



6100 Southport Road
Portage, Indiana 46368
(219) 763-6060
www.nirpc.org

**NORTHWESTERN INDIANA REGIONAL PLANNING COMMISSION
FULL COMMISSION MEETING**
April 20, 2023 at 9:00 A.M.
NIRPC Lake Michigan Room, 6100 Southport Road, Portage

- 1.0 Call to Order and Pledge of Allegiance – Richard Hardaway
- 2.0 New Appointments to the Commission
- 3.0 Roll Call – Candice Eklund
- 4.0 Public Comment on Current Agenda Items
Members of the audience who have signed up to comment on agenda items will be recognized by the Chair. Time is limited to 3 minutes per commenter.
- 5.0 Approval of the Minutes of the March 16, 2023, Executive Board Meeting (pp. 1-3)
ACTION REQUESTED: Approval
- 6.0 Report of the Chair – Richard Hardaway
- 7.0 Report of the Executive Director - Ty Warner
- 8.0 Finance and Personnel Committee (F&P) – Wendy Mis (pp. 4-33)
 - 8.1 Marquette Greenway Project Management and Project Development Draft Contract (pp. 6-33)
ACTION REQUESTED: Approval
- 9.0 Technical Planning Committee (TPC) - Kevin Breitzke (pp. 34-35)
 - 9.1 Overview of *NWI 2050+* Draft Metropolitan Transportation Plan (NIRPC Staff)
ACTION REQUESTED: Informational
- 10.0 INDOT, Matt Deitchley, La Porte District Deputy Commissioner
- 11.0 Other Business
- 12.0 Announcements
- 13.0 Adjournment
The next meeting on May 18, 2023, at 9:00 a.m. will be an Executive Board meeting.

NIRPC Executive Board Meeting

6100 Southport Road, Portage, IN

March 16, 2023 Minutes

Call to Order

Chairman Richard Hardaway called the meeting to order at 9:06 a.m. with the Pledge of Allegiance. The meeting was streamed live on YouTube.

New Appointments to the Commission

Dave Hollenbeck announced the appointments to the Commission of Tim Clayton (Winfield), Randall Niemeyer (Lake County Council), and Lisa Rosenkranz (LaCrosse).

Roll call - Taken by Candice Eklund.

Present

The 10 Executive Board members present at the meeting included Kyle Allen (Lake County Commissioner), Kevin Breitzke (Porter County Surveyor), Tom Dermody (La Porte), Denise Ebert (Wanatah), Bill Emerson (Lake County Surveyor), Richard Hardaway (Merrillville), Justin Kiel (LaPorte County Council), Sue Lynch (Portage), Wendy Mis (Munster), and Jim Ton (Chesterton).

The 14 other Commissioners present at the meeting included Robert Carnahan (Cedar Lake), Don Craft (Porter), Daina Dumbrys (Michiana Shores), Ellen Hundt (Beverly Shores), Jane Jordan (Burns Harbor), Matt Murphy (Valparaiso), Randall Niemeyer (Lake County Council), Lisa Rosenkranz (LaCrosse), Tom Schmitt (Schererville), Brian Snedecor (Hobart), Steve Spebar (Whiting), Red Stone (Porter County Council), Mary Tanis (Dyer), and George Topoll (Union Township).

Absent

Executive Board member, Jim Pressel (Governor Appointee) was not in attendance.

Kingsbury and The Pines have appointed no representatives to NIRPC.

Staff present included Ty Warner, Lisa Todd, Scott Weber, Kevin Polette, Charles Bradsky, Flor Baum, Candice Eklund, and attorney Dave Hollenbeck.

Public Comment – David Wright announced that Denise Dillard has been appointed the interim General Manager at Gary Public Transit Corporation (GPTC) since December and is helping to accelerate some of their ambitious plans.

Approval of Minutes

The minutes of the March 16, 2023 Executive Board meeting minutes were approved on motion by Kevin Breitzke and seconded by Sue Lynch.

Report of the Chair – Richard Hardaway

Richard Hardaway reported he would Chair the meeting until 9:45, at which time Tom Dermody Chaired the remainder of the meeting.

Report of the Executive Director - Ty Warner

As a Metropolitan Planning Organization (MPO), NIRPC is responsible for the Unified Planning Work Program (UPWP), Metropolitan Transportation Plan (*NWI 2050*), and the Transportation Improvement Program (TIP). Staff have been very busy working on these three major federal projects as they are all due around the same time this year.

Mr. Warner attended the 2023 Purdue Road School this week and one of the takeaways he shared was regarding the solar eclipse in 2017. The Department of Homeland Security presented on how they are already preparing for the next solar eclipse on April 8, 2024, which will be going through Bloomington and Indianapolis.

They recounted the lessons learned from 2017, and encouraged all Indiana to be prepared for an influx of tourists and observers. The next solar eclipse will be in 2044.

Environmental Management Policy Committee (EMPC) – Bill Emerson

Bill Emerson reported the EMPC met on February 2, 2023 where the committee reviewed the air quality environmental projects that were recommended to the TPC. Jen Birchfield, NIRPC, is leading an effort to capture the Natural Hazards Resiliency Needs Assessments for emergency response and environmental concerns. The next EMPC meeting is scheduled for May 4 at 9:00 a.m.

Finance & Personnel Committee (F&P) – Wendy Mis

Wendy Mis reported the F&P Committee met this morning to review the financial reports and bank reconciliations for January 2023 and the claims registers for January and February 2023. The F&P Committee brought the action item below to the Executive Board with a favorable recommendation.

Lisa Todd presented on the Procurements below. On motion by Kevin Breitzke and seconded by Jim Ton, the Executive Board approved the six procurements.

- 23-07.01: Two replacement vehicles for Porter County Aging Community Services. Not to exceed \$163,485.
- 23-07.02: One replacement motorcoach vehicle for City of Valparaiso-ChicaGo Dash. Not to exceed \$548,179.
- 23-07.03: One 35-foot vehicle for East Chicago Transit. Not to exceed \$457,992.
- 23-07.04: Three replacement vehicles for Opportunity Enterprises. Not to exceed \$308,160.
- 23-07.05: Seven replacement vehicles for Lake County Community Services. Not to exceed \$423,360.
- 22-15: One replacement motorcoach vehicle for the City of Valparaiso-ChicaGo Dash. Not to exceed \$628,000.

Technical Planning Committee (TPC) – Kevin Breitzke

Kevin Breitzke reported the TPC met on February 28, 2023. The TPC favorably recommended the two action items below to the Executive Board for consideration and approval. The next TPC meeting is scheduled for April 11, 2023, at 10:00 a.m.

- Resolution #23-04: Scott Weber presented, stating this resolution was created as verification that NIRPC will update the Transportation Air Quality Conformity Protocol and Interagency Consultation procedures. These procedures are required because the United States Environmental Protection Agency (EPA) designated Lake and Porter Counties as non-attainment for ozone. The protocol document goes before the board (comprised of NIRPC, INDOT, IDEM, FHWA, FTA, and U.S. EPA) of each MPO in Indiana for approval. These documents were last approved in 2007. On motion by Jim Ton and seconded by Tom Dermody, the Executive Board approved Resolution #23-04.
- Metropolitan Planning Agreement (MPA) with Indiana Department of Transportation (INDOT): Kevin Polette presented, stating this agreement was written by INDOT, and reviewed by NIRPC, GPTC and NICTD. At the TPC meeting on February 28, GPTC requested a modification to better describe GPTC's service to the surrounding area. NICTD did not submit comments or changes. On motion by Kyle Allen and seconded by Sue Lynch, the Executive Board approved the MPA agreement.
- Charles Bradsky presented on the draft 2024-2028 TIP: NIRPC receives federal funding for infrastructure and transit projects for Lake, Porter, and LaPorte Counties. Due to the cost of inflation, many communities have been requesting additional funding for their projects currently in the TIP. It was proposed and accepted at TROC last fall to fully fund the projects currently programmed by moving select projects out one fiscal year to balance the budget. This proposal would cause a trickle-down effect and left only \$5.6 million in available funding in 2027 (out of \$26 million). 2028 was still left fully available. Charles discussed the different funding categories and the various types of projects that were awarded to the communities.

