

**AGENDA**  
**REDEVELOPMENT COMMISSION**  
**March 1, 2021 at 5:00 p.m.**

*Per the Governor's Executive Orders 20-04, 20-08, and 20-09, this meeting will be conducted electronically.  
The public may access the meeting at the following link:*

*<https://bloomington.zoom.us/j/94104379901?pwd=OFhONGpsK3RNYXVTd2VBU0V0NHl2QT09>  
Meeting ID: 941 0437 9901  
Passcode: 392828*

- I. ROLL CALL**
- II. READING OF THE MINUTES** –February 16, 2021 and Executive Summary for February 16, 201
- III. EXAMINATION OF CLAIM REGISTER** – February 19, 2021, for \$2,487,048.11
- IV. EXAMINATION OF PAYROLL REGISTERS**–February 12, 2021, for \$45,569.22
- V. REPORT OF OFFICERS AND COMMITTEES**
  - A.** Director's Report
  - B.** Legal Report
  - C.** Treasurer's Report
  - D.** Business Development Updates
- VI. NEW BUSINESS :**
  - A.** Resolution 21-13: Approval of Change Order for West 17<sup>th</sup> Street Reconstruction Project
  - B.** Resolution 21-14: Approval of Duke Energy Easement in the 4<sup>th</sup> Street Garage
  - C.** Resolution 21-15: Approval of Agreement for EV Connect for Charging Stations for the 4<sup>th</sup> Street Parking Garage
  - D.** Resolution 21-16: Approval of Agreement with Station 43 Design for Signs in the Trades District Parking Garage
- VII. BUSINESS/GENERAL DISCUSSION**
- IX. ADJOURNMENT**

*Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call [812-349-3429](tel:812-349-3429) or e-mail [human.rights@bloomington.in.gov](mailto:human.rights@bloomington.in.gov).*

**THE REDEVELOPMENT COMMISSION OF THE CITY OF BLOOMINGTON, INDIANA MET on  
Tuesday, February 16, 2021, at 5:00 p.m. via ZOOM, with Don Griffin, President, Presiding  
<https://catstv.net/m.php?q=9325>**

**I. ROLL CALL**

Commissioners Present: Don Griffin, Nicholas Kappas, and David Walter

Commissioners Absent: Cindy Kinnarney

Staff Present: Brent Pierce, Interim Director, HAND; Christina Finley, Financial Specialist, HAND; Matt Swinney, Program Manager, HAND; Cody Toothman, Program Manager, HAND

Others Present: Larry Allen, Attorney, City Legal Department; Jeff Underwood, Controller; Alex Crowley, Director, Economic & Sustainable Development (ESD); Sean Starowitz, Assistant Director for the Arts, ESD

- II. READING OF THE MINUTES** – Nicholas Kappas moved to approve the February 1, 2021, minutes. David Walter seconded the motion. The motion passed unanimously.
- III. EXAMINATION OF CLAIM REGISTER** – David Walter moved to approve the claim register for February 5, 2021, for \$112,881.03. Nicholas Kappas seconded the motion. The motion passed unanimously.
- IV. EXAMINATION OF PAYROLL REGISTERS** – David Walter moved to approve the payroll register for January 29, 2021 for \$34,349.58. Nicholas Kappas seconded the motion. The motion passed unanimously.
- V. REPORT OF OFFICERS AND COMMITTEES**
- A.** Director’s Report. Brent Pierce gave an update on the neighborhood improvement grant program. Pierce said the grants are for neighborhood organizations for an amount up to \$1,100 and require a 10% match from the organization. Pierce said we have exceeded our number of applicants and received letters of intent to apply for the funding.
- Pierce introduced John Zody, the new HAND director. He will officially start on April 5, 2021.
- B.** Legal Report. Larry Allen gave a brief update on the EDA Grant.
- C.** Treasurer’s Report. Jeff Underwood was available to answer questions.
- D.** Business Development Updates: Alex Crowley was available to answer questions.
- VI. NEW BUSINESS**

**PUBLIC HEARING**

- A.** Resolution 21-09: Approval of Community Development Block Grant Recommendations by the Citizens Advisory Committee. Brent Pierce stated this is the allocation received yearly from the Department of Housing and Urban Development (HUD). The Citizens Advisory Committee (CAC) already met to review applications and make their allocation recommendations for fiscal year 2021. The estimated allocation is \$1,018,000. Pierce stated 15% of the grant can be used for social services, 20% for administration, and 65% for physical improvements.

Don Griffin asked for public comment. There were no comments from the public.

Nicholas Kappas made a motion to approve Resolution 21-09 via roll-call vote. David Walter seconded the motion. Don Griffin voted yes. The motion passed unanimously.

### **PUBLIC HEARING ENDS**

- B.** Resolution 21-10: Addendum to Agreement with TIII Environments, for Art in Switchyard Park. Sean Starowitz stated staff have negotiated an addendum to a contract that was executed last year. The addendum extends the completion date of the art project to August 1, 2021. Larry Allen said no additional funding is necessary under this addendum.

Don Griffin asked for public comment. There were no comments from the public.

David Walter moved to approve Resolution 21-10 via roll-call vote. Nicholas Kappas seconded the motion. The motion passed unanimously.

- C.** Resolution 21-11: Acceptance of Conveyance of Ownership of 4<sup>th</sup> Street Parking Garage. Larry Allen said the attached quitclaim deed will officially transfer the property from the Board of Public Works to the Redevelopment Commission. The RDC will own the property and improvements for the life of the 20-year bond. After the bond is paid off, the RDC will convey the property back to the Board of Public Works.

Don Griffin asked for public comment. There were no comments from the public.

David Walter moved to approve Resolution 21-11 via roll-call vote. Nicholas Kappas seconded the motion. The motion passed unanimously.

- D.** Resolution 21-12: Approval of the 2021 Partnership Agreement with BCT Management. The RDC has approved annual partnership agreements with BCT Management since 2001. Alex Crowley stated this is an annual agreement with BCT Management, to manage the Buskirk-Chumley Theater. The RDC's contribution is up to \$74,000 in TIF funding, which may be used only for qualifying public improvements.

David Walter moved to approve Resolution 21-12 via roll-call vote. Nicholas Kappas seconded the motion. The motion passed unanimously.

Nicholas Kappas moved to adjourn. David Walter seconded the motion. The meeting adjourned.

### **E. BUSINESS/GENERAL DISCUSSION**

#### **A. ADJOURNMENT**

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Don Griffin, President

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David Walter, Vice-President

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Date



## EXECUTIVE SESSION

The Redevelopment Commission of the City of Bloomington, Indiana, met on Tuesday, February 16, 2021, at 4:30 p.m. via ZOOM.

Commissioners Present: Donald Griffin, Nicholas Kappas, and David Walter.

MCCSC Representative Present: Cathy Fuentes-Rohwer

Commissioners Absent: Cindy Kinnarney

Staff Present: Brent Pierce, Interim Director, Housing and Neighborhood Development (HAND); Christina Finley, Financial Specialist, HAND.

Others Present: Larry Allen, Assistant City Attorney, City Legal Department; Alex Crowley, Director, Economic and Sustainability; Jeffrey Underwood, Controller

The Commission discussed information in accordance with **Ind. Code § 5-14-1.5-6.1(b)(2)(D)**: strategy regarding real property transactions by the governing body.

No other matters were discussed.

The meeting adjourned at 5:00 p.m.

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Donald Griffin, President

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David Walter, Vice President

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Date

**21-13  
RESOLUTION  
OF THE  
REDEVELOPMENT COMMISSION  
OF THE  
CITY OF BLOOMINGTON INDIANA**

**APPROVAL OF CHANGE ORDER FOR  
WEST 17TH STREET RECONSTRUCTION PROJECT**

- WHEREAS, pursuant to Indiana Code 36-7-14 *et seq.*, the Redevelopment Commission of the City of Bloomington (“RDC”) and the Common Council of the City of Bloomington created an economic development area known as the Consolidated Economic Development Area (“Consolidated TIF”); and
- WHEREAS, tax increment from the Consolidated TIF may be used—among other things—to pay expenses incurred by the RDC for local public improvements that are in the Consolidated TIF or that serve the Consolidated TIF; and
- WHEREAS, on December 5, 2016, in Resolution 16-80, the RDC approved a Project Review and Approval Form (“Form”) which sought the support of the RDC for a project that would reconstruct West 17<sup>th</sup> Street between the future Vernal Pike / 17<sup>th</sup> Street Overpass and the roundabout at 17<sup>th</sup> Street / Arlington Road / Monroe Street (“Project”); and
- WHEREAS, in Resolution 19-13, the RDC approved funding for the construction engineering contract for the Project; and
- WHEREAS, in Resolution 19-14, the RDC approved funding for the construction for the Project with Reed and Sons Construction, Inc. (“Reed”), and the RDC approved a change orders in Resolutions 19-37, 19-89, 19-101, 20-10, 20-33, 20-37, and 20-97; and
- WHEREAS, Reed in conjunction with the City’s project managers have determined that an additional change order (Change Order 9) is necessary for additional traffic control signage rental, concrete driveway approaches, and sod (“Additional Services”) for an amount not to exceed an additional Fifteen Thousand Thirty-One Dollars and Twenty Cents (Change Order 9 - \$15,031.20); and
- WHEREAS, this change order bring increases the total for Reed’s contract from \$3,381,885.15 to \$3,396,916.35; and
- WHEREAS, Change Order 9 is attached to this Resolution as Exhibit A; and
- WHEREAS, Changer Order 9 will be considered by the Board of Public Works during its meeting on Tuesday, March 2, 2021; and
- WHEREAS, there are sufficient funds in the Consolidated TIF to pay for the additional Services for the Project pursuant to the terms of the Change Order; and

WHEREAS, the City has brought the RDC an Amended Project Review Form (“Amended Form”) which updates the expected cost of the Project, which is attached to this Resolution as Exhibit B; and

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

1. The RDC reaffirms its support of the Project, as set forth in the Amended Form, and reiterates that it serves the public’s best interests.
2. The RDC finds the Project is an appropriate use of TIF, and that the Project serves the public’s best interests.
3. The RDC hereby authorizes the City of Bloomington to expend an additional amount not to exceed Fifteen Thousand Thirty-One Dollars and Twenty Cents (\$15,031.20) to pay for the Additional Services. The total amount of the contract shall not exceed \$3,396,916.35.
4. The Payment authorized above may be made from the Consolidated TIF. Nothing in this Resolution shall remove the requirement to comply with the City or the RDC’s claims process.
5. Staff is asked to ensure a fully executed copy of the amended Agreement is retained in the RDC’s records.
6. Unless extended by the Redevelopment Commission in a resolution, the authorizations provided under this Resolution shall expire on May 1, 2021.

**BLOOMINGTON REDEVELOPMENT COMMISSION**

\_\_\_\_\_  
Donald Griffin, President

ATTEST:

\_\_\_\_\_  
Cindy Kinnarney, Secretary

\_\_\_\_\_  
Date

# CHANGE ORDER



Project Name: West 17th Street Reconstruction	Change Order Number: 9	Requested By: Owner <input checked="" type="checkbox"/>
	Date of Change Order: Friday, February 19, 2021	Engineer <input type="checkbox"/>
Contractor:	Engineer's Project #:	Contractor <input type="checkbox"/>
		Field <input type="checkbox"/>
		Other <input type="checkbox"/>
Reed and Sons Construction, Inc. 299 Moorman Road Bloomington, IN 47403	NTP Date: Monday, April 1, 2019	
	Allowable Calendar Days: 215 (includes holiday's)	
	Previous Completion Date: Friday, June 19, 2020	

**The Contract is changed as follows:**

*(Include, where applicable, and undisputed amount attributable to previously executed Construction Change Directives)*


Item #	DESCRIPTION	Quantity	Unit Price	Item Total
1	Concrete Driveway Approaches	1	\$7,544.00 / LS	\$7,544.00
2	Traffic Control Signage Rental	65	\$28.28 / DAY	\$1,838.20
3	Additional Nursery Sodding	1614	\$3.50 / SYD	\$5,649.00
4			/	
5			/	
6			/	
7			/	
8			/	
9			/	

The original Contract Sum:	\$3,026,526.18
The net change by previously authorized Change Orders:	\$355,358.97
The Contract Sum prior to this Change Order was:	\$3,381,885.15
The Contract Sum will be changed by this Change Order in the amount of:	\$15,031.20
 The new Contract Sum including this Change Order will be:	 \$3,396,916.35
The Contract Time will be changed by:	0 Calendar Days
 The date of Substantial Completion as of the date of this Change Order therefore is:	 Friday, June 19, 2020

(Note: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been previously approved.)  
**NOT VALID UNTIL SIGNED BY THE ENGINEER, CONTRACTOR AND OWNER**

<u>Engineering Department</u> ENGINEER	<u>Reed and Sons Construction, Inc.</u> CONTRACTOR	<u>Board of Public Works</u> OWNER
401 North Morton Street ADDRESS	299 Moorman Road Bloomington, IN ADDRESS	401 North Morton Street ADDRESS
Andrew Cibor TYPED / PRINTED NAME	_____ TYPED / PRINTED NAME	Kyla Cox Deckard TYPED / PRINTED NAME
_____ SIGNATURE	_____ SIGNATURE	_____ SIGNATURE

# Proposal

<b>Owner's/Company Name</b> City of Bloomington PO Box 100 Suite 130 Bloomington, IN 47402		<b>Work Performed by</b> <b>Reed &amp; Sons Construction, Inc.</b> 299 Moorman Rd, Bloomington, IN 47403 (812) 824-9237 FAX: (812) 824-6616 <a href="http://www.reedandsonsconstruction.com">http://www.reedandsonsconstruction.com</a>		
<b>Phone</b> -	<b>Attn</b>			
<b>AFE No.</b>	<b>Job No.</b> 17TH			
<b>Job Name</b> 17th Street Reconstruction			<b>Date</b> 11/18/20	

**Scope of Work**

**Additional cost of road control signage for additional length of contracted period (April 16th 2020 - June 19th 2020).**

DESCRIPTION	QTY	UoM	PRICE	SUBTOTAL
Traffic Control Signage Rental	65	DAY	\$28.28	\$1,838.20

**Total cost of work stated in the scope of work stated above: \$1,838.20**

\*I am an authorized representative of the company above. I have certified the work as stated in the above Proposal and accept responsibility for payment on behalf of my company.  
Payment will be due based on terms on Invoice.

\*Authorizing Initials \_\_\_\_\_

# Proposal

<b>Owner's/Company Name</b>		<b>Work Performed by</b>	
City of Bloomington PO Box 100 Suite 130 Bloomington, IN 47402		Reed & Sons Construction, Inc.	
Phone -	Attn	299 Moorman Rd, Bloomington, IN 47403	
AFE No.	Job No. 17TH	(812) 824-9237 FAX: (812) 824-6616	
Job Name 17th Street Reconstruction		<a href="http://www.reedandsonsconstruction.com">http://www.reedandsonsconstruction.com</a>	
		Date	11/18/20



**DESCRIPTION**

All other work not specified on page one of this proposal can be performed at the following Unit Price Rates per Time and Material tickets in the field as authorized by owner or owner agent.

