



**CITY COUNCIL MEETING AGENDA**

**CITY COUNCIL CHAMBERS**

**109 E. OLIVE STREET, BLOOMINGTON, IL 61701**

**MONDAY, OCTOBER 26, 2015 7:00 P.M.**

- 1. Call to order**
- 2. Pledge of Allegiance to the Flag**
- 3. Remain Standing for a Moment of Silent Prayer**
- 4. Roll Call**
- 5. Public Comment**
- 6. Recognition/Appointments**
  - A. Proclamation declaring October 26, 2015 as, "Tina Sipula Day"
  - B. Citizen's Beautification Committee Award, Mike and Judy Evans
  - C. Citizen's Beautification Committee Award, Bill and Lori Hahm
  - D. Citizen's Beautification Committee Award, Stan Cain and Ann Higgins
  - E. Citizen's Beautification Committee Award, Robert Flegel
  - F. Citizen's Beautification Committee Award, Keith Thompson
  - G. Citizen's Beautification Committee Award, State Farm Corporate South, David Rasmussen and Josiah Townsend
  - H. Citizen's Beautification Committee Award, Culvers Restaurant, Brett and Sarah Friestedt
  - I. Citizen's Beautification Committee Award, Potbelly's Restaurant, John Bouman
  - J. Citizen's Beautification Committee Award, Starbucks, Mindy Hostetler

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## 7. “Consent Agenda”

*(All items under the Consent Agenda are considered to be routine in nature and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member, City Manager or Corporation Counsel so requests, in which event, the item will be removed from the Consent Agenda and considered in the Regular Agenda, which is Item #8.*

*The City’s Boards and Commissions hold Public Hearings prior to some Council items appearing on the Council’s Meeting Agenda. Persons who wish to address the Council should provide new information which is pertinent to the issue before them.)*

- A. Consideration of approving the Council Meeting Minutes of October 12, 2015. *(Recommend that the reading of the minutes of the previous Council Minutes of October 12, 2015, be dispensed with and the minutes approved as printed).*
- B. Consideration of approving Bills, Payroll and Electronic Transfers. *(Recommend that the bills payroll, and electronic transfers be allowed and orders drawn on the Treasurer for the various amounts as funds are available.)*
- C. Consideration of approving an extension of Fuel Contract with Evergreen FS for Fleet Vehicles and Equipment. *(Recommend that the Fuel Purchasing Agreement with Evergreen FS be extended for one (1) year and authorize the City Manager and City Clerk to execute the necessary documents, and the Purchasing Agent authorized to issue a Purchase Order for same.)*
- D. Consideration of approving a grant bid waiver that identifies Helena Chemicals as a single source distributor, and entering into an Early Order Program for the procurement of Syngenta, BASF, Bayer, Nufarm (the manufacturers) golf course chemicals and fertilizer products utilized in the management of turf-grass maintenance. *(Recommend that Approve the Parks, Recreation and Cultural Arts Department to participate in the Syngenta, BASF, Bayer and Nufarm chemicals “early order discount program” for golf turf-grass management for the 2016 golf season, and grant a bid waiver which identifies Helena Chemical as the local distributor for these products and, further authorize the Mayor and City Clerk to execute the necessary documents.)*
- E. Consideration of Waiving the Formal Bidding Process of a limited source and authorize procurement of a Contract with Decatur Industrial Electric of Decatur, Illinois for the repair of pumps and motors at the Water Treatment Plant and other pump stations. *(Recommend the Council waive the formal bidding process and authorize entering into a Contract with Decatur Industrial Electric of Decatur, Illinois for services to repair pumps and motors at the Water Treatment Plant and other pump stations for a one (1) year period, with the option for three (3) additional one (1) year renewals, and authorize the City Manager and City Clerk to execute the necessary documents)*

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- F. Consideration of waiving the formal bidding process, and approve a two year Contract with Mississippi Lime, Inc. for supply and delivery of granulated quicklime for water treatment purposes. *(Recommend that Council approve waiving the formal bidding process for lime, a water treatment chemical, a two year contract for the purchase of Lime with Mississippi Lime, Inc. at the quoted price of \$183.40 plus fuel surcharge per ton for the first year and \$188.95 plus fuel surcharge per ton in the second year, and the City Manager and City Clerk be authorized to execute the necessary documents.)*
- G. Consideration of approving a contract with Illinois State University to install two automated stream monitoring/sampling stations, and support a recurring monitoring program for Sixmile Creek, Money Creek and the T3 Demonstration Site at Comlara Park through the Water Department for a total of \$85,856.00. *(Recommend that the Council approves the contract with Illinois State University to install two automated stream monitoring/sampling stations, and support a monitoring program for Simile Creek, Money Creek and the T3 Demonstration Site at Comlara Park through the Water Department for a total of \$85,856.00, and the City Manager and City Clerk be authorized to execute an agreement with ISU in the form attached hereto, or in a form otherwise approved by the City Manager, and all other necessary documents.)*
- H. Consideration of approving a Resolution authorizing a change order in the amount of \$7,978.97 in the contract between the City of Bloomington and Stark Excavating, Inc., FY 2015 Emergency Utility Repair Contract, for the purpose of funding Emergency Utility Repairs (Original Bid #2015-05). *(Recommend that the Resolution authorizing a change order in the amount of \$7,978.97 in the contract between the City of Bloomington and Stark Excavating, Inc., FY 2015 Emergency Utility Repair Contract, for the purpose of funding Emergency Utility Repairs be approved and authorize the Mayor and City Clerk to sign the necessary documents.)*
- I. Consideration of approving an Ordinance amending the budget for FY2016 in the amount of \$16,000 for the purpose of sidewalk construction on Jumer Drive, and a related change order Resolution with J.G. Stewart (Bloomington Sidewalk Replacement and Handicap Ramp Program FY 2016, Bid #2015-63). *(Recommend that the Ordinance amending the budget for FY2016 be approved in the amount of \$16,000, the change order with J.G. Stewart Contractors Inc. (Sidewalk Replacement and Handicap Ramp Program FY 2016, Bid #2015-63), that the corresponding Resolution for a change order be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.)*
- J. Consideration of approving an amendment to Ordinance 1965-51 extending the electric franchise agreement with Corn Belt Electric Cooperative, Inc. to allow time for the City and Corn Belt to negotiate a new franchise agreement. *(Recommend that the Ordinance amending Ordinance 1965-51 extending the electric franchise agreement with Corn Belt*

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*Electric Cooperative, Inc. to allow time for the City and Corn Belt to negotiate a new franchise agreement.)*

- K. Consideration of approving an Ordinance Suspending Portions of Section 701 of Chapter 31 and Section 26(d) of Chapter 6 of the City Code for a wedding reception at Miller Park Pavilion on March 19, 2016. *(Recommend that the Ordinance Suspending Portions of Section 701 of Chapter 31 and Section 26(d) of Chapter 6 of the City Code for a wedding reception at Miller Park Pavilion on March 19, 2016.)*
- L. Consideration of approving an Ordinance Amending Chapter 40 of the City of Bloomington Code Regulating Taxicabs and Vehicles for Hire (Downtown Shuttles). *(Recommend that the Ordinance Amending Chapter 40 of the Bloomington City Code regulating taxicabs and vehicles for hire be adopted.)*

## **8. “Regular Agenda”**

- A. Consideration of adopting a Resolution endorsing BN Advantage: A collaborative economic development strategy for the Bloomington-Normal-McLean County Region. *(Presentation 5 minutes, and Council Discussion 10 minutes.)*
- B. Local Preference Policy  
*(Recommend that the resolution be approved adopting a Local Preference Policy for the City of Bloomington and the Mayor and Clerk be authorized to execute the resolution.)*  
*(Presentation 5 minutes, Council discussion 10 minutes)*
- C. Hamilton Road Extension from Bunn Street to Commerce Parkway
  - a. Consideration of adopting an Illinois Department of Transportation Resolution approving a Professional Engineering Services Agreement with Hanson Professional Services for Phase I Preliminary Design Services for Hamilton Road Extension from Bunn Street to Commerce Parkway, RFQ No. 2015 - 26. *(Recommend that the Resolution be adopted approving the Agreement with Hanson Professional Services for the Phase I preliminary design of Hamilton Road from Bunn Street to Commerce Parkway be approved, in the amount of \$986,084.52, and the Mayor and City Clerk be authorized to execute the necessary documents.) (City Manager David Hales and Jim Karch, Director of Public Works, Presentation 5 minutes, Council Discussion 10 minutes)*
  - b. Consideration of approving an application for the Hamilton Gap project (Bunn Street to Commerce Parkway) for the One Voice Advocacy Program. *(Recommend that Council approve an application be submitted to the Bloomington-Normal Economic Development*

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*Council on behalf of the City of Bloomington to advocate for the Hamilton Road project as part of the One Voice initiative.) (City Manager David Hales and Jim Karch, Director of Public Works, Presentation 5 minutes, Council Discussion 10 minutes)*

- D. Sick Leave Buyback.  
*(Agenda materials will be made available by addendum.)*

- 9. City Manager's Discussion**
- 10. Mayor's Discussion**
- 11. City Aldermen's Discussion**
- 12. Executive Session – *Cite Section***
- 13. Adjournment**
- 14. Notes**

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## RECOGNITIONS/APPOINTMENTS

### Item No. 6

- A. Proclamation declaring October 26, 2015 as, "Tina Sipula Day"
- B. Citizen's Beautification Committee Award, Mike and Judy Evans
- C. Citizen's Beautification Committee Award, Bill and Lori Hahm
- D. Citizen's Beautification Committee Award, Stan Cain and Ann Higgins
- E. Citizen's Beautification Committee Award, Robert Flegel
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- G. Citizen's Beautification Committee Award, State Farm Corporate South, David Rasmussen and Josiah Townsend
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 **CITY OF**  
*Bloomington* **ILLINOIS**  
**CONSENT AGENDA ITEM: 7A**

FOR COUNCIL: October 26, 2015

**SUBJECT:** Consideration of approving the Council Minutes of the October 12, 2015 Regular City Council Meeting.

**RECOMMENDATION/MOTION:** That the reading of the minutes of the previous Council Proceedings of October 12, 2015, be dispensed with and the minutes approved as printed.

**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1d. City services delivered in the most cost-effective, efficient manner.

**BACKGROUND:** The Council Minutes of October 12, 2015, have been reviewed and certified as correct and complete by the City Clerk.

In compliance with the Open Meetings Act, Council Proceedings must be approved within thirty (30) days after the meeting or at the Council's second subsequent regular meeting whichever is later.

In accordance with the Open Meetings Act, Council Proceedings are made available for public inspection and posted to the City's web site within ten (10) days after Council approval.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not applicable.

**FINANCIAL IMPACT:** Not applicable.

Respectfully submitted for Council consideration.

Prepared by: Cherry L. Lawson, C.M.C., City Clerk

Recommended by:



David A. Hales, City Manager

**Attachments:**

- Draft Council Minutes for October 12, 2015
-

Motion: That the reading of the minutes of the previous Council Minutes of the October 12, 2015 Regular City Council Meeting be dispensed with and the minutes approved as printed.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                  | Aye | Nay | Other |                    | Aye | Nay | Other |
|------------------|-----|-----|-------|--------------------|-----|-----|-------|
| Alderman Black   |     |     |       | Alderman Mwilambwe |     |     |       |
| Alderman Buragas |     |     |       | Alderman Painter   |     |     |       |
| Alderman Fruin   |     |     |       | Alderman Sage      |     |     |       |
| Alderman Hauman  |     |     |       | Alderman Schmidt   |     |     |       |
| Alderman Lower   |     |     |       |                    |     |     |       |
|                  |     |     |       | Mayor Renner       |     |     |       |



**REGULAR CITY COUNCIL MEETING SESSION  
PUBLISHED BY THE AUTHORITY OF THE CITY COUNCIL  
OF BLOOMINGTON, ILLINOIS  
MONDAY, OCTOBER 12, 2015; 7:00 P.M.**

**1. Call to order**

The Council convened in Regular Session in the Council Chambers, City Hall Building, at 7:00 p.m., Monday, October 12, 2015. The meeting was called to order by Mayor Renner.

**2. Pledge of Allegiance to the Flag**

The meeting was opened by Pledging Allegiance to the flag followed by a moment of silent prayer.

**3. Remain Standing for a Moment of Silent Prayer**

Mayor Renner requested those present to remain standing for a moment of silent prayer.

**4. Roll Call**

Mayor Renner directed the City Clerk to call the roll and the following members of Council answered present:

Aldermen: Kevin Lower, David Sage, Diana Hauman, Amelia Buragas, Scott Black, Joni Painter, Mboka Mwilambwe, Jim Fruin and Karen Schmidt.

David Hales, City Manager; Cherry Lawson, City Clerk; and Jeffery Jurgens, Corporate Counsel; Steve Rasmussen, Asst. City Manager; and other city staff were also present.

**5. Public Comment**

Mayor Renner opened the meeting to receive Public Comment. He added that there would not be a response from the City under the Public Comment portion of the meeting.

Mayor Renner noted that eight (8) Public Comment Cards were received.

The following individuals provided comments during Public Comment:

Patricia Martin  
Gary Lambert  
Alton Franklin  
Lee Eutsey  
Brent Van Hovlen  
Donna Bolin  
Judy Stearns

Glenn Ludwick

## **6. Recognition/Appointments**

The following was presented:

Item 6A. Appointment of Odemaris Mancilla-Sibaja be appointed to the Human Relations Commission

## **7. “Consent Agenda”**

Mayor Renner called on the Council to see whether any items needed to be pulled from the Consent Agenda for further discussion. Alderman Lower suggested Item: 7F. Alderwoman Hauman suggested Item 7A as she was not present for the meeting when that was presented.

**Motion by Alderman Black, seconded by Alderman Painter move to approve the items on the Consent Agenda including the items mentioned by Alderman Lower and Alderwoman Hauman.**

**Ayes: Kevin Lower, David Sage, Diana Hauman, Amelia Buragas, Scott Black, Joni Painter, Mboka Mwilambwe, Jim Fruin and Karen Schmidt.**

**Nays: None.**

**Motion carried.**

The following items were presented:

**Item 7A: Consideration of approving the Council Minutes of September 28, 2015, and the October 12, 2012 City Council Work Session Meeting.** (Recommend that the reading of the minutes of the previous Council Minutes of September 28, 2015, and the October 12, 2012 City Council Work Session Meeting, be dispensed with and the minutes approved as printed). *Pulled from the Consent Agenda*

**Item 7B: Consideration of approving Bills, Payroll and Electronic Transfers.** *(Recommend that the bills, payroll, and electronic transfers be allowed and orders drawn on the Treasurer for the various amounts as funds are available.)*

**Item 7C: Consideration of approving an Appointment to the Human Relations Commission.** *(Recommend that Odemaris Mancilla-Sibaja be appointed to the Human Relations Commission.)*

**Item 7D: Consideration of approving an Intergovernmental Agreement with District 87 for the Provision of Salt during 2015/2016 Winter Season at a cost of \$66.60 per ton.** *(Recommend that the Agreement be approved and the Mayor and City Clerk be authorized to execute the necessary documents.)*

**Item 7E: Consideration of approving an Annual Maintenance Agreement with Sentinel Technologies Inc., for City-wide Network and VoIP Telephone Infrastructure in the amount of \$86,752.00.** *(Recommend that the agreement with Sentinel Technologies Inc., Springfield, IL for hardware/software maintenance, troubleshooting, configuration assistance and remote monitoring of network and VoIP (voice over internet protocol) infrastructure, in the amount of \$86,752.00 for second of five years, be approved and the Mayor and City Clerk be authorized to execute the necessary documents.)*

**Item 7F: Consideration of adopting a Resolution with Illinois Department of Transportation (IDOT) approving the Allocation of Motor Fuel Tax Funds for Professional Engineering Services for Design and Construction Plan Preparation of Linden Street Bridge Rehabilitation (Ward 4) in the amount of \$221,000.** *(Recommend that the Resolution with IDOT for Improvement by Municipality under the Illinois Highway Code for Engineering Design of Linden Street Bridge Rehabilitation in the amount of \$221,000.00 be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.)* ***Pulled from the Consent Agenda.***

**Item 7G: Consideration of approving a Lake Bloomington Lease Transfer Petition for Lot 7, Block of Camp Kickapoo, from Julia Plattner to Andrew and Ashley Netzer.** *(Recommend that Council approves the Lake Bloomington Lease Transfer from Julia Plattner to Andrew and Ashley Netzer and authorize the Mayor and City Clerk to execute the necessary documents.)*

**Item 7F: Consideration of adopting a Resolution with Illinois Department of Transportation (IDOT) approving the Allocation of Motor Fuel Tax Funds for Professional Engineering Services for Design and Construction Plan Preparation of Linden Street Bridge Rehabilitation (Ward 4) in the amount of \$221,000.** *(Recommend that the Resolution with IDOT for Improvement by Municipality under the Illinois Highway Code for Engineering Design of Linden Street Bridge Rehabilitation in the amount of \$221,000.00 be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.)*

Alderman Lower stated that he believed that the proposed rehabilitation was 40% more expensive for a chance that we might reroute Constitution Trail underneath the bridge.

Jim Karch, Public Works Director apologized, saying that this was not supposed to be on the plan tonight as it was supposed to have a resolution already. Mr. Karch clarified that the extra cost was about \$300,000 and that this repair would last about 50 to 100 years.

**Motion by Alderman Black, seconded by Alderwoman Schmidt.**

Mayor Renner directed the Clerk to call the roll which resulted in the following:

Ayes: Aldermen Sage, Hauman, Fruin, Black, Buragas, Painter, Mwilambwe, and Schmidt

Nays: Alderman Lower  
Motion: Carried.

## 8. “Regular Agenda”

The following was presented:

### **Item 8A: Police Officer Body-Worn Cameras**

#### **a. Legislative Overview of Law Enforcement Officer-Worn Body Camera Act** *(Corporate Counsel Jeff Jurgens, 10 minute Presentation)*

Corporation Counsel Jeff Jurgens referred to the presentation packet and gave a brief overview of the Legislative perspective. The State of Illinois does not require body cameras, but does have to follow various standards, (including privacy, reporting, and record-keeping) which Mr. Jurgens described in his presentation.

#### **b. Body-Worn Cameras An Overview Presentation** *(Police Chief Brendan Heffner, 10 minutes Presentation)*

Chief Heffner noted that there was a lot to digest with the body cameras and that the need came to the forefront. With the public perception of use of force, the cameras add another perspective, while the current cameras are just on the cars, which show only anything around the cars. He noted that more people are videotaping police/citizen interactions with their camera phones, and that is where this additional perspective helps.

He noted a study from 2012 in Rialto, California where having these body cameras reduced abusive behavior by citizens and unnecessary use of force by police. He concluded that by reducing the escalating behavior by either/both parties, injuries, liabilities and complaints could be reduced.

He noted that public trust was very important to the department, and stated that their goals included positive relationships between citizens and police, accountability, transparency, and defensibility, as well as reducing injuries, complaints, and civil judgments.

Chief Heffner stated that among the challenges included finding a body camera that is right for the Bloomington Police Department and the fiscal challenges. In conclusion, the Bloomington Police Department should be progressive and the public will be expecting them. He had used them previously while working with the Illinois State Police, and felt they were successful. The Police Department will be conducting due diligence next year, and will present them before the City Council when they have funding.

#### **c. Interlocal Agreement between the City of Bloomington and McLean County for the purpose of accepting the 2015 Edward Byrne Memorial Grant (JAG) Program Award in the amount of \$28,818 to be used to**

**purchase equipment which will integrate with the existing in-car camera system.** *(Recommend that the Interlocal Agreement between the City of Bloomington and McLean County for the purpose of accepting the 2015 Edward Byrne Memorial Grant (JAG) Program Award in the amount of \$28,818 to be used to purchase equipment Body-Worn Cameras which will integrate with the existing in-car camera system be approved, and authorize the Mayor and City Clerk to execute the necessary documents.) (10 minutes Discussion)*

Mayor Renner asked the Council for a motion to discuss.

**Aldерwoman Painter motioned and Alderman Lower seconded.**

There was no discussion, so Mayor Renner called for a vote.

Ayes: Aldermen Sage, Hauman, Fruin, Black, Buragas, Painter, Mwilambwe, Lower and Schmidt

Nays: None.

Motion: Carried.

**Item 8B: Consideration of adopting a Resolution approving the City of Bloomington Sidewalk Master Plan.** *(Jim Karch, Public Works Director 5 minute presentation, Council discussion 10 minutes).*

Public Works Director Jim Karch stated that Steve Arnie wrote the majority of this plan and Steve Raines was promoted to Engineering Tech II. He also thanked Parks and Recreation.

This plan is needed for Americans with Disabilities compliance, to fix substandard sidewalks, and to respond to emergency repairs. The sidewalks are better than the streets. This plan won an award and used all city staff--no consultants. The goal is to get all sidewalks rated 4 or less and maintain what we have.

Mr. Karch stated that if there are a lot of streets that are repaired, that means more sidewalks, so keep that in mind.

Mayor Renner asked for a motion by the Council.

**Motion by Aldерwoman Schmidt, seconded by Aldерwoman Hauman.**

Mayor Renner directed the Clerk to call the roll which resulted in the following:

Ayes: Aldermen Sage, Hauman, Fruin, Black, Buragas, Painter, Mwilambwe, Lower and Schmidt

Nays: None.  
Motion: Carried.

## **9. City Manager's Discussion**

Mr. Hales stated that there is an opportunity to talk about downtown development at next Monday's Committee of the Whole meeting and there will be a high level presentation. This will be a significant amount of time. We are not looking at any decision to be made, but that is what we have planned.

Alderman Fruin said that we are very encouraged by this discussion and wondered if there would be enough room for all of the interest in the city. Mr. Hales noted that this was a public meeting and no decisions being made. Alderman Black commented that he would appreciate any written items ahead of time regarding this project, in lieu of PowerPoint at this point. Mayor Renner agreed.

## **10. Mayor's Discussion**

Mayor Renner stated that he, Alderman Lower, Alderman Sage, and Alderman Black, participated in Fire Ops. He thanked the Chief for this assistance.

## **11. City Aldermen's Discussion**

Alderwoman Hauman expressed her disappointment for the abuse of freedom of speech at public comments and emails received in the past. She said that if her family was planning on moving to Bloomington and saw the public comments with name-calling on the posted meetings, she would think twice about moving here. She welcomes engaging residents when they give specific examples and give "yes" or "no" answers as she takes that input into consideration. If you want me to listen, please speak to me as you would like to be spoken to. If you have harsh words, why aren't you in our seats? Please be polite and civil.

Mayor Renner agreed with the necessary civility.

Alderwoman Buragas mentioned the Hazardous Waste Event that is an appropriate way to dispose of your hazardous waste.

Alderman Lower wanted to thank Chief Moore but the professional Unit #49 and the union, who do a good job. From doing the Fire Ops., drill, I have a better understanding of what they do and how physically demanding it was. Alderman Black admitted that he was sore too.

## **12. Executive Session – cite section.**

## **13. Adjournment**

**Mayor Renner asked for a motion to adjourn.**

**Motioned by Alderman Black to adjourn the Meeting, seconded by Alderman Schmidt.**

**Mayor Renner called the roll which resulted in the following:**

**Ayes: Aldermen Sage, Hauman, Fruin, Lower, Buragas, Mwilambwe, Black, Schmidt and Painter.**

**Nays: None**

**Motion carried, (viva voce).**

**CITY OF BLOOMINGTON**

**ATTEST**

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Tari Renner, Mayor

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Cherry L. Lawson, City Clerk



**CONSENT AGENDA ITEM: 7B**

FOR COUNCIL: October 26, 2015

**SUBJECT:** Consideration of approving Bills, Payroll and Electronic Transfers.

**RECOMMENDATION/MOTION:** That the bills, payroll and electronic transfers be allowed and orders drawn on the Treasurer for the various amounts as funds are available.

**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1d. City services delivered in the most cost-effective, efficient manner.

**FINANCIAL IMPACT:** Total disbursements to be approved \$4,573,237.06 (Payroll total \$2,193,953.74, Electronic Transfers total \$25,877.51, Accounts Payable total \$2,213,434.30 and Purchasing Cards total \$139,971.51).

Respectfully submitted for Council consideration.

Prepared by: Frances Watts, Accounts Payable

Recommended by:

A handwritten signature in black ink, appearing to read 'David A. Hales'.

David A. Hales  
City Manager

**Attachment:**

- Bills, Payroll and Electronic Transfers on file in the Clerk's office. Also available at [www.cityblm.org](http://www.cityblm.org).
- Summary Sheet Bills, Payroll Report, and Electronic Transfers

Motion: That the bills, payroll and electronic transfers be allowed and orders drawn on the Treasurer for the various amounts as funds are available.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                  | Aye | Nay | Other |                    | Aye | Nay | Other |
|------------------|-----|-----|-------|--------------------|-----|-----|-------|
| Alderman Black   |     |     |       | Alderman Mwilambwe |     |     |       |
| Alderman Buragas |     |     |       | Alderman Painter   |     |     |       |
| Alderman Fruin   |     |     |       | Alderman Sage      |     |     |       |
| Alderman Hauman  |     |     |       | Alderman Schmidt   |     |     |       |



|                |  |  |  |              |  |  |  |
|----------------|--|--|--|--------------|--|--|--|
| Alderman Lower |  |  |  |              |  |  |  |
|                |  |  |  | Mayor Renner |  |  |  |

| CITY OF BLOOMINGTON FINANCE REPORT |                       |                              |                        |                            |                        |
|------------------------------------|-----------------------|------------------------------|------------------------|----------------------------|------------------------|
|                                    |                       |                              |                        |                            |                        |
| Council of October 26, 2015        |                       |                              |                        |                            |                        |
|                                    |                       |                              |                        |                            |                        |
| <b>PAYROLL</b>                     |                       |                              |                        |                            |                        |
| <b>Date</b>                        | <b>Gross Pay</b>      | <b>Employer Contribution</b> | <b>Totals</b>          |                            |                        |
| 10/09/2015                         | \$ 231,189.14         | \$ 76,710.10                 | \$ 307,899.24          |                            |                        |
| 10/15/2015                         | \$ 1,251,233.19       | \$ 327,185.49                | \$ 1,578,418.68        |                            |                        |
| 10/16/2015                         | \$ 227,849.92         | \$ 77,484.08                 | \$ 305,334.00          |                            |                        |
|                                    |                       |                              |                        |                            |                        |
| 10/15/2015                         | \$ 1,274.40           | \$ 1,027.42                  | \$ 2,301.82            |                            |                        |
| Off Cycle Adjustments              |                       |                              | \$ -                   |                            |                        |
|                                    |                       | <b>PAYROLL GRAND TOTAL</b>   | <b>\$ 2,193,953.74</b> |                            |                        |
| <b>ACCOUNTS PAYABLE</b>            |                       |                              |                        |                            |                        |
| <b>Date</b>                        | <b>Bank</b>           | <b>Total</b>                 |                        | <b>PCARD</b>               |                        |
| 10/26/2015                         | AP General            | \$ 2,142,576.37              |                        | 9/2/2015-10/1/2015         | \$ 139,971.51          |
|                                    | AP BCPA               | \$ -                         |                        | <b>PCARD GRAND TOTAL</b>   | <b>\$ 139,971.51</b>   |
| 10/12/2015                         | AP Comm Devel         | \$ 3,120.52                  |                        |                            |                        |
|                                    | AP IHDA               | \$ -                         |                        |                            |                        |
| 10/12/2015                         | AP Library            | \$ 28,847.37                 |                        | <b>WIRES</b>               |                        |
| 10/12/2015                         | AP MFT                | \$ 13,890.04                 |                        | <b>Date</b>                | <b>Total</b>           |
| 10/07/2015                         | Off Cycle Check Runs  | \$ 25,000.00                 |                        | 10/12/2015-10/16/2015      | \$ 25,877.51           |
|                                    | <b>AP GRAND TOTAL</b> | <b>\$ 2,213,434.30</b>       |                        | <b>WIRE GRAND TOTAL</b>    | <b>\$ 25,877.51</b>    |
|                                    |                       |                              |                        |                            |                        |
|                                    |                       | <b>TOTAL</b>                 |                        |                            | <b>\$ 4,573,237.06</b> |
|                                    |                       |                              | <b>Respectfully,</b>   |                            |                        |
|                                    |                       |                              |                        |                            |                        |
|                                    |                       |                              |                        |                            |                        |
|                                    |                       |                              |                        | <b>Patti-Lynn Silva</b>    |                        |
|                                    |                       |                              |                        | <b>Director of Finance</b> |                        |



**CITY OF**  
*Bloomington* ILLINOIS  
**CONSENT AGENDA ITEM NO. 7C**

FOR COUNCIL: October 26, 2015

**SUBJECT:** Consideration of approving an extension of Fuel Contract with Evergreen FS for Fleet Vehicles and Equipment.

**RECOMMENDATION/MOTION:** That the Fuel Purchasing Agreement with Evergreen FS be extended for one (1) year and authorize the City Manager and City Clerk to execute the necessary documents, and the Purchasing Agent authorized to issue a Purchase Order for same.

**STRATEGIC PLAN LINK:** Objective 4 – City Services delivered in the most cost-effective, efficient manner

**STRATEGIC PLAN SIGNIFICANCE:**

**BACKGROUND:** On October 14, 2014 a bid was released to supply Fuel for the City's vehicle and equipment needs. On November 10, 2014 the contract was awarded to Evergreen FS for one (1) year with four (4), one (1) year renewal options. The cost per gallon markup over terminal cost is as follows: Unleaded Gasoline with 10% ethanol, No. 1 diesel Fuel, No. 2 Diesel Fuel with up to 20% Bio added is \$.02 for transport loads and \$.18 for Tank Wagons. LP and Kerosene will be discounted 3% from retail at the time of purchase. These costs remain the same with each yearly renewal until October 31, 2019 when the contract will be rebid. Evergreen FS has met all of the current contract specifications. These specifications are important to the City's ability to respond to its citizens needs in a natural or man-made disaster. These services include, bulk fuel transport to the bulk tank at the Public Works fuel station, deliveries to various smaller fuel tanks at the parks, golf courses, emergency generators for the Water Department, Fire Stations, US Cellular Coliseum, sewer lift pump stations, and to fire apparatus at working fires. The fuel cards are used to purchase fuel from local stores when the Public Works Department fuel station is out of service for maintenance. The local tank farm insures the ability to deliver fuel from the tank farm to the City in the event of disaster. The City has used this service in recent winters during the big snow events when bulk fuel transports could not deliver fuel. Evergreen FS offers a fuel risk management program (hedging) that allows school and municipalities to pool their fuel purchases for volume discounts and guaranteed fuel costs. Evergreen FS provides fuel storage tank sampling and testing with storage tank maintenance recommendations at no charge to the City on an annual basis.

The timely approval of this Bid is important for the City to have the ability to purchase fuel on contract or (Hedge fuel) starting November 2015, as there is historicity that at this time, fuel is at its lowest price.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Fuel purchase was publicly bid.

**FINANCIAL IMPACT:** In FY 2015, the City Purchased 360,594 gallons of transport fuel, 64,036 gallons of tank wagon fuel, and 19,607 gallons from local retailer. The City purchased 444,237 total gallons of fuel at a cost of \$1,252,162. The current year budget for FY 2016 is \$1,495,202 in the Fleet – Fuel account (10016310-71070). Fiscal Year 2017 is expected to be slightly lower and will be budgeted in FY 2017 in the fuel account. Stakeholders can locate this in the budget book titled “Budget Overview & General Fund” on page 369.

Respectfully submitted for Council consideration.

Prepared by: Rob Krones, Superintendent of Fleet Maintenance

Reviewed by: Jim Karch, PE CFM, Director of Public Works

Reviewed by: Steve Rasmussen, Assistant City Manager

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla A. Murillo, Budget Manager

Legal review by: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:



David A. Hales, City Manager

**Attachments:**

- Contract
- Bid (2015-19)
- Council memo dated, 11/10/2014
- Record of Motions and Votes of the 11/10/2014 Council Meeting
- Purchase Order #20160061 for Fuel
- Council memos from previous Council Meetings relating to this item.

---

Motion: That the Fuel Purchasing Agreement with Evergreen FS be extended for one (1) year and the Purchasing Agent authorized to issue a Purchase Order for same.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                  | Aye | Nay | Other |                    | Aye | Nay | Other |
|------------------|-----|-----|-------|--------------------|-----|-----|-------|
| Alderman Black   |     |     |       | Alderman Mwilambwe |     |     |       |
| Alderman Buragas |     |     |       | Alderman Painter   |     |     |       |
| Alderman Fruin   |     |     |       | Alderman Sage      |     |     |       |
| Alderman Hauman  |     |     |       | Alderman Schmidt   |     |     |       |
| Alderman Lower   |     |     |       |                    |     |     |       |
|                  |     |     |       | Mayor Renner       |     |     |       |





**INVITATION TO BID**

**BID # 2015-19 Rebid**

**GASOLINE AND DIESEL FUEL FOR THE CITY OF BLOOMINGTON**

Mailing Address: Office of the City Clerk  
City of Bloomington  
109 East Olive Street  
Bloomington, IL 61701

Contact Person(s): Robert Krones  
Superintendent of Equipment Maintenance  
[rkrones@cityblm.org](mailto:rkrones@cityblm.org)

Jon C. Johnston  
Procurement Manager  
[jcjohnston@cityblm.org](mailto:jcjohnston@cityblm.org)  
309-434-2333

Bids Due: Friday October 24, 2014 at 2:00 p.m. Central Time

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LEGAL NOTICE OF  
INVITATION TO BID  
CITY OF BLOOMINGTON, ILLINOIS

Sealed bids will be received at the office of the City Clerk, City Hall, 109 East Olive Street, Bloomington, Illinois 61701, until Friday October 24, 2014 at 2:00 p.m. Central Time, at which time they will be publicly opened and read for the following:

BID # 2015-19-REBID

GASOLINE AND DIESEL FUEL FOR THE CITY OF BLOOMINGTON

Bid documents are to be obtained from the City of Bloomington Procurement Services by sending an email to [procurement@cityblm.org](mailto:procurement@cityblm.org). Respondents must provide their complete name, company name, street address, telephone number, fax number and their email address. Bid documents may also be obtained at the office of the City Clerk, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. Central time. Only contractors recorded with the City, as a bona fide plan holder, are eligible for the contract award.

The City of Bloomington reserves the right to reject any and all bids and to waive technicalities.

The City of Bloomington requires all contractors and vendors doing business with the City not to discriminate on the basis of race, age, color, religion, gender, ancestry, national origin, marital status, mental or physical disability unrelated to ability, familial status or sexual orientation.

Bid must be accompanied by a Bid guaranty which shall not be less than five percent (5%) of the amount of the Bid.

The successful bidder will be required to provide a Performance Bond and a Payment Bond in the amount equal to 100% of the contract price, within ten (10) business days after the proposal award.

---

Jon C. Johnston, Procurement Manager

Published Tuesday October 14, 2014 Bloomington, Illinois

## **TERMS AND CONDITIONS FOR BIDDERS**

**BACKGROUND:** The City of Bloomington, incorporated in 1856, is a home rule unit of government under the 1970 Illinois Constitution. The City of Bloomington is located in the heart of Central Illinois, approximately 125 miles southwest of Chicago, 155 miles northeast of St. Louis and 64 miles northeast of Springfield, the State Capital. The City of Bloomington is the County Seat of McLean County, the largest county in Illinois (approximately 762,240 acres). The results of the 2010 Census shows the City now has a population of 76,610 citizens. The economic strength of the City of Bloomington metropolitan area is well diversified with no single dominating industry.

**BID IDENTIFICATION:** Bidders are required to legibly write the bid number, bid name and due date in the lower left corner. Do **not** submit bids by fax or electronically. Bids submitted by fax or electronically cannot be accepted or considered for award. Sealed bids are required.

**DEFINITION:** "City" shall mean the City of Bloomington, Illinois.

**QUESTIONS:** Questions regarding bid/proposal procedures shall be directed to Jon Johnston, Procurement Manager, during regular working hours, telephone 309-434-2333.

Questions regarding the technical nature or performance expectations of the equipment, material, or service in the bid shall be submitted in writing to:

**Robert Krones** [rkrones@cityblm.org](mailto:rkrones@cityblm.org)  
**And**  
**Misty Shafer** at [mshafer@cityblm.org](mailto:mshafer@cityblm.org)  
**or**  
**Fax(309) 434-2874**

Questions will be answered in the form of written addenda and provided to all Bidders, as per State of Illinois statutes.

**BID PACKAGE:** If you have obtained this bid from the City of Bloomington web site or from a source other than directly from Procurement Services or the City Clerk, you are not on record as a plan holder. The Procurement Office takes no responsibility to provide addenda to parties not listed by the City as plan holders. It is the bidder's responsibility to check with the Procurement Office, or with the City Clerk's office prior to submitting your bid to ensure that you have a complete, up-to-date package. The original bid document maintained and on file in the City Clerk's office shall be considered the official "copy". Copies of all addenda shall be attached to the bid document as proof of receipt.

One original and two (2) copies of the complete bid packet should be submitted to:  
Bloomington City Clerk's Office  
109 E. Olive Street  
Bloomington, Illinois 61701

**REJECTION OF BIDS:** The City of Bloomington reserves the right to reject any and all bids and to waive technicalities and to accept that bid which is to be considered to be in the best interest of the City. Any such decision shall be considered final.

**NON-DISCRIMINATION:** The City of Bloomington requires all contractors and vendors doing business with the City not to discriminate against anyone on the basis of race, age, color, religion, gender, ancestry, national origin, marital status, mental or physical disability unrelated to ability, familial status or sexual orientation.

Contractors and Vendors shall comply with the Illinois Human Rights Act, 775 ILCS 5/101 et seq., as amended and any rules and regulations promulgated in accordance therewith, including, but not limited to the Equal Employment Opportunity Clause, Illinois Administrative Code, Title 44, Part 750 (Appendix A), 775 ILCS 5/1-102 and constituting of a written EEO policy and a workforce profile that demonstrates its EEO practices. Furthermore, the Contractor or Vendor shall comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq., as amended. The contractor or vendor must have a written sexual harassment policy, which meets Illinois Compiled State Statutes, 775 ILCS, 15/3.

**EX PARTE COMMUNICATION:** Please note that to insure the proper and fair evaluation of a proposal or bid, the City of Bloomington prohibits exported communication (i.e., unsolicited) initiated by the Bidder to a City Official (i.e. City Aldermen, Mayor, etc.) or Employee evaluating or considering the proposal/bid prior to the time a selection has been made. Communication includes but is not limited to fax, phone calls, email and personal visit. Communication between Bidder and the City will shall be directed in writing to the Purchasing Agent or designated contact person only. The Purchasing Agent will obtain the information or clarification needed. Exported communication may be grounds for disqualifying the offending Bidder from consideration or award of the proposal and repeat offenders may be disqualified from future projects.

**NO BID:** Vendors who are not able to submit a bid for this service, but wish to receive bid tabulation or to be assured of remaining on the City's bid list for similar services should clearly indicate on the envelope the designation "**NO BID**". Envelopes so marked will not be considered as a formal bid, but the contents will be responded to in the appropriate manner by City of Bloomington staff. The City will issue a purchase order to the successful vendor.

**DELIVERY:** **F.O.B. Bloomington, IL FREIGHT PREPAID. Delivery will be considered in making the award and the bidders shall state, in the spaces provided, expected delivery after receipt of Purchase Order. Failure to meet said delivery promises without prior consent of the City Procurement Manager may be considered a breach of faith.**

**FULL PRICING AND CONTINGENCIES:** Please quote your best net price including delivery and discounts to meet the approval of the City. Prices shall be stated in units of quantity specified. No additional charges shall be passed to the City, including any applicable taxes, delivery or surcharges. Prices quoted shall be the final cost to the City. The City shall hold the successful bidder to the bid pricing. Additional charges for contingencies discovered by the bidder at any time after the date of the opening of this bid may not be considered for payment

by the City. All prices and notations shall be in ink or typewritten. Mistakes may be crossed out and corrections made in ink and must be initialed and dated in ink by the person signing the bid. In case of error in the extension of prices, the unit price shall govern.

**PAYMENT TERMS:** If payment terms are not indicated, terms of NET 30 days shall be applied by the City. Payment terms to apply after receipt of invoice or final acceptance of the products/services, whichever is later. Payment terms offering less than 20 days for payment will not be considered. Please note: the City of Bloomington offers Electronic Funds Transfers (EFTs) for vendors receiving multiple payments. Please indicate whether you are or are not capable of accepting EFT payments: Yes\_\_\_\_ or No\_\_\_\_. If yes, you may receive information later if this process will apply to you.

**BID EVALUATION:** Bids will be evaluated and awarded to the lowest responsible, responsive bidder. The quality of the products/services, conformity with the specifications, suitability to the requirements, delivery terms including length of time for delivery, qualifications and references will be taken into consideration in making an award. The City will be the sole judge of acceptability of any products offered.

**QUALITY:** The scope of work or specification is intended to procure a quality product or service. Quality must be proven to the satisfaction of the City to meet or exceed requirements as set forth in the scope of work. Items shall be manufactured according to the highest traditions of the industry and shall meet all commercial standards of quality. The City will be the sole judge of acceptable products. Unacceptable products will be rejected and suitable price adjustments be made.

It is the bidder's task to be familiar with the referenced items and to offer only products of equal or greater quality. Samples, when requested, must be furnished free of expense, and upon request, if not destroyed, may be returned at the Bidder's risk and expense.

**RECOURSE FOR UNSATISFACTORY MATERIALS:** Payment shall be contingent upon the City's inspection of and satisfaction with completed work. Any defective work or materials, non-conformance to bid specifications, damaged materials, or unsatisfactory installation shall be corrected to the City's satisfaction by the successful bidder at no additional charge.

**INVESTIGATION:** Bidders must acquaint themselves with the policies of the City, and may do so by contacting the Procurement Manager. All questions as to the meaning of the scope of work must be resolved prior to the bid submission deadline. It is the Bidder's responsibility to check with City Clerk prior to submitting their bid to ensure that they have received all Addenda issued.

**PROOF OF LICENSE, PERMIT, ETC.:** Bidders must provide proof of conformance with any applicable Federal/State/Local permits, licenses, certifications, etc., or the ability to obtain any applicable Federal/State/Local permits, licenses, certifications, etc., within a reasonable time after the bid award and prior to the performance of the work. It is the bidder's responsibility to inquire about requirements of performing the job with the requesting department contact person.

**BID FORM:** This entire package shall be returned complete and intact with all information requested and all questions answered. Failure to do so may be considered grounds for rejection of the bid if such is determined to be a material deficiency. The amount of the bid shall be stated on the form(s) provided. Variations from the Specification shall be noted on a separate sheet of paper. If more space is required to furnish a description of the service offered or delivery/start terms, the vendor may attach a letter hereto, which will be made a part of the bid.

**BID SUBMISSION:**

**PLEASE SUBMIT (1) ORIGINAL AND (2) COPIES OF THE ENTIRE BID PACKET.**

**SPECIFICATION:** The Specification may, in some areas, be unique to a particular brand of product or type of service. If this situation exists, equal consideration will be given to all Bidders whose items, in the opinion of the City, meets or exceeds performance in these areas.

**ALTERNATES:** Trade names are used solely for the purpose of setting minimum standards of quality and performance and are not to be construed as exclusionary. Bidders are encouraged to contact the City Purchasing Department prior to the bid opening for the purpose of clarifying specifications.

**BRAND NAME, MODEL, SCOPE OF WORK:** All Bidders shall include with their bid brand names, models, catalog numbers, and complete information about the items they are offering. **Manufacturer's Safety Data Sheets, MSDS, are required for all chemical Bids.**

**BID OPENING: Telephone/Fax/Verbal Offers Will Not Be Accepted.**

Bids shall be publicly opened and read at the time and date set. It is the responsibility of the vendor to see that the bid is in the Office of the City Clerk, by the specified time and date. The date of the postmark will not be considered. Bids received after the time and date set may be returned unopened to the Vendor. This includes Bids not received as a result of mail delays. In the event that City Hall is closed for business at the time scheduled for the bid opening, sealed bids will be accepted on the next business day of the City, up to the originally scheduled time.

**DEFAULT BY VENDOR:** In the event of default by vendor, the City reserves the right to procure the services from other sources, and hold the vendor liable for any excess costs occasioned thereby. Additionally, a contract shall not be assignable by the Vendor in whole or in part without the written consent of the City of Bloomington.

**PERFORMANCE BOND AND PAYMENT BOND:** The successful bidder will be required to provide a Performance Bond and a Payment Bond in the amount equal to 100% of the contract price, within ten (10) business days after the bid award. The Performance Bond and Payment Bond shall be duly authorized by a company licensed to do business in the State of Illinois.

**BID BOND:** The Bid must be accompanied by a Bid guaranty which shall not be less than five percent (5%) of the amount of the Bid. At the option of the Bidder, the guaranty may be a certified check, bank draft, negotiable U.S. Government Bonds (at par value), or a commonly accepted Bid bond form from a guaranty or surety company. The Bid bond shall be secured by

a guaranty or a surety company listed in the latest issue of U.S. Treasury Circular 570. The amount of such Bid bond shall be within the maximum amount specified for such Company in said Circular 570. No Bid will be considered complete unless it is accompanied by the required guaranty. Certified check or bank draft must be made payable to the order of the City. Cash deposits will not be accepted. The Bid guaranty shall insure the execution of the Agreement and the furnishings of the surety bond or bonds by the successful Bidder, all as required by the Contract Documents.

Revised Bids submitted before the opening of Bids, whether forwarded by mail or telegram, if representing an increase in excess of two percent (2%) of the original Bid, must have the Bid guaranty adjusted accordingly; otherwise the Bid will not be considered.

Certified checks or bank drafts, or the amount thereof, Bid bonds, and negotiable U.S. Government bonds of unsuccessful Bidders will be returned as soon as practical after the opening of the Bids.

**CANCELLATION:** Failure to comply with the terms and conditions as herein stated shall be cause for cancellation of the contract. The City will provide give a written notice of unsatisfactory performance and the contractor or vendor will be allowed adequate time, typically thirty (30) days, to take corrective action and accomplish satisfactory control. If at the end of the stated time to correct the City may deem that the contractor or vendor's performance is still unsatisfactory, the contract is subject to cancellation. The exercise of its right of cancellation shall not limit the City's right to seek any other remedies allowed by law.

**WITHDRAWAL OF BID:** A vendor may withdraw a bid prior to the deadline for bid submittal by submitting a request for its withdrawal. Bids received after the time for opening bids or received at any place other than the place specified will not be considered. Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, will be submitted in writing and will be supported by a written determination made by the Purchasing Agent.

**REJECTION OF BIDS, WAIVERS OF IRREGULARITY:** The City reserves the right to reject any or all bids, to waive irregularities, and to accept that bid which is considered to be in the best interest of the City. Any such decision shall be final.

**PROTESTS:** Any actual or prospective vendor who is aggrieved in connection with this bid or award may protest to the City Council during the public Council meeting. The protest shall be submitted in writing to the Office of the City Clerk immediately after such aggrieved person knows or should have known of the facts giving rise and the City Clerk will place same on the Council agenda if not resolved prior to that time.

**PREVAILING WAGE:** The City does not anticipate requiring the payment of prevailing wage rates, as determined by the State of Illinois, for this project. The State of Illinois requires under public works contracts that the general prevailing rate of wages in this locality be paid for each craft or type of worker hereunder. This requirement is in accordance with the Prevailing Wage Act (820 ILCS 130) as amended. This shall include payment of the general prevailing rate for legal holiday and overtime work. It shall be mandatory upon the subcontractor under the Contractor. A copy of the most current monthly prevailing wage rates by County is posted on



the Illinois Department of Labor website at [www.state.il.us/agency/idol](http://www.state.il.us/agency/idol). Note that the Prevailing Wage rates change monthly and it is the contractor's responsibility to ensure the correct wage is paid.

**CERTIFIED PAYROLL REQUIREMENTS (Public Act 94-0515):** The City does not anticipate requiring the payment of prevailing wage rates, as determined by the State of Illinois, for this project. ~~Effective August 10, 2005, contractors and subcontractors on public works projects must submit certified payroll records on a monthly basis to the public body in charge of the construction project along with a statement affirming that such records are true and accurate, that the wages paid to each worker are not less than the required prevailing rate for that County and that the contractor is aware that filing records he or she knows to be false is a Class B misdemeanor. The certified payroll records must include for every worker employed on the public works project, the name, address, telephone number, social security number, job classification, hourly wages paid in each period, number of hours worked each day, and starting and ending time of each work day. These certified payroll records are considered public records and public bodies must make these records available to the public under the Freedom of Information Act, with the exception of the employee's address, telephone number and social security number. Any contractor who fails to submit a certified payroll or knowingly files a false certified payroll is guilty of a Class B misdemeanor.~~

**SUBSTANCE ABUSE PREVENTION ON PUBLIC WORKS PROJECTS ACT:** The successful bidder must be in compliance with the State of Illinois HB-1855 (Public Act 095-0635), which amends the Prevailing Wage Act. Before an employer commences work on a public works project, the employer shall have in place a written program, which meets or exceeds the program requirements in this Act, to be filed with the public body engaged in the construction of the public works and made available to the general public, for the prevention of substance abuse among its employees. The testing must be performed in a laboratory that is certified for Federal Workplace Drug Testing Programs by the Substance Abuse and Mental Health Service Administration of the U.S. Department of Health and Human Services.

**OSHA REQUIREMENTS:** The Occupational Safety and Health Act of 1970 (OSHA), "guarantees workers the right to a safe and healthful workplace." Under Section 5(a) (1) of the OSHA Act, the employer must "furnish to each of his employees' employment and place of employment which are free from recognized hazards that are causing or likely to cause death or serious physical harm to its employees."

There are times when the City must hire entities and individuals (contractors) to perform services. To this end, contractors hired by the City must perform their duties in a manner that is compliant with all State and Federal health and safety laws and industry guidelines. It is the responsibility of the contractor to ensure that their personnel and subcontractors comply with all State and Federal health and safety laws, regulations and industry guidelines, including, but not limited to those set forth by: OSHA and related regulations, the Safety Inspection and Education Act, the Health and Safety Act, the National Institute of Occupational Safety and Health, the National Fire Protection Association, the Centers for Disease Control, American Industrial Hygiene Association, the American Council of Governmental Industrial Hygienists, the Environmental Protection Agency and the Department of Transportation.

**SECURITY:** The contractor represents and warrants to the City that neither it nor any of its principals, shareholders, members, partners or affiliates, as applicable, is a person or an entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated or Blocked Person. The contractor further represents and warrants to the City that the contractor and its principals, shareholders, members, partners, or affiliates as applicable, are not directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as Specially Designated National and Blocked Person. The contractor hereby agrees to defend, indemnify and hold harmless the City of Bloomington, and all City elected or appointed officials, officers, employees, agents, representatives, engineers and attorneys, from and against any and all claims, damages, losses, risks, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from or related to any breach of the foregoing representation and warranties.

**PURCHASE EXTENSION: Not Applicable To This Contract**

This contract shall be offered for purchases to be made by other governmental units within the State of Illinois as authorized by the Government Joint Purchasing Act. All purchases and payments made under this authority shall be made directly by the governmental unit to the vendor. The City shall not be responsible in any way for such purchase orders or payments. All terms and conditions of this contract shall apply to all orders placed by another governmental unit.



**The completion and submission of this page with the bid is mandatory**

**REFERENCES:**

Three (3) references are **required** with your proposal. The references shall be from three different sources. Bidder may use the City of Bloomington as one reference if the Bidder has provided this equipment or service to the City since January 1, 2010

(1.) Company Name: \_\_\_\_\_

Company address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Company Contact Name or Department: \_\_\_\_\_

Company Contact Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Company Contact e-mail address: \_\_\_\_\_

(2.) Company Name: \_\_\_\_\_

Company address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Company Contact Name or Department: \_\_\_\_\_

Company Contact Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Company Contact e-mail address: \_\_\_\_\_

(3.) Company Name: \_\_\_\_\_

Company address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Company Contact Name or Department: \_\_\_\_\_

Company Contact Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Company Contact e-mail address: \_\_\_\_\_

**The completion and submission of this page with the bid is mandatory**

***\*\*\*NOTE: YOUR BID IS SUBJECT TO DISQUALIFICATION IF YOU FAIL TO SIGN THE FOLLOWING CONTRACTOR COMPLIANCE AND INSURANCE DOCUMENTS***

**Contractor Compliance with Public Act 85-1295:**

The vendor certifies by signing this statement that this bid is made without prior understanding, agreement or accord with any other person submitting a bid for the same product or service and that this bid is in all respects bona fide, fair and not the result of any act of fraud or collusion with another person engaged in the same line of business or commerce. Furthermore, the firm certifies that it is not barred from bidding on this contract as a result of a conviction for the violation of State laws prohibiting bid-rigging or bid-rotating. Any false statement hereunder constitutes a felony and can result in a fine and imprisonment as well as civil damages. The vendor also understands that failure to sign this statement will **may** make the bid non-responsive and unqualified for award.

---

Print Name & Date

---

Authorized Signature

---

Company Name

**Insurance:**

Vendors providing a service or installing equipment on or about City property shall provide to the City Clerk evidence of Comprehensive, Liability, and Workman's Compensation insurance prior to commencement of work on City property. The vendor guarantees to save the City, its agents or employees, harmless from liability of any nature or kind, for use of any copyright, composition, secret process, patented or unpatented invention, articles or appliances furnished or used in the performance of the contract, or which the vendor is not the patentee, assignee, or licensee.

Furthermore, the vendor hereby agrees to save and hold harmless and indemnify the City from and against all injury, death, damage, loss, claims and liability caused by or arising out of the performance of this agreement by the Vendor, its employees, agents or sub-vendors. This agreement extends to all claims, of any nature, whether made by the Vendor's employees or third parties.

---

Print Name & Date

---

Authorized Signature

---

Company Name

**The completion and submission of this page with the bid is mandatory**

**GIFT BAN ACT:**

I certify that \_\_\_\_\_ (print company name), its officers, employees and agents, have not made any gifts to officers or employees of the City of Bloomington in violation of Illinois Compiled Statutes, 5 ILCS 430/Article 10, State Officers and Employees Ethics Act (commonly known as the "Gift Ban Act"). The Act is available online at: <http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=000504300HArt%2E+10&ActID=2529&ChapterID=2&SeqStart=1700000&SeqEnd=2200000> under.

I further certify that as a bidder, I have not violated the Bloomington City Code Chapter 2, Administration; Article I, Section 8: Officers and Employees Generally: Section 8a Prohibition on the Solicitation and Acceptance of Gifts; and 8b State Officials and Employees Ethics Act. This section of the Bloomington City Code is available online at <http://www.cityblm.org/code.asp?show=section&id=3450>.

\_\_\_\_\_  
Print Name & Date

\_\_\_\_\_  
Authorized Signature

**Equal Opportunity Guidelines:**

The City requires all contractors and vendors doing business with the City not to discriminate against anyone on the basis of race, age, color, religion, gender, sexual orientation, ancestry, national origin, and non-job-related disabilities. This program was approved by the City Council on May 27, 1974. In accordance with this program the City shall require that the vendor or contractor be familiar and comply in every respect with the provisions of this program. Information regarding the program may be obtained by contacting the Human Relations Department 309/434-2218.

**INSURANCE REQUIREMENTS:** The Contractor shall indemnify and save harmless the City, its officers, agents, employees and servants against all loss, damage or expense that it or they may sustain as a result of any suits, actions or claims of any character brought on account of property damage, injury to or death of any person or persons, including all persons performing any work under the contract, which may arise in connection with the work to be performed under the contract.

This contract is not intended by any of the Provisions of any part of the contract to create the public or any member thereof a third party beneficiary, or to authorize any one not a party to this contract to maintain a suit for personal injuries or property damage pursuant to the terms or Provisions of this contract. The duties, obligations and responsibilities of the parties to this contract with respect to third parties shall remain as imposed law.

The Contractor, prior to execution of the contract, shall file with the City copies of completed certificates of insurance, satisfactory to the City to afford protection against all claims for damages to public or private property, and injuries to persons, arising out of and during the progress of the work to its completion. The policy of insurance shall include the City as an additional insured or provide separate coverage with an Owner's Protective policy. ***All Certificates of Insurance shall include a full written disclosure of all policy exclusions. No exclusions shall be made by reference to documents not included in or attached to the Certificate.*** The minimum amounts of insurance shall be as follows, except no restrictions on occurrence limits will be permitted:

**Bodily Injury Liability: \$1,000,000 Each Occurrence**

**Property Damage Liability:**

|                               |
|-------------------------------|
| \$1,000,000 Each Occurrence   |
| \$1,000,000 Aggregate         |
| \$2,000,000 General Aggregate |

**Products-Completed Operations Aggregate Limit: \$2,000,000**

All such insurance must include an endorsement whereby the insurer agrees to notify the City at least 30 days prior to nonrenewable, reduction or cancellation. The Contractor shall cease operations on the project if the insurance is canceled or reduced below the required amount of coverage. All costs for insurance as specified herein will not be paid for separately, but shall be considered as incidental to the contract.

The City requires contractors to carry insurance limits that adequately protect the City's interests against actions by all contractors with whom they do business. In addition to the standards identified in the proposal the successful contractor must agree to provide coverage for "work or materials to this project as a result of acts, errors, or omissions of the contractor to the extent of the laws of the State of Illinois". Any deviations from this standard may be presented as a variation from the specifications and will be taken under advisement.

## **EQUAL EMPLOYMENT OPPORTUNITY**

In the event of the contractor's non-compliance with the provisions of this Equal Opportunity Clause, the Illinois Human Rights Act or the Rules and Regulations of the Illinois Department of Human Rights ("Department"), or the City of Bloomington's Contract Compliance Program, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, including the City of Bloomington, and the contract may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute, ordinance or regulation. During the performance of this contract, the contractor agrees as follows:

(1) That it will not discriminate against any employee or applicant for employment because of race, color, religion, gender, sexual orientation, marital status, national origin or ancestry, age, physical or mental disability unrelated to ability, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such under-utilization.

(2) That, if it hires additional employees in order to perform this contract or any portion thereof, it will determine the availability (in accordance with the Department's Rules and Regulations or those of the Human Relations Commission) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.

(3) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, gender, sexual orientation, marital status, national origin or ancestry, age, physical or mental disability unrelated to ability, familial status, or an unfavorable discharge from military service.

(4) That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the contractor's obligations under the Illinois Human Rights Act and the Department's Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the contractor in its efforts to comply with such Act and Rules and Regulations, the contractor will promptly so notify the Department and Human Relations Commission and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.

(5) That it will submit reports as required by the Department's Rules and Regulations and Human Relations Commission, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules and Regulations and those of the City of Bloomington's Contract Compliance Program.

(6) That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations and those of the City of Bloomington's Contract Compliance Program.

(7) That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency, the Department and the Human Relations Commission in the event any subcontractor fails or refuses to comply therewith. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission or Human Relations Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations including the City of Bloomington.



Community Relations  
109 E. Olive St.  
Bloomington, IL 61701-3157  
(309) 434-2218 (TTY) 829-5115

To Whom It May Concern:

The City of Bloomington's Equal Opportunity in Purchasing Ordinance and the Bloomington Human Relations Ordinance requires that any entity doing business with the City in the excess of \$10,000 during one year, must submit an Affirmative Action Report Form and an Affirmative Action Plan.

It is my understanding that your company will be or are presently a contractor/offeree for the City of Bloomington. In order for this office to approve your company to continue to conduct business with the City of Bloomington, all of the enclosed forms must be submitted to the Community Relations Division within 14 days after receipt of the requested information.

Please complete the enclosed information in its entirety and return it to the Community Relations Office. If your company has an approved Affirmative Action Plan, you may submit it instead of completing the enclosed forms. You must also include a breakdown of your present workforce by race and gender.

If the information requested is not submitted, your company may not be approved to do business with the City of Bloomington and could subsequently not be placed on the "Approved Contractor/Offeree List."

If you should have any questions regarding either of the forms, please feel free to contact me at (309) 434-2468

Sincerely,

Ernestine Jackson  
Equal Opportunity Associate

**CITY OF BLOOMINGTON  
COMMUNITY RELATIONS DIVISION**

**City of Bloomington  
Community Relations Division  
109 E. Olive Street  
Bloomington, IL 61701**

**(309) 434-2215**

**(309) 434-2831 (Fax)**

**Failure to properly complete this form prior to the execution of a contract with the City of Bloomington, or within 7 days after a request for submission of this report, may result in it being returned unprocessed thereby resulting in a delay or denial of eligibility to bid or do business with the City of Bloomington.**

**Section I. Identification**

1. Company Name and Address:

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

D/b/a: \_\_\_\_\_

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

City/State/Zip: \_\_\_\_\_

Telephone Number(s) Area Code: \_\_\_\_\_

**Check one of the following:**

**Corporation      Partnership      Individual Proprietorship      Limited Liability Corp.**

2. Name and Address of the Company's Principal Office (answer only if not the same as above).

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

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

City/State/Zip: \_\_\_\_\_

3. Major activity of your company (product or service):

\_\_\_\_\_

## Section II. Policies and Practices

### Description of EEO Policies and Practices

- A. Is it the Company's policy to recruit, hire, train, upgrade, and discipline persons without regard to race, sex, color, religion, national origin, age, mental and/or physical disability, and sexual orientation?

YES \_\_\_\_\_ NO \_\_\_\_\_

- B. Has someone been assigned to develop procedures, which will assure that the EO policy is implemented and enforced by managerial, administrative, and supervisory personnel? If so, please indicate the name and title of the charged with this responsibility.

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

Title: \_\_\_\_\_

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

- C. Has the Company developed a written Equal Opportunity Plan? **Note: A copy of the Equal Opportunity Plan must be submitted with this form in order to be considered eligible to do business with the /city of Bloomington.** If you would need technical assistance in developing your plan, please contact the Community Relations Office at: (309) 434-2215.

YES \_\_\_\_\_ NO \_\_\_\_\_

- D. Has the Company developed a written policy statement prohibiting Sexual Harassment? Please attach a copy of the policy statement.

YES \_\_\_\_\_ NO \_\_\_\_\_

- E. Have all recruitment sources been notified that the Company will consider all qualified applicants without regard to race, color, age, sex, national origin, religion, mental and/or physical disability, or sexual orientation?

YES \_\_\_\_\_ NO \_\_\_\_\_

- F. If advertising is used, does it specify that all qualified applicants will be considered for employment without regard to race, color, age, sex, national origin, religion, mental and/or physical disability, or sexual orientation?

YES \_\_\_\_\_ NO \_\_\_\_\_

- G. Has the contractor notified all of its sub-contractors of their obligations to comply with the Equal Opportunity requirements either in writing, by inclusion in subcontractors or purchase orders?

YES \_\_\_\_\_ NO \_\_\_\_\_



H. Is the Company a state certified minority/female owned business? If yes, please attach a copy of the state certification.

YES \_\_\_\_\_ NO \_\_\_\_\_

I. Does the Company have collective bargaining agreements with labor organizations?

YES \_\_\_\_\_ NO \_\_\_\_\_

J. Has the labor organization been notified of the Company's responsibility to comply with the Equal Employment Opportunity requirements in all contracts by the City of Bloomington?

YES \_\_\_\_\_ NO \_\_\_\_\_

### Section III. Employment Information

A. Please complete the company workforce analysis form on the bottom of this page. Use the number of employees as of the most recent payroll period. Be sure to complete all applicable columns.

\_\_\_\_\_  
B. Job Classifications (See descriptions attached)

C. Identify the geographical area(s) from which the company may reasonably recruit employees (use city, county, SMSA, or distance in miles from your company location).

\_\_\_\_\_  
D. If minorities and women are currently under-utilized in your workforce, please attach a copy of an explanation for your plan to recruit and hire minorities and women.

### Section IV. Certification

The Company certifies that it has answered all of the foregoing questions truthfully to the best of its knowledge and belief. The Company also agrees that it will comply and abide by the City of Bloomington's Contract Compliance Ordinance and the City of Bloomington Human Relations Ordinance.

|                   |                               |                         |             |
|-------------------|-------------------------------|-------------------------|-------------|
|                   |                               |                         |             |
| <b>Signature:</b> | <b>Print Name &amp; Title</b> | <b>Telephone Number</b> | <b>Date</b> |

# CITY OF BLOOMINGTON COMMUNITY RELATIONS DIVISION

## CONTRACT COMPLIANCE WORKFORCE ANALYSIS

| Job Categories            | Overall Totals |     | White(Not Of Hispanic origin) |     | Black of African American (Not of Hispanic Origin) |     | Hispanic of Latino |     | Asian of Pacific Islander |     | American Indian or Alaskan Native |     |
|---------------------------|----------------|-----|-------------------------------|-----|----------------------------------------------------|-----|--------------------|-----|---------------------------|-----|-----------------------------------|-----|
|                           | M              | F   | M                             | F   | M                                                  | F   | M                  | F   | M                         | F   | M                                 | F   |
| (A)                       | (B)            | (C) | (D)                           | (E) | (F)                                                | (G) | (H)                | (I) | (J)                       | (K) | (L)                               | (M) |
| Officials & Managers      |                |     |                               |     |                                                    |     |                    |     |                           |     |                                   |     |
| Professionals             |                |     |                               |     |                                                    |     |                    |     |                           |     |                                   |     |
| Technicians               |                |     |                               |     |                                                    |     |                    |     |                           |     |                                   |     |
| Office & Clerical         |                |     |                               |     |                                                    |     |                    |     |                           |     |                                   |     |
| Craft Workers (skilled)   |                |     |                               |     |                                                    |     |                    |     |                           |     |                                   |     |
| Operatives (semi-skilled) |                |     |                               |     |                                                    |     |                    |     |                           |     |                                   |     |
| Laborers (unskilled)      |                |     |                               |     |                                                    |     |                    |     |                           |     |                                   |     |
| Service Workers           |                |     |                               |     |                                                    |     |                    |     |                           |     |                                   |     |
|                           |                |     |                               |     |                                                    |     |                    |     |                           |     |                                   |     |
| <b>TOTAL</b>              |                |     |                               |     |                                                    |     |                    |     |                           |     |                                   |     |

M= Male, Column B is sum of rows D, F, H, J, and L

F= Female, Column C is sum of Rows E, G, I, K, and M

Date of above: \_\_\_\_\_

Name of person that compiled the above data: \_\_\_\_\_

## RESOLUTION NO. 2014 - 29

### **A RESOLUTION OF THE CITY OF BLOOMINGTON, McLEAN COUNTY, ILLINOIS ASCERTAINING THE PREVAILING RATES OF WAGES FOR LABORERS, WORKERS AND MECHANICS ENGAGED IN PUBLIC WORKS WITH THE CITY OF BLOOMINGTON**

WHEREAS, the Prevailing Wage Laws, 820 ILCS 130/1 et seq., as amended, require that each public body awarding any construction contract for public work or doing such work by day labor shall ascertain the general prevailing hourly rates of wages for employees engaged on such work; and

WHEREAS, “public work”, as defined in the Prevailing Wage Law, includes commercial or industrial projects financed in whole or in part through the issuance of revenue bonds by the City of Bloomington under authority of the Industrial Project Bond Act or Home Rule Ordinance or financed in whole or in part through other public funds, without regard to what person or entity formally contracts for such work; and

WHEREAS, the statutes further provide that said rates be published, publicly posted and/or kept available for inspection by any interested party in the Office of the Secretary of State and Labor Department; and

WHEREAS, the City of Bloomington believes Prevailing Wage Law should apply to private commercial economic development projects directly supported by public funds, including projects supported by Tax Increment Financing or tax incentives of any kind; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bloomington, County of McLean, State of Illinois that the prevailing wages as established and regularly updated by the Illinois Department of Labor are incorporated herein by reference as the prevailing rates of hourly wages in the City of Bloomington, Illinois for the laborers, workers and mechanics specified therein who are engaged in the construction of public works within the jurisdiction of this municipality; and

BE IT RESOLVED that the prevailing wages as established and regularly updated by the Illinois Department of Labor, as show on the attached McLean County Prevailing Wage for June 2014, shall be paid to laborers, workers and mechanics specified therein when such persons perform work on private commercial economic development projects directly supported by public funds, including projects supported by Tax Increment Financing or tax incentives of any kind; and

BE IT RESOLVED that contractors shall submit to the City on a monthly basis all certified payroll records for prevailing wage work performed by contractor employees and subcontractors. The certified payroll records must include the following for each employee employed on the project: Name, Address, Telephone Number, Social Security Number, Job Classification, hourly wages paid in each pay period, number of hours worked each day and starting and ending time of work each day. The contractor shall submit these records with a signed statement that the records are true and accurate, that the wages paid to each worker are not less than the prevailing rate and that the contractor is aware that filing records known to be false is a Class B misdemeanor offense; and

BE IT RESOLVED that nothing herein contained shall be construed to apply said prevailing hourly rates of wages in the locality to any work or employment other than public works or private

commercial economic development projects directly supported by public funds as defined in the Act and this Resolution; and

BE IT RESOLVED that contractors awarded contracts for public work as defined by state statute and this Resolution should, as a prerequisite to such contract, obtain the current prevailing wage rates from the Illinois Department of Labor and regularly check for updated prevailing wage rates during the entire duration of said contract for the locality; and

BE IT RESOLVED that the City Clerk shall mail a copy of this Resolution to any employer, any association of employers, and to any person or association of employees who have filed or do file their names and addresses with the Clerk requesting copies of any determination under said law of the particular rates and of the particular classes of persons whose wages will be affected by such rates; and

BE IT RESOLVED that the City Clerk shall promptly file a certified copy of this Resolution with the Department of Labor of the State of Illinois; and

BE IT RESOLVED that the City Clerk, as required by law, shall cause to be published in a newspaper of general circulation within the area of this municipality a notice of this Resolution and that it is the effective prevailing wage determination of this public body.

ADOPTED this 23<sup>rd</sup> day of June, 2014

APPROVED this 24<sup>th</sup> day of June, 2014

APPROVED:

Tari Renner  
Mayor

ATTEST:

Tracey Covert  
City Clerk

## **SPECIFICATIONS**

### **General Information:**

The City of Bloomington (hereinafter referred to as "City") maintains a number of refueling sites around the City and at Lake Bloomington for refueling of the City's five hundred plus (500+) pieces of equipment. A list of the refueling sites including tank sizes, tank types, and locations is included in this Specification. The City operates its vehicles and equipment on gasoline with a 10% blend of ethanol and on-road and off-road diesel fuel with up to a 20% blend of Bio Fuel.

The Underground Storage Tanks (USTs) at the Public Service Department fuel station located at 401 S. East St. can accept deliveries from transport tankers. All other sites require tank wagon deliveries.

In Fiscal Year 2013, the City purchased approximately 432,000 gallons of fuels for its fleet, of which: 352,000+/- gallons were delivered by transport tankers to the Public Service Department fuel station, 63,000 +/- were delivered by tank wagon to various locations including emergency generators, and 17,000 +/- gallons were purchased through the current supplier's local fuel stations. Normal delivery hours are between 8:00 AM and 2:00 PM on Fridays.

The average loads for the Public Service tank delivery are -

Average Diesel load is 3,000+/- gallons

Average No Lead Gasoline load is 3,500+/- gallons

The types of fuels delivered to the Public Works fuel site last year was approximately:

No Lead Gasoline -186,000

Bio Diesel 20% -68,000

Bio Diesel 11% -44,000

Bio Diesel 5% -40,000

Diesel (Non Bio) - 14,000

Evidence of BQ-9000 certification of provider is required

The bid shall reflect the "margin over the terminal cost".

The use of common carriers is allowed to deliver the fuel but the bidder will be held accountable for deliveries.

Testing of the tanks shall be scheduled by the City in September of each year and cleaning of the interior of the tanks shall be undertaken as needed.

The city also purchases a small amount (less than 1,000 gallons each) of LP and Kerosene.

### **Definitions:**

For the purpose of this Bid Specification, the following definitions will apply:

- **Bio Fuel** -- 98%-100% processed Soy oil.
- **Bio Diesel** -- #2 diesel fuel with up to 20% Bio Fuel added.

**Compliance with Specifications:**

Bidders are required to write "**Comply**" or "**Does Not Comply**" in the space provided. In the event that your bid does not meet the minimum requirements, you are required to explain your variations in the space provided or provide an additional sheet of paper to explain your variation.

In the event that your bid exceeds the minimum requirements, you are required to explain your variations in the space provided or provide an additional sheet of paper to explain your variation.

Bids containing variations will be considered. In the event of a "No Bid" please indicate it on the Bid Form.

## **The Completion and Submission of This Page with the Bid Is Mandatory**

### **Bid/Contract Requirements:**

1. The City is seeking bids for the **markup charged** to the per gallon price of Diesel fuel, with up to a 20% blend of bio and no-leaded gasoline with 10% ethanol delivered to the City's storage tanks.

**Comply/Does Not Comply, State variation**

2. The term of this contract shall be 12 months January 1, 2015 thru December 31, 2015. The City anticipates awarding the contract on November 10, 2014 for the purpose of "hedging" or the pre ordering of fuel purchases for the City's 2016 Fiscal Year with the successful bidder. This contract will have the option of four (4) one year renewals based upon overall performance by the successful Bidder and mutual agreement of both parties. The renewals will be granted with City Council approval.

**Comply/Does Not Comply, State variation**

3. The Bidder shall have sufficient equipment and have access to supplies from the manufacturer so as to be able to deliver any item required in this Specification to any site at any time fuel would be needed. The tanks at the Public Service Department fuel station are accessible by fuel "Transport Tanker Trucks". All other tanks need to be accessed with "Tank Wagons". Delivery of the product may need to be made to the site at the request of the department responsible for the site at a mutually convenient time. The successful Bidder may make arrangements with any site manager to "top" any tank at the site at the convenience of the supplier.

**Comply/Does Not Comply, State variation**

4. The successful Bidder shall be capable of providing service twenty-four (24) hours per day, seven (7) days per week, including holidays, for emergency deliveries such as during snow removal operations, refueling fire apparatus on working fires, and any other disasters or emergencies declared by the City. The Bidder shall also be capable of "wet hosing" City vehicles/equipment when needed.

**Comply/Does Not Comply, State variation**

**The completion and submission of this page with the bid is mandatory**

5. The successful Bidder shall supply to the City of Bloomington Fleet Management Department an emergency contact list of their employees who may be contacted for after-hours emergency deliveries. The City of Bloomington Fleet Management Department shall be notified immediately of any changes in the list. The list shall be arranged in the order that the employees should be contacted.

**Comply/Does Not Comply, State variation**

6. Ordering of fuel for the Public Service Department fuel station:

- A. These tanks are monitored and ordering is done by the staff of the Fleet Management Department.
- B. After consultation, the Fleet Management Department staff will order diesel fuel appropriately blended up to B20 and blends shall be adjusted seasonally to prevent gelling. This adjustment may include any of the following: adjust the Bio Fuel rate, and addition of number 1 diesel fuel, or addition of an additive to the fuel to prevent fuel gelling. Gasoline will be ordered at this time if needed.
- C. Successful Bidder shall notify the Fleet Management Department staff on the day transport loads of fuel are ordered of the delivery time and the price per gallon for diesel fuel and gasoline.

**Comply/Does Not Comply, State variation**

7. The City has had excellent results with the use of B2-B20 diesel fuel for the past ten (10) years. The Bio Fuel to be blended with diesel fuel shall meet the following guidelines:

- A. Used cooking oil **will not** be allowed in the manufacturing of Bio Fuel.
- B. All Bio Fuel shall be processed by **distillation**.
- C. The Bio Fuel shall meet **ASTM D6751, but will exceed the standard in the following area:**
  - a. **Glycerin content shall be less than .15%**
  - b. **Water & Sediment, volume, maximum shall be less than 0.025%**
  - c. **Copper Strip corrosion, max, 3hr@50C will be no. 1**
  - d. **Shall pass a 360 Sec. maximum cold soak test**
  - e. **Cloud point should be less than 2 Degrees C January thru March.**
- D. The Bio Fuel must be filtered with a **10** micron filter prior to blending with the diesel fuel.



**The completion and submission of this page with the bid is mandatory**

- E. The Bio Fuel must be **injection blended** into the diesel fuel.
- F. The Bidder's Bio Fuel tanks must be **heated** to prevent gelling and fallout.
- G. The Bio Fuel provider must be a **BQ9000 producer or in the qualification process.**
- H. No change of Bio Fuel provider shall be made without prior approval by the City.
- I. Bidder must provide **documentation of #7C; a-d, 7D & 7E, #8, and #9 at the time of delivery.** The Fleet Management Department may waive this requirement (#7 C-E with each load) after a history is established but reserves the right to re-establish the requirement or ask for spot checks of the loads.

