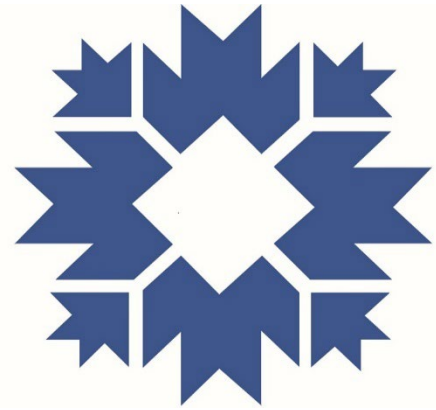


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# Request for Proposals: Parking Rate Study and Comprehensive Review



**Release Date:** November 8, 2024

**Submittal Date:** December 16, 2024

**Submit Proposals to:** Julie Martindale Long, Purchasing Manager

**Mailing Address:** City of Bloomington, 401 N Morton Street, Bloomington, IN 47404

**Affirmative Action Plan Due:** December 16, 2024, or sooner when possible

**Email:** [martindj@bloomington.in.gov](mailto:martindj@bloomington.in.gov)

**Subject:** Request for Proposal (RFP) for Municipal Paid Parking Rate Study and Comprehensive Review

**PURPOSE:** The main purpose of this RFP is to select a vendor to review our current parking rates for downtown meter parking hourly rate, garage parking monthly and hourly rate, and neighborhood permit rates and provide a 5 to 10 year rate projection of where rates should be. This proposal should also address rates pertaining to reserving meters, all zone permits, loss ticket fees, credit card fees, pay by phone fees, citation rates, and reserved parking for both on street, neighborhood zones and garages. With an engaging comprehensive review of parking process and practice to make sure it is aligning with or outline changes that need to be made to the City of Bloomington Traffic Code: Title 15 which can be review at this link:

[https://library.municode.com/in/bloomington/codes/code\\_of\\_ordinances?nodeId=TIT15VETR](https://library.municode.com/in/bloomington/codes/code_of_ordinances?nodeId=TIT15VETR)

## 1.1 BACKGROUND:

We are seeking a proposal from a qualified and experienced parking vendor to provide a comprehensive parking rate study for downtown meters, neighborhood permits and monthly and hourly garage fees. Here is a link to the parking maps:

<https://bloomington.data.socrata.com/stories/s/6f2n-cgy9>

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**Meters:** Approximately one thousand four hundred and thirty-five (1,435) throughout 100 blocks in the downtown area that also offer pay by phone.

**Pay by phone Only Areas:**

600 N. College-east side only	600 N. Madison-both sides	400 W. Maker Way-both sides	W.10 <sup>th</sup> St-north side only	800-900 E. Atwater-north side only
700-800 N. Walnut-west side only	1000-1200 N. Walnut-west side only	700-800 N. College-both sides	1000-1200 N. College-both sides	1100 N. Walnut Grove-east side only

200 S. Rogers- east side only	700-800 E. 13 <sup>th</sup> - north side only	600 N. Walnut Grove-both sides	900 E. Cottage Grove-north side only	1000 E. cottage grove-both sides
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Parking Garages: Walnut, Morton, 4<sup>th</sup> Street and Trades District and one garage pending renovations: Hopewell Garage on former Bloomington Hospital site.

Neighborhood/Visitor Zones: Zones 1, 2, 3, 4, 5, 6, 8, 10, and 11 total of approximately three thousand two hundred and fifty (3,250) total parking spaces in these zones.

**1.2 SCOPE OF WORK:** This Study's primary goal is to comprehensively analyze parking meter rates, parking garage rates, permit rates, replacement rates, and citation fees in the downtown, and neighborhood and in the parking garages. The aim of this study is to provide a detailed comprehensive review of our current parking operation, evaluate the economic and social impacts of existing rates, use of technology and mobile apps in both on and off street parking operations this will include all types of meter technology, handheld technology, which should include license plate recognition (LPR). Identifying any potential areas for improvement or necessary increase. The Respondent shall perform the following:

**Parking Garage Rate Analysis:** The Study will conduct a comprehensive analysis of parking garage rates in the City of Bloomington. This examination encompasses a detailed review of the current garage rate structure, considering factors such as hourly rates, daily rates, and any special pricing for extended periods. The Study will also assess the economic and social implications of the existing garage rates, exploring their impact on user behavior and revenue generation for the City. Furthermore, a comparative analysis will be undertaken to benchmark City of Bloomington garage rates against those of similar cities, aiming to establish benchmarks and gauge the competitiveness of the City's parking facilities. This would include the new residential Hopewell garage that is tentatively slated to be opened the summer of 2025.

**Meter Rate Analysis:** A thorough investigation of meter rates will be a pivotal aspect of the Study. The Study will evaluate the accessibility and convenience of metered parking, examining this impact on turnover and overall parking utilization. Comparative research with other cities will be conducted to assess how City of Bloomington meter rates align with industry standards, ensuring a comprehensive understanding of the City's competitive positioning with Indiana University right next door.

**Citation Fee Analysis:** The Study will delve into a thorough assessment of citation fees within the City. This analysis includes an examination of the current citation fee structure, penalties for overdue payments, and escalations and or collection process. It will also review the timeframe a violator has to pay or appeal a citation. The Study will consider the effectiveness of the existing citation system in terms of deterrence and revenue generation for the City. Additionally, the research will explore how citation fees align with those comparable cities or areas to establish benchmarks and evaluate the competitiveness of City of Bloomington penalty structure.

**Permit Rate Analysis:** The Study will meticulously analyze permit rates within the City. This involves a detailed examination of the structure of permit fees, including costs for all permit types and durations, and examine administrative processing or handling fee to various permit types for various reasons. The analysis will assess the demand for permits, the availability of parking spaces for permit

holders, and the overall effectiveness of the permit system. Comparative benchmarking with similar cities will be conducted to understand the relative affordability of City of Bloomington permit rates.

**Inventory Analysis:** The inventory analysis segment of the study will focus on examining the existing parking inventory throughout the City. This evaluation aims to assess the suitability of removal of metered parking and move to pay by phone area/zones. This analysis will encompass examining the current distribution, usage patterns, and demand levels of parking facilities, the analysis will identify areas that need to be rezoned.

**Parking Policies Review:** Comprehensive review of on existing parking policies. This will included tow policy, refund policy or no refund policy, the current application process for both neighborhood and garages permits and requirements to qualify for each type of permit we offer. Investigate and explore how these processes can be more efficient and or the application processes can be streamlined to improve customer satisfaction.

**Demographic and Economic Factors:** Explore demographic information and economic indicators that may influence parking demand, such as population density, business activities, and special events for downtown, and tourism patterns.

**Appeals Management:** Comparative analyze of how like municipalities handle the appeal process. How does the most common practice work and who administrates it. Which approach allows for fluent communication and is the best practice for making sure the process is impartial.