DESCRIPTION	Unit Price	UoM
3 man Crew - Billed in 4 hour increments after 1st 8 hours Service Truck including basic power tools Common Skilled Laborer - 2 each Operating Engineer including TL Backhoe or equivalent Heavy machinery - 1 each	\$ 285.00	hour
Dump truck / Tag trailer	\$ 125.00	hour

DESCRIPTION	Unit Price	UoM
Additional charges for Labor not provided by owner - Burden plus 25%	125%	Labor Burden
Additional charges for Material not provided by owner - Invoice plus 10%	110%	Invoice
Additional charges for Equipment not provided by owner - Invoice plus 10%	110%	Invoice
Additional charges for Professional Services or Subcontractors not provided by owner - Invoice plus 5%	105%	Invoice

**EXCLUSIONS**

Excludes all other work including but not limited to: any allowances, permits and/or right of entry/easements, engineering, design, Layout, surveying, testing, removing/relocating conflicts of existing utilities and/or structures, rock excavation, excavation of concreted utilities in ROW, or remobilizing due to delays beyond our control.

**STANDARD CONDITIONS**

All material is guaranteed to be as specified above. All work is to be completed in a substantial workmanlike manner according to the specifications submitted per standard practices. Any alteration or deviation from the above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents, and/or delays beyond our control.

Submitted by:


Matthew Rollins

THIS PROPOSAL IS ONLY VALID FOR: 30 DAYS

**ACCEPTANCE OF PROPOSAL:** The above price, terms, and conditions are satisfactory and hereby accepted. By signing here you authorize Reed and Sons Construction, Inc. to do the work as specified.

Accepted By:	EIN / SSN	Dated:
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# Proposal

<b>Owner's/Company Name</b> City of Bloomington PO Box 100 Suite 130 Bloomington, IN 47402		<b>Work Performed by</b> <b>Reed &amp; Sons Construction, Inc.</b> 299 Moorman Rd, Bloomington, IN 47403 (812) 824-9237 FAX: (812) 824-6616 <a href="http://www.reedandsonsconstruction.com">http://www.reedandsonsconstruction.com</a>		
<b>Phone</b> -	<b>Attn</b>			
<b>AFE No.</b>	<b>Job No.</b> 17th			
<b>Job Name</b> 17th Street Reconstruction			<b>Date</b> 12/08/20	

**Scope of Work**

**Excavate and place 4" of compacted 53 stone, form and pour two (2) 9'x12'x6" concrete driveway approaches on driveways on Lindbergh Dr.**

DESCRIPTION	QTY	UoM	PRICE	SUBTOTAL
Excavate and place 4" of compacted 53 stone, form and pour two (2) 9'x12'x6" concrete driveway approaches on 2 driveways on Lindbergh Dr.	1	LS	\$7,544.00	\$7,544.00

**Total cost of work stated in the scope of work stated above: \$7,544.00**

\*I am an authorized representative of the company above. I have certified the work as stated in the above Proposal and accept responsibility for payment on behalf of my company.  
Payment will be due based on terms on Invoice.

\*Authorizing Initials \_\_\_\_\_

# Additional Work Authorization Form

Exhibit A

## Time & Material Basis Daily Report Sheet

<b>Owner's/Company Name</b>				<b>Work Performed by</b>			
City of Bloomington PO Box 100 Suite 130 Bloomington, IN 47402				Reed & Sons Construction, Inc.			
Phone - Attn.				299 Moorman Rd, Bloomington, IN 47403			
AFE No. BC 2 Job No. 17th				(812) 824-9237 FAX: (812) 824-6616			
Job Name 17th Street Reconstruction				Change Order		Date 12/08/20	
		CC 80		Ticket No.			



**Scope of Work / Description of Work Performed**

12/08/20 17th Street Reconstruction - Change Order

Install two (2) 9'x12' concrete driveway approaches along Lindbergh Dr per City of Bloomington's request


LABOR					EQUIPMENT					
Employee	Class	Hours	Rate	Total	No	Description	Hours	Rate	Total	
OE	Operator	16	\$ 62.00	\$ 992.00	MEX2	Mini Excavator	16	\$ 45.00	\$ 720.00	
CLAB	Laborer	28	\$ 48.00	\$ 1,344.00	DTR1	Tri-Axle	16	\$ 45.00	\$ 720.00	
					TRK1	Crew Truck	16	\$ 8.00	\$ 128.00	
					10% Equipment Markup per Contract Agreement			10%	\$ 156.80	
					<b>Total Equipment \$ 1,724.80</b>					
					MATERIALS & MISC					
							Description	Qty	Price	Total
							#53 Stone	4 TN	\$ 5.95	\$ 23.80
Working Foreman based on 1 hour per 8 man hours							5.5	\$ 85.00	\$ 467.50	
25% Labor Markup per Contract Agreement			25%	\$ 700.88	10% Material Markup per Contract Agreement			10%	\$ 2.38	
<b>Total Labor</b>			<b>\$ 3,504.38</b>	<b>Total Material</b>			<b>\$ 26.18</b>			
SUBCONTRACTORS					INVOICE TOTALS					
Description	Qty	UoM	Price	Total	Labor	\$ 3,504.38				
Dump Fee (Spoils)	2.00	EA	\$ 15.00	\$ 30.00	Equipment	\$ 1,724.80				
					Material & Misc	\$ 26.18				
Concrete Subcontractor (Form, Pour, Finish Concrete Approaches)	1.00	LS	\$ 2,150.00	\$ 2,150.00	Subcontractors	\$ 2,289.00				
					<b>Subtotal</b>	<b>\$ 7,544.36</b>				
					7% Sales Tax					
					Bond					
					Adjustment					
					\$ (0.36)					
5% Subcontractor Markup per Contract Agreement			5%	\$ 109.00	<b>TOTAL \$ 7,544.00</b>					
<b>Total Subcontractors</b>			<b>\$ 2,289.00</b>							

\*I am an authorized representative of the company above. I have certified the additional work as stated in the above Additional Work Authorization Form and accept responsibility for payment on behalf of my company. This work is in addition to any contract in place. Payment will be due based on terms on Invoice.

\*Authorizing Initials \_\_\_\_\_



# Proposal

<b>Owner's/Company Name</b> City of Bloomington PO Box 100 Suite 130 Bloomington, IN 47402		<b>Work Performed by</b> <b>Reed &amp; Sons Construction, Inc.</b> 299 Moorman Rd, Bloomington, IN 47403 (812) 824-9237 FAX: (812) 824-6616 <a href="http://www.reedandsonsconstruction.com">http://www.reedandsonsconstruction.com</a>		
Phone -	Attn			
AFE No.	Job No. 17th			
Job Name 17th Street Reconstruction		Date 12/08/20		

**DESCRIPTION**

Excavate and place 4" of compacted 53 stone, form and pour two (2) 9'x12'x6" concrete driveway approaches on driveways on Lindbergh Dr.

DESCRIPTION	Unit Price	UoM
3 man Crew - Billed in 4 hour increments after 1st 8 hours Service Truck including basic power tools Common Skilled Laborer - 2 each Operating Engineer including TL Backhoe or equivalent Heavy machinery - 1 each	\$ 285.00	hour
Dump truck / Tag trailer	\$ 125.00	hour

DESCRIPTION	Unit Price	UoM
Additional charges for Labor not provided by owner - Burden plus 25%	125%	Labor Burden
Additional charges for Material not provided by owner - Invoice plus 10%	110%	Invoice
Additional charges for Equipment not provided by owner - Invoice plus 10%	110%	Invoice
Additional charges for Professional Services or Subcontractors not provided by owner - Invoice plus 5%	105%	Invoice

**EXCLUSIONS**

Excludes all other work including but not limited to: any allowances, permits and/or right of entry/easements, engineering, design, Layout, surveying, testing, removing/relocating conflicts of existing utilities and/or structures, rock excavation, excavation of concreted utilities in ROW, or remobilizing due to delays beyond our control.

**STANDARD CONDITIONS**

All material is guaranteed to be as specified above. All work is to be completed in a substantial workmanlike manner according to the specifications submitted per standard practices. Any alteration or deviation from the above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents, and/or delays beyond our control.

Submitted by:

Matthew Rollins

THIS PROPOSAL IS ONLY VALID FOR: 30 DAYS

**ACCEPTANCE OF PROPOSAL:** The above price, terms, and conditions are satisfactory and hereby accepted. By signing here you authorize Reed and Sons Construction, Inc. to do the work as specified.

Accepted By:	EIN / SSN	Dated:
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City of Bloomington  
Redevelopment Commission  
**AMENDED** Project Review & Approval Form

**Please Note:**

- Approval of the project by the Redevelopment Commission through this Project Review & Approval Form does not represent an authorization to begin work or expend funds.
- Authorization of work and the commitment of funds shall be done when the Redevelopment Commission reviews and approves: (1) a Purchase Order or Contract prepared after complying with the appropriate procurement process for the type of item, service or construction being sought and (2) the estimated costs associated with the Purchase Order or Contract.
- No payment of funds shall be made without a duly authorized and approved Purchase Order or Contract. All claims for payment against a duly authorized Purchase Order or Contract shall be submitted to the Redevelopment Commission for their review and approval along with any required departmental inspections, reviews and approvals prior to the payment of any funds.

*To Be Completed by Requesting Party:*

**Project Name:** W. 17<sup>th</sup> Street Reconstruction Project

**Project Manager:** Neil Kopper and Matt Smethurst

**Project Description:**

This project will reconstruct W. 17<sup>th</sup> Street between the future Vernal Pike/17<sup>th</sup> Street Overpass associated with the Interstate 69 Section 5 project and the roundabout at the 17<sup>th</sup> Street/Arlington Road/Monroe Street intersection. The overpass over I-69 is anticipated to open shortly and have a significant impact on travel patterns on W 17<sup>th</sup> Street. The project is anticipated to improve safety and accessibility for pedestrian, bicycle, and motor vehicle traffic on the corridor by:

- Evaluating potential turn lanes or a two-way left-turn lane along the corridor
- Constructing curb and storm water infrastructure
- Providing tree plots separating the road from a multiuse path on the north side of the street and sidewalk on the south side of the street. All ramps and sidewalk/path facilities will be ADA compliant
- Improving sight distance and vertical alignment of the street, particularly near the Lindbergh Drive intersection
- Evaluating potential conversion of Lindbergh Drive to a two-way facility in proximity to 17<sup>th</sup> Street
- Coordinating utility relocations and acquiring right of way as necessary

Details of the project and its scope are subject to change through the design process which will include public outreach and stakeholder involvement.

Like many Transportation projects that come before the Redevelopment Commission, this project is included in the BMCMPPO Transportation Improvement Plan (TIP) and is eligible for federal funding through the Surface Transportation Program.

However, to expedite the project and leverage additional funding, Staff anticipates funding this project using other funding sources. The City was awarded \$1,000,000 in INDOT Community Crossing Matching Grant Funds for the construction phase of the project. These funds need to be matched by the City's 2016 COIT re-allocation. Additionally, the City has been coordinating an interlocal cooperative agreement with INDOT for an additional \$4,000,000 in state dollars to assist in funding the project. This agreement is not yet finalized, but Staff anticipates it will be finalized in the near future.

This Project will serve the Consolidated TIF's allocation area by improving connectivity along the W. 17<sup>th</sup> Street Corridor, improving access to the Consolidated TIF (especially to the West 17<sup>th</sup> Street and Downtown portions of the Consolidated TIF), which increases the potential for additional development in those areas.

**Project Timeline:**

Start Date: January 01, 2017

End Date: December 1, 2020

**Financial Information:**

Estimated full cost of project:	\$6,200,000
Sources of funds:	
INDOT Community Crossing Matching Grant	\$1,000,000
City's 2016 COIT re-allocation	\$1,000,000
INDOT Interlocal Cooperative Agreement	\$4,000,000
Consolidated TIF	\$200,000 <sup>1</sup>

**Project Phases:** This breakdown should mirror the contract(s) expected to be issued for this project. Each phase should include a description of the work to be performed, the cost, and the timeline for the contract.

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<sup>1</sup> Initial amount expended will be greater, because all INDOT funding is anticipated to be reimbursed

Step	Description	Estimated Cost	Estimated Timeline
1	Preliminary Engineering & Right-of-Way Professional Services	\$700,000	2017 – 2019
2	Right-of-Way Acquisition	\$600,000	2017 – 2018
3	Construction Engineering/Inspection	\$478,500	2018 – 2020
3a	Supplement 1 to Construction Inspection Services	\$88,000	July 2020
4	Construction	<del>\$4,400,000</del> \$3,396,916.35	2018 – 2020
4a	Change Order 1 to Construction Agreement	\$4,090	Completed
4b	Change Order 2 to Construction Agreement	\$122,354	Completed
4c	Change Order 3	\$75,920.40	Completed
4d	Change Order 4	\$140,399.20	Completed
4e	Change Order 5	(\$18,942.00)	Completed
4f	Change Order 6	\$3,068.50	Completed
4g	Change Order 7	\$13,540.75	Completed
4h	Change Order 8	\$14,927.92	Completed
4i	Change Order 9	\$15,031.20	Completed

**TIF District:** Consolidated TIF (Adams Crossing)

**Resolution History:** 16-80 Original Project Review and Approval Form  
 17-10 Approval of Preliminary Engineering Contract  
 19-12 Approval of Second Addendum to Design Contract  
 19-13 Approval of Construction Inspection/Engineering Contract  
 19-14 Approval of Construction Funding  
 19-15 Approval of Funding for Lighting Contract  
 19-37 Approval of Change Order for Tree Removal  
 19-89 Approval of Change Order 2 for Tree Removal  
 19-101 Approval of Change Order 3 for Rock Excavation  
 20-10 Approval of Change Orders 4 and 5  
 20-25 First Amendment to Construction Inspection Contract  
 20-33 Approval of Change Order 6  
 20-37 Approval of Change Order 7  
 20-97 Approval of Change Order 8  
 21-13 Approval of Change Order 9

*To Be Completed by Redevelopment Commission Staff:*

Approved on \_\_\_\_\_

By Resolution \_\_\_\_\_ by a vote of \_\_\_\_\_

**21-14  
RESOLUTION  
OF THE  
REDEVELOPMENT COMMISSION  
OF THE  
CITY OF BLOOMINGTON INDIANA**

**APPROVAL OF DUKE ENERGY EASEMENT IN FOURTH STREET GARAGE**

- WHEREAS, the Redevelopment Commission of the City of Bloomington (“RDC”) owns property that is the site of the new 4<sup>th</sup> Street Garage (“Property”); and
- WHEREAS, on October 15, 2018, the RDC approved in Resolution 18-67 a Project Review and Approval Form (“Form”), to construct the new 4<sup>th</sup> Street Garage (“Project”)
- WHEREAS, as a result of the construction of the Project, it was necessary to relocate certain utilities, including Duke Energy’s transformer pad and transformer; and
- WHEREAS, it is necessary that Duke Energy obtain an easement to the new location of its transformer so that Duke can access the equipment and lines in the event of failure, maintenance, or needed upgrades; and
- WHEREAS, Duke Energy has submitted to the RDC an easement for the relocated utility, which is attached to this resolution as Exhibit A;

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

1. The RDC reaffirms its support of the Project and reiterates that it serves the public’s best interests.
2. The RDC approves the easement that has been attached to this Resolution as Exhibit A.
3. The RDC authorizes RDC President Donald Griffin to sign the easement on its behalf.

