

**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, August 8, 2005.

The Meeting was opened by Pledging Allegiance to the Flag followed by 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: Joseph "Skip" Crawford, Kevin Huette, Allen Gibson, Michael Matejka, Michael Sprague, Jim Finnegan, Steven Purcell, Karen Schmidt and Mayor Stephen F. Stockton.

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

The following was presented:

Mayor Stockton presented the Government Accounting Standards Board (GASB) Plaques to Brian Barnes, Finance Director. The City received the Certificate of Excellence plaques for the City, the Fire Pension Fund and the Police Pension Fund. Mr. Barnes addressed the Council. He noted that GASB sets the national standard. Mr. Barnes currently serves on the state board. The City's audit review certifies that the City was in compliance. GASB also requires supplemental information, which requires that the City go above and beyond. He noted that when the City issues bonds, this Certificate eliminates a number of questions.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Bills and Payroll

The following list of bills and payrolls have been furnished to you in advance of this meeting. After examination I find them to be correct and, therefore, recommend their payment.

Respectfully,

Brian J. Barnes
Director of Finance

Tom Hamilton
City Manager

(ON FILE IN CLERK'S OFFICE)

Motion by Alderman Sprague, seconded by Alderman Finnegan that the bills and payroll be allowed and 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: Alderman Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented.

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Payments from Various Municipal Departments

1. The twenty-seventh partial payment to Bribsin, Brook, Beynon Architects in the amount of \$14,662.38 on a contract amount of \$1,421,000 of which \$1,302,374.03 will have been paid to date for work certified as 86% complete for the US Cellular Coliseum Architects. Completion date - April 2006.
2. The seventh partial payment to Technical Design Services, Inc. in the amount of \$2,484.35 on a contract amount of \$48,200 of which \$24,304.43 will have been paid to date for work certified as 50% complete for the Cabling System for the US Cellular Coliseum. Completion date - March 2006.
3. The thirteenth partial payment to Central IL Arena Management, Inc. in the amount of \$45,589.24 on a contract amount of \$738,188.75 of which \$274,560.50 will have been paid to date for work certified as 37% complete for the Professional Services. Completion date - December 2005. Laid over from the Previous Council Meeting.
4. The fourteenth partial payment to Central IL Arena Management, Inc. in the amount of \$2,946.65 on a contract amount of \$738,188.75 of which \$277,507.15 will have been paid to date for work certified as 38% complete for the Professional Services. Completion date - December 2005.

5. The fourth partial payment to PJ Hoerr, Inc. in the amount of \$396,828.58 on a contract amount of \$11,085,203.92 of which \$1,449,710.32 will have been paid to date for work certified as 13% complete for the Renovation of the Center for the Performing Arts. Completion date - June 2006.
6. The fifteenth partial payment to Hammond Beeby Rupert Ainge, Inc. in the amount of \$29,961.79 on a contract amount of \$1,993,750 of which \$1,639,584.12 will have been paid to date for work certified as 82% complete for the Phase 3 and 4 of the Renovation of the Center for the Performing Arts. Completion date - August 2006.
7. The fourth partial payment to Felmley Dickerson in the amount of \$15,000 on a contract amount of \$212,000 of which \$70,000 will have been paid to date for work certified as 33% complete for the Library Expansion. Completion date - July 2006.
8. The second partial payment to JG Stewart Contractors in the amount of \$9,142.93 on a contract amount of \$180,000 of which \$33,879.28 will have been paid to date for work certified as 19% complete for the 2005-2006 Sidewalk Replacement and Handicap Ramp Program. Completion date - December 2005.
9. The twelfth partial payment to Felmley Dickerson in the amount of \$65,000 on a contract amount of \$611,969 of which \$413,397 will have been paid to date for work certified as 68% complete for the Downtown Courthouse Square Streetscape. Completion date - October 2005.
10. The second partial payment to Terracon Consultants, N.E. Inc. (Dept. 1277) in the amount of \$25,434.75 on a per ton and hour contract, of which \$40,217.25 will have been paid to date for work certified as ongoing for the 2005-2006 Asphalt & Portland Concrete Plant Inspection and Lab Testing. Completion date - July 2006.
11. The second partial payment to GM Snipes Construction Company in the amount of \$161,600 on a contract amount of \$250,000 of which \$220,154 will have been paid to date for work certified as 88.1% complete for the 2004-2005 Rigid Pavement Patching Program. Completion date - September 2005.
12. The fifth partial payment to Stark Excavating, Inc. in the amount of \$95,585 on a contract amount of \$285,592.80 of which \$253,272 will have been paid to date for work certified as 89% complete for the Erickson Avenue - Oakland to Illinois. Completion date - August 2005.
13. The third partial payment to Rowe Construction in the amount of \$77,881 on a contract amount of \$843,492.81 of which \$223,361 will have been paid to date for work certified as 21% complete for the Hershey Road Widening - Yorktown to Eastland. Completion date - September 2005.

14. The eighth partial payment to Rowe Construction in the amount of \$11,287 on a contract amount of \$917,226.95 of which \$878,051 will have been paid to date for work certified as 96% complete for the Ft. Jesse Road Improvements - Phase I - East of Airport Rd. to Kaisner Dr. Completion date - August 2005.
15. The eighteenth partial payment to Stark Excavating, Inc. in the amount of \$125,348 on a contract amount of \$2,518,251.70 of which \$2,009,700 will have been paid to date for work certified as 80% complete for the Airport Rd. - Rt. 9 to Gill St. Completion date - November 2005.
16. The sixth and final payment to Lewis, Yockey & Brown in the amount of \$9,853.95 on a contract amount of \$48,253.95 of which \$48,253.95 will have been paid to date for work certified as 100% complete for the W. Market St. Water Main Relocation. Completion date - August 2005.
17. The second partial payment to Gildner Plumbing, Inc. in the amount of \$4,700 on a contract amount of \$75,189 of which \$22,700 will have been paid to date for work certified as 30% complete for the East Street Water Main - Mulberry St. to Locust St. Completion date - September 2005.
18. The tenth partial payment to Lewis, Yockey & Brown in the amount of \$12,399.87 on a contract amount of \$95,500 of which \$94,758.70 will have been paid to date for work certified as 99% complete for the US Cellular Coliseum Water Main & Pavement Changes. Completion date - August 2005.
19. The sixth and final payment to Stark Excavating, Inc. in the amount of \$19,420.14 on a contract amount of \$220,861.19 of which \$220,861.19 will have been paid to date for work certified as 100% complete for the Szarek Subdivision Sewer Extension. Completion date - July 2005.
20. The fourth partial payment to Stark Excavating, Inc. in the amount of \$6,225 on a contract amount of \$94,673 of which \$91,250 will have been paid to date for work certified as 96% complete for the Greenwood Avenue Sanitary Sewer Relocation. Completion date - September 2005.

All of the above described payments are for planned and budgeted items previously approved by the City Council. I recommend that the payments be approved.

Respectfully,

Tom Hamilton
City Manager

Mayor Stockton noted Payment 3. The thirteenth partial payment to Central IL Arena Management, Inc. in the amount of \$45,589.24 on a contract amount of \$738,188.75 of which \$274,560.50 will have been paid to date for work certified as 37% complete for the

Professional Services. Completion date - December 2005. Laid over from the Previous Council Meeting. He questioned the dispute over \$9,400. Tom Hamilton, City Manager, addressed the Council. He informed them that the invoices were reviewed. The City was not liable for this amount. He planned to meet with Central Illinois Arena Management and informed them of the Council's action.

Alderman Finnegan questioned Payment 18. The eighteenth partial payment to Stark Excavating, Inc. in the amount of \$125,348 on a contract amount of \$2,518,251.70 of which \$2,009,700 will have been paid to date for work certified as 80% complete for the Airport Rd. - Rt. 9 to Gill St. Completion date - November 2005. Doug Grovesteen, Director of Engineering, addressed the council. The traffic signal located at the intersection of Airport Rd. and Clearwater would be activated prior to school opening. The road would be completed by the middle/late September 2005.

Motion by Alderman Sprague, seconded by Alderman Finnegan that the payments be approved.

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

Ayes: Alderman Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented.

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Analysis of Bids - Two (2) Utility Vehicles for the Parks & Recreation Department

On Friday, July 29, 2005, at 11:00 a.m. bids were publicly opened and read for the purchase of two (2) utility vehicles for the Parks and Recreation Department. A 1989 and 1993 Cushman utility vehicle will be traded in on these units. One of these units will be located at Prairie Vista and have a Vicon spreader mounted on it. The other unit will be housed at The Den and be used as a general maintenance vehicle. All three firms submitting bids forwarded the proper bid guarantees. The bids were as follows:

FIRM	TRADE ALLOWANCE	NET BID PRICE
Erb Turf Equipment, Inc. - Belleville, IL	\$3,500	\$22,800*
Birkey's Farm Store - Urbana, IL	1,700	25,685

Turf Professionals Equipment Co.	1,000	28,000
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*Low and recommended bid

The John Deere ProGator bid by Erb Turf Equipment meets the specification with a couple of minor exceptions. The ProGator does not have quite the carrying capacity (200 lbs. less) or horsepower (6 hp. less) of the Cushmans bid by Birkey's Farm Store. Staff believes that these variations are acceptable. We currently do not have any ProGators in our inventory but the other pieces of John Deere equipment the City owns has performed well.

Staff respectfully requests that Council accept the low bid of \$22,800 submitted by Erb Turf Equipment and authorize the purchasing agent to issue a purchase order for same. A total of \$32,000 was budgeted in the Fixed Asset Replacement Fund, accounts F14152-72140 and F14154-72140 for these units.

Respectfully,

Jerry Armstrong,
Asst. Director Parks & Recreation

Tom Hamilton
City Manager

Motion by Alderman Sprague, seconded by Alderman Finnegan that the bid be awarded to Erb Turf Equipment in the amount of \$22,800, and the Purchasing Agent be authorized to issue a Purchase Order for same.

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

Ayes: Alderman Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented.

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Waive the Formal Bidding Process and Approve an Agreement with Lifeline Mobile Medics to Provide Field Clinical Experience for Fire Department Emergency Medical Technician-Intermediate (EMT-1) Students

Staff respectfully requests that Council approve an agreement with Lifeline Mobile Medics (LLMM) to provide field clinical experience for Fire Department Emergency Medical Technician-Intermediate (EMT-I) students. Under the agreement, LLMM will provide one

Advanced Life Support (ALS) ambulance and one ALS preceptor at the combined rate of \$30.00 per hour. The estimated total number of hours will be 1,500 for a total cost of \$45,000.

The Fire Department currently has fifteen (15) personnel completing EMT-I training. As part of their training, each student must complete a clinical field internship. This internship consists of working on an ALS ambulance and providing patient care under the supervision of a preceptor. The EMS system requires that the clinical internship be completed with an ALS provider within the EMS system. LLMM is the only ALS provider within the system which can facilitate the field internship program. Fire Department staff has worked with the EMS System Coordinator, Project Medical Director, and LLMM to develop an effective and cost efficient model under which the field internship requirement may be met.

The model consists of LLMM placing an ALS ambulance in service at Fire Station #4 for 12-14 hours with one paramedic preceptor on board. The agreement is for a 90 day period which will begin mid September and run through mid December. During this time, the ambulance with the LLMM preceptor and two Fire Department EMT-I students will respond to ALS ambulance calls within the EMS system. The LLMM preceptor will supervise the Fire Department personnel providing patient care on scene and during patient transport to the hospital. ALS patients transported in this manner will continue to be billed by LLMM.

Staff believes that this arrangement is the most effective and cost efficient method of providing the required clinical internship for Fire Department EMT-I students while maintaining the EMS system's overall response capability. Payment for these services will be made from budget line G15210-70990.

Respectfully,

Keith Ranney
Fire Chief

Tom Hamilton
City Manager

A COOPERATIVE AGREEMENT BETWEEN
LIFELINE MOBILE MEDICS
112 B SOUTHGATE DRIVE, BLOOMINGTON, IL 61704
AND
BLOOMINGTON FIRE DEPARTMENT
310 NORTH LEE STREET, BLOOMINGTON, IL 61701

THIS AGREEMENT entered into on July 1, 2005, by and between Lifeline Mobile Medics, hereinafter referred to as the "LLMM" and Bloomington Fire Department, hereinafter referred to as the "BFD".

