

PROFESSIONAL SERVICE AGREEMENT
BETWEEN
RUNDELL ERNSTBERGER ASSOCIATES
(PLANNER)
AND THE CITY OF GREENFIELD BY AND THROUGH
ITS BOARD OF PUBLIC
WORKS AND SAFETY (OWNER)

WHEREAS, OWNER desires to obtain professional planning & design services for the City of Greenfield Project entitled Comprehensive Plan Update (PROJECT); and

WHEREAS, OWNER wishes to obtain these services according to time requirements which specify particular and definite deadlines; and

WHEREAS, OWNER wishes to limit its review role of these services; and

WHEREAS, PLANNER has expressed its willingness to provide these services within the specified time requirements and with a limited review role by OWNER.

NOW, THEREFORE, in consideration of the mutual promises, representations, warranties, covenants and responsibilities, OWNER and PLANNER agree as follows:

ARTICLE 1. AUTHORITY TO EXECUTE AGREEMENT

Each party represents and warrants to the other party that:

- 1.1 The party is duly organized and existing in good standing under the laws of Indiana and has all requisite power and authority to carry out the obligations set forth in this Agreement.
- 1.2 The party has the power, authority, and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery, and performance whereof, have been duly authorized by all necessary action.
- 1.3 This Agreement has been duly entered into and delivered and constitutes a legal, valid, and binding obligation of the party, enforceable in accordance with its terms.

ARTICLE 2. ATTACHMENTS

The Attachments which accompany and form a part of this Agreement as of the date hereof are:

- 2.1 "Attachment A" consisting of the described services to be performed by PLANNER.
- 2.2 "Attachment B" consisting of a list of key professional staff and subcontractors PLANNER

agrees to provide for the Project and the man-hours that will be devoted to the Project.

- 2.3 "Attachment C" consisting of a list of key staff OWNER agrees to provide for the Project.
- 2.4 "Attachment D" consisting of a schedule for completion of the milestone tasks of the Project.
- 2.5 "Attachment E" consisting of a mediation process to be utilized by the parties.
- 2.6 "Attachment F" consisting of information to be provided by OWNER to PLANNER.
- 2.7 "Attachment G" consisting of compensation for PLANNER'S services under this Agreement.

ARTICLE 3. INTENT AND INTERPRETATION

- 3.1 The "Agreement", as referred to herein, shall mean this Agreement executed by OWNER and PLANNER, and shall include these Terms and Conditions, the Attachments described in Article 2 and attached hereto, and any written supplemental agreement or modification entered into between OWNER and PLANNER, in writing, after the date of this Agreement.
- 3.2 In resolving conflicts, errors, discrepancies and disputes concerning the scope of the work or services to be performed by PLANNER or other rights or obligations of OWNER or PLANNER, the document or provision thereof expressing the greater quantity, quality or scope of service or imposing the greater obligation upon PLANNER and affording the greater right or remedy to OWNER, shall govern; otherwise, precedence shall be given in the following order: provisions of these Terms and Conditions, provisions contained in any Attachment hereto and required provisions contained in any governmental regulation incorporated herein by reference.
- 3.3 Any interpretation applied to this Agreement, by the parties hereto, by an arbitrator, court of law, or by any other third party, shall not be made against OWNER solely by virtue of OWNER or OWNER's representatives having drafted all or any portion of this Agreement
- 3.4 This Agreement shall include, and incorporate by reference, any provision, covenant or condition required or provided by law or by regulation of any state or federal regulatory or funding agency.

ARTICLE 4. PLANNER'S RESPONSIBILITIES

- 4.1 PLANNER shall serve as OWNER's professional representative in the planning & design phase of the Project, and with respect to all services provided by PLANNER hereunder, and will give consultation and advice to OWNER during the performance of such services.

- 4.2 PLANNER shall perform professional services as stated in "Attachment A" of this Agreement, including normal civil, structural, mechanical, electrical and architectural services incidental thereto.
- 4.3 PLANNER shall perform all services under this Agreement in a skillful and competent manner in accordance with normally accepted standards of the architectural and engineering professions and with that degree of care and skill which a professional engineer or architect would exercise under the same or similar circumstance. Without modifying the above standard, PLANNER shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by PLANNER under this Agreement.
- 4.4 PLANNER shall perform all professional services necessary to accomplish the work required to be performed under this Agreement, in accordance with this Agreement and applicable local, state and federal requirements.
- 4.5 PLANNER shall, without additional compensation, correct or revise any errors or omissions in its designs, drawings, specifications, reports, or any other services.
- 4.6 Acceptance by OWNER or approval by any governmental regulatory or funding agency of drawings, designs, specifications, reports, and incidental engineering work, services or materials furnished hereunder shall not in any way relieve PLANNER of its liability to OWNER or others for negligent acts, errors, omissions, or other deficiencies in the performance of services. OWNER's monitoring or acceptance of, or payment for, any of PLANNER'S services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement by PLANNER.
- 4.7 PLANNER shall make all reasonable efforts to provide competent, capable, experienced and suitably qualified personnel for the performance of all services. Any employee or representative of PLANNER who, in the opinion of OWNER, does not perform its work in a proper and skillful manner, or is disrespectful, or otherwise objectionable, shall, at the written request of OWNER, be removed from performing any further services on behalf of OWNER.
- 4.8 PLANNER shall provide to OWNER the key staff and subcontractors listed in "Attachment B" and shall make each person and subcontractor available to the Project for the duration of the Project. In the event any of the staff and subcontractors listed in "Attachment B" is not available to the Project, PLANNER shall provide replacement personnel to the satisfaction of OWNER. OWNER may not unreasonably withhold its consent. A failure by PLANNER to provide professional staff and subcontractors as required by this Article shall be considered a material breach of the Agreement.
- 4.9 PLANNER shall be fully responsible for negligent acts, errors or omissions of consultants

and subcontractors and of persons and organizations directly or indirectly employed by PLANNER, and of persons and organizations for whose acts any consultant may be liable to the same extent that PLANNER is responsible for the negligent acts, errors or omissions of persons directly employed by PLANNER. Nothing in this Agreement, nor any communication, directive, action or failure to act on the part of OWNER, shall create any contractual relationship between OWNER and any consultant or subcontractor having a contract with PLANNER, nor shall it create any obligation on the part of OWNER to pay or to see to payment of any monies due any consultant or subcontractor to PLANNER.

- 4.10 PLANNER agrees to bind specifically every subcontractor and consultant to the applicable terms and conditions of this Agreement for the benefit of OWNER. PLANNER shall obtain written acceptance from OWNER for all proposed subcontractors and subcontract agreements for any portion of the Scope of Work described in "Attachment A" and shall furnish copies of all executed subagreements.
- 4.11 PLANNER shall include all subcontractors on "Attachment B". PLANNER may not remove or otherwise substitute subcontractors indicated on "Attachment B" without consent of OWNER. A failure by PLANNER to provide the subcontractors as required by this Article shall be considered a material breach of the Agreement.
- 4.12 To the extent the standard in Paragraph 4.3 is met, PLANNER'S responsibility under this Agreement shall not be diminished by new or advanced processes, methods, designs or technology recommended or utilized by PLANNER for the Project.
- 4.13 PLANNER'S submittals are subject to prompt monitoring and acceptance by OWNER for general compliance with the services described in "Attachment A". In the event that any submittal is not accepted by OWNER, OWNER shall notify PLANNER in writing of its reasons for non-acceptance and may make suggested revisions. Upon receipt of said notification, the non-acceptance submittal shall be revised appropriately by PLANNER until accepted by OWNER. If PLANNER does not agree with OWNER's suggested revisions, PLANNER shall submit its reasons therefor to OWNER in writing.
- 4.14 In the event that the performance of any services described in this Article or in "Attachment A" under this Agreement by PLANNER shall require PLANNER to use, consider, complete, or evaluate any designs, specifications, contract documents, reports, studies or other services provided to OWNER or PLANNER by another architect, engineer or consultant, PLANNER shall take reasonable and prudent steps to verify the technical accuracy of such items and shall report in writing to OWNER any conflict, error or discrepancy which may be discovered by such investigation and verification. At the written request of PLANNER, OWNER may assign to PLANNER all or any portion of the rights which OWNER may possess to pursue remedies against the engineer, architect or consultant which provided the OWNER with said designs, specifications, contract documents, reports, studies, or other services. Such a request shall not be unreasonably denied.

