

CITY OF NOBLESVILLE
AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Agreement is made and entered into this 13th day of August, 2024, by and between City of Noblesville, 16 South 10th Street, Noblesville, Indiana 46060 ("Owner") and CC&T Construction Co., Inc. ("Contractor"), for the project described as "2024 Community Development Block Grant – SW Quad" and more particularly detailed in Appendix A.

Owner:

City of Noblesville
16 South 10th Street
Noblesville, Indiana 46060

Owner Engineer:

City of Noblesville – Department of Engineering
16 South 10th Street, Ste 165
Noblesville, IN 46060

Project Engineer:

Andrew Rodewald, PE
Project Manager – City of Noblesville
Fax: 317-776-6322
Email: arodewald@noblesville.in.gov

Contractor:

CC&T Construction, Inc.
5051 Prospect Street
Indianapolis, IN 46203

Project:

2024 Community Development Block Grant – SW Quad

The Owner and Contractor agree as follows:

RECITALS:

- A. The Owner has caused to be prepared certain plans, specifications, and other documents (collectively, the "Contract Documents") for the Project, and the Contractor has filed a bid proposal ("Proposal") to furnish labor, tools, material, equipment and/or services, and to perform the Work called for in the Contract Documents; and
- B. The said Contract Documents accurately and fully describe the terms and conditions upon which the Contractor is willing to furnish the labor, tools, material, equipment, services, and perform the Work called for by the Contract Documents.

THE OWNER AND CONTRACTOR AGREE AS FOLLOWS:

Article 1. Contract Documents. This Agreement consists of the following Contract Documents, all of which are as fully a part of this Agreement as if set out verbatim herein or attached hereto as the Agreement between the parties hereto in all matters and the manner set forth herein and described and consist of this Agreement including any attachments, the Drawings and the Specifications identified herein, and written modifications issued after execution of this Agreement.

A. Conflicts / Order of Precedent. Contractor shall promptly call to the attention of Owner any discrepancy or conflict in the Contract Documents that affect its Work. In the event of conflict or discrepancies between and among the Contract Documents, figure dimensions shall take precedence over scale measurements, large scale details shall take precedence over small scale plans or drawings, and plans or drawings of a later date shall take precedence over those of an earlier date. Any part of the Work shown on the Drawings but not specifically mentioned in the Specifications, or vice versa, shall be considered as part of the Work as though included in both. In the event of an inconsistency or conflict between the Drawings and Specifications, or within either document not clarified by addendum, the provision of a Contract Document expressing the greater quantity, quality or scope of work, or imposing a greater obligation upon the Contractor, or affording a greater right or remedy to the Owner shall govern without regard to the party who drafted such provision. Likewise, the Work to be undertaken by Contractor shall include all incidental work necessary as customarily done for the completion of the Project even though it may not be specifically described in the Contract Documents.

B. Contractor's Review of Contract Documents. Contractor has carefully studied and compared the Contract Documents with each other and with information furnished by Owner and has reported to Owner all errors, inconsistencies, or omissions. Contractor shall have no rights against Owner for errors, inconsistencies, or omissions in the Contract Documents unless Contractor recognized such error, inconsistency or omission and reported it prior to the date of this Agreement. Contractor shall perform no construction activity knowing it involves a recognized error, inconsistency, or omission in the Contract Documents. Contractor warrants and represents to Owner that the Drawings and Specifications for the Work are suitable and adapted for said Work

and guarantees the sufficiency of said Drawings and Specifications for their intended purpose and agrees that it will perform the Work and complete the same to the satisfaction of Owner.

C. **Enumeration of Contract Documents.** An enumeration of the Contract Documents, other than Modifications, is attached in Appendix B. There are no Contract Documents other than those listed herein. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions.

Article 2. The Work. The intent of the Agreement is to provide for the construction and completion in every detail of the Work described. Contractor, shall provide all materials, labor, tools, equipment, supplies, safety equipment, transportation and supervision necessary to perform, and shall perform, the Work in a good and workmanlike manner and in accordance with the Contract Documents or reasonably inferable by Contractor as necessary to produce the results intended by the Contract Documents and generally described in Appendix C (all hereinafter called the "Work"). The Contractor shall provide all items, articles, materials and operations or methods to fully and completely construction the Work as detailed on the Contract Documents, including all labor, equipment, and incidentals necessary for full completion of the Work. All Work shall be performed in a thorough, first-class, and workmanlike manner, conforming to all applicable laws and in accordance with the Contract Documents, including all addenda.

A. **Supervision and Construction Procedures.** Contractor shall supervise and direct the Work using Contractor's best skill and attention. Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work. Contractor shall be responsible to Owner for the acts and omissions of Contractor's employees, subcontractors, material suppliers, laborers, equipment lessors and all other persons performing portions of the Work. Contractor shall be responsible for the inspection of Work performed under the Contract Documents to determine that the Work is in proper condition to receive subsequent Work.

B. **Labor and Materials.** Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

C. **Taxes.** If required, Contractor shall pay all sales, consumer, use and similar taxes for the Work provided by Contractor.

D. **Permits, Fees, and Notices.** Any applicable permits, fees, and notices are referenced in the Special Provisions under item SP 6.

E. **Survey.** Owner shall furnish all available surveys in its possession describing the physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. Such items are for informational purposes only and Owner shall not be liable for inaccuracies or omissions therein, nor

shall any inaccuracies or omissions in such items relieve Contractor of its responsibility to perform its Work in accordance with the Contract Documents.

F. **Clean-Up.** Contractor shall keep the premises and surrounding area free from the accumulation of waste materials or rubbish caused by operations under the Contract Documents. At completion of the Work, Contractor shall remove from and about the Project waste materials, rubbish, Contractor's tools, construction equipment, machinery, and surplus materials. If Contractor fails to clean up, Owner may do so, and the cost thereof shall be charged to Contractor.

G. **Subcontractors.** Before construction commences, Contractor shall furnish in writing to Owner the names of all persons or entities proposed for each principal portion of the Work and their respective Contract Prices. All subcontractors shall be state certified/qualified. Contractor shall not contract with a proposed person or entity to whom Owner has made a reasonable objection. Contractor shall not change a subcontractor, person or entity previously selected if Owner makes reasonable objection to such change.

H. **Subcontracts.** By appropriate agreement, Contractor shall require each subcontractor, to the extent of the Work to be performed by the subcontractor, to be bound to Contractor by the terms of the Contract Documents, and to assume toward Contractor all the obligations and responsibilities which Contractor, by the Contract Documents, assumes toward Owner. Each subcontract shall preserve and protect the rights of Owner under the Contract Documents with respect to the Work to be performed by the subcontractor so that subcontracting thereof will not prejudice such rights. Contractor shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound. Each subcontract for a portion of the Work is contingently assigned by Contractor to Owner, however, such assignment is effective only after termination of this Agreement by Owner for cause pursuant to Article 14 of the General Conditions and only for those subcontracts which Owner accepts by notifying the subcontractor in writing.

I. **Project Labor Relations.** Contractor along with its Subcontractors shall assure harmonious labor relations at and adjacent to the Project so as to prevent any delays, disruptions or interference to the Work. Contractor shall prevent strikes, sympathy strikes, slowdowns, work interruptions, jurisdictional disputes or other labor disputes resulting for any reason whatsoever from the acts or failure to act of the employees of Contractor or any of its subcontractors, material suppliers, or other such persons or entities. Contractor agrees that it will bind and require all of its subcontractors, material suppliers and other such persons or entities to agree to all of the provisions of this paragraph. If Contractor or any of its subcontractors, material suppliers or other such persons or entities fail to fulfill any of the covenants set forth in this paragraph, Contractor will be deemed to be in default and substantial violation of the Contract Documents.

J. **Contractor's Representations.** Contractor represents and warrants the following to Owner as a material inducement to Owner to execute this Agreement,

which representations and warranties shall survive the execution and delivery of this Agreement, any termination of this Agreement, and the final completion of the Work:

1. Contractor is able to furnish the tools, materials, supplies, equipment and labor required to complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so.
2. Contractor has examined and carefully studied the Contract Documents (including the Addenda enumerated herein) and the other related data identified in the Bidding Documents including "technical data."
3. Contractor has visited the site of the Project and is familiar with the local conditions under which the Work is to be performed and has correlated observations with the requirements of the Contract Documents.
4. Contractor is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.
5. Contractor possesses a high level of experience and expertise in the business administration, construction and superintendence of projects of the size, complexity and nature of the Project involving, among other things, the Work to be performed hereunder, and will perform the Work with the care, skill and diligence of such a contractor.
6. Contractor represents and warrants, and the Owner awards this Agreement upon the express warranty of the Contractor that has not, nor has any other member, representative, agent, or officer of the firm, company, corporation or partnership represented by the Contractor.
 - a. employed or retained any company or person, to solicit or secure this Agreement; or
 - b. entered into or offered to enter into any combination, collusion, or agreement to receive or pay and that the Contractor has not received or paid, any fee, commission, percentage, or any other consideration, contingent upon or resulting from the award of and the execution of this Agreement, excepting such consideration and subject to the terms and conditions expressed upon the face of the within Agreement.

7. Contractor has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in the Special Conditions listed in Appendix B, if any. Contractor accepts the determination set forth in the General Conditions of the extent of the "technical data" contained in such reports and drawings upon which Contractor is entitled to rely. Contractor acknowledges that such reports and drawings are not Contract Documents and may not be complete for Contractor's purposes. Contractor acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. Contractor has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents. For a breach or violation of this representation, the Owner shall have the right to cancel this Agreement without liability and to recover, at the election of the Owner, any and all monies or other consideration paid hereunder.
8. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Contractor, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing of the Work.

Article 3. Contractor's Representations related to Unauthorized Aliens.