PROVISIONS OF THE AGREEMENT

The BFD agrees:

- A. To provide and designate in writing a contact person for development, maintenance, and supervision of the clinical experience.
- B. To require its EMT-I students to follow McLean County Area EMS System protocols within the student experience.
- C. To provide information to the LLMM's designated representative(s) regarding students placed with LLMM preceptor for educational experiences. In addition, the BFD will provide information regarding the planned schedule of educational experiences, anticipated number of students, and the student's names.
- D. To require its students to abide by the rules, regulations, and standards of professional conduct required by the LLMM and McLean County Area EMS System. A student may be temporarily removed, following consultation with the McLean EMS Medical Director if the student's conduct poses an immediate threat to safety, if s/he fails to meet standards for health, safety, or ethical behavior. In taking such action, the welfare of the patient shall be the primary consideration.
- E. To provide proof of liability insurance coverage to cover the EMT-I student for any acts which might result in liability against the LLMM. Students shall assume responsibility for any personal injuries that may be sustained on the LLMM's premises, unless such injury is attributable to the fault of the LLMM or its employees.
- F. To ensure that students have received education regarding standard precaution, including bloodborne pathogens and tuberculosis precautions.
- G. To make available to students and preceptor supplies and equipment required to provide safe and effective care.

The LLMM agrees:

- A. To make available a preceptor and an advanced life support licensed ambulance for required EMT-I education at a rate of \$30.00/hour.
- B. BFD will be billed monthly.
- C. To maintain ultimate responsibility for the pre-hospital care provided.
- D. To synchronize educational experiences so as not to overlap or conflict with the instruction or other students.
- E. To select the experiences based upon the individual learning needs of students in the context of defined educational objectives.
- F. To encourage BFD personnel to contribute in every possible way, in accordance with the wishes of the LLMM preceptor, that might have a beneficial effect upon the quality of the EMT-I educational experience.
- G. To cooperate with the McLean County Area EMS System in the evaluation of the EMT-I education.

No student will be discriminated against on the basis of sex, race, creed, religion, national origin, or handicap in any aspect of this affiliation.

BFD will provide LLMM with a list of current clinical objectives and expected outcomes as well as a list of clinical competencies to be attained each semester.

Any Protected Health Information (as defined in the Health Insurance Portability and Accountability Act of 1996 "HIPAA"), Public Law 104-191, which is obtained under this

agreement, shall not be disclosed in any manner that violates or would violate the HIPAA regulation. If either party uses or discloses Protected Health Information, that party shall give immediate notice to the other party of such use or disclosure. Each party shall comply fully with all HIPAA regulations.

This agreement becomes effective on the _____, 2005, and shall be automatically renewable for each subsequent year. However, this agreement may be terminated by either party giving **ninety (90)** days notice to the other or may be terminated at any time by the written mutual agreement of the parties. Notices required to be sent hereunder shall be sent by prepaid certified mail with return receipt requested and are effective upon receipt.

This writing shall constitute the sole agreement between the parties, unless same is amended as a hereinafter provided.

This agreement may be amended or revised from time to time by the mutual written agreement of the parties hereto. Such amendments and/or revisions shall be in the form of an amendment to this agreement. The procedure for approval of such amendments and/or revisions shall be in accordance with the procedure used in approving the original agreement.

Any provision of this Agreement to the contrary notwithstanding, if, during the Term, LLMM determines that any of the terms of this Agreement materially violate any provisions of any state or federal law which, if enforced, would jeopardize the ability of LLMM to continue to participate in Medicare and Medicaid programs, or any other federal health care programs, or would jeopardize the continued federal tax-exempt status of LLMM, or any entities which are affiliated with LLMM, or would result in the imposition of excise taxes under federal income tax laws, then the Parties agree to immediately endeavor to renegotiate terms which would result in LLMM being in appropriate legal compliance. If the Parties are unable to timely agree on such terms, however, LLMM may terminate this Agreement by delivering at least a thirty (30) day notice to the BFD.

For the LLMM:

Alex Horvath
President LLMM Board of Directors
Lifeline Mobile Medics
112 B Southgate
Bloomington, IL 61704

For the City of Bloomington

Stephen F. Stockton, Mayor
August 9, 2005
City of Bloomington
109 E. Olive
Bloomington, IL 61701

RESOLUTION NO. 2005 - 101**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND
AUTHORIZING AN AGREEMENT WITH LIFELINE MOBILE MEDICS TO
PROVIDE FIELD CLINICAL EXPERIENCE FOR FIRE DEPARTMENT
EMERGENCY MEDICAL TECHNICIAN-INTERMEDIATE (EMT-1) STUDENTS
IN THE AMOUNT OF \$45,000**

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

1. That the bidding process be waived and authorizing an Agreement with Lifeline Mobile Medics to Provide Field Clinical Experience for Fire Department Emergency Medical Technician-Intermediate (EMT-1) students in the amount of \$45,000.

Adopted this 8th day of August, 2005.

Approved this 9th day of August, 2005.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Sprague, seconded by Alderman Finnegan that the agreement be approved, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution adopted.

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

Ayes: Alderman Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented.

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Waive the Formal Bidding Process and Approve a Professional Services Agreement with Consoer Townsend Envirodyne Engineers for the Completion of an Update of the Water Treatment Plant Master Plan

Staff is proposing a project to update the Water Treatment Plant Master Plan that was last completed in 1997. The Water Treatment Plant Master Plan is essentially a road map of improvements that need to be made at the treatment plant in order to remain in compliance with upcoming regulations, expand treatment capacity to planned levels and overall, ensure the safe and efficient operation of the water treatment facility.

Consoer Townsend Envirodyne Engineers (CTE) completed the last several Water Treatment Plant Master Plan updates for the City and maintains all of the data from those previous plans. Additionally, CTE are the designers of the water treatment plant expansions and high service pumping systems. The firm has substantial knowledge of the water treatment plant. A proposal has been received from CTE for the completion of an updated Water Treatment Plant Master Plan in the amount of \$53,580.

Staff respectfully recommends that the formal bidding process be waived and that Council approve the Agreement with CTE for an updated Water Treatment Plant Master Plan in the amount of \$53,580, the Mayor and City Clerk be authorized to execute the necessary documents and a Resolution be adopted. Payment for this project will be made with funds from the Water Department/Depreciation Fund, Consultant Services (Account # X50200-70050).

Respectfully,

Craig M. Cummings
Director of Water

Tom Hamilton
City Manager

PROFESSIONAL SERVICE AGREEMENT

This Agreement is made and entered into this 27th day of September 2005, by and between Consoer Townsend Envirodyne Engineers, Inc., 303 E. Wacker Drive, Chicago, Illinois, 60601, hereinafter referred to as ENGINEER” and the City of Bloomington, Illinois hereinafter referred to as “CLIENT”.

IN CONSIDERATION of the covenants hereinafter set forth, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

ENGINEER shall perform professional engineering Services (the “Services”) in connection with CLIENT’s facilities in accordance with the Scope of Services set forth in Exhibit A attached hereto.

II. ENGINEER’S RESPONSIBILITIES

ENGINEER shall, subject to the terms and provisions of this Agreement:

- (a) Appoint one or more individuals who shall be authorized to act on behalf of ENGINEER and with whom CLIENT may consult at all reasonable times, and whose instructions, requests, and decisions will be binding upon ENGINEER as to all matters pertaining to this Agreement and the performance of the parties hereunder.
- (b) Use all reasonable efforts to complete the Services within the time period mutually agreed upon, except for reasons beyond its control.
- (c) Perform the Services in accordance with generally accepted professional engineering standards in existence at the time of performance of the Services. If during the two year period following the completion of Services, it is shown that there is an error in the Services solely as a result of ENGINEER's failure to meet these standards, ENGINEER shall re-perform such substandard Services as may be necessary to remedy such error at no cost to CLIENT. Since ENGINEER has no control over local conditions, the cost of labor and materials, or over competitive bidding and market conditions, ENGINEER does not guarantee the accuracy of any construction cost estimates as compared to contractor's bids or the actual cost to the CLIENT. ENGINEER makes no other warranties either express or implied and the parties rights, liabilities, responsibilities and remedies with respect to the quality of Services, including claims alleging negligence, breach of warranty and breach of contract, shall be exclusively those set forth herein.
- (d) ENGINEER shall, for the protection of CLIENT, demand from all vendors and subcontractors from which ENGINEER procures equipment, materials or services for the project, guarantees with respect to such equipment, materials and services. All such guarantees shall be made available to CLIENT to the full extent of the terms thereof. ENGINEER's liability with respect to such equipment, and materials obtained from vendors or services from subcontractors, shall be limited to procuring guarantees from such vendors or subcontractors and rendering all reasonable assistance to CLIENT for the purpose of enforcing the same.

III. CLIENT'S RESPONSIBILITIES

CLIENT shall at such times as may be required for the successful and expeditious completion of the Services;

- (a) Provide all criteria and information as to CLIENT'S requirements; obtain all necessary approvals and permits required from all governmental authorities having jurisdiction over the project; and designate a person with authority to act on CLIENT'S behalf on all matters concerning the Services.
- (b) Furnish to ENGINEER all existing studies, reports and other available data pertinent to the Services, and obtain additional reports, data and services as may be required for the project. ENGINEER shall be entitled to rely upon all such

information, data and the results of such other services in performing its Services hereunder.

IV. INDEMNIFICATION

To the full extent permitted by applicable law, ENGINEER agrees to indemnify and hold harmless CLIENT from and against any and all suits, actions, damages, loss, liability or costs (including, without limitation, reasonable attorneys' fees directly related thereto) for bodily injury or death of any person or damage to third party property if and to the extent arising from the negligent errors or omissions or willful misconduct of ENGINEER during the performance of the Services hereunder.

V. INSURANCE

Commencing with the performance of the Services, and continuing until the earlier of acceptance of the Services or termination of this Agreement, ENGINEER shall maintain standard insurance policies as follows:

- (a) Workers' Compensation and/or all other Social Insurance in accordance with the statutory requirements of the state having jurisdiction over ENGINEER's employees who are engaged in the Services, with Employer's Liability not less than One Hundred Thousand Dollars (\$100,000) each accident;
- (b) Commercial General Bodily Injury and Property Damage Liability and Automobile liability insurance including (owned, non-owned, or hired), each in a combined single limit of One Million Dollars (\$1,000,000) each occurrence for bodily injury and property damage liability. This policy includes Contractual Liability coverage. ENGINEER agrees to name CLIENT as Additional Insured on this policy, but only to the extent of ENGINEER's negligence under this Agreement and only to the extent of the insurance limits specified herein.
- (c) Professional Liability Insurance with limits of \$1,000,000 per claim and in the aggregate covering ENGINEER against all sums which ENGINEER may become legally obligated to pay on account of any professional liability arising out of the performance of this Agreement.

The ENGINEER agrees to provide CLIENT with certificates of insurance evidencing the above described coverage prior to the start of Services hereunder and annually thereafter if required. Such certificates of insurance shall provide that the applicable insurance policies have been endorsed to provide a minimum of thirty (30) days advanced notice to the CLIENT in the event of cancellation, material change, or non-renewal.

VI. COMPENSATION AND TERMS OF PAYMENTS

The fees to be charged for the Services performed hereunder are set forth in Exhibit A.

On or about the first day of each calendar month, the ENGINEER shall submit to CLIENT an invoice supported by one copy each of all payrolls, vendors' invoices, expense reports, and any other documentation necessary to substantiate the invoiced amount. CLIENT agrees to pay ENGINEER the full amount of such invoice within thirty (30) days after receipt thereof. In the event CLIENT disputes any invoice item, CLIENT shall give ENGINEER written notice of such disputed item within ten (10) days after receipt of invoice and shall pay to ENGINEER the undisputed portion of the invoice according to the provisions hereof. Client agrees to abide by any applicable statutory prompt pay provisions currently in effect.

VII. TERMINATION

CLIENT may, with or without cause, terminate the Services at any time upon ten (10) days written notice to ENGINEER. The obligation to provide further Services under this Agreement may be terminated by either party upon ten (10) days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In either case, ENGINEER will be paid for all expenses incurred and Services rendered to the date of the termination in accordance with compensation terms of Exhibit A.

VIII. OWNERSHIP OF DOCUMENTS

1. Sealed original drawings, specifications, final project specific calculations and other instruments of service which CTE prepares and delivers to Client pursuant to this Agreement shall become the property of Client when CTE has been compensated for Services rendered. Client shall have the right to use such instruments of service solely for the purpose of the construction, operation and maintenance of the Facilities. Any other use or reuse of original or altered files shall be at Client's sole risk without liability or legal exposure to CTE and Client agrees to release, defend and hold CTE harmless from and against all claims or suits asserted against CTE in the event such documents are used for a purpose different than originally prepared even though such claims or suits may be based on allegations of negligence by CTE. Nothing contained in this paragraph shall be construed as limiting or depriving CTE of its rights to use its basic knowledge and skills to design or carry out other projects or work for itself or others, whether or not such other projects or work are similar to the work to be performed pursuant to this Agreement.
2. Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced and Consultant makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings and the electronic files, the sealed drawings will govern.

