed Construction Cost Estimating is not anticipated but broad scope budgeting can be provided if requested.
7. Regulatory submissions and approvals are anticipated in this scope of work, anticipating DNR construction in floodway approvals and County Road approvals. If other reviews or approvals required for local, county, state, SWPPP, IDEM, IDNR, or other agency, they shall be coordinated by Client's project manager or as Additional Services which may require additional subconsultants. All fees required for regulatory review processes, public notices, application fees, etc., shall be paid directly by Client.
8. The following services are not included in the Scope of Work and Fee for Basic Services, but can be provided as Additional Services:
  - a. Zoning approvals beyond Administrative Review, variances, or rezoning efforts.
  - b. Detailed Color renderings for marketing or fundraising purposes.
  - c. Obtaining Improvement Location and/or Building Permits (acquired by Contractor or Owner's Representative).
  - d. Site lighting engineering.
  - e. Irrigation design.
  - f. Environmental reviews.
  - g. Changes to design/drawings after design approval by Owner, or Clarifications to bidders based on Client or Owner requests shall be considered Additional Services.
  - h. Extensive work to develop Record Drawings/As-Built of the plans, or any field verification for such drawings.

### **Project Scope**

The project is for the detailed design and construction documents to re-align the entry drive into the parking lot, create a central node serving as a pedestrian road crossing and park entrance identifier, create a wooden deck overlook and fishing pier structure. Design will consider trail or boardwalk connections to the overlook to the north and the south, and boardwalk extension(s) may be considered as alternates in bidding. Design work is anticipated to be based on preliminary design drawings developed in April, 2018. We understand the budget for the project to be \$500,000.

We have engaged LandWorx to serve as Civil Engineer, primarily focused on work within the right-of-way and coordination with County Highway and DNR review processes. We have also engaged LHB as structural engineers to assist with structural engineering of deck/overlook structures.

The Mader Design team shall provide professional landscape architectural services to provide:

**A. Design Development**

1. Attend up to 2 meetings with Project Team and/or Owner to discuss design activities, updates, and coordinate Project progress.
2. Refine layout, begin developing detailed layout of the central node and deck/piers, including beginning development of construction details.
3. Coordinate with County Highway Dept to review plans for improvements within the Road and generally within the right-of-way. Continue conversations with DNR to establish parameters for what is needed for construction in floodway reviews/permits.
4. Finalize design and facilitate meeting with Client and Project Team to review and obtain approval by Client and Owner prior to beginning Construction Documents.
5. Develop and provide cover sheet, drawing index, drawings, typical construction details and specification index.
6. All drawings, shall be submitted to Client in electronic pdf format and hard copy drawings as appropriate.

**B. Construction Documents**

Upon approval by the Client and Owner, we will prepare Construction Documents for the Project. The documents shall include the following:

1. Develop plans, details, and appropriate specifications on drawings for the purpose of obtaining bids and completing construction by successful contractor. Drawings shall include:
  - a. Cover
  - b. Site Demolition
  - c. Site Layout
  - d. Site Grading & Erosion Control
  - e. Road/ROW Improvement drawings and details as required by County Highway Dept.
  - f. Enlarged Overlook/deck plans
  - g. Site Planting Plan
  - h. Site and Structural Details
  - i. Written specifications shall be developed for pavements, carpentry, and plantings
  - j. Note, some drawings may be combined where appropriate.
2. Provide Plans to Client or Civil Engineering for submittal to regulatory agencies, including County Highway and DNR.
3. Attend up to 3 meetings with Project team to discuss design activities, updates, and coordinate Project progress and finalize landscape materials and design.
4. Finalize Construction Documents, obtain Client approval, and make drawings available for Client to solicit public bids. Drawings shall be developed as 24x36 sheets and provided to Client digitally as PDF's.
5. Provide recommendations of appropriate contractors to Client.

**C. Bidding**

- a. Provide Drawings to Client for issuing package for bids through their online plan room, and coordination with Client's front end requirements as needed.
- b. Response to written Contractor requests for clarification and preparation of addenda for clarification of bid documents during the bid/quote phase.

