

RESOLUTION 2020-129

PASSED: DECEMBER 14, 2020

AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH JACOB & HEFNER ASSOCIATES, INC. FOR ENGINEERING DESIGN OF GURLER ROAD AND ILLINOIS ROUTE 23 INTERSECTION IMPROVEMENTS IN AN AMOUNT NOT TO EXCEED \$67,850.

WHEREAS, the City of DeKalb, DeKalb County, Illinois ("the City") is a home rule community with those powers granted under the provisions of the Illinois Constitution and the Illinois Municipal Code, 65 ILCS 5/1-1-1.*et seq.*; and

WHEREAS, the City's intersection improvements at Gurler Road and Route 23 and related State funding require specialized engineering planning and design requirements; and

WHEREAS, the City Engineer recommends the retention of Jacob & Hefner Associates, Inc. to perform the required engineering services; and

WHEREAS, the City's Corporate Authorities find that it is in the City's best interests to approve a professional service agreement with Jacob & Hefner Associates, Inc. to perform the engineering services for the design of the intersection improvements at Gurler Road and Route 23; and


NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

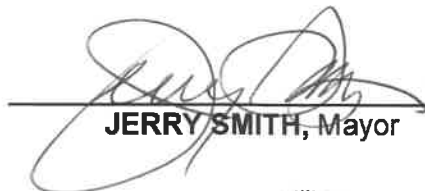
SECTION 1: That the City's Corporate Authorities authorize and direct the City Manager or his designee to enter into a Professional Service Agreement with Jacob & Hefner Associates, Inc. for Engineering Design of Gurler Road and IL-23 Intersection Improvements, in an amount not to exceed \$67,850.

SECTION 2: That the City Clerk or the Executive Assistant be authorized and directed to attest the Mayor's signature to this Resolution.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 14th day of December 2020 and approved by me as Mayor on the same day. Passed by a 7-0-1 roll call vote. Aye: Morris, Finucane (Remote), Smith, Perkins, McAdams, Verbic, Mayor Smith. Nay: None. Absent: Faivre.

ATTEST:


RUTH A. SCOTT, Executive Assistant


JERRY SMITH, Mayor





JACOB & HEFNER
ASSOCIATES

1333 Butterfield, Suite 300
Downers Grove, Illinois 60515
P 630-652-4600
F 630-652-4601

November 10, 2020
Proposal 20.020

City of DeKalb
1216 Market Street
DeKalb, IL 60115

Attn: Mr. Zachary Gill
City Engineer

Re: Roadway Improvements at IL Route 23 and Gurler Road
Civil Engineering Services
DeKalb, Illinois

Dear Mr. Gill,

Jacob & Hefner Associates, Inc. ("JHA") appreciates the opportunity to submit a proposal for Civil Engineering services for the above referenced project.

Roadway design completed thus far was completed under contract with Krusinski Construction Company. Krusinski Construction Company has allowed the use of that design in order to complete the work described in this proposal. Attachments "A" and "B" present our Scope of Services and Basis of Compensation for this project. Attachment "C" describes the Scope and Fees associated with our sub-consultants. Additional services requested will be billed on an hourly basis or by separate proposal. Reimbursable expenses are not included in our engineering fee and will be billed on the basis of actual cost times a factor of 1.10.

Thank you for the opportunity to be of continuing service to the City of DeKalb ("Client" or "City"). Please call, if you have any questions regarding our proposal.

Sincerely,
JACOB & HEFNER ASSOCIATES, INC.

Matthew J. Kramer, P.E.
Senior Project Manager

AGREED AND ACCEPTED:
CITY OF DEKALB

By: _____

Date: 12-14-2020



ATTACHMENT "A" SCOPE OF SERVICES

ROADWAY IMPROVEMENT PLANS:

