

AGREEMENT
City of West Lafayette
STATE STREET MASTER PLAN

This agreement made this 18th day of September, 2013 at West Lafayette, Indiana by and between the Redevelopment Commission for the City of West Lafayette, Indiana (hereinafter referred to as the "Commission") and MKSK Indianapolis (hereinafter referred to as the "Consultant.")

WITNESSETH:

That in consideration of the mutual covenants hereinafter set forth, the Commission and the Consultant agree as follows:

Article 1: SCOPE OF WORK

Consultant shall furnish all labor and services and do all things required to create a master plan for the State Street Corridor that runs through the City of West Lafayette and Purdue University. As per attached proposal

Article 2: PAYMENT

The Commission shall pay to Consultant a sum not to exceed **One Hundred Eighty-Eight Thousand Five Hundred Dollars (\$188,500.00)** and not to exceed **Nine Thousand Four Hundred Dollars (\$9,400.00)** for reimbursable expenses.

Said contract price shall be paid to Consultant on a monthly basis for work completed.

Article 3: CONTRACT DOCUMENTS

The contract documents include this agreement, the Consultant's Proposal, and the Consultant's certification of insurance. Said documents are hereby incorporated into and made a part of this agreement the same as if herein fully set forth. The terms and conditions of this agreement shall supersede any terms and conditions which are in conflict with those of the proposal attached hereto.

Article 4: SEVERANCE

The intent of the parties is that this agreement is deemed entire in the sense that its purpose is to establish one price for the doing of the whole work, and that it be deemed severable in the sense that the voidance of any part or portion shall not void the remainder.

Article 5: RECORDS

The Consultant will maintain proper records for review by the Commission.

Article 6: DATE OF COMPLETION

The Consultant agrees that he will have the work contained in this contract completed by August 12, 2014 unless a written extension is granted by the Commission.

Article 7: INSURANCE

During construction of the Project, Consultant shall maintain policies of insurance for Workers' Compensation as well as general liability insurance in the amount of \$1,000,000 or more. Each such policy shall: (a) be written by a company reasonably acceptable to the Commission; and (b) provide that it shall not be modified or canceled without written notice to the Commission at least 30 days in advance. The policy of general liability insurance required by this Section to be maintained by Consultant shall name the Commission as an additional insured. Consultant shall deliver to the Commission certificates of the insurance policies required by this Section, executed by the insurance company or the general agency writing such policies.

Article 8: INDEMNITY AND HOLD HARMLESS AGREEMENT (GENERAL LIABILITY)

The Commission shall be indemnified, held harmless, and defended by Consultant for any claims whatsoever arising out of, as a result of, or in connection with the work performed by Consultant including, but not limited to:

- (i) injury to, or death of, persons or loss of, or damage to, property, suffered in connection with performance of any work on the project site by Consultant or any party acting by, under, through, or on behalf of Consultant;
- (ii) the negligence or willful misconduct of Consultant or any party acting by, under, through, or on behalf of Consultant; or
- (iii) the breach by Consultant of any term or condition of this Agreement;

Further, Consultant shall be responsible for obtaining or maintaining any permits required by any governmental or public or private administrative body, whatever it may be, in connection with the services set out in Article 1. Consultant shall be required to ensure that the company, and its operations in connection with the services set out in Article 1, conform to any applicable statutes, regulation, ordinances, treaties, rules of common law, or other law.

Article 9: PREVAILING PARTY – ATTORNEY FEES

Notwithstanding any term or condition in this Contract to the contrary, in the event litigation is commenced to enforce any term or condition of this Contract, the prevailing party shall be entitled to costs and expenses of litigation including a reasonable attorney fee.

Article 10: ENGAGING IN ACTIVITIES WITH IRAN

By signing this Contract, Consultant certifies that it is not engaged in investment activities in the country of Iran as set forth in I.C. 5-22-16.5.

Article 11: E-VERIFY

Consultant shall comply with E-Verify Program as follows:

- a. Pursuant to IC 22-5-1.7, Consultant shall enroll in and verify the work eligibility status of all newly hired employees of Consultant through the E-Verify Program ("Program"). Consultant is not required to verify the work eligibility status of all newly hired employees through the Program if the Program no longer exists.
- b. Consultant and its subConsultants shall not knowingly employ or contract with an unauthorized alien or retain an employee or contract with a person that Consultant or its subConsultants subsequently learns is an unauthorized alien. If Consultant violates this Section 9(b), the Commission shall require Consultant to remedy the violation not later than thirty (30) days after the Commission notifies Consultant. If Consultant fails to remedy the violation within the thirty (30) day period, the Commission shall terminate the contract for breach of contract. If the Commission terminates the contract, Consultant shall, in addition to any other contractual remedies, be liable to the Commission for actual damages. There is a rebuttable presumption that Consultant did not knowingly employ an unauthorized alien if Consultant verified the work eligibility status of the employee through the Program.
- c. If Consultant employs or contracts with an unauthorized alien but the Commission determines that terminating the contract would be detrimental to the public interest or public property, the Commission may allow the contract to remain in effect until the Commission procures a new Consultant.
- d. Consultant shall, prior to performing any work, require each subConsultant to certify to Consultant that the subConsultant does not knowingly employ or contract with an unauthorized alien and has enrolled in the Program. Consultant shall maintain on file a certification from each subConsultant throughout the duration of the Project. If Consultant determines that a subConsultant is in violation of this Section 7(d), Consultant may terminate its contract with the subConsultant for such violation. Such termination may not be considered a breach of contract by Consultant or the subConsultant.
- e. By its signature below, Consultant swears or affirms that it i) has enrolled and is participating in the E-Verify program, ii) has provided documentation to the Commission that it has enrolled and is participating in the E-Verify program, and iii) does not knowingly employ an unauthorized alien.

Article 12: NON-DISCRIMINATION

Consultant agrees:

- a. That in the hiring of employees for the performance of work under this contract or any subcontract hereunder, no Consultant, or subConsultant, nor any person acting on behalf of such Consultant or subConsultant, shall, by reason of race, religion, color, sex, national origin, or ancestry, discriminate against any citizen of the State of Indiana who is qualified and available to perform the work to which the employment relates;
- b. That no Consultant, subConsultant, nor any person on his 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;
- c. That the Commission may deduct from the amount payable to the Consultant a penalty of five dollars (\$5.00) for each person for each calendar day during the which such person was discriminated against or intimidated in violation of the provisions of this Agreement;
- d. If there is a second or any subsequent violation of the terms or conditions of this section, then this Agreement may be cancelled or terminated by the Commission and all money due or to become due hereunder will be forfeited.

IN WITNESS WHEREOF we have set our hands this _____ day of _____, 2013.

CONSULTANT:

CITY OF WEST LAFAYETTE
REDEVELOPMENT COMMISSION

Eric M. Lucas, RLA, ASLA
MKSK Principal

Lawrence T. Oates, President

Secretary