



City of Elkhart
Redevelopment Commission

Amended

**AGENDA FOR ELKHART REDEVELOPMENT COMMISSION MEETING
MUNICIPAL BUILDING (2ND FLOOR), COUNCIL CHAMBERS
TUESDAY, JUNE 13, 2023 at 4:00 P.M.**

THIS MEETING WILL BE HELD IN-PERSON & ELECTRONICALLY VIA WEBEX

To join, go

<https://coei.webex.com/coei/j.php?MTID=me806d295ac1d39eec1e906e649ca953c>
enter **2312 416 8590** as the event number and "**RDC6**" as the event password.

To join by phone, call 1-415-655-0001, enter **2312 416 8590 ##**

*Press *6 to unmute telephone*

Comments and questions may be submitted via the WebEx app during the meeting, or may be submitted to adam.fann@coei.org prior to the meeting.

1. Call to Order
2. Approval of Minutes
 - May 9, 2023 Regular Meeting Minutes
3. New Business
 - a) Open Bids
 - b) Nelson Law Group Invoice #23067
 - Approve Nelson Law Group invoice #23067 for \$370.30 for former Star Tire/Executive Cleaners and appropriate this amount from the Downtown Allocation Area No. 1 Special Fund to pay this invoice.
 - c) Nelson Law Group Invoice #23068
 - Approve Nelson Law Group invoice #23068 for \$10,899.80 for services on 1101 E. Beardsley and appropriate this amount from the Downtown Allocation Area No. 1 Special Fund to pay this invoice.
 - d) 700 West Beardsley
 - Approve employment of Weaver Consultants Group, LLC to perform services outlined in attached Supplemental Agreement.
 - Appropriate \$35,330.00 from Technology Park Economic Development Allocation Area Special Fund to cover the cost of the study.

- e) 1025-1045 South Main Street Asbestos Services
 - Approve and award asbestos removal contract to A&G as set forth in the proposal.
 - Appropriate \$29,975.00 in equal shares from Downtown Allocation Area No. 1 Special Fund and Consolidated South Elkhart Economic Development/Redevelopment Area Allocation Area Special Fund.
 - f) Photographic Services at 1045 S. Main
 - Approve the employment of Digital Art to perform photographic services at 1045 South Main.
 - Appropriate \$8,789.00 from Downtown Allocation Area No. 1 Special Fund to cover the services
 - g) Approve Infrastructure Project Supervisors Equipment Purchases
 - Approve TIF Infrastructure Project Supervisor equipment purchases.
 - Appropriate \$16,000 to be charged equally to and paid from each existing TIF Area Special Funds.
 - h) Accept Offer on 1560 ½ South Main Street
 - Accept offer on 1560 ½ South Main Street
 - i) Sterling Parcel Offering
 - Authorize the offering of real estate for sale under 36-7-14-22.
 - j) GLC River Districts Holdings, LLC
 - Approve the Partial Release of Assignment of Rents
 - k) Goodwill User Agreement
 - Approve Goodwill Use Agreement and Restrictive Use Terms
 - l) Baker Tilly Contract
 - Approve employment of Baker Tilly for Amphitheater advisory services.
 - Appropriate \$50,000 from Cassopolis Corridor Allocation Area Special Fund to cover the cost of these services.
 - m) Stone Planning LLC Contract
 - Approve employment of Stone Planning for Amphitheater advisory services.
 - Appropriate \$48,000 from Cassopolis Corridor Allocation Area Special Fund to cover the cost of these services.
4. Staff Updates
5. Other Business
- a) Warrick and Boyn Invoice
 - b) TIF Report
9. Public Comment
10. Adjournment



City of Elkhart
Redevelopment Commission

REGULAR MEETING
ELKHART REDEVELOPMENT COMMISSION
LOCATION: CITY HALL, 2ND. FLOOR, COUNCIL CHAMBERS
Tuesday, May 9, 2023
4:00 p.m.

PRESENT: Alex Holtz, Gerry Roberts, Sandi Schreiber, Wes Steffen, Gary Boyn, Adam Fann, Mike Huber, Mary Kaczka, Jacob Wolgamood, Drew Wynes, Sherry Weber (Recording Secretary), Brad Hunsberger from Lacasa, and Jerry Reed from Jerry Reed Excavating.

PRESENT BY WEBEX: Chris Pottratz, Bradley Tracy, Collin Applewhite, Brandi R., and Leslie Annis

AMENDMENT OF May 9, 2023 AGENDA

Mrs. Schreiber asked for a motion to amend the May 9, 2023 Agenda by adding Item K, Approval of LaBour Pump Deposition Costs and Item L, G&W Expert Witness Report. Moved by Mr. Steffen. Seconded by Mr. Roberts. Voice vote. All in favor, motion approved.

CALL TO ORDER

This meeting was held in-person, telephonically and virtually through WEBEX. Mrs. Schreiber called the meeting to order at 4:00 pm.

APPROVAL OF APRIL 11, 2023 REGULAR MEETING MINUTES

Mrs. Schreiber asked for a motion to approve the April 11, 2023 Regular Meeting Minutes. Moved by Mr. Steffen. Seconded by Mr. Roberts. Voice vote. All in favor, minutes approved.

NEW BUSINESS

A. OPEN OFFERS

Mr. Adam Fann addressed the commission and opened four bids for demolition of 1101 East Beardsley. He received a bid from Cross Excavating and Demolition, Jerry Reed Excavating, Pelley Excavating, and Ritschard Bros. Inc. Excavating and Demolition. Adam will tally the bids and make a recommendation towards the end of the meeting.

B. ANNUAL PRESENTATION ON TAXING UNITS

Mr. Mike Huber addressed the commission and reviewed the 2024 Budget Year for TIF Revenues. We are more than exceeding our TIF revenues and we have no excess TIF revenues for the 2024 budget year. Ms. Schreiber asked for a motion to approve the resolution that the commission determines that all potential captured assessment with respect to the TIF allocation area applicable budget year 2024 shall be captured assessment. There is no excess assessed TIF value that may be allocated to the respective taxing units and overlapping taxing units as well. The order in Common Council will be notified by sending exhibit A via certified mail receipt, requested or hand delivered with written confirmation of receipt. Moved by Mr. Roberts. Seconded by Mr. Steffen. Voice vote. All in favor, motion approved.

C. ENVIROFORENSICS-FORMER G&W INDUSTRIAL VRIP

Mr. Mike Huber addressed the commission and answered their questions. Mrs. Schreiber asked for a motion to approve the hiring and scope of services for the VRIP work by Enviroforensics, LLC and appropriate \$43,058 from Consolidated South Elkhart TIF Area to pay for those services and authorize Ice Miller to enter into such agreements as are necessary with Enviroforensics to do that work. Moved by Mr. Steffen. Seconded by Mr. Roberts. Voice vote. All in favor, motion approved.

D. APPRAISALS ON PARCEL NORTH OF 1701 STERLING

Mr. Mike Huber addressed the commission and answered their questions. Ms. Schreiber asked for a motion to approve the employment of Iverson Grove and Appraisal Services to provide appraisals on a property at a not to exceed cost of \$2600 and appropriating that sum from the Consolidated South Elkhart TIF area to cover the appraisal cost with officers authorized to execute such contracts as are necessary to employ those persons or entities. Motion moved by Mr. Steffen. Seconded by Mr. Holtz. Voice vote, all in favor, motion approved.

E. GARFIELD PARCEL PROPOSAL

Mr. Adam Fann addressed the commission and answered their questions. Mr. Collin Applewhite called in to give an overview of his project and answer any questions from the commission. Ms. Schreiber asked for a motion authorizing the staff to proceed with negotiating a purchase and development agreement with Mr. Applewhite. Moved by Mr. Steffen. Seconded by Mr. Roberts. Voice vote, all in favor. Motion approved.

F. ROUNDHOUSE CLEARANCE OVERAGE

Mr. Adam Fann addressed the commission and answered their questions. Ms. Schreiber asked for a motion to approve the Change Order from Cross Excavating to install a silt fence at a cost of \$5039.42 and appropriate that sum from Downtown Allocation Area No. 1 Special Fund. Moved by Mr. Roberts. Second by Mr. Steffen. Voice vote, all in favor. Motion approved.

G. STORM WATER POLLUTION PREVENTION PLAN (SWPPP) FOR ROUNDHOUSE AND 1101 EAST BEARDSLEY

Mr. Adam Fann addressed the commission and answered their questions. Ms. Schreiber asked for a motion to award the contract to Metric Environmental, LLC to perform the services on the Roundhouse property and 1101 East Beardsley in accordance with their proposals and appropriate

\$9720 from the Foundry Settlement Special Fund to cover the costs and authorizing the officers to execute such contracts for services as are necessary with Metric Environmental, LLC. Moved by Mr. Roberts. Seconded by Mr. Steffen. Voice vote, all in favor. Motion approved.

H. 209 NORTH SECOND STREET - LACASA

Ms. Mary Kaczka addressed the commission and answered their questions. Mr. Brad Hunsberger addressed the commission explaining his project and answering any questions from the commissioners. Ms. Schreiber asked for a motion to accept the offer and approve the sale of real estate, located at 209 North Second Street, to Lacasa, Inc. for the sum of \$1 approving the terms of the attached agreement and authorizing the officers to execute the agreement, all deeds and other documents necessary to get this to closing. Moved by Mr. Roberts. Seconded by Mr. Steffen. Voice vote, all in favor. Motion approved.

Ms. Schreiber asked for a motion approving the funding request for improvements at 209 North Second Street subject to completion of the required environmental review process and HUD release of funds and appropriate \$266,000 from the CDBG 2022 Fund year to be applied to the cost of those improvements pursuant to the terms of the sub recipient agreement to be entered into by the City and Lacasa with any funds not extended to be returned to the appropriate account and authorizing officers to perform all acts necessary and appropriate in furtherance the resolution. Moved by Mr. Steffen. Seconded by Mr. Holtz. Voice vote, all in favor. Motion approved.

I. CDBG FAIR HOUSING CONTRACT-KEMPLE FAIR HOUSING CONSULTING SERVICES, LLC.

Ms. Mary Kaczka addressed the commission and answered their questions. Ms. Schreiber asked for motion to approve the employment of Kemple Fair Housing Consulting Services, LLC at the hourly rate of \$300 per hour and a fee not to exceed \$18,000 for the term of the contract approving the form of contract and appropriate the sum of \$18,000 from the CDBG Grant Program Special Fund to cover the cost of the services with any funds remaining after the end of the contract be returned to the appropriate fund and authorizing the officers to do all acts and execute all agreements they deem necessary and appropriate in furtherance of the resolution. Moved by Mr. Roberts. Seconded by Mr. Holtz. Voice vote, all in favor. Motion approved.

J. AWARDING BID FOR 1101 EAST BEARDSLEY DEMOLITION

Mr. Adam Fann addressed the commission and read the bid totals for 1101 East Beardsley demolition. Ritschard Bros. Inc. Excavating and Demolition bid \$638,700, Pelley Excavating bid \$380,403, Cross Excavating and Demolition bid \$344,344, and Jerry Reed Excavating bid \$250,000. We would like to recommendation that the commission award the bid to Jerry Reed Excavating, LLC for \$250,000. Ms. Schreiber asked for a motion awarding a bid of the contract for site clearance at 1101 East Beardsley to Jerry Reed Excavating, LLC in the sum of \$250,000 and appropriate funds from the Foundry Settlement Fund. Moved by Mr. Roberts. Seconded by Mr. Steffen. Voice vote, all in favor. Motion approved.

K. APPROVE INVOICES FOR LABOUR PUMP DEPOSITION COSTS AND APPROPRIATE FINDS FOR PAYMENT

Mr. Gary Boyn addressed the commission and answered their questions. Ms. Schreiber asked for a motion to approve the two invoices from Veritext Legal Solutions in the total amount of \$2374.65 for their court reporting services and appropriate that sum from the Consolidated South Elkhart TIF to cover those invoices with officers authorized to do all acts they deem necessary and appropriate in furtherance of the resolution. Moved by Mr. Roberts. Seconded by Mr. Steffen. Voice vote, all in favor. Motion approved.

L. G&W EXPERT WITNESS REPORT

Mr. Gary Boyn addressed the commission and answered their questions. Ms. Schreiber asked for a motion to approve the employment of August Mack to prepare an Expert Witness Report in accordance with their attached proposal and appropriate the sum of \$41,600 from the Consolidated South Elkhart TIF Area to cover the cost of those services with any unused funds after completion of the services being returned to the appropriate fund and authorizing Ice Miller to execute, accept and deliver the proposal and do all acts they deem necessary to the furtherance of the resolution. Moved by Mr. Roberts. Seconded by Mr. Holtz. Voice vote, all in favor. Motion approved.

STAFF UPDATES

Mr. Mike Huber introduced Mr. Jacob Wolgamood as our new Redevelopment Projects Manager. We are excited to have him be a part of our team.

Mr. Adam Fann addressed the commission with updates on projects around the city

- **1000 Block of South Main** – Surveys are done. Currently waiting on the cost of remediation. Working with contractor to do point counting. Will probably bring an appropriation next month for more lab results so we can bring the cost down.
- **SR19** – Re-advertising job to solicit bids and extending completion date out
- **1101 East Beardsley** – Closed on loan. Meeting next week to go over time lines for remediation of that property.
- **Greenway Trail Ribbon Cutting** – Thursday, May 11 @ 11:00 am there will be a ribbon cutting ceremony at the Elkhart Environmental Center. We received an award from MACOG – Partners for Clean Air award for Greenway Trail.
- **1918 Markle** – Tank is removed. Additional testing (borings) on the sides of the hole where the tank was. Once results are back, we can go to closing.

OTHER BUSINESS

Mr. Boyn stated the current work amount on the Warrick and Boyn invoice is for \$21,552.39.

Ms. Schreiber asked for a motion to approve the Warrick and Boyn invoice in the sum of \$21,552.39.

Moved by Mr. Steffen. Seconded by Mr. Roberts. Voice vote, all in favor. Motion approved.

The commissioners reviewed the February and March 2023 TIF Report.

PUBLIC COMMENT

No public was present to address the Commission for public comment.

ADJOURNMENT

There being no further discussion, Mrs. Schreiber asked for a motion to adjourn the meeting. Moved by Mr. Roberts. Seconded by Mr. Holtz. Voice vote, all in favor. Motion approved. The meeting adjourned at 4:44p.m. Next meeting is on Tuesday, June 13, 2023 at 4:00 p.m. in Council Chambers.

SANDRA SCHREIBER, PRESIDENT

DRAFT

RESOLUTION NO. 23-R- 035

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE
CITY OF ELKHART, INDIANA, APPROVING NELSON LAW BILLING

Whereas, The Commission has acquired the realty at 200 and 216 N. Main previously referred to as the Elkhart Armory and Star Tire properties, which sites have environmental contamination and require remediation, and has employed Nelson Law Group (“NLG”) to pursue collection of the estimated clean-up costs and related expenses from prior owners and insurers of the premises (the “Services”); and

Whereas, the Commission has reviewed the May 30, 2023 NLG Invoice 23067 for Services performed in accordance with the Fee Agreement (the “Invoice”) and believes it is in the best interest of the City and its inhabitants that the Invoice be approved for payment and the funds appropriated to pay the same.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission approves NLG Invoice 23067 for payment in the amount of \$370.30.
2. The Commission appropriates the sum of \$370.30 from the Downtown Allocation Area No. 1 Special Fund to pay the Invoice
3. The Commission authorizes its officers to do all acts which they deem necessary and appropriate in furtherance of the Resolution.

ADOPTED BY MAJORITY VOTE THIS 13th DAY OF JUNE 2023.

CITY OF ELKHART, REDEVELOPMENT
COMMISSION

By _____
Sandra Schreiber, President

ATTEST:

By _____
Alex Holtz, Secretary



Michael O. Nelson
Attorney
Phone: 317-755-0661
MNelson@nelsonlawgroupllc.com

May 30, 2023

Via E-mail

Elkhart Redevelopment Commission
Adam Fann, Assistant Director for Community and Redevelopment
Gary Boyn, Counsel
City of Elkhart
229 South 2nd Street,
Elkhart, IN 46516
gboyn@warrickandboyn.com
adam.fann@coei.org

**Re: Star Tire/Executive Cleaners
216 N. Main Street, Elkhart IN
Elkhart Redevelopment Commission**

All:

Pursuant to the recent agreement between NLG and the Elkhart Redevelopment commission, enclosed, please find a copy of our invoice #23067, regarding legal defense charges through April 2023, in the amount of \$370.30.

Our goal is to provide our clients with efficient, cost-effective services that are aimed at resolving the issues promptly. If you have questions or comments regarding entries on the invoice or our activities, please do not hesitate to call. Our office will address any questions or concerns promptly.

Payment should be made to the following address within 30 days.

8777 Purdue Rd, Suite 310
Indianapolis, IN 46268
Phone: 317-755-0661
Tax ID : 45-5379244.

Again, please contact me if you have any questions.

Very truly yours,
Nelson Law Group LLC

A handwritten signature in black ink that reads "Michael O. Nelson".

Michael O. Nelson

MON:mb

Cc: Sherry.Weber@coei.org





8777 Purdue Road, Suite 310
Indianapolis, IN 46268

Federal Tax ID # 45-5379244

Date: 05-30-23

Attention:
Account # 089-1

Invoice Number: 23067
Billing through: May 22, 2023

RE: Elkhart Redevelopment

FEES:

| DATE | TKID | DESCRIPTION | ACTIVITY/TASK | HRs | AMT |
|--------------------|------|-------------|---------------|------|-----------------|
| 02-01-23 | MON | [REDACTED] | A103 | 1.90 | \$237.50 |
| | | | L120 | | |
| 02-01-23 | MON | [REDACTED] | A104 | 0.70 | \$87.50 |
| | | | L130 | | |
| 02-01-23 | EF | [REDACTED] | A103 | 0.50 | \$45.00 |
| | | | L120 | | |
| TOTAL FEES: | | | | | \$370.00 |

TIMEKEEPER SUMMARY:

| | | | | | | | |
|-----|-------------------|----------------|------|-----|----------|-----|----------|
| MON | Michael O. Nelson | Senior Partner | 2.60 | Hrs | \$125.00 | /hr | \$325.00 |
| EF | Elizabeth Fatout | Paralegal | 0.50 | Hrs | \$90.00 | /hr | \$45.00 |

EXPENSES:

| | | | | | | | |
|------------------------|------------|--|--|--|--|--|---------------|
| 02-28-23 | [REDACTED] | | | | | | 0.30 |
| TOTAL EXPENSES: | | | | | | | \$0.30 |

TOTAL AMOUNT FOR THIS BILL: \$370.30



Copy /Print Totals February 2023

| | | | | | | |
|-------|---------|---|---|---|---|---|
| 089-1 | Elkhart | 0 | 0 | 2 | 1 | 3 |
|-------|---------|---|---|---|---|---|

RESOLUTION NO. 23-R-036

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE
CITY OF ELKHART, INDIANA APPROVING INVOICE FOR
NELSON LAW GROUP SERVICES ON 1101 E. BEARDSLEY MATTER

Whereas, the Commission has employed Nelson Law Group (“NLG”) to pursue claims against owners of property that have contaminated its property at 1101 E. Beardsley Avenue (the “Real Estate”) and has received and reviewed the attached Invoice No. 23068 in the amount of \$10,899.80 for services rendered through April of 2023 (the “Invoice”); and

Whereas, the Commission believes the services performed have benefitted the City, are necessary and it is in the best interest of the City and its inhabitants to approve the Invoice and appropriate the funds for payment.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission approves the Invoice for payment and appropriates the sum of \$10,899.80 from the Downtown Allocation Area No, 1 Special Fund to cover the cost of the Services.
2. The Officers and staff of the Commission are authorized to submit the Invoice for payment and do all acts which they deem necessary and appropriate to carry out the terms of this Resolution.

ADOPTED BY MAJORITY VOTE AT A MEETING OF THE COMMISSION THIS 13^H DAY OF JUNE 2023.

CITY OF ELKHART, REDEVELOPMENT
COMMISSION

By _____
Sandra Schreiber, President

ATTEST:

By _____
Alex Holtz, Secretary



Michael O. Nelson
Attorney
Phone: 317-755-0661
MNelson@nelsonlawgroupllc.com

May 31, 2023

Via Email

Gary Boyn, Attorney
Elkhart Redevelopment Commission
229 S. Second Street
Elkhart, IN 46516

**Re: City of Elkhart v. Camsaw, et al.
City of Elkhart v. Conn-Selmer (future)**

Dear Gary:

Attached for payment please find a copy of our invoice #23068, regarding legal defense expense charges through April 2023, in the amount of \$10,899.80 Also attached are receipts regarding expenses.

Our goal is to provide you with efficient, cost-effective services that are aimed at resolving your case. We truly appreciate your choosing us to handle your legal needs

Please remit payment to the following address at your earliest convenience:

Nelson Law Group LLC
8777 Purdue Rd, Suite 310
Indianapolis, IN 46268
Phone: 317-755-0661
Tax ID: 45-5379244.

Please contact me if you have any questions.

Very truly yours,
Nelson Law Group LLC

A handwritten signature in black ink that reads "Michael O. Nelson".

Michael O. Nelson

MON:mb





8777 Purdue Road, Suite 310
Indianapolis, IN 46268

Federal Tax ID # 45-5379244

Date: 05-31-23

Attention:

Account # 089-3

Invoice Number: 23068

Billing through: April 30, 2023

RE: Elkhart- Beardsley Ave

FEES:

| DATE | TKID | DESCRIPTION | ACTIVITY/TASK | HRs | AMT |
|----------|------|-------------|---------------|------|----------|
| 04-04-23 | MON | | | 0.60 | \$177.00 |
| 04-04-23 | MON | | | 0.40 | \$118.00 |
| 04-04-23 | MON | | | 0.60 | \$177.00 |
| 04-04-23 | MON | | | 0.60 | \$177.00 |
| 04-04-23 | MON | | | 0.30 | \$88.50 |
| 04-04-23 | EF | | | 0.50 | \$47.50 |
| 04-04-23 | EF | | | 0.50 | \$47.50 |
| 04-06-23 | CB | | | 2.10 | \$420.00 |
| 04-07-23 | CB | | | 1.50 | \$300.00 |
| 04-11-23 | CB | | | 1.70 | \$340.00 |
| 04-12-23 | CB | | | 1.40 | \$280.00 |
| 04-14-23 | CB | | | 2.50 | \$500.00 |
| 04-17-23 | CB | | | 1.70 | \$340.00 |

| | | | | |
|----------|-----|--|------|----------|
| 04-18-23 | MON | | 0.50 | \$147.50 |
| 04-18-23 | MON | | 0.20 | \$59.00 |
| 04-18-23 | CB | | 2.00 | \$400.00 |
| 04-19-23 | MON | | 0.80 | \$236.00 |
| 04-19-23 | CB | | 0.50 | \$100.00 |
| 04-20-23 | MON | | 0.40 | \$118.00 |
| 04-20-23 | MON | | 1.50 | \$442.50 |
| 04-21-23 | MON | | 0.50 | \$147.50 |
| 04-21-23 | MON | | 0.10 | \$29.50 |
| 04-21-23 | MON | | 0.80 | \$236.00 |
| 04-21-23 | CB | | 1.20 | \$240.00 |
| 04-21-23 | CB | | 1.80 | \$360.00 |
| 04-22-23 | CB | | 1.50 | \$300.00 |
| 04-24-23 | MON | | 1.30 | \$383.50 |
| 04-24-23 | EF | | 0.50 | \$47.50 |
| 04-25-23 | MON | | 1.90 | \$560.50 |
| 04-25-23 | MON | | 1.30 | \$383.50 |
| 04-25-23 | CB | | 0.40 | \$80.00 |

| | | | | |
|----------|-----|--|------|----------|
| 04-25-23 | EF | | 3.40 | \$323.00 |
| 04-26-23 | MON | | 0.20 | \$59.00 |
| 04-26-23 | MON | | 0.80 | \$236.00 |
| 04-26-23 | MON | | 0.40 | \$118.00 |
| 04-26-23 | MON | | 1.60 | \$472.00 |
| 04-26-23 | MON | | 1.40 | \$413.00 |
| 04-26-23 | MON | | 0.80 | \$236.00 |
| 04-26-23 | EF | | 0.50 | \$47.50 |
| 04-27-23 | MON | | 0.40 | \$118.00 |
| 04-27-23 | MON | | 0.80 | \$236.00 |
| 04-27-23 | MON | | 0.50 | \$147.50 |
| 04-27-23 | MON | | 0.80 | \$236.00 |
| 04-27-23 | MON | | 0.50 | \$147.50 |
| 04-28-23 | MON | | 0.40 | \$118.00 |
| 04-28-23 | MON | | 0.40 | \$118.00 |
| 04-28-23 | MON | | 0.50 | \$147.50 |
| 04-28-23 | MON | | 0.60 | \$177.00 |

TOTAL FEES: \$10,633.50

TIMEKEEPER SUMMARY:

| | | | | | | | |
|-----|-----------------------|----------------|-------|-----|----------|-----|------------|
| MON | Michael O. Nelson | Senior Partner | 21.90 | Hrs | \$295.00 | /hr | \$6,460.50 |
| CB | Christopher Broshears | Associate | 18.30 | Hrs | \$200.00 | /hr | \$3,660.00 |
| EF | Elizabeth Fatout | Paralegal | 5.40 | Hrs | \$95.00 | /hr | \$513.00 |

EXPENSES:

| | | |
|----------|--|--------|
| 04-30-23 |  | 16.30 |
| 04-30-23 |  | 250.00 |

TOTAL EXPENSES: \$266.30

TOTAL AMOUNT FOR THIS BILL: \$10,899.80



Copy/Print totals month year

| ID | Name | Color Copy Usage | BW Copy Usage | Color Print Usage | BW Print Usage | Totals |
|-------|------------------------|------------------|---------------|-------------------|----------------|--------|
| 089-3 | Beardsley Ave -Elkhart | 0 | 0 | 84 | 79 | 163 |



Invoice

30851

Lexbe Inc.

8303 North MoPac Expressway, Suite B-225
Austin Texas 78759
(800) 401-7809
accounting@lexbe.com
www.lexbe.com

Balance Due
\$0.00

Bill To
Nelson Law Group-Beardsley 089-3
Mr. Michael Nelson
8777 Purdue Rd. Suite 310
Indianapolis, IN 46268
US

Invoice Date : 04-30-23
Terms : Due on Receipt
Due Date : 04-30-23
Sales Consultant : Matt Paczko

| Item & Description | Qty | Rate | Amount |
|--|------|--------------------|-----------------|
| Subscription Installment Plan-50 GBs Use of LEP application under a Subscription-Installment Account for up to the contracted Maximum GBs of ESI, for one month under a LEP Subscription-Installment Account. An LEP Subscription-Installment Account allows for unlimited users and unlimited cases, but is noncancellable until the Subscription End Date in the account contract. Any usage above the contracted Maximum GBs of ESI is billed as Subscription Plan-Overage ESI for the month utilized. | 1.00 | 250.00 | 250.00 |
| | | Sub Total | 250.00 |
| | | Total | \$250.00 |
| | | Payment Made | (-) 250.00 |
| | | Balance Due | \$0.00 |

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RESOLUTION NO. 23-R-002

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE
CITY OF ELKHART, INDIANA APPROVING AMENDED FEE AGREEMENT
NELSON LAW GROUP/ICE MILLER SERVICES ON 1101 E. BEARDSLEY MATTER

Whereas, the Commission has employed Nelson Law Group (“NLG”) and Ice Miller LLP to pursue claims against owners of property that have contaminated its property at 1101 E. Beardsley Avenue (the “Real Estate”) under their respective Professional Services Agreements and has received and reviewed an Amended Fee Agreement pertaining to the Services by both firms (the “Amended Fee Agreement”), and attached estimated budget for NLG performing additional services (the Additional Services”) at contracted hourly rates; and

Whereas, the Commission believes the services already performed have benefitted the City and these Additional Services are necessary and it will be in the best interest of the City and its inhabitants to amend the Fee Agreement accordingly.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission hereby approves the Amended Fee Agreement, subject to any final revisions the President deems necessary and appropriate, and authorizes NLG to perform the Additional Services as outlined in the estimated budget and Amended Fee Agreement.
2. The Commission approves the NLG additional not-to-exceed fee of \$30,000.00 and appropriates the sum of \$30,000.00 from the Downtown Allocation Area No, 1 Special Fund to cover the cost of the Additional Services.
3. The Commission appropriates the sum of Three Hundred Twenty Thousand Dollars (\$320,000.00) from the Foundry Settlement Special Fund to cover the cost of hourly rate services performed by the two firms in accordance with the provisions of the Amended Fee Agreement.
4. Any appropriated funds not expended shall be returned to the designated special funds from which they were appropriated.
5. The Officers of the Commission are hereby authorized to execute and deliver all contracts and do all acts, which they deem necessary and desirable to carry out the terms of this Resolution.

