



## **AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT FOR PROFESSIONAL SERVICES (“Agreement”) is hereby made and entered into by and between the Town of Whitestown, Indiana, acting by and through its Town Council (hereinafter "TOWN"), and Gregory A. Ballard & Associates, LLC (hereinafter "Professional").

### RECITALS

WHEREAS, the TOWN owns and is responsible for the operation and maintenance of its property, personnel, public works and infrastructure, as well as its planning, development, and redevelopment of certain economic development areas located within the City limits or as otherwise authorized by law; and

WHEREAS, from time to time, TOWN needs professional assistance in fulfilling its foregoing responsibilities; and

WHEREAS, Professional is experienced in providing and desires to provide to TOWN the professional services (“Services”) referenced herein; and

WHEREAS, the TOWN desires to engage Professional as an independent contractor for the purpose of providing to TOWN the Services referenced herein;

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants and conditions set forth herein, TOWN and Professional mutually agree as follows:

### SECTION 1                      INCORPORATION OF RECITALS

The foregoing Recitals are hereby incorporated into this Agreement and made a part hereof.

### SECTION 2                      SCOPE OF SERVICES

- 2.1 TOWN desires to engage Professional as an independent contractor for the Services set forth in attached Exhibit A, incorporated herein by this reference.
- 2.2 Professional understands and agrees that TOWN may, from time to time, request Professional to provide

additional or modified Services to TOWN. When TOWN desires additional Services from Professional, the TOWN shall notify Professional of such additional Services desired, as well as the time frame in which same are to be provided. Only after TOWN has approved Professional's time and cost estimate for the provision of such additional Services, has encumbered sufficient monies to pay for same, and has authorized Professional, in writing, to provide such additional Services, shall such Services be provided by Professional to TOWN. A copy of the TOWN's authorization documents for the purchase of additional Services shall be numbered and attached hereto in the order in which they are approved by TOWN.

2.3 Time is of the essence of this Agreement.

SECTION 3                    TOWN'S RESPONSIBILITIES

- 3.1 TOWN shall provide such information as is reasonably necessary for Professional to understand the Services requested.
- 3.2 TOWN shall provide all data required for provision of Services. Professional may assume that all data so provided is correct and complete.
- 3.3 TOWN shall arrange for Professional to enter upon public and private property as reasonably required for Professional to perform the Services.
- 3.4 TOWN shall designate its Town Council President or his duly authorized representative to act on TOWN's behalf on all matters regarding the Services.

SECTION 4                    PROFESSIONAL'S RESPONSIBILITIES

- 4.1 Professional shall perform the Services pursuant to the terms of this Agreement and within any applicable time and cost estimate.
- 4.2 Professional shall coordinate with TOWN its performance of the Services.
- 4.3 Professional shall provide the Services by following and applying reasonable and lawful standards as accepted in the industry.

SECTION 5                    COMPENSATION

- 5.1 Professional agrees and warrants that the hourly fees for the Services rendered to TOWN hereunder shall be consistent with the hourly rate set forth in Exhibit A (the "Proposal") and shall not exceed Two Thousand Dollars (\$2000.00) per week. Professional shall submit an invoice to TOWN no more than once every thirty (30) days for Services provided TOWN during the period encompassed by such invoice. Invoices shall be submitted on a form containing the same information as that contained on the Professional Services Invoice attached hereto as Exhibit B, incorporated herein by this reference. TOWN shall pay Professional for all undisputed Services rendered and stated on such invoice within forty-five (45) days from the date of TOWN's receipt of same.

- 5.2 Professional agrees not to provide any Services to TOWN that would cause the total cost of same to exceed the rates set forth in the Proposal, without TOWN's prior written consent.

SECTION 6                      TERM

Unless otherwise terminated in accordance with the termination provisions set forth in Section 7.1 hereinbelow, this Agreement shall be in effect from the Effective Date through May 15, 2024, and shall, on the first day of each month thereafter, automatically renew for a period of one (1) month, unless otherwise agreed by the parties hereto.

SECTION 7                      MISCELLANEOUS

7.1      Termination

- 7.1.1 The obligation to provide all or any portion of the Services under this Agreement may be terminated by TOWN or Professional, without cause, upon thirty (30) days' notice.
- 7.1.2 The obligation to provide all or any portion of the Services under this Agreement may be terminated by TOWN, for cause, immediately upon Professional's receipt of TOWN's "Notice To Cease Services."
- 7.1.3 In the event of full or partial Agreement termination, and as full and complete compensation hereunder, Professional shall be paid for all such Services rendered and expenses incurred as of the date of termination that are not in dispute, except that such payment amount shall not exceed the terms set forth in the Proposal. Disputed compensation amounts shall be resolved as allowed by law.

