

BIRMINGHAM CITY COMMISSION AGENDA
AUGUST 28, 2023
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Therese Longe, Mayor

II. ROLL CALL

Alexandria Bingham, City Clerk

III. PROCLAMATIONS, CONGRATULATORY RESOLUTIONS, AWARDS, APPOINTMENTS, RESIGNATIONS AND CONFIRMATIONS, ADMINISTRATION OF OATHS, INTRODUCTION OF GUESTS AND ANNOUNCEMENTS.

ANNOUNCEMENTS

- The City Commission proudly declares August as Civility Month. Our City government stresses the importance of respectful dialogue and behavior in our community. To recognize Civility Month, we shall aim to create a place of understanding, empathy, and clear communication. Encouraging civility strengthens the bond between citizens and government, making our City more welcoming and inclusive.

APPOINTMENTS

- A. Ad Hoc Aging in Place
1. Pam DeWeese
 2. Jay Reynolds

To appoint _____ to the Ad Hoc Aging in Place Committee as a regular member who is a senior resident and Birmingham voter to serve an 18-month term to expire January 31, 2025.

- B. Advisory Parking Committee
1. Mary-Claire Petcoff

To appoint _____ to the Advisory Parking Committee as an alternate member who is a resident to serve a three-year term to expire September 4, 2026.

To appoint _____ to the Advisory Parking Committee as an alternate member who is a downtown employee to serve a three-year term to expire September 4, 2026.

To appoint _____ to the Advisory Parking Committee as a regular member who is a large retail owner to serve a three-year term to expire September 4, 2026.

To appoint _____ to the Advisory Parking Committee as a regular member who is a restaurant owner to serve a three-year term to expire September 4, 2026.

To appoint _____ to the Advisory Parking Committee as a regular member who is a downtown employee to serve a three-year term to expire September 4, 2026.

IV. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

V. CONSENT AGENDA

All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a roll call vote. There will be no separate discussion of the items unless a Commissioner or citizen so requests, in which event the item will be removed from the general order of business and considered under the last item of new business.

- A. Resolution to approve the City Commission meeting minutes of August 14, 2023.
- B. Resolution to approve the warrant list, including Automated Clearing House payments, dated August 16, 2023, in the amount of \$2,818,117.02.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated August 23, 2023, in the amount of \$13,793,838.49.
- D. Resolution designating Finance Director Mark Gerber, Assistant Finance Director Kim Wickenheiser, DPS Director Scott Zielinski, Building Official Bruce Johnson, Assistant Building Official Mike Morad, Museum Director Leslie Pielack, and Police Commander Ryan Kearney as proxy representatives of Election Commissioners Mayor Therese Longe, Mayor Pro Tem Elaine McLain, Commissioner Clinton Baller, Commissioner Brad Host, Commissioner Andrew Haig, Commissioner Pierre Boutros, and Commissioner Katie Shafer, to conduct the Public Accuracy Tests of the electronic tabulating equipment which will be used to count votes at Birmingham precincts during the November 7, 2023 election.
- E. Resolution to claim an exemption from the Publicly-funded Health Insurance Contribution Act 2011 PA 152. Further, to direct the City Engineer and Finance Director to sign the Annual Certification of Employee-related Conditions for the year 2023 and submit the required form to the Michigan Department of Transportation as required by Public Act 51.
- F. Resolution to approve the METRO Act Application of ExteNet Systems, LLC and the METRO Act Permit for the project locations shown on the exhibit. In addition, to authorize the Mayor and City Clerk to sign the Bilateral Form on behalf of the City.
- G. Resolution approving a two-year contract between the City and Oakland County for assessing services for the period of July 1, 2023 through June 30, 2025 and to authorize the Mayor and the City Clerk to sign the agreement on behalf of the City.
- H. Resolution approving the Addendum to the contract to RAM Construction, Inc. for the proposed 2023 North Old Woodward Parking Structure Repair Project in the amount of \$44,876.000; further, to charge the contract to the structures capital outlay (514.1-594.005-977.0000) account as costs are incurred. Furthermore, to authorize the Mayor and City Clerk to sign the contract on behalf of the City.

VI. UNFINISHED BUSINESS

- A. Resolution to adopt the City Commission Principles of Conduct.

VII. NEW BUSINESS

- A. Public Hearing for 245 S. Eton – Big Rock Italian Chophouse – Special Land Use Permit, Final Site Plan & Design Review
 - 1. Resolution to approve the Special Land Use Permit, Final Site Plan and Design Review application for 245 S. Eton – Big Rock Italian Chophouse.

- B. Resolution to approve the Master Services Agreement with OpenGov in the amount of \$78,997, charging this cost to account number 101.0-191.000-901.0000, authorizing the Mayor and the City Clerk to sign the master services agreement on behalf of the City, and authorizing the Finance Director to sign the order form. Furthermore, to amend the General Fund appropriations and budget as follows:

 Revenues:

Appropriation from Fund Balance	101.0-000.000-400.0000	\$39,000
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 Expenditures:

General Government-Finance	101.0-191.000-901.0000	\$39,000
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- C. Commission Items for Future Discussion. A motion is required to bring up the item for future discussion at the next reasonable agenda, no discussion on the topic will happen tonight.

- D. Commission discussion on items from a prior meeting.

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

- A. Email from Maureen Bell Field regarding the YMCA Pool

X. REPORTS

- A. Commissioner Reports
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions’ Reports and Agendas
- D. Legislation
- E. City Staff
 - 1. City Manager’s Report

INFORMATION ONLY

XI. ADJOURN

Should you wish to participate in this meeting, you are invited to attend the meeting in person or virtually through ZOOM: <https://zoom.us/j/655079760> Meeting ID: 655 079 760
 You may also present your written statement to the City Commission, City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012-3001 prior to the hearing.

NOTICE: Individuals requiring accommodations, such as mobility, visual, hearing, interpreter or other assistance, for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice), or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.

Las personas que requieren alojamiento, tales como servicios de interpretación, la participación efectiva en esta reunión deben ponerse en contacto con la Oficina del Secretario Municipal al [\(248\) 530-1880](tel:2485301880) por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).



**NOTICE OF INTENTION TO APPOINT TO THE
AD HOC AGING IN PLACE COMMITTEE**

At the regular meeting of Monday, August 28, 2023, the Birmingham City Commission intends to appoint one regular member to the Ad Hoc Aging in Place Committee to serve 18-month terms expiring January 31, 2025.

The Ad Hoc Aging in Place Committee consists of seven members appointed by the City Commission. A majority of the members shall be residents of Birmingham and qualified voters. When available, preferred qualifications/areas of professional expertise and experience include: gerontologist, senior health or nutrition, adult education, elder law, representative of Birmingham NEXT, and intergenerational specialist. Staff from the Managers Office will serve as ex-officio member(s) of the committee.

The function of the Ad Hoc Aging in Place Committee (AIP) is to study current demographic trends, evaluate the needs of the City’s aging population, and to prepare a City-wide action plan outlining the vision and goals to improve the health, safety and welfare of senior citizens and encourage residents to age comfortably in Birmingham.

Interested citizens may submit an application available at the City Clerk’s Office or online at www.bhamgov.org/boardopportunities. Applications must be submitted to the City Clerk’s Office on or before noon on June 21, 2023. These documents will appear in the public agenda for the regular meeting at which time the City Commission will discuss recommendations, and may make nominations and voter on appointments.

Applicant(s) Presented for City Commission Consideration:

Applicant Name	Criteria A majority of members must be Birmingham Residents and electorates	Qualifications
Pamela DeWeese		preferred qualifications/areas of professional expertise and experience include: gerontologist, senior health or nutrition, adult education, elder law, representative of Birmingham NEXT, and intergenerational specialist.
Jay Reynolds		Retired therapist and social work professional Past President of NEXT Board

NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.

SUGGESTED ACTION:

To appoint _____ to the Ad Hoc Aging in Place Committee as a regular member who is a senior resident and Birmingham voter to serve a 18-month term to expire January 31, 2025.



Ad Hoc Aging in Place Committee

Resolution # 04-093-23

The Ad Hoc Aging in Place Committee consists of seven members appointed by the City Commission. A majority of the members shall be residents of Birmingham and qualified voters. When available, preferred qualifications/areas of professional expertise and experience include: gerontologist, senior health or nutrition, adult education, elder law, representative of Birmingham NEXT, and intergenerational specialist. Staff from the Managers Office will serve as ex-officio member(s) of the committee.

The function of the Ad Hoc Aging in Place Committee (AIP) is to study current demographic trends, evaluate the needs of the City's aging population, and to prepare a City-wide action plan outlining the vision and goals to improve the health, safety and welfare of senior citizens and encourage residents to age comfortably in Birmingham.

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
Braun 320 Fairfax	Cris	586-295-8849 <i>crisbraun24@gmail.com</i>	Representative from NEXT Senior Services, Birmingham voter	1/31/2025
Clemence 151 Martin Street	Mark	248-530-1809 <i>Mclemence@bhamgov.org</i>	Ex-Officio From Manager's Office	1/31/2025
Craft	Rebekah	248-554-4681 <i>rebekah.craft@baldwinlib.org</i>	Representative from Baldwin Library	1/31/2025
Hoff 941 Arden	Rackeline	248-642-1957 <i>rackyhoff@hotmail.com</i>	Senior resident, Birmingham voter	1/31/2025

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
Mark 635 Puritan	Melissa	248-644-8451 <i>weir527@gmail.com</i>	1/31/2025 Representative from Baldwin Library, senior resident, Birmingham voter	
O'Malley 1255 Birmingham Blvd	Rosemary	248-225-5920 <i>rjoh20@gmail.com</i>	1/31/2025 Adult education, Birmingham voter	
Pielack	Leslie	248-530-1682 <i>LPielack@bhamgov.org</i>	1/31/2025 Representative from Birmingham Museum	
Vacant			1/31/2025 gerontologist, senior health or nutrition, adult education, elder law, representative of Birmingham NEXT, and intergenerational specialist	

OFFICE USE ONLY

Meets Requirements? Yes No

Will Attend / Unable to Attend

APPLICATION FOR CITY BOARD OR COMMITTEE

Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this form is open to the public. All Board and Committee members are subject to the provisions of the Ethics Ordinance (Chapter 2, Article IX of the City Code).

Information on various Boards and Committees and a list of current openings can be found on the City website at www.bhamgov.org/boardopportunities.

(Please print clearly)

Board/Committee of Interest Ad Hoc Aging in Place

Specific Category/Vacancy on Board Member (see back of this form for information)

Name Pamela DeWeese

Phone 248-642-4256 (H)
248-854-0903 (C)

Residential Address 932 Purdy St

Email *pamdeweese@comcast.net

Residential City, Zip Birmingham, MI 48009

Length of Residence 35 years

Business Address _____

Occupation Retired

Business City, Zip _____

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied _____

I am a senior aging in place in Birmingham, I have a background in social science and social work.

List your related employment experience I am a retired therapist and social work professor

List your related community activities I have served on library, museum, and city committees.

List your related educational experience Degrees in social work, sociology, and anthropology

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: No

Do you currently have a relative serving on the board/committee to which you have applied? No Clerk's Office City of Birmingham, MI

Are you an elector (registered voter) in the City of Birmingham? _____

Pamela M DeWeese
Signature of Applicant

July 24, 2023
Date

JUL 25 2023

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to clerk@bhamgov.org or fax to 248.530.1080.

RECEIVED
July 25 2023

*By providing your email to the City, you agree to receive news & notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.



OFFICE USE ONLY
Meets Requirements? Yes No
Will Attend / Unable to Attend

APPLICATION FOR CITY BOARD OR COMMITTEE

Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this form is open to the public. All Board and Committee members are subject to the provisions of the Ethics Ordinance (Chapter 2, Article IX of the City Code).

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(Please print clearly)

Board/Committee of Interest Ad Hoc Aging in Place Committee

Specific Category/Vacancy on Board vacancy (see back of this form for information)

Name Jay Reynolds Phone (415) 248-645-9671

Residential Address 718 Colonial Ct. Email * Jayw.reynolds@gmail.com

Residential City, Zip Birmingham, 48009 Length of Residence 40 years

Business Address — Occupation retired

Business City, Zip —

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied As a

retired senior, I think my involvement with several non-profits has given me experience that will enable me to help with the needs of our senior population.

List your related employment experience Retired in 2009 after 28 years with MSCO corporation, also worked at Chrysler Corporation for 9 years.

List your related community activities current past president of the NEXT board, Detroit Golf Fellows member, Birmingham Youth Assistance member and Mentor with B.C. Mentors Plus, and FBI Detroit CITIZENS Academy board member.

List your related educational experience Bachelor of Business Administration, Eastern Michigan Univ. and Master of Arts - Business Management, Central Michigan Univ.

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: NONE.

Do you currently have a relative serving on the board/committee to which you have applied? NO.

Are you an elector (registered voter) in the City of Birmingham? YES.

Signature of Applicant Jay W. Reynolds Date 8-15-2023

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to clerksoffice@bhamgov.org or by fax to 248.530.1080. Updated 3/24/2021

*By providing your email to the City, you agree to receive news & notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.



**BIRMINGHAM CITY COMMISSION
REGULAR MEETING
APRIL 24, 2023
RESOLUTION #04-093-23**

MOTION: Motion by Commissioner Haig, seconded by Mayor Pro Tem McLain

To establish the Ad Hoc Aging in Place Committee for a term of 18 months, and to direct staff to advertise for upcoming appointments to this committee; further, once established, to direct staff to facilitate the requested studies and research needed to develop an action plan to improve the health, safety and welfare of senior citizens in Birmingham.

PRESENT: Mayor Longe, Mayor Pro Tem McLain, Commissioners Baller, Boutros, Haig, Host, Schafer

ABSENT: None

Ayes, Mayor Longe
Mayor Pro Tem Mclain
Commissioner Boutros
Commissioner Haig
Commissioner Host
Commissioner Baller
Commissioner Schafer

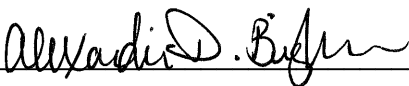
Nays, None

Absent, None

Passed, adopted and approved this 24th day of April 2023.

CERTIFICATION

I, Alexandria Bingham, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on April 24, 2023.



Alexandria Bingham, City Clerk



**NOTICE OF INTENTION TO APPOINT TO THE
ADVISORY PARKING COMMITTEE**

At the regular meeting of Monday, August 28, 2023, the Birmingham City Commission intends to appoint one alternate member to the Advisory Parking Committee to serve a three-year term expiring September 4, 2026.

Interested citizens may submit an application available at the City Clerk’s Office or online at www.bhamgov.org/boardopportunities. Applications must be submitted to the City Clerk’s Office on or before noon on Wednesday, August 23, 2023. These documents will appear in the public agenda for the regular meeting at which time the City Commission will discuss recommendations, and may make nominations and voter on appointments.

Committee Duties

The Advisory Parking Committee shall provide guidance to the City Commission in the management of Birmingham's Auto Parking System. The Committee shall recognize parking requirements of the CBD and fairly assess the costs to users. It will provide for attractive, maintained and safe facilities.

Applicant(s) Presented For City Commission Consideration:

Applicant Name	Criteria/Qualifications
Mary-Claire Petcoff	Downtown commercial large retail business. Resident

NOTE: All members of boards and commissions are subject to the provisions of City of Birmingham City Code Chapter 2, Article IX, Ethics and the filing of the Affidavit and Disclosure Statement.

SUGGESTED ACTION:

To appoint _____ to the Advisory Parking Committee as an alternate member who is a resident to serve a three-year term to expire September 4, 2026.

To appoint _____ to the Advisory Parking Committee as an alternate member who is a downtown employee to serve a three-year term to expire September 4, 2026.

To appoint _____ to the Advisory Parking Committee as a regular member who is a large retail owner to serve a three-year term to expire September 4, 2026.

To appoint _____ to the Advisory Parking Committee as a regular member who is a restaurant owner to serve a three-year term to expire September 4, 2026.

To appoint _____ to the Advisory Parking Committee as a regular member who is a downtown employee to serve a three-year term to expire September 4, 2026.



ADVISORY PARKING COMMITTEE

Resolution No. 8-882-84 - August 6, 1984. Amended by Resolution No. 9-989-84 September 4, 1984. Amended by Resolution No. 05-152-00 May 22, 2000. Amended by Resolution No. 05-139-17 May 22, 2017. Amended by Resolution No. 10-258-19, October 28, 2019.

Terms: Three years

Appointment requirements for regular members: The majority of the members shall be residents and membership shall be as follows:

Downtown commercial representatives - large retail - 1 member; small retail - 1 member; professional firm - 1 member; Birmingham Shopping District - 1 member; restaurant owner - 1 member; downtown employee representative - 1 member; residential - two members who do not qualify under any of the previous categories, and one resident shopper.

2 alternate members may be appointed who own property, own a business or work in the parking assessment district.

The Advisory Parking Committee shall provide guidance to the City Commission in the management of Birmingham's Auto Parking System. The committee shall recognize parking requirements of the CBD and fairly assess the costs to users. It will provide for attractive, maintained and safe facilities.

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
Arpin 410 Southfield Road Birmingham	James J. 48009	313-949-0252 <i>jjarpin@gmail.com</i>	5/9/2022 Resident/engineer/consultant	9/4/2024
Astrein 13125 Ludlow Huntington Woods	Richard 48070	(248) 415-4036 <i>richard@astreins.com</i>	12/9/2019 BSD member	9/4/2024
Clark 348 Ferndale Ave Birmingham	Lisa 48009	(248) 921-0099 <i>lisakrug21@gmail.com</i>	3/30/2015 Downtown employee member	9/4/2023

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
Cobb 2056 Dorchester Birmingham	Kelly 48009	(313)434-4413 <i>kellywcobb@gmail.com</i>	4/25/2022 Restaurant owner	9/4/2023
Kozlowski 421 Madison St Birmingham	Kevin 48009	248-930-7485 <i>kevin.kozlowski@gmail.com</i>	8/29/2022 Resident shopper	9/1/2025
Moody 957 Pleasant Birmingham	Michelle 48009	313-850-8072 <i>mmoody1@yahoo.com</i>	5/22/2023 Resident member	9/1/2025
Petcoff 463 Henley Birmingham	Mary-Claire 48009	(410)-991-1460 <i>mcp@wwrplaw.com</i>	12/21/2020 Alternate	9/4/2023
Silverman 1200 Latham Birmingham	Lisa 48009	248-642-3337 <i>lisas229@aol.com</i>	10/7/2019 Downtown professional firm representative	9/1/2025
Vacated	2/7/2023		Large retail	9/4/2023
Vaitas 2633 Endsleigh Drive Bloomfield Village	Algirdas 48301	(248) 593-3177 <i>alvortho@aol.com</i>	11/13/2006 Small retail	9/4/2024
Yert 490 Park St. Birmingham	Jennifer 48009	617-308-0080 <i>sulesq@yahoo.com</i>	8/13/2018 Alternate (downtown employee)	9/4/2023

CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board: **Advisory Parking Committee**

Year: **2021**

Members Required for Quorum: **4**

MEMBER NAME	JAN	FEB	MAR	APR	MAY	6/2	6/16	JULY	AUG	SEPT	OCT	NOV	DEC	MTG	Mtgs.	Absent	Attended
REGULAR MEMBERS																	
Astrein, Richard	CM	CM	P	P	P	P	P	NM	P	P	P	CM	P		9	0	100%
Honhart, Anne	CM	CM	A	A	A	A	A	NM	A	NA	NA	CM	NA		0	6	0%
Kalczynski, Steven	CM	CM	P	P	A	P	P	NM	A	P	A	CM	P		6	3	67%
Krueger, Lisa	CM	CM	A	P	A	P	P	NM	P	A	P	CM	A		5	4	56%
Paskiewicz, Judith	CM	CM	A	A	P	A	P	NM	A	A	P	CM	P		4	5	44%
Vaitas, Al	CM	CM	P	P	P	P	P	NM	P	P	A	CM	P		8	1	89%
Black, Aaron	CM	CM	P	A	P	A	P	NM	P	A	P	CM	P		6	3	67%
Silverman, Lisa	CM	CM	P	P	P	P	A	NM	P	P	P	CM	P		8	1	89%
Nasserian, Sarshar	CM	CM	NA	NA	NA	NA	NA	NA	NA	A	A	CM	A		0	3	0%
ALTERNATES																	
Yert, Jennifer (8/2018)	CM	CM	P	A	P	A	P	NM	P	P	A	CM	P		6	3	67%
Petcoff, Mary-Claire	CM	CM	P	P	P	P	P	NM	P	P	A	CM	A		7	2	78%
Reserved															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
Present or Available	0	0	7	6	7	6	8	0	7	6	5	0	7	0			

- KEY:**
- A = Member absent**
 - P = Member present or available**
 - CP = Member available, but meeting canceled for lack of quorum**
 - CA = Member not available and meeting was canceled for lack of quorum**
 - NA = Member not appointed at that time**
 - NM = No meeting scheduled that month**
 - CM = Meeting canceled for lack of business items**

Department Head Signature

CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board: **Advisory Parking Committee** Year: **2022**

Members Required for Quorum: **4**

MEMBER NAME	JAN	FEB	MAR	APR	MAY	JUN	JULY	AUG	SEPT	OCT	NOV	DEC	MTG	Mtgs.	Absent	Attended
REGULAR MEMBERS																
Astrein, Richard	CM	P	CM	P	P	CM	CM	P	P	A	P	CM		6	1	86%
Kalczynski, Steven	CM	P	CM	P	P	CM	CM	P	A	P	P	CM		6	1	86%
Clark, Lisa	CM	P	CM	A	P	CM	CM	A	A	P	P	CM		4	3	57%
Paskiewicz, Judith	CM	P	CM	P	P	CM	CM	P	NA	NA	NA	NA	NA	4	0	100%
Vaitas, Al	CM	P	CM	P	P	CM	CM	P	P	P	P	CM		7	0	100%
Black, Aaron	CM	A	CM	A	A	CM	CM	NA	NA	NA	NA	NA	NA	0	3	0%
Silverman, Lisa	CM	P	CM	P	P	CM	CM	P	P	P	A	CM		6	1	86%
Cobb, Kelly	NA	NA	NA	NA	P	CM	CM	P	A	P	A	CM		3	2	60%
Kozlowski, Kevin	NA	NA	NA	NA	NA	NA	NA	NA	P	P	P	CM				
Arpin, Jim	NA	NA	NA	NA	NA	CM	CM	P	P	A	P	CM				
ALTERNATES																
Yert, Jennifer (8/2018)	CM	P	CM	P	P	CM	CM	P	A	P	A	CM		5	2	71%
Petcoff, Mary-Claire	CM	P	CM	P	P	CM	CM	P	P	A	P	CM		6	1	86%
Reserved														0	0	#DIV/0!
Reserved														0	0	#DIV/0!
Present or Available	0	8	0	7	9	0	0	9	6	7	7	0	0			

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Department Head Signature

CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board: **Advisory Parking Committee** Year: **2023**
 Members Required for Quorum: **4**

MEMBER NAME	JAN	FEB	MAR	APR	MAY	JUN	JULY	AUG	SEPT	OCT	NOV	DEC	MTG	Mtgs.	Absent	Attended
REGULAR MEMBERS																
Astrein, Richard	CM	P	CM	CM	P	P	P							4	0	100%
Moody, Michelle	NA	NA	NA	NA	NA	A	A							0	2	0%
Clark, Lisa	CM	P	CM	CM	A	A	A							1	3	25%
Vaitas, Al	CM	A	CM	CM	P	P	A							2	2	50%
Silverman, Lisa	CM	P	CM	CM	P	P	A							3	1	75%
Cobb, Kelly	CM	P	CM	CM	A	A	P							2	2	50%
Kozlowski, Kevin	CM	P	CM	CM	P	P	P									
Arpin, Jim	CM	P	CM	CM	P	P	P									
ALTERNATES																
Yert, Jennifer (8/2018)	CM	P	CM	CM	P	P	A							3	1	75%
Petcoff, Mary-Claire	CM	P	CM	CM	P	P	P							4	0	100%
Reserved														0	0	#DIV/0!
Reserved														0	0	#DIV/0!
Present or Available	0	8	0	0	7	7	5	0	0	0	0	0	0			

- KEY:**
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 Department Head Signature



OFFICE USE ONLY	
Meets Requirements?	Yes No
Will Attend / Unable to Attend	

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Thank you for your interest in serving on a Board or Committee. The purpose of this form is to provide the City Commission with basic information about applicants considered for appointment. NOTE: Completed applications are included in the City Commission agenda packets. The information included on this form is open to the public. All Board and Committee members are subject to the provisions of the Ethics Ordinance (Chapter 2, Article IX of the City Code).

Information on various Boards and Committees and a list of current openings can be found on the City website at www.bhamgov.org/boardopportunities.

(Please print clearly)

Board/Committee of Interest Advisory Parking Committee

Specific Category/Vacancy on Board Representative of a professional Firm Within the parking District (Alternate Member)

Name Mary-Claire Petcoff

Phone 410-991-1460

Residential Address 463 Henley St.

Email mcp@wwrpjlaw.com

Residential City, Zip Birmingham, MI 48009

Length of Residence 7 years in Birmingham

Business Address 380 N. Old Woodward Ave., Ste. 300

Occupation Attorney at Williams, Williams, Rattner and Plunkett, PC

Business City, Zip Birmingham, MI 48009

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied _____

I am an attorney who both lives and works in Birmingham. I have enjoyed serving on the APC for the last three years and would like to continue to apply my skills (see below) to assist my city in solving its unique parking challenges.

List your related employment experience As an attorney with experience in land use and zoning matters, I am adept at reading and understanding the City of Birmingham Zoning Ordinance, Master Plan, parking studies and other sources of law and guidance relevant to the Advisory Parking Committee's work.

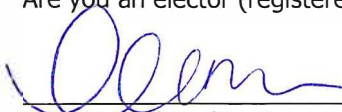
List your related community activities Advisory parking Committee Member for the last three years, Friends of the Baldwin Public Library, State Bar of Michigan, Oakland County Bar Association, Christ Church Cranbrook Member, Parent

List your related educational experience University of Maryland Francis King Carey School of Law (JD 2016), Bucknell University (BA 2013)

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: No

Do you currently have a relative serving on the board/committee to which you have applied? No

Are you an elector (registered voter) in the City of Birmingham? Yes


Signature of Applicant

8/7/23
Date

August 23, 2023

City of Birmingham City Commission
151 Martin St.
Birmingham, MI 48009

Re: Mary-Claire Petcoff- Reappointment to the Advisory Parking Committee

Dear Members of City Commission,

I am writing to express my interest in my reappointment to the Advisory Parking Committee (APC) for another term as an alternate member. Unfortunately, I will be traveling internationally during the City Commission's August 28, 2023 meeting and will not be able to attend to express my interest in reappointment.