1. Contractor represents that it is enrolled in and verified the work eligibility status of all newly hired employees of the Contractor through the E-Verify program as defined herein, however, contractor is not required to verify the work eligibility status of all newly hired employees of the Contractor through the E-Verify program if the E-Verify program no longer exists and Contractor signs an Affidavit affirming that the Contractor does not knowingly employ an unauthorized alien. See Appendix D. E-Verify program means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L.104-208), Division C, Title IV, s.403(a), as amended, operated by the United State Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603) (the "E-Verify Program").

2. Contractor and its subcontractor(s) may not knowingly employ or contract with an unauthorized alien; or retain an employee or contract with a person that the Contractor or its subcontractor subsequently learns is an unauthorized alien. If a Contractor violates this requirement, the Owner shall require in writing that the Contractor remedy the violation not later than thirty (30) days after the date the Owner notifies the Contractor of the violation. There is a rebuttable presumption that a Contractor did not knowingly employ an unauthorized alien if the Contractor verified the work eligibility of the employee through the E-Verify Program. If the Contractor fails to remedy the violation within the thirty (30) day period, the Owner shall terminate the Agreement with Contractor for breach. However, if Owner determines that terminating the Agreement would be detrimental to the public interest or public property, the Owner may allow the Agreement to remain in effect until the Owner procures a replacement contractor. If the Owner terminates the Agreement, the Contractor shall be liable to the Owner for any and all actual damages incurred, including but not limited to attorneys' fees.

3. Contractor's subcontractor(s) shall certify to Contractor in a manner consistent with federal law that the Contractor's subcontractor(s), at the time of certification does not knowingly employ or contract with an unauthorized alien; and has enrolled and is participating in the E-Verify Program.

4. Contractor shall maintain in its files a certification of each of its subcontractor(s) throughout the duration of the term of this Agreement and the term of Contractor's subcontract with its subcontractor(s).

5. Termination of the Agreement for violation of this requirement may not be considered by the Contractor or its subcontractor(s) as a breach of contract by the Owner.

Article 4. Project Engineer. If the Project has been designed by the Project Engineer, the Project Engineer is to act as the Owner's representative, assumes all duties and responsibilities, and has the rights and authority assigned to Project Engineer in the Contract Documents in connection with completion of the Work all in accordance with the Contract Documents. If the Project Engineer will not act as the Owner's representative, then the Owner's engineer will serve in this role.

Article 5. Date of Commencement and Completion. Contractor shall commence its Work no later than the date indicated in the Notice to Proceed with the Work to be provided by the Owner to Contractor, and the Work shall be performed regularly, diligently and without interruption at such a rate of progress to achieve Substantial Completion of the Project as specified in the Special Provisions. The Work shall be completed and ready for final payment in accordance the General Conditions and Special Provisions. Time limits stated in the Contract Documents are of the essence of this Agreement. By executing this Agreement, Contractor confirms that the Contract Time is a reasonable period for performing the Work. Contractor shall not knowingly, except by agreement or instruction of Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 5, of the General Conditions.

A. **Time.** Time is of the essence of the Agreement. It is not incumbent upon Owner to notify Contractor when to begin (other than the Notice to Proceed), cease or resume Work, to give early notice of the rejection of faulty Work, nor in any way to superintend so as to relieve Contractor of responsibility or of any consequence of neglect or carelessness by Contractor or its subordinates. All materials and labor shall be furnished at such time as shall be for the best interest of all trades concerned, to the end that the combined Work of all may be properly and fully completed in accordance with the progress schedule. The Work will be performed as required by Owner's Schedule, consistent with the Substantial Completion and Final Completion Dates. Owner may modify this Schedule. If the Work is delayed by Owner, the Substantial Completion Date will be extended. Contractor must request an extension of the Substantial Completion Date in writing to Owner no later than forty-eight (48) hours after the beginning of the condition causing the delay or Contractor's claim will be waived. Contractor will provide Owner with an estimate of the duration of delay. An extension of the Completion Date will be Contractor's sole remedy for any delay.

B. **Overtime.** Owner, if it deems it reasonably necessary, may direct Contractor to work overtime, in addition to any overtime required to meet the progress schedule and, if so directed, Contractor shall Work said overtime. Provided that Contractor is not in default under any of the terms or provisions of the Contract Documents, Contractor will be reimbursed for such actual additional wages paid, if any, at rates which have been approved by Owner plus taxes imposed by law on such additional wages, worker's compensation insurance and levies on such additional wages if required to be paid by Contractor. If, however, the progress of the Work or of the Project be delayed by any fault or neglect or act or failure to act of Contractor or any of its officers, agents, servants, employees or subcontractors, then Contractor shall, in addition to all of the other obligations imposed by this Agreement upon Contractor in such cases, and at its own cost and expense, work such overtime as may be necessary

to make up for all time lost and to avoid delay in the completion of the Work and of the Project. If, after written notice is given, Contractor refuses to work overtime required to make up lost time or to avoid delay in the completion of the Work and of the Project, Owner may hire others to perform the Work and deduct the cost from Contractor's Contract Price.

C. **Delay.** Should the progress of the Work or of the Project be delayed by any fault or neglect or act or failure to act of Contractor or any of its officers, agents, servants, employees or subcontractors so as to cause any additional cost, expense, liability or damage to Owner, or any damages or additional costs or expenses for which Owner may or shall become liable, Contractor shall and does hereby agree to compensate Owner for and indemnify it against all such costs, expenses, damages and liability.

D. **Submittals.** Contractor shall timely prepare, review, approve and submit to Owner all shop drawings, product data and samples required for the Work by the Contract Documents ("Submittals"). Contractor must verify all materials, field measurements and field construction criteria. Contractor must strictly comply with the requirements of the Contract Documents even if Submittals are approved by Owner.

E. **Safety.** Contractor must take all reasonable safety precautions for the Project and comply with all safety requirements and regulations as may be provided elsewhere in the Contract Documents and by applicable laws, ordinances, rules, regulations, and orders of public authorities having jurisdiction over the Project. Contractor warrants that: (a) the duty to provide a safe place for Contractor's Work for Contractor's employees, the employees of any other entity, or any other person on or about the Project site rests solely with the Contractor; (b) the duty to provide general or safety supervision and safety inspections of the Work, equipment, and procedures of the Contractor, its subcontractors, and of others as it might affect the safety of property or persons related to the performance of the Work under this Agreement rests solely with the Contractor; (c) the Contractor shall designate a person in its employ, stationed full time at the jobsite during the progress of the Work, and such person shall be authorized to take prompt action in matters relating to safety on behalf of Contractor. Such person shall be knowledgeable in matters relating to safety through either training or experience or both. Such person shall attend all safety meetings or safety inspections held at the jobsite and take appropriate action to correct unsafe work practices which come to his attention or Contractor's attention; and (d) the duty to take reasonable safety precautions with respect to the handling of hazardous substances, Project site cleanliness, and emergency procedures and to comply with necessary safety measures and with applicable laws, ordinances, rules, regulations, and orders of public authorities for the safety of persons and property, including but not limited to applicable OSHA standards, related to the performance of the Contractor's Work under this Agreement rests solely with the Contractor.

The Contractor shall indemnify, defend and save Owner harmless from any liability, loss, cost penalty, damage or expense, including attorneys' fees, damage, injury, course of action, proceeding, citation, or work stoppage arising out of or in any way connected with any alleged violation by Contractor of any

such statute, regulation, order, rule, requirement or standard and such sums shall be deducted from amounts due under this agreement.

F. **Warranty.** In addition to Contractor's obligations to correct defective or non-conforming Work provided by law or as may be provided elsewhere in the Contract Documents, Contractor warrants to the Owner that materials and equipment furnished by Contractor will be of good quality and new unless otherwise permitted by the Contract Documents and the Work will be free from defects and conform to the requirements of the Contract Documents. Contractor will immediately correct, at Contractor's expense, all defects and non-conformance in workmanship or materials which appear within three (3) years from the completion of the Project. This warranty is in addition to all special or extended warranties. Contractor must indemnify Owner against, and reimburse Owner for, all claims, damages, and expenses, including attorneys' fees, incurred by Owner as a result of Contractor's failure to abide by its warranty obligations.

Article 6. Contract Price. The Contractor shall, in strict conformity with the Contract Documents, provide and perform all Work at the Unit Prices provided in the Bid Proposal, and Owner agrees to pay Contractor for the timely and proper performance of the Work, subject to additions and deductions in accordance with the Contract Documents, in current funds based on the Unit Prices and the Bid Proposal attached as Appendix E, when multiplied by the estimated unit quantities the total estimated sum of One Hundred Thirty One Thousand Seven Hundred thirty-Seven & 00/100 dollars (\$ 131,737.00). (the "Contract Price"), subject to actual final approved quantities, which Contractor agrees to accept as full and final payment for all the Work performed, accepted and described in the Contract Documents. The Contractor understands that all Work shall be compensated on a Unit Price basis and that the Owner and Engineer cannot and do not guarantee the quantity of any item of Work to be performed under the Agreement. The Contractor agrees that each Unit Price shall be deemed full and complete compensation for all direct and indirect costs for the respective item of Work, including, without limitation, all materials, labor, supervision, equipment, transportation, warranties, repairs, replacement, overhead and profit for the item, complete and in place. In determining the Contract Price, Contractor has taken into account the level of completeness of the Contract Documents and has exercised its best skill and efforts to make (1) appropriate judgments and inferences in connection with the requirements of the Contract Documents, and (2) all inquiries to clarify the Contract Documents as necessary to calculate and establish the Contract Price. The Contract Price may be changed only by Change Order.

Article 7. Liquidated Damages. Owner and Contractor recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified herein, plus any extensions allowed in accordance with the Contract Documents. It recognizes that the delays, expense, and difficulties involved in proving the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay Owner liquidated damages for each day that expires after the time specified herein for

Substantial Completion until the Work is otherwise substantially complete as defined in the Special Provisions. After Substantial Completion, if Contractor shall neglect, refuse or fail to complete the remaining Work within the time specified herein for completion and readiness for final payment or any proper extension thereof granted by Owner, Contractor shall pay Owner liquidated damages for each day that expires after the time specified herein for completion and readiness for final payment as defined in the Special Provisions.

