

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

**AGENDA**

City of Bloomington Board of Park Commissioners  
Regular Meeting: Tuesday, March 26, 2019 4:00 – 5:30 p.m.

Council Chambers  
401 North Morton

**CALL TO ORDER - ROLL CALL**

**A. CONSENT CALENDAR**

- A-1. Approval of Minutes of February 26, 2019
- A-2. Approval of Claims Submitted February 27, 2019 – March 25, 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 -
- B-3. Parks Partner Award - Master Rental (Sarah Owen)
- B-4. Staff Recognition -

**C. OTHER BUSINESS**

- C-1. Review/Approval of Partnership Agreement with Jazzercise (Jess Klein)
- C-2. Review/Approval of Partnership Agreement with Centerstone (Paula McDevitt)
- C-3. Review/Approval of interim operation agreement with Spin Scooters (Alex Crowley)
- C-4. Review/Approval of contract with Zipcar (Alex Crowley)
- C-5. Review/Approval of partnership agreement with Civic Theater (Crystal Ritter)
- C-6. Review/Approval of service agreement with Oracle Elevator (Daren Eads)
- C-7. Review/Approval of Service Agreement with New Life United Pentecostal Church (Bill Ream)
- C-8. Review/Approval of partnership with Bloomington Junior League Baseball Assoc. (Dee Tuttle)
- C-9. Review/Approval of partnership with Monroe County Senior League Baseball Assoc. (Dee Tuttle)
- C-10. Review/Approval of partnership with BJLBA North for Winslow Concession (Dee Tuttle)
- C-11. Review/Approval of beverage contract with Coca Cola (John Turnbull)
- C-12. Review/Approval of contract with Kentucky Fairways Zoysia Farm (John Turnbull)
- C-13. Review/Approval of lease purchase agreement with First Financial for golf carts (John Turnbull)
- C-14. Review/Approval of contract with Snider Recreation for Crestmont Park Playground (Barb Dunbar)
- C-15. Review/Approval of contract with Bandit Industries for equipment repair (Lee Huss)
- C-16. Review/Approval of contract with Bluestone Tree for tree removal (Lee Huss)
- C-17. Review/Approval of contract with Designscape Horticultural Services (Lee Huss)
- C-18. Review/Approval of Contract Addendum Mader Design for Green Waste Yard (Dave Williams)
- C-19. Review/Approval of service agreement with Lambert Consulting (Julie Ramey)

**D. REPORTS**

- D-1. Operation Division - Switchyard Park project update (Dave Williams)
- D-2. Recreation Division - 2019 Community Events Calendar (Leslie Brinson)
- D-3. Sports Division -
- D-4. Administration Division -

**ADJOURNMENT**



CITY OF BLOOMINGTON  
parks and recreation

A-1  
3-26-19

Board of Park Commissioners  
Regular Meeting  
Minutes

Tuesday, February 26, 2019  
4:00 p.m. – 5:31 p.m.

Council Chambers  
401 N. Morton St.

**CALL TO ORDER**

The meeting was called to order by Les Coyne at 4:00 p.m.

**Board Present:** Les Coyne, Kathleen Mills and Lisa Thatcher

**Staff Present:** Paula McDevitt, Dave Williams, John Turnbull, Becky Higgins, Julie Ramey, Mark Sterner, Kim Clapp, Leslie Brinson, Barb Dunbar, Joanna Sparks, Hannah Buddin, Marcia Veldman, Elizabeth Tompkins, Crystal Ritter, Jon Behrman, Bill Reams, Hsiung Marler, Lee Huss, Scott Pedersen, Amy Shrake, Erik Pearson, and Jess Klein.

**A. CONSENT CALENDAR**

- A-1. Approval of Minutes of January 22, 2019 meeting
- A-2. Approval of Claims Submitted January 25<sup>th</sup> through February 25<sup>th</sup>.
- A-3. Approval of Non-Reverting Budget Amendments
- A-4. Review of Business Report
- A-5. Approval of Surplus - None

*Kathleen Mills* made a motion to approve the consent calendar. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried

**B. PUBLIC HEARINGS/APPEARANCES**

**B-1. Public Comment Period** – None

**B-2. Bravo Award** – None

**B-3. Parks Partner Award** – None

**B-4. Staff Introduction** – James Kelb

James Kelb has accepted the golf course superintendent position at Cascades Golf Course. James graduated from Rutgers Golf Course Turf Management School. James has previously worked at Bloomington Country Club, Wolf Run Golf Club, IU Golf Course, and Woodland Country Club. James has developed a vast knowledge of turf management through schooling and previous work experiences. James has hands on knowledge of zoysia grass.

The Board welcomed James.

**C. OTHER BUSINESS**

**C-1. Review/Approval of Partnership with IU Health Bloomington**

*Jess Klein, Health and Wellness Coordinator* in order to provide the community with programs which promote social, physical, emotional, mental, and environmental health in the community, the Department wishes to partner with Indiana University Health Bloomington. The purpose of this Agreement is to outline a program partnership, which will provide community health education, programs, training, marketing, and opportunities to benefit the health and wellness of the community by combining available resources from each party. This has been a successfully partnership for many years.

*Kathleen Mills* motioned to approve the Partnership with IU Health Bloomington. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. The motion was unanimously carried. .

**C-2 Review of Proposed Private Tree Abatement Process per Bloomington Municipal Code #12.24**

*Paula McDevitt, Administrator* Municipal Code 12.24 – TREES AND FLORA regulates the work on and planting and maintenance of boundary trees, and trees on public property and in public right-of-way, and flora on public property and in the public rights-of-way, to encourage proper selection and planting, and to assure compatibility with other urban infrastructure such as utilities, sidewalks, and streets. The city has the right and authority to order the removal of any tree or flora or part thereof on private property if deemed unsafe condition, injurious to infrastructure, and or determined to be a public nuisance. The proposed process will notify homeowners of a violation, and inform homeowners of the appeal process. Violations not remedied, appeals, and Notice of Abatements will be presented to the Board for review and approval. Staff recommends the review of the private tree abatement process per Bloomington Municipal code 12.24 – TREES AND FLORA.

*The Board inquired* if this will be on a case by case basis, or if staff will be going around with a system of evaluation.

*Paula McDevitt responded*, the department anticipates learning of tree issues through U-reports, or by staff working in an area and happen to notice a possible problem. Staff will not be assigned the task of going around with a system of evaluation private trees. The abatement process will only pertain to trees on private property that present a risk to the city. This process will not include trees on private property that present a risk to other private property.

**C-3 Review/Approval of Service Agreement with Everywhere Signs**

*Julie Ramey, Community Relations Manager* the Department wishes to generate revenue through advertising space. The Department requires the services of a professional consultant for the installation of signs, awnings, banners, and dasherboards in and on Parks and Recreation Department facilities and properties. Staff recommends the approval of this service agreement with Everywhere Signs and Crane Services.

*Kathleen Mills* made a motion to approve the service agreement with Everywhere Signs. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

**C-4 Review/Approval of Partnership with Ryder Magazine and Film Series**

*Item was removed from agenda.*

**C-5 Review/Approval of Contract with Chef for Hire**

*Erik Pearson, Program/Facility Coordinator- Banneker Center* the Department wishes to vend meals for summer food service program; and requires the services of a professional consultant in order to perform the development of meals to follow State guidelines. Chef for Hire will produce, package and deliver the appropriate amount of breakfast, lunch and dinner meals to the Banneker Community Center twice per week. Chef for Hire will keep multiple refrigerators at the BCC to store meals prepared by Chef for Hire. All fees and expenses are not to exceed \$20,000. The Banneker camp summer program is grant funded through the USDA Summer Food Service Program.

*Kathleen Mills* made a motion to approve the contract with Chef for Hire *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

**C-6 Review/Approval of Partnership Agreement with Ivy Tech Community College**

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

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

*Kathleen Mills* made a motion to approve the partnership with Ivy Tech Community College. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

#### **C-7 Review/Approval of Partnership with Lake Monroe Sailing Associations**

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

*Kathleen Mills* made a motion to approve the partnership with Lake Monroe Sailing Associations. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

#### **C-8 Review/Approval of Partnership Agreement with Special Olympics Monroe County**

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

*Kathleen Mills* made a motion to approve the partnership with Special Olympics Monroe County. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

#### **C-9 Review/Approval of Contract with Monroe Convention Center**

*Hannah Buddin, Community Events Specialist* the Department wishes to provide the community with a Children's Expo event. Due to the size of the event, a professional consultant is required to provide facility, set up, and tear down of the tablecloths, skirting, tables, chairs and food service area. The event will include a Health Screening area, where attendees can receive free health screenings ranging from hearing tests, to eyesight, and oral check-ups. Staff recommends the approval of this contract with Monroe Convention Center, in the amount of \$3,000.

*Kathleen Mills* made a motion to approve the partnership with Monroe Convention Center. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

#### **C-10 Review/Approval of Contract with Aerialogy for Spring Fling**

*Hannah Buddin, Community Events Specialist* to make a more enjoyable experience for attendees, the Department wishes to provide entertainment at the Spring Fling. The Department is in need of a professional consultant to provide aerial silk demonstrations, and learning sessions to participants at the event. Staff recommends the approval of this contract with Aerialogy, in an amount not to exceed \$200.

*Kathleen Mills* made a motion to approve the contract with Aerialogy for Spring Fling. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

#### **C-11 Review/Approval of Farmers Market Advisory Council Members**

*Marcia Veldman, Farmers' Market Coordinator* staff recommends the appointment of Suzanne Mann to the Farmers' Market Advisory Council, to fill the vacant customer representative position. Notice was posted in the Herald-Times, Market Web site, and in the Market Beet. One application was received.

*Kathleen Mills* made a motion to approve the Farmers Market Advisory Council appointment. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

#### **C-12 Review/Approval of Farmers Market Prepared Food Vendors for 2019 Season**

*Marcia Veldman, Farmers' Market Coordinator* 60 Request for Proposal (RFP) were sent to 60 individuals and organizations who expressed an interest in selling prepared food at Market in the last two years. Additionally Legal Notices ran in the Herald-Times. The RFP's established 10 criteria by which proposals would be evaluated. A committee made up of three Farmers' Market Advisory Council members and three Market staff reviewed the proposal and recommend the following food vendors: Muddy Fork Farm, Sweet Claire, Brown County Coffee, Feast, Piccoli Dolci, Primally Inspired Eats, Scholars Inn Bakehouse, Sazon, Chris Voster, Wild Alaska Salmon, Pili's Party Taco, Aahaa Chai, Needmore Coffee, Inkwell, Macaron & Company, Pie First Bakery, and Wat-a-Bao. Additionally the committee recommends allowing staff to enter into agreement with interested applicants for selling at the Tuesday Market.

*Kathleen Mills* made a motion to approve the 2019 Farmers Market prepared food vendors. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

### **C-13 Review/Approval of Partnership Agreement with Monroe County – Identify and Reduce Invasive Species**

*Joanna Sparks, City Landscaper* the Department would like to expand invasive plant educating and training offerings to incorporate more hand-on experience to the community. The Department wishes to enter into a partnership with Monroe County – Identify and Reduce Invasive Species (MC-IRIS) to cooperate in the development and implementation of invasive plant education and training events. 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.

*Kathleen Mills* made a motion to approve the partnership Monroe County – Identify and Reduce Invasive Species. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

### **C-14 Review/Approval of Contract with Eco Logic, LLC for Invasive Plant Removal**

*Joanna Sparks, City Landscaper* the Department wishes to increase visibility and safety along the Bloomington Rail Trail through the removal of dense invasive and undesirable undergrowth. The Department requires the services of a professional consultant to perform woody invasive plant removal with a forestry mover (FECON) along the trail between Gordon Pike and That Road. Staff recommends the approval of this contract with Eco Logic in the amount of \$5,000. Funding source is from Operations General Fund.

*Kathleen Mills* made a motion to approve the contract with Eco Logic, LLC for invasive plant removal. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

### **C-15 Review/Approval of Contract with Kinetic Recreations for Playground Resurfacing**

*Barb Dunbar, Operations Coordinator* due to age, the rubber safety surface needs repaired at multiple playground sites. The Department requires the services of a professional consultant to remove, replace and repair poured-in-place rubber safety surfacing at Olcott Park, Broadview Park, Building Trades Park, and Winslow Woods Park playgrounds. Staff recommends the approval of this contract with Kinetic Recreations in the amount of \$81,000. Funding for the project will be from 2017-'20 Park Bond and Operations Non-Reverting Cell Tower revenue.

*Kathleen Mills* made a motion to approve the contract with Kinetic Recreations for playground resurfacing. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

### **C-16 Review/Approval of Service Agreement with Everywhere Signs for Repair of Buskirk-Chumley Theater (BCT) Marquee**

*Dave Williams, Operations Director* to meet the responsibilities of the BCT Management agreement, the Department wishes to have repairs made to the BCT marquee. The Department requires the services of a professional consultant to make repairs to the chaser unit and neon lighting. Staff recommends the approval of this contract with Everywhere Signs, in the amount of \$954.00.

*Kathleen Mills* made a motion to approve the service agreement with Everywhere Signs for repair of Buskirk-Chumley Theater marquee. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

**C-17 Review/Approval of B-Line Trail Easements for Duke Energy**

*Dave Williams, Operations Director* downtown development projects have created a need for Duke Energy to seek alternative routes for electrical services. Staff recommends the Board grant Duke Energy a perpetual, non-exclusive easements to construct, reconstruct, operate, patrol, maintain, repair, replace, relocate, add to, modify and remove, electric, and/or telecommunications line or lines, and all necessary equipment, for the underground, transmission and distribution of electrical energy, and technological purposes, using directional boring on the B-Line Trail from the south side of 4<sup>th</sup> Street to Kirkwood Ave. Pt. Parcel #53-01-53-226-500.000-009, 53-05-32-100-016.000-005, 53-05-32-413-096.000-005, 53-08-04-300-095.000-009, 53-08-08-100-012.000-009, 53-08-08-100-103.00-009, and 53-08-09-300-036.000-009.

*Kathleen Mills* made a motion to approve the B-Line Trail Easements for Duke Energy. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

**C-18 Review/Approval of Lease Purchase Agreement with Professional Golf Car**

*John Turnbull, Sports Director* the Department wishes to purchase 75 golf cars and 2 services vehicles at the Cascades Golf Course. Staff recommends the bid from Professional Golf Car for \$225,000. Funding for this purchase will be from the Golf Course General Fund. 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 a one lump payment to Professional Golf Car after the close on a lease.

*Kathleen Mills* made a motion to approve the lease purchase with Professional Golf Cars. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

**C-19 Review/Approval of 2019 Price Schedule Changes for Aquatics**

*John Turnbull, Sports Director* at the November 2018 Park Board meeting, the Board requested the Aquatics 2019 proposed pricing be reconsidered. After additional research and review, staff recommends approval of the following 2019 Aquatic price changes: decreasing admittance \$1.00 – from \$6.00 to \$5.00, introducing \$50.00 (individual) season pass, and eliminate punch passes. A 20% reduction in revenue is projected.

*Kathleen Mills* made a motion to approve the 2019 Price Schedule Changes for Aquatics. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

**C-20 Review/Approval of Softball Supply Order.**

*Scott Pedersen, Youth Sports Coordinator* staff recommends the approval of the annual purchase of softballs through USA Softball of Indiana (formerly Indiana ASA) based upon the quoted quantities and prices. Total of this year’s purchase will be \$4,985. Due to existing inventory and program demand, Fastpitch softballs will not be purchased this year. Purchasing softball through the USA Softball of Indiana purchasing agreement with Worth/Rawlings will provide a substantial savings of purchasing through retailers.

*Kathleen Mills* made a motion to approve the softball supply order. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

**C-21 Review/Approval of Contract Addendum with Bluestone Tree for Tree Removal**

*Lee Huss, Urban Forester* on December 7, 2018 an Agreement was entered into with Bluestone Tree, for removal of dead hazardous trees from four locations. Due to weather and equipment failure, additional time is required to complete the scope of work. Staff recommends the approval of this Addendum to extend the completion date. Both parties agree to the following change, to modify Article 1 and Article 6 to change the deadline from January 25, 2019, to April 1, 2019. All other terms of the agreement remain intact.

*Kathleen Mills* made a motion to approve the addendum with Bluestone Tree for tree removal. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

**C-22 Review/Approval of Contract with J.R. Ellington Tree Expert for Tree Removal**

*Lee Huss, Urban Forester* the Department wishes to have four hazardous trees removed at Bryan Park. The Department

requires the services of a professional consultant to remove, clean up debris, and haul away debris at this location. Staff recommends approval of this contract with J.R. Ellington Tree Expert, in the amount of \$6,100. Funding for this project will be from the Urban Forestry General Fund.

*Kathleen Mills* made a motion to approve the contract with J.R. Ellington Tree Expert for tree removal. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

### **C-23 Review/Approval of Contract with All Things Green for Tree Pruning**

*Lee Huss, Urban Forester* the department wishes to have 28 public trees pruned. The Department requires the services of a professional consultant to prune 28 trees in accordance with the current ANZI pruning standard: three trees at 100 block of W 7<sup>th</sup>, 2 trees at 115 N Madison, two trees at 529 N College Ave, two trees at 418 N. College Ave, two trees at White Oak Cemetery, two trees at 500 W 7<sup>th</sup> St., three trees at 300 block of E 7<sup>th</sup> St., two trees at 124 E Kirkwood Ave., and ten trees at Butler Park. Staff recommends the approval of this contract with All Things Green in the amount of \$17,950. Funding for the projects will be from the Urban Forestry General Fund.

*Kathleen Mills* made a motion to approve the contract with All Things Green for tree pruning. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

### **C-24 Review/Approval of Contract with Rick Patrick Tree Care for Tree Pruning**

*Lee Huss, Urban Forester* the Department wishes to have 213 public trees pruned. The Department is in need of the services of a professional consultant to preform street tree pruning with ANZI pruning standards, chip all debris and haul away, and worksite cleanup at the following locations: 3<sup>rd</sup> St. Police HQ - 2 trees, S. Walnut & Country Club area - 10 trees, Sherwood Oaks Park - 28 trees, E 7<sup>th</sup> St. area - 38 trees, Olcott Park - 103 trees, and E. Azalea area - 32 trees. Staff recommends the approval of this contract with Rick Patrick Tree Care in the amount of \$7,921. Funding for the project will be from the Urban Forestry General Fund.

*Kathleen Mills* made a motion to approve the contract with Rick Patrick Tree Care for tree pruning. *Lisa Thatcher* seconded the motion. *Les Coyne* any public comments or questions, seeing none. Motion unanimously carried.

## **D REPORTS**

D-1. Operations Division – Environmental Resources Advisory Council Annual Report

*Melissa Laney, Chair of the Environmental Resources Advisory Council* approached the podium, and presented the Environmental Resources Advisory Council Annual Report.

### **2018 Initiatives and Topics of Interest**

- Wapehani Mountain Bike Park - was closed for several months while City of Bloomington Utilities Department removed the dam located in the park. Trees and plants were installed in the former lake bed. ERAC members reviewed a list of trees that were planted and were invited to visit the site during the construction period.
- Griffy Lake Loop Trail - ERAC dedicated the regular April meeting to a public input meeting for a proposed loop trail. Staff updated members of the advisory council and the public on the proposed route and then led an open discussion of the project. The meeting went well and was a great way to for ERAC members to engage and interact with the public. The proposed trail uses some existing trails connected by new trail system to form a loop around the lake using the causeway as the east side connection. Funding for an accessible fishing pier on the west side of the causeway has been obtained and road crossings in the design will help connect the parking area to the future loop trail. A study was conducted and a proposed route was created. ERAC members reviewed the route and provided feedback. The trail will be almost four miles of soft surface trail and will include bridges and stairs to cross ravines.
- Griffy Lake Deer Management - Deer management, the sharpshooting program conducted in December 2017 resulted in the removal of 62 deer from the two-square mile Griffy Lake Nature Preserve. To give vegetation time to recover the deer browse pressure needs to be low for several years. A Community Hunting Access Program Resources (CHAP) hunt will be coordinated in 2019 with the help of White Buffalo. Over 50 hunters have expressed interest in the 2019 hunt.

- Griffy Vegetation Monitoring - Eco Logic was hired to conduct vegetation monitoring in 2018. Data had been collected for the previous three years by seasonal staff. The original monitoring included 24 transects for the first three years before the cull. After the cull, eight of the original transects and 4 new areas are being monitored and plant height and density data is being collected. Plants are not expected to recover this year, but will likely take a few years with continued deer management. Monitoring will continue into the future and results will be reviewed by ERAC members.
- Goat Farm Prairie Planting - A five-acre prairie planting was installed at the Goat Farm property in February 2018. Seeds purchased with the help of USFW and IDNR were planted using a seed drill loaned to BPR by Eco Logic. A cross-hatch planting pattern served to reduce a row effect and an extra loop of planting around the perimeter was intended to increase plant density to resist the infiltration of invasive plants. A seed list was shared with ERAC members to review. Throughout the year, the property was managed to encourage the growth of planted seeds and existing milkweed patches. This planting, in addition to neighboring native plant projects, is increasing the habitat corridor for wildlife including Monarch butterflies. Educational signage is planned to share information about the prairie.
- Outreach - Regular updates were given by staff on education and outreach within BPR and the community. ERAC members participated in BPR programs, working as volunteers, and coordinating student participation as volunteers. They also worked on their own outreach programs that benefit and provide information to BPR.

D-2 Recreations Division – No Report

D-3 Sports Division – No Report

D-4 Administration Division – IPRA Award

Julie Ramey Community Relations Manager approached the podium. The Indiana Park and Recreation Association, at their annual conference in Frenchlick, February 21st, presented the Bloomington Parks and Recreation Department with the Clark Ketchum Conservation Award for the Griffy Lake Shoreline Restoration Project that took place in 2018. The Clark Ketchum Conservation Award recognizes a park and recreation agency that has achieved excellence in conservation stewardship.

*Paula McDevitt*, Director for safety reasons, a section of the B-line Trail will be closed beginning February 27<sup>th</sup> at 8:00 a.m. and will reopen on February 28<sup>th</sup> at 7:00 p.m. During this time frame, a delivery of prefabricated sections of pedestrian bridges will be made at the Switchyard Park.

The next Board of Park Commissioners meeting will be held March 26, 2019

**ADJOURNMENT**

Meeting adjourned at 5:31 p.m.