4.15 PLANNER shall fulfill the requirements of governing regulatory agencies as may be applicable to the work and services to be performed by PLANNER described in this Article or in "Attachment A".

4.16 The liability of PLANNER under this Article shall survive the expiration of this Agreement.

ARTICLE 5. OWNER'S RESPONSIBILITIES

Except to the extent that such responsibilities are otherwise waived or assumed by PLANNER, OWNER shall take reasonable steps to:

5.1 Issue a written notice to proceed within 30 days of fully executed Agreement as to phases one and two and within 30 days of receipt of funds from the Economic Development Administration Grant as to phases three and four or as allocated within the OWNER's budget for fiscal year 2024. If OWNER fails to so issue the Notice to Proceed OWNER shall:

- A. Extend the completion date as described in "Attachment D" one (1) day for each day past the above date that the Notice to Proceed was not issued;
- B. Order PLANNER to accelerate up to fifteen (15) days to maintain the schedule described in "Attachment D"; or
- C. A combination of A and B;

provided, however, that PLANNER has executed this Agreement and satisfactorily delivered to and had accepted by OWNER, the documents required in Paragraph 7.4 within seven (7) calendar days of the award of this Agreement by the appropriate authority. To the extent that PLANNER has failed to so perform, OWNER's obligation to extend the completion date shall not arise.

OWNER shall notify PLANNER of its decision in writing prior to, or at the latest, at the time of the issuance of the Notice to Proceed.

If OWNER orders acceleration under subsections 5.1.B or 5.1.C, OWNER shall compensate PLANNER the amount of a mutually agreed upon amount per day for acceleration.

OWNER may not order acceleration under this section after the Notice to Proceed is issued.

PLANNER agrees that said compensation for acceleration and/or said time extension shall be full accord and satisfaction for any and all expenses and damages PLANNER may experience resulting from the delay and/or the order to accelerate.

5.2 Designate in writing a person to act as OWNER's representative with respect to the services

to be performed or furnished by PLANNER under this Agreement. Subject to Article 22, such person will have authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to PLANNER services for the Project. Said person as well or other key personnel are indicated in "Attachment C".

- 5.3 Make available all information pertinent to the Project including previous reports and any other data relative to design and construction of the Project.
- 5.4 Furnish to PLANNER, as required by PLANNER for performance of its services, data prepared by or services of others.
- 5.5 Monitor all studies, reports, sketches, drawings, specifications, proposals and other documents presented by PLANNER.
- 5.6 Pay cost for advertising and obtaining formal bids or proposals from contractors.
- 5.7 Provide such legal, accounting and insurance counseling services as may be required for the Project, and such auditing service as OWNER may require to ascertain how or for what purpose any contractor has used the monies paid to it under the construction contract.
- 5.8 Subject to the provisions of Paragraph 4.14, and to the extent that persons providing reports, data and other information to OWNER which OWNER furnishes to PLANNER under this Article are responsible for their accuracy and completeness, OWNER shall be responsible for, and PLANNER may rely upon, the accuracy and completeness of all said reports, data and other information.
- 5.9 Arrange for access to and make all provisions for PLANNER to enter upon public and private property as required for PLANNER to perform services under this Agreement.
- 5.10 Attend the pre-bid conference, bid opening and preconstruction conferences.

ARTICLE 6. COMPLETION SCHEDULE

- 6.1 The proposed schedule for the completion of the Project is presented in "Attachment D" and is made a part hereof.
- 6.2 PLANNER shall adhere to all time limits stated in this Agreement or included in any accepted time schedule. All such time limits shall be of the essence to this Agreement.
- 6.3 In all events, the various stages and phases of PLANNER services are to be completed in such sequence and at such times, and within approved or agreed upon time limits, as may be required to assure the timely, continuous, efficient and diligent prosecution of the work and services provided for by this Agreement.

- 6.4 OWNER may at any time, by written order, make changes within the general scope of the Agreement in the services of work to be performed. If PLANNER believes that such a change justifies an increase in PLANNER's contract time or contract price required to perform the services under this Agreement, it must assert such claim in writing within thirty (30) days of receipt of OWNER's written order giving rise to the claim. No claim for adjustment in the contract time or contract price will be valid if not submitted in accordance with this paragraph. No services for which PLANNER will charge additional compensation shall be furnished without the written authorization of OWNER.
- 6.5 PLANNER shall carry on all work required under this Agreement and maintain the schedule for services during all disputes or disagreements with OWNER. No work shall be delayed or postponed pending resolution of any disputes or disagreements except as permitted in Article 8, or as PLANNER and OWNER may otherwise agree in writing. PLANNER will be fully compensated for work completed up to the dispute or disagreement.
- 6.6 If the commencement, prosecution or completion of the services under this Agreement is delayed by any act, omission, delay, neglect or default of PLANNER, or anyone employed by PLANNER, or by any damage or acts caused by the negligent acts or omissions by PLANNER, then PLANNER shall be liable to OWNER for assessments, expense, liabilities or damages caused thereby, in accordance with Paragraph 4.9. PLANNERS liability is limited to \$1,000,000.
- 6.7 PLANNER shall not be responsible for any time delays in the Project, or in the performance of services under this Agreement, to the extent such delays are caused solely by any act, omission, neglect or default of OWNER or anyone employed by OWNER, or by the unreasonable delay of any review agency or utility, or for any delay or damage caused by fire or the combined action of workers and which are in no way chargeable, in whole or in part, to PLANNER, or by any other conditions or circumstances beyond the control of PLANNER, its employees, agents, or other persons for whose acts or omissions PLANNER is responsible. In the event of such delay, PLANNER shall be entitled to an adjustment in the scheduled or agreed time limitations for the performance of services, and this Agreement shall be modified in writing accordingly. Any claim of PLANNER for adjustment under this clause must be asserted in writing within thirty (30) days from the date of the occurrence of the event giving rise to the claim unless OWNER grants a further period of time before the date of final payment to PLANNER. The adjustment of time for the performance of services, as provided in this paragraph, shall be PLANNER's sole exclusive right, entitlement and remedy in the event of such delays, and PLANNER shall have no claim against OWNER for adjustment for increase in costs of performance, or other damages occurred in connection therewith.

ARTICLE 7. INSURANCE

- 7.1 PLANNER shall, as a condition precedent to this Agreement, purchase and thereafter maintain such insurance as will protect it and OWNER from the claims set forth below

	Personal & Advertising Injury Limit	\$1,000,000
	Each Occurrence Limit	\$1,000,000
	Damage to Rented Premises	\$100,000 each occurrence
	Medical Expense Limit	\$5,000
(d)	Comprehensive Auto Liability (single limit) (owned, hired & non-owned)	\$1,000,000
(e)	Umbrella Excess Liability	\$1,000,000 each occurrence and aggregate
(f)	Professional Liability	\$1,000,000 per claim and aggregate

7.2.1 Professional liability coverage shall be in effect from the effective date of this Agreement and shall remain in effect continuously until the applicable statute of limitations has run (Coverage Period). Coverage also shall extend to employees who may retire, transfer or otherwise cease employment with PLANNER during the Coverage Period.

7.2.2 Professional liability policies may be either claims made or per occurrence.

7.2.3 Deductibles on professional liability policies may be either per claim or per occurrence.

7.2.4 Professional liability coverage shall only be limited by a maximum annual aggregate. There shall be no limits on the number or amount of claims made against a specific Project.

7.3 With the prior approval of OWNER, PLANNER may substitute different types of coverage for those specified as long as the total amount of required protection is not reduced.

7.4 Copies of all above insurance policies and Certificates of Insurance, naming the City of Greenfield as an "additional insured" (subsections 7.1.2(c) through (e) only), including proof of required Professional Liability Insurance, showing such coverage then in force (but not less than the amount shown above) shall be filed with OWNER within seven (7) calendar days of the effective date of this Agreement. These policies and Certificates shall contain a provision that coverages afforded under the policies will not be cancelled or not renewed

until at least thirty (30) days after written notice has been given to OWNER.