**D. Construction Phase Services**

1. Review of shop drawings and submittals as required under Specifications, review Contractor's Payment Applications and advise client regarding percentage complete.
2. Response to written Requests for Information for landscape related work elements.

3. A representative of Landscape Architect Team shall perform up to 6 site visits during the construction phase of the Projects, including a pre-construction meeting, meetings/site reviews during construction, and a final walkthrough prior to issuance of substantial completion. A written site observation report/summary and photographs of our site observations will be provided to Client.

### **Schedule**

We are anticipating design work to be completed in Spring/Early Summer 2019, and will work with you to develop a mutually agreeable project schedule.

### **Professional Fees**

Landscape Architecture Services shall be a lump sum of **\$63,750**, inclusive of expenses such as mileage and incidental in-house printing. Extensive printing or other expenses incurred for the benefit of the project shall be confirmed with Client and invoiced as Reimbursable Expenses. Any fees charged by or related to regulatory reviews or approvals shall be paid directly by Client.

Invoices shall be provided monthly based on percent complete.

Additional Services: In the event the scope of work as described in this Agreement changes to a degree that will alter the fee, the Client shall be notified in writing and a revised fee will be documented and a completion time and compensation amount will be submitted for approval. For services not included in this Agreement, Additional Compensation shall be a negotiated lump sum or computed using the hourly rates indicated in the attached Terms & Conditions.

Please keep one copy of this Letter of Agreement for your records, and return one signed copy to our office. We will begin work on the project upon receipt of this executed Agreement or written Notice to Proceed.

Mader Design LLC appreciates the opportunity to be of service for this exciting project. Please let me know if you have any further questions.

Sincerely,  
Mader Design LLC



Jeffrey R. Mader, ASLA, LEED AP  
Principal/Owner

Accepted by:

Print:

*Bloomington Parks & Recreation*

Date

## Mader Design LLC - Terms & Conditions of Professional Services

**STANDARD TERMS AND CONDITIONS** form an integral part of the Agreement for Design and Construction Documents for the Project as provided by Mader Design.

**1. ACCESS TO THE SITE:** Unless otherwise stated, Mader Design LLC (Landscape Architect) will have access to the site for activities necessary for the performance of the services. The Landscape Architect will take precautions to minimize damage from these activities, but has not included in the project fee the cost of restoration of any resulting damage. The Landscape Architect has not been retained or compensated to provide design and construction observation services related to the Contractor's safety precautions or means, methods, techniques, sequences or procedures for the Contractor to perform his work. The Client understands that the Landscape Architect is not responsible, in any way, for the means, methods, techniques, sequences, procedures or scheduling of construction, for job site safety, and will not be responsible for any losses or injuries that occur at the project site.

**2. INSURANCE:** The Landscape Architect shall secure and endeavor to maintain such insurance as will protect the Client from claims of negligence, bodily injury, death, or property damage that may arise out of the performance of the Landscape Architect's services in the Construction Document portion of the Work.

**3. RISK ALLOCATION:** In recognition of the relative risks, rewards and benefits of the Project to both the Client and the Landscape Architect, the risks have been allocated such that the Client agrees that, to the fullest extent permitted by law, the Landscape Architect's total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claim expenses, including attorney's fees, arising out of this Agreement, from any cause or causes, shall not exceed the total amount of the Landscape Architect's fee for any claim arising out of the Landscape Architect's negligence in preparing Construction Documents.

**4. TERMINATION OF SERVICES:** This Agreement may be terminated by the Client or by the Landscape Architect upon not less than seven days written notice should the other party fail to substantially perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. If this Agreement is terminated by the Client, the Landscape Architect shall be paid for services performed to the termination notice date, including reimbursable expenses due plus termination expenses. Termination expenses are defined as reimbursable expenses directly attributable to termination, plus 15% of the total compensation earned to the time of termination to account for the Landscape Architect's rescheduling adjustments, reassignment of personnel and related costs incurred due to termination.