Respectfully Submitted,




---

Kim Clapp  
Secretary Board of Park Commissioners





REVENUES AND EXPENSES: COMPARISON REPORT								
Expenses	2018	2018	2018	2018	2019	2019	2019	
February-19	Total	Actual	Expenses	% of Expenses	Total	Expenses	% of Expenses	
	Expense	Expenses	as of	Spent	Expense	as of	Spent	%
	Budget	for Year	February	to date	Budget	February	to date	change
<b>General Fund</b>								
Administration	621,708	750,225	254,717	33.95%	754,420	268,112	35.54%	5.26%
Health & Wellness	105,923	104,807	17,399	16.60%	82,869	17,354	21.00%	-0.26%
Community Relations	414,953	391,579	60,768	15.52%	460,058	41,496	13.21%	-31.71%
Aquatics	328,839	283,787	13,091	4.61%	312,312	12,844	4.11%	-1.89%
Frank Southern Center	359,800	354,519	95,657	26.98%	359,863	79,273	22.03%	-17.13%
Golf Services	935,271	959,712	332,855	34.68%	1,010,569	319,039	31.57%	-4.15%
Natural Resources	385,366	369,344	41,914	11.35%	396,163	36,432	9.20%	-13.08%
Youth Programs	60,195	59,033	11,407	19.32%	64,888	10,447	16.10%	-8.41%
TLRC	284,750	283,707	48,659	17.15%	287,976	49,595	17.22%	1.92%
Community Events	414,238	399,144	59,260	14.85%	407,645	61,100	14.99%	3.11%
Adult Sports	323,760	272,567	31,504	11.56%	242,956	27,607	11.36%	-12.37%
Youth Sports	271,744	293,957	27,489	9.35%	225,060	24,777	11.01%	-9.87%
BBCC	289,803	304,133	50,279	16.53%	320,540	45,299	14.13%	-9.91%
Inclusive Recreation	78,403	77,988	8,468	10.86%	82,561	9,933	12.03%	17.29%
Operations	1,815,107	1,612,174	192,722	11.95%	1,964,968	186,886	9.51%	-3.03%
Landscaping	303,041	283,395	24,655	8.70%	475,315	36,037	7.58%	46.17%
Cemeteries	182,605	177,353	21,172	11.94%	184,917	41,938	22.68%	98.08%
Urban Forestry	565,527	427,208	48,293	11.30%	569,707	43,484	7.63%	-9.96%
<b>General Fund total:</b>	<b>7,741,033</b>	<b>7,404,634</b>	<b>1,340,310</b>	<b>18.10%</b>	<b>8,202,786</b>	<b>1,311,651</b>	<b>15.99%</b>	<b>-2.14%</b>
<b>Non-Reverting Fund</b>								
Administration	14,650	4,294	2,045	47.63%	14,150	2,187	15.45%	6.92%
Health & Wellness	1,240	1,006	73	7.23%	1,376	1,047	76.09%	1340.46%
Community Relations	4,650	2,739	0	0.00%	5,350	0	0.00%	0.00%
Aquatics	69,543	81,141	308	0.38%	61,716	243	0.39%	-21.12%
Frank Southern Center	97,498	96,262	24,101	25.04%	93,697	17,488	18.66%	-27.44%
Golf Services	133,709	93,048	731	0.79%	70,000	111	0.16%	-84.84%
Natural Resources	53,485	67,116	42,338	63.08%	63,029	388	0.61%	0.00%
Youth Programs	209,805	226,311	9,982	4.41%	213,180	7,310	3.43%	-26.77%
*TLRC - day to day	470,944	431,896	100,625	23.30%	930,961	90,108	9.68%	-10.45%
Community Events	179,343	171,651	20,145	11.74%	184,027	19,707	10.71%	-2.17%
Adult Sports	199,830	161,782	2,180	1.35%	128,905	701	0.54%	-67.86%
Youth Sports	18,754	9,622	1,392	14.47%	8,919	1,412	15.83%	1.44%
BBCC	4,150	20,083	3,886	19.35%	1,610	335	20.83%	-91.37%
Inclusive Recreation	0	0	0	0.00%	0	0	0.00%	0.00%
Operations	19,195	70,185	890	1.27%	49,610	179	0.36%	-79.86%
Dog Park	0	0	0	0.00%	0	0	0.00%	0.00%
Switchyard	0	14,847	7,842	52.82%	0	0	0.00%	-100.00%
Landscaping (CCC Prop.)	0	0	0	0.00%	0	0	0.00%	0.00%
Cemeteries	0	0	0	0.00%	0	0	0.00%	0.00%
Urban Forestry	4,750	5,700	0	0.00%	6,150	5,000	81.30%	0.00%
<b>N-R Fund subtotal:</b>	<b>1,481,546</b>	<b>1,457,685</b>	<b>216,537</b>	<b>14.85%</b>	<b>1,832,680</b>	<b>146,216</b>	<b>7.98%</b>	<b>-32.48%</b>
TLRC - bond	671,945	671,945	429,574	63.93%	239,294	239,294	100.00%	0.00%
<b>N-R Fund total:</b>	<b>2,153,491</b>	<b>2,129,630</b>	<b>646,111</b>	<b>30.34%</b>	<b>2,071,974</b>	<b>385,510</b>	<b>18.61%</b>	<b>-40.33%</b>
<b>Other Misc Funds</b>								
15-16 MCCSC 21st Com Lg	884	38,189	658		884	0		
17-18 MCCSC 21st Com Learn			4,596			97		
18-19 MCCSC 21st Com Learn						4,501		
Community Banneker Bus		45,000						
G14006 Out-of School Prg.								
G15008 Summer Food Prg	11,115	16,451			11,115			
G15009 Nature Days S/Star		0						
Griffy Lake Nature Day		7,187	1,940	27.00%				
Wapehani I-69 Mitigation		0		0.00%				
Leonard Springs Nature		9,027	1,964	21.76%		97		
Banneker Nature Day		4,800						
DNR Grant		0		0.00%				
Kaboom Play		451		0.00%				

Act		7,341		0.00%				
Goat Farm		0						
Giffy LARE		10,965				2,800		
<b>Other Misc Funds total:</b>	<b>11,999</b>	<b>139,411</b>	<b>9,159</b>	6.57%	<b>11,999</b>	<b>7,495</b>	62.46%	<b>-18.16%</b>
<b>TOTAL ALL FUNDS</b>	<b>9,906,523</b>	<b>9,673,675</b>	<b>1,995,579</b>	<b>20.63%</b>	<b>10,286,759</b>	<b>1,704,656</b>	16.57%	<b>-14.58%</b>

REVENUES AND EXPENSES: COMPARISON REPORT								
Revenues February 2019								
	2018	2018	2018	2018	2019	2019	2019	
	Projected	Actual	Revenue	% of Revenue	Projected	Revenue	% of Revenue	
	Revenue	Revenue	as of	Collected	Revenue	as of	Collected	%
	Budget	for year	February	to date	for year	February	to date	change
<b>General Fund</b>								
Taxes/Misc Revenue	6,258,520	6,296,466	6,258,520	99.40%	6,457,949	6,457,949	100.00%	3.19%
Administration	500	813	193	23.74%	500	429	85.74%	122.13%
Community Relations	0	0	0	0.00%	0	0	0.00%	0.00%
Aquatics	168,000	201,570	0	0.00%	198,000	0	0.00%	0.00%
Frank Southern	224,900	214,260	90,381	42.18%	201,300	83,037	41.25%	-8.13%
Golf Services	526,700	577,582	4,608	0.80%	619,500	4,378	0.71%	-5.00%
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	12,135	1,200	9.89%	11,500	1,245	10.83%	3.75%
Adult Sports	71,000	57,603	0	0.00%	51,000	0	0.00%	0.00%
Youth Sports	32,000	28,507	-21	-0.07%	30,000	-106	-0.35%	398.87%
BBC	11,000	14,685	890	6.06%	12,000	93	0.78%	-89.50%
Operations	0	1,365	0	0.00%	0	0	0.00%	0.00%
Landscaping	0	0	0	0.00%	0	0	0.00%	0.00%
Cemeteries	31,050	35,833	4,500	12.56%	33,725	4,800	14.23%	6.67%
Urban Forestry		30		0.00%		0	0.00%	0.00%
G17011 Urban Forestry		0		0.00%		0	0.00%	0.00%
<b>Subtotal Program Rev</b>	<b>1,075,850</b>	<b>1,144,383</b>	<b>101,751</b>	<b>8.89%</b>	<b>1,157,525</b>	<b>93,876</b>	<b>8.11%</b>	<b>-7.74%</b>
<b>General Fund Total</b>	<b>7,334,370</b>	<b>7,440,849</b>	<b>6,360,271</b>	<b>85.48%</b>	<b>7,615,474</b>	<b>6,551,825</b>	<b>86.03%</b>	<b>3.01%</b>
<b>Non-Reverting Fund</b>								
Administration	40,600	34,893	13,120	37.60%	40,600	12,051	29.68%	-8.14%
Health & Wellness	2,739	2,651	347	13.09%	4,840	69	1.43%	-80.12%
Community Relations	4,650	3,789	1,000	26.40%	5,400	0	0.00%	-100.00%
Aquatics	122,700	90,670	868	0.96%	108,200	2,454	2.27%	182.67%
Frank Southern	151,900	118,136	20,235	17.13%	124,300	22,209	17.87%	9.76%
Golf Services	158,500	147,204	682	0.46%	76,000	-530	-0.70%	-177.67%
Natural Resources	60,890	68,318	810	1.18%	70,000	976	1.39%	20.57%
Youth Programs	215,060	232,716	12,482	5.36%	215,500	12,286	5.70%	-1.57%
*TLRC -Operational	763,029	751,990	165,749	22.04%	1,253,774	163,768	13.06%	-1.20%
Community Events	193,752	202,786	56,526	27.87%	196,541	62,342	31.72%	10.29%
Adult Sports	207,000	150,971	696	0.46%	132,400	196	0.15%	-71.83%
Youth Sports	19,500	10,500	1,608	15.31%	4,002	566	14.14%	-64.80%
BBC	5,150	28,916	635	2.20%	5,250	373	7.11%	-41.25%
Operations	56,440	104,076	7,312	7.03%	64,800	6,581	10.16%	-10.00%
Dog Park	400	0	0	0.00%	400	0	0.00%	0.00%
Switchyard (CCC Propt)	0	0	0	0.00%	0	0	0.00%	0.00%
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	17,454	6,280	35.98%	9,500	0	0.00%	0.00%
<b>N-R Fund subtotal:</b>	<b>2,011,610</b>	<b>1,965,070</b>	<b>288,350</b>	<b>14.67%</b>	<b>2,311,507</b>	<b>283,340</b>	<b>12.26%</b>	<b>-1.74%</b>
<b>Other Misc Funds</b>								
G14006 Out-of-School Prg								
G14007 MCCSC 21st Com	60,000	32,434	0		74,210	0		
G14009 Summer Food Grant	27,864	20,102	0		27,864	0		
Communit Baneker Bus		45,000	0		45,000	0		
Kaboom Play Everywhere								
Urban Forestry EAB								
Wapehani Mitigation I69								
Griffy LARE Veg. Mgt		10,965	0			2,800		
G15008 Leonard Spring		15,000	0			0		
G15009 Griffy Nature Days		4,967	0			0		
(902) Rose Hill Trust		745	91			0		
G17007 - Goat Farm								
Banneker Nature Days		4,860	0					
Yth & Adolescent Phy Act		6,417	0		8,000	0		
Nature Days Star								
<b>Other Misc Funds total:</b>	<b>87,864</b>	<b>140,489</b>	<b>91</b>		<b>155,074</b>	<b>2,800</b>		
<b>TOTAL ALL FUNDS</b>	<b>9,433,844</b>	<b>9,546,408</b>	<b>6,648,712</b>	<b>69.65%</b>	<b>10,082,055</b>	<b>6,837,965</b>	<b>67.82%</b>	<b>2.85%</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>2/28/2019</b>	<b>revenue</b>	<b>2/28/2019</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	12,050.97		2,186.79	0.00	<b>9,864.18</b>	241,267.16
181001	Health & Wellness	9,024.60	69.00		1,045.98	0.00	<b>(976.98)</b>	8,047.62
181100	Community Relations	35,938.95	0.00		0.00	0.00	<b>0.00</b>	35,938.95
182001	Aquatics	399,096.17	2,453.56		3.30	0.00	<b>2,450.26</b>	401,546.43
182500	Frank Southern Center	196,910.51	22,208.99		17,487.91	0.00	<b>4,721.08</b>	201,631.59
183500	Golf Course	262,277.41	<b>(530.06)</b>		110.80	0.00	<b>(640.86)</b>	261,636.55
184000	Natural Resources	250,179.25	976.00		387.55	0.00	<b>588.45</b>	250,767.70
184500	Allison Jukebox	176,967.39	12,286.13		7,309.74	0.00	<b>4,976.39</b>	181,943.78
*185000	TLRC	<b>(1,308,814.34)</b>	156,423.82		329,402.38	0.00	<b>(172,978.56)</b>	<b>(1,481,792.90)</b>
185009	TLRC Reserve	647,424.15	7,343.75		0.00	0.00	<b>7,343.75</b>	654,767.90
186500	Community Events	502,959.86	62,342.33		19,706.73	0.00	<b>42,635.60</b>	545,595.46
187001	Adult Sports	63,189.34	196.00		700.74	0.00	<b>(504.74)</b>	62,684.60
187202	Youth Sports	105,516.73	566.00		1,412.18	0.00	<b>(846.18)</b>	104,670.55
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	373.04		335.32	0.00	<b>37.72</b>	54,861.13
189000	Operations	171,098.51	6,580.88		5,179.27	0.00	<b>1,401.61</b>	172,500.12
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>283,340.41</b>	<b>0.00</b>	<b>385,268.69</b>	<b>0.00</b>	<b>(101,928.28)</b>	<b>1,951,747.05</b>
								<b>(101,928.28)</b>
								<b>INCREASE/DECREASE FOR THE CURRENT</b>

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

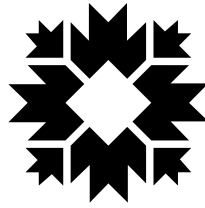
\*\* Switchyard Park expenses are paid from 2014 through 2017 Switchyard revenue.

# Bloomington Parks and Recreation Surplus Declaration Form

Marach 2019

Date	Area/Staff	Quantity/Item	Means of Disposal	Date Disposed
5-Mar	Sports - Daren	11 old sponsorship banners	TLRC Dumpster	
5-Mar	Sports - Daren	1 brown stackable chair - broken	TLRC Dumpster	
5-Mar	Sports - Daren	1 old door closure - broken	TLRC Dumpster	
5-Mar	Sports - Daren	2 - old door crash bars - broken	TLRC Dumpster	
6-Mar	Sports - Daren	2 - old emergency lights	TLRC Dumpster	
6-Mar	Sports - Daren	Paper Shredder - broken	TLRC Dumpster	
12-Mar	Sports - Daren	1 Vacuum Cleaner - broken	TLRC Dumpster	
12-Mar	BBCC- Hawkins	Xerox Phaser 6140- broken	ITS Recycle	
12-Mar	BBCC- Hawkins	2 Folding Metal Chairs- broken	Trash	
12-Mar	BBCC- Hawkins	Office Chair- arm broken	Trash	
12-Mar	BBCC- Hawkins	Folding Plastic Table - legs broken	Trash	
13-Mar	Comm Rel-Ramey	10 vinyl Farmers' Market banners	TLRC Dumpster	
13-Mar	Comm Rel-Ramey	4 mesh banners from expired advertisers	TLRC Dumpster	
15-Mar	Sports - Daren	1 portable air pump - broken	TLRC Dumpster	
15-Mar	BBCC- Hawkins	1 pool cue-broken	Trash	
15-Mar	BBCC- Hawkins	scrap metal	JB Salvage	
15-Mar	BBCC- Hawkins	scrap wood	Trash	
15-Mar	BBCC- Hawkins	1 trash picker-broken	Trash	
15-Mar	BBCC- Hawkins	media table shelf-broken	Trash	
15-Mar	BBCC- Hawkins	ceiling tiles-broken	Trash	
15-Mar	BBCC- Hawkins	1 drill and case- broken	Trash	
15-Mar	BBCC- Hawkins	plastic swing-broken	Trash	
19-Mar	BBCC-Hawkins	rolling pvc bin- ripped and broken	Trash	
19-Mar	BBCC-Hawkins	misc. dolls- broken	Trash	

19-Mar	BCC-Hawkins	1inch round tubing	Trash	
19-Mar	BCC- Hawkins	misc wire roll	Trash	
		Form is closed. Please do not add any additional items.		



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: B-3  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Sarah Owen, Community Relations Coordinator  
**DATE:** March 26, 2019  
**SUBJECT:** PARKS PARTNER AWARD—MASTER RENTAL

### Recommendation

The Bloomington Parks and Recreation Department would like to recognize Master Rental as the recipient of the Parks Partner Award. The Parks Partner Award is a component of the Department's sponsorship program and recognizes our most outstanding collaborators and supporters.

### Background

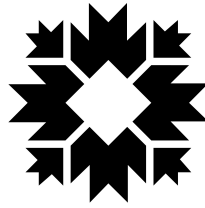
Master Rental is a local business that served Bloomington for over 30 years, and they have become a valued partner of Bloomington Parks and Recreation. Over the past several years, our department has regularly utilized their wide array of products for our community events, and their games and recreation equipment have helped make our events truly special. Master Rental has provided a multitude of fun "extras" for our events, such as artificial snow for our Winter Palooza event; human-sized hamster balls, also known as "Zorb balls," for our Spring Fling event; and foam machines for both our Messy Mania and our Slip 'N Foam events. Master Rental has been generous in helping us work within our budget for these events, sometimes serving as an in-kind sponsor and donating their equipment.

We truly appreciate Master Rental's support of our community events, and we are proud to present them with the Parks Partner Award.

**RESPECTFULLY SUBMITTED,**

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





CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-1  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Jess Klein, Health & Wellness Coordinator  
**DATE:** **March 26, 2019**  
**SUBJECT:** **REVIEW/APPROVAL OF JAZZERCISE PARTNERSHIP AGREEMENT**

### **Recommendation**

Staff recommends approval of proposed agreement between Bloomington Parks and Recreation and the local Jazzercise® franchise.

### **Background**

This document outlines the terms of agreement between the Department and the Jazzercise franchise holder, Kris Heeter, for the provision of Jazzercise class instruction. The Department has held this agreement since 1997.

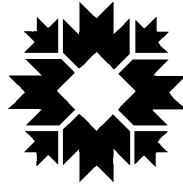
Participation fees are collected by Jazzercise. An end of month statement is prepared by Jazzercise and received by the Department indicating the total number of participants and monthly gross. Twenty percent of monthly gross is paid to the department for facility use and marketing.

There are no significant changes for 2019.

**RESPECTFULLY SUBMITTED,**

---

Jessica Klein  
Health & Wellness Coordinator



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

## **COOPERATION SERVICES & PROGRAM PARTNERSHIP AGREEMENT**

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

This Agreement is made and entered into this 26th day of March, 2019 by and between the Bloomington Parks & Recreation Department (“BPRD”), and Jazzercise Franchise Owner Kristin Heeter (“Jazzercise”).

WHEREAS, BPRD and Jazzercise desire to cooperate in the organization and implementation of health and wellness programs and offer such programs to the community at large; and

WHEREAS, Jazzercise is dedicated to reaching out into the community and partnering with agencies that promote healthy lifestyles; and

WHEREAS, BPRD would like to expand program offerings to incorporate more fitness opportunities; and

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

WHEREAS, services provided to the community by each party will reflect on the other, so clear communication and an outline of expectations is necessary.

NOW THEREFORE, the partners do mutually agree as follows:

### **1.0 Purpose of Agreement:**

The purpose of this Agreement is to outline a program partnership which will provide quality health and wellness programs for the community by combining available resources from each organization.

### **2.0 Duration of Agreement:**

The term of this Agreement shall begin upon signing and run through March 31, 2020. The partners may agree in writing only, to renew or extend the term of the Agreement.

### **3.0 Jazzercise agrees to the following:**

3.1 Jazzercise shall provide class instruction in the Jazzercise dance fitness program, at specified sites, for BPRD. Jazzercise shall be available for demonstrations and instruction at BPRD events.

3.2 Jazzercise may use promotions for new and/or existing participants. Promotions may vary from month to month at the discretion of Jazzercise.

3.3 Jazzercise shall provide BPRD with documentation attesting to qualification as a Jazzercise instructor/substitute instructor. Jazzercise may substitute other qualified Jazzercise instructors as the need arises.

- 3.4 Jazzercise shall provide a sound system and tapes/records for class instruction, and pay any applicable music royalty fees (ASCAP and BMI).
- 3.5 Jazzercise shall pay the continuing franchise fee to Jazzercise, Inc. for the development of Jazzercise choreography, continuing instructor education, a toll-free student information line, use of the Jazzercise name and trademark, and national promotions.
- 3.6 Jazzercise shall register participants, collect class fees, and obtain signed BPRD participant waiver forms, for all “adult” Jazzercise programs. Jazzercise shall also provide materials for student registration and fitness education.
- 3.7 Jazzercise shall keep and maintain receipts, records, and accounts accurately reflecting participation and sums received. These receipts, records and accounts shall be open to inspection at all reasonable times by a duly authorized agent of BPRD, the City of Bloomington’s Controller’s Office, and/or the Indiana State Board of Accounts.

**4.0 Bloomington Parks & Recreation Department agrees to the following:**

- 4.1 If a temporary conflict arises with a BPRD site/facility, BPRD will notify Jazzercise, in advance, of that site/facility conflict. In the event an unexpected permanent conflict arises with a BPRD or non-BPRD site/facility, BPRD shall make every effort to notify Jazzercise and assist Jazzercise in finding an alternate location for the program. In the event this is not possible, and after all possible resources have been exhausted, the program shall be declared, by mutual consent of both parties, to be canceled at that particular site/facility.
- 4.2 BPRD shall provide limited promotion/advertising, including space in BPRD’s three (3) seasonal program guides. The BPRD marketing division shall assist Jazzercise in the preparation and submission of one (1) news release and public service announcement. Jazzercise shall be responsible for additional promotion of classes through fliers and mailing lists. Jazzercise shall be fully responsible for hosting, organizing, and promoting any fundraisers or promotions sponsored or promoted by Jazzercise, Inc.

**5.0 Agreement Terms Mutually Agreed to By All Partners:**

- 5.1 The intent of this Agreement is to document a mutually beneficial partnership between BPRD and the Jazzercise.
- 5.2 The staff, volunteers and personnel of the BPRD and Jazzercise who are involved in these partnership programs will at all times represent all partners in this partnership in a professional manner and reflect the commitment of all partners to quality services and customer satisfaction.
- 5.3 Jazzercise shall pay BPRD twenty percent (20%) of the gross monthly receipts for all adult class sites. Settlement shall be made monthly for the preceding month. In the event there is an additional rental cost involved for the use of a non-BPRD facility, BPRD shall distribute site rental payments to the appropriate entities.
- 5.4 Fees shall be charged according to the following schedule\*:

<u>Class</u>	<u>Cost</u>	<u>Pass Type</u>
Walk-in	\$12	Daily
Unlimited Classes (auto-debit only)	\$39	Monthly
Unlimited Classes (cash, check, or credit)	\$98	2 months
Join Fee	\$35 (one time)	

\*Discounts for IU and Ivy Tech students and for seniors over age 65.

- 5.5 Jazzercise shall make all initial facility/site arrangements. BPRD shall make a reasonable attempt to assist Jazzercise in locating facilities which accommodate class size (approximately 1 square yard per student). Facilities/sites shall be mutually agreeable to both parties. BPRD will make every effort to use low cost rental facilities, school sites and BPRD sites.
- 5.6 In the event that Jazzercise programs are canceled at a specific location, whether it is a BPRD or non-BPRD site/facility, it will be the responsibility of Jazzercise to issue the appropriate refunds and/or prorated refunds to all Jazzercise participants affected by the canceled site. These records shall be accessible to BPRD, and shall be included in the monthly gross receipts statement given by Jazzercise to BPRD. Jazzercise shall notify BPRD of any schedule changes five (5) working days prior to the cancellation.
- 5.7 Classes which do not meet minimum participation registration requirements shall be canceled. Minimum participation requirements shall be mutually agreed upon by all parties. In the event of such cancellation, Jazzercise shall be responsible for the refunding of monies to the appropriate Jazzercise participants. A record of these refunds shall be included in the monthly gross receipts statement given by Jazzercise to BPRD. Jazzercise shall notify BPRD of any schedule changes five (5) working days prior to the cancellation.
- 5.8 BPRD and Jazzercise shall not provide the use of fee waivers to participants who cannot otherwise afford the scheduled class fees. Due to the nature of this program, i.e., Jazzercise being a franchise, neither BPRD nor Jazzercise have the resources to provide for such services.
- 5.9 Jazzercise shall abide by all BPRD rules and regulations relating to facility use. Jazzercise shall also comply with all local, state and federal laws in its programming on BPRD premises.
- 5.10 Pursuant to Ind. Code 22-5-1.7-11(a), which was adopted on July 1, 2011, BPRD and Jazzercise shall enroll in and verify the work eligibility status of all newly hired employees through the E-Verify program. Jazzercise is not required to continue this verification if the E-Verify program no longer exists. Jazzercise shall sign an affidavit affirming that they do not currently knowingly employ an unauthorized alien. The affidavit is attached to and incorporated into this Agreement as Exhibit A.
- 5.11 During the term of this Agreement Jazzercise, and all employees, agents and representatives, shall be an independent contractor, and not an employee of City.

**6.0 Release of Liability:**

Jazzercise shall release, hold harmless, and forever indemnify the City of Bloomington, its Parks and Recreation Department, and its officers, employees, agents, and assigns from any and all claims, which may arise as a result of Jazzercise's activities. This includes claims for personal injury, property damage, or any other type of claim which might be brought by the Jazzercise, its employees, agents or patrons, or any third party, even if caused by the negligence of releasees.