**Stakeholder Engagement:** Actively involve, local businesses, residents, city employees, students and visitors through targeted outreach efforts by focus groups and surveys. The primary objective is to collect valuable feedback on the current parking rates and process and incorporate them into the Study, ensuring a representation of diverse perspectives.

### **1.3 GENERAL SPECIFICATION INFORMATION**

Describe the Consultant's qualifications and experience in conducting similar parking studies.

### **1.4 LICENSES AND CERFITICATIONS**

All relevant employees, including the structural engineer, shall have all valid and up-to-date licenses required by the State Of Indiana necessary for this type of project.

### **1.5 QUALIFICATONS**

The Respondent must meet the following minimum qualifications:

1. Have a minimum of (10) years' relevant experience within the past twenty (20) years.
2. Have experience working with governmental agencies and municipalities of a similar geographic scale or larger than the City of Bloomington, Indiana. The Respondent must submit a minimum of five (5) references using the City's vendor reference forms. At least two (2) references must be from a governmental agency.

### **1.6 SELECTION AND AWARD**

All proposals deemed responsive to this request will be reviewed. Selection of the successful Firm will be based on multiple factors, including cost, experience, ability, and references.

Once the proposals are opened and evaluated by the City, taking into consideration the criteria

stipulated in section 3.2 of this RFP, the City may make an award to the Firm who submits the proposal judged by the City to be the most advantageous. The City reserves the right to award on an all-or-none basis, or award to multiple Firms if it is in the best interest of the City.

- 1.6.1 The City reserves the right to rescind any award if it is determined the offer is not in the best interest of the City, or if errors, omissions, inaccuracies, non-compliance or any deficiencies are discovered after the award has been issued.
- 1.6.2 If the City determines that all proposals received should be rejected, Service Providers shall be notified by the Purchasing Manager accordingly. The City may or may not resubmit the proposal request.
- 1.6.3 Results shall not be given over the telephone, or prior to the award of a contract.
- 1.6.4 Proposals may be withdrawn any time *before* the scheduled deadline for receipt of proposals upon written request prior to the scheduled closing time for accepting proposals. Negligence on the part of the firm in preparing their proposal confers no right to withdraw his or her response after the scheduled closing time for filing proposals; no proposals may be modified or withdrawn for a period of sixty (60) calendar days thereafter.
- 1.6.5 The City reserves the right to reject the submittal based on its assessment of the Service Provider's prior performance.
- 1.6.6 Discussions and negotiations may take place with the short list of firms to ensure clarification and to obtain the best and final offer.
- 1.6.7 A City of Bloomington Public Servant is required to notify the Purchasing Manager prior to submitting a proposal for consideration to determine eligibility. State law IC 35-44.1-1-4 prohibits a Public Servant, or their dependents from deriving a profit from a contract or a purchase from the government entity they serve unless certain disclosure requirements are met. A Public Servant who knowingly or intentionally executes a contract or purchase without full disclosure or proper approval from the government entity commits conflict of interest which is a Level 6 Felony, which is punishable by six (6) months to two and half (2 ½) years in jail and/or up to a \$10,000 fine.

## 1.7 KEY DEADLINE DATES: All times are EST.

Event	Time	Day	Date
RFP Issuance Date	N/A	Friday	November 8, 2024
Site Visit Mandatory	9:00 am	Monday	December 2, 2024
Inquiries Due	5:00 pm	Wednesday	December 4, 2024
Responses Due	5:00 pm	Friday	December 6, 2024
Affirmative Action Plan Due	11:00 am	Monday	December 16, 2024
Submittal Deadline	11:00 am	Monday	December 16, 2024

The City reserves the right, at its sole discretion, to adjust the RFP key deadline dates, as it deems necessary. Any adjustment of the Deadline Dates shall constitute an RFP addendum. Any amendments will be posted on the City's RFP Information web page listed below and it is the responsibility of each Proposer to confirm no addenda has been issued prior to submitting their proposals.

<http://bloomington.in.gov/rfp>

## PART II: GENERAL CONDITIONS

### 2.1 SUBMISSION REQUIREMENTS

Proposals shall be submitted digitally to the attention of Julie Martindale-Long, Purchasing Manager, directly to the email address shown below. All submittals shall be clearly marked "RFP Parking Rate Proposal and Comprehensive Review" in the subject line of the email. Submittals will be due to the email address listed below and are due before 11:00 a.m. local time, December 16, 2024. Proposals shall include all of the completed forms shown below:

1. E- Verify Employment Affidavit (**Exhibit A**)
2. Non-Collusion Affidavit (**Exhibit B**)
3. Affirmative Action Plan (**Exhibit C**)
4. Properly executed and signed exhibit Agreement (**Exhibit D**)

**Note:** The Affirmative Action Plan (**Exhibit C**) can be submitted with the proposal but the city strongly suggests and prefers you to submit your plan prior to the deadline, so any issues can be resolved, and not delay the awarding of a contract.

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### Submit Proposals To:

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Email Address: Julie Martindale-Long  
Purchasing Manager  
[martindj@bloomington.in.gov](mailto:martindj@bloomington.in.gov)

## **2.2 DELIVERY OF PROPOSAL:**

Each proposal must be received by the date and time set for closing receipt of offers. The email shall be identified with the RFP Title, the name of the submitting Firm(s), and the date and time of closing.

**Note: Any deviation from this requirement may result in your proposal being considered non-responsive, thus eliminating your company from further consideration.**

It is the responsibility of each Proposer to assure actual delivery of proposal documents with the City prior to 11:00 a.m. on December 16, 2024. To confirm receipt of your submittal, please contact Julie Martindale at 812.349.3474, or [martindj@bloomington.in.gov](mailto:martindj@bloomington.in.gov).

## **2.3 PROPOSAL COSTS:**

Those submitting proposals do so entirely at their expense. There is no expressed or implied obligation by the City to reimburse any individual or firm for any costs incurred in preparing or submitting proposals, or providing additional information when requested by the City, this includes, but is not limited to, costs for travel and per diem, attending interviews, providing presentations or demonstrations, and participating in contract negotiation sessions.

## **2.4 ACCEPTANCE OR REJECTION:**

Submission of any proposal indicates acceptance of the conditions and requirements contained in the Request for Proposal and contract draft unless clearly and specifically noted otherwise in the submittal documents.

The City of Bloomington also reserves the right to reject any and all proposals, in whole or in part, to waive any and all informalities, and to disregard all non-conforming, non-responsive or conditional proposals.

## **2.5 COMPLIANCE:**

The Proposer warrants and agrees that its performance under this contract will at all times comply with all local, state and federal laws, codes, rules, ordinances and regulations.

## **2.6 MANDATORY ON-SITE VISIT:**

A mandatory on-site visit is scheduled for Monday, December 2, 2024 at 9:00 am. All attendees should meet in the lobby of Parking Services Office located at 206 S. Walnut, Bloomington, Indiana 47404 and must sign in at the site visit location. A tour of the parking operations will be given with opportunities to pose questions. The City will either respond to questions, or document questions for later response. Any follow-up site visit questions should be submitted as per instructions listed in Section 2.7.