Mayor Snedecor thanked Charles and staff for the wonderful job they do when communicating with the many Local Public Agency's (LPA's) and trying to get full funding for some of the communities. He also expressed concern noting some communities scored high on their Notice of Funding Availability (NOFA)

application, was not awarded funding. It was felt there has been a good faith effort in trying to score projects as fair as possible, but stated more work has to be done on targeting what various funds should be prioritized, evaluated, and allocated. Kevin Breitzke agreed and added that the LPA's and Mayors need to be present at the NIRPC meetings to provide their input at NIRPC's NOFA discussion meetings. Brietzke added the TPC meetings are well attended but the other topical committee meetings, which also have an impact on this evaluation, also need active participation. Jim Ton asked that the record reflect that the Commission supports the observation of Mayor Snedecor of Hobart and shares his concerns in the process, and that the process go through some readjustments. Charles responded that the next NOFA would be reworked and asked all communities to participate in the rework. This rework will start later this year or early next year. The next NOFA will take place in the fall of 2024 for the 2026-2030 TIP.

Other Business

Bob Carnahan shared the Cedar Lake Planning Committee requested to know how many municipalities permit chickens in their communities. The communities of Valparaiso, Lowell, and Chesterton currently permit chickens and Mayor Lynch stated Portage is going through the process now.

Announcements

Mary Tanis said the Town of Dyer appreciates the support they receive, but feels that as being the border community, they are the welcome mat to Indiana and to please not forget about them. INDOT reduced the lanes on Route 30 to one lane in Dyer, which is out of the town's control, and they need help. With NICTD's Double Track project going through Dyer in a couple of years, they want it to be a great place for all and feels that can be done with continued support.

Bob Carnahan relayed announcements of various events in Cedar Lake.

Adjournment

Hearing no other business, Tom Dermody adjourned the meeting at 10:06 a.m. The next meeting on April 20 will be a Full Commission meeting.

The livestream video recording of this meeting is available on NIRPC's YouTube Channel at <https://www.youtube.com/watch?v=w4uzvN2dIPQ>

NORTHWESTERN INDIANA REGIONAL PLANNING
COMMISSION FINANCE AND PERSONNEL COMMITTEE
January 19, 2023 / NIRPC Dune Room – 8:00 a.m.

Members present

Bob Carnahan, Don Craft, Joshleen Denham, Tom Dermody, Richard Hardaway, Justin Kiel, Wendy Mis, George Topoll

Staff and others present

Ty Warner, Talaya Jones, Lisa Todd, Meredith Stilwell, David Hollenbeck

Call to Order

Chairman Dermody called the meeting to order at 8:01 a.m. with the Pledge of Allegiance.

Approval of Minutes

The minutes of the December 8, 2022 meeting were presented. On motion by Wendy Mis, second by Don Craft and no opposition, the minutes were approved.

Review of Financial Status – October 2022 Budget vs Actual

Talaya Jones presented the October 2022 bank reconciliations for the NIRPC general account, the CARES Revolving Loan Fund account, and the Revolving Loan Fund Account.

Talaya presented the October 2022 general fund financial reports. Total expenditures for the period ending October 31, 2022, were \$5,552,937 of the \$9,201,349 budgeted. Total general fund revenue for the period was \$2,008,616 of the \$4,311,106 budgeted.

Talaya presented the Coronavirus Aid, Relief and Economic Securities (CARES) Act financial reports, year to date October 2022. Total NIRPC CARES fund expenditures for the period ending October 31, 2022, was \$350,714 of the \$1,153,515 budgeted. Total CARES revenue collected for the period was \$350,208 of the \$1,352,229 budgeted.

Approval of Claims Registers – October 2022

Talaya presented the October 2022 General Fund claims register totaling \$242,871.09 to the Committee for approval. On motion by Bob Carnahan, second by Don Craft and no opposition, the General Fund register of claims in the amount of \$242,871.09 was approved. The CARES Act register of claims totaling \$9,654.00 was presented for approval. On motion by Bob Carnahan, second by Richard Hardaway and no opposition, the CARES Act register of claims in the amount of \$9,654.00 was approved.

Review of Financial Status – November 2022 Budget vs Actual

Talaya presented the November 2022 bank reconciliations for the NIRPC general account, the CARES Revolving Loan Fund account, and the Revolving Loan Fund Account.

Talaya presented the November 2022 general fund financial reports. Total expenditures for the period ending November 30, 2022, were \$6,395,294 of the \$9,201,349 budgeted. Total general fund revenue for the period was \$2,088,319 of the \$4,311,106 budgeted.

Talaya presented the Coronavirus Aid, Relief and Economic Securities (CARES) Act financial reports, year to date November 2022. Total NIRPC CARES fund expenditures for the period ending November 30, 2022, was \$358,588 of the \$1,153,515 budgeted. Total CARES revenue collected for the period was \$358,765 of the \$1,352,229 budgeted.

Approval of Claims Registers – November 2022

Talaya presented the November 2022 General Fund claims register totaling \$876,974.01 to the Committee for approval. Commissioner Carnahan and Commissioner Kiel asked for clarification on a couple of claims. On motion by Bob Carnahan, second by Justin Kiel and no opposition, the General Fund register of claims in the amount of \$876,974.01 was approved. The CARES Act register of claims totaling \$12,767.50 was presented for approval. On motion by Bob Carnahan, second by Justin Kiel and no opposition, the CARES Act register of claims in the amount of \$12,767.50 was approved.

NIRPC Resolution #23-01 – Calendar Year 2023 NIRPC Budget

Talaya presented Resolution #23-01 adopting the Year 2023 appropriation budgets for the Commission's Governmental Funds. Talaya explained minor changes made to the budget after the December meeting at which the preliminary budget was presented. The salaries budget line was increased after it was determined that a 7% across the board increase could be sustained for all employees and still allow for hiring of needed positions. Two positions were no longer needed because they were funded through CARES funds. The utilities line item had to be increased since 2022 expenses would have to be paid out in 2023 due to not receiving invoices in a timely manner. Further discussion was held regarding this issue and how the RDC is handled in other cities and towns. On motion by George Topoll, second by Bob Carnahan and no opposition, the Committee recommended to forward Resolution 23-01 to adopt the 2023 NIRPC Budget to the Full Commission for approval.

NIRPC Building Lease

Ty Warner reminded the Committee that the NIRPC lease with the Portage Redevelopment Commission is ending at the end of 2023 and wondered how the Committee might want to pursue, or talk about, what to do. The last lease involved an RFP process with submittals from different cities and towns, but there is no mandate to do an RFP. What the Forum would do was questioned, and Ty indicated that both NIRPC and the Forum want to stay co-located. Further discussion was held regarding what needs to be done if NIRPC remains in the building, length of another lease, etc. Commissioner Dermody remarked that the current location is a good central location, right by the interstate highway. The majority of the Commissioners in the meeting agreed. It was suggested to survey the Commission members on how they want to proceed.

Personnel updates

Ty reported that NIRPC's Director of Transportation, Thomas Dow, is moving and will be leaving NIRPC employment. His leaving is mostly about family, but he is also receiving a significant pay increase.

Other Business

None

Adjournment

There being no further business, the meeting was adjourned.