**7.0 Insurance**

Jazzercise shall maintain general liability insurance in the minimum amount of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate. Jazzercise shall name BPRD as an additional insured under the policy, which shall be issued by an insurance

company authorized to issue such insurance in the State of Indiana. Jazzercise shall provide BPRD with a certificate of insurance on or before March 31, 2020.

## 8.0 Termination

- 8.1 Termination by mutual agreement: Unless otherwise terminated per the terms of this Agreement, this Agreement shall be in effect from the date signed until March 31, 2020.
- 8.2 This Agreement may be terminated by mutual written consent only. Should one party decide to terminate this Agreement, at least thirty (30) days written notice must be provided by the terminating party. In this event, Jazzercise shall be responsible for the refunding of monies to the appropriate Jazzercise participants. A record of these refunds shall be included in the monthly growth receipts statement given by Jazzercise to BPRD.
- 8.3 Should Jazzercise lose franchise affiliation with the Jazzercise, Inc. organization, Jazzercise agrees to notify BPRD immediately of such loss of credentials. Such loss of affiliation shall cause an immediate termination of this Agreement. In the event of such termination, Jazzercise shall be responsible for any unpaid rental or lease payments that are due to facilities not under the control of BPRD. In the event of such termination, Jazzercise shall also be responsible for the refunding of monies to the appropriate Jazzercise participants. A record of these refunds shall be included in the monthly gross receipts statement given by Jazzercise to BPRD.
- 8.4 Unilateral termination: In the event that one of the partners to this Agreement breaches any of its terms and conditions, the non-breaching party shall serve written notice of the breach to the breaching party by certified mail. The breaching party shall then have ten (10) days from the date of mailing in which to cure the breach. If the breaching party fails to cure the breach within ten (10) days, the non-breaching party may, at its option and in writing, unilaterally terminate the Agreement.

## 9.0 Notice

- 9.1 Notice regarding any significant concerns or issues of non-compliance shall be given to the following contacts:

**Bloomington Parks & Recreation**

Becky Higgins  
Recreation Services Division Director  
401 N. Morton, Suite 250  
Bloomington, IN 47402  
812-349-3713

**Jazzercise**

Kristin Heeter  
Owner  
2605 Trenton Overlook  
Bloomington, IN 47404  
(812) 876-2158

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

**Bloomington Parks & Recreation**

Jess Klein  
Health & Wellness Coordinator  
401 N. Morton St. Suite 250  
Bloomington, IN 47402  
kleinj@bloomington.in.gov  
812-349-3771

**Jazzercise**

Kristin Heeter  
Owner  
2605 Trenton Overlook  
Bloomington, IN 47404  
krisheeter@yahoo.com  
(812) 876-2158

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

**City of Bloomington**

**Jazzercise**

---

Leslie J. Coyne, President  
Board of Park Commissioners

---

Kristin Heeter  
Jazzercise Franchise Owner

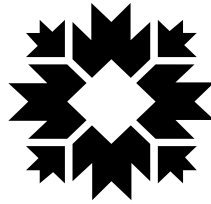
---

Paula McDevitt, Director  
Bloomington Parks & Recreation Department

---

Mick Renneisen, Deputy Mayor





CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C- 2  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Paula McDevitt, Administrator  
**DATE:** March 26, 2019  
**SUBJECT:** Partnership Agreement with Centerstone

### Recommendation

Staff recommends approval of the 2019 partnership agreement with Centerstone for contracted services for a park maintenance crew, landscaping crew and Cascades Golf Course maintenance crew. The partnership will be funded through the General Fund: Operations (\$47,950); Landscaping (\$36,394); Golf Services (\$10,080)

### Background

The department has been part of the Downtown Outreach group since early 2016. At the time the department shared with this group the difficulty in maintaining the heavily used parks in the downtown area including Seminary Park, Peoples Park, Building Trades Park and Rev. Ernest D. Butler Park, and Waldron, Hill and Buskirk Park. In an effort to maintain these locations the department entered into a pilot partnership agreement with Centerstone. The pilot program successfully operated June 2017 through December 1, 2017 seven days a week.

Due to the success of the pilot program, the 2018 partnership agreement for a park maintenance crew was renewed followed by an addendum to the partnership to include a landscaping crew.

The 2019 partnership agreement outlines the schedule, number of Centerstone employees per crew, and hourly rates. Each crew will work under the on-site supervision of a certified trained Centerstone case worker. Centerstone will invoice the department the hourly rate of employment for clients who work in the program.

The Operations and Cascades Golf Course staff will provide training, equipment and general oversight of the assigned areas to ensure they are maintained to the high standard under which the department operates. The program will be evaluated following the conclusion of the program. The program will operate April 1, 2019 – November 30, 2019

Changes to the partnership include an increase in the hourly wage to \$11.36/hour for Laborer I positions and \$13/hour for the Golf Course Supervisor. The addition of the golf course maintenance crew is also new after a brief trial period in the fall at the end of the season.

**RESPECTFULLY SUBMITTED,**



*Paula McDevitt*

---

Paula McDevitt



## **COOPERATION SERVICES AGREEMENT PROGRAM PARTNERSHIP**

**Partner(s):**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the City of Bloomington Parks and Recreation Department (“BPRD”) and, Centerstone. (“CS”).

WHEREAS, BPRD and CS desire to cooperate in a park maintenance crew, landscaping crew and Cascades Golf Course crew; and

WHEREAS, CS is qualified to perform such services for BPRD; and

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

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

**1.0 Purpose of Agreement:**

The purpose of this Agreement is to outline a program partnership, which will provide an opportunity for CS clients to work for CS in BPRD parks by combining available resources from each party to the Agreement.

**2.0 Duration of Agreement:**

This Agreement is in effect from the date of signing until December 31, 2019 unless terminated earlier as provided under Article 7.0.

**3.0 Bloomington Parks & Recreation:**

3.1 The goal of BPRD is to provide well maintained parks for the community to enjoy.

3.2 BPRD agrees to:

1. Designate Seminary Park, Peoples Park, Butler Park, Building Trades Park, the Waldron, Hill and Buskirk Park and along Kirkwood Ave. between Indiana and Walnut Streets as sites for the park maintenance crew. (Monday – Sunday 1pm-5pm April 1, 2019 - November 30, 2019).
2. Under the direction of City Landscaper designate landscaping areas and

tasks for the landscaping crew (Tuesday, Wednesday, Thursday; 7:30am – 3:30pm; April 1, 2019 - October 31, 2019).

3. Under the directions of the Cascades Golf Course Manager designate ground keeping duties such as landscaping pruning, weed pulling, debris removal, bunker weeding, raking leaves, painting, litter pick-up and other related duties. (Tuesday and Thursday; 8am – 12pm; April 1, 2019 – October 15, 2019).
4. To provide on-site training for the CS park maintenance, landscaping, and Cascades Golf Course crew.
5. Provide maintenance equipment and supplies necessary to maintain the designated parks, landscaped areas and Cascades Golf Course.
6. Provide personal protection equipment for members for the CS park maintenance, landscaping and Cascades Golf Course crew.
7. Pay CS invoiced amounts for labor costs of the Parks seasonal employment program. Amounts not to exceed an hourly rate of \$11.36 per hour, plus FICA for park maintenance and landscaping crew positions; \$13/per hour, plus FICA for Cascades Golf Course crew.

#### **4.0 CENTERSTONE Agrees to:**

4.1 The goal of Centerstone is to conduct an employment placement program for park maintenance.

4.2 CS agrees to:

- Conduct hiring interviews, hire, pay, and assume liability/risk coverage for maintenance crews.
- Provide the following number of employees per area:
  - Cascades Golf Course: 3 employees; total of 8 hours per week per employee.
  - Park Maintenance Crew: 4 employees; total of 28 hours per week per employee.
  - Landscaping Crew: 4 employees; total of 24/hours per week per employee.
- Invoice Parks monthly for reimbursement (\$11.36 per hour plus FICA or \$13/per hour FICA depending on the positions filled and hours worked)
- Provide transportation to the sites (People’s Park, Seminary Park, Building Trades Park, Butler Park, the Waldron, Hill and Buskirk Park and along Kirkwood Ave between Indiana and Walnut St.), Operations Center, and Cascades Golf Course
- Provide a Supervisor to transport and supervise crew on site
- Have substitute workers available to fill in or permanently take a spot on

the crew

- Address behavioral issues that come up at sites
- Complete maintenance log daily per site
- Communicate with designed park staff on issues, progress, and supply needs

## **5.0 Terms Mutually Agreed To By All Partners to This Agreement.**

- 5.1 The intent of this Agreement is to document a mutually beneficial partnership between CS and BPRD.
- 5.2 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.
- 5.3 CS shall maintain comprehensive general liability insurance, with a minimum combined single limit of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate. The policy shall name the City of Bloomington Parks and Recreation Department as an additional insured, and CS shall provide Parks with a certificate of insurance prior to the commencement of operations under this Agreement. CS and its insurer shall notify Parks within ten (10) days of any insurance cancellation.
- 5.4 The commitment of personnel, facilities, supplies and payments will be honored according to the timetable agreed upon by all partners.
- 5.5 CS is recognized as having the expertise and experience to hire and supervise the park maintenance work crew safely and effectively. BPRD shall have the right to review risk management, agreement terms, and service quality issues.
- 5.6 Municipal Code sections 6.12.020 and 14.36.090, respectively, prohibit smoking inside city facilities and the consumption of alcoholic beverages on city property.
- 5.7 Pursuant to Indiana code 35-47-11.1-2 and 3, the City is prohibited from enforcing a firearms policy in public parks and city facilities as of July 1, 2011. However, per Indiana Code 35-47-11.1-4(10), CS may develop and implement, at its own discretion, rules of conduct or admission regarding the carrying and storage of firearms, upon which attendance at and participation in its activities is conditioned, and the City is hereby authorized to enforce said policy for purposes of this Agreement. If CS implements such a policy, it shall provide a copy of the policy to the City to be attached to this Agreement and incorporated herein by reference.
- 5.8 The parties will evaluate this Agreement and the services provided during the month of February 2020.

5.9 CS shall release, hold harmless, and indemnify the City of Bloomington, its Parks and Recreation Department, and its officers, employees, agents, and assigns (Releasees) from any and all claims which may arise as a result of CS's activities under this Agreement. This includes claims for personal injury, property damage, or any other type of claim which might be brought against Releasees or CS, or its employees, agents or patrons, by any third party, even if caused by the negligence of Releasees.

**6.0 Notice:**

6.1 Notice regarding any significant concerns or issues of non-compliance shall be given to those contacts as follows:

**Centerstone**

Greg May  
645 S. Rogers St.  
Bloomington, IN 47403  
(812)337-2237

**BPRD**

Paula McDevitt  
401 N. Morton, Suite 250  
Bloomington, IN 47402  
(812) 349-3711

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

**Centerstone**

Greg May  
645 S. Rogers St.  
Bloomington, IN 47403  
(812)337-2237

**BPRD**

Dave Williams  
401 N. Morton, Suite 250  
Bloomington, IN 47402  
(812) 349-3706

**7.0 Termination**

This Agreement may only be terminated in writing by the mutual agreement of all partners.

Signed and Agreed to this \_\_\_\_ day of \_\_\_\_\_, 2019.

**CENTERSTONE:**

\_\_\_\_\_  
Suzanne Koesel, CEO

\_\_\_\_\_  
Date

**CITY OF BLOOMINGTON:**

\_\_\_\_\_  
Paula McDevitt, Administrator, BPRD

\_\_\_\_\_  
Date

\_\_\_\_\_  
Leslie J. Coyne, President,  
Board of Park Commissioners

\_\_\_\_\_  
Date

---

Philippa M. Guthrie, Corporate Counsel

---

Date



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

**STAFF REPORT**

Agenda Item: C-3  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Michael Rouker, City Attorney  
**DATE:** **March 20, 2019**  
**SUBJECT:** **ELECTRIC SCOOTER INTERIM OPERATING AGREEMENT – SPIN SCOOTERS**

**Recommendation:** Do Pass.

**Background**

Last year, Bird and Lime Scooters deployed shared-use escooters throughout Bloomington. During November of last year, the City entered into interim operating agreements with Bird and Lime. A few weeks ago, Spin Scooters reached out to the City and indicated that it wanted to enter into an interim operating agreement with the City. Spin has agreed to the same terms as Bird and Lime, the basics of which are summarized below.

The agreement sets forth:

- Rules governing the parking and operation of electric scooters within the City’s right-of-way and parks
- Penalties that may be charged to the companies for violations of the agreement
- Requirements that scooter companies share certain ridership data with the City and conduct periodic public outreach programs in the community
- Fees that scooter companies will contribute toward the City’s costs of maintaining scooter infrastructure and enforcing rules governing scooter use
  - Annual fee: Ten-thousand dollars (\$10,000) per year
  - Monthly fee: Ten cents (\$0.10) per ride, per month
- Minimum insurance requirements and risk transfer

Because the agreement allows scooters to be staged and operated in City parks, the Board of Park Commissioners must approve the agreement. The agreement is intended to serve as an interim measure governing electric scooters while the City continues to work on long-term scooter legislation.

**RESPECTFULLY SUBMITTED,**

---

Michael Rouker, City Attorney

## ELECTRIC SCOOTER INTERIM OPERATING AGREEMENT

This Electric Scooter Interim Operating Agreement (hereafter "Agreement") is entered into by and between Skinny Labs, Inc. dba Spin (hereafter "Company"), and the City of Bloomington, Indiana (hereafter "City") as of this 18th day of March, 2019.

### 1. Statement and Purpose

This Agreement establishes interim terms and conditions governing the Company's electric scooter operation within the City so that such operations are consistent with the safety and well-being of the Bloomington Community and all users of Bloomington's parks and public right-of-way. It is understood that in exchange for authorization to utilize City parks and City right-of-way, the Company shall operate in accordance with the terms and conditions set forth herein.

### 2. Term

This Agreement shall remain in full force and effect from the date of its execution until the sooner of (1) the adoption of an ordinance by the Bloomington Common Council designed to regulate Electric Scooters or (2) termination of this Agreement in accordance with Section 6 below.

### 3. Responsibilities of the Company

- a. *Electric Scooter Parking.* Company acknowledges and understands the following requirements for parking electric scooters:
  - i. Electric scooters must stand upright while they are parked.
  - ii. Electric scooters shall not be parked in a manner that would impede normal and reasonable pedestrian access on a sidewalk, including accessible ramps, or in any manner that would reduce the minimum clear width of the sidewalk to less than 48-inches.
  - iii. Electric scooters shall not be parked in a manner that would impede vehicular traffic on a street or alley.
  - iv. Electric scooters shall not be parked in a manner as to block any fire hydrant, call box, or other emergency facility; bus shelter; parking meter; or utility pole or box.
  - v. Electric scooters shall not be parked in a manner that would pose a threat to public health or security.
  - vi. The Company shall not stage electric scooters on a block that does not have sidewalks.
  - vii. Electric scooters shall not be parked in such a manner as to impede or interfere with the reasonable use of any commercial window display or access to or from any building.
  - viii. Electric scooters shall not be parked in such a manner as to unduly impede or interfere with the reasonable use of any parking space, newsrack, bus shelter, commercial loading zone, railroad track or crossing, passenger loading zone, street furniture, building entryway, or vehicular driveway.

To the extent the Company desires to park electric scooters in areas other than City parks or the public right-of-way (e.g. plazas, parking lots, private property, or transit stations), the Company must first obtain the right to do so from the appropriate City department, property



owner, or public agency and shall communicate this right to users through signage approved by the respective entity and/or through a mobile or web application.

- b. *Electric Scooter Use.* Electric scooters must be used in conformity with the following requirements.
- i. Electric scooters may be ridden upon streets, within bike lanes, and upon multi-use trails, multi-use paths, and some sidewalks. Electric scooters may not be ridden upon sidewalks in designated "Dismount Zones," which are set forth in Bloomington Municipal Code § 15.56.020(a)(7).
  - ii. On sidewalks, paths, and trails, users must:
    1. Yield the right-of-way to pedestrians;
    2. Pass pedestrians at a distance of at least three feet;
    3. Alert other sidewalk or trail users traveling in the same direction with an audible signal prior to passing them;
  - iii. Users must obey all rules of the road, including stopping at stop signs and traffic lights, signaling turns, and following the direction of traffic.
  - iv. To the extent minors are permitted as users, minors are required to wear helmets while riding an electric scooter. Helmets are strongly encouraged for all users.
  - v. The Company shall require all electric scooter riders to take a photo when they park their scooter at the end of a ride.
  - vi. All users must ride with courtesy and respect.
- c. *Lights and Audible Signals.* All electric scooters shall be equipped with properly functioning lights sufficient to make the scooters visible during non-daylight hours. All electric scooters shall also be equipped with a bell or another warning device capable of giving an audible signal. The bell or alternative signaling device shall be capable of alerting pedestrians that the scooter is approaching.
- d. *Condition of Scooters.* In the event a safety or maintenance issue is reported for a specific device, such electric scooter shall be made unavailable to users and shall be removed within the timeframes provided herein. Any inoperable or unsafe device shall be repaired before it is put back into service.
- e. *Twenty-Four Hour Service Line.* The Company shall maintain a twenty-four hour service phone number for the public to report safety concerns, complaints, or to ask questions. The twenty-four hour service line shall be visible upon each electric scooter deployed by the Company. The City shall refer members of the public who report concerns regarding electric scooters to contact the service line and may also publish the phone number on its website, social media platforms, and in other literature. The Company shall respond to requests for rebalancing, reports of incorrectly parked electric scooters, or reports of unsafe/inoperable electric scooters by relocating, re-parking, or removing the electric scooters, as appropriate, within two (2) hours of receiving notice. Notice of aforementioned violations may be submitted in the form of photographic documentation by any authorized City staff or other City representatives.
- f. *Fines.* In the event an electric scooter is improperly staged or placed by company agents, or not relocated, re-parked, or removed within the timeframe specified herein, or in the event any electric scooter is parked in one location for more than seventy-two (72) hours without moving, the City may assess a fine against the Company. For each day that an electric scooter is

improperly staged and/or is not relocated or re-parked, or removed within seventy-two (72) hours as specified herein, the Company shall be subject to a fine of fifty dollars (\$50) for each scooter that is improperly located. This fine shall be applied per vehicle, per day.

- g. *Notices to Users.* Prior to each user's first use of an electric scooter, the Company shall provide notice to each user through a Bloomington-specific mobile application regarding the Bloomington-specific requirements for electric scooter parking outlined in Section 3(a) and electric scooter use outlined in Section 3(b).
- h. *Data Sharing.* The Company agrees to provide the City with access to an Application Programming Interface (API) offering data about its fleet and trip activity within the City, meeting the requirements of the Mobility Data Specification format. All information hosted within the API or retrieved from the API shall be considered a trade secret and proprietary information belonging to the Company. The Company shall provide the City with said access within thirty (30) days of the execution of this Agreement.

As an alternative to granting the City access to the API, the Company may instead comply with this Section of this Agreement by providing the City with reasonable real-time access to ridership data using a different medium, as long as the ridership data includes, at a minimum, the following information:

- i. The total number of rides for the previous quarter.
- ii. The total number of electric scooters in services during the previous quarter.
- iii. The number of rides per electric scooter per day.
- iv. Anonymized trip data that shows the origin and destination, trip duration, distance, and date and time of each trip.
- v. Any other similar data in the possession of the Company that is requested by the City.

However, nothing in this Agreement shall require the Company to share any information that might qualify as personally identifiable information pertaining to individual users or as confidential information under any statute, regulation, court order, or ordinance.

- i. *Outreach.* The Company shall implement and engage in a marketing and targeted community outreach plan at its own cost. Said outreach shall include, at a minimum, the following:
  - i. On-the-Ground Safety Campaigns: Three times per year, the Company shall engage in a week-long on-the-ground Safety Campaign ("Safety Campaign") targeting areas of peak usage. The Company's Safety Campaigns shall include, at a minimum, education on the City's existing rules and regulations, safe and courteous riding, and proper parking. The Company and the City shall coordinate the scheduling of said Safety Campaigns. As many scooter users are students at Indiana University, the parties shall schedule said Safety Campaigns so as to maximize student participation.
  - ii. Bloomington-Specific Landing Page: The Company shall develop a Bloomington-Specific Landing Page and dedicate a portion of its website to said page. The page shall include local "Dos and Don'ts" and Bloomington-specific rules and regulations. The Company shall coordinate with the City regarding the content of the Landing Page.

The Company shall coordinate its outreach plans with the City. Outreach plans are required twice annually, and shall be submitted no later than July 31 of each year and January 31 of each

year. The Company shall obtain the approval of the City regarding the adequacy of said plan. Such approval by the City shall not be unreasonably withheld.

In the event that the City, at its sole determination, observes a significant number of electric scooter users violating laws, rules, or regulations related to riding, parking, or staging of electric scooters, the City reserves the right to amend the outreach requirements set forth in this Agreement at its sole discretion.

#### **4. Responsibilities of the City**

The City shall permit the Company to operate an electric scooter rental business within the City's parks and within the City's right-of-way and shall permit the Company's users to operate electric scooters within the City's parks and within the City's right-of-way, provided such operation is in accordance with all laws, ordinances, regulations, and the terms and conditions contained within this Agreement.

#### **5. Fees**

The Company agrees to submit a fee to the City in consideration for the use of the City's parks and City right-of-way. Said fee shall consist of an annual fee of ten thousand dollars (\$10,000), and an additional fee of ten cents (\$.10) per ride taken on any scooter the Company has deployed in the City. The City shall invoice the Company for the annual fee during November or December of each year, and the Company shall remit payment to the City within thirty (30) days of receiving said invoice. The per-ride fee shall be invoiced monthly based on data provided by the Company in accordance with Section 3.h. above, and the Company shall submit payment within 30 days of receipt of the invoice.

#### **6. Termination**

Either party may terminate this Agreement upon ten (10) days written notice to the other party. Such notice shall be sent in accordance with the terms of Section 13 of this Agreement. As described in Section 2 above, this Agreement shall automatically terminate without either party taking any additional action upon the City Council's adoption of an ordinance regulating electric scooters. The automatic termination date shall correspond to the effective date of said ordinance, in the event that the ordinance's effective date and adoption date are not identical.

#### **7. Insurance**

Company 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; (b) Workers' Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code; and (c) Excess Liability Insurance in a minimum amount of \$5,000,000 which shall apply to both the General Liability and Automobile Liability policies. All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington and its officers, employees and agents shall be named as additional insureds, 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. Prior to initiating operations pursuant to this Agreement, Company shall provide evidence of each insurance policy to the City.

## **8. Indemnification**

Company shall defend, indemnify, and hold harmless the City and the officers, agents, and employees thereof from any and all claims, demands, damages, costs, expenses, or other liability arising out of this Agreement, the Company's operations, or the operation of the Company's electric scooters upon the City's property. However, the foregoing indemnity shall not apply to claims resulting from the gross negligence or willful misconduct of the City, claims related to the City's negligent maintenance of its infrastructure, or claims that the City negligently permitted a project within its right-of-way.

## **9. 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.

## **10. 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.

## **11. Assignment**

Neither party 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.

## **12. 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

## **13. Notices**

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

*City:* City of Bloomington  
ATTN: Corporation Counsel  
401 N. Morton Street  
Bloomington, IN 47404

Company: Attn. Brandon Kaufman  
450 Mission Street, Suite 400  
San Francisco, CA 94105

Nothing contained in this Section or elsewhere in this Agreement shall be construed to restrict the transmission of routine communications between representatives of the City and Company.

**14. Integration and Modification**

This Agreement represents the entire and integrated agreement between the parties. 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 set forth their hands below with the intent to be bound by the foregoing terms and provisions.