Article 8. Contract Payments. All payments provided herein are subject to funds as provided by Owner and the laws of the State of Indiana. Contractor shall submit Applications for Payment in accordance with Article 13 of the General Conditions. Based on Applications for Payment properly submitted to Owner by Contractor, the Applications for Payment will be processed by Owner as provided in the General Conditions.

A. Progress Payments; Retainage: Owner shall make monthly progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment, no more often than monthly during construction as provided below. Each Application for Payment shall be based on the schedule of values established in Section 2.3 of the General Conditions (and in the case of Unit Price Work based on the number of units properly completed) or, in the event there is no schedule of values, as provided in the General Conditions. Such Application for Payment shall be supported by such data substantiating Contractor's right to payment as Owner may require, such as copies of requisitions from subcontractors and material suppliers.

1. Owner reserves the right to inspect the Project and approve the progress of Work completed to the date of the Application for Payment. If requested by Owner prior to making said payment, Contractor shall submit to Owner an Affidavit and partial Waiver of Lien, and/or partial waivers from subcontractors and material suppliers, in form and content satisfactory to Owner, stipulating that all costs for labor and materials incurred in the previous month have been paid to subcontractors, material suppliers, laborers and equipment lessors. An Application for Payment shall not include requests for payment of amounts Contractor does not intend to pay to a subcontractor or material supplier.
 - a. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Owner shall determine, or Owner may withhold, in accordance with Article 13 of the General Conditions.
 - b. Progress payment will be made for ninety-five (95%) of Work completed (with the balance being held as retainage). If Work is fifty percent (50%) complete as determined by Owner, and if the character and progress of the Work has

been satisfactory to Owner, Owner, at its sole discretion and without obligation, may determine that as long as the character and progress of the Work remain satisfactory, there will be no additional retainage on account of Work completed in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to one hundred percent (100%) of the Work properly completed.

- c. Progress payment will be made for ninety percent (90%) of invoice price for materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to Owner as provided in Article 13 of the General Conditions).

B. Payment of Subcontractors. The Contractor agrees to assume and does assume full and exclusive responsibility for the payment of subcontractors in compliance with Ind. Code § 36-1-12-13. The Agreement is expressly made an obligation covered by the Contractor's Payment Bond and Performance Bond obligation. The obligation of the surety shall not in any way be affected by the bankruptcy, insolvency, or breach of Agreement of the Contractor.

1. The making of an incorrect certification by the Contractor shall be considered a substantial breach of contract on the part of the Contractor. Based on a breach of contract, the Owner may, in addition to all other remedies, withhold all payments not yet made and recover all payments previously made less that amount which has actually been paid to subcontractors by the Contractor. The obligation is hereby created on the part of the Contractor to return all such payments previously made in such case.
2. Upon receipt of a progress payment, Contractor shall pay promptly all valid bills and charges for materials, equipment, labor and other costs in connection with or arising out of the Work and will hold Owner free and harmless from and against all liens and claims of liens for such materials, equipment, labor and other costs, or any of them, filed against the Project or the site, or any part thereof, and from and against all expenses and liability in connection therewith including, but not limited to, court costs and attorneys' fees. Should any lien or claim of lien be filed of record against the Project, or should Owner receive notice of any claim or of any unpaid bill in connection with the Work, Contractor shall forthwith either pay or discharge the same and cause the same to be released of record or shall furnish Owner with appropriate indemnity in form and amount satisfactory to Owner.

C. Withholding of Payment. If any claim or lien is made or filed with or against Owner, the Project, or contract proceeds by any person claiming that Contractor

or any subcontractor or any person for whom Contractor is liable has failed to make payment for labor, services, materials, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work, or if at any time there shall be evidence of such non-payment or of any claim or lien which is chargeable to Contractor, or if Contractor or any subcontractor or other person for whom Contractor is liable causes damages to the Work, or if Contractor fails to perform or is otherwise in default under any of the terms or provisions of the Contract Documents, Owner shall have the right to retain from any payment then due or thereafter to become due an amount which it deems sufficient to (1) satisfy, discharge and/or defend against such claim or lien or any action which may be brought or judgment which may be recovered thereon, (2) make good any such non-payment, damage, failure or default, and (3) compensate Owner for and indemnify him against any and all losses, liability, damages, costs, and expenses, including attorneys' fees and disbursements which may be sustained or incurred in connection therewith. Owner shall have the right to apply and charge against Contractor so much of the amount retained as may be required for the foregoing purposes. If the amount retained is insufficient therefor, Contractor shall be liable for the difference.

1. If Owner withholds any payment, partial or final, from Contractor, Owner may, but shall not be obligated or required to, make direct or joint payment on behalf of Contractor for any part or all of such sums due and owing to said subcontractors, material suppliers, equipment lessors and/or laborers for their labor, materials or equipment furnished to the Project, not to exceed the Contract Price remaining due and owing to Contractor, and charge all such direct payments against the Contract Price; provided, however, that nothing contained in this paragraph shall create any direct liability on the part of Owner to any subcontractor, material supplier, equipment lessor or laborer, or any direct contractual relationship with Owner.

D. Substantial Completion. Upon Substantial Completion of the Work in accordance with Article 13 of the General Conditions, the Owner shall pay the Contractor an amount sufficient to increase total payments to Contractor to ninety-five percent (95%) of the Contract Price (with the balance being retainage), less such amounts as Owner shall determine, or Owner may withhold, in accordance with Article 13 of the General Conditions.

E. Final Payment. Upon final completion and acceptance of the Work in accordance with Article 13 of the General Conditions, Owner shall pay the remainder of the Contract Price as provided in said Article 13.

1. When the Contractor completes the Work in accordance with the Contract Documents and in an acceptable matter as determined by the Owner, the Contractor will prepare a final estimate for the Work performed and will furnish the Owner with a copy of the final estimate. Final payment shall not become due until Contractor submits (a) an affidavit that payrolls, bills for materials and

equipment, and other indebtedness connected with the Work for which Owner or Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents will remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to Owner, (3) a written statement that Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, and (5) if required by Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances.

2. The Owner will then certify to the Owner's duly appointed representative the balance due the Contractor and the certificate will be deemed evidence of final acceptance of the completed Agreement by the Owner. Owner shall make final payment to the Contractor within ninety-one (91) days after final acceptance and completion of the Agreement. However, final payment may not be made on any amount that is in dispute, but final payment may be made on the part of the Contract Price or those amounts not in dispute. Acceptance of final payment by Contractor shall constitute a waiver of claims by Contractor except those previously made in writing and identified by Contractor as unsettled at the time of final payment.

Article 9. Insurance and Indemnification.

- A. In addition to the requirements of Article 5 of the General Conditions, Contractor shall, prior to commencing the Work, purchase and maintain from insurance companies lawfully authorized to do business in Indiana policies of insurance acceptable to the Owner, which afford the coverages set forth below. Insurance shall be written for not less than limits of liability specified or required by law, whichever coverage is greater, and shall include coverage for Contractor's indemnification obligations contained in this Agreement. Certificates of Insurance acceptable to the Owner shall be given to the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. Each policy must be endorsed to provide that the policy will not be cancelled or allowed to expire until at least thirty (30) days' prior written notice has been given to the Owner; provided however that such policies may be cancelled with only ten (10) days' prior notice for non-payment of premium. The required coverages and limits which Contractor is required to obtain are as follows:

1. **Commercial General Liability**

Limits of Liability: \$2,000,000 General Aggregate
\$2,000,000 Products & Completed Operations.
\$1,000,000 Bodily Injury / Prop. Damage
\$1,000,000 Personal / Advertising Injury
\$1,000,000 Each Occurrence

The Commercial General Liability Policy must be endorsed to provide that the general aggregate amount applies separately to each of Contractor's separate projects. ISO Endorsement *CG2503 Per Project Endorsement* or its equivalent shall be used to satisfy this requirement.

2. **Automobile Liability**

Limits of Liability: \$1,000,000 Per Accident
Coverage Details All owned, non-owned, & hired vehicles

3. **Workers Compensation and Employer's Liability**

Coverage A (Worker's Comp.) Statutory Minimum Requirements

Coverage B

Employer's Liability: \$1,000,000 Each Accident
\$1,000,000 Disease – each employee
\$1,000,000 Disease Policy Limit

4. **Excess Liability (Umbrella Form)**

Limits of Liability: \$5,000,000 Each Occurrence

- B. All coverage provided above shall be endorsed to include the Owner as an additional insured except for the Worker's Compensation / Employer's Liability policy. ISO forms *CG 2010 07 04* and *CG 2037*, or equivalent endorsement forms must be used on the commercial general liability policy to provide additional insured status to the Owner and shall include coverage for completed operations. The policies for which the Owner is named as additional insured shall provide primary and non-contributing coverage and any valid and collectible insurance carried separately by the Owner shall be in excess of the limits provided by such policies and shall be non-contributory. To the extent commercially reasonable, all insurance requirements and limits shall apply to all of Contractor's subcontractors and sub-subcontractors and Contractor is responsible to verify those insurance requirements and limits. The commercial general liability, automobile liability, and workman's compensation policies must be endorsed to provide a waiver of subrogation in favor of Owner.

- C. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment. Information concerning reduction of coverage on account of revised limits or claims paid under the general aggregate, or both, shall be furnished by the Contractor with reasonable promptness.
- D. **Property Insurance / Builder's Risk.** Unless otherwise provided, the Contractor shall purchase and maintain, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus the value of subsequent modifications and cost of materials supplied or installed by others, comprising total value for the entire Work at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing, until final payment has been made or until no person or entity other than the Owner has an insurable interest in the property to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, subcontractors and sub-subcontractors in the Project. Property insurance shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Contractor's services and expenses required as a result of such insured loss.
- E. **Indemnification.**
1. The Contractor shall defend, indemnify and hold harmless the Owner and its board, agents and employees of any of them ("Indemnities") from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use, caused by Contractor, a subcontractor, anyone directly or indirectly

employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section. The Contractor's indemnification under this Section shall survive both final payment and the termination of this Agreement.

