

Minutes of Regular Meeting Of Homecroft Town Council

Thursday June 27, 2019 - 6:00 P.M.
Homecroft Town Hall
1400 Tulip Dr.
Indianapolis, IN 46227

Present:

Mrs. Kyle Jones - Council President
Mr. Tim Eickhoff - Council Member
Mr. Kevin Kehlbeck - Clerk/Treasurer
Mrs. Susan Fleck – Council Member

Mr. Robert Lutz - Town Attorney
Chief John Ryan, Jr. - Homecroft P.D.
Mr. Zachary Frizzell – Council V.P.

President Jones called the meeting to order at 6:00 PM, and the Pledge of Allegiance was recited.

The Clerk/Treasurer’s report:

1. A motion was made by Mrs. Fleck to approve the May 23, 2019 minutes for Regular Council Meeting; motion was seconded by Mr. Eickhoff. The motion carried.
2. A motion was made by Mr. Eickhoff to approve the Claims for May 24, 2019 thru June 27, 2019. Mr. Frizzell seconded the motion. The motion carried.

Public Works Report -

Susan Fleck

1. Maynard Drive Improvements Project update:

- a. Opening of submitted bids for Maynard Drive Improvement Project. Despite the fact that 14 bids went out, only (1) bid was returned by Morphey Construction, Inc. for the amount of \$950,404.90
- b. The Morphey bid was above the projected budget figure, and it was decided to approach them about amending the scope of the project to lower the bid to within the budget.
- c. Other alternatives were: 1. to cancel the project until next year, and re-apply for the INDOT/DPW grants; 2. see if any additional grant monies

could be made available; 3. Work with the contractor to see if certain parts of the project could be cut, but, not materially alter the scope of the project on which the Grants were based. (To avoid grant monies from being withheld)

- d. A motion was made by Mrs. Fleck to approach INDOT and DPW to amend the amount of their grants. Mr. Frizzell seconded the motion. The motion carried.
- e. A motion was made by Mr. Frizzell to hold a special meeting of the Town Board on Thursday, July 11, 2019 at 6:00pm to discuss the results of contacting INDOT, DPW, the Contractor (Morphey Construction, Inc.), and any other items put before the Board. The motion was seconded by Mr. Eickhoff. The motion carried.

Special Projects Report - Zachary Frizzell

- 1. No Report this month.

Police Department Report - Tim Eickhoff

- 1. No Report this month.

Chief Ryan –

Upcoming events: National Night Out – Tuesday, August 06, 2019, 5:00-8:00 PM.

New Business – None

Old Business– Non

Public Comments –A citizen of the town was present to voice concerns over dogs being allowed to run loose, one of which attacked her dog that was leashed. The town marshall said that he would have the officers be on the look-out for this in the future. In addition, the town ordinances governing these issues are in the process of being updated.

Council President Remarks - None Barbara Jones

A motion to adjourn the meeting was made by Mrs. Fleck @ 6:49 pm; the motion was seconded by Mr. Frizzell. The motion carried.

Special Meeting: - Thursday, July 11, 2019 – 6:00PM, Homecroft Town Hall

Next Regular Meeting: –Thursday, July 25, 2019 – 7:00 PM, Homecroft Town Hall.



Barbara K. Jones
Homecroft Town Council President



Kevin Kehlbeck
Homecroft Clerk/Treasurer

Minutes of Special Meeting Of Homecroft Town Council

Thursday July 11, 2019 - 6:00 P.M.

Homecroft Town Hall

1400 Tulip Dr.

Indianapolis, IN 46227

Present:

Mrs. Kyle Jones - Council President
Mr. Tim Eickhoff - Council Member
Mr. Kevin Kehlbeck - Clerk/Treasurer
Mrs. Susan Fleck - Council Member

Mr. Robert Lutz - Town Attorney
Chief John Ryan, Jr. - Homecroft P.D.
Mr. Zachary Frizzell - Council V.P.

President Jones called the meeting to order at 6:00 PM, and the Pledge of Allegiance was recited.

The Clerk/Treasurer's report:

No Report

Public Works Report -

Susan Fleck

A. Maynard Drive Improvements Project update:

1. A motion was made by Mr. Eickhoff to approve the revised bid from Morphy Construction, Inc. (**Attached**), and to allow the Town Board President and Clerk Treasurer to execute all documents related to the project. Mr. Frizzell seconded the motion. The motion carried.
2. A motion was made by Mr. Eickhoff to approve the contract with Indianapolis DPW for the matching funds for the project, and to approve the Town of Homecroft portion of the street project funds. Mr. Frizzell seconded the motion. The motion carried.