IX. MEANS AND METHODS

- (a) ENGINEER shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures and programs including enforcement of Federal and State safety requirements, in connection with construction work performed by CLIENT's construction contractors. Nor shall ENGINEER be responsible for the supervision of CLIENT's construction contractors, subcontractors or of any of their employees, agents and representatives of such contractors; or for inspecting machinery, construction equipment and tools used and employed by contractors and subcontractors on Company's construction projects and shall not have the right to stop or reject work without the thorough evaluation and approval of the CLIENT. In no event shall ENGINEER be liable for the acts or omissions of CLIENT's construction contractors, subcontractors or any persons or entities performing any of the construction work, or for the failure of any of them to carry out construction work under contracts with CLIENT.
- (b) In order that ENGINEER may be fully protected against such third party claims, CLIENT agrees to obtain and maintain for the benefit of ENGINEER the same indemnities and insurance benefits obtained for the protection of the CLIENT from any contractor or subcontractor working on the project and shall obtain from that contractor/subcontractor insurance certificates evidencing ENGINEER as an additional named insured.

X. INDEPENDENT CONTRACTOR

ENGINEER shall be an independent contractor with respect to the Services to be performed hereunder. Neither ENGINEER nor its subcontractors, nor the employees of either, shall be deemed to be the servants, employees, or agents of CLIENT.

XI. PRE-EXISTING CONDITIONS

Anything herein to the contrary notwithstanding, title to, ownership of, legal responsibility and liability for any and all pre-existing contamination shall at all times remain with Client. "Pre-existing contamination" is any hazardous or toxic substance present at the site or sites concerned which was not brought onto such site or sites by CTE. Client agrees to release, defend, indemnify and hold CTE harmless from and against any and all liability which may in any manner arise in any way directly or indirectly caused by such pre-existing contamination except if such liability arises from CTE's sole negligence or willful misconduct.

Client shall, at Client's sole expense and risk, arrange for handling, storage, transportation, treatment and delivery for disposal of pre-existing contamination. Client shall be solely responsible for obtaining a disposal site for such material. Client shall look to the disposal facility and/or transporter for any responsibility or liability arising from improper disposal or transportation of such waste. CTE shall not have or exert any control over Client in Client's obligations or responsibilities as a generator in the storage, transportation, treatment or disposal of any pre-existing contamination. Client shall

complete and execute any governmentally required forms relating to regulated activities including, but not limited to generation, storage, handling, treatment, transportation, or disposal of pre-existing contamination. In the event that CTE executes or completes any governmentally required forms relating to regulated activities including but not limited to storage, generation, treatment, transportation, handling or disposal of hazardous or toxic materials, CTE shall be and be deemed to have acted as Client's agent.

For CTE's Services requiring drilling, boring, excavation or soils sampling, Client shall approve selection of the contractors to perform such services, all site locations, and provide CTE with all necessary information regarding the presence of underground hazards, utilities, structures and conditions at the site.

XII. MISCELLANEOUS

- (a) This Agreement constitutes the entire agreement between the parties hereto and supersedes any oral or written representations, understandings, proposals, or communications heretofore entered into by or on account of the parties and may not be changed, modified, or amended except in writing signed by the parties hereto. In the event of any conflict between this contract document and any of the exhibits hereto, the terms and provisions of this contract document shall control. In the event of any conflict among the exhibits, the exhibit of the latest date shall control.
- (b) This Agreement shall be governed by the laws of the State of Illinois.
- (c) ENGINEER may subcontract any portion of the Services to a subcontractor approved by CLIENT. In no case shall CLIENT's approval of any subcontract relieve ENGINEER of any of its obligations under this Agreement. Notwithstanding the above, ENGINEER may have portions of the Services performed by its affiliated entities or their employees, in which event ENGINEER shall be responsible for such Services and CLIENT shall look solely to ENGINEER as if the Services were performed by ENGINEER.
- (d) In no event shall either party be liable to the other for indirect or consequential damages whether arising in contract, tort (including negligence), statute, or strict liability.
- (e) In the event CLIENT uses a purchase order form to administer this Agreement, the use of such form shall be for convenience purposes only, and any typed provision in conflict with the terms of this Agreement and all preprinted terms and conditions contained in or on such forms shall be deemed stricken and null and void.
- (f) This Agreement gives no rights or benefits to anyone other than CLIENT and ENGINEER and does not create any third party beneficiaries to the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

**CITY OF BLOOMINGTON
ILLINOIS**

**CONSOER TOWNSEND ENVIRONDYNE
ENGINEERS, INC.**

**BY: Stephen F. Stockton
TITLE: Mayor
DATE: September 27, 2005**

**BY: Michael H. Winegard
TITLE: Vice President
DATE: August 26, 2005**

WITNESSED BY:

ATTESTED BY:

**Tracey Covert
City Clerk**

CTE
303 East Wacker Drive, Suite 600, Chicago, IL 60601-5276
T 312.938.0300
F 312.938.1109
www.cte.aecom.com

June 24, 2005

Mr. Craig M. Cummings
Director of Water
City of Bloomington
603 W. Division Street
P.O. Box 3157
Bloomington, IL 61702-3157

Reference: Update of Water Treatment Plant Master Plan

Dear Mr. Cummings:

Per your request and the meeting held in your offices on June 9, 2005, Consoer Townsend Envirodyne Engineer's, Inc. (CTE) is presenting this Proposal to update the Water Treatment Plant Master Plan which was previously prepared by our firm in August, 1997.

Our scope of work will include the updating of those chapters of the previously prepared report that require updating. Those chapters are listed below:

- Letter of Transmittal
- Summary and Recommendations
- Overall Plant Capacity Goal
- Existing Plant Capacity
- Helical Solids Contact Upflow Clarifier Units

- Recarbonation Basins (including old clearwell with new headers to and from the filters)
- Demolition of Dorr-Oliver Units
- SCADA System
- Electrical Service
- High Service Pumps
- Operation and Maintenance Issues
- Miscellaneous Issues (recycle rule, taste & odor problems, vulnerability to nitrate limits)
- Opinion of Project Costs

The following new chapters will also be included:

- Capacity from the Lake Evergreen Pump Station
- Sludge Lagoons and Wastestream Issues
- Control valves at Fort Jesse and Division Street Reservoirs
- Security – This will be a summary of the recommendations which were in the Vulnerability Assessment

The status of all items recommended in the 1997 Master Plan will be addressed. Also, Chapters 10, 11, 12 and 13 from the 1997 Master Plan will be eliminated as they have already been addressed.

Our estimated manhours to perform this work is as follows:

Discipline	Estimated Manhours	Engineering Fee
Architectural	0	\$0
Structural	0	\$0
Process/Project Management	360	\$40,260
Mechanical	0	\$0
Electrical/instrumentation	120	\$13,320
Total	480	\$53,580

We would be happy to sit down and discuss the above with you. Should you have any questions in the meantime, please do not hesitate to contact us.

Very truly yours,

CONSOER TOWNSEND ENVIRODYNE ENGINEERS, INC.

Michael H. Winegard, P.E.
Vice President

RESOLUTION NO. 2005 - 102

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND
AUTHORIZING THE AGREEMENT WITH CONSOER TOWNSEND ENVIRODYNE
ENGINEERS FOR AN UPDATED WATER TREATMENT PLANT MASTER PLAN IN
THE AMOUNT OF \$53,580**

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

1. That the bidding process be waived and the Agreement with Consoer Townsend Envirodyne Engineers for an updated Water Treatment Plant Master Plan in the amount of \$53,580 be approved.

Adopted this 8th day of August, 2005.

Approved this 9th day of August, 2005.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Sprague, seconded by Alderman Finnegan that the formal bidding process be waived, the Agreement with Consoer Townsend Envirodyne Engineers be approved in the amount of \$53,580, the Mayor and City Clerk authorized to execute the necessary documents, and the Resolution adopted.

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

Ayes: Alderman Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented.

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Waive the Formal Bidding Process and Approve a Professional Services Agreement with Clark Dietz, Inc. for the Design of a Water Main Replacement on James Place/Charles Place

The Water Department is targeting water main replacement projects in areas where data has indicated that the water mains are at the end of their useful life, or for other reasons such as corrosive soils, are subject to frequent water main breaks or do not meet service requirements. Staff is proposing a project to replace the water mains on James Place and Charles Place where the mains are old, undersized, and are subject to frequent breaks.

This project is being designed in conjunction with the Fell Avenue bridge replacement project which includes a sub-project that will replace and extend a portion of the water main a block away. In order to upgrade the water mains in this area, the design will begin at the Fell Avenue project and run east along Division Street to Clinton Boulevard, then south to James Place and Charles Place. The project will improve system reliability, fire protection, and pressure.

Clark Dietz, Inc. has been selected from a group of engineering firms that were requested to present qualifications for water main projects at the beginning of the fiscal year. Clark Dietz, Inc. had designed the water main improvements in this neighborhood for the Town of Normal. The City's water main, as proposed, will run parallel to Normal's water main along Division Street. Clark Dietz, Inc. retains all of the survey information for this area, as well as the drawings of Normal's new water facilities, which will aid immensely in the design of this project.

Staff respectfully recommends that the formal bidding process be waived, the Agreement with Clark Dietz, Inc. be approved in the amount of \$32,000, the Mayor and City Clerk be authorized to execute the necessary documents, and a Resolution be adopted. Funds for this project will be paid for with funds from the Water Department/Depreciation Fund, Consultant Services (Account # X50200-70050).

Respectfully,

Craig M. Cummings
Director of Water

Tom Hamilton
City Manager

PROFESSIONAL SERVICES AGREEMENT

Project Name ("Project")

City of Bloomington
James Place/Charles Place Water Main Replacement Project

This Agreement is by and between

City of Bloomington ("Client")
401-1/2 S. East Street Bloomington, IL 61701

and

Clark Dietz, Inc. ("Clark Dietz")
1817 South Neil Street, Suite 100 Champaign, Illinois 61820

Who agree as follows:

Client hereby engages Clark Dietz to perform the services set forth in Part I - Services and Clark Dietz agrees to perform the Services for the compensation set forth in Part III - Compensation. Clark Dietz shall be authorized to commence the Services upon execution of this Agreement and written authorization to proceed from Client. Client and Clark Dietz agree that this signature page, together with Parts I-IV and attachments referred to therein, constitute the entire Agreement between them relating to the Project.

Approved for Client

By: Stephen F. Stockton

Title: Mayor

Date: August 9, 2005

Approved for Clark Dietz

By: Richard A. Christensen

Title: Vice President

Date: May 23, 2005

**PART I
SERVICES**

A. Scope

The following is the Scope of Engineering Services for the James Place/Charles Place Water Main Replacement Project.

This project spans approximately 5,200 linear feet of local roadways, which includes the design and survey of new 8-inch water main, valves, hydrants, service connections, surface restoration, and associated work. The project area for water main replacement is on Division Street from Fell Avenue to Clinton Blvd., and includes looping James Place and Charles Place to Clinton

Blvd. The project includes the survey and design for the relocation of water service connections from the existing water main in the alley between Division Street to Emerson Street to the existing water main along Clinton Blvd and Fell Avenue. This will also include the abandonment of the water main in the alley between Division Street and Emerson Street. The project includes bidding phase services.

The following services will be provided:

1. DESIGN SERVICES

- a. Clark Dietz will perform field surveys along the proposed improvement routes. Surveys will include topography and surface features, locating above and below grade utilities, and tie into existing benchmarks.
- b. Clark Dietz will obtain right-of-way information from existing City records to identify lot locations.
- c. Clark Dietz will contact private utility companies to obtain available location and elevation information.
- d. Clark Dietz will reduce the field survey information and produce existing condition drawings in AutoCAD format.
- e. Clark Dietz will perform a field review of the proposed alignment to identify any constraints not readily identified during field survey.
- f. Clark Dietz will prepare and submit preliminary drawings for Client review.
- g. Clark Dietz will meet with the Client to discuss the Project drawings and receive their comments.
- h. Clark Dietz will prepare final construction contract documents based on review comments. These documents will be submitted to the Client for final review.
- i. Clark Dietz will develop construction contract documents and will include the following:
 - a. Construction drawings generally including:
 - Title Sheet
 - General Notes, Index, Legend
 - Plan and Profile Sheets
 - Details Sheets
 - b. Construction specifications generally including:
 - Notice to Bidders Bid Proposal
 - Certifications
 - Bid Bond

- Performance and Payment Bond
Instruction to Bidders
 - Common Construction Wages
General Conditions
 - Supplementary Conditions
 - Technical Specifications
 - Form of Contract
- j. Clark Dietz will develop an opinion of probable construction cost to the Client for review.
- k. Clark Dietz will prepare TEPA permit application with supporting documentation for submittal by the Client to the permitting agencies. Clark Dietz will respond to questions from IEPA regarding the permit application.
- l. Clark Dietz will prepare and submit three (3) sets of plans, specifications, and opinion of probable cost estimate to Client and meet with Client to discuss and receive their final review comments.
- m. Clark Dietz will prepare and submit final construction documents in hard copy (3 sets) to the Client.
- n. If needed, Clark Dietz will prepare and submit an easement needs drawing documenting overall right-of-way requirements. This scope does not include individual legal descriptions, drawings, or acquisition services for required easements.