**BLOOMINGTON REDEVELOPMENT COMMISSION**

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Donald Griffin, President

ATTEST:

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Cindy Kinnarney, Secretary

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Date

## **GRANT OF EASEMENT**

Pt. Parcel # 53-05-33-310-176.000-005

In consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, **CITY OF BLOOMINGTON REDEVELOPMENT COMMISSION** (hereinafter referred to as “Grantor”), hereby grant(s) unto **DUKE ENERGY INDIANA, LLC**, an Indiana limited liability company, with a mailing address of 1000 E. Main Street, Plainfield, IN 46168 and its successors and assigns (hereinafter referred to as “Grantee”), a perpetual, non-exclusive easement to construct, reconstruct, operate, patrol, maintain, repair, replace, relocate, add to, modify and remove, electric, and/or telecommunication line or lines including but not limited to, all necessary and convenient supporting structures, conduits, wires, cables, manholes, pullboxes, grounding systems, counterpoises, surface equipment (including, but not limited to, transformers and switchgears), and all other appurtenances, fixtures and equipment (hereinafter referred to as the “Facilities”), for the underground transmission and distribution of electrical energy, and for technological purposes (including but not limited to telecommunications), in, upon, over, along, under, through and across the following described real estate:

Situate in Section 33, Township 9 North, Range 1 West, Bloomington Township, Monroe County, State of Indiana; being a part of Lot 34 and vacated alley, Original Plat of the City of Bloomington as recorded in **Plat Cabinet C, Envelope 214**, and also **Instrument Number 2021003233** in the Office of the Recorder of Monroe County, Indiana (hereinafter referred to as “Grantor’s Property”), and being more particularly described as follows:

Said easement being that area indicated, relative to landmarks and property lines, shown on a drawing marked Exhibit “A”, attached hereto and becoming a part hereof (hereinafter referred to as the “Easement Area”).

*For Grantee’s Internal Use:*

*Line Name/No: Monroe – Bloomington – Indiana*

*Tract No: 1 of 1*

*Job Control #36603568*

*LU# \_\_\_\_\_*

*Prep/Chk: LMC/JKM Exec/Rec: \_\_\_\_\_*

*Dwg/Fac Ref: Exhibit “A”*

*Prepared Date: February 19, 2021*

This easement grant shall include, but not be limited to, the following respective rights and duties of Grantor and Grantee:

1. Grantee shall have the right of ingress and egress over the Easement Area, and over the adjoining land of Grantor's Property (using lanes, driveways, and adjoining public roads where practical as determined by Grantee).

2. Grantee shall have the right to cut down, clear, trim, remove, and otherwise control any trees, shrubs, overhanging branches, and/or other vegetation upon or over the Easement Area. Grantee shall also have the right to cut down, clear, trim, remove, and otherwise control any trees, shrubs, overhanging branches, and/or other vegetation which are adjacent to the Easement Area but only to the extent such vegetation may endanger, as reasonably determined by Grantee, the safe or reliable operation of the Facilities, or where such vegetation is trimmed consistent with generally accepted arboricultural practices.

3. Grantee shall have the right to allow third parties to attach equipment to Grantee's Facilities, and any such equipment shall include but not be limited to, wires, cables, and other fixtures; provided, that Grantor shall pursue any claim with the third party and not Grantee, if any such claim arises out of any third party's attachment.

4. To the best of Grantor's knowledge, the Easement Area and the adjoining land of Grantor's Property have never been used to release, discharge, generate or store any toxic, hazardous, corrosive, radioactive or otherwise harmful substance or material.

5. Grantor shall not place, or permit the placement of, any obstructions which may interfere with the exercise of the rights granted herein to Grantee. Grantee shall have the right to remove any such obstruction.

6. Grantee shall have the right to pile dirt and other material and to operate equipment upon the surface of the Easement Area and the adjoining land of Grantor's Property, *but only* during those times when Grantee is constructing, reconstructing, maintaining, repairing, replacing, relocating, adding to, modifying, or removing the Facilities.

7. Excluding the removal of vegetation and obstructions as provided herein, any physical damage to the surface area of the Easement Area and the adjoining land of Grantor's Property resulting from the exercise of the rights granted herein to Grantee, shall be promptly paid by Grantee, or repaired or restored by Grantee to a condition which is reasonably close to the condition it was in prior to the damage, all to the extent such damage is caused by Grantee or its contractors or employees. In the event that Grantee does not, in the opinion of Grantor, satisfactorily repair any damage, Grantor must, within ninety (90) days after such damage occurs, file a claim for such damage with Grantee at (a) 1000 E. Main St., Plainfield, IN 46168, Attn: Right of Way Services, or (b) by contacting an authorized Right of Way Services representative of Grantee.

8. Grantor shall have the right to use the Easement Area and the adjoining land of Grantor's Property in any manner which is consistent with the rights granted herein to Grantee, and shall comply with all applicable codes when making use of the land near the Facilities.

9. Notwithstanding anything to the contrary contained herein, Grantor shall not without the prior written consent of Grantee (a) construct or install, or permit the construction or installation of any building, house, or other above-ground structure, or portion thereof, upon the Easement Area; or (b) excavate or place, or permit the excavation or placement of any dirt or other material upon or below the Easement Area; or (c) cause, by excavation or placement of material, either on or off the Easement Area, a pond, lake, or similar containment vehicle that would result in the retention of water in any manner within the Easement Area.

10. Grantor warrants that it has the necessary authority and title to Grantor's Property to grant this easement to Grantee, and shall defend and hold Grantee harmless from the claim of any third party that Grantor does not have such authority or title.

11. The respective rights and duties herein of Grantor and Grantee shall inure to the benefit of, and shall be binding upon the respective successors, assigns, heirs, personal representatives, lessees, licensees, and/or tenants of Grantor and Grantee. Easement, Grantor and Grantee, as used herein, shall be deemed to be plural, when required to be so. The exercise of any or all of the rights and privileges of Grantee set forth herein, shall be at the sole discretion of Grantee.

Signature page(s) follow.



**IN WITNESS WHEREOF**, Grantor has caused this Grant of Easement to be signed by its duly authorized representative(s), effective the \_\_\_\_\_ day of March, 2021.

**CITY OF BLOOMINGTON REDEVELOPMENT COMMISSION**  
Grantor

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

Printed Name: Donald Griffin

Printed Title: President

STATE OF INDIANA                            )  
  ) SS.  
COUNTY OF MONROE                        )

This certificate relates to an acknowledgment in connection with which, no oath or affirmation was administered to the document signer.

The foregoing instrument was acknowledged before me, a notary public in the county and state written above, this \_\_\_\_ day of \_\_\_\_\_, 2021, by (name of officer or agent) Donald Griffin, as the (title of officer or agent) President of the City of Bloomington Redevelopment Commission, a commission organized under the laws of Indiana, on behalf of such commission.

SEAL:

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

Printed or Typed Name: \_\_\_\_\_

My Commission expires: \_\_\_\_\_

My county of residence: \_\_\_\_\_

My Commission number: \_\_\_\_\_

This Instrument Prepared by John B. Scheidler, Attorney-at-Law, 1000 E. Main St., Plainfield, IN 46168.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. *Laura Costello*

**21-15  
RESOLUTION  
OF THE  
REDEVELOPMENT COMMISSION  
OF THE  
CITY OF BLOOMINGTON, INDIANA**

**APPROVAL OF AGREEMENT WITH EV CONNECT FOR CHARGING STATIONS  
FOR THE TRADES DISTRICT PARKING GARAGE**

WHEREAS, on October 15, 2018, the Redevelopment Commission of the City of Bloomington (“RDC) approved in Resolution 18-67 a Project Review and Approval Form (“Form”), which sought the support of the RDC regarding the construction of a new Trades District Garage (“Project”); and

WHEREAS, the RDC approved the issuance of a tax increment revenue bond for the financing of the Project in Resolution 18-68 (“Bonds”); and

WHEREAS, one requirement of the Project as outlined in the Form was the inclusion of electric vehicle charging stations in the garage; and

WHEREAS, in 2017, the City selected EV Connect through competitive bid to provide all of its EV stations in the City’s parking garage and entered into an agreement with EV Connect, which is attached to this Resolution as Exhibit B; and

WHEREAS, City staff have negotiated an addendum to the existing agreement with EV Connect to acquire and service new EV stations for the garage in amount that shall not exceed Thirty-Eight Thousand Two Hundred Eighty-Five Dollars (\$38,285.00) (“Agreement”), which is attached to this Resolution as Exhibit A; and

WHEREAS, there are sufficient funds in the Consolidated TIF and the Bonds to pay for the EV stations and related services pursuant to the terms of the Agreement; and

WHEREAS, the City has brought the RDC an Amended Project Review Form (“Amended Form”) which updates the expected cost of the Project, which is attached to this Resolution as Exhibit C;

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

1. The Redevelopment Commission reaffirms its support for the Project, as set forth in the Amended Form, and reiterates that it serves the public’s best interest.
2. The RDC reaffirms that the Project has a valid public purpose and is an appropriate use of the Consolidated TIF and Bonds.

3. The RDC hereby approves the Addendum to the Agreement with EV Connect attached to this Resolution as Exhibit A and authorizes the City of Bloomington to expend an amount not to exceed Thirty-Eight Thousand Two Hundred Eighty-Five Dollars (\$38,285.00) to pay for the EV charging stations and related services for the new Trades Parking Garage, pursuant to the terms of the Agreement.
4. The Payment authorized above may be made from either the Consolidated TIF (Downtown Area Account: 439-15-159002-53990), the 2019 Trades Garage Bonds (983 Account), or a combination thereof. Nothing in this Resolution shall remove the requirement to comply with the City or the RDC's claims process.
5. Unless extended by the Redevelopment Commission in a resolution prior to expiration, the authorizations provided under this Resolution shall expire in accordance with the expiration date of the Agreement and Addendum.

**BLOOMINGTON REDEVELOPMENT COMMISSION**

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Donald Griffin, President

ATTEST:

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Cindy Kinnarney, Secretary

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Date

**ADDENDUM TO AGREEMENT BETWEEN CITY OF BLOOMINGTON AND  
EV CONNECT**

This Addendum supplements the Agreement for EV charging stations between the City of Bloomington (“City”) and EV Connect, Inc. (“EV Connect”) (“Agreement”) executed on June 13, 2017, as follows:

1. Pursuant to the terms of the agreement, the City wishes to purchase additional EV Charging Stations for its new Trades District Garage.
2. Scope of Services: Therefore, the City shall add the equipment and services detailed in Exhibit 1 to this Addendum.
3. Compensation: The RDC shall pay EV Connect an amount not to exceed **\$38,285.00** for the additional equipment and services. Any unused amount attributed in Exhibit 1 to an allowance or alternate shall remain with the City.
4. In all other respects, the Agreement shall remain in effect as originally written.

IN WITNESS WHEREOF, the parties have caused this Addendum to be executed the day and year last written below:

**CITY OF BLOOMINGTON**

**EV CONNECT, INC.**

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

**BLOOMINGTON REDEVELOPMENT COMMISSION**

\_\_\_\_\_  
Donald Griffin, President

ATTEST:

\_\_\_\_\_  
Cindy Kinnarney, Secretary

\_\_\_\_\_  
Date

**EXHIBIT 1**

**[See Attached]**



# City of Bloomington, IN (BTC Wall mounted)

**State of Indiana**

101 W Ohio St #670  
Indianapolis, IN 46204  
United States

**Ryan Daily**

dailyr@bloomington.in.gov  
812.320.3154

**Reference: 20201208-082617169**

Prepared: December 8, 2020  
Expires: March 8, 2021  
Prepared by: Ahmed Mineissi  
amineissi@evconnect.com  
+1 (213) 884-4667

**Products & Services**

Item & Description	Quantity	Unit Price	Total
BTCPower Level 2 Dual Port Wall Mount (30A) white dual port wall mount charging station with 7" Color Monitor, RFID Reader, Cellular Modem, QTY (2) J1772 Connector w/ 25ft Cable Length and NEMA 3R Rated. This charging station includes two-year parts only warranty. EVP-2002-30-W-0001	5	\$3,900.00	\$19,500.00
BTCPower ADA Compliant Cable Retractor Single BTC ADA Compliant cable retractor for L2 charging stations. (Two cable retractors will be needed for dual port stations).	10	\$300.00	\$3,000.00
BTCPower 3 Yr Dual Port Warranty + On Site Labor Level 2 Extended warranty for parts and on-site labor for Level 2 (30A/40A) pedestal and wall mount stations.  Extends standard 2-year Level 2 parts warranty to 3-year parts warranty and 3-year onsite labor warranty, covering power boards, firmware, BTC software, internal connectors, antennas, CAT5, SIM card, internal breaker, station model specifications. Excludes from Standard Limited Warranty apply.	5	\$845.00	\$4,225.00
BTCPower Level 2 Shipping (per unit) Mid West/Atlantic/SE Regions	5	\$150.00	\$750.00

<p>EV Connect Operate 3 Year Network Software License</p> <p>The Operate yearly subscription provides the driver mobile app, the management software and support services. The iOS/Android mobile app provides for driver station locations and access along with 24/7 support via the app and phone. The management software provides site hosts with live station status view on PlugShare, charge price control, dashboard view of station activity, station health &amp; use reports, performance and sustainability reports, personal station usage &amp; transaction reports for drivers, in-dashboard trouble ticket management, technical software support, proactive station health monitoring &amp; level 1 hardware support.</p>	10	\$1,081.00 / three years	\$10,810.00 / three years for 3 years
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<p>L2 Charge Station Commissioning &amp; On-boarding</p> <p>Configure stations with preferred pricing policies and access controls, provide admin access to web based EVC portal, activate cellular data plan, set station hours of availability and pricing policies via EVC App, set stations to Private or Public and add to PlugShare network if requested</p>	1	\$395.00	\$0.00 after 100% discount
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**Subtotals**

Per three year subtotal	\$10,810.00
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One-time subtotal	\$27,475.00 after \$395.00 discount
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	<b>Total    \$38,285.00</b>
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**Purchase Terms**

Current Terms & Conditions can be found at: <https://www.evconnect.com/terms-and-conditions-of-sale/>

- Taxes will be calculated at billing when applicable
- 25% of hardware cost is billed at execution
- 75% of hardware cost is billed at shipment
- All remaining items billed at project commissioning

Subject to change based on program requirements

## Signature

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Signature

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Date

---

Printed name

## Questions? Contact me



Ahmed Mineissi

[amineissi@evconnect.com](mailto:amineissi@evconnect.com)

+1 (213) 884-4667

EV Connect

615 North Nash Street, Suite 203

El Segundo, CA 90245

US





Board of Public Works  
Staff Report

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**Project/Event:** Installation of EV Charging Stations  
**Petitioner/Representative:** Public Works/Parking Garages  
**Staff Representative:** Ryan Daily  
**Meeting Date:** June 13, 2017

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The City of Bloomington, Public Works Department, has requested quotes to replace and purchase electric charging Stations on the 2<sup>nd</sup> Floor of the Walnut Street Garage and the 3<sup>rd</sup> Floor of the Morton Street Garage.