Special Projects Report -

Zachary Frizzell

1. No Report this month.

1. No Report this month.

New Business – None

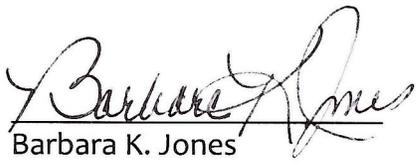
Old Business– None

Public Comments – None

Council President Remarks - None **Barbara Jones**

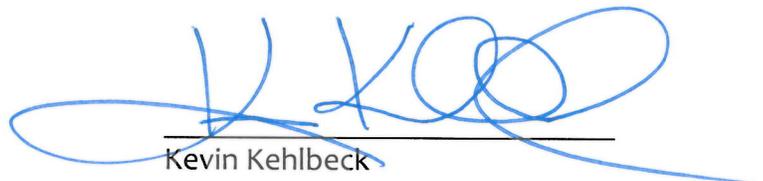
A motion to adjourn the meeting was made by Mr. Eickhoff @ 6:35 pm; the motion was seconded by Mr. Frizzell. The motion carried.

Next Regular Meeting: –Thursday, July 25, 2019 – 7:00 PM, Homecroft Town Hall.



Barbara K. Jones

Homecroft Town Council President



Kevin Kehlbeck

Homecroft Clerk/Treasurer

**AGREEMENT
Town of Homecroft, Indiana**

THIS AGREEMENT is made and entered into by and between the Town of Homecroft, Indiana, (“OWNER”) and Morphey Construction, Inc (“CONTRACTOR”), concerning the project (“Project”) described more particularly in Appendix A which is attached hereto and incorporated herein by reference.

RECITALS:

- A. OWNER has heretofore caused to be prepared certain plans, specifications and other documents (collectively, the “Contract Documents”) as hereinafter listed pertaining to the Project, and CONTRACTOR has filed a bid proposal (“Proposal”) to furnish labor, tools, material, equipment and/or services, and to perform the work (“Work”) called for in the Contract Documents pertaining to the Project, upon the terms and for the price(s) therein fully stated and set forth; and
- B. The said Contract Documents accurately and fully describe the terms and conditions upon which CONTRACTOR is willing to furnish the labor, tools, material, equipment, services, and perform the Work called for by the Contract Documents and in the manner and time and for the price(s) set forth therein.

OWNER AND CONTRACTOR AGREE AS FOLLOWS:

1.0 Contract Documents

1.1 This Agreement consists of the following Contract Documents all of which are as fully a part of this Agreement as if set out verbatim herein or attached hereto and the same do in all particulars become the Agreement between the parties hereto in all matters and things set forth herein and described:

- a. This Agreement, including any attachments hereto;
- b. All Addenda issued prior to receipt of bid proposals, whether or not receipt thereof has been acknowledged by CONTRACTOR in its Proposal;
- c. The Specifications;
- d. The Additional Requirements;
- e. Notice to Bidders;
- f. Instructions to Bidders;
- g. Plans and Drawings;
- h. CONTRACTOR’S Itemized Proposal and Declarations; and
- i. All other documents defined as Contract Documents in any of the above listed documents.

1.2 In resolving conflicts, errors, discrepancies and disputes concerning the nature, character, scope and/or extent of Work to be performed or furnished by CONTRACTOR hereunder, or other rights and obligations of OWNER and/or CONTRACTOR, the provision of a Contract Document expressing the greater quantity, quality or scope of the Work, or imposing a greater obligation upon CONTRACTOR, or affording a greater right or remedy

to OWNER, shall govern, without regard to the party who drafted such provision; otherwise, the Documents shall be given precedence in the order as listed in paragraph 1.1 herein above.

2.0 Contract Price

2.1 CONTRACTOR shall, in strict conformity with the Contract Documents, furnish all necessary labor, tools, materials, equipment, services, assume and fulfill all obligations and perform all Work required to construct, complete, and make ready for use by OWNER at the Unit Prices as quoted in the Proposal for a total contract price not to exceed \$845,635.90 Base Bid, subject to any additions or deletions based on actual approved quantities of the respective unit price items, which price CONTRACTOR agrees to accept as full payment for all such Work actually performed and accepted as described in the "Contract Items and Unit Prices specification" and other Contract Documents (the "Contract Price"). CONTRACTOR agrees that each unit price shall be deemed full and complete compensation for all direct and indirect costs for the each respective item of Work, including, without limitation, all materials, labor, supervision, equipment, transportation, warranties, repairs, replacement, overhead and profit for the item, complete and in place.

2.2 The above stated Contract Price will be paid to CONTRACTOR in the manner and at such times as set forth in the Contract Documents.

3.0 Contract Time

3.1 It is hereby understood and mutually agreed, by and between CONTRACTOR and OWNER, that the date of commencement and the time for completion of the Work as specified in the Contract Documents are essential conditions of this Agreement.

3.2 CONTRACTOR agrees that the Work shall be commenced no later than the date indicated in the Notice to Proceed to be provided by OWNER to CONTRACTOR and that the Work shall be performed regularly, diligently and without interruption at such a rate of progress as will insure "Substantial Completion" of the Project, including completion of performance testing and such remedial work as may be required by OWNER, by the dates specified in the Contract Documents.