2. Bidding Services

- a. Clark Dietz will prepare advertising notice for the Project and submit to Client for publication.
- b. Clark Dietz will issue bidding documents to prospective bidders and maintain a documents holders list.
- c. Clark Dietz will prepare any addenda, which may be necessary to clarify the Construction Documents.
- d. Clark Dietz will answer contractor questions during bidding.
- e. Clark Dietz will attend a pre-bid meeting and prepare meeting minutes.
- f. Clark Dietz will attend the bid opening, prepare a tabulation of the bids, review the bids received and make a recommendation regarding the award of the bid.

- g. Clark Dietz will prepare Contract Documents for execution by the contractor and the Client.

3. ELECTRONIC MEDIA

- a. The Drawings for this project will be provided to Client in printed format on paper.
- b. Clark Dietz will utilize current Clark Dietz standards for layering, line types, text styles, etc. in the development of the AutoCAD files for this project. Changes in these standards requested by the Client may result in additional cost.
- c. The Client shall provide the following information to Clark Dietz in electronic format for use by Clark Dietz on projects, if the information is available:
 - 1) AutoCAD files of Record drawings of the existing facilities. Client warrants that the files will be readable by commonly available IBM PC based computer hardware using the current operating system and the current version of AutoCAD. If the files do not comply with this provision, Client agrees to issue a modification to cover Clark Dietz' additional costs associated with making such electronic files fit for the purpose intended.

B. Schedule

- a. Clark Dietz shall commence work on Design Services within 10 calendar days of written Notice to Proceed and complete work on Design Services within 60 days.

C. Assumptions/Conditions (If applicable)

This agreement is subject to the following assumptions/conditions:

1. This agreement does not include the preparation of right-of-way or temporary construction easement drawings, descriptions or negotiation/acquisition services.
2. This agreement does not include the preparation of assessment roles or schedules.
3. This agreement does not include geotechnical investigations.
4. Local permits for this project (street cuts, utility relocations, etc.) will be obtained by the Client with information provided by Clark Dietz. All permit fees will be paid by the Client.
5. State permits for this project will be obtained by the Client with information provided by Clark Dietz. All permit fees will be paid by the Client.

6. No Federal permits are anticipated for this project.
7. This agreement does not include contaminated site Phase I or Phase U environmental assessment investigations or remediation activities.
8. This agreement does not include cultural, historic, archeological, or wetland assessment investigations or remediation activities.
9. This agreement does not include resident observation services.

PART II

CLIENT'S RESPONSIBILITIES

Client shall, at its expense, do the following in a timely manner so as not to delay the services:

A. Information/Reports

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

B. Representative

Designate a representative for the project who shall have the authority to transmit instructions, receive information, interpret and define Client's requirements and make decisions with respect to the Services. The Client representative for this Agreement will be Elmer Schaefer, City of Bloomington Superintendent Water Resources.

C. Decisions

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

D. Other

Provide Clark Dietz with any available construction plans for utilities, streets, subdivisions and drainage facilities that may be pertinent to the project.

PART III

COMPENSATION

A. Compensation

Compensation for the Services shall be as follows:

Compensation to Clark Dietz for services rendered by employees working on the Project in accordance with PART I, SERVICES of this Agreement will be at the hourly billing rates shown in the attachment, "Schedule of General Billing Rates". The total compensation authorized by this Agreement will not exceed \$32,000.

1. Payment for outside consulting and/or professional services performed by a subconsultant will be at actual invoice cost to Clark Dietz plus ten percent for administrative costs. Clark Dietz will obtain written Client approval before authorizing these services.
2. Payment for expenses incurred directly on behalf of the Project at actual cost to Clark Dietz plus ten percent for administrative costs.

B. Billing and Payment

1. Timing/Format
 - a. Invoices shall be submitted monthly for Services completed at the time of billing and are due upon receipt. Invoices shall be considered past due if not paid within 30 calendar days of the due date. Such invoices shall be prepared in a form supported by documentation as Client may reasonably require.
 - b. If payment in full is not received by Clark Dietz within 30 calendar days of the due date, invoices shall bear interest at one-and-one-half (1.5) percent of the past due amount per month, which shall be calculated from the invoice due date.
 - c. If the Client fails to make payments within 30 calendar days of due date or otherwise is in breach of this Agreement, Clark Dietz may suspend performance of services upon seven (7) calendar days' notice to the Client. Clark Dietz shall have no liability whatsoever to the Client for any costs or damages as a result of suspension caused by any breach of this Agreement by the Client. Upon payment in full by the Client, Clark Dietz shall resume services under this Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for Clark Dietz to resume performance.
2. Billing Records

Clark Dietz shall maintain accounting records of its costs in accordance with generally accepted accounting practices. Access to such records will be

provided during normal business hours with reasonable notice during the term of this Agreement and for 3 years after completion.

PART IV

STANDARD TERMS AND CONDITIONS

1. **STANDARD OF CARE.** Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession at the time and within the locality where the services are performed. No warranty or guarantee, express or implied is provided, including warranties or guarantees contained in any uniform commercial code.
2. **CHANGE OF SCOPE.** The scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by Clark Dietz and Client. Clark Dietz will promptly notify Client of any perceived changes of scope in writing and the parties shall negotiate modifications to this Agreement.
3. **DELAYS.** If events beyond the control of Clark Dietz, including, but not limited to, fire, flood, explosion, riot, strike, war, process shutdown, act of God or the public enemy, and act or regulation of any government agency, result in delay to any schedule established in this Agreement, such schedule shall be extended for a period equal to the delay. In the event such delay exceeds 90 days, Clark Dietz shall be entitled to an equitable adjustment in compensation and extension of time.
4. **TERMINATION/SUSPENSION.** Either party may terminate this Agreement upon 30 days written notice to the other party in the event of substantial failure by the other party to perform in accordance with its obligations under this Agreement through no fault of the terminating party. Client shall pay Clark Dietz for all Services, including profit relating thereto, rendered prior to termination, plus any expenses of termination.
5. **REUSE OF INSTRUMENTS OF SERVICE.** All reports, drawings, specifications, computer data, field data notes and other documents prepared by Clark Dietz as instruments of service shall remain the property of Clark Dietz. Clark Dietz shall retain all common law, statutory and other reserved rights, including the copyright thereto. Reuse of any instruments of service including electronic media, for any purpose other than that for which such documents or deliverables were originally prepared, or alteration of such documents or deliverables without written authorization or adaption by Clark Dietz for the specific purpose intended, shall be at Client's sole risk.
6. **ELECTRONIC MEDIA.** Electronic files furnished by either party shall be subject to an acceptance period of 30 days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party

shall have any obligation to correct errors or maintain electronic files. In the event of a conflict between the signed construction documents prepared by Clark Dietz and electronic files, the signed or sealed hard-copy construction documents shall govern. Under no circumstances shall delivery of electronic files for use by Client be deemed a sale by Clark Dietz and Clark Dietz makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall Clark Dietz be liable for indirect or consequential damages as a result of the Client's use or reuse of the electronic files.

7. **OPINIONS OF CONSTRUCTION COST.** Any opinion of construction costs prepared by Clark Dietz is supplied for the general guidance of the Client only. Since Clark Dietz has no control over competitive bidding or market conditions, Clark Dietz cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to Client.
8. **SAFETY.** Clark Dietz shall establish and maintain programs and procedures for the safety of its employees. Clark Dietz specifically disclaims any authority or responsibility for general job site safety and safety of persons other than Clark Dietz employees.
9. **RELATIONSHIP WITH CONTRACTORS.** Clark Dietz shall serve as Client's professional representative for the Services, and may make recommendations to Client concerning actions relating to Client's contractors, but Clark Dietz specifically disclaims any authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by Client's contractors.
10. **THIRD PARTY CLAIMS:** This Agreement does not create any right or benefit for parties other than Clark Dietz and Client.
11. **MODIFICATION.** This Agreement, upon execution by both parties hereto, can be modified only by a written instrument signed by both parties.
12. **PROPRIETARY INFORMATION.** Information relating to the Project, unless in the public domain, shall be kept confidential by Clark Dietz and shall not be made available to third parties without written consent of Client, unless so required by court order.
13. **INSURANCE.** Clark Dietz will maintain insurance coverage for Professional, Comprehensive General, Automobile, Worker's Compensation and Employer's Liability in amounts in accordance with legal, and Clark Dietz business requirements. Certificates evidencing such coverage will be provided to Client upon request. For projects involving construction, Client agrees to require its construction contractor, if any, to include Clark Dietz as an additional insured on its commercial general liability policy relating to the Project, and such coverages shall be primary.
14. **INDEMNITIES.** Clark Dietz agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, directors and employees against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by Clark Dietz' negligent performance of professional services under this

Agreement and that of its subconsultants or anyone for whom Clark Dietz is legally liable. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Clark Dietz, its officers, directors, employees and subconsultants against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Client's negligent acts in connection with the Project and that of its contractors, subcontractors or consultants or anyone for whom the Client is legally liable. Neither the Client nor Clark Dietz shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

15. **LIMITATIONS OF LIABILITY.** No employee or agent of Clark Dietz shall have individual liability to Client. Client agrees that, to the fullest extent permitted by law, Clark Dietz' total liability to Client for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any causes including, but not limited to, Clark Dietz' negligence, error, omissions, strict liability, or breach of contract shall not exceed the total compensation received by Clark Dietz under this Agreement or Ten Thousand Dollars (\$10,000), whichever is greater.
16. **ACCESS.** Client shall provide Clark Dietz safe access to the project site necessary for the performance of the services.
17. **ASSIGNMENT.** The rights and obligations of this Agreement cannot be assigned by either party without written permission of the other party. This Agreement shall be binding upon and insure to the benefit of any permitted assigns.
18. **HAZARDOUS MATERIALS.** Clark Dietz and Clark Dietz' consultants shall have no responsibility for discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. If required by law, the client shall accomplish all necessary inspections and testing to determine the type and extent, if any, of hazardous materials at the project site. Prior to the start of services, or at the earliest time such information is learned, it shall be the duty of the Client to advise Clark Dietz (in writing) of any known or suspected hazardous materials. Removal and proper disposal of all hazardous materials shall be the responsibility of the Client.
19. **REMODELING AND RENOVATION.** For Clark Dietz' services provided to assist the Client in making changes to an existing facility, the Client shall furnish documentation and information upon which Clark Dietz may rely for its accuracy and completeness. Unless specifically authorized or confirmed in writing by the Client, Clark Dietz shall not be required to perform or have others perform destructive testing or to investigate concealed or unknown conditions. The Client shall indemnify and hold harmless Clark Dietz, Clark Dietz' consultants, and their employees from and against claims, damages, losses and expenses which arise as a result of documentation and information furnished by the Client.
20. **CLIENT'S CONSULTANTS.** Contracts between the Client and other consultants retained by Client for the Project shall require the consultants to coordinate their drawings and

other instruments of service with those of Clark Dietz and to advise Clark Dietz of any potential conflict. Clark Dietz shall have no responsibility for the components of the project designed by the Client's consultants. The Client shall indemnify and hold harmless Clark Dietz, Clark Dietz' consultants and their employees from and against claims, damages, losses and expenses arising out of services performed for this project by other consultants of the Client.

21. **NO WAIVER.** No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate another section of this Agreement or operate as a waiver of any future default, whether like or different in character.
22. **SEVERABILITY.** The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.
23. **STATUTE OF LIMITATION.** To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims under this Agreement shall expire one year after Project Completion.

SCHEDULE OF GENERAL BILLING RATES

CLARK DIETZ, INC.

January 1, 2005

TITLE	HOURLY
Principal-in-Charge, Consultant, Engineer 8 & 9	175.00
Project Director, Engineer 7	160.00
Senior Project Manager, Engineer 6	135.00
Project Manager, Engineer 5	120.00
Engineer 4	100.00
Engineer 3	90.00
Engineer 1 & 2	80.00
Senior Designer, Technician 5	100.00
Technician 4	90.00
Technician 3	80.00
Technician 2	70.00
Technician 1	60.00
Clerical	65.00

Administration 4 & 5	100.00
Administration 3	75.00

Notes:

The rates in this schedule will be reviewed and adjusted as necessary but not sooner than six months after the date listed above. Rates include actual salaries or wages paid to employees of Clark Dietz plus payroll taxes, FICA, Worker's Compensation insurance, other customary and mandatory benefits, and overhead and profit. All project related expenses and subconsultants will be billed at 110% of actual cost to cover handling and administrative expenses.