**Comply/Does Not Comply, State variation**

- 8. If at any time during the term of this contract, the City deems it no longer economical to add Bio Fuel to the diesel fuel, then the City reserves the right to discontinue adding the Bio Fuel to the diesel fuel.

**Comply/Does Not Comply, State variation**

- 9. No-Lead Gasoline shall be as defined by the Society of Automotive Engineers (SAE) as Regular Gasoline with an Octane Rating of not less than 87 Octane.
  - A. Octane Rating will be found using the Anti-Knock Index (AKI). This is the Research Octane Number (RON) plus the Motor Octane Number (MON) divided by 2 or  $(R+M)/2$ .
  - B. No-lead shall contain 10% Ethanol.

**Comply/Does Not Comply, State variation**

- 10. On-Road #2 Ultra Low Sulfur Diesel Fuel shall have a Cetane rating of 40.0 Minimum and a Flash Point rating of 130 Degree Fahrenheit Minimum.  
Cloud Point 14 degrees Fahrenheit Maximum.  
Pour Point 0 degrees Fahrenheit Maximum.  
Viscosity of 1.9 Minimum and 4.1 Maximum 104 degrees Fahrenheit.

**Comply/Does Not Comply, State variation**

**The completion and submission of this page with the bid is mandatory**

- 11.** Bidders will provide detailed specifications of their products with their bids. Specifications Shall include Product Properties, ASTM Test Method used, Test Results Minimums And Maximums.

**Comply/Does Not Comply, State variation**

- 12.** The successful Bidder shall supply all MSDS sheets for their products to the Fleet Management Department.

**Comply/Does Not Comply, State variation**

- 13.** The successful Bidder will provide all necessary information to the City, and conform to all State and Federal requirements relating to bulk storage, delivery, identification, etc. as may be required by applicable regulatory agencies.

**Comply/Does Not Comply, State variation**

- 14.** During the term of this contract the City may install more gasoline and diesel fuel storage tanks. The successful Bidder will be kept updated as additional tanks are put into service.

**Comply/Does Not Comply, State variation**

- 15.** The successful Bidder shall operate a local tank farm with the ability to deliver fuel from the tank farm to the City, or shall provide a fueling location in the city limits of Bloomington, IL. that the City can access 24 hours a day 7 days a week including all holidays in the event of a natural or man-made disaster.

**Please list locations below:**

**The completion and submission of this page with the bid is mandatory**

**Please list the daily average amount of product available of no lead and diesel fuel below:**

**Comply/Does Not Comply, State variation**

- 16.** The successful Bidder shall employ a full-time Energy Manager available to discuss needs and fuel pricing with the City during the term of this contract.

**Comply/Does Not Comply, State variation**

- 17.** The successful Bidder shall allow the City to 'hedge' or pre order 'wet gallons' fuel for the contract period.

**Comply/Does Not Comply, State variation**

- 18.** The successful Bidder shall be able to perform testing of gasoline & fuel products for contamination and cleaning of the interior of the City's fuel tanks at no charge to the City.

**Comply/Does Not Comply, State variation**

- 19.** Successful Bidder shall provide the City with a method to purchase fuel from local retail pumps, i.e. fuel cards or other methods acceptable to the City.

**Comply/Does Not Comply, State variation**

## CHART OF TANK SIZES, TYPE AND LOCATIONS

**Current January 1, 2014**

Fuel tank sizes and locations to refuel fleet vehicles and equipment:

### **Public Service Department - 401 S. East St.**

One - Diesel 10,000 gal. UST

One - Gasoline **unleaded** 6,000 gal. UST

Fleet Management Department places the orders for these two tanks

### **Bloomington Water Department at Lake Bloomington**

One - Gasoline 500 gal. AST Lake Bloomington Water Treatment Plant

One - On Road Diesel 500 gal. AST Lake Bloomington Water Treatment Plant

These two tanks are normally on a keep filled basis

### **Parks and Golf Courses**

One - On Road Diesel 500 gal. AST Forrest Park Maintenance Facility

One - Gasoline 500 gal. AST Forrest Park Maintenance Facility

One - Off Road Diesel 500 gal. AST Highland Golf Course

One - Gasoline 500 gal. AST Highland Golf Course

One - Off Road Diesel 500 gal. AST Prairie Vista Golf Course

One - Gasoline 500 gal. AST Prairie Vista Golf Course

One - Off Road Diesel 500 gal. AST The Den Golf Course

One - Gasoline 500 gal. AST The Den Golf Course

These fuel tanks are normally on a "keep filled" basis.

### **Emergency Generators**

The City also has many emergency generators at various locations in the Bloomington/Normal area and at Lake Bloomington for emergency operations. The successful Bidder will receive the list of emergency generators after the award of the contract. All emergency generators are accessible by tank wagons. Some emergency generators are on keep fill, but most have fuel ordered as needed by city staff.

### **Renewal Options**

1<sup>st</sup> Renewal: November 1, 2015 through October 31, 2016

2<sup>nd</sup> Renewal: November 1, 2016 through October 31, 2017

3<sup>rd</sup> Renewal: November 1, 2017 through October 31, 2018

4<sup>th</sup> Renewal: November 1, 2018 through October 31, 2019

**PLEASE USE THIS FORM TO PROVIDE THE VARIANCE FOR ANY ITEMS IN THE SPECIFICATION: (form may be duplicated)**

[illegible]

**BID FORM**  
**BID # 2015-19 - Rebid**

**GASOLINE AND DIESEL FUEL FOR THE CITY OF BLOOMINGTON**

We, the undersigned, agree to the terms and conditions used by the City of Bloomington, Illinois, at the bid price submitted, and to supply all services and/or commodities as required in the requirements and Instructions to Bidders. We further agree to deliver the commodity and/or services as outlined with in this document, FOB Bloomington, Illinois, freight prepaid.

The cost of all labor, material, and equipment necessary for the completion of the work itemized, even though not shown or specified, shall be included in the unit price for the various items shown hereon. The City of Bloomington reserves the right to increase or decrease the quantity of any item or omit items as deemed necessary, and the same shall in no way affect or make void the contract. When increases or decreases are made, appropriate additions or deductions from the contract total price will be made at the stipulated unit price.

The bidder certifies by signature below that it has not been barred from contracting with a unit of State or Local government in the State of Illinois as a result of a violation of Section 33E-3 or 33E-4 of the Criminal Code of 1961, as amended.

We further agree to complete all of the above work in a complete, neat, and workmanlike manner. Payment of prevailing wage rates as predetermined by the Bloomington City Council pursuant to the Prevailing Wage Ordinance 2014-29 is acknowledged.

| <b>Product</b>                         | <b>Markup Cents Per Gallon</b> |            |
|----------------------------------------|--------------------------------|------------|
|                                        | Transport                      | Tank Wagon |
| Unleaded gasoline with 10% ethanol     | \$_____                        | \$_____    |
| No. 1 Diesel Fuel                      | \$_____                        | \$_____    |
| No. 2 Diesel Fuel, up to 20% Bio added | \$_____                        | \$_____    |

| <b>Product</b> | <b>Discount from Retail at the time of purchase</b> |
|----------------|-----------------------------------------------------|
| LP             | _____                                               |
| Kerosene       | _____                                               |

**Bid Form Continued on next page**

**BID FORM cont.**

**BID # 2015-19 - Rebid**

**GASOLINE AND DIESEL FUEL FOR THE CITY OF BLOOMINGTON**

We, the undersigned, agree to sell and deliver fuel to the City of Bloomington per the Specification, from contract award through **October 31, 2015**, at the terminal price plus the above listed bid markup, plus applicable State and Federal taxes, and to meet the conditions set forth in the Specifications and General Instructions to Bidders.

\_\_\_\_\_  
Firm

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City                      State                      Zip

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Date

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

## **BID CHECKLIST:**

1. Return the **entire** packet – not just your response
2. Sign and Attach all addenda if any were issued
3. Sign and date all required forms
4. Include a copy of your certificate of insurance for your business and any other required certificates, permits, etc.
5. Seal the envelop and attach the label or print in the lower left corner of the outer envelope the bid/proposal name and date due
6. Your (1) original and two (2) required copies
7. Anything else relative to this bid

## **TENTATIVE BID SCHEDULE:**

- A. The following projected timetable should be used as a working guide for planning purposes. The City reserves the right to adjust this timetable as required during the course of the bid process.

| Action                        | Due Date                         | Due Time                      |
|-------------------------------|----------------------------------|-------------------------------|
| <b>BID Released</b>           | <b>Tuesday, October 14, 2014</b> | <b>N/A</b>                    |
| <b>Questions Due to City</b>  | <b>Friday, October 17, 2014</b>  | <b>3:00 p.m. Central Time</b> |
| <b>Response from City</b>     | <b>Tuesday October 21, 2014</b>  | <b>5:00 p.m. Central Time</b> |
| <b>BIDS Due</b>               | <b>Friday, October 24, 2014</b>  | <b>2:00 p.m. Central Time</b> |
| <b>Anticipated Award Date</b> | <b>Monday, November 10, 2014</b> | <b>N/A</b>                    |

- B. Questions will be answered in the form of written addenda and provided to all Bidders, as per State of Illinois statutes. Submit questions regarding the bid in writing to Robert Krones [rkrones@cityblm.org](mailto:rkrones@cityblm.org) and Misty Shafer, at [mshafer@cityblm.org](mailto:mshafer@cityblm.org) no later than **Tuesday October 21, 2014** at 3:00 p.m. Central Time.

***END OF DOCUMENT***



**CITY OF BLOOMINGTON  
CONTRACT WITH**

**FOR  
FUEL FOR FLEET VEHICLES & EQUIPMENT**

**THIS AGREEMENT**, dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015, is between the City of Bloomington (hereinafter "CITY") and \_\_\_\_\_ (hereinafter "CONTRACTOR").

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

**Section 1. Recitals.** The recitals set forth above are incorporated into this Section 1 as if specifically stated herein.

**Section 2. Incorporation of Bid/RFP/RFO & Proposal Terms.** This work was subject to the following procurement initiative by the CITY:  
Bid # 2015-19 (Re-Bid) (hereinafter "Request")

Accordingly, the provisions of the Request and the proposal submitted by CONTRACTOR (hereinafter collectively referred to as "Procurement Documents" and attached as Exhibit A), shall be incorporated into this Contract and made a part thereof and shall be considered additional contractual requirements that must be met by CONTRACTOR. In the event of a direct conflict between the provisions of this contract and the incorporated documents, the provisions of this contract shall apply.

**Section 3. Description of Services.** CONTRACTOR shall provide the services/work identified in the Procurement Documents, and specifically as follows: Excersising a 1 (one)  
year renewal option from the original agreement approved on November 10, 2014.

\_\_\_\_\_

\_\_\_\_\_

**Section 4. Payment.** For the work performed by CONTRACTOR under this Contract, the CITY shall pay CONTRACTOR one of the following:

\_\_\_ A flat fee of \$ \_\_\_\_\_ as set forth in the Procurement Documents.

\_\_\_ Fees as set forth in the Procurement Documents.

**Section 5. Default and Termination.** Either party shall be in default if it fails to perform all or any part of this Contract. If either party is in default, the other party may terminate this Contract upon giving written notice of such termination to the party in default. Such notice shall be in writing and provided thirty (30) days prior to termination. The non-defaulting party shall be entitled to all remedies, whether in law or equity, upon the default or a violation of this Contract. In addition, the prevailing party shall be entitled to reimbursement of attorney's fees and court costs.

**Section 6. Representations of Vendor.** CONTRACTOR hereby represents it is legally able to perform the work that is subject to this Contract.

**Section 7. Assignment.** Neither party may assign this Contract, or the proceeds thereof, without written consent of the other party.

**Section 8. Compliance with Laws.** CONTRACTOR agrees that any and all work by CONTRACTOR shall at all times comply with all laws, ordinances, statutes and governmental rules, regulations and codes.

**Section 9. Compliance with FOIA Requirements.** CONTRACTOR further explicitly agrees to furnish all records related to this Contract and any documentation related to CITY required under an Illinois Freedom of Information Act (ILCS 140/1 et. seq.) ("FOIA") request within five (5) business days after CITY issues notice of such request to CONTRACTOR. CONTRACTOR agrees to not apply any costs or charge any fees to the CITY regarding the procurement of records required pursuant to a FOIA request. CONTRACTOR shall be responsible for any damages/penalties assessed to CITY for CONTRACTOR'S failure to furnish all documentation in CONTRACTOR'S possession responsive and related to a request within five (5) days after CITY issues a notice of a request.

**Section 10. Governing Law.** This Agreement shall be governed by and interpreted pursuant to the laws of the State of Illinois.

**Section 11. Joint Drafting.** The parties expressly agree that this agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing it terms prior to execution. Therefore, this agreement shall be construed neither against nor in favor of either party, but shall construed in a neutral manner.

**Section 12. Attorney Fees.** In the event that any action is filed in relation to this agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorneys' fees.

**Section 13. Paragraph Headings.** The titles to the paragraphs of this agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this agreement.

**Section 14. Counterparts.** This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

CITY OF BLOOMINGTON

By: \_\_\_\_\_  
Its City Manager

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

ATTEST:

By: \_\_\_\_\_  
City Clerk

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



FOR COUNCIL: November 10, 2014

SUBJECT: Citywide Fuel Purchase for Fleet Vehicles and Equipment. (Bid # 2015-19 ReBid)

**RECOMMENDATION/MOTION:** That the Bid from Evergreen FS to purchase Fuel for one (1) year with the option of four (4) one year renewals based upon overall performance by Evergreen FS and mutual agreement of both parties and the Procurement Agent shall be authorized to issue a Purchase Order for same.

**STRATEGIC PLAN LINK:** Goal. 1 – Financially Sound City Providing Quality Basic Services.

**STRATEGIC PLAN SIGNIFICANCE:** In order to be responsive to citizen needs, adequate resources must be provided to employees to fulfill the goal of providing quality basic services.

**BACKGROUND:** On October 14, 2014 a bid was released to supply Fuel for the City's vehicle and equipment needs. On October 24, 2014 the bids were opened and the results are as follows. The prices are per gallon markup over Terminal cost:

| Bidders Name       | Unleaded Gasoline Transport | Unleaded Gasoline Tank Wagon | No.1 Diesel Transport | No.1 Diesel Tank Wagon | No.2 Diesel Transport | No.2 Diesel Tank Wagon | PL     | Kerosene |
|--------------------|-----------------------------|------------------------------|-----------------------|------------------------|-----------------------|------------------------|--------|----------|
| Evergreen FS       | \$.02                       | \$.18                        | \$.02                 | \$.18                  | \$.02                 | \$.18                  | 3%     | 3%       |
| Heritage Petroleum | No Bid                      | No Bid                       | No Bid                | No Bid                 | No Bid                | No Bid                 | No Bid | No Bid   |
|                    |                             |                              |                       |                        |                       |                        |        |          |

Staff recommends awarding the Bid to Evergreen FS as they meet all of the requirements of the bid. The bid evaluations have shown this to be in the best interest of the City.

These specifications are important to the City's ability to respond to its citizens needs in a natural or man-made disaster. These services include, bulk fuel transport to the bulk tank at the Public Works fuel station, deliveries to various smaller fuel tanks at the parks, golf courses, emergency generators for the Water Department, Fire Stations, US Cellular Coliseum, sewer lift pump stations, and to fire apparatus at working fires. The fuel cards are used to purchase fuel from local stores when the Public Works Department fuel station is out of service for maintenance. The local tank farm insures the ability to deliver fuel from the tank farm to the City in the event of disaster. The City has used this service in recent winters during the big snow events when bulk fuel transports could not deliver fuel. Evergreen FS offers a fuel risk management program (hedging) that allows school and municipalities to pool their fuel purchases for volume discounts

and guaranteed fuel costs. Evergreen FS provides fuel storage tank sampling and testing with storage tank maintenance recommendations at no charge to the City on an annual basis.

The timely approval of this Bid is important for the City to have the ability to purchase fuel on contract or (Hedge fuel) starting November 12, 2014 as this is the time historicity that fuel is at its lowest.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Public notice of the bid was published in the Pantagraph on October 14, 2014. One (1) bid and one (1) no bid was received by the October 24, 2014 deadline.

**FINANCIAL IMPACT:** In Fiscal Year 2014, the City Purchased 375,191 gallons of transport fuel, 72,459 gallons of tank wagon fuel, and 17,966 gallons from a local retailer for a total of 465,616 gallons of fuel at a cost of \$1,510,696. It is projected that in FY 2015, the City will spend approximately \$1,572,000 for fuel. Fiscal Year 2016 is expected to be relatively unchanged. Fleet will propose for approval \$1,495,202 for the purchase of fuel for the City from the Fleet Management-Fuel account (10016310-71070).

Respectfully submitted for Council consideration.

Prepared by: Rob Krones, Superintendent of Fleet Maintenance

Reviewed by: Jim Karch, PE CFM, Public Works Director

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla A. Murillo, Budget Manager

Legal review by: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:



David A. Hales  
City Manager



Motion: That the Bid from Evergreen FS to purchase Fuel for one (1) year with the option of four (4) one year renewals be approved and the Procurement Manager shall be authorized to issue a Purchase Order for same.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                    | Aye | Nay | Other |                  | Aye | Nay | Other |
|--------------------|-----|-----|-------|------------------|-----|-----|-------|
| Alderman Black     |     |     |       | Alderman Painter |     |     |       |
| Alderman Fruin     |     |     |       | Alderman Sage    |     |     |       |
| Alderman Hauman    |     |     |       | Alderman Schmidt |     |     |       |
| Alderman Lower     |     |     |       | Alderman Stearns |     |     |       |
| Alderman Mwilambwe |     |     |       |                  |     |     |       |
|                    |     |     |       | Mayor Renner     |     |     |       |

**RECORD OF MOTIONS AND VOTES  
PUBLISHED BY THE AUTHORITY OF THE CITY COUNCIL  
OF BLOOMINGTON, ILLINOIS**

The Council convened in regular Session in the Council Chambers, City Hall Building, at 7:00 p.m., Monday, November 10, 2014.

The Meeting was opened by Pledging Allegiance to the Flag followed by moment of silent prayer.

The Meeting was called to order by the Mayor who directed the City Clerk to call the roll and the following members answered present:

Aldermen: Judy Stearns, Kevin Lower, David Sage, Diana Hauman, Joni Painter, Scott Black, Karen Schmidt, Jim Fruin, Mboka Mwilambwe and Mayor Tari Renner.

City Manager David Hales, Chief Deputy City Clerk Renee Gooderham, and Corporate Counsel Jeff Jurgens were also present.

Staff absent: City Clerk Tracey Covert.

The following was presented:

Item 7A. Council Proceedings of October 27, 2014.

Motion by Alderman Painter, seconded by Alderman Black that the reading of the minutes of the previous Council Proceedings of October 27, 2014, be dispensed with and the minutes approved as printed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, Painter, Lower, Hauman, Sage, Fruin, Mwilambwe and Black.

Nays: None.

Motion carried.

The following was presented:

Item 7B. Bills and Payroll.

Motion by Alderman Painter, seconded by Alderman Black that the Bills and Payroll be allowed and the orders drawn on the Treasurer for the various amounts as funds are available.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, Painter, Lower, Hauman, Sage, Fruin, Mwilambwe and Black.

Nays: None.

Motion carried.

The following was presented:

Item 7C. Appointments to the Bloomington-Normal Sister City Committee (Japan) and Board of Library Trustees.

Motion by Alderman Painter, seconded by Alderman Black Appointments be approved.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, Painter, Lower, Hauman, Sage, Fruin, Mwilambwe and Black.

Nays: None.

Motion carried.

The following was presented:

Item 7D. Analysis of Bids and Approval for Gasoline and Diesel Fuel.

Motion by Alderman Painter, seconded by Alderman Black that the Bid from Evergreen FS to purchase Fuel for one (1) year with the option of four (4) one year renewals be approved, and the Procurement Manager shall be authorized to issue a Purchase Order for same.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, Painter, Lower, Hauman, Sage, Fruin, Mwilambwe and Black.

Nays: None.

Motion carried.

The following was presented:





# CITY OF BLOOMINGTON

# Purchase Order

Fiscal Year 2016

Page 1 of 1

THIS NUMBER MUST APPEAR ON ALL INVOICES, PACKAGES AND SHIPPING PAPERS.

Purchase Order # **20160061-00**

Delivery must be made within doors of specified destination.

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CITY OF BLOOMINGTON  
ACCOUNTS PAYABLE  
PO BOX 3157  
BLOOMINGTON, IL 61702-3157  
(309) 434-2334

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EVERGREEN FS, INC  
PO BOX 1367  
BLOOMINGTON IL 61702-1367  
UNITED STATES

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FLEET MANAGEMENT GARAGE  
PUBLIC WORKS DEPARTMENT  
336 SOUTH MAIN STREET  
BLOOMINGTON IL 61701

309-434-2340

| Vendor Phone Number                                                                                                                                                                                                                                                                                                                      |                               | Vendor Fax Number |                      | Requisition Number |                | Delivery Reference          |  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|-------------------|----------------------|--------------------|----------------|-----------------------------|--|
|                                                                                                                                                                                                                                                                                                                                          |                               |                   |                      | 64                 |                |                             |  |
| Date Ordered                                                                                                                                                                                                                                                                                                                             | Vendor Number                 | Date Required     | Freight Method/Terms |                    |                | Department/Location         |  |
| 06/12/2015                                                                                                                                                                                                                                                                                                                               | 93                            |                   |                      |                    |                | PUBLIC WORKS ADMINISTRATION |  |
| Item#                                                                                                                                                                                                                                                                                                                                    | Description/Part No.          | Qty               | UOM                  | Unit Price         | Extended Price |                             |  |
| 1                                                                                                                                                                                                                                                                                                                                        | FUEL & OIL<br>Fuel & Gasoline | 1.0               | each                 | \$1,495,202.000    | \$1,495,202.00 |                             |  |
| <p>THIS PO IS FOR INTERNAL/ADMINISTRATIVE PURPOSES ONLY. TERMS OF THIS PO ARE 5/1/15-4/30/16. THIS PO IN NO WAY LIMITS OR GUARANTEES QUANTITIES OR DOLLARS TO BE SPENT. THE FUEL CONTRACT WITH EVERGREEN FS WAS APPROVED AT COUNCIL ON 11/10/14. PER BID #2015-19</p> <p>***** GL SUMMARY *****</p> <p>10016310 - 71070 1,495,202.00</p> |                               |                   |                      |                    |                |                             |  |

Packing slip must accompany all shipments. ALL TERMS & CONDITIONS LISTED ON THE CITY OF BLOOMINGTON WEBSITE APPLY (www.cityblm.org/terms). The City reserves the right to cancel this order if delivery is not made by agreed-upon delivery date. Ship F.O.B. Bloomington, IL, or preapproved best value.

The City of Bloomington is exempt by statute from payment of all federal, state, and municipal excise, sales, and other taxes. Federal ID and tax exemption number is 37-6001563. State of Illinois tax exemption number is E9994-9903-06.

THE CITY OF BLOOMINGTON IS AN EQUAL OPPORTUNITY EMPLOYER.

*Jan S. Johnston*  
Procurement Manager

PO Total

\$1,495,202.00



FOR COUNCIL: February 11, 2008

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Waive Formal Bidding Process and Renew the Fleet Fuel Contract with Evergreen FS

The City currently has a contract with Evergreen FS for fuel purchases for the fleet vehicles that ends on April 30, 2008. The contract covers bulk fuel delivered by transport load to the Public Service Department fuel station, (up to 7400 gallons); tank wagon loads, (up to 2000 gallons) to the storage tanks at the various parks, golf courses and emergency generators for various buildings, and Fuel 24 cards for purchase at the FS fuel stations when the Public Service Department fuel station is down for maintenance. The purchases of fuel in fiscal year 2006-2007 totaled approximately 453,700 gallons; 225,800 gallons of No Lead w/10% Ethanol and 227,900 gallons of Diesel fuel w/ up to 20% soy oil.

Staff has had several meetings with the Evergreen FS Energy Manager about rising fuel cost and finding a solution for fuel purchases with the goal of saving the City money. Currently when the City orders fuel for the bulk tanks it pays the price at the terminal the day it is ordered, plus \$0.01 per gallon for fuel delivered to the Public Service Department fuel station and \$0.03 per gallon for the fuel delivered to the other various tanks.

Staff has learned that fuel may be purchased mid January through mid March, at prices that are historically the lowest of the year. Staff proposes to pre order up to 15,000 gallons of diesel fuel per month for the calendar year. The Energy Manager at FS will order this fuel over the period of a few weeks during February and March. Once all the fuel is ordered, FS will average the cost of the fuel ordered and add in its markup, establishing the locked in price per gallon the City would pay for the year.

It may also be possible to order gasoline the same way, which would be up to 15,000 gallons per month. This process of ordering fuel is some what of a gamble, however historically this type of fuel purchasing has saved the purchaser money in 13 out of 15 years.

During discussions with Evergreen FS it became apparent that they would not be able to provide fuel using this method past April 30, 2008 without a contract extension. They also informed staff that they would be unable to continue to provide services for the price locked into in May 2006 of \$0.01 per gallon for transport loads and \$0.03 per gallon for tank wagons. In discussions with Evergreen FS their charges to the City would be increased to \$0.02 per gallon for transport loads and \$0.10 per gallon for tank wagons.

When this contract was last bid in 1999, Evergreen FS was the only bidder. Staff is unaware of any other fuel service providers that can provide all the services that the City requires. Staff respectfully recommends waiving the formal bidding process and extending the contract with Evergreen FS for one (1) year, ending April 30, 2009, to purchase fuels for the fleet. Staff will evaluate fuel purchasing with plans to bid this contract in February 2009.

Respectfully,

*Daniel Augstin*  
Daniel Augstin  
Director of Fleet Management *by: JP*

*Thomas H. Hamilton*  
Tom Hamilton  
City Manager

Motion: That the formal bidding process be waived and the contract with Evergreen FS for fleet fuel be extended until April 30, 2009, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution be adopted.)

Motion: Alderman Finnegan Seconded by: Alderman Hanson

|                  | Aye | Nay | Other |                   | Aye | Nay | Other |
|------------------|-----|-----|-------|-------------------|-----|-----|-------|
| Alderman Stearns | ✓   |     |       | Alderman Finnegan | ✓   |     |       |
| Alderman Huette  | ✓   |     |       | Alderman Gibson   | ✓   |     |       |
| Alderman Hanson  | ✓   |     |       | Alderman Schmidt  | ✓   |     |       |
| Alderman Sage    | ✓   |     |       | Alderman Fruin    | ✓   |     |       |
| Alderman Purcell | ✓   |     |       | Mayor Stockton    |     |     |       |

RESOLUTION NO. 2008 - 05

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND  
AUTHORIZING AN EXTENSION OF THE CONTRACT WITH EVERGREEN FS FOR  
ONE (1) YEAR, ENDING APRIL 30, 2009, TO PURCHASE FUELS FOR THE FLEET**

Be It Resolved by the City Council of the City of Bloomington, Illinois,

1. That the bidding process be waived and authorizing an extension of the contract with Evergreen FS for one (1) year, ending April 30, 2009, to purchase fuels for the fleet.

ADOPTED this 11<sup>th</sup> day of February, 2008.

APPROVED this 12<sup>th</sup> day of February, 2008.



Stephen F. Stockton  
Mayor

ATTEST:



Tracey Covert  
City Clerk

FOR COUNCIL: April 12, 2004

6L  
Bid  
07-13  
99-023

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Permission to Waive Formal Bidding Process and Extend the Motor Fuel Contract

The City is nearing the end of a two year contract extension with Evergreen FS, for the purchase and delivery of fuel to the City's above ground and underground storage tanks for consummation by the City's equipment and for sale to McLean County and the Bloomington/Normal Housing Authority that was approved by Council in April of 2002. This was an extension of the original three year contract that was awarded in May 1999.

The original contract was awarded based on meeting the requirements of a sealed bid. The contract also required that during a fire, the successful bidder would deliver fuel to fire equipment at the scene when the equipment runs low on fuel.

This contract covers the purchase and delivery of approximately 400,000 gallons of fuel annually, which includes diesel fuel, 2% soy diesel fuel, no lead, gasoline, kerosene and E85 (85% ethanol). Approximately 68,000 gallons of this fuel is sold to the other government agencies noted above.

In 2000, staff arranged to purchase fuel from Evergreen FS's local Fast Stop 24 fuel stations using a Fast Stop 24 fuel card assigned to each vehicle. These cards are for use when the fuel pumps at the Public Service Department fuel station are down for maintenance and to fuel large fire fighting equipment located close to one of these stations. This arrangement was brought about when the fuel tanks at the Public Service Dept. underwent the required EPA upgrades, and the removal of underground fuel storage tanks from fire stations.

The last three times this contract has been bid, Evergreen FS has been the only bidder to meet all of the requirements of the bid specification and subsequently awarded to them.

Under the contract, the City is currently paying \$.01 per gallon over Evergreen FS cost for fuel delivered directly from a bulk terminal by an 8,000 gallon transport tanker to the City's tanks, and \$.03 per gallon over cost for fuel delivered from the local facility by smaller 1,000 and 2,000 gallon tank trucks to the City's outlying storage tanks at the various parks; pumping stations; fire stations for generators, and to fire scenes. Evergreen FS representatives also work with staff when a price increase is expected so fuel can be ordered at the lower price.

To staff's knowledge, there are not any other local vendors capable of bidding on a new fuel contract that can provide the level of service that Evergreen FS has provided the City. In a discussion with Evergreen FS representatives, they would agree to extend the contract for two years covering May 1, 2004, through April 30, 2006, at the current prices.

Staff respectfully recommends extending the contract with Evergreen FS for two more years at the current markup prices.

Respectfully,

*Daniel E. Augstin*  
Daniel E. Augstin  
Supt. of Equipment Maintenance *by: DP*

*Tom Hamilton*  
Tom Hamilton  
City Manager

*Kim Cravens*  
Kim Cravens  
Purchasing Agent

Motion: That the contract with Evergreen FS to provide fuel be extended for two more years at the current markup prices, and authorize the Purchasing Agent to issue a purchase order for same.

Motion: Alderman Whalen Seconded by: Alderman Crawford

|                   | Aye | Nay | Other |                       | Aye | Nay | Other |
|-------------------|-----|-----|-------|-----------------------|-----|-----|-------|
| Alderman Crawford | ✓   |     |       | Alderman Finnegan     | ✓   |     |       |
| Alderman Huetten  | ✓   |     |       | Alderman Veitengruber | ✓   |     |       |
| Alderman Sprague  | ✓   |     |       | Alderman Schmidt      | ✓   |     |       |
| Alderman Matejka  | ✓   |     |       |                       |     |     |       |
| Alderman Whalen   | ✓   |     |       | Mayor Markowitz       |     |     |       |

RESOLUTION NO. 2004 - 33

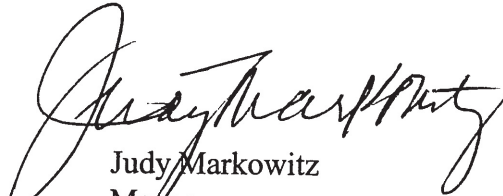
**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND  
AUTHORIZING THE PURCHASE OF FUEL AT A PURCHASE PRICE OF**

Be It Resolved by the City Council of the City of Bloomington, Illinois,

1. That the bidding process be waived and the Purchasing Agent be authorized to Purchase Motor Fuel at a Purchase Price of \$.01 per gallon over Evergreen FS cost for fuel delivered directly from a bulk terminal by an 8,000 gallon transport tanker to the City's tanks, and \$.03 per gallon over cost for fuel delivered from the local facility by smaller 1,000 and 2,000 gallon tank trucks to the City's outlying storage tanks at the various parks; pumping stations; fire stations for generators, and to fire scenes.

Adopted this 12th day of April, 2004.

Approved this 13th day of April, 2004.

  
Judy Markowitz  
Mayor

ATTEST:

  
Tracey Covert  
City Clerk



Bid  
2002-013

FOR COUNCIL: March 25, 2002

6L

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Permission to Waive the Bidding Process and Extend the Motor Fuel Contract

The City of Bloomington is nearing the end of a three year contract with Evergreen FS that was awarded in May 1999, and will expire on April 30, 2002, for the purchase and delivery of fuel to the city's above ground and underground storage tanks for consumption by the City's equipment and for sale to McLean County and the Bloomington/Normal Housing Authority. This contract was awarded based on meeting the requirements of a sealed bid. The contract also requires that during a fire that the successful bidder will deliver fuel to fire equipment at the scene when the equipment runs low on fuel.

This contract covers the purchase and delivery of approximately 400,000 gallons of fuel annually which includes diesel fuel, no lead, gasoline, kerosene and E85 (85% ethanol). Approximately 68,000 gallons of this fuel is sold to the other government agencies noted above.

In 2000, staff also arranged to purchase fuel from Evergreen FS's local Fast Stop 24 fuel stations using a Fast Stop 24 fuel card assigned to each vehicle. These cards are for use when the fuel pumps at the Public Service Department fuel station are down for maintenance and to fuel large fire fighting equipment which is located close to one of these stations. This was brought about when the fuel tanks at the Public Service Department fuel station underwent the required EPA upgrades that was to take approximately 10 weeks to complete and the removal of all of the underground fuel storage tanks at the fire stations.

The last three times this contract has gone out to bid, Evergreen FS has been the only bidder to meet all of the requirements of the bid specification and subsequently the bid was awarded to Evergreen FS.

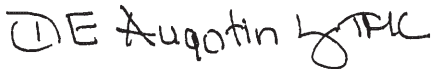
Under the current contract, we are paying \$.01 per gallon over Evergreen FS cost for fuel delivered directly from a bulk terminal by an 8000 gallon transport tanker to the city's tanks and \$.03 per gallon over Evergreen FS cost for fuel delivered from FS's local facility by their smaller 1000 and 2000 gallon tank trucks to the city's outlying storage tanks at the various parks, pumping stations, fire stations for generators and to fire scenes. The representatives from Evergreen FS are also very good about notifying city staff when a price increase is expected so fuel can be ordered at the lower price.

Currently, to our knowledge, there are not any other local vendors capable of bidding on a new fuel contract that can provide the level of service that Evergreen FS has been providing the City for the last five years. Evergreen FS has provided the City excellent service throughout the years they have held the contract.

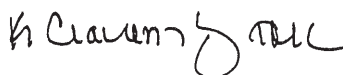
In a discussion with Evergreen FS representatives they stated they would agree to extend the contract for two years covering May 1, 2002, through April 30, 2004, at the current prices.

Staff recommends extending the contract with Evergreen FS for two more years at the current markup prices.

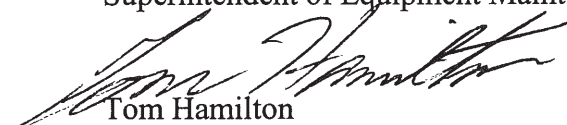
Respectfully,

 DE Augstin

Daniel E. Augstin  
Superintendent of Equipment Maintenance

 K Cravens

Kim Cravens  
Purchasing Agent

  
Tom Hamilton  
City Manager

Motion:

That the contract with Evergreen FS be extended for two more years at the current markup prices, the Purchasing Agent be authorized to issue a purchase order to same and the Resolution be adopted.

Motion:

Alderman Finnegan

Seconded by:

Alderman Crawford

|                   | Aye | Nay | Other |                       | Aye | Nay | Other |
|-------------------|-----|-----|-------|-----------------------|-----|-----|-------|
| Alderman Crawford | ✓   |     |       | Alderman Finnegan     | ✓   |     |       |
| Alderman Fruin    |     |     |       | Alderman Veitengruber | ✓   |     |       |
| Alderman Sprague  |     |     |       | Alderman Schmidt      | ✓   |     |       |
| Alderman Matejka  | ✓   |     |       |                       |     |     |       |
| Alderman Whalen   | ✓   |     |       | Mayor Markowitz       |     |     |       |



RESOLUTION NO. 2002 - 23

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND  
AUTHORIZING THE EXTENSION OF THE MOTOR FUEL CONTRACT**

Be It Resolved by the City Council of the City of Bloomington, Illinois,

1. That the bidding process be waived and the Purchasing Agent be authorized to issue a purchase order to Evergreen FS to extend the contract for motor fuel for an additional two years, through April 30, 2002 at the current mark up price.

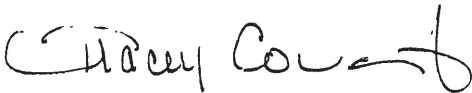
Adopted this 25th day of March, 2002.

Approved this 26th day of March, 2002.



Judy Markowitz  
Mayor

ATTEST:



Tracey Covert  
City Clerk

**COUNCIL PROCEEDINGS**  
**PUBLISHED BY THE AUTHORITY OF THE CITY COUNCIL**  
**OF BLOOMINGTON, ILLINOIS**

The Council convened in regular Session in the Council Chambers, City Hall Building, at 7:30 p.m., Monday, May 10, 1999.

The Meeting was opened by Pledging Allegiance to the Flag followed by Silent Prayer. Boy Scout Troop 24 from Western Avenue Community Center, 600 N. Western Ave., lead the Pledge.

The Meeting was called to order by the Mayor who directed the City Clerk to call the roll and the following members answered present:

**Aldermen:** Joseph "Skip" Crawford, Jim Fruin, Thomas Whalen, Michael Matejka, Michael Sprague, John Rhoda, Karen Schmidt and Mayor Judy Markowitz.

**Absent:** Alderman James Finnegan.

City Manager Tom Hamilton, City Clerk Tracey Covert, and Corporate Counsel Todd Greenburg were also present.

The following was presented:

Tracey Covert, City Clerk, administered the Oath of Office for Second Ward Alderman Mike Matejka, Fourth Ward Alderman J. Skip Crawford, Sixth Ward Alderman Karen Schmidt and Eighth Ward Alderman Mike Sprague.

Allene Gregory, 1001 E. Jefferson St., addressed the Council on behalf of the Old House Society. A check in the amount of \$250.00 was presented to the City as cost sharing for the Historic District signs. The Old House Society would provide an additional \$250.00 after the remaining signs are installed in the Downtown. She encouraged all to visit the display case at the Bloomington Public Library.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Opening of One Bid for Gasoline and Diesel Fuel for All Departments

Bids were received by the City Clerk on May 3, 1999 at 9:00 a.m. for the gasoline and diesel fuel for all departments. Only one bid was received by the City Clerk and it is City policy in situations where only one bid is received to have the bid opened and read at the Council Meeting.

Staff requests that the City Council authorize the Purchasing Agent to open the bid at the May 10, 1999 council meeting and present the City Council with a recommendation prior to the end of the Council Meeting concerning award of the bid.

Respectfully,

Tracey Covert  
City Clerk

Tom Hamilton  
City Manager

**Motion by Alderman Whalen, seconded by Alderman Matejka that the Bid be opened at the Council meeting, referred to Staff for analysis and reported back to Council prior to the end of the meeting.**

**The Mayor directed the Clerk to call the roll which resulted as follows:**

**Ayes: Alderman Crawford, Fruin, Rhoda, Schmidt, Sprague, Matejka and Whalen.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Honorable Mayor and Members of the City Council  
From: Staff  
Subject: Proclamations

The following proclamations have been requested and should be received and placed on file with the City Clerk:

1. Declaring May 9-15, 1999 to be "Police Week".
2. Declaring May 9-15, 1999 to be "Historic Preservation Week".

Respectfully,

Tracey Covert  
City Clerk

Tom Hamilton  
City Manager

**Mayor Markowitz read and presented the Police Week Proclamation to Asst. Chief Denny O'Brien. Asst. Chief O'Brien expressed the Police Department's appreciation of the City Council's support.**

S.77°19'00"E. 480.22 feet to the northwest corner of said Farm and Fleet property described in Document No. 76-649; thence S.00°00'26"W. 467.87 feet on the west line of said Farm and Fleet property to the Point of Beginning, containing 5.03 acres, more or less, with assumed bearings given for description purposes only.

### **TRACT II LEGAL DESCRIPTION**

All that part of FAI Route 03 (Illinois Route 9) right of way adjoining the south line of the above described Tract I.

**Motion by Alderman Matejka, seconded by Alderman Schmidt that Ordinance No. 1999-32 be rescinded and a new Ordinance passed approving this Annexation and Rezoning.**

**The Mayor directed the Clerk to call the roll which resulted as follows:**

**Ayes: Alderman Crawford, Fruin, Rhoda, Schmidt, Sprague, Matejka and Whalen.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

**Kim Cravens, Purchasing Agent, addressed the Council. City staff recommended that the bid for Gasoline and Diesel Fuel be awarded to McLean County Service Co. She added that the bidder had complied with the specifications.**

**Motion by Alderman Matejka, seconded by Alderman Sprague that the bid be awarded to McLean County Service Company.**

**The Mayor directed the Clerk to call the roll which resulted as follows:**

**Ayes: Alderman Crawford, Fruin, Rhoda, Schmidt, Sprague, Matejka and Whalen.**

**Nays: None.**

**Motion carried.**

**MAYOR'S DISCUSSION: Mayor Markowitz reminded the Council of the Y2K Town Forum on Tuesday, May 18, 1999 at 7:00 p.m. at Illinois State University's Bone Student Center in the Ballroom.**

**'She informed the Council that the new Downtown Commission list would be released on Monday, May 17, 1999 in the afternoon.**



**CITY OF**  
*Bloomington* ILLINOIS  
**CONSENT AGENDA ITEM NO. 7D**

FOR COUNCIL: October 26, 2015

**SUBJECT:** Consideration of approving a grant bid waiver that identifies Helena Chemicals as a single source distributor, and entering into an Early Order Program for the procurement of Syngenta, BASF, Bayer, Nufarm (the manufacturers) golf course chemicals and fertilizer products utilized in the management of turf-grass maintenance.

**RECOMMENDATION/MOTION:** Approve the Parks, Recreation and Cultural Arts Department to participate in the Syngenta, BASF, Bayer and Nufarm chemicals “early order discount program” for golf turf-grass management for the 2016 golf season, and grant a bid waiver which identifies Helena Chemical as the local distributor for these products and, further authorize the Mayor and City Clerk to execute the necessary documents.

**STRATEGIC PLAN LINK:** Goal Five. Great place – Livable, Sustainable City

**STRATEGIC PLAN SIGNIFICANCE:** Objective 5.D. Appropriate leisure and recreational opportunities responding to the needs of the residents.

**BACKGROUND:** Our golf courses are considered to be some of the finest in downstate Illinois. In the most recent Golf Digest Magazine rankings, The Den at Fox Creek received a prestigious 4 ½ star rating (out of 5) which places it alongside only six other courses in the state of Illinois in the same fee category to receive the honor. Prairie Vista received a 4 star rating while Highland Park received a 3½ star rating. In 2005, Golf Digest also voted Bloomington/Normal the fifth best city to live for golf in the country. The courses regularly hosts events from throughout the state, most notably, the Illinois High School State Finals (IHSA) held at The Den at Fox Creek and Prairie Vista in October of each year. In order to maintain our courses in a manner that is consistent with the expectations of our customers, we need to continue providing quality playing surfaces. One of the primary factors in providing quality playing surfaces is to keep the turf free from disease and insects, which if left untreated, have the potential to do significant damage. Damage to the playing surface/turf would result in a significant loss of rounds and revenue, while also requiring major dollars to reseed the infected areas. Best practices in the golf industry show the most efficient manner to treat turf diseases and insects is to do so in a preventative manner. By utilizing preventative chemical applications, we stay ahead of the diseases and suppress potential outbreaks before they occur.

Each year Syngenta, BASF, Bayer and Nufarm offer an early order program that allows the opportunity to lock in next year’s prices at discounted rates. Syngenta and BASF are the two primary manufacturers of chemical and fertilizer products utilized in the management of turf-grass in the golf industry. Bayer and Nufarm products are also widely used in the industry with proven success. Through best practices, the golf course maintenance staff has found the products from these companies to provide the desired effects in order to provide a high level of playing

conditions demanded by our golfing public. Helena Chemical has become a valued partner of ours over our years of operation. Helena Chemical currently provides products and services to following municipalities and golf courses: Normal, Decatur, Peoria, Springfield, Champaign and Quincy. The golf courses at Illinois State University and Crestwicke Country Club also use products through Helena Chemical. Entering into the early order program guarantees the discounted price for any additional products from these manufacturers purchased during 2016. Additionally, by participating in the early order program we are offered extended payment terms with payment not due until mid-July on all early order purchases.

Syngenta, BASF, Bayer & Nufarm engage the assistance of local recognized quality turf distributors to assure the delivery, service and billing of their products. These companies operate using an agency pricing model, meaning the price of their chemicals is exactly the same regardless of the distributor chosen. These distributors are contractually obligated to offer these products at set agency prices. For 2016, we intend to utilize Helena Chemical which is located in Warrensburg, IL. Helena Chemical will store the products on their site and deliver to us on an as needed basis saving us space in our golf maintenance facilities. Helena Chemical's local dealership manager is a former golf course superintendent who has worked diligently for us over the years to help improve our golf courses.

There is no statewide contract available for the procurement of these chemicals and fertilizers. The deadline to enter this program is before December 7, 2015. While other "turf" chemicals are available, our experience is the cost savings realized in the "unit price" of the purchase price are lost as a result of the additional applications that are needed to be as effective as the Syngenta, BASF, Bayer & Nufarm products have proven through field experience. These products provide the weed, fungus and insect free turf that our customers expect to have.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** City Purchasing Agent

**FINANCIAL IMPACT:** The golf courses annually spend approximately \$200,000 on chemicals and conservatively will realize savings of approximately \$24,000 by participating in this early buy program. Funds will be included in the FY 2017 Proposed Budget under Highland Park Golf Course, Prairie Vista Golf Course, The Den at Fox Creek Course under account Other Repair and Maintenance (56406400-70590), (56406410-70590) and (56406420-70590).

Respectfully submitted for Council consideration.

Prepared by: Jason Wingate, Superintendent of Golf, Parks, Recreation & Cultural Arts

Reviewed by: Jay Tetzloff, Director of Parks, Recreation and Cultural Arts

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla A. Murillo, Budget Manager

Legal review by: Jeffrey R. Jurgens, Corporation Counsel



Recommended by:



David A. Hales, City Manager

**Attachments:**

- Letter from Helena Chemical Company dated, October 12, 2015
- 2015 Fall Solution Guide of Helena Chemicals

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Motion: Approve the Parks, Recreation and Cultural Arts Department to participate in the Syngenta, BASF, Bayer and Nufarm chemicals “early order discount program” for golf turf-grass management for the 2016 golf season, and grant a bid waiver which identifies Helena Chemical as the local distributor for these products and, further authorize the Mayor and City Clerk to execute the necessary documents.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                  | Aye | Nay | Other |                    | Aye | Nay | Other |
|------------------|-----|-----|-------|--------------------|-----|-----|-------|
| Alderman Black   |     |     |       | Alderman Mwilambwe |     |     |       |
| Alderman Buragas |     |     |       | Alderman Painter   |     |     |       |
| Alderman Fruin   |     |     |       | Alderman Sage      |     |     |       |
| Alderman Hauman  |     |     |       | Alderman Schmidt   |     |     |       |
| Alderman Lower   |     |     |       |                    |     |     |       |
|                  |     |     |       | Mayor Renner       |     |     |       |

HELENA

Steve Mulvey  
Isabelle Drive  
Auburn, IL 62615  
Cell: (217)725-4160  
Fax: (217) 438-6432

Helena Chemical Company

City of Bloomington

10/12/15

To Whom It May Concern:

This letter is to confirm that Helena Chemical understands that the chemicals ordered during the 2016 Early Order Program are dependent on funds being approved in Fiscal Year 2017.

If any further information is needed, please let us know.

Thank you for your consideration.

Sincerely,

Steve Mulvey





When you add up your savings,  
they don't have to look so thin.

With the broadest portfolio of branded products, GreenTrust™ 365 gives you more purchasing power than other programs. Now you can capitalize more than ever on all these program benefits. **Early Order Period October 1–December 7, 2015**



#### **Yearlong Rebates**

Spend at least \$5,000 on Qualifying Products to lock in your yearlong rebate: October 1, 2015–September 30, 2016.



#### **GreenTrust Rewards**

Earn more GreenTrust Rewards than ever. Every dollar spent in October earns triple points. Plus, you can earn up to an additional 30,000 GreenTrust Rewards points through the Spotlight Brand Points Bonus and the Acelepryn® insecticide Points Bonus.



#### **SummerPay™**

Keep your cash flow in check by deferring payment until July 6, 2016.



#### **Pallet Solutions**

Apply intelligently with the right mix of products for almost any facet of your agronomic program. You can save up to 25% from a selection of 11 different Pallet Solutions, making it easy to meet your minimum order requirement on Qualifying Products.



#### **Product Assurances**

Protect your course with confidence through expert application recommendations and performance guarantees.



#### **Multipaks**

Save even more on complementary products delivered in convenient multipaks.

[GreenTrust365.com](http://GreenTrust365.com)



**syngenta®**

**Golf**

**@SyngentaTurfaa**





# 2015 Fall Solutions™

Maximize your EOP savings

1. ORDER EARLY – EARN THE OCTOBER BONUS

2. PICK YOUR PAK, (10 - 29% SAVINGS) AND  
RECEIVE AN ADDITIONAL PAK BONUS

3. SAVE ON INDIVIDUAL PRODUCTS AND  
MAXIMIZE YOUR SAVINGS PER ACRE



Get outstanding per acre savings. Order early, save often.



Cool Season / Transition Zone - Golf

Expand Fall Savings with My Bayer Rewards. Signing up is easy!

<https://myrewards.cropscience.bayer.com>





We create chemistry

## 2016 Early Order Program – Turf US

Get the healthy turf your course needs for 2016 with savings you can bank on right now. EOP is as simple as 1-2-3.

### 1 Order Early

Earn up to 33% more rebate dollars by ordering in October when rebate levels are highest.

### 2 Order Easy

Rebates start with a \$1,500 spend. Specially designed cubes deliver convenience and 10% instant savings.

### 3 Order Innovation

Purchase **Lexicon® Intrinsic®** brand fungicide or **Xzemplar®** fungicide and boost your rebate an extra 1%.

**1. Order Early Savings:** Earn up to 33% more rebate dollars when you order in October.

| Purchase Total     | Oct. 1st - 31st Rebate | Nov. 1st - Dec. 11th Rebate |
|--------------------|------------------------|-----------------------------|
| \$1,500 - \$6,999  | 4%                     | 3%                          |
| \$7,000 - \$19,999 | 7%                     | 5%                          |
| \$20,000 +         | 10%                    | 7%                          |

Save now, pay later!

June 6, 2016 terms  
on all Agency products.

**2. Order Easy Savings:** Get 10% instant savings on all specially designed cube solutions.

| Cube                                                                                                | Ideal for Turf Type | Cube Contents                                                                                                                                                                                                                                                                                                               | Acres Covered                    | Use Area          | Agency Price |
|-----------------------------------------------------------------------------------------------------|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|-------------------|--------------|
| <b>Mini Your Cube</b><br><i>A plant health solution for greens along with a rotation partner.</i>   | Cool & Warm         | 1 Cs – <b>Curalan® EG</b> fungicide (12x 2.75 lb)<br>3 Cs – <b>Lexicon® Intrinsic®</b> brand fungicide (4x 21 oz)                                                                                                                                                                                                           | 12<br>12                         | Greens            | \$ 5,996.00  |
| <b>New Innovation Cube</b><br><i>Our newest disease technology for the ultimate greens program.</i> | Cool & Warm         | 3 Cs – <b>Xzemplar®</b> fungicide (4x 11.4 oz)<br>3 Cs – <b>Lexicon Intrinsic</b> brand fungicide (4x 21 oz)                                                                                                                                                                                                                | 12<br>12                         | Greens            | \$ 6,974.00  |
| <b>Plant Health Cube</b><br><i>A complete solution for plant health on greens and tees.</i>         | Cool & Warm         | 1 Cs – <b>Honor® Intrinsic</b> brand fungicide (1x 36 lbs)<br>3 Cs – <b>Lexicon Intrinsic</b> brand fungicide (4x 21 oz)                                                                                                                                                                                                    | 12<br>12                         | Greens            | \$ 8,321.00  |
| <b>Deep Freeze Cube</b><br><i>The ultimate snow mold solution for greens and fairways.</i>          | Cool                | 1 Cs – <b>Curalan EG</b> fungicide (12x 2.75 lb)<br>3 Cs – <b>Lexicon Intrinsic</b> brand fungicide (4x 21 oz)<br>2 Cs – <b>Trinity®</b> fungicide (2x 2.5 gal)<br>1 Cs – <b>Insignia® SC Intrinsic</b> brand fungicide (2x 2.5 gal)                                                                                        | 12<br>12<br>30<br>21             | Greens & Fairways | \$ 12,594.00 |
| <b>Power Within Cube</b><br><i>Effective plant health for greens and fairways.</i>                  | Cool                | 3 Cs – <b>Lexicon Intrinsic</b> brand fungicide (4x 21 oz)<br>2 Cs – <b>Insignia SC Intrinsic</b> brand fungicide (2x 2.5 gal)                                                                                                                                                                                              | 12<br>42                         | Greens & Fairways | \$ 14,754.00 |
| <b>Honor America Cube</b><br><i>Plant health on fairways to control a broad array of diseases.</i>  | Cool                | 4 Cs – <b>Honor Intrinsic</b> brand fungicide (1x 36 lbs)<br>4 Cs – <b>Curalan EG</b> fungicide (12x 2.75 lb)                                                                                                                                                                                                               | 48<br>48                         | Greens & Fairways | \$ 17,498.00 |
| <b>More Resilience Cube</b><br><i>A foundational solution for greens and fairways.</i>              | Cool                | 2 Cs – <b>Xzemplar</b> fungicide (2x 114 oz)<br>1 Cs – <b>Emerald®</b> fungicide (50x .49 lb)<br>4 Cs – <b>Curalan EG</b> fungicide (12x 2.75 lb)<br>3 Cs – <b>Lexicon Intrinsic</b> brand fungicide (4x 21 oz)                                                                                                             | 40<br>50<br>48<br>12             | Greens & Fairways | \$ 20,939.00 |
| <b>Defend Your Fairways Cube</b><br><i>Season-long dollar spot control for fairways.</i>            | Cool                | 5 Cs – <b>Xzemplar</b> fungicide (2x 114 oz)<br>5 Cs – <b>Curalan EG</b> fungicide (12x 2.75 lb)<br>3 Cs – <b>Emerald</b> fungicide (10x .49 lb)<br>2 Cs – <b>Trinity</b> fungicide (2x 2.5 gal)                                                                                                                            | 100<br>60<br>30<br>30            | Fairways          | \$ 25,865.00 |
| <b>Complete Cube</b><br><i>Your total solution for disease control, course wide.</i>                | Cool                | 3 Cs – <b>Xzemplar</b> fungicide (2x 114 oz)<br>3 Cs – <b>Emerald</b> fungicide (10x .49 lb)<br>5 Cs – <b>Curalan EG</b> fungicide (12x 2.75 lb)<br>2 Cs – <b>Trinity</b> fungicide (2x 2.5 gal)<br>3 Cs – <b>Lexicon Intrinsic</b> brand fungicide (4x 21 oz)<br>1 Cs – <b>Honor Intrinsic</b> brand fungicide (1x 36 lbs) | 60<br>30<br>60<br>30<br>12<br>12 | Greens & Fairways | \$ 28,161.00 |
| <b>Southern Weed Surrounds Cube</b><br><i>A strong solution for southern green surrounds.</i>       | Warm                | 15 Bg – <b>FreeHand® 1.75G</b> herbicide (1x 50 lb)<br>2 Cs – <b>Drive® XLR8</b> herbicide (4x .05 gal)<br>2 Cs – <b>Basagran® T&amp;O</b> herbicide (2x 1 gal)                                                                                                                                                             | 5<br>NA<br>NA                    | Green Surrounds   | \$ 2,176.00  |





# NUFARM END USER REWARDS 2016

## TO RECEIVE PERIOD 1 REWARDS

purchase and take delivery of a total of \$3,500 worth of eligible Nufarm products from a Nufarm authorized distributor between **Sept 15, 2015 - Oct 31, 2015**.

## TO RECEIVE PERIOD 2 REWARDS

purchase and take delivery of a total of \$3,500 worth of eligible Nufarm products from a Nufarm authorized distributor between **Sept 15, 2015 - March 1, 2016**.

**MUST REGISTER ONLINE at [nufarmrewards.com](http://nufarmrewards.com) between Sept 15, 2015 - March 1, 2016**

Registrants of 2015 program will be automatically registered for 2016 • Distributor Credit by 6/30/16

## ELIGIBLE PRODUCTS AND REWARDS

| NON-SELECTIVE HERBICIDES   | PERIOD 1 REWARD | PERIOD 2 REWARD |
|----------------------------|-----------------|-----------------|
| <b>ProDeuce®</b>           | \$3.00/gal      | \$2.00/gal      |
| <b>Razor Burn®</b>         | \$3.00/gal      | \$2.00/gal      |
| SELECTIVE HERBICIDES       | PERIOD 1 REWARD | PERIOD 2 REWARD |
| <b>4-Speed® XT</b>         | \$4.00/gal      | \$3.00/gal      |
| <b>BroadStar™</b>          | \$0.09/lb       | \$0.05/lb       |
| <b>Change Up™</b>          | \$5.00/gal      | \$3.00/gal      |
| <b>Cool Power®</b>         | \$3.00/gal      | \$2.00/gal      |
| <b>Elliptical™</b>         | \$5.00/gal      | \$3.00/gal      |
| <b>Envoy Plus®</b>         | \$5.00/gal      | \$3.00/gal      |
| <b>Escalade® 2</b>         | \$5.00/gal      | \$3.00/gal      |
| <b>Horsepower®</b>         | \$3.00/gal      | \$2.00/gal      |
| <b>Last Call™</b>          | \$20.00/gal     | \$12.00/gal     |
| <b>Manor®</b>              | \$15.00/lb      | \$10.00/lb      |
| <b>Millennium Ultra™ 2</b> | \$5.00/gal      | \$3.00/gal      |
| <b>Prosedge™ 2</b>         | \$2.25/oz       | \$1.50/oz       |
| <b>Quincept®</b>           | \$4.50/gal      | \$2.50/gal      |
| <b>SureGuard®</b>          | \$11.00/lb      | \$6.00/lb       |
| <b>Triamine®</b>           | \$1.50/gal      | \$0.75/gal      |
| <b>Triamine® Jet-Spray</b> | \$0.50/can      | \$0.30/can      |
| <b>Triplet® Low Odor</b>   | \$2.00/gal      | \$1.00/gal      |
| <b>Velocity®</b>           | \$20.00/lb      | \$12.00/lb      |



**Nufarm**

Grow a better tomorrow.



## LIMITED SOURCE JUSTIFICATION

(Requester completes Section A and B)

### SECTION A - LIMITED SOURCE PURCHASE:

Complete if a purchase is \$3,000 or over and due to reasons of previous capital investment, improved public service, long-term operational need, security, patents, copyrights, critical need for responsiveness, proximity, Federal, State or other regulations, necessary replacement parts and/or compatibility, warranty, this procurement justifies a limited source exemption.

Vendor:  
Helena Chemical Company Inc.

Amount:  
\$200,000.00

Date:  
10/21/2015

Description of item/service:

Pre-Order for Chemicals for Golf Courses for 2016 Season – per Council Memo 10-26-2015

Vendor # 705

Justification:

The products are "Agency" pricing which means that no distributor can sell these products for different prices and this pre-order allows the City to save \$25,000. The type and blend of chemicals to be purchased are customized to the specific needs and soil composition of the City's golf courses and have been determined to be successful in maintaining the quality and playability of the golf courses.

**SECTION B - REQUESTER CERTIFICATION:** By submitting this request, I attest that the above justification/information is accurate and complete to the best of my knowledge and that I have no personal or business interests relative to this request.

Jay Terzloff  
(Name and Signature of Department Head)

21 Oct 15  
Date

### SECTION C - TO BE COMPLETED BY PROCUREMENT OFFICE:

Based on the information provided in Section A and attached supporting documents,

I concur ☒ do not concur ☐ (see below) with purchase to be a Limited Source.

Do not concur for the following reason(s):

Jon C. JOHNSTON  
Name and Signature of Purchasing Agent or Designee

10/21/15  
Date



**CITY OF**  
*Bloomington* **ILLINOIS**  
**CONSENT AGENDA ITEM NO. 7E**

FOR COUNCIL: October 26, 2015

**SUBJECT:** Consideration of Waiving the Formal Bidding Process of a limited source and authorize procurement of a Contract with Decatur Industrial Electric of Decatur, Illinois for the repair of pumps and motors at the Water Treatment Plant and other pump stations.

**RECOMMENDATION/MOTION:** That the Council waive the formal bidding process and authorize the utilization of Decatur Industrial Electric and the entering into a Contract with Decatur Industrial Electric for services to repair pumps and motors at the Water Treatment Plant and other pump stations for the next three (3) years, as needed and determined by the City Manager and Director of the Water Department, and that the City Manager and City Clerk be authorized to execute the necessary documents.

**STRATEGIC PLAN LINK:** Goal 2 – Upgrade City Infrastructure and Facilities; Goal 5 – Great Place – Livable, Sustainable City

**STRATEGIC PLAN SIGNIFICANCE:** Objective B – Quality water for the long term; Objective A – Well-planned City with necessary services and infrastructure

**BACKGROUND:** The City of Bloomington Water Department treatment and distribution system includes a multitude of pumps and motors located at the Lake Bloomington Treatment Plant and throughout the system at pump stations. This equipment is utilized to convey water from the City's water supply reservoirs, through the treatment plant, and to the end users. This equipment is an integral part of the system and works to ensure proper volume and pressure is received by our citizens and consumers. Pumps and motors require maintenance, repair, and replacement from time to time. Failure of this equipment typically requires repairs to the existing equipment or complete replacement.

Water Department staff works to determine if repairs to the existing equipment is the most economical solution for each individual situation. Staff considers the age of the existing equipment, hours of use, frequency of use, critical nature of the equipment, cost of the repairs, equipment repair history, time required for repair, and historical costs of replacement equipment. Often the existing equipment can be repaired economically and returned to service with an acceptable continued life expectancy.

This equipment is complex and to obtain an estimate for repair, the vendor must disassemble the equipment, and inspect and test the various internal components. The vendor can take up to two man-days to perform this work and determine the extent and cost of the repairs. The vendor will typically waive the fee to determine the extent of the repairs if the City selects the vendor to perform the repair effort or does not request the equipment to be returned to the City. Therefore this process does not lend itself to obtain multiple quotes for repair of existing equipment in a timely manner. In addition, these pumps and motors are very large and expensive equipment,

and are not consistent throughout the system. Therefore, in most cases it is not feasible to purchase and store backup equipment prior failure of the existing equipment.

Over the years staff has utilized several vendors to perform repairs of pumps and motors. Decatur Industrial Electric has performed well when called upon to complete repairs for the Water Department. Other vendors have returned equipment that needed additional repairs, caused an outage at a pump station, or resulted in new equipment purchases required to replace the repaired equipment.

Therefore City staff is recommending to utilize Decatur Industrial Electric for repairs to Water Department pumps and motors. Authorization to utilize Decatur Industrial Electric is requested for a one (1) year period, with the option for three (3) additional one (1) year renewals. Renewal extension will be based on the performance of Decatur Industrial Electric and subject to the approval of the Water Director.

Currently, there are two (2) motors and one (1) pump within the distribution system that need to be repaired. Staff forwarded the equipment to Decatur Industrial Electric for analysis and quotation. The Repair & Service Estimate for these three (3) pieces of equipment are attached and would be repaired under the authorization requested by this Council Memo. As this equipment was, future equipment failures will be reviewed using the criteria noted above to determine the most economical way to return the system to full operational capacity. Future repairs determined utilize the above noted criteria will be authorized and performed under the authorization provide by approval of this proposed Contract.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not applicable

**FINANCIAL IMPACT:** Funds have been allocated in the FY 2016 Budget under Water Transmission-Repair/Maintenance Equipment account (50100120-70540). Stakeholders can locate this in the FY 2016 Budget Book titled “Other Funds & Capital Improvement Program” on page 119.

Respectfully submitted for Council consideration.

Prepared by: Jesus Tubia, Superintendent of Mechanical Services

Reviewed by: Robert Yehl, PE, Water Director

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla A. Murillo, Budget Manager

Legal review by: Jeffrey R. Jurgens, Corporation Counsel



Recommended by:



David A. Hales, City Manager

**Attachments:**

- Contract
- Repair & Service Estimate – Enterprise Pump Station (Motor no. 1)
- Repair & Service Estimate – Division Street Pump Station (Motor no. 3)
- Repair & Service Estimate – Fort Jesse Pump Station B (Pump no. 1)

Motion: That the Council waive the formal bidding process and authorize the utilization of Decatur Industrial Electric and the entering into a Contract with Decatur Industrial Electric for services to repair pumps and motors at the Water Treatment Plant and other pump stations for the next three (3) years, as needed and determined by the City Manager and Director of the Water Department, and that the City Manager and City Clerk be authorized to execute the necessary documents.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                  | Aye | Nay | Other |                    | Aye | Nay | Other |
|------------------|-----|-----|-------|--------------------|-----|-----|-------|
| Alderman Black   |     |     |       | Alderman Mwilambwe |     |     |       |
| Alderman Buragas |     |     |       | Alderman Painter   |     |     |       |
| Alderman Fruin   |     |     |       | Alderman Sage      |     |     |       |
| Alderman Hauman  |     |     |       | Alderman Schmidt   |     |     |       |
| Alderman Lower   |     |     |       |                    |     |     |       |
|                  |     |     |       | Mayor Renner       |     |     |       |

**CITY OF BLOOMINGTON CONTRACT WITH  
DECATUR INDUSTRIAL ELECTRIC  
FOR PROFESSIONAL SERVICES FOR  
WATER DEPARTMENT PUMP & MOTOR REPAIRS**

**THIS AGREEMENT**, dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015, is between the City of Bloomington (hereinafter "CITY") and DECATUR INDUSTRIAL ELECTRIC (hereinafter "CONTRACTOR").

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

**Section 1. Recitals.** The recitals set forth above are incorporated into this Section 1 as if specifically stated herein.

**Section 2. Description of Services.** CONTRACTOR shall provide the services/work identified on Exhibit A.

**Section 3. Payment.** For the work performed by CONTRACTOR under this Contract, the CITY shall pay CONTRACTOR one of the following:

- ☐ A flat fee of \$ \_\_\_\_\_ as set forth in the payment terms attached as Exhibit B.
- ☒ Fees as set forth in the Payment Terms attached as Exhibit B.

**Section 4. Default and Termination.** Either party shall be in default if it fails to perform all or any part of this Contract. If either party is in default, the other party may terminate this Contract upon giving written notice of such termination to the party in default. Such notice shall be in writing and provided thirty (30) days prior to termination. The non-defaulting party shall be entitled to all remedies, whether in law or equity, upon the default or a violation of this Contract. In addition, the prevailing party shall be entitled to reimbursement of attorney's fees and court costs.

**Section 5. Reuse of Documents.** All documents including reports, drawings, specifications, and electronic media furnished by CONTRACTOR pursuant to this Contract are instruments of CONTRACTOR'S services. Nothing herein, however, shall limit the CITY'S right to use the documents for municipal purposes, including but not limited to the CITY'S right to use the documents in an unencumbered manner for purposes of remediation, remodeling and/or construction. CONTRACTOR further acknowledges any such documents may be subject to release under the Illinois Freedom of Information Act.

**Section 6. Standard of Care.** Services performed by CONTRACTOR under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

**Section 7. Indemnification.** To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless CITY, its officers, officials, agents and employees from and against liability arising out of CONTRACTOR'S negligent acts, errors, or omissions in performance of services under this Contract. This indemnification shall extend to claims occurring after this Contract is terminated as well as while it is in force.

**Section 8. Insurance Requirements.** CONTRACTOR shall maintain an errors and omissions policy in the amount of \$2,000,000.00 and shall further maintain general liability insurance for bodily injury and property damage arising directly from its negligent acts or omissions, with general limits not less than \$2,000,000.00. Certificates of insurance shall be provided to CITY and CITY shall be named as an additional insured under the policy.

**Section 9. Representations of Vendor.** CONTRACTOR hereby represents it is legally able to perform the work that is subject to this Contract.

**Section 10. Assignment.** Neither party may assign this Contract, or the proceeds thereof, without written consent of the other party.

**Section 11. Compliance with Laws.** CONTRACTOR agrees that any and all work by CONTRACTOR shall at all times comply with all laws, ordinances, statutes and governmental rules, regulations and codes.

**Section 12. Compliance with FOIA Requirements.** CONTRACTOR further explicitly agrees to furnish all records related to this Contract and any documentation related to CITY required under an Illinois Freedom of Information Act (ILCS 140/1 et. seq.) ("FOIA") request within five (5) business days after CITY issues notice of such request to CONTRACTOR. CONTRACTOR agrees to not apply any costs or charge any fees to the CITY regarding the procurement of records required pursuant to a FOIA request. CONTRACTOR shall be responsible for any damages/penalties assessed to CITY for CONTRACTOR'S failure to furnish all documentation in CONTRACTOR'S possession responsive and related to a request within five (5) days after CITY issues a notice of a request.

**Section 13. Governing Law.** This Agreement shall be governed by and interpreted pursuant to the laws of the State of Illinois.

**Section 14. Joint Drafting.** The parties expressly agree that this agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this agreement shall be construed neither against nor in favor of either party, but shall be construed in a neutral manner.

**Section 15. Attorney Fees.** In the event that any action is filed by a party in relation to this contract and the party prevails in court and obtains a court order or judgment as a result of said litigation, the non-prevailing party in the action shall pay to the prevailing party, in addition to the sums that either party may be called on to pay, a reasonable sum for the prevailing party's attorneys' fees and court costs (including expert witness fees).

**Section 16. Paragraph Headings.** The titles to the paragraphs of this agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this agreement.

**Section 17. Counterparts.** This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

CITY OF BLOOMINGTON

DECATUR INDUSTRIAL ELECTRIC

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

Its City Manager

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

Its \_\_\_\_\_

ATTEST:

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

City Clerk

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

Its \_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF SERVICES / WORK PROVIDED**

AT THE REQUEST OF THE DIRECTOR OF THE WATER DEPARTMENT, PERFORM INSPECTION AND TESTING OF VARIOUS WATER DEPARTMENT PUMPS AND MOTORS. DECATUR INDUSTRIAL ELECTRIC'S INITIAL EFFORT WILL RESULT IN ITS SUBMITTAL OF A REPAIR & SERVICE ESTIMATE FOR THE CITY'S REVIEW AND APPROVAL. DECATUR INDUSTRIAL ELECTRIC WILL THEN PERFORM REPAIRS OF PUMPS AND MOTORS UPON RECEIPT OF WRITTEN AUTHORIZATION BY THE DIRECTOR OF THE WATER DEPARTMENT AND CITY MANAGER.

**EXHIBIT B**  
**PAYMENT TERMS**

Decatur Industrial Electric will repair the following three pump stations for the costs identified below, for a total cost of \$46,443.93:

1. Enterprise Pump Station - Motor #1 - \$9,787.12 - See Attachment 2
2. Division St. Pump Station - Motor #3 - \$19,401.23 - See Attachment 3
3. Ft. Jesse Pump Station - Motor #1 - \$17,255.58- See Attachment 4

For any additional repairs, a written quote must be provided to the Director of the Water Department and approved by the City Manager prior to engaging Decatur Industrial Electric to perform the work. As necessary, repair estimates for future pump or motor repairs will be obtained and evaluated by Water Department staff. Staff will consider the age of the existing equipment, hours of use, frequency of use, critical nature of the equipment, cost of the repairs, equipment repair history, time required for repair, and historical costs of replacement equipment. Based on the future valuations, the Director of the Water Department and City Manager will authorize future repairs as appropriate. It is estimated that individual repairs will cost between \$10,000 and \$25,000, however some repairs may costing more than these listed estimated amounts.





**DECATUR  
Industrial Electric**

*Electro-Mechanical Solutions*

1650 E. Garfield Ave. • Decatur, IL 62526 • 800-252-1598 • 217-428-6621

**Repair & Service Estimate**

**Job:** 123991

**Cust #:** 000015

CITY OF BLOOMINGTON/HUDSON  
WATER TREATMENT PLANT  
25515 WATERSIDE WAY  
HUDSON, IL 61748

**Ship To #:** 000001

CITY OF BLOOMINGTON/HUDSON  
109 E OLIVE BOX 3157  
BLOOMINGTON, IL 61701

**Est Date**

09/22/15

**Cust P.O.#**

**P.O. Rel#**

**Misc #**

**Nameplate Data:**

MFG:US, HP:250, RPM:1800, ENCLOSURE:DP

**Description**

**Price**

-RECORD INCOMING DATA  
-PERFORM A SET OF MACHINERY SIGNATURES  
-DISASSEMBLE UNIT AS REQUIRED  
-CLEAN AND INSPECT  
-PERFORM ELECTRICAL TESTING  
-VERIFY ALL MECHANICAL FITS  
-CHECK AND VERIFY MOUNTING FLATNESS  
-IDENTIFY SPECIFICATIONS FOR UNIT  
-GROWLER TEST ROTOR  
-CORE LOSS TEST IRON  
-EPOXY OVERCOAT WINDINGS  
-CHECK SHAFT FOR RUNOUT AND POLISH  
-BUILD UP AND MACHINE OUTPUT SHAFT  
-CUT KEYWAY & RETAINING RING GROOVE  
-CUT KEY FOR SETTING THRUST  
-FABRICATE STAND PIPE  
-SKIM CUT MOUNTING BASE  
-BORE AND SLEEVE ODE BEARING HOUSING  
-INSPECT STAND PIPE  
-BALANCE ROTOR ASSEMBLY  
-SUPPLY & INSTALL NEW SIGHT GLASSES,  
COUPLING, AND THRUST COLLAR  
-SUPPLY & INSTALL NEW TIER 1 BEARINGS  
-PREP PARTS FOR ASSEMBLY  
-REASSEMBLE UNIT AND TEST  
-PERFORM A SET OF MACHINERY SIGNATURES  
-IDENTIFY AND DISPOSE OF SCRAP MATERIAL

Continued

# ENTERPRIZE PUMP STATION (MOTOR REBUILT)

## Repair & Service Estimate



**DECATUR**  
**Industrial Electric**

*Electro-Mechanical Solutions*

1650 E. Garfield Ave. • Decatur, IL 62526 • 800-252-1598 • 217-428-6621

**Job:** 123991

**Cust #:** 000015

CITY OF BLOOMINGTON/HUDSON  
WATER TREATMENT PLANT  
25515 WATERSIDE WAY  
HUDSON, IL 61748

**Ship To #:** 000001

CITY OF BLOOMINGTON/HUDSON  
109 E OLIVE BOX 3157  
BLOOMINGTON, IL 61701

**Est Date**

09/22/15

**Cust P.O.#**

**P.O. Rel#**

**Misc #**

**Description**

**Price**

-PAINT AND PERFORM QUALITY INSPECTION  
MATERIAL

**Total:**

9,787.12

**Cause of Failure**

RECONDITION.

**Replacement Item:** MISSING NAMEPLATE DATA, NO QUOTE

**Replacement Price:** .00

Our Standard Terms And Conditions Apply.

Please Let Us Know How To Proceed. Thank You, Landon Baine.

**Accepted By:** \_\_\_\_\_

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

Your Total Source For Electro-Mechanical Solutions

# ENTERPRIZE PUMP STATION (MOTOR REBUILT)

## Repair & Service Estimate



**DECATUR**  
**Industrial Electric**

*Electro-Mechanical Solutions*

1650 E. Garfield Ave. • Decatur, IL 62526 • 800-252-1598 • 217-428-6621

**Job:** 123991

**Cust #:** 000015

CITY OF BLOOMINGTON/HUDSON  
WATER TREATMENT PLANT  
25515 WATERSIDE WAY  
HUDSON, IL 61748

**Ship To #:** 000001

CITY OF BLOOMINGTON/HUDSON  
109 E OLIVE BOX 3157  
BLOOMINGTON, IL 61701

**Est Date**

09/22/15

**Cust P.O.#**

**P.O. Rel#**

**Misc #**

**Description**

**Price**

-PAINT AND PERFORM QUALITY INSPECTION  
MATERIAL

**Total:**

9,787.12

**Cause of Failure**

RECONDITION.

**Replacement Item:** MISSING NAMEPLATE DATA, NO QUOTE

**Replacement Price:** .00

Our Standard Terms And Conditions Apply.