ADOPTED BY MAJORITY VOTE AT A MEETING OF THE COMMISSION THIS 10^H DAY OF JANUARY 2023.

CITY OF ELKHART, REDEVELOPMENT
COMMISSION

By _____
Sandra Schreiber, President

ATTEST:

By _____
Alex Holtz, Secretary

RESOLUTION NO. 23-R-037

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE CITY OF ELKHART,
INDIANA, APPROPRIATING FUNDING FOR ADDITIONAL ENVIRONMENTAL REVIEW
OF 700 WEST BEARDSLEY AND ADJACENT PROPERTIES IN THE TECHNOLOGY
PARK ECONOMIC DEVELOPMENT AND TIF AREA

WHEREAS, the Commission has acquired the real estate at 700 W. Beardsley (the "Property"), which has environmental contamination and is working with the Indiana Department of Environmental Management ("IDEM") to coordinate the environmental review and clean-up that will be required for the Property and adjacent properties in the Allocation Area; and

WHEREAS, IDEM is requiring the City to conduct additional studies to inspect and evaluate the vapor intrusion mitigation systems in the form of sub-slab depressurization systems on 6 sites where such systems were installed all as set forth in the attached Proposal (the "Study"); and

Whereas, the Commission desires to appropriate TIF funding to pay for the additional studies required to be conducted on property serving and located within the TIF Area; and

Whereas, the Commission believes it is in the best interest of the City and its inhabitants that the funding be established to cover the cost of the Study.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission approves the Study and appropriates the sum of \$35,330.00 from the Technology Park Economic Development Area Allocation Area Special Fund to be applied to payment of the costs of the Study.
2. The Commission approves employment of Weaver Consultants Group, LLC to perform the Services outlined in the attached Supplemental Agreement.
3. The Commission delegates the supervisory duties on the work to be performed to the Board of Public Works and requests periodic updates of the work performed.
4. The Officers of the Commission are authorized to execute and deliver such Agreements and perform all duties, activities, and acts in furtherance of this Resolution as they deem necessary and appropriate.

ADOPTED BY MAJORITY VOTE THIS 13th DAY OF JUNE 2023.

CITY OF ELKHART, REDEVELOPMENT
COMMISSION

By _____
Sandra Schreiber, President

ATTEST:

By _____
Alex Holtz, Secretary

Memo

To: Redevelopment Commission Member
From: Adam Fann
Date: 5/25/23
Re: 700 West Beardsley Vapor Mitigation Work

Per a request from the Indiana Finance Authority Weaver Consulting Group is asked to conduct an inspection and evaluation of vapor intrusion mitigation systems (VIMS), in the form of sub-slab depressurization systems (SSDS), associated with 700 West Beardsley. In response to the Authority's request via electronic correspondence dated February 14, 2023, WCG will complete an inspection and evaluation of the six (6) off-Site SSDS that were installed in 2019 and 2020. The SSDSs were installed to protect the indoor air quality of the properties located down gradient from the Site in response to potential vapor intrusion associated with the historical release of chlorinated volatile organic compounds (CVOCs) to groundwater originating from the Site. These properties include two commercial properties located at 800 N. Michigan Street (car lot) and 628 W. Beardsley Avenue (strip mall). In addition, there are four (4) residential properties located at 623 W. Beardsley Avenue, 629 W. Beardsley Avenue, 701 W. Beardsley Avenue, and 722 N. Michigan Street. Staff requests the Commission appropriate \$35,330 from the Tech Park TIF to fund the work.



May 4, 2023

Ms. Dawn Andershock
Project Manager
Indiana Finance Authority
100 North Senate Ave, STE 1275
Indianapolis, IN 46204

**Re: Inspection of Off-Site Sub-Slab Depressurization Systems
Former Walter Piano (Brownfield Site #4120904)
700 W. Beardsley Avenue
Elkhart, IN 46514
WCG Proposal No. LLCP-001-2023-19**

Dear Ms. Andershock:

Weaver Consultants Group, LLC (WCG) is pleased to provide this proposal to the Indiana Finance Authority (the Authority) to conduct an inspection and evaluation of vapor intrusion mitigation systems (VIMS), in the form of sub-slab depressurization systems (SSDS), associated with the above-referenced site (the Site). In response to the Authority's request via electronic correspondence dated February 14, 2023, WCG will complete an inspection and evaluation of the six (6) off-Site SSDS that were installed in 2019 and 2020.

The SSDSs were installed to protect the indoor air quality of the properties located downgradient from the Site in response to potential vapor intrusion associated with the historical release of chlorinated volatile organic compounds (CVOCs) to groundwater originating from the Site. These properties include two commercial properties located at 800 N. Michigan Street (car lot) and 628 W. Beardsley Avenue (strip mall). In addition, there are four (4) residential properties located at 623 W. Beardsley Avenue, 629 W. Beardsley Avenue, 701 W. Beardsley Avenue, and 722 N. Michigan Street.

WCG understands these VIMS activities may be funded by the City of Elkhart, and if funding by the City of Elkhart is challenged, by the Authority under the United States Environmental Protection Agency (US EPA) Brownfields Revolving Loan Fund (RLF) administered by the Authority.

The following sections detail the Scope of Work, Schedule, and Estimated Costs.

SCOPE OF WORK

The Scope of Work focuses on assessing the SSDS located at each of the off-Site properties to verify the SSDSs remain protective of human health as follows:

R:\PROJECTS\ELKHART - BEARDSLEY AVE\REMEDIATION\OFF-SITE SSDS INSPECTIONS\ADMIN\PROPOSAL\LLCP-001-2023-19_BEARDSLEY SSDS_2023 0504.DOCX

- Task 1: Inspection and Evaluation of Off-Site SSDS;
 - Confirm operation of the SSDS in-line fans, and collection of SSDS operational metrics;
 - Evaluation of SSDS operational metrics and comparison to baseline commissioning values;
- Task 1B: Potential SSDS Repair/Replacements;
- Task 2: Preparation of a Vapor Intrusion Mitigation System (VIMS) Inspection Report; and
- Task 3: Project management.

The following provides a description of the projected Scope of Work and the Estimated Costs.

Task 1: Inspection and Evaluation of Off-Site SSDS

WCG will coordinate site visits to each of the aforementioned properties' owners to visually assess each SSDS. Six inspections will be completed, one at each off-Site SSDS. WCG has assumed 4 hours will be required for each site visit. WCG will first confirm the SSDS' AMG Eagle inline duct-style fans are operating. SSDS performance metrics will then be collected from a point along the effluent header (to be installed by WCG) and at the suction/extraction points (vacuum, velocity, temperature, and photoionization detector [PID]) for a comparative evaluation to the baseline commissioning values collected following installation and operation, as well as for comparison during future OMM events. To evaluate the effectiveness of the SSD system, WCG will verify the SSDS are generating and maintaining a negative pressure beneath the concrete slab during operation through the monitoring of sub-slab vapor monitoring points. WCG understands two off-Site properties do not possess sub-slab monitoring points due to limited concrete thickness and/or owner requests. WCG will attempt to install permanent sub-slab monitoring points at these locations to support repeatable data collection and ongoing monitoring. The SSDS will be considered protective should a vacuum of at least -0.004 inches of water column (IWC) be measured at each monitoring point across the building slab.

Following initial inspection (barring there are no needed system alterations), monitoring of indoor air (IA) on the lowest routinely occupied floor will be completed to ensure that indoor air concentrations are below remediation objectives, and that vapor intrusion does not present a health risk per Indiana Department of Environmental Management (IDEM) Risk-Based Closure Guide (July 8, 2022).

One (1) 6-liter Summa canister equipped with a 24-hour intake regulator will be placed at each secure location, labeled with contact information, and its regulator opened to begin sampling IA. In addition, a 6-liter Summa canister will be placed at a nearby location outside to collect ambient air over a 24-hour period. After 24 hours, WCG will return to collect the 6-liter Summa canisters.

All Summa canisters will be documented with chain-of-custody forms and delivered to STAT Analysis Corporation of Chicago, Illinois for the analysis of Site-related contaminants of concern (COCs), specifically

trichloroethene and its degradation products (cis & trans-1,2-dichloroethene, vinyl chloride) and 1,1,1-trichloroethane, using United States Environmental Protection Agency (US EPA) Compendium Method TO-15. Air sampling procedures will be conducted according to the procedures outlined in Section 4.2.3.2 of the IDEM’s Risk-Based Closure Guide (July 8, 2022). The IA analytical results will be compared to IDEM’s most recent (2023) applicable Risk-Based Closure Guide (R2) Residential or Commercial IA Published Levels provided within the Screening and Closure Level Tables (Table 1) provided on IDEM’s Technical Guidance for Cleanups webpage.

The cost below does not include repairs or replacement of system components (fans or blowers, extraction points, enclosure, supervisory control, and data acquisition [SCADA] components, etc.). The estimated costs to complete the above-described Task 1 activities are:

| | |
|---|-----------------|
| Professional Services..... | \$ 9,190 |
| Analytical Services..... | \$ 3,800 |
| <u>Equipment</u> | <u>\$ 2,610</u> |
| Task 1 Subtotal..... | \$ 15,600 |
| Task 1 Subtotal per Off-Site Property (x6)..... | \$ 2,600 |

Task 1B: Potential SSDS Repair/Replacement

Following the completion of Task 1, WCG will provide a breakdown of repairs/replacements that may be needed to continue the efficient operation of the SSDS at the aforementioned locations. Upon approval of any minor repairs/replacements that may be needed, WCG will proceed to coordinate the efforts required to complete those repairs. Miscellaneous maintenance parts, materials, and supplies will be procured and installed as needed and anticipated to include the following: fans or blowers, extraction points, enclosure, supervisory control, and data acquisition [SCADA] components, etc. The estimated costs to complete the above-described Optional Task 1B activities are:

| | |
|-------------------------------------|-----------------|
| <u>Materials and Supplies</u> | <u>\$ 9,000</u> |
| Task 1B Subtotal..... | \$ 9,000 |

Task 2: Preparation of the VIMS Inspection Report

WCG will prepare one VIMS Inspection Report documenting the condition of each off-Site SSDS inspected and evaluated in Task 1, the performance metrics collected, and a comparison to the baseline commissioning values. The VIMS Inspection Report will conclude with a determination of whether each SSDS is maintaining its protectiveness and mitigating vapor intrusion. The VIMS Inspection Report will include a narrative, figures, tables, and a photographic documentation log.

WCG will provide an electronic copy of the VIMS Inspection Report (PDF) to the Authority for review and comment. Upon approval, WCG will incorporate any modifications and finalize the VIMS Inspection Report. WCG will provide a final electronic copy (PDF) to the Authority as well as the City of Elkhart.

The estimated costs to complete the above-described Task 2 activities are:

| | |
|------------------------------|----------|
| <u>Professional Services</u> | \$ 7,380 |
| Task 2 Subtotal..... | \$ 7,380 |

Task 3: Project Management

WCG will manage the logistics, coordination, schedule, and administrative duties associated with the implementation of the described off-Site SSDS evaluation activities, including coordinating access with the off-Site properties' owners/tenants. This task is also intended to address routine project communications with client personnel, client partners, stakeholders, client counsel, tenants, and general coordination of project activities. We also anticipate that one to two meetings may be necessary to facilitate effective project implementation.

The estimated costs to complete the above-described Task 3 activities are:

| | |
|------------------------------|----------|
| <u>Professional Services</u> | \$ 3,350 |
| Task 3 Subtotal..... | \$ 3,350 |

SCHEDULE

WCG will initiate coordination of the SSDS inspection activities upon project authorization. WCG understands this project is time sensitive and we will expedite our services to meet your project objectives. WCG will attempt to schedule the site visits over three days (4-hrs per visit, six visits) to limit mobilization costs and increase efficiency. Please note, completion of the site visits and inspections are contingent on owner/tenant availability and scheduling. Alternatively, WCG can conduct the SSDS inspections in conjunction with other Site-related activities in May 2023 to further reduce costs.

COST ESTIMATE

Based on our understanding of the project objectives and the Scope of Work presented in this Proposal, we estimate the Scope of Work presented above can be completed for the following estimated cost:

| | |
|--|------------------|
| Task 1 – Visual Site Assessment to Verify Operation of VIMS..... | \$ 15,600 |
| Task 1B – Potential SSDS Repair/Replacements..... | \$ 9,000 |
| Task 2 – Preparation of VIMS Inspection Reports..... | \$ 7,380 |
| <u>Task 3 – Project Management</u> | <u>\$ 3,350</u> |
| Total Estimated Costs | \$ 35,330 |

Services will be completed on a Time and Materials basis in accordance with the attached Fee Schedule and, if funded through the Authority, the RLF Subgrant Contract (RLF Cooperative Agreement #BF-00E48101-F) executed November 3, 2021, between WCG and the Authority for the Walter Piano Site.

The Estimated Cost and proposed Scope of Work are based on information available to WCG at this time. If conditions change, work extends beyond the scheduled completion date, unforeseen circumstances are encountered, or work efforts are redirected, the cost estimate may require modification. We fully expect to conduct the proposed Scope of Work for the stated sum, which will not be exceeded without your prior authorization. Any additional consultation or services authorized by the Authority beyond the Scope of Work presented in this Proposal will be billed in accordance with the Fee Schedule.

AUTHORIZATION

Should this Proposal meet with your objectives, please indicate your authorization to proceed by signing and returning the attached Proposal Acceptance Sheet to our office. We assume that work will be performed pursuant to the attached Fee Schedule and Terms and Conditions of the RLF Subgrant Contract (RLF Cooperative Agreement #BF-00E48101-F) executed November 3, 2021, between WCG and the Authority. Any modifications to this Proposal must be accepted by both parties. This Proposal is valid if accepted within thirty (30) days of issuance and for work performed within ninety (90) days of acceptance

We appreciate this opportunity to be of continued service and are looking forward to working with you on this project. If you should have any questions or comments concerning this Proposal, please feel free to contact us at 312-478-8972.

Sincerely,

Weaver Consultants Group, LLC



Jodi L. E. Slough
Project Manager



Paul Gruca, CWP
Project Manager

Attachments: Proposal Acceptance Sheet
Fee Schedule

WEAVER CONSULTANTS GROUP, LLC
7121 Grape Road
Granger, Indiana
Voice: 574-271-3447
Fax: 614-389-4135

PROPOSAL ACCEPTANCE SHEET

Description of Services: **Inspection of Off-Site Sub-Slab Depressurization Systems**
Property Address: **800 N. Michigan Street, 628 W. Beardsley Avenue, 623 W. Beardsley Avenue, 629 W. Beardsley Avenue, 701 W. Beardsley Avenue, and 722 N. Michigan Street**
Project City/State: **Elkhart, Indiana**
WCG Proposal No.: **LLCP-001-2023-19** Date: **May 4, 2023**
Client Contract No.: Date:

For approval and payment of charges, invoices will be charged to the account of:
Firm: **Indiana Finance Authority** Attention: **Ms. Dawn Andershock**
Street Address 1: **100 North Senate Avenue** Telephone: **317-234-4861**
Street Address 2: **Suite 1275** Cell:
City/State: **Indianapolis, IN**
Zip Code: **46204**

This AGREEMENT is subject to the RLF Subgrant Contract (RLF Cooperative Agreement #BF-00E48101-F) executed November 3, 2021, between WCG and the Authority and the following special provisions/payment schedule:
Weaver Consultants Group, LLC Proposal Number LLCP-001-2023-19 dated May 4, 2023, and all attachments.

Accepted by:

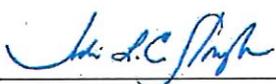
Client

By (Signature)

By (Type/Print)

Title

Weaver Consultants Group, LLC



By (Signature)
Jodi L. E. Slough

By (Type/Print)
Project Manager

Title

Accepted _____, 2023
Acknowledge the Terms and Conditions

Accepted **May 4, 2023**
Acknowledge the Terms and Conditions

**WEAVER CONSULTANTS GROUP
FEE SCHEDULE
(Effective August 1, 2022)**

| I. PROFESSIONAL STAFF | Unit | U.S. \$ |
|---|-------------|----------------|
| a) Principal/Corporate Consultant | Hr. | 240.00 |
| b) Senior Project Director | Hr. | 225.00 |
| c) Project Director | Hr. | 210.00 |
| d) Senior Project Manager | Hr. | 190.00 |
| e) Sr Project Engineer/Scientist/Environmental Specialist/Geologist/Architect/Industrial Hygienist. | Hr. | 175.00 |
| f) Project Manager..... | Hr. | 160.00 |
| g) Project Engineer/Scientist/Environmental Specialist/Geologist/Architect/Industrial Hygienist | Hr. | 140.00 |
| h) Staff Engineer/Scientist/Environmental Specialist/Geologist/Architect/Industrial Hygienist | Hr. | 125.00 |
| i) Engineer/Scientist/Environmental Specialist//Geologist/Architect/Industrial Hygienist..... | Hr. | 105.00 |
| II. TECHNICAL STAFF | | |
| a) Union Engineering Technician-Journeyman | Hr. | 140.00 |
| b) Union Engineering Technician | Hr. | 135.00 |
| c) Construction Superintendent | Hr. | 125.00 |
| d) Construction Manager | Hr. | 110.00 |
| e) System Specialist III..... | Hr. | 155.00 |
| f) System Specialist II | Hr. | 120.00 |
| g) System Specialist I..... | Hr. | 110.00 |
| h) System Technician..... | Hr. | 95.00 |
| i) Field Engineer/Scientist/Environmental Specialist..... | Hr. | 115.00 |
| j) Certified Technician | Hr. | 90.00 |
| k) Senior Engineering Technician..... | Hr. | 85.00 |
| l) Engineering Technician II | Hr. | 75.00 |
| m) Engineering Technician I..... | Hr. | 65.00 |
| III. SUPPORT STAFF | | |
| a) Senior CAD Designer | Hr. | 130.00 |
| b) CAD Designer III | Hr. | 120.00 |
| c) CAD Designer II..... | Hr. | 110.00 |
| d) CAD Designer I..... | Hr. | 85.00 |
| e) Technical Assistant..... | Hr. | 75.00 |
| f) Clerical/Word Processing | Hr. | 75.00 |
| IV. SURVEYING | | |
| a) Senior Professional Land Surveyor | Hr. | 175.00 |
| b) Professional Land Surveyor..... | Hr. | 155.00 |
| c) Survey Field Manager | Hr. | 145.00 |
| d) Survey Party Chief III..... | Hr. | 135.00 |
| e) Survey Party Chief II..... | Hr. | 115.00 |
| f) Survey Party Chief I..... | Hr. | 90.00 |
| g) Survey Technician V | Hr. | 120.00 |
| h) Survey Technician IV..... | Hr. | 105.00 |
| i) Survey Technician III | Hr. | 90.00 |
| j) Survey Technician II | Hr. | 75.00 |
| k) Survey Technician I..... | Hr. | 60.00 |
| l) Survey Party - 1 Person/GPS or Robotic | Hr. | 175.00 |
| m) Survey Party - 2 Person/GPS or Robotic | Hr. | 230.00 |
| n) Geospatial Field Technician (with Drone or Scanner)..... | Hr. | 200.00 |
| o) Geospatial Technician II | Hr. | 120.00 |
| p) Geospatial Technician I | Hr. | 100.00 |
| V. GENERAL EXPENSES | | |
| a) Automobile Transportation..... | Mi. | 0.85 |
| b) Subcontract Service or Rental | | Cost+15% |
| c) Report Preparation (outside services) | | Cost+15% |
| d) Outside Services (e.g., delivery, prints, document scanning, etc.) | | Cost+15% |
| e) Per Diem (food and lodging) | Day | 165.00 |
| f) Per Diem (no lodging)..... | Day | 45.00 |
| g) Transportation by Commercial Carrier or Rental Car | | Cost+15% |
| h) Travel Expense | | Cost+15% |

Any modification to this fee schedule requires the written approval of Weaver Consultants Group

**WEAVER CONSULTANTS GROUP
FEE SCHEDULE
(Effective August 1, 2022)**

| VI. TESTING AND EQUIPMENT RENTAL FEES | Unit | U.S. \$ |
|--|-------------|----------------|
| a) pH, Specific Conductance and Temperature Meter | Day | 135.00 |
| b) Peristaltic Filter Pump | Day | 54.00 |
| c) Electric Purge Pump | Day | 51.00 |
| d) Grundfos Pump Control Box | Day | 125.00 |
| e) Water Level Indicator (100ft) | Day | 43.00 |
| f) Water Level Indicator (100ft plus) | Day | 70.00 |
| g) Filter and Hose (for pump) | Ea. | 25.00 |
| h) Micropurge Flow Cell and Sonde..... | Day | 147.00 |
| i) Modified Level "D" (Tyveks, Boots, Gloves)/per person/per change of clothing..... | Ea. | 60.00 |
| j) Photoionization Detector Meter..... | Day | 140.00 |
| k) XRF Analyzer (for lead based paint)..... | Day | 150.00 |
| l) Nuclear Density Gauge..... | Day | 79.00 |
| Nuclear Density Gauge..... | Wk. | 340.00 |
| m) Air Sampling Equipment, per pump | Day | 60.00 |
| n) Hand Operated Field Probe Equipment | Day | 34.00 |
| o) Explosimeter | Day | 40.00 |
| p) Gas Analyzer | Day | 215.00 |
| q) Thermo Image Camera | Day | 21.00 |
| r) INFICON IRwin Detector | Day | 250.00 |
| s) Flame Ionization Detector | Day | 301.00 |
| t) Interface Probe..... | Day | 70.00 |
| u) ATV | Day | 60.00 |
| v) Company Truck | Day | 108.00 |
| Company Truck (does not include fuel or mileage) | Wk. | 510.00 |
| w) Hand-Held Field GPS/G15 | Day | 179.00 |
| Hand-Held Field GPS (Trimble) | Day | 92.00 |
| x) Laser Level | Day | 90.00 |
| y) Spatial Imaging Laser Scanner – Republic Only | | |
| z) Ultrasonic Testing Meter | Day | 125.00 |
| aa) Ground Penetrating Radar | Day | 284.00 |
| bb) Geonics EM-61..... | Day | 595.00 |
| cc) Survey Grade GPS Unit..... | Day | 408.00 |
| dd) Electric Generator..... | Day | 81.00 |
| ee) Slug Test Equipment | Day | 238.00 |
| ff) All Weather Key Alike Locks | Ea. | 23.00 |
| gg) Equipment Trailer..... | Day | 90.00 |
| hh) Fluk Meter/Volt Meter/Loop Calibrator | Day | 143.00 |
| ii) Four Gas Meter..... | Day | 23.00 |
| jj) Dip Sampler..... | Day | 22.00 |
| kk) Air Compressor/Controller Box | Day | 162.00 |
| ll) 12 Volt Marine Battery..... | Day | 27.00 |
| mm) Turbidimeter | Day | 43.00 |
| nn) Manometer..... | Day | 43.00 |
| oo) Velocicalc Meter..... | Day | 54.00 |

UNIT PRICE NOTES:

1. All professional, technical, and support staff time and expenses spent in furtherance of the client's work will be billed. This includes, but is not limited to, proposal, field, travel, research, technical review and reporting, project management, client meeting, and project-specific administrative support.
2. An overtime rate of 1.3 times the regular rate is billed for technical and support staff services for work in excess of 40 hours per week, work between 7:00 p.m. to 5:00 a.m., and work on Saturdays. This overtime rate is increased to 2.0 times the regular rate for work on Sundays and holidays.
3. Unless otherwise agreed to in writing, a monthly interest charge of 18% per annum, will be charged accruing from the date of invoice, on all invoices not paid within 30 days.
4. The unit rates are subject to periodic modification (typically annually). These rate modifications will be incorporated into long-term projects, unless otherwise addressed in the project contract.
5. Litigation Support, Expert Witness, Deposition, and testimony services will be charged at 2 times the designated billing rate.

Any modification to this fee schedule requires the written approval of Weaver Consultants Group

**WEAVER CONSULTANTS GROUP
FEE SCHEDULE
(Effective August 1, 2022)**

GENERAL EXPENSE NOTES:

1. Rates quoted are for expenses only, equipment purchased on the client's behalf is marked up 25%.
2. Personnel rates are billed separately from general expenses.
3. Standard non-disposable protective outer-wear or equipment damaged or contaminated by site conditions are billed at replacement cost plus 30%.
4. General expense mark-ups may be negotiated based upon contract size and payment terms.
5. The per diem rates set forth above are the standard rates we typically use for our technical staff on projects. We reserve the right to modify these rates in high cost areas.
6. Mileage rate is based on gasoline price of \$4.50 per gallon. A fuel surcharge may be added if a condition beyond Weaver Consultants Group control warrants it.

TESTING AND EQUIPMENT RENTAL NOTES:

1. Rates for testing and equipment not listed above are available on request.
2. Testing and equipment rental costs are negotiable for specific projects and for on-site laboratory programs.
3. Laboratory unit prices cover equipment and labor costs to perform standard test procedures and laboratory reports with normal turn-around times. Non-standard testing requirements, supervisory and project management costs, data evaluation costs, and environmental sample disposal costs are not included in the testing unit prices and are billed separately.
4. Equipment rental rates are for equipment costs only. Transportation, calibration, and personnel costs are billed separately.
5. Daily and weekly rates cover a maximum of 10 and 50 hours, respectively.
6. SAMPLES WILL NOT BE RETAINED beyond classification and testing unless other arrangements are agreed to in writing. Environmental samples remain the property of the client.

Any modification to this fee schedule requires the written approval of Weaver Consultants Group

These General Terms and Conditions are incorporated by reference into the foregoing Proposal and shall along with the Proposal constitute the agreement (the "Agreement") under which services are to be performed by Weaver Consultants Group, LLC (WCG) for Client. Unless timely accepted without reservation or change by Client, the Proposal shall remain valid for 90 days after which time it shall expire and be deemed revoked.

