

BILL NO. S-15-01-12

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving PROFESSIONAL SERVICES AGREEMENT FOR THE BLUFFTON ROAD TRAIL AND SIDEWALK: LOWER HUNTINGTON ROAD TO WEST FOSTER PARK between VS ENGINEERING, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the PROFESSIONAL SERVICES AGREEMENT FOR THE BLUFFTON ROAD TRAIL AND SIDEWALK: LOWER HUNTINGTON ROAD TO WEST FOSTER PARK by and between VS ENGINEERING, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

All labor, insurance, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for Engineering services associated with the design of a trail and sidewalk along Bluffton Road between Lower Huntington Road and West Foster Park:

involving a total cost of ONE HUNDRED ONE THOUSAND, EIGHT HUNDRED FIFTY-NINE AND 43/100 DOLLARS - (\$101,859.43). A copy of said Contract is on file with the Office of the City Clerk and made available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney



Board Agenda Transmittal

To: Board of Public Works

From: Kate Riordan, Planning, EXTENSION # 2284

Date: January 6, 2015

Enclosed are (2) original copies of the following to be placed on the **BOPW Agenda** for January 14, 2015.

- | | | |
|---|---|--|
| ☐ Improvement Resolution | ☐ Owner-Contractor Agreement/Contracts | ☒ Professional Service Agreement |
| ☐ Purchase Agreement | ☐ Amendment/Supplemental | ☐ Other Agreements |
| ☐ Award | ☐ Change Order | ☐ Escrow Release |
| ☐ Payment Approval | ☐ Special Street Permit | ☐ Claims/Write offs |
| ☐ Consent Decree | ☐ Acceptance | ☐ Other (Description) |

Resolution/Work Order **#12498**

Contract #

Project/BOPW Item Name **Bluffton Road Trail and Sidewalk: Lower Huntington Road to West Foster Park**

Project/BOPW Item Description (to be included on agenda) **Design Services**

Vendor/Contractor Name **VS Engineering, Inc.**

Dollar Amount **\$101,859.43**

Date for Council (if applicable) **January 27, 2015**

Additional Comments: Design services including trail and sidewalk design, drainage, traffic signals, utility coordination, public participation, right of way engineering, maintenance of traffic, permitting, contract documents, bidding, and construction assistance.

Upon approval please return **Original** to **Kate Riordan Dept. Planning**

PROFESSIONAL SERVICES AGREEMENT

BLUFFTON ROAD TRAIL AND SIDEWALK ("PROJECT")

Work Order # 12498

This Agreement is by and between

CITY OF FORT WAYNE ("CITY")

By and through its

Board of Public Works
Room 420, City-County Building
One Main Street
Fort Wayne, IN 46802

And

VS ENGINEERING, INC. ("ENGINEER")

10305 Dawson's Creek Blvd., Suite A
Fort Wayne, IN 46825
Phone: (260)489-6635

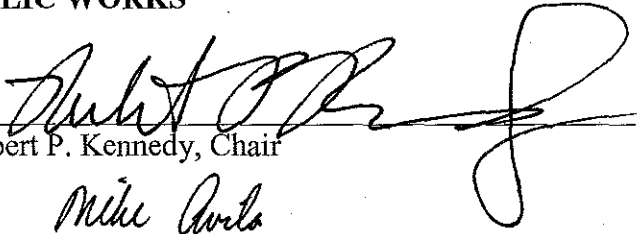
Who agrees as follows:

CITY hereby engages ENGINEER to perform the services set forth in Part I – Services ("SERVICES") and ENGINEER agrees to perform the SERVICES for the compensation set forth in Part III – Compensation ("COMPENSATION"). ENGINEER shall be authorized to commence the SERVICES upon execution of this Agreement and written authorization to proceed from CITY. CITY and ENGINEER agree that these signature pages, together with Parts I-IV and attachments referred to therein, constitute the entire Agreement ("AGREEMENT") between them relating to the PROJECT.

