

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement For Professional Services (this “Agreement”) is entered into on 01/17/2020 (the “Effective Date”), by and between the City of South Bend, acting by and through its Board of Park Commissioners (the “City”), and (Adam Raschka), with its registered office address at PO Box 573 Rossville, IN 46065 (the “Provider”) (each a “Party” and collectively the “Parties”).

For and in consideration of the mutual covenants and promises contained herein, the Parties agree as follows:

1. Services. The Provider will provide to the City the professional services (the “Services”) set forth in the Provider’s proposal attached hereto as Exhibit A (the “Scope of Work”). In the event of any conflict between the terms of this Agreement and the terms of the Scope of Work, the terms of this Agreement will prevail. The Provider will execute its obligations under this Agreement in accordance with the prevailing professional standard of care for projects of similar design and complexity.
2. Compensation. In exchange for the Provider’s satisfactory performance of the Services, and subject to the terms and conditions of this Agreement, the City will pay the Provider a total sum not to exceed (2,000) (\$) (the “Contract Amount”) in accordance with the project budget stated in the Scope of Work. The City will pay the Contract Amount in installments upon invoicing by the Provider. The City will not be required to pay any Contract Installment if the City is not satisfied with the Provider’s performance under this Agreement or any default or breach of this Agreement by the Provider exists, as the City may determine in its sole discretion. The sum of all Contract Installments will not exceed the Contract Amount, and the Provider will not incur or seek reimbursement for any expenses in excess of the Contract Amount.
3. Term; Termination. Unless earlier terminated in accordance with its terms, this Agreement will commence on the Effective Date and end upon the Provider’s satisfaction of all its obligations hereunder and the City’s final payment therefor. Notwithstanding the foregoing, effective immediately upon delivery of a written termination notice to the Provider, the City may terminate this Agreement, in whole or in part, for any reason, if the City determines that such termination is in the best interest of the City. In addition, in accordance with Ind. Code 6-1.1-18, payments are subject to appropriation by the City. If the City makes a written determination that funds are not appropriated or are otherwise unavailable to support the continuation of this Agreement, it shall be cancelled. A determination by the City that funds are not appropriated or are otherwise unavailable to support the continuation of performance shall be final and conclusive. The City will not be required to pay any Contract Installment or be otherwise liable for any cost associated with the Provider’s performance of any Services after the effective date of termination.

4. Remedies for Breach of Contract. Failure to complete the Services in accordance with this Agreement will be considered a material breach. In the event of such breach, the City may suspend all payments to the Provider and may pursue any and all remedies available at law or in equity. The Provider shall repay to the City any portion of the Contract Amount expended for matters not within the scope of the Services.

5. Point of Contact. The City employee identified in Section 10 below will serve as the City's principal point of contact for purposes of this Agreement.

6. Relationship. The Provider shall at all times be an independent contractor for the performance of the Services rather than an employee of the City, and no act or omission to act by the Provider shall in any way bind or obligate the City. This Agreement is strictly for the benefit of the Parties and not for any third party or person. This Agreement was negotiated by the Parties at arm's length and each of the parties hereto has reviewed the Agreement after the opportunity to consult with independent legal counsel. Neither party shall maintain that the language in the Agreement shall be construed against any signatory hereto. The City and the Provider hereby renounce the existence of any form of agency relationship, joint venture, or partnership between the Provider and the City and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the City and the Provider.

7. Indemnification of City. The Provider hereby agrees to defend, indemnify, and hold harmless the City, its officials, employees, and agents from any and all claims of any nature which arise from the performance by the Provider under this Agreement and from all costs and attorney fees in connection therewith, excepting for claims arising out of the negligence of the City, its officials, directors, employees, and agents. The obligations of the Provider under this section shall survive the termination of this Agreement.

8. Work Product; Ownership. The Provider will submit its work product to the City in accordance with the terms of the Scope of Work. Except as provided in Section 8(b) below, any and all work product submitted by the Provider to the City as part of the Provider's performance of the Services will become the exclusive property of the City, and the City will have the right to use and reproduce copies of the Provider's work product as the City determines in its sole discretion without compensation to the Provider except the compensation expressly provided for in this Agreement.

9. Assignment. The Provider shall not assign or subcontract the whole or any part of this Agreement or its obligations hereunder without the prior written consent of the City.

10. Notices. Any notice required or permitted to be delivered hereunder shall be deemed to be delivered, whether or not actually received, when deposited in the United States Postal Service, postage prepaid, registered or certified mail, return receipt

requested, addressed to the City or the Provider, as the case may be, at the address set forth below.

Provider:
(Adam Rashka)
(PO Box 573)

City:
City of South Bend
-----, Suite

(Rossville), (IN) (46065)
Attn:

South Bend, IN 46601
Attn:

11. Equal Opportunity; Non-Discrimination; Compliance. The Provider shall comply with all applicable laws and regulations in its hiring and employment practices and policies for any activity covered by this Agreement. The Provider shall comply with all state, federal, and municipal laws, regulations, and standards applicable to its activities pursuant to this Agreement including, but not limited to, the requirements imposed by Ind. Code 22-9-1-10 (non-discrimination), the provisions of Ind. Code 5-22-16.5 (disqualification for dealings with the government of Iran), and the provisions of Ind. Code 22-5-1.7 (requiring E-Verify for new employees and prohibiting employment of unauthorized aliens). Each of the foregoing provisions is incorporated herein as if set forth in full, and the Provider certifies that it is in compliance with each such provision and shall remain in compliance through the term of this Agreement.

12. Drug-Free Workplace. The Provider hereby agrees to make a good faith effort to provide and maintain a drug-free workplace. The Provider will give written notice to the City within ten (10) days after receiving actual notice that the Provider or an employee of the Provider within the State of Indiana has been convicted of a criminal drug violation occurring in the workplace.

13. Entire Agreement; Amendment; Applicable Law. This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understanding of any and every nature between them. This Agreement may be amended only by separate writing, signed by authorized representatives of both the Provider and the City. This Agreement will be construed and interpreted according to the laws of the State of Indiana.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement For Professional Services to be effective as of the Effective Date stated above.

CITY OF SOUTH BEND
BOARD OF PARK COMMISSIONERS

Mark Neal, President

Consuella Hopkins, Vice President

Aimee Buccellato, Member

Dan Farrell, Member

ATTEST:

Eva Ennis, Clerk

(Adam Rashka)

By: 

Printed: Adam Raschka

Position: Provider

EXHIBIT A

Scope of Work

[See attached.]