1. **Roadway Construction Documents – Rte. 23 and Gurler Road** – JHA will revise the roadway improvement construction documents for the proposed intersection of Route 23 and Gurler Road, pursuant to the requirements of EDP funding and the public bid process. This task includes revising plans pursuant to meetings with IDOT subsequent to a June 19, 2020 review letter (striping and signage plans, plan & profile plans, roadway grading plans, proposed ditch profile plans, existing conditions and demolition plans, culvert modification plans, erosion control plans, stormwater pollution prevention plans, cross sections, traffic control plans, construction details and project specifications), as well as preparation of a summary of quantities. The final construction plans produced from this task will be used for permitting, bidding and construction.
2. **Meetings/Coordination** – JHA will attend meetings with the client, other consultants on the project team and IDOT during the design and permitting phase of this project. A total of three (3) meetings is included in this proposal. Attendance at additional meetings can be billed on an hourly basis or by separate proposal.
3. **Approvals/Permits** - JHA will submit the required plans to the Illinois Department of Transportation and the City of DeKalb for review and approval, understanding that plan approval will be coordinated by the IDOT Bureau of Local Roads and Streets, as opposed to the previous intent of permitting the project through IDOT District 3. JHA will revise the submitted documents based on review comments received and resubmit for final approval. This task includes two rounds of revisions and resubmittals. If additional revisions are required by the permitting agencies, our services will be performed on an hourly basis or by separate proposal.
4. **Professional Services by Kimley-Horn** – Kimley-Horn and Associates, Inc. (“Kimley-Horn”) will provide the professional services for transportation engineering services regarding traffic signal design at the Illinois Route 23 and Gurler Road intersection. Attachment “C” describes the full scope of services by Kimley-Horn. The fee has been adjusted by a factor of 1.10, compared to the direct cost incurred by JHA.
5. **Public Utility Relocation Coordination** - JHA will coordinate with Nicor, ComEd, or other public utility providers in conflict with the proposed improvements. Several relocations are likely to be required, so JHA will provide design information to those utility companies which responded to a JULIE Design Stage, dated August 23, 2019. This task includes design coordination, but does not include design of utility relocations. This task does not include construction phase coordination.



6. **Bid Package Preparation and Evaluation** – JHA will assist the client in the preparation of the required documents needed to offer the construction project for public bidding. Client shall be responsible for selection of all contract language. JHA will also compile a tabulation of bids received, and offer a recommendation to award the contract to the lowest qualified bidder.



Services Excluded

The following services have not been included in the scope of work. Jacob & Hefner Associates can provide these services should they be desired either by separate proposal or on an hourly basis.

- Tree survey and tree preservation plans.
- ALTA Survey.
- Plat of Easement.
- Plat of Dedication.
- Electrical engineering including site & street lighting design.
- Design of power, gas, phone, or fiber optic lines.
- Structural engineering including any retaining walls over 2' in height.
- Direct costs for printing, overnight delivery, etc.
- Impact fees, review fees, permit fees.
- Landscape plans.
- Downstream drainage way hydraulic modeling.
- Floodplain and/or floodway modeling.
- Construction layout and/or observation.
- Geotechnical engineering.
- Environmental studies and/or remediation.
- Weekly erosion control inspections.
- On-site public roadway design and/or permitting.
- Wetland delineation and/or permitting.
- Pavement cores of existing, adjacent roadways.
- Negotiating and/or platting for offsite easement and/or right-of-way acquisition.
- Revisions of improvements based on unforeseen conditions.
- Resident Engineering and/or full time construction observation services.
- Construction Phase contract administration.
- Final "punch list" for proposed improvements.



ATTACHMENT "B"

ROADWAY INFRASTRUCTURE IMPROVEMENTS:

1.	Roadway Construction Docs – Rte. 23/Gurler Road	\$24,000	_____
2.	Meetings/Coordination (3)	\$4,500	_____
3.	Approvals/Permits	\$8,000	_____
4.	Professional Services by Kimley-Horn	\$14,850	_____
5.	Public Utility Relocation Coordination	\$10,000	_____
6.	Bid Package Preparation and Bid Evaluation	\$6,500	_____
Total Lump Sum Fee		\$67,850	



ATTACHMENT "C"

PROPOSAL FOR SERVICES BY KIMLEY-HORN ASSOCIATES, INC.



November 3, 2020

Mr. Matthew Kramer
Jacob & Hefner Associates, Inc.
1333 Butterfield Road, Suite 300
Downers Grove, Illinois 60515

Re: Agreement for Transportation Engineering Services
Illinois 23 & Gurler Road Traffic Signal Design
DeKalb, Illinois

Dear Matthew:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this Professional Services Agreement (the "Agreement") to Jacob & Hefner Associates, Inc. ("Client") for transportation engineering services regarding traffic signal design at the Illinois Route 23 / Gurler Road intersection in DeKalb, Illinois.