APPROVED FOR CITY

BOARD OF PUBLIC WORKS

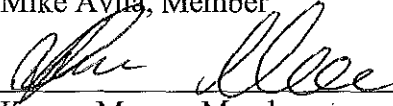
BY:


Robert P. Kennedy, Chair

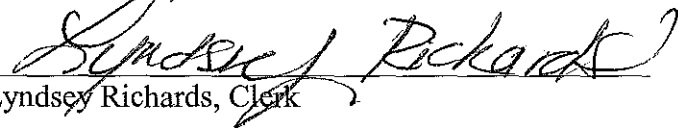
BY:


Mike Avila, Member

BY:


Kumar Menon, Member

ATTEST:


Lyndsey Richards, Clerk

DATE:

1/14/15

APPROVED as to legality and form

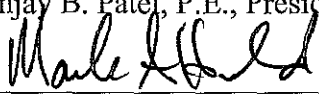
APPROVED FOR ENGINEER

CONSULTING FIRM

BY:


Sanjay B. Patel, P.E., President

ATTEST:


Mark A. Herald, P.E., Project Manager

DATE:

1/5/15

PART I

SERVICES

A. GENERAL

ENGINEER shall provide the CITY professional engineering services in the design phase of the PROJECT. These services will include serving as CITY's professional representative for the PROJECT; providing professional engineering consultation and advice; and furnishing civil and other customary design services incidental thereto.

B. PROJECT DESCRIPTION

The PROJECT consists of engineering design services for a sidewalk along the west side and a trail along the east side of Bluffton Road between Lower Huntington Road and West Foster Park. The ENGINEER will provide engineering services, including right of way engineering services, for a 10 foot wide multi-use asphalt trail on the east side and a 5 foot wide concrete sidewalk on the west side of Bluffton Road. The CITY would like a minimum 10 foot wide grass swath between the roadway and the pedestrian infrastructure if no curb is included in the project. If curb is included, then the CITY wants a six-foot wide park strip between the curb and sidewalk/trail. Project may also include Citilink- and ADA-accessible facilities. Local design standards should be used and where local design standards are not available, then AASHTO guidelines should be utilized. ENGINEER shall also secure necessary permits. Pedestrian crossings should be incorporated with appropriate safety features, including piano key pavement markings, countdown pedestrian signals, lighting and pedestrian safety islands. Substantial drainage and storm sewer accommodations and design are anticipated. This project will be phased into two (2) sections for construction and will be bid through the Board of Public Works.

The selected firm will be responsible for engineering drawings and specifications for the construction of sidewalk, trail, stormwater improvements and other components of the project as determined by the CITY. Other responsibilities will include attendance at a public meeting, utility coordination and bidding assistance. Land acquisition services will be performed by CITY personnel.

C. SCOPE OF WORK

The duty of the ENGINEER is to design approved improvements and to develop construction drawings, specifications and special provisions. The final construction documents shall be stamped by a Registered Professional Engineer, licensed in the State of Indiana and employed by the ENGINEER. The ENGINEER shall develop and provide the following services:

Task 1 – Project Schedule and Review Meetings

- 1.1 Prepare project design schedule.
- 1.2 Provide up to five project review meetings with the CITY. These meetings are the same meetings as those identified in Tasks 2.5, 2.12, 4.1 (H) and 5.5 and possibly one additional meeting for a total of five. Keep minutes of the review meetings and distribute these minutes within 7 days.

