

**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 7:31 p.m., Monday, May 26, 2009.

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: David Sage, Kevin Huette, Jennifer McDade, John Hanson, Bernie Anderson, Jim Fruin, Steven Purcell, Karen Schmidt, Judy Stearns and Mayor Stephen F. Stockton.

City Manager David Hales, City Clerk Tracey Covert, and Corporate Counsel Todd Greenburg were also present.

The following was presented:

Oaths of Office – Larry Ellinger, Police Patrol Officer and David A. Hales, City Manager.

Randy McKinley, Police Chief, introduced Larry Ellinger, Police Patrol Officer. Officer Ellinger came to the City via the Experienced Officer Hiring Program. Mr. Ellinger was a native of Springfield, IL. He held an Associates Degree in Criminal Justice. He was married and the father of two (2) daughters.

Tracey Covert, City Clerk, performed the Oath of Office. Mayor Steve Stockton presented Officer Ellinger with his certificate. He congratulated him and his family. He added that Bloomington was a great place to work and the citizens counted on the Police Department. Officer Ellinger extended his appreciation to the Mayor and Council.

Mayor Stockton introduced David Hales, City Manager. Mr. Hales started his employment with the City in January 2009. His contract matched the Mayor's term. This contract was recently renewed. Mr. Hales introduced his wife and daughter who were present at the meeting. He was the father of six (6) children and also had five (5) grandchildren. They were a part of his success. He appreciated the Mayor and Council's support and planned to do his best for the City.

Tracey Covert, City Clerk, performed the Oath of Office.

The following was presented:

SUBJECT: Work Session Minutes of March 30, 2009 and Council Proceedings of June 12, 2006

RECOMMENDATION: That the reading of the minutes of the previous Work Session of March 30, 2009 and the Council Proceedings of June 12, 2006 be dispensed with and the minutes approved as printed.

BACKGROUND: The Council Proceedings of have been reviewed and certified as correct and complete by the City Clerk.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not Applicable.

FINANCIAL IMPACT: Not Applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Huette that the reading of the minutes of the previous Work Session of March 30, 2009 and the Council Proceedings of June 12, 2006 be dispensed with and the minutes approved as printed.

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

Ayes: Aldermen Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

SUBJECT: Bills and Payroll

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

BACKGROUND: The list of bills and payrolls will be furnished to you on Friday, May 22, 2009 by posting via the City's web site. After examination, I will notify the Council of any items which may need to be addressed.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT:

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

(ON FILE IN CLERK'S OFFICE)

Motion by Alderman Anderson, seconded by Alderman Huette 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: Aldermen Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

SUBJECT: Change Order in a Professional Services Agreement with Stark Excavating, Inc. for a Water Department Water Main Construction Project on Towanda Barnes Road between Oakland Avenue and Route 9

RECOMMENDATION: That the Change Order be approved.

BACKGROUND: In the summer of 2008, a water main installation project was initiated to construct a water main, approximately one (1) mile in length, along Towanda Barnes Road from Oakland Avenue to Route 9 where a water main had never before existed. This project was the result an analysis of the "gridding" of the water distribution system in the area east of the airport and computer modeling which indicated that fire flows and pressure would improve with the construction of this water main.

However, once construction started, there were several small items that needed to be addressed in order for the project to proceed smoothly. First, the three (3) fire hydrants all needed extensions due to their locations on the slope of the ditch line on the west edge of the airport

property. Additionally, several field tiles coming from the adjacent farm field on the airport property were excavated through and had to be repaired. Lastly, some storm drainage piping had to be changed at field entrances.

Staff, in consultation with the contractor for, Stark Excavating, Inc., agreed to change several small items on this water main installation project, resulting in additional cost. Staff field-directed this change and therefore respectfully recommends that Council approve the change order in the amount of \$4,815.32. This contract was for \$430,249.30. This Change Order represents an increase of about 1.1% for a total contract price of \$435,064.62.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This change order will require the payment of an additional \$4,815.32 from the Water Department depreciation fund, X50200-72540. The fund has a positive balance. The change order will have little impact on the Water Department's budget.

Respectfully submitted for Council consideration,

Prepared by:

Recommended by:

Craig M. Cummings
Director of Water

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Huette that the Change Order be approved.

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

Ayes: Aldermen Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

SUBJECT: Payments from Various Municipal Departments

RECOMMENDATION: That the payments be approved.

BACKGROUND: All of the described payments are for planned and budgeted contracts previously approved by the City Council.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not Applicable.

FINANCIAL IMPACT: As follows:

1. The twelfth and final payment to Peace Meal in the amount of \$2,098 on a contract amount of \$25,000 of which \$25,000 will have been paid to date for work certified as 100% complete for the Peace Meal. Completion date – May 2009.
2. The twelfth and final payment to Peace Meal in the amount of \$625 on a contract amount of \$7,500 of which \$7,500 will have been paid to date for work certified as 100% complete for the John M. Scott Home Delivered Peace Meals. Completion date – April 2009.
3. The thirty-fifth partial payment to APACE Architects & Design in the amount of \$2,024.37 on a contract amount of \$349,800 of which \$344,120.08 (of which \$12,992.58 is reimburseables) will have been paid to date for work certified as 95% complete for the Design of Fire Station #5. Completion date – May 2009.
4. The tenth and final payment to the Pantagraph in the amount of \$2,386.76 on a contract amount of \$40,209.76 of which \$40,209.76 will have been paid to date for work certified as 100% complete for the 2008-2009 Seasonal Advertising Services for the Bloomington Center for the Performing Arts. Completion date – April 2009.
5. The fourth partial payment to Technical Design Services in the amount of \$4,700 on a contract amount of \$99,619 of which \$43,612.88, (of which \$3,887.88 is reimburseables) will have been paid to date for work certified as 40% complete for the Enterprise Resource Planning Full System Selection Process – Phase 1. Completion date – August 2009.
6. The eighth partial payment to Stark Excavating, Inc. in the amount of \$71,349.87 on a contract amount of \$2,546,249.65 of which \$1,024,306.88 will have been paid to date for work certified as 40% complete for the McGraw Park Phase II – General Construction. Completion date – July 2009.
7. The thirty-second partial payment to Clark Dietz, Inc. for design services in the amount of \$2,592.72 on a contract amount of \$392,895 of which \$358,038.44 will have been paid to date for work certified as 91% complete for the Hamilton Road – Timberlake to Main. Completion date – September 2009.
8. The twenty-first and final payment to Stark Excavating, Inc. in the amount of \$96,283 on a contract amount of \$1,925,652.91 of which \$1,925,652.91 will have been paid to date for work certified as 100% complete for the Morris Ave. Miller to Fox Hill Apartments. Completion date – May 2009.

9. The sixth partial payment to Rowe Construction Co. in the amount of \$209,132.74 on a contract amount of \$3,476,726.41 of which \$1,247,703.90 will have been paid to date for work certified as 36% complete for the Lincoln Street – Bunn to Morrissey (MFT 92-00283-00-RP). Completion date – October 2009.
10. The fourth and final payment to Stark Excavating, Inc. in the amount of \$46,150.35 on a contract amount of \$435,064.62 of which \$435,064.62 will have been paid to date for work certified as 100% complete for the Water Main Extension Project on Towanda Barnes from Rt. 9 to Oakland. Completion date – June 2009.
11. The third partial payment to George Gildner, Inc. in the amount of \$12,216.82 on a contract amount of \$96,539 of which \$50,743.73 will have been paid to date for work certified as 55% complete for the Lee Street Sanitary Sewer Extension. Completion date – September 2009.
12. The fifteenth partial payment to Village of Downs in the amount of \$19,846.32 on a contract amount of \$435,000 of which \$396,552.81 will have been paid to date for work certified as 91% complete for the Downs Sewerage Improvements Project. Completion date – September 2009.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Huette that the payments be approved.

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

Ayes: Aldermen Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

SUBJECT: Audit of the Accounts for the Township Supervisor of General Assistance Fund and General Town Fund for the Month of April, 2009

RECOMMENDATION: That the audit of the bills and payrolls for the Township for the month of April, 2009 be made a matter of record.

BACKGROUND: Audit of the Accounts for the Township Supervisor of General Assistance Fund and General Town Fund for the month of April were presented for Audit by the Township Supervisor.

The Audit of these accounts took place on Tuesday, May 26, 2009 at 6:30 p.m. in the Conference Room of Bloomington City Hall and should, at this time, be made a matter of record.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not Applicable.

FINANCIAL IMPACT: Not Applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Huette that the audit of the bills and payrolls for the Township for the month of April, 2009 be made a matter of record.

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

Ayes: Aldermen Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

SUBJECT: Report

RECOMMENDATION: That the report be received and placed on file.

BACKGROUND: The following report should be received and placed on file with the City Clerk:

1. Monthly Receipt & Expenditure Report, April 2009.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not Applicable.

FINANCIAL IMPACT: Not Applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

(ON FILE IN CLERK'S OFFICE)

Motion by Alderman Anderson, seconded by Alderman Huette that the report be received and placed on file.

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

Ayes: Aldermen Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

SUBJECT: Permission to Seek Request for Proposals for the Purchase of Personal Computer Software, LAN Equipment, Printers, Other Computer Peripherals and Associated Maintenance

RECOMMENDATION: That staff be authorized to seek Request for Proposals for the Purchase of Personal Computer Software, LAN Equipment, Printers, Other Computer Peripherals and Associated Maintenance.

BACKGROUND: Staff respectfully requests Council approval to waive the formal bidding process for computer related hardware and software for Fiscal Year 2009-2010. Staff annually requests Council's permission to seek proposals or quotations on personal computers, computer software, network equipment and infrastructure, printers, and other computer related peripheral equipment (along with their associated maintenance) budgeted for purchase during the fiscal year.

Historically Council's authorization to waive the bidding process for this type of equipment has been related to the State of Illinois Statute 132.6 and Chapter 16 Section 50 of the City

Ordinance. The State statute and past Council resolutions waives the bidding process due to the complexity of these specialized components, and the rapid industry changes to technology, where the time involved in the bidding process would be detrimental to the operations of the City as a whole.

Staff also seeks Council's approval to continue participation in the Western States Contracting Alliance, U.S. Communities and State of Illinois Central Management Services joint purchasing programs, and to pursue other joint purchasing opportunities that may become available. Staff will continue to confirm that these purchasing programs offer the best possible value by obtaining price comparisons from other industry sources.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The waiver of the formal bidding process for purchasing this type of equipment allows staff to obtain the best possible price at a given time. Market prices for information technology related equipment tend to fluctuate; vendors are more likely to price their proposals more competitively if they know the purchase time frame is relatively soon. The further out the actual purchase may cause the vendor to hedge against a price increase between the time of bid and the time of purchase.

Information Services meets with each department during the budgeting process to discuss upcoming technology needs. Due to the City's current budget situation, staff has reduced the budget for equipment replacement as much as possible. Only equipment deemed critical for replacement has been budgeted.

The amount budgeted for fixed asset purchases in FY 2010 is \$453,500, and the amount budgeted for software and hardware maintenance is \$605,000, for a total amount budgeted of \$1,058,500. Maintenance for existing software and hardware, however, will need to be continued. It will become even more important as we continue to push replacement of aging equipment to future fiscal years.

Council's approval to allow staff to purchase off pre-existing, competitively bid contracts, such as the Western States Contracting Alliance and the State of Illinois joint purchase programs, also saves staff time and tax payer dollars. These contracts provide very competitive pricing and save hours of staff time.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Scott Sprouls
Director of Information Services

J. Todd Greenburg
Corporation Counsel

Reviewed by:

Recommended by:

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

Alderman Purcell questioned the process. Scott Sprouls, Director – Information Services, informed the Council that his area had budgeted \$600,000 for maintenance items. His office purchased computer hardware and software from various purchasing contracts. City staff also took quotations which rarely offered competitive pricing. There would be no formal bid process.

Alderman Sage informed the Council that he had spoken with Mr. Sprouls. City staff had been diligent and some expenditures have been pushed back into future fiscal years. He noted the importance of information technology. The City needed to make appropriate updates to ensure the protection of personal and confidential information.

Motion by Alderman Anderson, seconded by Alderman Huette that staff be authorized to seek Request for Proposals for the Purchase of Personal Computer Software, LAN Equipment, Printers, Other Computer Peripherals and Associated Maintenance.

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

Ayes: Aldermen Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

SUBJECT: Disposition of 1110 Woodbury Place

RECOMMENDATION: That the Contract for the Sale of Real Estate be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: School District 87, Area Vocational Center (AVC) and the City's Code Enforcement Division completed the construction of a single-family residence located at 1110 Woodbury Place in 2007. It has been listed "for sale" with a local realtor after several months of self-marketing. This house is one (1) of two (2) dwellings constructed two (2) years ago in the affordable housing subdivision called Woodbury Estates. Previously, Council approved interest free construction loans for the building of these two (2) dwellings.

The house contains three (3) bedrooms and two (2) full baths. The house was constructed to meet Energy Star standards and is handicap accessible. The house was appraised at \$162,800 in August, 2007.

An offer to purchase for the amount of \$135,000 was received from Brandon Hoerner, with a potential closing date within forty-five (45) days of his May 8, 2009 offer. The offer was accepted subject to Council approval and subject to the household meeting HUD income guidelines for their family size. Mr. Hoerner has been prequalified by Flanagan Bank.

Staff respectfully requests that Council approve the sale to Mr. Hoerner and authorize staff to proceed with the closing, of 1110 Woodbury Place, for the price of \$135,000.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not Applicable.