**AGREEMENT BETWEEN
OWNER AND ENGINEER**

THIS AGREEMENT is dated as of the _____ day of _____
in the year 2023, by and between

Northwestern Indiana Regional Planning Commission
6100 Southport Road
Portage, Indiana 46368

hereinafter called the **OWNER** and

BUTLER, FAIRMAN and SEUFERT, INC.
8450 Westfield Boulevard, Suite 300
Indianapolis, Indiana 46240

hereinafter called the **ENGINEER**.

WITNESSETH

WHEREAS the **OWNER** requires professional engineering services in connection with the following described project:

Marquette Greenway Project Management and Project Development

WHEREAS, the **OWNER** wishes to engage the **ENGINEER** to provide certain services pertaining thereto; and

WHEREAS, the **ENGINEER** represents that it has sufficient qualified personnel and equipment and is capable of performing the professional engineering services described herein; is a corporation qualified to do business in the State of Indiana; and the services described herein will be performed under the supervision of an engineer licensed to practice in the State of Indiana.

The **OWNER** and the **ENGINEER**, in consideration of the mutual covenants hereinafter set forth, agree as follows:

SECTION I SERVICES BY ENGINEER

The services to be provided by the **ENGINEER** under this Agreement are set out in Appendix "A", attached to this Agreement, and made an integral part hereof.

SECTION II INFORMATION AND SERVICES TO BE FURNISHED BY OWNER

The information and services to be furnished by the **OWNER** are set out in Appendix "B", attached to this Agreement, and made an integral part hereof.

SECTION III NOTICE TO PROCEED AND SCHEDULE

The **ENGINEER** shall begin the work to be performed under this Agreement upon receipt of the written notice to proceed from the **OWNER**, and shall deliver the work to the

OWNER in accordance with the schedule contained in Appendix "C", attached to this Agreement, and made an integral part hereof. The **ENGINEER** shall not begin work prior to the date of the notice to proceed.

This Agreement shall be applicable to all assignments authorized by the **OWNER** and accepted by the **ENGINEER** subsequent to the date of execution and shall be effective as to all assignments authorized.

SECTION IV COMPENSATION

The **ENGINEER** shall receive payment for the work performed under this Agreement as set forth in Appendix "D", attached to this Agreement, and made an integral part hereof.

SECTION V MISCELLANEOUS PROVISIONS

Miscellaneous Provisions are set out in Appendix "E", attached to this Agreement, and made an integral part hereof.

SECTION VI GENERAL PROVISIONS

1. **Work Office**

The **ENGINEER** shall perform the work under this Agreement at the following office(s):

8450 Westfield Boulevard, Suite 300
Indianapolis, Indiana 46240

2. **Employment**

During the period of this Agreement, the **ENGINEER** shall not engage, on a full or part time or other basis, any personnel who remain in the employ of the **OWNER**.

3. **Subletting and Assignment**

The **ENGINEER** and its subcontractors, if any, shall not assign, sublet, subcontract, or otherwise dispose of the whole or any part of the work under this Agreement without prior written consent of the **OWNER**. Consent for such assignment shall not relieve the **ENGINEER** of any of its duties or responsibilities hereunder.

4. **Use and Ownership**

All reports, tables, figures, drawings, specifications, boring logs, field data, field notes, laboratory test data, calculations, estimates and other documents prepared by the **ENGINEER** as instruments of service, shall remain the property of the **ENGINEER**. The **OWNER** shall be entitled to copies or reproducible sets of any of the aforesaid.

The **ENGINEER** will retain all pertinent records relating to the services performed for a period of five (5) years following performance of work, during which period the records will be made available to the **OWNER** at all reasonable times.

The **ENGINEER** agrees that the **OWNER** is not required to use any plan, report, drawing, specifications, advice, map, document or study prepared by the **ENGINEER** and the **ENGINEER** waives all right of redress against the **OWNER** if the **OWNER** does not utilize same. Any modification, amendment, misuse of any of the **ENGINEER's** work by the **OWNER** or actions that disregard the **ENGINEER's** recommendations to the **OWNER** shall release the **ENGINEER** from any and all liability in connection with such work modified, amended or misused thereafter and the **OWNER** shall not use the **ENGINEER's** name thereon without the expressed approval of the **ENGINEER**.

5. **Compliance with State and Other Laws**

The **ENGINEER** specifically agrees that in performance of the services herein enumerated by **ENGINEER** or by a subcontractor or anyone acting in behalf of either, that each will comply with all State, Federal, and Local Statutes, Ordinances, and Regulations.

6. **Professional Responsibility**

The **ENGINEER** will exercise reasonable skill, care, and diligence in the performance of services and will carry out all responsibilities in accordance with customarily accepted professional engineering practices. If the **ENGINEER** fails to meet the foregoing standard, the **ENGINEER** will perform at its own cost, and without reimbursement from the **OWNER**, the services necessary to correct errors and omissions which are caused by the **ENGINEER's** failure to comply with above standard, and which are reported to the **ENGINEER** within one (1) year from the completion of the **ENGINEER's** services for the Project.

In addition, the **ENGINEER** will be responsible to the **OWNER** for damages caused by its negligent conduct during **ENGINEER's** activities at the Project site or in the field to the extent covered by the **ENGINEER's** Comprehensive General Liability and Automobile Liability Insurance.

The **ENGINEER** shall not be responsible for errors, omissions or deficiencies in the designs, drawings, specifications, reports or other services of the **OWNER** or other consultants, including, without limitation, surveyors and geotechnical engineers, who have been retained by **OWNER**. The **ENGINEER** shall have no liability for errors or deficiencies in its designs, drawings, specifications and other services that were caused, or contributed to, by errors or deficiencies (unless such errors, omissions or deficiencies were known or should have been known by the **ENGINEER**) in the designs, drawings, specifications and other services furnished by the **OWNER**, or other consultants retained by the **OWNER**.

7. **Status of Claims**

The **ENGINEER** shall be responsible for keeping the **OWNER** currently advised as to the status of any known claims made for damages against the **ENGINEER** resulting from services performed under this Agreement. The **ENGINEER** shall send notice of claims related to work under this Agreement to the **OWNER**.

8. **Insurance**

The **ENGINEER** shall at its own expense maintain in effect during the term of this contract the following insurance with limits as shown or greater:

General Liability (including automobile) - combined single limit of \$1,000,000.00;

Worker's Compensation - statutory limit; and

Professional Liability for protection against claims arising out of performance of professional services caused by negligent error, omission, or act in the amount of \$1,000,000.00.

The **ENGINEER** shall provide Certificates of Insurance indicating the aforesaid coverage upon request of the **OWNER**.

9. **Status Reports**

The **ENGINEER** shall furnish a monthly Status Report to the **OWNER** by the fifteenth (15th) of each month.

10. **Changes in Work**

In the event that either the **OWNER** or the **ENGINEER** determine that a major change in scope, character or complexity of the work is needed after the work has progressed as directed by the **OWNER**, both parties in the exercise of their reasonable and honest judgment shall negotiate the changes and the **ENGINEER** shall not commence the additional work or the change of the scope of the work until a supplemental agreement is executed and the **ENGINEER** is authorized in writing by the **OWNER** to proceed.

11. **Delays and Extensions**

The **ENGINEER** agrees that no charges or claim for damages shall be made by it for any minor delays from any cause whatsoever during the progress of any portion of the services specified in this Agreement. Any such delays shall be compensated for by an extension of time for such period as may be determined by the **OWNER**, subject to the **ENGINEER's** approval. However, it being understood, that the permitting of the **ENGINEER** to proceed to complete any services, or any part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the **OWNER** of any of its rights herein.