- 7.5 Nothing in the above provisions shall operate as or be construed as limiting the amount of liability of PLANNER to the above-enumerated amounts. The total liability of PLANNER and its partners, officers, directors, shareholders, employees and agents to OWNER and any one claiming by, through or under OWNER for any and all injuries, claims, losses, expenses or damages whatsoever arising out of, or in any way related to, the Services of this Agreement from any cause or causes whatsoever including, but not limited to, negligence, errors, omissions, strict liability or breach of contract shall not exceed the total amount of \$1,000,000.
- 7.6 Regardless of the nature of the policy or whether the deductible is per claim or per occurrence, all deductibles shall be the responsibility of PLANNER.
- 7.7 Notwithstanding any other provision of this Agreement, PLANNER shall provide all insurance coverage required by the documents provided by OWNER.

ARTICLE 8. COMPENSATION TO PLANNER

- 8.1 For the services described in this Agreement or in "Attachment A", OWNER agrees to pay PLANNER as per the provisions of "Attachment G", unless modified by an amendment to this Agreement.
- 8.2 No payment request or statement made pursuant to this Article shall exceed the estimated amount in value of the work and services performed by PLANNER under this Agreement, which estimates shall be prepared by PLANNER and supplemented or accompanied by such supporting data as may be required by OWNER.
- 8.3 Payment requests by PLANNER shall be submitted once monthly. The payment request shall be accompanied by a signed voucher and such supporting data as may be required by OWNER.
- 8.4 When progress payments are made to PLANNER, OWNER may withhold Five Percent (5%) of the amount and value of all work and services theretofore performed by PLANNER, as shown by PLANNER's payment request. If OWNER determines that PLANNER's performance is satisfactory, OWNER, at its sole discretion, may reduce or eliminate retainage. OWNER shall have the right to withhold from payments due PLANNER such sums as necessary to protect OWNER against any loss, claim or damage which may result from the negligence or unsatisfactory work by PLANNER, failure by PLANNER to perform its obligations and responsibilities under this Agreement, or claims filed against PLANNER or OWNER relating to PLANNER's services or work. OWNER shall provide PLANNER written notification of its reason for so withholding payments. When the grounds or causes for such withholding are removed, payment shall be made for amounts withheld because of them.

- 8.5 OWNER shall pay PLANNER for the professional services supported by invoices and documentation. OWNER will pay the amount of the invoice within thirty (30) days of OWNER's acknowledgement that invoice and documentation are acceptable. OWNER will give PLANNER written notice within five (5) working days of receipt of the invoice and documentation if the invoice or documentation is not acceptable. OWNER is the sole judge as to the acceptability of the invoices and documentation.
- 8.6 If, prior to the satisfactory completion of services under this Agreement, the total costs incurred by PLANNER are within 25% of the maximum amount payable, PLANNER shall notify OWNER in writing. PLANNER shall cease all work when the total costs incurred equal 95% of the maximum amount payable. Work will not recommence until PLANNER receives written notice from OWNER and an adjusted maximum amount payable has been negotiated, if in the sole judgment of OWNER, such an adjustment is required. PLANNER shall not be entitled to compensation for unauthorized work over the maximum amount payable. This section shall not apply when the method of compensation described in Article 8.1 is lump sum.
- 8.7 Upon satisfactory completion of all work and services to be performed hereunder, and prior to final payment under this Agreement for such services, or prior to settlement upon termination of this Agreement, and as a condition precedent thereto, PLANNER shall execute and deliver to OWNER a release of all claims against OWNER arising under or by virtue of this Agreement. In all events, the making and acceptance of final payment shall be conclusive as to OWNER's performance of the Agreement and shall constitute a waiver of all claims by PLANNER against OWNER.

ARTICLE 9. TERMINATION BY OWNER

- 9.1 If PLANNER becomes insolvent, or if it refuses or fails to perform the work and services provided by this Agreement, or if it refuses to perform disputed work or services as directed pending resolution of such dispute, or if it fails to make payments to subcontractors or consultants employed by it, or if it otherwise materially violates or fails to perform any term, covenant or provision of this Agreement, PLANNER shall be considered in default, and OWNER may, without prejudice to any other right or remedy, terminate this Agreement in whole or in part, in writing, provided that PLANNER shall be given; (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested or by electronic mail with confirmation of delivery) of OWNER's intent to terminate; and (2) an opportunity for consultation with OWNER prior to termination, and a reasonable opportunity to cure the default as determined by OWNER. In determining the amount of final payment to be made to PLANNER upon such termination for default, if any, no amount shall be allowed for anticipated profit on unperformed services or other work; furthermore, an adjustment shall be made to the extent of any additional costs incurred or reasonably foreseen by OWNER to be incurred by reason of PLANNER's default.

- 9.2 This Agreement may be terminated in whole or in part in writing by OWNER for OWNER's convenience; provided that PLANNER is given: (1) not less than ten (10) calendar days written notice (delivered certified mail, return receipt requested or by electronic mail with confirmation of delivery) of intent to terminate; and (2) an opportunity for consultation with OWNER prior to termination. If termination for convenience is effected by OWNER, PLANNER's compensation shall be equitably adjusted to include a reasonable profit for services or other work performed, and shall provide for payment to PLANNER for services rendered and expenses incurred prior to the termination. No amount shall be allowed for anticipated profit on unperformed services or other work.
- 9.3 Upon receipt of a termination action for default or for the OWNER's convenience, PLANNER shall: (1) promptly discontinue all services affected, unless the termination notice directs otherwise, and (2) deliver or otherwise make available to OWNER all data, drawings, specifications, reports, estimates, summaries, and such other information, materials or documents as may have been accumulated by PLANNER in performing this Agreement, whether completed or in process.
- 9.4 If, after termination for PLANNER's default, it is determined that PLANNER was not in default, the termination shall be deemed to have been effected for the convenience of OWNER.

In such event, adjustment of the price provided for in this Agreement shall be made as provided in Paragraph 9.2 and the recovery of such price adjustment shall be PLANNER's sole remedy and recovery.

- 9.5 Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by OWNER are at any time insufficient or not forthcoming through failure of any entity to appropriate funds or otherwise, then OWNER shall have the right to terminate this Agreement without penalty by giving written notice documenting the lack of funding, in which instance unless otherwise agreed to by the parties, this Agreement shall terminate and become null and void on the last day of the fiscal period for which appropriations were received. OWNER agrees that it will make its best efforts to obtain sufficient funds, including, but not limited to, requesting in its budget for each fiscal period during the term hereof sufficient funds to meet its obligations hereunder in full.

ARTICLE 10. TERMINATION BY PLANNER

- 10.1 If OWNER fails to pay PLANNER within sixty (60) days after payment is due, PLANNER may, after having given fifteen (15) days written notice, and if OWNER has not made payment, terminate this Agreement. In the event of such termination, OWNER shall compensate PLANNER in accordance with the provisions of Paragraphs 8.6 and 9.2 of this Agreement.
- 10.2 If OWNER requests PLANNER to furnish or perform services contrary to PLANNER's

responsibilities as a licensed design professional, PLANNER shall notify Director of OWNER of this request within seven (7) days of the request being made. If Director renews request and request actually requires PLANNER to act contrary to PLANNER's responsibilities as a licensed design professional, PLANNER may terminate this Agreement upon seven (7) days written notice to OWNER. In the event of such termination, OWNER shall compensate PLANNER in accordance with the provisions of Paragraph 9.2 of this Agreement.

10.3 If PLANNER loses the services of key personnel essential to the prosecution of this Agreement, PLANNER has the following options:

- A. With the consent of OWNER, substitute other personnel (OWNER may not unreasonably withhold consent); or
- B. Terminate the Agreement.

However, if PLANNER terminates the Agreement, OWNER may complete PROJECT in any manner deemed appropriate. PLANNER shall be liable to OWNER for the difference between the cost of completing the PROJECT after termination and the contract price, but less expenses saved in consequence of PLANNER's termination.

ARTICLE 11. SUCCESSORS AND ASSIGNS

11.1 OWNER and PLANNER each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to the promises, representations, acknowledgements, covenants and responsibilities contained in this Agreement.

11.2 Except as otherwise provided herein, PLANNER shall not assign, sublet or transfer its interest in this Agreement without the written consent of OWNER.

11.3 Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of OWNER.