Task 2-Preliminary Design

- 2.1 Prepare existing site drawings, including preliminary trail alignment indicating alternative alignments where appropriate.
- 2.2 Provide a utility location plan indicating apparent conflict areas.
- 2.3 Route the preliminary plans to utilities and address apparent utility conflicts. CITY will send out the routing to CITY Departments and Utilities. ENGINEER must provide CITY with a CD containing a .pdf version of the plans for the routing.
- 2.4 Give a presentation at one (1) monthly Utility Coordination Meeting just prior to initial routing.
- 2.5 Meet with CITY to discuss preliminary route and utility conflicts.
- 2.6 Adjust preliminary route based upon comments from CITY.
- 2.7 Advise CITY of need for additional data relative to soil borings, potholing utilities and geotechnical evaluation. Provide CITY with a plan for any of this work and provide an allowance of \$10,000 for this work. CITY must approve this additional work before it commences.
- 2.8 Deliver revised preliminary route plan (1"=100' or better) on field survey with aerial background. Include:
 - a. Preliminary Title Sheet
 - b. Preliminary Index Sheet
 - c. Existing conditions
 - d. Original cross sections (every 50 ft and at locations of significant cross section changes).
 - e. Preliminary typical cross sections
 - f. Preliminary alignment design (horizontal and vertical)
 - g. Preliminary Plan and Profile Sheets
 - h. Drainage features and structures; watershed analysis will not be needed; roadside ditches may need to be utilized and modified or curb and gutter utilized or combination of both; storm water needs to be directed to current routings.
 - i. Traffic plan (maintenance of traffic, pedestrian crossings and signal modification plans)

- j. Facilities to be relocated such as light poles, guardrails, etc.
- k. Retaining wall design, if needed
- l. Project cost estimate and estimate of quantities
- m. Plan for construction phasing

2.9 Determine the final location of the proposed improvements and any permanent or temporary right of way or easement requirements. This item should be completed in conjunction with CITY input. The need to acquire right of way will be directly correlated to the selected design concept and decision on storm water drainage design and also holding minimum or desirable space between the roadway and pedestrian facilities. Design exceptions may be practical and preferable to acquiring costly right of way.

2.10 Select construction materials and products to be used on this project.

2.11 Work with City on identifying locations for two (2) park benches along the trail.

2.12 Attend preliminary design review meeting with CITY.

2.13 CITY will provide ENGINEER at Notice to Proceed with a topographic survey, completed by others, for the entire project length in Civil 3D AutoCAD 2012 format.

2.14 Revise preliminary plans, as may be necessary, prior to public informational meeting.

Task 3 – Public Informational Meeting

3.1 Assist the CITY in facilitating one (1) Public Information Meeting that addresses the design and development of both phases of the Bluffton Road Trail and Sidewalk. Services will include the development of enhanced project plans by amending the preliminary route plan documents with color and notations; bringing maps, one (1) overall aerial view rendering, one (1) pedestrian perspective rendering, signs and/or drawings to the meeting; and participation in the meeting, including meeting minutes. ENGINEER will prepare a PowerPoint presentation. Any handouts for the public meeting will be provided by ENGINEER and CITY will make copies. An open comment period will follow the presentation.

Task 4 – Right of Way Engineering

4.1 ENGINEER will provide right of way engineering in accordance with the procedures and standards as indicated in the Indiana Department of Transportation, Land Acquisition Division, Right of Way Engineering Procedures Manual including the following:

- A. Prepare legal descriptions and individual parcel plats for each property interest being acquired. The descriptions shall be prepared and

- certified by an Indiana Registered Land Surveyor. Provide fee per each legal description and parcel plat. Use the estimate of five (5) parcels for your fee.
- B. Provide area computation sheets for each parcel and include in fee for each parcel plat.
 - C. CITY will provide Title & Encumbrance Reports. ENGINEER must thoroughly read and analyze all legal descriptions contained within the Title & Encumbrance Reports for parcels of land from which property interests are being acquired.
 - D. CITY will provide location control route survey, if needed.
 - E. Provide a short summary on a per parcel basis that references what the existing ROW is based upon. Please provide a per parcel fee for this document based upon five (5) parcels.
 - F. Right of way plans are not necessary as information needed for acquisition will be provided by ENGINEER in the parcel packets and the construction drawings with right of way details on them.
 - G. CITY will provide Land Acquisition Services (appraising and buying).
 - H. ENGINEER will meet with CITY to review draft Right of Way Engineering documents.

Task 5 – Final Design – Treat Project as One Project through Final Design and Break into Two (2) Phases at the Time of Bidding.