3.3 CONTRACTOR and OWNER acknowledge and agree that the time allotted by this Agreement for the performance and completion of the Work is reasonable and takes into account any and all risks and adverse conditions which may befall CONTRACTOR hereunder.

4. Effective Date

This Agreement shall be deemed effective as of the date and year on which the last of the parties hereto, or their representative, executes same.

5. Miscellaneous Provisions

5.1 OWNER's Property

Any and all documentation (other than original tracings and original calculations) generated by CONTRACTOR pursuant to this Agreement shall be considered OWNER's exclusive property and shall be disclosed only to OWNER and to no other person without OWNER's prior express written consent. CONTRACTOR shall keep confidential all working and deliberative material pursuant to IC 5-14-3-4.

5.2 Termination

Except as expressly stated to the contrary herein, this Agreement may be suspended and/or terminated by OWNER at any time upon thirty (30) days' prior written notice to CONTRACTOR. In the event of such termination, CONTRACTOR shall be entitled to receive payment for any work completed to the satisfaction of OWNER prior to receipt of the notice.

5.3 Binding Effect

OWNER and CONTRACTOR and their respective officers, officials, partners, successors, executors, administrators, assigns and legal representatives are bound by this Agreement to the other party hereto and to the officers, officials, partners, successors, executors, administrators, assigns and legal representatives of such other party in all respects as to all covenants, agreements and obligations contained and/or incorporated herein.

5.4 No Third Party Beneficiaries

Nothing contained herein shall be construed to give any rights or benefits hereunder to anyone other than OWNER or CONTRACTOR.

5.5 Relationship

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

5.6 Bonds and Insurance

CONTRACTOR shall purchase and maintain such commercial general liability and other insurance as is appropriate for the Work being performed and furnished and shall protect CONTRACTOR, OWNER, and ENGINEER, their employees, officers, or agents from (i) claims under workers' or workmen's compensation, disability benefits and other similar employee benefit acts, (ii) claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees, (iii) claims for damages because of bodily injury, sickness or disease, or death of any person other

than CONTRACTOR’s employees, (iv) claims for damages insured by personal injury liability coverage which are sustained by any persona as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or by any other person for any other reason, (v) claims for damages, other than to the Work itself, because of physical injury to or destruction of tangible property wherever located, including loss of use resulting therefrom, (vi) claims arising out of operation of laws or regulations for damages because of bodily injury or death of any person or for damage to property, and (vii) claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle, which may arise out of or result from CONTRACTOR’s other obligations under the Contract Documents, whether it is to be performed or furnished by CONTRACTOR, by a subcontractor, by anyone directly or indirectly employed by any of them to perform or furnish any of the Work, or by anyone for whose acts any of them may be liable.

The insurance required by this Section shall be written for not less than the limits of liability and coverages as provided herein or as required by law, whichever is greater. The Commercial General Liability Insurance shall include coverage of (i) Premises and operations, (ii) Contractual liability as applicable to any indemnification hold harmless agreements in the Contract, (iii) Products and Completed Operations, with completed operations coverage being maintained for a period of one (1) year after final payment and CONTRACTOR shall continue to provide evidence of such coverage to OWNER during the aforementioned period, (iv) Broadform Property Damage – including completed operations, (v) Fellow Employee claims under Personal Injury, and (vi) Independent contractors. Such insurance shall specifically include coverage for property damage from explosion, collapse, and underground operations. Coverage for explosion, collapse, and underground operations shall include blasting or explosion, collapse of structures or structural injury due to grading of land, excavation, filling, back filling, tunneling, pile driving, caisson work, moving, shoring, underpinning, raising of or demolition of any structure, or removal or rebuilding of any structural support of a building or structure. Such insurance shall further include coverage for damage to wires, conduits, pipes, mains, sewers, or other similar apparatus encountered below the surface of the ground when such damage is caused by any occurrence arising out of the performance of the work, performed by CONTRACTOR or by any subcontractor or anyone directly or indirectly employed by either.

CONTRACTOR’s insurance shall be written for not less than the following limits of liability:

1.	Workers Compensation & Disability	Statutory Limits
2.	Employer’s Liability	
(i)	Bodily Injury by Accident	\$ 100,000 each accident
(ii)	Bodily Injury by Disease	\$ 500,000 policy limit
(iii)	Bodily Injury by Disease	\$ 100,000 each employee

3. Commercial General Liability (Occurrence Basis) Bodily Injury, Personal Injury, Property Damage, Contractual Liability, Products-Completed Operations.