ARTICLE 12. RECORDS; AUDITS

PLANNER shall maintain books, records, documents and other evidence directly pertinent to performance of services under this Agreement in accordance with generally accepted accounting principles and practices consistently applied. PLANNER shall also maintain the financial information and data used by PLANNER in the submission or preparation of any cost submission, statement or summary submitted to OWNER or any funding agency. OWNER, or any agencies which have tendered grants for the Project, or any person so designated by a granting agency shall, until the expiration of THREE (3) years after final payment under this Agreement have access to

and the right to examine, inspect, audit and copy directly pertinent books, documents, papers and records of PLANNER involving any transaction related to this Agreement. To the extent that the person or entity which seeks to examine, inspect, audit and copy said documents is under the control of OWNER, said person or entity will provide PLANNER with seventy-two (72) hours written notice. PLANNER agrees to incorporate this provision into any subagreements executed by PLANNER with others for work or services related to this Project. The periods of access and examination as described herein shall continue until any disputes, claims or litigation arising out of the performance of this Agreement have been disposed of.

ARTICLE 13. OWNERSHIP OF DOCUMENTS

All drawings, specifications, computations, sketches, test data, survey results, models, photographs, renderings and other material relating to this Project, developed in the performance of this Agreement or prepared in connection therewith, are the property of both the OWNER and PLANNER and shall be delivered to OWNER, if requested by OWNER, upon completion of services or upon termination of this Agreement. PLANNER agrees that work done under this Agreement constitutes "work for hire" under copyright law, and OWNER shall retain the right to any design patent or copyright and may use any and all materials prepared by PLANNER without reservation. In the event that any deliverables developed during this project are deemed not to be "works for hire" under copyright law, PLANNER agrees, at no additional cost, to assign all right, title and interest, including copyright in and to such deliverables, to OWNER. OWNER will not change or reuse any document for any project or purpose other than as described in the Agreement without the written consent of PLANNER. However, PLANNER expressly acknowledges that OWNER is a public agency and is subject to public access, disclosure and distribution laws, regulations, and policies. PLANNER acknowledges that OWNER will not treat this Agreement as confidential information and will post the Agreement on OWNER website as required by law. Use by the public of any document or the information contained therein, shall not be considered an act of OWNER.

ARTICLE 14. NOTICES

When written notice is required by this Agreement, it shall be sufficiently given, in the absence of a specific provision to the contrary, when delivered or sent by United States first-class mail to PLANNER at its business address, or to OWNER or OWNER's representative, or by personally delivering such notice to the party to be in receipt thereof.

ARTICLE 15. NONDISCLOSURE

Unless required by law, PLANNER shall not divulge information concerning this Project to anyone, unless prior written approval is received from OWNER, and shall obtain similar agreements from persons and firms employed by it. OWNER reserves the right to release all information as well as to time its release, form and content. This requirement shall survive the expiration of this Agreement.

ARTICLE 16. OTHER CONSULTANTS

OWNER reserves the right to employ other engineers, architects and consultants in connection with the work or Project.

ARTICLE 17. REDUCTION FOR DEFECTIVE PRICING DATA

If OWNER determines that any price, including profit, negotiated in connection with this Agreement or any cost reimbursable under this Agreement was increased because PLANNER or any subcontractor furnished incomplete or inaccurate cost or pricing data or data not current as certified or represented in any submittal to OWNER or funding agencies, then such price or cost or profit shall be reduced accordingly and the Agreement shall be modified in writing to reflect such reduction.

ARTICLE 18. NON-CONTINGENT FEES

PLANNER warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty, OWNER shall have the right to annul this Agreement without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 19. CHOICE OF FORUM

Parties agree that any litigation associated with or arising from this Agreement shall be filed with a court of competent jurisdiction within the State of Indiana.

ARTICLE 20. NON-DISCRIMINATION

20.1 PLANNER and subcontractor shall not discriminate against any employees or applicant for employment, to be employed in the performance of this Agreement, with respect to her or his hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of her or his race, sex, sexual orientation, gender identity, religion, color, national origin, ancestry, age, disability, or United States military service veteran status. Breach of this covenant may be regarded as a material breach of the Agreement.

20.2 PLANNER shall include all covenants and certifications as are contained in this Article in all subagreements related to this Agreement.

ARTICLE 21. APPLICABLE LAWS

21.1 Subject to the provisions of the following paragraph, PLANNER agrees to conform to all

federal, state, and local laws, rules and regulations applicable to PLANNER in performing work pursuant to this Agreement in force at the time of design, including, but not limited to, those relating to discrimination in employment, conflicts of interest, accounting records and requirements. Unless otherwise specified, this Agreement shall be governed by the laws of the State of Indiana, and all Municipal Ordinances and Codes of the City of Greenfield and Hancock County.

- 21.2 Compliance with any state or federal statute or local ordinance enacted or regulations promulgated thereunder after the effective date of this Agreement for which notice had been published prior to the execution by PLANNER of this Agreement which affect the services of PLANNER shall be the responsibility of PLANNER without entitling PLANNER to an increase in either time of performance or in contract price.

ARTICLE 22. AMENDMENTS

This Agreement may be amended only by written instrument and signed by both OWNER and PLANNER.

ARTICLE 23. SEVERABILITY

In the event any provision of this Agreement is determined by a court of competent jurisdiction or by the laws of the State of Indiana to be null and void, such provision shall be stricken and all other provisions which can be given effect independently of the stricken provision shall remain in full force and effect.

ARTICLE 24. CONFLICT OF INTEREST

- 24.1 PLANNER certifies and warrants to OWNER that neither it, nor its agents, representatives or employees who will participate in any way in the performance of PLANNER's obligations hereunder has, or will have during the Project, any conflict of interest relative to the Project, direct or indirect, with OWNER. PLANNER shall immediately notify OWNER if a conflict of interest should arise during the Project. Upon being so notified, OWNER may either:

- A. Waive the conflict; or
- B. Terminate the Agreement according to Paragraph 9.1.

- 24.2 For purposes of compliance with IC 36-1-21, PLANNER certifies and warrants to OWNER that PLANNER, or a person who wholly or partially owns PLANNER, is not a *relative*, as that term is defined by IC 36-1-21-3, of either the Mayor of Greenfield, Indiana, or a member of the City Council of Greenfield, Indiana.

ARTICLE 25. REQUIRED DOCUMENTATION

25.1 PLANNER shall furnish OWNER any documentation, certification, authorization, license, permit or registration required by the laws or rules and regulations of the City of Greenfield, Hancock County, other units of local government, the State of Indiana, and the United States.

25.2 PLANNER further represents that it is now and shall remain in good standing with such governmental agencies and that it will keep its license, permit, registration, authorization or certification in force during the term of this Agreement, to perform the services described in "Attachment A" and in this Agreement.

ARTICLE 26. INDEPENDENT CONTRACTOR STATUS

PLANNER expressly understands and agrees that it is an independent contractor and that it is not an employee of OWNER, and OWNER is not to provide Worker's Compensation, health or accident insurance coverage or indemnification agreement of any kind which would cover PLANNER or its employees, if any, in and under the terms of this Agreement.

ARTICLE 27. WAIVER

OWNER's delay or inaction in pursuing its remedies set forth in this Agreement, or available by law, shall not operate as a waiver of any of OWNER's rights or remedies.

ARTICLE 28. USE OF GIS DATA

OWNER hereby grants to PLANNER a nonexclusive, nontransferable license to that portion of the City of Greenfield GIS Database delivered to PLANNER (the "Delivered Materials") under the terms of this Agreement, subject to the following terms and conditions: PLANNER shall have the right to copy the Delivered Materials in digital form into computer memory or onto computer storage devices and to prepare from them derivative works in digital form for the sole purpose of performing services under this Agreement. All Delivered Materials are provided "as-is" without warranty of any kind. PLANNER's license shall terminate upon completion of the services under this Agreement.

ARTICLE 29. ALLOCATION OF RISK

PLANNER agrees to indemnify and hold harmless the City of Greenfield, Indiana and its officers, agents, officials and employees for any and all claims, actions, causes of action, judgments and liens only to the extent they arise out of any negligent act or omission by PLANNER or any of its officers, partners, agents, employees or subcontractors regardless of whether or not they are caused in part by the negligence of a party indemnified hereunder. Such indemnity shall include attorney's fees and all costs and other expenses arising therefrom or incurred in connection therewith and shall not be limited by reason of the enumeration of any insurance coverage required herein.

OWNER shall indemnify and hold harmless PLANNER, its officers, directors, shareholders, partners, agents and employees from and against those damages and costs (including reasonable attorney's fees) that PLANNER is legally obligated to pay as a result of a third party claim concerning the death or bodily injury to any person or the destruction or damage to any property, but only to the extent caused by the negligent act, error or omission of OWNER.