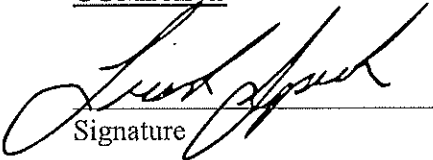
**CITY OF BLOOMINGTON**

\_\_\_\_\_  
John Hamilton, Mayor


\_\_\_\_\_  
Kyla Cox Deckard, President  
Bloomington Board of Public Works

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

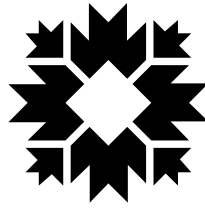
**COMPANY**

  
\_\_\_\_\_  
Signature

Frank Speek, Manager, Government Partnerships  
Printed Name and Title

CITY OF BLOOMINGTON  
Controller  
Reviewed by:   
DATE: 3/24/19  
FUND/ACCT: 100-0000-0114-000

<b>CITY OF BLOOMINGTON</b> Legal Department Reviewed By: <u>MKHAD</u> <u>ROUKER</u> DATE: <u>3/20/14</u>
---



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-4  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Alex Crowley, Director, Economic and Sustainable Development  
**DATE:** **March 26, 2019**  
**SUBJECT:** **ZIPCAR PILOT PROJECT AT BRYAN PARK**

### **Recommendation**

Staff recommends approval of one parking space in the southwest corner of the Woodlawn Ave. parking lot for placement of a Zipcar vehicle for one year, effective April 1, 2019.

### **Background**

The Department of Economic and Sustainable Development (ESD) proposes placement of one Zipcar car share vehicle the southwest corner of the Woodlawn Ave. parking lot at Bryan Park for one year as a pilot to test car share success in off-campus locations. Zipcar currently has 10 vehicles placed on-campus and at off-campus student housing locations via a contract with Indiana University. This is a pilot project to promote use of a Zipcar in lieu of individual car ownership to the broader Bloomington community, in support of Action 3.2.c in the 2018 Sustainability Action Plan.

ESD staff surveyed Bryan Park Neighborhood Association members from December 2018 – January 2019 and received positive feedback regarding this pilot project. Zipcar is providing a pole and signage at no cost to the City. The Parks and Recreation Department has agreed to check for any underground utilities in advance of signage installation, and the Public Works Department has agreed to install the pole and signage. ESD is also working with Indiana University and Zipcar staff to help promote vehicle use for the duration of the pilot project.

**RESPECTFULLY SUBMITTED,**

---

Alex Crowley, Director, Economic and Sustainable Development



## PARKING AGREEMENT

- 1. Term.** 1 year from 4/1/2019 with automatic renewal for 1 year periods unless either party gives the other written notice thirty (30) days prior to the then current term. If either party breaches this Agreement and fails to cure such breach within thirty (30) days after receipt of notice of the breach, then the other party may terminate this Agreement effective as of the end of such thirty (30) day period.
- 2. Number of Parking Spaces.** Company will make available for Zipcar's exclusive use the following number of parking spaces at Company's parking facility indicated below. The spaces will be available to Zipcar free of charge.

Number of Parking Spaces	Facility Name and Address
1	Bryan Park Parking Lot
	S Woodlawn Ave, Bloomington, IN

- 3. Parking Space Availability and Use.** The parking space(s) are made available to Zipcar for the purpose of providing car sharing services to Zipcar members, and Zipcar and its members shall have right to use the parking space(s), including without limitation the right to park, operate, clean, and otherwise use the Zipcar vehicles. Company shall provide Zipcar, its members, and its third party personnel with 24x7x365 unrestricted access to the parking spaces and shall otherwise provide the same amenities and services it affords to other parking tenants. Zipcar shall have the right to decrease the number of parking spaces at any time for any reason, without penalty by providing fifteen (15) days' prior notice to Company. Zipcar agrees that it, and not Company, is responsible for addressing issues that Zipcar members may have with the Zipcar service.
- 4. Signage.** Zipcar shall have the right to place Zipcar signage advertising the Zipcar services in such locations at the Company's parking facilities as Zipcar and Company may mutually agree from time to time. At a minimum, Company agrees that Zipcar may mark off reserved parking spaces assigned to Zipcar by placing a Zipcar sign to indicate such space is reserved for a Zipcar, in addition to exterior-facing signage indicating the facility has Zipcars on-site.
- 5. Indemnification.** Each party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other party (the "Indemnified Party") its successors, subsidiaries, affiliates, employees, officers, trustees, agents and assigns from and against any and all third party claims brought against the Indemnified Party by any person or entity (i) for personal injury or property damage; and (ii) arising out of the Indemnifying Party's gross negligence or willful misconduct with respect to this Agreement. The Indemnifying Party will pay all damages agreed to in settlement or awarded by a court of competent jurisdiction; provided, however, that no settlement shall be effective without consent of the Indemnified Party. This indemnification obligation shall be effective only if the Indemnified Party has given prompt written notice of the claim to the Indemnifying Party, permitted the Indemnifying Party an opportunity to defend, and reasonably cooperated in the defense of the claim at the Indemnifying Party's expense.
- 6. Sole Car Sharing Service.** Company agrees that Zipcar shall be the only car sharing service with vehicles parked at the Company's parking facilities.
- 7. Compliance with laws; Insurance.** Each party represents and warrants that it will comply with all applicable federal, state and local laws, and that it will maintain a commercial general liability policy with a minimum of \$1,000,000 of coverage.
- 8. LIMIT OF LIABILITY; WARRANTY.** ZIPCAR'S LIABILITY HEREUNDER IS LIMITED TO THE AMOUNT OF FEES PAID BY ZIPCAR OVER THE PRIOR TWELVE (12) MONTHS UNDER THIS AGREEMENT. NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOSS OF DATA OR INTERRUPTION OF BUSINESS, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS. THE FOREGOING LIMITATION OF LIABILITY IS NOT INTENDED

TO LIMIT EITHER PARTY'S LIABILITY FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. COMPANY ACKNOWLEDGES THAT THE PROVISIONS OF THIS SECTION REPRESENT A REASONABLE ALLOCATION OF RISK THAT IS REFLECTED IN THE FEES PAID BY BUSINESS. ZIPCAR MAKES NO WARRANTY TO COMPANY WITH RESPECT TO THE ZIPCAR SERVICE.

9. **Miscellaneous.** Each party represents and warrants to the other that (i) it has the authority to enter into this Agreement and is not under any obligation to any third party that would conflict with this Agreement and (ii) it will comply with all applicable federal, state and local laws. If one party fails to enforce any provision of this Agreement, such party will not be precluded from enforcing the same provision at another time. This Agreement and the rights granted under it may not be assigned or transferred by either party without the written consent of the other party; provided, however, either party will have the right to assign this Agreement to its successor in the event of a merger, acquisition or other consolidation, including without limitation the sale of all or substantially all of its assets or stock or business to which this Agreement relates. This Agreement shall be governed by and construed in accordance with law of the Commonwealth of Massachusetts without regard to conflicts of laws provisions thereof. The parties agree that the sole jurisdiction and venue for actions related to the subject matter hereof shall be the state and federal courts located in Boston, Suffolk County, Massachusetts, and consent to the exclusive jurisdiction of such courts.

Zipcar, Inc. ("Zipcar")

Signed: *Eileen Romito*

Name: Eileen Romito

Title: Locations Manager, Central

The City of Bloomington, IN ("Company")

Signed: \_\_\_\_\_

Name: Alex Crowley

Title: Director, Economic and Sustainable Development

City of Bloomington Parks and Recreation

Signed: \_\_\_\_\_

Name: Paula McDevitt

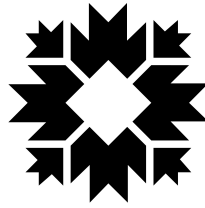
Title: Director

Signed: \_\_\_\_\_

Name: Les Coyne

Title: President, Board of Park Commissioners





CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-5  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Crystal Ritter, Community Events Coordinator  
**DATE:** March, 26, 2019  
**SUBJECT:** REVIEW/APPROVAL OF THE PARTNERSHIP AGREEMENT WITH  
MONROE COUNTY CIVIC THEATER

### Recommendation

Staff recommends approval of the partnership agreement with Monroe County Civic Theater, Inc. (MCCT). This partnership allows for the rehearsal and performance of a “Shakespeare in the Park” play in September.

### Background

For more than 25 years Bloomington Parks and Recreation and Monroe County Civic Theater, Inc. (MCCT) have shared resources to provide the Bloomington community with free performances of Shakespeare plays in Waldron, Hill, and Buskirk Park. This year’s event will be held in September instead of June due to the scheduled construction in Waldron, Hill, and Buskirk Park. MCCT plans to produce A Midsummer Night's Dream for their 25<sup>th</sup> anniversary year. MCCT is responsible for the production of the plays, while Bloomington Parks and Recreation provides assistance in the form of promotions and the use of the Third Street Park stage.

The only change to this year’s agreement is an extension from 6 weeks to 8 weeks for rehearsal time on the stage due to other scheduled programs taking place in the park in August and September. During these events MCCT will not have access to the stage.

**RESPECTFULLY SUBMITTED,**

Crystal Ritter, Community Events Coordinator

**City of Bloomington  
Parks and Recreation Department  
Program Partnership Agreement  
Monroe County Civic Theatre**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the Bloomington Parks and Recreation Department (“BPRD”) and the Monroe County Civic Theater (“MCCT”).

**WHEREAS**, BPRD and the MCCT desire to cooperate in order to provide theater programs and productions for the benefit of the general public; and

**WHEREAS**, the MCCT is qualified to perform such services with BPRD; and

**WHEREAS**, 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:

**1.0 Purpose of Agreement:**

The purpose of this Agreement is to outline a program partnership which will provide for greater services in theater programming and productions by combining available resources from each partner to this Agreement.

**2.0 Duration of Agreement:**

This Agreement shall be in full force and effect from April 30, 2019, to March 30, 2020, unless early termination occurs as described in Article 8.0 of this Agreement.

**3.0 Bloomington Parks and Recreation:**

The goal of BPRD is to build a positive relationship with the MCCT in order to provide free performances of “Shakespeare in the Park” for the Bloomington community.

BPRD agrees to:

- a. Provide use of the stage in the Waldron, Hill, and Buskirk Park for five (5) nights per week (Sunday-Thursday) during the eight (8) weeks leading up to public performances with the exception of August 30<sup>th</sup>- September 1<sup>st</sup> due to other scheduled programming in the park. Performances are to be held September 12<sup>th</sup>-15<sup>th</sup>. Rehearsal schedule must be submitted to BPRD two weeks prior to start of rehearsals.
- b. Publicize performances with the Performing Art Series through concert cards, program guide, and in weekly press release.

**4.0 Monroe County Civic Theater:**

The goals of MCCT are to provide opportunities for actors to gain experience in theatrical productions and provide free, quality performances of “Shakespeare in the Park” for the Bloomington community.

MCCT agrees to:

- a. Name BPRD in all forms of publicity as a co-sponsor of performances held in Waldron, Hill, and Buskirk Park.
- b. Be responsible for the production in its entirety including: auditions, rehearsals, staging, props, costumes, and other production needs.

- c. Ensure that the productions are appropriate for the general public.
- d. Inform actors, directors, and producers of policies and building procedures and adhere to same.
- e. Schedule and pay any costs associated with securing a Parks supervisor in order to open the Allison Jukebox Building (category B of the price schedule) for restroom access during times when the building is not open to the public.

**5.0 Release and Hold Harmless Agreement:**

MCCT, including its membership, agents, and assigns, do hereby agree to release, hold harmless, and indemnify the City of Bloomington, its Parks and Recreation Department, and any and all employees, agents, and assigns from any and all claims, causes of action, suits, proceedings, or demands, including but not limited to claims involving personal injury or death, which may arise from this Agreement, even if caused by the negligence of releasees.

**6.0 Terms Mutually Agreed to by all Partners to This Agreement:**

- a. The intent of this Agreement is to document a mutually beneficial partnership between BPRD and MCCT.
- b. The staff and personnel involved in this Agreement will at all times represent both partners to this Agreement in a professional manner, and reflect the commitment of both partners to quality services and customer satisfaction.
- c. The commitment of personnel, promotions, equipment, and funding sources will be honored according to the timetable agreed upon by both partners.
- d. MCCT is recognized as having the expertise and experience to run the production safely and effectively. BPRD shall have the right to review risk management, agreement terms, and service quality issues.
- e. The Agreement and the services provided will be evaluated in January, 2020.
- f. 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. **Theatrical property weapons may be used for theatrical productions with pre-approval from BPRD.**
- g. Municipal Code sections 6.12.020 prohibit smoking inside City of Bloomington facilities on City of Bloomington property.

**7.0 Notice and Agreement Representatives:**

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

Monroe County Civic Theater  
 Steve Heise  
 1406 S. Washington St.

Bloomington Parks and Recreation  
 Becky Higgins  
 P.O. Box 848

Bloomington, Indiana 47401  
812-323-9360 (cell)

Bloomington, Indiana 47402  
812-349-3713

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

Monroe County Civic Theater  
Steve Heise  
1406 S. Washington St.  
Bloomington IN 47401  
812-323-9360 (cell)

Bloomington Parks and Recreation  
Crystal Ritter  
PO Box 848  
Bloomington, Indiana 47402  
812-349-3725

**8.0 Termination**

This Agreement may only be terminated in writing and by the mutual agreement of all partners.

**9.0 E-Verify**

Pursuant to Ind. Code 22-5-1.7-11(a), which was adopted on July 1, 2011, MCCT as a business entity has to enroll in and verify the work eligibility status of all newly hired employees through the E-Verify program. MCCT is not required to continue this verification if the E-Verify program no longer exists.

However, MCCT is a not-for-profit organization that does not have any employees and therefore, is not able to register with the E-Verify program. As a consequence, in order to be in compliance with Ind. Code 22-5-1.7-11(a), MCCT shall sign an affidavit affirming that MCCT currently does not employ any employees, but only works with volunteers, and if MCCT should hire any employee or contract employee, it commits itself to participate in the E-Verify program and will immediately sign an amended Affidavit as required by state law, that it is registered with the E-Verify program and if it hires employees, it will not be employing any unauthorized alien. The Affidavit to this effect is attached to and incorporated into this Agreement as Exhibit A.

If an amended affidavit becomes necessary during the term of this Agreement, MCCT –by signing this Agreement—commits itself to (1) notify BPRD prior to hiring such an employee or contracting with a contract employee, (2) register with e-verify prior to the hiring, (3) check the employee through E-Verify, and (4) sign the amended Affidavit within three (3) business days prior to hiring an employee.

IN WITNESS WHEREOF, this Agreement is effective upon signature by both partners.

BLOOMINGTON PARKS AND  
RECREATION DEPARTMENT

MONROE COUNTY CIVIC THEATRE

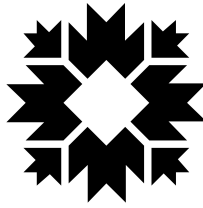
\_\_\_\_\_  
Leslie J. Coyne, President  
Board of Park Commissioners

\_\_\_\_\_  
Steve Heise

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

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





CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-6  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Daren Eads, Facility Coordinator  
**DATE:** March 26, 2019  
**SUBJECT:** REVIEW/APPROVAL OF ORACLE ELEVATOR SERVICE AGREEMENT

### Recommendation

Staff recommends approval of the ORACLE ELEVATOR service agreement for the Parks department. ORACLE is located in Indianapolis and have an exceptional response time. They provide quarterly service, annual inspections, and/or repairs as needed for both the Twin Lakes Recreation Center and Banneker Community Center. Funding for the service agreement will be from Twin Lakes Non-Reverting and Banneker General Fund. The service agreement is not to exceed \$4000.

### 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 services as the need arises.

**RESPECTFULLY SUBMITTED,**

---

Daren Eads, Facility Coordinator

# AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND ORACLE ELEVATOR

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

**Article 1. Scope of Services** Contractor will service and adjust elevators at City park facilities ("Services") four (4) times per year at Seven Hundred Dollars (\$700) annually at the Twin Lakes Recreation Center and One Thousand One Hundred and Four Dollars and Twenty-Eight Cents (\$1,104.28) Banneker Community Center; and for repairs at an hourly rate of Two Hundred and Ninety-Five Dollars (\$295.00) plus materials for One (1) Tech; hourly rate of Four Hundred and Twenty-Five Dollars (\$425.00) for a Team. Contractor shall provide the Services for a set price per hour Monday –Friday 7:30am to 4:00pm and all other times for an afterhours hourly rate of Four Hundred and Forty-Two Dollars (\$442.00) for One (1) Tech; afterhours hourly rate of Six Hundred and Thirty-Seven and Fifty Cents (\$637.50) for Team, plus supplies and mileage.

Parks Department would give Contractor at least two (2) working days' notice on repair. Mileage is billed at Sixty-Five Cents (\$.65) per mile.

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 individuals as the Department's Project Manager:

Daren Eads for TLRC and Erik Pearson for Banneker Community Center.

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; Erik Pearson for Banneker Community Center, 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, Erik Pearson – Banneker Community Center, 401 N. Morton, Bloomington, IN 47402. **Contractor:** Oracle Elevator, 5534 West Raymond Street, Indianapolis, IN 46421 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

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

\_\_\_\_\_  
Les Coyne, President, Board of Park Commissioners

**Oracle Elevator**

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

\_\_\_\_\_  
Signature





**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.

**Oracle Elevator**

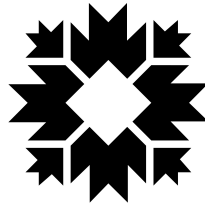
By: \_\_\_\_\_  
\_\_\_\_\_

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.

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

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



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-7  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Bill Ream, Community Events Coordinator  
**DATE:** March 26, 2019  
**SUBJECT:** CONTRACT FOR SERVICES WITH NEW LIFE UNITED PENTECOSTAL CHURCH

### Recommendation

Staff recommends approval of the contract for services with the New Life United Pentecostal Church.

### Background

New Life United Pentecostal Church has been performing similar services for the department for more than 10 years and we have always been very happy with their work.

These services include trash pick-up and trash bag removal at the Bloomington Street Fair on Sunday, April 28th, parade route clean-up before and after the Fourth of July Parade on Thursday, July 4th and parking assistance for the Bloomington Pumpkin Launch event at the Monroe County Fairgrounds on Saturday, October 26<sup>th</sup>. They may also be hired to assist with set up, tear down, and/or clean-up of various events as needed and appropriate.

**RESPECTFULLY SUBMITTED,**

---

Bill Ream, Community Events Coordinator

# AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND NEW LIFE UNITED PENTECOSTAL CHURCH

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

**Article 1. Scope of Services** Contractor shall provide the following services ("Services"):

1. As directed and coordinated by the Project Manager, pick up trash and coordinate trash bag removal at the Bloomington Street Fair on Kirkwood Ave. for a fee of \$400.
2. As directed and coordinated by the Project Manager, after the parade is complete, clean up the parade route for the Fourth of July Parade for a fee of \$200.
3. As directed and coordinated by the Project Manager, assist with parking during the Bloomington Pumpkin Launch at the Monroe County Fairgrounds for a fee of \$200.
4. As directed and coordinated by the Project Manager, assist with other events agreed upon by both parties for a total of no more than \$700.

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 Bill Ream as the Department's Project Manager. Contractor agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Contractor for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

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

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

**Article 4. Compensation** The Department shall pay Contractor for all fees and expenses in an amount not to exceed One thousand Five Hundred dollars (\$1,500). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Bill Ream, City of Bloomington Parks and Recreation, 401 N. Morton, Suite 250, Bloomington, Indiana 47404. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor within forty-five (45) days of receipt of invoice. Additional services not set forth in Article 1, or changes in the Services must be authorized in writing by the Department or its designated project coordinator prior to such work being performed, or expenses incurred. The Department shall not make payment for any unauthorized work or expenses.

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

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

Sunday April 28<sup>th</sup>, 2019 from 11:30am-4:30pm  
Thursday July 4<sup>th</sup>, 2019 from 6-8am and 11:30am- 1:30pm  
Saturday October 26<sup>th</sup>, 2019 from 10:30am-1:30pm

Other dates/times as needed and agreed upon by both parties

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 Parks and Recreation, Attn: Bill Ream, 401 N. Morton St. Suite 250, Bloomington, IN 47404. Contractor: New Life United Pentecostal Church, Attn: Jorge Orellana, PO Box 58, Harrodsburg, IN 47434.** 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**

**NEW LIFE UNITED PENTECOSTAL CHURCH**

\_\_\_\_\_  
Mick Renneisen, Deputy Mayor

\_\_\_\_\_  
Jorge Orellana, Director of Student Ministries

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

\_\_\_\_\_  
Leslie J. Coyne, President, Board of Park Commissioners



**EXHIBIT B**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**New Life United Pentecostal Church**

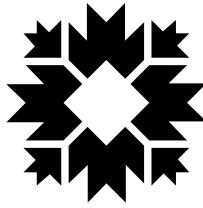
By: \_\_\_\_\_  
\_\_\_\_\_

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.

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

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



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-8  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Dee Tuttle, Sports Facility/Program Manager  
**DATE:** March 26, 2019  
**SUBJECT:** REVIEW/APPROVAL OF PARTNERSHIP AGREEMENT WITH THE  
BLOOMINGTON JUNIOR LEAGUE BASEBALL ASSOCIATION TO PROVIDE  
A YOUTH BASEBALL PROGRAM AT WINSLOW SPORTS COMPLEX

### Recommendation

Staff recommends approval of this agreement.

### Background

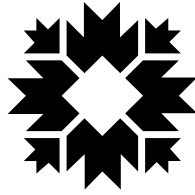
The Bloomington Junior League Baseball Association provides youth baseball for children ages 5-12. This program serves over 400 players. Practices and games are conducted at the Winslow Sports Complex and Bryan Park fields #1 and #2 Monday through Sunday beginning in April and ending in October. BJLBA offers a regular season and a fall season. Projected revenue is approximately \$35,000.

**RESPECTFULLY SUBMITTED,**

---

Dee Tuttle  
Sports Facility/Programs Manager





CITY OF BLOOMINGTON  
Parks and Recreation

## COOPERATIVE SERVICE AGREEMENT PROGRAM PARTNERSHIP

This Agreement, made and entered into this 26th day of March, 2019, by and between the Bloomington Parks and Recreation Department ("Parks") and Bloomington Junior Baseball League ("BJLBA"), WITNESSETH:

**WHEREAS**, both Parks and BJLBA wish to provide an opportunity for the Bloomington/Monroe County community to participate in specialized recreation programs that are designed to meet the needs of youth in the community and to promote health and well-being through participation in cooperative and competitive recreation programs, and a partnership between Parks and BJLBA is in the public interest; and

**WHEREAS**, there is an apparent need for a recreational youth baseball program, and Parks and BJLBA desire to cooperate in the provision of a youth baseball program for the general public; and

**WHEREAS**, BJLBA is capable to perform such services, and has a history of operating an inclusive program that serves the needs of the Bloomington community, and has a good record of cooperation with Parks; and

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

**WHEREAS**, services provided by each party will reflect on the other, so clear communication and an outline of expectations is necessary;

**NOW THEREFORE**, the parties do mutually agree as follows:

1. **Purpose of Agreement.** This agreement outlines a program partnership which will provide an affordable and effective youth baseball program, designed to introduce beginner participants to the program as well as to provide for skill advancement, for the Bloomington community by combining available resources from each party to the agreement.
2. **Duration of Agreement.** This agreement shall be in full force and effect from the date of approval of both parties until October 1, 2019, unless terminated earlier as provided herein.
3. **Duties of Parks.** Parks agrees to:
  - a. Allow BJLBA access to Winslow Baseball Fields in priority category #3 based on the order established by the Board of Park Commissioners:
    1. Parks programs
    2. Monroe County Community Schools Corporation programs
    3. **Partnership programs**
    4. Independent programs
  - b. Allow BJLBA access to Winslow Baseball Fields specified on the dates and at the times set forth at the beginning of the season at the partnership rates:

Winslow Sports Complex:	
Practice (excludes field lining)	\$16.00 per hour
Practice with lights (excludes field lining)	\$20.00 per hour
Weeknight Competition (includes field lining)	\$23.00 per hour
Weekend Competition (includes field lining)	\$25.00 per hour
With on-site maintenance	\$30.00 per hour
All day per field	\$165.00

- c. Allow BJLBA access to practice ball fields at Bryan Park fields 1 and 2 based on availability and at varying rates depending on published prices of those facilities.