**5. REIMBURSABLE EXPENSES:** Reimbursable expenses shall be limited to the following: (a) expenses of printing, reproduction, postage and handling of drawings and specifications. (b) mileage expenses at the current U.S. IRS allowance. (c) costs incurred by submitting for regulatory approvals from applicable jurisdictions. (d) long-distance phone expenses. (e) overnight and express mail and courier fees. All reimbursable expenses shall be billed at 1.10 the actual cost incurred by the Landscape Architect for administration of such items.

**6. DISPUTE RESOLUTION:** All claims, counterclaims, disputes and other matters in question between the parties hereto arising out of or relating to this Agreement, or breach thereof, shall be presented to non-binding mediation, subject to the parties agreeing on a mediator.

**7. OWNERSHIP OF DOCUMENTS:** It is understood by and between the parties to this Agreement that all Drawings, Specifications and other work or products of the Landscape Architect for this Project shall remain the property of the Landscape Architect and are instruments of service for this Project only and shall apply to this particular Project only. Any reuse of the instruments of service of the Landscape Architect by the Client for any extensions of the Project or for any other project without the written permission of the Landscape Architect shall be at the Client's sole risk, and the Client agrees to defend, indemnify and hold harmless the Landscape Architect from any claims, damages or expenses, including attorneys fees, arising out of unauthorized reuse of the Landscape Architect's instruments of service by the Client or by others acting through or on behalf of the Client. Any reuse or adaptation of the Landscape Architect's

instruments of service on other projects shall entitle the Landscape Architect to additional compensation in an amount to be agreed upon by the Client and the Landscape Architect.

**8. APPLICABLE LAW:** Unless otherwise specified within this Agreement, this Agreement shall be governed by the law of the State of Indiana. In the event any provisions of this Agreement shall be held to be invalid or unenforceable, the remaining provisions shall be valid and binding on both parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

**9. PAYMENT TO THE LANDSCAPE ARCHITECT:** Fees for services shall be as provided in this Agreement. Progress payments shall be made in proportion to services rendered and as indicated within this Agreement and shall be due and owing within thirty days. Past due amounts include a charge of 1-1/2% per month for interest from the thirtieth day. Client shall reimburse all of Landscape Architect's cost and expense (including reasonable attorneys' fees) incurred in connection with collecting any past due amount owed under this agreement. If the Client fails to make monthly payments due the Landscape Architect, the Landscape Architect may, after giving seven days written notice to the Client, suspend services under this Agreement and retain all work products deliverable to the Client until full payment. The project completion date shall be automatically extended by the number of days services are suspended. No deductions shall be made from the Landscape Architect's compensation on account of penalty, liquidated damages or other sums withheld from payment(s) to Contractors or based on Contractors performance.

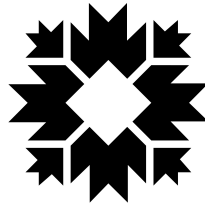
**10. EXTENT OF AGREEMENT:** This Agreement with attached Terms represents the entire understanding between the Client and the Landscape Architect and supersedes all prior negotiations, representations, or agreements, whether written or oral. This Agreement may be amended only in writing signed by both the Client and the Landscape Architect.

**11. OPINION OF CONSTRUCTION COSTS:** Any opinion of construction cost prepared by the Landscape Architect represents his judgment as a design professional and is supplied for the general guidance of the Client. Since the Landscape Architect has no control over the cost of labor and material, or over competitive bidding or market conditions, the Landscape Architect does not guarantee the accuracy of such opinions as compared to Contractor bids or actual cost to the Client.

**12. CHANGES IN SCOPE OF SERVICES:** In the event the scope of work as described in this Agreement changes to a degree that will alter the fee, the Client shall be notified in writing and a revised fee will be documented and a completion time and compensation amount will be submitted for approval. For services not included in this Agreement, Additional Compensation shall be computed using the following hourly rates of \$150 for Principal, \$120 for Landscape Architect, \$95 for Graduate Landscape Architect, and \$75 for Administrator or Intern. Rates indicated are in effect through December 31, 2018, after which time they will increase in relationship to salary increases.