- 5.1 Provide a final utility routing. Address comments and conflicts.
- 5.2 Revise preliminary trail and sidewalk route as directed by CITY based upon input from all agencies, utilities and the public informational meeting.
- 5.3 Prepare final design drawings.
- 5.4 Prepare draft specifications for the improvements, including special provisions and necessary details to supplement CITY standards.
- 5.5 Attend review meeting with CITY to discuss final plans and make final revisions.
- 5.6 Update summary of project quantities.
- 5.7 Upon approval of final design drawings and project specifications, prepare and submit itemized bid, special provisions and itemized engineer's estimate and one (1) electronic version of the project drawings (Autocad Version 2011 or newer) and documents (WORD 2010).
- 5.8 ENGINEER shall obtain all necessary permits prior to completion of design services. Required permits as follows:
 - 1. IDNR – Construction in a Floodway
 - 2. IDEM – Rule 5 Erosion Control Plan

Task 6 – Bidding

6.1 Attend 2 pre-bid meetings (one for each phase). CITY will prepare meeting minutes.

6.2 Respond to questions from bidders and manufacturer representatives during bidding as requested by CITY. Responses requiring additional information or clarification not found within bid documents shall ONLY be addressed by addendum. This service will be provided two (2) times – one for each phase.

6.3 Prepare addenda, as needed, to interpret, clarify or expand bid documents. CITY to issue addenda. This service will be provided two (2) times – one for each phase.

6.4 Review and tabulate bids and make recommendations regarding construction contract award to the CITY. This service will be provided two (2) times – one for each phase.

Task 7 – Construction Services

7.1 ENGINEER shall be available during construction to answer questions posed by contractor or by CITY regarding the construction plans and constructability concerns for **both phases**. Provide a total allowance of \$5,000 for these services (not \$5,000 for each phase).

D. SCHEDULE

The PROJECT will be completed per attached design schedule. Please provide schedule for two (2) letting periods: one letting in March of 2016 and the other letting in the March of 2017. This schedule is based on receiving a Notice to Proceed by February 13, 2015 and receiving prompt review and approvals from CITY.

<u>ACTIVITY</u>	<u>DAYS</u>	<u>DATE</u>
Preliminary Design	90	May 14, 2015
Public Information Meeting	120	June 15, 2015
Right of Way Engineering Complete	180	August 3, 2015
Final Design	240	October 12, 2015
Land Acquisition Complete	240	October 12, 2015
Separating Plans to Two Phases	300	December 10, 2015
Bidding Phase 1 (March, 2016)	383	March 2, 2016
Bidding Phase 2 (March, 2017)	748	March 8, 2017

PART II

CITY'S RESPONSIBILITIES

City shall, at its expense, do the following in a timely manner so as not to delay the SERVICES:

A. INFORMATION REPORTS/CITY UTILITY MAPS/AERIAL MAPS/CONTOUR MAPS

Make available to ENGINEER reports, studies, regulatory decisions and similar information relating to the SERVICES that ENGINEER may rely upon without independent verification unless specifically identified as requiring such verification. CITY will provide topographic survey and recorded Location Control Route Survey to ENGINEER.

B. REPRESENTATIVE

Designate a representative for the project who shall have the authority to transmit instructions, receive information, interpret and define CITY's requirements and make decisions with respect to the SERVICES. The CITY representative for this AGREEMENT will be Kate Riordan, Active Transportation Planner.

C. DECISIONS

Provide all criteria and full information as to CITY's requirements for the SERVICES and make timely decisions on matters relating to the SERVICES.