12. **Abandonment**

Services may be terminated by the **OWNER** and the **ENGINEER** by thirty (30) days' notice in the event of substantial failure to perform in accordance with the terms hereof by the other party through no fault of the terminating party. If so abandoned, the **ENGINEER** shall deliver to the **OWNER** copies of all data, reports, drawings, specifications and estimates completed or partially completed along with a summary of the progress of the work completed within twenty (20) days of the abandonment. In the event of the failure by the **ENGINEER** to make such delivery upon demand, then and in that event the **ENGINEER** shall pay to the **OWNER** any damages sustained by reason thereof. The earned value of the work performed shall be based upon an estimate of the portions of the total services as have been rendered by the **ENGINEER** to the date of the abandonment for all services to be paid for on a lump sum basis. The **ENGINEER** shall be compensated for services properly rendered prior to the effective date of abandonment on all services to be paid on a cost basis or a cost plus fixed fee basis. The payment as made to the **ENGINEER** shall be paid as the final payment in full settlement and release for the services hereunder.

13. **Non-Discrimination**

Pursuant to Indiana and Federal Law, the **ENGINEER** and **ENGINEER's** subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Agreement, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment because of race, color, religion, sex, disability, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the Agreement.

14. **Employment Eligibility Verification.**

The **ENGINEER** affirms under the penalties of perjury that it does not knowingly employ an unauthorized alien.

The **ENGINEER** shall enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The **ENGINEER** is not required to participate should the E-Verify program cease to exist. Additionally, the **ENGINEER** is not required to participate if the **ENGINEER** is self-employed and does not employ any employees.

The **ENGINEER** shall not knowingly employ or contract with an unauthorized alien. The **ENGINEER** shall not retain an employee or contract with a person that the **ENGINEER** subsequently learns is an unauthorized alien.

The **ENGINEER** shall require its subconsultant, who perform work under this Contract, to certify to the **ENGINEER** that the subconsultant does not knowingly employ or contract with an unauthorized alien and that the subconsultant has enrolled and is participating in the E-Verify program. The **ENGINEER** agrees to maintain this certification throughout the duration of the term of a contract with a sub-consultant.

The **OWNER** may terminate for default if the **ENGINEER** fails to cure a breach of this provision no later than thirty (30) days after being notified by the **OWNER**.

15. **No Investment in Iran.**

As required by IC 5-22-16.5, the **ENGINEER** certifies that the **ENGINEER** is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as an imposition of a civil penalty.

16. **Successor and Assigns**

The **OWNER** and the **ENGINEER** each binds themselves and successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the **OWNER** and the **ENGINEER** shall assign, sublet or transfer their interest in the Agreement without the written consent of the other.

17. **Supplements**

This Agreement may only be amended, supplemented or modified by a written document executed in the same manner as this Agreement.

18. **Governing Laws**

This Agreement and all of the terms and provisions shall be interpreted and construed according to the laws of the State of Indiana. Should any clause, paragraph, or other part of this Agreement be held or declared to be void or illegal, for any reason, by any court having competent jurisdiction, all other causes, paragraphs or part of this Agreement, shall nevertheless remain in full force and effect.

This Agreement contains the entire understanding between the parties and no modification or alteration of this Agreement shall be binding unless endorsed in writing by the parties thereto.

This Agreement shall not be binding until executed by all parties.

19. **Independent Engineer**

In all matters relating to this Agreement, the **ENGINEER** shall act as an independent engineer. Neither the **ENGINEER** nor its employees are employees of the **OWNER** under the meaning or application of any Federal or State Laws or Regulations and the **ENGINEER** agrees to assume all liabilities and obligations imposed in the performance of this Agreement. The **ENGINEER** shall not have any authority to assume or create obligations, expressed or implied, on behalf of the **OWNER** and the **ENGINEER** shall have no authority to represent as agent, employee, or in any other capacity than as set forth herein.

20. **Rights and Benefits**

The **ENGINEER's** services will be performed solely for the benefit of the **OWNER** and not for the benefit of any other persons or entities.

21. **Disputes**

All claims or disputes of the **ENGINEER** and the **OWNER** arising out of or relating to the Agreement, or the breach thereof, shall be first submitted to non-binding mediation. If a claim or dispute is not resolved by mediation, the party making the claim or alleging a dispute shall have the right to institute any legal or equitable proceedings in a court located within the county and state where the project is located.

22. **Limitation of Liability**

To the maximum extent permitted by law, the **OWNER** agrees to limit the **ENGINEER's** liability for the **ENGINEER's** damages to the sum of \$1,000,000.00 limit of Professional Liability insurance. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.

IN WITNESS WHEREOF, the **OWNER** and the **ENGINEER** have signed this Agreement in duplicate. One counterpart each has been delivered to the **OWNER** and the **ENGINEER**.

This Agreement will be effective on _____, 2023.

ENGINEER:
BUTLER, FAIRMAN and SEUFERT, INC.

OWNER:
**NORTHWESTERN INDIANA REGIONAL
PLANNING COMMISSION**

Jacob L. Dammarell, Executive V.P.

By: _____
Tyson Warner, Executive Director

Attest:

Talaya Jones, CFO and Contracting
Officer

APPENDIX “A”

SERVICES BY ENGINEER

A. PROJECT DESCRIPTION

Development of this portion of the Marquette Greenway is divided into the following sections:

1. Gary: 3.9 miles of multi-use trail along the NICTD rail corridor, from Cline Avenue to the existing trail north of 2nd Avenue; including rehabilitation of a railroad bridge over the Indiana Toll Road (in conjunction with Hammond) and a new pedestrian bridge over an active railroad approximately ½ mile east of Cline Avenue.
2. Portage: 1.5 miles of multi-use trail eastward from Ogden Dunes to the Little Calumet River, then southward to the existing trail north of Ameriplex Road; including a new pedestrian bridge over the River and boardwalk along the River where it is crossed by US 12 and railroad tracks.
3. Michigan City: 3.4 miles of multi-use trail (the Singing Sands Trail), along Trail Creek from Liberty Trail to US 12, and along Karwick Road and Grand Beach Road from Martin Luther King Drive to the city corporate limits at CR 600W.
4. New Buffalo, Michigan: 0.4 miles of multi-use trail and 0.3 miles of shared roadway along US 12 through the city to a trailhead at Smith Street.

The project has received a federally funded RAISE grant for the referenced improvements. The **OWNER** desires that the **ENGINEER** provide project management and project development services in order to complete the referenced sections in accordance with the regulations and timelines required by the federal funding. It is anticipated that the design and construction of the sections will use the Design-Build method. In general, the **ENGINEER**'s role will be to confirm the scope of the project, facilitate the selection of a Preliminary Designer (approximately 30% design), facilitate the selection of a Design-Build Contractor, review all project progress elements (designs, right-of-way acquisition, NEPA process) at all stages, and manage the project and serve as the **OWNER**'s representative throughout the design development and construction process.

The sections in Gary and Portage will require full project development, from topographic survey through construction, as part of this project. The design development for the sections in Michigan City and New Buffalo are to be completed as part of previously funded projects and will only require construction and construction-related services under this RAISE funded project.

B. SCOPE OF WORK

1. PROJECT MANAGEMENT – PHASE 1: GARY AND PORTAGE SECTIONS
The **ENGINEER** shall provide the following project management and project development oversight services, from the initial Notice to Proceed through the selection of the Preliminary Designer.
 - A. Confirmation of Scope of Work and Project Route
 1. Visit and walk the proposed route(s) with the **OWNER** and Local Public Agencies (LPA) (City of Gary and City of Hammond) with best available GIS data and maps to establish a consensus on the final trail route and configuration and to identify critical elements to be considered during the Preliminary Design stage.