I have enjoyed serving on the APC over the past two years and hope that you will reappoint me to the same position. I believe my experience an attorney who handles a variety of matters, including land use and zoning in Birmingham, uniquely qualifies me for the position. I am familiar with the various plans and the City of Birmingham Code of Ordinances and Zoning Ordinance, which has been useful during my time serving on the APC.

I note that during my initial City Commission interview two years ago, some commission members questioned my ability to serve on the APC given my firm (Williams, Williams, Rattner and Plunkett, P.C.)'s frequent involvement with land use and zoning matters in the City. I am pleased to report that in the two years since my appointment, I have not had to recuse myself from any vote. I have attended almost every meeting, except for a few absences for illness and maternity leave.

I respectfully request that you reappoint me for another term as an alternate member of the APC. Thank you for your consideration of my reapplication.

Respectfully submitted,

Mary-Claire Petcoff

ADVISORY PARKING COMMITTEE

PURPOSE: There is hereby established an Advisory Parking Committee to provide guidance to the Birmingham City Commission in the management of the Birmingham Auto Parking System, including street parking meters, that will: recognize parking requirements of the various interests in the Central Business District (CBD); fairly assess the costs of the parking system to users of the facility; create the least possible traffic impact on the CBD and the immediately abutting residential areas; provide for attractive, well-maintained, safe facilities; include plans for an orderly and responsive answer to future parking needs.

MEMBERS: The Birmingham City Commission shall appoint the Advisory Parking Committee, consisting of nine (9) members, each to be appointed for a term of three (3) years, but in the first instance, three (3) members shall be appointed for terms expiring on the first Monday in September, 1985, three (3) members shall be appointed for terms expiring on the first Monday in September, 1986, and three (3) members shall be appointed for terms expiring on the first Monday in September, 1987.

The majority of the members shall be residents and membership shall be as follows:

- I. *Downtown Commercial Representatives -
 - A. Large Retail - One (1) member
 - B. Small Retail - One (1) member
 - C. Professional Firm - One (1) member
 - D. Building Owner - One (1) member
 - E. Restaurant Owner - One (1) member
- II. Downtown Employee Representative - One (1) member
- III. Residential - Two (2) members who do not qualify under any of the above categories.
- IV. Resident Shopper - One (1) member

Members of the Committee can be removed for cause determined at a public hearing at any time by the City Commission. Vacancies occurring shall be filled for the unexpired term by the City Commission.

ORGANIZATION: The Committee shall elect a Chairperson from its membership annually at its first meeting after the first Monday of September. The City Engineer shall be a non-voting, ex-officio member of the Committee and shall serve as the coordinating link between the Committee and various City Departments. A secretary shall be furnished by the City for the purpose of keeping Minutes of Committee meetings.

* Resolution 09-1057-85 determined that "Downtown" means parking areas **3B** Bent district.

MEETINGS: The Committee shall hold at least one (1) regular public meeting in each quarter on such date and at such time and place as may be established by resolution of the Committee. Special meetings may be called by the Chairperson of the Committee or by request of any three (3) members of the Committee. There shall be at least a two- (2-) day notice for any special meeting. The Committee shall adopt such rules for the conduct of its business as it may from time to time adopt by resolution. The Committee shall keep a written or printed record of its proceedings which shall be a public record and property of the City.

EXPENDITURES: The Committee shall have the power to expend such funds as may from time to time be appropriated to it by the City Commission for the purpose of carrying out the powers and duties of the Committee. Funds expended by the Committee shall be processed through regular City channels and be accounted for in the Auto Parking Fund Budget.

POWERS AND DUTIES: The Committee shall recommend:

1. A proper rate relationship between the charges for street meters, parking lot fees (short term and long term), and permit fees.
2. Parking fees that, while maintaining the financial integrity of the system, are still attractive to users.
3. The proper ratio between the number of short term, long term, and permit parkers in the attendant-operated lots and structures.
4. The area in each structure that should be assigned for short term, long term, and permit parking.
5. An equitable method of assigning permit parking spaces.
6. Financial objectives that reflect the requirements of ordinances and the need for information on the revenue received from specific users of the system.
7. A public relations program that will educate the public to the location of parking facilities, their ease of use, their close proximity to many fine stores offering a great variety of merchandise and the benefits of validated parking.
8. Corrective steps if the level of either maintenance or policing of the system facilities is inadequate.
9. Specific ordinance changes that will encourage private off-street parking in the CBD and/or to help to improve the system operation as a whole.

ADVISORY PARKING COMMITTEE - Page Three

REPORTS: The Committee shall make and submit to the City Commission an annual report in January regarding the general activities, operations and accomplishments of the Committee for the preceding year. The Committee shall, from time to time, as occasion requires, advise the City Commission in writing on recommendations for the improvement of the Auto Parking System.

BUDGET: Not later than the first day of February of each year, the Committee shall present to the City Commission a request for funds which the Committee believes necessary to carry out its function as an advisory committee.

Adopted by Commission Resolution No. 08-882-84 - August 6, 1984

Revised by Commission Resolution No. 09-⁹⁸⁹~~1028~~-84 - September 17, 1984

CITY OF BIRMINGHAM

RESOLUTION NO. 05-139-17

**A RESOLUTION TO AMEND RESOLUTION NO. 08-882-84 – AUGUST 6, 1984,
ADVISORY PARKING COMMITTEE, MEMBERS:**

THE CITY OF BIRMINGHAM RESOLVES:

To amend Resolution No. 08-882-84 – August 6, 1984, Advisory Parking Committee, Members, as follows:

MEMBERS: The Birmingham City Commission shall appoint the Advisory Parking Committee, consisting of nine (9) members, each to be appointed for a term of three (3) years, but in the first instance, three (3) members shall be appointed for terms expiring on the first Monday in September, 1985, three (3) members shall be appointed for terms expiring on the first Monday in September, 1986, and three (3) members shall be appointed for terms expiring on the first Monday in September, 1987.

The majority of the members shall be residents and membership shall be as follows:


- I. Downtown Commercial Representatives –
 - A. Large Retail – One (1) member
 - B. Small Retail – One (1) member
 - C. Professional Firm – One (1) member
 - D. Building Owner – One (1) member
 - E. Restaurant Owner – One (1) member
- II. Downtown Employee Representative – One (1) member
- III. Residential – Two (2) members who do not qualify under any of the above categories.
- IV. Resident Shopper – One (1) member

The city commission may appoint two alternate members who own property, own a business or work in the parking assessment district to serve as needed on the Advisory Parking Committee during their term of appointment. An alternate member may be called on a rotating basis to sit as a regular member of the Advisory Parking Committee in the absence of a regular member. An alternate member may also be called to service in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member having been appointed shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the Advisory Parking Committee.

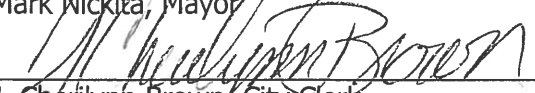
Members of the Committee can be removed for cause determined at a public hearing at any time by the City Commission. Vacancies occurring shall be filled for the unexpired term by the City Commission.

All other portions of Resolution No. 08-882-84 shall remain unaffected.

Dated this 22nd day of May, 2017.

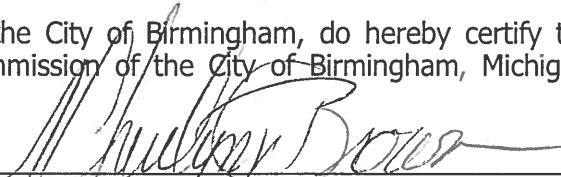


Mark Nickita, Mayor



J. Cherilynn Brown, City Clerk

I, J. Cherilynn Brown, City Clerk of the City of Birmingham, do hereby certify that the foregoing resolution was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held May 22, 2017.



J. Cherilynn Brown, City Clerk

05-152-00: INTERVIEW FOR ADVISORY PARKING COMMITTEE

Mr. Peter Wilde of the Townsend Hotel was interviewed for appointment to the advisory parking committee. Commissioner Lanzetta expressed concern about the legalities of the appointment of Mr. Wilde as the "large retail" member of this committee. The city attorney advised that the commission could amend the original resolution for the advisory parking committee to broaden the interpretation of large retail representative to include retail services as well as retail goods.

MOTION: Motion by Lanzetta, seconded by Chafetz:
To interpret the category of large retail representative on the advisory parking committee to include retail services as well as retail goods.

VOTE: Yeas, 4 Nays, None Absent, 3 (DeLaura, McKeon, Wooley)

MOTION: Motion by Moss, Seconded by Chafetz
To determine that Mr. Peter Wilde of the Townsend Hotel meets the criteria as the large retail representative on the advisory parking committee and, further, to continue this appointment until the city commission meeting of June 12, 2000.

VOTE: Yeas, 4 Nays, None Absent, 3 (DeLaura, McKeon, Wooley)

10-258 -19 AMEND ADVISORY PARKING COMMITTEE MEMBERSHIP

City Manager Valentine presented this item.

- Recommending a modification to the composition of the board to enable the City to fill some long-time vacancies.
- Replace a building owner with a BSD board member to participate on the board
- Remove the City Engineer and Replace with the City Manager or his designee.

Brad Host expressed that he thought it might be a mistake to eliminate a representative from Engineering.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Harris:
To adopt the resolution to amend Advisory Parking Committee membership to remove the Building Owner position and replace it with a board member of the Birmingham Shopping District and to remove the City Engineer (non-voting, ex-officio) position and to replace this position with the City Manager, or his/her designee.

VOTE:	Ayes:	5
	Nays:	0
	Absent:	2

05-139 -17 USE OF ALTERNATES, REPORTING BOARD ATTENDANCE, AND MODIFYING REQUIREMENTS FOR BOARD MEMBERS

Assistant to the City Manager Haines presented results of a review of board and committee attendance suggesting that three groups might benefit from having two alternate positions added to increase attendance and/or achieve quorum: 1) Advisory Parking Committee, 2) Parks and Recreation Board, and 3) Public Arts Board.

MOTION: Motion by Commissioner Bordman, seconded by Mayor Pro Tem Harris:

To amend the ordinances of the Advisory Parking Committee, the Parks and Recreation Board, and the Public Arts Board, to add 2 alternate positions to each as follows:

To amend Resolution No. 08-882-84 – August 6, 1984, Advisory Parking Committee, Members.

AND

To amend Part II of the City Code, Chapter 78, Parks and Recreation, Article II., Parks and Recreation Board, Section 78-26, Created; composition.

AND

To amend Part II of the City Code, Chapter 78, Public Arts Board, Article V., Public Arts Board, Section 78-103, Composition and terms of members.

AND

To direct the city clerk to standardize the attendance reporting of all city boards and committees as outlined in the May 12, 2017 memorandum to the city manager and as clarified by the Commission and to direct staff to amend the Recommended Process for Use of Alternates as clarified by Commissioner Bordman.

VOTE:	Yeas,	7
	Nays,	0
	Absent,	0

Birmingham City Commission Minutes
August 14, 2023
Municipal Building, 151 Martin
7:30 p.m.
Vimeo Link: <https://vimeo.com/854712036>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Therese Longe, Mayor, opened the meeting with the Pledge of Allegiance.

II. ROLL CALL

City Clerk Bingham called the roll.

Present: Mayor Longe
Mayor Pro Tem McLain
Commissioner Baller
Commissioner Boutros
Commissioner Haig
Commissioner Host
Commissioner Schafer

Absent: None

Staff: City Manager Ecker; City Clerk Bingham, Planning Director Dupuis, Police Chief Grewe, Building Official Johnson, City Attorney Kucharek

III. PROCLAMATIONS, CONGRATULATORY RESOLUTIONS, AWARDS, APPOINTMENTS, RESIGNATIONS AND CONFIRMATIONS, ADMINISTRATION OF OATHS, INTRODUCTION OF GUESTS AND ANNOUNCEMENTS

Announcements

- The Woodward Dream Cruise will roll into town on Saturday, August 19, 2023, bringing thousands of classic cars and more than one million people from all over the world. Adding to the festivities, the Birmingham Cruise Event from 9 a.m. - 5 p.m. on South Old Woodward will feature 200 classic cars of all makes and models, sponsor exhibits, food and more.

Appointments

08-188-23 Board of Ethics

Michael P. Coakley was interviewed by the Commission.

MOTION: Nomination by Commissioner Boutros:

To appoint Michael P. Coakley as a regular member to the Board of Ethics to serve a three-year term to expire June 30, 2026.

VOICE VOTE: Ayes, MPT McLain
 Commissioner Host
 Mayor Longe
 Commissioner Haig
 Commissioner Boutros
 Commissioner Baller
 Commissioner Schafer

Nays, None

The Clerk swore in Mr. Coakley.

Employee Recognition

1. Anthony Altovilla – Deputy City Clerk

IV. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

A resident spoke regarding parking at the Baldwin House. City Staff briefly responded.

David Bloom spoke regarding zoning.

V. CONSENT AGENDA

08-189-23 Consent Agenda

The following items were pulled from the Consent Agenda:

- Commr. Host: Item A – City Commission Minutes of July 24, 2023
- Commr. Baller: Item E – Office of Highway Safety Planning Grant Award
- Commr. Baller and Staff:
 Item F – Agreement with Windcave, Inc.

MOTION: Motion by Commissioner Boutros, seconded by Commissioner Baller:
To approve the Consent Agenda excluding Items A, E, and F.

ROLL CALL VOTE: Ayes, MPT McLain
 Commissioner Host
 Mayor Longe
 Commissioner Haig
 Commissioner Boutros
 Commissioner Baller
 Commissioner Schafer

Nays, None

- B. Resolution to approve the warrant list, including Automated Clearing House payments, dated July 27, 2023, in the amount of \$6,006,969.24.

- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated August 3, 2023, in the amount of \$578,824.14.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated August 9, 2023, in the amount of \$8,177,701.38.
- G. Resolution to amend the interlocal agreement between the City and Oakland County for the \$100,000 Local Government Critical Infrastructure Planning grant award. In addition, to authorize the City Engineer to sign Amendment 1 on behalf of the City, and to direct the City Clerk to witness the amendment.
- H. Resolution adopting an amendment to Part II of the City Code, Chapter 114 – Utilities, Article VI – Storm Water Utility Fee.

08-190-23 City Commission Minutes of July 24, 2023 (Item A)

Commissioner Host made a comment regarding the motion language for Item 07-186-23.

CC Bingham verified that the motion language was correct.

Public Comment

Mr. Bloom requested more detail be included in the Open to the Public for Matters Not on the Agenda section of the minutes.

MOTION: Motion by Commissioner Host, seconded by Commissioner Boutros:
To approve the City Commission meeting minutes of July 24, 2023.

ROLL CALL VOTE: Ayes, Commissioner Host
Mayor Longe
Commissioner Haig
Commissioner Boutros
Commissioner Schafer
MPT McLain
Commissioner Baller

Nays, None

08-191-23 Office of Highway Safety Planning Grant Award (Item E)

Commissioner Baller noted for the public that the Police Department received a grant providing \$28,548.73 for personnel overtime and fringe benefits and \$51,638.40 for equipment used for traffic safety and enforcement, including a radar device and messaging sign.

The Mayor noted the overtime would be used on Woodward in an effort to reduce erratic driving and noise concerns.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:

To approve the Office of Highway Safety Planning grant award and to authorize the Chief of Police to sign the grant award on behalf of the City.

ROLL CALL VOTE: Ayes, Commissioner Host
 Mayor Longe
 Commissioner Haig
 Commissioner Boutros
 Commissioner Schafer
 MPT McLain
 Commissioner Baller

Nays, None

Agreement with Windcave, Inc. (Item F)

Item F was removed from the agenda since it no longer met the required cost threshold for Commission review.

VI. UNFINISHED BUSINESS

08-192-23 Tenants' Rights

CA Kucharek presented the item and answered informational questions from the Commission.

Public Comment

Steve Tomkowiak explained the function of the Fair Housing Center of Metropolitan Detroit (FHCMD), offered FHCMD assistance to Birmingham, and noted that FHCMD services would be free to access.

Mr. Tomkowiak also answered informational questions from the Commission.

The Mayor asked Mr. Tomkowiak to provide the City Manager with information on FHCMD's webinar and trainings so the Commission could look into those.

Dorothy Conrad advocated for an ordinance that would require a clause in leases mandating that landlords explain their reasons for non-renewal of a tenancy.

Mary Ryan Terrace made comment regarding the potential landlord Code of Conduct and advocated for protections of tenants' first amendment rights.

Commission discussion was as follows:

- The Code of Conduct would set forth landlords' commitments to tenants, and not vice-versa;
- The City should find ways to creatively address the concerns of tenants. Commissioners are residents first, and some have had experiences as tenants and are aware of the attendant challenges. The City is not ignoring the concerns of tenants within the City. City officials should advocate for the State to pass tenant protections;
- City Staff can make a draft letter available for residents to send advocating for House Bill

Nos. 6565 and 4063. City officials have also spoken to State Representative Steckloff regarding the income discrimination bill, noting how important the matter was to the City; and,

- Since it seemed that some action on these items was likely to occur within the next half-year at the State level, it would be appropriate to wait for that State action before proceeding with any municipal action.

MOTION: Motion by Commissioner Boutros, seconded by Commissioner Schafer: To table discussions of amending the City Code of Ordinances, Part II. Chapter 66 – Human Relations, Article II. – Discrimination, Division to Fair Housing at this time and to further direct the City Clerk’s office to disseminate the letter included with this packet to advocate to the House and Senate of Michigan to pass House Bill Nos. 6565 and 4063 and Senate Bill Nos. 205, 206, and 207 and to encourage landlords to sign a voluntary Code of Conduct.

Commissioner Host said he would support the motion, offered concurrence with Ms. Conrad’s advocacy, and said he hoped her recommendation would be enacted.

MPT McLain offered support for the motion and recommended that concerned residents and experts speaking on the item exchange contact information.

Commissioner Haig said he would encourage the City to promote the resolution as stated.

The Mayor offered her support for the motion and for further training on the topic.

ROLL CALL VOTE: Ayes, Commissioner Host
Mayor Longe
Commissioner Haig
Commissioner Boutros
Commissioner Schafer
MPT McLain
Commissioner Baller

Nays, None

08-193-23 Leaf Blowers

PD Dupuis presented the item. PD Dupuis and CA Kucharek answered informational questions from the Commission.

Commission discussion was as follows:

- There was support for the Commission addressing the topic rather than leaving it to the Ad Hoc Environmental Sustainability Committee;
- It is less expensive to use electric leaf blowers on a per-hour basis versus gas leaf blowers. At the same time, the recommended action needed to be evaluated from the perspective of the law of unintended consequences. Using electric leaf blowers at this time would be more likely to have negative ecological, financial, and safety impacts versus gas leaf blowers. It would also be consistent to address other concerns about biodiversity, two stroke engines, and noise reduction if those were the reasons for phasing out gas leaf

blowers;

- Other biodiversity concerns, including gradual expansion of the types of landscaping permitted, would likely be further addressed in the City's future. Addressing leaf blowers does not require that all items in similar categories be addressed at once. Snowblowers are used less frequently than gas leafblowers and edgers do not make noise;
- Electric leafblowers are likely to improve in technology and come down in price during a potential phase out period, and so it would be appropriate to phase out the use of gas powered leaf blowers in Birmingham. The majority of two stroke activity is gas leaf blowers. The City can afford the expenditure to purchase and replace electric leaf blowers; and,
- It can take multiple, charged batteries to clear the leaves off one yard one time with an electric leaf blower.

MOTION: Motion by Commissioner Baller, seconded by MPT McLain:
To direct the Planning Division, through the City Manager, to study a phased approach to eliminating the use of two-stroke, gas powered leaf blowers in the City of Birmingham.

The Mayor noted that the operative words in the motion were 'to study'. She offered her support for the resolution. She recommended that the City start reviewing its landscaping requirements and that Staff use the Birmingham newsletter to educate the public about the damage caused by leafblowers.

Commissioner Schafer noted that there was increasing public discourse about manicured lawns becoming passé. She explained that this item would be a similar step towards increasing awareness around sustainability. She offered her support for the resolution.

Commissioner Haig said the City could increase its enforcement of similar issues for which there were already laws.

VOICE VOTE: Ayes, Commissioner Host
Mayor Longe
Commissioner Haig
Commissioner Boutros
Commissioner Schafer
MPT McLain
Commissioner Baller

Nays, None

VII. NEW BUSINESS

08-194-23 Designation of Voting Delegate(s) for the Michigan Municipal League Annual Meeting

CC Bingham presented the item and answered informational questions from the Commission.

The Mayor recommended the Mayor Pro Tem attend if she was available given her regular attendance at League meetings.

MOTION: Motion by Commissioner Boutros, seconded by Commissioner Host:
To appoint ACM Fairbairn as the City of Birmingham’s official voting delegate and MPT McLain as the alternate delegate, for the Michigan Municipal League Annual Meeting to be held in Traverse City, Michigan on October 18, 2023.

VOICE VOTE: Ayes, Commissioner Host
Mayor Longe
Commissioner Haig
Commissioner Boutros
Commissioner Schafer
MPT McLain
Commissioner Baller

Nays, None

Commission Items for Future Discussion

08-195-23 Short Term Rentals

MOTION: Motion by Commissioner Host, seconded by MPT McLain:
To put STRs on the agenda.

VOICE VOTE: Ayes, Commissioner Host
Commissioner Haig
MPT McLain

Nays, Commissioner Baller
Mayor Longe
Commissioner Boutros
Commissioner Schafer

The Mayor said the Commission could hear the evening’s report on the issue, and could broach the issue again if the report was insufficient.

Commission Discussion On Items From A Prior Meeting

Speed Humps

Commissioner Baller recommended the City create a webpage explaining current City speed mitigation efforts, supplying data about speeds within the City, and explaining why certain speed mitigation efforts were selected within the City and others were not.

The Mayor concurred that public education on the topic would be beneficial to assure residents that the City is aware of, and addressing, any speed-related concerns.

Commissioner Haig explained that there are speed mitigation measures being implemented in other countries that cannot legally be implemented in the United States.

Brad Strader of MKSK spoke regarding the topic.

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

X. REPORTS

- A. Commissioner Reports
 - 1. Notice of Intention to Appoint to the Design Review Board
 - 2. Notice of Intention to Appoint to the Historic District Commission
- B. Commissioner Comments

Commissioner Baller noted that the City was working on reducing inconsistencies in City zoning and ordinances, per the recommendations of the 2040 Plan.

The Commission briefly discussed the minutes and the Commission Rules of Procedure.

Commissioners offered kind words about Mike Labriola.

MPT McLain requested that Doug Manigold be formally thanked for his work as a Code Enforcement officer. She also shared that she just resigned from the Michigan Community Media Association Board in order to avoid future appearances of potential conflicts of interest. She said she would do a commercial for 'always protect the rights of way'.

- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
 - 1. Short Term Rentals

Public Comment

Russ Vorhees spoke regarding the short term rental report.

CA Kucharek and BO Johnson responded to informational questions from Mr. Vorhees and the Commission.

The Commission briefly discussed the report and asked the City Manager to direct the City Attorney to do some research about the City's options vis-a-vis short term rentals.

INFORMATION ONLY

XI. ADJOURN

Mayor Longe adjourned the meeting at 10:30 p.m.