Practice (excludes field maintenance and lining)	\$10.00 per hour
Competition (includes minor field maintenance and field lining)	\$12.00 per hour

- d. Provide facility maintenance including trash pick-up and removal, cleaning, deodorizing, maintaining and stocking restrooms, and upkeep of buildings and common areas.
- e. Provide sport field and parking lot lighting including the cost of maintenance and operation of lighting systems for ball fields, parking lots and buildings.
- f. Provide turf management including seeding, fertilizing, aerifying, weed control, and mowing. BJLBA is not permitted to provide field maintenance of any type including dragging infields and raking base paths.
- g. Provide a weather information Hotline. Parks has the authority to cancel or delay events in progress or prior to their start due to inclement weather or hazardous conditions. These decisions will be communicated on the Youth Sports Hotline (812) 349-3610 option #2.
- h. Suspend play in progress when required by Parks. Parks has the sole authority to suspend play in progress due to inclement weather. In the event that BJLBA is not comfortable with resuming play after an all clear is given from a Parks representative, BJLBA may decide to cancel play and that will be communicated on the hotline.
- i. Provide four hitting tunnels. Each tunnel will be divided and consist of two pitching/hitting stations. Parks will be responsible for the demo of the existing batting cages and returning the area into usable green space.
- j. Provide a Facility Supervisor on site to open and close the facility and assist with facility-related matters at the Winslow Sports Complex. No Parks supervisor will be on-site at Bryan Park. BJLBA is encouraged to provide a Standard 1<sup>st</sup> aid and CPR certified supervisor at this facility which is open to the public.
- k.. Provide maintenance staff who shall be assigned to maintain and prepare the facility on a daily basis, as well as additional maintenance support staff as needed to perform other repairs, tasks and services.
- l. Provide the services of the Sports Facility/Programs Manager as a liaison, consultant and contact person between the facilitated user group and the Bloomington Parks and Recreation Department.
- m. Respond to citizen reports (see Section 4.e. below) within 24 hours of receipt.

**4. Goals and Duties of BJLBA.** The goals of BJLBA are to offer a recreational youth baseball program for the community at large, introduce and publicize BJLBA to the public, and provide programming for children of BJLBA. BJLBA hereby agrees to:

- a. Maintain close contact with the Sports Facility/Programs Manager and appoint this person as Parks liaison to BJLBA's policy making board.
  - b. Will consider and discuss with BPRD the wear and tear from BJLBA use in regards the depreciation of tunnel netting
  - c. Agree to have each head coach obtain the Babe Ruth Coaching Education program requirements. This is a lifetime certification. BJLBA also agrees to have all adults involved with the program submit to a local and state criminal history check.
  - d. Collect fees and pay monthly field usage fees as specified in the above rates. Failure to cancel reserved times and dates, at least three weeks in advance, will result in charge for initial reservation. Failure to pay fees by the date specified on invoices will result in a late charge of \$100 for each month late and denial of access to facilities. (The Winslow Sports Park averages \$200,000 subsidy yearly. For every dollar spent at Winslow, the Board of Park Commissioners has set a goal of collecting thirty cents of that dollar. Therefore, payment must be made by the due date and in a timely manner.)
  - e. List the Parks and Recreation Department on all publicity and promotional materials developed by BJLBA as a "partner" or "in partnership with." A copy of any promotional materials should be submitted to the Parks and Recreation Department's Sports Facility/Programs Manager for approval prior to distribution to the public.
  - f. Refer any citizen concerns, reports or problems regarding the facility, improvements to the facility, services provided by staff or other issues to Parks on the designated form within 24 hours of observation. Forms are available through the on-site supervisor or Parks.
  - g. Obtain legally binding liability waivers from all participants which release the City of Bloomington, its Parks and Recreation Department, and its employees, officers and agents from any claims that may arise from participation in activities anticipated by this Agreement. To the extent that BJLBA fails to secure such waivers, it shall hold Parks and the City of Bloomington harmless from any and all such claims.
  - h. Name the City of Bloomington as additional insured on its general liability policies and shall provide Parks with certificate of insurance prior to March 26, 2019.
  - i. Refrain from operating vehicles or other equipment on-site while participants are present.
5. **Behavior.** 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.
  6. **Parks Review of BJLBA Program.** BJLBA is recognized as having the ability to conduct the youth baseball program safely and effectively. Parks shall have the right to review risk management, agreement terms, coaching, player behavior and service quality issues.
  7. The possession of alcoholic beverages, drugs and other illegal controlled substances is strictly prohibited in any park or park facility. Amplified music, or the promotion or sale of any article is expressly prohibited without a Special Use Permit
  8. Pursuant to Bloomington Municipal Code 14.20.020, the discharge of a firearm is strictly prohibited within the City's jurisdiction. Moreover, per Indiana Code 35-47-11.1-4(10), a person or organization who rents space in a Parks facility may develop and implement, at its own discretion, rules of conduct or admission regarding the possession, carrying, and storage of firearms, upon which attendance at and participation in its activities is conditioned. If a person or organization who rents space in a Parks facility

develops such a policy for its activities, it will be responsible for implementation and enforcement of such a policy, and it shall provide a copy of the policy to the City.

**9. Notice and Agreement Representatives.**

Notice regarding any significant concerns and/or breaches of agreement shall be given to those contacts as follows:

BJLBA President  
Scott Burton  
361 S. Pleasant Ridge Rd  
Bloomington, IN 47401  
(317) 954-7927

Bloomington Parks and Recreation  
Dee Tuttle  
P.O. Box 848  
Bloomington, IN 47402  
(812) 349-3762

Agreement representatives for the day to day operations and implementation of this agreement shall be:

Scott Burton  
BJLBA President  
(317) 954-7927

Dee Tuttle  
Sports Facility/Programs Manager  
(812) 349-3762

**10. Termination.** The parties may terminate this Agreement prior to its expiration by mutual written agreement. In the event that one of the parties breaches any of its terms and conditions, the breached party may terminate this Agreement by serving written notice of the breach to the other party by certified mail. The breaching party shall then have ten days from the date of the notice in which to cure the breach. If the breaching party fails to correct the breach within ten days, the breached party may, at its option and in writing, unilaterally terminate the Agreement.

**11. Insurance and Indemnity.** BJLBA shall maintain comprehensive general liability insurance, with a minimum combined single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The policy shall name the City of Bloomington Parks and Recreation Department as an additional insured, and BJLBA shall provide Parks with a certificate of insurance prior to the commencement of operations under this Agreement. BJLBA and its insurer shall notify Parks within ten (10) days of any insurance cancellation.

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

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and date first stated above.

**BJLBA**

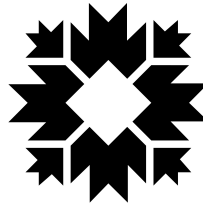
**BLOOMINGTON PARKS AND RECREATION**

By: \_\_\_\_\_  
Scott Burton, President

By: \_\_\_\_\_  
Paula McDevitt, Acting Director  
Bloomington Parks and Recreation

\_\_\_\_\_  
Leslie J. Coyne, President  
Board of Park Commissioners

\_\_\_\_\_  
Mick Renneisen, Deputy Mayor  
City of Bloomington



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-9  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Dee Tuttle, Sports Facility/Program Manager  
**DATE:** March 26, 2019  
**SUBJECT:** REVIEW/APPROVAL OF PARTNERSHIP AGREEMENT WITH THE  
MONROE COUNTY SENIOR LEAGUE BASEBALL ASSOCIATION

### Recommendation

Staff recommends approval of this agreement to provide a youth baseball program at Winslow Sports Complex.

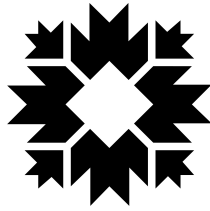
### Background

The Monroe County Senior League Baseball Association provides youth baseball for kids ages 13-19. This program serves over 70 players. Practices and games are conducted at the Winslow Sports Complex Monday through Thursday from April until July. Projected revenue is approximately \$4,000.

**RESPECTFULLY SUBMITTED,**

---

Dee Tuttle  
Sports Facility/Programs Manager



CITY OF BLOOMINGTON  
Parks and Recreation

**COOPERATIVE SERVICE AGREEMENT  
PROGRAM PARTNERSHIP**

This Agreement, made and entered into this \_\_\_\_ day of March, 2019, by and between the Bloomington Parks and Recreation Department (“Parks”) and Monroe County Senior League Baseball Association (“MCSLBA”), WITNESSETH:

**WHEREAS**, both Parks and MCSLBA wish to provide an opportunity for the Bloomington/Monroe County community to participate in specialized recreation programs that are designed to meet the needs of youth in the community and to promote health and well-being through participation in cooperative and competitive recreation programs, and a partnership between Parks and BBRBA is in the public interest; and

**WHEREAS**, there is an apparent need for a youth baseball program, and Parks and MCSLA desire to cooperate in the provision of a youth baseball program for the general public; and

**WHEREAS**, MCSLA is capable to perform such services, and has a proven history of operating an inclusive program that serves the needs of the Bloomington community, and has a good record of cooperation with Parks; and

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

**WHEREAS**, services provided by each party will reflect on the other, so clear communication and an outline of expectations is necessary;

**NOW THEREFORE**, the parties do mutually agree as follows:

1. **Purpose of Agreement.** This agreement outlines a program partnership which will combine available resources from each party to allow the Bloomington community to participate in an affordable, effective and diverse youth baseball program designed to introduce beginners to the sport as well as provide for skill advancement.
2. **Duration of Agreement.** This agreement shall be in full force and effect from the date of approval of both parties until October 1, 2019, unless terminated earlier as provided herein.
3. **Duties of Parks.** Parks agrees to:
  - a. Allow MCSLBA’s user group access to Winslow Baseball Fields in priority category #3 based on the order established by the Board of Park Commissioners:
    1. Parks programs
    2. Monroe County Community Schools Corporation programs
    3. **Partnership programs**
    4. Independent programs
  - b. Allow MCSLBA access to Winslow Baseball Fields specified on the dates and at the times set forth at the beginning of the season at the partnership rates:

Winslow Sports Complex:	
Practice (excludes field lining)	\$16.00 per hour
Practice with lights (excludes field lining)	\$20.00 per hour
Weeknight Competition (includes field lining)	\$23.00 per hour
Weekend Competition (includes field lining)	\$25.00 per hour
With on-site maintenance	\$30.00 per hours
All day per field	\$165.00

Bryan Park Field #1 and #2:	
Practice (excludes field lining)	\$10.00 per hour
Competition (includes field lining)	\$12.00 per hour

- c. Allow MCSLBA access to practice ball fields based on availability and at varying rates depending on published prices of those facilities.
- d. Provide facility maintenance, including trash pick-up and removal, cleaning, deodorizing, maintaining and stocking restrooms, and upkeep of buildings and common areas.
- e. Provide sport field lighting on field 6 and parking lot lighting, including the cost of maintenance and operation of lighting systems for field 6, parking lots and buildings.
- f. Provide turf management, including seeding, fertilizing, aerifying, weed control, and mowing. MCSLBA is not permitted to provide field maintenance of any type, including dragging infields and raking base paths.
- g. Provide a weather information Hotline. Parks has the authority to cancel or delay events in progress or prior to their start due to inclement weather or hazardous conditions. These decisions will be communicated on the Youth Sports Hotline (812) 349-3610 option #2.
- h. Suspend play in progress when required by Parks. Parks has the sole authority to suspend play in progress due to inclement weather. In the event that MCSLBA is not comfortable with resuming play after an all clear is given from a Parks representative, MCSLBA may decide to cancel play and that will be communicated on the hotline.
- i. Provide a Facility Supervisor on site to open and close the facility and assist with facility-related matters.
- j. Provide maintenance staff who shall be assigned to maintain and prepare the facility on a daily basis, as well as additional maintenance support staff as needed to perform other repairs, tasks and services.
- k. Provide the services of the Sports Facility/Program Manager as a liaison, consultant and contact person between the facilitated user group and the Bloomington Parks and Recreation Department.
- l. Respond to citizen reports (see Section 4.e. below) within 24 hours of receipt.

**4. Goals and Duties of MCSLBA.** The goals of MCSLBA are to offer a youth baseball program for the community at large, introduce and publicize MCSLBA to the public, and provide programming for children of MCSLBA. MCSLBA hereby agrees to:

- a. Maintain close contact with the Sports Facility/Programs Manager and appoint this person as Parks liaison to the user group's policymaking board.
- b. Agree to have each head coach obtain the MCSLBA Coaching Education program requirement. This must be done the coach's first year as head coach in the program and is valid for a period of

three years. Coaches returning for a fourth or more year(s) must obtain current certification. Agree to have all adults involved with the program submit to a local and state criminal history check.

- c. Collect fees and pay monthly field usage fees as specified in the above rates. Failure to cancel reserved times and dates, at least three weeks in advance, will result in charge for initial reservation. Failure to pay fees by the date specified on invoices will result in a late charge of \$100 for each month late and denial of access to facilities. (The Winslow Sports Park averages \$200,000 subsidy yearly. For every dollar spent at Winslow the Board of Park Commissioners has set a goal of collecting thirty cents of that dollar. Therefore, Payment must be made by the due date and in a timely manner.)
  - d. List the Parks and Recreation Department on all publicity and promotional materials developed by user group as a “partner” or “in partnership with.” A copy of any promotional materials should be submitted to the Parks and Recreation Department’s Sports Facility/Program Manager for approval prior to distribution to the public.
  - e. Any citizen concerns, reports or problems regarding the facility, improvements to the facility, services provided by staff or other issues will be referred to Parks and Recreation on the designated form within 24 hours of observation. Forms are available through the on-site supervisor or Parks.
  - f. Obtain legally binding liability waivers from all participants, which release the City of Bloomington, its Parks and Recreation Department, and its employees, officers and agents from any claims that may arise from participation in activities anticipated by this Agreement. To the extent that MCSLBA fails to secure such waivers, it shall hold Parks and the City of Bloomington harmless from any and all such claims.
  - g. Name the City of Bloomington as additional insured on its general liability policies and provide Parks with certificate of insurance prior to April 1, 2019.
  - h. Refrain from operating vehicles on-site while participants are present.
5. **Behavior.** 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.
6. **Parks Review of MCSLBA Program.** MCSLBA is recognized as having the ability to conduct the youth baseball program safely and effectively. Parks shall have the right to review risk management, agreement terms, coaching, player behavior, and service quality issues.
7. The possession of alcoholic beverages, drugs and other illegal controlled substances is strictly prohibited in any park or park facility. Amplified music, or the promotion or sale of any article is expressly prohibited without a Special Use Permit
8. Pursuant to Bloomington Municipal Code 14.20.020, the discharge of a firearm is strictly prohibited within the City’s jurisdiction. Moreover, per Indiana Code 35-47-11.1-4(10), a person or organization who rents space in a Parks facility may develop and implement, at its own discretion, rules of conduct or admission regarding the possession, carrying, and storage of firearms, upon which attendance at and participation in its activities is conditioned. If a person or organization who rents space in a Parks facility develops such a policy for its activities, it will be responsible for implementation and enforcement of such a policy, and it shall provide a copy of the policy to the City.
9. **Notice and Agreement Representatives.** Notice regarding any significant concerns and/or breaches of agreement shall be given to those contacts as follows:



MCSLBA President  
Kyle McAninch  
2128 E. Meadowbluff Ct.  
Bloomington, IN 47401  
(812) 322-4005

Bloomington Parks and Recreation  
Dee Tuttle  
P.O. Box 848  
Bloomington, IN 47402  
(812) 349-3762

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

Kyle McAninch  
President  
(812) 322-4005

Dee Tuttle  
Sports Facility/Programs Manager  
(812) 349-3762

- 10. Termination.** The parties may terminate this Agreement prior to its expiration by mutual written agreement. In the event that one of the parties breaches any of its terms and conditions, breached party may terminate this Agreement by serving written notice of the breach to the other party by certified mail. The breaching party shall then have ten days from the date of the notice in which to cure the breach. If the breaching party fails to cure the breach within ten days, the breached party may, at its option and in writing, unilaterally terminate the Agreement.
- 11. Insurance and Indemnity.** MCSLBA shall maintain comprehensive general liability insurance, with a minimum combined single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The policy shall name the City of Bloomington Parks and Recreation Department as an additional insured, and MCSLBA shall provide Parks with a certificate of insurance prior to the commencement of operations under this Agreement. MCSLBA and its insurer shall notify Parks within ten (10) days of any insurance cancellation.

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

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and date first stated above.

**MCSLBA**

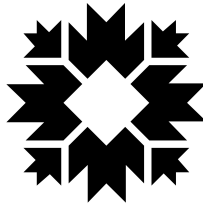
**BLOOMINGTON PARKS AND RECREATION**

By: \_\_\_\_\_  
Kyle Mc Aninch, President

By: \_\_\_\_\_  
Paula McDevitt, Administrator

\_\_\_\_\_  
Leslie J. Coyne, President  
Board of Park Commissioners

\_\_\_\_\_  
Mick Renneisen, Deputy Mayor



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C- 10  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Dee Tuttle  
**DATE:** March 26, 2019  
**SUBJECT:** REVIEW/APPROVAL OF WINSLOW SPORTS COMPLEX NORTH  
CONCESSIONS AGREEMENT

### Recommendation

Staff recommends approval of this agreement.

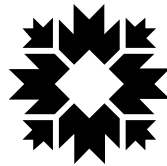
### Background

The Bloomington Junior League Baseball Association wishes to operate the Winslow North concessions building owned by The City of Bloomington Parks and Recreation Department. BJLBA uses profits generated from sales to offset program costs and other related expenditures.

**RESPECTFULLY SUBMITTED,**

---

Dee Tuttle  
Sports Facility/Programs Manager



CITY OF BLOOMINGTON  
Parks and Recreation

**AGREEMENT  
FOR  
FOOD AND BEVERAGE CONCESSION  
WINSLOW SPORTS COMPLEX - NORTH SIDE**

This Agreement, entered into this \_\_\_\_ day of March, 2019, by and between the City of Bloomington Parks and Recreation Department through its Board of Parks Commissioners (hereinafter, "Parks") and Bloomington Junior League Baseball Association (hereinafter, "Concessionaire"),

**WITNESSETH:**

WHEREAS, Parks owns and operates Winslow Sports Complex (the "Complex") at 2301 South Highland Street, Bloomington, Indiana; and

WHEREAS, the north side of the Complex contains space and equipment for a food and beverage concession with ice machine; and

WHEREAS, Concessionaire wishes to operate this concession; and

WHEREAS, Concessionaire has a history of operating an inclusive program that serves the needs of the Bloomington community; and

WHEREAS, Concessionaire has a good record of cooperation with Parks.

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 March 26, 2019 and end on October 1, 2019, excluding the dates of July 22 through July 28, 2019, unless the term is extended as set out in Article H, Section 4.

**B. CONCESSIONAIRE'S RESPONSIBILITIES**

**1. Concession Fee**

Concessionaire shall pay Parks a concession fee of Seven Thousand Five Hundred Dollars (\$7,500). Such fee shall be paid in two installments of Three Thousand Seven Hundred Fifty Dollars (\$3,750) on or before July 1, 2019, and September 1, 2019.

**2. Concession Menu and Pricing**

- a. Concessionaire shall furnish Parks a listing of the complete menu and prices of items to be sold at the north side concession location by March 26, 2019. Such menu and pricing is subject to the approval of the Parks Administrator.
- b. Soda and Sport drink vending machines are permitted at current level except at such times as Parks may designate, when their availability would conflict with other Parks commitments. Parks will inform Concessionaire of any times beyond those listed in Section C.1. herein when the vending machines must be made inoperable by Concessionaire for the duration of such events.
- c. All vending machines must be turned off from noon on July 22, 2019, through July 28, 2019, to accommodate Parks' National Championships.

**3. Maintenance of Concession Area**

Concessionaire shall keep the serving facility and storage areas, and floors thereof, clean at all times and in such condition that it will pass all public health inspections. Concessionaire shall maintain this area in compliance with all relevant Parks rules and regulations. Bagged and loose trash shall not be placed at ground level or in the immediate area of doorways. It shall instead be placed in or on top of trash receptacles.

**4. Equipment Upkeep**

- a. Concessionaire and its employees shall use reasonable care in the operation of the concession equipment provided by Parks, and shall not subject such equipment to abuse or unreasonable wear and tear. Concessionaire shall promptly notify Parks of any damage to, or malfunction of, the equipment. Concessionaire shall not make any improvements or repairs to the facility without approval from Parks.
- b. Concessionaire will operate a propane grill outside of the concession area. Concessionaire is required to provide the necessary safety barriers surrounding the grill and to maintain the grill according to local, state, and federal law. Concessionaire will keep the surfaces underneath the grill clean and in good condition.

**5. Insurance**

Concessionaire shall maintain comprehensive general liability insurance, with a minimum combined single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The policy shall name the City of Bloomington Parks and Recreation Department as an additional insured. Concessionaire shall also maintain Workers' Compensation Insurance as required by Indiana Code 22-3-2 et seq. Concessionaire shall provide Parks with a certificate of insurance prior to the commencement of operations under this Agreement. Concessionaire and its insurer shall notify Parks within ten (10) days of any insurance cancellation.

**6. Employees**

- a. Concessionaire shall employ all personnel necessary for the operation of the food and beverage concession, and shall pay all necessary wages and payroll tax for such employees. Concession attendants must be a minimum of sixteen (16) years of age. Concessionaire shall designate supervisors. Designation of supervisors is subject to the approval of the Parks Administrator.
- b. All attendants and supervisors must secure any necessary documents and examinations required by any and all public health agencies. Concessionaire must verify that these necessary documents and examinations have been secured.
- c. Concessionaire shall take and successfully complete any trainings and certifications as required by the Monroe County Health Department. Concessionaire shall provide proof of successful completion to Parks by March 26, 2019.

**7. Recordkeeping**

- a. Concessionaire shall designate a treasurer who will keep and maintain books, records and accounts accurately reflecting the expenditure and revenues of the concession. These documents shall be open to inspection at all reasonable times by authorized agents of Parks or the City of Bloomington Controller's Office, such authorization to be given by the Parks Administrator.
- b. Concessionaire shall provide Parks with an annual statement of all financial records pertaining to operation of the concession facilities during the 2019 season.

**8. Safety**

- a. Concessionaire shall be responsible for implementing reasonable safety measures at the concession, and shall ensure that concession attendants are familiar with and comply with such measures.

- b. The possession of alcoholic beverages, drugs and other illegal controlled substances is strictly prohibited in any park or park facility. Amplified music, or the promotion or sale of any article is expressly prohibited without a Special Use Permit
- c. Pursuant to Bloomington Municipal Code 14.20.020, the discharge of a firearm is strictly prohibited within the City's jurisdiction. Moreover, per Indiana Code 35-47-11.1-4(10), a person or organization who rents space in a Parks facility may develop and implement, at its own discretion, rules of conduct or admission regarding the possession, carrying, and storage of firearms, upon which attendance at and participation in its activities is conditioned. If a person or organization who rents space in a Parks facility develops such a policy for its activities, it will be responsible for implementation and enforcement of such a policy, and it shall provide a copy of the policy to the City.

**9. Rules and Regulations**

Concessionaire shall abide by all rules and regulations of Parks now in effect, and any rules and regulations which are passed during the term of this Agreement. Concessionaire shall also comply with all local, state and federal laws, including health codes, regarding the operation of the concession and the employment of all personnel.

**C. RESPONSIBILITIES OF PARKS**

**1. Use of Property**

- a. Parks shall grant permission for Concessionaire to use a designated area at the north side of the Complex for the operation of the food and beverage concession. Game night access will be one hour before game times.
- b. During the term of this agreement, any non-Concessionaire concessions operations must be approved by Parks.

**2. Use of Equipment**

Parks shall grant permission to Concessionaire to operate a propane grill outside of the concession area. Concessionaire is required to provide the necessary safety barriers surrounding the grill and to maintain the grill according to local, state and federal law. Concessionaire will keep the surfaces underneath the grill clean and in good condition.

**3. Electricity**

Parks shall provide all necessary electricity for operation of the concession.