Quotes were requested from the following contractors with quotes as follows:

**EV Charging Stations**

SemaConnect	\$12,760
LilyPad	\$19,264
National Car Charging LLC.	\$23,738
Carbon Day	\$21,383
<b>EVConnect</b>	<b>\$12,007</b>

**Electrical Wiring Install**

Cassidy Electric	\$17,550
<b>Multicraft Electric</b>	<b>\$12,600</b>
Woods Electric	\$14,500

Staff Recommends using EVConnect at the quoted price of \$12,007 for EV Station Purchase and MultiCraft Electrical at the quoted price of \$12,600 for Electrical Wiring Installation.

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**Recommend**            **X Approval**    **Denial**            **by: Ryan Daily**

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Board of Public Works  
Staff Report

**EVConnect**                      **\$10,011**

**Electrical Wiring Install**

Cassidy Electric              \$17,550

**Multicraft Electric**        **\$12,600**

Woods Electric                \$14,500

Staff Recommends using EVConnect at the quoted price of \$10,011 for EV Station Purchase and MultiCraft Electrical at the quoted price of \$12,600 for Electrical Wiring Installation. We budgeted a total of \$48,000 for this project in 2017 in line 54420.



**Quote**

Quote Number: 2111

Payment Terms: Net 45 days  
Expiration Date: 06/30/2017

**Quote Prepared For**

**Ryan Daily**  
**City of Bloomington, IN**  
401 North Morton St  
Bloomington, IN 47404  
United States  
Phone:812-349-3844  
dailyr@bloomington.in.gov

**Quote Prepared By**

**Jaime Duyck**  
**EV Connect**  
615 N. Nash Street, Suite 203  
El Segundo, CA 90245  
United States  
Phone:310-341-2180  
Fax:310 425 7992  
[jduyck@evconnect.com](mailto:jduyck@evconnect.com)

Item#	Quantity	Item	Unit Price	Adjusted Unit Price	Extended Price
<b>Yearly_Items</b>					
1)	4	EV Charge Station Management System - Self-Managed, Level 2, 1 Yr Includes network software license, personalized web based portal with dashboard and reporting tools, mobile app for drivers, cellular data services, payment processing via Credit Card & PayPal, 24x7x365 driver phone support. 1 Year Subscription per charging port.	\$249.00	\$249.00	\$996.00
<b>Yearly Total</b>					<b>\$996.00</b>
<b>One-Time Items</b>					
2)	4	EV-Box Business Line, Single - Connected (HUB) 32A 18ft Cable - 2yr parts warranty included Business Line, 1-Phase/32A, one 18ft J1772 cable; GSM modem; RFID Reader; 2 year warranty	\$1,695.00	\$1,695.00	\$6,780.00
3)	4	Business Line Wall Mount kit BusinessLine Adapter kit for CombiPole	\$65.00	\$65.00	\$260.00
4)	1	Charge Station Commissioning	\$395.00	\$395.00	\$395.00
5)	4	EV-Box 1 Year Parts-Only Extended Warranty (Business Line - Single) 1 year parts-only extended warranty for Business Line - Single. (Applies to years 3 through 5)	\$95.00	\$95.00	\$380.00
6)	4	3 Year Labor Warranty Per Port	\$699.00	\$699.00	\$2,796.00
7)	4	Charging Station Shipping - Standard Ground - US only	\$100.00	\$100.00	\$400.00
<b>One-Time Total</b>					<b>\$11,011.00</b>
<b>Subtotal</b>					<b>\$12,007.00</b>
<b>Total Taxes</b>					<b>\$0.00</b>
<b>Total</b>					<b>\$12,007.00</b>

Authorizing Signature

Date

6.13.17

EV Connect is a total solutions provider to the rapidly growing and evolving electric vehicle charging and management industry. The Company has developed and delivers the most flexible and robust electric vehicle (EV) charging network and cloud-based management platform in the industry. The EV Connect platform ensures that customers get the lowest Total Cost of Ownership (TCO) and highest return from their EV charging investment (ROI). The Company is a one-stop-shop for workplace, governmental, educational, retail and multi-family residential charging station solutions.

The purchase of EV charging station equipment and/or installation services requires a 25% deposit of the total amount for equipment and installation services, if ordered, which is due and payable by the customer upon acceptance of the quote or delivery of a customer purchase order. Upon shipping of the charging station equipment from the manufacturer, the customer is required to pay the balance due (the remaining 75%) for the equipment. Upon charging station commissioning, the customer is required to pay the balance of the installation charges (the remaining 75%), if ordered, any commissioning fees, and the first management software term, as stated in this quote.

This quote is subject to the [EV Connect Terms of Sale](#), [Master Services & Subscription Agreement](#) and any additional supplements attached hereto. Customer signature on this quote signifies explicit agreement with the terms contained therein. Please contact [customer\\_support@evconnect.com](mailto:customer_support@evconnect.com) or (888) 780-0062, should you have any questions.

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CITY OF BLOOMINGTON  
 Legal Department  
 Reviewed By: Jackie Moore  
 DATE: 6.9.17

CITY OF BLOOMINGTON  
 Controller  
 Reviewed by: [Signature]  
 DATE: 6-9-17  
 FUND/ACCT: 40 40



# EV Connect Terms & Conditions

(Effective January 1, 2016)

## 1. Definitions

- A. **Customers.** Customers are defined as those entities (companies or individuals) which purchase charging station equipment; charging station services; charging station management services; or any other products or services which EV Connect sells.
- B. **Charging Stations.** Electric vehicle charging stations which are manufactured by other entities, but resold by EV Connect to Customers.
- C. **SaaS Services or Management Services.** Software-as-a-Service or Management Services refer to the management service and platform provided by EV Connect to the Charging Stations or charge stations not purchased from or through EV Connect.
- D. **Charging Systems.** Charging Systems include Charging Stations, installation of Charging Stations (even if the installation is not for charging stations purchased from or through EV Connect), and SaaS Services (even if management is not for charging stations purchased from or through EV Connect).
- E. **Parties.** Refers to EV Connect and Customers jointly.

## 2. Placement of Orders

- A. **Purchase of Charging Systems.** These Terms and Conditions of Purchase ("Terms") govern the Customer's purchase of Charging Systems from EV Connect. Customer's initial purchase and all future purchases of Charging Systems made by Customer shall be made by a binding, written purchase order from the Customer specifying (i) the number of Charging Station(s) to be purchased; (ii) models of Charging Station(s) to be purchased, (iii) requested delivery date(s) (which, absent agreement between the parties, shall be a date that is no less than sixty (60) days after the date of the purchase order from the Customer), and (iv) that Customer's purchase of Charging Systems is subject to all of the terms and conditions contained in these Terms. Any additional printed terms and conditions in Customer's purchase order which conflict with, vary or add to the terms and conditions of these Terms, shall be of no force and effect, unless the parties hereto agree in writing, in advance, to accept such additional terms and conditions.
- B. **Acceptance of Purchase Orders.** All purchase orders and modifications to purchase orders are subject to acceptance or rejection by EV Connect in its sole discretion. No purchase order shall be binding upon EV Connect unless and until so accepted in writing by an authorized representative of EV Connect. EV Connect agrees to use commercially reasonable efforts to notify Customer of its acceptance or rejection of Customer's order within ten (10) business days after receipt thereof. Any Customer purchase order accepted by EV Connect is referred to in these Terms as, an "Accepted Order." Accepted Orders are non-cancelable, non-returnable and non-refundable.
- C. **Refusal of Purchase Orders.** EV Connect may withhold shipments to Customer if Customer has (i) exceeded its applicable credit limit, if any, and not provided for prepayment, (ii) is in violation of its payment obligations or otherwise is in material breach of these Terms, (iii) is deemed by EV Connect, in its sole discretion, to be a competitive attempt to damage the reputation of or intellectual property of EV Connect.
- D. **Stations Require Subscription to SaaS Offerings.** The Charging Stations are designed to work with EV Connect's cloud-based application services ("SaaS Offerings"). Access to SaaS Offerings requires the



Customer to enter into a Master Services and Subscription Agreement with EV Connect for such SaaS Offerings.

### 3. Delivery

- A. **Shipping Costs; Terms.** All shipping, unless otherwise agreed to by the Parties in writing, shall be FOB Origin (typically, the Charging Station manufacturer's production or warehouse facility). Customer shall be responsible for all costs of shipping, transportation, insurance, warehousing, and other charges and costs associated with shipment of the Charging Systems to Company. All shipping dates are approximate and are based upon prompt receipt of all necessary information from the Customer. In no event shall EV Connect be liable for any costs related to delays in delivery of the Charging Systems. Customer's sole remedy for any material delay in delivery of the Charging Systems shall be cancellation of the order, which must be made in writing to EV Connect no later than 24 hours before the expected (materially delayed) shipment day of the Charging Systems.
- B. **Transfer of Title.** Delivery of the Charging Systems to Customer shall be completed upon delivery of the Charging Systems to Customer's location as specified in the Customer's purchase order to EV Connect. Risk of loss and damage to the Charging Systems shall pass to Company upon the delivery of such Charging Systems. EV Connect shall use commercially reasonable efforts to deliver Charging Systems ordered by Customer on the scheduled delivery date. All claims for non-conforming shipments must be made in writing to EV Connect within twenty (20) days of the passing of risk of loss and/or damage, as described above. Any claims not made within such period shall be deemed waived and released.
- C. **Substitutions.** EV Connect shall have the right to make reasonable substitutions and modifications to Charging Systems and in the specifications of Charging Systems to be delivered under the terms of any applicable purchase order, provided that such substitutions or modifications will not materially affect overall Charging Station form, fit, function or safety specifications.

### 4. Invoicing and Payment

- A. **Invoicing; Charging Stations.** Unless otherwise agreed in writing by the Parties, EV Connect shall issue an invoice to the Customer on or after the date it or the manufacturer ships the ordered Charging Stations; provided that, EV Connect may condition its acceptance of a purchase order on such credit and/or prepayment terms as EV Connect, in its reasonable discretion, determines appropriate due to, among other things, Customer's prior payment history and/or the size of the order. In the case of any change to the applicable credit and/or prepayment terms, no purchase order or acceptance thereof will be effective unless and until Company has consented in writing thereto. If Company causes a delay in delivery, EV Connect may issue its invoice at any time on or after the scheduled delivery date.
- B. **Invoicing; Installation and Management.** Unless otherwise agreed in writing by the Parties, EV Connect shall begin issuing invoices for Charge Station installation and Management Services to the Customer on or after the date the ordered Charging Stations are activated and connected to the EV Connect network. If Company causes a delay in delivery and/or installation of the Charging Stations, EV Connect may issue its invoice at any time on or after the scheduled delivery date for all components of the Charging Systems.
- C. **Payment Terms.** All invoices shall be paid within forty-five (45) days of Customer's receipt thereof. Fees for SaaS Services subscriptions, unless pre-paid, shall be invoiced on each anniversary date of the Charge Station's activation. Invoices not paid when due are subject to interest at the rate of one and one-half percent (1.5%) per month or, if less, the highest rate allowed under applicable law.

- D. **Payment Default.** Should Customer not make payment for SaaS Services within sixty (60) days of an invoice for said Services, EV Connect may, at its sole discretion, (i) discontinue offering SaaS Services to the Customer, (ii) deactivate the Charging Station(s) related to the unpaid invoices, and (iii) only restore functionality to the affected Charging Stations upon full-payment of all outstanding invoices for SaaS Services and payment of a \$250 reactivation charge.
- E. **No Right of Set-Off; No Right of Return.** Invoiced amounts are not subject to reduction by set-off or otherwise without the express written permission of EV Connect. All sales are final and Customer shall have no right of return, provided, that, EV Connect shall comply with its obligations under the Warranty (as defined below).
- F. **Taxes, Duties, Etc.** All amounts due to EV Connect under these Terms and/or any applicable purchase order are net of any duties, any sales, use, excise, value-added, withholding, or similar tax of any kind and any and all other fees and charges of any nature (collectively, "Taxes") imposed by the United States or any foreign, state or local governmental entity or instrumentality thereof on the purchase, shipment, use or sale of the Charging Systems by or to the Customer, other than taxes measured by EV Connect's income, corporate franchise, or personal property ownership. Where applicable, EV Connect shall bill Customer for the full amount of such taxes and shall include such amount as a separate line item on the invoice(s) sent to the Customer; provided that, EV Connect's failure to so bill the Customer shall not relieve Customer from the obligation to pay any Taxes described in this Section 3.E.
- G. **Payment in Dollars.** All amount payable under these Terms shall be paid in United States Dollars. If Company is located outside of the United States, Customer agrees to take all necessary actions required, including registration of these Terms and application for permission to make payments to EV Connect hereunder, with the appropriate government authorities in the Customer's jurisdiction, or such other institution or official, and to take such other measures as may be necessary to comply with any government currency controls in effect in Customer's jurisdiction, as soon as reasonably practicable after execution of these Terms. Customer shall remit payment to EV Connect, at Customer's option:
- i. via wire or ACH transfer to an account designated by EV Connect in writing from time-to-time; or
  - ii. by check drawn on a registered and certified bank or financial institution, made out to "EV Connect, Inc."
- H. **All Orders Subject to Credit Approval.** All orders are subject to credit approval by EV Connect. The amount of credit or terms of payment may be changed or credit withdrawn by EV Connect in its reasonable discretion without advance notice. EV Connect may, in its sole discretion, withhold further manufacture, performance or shipment; require immediate cash payments for past and future shipments or performance; or require other security satisfactory to EV Connect before further manufacture, performance or shipment is made; and may, if shipment has been made, recover the goods from the carrier pending receipt of such assurances.
- I. **Provisions Relating to Shipments in Lots.** If these Terms require or authorize delivery of goods in separate lots, shipments or milestones to be separately accepted by Customer, Customer may only refuse such portion of a lot, shipment or milestone that fails to comply with the requirements of these Terms. Customer may not refuse to receive any lot or portion thereof for failure of any other lot or portion or a lot to be delivered or to comply with these terms, unless such right of refusal is expressly provided for on the face hereof. Customer shall pay for each lot in accordance with the terms hereof. Products held for Customer are at Customer's sole risk and expense.
- J. **Prices do not include Freight, Etc.** Except to the extent expressly stated in these Terms, EV Connect's prices do not include any freight, storage, insurance, taxes, excises, fees, duties or other government charges related to the goods, and Customer shall pay such amounts or reimburse EV Connect for any amounts EV Connect pays. If Customer claims a tax or other exemption or direct payment permit, it shall

provide EV Connect with a valid exemption certificate or permit and indemnify, defend and hold EV Connect harmless from any taxes, costs and penalties arising out of same. EV Connect's prices include the costs of its standard domestic packing, only. Any deviation from this standard packing (domestic or export), including U.S. Government sealed packing, shall result in extra charges to the Customer. To determine such extra charges, Customer should consult with EV Connect's sales personnel. Any and all increases, changes, adjustments or surcharges (including, without limitation, fuel surcharges) which may be in connection with the freight charges, rates or classification included as part of these terms, shall be for Customer's account.