The traffic signal design completed thus far for the intersection was completed under contract with Krusinski Construction Company. We have been given permission by Krusinski Construction Company to use design developed previously for the work identified in this Agreement. We understand that the improvements at the intersection will be led by the City of DeKalb ("City") and funded by Economic Development Program (EDP) funds. We will coordinate all project tasks with the Client.

Based on our discussion, understanding of anticipated project deliverables, and previous agency coordination, Kimley-Horn presents the following Scope of Services.

Task 1 - IDOT Comment Review Meeting

At the direction of the City, Kimley-Horn facilitated a meeting with the Illinois Department of Transportation (IDOT), City of DeKalb, and the project team to review comments received from IDOT dated June 19, 2020 and clarify necessary changes to the intersection improvement and traffic signal plans previously prepared for the IL 23 / Gurler Road intersection. Additionally, Kimley-Horn coordinated with IDOT staff on specific items not addressed at the meeting such as traffic signal specifications.

Task 2 - Traffic Signal Plans – Pre-Final

Based on the June 19, 2020 comments and subsequent meeting and coordination with IDOT staff, Kimley-Horn will revise the traffic signal plans accordingly. This task also includes any

additional coordination with IDOT required to clarify any outstanding comments. The traffic signal plans will be submitted to the Client for inclusion in the overall plan set. Additionally, the schedule of quantities and traffic signal special provisions will be updated. The traffic signal plans, schedule of quantities, and special provisions will be appropriate for resubmittal to IDOT.

Task 3 - Traffic Signal Plans – Final

Following receipt of comments from IDOT on the pre-final plans, Kimley-Horn will revise the traffic signal plans, schedule of quantities, and special provisions accordingly. The final plans will be appropriate for resubmittal to IDOT for approval and will be submitted to the Client for inclusion in the overall plan set.

Task 4 - Construction Phase

Kimley-Horn will provide bidding assistance, shop drawing review of traffic signal and lighting equipment, and RFI responses during the bid and construction phases. Additionally, Kimley-Horn will be available for up to two (2) meetings with IDOT, the project team, or other stakeholders. The total hours of Task 4 are not to exceed 24 hours. Any additional effort at the Client's request will be documented and billed as additional services on a time-and-materials basis at our then-current hourly rates.

Schedule

Per the project schedule, Kimley-Horn will provide the pre-final traffic signal plans to Jacob & Hefner by November 20th, 2020. This schedule assumes a notice-to-proceed by November 6, 2020 and the receipt of soil borings for inclusion in the pre-final plans. Kimley-Horn anticipates final traffic signal plans can be submitted to Jacob & Hefner within two weeks of receipt of IDOT comments. Any delays (due to inclement weather or the actions of others beyond Kimley-Horn's control) will be communicated to the Client immediately should they impact the proposed schedule.

Fee and Expenses

Kimley-Horn will perform the Scope of Services identified above (Tasks 1-4) for a total lump sum fee of \$17,800. The Lump Sum fee includes all labor and direct expenses related to the work items described herein. Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 30 days of your receipt of the invoice.

Any Additional Services will be performed on an hourly basis according to our then-current rates. Direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses, will be billed at 1.15 times cost.

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to Jacob & Hefner Associates, Inc.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail, if requested. Please provide the following information for our use in submitting invoices for Kimley-Horn's work on this project:

_____ Please email all invoices to _____

_____ Please copy _____

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute this Agreement in the space provided below and return a copy to us. We will commence services only after we have received a fully-executed agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

We appreciate the opportunity to provide these services to you. Please contact us if you have any questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.



By: Sagar Sonar, P.E., PTOE
Senior Project Manager



By: Tim Sjogren, P.E., PTOE
Associate

Accepted By:

Jacob & Hefner Associates, Inc.

By:

(Date)

(Print or Type Name)

(Email Address)

**KIMLEY-HORN AND ASSOCIATES, INC.
STANDARD PROVISIONS**

(1) **Consultant's Scope of Services and Additional Services.** The Consultant's undertaking to perform professional services extends only to the services specifically described in this Agreement. However, if requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.

(2) **Client's Responsibilities.** In addition to other responsibilities described herein or imposed by law, the Client shall:

(a) Designate in writing a person to act as its representative with respect to this Agreement, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.