Alexandria Bingham, City Clerk

Laura Eichenhorn, City Transcriptionist

DRAFT

City of Birmingham
Warrant List Dated 08/16/2023

Meeting of 08/28/2023

Check Number	Early Release	Vendor #	Vendor	Amount
<u>PAPER CHECK</u>				
293637		006638	ACTION MAT & TOWEL RENTAL, INC	20.00
293638		003708	AIRGAS USA, LLC	366.53
293639		BDREFUND	ALIMOFF BUILDING & DEVELOPMENT LLC	100.00
293640		BDREFUND	ALLEN WOOD CONSTRUCTION	2,500.00
293641		009440	ALLIANCE ENTERTAINMENT, LLC	1,102.52
293642		BDREFUND	ANKATHA, SREEDHAR	100.00
293643		BDREFUND	APEX CONSTRUCTION	5,500.00
293644		009202	AQUARIUM DESIGN INC	240.00
293645	*	006759	AT&T	400.00
293646	*	006759	AT&T	175.00
293647	*	006759	AT&T	250.00
293648		006759	AT&T	29.27
293649	*	006759	AT&T	70.50
293650		BDREFUND	B & B POOL SERVICE SUPPLY CO	1,000.00
293651		000843	BAKER & TAYLOR BOOKS	147.16
293652		001122	BOB BARKER CO INC	613.35
293653		BDREFUND	BENECICKE BUILDERS LLC	100.00
293654		003526	BOUND TREE MEDICAL, LLC	672.62
293655		BDREFUND	BRICKWORKS PROPERTY RESTORATION	200.00
293656		BDREFUND	BUECHNER, TOBIN	100.00
293657		003907	CADILLAC ASPHALT, LLC	415.41
293658	*	000444	CDW GOVERNMENT INC	157,610.35
293659	*	MISC	CHRISTINA MCGHEE	90.00
293660	*	000912	MARK CLEMENCE	135.77
293661		002234	CMP DISTRIBUTORS INC	9,269.00
293662		009656	CORBIN DESIGN, INC	8,122.50
293663		BDREFUND	COUNTRYSIDE CONSTRUCTION COMPANY, I	100.00
293664		BDREFUND	CREIGHTON E FORESTER LVNG TRUST	10,000.00
293665		003923	CUMMINS BRIDGEWAY LLC	1,226.71
293666		009207	D'ANGELO BROTHERS INC	60,628.27
293667		009024	THE D.M. BURR GROUP	4,819.00
293668		000575	DEMCO, INC	275.32
293669		001555	DIXON ENGINEERING INC	5,000.00
293670		BDREFUND	DJ MALTESE	100.00
293671	*	000179	DTE ENERGY	37,594.24
293672	*	000179	DTE ENERGY	1,086.17
293673	*	000179	DTE ENERGY	1,111.73
293674	*	000179	DTE ENERGY	1,295.08
293675	*	000179	DTE ENERGY	63.63
293676	*	000179	DTE ENERGY	87.23
293677	*	000179	DTE ENERGY	19.39
293678	*	000179	DTE ENERGY	34.79
293679	*	000179	DTE ENERGY	38.32

City of Birmingham
Warrant List Dated 08/16/2023

Meeting of 08/28/2023

Check Number	Early Release	Vendor #	Vendor	Amount
293680	*	005322	DTE ENERGY COMPANY	134,424.79
293681		BDREFUND	DUFFY, BRIAN P	100.00
293682		009340	DVM UTILITIES	5,600.00
293683		000493	ED RINKE CHEVROLET BUICK GMC	331.94
293684		MISC	ELLEN DONNELLY	4.79
293685	*	007314	FLEIS AND VANDENBRINK ENG. INC	14,886.25
293686		009600	COMFORT ZONE HEATING AND COOLING	130.00
293687	*	004604	GORDON FOOD	908.22
293688		000249	GUARDIAN ALARM	1,950.38
293689		001531	GUNNERS METER & PARTS INC	300.00
293690		BDREFUND	HELLER & ASSOCIATES INC	1,400.00
293691		007339	HIGHEST HONOR, INC	419.25
293692	*	001846	HIGHWAY MAINTENANCE AND	301,839.00
293693		BDREFUND	HILLAN HOMES, INC	100.00
293694	*	001956	HOME DEPOT CREDIT SERVICES	820.24
293695		BDREFUND	HOME DEPOT USA INC	700.00
293696		BDREFUND	HOMESTEAD CONSTRUCTION CO	2,500.00
293697	*	MISC	IMPACT RESCUE LLC	539.00
293698		001090	INGRAM LIBRARY SERVICES	5,924.08
293699	*	007973	JB CONTRACTORS INC	50,809.14
293700		009605	NAGY DEVLIN LAND DESIGN LLC	500.00
293701		009724	JOHN CONNOR	300.00
293702		005291	KAESER & BLAIR INC	817.35
293703	*	002659	CHRISTOPHER KOCH	71.99
293704		004904	KONICA MINOLTA BUSINESS SOLUTIONS	4,046.50
293705		004904	KONICA MINOLTA BUSINESS SOLUTIONS	425.00
293706		BDREFUND	KOSYAKIN, ANDRIY	200.00
293707		BDREFUND	KROLL CONSTRUCTION CO	500.00
293708		MISC	LINDSEY DANIELS	9.89
293709		BDREFUND	LISA ABRAMS	100.00
293710		009375	LITHIA MOTORS, INC SUPPORT SERVICES	78.02
293711		BDREFUND	LIVE WELL CUSTOM HOME LLC	100.00
293712		BDREFUND	LYNCH CUSTOM HOMES	400.00
293713	*	008551	M & K TRUCK CENTERS	536.78
293714		009663	MACQUEEN EQUIPMENT, LLC	148.86
293715		BDREFUND	MASTER CONCRETE LLC	100.00
293716		009351	MERRITT CIESLAK DESIGN PLC	2,000.00
293717		001027	MIAMI-DADE POLICE DEPARTMENT	825.00
293718		001027	MIAMI-DADE POLICE DEPARTMENT	825.00
293719		BDREFUND	MICHAEL C. MCKINNEY	50.00
293720		007833	MICHIGAN ASSOCIATION OF PLANNING	725.00
293721		007819	MICHIGAN STATE UNIVERSITY	1,350.00
293722		006349	MIDWEST COLLABORATIVE	60.00

City of Birmingham
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Check Number	Early Release	Vendor #	Vendor	Amount
293723		000230	MIKE SAVOIE CHEVROLET INC	221.21
293724		001950	MILLER CANFIELD PADDOCK AND	735.00
293725		BDREFUND	MOSHER DOLAN	200.00
293726		BDREFUND	MULTIFAMILY COMMERCIAL CONSTRUCTION	100.00
293727		001686	OAKLAND CO CLERKS ASSOC	35.00
293728	*	000477	OAKLAND COUNTY	525,061.68
293729		000678	OCLC, INC.	7,889.14
293730	*	009478	ODP BUSINESS SOLUTIONS, LLC	233.60
293731		008669	OHM ADVISORS INC	1,126.75
293732		006785	OVERDRIVE, INC.	16,012.54
293733		009698	PCI INDUSTRIES, INC	193,671.98
293734	*	006959	PHOENIX COMMUNICATIONS & CABLING	1,658.01
293735	*	002518	PITNEY BOWES INC	8,807.46
293736		009612	PLAYAWAY PRODUCTS LLC	1,240.30
293737		BDREFUND	POOL CORP USA/ALL AROUND POOLS	1,000.00
293738		BDREFUND	PRIME HOME REMOD LLC	200.00
293739		BDREFUND	PROFESSIONAL RENOVATIONS SVS,	100.00
293740		009666	RAM CONSTRUCTION SERVICES OF MICHIG	213,768.00
293741		BDREFUND	ROBERT CRAGGS	1,000.00
293742		000218	ROYAL OAK P.D.Q. LLC	49.16
293743	*	002806	SAM'S CLUB/SYNCHRONY BANK	474.64
293744	*	MISC	SHARON JONES	1.75
293745		007098	SHAW SYSTEMS & INTEGRATION	308.00
293746		BDREFUND	SMOLYANOV HOME IMPROVMENT	200.00
293747		000260	SPARTAN DISTRIBUTORS INC	638.78
293748		001104	STATE OF MICHIGAN	95,650.00
293749		MISC	STEPHANIE LOUPEE	68.20
293750		004544	STRYKER SALES CORPORATION	1,120.30
293751		006749	SUPERIOR SCAPE, INC	20,575.00
293752		007408	T-MOBILE	665.43
293753		009552	TRAFFIC & SAFETY CONTROL SYSTEMS	5,786.00
293754		BDREFUND	UNITED MASONRY & HARDSCAPE LLC	500.00
293755	*	003760	UNUM LIFE INSURANCE CO. OF AMERICA	53,860.15
293756		008941	UPTOWN MARKET OF BIRMINGHAM	68.72
293757	*	001279	US FIGURE SKATING ASSOC.	892.50
293758		007226	VALLEY CITY LINEN, INC	24.00
293759	*	000293	VAN DYKE GAS CO.	116.80
293760	*	000158	VERIZON WIRELESS	102.72
293761	*	000158	VERIZON WIRELESS	1,212.57
293762		008408	WISS, JANNEY, ELSTNER ASSOC. INC	14,080.00
293763	*	008391	XEROX CORPORATION	86.08
SUBTOTAL PAPER CHECK				\$2,020,207.80

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Check Number	Early Release	Vendor #	Vendor	Amount
8829		002679	ANCHOR WIPING CLOTH CO	325.00
8830	*	000517	BEIER HOWLETT P.C.	49,662.30
8831	*	000518	BELL EQUIPMENT COMPANY	276.45
8832	*	007345	BEVERLY HILLS ACE	45.98
8833		006683	BIRMINGHAM LAWN MAINTENANCE, INC	23,202.00
8834	*	007624	BIRMINGHAM OIL CHANGE CENTER, LLC	163.90
8835	*	008983	BRENNA SANDLES	393.00
8836		007875	CANFIELD EQUIPMENT SERVICE INC.	2,232.22
8837		000605	CINTAS CORPORATION	181.89
8838		001750	COMERICA BANK	1,470.58
8838		001750	COMERICA BANK	303,995.09
8839		003176	COMERICA BANK - RHC	739.83
8839		003176	COMERICA BANK - RHC	98,930.19
8840		002668	CONTRACTORS CLOTHING CO	234.09
8841		001367	CONTRACTORS CONNECTION INC	506.40
8842	*	009557	ZECO, LLC	330.00
8843	*	000565	DORNBOS SIGN & SAFETY INC	114.31
8844	*	000243	GRAINGER	160.36
8845		007927	MICHELLE HOLLO	113.75
8846	*	007870	J.C. EHRLICH CO. INC.	162.84
8847		000261	J.H. HART URBAN FORESTRY	32,249.82
8847	*	000261	J.H. HART URBAN FORESTRY	5,683.25
8848		009298	JCR SUPPLY INC	1,037.54
8849	*	003458	JOE'S AUTO PARTS, INC.	431.42
8850	*	008827	KANOPY, INC	434.35
8851	*	003527	LOWER HURON SUPPLY CO INC	539.62
8852		002013	MIDWEST TAPE	8,583.74
8853		008336	NBS COMMERCIAL INTERIORS	1,434.00
8854	*	007856	NEXT	480.00
8855	*	006359	NYE UNIFORM COMPANY	684.00
8856	*	006853	PAUL C SCOTT PLUMBING INC	1,618.50
8857	*	003554	RKA PETROLEUM	2,574.64
8858	*	001181	ROSE PEST SOLUTIONS	150.00
8859	*	009301	SECURE-CENTRIC INC	1,512.00
8860	*	001097	SOCWA	257,054.46
8861		005861	UNIQUE MGMT SERVICE, INC	41.20
8862	*	000969	VIGILANTE SECURITY INC	220.50
SUBTOTAL ACH TRANSACTION				\$797,969.22

City of Birmingham
Warrant List Dated 08/16/2023

Meeting of 08/28/2023

Check Number	Early Release	Vendor #	Vendor	Amount
GRAND TOTAL				\$2,818,177.02

All bills, invoices and other evidences of claim have been audited and approved for payment.



Mark Gerber
Finance Director/ Treasurer

*-Indicates checks released in advance and prior to commission approval in order to avoid penalty or to meet contractual agreement/obligation.

City of Birmingham
Warrant List Dated 08/23/2023

Meeting of 08/28/2023

Check Number	Early Release	Vendor #	Vendor	Amount
<u>PAPER CHECK</u>				
293764		005430	21ST CENTURY MEDIA- MICHIGAN	1,526.25
293764	*	005430	21ST CENTURY MEDIA- MICHIGAN	5,090.25
293765	*	000855	48TH DISTRICT COURT	500.00
293766	*	000855	48TH DISTRICT COURT	285.00
293767		004877	AASLH	118.00
293768		009699	ADVANCED VETERINARY MEDICAL CENTER	257.25
293769		009519	ADVANTAGE REPORTING	102.85
293770	*	000161	ALPHA PSYCHOLOGICAL SERVICES PC	775.00
293771	*	009694	ALPINA RESTORATION LLC	21,456.03
293772	*	009393	AMANDA MCBRIDE	900.00
293773	*	008431	AMCOBI	15,120.00
293774	*	007033	APPLIED INNOVATION	274.76
293775	*	000500	ARTECH PRINTING INC	143.00
293776		006759	AT&T	177.68
293777		006759	AT&T	59.21
293778		005590	AXON ENTERPRISE, INC.	19,688.84
293779		BDREFUND	BABI CONSTRUCTION INC	1,700.00
293780		009609	BALIAN LEGAL, PLC	1,230.00
293781		002231	BILLINGS LAWN EQUIPMENT INC.	152.12
293782		008095	BIRMINGHAM BLOOMFIELD ART CENTER	1,000.00
293783		000524	BIRMINGHAM LOCKSMITH INC	63.92
293784		003526	BOUND TREE MEDICAL, LLC	170.19
293785	*	005717	BSB COMMUNICATIONS, INC.	87.50
293786		BDREFUND	BUDGET PPR	500.00
293787		003907	CADILLAC ASPHALT, LLC	7,416.00
293788		000979	COMERICA BANK	13,460.77
293789	*	000627	CONSUMERS ENERGY	288.91
293790		008512	COOL THREADS EMBROIDERY	413.97
293791		BDREFUND	DRIFORCE PROPERTY RESTORATION	500.00
293792	*	000179	DTE ENERGY	13.83
293793	*	000179	DTE ENERGY	36.51
293794	*	000180	DTE ENERGY	9,246.03
293795		002375	DUANY PLATER-ZYBERK & CO.	7,617.40
293796		004493	ELITE IMAGING SYSTEMS, INC	926.12
293797		003158	EXERCISE WAREHOUSE INC	6,126.78
293798		000585	FARMINGTON COMM. LIBRARY	988.68
293799		000936	FEDEX	31.20
293800		007212	FOSTER BLUE WATER OIL	2,547.42
293801		BDREFUND	FOUNDATION SYSTEMS OF MICHIGAN INC.	100.00
293802		009728	FUTURE FENCE COMPANY	3,094.00
293803	*	008007	GREAT LAKES WATER AUTHORITY	8,288.28
293804	*	006666	GRID 4 COMMUNICATIONS INC.	227.27

City of Birmingham
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Check Number	Early Release	Vendor #	Vendor	Amount
293805		001531	GUNNERS METER & PARTS INC	3,280.00
293806		MISC	HENNES COMMUNICATIONS, LLC.	500.00
293807	*	001956	HOME DEPOT CREDIT SERVICES	567.04
293808		BDREFUND	HOOVER ELECTRIC INC	1,000.00
293809	*	005990	ICC INC	4,000.00
293810	*	009401	IRENE S WASSEL	300.00
293811		BDREFUND	JACK'S JOBS INC	200.00
293812	*	009516	HOWARD JACOBS	122.43
293813		BDREFUND	JANKOWSKI, STEPHEN	200.00
293814		MISC	JASON EDDLESTON	110.00
293815	*	009724	JOHN CONNOR	170.00
293816		BDREFUND	JOSHUA HANNUM	500.00
293817	*	009403	JUSTIN ZAYID	600.00
293818		BDREFUND	K.D. CEMENT LLC	100.00
293819	*	002659	CHRISTOPHER KOCH	117.58
293820	*	000362	KROGER COMPANY	12.87
293821	*	009386	LAW OFFICE OF BRIAN P. FENECH	3,740.00
293822	*	009388	LAW OFFICE OF PATRICK G. GAGNIUK	1,350.00
293823		009375	LITHIA MOTORS, INC SUPPORT SERVICES	1,827.75
293824		BDREFUND	LIVE WELL CUSTOM HOME LLC	15,900.00
293825		BDREFUND	LOTT, ROBERT	1,260.00
293826	*	007521	LUIGI FERDINANDI & SON INC	118,375.87
293827		009663	MACQUEEN EQUIPMENT, LLC	5,350.00
293828	*	009546	MASTERS TELECOM	67.97
293829		BDREFUND	MATICE LANDSCAPING LLC	100.00
293830		009726	MATHEW WALKER	75.00
293831	*	000888	MCKENNA ASSOCIATES INC	57,866.13
293832	*	000369	MCFI	2,250.22
293833	*	009445	MCSA GROUP, INC.	1,755.00
293834		BDREFUND	MICHIGAN ASPHALT PAVING	100.00
293835		004687	MICHIGAN DEPT. OF TRANSPORATION	22,115.18
293836	*	005024	MIDWEST GLASS FABRICATORS, INC	228.16
293837		000230	MIKE SAVOIE CHEVROLET INC	913.83
293838	*	000649	MML WORKERS' COMP FUND	79,309.00
293839		007163	MOBILE HEALTH RESOURCES	3,156.48
293840		BDREFUND	MOSHER & ASSOCIATES LANDSCAPE DESIG	150.00
293841	*	006371	MPELRA	150.00
293842		009730	NASRO	550.00
293843	*	008606	NATIONAL PEN INC	557.80
293844	*	000668	NATIONAL TIME & SIGNAL CORP	245.00
293845	*	006117	OAKLAND PRESS	1,605.62
293846	*	004370	OCCUPATIONAL HEALTH CENTERS	60.00
293847		BLREFUND	PAPA JOES GOURMET MARKET (PAPA JOE'	60.00

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Check Number	Early Release	Vendor #	Vendor	Amount
293848	*	006959	PHOENIX COMMUNICATIONS & CABLING	184.60
293849		BDREFUND	PREMIER REMODELING LLC	200.00
293850	*	006625	PTS COMMUNICATIONS, INC	109.20
293851		BDREFUND	RIZWAN LOKHANDWALA	500.00
293852	*	009222	SAVERS WHOLESALE PRINTING	3,229.82
293853	*	007142	SHERWIN-WILLIAMS COMPANY	286.87
293854		007907	SP+ CORPORATION	4,316.00
293855		001763	STOP STICK	495.00
293856		004544	STRYKER SALES CORPORATION	470.59
293857		BDREFUND	TECHHOME BUILDING CO., LLC	2,500.00
293858		MISC	TERRY LEE DILL	295.00
293859		000275	TIRE WHOLESALERS CO INC	265.39
293860	*	008585	TODD WENZEL BUICK GMC	135,905.10
293861	*	004379	TURNER SANITATION, INC	980.00
293862	*	004580	V.I.L. CONSTRUCTION, INC.	607,983.98
293863		000931	VARSAITY SHOP	55.02
293864	*	000158	VERIZON WIRELESS	98.14
293865	*	000158	VERIZON WIRELESS	89.76
293866	*	000158	VERIZON WIRELESS	308.16
293867	*	000158	VERIZON WIRELESS	150.76
293868	*	000158	VERIZON WIRELESS	365.38
293869	*	000158	VERIZON WIRELESS	365.40
293870		009026	WELLS FARGO VENDOR FIN SERV	785.95
293871		BDREFUND	WRIGHT, TODD	200.00

SUBTOTAL PAPER CHECK \$1,223,740.07

ACH TRANSACTION

8871	*	009383	BATTI LAW PLLC	3,340.00
8872	*	000517	BEIER HOWLETT P.C.	49.50
8873	*	007345	BEVERLY HILLS ACE	22.72
8874	*	006683	BIRMINGHAM LAWN MAINTENANCE, INC	570.00
8875	*	008840	BIRMINGHAM PUBLIC SCHOOLS-TAXES	4,618,076.96
8876	*	009396	CECILIA QUIRINDONGO BAUNSOE	300.00
8877		000605	CINTAS CORPORATION	427.32
8878		000605	CINTAS CORPORATION	66.45
8879		000605	CINTAS CORPORATION	324.48
8881		002668	CONTRACTORS CLOTHING CO	2,384.12
8882		001367	CONTRACTORS CONNECTION INC	118.80
8883	*	009195	CROWN CASTLE FIBER LLC	4,494.85
8884	*	009557	ZECO, LLC	550.00
8885	*	007359	DETROIT CHEMICAL & PAPER SUPPLY	205.76
8886	*	000565	DORNBOS SIGN & SAFETY INC	604.41
8887		007684	ELITE TRAUMA CLEAN-UP INC.	140.00
8888	*	004574	FAIR-WAY TILE & CARPET, INC.	2,294.00

City of Birmingham
Warrant List Dated 08/23/2023

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Check Number	Early Release	Vendor #	Vendor	Amount
8889		009697	FLOCK GROUP INC	12,350.00
8890	*	000243	GRAINGER	374.99
8891	*	001663	SCOTT GREWE	1,911.15
8892	*	001672	HAYES PRECISION INC	90.00
8893	*	009382	HB LAW, PLLC	600.00
8894		000331	HUBBELL ROTH & CLARK INC	2,077.96
8895	*	009390	IDUMESARO LAW FIRM, PLLC	1,500.00
8896		000261	J.H. HART URBAN FORESTRY	59,277.45
8897	*	002576	JAX KAR WASH	64.00
8898		009249	JCC CREATIVE LLC	900.00
8899	*	003458	JOE'S AUTO PARTS, INC.	461.35
8900		000891	KELLER THOMA	660.00
8901	*	004085	KONE INC	2,086.45
8902	*	005876	KROPF MECHANICAL SERVICE COMPANY	640.93
8903	*	009392	LAMB LEGAL CONSULTING SERVICES	1,500.00
8904	*	009385	LAW OFFICE OF MICHAEL J. DICK	1,650.00
8905	*	009398	MARCIA C ROSS PC	1,300.00
8906	*	009370	MICHAEL SIMON	126.00
8907	*	009400	N.L. SMITHSON & ASSOCIATES PLLC	600.00
8908		002253	NATIONAL BUSINESS FURNITURE	647.06
8909		008336	NBS COMMERCIAL INTERIORS	792.00
8910		001194	NELSON BROTHERS SEWER	1,544.00
8911	*	007755	NETWORK SERVICES COMPANY	1,314.46
8912	*	007856	NEXT	330.00
8913	*	006359	NYE UNIFORM COMPANY	279.50
8914	*	008843	OAKLAND COUNTY TREASURER- TAX PYMNT	7,670,116.95
8915	*	009395	ORLANDO LAW PRACTICE PC	1,200.00
8916	*	001753	PEPSI COLA	871.80
8917	*	009397	RABAA PLLC	500.00
8918		002675	RESERVE ACCOUNT	5,000.00
8919	*	001181	ROSE PEST SOLUTIONS	1,202.00
8920	*	003785	SIGNS-N-DESIGNS INC	65.00
8921		000254	SOCRRA	153,602.00
8922	*	000969	VIGILANTE SECURITY INC	528.00
8923	*	009379	YELLOW DOOR LAW	9,966.00
SUBTOTAL ACH TRANSACTION				\$12,570,098.42

City of Birmingham
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Check Number	Early Release	Vendor #	Vendor	Amount
GRAND TOTAL				\$13,793,838.49

All bills, invoices and other evidences of claim have been audited and approved for payment.



Mark Gerber
Finance Director/ Treasurer

*-Indicates checks released in advance and prior to commission approval in order to avoid penalty or to meet contractual agreement/obligation.



MEMORANDUM

City Clerk's Office

DATE: August 16, 2023

TO: Jana L. Ecker, City Manager

FROM: Alexandria Bingham, City Clerk

SUBJECT: Election Commission Designation of Representatives – Public Accuracy Tests for the November 7, 2023 Election

INTRODUCTION:

The City Commission, per the Birmingham City Charter, functions as the City's Election Commission. Pursuant to State law, the Election Commission is responsible for conducting certain election duties, including conducting and certification of the Public Accuracy Test.

BACKGROUND:

The Birmingham City Charter names the City Commission as the Election Commission in the Birmingham City Charter, [Chapter IV, §22](#)¹, and the City Commissioners are therefore required to perform all of the duties of an election commission by the general laws of the state.

One of the responsibilities of the Election Commission is to oversee the Public Accuracy Test. Required by Michigan Election Law [MCL 168.798](#)², the accuracy test is used "to determine if the electronic tabulating equipment will accurately count the votes cast for all offices". The test consists of tabulating a prescribed set of marked test ballots through a tabulator and certifying that the totals reported by the tabulator match the totals contained in the chart of predetermined results.

Due to scheduling, the commission may designate representatives to conduct the Public Accuracy Tests in their stead. The test would be conducted during the work day by the Clerk or a member of Clerk's staff, attended by the Election Commission's designated representatives, and any interested members of the public as it is conducted pursuant to the Open Meetings Act. The City Clerk and her staff are not eligible to be the designated representatives for the Public Accuracy Tests.

The Public Accuracy Test for the November 7, 2023 General Election is scheduled for Tuesday, October 3, 2023 at 1:00 p.m. in room 205 of the Birmingham Municipal Building, 151 Martin, Birmingham.

¹ https://library.municode.com/mi/birmingham/codes/code_of_ordinances?nodeId=PTICH_CHIVRENOEL_S22ELCOSection%20

LEGAL REVIEW:

The City Attorney has reviewed and has no concerns to the process.

FISCAL IMPACT:

The Finance Director has reviewed and has no fiscal concerns.

SUSTAINABILITY:

There are no sustainability considerations related to this item.

PUBLIC COMMUNICATIONS:

As an agenda item, this topic is available for public viewing in the City Commission Agenda Packet available online at www.bhamgov.org/commissionagendas and through the City Clerk's office upon request. Public comment is available at the City Commission Meeting.

According to Michigan election law, the date, time and location of the Public Accuracy Test must be publicly noticed at least 48 hours prior to testing date, and the City will fulfill this requirement by posting in the Oakland Press newspaper on September 24, 2023.

SUMMARY:

It is recommended that the Birmingham City Commission, acting within their duty as the Election Commission, designate city staff members to act as proxy representatives for the purpose of conducting the Public Accuracy Tests for the November 7, 2023 State general election.

ATTACHMENTS:

- [MCL 168.798](#)³ Testing of electronic tabulating equipment

SUGGESTED COMMISSION ACTION:

To make a motion to adopt a resolution designating Finance Director Mark Gerber, Assistant Finance Director Kim Wickenheiser, DPS Director Scott Zielinski, Building Official Bruce Johnson, Assistant Building Official Mike Morad, Museum Director Leslie Pielack, and Police Commander Ryan Kearney as proxy representatives of Election Commissioners Mayor Therese Longe, Mayor Pro Tem Elaine McLain, Commissioner Clinton Baller, Commissioner Brad Host, Commissioner Andrew Haig, Commissioner Pierre Boutros, and Commissioner Katie Shafer, to conduct the Public Accuracy Tests of the electronic tabulating equipment which will be used to count votes at Birmingham precincts during the November 7, 2023 election.

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

168.798 Testing of electronic tabulating equipment; notice; method; sealing programs, test materials, and ballots; rules; sealing memory device.

Sec. 798. (1) Before beginning the count of ballots, the board of election commissioners shall test the electronic tabulating equipment to determine if the electronic tabulating equipment will accurately count the votes cast for all offices and on all questions. Public notice of the time and place of the test shall be given at least 48 hours before the test by publication in a newspaper published in the county, city, village, township, or school district where the electronic tabulating equipment is used. If a newspaper is not published in that county, city, village, township, or school district, the notice shall be given by publication in a newspaper of general circulation in that county, city, village, township, or school district. The test shall be conducted in the manner prescribed by rules promulgated by the secretary of state pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. In the test, a different number of valid votes shall be assigned to each candidate for an office, and for and against each question. If an error is detected, the board of election commissioners shall determine the cause of the error and correct the error. The board of election commissioners shall make an errorless count and shall certify the errorless count before the count is started. The electronic tabulating equipment that can be used for a purpose other than examining and counting votes shall pass the same test at the conclusion of the count before the election returns are approved as official.

(2) On completion of the test and count, the programs, test materials, and ballots arranged by precincts shall be sealed and retained as provided by this subsection and rules promulgated by the secretary of state pursuant to Act No. 306 of the Public Acts of 1969. If the electronic tabulating equipment that is tested and certified to by the board of election commissioners will be used to count votes at the precinct, a memory device containing the tested programs, if any, shall be sealed into the electronic tabulating equipment. Upon completion and certification of the count of votes, the memory device containing the program and the vote totals shall remain sealed in the electronic tabulating equipment or, if removed from the electronic tabulating equipment, shall remain sealed in a container approved by the secretary of state, delivered to the clerk, and retained in the manner provided for other voted ballots.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992.

Popular name: Election Code

Administrative rules: R 168.771 et seq. of the Michigan Administrative Code.



MEMORANDUM

Human Resources Department

DATE: August 18, 2023

TO: Jana L. Ecker, City Manager

FROM: Christina Woods, HR Manager

SUBJECT: 2023 Certification of Compliance with State of Michigan Public Act 152 of 2011

INTRODUCTION:

Since 2012, Michigan public employers have annually certified compliance with Public Act 152, the Publicly-funded Health Insurance Contribution Act, in order to maintain eligibility for state funding. Previously, this was a requirement for statutory revenue sharing disbursements tied to the Economic Vitality Incentive Program (EVIP) which has been discontinued. Now, the Michigan Department of Transportation (MDOT) uses PA 152 compliance for distribution of state road funds.