- K. **Disputes.** In the event Customer disputes any portion or all of an invoice, it shall notify EV Connect in writing of the amount in dispute and the reason for its disagreement within twenty-one (21) days of receipt of the invoice. The undisputed portion shall be paid when due, and finance charges on any unpaid portion shall accrue, from the date due until the date of payment, to the extent that such amounts are finally determined to be payable to EV Connect.
- L. **Remedies upon Payment Default.** Upon Customer's default of these Terms, EV Connect may, in addition to any other rights or remedies it may have at law or otherwise, subject to any cure rights of Customer, declare the entire balance of Customer's account immediately due and payable or foreclose any security interest in the goods delivered. If any unpaid balance is referred for collection, Customer agrees to pay EV Connect, to the extent permitted by law, reasonable attorneys' fees in addition to all damages otherwise available, whether or not litigation is commenced or prosecuted to final judgment, pay any court costs or expenses incurred by EV Connect, and any finance charges accrued on any unpaid balance owed by Customer. In addition to these remedies, Customer may also be sanctioned by the terms stated in Section 4.C. above.
- M. **Suspended Shipments.** EV Connect reserves the right to suspend further shipments of goods if Customer is over forty-five (45) days late in payment of an undisputed invoice. EV Connect reserves the right to terminate the order if Customer is over sixty (60) days late in payment of an undisputed invoice

## 5. Installation

- A. Unless specifically contracted with EV Connect, Customer shall be responsible for arranging for the installation and provisioning of the Charging Systems and for the costs thereof. At Customer's request, EV Connect may provide the names and contact information of one or more installers of Charging Systems; provided that, in providing such information EV Connect makes no representation or warranty of any kind, nor does it undertake any liability, with respect to or regarding the quality of any installation or other services performed by any such installer. EXCEPT AS SPECIFICALLY AGREED TO IN WRITING, EV CONNECT IS NOT RESPONSIBLE FOR AND WILL NOT BE LIABLE FOR, THE QUALITY OF ANY INSTALLATION SERVICES OR ANY CLAIM IN ANY WAY RELATING TO OR RESULTING FROM SUCH SERVICES.

## 6. Warranties/Limitation of Liability

- A. **Warranty.** Unless expressly contracted with EV Connect, the Charging Station(s) is covered by the terms of the Charging Station's manufacturer's standard parts-only product Warranty (the "Warranty"), which will expire on one year from the date of installation. All applicable warranties with respect to the Charging Station are set forth in the manufacturer's warranty, and are hereby incorporated by reference into these Terms.



- B. **Post-Warranty Maintenance.** Customer acknowledges and agrees that in order to obtain warranty and/or other maintenance services for the Charging Systems after expiration of the Warranty, Company must purchase extended warranties and/or maintenance agreements directly from EV Connect.
- C. **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 6, EV CONNECT MAKES NO WARRANTY WITH RESPECT TO THE PERFORMANCE OF THE CHARGING STATIONS, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. EV CONNECT EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS BY THE CHARGING STATIONS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. EV CONNECT DOES NOT WARRANT UNINTERRUPTED OR ERROR FREE OPERATION OF CHARGING STATIONS.
- D. **Limitation of Liability.**
- i. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THESE TERMS, EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS HEREUNDER, IN NO EVENT SHALL EV CONNECT BE LIABLE TO COMPANY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF THESE TERMS OR THE TRANSACTIONS CONTEMPLATED HEREUNDER, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, AND WHETHER OR NOT SUCH PARTY OR ITS AGENTS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
  - ii. CUSTOMER'S SOLE REMEDY FOR ANY BREACH BY EV CONNECT OF ITS OBLIGATIONS OR WARRANTIES UNDER THESE TERMS SHALL BE LIMITED TO, AT EV CONNECT'S OPTION, REPAIR OR REPLACEMENT OF THOSE CHARGING STATIONS TO WHICH SUCH BREACH IS APPLICABLE OR REFUND BY EV CONNECT OF ALL OR A PART OF THE PURCHASE PRICE OF THE NON-CONFORMING CHARGING STATIONS.
- E. **Warranty Exclusions.** The Warranty set forth in these Terms is subject to certain exclusions as more fully set forth in the Warranty. CUSTOMER HAS BEEN INFORMED AND UNDERSTANDS THAT, IN THE EVENT ANY SUCH EXCLUSION BECOMES APPLICABLE, ALL REPRESENTATIONS AND WARRANTIES CONTAINED IN THESE TERMS SHALL IMMEDIATELY BECOME NULL AND VOID.
- F. **Exclusive Remedies.** THE REMEDIES CONTAINED IN SECTION 6 ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES AND ARE IN LIEU OF ANY OTHER RIGHTS OR REMEDIES COMPANY MAY HAVE AGAINST EV CONNECT WITH RESPECT TO NONCONFORMANCE OF THE CHARGING STATIONS.

## 7. Intellectual Property

- A. **Restrictions on Use.** Company shall not:
- i. create derivative works based on the Charging Systems or the SaaS Services (including mobile applications);
  - ii. copy, frame or mirror any part or content of the Charging Systems;
  - iii. reverse engineer any Charging Station, Charging Systems software, SaaS Services; or
  - iv. access the Charging Systems for any improper purpose whatsoever, including, without limitation, in order to (A) build a competitive product or service, or (B) copy any features, functions, interface, graphics or "look and feel" of the Charging Systems.
- B. **Ownership of Intellectual Property.** All right, title and interest in and to any intellectual property related in any way to the Charging Systems (including SaaS Services and mobile applications) is, and shall remain,

the exclusive property of EV Connect. For these purposes, the term "intellectual property" shall mean, all of a party's patents, patent applications, patent rights, copyrights, moral rights, algorithms, devices, application programming interfaces, databases, data collections, diagrams, inventions, methods and processes (whether or not patentable), know-how, trade secrets, trademarks, service marks and other brand identifiers, network configurations and architectures, proprietary information, protocols, schematics, specifications, software (in any form, including source code and executable code), techniques, interfaces, URLs, web sites, works of authorship, and all other forms of technology, in each case whether or not registered with a governmental entity or embodied in any tangible form and all rights and forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world in any way arising prior to or during the term of these Terms.

7. General A. Attorneys' Fees. If any action at law or in equity is necessary to enforce the terms of these Terms, the prevailing party shall be entitled to reasonable attorneys' fees, costs and expenses in addition to any other relief to which the prevailing party is otherwise entitled.

- C. **Force Majeure.** Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account strikes, shortages, riots, insurrection, fires, flood, storm, explosion, acts of God, war, governmental action, labor conditions, earthquakes, or any other cause which is beyond the reasonable control of such party.
- D. **Waiver.** The failure of either party to require performance by the other party of any provision hereof shall not affect such party's full right to require such performance at any time thereafter, nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.
- E. **Severability.** In the event that any provision of these Terms shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render these Terms unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted as to best accomplish the objectives of such provisions within the limits of applicable law or applicable court decisions.
- F. **Assignment.** The rights and liabilities of the parties hereto shall bind and inure to the benefit of their successors, executors or administrators, provided, however, that neither EV Connect nor Company may assign or delegate these Terms or any of its licenses, rights or duties under these Terms, whether by operation of law or otherwise, without the prior written consent of the other party in its reasonable discretion; provided, however, that Company and EV Connect shall each be entitled to assign these Terms to an affiliate or to its successor in interest by way of merger, acquisition of substantially all of the assets of assignor or any similar event (collectively, "Acquisition Transactions"); and provided further, however, that notwithstanding any Acquisition Transaction, Company shall not assign these Terms to any competitor of EV Connect without EV Connect's prior written consent, in its sole discretion. Any attempted assignment in violation of this provision shall be void.
- G. **Notices.** Any notice, request, demand or other communication by the terms hereof required or permitted to be given by one part to the other shall be given in writing by email with confirmation of receipt, certified or registered mail, return receipt requested, fax or courier addressed to such other party or delivered to the address for each party set forth below their respective signatures, or at such other fax, email address or office address as may be given from time to time by either of the parties.
- H. **Controlling Law.** These Terms shall be governed in all respects by the laws of the State of California, exclusive of conflicts of law principles.
- I. **Venue.** The State and Federal courts located in Los Angeles County, California shall have exclusive jurisdiction and venue over any dispute arising out of or relating to these Terms. Each of the Parties submits to the jurisdiction and venue of these courts.

- J. **Entire Agreement.** These Terms and the attachments hereto constitute the entire agreement between the parties regarding its subject matter. It supersedes, and its terms govern, all prior proposals, agreements, or other communications between the parties, oral or written, regarding such subject matter. These Terms shall not be modified unless done so in a writing signed by an authorized representative of each party.

## EV CONNECT MASTER SERVICES AND SUBSCRIPTION AGREEMENT

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This Master Services and Subscription Agreement (this "Agreement"), is hereby made a part of, and effective as of the date of acceptance (the "Effective Date") of, each Subscription Order accepted by EV Connect, Inc., a California corporation ("EVC"), with respect to the subscriber named therein ("Subscriber").

1. **DEFINITIONS.** The following terms shall have the definitions set forth below when used in this Agreement:
  - 1.1. "Addendum" means an addendum to this Agreement which amends or supplements the terms of the Agreement, but is otherwise incorporated into and made a part hereof.
  - 1.2. "Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of fifty percent (50%) or more of the voting interests of the subject entity.
  - 1.3. "Authorized User" means any person authorized by Subscriber to access and use its Charging Stations.
  - 1.4. "Charging Station" means the electric vehicle charging station(s) owned by Subscriber or provided by EVC pursuant to a subscription hereunder, which have embedded within them EV Connect hardware and/or firmware, enabling Subscriber to register and activate such charging stations on the EVC Charging Network.
  - 1.5. "Cloud Services" means the various "software as a service" offerings made available for subscription to Subscriber by EVC.
  - 1.6. "Documentation" means written information (whether contained in user or technical manuals, product materials, specifications or otherwise) pertaining to EVC Charging Network Services and/or the EVC Charging Network and made available from time to time by EVC to Subscriber in any manner (including on-line).
  - 1.7. "EVC" means EV Connect, Inc., a California corporation.
  - 1.8. "EVC Charging Network" means the open-platform network of electric vehicle charging stations and the vehicle charging applications it delivers, that is operated and maintained by EVC in order to provide various services to, among others, Subscriber, its employees, and Authorized Users.
  - 1.9. "EVC Charging Network Portals" means any of the secure Internet web portals and mobile smart phone applications established and maintained by EV Connect which will allow Subscriber to access EVC Charging Network Services.
  - 1.10. "EVC Charging Network Services" means, collectively, the various software as a service offerings made available for subscription by EVC.
  - 1.11. "EVC Intellectual Property" means all Intellectual Property Rights of EVC relating to the EVC Marks, the EVC Charging Network, the EVC Charging Network Services, Radio Frequency Identification Cards, EVC Charging Network Portals, and all related accounts, mobile or web-based client applications, and all other Intellectual Property Rights of EVC, regardless of the nature of such rights.
  - 1.12. "EVC Marks" means the various trademarks, service marks, names and designations used in connection with the EV Connect products and services, including, without limitation, EVC Charging Network.
  - 1.13. "Installation Services" means, if provided under this Agreement, the installation, network provisioning and testing by EVC of Charging Stations at Subscriber's facilities. Installation Services will be subject to a separate agreement with EVC or its subcontractor.
  - 1.14. "Intellectual Property Rights" means all intellectual property rights, including, without limitation, patents, patent applications, patent rights, trademarks, trademark applications, trade names, service marks, service mark applications, copyrights, copyright applications, franchises, licenses, inventories, know-how, trade secrets, Subscriber lists, proprietary processes and formulae, all source and object code, algorithms, architecture, structure, display screens, layouts, inventions, development tools and all documentation and media constituting, describing or relating to the above, including, without limitation, manuals, memoranda and records.
  - 1.15. "Maintenance Services" means, if selected, the hardware maintenance services to be performed by EVC with respect to Charging Stations. Maintenance Services will be subject to a separate agreement executed by Subscriber and EVC.
  - 1.16. "Malicious Code" means viruses, worms, time bombs, Trojan horses and all other forms of malicious code, including without limitation, malware, spyware, files, scripts, agents or programs.
  - 1.17. "Party" means each of EVC and Subscriber.
  - 1.18. "Regulatory Charges" means any and all charges that are imposed on the use of electric vehicle charging stations by applicable state and federal regulatory authorities.

- 1.19. "Removal Services" means, if applicable, upon termination of the subscription applicable to one or more Charging Stations under this Agreement, the disconnection and removal by EVC of such Charging Stations. Removal Services will be subject to a separate agreement with EVC or its subcontractor.
- 1.20. "Services Fees" means the fees payable by Subscriber to EVC for, as applicable, (a) subscribing to any EVC Charging Network Services as set forth in an applicable purchase order issued by Subscriber and accepted by EVC; (b) EVC Charging Stations; (c) Installation Services; (d) Maintenance Services; and (e) Removal Services.
- 1.21. "Session" or "Charging Session" means a session during which an Authorized User is using a Charging Station to charge his or her electric vehicle that lasts for a continuous period of time measuring not less than five (5) minutes, commencing when an Authorized User has accessed such Charging Station and ending when such Authorized User has terminated such access.
- 1.22. "Session Fees" means the fees set by the Subscriber for each Charging Session, including any applicable Taxes and/or Regulatory Charges.
- 1.23. "Subscriber" means the party ordering EVC Charging Network Services via a Subscription Order.
- 1.24. "Subscriber's Charging Station" means a Charging Station that is owned by Subscriber or an Affiliate of Subscriber, or that is leased to or otherwise made available to Subscriber by a party other than EVC.
- 1.25. "Subscription Order" means a written order for EVC Charging Network Services that is accepted by EVC. EVC may accept or reject any request for services in its sole discretion.
- 1.26. "Net Session Fees" means the total amount of Session Fees collected on behalf of the Subscriber by EVC less Taxes, Transaction Fees, and Regulatory Charges, if any, required by law to be collected by EVC from Authorized Users in connection with the use of Charging Stations. Except as required by law, Subscriber shall be responsible for the payment of all Taxes and Regulatory Charges incurred in connection with the Charging Stations.
- 1.27. "Taxes" means sales, use and other taxes imposed on the use of electric vehicle charging stations by applicable taxing authorities.
- 1.28. "Transaction Fees" means, for each Charging Session, the amount set forth in the Subscription Order, which may be a percentage of the total Session Fees or a fixed dollar amount, to cover the transaction and processing fees incurred during processing of credit card or other payment methods.