FINANCIAL IMPACT: The sale of this property will return \$135,000 in general fund dollars to the General Fund. In addition, 1108 Woodbury Place was recently approved for sale by Council, in the amount of \$135,000. The closing is scheduled for May 18, 2009. The longer that the City continues to own this property, the more expenses will incur, (i.e. monthly utilities, mowing, snow removal, and miscellaneous property maintenance). To date the City has expended \$162,124 on this project. The proceeds from the sale will be returned to General Fund Non-Departmental G10010-57110, Sale of Property line item.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Recommended by:

Mark R. Huber
Director, PACE

Hannah Eisner
Deputy Corporation Council

David A. Hales
City Manager

Seller: **City of Bloomington**

Buyer: **Brandon L. Hoerner**

Social Security No. or FEIN

Social Security No. or FEIN

Address: **109 E. Olive Street**

Address: **12173 E 1400 North Road**

City/State/Zip: **Bloomington, IL 61701**

City/State/Zip: **Pontiac, IL 61764**

Attorney/Telephone/Fax: **Hannah Eisner**

Attorney/Telephone/Fax: **Tom Herr**

Street, P.O. Box: **109 E. Olive Street**

Street, P.O. Box:

City/State/Zip: **Bloomington, IL 61701**

City/State/Zip:

Selling Broker/Telephone

Listing Broker/Telephone

Agent/Telephone/Fax

Agent/Telephone/Fax

Current Mortgage Holder/Loan #/Address/Telephone

**CONTRACT FOR SALE OF REAL ESTATE
McLEAN COUNTY BAR ASSOCIATION APPROVED FORM
(REVISED CONTRACT FORM EFFECTIVE JANUARY 1, 2008)**

**THIS IS INTENDED TO BE A LEGAL DOCUMENT. AN ATTORNEY AT LAW SHOULD
BE CONSULTED PRIOR TO THE EXECUTION OF THIS DOCUMENT.**

THIS CONTRACT is entered into between Brandon L. Hoerner, hereinafter referred to as Buyer, and the City of Bloomington, hereinafter referred to as Seller, who agree as follows:

1. DESCRIPTION, PRICE AND PAYMENT: Seller sells the following described real estate, to-wit:

Lot 32 of the Resubdivision of Lots 27-35 in Woodbury Estates Subdivision, City of Bloomington, McLean County, Illinois.
21-08-184-005

with improvements, commonly known as 1110 Woodbury Place, located thereon, to Buyer, who agrees to pay \$135,000.00 therefore in the manner following: \$750.00 (down payment inclusive of earnest money) upon the execution of this Contract:

 X A. To be deposited into escrow until closing;

 B. To be delivered to Seller, receipt of which is hereby acknowledged;

and the remainder by cashier's check, certified funds, or the equivalent on or before the 30th day of June, 2009, and on receipt of deed.

2. EVIDENCE OF TITLE: Not less than fourteen (14) days prior to closing, Seller will furnish Buyer with written commitment from a title insurance company duly authorized to do business in Illinois, showing title to said premises subject only to matters to which this sale is subject by the terms hereof and to the customary exceptions contained in owners policies issued by such company. If written commitment discloses defects in title other than matters to which this sale is subject by the terms hereof and the customary exceptions in such policies, then Seller shall have until date for delivery of deed to correct such defects. Owner's title policy, in amount of the purchase price for said premises, will be paid for by the Seller and issued to Buyer after delivery of deed.

3. DEED AND POSSESSION: Seller will cause fee simple title to said real estate to be conveyed to Buyer, or to such party as Buyer may direct, by Warranty Deed (or Trustee's Deed or Executor's Deed, where applicable), and shall deliver possession to Buyer upon payment being made as herein provided, on or before the 30th day of June, 2009. Seller shall

pay all owners' association(s) dues and/or assessments, and water, sewer, and public utility service charges incurred for improvements on said real estate up to the time when possession passes to Buyer.

4. **RISK OF LOSS:** This Contract is subject to the State of Illinois Uniform Vendor and Purchaser Risk Act (765 ILCS 65/1), which provides, in general, that the Seller shall bear the risk of loss until transfer of possession or receipt of deed, whichever occurs first.

5. **TAXES:** Unless otherwise provided for herein, all general real estate taxes shall be prorated as of the date of delivery of possession of the premises to Buyer, and by allowance of Seller's share thereof being a credit against the purchase price at closing, based upon the latest known assessed valuation and latest known tax rate. Further, the parties agree that the real estate taxes shall be re-prorated for a given year upon receipt of the actual real estate tax bills. The re-proration shall be done by the party receiving the tax bill with notice to the other party. If the re-prorated amount differs from the credit amount by \$100.00 or more, Seller shall pay Buyer, or Buyer shall pay Seller, the appropriate adjustment within fifteen (15) days from receipt of the re-proration computation (or receipt of the actual tax bill, whichever is received first by the party obligated to pay the adjustment). All transfer taxes shall be paid by Seller. This provision shall survive closing and delivery of deeds.

6. **ENCUMBRANCES:**

- A. Mortgage, if any, shall be satisfied out of the purchase price and released when deed is delivered. Seller's obligation to obtain the mortgage release shall continue until the release is obtained and recorded.
- B. Easements and building or use restrictions of record, and zoning and building ordinances, if any, shall not be considered as rendering title unmerchantable or unacceptable, provided same are not violated by the existing improvements or the use thereof.

7. **PERSONAL PROPERTY:** The purchase price expressed above includes the following items which pass for no additional consideration: *dishwasher, stove, ceiling fans and 2 garage door openers.*

8. **FINANCING:** This Contract is subject to Buyer obtaining (check applicable):

 Conventional/ VA/ X FHA/ (Other) and X ARM/
FIXED, financing in an amount equal to 97 % of the purchase price amortized over
 years (check one of the following):

 at an initial interest rate not to exceed % and points charged not in excess of
 X (or) at the prevailing loan interest rate and terms

Buyer agrees to make a good faith effort to apply for said financing on or before the 10th day of May, 2009. ~~In the event Buyer is unable to obtain this financing and Buyer so notifies Seller in~~

~~writing on or before the _____ day of May, 2009, this Contract shall become null and void, and any down payment paid or escrowed shall be refunded to Buyer. If Seller is not so notified, it shall be conclusively presumed that Buyer has secured such commitment or will purchase said property without reliance upon any mortgage financing contingency.~~

9. WOOD DESTROYING INSECT PROVISION: At Buyers' expense, Buyer shall have the right to obtain a current written statement, on that form as currently approved for use by the Department of Veteran's Affairs and Department of Housing and Urban Development, from a licensed exterminator that based upon careful visual inspection of readily accessible areas there is no evidence of wood destroying insect infestation in the subject property or evidence of any previous infestation. Buyer shall submit a copy of the inspection report to Seller not less than fourteen (14) days prior to closing. In the event the inspection reveals a current active infestation, then Seller shall bear the cost of extermination. Any other treatment shall be at Buyer's expense. In the event the inspection reveals active infestation or previous infestation, then Buyer shall have the right to have the premises inspected by a qualified person of Buyer's choice, and at Buyer's expense, for the purpose of determining whether or not there is any defect in any structural member. In the event it is determined that a structural defect exists, Buyer shall cause a copy of the written report of the inspection for structural defect to be delivered to Seller not less than seven (7) days prior to closing. Seller shall then have the option of correcting such structural defect, or rescinding the Contract and returning the down payment to Buyer. Should Seller elect to rescind, Seller must give notice of such election to Buyer not less than five (5) days prior to closing. Should Seller elect to rescind, Buyer shall still have the right to consummate the purchase transaction, taking the property in "as is" condition with respect to the reported structural defect. Buyer must give Seller or Seller's attorney written notice of this intention within four (4) days of receiving Seller's notice of rescission. Structural components shall not be considered defective if they are structurally sound.

10. EQUIPMENT & INSPECTIONS:

- A. To the best of Seller's knowledge, all mechanical equipment and appliances, being a part of the transfer of the real estate and its improvements, will be in working condition on the day of closing (or possession by Buyer, whichever occurs first), unless otherwise stated in writing and agreed to by Buyer. Seller makes no warranty, expressed or implied, with respect to such equipment. **WORKING CONDITION MEANS THAT THE MECHANICAL EQUIPMENT AND APPLIANCES ARE IN OPERABLE CONDITION AND DO NOT POSE A KNOWN THREAT TO THE USER'S SAFETY OR HEALTH WHEN USED AS INTENDED AND IN A REASONABLE MANNER.**
- B. At Buyer's expense, Buyer shall have the right to obtain an inspection(s) of the premises by an independent inspection service provider(s) trained or certified/licensed, if such certification or licensing is available, to determine the condition of the premises. If inspection discloses any **MOLD, TOXIC HAZARDOUS WASTE**, or any defects with the **HEATING, AIR CONDITIONING, ELECTRICAL or PLUMBING SYSTEMS, REMAINING APPLIANCES, ROOF, STRUCTURAL COMPONENTS, WELL or SEPTIC**

SYSTEMS, or any unacceptable RADON levels, and Buyer wishes to request repairs or remediation, Buyer shall submit a copy of the inspection report(s) and Buyer's specific written request for remediation or repairs, if any, to Seller on or before June 10, 2009.

- C. If defects are reported, then Seller shall have one of the following options, and shall give written notice to Buyer or to Buyer's attorney within seven (7) days of receiving Buyer's report:
 - 1. Treat the condition and repair the defect at Seller's own cost and expense;
 - 2. Give Buyer a credit for the cost of repair at settlement; or
 - 3. Rescind the Contract and refund Buyer's earnest money.

- D. If defects are timely reported, the following are conditions precedent to Seller's obligation to respond:
 - 1. In the aggregate the cost of repair or replacement must equal \$500.00 or more.
 - 2. The defects must not have been disclosed in the Residential Real Property Disclosure Act or other similar form.
 - 3. The defects must not have been disclosed to Buyer in writing prior to the date the offer was made to purchase.
 - 4. The defects must not have been readily observable and obvious. Defects which are not readily observable and obvious include concealed or obscured conditions or conditions requiring a trained person to identify, but do not include those readily apparent to the naked eye.
 - 5. The roof (defined as all materials above rafters or trusses) shall not be considered defective if it is free from leaks.
 - 6. The structural components shall not be considered defective if they are structurally sound.
 - 7. The radon level is measured at four (4) picocuries per liter of air or higher.

- E. At Buyer's expense, Buyer shall have the right to obtain a post-mitigation radon inspection by a licensed radon inspector.

- F. Should Seller elect to rescind the Contract, Buyer shall have the right to consummate the purchase transaction, taking the property in "as is" condition, with whatever defects exist. Buyer must give Seller or Seller's attorney written notice of this intention within 4 days of receiving Seller's notice of rescission.

- G. Buyer shall have the right to make a final inspection of the property immediately prior to settlement to verify that its condition has not deteriorated from the date the offer was made to purchase (ordinary wear and tear excepted).

H. Home Protection Plan: ~~Seller shall provide Buyer a credit at closing for the cost of a one year home protection plan, to be issued by _____ with the following optional coverage: _____~~

11. LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS:

A. Check one of the following sub-sections, 1, 2, or 3:

- X 1. The improvements on the real estate subject to this Contract were built after 1977. No risk assessment or inspection for the presence of lead-based paint or lead-based paint hazards is required.
- _____ 2. The improvements on the real estate subject to this Contract were built before 1978, but Buyer has knowingly and voluntarily waived the right to conduct a risk assessment or inspection for the presence of lead-based paint and lead-based paint hazards. (Disclosure Statement attached hereto and made a part hereof by this reference.)
- _____ 3. This Contract is contingent upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards at Buyer's expense until 5:00 p.m. on the tenth (10th) calendar day after the effective date of this Contract. This contingency will terminate at the aforesaid predetermined deadline unless Buyer delivers to Seller a written notice listing the specific existing deficiencies and corrections needed, together with a copy of the inspection and/or risk assessment report. Seller may, at Seller's option, within two (2) days of delivery of the notice, elect, in writing, whether to correct the condition(s) prior to the final time of settlement of this Contract. If Seller will correct the condition(s), Seller shall furnish Buyer with certification from a risk assessor or inspector demonstrating that the condition(s) has been remedied before the final date of settlement. If Seller does not elect to make the repairs or remediation, or if Seller makes a counter-offer, Buyer shall have two (2) days to respond to the counter-offer or remove this contingency and take the property with whatever lead-based paint and/or lead-based paint hazards exist; otherwise, this Contract shall become null and void, and Seller shall return the down payment to Buyer. Buyer may remove this contingency at any time without cause. (See the Disclosure Statement Attached hereto and made a part hereof by this reference.)

B. Unless Paragraph A (1) above is checked, indicating subject premises were built after 1977, Buyer acknowledges receipt of a federal lead information pamphlet and the form entitled "Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards" and information, if any, possessed by Seller concerning the presence of lead paint on the property as required by the Federal Residential Lead-Based Paint Hazard Reduction Act.

12. **SELLER'S WARRANTIES:** Seller hereby provides the following warranties:

- A. No work has been done upon, or materials furnished to, the premises which could give rise to a lien or liens under the Illinois Mechanics' Lien Act;
- B. Seller has indefeasible title to all of the personal property to which reference is made in Paragraph 7, and all of said property, together with all appliances and mechanical systems built into the premises, are free from security interests or liens other than the lien of any real estate mortgage noted in Paragraph 6 herein;

13. **ADDITIONAL PROVISIONS:**

- A. Buyer shall assume any assumption or transfer fees incurred as a result of Buyer assuming, or taking subject to, Seller's existing mortgage, and both Seller and Buyer agree to comply with the requirements of the Real Estate Settlement Procedures Act;
- B. Words importing the masculine gender include the feminine, words importing the singular number include the plural, and words importing the plural number include the singular;
- C. The covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, and assigns of the respective parties;
- D. The parties acknowledge that the State of Illinois has enacted the Smoke Detector Act (425 ILCS 60/1, *et seq.*), and the Carbon Monoxide Alarm Detector Act (430 ILCS 135/1, *et seq.*).
- E. Time is of the essence of this Contract.
- F. Any deadline in this Contract which falls on a Saturday, Sunday or legally recognized State of Illinois or federal holiday shall be extended to the next business day.
- G. Section or paragraph headings, or lack thereof, that may be used in various places throughout this Contract are intended for convenience only and shall not be taken into consideration in any construction or interpretation of this Contract or any of its provisions. To the extent there is deemed to be any conflict between the headings and/or numbers, and the text of this Contract, the text shall control.
- H. Seller shall provide reasonable access to Buyer and Buyer's representative(s) for purposes of inspection(s) and appraisal(s).