2. Participate in initial scoping and coordination meeting(s) with the **OWNER**, LPAs and FHWA to confirm project scope, process, and schedules.
 3. Participate in bi-weekly coordination meetings with **OWNER**, LPAs, and agency stakeholders throughout Phase 1.
- B. Preliminary Design Contract Preparation and Solicitation
1. Develop scope of work for the Preliminary Design contract in accordance with applicable FHWA, INDOT and MDOT standards and guidelines, addressing the following disciplines:
 - a. Trail Design
 - b. Structure Design (Bridge, Boardwalk, Retaining Wall)
 - c. Utility and Railroad Coordination
 - d. Environmental (NEPA) Study and Environmental Permitting
 - e. Geotechnical Investigation
 - f. Right-of-Way Acquisition Services
 2. Develop and assemble consultant solicitation and design contract documents for selection of the Preliminary Designer.
 3. Assist the **OWNER** in the solicitation and selection of the Preliminary Designer, including interviews and selection recommendations.
2. PROJECT MANAGEMENT – PHASE 2: GARY AND PORTAGE SECTIONS
- The **ENGINEER** shall provide the following project management and project development oversight services, from the selection of the Preliminary Designer through the completion of the Preliminary Design and selection of the Design-Build Contractor.
- A. Review of Preliminary Design and Project Development
1. Attend project status meetings with **OWNER** and agency stakeholders throughout the Preliminary Design process. Estimated to occur bi-weekly for approximately 6 months and monthly for approximately 6 months.
 2. Conduct over-the-shoulder review meetings with the Preliminary Designer to review compliance with applicable standards and progress status of designs, plans, studies, permits, investigations, right-of-way acquisition, and coordination with agencies, utilities and railroads. Estimated to occur monthly for 12 months.
 3. Perform a thorough review of the final Preliminary Design submittal package, including plans and specifications, in preparation for use by the Design-Build Contractor.
- B. Design-Build Bid Package Preparation and Solicitation
1. Develop and assemble contractor bid documents for selection of the Design-Build Contractor.
 2. Assist the **OWNER** in the solicitation and selection of the Design-Build Contractor, including bid review and contract award recommendations.
- C. Environmental Services
1. Provide technical assistance to the Preliminary Designer with the National Environmental Policy Act (NEPA) process for two Categorical Exclusions.
 2. Review all NEPA sub-studies as they are completed by the Preliminary Designer for the development of two Categorical Exclusions.

- D. Review of Right-of-Way Acquisition documents (15 parcels anticipated)
 1. Desk review of Appraisals:
 - a. Verify that the Appraisal Problem is correctly identified.
 - b. Review appraiser cost matrices and verify concluded value of the appraiser.
 - c. Confirm that comparable lands are properly identified and calculations are mathematically sound.
 - d. Review for USPAP compliance
 2. Desk review of Buyer Packets:
 - a. Review buyer's report and title report to assure title is clearly and fully transferred to the LPAs.
 - b. Verify that requisite supporting documents have been produced for recording conveyance documents.
 - c. Verify signatures and notary certification.
 3. Right-of-Way Oversight:
 - a. Respond to Preliminary Designer R/W Manager inquiries
 - b. Transition parcel review activities between the Preliminary Designer and appropriate appraising and buying reviewers
 - c. Monitor monthly status reports provided by Preliminary Designer as well as schedule and provide feedback to NIRPC.

3. PROJECT MANAGEMENT – PHASE 3: ALL SECTIONS

The **ENGINEER** shall provide the following project management and project development oversight services, from the selection of the Design-Build Contractor through the completion of construction.

 - A. Review of Design-Build Final Designs and Project Development
 1. Attend project status meetings with **OWNER** and agency stakeholders throughout the Design-Build process. Estimated to occur monthly for approximately 4 years.
 2. Conduct over-the-shoulder review meetings for major design submittals with the Design-Build Contractor.
 3. Perform a thorough review of all final computation submittals, shop drawings, plans, and specifications related to all aspects of the project.
 4. Assist with Contractor questions and RFI's throughout construction as **OWNER's** representative.
 - B. Environmental Services
 1. Review design plans to determine their compliance with the completed Categorical Exclusion document that applies.
 2. Assist in serving as the Owner's representative during construction by providing technical expertise in environmental compliance

4. TOPOGRAPHIC SURVEY

The **ENGINEER** shall provide Topographic Survey for the Gary and Portage Sections as follows:

 - A. Before Topographic Survey efforts commence, the proposed routes will be reviewed and approved by the appropriate entities for each section.
 - B. Field survey data shall be in conformance with the requirements of Title 865 IAC 1-12 et sequential along with applicable sections of the Indiana Design Manual, Part III, Location Surveys.
 - C. As a minimum the survey will include locating all visible features necessary

for the proper design of the proposed improvements within the existing and proposed future right-of-way. This shall be done to insure the most efficient design can be achieved which will minimize land acquisition and relocation costs. These features will include buildings, paved surfaces, shrubs, signs, poles, utilities, manholes, valves and meters, utility locations marked by others, trees equal to and larger than 12 inches and limits of heavily wooded areas.

- D. Before field work commences, an IUPPS ticket will be submitted for utility locates along the project route. Any marks placed by the respective utilities or their locators will be tied into the survey and graphically shown on the finished product.
- E. Sufficient elevation shots (Cross sections at 100-foot intervals maximum with any intermediate breaks included) will be taken so that 1-foot contours can be calculated from a created Digital Terrain Model. These contours will be included in the survey submittal. Data will be collected in the appropriate swath as determined by the approved route.
- F. The Field Survey will be integrated with the United States Public Land System and physical monumentation as necessary to acquire Right of Way (if needed) for this project in accordance with Title 865 IAC 1-12 et sequential.
- G. Property ownership and right of way determination will be completed to show the limits of property ownership on the topographic survey. If necessary, research at the Lake and Porter County offices or any other entity will be completed to facilitate the determination of these lines.
- H. At a minimum horizontal control points will be set and referenced for the project at quarter mile intervals. A survey centerline will be created and referenced to these control points. The design plans will reference this survey centerline so that the survey control can be used to establish the construction centerline.
- I. At a minimum permanent vertical control points (benchmarks) will be set within the project limits at quarter mile intervals.
- J. Survey will be processed using Civil 3D 2023. A drawing or drawings will be submitted for each section that includes the topographic survey, the survey points and the created surface. A completed fieldbook for each section containing the vertical information along with the drainage structure details will also be completed.
- K. The coordinates for each section will be based on Indiana Geospatial Coordinate System utilizing the appropriate zone depending on its county.

5. LOCATION CONTROL ROUTE SURVEY PLAT

The **ENGINEER** shall create and record a Location Control Route Survey Plat for the Gary Section and the Portage Section.

6. PRELIMINARY RAILROAD COORDINATION

The **ENGINEER** shall perform railroad coordination which shall include the following:

- A. Establish initial contact with railroad companies in the study area.
- B. Send out project information to railroad companies in the study area to establish: a point of contact, how the railroad will impact cost and schedule of potential projects in the study area.
- C. Setup and attend initial meeting with railroad to discuss design require-

ments, costs, and schedule impact response information.

7. **INITIATE UTILITY COORDINATION**
The **ENGINEER** shall perform utility coordination which shall include the following:
 - A. Perform IUPPS 811 Design Ticket and area research to determine utilities in the area of the project
 - B. Send out Initial Notice Letters for preliminary contact to all utilities, both public and private, to establish: a point of contact, the location of the utilities facilities within the field survey limits, and documentation of reimbursable property interests if any.
 - C. Follow-up with non-responders via email, phone, etc. to confirm Initial Notice responses and obtain easements if/where necessary.