RESOLUTION NO. 2005 - 103

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND
AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH CLARK DIETZ,
INC. FOR THE DESIGN OF A WATER MAIN REPLACEMENT ON JAMES
PLACE/CHARLES PLACE IN THE AMOUNT OF \$32,000**

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

1. That the bidding process be waived and a Professional Services Agreement with Clark Dietz, Inc. for the Design of a Water Main Replacement on James Place/Charles Place in the amount of \$32,000 be approved.

Adopted this 8th day of August, 2005.

Approved this 9th day of August, 2005.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Alderman Schmidt questioned if there were any issues with this water main project. She noted that there were not any sidewalks. The water main would remain in the street. Doug Grovesteen, Director of Engineering, addressed the Council. He noted that it was the Engineering Department's idea to keep the water main in the street. The amount of right of way was limited. The streets are U shaped. It would be best for the water main to be placed under the pavement.

Alderman Schmidt questioned if the streets would be repaved. Mr. Grovesteen responded negatively. Initially, there would be a trench over the water main. These streets could be placed on a future resurfacing list.

Motion by Alderman Sprague, seconded by Alderman Finnegan that the formal bidding process be waived, the Agreement with Clark Dietz, Inc. be approved in the amount of \$32,000, the Mayor and City Clerk authorized to execute the necessary documents, and the Resolution adopted.

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

Ayes: Alderman Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented.

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Change Order to the Contract with P.J. Hoerr, Inc. for the Renovation of the Bloomington Center for the Performing Arts

P.J. Hoerr, Inc. has requested the following change orders to the contract for work associated with the renovation of the Bloomington Center for the Performing Arts. These change orders were reviewed by Staff and found to be acceptable. The total amount of these change orders is \$22,119.

#24 Additional piping to make water main connections	4,063.00
#25 Additional floor drains in mechanical room	8,587.00
#26 Additional plumbing required for relocation of the backflow prevention device	5,042.00
#27 Provide dropped ceiling in 2 shower rooms	262.00
#28 Enlarge & brace opening in mechanical room	<u>4,165.00</u>
Total this Change Order	22,119.00
Revised contract	<u>11,085,203.92</u>
New Total Amount	11,107,322.92

This work is outside the existing contract of P.J. Hoerr. Changes are being requested to extend the 4" and 8" water main feed lines from the 5' stub outside the building to the termination of the newly supplied water mains located in East Street. Additional floor drains & vent lines are needed for the air handling units in the first floor mechanical room. Additional piping is needed due to the relocation of the backflow prevention device. All showers should have a rated ceiling, and to brace the floor opening and remove concrete ribs in the ceiling of the mechanical room to accommodate an uninterrupted duct line.

This change order amount will be added to the guaranteed bid price and will be paid for out of the renovation contingency fund.

Contingency Fund:	\$600,000.00
Total Change Orders to date:	\$119,122.92
Contingency Balance:	\$480,877.08

Staff respectfully recommends that Council approve this change order to the contract with P.J. Hoerr, Inc. in the amount of \$22,199 and a Resolution be adopted. Payment for this work will come from account X21100-72620 of the Cultural District budget.

Respectfully,

C. Bruce Marquis
Executive Director

Tom Hamilton
City Manager

RESOLUTION NO. 2005 - 104

A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE AMOUNT OF \$22,199 IN THE CONTRACT BETWEEN THE CITY OF BLOOMINGTON AND PJ HOERR, INC. FOR THE RENOVATION OF THE BLOOMINGTON CENTER FOR THE PERFORMING ARTS

WHEREAS, the City of Bloomington has previously entered into a contract with PJ Hoerr for the Renovation of the Bloomington Center for the Performing Arts; and

WHEREAS, for the reasons set forth in a staff report dated August 8, 2005 it was necessary to extend the 4" & 8" water main feed lines from the 5' stub outside the building to the termination of the newly supplied water mains located in East Street; add additional floor drains & vent lines for the air handling units in the first floor mechanical room; add additional piping because of the relocation of the backflow prevention device; add a rated ceiling to all showers, and to brace the floor opening and remove concrete ribs in the ceiling of the mechanical room to accommodate an uninterrupted duct line;

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the August 8, 2005 memo was 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 \$22,199 in the contract between the City of Bloomington and be approved.

ADOPTED this 8th day of August, 2005.

APPROVED this 9th day of August, 2005.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Sprague, seconded by Alderman Finnegan that the Change Order in the amount of \$22,199 be approved, and the Resolution adopted.

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

Ayes: Alderman Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented.

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Agreement between Norlight Telecommunications and the City of Bloomington

Norlight Telecommunications would like to install a telecommunication conduit system within the City right of way. The City has a standard agreement for use of the right of way and has entered into such agreements with other communication companies, like Sprint, MCI and AT&T. Norlight Telecommunications has agreed to enter into the City's form agreement.

Staff respectfully recommends that Council approve the agreement authorizing Norlight Telecommunications to use of the City right of way for a telecommunication conduit system.

Respectfully,

Hannah R. Eisner
Deputy Corporation Counsel

Tom Hamilton
City Manager

**AN AGREEMENT BETWEEN
NORLIGHT TELECOMMUNICATIONS, INC.
AND THE CITY OF BLOOMINGTON, ILLINOIS**

Norlight Telecommunications (hereafter referred to as “Grantee”), is a corporation organized under the laws of the State of Wisconsin and is authorized to do business in the State of Illinois, and the City of Bloomington (hereinafter referred to as “Grantor”) is a municipal corporation organized under the laws of the State of Illinois.

SECTION 1. For the mutual benefit of each of the parties hereto, including the good and valuable consideration specified herein, the Grantee is hereby given the right, permission and authority upon the terms and subject to the conditions of this Agreement to install, maintain and use a telecommunications conduit system and all appurtenances thereto (“System”) within, under and over, public right-of-way at the following locations:

STREET NAME

Market Street – going east from the alley between Main St. & East St. to a point in the alley east of East St.

Monroe Street – at the alley between Main St. & East St.

Roosevelt Avenue – part of the distance between Jefferson St. & Monroe St.

SECTION 2. The location of said privileges shall be as shown on prints attached hereto, which by reference are made a part of this Agreement. Said System shall be installed, maintained and used in accordance with the Ordinances of the City of Bloomington and the regulations of the Director of Engineering and Water of the City.

SECTION 3. The privilege granted under this License Agreement may not be transferred to any other person or entity without the written consent of the Grantor except Grantee may assign the License Agreement to a legal entity which is a successor entity or a subsidiary or affiliate of Grantee without consent, if prior written notice is given. Such approval shall not be unreasonably withheld or delayed.

SECTION 4. The System hereafter installed shall be so placed and all work in connection with such installation shall be so performed as not to interfere unreasonably with ordinary travel on the highways of the City of Bloomington or with any municipally owned water or sewer pipes then in place. Grantee, after doing any excavating, shall leave the surface of the ground in the same condition as existed prior to such excavation, reasonable wear and tear and damage by the elements excepted. All sidewalks, parkways, or pavements disturbed by said Grantee shall be restored by it, and the surface to be restored shall be with the same type of material as that existing prior to its being disturbed, and in the event that any such sidewalk, parkway or pavement shall become uneven, unsettled, or otherwise require repairing because of such disturbance by the Grantee, the said Grantee, as soon as climatic conditions will permit, shall promptly upon receipt of notice from the City of Bloomington to do so, cause such sidewalk, parkway or pavement to be repaired or restored to the standards required by the City at the time the work is performed.

SECTION 5. Upon the determination by Grantor’s Director of Engineering and Water for good cause shown that it is necessary to relocate said System for municipal infrastructure purposes involving expenditures of municipal funds, the Grantee shall relocate the System and shall bear the sole expense of relocation.

SECTION 6. Grantee acknowledges that Grantor has enacted an ordinance imposing the telecommunications tax allowed by the Illinois Simplified Municipal Telecommunications Tax Act and that to the extent Grantee is a "Retailer" of "Telecommunications" as defined in the Illinois Tax Act, Grantee agrees to charge its customers (the "Taxpayer" under the Act) the municipal taxes as provided under the Act and remit to the appropriate governmental entity such collected taxes as required by the Act, including the filing of all appropriate returns.

SECTION 7. Grantee shall maintain primary general liability insurance coverage in the sum of Five Million Dollars (\$5,000,000), naming Grantor as an additional insured, at all times this Agreement is in effect and until such time as the System referred to in the Agreement is removed or abandoned and the public way is properly restored as herein required. Grantee shall provide Grantor with a certificate of insurance verifying such coverage.

SECTION 8. The permission and authority herein granted shall not be exercised and any work to the System shall not be done until a permit authorizing the same shall have been issued by the Grantor's Director of Engineering and Water and upon the faithful observance and performance of all of the conditions and provisions thereof and of this Agreement.

SECTION 9. The Grantee agrees to furnish the City of Bloomington a surety bond in the amount for \$20,000.00 written by a company authorized to do business in the State of Illinois. Grantee shall be required to keep such bond in effect until construction of the System is completed by Grantee. The said bond shall be conditioned upon the Grantee's performance during the construction period of its obligations pursuant to this Agreement. In the event the Grantee, after reasonable notice, fails to perform during the construction period pursuant to any term of this Agreement (including any applicable cure periods), then the City of Bloomington may in addition to other remedies recover on the surety bond. For the City of Bloomington to recover from the Grantee or surety company under this Section, and except as otherwise provided herein, it is not necessary that the City of Bloomington first make any expenditure or perform any work or have any work performed by a private contractor(s). The City's Director of Engineering and Water is hereby authorized to determine what cost would be involved to perform such work, provided such cost is reasonable and can be documented, and may present said claim to the Grantee and/or surety company, which claim, with accompanying back-up documentation, shall be paid within a reasonable time.

SECTION 10. Except for negligence, gross negligence or willful or wanton conduct by the Grantor, its officers, employees or agents, the Grantee shall indemnify and hold the Grantor harmless from any and all damages and claims arising out of damage to the System caused in whole or in part by the Grantor, its officers, employees, and agents or by any other person(s) whether or not they have a permit from the Grantor and whether or not they are associated with the Grantor in any direct or indirect manner.

Grantee waives all claims, except for gross negligence or willful or wanton conduct by the Grantor, its officers, employees or agents, against the Grantor, whether arising directly, by subrogation, assignment, or otherwise, for any and all damages, direct or indirect, resulting from damage to the System structures done in whole or in part by the Grantor, its officers, employees and agents or by any other person(s) whether or not they have a permit from the Grantor and

whether or not they are associated with the Grantor in any direct or indirect manner, provided however, that Grantor shall notify Grantee in advance of any construction activity Grantor plans to undertake in or around the System which notice shall give Grantee sufficient time to take measures to protect the System as necessary. Grantee shall have no obligation to release or hold Grantor harmless from claims related to damage to the System in the absence of such notice. As part of this indemnification provision, the Grantee shall, at its own expense, defend all suits and does agree to indemnify and save harmless, except for negligence, gross negligence or willful or wanton conduct by the Grantor, its officers, employees or agents, the Grantor and its officers and employees from and against any and all claims and liabilities of whatever nature arising from the granting of authority herein to the Grantee or imposed upon or assumed by it, or by reason of or in connection with any damage to life, limb, or property as a result of any of the installed System constructed under or by virtue of this Agreement, and shall save and keep harmless the Grantor from any and all damages, judgments, costs and expenses of every kind, that may arise by reason thereof. Notice in writing shall be promptly given to Grantee of any claim or suit against the Grantor and its officers and employees which, by the terms hereof, the Grantee shall be obligated to defend, or against which the Grantee has hereby agreed to save and keep harmless the Grantor. The Grantor shall furnish to the Grantee all information in its possession relating to said claim or suit, and cooperate with said Grantee in the defense of any said claim or suit. The Grantee agrees to provide notice in writing to the Legal Department of the Grantor of any claim or suit against the Grantee and/or its officers or employees which may directly affect the System or directly or indirectly affect this Agreement or the property referred to herein, whether or not the Grantor has been made a Defendant or Respondent to the legal action. The City Council of the Grantor may, if it so desires, assist in defending any such Claim or suit, at the City Council or Grantor's sole cost and expense, but Grantee shall have sole control of such defense and/or the settlement of any claims. The Grantee will not rely upon governmental immunity afforded to the Grantor, and further agrees that it will pay the costs incurred by the Grantor for the necessary defense of any suit not only against the Grantor but also against its officers and employees resulting from the Agreement. The indemnification and waiver provided in this section shall be enforceable solely by the Grantor and shall not operate as an indemnification or waiver as to any third party.