7.2      Binding Effect

TOWN and Professional, and their respective officers, officials, agents, partners and successors in interest are bound to the other as to all Agreement terms, conditions and obligations.

7.3      No Third Party Beneficiaries

Nothing contained herein shall be construed to give rights or benefits to anyone other than the parties hereto.

7.4      Relationship

Gregory A. Ballard & Associates, LLC  
Town Manager-2024  
NOT TO EXCEED \$2000/weekly

The relationship of the parties hereto shall be as provided for in this Agreement, and neither Professional nor any of its agents, employees or contractors are TOWN employees. Professional shall have the sole responsibility to pay to or for its agents, employees and contractors all statutory, contractual and other benefits and/or obligations as they become due. Professional hereby warrants and indemnifies TOWN for and from any and all costs, fees, expenses and/or damages incurred by TOWN as a result of any claim for wages, benefits or otherwise by any agent, employee or contractor of Professional regarding or related to the subject matter of this Agreement. This indemnification obligation shall survive the termination of this Agreement.

7.5 Insurance

7.5.1 Professional shall, as a condition precedent to this Agreement, purchase and thereafter maintain such insurance as will protect it and TOWN from the claims set forth below which may arise out of or result from Professional's operations under this Agreement, whether such operations be by Professional or by its subcontractors or by anyone directly or indirectly employed by any of them, or by anyone directly for whose acts any of them may be liable:

- 1) Claims under Worker's Compensation and Occupational Disease Acts, and any other employee benefits acts applicable to the performance of the work;
- 2) Claims for damages because of bodily injury and personal injury, including death, and;
- 3) Claims for damages to property.

Professional's insurance shall be not less than the amounts shown below:

A. Commercial General Liability (Occurrence Basis)	
Bodily Injury, personal injury, property damage, Contractual liability, product/completed operations	
Each Occurrence Limit	\$1,000,000.00
Damage to Rented Premises	\$100,000.00 (each occurrence)
Medical Expense Limit	\$5,000.00
Personal and Advertising Injury Limit	\$500,000.00
General Aggregate Limit	\$2,000,000.00 (Other than Products Completed Operations)
NOTE: GENERAL AGGREGATE TO APPLY PER PROJECT	
Products/Completed Operations	\$1,000,000.00
B. Auto Liability	\$1,000,000.00 (combined single limit) (owned, hired & non- owned)
C. Bodily injury & property damage	\$1,000,000.00 each accident
D. Excess/Umbrella Liability	\$2,000,000 (each occurrence and aggregate)
E. Worker's Compensation & Disability	Statutory

F. Employer's Liability:

Bodily Injury by Accident/Disease:	\$100,000 each employee
Bodily Injury by Accident/Disease:	\$250,000 each accident
Bodily Injury by Accident/Disease:	\$500,000 policy limit

G. Professional Liability Insurance. The Professional shall carry and maintain during the continuance of this Agreement, professional liability insurance in the amount of \$2,000,000 for single limit claims and \$3,000,000 in the aggregate. The Professional's policy of insurance shall contain prior acts coverage sufficient to cover all Services performed by the Professional for this Project. Upon TOWN's request, Professional shall give prompt written notice to TOWN of any and all claims made against this policy during the period in which this policy is required to be maintained pursuant to this Agreement. If the insurance is written on a claims-made basis and coverage is cancelled at any time, the Professional will obtain, at its cost, an extended reporting endorsement which provides continuing coverage for claims based upon alleged acts or omissions during the term of the Agreement until all applicable statute of limitation periods have expired.

7.5.2 Professional shall provide the TOWN with a certificate of insurance, naming the TOWN as an "additional insured," showing such coverage then in force (but not less than the amount shown above) shall be filed with TOWN prior to commencement of any work. These certificates shall contain a provision that the policies and the coverage afforded will not be canceled until at least thirty (30) days after written notice has been given to TOWN.

7.5.3 Professional may, with the prior approval of the TOWN, substitute different types of coverage for those specified if the total amount of required protection is not reduced. Professional shall be responsible for all deductibles.

7.5.4 Nothing in the above provisions shall operate as or be construed as limiting the amount of liability of Professional to the above enumerated amounts.

7.6 Liens

Professional shall not cause or permit the filing of any lien on any of TOWN's property. In the event such a lien is filed and Professional fails to remove it within ten (10) days after the date of filing, TOWN shall have the right to pay or bond over such lien at Professional's sole cost and expense.