Please Let Us Know How To Proceed. Thank You, Landon Baine.

**Accepted By:** \_\_\_\_\_

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

Your Total Source For Electro-Mechanical Solutions



# DNISION PUMP STATION (REWIND MOTOR#2)



**DECATUR**  
**Industrial Electric**

*Electro-Mechanical Solutions*

1650 E. Garfield Ave. • Decatur, IL 62526 • 800-252-1598 • 217-428-6621

**Repair & Service Estimate**

**Job:** 123501

**Cust #:** 000634

CITY OF BLOOMINGTON  
ACCOUNTS PAYABLE  
109 E. OLIVE  
BLOOMINGTON, IL 61701

**Ship To #:** 000099

CITY OF BLOOMINGTON  
ACCOUNTS PAYABLE  
109 E. OLIVE  
BLOOMINGTON, IL 61701

**Est Date**

06/15/15

**Cust P.O.#**

**P.O. Rel#**

**Misc #**

**Nameplate Data:**

MFG:WESTINGHOUSE, HP:200, RPM:1775, FRAME:875-P, TYPE:CW, SERIAL #:3S13N4687,  
ENCLOSURE:ODP, VOLTS:2300/452, AMPS:44/200, HERTZ:60, RATING:CONT, OTHER:STYLE  
13N4687

**Description**

**Price**

REWIND WOUND ROTOR ONLY  
-CORE LOSS TEST ROTOR IRON  
-REMOVE FAILED COILS AND VERIFY DATA  
-REPAIR DAMAGED LAMINATIONS/IRON  
-PREP ROTOR CORE FOR WINDING  
-REWIND ROTOR  
-REBAND ROTOR PER SPECIFICATION  
-VACUUM PRESSURE IMPREGNATE WINDINGS  
-EPOXY OVERCOAT WINDINGS  
TOTAL COST OF ROTOR REWIND \$24,251.53  
CUSTOMER CONCESSION \$4850.30  
FINAL COST OF ROTOR REWIND \$19,401.23

**Total:**

**19,401.23**

**Cause of Failure**

**Replacement Item:**

**Replacement Price:** .00

Our Standard Terms And Conditions Apply.  
Please Let Us Know How To Proceed. Thank You, Dan Lang.

**Accepted By:** \_\_\_\_\_

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

Your Total Source For Electro-Mechanical Solutions

# FORT JESSE B PUMP REBUILT (OLD QUOTE)



**DECATUR  
Industrial Electric**

*Electro-Mechanical Solutions*

1650 E. Garfield Ave. • Decatur, IL 62526 • 800-252-1598 • 217-428-6621

**Quotation**

**Mail To:**

|                            |                                    |                                                  |                   |
|----------------------------|------------------------------------|--------------------------------------------------|-------------------|
| <b>Quote:</b> 001950       | <b>Department:</b> D3<br>PUMP SHOP | <b>Job Desc:</b> ITT AC PUMP   150   8100   1785 |                   |
|                            |                                    | <b>Type:</b> PP PROCESS PUMPS                    |                   |
| <b>Cust #:</b> 000015      |                                    | <b>Ship To #:</b>                                | <b>Quote Date</b> |
| CITY OF BLOOMINGTON/HUDSON |                                    | CITY OF BLOOMINGTON/HUDSON                       | 05/20/15          |
| WATER TREATMENT PLANT      |                                    | WATER TREATMENT PLANT                            |                   |
| 25515 WATERSIDE WAY        |                                    | 25515 WATERSIDE WAY                              |                   |
| HUDSON, IL 61748           |                                    | HUDSON, IL 61748                                 |                   |

**Nameplate Data:**

MFG: ITT AC PUMP, MODEL: 150, TYPE: 8100, RPM: 1785, SERIAL #: 1-74629-02-2,  
SIZE: 12X10X14

**Special Instructions:**

**Description**

**Price**

- RECORD INCOMING DATA
- DISASSEMBLE UNIT AS REQUIRED
- CLEAN AND INSPECT
- VERIFY ALL MECHANICAL FITS
- CHECK SHAFT FOR RUNOUT AND POLISH
- BALANCE IMPELLER ASSEMBLY
- PREP PARTS FOR ASSEMBLY
- REBUILD PUMP PER SPECIFICATIONS
- PAINT AND PERFORM QUALITY INSPECTION
- SUPPLY & INSTALL NEW TIER 1 BEARINGS
- SUPPLY & INSTALL NEW MECHANICAL SEALS
- SUPPLY & INSTALL NEW GASKETS/O-RINGS
- SUPPLY&INSTALL NEW BRONZE CASTING RINGS

**Total:**

**17,255.58**

Quote valid for 30 calendar days  
from the above date.

Plus Sales Taxes,  
If Applicable.

**By:**

**Date:**

**Based Upon Our Standard Terms And Conditions.**



**CITY OF**  
*Bloomington* ILLINOIS  
**CONSENT AGENDA ITEM NO. 7F**

FOR COUNCIL: October 26, 2015

**SUBJECT:** Consideration of waiving the formal bidding process, and approve a two year Contract with Mississippi Lime Company for supply and delivery of granulated quicklime for water treatment purposes.

**RECOMMENDATION/MOTION:** That Council approve waiving the formal bidding process for lime, a water treatment chemical, a two year agreement for the purchased of Lime from Mississippi Lime Company, at the quoted price of \$183.40 plus fuel surcharge per ton for the first year and \$188.95 plus fuel surcharge per ton in the second year, and the City Manager and City Clerk be authorized to execute the necessary documents.

**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1d. City services provided in the most cost effective, efficient manner.

**BACKGROUND:** Granular quicklime is an essential water treatment chemical that is used in the process at the water purification plant. Mississippi Lime Company was chosen as a limited source supplier after experiencing consistently unacceptable performance with lime obtained from other suppliers. The last time the City obtained lime from a vendor different from Mississippi Lime Company was in 2007. When the product was delivered and used by the Water Department, the product did not meet the City's specification and the material caused operational water treatment problems. Additionally, other suppliers have been tried in past years with similar results. This has generally led to serious equipment problems, extensive clean-up efforts, water quality degradation and overall higher water treatment costs.

Lime (Calcium Oxide) – Lime is used as a water softening agent in water treatment plants that have source water with high levels of calcium and magnesium, two(2) elements that cause water to be characterized as “hard”. Lime is mixed with water in the water treatment facility and this solution is then added to the water to be treated. The lime causes the calcium and magnesium in the source water to settle out of the water. The quality of calcium oxide can vary due to the variations in the raw ingredient, limestone.

City Council approved a two year agreement with Mississippi Lime Company on October 14, 2013 for the period through September 30, 2015. The Water Department requested and received an Emergency Procurement authorization as an extension of the contract approved in October 2013. The Emergency Procurement authorization is for the period of October 1, 2015 through November 30, 2015. This memo is a request to enter into a new multi-year agreement ending September 30, 2017.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not Applicable.



**FINANCIAL IMPACT:** Payment for the purchase of granular quicklime will be made from the Water Purification Budget-Water Chemicals account (50100130-71720). There is currently approximately \$560,087 available in the account for FY 2016. Stakeholders can locate this in the FY 2016 Budget Book titled “Other Funds & Capital Improvement Program” on page 125. It is estimated that granular quicklime expenditures for remainder of the FY under this agreement will be approximately \$386,000.

**FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION: Not Applicable.**

Respectfully submitted for Council consideration.

Prepared by: Rick Twait, Superintendent of Water Purification

Reviewed by: Robert D. Yehl, PE, Water Director

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla A. Murillo, Budget Manager

Legal review by: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:



David A. Hales  
City Manager

**Attachments:**

- Mississippi Lime Company, City of Bloomington Offer Letter
- Limited Source Justification
- Lime Report 2008
- Agreement, Mississippi Lime Company

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**Motion:**

That Council approve waiving the formal bidding process for lime, a water treatment chemical, a two year agreement for the purchased of Lime from Mississippi Lime Company, at the quoted price of \$183.40 plus fuel surcharge per ton for the first year and \$188.95 plus fuel surcharge per ton in the second year, and the City Manager and City Clerk be authorized to execute the necessary documents.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                | Aye | Nay | Other |                    | Aye | Nay | Other |
|----------------|-----|-----|-------|--------------------|-----|-----|-------|
| Alderman Black |     |     |       | Alderman Mwilambwe |     |     |       |

|                  |  |  |  |                  |  |  |  |
|------------------|--|--|--|------------------|--|--|--|
| Alderman Buragas |  |  |  | Alderman Painter |  |  |  |
| Alderman Fruin   |  |  |  | Alderman Sage    |  |  |  |
| Alderman Hauman  |  |  |  | Alderman Schmidt |  |  |  |
| Alderman Lower   |  |  |  |                  |  |  |  |
|                  |  |  |  | Mayor Renner     |  |  |  |



Discovering what's possible with calcium  
3870 S. Lindbergh Blvd., Suite 200, St. Louis, MO 63127  
(800) 437-5463 • Fax (314) 543-6574

September 22, 2015

Mr. Rick Twait  
City of Bloomington WTP  
P.O. Box 160A, R.R. 1  
Hudson, IL 61748

Dear Rick:

Mississippi Lime Co. is pleased to submit the following 2 year proposal for your 2015/2016 and 2016/2017 quicklime requirements.

**Product:** Granular Quicklime, in bulk

- Current price (\$179.80 + FSC) extended thru 11/31/15
- 1<sup>st</sup> Year Price (\$183.40 + FSC) from 12/1/15 – 9/30/16
- 2<sup>nd</sup> Year Price (\$188.95+FSC) from 10/1/16 – 9/30/17

**Payment Terms:** Net 30 days

***This quotation is valid for 90 days from the date above.***

We sincerely thank you for your business, Rick, and appreciate the opportunity to be your supplier of high quality quicklime. Please feel free to contact me with any questions.

Regards,

Chris Smoot  
Regional Sales Manager  
Mississippi Lime Company  
(773) 294-0652

## LIMITED SOURCE JUSTIFICATION

(Requester completes Section A and B)

### SECTION A - LIMITED SOURCE PURCHASE:

Complete if a purchase is \$3,000 or over and due to reasons of previous capital investment, improved public service, long-term operational need, security, patents, copyrights, critical need for responsiveness, proximity, Federal, State or other regulations, necessary replacement parts and/or compatibility, warranty, this procurement justifies a limited source exemption.

Vendor: Mississippi Lime

Amount: \$48,000.00  
(267 tons of lime)

Date: 10/01/2015

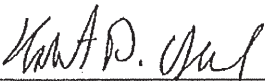
Description of item/service: Purchase of granular quicklime for \$179.80 per ton + FSC delivered to the water treatment plant.

Vendor # 98

Justification: We experienced major operational difficulties and expense whenever we used granular quicklime from alternate suppliers. The last experience with an alternate supplier was in 2007. The operational problems caused by the lower quality lime from that supplier is described in the attached report. Quality and consistency of quicklime is important from a water treatment perspective, as well.

Mississippi Lime has provided the consistently high quality quicklime necessary to ensure proper operation of our softening process. We received approval from Council to waive bid requirements for lime, with the most recent approval for our two year agreement on October 14, 2013.

**SECTION B - REQUESTER CERTIFICATION:** By submitting this request, I attest that the above justification/information is accurate and complete to the best of my knowledge and that I have no personal or business interests relative to this request.



(Name and Signature of Department Head)

10/2/15

Date

### SECTION C --TO BE COMPLETED BY PROCUREMENT OFFICE:

Based on the information provided in Section A and attached supporting documents,

I concur ☒ do not concur ☐ (see below) with purchase to be a Limited Source.

Do not concur for the following reason(s):

Jon C. Johnston 

Name and Signature of Purchasing Agent or Designee

10/2/15

Date

# **Lime**

submitted to  
City of Bloomington  
February 6, 2008

**DRAFT**



H<sub>2</sub>O'C Engineering  
(877) 22-WATER  
[www.h2oc.com](http://www.h2oc.com)

## **Lime Supply**

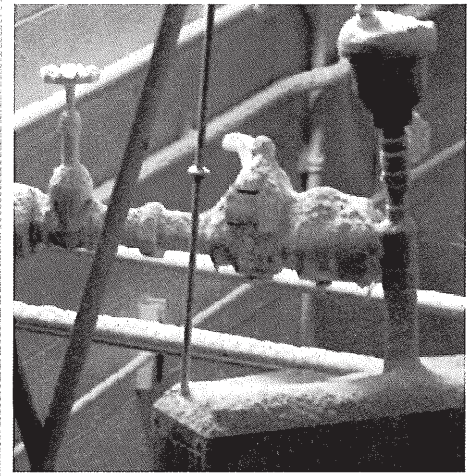
In September of 2007, the water treatment plant switched lime suppliers from Mississippi Lime to Chemical Lime. The new lime was a contributing factor to several problems.

These problems disrupted the treatment process, increased overtime costs, and threatened the plant's ability to provide an adequate quantity and quality of water.

## **Chemical Lime**

### **Problems with Dry Lime Feed**

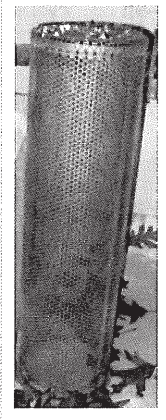
Shortly after the conversion to the new lime source, operators complained of increases in problems in the lime feed system that disrupted both the lime slaking and treatment processes. The first problem was encountered in the system that transports the dry lime powder to the batch slakers. The powder became compacted on and accumulated within the throat of the augur funneling the lime into the slakers. From the blockage, the pressure in this throat increased to the point where the bolts on top of the channel popped off. The resulting spray of lime powder coated the lime slaker equipment room and control panels with dust and resulted in the deposition of mounds of powder on the slaker room floor. An increased program of slaker feed monitoring and maintenance was established to avoid frequent repetitions of this problem.



### **Problems with Slaked Lime**

Following slaking, the resulting lime slurry is passed through a stainless steel mesh strainer to remove the larger particles. An increase in the rate of collection of solids within the strainer made it necessary to increase the frequency with which this strainer was emptied and, periodically, acid washed.

Alternately, it was noted that the new lime was more reactive than the lime previously used. This was indicated by the more rapid rate of temperature increase upon the addition of feed water. This increased rate of reaction was attributed to the predominance of powder, rather than granular, dry lime feed. Chemical cost benefits were expected if the increased slaking rate portended less lime softening feed requirements.



### **Solids Accumulation in ClariCones**

A more serious, but initially undetected, problem began to develop in the bottom of the ClariCones as heavy, unreacted solids in the new lime slurry began to accumulate. These solids are normally purged from the base of the cones by pumping the accumulations to the sludge storage vault. However, from the massive blockages that were ultimately found in the softeners and in the piping to the sludge vault, it was inferred that, although the operational indicators had indicated normal operation, the transfer pumps had been unable to suspend and remove the heavy solids accumulation from the bases of the softeners.



Ultimately, the situation became visible when the surfaces of the sludge blankets on ClariCones #3 and #4 began to rise to levels approaching the overflow troughs, threatening to overflow solids into the effluent launders. Accordingly, both ClariCones in operation had to be shut down. Plant water production came to a near-standstill.

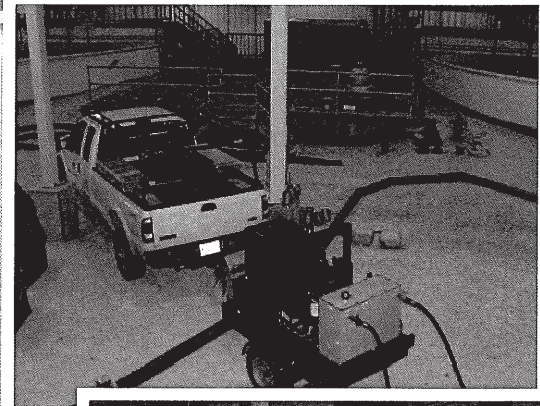
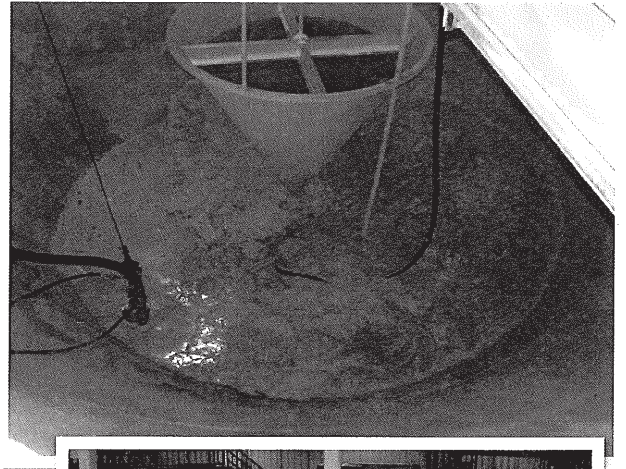
A crisis further developed when it was found that the pipeline used for removing sludge from the sludge storage vault was similarly blocked. This blockage made it impossible to transfer any solids from the softeners without overflowing the vault. Operators noted that blockage of the pipeline from the vault to the sludge storage lagoons had never occurred before.

The plant maintenance personnel immediately set about to eliminate the blockage in the piping to the sludge storage lagoons while simultaneously starting to assemble an alternate surface pipeline using flexible pipe. They would then hydraulically fluidize and eject the congealed, cementitious solid contents of the softeners to an alternate discharge point, the basin used for reclaiming backwash water. This *reclaim basin* has a separate discharge line which leads to the sludge lagoons. While the maintenance staff were able to restore partial operation of the plant so as to avoid shutdown, this entire effort took place over a period of a week. It required a large expenditure of labor including a substantial amount of overtime effort.

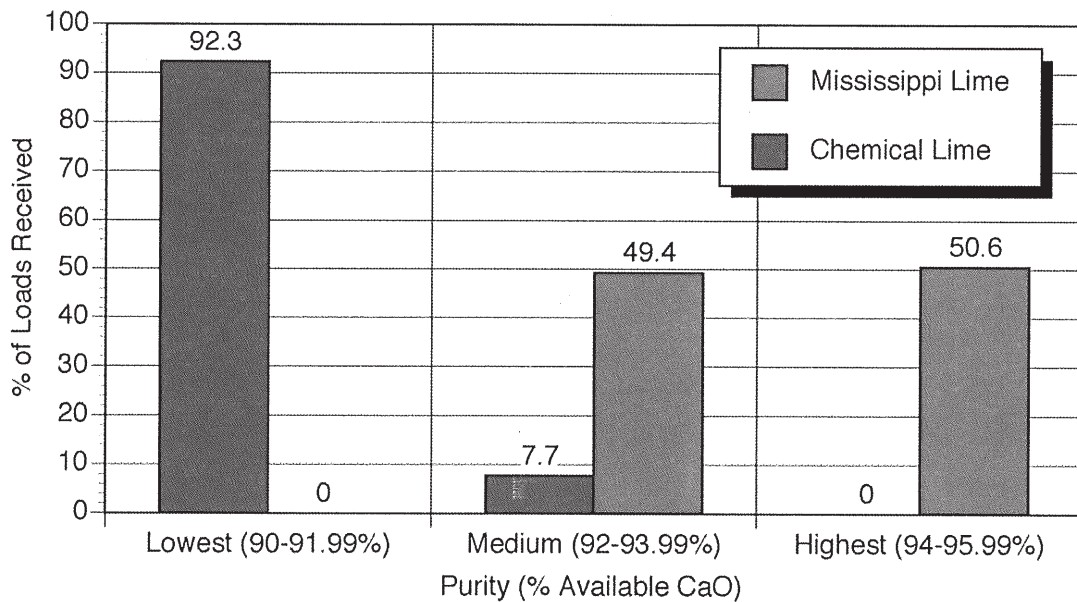
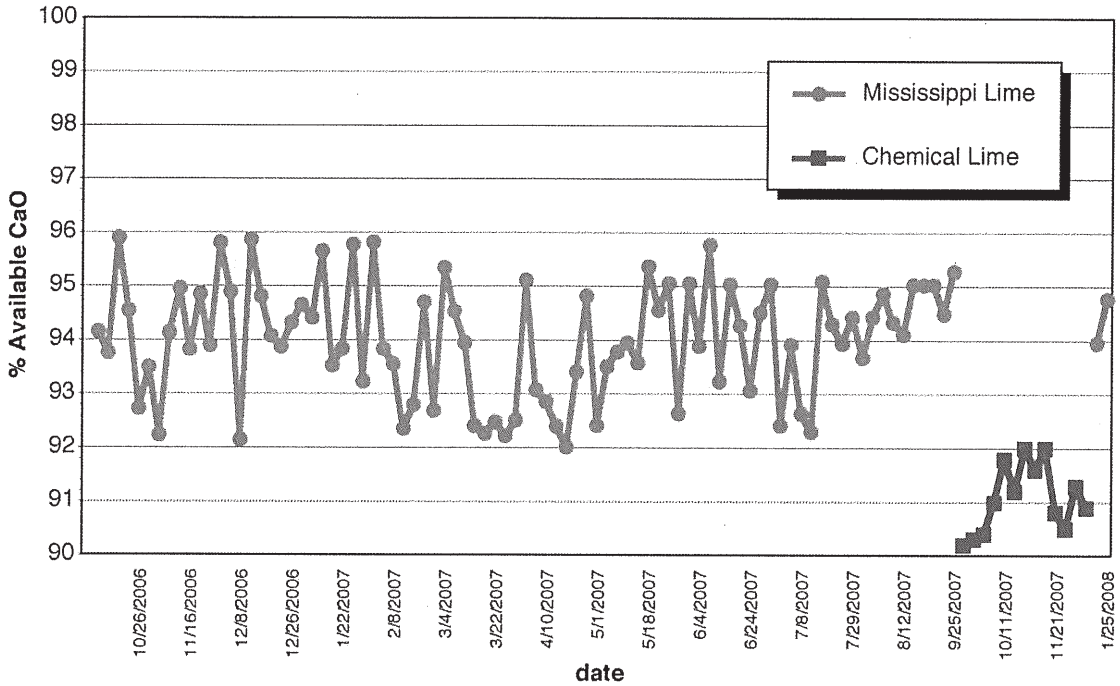
From the observations of the operators and maintenance personnel involved, it was concluded that the new lime source contributed an abundance of unreactive solids that were too dense for the lime feed and sludge removal systems.

To further assess the nature of the accumulated solids, samples were collected for laboratory testing and observation. In addition, delivery data on the previous and new lime sources were reviewed and plotted.

Following the restoration to service of softeners #3 and #4 and despite heightened vigilance, a similar blockage occurred in the sludge withdrawal line of softener #1. As a result, operators advocated a return to the lime source with lower non-reactive solids content.



Each batch of lime delivered to the treatment plant comes with a certificate of analysis which reports the purity of the lime, expressed as % Available CaO. Over the past year, Mississippi Lime had averaged 94.02%. In recent months, Chemical Lime has averaged 91.08%. Purchase specifications require a purity of 95% Available CaO. It appears that recent plant operational problems have been exacerbated by both the nature and the quantity of lime impurities.



**CITY OF BLOOMINGTON  
CONTRACT WITH**

**FOR**

**THIS AGREEMENT**, dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015, is between the City of Bloomington (hereinafter "CITY") and \_\_\_\_\_ (hereinafter "CONTRACTOR").

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

**Section 1. Recitals.** The recitals set forth above are incorporated into this Section 1 as if specifically stated herein.

**Section 2. Incorporation of Bid/RFP/RFO & Proposal Terms.** This work was subject to the following procurement initiative by the CITY:

\_\_\_\_\_ (hereinafter "Request")

Accordingly, the provisions of the Request and the proposal submitted by CONTRACTOR (hereinafter collectively referred to as "Procurement Documents" and attached as Exhibit A), shall be incorporated into this Contract and made a part thereof and shall be considered additional contractual requirements that must be met by CONTRACTOR. In the event of a direct conflict between the provisions of this contract and the incorporated documents, the provisions of this contract shall apply.

**Section 3. Description of Services.** CONTRACTOR shall provide the services/work identified in the Procurement Documents, and specifically as follows: \_\_\_\_\_

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

**Section 4. Payment.** For the work performed by CONTRACTOR under this Contract, the CITY shall pay CONTRACTOR one of the following:

\_\_\_ A flat fee of \$ \_\_\_\_\_ as set forth in the Procurement Documents.

\_\_\_ Fees as set forth in the Procurement Documents.

**Section 5. Default and Termination.** Either party shall be in default if it fails to perform all or any part of this Contract. If either party is in default, the other party may terminate this Contract upon giving written notice of such termination to the party in default. Such notice shall be in writing and provided thirty (30) days prior to termination. The non-defaulting party shall be entitled to all remedies, whether in law or equity, upon the default or a violation of this Contract. In addition, the prevailing party shall be entitled to reimbursement of attorney's fees and court costs.



**Section 6. Representations of Vendor.** CONTRACTOR hereby represents it is legally able to perform the work that is subject to this Contract.

**Section 7. Assignment.** Neither party may assign this Contract, or the proceeds thereof, without written consent of the other party.

**Section 8. Compliance with Laws.** CONTRACTOR agrees that any and all work by CONTRACTOR shall at all times comply with all laws, ordinances, statutes and governmental rules, regulations and codes.

**Section 9. Compliance with FOIA Requirements.** CONTRACTOR further explicitly agrees to furnish all records related to this Contract and any documentation related to CITY required under an Illinois Freedom of Information Act (ILCS 140/1 et. seq.) ("FOIA") request within five (5) business days after CITY issues notice of such request to CONTRACTOR. CONTRACTOR agrees to not apply any costs or charge any fees to the CITY regarding the procurement of records required pursuant to a FOIA request. CONTRACTOR shall be responsible for any damages/penalties assessed to CITY for CONTRACTOR'S failure to furnish all documentation in CONTRACTOR'S possession responsive and related to a request within five (5) days after CITY issues a notice of a request.

**Section 10. Governing Law.** This Agreement shall be governed by and interpreted pursuant to the laws of the State of Illinois.

**Section 11. Joint Drafting.** The parties expressly agree that this agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing it terms prior to execution. Therefore, this agreement shall be construed neither against nor in favor of either party, but shall construed in a neutral manner.

**Section 12. Attorney Fees.** In the event that any action is filed in relation to this agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorneys' fees.

**Section 13. Paragraph Headings.** The titles to the paragraphs of this agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this agreement.

**Section 14. Counterparts.** This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

CITY OF BLOOMINGTON

By: \_\_\_\_\_  
Its City Manager

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

ATTEST:

By: \_\_\_\_\_  
City Clerk

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

CITY OF BLOOMINGTON  
CONTRACT WITH  
Mississippi Lime Company  
FOR  
Granular Quicklime

**THIS AGREEMENT**, dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015, is between the City of Bloomington (hereinafter "CITY") and \_\_\_\_\_ Mississippi Lime Company (hereinafter "CONTRACTOR").

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

**Section 1. Recitals.** The recitals set forth above are incorporated into this Section 1 as if specifically stated herein.

**Section 2. Description of Services.** CONTRACTOR shall provide Granular Quicklime and the services identified on Exhibit A.

**Section 4. Payment.** For the work performed by CONTRACTOR under this Contract, the CITY shall pay CONTRACTOR as set forth in Exhibit A. Invoices shall be due and payable within 45 days of submission.

**Section 5. Default and Termination.** Either party shall be in default if it fails to perform all or any part of this Contract. If either party is in default, the other party may terminate this Contract upon giving written notice of such termination to the party in default. Such notice shall be in writing and provided thirty (30) days prior to termination. The non-defaulting party shall be entitled to all remedies, whether in law or equity, upon the default or a violation of this Contract. In addition, the prevailing party shall be entitled to reimbursement of attorney's fees and court costs.

**Section 6. Indemnification.** To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless CITY, its officers, officials, agents and employees from claims, demands, causes of action and liabilities of every kind and nature whatsoever arising out of or in connection with CONTRACTOR's operations performed under this Contract, except for loss, damage or expense arising from the sole gross negligence or willful misconduct of the CITY or the CITY's agents, servants or independent contractors who are directly responsible to CITY. This indemnification shall extend to claims occurring after this Contract is terminated as well as while it is in force. The indemnity shall apply regardless of any concurrent negligence, whether active or passive, of the CITY or CITY's officers, officials, agents, employees, or any other persons or entities. The indemnity set forth in this section shall not be limited by insurance requirements or by any other provision of this Contract.

**Section 7. General Liability Insurance.** CONTRACTOR shall maintain general liability insurance for bodily injury and property damage arising directly from its negligent acts or omissions, with general limits shall be less than \$1,000,000.00. Certificates of insurance shall be provided to CITY and CITY shall be named as an additional insured under the policy. Umbrella liability coverage must also be provided in the amount of \$2,000,000 for each occurrence, \$2,000,000 in aggregate.

**Section 8. Representations of Vendor.** CONTRACTOR hereby represents it is legally able to perform the work that is subject to this Contract.

**Section 9. Assignment.** Neither party may assign this Contract, or the proceeds thereof, without written consent of the other party.

**Section 10. Compliance with Laws.** CONTRACTOR and all work by CONTRACTOR shall at all times comply with all laws, ordinances, statutes and governmental rules, regulations and codes.

**Section 11. Prevailing Wage.** The following shall apply to this contract:

- ☒ This contract is not for a "public work" and therefore Prevailing Wage does not apply. *Initial:* \_\_\_\_\_ (City) \_\_\_\_\_ (CONTRACTOR)
- ☐ This contract calls for the construction of a "public work," within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. ("the Act"). The Act requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the current "prevailing rate of wages" (hourly cash wages plus amount for fringe benefits) in the county where the work is performed. The Department publishes the prevailing wage rates on its website at <http://labor.illinois.gov/>. The Department revises the prevailing wage rates and the contractor/subcontractor has an obligation to check the Department's web site for revisions to prevailing wage rates. For information regarding current prevailing wage rates, please refer to the Illinois Department of Labor's website. All contractors and subcontractors rendering services under this contract must comply with all requirements of the Act, including but not limited to, all wage requirements and notice and record keeping duties.  
*Initial:* \_\_\_\_\_ (City) \_\_\_\_\_ (CONTRACTOR)

**Section 12. Compliance with FOIA Requirements.** CONTRACTOR further explicitly agrees to furnish all records related to this Contract and any documentation related to CITY required under an Illinois Freedom of Information Act (ILCS 140/1 et. seq.) ("FOIA") request within five (5) business days after CITY issues notice of such request to CONTRACTOR. CONTRACTOR agrees to not apply any costs or charge any fees to the CITY regarding the procurement of records required pursuant to a FOIA request. CONTRACTOR agrees to defend, indemnify, and hold harmless CITY, and agrees to pay all reasonable costs connected therewith (including, but not limited to reasonable attorney's and witness fees, filing fees, and any other expenses) for CITY to defend any and all causes, actions, causes of action, disputes, prosecutions, or conflicts arising from CONTRACTOR actual or alleged violation of the FOIA, or CONTRACTOR failure to furnish all documentation related to a request within five (5) days after CITY issues notice of a request. Furthermore, should CONTRACTOR request that CITY utilize a lawful exemption under FOIA in relation to any FOIA request thereby denying that request, CONTRACTOR agrees to pay all costs connected therewith (such as reasonable attorney's and witness fees, filing fees and any other expenses) to defend the denial of the request. The defense shall include, but not be limited to, challenged or appealed denials of FOIA requests to either the Illinois Attorney General or a court of competent jurisdiction. CONTRACTOR agrees to defend, indemnify, and hold harmless CITY, and agrees to pay all costs connected therewith (such as reasonable attorney's and witness fees, filing fees and any other expenses) to defend any denial of a FOIA request by CONTRACTOR request to utilize a lawful exemption to CITY.

**Section 13. Governing Law.** This Agreement shall be governed by and interpreted pursuant to the laws of the State of Illinois.



**Section 14. Joint Drafting.** The parties expressly agree that this agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing it terms prior to execution. Therefore, this agreement shall be construed neither against nor in favor of either party, but shall construed in a neutral manner.

**Section 15. Attorney Fees.** In the event that any action is filed in relation to this agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorneys' fees.

**Section 16. Paragraph Headings.** The titles to the paragraphs of this agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this agreement.

**Section 17. Counterparts.** This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

CITY OF BLOOMINGTON

By: \_\_\_\_\_  
Its City Manager

ATTEST:

By: \_\_\_\_\_  
City Clerk

\_\_\_\_\_ Mississippi Lime Company

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

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

**EXHIBIT A**  
**SCOPE OF SERVICES / PRICE**

AT THE REQUEST OF THE DIRECTOR OF THE WATER DEPARTMENT, PERFORM INSPECTION AND TESTING OF VARIOUS WATER DEPARTMENT PUMPS AND MOTORS. DECATUR INDUSTRIAL ELECTRIC'S INITIAL EFFORT WILL RESULT IN ITS SUBMITTAL OF A REPAIR & SERVICE ESTIMATE FOR THE CITY'S REVIEW AND APPROVAL. DECATUR INDUSTRIAL ELECTRIC WILL THEN PERFORM REPAIRS OF PUMPS AND MOTORS UPON RECEIPT OF WRITTEN AUTHORIZATION BY THE DIRECTOR OF THE WATER DEPARTMENT AND CITY MANAGER.



**CITY OF**  
*Bloomington*  
**ILLINOIS**

**CONSENT AGENDA ITEM NO. 7G**

FOR COUNCIL: October 26, 2015

**SUBJECT:** Consideration of approving a contract with Illinois State University to install two automated stream monitoring/sampling stations, and support a recurring monitoring program for Sixmile Creek, Money Creek and the T3 Demonstration Site at Comlara Park through the Water Department for a total of \$85,856.00.

**RECOMMENDATION/MOTION:** That the Council approves the contract with Illinois State University to install two automated stream monitoring/sampling stations, and support a monitoring program for Sixmile Creek, Money Creek and the T3 Demonstration Site at Comlara Park through the Water Department for a total of \$85,856.00, and the City Manager and City Clerk be authorized to execute an agreement with ISU in the form attached hereto, or in a form otherwise approved by the City Manager, and all other necessary documents.

**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1 e. Partnering with others for the most cost-effective service delivery

**BACKGROUND:** The Water Department maintains an extensive source water protection program to improve the water quality in both the streams feeding our reservoirs and in the reservoirs themselves. Another goal of the program is to conserve the amount of water storage capacity in the lakes. We perform much of the work in-house with City staff and also partner with many organizations to get the necessary work completed.

This proposal from Illinois State University (ISU) is for two related tasks. The first part is the replacement of our older, existing sampler/flow monitoring equipment on Money Creek and Sixmile Creek with new, more reliable samplers, a new turbidity probe and telemetry. ISU will acquire the equipment and install it. Total cost for the stream sampling station installation project is \$37,658.00.

The second part of the proposal is for the actual sampling, flow measurement and analysis at the stream sites and for studying the restoration of riparian buffer project at the T3 site at Comlara Park. The T3 work fits in with our efforts to reduce the nitrates entering our reservoirs. Our project with the Nature Conservancy, Environmental Defense Fund and McLean County SWCD is focused on the use of created wetlands to reduce nitrates entering our streams and through changes in fertilizer application rates and timing, and working through the economics and farm program changes that support those practices. The restoration of riparian buffer process, if our studies prove to be it effective, would allow us to treat in areas where landowners are hesitant to build wetlands, or if site conditions are not conducive for wetlands.

The stream monitoring will build on previous in-house work and on a master's thesis student's work. As part of her thesis, ISU Hydrogeology student Laura Hanna developed flow rating curves, water, sediment and nutrient budgets for the two streams. The ISU group can provide the continuity of monitoring that in-house staff cannot provide, due to the higher priority responsibilities of the water plant and other established monitoring programs that we perform.

The stream monitoring data will be used by ISU, the Nature Conservancy (TNC), students, our watershed plan advisory committee and the City for various purposes. The data will be analyzed to determine if the various practices applied in the watersheds are working. We use instantaneous flow data to alert for high reservoir levels, to predict nutrient levels (particularly nitrate) that we can expect in the near future, and for water supply calculations.

The advantages of partnering with ISU are many for the department. We can get more data to inform our practices at the water treatment plant and in the watershed. The highly motivated students perform their work under the supervision of faculty, so we are receiving professional supervision along with the efforts of the supported students. The continuity of monitoring provided by this partnership will help evaluate current efforts and will help make our watersheds more attractive for funding additional projects by other agencies. The City previously agreed to monitor the streams, including T3 as part of a memorandum of understanding with the TNC, EDF, MCSWD for the main tributaries and as part of a Department of Agriculture grant for the stream stabilization work.

The total cost for the stream station installation will be \$37,658.00 and the monitoring program cost is \$48,198.00, for a total of \$85,856.00. The recurring amount would be the \$48,000.00 monitoring support.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Illinois State University, the Nature Conservancy, Water Shed Advisory Committee

**FINANCIAL IMPACT:** Payment for the monitoring in the amount of \$48,198.00 will be made from the Water Purification Budget-Other Professional and Technical Services account (50100130-70220). The budget amount of \$37,658.00 for two automated stream monitoring/sampling stations will be transferred from the Water Purification Budget-Other Professional and Technical Services account (50100130-70220) to the Water Purification Budget-Capital Outlay Equipment Other than Office account (50100130-72140) for payment pending council approval of this memo. There is currently approximately \$169,324 available in account 50100130-70220 for FY 2016. Stakeholders can locate this account in the FY 2016 Proposed Budget Book titled "Other Funds & Capital Improvement Program" on page 124.

**FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION:** The annual costs for monitoring under this agreement will be approximately \$48,000 per year.

Respectfully submitted for Council consideration.

Prepared by:

Rick Twait, Superintendent of Water Purification

Reviewed by: Robert D. Yehl, PE, Water Director

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla Murillo, Budget Manager

Legal review by: Jeffery R. Jurgens, Corporation Counsel

Recommended by:



David A. Hales, City Manager

**Attachments:**

- Illinois State University Scope and Proposal
- Project Location Map
- Agreement

Motion: that Council approves the contract with Illinois State University to install two automated stream monitoring/sampling stations, and support a monitoring program for Sixmile Creek, Money Creek and the T3 Demonstration Site at Comlara Park through the Water Department for a total of \$85,856.00, and the City Manager and City Clerk be authorized to execute the necessary documents.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                  | Aye | Nay | Other |                    | Aye | Nay | Other |
|------------------|-----|-----|-------|--------------------|-----|-----|-------|
| Alderman Black   |     |     |       | Alderman Mwilambwe |     |     |       |
| Alderman Buragas |     |     |       | Alderman Painter   |     |     |       |
| Alderman Fruin   |     |     |       | Alderman Sage      |     |     |       |
| Alderman Hauman  |     |     |       | Alderman Schmidt   |     |     |       |
| Alderman Lower   |     |     |       |                    |     |     |       |
|                  |     |     |       | Mayor Renner       |     |     |       |

## **Project with City of Bloomington**

### **Installing automated stream sampling stations**

Catherine O'Reilly, Department of Geography-Geology

William Perry, School of Biological Sciences

Eric Peterson, Department of Geography-Geology

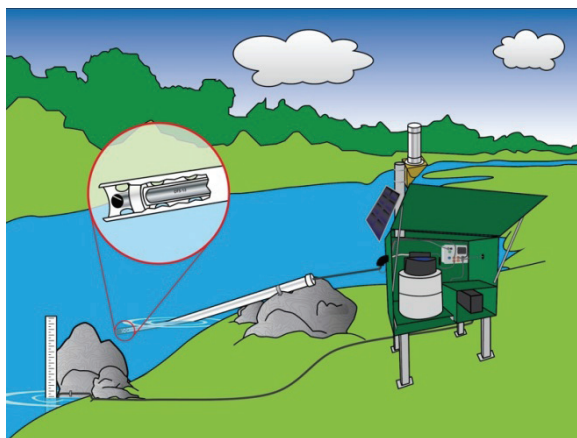
Start date: August 15, 2015      End date: August 31, 2016

#### **Goals:**

To install state-of-the-art sensor and sampling instrumentation at two sites within the Lakes Bloomington and Evergreen watersheds.

#### **Instrumentation:**

We propose to purchase and install instrumentation from Forest Technology Systems (FTS; <http://www.ftsenvironmental.com/>) that is widely used to monitor streams by many federal agencies, such as United State Geological Survey. The instrumentation consists of sensors that continuously measure water depth and turbidity and then use changes in these parameters to change the sampling frequency during storm events. Most nutrient and sediment loading occurs during storm events, so accurately capturing water samples during a high-flow event is critical to understanding annual nutrient and sediment flux. Forest Technology Systems is the only company that provides an option for sampling frequency to be determined in this way, other companies provide only sampling frequencies based on preset flows or times. The instrumentation includes an ISCO water sampler that will be triggered to automatically take samples during high flow storm events. Power is supplied by two marine cycle batteries, which are charged via solar power. Telemetry via modem will allow us near-instant access to the data, so we can quickly determine if there are any problems or if we should go out to the sites for sampling during an high-flow event. The configuration we have chosen allows the City to easily install other sensors in the future (i.e. nitrate, rain gauge, atmospheric deposition, etc).



*Figure: A diagram of a stream monitoring station from FTS.*

#### **Installation:**

At Six Mile Creek, we will use the existing enclosure for the instrumentation. We propose a new site for Money Creek at the 'Hudson Blacktop'. The Hudson Blacktop is a site once used by the USGS. We will obtain landowner permission to install an enclosure behind the barrier. We have installed similar



instrumentation on other private land within the Money Creek watershed. There is ample room to safely pull a vehicle completely off the road, and all sampling will be done behind the barrier, except during discharge measurements during high-flow events, which will be done from the bridge with enhanced safety and visibility carefully taken into consideration. At this site, we will use an enclosure purchased from FTS that will be installed on posts cemented into the ground as shown in the diagram below. We will install the sensors and water sampling tubing following the appropriate instructions to ensure that they are securely placed in the stream.

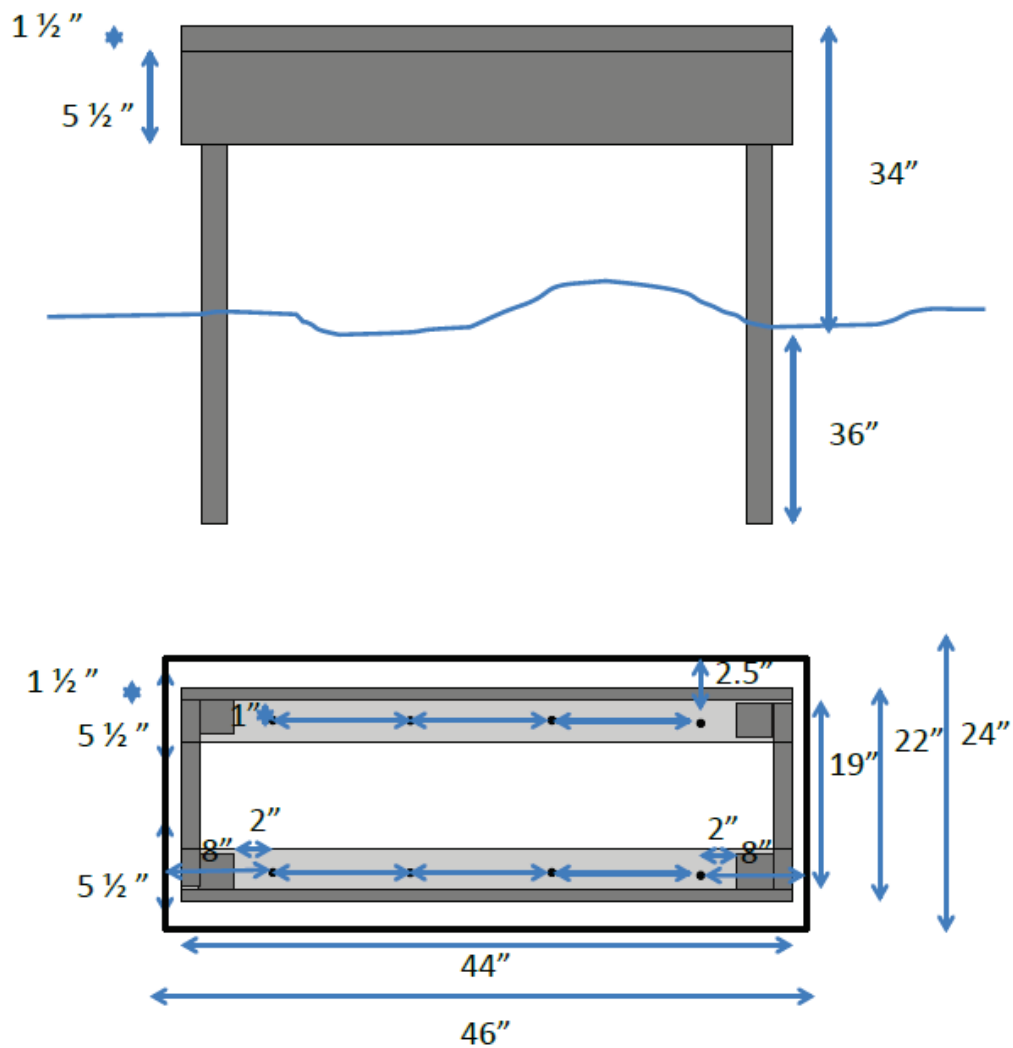
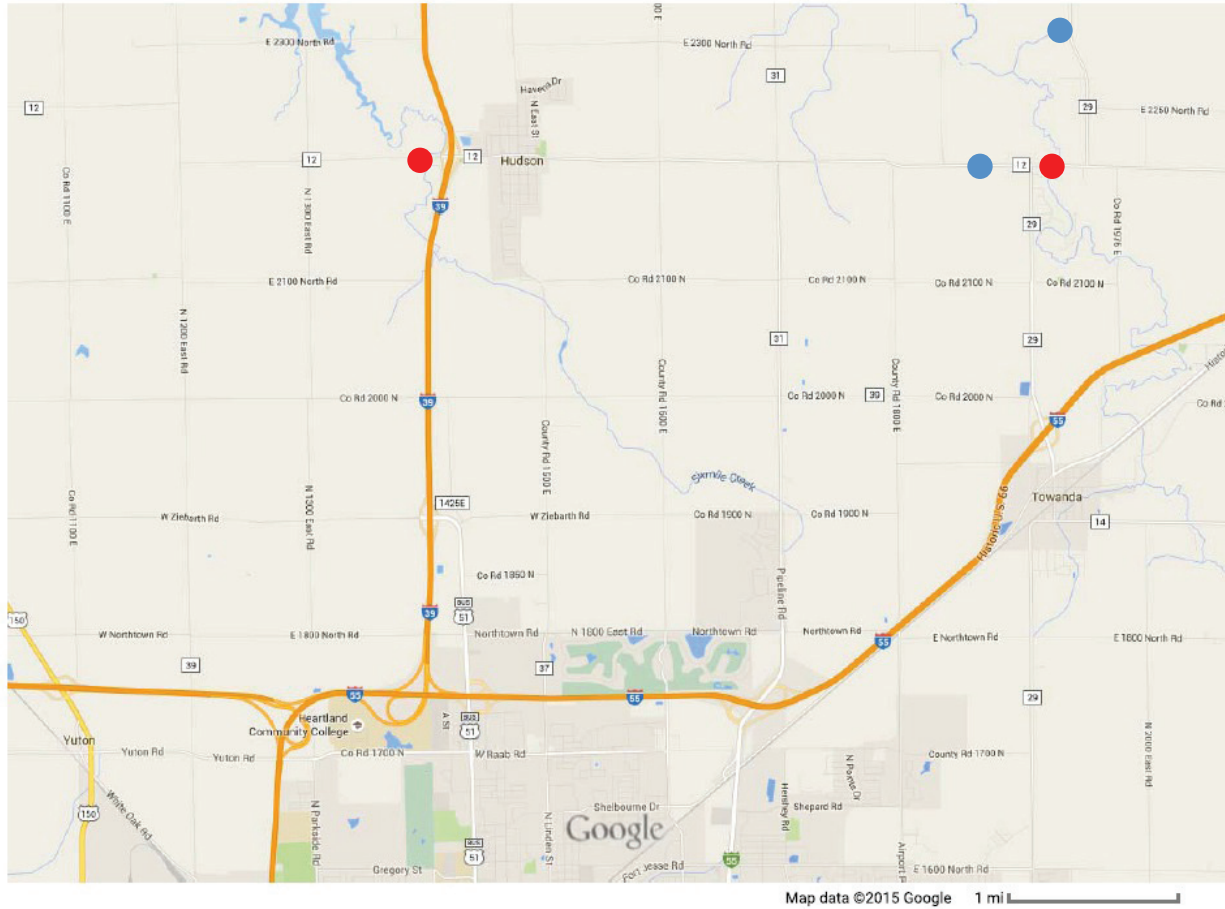


Figure: Diagram of the construction of the supports onto which we will install the metal enclosures for the instrumentation at Hudson Blacktop.



*Figure: The FTS monitoring station setup for another project in the Lake Bloomington watershed.*

Existing monitoring stations for ISU's cover crop project (using similar equipment) ●



## **Budget and justification – Stream station installation**

Total budget for 2 stream stations: \$37,658

### **Budget breakdown**

Travel (\$102). This is based on 7 trips to all sites (a total trip to reach all sites is 25 miles). These multiple trips will be required because at each site we will need to do measurements, install the enclosure box (which will involve several days of construction), and bring out equipment, install associated items to correctly install equipment in the stream, and do follow-up visits to make sure the sensors in the stream are stable and that the instruments are working.

Equipment (\$37,267). There are 2 stream sites. The instrumentation we propose to use will be purchased from Forest Technology Systems. We will use this supplier because they are the only company to supply stream monitoring instrumentation with the SedEvent storm sampling program option that we want to use. We will also use this company because we already have instrumentation from this supplier in the watershed, and therefore already have experience working with it and also already have the software that we need. The quote from FTS includes sensors, loggers, cables, water samplers and necessary associated items and was used to generate this cost estimate (total of \$32,489 for the instruments, with an estimated \$3000 for shipping). It also includes an enclosure for one of the site into which all the sensitive equipment is securely stored (Hudson Blacktop); at the second site (Six Mile Creek), we will use the existing enclosure. In addition, we will need to purchase 2 marine deep cycle batteries for each site (\$200/battery for a total cost of \$400 per site). We will also purchase a Raven modem for each site (\$489/modem).

Installation costs (\$289). There is 1 stream site for which we will have to do an installation. At the other site we will just use the existing enclosure that is already installed.

Enclosure installation (\$163). We will require a set of items to install the two new enclosures at those two stream sites (total of \$163/site). For each site we will need 10 bags cement (\$6/bag), 1 3-inch deck screw (\$12), 24 bolts (\$0.50/bolt), 4 6-ft 4x4 treated wood (\$8/piece), 1 12-ft 4x4 treated wood (\$17/piece), 5 8-ft 2x6 treated wood (\$6/piece), coming to a total of \$163/site.

Instrumentation installation (\$126). For each site, we will require 4 10-ft 3-inch PVC tubing (\$10/piece), 4 PVC connectors (\$2/piece), 1 washdown vibration-damping clamping hanger to attach to the turbidity sensor (\$53/piece), and other assorted materials to ensure that the sensors and tubing are securely installed in the stream (estimated at \$25/site), coming to a total of \$126/site.

Indirect costs. There are no indirects.

## **Project with City of Bloomington**

### **Understanding and monitoring surface water quality**

Catherine O'Reilly, Department of Geography-Geology

William Perry, School of Biological Sciences

Eric Peterson, Department of Geography-Geology

Start date: August 15, 2015      End date: August 31, 2016

#### **Goals:**

To monitor water quality flowing into the drinking water reservoirs

To explore how different best management practices (constructed wetlands, cover cropping, tile water redirection) improve water quality.

To provide students with real-world applied problems in environmental issues, working with state-of-the-art sensor equipment.

#### **Streams**

Implementation of automated monitoring systems within the watersheds of Lake Bloomington and Evergreen Lake is critical in evaluating nutrient loading of the lake and effects of mitigation efforts. Lakes Bloomington and Evergreen are listed as nutrient (nitrate and phosphate) impaired by the EPA, but a clear understanding of the role or watershed effects on water discharge and nutrient inputs, particularly during storms, is lacking. The installation of automated water samplers to continually assess discharge and turbidity, and to automatically collect storm samples will complement the biweekly nutrient sampling already being taken. These automated samplers will provide a more complete understanding of the discharge and nutrient dynamics of these streams over the whole year.

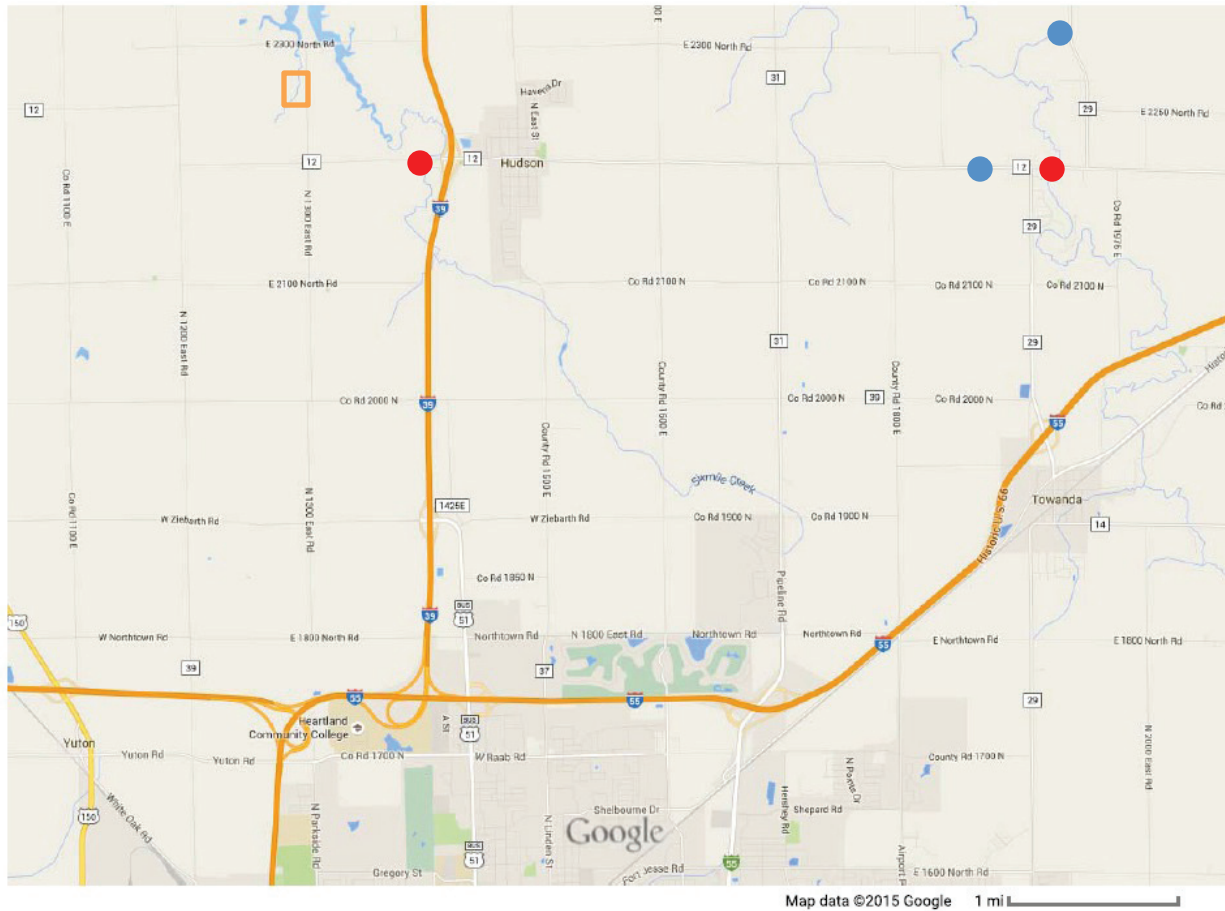
The automated samplers and a strongly supported monitoring program are also essential to assess ongoing mitigation efforts in the watersheds of each reservoir. The Nature Conservancy is currently implementing a watershed wide analysis of areas of high nutrient loss from tiles and using constructed wetlands to intercept and reduce inputs of N and P. ISU is assessing the role of cover crops in retaining nitrate in the fields and preventing loss to tiles. The City of Bloomington is also assessing the role of wet buffer systems to determine their potential to reduce nitrate inputs to streams from drainage tiles. It is absolutely critical that a continuous monitoring system is in place before these efforts are fully implemented to collect premanipulation data. This monitoring will include regular manual water sample collection, automated water sample collection during storm events, continuous measurements of water depth and turbidity, water sample analyses for suspended sediments, nitrogen and phosphorus, and finally, discharge measurements of baseflow and during storm events to develop rating curves. This information will allow researchers to monitor changes in nutrient loading of the reservoirs as the scale of implementation efforts increase. Having the data these automated samples will provide is essential in linking changes in water quality inputs to the lakes with the mitigation efforts that are only now beginning. This information will be critically important for understanding the ability of this region to meet EPA's nutrient loss reduction goals.

The streaming of data to a server at ISU will allow researchers to continuously analyze the data and identify any issues early on. Eventually, we plan to have graphs of these data ported to a website that is publicly available.

### **T3**

The T3 project is in the initial stages of examining the effectiveness of redirecting tile-drained water through a riparian buffer zone. The primary question being addressed focusses on the ability of the groundwater system to remove nitrate from the reintroduced tile water and to quantify the potential nitrate reduction. If shown to be an effective technique, the redirection of the tile water into the subsurface can be further implemented as a best management practice in other areas. Initial field work focuses on bi-weekly sampling from three reservoirs: surface water, groundwater, and tile water. Sampling events have occurred both pre- and post- diversion of tile water and will be continued in the future. Continuation of sampling will explore temporal and spatial variation in nitrate concentrations in the three reservoirs. Additionally, groundwater flow is being monitored to investigate the effect of the reintroduced tile water has on the groundwater system. These data will be coupled to develop a three-dimensional groundwater flow and solute transport model to assess the transport and fate of nitrate in the tile-diversion system. As part of the evaluation and model development, surface water-groundwater interaction within T3 stream is being investigated using thermal data. Surface water, groundwater, and tile water have different thermal signatures that can be used to quantify the input of each reservoir into the stream. These data will be used to quantify volumetric fluxes and to refine the flow and solute model. Ultimately, this project will allow us to assess the effectiveness of redirecting tile water into the subsurface near a stream, and make projections regarding the transferability of this approach to other sites.



T3 riparian buffer research site 

## **Budget and justification – Monitoring water quality**

Total budget for 2 stream sites and T3: \$48,198

### **Budget breakdown**

#### **Streams (\$38,106):**

Personnel (\$19,548). Consistent, safe, and reliable stream sampling, especially to include storm event sampling, requires a flexible team of at least 3 people, so that 2 people are always available to sample. One graduate student salary for 12 months at \$1,200/month (\$14,400), whose primary tasks will be project and data management, training undergraduate students, conducting field sampling, and sample processing. One undergraduate student during the summer (\$1,848 total from 14 hrs/week at \$11/hour for 12 weeks) for a total of \$1,848. Two undergraduate students during the academic year (each at 5 hrs/week for 30 weeks (15 weeks each semester)) for a total of \$3300. The undergraduate students will be involved in biweekly sampling, storm sampling events, sample processing and data entry.

Travel (\$990). This is based on 45 trips to all sites (a total trip to reach all sites is 25 miles). This includes trips for maintenance, biweekly sampling, storm sampling (which sometimes involves more than one trip per storm). Fleet vehicles are \$11/day and 0.44/mile.

Supplies (\$1,900). There are 2 stream sites. We expect that the basic supplies necessary for completing field work, sample collection, and sample processing (such as field note books, filter holders, syringes, batteries, other reasonable items associated with field work throughout the year, etc. (e.g. waders, gloves, first aid kits, field health and safety supplies) will cost \$800/stream site. We expect that the annual maintenance costs for the automated sampling equipment at each site will be \$150.

Contractual (\$1,270). This amount contributes to the software StreamTrac annual maintenance agreement (\$300). StreamTrac is the software needed for telemetry and data access from the monitoring stations. There is also a contract with Verizon for \$10/month for data transmission (\$120 per site, for a total of \$240). There will be an annual factory-calibration of the turbidity sensors (\$365/sensor for 2 sensors).

Analyses (\$14,398). There are 3 stream sites. The cost for biweekly and storm sampling at each site is \$7199. Biweekly sample analysis costs per site are \$575 based on 25 samples per year. Storm sample analysis costs per site are \$6,624 based on sampling of 6 storms in the spring and 6 storms in the fall, with 24 samples per storm. All samples are analyzed for nitrate, chloride, phosphate, total phosphorus, and suspended sediment. Costs per sample analysis are provided below\*. Samples will be analyzed at ISU.

#### **T3 (\$10,092):**

Personnel (\$7,098). One graduate student summer salary for 3 months at \$1,200/month. The graduate student will be responsible for project and data management, training of the undergraduate student, sample collection and sample processing. One undergraduate student during the summer (14 hrs/week at \$11/hour for 12 weeks) for a total of \$1,848. One undergraduate student during the academic year (5 hrs/week for 30 weeks (15 weeks each semester)) for a

total of \$1,650. The undergraduate student will assist with field sampling and data management. Students may also work to help sample the stream sites.

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**Indirect costs:**

There are no indirects

*\*Analytical cost breakdown:*

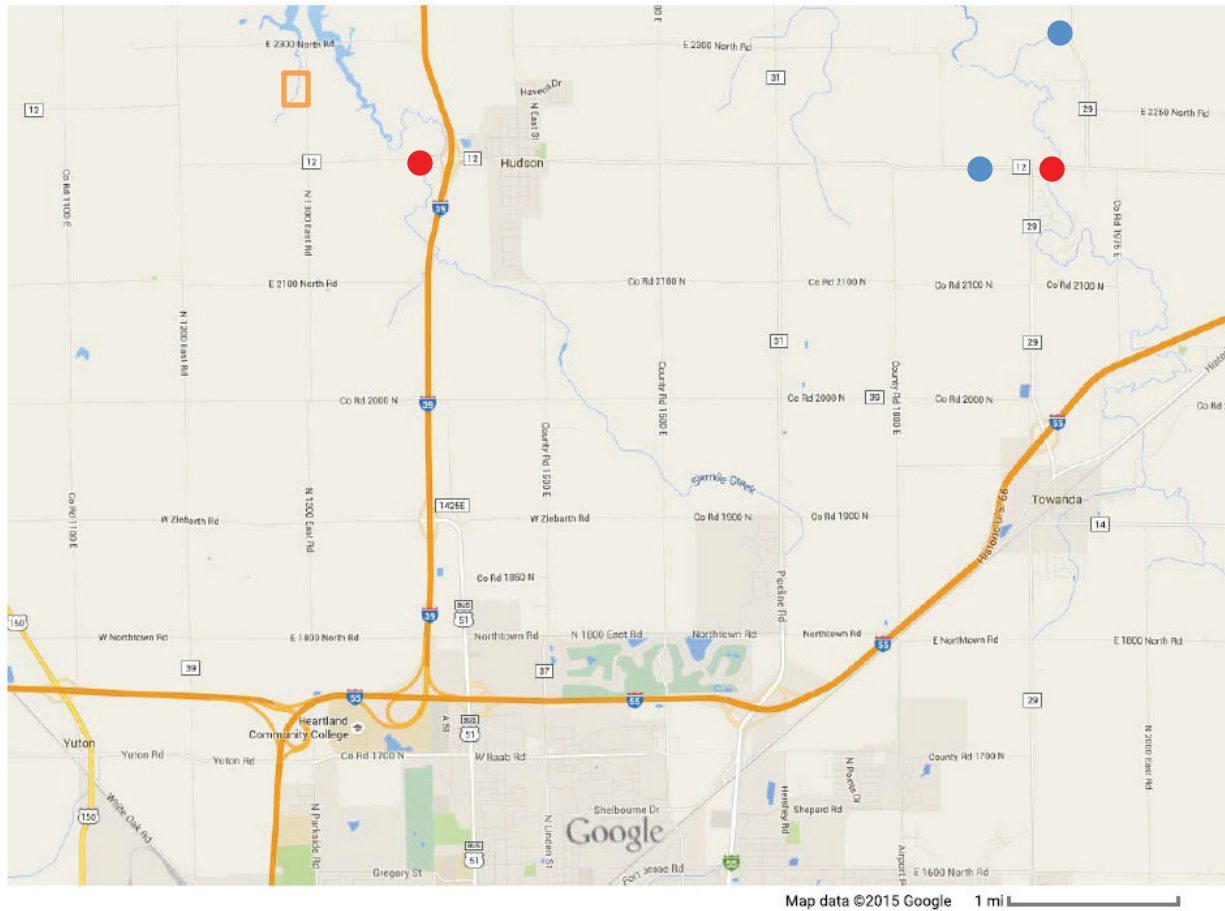
*Nitrate and chloride are measured on a ion chromatograph combined for a cost of \$3/sample. Phosphate is measured on a Lachat autoanalyzer by flow injection analysis for a cost of \$4/sample. Total phosphorus is measured by digestion followed by analysis for phosphate on the Lachat autoanalyzer by flow injection analysis for a cost of \$15/sample. Suspended sediment (total and organic) is estimated at \$1/sample. We employ EPA-recommended methods for QA/QC for our sample collection and analysis. The rates provided represent discounted internal rates.*

## Map of site locations:

2 proposed stream monitoring stations ●

Existing monitoring stations for ISU's cover crop project (using similar equipment) ●

T3 riparian buffer research site □



**CITY OF BLOOMINGTON CONTRACT WITH  
DECATUR INDUSTRIAL ELECTRIC  
FOR PROFESSIONAL SERVICES FOR  
WATER DEPARTMENT PUMP & MOTOR REPAIRS**

**THIS AGREEMENT**, dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015, is between the City of Bloomington (hereinafter "CITY") and DECATUR INDUSTRIAL ELECTRIC (hereinafter "CONTRACTOR").

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

**Section 1. Recitals.** The recitals set forth above are incorporated into this Section 1 as if specifically stated herein.

**Section 2. Description of Services.** CONTRACTOR shall provide the services/work identified on Exhibit A.

**Section 3. Payment.** For the work performed by CONTRACTOR under this Contract, the CITY shall pay CONTRACTOR one of the following:

- ☐ A flat fee of \$ \_\_\_\_\_ as set forth in the payment terms attached as Exhibit B.
- ☒ Fees as set forth in the Payment Terms attached as Exhibit B.

**Section 4. Default and Termination.** Either party shall be in default if it fails to perform all or any part of this Contract. If either party is in default, the other party may terminate this Contract upon giving written notice of such termination to the party in default. Such notice shall be in writing and provided thirty (30) days prior to termination. The non-defaulting party shall be entitled to all remedies, whether in law or equity, upon the default or a violation of this Contract. In addition, the prevailing party shall be entitled to reimbursement of attorney's fees and court costs.

**Section 5. Reuse of Documents.** All documents including reports, drawings, specifications, and electronic media furnished by CONTRACTOR pursuant to this Contract are instruments of CONTRACTOR'S services. Nothing herein, however, shall limit the CITY'S right to use the documents for municipal purposes, including but not limited to the CITY'S right to use the documents in an unencumbered manner for purposes of remediation, remodeling and/or construction. CONTRACTOR further acknowledges any such documents may be subject to release under the Illinois Freedom of Information Act.

**Section 6. Standard of Care.** Services performed by CONTRACTOR under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

**Section 7. Indemnification.** To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless CITY, its officers, officials, agents and employees from and against liability arising out of CONTRACTOR'S negligent acts, errors, or omissions in performance of services under this Contract. This indemnification shall extend to claims occurring after this Contract is terminated as well as while it is in force.

**Section 8. Insurance Requirements.** CONTRACTOR shall maintain an errors and omissions policy in the amount of \$2,000,000.00 and shall further maintain general liability insurance for bodily injury and property damage arising directly from its negligent acts or omissions, with general limits not less than \$2,000,000.00. Certificates of insurance shall be provided to CITY and CITY shall be named as an additional insured under the policy.

**Section 9. Representations of Vendor.** CONTRACTOR hereby represents it is legally able to perform the work that is subject to this Contract.

**Section 10. Assignment.** Neither party may assign this Contract, or the proceeds thereof, without written consent of the other party.

**Section 11. Compliance with Laws.** CONTRACTOR agrees that any and all work by CONTRACTOR shall at all times comply with all laws, ordinances, statutes and governmental rules, regulations and codes.

**Section 12. Compliance with FOIA Requirements.** CONTRACTOR further explicitly agrees to furnish all records related to this Contract and any documentation related to CITY required under an Illinois Freedom of Information Act (ILCS 140/1 et. seq.) ("FOIA") request within five (5) business days after CITY issues notice of such request to CONTRACTOR. CONTRACTOR agrees to not apply any costs or charge any fees to the CITY regarding the procurement of records required pursuant to a FOIA request. CONTRACTOR shall be responsible for any damages/penalties assessed to CITY for CONTRACTOR'S failure to furnish all documentation in CONTRACTOR'S possession responsive and related to a request within five (5) days after CITY issues a notice of a request.

**Section 13. Governing Law.** This Agreement shall be governed by and interpreted pursuant to the laws of the State of Illinois.

**Section 14. Joint Drafting.** The parties expressly agree that this agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing it terms prior to execution. Therefore, this agreement shall be construed neither against nor in favor of either party, but shall construed in a neutral manner.

**Section 15. Attorney Fees.** In the event that any action is filed by a party in relation to this contract and the party prevails in court and obtains a court order or judgment as a result of said litigation, the non-prevailing party in the action shall pay to the prevailing party, in addition to the sums that either party may be called on to pay, a reasonable sum for the prevailing party's attorneys' fees and court costs (including expert witness fees).

**Section 16. Paragraph Headings.** The titles to the paragraphs of this agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this agreement.



**Section 17. Term.** The term of this Contract shall be:

☐ Until all of the services and/or deliverables required to provided within this Contract are completed.

☐ From one (1) year from the date of execution.

☒ From two (2) years from the date of execution.

☐ Other: \_\_\_\_\_  
\_\_\_\_\_

The Contract shall also be subject to the following renewal terms, if any: \_\_\_\_\_  
\_\_\_\_\_

Notwithstanding anything herein, the provisions in Sections 6 and 12 shall survive termination.

**Section 18. Counterparts.** This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

CITY OF BLOOMINGTON

DECATUR INDUSTRIAL ELECTRIC

By: \_\_\_\_\_  
Its City Manager

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

ATTEST:

By: \_\_\_\_\_  
City Clerk

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

**EXHIBIT A**  
**SCOPE OF SERVICES / WORK PROVIDED**

AT THE REQUEST OF THE DIRECTOR OF THE WATER DEPARTMENT, PERFORM INSPECTION AND TESTING OF VARIOUS WATER DEPARTMENT PUMPS AND MOTORS. DECATUR INDUSTRIAL ELECTRIC'S INITIAL EFFORT WILL RESULT IN ITS SUBMITTAL OF A REPAIR & SERVICE ESTIMATE FOR THE CITY'S REVIEW AND APPROVAL. DECATUR INDUSTRIAL ELECTRIC WILL THEN PERFORM REPAIRS OF PUMPS AND MOTORS UPON RECEIPT OF WRITTEN AUTHORIZATION BY THE DIRECTOR OF THE WATER DEPARTMENT AND CITY MANAGER.

**EXHIBIT B**  
**PAYMENT TERMS**

Decatur Industrial Electric will repair the following three pump stations for the costs identified below, for a total cost of \$46,443.93:

1. Enterprise Pump Station - Motor #1 - \$9,787.12 - See Attachment 2
2. Division St. Pump Station - Motor #3 - \$19,401.23 - See Attachment 3
3. Ft. Jesse Pump Station - Motor #1 - \$17,255.58- See Attachment 4

For any additional repairs, a written quote must be provided to the Director of the Water Department and approved by the City Manager prior to engaging Decatur Industrial Electric to perform the work. As necessary, repair estimates for future pump or motor repairs will be obtained and evaluated by Water Department staff. Staff will consider the age of the existing equipment, hours of use, frequency of use, critical nature of the equipment, cost of the repairs, equipment repair history, time required for repair, and historical costs of replacement equipment. Based on the future valuations, the Director of the Water Department and City Manager will authorize future repairs as appropriate. It is estimated that individual repairs will cost between \$10,000 and \$25,000, however some repairs may costing more than these listed estimated amounts.

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## **Budget and justification – Stream station installation**

Total budget for 2 stream stations: \$37,658

### **Budget breakdown**

Travel (\$102). This is based on 7 trips to all sites (a total trip to reach all sites is 25 miles). These multiple trips will be required because at each site we will need to do measurements, install the enclosure box (which will involve several days of construction), and bring out equipment, install associated items to correctly install equipment in the stream, and do follow-up visits to make sure the sensors in the stream are stable and that the instruments are working.

Equipment (\$37,267). There are 2 stream sites. The instrumentation we propose to use will be purchased from Forest Technology Systems. We will use this supplier because they are the only company to supply stream monitoring instrumentation with the SedEvent storm sampling program option that we want to use. We will also use this company because we already have instrumentation from this supplier in the watershed, and therefore already have experience working with it and also already have the software that we need. The quote from FTS includes sensors, loggers, cables, water samplers and necessary associated items and was used to generate this cost estimate (total of \$32,489 for the instruments, with an estimated \$3000 for shipping). It also includes an enclosure for one of the site into which all the sensitive equipment is securely stored (Hudson Blacktop); at the second site (Six Mile Creek), we will use the existing enclosure. In addition, we will need to purchase 2 marine deep cycle batteries for each site (\$200/battery for a total cost of \$400 per site). We will also purchase a Raven modem for each site (\$489/modem).

Installation costs (\$289). There is 1 stream site for which we will have to do an installation. At the other site we will just use the existing enclosure that is already installed.

Enclosure installation (\$163). We will require a set of items to install the two new enclosures at those two stream sites (total of \$163/site). For each site we will need 10 bags cement (\$6/bag), 1 3-inch deck screw (\$12), 24 bolts (\$0.50/bolt), 4 6-ft 4x4 treated wood (\$8/piece), 1 12-ft 4x4 treated wood (\$17/piece), 5 8-ft 2x6 treated wood (\$6/piece), coming to a total of \$163/site.

Instrumentation installation (\$126). For each site, we will require 4 10-ft 3-inch PVC tubing (\$10/piece), 4 PVC connectors (\$2/piece), 1 washdown vibration-damping clamping hanger to attach to the turbidity sensor (\$53/piece), and other assorted materials to ensure that the sensors and tubing are securely installed in the stream (estimated at \$25/site), coming to a total of \$126/site.

Indirect costs. There are no indirects.

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### **Budget breakdown**

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**Indirect costs:**

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*\*Analytical cost breakdown:*

*Nitrate and chloride are measured on a ion chromatograph combined for a cost of \$3/sample. Phosphate is measured on a Lachat autoanalyzer by flow injection analysis for a cost of \$4/sample. Total phosphorus is measured by digestion followed by analysis for phosphate on the Lachat autoanalyzer by flow injection analysis for a cost of \$15/sample. Suspended sediment (total and organic) is estimated at \$1/sample. We employ EPA-recommended methods for QA/QC for our sample collection and analysis. The rates provided represent discounted internal rates.*



## CONSENT AGENDA ITEM NO. 7H

FOR COUNCIL: October 26, 2015

**SUBJECT:** Consideration of approving a Resolution authorizing a Change Order in the amount of \$7,978.97 in the contract between the City of Bloomington and Stark Excavating, Inc., FY 2015 Emergency Utility Repair Contract, for the purpose of funding Emergency Utility Repairs (Original Bid #2015-05).

**RECOMMENDATION/MOTION:** That the Resolution authorizing a change order in the amount of \$7,978.97 in the contract between the City of Bloomington and Stark Excavating, Inc., FY 2015 Emergency Utility Repair Contract, for the purpose of funding Emergency Utility Repairs be approved and authorize the Mayor and City Clerk to sign the necessary documents.

**STRATEGIC PLAN LINK:** Goal 1- Financially Sound City Providing Quality Basic Services. Goal 2- Upgrade City Infrastructure and Facilities.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1b. Budget with adequate resources to support defined services and level of services. Objective 2d. Well designed, well maintained City facilities emphasizing productivity and customer service.

**BACKGROUND:** On June 13, 2014, Council executed the FY 2015 Emergency Utility Repair Contract with Stark Excavating, Inc. in the amount of \$500,000. This Contract provided for any Emergency Utility Repairs relating to Storm Water, Water, and Sewer repairs. On Friday June 12, 2015, an apparent sewer blockage was discovered on McLean Street. The Streets and Sewers staff working on the site, were unable to perform the excavation to determine the required repairs. After reviewing the financial impact of the general resurfacing project as relating to the Emergency Utility Repairs Contract and the sewer repair at Madison/Front, it appear that the remaining funds were not sufficient to cover this work, if Stark was authorized to proceed. Due to being an emergency repair, it was determined that a change order would be prepared after repairs were completed. Stark was authorized to proceed with such work starting Saturday, June 13, 2015.