SECTION 11. This Agreement may only be amended and/or modified in writing, with the consent of the parties. However, Grantee may add or delete locations to or from the System upon approval of Grantor's Director on Engineering and Water. An addendum will be executed any time there is a change in location.

SECTION 12. This Agreement shall remain in full force and effect for a period of twenty-five (25) years from the date executed by both of the parties, unless earlier terminated as provided herein. This Agreement may be terminated by Grantor, if, after at least thirty (30) days written notice to the Grantee, the Grantee fails to remedy an alleged breach of the Agreement specified in such notice.

If the alleged breach is incapable of being remedied within said thirty (30) days, this Agreement shall not be terminated provided that the Grantee has taken substantial steps to remedy the alleged breach within said thirty (30) days and is diligently proceeding with the completion of such cure.

SECTION 13. Upon termination of the privileges herein granted, the Grantee without cost or expense to the Grantor, shall either furnish a surety bond in an amount to be mutually agreed upon at the time and commence to remove the System herein authorized and restore the public way to a proper condition under the supervision of the City's Department of Engineering or abandon the System in place if Grantor so approves, which approval shall not be unreasonably withheld or delayed. Grantee shall remain liable to the Grantor under the provisions hereof until said System is removed or abandoned in place. In the event of the failure, neglect or refusal of said Grantee to remove the System where the Grantor has not allowed the Grantee to abandon the facilities, the Grantor will have the choice of either performing said work and charging the cost thereof to said Grantee or determining what the cost of said work shall be by a contractor, and billing the Grantee for said cost which will be promptly paid or the Grantor may proceed against the surety bond of the Grantee or pursue other remedies provided by law. If Grantee wishes to abandon the System in place notice shall be given to Grantor in writing of the intent to do so, such notice shall state the date on which the System shall be abandoned and identify which parts of the System will be abandoned in place. Grantee shall have no further responsibility to Grantor with respect to the System abandoned unless within 30 days of receipt of Grantee's notice Grantor directs Grantee to remove all or any part of the System. In such event Grantee shall remove the System as provided herein. All Grantee's right, title and interest in any part of the System abandoned in place shall pass to Grantor and Grantor may remove, use, lease and/or sell such System without liability to or consent from Grantee.

SECTION 14. Grantee shall take all necessary steps as to insure that the location of its fiber optic line and all other structures is on record with JULIE or such other Statewide One-Call Notice System as may be in place pursuant to the Illinois Underground Utility Facilities Damage Protection Act (220 ILCS 50/1 *et seq.*)

SECTION 15. Any notice provided for under this Agreement shall be sufficient if in writing and delivered personally to the following addresses or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, or sent via commercial overnight courier, addressed as follows, or to such other addresses as the receiving party hereafter shall specify in writing:

If to the Grantor: The City of Bloomington
 Attn.: Mayor and City Manager
 109 E. Olive Street
 Bloomington, IL 61701

If to the Grantee: Norlight Telecommunications
 Attn.: Senior Director Operations & Engineering
 13935 Bishops Drive
 Brookfield, WI 53005

With a copy to: Norlight Telecommunications
 Attn.: Legal Counsel
 13935 Bishops Drive
 Brookfield, WI 53005

SECTION 16. This Agreement shall be in full force upon receipt by the City Clerk of a copy of this Agreement executed by an appropriately authorized manager or officer of Grantee, and attested by its Secretary or Assistant Secretary both under the Grantee's corporate seal and said execution of this Agreement shall be an unconditional acceptance of all provisions hereof.

City of Bloomington

Norlight Telecommunications, Inc.

By: Stephen F. Stockton

By: _____

Date: August 9, 2005

Date: August 3, 2005

Attest:

Attest:

Tracey Covert

Motion by Alderman Sprague, seconded by Alderman Finnegan that the Agreement between Norlight Telecommunications and the City be approved and the Mayor and City Clerk authorized to execute the necessary documents.

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

Ayes: Alderman Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented.

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Letter of Agreement Between the United States of America, Acting Through the Department of the Army, and the City of Bloomington

In the 2005 - 2006 Capital Improvement Budget, the City has proposed a sanitary relief sewer on Lafayette and Maple Streets. In order to construct the sewer, a ten (10) foot wide temporary construction easement is required from the property owned by the U.S. Army Reserve at 1117 E. Lafayette Street. The Department of the Army, U.S. Army Engineer District, Louisville (USAED, Louisville) has provided an agreement for obtaining the necessary easement. The agreement requires a payment for administrative expenses in the amount of \$500.

The agreement has been reviewed and everything was found to be in order. Staff respectfully recommends that Council approve the agreement, payment to the USAED in the amount of \$500, and authorize the Mayor and City Clerk to execute the necessary documents. Payment is to be made from Sewer Depreciation Funds (X52200-72550).

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

**LETTER AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA AND
City of Bloomington, Illinois**

This Letter Agreement (LA) is made as of the 12th day of July, 2005, by and between the United States of America, acting by and through the Department of the Army, U.S. Army Engineer District, Louisville (USAED, Louisville), and the City of Bloomington, Illinois.

WHEREAS, Title 10 United States Code, Chapter 159, was amended by P.L. 105-85 (111 Stat 1629, Nov. 18, 1997), to add Section 2695, which allows the United States Government to accept funds from private entities for certain real estate property transactions.

WHEREAS, the City of Bloomington, Illinois desires to use certain Government property, under the command and control of the 88th Regional Readiness Command, U.S. Army Reserve, and said use has been approved by the 88th Regional Readiness Command, U.S. Army Reserve, and the USAED, Louisville is authorized to prepare and execute a license authorizing use of the property.

WHEREAS, the City of Bloomington, Illinois intends to fund the full cost of a license to install a sanitary relief sewer, which includes administrative fees associated with the preparation and processing of the document, to be performed by the USAED, Louisville, Real Estate Division.

1. Obligations of the Parties:

a. As soon as practicable, but not later than 30 days following ratification of this Agreement by all parties, the City of Bloomington, Illinois, will pay \$500 Dollars and 00/100 to the USAED, Louisville, as the full cost of the services being provided by the USAED, Louisville, as described above. The City of Bloomington, Illinois shall pay all costs associated with USAED, Louisville's provision of goods and services under this LA. If the USAED, Louisville's costs under this LA are forecasted to exceed the amount of funds available under this LA, it shall promptly notify the City of Bloomington, Illinois of the amount of additional funds necessary to complete the work under this LA. The City of Bloomington, Illinois shall either provide the additional funds to the USAED, Louisville, or the scope of work shall be limited to that which can be paid for by the then-available funds, or the City of Bloomington, Illinois may direct termination of the work under this LA. Within ninety (90) days of

completing the work under this LA, the USAED, Louisville shall conduct an accounting to determine the actual costs of the work. Within thirty (30) days of completion of this accounting, the USAED, Louisville shall return to the City of Bloomington, Illinois any funds advanced in excess of the actual costs as then known. Established Federal Government accounting procedures shall be used. The amount of funds advanced by the City of Bloomington, Illinois, under this LA, shall be nonrefundable, unless some or part of the services are not completed or the amount of funds advanced exceeds the actual costs of performing the services.

- b. Upon receipt of the funds required, the USAED, Louisville shall commence and complete the services with due diligence, but in all events all of the services shall be completed no later than 60 days following receipt and certification of funds from the City of Bloomington, Illinois to the USAED, Louisville.
- c. Funds shall be forwarded to USAED, Louisville, ATTN: Real Estate Division, Military Branch, Post Office Box 59, Louisville, Kentucky 40201-0059, with a copy of this LA attached.

2. Miscellaneous:

This LA contains the entire agreement between the parties regarding the lease and any agreement hereafter made shall not operate to change, modify, or discharge this LA in whole or in part, unless that agreement is in writing and signed by the parties hereto.

IN WITNESS WHEREOF, the parties have executed the LA as of the day and year first above written.

THE UNITED STATES OF AMERICA

MICHAEL G. BARTER
Chief, Real Estate Division
Louisville District, Corps of Engineers
Louisville, Kentucky

City of Bloomington, Illinois

Signature: Stephen F. Stockton
Title: Mayor of Bloomington, IL

Motion by Alderman Sprague, seconded by Alderman Finnegan that the Agreement and payment to the USAED in the amount of \$500 be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

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

Ayes: Alderman Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented.

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Request to Retain Farnsworth Group Inc. to Provide Professional Services for the Preparation of Intersection Design Studies, Construction Plans and Specifications for Lincoln Street from Bunn St. to Morrissey Dr.

Staff has negotiated a proposed contract with Farnsworth Group Inc. to provide professional services for the preparation of Intersection Design Studies and Construction Plans and Specifications for Lincoln Street from Bunn St. to Morrissey Dr.

The project includes the following improvements:

1. Reconstruction of Lincoln Street from Morrissey Drive to Maple Street.
2. New construction of Lincoln Street from Maple Street to Bunn Street.
3. Reconstruction of Morrissey Drive from 100' south of Redwood Ave. to 500' north of Lincoln St., including new traffic signals at the intersection of Morrissey Dr. and Lincoln Street.
4. Reconstruction of Bunn and Maple Streets as necessary to transition to the existing pavement.
5. New water main and storm/sanitary sewer on Lincoln St. and Morrissey Dr. as needed.

The scope of services includes:

1. Preparation of Intersection Design Studies for Lincoln St. and Bunn St. and Lincoln St. and Morrissey Dr.
2. Preparation of Construction Plans and Specifications in accordance with Motor Fuel Tax standards.

As Morrissey Drive (US 150) is maintained by the State of Illinois, the Illinois Department of Transportation (IDOT) has agreed to participate in the project funding. Staff is currently working with IDOT to determine an appropriate level of State cost participation.

Staff has reviewed the proposal from Farnsworth Group Inc. to provide civil engineering services on a time and material basis for a total fee not to exceed \$168,400 and finds it acceptable. The 2005-2006 Capital Improvement budget allocates a total of \$165,000 for the roadway design from the MFT and Water Depreciation Funds. Staff is proposing to pay for this work as follows:

Motor Fuel Tax (X20300-70050)	\$138,400.00
Water Depreciation Fund (X50200-72540)	\$ 30,000.00
Total:	\$168,400.00

Staff respectfully recommends that Council approve a contract with Farnsworth Group Inc. to provide professional services for the preparation of intersection design studies, construction plans and specifications for Lincoln Street from Bunn St. to Morrissey Dr. for a total fee not to exceed \$168,400, and adopt a Resolution appropriating \$138,400 in MFT Funds (X20300-70050), and further that the Mayor and City Clerk be authorized to execute the necessary documents.

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

(CONTRACT AND RESOLUTION NO. 2005-105 ON FILE IN THE CITY CLERK'S OFFICE)

Mayor Stockton noted that this contract would address the extension of Lincoln St.

Motion by Alderman Sprague, seconded by Alderman Finnegan that the Agreement for the design of Lincoln St. from Bunn St. to Morrissey Dr. with Farnsworth Group, Inc. be approved, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution adopted.

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

Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Intergovernmental Agreement with the State of Illinois for the Municipal Maintenance of State Highways

The State of Illinois, acting through its Department of Transportation (IDOT), and the City entered into a master agreement May 22, 1995 for the Maintenance of State Highways within the

City. That master agreement was for ten (10) years and expired June 30, 2005. IDOT has supplied the City with a new master agreement for the period July 1, 2005 through June 30, 2015. The agreement contains a clause for the compensation to the City for this work and a yearly adjustment of the compensation amount. The compensation amount for the first year of the agreement, July 1, 2005 through June 30, 2006 is \$61,929.11.

Staff reviewed the agreement, found it to be in order, and respectfully recommends that Council approve the agreement and authorize the Mayor and City Clerk to execute the necessary documents.

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

(CONTRACT ON FILE IN THE CITY CLERK'S OFFICE)

Motion by Alderman Sprague, seconded by Alderman Finnegan that the Agreement be approved and the Mayor and City Clerk authorized to execute the necessary documents.

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

Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Highway Permit Application from the Illinois Department of Transportation for the Installation of Subdivision Entrance on the US Route 150 (Morrissey Avenue) Right-of-Way

A Highway Permit from the Illinois Department of Transportation (IDOT) is required whenever work is performed in the State's right-of-way. Staff respectfully requests that Council approve an IDOT Highway Permit Application for the installation of a subdivision entrance in the US Route 150 (Morrissey Avenue) Right-of-Way. This is the private street access for Route 150 Business Park Subdivision.