**13. EXISTING OR HIDDEN CONDITIONS:** A condition is hidden if it is concealed by existing finishes or features or if it cannot be investigated by reasonable visual observation. If the Landscape Architect has reason to believe that such a condition may exist, the Landscape Architect will notify the Client, who shall then authorize and pay for all costs associated with the investigation of such condition and, if necessary, all costs necessary to correct said condition.

**14. CONSTRUCTION PHASE SERVICES:** Should the Client authorize construction installation based on the plans provided under this Agreement without project observation or review of Contractor's performance or any construction phase services by the Landscape Architect, the Client assumes all responsibility for interpretation of these documents and for construction observation and/or supervision and waives any claims against the Landscape Architect that may be in any way connected thereto.



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-17  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** John Turnbull, Sports Division Director  
**DATE:** January 22, 2019  
**SUBJECT:** CONTRACT APPROVAL WITH TENNIS TECHNOLOGY, INC.

### Recommendation

Staff recommends approval of the contract with Tennis Technology, Inc. The projects in this contract are funded through the General Obligation Parks Bond for a total amount of \$73,656

### Background

The contract is for coating and lining of tennis courts at Sherwood Oaks and Winslow Sports Park along with basketball courts at Bryan Park, Sherwood Oaks Park, Highland Village Park, Crestmont Park, Winslow Woods Park and Upper Cascades Park.

Requests for quotes was sent out in September, 2018 to all area vendors that do this type of work. We received two quotes. Tennis Technology, Inc.'s quote was \$73,656 and Leslie Coatings, Inc. was \$78,946. Tennis Technology, Inc. has done work for us in the past and we have been happy with the quality.

**RESPECTFULLY SUBMITTED,**

John Turnbull, Sports Division Director



**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
TENNIS TECHNOLOGY, INC.  
FOR  
SPORT COURT COATING**

This Agreement, entered into on this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Tennis Technology, Inc. (“Contractor”),

**WITNESSETH:**

WHEREAS, the Department wishes to have several sport courts coated and lined; and

WHEREAS, the Department requires the services of a professional contractor in order to perform the coating and lining (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, 2019, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

In the performance of Contractor’s work, Contractor agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with John Turnbull as the Department’s Project Manager. 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 Seventy Three Thousand, Six Hundred Fifty Six dollars and zero (\$73,656.00). 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:

John Turnbull  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

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

**Article 5. Appropriation of Funds**

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

**Article 6. Schedule**

Contractor shall perform the Services by August 1, 2019. 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		Jeff Henderson
Attn: John Turnbull		Tennis Technology Inc.
401 N. Morton, Suite 250		P.O. Box 19709
Bloomington, Indiana 47402		Louisville, KY 40259

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**

**Tennis Technology, Inc.**

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

\_\_\_\_\_  
Jeff Henderson,

**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:

Bryan Park Basketball Courts (2): Sherwood Oaks Basketball Court (1): Highland Village Basketball Court (1):  
Crestmont Basketball Courts (2): Winslow Woods Basketball Court (1): Upper Cascades Basketball Court (1):

- Clean courts with blowers, scrapers, brooms, pressure spray if necessary

- Check for bird baths

- Level any bird baths and pavement seams

- Grind courts to remove irregularities

- Install two coats of acrylic resurfacer, color is black

- Apply white lines to college specifications with three-point lines

Sherwood Oaks Tennis Courts (2) and one hitting wall: Winslow Tennis Courts (6):

- Clean courts with blowers, scrapers, brooms, pressure spray if necessary

- Check for bird baths

- Level any bird baths and pavement seams

- Grind courts to remove irregularities

- Install two coats of acrylic resurfacer

- Apply minimum two coats of color coatings, color to be dark blue court/grey exterior

- Apply white lines to USTA Specifications

- Install center anchors

- Raise nets to USTA specifications

**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 \_\_\_\_\_, 2019.

\_\_\_\_\_  
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 \_\_\_\_\_, 2019.