## **2.7 INQUIRIES:**

It is the responsibility of each Firm to examine the RFP and to seek clarification in writing via email if the Firm does not understand any information or instructions.

Questions regarding the RFP must be submitted via email. Submissions shall include the RFP number and title in the subject line. The City assumes no liability for assuring accurate/complete/on time e-mail transmission and receipt. Inquiries must be submitted via email no later than 5:00 p.m. local time, Wednesday, December 4, 2024.

1. Reference the page number and paragraph within this RFP relevant to the question presented for clarification.

2. The City will respond to all inquiries within two (2) business days of submittal.
3. Any ambiguities or inconsistencies shall be brought to the attention of the City through written communication via email by 5:00 p.m. local time, December 4, 2024. Submit inquiries to:

<p>Julie Martindale-Long martindj@bloomington.in.gov</p>
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## **2.8 ADDENDA:**

If revisions become necessary, the City will provide written addenda. Any addenda issued by the City must be so noted on any proposals that are submitted to the City. The Firm shall contact the City to ascertain whether any addenda have been issued. Failure to do so could result in an unresponsive proposal. In addition, any Addenda will be posted on the City's RFP website:

<http://bloomington.in.gov/rfp>

## **2.9 PROPOSAL FORMAT:**

In order to facilitate the evaluation of responses to this RFP, Firms are required to prepare their proposals in accordance with the instructions outlined in this section.

Qualified Firms interested in performing the work described in this Request for Proposal shall provide the following information presented in a clear, comprehensive, and concise manner illustrating the company's capabilities and expertise:

**2.9.1 Company Introductory Letter** – Cover Letter must state the name and title of the person(s) authorized to represent the company in any negotiations, the name(s) and titles(s) of persons authorized to sign any contract that may result from this RFP, the contact person's name, mailing address, phone and fax numbers, and email address. A legal representative of the company authorized to bind the firm in contractual matters must sign the Cover Letter and the Proposal.

**2.9.2 Firm Experience & Qualifications** – Provide a statement that documents the company's qualifications and as it relates to the experience described in the Scope of Work. Describe the organizational profile of consultant's firm. Specify the legal form of the organization (e.g. non-profit, corporation, partnership, joint venture, other) and identify persons with the authority to represent and make legally binding commitments for the Consultants. Describe the Consultant's qualifications and experience in conducting similar parking studies or urban planning projects. Provide a list and resumes of key staff on the project team who will be directly involved in the project, including designation of a single point of contact for coordination of the project. Staff resumes should focus on individuals who will have primary responsibility for each phase of the project and final deliverables.

The response should include the following:

- A. **Methodology and Approach:** Provide in concise narrative form, your understanding of the City's needs, goals and objectives as they relate to the project, and your overall approach to accomplishing the project. Give an overview of your proposed vision, ideas and methodology. Describe your proposed approach to the project.

- B. Stakeholder Engagement: Describe how the Respondent will address stakeholder, engagement, including local business, residents, and visitors.
- C. Regulatory Understanding: Describe your understanding of the City's local regulations and the proposed strategies for regulatory alignment.
- D. Fee Proposal: Submit a Fee Proposal including the cost to provide the entire Study and deliverables, and a budget narrative showing a breakdown by major components and payment milestones.
- E. References: Submit a minimum of five (5) references for project of similar size and scope. References should include company name, representative name, and contact information including a valid email address, and phone number of each reference.

### **PART III: EVALUATION OF PROPOSALS**

#### **3.1 EVALUATION METHOD:**

All proposals deemed responsive to this request will be evaluated. The City will consider the qualifications and demonstrated experience of each respondent, and the additional criteria listed in the Evaluation Criteria table in section 3.2. The award, if any, will be based upon the proposal that is determined to be the most advantageous to the City.

#### **3.2 EVALUATION CRITERIA AND SCORING:**

While cost is important, other factors are also significant. Consequently, the City may select a proposal other than the lowest cost proposal. The City's goal is to choose the Firm capable of providing quality service and experience that will help the City achieve its goals within a reasonable budget.

Evaluation will be based on the criteria below	Evaluation Criteria	Scoring Method	Weight (Points)
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1.	<b>Experience and Qualifications</b> <ul style="list-style-type: none"> <li>• <b>Relevant Experience:</b> The level of experience and expertise of organization in conducting similar parking studies or urban planning projects.</li> <li>• <b>Qualifications of Key Personnel:</b> Key personnel identified in the proposal equipped with the necessary skills and experience for this study?</li> </ul>	Points Based	20 (20% of Total)
2.	<b>Methodology and Approach</b> <ul style="list-style-type: none"> <li>• <b>Clarity and Relevance:</b> How well does the proposal outline a clear and relevant methodology for conducting the Parking Rate Study and Comprehensive Review? Is the content of the proposal clear, concise, and easily understandable?</li> <li>• <b>Data Collection Methods:</b> Are the proposed methods for collecting data on parking rates, user feedback, and economic impact comprehensive and appropriate?</li> <li>• <b>Comparative Analysis:</b> Does the proposal demonstrate a robust approach to comparing current rates with historical data and benchmarking against other regions?</li> <li>• <b>Review of Preliminary Timeline</b></li> </ul>	Points Based	30 (30% of total)
3.	<b>Stakeholder Engagement</b> <ul style="list-style-type: none"> <li>• <b>Approach to Stakeholder Engagement:</b> How effectively does the proposal address stakeholder engagement, including local businesses, residents and visitors?</li> <li>• <b>Strategies for Feedback Collection:</b> Does the proposal outline clear strategies for collecting meaningful feedback from diverse stakeholder groups?</li> </ul>	Points Based	15 (15% of total)

4.	<b>Regulatory Understanding</b> <ul style="list-style-type: none"> <li>• <b>Understanding of Local Regulations:</b> How well does the proposal demonstrate an understanding of existing local regulations influencing parking rates?</li> <li>• <b>Proposed Strategies for Regulatory Alignment:</b> Are there clear strategies for aligning proposed changes with existing regulatory frameworks?</li> </ul>	Point Based	15 (15% of Total)
5.	<b>Fee Proposal</b> <ul style="list-style-type: none"> <li>• <b>Cost-effectiveness:</b> Does the fee proposal demonstrate a cost-effective approach to conducting the Study without compromising quality?</li> <li>• <b>Budget Clarity:</b> Is the budget breakdown clear and aligned with the proposed scope of work?</li> </ul>	Point Based	20 (20% of Total)

### Evaluation Committee

A Selection Committee will review and evaluate submittals to determine if they meet all of the requirements in this solicitation to be deemed responsive and responsible.

During the evaluation process, the Selection Committee may, at its discretion, request oral presentations to clarify information or answer questions on submittals.