IDOT requires the City to sign the application form and adopt a Resolution for the performance of the work holding IDOT harmless for any damages to persons or properties. Staff respectfully recommends that Council authorize the Mayor and City Clerk to sign the application required by the Illinois Department of Transportation and adopt the attached resolution.

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

(CONTRACT AND RESOLUTION NO. 2005-106 ON FILE IN THE CITY CLERK'S OFFICE)

Motion by Alderman Sprague, seconded by Alderman Finnegan that the Agreement be approved, the Mayor and City Clerk authorized to execute the necessary documents, and the Resolution adopted.

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

Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Resolution Approving an Agreement with the Union Pacific Railroad for a Proposed 8" Water Pipeline Crossing the Railroad Property at Miller Street

On June 14, 2004, Council approved a Preliminary Plan for Woodbury Estates Subdivision. Woodbury Estates is located west of Hinshaw Avenue, east of the Union Pacific Railroad (UPRR), and south of Miller Street. The Preliminary Plan included a provision that the City would pay for an eight (8) inch water main to be installed in Miller Street from Woodbury Estates Subdivision westerly under the Union Pacific Railroad (UPRR) to connect to existing mains at Partner Place.

UPRR provided a proposed agreement to allow the water main to cross their property at the Miller Street crossing (mile post 127.19 on the Springfield Subdivision/Branch) for a one time fee of \$2,569. A one time fee is much preferable to a yearly lease.

Staff reviewed the agreement, found it be in order, and respectfully recommends that Council approve the agreement and the Resolution be adopted. The payment to the UPRR in the amount of \$2,569 will be paid from Water Depreciation Funds (X50200-72540).

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

(CONTRACT AND RESOLUTION NO. 2005-107 ON FILE IN THE CITY CLERK'S OFFICE)

Motion by Alderman Sprague, seconded by Alderman Finnegan that the Agreement and Payment in the amount of \$2,569 and be approved, the Mayor and City Clerk authorized to execute the necessary documents, and the Resolution adopted.

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

Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Motor Fuel Tax Resolution for the Design of Dr. Martin Luther King Jr. Drive from Washington Street to Oakland Avenue (MFT 82-00240-00-PV)

On February 23, 2004, Council approved a contract with Lewis Yockey and Brown Inc. to perform the design of Dr. Martin Luther King Drive from Washington Street to Oakland Avenue in an amount not to exceed \$120,000. In order to spend Motor Fuel Tax Funds to pay for this work, a Resolution must be adopted appropriating sufficient Motor Fuel Tax Funds to cover the cost.

Staff respectfully requests that Council adopt a Resolution appropriating \$120,000 in Motor Fuel Tax Funds to be spent for the Design of Dr. Martin Lutheran King Jr. Drive from Washington Street to Oakland Avenue under Motor Fuel Tax Section 82-00240-00-PV and that the Mayor and City Clerk be authorized to execute the necessary documents. Funds for this project will come from MFT account (X20300-72530).

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

(RESOLUTION NO. 2005-108 ON FILE IN THE CITY CLERK'S OFFICE)

Motion by Alderman Sprague, seconded by Alderman Finnegan that the Resolution be adopted.

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

Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Prevailing Wage Resolution

Illinois law requires that Council to pass a Prevailing Wage Resolution each year. Prevailing wage records are kept by the Illinois Department of Labor and with the help of municipalities throughout the State, they are updated each June. The prevailing wage information received from the Department of Labor has been corrected pursuant to information received from the various local labor unions.

The Resolution also adds a requirement that as a prerequisite to the awarding on contracts for public work in excess of \$25,000 the contractor provide proof of participation in apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.

The Resolution requires prevailing wages to be paid when private commercial economic development projects are directly supported by public funds, such as Tax Increment Financing or tax incentives. This requirement was first imposed by the City in 1991. Certain private projects which, in the staff's opinion, are less directly supported by public funds have been exempted from the requirements that prevailing wages be paid.

The City's Resolution complies with Illinois law as to public works and is within the Home Rule authority of the City as to private commercial economic developments directly supported by public funds. Staff respectfully recommends that Council pass this Resolution.

Respectfully,

Todd Greenburg
Corporation Counsel

Tom Hamilton
City Manager

RESOLUTION NO. 2005 - 109

**A RESOLUTION OF THE CITY OF BLOOMINGTON, McLEAN COUNTY, ILLINOIS
ASCERTAINING THE PREVAILING RATES OF WAGES FOR LABORERS,
WORKERS AND MECHANICS EMPLOYED AT PUBLIC WORKS
OF THE CITY OF BLOOMINGTON**

WHEREAS, the Prevailing Wage Laws, Chapter 48, Section 39s-1, et seq., of the Illinois Revised Statutes approved June 26, 1941, as amended, require that each public body awarding any construction contract for public work or doing such work by day labor shall annually 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, 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 and a certified copy hereof must be promptly filed in the Office of the Secretary of State and Labor Department and be provided to others on request; 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, but excluding projects financed by the Downtown Commercial Revolving Loan Fund, projects resulting from Annexation Agreements, Intergovernmental Agreements, projects involving the City's Land Subdivision Code (including waivers/exceptions therefrom), activities that are exempt due to specific contract language, or certain projects the City Council finds inappropriate for application of Prevailing Wage Law; and

WHEREAS, the City of Bloomington believes that contractors awarded contracts for public work as defined by state statute and this Resolution should, as a prerequisite to such contract, provide proof of participation in apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training for all construction contracts in excess of \$25,000,

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 set forth in the document attached hereto 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 set forth in the document attached hereto and incorporated by reference 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, but excluding projects financed by the Downtown Commercial Revolving Loan Fund, projects resulting from Annexation Agreements, Intergovernmental Agreements, projects involving the City's Land Subdivision Code (including waivers/variations therefrom), activities that are exempt due to specific contract language, or certain projects the City Council finds inappropriate for application of Prevailing Wage Law; 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, provide proof of participation in apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training for all construction contracts in excess of \$25,000; 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 the City Clerk shall publicly post or keep available for inspection by any interested party in the main office of this City this determination of prevailing rates of wages; and

BE IT RESOLVED that the City Clerk shall mail a copy of this determination 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 Secretary of State* and 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 determination and that it is the effective prevailing wage determination of this public body.

ADOPTED this 8th day of August, 2005.

APPROVED this 9th day of August, 2005.

APPROVED:

STEPHEN F. STOCKTON
Mayor

ATTEST:

TRACEY COVERT
City Clerk

(WAGE TABLES AND DESCRIPTIONS ON FILE IN THE CITY CLERK'S OFFICE)

Motion by Alderman Sprague, seconded by Alderman Finnegan that the Resolution be adopted.

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

Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: An Ordinance Amending Chapter 8, Section 8(a) Noisy Animals

The current Ordinance has been challenged in court in the course of the Canine Classics Dog Kennel prosecution. Currently the kennel owner is appealing the constitutionality of the Ordinance, arguing that it is too vague. The judge has stayed prosecution on all barking dog complaints filed by the City against the Kennel pending the out come of the appeal.

Staff has reviewed many barking dog or noisy animal Ordinances and recommends that the City amend the current Ordinance to provide for greater and more definite standards. These standards would require that the barking be "unreasonably loud or disturbing" and that the barking be of "such character, intensity and duration" as to disturb the peace and quiet of the neighborhood, resident or business.

Staff would have no problem meeting these standards as they apply to a kennel prosecution, however, it would raise the bar for a neighbor to complain about another neighbor's barking dog. For instance, a dog which barks only when the owner comes home from work compared to a dog which barks all day or night while the owner is at work.

The current Ordinance is not written with these specifications even though they are enforced in this manner anyway. By changing the language, the legal obstacles in enforcement are eliminated. Staff respectfully recommends that Council pass this Ordinance.

Respectfully,

Laura Hall
Assistant Corporation Counsel

Tom Hamilton
City Manager

ORDINANCE NO. 2005 - 86**AN ORDINANCE AMENDING BLOOMINGTON CITY CODE
CHAPTER 8, SECTION 8(a)**

BE IT ORDAINED by the City Council of the City of Bloomington, Illinois:

SECTION 1. That Bloomington City Code Chapter 8, Section 8(a), be amended by replacing the entire paragraph to read as follows (additions are indicated by underlining; deletions are indicated by strikeouts):

a.No person shall keep harbor any animal which howls, barks, or emits audible sounds that are unreasonably loud or disturbing and which are of such character, intensity and duration as to disturb the peace and quiet of the neighborhood or such resident or business neighbors as may be in close proximity to such dog.

~~a.It shall be illegal for any person to keep or harbor any dog, cow, calf, hog or other animal in any yard, house, or other place, which by barking, howling, bawling, or by making other noise shall disturb the peace and quiet of any individual or family residing in the neighborhood. Neighborhood shall include any property that is within three hundred (300) feet of the location where the animal is kept or harbored.~~

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 immediately upon passage and approval.

PASSED this 8th day of August, 2005.

APPROVED this 9th day of August, 2005.

APPROVED:

STEPHEN F. STOCKTON
Mayor

ATTEST:

TRACEY COVERT
City Clerk

Motion by Alderman Sprague, seconded by Alderman Finnegan that the Ordinance be passed.

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

Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Ordinance Permitting Taxicab Services to Impose a Fifty Cent per Trip Surcharge When the Lowest Grade of Unleaded Gasoline is at or More Than \$2.00 Per Gallon

The price of the lowest grade of unleaded gasoline has regularly exceeded two dollars per gallon for several months. Taxicab services may only charge customers the rates authorized by the City Code and the current gasoline prices have caused taxicab services an increase in operating costs which they are prohibited from passing on to their customers.

This Ordinance will permit taxicab services to impose a fifty cent surcharge per trip when the price of the lowest grade of unleaded gasoline is at or above two dollars per gallon. In case of a dispute as to the price of gasoline at the time the surcharge is imposed, the taxicab service is required to supply to the City the name and location of the gasoline station which the taxicab service used to determine that gasoline was at or above two dollars per gallon.

Staff respectfully recommends that Council pass this Ordinance permitting Taxicab Services to impose a fifty cent per trip surcharge when the lowest grade of unleaded gasoline is at or more than \$2.00 per gallon.

Respectfully submitted,

J. Todd Greenburg
Corporation Counsel

Tom Hamilton
City Manager

ORDINANCE NUMBER 2005 - 87**AN ORDINANCE AMENDING CHAPTER 40, SECTION 601
OF THE CITY CODE, PERMITTING TAXICAB SERVICES
TO CHARGE A 50 CENT PER TRIP GAS SURCHARGE****BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF BLOOMINGTON, ILLINOIS:**

Section One: That Section 601(b) of Chapter 40 of the Bloomington City Code, 1960, as amended, shall be further amended by adding the following subsection (5):

(5) On any day in which the price of the lowest grade of unleaded gasoline is at or more than \$2.00 (two dollars) per gallon, an additional charge of \$0.50 (fifty cents) per trip shall be charged. In case of a complaint that this surcharge was imposed when the price of the lowest grade of unleaded gasoline was below \$2.00 per gallon, 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.

Section Two: Except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

Section Three: This ordinance shall be effective as of the date of its passage and approval.

Section Four: The City Clerk is authorized to publish this ordinance in pamphlet form as provided by law.

Section Five: This ordinance is adopted pursuant to the home rule authority granted the City of Bloomington by Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this 8th day of August, 2005.

APPROVED this 9th day of August, 2005.

APPROVED:

Steve Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

Mayor Stockton noted that this item had received media attention.

Motion by Alderman Sprague, seconded by Alderman Finnegan that the Ordinance be passed.

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

Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Proposed Text Amendments to the Manual of Practice for the Design of Public Improvements in the City of Bloomington, Illinois

BACKGROUND INFORMATION:

On July 25, 2005, Council approved various amendments to the Manual of Practice for the Design of Public Improvements in the City of Bloomington, Illinois. This Manual contains fourteen (14) chapters and approximately 214 pages of text, tables, and diagrams. It is currently numbered in sequential order. Staff would like to renumber the Manual from sequential order to a format which reflects chapter and page number. This will allow the manual to be more user friendly and will expedite updates. A copy of the Update Log and Table of Contents is included for review.

STAFF RECOMMENDATION:

The staff respectfully recommends that Council approve and adopt the amendments to the Manual of Practice for the Design of Public Improvements in the City of Bloomington, Illinois.

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

ORDINANCE NO. 2005 - 88**AN ORDINANCE AMENDING BLOOMINGTON CITY CODE CHAPTER 24
THEREBY CHANGING THE TABLE OF CONTENTS AND SYSTEM OF
PAGINATION OF THE MANUAL OF PRACTICE FOR THE DESIGN OF PUBLIC
IMPROVEMENTS IN THE CITY OF BLOOMINGTON**

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bloomington, Illinois:

SECTION 1. That Bloomington City Code Chapter 24, THE MANUAL OF PRACTICE FOR THE DESIGN OF PUBLIC IMPROVEMENTS IN THE CITY OF BLOOMINGTON be amended to re-paginate said document, which will allow for the ease of future revisions.