(b) Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project including all numerical criteria that are to be met and all standards of development, design, or construction.

(c) Provide to the Consultant all previous studies, plans, or other documents in Client's possession pertaining to the project and all new data reasonably necessary in the Consultant's opinion, such as site survey and engineering data, environmental impact assessments or statements, upon all of which the Consultant may rely.

(d) Arrange for access to the site and other private or public property as required for the Consultant to provide its services.

(e) Review all documents or oral reports presented by the Consultant and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the Consultant.

(f) Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary for completion of the Consultant's services.

(g) Cause to be provided such independent accounting, legal, insurance, cost estimating and overall feasibility services as the Client may require.

(h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the scope, timing, or payment of the Consultant's services or any defect or noncompliance in any aspect of the project.

(i) Bear all costs incidental to the responsibilities of the Client.

(3) **Period of Services.** Unless otherwise stated herein, the Consultant will begin work timely after receipt of a properly executed copy of this Agreement and any required retainer amount. This Agreement is made in anticipation of conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months (cumulatively), Consultant's compensation shall be renegotiated.

(4) **Method of Payment.** Compensation shall be paid to the Consultant in accordance with the following provisions:

(a) Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 30 days of receipt. The Client shall also pay any applicable sales tax. Interest will be added to accounts not paid within 30 days at 4% over the prime rate of U.S. Bank N.A. If the Client fails to make any payment due to the Consultant under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid in full and may commence proceedings, including filing liens, to secure its right to payment under this Agreement.

(b) If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.

(c) If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due within 30 days of receipt.

(d) If the Consultant initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at the Consultant's normal hourly billing rates, of the time devoted to such proceedings by its employees.

(e) The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.

(5) **Use of Documents.** All documents, including but not limited to drawings, specifications, reports, and data or programs stored electronically, prepared by the Consultant are related exclusively to the services described in this Agreement, and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use, partial use or reuse by the Client or others on extensions of this project or on any other project. Any modifications made by the Client to any of the Consultant's documents or reuse of the documents without written authorization or adaptation by the Consultant will be at the Client's sole risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting from such reuse. The Consultant's electronic files and source code developed in the development of application code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client, and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern. Because data stored in electronic media format can deteriorate or be modified without the Consultant's authorization, the Client has 60 days to perform acceptance tests, after which it shall be deemed to have accepted the data.

(6) **Opinions of Cost.** Because the Consultant does not control the cost of labor, materials, equipment

or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

(7) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, or upon thirty days' written notice for the convenience of the terminating party. If any change occurs in the ownership of the Client, the Consultant shall have the right to immediately terminate this Agreement. In the event of any termination, the Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination. If the Consultant's compensation is a fixed fee, the amount payable for services will be a proportional amount of the total fee based on the ratio of the amount of the services performed, as reasonably determined by the Consultant, to the total amount of services which were to have been performed.

(8) **Insurance.** The Consultant carries Workers' Compensation insurance, professional liability insurance, and general liability/and automobile insurance. Prior to commencing its services hereunder, Consultant shall provide Client with an executed copy of Consultant's proof of liability insurance in the form attached hereto as Exhibit A.

(9) **Standard of Care.** The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's undertaking herein or its performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.

(10) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent of the law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of the Consultant and the Consultant's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of, resulting from or in any way related to the services under this Agreement from any cause or causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Consultant or the Consultant's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by the Consultant under this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. Under no circumstances shall the Consultant be liable for extra costs or other consequences due to changed conditions, or for costs related to the failure of

contractors to perform work in accordance with the plans and specifications. This Section 10 is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section 10 shall require the Client to indemnify the Consultant.

(11) Mutual Waiver of Consequential Damages/and Indemnification. In no event shall either party be liable to the other for any punitive or indirect damages. Each party shall indemnify, defend and hold the other party harmless from their negligent and intentional acts causing damages, injuries, or losses to the other party or third party.

(12) Certifications. The Consultant shall not be required to execute certifications or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.

(13) Dispute Resolution. All claims by the Client arising out of this Agreement or its breach shall be submitted first to nonbinding mediation in accordance with the Mediation Procedures of a mediator mutually selected by the parties as a condition precedent to litigation. Any mediation or civil action by Client/or Consultant must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

(14) Hazardous Substances and Conditions. In no event shall Consultant be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to professional analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant shall notify the Client of hazardous substances or conditions not contemplated in the scope of services of which the Consultant actually becomes aware. Upon such notice by the Consultant, the Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.