**4. Maintenance**

- a. Parks shall perform all general maintenance of the Complex and its facilities. This shall not relieve Concessionaire of the responsibility to maintain the concession area, as outlined in Article B, Section 3.
- b. Upon notification by the Concessionaire, Parks shall repair or replace defective equipment owned by Parks within a reasonable period of time. The decision whether to repair or replace equipment shall be at Parks' discretion. In the event that equipment has been damaged due to Concessionaire's negligence, Parks may elect not to repair or replace such equipment.
- c. The ice machine located in the concession is aged. Parks will not purchase a replacement machine or make repairs outside of initial start-up. Concessionaire may elect to repair or replace the unit at Concessionaire's expense.
- d. Upon notification by Concessionaire, Parks shall repair or rectify, within a reasonable period of time, any defects at the Complex which create health concerns for the concession. Such defects may include, but not be limited to, plumbing malfunctions, leakage, or infestation.
- e. Parks shall not be responsible for food spoilage or other loss resulting from electrical outage or equipment failure, or from other emergency or act of God.

**5. Inspections**

Parks shall make unscheduled inspections of the concession facility to ensure that facilities and equipment are properly operated and maintained, and that operation is in compliance with the terms of this Agreement. Parks shall request inspections as necessary by the Monroe County Health Department.

**6. Invoices**

Parks shall invoice Concessionaire for each payment at least thirty (30) days in advance of the due date.

**7. Rules and Regulations**

Parks shall furnish Concessionaire with a list of the Parks rules and regulations now in effect, and shall inform Concessionaire of any changes or additions to the rules in a timely manner.

**D. RELEASE, HOLD HARMLESS, AND INDEMNIFICATION**

Concessionaire agrees to release, hold harmless and forever indemnify the City of Bloomington, its Parks and Recreation Department, and its officers, employees, agents and assigns from any and all claims which may arise as a result of the condition of the concession area, or the operation of the concession, including claims for personal injury, property damage, or any other type of claim which might be brought by Concessionaire or by any third party, even if caused by negligence of the releasees.

Concessionaire agrees to assume financial responsibility for the repair or replacement of any concession equipment which is damaged through the negligence of Concessionaire or its employees. The decision to repair or replace damaged equipment shall be at the election of Parks.

**E. ASSIGNMENT OF AGREEMENT**

Concessionaire shall not assign or sub-contract this Agreement or any of its terms except through prior approval of the Parks Administrator.

**F. CHANGE TO AREA; ADVERTISEMENT**

Concessionaire shall not:

1. Change the existing layout of the concession area or its equipment; or
2. Post any advertisements in the concession area without prior written approval of the Parks Administrator.

**G. BREACH OF AGREEMENT**

**1. Notice and Time to Cure**

In the event that 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 breaching party shall then have twenty (20) days from the date of mailing in which to cure the breach. If the breaching party fails to cure the breach within twenty days, the non-breaching party may, at its option and in writing, unilaterally terminate the Agreement.

**2. Electricity; Assumption of Operations**

If Concessionaire is the breaching party, upon notice of breach and failure to cure, in addition to any other penalty or remedy to which it is entitled, Parks may shut off electricity to the concession area. Alternatively, Parks may take exclusive possession of its concession equipment and the concession area, and may assume or assign operation of the concession.

**3. Liquidated Damages for Late Payment**

Concessionaire acknowledges that the damages resulting to Parks as a result of late payment of the concession fee would be difficult to ascertain, and that liquidated damages as provided herein are reasonable. If Concessionaire is more than twenty (20) days late in making any scheduled payment to Parks under this Agreement, Parks may assess liquidated damages for late payment of \$100.00 for every month or part thereof that payment is in arrears. Parks shall not be required to comply with the notice and time to cure provisions of Section 1 of this Article in order to assess these liquidated damages.

In the event that late payments are received, Parks shall apply the payments in the following manner: First, to any arrearages; second, to any outstanding liquidated damages; and finally, to any payments presently due.

## H. TERMINATION

### 1. Early Termination

- a. **Termination by mutual agreement:** The parties may terminate this Agreement prior to October 1, 2019 by mutual written agreement. In the event that such mutual agreement occurs, the termination shall be governed by the provisions of Section 3, below, unless the parties agree otherwise in writing.
- b. **Unilateral termination:** In the event that a non-breaching party elects to unilaterally terminate the Agreement under the provisions of Article G, Section 1, any unpaid portion of the concession fee shall become immediately due and owing, and the monthly liquidated damages described in Article G, Section 3 shall be regularly assessed until the annual fee is paid in full. Additionally, Concessionaire shall bear all costs and expenses related to collection of the fee and any liquidated damages, including, but not limited to, reasonable attorney fees.

### 2. Scheduled Termination

Unless the parties agree to extend the Agreement as set forth in Section 4, below, this Agreement shall automatically terminate on October 1, 2019.

### 3. Disposition of Facilities Upon Termination

Upon early or scheduled termination, Concessionaire shall vacate the Center concession within three business days. The concession area and all equipment provided by Parks shall be left clean and in good working order. Concessionaire shall remove any and all food and/or supplies and equipment from the concession area other than those items which are the property of Parks.

### 4. Extension of Agreement

Prior to the scheduled termination of this Agreement, the parties may agree in writing to extend the term of the Agreement for an additional specified period. Concessionaire shall notify Parks of its desire to extend the Agreement on or before October 1, 2019. In the event that the Agreement is extended, Parks may charge a reasonable additional concession fee.

## I. 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 the expense of such litigation, including, but not limited to, court costs and reasonable attorney's fees.

### 2. 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.

### 3. Notices

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

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

**Concessionaire:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**4. 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.

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

**CONCESSIONAIRE**

**CITY OF BLOOMINGTON**

\_\_\_\_\_  
Name

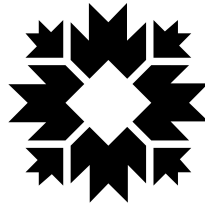
\_\_\_\_\_  
Leslie J. Coyne, President  
Board of Park Commissioners

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Paula McDevitt, Park Administrator

\_\_\_\_\_  
Mick Renneisen, Deputy Mayor





CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-11  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** John Turnbull, Division Director Sports  
**DATE:** March 26, 2019  
**SUBJECT:** BEVERAGE QUOTES FOR 2019, 2020, 2021

### **Recommendation**

Staff recommends approval of Coca-Cola for the beverage provider for Bloomington Parks and Recreation.

### **Background**

The two beverage providers have been our suppliers from time to time. Coca-Cola 2007-09, PepsiCo 2010-2015, and back to Coca-Cola 2016-18.

Quotes were received by both over the three year period but both did not guarantee prices for the entire time period. Both quotes were very similar with some of the highlights being: \$10,000 per year in unrestricted cash sponsorship and nearly the same invoiced price on all products delivered in cases or fountain. The small difference was that PepsiCo offered a 35% commission on full service vending machines and Coca-Cola offered 20% commission. However, our full service vending has a small volume. We do most of our business in directly delivery of product in 20oz containers that we serve from coolers. PepsiCo also offered a \$2 per case rebate on direct delivery 20oz cases at the end of a calendar year.

We are are invoiced between \$35,000 to \$40,000 per year for cost of beverages sold. Under most estimates and scenarios, PepsiCo's quote came in a little lower but not significantly so. Estimates depend on weather and traffic and which sites have bigger events each year. Coca-Cola's leading brands are Coke, Diet Coke, Sprite, and Powerade. PepsiCo's leading brands are Mountain Dew, Dr. Pepper, and Gatorade.

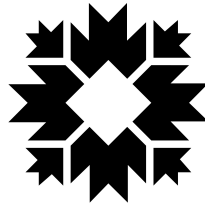
Considering that quotes were very similar and brand selling depends on who you talk to, the recommendation to stay with Coca-Cola stems mostly from a desire to not change at this time and some dissatisfaction with PepsiCo's lack service response to remove equipment during the last change in providers.

**RESPECTFULLY SUBMITTED,**

A handwritten signature in black ink, appearing to read "John Smith", written in a cursive style.

---

Division Director Sports



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-12  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** John Turnbull  
**DATE:** March 26, 2019  
**SUBJECT:** APPROVAL OF ZOYSIA GRASS INSTALLATION QUARRY 9

### Recommendation

Staff recommends approval of a contract with Kentucky Fairways Zoysia Farm for \$197,580. This is GOB 977-18-18016a-54510 funds.

### Background

Formal bids were sent out a second time on this project as the first time all bids were rejected. Two bids were received this round by the March 7, 2019 due date and met qualifications and Affirmative Action Requirements. Kentucky Fairways bid was \$197,580 and Mid-America Golf bid was \$238,825. Kentucky Fairways has done a very similar project on the Ridge 9 back in 2017-18 to satisfaction.

**RESPECTFULLY SUBMITTED,**

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

**CONTRACT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
KENTUCKY FAIRWAYS ZOYSIA FARM  
FOR  
ZOYSIA GRASS INSTALLATION QUARRY 9**

**THIS CONTRACT** is executed by and between the City of Bloomington, Indiana, Parks and Recreation Department through the Board of Park Commissioners (hereinafter City), and Kentucky Fairways Zoysia Farm, (hereinafter Contractor);

**WITNESSETH THAT:**

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

WHEREAS, Contractor is capable of performing the Services as per its Bid, as set forth on the Bid Summary sheet; and

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

WHEREAS, Contractor was determined to be the lowest responsible and responsive Bidder for said project.

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

**ARTICLE 1. TERM**

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

**ARTICLE 2. SERVICES**

**2.01** Contractor shall complete all work required under this Contract no later than September 1, 2019, unless the parties mutually agree to a later completion date. "Substantial Completion" shall mean completion of all work.

**2.02** Contractor agrees that no charges or claims for damages shall be made by it for any delays or hindrances, from any cause whatsoever, during the progress of any portion of the services specified in the Contract. Such delays or hindrances, if any, may be compensated for by an extension of time for a reasonable period as may be mutually agreed upon between the parties, it being understood, however, that permitting Contractor to proceed to complete any service, or any part of the services / project, after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the City of any of its rights herein.

**ARTICLE 3. COMPENSATION**

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

**3.02** Contractor shall submit an invoice to the City upon the completion of the Services described in Article 3.01. Upon the submittal of an invoice, the City shall compensate Contractor in a lump sum not to exceed One Hundred Ninety Seven Thousand, Five Hundred Eighty Dollars and zero (\$197,580) within forty-five (45) days of receipt of invoice. Invoices may be sent via first class mail postage prepaid or via email to:

John Turnbull  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

The City may withhold payment, in whole or in part, to the extent necessary to protect itself from a loss on account of any of the following:

- Defective work.
- Evidence indicating the probable filing of claims by other parties against Contractor which may adversely affect the City.
- Failure of Contractor to make payments due to subcontractors, material suppliers or employees.
- Damage to the City or a third party.

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

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

**3.04** Contractor shall maintain proper account records for the scope of all Services under this Contract and provide an accounting for all charges and expenditures as may be necessary for audit purposes. All such records shall be subject to inspection and examination by the City's representatives during reasonable business hours.

**3.05** For projects utilizing federal funding, the Contractor shall submit time sheets (WH-347) for its own and all subcontracted employees, to the Director of the Parks and Recreation Department ("Director") or his/her representative for approval and review, including review for compliance with Davis Bacon requirements.

**3.06 Division Director of Sports**

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

**ARTICLE 4. GENERAL PROVISIONS**

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

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

**4.02 Abandonment, Default and Termination**

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

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

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

- Failure to begin the work under this Contract within the time specified.
- Failure to perform the work with sufficient supervision, workers, equipment and materials to insure prompt completion of said work within the time limits allowed.
- Unsuitable performance of the work as determined by Director or his/her representative.
- Neglecting or refusing to remove defective materials or failure to perform anew such work as shall have been rejected.
- Discontinuing the prosecution of the work or any part of it.
- Inability to finance the work adequately.
- If, for any other reason, Contractor breaches this Contract or fails to carry on the work in an acceptable manner.

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

**4.02.05** All cost of completing the work under this Contract shall be deducted from the monies due or which may become due to said Contractor. In case the expenses so incurred by the City shall be less than the sum which would have been payable under the Contract if it had been completed by said Contractor, Contractor shall be entitled to receive the difference. However, in case such expense shall exceed the sum which would have been payable under the Contract, Contractor and his Surety will be liable and shall pay to the City the

amount of said excess. By taking over the prosecution of the work, the City does not forfeit the right to recover damages from Contractor or its Surety for failure to complete the work in the time specified.

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

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

**4.03 Successors and Assigns**

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

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

**4.04 Extent of Contract: Integration**

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

1. This Contract and its Attachments.
2. All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents which may be delivered or issued after the Effective Date of the Contract and are not attached hereto.
3. The Invitation to Bidders.
4. The Instructions to Bidders.
5. The Special Conditions.
6. The General Conditions.
7. The Specifications.
8. Contractor's submittals.
9. The Performance and Payment Bonds.
10. Request for Taxpayer Identification number and certification: Substitute W-9.

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

**4.05 Insurance**

**4.05.01** Contractor shall, as a prerequisite to this Contract, purchase and thereafter maintain such insurance as will protect it from the claims set forth below which may arise out of or result from Contractor's operations under this Contract, whether such operations be by Contractor or by any Subcontractors or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

**Limits**

**Coverage**

A.	Worker’s Compensation & Disability	Statutory Requirements
B.	Employer’s Liability Bodily Injury by Accident	\$100,000 each accident
	Bodily Injury by Disease	\$500,000 policy limit
	Bodily Injury by Disease	\$100,000 each employee
C.	Commercial General Liability (Occurrence Basis) Bodily Injury, personal injury, property damage, contractual liability, products-completed operations, General Aggregate Limit (other than Products/Completed Operations)	\$1,000,000 per occurrence and \$2,000,000 in the aggregate
	Products/Completed Operation	\$1,000,000
	Personal & Advertising Injury Limit	\$1,000,000
	Each Occurrence Limit	\$1,000,000
	Fire Damage (any one fire)	\$50,000
D.	Comprehensive Auto Liability (single limit, owned, hired and non-owned)	\$1,000,000 each accident
	Bodily injury and property damage	
E.	Umbrella Excess Liability	\$5,000,000 each occurrence and aggregate
	The Deductible on the Umbrella Liability shall not be more than	\$10,000

**4.05.02** Contractor’s comprehensive general liability insurance shall also provide coverage for the following:

- Premises and operations;
- Contractual liability insurance as applicable to any hold-harmless Contracts;
- Completed operations and products; which also must be maintained for a minimum period of two (2) years after final payment and Contractor shall continue to provide evidence of such coverage to the City on an annual basis during the aforementioned period;
- Broad form property damage - including completed operations;
- Fellow employee claims under Personal Injury; and
- Independent Contractors.

**4.05.03** With the prior written approval of the City, Contractor may substitute different types or amounts of coverage for those specified as long as the total amount of required protection is not reduced.

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

**4.06 Necessary Documentation**

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

**4.07 Applicable Law**

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



This Contract shall be governed by the laws of the United States, and the State of Indiana, and by all Municipal Ordinances and Codes of the City of Bloomington. Venue of any disputes arising under this Contract shall be in the Monroe Circuit Court, Monroe County, Indiana.

**4.08 Non-Discrimination**

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

**4.08.02** Contractor certifies for itself and all its subcontractors compliance with existing laws of the State of Indiana and the United States regarding:

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

The utilization of Minority and Women Business Enterprises. Contractor further certifies that it:

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

**4.08.03** FURTHER, PURSUANT TO INDIANA CODE § 5-16-6-1, CONTRACTOR AGREES:

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

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

C) That there may be deducted from the amount payable to Contractor, by the City, under this Contract, penalty of Five Dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this Contract. Any such person discriminated against retains the right to file a discrimination complaint with the appropriate civil rights agency or court.

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

**4.09 Workmanship and Quality of Materials**

**4.09.01** Contractor shall guarantee the work for a period of one (1) year from the date of Substantial Completion. Failure of any portion of the work within one (1) year due to improper construction, materials of

construction, or design may result in a refund to the City of the purchase price of that portion which failed or may result in the forfeiture of Contractor's Performance Bond.

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

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

#### **4.10** Safety

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

#### **4.11** Amendments/Changes

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

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

**4.11.03** If Contractor believes that any direction of the City under paragraph 4.11.02, or any other event or condition, will result in an increase in the Contract time or price, he shall file written notice with the City no later than twenty (20) calendar days after the occurrence of the event giving rise to the claim and stating the general nature of the claim with supporting data. No claim for any adjustment of the Contract time or price will be valid if not submitted in accordance with this Paragraph.

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

#### **4.12** Performance Bond and Payment Bond

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

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

**4.12.03** If the Surety on any bond furnished by Contractor becomes a party to supervision, liquidation, or rehabilitation action pursuant Indiana Code 27-9 et seq. or its right to do business in the State of Indiana is

terminated, Contractor shall, within thirty (30) calendar days thereafter, substitute another bond and surety, both of which must be acceptable to the City.

**4.13 Payment of Subcontractors**

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

**4.14 Written Notice**

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

<b>City</b>	<b>Contractor</b>
City of Bloomington	Kentucky Fairways Zoysia Farm
Attn: John Turnbull	Attn: Kelly Yates, Owner
401 N. Morton, Suite 250	6310 Old Heady Rd
Bloomington, Indiana 47404	Louisville, KY 40299

**4.15 Severability and Waiver**

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

**4.16 Notice to Proceed**

Contractor shall not begin the work pursuant to the “Scope of Work” of this Contract until it receives an official written Notice to Proceed from the City. Contractor shall start active and continuous work on the Contract within fifteen (15) calendar days after the date of the Notice to Proceed. In no case shall work begin prior to the date of the Notice to Proceed. If a delayed starting date is indicated in the proposal, the fifteen (15) calendar day limitation will be waived. Work day charges will then begin on a date mutually agreed upon, but not later than the delayed starting date specified. In the event that any Contract is canceled after an award has been made but prior to the issuing of the Notice to Proceed, no reimbursement will be made for any expenses accrued relative to this contract during that period.

**4.17 Steel or Foundry Products**

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

**4.17.02** Domestic Steel products are defined as follows:

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

**4.17.03** Domestic Foundry products are defined as follows:

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

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

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

**4.18 Verification of Employees’ Immigration Status**

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

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

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

**4.19 Non-Collusion**

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

**4.20 Drug Testing Plan**

In accordance with Indiana Code 4-13-18 as amended, the Contractor was required to submit with his/her bid a written drug testing policy for a public works project that is estimated to cost \$150,000 or more. Among other things, the law sets forth specific requirements that must be in the plan for a program to test the employees of the Contractor and Subcontractors for drugs. The successful Contractor must comply with all provisions of the statute. This contract is subject to cancellation if Contractor fails to implement its testing program during the term of this contract, fails to provide information regarding this testing at the request of the City; or provides false information to the City regarding Contractor’s employee drug testing program. Contractor shall sign an

affidavit, attached as Attachment D, affirming that Contractor has and shall implement Contractor's employee drug testing program throughout the term of this project.

**ARTICLE 5. RETAINAGE**

This is a lump sum payment upon completion and no retainage is necessary.

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

DATE: \_\_\_\_\_

**City of Bloomington**

**Contractor**

Board of Park Commissioners

BY:

BY:

\_\_\_\_\_  
Leslie J. Coyne, President

\_\_\_\_\_  
Contractor Representative

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

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

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

\_\_\_\_\_  
Title of Contractor Representative

**ATTACHMENT A**  
**“SCOPE OF WORK”**

**ZOYSIA GRASS INSTALLATION RIDGE 9 CASCADES GOLF COURSE**

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

Meyer Zoysia installation shall be on Quarry 9 fairways only.

Owner will scrape and prepare for contractor to install.

Estimated square yards of sod is approximately 37,500 square yards but contractor is responsible for measuring and verifying square yards.

Contractor is to deliver sod.

Contractor is to install the sod.

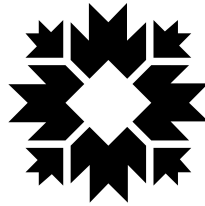
Contractor is to communicate with owner on scheduling of installation as preparation work needs to be timed by the owner.











CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-13  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** John Turnbull, Sports Division Director  
**DATE:** March 26, 2019  
**SUBJECT:** APPROVAL OF GOLF CART PROPOSED LEASE AGREEMENT WITH FIRST FINANCIAL EQUIPMENT FINANCE, LLC

### Recommendation

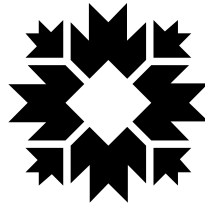
Staff recommends approval to proceed with the proposed lease agreement. General Fund – Golf Services 200-18-183500-53840.

### Background

City of Bloomington Parks and Recreation has entered into a purchase agreement with Professional Golf Car to purchase 75 golf cars after bids were received in January. The board approved this purchase on February 26, 2019. The controller has negotiated a tax exempt municipal lease with First Financial Equipment Finance, LLC with terms of 4 years at 3.99% paid quarterly in amounts of \$14,993.94 for the principal amount due on the carts of \$225,000.

**RESPECTFULLY SUBMITTED,**

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



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-14  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Barb Dunbar, Operations Coordinator  
**DATE:** March 26, 2019  
**SUBJECT:** REVIEW/APPROVAL OF CONTRACT WITH SNIDER RECREATION, INC

### Recommendation

Staff recommends the review/approval of a Mid-Service Contract with Snider Recreation, Inc. for the purchase and installation of poured-in- place rubber safety surfacing at Crestmont Park Playground.

### Background

This bond project includes an expansion and complete replacement of the existing Crestmont Park Playground, originally installed in 1994 with CDBG funding. Once again, the Department has been fortunate to receive CDBG funding which will assist tremendously in making this a very pleasant and exiting family play space for the Crestmont community.

### Selection Process

The department utilized the Request for Proposal (RFP) method for the purchase of new playground equipment and surfacing for this project. A legal ad was published with two print dates providing notification and RFP packets were posted on the [www.bloomingtonplanroom.com](http://www.bloomingtonplanroom.com) site. Email notification was sent to twenty-one playground vendors directing them to the [Bloomingtonplanroom](http://Bloomingtonplanroom.com) site.

Staff provided design preferences, standards and guidelines, safety and warranty requirements, accessibility and age use requirements, and equipment and material specifications and preferences. A site plan designating the space allocation for each area was also provided.

Play equipment components, and the arrangement of those components, are left to the expertise of the play equipment company and are submitted for our review.

Each submittal received was thoroughly evaluated by Operations Division staff. A weighted evaluation criterion is utilized to assist in the determination of purchase recommendations. Consequently, the process is not a low quote wins.

Proposals are evaluated using (5) weighted factors:

1. Aesthetics and Appearance 20%
2. Play Value 25%
3. Accessible Components 20%
4. How the Design Addresses Guidelines & Specs 20%
5. Cost/Quality/Delivery 15%

All equipment will be installed by Department Operations staff. Poured-in-place rubber safety surfacing will be installed by the vendor. Our goal is to begin construction mid spring.

Ten bid proposals were submitted for this project.

Total project cost for equipment and surfacing is \$198,247.85


Park Bond funding - \$182,000

CDBG funding - \$110,000 – Total Budget: \$292,000

Remaining funds, (\$93,752.15) will cover costs for the purchase of (1) Global Motion spinner, (2) shade sails, (7) benches, (1) drinking fountain, (2) picnic tables, 6,285sq ft of concrete (surfacing sub base) and concrete for perimeter sidewalks.