2. In claims against any person or entity indemnified under this section by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.
3. The Contractor shall indemnify and defend, at the Contractor's sole expense, the Indemnitees as set forth herein from and against any actions, lawsuits, proceedings, or claims resulting from claim filed or asserted against the Work, the Project, and any improvements thereon, the Contract Sum or any applicable retainage by a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. If the Contractor refuses an Indemnitee's demand for a defense and indemnification, the Contractor shall reimburse the Owner for all its costs incurred as a result of any such lien or claim including but not limited to, any judgment resulting from any actions, lawsuits or proceedings. If the Contractor disputes a claim, the Contractor shall have the right to contest such claim, but such right shall not in any way abridge, modify or nullify the Contractor's obligations to the Indemnitees.

Article 10. Termination and Suspension. The Agreement and the Work may be suspended and/or terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.

Article 11. Interest. Unless otherwise expressly provided in the Contract Documents, payments due to Contractor under the terms of the Contract Documents and unpaid shall bear no interest and Contractor shall be entitled to no interest, statutory or otherwise. If the right to interest is expressly provided in the Contract Documents, then such interest shall apply only with respect to liquidated and non-disputed payments, and shall accrue from and after the thirtieth (30th) day following Owner's receipt of a statement of account by Contractor demanding such payment and containing an express statement by Contractor of its intention to assess such interest. In the event Owner is entitled to withhold payment under the Contract Documents, or in

the event of a good faith dispute between Owner and Contractor, no interest shall accrue.

Article 12. Owner's, Contractor's and Engineer's Representations.

The Owner's Representative:

Andrew Rodewald, PE

Project Manager

City of Noblesville
16 South 10th Street
Noblesville, Indiana 46060

The Contractor's Representative is:

Tony Page
5051 Prospect Street
Indianapolis, IN 46203

Article 13 Miscellaneous.

A. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, except for its conflict of laws provisions, as well as with all municipal ordinances and code of the Owner. The parties further agree that, in the event a lawsuit is filed hereunder, the parties waive any rights to a jury trial they may have, agree to file any such lawsuit in an appropriate court in Hamilton County, Indiana only, and agree that such court is the appropriate venue for and has sole jurisdiction over the same.

B. **Terms.** Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

C. **No Assignments.** Owner and Contractor respectively bind themselves, their successors, assigns, and legal representatives to the other party hereto in respect to covenants, agreements, and obligations contained in the Contract Documents. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the prior written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under this Agreement.

D. **Severability.** Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken

provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

E. **Written Notice.** Written notice shall be deemed to have been duly served if delivered in person to the individual or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party giving notice.

F. **Rights and Remedies.** Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law. No act or failure to act by Owner or Contractor shall constitute a waiver of a right or duty afforded them under this Agreement, nor shall such action or failure to act constitute approval of or acquiescence in a thereunder.

G. **No Third-Party Beneficiaries.** The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between Owner and Subcontractor or (2) between any persons or entities, other than Owner and Contractor.

H. **Prior Agreements.** This Agreement contains all of the agreements of the parties hereto with respect to the subject matter hereof, and supersedes all prior negotiations, representations, and/or contracts, either oral or written, respective thereto. This Agreement, together with any attachments hereto or referenced herein, constitutes the entire agreement between Contractor and Owner with respect to the subject matter hereof, and supersedes all prior oral or written representations and agreements regarding same. Notwithstanding any other term or condition set forth herein, to the extent any term or condition contained in any exhibit attached to this Agreement conflicts with any term or condition contained in this Agreement, the term or condition contained in this Agreement shall govern and prevail, unless the parties hereto, or their successors in interest, expressly and in writing agree otherwise. This Agreement may only be modified by written amendment executed by both parties hereto, or their successors in interest.

I. **Owner's Property.** Any and all documentation (other than original tracings and original calculations) generated by Contractor pursuant to this Agreement shall be considered Owner's exclusive property and shall be disclosed only to the Owner and to not other person without Owner's prior express written consent. Contractor shall keep confidential all working and deliberative material pursuant to Ind. Code §5-14-3-4.

J. **Relationship.** The relationship of the parties hereto shall be as provided for in this Agreement, and Contractor, as well as its agents, employees, contractors, subcontractors, outside sources and other persons shall in no fashion be deemed to be an employee of Owner. Furthermore, Contractor shall be solely responsible for payment to or for its agents, employees, contractors, subcontractors, outside sources and other persons all statutory, contractual and other compensation, benefits and obligations due thereto, and Owner shall not be responsible for same. Rather, the Contract Price to be paid hereunder by Owner to Contractor shall, subject to the terms and conditions hereof, be the full and maximum compensation and monies required of Owner to be paid to Contractor pursuant to this Agreement.

K. Contractor and all Subcontractors are responsible to comply with Indiana Code as it pertains to public works projects. The following are notable requirements set forth in IC §5-16-13, in effect as of July 1, 2015, but are not inclusive of all requirements.

1. Contractor shall self-perform Work of at least 15 percent of total Contract Price.
2. Contractor and all Subcontractors, regardless of tier, shall maintain General Liability Insurance of at least \$1,000,000 per occurrence and \$2,000,000 in aggregate.
3. Contractor and all Subcontractors, regardless of tier, shall not pay cash to its employees for Work performed on this public works Project.
4. Contractor and all Subcontractors, regardless of tier, shall comply with federal Fair Labor Standards Act of 1938.
5. Contractor and all Subcontractors, regardless of tier, shall be in compliance with workers compensation requirements of Indiana Code §22-3-5-1 and Indiana Code §22-3-7-34 and commits worker's compensation fraud if such Contractor or Subcontractor falsely classifies an employee as an independent contractor, sole proprietor, owner, partner, officer, or member of a limited liability company.
6. Contractor and all Subcontractor, regardless of tier, shall be in compliance with unemployment compensation system requirements of Indiana Code §22-4-1 through §22-4-39-5.
7. Contractor and all Subcontractors, regardless of tier, shall be in compliance with requirements for drug testing of its employees set forth in Indiana Code §4-13-18-1 through §4-13-18-7.

L. Following provisions shall be in effect for Contracts awarded after December 31, 2016.

1. Contractor and all Subcontractors, regardless of tier, that are performing the constructing, altering, demolishing, or renovating of a public building or other structure must be qualified by the Indiana Department of Administration, and those contractors and subcontractors that are constructing, altering, or repairing highways, streets, or alleys must be qualified by INDOT.

- a. Suppliers of material are not required to be qualified by IDOA prior to doing work on public works projects. A "Supplier" is defined as "any person supplying materials, but no on site labor, to a Contractor or Subcontractor. IC §4-13.6-1-20.
 - b. Contractors and Subcontractors, regardless of tier, performing work for local governmental entities awarded under Indiana Code §36-1-12 and whose contracts are less than \$300,000 are not required to have been qualified by IDOA or INDOT.
2. For public works by local governmental entities under Ind. Code §36-1-12, Contractor and its Subcontractors shall comply with requirements for drug testing of its employees set forth in Ind. Code §4-13-18 if estimated cost of public works Contract is at least \$150,000.
 3. Contractor and all Subcontractors, regardless of tier, shall preserve its payroll and related records for three (3) years after completion of the project work and such records shall be open to inspection by the Indiana Department of Workforce Development.
 4. If Contractor or Subcontractor, regardless of tier, employs 10 or more employees, then such Contractor/Subcontractor shall provide access to a training program applicable to tasks to be performed in normal course of employee's employment. Contractor or Subcontractor may comply with this training requirement through one of following: (i) an apprenticeship program; (ii) a program offered by Ivy Tech Community College of Indiana or Vincennes University; (iii) a program established by or for Contractor Subcontractor; (iv) a program offered by an entity sponsored by U. S. Department of Labor, Bureau of Apprenticeship and Training; (v) a program that results in award of an industry recognized portable certification; (vi) a program approved by Federal Highway Administration; or (vii) a program approved by INDOT.
 5. If Contractor or first tier Subcontractor employs more than 50 journeymen, such Contractor/first tier Subcontractor shall participate in an apprenticeship or training program that meets standards established by or has been approved by any of following: U.S. Department of Labor, Bureau of Apprenticeship and Training; Indiana Department of Labor; Federal Highway Administration; or INDOT.

M. Contractor shall maintain policies of employment as follows:

1. Pursuant to the requirements of Indiana Code §22-9-1-10 and §5-16-6-1, Contractor and its Subcontractors may not discriminate against any employee or applicant for employment to be employed in the performance of such contract, with respect to his hire, tenure, terms, conditions or privileges of employment of any matter directly or indirectly related to employment because of his race, religion, color, sex, handicap, national origin or ancestry. The Contractor and Subcontractor, if any, agrees to comply with all the provisions contained in the Equal Opportunity Clause quoted in Executive Orders No. 11246 and No. 11375. In addition, the Contractor shall cause this Equal Opportunity Clause to be included in the subcontracts or purchase orders hereunder unless exempted by rules, regulations and orders of the Secretary of Labor issued pursuant to Section 204 of the executive Orders No. 11246 and No. 11375 as amended. Breach of this covenant may be regarded as a material breach of contract.

2. Contractor and Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them on their behalf, state all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, handicap, national origin or ancestry.

N. Contractor Not Suspended or Debarred. By signing this Agreement, Contractor certifies that Contractor, its principals or sub-recipients are not suspended or debarred by Federal Government, nor is known suspension or debarment procedure pending. Contractor agrees to notify the Owner in writing of suspension or debarment, or potential suspension or debarment proceeding. Failure to report suspension or debarment, or potential suspension or debarment will be sufficient cause to terminate this Agreement and report such termination to Federal authorities.

O. Drug Testing Program. The laws of the State of Indiana (IC §36-1-12-24 as amended) contain certain special provisions regarding drug testing of employees of public works Contractors and Subcontractors. As determined by the Owner, projects estimated to be in excess of \$150,000.00 will be governed by these provisions. These provisions require, among other things, that the Contractor submit with the bid a written plan for a program to test the Contractor's employees for drugs. In addition, each successful Bidder will be required to comply with all applicable provisions of the statute referred to above with respect to each Bidder's Subcontractors, as the term "Subcontractor" is defined in the statute referred to above.