ARTICLE 30. TAXES

OWNER is exempt from state, federal and local taxes. OWNER will not be responsible for any taxes levied on PLANNER as a result of this Agreement.

ARTICLE 31. RESTRICTIONS ON LOBBYING

If federal funds are to be used in connection with this Agreement, PLANNER certifies, by signing and submitting this Agreement, to the best of its knowledge and belief, that PLANNER has complied with Section 1352, Title 31, U.S. Code, and specifically, that:

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal Contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal Contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence of an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard **Form-LLL**, "Disclosure of Lobbying Activities" in accordance with its instructions.
- C. PLANNER also agrees by signing this Agreement that it shall require that the language of this certification be included in all lower tier subcontracts which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

ARTICLE 32. MAINTAINING A DRUG-FREE WORKPLACE

- 32.1 PLANNER hereby covenants and agrees to make a good faith effort to provide and maintain during the term of this Agreement a drug-free workplace, and that it will give written notice to OWNER within ten (10) days after receiving actual notice that an employee of PLANNER has been convicted of a criminal drug violation occurring in PLANNER's

workplace.

- 32.2 In addition to the provisions of subparagraph 32.1 above, if the total contract amount set forth in this Agreement is in excess of \$25,000.00, PLANNER hereby further agrees that this Agreement is expressly subject to the terms, conditions and representations contained in the Drug-Free Workplace certification executed by PLANNER in conjunction with this Agreement.
- 32.3 It is further expressly agreed that the failure of PLANNER to in good faith comply with the terms of subparagraph 32.1 above, or falsifying or otherwise violating the terms of this certification reference in subparagraph 32.2 above, shall constitute a material breach of this Agreement, and shall entitle OWNER to impose sanctions against PLANNER including, but not limited to, suspension of contract payments, termination of this Agreement and/or debarment of PLANNER from doing further business with OWNER for up to three (3) years.

ARTICLE 33. DISPUTE RESOLUTION

- 33.1 OWNER and PLANNER agree that they shall first submit any and all unsettled claims, counterclaims, disputes and other matters in question between them arising out of or relating to the Agreement or the breach thereof (DISPUTES) to mediation according to the provisions of "Attachment E".
- 33.2 Only after complying with the provisions of Paragraph 33.1, the parties may by mutual agreement in writing designate any DISPUTE, except for claims which have been waived by the making or acceptance of final payment, to be decided by arbitration. Such designation shall specifically identify and describe the DISPUTE. Arbitration proceedings shall be initiated only as to DISPUTES as so identified and described in such written agreement, and in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction thereof.
- 33.3 PLANNER shall carry on the work and maintain the schedule for services during any mediation, arbitration or litigation proceedings, unless otherwise agreed by PLANNER and OWNER in writing.
- 33.4 Any such arbitration may, at the option of OWNER, involve by joinder or otherwise, all parties or persons substantially involved in common questions of fact or law whose presence may be required. All consultant agreements, purchase orders and related construction agreements between PLANNER and other parties shall provide for such arbitration and consolidation.
- 33.5 If OWNER shall be party to an arbitration of a DISPUTE which arises, in full or in part,

from PLANNER's negligence or failure to fulfill any obligation or responsibility under this Agreement, OWNER may, at its option, and by written notice, advise PLANNER of such arbitration proceeding and afford PLANNER the opportunity to participate therein.

ARTICLE 34. TERM OF AGREEMENT

This Agreement shall become effective upon completion of the following:

- A. delivery to OWNER and acceptance by OWNER, of the documents required in Paragraph 7.4; and
- B. latest date of execution by any required signatories;

and shall expire upon the successful completion and final acceptance of PLANNER's services, as set forth in this Agreement or "Attachment A", and OWNER's payment therefore. In computing any period of time prescribed by this Agreement, the date of any notice to proceed shall not be included in such computation. The last day of any period of time prescribed in this Agreement shall be included unless it is a Saturday, Sunday or a legal holiday as established by ordinance of the City Council of Greenfield, Indiana. In such cases, the period of time shall run until the end of business hours of OWNER on the next day that is not a Saturday, Sunday, or a legal holiday as established by ordinance.

ARTICLE 35. NOTICE TO PROCEED

PLANNER shall not begin work pursuant to this Agreement until it receives a Notice to Proceed from OWNER.

ARTICLE 36. INTEGRATION

This Agreement and the documents incorporated herein represent the entire understanding between and among the parties hereto. The signing of this Agreement by the parties constitutes their mutual recognition that no other contracts or agreements regarding any of the services to be provided herein, oral or written, except as attached hereto or specifically incorporated herein, exists between them, and that if such oral or written contracts or agreements exist, such are hereby cancelled. Each party hereby represents to the other that it will not rely upon any agreement, contract or understanding not reduced to writing and incorporated in this Agreement prior to the execution thereof or not reduced to writing and incorporated in written amendments to this Agreement.

ARTICLE 37. DEBARMENT AND SUSPENSION

- 37.1 PLANNER certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from or ineligible for participation in any Federal assistance program by any Federal department or agency, or by any department, agency or political

subdivision of the State of Indiana. The term “principal” for purposes of this Agreement means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of PLANNER.

- 37.2 PLANNER shall not subcontract with any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in any Federal assistance program by any Federal department or agency, or by any department, agency or political subdivision of the State of Indiana.
- 37.3 PLANNER shall provide immediate written notice to OWNER if, at any time after entering into this Agreement, PLANNER learns that its certifications were erroneous when submitted, or PLANNER is debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded from or becomes ineligible for participation in any Federal assistance program. Any such event shall be cause for termination of this Agreement as provided herein.

ARTICLE 38. E-VERIFY PROGRAM

Pursuant to IC 22-5-1.7, PLANNER shall enroll in and verify the work eligibility status of all newly hired employees of PLANNER through the E-Verify Program (“Program”). PLANNER is not required to verify the work eligibility status of all newly hired employees through the Program if the Program no longer exists.

- A. PLANNER and its subcontractors shall not knowingly employ or contract with an unauthorized alien or retain an employee or contract with a person that PLANNER or its subcontractor subsequently learns is an unauthorized alien. If PLANNER violates this Article, OWNER shall require PLANNER to remedy the violation not later than thirty (30) days after OWNER notifies PLANNER. If PLANNER fails to remedy the violation within the thirty (30) day period, OWNER shall terminate the contract for breach of contract. If OWNER terminates the contract, PLANNER shall, in addition to any other contractual remedies, be liable to OWNER for actual damages. There is a rebuttable presumption that PLANNER did not knowingly employ an unauthorized alien if PLANNER verified the work eligibility status of the employee through the Program.
- B. If PLANNER employs or contracts with an unauthorized alien but OWNER determines that terminating the contract would be detrimental to the public interest or public property, OWNER may allow the contract to remain in effect until OWNER procures a new contractor.
- C. PLANNER shall, prior to performing any work, require each subcontractor to certify to Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and has enrolled in the Program. PLANNER shall maintain on file a certification from each subcontractor throughout the duration of the contract. If

PLANNER determines that a subcontractor is in violation of this Article, PLANNER may terminate its contract with the subcontractor for such violation

- D. Pursuant to IC 22-5-1.7 a fully executed affidavit affirming that the business entity does not knowingly employ an unauthorized alien and confirming PLANNER's enrollment in the Program, unless the Program no longer exists, shall be filed with OWNER prior to the execution of this Agreement. This Agreement shall not be deemed fully executed until such affidavit is filed with OWNER

ARTICLE 39. ADDITIONAL INFORMATION UPON REQUEST

PLANNER shall, upon request of OWNER, make available its policies, practices and standards for the hiring of applicants, except as prohibited under Indiana Code 22-2-17-3, to the extent such information is related to the provision of services under this Agreement.

ARTICLE 40. WAGE THEFT/PAYROLL FRAUD

PLANNER shall report, and shall require its subcontractors to report, all complaints or adverse determinations of Wage Theft or Payroll Fraud against PLANNER or its subcontractors to the OWNER within thirty (30) days of notification of the complaint or adverse determination. If an adverse decision is rendered against PLANNER with respect to services provided to OWNER, OWNER may terminate this Agreement, reduce the incentives or subsidies to be provided under this Agreement, or seek other remedies. PLANNER shall provide a sworn statement on whether PLANNER had any adverse determinations rendered against PLANNER within the preceding three (3) years.