14. **ESCROWEE:** The parties agree that Prudential Snyder Real Estate is hereby designated as Escrowee for the purposes of any Escrow created or hereafter required in connection with this Contract. The escrow conditions are as follows:

- A. Escrowee shall deposit into escrow the down payment pursuant to the terms of this Contract until closing and not release said funds except with the agreement of all parties, or an order entered by a court of competent jurisdiction;
- B. Additional conditions:

15. **NOTICES, ETC.:** Title commitments, communications and any notices required to be given pursuant to this Contract shall be delivered to the party's attorney, or to the party if not represented by counsel. Any notice shall be given in writing in one of the following ways: (i) by personal delivery to the party or attorney; (ii) by U.S. mail, with postage prepaid, addressed to the party or attorney at the address set forth on the first page hereof; or (iii) by express delivery to the party or attorney at the address set forth on the first page hereof, with charges prepaid. Such notice shall be deemed given on the date when delivered personally, or on the date deposited with the express delivery company (with charges prepaid), or on the date deposited in the U.S. Mail, with postage prepaid.

16. **PREPARATION AND APPROVAL:** This Contract was prepared by Hannah Eisner, Seller's attorney, and approved by Tom Herr, Buyer's attorney.

17. **SETTLEMENT:** Closing shall be held in McLean County at the office of Buyer's closing agent, unless the parties agree otherwise.

18. **SELLER'S DISCLOSURE:** The parties acknowledge that this Contract is *not* subject to the Illinois Residential Real Property Disclosure Act (765 ILCS 77/1, *et seq.*) and the Illinois Radon Awareness Act (420 ILCS 46/1, *et seq.*). ~~Buyer acknowledges receipt of a completed Residential Real Property Disclosure Report, Illinois Disclosure of Information on Radon Hazards and the IEMA pamphlet entitled "Radon Testing Guidelines for Real Estate Transactions" prior to the time this Contract was signed and said disclosures are incorporated herein by reference.~~

19. **ATTORNEY'S FEES AND EXPENSES:** Should Seller or Buyer bring any action against the other with respect to this Contract, the party that does not prevail upon the action, as determined by the court, shall be liable to the other party for any reasonable attorney's fees, costs, and expenses (including expenses of litigation) incurred by such other party and as determined by the court. This provision shall survive closing and delivery of deeds.

20. **DEFAULT:** In the event either party should breach this Contract, the other party may pursue any and all remedies provided.

21. **ENTIRE AGREEMENT:** This Contract represents the entire agreement of the parties. No covenants, agreements, representations or warranties of any kind have been made by

any party or agent of a party to this Contract, except as specifically set forth herein. The parties expressly acknowledge that, in executing this Contract, they have not relied on any prior or contemporaneous oral or written representations, statements or agreements, except as expressly set forth herein. Any modifications of the terms of this Contract must be in writing and signed by both parties, in the absence of which the terms of this Contract shall govern.

22. **FORM OF AGREEMENT:** This Contract conforms in all respects with the form Contract for Sale of Real Estate adopted by the McLean County Bar Association effective, January 1, 2008, with the exception of language contained in the following paragraphs:

23. **MORTGAGE INFORMATION AUTHORIZATION:** Seller authorizes the City of Bloomington, and the employees thereof, to obtain payoff statements on any mortgage loan or other lien encumbering title to the premises sold under this contract.

THIS IS INTENDED TO BE A LEGAL DOCUMENT. AN ATTORNEY AT LAW SHOULD BE CONSULTED PRIOR TO THE EXECUTION OF THIS DOCUMENT.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands and seals to several counterparts of this Contract, of equal effect.

DATE SIGNED BY SELLER: June 1, 2009.

DATE SIGNED BY BUYER: _____, 2009.

BUYER

SELLER

City of Bloomington, a Municipal Corporation

Brandon L. Hoerner, Buyer Date

Stephen F. Stockton, Mayor 06/01/09

Attest:

Tracey Covert, City Clerk 06/01/09

THIS CONTRACT WILL BE DEEMED EFFECTIVE AS OF THE LAST DATE SIGNED.

Alderman Purcell stated that this would be the second home sold at a loss. David Hales, City Manager, noted that this purchaser was not eligible for down payment assistance. Mark Huber, Director – P.A.C.E., addressed the Council. He informed them that two (2) YouthBuild homes had been financed through the City’s General Fund. The homes were built and the City has covered the maintenance costs. The City has attempted to sell this home for over one (1) year. The City had spent money maintaining this home.

There was more involved than just the sale price. It was in the City's best interest to sell this home. This program would be changed in the future. Habitat for Humanity would be more involved. He added that there were income guidelines applied to the sale of these homes.

Mayor Stockton added that under normal conditions the sale price covers the construction cost.

Motion by Alderman Anderson, seconded by Alderman Huette that the Contract for the Sale of Real Estate 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: Aldermen Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

SUBJECT: Permission to accept an Illinois Environmental Protection Agency Grant

RECOMMENDATION: That a Financial Assistance Agreement for grant #3190915 with the Illinois Environmental Protection Agency, (IEPA) in the amount of \$927,548 be accepted.

BACKGROUND: Over the last several years the City has been working with the developers of the Grove Subdivision, along with many government agencies to reestablish the Kickapoo Creek through this subdivision. During that time, the City has received over \$1million in funding from state and federal agencies. Staff has been notified by the IEPA, Bureau of Water that the City has been awarded an additional grant. This grant is for the design and development of the second phase of this project.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Developers of the Grove Subdivision, the Farnsworth Group, and the IEPA, Bureau of Water.

FINANCIAL IMPACT: The Grant is a 60/40 grant with the City's portion of the match being the land dedication given to the City by the developers.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency

John Kennedy
Interim Director, Parks Recreation & Cultural Arts

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

Financial Assistance Agreement
State of Illinois
Illinois Environmental Protection Agency
Bureau of Water

AGREEMENT PERIOD:

The period of performance covered by this agreement shall be from **The Date of Execution** through July 15, 2011. No services will be paid which are performed prior to or subsequent to this performance period.

Assistance Amount \$927,548.00

Agreement Type 319 Agreement Number 3190915

Recipient City of Bloomington

Address 109 E. Olive St. Telephone (309) 434-2240
 Bloomington, IL 61701-5219 Fax (309) 434-2802

Project Description/Scope of Work

KICKAPOO CREEK CORRIDOR RESTORATION PHASE II

PROJECT COORDINATION

1. The Recipient shall provide support and coordination for the Kickapoo Creek Corridor Restoration Phase II project. The scope of this support and coordination shall include but is not limited to the development of an accounting system to: 1) Keep track of expenses associated with this project. 2) Document and submit expenses to the Illinois EPA for reimbursement. 3) Disburse payments made by the Illinois EPA to contractors for work performed.

2. The Recipient shall subcontract for design services associated with the engineering, hydraulics, and ecology associated with the Kickapoo Creek Corridor Restoration Phase II project. Additional items that shall require subcontracting include construction observation and a project report.

BEST MANAGEMENT PRACTICE DESIGN

3. The Recipient shall submit design specifications (Designs) for the remeandering and bank stabilization of 4,250 feet of Kickapoo Creek north of Ireland Grove Road, creation of 7 acres of riparian wetlands, and revegetation of a 37 acre riparian corridor. The Designs shall include a detailed blueprint of the practices' costs, advantage and disadvantages, location, design, maintenance, installation and construction, and materials used including plant species. The Designs shall also include an estimate of pollutant removal efficiency calculated using the Illinois EPA's Estimating Pollutant Load Reductions for Nonpoint Source Pollution Control BMPs workbook. The Designs shall meet the requirements of the current Natural Resources Conservation Service (NRCS) Technical Guide and Engineering Field Manual and/or Illinois Urban Manual or be certified by a professional engineer. Two (2) copies of the draft Designs and "BMP Application Forms" shall be completed and submitted by the Recipient to the Illinois EPA by May 1, 2009. Two (2) paper copies and one (1) electronic copy of the final Designs and "BMP Application Forms" shall be completed and submitted by the Recipient to the Illinois EPA by June 1, 2009.

BEST MANAGEMENT PRACTICE IMPLEMENTATION

4. The Recipient shall submit an Operation and Maintenance Plan (O & M Plan) for the practices to be implemented under this Agreement to ensure their long-term viability (at least ten years). The O & M Plan shall identify responsible parties to carry out inspection and management needs and the financial resources necessary for implementation of the O & M Plan. A draft of the O & M Plan shall be completed and submitted by the Recipient to the Illinois EPA by May 1, 2009. The final O & M Plan shall all be completed and submitted by the Recipient to the Illinois EPA by June 1, 2009.
5. The Recipient shall ensure that all required permits are secured prior to the implementation of the Designs developed under Item 3 of this Agreement.
6. The Recipient shall subcontract for the implementation of the Designs developed and approved in accordance with Item 3 of this Agreement. All Design implementation will be completed by June 1, 2011. Photographic documentation of Design implementation shall be completed and submitted by the Recipient to the Illinois EPA by June 1, 2011.

FINAL REPORT

7. The Recipient shall document the project throughout the Agreement period. This documentation shall be summarized into a final report explaining the project, project objectives, and implementation. A draft final report shall be completed and submitted by

the Recipient to the Illinois EPA by June 1, 2011. The final report shall be completed and five (5) paper copies and one (1) electronic copy submitted by the Recipient to the Illinois EPA by July 1, 2011.

OTHER DIRECTED ACTIVITIES

8. The Recipient shall be available for coordination and progress briefings. The dates and locations of these briefings will be specified by the Illinois EPA in consultation with the Recipient during the course of the project.
9. The Recipient shall submit a written progress report by the fifteenth (15th) of July, October, January, and April occurring during the Agreement Period. Whenever practical reports should be submitted printed two sided.
10. All products produced and all work performed by the Recipient under this Agreement shall be subject to review and approval by the Illinois EPA to determine eligibility and acceptability in meeting the terms and intent of this Agreement.
11. The Recipient and the Illinois EPA retain the right to cite, quote, circulate, and reprint all documents and other materials produced under this Agreement, with the exception of design drawings and specifications. The Recipient will include in any publications for external general circulation (including brochures, newsletters, and presentations materials) the following phrase: "Funding for this project provided, in part, by the Governor of Illinois and the Illinois Environmental Protection Agency through Section 319 of the Clean Water Act."
12. Upon request by the Illinois EPA, the Recipient shall relinquish all equipment acquired under this Agreement to the Bureau of Water - Nonpoint Source Unit upon conclusion of this Agreement.

Project Schedule

Description

Completion Date

PROJECT COORDINATION

1. Support & Coordination

Throughout Project Period

BEST MANAGEMENT PRACTICE DESIGN

3. Draft Designs
Final Designs

May 1, 2009
June 1, 2009

BEST MANAGEMENT PRACTICE IMPLEMENTATION

4. Draft O & M Plan
Final O & M Plan
6. Implement Designs

May 1, 2009
June 1, 2009
June 1, 2011

Photographic Documentation

June 1, 2001

FINAL REPORT

7. Draft Final Report
Final Report

June 1, 2001
July 1, 2001

Estimated Allowable Project Costs

Project Cost Summary

Totals

1. Subcontracts	\$921,548.00
2. Land Donation – Match/Recipient Share Only	\$618,365.00
3. Administration	\$ 6,000.00

TOTAL **\$1,545,913.00**

Assistance Amount at	60%	<u>\$927,548.00</u>
Recipient Share at	40%	<u>\$618,365.00</u>

Comments on Allowable/Excluded Costs

Funding under this project cannot be used to participate in restoring land for wetland mitigation banking or other wetland mitigation required by State or Federal law. Wetland mitigation banking or other wetland mitigation required by State or Federal law are not allowable costs eligible for reimbursement as part of the Assistance Amount or as match under the Recipient Share.

Land acquisition costs incurred for the implementation of this project are not allowable costs eligible for reimbursement as part of the Assistance Amount but may be eligible as match under the Recipient Share up to a maximum of \$618,365.00. The value of this land donated to the City of Bloomington shall be determined by a fair market assessment performed on the area being transferred independently from the land being developed.

Offer and Acceptance

This Financial Assistance Agreement is subject to all applicable State and Federal statutory provisions, State and Federal Grant Regulations, and the Conditions/Certifications attached hereto.

For the State of Illinois Environment Protection Agency

The Director (herein called the “the Director”) of the Illinois Environmental Protection Agency, in accordance with the authority given in the Environmental Protection Act, and in appropriation by the General Assembly made pursuant thereby, hereby offers financial assistance to the

Recipient up to and not exceeding the specified amount, for the support of the efforts contained in the Project Description.

Director Douglas R. Scott

By

Title

Date

On behalf of the Recipient

I the undersigned, being duly authorized to take such actions, do hereby accept this offer and agree to all terms and conditions including the Conditions/Certification attached hereto.

Recipient City of Bloomington

By Stephen. F. Stockton

Title Mayor

Date May 27, 2009

For the State of Illinois Environmental Protection Agency

There fore, the State of Illinois executes this agreement the ____ day of _____, 2009.

Motion by Alderman Anderson, seconded by Alderman Huette that the grant be accepted 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: Aldermen Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

SUBJECT: Professional Service Agreement with Farnsworth Group for the Kickapoo Creek at the Grove Subdivision – Phase II

RECOMMENDATION: That the formal bidding process be waived, a professional service agreement with the Farnsworth Group in the amount of \$108,600 be approved, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution adopted.

BACKGROUND: Staff has worked with the Farnsworth Group and the Environmental Protection Agency, (EPA) over the last several years on the development of the Kickapoo Creek at the Grove Subdivision. During that time the City has applied for and accepted several grants from the EPA, state EPA, and Illinois Department of Natural Resources. The second phase of the project is now set to begin.

The Farnsworth Group has been the catalyst of the project. They have worked with the City, developers and all government agencies securing the grant funds for the project. Funds for this project come from the grants that the Farnsworth Group has applied for and that the City has received. As per the Annexation Agreement the City is the recipient or conduit of the grants and simply administers the project.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The professional service agreement with the Farnsworth Group is in the amount of \$108,600 for the design and development of the Kickapoo Creek at the Grove Subdivision, Phase II. This amount will be paid from the State of Illinois EPA Grant #3190915.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

John Kennedy
Interim Director Parks Recreation & Cultural Arts
Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

**Farnsworth Group
AGREEMENT FOR PROFESSIONAL SERVICES**

AGREEMENT is effective this ____ day of April in the year 2009 between Farnsworth Group, Inc. hereinafter referred to as FGI, of Bloomington, IL and The City of Bloomington, IL hereinafter referred to as the CLIENT.

The Scope of Services to be provided under this agreement is as follows: See attached letter.

The Schedule for these services is as follows: See attached Table.