SECTION 1: SCOPE OF SERVICES

- a. It is understood that the scope of services and time schedule defined in the Proposal are based on the information provided by Client and certain assumptions based upon WCG's experience and Client's representations. If this information is incomplete or inaccurate, or if unexpected site conditions are discovered, the scope of services and time schedule may change, even as the work is in progress.
 - b. The scope of services shall include all services provided by WCG in its discretion, which are reasonably necessary and appropriate for the effective and prompt fulfillment of WCG'S obligations under the Agreement and all services shall be subject to the provisions of the Agreement, including these General Terms and Conditions and any Supplemental Terms or Conditions incorporated herein. All such services provided shall be invoiced and paid for in accordance with Section 3 below.
 - c. All additional or subsequent work performed for client, shall be subject to these General Terms and Conditions, unless otherwise expressly superseded or modified by mutual written agreement of WCG and Client.
- b. The Client shall provide WCG with a clear written statement within fifteen (15) days after receipt of the invoice of any objections to the invoice or any portion or element thereof. Failure to provide such a written statement shall constitute acceptance of the invoice as submitted. Only reasonably disputed sums may be withheld from payment. For purposes of this section, Client may only dispute a charge on the basis that the related services were not performed, or that they were performed in a defective manner falling beneath the requisite standard of care. Further, WCG and Client agree to promptly meet, address and resolve invoice disputes.
 - c. The Client's obligation to pay for the services performed under this Agreement is in no way contingent upon other events; including but not limited to Client's ability to obtain financing, zoning, approval of governmental or regulatory agencies, final adjudication of a lawsuit in which WCG is not involved, complete a transaction or successfully complete the project. No deduction shall be made from any invoice on account of penalty, liquidated damages or other sums withheld from payment to WCG.
 - d. If timely payments are not received, then WCG may commence collection activities. It is agreed that all expenses incurred by WCG in obtaining liens, obtaining judgments or collecting any amounts due under the Agreement including the time of WCG employees, at full billing rates, all associated costs, and reasonable attorney's fees shall be recoverable from the Client.

SECTION 2: CLIENT DISCLOSURES

- a. It shall be the duty of the Client before and during the project to promptly notify WCG of any known or suspected hazardous substances which are or may be related to the services to be provided. Such hazardous substances shall include but not be limited to any substance which posed or may pose a present or potential hazard to human health or the environment, whether contained in product, material, by-product, waste or sample and whether it exists in a solid, liquid, semisolid or gaseous form.
- b. Following any disclosure as set forth in the preceding paragraph, or if any hazardous substances are discovered or reasonably suspected by WCG after its services are undertaken, and which WCG determines in its discretion substantially change the costs and risks of the project, then WCG may, at its discretion, discontinue its services.
- c. Client shall timely notify WCG of potential health hazards or nuisances which might arise out of the work by WCG and its contractors and/or subcontractors (hereinafter referred to as subcontractors), and thereafter WCG shall take necessary and reasonable measures to protect its employees against such possible health hazards or nuisances. The reasonable direct costs of such measures shall be borne by the Client.
- d. The Client shall notify WCG of any other conditions, of which Client is or should reasonably be aware of, which might significantly affect the efficiency or safety of work of WCG.

SECTION 3: BILLING AND PAYMENTS

- a. Unless otherwise specifically provided in the Agreement, billings will be based on the fee schedule referenced in the proposal. WCG shall submit invoices monthly for services performed and expenses incurred and not previously billed on

any previous invoice. Payment is due upon receipt. For all amounts unpaid after thirty (30) days of the invoice date Client agrees to pay to WCG a finance charge of one and one-half percent (1 1/2%) per month, eighteen percent (18%) annually, or the legal maximum rate if it is less. The billing rates described in this Agreement may be modified on a periodic basis (typically annually). These modifications will be incorporated into long term projects, unless otherwise addressed in the Proposal.

SECTION 4: RIGHT OF ACCESS

- a. If services to be provided under this Agreement require the agents, employees, or subcontractors of WCG to enter onto the Project site, Client shall provide timely right of access to the site to WCG, its employees, agents and subcontractors, to conduct the planned field observations and services. WCG shall take reasonable precaution to reduce damage to the site due to its operations, but is not responsible for the cost of restoration for any damage resulting from its operations, unless otherwise provided for in the Proposal.

SECTION 5: SAMPLING OR TEST LOCATION

- a. If the scope of services includes performance of soil borings, or other subsurface excavations by WCG, it is understood that the Client will furnish WCG with a diagram indicating the location and boundaries of the site, and all subsurface structures and utilities. WCG reserves the right to deviate a reasonable distance from the proposed boring location(s). Client recognizes that drilling equipment is large and heavy and understands the risk of site damage. At Client's request and cost, WCG will restore the site to the conditions existing prior to WCG operations if practicable. WCG shall not be liable for damage or injury to or resulting from damage to subterranean structures (pipes, tanks, cables, wires or other utilities and subsurface structures, etc.) which are not called to WCG's

attention in writing and correctly shown on the diagram(s) furnished or correctly marked at the site.

- b. Unless otherwise stated, the fees in this proposal do not include costs associated with surveying of the site for the accurate horizontal and vertical locations of tests. Field tests or boring locations described in our report or shown on sketches are based upon information furnished by others and/or estimates made in the field by our representatives. Such dimensions and elevations should be considered as approximations unless otherwise stated.
- c. This agreement may be terminated by WCG if site conditions prevent soil borings or other subsurface excavations by WCG at or near the designated locations, because of either obstructions or safety considerations, and these conditions were not revealed to WCG prior to acceptance of this Agreement. If, in order to complete borings, or other subsurface excavation, to their designated depths, additional work is necessitated by encountering impenetrable subsurface objects, this and all additional work will be charged for at the appropriate rates in the fee schedule.
- d. Any equipment lost or damaged due to site surface or subsurface conditions, and not due primarily to the negligence of WCG or its subcontractors, will be invoiced at cost plus 15 percent.

SECTION 6: SAMPLES

- a. All materials and samples will be discarded immediately after testing unless the Client advises WCG in writing to the contrary. In such case, the samples will be delivered, shipping charges collected, or stored at owner's expense.
- b. Client shall have the sole responsibility to dispose of any hazardous substance or regulated contaminant whether the result of or a by-product of sampling or not, in accordance with applicable law. Client shall bear all costs and liabilities associated therewith.
- c. Client agrees to indemnify, defend and hold harmless WCG from any claims made or asserted against WCG arising out of or related to collection, storage or disposition of samples or materials alleging a failure to comply with any Federal, State or local environmental law, regulation or ordinance.

SECTION 7: REPORTS AND OWNERSHIP OF DOCUMENTS

- a. With the exception of WCG reports to Client, all documents, including field data, field notes, laboratory test data, calculations and estimates are and remain the property of WCG. Client agrees that all reports and other work furnished to the Client but not paid for in full will be returned to WCG upon demand and will not be used for design, construction, permits, licensing, or any other purpose.
- b. Documents, including but not limited to, technical reports, field data, field notes, laboratory test data, calculations, and estimates furnished to the Client or its agency pursuant to this agreement are not intended or represented to be suitable for use by third parties or reuse by the Client or to the extensions of the Project or on any other project. Any use or reuse without WCG's written consent will be at Client's sole risk and without liability or legal exposure to WCG or to WCG's subcontractor(s). Client shall indemnify and hold harmless WCG and WCG's subcontractor(s) from all claims, damages,

losses and expenses including attorneys' fees arising out of or resulting therefrom.

SECTION 8: INDEMNITY PROVISIONS

- a. WCG agrees to indemnify, hold harmless, and defend Client from and against any loss, damage, injury, claim, and liability arising from and to the extent caused by the negligent acts or omissions of WCG, its agents and subcontractors, but subject to the limitations of liability set forth in Section 11 of this Agreement. Further, Client agrees to indemnify, hold harmless, and defend WCG against any loss, damage, injury, claim or liability not caused by or arising from the acts or omissions of WCG.
- b. Client hereby waives all claims for indemnity and contribution (and related theories) for claims which are otherwise covered (or would be ordinarily covered) when made directly to WCG or its subcontractors under Worker's Compensation insurance provided by WCG or its subcontractors.

SECTION 9: STANDARD OF CARE

- a. WCG represents that the services performed under this Agreement will be performed with the care and skill ordinarily exercised by reputable members of the profession practicing under similar conditions at the same time in the same or similar locality.
- b. Client recognizes that subsurface conditions may vary from those encountered at the locations where the borings, surveys, or explorations are made by WCG and that the data interpretations and recommendations of WCG's personnel are based solely on the information provided to WCG. WCG will be responsible for those data, interpretations, and recommendations, but shall not be responsible for the interpretation by others of the information developed.
- c. NO OTHER WARRANTY, EXPRESSED OR IMPLIED, IS MADE OR INTENDED BY RENDITION OF CONSULTING SERVICES OR BY FURNISHING ORAL OR WRITTEN REPORTS OF THE FINDINGS MADE.

SECTION 10: INSURANCE

- a. WCG represents that it and its agents, consultants, and subcontractors employed by it, have procured Worker's Compensation insurance and that WCG has coverage under liability insurance policies which WCG deems reasonable and adequate. WCG shall furnish certificates of insurance upon request. If the Client requests specific inclusions or limits of coverage that are not present in WCG's insurance, the cost of such inclusions or coverage increases, if available, shall be at the expense of the Client.

SECTION 11: LIMITATIONS OF LIABILITY

- a. IT IS AGREED THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, CLIENT WILL LIMIT WCG'S TOTAL AGGREGATE LIABILITY TO CLIENT TO \$50,000 OR THE AMOUNT OF WCG'S FEE WHICH HAS BEEN ACTUALLY PAID TO AND RECEIVED BY WCG, WHICHEVER IS LESS, FOR ANY AND ALL INJURIES, CLAIMS, LOSSES EXPENSES OR CLAIM EXPENSES (INCLUDING ATTORNEY'S AND EXPERT WITNESS FEES) ARISING OUT OF THIS AGREEMENT OR THE SERVICES TO BE PERFORMED PURSUANT TO THIS AGREEMENT FROM ANY CAUSE OR CAUSES. SUCH CAUSES INCLUDE, BUT ARE NOT LIMITED TO, WCG'S

NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, STATUTORY LIABILITY, BREACH OF WARRANTY, NEGLIGENT MISREPRESENTATIONS, ENVIRONMENTAL LIABILITY OR OTHER ACTS GIVING RISE TO LIABILITY BASED UPON CONTRACT, TORT OR STATUTE. IT IS EXPRESSLY AGREED THAT THE REMEDY STATED HEREIN IS THE CLIENT'S EXCLUSIVE AND SOLE REMEDY FOR ANY DAMAGE(S) ARISING OUT OF THIS AGREEMENT OR SERVICES TO BE PERFORMED PURSUANT TO THIS AGREEMENT.

- b. WCG will increase our limitation of liability up to the limits of our available insurance coverage or otherwise to \$100,000, whichever is greater, upon client's written request, and for the additional consideration of \$500. Said request and payment must be received within 14 days of the date of execution of the Proposal and be before any claim arises.
- c. The Client further agrees to notify any contractors or subcontractors who may perform work in connection with any design, report or study prepared by WCG of such limitation of liability for breach of contract, errors, omissions or negligence and require as a condition precedent to their performing their work a like limitation of liability on their part as against WCG.
- d. The Client and WCG agree that neither will be liable to the other for consequential damages incurred due to the fault of the other. Said damages include, but are not limited to, loss of use and lost profits.
- e. With the exception of actions pertaining to materialmen or mechanic's liens, and if lawful, causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run on the date the alleged act or failure to act occurred.
- f. Notwithstanding the above, all claims, whether based upon contract, tort, breach of warranty, professional negligence (including errors, omissions or other professional acts), or otherwise, shall be deemed waived unless made by the Client in writing and received by WCG within one (1) year after Client reasonably knew or should have known of its existence, but in no event, shall such claim be asserted by Client later than two (2) years after WCG's completion of services with respect to which the claim is made.

SECTION 12: ARBITRATION OF DISPUTES

- a. Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or the breach thereof shall be subject to and decided by arbitration in accordance with the Construction Industry Arbitration rules of the American Arbitration Association currently in effect, such arbitration to be held in Chicago, Illinois, unless the parties mutually agree otherwise.
- b. Demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceeding based on such claim, dispute or other matter in question would be barred by applicable statutes of limitations subject to Section 10(e) above.

- c. No arbitration arising out of our relating to this Agreement shall include, by consolidation, joined or in any other manner, an additional person or entity not a party to this Agreement except by written consent of WCG, Client and any other person or entity sought to be joined.
- d. The award tendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

SECTION 13: TERMINATION

- a. This Agreement may be terminated by either party upon at least seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. Such termination shall not be effective if the substantial failure has been remedied before expiration of the period specified in written notice.
- b. WCG may terminate this Agreement if the Client suspends WCG's services for more than sixty (60) consecutive days through no fault of WCG's.
- c. This Agreement may be terminated without cause by either party upon at least sixty (60) days' written notice.
- d. If this Agreement is terminated, WCG shall be paid for services performed prior to the termination date set forth in the notice plus termination expenses. Termination expenses shall include costs attributable to personnel and equipment rescheduling and re-assignment and all other costs incurred directly attributable to termination.

SECTION 14: MISCELLANEOUS

- a. In the event that any provision (or portion thereof) herein shall be deemed invalid or unenforceable, the other provisions hereto shall remain in full force and effect, and binding upon the parties hereto. In such event, the provisions found to be invalid shall be deemed to be reformed so that the intent of such provision will be enforced to the maximum extent permitted by applicable law.
- b. The heading or title of a section is provided for convenience and information and shall not serve to alter or affect the provisions included herein.
- c. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the Client and WCG shall survive the completion of services and the termination of the Agreement.
- d. Unless otherwise provided, the substantial law of the State of Indiana will govern the validity of this agreement, its interpretation and performance, and remedies for contract breach or any other claims related to this agreement.
- e. WCG shall apply professional judgment in determining the extent to which WCG shall comply with any given standard identified in WCG's documents. Unless otherwise indicated, such compliance, referred to as "General Compliance" specifically excludes consideration of any standard listed as a reference in the text of those standards cited by WCG.
- f. Unless specifically stated in WCG's Proposal, it is understood the costs for implementation of the work are based on privately owned projects utilizing merit (non-union) wages and employees. Government funded or publicly owned projects that require prevailing wages will have specific fees identified

in the Proposal. Any job action, strike, or other requirement to use union represented employees will require renegotiation of the costs for performing the work.

- g. In the event that WCG borrows or uses equipment or machinery, including but not limited to stationary, mobile and non-road mobile equipment, from the Client, it is agreed that the equipment is being rented for the sum of \$1.00 and other considerations unless a specific rental agreement is executed by the parties.
- h. This Agreement may be assigned by WCG to an affiliate company, in whole or in part. WCG may also retain persons or entities not in WCG's employ without Client's prior specific consent when such retention is appropriate and customary, including, but not necessarily being limited to, surveyors, drilling subcontractors, testing laboratories, remediation contractors, and specialized consultants. Client shall not assign its duties and obligations hereunder without the prior written consent of WCG.

RESOLUTION NO. 23-R-038

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE CITY OF ELKHART, INDIANA, APPROPRIATING FUNDS FOR ASBESTOS SERVICES FOR 1025-45 S. MAIN

Whereas, the Commission owns the real estate at 1037, 1039, 1043 and 1045-47 South Main Street (the "Property"), on which it plans to demolish the improvements and has awarded the asbestos survey contract on the buildings to be demolished to A&G Environmental Solutions, LLC; and

Whereas, the asbestos survey and removal, and planned demolitions, benefit both Allocation Area No. 1 and the Consolidated South Elkhart TIF Area as they further the Commission's plan for redevelopment of the South Main Corridor including the entire 1000 block of South Main; and

Whereas, A&G has presented its Invoice 2273 for \$2160.00 for additional outside lab tests performed as part of the asbestos survey (the "Invoice"), and presented the attached Proposal for asbestos removal at a cost of \$27,815 (the "Proposal"), and collectively (the "Services"); and

Whereas, the Commission finds that it is in the best interest of the City and its inhabitants to approve the Invoice and Proposal, award the contract, and appropriate the funds to cover the cost of the Services.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission approves the Services for the Property described in the Invoice and Proposal.
2. The Commission awards the asbestos removal contract for the Property to A&G as set forth in the Proposal.
3. The Commission appropriates \$29,975.00 to cover the cost of the Services in equal shares from the Downtown Allocation Area No. 1 Special Fund and the Consolidated South Elkhart Economic Development/Redevelopment Area Allocation Area Special Fund.
4. The Officers of the Commission are authorized and directed to perform all acts and enter such Agreements as they deem necessary and appropriate in furtherance of this Resolution.

ADOPTED BY MAJORITY VOTE THIS 13th DAY OF JUNE 2023.

CITY OF ELKHART, REDEVELOPMENT
COMMISSION

By _____
Sandra Schreiber, President

ATTEST:

By _____
Alex Holtz, Secretary

Memo

To: Redevelopment Commission Member
From: Adam Fann
Date: 5/25/23
Re: 1000 Block of South Main Asbestos

After completing the Asbestos Survey for the buildings in the 1000 Block of South Main our contractor had some additional lab work done to try and bring the amount of material containing asbestos that would be need to be removed down. The results came back in our favor. The attached invoice is associated with that work. Additionally, the proposal attached is associated with the removal of the remaining material containing asbestos. Staff is requesting the Commission appropriate \$29,975 to be split equally between the Downtown TIF and Consolidated TIF to pay for these services.

A&G ENVIRONMENTAL SOLUTIONS LLC

A&G Environmental Solutions LLC.
12191 North Woodland Acres Drive

Phone: (574)- 780-7402
Syracuse, Indiana 46567

May 17th, 2023

Client: City of Elkhart
229 South Second Street
Elkhart, IN. 46516

Referenced Project Site: (A&G Ref #230421)
4 Vacant Commercial Properties
1045-1047 South Main Street, 1043 South Main Street,
1039 South Main Street, 1037 South Main Street,
Elkhart, IN. 46516

Dear: Adam Fann

A&G Environmental Solutions LLC. proposes to follow all federal(EPA) and state(IDEM), and Local guidelines and regulations and to furnish all material, and perform all necessary labor to complete the Scope Of Work at the above referenced project site above. A&G will remove and dispose of all Asbestos Containing Materials from the scope of work below from the referenced project site above and dispose of them at a Certified ACM accepting Landfill. A&G Environmental Solutions LLC is a fully licensed and insured asbestos contracting and testing company in Indiana and Michigan .

**** No Asbestos Containing Materials were found at 1025, 1027, & 1035 South Main Street.***

A&G ENVIRONMENTAL SOLUTIONS LLC

Scope Of Work @ 1045-1047 South Main Street : \$7,865.00

- ◆ A&G will remove the ~120 Square foot of asbestos containing seem tape located on the HVAC System in the basement and wall voids of the structure located at the referenced project site.

Scope Of Work @ 1043 South Main Street : \$5,925.00

- ◆ A&G will remove the ~80 Square foot of asbestos containing seem tape located on the HVAC System in the basement and wall voids of the structure located at the referenced project site.

Scope Of Work @ 1039 South Main Street : \$4,350.00

- ◆ A&G will remove the ~66 Square foot of asbestos containing seem tape located on the HVAC System in the basement and wall voids of the structure located at the referenced project site.

Scope Of Work @ 1037 South Main Street : \$9,675.00

- ◆ A&G will remove the ~40 Square foot of asbestos containing seem tape located on the HVAC System in the basement and wall voids of the structure located at the referenced project site.
- ◆ A&G will remove the ~90 linear foot of asbestos containing seem tape located on the HVAC System in the basement and wall voids of the structure located at the referenced project site.
- ◆ A&G will remove the ~40 Square foot of asbestos containing rolled laminate in the first floor bathroom of the structure located at the referenced project site.
- ◆ A&G will remove the ~40 Square foot of asbestos containing rolled laminate in the first floor kitchen of the structure located at the referenced project site.

A&G ENVIRONMENTAL SOLUTIONS LLC

SCOPE OF WORK Total _____ \$27,815.⁰⁰

50% Down Payment ___ \$13,907.⁵⁰

OR

A&G offers a 10% prepay discount if the total (\$25,033.⁵⁰) is paid in full before the project start date (Saving \$2,781.⁵⁰).

Estimated 3 Week's till Completion of Asbestos Project's.

The following items are NOT included in our scope of work:

- ◆ Replacement of any removed building materials and or debris.

All payments shall be paid to A&G Environmental Solutions LLC. with in 45 days of the date on the invoice submitted to the Client from A&G Environmental Solutions LLC. A finance charge of 1.0% per month will be added to all past due accounts.

A&G Environmental Solutions LLC. shall commence rendering the services at a time mutually and reasonably agreed upon by the parties and shall continue in effect until all amounts due and owing to A&G Environmental Solutions LLC. have been paid.

I understand that this Scope of Work Agreement is subject to the A&G Environmental Solutions LLC. Terms and Conditions. I have read, understand and accept the A&G Environmental Solutions LLC. Terms and Conditions attached hereto:

A&G Representative Signature: _____ .Date: _____ .

Client Printed: _____ .Date: _____ .

Client Signature: _____ . Title: _____ .

A&G ENVIRONMENTAL SOLUTIONS LLC

A&G ENVIRONMENTAL SOLUTIONS LLC TERMS AND CONDITIONS

The following terms and conditions apply to all tenders, quotations and sale orders placed with A&G Environmental Solutions LLC. except were expressly modified in writing. The placing of an order and/or letter of intent with A&G shall be deemed to be an unconditional acceptance of these Terms and Conditions which shall supersede any previous agreements, whether oral or in writing, unless expressly provided otherwise in writing.

SERVICES

A&G Environmental Solutions LLC. shall perform all services in a prompt and workmanlike manner. All services will be carried out during normal business hours, Monday through Friday, unless stated otherwise.

CLIENT'S RESPONSIBILITIES

The Client shall provide A&G Environmental Solutions LLC. access to all facilities, plans, drawings and equipment owned and/or controlled by the Client which is reasonably necessary in order for A&G Environmental Solutions LLC. to fully perform its services agreed upon herein.

USE OF AGENTS OR ASSISTANTS

To the extent reasonably necessary to enable A&G Environmental Solutions LLC. to perform the duties under these Terms and Conditions, A&G Environmental Solutions LLC. shall be authorized to engage the services of any agents or assistants and may further employ, engage, or retain the services of any other persons or corporations to aid or assist in the proper performance of the duties If they e-verify and do not have any Investments in Iran.

EXPRESS DISCLAIMER OF WARRANTIES

EXCEPT AS EXPRESSLY STATED IN THESE TERMS AND CONDITIONS THERE ARE NO WARRANTIES, CONDITIONS, GUARANTIES OR REPRESENTATIONS AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, IN LAW OR IN FACT, ORAL OR IN WRITING. EACH PARTY HEREBY ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY WARRANTY MADE BY THE OTHER EXCEPT AS SPECIFICALLY SET FORTH IN THESE TERMS AND CONDITIONS.

FORCE MAJEURE

In the event that A&G Environmental Solutions LLC. shall be delayed or hindered in, or prevented from, the performance of any work, service, or other act required under any agreement and these to be performed by such party and such delay or hindrance is due to strikes, lockouts, Acts of God, governmental restrictions, enemy act, civil commotion, fire or other casualty, or other causes of a like nature beyond the control of the party so delayed or hindered, then performance of such work, service, or other act shall be excused for the period of such delay and the period for the performance of such work, service, or other act shall be extended for a period equivalent to the period of such delay.

A&G ENVIRONMENTAL SOLUTIONS LLC

ASSIGNMENT

Neither these Terms and Conditions nor any duties or obligations under these Terms and Conditions shall be assignable by the Client without the prior written consent of A&G Environmental Solutions LLC. In the event of an assignment by the Client to A&G Environmental Solutions LLC. has consented, the assigner or a legal representative shall agree in writing with A&G Environmental Solutions LLC. to personally assume, perform, and be bound by the covenants, obligations, and agreements contained in this these Terms and Conditions.

SUCCESSORS AND ASSIGNS

Subject to the provision regarding assignment, these Terms and Conditions shall be binding on the heirs, executors, administrators, legal representatives, successors, and assigns of the respective parties.

DAMAGE TO CLIENT'S PROPERTY

While A&G Environmental Solutions LLC. will exercise reasonable skill and care to ensure that there is no damage to the Client's property. A&G Environmental Solutions LLC. will accept no responsibility for damage, unless it can be clearly demonstrated to be a result of the A&G Environmental Solutions LLC's negligence.

DEFECTS

The Client acknowledges the right of A&G Environmental Solutions LLC. to correct any agreed insufficiency or defects in works done and to address any reasonable cause for complaint by the Client. If A&G Environmental Solutions LLC. is prevented by the Client from taking appropriate remedial action within a reasonable amount of time after completion of the work, the Client will become solely responsible for any subsequent costs of remedial works and/or alternative remedial actions whether agreed with A&G Environmental Solutions LLC. or not.

SEVERABILITY IN EVENT OF PARTIAL INVALIDITY

If any provision of these Terms and Conditions is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of these Terms and Conditions will be severable and remain in effect.

GOVERNING LAW

All matters affecting the interpretation of these Terms and Conditions and the rights of the Parties hereto shall be governed by the laws of the State of Indiana without giving effect to its provisions on conflicts of laws. The Venue Shall Be in Elkhart County.

ENTIRE AGREEMENT

The quotation and these Terms and Conditions contain the entire agreement of the parties relating to its subject matter. No other agreement, statement, or promise made on or before the effective date of this agreement will be binding on the parties.

A&G Environmental Solutions LLC
12191 N Woodland Acres Dr
Syracuse, IN 46567 US
agenvironmentalsolutions@gmail.com



INVOICE

BILL TO

Adam Fann
Indiana Redevelopment District
City of Elkhart
229 S 2nd St
Elkhart, IN 46516
United States

INVOICE # 2273

DATE 05/08/2023

DUE DATE 05/08/2023

TERMS Due on receipt

| SERVICE | DESCRIPTION | QTY | RATE | AMOUNT |
|----------------|---|-----|--------|----------|
| Point Counting | Point counting laboratory services for 12 asbestos containing material samples found in 3 separate asbestos inspections, to get a more accurate percentage to see if it is under 1% to be considered Non Asbestos Containing Materials from the structures located at 1035, 1037, & 1045-1047 South Main Street in Elkhart Indiana. | 12 | 180.00 | 2,160.00 |

Point counting laboratory services for 12 asbestos containing material samples located at 1035, 1037, & 1045-1047 South Main Street in Elkhart Indiana.

BALANCE DUE

\$2,160.00

RESOLUTION NO. 23-R- 039

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE CITY OF ELKHART, INDIANA, APPROVING PHOTOGRAPHIC SERVICES AT 1045 S. MAIN

Whereas, The Commission desires to preserve the Kelby Love "Peace Mural" painted on the outside wall of the building at 1045 S. Main and needs to employ a photographic expert to create a digital image of the mural (the "Services") before the building is demolished, which image could be used in various ways to preserve the Mural including those described in the Digital Art That Rocks LLC ("Digital Art") proposal for services attached hereto (the "Proposal"); and

Whereas, Digital Art has the expertise to perform the Services and has submitted its proposal to perform the Services at the base fee of \$8789.00, to be billed as stated therein; and

Whereas, the building is in extremely poor and unsafe condition and may fail at any time, and it is essential that the proposed Services be performed as quickly as possible; and

Whereas, the Commission has reviewed the Proposal and believes it is in the best interest of the City and its inhabitants to employ Digital Art to provide the Services in accordance with the terms set forth in the Proposal and to ratify the action of the President of the Commission in executing the Agreement for services prior to this meeting in order to schedule the Services at the earliest possible date.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission hereby approves the employment of Digital Art to perform the Services for the consideration and on the terms set forth in the attached Proposal.
2. The Commission appropriates the sum of \$8789.00 from the Downtown Allocation Area No. 1 Special Fund to cover the cost of the Services.
3. The Commission ratifies the execution of the Agreement and all other actions taken to obtain the Services by the President of the Commission.
4. The Officers of the Commission are hereby authorized to execute and deliver the Agreement, any necessary amendments thereto, and all other Documents, and do all acts, which they deem necessary and desirable in furtherance hereof.

ADOPTED BY MAJORITY VOTE THIS 13TH DAY OF JUNE 2023.