### Deliverables

The Respondent will submit the following deliverables:

#### A. Interim Report

1. Submit an interim report outlining the progress and initial findings for the Study.
2. Address any concerns or questions raised during the Study.

#### B. Draft Recommendations

1. Present a first draft of the Study, including preliminary recommendations to City staff based on the data collected and stakeholder engagement.
2. Allow for feedback from City Staff before finalizing recommendations within the Study.

### **C. Final Report**

1. Deliver a comprehensive final report with detailed analysis, conclusions, and recommendations.
2. Include an executive summary for quick reference

### **D. Presentation to City Commission/Council**

1. The Respondent will deliver presentations to City Commission/Council discussing the Study findings and recommendations and answer any questions Commission/Council members may have.
2. Provide a proposal for rates 5-10 year projected rates for meters, neighborhood permits, and parking garages and all permit programs.

### **Timeline**

- A. The Respondent will provide a preliminary timeline with their proposal detailing a proposed schedule for completion of the study with milestones showing suggested meetings and presentations.
- B. After award, the Respondent will provide a final timeline clearly defining milestones for each phase of the Study and deadlines for all deliverables.

### **Fee Proposal**

Discussions and negotiations may take place with the short list of Firms to ensure clarification and to obtain a best and final offer.

## **PART IV: GENERAL REQUIREMENTS**

### **4.1 VENDOR/CONTRACTOR/SERVICE PROVIDER REGISTRATION:**

Upon *notification of an award*, a Firm must meet the approval requirements of the City for becoming an approved vendor. Therefore, the Firm shall submit a current and completed Request for Taxpayer Identification Number and Certification form (IRS Form W-9) to the Controller's office as soon as they have been notified of an award or contract. A substitute IRS W-9 form can also be obtained from the City of Bloomington website located here: <http://bloomington.in.gov/controller>. The completed documents must be submitted using one of the methods listed on the form. Please contact the Controller's office at 812.349.3474 if you have any questions.

### **4.2 PAYMENT PREFERENCE:**

The City of Bloomington's preferred method of payment is Electronic Funds Transfer (EFT). Payments processed through an EFT saves dollars by increasing efficiency and streamlining the payment process. This eliminates the cost of paper, printing, postage, paperwork, and time.

If awarded a contract, the Firm shall submit a completed EFT form to the staff member who requests the documents through one of the methods listed on the form. The form is located on the City of

Bloomington website located here: [www.bloomington.in.gov/controller](http://www.bloomington.in.gov/controller). Please contact the Controller's office at 812.349.3474 if you have any questions.

#### **4.3 TAX EXEMPTION:**

The City of Bloomington is exempt from payment of all state and federal sales taxes. Tax documents are available upon request.

#### **4.4 INSURANCE:**

If awarded a contract the Service Provider shall maintain the minimum amount of insurance coverage shown below during the performance period of the service contract. If additional Insurance coverage is required above the types and amounts listed in this section, it will be stated in the contract supplied with this request. Certificates of Insurance listing City of Bloomington as the insured must be on file prior to commencement of work.

- 4.4.1 All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana.
- 4.4.2 Commercial General Liability (Occurrence Basis) bodily injury, personal injury, property damage, contractual liability, products-completed operations, Insurance coverage, with a minimum combined single limit coverage amount of \$1,000,000 for each occurrence, \$2,000,000 products and completed operations aggregate; and \$2,000,000 general aggregate.
- 4.4.3 Comprehensive Automobile Liability Insurance coverage for all owned, hired, and non-owned autos with a minimum combined single limit of \$1,000,000 for each person, and \$1,000,000 for each accident.
- 4.4.4 Worker's Compensation Insurance coverage in accordance with the statutory requirements. Employers Liability \$1,000,000 for each accident, for each employee.
- 4.4.5 Umbrella Excess Liability insurance coverage with a required limit of \$1,000,000. The deductible on the Umbrella Liability shall not exceed \$10,000.
- 4.4.6 Computer Attach and Cyber Extortion coverage of \$1,000,000 annual aggregate, sub limits per occurrence Cyber Extortion \$100,000, with a deductible of \$10,000 per occurrence.
- 4.4.7 Network Security Liability coverage of \$1,000,000 annual aggregate, with a deductible of \$10,000 per occurrence.
- 4.4.8 Electronic Media Liability coverage of \$1,000,000 annual aggregate, with a deductible of \$10,000 per occurrence.
- 4.4.6 The City of Bloomington, the Department, the officers, employees, and agents of each shall be named as additional insured under the General Liability Insurance and Automobile Liability Insurance policies. The policies shall stipulate that the insurance will operate as primary insurance and that no other insurance effected by the City will be called upon to contribute to a loss.

#### **4.5 WARRANTIES**

The Service Provider warrants that all articles, equipment, materials, services or goods furnished or used in the performance of this contract shall be consistent with manufacturer's specifications and shall be free from defects. Also, the Service Provider shall warrant their work for one (1) year from the date of project completion.

The Service Provider also warrants that all Services and Workmanship furnished under this contract shall conform to the methods, standards and best practices of the trade or industry they serve, and all work shall be performed by skilled and experienced staff or workers trained in the specific services covered by this contract.

#### **4.6 AFFIDAVITS:**

The selected Firm will also be required to execute affidavits for E-Verify and Non-Collusion affidavits as required by Indiana State statutes.

- **E-VERIFY AFFIDAVIT (Exhibit A):** Pursuant to Indiana Code 22-5-1.7-11, each Company is required to enroll in and verify the work eligibility status of all of its newly hired employees through the E-Verify program. An affidavit must be signed, which affirms that the firm does not knowingly employ an unauthorized alien. This affidavit is provided and should be submitted with your proposal.
- **NON-COLLUSION AFFIDAVIT (Exhibit B):** Pursuant to Indiana Code 5-22-16-6, each Company is required to affirm it has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by Company, 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. This affidavit is provided and should be submitted with your proposal.

**4.7 AFFIRMATIVE ACTION PLAN (Exhibit C):** Each Contractor submitting a quote, proposal, or bid over \$10,000.00 shall submit and have approved by the City of Bloomington Contract Compliance Officer, Audrey Brittingham, his/her written Affirmative Action Plan. The Plan must be submitted to City Legal as part of the proposal or prior to the submittal deadline. Those who fail to submit acceptable plans by the contract execution deadline are subject to disqualification.

Each Contractor must insure that all employees and applicants for employment are not discriminated against because of race, religion, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, veteran status or housing status. All the protected classes must be included in your Affirmative Action Plan for it to be acceptable. In addition to other requirements, your plan MUST include a workforce breakdown, an internal grievance procedure, a non-retaliation statement, an harassment plan, designation of a person by name or position who is responsible for implementation of the Plan, applicability to both applicants and employees, recruitment of minorities, equal access to training programs, and an explanation of your method of communicating the operations of your Affirmative Action Plan to employees and prospective applicants.