**Tennis Technology, 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 \_\_\_\_\_, 2019.

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

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



## STAFF REPORT

Agenda Item: C-18  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** John Turnbull, Sports Division Director  
**DATE:** January 22, 2019  
**SUBJECT:** REVIEW/APPROVAL TO PURCHASE 75 GOLF CARS AND 2 SERVICE VEHICLES AT CASCADES GOLF COURSE

### Recommendation

Staff recommends the bid from Professional Golf Car for \$225,000. Funds for this purchase are in the general fund 200-18-183500-53840. Budget funds account for a four or five year lease/purchase from municipal finance sources. The Controller's office would be researching and negotiate the lease terms. This would be one lump payment to Professional Golf Car after the close on a lease.

### Background

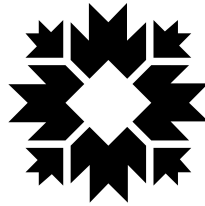
There are three primary vendors that make golf cars and we received bids from each vendor. Professional Golf Car's net bid was \$225,000. Club Car's net bid was \$241,131. Yamaha's net bid was \$229,660. All bidders met the bidding requirements and specifications.

The current fleet was purchased from Professional Golf Car. We financed that fleet over five years but kept the fleet another two years after that for a total of seven years. We were very happy with their durability, response time, parts prices, and labor prices when repairs were needed.

**RESPECTFULLY SUBMITTED,**

---

John Turnbull, Sports Division Director



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-19  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** John Turnbull, Division Director Sports  
**DATE:** January 22, 2019  
**SUBJECT:** REVIEW/APPROVAL OF APPLICATIONS FOR CASCADES GOLF COURSE  
ADVISORY COUNCIL

### Recommendation

Staff recommends the following names for approval for golf advisory council:

Brian Muehlhaus	Shelia Nickle
Bill Pfrommer	Anthony Robertson
Harrison Carmichael	

### Background

We received 18 applications. We believe these five candidates offer the broadest perspectives and backgrounds for an advisory council. We believe we have the serious player perspective, the recreational player perspective, the ladies group perspective, the young golfer's perspective, and the golf turf perspective.

**RESPECTFULLY SUBMITTED,**

\_\_\_\_\_  
Sports Division Director



CITY OF BLOOMINGTON  
parks and recreation

## APPLICATION

### ADVISORY COUNCILS

Date: Dec. 7, 2018

Council for which you are applying: **Cascades Golf Advisory Council**

Name: Brian Muehlhaus

Address: 4022 N. Kinser Pike, Bloomington, IN 47404

Home phone: \_\_\_\_\_ Work/Cell phone: 812-322-0566

E-mail: bmuehlha@mccsc.edu

Are you a City resident? Y

If not, are you a county resident applying for a special member position? \_\_\_\_\_

Occupation: High School Teacher/Golf Coach

Why are you interested in applying for this position?

I have an interest in making a commitment to being part of a group where we can have conversations about how to make Cascades Golf Course the best golf course it can be for all golfers of both genders (regulars, out of towners, youth golfers, and tournament golfers). I personally believe it can be a great city course and feel it has a lot of potential to get better. I also want to be part of a group that wants to help the golf course move forward. I believe it is important to help discuss historical knowledge of the course, new ideas for events, ideas to make improvements, and continue with what the golf course and the staff do well. Cascades Golf Course has the potential to be a really nice city golf course and there are many people who truly care about helping to make that happen and we want to be proud of our facility. Based on my qualifications below, I feel I bring a variety of perspectives to the group and am excited to have the opportunity to work with others who have similar interests.

What are your qualifications for this position?

I am the high school golf coach at Bloomington North for both the boys and the girls and have been the head coach since 2002 and was a volunteer assistant from 1998-2001. I am also on the executive board for the Indiana High School Golf Coaches Association and I am on the Board of Directors for the Indiana Golf Association. I also play in various events at Cascades Golf Course.