The fee for the above described services will be \$108,600.

This contract is subject to receipt of funds from the USEPA/IEPA and City Storm Water Fund. Failure to receive these funds will render this agreement null and void.

This Agreement and the attached General Conditions represent the entire and integrated Agreement between the CLIENT and FGI and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Client and FGI.

FARNSWORTH GROUP, INC.

City of Bloomington
Client

Chas Neil Finlen
Principal

Stephen F. Stockton
Mayor

April 25, 2009

May 27, 2009

GENERAL CONDITIONS

Date: April 2009
Client City of Bloomington
Project Kickapoo Creek
Restoration Ph II

Reference Conditions: Farnsworth Group, Inc. will hereinafter be referenced as FGI and the above referenced Client will be referred to as Client. The Project may be hereinafter referenced either as the "Project" or by abbreviation as above set forth.

Subcontracting: FGI shall have the right to subcontract any and all services, duties, and obligations hereunder, in whole or in part, without the consent of Client.

Change Order: The term "Change Order" as used herein is a written order to FGI and signed by FGI and Client, after execution of this Agreement, authorizing a change in the services, including additions or deletions and/or change of prices for such services. Each Change Order shall be considered an amendment to this Agreement.

Severability: The provision of this Agreement shall be severable, and if any clause, sentence, paragraph, provision, or other part hereof shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder hereof, which remainder shall continue in full force and effect.

Billings/Payments': Invoices for services shall be submitted at FGI's option either upon completion of such services or on a periodic basis. Invoices shall be payable within 30 days after the invoice date. If the invoice is not paid within 30 days, FGI may, without waiving any claim

or right against the Client and without liability whatsoever to the Client, suspend and/or terminate the performance of the service. Retainers shall be credited on the final invoice.

Late Payments: Accounts unpaid 60 days after the invoice date may be subject to a monthly service charge of 1.50% on the then unpaid balance (18.0% true annual rate) at the sole election of FGI. The Client shall pay all costs of collection including reasonable attorney's fees.

Waiver: No waiver by either party of any breach, default, or violation of any term, warranty, representation, agreement, covenant, condition, or provision hereof shall constitute a waiver of any subsequent breach, default, or violation of the same or any other term, warranty, representation, agreement, covenant, condition, or provision hereof. All waivers must be in writing.

Force Majeure: Obligations of either party under this Agreement shall be suspended, and such party shall not be liable for damages or other remedies while such party is prevented from complying herewith, in whole or in part, due to contingencies beyond its reasonable control, including, but not limited to strikes, riots, war, fire, acts of God, injunction, compliance with any law, regulation, or order, whether valid or invalid, of the United States of America or any other governmental body or any instrumentality thereof, whether now existing or hereafter created, inability to secure materials or obtain necessary permits, provided, however, the party so prevented from complying with its obligations hereunder shall promptly notify the other party thereof.

Compliance With Law: In the performance of services to be provided hereunder, FGI and Client agree to comply with applicable federal, state, and local laws and ordinances and lawful order, rules, and regulations of any constituted authority.

Applicable Law: The validity, performance, and construction of this Agreement shall be governed by and construed according to the laws of the State of Illinois.

Ownership of Instruments of Service: Any drawing, reports and data in any form, including electronic media (documents) generated by FGI, are Instruments of Service of FGI. Nevertheless, the documents shall become the property of the Client upon payment in full of all monies due FGI. The Client agrees not to reuse the documents for any purpose other than for the Project. The Client further agrees to waive all claims against FGI resulting in any way from any use or reuse of the documents and electronic files for any other project by anyone other than FGI. Electronic files furnished by FGI shall be subject to an acceptance period of thirty (30) days after which the electronic files shall be deemed accepted and FGI shall have no obligation to correct errors or maintain them. Differences may exist between the electronic files and the printed hard-copy documents. In the event of a conflict between the hardcopy documents prepared by FGI and electronic files, the hard copy documents shall govern. Client agrees to defend against all damages, liabilities or costs arising from any changes made by anyone other than FGI or from any reuse of the documents without the prior written consent of FGI. Delivery of the documents for use by the Client shall not be deemed a sale. FGI makes no warranties, either express or implied, of merchantability and fitness for any particular purpose.

Standard of Care: The services will be performed for the exclusive benefit of Client. Services performed by FGI under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. Except as set forth herein, FGI makes no other representation, guarantee or warranty, express or implied, in fact or by law, whether of merchantability, fitness for any particular purpose or otherwise, concerning any of the services which may be furnished by FGI or Client, or in any report, opinion, document or otherwise.

Limitation of Liability: Client agrees to limit FGI's liability to Client arising from negligent professional acts, errors, or omissions, such that FGI's total aggregate liability shall not exceed \$50,000.00 or the total fee for this contract, whichever is greater. If Client prefers to have higher limits of professional liability coverage, FGI agrees, upon receipt of Client's written request at the time of accepting our Proposal, to increase the limits of liability up to a maximum of \$1,000,000.00 at an additional cost of 5 percent of the total fee or \$500.00, whichever is greater. FGI is not responsible for any special, incidental, indirect, or consequential damages (including loss of profits), incurred by Client as a result of FGI's performance or nonperformance of its service. Any claim shall be deemed waived unless made by Client in writing and received by FGI within one (1) year after completion of the service.

Opinions of Cost: Since FGI has no control over the cost of labor, materials or equipment, or over a contractor's method of determining prices, or over competitive bidding or market conditions, FGI's opinions of probable project cost or construction cost for this Project will be based solely upon its own experience with construction, but FGI cannot and does not guarantee that proposals, bids, or the construction cost will not vary from its opinions of probable cost. If the Client wishes greater assurance as to the construction cost. Client should employ an independent cost estimator.

Confidentiality: Each party shall retain as confidential all information and data furnished to it by the other party which are designated in writing by such other party as confidential at the time of transmission and are obtained or acquired by the receiving party in connection with this Agreement, and said party shall not reveal such information to any third party. However, nothing herein is meant to preclude either disclosing and/or otherwise using confidential information (i) when the confidential information is actually known to the receiving party before being obtained or derived from the transmitting party; or (ii) when confidential information is generally available to the public without the receiving party's fault at any time before or after it is acquired from the transmitting party, or (iii) where the confidential information is obtained or acquired in good faith at any time by the receiving party from a third party who has the same in good faith and who is not under any obligation to the transmitting party in respect thereof.

Indemnification: FGI agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, directors and employees (collectively, Client) against damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by FGI's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom FGI is legally liable. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless FGI, its officers, directors, employees and subconsultants (collectively, FGI) against 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 the acts of its contractors, subcontractors, FGI or anyone for whom the Client is legally liable. Neither the Client nor FGI shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

Term: Unless sooner terminated or extended as provided herein, this Agreement shall remain in full force and effect from the date first written on the first page of this Agreement until the date of completion of the services or either party becomes insolvent, makes an assignment for the benefit of creditors, or a bankruptcy petition is filed by or against it. Either party may terminate this Agreement at any time by giving written notice of such termination to the other party. Upon such termination of this Agreement, Client shall pay and reimburse FGI for services rendered and costs incurred by FGI prior to the effective date of termination. The indemnification of FGI by Client wherever stated herein shall survive the termination of this Agreement regardless of cause of termination.

Subpoenas: The Client is responsible after notification, for payment of time charges and expenses resulting from the required response by FGI to subpoenas issued by any party other than FGI in conjunction with the services performed under this Agreement. Charges are based on fee schedules in effect at the time the subpoena is served.

Precedence: These Standards, Terms, and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding FGI's services.

Applicability: These General Conditions, being part of a Professional Service Agreement between the parties above listed, shall by agreement of said parties delete paragraphs that have been crossed out and initialed by both parties as not being applicable to this Project. In all other instances, the parties reaffirm the listed paragraphs in this document.

Fee Schedule: Where lump sum fees have been agreed to between the parties, they shall be so designated in the Agreement attached hereto and by reference made a part hereof. Where fees are based upon hourly charges for services and costs incurred by FGI, they shall be based upon the hourly fee schedule annually adopted by FGI, as more fully set forth in Appendix A attached hereto and by reference made a part hereof. Such fees in the initial year of this Agreement shall be those represented by Appendix A, and these fees will annually change at the beginning of each calendar year after the date of this Agreement. The Client may either accept or reject any new fee schedule, in which instance a rejection would be deemed termination under this Agreement.

PROFESSIONAL ENVIRONMENTAL SERVICES

If Environmental Services are included in the scope of services on page 1, the following shall apply:

Right of Entry: client shall provide for FGI's right to enter property owned by Client and/or others in order for FGI to fulfill the scope of services for this Project. Client understands that use

of exploration equipment may unavoidably cause some damage, the correction of which is not part of this Agreement.

Aquifer Contamination: Subsurface sampling may result in contamination of certain subsurface areas, as when a probe or boring device moves through a contaminated area, linking it to an aquifer, underground stream, or other hydrous body not previously contaminated and capable of spreading hazardous substances or pollutants off-site. Because subsurface sampling is a necessary aspect of the work that FGI will perform on Client's behalf Client waives any claim against FGI and agrees to defend, indemnify, and hold FGI harmless from any claim or liability for injury or loss that may arise because of alleged cross-contamination caused by sampling. Client further agrees to compensate FGI for any time spent or expenses incurred by FGI in defense of any such claim, according to FGI's prevailing fee schedule and expense reimbursement policy.

Utilities: Client shall be responsible for designating the location of all utility lines and subterranean structures within the property line of the Project. Client agrees to waive any claim against FGI and to defend, indemnify, and hold harmless from any claim or liability for injury or loss arising from FGI's damaging underground utilities or other man-made objects that were not called to FGI's attention or which were not properly located on plans furnished to FGI. Client further agrees to compensate FGI for any time spent or expenses incurred by FGI in defense of any such claim, according to FGI's prevailing fee schedule and expense reimbursement policy.

Samples: All samples of soil and rock will be discarded sixty (60) days after report submittal. Upon Client's authorization, samples will be either delivered according to Client's instructions or stored for an agreed charge.

PROFESSIONAL SERVICES DURING CONSTRUCTION

If construction-related services are included in the scope of services on page 1, the following provisions shall apply:

Shop Drawing Review: Client agrees that FGI shall review shop drawing submissions solely for their conformance with FGI's design intent and conformance with information given in the construction documents. FGI shall not be responsible for any aspects of a shop drawing submission that affect or are affected by the means, methods, techniques, sequences, and operations of construction, safety precautions and programs incidental thereto, all of which are the Contractor's responsibility. The Contractor will be responsible for lengths, dimensions, elevations, quantities, and coordination of the work with other trades. Client warrants that the Contractor shall be made aware of his responsibilities to review shop drawings and approve them in these respects before submitting them to FGI.

Job Site: Services performed by FGI during construction will be limited to providing assistance in quality control and to dealing with questions by the Client's representative concerning conformance with drawings and specifications. This activity is not to be interpreted as an inspection service, a construction supervision service, or guaranteeing the Contractor's performance. FGI will not be responsible for construction means, methods, techniques,

sequences or procedures, or for safety precautions and programs. FGI will not be responsible for the Contractor's obligation to carry out the work according to the Contract Documents. FGI will not be considered an agent of the owner and will not have authority to direct the Contractor's work or to stop work.

Authority and Responsibility: FGI shall not guarantee the work of any Contractor or Subcontractor, shall have no authority to stop work, shall have no supervision or control as to the work or persons doing the work, shall not have charge of the work, shall not be responsible for safety in, on, or about the job site, or have any control of the safety or adequacy of any equipment, building component, scaffolding, supports, forms, or other work aids.

ADDITIONAL PROVISIONS

Additional provisions to this Professional Services Agreement may be added by consent of both parties evidenced by signature to same in the form of Appendix B attached hereto and by reference made a part hereof.

Kickapoo Creek Restoration Project Budget

FUNDS	2008	2009	Future	Project Total
IEPA 319 Grants	\$950,000	\$927,548		\$1,877,548
IDNR Wildlife Grants	\$126,881		\$160,000	\$286,881
2008 City of Bloomington Storm water Fund	\$500,000			\$500,000
2009 City of Bloomington Storm water Fund	\$70,000	\$430,000		\$500,000
2010 City of Bloomington Storm water Fund			\$500,000	\$500,000
*Local Match Developer	\$131,000			\$131,000

* Indicates Developer's expense/contribution

City funds are for Detention Basin over sizing and are to be repaid by future upstream developments.

EXPENDITURES	2008	2009	Future	Project Total
Design/Study				
Farnsworth Group Inc	\$105,000	\$88,600	\$35,000	\$228,600
CSU Channel Study	\$117,200	\$10,000	\$10,000	\$137,200
Kaskaskia Engineering	\$23,900	\$10,000	\$5,000	\$38,900
CSU Sediment Survey	\$22,000			\$22,000
Total Design/Study	\$268,100	\$108,600	\$50,000	\$426,700
Construction				
Earthwork/Stream	\$1,298,056	\$1,115,823	\$545,000	\$2,958,879

Landscaping Restoration	\$201,725	\$118,125	\$55,000	\$374,850
Contingency	\$10,000	\$15,000	\$10,000	\$35,000
Total Construction	\$1,509,781	\$1,248,948	\$610,000	\$3,368,729
Total Design/Construction	\$1,777,881	\$1,357,548	\$660,000	\$3,795,429
PROJECTS TOTALS	2008	2009	Future	Total
Channel Length Restored (lineal feet)	3,330	4,250	1,850	9,400
Floodplain Restored (acres)	36	37	15	88
Wetland Created (acres)	3	6.5	0.5	10.0
Stream Length	35%	45%	20%	100%
Floodplain Acres	41%	42%	17%	100%
Wetland Acres	30%	65%	5%	100%
Total Cost	47%	36%	17%	100%

PRELIMINARY BUDGET
The Grove on Kickapoo Creek
Bloomington, IL

Budget = \$1,248,948

PHASE 2

Qty	Unit	Description	Total	Total
67,500	CY	Earth Excavation	\$8.00	\$540,000
1	LS	Newbury Weirs (7 total)	\$15,000	\$105,000
1	LS	ToeSlope Protection	\$450,823	\$420,823
1	LS	Layout	\$15,000	\$15,000
1	LS	Wetland Control Structures	\$35,000	\$35,000
32	AC	Restoration plantings	\$3,750	\$118,125
		Contingency		\$15,000
		Total		\$1,248,948

(Kickapoo Creek Restoration Phase 2 Plan Plat on file in Clerk's Office)

RESOLUTION NO. 2009 - 27

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND
AUTHORIZING A PROFESSIONAL SERVICE AGREEMENT WITH THE
FARNSWORTH GROUP FOR THE DESIGN AND DEVELOPMENT OF THE
KICKAPOO CREEK AT THE GROVE SUBDIVISION PHASE II IN THE AMOUNT OF
\$108,600**

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

1. That the bidding process be waived and authorizing a professional service agreement with the Farnsworth Group for the design and development of the Kickapoo Creek at the Grove Subdivision Phase II in the amount of \$108,600.