P. Fire Arms. There shall be no firearms allowed on the Project Site or anywhere within the Project property. Exceptions would be made for law enforcement officials, security forces required elsewhere by these Specifications, or per other requirements or allowances specifically made by the Owner.

Q. Nondiscrimination. The Contractor shall perform, observe and comply with all applicable State, Municipal and Federal laws, rules, regulations and Executive Orders pertaining to nondiscrimination against employees or applicants for employment because of race, color, religion, sex, handicap, disability, national origin or ancestry. During the performance of this Contract, the Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 and the regulations promulgated thereunder. When required by such laws, rules, regulations and Executive Orders, the Contractor shall include nondiscrimination provisions in all contracts and purchase orders.

The Contractor agrees that:

1. In the hiring of employees for the performance of work under this Contract or any subcontract hereunder, neither the Contractor, any Subcontractor, nor any person acting on behalf of the Contractor or Subcontractor, shall, by reason of race, religion, color, sex, national origin or ancestry or handicap, discriminate against any citizen of the State of Indiana who is qualified and available to perform the work to which the employment relates;
2. Neither the Contractor, Subcontractor, nor any person on their behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Contract on account of race, religion, color, sex, national origin or ancestry, or handicap;
3. There may be deducted from the amount payable to the Contractor by the Owner, under this Contract, a penalty of five dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of these nondiscrimination provisions; and
4. This Contract may be canceled or terminated by the Owner, and all money due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of these nondiscrimination provisions.

R. American Steel. To the extent that the Contractor's performance of the Work entails the use of purchase of steel products (as defined in I.C. §5-16-8-1, as amended from time to time), then Contractor warrants that only steel products made in the United States shall be used or supplied in the performance of the Contract and in the performance of any subcontracts.

S. Open Competition. Where in these Specifications one or more certain materials, trade names, or articles of certain manufacture are mentioned, it

is done for the express purpose of establishing a basis of durability and efficiency and not for the purpose of limiting competition. Other names or materials can be used, if in the opinion of the Architect they are equal in durability and efficiency to those mentioned and of a design in harmony within the work as outlined and the Architect gives written approval of a substitution before the articles and material are ordered by the Contractor

Article 14 Dispute Resolution.

A. Mediation. The parties shall endeavor to resolve their claims by mediation which, if the parties mutually agree, shall be administered by the Indiana Rules for Alternative Dispute Resolution in effect on the date of the Agreement. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Noblesville, Indiana, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

B. Litigation. In the event of any litigation between the Owner and Contractor that arises out of or relates to this Agreement or the Project, the Owner in such litigation shall be entitled to recover its attorneys' fees incurred in the litigation and includes attorneys' fees incurred in the collection or enforcement of any judgment. The parties agree that the exclusive and sole venue for any claim arising out of or relating to the Contract shall be any court of competent jurisdiction located in Hamilton County, Indiana.

IN WITNESS WHEREOF, Owner and Contractor have signed five (5) copies of this Agreement. One counterpart each has been delivered to Owner, Contractor and Engineer. All portions of the Contract Documents have been signed or identified by Owner and Contractor or identified by Engineer on their behalf.

IN WITNESS WHEREOF, the parties hereto set their hand on the dates below written:

OWNER:
BOARD OF PUBLIC WORKS AND SAFETY
CITY OF NOBLESVILLE

CONTRACTOR:
CC&T Construction Co., Inc.


JACK MARTIN, PRESIDENT

BY: 


JOHN DITSLEAR, MEMBER

Printed Name: Tony Page


LAURIE DYER, MEMBER

Title: President


ROBERT J. ELMER, MEMBER

Date: August 05/2024


RICK L. TAYLOR, MEMBER

ATTEST:


EVELYN L. LEES, CLERK
CITY OF NOBLESVILLE, INDIANA

Date: 8-13-24

CITY OF NOBLESVILLE, INDIANA

APPENDIX A

Project Description

PROJECT: 2024 Community Development Block Grant – SW Quad

WORK: Sidewalk, Ramps, Curb

DESIGN BY: Andrew Rodewald, PE

CITY OF NOBLESVILLE, INDIANA

Appendix B

Enumeration of Contract Documents

1. This Agreement (pages A-1 to A-25, inclusive).
2. Addenda issued prior to receipt of bid proposals, whether or not receipt thereof has been acknowledged by Contractor in its Proposal numbers P1 to P2, inclusive.
3. Drawings, consisting of a cover sheet and sheets numbered 1 through 4, inclusive.
4. Specifications, consisting of all sections listed in Table of Contents thereof with the general title:
 - a. CIB

 - b. _____

 - c. _____

5. The Additional Requirements;
6. Contractor's Itemized Proposal and Declarations (pages B-1 to B-___, inclusive);
7. General Conditions (pages G-1 to G-67, inclusive);
8. Special Conditions (w/ Underground Facilities); and
9. All other documents defined as Contract Documents in any of the above listed documents.

CITY OF NOBLESVILLE, INDIANA
APPENDIX C
Scope of Work and Locations (the “Work”)

Description of Work: Sidewalk, Ramps, Curb

APPENDIX D

CITY OF NOBLESVILLE
E-VERIFY AFFIDAVIT

Pursuant to Ind. Code 22-5-1.7-11, the Contractor entering into the Agreement with the City of Noblesville is required to enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify Program. The Contractor is not required to verify the work eligibility status of all its newly hired employees through the E-Verify Program if the E-Verify Program no longer exists.

The undersigned, on behalf of the Contractor, being first duly sworn, deposes and states that the Contractor does not knowingly employ and unauthorized alien. The undersigned further affirms that, prior to entering into its Agreement with the City of Noblesville, the undersigned Contractor will enroll in and agrees to verify the work eligibility status of all its newly hired employees through the E-Verify Program.

(Contractor): CC&T Construction Co., Inc

By (Written Signature) [Signature]

(Printed Name): Tony Page

(Title): President

Important – Notary Signature and Seal Required in the Space Below

STATE OF Indiana

SS: _____

COUNTY OF Marion



Subscribed and sworn to before me this 23 day of July, 2024

My commission expires: 04/30/2027 (Signed): [Signature]

Residing in Marion County, State Indiana

CITY OF NOBLESVILLE, INDIANA
APPENDIX E
Contractor's Itemized Bid Proposal

**2024 Community Development Block Grant – SW Quad
Contract: EN-385-02**

ITEMIZED PROPOSAL

| Item No. | Description | BASE BID | | Unit Price | Extended Price |
|----------|---|----------|------|------------|----------------|
| | | Quantity | Unit | | |
| 1.0 | Maintenance of Traffic | 1 | LSUM | 6,000.00 | 6,000.00 |
| 2.0 | Mobilization/Demobilization | 1 | LSUM | 6,000.00 | 6,000.00 |
| 3.0 | Sidewalk, Concrete, Removal | 489 | SYS | 23.00 | 10,787.00 |
| 4.0 | Common Excavation | 19 | CYS | 70.00 | 1,330.00 |
| 5.0 | Curb, Concrete, Removal | 595 | LFT | 24.00 | 14,280.00 |
| 6.0 | Curb, Concrete, Construction | 595 | LFT | 38.00 | 22,610.00 |
| 7.0 | Curb Ramp, Concrete, Construction | 120 | SYS | 255.00 | 30,600.00 |
| 8.0 | Truncated Domes, Cast Iron, Asphaltic Dip | 160 | SFT | 65.00 | 10,400.00 |
| 9.0 | Sidewalk, Concrete, 4", Construction | 250 | SYS | 60.00 | 15,000.00 |
| 10.0 | Drive, Concrete, Removal | 67 | SYS | 30.00 | 2,010.00 |
| 11.0 | Drive, Concrete, 8", Construction | 67 | SYS | 160.00 | 10,720.00 |
| 12.0 | Irrigation & Pet Containment Repair, Budget | 2,000 | DOL | 2,000.00 | 2,000.00 |

Base Bid: Total Estimated Construction Costs = 131,737.00 (Figures)

One hundred Thirty-one thousand Seven hundred thirty seven 00/00 (Words)

These prices are the sum of the unit prices multiplied by the quantity for each item. Whereas any mathematical computation error exists causing Total Estimated Construction Costs to be stated incorrectly, the Undersigned acknowledges that the unit prices, as stated above, shall govern.

The above stated items covers all work, labor, equipment, and manpower to complete project. Prospective bidder accepts and agrees to completed the project in accordance to Contract Information Book and Construction Plans.

Respectfully submitted,

CC&T Construction Co., Inc

Contractor
(Individual) (Partnership) or (Corporation)

By: (SIGNED)

By: (TYPED) Tony Page

Title: President

Address: 5051 Prospect Street

Indianapolis, IN 46203

Date: July 23, 2024

The above Bidder acknowledges receipt of Addenda Nos. 1

Note: The legal status of the Bidder, whether as an individual, partnership, or corporation must be indicated as above, and all pertinent information as required by the Specifications must be furnished.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

Table with PRODUCER (Huntington Insurance, Inc.), CONTACT NAME (Amanda Luster), PHONE (317-269-4833), FAX (877-205-2538), E-MAIL ADDRESS (Amanda.Luster@huntington.com), INSURER(S) AFFORDING COVERAGE (Selective Insurance Co of SC, Bridgefield Casualty Insurance Company), and NAIC # (19259, 10335).

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Main table listing coverages: COMMERCIAL GENERAL LIABILITY (S2275514), AUTOMOBILE LIABILITY (S2275514), UMBRELLA LIAB (S2275514), WORKERS COMPENSATION AND EMPLOYERS' LIABILITY (19652828), and Install Floater/Leased/Rented Equipment (S2275514).

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Regarding Project: 2024 Community Development Block Grant SW Quad. City of Noblesville Additional insured per the attached forms CG7300 01/19.