8. **EXISTING UTILITY LOCATE COORDINATION FOR TOPOGRAPHIC SURVEY**
The **ENGINEER** shall submit Indiana 811 tickets via the Exactix software to get existing utilities located throughout the project scope limits to be surveyed by topographic survey crews once onsite. Scope includes monitoring utility responses through phone calls and emails to ensure locates get completed onsite, and escalating to established project utility coordination contacts if necessary to get onsite locates completed.

9. **SHAPEFILES FOR NEPA PROCESS**
The **ENGINEER** shall develop shapefiles based on the topographic survey data and provide the files to the Preliminary Designer to assist with their initiation of the NEPA process for two Categorical Exclusions.

10. **RAILROAD BRIDGE INSPECTION**
The **ENGINEER** shall perform an inspection of the condition of the existing abandoned railroad bridge over the Indiana Toll Road in Gary.
 - A. Conduct formal site visit and perform arms-reach inspection of existing bridge.
 - B. Develop a report, including recommendations and photo documentation, regarding the repair of the structure to be suitable for bicycle and pedestrian traffic. Report to be included in the Preliminary Design contract documents.

11. **PROJECT WEB SITE**
The **ENGINEER** shall create and maintain throughout the project duration (up to 5 years) a project web site that can be linked to the **OWNER's** web site and social media for the sharing of information with the public.

APPENDIX "B"

INFORMATION AND SERVICES TO BE FURNISHED BY OWNER

The **OWNER** shall, within a reasonable time, so as not to delay the services of the **ENGINEER**:

1. Provide full information as to **ENGINEER's** requirements for the Project.
2. Assist the **ENGINEER** by placing at **ENGINEER's** disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
3. Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by **ENGINEER**, obtain advice of an attorney, insurance counselor, and other consultants as **OWNER** deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of **ENGINEER**.
4. Give prompt written notice to the **ENGINEER** whenever the **OWNER** observes or otherwise becomes aware of any defect in the Project.
5. Furnish all existing approvals or permits from all governmental authorities having jurisdiction over the Project. The **ENGINEER** will assist the **OWNER** in identifying and procuring any additional permits associated with this Project.
6. Arrange for access to and make all provisions for the **ENGINEER** to enter upon public and private property as required for the **ENGINEER** to perform services under this Agreement.
7. Obtain necessary easements and right-of-way for construction of the Project, including easement and right-of-way descriptions, property surveys and boundary surveys.
8. Furnish to the **ENGINEER**, as requested by the **ENGINEER** or as required by the Contract Documents, data prepared by or services of others, including exploration and tests of subsurface conditions at or contiguous to the site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site.

APPENDIX “C”

SCHEDULE

All work by the **ENGINEER** under this Agreement shall be completed within the approximate time periods shown in the following submission schedule, assuming a Notice to Proceed date of May 1, 2023:

Preliminary Design RFP Documents Ready for Advertising	June 15, 2023
Design-Build Bid Documents Ready for Advertising	May 1, 2024

APPENDIX “D”

COMPENSATION

A. Amount of Payment

1. The **ENGINEER** shall receive as payment for the work performed under Item No. 2 below, the total fee not to exceed \$1,164,600.00, unless a modification of the Agreement is approved in writing by the **OWNER**.
2. The **ENGINEER** will be paid for the following work on a lump sum basis in accordance with the following schedule:

Fee Schedule Summary:

Program Management – Phase 1	\$ 185,400.00
Program Management – Phase 2	\$ 320,700.00
Program Management – Phase 3	<u>\$ 303,900.00</u>
Program Management Total	\$ 810,000.00

Topographic Survey – Gary & Portage	\$ 276,100.00
Location Control Route Survey Plat - Gary	\$ 13,700.00
Location Control Route Survey Plat – Portage	\$ 8,900.00
Initial Railroad Coordination	\$ 3,300.00
Utility Initial Notices	\$ 3,800.00
Utility Locates for Topo Survey	\$ 3,200.00
Creation of Shapefiles for NEPA Process	\$ 2,500.00
Abandoned Railroad Bridge Inspection	\$ 30,500.00
Project Web Site Creation and Maintenance	\$ 12,600.00

3. The **ENGINEER** will be paid for the following work under additional services or on a lump sum basis in accordance with the following schedule:

Fee Schedule Summary:

Permits	(to be determined)
Construction Inspection	(to be determined)

B. Additional Services

Additional Services would be services required in connection with permits, construction inspection, right-of-way engineering, right-of-way acquisition, or any legal action or litigation requiring the testimony and/or services of the **ENGINEER**, or if the **OWNER** or any other local, state, or federal agency shall direct or cause the **ENGINEER** to relocate or redesign the project, or any part thereof. The **OWNER** agrees to compensate the **ENGINEER** for Additional Services on the basis of actual hours of work performed on the project at the hourly billing rates noted in APPENDIX “D-1”. The Hourly Billing Rates include overhead and fixed fee.

In addition to the hourly fees for additional services indicated above, the **ENGINEER** shall be compensated for direct project-related expenses such as job-related travel, permit applications, etc.

Any change in standards, design criteria, or other requirements by governmental units having jurisdiction over the contracted project which requires changes by the **ENGINEER** in the plans shall be considered as Additional Services.

In the event that the **OWNER** retains someone other than the **ENGINEER** to provide construction inspection, then the **OWNER** agrees to compensate the **ENGINEER** for Additional Services rendered in connection with the interpretation of plans, project stake-out or such other services that may be required during the construction phase of the work to be performed.

The **ENGINEER** shall, on behalf of the **OWNER**, cause to be made all borings and subsurface explorations and the analysis thereof; the cost of which shall be paid for by the **OWNER**.

C. Method of Payment

Payment shall be made by the **OWNER** to the **ENGINEER** each month as the work progresses.

APPENDIX "D-1"

SCHEDULE OF COMPENSATION

BUTLER, FAIRMAN and SEUFERT, INC.

2023 HOURLY RATE SCHEDULE

<u>Classification</u>		<u>Hourly Rates</u>
E-V	Engineer V (Principal)	\$ 241.48
E-IV	Engineer IV	\$ 211.81
E-III	Engineer III	\$ 181.85
E-II	Engineer II	\$ 145.16
E-I	Engineer I	\$ 107.45
FP-V	Field Personnel V – (Project Coordinator)	\$ 209.70
FP-IV	Field Personnel IV	\$ 184.91
FP-III	Field Personnel III	\$ 137.09
FP-II	Field Personnel II	\$ 114.69
FP-I	Field Personnel I	\$ 91.40
EA-III	Engineer's Assistant III	\$ 184.09
EA-II	Engineer's Assistant II	\$ 158.59
EA-I	Engineer's Assistant I	\$ 101.42
SP-1	Support Personnel I	\$ 65.31
C-II	Clerical II	\$ 136.33
C-I	Clerical I	\$ 82.69
P-III	Planner/Environmental Specialist III	\$ 144.14
P-II	Planner/Environmental Specialist II	\$ 106.37
P-I	Planner/Environmental Specialist I	\$ 96.89

The billing rates are effective January 2023 and may be adjusted annually (beginning January 2024) to reflect changes in the compensation payable to the **ENGINEER**.

APPENDIX "E"

MISCELLANEOUS PROVISIONS

Miscellaneous Provisions are attached on the following pages.

CERTIFICATION OF COMPLIANCE WITH FEDERAL REQUIREMENTS

Butler, Fairman & Seufert, Inc. By: Jacob L. Dammarell _____ (Proposer) certifies that it can comply with the Federal requirements and conditions as outlined in this document.