## 2. EVC'S RESPONSIBILITIES AND AGREEMENTS.

- 2.1. Network Operation. EVC agrees to provide and shall be solely responsible for: (i) provisioning and operating, maintaining, administering and supporting the EVC Charging Network infrastructure (other than Subscriber's Charging Stations and infrastructure for transmitting data from Subscriber's Charging Stations to any EVC Charging Network operations center); (ii) provisioning and operating, maintaining, administering and supporting the EVC Charging Network Web Portal; and (iii) operating the EVC Charging Network in compliance with all applicable laws.
- 2.2. Limitations On Responsibility. EVC shall not be responsible for, and makes no representation or warranty with respect to the following: (i) Specific location(s) or number of charging stations now, or in the future, owned, operated and/or installed by persons other than Subscriber, or the total number of charging stations that comprise the EVC Charging Network; (ii) Continuous availability of electrical service to any Charging Station; (iii) Continuous availability of any wireless or cellular communications network or Internet service provider network necessary for the continued operation by EVC of the EVC Charging Network; (iv) Availability of or interruption of the EVC Charging Network attributable to unauthorized intrusions; and/or (v) Charging Stations that are not registered with and activated on the EVC Charging Network.

## 3. SUBSCRIBER'S RESPONSIBILITIES AND AGREEMENTS.

- 3.1. General. Subscriber shall be solely responsible for: (i) Keeping current its contact information, email address for the receipt of notices hereunder, and billing address for invoices; (ii) updating on the EVC Charging Network Web Portal, within five (5) business days, the registered location to which any of Subscriber's Charging Stations are moved; (iii) The non-warranty maintenance, service, repair and/or replacement of Subscriber's Charging Stations as needed, including informing EVC of the existence of any Subscriber's Charging Stations that are non-operational and not intended to be replaced or repaired by Subscriber; (iv) registration of and activation of Subscriber's Charging Stations on the EVC Charging Network; and (v) Operating and maintaining Subscriber's Networked Charging Stations in compliance with all applicable laws.
- 3.2. Representations and Warranties of Subscriber. Subscriber represents and warrants to EVC that: (i) It has the power and authority to enter into and be bound by this Agreement and to install (or authorize EVC to install) the Charging Stations and any other electrical vehicle charging products to be registered and activated on the EVC Charging Network at Subscriber Location(s); (ii) The electrical usage to be consumed by Charging Stations will not violate or otherwise conflict with the terms and conditions of any applicable electrical purchase or other agreement including, without limitation, any lease, to which



Subscriber is a party; and (iii) It has not installed or attached, and will not authorize or direct EVC to install, Charging Stations on or to infrastructure not owned by Subscriber without proper authority, or in a manner that will block any easement or right of way.

3.3. Further Agreements Related to Use of the EVC Charging Network. Subscriber further acknowledges and agrees with EVC that: (i) Subscriber will not remove, conceal or cover the EVC Marks or any other markings, labels, legends, trademarks, or trade names installed or placed on the Charging Stations or any peripheral equipment for use in connection with Charging Stations; (ii) Subscriber shall comply with, and shall have responsibility for and cause its employees and agents accessing or using EVC Charging Network Portals to comply with, all of the rules, regulations and policies of EVC; (iii) Subscriber shall be responsible for using the EVC Charging Network Services in compliance with this Agreement, and in particular, shall: (A) use commercially reasonable efforts to prevent unauthorized access to EVC Charging Network Services, (B) not sell, resell, license, rent, lease or otherwise transfer the EVC Charging Network Services to a third party, (C) not interfere with or disrupt the integrity of the EVC Charging Network, the EVC Charging Network Services or any third party data contained therein, and (D) not attempt to gain unauthorized access to the EVC Charging Network or the EVC Charging Network Services or their related systems or networks. All data collected by EVC in connection with the operation of the EVC Charging Network shall be owned by EVC; provided that Subscriber shall have the right to access and use such data, as it pertains to Subscriber's Charging Stations, through a subscription to one or more EVC Charging Network Services.

#### 4. FEES AND PAYMENTS FOR EVC CHARGING NETWORK SERVICES.

4.1. Services Fees. Subscriber shall pay all Services Fees defined in the Subscription Order within forty-five (45) days of its receipt of an invoice with respect thereto. Except as otherwise specified herein, (i) Services Fees are quoted in and payable in U.S. Dollars, (ii) Services Fees for EVC Charging Network Services and Maintenance Services are based on Subscriber's choice of subscription or maintenance plan and not on actual usage, (iii) Service Fees for Installation Services and Removal Services are quoted per Charging Station, and may vary by model and location of the Charging Station; (iv) payment obligations are non-cancelable and are non-refundable, and (v) Services are non-transferable; provided that, Services may be transferred to a Charging Station that is purchased by Subscriber to replace a de-commissioned, previously networked, Charging Station.

4.2. Overdue Services Fees. If any invoiced Services Fees are not received by EVC by the due date, then such charges: (i) may accrue late interest at the rate ("Interest Rate") of one and one-half percent (1.5%) of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until paid, and (ii) in the event Subscriber has not paid Services Fees within forty-five (45) days of the due date, EVC may condition future Services renewals and acceptance of purchase orders for additional EVC Charging Network Services on payment terms other than those set forth herein.

4.3. Acceleration And Suspension of EVC Charging Network Services. If any amount owing by Subscriber under this Agreement is more than forty-five (45) days overdue, EVC may, without otherwise limiting EVC's rights or remedies under this Agreement, terminate this Agreement, and/or suspend the use by Subscriber of the EVC Charging Network Services until such amounts are paid in full.

4.4. Payment Disputes. EVC shall not exercise its rights under Section 4.2 (Overdue Services Fees) or Section 4.3 (Suspension of EVC Charging Network Services) if the applicable charges are under reasonable and good faith dispute and Subscriber is cooperating diligently to resolve the dispute.

4.5. Session Fees. Subscriber shall have sole authority to determine and set in real-time the Session Fees (which shall include all applicable Taxes and Regulatory Charges) applicable to Charging Stations. The Subscriber is enabled to set the Session Fee on the basis of dollars per hour in increments of whole dollars and other per session or per kilowatt hour options.

4.6. Deductions from Session Fees. In exchange for EVC collecting Session Fees on behalf of the Subscriber, the Subscriber hereby authorizes EVC to deduct Transaction Fees and, to the extent required by Section 4.8, applicable Taxes and Regulatory Charges.

4.7. Payment to Subscriber of Net Session Fees. EVC shall remit the US\$ equivalent of the Net Session Fees to Subscriber not more than thirty (30) days after the end of each calendar quarter to the address set forth in Subscriber's Account information registered on the applicable Network Web Portal.

4.8. Taxes, Regulatory Charges and Transaction Fees. Subscriber is responsible for the payment of all Taxes and Regulatory charges incurred in connection with Session Fees; provided that, EVC shall be responsible for collection and remittance of all Taxes and Regulatory Charges required by law to be collected and/or remitted to the appropriate taxing or regulatory authorities. In addition, for each Charging Session, EV Connect will charge a Transaction Fee equal to **10%** of the total Session Fees, or as otherwise agreed in writing, to cover transaction and payment processing fees.

**5. PROPRIETARY RIGHTS.**

5.1. Reservation of Rights. EVC reserves all right, title and interest in and to the EVC Charging Network Services, including all related Intellectual Property Rights. No rights are granted to Subscriber hereunder except as expressly set forth herein. EVC shall have a royalty-free, worldwide, transferable, sublicensable, irrevocable perpetual license to use or incorporate in the EVC Charging Network Services any suggestions, enhancement requests, recommendations or other feedback provided by Subscriber or Authorized Users relating to the EVC Charging Network Services.

5.2. Restrictions On Use. Except as otherwise agreed in writing, Subscriber shall not: (i) create derivative works based on the EVC Charging Network Services, (ii) copy, frame or mirror any part or content of the EVC Charging Network Services, other than copying or framing on Subscriber's own intranets or otherwise for Subscriber's own internal business purposes, (iii) reverse engineer any Charging Station or Cloud Service, or (iv) access the EVC Charging Network, any EVC Charging Network Web Portal or the EVC Charging Network Services for any improper purpose whatsoever, including, without limitation, in order to (A) build a competitive product or service, or (B) copy any features, functions, interface, graphics or "look and feel" of any EVC Charging Network Web Portal or the EVC Charging Network Services.

5.3. Grant of Limited License For EVC Marks.

- (a) License Grant. Subscriber is granted under this Agreement the nonexclusive privilege of displaying the EVC Marks during the Term of this Agreement in connection with Charging Stations. Subscriber warrants that it shall not use any of the EVC Marks for any products other than Charging Stations. From time to time, EVC may provide updated trademark usage guidelines with respect to Subscriber's use of the EVC Marks, which will be made available on a EVC Charging Network Web Portal, in which case Subscriber thereafter shall promptly comply with such guidelines. If no such guidelines are provided, then for each initial use of the EVC Mark, Subscriber must obtain EVC's prior written consent, which shall not be unreasonably withheld or delayed, and after such consent is obtained, Subscriber may use the EVC Mark solely in the approved manner. The EVC Marks may not be used under this Agreement as a part of the name under which Subscriber's business is conducted or in connection with the name of a business of Subscriber or its Affiliates.
- (b) No Registration of EVC Marks By Subscriber. Subscriber shall not directly or indirectly register or apply for or cause to be registered or applied for any EVC Marks or any patent, trademark, service mark, copyright, trade name, domain name or registered design that is substantially similar to an EVC Mark, patent, trademark, service mark, copyright, trade name, domain name or registered design of EVC, or that is licensed to, connected with or derived from confidential, material or proprietary information imparted to or licensed to Subscriber by EVC .
- (c) Termination And Cessation of Use of EVC Marks. Upon termination of this Agreement, Subscriber will immediately discontinue all use and display of the name EVC and the EVC Marks.

**6. LIMITATIONS ON EVC'S AND SUBSCRIBER'S LIABILITY.**

6.1. Limitation of Liability. EVC's aggregate liability under this Agreement shall not exceed the greater of (i) aggregate Services Fees paid by Subscriber to EVC in the calendar year prior to the event giving rise to the Claim or (ii) Ten Thousand Dollars (\$10,000).

6.2. EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES. REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOST REVENUE OR PROFIT, LOST OR DAMAGED DATA, BUSINESS INTERRUPTION, LOSS OF CAPITAL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY OR WHETHER ARISING OUT OF THE USE OF OR INABILITY TO USE THE EVC CHARGING NETWORK, ANY EVC CHARGING NETWORK SERVICES, THIS AGREEMENT OR OTHERWISE OR BASED ON ANY EXPRESSED, IMPLIED OR CLAIMED WARRANTIES BY SUBSCRIBER NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY; PROVIDED THAT, IN SUCH INSTANCES, EVC'S LIABILITY IN SUCH CASES SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

6.3. EXCLUSION OF WARRANTIES. THE EVC CHARGING NETWORK AND THE EVC CHARGING NETWORK SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" FOR SUBSCRIBER'S USE, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NO INFRINGEMENT. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, THE ABOVE EXCLUSION OF IMPLIED WARRANTIES MAY NOT APPLY;

PROVIDED THAT, IN SUCH INSTANCES THE IMPLIED WARRANTIES GRANTED BY EVC SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

6.4. Electrical, Cellular And Internet Service Interruptions. Neither EVC nor Subscriber shall have any liability whatsoever to the other with respect to damages caused by: (i) electrical outages, power surges, brown-outs, utility load management or any other similar electrical service interruptions whatever the cause; (ii) interruptions in wireless or cellular service linking Charging Stations to the EVC Charging Network; (iii) interruptions attributable to unauthorized EVC Charging Network intrusions; or (iv) interruptions in services provided by any Internet service provider not affiliated with EVC. This includes the loss of data resulting from such electrical, wireless, cellular or Internet service interruptions.

## 7. TERM AND TERMINATION.

7.1. Term of Agreement. This Agreement shall become effective on the Effective Date and shall continue until the expiration or termination of all applicable Subscription Orders.

7.2. Subscription Term. Subscriptions to EVC Charging Network Services shall commence (i) if such services are acquired for use with a new Charging Station, on the earlier to occur of (x) the date such new charging station is installed and provisioned on the EVC Charging Network or (y) forty five (45) days after the date such new charging station is installed and (ii) in all other cases, the start date specified in the purchase order related thereto. EVC Charging Network Services subscribed to by Subscriber shall continue for the applicable subscription term (the "Subscription Term"), unless this Agreement is otherwise terminated, changed or canceled by EVC or Subscriber as allowed by the terms and conditions set forth herein.

7.3. Termination.

- (a) By EVC. This Agreement, all Subscription Terms and Subscriber's continuing access to EVC Charging Network Services may be immediately suspended or terminated: (i) if Subscriber is in material breach of any of its obligations under this Agreement, and has not cured such breach within thirty (30) days, or five (5) days in the case of any payment default, of the date of its receipt of written notice thereof, (ii) Subscriber becomes the subject of a petition in bankruptcy or any other proceeding related to insolvency, receivership, liquidation or an assignment for the benefit of creditors, (iii) upon the determination by any regulatory body that the subject matter of this Agreement is subject to any governmental regulatory authorization or review that imposes additional costs of doing business upon EVC, or (iv) if, pursuant to the terms of this Agreement, EVC is otherwise permitted the right to terminate upon the occurrence of an event or events.
- (b) By Subscriber. This Agreement may be immediately terminated by Subscriber: (i) if EVC is in material breach of any of its obligations under this Agreement, and has not cured such breach within thirty (30) days of the date of its receipt of written notice thereof, or (ii) EVC becomes the subject of a petition in bankruptcy or any other proceeding related to insolvency, receivership, liquidation or an assignment for the benefit of creditors. This Agreement may be terminated by Subscriber for convenience upon the voluntary deactivation and removal from registration via the applicable EVC Charging Network Web Portal of all Subscriber's Charging Stations from the EVC Charging Network, at which time this Agreement shall terminate effective immediately; provided, that Subscriber shall not be entitled to any refund of any Service Fees as a result of such termination for convenience and Subscriber shall remain liable for the payment of Service Fees for any period prior to the termination date through the end of the applicable subscription term. For the avoidance of doubt, Subscriber shall not be entitled to voluntarily deactivate or remove from registration any EVC Charging Stations.

7.4. Refund Or Payment Upon Termination. Upon any termination of this Agreement for cause by Subscriber pursuant to Section 7.3(b)(i), or (ii) the election of EVC to terminate this Agreement pursuant to Section 7.3(a)(iii), EVC shall refund to Subscriber a pro-rata portion of any pre-paid Service Fees based upon the Subscription Term for which such fees were paid and the remaining period of such Subscription Term. Upon any termination for cause by EVC pursuant to Section 7.3(a)(i), (ii) or (iv) or upon the voluntary removal from registration and activation of all of Subscriber's Network Charging Stations from the EVC Charging Network, Subscriber shall pay any unpaid Service Fees covering the remainder of all Subscription Terms. In no event shall any termination relieve Subscriber of any liability for the payment of Service Fees for any period prior to the termination date.