NOTE: GENERAL AGGREGATE TO APPLY PER LOCATION/PROJECT

(i)	General Aggregate Limit (other than Products/Completed Operations)	\$2,000,000
(ii)	Products/Completed Operations	\$2,000,000
(iii)	Personal & Advertising Injury Limit:	\$1,000,000
	Each Occurrence Limit:	\$1,000,000
	Damage to Rental Premises:	\$ 150,000
	Medical Expense Limit (any one person)	\$ 5,000
4.	Comprehensive Auto Liability (single limit) (owned, hired and non-owned) Bodily Injury and Property Damage	\$1,000,000 each accident
5.	Umbrella Excess Liability	\$5,000,000 each occurrence and aggregate
	The Deductible on the Umbrella Liability shall not be more than	\$ 10,000

CONTRACTOR shall be responsible for payment all deductible amounts.

Before commencing work, CONTRACTOR shall submit a "Certificate of Insurance" indicating the above necessary coverages as well as naming OWNER, its employees and representatives as "Additional Insureds" on all policies except Workers' Compensation to OWNER for review and approval. Such insurance shall be carried with financially responsible insurance companies authorized to do business in the State of Indiana, have a general policyholder's rating of A or better, in the latest edition of Alfred M. Bests Insurance Reports and be satisfactory in form and coverage to OWNER. Such coverages shall be kept in force until final payment and at all times thereafter when CONTRACTOR may be correcting, removing or replacing Defective work. CONTRACTOR's insurer(s) shall provide by Certified Mail OWNER and CONSTRUCTION INSPECTOR with sixty (60) days' prior written notice in the event of cancellation, non-renewal or material change in the policies. If required by OWNER, CONTRACTOR shall also provide copies of all underlying insurance policies for certificates required above.

The Commercial General Liability insurance required by this Section shall include contractual liability insurance applicable to CONTRACTOR's indemnity and hold harmless obligations under this Agreement.

5.7 Indemnification

CONTRACTOR shall indemnify and hold harmless OWNER, its officers, officials, employees, agents and legal representatives, from all losses, liabilities, claims, judgments and liens, including, but not limited to, all costs, expenses and attorney fees, arising out of any intentional or negligent act or omission of CONTRACTOR and/or any of its agents, employees, contractors, subcontractors, outside sources and/or other persons in the performance of this Agreement. The failure to do so shall constitute a material breach of this Agreement. This indemnification obligation shall survive the termination of this Agreement.

5.8 Setoff

In addition to any right of setoff provided by law, all amounts due CONTRACTOR shall be considered net of indebtedness of CONTRACTOR to OWNER, and OWNER may deduct any amounts due or to be come due from CONTRACTOR to OWNER from any sums due or to become due from OWNER to CONTRACTOR hereunder.

5.9 Government Compliance

CONTRACTOR agrees to comply with all present and future federal, state and local laws, executive orders, rules, regulations, codes and ordinances which may be applicable to CONTRACTOR's performance of its obligations under this Agreement, and all relevant provisions thereof are incorporated herein by this reference. CONTRACTOR agrees to indemnify and hold harmless OWNER from any loss, damage or liability resulting from any violation of such laws, orders, rules, regulations, codes and/or ordinances. This indemnification obligation shall survive the termination of this Agreement.

5.10 Severability.

If any provision of this Agreement is held to be invalid, illegal or unenforceable by a court of competent jurisdiction, that provision shall be stricken, and all other provisions of this Agreement which can operate independently of such stricken provision shall continue in full force and effect.

5.11 Notice.

Any notice, invoice, order or other correspondence required or permitted to be sent under or pursuant to this Agreement shall be in writing and either hand-delivered or sent by postage prepaid, U.S. Certified mail, return receipt requested, addressed to the parties at the following address:

OWNER:

Town of Homecroft
P.O. Box 40437
Indianapolis, IN 46240

Attention: Town Council President
(with a copy to Clerk-Treasurer)

CONTRACTOR:

Morphey Construction, Inc.
~~1479~~ 1433 N. Sherman Drive
Indianapolis, IN 46201

Notwithstanding the above, a Notice To Cease All Work issued under or pursuant to Paragraph 5.2 hereinabove may be orally given, as long as such notice is thereafter followed by written notice as provided in this Paragraph 5.11 within five (5) business days of the date of such oral notice.

5.12 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, except for its conflict of law's provisions, as well as with all municipal ordinances and codes of the Town of Homeroft and the City of Indianapolis. The parties further agree that, in the event a lawsuit is filed hereunder, they waive any rights to a jury trial they may have, agree to file any such lawsuit in an appropriate court in Marion County, Indiana only, and agree that such court is the appropriate venue for and has jurisdiction over same.

5.13 Waiver

Any delay or partial inaction on the part of OWNER in exercising or pursuing any right and/or remedy provided hereunder or by law shall not operate to waive any such rights or remedies.

5.14 Exhibits

All exhibits and/or appendices referenced herein, whether marked "Exhibit", "Appendix", or by some other title, shall be considered a part of this Agreement.

5.15 Prior Agreements

This Agreement contains all of the agreements of the parties hereto with respect to the subject matter hereof, and supersedes all prior negotiations, representations, and/or contracts, either oral or written, respective thereto.