CITY OF ELKHART, REDEVELOPMENT
COMMISSION

By _____
Sandra Schreiber, President

ATTEST:

By _____
Alex Holtz, Secretary



ARCHITECTURAL
PRESERVATION PHOTOGRAPHY | ESTIMATE



DIGITAL
ART
THAT
ROCKS^{LLC}



Estimate

Digital Art That Rocks™ LLC
901 Pollitt Ct
Mishawaka, IN 46545
United States
574.651.7878

digitalartthatrocks@gmail.com
www.digitalartthatrocks.com

Adam Fann
City of Elkhart
201 South Second Street
Elkhart, IN 46516-3112
(574) 294-5471, ext. 1019
adam.fann@coei.org

Estimate No COE-23-001
Date May 30, 2023

JOB NAME

COE-23-001 City of Elkhart Kelby Love Mural Photographic Preservation

JOB DESCRIPTION

Brian Rodgers Jr. is an American Advertising Federation award winning commercial photographer/digital artist based out of Mishawaka Indiana. His overall body of work demonstrates a real cultivation of skills behind the lens as well as a wide array of cutting edge post production techniques. In addition to having content with over 1 million views on Youtube, Brian's work has also been published in national magazines including but not limited to Architect Magazine and the cover of Photoshop User Magazine. He provides his clients with exceptional imagery and ensures client satisfaction through his relentless work ethic.

OVERVIEW

The City of Elkhart is in need of Digital Art That Rocks, LLC to assist them in their mission to digitally preserve a mural hand painted by local artist Kelby Love. Love sadly passed away in 2018. He was born in Elkhart, Indiana and became known worldwide as a painter, sculptor, humanitarian and teacher. The mural titled the "Peace Mural" was Love's artistic expression to speak out against gun violence in the local community. This mural is currently located at 1045 S Main St. Elkhart, IN on the side of an old building on the verge of ruins. This property was recently purchased by the City of Elkhart and will eventually be demolished in order to make way for new construction and revitalization of the community.

The goal of this project is to photographically and digitally preserve this well loved mural. After the demolition of this property takes place, the community would like to have the mural recreated in memoriam of Kelby Love's legacy as well as to preserve the historical nature of this mural within the Elkhart community. The high resolution photographic image could be used as a projected reference onto the side of another building (such as the new Tolson Center - A multi million dollar facility) allowing for another artist to sketch out and ultimately recreate the mural by means of painting by hand. Alternatively, the high resolution, photographic imagery could also be used as a reference image, allowing for a digital artist's recreation of the artwork in a digital format; making it suitable for commercial printing.

LOCATION ADDRESS:

1045 S Main St. Elkhart, Indiana

SCOPE OF WORK - PHOTOGRAPHY:

- **Location Scout** - Scout the location prior to photoshoot to observe the mural, the property, the surrounding environment, ambient lighting conditions as well as identify any obstacles and or safety concerns that may need to be addressed prior to digital capture.
- **Photography Production** - Set up professional equipment on location, using high resolution professional camera bodies and high quality optics in order to capture the range of exposures needed for post production services.
- **Post Production** - Organize and process digital negatives, composite, retouch and stitch together a panoramic where deemed necessary by Digital Art That Rocks

ADDITIONAL IMAGE LICENSING (OPTIONAL):

- For an additional fee, additional images of the property can also be captured while on location. These images could capture the property at a variety of angles to document the historical nature of property in it's current condition prior to demolition.
- These additional images would be available for licensing for an additional cost of \$750/image. Usage would be the same licensing terms set forth in the licensing agreement.
- If the City of Elkhart has specific image requests, please provide a shot list with a description of each, prior to the photo shoot.

ADDITIONAL POST PRODUCTION SERVICES - MURAL REPRODUCTION TO VECTOR ART (OPTIONAL):

- For an additional fee, the mural can be reproduced as digital vector art for the purposes of commercial printing. This manual (by hand) process will include using the high resolution photograph of the mural captured on location, as a reference image in which to digitally illustrate, preserve and ultimately create a derivative artwork in digital vector format. This end result will be a reproduction (derivative) of the original artwork in a digital format that allows for infinitely scalable reproduction of the mural, suitable for commercial printing.

DELIVERABLES:

- One professionally retouched ultra high resolution archival quality photographic image of the mural. The resolution of the final image will likely be anywhere between 60 to 120 megapixels (dependent on how Digital Art That Rocks approaches photographing the mural). Photographic Image will be delivered in a ultra high resolution .TIFF as well as compressed .JPEG formats.

OPTIONAL DELIVERABLES:

- (Optional) Any additional licensed images
- (Optional) Mural digitally illustrated and converted to digital vector art.

CLIENT RESPONSIBILITIES:

- The City of Elkhart will provide Photographer and any assistants with access to its premises to the extent necessary for the performance of the Services.
- The City of Elkhart is responsible for the presence of an authorized representative at the shoot to approve the Photographer's interpretation of the assignment. If a Client representative is not present, the Photographer's interpretation shall be deemed acceptable.
- The City of Elkhart is responsible for removing any foliage obstructing the view of the mural prior to photographing it
- The City of Elkhart is responsible for securing any and all rights and permissions required by Kelby Love's estate regarding the digital preservation and continued use of the mural.
- The City of Elkhart is responsible for providing a vertical platform or commercial lift (if Digital Art That Rocks deems to be necessary)

USAGE LICENSE

This license is strictly limited to the terms and conditions below, and governed by the Copyright laws of the United States, as specified in Title 17 of the United States Code:

Licensee: City of Elkhart

Licensor: Brian Rodgers Jr. / Digital Art That Rocks™ LLC

Credit: ©Brian Rodgers Jr. / www.digitalartthatrocks.com

Date: Upon Final Paid Invoice

Duration: Perpetual

Region: United States of America

Media: The City of Elkhart may use the photographs for the city website, city social media channels, editorial and archival purposes only (Must Include Photo Credit). This does not include advertising usage. No third party rights granted.

The vector based mural reproduction (photograph to digital vector art) is essentially a derivative of the original artwork. Therefore, the copyright holder's estate and/or assumed copyright holder can set their own terms regarding where the mural can and can't be viewed. However, a credit to Brian Rodgers Jr. | Digital Art That Rocks, for the digital conversion and preservation of the mural, would be greatly appreciated.

ESTIMATE TERMS

Estimate is valid for 30 day(s) from the date of issue. Fees and expenses quoted are for the original job description only and for the usage specified. A signed estimate is required upon booking the photographer. Invoices can be paid online via ACH or by mailed check.

Payment Schedule is as follows:

Invoice #1 (The Retainer; 50% of the estimated total) will be submitted to The City of Elkhart by June 7th with a check cut date of June 20th.

Invoice #2 (The Final Invoice) will be submitted to The City of Elkhart by June 21st with a check cut date of July 5th.

All rights not specifically granted in writing, including copyright, remain the exclusive property of Digital Art That Rocks™ LLC. No rights granted until paid in full. No third party rights granted. Final billing will reflect actual expenses. Final deliverables (i.e. images & illustrations) will not be delivered until payment has been made in full, however an online image gallery will be available to view prior to final delivery of files.

Final Invoice is payable within 30 days of the invoice date. Payments made after 30 days of the final invoice date are subject to 20% interest on the remaining balance due.

Fees

| | |
|---|----------|
| Creative Fee @ 5,000.00 | |
| Location Scout, Creative fee & Licensing for location photography | 5,000.00 |

Additional Image Licensing

Any additional images captured of the architectural structure not outlined in the scope of work can be made available for editorial licensing for an additional \$750 per image. (To Be Determined)

Fees Total 5,000.00

Digital/Processing/Post

Additional Post Production Services @ 3,750.00

Additional Post Production Services - Mural reproduced as digital vector art for commercial printing

3,750.00

| | | |
|--|-------------------------------|-----------------|
| | Digital/Processing/Post Total | 3,750.00 |
| Travel | | |
| 60 Mileage @ 0.65 ea. | | 39.00 |
| Estimated round trip mileage for: 1. Location Scout 2. Commercial Photography Services | | 39.00 |
| | Travel Total | 39.00 |
| <hr/> | | |
| | Fees Total | 5,000.00 |
| | Expenses Total | 3,789.00 |
| | Sub Total | 8,789.00 |
| | Total (USD) | 8,789.00 |
| <hr/> | | |

TERMS AND CONDITIONS

Definitions and Terms: This Creative Services Agreement (the "Agreement"), is by and between Digital Art That Rocks, LLC (Commercial Photographer/Digital Artist/Licensors) and Client as listed on this estimate or invoice (herein, "Client") its heirs, successors and representatives. Licensors is an independent contractor. "Image(s)" refers to the visual, in any form, including but not limited to photography, video, design, graphics, or as digital information supplied by Licensors to Client. "Services" refers to the photography, video, design, post-production, related digital or other services Client is commissioning Licensors to perform. Digital Art That Rocks, LLC shall provide to Client the services described in the job description in accordance with the criteria set forth therein, which is attached hereto as the "Estimate". The term "Final Deliverable(s)" or "Deliverable(s)" shall be identified as the deliverable(s) for the commissioned service(s) outlined in the Agreement. "Written consent" includes email correspondence if receipt of the email correspondence is confirmed. The term "Collateral" and "Client Publications" shall be restricted to mean only reproduction and publication of the image(s) done solely by the Client, whether in print or electronic form, such as use of the Photographs in the Client's websites, social media pages, emails, competition entries, portfolios, annual reports, brochures, pamphlets, or posters, and whose audience is employees, customers, shareholders, or the general public. The term "Outside Publications" shall include all reproductions of the Photographs other than Client Publications. Outside Publications include, but are not limited to, advertising or editorial use of the Photographs in third-party websites, newspapers, billboards, books, or magazines, whether in print or electronic media, regardless of whether the Client pays or instructs the Outside Publication or any other person to engage in such use. The term "Editorial" refers to non-commercial uses of the image(s) found in outside publications relating to events that are newsworthy or of general interest. Editorial uses may include but are not limited to magazines, newspapers, newsletters and blogs. The term "Advertising" refers to the commercial use of an image(s) found in outside publications where the Client pays for placement to display image(s). Advertising includes, but is not limited to, print advertising, web advertising, billboards and other paid media advertising. All paragraph captions in the Agreement are for reference only.

Payment: Client and Client's representatives are jointly and severally responsible for full payment of all fees, charges and advances as set forth in this Agreement. Unless otherwise stated in this Agreement or invoice terms, 50% initial payment (retainer fee) of the project's estimated total is required to be paid by Client prior to the start of any service(s). The retainer fee payment will be applied against the total amount due and is non-refundable. An invoice will be sent by Digital Art That Rocks, LLC to Client requesting the initial payment upon receiving the signed Agreement.

Estimates and Requests for Additional Work: The fees quoted by Digital Art That Rocks, LLC in the Estimate are for the original job description as presented by the Client. Any subsequent changes, whether made orally or in writing, may result in additional charges. The expenses are estimated in good faith. Actual expenses, which may be greater or less than estimated, will be invoiced. Requests for additional work, such as additional images or subject matter, will be added to the estimated cost and invoiced. Any and all outside costs including, but not limited to, additional Services or design concepts requests by Client, travel expenses, printing costs and fees, artwork licenses, equipment rental, talent fees, online access or hosting fees etc, will be billed to Client unless specifically otherwise provided for in the Estimate. All fees and expenses payable under this agreement are required irrespective of whether Client makes actual use of the Images or the licenses to use them.

Copyright: All images shall be the sole and exclusive property of Digital Art That Rocks, LLC including but not limited to all copyrights and other intellectual property rights therein, in perpetuity, throughout the universe. All rights not expressly granted herein shall be reserved by Digital Art That Rocks, LLC. Modification of Photographs and/or incorporation of Photographs in any layout, concept, reproduction, or publication shall not constitute a Joint Work. Digital Art That Rocks, LLC shall have the sole power to enforce its copyrights and any other intellectual property, including without limitation all registration, renewal, and reversion rights, and the right to register and sue to enforce such rights against infringers. Digital files may contain copyright and other information embedded in the header of the image file or elsewhere; removing and/or altering such information is strictly prohibited and constitutes violation of the Copyright Act. Any use of the Photographs beyond the terms of the usage license, without permission of Digital Art That Rocks, LLC by any person or entity shall constitute copyright infringement.

Rights: All services provided by Digital Art That Rocks, LLC under this Agreement shall be for the use and benefit of the Client. Upon full payment of all fees and expenses, reproduction rights for Final Deliverables created by Digital Art That Rocks, LLC for this project shall be granted to Client to use as they are delivered in accordance with the terms of the usage license. Rights to raw files, build files, master files and/or source files are specifically not transferred to the client and remain the property Digital Art That Rocks, LLC. Unless otherwise specifically provided elsewhere in this document, any grant of rights is non-exclusive and limited to a term of two (2) years from the date hereof to usage in media in North America only. Except as expressly licensed by Photographer in this Agreement, Photographer reserves all other rights in and to the Image(s) of every kind and nature. The licensed rights are not transferred until and unless a) Client accepts all terms contained in this agreement, and b) Licensors receives full payment for images and services rendered. No rights licensed may be assigned or transferred to a third party without Photographer's prior written consent. Proof images and images designated as "Proofs" shall be kept confidential. Proofs shall not be made public, or otherwise released outside of Client's business, for any reason. Only final versions of the Photographs may be made public or shared with anyone other than Client, Client's members, or Client's employees. **Storing of Electronic Data:** Client is strictly prohibited from digitizing or electronically scanning any Image other than for the purpose of reproducing the Image(s) in accordance with the rights licensed. In no event may Client or Client's representatives

continue to use, retain or store any kind of electronic data derived from an Image after term of License expires.

Additional Usage: If Client desires at a later date to reproduce, or cause to be reproduced, Photographs beyond the scope of the Limited License, then Client must request it from Digital Art That Rocks, LLC in writing. Such an extension of the Limited License will be subject to an additional fee, which will be set at a reasonable price in good faith at Digital Art That Rocks, LLC's sole discretion. Digital Art That Rocks, LLC reserves the right to decline use of the Photographs beyond that described in this Limited License at Digital Art That Rocks, LLC's sole discretion. Any license extension granted by Digital Art That Rocks, LLC must be in writing to be effective and will be subject to the terms of this Agreement. If Client, or any other person or entity, wishes to make any additional uses of the photographs not covered in this Agreement, Client or other person or entity shall obtain permission from Digital Art That Rocks, LLC and pay an additional fee to be agreed upon if necessary.

Final Deliverables: Unless otherwise specified on the front of this document, Digital Art That Rocks, LLC may deliver, and Client agrees to accept, Images encoded in an industry-standard data format that Digital Art That Rocks, LLC may select, at a resolution that Digital Art That Rocks, LLC determines will be suitable to the subject matter of each Image and the reproduction technology and uses for which the Image is licensed. Final deliverables will be made available upon full payment of the final invoice to be downloaded via digital transfer and will be made available for download for 30 days, after which a file retrieval fee of \$250 will apply. Digital Art That Rocks, LLC has no obligation to retain or archive any of the Images or video files after they have been delivered to the Client.

Image Credit: Client Agrees that all published usages of the Images, including Client Publications and Outside Publications, will be accompanied by written credit to Brian Rodgers Jr. | Digital Art That Rocks, LLC along with copyright notice to conspicuously indicate Brian Rodgers Jr. | Digital Art That Rocks, LLC as the source of the Images. Failure to properly credit or tag Digital Art That Rocks, LLC will constitute copyright infringement. The following notations, or similar, on or near the photo in legible text are acceptable: A) ©Brian Rodgers Jr. | Digital Art That Rocks B) "Photo by Brian Rodgers Jr. | Digital Art That Rocks" or C) On Instagram, a credit tagging "@digitalartthatrocks" (Note: The tag must be clickable and in the body text of the post). Digital Art That Rocks, LLC hereby grants to Client and its affiliates, and each of their respective direct and indirect successors, licensees, and assigns, the right to use Photographer's/Digital Art That Rocks, LLC's name, in connection with the Images. If no placement of a credit or copyright notice is specified in the Usage License, no credit or notice is required. If a credit is required but not actually provided, Client agrees that the amount of the invoiced fees for this project will be doubled as reasonable compensation to Digital Art That Rocks, LLC for the lost value of the credit line. Image Credits are not required for Outside Publications if Client is granted usage rights for paid advertising. Image Credits are not required for Client Publications as it relates to Client print collateral. Client agrees to use their best judgement in good faith and provide a photo credit when applicable. If Client is not sure how to proceed, please consult Digital Art That Rocks, LLC.

Alterations: Client may not make or permit any alterations, including but not limited to additions, subtractions, or adaptations in respect of the Images, alone or with any other material, including making digital scans unless specifically permitted in the estimate for this project, except that cropping, alterations of contrast, brightness, and color balance, consistent with reproduction needs may be made. Client will indemnify and defend Digital Art That Rocks, LLC against all claims, liability, damages, costs and expenses arising out of the use of any photographs that are altered by the Client.

Revisions: If Client requests or instructs revisions that are considered to be general revisions and within the defined scope of work outlined in the job description, Digital Art That Rocks, LLC will strive to accommodate those revisions at no additional charge. Client is allowed 1 round of general revisions if necessary. Substantial Revisions: If Client requests or instructs revisions or changes that amount to substantial revisions (as deemed substantial by Digital Art That Rocks, LLC), Digital Art That Rocks, LLC shall be entitled to submit a new and separate Estimate to Client for written approval. Such charges shall be in addition to all other amounts payable under the Estimate despite any maximum budget, contract price or final price identified therein. Digital Art That Rocks, LLC may extend or modify any delivery schedule, deadlines, or Deliverables originally noted in the Estimate as may be required by such changes. Work shall not begin on the revised services until an accepted revised Estimate and, if required, any additional retainer fees are received by Digital Art That Rocks, LLC. Client, within five (5) business days of receipt of each Deliverable, shall notify Digital Art That Rocks, LLC in clear writing, of any failure of such Deliverable to comply with the specifications set forth in the Estimate for Creative Services. In the absence of such notice from Client, the Deliverable shall be deemed accepted and Digital Art That Rocks, LLC will resume work on the project, free of any obligation whatsoever to make any more corrections or modifications to such Deliverable from date of acceptance, forward.

Assignment Cancellations and Postponements: Cancellations: In the event of a cancellation or postponement of a shoot by the Client, or its affiliates or agents, Client shall pay all expenses incurred by Digital Art That Rocks, LLC up to the time of cancellation, plus a fee equal to 50% of the total estimated price listed the Estimate (the "Cancellation Fee"). However, if notice of cancellation is given less than two (2) business days before the shoot date, Client will be charged 100 percent fee. Postponements: Unless otherwise agreed in writing, Client will be charged a 100 percent fee if postponement of the assignment occurs after Digital Art That Rocks, LLC has departed for location or began services, and 50 percent fee if postponement occurs before departure to location. Any retainer fee or payments made will be deducted from any such Cancellation Fee and will become non-refundable to Client upon cancellation. If the amount of the retainer fee or payments made exceeds the Cancellation Fee, the excess shall be refunded to Client. Any Cancellation Fee owed to Digital Art That Rocks, LLC must be paid within 15 days from cancellation or the late penalty described in the Invoice Terms on the Estimate will apply. Fees for cancellations and postponements will apply irrespective of the reasons for them, specifically including but not limited to weather conditions, acts of God, nature, war, terrorism, civil disturbance, and the fault of a third party.

Reshoots: Client will be charged 100 percent fee and expenses for any reshoot required by Client. For any reshoot required because of any reason outside the control of Client, specifically including but not limited to acts of nature, war, terrorism, or civil disturbance, Digital Art That Rocks, LLC will charge no additional fee, and Client will pay all expenses.

Weather Permitting Photo Shoots: Digital Art That Rocks, LLC reserves the right to postpone Services due to bad weather including but not limited to rain, forecast of rain, clouds, or high wind. Client and Digital Art That Rocks, LLC may agree to postpone shoot to a reasonable date in the future in case of inclement weather, Digital Art That Rocks, LLC will charge no additional fee and Client will pay all expenses. If Digital Art That Rocks, LLC advises against proceeding with an assignment due to weather concerns and the Client elects to proceed and the weather prevents the assignment, the Client will be charged all fees and expenses if postponement occurs after departure for location.

Hazardous Conditions: Digital Art That Rocks, LLC reserves the right to postpone or cancel Services due to reasonably dangerous

conditions, as determined by Digital Art That Rocks, LLC in good faith, including but not limited to working from height or on unstable platforms without adequate protection or safeguards, dangerous pets or other animals, and unsafe construction sites. Client shall be responsible for providing a safe location to take the photographs at the Property as described in Schedule A, and any necessary personal protective equipment if required by site rules.

Indemnification: Client will indemnify and defend Digital Art That Rocks, LLC against all claims, liability, damages, costs, and expenses, including reasonable legal fees and expenses, arising out of the creation or any use of any Images or arising out of use of or relating to any materials furnished by Client. Client agrees to indemnify, defend and hold Digital Art That Rocks, LLC harmless from and against any and all damages, liabilities, claims, costs, losses and expenses, including attorneys' fees and costs, arising out of, resulting from or relating to, directly or indirectly, the Coronavirus. Unless delivered to Client by Digital Art That Rocks, LLC, no model or property release exists, and it is Client's responsibility to obtain the necessary permissions for usages that require any model or property releases or matters of third party intellectual property rights therein not delivered by Digital Art That Rocks, LLC. It is Client's sole responsibility to determine whether any model or property releases delivered by Digital Art That Rocks, LLC are suitable for Client's purposes.

Limitation of Liability: Digital Art That Rocks, LLC's aggregate liability arising out of or related to this Agreement, whether arising out of or related to breach of contract, tort (including negligence), or otherwise, shall not exceed the amount of payment received for the Services.

Assumption of Risk: Client assumes full risk of loss or damage to or arising from materials furnished by Client and warrants that said materials are adequately insured against such loss, damage, or liability.

Severability: If any of the provisions of this agreement are found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions will not be affected.

Survivorship: This Agreement survives the individuals who signed it and applies to their successors and executors.

Relationship of the Parties: The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

Disputes Resolution: The parties hereto will use their reasonable best efforts to resolve any dispute hereunder through good faith negotiations. Any dispute regarding this agreement shall be decided in court in South Bend, Indiana under the laws of the state of Indiana. Client shall pay all court costs, Digital Art That Rocks, LLC's reasonable legal fees, and expenses, and legal interest on any award or judgment in favor of Digital Art That Rocks, LLC. **Federal Jurisdiction:** Client hereby expressly consents to the jurisdiction of the Federal courts with respect to claims by Digital Art That Rocks, LLC under the Copyright Act of 1976, as amended, including subsidiary and related claims.

Transfer & Assignment: Client may not assign or transfer this agreement or any rights granted under it. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Client of any of its obligations under this Agreement. No amendment or waiver of any terms is binding unless set forth in writing and signed by the parties. The invoice may reflect, and Client is bound by, Client's oral authorizations for additional Images, fees and expenses that could not be confirmed in writing because of insufficient time or other practical considerations. This agreement supersedes any and all prior written or verbal representations and agreements between Client and Digital Art That Rocks, LLC.

Job Approval

By signing this agreement, you agree to the job description, scope of work, terms and conditions. Furthermore, the person signing below on behalf of the Client warrants that he or she has the authority to legally bind Client to the terms of this Agreement.

Client Signature required before job start:



(Sign name above)

Sandra Schreiber

(Print name above)

6-1-23

(Date)



BRIAN RODGERS JR.
COMMERCIAL PHOTOGRAPHER/DIGITAL ARTIST
MOBILE 574.651.7878
DIGITALARTTHATROCKS@GMAIL.COM
WWW.DIGITALARTTHATROCKS.COM

RESOLUTION NO. 23-R- 040

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE CITY OF ELKHART,
INDIANA, APPROVING INFRASTRUCTURE PROJECT SUPERVISOR EQUIPMENT
PURCHASES AND APPROPRIATING FUNDS

WHEREAS, The Department of Redevelopment has approved the position of TIF Infrastructure Project Supervisor (the "Supervisor") who provides supervisory services pertaining to the maintenance, design and use of all the real estate owned by the Department, and the Supervisor required a new computer and software, including ArcGIS and AutoCAD subscriptions as set forth on the attached quotations covering all but the ArcGIS quote which is assumed to be approximately \$5000 (the "Quotations"); and

Whereas, staff has requested an appropriation in the sum of \$16,000 to be charged in equal shares to all the TIF Areas to cover the costs of the equipment, software and subscriptions (the "Purchases"); and

WHEREAS, it is necessary to appropriate the funds to enable the Supervisor to perform these essential services.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission approves the Purchases and appropriates the sum of \$16,000.00 to be charged in equal shares to and paid from each of the existing TIF Area Special Funds, with any unused amounts to be returned to the appropriate funds.
2. The Officers of the Commission are authorized to do all acts as they deem necessary and appropriate in furtherance hereof.

ADOPTED BY MAJORITY VOTE THIS 13th DAY OF JUNE 2023.

CITY OF ELKHART, REDEVELOPMENT
COMMISSION

By _____
Sandra Schreiber, President

ATTEST:

By _____
Alex Holtz, Secretary

Memo

To: Redevelopment Commission Member
From: Adam Fann
Date: 6/6/23
Re: Equipment and Subscription Request

Staff is requesting the Commission appropriate \$16,000 to be spread equally across all TIF Districts for the purchase of equipment and software for use by the TIF Infrastructure Project Supervisor. When filling that position we required ArcGIS and AutoCAD experience so staff would have the capacity to design projects and maximize TIF dollars. Some of the programs are subscription based, ArcGIS is yearly but AutoCAD is a 3-year subscription. In order to run programs of this size and complexity a new computer will need purchased. After the initial purchase, all expenses will be part of the yearly budget. Attached are the costs of each item.



A quote for your consideration

Based on your business needs, we put the following quote together to help with your purchase decision. Below is a detailed summary of the quote we've created to help you with your purchase decision.

To proceed with this quote, you may respond to this email, order online through your Premier page, or, if you do not have Premier, use this [Quote to Order](#).

| | | | |
|----------------------|-------------------------|------------|---------------------------|
| Quote No. | 3000154534568.1 | Sales Rep | Jackson Phillips |
| Total | \$265.66 | Phone | (800) 456-3355, 80000 |
| Customer # | 19934471 | Email | Jackson_Phillips@Dell.com |
| Quoted On | Jun. 05, 2023 | Billing To | MONICA NEWTON |
| Expires by | Jul. 05, 2023 | | CITY OF ELKHART |
| | Dell Midwestern Higher | | 229 S 2ND ST |
| Contract Name | Education Compact | | ELKHART, IN 46516-3137 |
| | (MHEC) Master Agreement | | |
| Contract Code | C000000979569 | | |
| Customer Agreement # | MHEC-04152022 | | |
| Deal ID | 24871857 | | |

Message from your Sales Rep

Please contact your Dell sales representative if you have any questions or when you are ready to place an order. Thank you for shopping with Dell!