Thank you for applying. Please return the completed form in person to the  
Parks and Recreation Department,  
Cascades Golf Course

By mail to P.O. Box 848, Bloomington IN 47402,

Or by email to: [craigab@bloomington.in.gov](mailto:craigab@bloomington.in.gov)



CITY OF BLOOMINGTON  
parks and recreation

## APPLICATION

### ADVISORY COUNCILS

Date: 12-12-18

Council for which you are applying: **Cascades Golf Advisory Council**

Name: Sheila J. Nickle

Address: 3823 E. Brownridge Rd

Home phone: Cell 812-528-2940 Work/Cell phone: \_\_\_\_\_

E-mail: RXBoilees@gmail.com

Are you a City resident? YES

If not, are you a county resident applying for a special member position? \_\_\_\_\_

Occupation: Retired Pharmacist

Why are you interested in applying for this position?

I am interested in seeing Cascades maintain and also improve the quality of the golfing experience for all golfers.

What are your qualifications for this position?

I love golf!

I have served on the "greens Committee" at Seymour Elks Golf Club (no longer in existence) in my career I held administrative positions and understood some of the difficulties for management.

Thank you for applying. Please return the completed form in person to the  
Parks and Recreation Department,  
Cascades Golf Course

By mail to P.O. Box 848, Bloomington IN 47402,

Or by email to: [craig@bloomington.in.gov](mailto:craig@bloomington.in.gov)

Trying to "please" the customer as well as maintaining a great work force.



CITY OF BLOOMINGTON  
parks and recreation

## APPLICATION

### ADVISORY COUNCILS

Date: 12/6/2018

Council for which you are applying: **Cascades Golf Advisory Council**

Name: Bill Pfrommer

Address: 2002 E. Ashwood Ln, Bloomington, IN 47401

Home phone: \_\_\_\_\_ Work/Cell phone: 812-360-5414

E-mail: wpfromme@homefinder.org

Are you a City resident? Yes

If not, are you a county resident applying for a special member position? \_\_\_\_\_

Occupation: Real Estate Appraiser, Self-Employed

Why are you interested in applying for this position?

- 1) To assist in the continuation of good customer service, successful youth programs, and optimal play conditions at Cascades.
- 2) I would like to be involved in the coming years at Cascades, including the new clubhouse and the course improvements.
- 3) I have been around Cascades since 1960 and it has always been a special place for local golfers. I would like to see it prosper and grow.

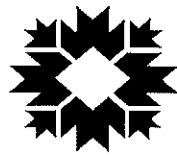
What are your qualifications for this position?

- 1) Annual member for many years.
- 2) Avid player, with existing relationships with many staff members and players.
- 3) A willing attitude, with an open mind and no personal agenda.

Thank you for applying. Please return the completed form in person to the  
Parks and Recreation Department,  
Cascades Golf Course

By mail to P.O. Box 848, Bloomington IN 47402,

Or by email to: [craigab@bloomington.in.gov](mailto:craigab@bloomington.in.gov)



CITY OF BLOOMINGTON  
parks and recreation

## APPLICATION

### ADVISORY COUNCILS

Date: 12-15-18

Council for which you are applying: **Cascades Golf Advisory Council**

Name: Anthony Robertson

Address: 840 W Rosewood Drive

Home phone: 843 323 6778 Work/Cell phone: 843 323 6778

E-mail: ansrober@iv.edu

Are you a City resident? yes

If not, are you a county resident applying for a special member position? \_\_\_\_\_

Occupation: Golf Course Superintendent

Why are you interested in applying for this position?

I grew up playing Cascades as a junior golfer and would like to help any way I can. Also my two sons are beginning junior golfers and want to make sure junior golfers are a focus of the golf program.

What are your qualifications for this position?

Lifelong golfer, 20 years and counting in golf industry. Former board member and president of Tri. State Superintendent Association. Class A golf course Superintendent. Possess Golf Course Management Degree.