5.16 Representation and Warranties

Each party hereto represents and warrants that it is authorized to enter into this Agreement and that such party, in executing this Agreement, has the authority to bind such party or the party which it represents, as the case may be.

5.17 Headings

All headings and sections of this Agreement are inserted for convenience only and do not form a part of this Agreement nor limit, expand or otherwise alter the meaning of any provisions hereof.

5.18 Advice of Counsel

The parties warrant that they have read this Agreement and understand it, are fully aware of their respective rights, have had the opportunity for the advice and assistance of an attorney throughout the negotiation of this Agreement, and enter into this Agreement freely, voluntarily and without any duress, undue influence, coercion or promise of benefit, except as expressly set forth herein.

5.19 Nondiscrimination

CONTRACTOR represents and warrants that it and all of its officers, employees, agents, contractors, and subcontractors shall comply with all laws of the United States,

the State of Indiana, and the City of Indianapolis prohibiting discrimination against any employee, applicant for employment or other person in the provision of any work provided by this Agreement with respect to their hire, tenure, terms, conditions and privileges of employment and any other matter related to their employment or subcontracting, because of race, religion, color, sex, handicap, national origin, ancestry, age, disabled veteran status and/or Vietnam era veteran status.

5.20 Compliance with E-Verify Program

Pursuant to I.C. 22-5-1.7, CONTRACTOR shall enroll in and verify the work eligibility status of all newly hired employees of CONTRACTOR through the E-Verify Program (“Program”). CONTRACTOR is not required to verify the work eligibility status of all newly hired employees through the Program if the Program no longer exists. CONTRACTOR and its subcontractors shall not knowingly employ or contract with a person that CONTRACTOR or its subcontractor subsequently learns is an unauthorized alien. Pursuant to I.C. 22-5-1.7, a full executed affidavit affirming that CONTRACTOR does not knowingly employ an unauthorized alien and confirming CONTRACTOR’s enrollment in the Program, unless the Program no longer exists, shall be filed with OWNER.

5.21 No Investment in Iran

Pursuant to I.C. 5-22-16.5, by signing this Agreement, CONTRACTOR certifies that it has not and is not engaged in investment activities in Iran.

5.22 Entire Agreement

This Agreement, together with any attachments hereto or referenced herein, constitutes the entire agreement between CONTRACTOR and OWNER with respect to the subject matter hereof, and supersedes all prior oral or written representations and agreements regarding same. Notwithstanding any other term or condition set forth herein, but subject to paragraph 5.10 hereof, to the extent any term or condition contained in any exhibit attached to this Agreement conflicts with any term or condition contained in this Agreement, the term or condition contained in this Agreement shall govern and prevail, unless the parties hereto, or their successors in interest, expressly and in writing agree otherwise. This Agreement may only be modified by written amendment executed by both parties hereto, or their successors in interest.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

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

OWNER:
TOWN OF HOMECROFT, INDIANA

CONTRACTOR: *MORPHEE CONSTRUCTION INC.*

BY: _____
Kyle Jones, President, Town Council

BY: *St.P. Mill* _____

Date: _____

Printed Name: *STEVEN P. MILBOURN* _____

Title: *President* _____

Date: *7/25/19* _____

ATTEST:

Kevin Kehlbeck, Clerk-Treasurer

Date: _____

APPENDIX A

PROJECT: *19-TOH-01 - 2019 Maynard Drive Improvements*

WORK: As described by the Project plans and Contract Documents including, but not limited to:

The project will consist of mainline roadway asphalt milling and resurfacing with HMA Surface, Type 'B' from Shelby Street to Orinoco Avenue and Dresden Street to Madison Avenue, with areas of full depth HMA pavement replacement, and concrete curb, curb ramp, sidewalk and drive approach replacement. The area from Orinoco Avenue to Dresden Street will consist of full depth HMA reconstruction and concrete curb replacement with portions of concrete sidewalk, curb ramp and drive approach replacement. This project also includes storm sewer inlet installation and casting adjustments to grade.

DESIGN BY: William Hall, PE
CrossRoad Engineers, P.C.
3417 Sherman Drive
Beech Grove, IN 46107

OWNER'S REPRESENTATIVE: Susan Fleck
Town of Homecroft
Councilor Member - Public Works
PO Box 47123
Indianapolis, IN 46247

16844
jpe

INDY NEIGHBORHOOD INFRASTRUCTURE PARTNERSHIP

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN
THE CONSOLIDATED CITY OF INDIANAPOLIS AND MARION COUNTY,
DEPARTMENT OF PUBLIC WORKS
AND
THE TOWN OF HOMECROFT**

This Interlocal Cooperation Agreement (the "Agreement") is entered into effective as of the last date of execution of this Agreement by all required signatories for each party below (the "Effective Date"), by and between the **Consolidated City of Indianapolis and Marion County, Indiana** (the "City"), by and through its **Department of Public Works** ("DPW"), and the **Town of Homecroft, Indiana** (the "Town").