(15) Construction Phase Services.

(a) If the Consultant's services include the preparation of documents to be used for construction and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any way connected thereto.

(b) If the Consultant provides construction phase services, the Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.

(c) The Consultant is not responsible for any duties assigned to the design professional in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and for its means and methods; that the contractor shall indemnify the Client and the Consultant for all

claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.

(16) No Third-Party Beneficiaries; Assignment and Subcontracting. This Agreement gives no rights or benefits to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and the Consultant. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant except to an assignee which is controlled by Client and takes title to the subject property. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services and insurance identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.

(17) Confidentiality. The Client consents to the use and dissemination by the Consultant of photographs of the project and to the use by the Consultant of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material.

(18) Miscellaneous Provisions. This Agreement is to be governed by the law of the State of Illinois. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Provided, however, that any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.



Illinois Department of Transportation

Office of the Secretary
2300 South Dirksen Parkway / Springfield, Illinois / 62764
Telephone 217/782-5597

September 24, 2020

Mr. Zachary Gill
Dekalb City Engineer
1216 Market Street
Dekalb, IL 60115

Dear Mr. Gill:

Thank you for your application requesting Economic Development Program (EDP) funding for roadway improvements of the intersection of Interstate 23 and Gurler Road for a total of approximately 2,500 lineal feet. The City of Dekalb is sponsoring Ferrara Candy Company which is a candy manufacturing company. Ferrara Candy Company agrees to retain 150 full-time employees. This will help maintain a strong economic employment base for the City of Dekalb and Dekalb County.

The Illinois Department of Transportation (IDOT) is pleased to inform you that IDOT will provide EDP funding for improvements on the above roadways in Dekalb County for a total amount not to exceed \$1,488,848.35. Funding includes eligible roadway engineering, contingencies and construction costs. The City of Dekalb's required local match is \$120,717.75. Enclosed is an EDP project Summary which provides a detailed description of this commitment and the employee reporting responsibilities.

Please contact Masood Ahmad, IDOT's District Three Acting Local Roads and Streets Engineer at (815) 434-8426 to formulate a state/local joint agreement. Please note that the joint agreement must be fully executed prior to advertisement of this project for engineering or construction. Failure to do so may jeopardize IDOT's ability to reimburse the City of Dekalb for eligible expenses. It is also the responsibility of the City of Dekalb to notify IDOT of any changes in the status of this company. If the company fails to expand at its site, IDOT should be notified by the City of Dekalb.

If you have any questions or need additional information, please contact Ms. Tracinda Sisk, Bureau Chief of Programming, located at 2300 South Dirksen Parkway, Springfield, Illinois 62764, by telephone (217) 782-2755.

Sincerely,

A handwritten signature in black ink, appearing to read 'Omer M. Osman'.

Omer M. Osman, P.E.
Acting Secretary

Enclosures

Location: City of Dekalb, Illinois
Companies: Ferrara Candy Company
Project Sponsor: City of Dekalb, Illinois

State Funding

The Illinois Department of Transportation (DEPARTMENT) will provide funding for eligible roadway-related items for improvements to serve the above-mentioned company. Funding will include preliminary engineering, construction, construction engineering and contingencies in an amount up to but not exceeding \$1,488,848.35 from the Economic Development Program (EDP).

These improvements must be constructed to State Motor Fuel Tax standards. All necessary land acquisition or building demolition to improve this roadway will be the responsibility of the City of Dekalb, IL. All EDP commitments are capped and for this project, the EDP funding cap is \$1,488,848.35. Dekalb's matching funds are \$120,717.75

Public Act 93-552

The department is required to comply with Public Act 93-552, the Corporate Accountability for Tax Expenditures Act. The act requires any recipient business which is the intended beneficiary of EDP assistance submit an initial report stating that business's commitment to specific employment levels and to subsequently report the progress of the development and specified employment commitments for the project on an annual basis.