## 8. MISCELLANEOUS.

8.1. Amendment Or Modification. No modification, amendment or waiver of this Agreement shall be effective unless in writing and either signed or electronically accepted by the Party or Parties against whom the amendment, modification or waiver is to be asserted.



8.2. Waiver. The failure of any Party at any time to require performance by the other Party or Parties of any obligation hereunder will in no way affect the full right to require such performance at any time thereafter. The waiver by a Party of a breach of any provision hereof will not constitute a waiver of the provision itself. The failure of a Party to exercise any of its rights provided in this Agreement will not constitute a waiver of such rights. No waiver will be effective unless in writing and signed by an authorized representative of each Party against whom such waiver is sought to be enforced. Any such waiver will be effective only with respect to the specific instance and for the specific purpose given.

8.3. Force Majeure. Except with respect to payment obligations, neither EVC nor Subscriber will be liable for failure to perform any of its obligations hereunder due to causes beyond such party's reasonable control and occurring without its fault or negligence (a "Force Majeure Event"). A Force Majeure Event will include, but not be limited to, fire, flood, earthquake or other natural disaster (irrespective of such party's condition of any preparedness therefore); war, embargo; riot; strike; labor action; any lawful order, decree, or other directive of any government authority that prohibits a party from performing its obligations under this Agreement; material shortages; shortage of transport; and failures of suppliers to deliver material or components in accordance with the terms of their contracts.

8.4. Applicable Law. This Agreement will be construed, and performance will be determined, according to the laws of the State of California without reference to such state's principles of conflicts of law and the state and federal courts located in Los Angeles County, California, shall have exclusive jurisdiction over any claim arising under this Agreement.

8.5. Waiver of Jury Trial. Each Party hereby waives any right to jury trial in connection with any action or litigation arising out of this Agreement.

8.6. Survival. Those provisions dealing with the Intellectual Property Rights of EVC, limitations of liability and disclaimers, restrictions of warranty, indemnification, applicable law and such other provisions which by their nature or terms are intended to survive the termination of this Agreement will remain in full force and effect as between the Parties hereto notwithstanding expiration or termination of this Agreement.

8.7. Severability. Except as otherwise specifically provided herein, if any term or condition of this Agreement or the application thereof to either Party will to any extent be determined jointly by the Parties or by any judicial, governmental or similar authority, to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to this Agreement, the Parties or circumstances other than those as to which it is determined to be invalid or unenforceable, will not be affected thereby. If, however such invalidity or unenforceability will, in the reasonable opinion of either Party cause this Agreement to fail of its intended purpose and the Parties cannot by mutual agreement amend this Agreement to cure such failure, either Party may terminate this Agreement for cause as provided herein above.

8.8. Assignment. Subscriber may not assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of EVC (not to be unreasonably withheld). In the event of any purported assignment in breach of this Section 8.8, EVC shall be entitled, at its sole discretion, to terminate this Agreement upon written notice given to Subscriber. In the event of such a termination, Subscriber shall pay any unpaid Service Fees covering the remainder of the Service Term for any accepted Purchase Orders. In no event shall any termination relieve Subscriber of any liability for the payment of Service Fees or Transaction Fees for any period prior to the termination date. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns. EVC may assign its rights and obligations under this Agreement.

8.9. Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes and cancels all previous and contemporaneous agreements, negotiations, commitments, understandings, representations and writings. All purchase orders issued by Subscriber shall state that such purchase orders are subject to all of the terms and conditions of this Agreement, and contain no other term other than the type of Subscription, the number of stations for which such Subscription is ordered, the term of such subscriptions and applicable subscription fees. To the extent of any conflict or inconsistency between the terms and conditions of this Agreement and any purchase order, the Agreement shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in any other documentation shall be incorporated into or form any part of this Agreement, and all such purported terms and conditions shall be null and void.

8.10. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute but one and the same document.

**Master Services and Subscription Agreement**  
**Additional Terms:**

- 9. Appropriation of Funds:** Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of the Agreement by the City of Bloomington are at any time not forthcoming or are insufficient, through failure of any entity, to appropriate funds or otherwise, then the City of Bloomington shall have the right to terminate this Agreement without penalty. (Indiana Code 5-22-17-5)
- 10. Verification of New Employee Employment Status:** EV Connect 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.) EV Connect shall sign an affidavit attached as Exhibit A, affirming that EV Connect 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. (Indiana Code 22-5-1.7-11)
- 11. No Collusion:** EV Connect is required to certify that it has not, nor has any other member, representative, or agent of EV Connect, entered into any combination or collusion or agreement with any person relative to the price to be offered by any person nor prevent 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. EV Connect shall sign an affidavit attached as Exhibit B affirming that EV Connect has not engaged in any collusive conduct. (Indiana Code 5-22-16-6)

Subscription Order  
EV Connect Network Services and Fees

This Subscription Order is subject to, and expressly incorporates and is made a part of, the EV Connect Master Services and Subscription Agreement attached hereto (the "Agreement"). The Subscription shall become binding only upon acceptance by EVC. Capitalized Terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Agreement.

**Term**

Upon acceptance by EVC, this Subscription Order shall be effective:

Start Date: \_\_\_\_\_, 201\_ through

End Date: \_\_\_\_\_, 201\_.

**Services**

EV Connect grants Subscriber license to the following Services, subject to payment of the appropriate fees as set forth below.

- EV Connect Management Services (including 24x7 driver support)
- Installation Services
- Removal Services
- Maintenance Services
- Other, please specify: \_\_\_\_\_

**Equipment**

Subject to Subscriber's obligation to pay the fees related to Installation Services, Maintenance Services and Removal Services and execution of a separate agreement related to such services, during the Term EV Connect will provide to Subscriber the Charging Station(s) set forth below, to be installed at the locations set forth below and used in connection with the EV Connect Network Services.

Description of Equipment	Serial Number	Installation Location
Qty: 4 - EV-Box Business Line, Single - Connected (HUB) 32A 18ft Cable - 2yr parts warranty included	TBD	401 North Morton St Bloomington, IN 47404
_____	_____	_____
_____	_____	_____

**Service Fees**

Subscriber agrees to pay EV Connect in advance on an annual basis for the Services and Equipment identified above.

Product	Fee <sup>1</sup>
EV Connect Management Services (including 24x7 driver support)	\$249.00
Installation Services <sup>2</sup>	
Maintenance Services	
Removal Services <sup>2</sup>	
Subscribed Charging Stations	

<sup>1</sup> Fee is accounted on per charge port basis; due at time of network commissioning (the "Subscription Date")

<sup>2</sup> This is a one-time fee per Charging Station

In Witness Whereof, Subscriber and EV Connect, through their duly authorized representatives, hereby agree to the foregoing Subscription Order, subject to the terms and conditions of the EV Connect Master Services and Subscription Agreement.

EV CONNECT, INC.

By: *Carlton B. Williams*

(Signature)

Name: Carlton B. Williams

Title: Director of Operations

Address: 615 N. Nash Street, Suite 203

City: El Segundo

State: CA Zip Code: 90245

Email Address for Notices: cwilliams@evconnect.com

Date: 6/8/17

Subscriber: City of Bloomington, Indiana \_\_\_\_\_

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

(Signature)

Name: Ryan Daily *Ryan Daily*

Title: Parking Garage Manager

Address: P. O. Box 100, Suite 120 \_\_\_\_\_

City: Bloomington \_\_\_\_\_

State: Indiana Zip Code: 47402 \_\_\_\_\_

Email Address for Notices: DailyRebloomington.in.g.or

Date: 6/13/17

By: *AW*

Adam Wason, Director, Public Works Dept.

By: *Philippa M. Guthrie*  
Philippa M. Guthrie, Corporation Counsel

CITY OF BLOOMINGTON  
Legal Department  
Reviewed By: Jackie Moore  
DATE: 6.9.17

CITY OF BLOOMINGTON  
Controller  
Reviewed by: \_\_\_\_\_  
DATE: 6-9-17  
FUND/ACCT: 452-442

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

EXHIBIT A  
AFFIDAVIT REGARDING E-VERIFY

STATE OF CA )  
 ) SS:  
COUNTY OF Los Angeles )

AFFIDAVIT REGARDING E-VERIFY

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

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

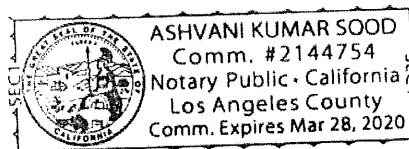
Carlton B. Williams  
Signature  
Carlton B. Williams  
Printed name

STATE OF Ca )  
 ) SS:  
COUNTY OF Los Angeles )

Before me, a Notary Public in and for said County and State, personally appeared Carlton Baltimore Williams and acknowledged the execution of the foregoing this 8th day of June, 2017.

Ashvani Kumar Sood  
Notary Public  
Ashvani Kumar Sood  
Printed name

My Commission Expires: 3/28/20  
County of Residence: Los Angeles



# JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles } ss

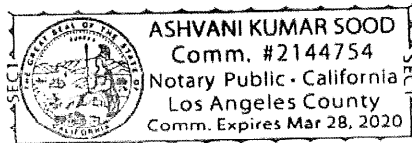
Subscribed and sworn to (or affirmed) before me on this 8th day of June.

20 18 By Carlton Baltimore Williams proved to me on

the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature Ashvani Kumar Sood

(Notary Seal)



## OPTIONAL

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) other than named above: \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

EXHIBIT B  
NON-COLLUSION AFFIDAVIT

STATE OF CA )  
COUNTY OF Los Angeles ) SS:

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 8 day of June, 2017.

EV Connect  
(Name of Organization)

By: Ashvani Kumar Sood  
Director of Operations  
(Name and Title of Person Signing)

STATE OF Ca )  
COUNTY OF Los Angeles ) SS:

Subscribed and sworn to before me this 8th day of June, 2017.

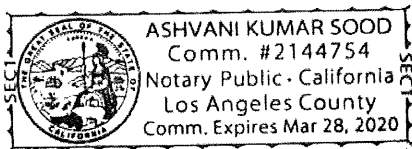
My Commission Expires:

3/28/20

Ashvani Kumar Sood  
Notary Public Signature

Resident of Los Angeles County

Ashvani Kumar Sood  
Printed Name



### JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles ss

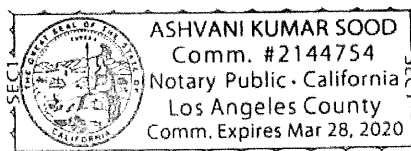
Subscribed and sworn to (or affirmed) before me on this 8th day of June

20 17 . By Carlton Baltimore Williams . proved to me on

the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature AKS

(Notary Seal)



### OPTIONAL

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) other than named above: \_\_\_\_\_



City of Bloomington  
Redevelopment Commission  
**Amended** Project Review & Approval Form

**Please Note:**

- Approval of the project by the Redevelopment Commission through this Project Review & Approval Form does not represent an authorization to begin work or expend funds.
- Authorization of work and the commitment of funds shall be done when the Redevelopment Commission reviews and approves: (1) a Purchase Order or Contract prepared after complying with the appropriate procurement process for the type of item, service or construction being sought and (2) the estimated costs associated with the Purchase Order or Contract.
- No payment of funds shall be made without a duly authorized and approved Purchase Order or Contract. All claims for payment against a duly authorized Purchase Order or Contract shall be submitted to the Redevelopment Commission for their review and approval along with any required departmental inspections, reviews and approvals prior to the payment of any funds.

To Be Completed by Requesting Party:

**Project Name:** Trades District Garage

**Project Manager(s):** Josh Scism, CORE Planning Strategies; Mick Renneisen; Jeff Underwood; Alex Crowley; Sean Starowitz

**Project Description:**

This is a project to retain all necessary design, construction management, and contracting for the design and construction of the Trades District Garage.

The Trades District Garage includes up to 300 parking spaces. The City and the RDC reiterates its commitment to building a garage within the Trades District includes the following sustainability features:

- A structure that allows at least two (2) of the floors to be converted into office, retail, or living space should downtown needs change over the life of the garage;
- At least six (6) electric vehicle charging stations in an area of priority parking with a design (conduit provided throughout the facility) that allows for the garage to be retrofitted for more charging stations as demand for the stations requires;
- Preference for locating the garage on city-owned property;
- Solar panels that will cover the electric needs of the facility;
- Bicycle parking for a minimum of thirty (30) bikes, ten (10) of which spots will be bike lockers. The lockers may be located either inside or outside, or both, as the design determines.
- 25% of all parking spaces in the garage designed for use by compact vehicles;
- Dedicated carpool parking;
- Parksmart Sustainability Certification with the goal of achieving silver depending on ultimate garage design;
- One (1) public restroom;
- A maintenance and caretaking plan for the life of the garage; and

- The design will include public art and should be an architecturally significant design that would enhance and highlight the Trades District.

**Project Timeline:**    **Start Date:**    **2019**  
   **End Date:**        **2021**

**Financial Information:**

Estimated full cost of project:	\$12,785,784.50
Sources of funds:	2018-19 Revenue Bonds; Consolidated TIF

**Project Phases:** This breakdown should mirror the contract(s) expected to be issued for this project. Each phase should include a description of the work to be performed, the cost, and the timeline for the contract.

<u>Phase/Work to Be Performed</u>	<u>Cost</u>	<u>Timeline</u>
1 Design Contract	\$29,000	March 2019 – Summer 2020
2 Construction Manager Contract	\$20,000	April 2019 – Summer 2020
3 Construction	\$12,516,794.00	Summer 2019- Summer 2020
3a Parking Equipment Installation	\$219,990.54	Fall 2020- Spring 2021
4 Public Art	\$75,000.00	2021
5 EV Charging Stations	\$38,285.00	March 2021 – April 2021
6 Signs	\$14,905.00	March 2021 – April 2021

**TIF District:** Consolidated TIF (Expanded Downtown)

**Resolution History:** 18-67: Approval of Project Review Form  
18-76: Approval of Amended Project Review Form  
18-81: Approval of Amended Project Review Form  
19-17: Approval of Amended Project Review Form  
19-23: Approval of Design Contract with CSO  
19-32: Approval of CMc Contract  
19-105: Guaranteed Maximum Price Amendment  
20-69: Agreement for Parking Control Equipment Installation  
21-04: Approval of Public Art Agreement  
21-15: Addendum for EV Charging Stations  
21-16: Agreement for Signs

To Be Completed by Redevelopment Commission Staff:

Approved on \_\_\_\_\_

By Resolution \_\_\_\_\_ by a vote of \_\_\_\_\_

**21-16  
RESOLUTION  
OF THE  
REDEVELOPMENT COMMISSION  
OF THE  
CITY OF BLOOMINGTON, INDIANA**

**APPROVAL OF AGREEMENT WITH STATION 43 DESIGN FOR SIGNS IN THE  
TRADES DISTRICT PARKING GARAGE**

- WHEREAS, on October 15, 2018, the Redevelopment Commission of the City of Bloomington (“RDC) approved in Resolution 18-67 a Project Review and Approval Form (“Form”), which sought the support of the RDC regarding the construction of a new Trades District Parking Garage (“Project”); and
- WHEREAS, the RDC approved the issuance of a tax increment revenue bond for the financing of the Project in Resolution 18-68 (“Bonds”); and
- WHEREAS, the City of Bloomington Common Council voted to move forward with bonding for the Trades District Garage in Council Resolution 18-25, which the RDC certified in its own Resolution 19-06; and
- WHEREAS, part of the project is the installation of signage throughout the garage; and
- WHEREAS, after soliciting bids, City staff have selected Station 43 Design as the best and most responsive bidder; and
- WHEREAS, Staff have negotiated an agreement with Station 43 Design for the manufacturing and installation of signs in the Trades Garage in an amount that shall not exceed Fourteen Thousand Nine Hundred Five Dollars (\$14,905.00) (“Agreement”), which is attached to this Resolution as Exhibit A; and
- WHEREAS, there are sufficient funds in both the Consolidated TIF and 2019 Trades District Garage Bond to pay for the Services pursuant to the terms of the Agreement for the Project; and
- WHEREAS, the City has brought the RDC an Amended Project Review Form (“Amended Form”) which updates the expected cost of the Project, which is attached to this Resolution as Exhibit B;

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

1. The Redevelopment Commission reaffirms its support for the Project, as set forth in the Amended Form, and reiterates that it serves the public’s best interest.