Signature

Executive Vice President

Title

January 30, 2023

Date

CERTIFICATION OF COMPLIANCE WITH GOVERNMENT-WIDE DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION PROVISIONS – LOWER TIER COVERED TRANSACTIONS

(Contractors that apply or bid for an award of \$25,000 or more must file the required certification)

In regard to 2 CFR Part 180 and Executive Order 12549 and 12689

By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below in accordance with the following instructions:

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, NIRPC may pursue available remedies, including suspension and/or debarment.
2. The prospective lower tier participant shall provide immediate written notice to NIRPC if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
3. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 and 12689 [2 CFR Part 180]. You may contact NIRPC for assistance in obtaining a copy of those regulations.
4. The prospective lower tier participant agrees by submitting this proposal that should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by NIRPC.
5. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.
7. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, NIRPC may pursue available remedies including suspension and/or debarment.

Pursuant to the above instructions:

- (1) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 2 C.F.R. 180] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.



Signature of Proposer's Authorized Official

Jacob L. Dammarell, Executive Vice President

Name and Title of Proposer's Authorized Official

January 30, 2023

Date

CERTIFICATION REGARDING LOBBYING

2 CFR Part 200 - Appendix II

Certification For Contracts, Grants, Loans, And Cooperative Agreements

(Contractors that apply or bid for an award of \$100,000 or more must file the required certification)

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) 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 an 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.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any 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 Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



Signature of Proposer's Authorized Official

Jacob L. Dammarell, Executive Vice President

Name and Title of Proposer's Authorized Official

January 30, 2023

Date

NON-COLLUSION AFFIDAVIT

The undersigned Proposer, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person from Proposing not to induce anyone to refrain from proposing, and that this proposal is made without reference to any other proposal and without any agreement, understanding or combination with any other person in reference to such proposing. He further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly any rebate, fee, gift, commission or thing of value on account of such sale.

Butler, Fairman & Seufert, Inc. By:
Jacob L. Dammarell

Printed Name of Proposer



Signature of Proposer

January 30, 2023

Date

CERTIFICATION IN NO INVESTMENT IN IRAN

As required by IC 5-22- 16.5, Contractor certified that it is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as imposition of a civil penalty.

Contractor

Signed: 

Printed Name: Jacob L. Dammarell

Title: Executive Vice President

EMPLOYMENT ELIGIBILITY VERIFICATION

Contractor affirms under the penalties of perjury that it does not knowingly employ an unauthorized alien. Contractor shall enroll in and verify the work eligibility status of all its newly hired employees through the Federal E-Verify program as defined in IC 22-5-1.7-3. Contractor is not required to participate should the Federal E-Verify program cease to exist. Contractor shall not knowingly employ or contract with an unauthorized alien. Contractor shall not retain an employee or contract with a person that Contractor subsequently learns is an unauthorized alien.

Contractor shall require its subcontractors, who perform work under this contract, to certify to the Commission that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the Federal E-Verify program. Contractor agrees to maintain this certification throughout the duration of the term of this agreement with the Commission and during the term of any subsequent contract with a subcontractor performing work under this agreement.

The Commission may terminate for default if Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the Commission.

Contractor

Signed: 

Printed Name: Jacob L. Dammarell

Title: Executive Vice President

Date: January 30, 2023

APPLICABLE FEDERAL LAWS AND REGULATIONS

NIRPC requires the proposer to be familiar with and be able to assist NIRPC with compliance with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Project. Performance under this agreement shall be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Recipient and any applicable sub-recipients. The applicable provisions to this agreement include, but are not limited to, the following:

7.1.1 General Federal Legislation

- a. Davis-Bacon Act – 40 U.S.C. 3141, et seq., as applicable under 23 U.S.C. 113
- b. Federal Fair Labor Standards Act – 29 U.S.C. 201, et seq.
- c. Hatch Act – 5 U.S.C. 1501, et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 – 42 U.S.C. 4601, et seq.
- e. National Historic Preservation Act of 1966 - Section 106 – 54 U.S.C. 306108
- f. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. 312501, et seq.
- g. Native American Graves Protection and Repatriation Act – 25 U.S.C. 3001, et seq.
- h. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. 7401, et seq.
- i. Section 404 of the Clean Water Act, as amended – 33 U.S.C. 1344
- j. Section 7 of the Endangered Species Act, P.L. 93-205, as amended – 16 U.S.C. 1536
- k. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. 1451, et seq.
- l. Flood Disaster Protection Act of 1973 - Section 102(a) – 42 U.S.C. 4012a
- m. Age Discrimination Act of 1975 – 42 U.S.C. 6101, et seq.
- n. American Indian Religious Freedom Act, P.L. 95-341, as amended
- o. Drug Abuse Office and Treatment Act of 1972, as amended – 21 U.S.C. 1101, et seq.
- p. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended – 42 U.S.C. 4541, et seq.
- q. Sections 523 and 527 of the Public Health Service Act of 1912, as amended – 42 U.S.C. 290dd through 290dd-2
- r. Architectural Barriers Act of 1968 – 42 U.S.C. 4151, et seq.
- s. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42 - Section 403 – 42 U.S.C. 8373
- t. Contract Work Hours and Safety Standards Act – 40 U.S.C. 3701, et seq.
- u. Copeland Anti-kickback Act, as amended – 18 U.S.C. 874 and 40 U.S.C. 3145
- v. National Environmental Policy Act of 1969 – 42 U.S.C. 4321, et seq.
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. 1271, et seq.
- x. Federal Water Pollution Control Act, as amended – 33 U.S.C. 1251-1376
- y. Single Audit Act of 1984 – 31 U.S.C. 7501, et seq.
- z. Americans with Disabilities Act of 1990 – 42 U.S.C. 12101, et seq.
- aa. Title IX of the Education Amendments of 1972, as amended – 20 U.S.C. 1681

- through 1683 and 1685 through 1687
- bb. Section 504 of the Rehabilitation Act of 1973, as amended – 29 U.S.C. 794
- cc. Title VI of the Civil Rights Act of 1964 – 42 U.S.C. 2000d, et seq.
- dd. Title IX of the Federal Property and Administrative Services Act of 1949 – 40 U.S.C. 1101 -1104, 541, et seq.
- ee. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. 1352
- ff. Freedom of Information Act – 5 U.S.C. 552, as amended
- gg. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. 1855
- hh. Farmland Protection Policy Act of 1981 – 7 U.S.C. 4201, et seq.
- ii. Noise Control Act of 1972 – 42 U.S.C. 4901, et seq.
- jj. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. 661, et seq.
- kk. Section 9 of the Rivers and Harbors Act and the General Bridge Act of 1946 – 33 U.S.C. 401 and 525
- ll. Section 4(f) of the Department of Transportation Act of 1966 – 49 U.S.C. 303 and 23 U.S.C. 138
- mm. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended – 42 U.S.C. 9601, et seq.
- nn. Safe Drinking Water Act – 42 U.S.C. 300f to 300j-26
- oo. Wilderness Act – 16 U.S.C. 1131-1136
- pp. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 – 42 U.S.C. 6901, et seq.
- qq. Migratory Bird Treaty Act – 16 U.S.C. 703, et seq.
- rr. The Federal Funding Transparency and Accountability Act of 2006, as amended (Pub. L. 109–282, as amended by section 6202 of Public Law 110–252)
- ss. Cargo Preference Act of 1954 – 46 U.S.C. 55305
- tt. Section 889 of the John D. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232

7.1.2 Executive Orders

- a. Executive Order 11246 – Equal Employment Opportunity
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11988 – Floodplain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12549 – Debarment and Suspension
- f. Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- g. Executive Order 13166 – Improving Access to Services for Persons With Limited English Proficiency
- h. Executive Order 13985 – Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 14005 – Ensuring the Future is Made in All of America by All of America’s Workers
- j. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