Audrey Brittingham, Contract Compliance Officer, may be contacted at (812) 349-3426, 8:00 a.m. to 5:00 p.m. Monday through Friday. The Affirmative Action Plan paperwork is attached to this RFP and must be returned to Audrey Brittingham at least 24 hours before proposals are due. It can be submitted via e-mail to [audrey.brittingham@bloomington.in.gov](mailto:audrey.brittingham@bloomington.in.gov).

#### **4.8 PERFORMANCE BOND: – NOT APPLICABLE TO THIS PROJECT**

#### **4.9 RETAINAGE: – NOT APPLICABLE TO THIS PROJECT**

#### **4.10 CONTRACT INFORMATION: (Exhibit D)**

Any award for services will require a properly executed Agreement of Services contract which shall include a Scope of Work, compensation not to exceed amount, General Terms, and Conditions, and any specific Terms and Conditions required based on the type of service being provided. Service Providers are strongly advised to review the contract provided with this packet. Submission of a Proposal indicates acceptance of the Terms and Conditions contained within this request unless clearly noted in the proposal submittal.

#### **4.11 AWARD OF CONTRACT:**

Proposals will be reviewed, and if a contract is to be awarded, it may be approved at a meeting of the Board of Public Works. These meetings are held in the Council Chambers of City Hall at the Showers Building, 401 N. Morton Street, Bloomington, Indiana. City meetings, which are accessible online via Zoom, can be located by clicking this link: <https://bloomington.in.gov/calendars> and selecting the appropriate board under Boards and Commissions. Each board page includes a link to their individual meeting calendars and the links to meetings that are available for viewing online via Zoom.

**"AFFIDAVIT"**

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

**E-VERIFY AFFIDAVIT**

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

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

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

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

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

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

\_\_\_\_\_  
Printed Name of Notary Public  
My Commission Expires: \_\_\_\_\_  
County of Residence: \_\_\_\_\_

## NON-COLLUSION AFFIDAVIT

## EXHIBIT B

The undersigned offer 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 \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

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

My Commission Expires:

\_\_\_\_\_

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

Resident of \_\_\_\_\_ County

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



Updated August 2024

To: Prospective Bidders/Vendors/Grant recipients

RE: Affirmative Action/Harassment Policy, Living Wage Ordinance, and Drug Testing Policy

FROM: Audrey Brittingham, Assistant City Attorney/Contract Compliance Officer

**AFFIRMATIVE ACTION:** All bidders, quoters, vendors, and grant recipients with the City of Bloomington for projects in excess of \$10,000.00 must submit an affirmative action plan to the City Legal Department. This plan must ensure applicants and employees are treated in a manner that provides equal employment opportunity and tends to eliminate inequality based upon race, religion, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, veteran status and/or housing status.

Even if your company already has a plan on file with the City, you are strongly encouraged to check with City Legal Department to make sure it complies with the City's current requirements, including having a workforce breakdown form that is no more than six months out of date. If you already have a plan, but it does not cover all of the City's current requirements, you may submit a separate supplement with your plan to fill any gaps.

You must submit your written affirmative action plan (or supplement) to City Legal or as part of your bid packet by the bid deadline. Bidders who fail to submit an affirmative action plan by the bid deadline are subject to disqualification. **We strongly recommend you submit your affirmative action plan to the Legal Department prior to the bid deadline so Legal may review your plan to make sure it complies with the City's requirements.** If your bid is chosen and your affirmative action plan does not entirely comply with the City's requirements, you will be required to bring it into compliance prior to the execution of any City contract.

Accompanying this letter you will find the following materials:

1. A sample affirmative action. You are not required to adopt this plan; it is provided for your convenience. Feel free to adopt this plan as your own or to amend it to meet your needs.
2. A workforce breakdown form. You **MUST** submit a workforce breakdown form (sometimes called a "utilization report") with your affirmative action plan. If you have a different form that includes the same type of information, you may submit a copy of that form instead of using our form. **Your workforce breakdown data cannot be more than six months old.**
3. An affirmative action plan checklist. This is the checklist we use to crosscheck your company's affirmative action plan against the City's requirements. If your plan omits any elements on the checklist, your plan will not be approved.

Additional materials, such as the City of Bloomington's Contract Compliance Regulations, are available from the Legal Department upon request.

Once Legal has approved your affirmative action plan, you will receive a letter that can be used to verify your compliance for any City project or contract that requires an affirmative action plan. This letter will expire six months after you submitted the affirmative action plan. You will be issued a new letter when you submit an updated workforce breakdown form.

**HARASSMENT POLICY:** All bidders and vendors required to submit an affirmative action plan must also submit a harassment plan. The harassment plan must, at minimum, include a definition of harassment; the name or title of the individual designated to receive and investigate complaints; and a statement that the contractor will not retaliate against an employee for complaining about harassment. A model harassment policy is included for your convenience as part of our attached model affirmative action plan.

**LIVING WAGE:** Contractors that are considered “covered employers” under City Ordinance 2.28, otherwise known as the “Living Wage Ordinance” or “LWO,” are required to pay their covered employees at least a living wage. Currently, the living wage is \$15.75 per hour for covered employees. Up to 15% of that amount, or \$2.36, may be in the form of the covered employer’s contribution to health insurance available to the covered employee. As of January 1, 2025, the Living Wage shall be \$16.22 per hour, up to \$2.43 of which may be provided in the form of the covered employer’s contribution to health insurance.

If the City determines the successful bidder is a covered employer under the LWO, Contractor shall execute the Living Wage Ordinance Affidavit; shall abide by the LWO by paying their employees a living wage and providing the City with information requested in the course of enforcing the LWO; and shall post the Living Wage Poster, provided on the last page of this packet, in areas frequented by their covered employees.

The attached flow chart provides guidance on whether the contractor is a "covered employer." If you have questions, please contact Audrey Brittingham at [audrey.brittingham@bloomington.in.gov](mailto:audrey.brittingham@bloomington.in.gov), or call 812-349-3426.

**DRUG TEST POLICY:** Finally, please be aware that if you are submitting a bid for a public works project with an estimated cost of \$150,000.00 or more, you will need to submit your company’s written drug testing plan with your bid. Your plan must comply with I.C. 4-13-18-1. Failure to do so may make you ineligible to be awarded a bid or contract. Please see your bid packet for more details.

If you have any questions, contact the City’s Legal Department at 812.349.3426 or email the City at [legal@bloomington.in.gov](mailto:legal@bloomington.in.gov). The office hours are Monday through Friday, 8-5.

Thank you.

## **Model Affirmative Action Plan and Harassment Policy**

\_\_\_\_\_, declares its policy to provide equal opportunity in employment, training and advancement, and to administer its employment practices without regard to race, color, religion, sex, national origin, ancestry, disability, sexual orientation, gender identity, veteran status, or housing status. Our policy of nondiscrimination will prevail throughout every aspect of our employment practices, including recruitment, hiring, training and all other terms and conditions of employment. We shall implement this affirmative action plan to make it widely known that equal employment opportunities are available on the basis of individual merit. We shall survey and analyze our employment workforce annually to determine what steps, if any, are needed to conform effectively to this equal employment policy.