SECTION 2. Exhibit "A" be adopted and incorporated into THE MANUAL OF PRACTICE FOR THE DESIGN OF PUBLIC IMPROVEMENTS IN THE CITY OF BLOOMINGTON.

SECTION 3. Except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

SECTION 4. The City Clerk shall be, and she is hereby directed and authorized to publish this Ordinance in pamphlet form as provided by law.

SECTION 5. 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 6. This Ordinance shall take effect immediately upon passage and approval.

PASSED this 8th day of August, 2005.

APPROVED this 9th day of August, 2005.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

(EXHIBIT A ON FILE IN CLERK'S OFFICE – APPENDIX TO CHAPTER 24. LAND SUBDIVISION)

Motion by Alderman Sprague, seconded by Alderman Finnegan that the Text Amendment be approved, and the Ordinance passed.

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

Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Annexation Agreement for Eastlake Subdivision

The Planning Commission held a public meeting on this petition on July 27, 2005. The item was laid over until the Planning Commission's meeting of September 14, 2005.

Staff respectfully requests that this item be laid over until the September 26, 2005 Council meeting.

Respectfully,

Tracey Covert
City Clerk

Tom Hamilton
City Manager

Mayor Stockton noted that this item had been considered by the Planning Commission.

Motion by Alderman Sprague, seconded by Alderman Finnegan that the item be laid over until the September 26, 2005 Council meeting.

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

Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Petition submitted by Nancy Sultan, Joseph Gibson & Susan Clary, Daniel Terkla & Stacy Shimizu and Thomas & Susan Bradford requesting a zoning map amendment to rezone #4, #5, #18 & #24 White Place from R-1C High Density Single Family Residence District to R-1C High Density Single Family Residence District with the S-4 Historic and Cultural District overlay (Case Z-15-05)

BACKGROUND INFORMATION:

Adjacent Zoning

Adjacent Land Uses

north: R-1C - High Density
Single Family Residence District

north: single family dwellings

south: R-1C & S-4 - Historic & Cultural District

south: single family dwellings

east: R-1C & B-2 - Gen. Business Service Dist.

east: single family dwellings & retail
trade

west: R-1C

west: single family dwellings

Comprehensive Plan recommends: "low to medium density residential " use.

The petitioners are requesting that the subject properties be designated S-4 Historic and Cultural District, an overlay zoning district that would be superimposed over the current R-1C zoning assigned to these properties. The S-4 zoning regulations mandate that a Certificate of Appropriateness must be approved by the Historic Preservation Commission prior to any future exterior architectural alterations being made to any buildings located on the subject properties. With the S-4 zoning, the petitioners would also be able to apply for historic preservation grants for exterior improvements under the Eugene D. Funk, Jr. Historic Preservation Grant Program.

The subject properties are all contributing structures in the White Place Historic District, which is listed on the National Register of Historic Places. The overview of the District is found in the City of Bloomington Historic Preservation Plan, 2004 Edition, edited by Mr. Timothy Potts, Associate Planner with the Planning and Code Enforcement Department, (PACE). More detailed historical information on each of these properties is found in "Exhibit A", prepared by the petitioners. Council previously approved S-4 zoning for #2 White Place on June 9, 2003.

According to the Zoning Code, a nominated property, structure or area should qualify under one or more of the following criteria for S-4 zoning:

- a) Its character, interest, or value as part of the development, heritage, or cultural characteristics of the City, State of Illinois or the Nation;
- b) Its location as a site of a significant local, county, state or national event;

- c) Its identification with a person or persons who significantly contributed to the development of the City, county, state, or nation;
- d) Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;
- e) Its identification as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the City, county, state, or the nation;
- f) Its embodiment of elements of design, detailing, materials, or craftsmanship that render it architecturally significant;
- g) Its embodiment of design elements that make it structurally or architecturally innovative;
- h) Its unique location or singular physical characteristics that make it an established or familiar visual feature;
- i) Its character as a particularly fine or unique example of a utilitarian structure, including, but not limited to farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance; and/or
- j) Its suitability for preservation or restoration.

HISTORIC PRESERVATION COMMISSION RECOMMENDATION:

The Historic Preservation Commission reviewed this petition on July 21, 2005, and passed a motion by a 4 to 0 vote recommending that the Planning Commission recommend Council approval of the petition in Case Z-15-05 as presented in the public interest

PLANNING COMMISSION PUBLIC HEARING:

The Planning Commission held a public hearing on this petition on July 27, 2005 and recommends the same. Mr. Kenneth Emmons, City Planner, recommended that the Planning Commission recommend Council approval of Case Z-15-05 as presented in the public interest. No testimony was presented in favor of or in opposition to this petition at this public hearing. The petitioners were present at this hearing.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission closed the public hearing on this petition on July 27, 2005, and passed a motion by a vote of 6 to 0 recommending Council approval of Case Z-15-05 as presented in the public interest.

STAFF RECOMMENDATION:

Staff concurs with the Planning Commission's recommendation for approval of this petition in Case Z-15-05.

Respectfully,

Kenneth Emmons
City Planner

Tom Hamilton
City Manager

PETITION FOR ZONING MAP AMENDMENT

STATE OF ILLINOIS)
)SS.
COUNTY OF McLEAN)

TO: THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS

Now comes Nancy Sultan, Dan Terkla, Stacy Shimizu, Susan Bradford, Joe Gibson, and Susan Clary hereinafter referred to as your Petitioners, respectfully representing and requesting as follows:

1. That your Petitioners are the owners of the freehold or lesser estate therein of the premises hereinafter legally described in Exhibit A, which is attached hereto and made a part hereof by this reference, or are a mortgagee or vendee in possession, assignee of rents, receiver, executor (executrix), trustee, lessee or other person, firm or corporation or the duly authorized agents of any of the above persons having proprietary interest in said premises;
2. That said premises presently has a zoning classification of R-1C under the provisions of Chapter 44 of the Bloomington City Code – 1960, as amended;
3. That the present zoning on said premises is inappropriate due to error in original zoning, technological changes altering the impact or effect of the existing land uses, or the area in question having changed such that said present zoning is no longer contributing to the public welfare;
4. That your Petitioners hereby request that the Official Zoning Map of the City of Bloomington, McLean County, Illinois be amended to reclassify said premises into the S-4/R-1C zoning district classification;
5. That said requested zoning classification is more compatible with existing uses and/or zoning adjacent property than the present zoning of said premises; and
6. That said requested zoning classification is more suitable for said premises and the benefits realized by the general public in approving this petition will exceed the hardships imposed on your Petitioners by the present zoning of said premises.

WHEREFORE, your Petitioners respectfully pray that the Official Zoning Map of the City of Bloomington, McLean County, Illinois be amended by changing the zoning classification of the above-described premises from R-1C to S-4/R-1C.

August 8, 2005

605

Respectfully submitted,

Nancy Sultan

Dan Terkla

Stacy Shimizu

Susan Bradford

Joe Gibson

Susan Clary

ORDINANCE NO. 2005 - 89**AN ORDINANCE REZONING 4, 5, 8, 24, WHITE PLACE FROM R-1C TO S-4/R-1C**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a Petition for rezoning of certain premises hereinafter described in Exhibit A; and

WHEREAS, the Bloomington Planning Commission, after proper notice was given, conducted a public hearing on said Petition; and

WHEREAS, the City Council of said City has the power to pass this Ordinance and rezone said premises.

NOW, THEREFORE, BE IT ORDAINED by the City of Bloomington, McLean County, Illinois:

1. That the premises hereinafter described in Exhibit(s) A shall be and the same are hereby rezoned from R-1C to S-4/R-1C.
2. The Official Zoning Map of said City shall be amended to reflect this change in zoning classification.
3. This Ordinance shall take effect immediately upon passage and approval.

PASSED this 8th day of August, 2005.

APPROVED this 9th day of August, 2005.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A

4 White Place: White's Place Addition Lot 4.

5 White Place: White's Place Addition north 10' Lot 3 and all Lot 5.

18 White Place: White's Place Addition south 50'' Lot 18.

24 White Place: White's Place Addition Lot 24.

Alderman Purcell questioned the S-4, Historic and Cultural District, overlay. Tom Hamilton, City Manager, addressed the Council. This zoning classification is a tool for the property owner to protect the historic value of the building. Any improvement to a structure's exterior requires the approval of the Historic Preservation Commission. Alderman Purcell added that grant funding may be available to individuals who agree to follow guidelines. Mr. Hamilton responded affirmatively.

Motion by Alderman Sprague, seconded by Alderman Finnegan that the Rezoning be approved and the Ordinance passed.

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

Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Public Hearing on the Petition submitted by James Edward Grady & Habitat for Humanity of McLean County requesting approval of the Annexation Agreement and Rezoning from R-1 Single Family Residential District (County zoning) to R-1C High Density Single Family Residence District zoning for property located at the northeast corner of South Bunn Street and East Lafayette Street, consisting of 0.66 acres (south of Ward # 1) (Case Z-14-05)

The Planning Commission opened a public hearing on this petition on July 27, 2005 and continued such hearing until August 10, 2005, in order to allow more time to study the drainage problems north of and adjacent to the property in question.

Staff respectfully recommends that Council open the August 8, 2005 public hearing on this Annexation Agreement in Case Z-14-05, and continue such hearing until the August 22, 2005 Council meeting in order to allow the Planning Commission time to complete its public hearing process and make a recommendation on such agreement.

Respectfully,

Kenneth Emmons
City Planner

Tom Hamilton
City Manager

Mayor Stockton opened the Public Hearing. No one came forward to address the Council. Mayor Stockton closed the Public Hearing.

Motion by Alderman Matejka, seconded by Alderman Schmidt that the public hearing for this Annexation Agreement be opened and laid over until the August 22, 2005 Council meeting.

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

Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Sprague, Matejka and Purcell.

Nays: None.

Motion carried.

MAYOR'S DISCUSSION: None.

CITY MANAGER'S DISCUSSION: Tom Hamilton, City Manager, addressed the Council. He presented a water update. Lake Bloomington was down 4.6'. Lake Evergreen was down 1.8'. These figures were from the top of the spillway.

Alderman Crawford questioned if these figures were typical. Mr. Hamilton noted that the figures were good. Currently the treatment plant was blending off Lake Evergreen while drawing down Lake Bloomington due to the seawall work.

Mayor Stockton questioned how much lower the water level would fall. Craig Cummings, Director of Water, addressed the Council. He stated that the water level would not be lowered much further. He cautioned that the water level should also not rise as a higher water level would wash out the recent work. Mayor Stockton noted that the water level was not unusual. He questioned when the water level would rise. Mr. Cummings noted in the fall. The lake levels tend to rise in November. There is a gauging station on the Mackinaw River. The highest reading was taken on January 4, 2005. The lowest readings have occurred in the month of August. He added that the City has 500 days of water supply without any rain.

Mayor Stockton requested that a water update be given at each meeting.

ALDERMEN'S DISCUSSION: Alderman Crawford noted the success of the National Night Out which was held at Miller Park on Tuesday, August 1, 2005. Mayor Stockton expressed his opinion that the event was as crowded as last year.

Alderman Crawford questioned the status of the contract for the Ensenberger Building. Tom Hamilton, City Manager, informed the Council that the final copy of the document had been given to Mayor Stockton for review. If approved the document would be signed and the project would move forward.

Alderman Purcell thanked City staff who worked the National Night Out event. He described it as a great experience. He was thankful that the City participated in such an event.

Alderman Purcell also noted his attendance at the topping out ceremony for the US Cellular Coliseum.

Alderman Matejka noted the new POD (moving/storage containers). He requested that City staff consider a time limitation for these containers to remain on an individual's property. He requested that the City Code be reviewed. Mr. Hamilton noted that these containers were not for permanent storage.

Alderman Matejka formally thanked Senator Dick Durbin for his assistance in securing \$1 million for Constitution Trail. Mayor Stockton also publicly thanked Senator Durbin. He would also do so in writing.

Alderman Sprague requested that the following be added to the City's web site: information regarding refuse collection including landscape waste and a schedule for same. He also requested a copy of the City's policy which delineated when refuse collection was provided by the City or a private contractor, (home improvement projects when work is done by a private citizen versus contractor). He added that Brian Brakebill, Director of Public Service, had been great to work with during the repaving of St. Joseph's Dr.

Motion by Alderman Sprague, seconded by Alderman Matejka, that the meeting be adjourned. Time: 7:55 p.m.

Motion carried.

**Tracey Covert
City Clerk**

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