BACKGROUND:

Certification of compliance is required by September 30th of each year to guarantee eligibility for road funding in the current fiscal year. A local unit of government may comply with the Act by adopting any one of the following options:

1. Adopt a limitation on flat dollar amounts of employee medical costs by establishing the hard dollar caps set forth by the Michigan Department of Treasury for single coverage, 2-person coverage, and family coverage.
2. Adopt a limitation on a percentage of the total annual medical costs by establishing a maximum employer contribution of 80%.
3. Opt-out by exempting itself from the requirements of the Act by 2/3 vote of the governing body.

Since 2012, the City has elected to exempt itself from the requirements of the Act as a compliance alternative with PA 152 as well as to stay compliant with the current healthcare provisions in the collective bargaining agreements.

LEGAL REVIEW:

The City Attorney has no objection to the suggested commission action.

FISCAL IMPACT:

No fiscal impact is anticipated at this time as the City has elected this exemption since 2012.

SUSTAINABILITY:

Refraining from employee contributions for healthcare is an attractive benefit for recruitment of employees and retention of current employees.

PUBLIC COMMUNICATIONS:

No public hearings or legal notifications are required beyond a two-thirds majority vote of the City Commission at a public meeting.

SUMMARY:

The Human Resources Department recommends a continuation of the current strategy with the City certifying compliance with Public Act 152 by selecting the exemption alternative for the 2023 year, via MDOT Form 2068.

ATTACHMENTS:

- MDOT Form 2068 Annual Certification of Employee-related Conditions

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to claim an exemption from the Publicly-funded Health Insurance Contribution Act 2011 PA 152. Further, to direct the City Engineer and Finance Director to sign the Annual Certification of Employee-related Conditions for the year 2023 and submit the required form to the Michigan Department of Transportation as required by Public Act 51.

**PUBLIC ACT 51, SECTION 18j, MCL 247.668j
Annual Certification of Employee-related
Conditions**

CERTIFICATION YEAR 2023

CITY OR VILLAGE NAME City of Birmingham

Beginning September 30, 2015, and annually each September 30 thereafter, certification must be made for compliance to Section 18j(1) of Public Act 51 of 1951, MCL 247.668j(1). A local road agency must certify that it has (a) developed an employee compensation plan for its employees as described OR (b) the local road agency must certify that medical benefits are offered to its employees or elected public officials in compliance with the publicly funded health insurance contribution act, 2011 PA 152, MCL 15.561 to 15.569, or, that it does not offer medical benefits to its employees or elected public officials.

Compliance with(1)(a)
I certify compliance with MCL 247.668j(1)(a).
Our compensation plan for employees meets the minimum criteria of MCL 247.668j (a)(i - iv).

Compliance with (1)(b)
I certify compliance with MCL 247.668J(1)(b), and as such, offer one of the following:

I certify that medical benefits are offered to employees or elected public officials in compliance with the publically funded health insurance contribution act, 2011 PA 152; **or**

I certify that the local road agency has exempted itself from the publically funded health insurance contribution act, 2011 PA 152; **or**

I certify that medical benefits are not offered to employees or elected public officials.

Non-compliance with (1)(a) or (1)(b)
I certify that we are not in compliance with MCL 247.668j(1).
I understand that failure to comply with certification of (a) or (b) of MCL 247.668j(1) may result in the withholding of all or part of the distributions made to this local road agency from the Michigan Transportation Fund.

This form must be signed by the Street Administrator and the Treasurer or Financial Director.

SIGNATURE		SIGNATURE	
PRINTED NAME Melissa Coatta		PRINTED NAME Mark Gerber	
TITLE City Engineer	DATE	TITLE Finance Director	DATE

Due Each September 30

Return the completed form to:

Michigan Department of Transportation, Financial Operations Division, P.O. Box 30050, Lansing, MI 48909, **OR**

E-mail to: MDOT-Outreach@Michigan.gov, **OR**

Fax to: (517) 335-1828



MEMORANDUM

Engineering Department

DATE: August 21, 2023

TO: Jana Ecker, City Manager

FROM: Cory Borton, Assistant Director of Engineering
Melissa A. Coatta, City Engineer

SUBJECT: ExteNet Systems, LLC Metropolitan Extension Telecommunications Rights-of-Way Oversight (METRO) Act Permit Application

INTRODUCTION:

ExteNet Systems, LLC has submitted a permit application for access to and ongoing use of public ways by telecommunications providers under the Metropolitan Extension Telecommunications Rights-of-Way Oversight (METRO) Act.

The application is for the installation of fiber, both aerial and underground, to support a Small Cell Wireless Communications Network serving the major wireless carriers.

BACKGROUND:

On August 3, 2023 the City received a completed permit application in compliance with the mandates of the METRO Act. The City of Birmingham has 45 days from the date of the application to either approve or deny the application and permit.

Both the application and permit forms were approved by the Michigan Public Service Commission (MPSC). The ExteNet Systems, LLC application complies with the mandates of the statute and is complete. The Bilateral Permit form also complies with the requirements of the statute.

LEGAL REVIEW:

The City Attorney has reviewed the ExteNet Systems, LLC application and permit, as well as the attached documents, and recommends approval of the application and permit.

FISCAL IMPACT:

N/A

SUSTAINABILITY:

N/A

SUMMARY:

The City Commission is being asked to approve the ExteNet Application and Permit in accordance with the METRO Act.

ATTACHMENTS:

- METRO Act Permit Application Form filed by ExteNet Systems, LLC
- Metro Act Permit, Bilateral Form, for ExteNet Systems, LLC

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to approve the METRO Act Application of ExteNet Systems, LLC and the METRO Act Permit for the project locations shown on the exhibit. In addition, to authorize the Mayor and City Clerk to sign the Bilateral Form on behalf of the City.

**METRO Act Permit
Bilateral Form
Revised 12/06/02**

**RIGHT-OF-WAY
TELECOMMUNICATIONS PERMIT**

TERMS AND CONDITIONS

1 Definitions

- 1.1 Company shall mean ExteNet Systems, LLC organized under the laws of the State of Delaware whose address is 5844 John Hickman Pkwy, Suite 600, Frisco, TX 75034.
- 1.2 Effective Date shall mean the date set forth in Part 13.
- 1.3 Manager shall mean Municipality's Mayor or his or her designee.
- 1.4 METRO Act shall mean the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, Act No. 48 of the Public Acts of 2002, as amended.
- 1.5 Municipality shall mean City of Birmingham, a Michigan municipal corporation.
- 1.6 Permit shall mean this document.
- 1.7 Public Right-of-Way shall mean the area on, below, or above a public roadway, highway, street, alley, easement, or waterway, to the extent Municipality has the ability to grant the rights set forth herein. Public right-of-way does not include a federal, state, or private right-of-way.
- 1.8 Telecommunication Facilities or Facilities shall mean the Company's equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication Facilities or Facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of Part I of Title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, 2-way communications device.
- 1.9 Term shall have the meaning set forth in Part 7.

2 Grant

- 2.1 Municipality hereby grants a permit under the METRO Act to Company for access to and ongoing use of the Public Right-of-Way to construct, install and maintain Telecommunication Facilities in those portions of the Public Right-of-Way identified on Exhibit A on the terms set forth herein.
- 2.1.1 Exhibit A may be modified by written request by Company and approval by Manager.
- 2.1.2 Manager shall not unreasonably condition or deny any request for a modification of Exhibit A. Any decision of Manager on a request for a modification may be appealed by Company to Municipality's legislative body.
- 2.2 Overlashing. Company shall not allow the wires or any other facilities of a third party to be overlashed to the Telecommunication Facilities without Municipality's prior written consent. Municipality's right to withhold written consent is subject to the authority of the Michigan Public Service Commission under Section 361 of the Michigan Telecommunications Act, MCL § 484.2361.
- 2.3 Nonexclusive. The rights granted by this Permit are nonexclusive. Municipality reserves the right to approve, at any time, additional permits for access to and ongoing usage of the Public Right-of-Way by telecommunications providers and to enter into agreements for use of the Public Right-of-Way with and grant franchises for use of the Public Right-of-Way to telecommunications providers, cable companies, utilities and other providers.

3 Contacts, Maps and Plans

- 3.1 Company Contacts. The names, addresses and the like for engineering and construction related information for Company and its Telecommunication Facilities are as follows:
- 3.1.1 The address, e-mail address, phone number and contact person (title or name) at Company's local office (in or near Municipality) is
Matt Sturgill
Senior Project Manager – North Central Region
3030 Warrenville Rd. Suite 340
Lisle, IL 60532
Mobile: 724.816.7883
Email: Msturgill@extenetsystems.com

- 3.1.2 If Company's engineering drawings, as-built plans and related records for the Telecommunication Facilities will not be located at the preceding local office, the location address, phone number and contact person (title or department) for them is
Mary Jo Madden
Executive Director – Outside Plant
5844 John Hickman Pkwy,
Frisco TX 75034
Mobile 973.454.0675
Email: Mjomadden@extenetsystems.com
- 3.1.3 The name, title, address, e-mail address and telephone numbers of Company's engineering contact person(s) with responsibility for the design, plans and construction of the Telecommunication Facilities is
Stratis, Inc.
4804 N 40th St., Suite 100, Sheboygan, WI 53083
Lili Giertz, Director of Engineering
(920) 912-1475
lgierzt@gostratis.com
- 3.1.4 The address, phone number and contact person (title or department) at Company's home office/regional office with responsibility for engineering and construction related aspects of the Telecommunication Facilities is
Mary Jo Madden
Executive Director – Outside Plant
5844 John Hickman Pkwy,
Frisco TX 75034
Mobile 973.454.0675
Email: Mjomadden@extenetsystems.com
- 3.1.5 Company shall at all times provide Manager with the phone number at which a live representative of Company (not voice mail) can be reached 24 hours a day, seven (7) days a week, in the event of a public emergency.
Network Operations Center: (866)-892-5327
- 3.1.6 The preceding information is accurate as of the Effective Date. Company shall notify Municipality in writing as set forth in Part 12 of any changes in the preceding information.
- 3.2 Route Maps. Within ninety (90) days after the substantial completion of construction of new Facilities in a Municipality, a provider shall submit route maps showing the location of the Telecommunication Facilities to both the Michigan Public Service Commission and to the Municipality, as required under Section 6(7) of the METRO Act, MCLA 484.3106(7).

- 3.3 As-Built Records. Company, without expense to Municipality, shall, upon forty-eight (48) hours notice, give Municipality access to all "as-built" maps, records, plans and specifications showing the Telecommunication Facilities or portions thereof in the Public Right-of-Way. Upon request by Municipality, Company shall inform Municipality as soon as reasonably possible of any changes from previously supplied maps, records, or plans and shall mark up maps provided by Municipality so as to show the location of the Telecommunication Facilities.

4 Use of Public Right-of-Way

- 4.1 No Burden on Public Right-of-Way. Company, its contractors, subcontractors, and the Telecommunication Facilities shall not unduly burden or interfere with the present or future use of any of the Public Right-of-Way. Company's aerial cables and wires shall be suspended so as to not endanger or injure persons or property in or about the Public Right-of-Way. If Municipality reasonably determines that any portion of the Telecommunication Facilities constitutes an undue burden or interference, due to changed circumstances, Company, at its sole expense, shall modify the Telecommunication Facilities or take such other actions as Municipality may determine is in the public interest to remove or alleviate the burden, and Company shall do so within a reasonable time period. Municipality shall attempt to require all occupants of a pole or conduit whose facilities are a burden to remove or alleviate the burden concurrently.
- 4.2 No Priority. This Permit does not establish any priority of use of the Public Right-of-Way by Company over any present or future permittees or parties having agreements with Municipality or franchises for such use. In the event of any dispute as to the priority of use of the Public Right-of-Way, the first priority shall be to the public generally, the second priority to Municipality, the third priority to the State of Michigan and its political subdivisions in the performance of their various functions, and thereafter as between other permit, agreement or franchise holders, as determined by Municipality in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.
- 4.3 Restoration of Property. Company, its contractors and subcontractors shall immediately (subject to seasonal work restrictions) restore, at Company's sole expense, in a manner approved by Municipality, any portion of the Public Right-of-Way that is in any way disturbed, damaged, or injured by the construction, installation, operation, maintenance or removal of the Telecommunication Facilities to a reasonably equivalent (or, at Company's option, better) condition as that which existed prior to the disturbance. In the event that Company, its contractors or subcontractors fail to make such repair within a reasonable time, Municipality may make the repair and Company shall pay the costs Municipality incurred for such repair.

- 4.4 Marking. Company shall mark the Telecommunication Facilities as follows: Aerial portions of the Telecommunication Facilities shall be marked with a marker on Company's lines on alternate poles which shall state Company's name and provide a toll-free number to call for assistance. Direct buried underground portions of the Telecommunication Facilities shall have (1) a conducting wire placed in the ground at least several inches above Company's cable (if such cable is nonconductive); (2) at least several inches above that, a continuous colored tape with a statement to the effect that there is buried cable beneath; and (3) stakes or other appropriate above ground markers with Company's name and a toll-free number indicating that there is buried telephone cable below. Bored underground portions of the Telecommunication Facilities shall have a conducting wire at the same depth as the cable and shall not be required to provide the continuous colored tape. Portions of the Telecommunication Facilities located in conduit, including conduit of others used by Company, shall be marked at its entrance into and exit from each manhole and handhole with Company's name and a toll-free telephone number.
- 4.5 Tree Trimming. Company may trim trees upon and overhanging the Public Right-of-Way so as to prevent the branches of such trees from coming into contact with the Telecommunication Facilities, consistent with any standards adopted by Municipality. Company shall dispose of all trimmed materials. Company shall minimize the trimming of trees to that essential to maintain the integrity of the Telecommunication Facilities. Except in emergencies, all trimming of trees in the Public Right-of-Way shall have the advance approval of Manager.
- 4.6 Installation and Maintenance. The construction and installation of the Telecommunication Facilities shall be performed pursuant to plans approved by Municipality. The open cut of any Public Right-of-Way shall be coordinated with the Manager or his designee. Company shall install and maintain the Telecommunication Facilities in a reasonably safe condition. If the existing poles in the Public Right-of-Way are overburdened or unavailable for Company's use, or the facilities of all users of the poles are required to go underground then Company shall, at its expense, place such portion of its Telecommunication Facilities underground, unless Municipality approves an alternate location. Company may perform maintenance on the Telecommunication Facilities without prior approval of Municipality, provided that Company shall obtain any and all permits required by Municipality in the event that any maintenance will disturb or block vehicular traffic or are otherwise required by Municipality.
- 4.7 Pavement Cut Coordination. Company shall coordinate its construction and all other work in the Public Right-of-Way with Municipality's program for street construction and rebuilding (collectively "Street Construction") and its program for street repaving and resurfacing (except seal coating and patching) (collectively, "Street Resurfacing").

- 4.7.1 The goals of such coordination shall be to encourage Company to conduct all work in the Public Right-of-Way in conjunction with or immediately prior to any Street Construction or Street Resurfacing planned by Municipality.
- 4.8 Compliance with Laws. Company shall comply with all laws, statutes, ordinances, rules and regulations regarding the construction, installation, and maintenance of its Telecommunication Facilities, whether federal, state or local, now in force or which hereafter may be promulgated. Before any installation is commenced, Company shall secure all necessary permits, licenses and approvals from Municipality or other governmental entity as may be required by law, including, without limitation, all utility line permits and highway permits. Municipality shall not unreasonably delay or deny issuance of any such permits, licenses or approvals. Company shall comply in all respects with applicable codes and industry standards, including but not limited to the National Electrical Safety Code (latest edition adopted by Michigan Public Service Commission) and the National Electric Code (latest edition). Company shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended. This section does not constitute a waiver of Company's right to challenge laws, statutes, ordinances, rules or regulations now in force or established in the future.
- 4.9 Street Vacation. If Municipality vacates or consents to the vacation of Public Right-of-Way within its jurisdiction, and such vacation necessitates the removal and relocation of Company's Facilities in the vacated Public Right-of-Way, Company shall, as a condition of this Permit, consent to the vacation and remove its Facilities at its sole cost and expense when ordered to do so by Municipality or a court of competent jurisdiction. Company shall relocate its Facilities to such alternate route as Municipality and Company mutually agree, applying reasonable engineering standards.
- 4.10 Relocation. If Municipality requests Company to relocate, protect, support, disconnect, or remove its Facilities because of street or utility work, or other public projects, Company shall relocate, protect, support, disconnect, or remove its Facilities, at its sole cost and expense, including where necessary to such alternate route as Municipality and Company mutually agree, applying reasonable engineering standards. The work shall be completed within a reasonable time period.
- 4.11 Public Emergency. Municipality shall have the right to sever, disrupt, dig-up or otherwise destroy Facilities of Company if such action is necessary because of a public emergency. If reasonable to do so under the circumstances, Municipality shall attempt to provide notice to Company. Public emergency shall be any condition which poses an immediate threat to life, health, or property caused by

any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, water main breaks, hazardous material spills, etc. Company shall be responsible for repair at its sole cost and expense of any of its Facilities damaged pursuant to any such action taken by Municipality.

- 4.12 Miss Dig. If eligible to join, Company shall subscribe to and be a member of "MISS DIG," the association of utilities formed pursuant to Act 174 of the Public Acts of 2013, as amended, MCL § 460.721 et seq., and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.
- 4.13 Underground Relocation. If Company has its Facilities on poles of Consumers Energy, Detroit Edison or another electric or telecommunications provider and Consumers Energy, Detroit Edison or such other electric or telecommunications provider relocates its system underground, then Company shall relocate its Facilities underground in the same location at Company's sole cost and expense.
- 4.14 Identification. All personnel of Company and its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing Company's name, their name and photograph. Company shall account for all identification cards at all times. Every service vehicle of Company and its contractors or subcontractors shall be clearly identified as such to the public, such as by a magnetic sign with Company's name and telephone number.

5 Indemnification

- 5.1 Indemnity. Company shall defend, indemnify, protect, and hold harmless Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions from any and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, and expenses of any nature (collectively "claim" for this Part 5) (including, without limitation, attorneys' fees) arising out of or resulting from the acts or omissions of Company, its officers, agents, employees, contractors, successors, or assigns, but only to the extent such acts or omissions are related to the Company's use of or installation of facilities in the Public Right-of-Way and only to the extent of the fault or responsibility of Company, its officers, agents, employees, contractors, successors and assigns.
- 5.2 Notice, Cooperation. Municipality shall notify Company promptly in writing of any such claim and the method and means proposed by Municipality for defending or satisfying such claim. Municipality shall cooperate with Company in every reasonable way to facilitate the defense of any such claim. Municipality shall consult with Company respecting the defense and satisfaction of such claim, including the selection and direction of legal counsel.

5.3 Settlement. Municipality shall not settle any claim subject to indemnification under this Part 5 without the advance written consent of Company, which consent shall not be unreasonably withheld. Company shall have the right to defend or settle, at its own expense, any claim against Municipality for which Company is responsible hereunder.

6 Insurance

6.1 Coverage Required. Prior to beginning any construction in or installation of the Telecommunication Facilities in the Public Right-of-Way, Company shall obtain insurance as set forth below and file certificates evidencing same with Municipality. Such insurance shall be maintained in full force and effect until the end of the Term. In the alternative, Company may satisfy this requirement through a program of self-insurance, acceptable to Municipality, by providing reasonable evidence of its financial resources to Municipality. Municipality's acceptance of such self-insurance shall not be unreasonably withheld.

6.1.1 Commercial general liability insurance, including Completed Operations Liability, Independent Contractors Liability, Contractual Liability coverage, railroad protective coverage and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage, in an amount not less than Five Million Dollars (\$5,000,000).

6.1.2 Liability insurance for sudden and accidental environmental contamination with minimum limits of Five Hundred Thousand Dollars (\$500,000) and providing coverage for claims discovered within three (3) years after the term of the policy.

6.1.3 Automobile liability insurance in an amount not less than One Million Dollars (\$1,000,000).

6.1.4 Workers' compensation and employer's liability insurance with statutory limits, and any applicable Federal insurance of a similar nature.

6.1.5 The coverage amounts set forth above may be met by a combination of underlying (primary) and umbrella policies so long as in combination the limits equal or exceed those stated. If more than one insurance policy is purchased to provide the coverage amounts set forth above, then all policies providing coverage limits excess to the primary policy shall provide drop down coverage to the first dollar of coverage and other contractual obligations of the primary policy, should the primary policy carrier not be able to perform any of its contractual obligations or not be collectible for any of its coverages for any reason during the Term, or

(when longer) for as long as coverage could have been available pursuant to the terms and conditions of the primary policy.

- 6.2 Additional Insured. Municipality shall be named as an additional insured on all policies (other than worker's compensation and employer's liability). All insurance policies shall provide that they shall not be canceled, modified or not renewed unless the insurance carrier provides thirty (30) days prior written notice to Municipality. Company shall annually provide Municipality with a certificate of insurance evidencing such coverage. All insurance policies (other than environmental contamination, workers' compensation and employer's liability insurance) shall be written on an occurrence basis and not on a claims made basis.
- 6.3 Qualified Insurers. All insurance shall be issued by insurance carriers licensed to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance and surplus line carriers shall be rated A+ or better by A.M. Best Company.
- 6.4 Deductibles. If the insurance policies required by this Part 6 are written with retainages or deductibles in excess of \$50,000, they shall be approved by Manager in advance in writing. Company shall indemnify and save harmless Municipality from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished hereunder.
- 6.5 Contractors. Company's contractors and subcontractors working in the Public Right-of-Way shall carry in full force and effect commercial general liability, environmental contamination liability, automobile liability and workers' compensation and employer liability insurance which complies with all terms of this Part 6. In the alternative, Company, at its expense, may provide such coverages for any or all its contractors or subcontractors (such as by adding them to Company's policies).
- 6.6 Insurance Primary. Company's insurance coverage shall be primary insurance with respect to Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions (collectively "them"). Any insurance or self-insurance maintained by any of them shall be in excess of Company's insurance and shall not contribute to it (where "insurance or self-insurance maintained by any of them" includes any contract or agreement providing any type of indemnification or defense obligation provided to, or for the benefit of them, from any source, and includes any self-insurance program or policy, or self-insured retention or deductible by, for or on behalf of them).

7 Term

- 7.1 Term. The term ("Term") of this Permit shall be until the earlier of:

- 7.1.1 Fifteen years (15) from the Effective Date; provided, however, that following such initial term there shall be three subsequent renewal terms of five (5) years. Each renewal term shall be automatic unless Municipality notifies Company in writing, at least twelve (12) months prior to the end of any term then in effect, that due to changed circumstances a need exists to negotiate the subsequent renewal with Company. Municipality shall not unreasonably deny a renewal term; or
- 7.1.2 When the Telecommunication Facilities have not been used to provide telecommunications services for a period of one hundred and eighty (180) days by the Company or a successor of an assign of the Company; or
- 7.1.3 When Company, at its election and with or without cause, delivers written notice of termination to Municipality at least one-hundred and eighty (180) days prior to the date of such termination; or
- 7.1.4 Upon either Company or Municipality giving written notice to the other of the occurrence or existence of a default by the other party under Sections 4.8, 6, 8 or 9 of this Permit and such defaulting party failing to cure, or commence good faith efforts to cure, such default within sixty (60) days (or such shorter period of time provided elsewhere in this Permit) after delivery of such notice; or
- 7.1.5 Unless Manager grants a written extension, one year from the Effective Date if prior thereto Company has not started the construction and installation of the Telecommunication Facilities within the Public Right-of-Way and two years from the Effective Date if by such time construction and installation of the Telecommunication Facilities is not complete.

8 Performance Bond or Letter of Credit

- 8.1 Municipal Requirement. Municipality may require Company to post a bond (or letter of credit) as provided in Section 15(3) of the METRO Act, as amended [MCL § 484.3115(3)].

9 Fees

- 9.1 Establishment; Reservation. The METRO Act shall control the establishment of right-of-way fees. The parties reserve their respective rights regarding the nature and amount of any fees which may be charged by Municipality in connection with the Public Right-of-Way.

10 Removal

- 10.1 Removal; Underground. As soon as practicable after the Term, Company or its successors and assigns shall remove any underground cable or other portions of the Telecommunication Facilities from the Public Right-of-Way which has been installed in such a manner that it can be removed without trenching or other opening of the Public Right-of-Way. Company shall not remove any underground cable or other portions of the Telecommunication Facilities which requires trenching or other opening of the Public Right-of-Way except with the prior written approval of Manager. All removals shall be at Company's sole cost and expense.
- 10.1.1 For purposes of this Part 10, "cable" means any wire, coaxial cable, fiber optic cable, feed wire or pull wire.
- 10.2 Removal; Above Ground. As soon as practicable after the Term, Company, or its successor or assigns at its sole cost and expense, shall, unless waived in writing by Manager, remove from the Public Right-of-Way all above ground elements of its Telecommunication Facilities, including but not limited to poles, pedestal mounted terminal boxes, and lines attached to or suspended from poles.
- 10.3 Schedule. The schedule and timing of removal shall be subject to approval by Manager. Unless extended by Manager, removal shall be completed not later than twelve (12) months following the Term. Portions of the Telecommunication Facilities in the Public Right-of-Way which are not removed within such time period shall be deemed abandoned and, at the option of Municipality exercised by written notice to Company as set forth in Part 12, title to the portions described in such notice shall vest in Municipality.
- 11 Assignment. Company may assign or transfer its rights under this Permit, or the persons or entities controlling Company may change, in whole or in part, voluntarily, involuntarily, or by operation of law, including by merger or consolidation, change in the ownership or control of Company's business, or by other means, subject to the following:
- 11.1 No such transfer or assignment or change in the control of Company shall be effective under this Permit, without Municipality's prior approval (not to be unreasonably withheld), during the time period from the Effective Date until the completion of the construction of the Telecommunication Facilities in those portions of the Public Right-of-Way identified on Exhibit A.
- 11.2 After the completion of such construction, Company must provide notice to Municipality of such transfer, assignment or change in control no later than thirty (30) days after such occurrence; provided, however,
- 11.2.1 Any transferee or assignee of this Permit shall be qualified to perform under its terms and conditions and comply with applicable law; shall be subject to the obligations of this Permit, including responsibility for any defaults which occurred prior to the transfer or assignment; shall supply

Municipality with the information required under Section 3.1; and shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which Municipality reasonably deems necessary, and

11.2.2 In the event of a change in control, it shall not be to an entity lacking the qualifications to assure Company's ability to perform under the terms and conditions of this Permit and comply with applicable law; and Company shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which Municipality reasonably deems necessary.