7.7 Default

In the event Professional: (a) repudiates, breaches or defaults under any of the terms or conditions of this Agreement, including Professional's warranties; (b) fails to perform the Services as specified; (c) fails to make progress so as to endanger timely and proper completion of the Services and does not correct such failure or breach within five (5) business days after receipt of notice from TOWN specifying same; or (d) becomes insolvent, files, or has filed against it, a petition for receivership, makes a general assignment for the benefit of creditors or dissolves, each such event constituting an event of default hereunder, TOWN shall

have the right to terminate all or any part of this Agreement, without liability to Professional and to exercise any other rights or remedies available to it at law or in equity.

7.8 Government Compliance

Professional agrees to comply with all laws, executive orders, rules and regulations applicable to Professional's performance of its obligations under this Agreement, all relevant provisions of which being hereby incorporated herein by this reference, to keep all of Professionals' required professional licenses and certifications valid and current, and to indemnify and hold harmless TOWN from any and all losses, damages, costs, liabilities, damages, costs and attorney fees resulting from any failure by Professional to do so. This indemnification obligation shall survive the termination of this Agreement.

7.9 Indemnification

Professional shall indemnify and hold harmless TOWN and its officers, officials, attorney's, employees and agents from all losses, liabilities, claims, judgments and liens, including, but not limited to, all damages, costs, expenses and attorney fees arising out of any intentional or negligent act or omission of Professional and/or any of its employees, agents or contractors in the performance of this Agreement. This indemnification obligation shall survive the termination of this Agreement.

7.10 Discrimination Prohibition

Professional represents and warrants that it and each of its employees, agents and contractors shall comply with all existing and future laws prohibiting discrimination against any employee, applicant for employment and/or other person in the subcontracting of work and/or in the performance of any Services contemplated by this Agreement with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, subcontracting or work performance hereunder because of race, religion, color, sex, handicap, national origin, ancestry, age, disabled veteran status or Vietnam era veteran status. This indemnification obligation shall survive the termination of this Agreement.

7.11 E-Verify

Pursuant to I.C. § 22-5-1.7 et seq., Professional shall enroll in and verify the work eligibility status of all of its newly-hired employees using the E-Verify program, if it has not already done so as of the date of this Agreement. Professional is further required to execute the attached Affidavit, herein referred to as Exhibit C, which is an Affidavit affirming that: (i) Professional is enrolled and is participating in the E-verify program, and (ii) Professional does not knowingly employ any unauthorized aliens. This Addendum incorporates by reference, and in its entirety, attached Exhibit C. In support of the Affidavit, Professional shall provide the TOWN with documentation that it has enrolled and is participating in the E-Verify program. This Agreement shall not take effect until said Affidavit is signed by Professional and delivered to the TOWN's authorized representative.

Should Professional subcontract for the performance of any work under this Addendum, the Professional shall require any subcontractor(s) to certify by affidavit that: (i) the subcontractor does not knowingly employ or contract with any unauthorized aliens, and (ii) the subcontractor has enrolled and is participating in the E-verify program. Professional shall maintain a copy of such certification for the duration of the term of any

subcontract. Professional shall also deliver a copy of the certification to the TOWN within seven (7) days of the effective date of the subcontract.

If Professional, or any subcontractor of Professional, knowingly employs or contracts with any unauthorized aliens, or retains an employee or contract with a person that the Professional or subcontractor subsequently learns is an unauthorized alien, Professional shall terminate the employment of or contract with the unauthorized alien within thirty (30) days ("Cure Period"). Should the Professional or any subcontractor of Professional fail to cure within the Cure Period, the TOWN has the right to terminate this Agreement without consequence.

The E-Verify requirements of this Agreement will not apply, should the E-Verify program cease to exist.

7.12 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 that can operate independently of same shall continue in full force and effect.

7.13 Notice

Any notice, invoice, order or other correspondence required or allowed to be sent pursuant to this Agreement shall be written and either hand-delivered or sent by prepaid U.S. certified mail, return receipt requested, addressed to the parties as follows:

**TOWN:**

Town of Whitestown, Indiana  
Town Manager  
Whitestown Municipal Complex  
6210 Veterans Drive  
Whitestown, Indiana 46075

Ashley Ulbricht-Town Attorney  
Taft Law  
1 Indiana Square, Ste 3500  
Indianapolis, IN 46204

**PROFESSIONAL:**

Gregory A. Ballard & Associates, LLC  
12820 University Cres Apt 1B  
Carmel, IN 46032  
(317)640-0398  
[ballardga@yahoo.com](mailto:ballardga@yahoo.com)

Notwithstanding the above, TOWN may orally provide to Professional any notice required or permitted by this Agreement, provided that such notice shall also then be sent as required by this paragraph within ten (10) business days from the date of such oral notice.



7.14 Effective Date

The effective date ("Effective Date") of this Agreement shall be the date on which the last of the parties hereto executes same.