Park Board approval today is for the surfacing contract only - \$81,829.85

**RESPECTFULLY SUBMITTED,**



Barbara J Dunbar, Operations Coordinator

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
SNIDER RECREATION, INC.  
FOR  
CRESTMONT PARK PLAYGROUND SURFACING**

This Agreement, entered into on this \_\_\_\_\_ day of March, 2019, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Snider Recreation, Inc. (“Consultant”),

**WITNESSETH:**

WHEREAS, the Department wishes to install new poured-in-place rubber safety surfacing at Crestmont Park Playground; and

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

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, 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 Barb Dunbar, Operations Coordinator, 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 Eighty One Thousand Eight Hundred Twenty Nine Dollars and Eighty Five Cents (\$81,829.85). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. The invoice shall be sent to:

BARB DUNBAR, OPERATIONS COORDINATOR  
City of Bloomington  
401 N. Morton, Suite 250  
Bloomington, Indiana 47404

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

**Article 5. Appropriation of Funds**

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

**Article 6. Schedule**

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	Snider Recreation, Inc.
Attn: BARBARA J DUNBAR	Attn: Jeffrey Snider
401 N. Morton, Suite 250	10139 Royalton Rd. – Suite K
Bloomington, Indiana 47402	North Royalton, OH 44133

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**

**SNIDER RECREATION, INC**

\_\_\_\_\_  
Mick Renneisen, Deputy Mayor

\_\_\_\_\_  
Jeffrey Snider, President/Owner

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

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

## EXHIBIT A

### “Scope of Work”

#### Department Responsibilities:

##### Site Preparation

- Installation of new equipment
- Grading of site
- Subbase Work - Pouring of minimum 4” concrete base, (broom finish), with 2% slope which allows for proper drainage

#### Contractor Responsibilities:

Order product and material

Consultant will sign off on approval of Department’s subbase work

Install a 2-layer rubber–urethane playground surfacing system which has been designed and manufactured to meet the following criteria:

1. Shock Attenuation (ASTM F1292)
2. Gmax: Less than 200
3. Head Injury Criteria: Less than 1000
4. Flammability (ASTM D2859) Pass.
5. Tensile Strength (ASTM D412): 60 psi (413 kPa)
6. Tear Resistance (ASTM D624): 140%
7. Water Permeability: 0.4 gal/yd<sup>2</sup>/second
8. Accessibility: Comply with requirements of ASTM F1951

Provide a dumpster for surfacing material and all other waste debris resulting from surface installation work and removal from site at completion

## **EXHIBIT B**

### **“Project Schedule”**

Work shall not begin before June 30th and shall be completed by July 31, 2019.

However;

if the Department has completed the required site preparation before June 30<sup>th</sup>; and

the consultant has signed off on the site preparation work performed by the Department, and

if the Consultant is able to do so then work can begin prior to June 30<sup>th</sup>.

In Addition;

Work will not begin until all applicable site work, including substrate preparation, playground equipment installation and other relevant work has been completed.



**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.

**Snider Recreation, Inc.**

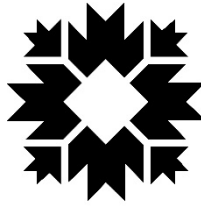
By: \_\_\_\_\_  
Printed Name  
\_\_\_\_\_  
Signature

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.

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

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



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-15  
Date: 3/21/2019

---

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Lee E Huss - Urban Forester  
**DATE:** 3/18/2019  
**SUBJECT:** AGREEMENT WITH BANDIT INDUSTRIES

### Recommendation

Staff recommends approval of the agreement with Bandit Industries for repairs to the model 250 brush chipper.

### Background

Perform agreed repairs to the Park Department model 250 brush chipper. Updates to safety standards.

**RESPECTFULLY SUBMITTED,**

---

Lee E Huss  
Urban Forester

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
BANDIT INDUSTRIES  
FOR  
CHIPPER REPAIR**

This Agreement, entered into on this \_\_\_\_ day of March, 2019, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Bandit Industries, Inc. (“Contractor”),

**WITNESSETH:**

WHEREAS, the Department wishes to repair a Bandit brush chipper; and

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

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

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

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

**Article 1. Scope of Services**

Contractor shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before July 30, 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 Lee Huss as the Department’s Project Manager. Contractor agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Contractor for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care**

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



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

**Article 3. Responsibilities of the Department**

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

**Article 4. Compensation**

The Department shall pay Contractor for all fees and expenses in an amount not to exceed Fourteen Thousand Seven Hundred Sixty Two Dollars and Forty Six Cents (\$14,762.46). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor within forty-five (45) days of receipt of invoice. The invoice shall be sent to:

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

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

**Article 5. Appropriation of Funds**

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

**Article 6. Schedule**

Contractor shall perform the Services no later than July 30, 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 \$1,000,000 annual aggregate.
- d. Workers’ Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code.

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

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

**Article 15. Conflict of Interest**

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

**Article 16. Waiver**

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

**Article 17. Severability**

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

**Article 18. Assignment**

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

**Article 19. Third Party Rights**

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

**Article 20. Governing Law and Venue**

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

**Article 21. Non-Discrimination**

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

**Article 22. Compliance with Laws**

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

**Article 23. E-Verify**

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

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

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

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

**Article 24. Notices**

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

**Department:**

**Contractor:**

City of Bloomington	Bandit Industries Inc
Attn: Lee Huss	Attn: Cindy Kinder
401 N. Morton, Suite 250	PO Box 639591
Bloomington, Indiana 47402	Cincinnati, OH 45263

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**

**BANDIT INDUSTRIES INC**

\_\_\_\_\_  
Mick Renneisen, Deputy Mayor

\_\_\_\_\_  
Cindy Kinder, Repair Sales

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

\_\_\_\_\_  
Leslie J. Coyne, President,  
Board of Park Commissioners

# EXHIBIT A

## “Scope of Work”

The Services shall include the following:



**Bandit  
INDUSTRIES, INC.**

6750 Millbrook Road • Remus, MI 49340 USA  
 TELEPHONE 989.561.2270 FAX 989.561.2273  
 SALES@BANDITCHIPPERS.COM WWW.BANDITCHIPPERS.COM

PLEASE NOTE REMIT ADDRESS CHANGE  
 REMIT PAYMENT TO:  
 (VIA REGULAR MAIL)

Bandit Industries, Inc.  
 P.O. Box 639591  
 Cincinnati, OH 45263-9591

### Sales Quote

Sales Quote No.	540409-C
Customer No.	CITBLO

Bill To	Ship To
City of Bloomington 401 N Morton St Bloomington, IN 47404 USA	City of Bloomington 401 N Morton St Bloomington, IN 47404 USA

PD Machine Item #: MODEL-250

Ser#: SN 18102

PD WO#: 29360

RG# #: B08262

Order Date	Ship Via	Payment Method	F.O.B.	Customer PO Number		
02/14/19	UPS Ground	Net30	REMUS, MI			
Customer Phone #	Salesperson	Ordered By	Resale Number			
812-349-3716	Randy Judge	Lec Huss				
Order Quantity	Approve Quantity	Tax	Item Number / Description	Disc%	Unit Price	Extended Price
1	1	Y	MODEL-REBUILD U of M : EACH REBUILD		0.00	0.00
4	4	Y	900-9901-18 U of M : EACH Knife, Zenith 1/2 x 4-1/2 x 7-1/4 DBE for Disc Chipper		46.22	184.88
12	12	Y	900-4903-92 U of M : EACH Knife bolt 5/8" X 3" M-280(since142)/1850/ 12 & 14 uni		4.87	58.44
12	12	Y	900-4903-93 U of M : EACH Knife nut for 4 1/2" wide knife 5/8"-11 NC (M-150thruM		5.07	60.84
1	1	Y	981-0501-01 U of M : EACH Anvil 4-sided for 250 w/ eye bolt since 1/25/95 to CUR		176.05	176.05
1	1	Y	900-1900-33 U of M : EACH front chipper bearing link belt CUT M-100/200/250		374.23	374.23
1	1	Y	900-1900-34 U of M : EACH Rear chipper bearing 2 7/16" SCM4B Flange also(FW 1900		248.48	248.48

Print Date	02/27/19
Print Time	07:26:28 AM
Page No.	1

Entered By: Cindy Kinder

Continued on Next Page



# Bandit INDUSTRIES, INC.

6750 Millbrook Road • Remus, MI 49340 USA  
 TELEPHONE 989.561.2270 FAX 989.561.2273  
 SALES@BANDITCHIPPERS.COM WWW.BANDITCHIPPERS.COM

PLEASE NOTE REMIT ADDRESS CHANGE  
 REMIT PAYMENT TO:  
 (VIA REGULAR MAIL)

Bandit Industries, Inc.  
 P.O. Box 639591  
 Cincinnati, OH 45263-9591

## Sales Quote

Sales Quote No.	540409-C
Customer No.	CITBLO

**Bill To**

City of Bloomington  
 401 N Morton St  
 Bloomington, IN 47404  
 USA

**Ship To**

City of Bloomington  
 401 N Morton St  
 Bloomington, IN 47404  
 USA

PD Machine Item #: MODEL-250

Ser#: SN 18102

PD WO#: 29360

RG# #: B08262

Order Date	Ship Via	Payment Method	F.O.B.	Customer PO Number		
02/14/19	UPS Ground	Net30	REMUS, MI			
Customer Phone #	Salesperson	Ordered By	Resale Number			
812-349-3716	Randy Judge	Lee Huss				
Order Quantity	Approve Quantity	Tax	Item Number / Description	Disc%	Unit Price	Extended Price
1	1	Y	900-6963-64 U of M : EACH Oil Filter, for Cummins 4BT-3.9 Engine		17.90	17.90
1	1	Y	900-6903-00 U of M : EACH Filter, Fuel,		22.90	22.90
1	1	Y	900-6902-96 U of M : EACH Cummins/Powermark 3.9/5.9 fuel filter (water sep)33357		23.25	23.25
1	1	Y	900-6902-70 U of M : EACH Filter, Air for 1006TW Perkins & Cummins 71072		107.63	107.63
1.00	1.00	Y	900-3900-10 U of M : EACH 10 Micon Spin On Hydraulic Filter Element		14.70	14.70
3	3	Y	900-RC01-89 U of M : EACH Oil Engine, 15W40 Fleetpro-Ultra Bulk (\$/Gal)		17.10	51.30
10	10	Y	900-9903-10 U of M : PER GALLON Oil, Hydr. Petro-Canada Hydrex XV Bulk (\$/Gal)		22.88	228.80

Print Date	02/27/19
Print Time	07:26:28 AM
Page No.	2

Entered By: Cindy Kinder

Continued on Next Page





# Bandit INDUSTRIES, INC.

6750 Millbrook Road • Remus, MI 49340 USA  
 TELEPHONE 989.561.2270 FAX 989.561.2273  
 SALES@BANDITCHIPPERS.COM WWW.BANDITCHIPPERS.COM

PLEASE NOTE REMIT ADDRESS CHANGE  
**REMIT PAYMENT TO:**  
 (VIA REGULAR MAIL)

Bandit Industries, Inc.  
 P.O. Box 639591  
 Cincinnati, OH 45263-9591

## Sales Quote

Sales Quote No.	540409-C
Customer No.	CITBLO

**Bill To**

City of Bloomington  
 401 N Morton St  
 Bloomington, IN 47404  
 USA

**Ship To**

City of Bloomington  
 401 N Morton St  
 Bloomington, IN 47404  
 USA

PD Machine Item #: MODEL-250

Ser#: SN 18102

PD WO#: 29360

RG# #: B08262

Order Date	Ship Via	Payment Method	F.O.B.	Customer PO Number		
02/14/19	UPS Ground	Net30	REMUS, MI			
Customer Phone #	Salesperson	Ordered By	Resale Number			
812-349-3716	Randy Judge	Lee Huss				
Order Quantity	Approve Quantity	Tax	Item Number / Description	Disc%	Unit Price	Extended Price
1	1	Y	900-1903-32 U of M : EACH Belt, 5VX1000 Single Gates		50.07	50.07
1	1	Y	900-5900-13 U of M : EACH 2 1/2" Lunette Eye w/flange (HD Pintle) see notes		97.03	97.03
1	1	Y	900-4912-70 U of M : EACH 5/16" X 7' G70w/SH & latch safety chain kit		43.83	43.83
1	1	Y	900-2919-99 U of M : EACH model 250, 255 wiring harness for tail lights		153.92	153.92
1	1	Y	900-5900-09 U of M : EACH Breakaway Switch w/ wire & Mount Bracket 12Volt		12.76	12.76
2	2	Y	001-3004-19 U of M : EACH HD HINGE 8" Hood / flipper Hinge 150/200/250		30.89	61.78
1	1	Y	980-0509-04 U of M : EACH Hood pin 6-way connector kit SEE NOTES		209.93	209.93

Print Date	02/27/19
Print Time	07:26:28 AM
Page No.	3

Entered By: Cindy Kinder

Continued on Next Page



# Bandit INDUSTRIES, INC.

6750 Millbrook Road • Remus, MI 49340 USA  
 TELEPHONE 989.561.2270 FAX 989.561.2273  
 SALES@BANDITCHIPPERS.COM WWW.BANDITCHIPPERS.COM

PLEASE NOTE REMIT ADDRESS CHANGE  
 REMIT PAYMENT TO:  
 (VIA REGULAR MAIL)

Bandit Industries, Inc.  
 P.O. Box 639591  
 Cincinnati, OH 45263-9591

## Sales Quote

Sales Quote No.	540409-C
Customer No.	CITBLO

**Bill To**

City of Bloomington  
 401 N Morton St  
 Bloomington, IN 47404  
 USA

**Ship To**

City of Bloomington  
 401 N Morton St  
 Bloomington, IN 47404  
 USA

PD Machine Item #: MODEL-250

Ser#: SN 18102

PD WO#: 29360

RG# #: B08262

Order Date	Ship Via	Payment Method	F.O.B.	Customer PO Number		
02/14/19	UPS Ground	Net30	REMUS, MI			
Customer Phone #	Salesperson	Ordered By	Resale Number			
812-349-3716	Randy Judge	Lee Huss				
Order Quantity	Approve Quantity	Tax	Item Number / Description	Disc%	Unit Price	Extended Price
1	1	Y	980-2005-42 U of M : EACH Winch Hook "C" Mount - Tall Weldment		81.21	81.21
3	3	Y	900-3937-34 U of M : EACH Seal Kit for all winch & hyd. energy valves		52.70	158.10
1	1	Y	900-3918-63 U of M : EACH Hershman Wire Plug Assy. 25' cord for coil on Revers.		43.32	43.32
1	1	Y	900-3923-47 U of M : EACH Cartridge Only, Auto Feed #12 for Manf. Block		113.03	113.03
1	1	Y	131615-BANDIT 900-3923-44 U of M : EACH Coil Only, Auto Feed for Manf. Block see notes		43.11	43.11
1	1	Y	980-200086 U of M : EACH hyd swivel chain guard assy M-250/254/280 METAL		177.77	177.77
1	1	Y	900-4908-27 U of M : EACH 3/4" Spring Loaded Pin for Disch w/bracket See Notes		21.42	21.42

Print Date	02/27/19
Print Time	07:26:28 AM
Page No.	4

Entered By: Cindy Kinder

Continued on Next Page



# Bandit INDUSTRIES, INC.

6750 Millbrook Road • Remus, MI 49340 USA  
 TELEPHONE 989.561.2270 FAX 989.561.2273  
 SALES@BANDITCHIPPERS.COM WWW.BANDITCHIPPERS.COM

PLEASE NOTE REMIT ADDRESS CHANGE  
 REMIT PAYMENT TO:  
 (VIA REGULAR MAIL)

Bandit Industries, Inc.  
 P.O. Box 639591  
 Cincinnati, OH 45263-9591

## Sales Quote

Sales Quote No.	540409-C
Customer No.	CITBLO

**Bill To**

City of Bloomington  
 401 N Morton St  
 Bloomington, IN 47404  
 USA

**Ship To**

City of Bloomington  
 401 N Morton St  
 Bloomington, IN 47404  
 USA

PD Machine Item #: MODEL-250

Ser#: SN 18102

PD WO#: 29360

RG# #: B08262

Order Date	Ship Via	Payment Method	F.O.B.	Customer PO Number		
02/14/19	UPS Ground	Net30	REMUS, MI			
Customer Phone #	Salesperson	Ordered By	Resale Number			
812-349-3716	Randy Judge	Lee Huss				
Order Quantity	Approve Quantity	Tax	Item Number / Description	Disc%	Unit Price	Extended Price
2	2	Y	980-0510-48 U of M : EACH Last Chance Cable & pulley Replace kit (1 side) see no		82.65	165.30
1	1	Y	900-8900-32 U of M : EACH Safety decal kit Eng.&Spanish 65-2090 see notes		245.56	245.56
1	1	Y	900-4902-20 U of M : EACH Brass Padlock For Hood Pin Long Shackle SEE NOTES		17.01	17.01
1	1	Y	001-3007-13 U of M : EACH 3/8 KEY STOCK		4.13	4.13
1	1	Y	981-1008-67 U of M : EACH BOTTOM SCRAPER		12.40	12.40
2	2	Y	900-4901-83 U of M : EACH Spring loaded pin 1/2" for pans or older discharge		18.90	37.80
2	2	Y	981-300199 U of M : EACH Torque Arm Stop for 250,254,255,1290H,1590		23.07	46.14

Print Date	02/27/19
Print Time	07:26:28 AM
Page No.	5

Entered By: Cindy Kinder

Continued on Next Page



# Bandit INDUSTRIES, INC.

6750 Millbrook Road • Remus, MI 49340 USA  
 TELEPHONE 989.561.2270 FAX 989.561.2273  
 SALES@BANDITCHIPPERS.COM WWW.BANDITCHIPPERS.COM

PLEASE NOTE REMIT ADDRESS CHANGE  
 REMIT PAYMENT TO:  
 (VIA REGULAR MAIL)

Bandit Industries, Inc.  
 P.O. Box 639591  
 Cincinnati, OH 45263-9591

## Sales Quote

Sales Quote No.	540409-C
Customer No.	CITBLO

**Bill To**

City of Bloomington  
 401 N Morton St  
 Bloomington, IN 47404  
 USA

**Ship To**

City of Bloomington  
 401 N Morton St  
 Bloomington, IN 47404  
 USA

PD Machine Item #: MODEL-250

Ser#: SN 18102

PD WO#: 29360

RG# #: B08262

Order Date	Ship Via	Payment Method	F.O.B.	Customer PO Number		
02/14/19	UPS Ground	Net30	REMUS, MI			
Customer Phone #	Salesperson	Ordered By	Resale Number			
812-349-3716	Randy Judge	Lee Huss				
Order Quantity	Approve Quantity	Tax	Item Number / Description	Disc%	Unit Price	Extended Price
2	2	Y	937-900009 U of M : EACH Torque arm stop cushion--feedwheel bumpers		18.72	37.44
10.00	10.00	Y	WASTE REMOVAL WASTE REMOVAL		0.50	5.00
1	1	Y	SHOPSUPPLIES U of M : EACH Misc Shop Supplies N/D		575.00	575.00
98.000	98.000	N	LABOR U of M : EACH Labor Charges per hour		110.00	10,780.00
NOTE: QUOTE COULD BE SUBJECT TO CHANGE DUE TO UNFORESEEN ITEMS						
Approved By: _____						
<input type="checkbox"/> Approve All Items & Quantities						

Print Date	02/27/19
Print Time	07:26:28 AM
Page No.	6

Subtotal	14,762.46
Freight	0.00
<b>Order Total</b>	<b>14,762.46</b>

Entered By: Cindy Kinder

**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

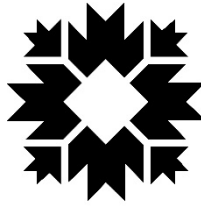
STATE OF INDIANA )  
 )SS:  
COUNTY OF \_\_\_\_\_ )

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: \_\_\_\_\_





CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-16  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Lee E Huss - Urban Forester  
**DATE:** 3/18/2019  
**SUBJECT:** AGREEMENT WITH BLUESTONE TREE

### **Recommendation**

Agreement with Bluestone Tree for the removal of 15 public hazardous street trees. A large percentage of the trees are along high traffic areas and have DBH greater than 25". Completion of the contract is August 31th 2019. Funding for the agreement will come from Urban Forestry General Fund - \$30,700

### **Background**

Perform tree removal at 719 W 2<sup>nd</sup> St – Silver Maple, West County club – Hackberry, 417 S Mitchell – Sycamore, 1610 W Allen – Silver Maple, 1814 S Highland – Boxelder, Moores Pike/S Woodruff – Cherry, Tree of Heaven, Sugar Maple, White Pine, High St/Moores Pike – 3 Ash, 3 Sugar Maples.

**RESPECTFULLY SUBMITTED,**

---

Lee E Huss  
Urban Forester

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
BLUESTONE TREE LLC  
FOR  
2019 SPRING TREE REMOVALS**

This Agreement, entered into on this \_\_\_\_ day of March, 2019, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Bluestone Tree LLC (“Contractor”),

**WITNESSETH:**

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

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

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

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

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

**Article 1. Scope of Services**

Contractor shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before August 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 Lee Huss as the Department’s Project Manager. Contractor agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Contractor for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care**

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

**Article 3. Responsibilities of the Department**

The Department shall provide all necessary information regarding requirements for the Services. The Department shall furnish such information as expeditiously as is necessary for the orderly progress of the work, and Contractor



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

**Article 4. Compensation**

The Department shall pay Contractor for all fees and expenses in an amount not to exceed Thirty Thousand Seven Hundred Dollars and zero cents (\$30,700.00). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor within forty-five (45) days of receipt of invoice. The invoice shall be sent to:

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

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

**Article 5. Appropriation of Funds**

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

**Article 6. Schedule**

Contractor shall perform the Services no later than August 31, 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	Bluestone Tree LLC
Attn: Lee Huss	Attn: Jerad Oren
401 N. Morton, Suite 250	PO Box 345
Bloomington, Indiana 47402	Clear Creek, IN 47426

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

**Article 25. Intent to be Bound**

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

**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**

**BLUESTONE TREE LLC**

\_\_\_\_\_  
Mick Renneisen, Deputy Mayor

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

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

\_\_\_\_\_  
Leslie J. Coyne, President,  
Board of Park Commissioners

## **EXHIBIT A**

### **“Scope of Work”**

The Services shall include the following:

All service items listed below are for tree removal with all debris and with stump cut low:

- Remove large silver maple at 719 West Second St.
- Remove 50 inch dying Hackberry on W. Country Club Dr. South side of the road.
- Remove double sycamore tree at 417 South Mitchell St.
- Remove 30in. silver maple at 1610 West Allen St. north side of road.
- Remove 49 inch box elder at 1814 South Highland Ave.
- Remove four trees with pink dots: one pine, one multi-cherry, one tree of heaven and one sugar maple. These trees are located at Moores Pike and S Woodruff Lane just east of Woodruff Lane on south side of road.
- Remove three Ash trees, one 30 inch DBH, one 50 inch DHB and one 35 inch DBH. These are marked with a pink dot located at south east corner of Hillside and High St.
- Remove one sugar maple 50 inch DBH, and two sugar maples at 37 inch DBH and 138 inch DBH, these trees are located at 2311 E. Moores Pike and 2301 E. Moores Pike.



**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.

**Bluestone Tree LLC**

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

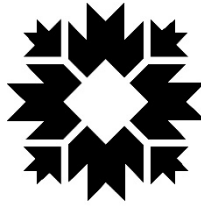
STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

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

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

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





CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C- 17  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Lee E Huss - Urban Forester  
**DATE:** March 26, 2019  
**SUBJECT:** AGREEMENT WITH DESIGNSCAPE HORTICULTURAL SERVICES

### Recommendation

Agreement with Designscape Horticultural Services to perform direct injection of systemic insecticide to help control insect damage on approximately 110 Honey Locust street trees. Funding for the treatment will be from Urban Forestry General Fund - \$6435.19

### Background

Perform tree injections of 110 Honey Locust trees with the insecticide Emamectin Benzoate – Tree Age. This is to decrease the population of mimosa web worm. Service was performed eight years ago. This insecticide is currently used to control Emerald Ash bore in Bloomington.

**RESPECTFULLY SUBMITTED,**

---

Lee E Huss  
Urban Forester

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
DESIGNSCAPE HORTICULTURAL SERVICES INC  
FOR  
INSECTICIDE INJECTIONS OF HONEY LOCUST TREES**

This Agreement, entered into on this \_\_\_\_ day of March, 2019, by and between the City of Bloomington Department of Parks and Recreation (the “Department”), and Designscape Horticultural Services, Inc. (“Contractor”),

**WITNESSETH:**

WHEREAS, the Department wishes to perform direct injection of systemic insecticide for approximately 110 Honey Locust Trees; and

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

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

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

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

**Article 1. Scope of Services**

Contractor shall provide the Services as specified in Exhibit A, “Scope of Work”, attached hereto and incorporated into this Agreement. Contractor shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Contractor shall complete the Services required under this Agreement on or before July 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 Lee Huss as the Department’s Project Manager. Contractor agrees that any information or documents, including digital GIS information, supplied by the Department pursuant to Article 3, below, shall be used by Contractor for this project only, and shall not be reused or reassigned for any other purpose without the written permission of the Department.