11.3 Company may grant a security interest in this Permit, its rights thereunder or the Telecommunication Facilities at any time without notifying Municipality.

12 Notices

12.1 Notices. All notices under this Permit shall be given as follows:

12.1.1 If to Municipality, to
City of Birmingham
Attn: City Engineer
151 Martin Street
Birmingham, MI 48009
With a copy to City Clerk at the same address

12.1.2 If to Company, to
ExteNet Systems, LLC.
Attn: CFO
5844 John Hickman Pkwy, Suite 600
Frisco TX 75034
With a copy to General Counsel & COO at the same address

Copy email to NOTICE@extenetsystems.com

All invoicing to Licensee may be made to the address above "ATTN: Accounts Payable" or electronically to: ap@util.extenetsystems.com

12.2 Change of Address. Company and Municipality may change its address or personnel for the receipt of notices at any time by giving notice thereof to the other as set forth above.

13 Other items

- 13.1 No Cable, OVS. This Permit does not authorize Company to provide commercial cable type services to the public, such as “cable service” or the services of an “open video system operator” (as such terms are defined in the Federal Communications Act of 1934 and implementing regulations, currently 47 U.S.C. §§ 522 (6), 573 and 47 CFR § 76.1500).
- 13.2 Duties. Company shall faithfully perform all duties required by this Permit.
- 13.3 Effective Date. This Permit shall become effective when issued by Municipality and Company has provided any insurance certificates and bonds required in Parts 6 and 8, and signed the acceptance of the Permit.
- 13.4 Authority. This Permit satisfies the requirement for a permit under Section 5 of the METRO Act [MCL 484.3105].
- 13.5 Amendment. Except as set forth in Section 2.1 this Permit may be amended by the written agreement of Municipality and Company.
- 13.6 Interpretation and Severability. The provisions of this Permit shall be liberally construed to protect and preserve the peace, health, safety and welfare of the public, and should any provision or section of this Permit be held unconstitutional, invalid, overbroad or otherwise unenforceable, such determination/holding shall not be construed as affecting the validity of any of the remaining conditions of this Permit. If any provision in this Permit is found to be partially overbroad, unenforceable, or invalid, Company and Municipality may nevertheless enforce such provision to the extent permitted under applicable law.
- 13.7 Governing Law. This Permit shall be governed by the laws of the State of Michigan.

COMPANY:

By: _____

Its: _____

STATE OF MICHIGAN)
) ss:
COUNTY OF OAKLAND)

On this _____ day of _____, 2023, before me personally appeared _____, who acknowledged that with authority on behalf of _____ to do so he/she signed this Agreement.

Notary Public


County, Michigan
Acting in _____ County, Michigan
My commission expires: _____

CITY OF BIRMINGHAM:


By: _____
Therese Longe, Mayor

By: _____
Alexandria D. Bingham, City Clerk

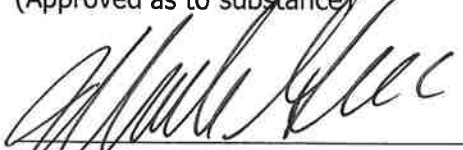
APPROVED:



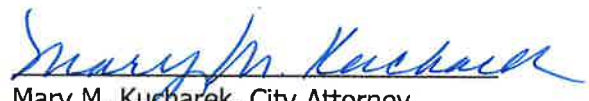
Jana Ecker, City Manager
(Approved as to substance)



Melissa Coatta, City Engineer
(Approved as to substance)



Mark A. Gerber, Director of Finance
(Approved as to financial obligation)



Mary M. Kucharek, City Attorney
(Approved as to form)

“Company accepts the Permit granted by Municipality upon the terms and conditions contained therein.”

ExteNet Systems, LLC

By: Michael N. Watson

Its: Deputy General Counsel

Date: _____

::ODMA\PCDOCS\GRR\759319\6

Exhibit A

Public Right-of-Way to be Used by Telecommunication Facilities

Exhibit B

Bond

**METRO Act Permit Application Form
Revised February 2, 2015**

City of Birmingham, MI

Name of Local Unit of Government

**APPLICATION FOR
ACCESS TO AND ONGOING USE OF PUBLIC WAYS BY
TELECOMMUNICATIONS PROVIDERS
UNDER
METROPOLITAN EXTENSION TELECOMMUNICATIONS
RIGHTS-OF-WAY OVERSIGHT ACT
2002 PA 48
MCL SECTIONS 484.3101 TO 484.3120**

BY

ExteNet Systems, LLC

("APPLICANT")

Unfamiliar with METRO Act?--Assistance: Municipalities unfamiliar with Michigan Metropolitan Extension Telecommunications Rights-of-Way Oversight Act ("METRO Act") permits for telecommunications providers should seek assistance, such as by contacting the Telecommunications Division of the Michigan Public Service Commission at 517-284-8190 or via its web site at http://www.michigan.gov/mpsc/0,4639,7-159-16372_22707---,00.html.

45 Days to Act—Fines for Failure to Act: The METRO Act states that "A municipality shall approve or deny access under this section within 45 days from the date a provider files an application for a permit for access to a public right-of-way." MCL 484.3115(3). The Michigan Public Service Commission can impose fines of up to \$40,000 per day for violations of the METRO Act. It has imposed fines under the Michigan Telecommunications Act where it found providers or municipalities violated the statute.

Where to File: Applicants should file copies as follows [municipalities should adapt as appropriate—unless otherwise specified service should be as follows]:

-- Three (3) copies (one of which shall be marked and designated as the master copy) with the Clerk at [insert address].

City of Birmingham, MI

Name of local unit of government

**APPLICATION FOR
ACCESS TO AND ONGOING USE OF PUBLIC WAYS BY
TELECOMMUNICATIONS PROVIDERS**

By

ExteNet Systems, LLC

("APPLICANT")

This is an application pursuant to Sections 5 and 6 of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, 2002 PA 48 (the "METRO Act") for access to and ongoing usage of the public right-of-way, including public roadways, highways, streets, alleys, easements, and waterways ("Public Ways") in the Municipality for a telecommunications system. The METRO Act states that "A municipality shall approve or deny access under this section within 45 days from the date a provider files an application for a permit for access to a public right-of-way." MCL 484.3115(3).

This application must be accompanied by a one-time application fee of \$500, unless the applicant is exempt from this requirement under Section 5(3) of the METRO Act, MCL 484.3105(3).

1 GENERAL INFORMATION:

1.1 Date: **8-3-2023**

1.2 Applicant's legal name: **ExteNet Systems, LLC**
Mailing Address: **5844 John Hickman Pkwy, Suite 600**
Frisco TX 75034

Telephone Number: **972-972-7200**
Fax Number: **630-577-1332**
Corporate website: **<https://extenet.com>**

Name and title of Applicant's local manager (and if different) contact person regarding this application:

Mailing Address: **Eric Lovvorn, Govt. Relations Director**
c/o Cathy Hapanionek, Legal-Regulatory Affairs
3030 Warrenville Rd., Suite 340
Lisle, IL 60532

Telephone Number: Eric Lovvorn, 770-337-5760
Telephone Number: Cathy Hapanionek, 630-245-4378
E-mail: elovvorn@extenetsystems.com; chapanionek@extenetsystems.com

1.3 Type of Entity: (Check one of the following)

- Corporation
- General Partnership
- Limited Partnership
- Limited Liability Company
- Individual
- Other, please describe: _____

1.4 Assumed name for doing business, if any: _____

1.5 Description of Entity:

1.5.1 Jurisdiction of incorporation/formation; Delaware

1.5.2 Date of incorporation/formation; October 1, 2002

1.5.3 If a subsidiary, name of ultimate parent company; N/A

1.5.4 Chairperson, President/CEO, Secretary and Treasurer (and equivalent officials for non-corporate entities).

- President/CEO: Richard Coyle
- General Counsel & Corporate Secretary: Telisa Webb Schelin
- Chief Financial Officer: Saroosh Ahmed

1.6 Attach copies of Applicant's most recent annual report (with state ID number) filed with the Michigan Department of Licensing and Regulatory Affairs and certificate of good standing with the State of Michigan. For entities in existence for less than one year and for non-corporate entities, provide equivalent information.

- Annual Report: N/A
- See attached Certificate of Good Standing

1.7 Is Applicant aware of any present or potential conflicts of interest between Applicant and Municipality? If yes, describe: No _____

1.8 In the past three (3) years, has Applicant had a permit to install telecommunications facilities in the public right of way revoked by any Michigan municipality?

Circle: Yes No

If "yes," please describe the circumstances.

1.9 In the past three (3) years, has an adverse finding been made or an adverse final action been taken by any Michigan court or administrative body against Applicant under any law or regulation related to the following:

1.9.1 A felony; or **No**.

1.9.2 A revocation or suspension of any authorization (including cable franchises) to provide telecommunications or video programming services?

Circle: Yes **No**

If “yes,” please attach a full description of the parties and matters involved, including an identification of the court or administrative body and any proceedings (by dates and file numbers, if applicable), and the disposition of such proceedings.

1.10 [If Applicant has been granted and currently holds a license to provide basic local exchange service, no financial information needs to be supplied.] If publicly held, provide Applicant’s most recent financial statements. If financial statements of a parent company of Applicant (or other affiliate of Applicant) are provided in lieu of those of Applicant, please explain.

- **See Attached CLEC and CAP designations.**

1.10.1 If privately held, and if Municipality requests the information within 10 days of the date of this Application, the Applicant and the Municipality should make arrangements for the Municipality to review the financial statements.

If no financial statements are provided, please explain and provide particulars.

- **ExteNet is a privately owned Company.**

2 DESCRIPTION OF PROJECT:

2.1 Provide a copy of authorizations, if applicable, Applicant holds to provide telecommunications services in Municipality. If no authorizations are applicable, please explain.

- **See attached CLEC and CAP designations.**

2.2 Describe in plain English how Municipality should describe to the public the telecommunications services to be provided by Applicant and the telecommunications facilities to be installed by Applicant in the Public Ways.

- **Fiber to support a Small Cell Wireless Communications Network serving the major wireless carriers.**

2.3 Attach route maps showing the location (including whether overhead or underground) of Applicant’s existing and proposed facilities in the public right-of-way. To the extent known, please identify the side of the street on which the facilities will be located. (If

construction approval is sought at this time, provide engineering drawings, if available, showing location and depth, if applicable, of facilities to be installed in the public right-of-way).

- Fiber route map submitted with application.

2.4 Please provide an anticipated or actual construction schedule.
Construction is anticipated to begin prior to the end of 2023.

2.5 Please list all organizations and entities which will have any ownership interest in the facilities proposed to be installed in the Public Ways.

- ExteNet Systems, LLC

2.6 Who will be responsible for maintaining the facilities Applicant places in the Public Ways and how are they to be promptly contacted? If Applicant's facilities are to be installed on or in existing facilities in the Public Ways of existing public utilities or incumbent telecommunications providers, describe the facilities to be used, and provide verification of their consent to such usage by Applicant. ExteNet Systems, LLC

3 TELECOMMUNICATION PROVIDER ADMINISTRATIVE MATTERS:

Please provide the following or attach an appropriate exhibit.

3.1 Address of Applicant's nearest local office;
Eric Lovvorn, Govt. Relations Director
c/o Cathy Hapanionek, Legal-Regulatory Affairs
3030 Warrenville Rd., Suite 340
Lisle, IL 60532

3.2 Location of all records and engineering drawings, if not at local office;
Eric Lovvorn, Govt. Relations Director
c/o Cathy Hapanionek, Legal-Regulatory Affairs
3030 Warrenville Rd., Suite 340
Lisle, IL 60532

3.3 Names, titles, addresses, e-mail addresses and telephone numbers of contact person(s) for Applicant's engineer or engineers and their responsibilities for the telecommunications system;

Koji Bjerke
Network Operations Center Manager
M: 808.348.1503
O: 630.245.2075
bbjerke@extenetsystems.com

3030 Warrenville Rd, Suite 340
Lisle, IL 60532

3.4 Provide evidence of self-insurance or a certificate of insurance showing Applicant's insurance coverage, carrier and limits of liability for the following:

- COI will be issued to city.

3.4.1 Worker's compensation;

3.4.2 Commercial general liability, including at least:

3.4.2.1 Combined overall limits;

3.4.2.2 Combined single limit for each occurrence of bodily injury;

3.4.2.3 Personal injury;

3.4.2.4 Property damage;

3.4.2.5 Blanket contractual liability for written contracts, products, and completed operations;

3.4.2.6 Independent contractor liability;

3.4.2.7 For any non-aerial installations, coverage for property damage from perils of explosives, collapse, or damage to underground utilities (known as XCU coverage);

3.4.2.8 Environmental contamination;

3.4.3 Automobile liability covering all owned, hired, and non-owned vehicles used by Applicant, its employee, or agents.

3.5 Names of all anticipated contractors and subcontractors involved in the construction, maintenance and operation of Applicant's facilities in the Public Ways.


4 CERTIFICATION:

All the statements made in the application and attached exhibits are true and correct to the best of my knowledge and belief.

8-3-2023
Date

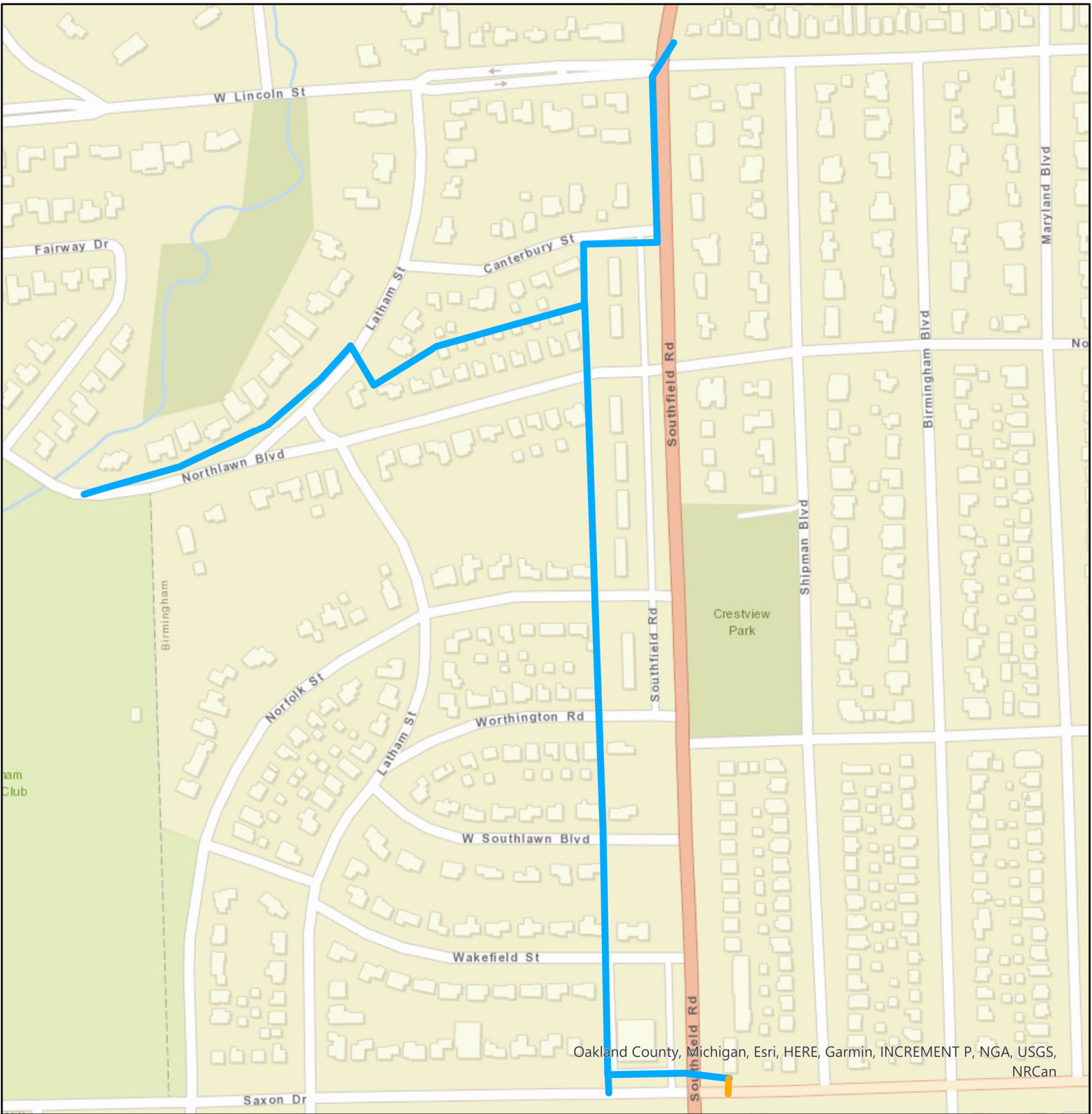
NAME OF ENTITY ("APPLICANT")

Extenet Systems, LLC

By: 
Type or Print Name: Eric B. Lovvorn

Government Relations Director
Title

S:\metroapplicationform.doc



Oakland County, Michigan, Esri, HERE, Garmin, INCREMENT P, NGA, USGS, NRCan



Proprietary and confidential

LEGEND

- New UG —
- New Aerial —





Oakland County, Michigan, Esri, HERE, Garmin, INCREMENT P, NGA, USGS, NRCAN

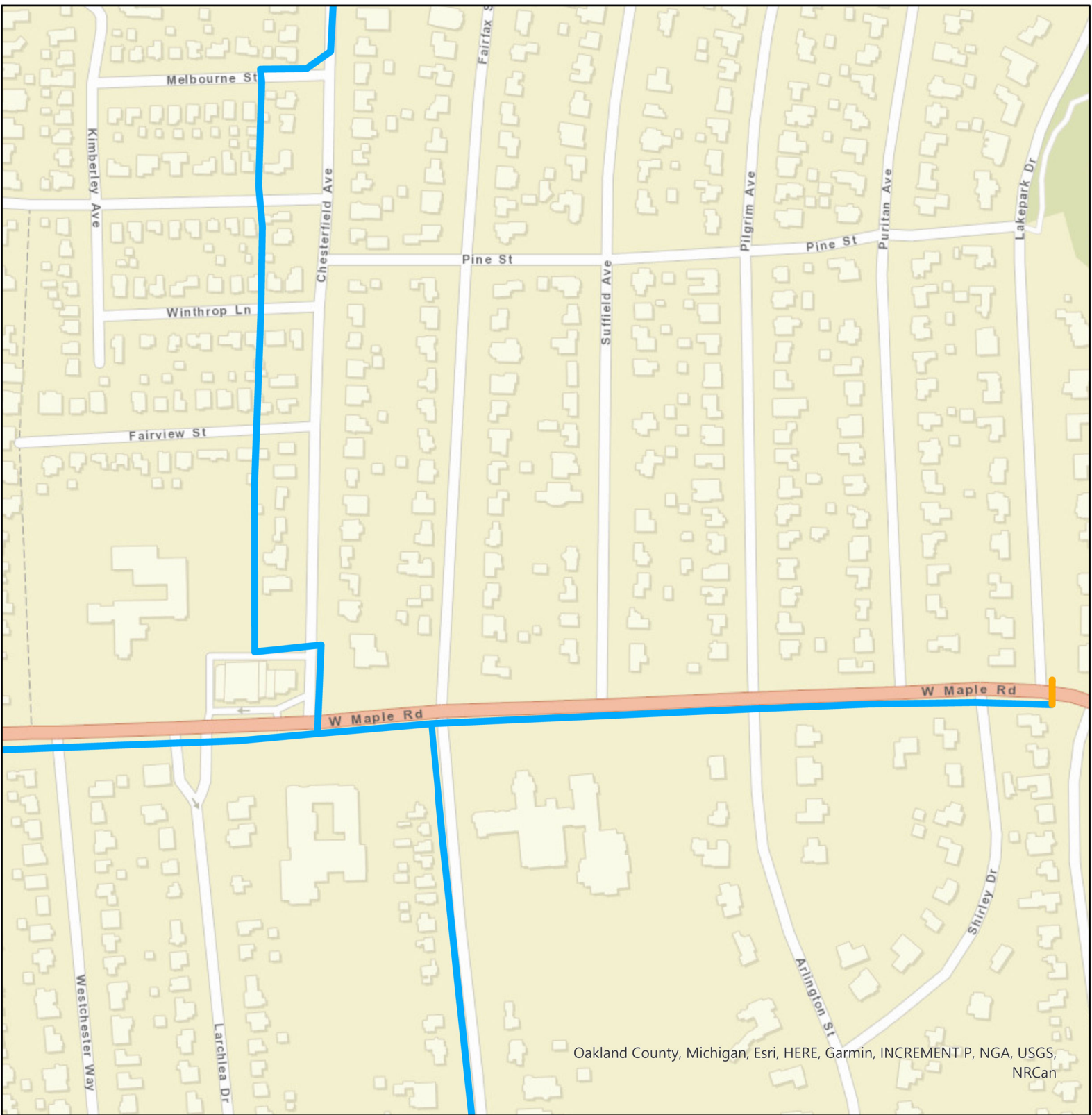


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- New UG —
- New Aerial —





LEGEND

- New UG —
- New Aerial —



Proprietary and confidential

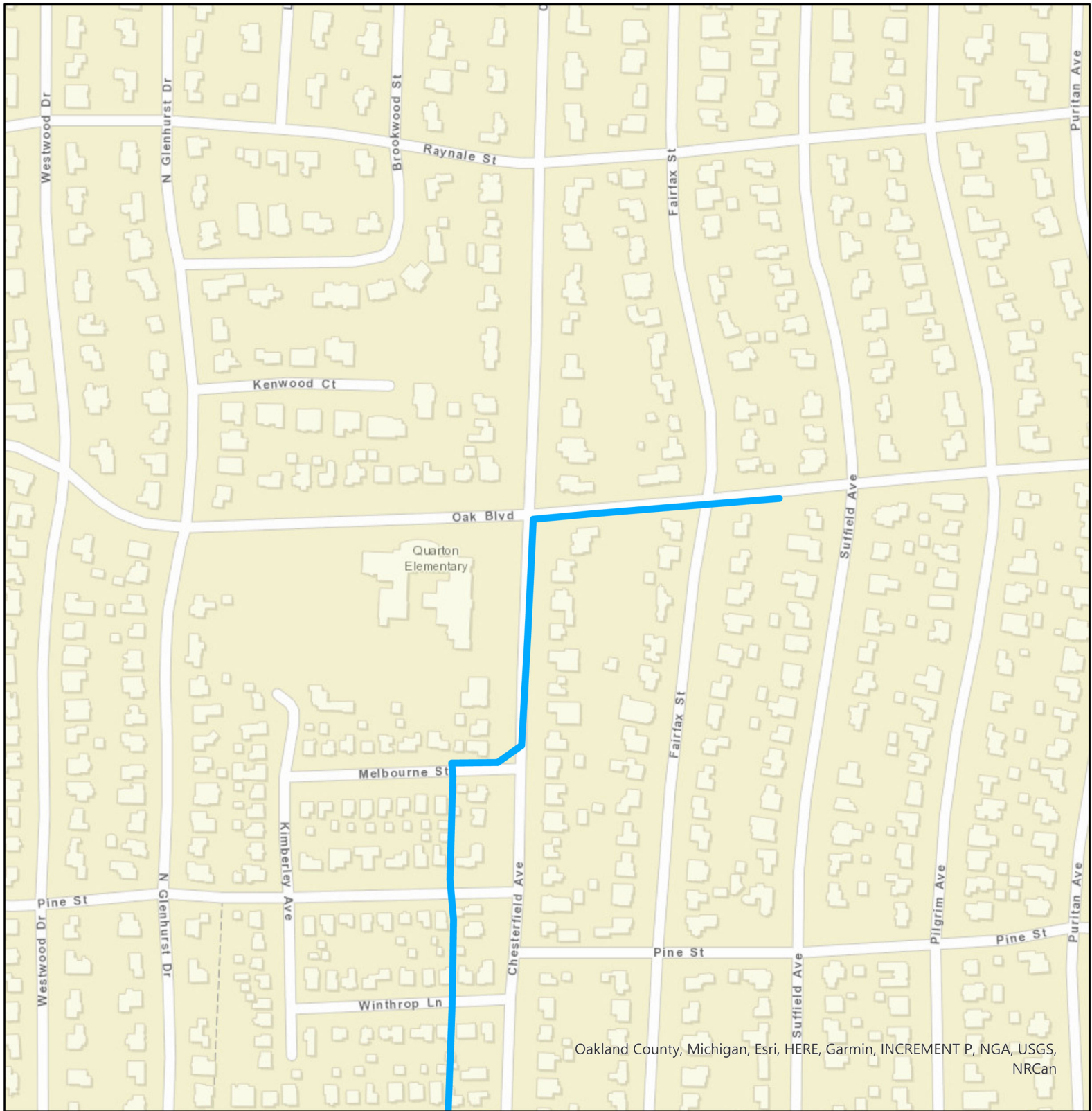


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LEGEND

- New UG —
- New Aerial —



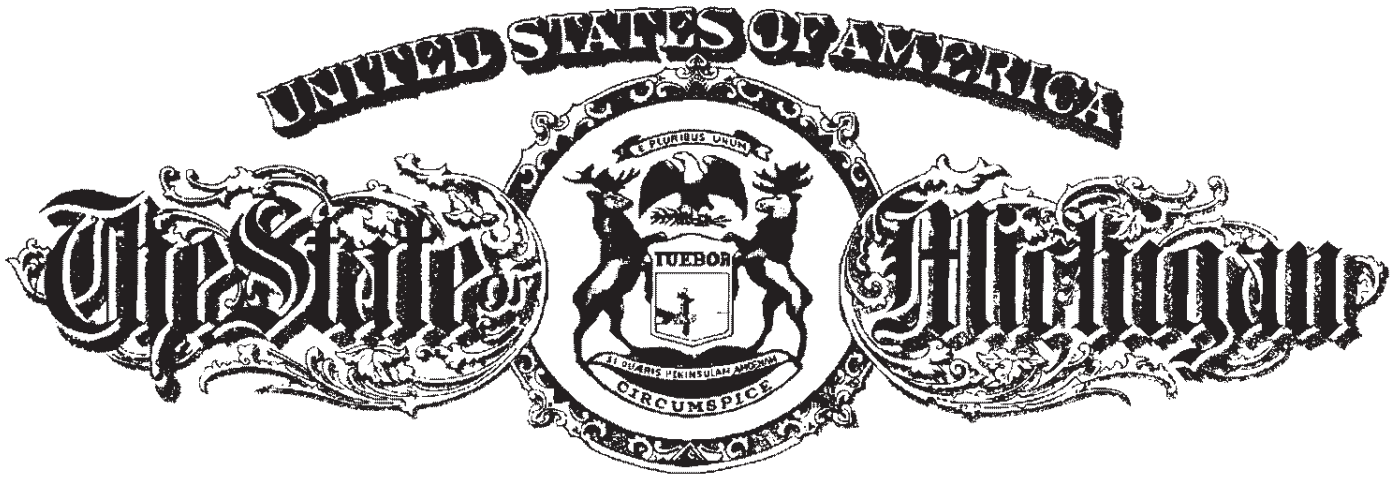


LEGEND

- New UG —
- New Aerial —



Proprietary and confidential



Department of Licensing and Regulatory Affairs

Lansing, Michigan

This is to Certify That

EXTENET SYSTEMS, INC.

a(n) DELAWARE profit corporation, was validly authorized on August 11, 2004, to transact business in Michigan, and that said corporation holds a valid certificate of authority to transact business in this state.