RECITALS

WHEREAS, the City established the Indy Neighborhood Infrastructure Partnership, a matching fund pilot program under which the City annually accepts proposals from community-based organizations for infrastructure improvement projects within the public right-of-way, with proposing organizations committing a minimum of fifty percent (50%) of the cost of the proposed project, either in cash or in-kind contributions (the "Program"); and

WHEREAS, the Town submitted a proposal for 2019 Program funding for the reconstruction and resurfacing of segments of Maynard Drive in the Town, and its proposal was selected to be awarded funding under the Program (the "Project"); and

WHEREAS, pursuant to I.C. §§ 36-1-7-2(b) and 36-1-7-12, governmental entities that want to buy, sell or exchange services, supplies, or equipment between or among themselves may enter into an interlocal cooperation agreement to do so; and

WHEREAS, the Town and the City hereby commit to invest in and complete the Project, and since the Town is a municipality which regularly conducts maintenance of the streets under its jurisdiction and bids/quotes public infrastructure improvement projects under the Indiana public works statute, I.C. 36-1-12, the parties acknowledge and agree that it will save each party considerable time and cost by allowing the Town to complete the Project itself; and

WHEREAS, pursuant to I.C. § 36-1-7-12(b), compliance by the Town with the public works statute, I.C. 36-1-12, also constitutes compliance by the City with regard to the Project; and

WHEREAS, accordingly, the Town and the City desire to enter into this Agreement pursuant to the authority of I.C. §§ 36-1-7-2 and 36-1-7-12 to allow the City to provide funds to the Town in exchange for the Town planning, overseeing and carrying out the Project itself with its own contractor.

NOW, THEREFORE, in consideration of the above representations and the mutual understandings set forth herein, the parties agree as follows:

1. The City's Obligations.

a. The City shall appoint a representative of DPW to act as liaison with the Town with regard to the Project.

b. The City, through DPW, shall pay to the Town the sum of One Hundred Forty-Three Thousand Four Hundred Eight and 63/100 Dollars (~~\$143,408.63~~) as the Town's funding award under the 2019 Program (the "Program Funding"), within thirty (30) days of the Effective Date.

\$ 148,386.37

2. The Town's Obligations.

New Amt
From DPW

a. The Town shall appoint a representative to act as liaison with DPW with regard to the Project.

b. The Town shall cause the Project to be completed in accordance with all federal, state and local statutes, ordinances, rules, regulations, standards and policies applicable to the Project, and in particular those which pertain to public investments in public infrastructure improvements and the expenditure of public funds ("Applicable Laws").

c. The Town shall cause the Project to be completed no later than December 31, 2019 (the "Target Project Completion Date"). In the event that the Town fails to complete the Project by the Target Project Completion Date for any reason, other than a Force Majeure Event (hereinafter defined), then the Town shall be obligated to return the Program Funding to the City within 30 days following the Target Project Completion Date, unless this Agreement is amended by the parties to establish a revised completion date.

d. The Town shall expend the Program Funding only for Project-related work, and all such work shall be done wholly within the public right-of-way.

e. The Town shall pay all costs of the Project which exceed the amount of the Program Funding.

3. Good Faith Cooperation. The City and the Town agree to cooperate in good faith from the date of this Agreement until completion of the Project, or termination of this Agreement, as the case may be. These good faith efforts include, but are not limited to, the sharing of information, being readily available for meetings to discuss the Project, executing any documentation reasonably pertaining to the Project, and appealing before any local board, commission or organization necessary for the approval or completion of the Project.

4. Notice. Routine communications between representatives of the parties regarding the Project may be had in any manner that is most convenient and efficient. Any formal notices required to be given under this Agreement shall be sent by internationally recognized overnight courier, certified mail, facsimile or other delivery method which provides confirmation of receipt and shall be directed to the persons and addresses specified below (or such other persons and/or addresses as any party may indicate by giving notice to the other party):

To the City:

Daniel J. Parker, Director
Department of Public Works
City of Indianapolis
200 E. Washington Street, Suite 2460
Indianapolis, IN 46204

To the Town:

Susan Fleck, Town Councilor
Town of Homecroft
1437 Maynard Drive
Indianapolis, IN 46227