During the excavation there were multiple sewer lines discovered. There were three different excavations to locate the blockage. When the blockage was ultimately found at the intersection of McLean and Market Streets, a new manhole was required to capture three different sewer lines and the collapsed pipe was replaced. A new storm inlet was added because the existing inlet on the southwest corner was broken and had undermined a substantial part of the road. The \$7,978.97 change order is necessary to fund the outstanding balance for Emergency Utility repairs already done.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:**



**FINANCIAL IMPACT:** The change order for \$7,978.97 will be paid out of the FY 2016 Budget under the Storm Water – Emergency Storm Sewer Repair (53103100-70552). This will exceed the budget in this account but will be absorbed in the overall Storm Water Budget for FY 2016, so as not to exceed the total expense for FY 2016 in this fund.

|                                                             | <u>ORIGINAL</u>  | <u>REVISED</u>      |
|-------------------------------------------------------------|------------------|---------------------|
| Storm Water – Emergency Storm Sewer Repair (53103100-70552) | \$250,000.00     | \$257,978.97        |
| Sanitary Sewer – Emergency Sewer Repair (51101100-70551)    | \$200,000        | \$200,000           |
| Water Transmission & Dist. (50100120-72550)                 | \$ 50,000        | \$ 50,000           |
| <b>Total Contract:</b>                                      | <b>\$500,000</b> | <b>\$507,978.97</b> |

Respectfully submitted for Council consideration.

Prepared by: Ward Snarr, CE II

Reviewed by: Jim Karch, PE, CFM, Director of Public Works

Financial & Budgetary review by: Chris Tomerlin, Budget Analyst  
Carla A. Murillo, Budget Manager

Legal review by: Jeffery R. Jurgens, Corporation Counsel

Recommended by:



David A. Hales, City Manager

**Attachments:**

- Resolution

Motion: That the Resolution authorizing a change order in the amount of \$7,978.97 in the contract between the City of Bloomington and Stark Excavating, Inc., FY 2015 Emergency Utility Repair Contract, for the purpose of funding Emergency Utility Repairs be approved and authorize the Mayor and City Clerk to sign the necessary documents.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                | Aye | Nay | Other |                    | Aye | Nay | Other |
|----------------|-----|-----|-------|--------------------|-----|-----|-------|
| Alderman Black |     |     |       | Alderman Mwilambwe |     |     |       |

|                  |  |  |  |                  |  |  |  |
|------------------|--|--|--|------------------|--|--|--|
| Alderman Buragas |  |  |  | Alderman Painter |  |  |  |
| Alderman Fruin   |  |  |  | Alderman Sage    |  |  |  |
| Alderman Hauman  |  |  |  | Alderman Schmidt |  |  |  |
| Alderman Lower   |  |  |  |                  |  |  |  |
|                  |  |  |  | Mayor Renner     |  |  |  |

**RESOLUTION NO. 2015 –**

**A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE AMOUNT OF  
\$7,978.97 ASSOCIATED WITH THE CONTRACT BETWEEN THE CITY OF  
BLOOMINGTON AND STARK EXCAVATING, INC.**

WHEREAS, the City of Bloomington has previously authorized a contract with Stark Excavating, Inc., for the purpose of funding Emergency Utility Repairs related to Storm Water, Water, and Sewer systems, as directed by the City, for fiscal year 2015.

WHEREAS, upon discovery of the existing problem, after a dig on McLean Street, a new sanitary manhole and storm inlet were constructed around in an excavation that had numerous fiber optic ducts.

WHEREAS, due to the complexity of the above mentioned emergency repair, the cost surpassed the available budgeted funds.

WHEREAS, it is the finding of the City Council that the decision to approve the change order is in the best interest of the citizens of the City of Bloomington.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS:

That a change order in the amount of \$7,978.97 in the contract between the City of Bloomington and with Stark Excavating Inc. is approved and may be executed by the City Manager or his designee.

**PASSED this 26<sup>th</sup> day of October 2015.**

**APPROVED this \_\_\_\_ of October 2015.**

**CITY OF BLOOMINGTON**

**ATTEST**

\_\_\_\_\_  
Tari Renner, Mayor

\_\_\_\_\_  
Cherry Lawson, C.M.C., City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeffery R. Jurgens, Corporation Counsel

STARK EXCAVATING, INC.  
1805 W. WASHINGTON ST.  
BLOOMINGTON, IL 61701  
309 828-5034

## Invoice 60152

|                                                                                                                  |                                                                                                         |
|------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| Bill to:<br>CITY OF BLOOMINGTON<br>ATTN: BOB YEHL<br>109 E. OLIVE ST / PO BOX 3157<br>BLOOMINGTON, IL 61702-3157 | Job: 14161<br>COB 2015 EMERGENCY<br>UTILITY REPAIR<br>#50-18-53005-15-01/20150062-00<br>BLOOMINGTON, IL |
|------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|

|                                 |                |                  |
|---------------------------------|----------------|------------------|
| Invoice #: 60152                | Date: 07/31/15 | Customer P.O. #: |
| Payment Terms: STD TERMS NET 30 |                | Salesperson:     |
| Customer Code: BLOOM            |                |                  |

Remarks: 406 N. MCLEAN STREET

| Quantity  | Description          | U/M | Unit Price | Extension |
|-----------|----------------------|-----|------------|-----------|
|           | 406 N. MCLEAN STREET |     |            | 54,458.56 |
| Subtotal: |                      |     |            | 54,458.56 |
| Total:    |                      |     |            | 54,458.56 |

Approved  
Ward  
10-2-15  
STORMWATER  
53103100-70552  
D.O.W. 6-13-15 to 6-23-15

RECEIVED  
Date: 7/13 thru 7/17/15  
Name (Print) M. BASALAY  
Comments: 53103100-70552  
PO. 2015-0062  
FY 2016

 **CITY OF**  
*Bloomington* **ILLINOIS**  
**CONSENT AGENDA ITEM NO. 71**

FOR COUNCIL: October 26, 2015

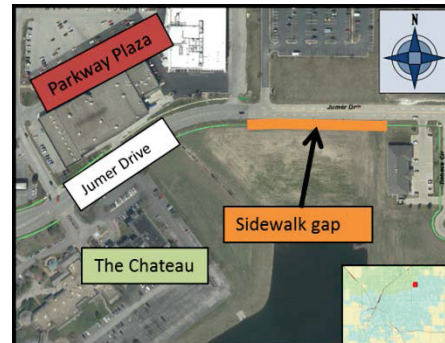
**SUBJECT:** Consideration of approving a Ordinance amending the budget for FY2016 in the amount of \$16,000 for the purpose of sidewalk construction on Jumer Drive, and a related change order Resolution with J.G. Stewart (Bloomington Sidewalk Replacement and Handicap Ramp Program FY 2016, Bid #2015-63).

**RECOMMENDATION/MOTION:** That the Ordinance amending the budget for FY2016 be approved in the amount of \$16,000, the change order with J.G. Stewart Contractors Inc. (Sidewalk Replacement and Handicap Ramp Program FY 2016, Bid #2015-63), that the corresponding Resolution for a change order be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

**STRATEGIC PLAN LINK:** 2. Upgrade City Infrastructure and Facilities

**STRATEGIC PLAN SIGNIFICANCE:** 2a. Better quality roads and sidewalks.

**BACKGROUND:** A sidewalk gap approximately 460 feet long exists along property fronting Shirk Commercial Subdivision, 1<sup>st</sup> Addition, in the 1700 block of Jumer Drive. When built, the sidewalk will greatly ease pedestrian travel to and from commercial areas, including Parkway Plaza, to the west with neighborhoods to the east. It will provide continuous sidewalk connectivity from the commercial district to Villas at Spring Ridge, to Hershey Road and to a multitude of neighborhoods off Hershey Road.



The developer of the subdivision is obligated to build public sidewalk along the platted property but has not done so. The City has worked to expedite this process, and has communicated verbally and in writing with the developer. City staff desires that the sidewalk be built before winter and proposes the following:

- That the City direct and oversee the work by its sidewalk contractor, J.G. Stewart Contractors Inc. As this is additional work, a contract change order is required to cover the cost. The City engineering estimate is \$15,500. The change order for \$16,000 allows leeway for unforeseen circumstances. The cost of work and specific pay items are outlined in the Stewart contract and must be followed.
- That the sidewalk be 5 feet wide rather than the standard of 4 feet and that the City pay for the oversizing, estimated at \$3,100.
- That Shirk Commercial Subdivision be billed for 80 percent of the total, actual cost.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Numerous neighbors have contacted the City requesting that the gap in the sidewalk be filled to ease pedestrian use of the commercial district.

**FINANCIAL IMPACT:** The City's up-front cost will be approximately \$16,000 but the City expects 80 percent reimbursement from the developer. The oversizing cost borne by the City will be approximately \$3,100. This is budgeted under Capital Improvement Fund-Sidewalk Construction and Improvement (40100100-72560). Stakeholders can locate this in the FY 2016 Budget Book titled "Other Funds & Capital Improvement Program" on page 86.

Respectfully submitted for Council consideration.

Prepared by: Stephen Arney, Public Works Administration

Reviewed by: Jim Karch, PE CFM, Director of Public Works

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla A. Murillo, Budget Manager

Legal review by: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:



David A. Hales, City Manager

**Attachments:**

- Budget Amendment Ordinance
- Exhibit 1
- Resolution
- Bloomington engineering estimate

---

Motion: That the Ordinance amending the budget for FY2016 be approved in the amount of \$16,000, the change order with J.G. Stewart Contractors Inc. (Sidewalk Replacement and Handicap Ramp Program FY 2016, Bid #2015-63), that the corresponding Resolution for a change order be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.



Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                  | Aye | Nay | Other |                    | Aye | Nay | Other |
|------------------|-----|-----|-------|--------------------|-----|-----|-------|
| Alderman Black   |     |     |       | Alderman Mwilambwe |     |     |       |
| Alderman Buragas |     |     |       | Alderman Painter   |     |     |       |
| Alderman Fruin   |     |     |       | Alderman Sage      |     |     |       |
| Alderman Hauman  |     |     |       | Alderman Schmidt   |     |     |       |
| Alderman Lower   |     |     |       |                    |     |     |       |
|                  |     |     |       | Mayor Renner       |     |     |       |

**ORDINANCE NO. 2015 –**

**AN ORDINANCE AMENDING THE BUDGET ORDINANCE  
FOR THE FISCAL YEAR ENDING APRIL 30, 2016**

WHEREAS, on April 13, 2015, by Ordinance No. 2015- the City of Bloomington passed a Budget and Appropriation Ordinance for the Fiscal Year Ending April 30, 2016, which Ordinance was approved by Mayor Tari Renner on April 14, 2015; and

WHEREAS, a budget amendment is needed as detailed below;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS:

Section One: Ordinance No. 2015- (the Budget and Appropriation Ordinance for the Fiscal Year Ending April 30, 2016) is further hereby amended by inserting the following line Item and amount presented in Exhibit #1 in the appropriate place in said Ordinances.

Section Two: Except as provided for herein, Ordinance No. 2015 - shall remain in full force and effect, provided that any budgeted or appropriated amounts which are changed by reason of the amendments made in Section One of this Ordinance shall be amended in Ordinance No. 2015-.

Section Three: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED the 26<sup>th</sup> day of October, 2015.

APPROVED the \_\_\_\_ day of October, 2015.

**CITY OF BLOOMINGTON**

**ATTEST**

\_\_\_\_\_  
Tari Renner, Mayor

\_\_\_\_\_  
Cherry L. Lawson, City Clerk

**APPROVED AS TO FORM**

\_\_\_\_\_  
Jeffery R. Jurgens, Corporation Counsel

Exhibit 1

| Account #      | Fund                | Account Description                    | Amount           |
|----------------|---------------------|----------------------------------------|------------------|
| 40100100-72560 | Capital Improvement | Sidewalk Construction                  | \$ 16,000.00     |
|                |                     | <b>Net Budget Increase/(Decrease):</b> | <b>16,000.00</b> |

**RESOLUTION NO. 2015 –**

**A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE AMOUNT OF  
\$16,000.00 ASSOCIATED WITH THE CONTRACT BETWEEN THE CITY OF  
BLOOMINGTON AND J.G. STEWART CONTRACTORS INC.**

WHEREAS, the City of Bloomington has previously authorized a contract with J.G. Stewart Contractors Inc., for sidewalk construction and replacement at various places in Bloomington, as directed by the City, for fiscal year 2016.

WHEREAS, sidewalk construction along approximately 460 feet of the 1700 block of Jumer Drive was identified as a need for the current fiscal year.

WHEREAS, other projects will have exhausted the original, budgeted amount for sidewalk replacement.

WHEREAS, it is the finding of the City Council that the decision to approve the change order is in the best interest of the citizens of the City of Bloomington.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS:

That a change order in the amount of *\$16,000* in the contract between the City of Bloomington and with J.G. Stewart Contractors Inc. is approved and may be executed by the City Manager or his designee.

**PASSED this 26<sup>th</sup> day of October 2015**

**APPROVED this     of October 2015.**

**CITY OF BLOOMINGTON**

**ATTEST**

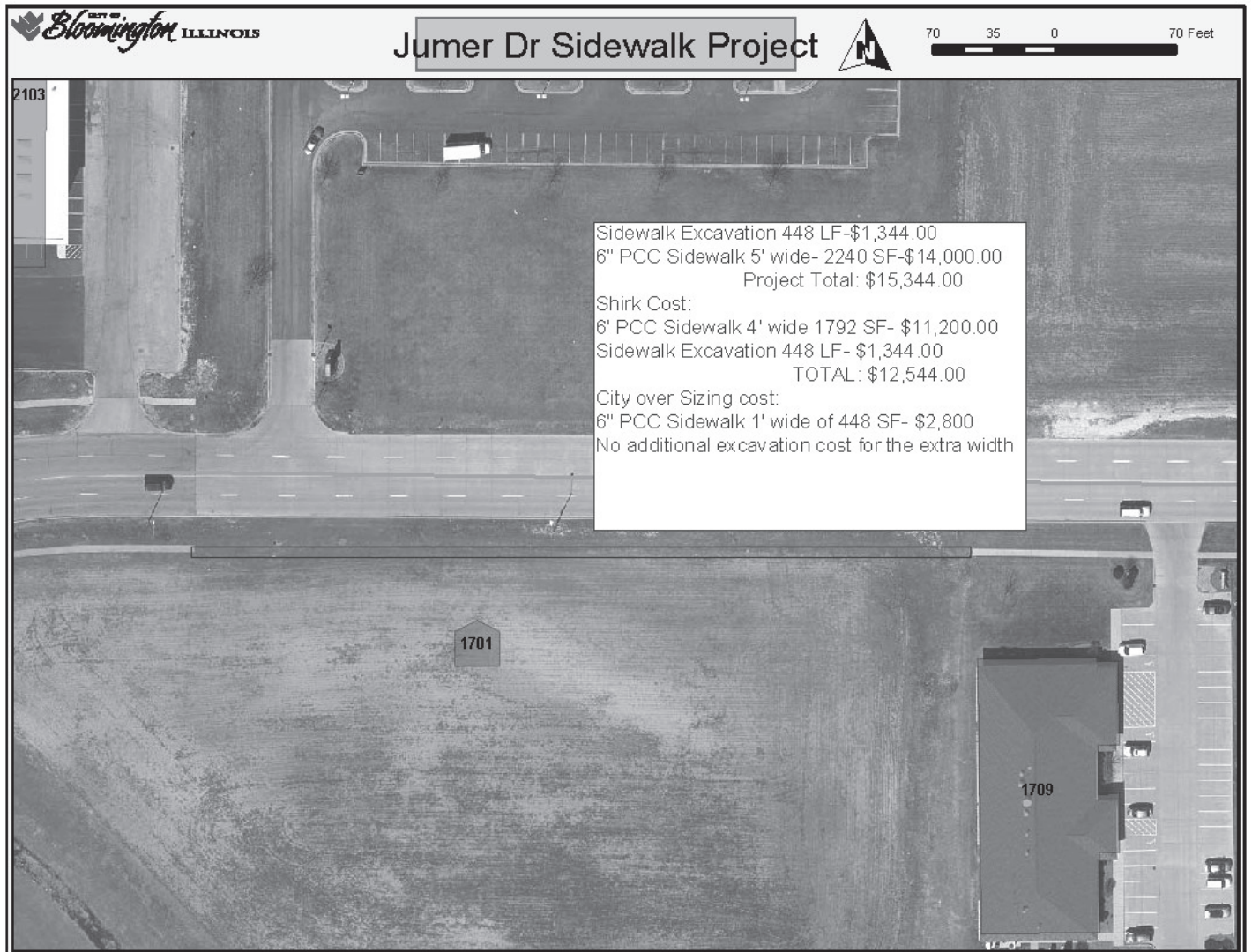
\_\_\_\_\_  
Tari Renner, Mayor

\_\_\_\_\_  
Cherry Lawson, C.M.C., City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeffery R. Jurgens, Corporation Counsel

## Pricing estimate, Engineering Division, Bloomington Public Works





CITY OF  
*Bloomington*  
ILLINOIS

**CONSENT AGENDA ITEM NO. 7J**

FOR COUNCIL: October 26, 2015

**SUBJECT:** Consideration of approving an amendment to Ordinance 1965-51 extending the electric franchise agreement with Corn Belt Electric Cooperative, Inc. to allow time for the City and Corn Belt to negotiate a new franchise agreement.

**RECOMMENDATION/MOTION:** That the ordinance amending Ordinance 1965-51, the ordinance approving the original franchise agreement between the City and Corn Belt Electric Cooperative, Inc., be approved to allow an extension of the agreement to the earlier of April 1, 2016, or the entry of a new franchise agreement between the parties.

**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1d. City services delivered in the most cost-effective, efficient manner.

**BACKGROUND:** On October 11, 1965, the City Council approved an electric franchise agreement with Corn Belt Electric Cooperative, Inc. ("Corn Belt"). The franchise agreement provided Corn Belt with certain rights, permissions and authority to construct, maintain and operate a system for transmission, distribution and sale of electric energy for lighting, heating and power purposes within certain portions of the City. This agreement had a term of 50 years from the date of acceptance and it appears the ordinance was formally certified and provided to Corn Belt on November 1, 1965.

Since the 50-year term of the agreement is coming to an end, Corn Belt has indicated a desire to negotiate a new franchise agreement. Approval of the proposed ordinance will continue the existing franchise agreement into effect until April 1, 2016, unless an agreement on a new franchise agreement can be reached and approved prior to that time.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not applicable

**FINANCIAL IMPACT:** Not applicable

Respectfully submitted for Council consideration.

Prepared by: Jeffrey R. Jurgens, Corporation Counsel



Recommended by:



Tari Renner, Mayor

**Attachments:**

- Ordinance amending Ordinance 1965-51, the ordinance approving the original franchise agreement between the City and Corn Belt Electric Cooperative, Inc., be approved to allow an extension of the agreement to the earlier of April 1, 2016, or the entry of a new franchise agreement between the parties.

Motion: That the ordinance amending Ordinance 1965-51, the ordinance approving the original franchise agreement between the City and Corn Belt Electric Cooperative, Inc., be approved to allow an extension of the agreement to the earlier of April 1, 2016, or the entry of a new franchise agreement between the parties.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                    | Aye | Nay | Other |                  | Aye | Nay | Other |
|--------------------|-----|-----|-------|------------------|-----|-----|-------|
| Alderman Black     |     |     |       | Alderman Painter |     |     |       |
| Alderman Hauman    |     |     |       | Alderman Sage    |     |     |       |
| Alderman Fruin     |     |     |       | Alderman Schmidt |     |     |       |
| Alderman Lower     |     |     |       | Alderman Buragas |     |     |       |
| Alderman Mwilambwe |     |     |       |                  |     |     |       |
|                    |     |     |       | Mayor Renner     |     |     |       |

**ORDINANCE 2015 - \_\_\_\_**

**AN ORDINANCE AMENDING ORDINANCE NO. 1965-51 AND TEMPORARILY  
EXTENDING THE FRANCHISE AGREEMENT BETWEEN THE CITY AND CORN  
BELT ELECTRIC COOPERATIVE**

**WHEREAS**, the City of Bloomington, McLean County, Illinois (hereinafter “City”) is an Illinois home-rule municipality; and

**WHEREAS**, the City previously adopted October 11, 1965, Ordinance No. 1965-51, establishing an electric franchise with Corn Belt Electric Cooperative, Inc. (hereinafter “Corn Belt”); and

**WHEREAS**, Ordinance No. 1965-51 provided that all rights and privileges granted by said Ordinance were granted for a term of 50 years after acceptance of the Ordinance by Corn Belt; and

**WHEREAS**, the City and Corn Belt desire to negotiate a new franchise agreement and believe it is in the best interest of the entities that the existing 1965 franchise agreement continue to extend for a period of six (6) months while a new franchise agreement is negotiated; and

**WHEREAS**, by this Ordinance, the City agrees to continue the 1965 franchise agreement until the earlier of April 1, 2017, or the entry of a new franchise agreement between the parties and Corn Belt agrees to said extension.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Bloomington, McLean County, Illinois, as follows:

**SECTION 1.** The above recitals are incorporated herein by this reference as if specifically stated in full.

**SECTION 2.** The franchise agreement between the City and Corn Belt Energy, approved by the City in Ordinance No. 1965-51, is hereby extended by said parties until the earlier of April 1, 2017, or the entry of a new franchise agreement between the parties.

**SECTION 3.** Except as provided herein, the Bloomington City Code, 1960, as amended shall remain in full force and effect.

**SECTION 4.** In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

**SECTION 5.** The City Clerk is hereby authorized to publish this ordinance in pamphlet form as provided by law.

**SECTION 6.** This ordinance shall be effective immediately after the date of its publication as required by law.

**SECTION 7.** This ordinance is passed and approved pursuant to the home rule authority granted Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2015.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2015.

**CITY OF BLOOMINGTON**

**ATTEST**

\_\_\_\_\_  
Tari Renner, Mayor

\_\_\_\_\_  
Cherry L. Lawson, City Clerk

**ACKNOWLEDGED & APPROVED BY  
CORN BELT ELECTRIC COOPERATIVE, INC.,**

**ATTEST**

\_\_\_\_\_  
Its' President

\_\_\_\_\_  
Its' Secretary

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



**CONSENT AGENDA ITEM: 7K**

FOR COUNCIL: October 26, 2015

**SUBJECT:** Consideration of approving an Ordinance Suspending Portions of Section 701 of Chapter 31 and Section 26(d) of Chapter 6 of the City Code for a wedding reception at Miller Park Pavilion on March 19, 2016.

**RECOMMENDATION/MOTION:** That the Ordinance Suspending Portions of Section 701 of Chapter 31 and Section 26(d) of Chapter 6 of the City Code for a Wedding Reception at Miller Park Pavilion on March 19, 2016 be approved and the Mayor and City Clerk authorized to execute the necessary documents.

**STRATEGIC PLAN LINK:** Goal 5. Great place – livable, sustainable City.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 5.d. Appropriate leisure and recreational opportunities responding to the needs of residents.

**BACKGROUND:** The Bloomington Liquor Commissioner, Tari Renner, convened the liquor hearing on September 8, 2015 to hear the request of Zachary Young and Shannon Sturtz to allow moderate consumption of alcohol at their March 19, 2016 wedding reception to be held at Miller Park Pavilion.

Tari Renner, Geoffrey Tompkins and Jim Jordan Commissioners, George Boyle, Asst. Corporation Counsel, Asst. Chief Clay Wheeler, and Renee Gooderham, Chief Deputy Clerk.

Zachary Young, groom, addressed the Commission. He stated that Times Past Inn would cater the event. He anticipated 160 guests. Beer and wine only would be served.

Motion by Commissioner Tompkins, seconded by Commissioner Jordan to recommend at the October 12, 2015 City Council meeting approval of the request from Zachary Young and Shannon Sturtz to allow beer and wine consumption at their March 19, 2016 wedding reception to be held at Miller Park Pavilion.

Motion carried, (viva voce)

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** N/A.

**FINANCIAL IMPACT:** None.

Respectfully submitted for Council consideration.

Prepared by:

Renee Gooderham, Chief Deputy Clerk

Reviewed by:

Jay Tetzloff, Director of Parks, Recreation and  
Cultural Arts / Miller Park Zoo

Reviewed by:

Robert D. Yehl, PE, Water Director

Recommended by:



Tari Renner, Mayor

**Attachments:**

- Ordinance
- Request for the Suspension

Motion: That the Ordinance Suspending Portions of Section 701 of Chapter 31 and Section 26(d) of Chapter 6 of the City Code for a Wedding Reception at Miller Park Pavilion on March 19, 2016 be approved, the Mayor and City Clerk authorized to executed the necessary documents.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                  | Aye | Nay | Other |                    | Aye | Nay | Other |
|------------------|-----|-----|-------|--------------------|-----|-----|-------|
| Alderman Black   |     |     |       | Alderman Mwilambwe |     |     |       |
| Alderman Buragas |     |     |       | Alderman Painter   |     |     |       |
| Alderman Fruin   |     |     |       | Alderman Sage      |     |     |       |
| Alderman Hauman  |     |     |       | Alderman Schmidt   |     |     |       |
| Alderman Lower   |     |     |       |                    |     |     |       |
|                  |     |     |       | Mayor Renner       |     |     |       |

**ORDINANCE NO. 2015 -**

**AN ORDINANCE SUSPENDING PORTIONS OF SECTION 701 OF CHAPTER 31 AND  
SECTION 26(d) OF CHAPTER 6 OF THE CITY CODE FOR A WEDDING  
RECEPTION AT MILLER PARK PAVILION**

WHEREAS, Zachary Young and Shannon Sturtz are planning to hold their wedding reception at Miller Park Pavilion from 5:30 p.m. to 11:00 p.m. on March 19, 2016; and

WHEREAS, Zachary Young and Shannon Sturtz have requested permission from the City to serve beer and wine during this event; and

WHEREAS, in order to legally possess alcohol in a City Park, Section 701(a), (b) and (c) of Chapter 31 of the Bloomington City Code, which prohibits the drinking, selling and possessing alcohol beverages with the City parks and Section 26(d) of Chapter 6 of the Bloomington City Code, which prohibits possession of open alcohol on public property must be suspended;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS;

Section 1: That Sections 701(a), (b) and (c) of Chapter 31 and Section 26(d) of Chapter 6 of the Bloomington City Code, 1960, as amended, are suspended for the duration of the wedding reception at Miller Park Pavilion on March 19, 2016 under the conditions set forth in the rental agreement.

Section 2: Except for the time, date and location set forth in Section 1 of this Ordinance, Sections 701(a), (b) and (c) of Chapter 31 and Section 26(d) of Chapter 6 of the Bloomington City Code, 1960, shall remain in full force and effect. Nothing in this Ordinance shall be interpreted as repealing said Sections 701(a), (b) and (c) of Chapter 31 and Section 26(d) of Chapter 6.

Section 3: This Ordinance shall be effective on the date of its passage and approval.

Section 4: This Ordinance is adopted pursuant to the home rule authority granted the City of Bloomington by Article VII, Section 6 of the 1960 Illinois Constitution.

**PASSED this 26<sup>th</sup> of October 2015**

**APPROVED this \_\_\_day of October 2015.**

**CITY OF BLOOMINGTON**

**ATTEST**

\_\_\_\_\_  
Tari Renner, Mayor

\_\_\_\_\_  
Cherry L. Lawson, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeffery R. Jurgens, Corporation Counsel





**CITY OF**  
*Bloomington* **ILLINOIS**  
**CONSENT AGENDA ITEM NO. 7L**

FOR COUNCIL: October 26, 2015

**SUBJECT:** Consideration of approving an Ordinance Amending Chapter 40 of the City of Bloomington Code Regulating Taxicabs and Vehicles for Hire (Downtown Shuttles)

**RECOMMENDATION/MOTION:** Recommend that the Ordinance Amending Chapter 40 of the Bloomington City Code regulating taxicabs and vehicles for hire be adopted.

**STRATEGIC PLAN LINK:** 3. Grow the Local Economy and 5. Great Place – Livable, Sustainable City.

**STRATEGIC PLAN SIGNIFICANCE:** 3a. Retention and growth of current local businesses and 5a. Well-planned City with necessary services and infrastructure.

**BACKGROUND:** The City of Bloomington has regulated taxicab service in both the City of Bloomington and the Town of Normal since the late 1970's. In 2007, this regulation came to include shuttles that provide transportation on weekend evenings into and out of downtown Bloomington. In May of this year, this regulation was expanded to include transportation network companies. The proposed ordinance revises the portions of the Bloomington City Code regulating taxicabs and downtown weekend shuttles. The proposed revisions were drafted with input from staff in the Police, Legal and Clerk Departments as well as Town of Normal staff. Input was also solicited and obtained from owners of companies providing these services.

Briefly stated, the revisions to the ordinance do the following:

- Provide standards: A McLean County Circuit Court has found that our present ordinance is vague as to standards for awarding certificates of public convenience to companies applying for the right to provide transportation services. The proposed ordinance sets forth specific criteria which, if present, would prevent the award of a certificate of public convenience. If none of the disqualifying factors are present, the certificate is awarded.
- Clarify appeal procedures: The ordinance addresses concerns raised by the McLean County Circuit Court by clarifying specific appeal procedures.
- Reduce redundancy and clarify meaning: Portions of the Chapter that were redundant or inconsistent have been eliminated. The revisions change and update language in order to clarify the meaning of certain terms. For example, the term “downtown shuttle” replaces the term “vehicle for hire” to refer to shuttles that provide weekend, late-night service to downtown Bloomington. Under the present ordinance, some confusion had occurred because in general legal parlance, the term “vehicle for hire” is used to refer to a broad range of transportation vehicles, including taxicabs, shuttles, limousines, transportation network company vehicles.

- Increase minimum insurance requirements: The ordinance increases the amount of minimum insurance that taxicabs and downtown shuttles must have in case of accidents causing death, injury or property damage. (See Section 405).
- Increase self-regulation: The ordinance adopts some of the self-regulation features of the transportation network company pilot project ordinance passed by the Council earlier this year. This serves both to level the playing field between the taxicab/downtown shuttle companies and Transportation Network Companies as well as to reduce the staff time currently used in application and permit review. For example, the proposed ordinance provides that criminal background checks required with driver permit applications are to be submitted along with the permit application, rather than that background checks be conducted by the Bloomington and Illinois State Police, as is currently done.
- Increase fees to be paid by companies and driver applicants: The ordinance increases fees to be paid by applicant companies and drivers to at least partially offset the costs of staff time used in administering taxicab and downtown shuttle regulations.
- Provide for a surcharge on late night service: A \$2.00 per ride surcharge is added to taxicab rates for all rides taking place between the hours of 10:00 p.m. and 5:00 a.m. This is intended to encourage increased taxicab service during these late night hours. Exempted from the surcharge are senior citizens and persons with disabilities. This provision was added in response to input from company owners.
- Flexible hub and drop-off prohibition designation: The proposed ordinance provides for the police chief of the affected jurisdiction to designate additional places where downtown shuttles may pick-up passengers and prohibit shuttles from dropping passengers off. This is intended to provide both cities with a flexible way of dealing with changes in traffic needs and complaints by citizens involving such things such as noise and disruptive behavior by passengers getting off of shuttles. This provision has the support of the Police Departments of Bloomington and Normal.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Staff from the Town of Normal; taxicab and downtown shuttle company owners.

**FINANCIAL IMPACT:** See attached proposed amended ordinance for fee changes (Section 202, 207, and 402).

Respectfully submitted for Council consideration.

Prepared by: George D. Boyle, Assistant Corporation Counsel

Reviewed by: Renee Gooderham, Chief Deputy Clerk

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla Murillo, Budget Manager

Legal review by: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:



David A. Hales, City Manager

**Attachments:**

- Ordinance

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Motion: Recommend that the Ordinance Amending Chapter 40 of the Bloomington City Code regulating taxicabs and vehicles for hire be adopted.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                  | Aye | Nay | Other |                    | Aye | Nay | Other |
|------------------|-----|-----|-------|--------------------|-----|-----|-------|
| Alderman Black   |     |     |       | Alderman Mwilambwe |     |     |       |
| Alderman Buragas |     |     |       | Alderman Painter   |     |     |       |
| Alderman Fruin   |     |     |       | Alderman Sage      |     |     |       |
| Alderman Hauman  |     |     |       | Alderman Schmidt   |     |     |       |
| Alderman Lower   |     |     |       |                    |     |     |       |
|                  |     |     |       | Mayor Renner       |     |     |       |

ORDINANCE NO. 2015-

AN ORDINANCE AMENDING BLOOMINGTON  
CITY CODE CHAPTER 40

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bloomington, Illinois:

SECTION 1. That Bloomington City Code Chapter 40, Sections 101, 102, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 214, 401, 402, 403, 405, 406, 409, 601, 1001, 1002, 1002A, 1002B, 1002C, 1002D, 1002E, 1002F, 1002G, 1002H, 1002I, 1002J, 1003, 1004, 1005, 1005A, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1030A, 1030B, 1030C, 1031, 1032, 1033, 1034, 1035, 1036, 1100 and 1101 shall be and the same are hereby amended to read as follows: (additions are indicating by underlining; deletions are indicated by strikeouts):

ARTICLE I

PURPOSE, SCOPE OF CHAPTER AND DEFINITIONS

SEC. 101 PURPOSE AND SCOPE OF CHAPTER.

(a) The purpose of this Chapter is to protect the public health, safety and welfare through the regulation of transportation of passengers in taxicabs, downtown shuttles and transportation network services vehicles as defined in this Chapter. The City Council finds that this purpose is furthered by regulations that provide for the safe, affordable, reliable and accessible transportation of passengers in vehicles regulated hereunder.

(b) This Chapter regulates the transportation of ~~operation of transporting~~ passengers for hire in vehicles which are not operated ~~operating~~ regularly upon established routes. Excluded from coverage are motor vehicles operated for purposes of mass transit by the Regional Transit Authority, shuttle services operated by hotels, motels and apartment complexes as a courtesy to their guests or tenants, school buses, emergency medical vehicles and ~~buses and rented~~ vehicles not for hire actually operated by the lessee.

SEC. 102 DEFINITIONS.

The following words, terms and phrases when used in this Chapter Ordinance shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. Additional definitions pertaining to transportation network services, transportation network companies and transportation network drivers are set forth in Article XII of this Chapter. ~~as set out herein, unless the context in which they are used clearly indicates that a different meaning is intended.~~

(a) "Approved" shall mean reasonably acceptable to the Chief of Police of the City of Bloomington or his or her designee.

(b) "Central Business District of the City of Bloomington" shall mean the area bounded by the following streets: Beginning at the intersection of Locust and Roosevelt Streets; thence east on Locust to Prairie Street; thence south to Douglas Street; thence east to Gridley Street; thence south to Jefferson Street; thence east to McLean Street; thence south to Front Street; thence west to Gridley Street; thence south to Olive Street; thence west to Prairie Street; thence south to Jackson Street; thence west along Jackson Street and an extension thereof to Main Street; thence north to Kentucky Alley; thence west to Center Street; thence north to Olive Street; thence west to Lee Street; thence north to Front Street; thence west to Oak Street; thence north to Monroe Street; thence east to Roosevelt Street; thence north to a point immediately south of Mulberry Street; thence east to a point halfway between the Roosevelt Street right-of-way and the Madison Street right-of-way; thence north to Locust Street.

(c) "Central Business District of the Town of Normal" shall mean the area bounded by the following streets: Starting at the point in the intersection of Fell Ave. and W. College Ave., then South to the intersection of S. Fell Ave. and the South right of way of the railroad, then North Easterly along said right of way to the point of the North West corner of the Parkinson St. parking lot, then South to the centerline of Parkinson St., then North Easterly along said street centerline to the intersection of S. Linden St., then South to the intersection of Linden and Taylor St., then East to the center of the intersection of S. Oak St., then North to the point of the intersection of the North row of E. College Ave and the North row of the railroad, then North Easterly along said row to the Southern row of E. Mulberry St., the along said row Westerly to the intersection of N. Linden St., then South along the street centerline to the intersection of E College Ave., then West to the point of beginning.

(d) ~~(b)~~ "Certificate" shall mean a certificate of public convenience issued by the City Manager authorizing the holder to conduct a taxicab or downtown shuttle business in the City of Bloomington or such other areas to which this Code applies pursuant to an intergovernmental cooperation agreement.

(e) "City Manager" shall mean the City Manager of the City of Bloomington or his or her designee.

(f) ~~(e)~~ "Council" shall mean the City Council of the City of Bloomington, Illinois.

(g) ~~(d)~~ "Cruising" shall mean the driving of a taxicab on the streets, alleys or public places of the City of Bloomington and other such areas to which this Code applies pursuant to an intergovernmental cooperation agreement without a paying passenger and apparently in search of, or soliciting prospective passengers for hire.

(h) "Downtown Shuttle" shall mean a vehicle with an authorized load capacity of from 12 to 70 persons that transports passengers in return for payment when such transportation either commences or terminates within the Central Business District of the City of Bloomington or the Town of Normal. Downtown shuttles may only be operated on Thursdays, Fridays and Saturdays between the hours of 6:00 p.m. and 4:00 a.m. the following morning. Downtown

shuttles may also legally operate at such other dates and times as provided in Section 1002 of this Chapter.

(i) ~~(e)~~ "Driver" shall mean the operator of a vehicle. ~~the taxicab.~~

(j) ~~(f)~~ "Driver's Permit" shall mean the written permission or license granted by the City Manager to a person to drive a taxicab or downtown shuttle upon the streets of the City of Bloomington and such other areas to which this Code applies pursuant to an intergovernmental cooperation agreement.

(k) ~~(g)~~ "Holder" shall mean a person to whom a certificate of public convenience has been issued.

(l) "Horse Drawn Vehicle" shall mean any vehicle pulled by a horse or other animal which may be hired for the transportation of passengers. Such vehicles will be subject to all appropriate provisions of this Chapter of the City Code and to the provisions of the Illinois Vehicle Code.

(m) "Hub" shall mean public places in the City of Bloomington or such other jurisdiction to which this Chapter applies pursuant to an intergovernmental cooperation agreement, designated by the respective corporate authority as reserved for the exclusive use of downtown shuttles on dates when they may legally operate.

(n) "Identification Card" shall mean a card issued by the City Clerk's office containing the photograph and identification information of a person authorized to drive a taxicab or downtown shuttle in the City of Bloomington or such other jurisdiction to which this Chapter applies pursuant to an intergovernmental cooperation agreement.

(o) ~~(h)~~ "License Year" shall mean one (1) calendar year beginning January 1 and ending December 31st.

~~(i)~~ "Manager" shall mean ~~the City Manager of the City of Bloomington, Illinois.~~

(p) ~~(j)~~ "Manifest" shall mean a daily record prepared by a taxicab or downtown shuttle driver of all trips made by said driver showing time and place of origin, destination, number of passengers, and the amount of fare of each trip.

(q) ~~(k)~~ "Open Stand" shall mean a public place alongside the curb of a street or elsewhere in the City of Bloomington or other jurisdiction to which this Chapter Code applies pursuant to an intergovernmental cooperation agreement designated by the respective corporate authority as reserved exclusively for the use of taxicabs.

(r) ~~(l)~~ "Person" includes an individual, a corporation, limited liability company, partnership, or other legal entity, ~~a partnership and any unincorporated association.~~



(s) ~~(m)~~ "Rate Card" shall mean a card or sign required to be displayed ~~issued by the City Clerk for display in or on~~ each taxicab which details ~~contains~~ the rates of fare then in force.

(t) ~~(n)~~ "Sex Offender" shall mean any person convicted, adjudicated or otherwise found to be a sex offender as that term is defined in the Sex Offender Registration Act, 730 ILCS 150/2. Said term shall include any person found to have committed a sexual offense as described in said statute, regardless of whether that person is required to register as a sex offender in Illinois. Said term shall include convictions, adjudications or findings of a violation of any substantially similar federal, uniform code of military justice, sister state, or foreign country law. This term ~~Section~~ shall not be construed so as to violate provisions of the Juvenile Court Act.

(u) ~~(o)~~ "Taxicab" shall mean any vehicle used in the business of carrying passengers for hire ~~and~~ not operated regularly upon established routes.; However however, the following shall not be considered taxicabs: (1) vehicles carrying passengers for hire by a transportation network company driver duly licensed and performing transportation network company services pursuant to Article XII of this Chapter; (2) emergency medical vehicles; (3) shuttle services operated by hotels, motels and apartment complexes as a courtesy to their guests or tenants; (4) mass transit operated by the City of Bloomington and Town of Normal; (5) downtown shuttles as defined in this Section; (6) charter buses. shall not be considered taxicabs. motor vehicles operated for purposes of mass transit by the City of Bloomington and the Town of Normal and shuttle services operated by hotels, and motels and apartment complexes as a courtesy to their guests or tenants shall not be considered taxicabs.

(v) ~~(p)~~ "Taximeter" shall mean a meter instrument or device attached to a taxicab which measures mechanically and/or electrically the distance driven and the waiting time upon which the fare is based.

(w) ~~(q)~~ "Waiting Time" shall mean the following times when a hired taxicab is not in motion, to wit:

- (1) Time commencing three (3) minutes after arrival at the place to which the taxicab has been summoned and ending with the passenger's entry into the vehicle;
- (2) Time consumed by ordinary traffic delays;
- (3) Time the taxicab is not in motion due to the request, act, or fault of a passenger or passengers.

It shall not include:

- (1) Time lost due to inefficiency of the vehicle or its driver;
- (2) Time consumed by premature response to a call;
- (3) Any other time lost.

~~(f) "Horse Drawn Vehicle" shall mean any vehicle pulled by a horse or other animal which may be hired for the transportation of passengers. Such vehicles will be subject to all appropriate provisions of this Chapter of the City Code and to the provisions of the Illinois Vehicle Code.~~

## SEC. 201 CERTIFICATE REQUIRED.

Except as provided in Section 213 of this Article, no person shall permit or operate ~~operate or permit~~ a taxicab or downtown shuttle owned or controlled by him to be operated ~~as a vehicle for hire~~ upon the streets of the City of Bloomington or such other jurisdiction areas to which this Chapter applies pursuant to an intergovernmental ~~cooperation~~ agreement without having first obtained a certificate of public convenience from the City Manager. Any person who has received a certificate of public convenience who desires to drive a taxicab or downtown shuttle must also have a driver's permit from the City of Bloomington as provided by this Chapter.

## SEC. 202 APPLICATION FOR CERTIFICATE.

An application for a certificate of public convenience shall be filed with the City Clerk ~~Manager~~ upon forms provided by the City of Bloomington. The fee for each application shall be \$100.00. The fee must be paid prior to the processing of the application. Each said application shall be verified upon ~~under~~ oath or affirmation and shall furnish the following information:

(a) The full name of the applicant along with the business and residential address of the applicant (if the applicant is a firm, limited liability company or corporation, the applicant must include the names, telephone number, email and physical addresses of the president, secretary, treasurer and agent of the entity); ~~The name and business and residence addresses of the applicant;~~

(b) The financial status of the applicant, including a statement of assets and liabilities; financial information shall also include the amount of all unpaid judgments against the applicant and the nature of the transactions or acts giving rise to said judgments;

(c) The experience of the applicant in the transportation of passengers;

(d) Any facts which the applicant believes tend to prove that public convenience and necessity would benefit by the granting of a certificate to the applicant;

(e) The number of vehicles to be operated or controlled by the applicant, including the number of seats in each proposed vehicle; and the location of proposed depots and terminals;

(f) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant;

(g) If the applicant is a limited liability company or corporation, the chief executive and chief financial officers shall sign the application, indicating their positions in the organization and verifying the information stated therein; the names and addresses of the president, secretary, and any other officers of the corporation;

(h) If the applicant is a limited liability company or corporation, the applicant must include the Articles of Incorporation for the entity and, if the entity has existed for more than one year, a Certificate of Good Standing issued by the Secretary of State;

(i) ~~(h)~~ If the applicants is a partnership, are members of a partnership, the names, telephone number, email and physical address and addresses of each of the partners, along with information as to whether any partner has been convicted of a felony and, if so, the nature of the conviction and the jurisdiction in which it occurred; and each partner shall sign the application form;

(j) ~~(i)~~ Whether the applicant has ever been convicted of a felony and, if so, the nature of the conviction and the jurisdiction in which it occurred. If the applicant is a corporation, limited liability company or other business organization, whether any officer of the organization has ever been convicted of a felony, and, if so, the nature of the felony and the jurisdiction in which it occurred. Such further information as the City Manager of the City of Bloomington may require.

(k) Whether the applicant, or, if the applicant is a partnership, corporation, limited liability company, or other organization, whether any partner, officer or person having more than 10% of the stock in said organization, owes any outstanding fines, judgment debts, amounts for water or other City services, taxes, fees or any other amounts to the City of Bloomington or to such other municipality to which this Chapter applies pursuant to an intergovernmental cooperation agreement;

(l) Applications lacking any of the information required in this Section, or lacking a signed verification as required by this Section, will be considered incomplete and will not be processed or accepted.

(m) Certificate holders shall report any changes in information furnished in their application for a Certificate of Public Convenience to the City Clerk in writing within 10 days of the change. Failure to so report may be cause for suspension or revocation of the certificate.

## SEC. 203 INVESTIGATION.

The Chief of Police shall cause an investigation to be made of the character, fitness and qualifications of the applicant, and shall transmit the findings to the City Manager. This investigation shall include a background check conducted by the Illinois State Police and may require the fingerprinting of the applicant or its officers. Any person who has received a certificate of public convenience and necessity who desires to drive a taxicab must also have a permit from the City of Bloomington. In addition to any other fee required by this Chapter, every person for whom a background investigation is required shall pay a fee of \$10.00 to the City of Bloomington for costs of an initial background investigation and shall pay an additional

~~fee of \$20.00 to cover the costs of fingerprinting if deemed necessary by the City Manager. No applicant who is a sex offender as that term is defined in Section 102 of this Chapter shall be eligible to receive a certificate of public convenience and necessity. No applicant who has been convicted within the last 10 years of a felony shall be eligible to receive a certificate of public convenience and necessity; unless a written determination has been made by the City Manager that such person has been sufficiently rehabilitated such that the issuance to that person of a certificate of public convenience and necessity would not pose a danger to the public. In making said determination, the City Manager may consider the factors set forth in Section 405(g) of this Chapter. If the applicant is a corporation or limited liability company, no such entity having as its chief stockholder, president, secretary or any other officer a person who is a sex offender as defined under Section 102 of this Chapter, shall be eligible to receive a certificate of public convenience and necessity. If the applicant is a corporation or limited liability company, no such entity having as its chief stockholder, president, secretary or any other officer a person who has been convicted of a felony within the last 10 years shall be eligible to receive a certificate of public convenience and necessity unless such person has received from the City Manager a written determination that he or she has been sufficiently rehabilitated such that the issuance to the applicant of a certificate of public convenience and necessity will not pose a danger to the public. pursuant to Article IV of this Chapter. In addition to any other fee required by this Chapter 40, every person for whom a background investigation is required shall pay a fee of \$10.00 to the City of Bloomington for the costs of an initial background investigation and shall pay an additional fee of \$20.00 in the event an additional check (including but not limited to the cost of fingerprinting) is deemed necessary by the City.~~

#### ~~SEC. 204 PUBLIC HEARING.~~

~~(a) Notice. Upon the filing of an application for a new certificate, the City Manager shall fix a time and place for a public hearing thereon. Notice of such hearing shall be given to the applicant and to all persons to whom certificates of public convenience have been theretofore issued. Notice shall also be given the general public by publishing a notice of such hearing in the Daily Pantagraph. All notices shall state:~~

- ~~(1) That application for a certificate of public convenience has been made;~~
- ~~(2) Name of the applicant;~~
- ~~(3) That a public hearing on the application will be held;~~
- ~~(4) Place of the hearing;~~
- ~~(5) Date and time of the hearing.~~

~~All notices shall be given or published not less than five (5) nor more than fifteen (15) days prior to the hearing.~~

~~(b) Evidence. Any interested person may file with the City Manager a memorandum in support of or in opposition to the issuance of a certificate and may testify at the hearing.~~

~~(e) Continuance. The City Manager at his discretion may continue or postpone the hearing upon his own motion or the motion of any interested person.~~

#### SEC. 204. QUALIFICATIONS FOR ISSUANCE OF CERTIFICATE.

(a) No certificate of public convenience to engage in the business of operating a taxicab or downtown shuttle shall be issued to or held by any person:

1. who has been convicted of a felony within seven years of the date of application or who has been released from incarceration for a felony conviction within seven years prior to the date of application; or
2. whose license to operate a taxicab or a downtown shuttle in any jurisdiction has been suspended or revoked during the three years prior to the date of application; or
3. who owes the City of Bloomington or such other municipality to which this Chapter applies pursuant to an intergovernmental cooperation agreement any outstanding fines, judgment debts, delinquent amounts for water or other City services, taxes, fees or any other amounts. This provision may be waived by the City Manager of the jurisdiction owed said amounts if the City Manager finds the applicant has entered into a satisfactory payment agreement providing for full payment to the jurisdiction of all outstanding amounts. Any certificate or license issued pursuant to such an agreement shall be probationary in the sense that it shall be contingent upon full compliance with the agreement and shall be terminated and revoked upon failure to comply therewith.
4. who has been found to have violated any of the provisions of this Chapter or of the ordinances of the City of Bloomington or such other municipality to which this Chapter applies pursuant to an intergovernmental cooperation agreement more than three times in the five years prior to the date of application.
5. who provides false or misleading information to the City on their application and related documents. Failure to report any felony conviction, regardless of when or where it occurred, shall be deemed the providing of materially false information for purposes of application of this Section and will result in denial of a certificate.

(b) No certificate of public convenience to operate a taxicab or downtown shuttle business shall be issued to or held by any firm, corporation, limited liability company or other entity if any officer thereof would be ineligible for a license under the conditions specified in subsection (a), above.

(c) No applicant who is a sex offender as that term is defined in Section 102 of this Chapter shall be eligible to receive a certificate of public convenience and necessity. If the applicant is a corporation or limited liability company, no such entity having as its chief stockholder, president, secretary or any other officer a person who is a sex offender as defined under Section 102 of this Chapter shall be eligible to receive a certificate of public convenience and necessity.

SEC. 205 ~~INDEMNITY BOND OR LIABILITY INSURANCE REQUIRED.~~

(a) Before any certificate of public convenience, license or permit to operate a taxicab or downtown shuttle shall be issued or renewed, the certificate holder owner shall file with the City Clerk proof of an insurance policy issued by an insurance company licensed to do business in the State of Illinois, providing insurance coverage for each and every taxicab or downtown shuttle owned, operated, dispatched or leased by the applicant against liability upon the owner in the minimum amounts provided in this Section.

(b) For taxicabs, the minimum amount of insurance required shall be as follows:

(1) \$250,000.00 for bodily injury or death per person;

(2) \$500,000.00 for bodily injury or death per accident; and

(3) \$50,000.00 for property damage per accident.

(c) For downtown shuttles, the minimum amount required shall be a combined single limit for each accident of \$1,000,000.00.

(d) Such policy shall further provide that insolvency or bankruptcy of the insured shall not release the insurance company from any payment due under such policy; and, if by reason of such insolvency or bankruptcy, an execution on a judgment against the insured is returned unsatisfied, the judgment creditor shall have a right of action against the insurance company to recover the amount of such judgment to the same extent that the insured would have had to recover against the company had the insured paid the judgment.

(e) The policy shall provide that it cannot be cancelled until thirty days' written notice of such cancellation shall have been given to the City Clerk.

(f) If the owner of any taxicab or downtown shuttle shall fail to provide within thirty days after receipt of notice of cancellation another policy of insurance complying with this Section, then any license or certificate issued for such taxicab or downtown shuttle shall automatically become void and of no effect.

(g) The cancellation or other termination of any insurance policies issued for or in compliance with the provisions of this Section shall automatically terminate any certificate or license issued for the taxicab or downtown shuttle covered by such insurance policy, unless



another policy complying with the provisions of this Section shall be provided and in full force and effect at the time of such cancellation or termination.

~~No certificate of public convenience shall be issued or continued in operation and it shall be unlawful for any person to operate a taxicab unless there is in full force and effect an indemnity bond for each vehicle authorized in the amount of Fifty Thousand Dollars (\$50,000) for death or bodily injury to any one person; in the amount of One Hundred Thousand Dollars (\$100,000) for death and/or injuries to more than one (1) person which are sustained in the same accident and Fifty Thousand Dollars (\$50,000) for property damage resulting from any one accident. Said bond or bonds shall inure to the benefit of any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a holder, his servants, agents, or drivers. Said bond or bonds shall be filed in the office of the City Clerk and shall have as surety thereon a surety company authorized to do business in the State of Illinois.~~

~~The City Manager may in his discretion allow the holder to file, in lieu of bond or bonds, a liability insurance policy or certificate showing the specific vehicles covered by an effective policy in said amounts issued by an insurance company authorized to do business in the State of Illinois. Said policy shall conform to the following provisions:~~

~~(1) — The policy shall provide the same coverage as required for bonds above.~~

~~(2) — Said policy of insurance shall contain a provision that the same cannot be cancelled by the company issuing the same without giving thirty (30) days notice in writing of such cancellation to the holder and to the City Manager, either personally or by registered mail. Whenever any such policy shall be so cancelled, the City Manager shall require such owner either to furnish a bond or a new policy of insurance, in accordance with the provisions of this Chapter.~~

~~Whenever the issuing company gives such notice of cancellation, the City Manager shall, at the expiration of said thirty (30) days, mark said insurance policy or certificate "withdrawn" with the date such withdrawal became effective, and thereupon the liability of such company on said policy shall cease as to any injury or damage sustained after the date such withdrawal becomes effective.~~

~~(3) — If, at any time, in the judgment of the City Manager, said policy of insurance is not sufficient for any good cause, he may require the owner of such taxicab who filed the same to replace said policy of insurance with another good and sufficient bond or insurance policy, in accordance with the provisions of this Chapter.~~

~~(4) — All policies of insurance herein required shall expire the 31st day of December of each year. This expiration date shall not operate to terminate liabilities under such policies which occurred during the period in which the policies were in effect.~~

~~(5) — The applicant or holder shall deposit with the City Clerk a duplicate certificate of effective insurance from the company or a copy of all policies of insurance for public liability and property damage required by the State of Illinois for the operation and driving of a motor~~

~~vehicle for the carriage of passengers for hire; and the same shall be applied to the extent thereof as long as said policies are in full force and effect in determining whether the owner of such taxicab has fulfilled the requirements for a policy of insurance as provided in this Chapter. (Ordinance No. 1989-31)~~

~~(6) The applicant or holder shall immediately notify the City Manager if any policies of insurance required under this Chapter have lapsed, been revoked, or in any other manner ceased coverage.~~

#### SEC. 206 ISSUANCE. OF CERTIFICATE.

~~(a) The City Manager is authorized to issue a certificate of public convenience to any qualified applicant for the operation of a taxicab or downtown shuttle, provided that the applicant qualifies under Section 204, has paid all fees and has provided proof of the insurance required under this Article to the City Clerk. No person shall hold a certificate by means of transfer or renewal who would not qualify for issuance of a new certificate under this Article 11. The certificate shall contain a distinguishing number, name of the business, the address of the business and the number of vehicles to be operated.~~

~~If the City Manager finds that further taxicab service in the City of Bloomington is desirable and in the public interest, and that the applicant is fit, willing and able personally and financially to perform such public transportation and to conform to the provisions of this Ordinance and the rules promulgated by the City Manager, then the City Manager shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under said certificate and the date of issuance; otherwise, if all of the above findings cannot be made, the application shall be denied. The City Manager shall send copies of his findings to all interested parties.~~

~~(b) If an application for the issuance or renewal of a certificate is denied, the City Manager shall issue a written notice of denial, together with findings in support of the denial, to the applicant. The applicant may, within 10 days of the mailing of the notice of denial, make a written request for a hearing to appeal the denial. Failure to timely make such a request will waive the right to appeal. The request must be submitted to the office of the City of Bloomington Corporation Counsel located at 109 East Olive Street, Bloomington, Illinois 61701. Upon receipt of a timely written request for a hearing, the Corporation Counsel's office shall schedule a hearing on the appeal in the City of Bloomington Administrative Court and shall mail notice of the date and time of a hearing to the applicant. Said hearing shall be set for a date within 30 days of the Corporation Counsel's receipt of the request for an appeal. If, at the appeal hearing, the applicant establishes by a preponderance of the evidence that the denial was based upon incorrect findings, the City Manager shall issue a certificate. If, at such hearing, the denial is found to have been based upon correct findings, or if the applicant fails to prove by a preponderance of the evidence that the findings forming the basis for the denial were incorrect, the denial shall become final. An applicant for a certificate of public convenience whose application is denied shall not be eligible to reapply for a certificate for a period of 2 years from the date of the denial, or from the date of any decision upholding the denial. Any corporation, limited liability company or other legal entity in which an applicant who has been denied a certificate has an ownership~~

interest of 25% or more shall likewise be prohibited from applying for a certificate for a period of 2 years.

#### SEC. 207 LICENSE FEES.

(a) Payment. No certificate shall be issued or continued in operation unless the holder thereof has paid an annual license fee of Two Hundred Dollars (\$200.00) ~~One Hundred Dollars (\$100.00)~~ for the first taxicab or downtown shuttle and Fifty Dollars (\$50.00) ~~Twenty-five Dollars (\$25.00)~~ each year for each additional vehicle operated under the a certificate of public convenience. Said license fees shall be paid prior to issuance of a new certificate and, in the case of renewals, shall be paid in advance of the year for which the certificate is to be renewed. and shall expire on December 31st of the year in which it is issued.

~~(b) Additions and Deletions. Whenever the number of a holder's taxicabs is increased or decreased during the license year, the license fee shall be increased or decreased accordingly. Fees shall be prorated to the nearest quarter.~~

~~(b)~~ (e) Installments. At the option of the holder, the annual license fee above stated may be paid in two (2) installments in advance, the first half of said year being payable on or before the first day of July of each year.

~~(c) (d)~~ Refund. No fees paid hereunder shall be repaid in whole or in part.

#### SEC. 208 NUMBER OF TAXICABS.

Each holder may shall operate the number of taxicabs or downtown shuttles for which the holder's certificate is was issued. Additions to or reductions in the number of taxicabs or downtown shuttles allowed for each holder shall be made only in accordance with the procedure outlined for the issuance of a certificate of public convenience.

#### SEC. 209 TRANSFER OF CERTIFICATE; CHANGE IN OWNERSHIP.

(a) The A Certificate of Public Convenience to operate a taxicab or downtown shuttle company shall be non-assignable and non-transferable.

(b) Prior to a change of ownership in an entity providing taxicab or downtown shuttle services, the new owner must apply for, and obtain, a certificate of public convenience to operate a taxicab or downtown shuttle company. For partnerships, limited liability companies and corporations, a change of ownership is defined as a change of more than 25% of the ownership of the entity. An entity providing taxicab or s downtown shuttle services without the owner having obtained a certificate of public convenience is in violation of the provisions of this Article.

~~No certificate of public convenience may be sold, assigned, mortgaged or otherwise transferred without the consent of the City Manager. Notice of intent to transfer shall be filed with the City Manager not less than thirty (30) days Prior to the proposed transfer. Before any transfer can~~

~~become effective, the party seeking the certificate shall file with the City Manager an application containing all the information required in Section 202.~~

#### SEC. 210 RENEWAL OF CERTIFICATE.

Certificates shall be subject to a yearly renewal and holders of certificates shall file applications therefor not less than thirty (30) days before the end of each calendar year. All applications for renewal of existing certificates shall contain the ~~same~~ information required of applicants under Section 202 of this Article, as the original application. ~~No person or entity shall be issued a renewed certificate who would not have qualified for issuance of an initial certificate under the requirements of this Article.~~ An annual review shall be made to determine whether the holder is in compliance with all federal, state and city requirements and to determine whether the holder is in compliance with or has violated, or is responsible, ~~directly or indirectly under these ordinances or other laws,~~ for the violations of others of any federal, state, or municipal laws, ordinances or regulations.

#### SEC. 211 SUSPENSION OR REVOCATION OF CERTIFICATE.

(a) A certificate of public convenience may be revoked or suspended if the holder no longer qualifies for a certificate under the factors listed in Section 204 of this Chapter. ~~issued under the provisions of this Ordinance may be revoked or suspended by the City Manager if the holder thereof has:~~

(b) A certificate of public convenience may be revoked or suspended if the holder has:

(1) (a) violated any of the provisions of this Chapter Ordinance; or

(2) (b) knowingly allowed a driver to drive a taxicab or downtown shuttle with a driver's license or permit that is suspended or revoked under the Illinois Vehicle Code as amended from time to time; or discontinued operations for more than three (3) days; or

(3) (c) allowed a driver who is not licensed as a taxicab or downtown shuttle driver pursuant to this Chapter to drive a vehicle;

(4) violated any ordinances of the City of Bloomington or the ordinances of any other jurisdiction in which the holder operates pursuant to an intergovernmental cooperation agreement, or has violated any of or the laws of the United States or the State of Illinois, the violations of which unfavorably reflects unfavorably on the fitness of the holder to offer public transportation;

(5) hired as a driver a sex offender within the meaning of Section 102 of this Chapter; or

(6) hired, or allowed a person to provide taxicab or downtown shuttle service, who would not qualify for a driver's permit under the provisions of Article IV of this Chapter. It may be raised as a defense to violation of this subsection if the driver has a current, valid driver's permit and the certificate holder was unaware of any facts that would disqualify the driver from driving under the provisions of this Chapter.

(c) Revocation or suspension of a license shall not preclude the imposition of a fine by an administrative court or by a court of competent jurisdiction for violation of the Bloomington City Code or other such jurisdiction to which this Chapter applies pursuant to an intergovernmental cooperation agreement.

(d) No revocation or suspension shall require return by the City of any fee.

(e) Prior to suspension or revocation, the holder shall have the right to appeal pursuant to Section 214 of this Article. ~~be given reasonable notice of the proposed action to be taken and shall have an opportunity to be heard.~~

~~No refund of fees shall be made to the holder on account of suspension or revocation of certificate under this Section.~~

(f) In addition to the foregoing, the owner shall be responsible for all of the acts of his employees, agents or drivers relating to the violation of or non-compliance with any of the laws, rules or regulations relating to operation of taxicabs or downtown shuttles the solicitation of business or to the conduct of his business to the extent that the holder's certificate may be suspended or revoked by the City Manager for violations of such laws, rules or regulations by his employees, agents or drivers. Certificate holders are responsible for the acts of drivers receiving dispatch services or otherwise driving at the direction of the holder regardless of whether the vehicle driven is owned by the certificate holder, driver or some other entity. Drivers shall also be held responsible for violations of law occurring while they drive regardless of who owns the vehicle driven.

(g) An applicant for a certificate of public convenience whose application is revoked shall not be eligible to reapply for a certificate for a period of 2 years from the date of the revocation, or from the date of any decision upholding the revocation. Any corporation, limited liability company or other legal entity in which an applicant who has been revoked a certificate has an ownership interest of 25% or more shall likewise be prohibited from applying for a certificate for a period of 2 years.

#### SEC. 212 LOCATION OF OFFICES.

(a) No taxicab or downtown shuttle office, including any answering and dispatching service, shall be located within any premises holding a license for the sale of intoxicating beverages, other than at the Bloomington-Normal Airport.

(b) No taxicab or downtown shuttle office, including any answering or dispatch service, shall share the same premises, telephone facilities, vehicles or drivers with a transportation or shuttle service not licensed under this Chapter. Violation of this subsection will subject the certificate holder entity to revocation or suspension of its license, as well as to a fine of not less than \$250.00 for each day the violation continues.

#### SEC. 214 APPEALS.

Any certificate or permit holder who receives a notice of revocation or suspension may file an appeal with the City of Bloomington Administrative Adjudication Unit. The appeal must be made in writing within ten days of the date of the mailing of the notice of revocation or suspension and shall include a response to the notice. Such response shall include a brief statement addressing the substantive deficiencies cited in the notice and shall set forth the basis for why the certificate, permit or license should not be revoked or suspended. The appeal must be submitted to the Bloomington Corporation Counsel's office located at 109 E. Olive Street, Bloomington, IL 61701. The Corporation Counsel's office shall mail an appeal hearing notice to the requester containing the hearing date and time set in the City of Bloomington Administrative Court system.

#### SEC. 401 TAXICAB DRIVER'S PERMIT REQUIRED.

No person shall drive a taxicab or downtown shuttle or be hired or permitted to do so, unless he/she is a duly licensed driver by the State of Illinois and has a valid City issued driver's permit.

~~It shall be illegal for any person to operate a licensed or unlicensed taxicab for hire upon the streets of the City of Bloomington, or such other areas to which this Chapter applies pursuant to an Intergovernmental Cooperation Agreement, and it shall be illegal for any person who owns or controls a taxicab to permit it to be so driven unless the driver of said taxicab shall have first obtained and shall have then in force a taxicab driver's permit issued under the provisions of this Article IV. A person who has obtained from the City a permit to drive a Vehicle for Hire pursuant to Section 1003 of this Chapter shall be deemed to have a taxicab driver's permit under this Chapter so long as the City permit to drive a Vehicle for Hire has not expired or has been suspended or revoked.~~

#### SEC. 402 APPLICATION FOR DRIVER'S PERMIT.

(a) An application for a taxicab or downtown shuttle driver's permit shall be filed with the City Clerk on forms provided by the City of Bloomington, and such The application fee shall be Twenty-five Dollars (\$25.00) and must be paid prior to processing the application. The application shall be verified under oath and shall contain the following information:

- (1) (a) The name, age and residence of the applicant;



- ~~(2) (b)~~ The names and addresses of four (4) persons who have known the applicant for a period of four (4) years and who will vouch for the sobriety, honesty, and general good character of the applicant;
- ~~(3) (e)~~ The number of the applicant's operator license issued by the State of Illinois;
- ~~(4) (d)~~ Whether the applicant's operator license has ever been suspended or revoked by any governmental body in or outside of the State of Illinois, and if so, the reason therefor;
- ~~(5) (e)~~ The number and nature of moving traffic violations committed by the applicant;
- ~~(6) (f)~~ A concise history of the applicant's employment;
- ~~(7) (g)~~ Whether the applicant is a sex offender within the meaning of Section 102 of this Chapter; and
- ~~(8) (h)~~ Convictions of the applicant of any felony in any jurisdiction. For each such conviction, the applicant must detail the charge, jurisdiction and date of conviction.
- (9) Whether the Applicant has a commercial driver's license (CDL) from the State of Illinois.

(b) At the time the application is submitted, the applicant must provide to the City Clerk a copy of a criminal background check. Each background check, at a minimum, must:

- (1) Be done by a company that has been accredited by the National Association of Professional Screeners, or another organization approved by the City to perform criminal background checks;
- (2) Be Multi-State/Multi-Jurisdiction Criminal Records Locator or other similar commercial nationwide database with validation (primary source search);
- (3) Include a search of the National Sex Offender Registry database;

~~At the time the application is filed, the applicant shall pay to the City Clerk the sum of Ten Dollars (\$10.00).~~

#### SEC. 403 INVESTIGATION OF APPLICANT.

The Police Department shall conduct an investigation of each applicant for a taxicab or downtown shuttle driver's permit which shall include a review of the application, background

~~check and additional information submitted by the applicant, together with such other information as may be needed to assure that the applicant qualifies as a driver under the requirements set forth in this Article. and a report of such investigation and copy of the traffic and police record of the applicant, if any, shall be forwarded to the City Manager. In addition to any other fee required by this Chapter 40, every person for whom a background investigation is required shall pay a fee of \$10.00 to the City of Bloomington for the costs of an initial background investigation and shall pay an additional fee of \$20.00 in the event an additional background check (including but not limited to the cost of fingerprinting) is deemed necessary by the City.~~

SEC. 405 GROUNDS FOR DENIAL, ~~NON-RENEWAL~~ OR REVOCATION OF DRIVER'S PERMIT. ~~OF APPLICATION.~~

~~The following shall be grounds for denial, non-renewal or revocation of a of an application for a taxicab permit to drive a taxicab or downtown shuttle driver's permit:~~

(a) The applicant has a communicable disease of a type likely to be transmitted to a passenger in the normal course of business;

(b) The applicant has an ~~is afflicted with a disease or~~ uncorrected impairment which ~~would~~ affects his driving ability;

(c) The applicant has not attained the age of 18 years;

(d) The applicant does not have a valid operator's license issued by the State of Illinois;

(e) The applicant has a bad driving record, which is defined as a conviction within the last five (5) years of any of the following:

(1) Manslaughter or reckless homicide resulting from the operation of a motor vehicle;

(2) Driving under ~~either~~ the influence of narcotics or intoxicating liquor, or permitting another to drive one's vehicle while under the influence of liquor or narcotics;

(3) ~~Two (2) charges of~~ Reckless driving;

(4) Failure as the driver of any vehicle involved in any accident to stop and disclose his identity at the scene and to render aid to others, if needed, and/or failure to give notice of the accident by the fastest available means of communication to the local Police Department as required by law. ~~or had his taxicab driver's permit or state driver's license revoked.~~

(f) The applicant is a sex offender within the meaning of Section 102 of this Chapter;

(g) The applicant has been convicted of a felony within seven years of the date of application, or has been released from prison or jail for a felony within seven years of the date of application; the last 10 years; unless the applicant obtains a written determination by the City Manager that he or she has been sufficiently rehabilitated to the extent where the issuance of the taxicab driver's permit to the applicant will not pose a danger to the public. In making said determination, the City Manager may consider such factors as the nature of the felony, the length of time since the conviction and efforts of the applicant at rehabilitation.

(h) The failure of an applicant to furnish truthful information on the an application; or and for a taxicab driver's permit. failure of the applicant to report the occurrence of any felony conviction, regardless of when or where it occurred, shall be deemed the failure to furnish truthful information within the meaning of this Section and shall be grounds for denial of a driver's permit.

(i) The conviction of the applicant for one or more violations of the provisions of this Chapter; and

(j) The conviction of the applicant of more than 3 violations in the past 5 years of the Bloomington City Code or the code of such other jurisdiction to which this Chapter applies pursuant to an intergovernmental cooperation agreement.

#### SEC. 406 ISSUANCE OF DRIVER'S PERMIT.

(a) If none of the disqualifying factors listed in the preceding section are present, the Clerk shall be authorized to issue or renew a driver's permit to any qualified applicant. The permit shall contain the name, driver's license number, photograph, date of birth, address, and an expiration date of the permit. Such permit shall be in effect for the remainder of the calendar year. Applications for renewal of the annual driver's permit shall be filed with the City Clerk's office prior to December 1 of the calendar year for which the permit is sought. No person shall be issued a renewed permit who would not qualify for issuance of a new permit under this Article. All fees must be paid prior to issuance or renewal of any permit.

(b) If an application for the issuance or renewal of a driver's permit is denied, the City Manager shall issue a written notice of denial, together with findings in support of the denial, to the applicant. The applicant may, within 10 days of the mailing of the notice of denial, make a written request for a hearing to appeal the denial. Failure to timely make such a request will waive the right to appeal. The request must be submitted to the office of the City of Bloomington Corporation Counsel located at 109 East Olive Street, Bloomington, Illinois 61701. Upon receipt of a timely written request for a hearing, the Corporation Counsel's office shall schedule a hearing on the appeal in the City of Bloomington Administrative Court and shall mail notice of the date and time of a hearing to the applicant. Said hearing shall be set for a date within 30 days of the Corporation Counsel's receipt of the request for an appeal. If, at the appeal hearing, the applicant establishes by a preponderance of the evidence that the denial was based upon incorrect findings, the City Manager shall issue a permit. If, at such hearing, the denial is found to have been based upon correct findings, or if the applicant fails to prove by a preponderance of the evidence that the findings forming the basis for the denial were incorrect, the denial shall become

final. An applicant for a driver's permit whose application is revoked shall not be eligible to reapply for a permit for a period of 2 years from the date of the revocation, or from the date of any decision upholding the revocation.

~~Upon approval of an application for a taxicab driver's permit, the City Manager shall issue a permit to the applicant which shall bear the name, address, number, age and signature of the applicant.~~

~~Such permit shall be in effect for the remainder of the license year. A permit for every license year thereafter shall be issued upon the payment of Ten Dollars (\$10.00) unless the permit for the preceding year has been revoked.~~

~~In addition thereto, there shall be issued an identification card containing the driver's permit number, and it shall have his photograph attached thereto and the driver's permit and driver's identification card shall be mounted so as to be readily visible in his taxicab at all times while on duty. The expense of such identification card shall be borne by the driver.~~

#### SEC. 409 SUSPENSION OR ~~AND~~ REVOCATION OF PERMIT.

(a) For any violation or noncompliance with this Chapter Ordinance or of any other law or regulation relating to a person's driving, the City Manager is hereby given the authority to suspend any driver's permit issued under this Chapter Ordinance for a period of one (1) to one hundred and eighty (180) thirty (30) days or to revoke any driver's permit. A driver's permit may also be suspended or revoked if a driver would no longer qualify for issuance of a permit pursuant to the criteria set forth in Section 405 of this Chapter. Except for when a permit is suspended or revoked for emergency circumstances, as provided in subsection (b) of this Section, a driver who receives a notice of suspension or revocation of their permit shall have the right to appeal pursuant to Section 214 of this Chapter. However, a permit may not be revoked or suspended unless the driver has received reasonable notice and has had an opportunity to present evidence in his behalf. In the event of suspension or revocation of any license or permit, no refund shall be made of any portion of any fee paid hereunder. (Ordinance No. 1989-31)

(b) When the City Manager finds that circumstances exist that require immediate revocation or suspension of a driver's permit to protect public safety, a driver's permit may be suspended or revoked immediately. In such cases, notice of the suspension or revocation will include a hearing date, no sooner than 5 days, but no later than 15 days from the date of revocation or suspension, when the driver may appeal the suspension or revocation in the City of Bloomington Administrative Court System.

(c) An applicant for a driver's permit whose application is revoked shall not be eligible to reapply for a permit for a period of 2 years from the date of the revocation, or from the date of any decision upholding the revocation.

#### SEC. 601 RATES.

The following rates and no others shall be charged for taxicab services:

(a) Meter Rates:

- (1) Hour Rates: Eighteen Dollars (\$18.00) per hour for one (1) or more passengers.
- (2) Mileage Rates: Two Dollar Fifty Cents (\$2.50) for the first one-sixth ( $\frac{1}{6}$ ) mile or fraction thereof; Forty Cents (\$.40) for each, one-sixth ( $\frac{1}{6}$ ) mile or fraction thereof.
- (3) Waiting Time: Fifty Cents (\$.50) for each one (1) minute of waiting time or fraction thereof if taximeter is equipped to measure time provided, however, that the charge for waiting time may be assessed only in the case of delays caused by the customer.

(b) Special Rates:

- (1) Additional passengers over the age of twelve (12) being transported from same point of departure to same destination shall be carried at an additional charge of Fifty Cents (\$.50).
- (2) Children under the age of twelve (12) shall be carried free when accompanied by an adult.
- (3) Senior Citizens (anyone 60 years of age or older), meter rate less 15%.
- (4) Zone Service To and From Bloomington-Normal Airport. As an alternative to the rates provided in subsection (a), zone rates may be charged for service between Bloomington-Normal Airport and service zones within the combined Bloomington-Normal corporate limits.
- (5) On any day in which the price of the lowest grade of unleaded gasoline is at or more than \$4.00 (Four Dollars) per gallon, an additional charge of fifty cents (\$.50) per trip shall be charged. On any day in which the price of the lowest grade of unleaded gasoline is at or more than \$5.00 (Five Dollars) per gallon, an additional charge of \$1.00 (One Dollar) per trip shall be charged. The additional \$1.00 charge per trip authorized in the preceding sentence is in lieu of, and not in addition to, the fifty cent per trip charge authorized in the first sentence of this subsection. In case of a complaint that this surcharge was imposed when the price of the lowest grade of unleaded gasoline was below \$4.00 or \$5.00 per gallon, depending on the applicable gas price, the taxicab service shall supply to the City the name and location of the gasoline station which the taxicab service used to determine that such price was at or more than said price.

- (6) For rides that begin between the hours of 10:00 p.m. and 5:00 a.m., an additional \$2.00 may be charged above the metered rate, provided that this amount shall not be assessed when one or more of the passengers is a senior citizen as defined in sub-section (b)(3) or a person with a disability.