ADOPTED this 26th day of May, 2009.

APPROVED this 27th day of May, 2009.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Anderson, seconded by Alderman Huette that the formal bidding process be waived, a professional service agreement with the Farnsworth Group in the amount of \$108,600 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 Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

SUBJECT: Lake Bloomington Lease Transfer Petition for Lot 3, Block 9 of Camp Potawatomie from Kathleen and David Hawkinson to Linda Jones and Laurie Roth

RECOMMENDATION: That the Lake Lease Transfer be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Staff has reviewed the Lake Bloomington Lease Transfer Petition for Lot 3, Block 9 of Camp Potawatomie from Kathleen and David Hawkinson to Linda Jones and Laurie Roth and finds it in order. The sewage disposal system inspection was recently completed for this surface discharging system. The septic system is quite old but is still functioning

adequately. The septic tank and seepage field are undersized by current standards, however, this is a small cabin that will be used intermittently and most importantly, it is a subsurface system meaning it does not discharge to the reservoir but rather beneath the ground. If there is a failure in the system, the reservoir is protected since the failure will not cause system effluent to enter the reservoir.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This transfer will increase the lease fee to the current formula, (\$0.40 per \$100 of Equalized Assessed Value). This lake lease income will be posted to Lake Lease revenue account 5010-50100-50110-57590.

Respectfully submitted for Council consideration,

Prepared by:

Recommended by:

Craig M. Cummings
Director of Water

David A. Hales
City Manager

Alderman Purcell questioned this item. He cited concerns raised regarding the septic system. He questioned the size of this home. Mayor Stockton recalled discussion regarding this issue in the recent past. Craig Cummings, Director – Water, addressed the Council. He acknowledged the opportunity to address this issue. Most Lake Bloomington homes have sand filters. There was a small cabin located on this lot with limited use. Its subsurface system was located away from the lake. He noted that septic system codes have changed over time. The lake side homes must be brought up to current code.

Motion by Alderman Anderson, seconded by Alderman Huette that the Lake Lease Transfer 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: Aldermen Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

SUBJECT: Petition from Eastlake, LLC, Requesting Approval of a Final Plat for the Grove on Kickapoo Creek Second Addition Commonly Located north of Ireland Grove Road and west of Township Road 2100 East (Ward 8)

RECOMMENDATION: That the Final Plat be approved and the Ordinance be passed.

BACKGROUND: On March, 13, 2006, Council approved the Preliminary Plan for the Grove on Kickapoo Creek Subdivision which includes the subject site. The site is immediately north of Benjamin School Subdivision which is the future site of a Unit 5 elementary school. Staff respectfully recommends that Council accept the Petition and pass an Ordinance approving the Final Plat for the Grove on Kickapoo Creek Second Addition subject to the petitioner supplying a surety for any uncompleted public improvements and paying the required tap-on fees prior to recording of the plat.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Costs for utility extensions and adjacent road improvements for Ireland Grove Road and Black Oak Boulevard will be shared by the City and the Grove on Kickapoo Creek, LLC. These costs are detailed in the approved annexation agreements, (the Grove Subdivision and Benjamin School annexations) and are triggered by construction of utilities or final platting.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Jim Karch
Interim Director of Public Works

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

PETITION FOR APPROVAL OF FINAL PLAT

State of Illinois)
) ss.
County of McLean)

Now Comes EASTLAKE, L.L.C., an Illinois Limited Liability Company, hereinafter referred to as your Petitioner, respectfully representing and requesting as follows:

1. That your Petitioner is the owner of the freehold estate of the premises hereinafter legally described in Exhibit A attached hereto and incorporated herein (hereinafter referred to as the “premises”) and depicted by the Final Plat of The Grove on Kickapoo Creek Second Addition, Bloomington, Illinois prepared by the Farnsworth Group on April 29, 2009, which is attached hereto and incorporated herein.

2. That your Petitioner seeks approval of the Final Plat for the subdivision of said premises to be know and described as The Grove on Kickapoo Creek Second Addition, Bloomington, Illinois.

Wherefore, your Petitioner respectfully prays that said Final Plat for The Grove on Kickapoo Creek Second Addition, Bloomington, Illinois, submitted herewith be approved.

Respectfully submitted,

EASTLAKE, L.L.C.

William C. Doud
Member

Attest:

Laurence F. Hundman
Member

ORDINANCE NO. 2009 - 35

**AN ORDINANCE APPROVING FINAL PLAT OF
THE GROVE ON KICKAPOO CREEK SECOND ADDTION,
BLOOMINGTON, ILLINOIS**

Whereas, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a Petition for approval of the Final Plat of The Grove on Kickapoo Creek Second Addition, Bloomington, Illinois, which is legally described in Exhibit A attached hereto and incorporated herein; and

Whereas, said Petition is valid and sufficient and conforms to the requirements of the statutes in such cases made and provided and the Final Plat attached to said Petition was prepared in compliance with requirements of the Bloomington City Code.

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

1. That the Final Plat of The Grove on Kickapoo Creek Second Addition, Bloomington, Illinois be, and the same is hereby approved.

2. This Ordinance shall take effect immediately upon passage and approval and shall be in full force.

PASSED this 26th day of May, 2009.

APPROVED this 27th day of May, 2009.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A

A part of the Southeast Quarter of Section 9, Township 23 North, Range 3 East of the Third Principal Meridian, McLean County, Illinois, more particularly described as follows: Beginning at the Northwest Corner of Benjamin School Subdivision in the City of Bloomington, Illinois, according to the plat recorded as Document No. 2009-12863 in the McLean County Recorder's Office. From said Point of Beginning, thence south 30.00 feet along the West Line of said Subdivision, said West Line being the West Right of Way Line of Black Oak Boulevard in said

Subdivision; thence west 62.41 feet along a line which forms an angle to the left of 90°-00'-00" with the last described course to a Point of Curvature; thence northwesterly and northerly 871.78 feet along the arc of a curve concave to the northeast with a radius of 540.00 feet and the 780.15 foot chord of said arc forms an angle to the left of 133°-45'-02" with the last described course; thence east 210.00 feet along a line which forms an angle to the left of 43°-45'-02" with the last described chord; thence southerly 8.04 feet along the arc of a curve concave to the east with a radius of 330.00 feet and the 8.04 foot chord of said arc forms an angle to the left of 90°-41'-52" with the last described course; thence east 150.00 feet along a line which forms an angle to the left of 270°-41'-52" with the last described chord; thence northeasterly and easterly 279.28 feet along the arc of a curve concave to the southeast with a radius of 180.00 feet and the 252.10 foot chord of said arc forms an angle to the left of 225°-33'-06" with the last described course to a Point of Tangency; thence east 860.72 feet along a line which forms an angle to the left of 135°-33'-06" with the last described chord to a point on the West Line of a 7.50 acre parcel conveyed to Rebecca S. Fish-White by Deeds recorded December 7, 2005 as Document Numbers 2005-36869 and 2005-36870 in said Recorder's Office lying 570.09 feet north of the Southwest Corner thereof; thence south 690.10 feet along said West Line and the Southerly Extension thereof which form an angle to the left of 91°-00'-59" with the last described course to a point on the North Line of Lot 1 in said Benjamin School Subdivision lying 810.55 feet east of the Point of Beginning; thence west 810.55 feet along said North Line and the North Line of said Black Oak Boulevard which form an angle to the left of 88°-59'-01" with the last described course to the Point of Beginning, containing 19.724 acres, more or less.

Alderman Anderson requested that the Council carefully consider future development agreements. He questioned if the City could postpone expenditures for this development without penalty in order to avoid incurring additional debt.

Motion by Alderman Anderson, seconded by Alderman Huette that the Final Plat be approved and the Ordinance passed.

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

Ayes: Aldermen Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

Municipal Insurance Coverage: Mayor Stockton introduced this item by raising the question of concern about cost versus value. The City had ended its relationship with RIMCO, (Risk Management Insurance Company) via CIRPA (Central Illinois Risk Pooling Authority) effective May 31, 2009. RIMCO would be dissolved as a corporation. CIRPA was a separate entity. The bulk of the City's \$5 million payment to CIRPA was directed toward insurance premiums and claims.

David Hales, City Manager, addressed the Council. He noted that concerns had been raised about coverage's and costs. Discussions have been held with the Council, City department heads and staff. He had received positive comments about the following services the City had received: 1.) loss prevention, 2.) risk management, and 3.) safety. He noted the growth in workers' compensation claims.

Mr. Hales cited his previous experience in commercial risk pools. He looked at the current model. CIRPA hoped to attract additional entities to the pool. This would have resulted in shared costs and benefits. He believed that it was evident that sufficient time had been provided. He researched other pools and their costs for insurance. CIRPA's cost model and services offered were not attractive or competitive. He researched the current CIRPA/RIMCO agreement. He wanted better data which would support the cost for services and cost for insurance, (premiums and claims).

Mr. Hales recommended that the City abandon the current model. The City needed to reduce its cost by adopting a new model. He believed that claims history would continue to go up and down. Workers' compensation (coverage and claims) was expensive. He had contacted Michael Nugent, an independent consultant with expertise in municipal insurance. Mr. Nugent only worked with municipalities and had over thirty (30) years of experience. Mr. Nugent had prepared a report for the Council.

Mr. Hales introduced Mr. Nugent. Mr. Nugent would present an overview of his findings. The Council was provided with a copy of his report.

The following was presented:

Presentation by Nugent Consulting Group: Mr. Nugent addressed the Council. He expressed his appreciation to the Mayor and Council for the opportunity to address them. In 1995, CIRPA was a solid concept. CIRPA's goal was to gain control over the City's insurance costs. At that time in Illinois, there were several mature pools. After fourteen (14) years, the City has remained CIRPA's only member. CIRPA's role changed overtime and lead to the growth of RIMCO. The staff and services offered made it difficult to attract new members. Market forces also played a role. The model adopted involved self insurance with purchased excess insurance. Mr. Nugent described this as a good model. The City's self insurance also offered high quality service. In 2001, RIMCO became a separate entity. RIMCO's agreement offered high cost services. The issue was not one of quality. He planned to present an alternative model with insurance cost in the \$900,000 to \$1 million range. The cost for coverage would be reduced. The plan was to go out for bid for all service components. In conclusion, he presented the Council with eleven (11) recommendations, (see report pages 3 and 4). RIMCO will be dissolved effective May 31, 2009. He recommended that the Council approve the agreement with Alternative Service Concepts, LLC, (ASC), for third party administration. The City would also issue an RFP, (Request for Proposals) for a third party administrator.

Mr. Nugent addressed his eleventh recommendation – to take control of the investment account, re-evaluate the manager and determine the actual value of the

investments. He presented Exhibit 1. He believed that the first year's savings would be \$715,000. The plan included a full time risk manager position. The City needed to analyze loss control and look into its safety needs.

Mr. Hales informed the Council that he had met with Jack Carroll in February 2009. He shared information regarding the City's financial situation and expressed his concern regarding CIRPA's administrative fee. A number of meetings were held. RIMCO became a leaner organization. All were involved in a precarious position. A decision was made and the City needed to act quickly. There was not sufficient time for an RFP. The City would adopt a self insurance model effective June 1, 2009. The insurance evaluation would continue into the fall/winter 2009. Additional time was needed. The City would look out five (5) years as it needed to set a long term plan. He anticipated that there might be additional Work Sessions regarding CIRPA.

Alderman Schmidt had questions regarding RIMCO. She specifically cited how it was created and how it was dissolved. Todd Greenburg, Corporation Counsel, addressed the Council. The City did not create RIMCO. It was a state of Illinois non for profit corporation. RIMCO was a separate entity. Mayor Stockton addressed the RIMCO Board. The City jointly owned a driving simulator which had been given to the City.

Alderman Sage expressed his concerns and questions. He cited the speed and haste of these actions. He acknowledged that there was a need to take action. He believed that these were key decisions. The Council needed to understand why as these issues were important. The Council needed the information and time in order to make a decision.

Mr. Nugent informed the Council that there were City employees who were currently receiving workers' compensation. In addition, there were serious concerns regarding RIMCO's ability to provide service to the City. The City has the ability to act quickly. He acknowledged that there would be issues. ASC may employ some of RIMCO's former employees.

Alderman Stearns addressed disclosure and transparency. CIRPA was funded by the City. RIMCO was a private entity. The City had paid CIRPA millions of dollars. She believed that RIMCO was funded by CIRPA. Mr. Nugent noted that there was a service agreement between CIRPA and RIMCO. He added his belief that the City wanted a high level of service.

Alderman Stearns stated that RIMCO was a privately held company. She had requested that RIMCO go out for bid. She had also requested information regarding RIMCO'S expenditures. She believed in being accountable to the taxpayers. She expressed her interest in gaining access to a private company's records. Mr. Nugent stated that the recommended third party administrator was also a privately held company. He believed that this company would provide cost information. However, it would be an open book. Alderman Stearns expressed her interest in accounting information related to City funds.

Mayor Stockton expressed his belief that ASC was publicly held. Bob Bennett, ASC's CEO, addressed the Council. ASC was a privately held LLC. ASC would provide financial information which would include profit margins, dollars collected, and dollars spent.

Alderman Fruin questioned if ASC would use SAS (Statement of Auditing Standards) 70, (common document). Mr. Nugent responded negatively. The financial statements and audits would be standard document. Common document was an expensive auditing process.

Mayor Stockton questioned the City's revenue as a percentage of ASC total business. Mr. Bennett informed the Council that ASC had twenty-four (24) claim sites across the country. Total revenue totaled \$24 million. The contract with the City was for \$350,000.