Regards,
Jackson Phillips

Shipping Group

| | |
|--|------------------------|
| Shipping To | Shipping Method |
| MONICA NEWTON CITY OF ELKHART 175 WATERFALL DR ELKHART, IN 46516-3699 (574) 218-7865 | Standard Delivery |

| Product | Unit Price | Quantity | Subtotal |
|--------------------------------|------------|----------|----------|
| Dell Performance Dock- WD19DCS | \$265.66 | 1 | \$265.66 |
| Subtotal: | | | \$265.66 |
| Shipping: | | | \$0.00 |
| Non-Taxable Amount: | | | \$265.66 |
| Taxable Amount: | | | \$0.00 |
| Estimated Tax: | | | \$0.00 |
| Total: | | | \$265.66 |

Shipping Group Details

Shipping To

MONICA NEWTON
 CITY OF ELKHART
 175 WATERFALL DR
 ELKHART, IN 46516-3699
 (574) 218-7865

Shipping Method

Standard Delivery

| | | Quantity | Subtotal | |
|---|----------|-----------------------|-----------------|----------|
| Dell Performance Dock- WD19DCS | | 1 | \$265.66 | |
| Estimated delivery if purchased today: Jun. 09, 2023 Contract # C000000979569 Customer Agreement # MHEC-04152022 | | | | |
| Description | SKU | Unit Price | Quantity | Subtotal |
| Dell Performance Dock – WD19DCS | 210-AZBN | - | 1 | - |
| Advanced Exchange Service, 3 Years | 824-3984 | - | 1 | - |
| Dell Limited Hardware Warranty | 824-3993 | - | 1 | - |
| | | Subtotal: | \$265.66 | |
| | | Shipping: | \$0.00 | |
| | | Estimated Tax: | \$0.00 | |
| | | Total: | \$265.66 | |

Important Notes

Terms of Sale

This Quote will, if Customer issues a purchase order for the quoted items that is accepted by Supplier, constitute a contract between the entity issuing this Quote ("Supplier") and the entity to whom this Quote was issued ("Customer"). Unless otherwise stated herein, pricing is valid for thirty days from the date of this Quote. All product, pricing and other information is based on the latest information available and is subject to change. Supplier reserves the right to cancel this Quote and Customer purchase orders arising from pricing errors. Taxes and/or freight charges listed on this Quote are only estimates. The final amounts shall be stated on the relevant invoice. Additional freight charges will be applied if Customer requests expedited shipping. Please indicate any tax exemption status on your purchase order and send your tax exemption certificate to Tax_Department@dell.com or ARSalesTax@emc.com, as applicable.

Governing Terms: This Quote is subject to: (a) a separate written agreement between Customer or Customer's affiliate and Supplier or a Supplier's affiliate to the extent that it expressly applies to the products and/or services in this Quote or, to the extent there is no such agreement, to the applicable set of Dell's Terms of Sale (available at www.dell.com/terms or www.dell.com/oemterms), or for cloud/as-a-Service offerings, the applicable cloud terms of service (identified on the Offer Specific Terms referenced below); and (b) the terms referenced herein (collectively, the "Governing Terms"). Different Governing Terms may apply to different products and services on this Quote. The Governing Terms apply to the exclusion of all terms and conditions incorporated in or referred to in any documentation submitted by Customer to Supplier.

Supplier Software Licenses and Services Descriptions: Customer's use of any Supplier software is subject to the license terms accompanying the software, or in the absence of accompanying terms, the applicable terms posted on www.Dell.com/eula. Descriptions and terms for Supplier-branded standard services are stated at www.dell.com/servicecontracts/global or for certain infrastructure products at www.dell.com/en-us/customer-services/product-warranty-and-service-descriptions.htm.

Offer-Specific, Third Party and Program Specific Terms: Customer's use of third-party software is subject to the license terms that accompany the software. Certain Supplier-branded and third-party products and services listed on this Quote are subject to additional, specific terms stated on www.dell.com/offeringspecificterms ("Offer Specific Terms").

In case of Resale only: Should Customer procure any products or services for resale, whether on standalone basis or as part of a solution, Customer shall include the applicable software license terms, services terms, and/or offer-specific terms in a written agreement with the end-user and provide written evidence of doing so upon receipt of request from Supplier.

In case of Financing only: If Customer intends to enter into a financing arrangement ("Financing Agreement") for the products and/or services on this Quote with Dell Financial Services LLC or other funding source pre-approved by Supplier ("FS"), Customer may issue its purchase order to Supplier or to FS. If issued to FS, Supplier will fulfill and invoice FS upon confirmation that: (a) FS intends to enter into a Financing Agreement with Customer for this order; and (b) FS agrees to procure these items from Supplier. Notwithstanding the Financing Agreement, Customer's use (and Customer's resale of and the end-user's use) of these items in the order is subject to the applicable governing agreement between Customer and Supplier, except that title shall transfer from Supplier to FS instead of to Customer. If FS notifies Supplier after shipment that Customer is no longer pursuing a Financing Agreement for these items, or if Customer fails to enter into such Financing Agreement within 120 days after shipment by Supplier, Customer shall promptly pay the Supplier invoice amounts directly to Supplier.

Customer represents that this transaction does not involve: (a) use of U.S. Government funds; (b) use by or resale to the U.S. Government; or (c) maintenance and support of the product(s) listed in this document within classified spaces. Customer further represents that this transaction does not require Supplier's compliance with any statute, regulation or information technology standard applicable to a U.S. Government procurement.

For certain products shipped to end users in California, a State Environmental Fee will be applied to Customer's invoice. Supplier encourages customers to dispose of electronic equipment properly.

Electronically linked terms and descriptions are available in hard copy upon request.

^DELL BUSINESS CREDIT (DBC): Offered to business customers by WebBank, who determines qualifications for and terms of credit. Taxes, shipping and other charges are extra and vary. The Total Minimum Payment Due is the greater of either \$20 or 3% of the New Balance shown on the statement rounded up to the next dollar, plus all past due amounts. Dell and the Dell logo are trademarks of Dell Inc.



A quote for your consideration

Based on your business needs, we put the following quote together to help with your purchase decision. Below is a detailed summary of the quote we've created to help you with your purchase decision.

To proceed with this quote, you may respond to this email, order online through your Premier page, or, if you do not have Premier, use this **Quote to Order**.

| | | | |
|----------------------|-------------------------|------------|---------------------------|
| Quote No. | 3000154505555.1 | Sales Rep | Jackson Phillips |
| Total | \$2,256.29 | Phone | (800) 456-3355, 80000 |
| Customer # | 19934471 | Email | Jackson_Phillips@Dell.com |
| Quoted On | Jun. 05, 2023 | Billing To | MONICA NEWTON |
| Expires by | Jul. 05, 2023 | | CITY OF ELKHART |
| | Dell Midwestern Higher | | 229 S 2ND ST |
| Contract Name | Education Compact | | ELKHART, IN 46516-3137 |
| | (MHEC) Master Agreement | | |
| Contract Code | C000000979569 | | |
| Customer Agreement # | MHEC-04152022 | | |
| Deal ID | 24871857 | | |

Message from your Sales Rep

Please contact your Dell sales representative if you have any questions or when you are ready to place an order. Thank you for shopping with Dell!

Regards,
Jackson Phillips

Shipping Group

| | |
|--|------------------------|
| Shipping To | Shipping Method |
| MONICA NEWTON CITY OF ELKHART 175 WATERFALL DR ELKHART, IN 46516-3699 (574) 218-7865 | Standard Delivery |

| Product | Unit Price | Quantity | Subtotal |
|----------------------------|------------|----------|------------|
| Mobile Precision 5570 | \$2,256.29 | 1 | \$2,256.29 |
| Subtotal: | | | \$2,256.29 |
| Shipping: | | | \$0.00 |
| Non-Taxable Amount: | | | \$2,256.29 |
| Taxable Amount: | | | \$0.00 |
| Estimated Tax: | | | \$0.00 |
| Total: | | | \$2,256.29 |

Shipping Group Details

Shipping To

MONICA NEWTON
CITY OF ELKHART
175 WATERFALL DR
ELKHART, IN 46516-3699
(574) 218-7865

Shipping Method

Standard Delivery

| | | Quantity | Subtotal | |
|---|----------|------------|-------------------|----------|
| Mobile Precision 5570 | | 1 | \$2,256.29 | |
| Estimated delivery if purchased today: Jun. 16, 2023 Contract # C000000979569 Customer Agreement # MHEC-04152022 | | | | |
| Description | SKU | Unit Price | Quantity | Subtotal |
| Dell Mobile Precision Workstation 5570 CTO | 210-BDTV | - | 1 | - |
| Intel Core i7-12800H vPro (24 MB cache, 14 cores, 20 threads, 2.40 GHz to 4.80 GHz, 45W) | 379-BEUW | - | 1 | - |
| Windows 10 Pro (Includes Windows 11 Pro License) English, French, Spanish | 619-AQMP | - | 1 | - |
| No Microsoft Office License Included | 658-BCSB | - | 1 | - |
| Intel Core i7-12800H vPro with NVIDIA RTX A2000 8 GB graphics | 329-BGXC | - | 1 | - |
| NVIDIA RTX A2000, 8 GB DDR6 | 490-BHMP | - | 1 | - |
| Intel vPro Technology Disabled | 631-ADKK | - | 1 | - |
| 15.6" FHD+ 1920 x 1200, 60Hz, 500 nits, non-touch,w/Prem Panel Guar, 100% sRGB, Low BL w/ IR Cam | 391-BGQV | - | 1 | - |
| 32 GB, 2 x 16 GB, DDR5, 4800 MT/s | 370-AGZK | - | 1 | - |
| M.2 2280 512 GB, Gen 4 PCIe x4 NVMe, Solid State Drive | 400-BMPR | - | 1 | - |
| No Additional Hard Drive | 401-AAGM | - | 1 | - |
| No RAID | 780-BBFE | - | 1 | - |
| Palm Rest, with 79 KYBD Layout,with fingerprint reader | 346-BICK | - | 1 | - |
| US English Backlit Keyboard | 583-BJBV | - | 1 | - |
| MOD,DOOR,BTM,WW,5570 | 354-BBEV | - | 1 | - |
| Intel Wi-Fi 6E (up to 6GHz) AX211 2x2 with Bluetooth Wireless | 555-BHMS | - | 1 | - |
| 6-cell 86 Whr Lithium Ion battery with ExpressCharge | 451-BCQI | - | 1 | - |
| 130W E5 Type C Power Adapter (EPEAT) | 492-BCWZ | - | 1 | - |
| No ENERGY STAR Qualified | 387-BBCE | - | 1 | - |
| Quick Setup Guide Precision 5570 | 340-CZUO | - | 1 | - |
| Custom Configuration | 817-BBBB | - | 1 | - |
| Intel AX211 WLAN Driver w/Bluetooth | 658-BFMG | - | 1 | - |
| Mix Model Packaging 130W | 340-CZUK | - | 1 | - |
| USB Type-C to USB Type-A/HDMI Dongle, Black | 470-AEIP | - | 1 | - |
| Regulatory Label Included | 389-BEYY | - | 1 | - |
| Black Power Cord (US) | 450-AJLH | - | 1 | - |
| Intel Core i7 Processor Label | 340-CUEQ | - | 1 | - |
| SupportAssist | 525-BBCL | - | 1 | - |

| | | | | |
|--|----------|---|---|---|
| Dell(TM) Digital Delivery Cirrus Client | 640-BBLW | - | 1 | - |
| Dell Optimizer for Precision | 640-BBSC | - | 1 | - |
| Dell Client System Update (Updates latest Dell Recommended BIOS, Drivers, Firmware and Apps) | 658-BBMR | - | 1 | - |
| Waves Maxx Audio | 658-BBRB | - | 1 | - |
| Dell Power Manager | 658-BDVK | - | 1 | - |
| Dell SupportAssist OS Recovery Tool | 658-BEOK | - | 1 | - |
| Dell Limited Hardware Warranty Plus Service | 804-9773 | - | 1 | - |
| ProSupport Plus: Accidental Damage Service, 5 Years | 804-9842 | - | 1 | - |
| ProSupport Plus: Keep Your Hard Drive, 5 Years | 804-9843 | - | 1 | - |
| ProSupport Plus: 7x24 Technical Support, 5 Years | 804-9844 | - | 1 | - |
| ProSupport Plus: Next Business Day Onsite, 5 Years | 804-9845 | - | 1 | - |
| Thank you for choosing Dell ProSupport Plus. For tech support, visit www.dell.com/contactdell or call 1-866-516-3115 | 997-8367 | - | 1 | - |

| | |
|-----------------------|-------------------|
| Subtotal: | \$2,256.29 |
| Shipping: | \$0.00 |
| Estimated Tax: | \$0.00 |
| <hr/> | |
| Total: | \$2,256.29 |

Important Notes

Terms of Sale

This Quote will, if Customer issues a purchase order for the quoted items that is accepted by Supplier, constitute a contract between the entity issuing this Quote ("Supplier") and the entity to whom this Quote was issued ("Customer"). Unless otherwise stated herein, pricing is valid for thirty days from the date of this Quote. All product, pricing and other information is based on the latest information available and is subject to change. Supplier reserves the right to cancel this Quote and Customer purchase orders arising from pricing errors. Taxes and/or freight charges listed on this Quote are only estimates. The final amounts shall be stated on the relevant invoice. Additional freight charges will be applied if Customer requests expedited shipping. Please indicate any tax exemption status on your purchase order and send your tax exemption certificate to Tax_Department@dell.com or ARSalesTax@emc.com, as applicable.

Governing Terms: This Quote is subject to: (a) a separate written agreement between Customer or Customer's affiliate and Supplier or a Supplier's affiliate to the extent that it expressly applies to the products and/or services in this Quote or, to the extent there is no such agreement, to the applicable set of Dell's Terms of Sale (available at www.dell.com/terms or www.dell.com/oem/terms), or for cloud/as-a-Service offerings, the applicable cloud terms of service (identified on the Offer Specific Terms referenced below); and (b) the terms referenced herein (collectively, the "Governing Terms"). Different Governing Terms may apply to different products and services on this Quote. The Governing Terms apply to the exclusion of all terms and conditions incorporated in or referred to in any documentation submitted by Customer to Supplier.

Supplier Software Licenses and Services Descriptions: Customer's use of any Supplier software is subject to the license terms accompanying the software, or in the absence of accompanying terms, the applicable terms posted on www.Dell.com/eula. Descriptions and terms for Supplier-branded standard services are stated at www.dell.com/servicecontracts/global or for certain Infrastructure products at www.dell.com/en-us/customer-services/product-warranty-and-service-descriptions.htm.

Offer-Specific, Third Party and Program Specific Terms: Customer's use of third-party software is subject to the license terms that accompany the software. Certain Supplier-branded and third-party products and services listed on this Quote are subject to additional, specific terms stated on www.dell.com/offeringspecific/terms ("Offer Specific Terms").

In case of Resale only: Should Customer procure any products or services for resale, whether on standalone basis or as part of a solution, Customer shall include the applicable software license terms, services terms, and/or offer-specific terms in a written agreement with the end-user and provide written evidence of doing so upon receipt of request from Supplier.

In case of Financing only: If Customer intends to enter into a financing arrangement ("Financing Agreement") for the products and/or services on this Quote with Dell Financial Services LLC or other funding source pre-approved by Supplier ("FS"), Customer may issue its purchase order to Supplier or to FS. If issued to FS, Supplier will fulfill and invoice FS upon confirmation that: (a) FS intends to enter into a Financing Agreement with Customer for this order; and (b) FS agrees to procure these items from Supplier. Notwithstanding the Financing Agreement, Customer's use (and Customer's resale of and the end-user's use) of these items in the order is subject to the applicable governing agreement between Customer and Supplier, except that title shall transfer from Supplier to FS instead of to Customer. If FS notifies Supplier after shipment that Customer is no longer pursuing a Financing Agreement for these items, or if Customer fails to enter into such Financing Agreement within 120 days after shipment by Supplier, Customer shall promptly pay the Supplier invoice amounts directly to Supplier.

Customer represents that this transaction does not involve: (a) use of U.S. Government funds; (b) use by or resale to the U.S. Government; or (c) maintenance and support of the product(s) listed in this document within classified spaces. Customer further represents that this transaction does not require Supplier's compliance with any statute, regulation or information technology standard applicable to a U.S. Government procurement.

For certain products shipped to end users in California, a State Environmental Fee will be applied to Customer's invoice. Supplier encourages customers to dispose of electronic equipment properly.

Electronically linked terms and descriptions are available in hard copy upon request.

^DELL BUSINESS CREDIT (DBC): Offered to business customers by WebBank, who determines qualifications for and terms of credit. Taxes, shipping and other charges are extra and vary. The Total Minimum Payment Due is the greater of either \$20 or 3% of the New Balance shown on the statement rounded up to the next dollar, plus all past due amounts. Dell and the Dell logo are trademarks of Dell Inc.



TD SYNnex
Public Sector

Price Quotation

Quote: 5173525
Reference: 1782236
Date: 06/02/2023
Expires: 06/08/2023

To: Mr. Jason Simnick
Elkhart (IN)
Engineering Dept
1201 South Nappanee St.
Elkhart, IN 46516

From: Ervin So
DLT Solutions, LLC
2411 Dulles Corner Park
Suite 800
Herndon, VA 20171

Phone: (574) 293-2572 x227
Fax: (574) 293-7658
Email: Jason.slmnlck@coel.org

Phone: (703) 708-9688
Fax: (703) 708-9688
Email: ervin.so@dlt.com

| # | DLT Part No. | Contract | Qty | Unit Price | Ext. Price |
|---|---|----------|-----|------------|------------|
| 1 | 9701-5289 Civil 3D 2024 Government New Single-user ELD 3-Year Subscription merging to 110003502614 PoP: 6/3/2023 through 4/29/2026 | OM | 1 | \$7,678.31 | \$7,678.31 |
| 2 | 9971-30198 IMAGINIT Priority Support-Telephone Support, 6-24 seats (price per user) | OM | 3 | \$79.00 | \$237.00 |

Total **\$7,915.31**

Contract Number: OPEN MARKET
DUNS #: 78-646-8199
Federal ID #: 54-1599882
CAGE Code: 0S0H9
FOB: Destination
Terms: Net 30 (On Approved Credit)
DLT accepts VISA/MC/AMEX

UNLESS CONTROLLED BY AN EXISTING RESELLER PARTNER AGREEMENT OR OTHER WRITTEN CONTRACTUAL AGREEMENT BETWEEN YOU AND DLT, THIS QUOTE AND ANY RESULTING AWARD OR ORDER IS SUBJECT TO THE TERMS AND CONDITIONS POSTED AT [HTTPS://WWW.DLT.COM/PRODUCTS/CLIENT-COMMERCIAL-LICENSES](https://www.dlt.com/products/client-commercial-licenses). THESE TERMS CONTROL THE TERMS OF SALES AS WELL AS THE END USER'S USE OF THE PRODUCTS AND/OR SERVICES INCLUDED IN THIS QUOTE. BUYER IS DIRECTED TO INCORPORATE (BY REFERENCE) THIS QUOTE IN ANY RESULTING AWARD OR ORDER. THE TERMS AND CONDITIONS AT THE ABOVE LINK ARE THE ONLY CONTROLLING TERMS THAT WILL APPLY TO A RESULTING ORDER AND THE USE OF THE PRODUCTS AND/OR SERVICES INCLUDED IN THIS QUOTE. ANY ADDITIONAL OR INCONSISTENT TERMS ON BUYER'S ORDER THAT IN ANY WAY, MODIFY, ALTER OR NEGATE THE TERMS OF SALE OR THE MANUFACTURER'S END USER LICENSE AGREEMENT WILL NOT BE BINDING ON DLT OR ITS MANUFACTURERS AND SHALL NOT APPLY UNLESS SPECIFICALLY AGREED TO IN WRITING BY DLT AND THE MANUFACTURER. NO RETURNS ARE AUTHORIZED OF THE PRODUCTS AND/OR SERVICES INCLUDED IN THIS QUOTE. THE PRODUCTS AND/OR SERVICES INCLUDED IN THIS QUOTE ARE NONRECOURSE, NONCANCELLABLE, AND NON-RETURNABLE UNLESS EXPLICITLY AGREED TO IN WRITING BY DLT.



TD SYNnex
Public Sector

Price Quotation

Quote: 5173525
Reference: 1782236
Date: 06/02/2023
Expires: 06/08/2023

| | | | |
|-------------------------------------|--|-------------|---|
| PLEASE REMIT PAYMENT TO: | ACH: DLT Solutions, LLC Bank of America ABA # 111000012 Acct # 4451063799 | -OR- | Mail: DLT Solutions, LLC P.O. Box 743359 Atlanta, GA 30374-3359 |
|-------------------------------------|--|-------------|---|

Customer orders subject to applicable sales tax.

Documentation to be submitted to validate Invoice for payment:

- a. Authorized Services shall be invoiced with a corresponding time report for the period of performance identifying names, days, and hours worked.
- b. Authorized reimbursable expenses shall be invoiced with a detailed expense report, documented by copies of supporting receipts.
- c. Authorized Education or Training shall be invoiced with a Report identifying date and name of class completed, and where applicable the name of attendees.

Memo

To: Redevelopment Commission Member

From: Adam Fann

Date: 6/2/23

Re: 1560.5 S. Main Offer

Staff was contacted by the owner of 1560 South Main Street earlier this year and wanted to purchase the parcel at 1560.5 that the Commission owns. The parcel is located in the back yard of 1560 S Main St. The Commission offered the parcel for sale at the March 14th 2023 meeting. Attached is the offer from Mr. Balderas.

Elkhart IN

May 9, 2023

In the county of Elkhart of the State of Indiana, in the United States of America by means of the present, I Jose F Hernandez Balderas want to explain the reason for which I want to acquire the land that is next to my property, with address at 1560 S Main St Elkhart IN, 46516 is to expand my yard and also build a garage in the future. The address of the lot is 1560 1/2 S Main St Elkhart IN, 46516. I hope this wording is sufficient explanation for you to allow me to purchase the property for the price of \$1.00. Not having more to consign, I conclude this letter, in the same place and date of its beginning, giving validity and agreement with my signature.

Sincerely



Jose F. Hernandez Balderas

RESOLUTION NO. 23-R- 041

**RESOLUTION OF THE REDEVELOPMENT COMMISSION
OF THE CITY OF ELKHART, INDIANA, AUTHORIZING
THE OFFERING OF REAL ESTATE FOR SALE UNDER
36-7-14-22**

WHEREAS, the Commission holds title to real estate located in the City of Elkhart, Indiana, generally consisting of those parcels commonly known as vacant lot North of and adjacent to 1701 Sterling Avenue, Tax Parcel 20-06-09-329-003.000-012 (the "Real Estate"), and has determined that the Real Estate shall be offered for sale in furtherance of the economic development plan of the Commission; and

WHEREAS, the Commission has obtained appraisals on the Property and is ready to establish its offering price.

NOW, THEREFORE, BE IT RESOLVED:

1. The Commission now determines and declares that the highest and best use for the Real Estate shall be to offer it for sale for residential use.
2. The Offering Sheet for the Real Estate attached hereto is approved. The Offering Price for the Real Estate shall be as set forth in the offering sheet.
3. Notice shall be published in accordance with I.C. 5-3-1 which shall contain the information required under IC 36-7-14-22(d), and shall designate the time and place for opening and consideration of all offers submitted.
4. The Commission reserves the right to reject any and all offers submitted, and to make award to the highest and best bidder.
5. The Officers and staff of the Commission are authorized to take all action necessary, and prepare and execute all documents necessary, to carry out the terms of this Resolution.
6. Adopted by unanimous vote on the 13th day of June, 2023.

**CITY OF ELKHART, INDIANA
REDEVELOPMENT COMMISSION**

By: _____
Sandra Schreiber, President

Attest:

By: _____
Alex Holtz, Secretary

Memo

To: Redevelopment Commission Member
From: Adam Fann
Date: 5/30/23
Re: Sterling Parcel Offering

Staff is requesting the Commission offer parcel 20-06-09-329-003.000-012 located at the North West corner of Sterling Ave and Ren St at the average of the two appraisals below. Staff asks the parcel be offered for residential use for \$35,000

OFFERING SHEET

The Redevelopment Commission of the City of Elkhart, Indiana, proposes to sell the following unimproved real estate in the City and County of Elkhart, State of Indiana, at the offering price listed:

| Available Properties | Offered Price |
|---|---------------|
| Lots 51-55, Part Lot 56 Hudson-Sterling Addition and adjoining strip of land (see attached legal description) | \$35,000.00 |
| Tax ID: 20-06-09-329-003.000-012 | |

Use Requirements: Residential

Maps and plats thereof are available for inspection at the Planning & Development Department, Municipal Building, 229 South Second St., Elkhart, Indiana.

The proposal shall be submitted on a form available at the office of the Dept. of Community & Redevelopment, 201 South Second Street, Elkhart, Indiana.

The Commission will open and consider written offers for the purchase of the property at a public meeting, the time and place of which will be published in the *Elkhart Truth* in accordance with IC 5-3-1. In reviewing bids, the Commission will take into consideration those factors set forth in IC 36-7-14-22, and may reject any bids and award to the highest and best bidder. Any bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each Beneficiary of the trust and Settlor empowered to revoke or modify the trust.

The successful bidder will be required to sign a Purchase and Development Agreement in the form customarily used by the Commission, which contains provisions intended to insure the final approval of the Commission of the Buyer's plans and specifications for development, fixes a time table for commencement and completion of the project, and which requires proof of financing and reversion rights if the project is not completed.

LEGAL DESCRIPTION

Lots Numbered Fifty-one (51) through Fifty-five (55) Inclusive, Seven (7) feet in width off and across the entire length of the Southerly side of Lot Numbered Fifty-six (56), as the said Lots are known and designated on the recorded Plat of HUDSON-STERLING ADDITION to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 115, page 413 in the Office of the Recorder of Elkhart County, Indiana.

ALSO

A strip of land in the East half (E 1/2) of the Southwest Quarter (SW 1/4) of Section Nine (9), Township Thirty-seven (37) North, Range Five (5) East, in the City of Elkhart, Indiana, more particularly described as follows:

A Thirty-three (33) foot strip of land lying between the South line projected Westerly of Lot Fifty-one (51) in Hudson-Sterling Addition to the City of Elkhart, Indiana, and a North line Seven (7) feet North of and parallel with the South line of Lot Fifty-six (56) in said Addition, projected Westerly bounded on the West by the Easterly line of the right of way of the New York Central Railroad Company and on the East by the Westerly line of a vacated Sixteen (16) foot alley, together with the West half (W 1/2) of said vacated alley aforementioned, abutting and adjoining said Thirty-three (33) foot strip above described on the East.

**NOTICE OF PUBLIC MEETING TO OPEN AND CONSIDER WRITTEN OFFERS
FOR THE PURCHASE OF REAL PROPERTY UNDER I.C. 36-7-14-22**

Notice is hereby given that the Redevelopment Commission of the City of Elkhart, Indiana will on the 11th day of July, 2023, at 4:00 p.m. (EST), at the Common Council Chambers in the Municipal Building, 229 South Second Street, Elkhart, Indiana, conduct a public meeting to open and consider written offers for the purchase of real estate in the City and County of Elkhart, State of Indiana, as follows:

Lots Numbered Fifty-one (51) through Fifty-five (55) inclusive, Seven (7) feet in width off and across the entire length of the Southerly side of Lot Numbered Fifty-six (56), as the said Lots are known and designated on the recorded Plat of HUDSON-STERLING ADDITION to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 115, page 413 in the Office of the Recorder of Elkhart County, Indiana.

ALSO

A strip or land in the East half (E 1/2) of the Southwest Quarter (SW 1/4) of Section Nine (9), Township Thirty-seven (37) North, Range Five (5) East, in the City of Elkhart, Indiana, more particularly described as follows:

A Thirty-three (33) foot strip of land lying between the South line projected Westerly of Lot Fifty-one (51) in Hudson-Sterling Addition to the City of Elkhart, Indiana, and a North line Seven (7) feet North of and parallel with the South line of Lot Fifty-six (56) in said Addition, projected Westerly bounded on the West by the Easterly line of the right of way of the New York Central Railroad Company and on the East by the Westerly line of a vacated Sixteen (16) foot alley, together with the West half (W 1/2) of said vacated alley aforementioned, abutting and adjoining said Thirty-three (33) foot strip above described on the East.