ARTICLE 41. FORCE MAJEURE

41.1 DEFINITION OF FORCE MAJEURE

Within this Agreement, an event of Force Majeure means an event beyond the control of the PLANNER and the OWNER, which prevents a party from complying with any of its obligations under this Agreement, including the following:

- 41.1.1 An act of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves, floods, and pandemic);
- 41.1.2 War, hostilities (whether war be declared or not), invasion, active foreign enemies, mobilization, requisition or embargo;
- 41.1.3 Rebellion, revolution, insurrection, or military or usurped power, or Civil War;
- 41.1.4 Riot, commotion, strikes, lockouts or disorder, unless civilly restricted to employees of the PLANNERS or his subcontractors or vendors;

41.1.5 Acts or threats of terrorism.

41.2 Consequences of Force Majeure Event

41.2.1 Neither the OWNER nor PLANNER shall be considered in breach of this Agreement to the extent that performance of their respective obligations is prevented by an Event of Force Majeure that arises after the Effective Date.

41.2.2 The Party (the "Affected Party") prevented from carrying out its obligations hereunder shall give notice to the other Party of and Event of Force Majeure upon it being perceived by or becoming known to the Affected Party.

41.2.3 If, and to the extent that, the PLANNER is prevented from executing the services contemplated by the Agreement, by the Event of Force Majeure, while the PLANNER is so prevented, the PLANNER shall be relieved of its obligations to provide the effective service, but shall endeavor to continue to perform its obligations under the Agreement so far as reasonably practical [and in accordance with Good Operating Practices], provided that if and to the extent the PLANNER incurs additional expense in doing so, the PLANNER shall be entitled to the amount of such increase cost [cost being defined as having no profit component] and the PLANNER having taken reasonable steps to mitigate the additional cost.

41.2.4 If, and to the extent that, the PLANNER suffers a delay in providing the services set forth in this Agreement as a result of the Event of Force Majeure then PLANNER shall be entitled to an extension for the time of completion as deemed appropriate and mutually agreed to by OWNER and PLANNER.

[The remainder of this page left blank intentionally]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as follows:

PLANNER
[Ins1]

OWNER
GREENFIELD BOARD OF PUBLIC
AND SAFETY

By: _____

Mayor Chuck Fewell

Printed: _____

Title: _____

Katherine Locke

Date: _____

Larry Breese

Kelly McClarnon

Glenna Shelby

“ATTACHMENT A” SERVICE BY PLANNER

The scope of work outlines REA’s process, leading to the creation of an updated Greenfield Comprehensive Plan. REA will facilitate a forward-thinking, high-level, aspirational process where data and public input will inform the issues and policy direction. At the kickoff meeting, REA and the Client will identify what it means for Greenfield to manage growth and development and foster redevelopment within the City. The plan is intended to be a community-wide comprehensive plan. This plan will be developed with robust and inclusive community involvement, professional expertise, and an appropriate use of technology and digital methods.

Assumptions:

- REA will work with the City of Greenfield’s planning department throughout the entire process, receiving direction from them.
- A project Steering Committee will be created by the City to oversee the process, participate, and provide direction on policy and design frameworks, support public engagement efforts, provide review of REA’s deliverables, and any other tasks required of the Steering Committee during the project.
- REA will be responsible for creating all meeting content and facilitating both Steering Committee and community engagement meetings. The City will secure meeting locations.
- REA will generate social media posts, but the City will be responsible for posting to existing City accounts (Facebook, Twitter, Instagram, etc.)
- REA will utilize GIS data provided by the City or Hancock County, including assessor information to carry out existing conditions analysis as well as any other analysis. REA will also use any existing studies and ordinances as the initial benchmark for the project.
- REA has finalized the virtual and in-person meetings for this process that REA will participate in or facilitate. Any additional meetings will require an added services agreement.
- A 12-month schedule has been set for this project over two budget cycles. A detailed schedule will be finalized at the kickoff meeting. While every effort will be made to adhere to that contract, there are some situations that are outside of our control. REA will make every attempt to meet that schedule but if there is a delay, REA will communicate that both verbally and in writing.
- We will hold bi-weekly progress meetings with the client point of contact to check in on the project.

REA will use the following four-stage approach that will be completed within a total of 24 months:

1. Discovery: Community Needs Assessment & Analysis
2. Visioning: Input Meetings & Vision Setting
3. Framework: Plan Elements
4. Action: Implementation, Draft & Final Plan

PHASE 1: DISCOVERY | COMMUNITY NEEDS ASSESSMENT & ANALYSIS

In the Discovery Phase, REA kicks off the project with the City Staff, collects existing demographics and physical conditions data, analyzes that data, and begins to organize opportunities and issues to be addressed in the plan. During this phase of the project, working with staff, the community outreach and engagement process is developed and begins being implemented. The team will also submit a grant to the EDA for funding through FY 2021-2023 EDA Planning and Local Technical Assistance Program. Key tasks in this phase include:

1.1 KICK-OFF MEETING & TOUR: Project kick-off with the staff to review the scope of services, finalize schedule, establish communication protocol, and ensure a clear understanding of the desired outcomes for the project. Project communication and management protocol for meetings and engagement with the Steering Committee and broader community will be confirmed. At this time, other stakeholder groups to be engaged in the planning process will be discussed and determined. City staff and REA will tour the City to discuss opportunities/challenges, initial impressions, and potential outcomes for the comprehensive plan.

1.2 DEVELOPMENT OF GRANT APPLICATION: REA will work with the City to develop the grant writing narrative and application to the EDA for the Technical Assistance grant. The City will be responsible for submitting it via grants.gov. REA will provide support to the City for submittal.

1.3 COMMUNITY ENGAGEMENT STRATEGY: REA's outreach and engagement process is informed by a commitment to equity and inclusion and the idea that engagement is a philosophy and not a project phase. Regardless of the tool, the goal is always the same; hearing from those with lived experience to thoroughly understand the project issues and opportunities. In coordination with City staff, REA will develop a public engagement and communications plan that will discuss the communications points and public input techniques to deploy through all phases of the project. This plan will be updated throughout the project. At a minimum, the public engagement strategy will include:

Project Website

Project Brand

Social Media Campaign utilizing existing City accounts

Status Reports (monthly written reports)

Public Workshop Meetings (2 Meetings, formats and locations to be determined)

- Issue Identification & Visioning Workshop
- Plan Open House
- Online Open house for both meetings (open for 3 weeks)

Adoption Process (2 meetings, Plan Commission & City Council)

Focus Groups (8 total)

Steering Committee Meetings (7 total)

Community Events (2 total)

1.4 ECONOMIC & DEMOGRAPHIC CONTEXT: Collect relevant economic, demographic, and real estate data for future analysis in a GIS framework. Confirm current economic and demographic trajectories for key geographies under study. The employment analysis will focus on county-level trends regarding employment by industry/cluster, as well as demographic trends (households by age and income, population & median age). The employment overview will focus on the mix of companies and industries represented across the City. Regional trends will be benchmarked against a short-list of peer destinations for context.

1.5 CURRENT CONDITIONS & NEEDS ANALYSIS: REA will review relevant plans and documents as provided by the City, collect updated demographic and economic data, and assess the City's plans to understand goals and policies for such areas as land use, transportation, infrastructure, quality of life, and environmental/natural resource conditions. Implementation successes and failures from past plans will be identified as well as goals or policies that need to be incorporated into the new plan. During additional City outings, assess and document current conditions, existing character, identify opportunities and constraints, community amenities, planned developments, existing land use, roadway conditions, planned roadway improvements, and existing or planned pedestrian/bicycle facilities and amenities. Summarize review from existing documents and field review results into a summary analysis report, including text, maps, and photographs.

1.6 STEERING COMMITTEE MEETING 1: Conduct opportunity and issue identification exercises. Present summary of analysis phase data collection, findings and outcomes to the Steering Committee for review, comment, and confirmation. The Steering Committee will also discuss vision for future, values, and goals and objectives to be included in the plan. Community

engagement plan will be discussed as well as next steps, milestones, and deliverables in the planning process.