Thank you for applying. Please return the completed form in person to the  
Parks and Recreation Department,  
Cascades Golf Course

By mail to P.O. Box 848, Bloomington IN 47402,

Or by email to: [craig@bloomington.in.gov](mailto:craig@bloomington.in.gov)



CITY OF BLOOMINGTON  
parks and recreation

## APPLICATION

### ADVISORY COUNCILS

Date: December 13, 2018

Council for which you are applying: **Cascades Golf Advisory Council**

Name: Harrison Carmichael

Address: 2786 S. Walnut St. Pike A218

Home phone: N/A Work/Cell phone: W:(812)-876-3335/C:(812)-272-8326

E-mail: hscarmichael@gmail.com

Are you a City resident? Yes

If not, are you a county resident applying for a special member position? N/A

Occupation: Special Education Teacher

#### **Why are you interested in applying for this position?**

My interest in the betterment of Cascades and its golf facilities is something that has been a part of my life since I was 16. I have practiced, played, and worked in one way or another for every year of my life since that point in time. I have seen three head professionals move through the facilities, worked as a junior camp instructor, pro shop attendant, maintenance crew worker, and many various jobs in-between. In my time at Cascades I have seen the ups and downs of the course facilities, the ebb and flow of the course conditions, and the overall spirit of Cascades through the better part of a decade. I feel that I have contributed a large amount of my time growing up to Cascades, its employees, members, and public play. In the recent year I have begun to coach the Edgewood girl's golf team and throughout this process I have gained even more knowledge about the facets of Cascades.

I believe that my overall interest in this advisory committee stems from my love of Cascades. I care for Cascades and every facet of its existence; that along with my years of employment in various areas of Cascades operations gives me a unique perspective. I feel that many people at Cascades both employee and player see only issues and rarely point out solutions...I would like the opportunity to help with the solutions and help Cascades to a brighter future as potentially one of Bloomington's best golf facilities.

#### **What are your qualifications for this position?**

- I have worked at Cascades in either the pro shop, on maintenance crew, or in junior camp instruction over the last 10 out of 12 years.



- I have played golf at a competitive level in high school, college, and in events all over the country which allows me to have a perspective on what I have seen that works and what does not for various settings, budget, and clientele.
- I have been employed at four separate golf courses since I was 16 – working in the pro shop and on the maintenance crew at both public and private golf courses as well as courses with low public funding and a large source of private funding, this provides me with a unique perspective to the issues and solutions that face golf courses and their operations within various budgets and economic settings.
- I have played on and worked with many various types of grasses (bent, zoysia, Bermuda, blue grass, and various breeds of fescue), in various climates – most being within the Midwest.
- I have a perspective that is evenly based between on-course maintenance work, playing experience, and the business side of Cascades.
- I have grown up with Cascades, its employees, and players and that is what is most important; I know faces, names, and can connect on a personal and professional level to what people want and need out of Cascades in the future.

Thank you for applying. Please return the completed form in person to the  
Parks and Recreation Department,  
Cascades Golf Course

By mail to P.O. Box 848, Bloomington IN 47402,

Or by email to: [craiga@bloomington.in.gov](mailto:craiga@bloomington.in.gov)



## STAFF REPORT

Agenda Item: C-20  
Date: 1/17/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Erik Pearson- Program/Facility Coordinator-Banneker Community Center  
**DATE:** January 22, 2019  
**SUBJECT:** REVIEW/APPROVAL OF SERVICE AGREEMENT WITH HARRELL-FISH, INC.

### **Recommendation**

Staff recommends the approval of the agreement between Bloomington Parks and Recreation and HFI related to HVAC maintenance and repairs at the Banneker Community Center. The services agreement will be funded through Banneker's 2019 General Fund.

### **Background**

The Banneker Center has contracted Harrell-Fish Inc. to provide routine maintenance and repairs to the HVAC system for multiple years. HFI has been an integral partner in assessing the operational capacities of the HVAC units at the Banneker Center and in 2018 provided extensive emergency support. We look to continue that partnership with HFI in 2019 and will continue to conduct conversations with HFI regarding the planning procedures for future HVAC changes at Banneker.