Tax Parcel: 20-06-09-329-003.000-012

The Commission believes the highest and best use of this property will be residential use, to be utilized by an entity that will invest in site improvements to be completed and occupied within two years from date of purchase and demonstrate the ability to provide diversification of the City's economic base and otherwise further the execution of the redevelopment plan and best serve the interest of the community, from the stand point of both human and economic value.

A bid submitted by a trust (as defined in I.C. 30-4-1-1(a)) must identify each (a) beneficiary of the trust; and (b) settlor empowered to revoke or modify the trust.

The Commission may reject any bids and may make award to the highest and best bidder.

The offering sheet, maps and plats are on file and Form for Submission of the bid is available at the Department of Community and Redevelopment, 201 S. Second Street, Elkhart, Indiana and available for inspection during normal office hours and copies thereof may be obtained on request.

The successful bidder will be required to sign a Purchase and Development Agreement in the form customarily used by the Commission, which contains provisions intended to insure the final approval of the Commission of the buyer's plans and specifications for development, fix a time table for commencement and completion of the project, require proof of financing and provide for reversion of title if buyer fails to complete the Project.

**REDEVELOPMENT COMMISSION
CITY OF ELKHART, INDIANA**

By: Sandra Schreiber, President

(TO ELKHART TRUTH: Publish 2 times, 1 week apart.)

PARTIAL RELEASE OF ASSIGNMENT OF RENTS

THIS CERTIFIES the City of Elkhart, Indiana, a municipal corporation, as Lender, does hereby release the following described real estate located in the City and County of Elkhart, State of Indiana, to wit:

LOTS NUMBERED 4A, 5A and 6A AS SET OUT ON THE RECORDED PLAT OF RIVER VIEW WEST SUBDIVISION, AN ADDITION TO CONCORD TOWNSHIP, RECORDED DECEMBER 13, 2019, IN PLAT BOOK 39, PAGE 25, IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA

from the lien created by that certain Assignment of Rents executed by GLC River District Holdings, LLC, an Indiana limited liability company, as Grantor, dated March 29, 2019, and recorded on April 12, 2019, as Doc. 2019-06800, and from that certain Amended and Restated Assignment of Rents executed by said Grantor, dated December 27, 2019, and recorded January 10, 2020, as Doc. 2020-00677, both in the office of the Recorder of Elkhart County, Indiana, securing \$10,120,000.

Dated this _____, 2023.

**CITY OF ELKHART, INDIANA, A
MUNICIPAL CORPORATION**

By: _____
Rod Roberson, Mayor

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for said County and State, this ____ day of _____, 2023, personally appeared Rod Roberson, known to me to be the Mayor of the City of Elkhart, Indiana, who for and on behalf of said Municipal Corporation being duly authorized so to do, and acknowledged the execution of the foregoing Partial Release of Assignment of Rents. In witness whereof, I have subscribed my name and affixed my official seal. My Commission expires _____, 20____.

Notary Public
Residing in _____ County
State of Indiana

This Instrument was prepared by the law firm of Warrick & Boyn, LLP, 861 Parkway Avenue, Elkhart, Indiana 46516, by Gary D. Boyn. 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. /s/ Gary D. Boyn

RESOLUTION NO. 23-R- 042

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE CITY OF ELKHART, INDIANA, APPROVING GOODWILL USE AGREEMENT

Whereas, The Commission holds title to the vacant lot on the NE corner of Indiana Avenue and 6th Street in the City of Elkhart (the "Vacant Lot"), and Goodwill Industries of Michiana, Inc. ("Goodwill") has asked for permission the use the Vacant Lot for its Goodwill On The Go event to be held on July 11, 2023; and

Whereas, Goodwill has reviewed the attached Use Agreement and finds the terms thereof acceptable; and

Whereas, the Commission has reviewed the Use Agreement and believes it is in the best interest of the City and its inhabitants to approve the Agreement and authorize its execution.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission approves the Use Agreement and restrictive use terms set forth therein.
2. The Commission authorizes the execution and delivery of the Use Agreement by its Officers.
3. The Officers of the Commission are hereby authorized to execute and deliver all other Documents, and do all acts, which they deem necessary and desirable in furtherance of this Resolution.

ADOPTED BY MAJORITY VOTE AT A MEETING OF THE COMMISSION THIS 13th DAY OF JUNE 2023.

CITY OF ELKHART, REDEVELOPMENT
COMMISSION

By _____
Sandra Schreiber, President

ATTEST:

By _____
Alex Holtz, Secretary

Memo

To: Redevelopment Commission Member
From: Adam Fann
Date: 5/23/23
Re: Corner of Indiana and 6th Use Agreement

Goodwill contacted staff for permission to use the corner lot at Indiana and 6th Street on Tuesday, July 11th for their Goodwill on the Go event. The event will be from 1:00-4:00pm but they will need to be there early to set up tents, tables, and chairs, etc. They will be inviting various agencies in the community to be a part of this event and set up a table to promote their services to local residents. The event is free to participate in and free to attend. Goodwill will provide free hot dogs, chips, and drinks to anyone coming and speaking to the agencies that are in attendance. They will have music and activities/games for the kids (free books, musical chairs, bean bag toss, maybe face painting, etc).

USE AGREEMENT

This Agreement is effective as of the 13TH day of June, 2023, (the "Effective Date") between City of Elkhart, Indiana, Department of Redevelopment, acting by and through its Redevelopment Commission ("City") and Goodwill Industries of Michiana, Inc ("Goodwill").

RECITALS

1. City owns the real estate at the NE corner of Indiana Avenue and 6th Street in the City of Elkhart (the "Premises").
2. Goodwill has requested permission to host its Goodwill on the Go event on the Premises on July 11 from 1:00 to 4:00 pm (the "Event"), plus set up and tear down time, and the City is willing to grant such permission on the terms set forth herein.

In Consideration of the mutual agreements herein set forth, the parties agree as follows:

TERMS OF AGREEMENT

1. The parties incorporate the foregoing Recitals as part of this Agreement.
2. City grants Goodwill the right to use and access the Premises on July 11, 2023, as needed to host the Event.
3. Goodwill will be responsible for providing appropriate security for the Event.
4. Goodwill will maintain the Premises in a clean and sightful condition at all times.
5. Goodwill may take vehicles onto the Premises as needed for set up and tear down but all parking for the Event must be off site.
6. Goodwill will include the Premises under its PL/PD policy in force at the time, will add the City as an additional insured under that policy as its interest may appear, and agrees to hold the City harmless from any and all claims for personal injury or property damage that may occur on or about the Premises during the term of this Agreement.
7. Goodwill will leave the Premises at the end of the event in as good and as clean condition as it found it when it gained possession.
8. This Agreement shall terminate at midnight on July 11, 2023.

In Witness Whereof, the parties executed this Agreement as of the Effective Date.

City of Elkhart, Indiana
Dept. of Redevelopment

Goodwill Industries of Michiana, Inc.

By _____
Sandra Schreiber, President
Elkhart Redevelopment Commission

By _____

Drafted by the Law Firm of Warrick & Boyn, LLP by Gary D. Boyn.

RESOLUTION NO. 23-R- 043

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE
CITY OF ELKHART, INDIANA, APPROVING EMPLOYMENT OF
BAKER TILLY FOR AMPHITHEATER ADVISORY SERVICES

Whereas, The Commission desires to Baker Tilly Municipal Advisors, LLC (the "Contractor") to provide financial and general advisory services related to the concept development and negotiation phase for the creation of a Development Agreement for the amphitheater project proposed for the 300 block of South Main Street (the "Services") and the Commission desires to engage the Contractor to perform those Services, as outlined in Engagement Letter presented to and reviewed by the Commission (the "Agreement"); and

Whereas, the Commission has reviewed the Services to be performed in accordance with the proposed Agreements and believes it is in the best interest of the City and its inhabitants that the Contractor be employed to provide the Services described therein.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission approves the employment of the Contractor to provide the Services described in the Agreement.
2. The Commission approves the form and content of the Agreement and all attachments and exhibits thereto.
3. The Commission approves the fee structure as specified in the Agreement, and appropriates the not-to-exceed sum of \$50,000.00 from the Cassopolis Corridor Allocation Area Special Fund to cover the cost of the Services.
4. The Commission authorizes its officers to execute and deliver the Agreement and to do all acts which they deem necessary and appropriate to carry out the terms and obligations contemplated therein.

ADOPTED BY MAJORITY VOTE THIS 13th DAY OF JUNE 2023.

CITY OF ELKHART, REDEVELOPMENT
COMMISSION

By _____
Sandra Schreiber, President

ATTEST:

By _____
Alex Holtz, Secretary

Memo

To: Redevelopment Commission Member
From: Adam Fann
Date: 6/12/23
Re: Baker Tilly Advisory Services Agreement

Staff requested Baker Tilly provide a scope of work for advisory services related to the amphitheater project development agreement, attached is the proposal. Staff requests the Commission approve the attached proposal and appropriate a do not exceed amount of \$50,000 from the Cassopolis TIF for the services.

**SCOPE APPENDIX to
Master Services Agreement dated 11/23/2021
Between City of Elkhart, Indiana, and
Baker Tilly US, LLP**

RE: Amphitheater Development Agreement Advisory Services
DATE: April 20, 2023

This Scope Appendix is attached by reference to the above-named Agreement for Municipal Advisory Services and Standard Business Terms (the "Engagement Letter") between the City of Elkhart, Indiana, (the "Client" or "City") and Baker Tilly US, LLP (Baker Tilly).

Scope of Work

Overview

The City desires to enter into a development agreement to construct an amphitheater and hotel on city-owned property located at City Center Park and Civic Plaza. The City has contacted Baker Tilly to provide advisory services during the project concept development and negotiation process for the development agreement.

Services to be Provided

Baker Tilly will provide general advisory services to the City during the project concept development and negotiation process for the development agreement. Baker Tilly will review elements of the development agreement and make recommendations to the City based on best practices of similar projects in comparable communities. Baker Tilly will also guide the City through discussions around the ownership structure for the new facilities, cost and profit-sharing components, maintenance responsibilities, and will advise on high-level design considerations for the property to ensure the highest and best use of publicly owned land.

Baker Tilly does not anticipate providing written deliverables, such as studies or reports, as part of this engagement. The primary services being provided will be advisory services which will include regular meetings with staff, reviewing project design, concept development, and agreement components, and making recommendations to staff. Baker Tilly will be available to attend meetings with staff virtually and can be available to attend on-site meetings as needed with advance notice.

Project Team

Baker Tilly has assigned Elias Mathes as project manager for this engagement. Additional personnel from the public sector advisory team, including Jolena Presti and Marta Purdy, for their P3 subject matter expertise, will be part of the project team.

Anticipated Schedule

Baker Tilly will work with the Client to determine a mutually agreeable schedule for regular meetings and communications. The project team can begin work upon approval of this engagement letter. An initial draft development agreement is expected within 30-45 days. It is anticipated that this engagement will cover a period of up to six (6) months but can be extended as needed based on the project timing.

**SCOPE APPENDIX to
Master Services Agreement dated 11/23/2021
Between City of Elkhart, Indiana, and
Baker Tilly US, LLP**

Compensation and Invoicing

Baker Tilly will perform work as defined by the client on an hourly basis at the rates defined in the below table. The value of this contract shall not exceed \$50,000 without prior authorization from the Client. The preceding fees are exclusive of any out-of-pocket expenses, including travel, and would require reimbursement.

If additional work is requested and authorized by the Client that is outside of the scope of services or required due to situations discussed herein, Client will be notified and it will be invoiced at our standard hourly rates, shown below:

| Title | 2023 Hourly Rate |
|----------------------------------|------------------|
| Principal, Partner, and Director | \$350 - \$525 |
| Senior Manager and Manager | \$250 - \$340 |
| Senior | \$190 - \$240 |
| Staff | \$165 - \$180 |
| Associates | \$105 - \$140 |

Conflicts of Interest

The Standard Business Terms contain important disclosure information that is applicable to this Scope Appendix.

We are unaware of any additional conflicts of interest related to this Scope Appendix that exist at this time.

Termination

This Scope Appendix will terminate according to the terms of the Engagement Letter.

If this Scope Appendix is acceptable, please sign below and return one copy to us for our files. We look forward to working with you on this important project.

Signature Section:

The services and terms as set forth in this Scope Appendix are agreed to on behalf of the Client by:

Name: _____

Title: _____

Date: _____

CITY OF ELKHART, INDIANA
STANDARD FORM OF AGREEMENT
FOR PROFESSIONAL SERVICES
(Edition 2020)

THIS IS AN AGREEMENT effective as of June 13, 2023 (“Effective Date”)

between the City of Elkhart, Indiana, acting by and through its Elkhart Redevelopment Commission (“City”) and Baker Tilly US, LLP (“Consultant”).

| |
|---|
| For the following Project: (“Project”). |
| Baker Tilly will provide general advisory services to the City during the project concept development and negotiation process for the development agreement not to exceed \$50,000. |
| |

City and Consultant agree as follows:

ARTICLE 1 – SERVICES OF CONSULTANT

1.01 Scope

- A. Consultant shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – CITY’S RESPONSIBILITIES

2.01 General

- A. City shall have the responsibilities set forth herein and in Exhibit A.
- B. City shall pay Consultant as set forth in Exhibit A.
- C. City shall make available to Consultant reports, studies, regulatory decisions, programs, instructions, data, and other written information relating to the Services. Consultant may rely upon said documents without independent verification unless advised by the City that verification may be needed.

ARTICLE 3 –SCHEDULE FOR RENDERING SERVICES

3.01 *Commencement*

A. Consultant shall begin rendering services as of the Effective Date of the Agreement.

3.02 *Time for Completion*

A. Consultant shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Exhibit A, and are hereby agreed to be reasonable. The payment of Consultant's fees as set forth in this Agreement are conditioned upon the completion of all Documents no later than **June 1, 2024**.

B. If, through no fault of Consultant, such periods of time or dates are changed, or the orderly and continuous progress of Consultant's services is impaired, or Consultant's services are delayed or suspended, then the time for completion of Consultant's services, shall be extended for the period of such delay or City shall authorize Consultant to work overtime to make up such lost time, and Consultant's compensation shall be adjusted equitably.

C. If, through no fault of City, such periods of time or dates are changed, or the orderly and continuous progress of Consultant's services are impaired, or Consultant's services are delayed by reason of any error, inconsistency or omission of Consultant, Consultant shall compensate City for and indemnify it against all costs, expenses, liabilities or damages which may accrue as a result of such delay, but only to the extent such costs, expenses, liabilities or damages exceed ten percent (10%), in the aggregate of Consultant's compensation. In addition, Consultant shall provide all necessary services at its own cost, including any overtime costs and expenses, required to make up time lost to City because of such delay.

D. If City authorizes changes in the scope, extent, or character of the Project, then the time for completion of Consultant's services, and the rates and amounts of Consultant's compensation, shall be mutually agreed upon by the parties.

E. City shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Consultant's performance of its services.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

A. *Preparation and Submittal of Invoices.* Consultant shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C, and in a manner acceptable to City. Consultant shall submit its invoices to City no more than once per month along with reasonable supporting detail. City shall pay approved amounts no later than 40 days after receipt or as City's standard practices allow.

4.02 *Payments*

A. Should Consultant or its consultants fail to perform or otherwise be in default under the terms of this Agreement, City shall have the right to withhold from any payment due or to become due, or otherwise be reimbursed for, an amount sufficient to protect the City from any loss that may result. Payment of the amount withheld shall be made when the grounds for the withholding have been removed.

B. Consultant's expense records shall be maintained in accordance with generally acceptable accounting principles and shall be available to City at mutually convenient times for all services to be compensated on the basis of actual cost.

ARTICLE 5 – GENERAL CONSIDERATIONS

5.01 *Standards of Performance*

A. The standard of care for all professional Consultants and related services performed or furnished by Consultant under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Consultant shall be responsible to City for the costs of any errors or omissions of the Consultant or of consultants retained by Consultant.

B. City shall not be responsible for discovering deficiencies in the technical accuracy of Consultant's services. Consultant shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in City-furnished information.

C. Consultant and City shall comply with applicable Laws and Regulations. Consultant shall comply with City-mandated standards that City has provided to Consultant in writing.

ARTICLE 6 – USE OF DOCUMENTS

6.01 *Use of Documents*

A. Upon the making of final payment to Consultant, City shall receive ownership of the property rights of all of the documents prepared, provided or procured by Consultant. All documents prepared, provided or procured by Consultant shall be distributed to City. All documents, whether printed or electronic media format, shall be provided to City at any time upon the City's request. If this Agreement is terminated, City shall receive ownership of the property rights of the documents upon payment for all services rendered according to this Agreement, at which time, City shall have the right to use, to reproduce, and to make derivative works of the documents.

B. City may use, reproduce or make derivative works from the documents other projects without the prior authorization of Consultant.

C. A party may rely upon that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

D. The Consultant may not use the information gathered or the Documents created for this Project at the City's expense without the written consent of the City.

6.02 *Insurance*

A. Before commencing its services and as a condition of payment, Consultant shall procure and maintain professional liability insurance as set forth in Exhibit D, which will protect it from claims arising out of the performance of its services under this Agreement, whether such services are provided by Consultant or anyone directly or indirectly employed by them, or by anyone for whose acts any of them may be liable.

B. The Professional Liability insurance shall contain prior acts coverage sufficient to cover all services performed by Consultant for this Project. The Professional Liability policy shall be continued in effect for three (3) years following final payment to Consultant. The deductible shall be paid by Consultant.

C. Consultant shall deliver to City a copy of its Professional Liability policy. Such policy shall be furnished prior to commencement of Consultant's services and at renewals thereafter during the life of the Agreement. No policy shall be cancelled or modified without thirty (30) days prior written notice to City. Such requirement for prior written notice does not apply to modifications caused by claims made against the policy. Consultant and its Professional Liability insurance carrier shall notify City within thirty (30) days of any claims made or loss expenses incurred against the Professional Liability policy. City shall have the right to notify directly Consultant's Professional Liability insurance carrier of a claim against the policy.

6.03 *Suspension and Termination*

A. *Suspension.*

1. By City: City may suspend the Project upon seven days written notice to Consultant.

2. By Consultant: If Consultant's services are substantially delayed through no fault of Consultant, Consultant may, after giving seven days written notice to City, suspend services under this Agreement.

B. *Termination.*

1. The obligation to provide further services under this Agreement may be terminated for cause, by either party upon 14 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

2. The obligation to provide further services under this Agreement may be terminated by Consultant upon seven days written notice if City demands that Consultant furnish or perform services contrary to Consultant's responsibilities as a licensed professional; or upon seven days written notice if the Consultant's services for the Project are delayed or suspended for more than 90 days for reasons beyond Consultant's control.

3. The obligation to provide further services under this Agreement may be terminated for convenience, by City effective upon Consultant's receipt of notice from City.

C. Effective Date of Termination. The terminating party under Paragraph 6.03B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Consultant to demobilize personnel, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

D. Payments upon Termination. In the event of any termination under Paragraph 6.03, Consultant will be entitled to invoice City and to receive payment for all acceptable services performed or furnished and all reimbursable expenses incurred through the effective date of termination.

E. Delivery of Project Materials to City. Prior to the effective date of termination, the Consultant will deliver to City copies of all completed documents and other Project materials for which City has compensated Consultant.

6.05 *Controlling Law*

A. This Agreement shall be governed by the law of the State of Indiana.

6.06 *Successors, Assigns, and Beneficiaries*

A. City and Consultant each is hereby bound and the partners, successors, executors, administrators and legal representatives of City and Consultant (and to the extent permitted by Paragraph 6.06B the assigns of City and Consultant) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither City nor Consultant may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement

without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by City or Consultant to any other individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of City and Consultant and not for the benefit of any other party.

6.07 Dispute Resolution

A. City and Consultant agree to make a good-faith effort to resolve any claim, dispute or other matter in question arising out of or related to this Agreement by formal negotiation between authorized representatives of each party. Formal negotiations shall take place at a mutually acceptable time and place within fifteen (15) days of notice. Formal negotiations pursuant to this Section are confidential and shall be treated as compromise and settlement negotiations for purposes of federal and state rules of evidence.

B. All applicable statutes of limitation and defenses based on the passage of time shall be tolled during the formal negotiation process.

C. Any changes to the Agreement resulting from formal negotiation shall be incorporated into the Agreement by addendum.

D. Any claims not resolved through formal negotiation may be subject to litigation at the discretion of the aggrieved party.

6.08 Indemnification by Consultant

A. To the fullest extent permitted by law, Consultant shall indemnify and hold harmless City, and City's officers, directors, partners, agents, consultants, and employees from and against any and all claims, costs, losses, and damages (including but not limited to, all fees and charges of contractors, Consultants, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, death, or to damage to or destruction of tangible property (including any resulting loss of use), but only to the extent caused by any negligent act or omission of Consultant or Consultant's officers, directors, partners, employees, or Consultants.

7.01 Conflict of Interest

A. The Consultant acknowledges and agrees that it does not have a current conflict of interest with the City and will not have a conflict of interest with the City during the term of this Agreement, regardless of whether that conflict of interest is real or perceived.

B. The City, in its sole discretion, may waive a conflict of interest if the Consultant notifies the City of the conflict and fully discloses the nature of the conflict before the effective date of this Agreement.

C. If the Consultant fails to disclose a conflict of interest before the effective date of this Agreement, the City may terminate this Agreement.

D. If the Consultant disputes the determination of the City's designated representative that the Consultant has a conflict of interest, the Consultant may appeal the designated representative's determination to the Board of Public Works. The Board of Public Work's decision on the matter shall be final.

7.02 *Miscellaneous Provisions*

A. *Notices.* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

B. *Survival.* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

C. *Severability.* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon City and Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

D. *Waiver.* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

E. *Accrual of Claims.* To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of final payment.

F. The provisions of this Agreement shall be construed according to the laws of the State of Indiana. Any action arising under this Agreement shall be brought in the Federal District Court for the Northern District of Indiana, or the Circuit or Superior Court of Elkhart County, Indiana.

ARTICLE 8 – E-VERIFY REQUIREMENT

8.01 *Terms*

All terms defined in I.C. § 22-5-1.7 *et seq.* are adopted and incorporated into this section.

8.02 *Enrollment and Participation*

A. Pursuant to I.C. § 22-5-1.7 *et seq.*, Consultant shall enroll in and verify the work-eligibility status of all of its newly-hired employees using the E-Verify program, if it has not already done so as of the date of this Agreement.

B. Consultant shall provide City with documentation that it is enrolled and participating in the E-Verify program.

8.03 *Affidavit*

A. Consultant is required to execute an affidavit affirming that: (i) it is enrolled and participating in the E-verify program, and (ii) it does not knowingly employ any unauthorized aliens.

B. This Agreement shall not take effect until said affidavit is signed by Consultant and delivered to City along with the documentation of the E-Verify program enrollment and participation.

8.04 *Subcontractors*

A. Should Consultant subcontract for the performance of any work under this Agreement, the Consultant shall require any subcontractor to certify by affidavit that: (i) the subcontractor does not knowingly employ or contract with any unauthorized aliens, and (ii) the subcontractor is enrolled and participating in the E-verify program.

B. Consultant shall maintain a copy of such certification for the duration of the term of any subcontract.

C. Consultant shall also deliver a copy of the subcontractor certification to the City within seven days of the effective date of the subcontract.

8.05 *Employment of Unauthorized Aliens*

A. If Consultant, or any subcontractor of Consultant, knowingly employs or contracts with any unauthorized alien, or retains an employee or contract with a person that the Consultant or subcontractor subsequently learns is an unauthorized alien, Consultant shall terminate the employment of or contract with the unauthorized alien within thirty (30) days.

B. Should the Consultant or any subcontractor of Consultant fail to terminate the employment of, or contract with, the unauthorized alien within thirty (30) days, City has the right to terminate this Agreement without consequence.

8.06 *When E-Verify is not Required*

A. The E-Verify program requirements of this Agreement will not apply should the E-Verify program cease to exist.

ARTICLE 9 – EXHIBITS AND SPECIAL PROVISIONS

9.01 *Exhibits Included*

- A. Exhibit A, “Consultant’s Services,” consisting of two (2) page(s), “City’s Responsibilities,” and “Payments to Consultant for Services and Reimbursable Expenses,” consisting of one (1) page.
- B. Exhibit B, “Insurance,” consisting of one (1) page.
- C. Exhibit C, “Affidavit of E-Verify Enrollment and Participation” consisting of one page.
- D. Exhibit D, “Certification Statement Regarding Investments in Iran,” consisting of one (1) page.
- E. Exhibit E, “Title VI Notice,” consisting of two (2) pages.

9.02 *Total Agreement*

A. This Agreement constitutes the entire agreement between City and Consultant for the Project and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, or modified by a duly executed written instrument.

9.03 *Designated Representatives*

A. With the execution of this Agreement, Consultant and City shall designate specific individuals to act as Consultant’s and City’s representatives with respect to the services to be performed or furnished by Consultant and responsibilities of City under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

9.04 *Suspension and Debarment*

A. Consultant certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any state department or agency. Consultant will not contract with any Consultant for this project if it or its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from

participation in this transaction by any state department or agency. Necessary certification forms shall be provided by the City.

9.05 Investments in Iran

A. The Consultant shall sign a certification statement regarding investments in Iran, and said statement is incorporated herein.

9.06 Title VI Notice

A. The Consultant shall sign an acceptance certification statement regarding Title VI notification and compliance with the City of Elkhart's Title VI Policy during the duration of this agreement, and said statement is incorporated herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

| | | | |
|---|--|--|--|
| CITY: City of Elkhart, Indiana, acting by and through its Board of Public Works | | CONSULTANT: | |
| By: | Sandra Schreiber | By: | |
| Title: | President for Elkhart Redevelopment Commission | Title: | |
| Date Signed: | | Date Signed: | |
| Attest: | | Consultant License or Certification No.: | |
| Clerk | | State of: | |
| Address for giving notices: | | Address for giving notices: | |
| Elkhart City Redevelopment Commission | | | |
| 201 S. Second Street | | | |
| Elkhart, Indiana 46516 | | | |

| | | | |
|-----------------------------------|----------------------------------|-----------------------------------|--|
| Designated Representative: | | Designated Representative: | |
| Michael Huber | | | |
| Title: | Director of Development Services | Title: | |
| Phone Number: | 574-322-4490 | Phone Number: | |
| Facsimile Number: | | Facsimile Number: | |
| E-Mail Address: | Michael.Huber@coei.org | E-Mail Address: | |

This is **EXHIBIT A**, consisting of 2 pages, referred to in and part of the **Agreement between City and Consultant for Professional Services, City's Responsibilities and Payments to Consultants for Services and Reimbursable Expenses**

Consultant's Services consisting of two (2) pages, **City's Responsibilities** consisting of one (1) page, and **Payments to Consultant for Services and Reimbursable Expenses** consisting of one (1) page

This is **EXHIBIT B**, consisting of 1 page, referred to in and part of the **Agreement between City and Consultant for Professional Services**

Insurance

Insurance

A. The limits of liability for the insurance required by paragraph 6.02 of the Agreement for Consultant are as follows:

| | |
|-------------------------------------|-------------|
| 1. Workers' Compensation: | Statutory |
| 2. Employer's Liability -- | |
| a. Each Accident | \$1,000,000 |
| b. Disease, Policy Limit: | \$1,000,000 |
| c. Disease, Each Employee: | \$1,000,000 |
| 3. Commercial General Liability -- | |
| a. Each Occurrence: | \$1,000,000 |
| b. General Aggregate: | \$2,000,000 |
| c. Products/Completed Operations: | \$1,000,000 |
| d. Personal and Advertising | \$1,000,000 |
| e. Contractual Liability-- | |
| Each Occurrence: | \$1,000,000 |
| General Aggregate | \$2,000,000 |
| 4. Contractual Liability-- | |
| a. Each Occurrence: | \$1,000,000 |
| b. General Aggregate | \$2,000,000 |
| 5. Excess Umbrella Liability -- | |
| a. Each Occurrence: | \$5,000,000 |
| b. General Aggregate: | \$5,000,000 |
| 6. Business Automobile Liability -- | |
| a. Bodily Injury --Each Accident: | \$1,000,000 |
| b. Property Damage --Each Accident: | \$1,000,000 |
| 7. Professional Liability Insurance | |
| a. Each Claim Made: | \$1,000,000 |
| b. Annual Aggregate: | \$1,000,000 |

This is **EXHIBIT C**, consisting of 1 page, referred to in and part of the **Agreement between City and Consultant for Professional Services**

AFFIDAVIT OF E-VERIFY ENROLLMENT AND PARTICIPATION

I, _____, being first duly sworn, depose and say that I am familiar with and have personal knowledge of the facts herein and, if called as a witness in this matter, could testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the facts contained herein.
2. I am now and at all times relevant herein have been employed by _____ (“Consultant”) in the position of _____.
3. I am familiar with the employment policies, practices, and procedures of Consultant and have the authority to act on behalf of the Consultant.
4. Consultant is enrolled and participates in the federal E-Verify program. Documentation of this enrollment and participation is attached as Exhibit “A” and incorporated herein.
5. Consultant does not knowingly employ any unauthorized aliens.
6. To the best of my information and belief, the Consultant does not currently employ any unauthorized aliens.