DELIVERABLES:

- Updated Schedule
- Current Conditions & Needs Analysis Draft Memo
- Public Engagement Plan
- Excel Spreadsheet of Stakeholders
- List of Steering Committee Members
- Main Point of Contact Information
- Summary Meeting Notes
- Meeting Presentation & Materials
- Project Branding

PHASE 2: VISIONING | INPUT MEETINGS & VISION SETTING

Building upon the results of the Discovery Phase, the Visioning Phase will focus on the 20-year vision of the comprehensive plan. This will include creation of a vision statement, identification of key community values, and the goals and objectives for each plan element. This will set the policy basis for the recommendations in the plan. Based off this vision, land use and transportation concepts will be prepared in a manner that engages key stakeholders and constituents, generates buy-in, ownership and consensus, and, ultimately, outlines a collective community vision for the future.

2.1 FOCUS GROUPS: REA in partnership with City staff, will facilitate 8 focus group meeting/key person interviews. Focus groups are used to enable dialogue regarding challenges and opportunities facing the community as well as plan vision and goals. Groups may be organized around a variety of topics and include neighborhood organizations, development and real estate professionals, social service organizations, elected and appointed bodies, and local business owners.

2.2 COMMUNITY WORKSHOP SERIES 1 (ISSUE IDENTIFICATION & VISIONING): The first public workshop series will focus on identifying issues and opportunities that should be addressed in the plan. REA will present current conditions and needs and ask the public to respond to those elements. Additionally, a portion of the meetings will be devoted to participants working on identifying elements of the community’s vision for the future as well as ideas on how to get there. This will form the basis for the goals and objectives of the plan. The format of the workshop will be discussed and determined in partnership with City staff, and may include in-person events, virtual meetings, participation at an existing community event, or some combination thereof.

2.3 VISION, GOALS & OBJECTIVES: The vision is the overall future state of the City at the culmination of 20-years of implementation of the plan. The vision should be challenging yet pragmatic and realistically achievable. The vision is supported by goals, objectives, and action steps. The objectives and action steps will be finalized after completion of the plan elements as part of the detailed implementation recommendations. Based on the first public workshop series, REA will prepare materials for the Steering Committee to develop a vision statement and framework for the goals and objectives.

2.4 STEERING COMMITTEE MEETING 2: REA will meet with the Steering Committee to review the results from the public meeting and the draft vision, goals, and objectives. The Steering Committee will then meet to review the vision and goals and also begin framing the plan elements.

DELIVERABLES:

- Online Engagement Portal
- Summary of Outreach
- Summary notes from Meetings
- Online Survey
- Meeting Presentation & Materials
- Vision & Goal Materials

PHASE 3: FRAMEWORK | PLAN ELEMENTS

The Framework Phase is when REA will synthesize the technical analysis of the Discovery Phase with community input and results of the Visioning Phase into the plan elements and policy recommendations.

3.1 LAND USE ELEMENT: Land use planning guides the quantity, quality, and location of growth. REA will develop a future land use plan and development character framework that includes: pattern and character of growth; location and intensity of various development types; agricultural preservation; protection and preservation of natural resources and historic features; and needed amendments to public policy (zoning and subdivision control).

3.2 TRANSPORTATION & UTILITY INFRASTRUCTURE ELEMENT: REA will create concepts for vehicular transportation and utility corridors in alignment with the land use plan. This could include: improvements to key intersections; new roadways or improvements to existing roadways; and alternative cross sections with the integration of bicycle and pedestrian facilities. The utilities component will focus on recommendations for water, sanitary sewer, and stormwater

systems to help manage future growth. As part of the infrastructure plan, the team will provide policy and potential land use guidance for solar, wind, cellular, and broadband systems.

3.3 ECONOMIC DEVELOPMENT ELEMENT: Like transportation planning, economic development planning is an effort best approached with a regional lens. Economic development provides the foundation for property and sales tax base by increasing the number of jobs and income generated. The economic development plan will require the review of existing regional plans for the area, review of economic indicators, and coordination among the various economic development players in the area to tailor a strategy that best fits the goals of the City. This plan will be developed within the context of the current local and national economic situation.

3.4 HOUSING ELEMENT: REA will work with the City to combine the overall vision, goals and objectives of the preceding tasks with the opportunities and issues identified during outreach and engagement efforts. We will develop a set of project priorities that are in harmony with the overall goals of the comprehensive plan but focused and tailored to address anticipated housing needs. (i.e. potential residential development areas, desired character, utility and service needs, potential development regulations, infill and redevelopment incentives).

3.5 QUALITY OF LIFE ELEMENT: A community's sense of place enhances the quality of life for residents. Focusing on creating a sense of place will include identifying goals and objectives that align with the land use framework and additional public needs and wants regarding historical/cultural facilities, parks and open spaces, community amenities and programs. This framework will provide a set of overall principles to be addressed with new development as well as the identification of potential projects, policies, and programs for the City. In coordination with the review of previous plans and studies, REA will create a Mobility & Connectivity plan that incorporates existing and planned bicycle and pedestrian infrastructure and the transportation and quality of life elements. This may include new facilities, extending existing facilities, and re-allocating existing right-of-way to meet community mobility goals.

3.6 STEERING COMMITTEE MEETING 3, 4 & 5: REA will facilitate three meetings with the Steering Committee to review plan elements. The team will discuss the second community workshop series. After review with the Steering Committee, REA will make necessary amendments to the plan elements.

3.7 COMMUNITY WORKSHOP SERIES 2 (PLAN ELEMENTS): REA will facilitate a second community workshop to review the various plan elements and provide input and feedback on the concepts. Recommendations will be presented in draft format, and the public will be asked to assist with development of projects priorities and additional recommendations. Similar to the first

workshop series, the format of these meetings may be virtual, in-person, or both and would also include a follow up community survey to prioritize plan recommendations to inform the implementation plan created in Phase 4.

DELIVERABLES:

- Draft copy of each framework plan
- Policy list and recommendations for each framework plan
- Summary notes from Meetings
- Online Survey
- Meeting Presentation & Materials

PHASE 4: ACTION | IMPLEMENTATION, DRAFT & FINAL PLAN

During the Action Phase, the implementation strategies are created and the draft comprehensive plan, containing the project process, outcomes, vision, plan elements and recommendations, and implementation plan, is prepared. The plan is presented at a public meeting for the community review. After any final amendments, the comprehensive plan will then be taken through the adoption process.

4.1 STEERING COMMITTEE MEETING 6: REA will facilitate a meeting with the Steering Team to review the input from the second workshop series and determine what changes need to be made to the plan elements.

4.2 IMPLEMENTATION PLAN: An implementation plan provides the guidance for the City to make decisions and execute plan recommendations. This plan will outline recommendations developed during the Visioning and Frameworks phase; provides a system to prioritize and sequence initiatives; establish a list of potential implementers; determine policy changes; and identify potential funding sources. The implementation plan will provide guidance on benchmarks and guidelines for monitoring and evaluation of the plan after adoption.

4.3 DRAFT PLAN: One, well-organized and highly graphic plan document summarizing the process, vision, development initiatives, polices and implementation recommendations will be created. This will include plan narrative, explanations of key concepts and graphics, descriptions of policies and programs, as well as a detailed implementation matrix. REA will provide the first draft to the staff for review, after initial edits it will then be shares with the Steering Committee, and finally others including the Area Plan Commission and elected officials. The Team will incorporate edits and create a draft plan for adoption.

4.4 STAFF REVIEW MEETING: REA will facilitate a meeting with the staff to review the draft comprehensive plan. We will also discuss and prepare for the public meeting and adoption process.

4.5 STEERING COMMITTEE MEETING 7: REA will facilitate a meeting with the Steering Committee to review the draft plan and discuss the community open house.

4.6 COMMUNITY OPEN HOUSE: This open house is an opportunity for residents to review the draft plan. We have found that an open house format, organized with stations for each plan element allows participants to walk around and learn about facets of the plan that they find of interest. Each station would be staffed by a City/Steering Committee representative or an REA Team member who can answer questions and present that particular area in more detail. This informal process allows participants to spend as much or as little time as they can afford while also interfacing directly with the planning team. Input opportunities will be included at the open house and via online surveys to gather and final feedback before the adoption process formally begins.

4.7 FINAL PLAN: Based on feedback from the community open house, REA will make any final changes before the plan starts the adoption process. After the adoption hearing, we will make minor revisions, and will produce the final Comprehensive Plan for the City of Greenfield. REA will deliver Fifteen bound hard copies of the final plan, an interactive PDF for online viewing, and an executive summary presentation. Final deliverables will be provided in both native and PDF file formats.