PART III
COMPENSATION

A. COMPENSATION

<u>Task</u>	<u>Not to Exceed Fee</u>
Five (5) Project Review Meetings (Task 1.2)	<u>\$2,161.04</u>
Preliminary Sidewalk, Trail & Drainage Design (Task 2)	<u>\$48,991.05</u>
Public Meeting (Task 3)	<u>\$7,148.80</u>
Total Right of Way Engineering Fee (Task 4)	<u>\$6,914.16</u>
Legal descriptions, parcel plats, area comp. sheets (Tasks 4.1.A and 4.1.B) PER PARCEL:	<u>\$1,202.83</u>
Summary of what ROW is based upon (Task 4.1.F) PER PARCEL:	<u>\$100.00</u>
Final Sidewalk, Trail and Drainage Design (Task 5)	<u>\$25,560.66</u>
Permitting (Task 5.8)	
IDNR – Construction in Floodway	<u>\$4,145.29</u>
IDEM – Rule 5	<u>\$6,451.61</u>
Bidding Assistance, Phase 1 (Task 6)	<u>\$3,041.86</u>
Bidding Assistance, Phase 2 (Task 6)	<u>\$3,041.86</u>
Construction Services (Task 7)	<u>\$5,000 allowance</u>
Soil borings, potholing, geotech (Task 2.7)	<u>\$10,000 allowance</u>
Total Not to Exceed Fee	<u>\$101,859.43</u>

B. BILLING AND PAYMENT

1. Timing and Format

- a. ENGINEER shall invoice the CITY monthly for SERVICES completed at the time of billing. Such invoices shall be prepared in a form and supported by documentation as CITY may reasonably require.

- b. CITY shall pay ENGINEER within 30 days of receipt of approved invoice.

2. Billing Records

ENGINEER shall maintain accounting records of its costs in accordance with generally accepted accounting practices. Access to such records will be provided during normal business hours with reasonable notice during the term of this Agreement and for 3 years after completion.

PART IV

STANDARD TERMS AND CONDITIONS

1. **STANDARD OF CARE.** Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession at the time and within the locality where the services are performed. No warranty or guarantee, express or implied, are provided, including warranties or guarantees contained in any uniform commercial code.

2. **CHANGE OF SCOPE.** The scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by ENGINEER and CITY. ENGINEER will promptly notify CITY of any perceived changes of scope in writing and the parties shall negotiate modifications to this Agreement.

3. **SAFETY.** ENGINEER shall establish and maintain programs and procedures for the safety of its employees. ENGINEER specifically disclaims any authority or responsibility for general job site safety and safety of persons other than ENGINEER employees.

4. **DELAYS.** If events beyond the control of ENGINEER, including, but not limited to, fire, flood, explosion, riot, strike, war, process shutdown, act of God or the public enemy, and act or regulation of any government agency, result in delay to any schedule established in this Agreement, such schedule shall be extended for a period equal to the delay. In the event such delay exceeds 90 days, ENGINEER will be entitled to an equitable adjustment in compensation.

5. **TERMINATION/SUSPENSION.** Either party may terminate this Agreement upon 30 days written notice to the other party in the event of substantial failure by the other party to perform in accordance with its obligations under this Agreement through no fault of the terminating party. CITY shall pay ENGINEER for all Services, including profit relating thereto, rendered prior to termination, plus any expenses of termination.

ENGINEER or CITY, for purposes of convenience, may at any time by written notice terminate the services under this Agreement. In the event of such termination, ENGINEER shall be paid for all authorized services rendered prior to termination including reasonable profit and expenses relating thereto.

6. **REUSE OF PROJECT DELIVERABLES.** Reuse of any documents or other deliverables, including electronic media, pertaining to the Project by CITY for any purpose other than that for which such documents or deliverables were originally prepared, or alternation of such documents or deliverables without written verification or adaptation by ENGINEER for the specific purpose intended, shall be at CITY's sole risk.

7. **OPINIONS OF CONSTRUCTION COST.** Any opinion of construction costs prepared by ENGINEER is supplied for the general guidance of the CITY only. Since ENGINEER has no control over competitive bidding or market conditions, ENGINEER cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to CITY.

8. **RELATIONSHIP WITH CONTRACTORS.** ENGINEER shall serve as CITY's professional representative for the Services, and may make recommendations to CITY concerning actions relating to CITY's contractors, but ENGINEER specifically disclaims any authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by CITY's contractors.

9. **MODIFICATION.** This Agreement, upon execution by both parties hereto, can be modified only by a written instrument signed by both parties.