### **Responsible Officer**

Mr./Ms./Mx. \_\_\_\_\_ (or the \_\_\_\_\_ officer) is the equal employment opportunity officer for our company and is responsible for implementing this affirmative action policy.

### **Publication of Policy**

Our employees will be made aware of our commitment to affirmative action through the following procedures:

- posting notices on employee bulletin boards,
- including our policy statement and plan in our personnel manual,
- regularly sending out notices of our policy in paycheck envelopes, and/or
- training supervisors to recognize discriminatory practices.

We will make potential employees aware of our policy through the following procedures:

- including the words "Equal Opportunity Employer" in all of our advertisements and notices for job openings,
- notifying employment agencies about our commitment, and
- sending notice of our policy to unions.

### **Implementing Our Policy**

Our affirmative action plan will be implemented by widening our recruitment sources. We shall advertise in newspapers and other media that reach people in protected classes. We shall send job notices to schools with large percentages of students in the protected classes and to local groups that serve these classes.

We shall examine our hiring practices periodically to insure that we consider only job-related qualifications in filling our positions. We shall discard irrelevant educational requirements and unnecessary physical requirements. We shall ask only job-related questions on our employment applications.

We shall keep affirmative action information on each applicant who voluntarily provides this information, but separate from his or her application. We shall keep records on our hiring decisions to evaluate the success of our affirmative action measures. We shall decide placement, duties, benefits, wages, training prospects, promotions, layoffs and terminations without regard to race, sex, religion, color, national origin, ancestry, disability, sexual orientation, gender identity, veteran status or housing status.

## GRIEVANCE PROCEDURE

If an employee or applicant feels she or he has been discriminated against on the basis of race, sex, religion, color, national origin, ancestry, disability, sexual orientation, gender identity, veteran status or housing status, she or he may bring the complaint to her or his immediate supervisor. If the complaint is not resolved readily at that level, she or he may submit it to \_\_\_\_\_ (personnel officer, corporate president, other) who will make a final decision on its validity. This grievance process does not preclude him or her from complaining to local, state or federal civil rights agencies. We will not retaliate against an employee or applicant for voicing a grievance or for filing a complaint with the appropriate agency.

**Our current workforce breakdown is shown on the attached form.**

### Policy prohibiting harassment in the workplace

It is the policy of \_\_\_\_\_ (company name) to maintain a workplace free of harassment on the basis of race, sex, color, ancestry, national origin, religion, disability, age, sexual orientation, gender identity, housing status or veteran status. Harassment, as defined herein, is strictly prohibited in the workplace, and is punishable by appropriate discipline up to and including termination.

Harassment means any unwelcome or offensive conduct, whether written, verbal or physical, which is

- (a) directed at or to an employee because of his or her actual or perceived race, sex, color, ancestry, national origin, religion, disability, age, sexual orientation, gender identity, housing status or veteran status or
- (b) directed toward any person concerning an individual, or a class of individuals, because of the race, sex, color, ancestry, national origin, religion, disability, age, sexual orientation, gender identity, housing status or veteran status of the individual or class of individuals. For example, racial or ethnic slurs or derogatory epithets are prohibited in the workplace, regardless of whether a member of the racial or ethnic group is present when the statement is made.

Harassment does not refer to occasional compliments or other statements of a socially acceptable nature. Harassment refers to behavior which is unwelcome and which is offensive and/or persistent enough to create, or has the potential of creating an intimidating, hostile or offensive working environment for any employee. Harassment includes unwelcome sexual advances or requests for sexual favors, unwelcome touching of a sexual nature and unwelcome and/or offensive sexual comments.

- 1. This policy applies to all full-time, part-time, permanent and temporary employees, including supervisors and department heads, as well as to volunteers.
- 2. It is a violation of this policy to use an individual's submission to or rejection of harassing conduct as the basis for any employment decision affecting the individual.
- 3. An employee who believes she, he or they have been subjected to harassment as defined in this policy shall promptly report the harassment to her, his or their supervisor and/or the director of human resources or designee. \_\_\_\_\_ (company name) will make reasonable efforts to insure that a human resources representative of each sex is available to receive such complaints. The human resources department shall conduct a thorough and prompt investigation and, if appropriate, take disciplinary action against any offender, including but not limited to discharge. Staff will keep the complaint as confidential as reasonably possible. No one will be retaliated against for filing a harassment complaint.

4. All supervisory personnel who observe or otherwise learn of or have reason to suspect any conduct which may violate this policy shall promptly report such facts to the director of human resources or designee, and shall cooperate fully in any investigation or disciplinary action undertaken pursuant to this policy. Failure to comply with this section shall be grounds for appropriate disciplinary action, up to and including termination.
5. \_\_\_\_\_ (company name) will provide regular training to employees and supervisors on the subject of harassment in the workplace. We will include information about this policy in our orientation and in our personnel policy. A copy of this policy will be posted on a prominent bulletin board. We take this matter seriously and will do all that is reasonably necessary to maintain a harassment-free workplace for our employees.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_

WORKFORCE BREAKDOWN FORM

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

REPRESENTATIVE: \_\_\_\_\_

PHONE: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

Position, Title Class or Category	Total Number Employees in Each Position	Total Number Minority Employees	Percent of Total	Total Number Female and Non-Binary Employees	Percent of Total	Total Number Employees with Disabilities	Percent of Total

I swear or affirm under penalties of perjury that this workforce breakdown is accurate, to the best of my knowledge.

\_\_\_\_\_  
Signature and Title of Representative:

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

### AFFIRMATIVE ACTION PLAN AND HARASSMENT POLICY CHECKLIST

NOTE: This is **not** an Affirmative Action Plan. This checklist is provided for organizations with existing affirmative action plans to crosscheck their plans against the City's requirements. Each item listed below is required by City ordinance or regulation.