This certificate is issued pursuant to the provisions of 1972 PA 284, as amended, to attest to the fact that the corporation is in good standing in Michigan as of this date and is duly authorized to transact business in this state any business of the character set forth in its application which a domestic corporation formed under this act may lawfully conduct.

This certificate is in due form, made by me as the proper officer, and is entitled to have full faith and credit given it in every court and office within the United States.




Sent by Facsimile Transmission
1397435

In testimony whereof, I have hereunto set my hand, in the City of Lansing, this 8th day of July, 2016.

Julia Dale

Julia Dale, Director
Corporations, Securities & Commercial Licensing Bureau

 Labor and Economic Growth	Intrastate Telecomm Service Providers Michigan Public Service Commission	Michigan.gov The Official State of Michigan Website
Michigan.gov	MPSC Home Sitemap Contact MPSC FAQ	Search <input type="button" value="Go"/>

Company Contact Information

Registered Intrastate Telecommunication Services Providers

These companies have registered with the Michigan Public Service Commission per Commission Order U-11900.

ExteNet Systems, Inc

1901 S. Meyers Road
Suite 190
Oakbrook Terrace, IL 60181

Phone: (630) 932-2900
Fax: (630) 923-2907
Email: tray@extenetsystems.com

Customer Contact: Terry Ray
1901 S. Meyers Road
Suite 190
Oakbrook Terrace, IL 60181

Phone: (866) 342-2900
Fax: (630) 932-2907
Email: tray@extenetsystems.com

This company is registered as: (Hover Over for Description)

Competitive Access Provider (CAP)

Michigan.gov | [DLEG home](#) | [MPSC Home](#) | [ITSP Home](#)
[State Web Sites](#) | [Accessibility Policy](#) | [Link Policy](#) | [Privacy Policy](#) | [Security Policy](#)



MEMORANDUM

Finance Department

DATE: August 18, 2023
TO: Jana L. Ecker, City Manager
FROM: Mark Gerber, Finance Director/Treasurer
SUBJECT: 2023-2024 and 2024-2025 Assessing Contract

INTRODUCTION:

The City’s contract with Oakland County for assessing services expired on June 30, 2023. Oakland County has forwarded to the City a two-year renewal contract for the Commission’s approval.

BACKGROUND:

On June 13, 2022, the City Commission approved a one-year contract with Oakland County which provided for assessments of real and personal property, preparation of the assessment roll, attendance at the Boards of Review, and consultation on Michigan Tax Tribunal appeals. The current one-year contract expired on June 30, 2023. The County has provided the majority of the assessing services in the City since 2007-2008. Attached is a two-year contract with Oakland County to continue these services through June 30, 2025.

LEGAL REVIEW:

The City attorney has reviewed the contract and no issues were noted.

FISCAL IMPACT:

The renewal contract is basically the same as the previous contract entered into by the City with the County for assessing services except for the rate charged per parcel for the services provided. The County is seeking a 4% increase per year in the rates from the current contract. This is consistent with what other communities who use Oakland County Equalization are paying. The cost is a fixed price per parcel annually for the two-year term as follows:

	Est. Parcel Count	2023-2024	2024-2025
Real Property Rate		\$20.28	\$21.09
Personal Property Rate		\$14.82	\$15.41
Real Property	9,780	\$198,338	\$206,260
Personal Property	1,528	22,645	23,546
Postage & Supplies		5,925	6,150
Estimated Total		\$226,908	\$235,956

City staff continues to provide information for the maintenance of the land files and common data system used by other City departments, preparation of special assessments and other ancillary functions not provided for in the agreement.

The costs of the assessing department for its last full year of operations in fiscal year 2006-2007 were \$592,500. Current costs for the assessing function which includes City staff time, Boards of Review and the Oakland County contract is approximately \$319,800. Utilizing the Oakland County Equalization Division for assessing services has resulted in savings to the City.

The City has budgeted sufficient funds to cover the cost of this contract.

SUSTAINABILITY:

This contract does not contain any sustainability initiatives.

PUBLIC COMMUNICATIONS:

This contract does not require public noticing.

SUMMARY:

Based on the savings to the City, it is recommended that the City Commission approve the two-year contract with Oakland County for assessing services.

ATTACHMENT:

1. Assessing Services Contract Renewal for the period July 1, 2023 – June 30, 2025

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution approving a two-year contract between the City and Oakland County for assessing services for the period of July 1, 2023 through June 30, 2025 and to authorize the Mayor and the City Clerk to sign the agreement on behalf of the City.

**Equalization Division
Leadership Team**

Micheal R Lohmeier, MMAO, PPE
Equalization Officer
248.858.0760
lohmeierm@oakgov.com

Terry Schultz, MMAO, PPE
Chief
248.858.1699
schultzt@oakgov.com

Tracy Jones, MMAO, PPE
Chief
248.975.9586
jonestr@oakgov.com

Amanda Marshall, MMAO, PPE
Chief
248.858.8767
marshalla@oakgov.com

Bryan Paris, MMAO, PPE
Field Supervisor
248.858.8766
parisb@oakgov.com

Joycelyn Isenberg, MMAO, PPE
Field Supervisor
248.975.9502
isenbergj@oakgov.com

Tiffany Jacob, MMAO, PPE
Field Supervisor
248.858.0749
jacobt@oakgov.com

Elizabeth Beauchamp, MMAO, PPE
Field Supervisor
248.858.7351
beauchampe@oakgov.com

Mike Glynn, MCAO, PPE
Supervisor – Land Description &
Mapping
248.975.4451
glynnm@oakgov.com

Leigh Ann Bouchey, MMAO, PPE
Clerical
248.858.5585
boucheyl@oakgov.com

August 11, 2023

Ms. Jana Ecker, City Manager
City of Birmingham
151 Martin St., P.O. Box 3001
Birmingham, MI 48009

RE: Assessment Contract 2023-2025

Dear Jana Ecker:

I hope this letter finds you well. As you are aware, our existing Contract between the Oakland County Equalization Division and your community expired on June 30, 2023. As previously communicated, this delay was the result of a comprehensive review to ensure that our Contract is as transparent as possible regarding our respective responsibilities. Enclosed with this letter you will find the updated Assessing Services Contract, which outlines the terms and conditions of our partnership.

The Contract's main components remain unchanged in substance. The costs per parcel have been adjusted by a 4% increase per Real Property Parcel and Personal Property Parcel, for the Contract Year beginning July 1, 2023 to June 30, 2024; and another 4% increase per Real Property Parcel and Personal Property Parcel, for the Contract Year beginning July 1, 2024 to June 30, 2025. See Contract attached, Sections 10.2 and 10.3. These adjustments reflect inflationary increases in the County's cost of providing services.

We have taken utmost care to ensure that all aspects of our engagement are thoroughly covered within the contract. It is designed to provide clarity on the objectives, responsibilities, timelines, and other relevant details that will guide our work together.

To proceed with the contract, we kindly request that you review the document at your earliest convenience. If you find the terms acceptable, we ask that you present it to your duly elected officials for approval and then sign the signature page enclosed with the contract and have it witnessed.

We require four (4) copies returned, including ORIGINAL signed Signature pages, to our office with the voted RESOLUTIONS from your local meeting approving the Contract. This will facilitate the necessary processing and documentation on our end to County Board of Commissioner Chair David T. Woodward for his signature and ensuring a seamless implementation of the contract.

Should you have any questions, or if you would like to discuss any specific points within the Contract, please do not hesitate to reach out to me. I am also available to arrange a video meeting to discuss the Contract and address any concerns, or if you prefer, we can meet face-to-face.

Please feel free to contact me at 248.858.0760 or by email at lohmeierm@oakgov.com to coordinate any further steps or to schedule a meeting.

Thank you for your attention to this matter. We value the opportunity to work alongside your community and are eager to move forward with continuing our partnership.

Sincerely,



**Micheal R. Lohmeier, MMAO, PPE, MAI, SRA, FASA, RES
Equalization Officer**

Oakland County Equalization Division
250 Elizabeth Lake Road, Suite 1000W
Pontiac, MI 48341-0431
Phone: 248.858.0760
Email: lohmeierm@oakgov.com

**CONTRACT FOR OAKLAND COUNTY
EQUALIZATION DIVISION ASSISTANCE
FOR
REAL AND PERSONAL PROPERTY ASSESSMENT
ADMINISTRATION SERVICES
WITH THE CITY OF BIRMINGHAM**

This CONTRACT FOR OAKLAND COUNTY EQUALIZATION DIVISION ASSISTANCE FOR REAL AND PERSONAL PROPERTY ASSESSMENT ADMINISTRATION SERVICES (hereafter, this "Contract") is made and entered into between the COUNTY OF OAKLAND, a Michigan Constitutional and Municipal Corporation, whose address is 1200 North Telegraph Road, Pontiac, Michigan 48341 (hereafter, the "County"), and WITH the City of Birmingham, a Michigan Constitutional and Municipal Corporation whose address is 151 Martin Street, Birmingham, Michigan 48009 (hereafter, the "Municipality"). In this Contract, either the County and/or the Municipality may also be referred to individually as a "Party" or jointly as "Parties."

INTRODUCTORY STATEMENTS

1. The Municipality, pursuant to the laws of the State of Michigan (hereafter, the "State"), including, but not limited to, the Michigan General Property Tax Act ("GPTA") (MCL 211.1, et seq.) is required to perform real and personal property tax appraisals and assessments for all nonexempt real and personal property located within the geographic boundaries of the Municipality for the purpose of levying State and local property taxes.
2. The Parties acknowledge that absent an agreement such as this, and in accordance with MCL 211.10(f)(1), if the Municipality does not have an assessment roll that has been certified by a qualified certified assessing officer, or if a certified assessor is not in substantial compliance with the provisions this of Act, the State Tax Commission (Commission) shall assume jurisdiction over the assessment roll and provide for the preparation of a certified roll. The Commission may order the County to prepare the roll; may provide for the use of state employees to prepare the roll; or may order the Municipality to contract with a commercial appraisal firm to conduct an appraisal of the property in the Municipality under the supervision of the County and Commission.
3. The Michigan General Property Tax Act (MCL 211.34(3)) provides that the County Board of Commissioners, through the Equalization Division, may furnish assistance to local assessing officers in the performance of certain responsibilities, including the discovery, listing, and valuation of properties for tax purposes, as well as the development and use of uniform valuation standards and techniques for the assessment of property.
4. The Municipality has requested the County's Equalization Division's Assistance in performing the "Real and Personal Property Assessment Administration Services" (as described and defined in this Contract) and has agreed in return to reimburse the County as provided for in this Contract.
5. The County has determined that it has sufficient "Assessment Division Personnel",

possessing the requisite knowledge and expertise and is agreeable to assisting the Municipality by providing the requested "Real and Personal Property Assessment Administration Services" under the terms and conditions of this Contract.

NOW, THEREFORE, in consideration of these premises and the mutual promises, representations, and agreements set forth in this Contract, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the County and the Municipality mutually agree as follows:

§1. **DEFINED TERMS.** In addition to the above defined terms (i.e., "Contract", "County", "Municipality", "Party" and "Parties", and "State"), the Parties agree that the following words and expressions when printed with the first letter capitalized as shown herein, whether used in the singular or plural, possessive or non-possessive, and/or either within or without quotation marks, shall, be defined and interpreted as follows:

1.1 "County Agent" or "County Agents" shall be defined as any and all Oakland County elected officials, appointed officials, directors, board members, council members, commissioners, authorities, other boards, committees, commissions, employees, managers, departments, divisions, volunteers, agents, representatives, and/or any such persons' successors or predecessors, agents, employees, attorneys, or auditors (whether such persons act or acted in their personal representative or official capacities), and/or any persons acting by, through, under, or in concert with any of them, excluding the Municipality and/or any Municipality Agents, as defined herein. "County Agent" and/or "County Agents" shall also include any person who was a County Agent anytime during the term of this Contract but, for any reason, is no longer employed, appointed, or elected and serving as a County Agent.

1.2 "Equalization Division Personnel" as used in this Contract shall be defined as a subset of, and included as part of the larger group of, County Agents as defined above, and shall be further defined as any and all County Agents specifically employed and assigned by the County to work in the Equalization Division of the County's Department of Management and Budget as shown in the current County budget and/or personnel records of the County, for the express purposes of provided equalization services, and its related activities, in adherence with MCL 211.34.

1.2.1 Any reference in this Contract to Equalization Division Personnel shall not include any County Agent employed by the County in any other function, capacity or organizational unit of the County other than the Equalization Division of the Department of Management and Budget.

1.3 "Assessment Division Personnel" as used in this Contract shall be defined as a subset of, and are included as part of the larger group of County Agents as defined above. They are defined as County Agents specifically employed and assigned by the County Equalization Division, for the express purposes of providing Assessment Services, in adherence with MCL 211.10d. These activities include preparing the Municipalities annual assessment roll.

1.3.1 Any reference in this Contract to Assessment Division Personnel shall not

include any County Agent employed by the County in any other function, capacity, or organizational unit of the County other than the Equalization Division of the Department of Management and Budget.

- 1.4 “Real and Personal Property Assessment Administration Services” identified in this Contract as “Assessment Services,” and by MCL 211.10d, are defined as those services provided by the County’s Assessment Division Personnel. These services do not pertain to those provided by Equalization Division Personnel, or activities as provided by, or related as, County Equalization Services, MCL 211.34.
- 1.5 “Municipality Agent” or “Municipality Agents” shall be defined to include, but not limited to, any and all Municipality officers, elected officials, appointed officials, directors, board members, council members, authorities, boards, committees, commissions, employees, managers, departments, divisions, volunteers, agents, representatives, and/or any such persons’ successors or predecessors, agents, employees, attorneys, or auditors, whether such persons act or acted in their personal, representative, or official capacities, and/or any and all persons acting by, through, under, or in concert with any of them. No County Agent shall be deemed a Municipality Agent, and conversely, no Municipality Agent shall be deemed a County Agent. “Municipality Agent” shall also include any person who was a Municipality Agent at any time during this Contract but for any reason is no longer employed, appointed, or elected in that capacity.
- 1.6 “Claim(s)” shall be defined to include any and all alleged losses, claims, complaints, demands for relief or damages, suits, causes of action, proceedings, judgments, deficiencies, liability, penalties, litigation costs and expenses, including, but not limited to, any reimbursement for reasonable attorney fees, witness fees, court costs, investigation and/or litigation expenses, any amounts paid in settlement, and/or any other amounts, liabilities or Claim(s) of any kind whatsoever which are imposed on, incurred by, or asserted against either the County and/or any County Agent, as defined herein, or any Claim(s) for which the County and/or any County Agent may become legally and/or contractually obligated to pay or defend against, or any other liabilities of any kind whatsoever, whether direct, indirect or consequential, whether based upon any alleged violation of the constitution (Federal or State), any statute, rule, regulation or the common law, whether in law or equity, tort, contract, or otherwise, and/or whether commenced or threatened and arising out of any alleged breach of any duty by the County and/or any County Agent to any third-person, the Municipality, including any Municipality Agent or any Municipality Taxpayer under or in connection with this Contract or are based on or result in any way from the County’s and/or any County Agent’s participation in this Contract.
- 1.7 “Municipality Taxpayer” shall be defined as any and all residents, property owners, persons, or entities within the Municipality, or their representatives or agents, who may be liable or responsible for any property taxes assessed by the Municipality pursuant to any applicable State Property Tax Laws.
- 1.8 “State” shall be defined as the “State of Michigan,” a sovereign governmental entity of the United States, and shall also include within its definition any, and all,

departments or agencies of State government including specifically, but not limited to, the State Tax Commission, the State Tax Tribunal, and/or the State Department of Treasury, unless used in this Contract to provide specific context otherwise, and will do so as:

- 1.8.1 "Treasury" shall be defined as the "Department of Treasury," of the State of Michigan.
- 1.8.2 "Commission" shall be defined as the "State Tax Commission," of the Department of Treasury, of the State of Michigan.
- 1.8.3 "Tribunal" shall be defined as the "Michigan Tax Tribunal," of the Department of Licensing and Labor Affairs, of the State of Michigan.

§2. PURPOSE OF COUNTY ASSESSMENT SERVICES. The Parties agree that the purpose of any and all "Equalization Division Assistance Services" is to provide Assessment Services to be performed under this Contract and shall be to assist (e.g., to help, aid, lend support, and/or participate in as an auxiliary, to contribute effort toward completion of a goal, etc.) the Municipality in the performance of that Municipality's official functions, obligations, and Municipality's legal responsibilities for property tax appraisal and assessment pursuant to the applicable State Property Tax Laws.

§3. ASSESSMENT SERVICES. The Parties agree the full and complete scope of any, and all, Assessment Services shall be as described and limited in the following subsections.

- 3.1 Assessment Division Personnel will inspect, measure, list, and evaluate depreciation of real property as necessary; including new construction, newly modified existing real property improvements, demolition permits, reported fire damaged properties, and will adhere to State requirements. Assessment Division Personnel will conduct personal property canvass, process personal property statements, conduct audits; using appropriate assessment methods, personal property multipliers, and adhering to state requirements. Assessment Division Personnel will examine errors, omissions, or other applicable sources.
- 3.2 Municipality agrees to provide the County with all fire reports and building permits relating to construction activity, and any site plans, architectural plans, blueprints, as requested and needed for new construction, additions, demolitions, and other activities related to assessment administration practices.
- 3.3 Assessment Division Personnel will enter data into acceptable Computer Assisted Mass Appraisal (CAMA) software program, tested for data and quality integrity incorporating the State Tax Commission *Assessors Manual*. (i.e., BS&A software). Assessment Division Personnel will assess taxable property, including new construction, ensuring taxable value uncapping of any property following transfer of ownership. All updating of transfers of ownership will be made into an industry accepted CAMA software program.
- 3.4 Assessment Division Personnel will annually determine assessed, capped, and

taxable value for each property.

- 3.5 Assessment Division Personnel will process and review all new exemption applications to determine compliance with statutory requirements, prior to approving, and/or making recommendations to local authority.
 - 3.5.1 Assessment Division Personnel will annually audit and determine existing exemptions to determine continuing eligibility.
 - 3.5.2 The Municipality agrees to cooperate with County and provide any and all applications, affidavits, and other documents which are provide to Municipality in a timely and organized manner in order for County to process.
- 3.6 Assessment Division Personnel will analyze sales data to uniformly and equitably generate accurate assessments and create land and ECF studies.
- 3.7 Assessment Division Personnel will evaluate mass appraisal acceptable statistical measurements for annual assessment-to-sale ratio studies.
- 3.8 Assessment Division Personnel will prepare and maintain ad valorem assessment roll, including property classifications, property descriptions, any special act-related roll(s) (e.g., IFT, CRA), and Municipality agrees to cooperate with Assessment Division Personnel in providing assistance when and where needed.
- 3.9 Assessment Division Personnel will sign all necessary pre-Board of Review assessment roll certifications, and attend Board of Review meetings, as required by state requirements and charter of Municipality. Assessment Division Personnel will present the certified assessment roll before the Board of Review, and mail Notice of Assessments, as required per state requirements. Municipality agrees to have its Board of Review membership filled and provide necessary support for all Board of Review functions in compliance with State requirements.
- 3.10 Upon request, Assessment Division Personnel agree to attend meetings with Municipality officials and meetings with the public, when reasonable notice of the meeting is given in advance to County.
- 3.11 Assessment Division Personnel will have the required certifications for Municipality and will maintain certifications, and all support staff will be trained to adequately assist Municipality leadership, staff, community residents and property owners.
- 3.12 Parties agree that during the process of developing assessments, it is in each Party's legitimate interest to promote full cooperation with each other, and for Assessment Division Personnel to provide the best possible Public Relations efforts with residents and business owners.
- 3.13 Assessment Division Personnel agree to respond to the general public's inquiries regarding its assessment records, and the inquiries for assessment and tax records under the Freedom of Information Act. Assessment records identified in MCL 211.10a will be made accessible and available for inspection and copying by the

public regardless of its location. Access to and inspection of public records is available on the County's website, and in-person as indicated on signage located at the reception area of Equalization's main office, as required by MCL 211.10a.

- 3.14 Assessment Division Personnel will assist the Municipality in its own internal practices with providing calculations of estimations of cost only for commercial and/or industrial real property for special act project cost benefit analysis; provided that the necessary construction cost detail, and any other application related information, is made available. Assessment Division Personnel will not prepare estimates for speculative commercial and/or industrial developments that are requested by private individuals, developers, other private parties, or for individual residential properties.
- 3.15 Assessment Division Personnel shall make the assessments within the Municipality pursuant to MCL 211.10d and MCL 211.10e, and as of December 31, the State's statutory "Tax Day", unless court or statute requires otherwise (e.g., exemptions, bankruptcy orders, etc.). The Parties agree and based on the Contract Term as set forth in Section 10 of this Contract, the Assessment Division Personnel will develop each assessment roll as of December 31, 2023, for the 2024 tax year, and December 31, 2024, for the 2025 tax year.
- 3.16 Assessment Division Personnel will not provide any services which would preclude them from maintaining their duties in accordance with MCL 211.10d and MCL 211.10e, which includes serving in any capacity within the Municipality which could be considered a conflict of interest.
- 3.17 The County agrees to review Municipality approved splits and combinations prior to providing it with parcel identification numbers (PIN) and will update tax descriptions as they change over time to ensure accuracy of available parcel information.

§4. MICHIGAN TAX TRIBUNAL. Assessment Division Personnel agree to assist the Municipality in its defense relating to its appealed assessments involving the "Michigan Tax Tribunal" and "Tribunal".

4.1 Michigan Tax Tribunal, "Entire Tribunal Division" and "Entire Tribunal". Both Parties agree Entire Tribunal cases require due diligence to reach a result that enables Assessment Division Personnel to continue to develop fair, objective, impartial, uniform, and credible assessments of properties for assessment purposes. The Parties agree to work together throughout the appeal process for a fair resolution, however, Assessment Division Personnel shall be the final decision-maker of all Entire Tribunal appeals.

4.1.1 Municipality agrees its attorney will file its answer to each petition filed within the Entire Tribunal. Assessment Division Personnel agree to assist Municipality's attorney with any and all assessment records for its timely filing. The Parties agree Municipality attorney is responsible for all legal filings, including discovery, with the Tribunal.

4.1.2 The Parties agree Assessment Division Personnel and Municipality attorney

will work together throughout appeal duration, with Assessment Division Personnel sharing assessment and market related information.

- 4.1.3 Municipality agrees, if an outside appraisal report is required for use as evidence within the Entire Tribunal, the Municipality attorney will hire the private independent fee appraiser(s), who will be properly licensed or certified through the State of Michigan, for any real property-related property appeals, or otherwise qualified appraiser, for any non-real property appeal. Municipality further agrees the Selection of the appraiser will be made by Assessment Division Personnel, with participation and input from the Municipality attorney.
- 4.1.4 Municipality agrees it will be financially responsible for all costs incurred for any Tribunal appeals (e.g., appraisals, inspections, surveys, legal costs, etc.).
- 4.2 Michigan Tax Tribunal “Residential and Small Claims Division” and “Small Claims”. Parties agree Small Claims cases require due diligence to reach a result that enables Assessment Division Personnel to continue to develop fair, objective, impartial, uniform, and credible assessments of properties for assessment purposes. The Parties agree to ensure public trust, Assessment Division Personnel shall be the final decision-maker of all Small Claims appeals.
 - 4.2.1 Small Claims cases Involving Assessment Division Personnel. The Parties agree many Small Claim cases are non-complex residential properties, other non-complex non-residential properties, and those involving Assessment Division Personnel filing Answers to Petitions, with remainder of communications directly with Petitioners (i.e., owners). These cases will be handled with Assessment Division Personnel preparing petition answers, valuation disclosures as evidence for the Tribunal, testimony provided by Assessment Division Personnel, and decisions provided by the Tribunal. In these cases, Municipality agrees its attorney would be involved, as necessary, and in instances when motion practice is required for inspection of the property, or if the case were appealed to the Court of Appeals.
 - 4.2.2 Small Claims cases involving Municipality attorney and/or appraisers. The Parties agree on complex residential properties, complex non-residential properties, cases involving special assessments, and other cases where the issue is of a legal nature, there is often a need for the Municipality attorney to file its answer from the start of the appeal, or for the Municipality to hire an independent fee appraiser. Municipality agrees to the selection of the appraiser by the Assessment Division Personnel, with participation and input from the Municipality attorney. Assessment Division Personnel will assist the Municipality attorney and will provide final resolution for any potential settlement solution, with input from the Municipality attorney. The Parties agree Assessment Division Personnel will determine complexity of the case and/or of the property on a case-by-case basis.
 - 4.2.3 Municipality agrees it will be financially responsible for all costs incurred for any Tribunal appeals (including but not limited to, appraisals, inspections,

surveys, legal costs, photocopies etc.).

- 4.3 The Parties agree that they will cooperate and assist in appeals to the Court of Appeals and State Supreme Court, and in cases filed in the Oakland County Circuit Court, in the same manner as set forth above. Municipality agrees that it is responsible for legal representation in all courts and for all costs incurred for any tax related appeals to Michigan courts (including but not limited to appraisals, inspections, surveys, legal fees and costs, etc.).

§5. STATE TAX COMMISSION. Assessment Division Personnel agree to assist the Municipality involving any related activities, including petitioning and defense activities, relating to issues of classifications and incorrectly reported and omitted property ("MCL 211.154") involving the "State Tax Commission" and "Commission". Assessment Division Personnel will also provide those services necessary to initiate within, or to respond to inquiries from, the Commission including, but not limited to, assessment, incorrectly reported and/or omitted property, tax exemption, and/or classification matters pertaining to property located within the Municipality, and will prepare and file documents required with the Commission, and will appear before the Commission, when necessary.