4.8 ADOPTION: When the City is ready for adoption, the consultant team will prepare a presentation and attend up to two adoption meetings for the adoption of the plan.

DELIVERABLES:

- 5 Draft Plan Copies
- 15 Final Plan Hard Copies
- 5 Flash Drives with Electronic Copies
- Summary notes from Meetings
- Online Survey, Meeting Presentation & Materials

"ATTACHMENT B"

KEY STAFF AND SUBCONTRACTORS OF PLANNER

PLANNER shall include all subcontractors on "Attachment B". PLANNER may not remove or otherwise substitute subcontractors indicated on "Attachment B" without consent of OWNER. A failure by PLANNER to provide the subcontractors as required by this Article shall be considered a material breach of the Agreement.

Ed Curtin, CWC Latitudes, LLC.

"ATTACHMENT C"

KEY STAFF OF OWNER

City of Greenfield
Department of Planning
10 S. State Street
Greenfield, Indiana 46140

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"ATTACHMENT D"

SCHEDULE

This schedule is included as a base reference only. Final dates for milestones and meetings will be discussed with the client early in the process and finalized. The City is pursuing a grant as part of this project so there are two potential schedules provided depending on the funding for the project. The schedule will be finalized after the grant has been determined. This Agreement shall expire December 31, 2024.

Grant Funded From EDA

It takes several months for the EDA to accept the grant and for funding to be allocated to the city. Hence the Discovery Phase is a longer duration. Initial funding is provided for the project by the City, but under this schedule it is anticipated that part of the funding is from a grant.

<u>Phase</u>	<u>Phase Start</u>	<u>Phase End</u>
Discovery	May 3, 2023	November 30, 2023
Grant	May 3, 2023	September 31, 2023
Visioning	November 30, 2023	February 12, 2024
Framework	February 15, 2024	September 2, 2024
Implementation	September 5, 2024	December 31, 2024

Final deliverable will be delivered in December after the plan has been adopted in December, 2024.

City Funded Only

Under City funding the project is split over two years to allocate funding for the project.

<u>Phase</u>	<u>Phase Start</u>	<u>Phase End</u>
Discovery	May 3, 2023	August 28, 2023
Visioning	August 31, 2023	January 29, 2024
Framework	February 2, 2024	July 28, 2024
Implementation	August 1, 2024	November 15, 2024

Final deliverable will be delivered in December after the plan has been adopted in November, 2024.

"ATTACHMENT E"

MEDIATION PROCESS

1. Purpose of Mediation. This clause provides for the use of Mediation as an alternative means of resolving disputes which may arise under this Agreement. Mediation allows parties to make an educated assessment of their respective cases, and then engage in a negotiated settlement discussion. Such a procedure can save both parties valuable time, resources, and legal costs. Should Mediation be utilized, a Mediation Agreement shall be drafted and adopted which will set forth the governing procedures and terms.
2. When to Invoke Mediation. If a dispute arises under the Agreement, either party may invoke this Mediation clause which will compel participation in Mediation for the purpose of resolving the dispute, provided all of the following conditions have been fulfilled:
 - a. The amount in controversy exceeds **Ten Thousand and 00/100 Dollars (\$10,000.00)**, or other such amount as may be agreed to by the parties in writing, such amount having been determined by both parties as being the minimum disputed claim to justify use of the Mediation procedure;
 - b. Personnel from each party who were directly involved in the dispute at the operational level met and discussed the claim in good faith, but were unable to resolve the matter. The personnel of each party shall prepare and forward to the persons identified in the subparagraph 2(c) memorandum detailing the areas of dispute, why impasse was reached and that it is beyond their ability to resolve the dispute;
 - c. After complying with the subparagraph above, personnel from each party at a higher management level who were not directly involved in the dispute met and discussed the claim in good faith, but were unable to resolve the matter. The personnel of each party shall prepare and forward to the persons identified in paragraph 3 a memorandum detailing the areas of dispute, why impasse was reached and that it is beyond their ability to resolve the dispute; and
 - d. Written notice was given to the other party stating that the above subparagraphs were complied with, and that the Mediation procedure is being invoked for the purpose of resolving the dispute.
3. Notice of Mediation. Notice of Mediation shall identify the dispute at issue and designate an executive officer or other management official who will represent the party at the proceeding. The designated official must possess the authority to settle the matter and have not been involved in the underlying facts in dispute.

4. Response to Notice of Mediation. Within ten (10) business days, the other party shall designate an appropriate official with authority to settle the dispute who will be its representative at the Mediation.
5. Scheduling. No later than thirty (30) days from the date of the notice of the Mediation, the parties' designated representatives and/or their attorneys shall meet to discuss the following:
 - a. Settlement status of the dispute;
 - b. Schedule by which drafts of a Mediation Agreement are to be submitted, and a date by which the Mediation Agreement will be finalized;
 - c. Schedule for Mediation discovery and other preparatory matters the parties deem necessary;
 - d. Whether a neutral advisor shall be employed in the Mediation and, if so, by what means they shall be selected; and
 - e. Time, place, and schedule of the Mediation.

The Mediation Agreement will be finalized and executed by both parties no later than sixty (60) days after the notice of the Mediation. The Mediation will be held within one hundred twenty (120) days after the notice of the Mediation unless extended by mutual consent of the parties.

6. Mediation as Condition Precedent to Arbitration or Litigation. Submission of a dispute under this Agreement to a Mediation procedure shall be a condition precedent to filing arbitration or litigation on any dispute exceeding the amount specified above. Failure to comply with this condition precedent shall be in contravention of the parties' express intention to implement this alternative means of dispute resolution and constitute a breach of this clause.
7. Refusal to Participate in Mediation. Refusal of a party to participate in mediation in good faith shall not be established unless:
 - a. All of the specified conditions set forth in paragraph 2 herein have been fulfilled;
 - b. Thirty (30) days have lapsed since initial written notice of the Mediation was given without an affirmative response; and
 - c. Refusal to participate in the Mediation shall be in contravention of the parties' express intention to implement this alternative means of dispute resolution and constitutes a breach of this clause.

8. Filing Arbitration or Litigation. No litigation or arbitration or any other binding action shall be initiated by either party unless:
 - a. The amount in controversy is less than or equal to the amount specified paragraph 2 above;
 - b. Despite compliance with this Mediation clause, one party is deemed to have refused (paragraph 7 above) to participate in the Mediation;
 - c. Both parties agree in writing that they intend not to implement the Mediation for the particular dispute in question;
 - d. The Mediation procedure has been completed and thirty (30) days have elapsed since the actual Mediation; or
 - e. Litigation must be filed before the Mediation to comply with the Statute of Limitations on a disputed issue.

9. Dismissal/Stay of Litigation. If one party has filed litigation on a dispute which is otherwise covered by this Mediation clause and which does not meet the exceptions set forth in paragraph 8 herein, the other party may properly seek to dismiss the litigation at its discretion for the purpose of conducting the Mediation as a condition precedent to litigation. If litigation was filed for the purpose set forth in subparagraph 8(e) herein, the filing party shall seek a stay for the purpose of conducting a Mediation. The stay provided for in this Paragraph shall continue for a period of thirty (30) days after completion of the Mediation. The purpose of this thirty (30) day period is to permit the parties full opportunity to discuss settlement.

"ATTACHMENT F"

INFORMATION PROVIDED BY OWNER TO PLANNER

1. GIS Data
2. Existing plans and studies
3. Zoning and subdivision ordinance
4. Provide and schedule meeting rooms or facilities for all meetings.
5. Coordinate public announcements and advertisements as required by Indiana Open Door law.

ATTACHMENT "G"

COMPENSATION TO PLANNER

The PLANNER shall receive compensation for such professional services under Attachment "A" of this Agreement in the amount of a total lump sum fee not-to-exceed One Hundred Sixty Thousand Dollars (\$160,000.00), inclusive of expenses, unless an amendment to this Agreement is executed by the parties that increases the maximum amount payable. This amount shall be billed monthly as a percent complete.

Phase 1: Discovery	\$ 40,000.00
Phase 2: Visioning	\$ 40,000.00
Phase 3: Framework	\$ 40,000.00
Phase 4: Implementation	\$ 40,000.00
Total Proposed Fee	\$160,000.00