(c) Contractual Services. Notwithstanding the rates set forth previously in this Section, a holder shall not be precluded from entering into contractual agreements with businesses, private or public institutions, governmental units or similar entities to provide transportation services under terms other than those previously set forth herein.

(d) Companies licensed under this Chapter may from time to time wish to provide specialized services which would require a fee structure different from the approved rate schedule enumerated in this Section. A fee structure for specialized services may be approved by the City Manager, provided that:

- (1) the approved fee schedule shall apply to all companies that provide the same services; and
- (2) the services are unique because of the use of specialized equipment or specialized services such as all trips originating at a common point.

The company requesting special fee arrangements shall apply to the City Manager in writing specifying the service to be provided, the equipment to be used and the fee to be charged. The City Planner shall provide a copy of the request to all companies licensed by this Chapter and provide them with ten (10) calendar days to comment on the request. The City Manager must approve or deny the request within thirty (30) calendar days of the date of the request.

## ARTICLE X DOWNTOWN SHUTTLES ~~VEHICLES FOR HIRE~~

### ~~SEC. 1001 DEFINITIONS.~~

~~For the purposes of this Article, "vehicles for hire" shall mean any motor vehicle engaged in the business of carrying persons for hire; however, taxi and limousines otherwise regulated under this Chapter 40 and operating in compliance with such regulations and motor vehicles operated for purposes of mass transit by the City of Bloomington and the Town of Normal shall not be considered vehicles for hire.~~

~~For the purposes of this Article, "Central Business District of the City of Bloomington" shall mean the area bounded by the following streets:~~

~~Beginning at the intersection of Locust and Roosevelt Streets; thence east on Locust to Prairie Street; thence south to Douglas Street; thence east to Gridley Street; thence south to Jefferson Street; thence east to McLean Street; thence south to Front Street; thence west to Gridley Street; thence south to Olive Street; thence west to Prairie Street; thence~~



~~south to Jackson Street; thence west along Jackson Street and an extension thereof to Main Street; thence north to Kentucky Alley; thence west to Center Street; thence north to Olive Street; thence west to Lee Street; thence north to Front Street; thence west to Oak Street; thence north to Monroe Street; thence east to Roosevelt Street; thence north to a point immediately south of Mulberry Street; thence east to a point halfway between the Roosevelt Street right-of-way and the Madison Street right-of-way; thence north to Locust Street.~~

~~For the purposes of this Article, "Central Business District of the Town of Normal" shall mean the area bounded by the following streets:~~

~~Starting at the point in the intersection of Fell Ave. and W. College Ave., then South to the intersection of S. Fell Ave. and the South right of way of the railroad, then North Easterly along said right of way to the point of the North West corner of the Parkinson St. parking lot, then South to the centerline of Parkinson St., then North Easterly along said street centerline to the intersection of S. Linden St., then South to the intersection of Linden and Taylor St., then East to the center of the intersection of S. Oak St., then North to the point of the intersection of the North row of E. College Ave and the North row of the railroad, then North Easterly along said row to the Southern row of E. Mulberry St., the along said row Westerly to the intersection of N. Linden St., then South along the street centerline to the intersection of E College Ave., then West to the point of beginning.~~

~~For the purposes of this Article, "operate or drive a vehicle for hire" shall mean to operate a business or drive a vehicle which transports persons in return for payment when such transportation commences or terminates within the Central Business District of the City of Bloomington or the Central Business District of the Town of Normal or any establishment holding a current license from the City of Bloomington or Town of Normal to sell liquor for consumption on the premises.~~

#### ~~SEC. 1001 1002 ILLEGAL OPERATION OF DOWNTOWN SHUTTLES. VEHICLES FOR HIRE~~

~~No person or entity shall operate or drive a downtown shuttle ~~vehicle for hire~~ without complying with the requirements of this Article. Downtown shuttles ~~Vehicles for hire~~ may only be operated on Thursdays, Fridays and Saturdays, commencing at 6:00 p.m. until 4:00 a.m. the following morning. Downtown shuttles ~~Vehicles for hire~~ may also be operated on the following dates commencing at 6:00 p.m. through 4:00 a.m. on the following morning: Super Bowl Sunday, March 17<sup>th</sup>, October 31<sup>st</sup>, the day before Thanksgiving and the first dates on which students at Illinois State University and Illinois Wesleyan University move in or out of dormitories, the respective homecoming weekends for Illinois State University and Illinois Wesleyan University, and December 31<sup>st</sup>. Downtown shuttles ~~Vehicles for hire~~ may also be operated on any dates and times for which an official notice to do so has been issued by the City Manager ~~Mayor acting as Liquor Commissioner~~. ~~Persons or entities otherwise regulated pursuant to the remainder of Chapter 40 of the Bloomington City Code are exempt from the requirements of this Article X<sub>2</sub>~~; however, all taxis and vehicles for hire must have a current permit which has been issued by the City of Bloomington. Holders of downtown shuttle certificates who wish to request that a specific date be officially designated by the City Manager~~

pursuant to the preceding sentence must send a written request to the City Clerk's office no later than 14 days prior to the date for which the official designation is requested.

SEC. ~~1002~~ 1002A CERTIFICATE OF PUBLIC CONVENIENCE REQUIRED.

No person shall operate or permit a downtown shuttle ~~vehicle for hire~~ owned or controlled by him to be operated as a downtown shuttle ~~vehicle for hire~~ upon the streets of the City of Bloomington, or such other areas to which this Chapter applies pursuant to an intergovernmental cooperation agreement, without having first obtained a certificate of public convenience from the City Manager as provided in Article II of this Chapter. ~~Notwithstanding anything to the contrary in this Article, any person or entity who have obtained a permit to operate a vehicles for hire company from the City of Bloomington prior to November 4, 2010 shall have a certificate of public convenience issued in the name of the person or entity who obtained permits for said vehicles for the vehicles for hire which were so licensed prior to November 4, 2010; however, person or entities holding certificates of public convenience shall be subject to all provisions of this article regarding suspension, revocation, renewal or transfer of such certificate of public convenience. However, all owners of vehicles for hire previously licensed by the City shall complete the information required in the application for certificate set forth in Section 1002B; if such application is not completed and filed within 30 days from the date this ordinance is passed by the City Council. In addition, all owners who had licenses from the City prior to November 4, 2010 shall submit and be subject to the requirements of the background check. In the event an owner of a vehicle for hire replaces a vehicle which was legally in service prior to November 4, 2010, the replacement vehicle cannot have an increased passenger capacity of more than 50% of the replaced vehicle; but in any event cannot be replaced by a vehicle of a higher classification.~~

SEC. ~~1002B~~ APPLICATION FOR CERTIFICATE.

An application for a certificate shall be filed with the City Clerk upon forms provided by the City of Bloomington; said application shall be verified under oath and shall furnish the following information:

- (a) ~~— The name and business and residence addresses of the applicant;~~
- (b) ~~— The financial status of the applicant, including the amount of all unpaid judgments against the applicant and the nature of the transactions or acts giving rise to said judgments;~~
- (c) ~~— The experience of the applicant in the transportation of passengers;~~
- (d) ~~— Any facts which the applicant believes tend to prove that public convenience would be benefited by the granting of a certificate;~~
- (e) ~~— The number of vehicles to be operated or controlled by the applicant;~~
- (f) ~~— The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant;~~

- ~~(g) — If the applicant is a corporation, the names and address of the president, secretary, and any other officers of the corporation;~~
- ~~(h) — If the applicants are members of a partnership, the names and addresses of each of the partners and each partner shall sign the application;~~
- ~~(i) — such further information as the City Manager of the City of Bloomington may require.~~

#### ~~SEC. 1002C INVESTIGATION.~~

~~The Chief of Police shall cause an investigation to be made of the character, fitness and qualifications of the applicant, and shall transmit the findings to the City Manager. Any person who has received a certificate of public convenience and necessity who desires to drive a vehicle for hire must also have a permit from the City of Bloomington. No applicant who is a sex offender as that term is defined in Section 102 of this Chapter shall be eligible to receive a certificate of public convenience and necessity. No applicant who has been convicted of a felony within the last 10 years shall be eligible to receive a certificate of public convenience and necessity unless a written determination has been made by the City Manager that such person has been sufficiently rehabilitated such that the issuance to that person of a certificate of public convenience and necessity would not pose a danger to the public. In making said determination, the City Manager may consider the factors set forth in Section 1005(g) of this Chapter. If the applicant is a corporation or limited liability company, no such entity having as its chief stockholder, president, secretary or any other officer a person who is a sex offender as defined under Section 102 of this Chapter, shall be eligible to receive a certificate of public convenience and necessity. If the applicant is a corporation or limited liability company, no such entity having as its chief stockholder, president, secretary or any other officer a person who has been convicted of a felony within the last 10 years shall be eligible to receive a certificate of public convenience and necessity unless such person has received from the City Manager a written determination that he or she has been sufficiently rehabilitated such that the issuance to the applicant of a certificate of public convenience and necessity will not pose a danger to the public. pursuant to Article X of this Chapter. In addition to any other fee required by this Chapter 40, every person for whom a background investigation is required shall pay a fee of \$10.00 to the City of Bloomington for the costs of an initial background investigation and shall pay an additional fee of \$20.00 in the event an additional background check (including but not limited to the cost of fingerprinting) is deemed necessary by the City.~~

#### ~~SEC. 1002D PUBLIC HEARING.~~

- ~~(a) — Notice. Upon the filing of an application for a new certificate, the City Manager shall fix a time and place for a public hearing thereon. Notice of such hearing shall be given to the applicant and to all persons to whom certificates of public convenience have been theretofore issued. Notice shall also be given to the general public by publishing a notice of such hearing in the Pantagraph. All notices shall state:~~

- ~~(1) — That application for a certificate of public convenience has been made;~~
- ~~(2) — Name of the applicant;~~
- ~~(3) — That a public hearing on the application will be held;~~
- ~~(4) — Place of the hearing;~~
- ~~(5) — Date and time of the hearing.~~

~~All notices shall be given or published not less than five (5) nor more than fifteen (15) days prior to the hearing.~~

- ~~(b) — Evidence. Any interested person may file with the City Manager a memorandum in support of or in opposition to the issuance of a certificate and may testify at the hearing.~~
- ~~(c) — Continuance. The City Manager at this discretion may continue or postpone the hearing upon his own motion or the motion of any interested person.~~

#### ~~SEC. 1002E ISSUANCE OF CERTIFICATE.~~

~~If the City Manager finds that further vehicle for hire service in the City of Bloomington is desirable and in the public interest, and that the applicant is fit, willing and able personally and financially to perform such public transportation and to conform to the provisions of this Ordinance and the rules promulgated by the City Manager, then the City Manager shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under said certificate and the date of issuance; otherwise, if all of the above findings cannot be made, the application shall be denied. The City Manager shall send copies of his findings to all interested parties.~~

~~No person shall hold a certificate by means of transfer or renewal who would not qualify for issuance of a new certificate under this Article X.~~

#### ~~SEC. 1002F LICENSE FEES.~~

- ~~(a) — Payment. No certificate shall be issued or continued in operation unless the holder thereof has paid an annual license fee of One Hundred Dollars (\$100.00) for the first vehicle for hire and Twenty-five Dollars (\$25.00) each year for each additional vehicle operated under a certificate of public convenience. Said license fees shall be paid in advance and shall expire on December 31<sup>st</sup> of the year in which it is issued.~~

- (b) ~~— Additions and Deletions. Whenever the number of a holder's vehicles for hire is increased or decreased during the license year, the license fee shall be increased or decreased accordingly.~~
- (c) ~~— Installments. At the option of the holder, the annual license fee above stated may be paid in two (2) installments in advance, the second half of said year payable on or before the first day of July of each year.~~
- (d) ~~— Refund. No fees paid hereunder shall be repaid in whole or in part.~~

#### SEC. ~~1003~~ ~~1002G~~ NUMBER OF DOWNTOWN SHUTTLES. ~~VEHICLES FOR HIRE~~

Each holder may ~~shall~~ operate the number of downtown shuttles ~~vehicles for hire~~ for which the holder's certificate was issued. Additions to ~~or reduction in~~ the number of downtown shuttles ~~vehicles for hire~~ allowed for each holder shall be made only in accordance with the procedure outlined ~~outlines~~ for the issuance of a certificate of public convenience set forth in Article II of this Chapter and will require that an application for operation of additional vehicles be filed with the Clerk's office as provided therein. Certificate holders may voluntarily take a downtown shuttle ~~vehicles for hire~~ out of service and are not required to have insurance on such a vehicle. Prior to a vehicle being returned to service, it must be insured as otherwise required by Section 1005A 205 and proof of said insurance shall be provided to the City Clerk. The vehicle must also be inspected for the portion of the year for which it will operate as required by Section 1005 of this Article. ~~of this Chapter on the condition that the City Clerk is notified in writing that such vehicles for hire is taken out of service at least thirty (30) days prior to such vehicle being taken out of service and that the City Clerk is notified in writing that the holder intends to place the vehicle back in service at least thirty (30) days prior to such vehicle being placed back in service. The insurance requirements of Section 1005A of this Chapter must be in effect on or before the date the vehicle is placed back into service.~~

#### SEC. ~~1002H~~ TRANSFER OF CERTIFICATE.

~~No certificate of public convenience may be sold, assigned, mortgaged or otherwise transferred without the consent of the City Manager. Notice of intent to transfer shall be filed with the City Clerk not less than thirty (30) days prior to the proposed transfer. Before any transfer can become effective, the party seeking the certificate shall file with the City Manager an application containing all the information required in Section 1002B.~~

#### SEC. ~~1002I~~ RENEWAL OF CERTIFICATE.

~~Certificates shall be subject to a yearly renewal and holders of certificates shall file applications therefore not less than thirty (30) days before the end of each calendar year. All applications for renewal of existing certificates shall contain the same information as the original application. An annual review shall be made to determine whether the holder is in compliance with all State and City requirements and to determine whether the holder is in compliance with or has violated or is responsible, directly or indirectly under these ordinances or other laws, for the violations of others of any Federal, State or Municipal laws, ordinances or regulations.~~

#### ~~SEC. 1002J SUSPENSION OR REVOCATION OF CERTIFICATE.~~

~~A certificate issued under the provisions of this Ordinance may be revoked or suspended by the City Manager if the holder thereof has:~~

- ~~(a) — Violated any of the provisions of this Ordinance; or~~
- ~~(b) — Violated any ordinances of the City of Bloomington or the ordinances of any other jurisdiction in which the holder operates, or the laws of the United States or the State of Illinois, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation; or~~
- ~~(c) — Hired as a driver a sex offender within the meaning of Section 102 of this Chapter; or~~
- ~~(d) — Hired a person who has been convicted of a felony within the last 10 years, unless that person has obtained from the City Manager a written determination that the person has been sufficiently rehabilitated such that the person may drive a vehicle for hire without posing a danger to the public.~~

~~Prior to suspension or revocation, the holder shall be given reasonable notice of the proposed action to be taken and shall have an opportunity to be heard.~~

~~No refunds of fees shall be made to the holder on account of suspension or revocation of certificate under this Section.~~

~~In addition to the foregoing, the owner shall be responsible for all of the acts of his employees, agents or drivers related to the violation of or non-compliance with any of the laws, rules or regulations relating to operation of vehicles for hire or the solicitations of business or to the conduct of his business to the extent that the holder's certificate may be suspended or revoked by the City Manager for violations of such laws, rules or regulations by his employees, agents or drivers.~~

#### ~~SEC. 1003 PERMIT TO DRIVE VEHICLES FOR HIRE REQUIRED.~~

~~No person shall drive a vehicle for hire without having applied to the City of Bloomington and having received from the City of Bloomington a permit to drive a vehicle for hire. A person who has obtained from the City a permit to drive a taxicab pursuant to Section 401 of this Chapter shall be deemed to have a Vehicle for Hire driver's permit under this Chapter so long as the City permit to drive a taxicab has not expired or has been suspended or revoked. Such application shall be verified by oath and shall contain the following information:~~

- ~~(a) — The name, age and residence of applicant;~~



- ~~(b) — The names and addresses of four (4) persons who have known the applicant for a period of four (4) years and who will vouch for the sobriety, honesty, and general good character of the applicant;~~
- ~~(c) — The number of the applicant's operator license issued by the State of Illinois;~~
- ~~(d) — Whether applicant's operator license has ever been suspended or revoked by any governmental body in or outside of the State of Illinois, and if so, the reason therefor;~~
- ~~(e) — The number and nature of moving traffic violations committed by the applicant;~~
- ~~(f) — A concise history of the applicant's employment;~~
- ~~(g) — Whether the applicant is a sex offender within the meaning of Section 102 of this Chapter;~~
- ~~(h) — Convictions of the applicant of any felony in any jurisdiction. For each such conviction, the applicant must detail the charge, jurisdiction and date of conviction.~~

~~At the time the application is filed, the applicant shall pay to the City Clerk the sum of Ten Dollars (\$10.00).~~

#### ~~SEC. 1004 INVESTIGATION OF APPLICANT.~~

~~The Police Department shall conduct an investigation of each applicant for a vehicle for hire driver's permit and a report of such investigation and copy of the traffic and police record of the applicant, if any, shall be forwarded to the City Manager. The City Manager upon consideration of the application shall approve or deny it. Approval of any application may be withdrawn if a police investigation or other information discloses grounds for denial of an application under Section 1005. No applicant for a permit to operate a vehicle for hire company who has been convicted within the last five (5) years of any felony or any criminal offense under Article 11 of the Illinois Criminal Code shall be eligible to operate a vehicle for hire company. Any person who has received a permit to operate a vehicle for hire company who desires to drive a taxicab must also have a permit to drive a vehicle for hire from the City of Bloomington pursuant to Section 1003 of this Chapter. In addition to any other fee required by this Chapter 40, every person for whom a background investigation is required shall pay a fee of \$10.00 to the City of Bloomington for the costs of an initial background investigation and shall pay an additional fee of \$20.00 in the event an additional background check (including but not limited to the cost of fingerprinting) is deemed necessary by the City.~~

#### ~~SEC. 1005 GROUNDS FOR DENIAL OF APPLICATION.~~

~~The following shall be grounds for denial of an application for a permit to drive a vehicle for hire:~~

- (a) — ~~The applicant has a communicable disease of a type likely to be transmitted to a passenger in the normal course of business;~~
- (b) — ~~The applicant is afflicted with a disease or uncorrected impairment which would affect his driving ability;~~
- (c) — ~~The applicant has not attained the age of 18 years;~~
- (d) — ~~The applicant does not have a valid operator's license issued by the State of Illinois;~~
- (e) — ~~The applicant has a bad driving record, which is defined as a conviction within the last five (5) years of any of the following:~~
  - (1) — ~~Manslaughter or reckless homicide resulting from the operation of a motor vehicle;~~
  - (2) — ~~Driving under other influence of narcotics or intoxicating liquor, or permitting another to drive one's vehicle while under the influence of liquor or narcotics;~~
  - (3) — ~~Two (2) charges of reckless driving;~~
  - (4) — ~~Failure as the driver of any vehicle involved in any accident to stop and disclose his identity at the scene and to render aid to others, if needed, and/or failure to give notice of the accident by the fastest available means of communication to the local Police Department as required by law; or had his taxicab driver's permit or state driver's license revoked.~~
- (f) — ~~The applicant is a sex offender within the meaning of Section 102 of this Chapter;~~
- (g) — ~~The applicant has been convicted of a felony within the last 10 years, unless the applicant obtained a written determination by the City Manager that he or she has been sufficiently rehabilitated to the extent where the issuance of a vehicle for hire driver's permit to the applicant will not pose a danger to the public. In making said determination, the City Manager may consider such factors as the nature of the felony, the length of time since the conviction and efforts of the applicant at rehabilitation.~~
- (h) — ~~The failure of an applicant to furnish truthful information on an application;~~
- (i) — ~~The conviction of the applicant for one or more violations of the provisions of this Chapter.~~

~~SEC. 1005A INDEMNITY BOND OR LIABILITY INSURANCE REQUIRED.~~

~~No permit shall be issued or continued in operation to operate a vehicle for hire and it shall be unlawful for any person to operate a vehicle for hire unless there is in full force and effect an indemnity bond for each vehicle authorized in the amount of Fifty Thousand Dollars (\$50,000) for death or bodily injury to any one person; in the amount of One Hundred Thousand Dollars (\$100,000) for death and/or injury to more than (1) person which are sustained in the same accident and Fifty Thousand Dollars (\$50,000) for property damage resulting from any one accident. Said bond or bonds shall inure to the benefit of any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a holder, his servants, agents, or drivers. Said bond or bonds shall be filed in the office of the City Clerk and shall have as surety thereon a surety company authorized to do business in the State of Illinois.~~

~~The City Manager may in his discretion allow the holder to file, in lieu of bond or bonds, a liability insurance policy or certificate showing the specific vehicles covered by an effective policy in said amounts issued by an insurance company authorized to do business in the State of Illinois. Said policy shall conform to the following provisions:~~

- ~~(1) — The policy shall provide the same coverage as required for bonds above.~~
- ~~(2) — Said policy of insurance shall contain a provision that the same cannot be cancelled by the company issuing the same without giving thirty (30) days notice in writing of such cancellation to the holder and to the City Manager, either personally or by registered mail. Whenever any such policy shall be so cancelled, the City Manager shall require such owner either to furnish a bond or a new policy of insurance, in accordance with the provision of this Chapter. Whenever the issuing company gives such notice of cancellation, the City Manager shall, at the expiration of said thirty (30) days, mark said insurance policy or certificate "withdrawn" with the date such withdrawal became effective, and thereupon the liability of such company on said policy shall cease as to any injury or damage sustained after the date such withdrawal becomes effective.~~
- ~~(3) — If, at any time, in the judgment of the City Manager, said policy of insurance is not sufficient for any good cause, he may require the owner of such vehicle for hire who filed the same to replace said policy of insurance with another good and sufficient bond or insurance policy, in accordance with the provisions of this Chapter.~~
- ~~(4) — All policies of insurance herein required shall expire the 30<sup>th</sup> day of June of each year. This expiration date shall not operate to terminate liabilities under such policies which occurred during the period in which the policies were in effect.~~
- ~~(5) — The applicant or holder shall deposit with the City Clerk a duplicate certificate of effective insurance from the company or a copy of all policies of insurance for public liability and property damage required by the State of Illinois for the operation and driving of a motor vehicle for the carriage of passengers for hire;~~

and the same shall be applied to the extent thereof as long as said policies are in full force and effect in determining whether the owner of such vehicle for hire has fulfilled the requirements for a policy of insurance as provided in this Chapter.

- ~~(6) — The applicant or holder shall immediately notify the City Manager if any policies of insurance required under this Chapter have lapsed, been revoked, or in any other manner ceased coverage.~~

#### ~~SEC. 1006 ISSUANCE OF DRIVER'S PERMIT FOR VEHICLE FOR HIRE.~~

~~Upon approval of an application for a permit to drive a vehicle for hire, the City Manager shall issue a permit to the applicant which shall bear the name, address, number, age and signature of the applicant.~~

~~Such permit shall be in effect for the remainder of the license year. A permit for every license year thereafter shall be issued upon the payment of Ten Dollars (\$10.00) unless the permit for the preceding year has been revoked.~~

~~In addition thereto, there shall be issued an identification card containing the driver's permit number, and it shall have his photograph attached thereto and the driver's permit and driver's identification card shall be mounted so as to be readily visible in his vehicle at all times while on duty. The expense of such identification card shall be borne by the driver.~~

#### ~~SEC. 1007 REPLACEMENT OF PERMIT OR IDENTIFICATION CARD.~~

~~Whenever a driver has lost or destroyed his permit or identification card, issued as herein provided, he shall make a verified application in writing to the City Clerk stating that the same has been lost or destroyed, and the City Clerk shall issue a duplicate copy or substitute thereof upon payment of the sum of One Dollar (\$1.00) to the City Clerk for such item so duplicated or substituted.~~

#### ~~SEC. 1004 1008 DISPLAY OF IDENTIFICATION CARD.~~

~~Every driver licensed under this Article shall post his driver's identification card in such a place as to be in full view of all passengers while such driver is operating a downtown shuttle.~~

#### ~~SEC. 1009 SUSPENSION AND REVOCATION OF PERMIT.~~

~~For any violation or noncompliance with this Ordinance or of any other law or regulation relating to a person's driving, the City Manager is hereby given the authority to suspend any driver's permit issued under this Article for a period of one (1) to thirty (30) days or to revoke any driver's permit. However, a permit may not be revoked or suspended unless the driver has received reasonable notice and has had an opportunity to present evidence in his behalf. In the event of suspension or revocation of any license or permit, no refund shall be made of any portion of any fee paid hereunder.~~

#### ~~SEC. 1005 1010 DOWNTOWN SHUTTLES VEHICLES FOR HIRE - LICENSE REQUIRED.~~

- (a) Vehicles Must be Licensed. Prior to the use and operation of any vehicle under the provisions of this Article and during the months of December and June of each year, every vehicle shall be thoroughly examined and inspected by the Police Department and found to be satisfactory in regard to the following:
- (1) Steering;
  - (2) Brakes;
  - (3) Lights;
  - (4) Tires;
  - (5) Horn;
  - (6) Exhaust system;
  - (7) Rear view mirror;
  - (8) Windshield wipers;
  - (9) Properly licensed by State of Illinois;
  - (10) Otherwise clean, sanitary and safe for the transportation of passengers;
  - (11) State Sticker showing proof of insurance;
  - (12) No crack in a window which cannot be covered by a 1" disk (State law - a quarter);
  - (13) No body damage or condition shall be allowed to remain which would cost in excess of \$250.00 on the regular body work market or which presents sharp edges or other dangerous conditions to passengers.

As part of this examination, every vehicle must pass the safety test provided by an official Illinois testing station as established by the Illinois Compiled Statutes. If the vehicle complies with the City standards set forth above and passes the official Illinois test, the sticker of safety by the official testing station and a sticker issued by the City shall be affixed to said vehicle and it shall at all times be displayed on said vehicle. No sticker issued during the first six (6) months of any year shall be of any effect after July 1st of that year and no such certificate issued during the second six (6) months of any year shall be of any effect after January 1st of the following year. No downtown shuttle vehicle for hire shall be operated upon the streets, alley or public places of said City without having been tested as herein required or without having said sticker displayed on said vehicle. A fee of \$10.00 shall be paid to the City for each such certificate.

- (b) Periodic Inspections. Every vehicle operating under this Ordinance shall be inspected every six (6) months by the Police Department as provided for herein. However, the City Manager shall have authority to order an inspection at any time to insure the continued maintenance of safe operating conditions.
- (c) Vehicles Must be Kept in a Clean and Sanitary Condition. Every vehicle operating under this Ordinance shall be kept in a safe, clean and sanitary condition at all times to conform to the standards above.

#### SEC. 1006 ~~1011~~ PENALTIES.

Any person or entity violating any portion of this Article X (Downtown Shuttles) (~~Vehicles for Hire~~) shall be fined a minimum amount not less than \$250.00 (Two Hundred and Fifty Dollars) and a maximum amount not to exceed \$1,000.00 (One Thousand Dollars) for a first offense and a minimum amount not less than \$250.00 (Two Hundred and Fifty Dollars) and an amount not to exceed \$2,500.00 for second and subsequent offenses.

#### ~~SEC. 1012 LOCATION OF OFFICES.~~

~~No vehicle for hire office, including any answering and dispatching service, shall be located within any premises holding a license for the sale of intoxicating beverages, other than at the Bloomington Normal Airport.~~

#### SEC. 1007 ~~1013~~ PERSONAL ARTICLES LEFT IN DOWNTOWN SHUTTLES ~~VEHICLES FOR HIRE.~~

All articles found in downtown shuttles ~~vehicles for hire~~ by the holder or driver thereof shall be turned over to the Police Department of the jurisdiction where the vehicle is located when the article is found within twenty-four (24) hours of the finding of the article, ~~thereof~~ unless the ~~last~~ property ~~in the meantime~~ is claimed by the owner. Upon the property being turned over, the Police Department shall give a receipt to the person turning the property over to the police department and, therefore and if not claimed within thirty (30) days, such property shall be returned to the holder or driver, or disposed of by the police department.

#### SEC. 1008 ~~1014~~ MANIFESTS.

Every driver shall maintain a daily manifest upon which is recorded all trips made each day, showing time and place of origin, the number of passengers, and amount of fare, and all such completed manifests shall be returned to the holder by the driver at the conclusion of his tour of duty. The forms for each manifest shall be furnished to the driver by the certificate holder and shall provide for content and be of a type approved by the City Manager.

Every certificate holder of a certificate of public convenience shall retain and preserve all drivers' manifests in a safe place for at least one (1) calendar year following the year to which they relate and said manifest shall be available at any time on request to the City Manager or Police Department.



SEC. 1009 ~~1015~~ CERTIFICATE HOLDER'S RECORDS AND REPORTS.

All accidents arising from or in connection with the operation of downtown shuttles ~~vehicles for hire~~ which result in death or injury to any person or in damage to any vehicle, or to any property in an amount exceeding the sum of Two Hundred Fifty Dollars (\$250.00) shall be described on an accident report form to be furnished by the Police Department within ten (10) days from the time of the occurrence.

~~SEC. 1016 OPEN STANDS.~~

- (a) ~~— The City Council of the City of Bloomington or the corporate authority of any other jurisdiction to which this Chapter applies pursuant to an intergovernmental cooperation agreement may establish open stands in such place or places upon the streets of that jurisdiction as it deems necessary for the use of vehicles for hire operated therein. The corporate authority shall not create an open stand without taking into consideration the need for such stand by the companies and the associated convenience to the general public. The corporate authority shall prescribe the number of such vehicles that shall occupy such open stands.~~
- (b) ~~— Open stands shall be used by drivers on a first come first served basis. Drivers shall pull on to the open stand from the rear and shall advance forward as the vehicles for hire ahead pull off. Drivers shall stay within five (5) feet of their vehicle for hire, and they shall not solicit passengers or engage in loud or boisterous talk while at an open stand. Nothing in this Ordinance shall be construed as preventing a passenger from boarding the cab of his choice that is parked at an open stand.~~

~~SEC. 1017 PROHIBITIONS OF OTHER VEHICLES.~~

~~Private or other vehicles for hire shall not at any time occupy the space upon the streets that has been established as an open stand.~~

SEC. 1010 ~~1018~~ REFUSAL TO PAY LEGAL FARE.

It is illegal for any person to refuse to pay the fee for any downtown shuttle when being conveyed in same. Persons who refuse to pay the fare required for entry into the vehicle may be denied passage. ~~of the vehicles mentioned in this Ordinance after having been conveyed in the same, and it is illegal for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hire from, and it assumed that any person who does not pay the fee after having been conveyed in such a vehicle intended to defraud such person, and it shall be the burden of the conveyed person to prove (s)he did not intend to defraud said person.~~

SEC. 1011 ~~1020~~ FILING FALSE APPLICATION.

A person commits the offense of filing a false application if he knowingly makes a misstatement of fact on any application for a certificate of public convenience or a vehicle for hire driver's permit. Based on the applicant's access to such information, any misstatement of fact on any such application shall be presumed to have been knowingly made unless the applicant can prove that such misstatement was not knowingly made.

~~SEC. 1021 ILLEGAL TRANSFER OF CERTIFICATE.~~

~~It is illegal for and a person commits the offense of illegal transfer of certificate if he assigns, sells, pledges, gives or otherwise transfers his certificate of public convenience to another person other than in compliance with Section 1002H of this Chapter. (Ordinance No. 2010-48)~~

~~For purposes of this Section, the following shall be deemed to be a transfer within the meaning of this Section:~~

- ~~(a) Corporations: The addition, removal or substitution of any officer or director, or the transfer of 25% or more of any class of stock.~~
- ~~(b) Partnerships: The addition, removal or substitution of any partner.~~

SEC. ~~1012~~ 1022 ILLEGAL OPERATION OF DOWNTOWN SHUTTLES ~~VEHICLES FOR HIRE.~~

It is illegal for and a person commits the offense of illegal operation of a downtown shuttle vehicle for hire if:

- (a) Without a valid effective certificate of public convenience the person operates or drives a downtown shuttle vehicle for hire or allows another person to operate or drive a downtown shuttle vehicle for hire; or
- (b) The person operates or drives a downtown shuttle vehicle for hire without a valid operator's license from the State of Illinois or without a valid vehicle for hire driver's permit from the City of Bloomington, or allows another person to do so; or
- (c) The person operates or drives or allows another to operate or drive a downtown shuttle vehicle for hire which lacks proper State of Illinois license plates or City of Bloomington downtown shuttle vehicle for hire stickers; or
- (d) The person operates or drives or allows another to operate or drive a downtown shuttle vehicle for hire which does not have the name of the business and a phone number on the side of the downtown shuttle vehicle for hire.

SEC. ~~1013~~ 1023 REFUSAL TO CARRY ORDERLY PERSONS.

It is illegal for and a person commits the offense of refusal to carry orderly persons if he refuses or neglects, or if a holder allows a driver to refuse or neglect, for reasons other than the vehicle being filled to legal capacity or failure to pay a required fare, to convey any orderly person or persons upon request, ~~unless previously engaged or unless unable to forbidden to do so by the provisions of this Ordinance. For the purpose of this Section, a person who requests service by telephone shall be deemed to be an orderly person.~~

SEC. 1014 ~~1024~~ FAILURE TO KEEP MANIFESTS.

It is illegal for and a person commits the offense of failure to keep manifests if:

- (a) He is a holder and he allows a driver to neglect or omit the making of a manifest as required by Section 1014; or
- (b) He is a driver and he neglects or omits the making of a manifest as required by Section 1014.

SEC. 1015 ~~1025~~ FAILURE TO KEEP RECORDS AND REPORTS.

It is illegal for and a person commits the offense of failure to keep records and reports if he fails to keep his records and reports as required by Section 1015.

SEC. 1016 ~~1026~~ FAILURE TO INSURE.

It is illegal for and a holder commits the offense of failure to insure if he fails to provide the insurance required by Section 205 ~~1005A~~.

SEC. 1017 ~~1027~~ IMPROPER VEHICLE USE.

It is illegal for and a person commits the offense of improper vehicle use if he violates any provision of the Illinois Motor Vehicle Code (625 ILCS 5) of the Bloomington Motor Vehicle Code (Bloomington City Code Chapter 29) or any other applicable portion of the Codes or Ordinances of any other jurisdiction.

SEC. 1018 ~~1028~~ OVERLOADING VEHICLE.

It is illegal for and a person commits the offense of overloading a vehicle if he carries more passengers than the seating capacity of the vehicle under state or federal law.

SEC. 1019 ~~1029~~ INSUFFICIENT PARKING.

It is illegal for and a holder commits the offense of supplying insufficient parking if he fails to provide off-street parking facilities sufficient to store his motor vehicles while such vehicles are not in service.

SEC. 1020 ~~1030~~ IMPROPER ADVERTISING.

It shall be unlawful for any holder of a certificate to place, or cause to be placed, any advertisement for services on public property. Advertisements for service placed on private property shall only be located in accordance with the City's Sign Code and with the written consent of the property owner.

SEC. 1021 ~~1030A~~ "NO SMOKING" SIGNS REQUIRED.

Signs stating "No Smoking" shall be posted in downtown shuttles ~~vehicles for hire~~. The sign shall have a reference to Chapter 41, Section 13 of the Bloomington City Code and shall state that complaints of persons smoking in violation of the law may be reported to the Bloomington City Clerk at (309) 434-2240.

SEC. 1022 ~~1030B~~ ADVERTISING.

Subject to the rules and regulations of the City Manager, it shall be lawful for any person owning or operating a downtown shuttle ~~vehicle for hire~~ to permit advertising matter to be affixed to or installed in or on such downtown shuttle ~~vehicle for hire~~.

SEC. 1023 ~~1030C~~ HUB LOCATIONS AND WAITING PERIODS.

(a) The following locations are permitted waiting locations for downtown shuttles ~~vehicles for hire~~ on dates when downtown shuttles ~~vehicles for hire~~ may legally operate, commencing at 10:00 P.M. and ending at 3:00 A.M.:

500 Block of North Main Street (East Side) – the seven regular parking spaces north of the handicap parking space and the two "freight loading" spaces north of those seven spaces.

100 Block of West Washington (South Side)

300 Block of West Front Street (South Side)

Downtown shuttles ~~Vehicles for hire~~ are permitted to park in the above locations for a maximum of 15 minutes unless the vehicles are loading passengers. If passengers are loading, the downtown shuttle ~~vehicles for hire~~ is permitted to stay at that location an additional five minutes.

In the event of a violation of this Section, both the driver of the downtown shuttle ~~vehicles for hire~~ and the company for which the driver is working may be charged with a violation of this Section.

(b) In addition to, or in lieu of, the hub locations set forth in sub-section (a), the Chief of Police of the City of Bloomington or Town of Normal, or that person's designee may, based upon consideration of public safety or nuisance abatement, designate and promulgate hub locations. Notice of newly designated hub locations shall be sent to certificate holders of downtown shuttles by regular, first class mail to the business address of the certificate holder no less than ten (10) days from the date upon which said designation will become effective.

(c) In the Town of Normal, downtown shuttles may drop off and pick up passengers only in lawful parking places and at other locations specifically designated by the Chief of Police of the Town of Normal.

(d) The Chief of Police of the City of Bloomington or the Town of Normal, or that person's designee may, based upon consideration of public safety or nuisance abatement, designate any place in their jurisdiction as a prohibited drop off, pick-up, waiting or parking location for downtown shuttles. Notice of any designated prohibited location shall be sent to certificate holders of downtown shuttles by regular first-class mail to the business address of the certificate holders not less than ten (10) days before the date upon which said designation will become effective.

SEC. 1024 ~~1031~~ ALCOHOLIC LIQUOR PROHIBITED ON DOWNTOWN SHUTTLES  
VEHICLES FOR HIRE.

(a) No person may possess alcoholic liquor, regardless of whether the container for such alcoholic liquor is sealed or open, on any downtown shuttle ~~vehicle for hire~~ operating within the corporate limits of the City of Bloomington or the Town of Normal. Signs shall be prominently posted at the doors to all vehicles for hire, stating "It is unlawful to possess alcohol on this vehicle".

(b) No driver of a downtown shuttle ~~vehicle for hire~~ shall permit a violation of subsection (a) of this Section.

SEC. 1025 ~~1032~~ SERVICE OF NOTICE.

(a) Service of Notice on Individuals. Except as otherwise expressly provided, service of any notice required in this Chapter upon an individual shall be made:

- (1) by leaving a copy thereof with the person personally; or
- (2) by leaving a copy at this home or usual place of work, with some member of the person's family of the age of 13 ~~14~~ years or upwards, and informing that person of the contents thereof, provided the officer or other person making service shall also send a copy of the notice in a sealed envelope with postage fully prepaid, addressed to the person at this usual place of abode.

The certificate of the officer or affidavit of the person that he has sent the copy in pursuance of this Section is sufficient evidence to prove that he has done so.

- (3) by first class mail or by email to the last known postal or email address of the person. For the purposes of this Section, the last known address shall be the one that has most recently been recorded in the City Clerk's office.

- (b) Service on Partnership, Limited Liability Company or Corporation. Any corporation, limited liability company or partnership required to be given any notice under this Chapter may be served by serving notice on any director, officer or partner thereof in the manner provided in subsection (a) above.

#### ~~SEC. 1033 APPEAL.~~

~~Any person aggrieved by a determination or action of the City Manager under the provisions of this Chapter may appeal to the City Council by giving written notice of intent to appeal to the Mayor of the City of Bloomington not later than noon on the Wednesday preceding the next regularly scheduled City Council Meeting. If in the opinion of the Mayor the matter being appealed is urgent, he may, in his sole discretion, call a special meeting of the City Council as outlined in Bloomington City Code Chapter 2, Section 16.~~

#### SEC. 1026 ~~1034~~ ENFORCEMENT.

In enforcing the provisions of this Chapter, ~~this ordinance~~ the Police Department of the City of Bloomington, upon discovering a violation of the provisions of this Chapter Ordinance, shall take appropriate action to enforce the law and shall report the same to the City Manager, who may take appropriate action with respect thereto.

#### SEC. 1027 ~~1035~~ SUPPLEMENTAL REGULATIONS.

The City Manager is hereby given the authority to promulgate such rules and regulations not inconsistent with this Chapter Ordinance as he shall find necessary to effectuate its the purpose and intent ~~of this Chapter~~.

#### ~~SEC. 1036 SUSPENSIONS OF DRIVERS' LICENSES OR CERTIFICATE OF CONVENIENCE.~~

~~Drivers who operate vehicles for hire outside of the permitted hours commit a violation of this Chapter and shall be fined \$250.00. In addition, the company employing such driver shall be fined \$500.00. Two violations in a rolling 12 month period shall result in a suspension of his or her license to drive a vehicle for hire, taxicab or limousine for one year from the date of the suspension. Two violations against a company in a rolling 12 month period shall result in a 12 month suspension of that company's permit to operate vehicles for hire.~~

~~A vehicle operating outside permissible hours shall be impounded by the police and shall not be released prior to the payment of a release fee of \$10.00, an impound fee of \$250.00 and shall pay all tow company fees.~~

#### SEC. 1028 TOWING AND IMPOUNDMENT.

Vehicles operated in violation of the provisions of this Chapter may be towed and impounded pursuant to the ordinances of the jurisdiction within which the violation takes place.



SEC. 1100. "Limousine" shall mean any vehicle for which the lessee has executed a written contract granting the lessee and his or her guests the exclusive use of the vehicle for a continuous period of time of three hours or more. All vehicles purporting to be operating as a limousine must at all times have in the possession of the driver a copy of the written contract which has been executed by the current lessee of the vehicle. Whenever a limousine is under the exclusive use of a lessee and is parked, it must have a sign prominently posted which states, "Not for Hire". No vehicle shall be leased as a limousine unless it has "livery" or "PT" vehicle registration plates issued by the Illinois Secretary of State. Persons operating a vehicle in compliance with the requirements of this Article XI shall not be deemed to be unlawfully operating a taxi or a downtown shuttle ~~vehicle for hire~~.

~~SEC. 1101 TOWING.~~

~~In the event any person operates a vehicle purporting to be a limousine which is not in compliance with the requirements of this article shall be impounded by the police and shall not be released prior to the payment of a release fee of \$10.00, an impound fee of \$250.00 and shall pay all tow company fees.~~

SECTION 2. Except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

SECTION 3. The City Clerk shall be, and she is hereby directed and authorized to publish this Ordinance in pamphlet form as provided by law.

SECTION 4. This Ordinance is enacted pursuant to the authority granted to the City as a home rule unit by Article VII, Section 6 of the 1970 Illinois Constitution.

SECTION 5. This Ordinance shall take effect ten (10) days after publication and approval.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2015.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2015.

APPROVED:

TARI RENNER  
Mayor

ATTEST:

CHERRY LAWSON  
City Clerk





**CITY OF**  
*Bloomington* ILLINOIS  
**REGULAR AGENDA ITEM NO. 8A**

FOR COUNCIL: October 26, 2015

**SUBJECT:** Consideration of adopting a Resolution endorsing BN Advantage: A collaborative economic development strategy for the Bloomington-Normal-McLean County Region

**RECOMMENDATION/MOTION:** Recommend that the Resolution be approved endorsing a collaborative economic development strategy for the Bloomington-Normal-McLean County Region.

**STRATEGIC PLAN LINK:** Goal 3: Grow the Local Economy;

**STRATEGIC PLAN SIGNIFICANCE:** Objective 3a. Retention and growth of current local businesses; 3b. Attraction of new targeted businesses that are the “right” fit for Bloomington; 3c. Revitalization of older commercial homes; 3e. Strong working relationship among the City, businesses, economic development organizations.

**BACKGROUND & OVERVIEW:** BN Advantage is a collaborative regional economic development strategy which unites the vision of business, government and community to diversify and strengthen the Bloomington-Normal Metro Region's economy in five key business sectors: Entrepreneurship, Advanced Business Services, Agriculture, Information and Communications Technologies, and Transportation & Logistics.

The BN Advantage strategy was developed to support, strengthen, and grow the Bloomington-Normal Metro Region while attracting and retaining top talent and new employers. BN Advantage will serve as the guiding strategy for future collaboration between the public and private sectors.

More information about the BN Advantage strategy can be found on-line at [www.BNAdvantage.com](http://www.BNAdvantage.com)

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** BN Advantage is being led by five organizations – each of which have a vested stake in ensuring that Bloomington-Normal’s economy remains robust, resilient and competitive. These organizations recognize that successful communities work vigorously to shape their own economic destinies. The five lead organizations are: The Bloomington-Normal Economic Development Council, The McLean County Regional Planning Commission, The McLean County Chamber of Commerce, The Bloomington-Normal Convention and Visitors Bureau, and the Bloomington-Normal Airport Authority.

Through these and other organizations, McLean County’s private, public, civic and educational leaders have embraced collaboration and are sharing resources and are firmly committed to

diversify the region's economic base, promote innovation and competitiveness, and create a unified vision for the future economic development of the Bloomington-Normal Metro Region. This resolution was approved by the McLean County Board on October 19, 2015.

**FINANCIAL IMPACT:** There is no direct financial commitment by the City through endorsement of the BN Advantage collaborative regional economic development strategy.

Respectfully submitted for Council consideration.

Prepared by: Austin Grammer, Economic Development Coordinator

Reviewed by: Tom Dabareiner AICP, Community Development Director

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla Murillo, Budget Manager

Legal review by: Jeffery R. Jurgens, Corporation Counsel

Recommended by:



David A. Hales, City Manager

**Attachments:**

- BN Advantage Frequently Asked Questions Sheet
- Resolution endorsing the BN Advantage Economic Development Strategy

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Motion: That the Resolution endorsing a collaborative economic development strategy for the Bloomington-Normal-McLean County Region be approved.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                  | Aye | Nay | Other |                    | Aye | Nay | Other |
|------------------|-----|-----|-------|--------------------|-----|-----|-------|
| Alderman Black   |     |     |       | Alderman Mwilambwe |     |     |       |
| Alderman Buragas |     |     |       | Alderman Painter   |     |     |       |
| Alderman Fruin   |     |     |       | Alderman Sage      |     |     |       |
| Alderman Hauman  |     |     |       | Alderman Schmidt   |     |     |       |
| Alderman Lower   |     |     |       |                    |     |     |       |
|                  |     |     |       | Mayor Renner       |     |     |       |

**RESOLUTION NO. 2015 –**

**A RESOLUTION OF THE CITY COUNCIL OF CITY OF BLOOMINGTON, ILLINOIS  
ENDORING A COLLABORATIVE ECONOMIC DEVELOPMENT STRATEGY  
FOR THE BLOOMINGTON-NORMAL-MCLEAN COUNTY REGION**

**WHEREAS** the City Council of the City of Bloomington, Illinois believes that a collaborative public/private economic development strategy for the Bloomington-Normal-McLean County region can provide significant benefits to the region in the form of economic growth, job growth, creation and retention of businesses; and,

**WHEREAS** the Bloomington Normal Economic Development Council, The McLean County Chamber of Commerce, the McLean County Regional Planning Commission, the Bloomington Normal Area Convention & Visitors Bureau and the Bloomington-Normal Airport Authority (CIRA) have joined together to craft an economic development strategy for the Bloomington Normal-McLean County Region known as “BN Advantage”.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS:**

**SECTION ONE:** That the Mayor and City Council hereby applaud the collaborative public/private efforts engaged in by the Bloomington Normal Economic Development Council, The McLean County Chamber of Commerce, the McLean County Regional Planning Commission, the Bloomington-Normal Area Convention & Visitors Bureau and the Bloomington-Normal Airport Authority to create the “BN Advantage”; and,

**SECTION TWO:** That the Mayor and City Council additionally extend thanks to the more than 200 community members who have participated in interviews and surveys as a part of the collaborative “BN Advantage” process and encourage their continued participation; and,

**SECTION THREE:** That the Mayor and City Council are dedicated to the concept of expanding collaboration and cooperation in economic development efforts; and,

**SECTION FOUR:** That the Mayor and City Council are committed to engagement and participation with its public/private partners in continued collaborative efforts in economic development.

**SECTION FIVE:** The Mayor and City Council herewith direct the City Clerk provide a certified copy of this Resolution to the Mayor of each municipality in McLean County, the McLean County Regional Planning Commission, the McLean County Chamber of Commerce, the Bloomington-Normal/McLean County Economic Development Council, the Bloomington Normal Convention & Visitors Bureau, and the Bloomington-Normal Airport Authority.

**ADOPTED this 26<sup>th</sup> day of October 2015**

**APPROVED this \_\_\_\_ of October 2015.**

**CITY OF BLOOMINGTON**

**ATTEST**

\_\_\_\_\_  
Tari Renner, Mayor

\_\_\_\_\_  
Cherry Lawson, C.M.C., City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeffery R. Jurgens, Corporation Counsel





The McLean County Chamber of Commerce, Economic Development Council for the Bloomington-Normal Area, McLean County Regional Planning Commission, Central Illinois Regional Airport and the Bloomington-Normal Convention & Visitors Bureau want you to get involved with the **BN Advantage Economic and Marketing Strategy**. This initiative focuses on quality of life and place, entrepreneurship, marketing and workforce/talent development. This strategic outcome will provide both diversification and transformational opportunities for the entire McLean County economy.

### *This strategy will...*

- Foster collaboration between local city and county governmental organizations to promote regionalism, and enlist community members to assure the region continues to be business-friendly
- Identify key areas for quality of life enhancement and improvement, and better position our region for business and talent retention and recruitment
- Elevate and promote our region's excellent educational and training institutions
- Support the young professionals in our community through expanded and enhanced mentorship and entrepreneurial programs
- Commit to strengthening and investing in existing and potential employment and business centers, including large-scale development opportunities
- Leverage our many assets to increase our visibility at the national level in the economic development arena
- Retain, grow and attract quality and sustainable firms and jobs in five target industry sectors
- Organize and optimize our region's many stakeholders, bring them all to the table, and foster their participation and collaboration in this effort

**INTERESTED *in* GETTING ENGAGED *with* BNADVANTAGE?**  
go to [www.BNAdvantage.com](http://www.BNAdvantage.com) to get started



## BN Advantage FAQ

To provide a comprehensive plan that leverages our regions competitive advantage in key business sections that the public and private sectors will rally around with support and resources to enact.

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### *Who*

Initiated by the McLean County Chamber of Commerce with the Bloomington Normal Economic Development Council, the Bloomington-Normal Area Convention and Visitors Bureau, the Central Illinois Regional Airport, and the McLean County Regional Planning Commission.

### *Why*

To support, strengthen and grow the community while attracting and retaining top talent and new employers. Currently, there is no regional comprehensive plan that collaborates with both the private and public sectors.

### *What*

To help diversify and grow the regional economy in five key business sectors; Entrepreneurship, Advanced Business Services, Agriculture, Information and Communications Technologies and Transportation and Logistics.

### *Where*

The Bloomington-Normal and McLean County region.

### *How*

Public and Private sector engagement and Investment. Also, implementation of the BN Advantage strategy.

**INTERESTED *in* GETTING ENGAGED *with* BNADVANTAGE?**

**Go to [www.BNAdvantage.com](http://www.BNAdvantage.com) to get started!**





**CITY OF**  
*Bloomington* **ILLINOIS**  
**REGULAR AGENDA ITEM NO. 8B**

FOR COUNCIL: October 26, 2015

**SUBJECT:** Local Preference Policy

**RECOMMENDATION/MOTION:** That the resolution be approved adopting a Local Preference Policy for the City of Bloomington and the Mayor and Clerk be authorized to execute the resolution.

**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1a. Budget with adequate resources to support defined services and level of services.

**BACKGROUND:** The McLean County Chamber of Commerce has encouraged the City to adopt a local preference policy that provides some preference to local vendors on City contracts. The Town of Normal previously adopted a similar policy and the City's draft policy mirrors the Town's policy (see attached Town Council Action Report).

Essentially the policy provides that for purposes of comparison and consideration, when a contract is awarded a defined preferential discount (the percentage varies based on the amount of the contract) will be applied to the low bid of all qualified local bidders when determining the lowest responsible bid. However, the City Council reserves the right to waive or amend the local preference purchasing policy in connection with any bid.

Under the policy, local bidders are then defined as business that meet all of the following criteria: (1) the business has established and maintained a physical presence within the County of McLean, via the ownership or lease of a building or a portion of a building for a period of not less than 12 consecutive months; (2) the business employs a minimum of two full time employees at the McLean County location and those employees spend the majority of their work day and work week at the McLean County location; and (3) the business is legally authorized to conduct business within the State of Illinois and the County of McLean.

The City's Legal Department has raised concerns with the implementation of local preference policies based on previous court decisions. Specifically, the courts have held the U.S. Constitution, through the 14<sup>th</sup> Amendment (i.e., Privileges & Immunities Clause), forbids a state from intentionally giving its own citizens a competitive advantage in business or employment. These policies are arguably more defensible where the policy is tailored to a legitimate and narrow interest that demonstrates the need to utilize a local contractor. In the policy considered by the City, that case is attempted to be set forth in the "Purpose" section of the Policy, however, the Legal Department also recommends bid solicitations also clarify and set forth the need. Note also that the policy excludes projects that utilize Federal and State funding sources that specifically and expressly prohibit any sort of local preference purchasing policy. Further, in this situation, the policy does not mandate the use of local contractors or vendors, but simply puts a

“modest” weighted factor in the evaluation process. Accordingly, while local preference policies can be popular and have been adopted by other municipalities, the Council should be aware it may also be subject to future legal challenge and that liabilities could arise from implementation.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** McLean County Chamber of Commerce.

**FINANCIAL IMPACT:** Implementation of the Local Preference Policy may increase, on its face, the costs of certain City contracts.

Respectfully submitted for Council consideration.

Prepared by: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:

David A. Hales, City Manager

**Attachments:**

- A Resolution Adopting a Local Preference Policy Within the City of Bloomington

Motion: That the resolution be approved adopting a Local Preference Policy for the City of Bloomington and the Mayor and Clerk be authorized to execute the resolution.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                    | Aye | Nay | Other |                  | Aye | Nay | Other |
|--------------------|-----|-----|-------|------------------|-----|-----|-------|
| Alderman Black     |     |     |       | Alderman Painter |     |     |       |
| Alderman Hauman    |     |     |       | Alderman Sage    |     |     |       |
| Alderman Fruin     |     |     |       | Alderman Schmidt |     |     |       |
| Alderman Lower     |     |     |       | Alderman Buragas |     |     |       |
| Alderman Mwilambwe |     |     |       |                  |     |     |       |
|                    |     |     |       | Mayor Renner     |     |     |       |

**RESOLUTION 2015 - \_\_\_\_\_**

**A RESOLUTION ADOPTING A LOCAL PREFERENCE POLICY  
WITHIN THE CITY OF BLOOMINGTON**

**BE IT RESOLVED BY THE CITY COUNCIL  
OF THE CITY OF BLOOMINGTON, ILLINOIS:**

**NOW, THEREFORE, BE IT RESOLVED BY THE** City Council of the City of  
Bloomington, McLean County, Illinois, as follows:

**SECTION 1.** The above stated recitals are incorporated herein by reference.

**SECTION 2.** The Local Preference Policy, set forth in the attached Exhibit A, is hereby  
adopted by the City Council.

**SECTION 3.** In the event that any section, clause, provision, or part of this Resolution  
shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts  
that are severable from the invalid parts shall remain in full force and effect.

**SECTION 4.** This Resolution shall be effective immediately after the date of its  
publication as required by law.

**SECTION 5.** This Resolution is passed and approved pursuant to the home rule  
authority granted Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this \_\_\_\_\_ day of October, 2015.

APPROVED this \_\_\_\_\_ day of October, 2015

**CITY OF BLOOMINGTON**

**ATTEST**

\_\_\_\_\_  
Tari Renner, Mayor

\_\_\_\_\_  
Cherry L. Lawson, City Clerk

**APPROVED AS TO FORM**

\_\_\_\_\_  
Jeffery R. Jurgens, Corporation Counsel

## **EXHIBIT A**

### **LOCAL PREFERENCE PURCHASING POLICY**

#### **PURPOSE**

This policy is adopted to give some preference, for the purchase of goods and/or services, to local businesses. It is acknowledged that local businesses share their income with the community in a variety of ways including the payment of taxes, creation of jobs, donations to local charities, membership in local organizations such as the Chamber of Commerce, sponsorship of local events and organizations, etc. The City of Bloomington believes that such significant local contributions should be recognized when purchasing goods and services. Therefore, the City seeks to provide such recognition by establishing a policy to give local businesses some preference when purchasing goods and services.

The City acknowledges, however, that any preference of local businesses shall not result in burdensome and/or unreasonable costs to the taxpayers of the community nor should it restrict the City from rejecting inferior products or services. This policy shall not apply in situations where external funding sources do not permit local preference purchasing allowances and in situations where the goods or services being purchased are available through a cooperative purchasing program such as the US Communities Government Purchasing Alliance and the State of Illinois Cooperative Purchasing Program. As is the case with all policies, the City reserves the right to waive or amend this policy when it deems appropriate.

#### **POLICY**

IT shall be the policy of the City of Bloomington that a bidding preference shall be granted to bidders in a competitive bidding situation on the following scale:

1. 5% up to a maximum of \$2,500 on bids of \$10,000 up to \$50,000;
2. 4% up to a maximum of \$10,000 on bids of up to \$250,000;
3. 3% up to a maximum of \$30,000 on bids of up to \$1,000,000; and
4. \$50,000 on bids of over \$1,000,000.

The preferential discount will be applied to the low bid of all “Local Bidders” when determining the lowest responsible bid. This policy shall apply to the purchase of all goods and services that are purchased via a competitive bidding process with a total cost of \$10,000 or greater.

A Local Bidder is defined as any business that meets all of the following criteria:

1. The business has established and maintained a physical presence within the County of McLean, via the ownership or lease of a building or a portion of a building for a period of not less than 12 consecutive months; and
2. The business employs a minimum of two (2) full time employees at the McLean County location and those employees spend the majority of their work day and work week at the McLean County location; and
3. The business is legally authorized to conduct business within the State of Illinois and the County of McLean.

Local bidders shall indicate on the bid submission that the business qualifies as a “Local Bidder” under this policy. The City will not be responsible for investigating whether or not a business qualifies as a local bidder if such indication is not included on the submitted bid. The City Manager shall have the sole and final authority to resolve any disputes that may arise over this policy.



# **TOWN COUNCIL ACTION REPORT**

**December 1, 2011**

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## ***Motion to Adopt a Local Preference Purchasing Policy***

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|                                  |                                                                                                                                                         |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PREPARED BY:</b>              | <b>Mark R. Peterson, City Manager</b>                                                                                                                   |
| <b>BUDGET IMPACT:</b>            | <b>Unknown</b>                                                                                                                                          |
| <b>STAFF<br/>RECOMMENDATION:</b> | <b>Approval</b>                                                                                                                                         |
| <b>ATTACHMENTS:</b>              | <b>Proposed Purchasing Policy, Letter of Support from McLean<br/>County Chamber of Commerce and Memorandum from<br/>Corporation Counsel Steve Mahrt</b> |

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### **BACKGROUND**

The Town of Normal Community Wide Sustainability Plan and 2035 Report: Plans for a Sustainable Normal was completed and delivered to the Council in August of 2010. The Council formally adopted the plan on February 7, 2011. The Sustainability Plan includes a number of recommendations in various categories such as arts and culture, government services, community building, health and wellness, economic development, etc. These recommendations are designed to help make Normal a more sustainable community.

The plan also includes a number of “quick start” recommendations designed to launch the various sustainability initiatives that are included in the plan. It is understood that many of the recommendations included in the plan are long term in nature and involve engaging the entire community. Those that were identified as quick starts were determined to be generally under the control of the Town of Normal and also achievable with minimal upfront financial investment. On July 11, 2011, the Council met with the staff to review the quick start recommendations included in the plan and to provide staff with some guidance as to where it should focus its resources over the coming 12 months in order to achieve the most critically important and desirable recommendations.

As a result of that meeting, the Council established 14 priority projects for the staff to pursue over the coming year. One of those projects is to develop a Local Preference Purchasing Policy designed to provide local businesses and service providers some preference in the purchase of goods and services by the Town of Normal. The policy is intended to acknowledge that local businesses share their income with the community in a variety of ways including the payment of taxes, creation of jobs, donation to local charities, membership in local organizations and sponsorship of local events and organizations. The adopted Sustainability Plan encourages the Town of Normal and other organizations to develop procurement policies to encourage the use of local and green businesses so as to help the community prosper and help to develop a sustainable economic base within McLean County.

### **DISCUSSION/ANALYSIS**

The draft policy attempts to provide a modest advantage for local businesses when attempting to sell services and products to the Town of Normal. In developing the proposed Local Preference Purchasing Policy, staff gathered similar policies from many other communities throughout the Midwest. It was our

## ***TOWN COUNCIL ACTION REPORT***

intent to keep the policy relatively simple and yet provide a meaningful advantage to local merchants and employers seeking to do business with the Town of Normal. At the same time, it was our goal to ensure that any preferential treatment of local businesses will not create a burden to the taxpayers nor require the taxpayers to assume unreasonable costs for the purchase of goods and services. With helpful input from Charlie Moore, President and CEO of the McLean County Chamber of Commerce, I think the staff has developed a draft policy that achieves those goals.

You will note that the policy does provide the Council with the right, if appropriate, to waive the policy or amend the policy. The policy also includes a caveat that acknowledges that the Town oftentimes uses Federal and State funding sources that specifically and expressly prohibit any sort of local preference purchasing policy. Finally, the policy attempts to define what is a local business, or in this case, a “local bidder”. This was a difficult challenge and again I must acknowledge the assistance of Chamber of Commerce President and CEO Charlie Moore in assisting with the development of the local bidder definition that is included in the draft policy.

In conclusion, I will direct your attention to a separate attached memorandum that was prepared by Corporation Counsel Steve Mahrt. In that memorandum, Mr. Mahrt acknowledges that case law does not seem to support the imposition of local preference purchasing policies in connection with public sector bidding. However, it is clear that local preference purchasing policies are very common and many communities within Illinois have adopted such policies. In fact, a number of those policies were used as models in developing the proposed policy before the Council this evening. However, it is important for the Council to understand that there exists some risk of a legal challenge associated with this policy even though, to the best of our knowledge, few municipal local preference purchasing policies in Illinois have been challenged. Further, Steve points out in his memo that such a local preference policy may be justified under the Town’s Home Rule authority as a “rational desire to support business entities that contribute to the local economy”.

Despite these legal concerns, staff does recommend that the Council adopt the proposed policy.

# ***DRAFT***

## **Local Preference Purchasing Policy**

### **Purpose:**

This policy is adopted to give some preference, for the purchase of goods and/or services, to local businesses. It is acknowledged that local businesses share their income with the community in a variety of ways including the payment of taxes, creation of jobs, donations to local charities, membership in local organizations such as the Chamber of Commerce, sponsorship of local events and organizations, etc. The Town of Normal believes that such significant local contributions should be recognized when purchasing goods and services. Therefore, the Town seeks to provide such recognition by establishing a policy to give local businesses some preference when purchasing goods and services.

The Town acknowledges, however, that any preference of local businesses shall not result in burdensome and/or unreasonable costs to the taxpayers of the community nor should it restrict the Town from rejecting inferior products or services. This policy shall not apply in situations where external funding sources do not permit local preference purchasing allowances and in situations where the goods or services being purchased are available through a cooperative purchasing program such as the US Communities Government Purchasing Alliance and the State of Illinois Cooperative Purchasing Program. As is the case with all policies, the Town reserves the right to waive or amend this policy when it deems appropriate.

### **Policy:**

It shall be the policy of the Town of Normal that a bidding preference shall be granted to bidders in a competitive bidding situation on the following scale:

5.0% up to a maximum of \$2,500 on bids of up to \$50,000

4.0% up to a maximum of \$10,000 on bids of up to \$250,000

3.0% up to a maximum of \$30,000 on bids of up to \$1,000,000

\$50,000 on bids of over \$1,000,000

The preferential discount will be applied to the low bid of all “Local Bidders” when determining the lowest responsible bid. This policy shall apply to the purchase of all goods and services that are purchased via a competitive bidding process with a total cost of \$10,000 or greater.

A “Local Bidder” shall be defined as any business that meets all of the following criteria:

- The business has established and maintained a physical presence within the County of McLean , via the ownership or lease of a building or a portion of a building, for a period of not less than 12 consecutive months; and
- The business employs a minimum of two (2) full time employees at the McLean County location and that those employees spend the majority of their work day and work week at the McLean County location; and
- The business is legally authorized to conduct business within the State of Illinois and the County of McLean.

Local bidders shall indicate on the bid submission that the business qualifies as a “Local Bidder” under this policy. The Town of Normal will not be responsible for investigating whether or not a business qualifies as a local bidder if such indication is not included on the submitted bid. The City Manager shall have the sole and final authority to resolve any disputes that may arise over this policy.



MCLEAN COUNTY  
CHAMBER of COMMERCE

November 21, 2011

Mr. Mark Peterson, City Manager  
Town of Normal  
100 E. Phoenix Street  
Normal, IL 61761

Dear Mark,

On behalf of the McLean County Chamber of Commerce's Board of Directors, we are pleased to write a letter of endorsement for the proposed "Local Purchase Preference Policy" in which you plan to review and adopt at the December 5, 2011 Town Council meeting.

The Chamber greatly appreciates the Town's recognition and appreciation of the significant investment local businesses make within our community. By providing a reasonable competitive advantage, local companies can better compete with firms outside of McLean County allowing local dollars to be reinvested back into the local private sector and our communities at large.

We applaud the Town of Normal in this trend-setting effort. It is our intention to communicate this initiative with units of government across McLean County in hopes that many more will follow your lead and adopt a similar policy.

Best regards,

Robert A. Dobski  
Chairman

Charles M. Moore  
President & CEO



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INTEROFFICE MEMORANDUM

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**TO:** MARK R. PETERSON  
**FROM:** STEVEN D. MAHRT  
**SUBJECT:** LOCAL PREFERENCE POLICY  
**DATE:** 12/1/2011

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Case law does not clearly support the imposition of a local preference policy in connection with public bidding for goods and services. Under a local preference policy a qualified local bidder receives a predetermined “credit” that effectively lowers the bid amount for bid comparison purposes, but does not change the amount actually paid for the goods or services purchased.

The proposed local preference policy for acquisition of goods and services (attached) may be justified based on Home Rule Authority and a rational desire to support business entities that contribute to the local economy by maintaining a physical presence, employing local workers and contributing to local social programs. In Court Street Steak House, Inc. v The County of Tazewell 163 Ill.2d 159, 643 N.E.2d 781, (1994) the Illinois Supreme Court upheld the award of a contract to a bidder based on a desire by the County Board to support employment for the mentally handicapped. The successful bidder maintained a training program for the mentally handicapped. The court said this was a rational policy choice and did not indicate an arbitrary preference.

The local preference policy may be improper under Illinois law given other statements made by the Illinois Supreme Court in the Court Street Steak House case. In Court Street the Supreme Court commented on the case of Cardinal Glass Co. v. Board of Education of Mendota Community Consolidated School District No. 289, 113 Ill. App. 3d 442, 69 Ill. Dec. 329, 447 N.E. 2d 546 (1983). In Cardinal Glass the local school board awarded a contract for window replacement to a local contractor (who was not the low bidder) based on a desire to keep money in the local community. The Illinois Supreme Court said this indicates “prejudice, not reasoned decision making.”

Likewise the Court of Appeals in Cardinal Glass said a desire to keep money in the local community indicates clear favoritism, without adequate and sufficient justification and constitutes arbitrary and capricious action.

Consequently, judicial validation of a local preference policy will require an extension of the social policy analysis sanctioned in Court Street. For instance a preference triggered when local unemployment is over 5% may be a legitimate policy consideration.



 **CITY OF**  
*Bloomington* **ILLINOIS**  
**REGULAR AGENDA ITEM NO. 8C-a**

FOR COUNCIL: October 26, 2015

**SUBJECT:** Consideration of adopting an Illinois Department of Transportation (IDOT) Resolution approving a Professional Engineering Services Agreement with Hanson Professional Services for Phase I Preliminary Design Services for Hamilton Road Extension from Bunn Street to Commerce Parkway, RFQ No. 2015 - 26.

**RECOMMENDATION/MOTION:** That the IDOT Resolution be adopted approving the Agreement with Hanson Professional Services for the Phase I preliminary design of Hamilton Road from Bunn Street to Commerce Parkway be approved, in the amount of \$986,084.52, and the Mayor and City Clerk be authorized to execute the necessary documents.

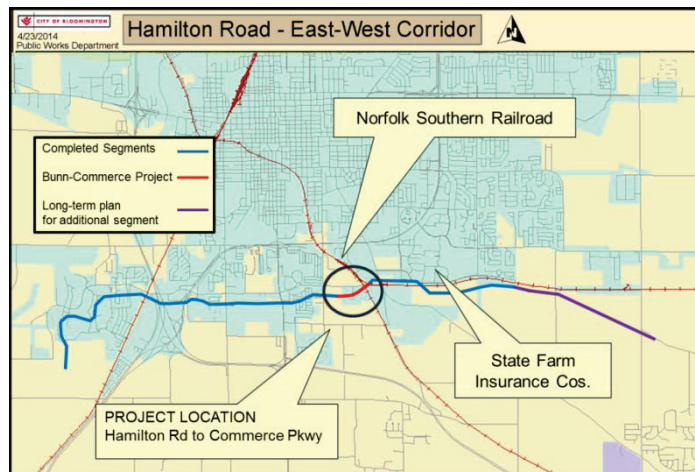
**STRATEGIC PLAN LINK:** 3. Grow the Local Economy, and 5. Great Place – Livable, Sustainable City.

**STRATEGIC PLAN SIGNIFICANCE:** 3e. Strong working relationship among the City, businesses, and economic development organizations and 5a. Well-planned City with necessary services and infrastructure.

**BACKGROUND:** The Hamilton Road (Bunn Street to Commerce Parkway) project is the last remaining section of roadway in the Fox Creek - Hamilton Road corridor in southern Bloomington.

The completed project will:

- Complete an essential east-west arterial from Fox Creek Subdivision to 0.5 miles east of Hershey Road;
- Promote multi-modal transportation from residential and recreational areas to employment centers.
- Construct approximately 3,000 feet of new four-lane arterial road between Bunn Street and Commerce Parkway;
- Relocate existing Norfolk Southern Railway (NS) sidings;
- Close the dangerous intersection of Rhodes Lane and US 150 (Morrissey Drive); and
- Construct a new at-grade crossing with NS





The project has been delayed multiple times due to lack of funding and the complexities and cost associated with crossing an active rail line. In order to advance the project and position the City for funding opportunities potentially available from various federal, state, and local sources, it is essential to bring the project planning and design to a “shovel-ready” state. City staff has recently met with officials from the Norfolk Southern Railway (NS) and the Illinois Commerce Commission (ICC) to resume project discussions.

The agreement with Hanson Professional Services provides for surveying the existing site, obtaining geotechnical information, facilitating public comment and input, performing environmental and alternatives analysis, coordinating with the ICC and Norfolk Southern Railway, preparation of ROW documents, and development of preliminary plans for the roadway improvements. The work performed by Hanson will comply with Illinois Department of Transportation (IDOT) requirements for preliminary design services (Phase I) for federally funded projects. The agreement does not provide for the completion of detailed construction plans and documents (Phase II).

Hanson was selected using the Professional Services Qualifications Based Selection Process. This process involved:

- (1) Sending out Request for Qualifications (RFQ) specific to the project,
- (2) Reviewing the submitted Statement of Qualifications based on the criteria outlined in the RFQ and narrowing the thirteen (13) submittals down to the top three consultants,
- (3) Interviewing these three consultants, and
- (4) Selecting a top consultant and negotiating a fee with them.

These four tasks are often referred to as a two-step professional services selection process. The City’s procurement agent reviewed this process and confirmed that the procedure was performed in accordance with applicable standards.

A list of the engineering firms that submitted Statements of Qualifications and the firms that were selected for interviews are attached. Hanson was selected as the best firm to perform the Phase 1 preliminary design services because of their experience with railroad engineering, environmental assessments, and knowledge of the ICC petitioning process.

In accordance with The Brooks Act - Federal Government Selection of Architects and Engineers (Public Law 92-582), the Illinois Local Government Professional Services Selection Act (50 ILCS 510) and the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act (30 ILCS 535), the Qualifications Based Selection Process must be followed if federal or state grants, loans or any other federal or state monies are used to fund any portion of the project.

The current construction estimate is \$10-15 million, assuming the City builds an at-grade railroad crossing rather than a bridge. A bridged crossing would increase the project cost to approximately \$25 million or more.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not applicable

**FINANCIAL IMPACT:** Motor Fuel Tax (MFT) Funds were budgeted in the FY 2016 Adopted Budget for this project in the amount of \$900,000. Pending Council approval, the design and planning work will be performed at a cost of \$986,084.52. The design expense over the budgeted amount is attributable to the inclusion of railroad engineering services for the NS storage track relocation and right-of-way acquisition services. Stakeholders can locate this item in the FY Proposed 2016 Budget Book titled “Other Funds & Capital Improvement Program” under the Motor Fuel Tax- Design (20300300-70050) on pages 10, 251, 273-274. Sufficient MFT funds are budgeted in other MFT accounts in FY 2016 that will not be used and are available to cover the additional costs.

Respectfully submitted for Council consideration.

Prepared by: Ryan L. Otto, PE, Project Engineer

Reviewed by: Jim Karch, PE CFM, Director of Public Works

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla A. Murillo, Budget Manager

Legal review by: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:



David A. Hales, City Manager

**Attachments:**

- IDOT Resolution
- Project Overview
- One Voice application

Motion: That the IDOT Resolution be adopted approving the Agreement with Hanson Professional Services for the Phase I preliminary design of Hamilton Road from Bunn Street to Commerce Parkway be approved, in the amount of \$986,084.52, and the Mayor and City Clerk be authorized to execute the necessary documents.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                  | Aye | Nay | Other |                    | Aye | Nay | Other |
|------------------|-----|-----|-------|--------------------|-----|-----|-------|
| Alderman Black   |     |     |       | Alderman Mwilambwe |     |     |       |
| Alderman Buragas |     |     |       | Alderman Painter   |     |     |       |
| Alderman Fruin   |     |     |       | Alderman Sage      |     |     |       |
| Alderman Hauman  |     |     |       | Alderman Schmidt   |     |     |       |
| Alderman Lower   |     |     |       |                    |     |     |       |
|                  |     |     |       | Mayor Renner       |     |     |       |



|                                     |                                                                           |                                                                                                                                                                                                                                                          |                                                                |                                           |
|-------------------------------------|---------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|-------------------------------------------|
| Municipality<br>City of Bloomington | <b>L<br/>O<br/>C<br/>A<br/>L<br/><br/>A<br/>G<br/>E<br/>N<br/>C<br/>Y</b> |  <b>Illinois Department<br/>of Transportation</b><br><br><b>Preliminary Engineering<br/>And<br/>Construction Guidance<br/>Agreement<br/>For<br/>Motor Fuel Tax Funds</b> | <b>C<br/>O<br/>N<br/>S<br/>U<br/>L<br/>T<br/>A<br/>N<br/>T</b> | Name<br>Hanson Professional Services Inc. |
| Township                            |                                                                           |                                                                                                                                                                                                                                                          |                                                                | Address<br>7625 N. Univ. St.<br>Suite 200 |
| County<br>McLean                    |                                                                           |                                                                                                                                                                                                                                                          |                                                                | City<br>Peoria                            |
| Section<br>16-00360-00-PV           |                                                                           |                                                                                                                                                                                                                                                          |                                                                | State<br>IL                               |

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015 between the above Local Agency (LA) and Consultant (ENGINEER) and covers certain professional engineering services in connection with the improvement of the above SECTION, Motor Fuel Tax Funds, allotted to the LA by the State of Illinois under the general supervision of the State Department of Transportation, hereinafter called the "DEPARTMENT", will be used entirely or in part to finance ENGINEERING services as described under AGREEMENT PROVISIONS.

### Section Description

Name Hamilton Road Extension - Phase I

Route \_\_\_\_\_ Length 3000.00 FT ( 0.60 Miles) (Structure No. \_\_\_\_\_ )

Termini Hamilton Road - From Bunn Street to Commerce Parkway

Description:  
Perform Phase I Project Development Services for the extension of Hamilton Road from Bunn Street to Commerce Parkway.