Alderman Stearns noted the \$1.3 million unfunded liability. Mr. Nugent responded that this figure was according to RIMCO's records as prepared for CIRPA. Alderman Stearns expressed her concern for the taxpayer. The City had spent \$5 million. CIRPA had been in existence for almost fifteen (15) years. The funding requirement had not decreased. She questioned investments and the percentage of equities held. Mr. Nugent noted that claims increased dramatically at the same time that the equities markets were crashing. These two (2) factors created the current situation.

Mayor Stockton noted that Sikich would also be retained to perform an audit. The City may also hire an actuary.

Mr. Hales informed the Council that CIRPA's Investment Policy allowed for equity holdings. He added that the City's Investment Policy was more conservative. It protected principal. Mr. Nugent stated that there were a number of mature pools in the state with limited, if any, equity holdings.

Mr. Hales addressed the Claims Service Contract with ASC. ASC was able to provide third party administration services quickly. It was a reputable firm. The City would provide a temporary office/facility. Records would be moved from the RIMCO office to the City on Wednesday, May 27, 2009. The agreement was for one (1) year. An RFP for Third Party Administration would be issued in the fall 2009. The contract included language regarding ASC's fee, (an amount not to exceed \$350,000). He cited the potential for additional savings for third party administration. Mr. Nugent informed the Council that ASC has five (5) owners. His firm had no financial interest in ASC. He admitted that the City's approach would utilize a different model. The approach was unusual but it would fit the City's short term needs.

Mr. Bennett readdressed the Council. ASC was formed in 1981. The firm worked primarily with public entities. ASC sets up claim service units. There were no outside investors. Claims are processed on a flat fee basis. The adjustors are a part of the risk

management team. ASC's staff has worked with audit programs. Mr. Bennett spent a lot of time on the road meeting with ASC's clients.

Mr. Hales questioned staffing and claims. Mr. Bennett informed the Council that ASC had been given four (4) days to make the transition. Generally, ASC requested ninety (90) days. ASC's staff will audit the files to determine the City's needs. ASC's cost structure would not be out of line. ASC would determine who and what was needed and provide recommendations to the City.

Mr. Hales addressed the discretionary settlement authority limit, (\$5,000 was low). ASC would begin work on the outstanding claims. He planned to draft a settlement authority policy. A standard policy should include the Corporation Counsel, City Manager, and City Council.

Mayor Stockton questioned the ability to transfer data. Mr. Bennett stated that ASC had the ability to do data conversion. ASC has received a complete copy of the database. He was confident in ASC's ability to do the job. Claims will be paid and loss runs would be prepared. There were years of data to convert. Emergency procedures would need to be developed. In addition, ASC would address loss prevention and claim volume. He was pleased that the City owned a vehicle simulator. Meetings would be held with loss control staff. ASC would produce a variety of reports. He questioned the City's focus. He suggested a goal might be to diminish the frequency and severity of claims. The City would have options in the future. Mr. Nugent noted that ASC would deliver services at past levels at a cost not to exceed \$350,000. He planned to look at other models.

Alderman Stearns questioned the dollar number needed to fund claims. Mr. Nugent stated that the City's budget included funding for CIRPA. The City would need to develop a plan for the unfunded amount. Alderman Stearns questioned the unfunded liabilities. Mr. Hales acknowledged that this was an area of concern. The City would have a better picture in the months ahead. A number of factors would impact the financial condition of CIRPA's funds.

Alderman Schmidt questioned why the City had not filed a claim for RIMCO assets. Mr. Greenburg informed the Council that there was no grounds for breach of contract as the agreement was between CIRPA and RIMCO.

Alderman Stearns questioned who authorized RIMCO. Mr. Greenburg noted the following: 1.) the City controlled the CIRPA Board; 2.) the Council funded CIRPA; and 3.) CIRPA enter into a contract with RIMCO. Mayor Stockton added that RIMCO was formed at the request of the CIRPA Board.

Alderman Purcell questioned who served on the CIRPA Board and appointment to same. Mr. Hales stated that there were five (5) members, (Mayor, Alderman, City Manager and two additional members from the community).

Alderman Huette recommended that the Council move forward. He restated that the cost for third party administration would not exceed \$350,000. Mr. Hales noted that some loss prevention services were included in this cost. No decisions had been made regarding risk management and loss prevention. A recommendation would be presented in the fall 2009. Mr. Nugent noted that the agreement included a full time safety position. He added that in the short term this position did not need to be filled. He planned to take the summer to look at different models and evaluate same.

Mayor Stockton questioned safety training. Mr. Hales informed the Council that the City has a safety library. Mr. Nugent believed that in the short term the City needs could be addressed. Mr. Hales cited the past robust loss prevention services. He restated that Workers' Compensation claims have sky rocketed.

Alderman Sage made a couple of points. He stated that the projected \$700,000 in savings was not linked to claims. He anticipated that the RFP would involve a competitive, open market place process. The RFP would cover insurance, brokerage, and third party administration.

Alderman Huette described ASC as a successful business. He questioned ASC's retention rate for its third party administration services. Mr. Bennett noted the annual renewal rate at ninety-five percent, (95%). He cited a variety of ASC's clients. ASC did not lose clients over service issues. Some of ASC's clients had been with the company for over twenty (20) years. He noted ASC's low attrition rate. He offered to provide the Council with references which could speak to ASC's reputation.

Alderman Fruin expressed his opinion that this issue would be under the spot light for the next six to nine (6 – 9) months. Mr. Nugent took the opportunity to recognized Barb Adkins', Deputy City Manager, efforts.

Alderman Stearns requested that the Council suspend the rules. Mayor Stockton cautioned that comments must be limited and relevant to topic. Alderman Schmidt added that comments should be limited to the agenda's action items. She noted that the Council was focused on the future.

Motion by Alderman Stearns, seconded by Alderman Purcell to suspend the rules to allow someone to speak.

Motion carried.

Deb Polzin, 414 N. Linden, addressed the Council. She thanked Mr. Hales for addressing this issue after fifteen (15) years. She questioned the contract with RIMCO and its quick termination, (May 31, 2009). Mr. Hales cited the cost for services. An agreement could not be reached between the parties regarding data conversion. It was to the City's advantage to move quickly. Ms. Polzin questioned if both the CIRPA and RIMCO Boards had been disbanded. Mayor Stockton restated that RIMCO would be dissolved on May 31, 2009. CIRPA will be retained. Ms. Polzin questioned alternative Board members. Mayor

Stockton noted that Board members served on a volunteer basis. Two (2) CIRPA Board members have resigned. These vacancies may be filled internally by Council members and/or City staff. The City faced a number of issues one of them being the combination of losses from claims and investments. Mr. Hales added that the Council was party to CIRPA's transactions. He believed that there were outstanding legal issues. Ms. Polzin requested a time line for recommendations. Mr. Hales restated that a Work Session would be scheduled in the near future. Ms. Polzin questioned the costs for these three (3) contracts. Mr. Hales cited the following figures: 1.) ASC – not to exceed \$350,000; 2.) Sikich - \$15,000; and 3.) Nugent Consulting – \$35,000. Ms. Polzin requested a time line for the audit.

Mike Whelan, 2604 Rainbow, Unit 1, addressed the Council. He had been hired by CIRPA as its first claims manager. He cited the CIRPA Board's fiduciary responsibility. He believed that there should have been frequent and transparent reports. He believed that RIMCO was created in 2001, and that the City forgave all debts in 2002. He recommended that the audit results be provided to the proper legal authorities. He expressed his agreement with Nugent Consulting's report. He read from same and expressed his support for the recommendations contained therein. He raised his concerns regarding Mid-America Insurance.

Ron Schultz, 1208 E. Oakland Ave., addressed the Council. He thanked Mr. Hales for transparency. He cited the estimated savings of \$1,750,000. Mr. Hales referred to Exhibit 1 which showed a projected savings of \$715,249. Mr. Schultz requested a comparison between ASC and RIMCO. Mr. Nugent described this as an apples to oranges comparison. Savings would come primarily from claims administration. There was the potential for future savings on insurance. Additional issues would be addressed in his final report. He described Hal Gray, Mid-American Insurance, as helpful and forthcoming. He restated that any comparison between ASC and RIMCO would be difficult.

Mayor Stockton noted that the City's payment to ASC represented an estimated two percent, (2%), of ASC's total revenue. RIMCO received a large part of its support from the City. He cited overhead costs and a staff of fourteen (14). RIMCO operated with a if we build it they will come philosophy. RIMCO offered an expensive model.

Mike Fitzgerald, 1805 Dunraven, addressed the Council. He commended the City on this evening's presentation. He expressed his opinion that RIMCO had run amuck. The City Manager and Council had the oversight responsibility. Mr. Hales anticipated that the numbers and financials would be compared to other public entities. The City was offering to be transparent with the information. Mr. Fitzgerald believed that the information needed to be published in the Pantagraph. Citizens needed to be kept informed. He noted the rumors which led to an upset public.

Mayor Stockton acknowledged that questions had been raised in the recent past. Mr. Hales had done a good job on this issue. The Council had expressed an interest in this subject due to the expensive coverage. The City would realize some savings.

Alderman Fruin noted the importance of oversight. There had been a number of changes over the past fifteen (15) years. The Council was addressing its responsibility.

Mayor Stockton restated that an RFP would be issued. The City's funds would be moved to a local bank. A time table would be placed on the City's web site. Mr. Hales added that once finalized the City would adopt a long term model.

Motion by Alderman Sage, seconded by Alderman Schmidt to return to order.

Motion carried.

The following was presented:

SUBJECT: Waive Formal Bid Process and Approve a One Year Contract between Alternative Service Concepts, LLC and the City of Bloomington for Third Party Administrator Claims Adjustment Services

RECOMMENDATION: That the formal bid process be waived, the contract with Alternative Service Concepts, LLC for third party administration claims adjustment services be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: For several months, City staff has been reviewing the model which has been in effect since 1995 on processing liability claims made or filed against the City. The Central Illinois Risk Pooling Authority (CIRPA) has been processing claims against the City since 1995. In 2001, CIRPA began contracting with Risk & Insurance Management Company (RIMCO) to provide claims processing and risk management services. At its Board meeting of May 21, 2009, CIRPA authorized David Hales, in his capacity as Risk Manager of CIRPA, to enter into a contract with Alternative Service Concepts, LLC (ASC) to handle claims processing for all current CIRPA claims involving the City of Bloomington. The contract will be directly between the City and ASC for a one-year period for new liability claims.

ASC is recommended to the City by Mike Nugent of Nugent Consulting Group, with whom the staff is proposing the City use for consulting services for our insurance and risk management needs. Mr. Nugent has assured the City, verbally and in writing, that he does not receive any compensation in any form whatsoever for recommending ASC.

ASC's employees will be working out of the City's Government Center offices. It is anticipated that the bulk of ASC's claims processing work will involve Workers' Compensation claims. Historically, this work has been the overwhelming bulk of claims against the City. ASC is aware that the City intends to put out a Request for Proposal for claims processing services after June 1, 2010.

City staff believes the proposed contract with ASC is in the best interests of the City and recommends that the contract be approved, the Mayor and City Clerk be authorized to execute necessary documents, and the Resolution be adopted.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Board Members of Central Illinois Risk Pooling Authority (CIRPA) and individual discussions with the Mayor and City Council.

FINANCIAL IMPACT: The cost for the one year contract is \$350,000. The amount is offset by the cancellation of CIRPA's contract with RIMCO effective June 1, 2009.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

CLAIMS SERVICE CONTRACT

THIS AGREEMENT is made and entered into with an effective date of June 1, 2009 between **ALTERNATIVE SERVICE CONCEPTS, LLC**, a Delaware Corporation, with principal offices at 2501 McGavock Pike, Suite 802, P.O. Box 305148, Nashville, Tennessee 37230-5148, hereinafter referred to as "ASC", and City of Bloomington with principal offices in Bloomington, IL, hereinafter referred to as "Client".

WITNESS:

WHEREAS, "ASC" is in the claims service business; and

WHEREAS, "Client" desires to contract with "ASC" as its claims service company to service the workers' compensation and property & casualty claims of "Client's" arising out of their facilities located in Bloomington, IL.

NOW, THEREFORE, "ASC" and "Client" contract as follows:

"ASC" AGREES:

1. (a) To review all claims and/or losses reported during the term of this Contract which involve workers' compensation and property & casualty claims against "Client".
- (b) To investigate, adjust, settle or resist all such losses and/or claims within the agreed discretionary settlement authority limit of \$5,000.00 Dollars.
- (c) To investigate, adjust, settle or resist all such losses and/or claims as are in excess of the agreed discretionary settlement authority limit of \$5,000.00 Dollars only with specific prior approval of "Client."

2. To furnish all claim forms necessary for proper claims administration.
3. To establish claim and/or loss files for each reported claim and/or loss. Such files shall be the exclusive property of "Client." Such files are available for review by "Client" at any reasonable time, with notice.
4. To maintain adequate General Liability, Automobile Liability, Workers' Compensation, Fidelity Bond, and Errors and Omissions insurance coverage.
5. To indemnify, defend, and hold harmless "Client" with respect to any claims asserted as a result of any errors, omissions, torts, intentional torts, or other negligence on the part of "ASC" and/or its employees, unless the complained of actions of "ASC" were taken at the specific direction of "Client."

"CLIENT" AGREES:

1. To make funds available that "ASC" may draw from at any time and from time to time for claim and/or loss payments and for associated allocated expense with the prior approval of "Client."
2. To pay "ASC" fees in accordance with the Fee Schedule attached to this Contract.
3. To pay "ASC" within thirty (30) days of the effective date of all invoices.
4. (a) To pay all Allocated Loss Expense in addition to the claim service fee to be paid to "ASC" as prescribed in this Contract.
(b) "Allocated Loss Expense" shall include but not be limited to attorneys' fees; commercial photographers' fees; experts' fees (i.e. engineering, physicians, chemists, etc.); fees for independent medical examinations; witnesses' travel expense; extraordinary travel expense incurred by "ASC" at the request of "Client"; court reporters' fees; transcript fees; the cost of obtaining public records; witnesses' fees; medical cost containment services, such as utilization review, preadmission authorization, hospital bill audit, provider bill audit, and medical case management; automobile appraisal or property appraisal fees; all outside expense items; and any other similar fee, cost or expense associated with the investigation, negotiation, settlement, or defense of any claim hereunder or as required for the collection of subrogation on behalf of "Client."
5. To relinquish authority to "ASC" in all matters relating to claims service within the agreed discretionary settlement authority limit of \$5,000.00 Dollars.
6. (a) In the event, "ASC," acting at the specific direction of "Client," becomes liable to any third party, "Client" agrees to indemnify, defend, and hold "ASC" and/or its employees harmless.
(b) If "ASC" or any of its employees are named as defendant in any action (i) where the plaintiff's cause of action involves a claim hereunder and (ii) where there are not allegations of errors, omissions, torts, intentional torts, or other negligence on the part

of “ASC,” “Client” will assume the defense of the action on behalf of “ASC” and/or its employees and indemnify and hold “ASC” and/or its employees harmless from any judgment rendered as a result of such action.

