

May 21, 2020

Mr. Dennis Carson
City of Lafayette
Economic Development Director
515 Columbia Street
Lafayette, IN 47901

**Re: City of Lafayette
Letter of Agreement
CMc Services for the City of Lafayette Municipal Building**

Dear Mr. Carson,

The City of Lafayette Municipal Building is an important effort for the community and our Kettelhut + Wilhelm team is ready to serve as Construction Manager as constructor for this project. Thank you for taking the time to meet with us regarding the selection process for the Construction Manager as Constructor for the City of Lafayette Municipal Building. As a follow up to our conversation, listed below are the terms we agreed upon in our discussion.

1. The Kettelhut + Wilhelm team will provide preconstruction services for the Municipal Building and Parking Structure for a lump sum fee of \$50,000.
2. Our fee for CMc Services will be 2.5 percent.
3. In accordance with Indiana Code 5-32, the Kettelhut + Wilhelm team, will limit the amount of self-performance work to a combined total of 20 percent.
4. The team that presented in the interview will be the team that is involved with this project.
5. In response to Addendum #1 dated March 17, 2020, our team has no issue with the City of Lafayette's Standard Terms and Conditions (below).
 - a. **E-Verify.** Consultant must enroll in and verify the work eligibility status of all newly hired employees of the Consultant through the E-Verify program operated by the United States Department of Homeland Security. If the E-Verify program ceases to exist, the Consultant will not be required to verify the work eligibility status of newly hired employees through the E-Verify program. The Consultant affirms under penalties for perjury that the Consultant does not knowingly employ an unauthorized alien.
 - b. **Contracting with Iran.** Consultant certifies that under penalties of perjury that it does not engage in investment activities in Iran as more particularly described in Indiana Code 5-22-16.5.
 - c. **Tobacco Free Policy.** Consultant, subcontractors and suppliers shall comply with the City of Lafayette's Tobacco Free Workplace Policy while on the job-site.
 - d. **Compliance with Laws.** The Consultant specifically agrees that in the performance of the services herein enumerated by the Consultant or a subcontractor or anyone acting on behalf of either, that each will comply with all State, Federal and Local Statutes, Ordinances and Regulations.
 - e. **Waiver of Contract Breach.** The waiver of one party of any breach of the Agreement or the failure of one party to enforce at any time, or for any period of time, any provisions hereof, shall be limited to the particular instances, shall not operate or be deemed to waive any future breaches of this Agreement and shall not be construed to be a waiver of any provision, except for that particular instance.

- f. **Entire Understanding of Agreement.** The Agreement represents and incorporated the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenant or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. City and Consultant hereby agree that any purchase orders, invoices, confirmations, acknowledgments or other similar documents executed or delivered with respect to the subject matter hereof that conflict with the terms of the Agreement shall be null, void and without effect to the extent they conflict with the terms of the Agreement.
 - g. **Non-Discrimination.** Pursuant to Indiana and Federal law, the Consultant and the Consultant's subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of the work under the 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.
 - h. **Governing Law.** The 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 clause, paragraph or other part of the Agreement, shall remain in full force and effect.
 - i. **Public Record.** The Consultant acknowledges that the City will not treat the Agreement as containing confidential information and may post this Agreement on the Indiana Transparency Portal as required by IC § 5-14-3.8-3.5.
6. We agree that the contract for this project will be the AIA Document A133 – Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price. The above City of Lafayette terms will be included to the AIA A133 contract. The remaining terms and conditions of the contract will be negotiated in good faith in the upcoming weeks.

If you find the above acceptable, please sign the acknowledgement below on both copies and return one copy to our office.

We look forward to working with Core Planning Strategies and the City of Lafayette on this exciting project. Please contact us at your convenience if you have questions, or require any additional information.

Sincerely,

 D. Alex Gonzalez
 Executive Vice President
 Kettelhut Construction, Inc.

DAG: jas

ACKNOWLEDGEMENT AND ACCEPTED:

By: _____

Date: _____

Title: _____

ADOPTED AND PASSED by the Lafayette Redevelopment Commission this 28th day of May, 2020.

LAFAYETTE REDEVELOPMENT COMMISSION

Jos Holman, President

Jim Terry, Vice President

T.J. Thieme, Secretary

Don Teder

Shelly Henriott

ATTEST:

Dave Moulton

Randy Bond