### Agreement Provisions

#### The Engineer Agrees,

1. To perform or be responsible for the performance of the following engineering services for the LA in connection with the proposed improvement herein before described, and checked below:
  - a. ☐ Make such detailed surveys as are necessary for the preparation of detailed roadway plans.
  - b. ☐ Make stream and flood plain hydraulic surveys and gather high water data, and flood histories for the preparation of detailed bridge plans.
  - c. ☐ Make or cause to be made such soil surveys or subsurface investigations including borings and soil profiles n analyses thereof as may be required to furnish sufficient data for the design of the proposed improvement. Such investigations are to be made in accordance with the current requirements of the DEPARTMENT.
  - d. ☐ Make or cause to be made such traffic studies and counts and special intersection studies as may be required to furnish sufficient data for the design of the proposed improvement.
  - e. ☐ Prepare Army Corps of Engineers Permit, Division of Water Resources Permit, Bridge waterway sketch and/or Channel Change sketch, Utility plan and locations and Railroad Crossing work agreements.
  - f. ☐ Prepare Preliminary Bridge Design and Hydraulic Report, (including economic analysis of bridge or culvert types) and high water effects on roadway overflows and bridge approaches.
  - g. ☐ Make complete general and detailed plans, special provisions, proposals and estimates of cost and furnish the LA with five (5) copies of the plans, special provisions, proposals and estimates. Additional copies of any or all documents, if required, shall be furnished to the LA by the ENGINEER at his actual cost for reproduction.
  - h. ☐ Furnish the LA with survey and drafts in quadruplicate of all necessary right-of-way dedications, construction easements and borrow pit and channel change agreements including prints of the corresponding plats and staking as required.

NOTE: Four Copies to be submitted to the Regional Engineer

- i. ☐ Prepare the Project Development Report when required by the DEPARTMENT.
- j. ☐ Prepare the necessary environmental documents in accordance with the procedures adopted by the DEPARTMENT's Bureau of Local Roads & Streets.
- k. ☐ Assist the LA in the tabulation and interpretation of the contractors' proposals.
- l. ☐ Furnish construction guidance. Construction guidance shall include:
  - (1) Consultation on interpretation of plans and specifications and changes during construction.
  - (2) Checking all shop and working drawings.
  - (3) Periodical job-site observation as construction progresses.
  - (4) Reviewing and checking all reports by testing laboratories on equipment and material tested.
  - (5) Reviewing and checking all payment estimates, change orders, records and reports required by the DEPARTMENT.
  - (6) Conducting final observation of construction and preparation of final papers and reports.
- m. ☒ See Attachment A.

- 2. That all reports, plans, plats and special provisions to be furnished by the ENGINEER, pursuant to this AGREEMENT, will be in accordance with current standard specifications and policies of the DEPARTMENT. It being understood that all such reports, plats, plans and drafts shall before being finally accepted be subject to approval by the LA and the DEPARTMENT.
- 3. To attend conferences at any reasonable time when requested to do so by the LA or the DEPARTMENT.
- 4. In the event plans or surveys are found to be in error during construction of the SECTION and revisions of the plans or survey corrections are necessary, the ENGINEER agrees that he will perform such work without expense to the LA even though final payment has been received by him. He shall give immediate attention to these changes so there will be a minimum delay to the Contractor.
- 5. That basic survey notes and sketches, charts, computations and other data prepared or obtained by the ENGINEER pursuant to this AGREEMENT will be made available upon request to the LA or the DEPARTMENT without cost and without restriction or limitations as to their use.
- 6. That all plans and other documents furnished by the ENGINEER pursuant to this AGREEMENT will be endorsed by him and will show his professional seal where such is required by law.

**THE LA AGREES,**

- 1. To pay the ENGINEER as compensation for all services performed as stipulated in paragraphs 1a, 1g, 1k, 2, 3, 5 and 6 in accordance with one of the following methods indicated by a check mark:
  - a. ☐ A sum of money equal to \_\_\_\_\_ percent of the awarded contract cost of the proposed improvement as approved by the DEPARTMENT.
  - b. ☐ A sum of money equal to the percent of the awarded contract cost for the proposed improvement as approved by the DEPARTMENT based on the following schedule:

| Awarded Cost |          | Fee Schedule |            |
|--------------|----------|--------------|------------|
| Under        | \$50,000 | _____        | (see note) |
|              |          | _____        | %          |
|              |          | _____        | %          |
|              |          | _____        | %          |
|              |          | _____        | %          |
|              |          | _____        | %          |

Note: Not necessarily a percentage. Could use per diem, cost-plus or lump sum.

- c. ☒ See Attachment B
- 2. To pay for services stipulated in paragraphs 1b, 1c, 1d, 1e, 1f, 1h, 1i & 1j at actual cost of performing such work plus \_\_\_\_\_ percent to cover profit, overhead and readiness to serve - "actual cost" being defined as material cost plus, payrolls insurance, social security and retirement deductions. Traveling and other out-of-pocket expenses will be reimbursed to the ENGINEER at his actual cost. Subject to the approval of the LA, the ENGINEER may sublet all or part of the services provided under the paragraphs cited above. If the ENGINEER sublets all or part of this work, the LA will pay the cost to



the ENGINEER ~~plus a five (5) percent service charge~~. "Cost to Engineer" to be verified by furnishing the LA and the DEPARTMENT copies of invoices from the party doing the work. The classifications of the employees used in the work should be consistent with the employee classification for the services performed. If the personnel of the firm, including the Principal Engineer, perform routine services that should normally be performed by lesser-salaried personnel, the wage rate billed for such services shall be commensurate with the work performed.

3. To pay for the services stipulated in paragraph 1l a sum of money equal to thirty-five (35) percent of the amount determined by multiplying the final contract cost by the percentage(s) set forth under paragraph 1a or 1b of THE LA AGREES.
4. That payments due the ENGINEER for services rendered in accordance with the AGREEMENT will be made as soon as practicable after the services have been performed, in accordance with the following schedule:
  - a. Upon completion of detailed plans, special provisions, proposals and estimate of cost - being the work required by paragraph 1a through 1j under THE ENGINEER AGREES - to the satisfaction of the LA and their approval by the Department, 90 percent of the total fee due for paragraphs 1a through 1j.
  - b. Upon award of the contract for the improvement by the LA and its approval by the Department, 100 percent of the total fee due for paragraphs 1a through 1j, less any amounts paid under "a" above.
  - c. Upon completion of the improvement and its final acceptance by the Department the total fee due for paragraphs 1k and 1l.By mutual agreement, partial payments not to exceed 90 percent of the amount earned may be made from time to time as the work progresses.
5. That, should the improvement be abandoned at any time after the ENGINEER has performed any part of the services provided for in paragraphs 1m prior to the completion of such services the LA shall reimburse the ENGINEER for his actual costs plus 206 percent incurred up to the time he is notified in writing of such abandonment - "actual cost" being defined as in paragraph 2 above.
6. That, should the LA require changes in any of the detailed plans, specifications, or estimates, except for those required pursuant to paragraph 4 of THE ENGINEER AGREES, after they have been approved by the DEPARTMENT, the LA will pay the ENGINEER for such changes on the basis of actual cost plus 206 percent to cover profit, overhead and readiness to serve - "actual cost" being defined as in paragraph 2 above. It is understood that "changes" as used in this paragraph 2 above. It is understood that "changes" as used in this paragraph shall in no way relieve the ENGINEER of his responsibility to prepare a complete and adequate set of plans and specifications.

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**It is Mutually Agreed,**

1. That any difference between the ENGINEER and the LA concerning the interpretation of the provisions of this AGREEMENT shall be referred to a committee of disinterested parties consisting of one member appointed by the ENGINEER, one member appointed by the LA and a third member appointed by the two other members for disposition and that the committee's decision shall be final.
2. This AGREEMENT may be terminated by the LA upon giving notice in writing to the ENGINEER at his last known post office address. Upon such termination, the ENGINEER shall cause to be delivered to the LA all surveys, permits agreements, preliminary bridge design & hydraulic report, drawings, specifications, partial and completed estimates and data if any from traffic studies and soil survey and subsurface investigations with the understanding that all such material becomes the property of the LA. The ENGINEER shall be paid for any services completed and any services partially completed in accordance with Section 5 of THE LA AGREES.
3. That if the contract for construction has not been awarded one year after the acceptance of the plans by the LA and their approval by the DEPARTMENT, the LA will pay the ENGINEER the balance of the engineering fee due to make 100 percent of the total fees due under this AGREEMENT, based on the estimate of cost as prepared by the ENGINEER and approved by the LA and the DEPARTMENT.
4. That the ENGINEER warrants that he/she has not employed or retained any company or person other than a bona fide employee working solely for the ENGINEER to solicit or secure this contract and that he/she has not paid or agreed to pay any company or person other than a bona fide employee working solely for the ENGINEER any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty the LA shall have the right to annul this contract without liability.
5. The attached General Conditions (C/S Rev. 7) are incorporated into and made a part of this Agreement.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed in quadruplicate counterparts each of which shall be considered as an original by their duly authorized officers.

Executed by the LA:

ATTEST:

City of Bloomington of the  
(Municipality/Township/County)

State of Illinois, acting by and through its

By \_\_\_\_\_

Clerk

(Seal)

Executed by the ENGINEER

ATTEST:

By [Signature]

Title Associate

By \_\_\_\_\_

Title \_\_\_\_\_

Hanson Professional Services Inc.

By [Signature]

Title Senior Vice President

Approved

\_\_\_\_\_  
Date

Department of Transportation

\_\_\_\_\_  
Regional Engineer



## General Conditions

Hanson Agreement: C15L0098

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

Project Name: Hamilton Road Extension

**1. Invoices:** Charges for services will be billed at least as frequently as monthly, and at the completion of the Project. CLIENT shall compensate HANSON for any sales or value added taxes which apply to the services rendered under this agreement or any addendum thereto. CLIENT shall reimburse HANSON for the amount of such taxes in addition to the compensation due for services. Payment of invoices shall not be subject to any discounts or set-offs by the CLIENT unless agreed to in writing by HANSON. Invoices are delinquent if payment has not been received within 30 days from date of invoice. There will be an additional charge of 1 1/2 percent per month compounded on amounts outstanding more than 30 60 days. All time spent and expenses incurred (including attorney's fees) in connection with collection of any delinquent amount will be paid by CLIENT to HANSON per HANSON's current fee schedules.

**2. Termination:** This Agreement may be terminated by either party upon written notice. Any termination shall only be for good cause such as legal, unavailability of adequate financing or major changes in the scope of services. In the event of any termination, HANSON will be paid for all services and expenses rendered to the date of termination on a basis of payroll cost times a multiplier of 3.0 (if not previously provided for) plus reimbursable expenses, plus reasonable termination expenses, including the cost of completing analyses, records, and reports necessary to document job status at the time of termination.

**3. Reuse of Documents:** All documents including reports, drawings, specifications, and electronic media furnished by HANSON pursuant to this Agreement are instruments of its services. They are not intended or represented to be suitable for reuse by CLIENT or others on extensions of this project, or on any other project. Any reuse without specific written verification or adaptation by HANSON will be at CLIENT's sole risk, and without liability to HANSON, and CLIENT shall indemnify and hold harmless HANSON from all claims, damages, losses

and expenses including court costs and attorney's fees arising out of or resulting there from. Any such verification or adaptation will entitle HANSON to further compensation at rates to be agreed upon by CLIENT and HANSON. Nothing herein, however, shall limit the CLIENT'S right to use the documents for municipal purposes, including but not limited to the CLIENT'S right to use the documents in an unencumbered manner for purposes of remediation, remodeling, and/or construction.

**4. Standard of Care:** Services performed by HANSON under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. No other representation expressed or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document or otherwise. Nothing in this Agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other party. Hanson is not acting as a municipal advisor to CLIENT as defined by the Securities and Exchange Commission.

**5. General Liability Insurance and Limitation:** HANSON is covered by general liability insurance for bodily injury and property damage arising directly from its negligent acts or omissions, with limits which HANSON considers reasonable, but in no case less than \$1,000,000 per occurrence. Certificates of insurance shall be provided to CLIENT upon request in writing. CLIENT shall be named as an additional insured on such policy and HANSON shall provide a certificate evidencing such coverage prior to the commencement of the work under this Agreement. HANSON shall not be responsible for any loss, damage or liability beyond the amounts, limits and conditions of such insurance. HANSON shall not be responsible for any loss, damage or liability arising from any act or omission by CLIENT, its agents, staff, other consultants, independent contractors, third parties or others working on the Project over which HANSON has no supervision or control.

**6. Suspension of Services:** If CLIENT fails to make payments when due or otherwise is in breach of this Agreement, HANSON may suspend performance of services upon five (5) calendar days' notice to CLIENT. HANSON shall have no liability whatsoever to CLIENT, and CLIENT agrees to make no claim for any delay or damage as a result of such suspension.

**7. Consequential Damages:** Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither CLIENT nor HANSON, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for incidental, indirect, or consequential damages arising out of or connected in any way to this Project or this Agreement. This mutual waiver of consequential damages shall include, but not be limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict and implied warranty. Both CLIENT and HANSON shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the Project.

~~**8. Contingency Fund:** The Client and Hanson acknowledge that changes may be required during construction because of possible omissions, ambiguities or inconsistencies in the plans and specifications and, therefore, that the costs of the project may exceed the construction contract sum. The Client agrees to set aside a reserve in the amount of Five Percent (5%) of the actual project construction costs as a contingency reserve to be used, as required, to pay for any such increased project costs. The Client further agrees to make no claim by way of direct or third-party action against Hanson or sub-contractors and subconsultants with respect to any payments within the limit of the contingency reserve made to the construction contractors because of such changes or because of any claims made by the construction contractors relating to such changes.~~

**9. Additional Limitation:** In recognition of the relative risks and benefits of the Project to both the CLIENT and HANSON, the risks have been allocated such that the CLIENT agrees that for the compensation herein provided HANSON cannot expose itself to damages disproportionate to the

nature and scope of HANSON's services or the compensation payable to it hereunder. Therefore, the CLIENT agrees to limit its remedies against HANSON arising from HANSON's professional acts, errors or omissions, in any action based on strict liability, breach of contract, negligence or any other cause of action, such that the total aggregate amount of the CLIENT's damages shall not exceed \$50,000 or HANSON's total net fee for services rendered on the Project, whichever is greater limits of HANSON'S general liability insurance. This limitation pertains to HANSON and to its subcontractors and subconsultants, and applies as a single aggregate amount to all work performed under the Agreement, including all work performed under an amendment or modification. If CLIENT desires a limit greater than that provided above, CLIENT and HANSON shall include in this Agreement the amount of such limit and the additional compensation to be paid to HANSON for assumption of such additional risk. CLIENT must notify HANSON in writing, before HANSON commences any services, of CLIENT's intention to negotiate a greater limitation of remedies against Hanson and its associated impact on services, schedules, and compensation. Absent CLIENT's written notification to the contrary, HANSON will proceed on the basis that the total remedies against HANSON is limited as set forth above.

**10. Personal Liability:** It is intended by the parties to this Agreement that HANSON's services in connection with the Project shall not subject HANSON's individual employees, officers or directors to any personal legal exposure for the risks associated with this Project. Therefore, and notwithstanding anything to the contrary contained herein, the Client agrees that as the Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against HANSON, a Delaware corporation, and not against any of HANSON's individual employees, officers or directors.

**11. Assignment:** Neither party to this Agreement shall transfer, sublet, or assign any rights or duties under or interest in this Agreement, including but not limited to monies that are due or monies that may become due, without the written consent of the other party. Subcontracting to subconsultants, normally contemplated by HANSON as generally accepted business practice, shall not be considered an assignment for purposes of this Agreement.

**12. Statutes of Repose and Limitation:** All legal causes of action between the parties to this



Agreement shall accrue and any applicable statutes of repose or limitation shall begin to run not later than the date of Substantial Completions. If the act or failure to act complained of occurs after the date of Substantial Completion, then the date of final completion shall be used, but in no event shall any statute of repose or limitation begin to run any later than the date HANSON's services are completed or terminated.

**13. Dispute Resolution:** In an effort to resolve any conflicts that arise during the design and construction of this Project or following completion of this Project, the CLIENT and HANSON agree that all disputes between them arising out of or relating to this Agreement or this Project shall be submitted to nonbinding mediation.

**14. Authority and Responsibility:** HANSON shall not guarantee the work of any Contractor or Subcontractor, shall have no authority to stop work, shall have no supervision or control as to the work or persons doing the work, shall not have charge of the work, and shall not be responsible for safety in, on, or about the job site or have any control of the safety or adequacy of any equipment, building component, scaffolding, supports, forms or other work aids.

**15. Right of Entry:** CLIENT shall provide for HANSON's right to enter property owned by CLIENT and/or others in order for HANSON to fulfill the scope of services for this Project. CLIENT understands that use of exploration equipment may unavoidably cause some damage, the correction of which is not the responsibility of HANSON.

**16. Utilities:** CLIENT shall be responsible for designating the location of all utility lines and subterranean structures within the property line of the Project. CLIENT agrees to waive any claim against HANSON, and to defend, indemnify and hold harmless from any claim or liability for injury or loss arising from HANSON or other persons encountering utilities or other man-made objects that were not called to HANSON's attention or which were not properly located on plans furnished to HANSON. CLIENT further agrees to compensate HANSON for any time or expenses incurred by HANSON in defense of any such claim, in accordance with HANSON's prevailing fee schedule and expense reimbursement policy.

**17. Job Site:** Services performed by HANSON during construction will be limited to providing assistance in quality control and to deal with

questions by the CLIENT's representative concerning conformance with drawings and specifications. This activity is not to be interpreted as an inspection service, a construction supervision service, or guaranteeing the Contractor's performance. HANSON will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs. HANSON will not be responsible for the Contractor's obligation to carry out the work in accordance with the Contract Documents. HANSON will not be considered an agent of the owner and will not have authority to direct the Contractor's work or to stop work.

**18. Opinions of Cost:** Since HANSON has no control over the cost of labor, materials or equipment or over a Contractor's method of determining prices, or over competitive bidding or market conditions, its opinions of probable Project cost or construction cost for this Project will be based solely upon its own experience with construction, but HANSON cannot and does not guarantee that proposals, bids or the construction cost will not vary from its opinions of probable costs. If the CLIENT wishes greater assurance as to the construction cost, he shall employ an independent cost estimator.

**19. Shop Drawing Review:** CLIENT agrees that HANSON's review of shop drawings, when such review is included in the scope of services, shall be solely for their conformance with HANSON's design intent and conformance with information given in the construction documents. HANSON shall not be responsible for any aspects of a shop drawing submission that affect or are affected by the means, methods, techniques, sequences and operations of construction, safety precautions and programs incidental thereto, all of which are the Contractor's responsibility. The Contractor will be responsible for lengths, dimensions, elevations, quantities and coordination of the work with other trades. CLIENT warrants that the Contractor shall be made aware of his responsibilities to review shop drawings and approve them in these respects before submitting them to HANSON.

**20. Record Drawings:** CLIENT agrees that HANSON's preparation of record drawings, when such preparation is included in the scope of services and such preparation is based on information furnished by the Contractor and/or other third parties, will be made under the assumption that all furnished information is reliable and that HANSON cannot and does not warrant the accuracy of the

furnished information. In the event that the scope of services additionally provides for HANSON to conduct surveys, investigations, and field measurements to collect or verify the information needed for the record drawings, HANSON will conduct such services with the standard of care as set forth in these General Conditions

**21. Confidentiality:** Each party shall retain as confidential, all information and data furnished to it by the other party which are designated in writing by such other party as confidential at the time of transmission, and are obtained or acquired by the receiving party in connection with this Agreement, and said party shall not disclose such information to any third party except as may be required by law.

**22. Third Party Beneficiaries:** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either CLIENT or HANSON. HANSON's services under this Agreement are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against HANSON because of this Agreement or the performance or nonperformance of services hereunder. CLIENT and HANSON agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors, and other entities involved in this Project to carry out the intent of this provision.

**23. Severability:** If any term or provision of this Agreement is held to be invalid or unenforceable under any applicable statute or rule of law, such holding shall be applied only to the provision so held, and the remainder of this Agreement shall remain in full force and effect.

**24. Survival:** Notwithstanding completion or termination of the Agreement for any reason, all rights, duties, obligations of the parties to this Agreement shall survive such completion or termination and remain in full force and effect until fulfilled.

**25. Entire Agreement:** This Agreement is the entire Agreement between the CLIENT and HANSON. It supersedes all prior communications, understandings and agreements, whether written or oral. Both parties have participated fully in the preparation and revision of this Agreement, and each party and its counsel have reviewed the final document. Any rule of contract construction regarding ambiguities being construed against the drafting party shall not apply in the interpreting of this Agreement, including any

Section Headings or Captions. Amendments to this Agreement must be in writing and signed by both CLIENT and HANSON.

**26. Modification to the Agreement:** CLIENT or HANSON may, from time to time, request modifications or changes in the scope of services to be performed hereunder. Such changes, including any increase or decrease in the amount of HANSON's compensation, to which CLIENT and HANSON mutually agree shall be incorporated in this Agreement by a written amendment to the Agreement.

**27. Governing Law:** This Agreement shall be governed by and interpreted pursuant to the laws of the State of Illinois.

## ATTACHMENT A

### SCOPE OF SERVICES

ATTACHMENT A: SCOPE OF SERVICES  
HAMILTON ROAD: BUNN STREET TO COMMERCE PARKWAY

Hanson Professional Services Inc. shall prepare project development studies and estimates for an extension of Hamilton Road from Bunn Street to Commerce Parkway (approximately 3,000 feet) in the City of Bloomington (CITY). The proposed alternatives for the Environmental Assessment (EA) will include an at-grade crossing or an underpass of the Norfolk Southern Railroad tracks. It is understood that a conceptual evaluation of the underpass alternative is required in order to fulfill the intent of the EA. It is also understood that the CITY will be notified prior to work commencing on design tasks related to the underpass alternative and that the work will need to be authorized by the City Engineer or his designated representative. Hamilton Road will be extended with a 20-year design section that includes a separated path for Constitution Trail and a sidewalk. Rhodes Lane improvements will include new geometry to create an intersection with proposed Hamilton Road, a new cross road pipe culvert, and a cul-de-sac eliminating the intersection of Rhodes Lane and Morrissey Drive (US 150). See aerial photograph attached to the Scope of Services to define the limits of the project.

The Project shall be designed in accordance with the Illinois Department of Transportation (IDOT) Bureau of Local Road Standards for projects with Federal aid, except as may be modified or approved by IDOT or the City of Bloomington Public Works Department.

Plans will be prepared in English units (feet) using Microstation software in accordance with CAD conventions of the Illinois Department of Transportation (IDOT) in IL State Plane Coordinates (East Zone), except as modified and approved by the City of Bloomington Public Works Department.

**SERVICES:** The Scope of Services will be limited to the following:

- A. Field Surveying and Land Acquisition Surveying Document Preparation (by Clark Dietz Inc)
  - 1. Field Surveying
    - i. Preliminary coordination and data gathering including courthouse research, survey planning and utility coordination.
    - ii. Control field surveys
      - a. Field locate monument recorded section corners, tie as required.
      - b. Field search for unrecorded section corners needed for project property definition.
      - c. Locate, uncover, and flag all property corner and existing ROW monumentation along project corridor.
      - d. Field locate peripheral block, subdivision, property corners and shoot.
      - e. Set and tie data collection points throughout project outside of construction limits (24 points – capped iron pins)
      - f. Traverse and run level circuit through data collection points and traverse section corners.
    - iii. Field Surveys
      - a. Topographic, cross section, property pin locations (293 XS @ 50' intervals). Assume 14,650' along Hamilton/new alignment, Bunn Street, Rhodes Lane, Commerce Parkway, and Norfolk Southern ROW. Survey information will also be required for the proposed routing of a storm sewer trunk line for the potential outfall for the underpass alternative.



- b. Download data collection and reduce data.
  - c. Shoot and compile/index photo log.
  - d. Final stake and tie P.I's for proposed centerline
  - e. Sanitary and storm structure Inspection Reports (assume 40)
  - f. Pick-up survey for locations of pavement cores and soil borings.
  - g. Pick-up survey throughout project duration (Assume 2 trips maximum).
  - h. Assume City of Bloomington notice to proceed such that field surveys can be completed before winter months and/or be delayed until spring 2016. Additional effort associated with winter survey conditions is not included in the scope of services.
2. Land Acquisition Surveying Document Preparation
- i. Right-of-Way Plans and Parcel Plat Development
    - a. Courthouse research and develop preliminary existing ROW/existing property line configuration in CADD from record information
    - b. Configure CADD model of existing ROW and property lines with field surveyed data.
    - c. Field check and pick-up survey
    - d. Review title letters, incorporate record data, easements, etc into ROW plans.
    - e. Coordination for proposed ROW and temporary easements configuration on CADD model.
    - f. Develop legal descriptions for 22 ROW and 22 TCE parcels
    - g. Annotate metes and bounds courses in CADD model.
    - h. ROW and Easement plan details, ties, general annotation and parcel plats (44 individual plats).
    - i. Create and file survey monument records (assume 3).
    - j. Obtain Title Commitments for twenty-two (22 parcels).

B. Environmental Studies: The assumed level of environmental processing is an Environmental Assessment (EA). The abbreviated EA format is assumed for this project, as described in the IDOT Bureau of Design and Environment (BDE) Manual, Chapter 24.

- 1. Prepare resource agency early coordination letters and a FHWA timeframes agreement.
- 2. Conduct a site reconnaissance visit to identify potential environmental resources in the project area.
- 3. Develop purpose and need statement.
- 4. Develop the alternatives analysis for the no-build and two build alternatives: at-grade and underpass.
- 5. Determine a preferred alternative.
- 6. Prepare an Environmental Survey Request (ESR) for biological, wetland and cultural resources review.
- 7. Perform a Preliminary Environmental Site Assessment (PESA).
- 8. Conduct a survey of trees to be removed by the preferred alternative.
- 9. Prepare Form AD-1006 for agricultural impacts.
- 10. Perform a traffic noise study for up to five receptors. No noise impacts are assumed; therefore, this scope of services does not include an evaluation of noise abatement measures.

11. IDOT will complete the COSIM analysis for air quality. Hanson will provide traffic data and intersection distances for the model inputs.
12. Prepare Draft EA (two revisions are assumed) and Final EA, including documentation on the following resource categories:
  - i. Community Impacts
  - ii. Agricultural
  - iii. Cultural Resources
  - iv. Air quality
  - v. Noise
  - vi. Natural Resources
  - vii. Water Resources and aquatic habitats
  - viii. Groundwater
  - ix. Floodplains
  - x. Wetlands
  - xi. Special Waste
  - xii. Special Lands
  - xiii. Permits/Certifications required
  - xiv. Other issues (aesthetics, construction impacts, etc)
  - xv. Environmental commitments and mitigation
  - xvi. Comments and Coordination
13. Develop a tree replacement plan, if required.
14. Prepare a Wetland Impact Evaluation (WIE) for wetland impacts, if required. Wetland banking is the assumed proposed mitigation method. This scope does not include wetland mitigation planning.
15. Prepare Errata.
16. Prepare Finding of No Significant Impacts (FONSI)

C. Geotechnical Study (by Ramsey Geotechnical Engineering):

1. Roadway subgrade/Embankment Borings:
  - i. Subgrade soil borings along roadway alignment at 300 foot spacing. In areas where moderate cut or fill amounts are anticipated, boring depths to a minimum of 6 feet below the roadway crown. Based on this criterion, ten (10) borings are proposed. Six (6) of the borings will be drilled to a depth of 10 feet and four (4) will be drilled to a depth of 20 feet.
  - ii. For pavement design, subgrade samples at every change in soil type or every 5 borings are to be obtained for the purpose of determining grain size distributions, plasticity characteristics and Illinois Bearing Ratio (IBR) values.
2. Bridge/Retaining Wall Borings:
  - i. Four (4) borings will be drilled near the ends of each assumed abutment location. The depth of these borings will be dependent upon the strength of the subsurface soils that are encountered. These borings are assumed to be drilled to a depth of 85 feet.
  - ii. Borings for retaining walls are required at spacings of 75 feet along the lengths of the walls. This proposal includes a total of eight (8) retaining wall borings. This will include two (2) borings near the center of and far ends of the retaining walls

on both sides of the roadway extending approximately 150 feet beyond both sides of the railroad tracks. Retaining wall boring depth requirements are to provide information to a depth of at least 2/3 of the anticipated wall height below the bottom of the wall footing. For sheet piling the boring depths should extend to a minimum of 2 times the exposed wall height. This proposal includes extending each of these borings to a depth of 25 feet below the existing ground surface.

3. Site Access and Coordination

- i. It is assumed that right of entry permission for any borings on private property, including NS property, will be obtained by the City.
- ii. Traffic control signs and permits necessary for borings along existing roadway right-of-way.

4. Laboratory Testing

- i. Samples retained from the borings will be examined by laboratory personnel to verify field descriptions and to estimate soil classifications in accordance with the Unified and/or IDOT Soil Classification Systems. Laboratory testing will include moisture content determinations, as well as hand penetrometer measurements of unconfined compressive strengths, as appropriate. Representative subgrade and borrow samples will be tested for Illinois Bearing Ratio (IBR) as well as Atterberg Limits and grain size analysis on representative soil types.

5. Report of Data Obtained:

- i. Field and laboratory test data will be summarized in engineering reports, to include computer generated boring logs, test data sheets and boring location plans. The report will address anticipated soil and groundwater conditions impacting design and construction of the improvements. They will also provide recommendations to guide the following design and construction issues:
  - Subgrade treatment of unsuitable or unstable soil types.
  - Anticipation and management of groundwater
  - Soil material and compaction requirements for support of pavement
  - Subgrade support value for pavement design
  - Bridge foundation design
  - Retaining wall foundation design

D. Location Drainage Study (by Clark Dietz, Inc)

1. Review Existing Drainage System.

- i. Prepare Location Map
- ii. Develop existing drainage plan
- iii. Identify drainage problems and potential corrective measures
- iv. Field reconnaissance (Assume 1 trip)
- v. Identify base floodplains
- vi. Data collection for major drainage features
- vii. Agency Coordination

2. Proposed Drainage System

- i. Identify drainage criteria
- ii. Outlet evaluation
- iii. Stormwater Detention Analysis

- iv. ROW analysis for drainage needs
    - v. Evaluate drainage alternatives - Assume 2 (at-grade and underpass)
    - vi. Proposed drainage plan sheets (15 sheets)
    - vii. Floodplain Encroachment Evaluation
    - viii. Water Quality / BMP Evaluation
    - ix. Combination Wetland/Detention Coordination
    - x. Identify required permits and data requirements for Phase II
    - xi. Agency Coordination
  - 3. Prepare Location Drainage Study Report (Includes assembly of report, submittal of draft version and one round of addressing review comments)
- E. Water Main Design Services (by Clark Dietz, Inc.)
- 1. Conceptual Water Main Design
    - i. Meeting with City
    - ii. Prepare conceptual water main routing
    - iii. Prepare budgetary estimate to be used for Phase I estimates
    - iv. Coordination
- F. Roadway Lighting Conceptual Design (by Clark Dietz, Inc.)
- 1. Conceptual Roadway Lighting Design
    - i. Meeting with City
    - ii. Prepare conceptual spacing layout along Hamilton Road
    - iii. Prepare budgetary estimate to be used for Phase I estimates
    - iv. Coordination
- G. Bridge Planning and Design Services
- 1. Project Coordination
    - i. Coordinate the conceptual bridge type and configuration with NS concerning their current standards and requirements for the design and construction of grade separation underpass structures. Early coordination with NS and compliance with their requirements will help to expedite the completion of design and construction reviews.
    - ii. Coordinate with NS on the requirements for the construction staging and sequencing of the grade separation structure. An agreed upon staging and sequencing plan will provide a better understanding of the constraints during construction and the associated costs with the staged construction process. Hanson will prepare a conceptual level drawing to show staging and shoring options.
    - iii. Two bridge engineers from Hanson will attend 2 meetings with NS, City of Bloomington and IDOT to review the four alternatives proposed for the underpass and construction sequencing required. The meetings are assumed to be in Bloomington, IL.
  - 2. Conceptual Bridge Design

- i. Four bridge types will be reviewed based on aesthetic, operational and economic considerations to determine the preferred design. Work shall include, for each option, preliminary engineering, the calculation of approximate quantities of major pay items for an opinion of probable construction cost, and preparation of conceptual level drawings of bridge plan, elevation and typical sections. Bridge types will be studied to determine a structure that will minimize the amount of excavation required for roadway below while providing for an adequate grade separation. The various bridge options to be reviewed are as follows:
  - Single span, steel deck plate girders on closed abutments
  - Three span, steel deck plate girders on piers and spill-through abutments
  - Two span, steel deck plate girders on piers and closed abutments
  - Four span, steel deck plate girders on piers and spill-through abutments
3. Conceptual Retaining Wall Design
  - i. Various conceptual retaining wall types will be reviewed based on site feasibility, aesthetics, geological conditions and economic evaluations to determine the preferred design. Work shall include, for each option, preliminary engineering, the calculation of approximate quantities of major pay items for an opinion of probable construction cost, and preparation of conceptual level drawings of retaining wall plan, elevation, and typical sections. Retaining wall types will be studied to determine a structure that will minimize the amount of construction excavation required while providing the necessary earth retention. The various retaining wall options to be reviewed are as follows:
    - Sheet pile wall with cast-in-place concrete facing
    - Soldier pile wall with cast-in-place concrete facing
    - Secant (or tangent) pile wall with cast-in-place concrete facing
    - Conventional cast-in-place concrete T-shaped wall
    - Mechanically Stabilized Earth (MSE) wall
4. Type, Size and Location (TSL) Drawings
  - i. After the preferred bridge and wall types are identified in the initial alternative analysis, Preliminary Type, Size, and Location (TS&L) drawings will be prepared for the bridge and for each wall, and submitted to the City of Bloomington, IDOT, and NS for review. (The Scope of services is limited to two wall types for the composition of the subject walls.) A Preliminary Bridge Design and Hydraulic Report (BLR 10210) will also be prepared for the bridge.
  - ii. Hanson will issue a response to the bridge and retaining wall preliminary TS&L review comments received from the project stakeholders. Hanson will issue final bridge and retaining wall TS&L drawings upon incorporation of the comments received. The scope of services includes one revision cycle during Phase I.

#### H. Railroad Track Coordination and Design Tasks

1. Project services are anticipated to include the following:
  - i. Develop track typical sections, including shoofly and storage yard tracks.
  - ii. Review or develop technical design criteria for track concepts. Design criteria will be based on NS track standards, AREMA recommendations, and other

- information requested of NS such as track charts, timetable, signal locations, operational considerations, temporary construction and staging requirements.
- iii. Plans will show signal locations and signal cabinet, but signal design is not included.
- iv. Provide and submit conceptual plan/profile for shoofly track to NS for review/comment.
- v. Provide and submit conceptual plan/profile for relocated storage tracks (evaluation of two locations) to NS for review/comment.
- vi. Contact and coordinate design effort with NS.
- vii. One engineer will attend up to two (2) meetings in Bloomington in concert with other project disciplines.
- viii. Review staging and constructability issues with other disciplines.
- ix. Estimate material quantities, provide an opinion of probable construction cost, and provide quality assurance.
- x. Address comments and issue approved conceptual track plans.

#### I. Traffic Impact Study:

1. Collect and review existing data
2. Perform three (3) peak hour traffic counts
3. Complete safety crash analysis
4. Prepare crash memorandum
5. Complete traffic projections
6. Prepare capacity analysis at up to three (3) intersections
7. Prepare queue analysis
8. Prepare signal/turn lane warrant analysis
9. Prepare Traffic Study Memorandum
10. Prepare Traffic Signal (Railroad) Report for review by NS and the City

#### J. Roadway Geometric Design

1. Review existing information
2. Identify alignment controls and design criteria
3. Design horizontal roadway alignment
4. Develop typical sections
5. Develop profile grade line for at-grade and underpass alternatives.
6. Develop cross sections at 50 foot intervals for alternatives
7. Identify ROW and Easement needs for each alternative
8. Identify utility conflicts for each alternative
9. Prepare Opinion of Probable Construction Costs (OPCC) for alternatives
10. Intersection Design Study (IDS) for Bunn Street and Hamilton Road
11. Intersection Design Study (IDS) for Commerce Parkway and Hamilton Road
12. Develop miscellaneous grading and geometric design
13. Identify Erosion protection areas.
14. Prepare Plan & Profile Sheets (10 sheets assumed)
15. Prepare Typical Section Sheets (4 sheets assumed)



16. Develop pavement design and life cycle cost
17. Prepare Maintenance of Traffic (MOT) exhibits for roadway and rail.
18. Prepare Project Development Report to IDOT for submittal and review.

K. Land Acquisition Appraisal and Relocation

1. Property Appraisal and Appraisal Review Services: Provide property appraisal services and review appraisal services in conformity with the IDOT Land Acquisition Guidelines and Uniform Standards of Professional Appraisal Practice (USPAP) associated with the proposed right-of-way, easement, and parcel purchases (as required). A total of twenty-two (22) properties will be appraised. Waiver valuations will be assumed for six (6) parcels and property appraisal/review appraisals will be assumed for sixteen (16) parcels. It is assumed that a City Engineer will complete IDOT's 3-hour online course in order to write the waiver valuations.
  - i. Appraisals and Appraisal Reviews
    - a. Hanson will provide the City with property appraisal services and review appraisal services for the above assumed properties. The appraisals will involve a visual inspection of the subject property and comparable properties in the market area, an analysis of market trends and the application of valuation methods to arrive at an opinion of market value based upon relevant market evidence.
    - b. If Hanson concludes, during parcel inspection or during the course of preparing the appraisal report for a parcel, that a more complex appraisal report is required, then Hanson and the City will negotiate new compensation amounts appropriate for the change in appraisal reports.
    - c. Hanson will provide the City with market data to support the City's preparation of a waiver valuation when a waiver valuation is appropriate for a parcel's acquisition.
  - ii. Negotiations
    - a. Hanson will prepare offer documents and conveyance documents for twenty-two (22) parcels as appropriate for the nature of property ownership. This effort will include an attempt to present the offer package in person to the property owner, if the property owner or their representatives are located near the project site, and a minimum of three personal contacts per parcel, if required, to reach a negotiated settlement.
    - b. In the event that settlement is reached, Hanson's negotiation efforts will be considered complete when the conveyance documents and documents to clear title encumbrances for each parcel are delivered to the City for approval and recording. In the event that settlement is not reached, Hanson's negotiation effort will be considered complete when each parcel is referred to the City for condemnation after attempts to negotiate the acquisition have failed and 120 days for the offer date have expired.
    - c. Hanson will initiate negotiations upon the City's certification of the parcels' review appraisals or upon the City's certification of waiver valuations.

- d. Hanson will prepare condemnation request packets, if necessary, if negotiations have failed and upon the direction of the City.
- 2. Relocation Services: Depending on the construction alternative that is selected, the relocation of up to four (4) commercial properties may be required. The relocation scope of services for each commercial parcel is as follows:
  - i. Conduct preliminary relocation interviews with business. The interview will determine the nature and use of the current business; factors necessary to continue business activity at a replacement site; special features associated with the current business operation; employee headcount and mortgage, rent or building financing arrangements; and displaced business' preferences in location and type of replacement business site. This survey will also include the relocation agent's viewing of the property (pictures of each property will be taken for documentation purposes).
  - ii. Search the real estate market to gather replacement property data. Identify the availability of comparable replacement properties that are appropriate and adequate for the needs of each displaced business. Data will include purchase costs and rental rates of available comparable properties.
  - iii. Draft and present a Project Relocation Plan for up to four (4) parcels that includes the following:
    - a. Results of preliminary interviews
    - b. Market research
    - c. Identification of potential problems and proposed solutions based on market research
    - d. Analysis of specific project area impacts, local real estate development, income and financing issues and other factors that could influence relocation activities.
    - e. Discussion of business site availability and special needs.
    - f. Discussion of anticipated complexity and time-demanding evacuation and moving expenses.
    - g. A copy of the interview and property photographs for each property will be included in the Relocation Plan.
  - iv. Provide relocation assistance for up to four (4) parcels:
    - a. Determine relocation eligibility after coordination with each displaced person.
    - b. Compute eligibility of monetary reimbursement amounts.
    - c. Present offers of eligibility to each displaced person.
    - d. Provide advisory services which include coordinating bids from moving companies.
    - e. Coordinate procuring bids from insured moving companies and/or estimate reimbursement for self-moves.
    - f. Direct residential displaced persons to available, comparable and affordable decent, safe and sanitary housing.
    - g. Assist displaced person with coordination of all documentation for claims processing.
    - h. Process relocation claims and submit claims to Client for Client's payment in accordance with IDOT policies and procedures and forward all

displaced persons' written requests for administrative review (appeals) to the Client.

- i. Maintain a Relocation Assistance Unit Record for each displaced person and a working file on each property.

L. Stakeholder Involvement and Coordination

1. Coordination with Norfolk Southern (6 meetings), IDOT/FHWA (3 Bi-Monthly Coordination Meetings), and with legal counsel (Ed Gower).
2. Interview four (4) primary stakeholders adjacent to project
3. Attend and facilitate two (2) public meetings.
4. Prepare project renderings
5. Prepare and coordinate newspaper advertisements
6. Prepare mailed announcements to stakeholders
7. Create displays for meetings.
8. Provide comment forms, name tags and sign-in sheets for meetings.
9. Prepare meeting minutes (assume 25 meetings will require minute preparation)
10. Update data base with comments
11. Respond to comments
12. Present at City Council Meetings (assume 2).

M. Illinois Commerce Commission (ICC) Coordination

1. Coordinate with ICC on issues related to proposed improvements
2. Prepare Location Map
3. Write portions of ICC Application
4. Coordination with City and Norfolk Southern (Attend 6 meetings with ICC)
5. Assist City with ICC Petition preparation
6. Assist City with Norfolk Southern Agreement
7. Prepare ICC Meeting Materials
8. Attend Practice Hearing with City
9. Attend ICC Hearing

N. Project Management

1. Project Startup / Project Management Plan
2. Preparation of Financial and Schedule Controls
3. Coordination with CITY including meeting minutes (assumes 3 meetings)
4. Project kick-off meeting with CITY
5. Reporting/Invoicing
6. Project Closeout

O. CITY Responsibilities

The City of Bloomington will perform or provide the following:

1. The City will make available digital files of aerial photographs, contours, and basic topography from the McLean County G.I.S. data.
2. The City will provide the copies of such construction plans as the City may have on file for existing infrastructure within the project limits.
3. The City will provide to Hanson with any existing traffic data currently available from the City database.
4. The City will provide to Hanson 5 years of crash reports for the study area.
5. The City will attend design meetings to be held at the City Public Works office. During each meeting, key elements of the project shall be identified including progress, schedule, submittal review, value engineering options and other design issues.

P. The following items are not included in the scope of work but could be provided as an addendum to the contract:

1. Preparation of Environmental Impact Statement.
2. Mitigation planning and design for environmental impacts.
3. Section 106 or Section 4(f) documentation or coordination.
4. Biological, wetland or cultural surveys.
5. Threatened and endangered species consultation
6. Preliminary Site Investigation (PSI) – to be conducted during the design phase, if required.
7. Section 404 Permit application – to be prepared and submitted during the design phase.
8. NEPA/404 merger meetings and coordination.
9. Permitting of proposed railroad shoo-fly or storage track relocations.
10. Agreement negotiations with NS related to the proposed roadway-railroad grade separation.
11. Preparation of Final Plans, Specifications and Estimates (PS&E)
12. Phase III Construction Services
13. Preparation of Record Drawing

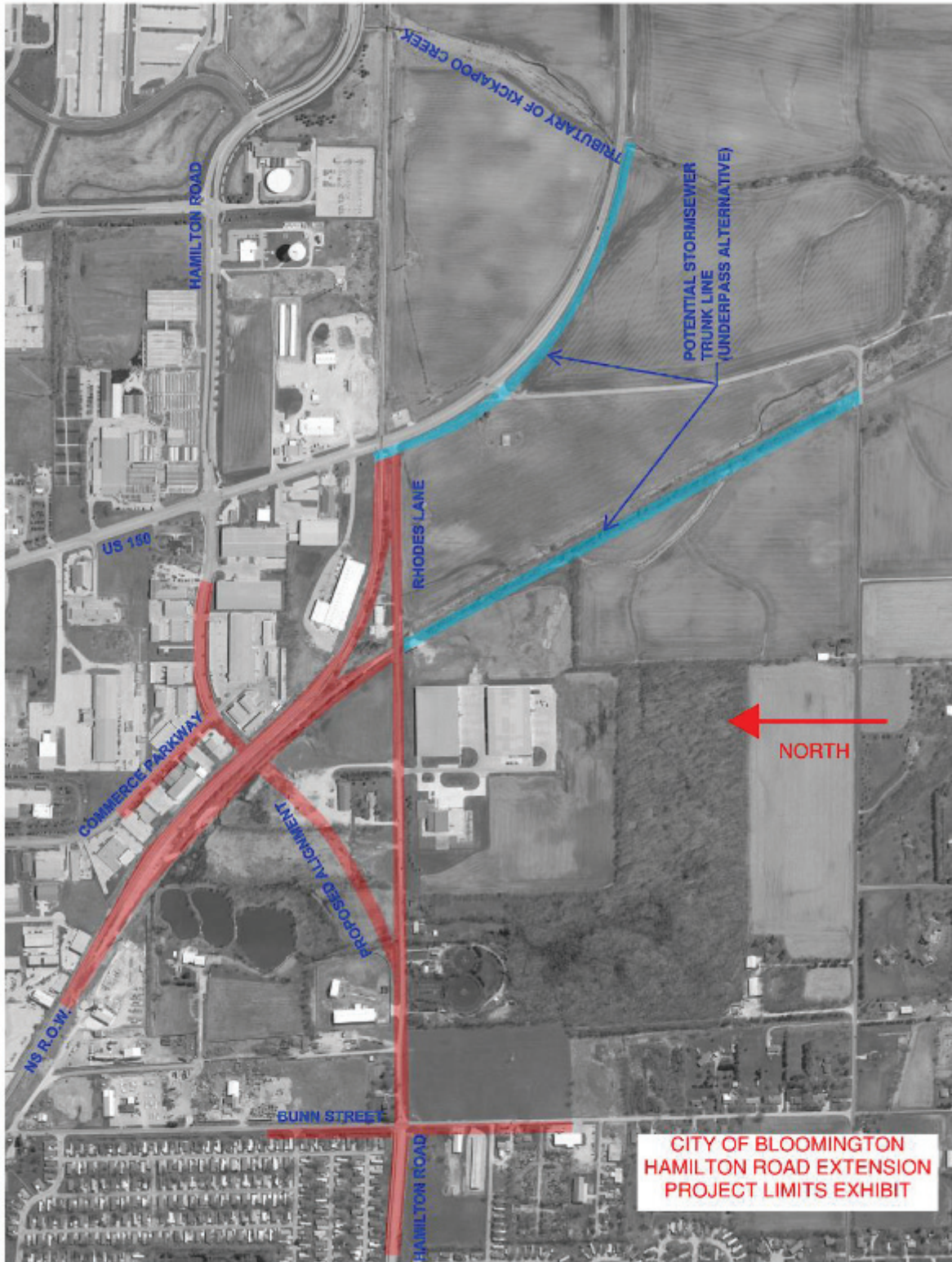
Addendum to Scope of Services  
City of Bloomington Public Works Department

Baseline Consultant Expectations:

1. Quality
  - a. The Consultant shall design with constructability and ease of maintenance in mind and consult with the City to determine the required level(s) of performance and service.
  - b. The quality of the construction plans shall reflect the percent complete when submitted to the City for review. All plans shall be reviewed for quality assurance / quality control prior to submittal to the City. The City will not design the project and shall resend back to the Consultant if the quality is substandard.
2. Customer Service / Communication
  - a. During initial design phases, Consultant will discuss material decisions with the City. Material decisions shall include all major components of the project. For example, pumps, electrical controls, software, pipe materials, pavement designs, signal materials and erosion protection.
  - b. Consistent communication with the Project Manager for the City is critical.
  - c. Communication through email is preferred for record keeping purpose.
  - d. If issues arise that prevent timelines from being met or cause additional costs in the design, it is critical that the consultant contact the city as soon as possible.
  - e. Electronic files shall be provided to the City upon completion of the design.
  - f. Quantity take-off and calculation sheets shall be provided for construction field inspection.
3. Project Management
  - a. Extensive field work throughout the design is expected. An onsite “plan in hand” meeting shall be scheduled with the City during appropriate phases of the design.
  - b. Consultants shall be expected to submit plans with sufficient time for City to provide an adequate review of the design. This City review time shall be built into the project schedule up front.
  - c. As-built information provided from previous construction plans shall be used to supplement survey data. Comprehensive survey data collection shall be done to verify as much field information as possible.
  - d. Consulting contracts shall include a timeline for completion of design. The timeline provided shall allow sufficient time for dealing with outside agencies and any public interaction.
  - e. Invoices submitted to the City shall include project percent complete on billing, design and timeline progression.
  - f. A monthly status report shall be provided which includes major items completed, major issues, potential extra work, change orders, out of scope issues, information required from the City and other relevant issues.

The Public Works Department shall hold an exit project interview upon the completion of the project construction. This meeting will discuss how the Consultant has performed in each of these three areas. Unfavorable performances shall impact the Consultant’s selection on future City projects.







ATTACHMENT B

HANSON PROFESSIONAL SERVICES INC.  
COST ESTIMATE OF CONSULTANT SERVICES

ATTACHMENT B: PAYMENT  
HAMILTON ROAD: BUNN STREET TO COMMERCE PARKWAY  
Section 16-00360-00-PV

The CITY agrees to pay the ENGINEER as compensation for all services rendered in accordance with this AGREEMENT, on the basis of the following compensation formulas with a maximum not to exceed \$986,084.52

Cost Plus Fixed Fee ☒ CPFF = 14.5%[DL + R(DL) + OH(DL) + IHDC]

Where:

- DL = Direct Labor
- IHDC = In House Direct Costs
- OH = Consultant Firm's Actual Overhead Factor
- R = Complexity Factor

# PAYROLL ESCALATION TABLE FIXED RAISES

FIRM NAME  
PRIME/SUPPLEMENT

Hanson Professional Services Inc.  
Prime

DATE 10/12/15  
PTB NO.

CONTRACT TERM  
START DATE  
RAISE DATE

36 MONTHS  
11/1/2015  
1/1/2016

OVERHEAD RATE  
COMPLEXITY FACTOR  
% OF RAISE

166.99%  
3.00%

## ESCALATION PER YEAR

11/1/2015 - 1/1/2016

2  
36

= 5.56%  
= 1.0561

1/2/2016 - 1/1/2017

12  
36

34.33%

1/2/2017 - 1/1/2018

12  
36

35.36%

1/2/2018 - 11/1/2018

10  
36

30.35%

The total escalation for this project would be:

5.61%

## PAYROLL RATES

FIRM NAME  
PRIME/SUPPLEMENT  
PSB NO.

Hanson Professional Se DATE  
Prime

10/12/15

ESCALATION FACTOR

5.61%

| CLASSIFICATION | CURRENT RATE | CALCULATED RATE |
|----------------|--------------|-----------------|
|                |              | \$0.00          |
| EAS VIII       | \$65.35      | \$69.01         |
| EAS VI         | \$52.10      | \$55.02         |
| EAS V          | \$39.60      | \$41.82         |
| EAS IV         | \$33.00      | \$34.85         |
| EAS III        | \$28.90      | \$30.52         |
| T VI           | \$29.40      | \$31.05         |
| A IV           | \$23.45      | \$24.76         |
|                |              | \$0.00          |
|                |              | \$0.00          |
|                |              | \$0.00          |
|                |              | \$0.00          |
|                |              | \$0.00          |
|                |              | \$0.00          |
|                |              | \$0.00          |
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|                |              | \$0.00          |
|                |              | \$0.00          |
|                |              | \$0.00          |
|                |              | \$0.00          |
|                |              | \$0.00          |
|                |              | \$0.00          |

## COST ESTIMATE OF CONSULTANT SERVICES

**Hanson Professional Services Inc.**

DATE \_\_\_\_\_

OVERHEAD RATE  
COMPLEXITY FACTOR

$$\frac{1.6699}{0}$$

**PSB  
PRIME/SUPPLEMENT**

[illegible]

Printed 10/13/2015

**PREPARED BY THE CONSULTANT**

**DBE**  
Bureau of Design and Environment (Rev. 07/07/15)

FIRM Hanson Professional Services Inc.  
PSB  
PRIME/SUPPLEMENT Prime

SHEET 1 OF 5

Bureau of Design and  
Environment (Rev. 07/07/15)



**FIRM** Hanson Professional Services Inc.  
**PSB** \_\_\_\_\_  
**PRIME/SUPPLEMENT Prime** \_\_\_\_\_

10/12/15

2 OF 5

TOTALS

**FIRM** Hanson Professional Services Inc.  
**PSB** \_\_\_\_\_  
**PRIME/SUPPLEMENT** Prime

SHEET 3 OF 5

Bureau of Design and  
Environment (Rev. 07/07/15)





COMPANY NAME: **Hanson Professional Services Inc.**

PTB NUMBER: \_\_\_\_\_

TODAY'S DATE: **9/23/2015**

| ITEM                                                  | ALLOWABLE                                                                             | UTILIZE<br>W.O. ONLY | QUANTITY<br>J.S. ONLY | CONTRACT<br>RATE | TOTAL       |
|-------------------------------------------------------|---------------------------------------------------------------------------------------|----------------------|-----------------------|------------------|-------------|
| Per Diem (per GOVERNOR'S TRAVEL CONTROL BOARD)        | Up to state rate maximum                                                              |                      |                       | \$0.00           | \$0.00      |
| Lodging (per GOVERNOR'S TRAVEL CONTROL BOARD)         | Actual cost (Up to state rate maximum)                                                |                      |                       | \$0.00           | \$0.00      |
| Air Fare                                              | Coach rate, actual cost, requires minimum two weeks' notice, with prior IDOT approval |                      |                       | \$0.00           | \$0.00      |
| Vehicle Mileage (per GOVERNOR'S TRAVEL CONTROL BOARD) | Up to state rate maximum                                                              |                      | 12,900                | \$0.58           | \$7,417.50  |
| Vehicle Owned or Leased                               | \$32.50/half day (4 hours or less) or \$65/full day                                   |                      |                       | \$0.00           | \$0.00      |
| Vehicle Rental                                        | Actual cost (Up to \$55/day)                                                          |                      |                       | \$0.00           | \$0.00      |
| Tolls                                                 | Actual cost                                                                           |                      |                       | \$0.00           | \$0.00      |
| Parking                                               | Actual cost                                                                           |                      |                       | \$0.00           | \$0.00      |
| Overtime                                              | Premium portion (Submit supporting documentation)                                     |                      |                       | \$0.00           | \$0.00      |
| Shift Differential                                    | Actual cost (Based on firm's policy)                                                  |                      |                       | \$0.00           | \$0.00      |
| Overnight Delivery/Postage/Courier Service            | Actual cost (Submit supporting documentation)                                         |                      |                       | \$0.00           | \$0.00      |
| Copies of Deliverables/Mylars (In-house)              | Actual cost (Submit supporting documentation)                                         |                      |                       | \$0.00           | \$0.00      |
| Copies of Deliverables/Mylars (Outside)               | Actual cost (Submit supporting documentation)                                         |                      |                       | \$0.00           | \$0.00      |
| Project Specific Insurance                            | Actual cost                                                                           |                      |                       | \$0.00           | \$0.00      |
| Monuments (Permanent)                                 | Actual cost                                                                           |                      |                       | \$0.00           | \$0.00      |
| Photo Processing                                      | Actual cost                                                                           |                      |                       | \$0.00           | \$0.00      |
| 2-Way Radio (Survey or Phase III Only)                | Actual cost                                                                           |                      |                       | \$0.00           | \$0.00      |
| Telephone Usage (Traffic System Monitoring Only)      | Actual cost                                                                           |                      |                       | \$0.00           | \$0.00      |
| CADD                                                  | Actual cost (Max \$15/hour)                                                           |                      |                       | \$0.00           | \$0.00      |
| Web Site                                              | Actual cost (Submit supporting documentation)                                         |                      |                       | \$0.00           | \$0.00      |
| Advertisements                                        | Actual cost (Submit supporting documentation)                                         |                      | 1                     | \$400.00         | \$400.00    |
| Public Meeting Facility Rental                        | Actual cost (Submit supporting documentation)                                         |                      |                       | \$0.00           | \$0.00      |
| Public Meeting Exhibits/Renderings & Equipment        | Actual cost (Submit supporting documentation)                                         |                      | 1                     | \$22,600.00      | \$22,600.00 |
| Recording Fees                                        | Actual cost                                                                           |                      |                       | \$0.00           | \$0.00      |
| Transcriptions (specific to project)                  | Actual cost                                                                           |                      |                       | \$0.00           | \$0.00      |
| Courthouse Fees                                       | Actual cost                                                                           |                      |                       | \$0.00           | \$0.00      |
| Storm Sewer Cleaning and Televising                   | Actual cost (Requires 2-3 quotes with IDOT approval)                                  |                      |                       | \$0.00           | \$0.00      |
| Traffic Control and Protection                        | Actual cost (Requires 2-3 quotes with IDOT approval)                                  |                      |                       | \$0.00           | \$0.00      |
| Aerial Photography and Mapping                        | Actual cost (Requires 2-3 quotes with IDOT approval)                                  |                      |                       | \$0.00           | \$0.00      |
| Utility Exploratory Trenching                         | Actual cost (Requires 2-3 quotes with IDOT approval)                                  |                      |                       | \$0.00           | \$0.00      |
| Testing of Soil Samples*                              | Actual cost                                                                           |                      |                       | \$0.00           | \$0.00      |
| Lab Services*                                         | Actual cost (Provide breakdown of each cost)                                          |                      |                       | \$0.00           | \$0.00      |
| Equipment and/or Specialized Equipment Rental*        | Actual cost (Requires 2-3 quotes with IDOT approval)                                  |                      |                       | \$0.00           | \$0.00      |
| Environmental Documentation Report (EDR)              |                                                                                       |                      | 1                     | \$300.00         | \$300.00    |
| Printing (Reports, Coordination Submittals, etc)      |                                                                                       |                      | 1                     | \$800.00         | \$800.00    |
| Traffic Counts                                        |                                                                                       |                      | 1                     | \$2,700.00       | \$2,700.00  |
|                                                       |                                                                                       |                      |                       | \$0.00           | \$0.00      |
|                                                       |                                                                                       |                      |                       | \$0.00           | \$0.00      |
|                                                       |                                                                                       |                      |                       | \$0.00           | \$0.00      |
|                                                       |                                                                                       |                      |                       | \$0.00           | \$0.00      |
|                                                       |                                                                                       |                      |                       | \$0.00           | \$0.00      |
|                                                       |                                                                                       |                      |                       | \$0.00           | \$0.00      |
| TOTAL DIRECT COST                                     |                                                                                       |                      |                       |                  | \$34,217.50 |

\*If other allowable costs are needed and not listed, please add in the above spaces provided.

**LEGEND**

W.O. = Work Order

J.S. = Job Specific

ATTACHMENT C

CLARK DIETZ, INC.

SUBCONSULTANT COST PROPOSAL (CPFF FORMAT)

PAYROLL ESCALATION TABLE  
FIXED RAISES

FIRM NAME  
PRIME/SUPPLEMENT

Clark Dietz, Inc.  
Sub-Consultant to Hanson

DATE 10/13/15  
PTB NO. \_\_\_\_\_

CONTRACT TERM  
START DATE  
RAISE DATE

11 MONTHS  
2/1/2015  
1/1/2016

OVERHEAD RATE  
COMPLEXITY FACTOR  
% OF RAISE  
181.95%  
0  
3.00%

ESCALATION PER YEAR

2/1/2015 - 1/1/2016

11  
11

= 100.00%  
= 1.0000

The total escalation for this project would be:

0.00%

## PAYROLL RATES

FIRM NAME Clark Dietz, Inc. DATE 10/13/15  
PRIME/SUPPLEMENT Sub-Consultant to Hanson  
PSB NO. \_\_\_\_\_

ESCALATION FACTOR 0.00%

| CLASSIFICATION             | CURRENT RATE | CALCULATED RATE |
|----------------------------|--------------|-----------------|
| Principal/Project Director | \$70.00      | \$70.00         |
| Sr. Project Manager        | \$61.91      | \$61.91         |
| Project Mngr. / Sr. Engr.  | \$53.11      | \$53.11         |
| Project Engineer           | \$45.44      | \$45.44         |
| Engineer                   | \$39.34      | \$39.34         |
| Senior Technician          | \$34.47      | \$34.47         |
| Technician                 | \$28.99      | \$28.99         |
| Administrative             | \$26.06      | \$26.06         |



DF-824-039  
REV 12/04

**Sub-Consultant to Hanson**

DBE





**COMPANY NAME:** Clark Dietz, Inc.

PTB NUMBER:

TODAY'S DATE:

[illegible]

*\*If other allowable costs are needed and not listed, please add in the above spaces provided.*

### LEGEND

W.O. = Work Order

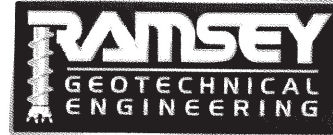
J.S. = Job Specific

ATTACHMENT D

RAMSEY GEOTECHNICAL ENGINEERING  
SUBCONSULTANT COST PROPOSAL (CPFF FORMAT)

September 22, 2015

Mr. Kurt Bialobreski  
Hanson Professional Services Inc.  
7625 North University Street  
Peoria, IL 61614



1701 W. Market Street  
Bloomington, Illinois 61701  
P 309-821-0430  
F 309-821-1242

RE: Geotechnical Engineering Services  
Hamilton Road Extension  
Bunn Street to Commerce Parkway  
Bloomington, Illinois

Dear Mr. Bialobreski:

In accordance with our September 21, 2015 telephone conversation and your email transmittal on the same date, Ramsey Geotechnical Engineering LLC (RGE) is pleased to submit this proposal to provide Geotechnical Engineering Services for the captioned project. The purpose of this Geotechnical Study is to explore the existing subsurface soil and groundwater conditions and provide recommendations regarding design/construction of the roadway and associated improvements.

#### **Project Background:**

We understand that the portion of the project that is the subject of this evaluation will consist of the extension of Hamilton Road from the Bunn Street intersection northeast to the intersection with Commerce Parkway. The total length of the new roadway will be approximately 3,000 feet. We anticipate that this section of roadway will provide two lanes of traffic in each direction. The route of the roadway crosses undeveloped property that is currently being used primarily for industrial purposes. Included in the improvements may be a bridge which will provide a crossing for Hamilton Road below the existing railroad tracks located just west of Commerce Parkway. New retaining walls may also be required through this crossing. For the purposes of this proposal, we have estimated that the retaining walls will extend approximately 150 feet in both directions beyond the existing tracks and on both sides of the roadway.

#### **Site Work:**

The soil exploration phase of the study will include roadway subgrade borings and structure borings at the railroad crossing retaining wall locations. The following summarizes the general purpose and expected depth for each of the borings. The number and depth of borings are generally based on current Illinois Department of Transportation (IDOT) criteria.

#### **Roadway Subgrade/Embankment Borings**

In accordance with IDOT criteria, subgrade soil borings for final design are to be completed along the roadway alignment at spacings of 300 feet. In areas where moderate cut or fill amounts are anticipated, boring depths to a minimum of 6 feet below the crown grade are required. For pavement design, subgrade samples at every change in soil type or every 5 borings are to be obtained for the purpose of determining grain size distributions, plasticity characteristics and Illinois Bearing Ratio (IBR) values. Based upon this criteria, our proposal includes ten (10) borings. We have assumed that six (6) of these borings will be drilled to a depth of 10 feet and four (4) will be drilled to a depth of 20 feet.

### Bridge/Retaining Wall Borings

In order to allow for an evaluation of a possible deep foundation system for a bridge at the railroad crossing, four (4) borings will be drilled near the ends of each abutment. The depth of these borings will be dependent upon the strength of the subsurface soils that are encountered. For the purposes of this proposal, we have assumed that each of these borings will be drilled to a depth of 85 feet.

In accordance with IDOT criteria, borings for retaining walls are required at spacings of 75 feet along the lengths of the walls. Based upon this criteria, our proposal includes a total of eight (8) retaining wall borings. This will include two (2) borings near the center of and far ends of the walls on both sides of the roadway extending approximately 150 feet beyond both sides of the railroad tracks. Retaining wall boring depth requirements are to provide information to a depth of at least 2/3 of the anticipated wall height below the bottom of the wall footing. For sheet piling the boring depths should extend to a minimum of 2 times the exposed wall height. For the purposes of this estimate, we propose extending each of these borings to a depth of 25 feet below the existing ground surface.

### Site Access/Coordination

We have completed a limited reconnaissance to evaluate site conditions and to determine the equipment necessary to perform the soil borings. Items to be considered include access through industrial property and roadway right of way. For the purpose of this proposal, we have assumed that right of entry permission for any borings on private property will be obtained by others. We have also assumed that the borings will be staked in the field and coordinates with ground surface elevations will be obtained by Hanson Professional Services Inc.

Borings will be required along a portion of the right-of-way of the existing Hamilton Road. This may result in the need for traffic control signs and permits to satisfy City of Bloomington criteria. RGE will obtain permits as required. RGE will also provide traffic control signs and personnel, as required. Estimated fees for these items are provided with this proposal.

Our proposal assumes that borings for the structures at the railroad crossing will be located an adequate distance away from the active tracks so that permits or right of entry agreements will not be required.

Utility clearance for the borings to be made will be obtained by RGE beforehand by contacting JULIE (Joint Utility Locating Information for Excavators), local municipalities and the customary agencies.

### **Laboratory Testing**

Samples retained from the borings will be examined by laboratory personnel to verify field descriptions and to estimate soil classifications in accordance with the Unified and/or Illinois Department of Transportation (IDOT) Soil Classification Systems. Laboratory testing will include moisture content determinations, as well as hand penetrometer measurements of unconfined compressive strength, as appropriate. Representative subgrade and borrow samples will be tested for Illinois Bearing Ratio (IBR) as well as Atterberg Limits and grain size analysis on representative soil types.



**Report of Data Obtained:**

Field and laboratory test data will be summarized in engineering reports, to include computer generated boring logs, test data sheets and boring location plans. The report will address anticipated soil and groundwater conditions impacting design and construction of the improvements. They will also provide recommendations to guide the following design and construction issues.

- Subgrade treatment of unsuitable or unstable soil types.
- Anticipation and management of groundwater.
- Soil material and compaction requirements for support of pavements.
- Subgrade support value for pavement design.
- Bridge foundation design.
- Retaining wall foundation design.

**Fees and Limitations:**

Our fee estimate to provide the referenced Geotechnical Engineering Services is provided on the IDOT Cost Plus Fixed Fee Cost Estimate of Consultant Services spread sheet which is included with this proposal. Should the study reveal unexpected subsurface conditions requiring a change in scope, you will be contacted before we proceed with further work. Our invoice will be based on the unit rates included on the attached Fee Estimate.

We look forward to being of service to you on this project.

Respectfully Submitted,  
RAMSEY GEOTECHNICAL ENGINEERING LLC

Douglas P. Ramsey, P.E.

# PAYROLL ESCALATION TABLE ANNIVERSARY RAISES

FIRM NAME  
PRIME/SUPPLEMENT

Ramsey Geotech. Eng.  
\_\_\_\_\_

DATE  
PTB NO. 09/23/15  
Hamilton Rd

OVERHEAD RATE  
COMPLEXITY FACTOR  
% OF RAISE

192.30%  
0  
3.00%

CONTRACT TERM  
START DATE  
RAISE DATE

6 MONTHS  
ANNIVERSARY

## ESCALATION PER YEAR

### DETERMINE THE MID POINT OF THE AGREEMENT

3

### CALCULATE THE ESCALATION FACTOR TO THE MIDPOINT OF THE CONTRACT

0.75%

The total escalation for this project would be: 0.75%

## PAYROLL RATES

FIRM NAME  
PRIME/SUPPLEMENT  
PTB NO.

Ramsey Geotech. Eng.      DATE

09/23/15

**Hamilton Rd**

ESCALATION FACTOR 0.75%

[illegible]

**COST PLUS FIXED FEE  
COST ESTIMATE OF CONSULTANT SERVICES**

**FIRM**

Ramsey Geotech. Eng.

**Hamilton Rd**

PRIME/SUPPLEMENT

DATE \_\_\_\_\_

OVERHEAD RATE  
COMPLEXITY FACTOR

1.923

---

0[illegible]

**FIRM** Ramsey Geotech. Eng.  
**PTB** Hamilton Rd  
**PRIME/SUPPLEMENT**

SHEET 1 OF 5

Bureau of Design and  
Environment (Rev. 04/03/15)

**PREPARED BY THE CONSULTANT**





# Illinois Department of Transportation

## Direct Costs Check Sheet

Firm Name: Ramsey Geotechnical Engineering LLC

PTB/Item No: Hamilton Road

REQUIRED – DIRECT COSTS WILL ONLY BE ACCEPTED FOR INCLUSION IN CONTRACT WHEN DOCUMENTED ON THIS FORM  
(Indicate only rate and quantities for this specific project.)

| Item                                                           | Allowable                                                                    | Contract (1)<br>Rate | Quantity<br>(n/a for work<br>orders) | Total      |
|----------------------------------------------------------------|------------------------------------------------------------------------------|----------------------|--------------------------------------|------------|
| Per Diem                                                       | Up to State Rate Maximum                                                     | \$28.00              |                                      | \$0.00     |
| Lodging (Overnight)                                            | Up to State Rate Maximum                                                     | \$70.00              |                                      | \$0.00     |
| Lodging (Extended)                                             | Actual Cost (based on IDOT's and firm's policy)                              |                      |                                      | \$0.00     |
| Air Fare Coach Rate (with two weeks' notice)                   | As Approved                                                                  |                      |                                      | \$0.00     |
| Vehicles:                                                      |                                                                              |                      |                                      | \$0.00     |
| Mileage                                                        | Up to State Rate Maximum                                                     |                      |                                      | \$0.00     |
| Daily Rate (owned or leased)                                   | \$45/day                                                                     |                      |                                      | \$0.00     |
| Overtime                                                       | (Premium Portion)                                                            |                      |                                      | \$0.00     |
| Tolls                                                          | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Digital Photo Processing                                       | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Photo Processing                                               | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Cell Phones – (traffic systems, survey, phase III only)        | \$70/month/phone (maximum) – Phase III (max. of three without IDOT approval) |                      |                                      | \$0.00     |
| Telephone Usage (traffic system monitoring)                    | Actual Cost                                                                  |                      |                                      | \$0.00     |
| 2-Way Radio (survey or phase III only)                         | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Overnight Delivery/Postage/Courier Service                     | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Copies of Deliverables/Mylars (in-house)                       | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Copies of Deliverables/Mylars (outside)                        | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Specific Insurance (required for project)                      | Actual Cost                                                                  |                      |                                      | \$0.00     |
| CADD                                                           | Actual Cost (max. \$15.00/hour)                                              |                      |                                      | \$0.00     |
| Monuments (permanent)                                          | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Advertisements                                                 | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Web Site                                                       | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Facility Rental for Public Meetings & Exhibits/Renderings & AV | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Transcriptions (specific to project)                           | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Recording Fees                                                 | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Courthouse Fees                                                | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Testing of Soil Samples                                        | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Lab Services                                                   | Actual Cost                                                                  |                      |                                      | \$0.00     |
| Classification and Moisture Content                            | Each                                                                         | \$9.75               | 254.00                               | \$2,476.50 |
| Washed Sieve Analysis                                          | Each                                                                         | \$80.00              |                                      | \$0.00     |
| Particle Size Analysis With Hydrometer                         | Each                                                                         | \$125.00             | 12.00                                | \$1,500.00 |
| Atterberg Limit Determination                                  | Each                                                                         | \$75.00              | 12.00                                | \$900.00   |
| Organic Content (L.O.I. & Wet Combustion)                      | Each                                                                         | \$72.50              | 5.00                                 | \$362.50   |
| Standard Proctor                                               | Each                                                                         | \$150.00             | 3.00                                 | \$450.00   |
| Illinois Bearing Ratio                                         | Each                                                                         | \$150.00             | 3.00                                 | \$450.00   |
| Consolidation Test                                             | Each                                                                         | \$400.00             |                                      | \$0.00     |
| Unconfined Compression Test                                    | Each                                                                         | \$11.00              |                                      | \$0.00     |
| Dry Unit Weight                                                | Each                                                                         | \$5.50               |                                      | \$0.00     |
| Storm Sewer Cleaning and Televising                            | Actual Cost (requires 2-3 quotes)                                            |                      |                                      | \$0.00     |
| Traffic Control and Protection                                 | Actual Cost (requires 2-3 quotes)                                            | \$100.00             | 1.00                                 | \$100.00   |
| Aerial Photography and Mapping                                 | Actual Cost (requires 2-3 quotes)                                            |                      |                                      | \$0.00     |



| Item                                                                | Allowable                                                   | Contract (1)<br>Rate | Quantity<br>(n/a for work<br>orders) | Total       |
|---------------------------------------------------------------------|-------------------------------------------------------------|----------------------|--------------------------------------|-------------|
| Utility Exploratory Trenching                                       | Actual Cost (requires 2-3 quotes)                           |                      |                                      | \$0.00      |
| Shift Differential                                                  | Actual Cost (based on firm's policy)                        |                      |                                      | \$0.00      |
| PROJECT Site Travel                                                 | Actual Cost (based on IDOT's and firm's policy)             |                      |                                      | \$0.00      |
|                                                                     | Actual Cost (requires 2-3 quotes)                           |                      |                                      | \$0.00      |
|                                                                     | Actual Cost (requires 2-3 quotes)                           |                      |                                      | \$0.00      |
|                                                                     | Include 2-3 vendor quotes and explanation for<br>necessity. |                      |                                      | \$0.00      |
| Drill Rig Mobilization                                              | Each                                                        | \$150.00             | 1.00                                 | \$150.00    |
| Advance Soil Borings, 0-30 Foot Depth, Sample<br>at 2.5' Intervals  | Foot                                                        | \$12.55              | 460.00                               | \$5,773.00  |
| Advance Soil Borings, 30-50 Foot Depth, Sample<br>at 2.5' Intervals | Foot                                                        | \$15.00              |                                      | \$0.00      |
| Advance Soil Borings, 30-50 Foot Depth, Sample<br>at 5' Intervals   | Foot                                                        | \$13.00              | 80.00                                | \$1,040.00  |
| Advance Soil Borings, 50-75 Foot Depth, Sample<br>at 5' Intervals   | Foot                                                        | \$20.00              | 100.00                               | \$2,000.00  |
| Advance Soil Borings, > 75 Foot Depth, Sample at<br>5' Intervals    | Foot                                                        | \$25.00              | 40.00                                | \$1,000.00  |
| Setup to Rock Core                                                  | Each                                                        | \$315.00             |                                      | \$0.00      |
| Rock Coring With NX Core Barrel                                     | Foot                                                        | \$36.50              |                                      | \$0.00      |
| 3" Thin Walled Tube Sampling                                        | Each                                                        | \$31.25              |                                      | \$0.00      |
| Grouting Bore Holes                                                 | Foot                                                        | \$5.25               |                                      | \$0.00      |
| Casing Installation for Rock Coring                                 | Foot                                                        | \$10.50              |                                      | \$0.00      |
| TOTAL                                                               |                                                             |                      |                                      | \$16,202.00 |

1) Used to determine upper limit of compensation for direct cost. Unless maximum is specified under allowable, bill at actual cost.

ATTACHMENT E

InVISION STUDIOS

COST PROPOSAL FOR RENDERING WORK

**PROPOSAL FOR SERVICES RENDERED**

|           |                                                    |
|-----------|----------------------------------------------------|
| Project:  | Hamilton Road Extension and RR Crossing            |
| Date:     | September 21, 2015                                 |
| Contract  | 15-033 HAN                                         |
| Client:   | Hanson Professional Services Inc.                  |
| Contact:  | Cindy Loos                                         |
| Phone:    | Office: 309-713-1402                               |
| Billing   | 7625 N. University St., Suite 200 Peoria, IL 61614 |
| Email:    | CLoos@hanson-inc.com                               |
| Due Date: | na (2016)                                          |

The following proposal describes visualization services to be provided by inVISION Studios for **Hanson Professional Services Inc.**, hereafter referred to as "client".

inVISION Studios proposes to produce two (2) computer generated video simulations realistically representing two alternate design solutions for the proposed extension of Hamilton Road from Bunn Street to Morrissey including a new proposed railroad crossing and underpass options in Bloomington, IL.