**RESPECTFULLY SUBMITTED,**

A handwritten signature in black ink, appearing to read "E. Pearson", is placed over a light gray rectangular background.

Erik Pearson  
Program/Facility Coordinator-Banneker Community Center

# **AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND HARRELL-FISH INC. (HFI)**

This Agreement, entered into on this \_\_\_\_ day of January, 2019, by and between the City of Bloomington Department of Parks and Recreation (the "Department"), and Harrel-Fish Inc. ("Contractor").

**Article 1. Scope of Services** Contractor shall provide season maintenance checks of HVAC units. Additionally, Contractor shall repair, adjust, and/or replace heating, ventilation and cooling components at City facilities ("Services") for a set price of Seventy Eight Dollars (\$78) per hour Monday-Friday 7:00am-3:30pm and overtime/emergency hours hourly rate of Ninety Three Dollars (\$93), plus any additional cost for parts and materials. Parks Department would give contractors at least two (2) working days' notice on repair. Holiday Call-out/Double-time hourly rate will be One Hundred Fourteen Dollars (\$114). Types of HVAC components are: blower motors, thermostats, gas valves, filters, and control boards. Contractor shall provide seasonal inspections of equipment and filter changes. 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 Monday December 31<sup>st</sup>, 2019, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services. In the performance of Contractor's work, Contractor agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with Erik Pearson-Banneker Community Center or Amy Shrake-Alison-Jukebox Building 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 Three Thousand Thirty Dollars (\$3,030). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Erik Pearson-Banneker Community Center or Amy Shrake-Alison-Jukebox Building, 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:

Two required maintenance checks per years as well as other repairs. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed to by all 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:** Erik Pearson-Banneker Community Center or Amy Shrake-Alison-Jukebox Building, **401 N. Morton, Bloomington, IN 47402. Contractor: Harrell Fish, 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.

**Article 25: Renewal** This Agreement may be renewed for three additional one-year terms so long as none of the terms and conditions herein are modified in any way. Renewal shall only occur upon advanced written notice by the City to the Contractor that the City wishes to renew the Agreement at least thirty (30) days, but not more than sixty (60) days, prior to the end of the current term

**CITY OF BLOOMINGTON**

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

**Harrell-Fish Inc.**

\_\_\_\_\_  
Mike Hupp-Vice President

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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

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

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

**AFFIDAVIT**

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

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

\_\_\_\_\_  
Signature

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

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

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_ day of \_\_\_\_\_, 2019.

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

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

**EXHIBIT B**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**Harrell-Fish 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 \_\_\_\_\_, 2019.

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

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



## STAFF REPORT

Agenda Item: D-1 Date: 1/17/2019
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Administrator Review\Approval PM
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**TO:** Board of Park Commissioners  
**FROM:** Joanna Sparks, City Landscaper  
**DATE:** January 22, 2019  
**SUBJECT:** 2018 VEGETATION MANAGEMENT TEAM

### **Recommendation – INFORMATION PURPOSES ONLY**

#### **Background**

The Vegetation Management Team worked to remove invasive plants and protect native habitats on most of the properties the Parks and Recreation Department manages in 2018. The most common invasives targeted were: Asian Bush Honeysuckle, Canada Thistle, Callery Pear, Garlic Mustard, Japanese Stiltgrass, Johnson Grass, Oriental Bittersweet, and Purple Wintercreeper.

The 2018 Team was composed of 6.5 staff (1.5 FT and 5 Seasonals). Over the year they worked to educate the public by working with MC-IRIS on Sustaining Nature And Your Land Day at the Bloomington Farmers' Market and at an Invasive/Native Plant Awareness Day at RCA Park, and worked with over 100 volunteers. Collectively over 3500 hours of actual hands on invasive plant management occurred.

**RESPECTFULLY SUBMITTED,**

*Joanna Sparks*

Joanna Sparks, City Landscaper