CERTIFICATE HOLDER CANCELLATION

Table with CERTIFICATE HOLDER (City of Noblesville, 16 South 10th St, Noblesville, IN 46060) and CANCELLATION (SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE signature).

ElitePac® General Liability Extension Endorsement

COMMERCIAL GENERAL LIABILITY
CG 73 00 01 19

SUMMARY OF COVERAGES (including index)

This is a summary of the various additional coverages and coverage modifications provided by this endorsement. No coverage is provided by this summary. Refer to the actual endorsement (Pages 3-through-9) for changes affecting your insurance protection.

| DESCRIPTION | PAGE FOUND |
|--|------------|
| Additional Insureds - Primary and Non-Contributory Provision | Page 8 |
| Blanket Additional Insureds - As Required By Contract | Page 5 |
| <ul style="list-style-type: none">• Owners, Lessees or Contractors (includes Architects, Engineers or Surveyors)• Lessors of Leased Equipment• Managers or Lessors of Premises• Mortgagees, Assignees and Receivers• Any Other person or organization other than a joint venture• Grantors of Permits | |
| Broad Form Vendors Coverage | Page 7 |
| Damage To Premises Rented To You (Including Fire, Lightning or Explosion) | Page 3 |
| Electronic Data Liability (\$100,000) | Page 4 |
| Employee Definition Amended | Page 9 |
| Employees As Insureds Modified | Page 5 |
| Employer's Liability Exclusion Amended (Not applicable in New York) | Page 3 |
| Incidental Malpractice Exclusion modified | Page 7 |
| Knowledge of Occurrence, Claim, Suit or Loss | Page 7 |
| Liberalization Clause | Page 8 |
| Mental Anguish Amendment (Not applicable to New York) | Page 9 |
| Newly Formed or Acquired Organizations | Page 5 |
| Non-Owned Aircraft | Page 3 |
| Non-Owned Watercraft (under 60 feet) | Page 3 |
| Not-for-profit Members - as additional insureds | Page 5 |
| Personal And Advertising Injury - Discrimination Amendment (Not applicable in New York) | Page 8 |
| Products Amendment (Medical Payments) | Page 4 |
| Supplementary Payments Amended - Bail Bonds (\$5,000) and Loss of Earnings (\$1,000) | Page 4 |
| Two or More Coverage Parts or Policies Issued By Us | Page 8 |
| Unintentional Failure to Disclose Hazards | Page 8 |
| Waiver of Transfer of Rights of Recovery (subrogation) | Page 8 |
| When Two or More Coverage Parts of this Policy Apply to a Loss | Page 3 |

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ElitePac®
General Liability Extension Endorsement

COMMERCIAL GENERAL LIABILITY
CG 73 00 01 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies the insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The **SECTIONS** of the Commercial General Liability Coverage Form identified in this endorsement will be amended as shown below. However, if **(a) two or more Coverage Parts of this policy, or (b) two or more forms or endorsements within the same Coverage Part apply to a loss**, coverage provision(s) with the broadest language will apply, unless specifically stated otherwise within the particular amendment covering that loss.

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

COVERAGES - Amendments

SECTION I - COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

EXCLUSIONS

Employer's Liability Amendment

(This provision is not applicable in the State of New York).

The following is added to Exclusion **e. Employer's Liability** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions:**

This exclusion also does not apply to any "temporary worker".

Non-Owned Aircraft, Auto or Watercraft

A. Paragraph **(2)** of Exclusion **g. Aircraft, Auto Or Watercraft** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is deleted in its entirety and replaced with the following:

(2) A watercraft you do not own that is:

- (a)** Less than 26 feet long and not being used to carry persons or property for a charge; or
- (b)** At least 26 feet, but less than 60 feet long, and not being used to carry persons or property for a charge. Any person is an insured who uses or is responsible for the use of such watercraft with your expressed or implied consent. However, if the insured has any other valid and collectible insurance for "bodily injury" or "property damage" that would be covered under this provision, or on any other basis, this coverage is then excess, and subject to Condition **4. Other Insurance, b. Excess Insurance** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS.**

B. The following is added to Exclusion **g. Aircraft, Auto Or Watercraft** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions:**

This exclusion does not apply to:

- (6)** Any aircraft, not owned or operated by any insured, which is hired, chartered or loaned with a paid crew. However, if the insured has any other valid and collectible insurance for "bodily injury" or "property damage" that would be covered under this provision, or on any other basis, this coverage is then excess, and subject to Condition **4. Other Insurance, b. Excess Insurance** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS.**

Damage To Premises Rented to You

A. The last paragraph of Paragraph **2. Exclusions** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE** is deleted in its entirety and replaced with the following:

Exclusions **c. through n.** do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with the permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III - LIMITS OF INSURANCE.**

B. Paragraph 6. under **SECTION III - LIMITS OF INSURANCE** is deleted in its entirety and replaced with the following:

6. Subject to Paragraph 5. above, the most we will pay under **COVERAGE A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage caused by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner, for all such damage caused by fire, lightning or explosion proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of the three, is the amount shown in the Declarations for the Damage To Premises Rented To You Limit.

C. Paragraph a. of Definition 9. "Insured contract" under **SECTION V - DEFINITIONS** is deleted in its entirety and replaced with the following:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with the permission of the owner is not an "insured contract";

Electronic Data Liability

A. Exclusion p. **Access or Disclosure Of Confidential Or Personal Information And Data-related Liability** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is deleted in its entirety and replaced by the following:

p. **Access or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data" that does not result from physical injury to tangible property.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

B. The following paragraph is added to **SECTION III - LIMITS OF INSURANCE**:

Subject to 5. above, the most we will pay under **COVERAGE A** for "property damage" because of all loss of "electronic data" arising out of any one "occurrence" is a sub-limit of \$100,000.

SECTION I - COVERAGE C MEDICAL PAYMENTS EXCLUSIONS

Any Insured Amendment

Exclusion a. **Any Insured** under **COVERAGE C MEDICAL PAYMENTS, 2. Exclusions** is deleted in its entirety and replaced with the following:

a. **Any Insured**

To any insured.

This exclusion does not apply to:

- (1) "Not-for-profit members";
- (2) "Golfing facility" members who are not paid a fee, salary, or other compensation; or
- (3) "Volunteer workers".

This exclusion exception does not apply if **COVERAGE C MEDICAL PAYMENTS** is excluded by another endorsement to this Coverage Part.

Product Amendment

Exclusion f. **Products-Completed Operations Hazard** under **COVERAGE C MEDICAL PAYMENTS, 2. Exclusions** is deleted in its entirety and replaced with the following:

f. **Products-Completed Operations Hazard**

Included within the "products-completed operations hazard".

This exclusion does not apply to "your products" sold for use or consumption on your premises, while such products are still on your premises.

This exclusion exception, does not apply if **COVERAGE C MEDICAL PAYMENTS** is excluded by another endorsement to this Coverage Part.

SECTION I - SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

Expenses For Bail Bonds And Loss Of Earnings

A. Subparagraph 1.b. under **SUPPLEMENTARY PAYMENTS - COVERAGES A AND B** is deleted in its entirety and replaced with the following:

b. Up to \$5,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

B. Subparagraph 1.d. under **SUPPLEMENTARY PAYMENTS - COVERAGES A AND B** is deleted in its entirety and replaced with the following:

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1,000 a day because of time off from work.

SECTION II - WHO IS AN INSURED - Amendments

Not-for-Profit Organization Members

The following paragraph is added to **SECTION II - WHO IS AN INSURED**:

If you are an organization other than a partnership, joint venture, or a limited liability company, and you are a not-for-profit organization, the following are included as additional insureds:

1. Your officials;
2. Your trustees;
3. Your members;
4. Your board members;
5. Your commission members;
6. Your agency members;
7. Your insurance managers;
8. Your elective or appointed officers; and
9. Your "not-for-profit members".

However only with respect to their liability for your activities or activities they perform on your behalf.

Employees As Insureds Modified

- A. Subparagraph 2.a.(1)(a) under **SECTION II - WHO IS AN INSURED** does not apply to "bodily injury" to a "temporary worker" caused by a co-"employee" who is not a "temporary worker".
- B. Subparagraph 2.a.(2) under **SECTION II - WHO IS AN INSURED** does not apply to "property damage" to the property of a "temporary worker" or "volunteer worker" caused by a co-"employee" who is not a "temporary worker" or "volunteer worker".
- C. Subparagraph 2.a.(1)(d) under **SECTION II - WHO IS AN INSURED** does not apply to "bodily injury" caused by cardio-pulmonary resuscitation or first aid services administered by a co-"employee".

With respect to this provision only, Subparagraph (1) of Exclusion 2. e. **Employer's Liability** under **SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** does not apply.

Newly Formed Or Acquired Organizations

- A. Subparagraph 3.a. under **SECTION II - WHO IS AN INSURED** is deleted in its entirety and replaced with the following:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier. However, **COVERAGE A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization.

- B. The following paragraph is added to **SECTION II - WHO IS AN INSURED**, Paragraph 3:

If you are engaged in the business of construction of dwellings three stories or less in height, or other buildings three stories or less in height and less than 25,000 square feet in area, you will also be an insured with respect to "your work" only, for the period of time described above, for your liability arising out of the conduct of any partnership or joint venture of which you are or were a member, even if that partnership or joint venture is not shown as a Named Insured. However, this provision only applies if you maintain or maintained an interest of at least fifty percent in that partnership or joint venture for the period of that partnership or joint venture.

This provision does not apply to any partnership or joint venture that has been dissolved or otherwise ceased to function for more than thirty-six months.

With respect to the insurance provided by this provision, **Newly Formed or Acquired Organizations**, the following is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY**, Paragraph 4. **Other Insurance**, Subparagraph b. **Excess Insurance**:

The insurance provided by this provision, **Newly Formed or Acquired Organizations**, is excess over any other insurance available to the insured, whether primary, excess, contingent or on any other basis.