From client provided plans and specifications & independent research, inVISION will produce accurate roadway extension and railroad crossing / underpass models depicting two design scenarios. The roadway and infrastructure model will include proposed contours & vegetation, underpass infrastructure, pavement textures, signage, railroad tracks, crossing gates/signals, and roadway details (guard rails, barriers, curbs, reflectors, etc.). When producing two alternate design scenario models, the unchanged portions of the model will be reutilized in order to reduce production time and cost. The surrounding model will depict adjacent architecture visible within the final video frame, general contours and vegetation. Adjacent buildings will be realistically photo-mapped and distant site details will be represented by satellite imagery. Additional elements will include simulated train cars & animated crossing gate/signals.

A variety of general vehicle traffic will be imported from client provided VISSIM data and converted / enhanced to show circulation patterns throughout the extension and crossing / underpass and placed in the scene. A low resolution preview representing site details and simulated traffic will be provided for the client's review prior to final processing.

The final processing will generate a variety of still images as requested and two (2) 1280x720 resolution video sequences, each approximately a minute in duration. Post-production services, such as the placement of titles and credits throughout the video sequences will be provided. Upon completion of video processing and post-production, the full sequence will be compressed and encoded into MP4 format for the client use and duplication.

**Total production cost (not to exceed without client's consent):** **\$17,600.00\***

\*Changes requested in writing and authorized by client after acceptance of this proposal may require adjusting the completion schedule and/or increasing/decreasing the proposed cost. **First time clients will be invoiced 25% of the estimated production cost with the balance invoiced and due upon completion.**



*inVISION Studios*  
13705 North Ivy Lake Road  
Chillicothe, Illinois 61523  
309-579-3500  
twaldsch@invisionstudios.com  
  
www.invisionstudios.com

**ACCEPTED:**

The above is intended as a summary of our agreement for the performance of the work described. Please examine same carefully and, if accurate, indicate your approval and acceptance in the space provided below. The undersigned hereby states that they are the person or duly authorized agent of the person or organization contracting for the above services on the above described project; and that the terms and conditions stated are understood and herewith agreed to and accepted. inVISION Studios is hereby authorized to proceed with the services outlined above. Unless otherwise noted, payment in full is due within 15 days of the invoice date or as otherwise noted by inVISION Studios. All accounts not paid per terms are subject to a finance charge of 1.5% per month.

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

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

\_\_\_\_\_  
(Print Name & Title)



[illegible]



[illegible]



Hamilton Road Extension: Bunn Street to Commerce Parkway  
RFQ NO. 2015-23  
MFT Section No. 16-00360-00-PV

Engineering firms providing, "Statement of Qualifications" in response to City's "Request for Qualifications".

1. Farnsworth Group
2. Hanson Professional Services
3. McClure Engineering
4. Knight E/A, Inc.
5. Hutchison Engineering, Inc.
6. Kaskaskia Engineering Group, LLC

Engineering firms selected for interview following review of all "Statement of Qualifications".

1. Hanson Professional Services
2. Farnsworth Group



BE IT RESOLVED, by the \_\_\_\_\_ of the  
 \_\_\_\_\_ Council or President and Board of Trustees  
 City of \_\_\_\_\_ Illinois  
 \_\_\_\_\_  
 City, Town or Village

| Name of Thoroughfare | Route | From        | To               |
|----------------------|-------|-------------|------------------|
| Hamilton Road        |       | Bunn Street | Commerce Parkway |
|                      |       |             |                  |
|                      |       |             |                  |
|                      |       |             |                  |
|                      |       |             |                  |
|                      |       |             |                  |

Specify Contract or Day Labor

BE IT FURTHER RESOLVED, that the Clerk is hereby directed to transmit two certified copies of this resolution to the district office of the Department of Transportation.

BLR 09111 (Rev. 11/06)

 **CITY OF**  
*Bloomington* **ILLINOIS**  
**REGULAR AGENDA ITEM NO. 8C-b**

FOR COUNCIL: October 26, 2015

**SUBJECT:** Consideration of approving an application for the Hamilton Gap project (Bunn Street to Commerce Parkway) for One Voice advocacy program.

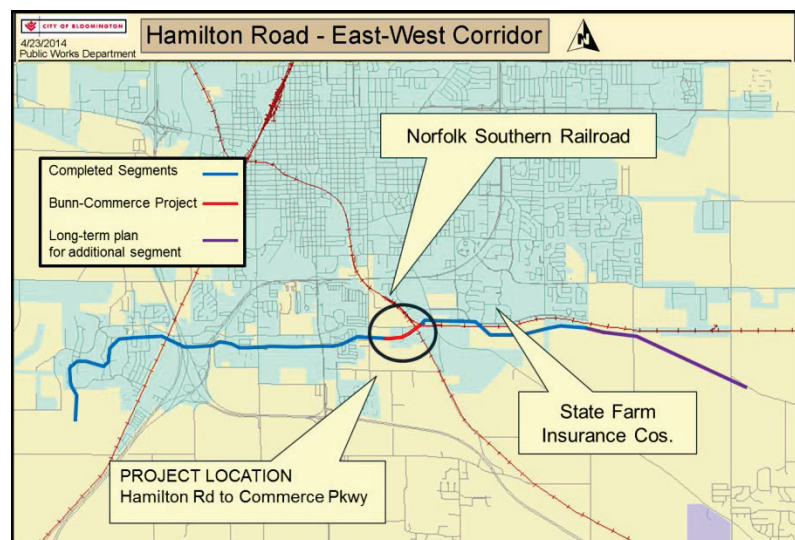
**RECOMMENDATION/MOTION:** That Council approve an application be submitted to the Bloomington-Normal Economic Development Council on behalf of the City of Bloomington to advocate for the Hamilton Road project as part of the One Voice initiative.

**STRATEGIC PLAN LINK:** 3. Grow the Local Economy, and 5. Great Place – Livable, Sustainable City.

**STRATEGIC PLAN SIGNIFICANCE:** 3e. Strong working relationship among the City, businesses, and economic development organizations and 5a. Well-planned City with necessary services and infrastructure.

**BACKGROUND:** Hamilton Road improvement has been at the forefront of City infrastructure work as the City strives to create an East-West Corridor south of Veterans Parkway. As shown in the adjacent map, the City has nearly completed a 7.2 mile improvement, for \$20.57 million.

However, the last 3,000 feet, from Bunn Street to Commerce Parkway, is vital and expensive. Our current estimate is \$14.5 million, assuming the City builds an at-grade railroad crossing rather than a bridge. A bridged crossing would increase the project cost to approximately \$25.9 million.



The City believes current residents, future residents, existing businesses and future business, will benefit greatly, and the City believes those benefits extend beyond City boundaries to the economic and transportation benefit of McLean County as a whole.

The Bloomington-Normal Economic Development Council (EDC) annually leads a contingency to Washington, D.C., to discuss economic needs. Staff asks that the Council support application to the EDC of the Hamilton Road project. If the EDC approves the application, the contingency will advocate for federal funding for the project during the One Voice trip, March 1-3, 2016. The deadline for application is November 30, 2015.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** The City contacted stakeholders when applying for a TIGER grant in 2014. Numerous businesses and public officials supported the application.

**FINANCIAL IMPACT:** A staff study by Community Development calculated that development north and south of the Hamilton Road project area could house 11 to 33 commercial users and produce \$1.5 million to \$2.5 million in annual property tax revenue for all taxing bodies combined. A report on the economic analysis is attached.

Respectfully submitted for Council consideration.

Prepared by: Stephen Arney, Public Works Administration

Reviewed by: Jim Karch, PE, CFM, Director of Public Works

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla A. Murillo, Budget Manager

Legal review by: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:



David A. Hales, City Manager

**Attachments:**

- Project Overview
- One Voice application
- Economic Impact analysis

Motion: That Council approve an application be submitted to the Bloomington-Normal Economic Development Council on behalf of the City of Bloomington to advocate for the Hamilton Road project as part of the One Voice initiative.

Motion: \_\_\_\_\_ Seconded by: \_\_\_\_\_

|                  | Aye | Nay | Other |                    | Aye | Nay | Other |
|------------------|-----|-----|-------|--------------------|-----|-----|-------|
| Alderman Black   |     |     |       | Alderman Mwilambwe |     |     |       |
| Alderman Buragas |     |     |       | Alderman Painter   |     |     |       |
| Alderman Fruin   |     |     |       | Alderman Sage      |     |     |       |
| Alderman Hauman  |     |     |       | Alderman Schmidt   |     |     |       |
| Alderman Lower   |     |     |       |                    |     |     |       |
|                  |     |     |       | Mayor Renner       |     |     |       |



CITY OF BLOOMINGTON, ILLINOIS

# HAMILTON ROAD

Bunn Street  
To Commerce Parkway

**PAGE 1  
PROJECT  
SUMMARY**

**PAGE 2  
QUALITY  
OF LIFE**

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IMPACT**

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TIMETABLE**

**PAGE 5  
CORRIDOR  
EXHIBIT**

## **CLOSING THE GAP:** Finishing a south side transportation corridor



Prepared October 2015 by the City of Bloomington for the Bloomington-Normal Economic Development Council for possible inclusion in the One Voice campaign.





## PROJECT SUMMARY

The southern portions of Bloomington have faced transportation challenges and, not coincidentally, development challenges. To address the absence of west-east options, the City has spent more than \$20 million to improve Hamilton Road in three phases spanning more than a decade. The fourth phase is envisioned, but it poses a financial obstacle that the City cannot overcome without partnership.

This fourth phase is Hamilton Road, from Bunn Street to Commerce Parkway, and it is the subject of this request for inclusion in the 2016 One Voice initiative. It will complete a 7.2-mile upgrade.

### Scope

The project spans 3,000 feet. It entails:

- Converting a portion of Rhodes Lane from rural and two lanes into a new segment of Hamilton Road with urban standards and four lanes.
- Building a segment of four-lane roadway to tie together two existing sections of Hamilton Road.
- Constructing 3,000 feet of Constitution Trail.
- Building an at-grade crossing of the Norfolk Southern railroad (or bridging the railroad property and nearly doubling the project cost).
- Relocating three railroad storage/staging areas (“sidings”).
- Closing a dangerous intersection: The junction of Morrissey Drive, Rhodes Lane and the Norfolk Southern railroad.

**Estimated Cost:** \$14.5 million for the preferred option of an at-grade railroad crossing.

### Previous federal application

The City of Bloomington sought federal assistance through a TIGER grant in 2014. In 2015, the City decided against applying and instead backed the Connect Transit-McLean County proposal for a Connect Transit station and McLean County Jail expansion.



# QUALITY OF LIFE

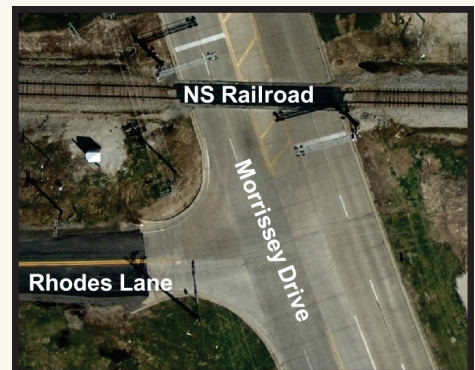


**Accessibility:** Improved transportation is the core motive for this project. The Hamilton Road project will improve travel to and from State Farm's south campus, State Farm Park and numerous small businesses. The project will relieve stress on Veterans Parkway by adding a west-east transportation option and will create multi-modal options in south Bloomington. Users and potential users include residents from an array of neighborhoods in southwest, south and southeast Bloomington; Unit 5 parents, bus drivers and employees; McLean County residents; and City and County government employees. Connect Transit is a potential user.

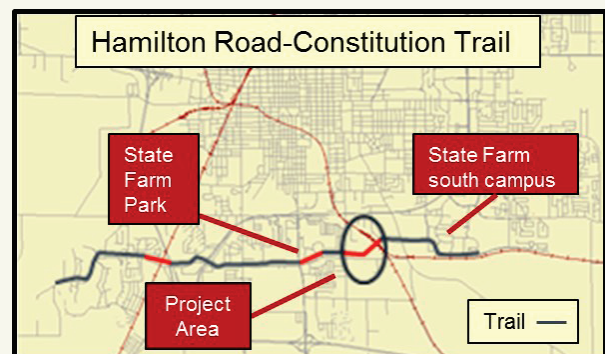
**Multi-modal dead end:** Bicyclists and pedestrians currently have no route across the Hamilton Road Gap, except a narrow rural road with little shoulder and no sidewalk. This gap also means no potential transit bus route exists south of Veterans Parkway to connect east and west Bloomington.

*A traffic study estimates that the Hamilton Road project will produce a savings of 165 hours of travel time daily.*

**Safety:** Because of the Hamilton Road Gap, motorists must detour off Hamilton Road. Many use Rhodes Lane and Morrissey Drive. The Rhodes/Morrissey/Norfolk Southern intersection is among the more dangerous in the city and will be eliminated as part of this project by closing Rhodes Lane near the intersection. A traffic study recorded 5,300 to 6,100 vehicles using Rhodes Lane daily.

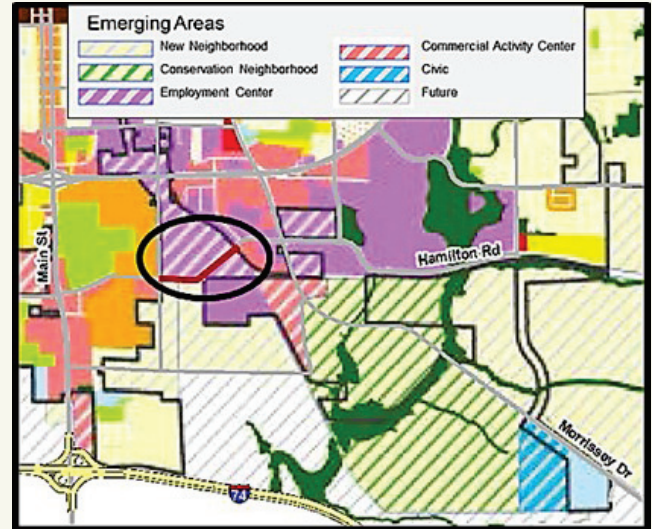
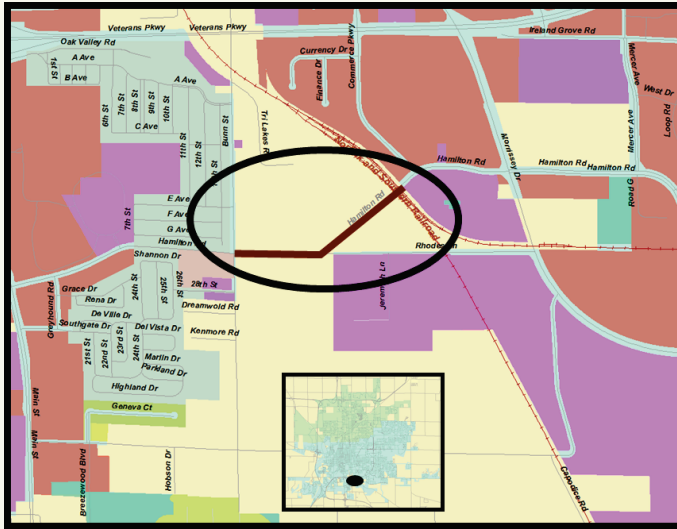


**Health and recreation:** A 3,000-foot segment of pedestrian/bike trail will run parallel to Hamilton Road, filling a void in non-vehicular transportation and recreation options connecting the south side of Bloomington. State Farm Park and the State Farm south campus are two anchors that will become linked by closing this gap in the Constitution Trail.



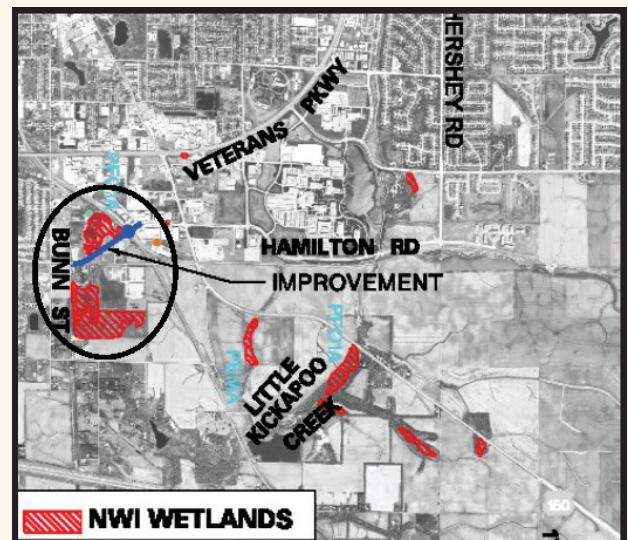
# ECONOMIC IMPACT

**Preliminary assessment:** The city's Economic Development office measured a potential for 235 acres of development north and south of the project as a result of the project. To gauge impact, the City used two existing commercial structures as comparables: Alexander Lumber on Hamilton Road and State Farm research and flex buildings on Rhodes Lane. The department calculated that development north and south of the Hamilton Road project area could house 11 to 33 commercial users and produce \$1.5 million to \$2.5 million in annual property tax revenue for all taxing bodies combined.

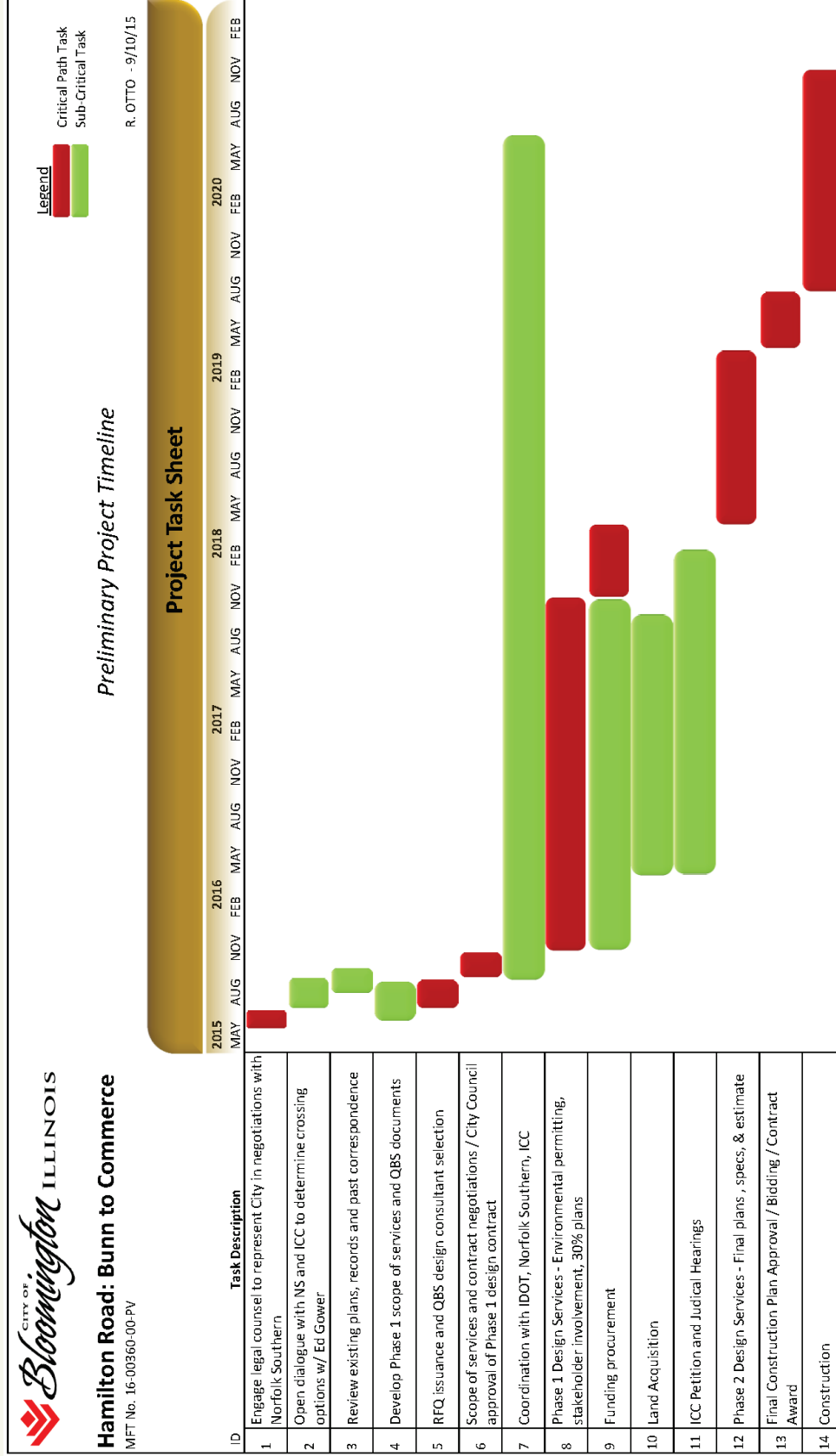


**Zoning and land use:** Property surrounding the project area is zoned for business, manufacturing and manufactured homes. Areas in tan on the map above/left are lightly developed and not annexed into Bloomington. The Land Use Map for the Bloomington Comprehensive Plan (approved in 2015) envisions annexations and development of these areas. Proposed uses are “employment centers” with office, industrial or manufacturing uses; commercial activity centers; and new neighborhoods. A portion of the Comprehensive Plan Land Use Map is extracted above/right, and the Hamilton Road project has been overlaid onto the map and circled.

**Wetlands study needed:** The U.S. Fish & Wildlife Services produces a National Wetlands Inventory (NWI). The map at right extracts a portion of the NWI, and the Hamilton Road project area has been denoted in blue and circled. Designated wetland areas must be investigated in order to develop a resource management plan. The presence of the wetlands could affect the type and nature of development.



# The current timetable places project construction in 2020-2021



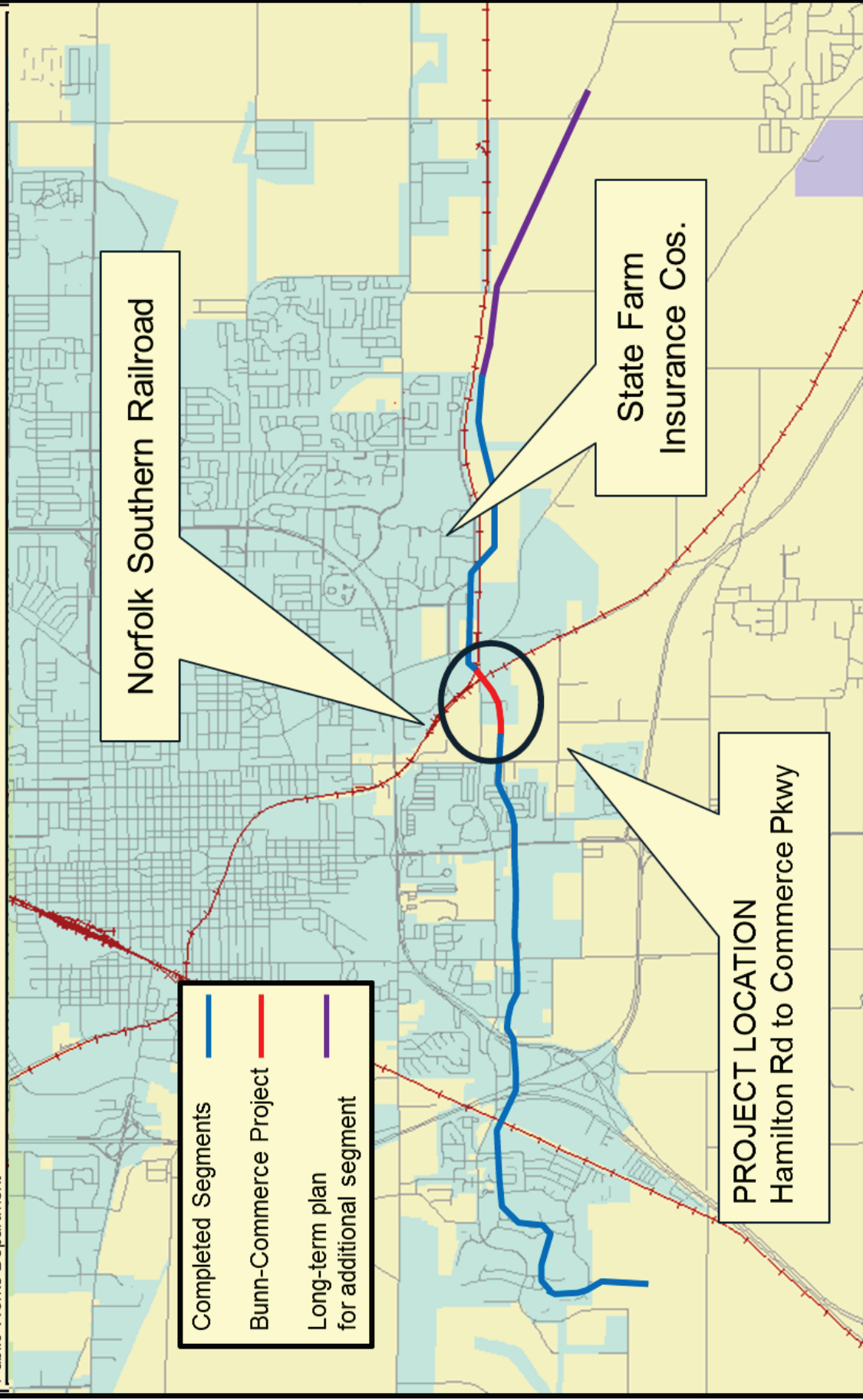




4/23/2014

Public Works Department

# Hamilton Road - East-West Corridor







One Voice 2016  
Application

Project

Please complete this form and return it to the Bloomington-Normal Economic Development Council, 200 W. College Ave., Suite 402, Normal, IL 61761 or email to: [amy@bnbiz.org](mailto:amy@bnbiz.org). **Must be received by noon on Monday, November 30, 2015.**

Project Name: Closing the Gap: Hamilton Road, Bunn Street to Commerce Parkway

Submitting Organization: City of Bloomington, Illinois

Project Contact: City Manager David A. Hales

Address: 109 E. Olive Street, Bloomington, IL 61701

Email: [Dhales@cityblm.org](mailto:Dhales@cityblm.org)

Phone: (309) 434-2210

Please list any additional organizations that are cooperating on this project (if applicable):

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I) Project Costs/Funding

Total project cost: \$14,500,000.

Amount being requested through federal appropriations: \$11.6 million (80%)

What percent of matching funds are available for project: \$2.9 million (20%)

Please list other funding received/requested (amount, funding source, date received-if applicable) and how you plan to finance the remainder of the project cost:

The City's local match could be covered with unrestricted capital funds, state Motor Fuel Tax funds, city Motor Fuel Tax funds or borrowed funds. Since 2003, the City has expended more than \$20 million on other phases of the Hamilton Road project.

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## II) Project Description

A. In the space provided, please provide a summary of the project:

The Hamilton Road project marks the final phase of a 7.2 mile construction project to complete a west-east arterial road across south Bloomington. The Closing the Gap project spans 3,000 feet. It entails:

- Converting a portion of Rhodes Lane from rural and two-lanes into a new segment of Hamilton Road with urban standards and four lanes.
- Building a segment of four-lane roadway to tie together two existing sections of Hamilton Road.
- Constructing 3,000 feet of Constitution Trail Bloomington-Normal's 37-mile biking/running/walking trail. .
- Building an at-grade crossing of the Norfolk Southern railroad (or bridging the railroad property and nearly doubling the project cost).
- Relocating three railroad storage/staging areas ("sidings").
- Closing a dangerous intersection: The junction of Morrissey Drive and Rhodes Lane south of the Norfolk Southern railroad.

*Please see the attached document for additional information.*

B. In the space provided, please describe how this project meets the initial One Voice criteria of 1) improving local quality of life and 2) having an economic development impact in McLean County:

The proposed project improves Quality of Life by improving accessibility, health and safety.

- Accessibility is improved to various parts of Bloomington from the south. Hamilton Road is the only arterial roadway south of Veterans Parkway and this final portion, Bunn to Commerce, is required. Without it now, Hamilton Road to the west transitions to inadequate rural construction at Rhodes Lane and a dangerous intersection at Rhodes Lane and Morrissey Drive. The project improves safety. To the west, Hamilton Road now dead ends at Commerce Parkway. Multi-modal options do not exist at the Hamilton Road gap. The circuitous routes needed because of this gap result in extra vehicle loads on other streets, including Veterans Parkway, Morrissey Drive and Rhodes Lane, and makes the area unviable for transit buses.
- Health and Recreation. Trail construction completes a vital link between east and west for recreational users and for residents who rely on bicycles as a primary means of transportation. Also, the project reduces driving time in the City by an estimated 165 hours per day and consequently reduces vehicle emissions.

Economic Development impact includes increased viability of undeveloped land and better access to existing commercial properties. The City calculated that development north and south of the Hamilton Road project area could house 11 to 33 new commercial users and produce \$1.5 million to \$2.5 million in annual property tax revenue for all taxing bodies combined. Improved traffic safety will mean reduced loss of property from vehicular collisions and potential reduction in loss of life from vehicular accidents.

*Please see the attached document for additional information.*

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C. Have you had a discussion with your congressional representative about federal funds available for the project?

Yes. The City applied for a federal TIGER grant in 2014. The Congressman at that time, Aaron Schock, wrote a letter of support for the TIGER application. Congressman LaHood has not yet been formally contacted regarding the project.

April 24, 2014

Kevin Kothe  
City Engineer  
City of Bloomington - Public Works Department, Engineering Division  
P.O. Box 3157  
Bloomington, IL 61702-3157

Re: Economic Impact Analysis – Hamilton Road – Bunn Street to Commerce Parkway

Dear Kevin,

As it pertains to the application for TIGER 6 Grant funding in the amount of \$14.5 million, or assistance to secure other federal funds to make this strategic project a reality, please consider this letter as further demonstration of the critical role that this plan would play as it pertains to economic development within the boundaries of the City of Bloomington. The potential fiscal impact that would ensue as a direct result of the extension of Hamilton Road from Bunn Street to Commerce Parkway would stimulate positive effects on property, sales and other tax revenue streams, thus relieving the burden on individual tax payers within the area.

Specifically, an expansion of Hamilton Road from Bunn Street to Commerce Parkway would serve to make 63 acres directly north and 173 acres directly south of Hamilton Road, for a total of 235 acres, available for immediate development. As such, please consider the following comparable developments within the southeastern quadrant of the community as a means to determine the financial benefits that could ensue as a direct result of this project.

1. Cost Estimate-Hamilton Road – Bunn Street to Commerce Parkway: \$14.5M

Comparable:

State Farm

- Total acres: 20
- Total parcel billing (2012 payable in 2013): \$224,291
- City receives roughly 13.5% of the total tax bill (2012 payable in 2013): \$30,279

Reasoning:

So, under the Cost Estimate-Hamilton Road – Bunn Street to Commerce Parkway; service to 235 total acres immediately adjacent to the proposed Hamilton Road extension, it stands to reason that:

- Cost estimate for the road extension is \$14.5M
- Number of similar new businesses that can be built because of this road extension (i.e. 20 acres): 11

Economic Impact:

Therefore, \$2,467,201 could be generated in new property tax revenue under the proposed road extension; \$333,072 of the \$2,467,201 will go directly to the City of Bloomington

2. Cost Estimate-Hamilton Road – Bunn Street to Commerce Parkway: \$14.5M

Comparable:

Alexander Lumber

- Total acres: 7
- Total parcel billing (2012 payable in 2013): \$44,127
- City receives roughly 13.5% of the total tax bill (2012 payable in 2013): \$5,957

Reasoning:

So, under the Cost Estimate-Hamilton Road – Bunn Street to Commerce Parkway; service to 235 total acres immediately adjacent to the proposed Hamilton Road extension, it stands to reason that:

- Cost estimate for the road extension is \$14.5M
- Number of similar new businesses that can be built because of this road extension (i.e. 7 acres): 33

Economic Impact:

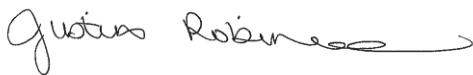
Therefore, \$1,456,158 could be generated in new property tax revenue under the proposed road extension; \$196,581 of the \$1,456,158 will go directly to the City of Bloomington

Another factor that should be considered within this analysis is the potential generation of sales tax revenue. Given that this information is of a confidential nature, no such estimates have been provided. However, sales tax plays a crucial role in maintain the economic stability of our community. In fact, 16% of the City's general fund revenue relies on the generation of sales tax and having recently navigated through a recession with the loss of sales tax revenue, the City is pressed to find alternative means of funding to support critical services.

Finally, property owners and businesses within the proposed area of development have been requesting the expansion of Hamilton Road for several years. They state that this project is vital to the success of their enterprises and to the betterment of the community as a whole. As such, it is with strong conviction that I recommend the pursuit of TIGER 6 Grant funding in the amount of \$14.5M for the proposed expansion of Hamilton Road from Bunn Street to Commerce Parkway as an economic driver for the City of Bloomington.

Please let me know if there are any questions, comments or concerns with this assessment.

Sincerely,



Justine Robinson  
Economic Development Coordinator  
City of Bloomington



**CITY COUNCIL MEETING AGENDA - REVISED**

**CITY COUNCIL CHAMBERS**

**109 E. OLIVE STREET, BLOOMINGTON, IL 61701**

**MONDAY, OCTOBER 26, 2015 7:00 P.M.**

**CONSENT ADDITION:**

- L. Consideration of approving an Ordinance Amending Chapter 40 of the City of Bloomington Code Regulating Taxicabs and Vehicles for Hire (Downtown Shuttles). *(Recommend that the Ordinance Amending Chapter 40 of the Bloomington City Code regulating taxicabs and vehicles for hire be adopted.)* **Copy of the Ordinance is provided for the paper packet only; electronic version already made available.**

**REGULAR AGENDA ADDITION:**

- 8D. Consideration of potential action and/or Staff Direction on Sick Leave Buyback Options. *(Recommend discussion and consideration of options regarding payment of sick leave buyback to its grandfathered employees and provide direction or otherwise approve a Resolution directing staff to continue exploring policies that limit the City's pension liabilities and evaluate the City's overall benefit structure.)*

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**NOTE:** Action may be taken by the City Council on the agenda's action items (those items listed on the Consent Agenda and Regular Agenda) beyond the motions listed and/or staff recommendations. Ordinances and resolutions listed on the agenda may further be amended and/or revised prior to adoption by the City Council. No action will be taken if the agenda item is listed as only informational.





## REGULAR AGENDA ITEM: 8D

FOR COUNCIL: October 26, 2015

SUBJECT: Consideration of potential action and/or Staff Direction on Sick Leave Buyback Options

**RECOMMENDATION/MOTION:** Recommend discussion and consideration of options regarding payment of sick leave buyback to its grandfathered employees and provide direction or otherwise approve a Resolution directing staff to continue exploring policies that limit the City's pension liabilities and evaluate the City's overall benefit structure.

**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1a. Budget with adequate resources to support defined services and level of services.

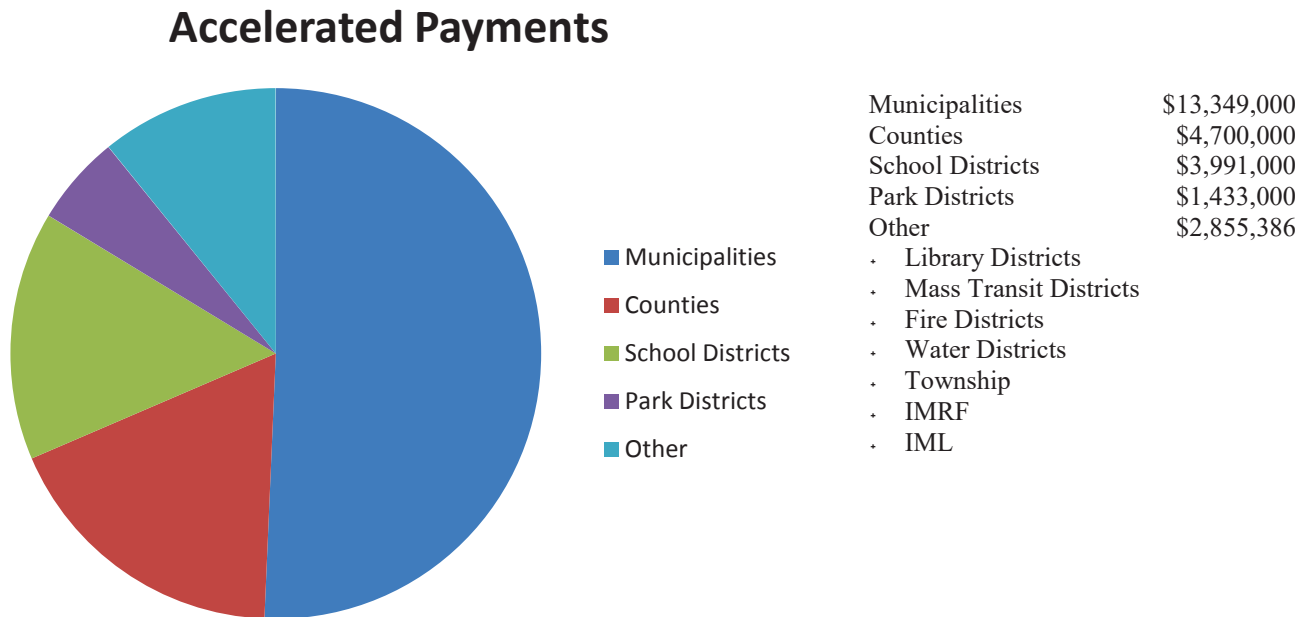
**BACKGROUND:** At the City Council meeting on August 25, 2015, the Council discussed options to address the costs associated with the method used to pay sick leave buyback hours ("SLBB") to grandfathered employees participating in the Illinois Municipal Retirement Fund ("IMRF"). In 1995, the City began to allow eligible employees to structure their SLBB payments in a manner that increased the value of the employees' pensions. The City began implementing new policies stopping payment of SLBB altogether starting in 2009. However, approximately 250 grandfathered employees still accrue SLBB and are currently allowed to structure the payout of any accrued sick leave over a three-month period immediately preceding retirement or termination of employment. Any such payouts are paid to a post-retirement health savings account and are not paid directly to the employees (an exception exists for those employees in the ASFME Local 699). However, the payouts are counted for purposes of IMRF's calculation of the grandfathered employees' final rate of earnings, thus impacting the value of their pensions.

Note that City's sworn police and fire employees do not participate in IMRF and any SLBB they earn or accrue does not count toward or otherwise impact their pensions.

In 2012, the Pension Code was amended to require any participating entity in IMRF to pay the "present value" of certain pension benefits (also known as an "accelerated payment") if the reported earnings in any 12-month period in the final earnings period exceeds those from the previous 12-month period by the greater of 6% or 1.5 times the increase in the CPI-urban. Note that this is not a penalty, but instead is an upfront payment required under the pension system in lieu of paying the amount over 26 years with the remainder of the pension liability/payments (at higher interest).

The exceptions to the accelerated payment requirements are limited and this 2012 law has had a wide-spread impact on public bodies throughout the State of Illinois. In fact, as a result of this law, IMRF employers have paid over \$26,000,000 in accelerated payments, with another

approximate \$6,000,000 being paid or due and owing. In addition to the City, over 450 public bodies across the State of Illinois have made these payments. A breakdown, by public body type, of the aggregate cost of accelerated payments is as follows:



As mentioned, the exceptions to the law are limited. For instance, the City could have continued the structured payout of the “present value” pension liability associated with SLBB over 26 years had it adopted a policy addressing SLBB for future classified employees prior to January 1, 2012. However, this exception would only have addressed less than 30% of the grandfathered employees. The remaining employees are in union contracts and the exception for those employees required the contracts to be in existence prior to January 1, 2012 and still be in existence (i.e., the same contract) at the time of the assessment. Accordingly, the narrow exception for those employees covered in union contracts creates the bulk of the liability for the present value payments.

In the City’s situation, the bulk of the accelerated payments required to be paid has resulted from how the City pays out SLBB. Again, where grandfathered employees have accrued a significant amount of SLBB, the structured payouts of the SLBB often increase the value of the employee’s earnings beyond the 6% threshold requiring the City to pay present value of any amount beyond the 6% increase. Either way, the City is paying the pension, but under the 2012 law, the City now has to pay the present value of the excess in advance upon separation of the employee instead of simply having the excess included in the 26-year payout period.

Staff estimates there are approximately 250 current grandfathered employees that would potentially be eligible for the structured SLBB payout if they stay with the City long enough. In reality, however, this number should be significantly less, due to the fact that a grandfathered employee is not eligible to receive the SLBB benefit until he/she has seventy-five (75) years of combined service and age with a minimum of fifteen (15) years of continuous service as a City

employee. The chart below indicates the number of grandfathered employees and their current accrued sick leave:

| Sick Leave Hours (banked) | Number of Potential Grandfathered Employees |
|---------------------------|---------------------------------------------|
| < 100 Hours               | 41                                          |
| 100 to 199 Hours          | 18                                          |
| 200 to 299 Hours          | 26                                          |
| 300 to 399 Hours          | 18                                          |
| 400 to 499 Hours          | 24                                          |
| 500 to 599 Hours          | 14                                          |
| 600 to 699 Hours          | 15                                          |
| 700 to 799 Hours          | 6                                           |
| 800 to 899 Hours          | 8                                           |
| 900 to 960 Hours          | 67                                          |
| 961 to 1440 Hours         | 15                                          |

Note that the number of grandfathered employees within chart to the left is likely to change over time. Specifically, many employees will never achieve the strict eligibility requirements (i.e., 75 years of combined age and service with 15 years of continuous service). Of those who become eligible, some may earn more sick leave and others may utilize or draw down the sick leave hours currently banked. Accordingly, the chart merely serves as a snapshot in time.

The IMRF liability for each employee varies by the projected value of their pension at the time of their retirement and depends on the length of service, age at retirement, salary, payable banked sick leave and vacation time. Accordingly, it is very difficult to ascertain the overall IMRF liability for the remaining grandfathered employees as it relates to sick leave buy back. There were notably some recent very high payments for director level employees who had higher salaries, very long terms of service and banked hours of sick leave (1440 under the old rules) and vacation. These payments, however, are not the norm and City staff believes the great majority of these have now been cycled through. As an example, based on a recent retirement, the City may expect to pay an accelerated payment of about \$22,000 for an employee in a union making about \$60,000, even with 960 hours of banked sick leave. Overall and on average, these accelerated payments are expected to make up a relatively small percentage of the City's annual IMRF pension contributions going forward.

If the City were to change how SLBB is paid out to grandfathered employees and not pay it until two months after the employee retires, the payment would not be included in IMRF's pension calculations, and, thus, the City's overall pension liability would be reduced. However, several employees and union leaders have challenged the legality of enforcing such a change. Specifically, employees and union leaders have cited recent Illinois Supreme Court cases holding that if something qualifies as a benefit of the enforceable contractual relationship resulting from membership in one of the State's pension or retirement systems, it cannot be diminished or impaired. The question of whether past City policies or collective bargaining agreements addressing how and when SLBB is paid are part of the enforceable contractual relationship resulting from membership in IMRF would likely be a question of first impression for the courts. We expect that the City's implementation of any change to the method used to pay SLBB is likely to result in litigation.

### **SLBB Policy Options**

- (1) *Require any new sick leave earned by grandfathered employees be paid two months after separation effective January 1, 2016, or later.*

Under this option, the City would enact a new policy providing that, effective January 1, 2016, or later, any new sick leave earned by grandfathered employees must be paid in a lump sum two months after the employee leaves or retires from the City. This policy would focus only on *new* SLBB earned and could further provide, if desired, a grace period for implementation. SLBB earned prior to the effective date could be paid through a structured payout. If the Council desires to pursue this option, a motion would be in order to direct staff to draft the ordinance with appropriate effective date.

- (2) *Require SLBB be paid with final paycheck*

If the City Council desires to end the practice of allowing SLBB to be structured as a multi-month payout for all SLBB accrued, as well as earned in the future. However, City staff recommends such a policy be effective January 1, 2019, to allow a grace period for those near retirement and planning for same. Such a policy would require SLBB to be paid with an eligible employee's final paycheck prior to retirement, in the form of the proposed alternate ordinance attached, in conformance with the intent of the 125% Rule discussed in the previous City Council memo. To effectuate the ordinance, the City Manager will provide notice to all grandfathered employees impacted by the change, describing any permitted transition period preceding the effective date of the ordinance. Upon the effective date, all SLBB would be paid out with the eligible employee's last payroll check. If the Council desires to pursue this option, a motion would be in order to direct staff to draft the ordinance with appropriate effective date.

- (3) *Adopt a Resolution restating the City's position against pension enhancements, directing staff to continue working on policies to lower the City's overall pension liabilities, and directing staff to complete a review of the City's benefit packages in comparison to other public and private sector entities.*

City staff has been working with representatives from the Illinois Municipal League and IMRF, as well as local legislators, to discuss legislative initiatives that could alleviate the impact of the accelerated payment requirement on the resources of public bodies, while also addressing general pension liabilities related to unused, accumulated sick leave, vacation or other similar hours. Pension legislation is often controversial and no guarantees can be made that any relief can be obtained. However, we do foresee potential proposals coming forward and at least a discussion on this during the next legislative session. During this interim time, the Human Resources Department is also looking at a complete restructuring of benefits, including comparisons with the types of benefits provided by the private sector and other municipalities. Part of this analysis will include discussion on whether the City should move to a paid time off ("PTO") system. Accordingly, the City Council may desire to essentially table any action on this matter and instead adopt a resolution formalizing its position against pension enhancements and direct staff to continue the work already underway. A sample resolution is attached.

- (4) *Other Options*

The Council is free to consider and discuss other options. However, staff would encourage any other options to be fully vetted so that the Council can be made aware of all surrounding issues.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Multiple meetings were held with City employees on this matter and with union leadership. A meeting was also held with representatives from the Illinois Municipal League, Illinois Municipal Retirement Fund, and local legislators.

**FINANCIAL IMPACT:** It is difficult to assess the financial impact of these options at this time. Staff will reassess after receiving guidance from the City Council on which option to pursue.

Respectfully submitted for Council consideration.

Prepared by: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:

David A. Hales, City Manager

**Attachments:** Attachment 1: Resolution  
Attachment 2: October Presentation  
Attachment 3: SLBB Meeting Notes  
Attachment 4: L699 Letter  
Attachment 5: Supreme Court Ruling

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Motion:      Seconded by:

|                    | Aye | Nay | Other |                  | Aye | Nay | Other |
|--------------------|-----|-----|-------|------------------|-----|-----|-------|
| Alderman Black     |     |     |       | Alderman Painter |     |     |       |
| AldermanHauman     |     |     |       | Alderman Sage    |     |     |       |
| Alderman Fruin     |     |     |       | Alderman Schmidt |     |     |       |
| Alderman Lower     |     |     |       | Alderman Buragas |     |     |       |
| Alderman Mwilambwe |     |     |       |                  |     |     |       |
|                    |     |     |       | Mayor Renner     |     |     |       |

RESOLUTION 2015 - \_\_\_\_\_

A RESOLUTION DIRECTING STAFF TO CONTINUE EXPLORING POLICIES TO LIMIT  
THE CITY'S PENSION LIABILITIES AND EVALUATE THE CITY'S  
OVERALL BENEFIT STRUCTURE

BE IT RESOLVED BY THE CITY COUNCIL  
OF THE CITY OF BLOOMINGTON, ILLINOIS:

**WHEREAS**, the City of Bloomington is a home-rule municipality located in the County of McLean, State of Illinois; and

**WHEREAS**, a memorandum from former City Manager Tom Hamilton, dated March 6, 1995, provided that effective March 8, 1995, the City would permit eligible IMRF City employees to apply "sick leave buyback payments" ("SLBB") over a 3-month payout period rather than receiving a one-time lump sum payment; and

**WHEREAS**, the City Council began, in 2009, implementing policies and contractual provisions in collective bargaining agreements eliminating SLBB completely for all of its future IMRF employees; and

**WHEREAS**, when the City stopped the SLBB benefit for future IMRF employees, the benefit remained for several grandfathered employees; and

**WHEREAS**, the grandfathered employees still entitled to SLBB have raised numerous equity and legal concerns with making further changes to payment of the benefit; and

**WHEREAS**, the City Council desires that the SLBB benefit continue to be transitioned out in the same manner as allowed by previous City policy, but continues to reserve its right to make changes or modifications to how this benefit, and other employee benefits, are paid in the future; and

**WHEREAS**, the City Council desires to have the City's Human Resources Department do an evaluation of the benefit packages paid to City employees and investigate ways to ensure it is in line with current practices in both the public and private sector; and

**WHEREAS**, the City Council does not support pension inflation and wants to continue implementing strong policies that will prevent such inflation for its future employees; and

**WHEREAS**, City staff has already been working with the Illinois Municipal League, the Illinois Municipal Retirement Fund and others on solutions to pension liability funding issues and the City Council desires that these discussions continue with high priority.

**NOW, THEREFORE, BE IT RESOLVED BY THE** City Council of the City of Bloomington, McLean County, Illinois, as follows:



**SECTION 1.** The above stated recitals are incorporated herein by reference.

**SECTION 2.** The City Council of the City of Bloomington hereby states its unequivocal position against the ability of employees to artificially increase their compensation preceding retirement, acknowledges that several policies have already been implemented to stop benefits like sick leave buyback, and directs City staff to continue working on potential ways to reduce its overall pension liabilities. The City Council further directs City staff to evaluate the benefit packages provided to City employees in comparison to other public and private sector entities and to recommend necessary changes.

**SECTION 3.** In the event that any section, clause, provision, or part of this Resolution shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

**SECTION 4.** This Resolution shall be effective immediately after the date of its publication as required by law.

**SECTION 5.** This Resolution is passed and approved pursuant to the home rule authority granted Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this \_\_\_\_\_ day of October, 2015.

APPROVED this \_\_\_\_\_ day of October, 2015.

APPROVED:

\_\_\_\_\_  
Tari Renner, Mayor

ATTEST:

\_\_\_\_\_  
Cherry Lawson, City Clerk

# SICK LEAVE BUYBACK



# SICK LEAVE BUYBACK

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        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| <p>FOR COUNCIL: October 26, 2015</p> <p>SUBJECT: Sick Leave Buyback</p> <p><b>RECOMMENDATION/MOTION:</b> That the City Council discuss and consider the options outlined regarding the payment of sick leave buyback to its grandfathered employees and provide direction or otherwise approve a Resolution directing staff to continue exploring policies that limit the City's pension liabilities and evaluate the City's overall benefit structure.</p> <p><b>STRATEGIC PLAN LINK:</b> Goal 1. Financially sound City providing quality basic services</p> <p><b>STRATEGIC PLAN SIGNIFICANCE:</b> Objective 1a. Budget with adequate resources to support defined services and level of services.</p> <p><b>BACKGROUND:</b> At the City Council meeting on August 25, 2015, the Council discussed options to address the costs associated with the method used to pay sick leave buyback hours ("SLBB") to grandfathered employees participating in the Illinois Municipal Retirement Fund ("IMRF"). In 1995, the City began to allow eligible employees to structure their SLBB payments in a manner that increased the value of the employees' pensions. The City began implementing new policies regarding payment of SLBB altogether starting in 2009. However, approximately 1,000 grandfathered employees have not yet elected to structure their SLBB payments in a manner that increased the value of their pensions. The City is currently exploring the possibility of any accrued sick leave over a three-month period immediately preceding retirement or termination of employment. Any such payments are paid to a post-retirement health savings account and are not paid directly to the employees (an exception exists for those employees in the ASFME Local 699). However, the payments are counted for purposes of IMRF's calculation of the grandfathered employees' final rate of earnings, thus impacting the value of their pensions.</p> <p>Note that City's sworn police and fire employees do not participate in IMRF and any SLBB they earn or accrue does not count toward or otherwise impact their pensions.</p> <p>In 2012, the Pension Code was amended to require any participating entry in IMRF to pay the "present value" of certain pension benefits (also known as an "accelerated payment") if the reported earnings in any 12-month period in the final earnings period exceed those from the prior 12-month period. The City's current policy regarding SLBB payments is that if the employee has not elected to structure their SLBB payments in a manner that increased the value of their pensions, then this is not a penalty, but instead an additional payment required under the pension system in lieu of paying the amount over 26 years with the remainder of the pension liability payments.</p> <p>The exceptions to the accelerated payment requirements are limited and this 2012 law has had a wide-spread impact on public bodies throughout the State of Illinois. In fact, as a result of this law, IMRF has received approximately \$600 million in accelerated payments from public bodies across the State of Illinois and has made these payments. A breakdown, by public body type, of the aggregate cost of accelerated payments is as follows:</p> | <p>FOR COUNCIL: August 24, 2015</p> <p>SUBJECT: Consideration of approving an Ordinance Requiring Any Newly Earned Sick Leave Buyback for Grandfathered Employees Be Paid after the Employee Leaves or Retires</p> <p><b>REGULAR AGENDA ITEM NO. 8A</b></p> <p></p> <p><b>NOTES:</b> That the ordinance, requiring newly earned unused sick leave buyback to be paid after the employee retires or leaves the City, be approved and the Mayor and City Manager be notified of the same.</p> <p><b>GOAL 1:</b> Financially sound City providing quality basic services.</p> <p><b>SIGNIFICANCE:</b> Objective 1a. Budget with adequate resources to support defined services and level of services.</p> <p>It has been considering modifications to the City's employment of accumulated, unused sick leave hours ("SLBB") to eligible employees, in order to address significant direct and indirect financial costs of payment of SLBB to eligible employees has been made based on the policy adopted by a prior City Manager and the City's collective bargaining agreements have varied over the years. The brief history below explains how this policy has emerged and transformed within the City.</p> <p><b>SLBB BUYBACK:</b></p> <p>SLBB was implemented by former City Manager Tom Hamilton that structure payment of their accumulated, unused sick leave hours. From Hamilton to DMF employee dated March 6, 1995 (the "SLBB Buyback").</p> <p>On March 8, 1995, the City of Bloomington will permit of Bloomington employees to apply sick leave buyback month period rather than receiving a one-time lump sum payment. This application of sick leave buyback payments under the Pension...</p> <p>Employees retiring under DMF, and who are eligible to buyback, must make one of two choices:</p> <p>1. Pay sum sick leave buyback payment at retirement</p> |
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# IMRF'S 125% RULE

- Under the IMRF statute, earnings during each of the final three months of the “final rate of earnings period” cannot exceed 125% of the highest earnings of any other month in the final rate of earnings period; this requirement is referred to as the “125% Rule.”

- The 125% Rule was adopted to prevent pension increases caused by payouts of sick leave buyback, vacation or other hours to employees in the months preceding their retirement (i.e., making large payouts of compensation to an employee prior to retirement significantly increases the employee's final rate of earnings, which in turn significantly increases the value of the employee's pension).

# ACCELERATED PAYMENT RULE

- Effective January 1, 2012, the Pension Code was amended to require public bodies participating in IMRF to pay the “present value” of certain pension benefits.
- These “present value” payments (also known as “accelerated payments”) are now required if the amount of an employee’s reported earnings for the final year of earnings exceeds the employee’s earnings for the previous 12-month period by the greater of 6% or 1.5 times the increase in the CPI-urban.

## SICK LEAVE BUYBACK PAYOUT

- 1995 Policy Allowed SLBB to be paid out over three months
- Can result in increase beyond 6% over previous 12-month period
  - City is then responsible for the “present value” payment



# SICK LEAVE BUYBACK

- Starting in 2009, City Council began implementing contractual provisions and policies stopping the SLBB benefit.
  - Effective May 1, 2012 for classified employees
  - Out of all union contracts as of 2014.



# SICK LEAVE BUYBACK

- Classified Employees
  - Ended May 1, 2012
  - Grandfathered employees can obtain up to 960 hours
  - A few grandfathered employees have access to a supplemental sick leave bank (i.e. 480 hours) up to a total of 1440 hours.
- Union Employees
  - 2009 – 2014 (ranges from 342 to 1440 hours)
  - Police (1440 hours) & Fire (1800 hours – half new hires) / not a pension benefit
- Eligibility Criteria for Grandfathered Employees: Retire / Leave the City with 75 years of combined service and age, with a minimum of 15 years of continuous service.
- Most have SLBB paid into a Retirement Health Savings Account.
- Approximately 250 grandfathered employees

# NEW 2012 LAW

## “ACCELERATED PAYMENT” REQUIREMENTS

- Not a penalty
- Requires City to pay an “upfront” portion of the cost of the pension
- Otherwise would be added to the City’s total pension liability to be paid over 26 years (with interest).



# WHAT HAS THE IMPACT OF THE LEGISLATION BEEN ON ILLINOIS?



# Over 450 Public Bodies



# **WATER RECLAMATION DISTRICTS**

## **TOWNSHIPS**

## **COUNTIES**

## **SANITARY SEWER DISTRICTS**

## **PARK DISTRICTS**

## **FOREST PRESERVE DISTRICTS**

## **SPECIAL EDUCATION DISTRICTS**

## **CITIES**

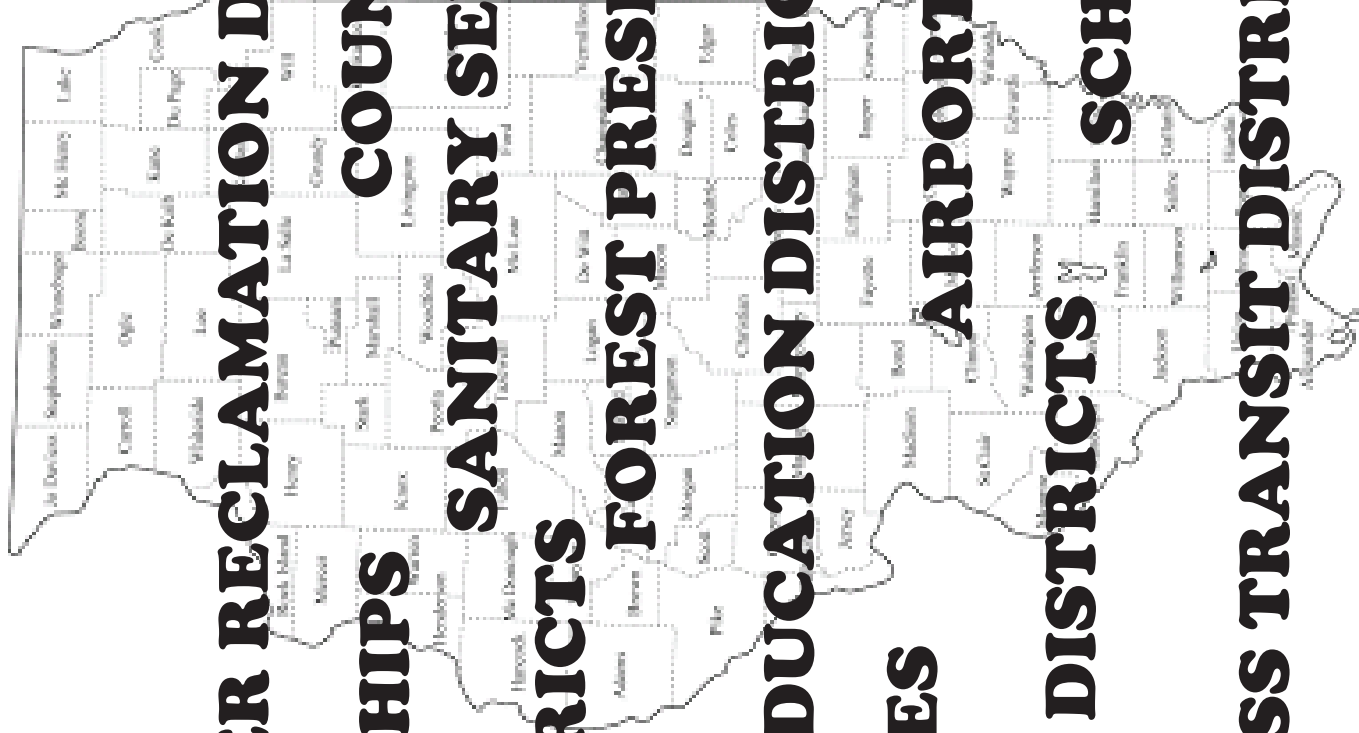
## **VILLAGES**

## **AIRPORT AUTHORITIES**

## **LIBRARY DISTRICTS**

## **SCHOOL DISTRICTS**

## **MASS TRANSIT DISTRICTS**





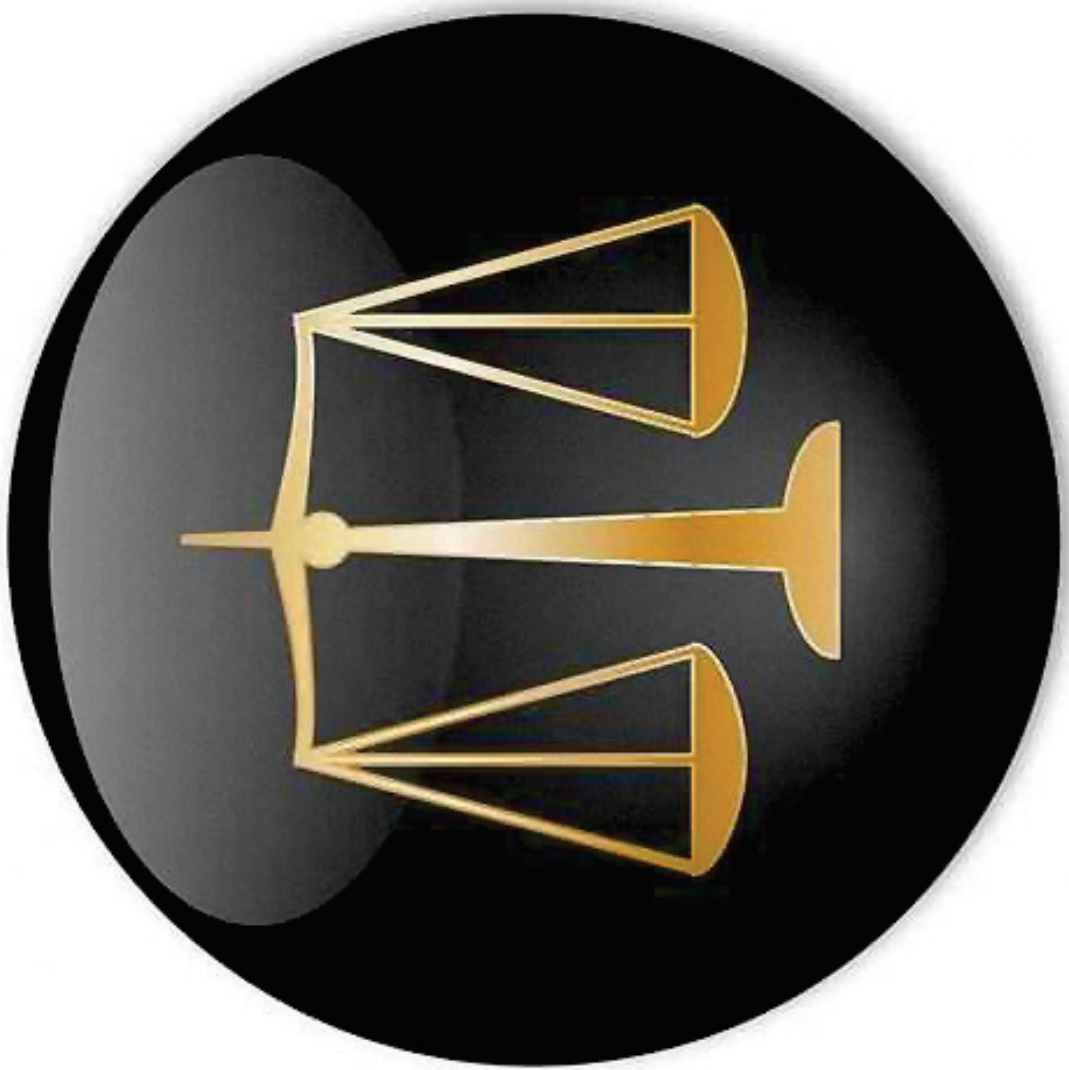


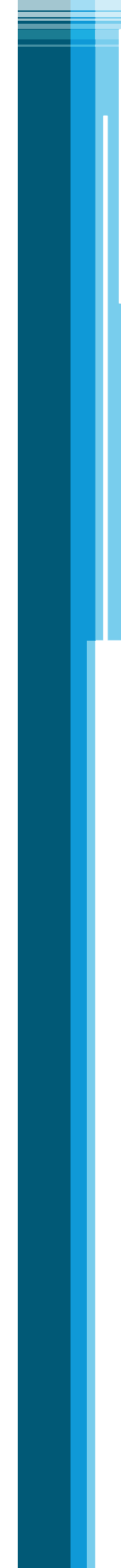
# LEGISLATIVE IMPACT



- School Districts: \$3,991,000
- Counties: \$4,700,000
- Municipalities: \$13,349,000
- Park Districts: \$1,433,000
- Municipalities • Other: \$2,855,386
  - Library Districts
  - Mass Transit Districts
  - Fire Districts
  - Water Districts
  - Townships
  - IMRF
  - IML







# ILLINOIS STATE CONSTITUTION

Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired. - *Article XIII, Section 5.*

# EMPLOYEE CONCERNS

- Were “promised” this benefit and planned and acted accordingly during their tenure with the City;
- Arbitrarily stopping the benefit for current set of grandfathered employees;
- Legacy employees with largest benefits have already left the City; and
- Punishing the remaining grandfathered employees who earn less and will have less impact on the City.





# SLBB OPTIONS & DIRECTION

- Require any new sick leave earned by grandfathered employees be paid 2 months after separation.
- Require sick leave be paid with the final paycheck.
- Have staff continue to work on policies that limit the City's overall pension liabilities and review the City's benefit structure.
- Other ideas & suggestions.



## Notes/Summary of Feedback

**Who:** Eligible IMRF employees  
**What:** Update meeting regarding potential changes to the City's Sick Leave Buy Back (SLBB) program  
**Where:** Fishbowl/Council Chambers  
**When:** Thursday, October 22, 2015 at 8 am

City Manager Hales thanked employees for attending the meeting and gave opening remarks. Jeff Jurgens gave a brief presentation outlining the City's SLBB situation and possible options to be presented to Council regarding next steps. City Manager Hales then invited questions and feedback from the employees present:

-One employee commented that SLBB and the way it is paid out were benefits promised to employees years ago and should not be changed. Can an employee put in for retirement two years (or more) in advance? The employee thought yes but has been told no from the City. David Hales said staff will research and answer this question. Jeff Jurgens said if there is not a clear protocol in place already, the City should develop one.

-David Hales invited Alderwoman Diana Hauman, present in the audience, to comment on the SLBB/accelerated payments issue in general and particularly what kind of public response the Council has been hearing on the topic. Alderwoman Hauman said this is a big issue and not to be taken lightly. She was glad to be in attendance at the meeting to hear directly from employees.

-An employee asked if when IMRF made changes to their SLBB program, did those changes impact all employees in the organization? David Hales and Jeff Jurgens replied they thought those changes did effect all employees that worked for IMRF.

-Was SLBB an issue before the Chicago Tribune article? David Hales and Jeff Jurgens replied in the affirmative. The City has been trying to understand and address this since for over a year at least.

-How are the accelerated payments calculated? Jeff Jurgens explained that it is a complex calculation and more than just SLBB is used to get to the final number.

-It is understood that about 250 employees could be eligible for the SLBB program upon retirement. Has the total cost of the City's liability for SLBB and accelerated payments been estimated? David Hales indicated an actuarial study has been done; it is preliminary in nature and may need to be refined.

-An employee noted that the public perceives that all City employees will receive big payments when they retire, as some past Directors have, but many of the 250 eligible employees are just "regular" employees, and their retirements will not be as financially impactful.

-If the Supreme Court has already said that pension benefits cannot be diminished, why would the City even attempt to do so? Jeff Jurgens explained that past court cases have said pension benefits cannot be diminished, but it is still unclear if how/when SLBB is paid out qualifies as a pension benefit. He was not sure how the courts would perceive any changes the City might make. It is helpful for Council to hear now that there is the potential that employees could opt to litigate, however, so they can fully assess the options they consider.

-An employee commented that the City has already made the promise of SLBB and how it is paid out to its employees, and it is not fair to make employees suffer now.

-One employee said that this situation is "a math problem" and should be tabled until the full financial impact is understood.

-Another employee said it seems some in the public perceive SLBB as an extra benefit when in fact, it is something the employee feels they have earned by being a loyal employee, coming to work, etc.

-Could the past ERI program help in figuring out what the cost of the SLBB/accelerated payments might be to the City? David Hales replied that the ERI program happened in 2009/2010, before the 2012 law resulting in accelerated payments went into effect.

-Could there be a breakdown of which departments are generating the most/biggest payments? David Hales said staff could work to produce a document with that information.

-How does the “double bank” option impact the 4 hours/month payment into RHS? That would still need to be fully evaluated.

-An employee inquired how much of the public was truly concerned about this issue. Is this a case of a vocal few saying a problem exists, or does the mass majority think this issue needs to be addressed? The private sector gets benefits that the public sector does not get and vice versa; it balances in the end. Alderwoman Diana Hauman said that some of the public reacts to what they read or hear in the media, which is just a small piece of a very complex issue, and that we cannot react to just three or four people.

-City Manager Hales asked for a show of hands regarding the options that Jeff Jurgens had reviewed. The only option favored by employees was to wait for a possible legislative answer and let grandfathered employees continue with the SLBB program as it has been in practice to date.

-One employee noted that of the estimated 250 employees that could retire with SLBB, only some of those actually will. Also, a phase-in approach would still hurt the employees that are 10, 15, 20 years away from retirement.

-In closing, David Hales thanked employees for their feedback and encouraged them to submit any other comments to the City Manager’s office by noon on 10/23 to be included in the materials provided to Council.



**Executive Director**

Roberta Lynch

**Executive Vice Presidents**

Lori Laidlaw

Dorinda Miller

Carmin Willis-Goodloe

Yolanda Woods

**Secretary**

Patricia Ousley

**Treasurer**

Robert Fanti

**Executive Board**

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Dave Delrose

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Gary Kroeschel

Kathy Lane

Ellen Larrimore

Matthew Lukow

Chris Milton

Steve Mittons

Duane Montgomery

David Morris

Steve Nordyke

Ralph Portwood

Cary Quick

John Rayburn

Kobie Robinson

Ruby Robinson

Yurvette Simmons

Eva Spencer-Chatman

Mike Turner

Trudy Williams

**Retiree President**

Larry Brown

**Trustees**

Carlene Erno

Tom Minick

Miguel Vazquez

October 23, 2015

City Council Member  
109 E. Olive Street  
Bloomington, IL 61701

Dear City Council Member:

On behalf of AFSCME Local 699 members, I am submitting this in response to Council's contemplation of potential changes to the City's Sick Leave Buy Back Program.

In investigating any potential changes to the Sick Leave Buy Back program there are things we know and things we don't know. What we do know is that there is an Illinois Supreme Court case protecting pensions from changes once employment begins. Please see Supreme Court case PENSION REFORM LITIGATION (Doris Heaton *et al.*, Appellees v. Pat Quinn, Governor, State of Illinois, *et al.*, Appellants). This case overturned SB 1 passed in December 2013 to reform the state pension systems. I think paragraph 15 of this case summarizes two main points succinctly. One, the pension protection clause identified that pensions are a contractual relationship between the employer and employee and pension benefits shall not be impaired or diminished. Two, these rights shall not be changed after the employee starts employment. Essentially, whatever pension rules the employee was hired under, they should apply thru retirement. These points are reiterated in paragraphs 45 and 46.

While there were 16 former employees that were able to "spike" their pensions, it was stated during the employee meeting yesterday that of these 16 some of them were senior management employees. The example of Emily Bell was also discussed. In her situation, her cap of sick leave hours to sell back was 1440, as she was grandfathered in under a higher cap. Additionally, she was cashed out vacation time she was able to roll over from the previous year and then had just been given her annual vacation amount. Some other things that are known are that there are some significant differences between Ms. Bell's scenario and that of our bargaining unit members. For our bargaining unit members, the cap of hours is 960. Additionally, Public Works employees currently have the ability to automatically roll over only three vacation days from one year to the next, which is a new benefit as of the 2014. Previously, there were further restrictions on rolling over any vacation time. Lastly, bargaining unit employees do not have the salaries senior management have that create a bigger financial liability under such circumstances.

Current employees have been operating under the current sick leave buy back rules since the beginning of their employment and the rules have influenced their decision making over the course of their career as to how benefit time is used. The inability to roll over vacation and the ability to utilize the sick leave buy back program resulted in bargaining unit employees strategically using their benefit time as they saw fit. For example, an employee may have used vacation time they were at risk of losing for a doctor's appointment and saved their sick time knowing it would benefit them in the long run. In addition, when bargaining unit employees are off work, they have to use some sort of benefit time. They do not get to work from home, do not get to flex their schedule to



accommodate medical appointments or other issues, they have to use benefit time to be away from work. This affects the use of benefit time, vacation and sick, and its accrual.

One of the last things known is that approximately 250 City employees are eligible for the sick leave buy back program, a good portion of which are represented by AFSCME.

As the Council contemplates what steps to take in addressing this issue, what is not known is very concerning. The Council does not have all the information upon which to make an informed decision. It hasn't been shown how many employees actually have sick leave in the bank to be bought back, at what amount or at what costs. From data the union has in hand, we can only estimate that a fraction of those eligible for sick leave buy back have substantial amounts of sick leave to be sold back. While Local 699 does not participate in the Retirement Health Savings Plan, it is an additional concern that employees had questions yesterday as to how the various SLBB reforms would impact those participating in RHS, but answers couldn't be provided. Although some suggestions are being proposed, it has not been demonstrated what impact any of them will have on employees and their pensions.

It was clear that employees in attendance at the yesterday's meeting were strongly opposed to any changes that impact their pensions. It is also clear there are legal reasons to refrain from changing the rules that affect how pensions are calculated. Further, the necessary and pertinent information has not provided to the Council, affected employees or their union representatives on what any of the contemplated suggestions cost the City or the employees. For these reasons, AFSCME also supports no changes being made to the sick leave buy back program.

From the meeting yesterday, it seems the biggest issue is the City needing to make the pension payments up front rather than spreading the payments over the course of years, as it was once before. It seems that pursuing a change in legislation is the most reasonable avenue for all affected.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Renee Nestler", with a stylized, flowing script.

Renee Nestler  
Staff Representative



2015 IL 118585

**IN THE  
SUPREME COURT  
OF  
THE STATE OF ILLINOIS**

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(Docket No. 118585)

*In re* PENSION REFORM LITIGATION (Doris Heaton *et al.*, Appellees,  
v. Pat Quinn, Governor, State of Illinois, *et al.*, Appellants).

*Opinion filed May 8, 2015.*

JUSTICE KARMEIER delivered the judgment of the court, with opinion.

Chief Justice Garman and Justices Freeman, Thomas, Kilbride, Burke, and Theis concurred in the judgment and opinion.

**OPINION**

¶ 1

At issue on this appeal is the constitutionality of Public Act 98-599 (eff. June 1, 2014), which amends the Illinois Pension Code (40 ILCS 5/1-101 *et seq.* (West 2012)) by reducing retirement annuity benefits for individuals who first became members of four of Illinois' five State-funded pension systems prior to January 1, 2011. Members of the retirement systems affected by Public Act 98-599 and groups representing those members brought five separate actions challenging the validity of the new law on the grounds that it violated numerous provisions of the Illinois Constitution of 1970, including article XIII, section 5 (Ill. Const. 1970, art. XIII, § 5), popularly known as the pension protection clause.

¶ 2 All five actions were consolidated in the circuit court of Sangamon County. On motions for partial summary judgment, judgment on the pleadings, and to strike an affirmative defense, the circuit court found plaintiffs’ challenge to be meritorious, declared Public Act 98-599 to be unconstitutional in its entirety as a violation of the pension protection clause, and permanently enjoined its enforcement. In so doing, the circuit court rejected defendants’ contention that the Act could be upheld, notwithstanding its violation of the pension protection clause, based on the State’s reserved sovereign powers. Because the circuit court’s judgment invalidated a statute of the State of Illinois, appeal lay directly to this court. Ill. S. Ct. R. 302(a)(1) (eff. Oct. 4, 2011). At the request of the State, we expedited briefing and argument.<sup>1</sup> For the reasons that follow, we affirm.