2. The RDC reaffirms that the Project has a valid public purpose and is an appropriate use of the Bonds.
3. The RDC hereby approves the Agreement with Station 43 Design attached to this Resolution as Exhibit A and authorizes the City of Bloomington to expend an amount not to exceed Fourteen Thousand Nine Hundred Five Dollars (\$14,905.00) to pay for the fabrication and installation of the signs for the Trades District Parking Garage, pursuant to the terms of the Agreement.
4. The Payment authorized above may be made from either the 2019 Trades District Garage Bonds (983 Account) or the Consolidated TIF (Downtown Area Account: 439-15-159002-53990). Nothing in this Resolution shall remove the requirement to comply with the City or the RDC's claims process.
5. Unless extended by the Redevelopment Commission in a resolution prior to expiration, the authorizations provided under this Resolution shall expire on June 30, 2021.

**BLOOMINGTON REDEVELOPMENT COMMISSION**

---

Donald Griffin, President

ATTEST:

---

Cindy Kinnarney, Secretary

---

Date

**AGREEMENT**  
**BETWEEN**  
**CITY OF BLOOMINGTON REDEVELOPMENT COMMISSION**  
**AND**  
**STATION 43 DESIGN**  
**FOR**  
**TRADES DISTRICT PARKING GARAGE WAYFINDING SIGNS**

**THIS AGREEMENT**, executed by and between the City of Bloomington Redevelopment Commission (hereinafter CITY), and Station 43 Design, (hereinafter CONTRACTOR);

**WITNESSETH THAT:**

WHEREAS, CITY desires to retain CONTRACTOR'S services for **INSTALLATION OF WAYFINDING SIGNS FOR THE TRADES DISTRICT PARKING GARAGE**, (more particularly described in Attachment A, "Scope of Work"; and

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

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

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

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

**ARTICLE 1. TERM**

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

**ARTICLE 2. SERVICES**

**2.01** CONTRACTOR shall complete all work required under this Agreement within 45 days of Notice to Proceed, unless the parties mutually agree to a later completion date. Substantial Completion shall mean completion of all work.

**2.02** It is hereby understood by both parties that time is of the essence in this Agreement. Failure of CONTRACTOR to complete all work as herein provided will result in monetary damages to CITY. It is hereby agreed that CITY will be damaged for every day the work has not been performed in the manner herein provided. The CITY, at its sole discretion, may withhold monies otherwise due CONTRACTOR. It is expressly understood by the parties hereto that these damages relate to the time of performance and do not limit CITY's other remedies under this Agreement, or as provided by applicable law, for other damages.

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

### **ARTICLE 3. COMPENSATION**

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

**3.02** Upon the submittal of approved claims, CITY shall compensate CONTRACTOR in a lump sum not to exceed Fourteen Thousand Nine Hundred Five Dollars (\$14,905.00). CITY may withhold payment, in whole or in part, to the extent necessary to protect itself from a loss on account of any of the following:

Defective work.

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

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

Damage to CITY or a third party.

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

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

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

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

### **ARTICLE 4. GENERAL PROVISIONS**

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

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

#### **5.02 Abandonment, Default and Termination**

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

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

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

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

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

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

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

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

Inability to finance the work adequately.

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

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

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

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

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

### **5.03 Successors and Assigns**

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

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

**5.04 Extent of Agreement: Integration**

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

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

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

**5.05 Insurance**

**5.05.01**

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

<u>Coverage</u>	<u>Limits</u>
A. Worker’s Compensation & Disability	Statutory Requirements
B. Employer’s Liability Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$100,000 each employee
C. Commercial General Liability (Occurrence Basis)	\$1,000,000 per occurrence
Bodily Injury, personal injury, property damage, contractual liability, products-completed operations, General Aggregate Limit (other than Products/Completed Operations)	and \$2,000,000 in the aggregate
Products/Completed Operation	\$1,000,000
Personal & Advertising Injury Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000



	Fire Damage (any one fire)	\$50,000
D.	Comprehensive Auto Liability (single limit, owned, hired and non-owned)	\$1,000,000 each accident
	Bodily injury and property damage	
E.	Umbrella Excess Liability	\$5,000,000 each occurrence and aggregate
	The Deductible on the Umbrella Liability shall not be more than	\$10,000

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

Premises and operations;

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

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

Broad form property damage - including completed operations;

Fellow employee claims under Personal Injury; and

Independent Contractors.

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

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

**5.06** **Necessary Documentation** CONTRACTOR certifies that it will furnish CITY any and all documentation, certification, authorization, license, permit or registration required by the laws or rules and regulations of the City of Bloomington, the State of Indiana and the United States. CONTRACTOR further certifies that 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 Agreement.

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

**5.08** **Non-Discrimination**

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

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

Contractor understands that the City of Bloomington prohibits its employees from engaging in harassment or discrimination of any kind, including harassing or discriminating against independent contractors doing work for the City. If the Contractor believes that a City employee engaged in such conduct towards Contractor and/or any of its employees, Contractor or its employees may file a complaint with the City department head in charge of the Contractor's work and/or with the City human resources department or the Bloomington Human Rights Commission. The City takes all complaints of harassment and discrimination seriously and will take appropriate disciplinary action if it finds that any City employee engaged in such prohibited conduct.

Breach of this covenant may be regarded as a material breach of the Agreement.

**5.08.02** CONTRACTOR certifies for itself and all its subcontractors compliance with existing laws of the City of Bloomington, the State of Indiana and the United States regarding:

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

The utilization of Minority and Women Business Enterprises. CONTRACTOR further certifies that 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.

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

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

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

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

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

**5.09** **Workmanship and Quality of Materials**

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

**5.09.02** OR EQUAL: Wherever in any of the Agreement Documents an article, material or equipment is defined by describing a proprietary product, or by using the name of a manufacturer or vender, the term "Or Equal" or the term "The Equivalent" if not inserted, shall be implied, and it is done for the express purpose of establishing a basis of durability and efficiency and not for the purpose of limiting completion. Whenever material or equipment is submitted for approval as being equal to that specified, the submittal shall include sufficient information and data

to demonstrate that the material or equipment conforms to the Contract requirements. The decision as to whether or not such material or equipment is equal to that specified shall be made by the ENGINEER. The approval by the ENGINEER of alternate material or equipment as being equivalent to that specified, shall not in any way relieve CONTRACTOR of responsibility for failure of the material or equipment due to faulty design, material, or workmanship, to perform the function required by the Contract Documents. Specifications as determined by other entities within the City of Bloomington such as City Utilities shall only be substituted or changed by their approval which shall be submitted in writing to the ENGINEER.

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

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

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

**5.11 Amendments/Changes**

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

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

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

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

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

**5.12.01** The surety of the Payment Bond may not be released until one (1) year after the Board's final settlement with the CONTRACTOR.

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

TO CITY:

City of Bloomington  
Attn: Ryan Daily  
P.O. Box 100 Suite 120  
Bloomington, Indiana 47402

TO CONTRACTOR:

Station 43 Design  
Attn: Bruce Norton  
4647 W. Johanna Drive  
Bloomington, Indiana 47404

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

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

**5.16 Steel or Foundry Products**

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

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

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

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

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

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

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

**5.17 Verification of Employees' Immigration Status**

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

Contractor and any of 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 Agreement violation and require that the violation be remedied within thirty (30) calendar days of the date of notice. If the Contractor or any of 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 Agreement, unless the City determines that terminating the Agreement would be detrimental to the public interest or public property, in which case the City may allow the Agreement to remain in effect until the City procures a new contractor. If the City terminates the Agreement, the Contractor or its subcontractor is liable to the City for actual damages.

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

**5.18 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 swear under oath, via signed affidavit, attached as Attachment D and by this reference incorporated herein, that Contractor has not engaged in any collusive conduct.

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

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

City of Bloomington  
Redevelopment Commission

Station 43

BY:

BY:

\_\_\_\_\_  
Donald Griffin, President

\_\_\_\_\_  
Bruce Norton, Owner

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

## ATTACHMENT 'A'

### "SCOPE OF WORK"

#### Trades District Parking Garage Wayfinding Signs

*This project shall include, but is not limited to:*

- Fabricate and Install all proposed signage in the Trades District Garage from ground floor to top floor:
  - 7' Clearance bar (2) - each entry
  - 6'7" Clearance bar - basement
  - Stairwell level signs @ every level at two stairwells
  - Level signs on front of both elevators
  - EV parking (10) - 4 on first floor, then 2 each level above
  - 15 Minute parking (4) - 2 at each entry/exit
  - Handicap (7)
  - Reserved 24/7 (10) - All in basement
  - Motorcycle Parking Only (4)
  - Windmasters (6)
  - Garage Rates (2) – Windmaster inserts
  - Injury, vandalism, and personal property (4) – One for each Floor
  - Pay on foot pay here (2) – One with each POF station
  - Paying options (2) – One at each Exit
  - Pay here with an arrow (2) – Outside of POF lobby
  - Paying option sign in both elevator's
  - Inside Elevator sign (2) – Name of garage, address, and customer service phone number
  - Stop sign on first floor
  - Reflective Exit sign with Arrows (2)
  - Reflective Do Not Enter signs at each Entry (2)
  - Employees Only - first floor office door
  
- Provide Windmasters and signage

**ATTACHMENT 'B'**

**Trench Safety Affidavit**

Not Required for this Project

**ATTACHMENT 'C'**

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

E-VERIFY AFFIDAVIT

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

1. The undersigned is the \_\_\_\_\_ of \_\_\_\_\_.  
a. (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.
- 5.

\_\_\_\_\_  
Signature

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

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

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

\_\_\_\_\_  
Notary Public's Signature

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

\_\_\_\_\_  
Printed Name of Notary Public

My Commission #: \_\_\_\_\_



**ATTACHMENT D**

**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 \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Name of Organization)

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

\_\_\_\_\_  
(Name and Title of Person Signing)

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

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

Resident of \_\_\_\_\_ County  
Printed Name

My Commission #: \_\_\_\_\_

City of Bloomington  
Redevelopment Commission  
**Amended** Project Review & Approval Form

**Please Note:**

- Approval of the project by the Redevelopment Commission through this Project Review & Approval Form does not represent an authorization to begin work or expend funds.
- Authorization of work and the commitment of funds shall be done when the Redevelopment Commission reviews and approves: (1) a Purchase Order or Contract prepared after complying with the appropriate procurement process for the type of item, service or construction being sought and (2) the estimated costs associated with the Purchase Order or Contract.
- No payment of funds shall be made without a duly authorized and approved Purchase Order or Contract. All claims for payment against a duly authorized Purchase Order or Contract shall be submitted to the Redevelopment Commission for their review and approval along with any required departmental inspections, reviews and approvals prior to the payment of any funds.

To Be Completed by Requesting Party:

**Project Name:** Trades District Garage

**Project Manager(s):** Josh Scism, CORE Planning Strategies; Mick Renneisen; Jeff Underwood; Alex Crowley; Sean Starowitz

**Project Description:**

This is a project to retain all necessary design, construction management, and contracting for the design and construction of the Trades District Garage.

The Trades District Garage includes up to 300 parking spaces. The City and the RDC reiterates its commitment to building a garage within the Trades District includes the following sustainability features:

- A structure that allows at least two (2) of the floors to be converted into office, retail, or living space should downtown needs change over the life of the garage;
- At least six (6) electric vehicle charging stations in an area of priority parking with a design (conduit provided throughout the facility) that allows for the garage to be retrofitted for more charging stations as demand for the stations requires;
- Preference for locating the garage on city-owned property;
- Solar panels that will cover the electric needs of the facility;
- Bicycle parking for a minimum of thirty (30) bikes, ten (10) of which spots will be bike lockers. The lockers may be located either inside or outside, or both, as the design determines.
- 25% of all parking spaces in the garage designed for use by compact vehicles;
- Dedicated carpool parking;
- Parksmart Sustainability Certification with the goal of achieving silver depending on ultimate garage design;
- One (1) public restroom;
- A maintenance and caretaking plan for the life of the garage; and

- The design will include public art and should be an architecturally significant design that would enhance and highlight the Trades District.

**Project Timeline:**    **Start Date:**    **2019**  
                                  **End Date:**        **2021**

**Financial Information:**

Estimated full cost of project:	\$12,785,784.50
Sources of funds:	2018-19 Revenue Bonds; Consolidated TIF

**Project Phases:** This breakdown should mirror the contract(s) expected to be issued for this project. Each phase should include a description of the work to be performed, the cost, and the timeline for the contract.

<u>Phase/Work to Be Performed</u>	<u>Cost</u>	<u>Timeline</u>
1 Design Contract	\$29,000	March 2019 – Summer 2020
2 Construction Manager Contract	\$20,000	April 2019 – Summer 2020
3 Construction	\$12,516,794.00	Summer 2019- Summer 2020
3a Parking Equipment Installation	\$219,990.54	Fall 2020- Spring 2021
4 Public Art	\$75,000.00	2021
<b>5 Signs</b>	<b>\$14,905.00</b>	<b>March 2021 – April 2021</b>

**TIF District:** Consolidated TIF (Expanded Downtown)

**Resolution History:** 18-67: Approval of Project Review Form  
 18-76: Approval of Amended Project Review Form  
 18-81: Approval of Amended Project Review Form  
 19-17: Approval of Amended Project Review Form  
 19-23: Approval of Design Contract with CSO  
 19-32: Approval of CMc Contract  
 19-105: Guaranteed Maximum Price Amendment  
 20-69: Agreement for Parking Control Equipment Installation  
 21-04: Approval of Public Art Agreement  
**21-16: Agreement for Signs**

To Be Completed by Redevelopment Commission Staff:

Approved on \_\_\_\_\_

By Resolution \_\_\_\_\_ by a vote of \_\_\_\_\_