(All other provisions of this section remain unchanged)

Blanket Additional Insureds - As Required By Contract

Subject to the **Primary and Non-Contributory** provision set forth in this endorsement, **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured:

A. Owners, Lessees or Contractors/Architects, Engineers and Surveyors

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in a written contract, written agreement or written permit that such person or organization be added as an additional insured on your commercial general liability policy; and

2. Any other person or organization, including any architects, engineers or surveyors not engaged by you, whom you are required to add as an additional insured under your policy in the contract or agreement in Paragraph 1. above:

Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts of omissions of those acting on your behalf;

in the performance of your ongoing operations performed for the additional insured in Paragraph 1., above.

However, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services by or for you, including:

- a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
- b. Supervisory, inspection, architectural or engineering activities.

Professional services do not include services within construction means, methods, techniques, sequences and procedures employed by you in connection with your operations in your capacity as a construction contractor.

A person or organization's status as an additional insured under this endorsement ends when your operations for the person or organization described in Paragraph 1. above are completed.

B. Other Additional Insureds

Any of the following persons or organizations with whom you have agreed in a written contract, written agreement or written permit that such persons or organizations be added as an additional insured on your commercial general liability policy:

1. Lessors of Leased Equipment

Any person or organization from whom you lease equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

2. Managers or Lessors of Premises

Any person or organization from whom you lease premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you.

This insurance does not apply to any "occurrence" which takes place after you cease to be a tenant of that premises.

3. Mortgagees, Assignees or Receivers

Any person or organization with respect to their liability as mortgagee, assignee or receiver and arising out of the ownership, maintenance or use of your premises.

This insurance does not apply to any "occurrence" which takes place after the mortgage is satisfied, or the assignment or receivership ends.

4. Any Person or Organization Other Than A Joint Venture

Any person or organization (other than a joint venture of which you are a member), but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts of omissions of those acting on your behalf in the performance of your ongoing operations or in connection with property owned by you.

5. State or Governmental Agency or Political Subdivision - Permits or Authorizations

Any state or governmental agency or subdivision or political subdivision, but only with respect to:

- a. Operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization; or
- b. The following hazards for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization in connection with premises you own, rent or control and to which this insurance applies:

- (1) The existence, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures;
- (2) The construction, erection or removal of elevators; or
- (3) The ownership, maintenance or use of any elevators covered by this insurance.

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" arising out of operations performed for the federal government, state or municipality; or
- (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

With respect to Paragraphs 2. through 4., this insurance does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

The provisions of this coverage extension do not apply unless the written contract or written agreement has been signed by the Named Insured or written permit issued prior to the "bodily injury" or "property damage" or "personal and advertising injury".

Broad Form Vendors Coverage

Subject to the **Primary and Non-Contributory** provision set forth in this endorsement, **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured any person or organization (referred to below as vendor) for whom you have agreed in a written contract or written agreement to provide coverage as an additional insured under your policy. Such person or organization is an additional insured only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business. However, the insurance afforded the vendor does not apply to:

- a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement; however this exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- b. Any express warranty unauthorized by you;

- c. Any physical or chemical change in the product made intentionally by the vendor;
- d. Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business in connection with the sale of the product; or
- f. Products which, after distribution or sale by you, have been labeled or re-labeled or used as a container, part of ingredient of any other thing or substance by or for the vendor; however this insurance does not apply to any insured person or organization, from who you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

The provisions of this coverage extension do not apply unless the written contract or written agreement has been signed by the Named Insured prior to the "bodily injury" or "property damage".

Incidental Malpractice

Subparagraph 2.a.(1)(d) under **SECTION II - WHO IS AN INSURED** is deleted in its entirety and replaced with the following:

- (d) Arising out of his or her providing or failing to provide professional health care services.

This does not apply to nurses, emergency medical technicians or paramedics if you are not in the business or occupation of providing any such professional services.

This also does not apply to "bodily injury" caused by cardio-pulmonary resuscitation or first aid services administered by a co-"employee".

This provision does not apply if you are a Social Service or Senior Living risk.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS - Amendments

Knowledge Of Occurrence, Claim, Suit Or Loss

The following is added to Paragraph 2. **Duties in the Event of Occurrence, Offense, Claim or Suit** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**:

The requirements under this paragraph do not apply until after the "occurrence" or offense is known to:

1. You, if you are an individual;
2. A partner, if you are a partnership;

3. An "executive officer" or insurance manager, if you are a corporation;
4. Your members, managers or insurance manager, if you are a limited liability company; or
5. Your elected or appointed officials, officers, members, trustees, board members, commission members, agency members, or your administrator or your insurance manager if you are an organization other than a partnership, joint venture, or limited liability company.

Primary and Non-Contributory Provision

The following is added to Paragraph 4. **Other Insurance, b. Excess Insurance** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

This insurance is primary to and we will not seek contribution from any other insurance available to an additional insured under this policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed in a written contract, written agreement or written permit that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

Unintentional Failure To Disclose Hazards

The following is added to Paragraph 6. **Representations** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

However, if you should unintentionally fail to disclose any existing hazards in your representations to us at the inception date of the policy, or during the policy period in connection with any additional hazards, we shall not deny coverage under this Coverage Part based upon such failure to disclose hazards.

Waiver Of Transfer Of Rights Of Recovery

The following is added to Paragraph 8. **Transfer of Rights Of Recovery Against Others To Us** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

We will waive any right of recovery we may have against a person or organization because of payments we make for "bodily injury" or "property damage" arising out of your ongoing operations or "your work" done under a written contract or written agreement and included in the "products-completed operations hazard", if:

1. You have agreed to waive any right of recovery against that person or organization in a written contract or written agreement;
2. Such person or organization is an additional insured on your policy; or

3. You have assumed the liability of that person or organization in that same contract, and it is an "insured contract".

The section above only applies to that person or organization identified above, and only if the "bodily injury" or "property damage" occurs subsequent to the execution of the written contract or written agreement.

Liberalization

The following condition is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

If we revise this Coverage Part to provide more coverage without additional premium charge, subject to our filed company rules, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

Two or More Coverage Parts or Policies Issued By Us

(This provision is not Applicable in the state of New York or Wisconsin).

The following condition is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

It is our intention that the various coverage parts or policies issued to you by us, or any company affiliated with us, do not provide any duplication or overlap of coverage. We have exercised diligence to draft our coverage parts and policies to reflect this intention. However, if the facts and circumstances that will respond to any claim or "suit" give rise to actual or claimed duplication or overlap of coverage between the various coverage parts or policies issued to you by us or any company affiliated with us, the limit of insurance under all such coverage parts or policies combined shall not exceed the highest applicable limit under this coverage, or any one of the other coverage forms or policies.

This condition does not apply to any Excess or Umbrella policy issued by us specifically to apply as excess insurance over this coverage part or policy to which this coverage part is attached.

SECTION V - DEFINITIONS

Discrimination

(This provision does not apply in New York).

- A. The following is added to Definition 14. "Personal and advertising injury":

"Personal and advertising injury" also means "discrimination" that results in injury to the feelings or reputation of a natural person, however only if such "discrimination" or humiliation is:

1. Not done by or at the direction of:
 - a. The insured; or

b. Anyone considered an insured under **SECTION II - WHO IS AN INSURED;**

2. Not done intentionally to cause harm to another person.
3. Not directly or indirectly related to the employment, prospective employment or termination of employment of any person or persons by any insured.
4. Not arising out of any "advertisement" by the insured.

B. The following definition is added to **SECTION V - DEFINITIONS:**

"Discrimination" means:

- a. Any act or conduct that would be considered discrimination under any applicable federal, state, or local statute, ordinance or law;
- b. Any act or conduct that results in disparate treatment of, or has disparate impact on, a person, because of that person's race, religion, gender, sexual orientation, age, disability or physical impairment; or
- c. Any act or conduct characterized or interpreted as discrimination by a person based on that person's race, religion, gender, sexual orientation, age, disability or physical impairment.

It does not include acts or conduct characterized or interpreted as sexual intimidation or sexual harassment, or intimidation or harassment based on a person's gender.

Electronic Data

The following definition is added to **SECTION V - DEFINITIONS:**

"Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cell, data processing devices or any other media which are used with electronically controlled equipment. For the purpose of the Electronic Data Liability coverage provided by this endorsement, Definition 17. "Property damage" is deleted in its entirety and replaced by the following:

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

- b. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate "electronic data", resulting from physical injury to tangible property. All such loss of "electronic data" shall be deemed to occur at the time of the "occurrence" that caused it.

For the purpose of the Electronic Data Liability coverage provided by this endorsement, "electronic data" is not tangible property.

Employee Amendment

Definition 5. "Employee" under **SECTION V - DEFINITIONS** is deleted in its entirety and replaced by the following:

5. "Employee" includes a "leased worker", or a "temporary worker". If you are a School, "Employee" also includes a student teacher.

Golfing Facility

The following definition is added to **SECTION V - DEFINITIONS:**

"Golfing facility" means a golf course, golf club, driving range, or miniature golf course.

Mental Anguish Amendment

(This provision does not apply in New York).

Definition 3. "Bodily injury" under **SECTION V - DEFINITIONS** is deleted in its entirety and replaced with the following:

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time. This includes mental anguish resulting from any bodily injury, sickness or disease sustained by a person. (In New York, mental anguish has been determined to be "bodily injury").

Not-for-profit Member

The following definition is added to **SECTION V - DEFINITIONS:**

"Not-for-profit member" means a person who is a member of a not-for-profit organization, including clubs and churches, who receives no financial or other compensation.

CERTIFICATE HOLDER MAILING ADDRESS:

City of Noblesville
16 South 10th St
Noblesville, IN 46060

If you are receiving this certificate thru the USPS and would prefer to receive future certificates electronically, please submit your request including email address or fax number to Huntington Insurance, Inc.:

Email: ComInsurance@Huntington.com
Fax: 877-236-2261

Please Reference: CC&T Construction, Inc.