I swear and affirm under the penalties for perjury that the foregoing statements and representations are true and accurate to the best of my knowledge and belief.

EXECUTED on the _____ day of _____, 20__.

Printed: _____

This is **EXHIBIT D**, consisting of 1 page, referred to in and part of the
Agreement between City and Consultant for Professional Services

CERTIFICATION STATEMENT REGARDING INVESTMENTS IN IRAN

I, _____, certify to the following:

1. Pursuant to Indiana Code 5-22-16.5 *et seq.*, I am not now engaged in investment activities in Iran.
2. I understand that providing a false certification could result in the fines, penalties, and civil action listed in I.C. 5-22-16.5-14.

EXECUTED THIS _____ DAY OF _____, 20__.

Printed: _____

This is **EXHIBIT E**, consisting of 2 pages, referred to in and part of the **Agreement between City and Consultant for Professional Services**



City of Elkhart, Indiana
the city with a heart

Title VI Notice

Title VI Policy

The City of Elkhart, Indiana (Elkhart) is committed to a policy of inclusiveness, fairness, and accessibility of its programs, activities and services to all persons in Elkhart. As provided by Title VI of the Civil Rights Act of 1964 and all related statutes, Elkhart assures that no person shall, on the on the grounds religion, race, color, national origin, sex, age, disability/handicap, sexual orientation, gender identity, limited English proficiency, or low income status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any City of Elkhart program, activity or service. The City of Elkhart further assures every effort will be made to ensure non-discrimination in all of its programs, activities, and services, whether those program, activities and services are federally funded or not. In the event the City of Elkhart distributes Federal aid funds to another entity, the City of Elkhart will include Title VI language in all written agreements.

The Title VI Coordinator is:

Title VI Coordinator
City of Elkhart
229 S 2nd Street
Elkhart, Indiana 46516

Voice: (574) 294-5471
Fax: (574) 293-7658
TDD: (574) 389-0198
Email: titlevicoordinator@coei.org

Acceptance by Consultant

I hereby certify that I have received the City of Elkhart's "Title VI Notice" and agree to comply with the requirements and provisions of the City of Elkhart's Title VI Policy during the duration of this Agreement with the City of Elkhart.

Signed

Printed Name

Dated

The City of Elkhart Title VI Policy may be accessed here:

<https://elkhartindiana.org/government/human-resources/#tab-b900fced1bdffd36578>

RESOLUTION NO. 23-R-044

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE
CITY OF ELKHART, INDIANA, APPROVING EMPLOYMENT OF
STONE PLANNING FOR AMPHITHEATER ADVISORY SERVICES

Whereas, The Commission desires to Stone Planning, LLC (the "Contractor") to provide general advisory services related to the concept development and negotiation phase for the creation of a Lease and Operating Agreement for the amphitheater project proposed for the 300 block of South Main Street (the "Services") and the Commission desires to engage the Contractor to perform the Services which may include such of the items generally outlined in Engagement Letter as the Commission and staff may request in writing (the "Agreement"); and

Whereas, the Commission has reviewed the Services to be performed in accordance with the proposed Agreements and believes it is in the best interest of the City and its inhabitants that the Contractor be employed to provide the Services.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission approves the employment of the Contractor to provide the Services.
2. The Commission approves the form and content of the Agreement and all attachments and exhibits thereto.
3. The Commission approves the fee structure as specified in the Agreement, and appropriates the not-to-exceed sum of \$48,000.00 from the Cassopolis Corridor Allocation Area Special Fund to cover the cost of the Services.
4. The Commission authorizes its officers to execute and deliver the Agreement and to do all acts which they deem necessary and appropriate to carry out the terms and obligations contemplated therein.

ADOPTED BY MAJORITY VOTE THIS 13th DAY OF JUNE 2023.

CITY OF ELKHART, REDEVELOPMENT
COMMISSION

By _____
Sandra Schreiber, President

ATTEST:

By _____
Alex Holtz, Secretary

Memo

To: Redevelopment Commission Member
From: Adam Fann
Date: 6/12/23
Re: Stone Planning Amphitheater Agreement

Staff requested Stone Planning provide a scope of work for advisory services related to negotiating a lease and operating agreement for the amphitheater project, attached is the proposal. Staff requests the Commission approve the attached proposal and appropriate a do not exceed amount of \$48,000 from the Cassopolis TIF for the services.



May 1, 2023

Mr. Mike Huber
Development Services Director, City of Elkhart
Mike.Huber@coei.org

Dear Mr. Huber:

Thank you for the opportunity to present this proposal to provide various consulting services for a new outdoor amphitheater, as well as the Lerner Theatre, in Elkhart. We believe that the team we have assembled for this project can uniquely address all of your goals and needs for this project. We provide trusted, independent advisory services and experience in amphitheater development and operations, booking, festival creation, event promotion, facility design, premium seating and sponsorship procurement, and event production. We are confident that no other team can provide the hands-on, user perspective of our consultants who have conceived and operated venues, toured with artists, designed venues and events, and developed and promoted events.

Stone Planning, based in Chicago, is a leading advisor in the planning of entertainment venues nationwide. We have worked for municipalities, entertainment companies, private developers, and others at the feasibility stage of the development process and beyond for amphitheaters and indoor music venues. In recent years, we have worked on many amphitheater projects that have successfully opened and are currently under construction. We have also helped to redirect multiple projects when we identified an early concept as not viable based on the market, financially, or otherwise.

The Rooney Sports and Entertainment Group has decades of experience in every aspect of the entertainment venue, concert, and festival industries. Tom and Josh Rooney have promoted and brokered concerts at every level, developed and operated amphitheaters, and have launched other venue programming such as festivals. TRSEG and David Stone have been working closely together for approximately 15 years.

Our proposal is also being submitted in close coordination with **Clark Hill**, a leading full-service law firm with expertise in non-profit, real estate, municipal, and transactional law. Clark Hill would contract separately with the City but we consider the firm part of our team and we would work closely with them.

We are excited about the opportunity to work with you on this important project for the future of Elkhart. This proposal provides more information on our proposed approach to providing consulting services. Should you have any questions or need additional information, please contact me at (312) 933-3618 or david@stoneplanningllc.com. Thank you again for the opportunity to work with you.

Sincerely,


David Stone, President
Stone Planning LLC



PROPOSED SCOPE OF WORK

Based on our understanding of your needs, we have proposed various consulting services that could be provided to the City. These services are described below in two categories – defined tasks/studies and hourly advisory.

Defined Studies

Based on your needs, and any documentation provided by the non-profit entity, we could provide the following studies to the City. We can provide a more detailed description of a scope of work if and when a study is requested, and the scope could be slightly adjusted based on any changes to the project. However, our anticipated approaches to various studies (given our typical approach and our current understanding of your project) are described below.

Feasibility Study – Amphitheater

We could provide a comprehensive feasibility study for the planned amphitheater, in order to vet the project on the City's behalf and provide any needed input or redirection to all parties. This would include the following tasks:

- Kickoff meetings – our study would commence with meetings in Elkhart in order to see the site and surrounding area, hold preliminary meetings with various stakeholders, and other tasks that will provide a foundation for the feasibility study.
- Overview of the planned facility – such as its proposed location, capacity, seating types, orientation, cost, and other major characteristics, including potential terms between the City and non-profit (understanding that many are yet to be determined).
- Local market analysis – analysis of the local/regional population that would support the facility, and its economic and demographic characteristics.
- Competitive analysis – identification of local/regional facilities that could be competitive with, or complementary to, a new amphitheater, and analysis of all major physical and operational characteristics. This will also address the presence of promoters in the region and the potential availability of them to utilize the venue (if it is not exclusively booked by Mammoth), in addition to the planned operator/promoter. We will also consider any impact of casino venues in the region that are oriented towards touring concerts.
- Lerner Theatre analysis – review of its past/ongoing operations, as relevant to a new amphitheater. In conjunction with the next task, we would meet with facility staff in order to understand the theater's usage and demand, geography of ticket sales, thoughts on routing and the competitive environment, and other factors that could be relevant to the amphitheater.
- Stakeholder feedback – meetings and interviews with various stakeholders, such as city representatives, non-profit/promoter representatives, other promoters, other potential users (such as local groups), and others. We will address subjects such as perceived opportunities for additional concert/entertainment business and dynamics regarding the regional competitive



environment, definitions of the local market for touring purposes, thoughts on the market for other types of events, and other matters.

- o Comparable facilities and markets – we will analyze characteristics and operations of facilities that are directly relevant to a potential new venue in Elkhart. The peer facilities (and their markets) will be described in detail, and their characteristics will be compared to those of the Elkhart area.
- o Market Conclusions and Recommendations – following the completion of the previous tasks, we will provide recommendations regarding the market for a new venue and implications for major physical characteristics of a new facility, such as seating capacity and types of seating (such as covered/uncovered and permanent/lawn), recommended orientation/programming, and other major physical characteristics. These conclusions and recommendations could affirm or adjust any facility characteristics that have been preliminarily determined, as well as inform ongoing planning efforts.
- o Physical analysis – in conjunction with the previous task, we would work with all involved parties (including consulting architects, pending the timing of their hiring and availability of their work product) in order to provide input to the planning of the facility and site. In addition to capacity and types of seating, we would address overall facility and site blueprints/masterplan, parking, back-of-house offerings, F&B/points of sale, production load-in, and others (given the site and other variables), from an operational and attendee experience perspective.
- o Operating projections – based on the recommended facility, we will project its future operations for its first ten years. This will include all events and attendance by type, and all relevant revenues and expenses. Financial projections can be presented in multiple ways, based on your needs (such as incorporating assumptions regarding any terms between the City and non-profit); our model will be flexible in order to adjust for various scenarios and demonstrate the expected results under different sets of assumptions.

Review of Non-Profit/Promoter's Feasibility Study

Should the non-profit entity or promoter provide its own feasibility study, we can review the document and provide our feedback regarding its research, analysis, conclusions, and forecasts. Our scope of work, and the required time, would depend on the comprehensiveness of any study provided for review.

It is also possible that components of what could be part of a full feasibility study are provided by the non-profit/promoter (such as operating projections only). In this case, any review of this specific information would be addressed by our hourly rates, as described below.

Economic Impact Study – Amphitheater and Theater

We could provide an economic impact study for the amphitheater and Lerner Theatre. The required scope of work will depend on whether we have previously completed our own feasibility study for the amphitheater, as described above. If we do not complete an original feasibility study, we would need to complete certain market research in order to provide inputs to the economic impact study. For the Lerner Theatre, we assume that future operations will be based largely on past operations, with any adjustments



to be made based on discussions with facility representatives, any impacts on the theater from the amphitheater, and other variables.

In either case, our economic impact study would measure various impacts attributed to the operation of the facilities for a future stabilized year, as well as the construction of the amphitheater and any other associated development. This would include:

- o Economic impacts from operations (direct, indirect, and total) – facility revenues that are new impacts, visitation and attendee origin, daily spending, hotel room nights generated, and employment and income impacts.
- o Fiscal impacts from operations – new tax revenues to various levels of government (presumably to focus on city-level taxes), based on taxable spending and applicable tax rates.
- o Economic and fiscal impacts from construction – based on estimated construction costs (presumably to be provided by the non-profit/promoter), the percent of costs spent on local firms and workers, local wage levels, tax rates on construction spending, and others.

Economic Impact Study (Based on our Feasibility Study)

The projected impacts would be based on our feasibility study's projected future operations, as well as other assumptions (such as attendee origin, length of stay, daily spending, and others) that will be developed. Because of the feasibility study, this scenario would require less original work to be completed.

Economic Impact Study (Without a Feasibility Study)

In this scenario, we would complete market research related to the amphitheater that will allow us to make future assumptions regarding its operations. This will include a competitive analysis, analysis of the Lerner Theatre and comparable facilities, and operating projections. We would also rely on any assumptions provided by the non-profit/promoter regarding facility characteristics and assumptions.

Review of Non-Profit/Promoter's Economic Impact Study

Should the non-profit entity or promoter provide its own economic impact study, we can review the document and provide our feedback regarding its methodology, research, analysis, conclusions, and forecasts.

Hourly Advisory

The following summarizes various matters that we can advise on. We would work closely with Clark Hill, as needed.

- o Related to **developing a lease** for the park/amphitheater and Lerner Theater. This can include:
 - o Term/length



- Funding
- Land transfer/ownership
- Profit/loss sharing
- Expenses
- Staffing
- Maintenance and CapEx
- Scheduling, including city/public usage
- Curfew, sound, and other community issues
- Liquor license
- Insurance
- Reporting/budgeting
- Parking
- Fees/charges
- Review of terms for comparable, non-profit theaters and amphitheaters
- **Other analysis**, particularly if no feasibility or economic impact study (or review) is completed. This can include:
 - Capacity
 - Seating types (such as open-air, covered, lawn, etc.)
 - The competitive environment
 - Routing
 - Ticket prices
 - Anticipated ticketing platform
 - Whether the amphitheater will, or can, have an exclusive promoter
 - Other potential uses (non-concert)
 - Facility design/masterplan
 - The ability of the facility to be multipurpose
 - Premium seating and whether it is manifested
 - Production capabilities and offerings, load-in and -out capabilities
 - Points of sale
 - Parking (GA and VIP)



- o Labor issues (such as union vs. non-union)
 - o Events and attendance
 - o Naming rights and other sponsorships
 - o Review of operator/promoter projections/assumptions
 - o Calls/meetings with other stakeholders
 - o Individual tasks that could otherwise be part of a feasibility study, such as research on similar venues
 - o Other facility planning and operations
-
- o Other meetings/presentations/public engagement (in Elkhart or remotely)



FEES AND ANTICIPATED TIMELINES

As described above, we have identified discrete tasks and other consulting services that could be provided on an hourly basis, understanding that the City's exact needs for any of the items could change over time. However, based on the scope of work that we have identified for each item, we estimate the following fees for each but are more than happy to make any adjustments in the future, based on your needs. We also include an estimated timeline for each task, which could be affected by other tasks being completed concurrently. Also, we are aware of the City's general timeline for the project, and certain tasks could be expedited if necessary, based on further discussion with you.

Feasibility Study-Related Tasks - NOT APPLICABLE

- o Preparation of original feasibility study – \$55,000; approximately 8 – 10 weeks
- o Review of non-profit's feasibility study – \$10,000 (assuming a full, comprehensive study); approximately 2 – 3 weeks

Economic Impact Study-Related Tasks - NOT APPLICABLE

- o Preparation of original economic impact study, following completion of original feasibility study – \$10,000; approximately 2 – 3 weeks
- o Preparation of original economic impact study, without completion of original feasibility study – \$35,000; approximately 6 weeks
- o Review of non-profit's economic impact study – \$5,000 (assuming a full, comprehensive study); approximately 2 weeks

Hourly Advisory

For hourly advisory tasks, we have estimated a maximum number of hours based on an hourly rate of \$300 for our individual team members. The amount of time required for any task will depend partially on the City's needs and the progress of any negotiations/discussions with the non-profit. We would also work alongside with Clark Hill on any of these tasks, as needed.

- o Lease-related tasks – maximum of 80 hours and \$24,000
- o Other analyses – maximum of 80 hours and \$24,000
- o Other meetings/presentations/public engagement – maximum of 25 hours and \$7,500

The timing of this advisory work would depend on the City's needs, and presumably any feasibility or economic impact studies to be completed by our team.

Fees do not include expenses for travel to the Elkhart area. Any travel, and other expenses, will be billed at cost.

Fees and expenses would be invoiced monthly (at the end of a month) based on the project's estimated percentage of completion.



CONTRACTUAL CONDITIONS

The following conditions apply to our engagement with you.

The findings and recommendations of our research will reflect analyses of primary and secondary sources of information. Estimates and analyses presented in our report will be based on data that are subject to variation. SP will use sources that it deems reliable, but will not guarantee their accuracy. Recommendations will be made from information provided by the analyses, internal databases, and from information provided by external sources.

It is understood in accepting this proposal that neither fees nor payment thereof is contingent upon the findings of the study. SP has no responsibility to update its report for events and circumstances occurring after the date of its report. Delayed invoice payments will result in delay of deliverables for the next portion of work.

If this contract and/or SP's work for the Client is terminated for any reason by either party, SP will be due fees based on hours and expenses expended during the duration of the contract up to the total amount of the contracted amount for scope work included in the contract. Hours will be billed at SP's hourly rate of \$250 and expenses will be billed at cost, less any prior payments received from Client.

For any scope of work requested by the Client or its representatives and completed by SP beyond the contracted scope of work, professional fees will be billed at SP's average hourly rate and may exceed the total amount of the contract amount. SP will notify the Client and its representatives if any work requested is outside the contracted scope of work.

The Client will indemnify and hold harmless SP, its managers, members, officers, agents and employees, and any persons retained in connection with the performance of the services described herein (individually referred to as an "Indemnified Person"), from and against any and all claims, damages, losses, liabilities, costs and expenses and disbursements incurred in connection with investigating, preparing to defend or defending any action, suit or proceeding commenced or threatened, or any claim whatsoever, or in appearing or preparing for appearance as a witness in any action, suit, proceeding or partial proceeding to which any Indemnified Person may become subject, directly or indirectly, arising out of, in connection with or based upon this engagement, the transactions contemplated hereby or any Indemnified Person's role in connection with any of the foregoing (collectively, the "Losses"), and will reimburse any Indemnified Person for all expenses (including reasonable counsel fees and expense) as they are incurred, including expenses incurred in connection therewith, whether or not such Indemnified is a party to any such action, suit or proceeding.

If this document meets with your approval, you can accept this letter and authorize us to proceed by signing the space below.



AUTHORIZATION

Accepted By:

Name: _____

Signature: _____

Title: _____

Company: _____

Date: _____

Payments may be sent to:

David Stone
Stone Planning LLC
1432 N. Orleans
Chicago, IL 60610

CITY OF ELKHART, INDIANA
STANDARD FORM OF AGREEMENT
FOR PROFESSIONAL SERVICES
(Edition 2020)

THIS IS AN AGREEMENT effective as of _____ (“Effective Date”)

between the City of Elkhart, Indiana, acting by and through its Elkhart Redevelopment Commission (“City”) and Stone Planning, LLC (“Consultant”).

| |
|---|
| For the following Project: (“Project”). |
| Hourly advisory services related to negotiating a lease and operating agreement with a not to exceed amount of \$48,000 at this time. |
| |

City and Consultant agree as follows:

ARTICLE 1 – SERVICES OF CONSULTANT

1.01 Scope

- A. Consultant shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – CITY’S RESPONSIBILITIES

2.01 General

- A. City shall have the responsibilities set forth herein and in Exhibit A.
- B. City shall pay Consultant as set forth in Exhibit A.

C. City shall make available to Consultant reports, studies, regulatory decisions, programs, instructions, data, and other written information relating to the Services. Consultant may rely upon said documents without independent verification unless advised by the City that verification may be needed.

ARTICLE 3 –SCHEDULE FOR RENDERING SERVICES

3.01 Commencement

A. Consultant shall begin rendering services as of the Effective Date of the Agreement.

3.02 *Time for Completion*

A. Consultant shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Exhibit A, and are hereby agreed to be reasonable. The payment of Consultant's fees as set forth in this Agreement are conditioned upon the completion of all Documents no later than **June 1, 2024**.

B. If, through no fault of Consultant, such periods of time or dates are changed, or the orderly and continuous progress of Consultant's services is impaired, or Consultant's services are delayed or suspended, then the time for completion of Consultant's services, shall be extended for the period of such delay or City shall authorize Consultant to work overtime to make up such lost time, and Consultant's compensation shall be adjusted equitably.

C. If, through no fault of City, such periods of time or dates are changed, or the orderly and continuous progress of Consultant's services are impaired, or Consultant's services are delayed by reason of any error, inconsistency or omission of Consultant, Consultant shall compensate City for and indemnify it against all costs, expenses, liabilities or damages which may accrue as a result of such delay, but only to the extent such costs, expenses, liabilities or damages exceed ten percent (10%), in the aggregate of Consultant's compensation. In addition, Consultant shall provide all necessary services at its own cost, including any overtime costs and expenses, required to make up time lost to City because of such delay.

D. If City authorizes changes in the scope, extent, or character of the Project, then the time for completion of Consultant's services, and the rates and amounts of Consultant's compensation, shall be mutually agreed upon by the parties.

E. City shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Consultant's performance of its services.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

A. *Preparation and Submittal of Invoices.* Consultant shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C, and in a manner acceptable to City. Consultant shall submit its invoices to City no more than once per month along with reasonable supporting detail. City shall pay approved amounts no later than 40 days after receipt or as City's standard practices allow.

4.02 *Payments*

A. Should Consultant or its consultants fail to perform or otherwise be in default under the terms of this Agreement, City shall have the right to withhold from any payment due or to become due, or otherwise be reimbursed for, an amount sufficient to protect the City from any loss that may result. Payment of the amount withheld shall be made when the grounds for the withholding have been removed.

B. Consultant's expense records shall be maintained in accordance with generally acceptable accounting principles and shall be available to City at mutually convenient times for all services to be compensated on the basis of actual cost.

ARTICLE 5 – GENERAL CONSIDERATIONS

5.01 Standards of Performance

A. The standard of care for all professional Consultants and related services performed or furnished by Consultant under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Consultant shall be responsible to City for the costs of any errors or omissions of the Consultant or of consultants retained by Consultant.

B. City shall not be responsible for discovering deficiencies in the technical accuracy of Consultant's services. Consultant shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in City-furnished information.

C. Consultant and City shall comply with applicable Laws and Regulations. Consultant shall comply with City-mandated standards that City has provided to Consultant in writing.

ARTICLE 6 – USE OF DOCUMENTS

6.01 Use of Documents

A. Upon the making of final payment to Consultant, City shall receive ownership of the property rights of all of the documents prepared, provided or procured by Consultant. All documents prepared, provided or procured by Consultant shall be distributed to City. All documents, whether printed or electronic media format, shall be provided to City at any time upon the City's request. If this Agreement is terminated, City shall receive ownership of the property rights of the documents upon payment for all services rendered according to this Agreement, at which time, City shall have the right to use, to reproduce, and to make derivative works of the documents.

B. City may use, reproduce or make derivative works from the documents other projects without the prior authorization of Consultant.

C. A party may rely upon that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the

items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

D. The Consultant may not use the information gathered or the Documents created for this Project at the City's expense without the written consent of the City.

6.02 Insurance

A. Before commencing its services and as a condition of payment, Consultant shall procure and maintain professional liability insurance as set forth in Exhibit D, which will protect it from claims arising out of the performance of its services under this Agreement, whether such services are provided by Consultant or anyone directly or indirectly employed by them, or by anyone for whose acts any of them may be liable.

B. The Professional Liability insurance shall contain prior acts coverage sufficient to cover all services performed by Consultant for this Project. The Professional Liability policy shall be continued in effect for three (3) years following final payment to Consultant. The deductible shall be paid by Consultant.

C. Consultant shall deliver to City a copy of its Professional Liability policy. Such policy shall be furnished prior to commencement of Consultant's services and at renewals thereafter during the life of the Agreement. No policy shall be cancelled or modified without thirty (30) days prior written notice to City. Such requirement for prior written notice does not apply to modifications caused by claims made against the policy. Consultant and its Professional Liability insurance carrier shall notify City within thirty (30) days of any claims made or loss expenses incurred against the Professional Liability policy. City shall have the right to notify directly Consultant's Professional Liability insurance carrier of a claim against the policy.

6.03 Suspension and Termination

A. Suspension.

1. By City: City may suspend the Project upon seven days written notice to Consultant.

2. By Consultant: If Consultant's services are substantially delayed through no fault of Consultant, Consultant may, after giving seven days written notice to City, suspend services under this Agreement.

B. Termination.

1. The obligation to provide further services under this Agreement may be terminated for cause, by either party upon 14 days written notice in the event of substantial

failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

2. The obligation to provide further services under this Agreement may be terminated by Consultant upon seven days written notice if City demands that Consultant furnish or perform services contrary to Consultant's responsibilities as a licensed professional; or upon seven days written notice if the Consultant's services for the Project are delayed or suspended for more than 90 days for reasons beyond Consultant's control.

3. The obligation to provide further services under this Agreement may be terminated for convenience, by City effective upon Consultant's receipt of notice from City.

C. Effective Date of Termination. The terminating party under Paragraph 6.03B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Consultant to demobilize personnel, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

D. Payments upon Termination. In the event of any termination under Paragraph 6.03, Consultant will be entitled to invoice City and to receive payment for all acceptable services performed or furnished and all reimbursable expenses incurred through the effective date of termination.

E. Delivery of Project Materials to City. Prior to the effective date of termination, the Consultant will deliver to City copies of all completed documents and other Project materials for which City has compensated Consultant.

6.05 *Controlling Law*

A. This Agreement shall be governed by the law of the State of Indiana.

6.06 *Successors, Assigns, and Beneficiaries*

A. City and Consultant each is hereby bound and the partners, successors, executors, administrators and legal representatives of City and Consultant (and to the extent permitted by Paragraph 6.06B the assigns of City and Consultant) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither City nor Consultant may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written

consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by City or Consultant to any other individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of City and Consultant and not for the benefit of any other party.

6.07 Dispute Resolution

A. City and Consultant agree to make a good-faith effort to resolve any claim, dispute or other matter in question arising out of or related to this Agreement by formal negotiation between authorized representatives of each party. Formal negotiations shall take place at a mutually acceptable time and place within fifteen (15) days of notice. Formal negotiations pursuant to this Section are confidential and shall be treated as compromise and settlement negotiations for purposes of federal and state rules of evidence.

B. All applicable statutes of limitation and defenses based on the passage of time shall be tolled during the formal negotiation process.

C. Any changes to the Agreement resulting from formal negotiation shall be incorporated into the Agreement by addendum.

D. Any claims not resolved through formal negotiation may be subject to litigation at the discretion of the aggrieved party.

6.08 Indemnification by Consultant

A. To the fullest extent permitted by law, Consultant shall indemnify and hold harmless City, and City's officers, directors, partners, agents, consultants, and employees from and against any and all claims, costs, losses, and damages (including but not limited to, all fees and charges of contractors, Consultants, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, death, or to damage to or destruction of tangible property (including any resulting loss of use), but only to the extent caused by any negligent act or omission of Consultant or Consultant's officers, directors, partners, employees, or Consultants.