Contractor: Plan MUST Include:		Yes	No	Comments:
Policy statement of equal employment opportunity		<input type="checkbox"/>	<input type="checkbox"/>	
<b>Covers:</b>	Applicants for employment	<input type="checkbox"/>	<input type="checkbox"/>	
	Employees	<input type="checkbox"/>	<input type="checkbox"/>	
<b>On basis of:</b>	Race	<input type="checkbox"/>	<input type="checkbox"/>	
	Religion	<input type="checkbox"/>	<input type="checkbox"/>	
	Color	<input type="checkbox"/>	<input type="checkbox"/>	
	Sex	<input type="checkbox"/>	<input type="checkbox"/>	
	National Origin	<input type="checkbox"/>	<input type="checkbox"/>	
	Ancestry	<input type="checkbox"/>	<input type="checkbox"/>	
	Disability	<input type="checkbox"/>	<input type="checkbox"/>	
	Sexual Orientation	<input type="checkbox"/>	<input type="checkbox"/>	
	Gender Identity	<input type="checkbox"/>	<input type="checkbox"/>	
	Veteran Status	<input type="checkbox"/>	<input type="checkbox"/>	
	Housing Status	<input type="checkbox"/>	<input type="checkbox"/>	
	Designates a person responsible for implementation of the Plan		<input type="checkbox"/>	<input type="checkbox"/>
<b>Provides for communication of the policy:</b>				
Within the Organization		<input type="checkbox"/>	<input type="checkbox"/>	
Outside the Organization		<input type="checkbox"/>	<input type="checkbox"/>	
(e.g., recruitment sources, unions)				
<b>Applies to all terms and conditions of employment (e.g., hiring, placement, promotion, duties, wages, benefits, use of facilities, layoff, discipline, termination)</b>		<input type="checkbox"/>	<input type="checkbox"/>	
Provision for: Recruitment from minority groups		<input type="checkbox"/>	<input type="checkbox"/>	
Provision for: Equal access to training programs		<input type="checkbox"/>	<input type="checkbox"/>	
Grievance Procedure		<input type="checkbox"/>	<input type="checkbox"/>	
Prohibits retaliation for filing grievances		<input type="checkbox"/>	<input type="checkbox"/>	
Workforce Breakdown		<input type="checkbox"/>	<input type="checkbox"/>	
(figures up to date within 6 months)				
<b>HARASSMENT POLICY CHECKLIST</b>				
Definition of harassment		<input type="checkbox"/>	<input type="checkbox"/>	
Designates a person to receive and Investigate harassment complaints		<input type="checkbox"/>	<input type="checkbox"/>	
Prohibits retaliation for filing a harassment complaint		<input type="checkbox"/>	<input type="checkbox"/>	

**AGREEMENT FOR CONSULTING SERVICES**

This Agreement, entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Bloomington \_\_\_\_\_ Department through the Board of Public Works (hereinafter referred to as "Board"), and \_\_\_\_\_, (hereinafter referred to as "Consultant"),

**WITNESSETH:**

WHEREAS, the Board wishes to enhance the services it provides by engaging in efforts to receive temporary \_\_\_\_\_ services necessary to meet workload demands; and,

WHEREAS, the Board requires the services of a professional engineering consultant in order to perform tasks including \_\_\_\_\_, which shall be hereinafter referred to as "Services"; and

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

WHEREAS, Consultant is willing and able to provide such Services to the Board;

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

**Article 1. Scope of Services:** Consultant shall provide required Services for the Board as set for in Exhibit A, Scope of Services. Exhibit A is attached hereto and incorporated herein by reference as though fully set forth.

Consultant shall diligently pursue its work under this Agreement and shall complete the Services as described in Exhibit A in a timely manner. Consultant shall perform all Services as expeditiously as is consistent with professional skill and care and the orderly progress of the work.

In the performance of Consultant's work, Consultant agrees to maintain such coordination with the Board as may be requested and desirable, including primary coordination with the \_\_\_\_\_ Department officials designated by the Board as project coordinator(s).

Consultant agrees that any information or documents, including digital GIS information, supplied by the Board pursuant to Article 3, below, shall be used by Consultant for this project only, and shall not be reused or reassigned for any purpose.



**Article 2. Standard of Care:** Consultant shall perform all services under this Agreement in a skillful and competent manner in accordance with normally accepted standards of the architectural and engineering professions and with that degree of care and skill which a professional engineer or architect would exercise under the same or similar circumstance.

**Article 3. Responsibilities of the Board:** The Board shall have the following responsibilities under this Agreement and shall meet these responsibilities in a timely manner so as not to delay the orderly progress of the Services, and Consultant shall be entitled to rely upon the accuracy and completeness of information supplied by the Board:

**A. Information/Reports**

Provide Consultant with reports, studies, site characterizations, regulatory decisions and similar information relating to the Services that Consultant may rely upon without independent verification unless specifically identified as requiring such verification.

**B. Representative**

The Board hereby designates \_\_\_\_\_ Name \_\_\_\_\_, \_\_\_\_\_ Title \_\_\_\_\_, \_\_\_\_\_ Department ("Last Name"), to serve as the Board's representative for the project. "Last Name" shall have the authority to transmit instructions, receive information, interpret and define the Board's requirements and make decisions with respect to the Services.

**C. Decisions**

Provide all criteria and full information as to Board's requirements for the Services and make timely decisions on matters relating to the Services.

**Article 4. Compensation:** The Board shall pay Consultant a fee based on the payment schedule set forth in Exhibit B – Compensation. Exhibit B is attached hereto and incorporated herein by reference as though fully set forth. The total compensation paid for the project, including fees and expenses, shall not exceed the amount of \_\_\_\_\_ (\$\_\_\_\_\_). These sums include salaries, payroll taxes and insurance, employee fringe benefits, general overhead costs, profit, and project related expenses. Payments will be made according to Consultant's monthly progress statements for each phase and shall be invoiced for the work completed only.

Additional assignments or additional services not set forth in Exhibit A, changes in work, or incurred expenses in excess of the rates set forth in Exhibit B must be authorized in writing by the Board or the Board's designated representative prior to such work being performed, or expenses incurred. The Board shall not make payment for any unauthorized work or expenses. Claims for additional work or expenses must be submitted within thirty (30) days of the completion of the work or expenditure, and must be accompanied by a statement of itemized costs.

**1. Timing and Format for Billing:**

Invoices shall be submitted monthly for Services completed at the time of billing and are due upon receipt. Invoices shall be considered past due if not paid within forty-five (45) calendar days of the due date. Such invoices shall be prepared in a form supported by documentation as the Board may reasonably require.

Tasks shall be invoiced separately, either as separate lines on a single invoice, or on separate invoices at the Board's direction.

**2. Billing Records:**

Consultant shall maintain accounting records of its costs in accordance with generally accepted accounting practices. Access to such records will be provided during normal business hours with reasonable notice during the term of this Agreement and for 3 years after completion.

**Article 5. Appropriation of Funds:** Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Board are at any time not forthcoming or are insufficient, through failure of any entity, including the Board itself, to appropriate funds or otherwise, then the Board shall have the right to terminate this Agreement without penalty as set forth in Article 7 herein.

**Article 6. Schedule:** Consultant shall perform the Services according to the schedule set forth in Exhibit C, Project Schedule. Exhibit C is attached hereto and incorporated herein by reference as though fully set forth. The time limits established by this schedule shall not be exceeded, except for reasonable cause as mutually agreed by the parties.

**Article 7. Termination:** In the event of a party's substantial failure to perform in accordance with the terms of this Agreement, the other party shall have the right to terminate the Agreement upon written notice. The nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

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

Upon termination or suspension of this Agreement, all finished or unfinished reports, drawings, collections of data and other documents generated by Consultant in connection with this Agreement shall become the property of the Board, as set forth in Article 11 herein.