The company will be required to fill out an annual Reporting Form for five full calendar years after the execution date of the local intergovernmental agreement. All annual progress reports will be completed on-line through the Department of Commerce and Economic Opportunity. For the purpose of the EDP, Ferrara Candy Company is advised to enter into agreement with the City of Dekalb to ensure that these reporting requirements are fulfilled for their commitment of 150 retained full-time positions.

EDP Payback Provision

The commitment of EDP funds is contingent upon the fulfillment of the commitments to business investments and job creation/retention represented to the DEPARTMENT by the City of Dekalb and the recipient business. Any substantial modifications to these commitments, change in location of this facility or the failure of the business to make firm obligation to this site will cause the DEPARTMENT's commitment to be reevaluated.

The employment levels committed to by Ferrara Candy Company must be created within and retained over the five-year reporting period required by Public Act 93-552. If these commitments are not met, the DEPARTMENT will review the project funding provided to the City of Dekalb. If reasonable justification for non-performance of the commitments is not provided, the county will be required to repay the EDP funding (\$1,488,848.35) to the DEPARTMENT in total or an appropriate pro rata sum commensurate with the circumstances of the situation.

Illinois Department of Transportation ESTIMATE OF COST	Route	IL-23
	County	DeKalb
	Local Agency	City of DeKalb
	Section	TBD

Location: Intersection of IL-23 and Gurfur Road

Item No.	Items	Unit	EDP FUNDED 50%			EDP FUNDED 100%		
			Quantity	Unit Price	Total	Quantity	Unit Price	Total
1	Earth Excavation	CU YD	1125	\$20.00	\$22,500.00	6375	\$20.00	\$127,500.00
2	Grading and Shaping Ditches	Foot	847.5	\$8.00	\$6,780.00	4802.5	\$8.00	\$38,420.00
3	Seeding and Erosion Control	L SUM	0.15	\$35,000.00	\$5,250.00	0.85	\$35,000.00	\$29,750.00
4	Aggregate Base/Granular Sub-Base	SQ YD	1177.5	\$15.00	\$17,662.50	6672.5	\$15.00	\$100,087.50
5	Leveling Binder & Tack Coat	SQ YD	1695	\$7.00	\$11,865.00	9605	\$7.00	\$67,235.00
6	Hot-Mix Asphalt Binder Course, IL-19.0, N50	TON	540	\$75.00	\$40,500.00	3060	\$75.00	\$229,500.00
7	Hot-Mix Asphalt Surface Course, Mix "D", N70	TON	132.45	\$85.00	\$11,258.25	750.55	\$85.00	\$63,796.75
8	Pavement Edging and Removal	SQ YD	1125	\$8.00	\$8,750.00	6375	\$8.00	\$38,250.00
9	Aggregate Shoulders, Type B, 6"	SQ YD	213.75	\$15.00	\$3,206.25	1211.25	\$15.00	\$18,168.75
10	Thermoplastic Pavement Marking	FOOT	2565	\$2.50	\$6,412.50	14535	\$2.50	\$36,337.50
	Signal Installation, Complete	LS	0.15	\$275,000.00	\$41,250.00	0.85	\$275,000.00	\$233,750.00
11	Traffic Control and Protection	L SUM	0.15	\$80,000.00	\$9,000.00	0.85	\$80,000.00	\$51,000.00
12	Reflective Crack Control	SQ YD	1695	\$4.00	\$6,780.00	8605	\$4.00	\$38,420.00
13	Culverts/Structures/Storm Sewer	L SUM	0.15	\$100,000.00	\$15,000.00	0.85	\$100,000.00	\$85,000.00
14	Mobilization	L SUM	0.15	\$95,300.10	\$14,295.02	0.85	\$95,300.10	\$81,005.09
	Total Estimated Construction Cost				\$218,509.52			\$1,238,220.59
								\$1,456,730.10
	DESIGN ENGINEERING				\$8,250.00			\$48,750.00
	CONSTRUCTION ENGINEERING				\$10,928.00			\$61,910.00
	INTERSECTION DESIGN STUDY				\$0.00			\$0.00
	CONSTRUCTION STAKING				\$3,750.00			\$21,250.00
	Total Estimated Cost				\$241,435.62			\$1,368,130.69
								\$1,609,568.10

Made by ZAG Date:9/1/20
Checked by
16201 BLS730.xls

EPD TOTAL \$1,486,848.35
L.A./Prv TOTAL \$120,717.75