¶ 3 BACKGROUND

¶ 4 Illinois has established five State-funded retirement systems for public employees: the General Assembly Retirement System (GRS) (40 ILCS 5/2-101 *et seq.* (West 2012)); the State Employees’ Retirement System of Illinois (SERS) (40 ILCS 5/14-101 *et seq.* (West 2012)); the State Universities Retirement System (SURS) (40 ILCS 5/15-101 *et seq.* (West 2012)); the Teachers’ Retirement System of the State of Illinois (TRS) (40 ILCS 5/16-101 *et seq.* (West 2012)); and the Judges Retirement System of Illinois (JRS) (40 ILCS 5/18-101 *et seq.* (West 2012)). These systems provide traditional defined benefit plans under which members earn specific benefits based on their years of service, income and age. All are subject to the pension protection clause of our state constitution, which provides: “Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof,

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<sup>1</sup>In retrospect, the State’s “Motion for Accelerated Docket” is perplexing. The State requested expedited briefing and argument on the grounds that a prompt decision by this court was necessary to assist the legislature and the Governor in formulating a budget for the next fiscal year. Because implementation of the law has already been enjoined, a decision by this court could alter the budgetary landscape for the upcoming fiscal year only if we allowed some or all of the law to take effect immediately. When the State ultimately filed its brief, however, that is not the relief it sought. Rather, its principal request was that we remand to the circuit court for further proceedings, including an evidentiary hearing, with respect to its claim that the legislation challenged here is a proper exercise of the State’s police powers. Even if the State had prevailed, there is no reasonable possibility that such proceedings, and the appeals which would inevitably follow, could be completed prior to the May 31, 2015, deadline for passage of the new State budget.

shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired.” Ill. Const. 1970, art. XIII, § 5.

¶ 5 Among the benefits which members of the five State-funded retirement systems are entitled to receive are retirement annuities. *Kanerva v. Weems*, 2014 IL 115811, ¶ 3. The amount of a member’s retirement annuity and how soon a member is eligible to begin receiving annuity payments depends on when the member first began making contributions into one of the retirement systems. Members who first contributed prior to January 1, 2011, receive what are known as “Tier 1” annuity benefits. Members first contributing on or after January 1, 2011, receive a lower level of benefits designated as “Tier 2.” See Pub. Act 96-889 (eff. Apr. 14, 2010). Public Act 98-599, the legislation challenged in this case, is directed primarily at Tier 1 annuities and is limited in its application to benefits earned under the GRS, SERS, SURS and TRS systems. Annuities paid to judges under the JRS system were intentionally excluded from the law and are not affected by it.

¶ 6 Tier 1 retirement annuity benefits and eligibility requirements differ somewhat between the various systems. Because they all operate in approximately the same way, however, we will choose just one, SERS, to illustrate their basic features.

¶ 7 Members of SERS are eligible to retire at age 60 if they have at least eight years of credited service. They may retire with full benefits at any age if their age plus years of service credit equal 85. They are also eligible to retire if they are between the ages of 55 and 60 and have at least 25 years of credited service, but their benefit will be reduced by half of 1% for each month they are under the age of 60. 40 ILCS 5/14-107, 14-108 (West 2012).

¶ 8 The amount of the retirement annuity benefit under SERS is calculated based on (1) the member’s final average compensation, which is the average monthly compensation they received during their highest-paid 48 consecutive months of service over the previous ten years, (2) their total credited service, and (3) a multiplier, which changes depending on (a) whether or not the member is also covered by Social Security or (b) qualifies for an “alternative retirement annuity” (applicable to, *e.g.*, pilots and state policemen). 40 ILCS 5/14-107, 14-108, 4-110 (West 2012). For members who do have Social Security and are not subject to the alternative retirement annuity rules, the multiplier is 1.67% per year of credited service. 40 ILCS 5/14-108(b) (West 2012). Accordingly, a member of SERS who is eligible to retire, who has also paid into Social Security, and who has final average

compensation of \$1800 per month and 30 years of credited service will receive a retirement annuity of \$901.80 per month ( $30 \times .0167 \times \$1800$ ).

¶ 9 SERS members may earn a retirement annuity of up to 75% of their final average compensation (40 ILCS 5/14-108(d) (West 2012)), although for members covered by Social Security, it would take nearly 45 years of State service to do so. These annuity payments are subject to 3% automatic annual increases beginning after the member's first full year of retirement, except that some members who retire before 60 and do not meet the rule of 85 will not receive the increases until they turn 60 and have been retired at least one full year. 40 ILCS 5/14-114(a) (West 2012). The annual annuity adjustments are built-in to the pension benefit and are not tied to the cost of living. As a result, the real value of annuities may either increase or erode depending on economic conditions, notwithstanding the adjustments.<sup>2</sup>

¶ 10 Funding to pay benefits under each of Illinois' five State-funded systems is derived from three basic sources: contributions by the State through appropriation by the General Assembly; contributions by or on behalf of members based on their salaries; and income, interest and dividends derived from retirement fund deposits and investments. 40 ILCS 5/2-124 to 2-126, 14-131 to 14-133.1, 15-155 to 15-157.1, 16-152, 16-154, 16-158, 18-131 to 18-133.1 (West 2012). The contributions to the systems by or on behalf of members of the systems have not been problematic. There is no dispute that employees have paid their full share as required by law at all times relevant to this litigation. That has not been the case with respect to the contributions owed by the General Assembly.

¶ 11 For as long as there have been public pension systems in Illinois, there has been tension between the government's responsibility for funding those systems, on the one hand, and the costs of supporting governmental programs and providing governmental services, on the other. In the resulting political give and take, public pensions have chronically suffered. As long ago as 1917, a report commissioned by the General Assembly characterized the condition of State and municipal pension systems as "one of insolvency" and "moving toward a crisis" because of financial provisions which were "entirely inadequate for paying the stipulated pensions

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<sup>2</sup>By way of comparison, data published by the Social Security Administration show that Social Security increases, which are tied to the cost of living, averaged 3.98%, nearly a percentage point more than under the Illinois formula, between 1975 and 2014. <http://www.ssa.gov/OACT/COLA/colaseries.html>.

when due.” Report of the Illinois Pension Laws Commission 272 (1917). Similar warnings were issued by the Illinois Public Employees Pension Laws Commission in biennial reports it published between 1947 and 1969. See, *e.g.*, Report of the Illinois Public Employees Pension Laws Commission of 1949, 10 (1949) (revenues allocated to pension funds have not kept pace with obligations and, with few exceptions, “every fund in Illinois suffers at this time an actuarial insolvency”).

¶ 12 As the deficient contributions continued even during the post-WWII boom, the Commission wondered: “[i]f the State of Illinois and local governments are today resisting the full or substantial funding of pension obligations under present conditions of economic prosperity, how much more unfavorable will be the financial status of the funds when the obligations mature in greater proportions and economic conditions may not be as promising?” Report of the Illinois Public Employees Pension Laws Commission of 1957, 10 (1957). Still, nothing changed. More than a decade later, as the citizens of our State were about to take up the question of whether a new constitution should be adopted, the Illinois Public Employee Pension Laws Commission continued to sound the same alarm, noting that with respect to State-financed pension funds, appropriations “had been below mandatory statutory requirements as expressly provided in the governing law” and were “grossly insufficient.” Report of the Illinois Pension Laws Commission of 1969, 106 (1969). At the time the Commission made those statements, the GRS, SERS, SURS, TRS and JRS systems had an overall funding rate of approximately 41.8%. *Id.* at 32, Table 2.

¶ 13 Concern over ongoing funding deficiencies and the attendant threat to the security of retirees in public pension systems eventually led directly to adoption of article XIII, section 5, the pension protection clause, when the new constitution was adopted in 1970. Delegate Green, one of the provision’s sponsors, introduced it to the Constitutional Convention by reminding his fellow delegates of the poor job governmental entities had done in meeting their pension obligations over time. He pointed out that:

“[i]n the past twenty-two years the unfunded accrued liabilities of these pension plans in Illinois have increased from about \$359,000,000 to almost \$2,500,000,000, and the unfunded accrued liabilities are real and are not theoretical obligations based upon service already rendered.

Despite the consistent warnings from the Pension Laws Commission, the current budgeting of pension costs necessary to ensure the financial stability of these funds, the General Assembly has failed to meet its commitments to finance the pension obligations on a sound basis. In 1967 the General Assembly approved Senate Bill 515 which provided for the appropriation to one state university retirement system, to at least equal to an amount which would be necessary to fund fully the current service costs and to cover the interest on the past service; and despite this legislative mandate, the General Assembly refused to appropriate the necessary funds. Now, during this two-year period alone the appropriations under this system were \$67,000,000 less than the minimum required by the senate bill.

Now, what we are proposing is being carried out in some other states \*\*\*. Our language is that language that is in the New York Constitution which was adopted in 1938, really under a similar circumstance. In 1938 you were about at the end of the Depression, but there was a great consideration on the part of the New York General Assembly to really cut out some of the money that they were giving to the pension programs in New York; and it was for this reason that the New York Constitution adopted the language that we are suggesting. Since that time, the state of New York—the pension funds for public employees have been fully funded, and so I think we have good reason to believe that this type of language will be a mandate to the General Assembly to do something which they have not previously done in some twenty-two years.” 4 Record of Proceedings, Sixth Illinois Constitutional Convention 2925 (statements of Delegate Green) (hereinafter Record of Proceedings).

¶ 14 Delegate Green’s remarks were followed by statements from Delegate Kinney, who noted in further support of the provision that the proposed creation of broad home rule powers for municipalities had led to concerns that, unless they were constrained, municipalities who preferred to use retirement money for other public purposes such as street repair might abandon their pension obligations, leaving police officers, firefighters and other civil servants unprotected. *Id.* at 2926 (statements of Delegate Kinney). Delegate Bottino, in turn, observed that:

“participants in these pension systems have been leery for years of the fact that the—this matter of the amount the state has appropriated [for pensions] has been made a political football, in a sense. In other words, in order to balance budgets, you see, the party in power would just use the amount of the state



contribution to help balance budgets, and this had gotten to the point where many of the so-called pensioners under this system were very concerned; and I think this is the reason that pressure is constantly being placed on the legislature to at least put a fair amount of state resources into guaranteeing payment of pensions.” *Id.* at 2930-31 (statements of Delegate Bottino).

¶ 15 The solution proposed by the drafters and ultimately approved by the people of Illinois was to protect the benefits of membership in public pension systems not by dictating specific funding levels, but by safeguarding the benefits themselves. As we discussed in *Kanerva v. Weems*, 2014 IL 115811, ¶¶ 46-47, Delegate Green explained that the pension protection clause does this in two ways: “[i]t first mandates a contractual relationship between the employer and the employee; and secondly, it mandates the General Assembly not to impair or diminish these rights.” 4 Record of Proceedings 2925 (statements of Delegate Green). Subsequent comments by other delegates reaffirmed that the provision was designed to confer contractual protection on the benefits of membership in public retirement systems and afford beneficiaries, pensioners or their dependents “‘a basic protection against abolishing their rights completely or changing the terms of their rights after they have embarked upon the employment—to lessen them.’” *Kanerva v. Weems*, 2014 IL 115811, ¶ 46 (quoting 4 Record of Proceedings 2929 (statements of Delegate Kinney)).

¶ 16 The purpose of the clause and its dual features have never been in dispute. As we noted in *People ex rel. Sklodowski v. State*, 182 Ill. 2d 220, 228-29 (1998), the clause “served to eliminate any uncertainty as to whether state and local governments were obligated to pay pension benefits to the employees,” and its “plain language” not only “makes participation in a public pension plan an enforceable contractual relationship,” but also “demands that the ‘benefits’ of that relationship ‘shall not be diminished or impaired.’” The “politically sensitive area” of how the benefits would be financed was a matter left to the other branches of government to work out. *Id.* at 233.<sup>3</sup> That article XIII, section 5, created an enforceable obligation on the State to pay the benefits and prohibited the benefits from subsequently being reduced was and is unquestioned.

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<sup>3</sup>Consistent with an earlier opinion by this court in *McNamee v. State*, 173 Ill. 2d 433 (1996), and comments at the Constitutional Convention, we did not, however, foreclose the possibility that a direct action could be brought by pension system members to compel funding if a pension fund were on the verge of default or imminent bankruptcy. *Skłodowski*, 182 Ill. 2d at 232-33.

¶ 17 Despite Delegate Green’s hope that prohibiting the State from diminishing retirement benefits would induce the General Assembly to meet its funding obligations, as the legislature in New York State had done when the same pension protection provision was adopted there, that did not occur. Until 1982, the State funded its pensions using an approach which the United States Securities and Exchange Commission (SEC) has characterized as bearing “no relation to actuarial calculation.” *In re State of Illinois*, SEC Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing Cease-and-Desist Order, Securities Act of 1933, Release No. 9389, at 3, 2013 WL 873208 (Mar. 11, 2013) (hereinafter, SEC order).<sup>4</sup>

¶ 18 In 1989, the General Assembly enacted a new funding plan to take effect in 1990, but it failed as well. In the years that followed, Dawn Clark Netsch, then comptroller of the State, noted that the State failed to adhere to the new statutory funding levels and exacerbated the problem by diverting funds earmarked for State employee pensions into the General Revenue Fund. In testimony before the United States Congress, which was investigating the use of public pension funds, she stated:

“ ‘My concern is for the future health of our state retirement systems and for the deferral of obligations to future generations. Underappropriated pension contributions are like unpaid credit card bills. The liability does not go away just because you choose not to pay the bill when it is due. You still owe the unpaid balance, plus interest.[’]

‘Eventually, the cost of rectifying the problem becomes too great. Our problems might be more understandable if our retirement systems provided extravagant benefits, but they do not. We are having trouble facing our obligations for systems that have some of the lowest benefit levels in the country.’ ” Dawn Clark Netsch, *State Pension Raids Rampant in the 1990s*, Ill. Mun. Rev. 15, 15 (Feb. 1993).

¶ 19 Starting in 1995, yet another funding plan was implemented by the General Assembly. This one called for the legislature to contribute sufficient funds each year to ensure that its contributions, along with the contributions by or on behalf of members and other income, would meet the cost of maintaining and administering

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<sup>4</sup>The SEC order is a matter of which we may take judicial notice. See *May Department Stores Co. v. Teamsters Union Local No. 743*, 64 Ill. 2d 153, 159 (1976).

the respective retirement systems on a 90% funded basis in accordance with actuarial recommendations by the end of the 2045 fiscal year. 40 ILCS 5/2-124, 14-131, 15-155, 16-158, 18-131 (West 2012). That plan, however, contained inherent shortcomings which were aggravated by a phased-in “ramp period” and decisions by the legislature to lower its contributions in 2006 and 2007. As a result, the plan failed to control the State’s growing pension burden. To the contrary, the SEC recently pointed out:

“the Statutory Funding Plan’s contribution schedule increased the unfunded liability, underfunded the State’s pension obligations, and deferred pension funding. The resulting underfunding of the pension systems (‘Structural Underfunding’) enabled the State to shift the burden associated with its pension costs to the future and, as a result, created significant financial stress and risks for the State.” SEC order, at 3.

¶ 20 That the funding plan would operate in this way did not catch the State off guard. In entering a cease-and-desist order against the State in connection with misrepresentations made by the State with respect to bonds sold to help cover pension expenses, the SEC noted that the State understood the adverse implications of its strategy for the State-funded pension systems and for the financial health of the State. *Id.* at 10. According to the SEC, the amount of the increase in the State’s unfunded liability over the period between 1996 and 2010 was \$57 billion. *Id.* at 4.<sup>5</sup> The SEC order found that “[t]he State’s insufficient contributions under the Statutory Funding Plan were the primary driver of this increase, outweighing other causal factors, such as market performance and changes in benefits.” (Emphasis added.) *Id.* at 4.

¶ 21 By the end of June, 2013, the five State-funded retirement systems contained a total of only 41.1% of the funding necessary to meet their accrued liabilities based on the market value of fund assets. Commission of Government Forecasting & Accountability, Illinois State Retirement Systems: Financial Condition as of June 30, 2013, 27 (Mar. 2014). The funding rate was thus nearly unchanged from the 41.8% funding rate prior to ratification of the 1970 Constitution and its pension protection clause. By contrast, as of December 30, 2013, the Illinois Municipal Retirement Fund (IMRF), another major public pension plan which operates in the

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<sup>5</sup>It appears from the record before us that the total unfunded liabilities for the five State-funded retirement systems approached \$100 billion by the time this litigation commenced. While the State has pursued this appeal, it has no doubt grown larger.

same market environment as the five State-funded systems, but which is managed separately and not funded by the State, had an aggregate funding rate of 96.7% based on the market value of its assets. Illinois Municipal Retirement Fund, Comprehensive Annual Financial Report for the Years Ended December 31, 2013 and December 31, 2012, 8 (May 30, 2014).<sup>6</sup>

¶ 22 As the continued deficiencies in the legislature’s pension funding efforts became apparent to financial markets, federal regulators and the public, the State was also experiencing significant difficulties in meeting its other obligations. To address these budgetary pressures, the State implemented a variety of measures, including delaying payments to creditors and vendors who do business with the State, reducing or eliminating a variety of governmental programs, enacting a temporary income tax increase (which was recently allowed to expire), and significantly lowering benefits for anyone first contributing to State pension systems after January 1, 2011 (the so-called Tier 2 plan for new hires, *supra* ¶ 5).<sup>7</sup>

¶ 23 Following downgrades in the State’s credit rating and facing the prospect that its credit rating would be reduced even further, the General Assembly engaged in heated and protracted debate over possible legislative strategies for dealing with the State’s fiscal problems through further changes to its pension obligations. After numerous failed attempts to reach consensus, the General Assembly ultimately enacted what became Public Act 98-599, the legislation challenged in this case.

¶ 24 Introduced as Senate Bill 1 and passed during the legislature’s fall, 2013, “veto session,” Public Act 98-599 was described as an attempt to address the State’s large debts and deficits, plummeting credit ratings, and imperiled discretionary spending

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<sup>6</sup>Several neighboring states also managed to achieve far higher funding rates than Illinois’ State-funded systems during a similar time frame. The “fair value” based funding ratio for the Wisconsin Retirement System was 105.3%. Wisconsin Dept. of Employee Trust Funds, Comprehensive Annual Financial Report for the Year Ended Dec. 31, 2013, 3 (Dec. 15, 2014). In Iowa, the funded ratio was 82.7% as of June 30, 2013. Iowa Public Employees’ Retirement System, An Annual Summary For the Fiscal Year Ended June 30, 2014, 7 (2014). The Indiana Public Retirement System, which administers 8 separate “pre-funded” plans, reported an aggregate funded percentage of 87.9%. Indiana Public Retirement System, 2014 Comprehensive Annual Financial Report For the Fiscal Year Ended June 30, 2014, 11 (Dec. 17, 2014). The funded ratio for Missouri’s various plans averaged 73.3%. Missouri State Employees’ Retirement System, Summary Annual Financial Report Fiscal Year Ended June 30, 2014, 6 (Oct. 17, 2014).

<sup>7</sup>It also attempted to reduce the health care premium subsidies it was required to pay for annuitants, survivors and retired employees under the SERS, SURS and TRS systems. The legislation authorizing that reduction was declared unconstitutional by this court in *Kanerva v. Weems*, 2014 IL 115811, for the same reason Public Act 98-599 is being challenged here, namely, that it violated the pension protection clause.

programs “that are essential to the people of Illinois” and to help shore up the long-term fiscal stability of both the State and its retirement systems. Pub. Act 98-599, § 1 (eff. June 1, 2014). The mechanism chosen under the Act to accomplish those purposes was restructuring State-funded retirement systems. The law does not pertain to all five of the State-funded retirement systems, however. As noted earlier, JRS, the Judges Retirement System, was deliberately excluded.<sup>8</sup>

¶ 25 Public Act 98-599 contains numerous provisions. Among these are a new payment schedule to replace the one in effect since 1995 (40 ILCS 5/2-124, 14-131, 15-155, 16-158 (West Supp. 2013)); a mechanism authorizing pension boards to initiate *mandamus* proceedings in our court if the State fails to make required contributions to their respective systems (40 ILCS 5/2-125, 14-132, 15-156, 16-158.2 (West Supp. 2013)); and special directives with respect to certain payments to the pension systems, when the payments are to be made and in what amounts (30 ILCS 122/20, 25 (West Supp. 2013); 40 ILCS 5/2-125, 14-132, 15-156, 16-158.2 (West Supp. 2013)).

¶ 26 The Act provides a limited number of Tier 1 plan participants with the opportunity, at a future date, to participate in a defined contribution plan. 40 ILCS 5/2-165, 14-155, 15-200, 16-205 (West Supp. 2013). It affords a nominal reduction in the percentage of their salaries Tier 1 plan participants are required to contribute toward the employee share of annuity costs. 40 ILCS 5/2-126, 14-133, 15-157, 16-152 (West Supp. 2013). Going forward, it bars persons hired by certain nongovernmental organizations from participating in the public pension system (40 ILCS 5/7-109, 15-106, 16-106 (West Supp. 2013)) and prohibits new hires from using accumulated sick or vacation time to boost their pension benefits (40 ILCS 5/7-116, 7-139, 9-219, 9-220, 14-104.3, 14-106, 15-112, 15-113.4, 16-121, 16-127, 17-134 (West Supp. 2013)). Public Act 98-599 also eliminates the duty of employers to engage in collective bargaining or interest arbitration “over matters affected by the changes, the impact of changes, and the implementation of changes” made to the SERS, SURS and TRS systems by the new law. 5 ILCS 315/7.5 (West Supp. 2013).

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<sup>8</sup>The decision to exclude the JRS was unrelated to the economic health of that system, whose funding percentage, 29.8%, is second worst among the five State-funded systems. Commission on Government Forecasting and Accountability, Illinois State Retirement Systems: Financial Condition as of June 30, 2013, 27 (Mar. 2014).

¶ 27 The centerpiece of Public Act 98-599, however, is a comprehensive set of provisions designed to reduce annuity benefits for members of GRS, SERS, SURS and TRS entitled to Tier 1 benefits, *i.e.*, members who belonged to those systems prior to January 1, 2011. The new law utilizes five different mechanisms for achieving this goal. First, it delays, by up to five years, when members under the age of 46 are eligible to begin receiving their retirement annuities. 40 ILCS 5/2-119(a-1), 14-107(c), 14-110(a-5), 15-135(a-3), 16-132(b) (West Supp. 2013). Second, with certain exceptions and qualifications, it caps the maximum salary that may be considered when calculating the amount of a member's retirement annuity. 40 ILCS 5/2-108, 2-108.1, 14-103.10(h), 15-111(c), 16-121 (West Supp. 2013). Third, it jettisons the current provisions under which retirees receive flat 3% annual increases to their annuities and replaces them with a system under which annual annuity increases are determined according to a variable formula and are limited. 40 ILCS 5/2-119.1(a-1), 14-114(a-1), 14-115(d), 15-136(d-1), 16-133.1(a-1), 16-136.1(b-1) (West Supp. 2013). Fourth, it completely eliminates at least one and up to five annual annuity increases depending on the age of the pension system member at the time of the Act's effective date. 40 ILCS 5/2-119.1(a-2), 14-114(a-2), 15-136(d-2), 16-133.1(a-2), 16-136.1(b-2) (West Supp. 2013). Finally, with respect to the TRS and SURS systems, the Act also alters how the base annuity amount is determined for purposes of what is known as the "money purchase" formula, something available to members of those two systems who began employment prior to July 1, 2005, as an alternative to the standard formula for calculating pensions. See 40 ILCS 5/15-136, 16-133 (West Supp. 2013). Because of this change, which involves use of a different interest rate, affected members of TRS and SURS will have smaller base pensions.

¶ 28 Senate Bill 1, which became Public Act 98-599, was explained to the Senate through presentation of a conference committee report by one of the bill's chief sponsors, Senator Kwame Raoul. Senator Raoul described the various provisions of the bill as "all part of an integral bipartisan package" designed to reduce unfunded liabilities in the pension systems which had resulted, principally, from "the State not contributing what it should have" to those systems. 98th Ill. Gen. Assem., Senate Proceedings, Dec. 3, 2013, at 4 (statements of Senator Raoul). He noted prior government reports which had found that "the reality is that the primary cause of the State[']s unfunded liability is Illinois' decades-long failure to make its full actuarial required employer contributions to the five pension systems." *Id.* at 5. He advised his colleagues that the bill would reduce the unfunded pension liability by



\$21.4 billion, and then summarized the specific provisions of the law that would make that possible, including the critical benefit reductions described above. *Id.* at 5-7.

¶ 29 During discussion of the bill, Senator Hutchinson asked: “Am I correct that the legislation intends to and will have a direct and substantial impact on the benefits of current employees and retirees by reducing their benefits?” *Id.* at 40 (statements of Senator Hutchinson).

Senator Raoul responded: “Yes. You are correct.” *Id.* at 40 (statements of Senator Raoul).

¶ 30 This colloquy followed:

“SENATOR HUTCHINSON:

I know that one of the objectives of this legislation is really to improve the State’s credit rating. Is that correct? I mean, that’s why we’re here.

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SENATOR RAOUL:

It—it’s one of—one of—one of the State’s fiscal issues, yes, and one—one of the objectives.

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SENATOR HUTCHINSON:

So, then, is it fair to say that we are sacrificing a substantial amount of people’s pension benefits to protect the State’s finances?

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SENATOR RAOUL:

Yeah, I—you know, that’s a harsh characterization, but—but I—I suppose yes.

\* \* \*

SENATOR HUTCHINSON:

The bill's legislative statement states in the fourth paragraph that this 'is intended to address fiscal issues facing the State and its retirement systems in a manner that's feasible'. So, by using the word 'feasible', does that mean that there are other feasible alternatives to this bill?

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SENATOR RAOUL:

Certainly there are. I mean, certainly, you know, as has been mentioned, a lot of these levers are—are levers that can be tweaked one way or the other, and there are other proposals that were entertained by the conference committee. But—but, you know, we're trying to move from a stalemate. So, yes, there are other alternatives, but, you know, this is an effort to move from a—from a stalemate.

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SENATOR HUTCHINSON:

Would another alternative be the proposal that the Center for Tax and Budget Accountability outlined before the conference committee, which would have re-amortized the current unfunded liabilities to a new gradual [level] dollar payment schedule to achieve well over eighty percent by 2059?

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SENATOR RAOUL:

Yes. \*\*\* So that—that and many other things could have been possible alternatives.

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SENATOR HUTCHINSON:

[The last sentence of the fourth paragraph of the report contains the phrase] that the legislation is 'minimizing the impact on current and retired

State employees’. So by using ‘minimizing’, does that mean that the legislation is somehow the least restrictive means available to us?

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SENATOR RAOUL:

Yeah, I—you know,—I don’t know what the least restrictive means are. I—I think what we’re doing just reflects what the political climate is. Again, I’ve—I’ve—I’ve said, time and again, that we’ve been cemented in a stalemate, and I, for my part, don’t want to see the State sink as a result of that stalemate. So, it may not be the least restrictive means, but the political climate, I believe, allows for us to—to—to take the step that we’re—we’re hopefully now taking.” *Id.* at 41-46 (statements of Senators Hutchinson and Raoul).

¶ 31 Following this exchange and remarks by Senator Hutchinson, the Senate’s presiding officer recognized one final speaker, Senator Christine Radogno, another of the bill’s sponsors. In urging passage of the legislation, Senator Radogno characterized it as “the one opportunity that we have to finally, finally address the most important economic issues that are facing this State, and that includes our credit ratings, our financial position, our jobs climate, and, frankly, our reputation in the global economy.” *Id.* at 48 (statements of Senator Radogno).

¶ 32 After being approved by both houses of the General Assembly, Senate Bill 1 was signed into law by then-Governor Quinn as Public Act 98-599 on December 5, 2013. Five separate lawsuits challenging the law were filed almost immediately. These are *Retired State Employees Ass’n Retirees v. Quinn*, No. 2014 MR 1 (Cir. Ct. Sangamon Co.) (hereinafter *RSEA*), *Illinois State Employees Ass’n v. Board of Trustees of State Employees Retirement System*, No. 2014 CH 3 (Cir. Ct. Sangamon Co.) (hereinafter *ISEA*), and *Harrison v. Quinn*, No. 2014 CH 48 (Cir. Ct. Sangamon Co.) (hereinafter *Harrison*) all of which were filed in Sangamon County; *State Universities Annuitants Ass’n v. State Universities Retirement System*, No. 2014 MR 207 (Cir. Ct. Champaign Co.) (hereinafter *SUAA*), originally filed in Champaign County; and *Heaton v. Quinn*, No. 13 CH 28406 (Cir. Ct. Cook Co.) (hereinafter *Heaton*), originally filed in Cook County. In March of 2014, this court entered an order pursuant to Supreme Court Rule 384 (Ill. S. Ct. R. 384) transferring *Heaton* to Sangamon County and consolidating it with *RSEA*, *ISEA* and *Harrison*. We subsequently entered a similar order with respect to *SUAA*.

¶ 33 Plaintiffs in these five consolidated cases are individual members of the four retirement systems affected by Public Act 98-599, both current employees and retirees, as well as organizations representing such members and their interests under Illinois pension law.<sup>9</sup> Defendants include the Governor, Treasurer and Boards of Trustees of GRS, SERS, SURS and TRS. Judy Baar Topinka was also made a nominal defendant in her capacity as Comptroller. The Attorney General has noted in the record, however, that prior to her death in office, Comptroller Topinka disavowed the Attorney General’s arguments in support of Public Act 98-599.

¶ 34 The complaints in all five consolidated actions focused their challenges on the core provisions of Public Act 98-599 we have just described, namely, those which would reduce the retirement annuities of individuals entitled to Tier 1 benefits by raising the age at which members under the age of 46 are eligible to begin receiving their retirement annuities, capping the maximum salary that may be considered when calculating the amount of a member’s retirement annuity, abolishing the existing fixed 3% annual annuity increases, eliminating at least one and up to five annual annuity increases under the new formula, and altering how the base annuity amount is determined for purposes of the “money purchase” formula.

¶ 35 Plaintiffs’ challenges to the new law were predicated on the Illinois Constitution of 1970. In all five actions, plaintiffs’ principal contention was that the reduction in retirement annuity benefits for Tier 1 employees was void and unenforceable as a violation of the constitution’s pension protection clause (Ill. Const. 1970, art. XIII, § 5). Four of the complaints (*RSEA*, *ISEA*, *Harrison*, and *SUAA*) also alleged that the annuity reduction provisions violated article I, section 16, of the Illinois Constitution (Ill. Const. 1970, art. I, § 16), which provides, *inter alia*, that no law impairing the obligation of contracts shall be passed. Two of those four complaints (*RSEA* and *ISEA*) included separate impairment of contract claims on behalf of a specific subset of employees who elected to participate in early retirement programs offered by the State in 1991, 2002 and 2005. Violations of article I, section 15, of the Illinois Constitution (Ill. Const. 1970, art. I, § 15), which prohibits the taking or damaging of private property for public use without just compensation, were alleged in *Harrison* and *SUAA*. In addition, *RSEA* and *ISEA* asserted that the annuity reductions violated equal protection under article I,

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<sup>9</sup> Although the plaintiffs in *RSEA*, *ISEA*, *Harrison* and *Heaton* initially sought class certification, they ultimately withdrew their class action allegations, and no questions regarding class certification are at issue.

section 2, of the Illinois Constitution (Ill. Const. 1970, art. I, § 2) because they did not also include members of the JRS system, *i.e.*, judges.<sup>10</sup>

¶ 36 By its terms, Public Act 98-599 was scheduled to take effect June 1, 2014. On plaintiffs’ motion, the circuit court entered a preliminary injunction on May 14, 2014, staying implementation of the law and enjoining defendants from enforcing or administering any of its provisions pending further order of the court. That injunction remained in effect throughout the circuit court proceedings.

¶ 37 The State answered plaintiffs’ complaints and raised as an affirmative defense that because of “unanticipated exigencies contributing to the Systems’ unsound financial condition and the State’s related fiscal crisis” and “[i]n light of the measures already taken by the General Assembly to address the Systems’ financial condition and the State’s fiscal crisis, and in light of the serious negative effects” other alternatives would entail, the reduction in Tier 1 retirement annuities by the General Assembly was justified as an exercise of the State’s “reserved sovereign power,” *i.e.*, its “police power.” More specifically, the State argued that plaintiffs’ claims under the Illinois Constitution should be rejected as a matter of law because (1) through the State’s police power, the General Assembly possesses inherent authority to override and modify obligations imposed on it by the Illinois Constitution when, in its judgment, such action is reasonable and necessary to advance an important public purpose; (2) because of the “dramatic squeeze on the State’s finances” caused by the Great Recession, the strain on the State’s revenues which would result from having to meet current pension obligations, the poor condition of the State’s economy, and the continued deterioration of the State’s credit rating, notwithstanding the State’s attempts to employ other remedial measures, action was needed in the interest of the public good; and (3) the reduction in retirement annuity benefits which would result from implementation of Public Act 98-599 to these fiscal challenges is fair and reasonable under the circumstances.

¶ 38 Plaintiffs in *SUAA* moved to strike the State’s “reserved sovereign power” affirmative defense pursuant to section 2-615 of the Code of Civil Procedure (735 ILCS 5/2-615 (West 2012)). A similar, but separate motion was filed by the plaintiffs in the other four cases. The plaintiffs in *RSEA* and *ISEA* moved for summary judgment pursuant to section 2-1005 of the Code of Civil Procedure (735

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<sup>10</sup>There were other variations between the cases, but they are not germane to our resolution of this appeal and require no further discussion.

ILCS 5/2-1005 (West 2012)) with respect to the claim that Public Act 98-599 violated equal protection under the Illinois Constitution. All plaintiffs filed a joint motion for partial summary judgment addressed to their claims that the Act was void and unenforceable under the pension protection clause. The State, in turn, filed its own motion for summary judgment, arguing that its reserved sovereign powers defense was fatal to all of plaintiffs' claims.

¶ 39 Following a hearing, the circuit court granted the plaintiffs' joint motion for partial summary judgment on their claims that Public Act 98-599 was void and unenforceable under the pension protection clause, allowed the various motions by plaintiffs for judgment on the pleadings as to the State's affirmative defense or to strike that defense and denied the motion for summary judgment filed by the State. The court specifically found that, on its face, the Act would diminish the benefits of membership in the four affected State-funded retirement systems by reducing retirement annuities in each of the five ways alleged by plaintiffs. The court further concluded, based on existing case law, that the pension protection clause contains nothing to support the contention that the legislature possessed implied or reserved power to diminish or impair pensions. "[T]he State of Illinois made a constitutionally protected promise to its employees concerning their pension benefits," the court ruled. "Under established and uncontroverted Illinois law, the State of Illinois cannot break that promise."

¶ 40 Because it believed that the constitutionally-infirm annuity reduction provisions were an important part of the overall legislative package, the court declared the Act to be unconstitutional in its entirety and permanently enjoined its enforcement. In light of that result, the court concluded that there was no need to address the other issues raised in the case, including plaintiffs' challenges based on other provisions of the Illinois Constitution.

¶ 41 The circuit court subsequently made the express written findings required by Supreme Court Rule 18 (Ill. S. Ct. R. 18 (eff. Sept. 1, 2006)) where, as here, a statute is declared unconstitutional. The State appealed. Because the circuit court's judgment invalidated a statute of the State of Illinois, the appeal was taken directly to this Court. Ill. S. Ct. R. 302(a) (eff. Oct. 4, 2011).



¶ 42

## ANALYSIS

¶ 43

Three issues are presented for our review: (1) does Public Act 98-599's reduction of retirement annuity benefits owed to members of the GRS, SERS, SURS and TRS retirement systems violate the pension protection clause set forth in article XIII, section 5, of the Illinois Constitution of 1970 (Ill. Const. 1970, art. XIII, § 5); (2) if so, can the law's reduction of those benefits nevertheless be upheld as a proper exercise of the State's police power; and (3) if not, are the invalid provisions of Public Act 98-599 severable from the remainder of the statute? These are all questions of law.<sup>11</sup> Our review is therefore *de novo*. *Kanerva v. Weems*, 2014 IL 115811, ¶ 33.

¶ 44

## I

¶ 45

The first issue, whether Public Act 98-599's reduction of retirement annuity benefits violates this State's pension protection clause, is easily resolved. The pension protection clause clearly states: "[m]embership in any pension or retirement system of the State \*\*\* shall be an enforceable contractual relationship, *the benefits of which shall not be diminished or impaired*." (Emphasis added.) Ill. Const. 1970, art. XIII, § 5. This clause has been construed by our court on numerous occasions, most recently in *Kanerva v. Weems*, 2014 IL 115811. We held in that case that the clause means precisely what it says: "if something qualifies as a benefit of the enforceable contractual relationship resulting from membership in one of the State's pension or retirement systems, it cannot be diminished or impaired." *Id.* ¶ 38.

¶ 46

This construction of article XIII, section 5, was not a break from prior law. To the contrary, it was a reaffirmation of principles articulated by this court and the appellate court on numerous occasions since the 1970 Constitution took effect. Under article XIII, section 5, members of pension plans subject to its provisions have a legally enforceable right to receive the benefits they have been promised. *People ex rel. Sklodowski v. State*, 182 Ill. 2d 220, 229-32 (1998); *McNamee v. State*, 173 Ill. 2d 433, 444-46 (1996). The protections afforded to such benefits by

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<sup>11</sup>Severability presents a legal question because assessing whether invalid provisions of a statute are severable from the remainder is a matter of statutory construction (*People ex rel. Chicago Bar Ass'n v. State Board of Elections*, 136 Ill. 2d 513, 534 (1990)), and statutory construction is a question of law (*Solon v. Midwest Medical Records Ass'n*, 236 Ill. 2d 433, 439 (2010)).

article XIII, section 5 attach once an individual first embarks upon employment in a position covered by a public retirement system, not when the employee ultimately retires. See *Di Falco v. Board of Trustees of the Firemen's Pension Fund of the Wood Dale Fire Protection District No. One*, 122 Ill. 2d 22, 26 (1988). Accordingly, once an individual begins work and becomes a member of a public retirement system, any subsequent changes to the Pension Code that would diminish the benefits conferred by membership in the retirement system cannot be applied to that individual. *Buddell v. Board of Trustees, State University Retirement System*, 118 Ill. 2d 99, 105-06 (1987) (pension protection clause barred statutory change in Pension Code which prevented current pension system member from purchasing service credit for time spent in military); *Felt v. Board of Trustees of the Judges Retirement System*, 107 Ill. 2d 158, 162-63 (1985) (amendment to Pension Code adversely affecting base salary used to compute annuity impermissibly reduced retirement benefits of existing retirement system members in violation of pension protection clause); *Kraus v. Board of Trustees of the Police Pension Fund*, 72 Ill. App. 3d 833, 844-48 (1979) (change in Pension Code's method of computing a police officer's pensionable salary in a way that would reduce the amount of the pension could not, under the pension protection clause, be applied to persons who were members of the retirement system prior to the amendment's effective date); *Miller v. Retirement Board of Policemen's Annuity & Benefit Fund*, 329 Ill. App. 3d 589 (2001) (amendments to Pension Code which reduced benefits of existing retirement system members with respect to eligibility for automatic annual increases unconstitutional under pension protection clause); *Schroeder v. Morton Grove Police Pension Board*, 219 Ill. App. 3d 697 (1991) (finding invalid, as violation of pension protection clause, amendment to Pension Code reducing pension benefits based on receipt of workers' compensation benefits).<sup>12</sup>

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<sup>12</sup>Additional benefits may always be added, of course (see *Kraus v. Board of Trustees of the Police Pension Fund*, 72 Ill. App. 3d at 849), and the State may require additional employee contributions or other consideration in exchange (see *Gualano v. City of Des Plaines*, 139 Ill. App. 3d 456, 459 (1985)). However, once the additional benefits are in place and the employee continues to work, remains a member of a covered retirement system, and complies with any qualifications imposed when the additional benefits were first offered, the additional benefits cannot be unilaterally diminished or eliminated. See, e.g., *Taft v. Board of Trustees of the Police Pension Fund*, 133 Ill. App. 3d 566, 572 (1985); *Carr v. Board of Trustees of the Police Pension Fund*, 158 Ill. App. 3d 7, 9-10 (1987); cf. *Kuhlmann v. Board of Trustees of the Police Pension Fund*, 106 Ill. App. 3d 603, 609 (1982) (member not eligible for increase in benefits where he had ceased contributing to the pension fund prior to the change in the law).

¶ 47 Retirement annuity benefits are unquestionably a “benefit of contractually-enforceable relationship resulting from membership” in the four State-funded retirement systems. Indeed, they are among the most important benefits provided by those systems. If allowed to take effect, Public Act 98-599, would clearly result in a diminishment of the retirement annuities to which Tier 1 members of GRS, SRS, SURS and TRS became entitled when they joined those systems. As described earlier in this opinion, the new legislation directly reduces the value of retirement annuities for those members in no fewer than five different ways. While we presume statutes to be constitutional and must construe enactments by the legislature so as to uphold their validity whenever it is reasonably proper to do so (*Wilson v. Department of Revenue*, 169 Ill. 2d 306, 310 (1996)), there is simply no way that the annuity reduction provisions in Public Act 98-599 can be reconciled with the rights and protections established by the people of Illinois when they ratified the Illinois Constitution of 1970 and its pension protection clause. Those provisions contravene the clear requirements of article XIII, section 5, as set forth in the provision’s plain and unambiguous language and construed by the legion of cases we have just discussed. In enacting the provisions, the General Assembly overstepped the scope of its legislative power. This court is therefore obligated to declare those provisions invalid. *Maddux v. Blagojevich*, 233 Ill. 2d 508, 528 (2009).

¶ 48 In *Fields v. Elected Officials’ Retirement Plan*, 320 P.3d 1160, 1165-68 (Ariz. 2014), the Arizona Supreme Court recently reached the same conclusion in similar circumstances based on the analogous provision of their state’s constitution. As under our pension protection clause, the Arizona constitution provides that public retirement system benefits “shall not be diminished or impaired.” Ariz. Const., art. XXIX, § 1(C). Applying that provision, the Arizona Supreme Court held that legislative changes to the statutory formula for pension benefit increases which diminished benefit payments violated this constitutional provision, and the court expressly rejected the argument that the term “benefit” in the constitutional provision “only includes the right to receive payments in the amount determined by the most recent calculation.” *Fields*, 320 P.3d at 1165-68. The court reasoned that accepting such an argument would place even the base pension benefit outside the reach of constitutional protection because the base benefit is produced by the same statutory formula that includes benefit increases. See *id.* at 1166.

¶ 49 The “benefit” protected by the Arizona constitution’s Pension Clause, the court explained, “necessarily includes the right to use the statutory formula” that

determines the amount of pension annuity payments, and that formula includes the statutory benefit increases. *Id.* The court held that the plaintiff, a retired Arizona judge, “has a right in the existing formula by which his benefits are calculated as of the time he began employment and any beneficial modifications made during the course of his employment.” *Id.* Accordingly, the Arizona statutory benefit increase formula was a protected pension “benefit” for purposes of the Arizona constitution’s substantially identical pension protection clause. *Id.*

¶ 50 The Arizona Supreme Court added that its decision comported with judicial decisions “in other states that have similar constitutional provisions protecting public pension benefits,” including Illinois. *Id.* Significantly, the court observed that Illinois courts have “determined that benefit calculation formulas are entitled to constitutional protection,” and cited *Miller*, 329 Ill. App. 3d 589, for the proposition that “benefit increases” are “constitutionally protected.” *Fields*, 320 P.3d at 1166.

¶ 51

## II

¶ 52 That the annuity reduction provisions of Public Act 98-599 violate the pension protection clause’s prohibition against the diminishment of the benefits of membership in a State-funded retirement system is one the State has now all but conceded. After this court reaffirmed in *Kanerva v. Weems* that the pension protection clause means precisely what it says, the State shifted its focus to an argument it did not raise and we did not consider in *Kanerva*. The State’s position now rests on its affirmative defense that funding for the pension systems and State finances in general have become so dire that the General Assembly is authorized, even compelled, to invoke the State’s “reserved sovereign powers,” *i.e.*, its police powers, to override the rights and protections afforded by article XIII, section 5, of the Illinois Constitution in the interests of the greater public good. This argument must also fail.

¶ 53 The circumstances presented by this case are not unique. Economic conditions are cyclical and expected, and fiscal difficulties have confronted the State before. In the midst of previous downturns, the State or political subdivisions of the State have attempted to reduce or eliminate expenditures protected by the Illinois Constitution, as the General Assembly is attempting to do with Public Act 98-599.

Whenever those efforts have been challenged in court, we have clearly and consistently found them to be improper.

¶ 54 During the Great Depression, for example, the city of Chicago omitted from its annual appropriations for 1932, 1933 and 1934 a portion of the funds necessary to pay the full salaries of the chief justice and 36 associate judges of the city's municipal court. The affected judges were subject to a provision of the Illinois Constitution that prevented their compensation from being diminished during their terms of office. Their salaries were also protected from reductions by a provision of the Municipal Court Act then in effect. The judges sought relief by way of *mandamus* to compel the city to comply with the law. *People ex rel. Lyle v. City of Chicago*, 360 Ill. 25, 26-27 (1935).

¶ 55 For its defense, the city claimed that a large part of the taxes from 1929 to 1932, inclusive, were not and could not be collected, and because of "the reassessment of property in Cook county the levies and extensions of taxes were overdue from two to three years." *Id.* at 27. As a result, it faced a financial emergency which left it unable to comply with the above-noted provisions without curtailing the essential functions of government. According to the city, requiring it to pay the judges' full salaries as required by law would necessitate the cutting of other appropriations and "crippl[e] activities for the prevention of crime, fire, and the spread of disease." *Id.* at 28-29.

¶ 56 In rejecting the city's position, we acknowledged that legitimate efforts to relieve the city's difficulties were commendable. We held, however, that any departure from the law is impermissible unless justification for that departure is found within the law itself. Exigent circumstances are not enough. "Neither the legislature nor any executive or judicial officer may disregard the provisions of the constitution even in case of a great emergency." *Id.* at 29. Because the provisions prohibiting reduction in judicial salaries were plain and unequivocal and contained nothing that expressly or impliedly authorized deviation from their terms, we concluded that the city had no authority to change the judges' salaries during the terms for which they were elected. "Municipal authorities are charged by law with making all appropriations for the expenses of the municipality," we held, "and it was manifestly their duty to make the necessary appropriations for the full amount of the salaries of [these judges]. If appropriating such amounts will curtail other funds and hamper some needed activity of the city, that situation is, of course, unfortunate but does not justify the violation of the law." *Id.* at 30.

¶ 57 A similar situation was presented more recently in *Jorgensen v. Blagojevich*, 211 Ill. 2d 286 (2004), where the governor attempted to use his veto power to eliminate a cost of living adjustment to salaries for the State’s judges as part of an austerity plan. Because the adjustments were a vested component of the salaries authorized by law, however, the governor’s attempt to undo them violated the prohibition against diminishment of judicial salaries set forth in article VI, section 14, of the Illinois Constitution (Ill. Const. 1970, art. VI, § 14). When the judges challenged the governor’s actions on that basis in circuit court, they prevailed. On direct review, we affirmed.

¶ 58 As we had in *People ex rel. Lyle*, nearly 70 years earlier, we acknowledged that: “substantial budgetary challenges currently confront the Governor and the General Assembly. The adverse economic conditions facing so many of our fellow citizens have taken an inevitable toll on the state’s treasury. Revenues are not keeping pace. Despite ongoing efforts by the Governor and legislature, shortfalls persist. We do not mean to diminish the seriousness of the situation or appear insensitive to the difficulties faced by our coordinate branches of government. Those difficulties are undeniable, and we are highly cognizant of the need for austerity and restraint in our spending. As administrators of the judiciary, we make every effort to economize whenever and however we can. One thing we cannot do, however, is ignore the Constitution of Illinois.” *Jorgensen*, 211 Ill. 2d at 316.

Once the salaries were implemented according to law, article VI, section 14, of the constitution precluded their diminishment and required that they be paid. “No principle of law permits us to suspend constitutional requirements for economic reasons,” we held, “no matter how compelling those reasons may seem.” *Id.* So it is with the case before us today.

¶ 59 The State seeks to avoid this conclusion by arguing that because membership in public retirement systems is an enforceable contractual relationship under article XIII, section 5, it should be subject to the same limitations as all other contractual rights; that under “a century and a half of federal and state law defining contractual relationships,” these rights remain subject to modification—even invalidation—by the General Assembly through the exercise of the State’s police power; and that the reduction in retirement annuity benefits under Public Act 98-599 is a valid exercise



of police power because it is necessary and reasonable to secure the State's fiscal health and the well being of its citizens.

¶ 60 This argument was rejected by the circuit court. We reject it as well. As a preliminary matter, the precedent on which the State relies does not involve the pension protection clause under article XIII, section 5. It arises, instead, under article I, section 16 (Ill. Const. 1970, art. I, § 16), and that provision's counterpart in the United States Constitution (see U.S. Const., art. I, § 10, cl. 1). Those provisions, which are popularly referred to as the "contracts clause," provide that the State shall not pass any "law impairing the obligation of contracts." The State points out that case law interpreting these provisions has recognized that the prohibition against impairment of contracts is not absolute and "does not immunize contractual obligations from every conceivable kind of impairment or from the effect of a reasonable exercise by the States of their police power." *George D. Hardin, Inc. v. Village of Mount Prospect*, 99 Ill. 2d 96, 103 (1983). The police power is "incapable of alienation" (*City of Chicago v. Chicago Union Traction Co.*, 199 Ill. 259, 270 (1902)), the State observes, and it has long been recognized that it may, in the exercise of its police powers, enact "regulations reasonably necessary to secure the health, safety, morals or general welfare of the community, even though contracts may thereby be affected" (*City of Chicago v. Chicago & North Western Ry. Co.*, 4 Ill. 2d 307, 317 (1954)).

¶ 61 While these principles sound expansive, legislation impairing contracts has actually been upheld against contract clause challenges only rarely. *George D. Hardin, Inc. v. Village of Mount Prospect*, 99 Ill. 2d at 104. When the legislation has been directed at reducing pension benefits of State employees, this court has expressly held that it is "not defensible as a reasonable exercise of the State's police powers" and declared it invalid under the contracts clause, as well as for other reasons. *Felt v. Board of Trustees of the Judges Retirement System*, 107 Ill. 2d at 167; *Bardens v. Board of Trustees of the Judges Retirement System*, 22 Ill. 2d 56, 61-62 (1961).

¶ 62 This is not surprising. While impairment of a contract may survive scrutiny under the contracts clause if reasonable and necessary to serve an important public purpose, " '[t]he severity of the impairment measures the height of the hurdle the state legislation must clear.' " *Felt v. Board of Trustees of the Judges Retirement System*, 107 Ill. 2d at 166 (quoting *Allied Structural Steel Co. v. Spannaus*, 438

U.S. 234, 245 (1978)). Changes in the factors used to compute public pension benefits constitute an impairment which is “obviously substantial.” *Id.*

¶ 63 Moreover, the United States Supreme Court has held that particular scrutiny of legislative action is warranted when, as here, a state seeks to impair a contract to which it is itself a party and its interest in avoiding the contract or changing its terms is financial. Committing to a contract does implicate the state’s sovereign power, but:

“[w]hatever the propriety of a State’s binding itself to a future course of conduct in other contexts, the power to enter into effective financial contracts cannot be questioned. Any financial obligation could be regarded in theory as a relinquishment of the State’s spending power, since money spent to repay debts is not available for other purposes. Similarly, the taxing power may have to be exercised if debts are to be repaid. Notwithstanding these effects, the Court has regularly held that the States are bound by their debt contracts.” *United States Trust Co. of New York v. New Jersey*, 431 U.S. 1, 24 (1977).

¶ 64 In addition, because the state’s self-interest is at stake whenever it seeks to modify its own financial obligations, the United States Supreme Court has made clear that it is not appropriate to give the state’s legislature the same deference it would otherwise be afforded with regard to whether the impairment is reasonable and necessary to serve an important public purpose. “A governmental entity can always find a use for extra money,” the Court observed, “especially when taxes do not have to be raised. If a State could reduce its financial obligations whenever it wanted to spend the money for what it regarded as an important public purpose, the Contract Clause would provide no protection at all.” *Id.* at 25-26.

¶ 65 In assessing claims by the state that impairment of a contract is “necessary” to advance the public interest, courts consider whether the provisions which the state seeks to change had effects which were unforeseen and unintended by the legislature when initially adopted and whether the state could achieve its purposes through less drastic measures. *Id.* at 30-32. In this case, the State seeks remand to permit it to develop a more complete evidentiary record on these questions. Such a remand, however, would serve no purpose. Based on the facts already of record and the matters of which we can take judicial notice, it is manifest that the State could not, as a matter of law, clear the threshold imposed under contemporary contract clause jurisprudence.

¶ 66 As this opinion has previously observed, our economy is and has always been subject to fluctuations, sometimes very extreme fluctuations. Throughout the past century, market forces have periodically placed significant pressures on public pension systems. The repercussions of underfunding those pension systems in such an environment have been well-documented and were well-known when the General Assembly enacted the provisions of the Pension Code which Public Act 98-599 now seeks to change. The General Assembly had available to it all the information it needed to estimate the long-term costs of those provisions, including the costs of annual annuity increases, and the provisions have operated as designed.<sup>13</sup> The General Assembly understood that the provisions would be subject to the pension protection clause. In addition, the law was clear that the promised benefits would therefore have to be paid, and that the responsibility for providing the State's share of the necessary funding fell squarely on the legislature's shoulders. Accordingly, the funding problems which developed were entirely foreseeable. The General Assembly may find itself in crisis, but it is a crisis which other public pension systems managed to avoid and, as reflected in the SEC order, it is a crisis for which the General Assembly itself is largely responsible.

¶ 67 Moreover, no possible claim can be made that no less drastic measures were available when balancing pension obligations with other State expenditures became problematic. One alternative, identified at the hearing on Public Act 98-599, would have been to adopt a new schedule for amortizing the unfunded liabilities. The General Assembly could also have sought additional tax revenue. While it did pass a temporary income tax increase, it allowed the increased rate to lapse to a lower rate even as pension funding was being debated and litigated.

¶ 68 That the State did not select the least drastic means of addressing its financial difficulties is reinforced by the legislative history. As noted earlier in this opinion, the chief sponsor of the legislation stated candidly that other alternatives were available. Public Act 98-599 was in no sense a last resort. Rather, it was an expedient to break a political stalemate.

¶ 69 The United States Supreme Court has made clear that the United States Constitution "bar[s] Government from forcing some people alone to bear public

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<sup>13</sup>While the automatic annual increases have sometimes exceeded changes in the cost of living, these adjustments are not cost of living adjustments, and as indicated earlier in this disposition, the increases have actually lagged the average increases granted by the Social Security Administration, which are tied to the cost of living.

burdens which, in all fairness and justice, should be borne by the public as a whole [citations].” (Internal quotation marks omitted.) *United States v. Winstar Corp.*, 518 U.S. 839, 883 (1996). Through Public Act 98-599, however, the General Assembly addressed the financial challenges facing our State by doing just that. It made no effort to distribute the burdens evenly among Illinoisans. It did not even attempt to distribute the burdens evenly among those with whom it has contractual relationships. Although it is undisputed that many vendors face delays in payment, the terms of their contracts are unchanged, and under the State Prompt Payment Act, vendors are actually entitled to additional compensation in the form of statutory interest if their bills are not paid within specified periods. 30 ILCS 540/3-2 (West 2012). In no sense is this comparable to the situation confronted by members of public retirement systems under Public Act 98-599, which, if allowed to take effect, would actually negate substantive terms of their contractual relationships and reduce the benefits due and payable to them in a real and absolute way. Under all of these circumstances, it is clear that the State could prove no set of circumstances that would satisfy the contracts clause. Its resort to the contracts clause to support its police powers argument must therefore be rejected as a matter of law.

¶ 70 The State’s police powers defense is fatally flawed for other reasons as well. Just as the legislature is presumed to act with full knowledge of all prior legislation, the drafters of a constitutional provision are presumed to know about existing laws and constitutional provisions and to have drafted their provision accordingly. *Kanerva v. Weems*, 2014 IL 115811, ¶ 41. The contracts clause had antecedents in the very first Illinois Constitution and in the Constitution of the United States. When the time came to address the protection for public pensions, the drafters of the 1970 Constitution therefore presumably knew of the substantial body of case law involving that clause, including the case law holding that, when warranted, the protections afforded contracts could be modified through the exercise of the State’s police powers. That, however, is not the standard they chose with respect to the benefits of membership in public pension systems.

¶ 71 There are numerous instances in the Constitution of 1970 where the drafters specifically provided that particular constitutional guarantees were to remain subject to the authority of the State to step in when public safety and welfare required. See Ill. Const. 1970, art. I, § 22 (right of individual citizens to keep and bear arms shall not be infringed “[s]ubject only to the police power”); Ill. Const. 1970, art. I, § 9 (privilege of writ of *habeas corpus* shall not be suspended “except

in cases of rebellion or invasion when the public safety may require it”); Ill. Const. 1970, art. I, § 3 (rights of religious freedom shall not be construed to “justify practices inconsistent with the peace or safety of the State”); Ill. Const. 1970, art. XI, § 2 (right to healthful environment “subject to reasonable limitation and regulation as the General Assembly may provide by law”). When it came time to address the rights conferred by membership in public pension systems, however, the drafters included no similar reservation of authority.

¶ 72 This decision was not inadvertent. During the convention on the 1970 Illinois Constitution, the suggestion was made that public pensions be addressed through the same “impair[ment] [of] the obligation \*\*\* contracts” provision now included in article I, section 16 (Ill. Const. 1970, art. I, § 16). 4 Record of Proceedings 2930 (statements of Delegate Whalen). That proposal, however, was rejected in favor of the separate, more specific provisions of article XIII, section 5 (Ill. Const. 1970, art. XIII, § 5). Those provisions not only created a new right of constitutional dimension, conferring enforceable contractual status on the benefits of membership in public retirements systems, they also defined the scope of the protection afforded such benefits. Under the plain language of article XIII, section 5, not only may the benefits not be impaired, they also may not be “diminished.” That is same term used in article VI, section 14 (Ill. Const. 1970, art. VI, § 14), which protects the salaries of judges against reduction during their terms of office and which was enforced by this court in *Jorgensen v. Blagojevich*, 211 Ill. 2d 286 (2004), discussed earlier in this opinion, notwithstanding the State’s claims of economic hardship.

¶ 73 We note, moreover, that after the drafters of the 1970 Constitution initially approved the pension protection clause, a proposal was submitted to Delegate Green by the chairperson of the Illinois Public Employees Pension Laws Commission, an organization established by the General Assembly to, *inter alia*, offer recommendations regarding the impact of proposed pension legislation. See Ill. Rev. Stat. 1969, ch. 108½, ¶¶ 22-801, 22-802, regarding the wording of the new provision. The proposal criticized the language approved by the drafters on the grounds that it would curtail the powers of the legislature and limit its authority. It recommended that additional introductory language be added specifying that the rights conferred thereunder were “[s]ubject to the authority of the General Assembly to enact reasonable modifications in employee rates of contribution, minimum service requirements and the provisions pertaining to the fiscal soundness of the retirement systems.”

¶ 74 Delegate Green subsequently advised the chairman that he would not offer it because “he could get no additional delegate support for the proposed amendment.” Report of the Illinois Public Pension Laws Commission 66 (1971). Shortly thereafter, a member of the Pension Laws Commission sent a follow-up letter to Delegate Green requesting that he read a statement into the convention record expressing the view that the new provision should not be interpreted as reflecting an intent to withdraw from the legislature “the authority to make reasonable adjustments or modifications in respect to employee and employer rates of contribution, qualifying service and benefit conditions, and other changes designed to assure the financial stability of pension and retirement funds” and that “[i]f the provision is interpreted to preclude any legislative changes which may in some incidental way ‘diminish or impair’ pension benefits it would unnecessarily interfere with a desirable measure of legislative discretion to adopt necessary amendments occasioned by changing economic conditions or other sound reasons.” Letter and Enclosed Statement of Rubin G. Cohn, Member of the Illinois Public Employees Pension Laws Commission to Delegate Henry Green (Aug. 27, 1970), Papers of Henry I. Green, Box 1, Folder 13 (University of Illinois Library at Urbana-Champaign, Illinois History and Lincoln Collections). This effort also proved unsuccessful. The statement was not read and no action was taken during the convention to include language allowing a reasonable power of legislative modification. *Kraus v. Board of Trustees of the Police Pension Fund*, 72 Ill. App. 3d at 851.

¶ 75 Given the history of article XIII, section 5, and the language that was ultimately adopted, we therefore have no possible basis for interpreting the provision to mean that its protections can be overridden if the General Assembly deems it appropriate (see *id.*), as it sometimes can be under the contracts clause. To confer such authority on the legislature through judicial fiat would require that we ignore the plain language of the constitution and rewrite it to include “restrictions and limitations that the drafters did not express and the citizens of Illinois did not approve.” *Kanerva v. Weems*, 2014 IL 115811, ¶ 41. Indeed, accepting the State’s position that reducing retirement benefits is justified by economic circumstances would require that we allow the legislature to do the very thing the pension protection clause was designed to prevent it from doing. Article XIII, section 5, would be rendered a nullity.

¶ 76 The State protests that this conclusion is tantamount to holding that the State has surrendered its sovereign authority, something it may not do. The State is



incorrect. Article XIII, section 5, is in no sense a surrender of any attribute of sovereignty. Rather, it is a statement by the people of Illinois, made in the clearest possible terms, that the authority of the legislature does not include the power to diminish or impair the benefits of membership in a public retirement system. This is a restriction the people of Illinois had every right to impose.

¶ 77 Unlike Great Britain, where the sovereignty of the nation resides in Parliament, “[u]nder our institutions this sovereignty or transcendent power of government resides in or with the people.” *Hawthorn v. People*, 109 Ill. 302, 305-06 (1883). See 33A Ill. L. and Prac. *State Government* § 3 (2012). Sovereignty is lodged in the people (*People ex rel. Dickinson v. Board of Trade*, 193 Ill. 577, 589 (1901)), and the people are the sovereign power (*Field v. People ex rel. McClernand*, 3 Ill. 79, 110-11 (1839)). The people therefore possess all power originally, including all legislative power. *Harder’s Fire Proof Storage & Van Co. v. City of Chicago*, 235 Ill. 58, 68 (1908).

¶ 78 As the ultimate sovereign, the people can, “within constitutional restrictions imposed by the Federal constitution, delegate the powers of government to whom and as they please. They can withhold or [e]ntrust it, with such limitations as they choose.” *Hawthorn v. People*, 109 Ill. at 306; accord *City of Eastlake v. Forest City Enterprises, Inc.*, 426 U.S. 668, 672 (1976) (“all power derives from the people” who can delegate it to representative instruments which they create or reserve to themselves the power to deal directly with matters which might otherwise be assigned to the legislature).<sup>14</sup> The powers they have reserved are shown in the prohibitions set forth in their state constitutions. *Munn v. Illinois*, 94 U.S. 113, 124 (1876).

¶ 79 The people of Illinois give voice to their sovereign authority through the Illinois Constitution. It is through the Illinois Constitution that the people have decreed how their sovereign power may be exercised, by whom and under what conditions or restrictions. Where rights have been conferred and limits on governmental action have been defined by the people through the constitution, the legislature cannot enact legislation in contravention of those rights and restrictions. Our court made this clear in an opinion published 186 years ago in the very first volume of our

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<sup>14</sup>We note, moreover, that which reserved powers a state government may exercise is a question for the people of that state (see *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 847-48 (1995) (Thomas, J., dissenting, joined by Rehnquist, C.J., and O’Connor and Scalia, JJ.)), not the federal courts (see *Chisholm v. Georgia*, 2 U.S. (2 Dall.) 419, 457 (1793)).

official reports. As we explained then, the constitution “is the form of government instituted by the people in their sovereign capacity, in which first principles and fundamental law are established. [It] is the supreme, permanent and fixed will of the people in their original, unlimited and sovereign capacity, and in it are determined the condition, rights and duties of every individual of the community.” *Phoebe v. Jay*, 1 Ill. 268, 271 (1828). “From the decrees of the constitution there can be no appeal, for it emanates from the highest source of power, the sovereign people. Whatever condition is assigned to any portion of the people by the constitution, is irrevocably fixed \*\*\*.” *Id.*

¶ 80 These constraints apply to the legislature. While the constitution grants general legislative authority to the General Assembly, the General Assembly must exercise that authority in conformity with the constitution’s provisions. *Neiberger v. McCullough*, 253 Ill. 312, 322 (1912). It cannot exceed the bounds imposed by the constitution or, through legislative decree, seek to alter them, for the constitution “can establish no tribunal with power to abolish that which gave and continues such tribunal in existence.” *Phoebe v. Jay*, 1 Ill. 2d at 271. In contrast to a constitutional mandate, a legislative act is but “the will of the legislature, in a derivative and subordinate capacity. *The constitution is their commission, and they must act within the pale of their authority, and all their acts, contrary or in violation of the constitutional charter, are void.*” (Emphasis added.) *Id.*

¶ 81 In accordance with these principles, we have repeatedly held that the General Assembly cannot enact legislation that conflicts with provisions of the constitution unless the constitution specifically grants it such authority. *O’Brien v. White*, 219 Ill. 2d 86, 100 (2006); *Thies v. State Board of Elections*, 124 Ill. 2d 317, 325-26 (1988) (where constitution sets forth qualifications for office, legislature cannot change or add to those qualifications unless the constitution gives it that power). Police powers are no exception to this rule. Although the police powers of the legislature are broad and far-reaching, our case law makes clear that their exercise must not conflict with the constitution. *City of Belleville v. St. Clair County Turnpike Co.*, 234 Ill. 428, 437 (1908). If the constitution mandates that something be done or not done, the legislature may not rely on its police powers to violate that mandate (*People v. Adams*, 149 Ill. 2d 331, 339-40 (1992); *People v. Warren*, 11 Ill. 2d 420, 424 (1957)) or override express constitutional guarantees (see *Heimgaertner v. Benjamin Electric Manufacturing Co.*, 6 Ill. 2d 152, 158-59 (1955)). See also *Client Follow-Up Co. v. Hynes*, 75 Ill. 2d 208, 215 (1979).

(“limitations written into the Constitution are restrictions on legislative power and are enforceable by the courts”).

¶ 82 Article XIII, section 5, of the Illinois Constitution (Ill. Const. 1970, art. XIII, § 5) expressly provides that the benefits of membership in a public retirement system “shall not be diminished or impaired.” Through this provision, the people of Illinois yielded none of their sovereign authority. They simply withheld an important part of it from the legislature because they believed, based on historical experience, that when it came to retirement benefits for public employees, the legislature could not be trusted with more. As we discussed in *Kanerva v. Weems*, 2014 IL 115811, ¶ 45, and noted earlier in this opinion, delegates to the constitutional convention were “mindful that in the past, appropriations to cover state pension obligations had ‘been made a political football’ and ‘the party in power would just use the amount of the state contribution to help balance budgets,’ jeopardizing the resources available to meet the State’s obligations to participants in its pension systems in the future.” They understood that steps were necessary “in order to protect ‘public employees who are beginning to lose faith in the ability of the state and its political subdivisions to meet these benefit payments’ and to address the ‘insecurity on the part of the public employees [which] is really defeating the very purpose for which the retirement system was established \*\*\*.’” *Id.* ¶ 46 (quoting 4 Record of Proceedings 2925 (statements of Delegate Green)). And they wanted to make certain “that irrespective of the financial condition of a municipality or even the state government, that those persons who have worked for often substandard wages over a long period of time could at least expect to live in some kind of dignity during their golden years \*\*\*.” (Internal quotation marks omitted.) *Id.*

¶ 83 When Delegate Green presented article XIII, section 5, to the Convention, he summed it up as follows:

“ ‘What we are trying to do is to mandate the General Assembly to do what they have not done by statute. \*\*\*

Now, I think they either ought to live up to the laws that they pass or that very quickly we ought to stop when we are hiring public employees by telling them that they have any retirement rights in the state of Illinois. If we are going to tell a policeman or a school teacher that, “Yes, if you will work for us for your thirty years or until whenever you reach retirement age, that you will

receive this,” if the state of Illinois and its municipalities are going to play insurance company and live up to these contributions, then they ought to live by their own rules. \*\*\*.’ [Citation.]” *Id.* ¶ 47.

¶ 84 The concerns of the delegates who drafted article XIII, section 5, and the citizens who ratified it have proven to be well founded. Even with the protections of that provision, the General Assembly has repeatedly attempted to find ways to circumvent its clear and unambiguous prohibition against the diminishment or impairment of the benefits of membership in public retirement systems. Public Act 98-599 is merely the latest assault in this ongoing political battle against public pension rights. As we noted earlier, through that legislation the General Assembly is attempting to do once again exactly what the people of Illinois, through article XIII, section 5, said it has no authority to do and must not do.

¶ 85 The General Assembly may not legislate on a subject withdrawn from its authority by the constitution (see *Hunt v. Rosenbaum Grain Corp.*, 355 Ill. 504, 509 (1934); *City of Chicago v. County of Cook*, 370 Ill. 301, 306 (1938)), and it cannot rely on police powers to overcome this limitation. As we have already explained, there simply is no police power to disregard the express provisions of the constitution. It could not be otherwise, for if police powers could be invoked to nullify express constitutional rights and protections whenever the legislature (or other branches of government) felt that economic or other exigencies warranted, it is not merely pension benefits of public employees that would be in jeopardy. No rights or property would be safe from the State. Today it is nullification of the right to retirement benefits. Tomorrow it could be renunciation of the duty to repay State obligations. Eventually, investment capital could be seized. Under the State’s reasoning, the only limit on the police power would be the scope of the emergency. The legislature could do whatever it felt it needed to do under the circumstances. And more than that, through its funding decisions, it could create the very emergency conditions used to justify its suspension of the rights conferred and protected by the constitution. If financial markets were rational, this prospect would not buoy our economy, it would ruin it.

¶ 86 Adherence to constitutional requirements often requires significant sacrifice, but our survival as a society depends on it. The United States Supreme Court made the point powerfully nearly a century and a half ago when it struck down as unconstitutional President Lincoln’s use of executive authority to suspend the writ of *habeas corpus* during the Civil War, a period of emergency that, by any measure,

eclipsed the one facing our General Assembly today. In rejecting the government's argument that wartime concerns justified the curtailment of the constitutional protections, the Supreme Court employed language which seems appropriate to this case:

"Time has proven the discernment of our ancestors; for even these provisions, expressed in such plain English words, that it would seem the ingenuity of man could not evade them, are *now*, after the lapse of more than seventy years, sought to be avoided. Those great and good men foresaw that troublous times would arise, when rulers and people would become restive under restraint, and seek by sharp and decisive measures to accomplish ends deemed just and proper; and that the principles of constitutional liberty would be in peril, unless established by irrepealable law. The history of the world had taught them that what was done in the past might be attempted in the future. The Constitution \*\*\* is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism \*\*\*." (Emphasis in original.) *Ex parte Milligan*, 71 U.S. 2, 120-21 (1866).

¶ 87 The financial challenges facing state and local governments in Illinois are well known and significant. In ruling as we have today, we do not mean to minimize the gravity of the State's problems or the magnitude of the difficulty facing our elected representatives. It is our obligation, however, just as it is theirs, to ensure that the law is followed. That is true at all times. It is especially important in times of crisis when, as this case demonstrates, even clear principles and long-standing precedent are threatened. Crisis is not an excuse to abandon the rule of law. It is a summons to defend it. How we respond is the measure of our commitment to the principles of justice we are sworn to uphold.

¶ 88 More than two centuries ago, as adoption of the Constitution of the United States was being considered by the citizens of our new nation, James Madison wrote:

"If men were angels, no government would be necessary. \*\*\* In framing a government which is to be administered by men over men, the great difficulty

lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.” James Madison, Federalist No. 51 (1788).

¶ 89 Obliging the government to control itself is what we are called upon to do today. The Constitution of Illinois and the precedent of our court admit of only one conclusion: the annuity reduction provisions of Public Act 98-599 enacted by the legislature and signed into law by the Governor violate article XIII, section 5’s express prohibition against the diminishment of the benefits of membership in public retirement systems. The circuit court was therefore entirely correct when it declared those provisions void and unenforceable.

¶ 90 III

¶ 91 We come, then, to the third and final issue presented by this appeal: are the invalid annuity reduction provisions of Public Act 98-599 severable from the remainder of the statute? The issue of severability involves a question of statutory construction, which primarily involves ascertaining and giving effect to the intent of the legislature. In determining whether a statutory provision containing an unconstitutional portion may be severed from the rest of a statute, we look first at the statute’s own specific severability provision, if it has one. *People v. Mosley*, 2015 IL 115872, ¶ 29. Public Act 98-599 does.

¶ 92 The Act includes a provision dealing with the “severability and inseverability” of the law’s numerous components. Set forth in section 97 of the statute, this severability provision states that the various sections of the law are severable under section 1.31 of the Statute on Statutes (5 ILCS 70/1.31 (West 2012)), with the exception of certain specific sections. Under the Act, those particular sections, 39 of them in all, “are mutually dependent and inseverable from one another but are severable from any other provision of this Act.” Pub. Act 98-599, § 97 (eff. June 1, 2014).

¶ 93 Among the 39 sections deemed “inseverable” are some of the specific provisions which impermissibly reduce retirement annuity benefits in violation of the pension protection clause. These include sections 2-119.1(a-1), 14-114(a-1), 15-136(d-1), and 16-133.1(a-1) (40 ILCS 5/2-119.1(a-1), 14-114(a-1), 15-136(d-1), 16-133.1(a-1) (West Supp. 2013)), which adversely affect the value of



annual annuity increases. Under the express terms of section 97 of the Act itself, all 39 of the “inseverable” provisions must therefore fall with the provisions we have declared unconstitutional. When one eliminates those 39 provisions along with all the other annuity-reducing portions of the law that are void and enforceable under the pension protection clause, Public Act 98-599 all but evaporates.

¶ 94 Severability principles would doom the statute in any case. Under Illinois law, severability clauses are not conclusive. That is because a court’s authority to eliminate invalid elements of an act and yet sustain its valid provisions derives not from legislative fiat, but from powers inherent in the judiciary. The practice of holding statutory provisions severable from those that are found to be invalid originated in the courts long before severability clauses were adopted by legislatures. Although the use of severability clauses has now become common practice, we have noted that they are regarded as little more than a formality. *Cincinnati Insurance Co. v. Chapman*, 181 Ill. 2d 65, 81 (1998).

¶ 95 Even when a statute contains an express severability clause, the clause is merely viewed as reflecting a rebuttable presumption of legislative intent. *Best v. Taylor Machine Works*, 179 Ill. 2d 367, 460 (1997). The presumption of severability reflected in an express severability clause will be overcome, and the entire statute will be held unconstitutional, if the legislature would not have passed the law without the provisions deemed invalid. To determine whether the legislature would not have passed the law without the invalid parts, the courts consider whether the legislative purpose in passing the act is significantly undercut or altered by the elimination of those invalid sections. Even in cases where the valid sections of an act are complete and capable of being executed, the entire act will be declared void if, after striking the invalid provisions, the part that remains does not reflect the legislature’s purpose in enacting the law. *Id.* at 461-62.

¶ 96 Applying these principles to the case before us, there can be no serious question that, with invalidation of those provisions of Public Act 98-599 which reduce the retirement annuities Tier 1 members of the GRS, SERS, SURS and TRS are entitled to receive, the entire statute must fall. As noted earlier in this opinion, the legislation’s proponents described its numerous provisions as “all part of an integral bipartisan package.” The overarching purpose of the law was to shore up State finances, improve its credit rating and free up resources for other purposes by reducing, *i.e.*, diminishing, the amount of retirement annuity benefits paid to Tier 1 members of GRS, SERS, SURS, and TRS, particularly annual annuity increases,

which the speaker of the House of Representatives himself referred to as the chief cause of the financial problems the Act was intended to address. 98th Ill. Gen. Assem., House Proceedings, Dec. 3, 2013, at 7 (statements of Representative Madigan). The annuity reduction provisions are therefore not merely central to the statute, they are its very reason for being. Without them, the legislature would not have enacted the law at all. To leave those remaining provisions standing once the core sections are stripped away would, under these circumstances, yield a legislation package that no longer reflects the legislature's intent. The circuit court was therefore correct when it concluded that Public Act 98-599 is void and unenforceable in its entirety.<sup>15</sup>

¶ 97

#### CONCLUSION

¶ 98

For the foregoing reasons, the judgment of the circuit court declaring Public Act 98-599 to be unconstitutional and permanently enjoining its enforcement is affirmed.

¶ 99

Affirmed.

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<sup>15</sup>The legislature is, of course, free to reenact any provisions of Public Act 98-599 that do not violate the constitution. See *Lebron v. Gottlieb Memorial Hospital*, 237 Ill. 2d 217, 250 (2010).