5. Termination for Failure of Funding. Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the City are at any time insufficient or not forthcoming through failure of any entity to appropriate funds or otherwise, then the City shall have the right to terminate this Agreement without penalty by giving written notice documenting the lack of funding, in which instance this Agreement shall terminate and become null and void on the last day of the fiscal period for which appropriations were received. The City 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. Any such termination shall not relieve the City of any costs of completing the Project already incurred by the Town prior to the notice of termination under this Section.
6. Indemnification. To the extent permitted by law, the Town agrees to indemnify and hold harmless the Consolidated City of Indianapolis and Marion County, its officers, agents, officials and employees, for any and all third party claims, actions, causes of action, judgments, and liens to the extent such claims, actions, causes of action, judgments and liens arise out of any negligent or intentional acts or omissions or breach of any provision of this Agreement by the Town or any of its officers, agents, employees, or contractors in the performance of any of the duties or responsibilities of the Town under this Agreement. Such indemnity shall include attorneys' fees and all costs and other expenses arising there from or incurred in connection therewith. The City shall not provide such indemnification to the Town; provided, however, that the Town shall be relieved of its indemnification obligation to the extent any injury, damage, death or loss is attributable to the acts or omissions of the City.
7. Non-Discrimination. The parties, and their respective officers, employees, agents, consultants, contractors, and subcontractors, shall not discriminate against any employee or applicant for employment to be employed in 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 section shall be regarded as a material breach of this Agreement.
8. Force Majeure. In the event that either party is unable to perform any of its obligations under this Agreement – or to enjoy any of its benefits – because of fire, explosion, power blackout, natural disaster, strike, embargo, labor disputes, war, terrorism, acts of God, acts or decrees of governmental bodies or other causes beyond such party's reasonable control (a "Force Majeure Event"), the party which has been so affected shall immediately give notice to the other and shall take commercially reasonable actions to resume performance. Upon receipt of such notice, all obligations under this Agreement shall immediately be suspended except for payment obligations. If the period of nonperformance exceeds sixty (60) days from the receipt of the Force Majeure Event, the

party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.

9. Governing Law; Forum.

a. The Town agrees to comply with all Applicable Laws, and all provisions required thereby to be included in this Agreement are hereby incorporated by this reference. This includes, but is not limited to, the Federal Civil Rights Act of 1964 and, if applicable, the Drug-Free Workplace Act of 1988. The enactment of any applicable laws after the Effective Date shall be reviewed by the City and the Town to determine whether the provisions of the Agreement require formal modification.

b. This Agreement shall be construed in accordance with the laws of the State of Indiana, and by all applicable Municipal Ordinance or Codes of the Consolidated City of Indianapolis, County of Marion. Suit, if any, shall be brought in a court of competent jurisdiction in the State of Indiana, County of Marion.

10. Entire Agreement. This Agreement and the documents incorporated into this Agreement represent the entire understanding between the City and the Town with respect to the Project. The signing of this Agreement constitutes the parties' mutual recognition that no other contracts or agreements, oral or written, exist between them with respect to the subject matter contained herein and that if such oral or written contracts or agreements exist, such are hereby superseded. Each party hereby represents to the other that it will not rely upon any agreement, contract or understanding with respect to the subject matter hereof not reduced to writing and incorporated into this Agreement prior to the execution hereof or not reduced to writing and incorporated into written amendments to this Agreement.

11. Binding Agreement. This Agreement shall be binding upon the City and the Town and their respective successors and assigns.

12. Severability. If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the provision shall be stricken, and all other provisions of this Agreement which can operate independently of such stricken provisions shall continue in full force and effect.

13. Authority to Bind. Notwithstanding anything in this Agreement to the contrary, the signatory for the Town represents that he or she has been duly authorized to execute agreements on behalf of the Town and has obtained all necessary or applicable approvals to make this Agreement fully binding upon the Town when his or her signature is affixed hereto and accepted by the City.

14. Modification. This Agreement may be amended or modified only in writing signed by each of the parties.

15. Electronic Signature. The City and the Town agree to signature both in counterparts and by facsimile.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates subscribed below, effective the day and year first written above.

TOWN OF HOMECROFT, INDIANA

By: _____
Kyle Jones, Town Council President

Date: _____

**CONSOLIDATED CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA,
DEPARTMENT OF PUBLIC WORKS**

By: _____
Daniel J. Parker, Director

Date: _____

Approved for Availability of Funding:

By: _____
Fady Qaddoura, Controller

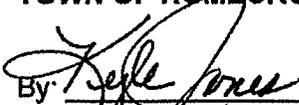
Date: _____

Approved as to Form and Legality:

By: _____
Robert M. Frye,
Assistant Corporation Counsel

Date: _____

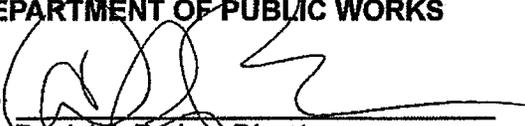
TOWN OF HOMECROFT, INDIANA

By: 

Kyle Jones, Town Council President

Date: 6-18-19

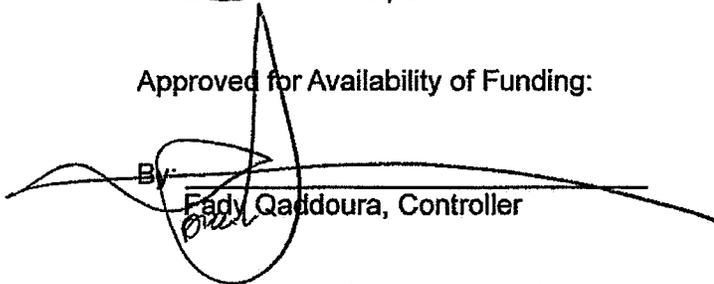
**CONSOLIDATED CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA,
DEPARTMENT OF PUBLIC WORKS**