**Article 2. Standard of Care**

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

**Article 3. Responsibilities of the Department**

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

**Article 4. Compensation**

The Department shall pay Contractor for all fees and expenses in an amount not to exceed Six Thousand Four Hundred Thirty Five Dollars and Nineteen Cents (\$6,435.19). Contractor shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Contractor within forty-five (45) days of receipt of invoice. The invoice shall be sent to:

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

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

**Article 5. Appropriation of Funds**

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

**Article 6. Schedule**

Contractor shall perform the Services no later than July 31, 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 \$1,000,000 annual aggregate.
- d. Workers’ Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code.

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

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

**Article 15. Conflict of Interest**

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

**Article 16. Waiver**

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

**Article 17. Severability**

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

**Article 18. Assignment**

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

**Article 19. Third Party Rights**

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

**Article 20. Governing Law and Venue**

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

**Article 21. Non-Discrimination**

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

**Article 22. Compliance with Laws**

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

**Article 23. E-Verify**

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

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

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

**Article 24. Notices**

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

**Department:**

**Contractor:**

City of Bloomington	Designscape Horticultural Services Inc
Attn: Lee Huss	Attn: Gabriel Gluesenkamp
401 N. Morton, Suite 250	2877 T.C. Steele Road
Bloomington, Indiana 47402	Nashville, IN 47448

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**

**DESIGNSCAPE HORTICULTURAL  
SERVICES INC.**

\_\_\_\_\_  
Mick Renneisen, Deputy Mayor

\_\_\_\_\_  
Gabriel Gluesenkamp, VP Operations

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

\_\_\_\_\_  
Leslie J. Coyne, President,  
Board of Park Commissioners

## **EXHIBIT A**

### **“Scope of Work”**

The Services shall include the following:

Direct inject systemic insecticide to help control up to 110 Honey Locust trees in Sweetbriar housing development.



**EXHIBIT B**

**E-VERIFY AFFIDAVIT**

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.

\_\_\_\_\_  
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.

**Designscape Horticultural Services Inc**

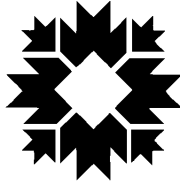
By: \_\_\_\_\_  
\_\_\_\_\_

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.

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

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



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

**STAFF REPORT**

Agenda Item: C-18  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Dave Williams, Operations Director  
**DATE:** March 26, 2019  
**SUBJECT:** **REVIEW/APPROVAL OF ADDENDUM TO CONSULTANT CONTRACT AGREEMENT WITH MADER DESIGN FOR LOWER CASCADES GREEN YARD WASTE**

**Recommendation**

It is recommended the Board approve this addendum to a consultant contract agreement with Mader Design for Parks Bond funded design services.

**Background**

It has been determined through consultation with the Indiana Department of Natural Resources, Division of Water, that a full scope construction in a floodway permit is required for this project. As a result of the modification to the original scope of work including necessary engineering and survey work as well as permit fees, the contract amount will be increased by \$18,500 for a new total of \$38,000 (Parks General Obligation Bond). See attached aerial map for project location.

**RESPECTFULLY SUBMITTED,**

---

Dave Williams, Operations Director

**ADDENDUM I**  
**TO**  
**AGREEMENT FOR CONSULTANT SERVICES**  
(Entered in this \_\_\_\_ day of \_\_\_\_\_, 2019)

WHEREAS, on May 24, 2018, the City of Bloomington Department of Parks and Recreation (the “Department”) entered into an Agreement (“Agreement”) with Mader Design LLC (“Consultant”) to design and produce construction documents to store and discard the tree and yard waste produced by the City of Bloomington and map out erosion control improvements at Lower Cascades north parking lot; and

WHEREAS, the Department wishes to expand scope of work to include necessary engineering and survey to apply for a construction in the floodway permit through the State of Indiana Division of Water for this project; and

WHEREAS, the Department wishes to extend the schedule through July 1, 2020, to provide the required additional time; and

WHEREAS, as a result of modification to the original Scope of Services and Schedule the compensation amount will be increased by Eighteen Thousand Five Hundred Dollars and Zero Cents (\$18,500.00); and

WHEREAS, the Consultant is in agreement with said changes; and

WHEREAS, pursuant to Article 26 of said Agreement, Agreement may be modified only by a written amendment signed by both parties.

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

**Article 1. Scope:** To amend the Agreement to reflect changes in design area and services shown in the Consultant Scope of Work, Exhibit A. Exhibit A is attached hereto and incorporated into this Addendum I to the Agreement. Original agreement is attached hereto and incorporated as Exhibit B.

**Article 2. Term:** To modify Article 6, Schedule, of the Agreement to state:  
“Contractor shall perform the Services no later than July 1, 2020. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.”

**Article 3. Compensation:** The Department shall pay Consultant for the Services, for all fees and expenses in an amount not to exceed Thirty Eight Thousand Dollars and Zero Cents (\$38,000.00).

**Article 4. Modification:** Any other modification to said Agreement shall be in writing per Article 26 of the Agreement.

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

**CITY OF BLOOMINGTON**

**MADER DESIGN LLC**

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

\_\_\_\_\_  
Jeff Mader

\_\_\_\_\_  
Leslie J. Coyne, Park Board President  
Board of Park Commissioners

\_\_\_\_\_  
Title of Contractor Representative

\_\_\_\_\_  
Mick Renneisen, Deputy Mayor

**EXHIBIT "A"**  
**Addition to Scope of Work**

Additional work for the project shall include utilizing the current proposed site plan (with some adjustments to appropriately show work acceptable for DNR permitting), available GIS information, and field survey data in order to create at least two cross sections of the floodplain area through the project site. The cross-sectional area will be calculated in the existing and proposed conditions (with the proposed conditions having the stockpiles per the owner). Calculations will be made and documented limiting the increase in cross sectional blockage to under 5%. Work with owner to fill out and submit IDNR forms 55236, 55237, and 42946 along with required exhibits and documentation for review. Provide updated construction plans to accommodate the changes to the overall scope of construction along with a detail for a "break-away" style fence to be utilized within the floodplain area. Once submitted to DNR, work with owner to respond to technical questions or comments.

**EXHIBIT "B"**  
**ORIGINAL CONTRACT**

**AGREEMENT  
BETWEEN  
CITY OF BLOOMINGTON  
PARKS AND RECREATION DEPARTMENT  
AND  
MADER DESIGN, LLC.  
FOR  
LOWER CASCADES GREEN YARD WASTE**

This Agreement, entered into on this 24 day of May, 2018, 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 have landscape design services; and

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

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

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

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

**Article 1. 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 December 31, 2018, unless the parties mutually agree to a later completion date. Completion shall mean completion of all work related to the Services.

In the performance of Consultant's work, Consultant agrees to maintain such coordination with the Department as may be requested and desirable, including primary coordination with John Turnbull 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"). 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 Nineteen Thousand Five Hundred Dollars (\$19,500). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. Invoices may be sent via first class mail postage prepaid or via email. Payment will be remitted to Consultant within forty-five (45) days of receipt of invoice. The invoice shall be sent to:

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**

Consultant shall perform the Services by December 31, 2018. The time 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 final construction documents prepared under this Agreement shall become the property of Department upon completion of the services and payment in full of all monies due to the Consultant. Consultant shall retain its ownership rights in its design, drawing details, specifications, databases, computer software and other proprietary property. Intellectual property developed, utilized or modified in the performance of the Services shall remain the property of Consultant.

**Article 12. Independent Contractor Status**

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

**Article 13. Indemnification**

Consultant shall, indemnify, and hold harmless the City of Bloomington, the Department, and the officers, and employees of the City and the Department from any and all claims, demands, damages, costs, expenses or other liability arising out of the Agreement or occasioned by the reckless or negligent performance of any provision thereof, including, but not limited to, any reckless or negligent



act or failure to act or any misconduct on the part of the Consultant or its agents or employees, or any independent contractors directly responsible to it (collectively "Claims").

**Article 14. Insurance**

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

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

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

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

**Article 15. Conflict of Interest**

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

**Article 16. Waiver**

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

**Article 17. Severability**

The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it

did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 18. Assignment**

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

**Article 19. Third Party Rights**

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

**Article 20. Governing Law and Venue**

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

**Article 21. Non-Discrimination**

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

**Article 22. Compliance with Laws**

In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment in place at the time this agreement is signed and accordance with the standard of care. 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 B, 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:**

City of Bloomington  
Attn: John Turnbull  
401 N. Morton, Suite 250  
Bloomington, Indiana 47402

**Consultant:**

Jeff Mader  
Mader Design LLC  
7506 S. Madison Ave.  
Indianapolis, IN 46227

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**

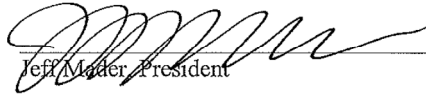
Consultant is required to certify that it has not, nor has any other member, representative, or agent of Consultant, entered into any combination, collusion, or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone 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 C, affirming that Consultant 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.

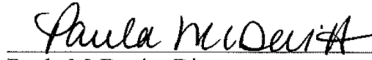
CITY OF BLOOMINGTON

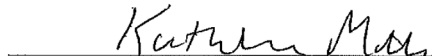
Mader Design LLC

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

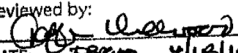
  
\_\_\_\_\_  
Jeff Mader, President

CITY OF BLOOMINGTON PARKS AND RECREATION

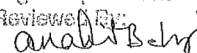
  
\_\_\_\_\_  
Paula McDevitt, Director

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

CITY OF BLOOMINGTON  
Controller

Reviewed by:   
DATE: ~~5/20/18~~ 4/18/18  
FUND/ACCT: ~~977-18~~ 977-18

7

CITY OF BLOOMINGTON Legal Department Reviewed By:  DATE: 4/17/18
--

## EXHIBIT A

### “Scope of Work”

The Services shall include the following:

- Develop design and construction plans and drawings for fenced in Green Yard Waste storage.
- Develop design and construction plans for minimizing sedimentation of Lower North Parking Lot.
- Engage Indiana Department of Natural Resources for approvals related to maintenance projects and Post Notification processes.
- Engage City of Bloomington Engineering for appropriate project approvals.
- Provide appropriate documents for legal state bidding or quoting processes as appropriate.
- Attend two site visits during construction; mid-term and substantial completion.
- Develop punch list for project completion



EXHIBIT C

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

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 4th day of May, 2018.

Mader Design LLC

By: [Signature]  
Jeffrey R. Mader

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

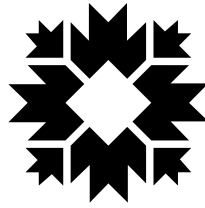
Before me, a Notary Public in and for said County and State, personally appeared Jeffrey R. Mader and acknowledged the execution of the foregoing this 4 day of May, 2018.

[Signature]  
Notary Public's Signature

My Commission Expires: 4-18-2025

Larry Pleasant  
Printed Name of Notary Public

County of Residence: Marion



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: C-19  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Julie Ramey, Community Relations Manager  
**DATE:** March 26, 2019  
**SUBJECT:** Contract for Social Media Management Services with Lambert Consulting

### Recommendation

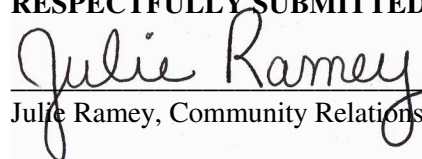
Staff recommends approval of the contract for services with Lambert Consulting.

### Background

The Bloomington Parks and Recreation Department has made significant investments in Cascades Golf Course over the last several years, including replacing the fairways with Zoysia and building a new clubhouse to better serve the modern golfing community. Proactive efforts to utilize technology to position Cascades Golf Course as an appealing, affordable, and quality golf experience will allow the course to continue to thrive in a competitive market.

Lambert Consulting, a social media marketing firm, will conduct a social media campaign for Cascades Golf Course for the next six months. The firm will strategize and post information on Cascades Golf Courses' existing Facebook page to highlight tournaments, promote scramble business, advertise tee times, share information about the course, introduce Cascades staff, pro shop specials and merchandise, share golfing tips, and promote clubhouse rental and banquet room availability. Lambert Consulting will post specific messaging at least twice per week, and will utilize digital media insights to determine the optimum time/day of the week to post. Consultant will provide monthly reports of all social media activity and interactions.

**RESPECTFULLY SUBMITTED,**

  
Julie Ramey, Community Relations Manager



# AGREEMENT BETWEEN CITY OF BLOOMINGTON PARKS AND RECREATION DEPARTMENT AND LAMBERT CONSULTING

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

**Article 1. Scope of Services** Consultant shall provide social media management for Cascades Golf Course ("Services"). Highlight tournaments, the course itself, golf pros and staff, pro shop specials and merchandise, golfing tips, clubhouse rental and banquet room availability on the existing Cascades Golf Course Facebook page. Lambert Consulting will post to the Cascades Golf Course Facebook page twice per week, and will utilize digital media insights to determine the optimum time/day of the week to post. Consultant will provide monthly reports of all social media activity and interactions.

Consultant shall diligently provide the Services under this Agreement and shall complete the Services described in this Agreement in a timely manner consistent with the Standard of Care identified in Article 2. Consultant shall complete the Services required under this Agreement on or before October 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 Julie Ramey 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 Three Hundred Dollars (\$300) per month and in total, the amount shall not exceed One Thousand Eight Hundred Dollars (\$1,800.00). Consultant shall submit an invoice to the Department upon the completion of the Services described in Article 1. The invoice shall be sent to: Julie Ramey, 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 to begin the week of April 1, 2019 ("schedule").

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

**Article 7. Termination** In the event of a party's substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party. Additionally, the Department may terminate or suspend performance of this Agreement at the Department's prerogative at any time upon written notice to 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 \$1,000,000 annual aggregate. All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers,

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

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

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

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

**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: Julie Ramey, 401 N. Morton, Bloomington, IN 47402. Consultant: Lambert Consulting.** Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and Consultant.

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

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

**CITY OF BLOOMINGTON**

**LAMBERT CONSULTING**

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

\_\_\_\_\_  
Andrew Lambert, President

**CITY OF BLOOMINGTON PARKS AND RECREATION**

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

\_\_\_\_\_  
Leslie J Coyne, President, Board of Park Commissioners



**EXHIBIT B**

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

**NON-COLLUSION AFFIDAVIT**

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

**OATH AND AFFIRMATION**

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

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

**Lambert Consulting**

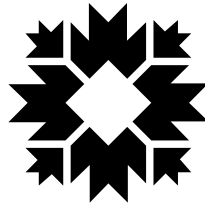
By: \_\_\_\_\_  
\_\_\_\_\_

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.

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

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



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: D-1  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Dave Williams  
**DATE:** MARCH 26, 2019  
**SUBJECT:** SWITCHYARD PARK CONSTRUCTION UPDATE

### Site work

Soil remediation excavations and disposal complete.  
Paver parking lot aisles (Rogers St. main entrance) 75% complete  
Earthwork and berm construction continues  
Excavation for 35,000 gallon cistern to collect roof rainwater from Pavilion continues

### Utilities

Buried utility piping installations (stormwater, water, sanitary sewer) 85% complete  
Water service connections to City Utilities completed  
Duke Energy continuing work on removal of utility poles and directional boring to put overhead electrical service underground.  
Burial of Fiber Optic conduits continues

### Bridges

Prefabricated bridges (2) sections set. Seven total bridges in the project; two new, three existing railroad bridges rehabilitated for bike/ped. use, two railroad bridges demolished.

### Facilities

Bloomington Police Department sub-station (Grimes Lane entrance) 60% complete  
Stage steel erected, concrete stairs completed  
Picnic Pavilion steel erected. Masonry fireplace work started  
Foundation footer excavated and poured for Pavilion  
Splash Pad Restroom/Mechanical Building masonry block 70% complete  
Skatepark 80% complete

### Owner Purchased Items

All playground equipment received and in storage  
First of three tree deliveries (total 603 for project) anticipated in April

### Upcoming

Spring tree planting in selected areas

Pavilion construction

**Contract Completion Date**

Substantial Completion – November 1, 2019

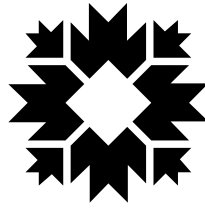
Final Completion – May 15, 2020

**RESPECTFULLY SUBMITTED,**

A handwritten signature in black ink, appearing to read "Dave Williams", with a long horizontal flourish extending to the right.

---

Dave Williams, Operations Director



CITY OF BLOOMINGTON  
Parks and Recreation

## STAFF REPORT

Agenda Item: D-2  
Date: 3/21/2019

Administrator  
Review\Approval  
PM

**TO:** Board of Park Commissioners  
**FROM:** Leslie Brinson, Community Events Manager  
**DATE:** March 26, 2019  
**SUBJECT:** FOR INFORMATION ONLY- 2019 COMMUNITY EVENTS UPDATE

### Recommendation

This report is for informational purposes only. The following is a description of 2019 events. Included in the Community Events area are concerts and movies in the parks, events, Farmers' Market, community gardens, A Fair of the Arts and dog related programs.

### Background

*Events for 2019 Include:*

**Winter Palooza** – This event was February 9<sup>th</sup> and was a winter carnival done Bloomington Style. It featured winter-themed activities and games with no snowed required. There were 150 in attendance.

**Seusspicious Behavior** – This event was held on March 2<sup>nd</sup> and was a collaboration with the Monroe County Public Library. BHSN students put on two plays throughout the event and we provide Seuss related games and activities. 447 people were in attendance.

**Spring Fling** – Held on March 14<sup>th</sup> this event featured active family games and activities designed to fling off the winter blues during Spring Break Week. Event includes Zorb balls, obstacle course, aerial silks demos and more. 154 people were in attendance.

**Children's Expo** was March 23<sup>rd</sup> at the Monroe County Convention Center and featured games, activities, wellness assessments, a camp fair and exhibitors with child and family related products and services. This was the 34<sup>th</sup> year for this event and .....people were in attendance.

**Bloomington Community Farmers' Market** begins on April 6<sup>th</sup> and runs from 8 a.m. – 1 p.m. through September and 9 a.m – 1 p.m. during October and November. The Tuesday market runs 4 -7 p.m. from June through September on Madison Street just outside of BloomingFoods.

The **Community Gardens** will open around mid-April, weather dependent. Willie Streeter Community Gardens and Rev. Butler Park Community Gardens offer 2xx garden plots for rent. We currently have xx plots still available.

**Nature Sounds** – A unique listening experience that will pair acoustic music with songs of the wild. Each program includes an introduction to the park's featured music makers, an hour-long concert, and environmental education. The programs will be April 12<sup>th</sup> and May 17<sup>th</sup>.

**Coffee and Canvas** – A new event for 2019 in partnership with Wine and Canvas Bloomington. During the event participants will not only get a chance to paint a beautiful spring picture, but also sample coffee from Needmore Coffee.

**The Bloomington Street Fair** – This will be the second year for the Street Fair. 2018 was so successful and provided a great opportunity for the community to come together to celebrate all that Bloomington offers.

The **50+ Expo** will take place on Wednesday, May 8<sup>th</sup> at the Twin Lakes Recreation Center. This popular event is geared toward people 50 and over and features a large expo hall with a variety of exhibitors, free health screenings and a community area with representatives from recreation, art, music, and other local area clubs. This will be the 45<sup>th</sup> year for the event.

**A Fair of the Arts** – held the second Saturday of the month from May through October at Showers Plaza. Local and regional artists will once again display, demonstrate and sell their beautiful and well-crafted objects. This event is held in conjunction with the Farmers' Market.

**Performing Arts Series** – The series will feature outdoor musical and theater performances at parks throughout the city. The Tuesday Peoples Park concerts will start on May 14<sup>th</sup> from 4:30-6:00. The Friday night concerts at Waldron, Hill and Buskirk Park will begin on June 16<sup>th</sup> and the Sunday night concerts in Bryan Park will begin on July 21<sup>st</sup>.

**Summer Kick Off** – Start the summer off right at Bryan Park on Friday, May 24<sup>th</sup> from 5:30-8:30. The event will include two bands, free swimming at Bryan Park Pool for two hours, play experience and an introduction to summer Parks programs.

The **Movies in the Park** series is back with a line up to please everyone. Partnering with the Ryder Film Series we have curated another great summer of movies in the parks. Movies will be shown at Bryan Park, Rev. Butler Park, Waldron, Hill and Buskirk Park as well as Bryan Park Pool.

**The Bloomington Trail Outdoor Escape Room** – We are partnering with Code and Key Escape Room to bring an outdoor escape adventure to Walnut Woods Park. Groups will work through puzzles, activities and challenges to work their way through the Trail.

**Touch a Truck** – This popular event will take place on June 12<sup>th</sup> at Winslow Sports Park from 10:00-2:00. The event allows children to get up close and personal with trucks of all different sizes and shapes. Children will also be able to have fun with the Monster Truck Slide.

**Fourth of July Parade** is held in partnership with Downtown Bloomington Inc. Entry registration forms will be available online and at the parks office on May 1<sup>st</sup>. There is a \$25 entry fee and space is limited to 100 entries.

**Messy Mania** – This popular event will be July 9<sup>th</sup> from 9:00- Noon at Bryan Park. Kids can get crazy when they experiment with all kinds of messy mediums. Hands-on activities will delight every youngster who loves to squish, splatter, and fling...and play in the bubbles of course!

**Slip N' Foam**- In the second year this event will be held on August 3<sup>rd</sup> from 1:00-4:00 at Rev. Butler Park. Participants will be able to go down the 100 foot slip n slide, play in the foam machine and participate in other water games.



**Homegrown Indiana Farm Tour** will take place at the Living Roots Farm on Sunday, July 14<sup>th</sup>. Participants will be able to tour the farm and have a farm to fork dinner prepared with local chefs from Sazon and Oona.

**Drool in the Pool** celebrates its 15<sup>th</sup> anniversary and will be held August 7<sup>th</sup> and 8<sup>th</sup> at Mills Pool. Dogs will swim and splash in this annual event after the pool is closed for the season to humans. Admission is \$5/ per dog.

**Junk in the Trunk** is our version of a community rummage sale and will be held on August 17<sup>th</sup> at the Frank Southern Ice Arena from 8:00 am – 1:00 pm. The event will be inside and outside again this year.

**Glow in the Park** is back after a very successful first year in 2018 and will be held on September 21<sup>st</sup> from 8:00-10:00pm at Waldron, Hill and Buskirk Park. Participants will dance to a DJ while getting sprayed with glow paint and will be able to decorate themselves with paint and take pictures in the photo booth.

**Dearly Departed Cemetery Tours** will be held again this year in partnership with the Monroe County History Center on October 11<sup>th</sup> and 12<sup>th</sup> in Rose Hill Cemetery. Participants will be able to hear the stories of some of those in this historic cemetery.

**Howl at the Moon** is a nighttime, glow-in-the-dark walk on the B-Line Trail for humans and their canine friends.

**Trick or Treat Trail** continues to be a popular event for children and families and will take place on October 19<sup>th</sup> at RCA Park. Participants can walk the trail and meet up with popular characters, hear their stories and gather candy and toys along the way.

**Festival of Ghost Stories** brings in the Halloween season at Bryan Park on October 25<sup>th</sup> in partnership with the Monroe County Public Library and the Storytellers Guild.

**The Bloomington Pumpkins Launch** continues to provide great entertainment for children and adults alike. This event will be held October 26<sup>th</sup> at the Monroe County Fairgrounds and we will be launching pumpkins as well as music and activities!

The **Holiday Market** will take place on Saturday, November 30<sup>th</sup> from 10:00-3:00pm. This Bloomington tradition will feature some of your favorite, locally-grown farm products, arts and crafts, entertainment and much, much more.

**Yappy Howl-idays** will finish our events for the year on December 7<sup>th</sup> from 1:00-3:00. Dogs and humans can interact with Santa, win prizes and get their picture taken with Santa.

**RESPECTFULLY SUBMITTED,**

A handwritten signature in black ink that reads "Leslie Brinson". The signature is written in a cursive, flowing style.

---

Leslie Brinson, Community Events Manager