10. **PROPRIETARY INFORMATION.** Information relating to the Project, unless in the public domain, shall be kept confidential by ENGINEER and shall not be made available to third parties without written consent of CITY.

11. **INSURANCE.** ENGINEER will maintain insurance coverage for Professional, Comprehensive General, Automobile, Worker's Compensation and Employer's Liability in amounts in accordance with legal, and ENGINEER business, requirements. Certificates evidencing such coverage will be provided to CITY upon request. For projects involving construction, CITY agrees to require its construction contractor, if any, to include ENGINEER as an additional insured on its policies relating to the Project. ENGINEER coverages referenced above shall, in such case, be excess over contractor's primary coverage.

12. **INDEMNITIES.** To the fullest extent permitted by law, ENGINEER shall indemnify and save harmless the City from and against loss, liability, and damages sustained by CITY, its agents, employees, and representatives by reason of injury or death to persons or damage to tangible property to the extent caused directly by the negligent errors or omissions of ENGINEER, its agents or employees.

13. **LIMITATIONS OF LIABILITY.** No employee or agent of ENGINEER shall have individual liability to CITY. CITY agrees that, to the fullest extent permitted by law, ENGINEER's total liability to CITY for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any causes including, but not limited to, ENGINEER's negligence, error, omissions, strict liability, or breach of contract shall not exceed the total compensation received by ENGINEER under this Agreement except for personal injury or property damage which shall be limited to the extent of ENGINEER insurance coverage (minimum \$250,000.00). If CITY desires a limit of liability greater than that provided above, CITY and ENGINEER shall include in this Agreement the amount of such limit and the additional compensation to be paid to ENGINEER for assumption of such additional risk.

14. **ASSIGNMENT.** The rights and obligations of this Agreement cannot be assigned by either party without written permission of

the other party. This Agreement shall be binding upon and insure to the benefit of any permitted assigns.

15. ACCESS. CITY shall provide ENGINEER safe access to any premises necessary for ENGINEER to provide the Services.

16. PREVAILING PARTY LITIGATION COSTS. In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to collect its litigation costs from the other party.

17. NO WAIVER. No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate another section of this Agreement or operate as a waiver of any future default, whether like or different in character.

18. SEVERABILITY. The various term, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.

19. AUTHORITY. The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the part for whom they are signing.

20. STATUTE OF LIMITATION. To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims regarding ENGINEER's performance under this Agreement shall expire one year after Project Completion.

DIGEST SHEET

Department: Planning & Policy

Resolution Number: N/A (W/O# 12498)

Title of Ordinance: Bluffton Road Trail and Sidewalk: Lower Huntington Road to West Foster Park

Awarded To: VS Engineering, Inc.

Amount of Contract: \$101,859.43 (not to exceed)

Number of Bidders: 4 letters of interest; 3 firms shortlisted for RFP

Description of Project (Be Specific):

This is an agreement between the City of Fort Wayne and VS Engineering, Inc. for the engineering services associated with the design of a trail and sidewalk along Bluffton Road between Lower Huntington Road and West Foster Park.

This project will consist of a 10 foot wide multi-use asphalt trail on the east side and a 5 foot wide concrete sidewalk on the west side of Bluffton Rd. The sidewalk will connect to an existing sidewalk at the intersection with Waynewood Dr. on the south end and terminate at the intersection with Winchester Rd. on the north. The trail will run from the intersection of Bluffton Rd. and Lower Huntington Rd. and will connect to the existing Rivergreenway trail in Foster Park. The project limits are in Council District 4.

This project is identified in the City's Walk Fort Wayne Plan as a high priority project. Currently, there are small sections of sidewalk in the project area, though there are significant gaps. This project will give residents the ability to walk or bike to the businesses along Bluffton Rd. This project is also a part of the State Visionary Trail, which will eventually extend from Pokagan State Park to Ouabachee State Park in Bluffton.

Local design standards will be used and where local design standards are not available, AASHTO guidelines will be used. The design will include a minimum 10 foot wide grass swath between the roadway and the pedestrian infrastructure if no curb is included in the project; if curb is included, then the