“ASC” AND “CLIENT” MUTUALLY AGREE AS FOLLOWS:

1. The term of this Contract is continuous from its effective date for one (1) year. This Contract may be terminated by either “ASC” or “Client” with cause by providing sixty (60) days’ prior written notice by certified mail.
2. This Contract covers Claim Service for “Client” in the United States of America.
3. Gross receipts tax or assessments in those states or jurisdictions where levied shall be in addition to the service fee.
4. In the event any one or more of the provisions of this Contract shall be determined to be invalid or unenforceable by any court or other appropriate authority, the remainder of this Contract shall continue in full force and effect, as if said invalid and unenforceable portion had not been included in this Contract.
5. This Contract shall be construed and interpreted in accordance with the laws of the state of Illinois.
6. This Contract represents the entire understanding of “ASC” and “Client” and supersedes all prior oral and written communications between “ASC” and “Client” as to the subject matter. Neither this Contract nor any provisions of it may be amended, modified, or waived except in writing signed by a duly authorized representative of “ASC” and “Client.”
7. The failure or delay of either “ASC” or “Client” to take action with respect to any failure of the other party to observe or perform any of the terms or provisions of this Contract, or with respect to any default hereunder by such other party, shall not be construed as a waiver or operate as a waiver of any rights or remedies of either “ASC” or “Client” or operate to deprive either “ASC” or “Client” of its right to institute and maintain any action or proceeding which it may deem necessary to protect, assert, or enforce any such rights or remedies.
8. During the term of this Contract, “ASC” will store, at its expense, closed files for a period of three (3) years from the date of closure or the date of the last compensation, whichever is latest. After this period, files will either be returned to “Client” or stored by “ASC” at “Client’s” option and expense. If stored by “ASC,” “Client” will be charged a one-time inventory fee and monthly storage fees at “ASC’s” outside vendor’s then prevailing rates.
9. This Contract is binding on any and all successors to the parties and assignable, in whole or any part, only with the written consent of the non-assigning party.

IN WITNESS WHEREOF, “ASC” and “Client” have caused this Contract to be executed by the person authorized to act in their respective names.

ALTERNATIVE SERVICE CONCEPTS, LLC

WITNESS: Tracey Covert

BY: Robert Bennett
TITLE: CEO

DATE: May 27, 2009

CITY OF BLOOMINGTON

WITNESS: Tracey Covert

BY: Stephen F. Stockton
TITLE: Mayor

DATE: May 27, 2009

RESOLUTION NO. 2009 - 28

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND APPROVING A
ONE YEAR CONTRACT FOR THIRD PARTY ADMINISTRATOR CLAIMS
ADJUSTMENT SERVICES WITH ALTERNATIVE SERVICE CONCEPTS, LLC AT A
COST OF \$350,000**

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

1. That the bidding process be waived and the Mayor and City Clerk be authorized to execute the necessary documents for a one year contract for third party administrator claims adjustment services with Alternative Service Concepts, LLC at a cost of \$350,000.

ADOPTED this 26th day of May, 2009.

APPROVED this 27th day of May, 2009.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Huette, seconded by Alderman Schmidt that the formal bid process be waived, the contract with Alternative Service Concepts, LLC for third party administration claims adjustment services 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: Aldermen Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

SUBJECT: Audit Engagement Letter for CIRPA with Sikich LLP

RECOMMENDATION: Recommend that the CIRPA Audit Engagement Letter be approved, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution be adopted.

BACKGROUND: On February 11, 2008, Council approved Sikich LLP for Professional Audit Services for the City for the period April 30, 2008 through April 30, 2012. At that time the proposal did not include auditing services for Central Illinois Risk Pooling Authority, (CIRPA). CIRPA's financial statements were last audited by Striegel, Knobloch & Co. LLC for the period ending December 31, 2007.

The cost for the CIRPA audit will not exceed \$15,000 unless unexpected conditions are encountered. If the cost would exceed \$15,000, staff will come back to the Council for approval of the additional amount. This cost will be charged to the City.

Staff respectfully request that Council approve the Audit Engagement Letter with Sikich, LLP for the auditing services of CIRPA in an amount not to exceed \$15,000, and the Resolution be adopted.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Funds for this expenditure will be charged to the appropriate insurance line item within the City's budget.

Respectfully submitted for Council consideration.

Prepared and recommended by:

Reviewed as to legal sufficiency:

David A. Hales
City Manager

J. Todd Greenburg
Corporation Counsel

Sikich
1000 Churchill Road
Springfield, IL 62702

Certified Public Accountants & Advisors
Members of American Institute of Certified
Certified Public Accountants &
Illinois CPA Society

May 22, 2009

To the Members of the Board of Directors of
Central Illinois Risk Pooling Authority and The
City Council of the City of Bloomington, Illinois
2203 E. Empire Street, Suite 1
Bloomington, IL 61704

We are pleased to confirm our understanding of the services we are to provide Central Illinois Risk Pooling Authority for the sixteen month period ended April 30, 2009. We will audit the basic financial statements of Central Illinois Risk Pooling Authority (CIRPA) as of and for the sixteen month period ended April 30, 2009. We understand that the financial statements will be presented in accordance with the financial reporting model described in the GASB Statement No. 34. Accounting standards generally accepted in the United States provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to accompany Central Illinois Risk Pooling Authority's basic financial statements. As part of our engagement, we will apply certain limited procedures to Central Illinois Risk Pooling Authority's RSI. These limited procedures will consist principally of inquiries of management regarding the methods of measurement and presentation, which management is responsible for affirming to us in its representation letter. Unless we encounter problems with the presentation of the RSI or with procedures relating to it, we will disclaim an opinion on it. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis.
2. Ten Year Claim Development

Supplementary information other than RSI also accompanies Central Illinois Risk Pooling Authority's basic financial statements. We will subject the supplementary information to the auditing procedures applied in our audit of the basic financial statements and will provide an opinion on it in relation to the basic financial statements.

Audit Objective

The objective of our audit is the expression of an opinion as to whether your basic financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the additional information referred to in the first paragraph when considered in relation to the basic financial statements taken as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and will include tests of the accounting records and other

procedures we consider necessary to enable us to express such opinions. If our opinion on the financial statements is other than unqualified, we will fully discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or to issue a report as a result of this engagement.

Management Responsibilities

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein. You are also responsible for making all management decisions and performing all management functions; for designating an individual with suitable skill, knowledge, or experience to oversee our assistance with the preparation of your financial statements and related notes and any other nonattest services we provide; and for evaluating the adequacy and results of those services and accepting responsibility for them.

Management is responsible for establishing and maintaining internal controls, including monitoring ongoing activities; for the selection and application of accounting principles; and for the fair presentation in the basic financial statements of the respective financial position of the Central Illinois Risk Pooling Authority and the respective changes in financial position and where applicable, cash flows, in conformity with U.S. generally accepted accounting principles.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the Authority received in communications from employees, former employees, regulators, or others. In addition, you are responsible for identifying and ensuring that the Authority complies with applicable laws and regulations.

The procedures we will perform in our engagement and the conclusions we reach as a basis for our report will be influenced by the written and oral representations that we receive from management. Accordingly, false representations could cause us to expend unnecessary efforts or cause a material error or fraud to go undetected by our procedures. In view of the foregoing, the Central Illinois Risk Pooling Authority and the City of Bloomington, Illinois agrees that we shall not be responsible for any misstatements in the CIRPA's financial statements that we may fail to detect as a result of false or misleading representations made to us by any member of management of CIRPA, the City or Risk & Insurance Management (RimCo - CIRPA's third party administrator). In addition, CIRPA and the City further agrees to indemnify and hold us

harmless for any liability and all reasonable costs, including legal fees, which we may incur as a result of the services performed under this engagement in the event there are false or misleading representations made to us by any member of management of CIRPA, the City or RimCo.

Audit Procedures--General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity.

Because an audit is designed to provide reasonable, but not absolute, assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements, or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of Central Illinois Risk Pooling Authority's compliance with applicable laws and regulations and the provisions of contracts and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

Engagement Administration, Fees, and Other

We understand that CIRPA and/or Risk & Insurance Management Company (RimCo) personnel will provide us with the basic information required for our audit and will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

We expect to begin our audit on approximately June 1, 2009 or when the client assist workpapers are prepared, and to issue our preliminary reports no later than July 31, 2009. Final reports will be issued upon your approval of the preliminary drafts, no later than August 31, 2009. Chad Lucas is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.). We estimate our fee to be \$15,000. This fee is based on anticipated cooperation from personnel of CIRPA and Risk & Insurance Management Company and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur additional costs. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our fees for these services will be invoiced to you from time to time as work progresses. In accordance with Illinois Compiled Statutes, payments for all services are due within sixty days of receipt of invoice. Invoices not paid within sixty days will be assessed a finance charge of 1% per month (12% annually). We also reserve the right to suspend or terminate services, including those referenced above, until such time as past due balances are paid. If we elect to terminate our services, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

You may request that we perform additional services not addressed in this engagement letter. If this occurs, we will communicate with you regarding the scope of the additional services and the estimated fees. We also may issue a separate engagement letter covering the additional services. In the absence of any other written communication from us documenting such additional services, our services will continue to be governed by the terms of this engagement letter.

If any dispute, controversy or claim arises in connection with the performance or breach of this agreement, either party may, on written notice to the other party, request that the matter be mediated. Such mediation will be conducted by a mediator appointed by and pursuant to the Mediation Rules of the American Arbitration Association or such other neutral facilitator

acceptable to both parties. Both parties will exert their best efforts to discuss with each other in good faith their respective positions in an attempt to finally resolve such dispute or controversy.

Each party may disclose any facts to the other party or the mediator which it, in good faith, considers necessary to resolve the matter. All such discussions, however, will be for the purpose of assisting in settlement efforts and will not be admissible in any subsequent litigation against the disclosing party. Except as agreed by both parties, the mediator will keep confidential all information disclosed during negotiations.

The mediation proceedings will conclude within sixty days from receipt of the written notice unless extended or terminated sooner by mutual consent. Each party will be responsible for its own expenses. The fees and expenses of the mediator, if any, will be borne equally by the parties.

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Sincerely,

Sikich LLP
By Chad A. Lucas, Partner

This letter correctly sets forth the understanding of the Central Illinois Risk Pooling Authority and the City of Bloomington, Illinois.

By: Stephen F. Stockton
Title: Mayor
Date: May 27, 2009

By: Tracey Covert
Title: City Clerk
Date: May 27, 2009

RESOLUTION NO. 2009 - 29

A RESOLUTION AUTHORIZING AN AUDIT ENGAGEMENT LETTER FOR CIRPA AMOUNT OF \$15,000 BETWEEN THE CITY OF BLOOMINGTON AND SIKICH LLP

WHEREAS, the City of Bloomington has previously entered into an agreement with Sikich LLP in the amount of \$54,700 for auditing services for Fiscal Year 2008 - 2009; and

WHEREAS, for the reasons set forth in a staff report dated May 26, 2009 it was necessary to amend the agreement to prepare an audit engagement letter for Central Illinois Risk Pooling Authority, (CIRPA); and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the May 26, 2009 Council 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 an audit engagement letter in the amount of \$15,000 between the City of Bloomington and Sikich LLP for CIRPA be approved.

ADOPTED this 26th day of May, 2009.

APPROVED this 27th day of May, 2009.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

David Hales, City Manager, introduced Chad Lucas, Sikich partner. Sikich performs the annual audit for the City and would be retained to audit the CIRPA funds. Mr. Hales believed that it was important for the City to involve its outside auditor. Sikich would provide the City with financial advice. Sikich had submitted a fee proposal and an engagement letter. The fee would not exceed \$15,000. Mr. Lucas addressed the Council. Sikich's home office was in Aurora, IL. The firm had a staff of 250. The CIRPA audit would cover a sixteen (16) month period. CIRPA's fiscal year matched the calendar year. The audit would address CIRPA's financial statements. It would not be an SAS (Statement of Auditing Standards) audit. No opinion would be given regarding internal controls. Mr. Hales added the neither CIRPA nor RIMCO have had an SAS audit performed. Mr. Lucas stated that this audit would inform the Council if the financial statements were correct or misstated.

Alderman Purcell expressed his concern. Mr. Lucas stated that Sikich would not look at every transaction. Mr. Hales reminded the Council that they also served as the City's audit committee. Individual alderman may contact Mr. Lucas independently. Mr. Lucas added that Sikich would welcome the Council input. Last year, Sikich worked primarily with the Mayor. SAS 99 procedures would address fraudulent activities. It was

a standard procedure to interview various personnel throughout the organization to assess the potential risk for fraud. Mr. Hales added that once the audit is complete, Sikich would make a presentation to the Council.

Motion by Alderman Hanson, seconded by Alderman Schmidt that the Audit Engagement Letter for CIRPA 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 Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

SUBJECT: Request to Waive Formal Bid Process and Approve an Agreement with Nugent Consulting Group for Insurance Consulting Services

RECOMMENDATION: Recommend that the formal bid process be a waived, the agreement for insurance consulting services with Nugent Consulting Group be approved in an amount not to exceed \$35,000, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution adopted.

BACKGROUND: During fiscal year 2008 – 2009, the City contacted Nugent Consulting Group, (NCG), for a review of its insurance services provided by RIMCO, (Risk Insurance Management Company). During the last few months, Mr. Nugent has assisted City staff with a review and analysis of the City's risk management insurance needs. He has provided guidance to the City regarding a more cost effective and efficient program which will insure that the City's present and future assets are protected.