§6. MANNER IN WHICH COUNTY WILL PROVIDE ASSESSMENT SERVICES. The Parties agree that any and all Assessment Services to be provided by the County for the Municipality under this Contract shall be performed solely and exclusively as defined herein.

- 6.1 Assessment Division Personnel shall be employed and assigned by the County based on such appropriate qualifications and other factors as decided solely by the County.
- 6.2 The Parties agree that the County shall be solely and exclusively responsible for furnishing all Assessment Division Personnel with all job instructions, job descriptions and job specifications and shall in all circumstances control, supervise, train and direct them under this Contract.
- 6.3 The Parties agree the Assessment Division Personnel and Oakland County Equalization Division main office is located at 250 Elizabeth Lake Road, Suite #1000 W, Pontiac, Michigan, 48341.
- 6.3.1 The Parties agree that County Agents will not maintain any specific, regular, or otherwise routine office hours located within the Municipality's offices.
- 6.4 Municipality agrees to maintain its own staff who will support Assessment Division Personnel in delivery of any records, permits, fire reports, millage rates, or documents, as may be required.
- 6.5 The Parties agree Municipality is not acting in a certified or uncertified support staff capacity. This does not prevent the Municipality from providing its own public services in other professional capacities (e.g., Treasurer, Clerk, Building Department, etc.).

- 6.6 The Parties agree MCL 211.10d and MCL 211.10e will be adhered to when preparing the Municipality's assessment roll.
- 6.7 Except as otherwise expressly provided for herein, the Parties agree and warrant that, at all times and for all purposes relevant to this Contract, the County shall remain the sole and exclusive employer of all County Agents and that the County shall remain solely and completely liable for any and all County Agents' past, present, or future wages, compensation, overtime wages, expenses, fringe benefits, pension or retirement benefits, travel expenses, mileage allowances, training expenses, transportation costs, and/or other allowances or reimbursements of any kind, including, but not limited to, workers' disability compensation benefits, unemployment compensation, Social Security Act protection(s) and benefits, any employment taxes, and/or any other statutory or contractual right or benefit based on or in any way related to any County Agent's employment status.
- 6.8 This Contract is neither intended, nor shall it be interpreted, to create, change, grant, modify, supplement, supersede, alter, or otherwise affect or control, in any manner, form, or at any time, any right, privilege, benefit, or any other term or condition of employment, of any kind or nature whatsoever, in, upon, or for any County Agents with the County, any applicable County employment and/or union contract, and/or any County rule(s), regulation(s), hours of work, shift assignment, order(s), policy(ies), procedure(s), directive(s), ethical guideline(s), etc., which shall, solely and exclusively, govern and control the employment relationship between the County and any County Agent and/or the conduct and actions of any County Agent. To illustrate, but not otherwise limit, this Contract does not and shall not be interpreted to limit, modify, control, or otherwise affect, in any manner:
- 6.8.1 The County's sole and exclusive right, obligation, responsibility, and discretion to employ, compensate, assign, reassign, transfer, promote, reclassify, discipline, demote, layoff, furlough, discharge any County Agents and/or pay any and all County Agent's wages, salaries, allowances, reimbursements, compensation, fringe benefits, or otherwise decide any and all such terms and conditions of employment and make any and all employment decisions that affect, in any way, the employment of any County Agents with the County, subject only to its applicable collective bargaining Contracts.
- 6.8.2 The County's sole and exclusive right, obligation, and responsibility to determine, establish, modify, or implement any and all operational policies, procedures, orders, rules, regulations, ethical guidelines, and/or any other judgment, policy or directive which, in any way, governs or controls any activity of any County Agent, any necessary County Agent's training standards or proficiency(ies), any level or amount of required supervision, any and all standards of performance, any sequence or manner of performance, and any level(s) of experience, training, or education required for any County Agents performing any County duty or obligation under the terms of this Contract.

- 6.9 Municipality agrees that except as expressly provided for under the terms of this Contract and/or laws of this State, no Assessment Division or Equalization Division Personnel, while such person is currently and/or actively employed or otherwise remains on the payroll of the County as a County Agent shall be employed, utilized, or perform any other services, of any kind, directly or indirectly, in any manner or capacity, or otherwise be available to perform any other work or assignments by or for the Municipality during the term of this Contract. This section shall not prohibit the Municipality from employing any person who was a former County Agent but is no longer employed in that capacity by the County.
- 6.10 Except as otherwise expressly provided by the Contract and/or applicable State law, the Parties agree and warrant that neither the County, nor any County Agent, by virtue of this Contract or otherwise, shall be deemed, considered, or claimed to be an employee of the Municipality and/or a Municipality Agent.
- 6.11 The Municipality shall not otherwise provide, furnish, or assign any County Agents with any job instructions, job descriptions, job specifications, or job duties, or in any manner attempt to control, supervise, train, or direct any Personnel in the performance of any Assessment Service responsibilities under the terms of this Contract.

§7. LIMITS AND EXCLUSIONS ON COUNTY SERVICE. Except as otherwise expressly provided for within this Contract, neither the County nor any County Agents shall be responsible for assisting or providing any other "Services" or assistance to the Municipality or assume any additional responsibility for assisting the Municipality in any other way or manner with any Municipality obligations under any and all State Property Tax Laws, including, but not limited to, providing any attorney or legal representation to the Municipality or any Municipality Agent at any proceeding before the Michigan Tax Tribunal or any other adjudicative body or court, except as expressly provided for in this Contract.

- 7.1 Municipality agrees it shall, always and under all circumstances, remain solely liable for any and all costs, legal obligations, and/or civil liabilities associated with or in any way related to any Municipality tax appraisal or assessment functions or any other Municipality legal obligation under any applicable State Property Tax Laws. The Municipality shall employ and retain its own Municipality legal representation, as necessary, to defend any such claim or challenge before the State Tax Tribunal or any other court or review body. The Municipality is financially responsible for all valuation costs associated with any related Appraisals resulting from the assessment roll(s) pertaining to this Contract. All communications pertaining to appeals, and potential appeals, involving the State Tax Commission and Michigan Tax Tribunal shall be directly made to the Equalization Officer and its Chiefs of the Equalization Division by the Municipality legal counsel to ensure timeliness in its notifications.
- 7.2 Except for those express statutory and any regulatory obligations incumbent upon the Assessment Division Personnel to defend assessments they performed

before the Michigan Tax Tribunal, State Tax Commission and courts, the Parties agree that no other County Agents, including any County attorneys shall be authorized, required and/or otherwise obligated under this Contract or pursuant to any other agreement between the Parties to provide any legal representation to or for the Municipality and/or otherwise defend, challenge, contest, appeal, or argue on behalf of the Municipality before the Michigan Tax Tribunal, State Tax Commission or any other review body or court.

§8. MUNICIPALITY AGENTS AND THE COUNTY. The Municipality agrees that it shall be solely and exclusively responsible, during the term of this Contract, for guaranteeing that all Municipality Agents fully cooperate with all County Agents in the performance of all County Services under this Contract. Likewise, the County agrees that it shall be solely and exclusively responsible, during the term of this Contract, for guaranteeing that all Assessment Division Personnel fully cooperate with Municipality Agents in the performance of all County Services under this Contract.

8.1 Municipality Agents shall be employed and assigned based on appropriate qualifications and other factors as decided by the Municipality. The Municipality agrees that it shall be solely responsible for furnishing all Municipality Agents with all job instructions, job descriptions and job specifications and shall solely control, direct, and supervise all Municipality Agents and shall be solely responsible for the means and manner in which Municipality's duties or obligations under any applicable State Property Tax Laws are satisfied.

8.2 The Municipality agrees that it shall be solely and completely liable for any and all Municipality Agents' past, present, or future wages, compensation, overtime wages, expenses, fringe benefits, pension or retirement benefits, travel expenses, mileage allowances, training expenses, transportation costs, and/or other allowances or reimbursements of any kind, including, but not limited to, workers' disability compensation benefits, unemployment compensation, Social Security Act protection(s) and benefits, any employment taxes, and/or any other statutory or contractual right or benefit based on or in any way related to any Municipality Agent's employment status or any alleged violation of any Municipality Agent's statutory, contractual (e.g., union, employment, or labor contract), constitutional, common law employment right, and/or civil rights by the Municipality. The Municipality agrees to indemnify and hold harmless the County from and against any and all Claim(s) which are imposed upon, incurred by, or asserted against the County or any County Agent by any Municipality Agent and/or which are based upon, result from, or arise from, or are in any way related to any Municipality Agent's wages, compensation, benefits, or other employment-related or based rights, including, but not limited to, those described in this section.

8.3 The Municipality agrees that no Municipality Agent shall, by virtue of this Contract or otherwise, be considered or claimed to be an employee of the County and/or a County Agent. This Contract does not grant or confer, and shall not be interpreted to grant or confer, upon any Municipality Agents or any other individual any status, privilege, right, or benefit of County employment or that of a County Agent. Furthermore, the County or any County Agent will not be liable for

any dissemination of assessment related information by the Municipality or any Municipality Agent.

§9. MUNICIPALITY RESPONSIBILITIES WITH THE COUNTY AND ITS AGENTS. The Municipality agrees it shall provide, in a manner agreed upon with the County, and preserving all necessary confidentiality requirements, information pertaining to its activities affecting the tax status of any parcel including but not limited to the following:

- 9.1 The establishment of Tax Increment Finance (TIF) Authorities (i.e., Brownfield Authority, Corridor Improvement Authority, Downtown Development Authority, etc.); the approval or amendment of related development/TIF plans.
- 9.2 The establishment of Economic Development/Redevelopment Districts (i.e., Planned Unit Development, Neighborhood Enterprise Zones, Renaissance Zones, etc.); the approval or amendment of related applications/plans.
- 9.3 The establishment of an abatement type district (i.e., Commercial Redevelopment, Commercial Rehabilitation, Industrial Development, Plant Rehabilitation, Obsolete Property Rehabilitation etc.); or amendment of related Property Tax Exemption Applications.
- 9.4 The approval of an ordinance or agreement for a Payment In Lieu of Taxes (P.I.L.O.T.) housing project.
- 9.5 The Municipality agrees to inform the County Agents regarding any increase in taxation which is governed by the Truth in Taxation Act. Further, the Municipality agrees to inform the County Agents regarding any millage increase (new) or renewal.
- 9.6 The Municipality will be responsible for maintaining a paper trail of any Special Assessment District (SAD) and Special Assessment Roll (SAR) development, any changes thereto, and their related billings, maintaining the rolls in balance, any required reports such as delinquency reports, and providing the County with the information necessary to prepare warrants.
- 9.7 The Municipality will forward all exemption applications, property transfer affidavits, personal property statements, and any and all other property assessment and property tax related documents affecting the status or value of property located within the Municipality to the County in a timely manner.
- 9.8 The Municipality shall provide a copy of all building permits with parcel identification numbers to the County Agents on a Monthly Basis.
- 9.9 The Municipality agrees to keep the County current with, and be responsible for, the following functions.
 - 9.9.1 Maintain adherence to its policies, any and all of its related ordinances, and all local and state laws and regulations.

- 9.9.2 Maintain current address and name changes, including any and all parcel owner and occupant names.
- 9.10 The Municipality agrees to provide County Agents, and any related Boards of Review, committee, and related work groups, with adequate space for the County while they are present. The Municipality shall provide reasonable accommodation such access to printers, copiers, etc. as to not impede their work. Accommodation will also be made for the public who come for assessing related inquiries, particularly during times when Boards of Review are in-session.

§10. TERM AND PAYMENT SCHEDULE OF CONTRACT. The County will perform the Assessment Services for the Municipality for the term and payment of fees as provided for in the following subsections.

- 10.1 The Contract term shall be from July 1, 2023, through June 30, 2025.
- 10.2 For the period from July 1, 2023 through June 30, 2024 (“Contract Year 23-24”), the Municipality shall pay to the County the sum of **\$20.28** for each parcel of Real Property description and **\$14.82** for each Personal Property parcel description. Payment for Contract Year 23-24 is due and payable on or before **July 1, 2024**. If, or when, during the term of this Contract, there are additional Assessment Services requested by Municipality of the County, the Parties shall negotiate additional fees to be paid by the Municipality.
- 10.3 For the period from July 1, 2024, through June 30, 2025 (“Contract Year 24-25”), the Municipality shall pay to the County the sum of **\$21.09** for each parcel of Real Property description and **\$15.41** for each Personal Property parcel description. Payment for Contract Year 24-25 is due and payable on or before **July 1, 2025**. If, or when, during the term of this Contract, there are additional Assessment Services requested by Municipality of the County, the Parties shall negotiate additional fees to be paid by the Municipality.
- 10.4 The Municipality shall be responsibility for postage for any and all real and personal property statements and any and all real and personal property notices mailed for all work performed under this Contact.
- 10.5 In the event that Municipality Agents, for whatever reasons, fail or neglect to undertake the tasks in any of the sections of this Contract, and the County Agents have to take on additional work tasks, then the County shall be paid on a time and material basis. Such rates shall be based upon the wages plus benefits of the County Agents performing said tasks.
- 10.6 The Parties agree this Contract is effective as of the initial date as prescribed above when the Contract term begins, or in the event the Contract is signed after this date, then it is effective as of the execution by both Parties to this Contract and shall end on the provided Contract’s conclusion date as provided herein, without any further act or notice from either Party being required.

- 10.7 No less than 30 days prior to the Contract's ending date, both Parties may mutually agree to extend this contract for a period of no more than 180 days from the original Contract's ending date. Any, and all, County Services otherwise provided to the Municipality prior to the effective date of this Contract, shall be subject to the terms and conditions provided for herein.
- 10.8 If the Municipality fails, for any reason, to pay the County any monies when and as due under this Contract, the Municipality agrees that unless expressly prohibited by law, the County or the County Treasurer, at their sole option, shall be entitled to a setoff from any other Municipality funds that are in the County's possession for any reason. Funds include but are not limited to the Delinquent Tax Revolving Fund ("DTRF"). Any setoff or retention of funds by the County shall be deemed a voluntary assignment of the amount by the Municipality to the County. The Municipality waives any claims against the County or its Officials for any acts related specifically to the County's offsetting or retaining such amounts. This paragraph shall not limit the Municipality's legal right to dispute whether the underlying amount retained by the County was actually due and owing under this Contract.
- 10.9 If the County chooses not to exercise its right to setoff or if any setoff is insufficient to fully pay the County any amounts due and owing the County under this Contract, the County shall have the right to charge up to the then-maximum legal interest on any unpaid amount. Interest charges shall be in addition to any other amounts due to the County under this Contract. Interest charges shall be calculated using the daily unpaid balance method and accumulate until all outstanding amounts and accumulated interest are fully paid. The interest to be charged shall not exceed the annual maximum rate set forth in MCL 438.41.
- 10.10 Nothing in this Section shall operate to limit the County's right to pursue or exercise any other legal rights or remedies under this Contract against the Municipality to secure reimbursement of amounts due the County under this Contract. The remedies in this Section shall be available to the County on an ongoing and successive basis if Municipality at any time becomes delinquent in its payment. Notwithstanding any other term and condition in this Contract, if the County pursues any legal action in any court to secure its payment under this Contract, the Municipality agrees to pay all costs and expenses, including attorney's fees and court costs, incurred by the County in the collection of any amount owed by the Municipality.
- 10.11 Notwithstanding any other term or condition in this Contract, should the Municipality fail for any reason to timely pay the County the amounts required under this Contract, the Municipality agrees that the County may discontinue, upon thirty (30) days written notice to the Municipality, without any penalty or liability whatsoever, any County services or performance obligations under this Contract.
- 10.12 The Parties agree that this and/or any subsequent amendments thereto, shall not become effective prior to the approval by concurrent resolutions of both the Oakland County Board of Commissioners and the Governing Body of the

Municipality The approval and terms of this Contract, and/or any possible subsequent amendments thereto, shall be entered in the official minutes and proceedings of both the Oakland County Board of Commissioners and the Governing Body of the Municipality and shall also be filed with the office of the Clerk of the County and the Clerk for the Municipality.

10.13 The Parties agree that this Contract, and/or any possible subsequent amendments, shall be filed with the Michigan Secretary of State and this Contract, and/or any possible subsequent amendments, shall not become effective prior to this required filing with the Secretary of State.

10.14 The Parties agree that except as expressly provided herein, this Contract shall not be changed, supplemented, or amended, in any manner, except as provided for herein, and no other act, verbal representation, document, usage or custom shall be deemed to amend or modify this Contract in any manner.

§11. CANCELLATION OR TERMINATION OF THIS CONTRACT. Except as follows, and notwithstanding any other term or provision in any other section of this Contract, either Party, upon a minimum of ninety (90) calendar days written notice to the other Party, may cancel and/or completely terminate this Contract for any reason, including convenience, without incurring any penalty, expense, or liability to the other Party. The effective date for any such termination is to be clearly stated in the notice.

11.1 At 5:00 p.m. on the effective date of the cancellation of this Contract all Municipality and/or County obligations under this Contract, except those rights and obligations expressly surviving cancellation as provided for in this Contract, shall end.

11.2 The Parties agrees that any and all obligations, including, but not limited to, any and all indemnification and hold harmless promises, waivers of liability, record-keeping requirements, any Municipality payment obligations to the County, and/or any other related obligations provided for in this Contract with regard to any acts, occurrences, events, transactions, or Claim(s) either occurring or having their basis in any events or transactions that occurred before the cancellation or completion of this Contract, shall survive the cancellation or completion of this Contract.

§12. NO TRANSFER OF MUNICIPALITY LEGAL OBLIGATIONS TO THE COUNTY. Except as

expressly provided for in this Contract, the Municipality agrees that this Contract does not, and is not intended to, transfer, delegate, or assign to the County, and/or any County Agent or the Equalization Division any civil or legal responsibility, duty, obligation, duty of care, cost, legal obligation, or liability associated with any governmental function delegated and/or entrusted to the Municipality under any applicable State Property Tax Laws.

12.1 The Municipality shall, always and under all circumstances, remain solely liable for all costs, legal obligations, and/or civil liabilities associated with or in any way related to any Municipality tax appraisal or assessment functions or any other Municipality legal obligation. The Municipality agrees that under no circumstances

shall the County be responsible for any costs, obligations, and/or civil liabilities associated with its Municipality function or any responsibility under any State Property Tax Law.

- 12.2 The Municipality shall not incur or create any debts, liens, liabilities or obligations for the County and shall take all necessary steps to ensure that any debts, liens, liabilities or obligations that the Municipality may incur shall not become a debt, liability, obligation or Claim(s) against the County.
- 12.3 The Parties agree that the Municipality shall always remain responsible for the ultimate completion of all Municipality duties or obligations under any and all applicable State Property Tax Laws. Nothing in this Contract shall relieve the Municipality of any Municipality duty or obligation under any applicable State Property Tax Law.
- 12.4 The Municipality and Municipality Agents shall be and remain responsible for compliance with all Federal, State, and local laws, ordinances, regulations, and agency requirements in any manner affecting any work or performance of this Contract or with any Municipality duty or obligation under any applicable State Property Tax Law.

§13. NO DELEGATION OR DIMINUTION OF ANY GOVERNMENTAL AUTHORITY. The Parties reserve to themselves any rights and obligations related to the provision of all of each Party's respective governmental services, authority, responsibilities, and obligations. Except as expressly provided otherwise herein, this Contract does not, and is not intended to, create, diminish, delegate, transfer, assign, divest, impair, or contravene any constitutional, statutory, and/or other legal right, privilege, power, civil or legal responsibility, obligation, duty of care, liability, capacity, immunity, authority or character of office of either Party to any other person or Party.

- 13.1 The Parties further agree, notwithstanding any other term or condition in this Contract, that no provision in this Contract is intended, nor shall it be construed, as a waiver of any governmental immunity, as provided by statute or applicable court decisions, by either Party, either for that Party and/or any of that Party's County or Municipal Agents.
- 13.2 Notwithstanding any other provision in this Contract, nothing in this Contract shall be deemed to, in any way, limit or prohibit the Oakland County Board of Commissioners statutory rights and obligations to review and/or further equalize Municipality property values or tax assessments and/or further act upon any Municipality assessment(s) of property taxes under any applicable State Property Tax Laws, including, but not limited to challenging any Municipality assessment before the Michigan Tax Tribunal.

§14. INDEMNIFICATION, LIABILITY AND INSURANCE. The Municipality further agrees that the County shall not be liable to the Municipality for any, and all, Claim(s), except as otherwise expressly provided for in this Contract.

- 14.1 The Parties agree that this Contract does not and is not intended to create or include any County warranty, promise, covenant or guaranty, either express or implied, of any kind or nature whatsoever in favor of the other Municipality, and/or any Municipality Agents, or any Municipality Taxpayer or any other person or entity, or that the County's efforts in the performance of any obligation under this Contract will result in any specific monetary benefit or efficiency, or increase in any tax revenue for the Municipality, or will result in any specific reduction or increase in any property assessment, or guarantee that any County services provided under this Contract will withstand any challenge before the State Tax Tribunal or any court or review body, or any other such performance-based outcome.
- 14.2 In the event of any alleged breach, wrongful termination, and/or any default of any term or condition of this Contract by either the County or any County Agent, the County and/or any County Agent shall not be liable to the Municipality for any indirect, incidental, special or consequential damages, including, but not limited to any replacement costs for County Services, any loss of income or revenue, and/or any failure by the Municipality to meet any Municipality obligation under any applicable State Property Tax Laws, or any other economic benefit or harm that the Municipality may have realized, but for any alleged breach, wrongful termination, default and/or cancellation of this Contract, or damages beyond or in excess of the amount(s) of any amount paid to, received or retained by the County at the time of the alleged breach or default in connection with or under the terms of this Contract, whether such alleged breach or default is alleged in an action in contract or tort and/or whether or not the Municipality has been advised of the possibility of such damages. This provision and this Contract are intended by the Parties to allocate the risks between the Parties, and the Parties agree that the allocation of each Party's efforts, costs, and obligations under this Contract reflect this allocation of each Party's risk and the limitations of liability as specified herein.
- 14.3 Notwithstanding any other provision in this Contract, with regard to any and all alleged losses, claims, complaints, demands for relief or damages, suits, causes of action, proceedings, judgments, deficiencies, liability, penalties, litigation costs and expenses, including, but not limited to, any reimbursement for reasonable attorney fees, witness fees, court costs, investigation and/or litigation expenses, any amounts paid in settlement, and/or any other amounts, liabilities of any kind whatsoever which are imposed on, incurred by, or asserted against the Municipality or any Municipality Agent by any third person, including but not limited to any Municipality Agent or Municipality Taxpayer, arising out of any activities or Services to be carried out by any County Agent in the performance of this Contract, the Municipality hereby agrees that it shall have no rights pursuant to or under this Contract against the County and/or any County Agents to or for any indemnification (i.e., contractually, legally, equitably, or by implication) contribution, subrogation, or other right to be reimbursed by the County and/or any of County Agents based upon any and all legal theories or alleged rights of any kind, whether known or unknown, for any and all alleged losses, claims, complaints, demands for relief or damages, judgments, deficiencies, liability, penalties, litigation costs and expenses of any kind whatsoever which are imposed on, incurred by, or asserted against the Municipality and which are alleged to have arisen under or are in any way based or predicated upon this Contract.

- 14.4 Each Party shall be responsible for any Claims made against that Party and for the acts of its Employees or Agents. In any Claims that may arise from the performance of this Contract, each Party shall seek its own legal representation and bear the costs associated with such representation including any attorney fees. Except as otherwise provided in this Contract, neither Party shall have any right under any legal principle to be indemnified by the other Party or any of its Employees or Agents in connection with any Claim. This Contract does not, and is not intended to, impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties. Nothing in this Contract shall be construed as a waiver of governmental immunity for either Party.
- 14.5 The Parties agree the County shall not be in breach of this Contract or responsible for any consequential or compensatory damages arising from any late performance or non-performance of this Contract agreement caused by circumstances which are beyond the County's control (e.g., extreme illnesses, natural disasters, or other "acts of God").
- §15. **INDEPENDENT CONTRACTOR.** The Parties agree that at all times and for all purposes under the terms of this Contract, the County's and/or any and all County Agents' legal status and relationship to the Municipality shall be that of an Independent Contractor. Except as expressly provided herein, each Party will be solely responsible for the acts of its own employees, Agents, and servants during the term of this Contract. No liability, right or benefits arising out of an employer/employee relationship, either express or implied, shall arise or accrue to either Party as a result of this Contract.
- §16. **COUNTY PRIORITIZATION OF COUNTY RESOURCES.** The Municipality acknowledges and agrees that this Contract does not, and is not intended to, create either any absolute right in favor of the Municipality, or any correspondent absolute duty or obligation upon the County, to guarantee that any specific number(s) or classification of County Agents will be present on any given day to provide County services to the Municipality.
- §17. **NO THIRD-PARTY BENEFICIARIES.** Except as expressly provided herein for the benefit of the Parties (i.e., County or Municipality), this Contract does not, and is not intended to, create, by implication or otherwise, any direct or indirect obligation, duty, promise, benefit, right to be indemnified (i.e., contractually, legally, equitably, or by implication) and/or any right to be subrogated to any Party's rights in this Contract, and/or any other right of any kind, in favor of any person, including, but not limited to, any County Agent or Municipality Agent or any Municipality Taxpayer, any Taxpayer's legal representative, any organization, any alleged unnamed beneficiary or assignee, and/or any other person.
- §18. **CONFIDENTIALITY.** The Parties agree, not to disclose any information which has been determined confidential by the Commission, and at least annually will review such requirements for confidential information handling with staff that will have contact with such record information.