Funding Verification/Encumbrance Request Form

Date to be submitted to BoW / Park Board: 8/13/24 (put N/A if not submitting to BoW/Park Board)

Vendor name: CC&T Construction Co., Inc.

Vendor Address: 531 5051 Prospect Street, Indianapolis, IN 46203

Brief description of purchase: 2024 Community Development Block Grant - SW Quad (EN-385-02)

Source of Funding:

- ~~Current Year Operational Budget~~
- Subsequent Year Operational Budget ¹
- Loan or debt proceeds
- Non-Appropriated Fund
- Funding not yet finalized (attach explanation) ²:

| | |
|--------------------------------|-----------------|
| Fund # | <u>250</u> |
| Department # | <u>026</u> |
| Project # (NA if no project #) | <u>026.2498</u> |

| | Expense Object # | Amount |
|----|------------------|---------------------|
| #1 | <u>422.100</u> | <u>\$ 21,010.76</u> |
| #2 | | |
| #3 | | |
| #4 | | |
| #5 | | |

1) Note: This option may only be selected AFTER the adoption of the subsequent year budget. OFA will create a PO after the start of the next year. If contract details change in between form submission and the start of the year, contact OFA Staff.

2) This option may only be selected in unusual circumstances. An additional FVF will need to be submitted to OFA once funding source has been determined. OFA will not create a PO until this follow-up form has been submitted.

Are you requesting that a Purchase Order (PO) be created for this expenditure?

- Yes Select for all purchases/contracts that will not be paid immediately
- No Select ONLY if department plans to initiate payment immediately

The Department certifies that sufficient appropriation authority exists in the stated fund and expense series to obligate the expense for future payment.

Department Director

[Signature]
(Signature)

ANSON KRUPSKI 8/6/24
(Printed Name) (Date)

Please email completed form to ofo@noble.org in.u.

FOR OFFICE OF FINANCE AND ACCOUNTING USE ONLY

| | |
|--|------------------------------------|
| OFA Action Taken | |
| <input type="checkbox"/> Purchase Order Created | PO # (if applicable) <u>240263</u> |
| <input checked="" type="checkbox"/> Reviewed Availability of funds (Contract/Purchase of over \$50k or paid with debt proceeds only) | |
| OFA Signature <u>Caitlin Moss</u> | |
| <input type="checkbox"/> No Action Taken (Department should still include this form in purchase/contract approval submission) | |
| Comments: _____ | |
| Initials: <u>HT</u> | Date: <u>8/7/24</u> |

**PURCHASE ORDER
CITY OF NOBLESVILLE
16 SOUTH 10TH STREET STE 270**

**INDIANA RETAIL TAX EXEMPT
CERTIFICATE NO. 0031216070010**

**FEDERAL EXCISE TAX EXEMPT
356001141**

**NOBLESVILLE IN 46060
PHONE: 317-776-6328
FAX: 317-776-6369**

PURCHASE ORDER NO. 240263

**THIS NUMBER MUST APPEAR ON INVOICES, A/P
VOUCHER, DELIVERY MEMO, PACKING SLIPS,
SHIPPING LABELS AND ANY CORRESPONDENCE.**

SHIP TO:

TO

**VENDOR # 531
C C & T CONSTRUCTION INC
5051 PROSPECT STREET
INDIANAPOLIS IN 46203**

ATTN:

| | | |
|---------------------------|----------------------------------|--------------------------|
| DATE 08/07/2024 | DEPARTMENT ENGINEERING | SHIP TO ARRIVE BY |
|---------------------------|----------------------------------|--------------------------|

| APPROPRIATION NUMBER | QUANTITY | UNIT | DESCRIPTION | PROJECT # | UNIT PRICE | AMOUNT |
|----------------------|----------|------|----------------------------------|-----------|------------|----------|
| 250026422.100 | 1.0 | | 2024 COMMUNITY DEVELOPMENT BLOCK | 026.2498 | 21010.76 | 21010.76 |

ADDL DESC:EN-385-02

| | | |
|----------|--------------|-----------------|
| SHIP VIA | TOTAL | 21010.76 |
|----------|--------------|-----------------|

SHIPPING INSTRUCTIONS
 * SHIP PREPAID
 * C.O.D. SHIPMENTS CANNOT BE ACCEPTED
 * PURCHASE ORDER NUMBER MUST APPEAR ON ALL SHIPPING LABELS.
 * THIS ORDER ISSUED IN COMPLIANCE WITH CHAPTER 99, ACTS 1945 AND ACTS AMENDATORY THEREOF AND SUPPLEMENTAL THERETO.

PAYMENT
 * A/P VOUCHER CANNOT BE APPROVED FOR PAYMENT UNLESS THE P.O. NUMBER IS MADE A PART OF THE VOUCHER AND EVERY INVOICE AND VOUCHER HAS THE PROPER SWORN AFFIDAVIT ATTACHED.
 * I HEREBY CERTIFY THAT THERE IS AN UNOBLIGATED BALANCE IN THIS APPROPRIATION SUFFICIENT TO PAY FOR THE ABOVE ORDER.

ORDERED BY *J.H.A. Galling*
 TITLE _____ CONTROLLER

Funding Verification/Encumbrance Request Form

Date to be submitted to BoW / Park Board: 8/13/24 (put N/A if not submitting to BoW/Park Board)

Vendor name: CC&T Construction Co., Inc.

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Brief description of purchase: 2024 Community Development Block Grant - SW Quad (EN-385-02)

Source of Funding:

- Current Year Operational Budget
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- Loan or debt proceeds
- Non-Appropriated Fund
- Funding not yet finalized (attach explanation) ²:

| | |
|--------------------------------|----------|
| Fund # | 611 |
| Department # | 026 |
| Project # (NA if no project #) | 026.2498 |

| | Expense Object # | Amount |
|----|------------------|---------------|
| #1 | 422.100 | \$ 110,726.24 |
| #2 | | |
| #3 | | |
| #4 | | |
| #5 | | |

1) Note: This option may only be selected AFTER the adoption of the subsequent year budget. OFA will create a PO after the start of the next year. If contract details change in between form submission and the start of the year, contact OFA Staff.

2) This option may only be selected in unusual circumstances. An additional FVF will need to be submitted to OFA once funding source has been determined. OFA will not create a PO until this follow-up form has been submitted.

Are you requesting that a Purchase Order (PO) be created for this expenditure?

- Yes Select for all purchases/contracts that will not be paid immediately
- No Select ONLY if department plans to initiate payment immediately

The Department certifies that sufficient appropriation authority exists in the stated fund and expense series to obligate the expense for future payment.

Department Director

[Signature]
(Signature)

ADISON KREUPSKA 8/6/24
(Printed Name) (Date)

Please email completed form to Abudget@noblesville.in.us

FOR OFFICE OF FINANCE AND ACCOUNTING USE ONLY

| | |
|--|-------------------------------------|
| OFA Action Taken | |
| <input type="checkbox"/> Purchase Order Created | PO # (if applicable): <u>240204</u> |
| <input checked="" type="checkbox"/> Reviewed Availability of funds (Contract/Purchase of over \$50k or paid with debt proceeds only) | |
| OFA Signature <u>Caillin Moss</u> | |
| <input type="checkbox"/> No Action Taken (Department should still include this form in purchase/contract approval submission) | |
| Comments: _____ | |
| Initials: <u>HT</u> | Date: <u>8/12/24</u> |

**PURCHASE ORDER
CITY OF NOBLESVILLE
16 SOUTH 10TH STREET STE 270**

**INDIANA RETAIL TAX EXEMPT
CERTIFICATE NO. 0031216079010**

**FEDERAL EXCISE TAX EXEMPT
356001141**

**NOBLESVILLE IN 46060
PHONE: 317-776-6328
FAX: 317-776-6369**

PURCHASE ORDER NO. 240264

**THIS NUMBER MUST APPEAR ON INVOICES, A/P
VOUCHER, DELIVERY MEMO, PACKING SLIPS,
SHIPPING LABELS AND ANY CORRESPONDENCE.**

SHIP TO:

TO
**VENDOR # 531
C C & T CONSTRUCTION INC
5051 PROSPECT STREET
INDIANAPOLIS IN 46203**

ATTN:

| | | | | | | |
|---------------------------------|----------------------------------|-------------|----------------------------------|------------------|-------------------|---------------|
| DATE 08/07/2024 | DEPARTMENT ENGINEERING | | SHIP TO ARRIVE BY | | | |
| APPROPRIATION NUMBER | QUANTITY | UNIT | DESCRIPTION | PROJECT # | UNIT PRICE | AMOUNT |
| 611026422.100 | 1.0 | | 2024 COMMUNITY DEVELOPMENT BLOCK | 026.2498 | 110726.24 | 110726.24 |

ADDL DESC:EN-385-02

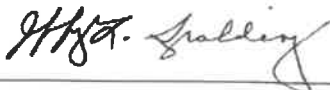
| | |
|-----------------|---------------------------|
| SHIP VIA | TOTAL 110726.24 |
|-----------------|---------------------------|

SHIPPING INSTRUCTIONS

- * SHIP PREPAID
- * C.O.D. SHIPMENTS CANNOT BE ACCEPTED
- * PURCHASE ORDER NUMBER MUST APPEAR ON ALL SHIPPING LABELS.
- * THIS ORDER ISSUED IN COMPLIANCE WITH CHAPTER 99, ACTS 1945 AND ACTS AMENDATORY THEREOF AND SUPPLEMENTAL THERETO.

PAYMENT

- * A/P VOUCHER CANNOT BE APPROVED FOR PAYMENT UNLESS THE P.O. NUMBER IS MADE A PART OF THE VOUCHER AND EVERY INVOICE AND VOUCHER HAS THE PROPER SWORN AFFIDAVIT ATTACHED.
- * I HEREBY CERTIFY THAT THERE IS AN UNOBLIGATED BALANCE IN THIS APPROPRIATION SUFFICIENT TO PAY FOR THE ABOVE ORDER.

ORDERED BY 
TITLE _____ CONTROLLER _____