NCG has become familiar with the City's operations which is important in the administration of a risk management program. NCG has assisted with the change of our third-party administration. NCG advice and counsel has proven to be invaluable during this risk management transition process.

NCG's background in the municipal insurance arena, including private and public sector risk management experience, brings the qualifications to carry out this work for the City.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Services will be provided at an hourly rate of \$135.00 with a not to exceed annual cap of \$35,000.

Respectfully submitted for Council consideration.

Prepared and recommended by:

Reviewed as to legal sufficiency:

David A. Hales
City Manager

J. Todd Greenburg
Corporation Counsel

AGREEMENT FOR SERVICES BETWEEN THE CITY OF BLOOMINGTON (THE CITY) AND NUGENT CONSULTING LLC

2009 - 2010

SCOPE

Nugent Consulting LLC will provide the following services to the City:

1. Negotiate contract terms with ASC (5 man-hours)
2. Oversee transition from RIMCO to ASC (15 man-hours)
3. Assist in the determination of the outstanding liabilities and CIRPA deficit (15 man-hours)
4. Create a funding plan after actuarial, audit and TPA have concluded their assessments (15 man-hours)
5. Assist in creation of the risk management policies and programs for the City (15 man-hours)
6. Provide loss data benchmarking against other similar Illinois municipalities (10 man-hours)
7. Provide a long range safety plan upon TPA competition of the safety analysis (10 man-hours)
8. Analyze the current insurance coverage and report to the City (15 man-hours)
9. Provide insurance cost benchmarks against other similar Illinois municipalities (10 man-hours)
10. Create and issue a RFP for insurance brokers to secure competitive proposals. Provide detailed analysis report to the City (30 man-hours)
11. Create and issue an RFP for insurance coverage to secure competitive proposals. Provide the City with a detailed report (30 man-hours)
12. Create and issue an RFP for Claims Administration (TPA) to secure competitive proposals. Provide the City with a detailed report. (40 man-hours)
13. Attend staff and counsel meetings as required (20 man-hours)
14. Provide day to day risk management advice to the City (20 man-hours)

TERM

May 27, 2009 to June 1, 2010.

Either party can cancel the agreement by giving 60 days written notice.

FEE

The fee for all services in the above scope will not exceed \$35,000 for the 12 month period commencing May 27, 2009. The hourly rate is \$135. Nugent will handle all normal expenses and the City will pre-approve any unusual expenses in the delivery of this scope. Monthly billings will be sent (first one as of June 30, 2009) with an hours statement.

CONFLICT OF INTEREST

Nugent Consulting LLC will not receive any revenue of any kind from any provider or other organization other than the fee outlined above in performance of this agreement.

Nugent Consulting LLC

City of Bloomington

Mike Nugent
June 29, 2009

Stephen F. Stockton
May 27, 2009

RESOLUTION NO. 2009 - 40

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND
APPROVING AN AGREEMENT WITH NUGENT CONSULTING GROUP FOR
INSURANCE CONSULTING SERVICES AT A COST OF NOT TO EXCEED \$35,000**

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

1. That the bidding process be waived and the Mayor and City Clerk be authorized to execute the necessary documents for insurance consulting services with Nugent Consulting Group at a cost not to exceed \$35,000.

ADOPTED this 26th day of May, 2009.

APPROVED this 27th day of May, 2009.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Mr. Hales addressed the scope of work. There were a number of critical activities. An RFP (Request for Proposal) would be issued in the fall 2009. Mr. Nugent had provided an estimate of man hours. The fee would not exceed \$35,000.

Alderman Purcell stated that he was impressed with Mr. Nugent. He would be glad to approve this agreement.

Alderman Anderson had questions regarding RIMCO. He questioned performance of duties and where the information would come from. Mr. Hales informed the Council that the CIRPA/RIMCO contracts would be research. Sikich would provide a critical document. Mr. Nugent addressed the scope of service. His goal was to move the City forward and on to a new model. Alderman Anderson agreed to move forward. However, he wanted the City to learn from the past. Mr. Hales acknowledged that there was little accountability for RIMCO's administrative fee.

Alderman Hanson stated that it had been a pleasure to deal with Mr. Nugent. He believed that the City's best interest would be served. He looked forward to working with this firm.

Motion by Alderman Hanson, seconded by Alderman McDade that the formal bid process be a waived, the agreement for insurance consulting services with Nugent Consulting Group be approved at a cost not to exceed \$35,000, 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 Sage, Huette, McDade, Hanson, Anderson, Fruin, Purcell, Schmidt and Stearns.

Nays: None

Motion carried.

The following was presented:

Presentation by the Downtown Business Association: David Hales, City Manager, introduced this item. The Downtown Business Association, (DBA), would make a presentation to Council regarding funding. Erika Kubsch, DBA Executive Director, addressed the Council. She had prepared a PowerPoint presentation entitled Year in Review 2008. She thanked the Council for its support and participation in the Farr study.

New projects included the following: 1.) Downtown Recycling Pilot in cooperation with the Downtown Bar Association; 2.) Neighborhood Watch Program; 3.) Downtown Clean program in cooperation with ODC; and 4.) facade grants in the 600 block of N. Main St. She addressed the growth in the Downtown's EAV, (Equalized Assessed Value). She looked at future priorities and cited the following: 1.) complete Farr's Master Plan, the first draft would be available summer 2009 and the final report would be issued winter 2009; 2.) recruitment and retention program in cooperation with the McLean County Chamber of Commerce (MCC) and Economic Development Council (EDC); 3.) Downtown beautification to include public art; 4.) promote Downtown facilities; and 5.) establish a brand image for the DBA. She informed the Council that the Farmer's Market has begun accepting LINK cards this year.

Alderman Sage addressed the DBA's comprehensive emails. They provided a line of sight regarding the services delivered and the benefits of the DBA related to costs. He expressed his interest in a results based contract which listed specific results. This was an important factor for him prior to authorizing payment. He added his concern regarding the Business Improvement District, (BID). He also questioned the status of the inventory of Downtown buildings.

Mayor Stockton questioned the DBA's role as a facilitator. He was looking for specifics.

Ms. Kubsch noted that the BID was an priority. The DBA was currently performing a number of tasks that BID's traditionally provide. The DBA did not have a BID's funding mechanism. She believed that there was support for a Downtown BID which would keep the Downtown clean and safe. Funds would also be available to market the Downtown. Mayor Stockton suggested a single contractor to provide snow removal services within the Downtown as a BID service.

Alderman McDade thanked Ms. Kubsch for her report. She also acknowledged the DBA Board members who were present at the meeting. She addressed the issue of funding as the Downtown TIF was near its expiration date. She encouraged the DBA Board and staff to think about the future. The DBA needed to continue and maximize its partnerships with the MCC and EDC. These local organizations needed to bring their individual expertise together for mutual benefit to the community. She also addressed the Farr plan which would have a form based code provision. The DBA needed to be aware of the City's recent experience with Farr's Main St. study. The DBA may need to look to best practices.

Mayor Stockton also addressed Farr and Associates. The DBA had an obligation to the City. The Downtown study needed to be practical. The DBA spent City dollars. The DBA needed to provide reasonable and valued programs. Ms. Kubsch restated that the first draft would be available in July 2009.

Alderman Fruin complimented the DBA's efforts. There was a lot of potential in the Downtown. He addressed the collaboration between the DBA, MCC, and EDC. He encouraged the DBA to reach out to the adjoining neighborhood associations. He believed

that such action would bring success. He added that what was good for the Downtown was also good for the community. He believed that the DBA was headed in the right direction.

Alderman Huette noted that the City provided ninety percent (90%) of the DBA's funding. Ms. Kubsch mentioned the BID. He believed that the DBA staff needed to pick up the pace. He believed that there were a number of advantages to a BID. He recommended that the DBA participate in pain sharing. He cited the need for the City to reduce spending. The City was in a vulnerable place. He believed that the City needed to reduce its funding of the DBA. He questioned the return on investment. He found it difficult to support the funding level for the DBA this year.

Alderman Schmidt noted that these dollars were located in the Downtown TIF and were not General Fund dollars. Mr. Hales presented the Council with a Downtown TIF hand out. He added that TIF dollars were property tax dollars. City staff was under taking an internal audit of this TIF fund as it is close to being closed out. He noted that TIF dollars can be used for infrastructure. He recommended that some of these dollars be directed towards Downtown capital expenditures. He reminded the Council that the plan was to phase out the funding for the DBA. Alderman Schmidt stated that Downtown TIF dollars must be spent within the Downtown TIF.

Alderman Hanson expressed his support for the Downtown. He also supported the DBA's efforts. He hoped that Downtown revitalization would continue. The TIF would expired in 2011. The DBA needed to become self sustaining. He encouraged DBA staff to move forward with the BID. He took interest and pride in the Downtown.

Alderman Stearns expressed her appreciation to Mr. Hales for the handout. Mr. Hales noted that staff reviewed the projected numbers for the Downtown TIF. She cited the funding needs which would be contained in the Farr report. Mr. Hales added that there was no funding available at this time. Alderman Stearns echoed Alderman Huette's comments. She cited the City's recent financial reports which were projecting a deficit. Mr. Hales stated the figure for fiscal year 2010 was \$5 million. He did not anticipate that this figure would change unless the economy rebounded. Alderman Stearns viewed the situation as a crisis. She believed that the net savings from RIMCO would be substantial. She cited telephone calls from citizens regarding streets, curbs, and pot holes. The Downtown needed to be clean and safe. There needed to be a police presence to address security concerns. She expressed support for directing Downtown TIF dollars towards Downtown infrastructure. She stated that she would not support this item.

Alderman McDade expressed her belief that the Council had addressed the resurfacing issue. The issue was not as simple as just moving the funds. There needed to be an economic base to support and sustain the Downtown. She questioned who would provide the services being performed by the DBA. The DBA seemed to realize that TIF funding would end in the near future. Farr's report would be received in the near future. She cited the City's past investment in the Downtown.

Alderman Huette expressed his hopes that the DBA would continue on by developing a Downtown BID. In the near future the DBA would not be funded by the City. He expressed his support to use the Downtown TIF funds to resurface streets within the Downtown. This would still be an investment in the Downtown.

Alderman McDade addressed the DBA's value to the sustainability of the Downtown. The DBA went beyond infrastructure.

Alderman Schmidt stated that the DBA was not a frill. It performed an economic development function. It was a good investment of public funds. There was a core group which it focused on. It also supported the surrounding neighborhoods.

Alderman Anderson noted that in two (2) years he would not support a request to fund the DBA with General Fund dollars. He believed that the DBA would need \$200,000 of support.

Alderman Purcell questioned how many Downtown businesses had expanded. Ms. Kubsch stated that there were five (5). He questioned the DBA's funding level in 2007. Alderman Fruin stated \$185,000. Alderman Purcell cited the cost for the staff and office. He noted that Sarasota, FL just established a BID. He added his belief that this item would go forward. Ms. Kubsch informed the Council that she was a proponent of BIDs. A BID would assist the DBA in knowing what to work on and help the DBA show the benefit of the BID. He questioned if the City would share the responsibility for the DBA in the future.

Mayor Stockton reminded the Council that moving the DBA to a BID had been discussed in the past. Without a BID the DBA would face a sudden withdrawal of funding. Alderman Fruin encouraged the Council to look at past Council Proceedings for discussion of same. He encouraged the DBA to be more aggressive. The DBA had presented a five (5) year plan. He acknowledged today's financial pressures. The City would no longer be funding the DBA in the near future. He planned to support this year's request for DBA funding.

Alderman McDade expressed her support for the DBA to move towards a BID. The Council had aided the DBA with financial support. It needed to take a leadership role.

Alderman Sage requested an annual review. The Council and DBA needed to focus on the DBA's work plan. The Council needed to have a line of sight and perform an oversight function. Mr. Hales encouraged the Council to determine if the DBA was achieving its goals. The Council approved the payment to the DBA. He acknowledged that he had no history with the DBA. He planned to review the Downtown TIF's Development Plan. He encouraged the DBA to establish a BID sooner rather than later.

Mayor Stockton expressed his opinion that both sides needed to hold up the agreement. There needed to be a commitment to establish the BID. Currently, Downtown

TIF dollars were being used to provide business services. He encouraged the DBA to use these dollars wisely.

Alderman Hanson concurred that the BID was a high priority.

The following was presented:

SUBJECT: Payment to the Downtown Bloomington Association, (DBA) in the amount of \$195,000 for Administering Downtown Programs

RECOMMENDATION: That the Payment be approved.

BACKGROUND: The DBA currently has an agreement for funding that was approved by Council on July 14, 2008, to administer downtown programs. In 2007, the City provided \$180,000. At that time, it was agreed that funding would be reviewed annually.

The DBA received \$190,000 in funding from the City 2008. This year, (2009), the City will provide \$195,000. The original plan called for the same level of funding in 2010. The final year of the agreement calls for \$90,000 in funding for 2011. The DBA is requesting less money in 2011 because they anticipate having a Business Improvement District (BID) in place by 2010 with income from the BID in 2011. Funding for this agreement will come from the Downtown TIF district. Staff respectfully requests that Council approve the payment of \$195,000 per the existing agreement.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT:

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Tracey Covert
City Clerk

Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

Motion by Alderman Hanson, seconded by Alderman Schmidt that the payment be approved.

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

Ayes: Aldermen Sage, McDade, Hanson, Anderson, Fruin, Purcell and Schmidt.

Nays: Alderman Huette and Stearns.

Motion carried.

MAYOR'S DISCUSSION: None.

CITY MANAGER'S DISCUSSION: None.

ALDERMEN'S DISCUSSION: Alderman Fruin questioned the state's plan to raise taxes, fees, etc. He questioned who has not been taxed in the last couple of years. The taxing burden must be balanced. He cited the balance between residential and commercial property owners as an example. Mayor Stockton acknowledged tax freedom day.

Alderman Schmidt requested an update from the IT staff regarding laptop computers for Council. She questioned realistic expectations.

Alderman Stearns acknowledged the Memorial Day Parade and the program at Miller Park. She also acknowledged the veteran's service to the country. She stated her belief in government by the people and for the people.

Motion by Alderman Anderson, seconded by Alderman Schmidt, that the meeting be adjourned. Time: 11:12 p.m.

Motion carried.

**Tracey Covert
City Clerk**