7.01 Conflict of Interest

A. The Consultant acknowledges and agrees that it does not have a current conflict of interest with the City and will not have a conflict of interest with the City during the term of this Agreement, regardless of whether that conflict of interest is real or perceived.

B. The City, in its sole discretion, may waive a conflict of interest if the Consultant notifies the City of the conflict and fully discloses the nature of the conflict before the effective date of this Agreement.

C. If the Consultant fails to disclose a conflict of interest before the effective date of this Agreement, the City may terminate this Agreement.

D. If the Consultant disputes the determination of the City's designated representative that the Consultant has a conflict of interest, the Consultant may appeal the designated representative's determination to the Board of Public Works. The Board of Public Work's decision on the matter shall be final.

7.02 Miscellaneous Provisions

A. *Notices.* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

B. *Survival.* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

C. *Severability.* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon City and Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

D. *Waiver.* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

E. *Accrual of Claims.* To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of final payment.

F. The provisions of this Agreement shall be construed according to the laws of the State of Indiana. Any action arising under this Agreement shall be brought in the Federal District Court for the Northern District of Indiana, or the Circuit or Superior Court of Elkhart County, Indiana.

ARTICLE 8 – E-VERIFY REQUIREMENT

8.01 *Terms*

All terms defined in I.C. § 22-5-1.7 *et seq.* are adopted and incorporated into this section.

8.02 *Enrollment and Participation*

A. Pursuant to I.C. § 22-5-1.7 *et seq.*, Consultant shall enroll in and verify the work-eligibility status of all of its newly-hired employees using the E-Verify program, if it has not already done so as of the date of this Agreement.

B. Consultant shall provide City with documentation that it is enrolled and participating in the E-Verify program.

8.03 *Affidavit*

A. Consultant is required to execute an affidavit affirming that: (i) it is enrolled and participating in the E-verify program, and (ii) it does not knowingly employ any unauthorized aliens.

B. This Agreement shall not take effect until said affidavit is signed by Consultant and delivered to City along with the documentation of the E-Verify program enrollment and participation.

8.04 *Subcontractors*

A. Should Consultant subcontract for the performance of any work under this Agreement, the Consultant shall require any subcontractor to certify by affidavit that: (i) the subcontractor does not knowingly employ or contract with any unauthorized aliens, and (ii) the subcontractor is enrolled and participating in the E-verify program.

B. Consultant shall maintain a copy of such certification for the duration of the term of any subcontract.

C. Consultant shall also deliver a copy of the subcontractor certification to the City within seven days of the effective date of the subcontract.

8.05 *Employment of Unauthorized Aliens*

A. If Consultant, or any subcontractor of Consultant, knowingly employs or contracts with any unauthorized alien, or retains an employee or contract with a person that the Consultant or subcontractor subsequently learns is an unauthorized alien, Consultant shall terminate the employment of or contract with the unauthorized alien within thirty (30) days.

B. Should the Consultant or any subcontractor of Consultant fail to terminate the employment of, or contract with, the unauthorized alien within thirty (30) days, City has the right to terminate this Agreement without consequence.

8.06 *When E-Verify is not Required*

A. The E-Verify program requirements of this Agreement will not apply should the E-Verify program cease to exist.

ARTICLE 9 – EXHIBITS AND SPECIAL PROVISIONS

9.01 *Exhibits Included*

- A. Exhibit A, “Consultant’s Services,” consisting of six (6) page(s), “City’s Responsibilities,” and “Payments to Consultant for Services and Reimbursable Expenses,” consisting of one (1) page.
- B. Exhibit B, “Insurance,” consisting of one (1) page.
- C. Exhibit C, “Affidavit of E-Verify Enrollment and Participation” consisting of one page.
- D. Exhibit D, “Certification Statement Regarding Investments in Iran,” consisting of one (1) page.
- E. Exhibit E, “Title VI Notice,” consisting of two (2) pages.

9.02 *Total Agreement*

A. This Agreement constitutes the entire agreement between City and Consultant for the Project and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, or modified by a duly executed written instrument.

9.03 *Designated Representatives*

A. With the execution of this Agreement, Consultant and City shall designate specific individuals to act as Consultant’s and City’s representatives with respect to the services to be performed or furnished by Consultant and responsibilities of City under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

9.04 *Suspension and Debarment*

A. Consultant certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any state department or agency. Consultant will not contract with any Consultant for this project if it or its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from

participation in this transaction by any state department or agency. Necessary certification forms shall be provided by the City.

9.05 Investments in Iran

A. The Consultant shall sign a certification statement regarding investments in Iran, and said statement is incorporated herein.

9.06 Title VI Notice

A. The Consultant shall sign an acceptance certification statement regarding Title VI notification and compliance with the City of Elkhart's Title VI Policy during the duration of this agreement, and said statement is incorporated herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

| | | | |
|---|--|--|--|
| CITY: City of Elkhart, Indiana, acting by and through its Board of Public Works | | CONSULTANT: | |
| By: | Sandra Schreiber | By: | |
| Title: | President for Elkhart Redevelopment Commission | Title: | |
| Date Signed: | | Date Signed: | |
| Attest: | | Consultant License or Certification No.: | |
| Clerk | | State of: | |
| Address for giving notices: | | Address for giving notices: | |
| Elkhart City Redevelopment Commission | | | |
| 201 S. Second Street | | | |
| Elkhart, Indiana 46516 | | | |

| | | | |
|----------------------------|----------------------------------|----------------------------|--|
| Designated Representative: | | Designated Representative: | |
| Michael Huber | | | |
| Title: | Director of Development Services | Title: | |
| Phone Number: | 574-322-4490 | Phone Number: | |
| Facsimile Number: | | Facsimile Number: | |
| E-Mail Address: | Michael.Huber@coei.org | E-Mail Address: | |

This is **EXHIBIT A**, consisting of 6 pages, referred to in and part of the
Agreement between City and Consultant for Professional Services

**Consultant's Services, City's Responsibilities, and Payments to Consultant for Services and
Reimbursable Expenses**

This is **EXHIBIT B**, consisting of 1 page, referred to in and part of the **Agreement between City and Consultant for Professional Services**

Insurance

Insurance

A. The limits of liability for the insurance required by paragraph 6.02 of the Agreement for Consultant are as follows:

| | |
|-------------------------------------|-------------|
| 1. Workers' Compensation: | Statutory |
| 2. Employer's Liability -- | |
| a. Each Accident | \$1,000,000 |
| b. Disease, Policy Limit: | \$1,000,000 |
| c. Disease, Each Employee: | \$1,000,000 |
| 3. Commercial General Liability -- | |
| a. Each Occurrence: | \$1,000,000 |
| b. General Aggregate: | \$2,000,000 |
| c. Products/Completed Operations: | \$1,000,000 |
| d. Personal and Advertising | \$1,000,000 |
| e. Contractual Liability-- | |
| Each Occurrence: | \$1,000,000 |
| General Aggregate | \$2,000,000 |
| 4. Contractual Liability-- | |
| a. Each Occurrence: | \$1,000,000 |
| b. General Aggregate | \$2,000,000 |
| 5. Excess Umbrella Liability -- | |
| a. Each Occurrence: | \$5,000,000 |
| b. General Aggregate: | \$5,000,000 |
| 6. Business Automobile Liability -- | |
| a. Bodily Injury --Each Accident: | \$1,000,000 |
| b. Property Damage --Each Accident: | \$1,000,000 |
| 7. Professional Liability Insurance | |
| a. Each Claim Made: | \$1,000,000 |
| b. Annual Aggregate: | \$1,000,000 |

This is **EXHIBIT C**, consisting of 1 page, referred to in and part of the **Agreement between City and Consultant for Professional Services**

AFFIDAVIT OF E-VERIFY ENROLLMENT AND PARTICIPATION

I, _____, being first duly sworn, depose and say that I am familiar with and have personal knowledge of the facts herein and, if called as a witness in this matter, could testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the facts contained herein.
2. I am now and at all times relevant herein have been employed by _____ (“Consultant”) in the position of _____.
3. I am familiar with the employment policies, practices, and procedures of Consultant and have the authority to act on behalf of the Consultant.
4. Consultant is enrolled and participates in the federal E-Verify program. Documentation of this enrollment and participation is attached as Exhibit “A” and incorporated herein.
5. Consultant does not knowingly employ any unauthorized aliens.
6. To the best of my information and belief, the Consultant does not currently employ any unauthorized aliens.

I swear and affirm under the penalties for perjury that the foregoing statements and representations are true and accurate to the best of my knowledge and belief.

EXECUTED on the _____ day of _____, 20__.

Printed: _____

This is **EXHIBIT D**, consisting of 1 page, referred to in and part of the
Agreement between City and Consultant for Professional Services

CERTIFICATION STATEMENT REGARDING INVESTMENTS IN IRAN

I, _____, certify to the following:

1. Pursuant to Indiana Code 5-22-16.5 *et seq.*, I am not now engaged in investment activities in Iran.
2. I understand that providing a false certification could result in the fines, penalties, and civil action listed in I.C. 5-22-16.5-14. .

EXECUTED THIS _____ DAY OF _____, 20__.

Printed: _____

This is **EXHIBIT E**, consisting of 2 pages, referred to in and part of the
Agreement between City and Consultant for Professional Services



City of Elkhart, Indiana
the city with a heart



Title VI Notice

Title VI Policy

The City of Elkhart, Indiana (Elkhart) is committed to a policy of inclusiveness, fairness, and accessibility of its programs, activities and services to all persons in Elkhart. As provided by Title VI of the Civil Rights Act of 1964 and all related statutes, Elkhart assures that no person shall, on the on the grounds religion, race, color, national origin, sex, age, disability/handicap, sexual orientation, gender identity, limited English proficiency, or low income status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any City of Elkhart program, activity or service. The City of Elkhart further assures every effort will be made to ensure non-discrimination in all of its programs, activities, and services, whether those program, activities and services are federally funded or not. In the event the City of Elkhart distributes Federal aid funds to another entity, the City of Elkhart will include Title VI language in all written agreements.

The Title VI Coordinator is:

Title VI Coordinator
City of Elkhart
229 S 2nd Street
Elkhart, Indiana 46516

Voice: (574) 294-5471
Fax: (574) 293-7658
TDD: (574) 389-0198
Email: titlevicoordinator@coei.org

Acceptance by Consultant

I hereby certify that I have received the City of Elkhart's "Title VI Notice" and agree to comply with the requirements and provisions of the City of Elkhart's Title VI Policy during the duration of this Agreement with the City of Elkhart.

Signed

Printed Name

Dated

The City of Elkhart Title VI Policy may be accessed here:

<https://elkhartindiana.org/government/human-resources/#tab-b900fced1bdffd36578>



Warrick & Boyn, LLP
 861 Parkway Avenue
 Elkhart, Indiana 46516
 Telephone 574-294-7491
 Fax 574-294-7284

thefirm@warrickandboyn.com

www.warrickandboyn.com

Taxpayer I.D. 35-1036189

Elkhart Redevelopment Commission
 ATTN: Sherry Weber
 229 S. Second Street
 Elkhart IN 46516

Page: 1
 May 31, 2023
 Account No: 26399-000M
 Statement No: 176075

Attn: Sherry Weber

Re: General Services

Payments received after 05/31/2023 are not included on this statement.

Previous Balance \$52,154.99

Fees

| | | Hours | |
|------------|---|-------|----------|
| 05/01/2023 | CTP Teleconference with M. Kaczka re: Woodland Crossing. Revise Purchase Agreement. Organize exhibits re: WOODLAND CROSSING | 3.80 | 1,130.50 |
| | GDB Check file on acquisition of the parcels. Review leases re: who pays taxes. Draft letter to Auditor re: RIVER DISTRICT REAL ESTATE TAXES | 2.30 | 733.13 |
| | GDB Review cover letter, offer to defendants and supporting documents re: past and future costs. E-mail client re: same. Teleconf with B. Huber and update client re: ICE/G & W | 2.00 | 637.50 |
| | GDB Respond to Mike N. re: indemnification provision re: NLG/1101 E. BEARDSLEY | 0.30 | 95.63 |
| 05/02/2023 | CTP Conference re: 1101 Beardsley settlement language. Review settlement agreement re: NLG/1101 E. BEARDSLEY | 0.80 | 238.00 |
| | GDB Review revised form of Settlement Agreement. Conference re: same. Draft e-mail with comments and issues to consider and whether a Zoom meeting would help re: NLG/1101 E. BEARDSLEY | 2.00 | 637.50 |
| | GDB E-mails with Sandy re: her issues with G & W settlement proposal and her e-mailing or calling Brent to discuss re: ICE/G & W | 0.30 | 95.63 |
| 05/03/2023 | GDB Review Adam's comments. Revise letter to Treasurer and Auditor. E-mail cc's and mail originals re: RIVER DISTRICT REAL ESTATE TAXES | 0.70 | 223.13 |
| | GDB Review contract. Respond to Adam re: 30-day payment terms and interest and attachments re: METRIC CONTRACT (ROUNDHOUSE and 1101 E. BEARDSLEY) | 0.60 | 191.25 |

Re: General Services

| | | | Hours | |
|------------|-----|---|-------|--------|
| 05/04/2023 | CTP | Telephone call with M. Kaczka re: WOODLAND CROSSING | 0.30 | 89.25 |
| | GDB | Teleconf with Mike and Adam. E-mail B. Huber re: City's position on settlement discussions. Teleconf with Brent re: ICE/G & W | 0.90 | 286.88 |
| | GDB | Review Review request for completion certificate. Check purchase agreement re: same. Draft Certificate of Completion and e-mail Meridian for copy of recorded deed. Finalize Certificate and e-mail copy to McCaslin re: 1217 S. MAIN | 1.10 | 350.63 |
| | GDB | E-mail draft of Partial Mortgage Release to parties to review and approve. Finalize Partial Release for Mayor's signature re: GLC/MARTIN'S | 0.50 | 159.38 |
| | GDB | Draft Resolution hiring appraisers and e-mail to all. Attach GIS page to Resolution and e-mail to Commission. Revise and run finals of Resolution, Offering Sheet and Public Notice for June meeting. E-mail June Resolution for packet re: 1701 N. STERLING/LOTS 51-56 | 1.30 | 414.38 |
| | GDB | Review Lot 6A Deed of Dedication, Partial Release of 6A from Merchants Bank liens. Check GIS site on City's Release form and revise City's Partial Release. E-mail Meridian to confirm recording information on Merchants meeting and Assignment re: GLC/MARTIN'S | 1.30 | 414.38 |
| | GDB | Review final plat with corrective affidavits re: WOODLAND CROSSING | 0.30 | 95.63 |
| | GDB | Forward Lot 6A Deed and Merchants Release to John Espar for review and question subject to real estate taxes language. Prepare possible revisions re: GLC/MARTIN'S | 0.60 | 191.25 |
| | GDB | Review Amendment to I.C. 36-7-14-53 re: RESIDENTIAL TIFs | 0.40 | 127.50 |
| | BAS | Internet Search for address for Commercial Union Insurance Co. re: ICE/G & W | 0.40 | 60.00 |
| 05/05/2023 | GDB | Attend Pre-Agenda meeting | 2.00 | 637.50 |
| | GDB | Obtain signature for Certificate of Completion. Notarize same and, conference re: recording re: 1217 S. MAIN | 0.30 | 95.63 |
| | GDB | Review B. Huber's settlement update and Mike's response re: ICE/G & W | 0.30 | 95.63 |
| 05/09/2023 | GDB | Review Veritext deposition invoices. Draft Resolution and send for May meeting to staff and Commissioners. Request Meeting Agenda amendment re: ICE/LA BOUR | 0.80 | 255.00 |
| | GDB | Review A. Mack proposal re: Expert Witness Report. Draft Resolution and e-mail to staff and Commissioners. Request addendum to Agenda | | |

Re: General Services

| | | Hours | |
|------------|--|-------|--------|
| | re: ICE/G & W | 0.80 | 255.00 |
| GDB | Review project revenue/expenses for each TIF area re: ANNUAL TIF MEETING | 0.30 | 95.63 |
| GDB | Draft follow-up list for Sherry for May Agenda | 1.20 | 382.50 |
| GDB | Review Nelson responses to our questions. Review latest settlement agreement draft and e-mail back revisions re: NLG/1101 E. BEARDSLEY | 1.60 | 510.00 |
| GDB | Revise funding of Improvements Resolution re: CDBG/209 N. 2ND | 0.20 | 63.75 |
| GDB | Review Ice/G & W settlement proposal and back-up data re: ICE/G & W | 0.80 | 255.00 |
| GDB | Attend Aurora and Redevelopment meetings | 2.00 | 637.50 |
| 05/10/2023 | GDB Respond to Mike re: meeting with owner of lots re: STERLING AVENUE | 0.10 | 31.88 |
| GDB | Review latest draft of Settlement Agreement. Conference call with Mike Nelson et al. re: NLG/1101 E. BEARDSLEY | 1.00 | 318.75 |
| GDB | Review and approve form of Fair Housing Contract for services re: CDBG - KEMPLE CONTRACT | 0.40 | 127.50 |
| GDB | Follow-up on May Resolutions | 0.40 | 127.50 |
| GDB | Review Proposal. Draft Purchase and Development Agreement. Obtain Deed and legal re: APPLEWHITE/GARFIELD | 1.10 | 350.63 |
| GDB | E-mails with R. Deahl, J. Espar, et al. re: additional releases. Locate recorded Assignments of Lease and UCC filing re: GLC/MARTIN'S | 1.40 | 446.25 |
| GDB | Review Mary K.'s e-mail re: typos in agreement. Correct same and e-mail out revised pages re: 209 N. 2ND | 0.70 | 223.13 |
| 05/11/2023 | CTP Confirm owners of RIVER DISTRICT parcels | 0.50 | 148.75 |
| GDB | Review and revise Purchase and Development Agreement re: APPLEWHITE | 0.50 | 159.38 |
| GDB | Scan and e-mail Resolution and Purchase Agreement to Meridian and order title commitment re: 209 N. 2ND | 0.30 | 95.63 |
| GDB | E-mail Partial Release of Assignment of Rents to R. Deahl to approve. Check on titleholder of 1A and 3A. Respond to R. Deahl re: procedure on Deed and Release for 6A re: GLC/MARTIN'S | 0.70 | 223.13 |
| MRY | Calculate recording fees. Letter to Elkhart County Recorder re: 1217 S. MAIN STREET | 0.60 | 90.00 |
| BAS | Search file for recorded Certificate of Completion. E-mail re: Certificate of Completion. Conference re: same | 0.60 | 90.00 |
| 05/12/2023 | GDB Review title commitment re: 209 N. 2ND | 0.30 | 95.63 |
| 05/15/2023 | GDB Respond to Jerry K., et al. re: status of Aurora account to receive Lake City Bank loan | | |

Re: General Services

| | | Hours | |
|------------|--|-------|----------|
| | collecting re: AURORA | 0.30 | 95.63 |
| GDB | Update R. Deahl, et al. re: Releases. Obtain Mayor's signature on Release re: rents re: GLC/MARTIN'S | 0.60 | 191.25 |
| GDB | Review signed demolition contract. Respond to need to sign IDEM certification re: 1101 E. BEARDSLEY | 0.30 | 95.63 |
| 05/16/2023 | GDB Finalize two partial releases and deliver to Fidelity Title to record re: GLC/MARTIN'S | 0.60 | 191.25 |
| | GDB E-mail Adam re: Certificate of Completion and funds contribution from Meijer for overages on LPI's. Draft Certificate of Completion. Review Economic Development Agreement re: MEIJER | 1.00 | 318.75 |
| 05/17/2023 | GDB Review Economic Development Agreement and Financing Agreement re: any releases needed. E-mail Rich re: delivery of two Partial Releases and nothing needed for two agreements re: GLC/MARTIN'S | 0.60 | 191.25 |
| | GDB Review Certificate of Completion and e-mail to Adam, Mike and Sherry re: MEIJER | 0.50 | 159.38 |
| 05/18/2023 | CTP Review GIS. Research TIF within TIF re: AEROPLEX | 1.40 | 416.50 |
| | CTP Review changes to Redevelopment statutes from latest legislative session. | 3.50 | 1,041.25 |
| | GDB Review update to Jamie re: procedure to issue payments to City re: AURORA re: SERVICING' AGREEMENT | 0.10 | 31.88 |
| | GDB Prepare for meeting with County. Review CPEA process re: C.R. 17 HOUSING PROJECT | 1.00 | 318.75 |
| | GDB Review Mike's e-mail re: expanding EDA and TIF Area re: AEROPLEX TIF 2 | 1.70 | 541.88 |
| 05/19/2023 | CTP Video conference with M. Huber, N. Kauffman, and C. Buche re: CR 17 development. Review Conditional Project Expenditure Forms. Email M. Huber re: same - PARKWAY @ 17 | 2.00 | 595.00 |
| | GDB Review Condominium Project Expenditure Agreement and statutes. Attend meeting with County. E-mail Mike re: PARKWAY @ 17 | 2.50 | 796.88 |
| | GDB Review Rothberg bill re: Servicing Agreement. Draft Resolution and send to all re: AURORA | 0.40 | 127.50 |
| 05/22/2023 | CTP Review G&W discovery responses. Email S. Schreiber re: same re: ICE/G & W | 0.70 | 208.25 |
| 05/23/2023 | CTP Review and revise timeline for creation of Parkway TIF - PARKWAY @ 17 | 0.50 | 148.75 |
| | GDB Draft timetable for creation of areas and CPEA. E-mail Mike H. re: discussing with B & T. Review CPEA procedure re: PARKWAY @ 17 | 2.50 | 796.88 |
| | GDB Draft Declaratory and Confirming Resolutions, | | |

Re: General Services

| | | | Hours | |
|------------|-----|--|-------|----------|
| | | Council, Plan Resolutions and Notices re: PARKWAY @ 17 | 2.50 | 796.88 |
| | GDB | Respond to S. Cinelli and request information on surveys re: EOZ | 0.10 | 31.88 |
| 05/24/2023 | CTP | Review Lex/Main file. Email A. Fann re: same re: LEX/MAIN | 0.80 | 238.00 |
| | GDB | Conference re: issues on mortgage. Respond to Adam and Mary. Teleconf with Mary re: 203 LEX/MAIN | 0.60 | 191.25 |
| | GDB | Create CPEA forms. Review applicable statutes re: PARKWAY @ 17 | 3.50 | 1,115.63 |
| | GDB | Draft Consent to Amend Mortgage and e-mail Consent and revised Page 2 of Mortgage to Mary, et al. re: 203 LEX/MAIN | 0.60 | 191.25 |
| | GDB | Review drafts of Resolutions creating EDA and TIF, etc. re: PARKWAY@ 17 | 1.50 | 478.13 |
| 05/25/2023 | BAS | Went to Recorder's office to record Warranty Mortgage re: LEX/MAIN | 0.80 | 120.00 |
| | CTP | Review resolutions for creation of Parkway TIF - PARKWAY @ 17 | 1.50 | 446.25 |
| | GDB | Review memorandum, invoice and proposal for asbestos renovation. Draft Resolution appropriating funds and awarding contract and e-mail for packet re: 1037 - 1047 S. MAIN | 1.50 | 478.13 |
| | GDB | Review memorandum. Draft Resolution and Use Agreement for corner of 6th and Indiana. E-mail Adam re: same re: GOODWILL EVENT | 0.80 | 255.00 |
| | GDB | E-mails re: receipt of Consent and conference re: mortgage revised Page 2. E-mail Paula and Mary re: LEX/MAIN | 0.60 | 191.25 |
| | GDB | Review J. Espar's e-mail to Maggie re: parcel 6A and respond re: GLC/MARTIN'S | 0.30 | 95.63 |
| | GDB | Review updates to documents. Draft form of EDC Public Notice. E-mail Mike re: teleconf with B & T times. Review initial drafts of CPEA documents re: PARKWAY @ 17 | 1.00 | 318.75 |
| | GDB | Draft Resolution and review agreement for VIMS study. Forward for packet and e-mail Adam re: 700 W. BEARDSLEY | 0.70 | 223.13 |
| 05/30/2023 | CTP | Research copyright for public art re: 1045 S. MAIN | 1.10 | 327.25 |
| | GDB | E-mails with Mike re: County TIF and basic timeline. Review and revise CPEA forms re: PARKWAY @ 17 | 1.30 | 414.38 |
| | GDB | Draft Resolution, Offering Sheet and Public Notice re: 51 - 56 HUDSON | 1.10 | 350.63 |
| | GDB | E-mail contract for photos to Commissioners and propose ratification in June. Forward Adam's e-mail to Gerry re: KELBY MURAL - 1045 S. MAIN | 1.50 | 478.13 |
| | GDB | Review e-mail from Meijer re: 5% hold-back and respond to client re: MEIJER | 0.30 | 95.63 |

Re: General Services

| | | Hours | |
|------------|--|-------|-----------|
| | GDB Initial research re: murals, public art and copyrights re: 1045 S. MAIN | 1.00 | 318.75 |
| 05/31/2023 | CTP Research copyright issues re: Downtown mural. Review photography agreement re: 1045 S. MAIN | 3.10 | 922.25 |
| | GDB Review Sandy's issues re: photo of love mural. Review copyright law. Respond to all and forward B. Rogers' e-mail re: Perpetual License re: 1045 S. MAIN | 1.50 | 478.13 |
| | GDB Review VRIP Bill of Ice Miller. Forward to Sherry to determine if appropriated funds at still available to pay re: ICE/G & W | 0.30 | 95.63 |
| | GDB Review Status Report on EXECUTIVE CLEANERS' remediation and forward to client. Review status of NLG bill. Draft Resolution appropriating funds re: NLG/STAR TIRE | 1.50 | 478.13 |
| | GDB Finalize corrections on CPEA forms re: PARKWAY @ 17 | 0.30 | 95.63 |
| | GDB Respond to all re: need for Retainage Agreement re: 5% hold-back re: MEIJER | 0.30 | 95.63 |
| | GDB Review and revise Note, Master Agreement Mortgage and Signatory Form re: FORGIVABLE CDBG LOANS | 2.00 | 637.50 |
| | GDB Review Brian Rodgers' explanation re: Perpetual Photo Licenses re: 1045 S. MAIN | 0.30 | 95.63 |
| | For Current Services Rendered | 91.40 | 28,303.97 |

Expenses

| | | |
|------------|---|-------|
| 05/31/2023 | Mileage to/from Recorder's office on 5/25/23 to record Warranty Mortgage re: LEX/MAIN | 10.48 |
| | Total Expenses | 10.48 |

Advances

| | | |
|------------|--|-------|
| 05/25/2023 | Recording fee paid to Elkhart County Recorder re: Warranty Mortgage re: LEX/MAIN | 55.00 |
| | Total Advances | 55.00 |

Total Current Work 28,369.45

Payments

| | | |
|------------|-------------------------------|--------------------|
| 05/03/2023 | Fee Payment - ACH payment | -30,471.45 |
| 05/03/2023 | Expense Payment - ACH payment | -11.39 |
| 05/03/2023 | Advance Payment - ACH payment | -119.76 |
| | Total Payments | -30,602.60 |
| | Balance Due | <u>\$49,921.84</u> |

| Aged Due Amounts | | | | | | |
|------------------|-----------|-------|--------|---------|------|--|
| 0-30 | 31-60 | 61-90 | 91-120 | 121-180 | 181+ | |
| 28,369.45 | 21,552.39 | 0.00 | 0.00 | 0.00 | 0.00 | |

Elkhart Redevelopment Commission

Page: 7
May 31, 2023
Account No: 26399-000M
Statement No: 176075

Re: General Services

Please Remit

\$49,921.84

A finance charge of 18% per annum, or the highest rate permitted by law, whichever is less, will be assessed on all accounts past due 30 days.