7.15 Governing Law; Lawsuits

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

7.16 Waiver

Any delay or inaction on the part of either party in exercising or pursuing its rights and/or remedies hereunder or under law shall not operate to waive any such rights and/or remedies nor in any way affect the rights of such party to require such performance at any time thereafter.

7.17 Non-Assignment

Professional shall not assign or pledge this Agreement nor delegate its obligations hereunder without TOWN's prior written consent.

7.18 Entire Agreement

This Agreement contains the entire agreement of and between the parties hereto with respect to the subject matter hereof, and no prior agreement, understanding or representation pertaining to such subject matter, written or oral, shall be effective for any purpose. No provision of this Agreement may be amended, added to or subtracted from except by an agreement in writing signed by both parties hereto and/or their respective successors in interest. To the extent any provision contained in this Agreement conflicts with any provision contained in any exhibit attached hereto, the provision contained in this Agreement shall prevail.

7.19 Representation and Warranties

Each party hereto represents and warrants that it is authorized to enter into this Agreement and that any person or entity executing this Agreement on behalf of such party has the authority to bind such party or the party which they represent, as the case may be.

7.20 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 provision hereof.

7.21 Advice of Counsel

The parties warrant that they have read this Agreement and fully understand it, have had an opportunity to obtain the advice and assistance of counsel throughout the negotiation of same, and enter into same freely, voluntarily, and without any duress, undue influence or coercion.

7.22 Copyright

TOWN acknowledges that various materials which may be used and/or generated by Professional in performance of Services, including forms, job description formats, comprehensive position questionnaire, compensation and classification plan and reports are copyrighted. TOWN agrees that all ownership rights and copyrights thereto lie with Professional, and TOWN will use them solely for and on behalf of its own operations. TOWN agrees that it will take appropriate action with its employees to satisfy its obligations with respect to use, copying, protection and security of Professional's property. Notwithstanding the above, any material generated for the Town remains property of the Town and is subject to Section 7.24 below.

7.23 Personnel

Professional represents that it has, or will secure at its own expense, all personnel required in performing the services under this agreement. Such personnel shall not be employees of or have any contractual relationship with TOWN. All of the services required hereunder will be performed by Professional or under his supervision and all personnel engaged in the work shall be fully qualified to perform such services.

7.24 Records and Inspections

Professional shall maintain full and accurate records with respect to all matters covered under this agreement for three (3) years after the expiration or early termination of this Agreement. TOWN shall have free access at all proper times to such records and the right to examine and audit the same and to make transcripts there from, and to inspect all program data, documents, proceedings and activities.

7.25 Accomplishment of Project

Professional shall commence, carry on, and complete the project with all practicable dispatch, in a sound economical and efficient manner, in accordance with the provisions thereof and all applicable laws. In accomplishing the project, Professional shall take such steps as are appropriate to ensure that the work involved is properly coordinated with related work being carried on within TOWN's organization.

7.26 Debarment And Suspension

7.26.1 The Professional certifies by entering into this Agreement that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Agreement means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Professional.

7.26.2 The Professional certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Agreement and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Professional shall immediately notify the TOWN if any subcontractor becomes debarred or suspended, and shall, at the TOWN's request, take all steps required by the TOWN to terminate its contractual relationship with the subcontractor for work to be performed under this Agreement.

7.27 Access to Public Records Act

Professional understands and agrees that any "public record", as that term is defined in Indiana Code 5-14-3-2(m), as amended, that is related to the subject matter of this Agreement, whether the same is in the possession or control of the Professional or the TOWN, shall be subject to release under and pursuant to the provisions of Indiana's Access to Public Records Act, as codified in Indiana Code 5-14-3-1, et seq., as amended.

7.28 IRAN CERTIFICATION.

Pursuant to I.C. § 5-22-16.5, the Professional shall certify that, in signing this Agreement, it does not engage in investment activities within the Country of Iran.

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Gregory A. Ballard & Associates, LLC  
Town Manager-2024  
NOT TO EXCEED \$2000/weekly

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

**TOWN OF WHITESTOWN, INDIANA  
TOWN COUNCIL**

BY:

\_\_\_\_\_  
Dan Patterson, President  
Date: \_\_\_\_\_

\_\_\_\_\_  
Tanya Sumner, Vice President  
Date: \_\_\_\_\_

\_\_\_\_\_  
Cheryl Hancock

\_\_\_\_\_  
Tobe Thomas

\_\_\_\_\_  
Eric Nichols

ATTEST:

\_\_\_\_\_  
Matt Sumner, Clerk Treasurer  
Date: \_\_\_\_\_

**Gregory A. Ballard & Associates, LLC**

BY:

\_\_\_\_\_  
Authorized Signature

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

FID/TIN: \_\_\_\_\_

Last Four of SSN if Sole Proprietor: \_\_\_\_\_

Date: \_\_\_\_\_