**Article 8. Identity of Consultant:** Consultant acknowledges that one of the primary reasons for its selection by the Board to perform the duties described in this Agreement is the qualification and experience of the principal personnel whom Consultant has represented will be responsible there for.

**Article 9. Cost Estimates:** All estimates of construction cost to be provided by Consultant shall represent the best judgment of Consultant based upon the information currently available and upon Consultant's background and experience with respect to projects of this nature. It is recognized, however, that neither Consultant nor the Board has control over the cost of labor, materials or equipment, over contractors' method of determining costs for services, or over competitive bidding, market or negotiating conditions. Accordingly, Consultant cannot and does not warrant or represent that the proposals or construction bids received will not vary from the cost estimates provided pursuant to this Agreement.

**Article 10. Reuse of Documents:** All documents, including but not limited to, drawings, specifications and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to this project. They are not intended or represented to be suitable for reuse by the Board or others on modifications or extensions of this project or on any other project. The Board may elect to reuse such documents; however, any reuse without prior written verification or adaptation by Consultant for the specific purpose intended will be at the Board's sole risk and without liability or legal exposure to the Consultant. The Board shall indemnify and hold harmless the Consultant against all judgments, losses, damages, injuries and expenses arising out of or resulting from such reuse. Any verification or adaptation of documents by the Consultant will entitle the Consultant to additional compensation at rates to be agreed upon by the Board and the Consultant.

**Article 11. Ownership of Documents and Intellectual Property:** All documents, drawings and specifications, including digital format files, prepared by Consultant and furnished to the Board as part of the Services shall become the property of the Board. Consultant shall retain its ownership rights in its design, drawing details, specifications, data bases, computer software and other proprietary property. Intellectual property developed, utilized or modified in the performance of the Services shall remain the property of the Consultant.

**Article 12. Independent Contractor Status:** During the entire term of this Agreement, Consultant shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the Board.

**Article 13. Indemnification:** To the fullest extent permitted by law, Consultant shall indemnify and hold harmless the City of Bloomington, the Board, and the officers, agents and employees of the City and the Board from any and all claims, demands, damages, costs, expenses or other liability arising out of bodily injury or property damage (collectively "Claims") but only to the extent that such Claims are found on a comparative basis of fault to be caused by any negligent act or omission of Consultant or Consultant's officers, directors, partners, employees, or subconsultants in the performance of services under this Agreement.

**Article 14. Insurance:** During the performance of any and all Services under this Agreement, Consultant shall maintain the following insurance in full force and effect:

- a. General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate.
- b. Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- c. Professional Liability Insurance ("Errors and Omissions Insurance") with a minimum combined single limit of \$1,000,000 for each occurrence, and \$2,000,000 in the aggregate.
- d. Workers' Compensation Insurance in accordance with the statutory requirements of Title 22 of the Indiana Code.
- e. Cyber Attack and Cyber Extortion: computer attack limit (annual aggregate) of \$1,000,000; sublimit (per occurrence) for cyber extortion of \$100,000; and computer attack and cyber extortion deductible (per occurrence) of \$10,000.

- f. Network Security Liability: limit (annual aggregate) of \$1,000,000; and deductible (per occurrence) of \$10,000.
- g. Electronic Media Liability: limit (annual aggregate) of 1,000,000; and deductible (per occurrence) of \$10,000.
- h. Fraudulent Impersonator Coverage: limit (annual aggregate) of \$250,000; and deductible (per occurrence) of \$5,000.

All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Board, and the officers, employees and agents of each shall be named as additional insured under both the General Liability Insurance and Automobile Liability Insurance policies, and the policies shall stipulate that the insurance will operate as primary insurance and that no other insurance effected by the City will be called upon to contribute to a loss hereunder.

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

**Article 15. Conflict of Interest:** Consultant declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services required under this Agreement. The Consultant agrees that no person having any such interest shall be employed in the performance of this Agreement.

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

**Article 17. Severability:** The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this

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

**Article 18. Assignment:** Neither the Board nor the Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party; provided, however, Consultant may assign its rights to payment without the Board's consent. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

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

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

**Article 21. Non-Discrimination:** Consultant shall comply with City of Bloomington Ordinance 2.23.110 and all other federal, state and local laws and regulations governing non-discrimination in employment.

Consultant 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 Consultant believes that a City employee engaged in such conduct towards Consultant and/or any of its employees, Contractor or its employees may file a complaint with the City department head in charge of the Consultant'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.

**Article 22. Compliance with Laws:** In performing the Services under this Agreement, Consultant shall comply with any and all applicable federal, state and local statutes, ordinances, plans, and regulations, including any and all regulations for protection of the environment. When appropriate, Consultant shall advise Board of any and all applicable regulations and approvals required by the Federal Environmental Management Agency (FEMA). Where such statutes, ordinances, plans or regulations of any public authority having any jurisdiction on the project are in conflict, Consultant shall proceed using its best judgment only after attempting to resolve any

such conflict between such governmental agencies, and shall notify the Board in a timely manner of the conflict, attempts of resolution, and planned course of action.

**Article 23. Notices:** Any notice required by this Agreement shall be made in writing to the addresses specified below:

Board:

Consultant:

City of Bloomington

\_\_\_\_\_ Dept.

Attn: \_\_\_\_\_

401 N. Morton Street, Suite 130

Bloomington, Indiana 47404

\_\_\_\_\_  
Attn: \_\_\_\_\_

Address

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

**Article 24. Intent to be Bound:** The Board and the Consultant each bind itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

**Article 25. Integration and Modification:** This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Board and the Consultant. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement.

**Article 26. Verification of New Employees' Employment Status:** Consultant is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists.) Consultant shall sign an affidavit, attached as Exhibit D, affirming that Consultant does not knowingly employ an unauthorized alien. "Unauthorized alien" is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8U.S. Code Chapter 12 or by the U.S. Attorney General.

Consultant and any of its subconsultants may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Consultant or any

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

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

Exhibit D is attached hereto and incorporated herein by reference as though fully set forth.

**Article 27. No Collusion:** Consultant is required to certify that it has not, nor has any other member, representative, or agent of Consultant, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Consultant shall sign an affidavit, attached hereto as Exhibit E, affirming that Consultant has not engaged in any collusive conduct.

Exhibit F is attached hereto and incorporated herein by reference as though fully set forth.  
This Agreement may be modified only by a written amendment signed by both parties hereto.

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

Owner

City of Bloomington

Consultant

\_\_\_\_\_



Board of Public Works

By: \_\_\_\_\_  
Kyla Cox Deckard, President

\_\_\_\_\_  
Name  
Position

By: \_\_\_\_\_  
Elizabeth Karon, Vice President

By: \_\_\_\_\_  
James Roach, Secretary

By: \_\_\_\_\_  
Margie Rice, Corporation Counsel

## **PROJECT SCHEDULE**

The Contract shall be effective upon approval of the Board and shall remain in effect through \_\_\_\_\_, unless either party terminates this Agreement in accordance with Article 7 of this Agreement.