7.1.3 General Federal Regulations

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – 2 C.F.R. Parts 200, 1201
- b. Non-procurement Suspension and Debarment – 2 C.F.R. Parts 180, 1200
- c. Investigative and Enforcement Procedures – 14 C.F.R. Part 13
- d. Procedures for predetermination of wage rates – 29 C.F.R. Part 1
 - e. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States – 29 C.F.R. Part 3
 - f. Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) – 29 C.F.R. Part 5
 - g. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) – 41 C.F.R. Parts 60, et seq.
- h. New Restrictions on Lobbying – 49 C.F.R. Part 20
- i. Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 – 49 C.F.R. Part 21
 - j. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs – 49 C.F.R. Part 24
- k. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance – 49 C.F.R. Part 25
- l. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance – 49 C.F.R. Part 27
- m. DOT's implementation of DOJ's ADA Title II regulations compliance procedures for all programs, services, and regulatory activities relating to transportation under 28 C.F.R. Part 35
 - n. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 C.F.R. Part 28
- o. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors – 49 C.F.R. Part 30
- p. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 C.F.R. Part 32
- q. DOT's implementing ADA regulations for transit services and transit vehicles, including the DOT's standards for accessible transportation facilities in Part 37, Appendix A – 49 C.F.R. Parts 37 and 38
- r. Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs – 49 C.F.R. Part 26 (as applicable under section 18.3 of this agreement)

7.1.4 Office of Management and Budget Circulars

- a. Any applicable OMB Circular based upon the specific FY 2021 RAISE Grant Recipient.

7.1.5 Highway Federal Legislation

- a. Highways – Title 23, U.S.C.
- b. Brooks Act (for FHWA projects, this incorporates Title IX of the Federal Property and Administrative Services Act of 1949 (formerly 40 U.S.C. 541, et seq.)) – 40 U.S.C. 1101-1104; 23 U.S.C. 112(b)(2)
- c. Letting of Contracts, 23 U.S.C. 112
- d. Highway Design and Construction Standards, 23 U.S.C. 109
- e. Prevailing Rate of Wage, 23 U.S.C. 113
- f. Planning, 23 U.S.C. 134 and 135 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- g. Tolls, 23 U.S.C. 301 (to the extent the recipient wishes to toll an existing free facility that has received Title 23 funds in the past); except as authorized by 23 U.S.C. 129 and 166.
- h. Size, Weight, and Length Limitations – 23 U.S.C. 127, 49 U.S.C. 31101 et seq.
- i. Buy America – 23 U.S.C. 313
(see http://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm)
- j. Nondiscrimination – 23 U.S.C. 140
- k. Efficient Environmental Reviews - 23 U.S.C. 139

7.1.6 Federal Highway Regulations

- a. Highways – Title 23, C.F.R.
- b. Planning – 23 C.F.R. Part 450 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- c. National Highway System Design Standards – 23 C.F.R. Part 625
- d. Preconstruction Procedures – 23 C.F.R. Part 630 Subparts A and B
- e. Construction and Maintenance – 23 C.F.R. Part 635
- f. Design Build Contracting – 23 C.F.R. Part 636
- g. Manual on Uniform Traffic Control Devices – 23 C.F.R. Part 655
- h. Environmental Impact and Related Procedures – 23 C.F.R. Part 771
- i. Procedures for Abatement of Highway Traffic and Construction Noise – 23 C.F.R. Part 772
- j. Procedures Implementing Section 4(f) of the Department of Transportation Act – 23 C.F.R. Part 774
- k. Permitting Requirements under the National Pollutant Discharge Elimination System – 40 C.F.R. Part 122
- l. Required Contract Provisions – 23 C.F.R. Part 633 (Form 1273)
- m. External Programs – 23 C.F.R. Part 230

Specific assurances required to be included in the FY 2021 RAISE Grant agreement by any of the above laws, regulations, or circulars are hereby incorporated by reference into this agreement.

Technical Planning Committee

NIRPC Lake Michigan Room

YouTube Recording:

<https://www.youtube.com/live/Hqq35XknBtU?feature=share>

February 28, 2023

Minutes

Kevin Breitzke called the meeting to order at 10:01 a.m. with the Pledge of Allegiance.

In attendance were Kevin Breitzke (Porter County), George Topoll (Union Township), Beth Shrader (Valpo Transit), David Wright (GPTC), Michael Jabo (Valparaiso), Dean Button (Hammond), Beth West (La Porte Transit), Ryan Lisek (DCI), and Mark O'Dell (Chesterton).

Also in attendance were Wendy Mis (Munster), Jeff Huet (Schererville), Tom Schmitt (Schererville), Duane Alverson (Lake County), Dennis Cobb (FGE), Robert Csanyi (Robinson Engineering) Julio Archavala (East Chicago), Terry Martin (C&G), Courtney Anderson (Ciorba), Amy Blaker (Lochmueller), Jessica Clark (Lochmueller), Chris Salatas (Cedar Lake), Scott Pruitt (FGE), Chris Murphy (Structure Point), Eric Wolverton (Structure Point), Don Oliphant (CBBEL), Jake Dammarell (BF&S), Leslie Beck, Deb Backhus (Gary), Jane Whedbee,

NIRPC staff present were Mitch Barloga, Charles Bradsky, Scott Weber, Ty Warner, Kevin Polette, and Candice Eklund.

On motion by Mike Jabo, second by Dean Button, the Technical Planning Committee (TPC) approved the minutes of January 10, 2023.

There were no public comments.

Planning

Scott Weber presented on Resolution 23-04: Updated transportation Air Quality Conformity Interagency Consultation Procedures. The five agencies prepared a protocol for determining transportation air quality conformity in compliance with Federal regulation. The protocol includes conformity procedures in relation to transportation plans, programs, and projects.

Scott reviewed both attachments that were also provided on the NIRPC web:

- [Transportation Air Quality Protocol](#)
- [Air Quality Conformity Interagency Consultation Group Guidance](#)

On motion by Dean Button, second by Mark O'Dell, the TPC voted to recommend Res 23-04 to the Executive Board.

Kevin Polette presented on the Metropolitan Planning Agreement (MPA) with the Indiana Department of Transportation (INDOT). The Memorandum of Agreement is between NIRPC, INDOT, The Northern Indiana Commuter Transportation District (NICTD), and The Gary Public Transportation Corporation. Federal law requires Metropolitan Planning Organizations (MPO), State Dept. of Transportation and Operators of Public Transportation Systems to engage in a cooperative, comprehensive, and continuing transportation planning process. The agreement was sent to NICTD and GPTC in February for review. GPTC submitted changes and were added to the agreement. The new language is, "GPTC plans, operates, and maintains local and regional transit service in the City of Gary and several adjacent communities." No additional comments were received. On motion by David Wright, second by George Topoll, the TPC voted to recommend the MPA with INDOT to the Executive Board.

Programming

Charles Bradsky spoke on the FY 2024-2028 Transportation Improvement Program Draft project selection. Charles presented the program of projects. NOFA applications were discussed categorized, discussed, and points were adjusted on the subcommittee level to be presented to the TPC. Changes were made live.

On motion by Dean Button, second by Mark O'Dell, the TPC approved, as amended/corrected to the Group I projects discussed, but will have to come to TPC again before going to the Commission for approval.

Group II was not discussed. However, Charles will take the top scores and fund projects accordingly. If funding amounts need adjusting, Charles will make those changes as needed.

On Motion by George Topoll, second by Mike Jabo, The TPC approved Group II projects with top scores to be funded accordingly.

Topical Committee Reports

Nothing to report.

Reports from Planning Partners

Ryan Lisek (DCI) reported on reported on upcoming events and programs within NWI. Please visit www.drivecleanindiana.org for more information.

Adjournment

Hearing no further business, the meeting adjourned at 1:25 p.m.

The next TPC meeting is slated for April 4, 2023 at 10:00 a.m. in the NIRPC building.