By: 

Daniel J. Parker, Director

Date: 6-21-19

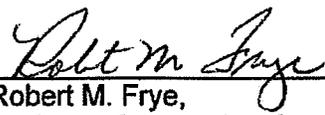
Approved for Availability of Funding:

By: 

Fady Qaddoura, Controller

Date: 7/3/2019

Approved as to Form and Legality:

By: 

Robert M. Frye,
Assistant Corporation Counsel

Date: 07/08/19

INDY NEIGHBORHOOD INFRASTRUCTURE PARTNERSHIP

AMENDMENT NUMBER 1

**TO THE
INTERLOCAL COOPERATION AGREEMENT
BETWEEN
THE CONSOLIDATED CITY OF INDIANAPOLIS AND MARION COUNTY,
DEPARTMENT OF PUBLIC WORKS
AND
THE TOWN OF HOMECROFT**

This Amendment Number 1 is entered into by and between the **Consolidated City of Indianapolis and Marion County, Indiana** (the "City"), **by and through its Department of Public Works** ("DPW"), and the **Town of Homecroft, Indiana** (the "Town").

WITNESSETH:

WHEREAS, effective July 8, 2019, the City and the Town entered into an Interlocal Cooperation Agreement pursuant to the authority of I.C. §§ 36-1-7-2 and 36-1-7-12 (the "Agreement"), whereby the parties agreed to evenly share the costs of an infrastructure project, as more particularly described in the Agreement (the "Project"), under an award by the City to the Town under the City's Indy Neighborhood Infrastructure Partnership (the "Program");

WHEREAS, the Project is funded through a grant the Town received from the Indiana Department of Transportation ("INDOT"), and pursuant to the Agreement the City and the Town were to evenly share the costs of the Town's local contribution under the terms of the INDOT grant; and

WHEREAS, an invitation for bids was published pursuant to the Indiana public works bidding statutes seeking bids from qualified contractors to construct the Project; and

WHEREAS, only one bid was received, and the bid price exceeded the engineer's estimated cost of the Project; and

WHEREAS, the Town worked with INDOT to reduce the scope of the Project so that the line item quantities in the sole bid have been reduced to be more in line with the engineer's estimate; and

WHEREAS, however, the cost of the Project as adjusted will still exceed the original engineer's estimate, causing the Town's contribution to the Project costs under the terms of the INDOT grant to increase by **\$9,955.48** (the "Increased Project Costs"); and

WHEREAS, the purpose of the Program is to leverage the City's available funds for infrastructure improvements by matching City funds with contributions from community-based organizations to perform needed infrastructure improvement projects within the public right-of-way in the areas of focus for those organizations, and the City awarded the Town matching funds for the Project; therefore, it is consistent with the Program's purposes to increase the City's contribution to the Town's Project costs by fifty percent (50%) of the Increased Project Costs.

NOW, THEREFORE, in consideration of the above representations, those set forth in the Agreement, and the mutual understandings of the parties set forth herein, the parties agree to amend the Agreement as follows:

1. The City hereby agrees that the Town's funding award under the 2019 Program (the "Program Funding") shall be increase by a sum equal to fifty percent (50%) of the Increased Project Costs. For the avoidance of doubt, said sum is Four Thousand Nine Hundred Seventy-Seven and 74/100 Dollars (\$4,977.74). Accordingly, Section 1.b. of the Agreement is hereby amended to read as follows:

"b. The City, through DPW, shall pay to the Town the sum of One Hundred Forty-Eight Thousand Three Hundred Eighty-Six and 373/100 Dollars (\$148,386.37) as the Town's funding award under the 2019 Program (the "Program Funding")."

2. The City shall pay the Town the Program Funding (in the amount set forth above) within thirty (30) days of the effective date of this Amendment Number 1, which date shall be the last date upon which any required signatory for either party executes this Amendment Number 1.
3. All other terms and conditions of the Agreement, other than as amended by this Amendment Number 1, shall remain in full force and effect.

[The remainder of this page left blank intentionally]

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the Agreement on the dates subscribed below.

TOWN OF HOMECROFT, INDIANA

By: 
Kyle Jones, Town Council President

Date: 7-21-19

**CONSOLIDATED CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA,
DEPARTMENT OF PUBLIC WORKS**

By: _____
Daniel J. Parker, Director

Date: _____

Approved for Availability of Funding:

By: _____
Fady Qaddoura, Controller

Date: _____

Approved as to Form and Legality:

By: _____
Robert M. Frye,
Assistant Corporation Counsel

Date: _____