- §19. **CONSTRUED AS A WHOLE.** The language of all parts of this Contract is intended to and, in all cases, shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party. As used in this Contract, the singular or plural number, possessive or non-possessive shall be deemed to include the other whenever the context so suggests or requires.
- §20. **CAPTIONS.** The section headings or titles and/or all section numbers contained in this Contract are intended for the convenience of the reader and not intended to have any substantive meaning and are not to be interpreted as part of this Contract.
- §21. **NOTICES.** Except as otherwise expressly provided for herein, any and all correspondence, invoices, and/or any other written notices required, permitted or provided for under this Contract to be delivered to either Party shall be sent to that Party by first class mail. All such written notices, including any notice canceling or terminating this Contract as provided for herein, shall be sent to the other Party's signatory to this Contract, or that signatory's successor in office, at the addresses shown in this Contract. All correspondence or written notices shall be considered delivered to a Party as of the date that such notice is deposited with sufficient postage with the U.S. Postal Service.
- §22. **WAIVER OF BREACH.** The waiver of a breach of any provision of this Contract shall not operate or be construed as a waiver of any subsequent breach. Each and every right, remedy and power granted to either Party or allowed it by law shall be cumulative and not exclusive of any other.
- §23. **ENTIRE CONTRACT.** This Contract sets forth the entire agreement between the County and the Municipality and fully supersedes any and all prior agreements or understandings between them in any way related to the subject matter hereof. It is further understood and agreed that the terms and conditions herein are contractual and are not a mere recital and that there are no other agreements, understandings, contracts, or representations between the County and the Municipality in any way related to the subject matter hereof, except as expressly stated herein. This Contract shall not be changed or supplemented orally and may be amended only as otherwise provided herein.

For and in consideration of the mutual assurances, promises, acknowledgments, warrants, representations, and agreements set forth in this Contract, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the undersigned hereby execute this Contract on behalf of the Parties, and by doing so legally obligate and bind the Parties to the terms and conditions of this Contract.

{SIGNATURES CONTAINED ON FOLLOWING PAGES}

IN WITNESS WHEREOF, Therese Longe, Mayor of the City of Birmingham, hereby acknowledges that she has been authorized by a resolution of the Governing Body of the City of Birmingham, a certified copy of which is attached, to execute this Contract on behalf of the Municipality and hereby accepts and binds the City of Birmingham to the terms and conditions of this Contract.

EXECUTED: _____
Therese Longe, Mayor
City of Birmingham

DATE: _____

WITNESSED: _____
Alexandria Bingham, Clerk
City of Birmingham

DATE: _____

IN WITNESS WHEREOF, David T. Woodward, Chairperson, Oakland County Board of Commissioners, hereby acknowledges that he has been authorized by a resolution of the Oakland County Board of Commissioners, a certified copy of which is attached, to execute this Contract on behalf of the Oakland County, and hereby accepts and binds Oakland County to the terms and conditions of this Contract.

EXECUTED: _____ DATE: _____
David T. Woodward, Chairperson Oakland County Board
of Commissioners

WITNESSED: _____ DATE: _____

(Print Name) _____ DATE: _____
County of Oakland



MEMORANDUM

Parking

DATE: August 23th, 2023

TO: Jana L. Ecker, City Manager

FROM: Aaron Ford, Parking Systems Manager

SUBJECT: Addendum - Agreement with RAM Construction for 2023 North Old Woodward Structure Repair Project

INTRODUCTION:

RAM Construction was awarded the bid for the 2023 North Old Woodward Parking Structure Repair Project. The primary project objectives of the bid package were to address the remaining concrete deterioration at the slab topside and overlay at the middle and south bays of Level 2 and Level 3, concrete deterioration at the slab edges at all levels, and limited concrete deterioration at the underside of all levels. An additional primary objective was to address the concrete and railing distress within the stair towers, painting of the ceilings, walls, columns, and railings. Not included in the bid was the painting of the exterior façade of the various slabs. City staff is recommending that each of the facades of the various slabs be painted as part of the current interior painting to create a fresh look once completed.

BACKGROUND:

As part of the ongoing repairs at all five City owned parking garages, RAM Construction was awarded the bid in May 2023 to complete the remaining concrete repairs at the N. Old Woodward Garage as part of the 2023 North Old Woodward Structure Repair Project. Included in the repairs were slab topside and overlay at the middle and south bays of Level 2 and Level 3, concrete deterioration at the slab edges at all levels, and limited concrete deterioration at the underside of all levels, repairs to the concrete and railing distress within the stair towers was included. Additionally, RAM was to paint all the ceilings, walls, columns, stairwells, and handrails.

Not included in the original scope was the painting of anything on the exterior of the garage. City staff recommends that RAM paint the exterior façade of each of the slabs. This will give the garage a more finished look now that all the interior walls and ceilings have been painted. The City's Planning Director and Engineer were both consulted on the recommendation.

LEGAL REVIEW:

The addendum with RAM Construction, Inc. has been reviewed and approved by the City attorney.

FISCAL IMPACT:

The proposal from RAM to paint the various slab facades is \$11,219 per elevation (side of the garage), for a total of \$44,876.00

SUSTAINABILITY:

None.

PUBLIC COMMUNICATIONS:

None.

SUMMARY:

RAM Construction has provided an addendum to the current 2023 North Old Woodward Parking Structure Repair Project dated May, 22, 2023 (agreement) to address painting that was not included in the original scope of services. The scope of work presented in this addendum is additional painting to the exterior façade of the various slabs. The additional painting was at the recommendation of RAM and reviewed by the City's Engineer and Planning Director.

ATTACHMENTS:

- A. Addendum of agreement with RAM Construction
- B. Proposal from RAM Construction

SUGGESTED COMMISSION ACTION:

Make a motion to adopt the resolution approving the addendum to the contract to RAM Construction, Inc. for the proposed 2023 North Old Woodward Parking Structure Repair Project in the amount of \$44,876.00; further, to charge the contract to the structure's capital outlay (514.1-594.005-977.0000) account as costs are incurred. Furthermore, to authorize the Mayor and City Clerk to sign the contract on behalf of the City.

**ADDENDUM TO THE AGREEMENT BETWEEN THE CITY OF BIRMINGHAM AND
RAM CONSTRUCTION SERVICES OF MICHIGAN, INC.
FOR 2023 NORTH OLD WOODWARD PARKING
STRUCTURE REPAIR PROJECT
DATED MAY 15, 2023**

THIS ADDENDUM to the Agreement Between the City of Birmingham and RAM Construction Services of Michigan, Inc. for 2023 North Old Woodward Parking Structure Repair Project dated May 15, 2023 by and between the **CITY OF BIRMINGHAM**, having its principal municipal office at 151 Martin Street, Birmingham, MI 48009 and **RAM Construction Services of Michigan, Inc.** having its principal office at 13800 Eckles Road, Livonia, MI 48150, does hereby amend its Agreement to include the attached Change Order #2 (Attachment A).

All other provisions of the Agreement Between the City of Birmingham and RAM Construction Services of Michigan, Inc. for 2023 North Old Woodward Parking Structure Repair Project dated May 15, 2023 shall remain in full force and effect.

IN WITNESS WHEREOF, the said parties have caused this Addendum to be executed on this 23rd day of August, 2023.

**RAM CONSTRUCTION SERVICES OF
MICHIGAN, INC.**

By: Scott Hamill
Project Manager _____

Its:

STATE OF MICHIGAN)
) ss:
COUNTY OF OAKLAND)

On this 23rd day of August, 2023, before me personally appeared Scott Hamill, who acknowledged that with authority on behalf of **RAM Construction**

Services of Michigan, Inc. to do so he/she signed this Agreement.

KRISTEN WICKENS
Notary Public, State of Michigan
County of Wayne
My Commission Expires 12-28-2024
Acting in the County of Wayne

Kristen Wickens
Notary Public
Wayne County, Michigan
Acting in Wayne County, Michigan
My commission expires: December 28, 2024

CITY OF BIRMINGHAM

By: _____
Therese Longe, Mayor

By: _____
Alexandria D. Bingham, Clerk

Approved:

[Signature]
Jana L. Ecker, City Manager
(Approved as to substance)

[Signature]
Mark Gerber, Director of Finance
(Approved as to financial obligation)

[Signature]
Aaron Ford, Parking Systems Manager
(Approved as to substance)

[Signature]
Mary M. Kucharek, City Attorney
(Approved as to form)

ATTACHMENT A

August 14, 2023

City of Birmingham
151 Martin Street
Birmingham, Michigan 48009

Attention: Mr. Aaron Ford

Regarding: North Old Woodward Parking Structure Repairs – Change Order #2
Birmingham, MI

Dear Mr. Ford,

RAM Construction Services is pleased to provide you with this change order per our discussions of additional painting of the exterior concrete slabs **highlighted in yellow below**.

- Additional painting of the concrete slab sides on all (4) sides of the parking structure.....**\$11,219.00/per elevation**
Lump Sum Total of**\$44,876.00**



As always, we will barricade the work area and perform a final clean-up to your satisfaction once all work is complete.

Thank you for the opportunity to be of service. Please feel free to contact me with any questions or concerns.

Respectfully,

RAM Construction Services of Michigan, Inc.

Scott Hamill



MEMORANDUM

City Manager's Office

DATE: August 28, 2023

TO: Jana L. Ecker, City Manager

FROM: Melissa Fairbairn, Assistant City Manager

SUBJECT: City Commission Principles of Conduct

INTRODUCTION:

August is National Civility Month which recognizes the importance of respectful dialogue and productive disagreement. In observation of National Civility Month, the City Commission is presented with a draft Principles of Conduct that enshrines such ideals.

BACKGROUND:

At the [January 10, 2022](#) regular meeting, the City Commission requested further information and discussion of a code of conduct for Commissioners. Subsequently, the Commission has discussed the code of conduct at the following meetings:

- [February 14, 2022 workshop](#)
- [February 28, 2022 regular meeting](#)
- [July 11, 2022 regular meeting](#)
- [February 13, 2023 regular meeting](#)
- [April 24, 2023 regular meeting](#)
- [June 5, 2023 workshop](#)

At the June 5, 2023 workshop, the City Commission expressed interest in reviewing a streamlined code of conduct or similar document that encompassed proper behavior but did not prescribe penalties. The draft Principles of Conduct illustrates shared principles and behaviors such as collaboration, respectful communication, integrity, professionalism, and ethical conduct that the City Commission may choose to make a public commitment to.

LEGAL REVIEW:

The City Attorney has reviewed the draft Principles of Conduct and has no issues with its adoption.

FISCAL IMPACT:

There is no fiscal impact incurred by adopting the proposed Principles of Conduct.

SUSTAINABILITY:

There is no sustainability impact incurred by adopting the proposed Principles of Conduct.

PUBLIC COMMUNICATIONS:

If adopted, the Principles of Conduct will be posted on the City's website and in the City Commission Room.

SUMMARY:

Since January 2022, the City Commission has discussed their intention to create a document that outlines the shared expectations of conduct in their role as elected leaders. After careful deliberation of the options for a code of conduct or statement of principles, the Commission indicated at the June 5, 2023 workshop meeting that they were interested in a one-page statement of shared values and expectations. Staff has prepared the draft Principles of Conduct document for the Commission's review based upon their discussions at previous meetings.

ATTACHMENTS:

- City Commission Principles of Conduct draft
- City of Birmingham Oath of Office
- City of Birmingham Code of Ethics
- City Commission Rules of Procedure

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to adopt the City Commission Principles of Conduct.



City Commission

Principles of Conduct

As elected leaders of this community, the City Commission is entrusted to collaborate, and work as a team committed to the residents of the City of Birmingham. In order to be effective, City Commissioners commit to come to meetings with an open mind, think strategically about City issues, and conduct themselves in a respectful and professional manner at all times to maintain a culture of candor, trust, and respect.

1. **Collaboration:** We shall recognize the importance of working toward consensus as an elected body in order to make the best possible decisions for the good of the entire community.
2. **Respectful Communication:** We shall treat fellow Commissioners, residents, and staff with respect by listening openly to their ideas and responding with courtesy to those with whom we disagree. We shall promote healthy discourse and avoid spreading false information or making personal attacks.
3. **Integrity:** We shall act with honesty and transparency realizing that we are accountable to the public for our decisions. We shall not allow our personal biases and self-interest to interfere with making decisions based on the best interests of Birmingham and its residents.
4. **Professionalism:** We shall approach each City Commission meeting with an open mind and be prepared to engage with one another and the public about items on the agenda.
5. **Ethical Conduct:** We shall adhere to our Oath of Office, Code of Ethics, and Rules of Procedure and maintain the highest ethical standards in our interactions, decision-making, and use of public resources.

Section 31. - [Oath of office.]

Every officer elected or appointed to any city office, before entering upon the duties of his office shall take and subscribe to an oath of office, which shall be filed and kept in the office of the city clerk, to support the Constitution of the United States, and the Constitution of the State of Michigan; to endeavor to secure and maintain an honest and efficient administration of the affairs of the City of Birmingham, free from partisan distinction or control, and to perform the duties of his office to the best of his ability. In case of his failure to do so, within ten (10) days after the time fixed for taking office, he shall be deemed to have declined the office unless the time therefor shall be extended by the commission. The oath of office hereinbefore in this section mentioned shall be as follows:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States of America and the constitution of this state and endeavor to secure and maintain an honest and efficient administration of the affairs of Birmingham, free from partisan distinction or control, and to perform the duties of the office of according to the best of my ability."

State Law reference— Oath of public officers, Mich. Const. 1963, Art. XI, § 1.

ARTICLE IX. - ETHICS

Footnotes:

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Editor's note— Ord. No. 1810, adopted May 19, 2003, states that the provisions of this article shall become effective July 21, 2003.

Sec. 2-320. - Public policy.

Public office and employment are public trusts. For government to operate properly, each city official, employee, or advisor must earn and honor the public trust by integrity and conduct.

The city hereby declares that all city officials and employees must avoid conflicts between their private interests and the public interest. Public officials and employees must:

- (1) Be independent, impartial and responsible to the people;
- (2) Make governmental decisions and policy in the proper governmental channels;
- (3) Not use public office for personal gain.

To enhance public trust, the city must provide its officials and employees with adequate guidelines for separating their roles as private citizens from their roles as public servants.

This Code sets minimum standards of ethical conduct for all city officials and employees, elected or appointed, paid or unpaid. It proscribes actions incompatible with the public interest and directs disclosure of private financial or other interests in matters affecting the city.

(Ord. No. 1805, 4-28-03; Ord. No. 1810, 5-19-03; Ord. No. 1819, 1-12-04)

Sec. 2-321. - Responsibilities of public office.

City officials and employees are bound to uphold the Constitution of the United States and the Constitution of the State and to carry out impartially and comply with the laws of the nation, state, and the city. City officials and employees must not exceed their authority or breach the law or ask others to do so. City officials and employees are bound to observe in their official acts the highest standards of ethical conduct and to discharge the duties of their offices faithfully, regardless of personal consideration, recognizing that their official conduct should be above reproach.

All city officials and employees shall safeguard public confidence by being honest, fair and respectful of all persons and property with whom they have contact, by maintaining non-partisanship in all official acts, and by avoiding official conduct which may tend to undermine respect for city officials and employees and for the city as an institution.

(Ord. No. 1805, 4-28-03; Ord. No. 1810, 5-19-03; Ord. No. 1819, 1-12-04; Ord. No. 2177, 3-28-16)

Sec. 2-322. - Definitions.

City official or employee means a person elected, appointed or otherwise serving in any capacity with the city in any position established by the City Charter or by city ordinance which involves the exercise of a public power, trust or duty. The term includes all officials and employees of the city, whether or not they receive compensation, including consultants and persons who serve on advisory boards and commissions. The term does not include election inspectors and student representatives appointed to city boards or commissions.

Consultant means a person who gives professional advice or services regarding matters in the field of his or her special knowledge or training.

Compensation means any money, property, thing of value or benefit conferred upon or received by any person in return for services rendered or to be rendered to himself or herself or any other party.

Financial interest means any interest in money, property or thing of value or benefit.

Immediate family means a city official or employee, his or her spouse, parents or children.

Official duties or official action means a decision, recommendation, approval, disapproval or other action or failure to act, which involves the use of discretionary authority.

Personal interest means an interest arising from blood or marriage relationships or any business association.

Private gain means any interest or benefit, in any form, received by a city employee or official.

Substantial shall mean considerable in quantity or significantly great.

(Ord. No. 1805, 4-28-03; Ord. No. 1810, 5-19-03; Ord. No. 1819, 1-12-04)

Sec. 2-323. - Intention of code.

It is the intention of section 2-324 below that city officials and employees avoid any action, whether or not specifically prohibited by section 2-324, which might result in, or create the appearance of:

- (1) Using public employment or office for private gain;
- (2) Giving or accepting preferential treatment, including the use of city property or information, to or from any organization or person;
- (3) Losing complete independence or impartiality of action;
- (4) Making a city decision outside official channels; or
- (5) Affecting adversely the confidence of the public or the integrity of the city government.

The code of ethics is intended to be preventative and not punitive. It should not be construed to interfere with or abrogate in any way the provisions of any federal or state statutes, the City Charter, the city ordinances, or any rights and/or remedies guaranteed under a collective bargaining agreement.

This declaration of policy is not intended to apply to contributions to political campaigns, which are governed by state law.

(Ord. No. 1805, 4-28-03; Ord. No. 1810, 5-19-03; Ord. No. 1819, 1-12-04)

Sec. 2-324. - Promulgation.

(a) *Conflict of interest—General.*

- (1) No official or employee of the city shall divulge to any unauthorized person, confidential information acquired in the course of employment or service as a city official in advance of the time prescribed for its authorized release to the public.
- (2) No official or employee of the city shall represent his or her personal opinion as that of the city.
- (3) Every official or employee of the city shall use personnel resources, property and funds under his or her official care and control solely in accordance with prescribed constitutional, statutory and regulatory procedures and not for personal gain or benefit.
- (4) No official or employee of the city shall directly or indirectly, solicit or accept any gift or loan of money, goods, services or other thing of value for the benefit of any person or organization, other than the city, which tends to influence the manner in which the official or employee or any other official or employee performs his or her official duties.

Gratuities do not include fees for speeches or published works on legislative subjects and, except in connection therewith reimbursement for expenses for actual expenditures for travel, and reasonable subsistence, for which no payment or reimbursement is made by the city, invitations to such events as ground breakings, grand openings, charitable or civic events, or inconsequential gifts from established friends.
- (5) No official or employee of the city shall engage in a business transaction in which he or she may profit because of his or her official position or authority or benefit financially from confidential information which he or she has obtained or may obtain by reason of such position or authority.
- (6) No official or employee of the city shall engage in or accept employment or render services for any private or public interest when that employment or service is incompatible or in conflict with the discharge of his or her official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of his or her official duties.

This section shall not prohibit a part-time elected or appointed city official from engaging in private employment or business on his or her own time as a private citizen and where city business is not involved, subject to his or her disclosing such private employment or business on the public record for any matter on which he or she may be called upon to act in his or her official capacity, in accordance with section 2-326 below. He or she shall refrain from voting upon or otherwise participating in debate on any such matter.

- (7) No official or employee of the city shall participate, as an agent or representative of the city, in the negotiation or execution of contracts, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision, relating to any business entity in which he or she has, directly or indirectly, a financial or personal interest.
- (8) No official or employee of the city shall use, or attempt to use, his or her official position to secure, request or grant unreasonably any special consideration, privilege, exemption, advantage, contract or preferential treatment for himself, herself, or others, beyond that which is available to every other citizen.
- (9) It is recognized that various boards and committees are part of the plan of government for the city. As such, it is further recognized that by virtue of the various requirements for membership of the board, a member may be placed in the position of participating in a decision that may directly or indirectly affect his or her financial or personal interests. Therefore, those members of the various boards and committees in the city, as they may be established from time to time, may participate in such decisions provided that they act:
 - a. In furtherance of the public good;
 - b. In compliance with the duties of their respective boards; and,
 - c. In a manner consistent with subsection (8) of this section.
- (10) Determination of conflict of interest. A conflict of interest exists if:
 - a. The city official or employee has any financial or personal interest, beyond ownership of his or her place of residence, in the outcome of a matter currently before that city official or employee, or is associated as owner, member, partner, officer, employee, broker or stockholder in an enterprise that will be affected by the outcome of such matter, and such interest is or may be adverse to the public interest in the proper performance of said official's or employee's governmental duties, or;
 - b. The city official or employee has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity, or;
 - c. The public official has any other prohibited interest as defined by state statutes relating to conflicts of interest.

(11) Subsequent conflict of interest. No official or employee of the city shall acquire any financial interest in or accept any employment concerning any project which has been granted approval by the city or any commission, board, department or employee thereof within one year of the official's or employee's participation in any manner in considering or recommending the approval or disapproval of said project.

(b) *Full disclosure.*

(1) Responsibility to disclose. It shall be the responsibility of the official or employee to disclose the full nature and extent of his or her direct or indirect financial or personal interest in a matter before him or her.

No official or employee of the city shall participate, as an agent or representative of the city, in approving, disapproving, voting, abstaining from voting, recommending or otherwise acting upon any matter in which he or she has directly or indirectly a financial or personal interest. The official or employee shall, in such circumstances, recuse himself or herself from the matter before him or her.

(2) Disclosure of conflict of interest and disqualification.

a. Any city official or employee who has a conflict of interest, as defined herein, in any matter before the city shall disclose such fact on the appropriate record of the city prior to discussion or action thereon and shall refrain from participating in any discussion, voting or action thereon, as follows, provided that such exceptions shall be observed as are permitted by law:

1. A city commissioner shall disclose any conflict of interest and the nature and extent of such interest on the record of the city commission;
2. A member of any city board, commission or committee shall disclose any conflict of interest and the nature and extent of such interest on the records of said board, commission or committee;
3. A city employee who has a financial or other interest in a matter before the city commission or any city board, commission or committee and who participates in discussion with, or gives an official opinion to the city commission, or to such other city board, commission or committee relating to such matter, shall disclose on the records of the city commission or such other city board, commission or committee, as the case may be, any conflict of interest and the nature and extent of such interest.
4. Otherwise, any appointed city official or employee shall address such a disclosure to the supervisory head of his or her department, and any elected city official shall address such a disclosure to the general public.

b.

If a city official, commissioner or employee who has a conflict of interest, as defined herein, in any matter before the city, and who discloses that conflict on the appropriate records but who refuses to refrain from discussion, deliberation or voting thereon, the matter under consideration shall be immediately referred to the board of ethics for a final determination as to the conflict in question and whether the official, commissioner or employee must refrain from discussion, deliberation, action or voting thereon.

- c. Within 20 days after election, employment, appointment, or the effective date of this ordinance, or any change in the facts set forth in the city official's or employee's previously filed disclosure statement, each city official and employee shall file with the city clerk an affidavit and disclosure statement. The city clerk shall provide each city official or employee with the required affidavit and disclosure statement form immediately upon his or her election, employment or appointment. The affidavit and disclosure statement does not apply to part-time and temporary employees of the city. Additionally, the disclosure requirements on this section do not apply to regular full-time employees below the level of assistant department head, except at the discretion of the city manager.
- d. The effective date for this ordinance shall be July 21, 2003.

(Ord. No. 1805, 4-28-03; Ord. No. 1810, 5-19-03; Ord. No. 1819, 1-12-04; Ord. No. 2378, 4-25-23)

Sec. 2-325. - Violation, enforcement and advisory opinions.

(a) *Board of ethics.*

- (1) The city commission shall appoint a board of ethics, consisting of three members, as an advisory body for the purpose of interpreting this code of ethics.
- (2) The initial three members of the board of ethics shall be appointed for one-, two-, and three-year terms of office respectively, which shall begin on July 1, 2003. If appointed prior to July 1st, they shall begin their terms of office immediately and their terms shall include the additional time prior to July 1st. Terms of office shall expire on June 30th of the respective years.

Thereafter, all members shall be appointed to three-year terms, beginning July 1, so that only one member's term expires each year. A member shall hold office until his or her successor is appointed. The city commission shall fill a vacancy by an appointment for the unexpired term only.

- (3) The city commission may also appoint not more than two alternate members for the same term as regular members of the board of ethics. An alternate member may be called on a rotating basis to sit as a regular member of the board of ethics in the absence of a regular member, and shall have the same voting rights as a regular member of the board of ethics. An alternate member may also be called to service in the place of a regular member for the

purpose of reaching a decision on a case in which the regular member has abstained or recused for reasons of conflict of interest. An alternate member having been appointed shall serve in the case until a final decision has been made.

(4) The board of ethics shall be made up of residents of the city who have legal, administrative or other desirable qualifications.

a. The members of the board of ethics shall serve without compensation, and shall not be elected officials, persons appointed to elective office, full-time appointed officials or city employees, nor shall they be currently serving on any other city board or commission.

b. The board shall select its own presiding officer from among its members.

c. The board shall establish such procedures it deems necessary or appropriate to perform its functions as set forth in this article.

(b) *Functions of the board of ethics.* When there is a question or a complaint as to the applicability of any provision of this code to a particular situation, that question or complaint shall be directed to the board of ethics. It shall then be the function of the board of ethics to conduct hearings and/or issue an advisory opinion, as applicable.

(1) Hearings. The board of ethics shall follow the following hearing procedure:

a. The board shall, within seven days after any matter is brought to its attention, set a date certain for hearing said matter.

b. The board shall, at least 28 days before the hearing date, send notice of such hearing, accompanied by a concise statement of the alleged breach of this code of ethics, to any person requested to appear before them, by certified mail, return receipt requested, to addressee only.

c. Any person requested to appear before a board of ethics hearing may request one extension for a period not to exceed 28 days. Extensions thereafter will be granted only under extreme circumstances.

d. Any person requested to appear before a board of ethics hearing may be accompanied by his or her attorney.

e. All hearings at which any person shall be requested to appear shall be subject to the Open Meetings Act.

f. All findings of board hearings shall be published in permanent form and communicated to the city commission and the public, subject to the requirements of the Open Meetings Act.

(2) Advisory opinions. All advisory opinions so issued shall also be published in permanent form and communicated to the city commission and the public, subject to the requirements of the Open Meetings Act.

- (3) After the board of ethics' advisory opinions and/or hearing findings have been published:
- a. The city commission shall be responsible for imposing any sanction for a violation of this Code on one of its members or any person appointed by the commission to any city board.
 - b. If it becomes necessary to seek the removal of a city official after the board of ethics' advisory opinion and/or hearing findings, the city shall follow the requirements for removal of a public official in accordance with the laws of the state.
 - c. The city manager shall be responsible for imposing any discipline for a violation of this Code on any employee of the city.

(Ord. No. 1805, 4-28-03; Ord. No. 1810, 5-19-03; Ord. No. 1819, 1-12-04; Ord. No. 2378, 4-25-23)

Sec. 2-326. - Affidavit and disclosure statement.

Immediately following an election, employment or appointment of a city official or employee, the city clerk shall provide the individual with an affidavit and disclosure statement form. Within 20 days after election, appointment, employment or any change in the facts set forth in the city official's or employee's previously filed affidavit and disclosure statement, all city officials or employees shall file with the city clerk an affidavit and disclosure statement including the following:

- A. A disclosure statement responding in detail to the following questions:
 1. To the best of your knowledge, do you or any members of your immediate family own any interest in real property located within the City of Birmingham, in land contiguous to the City of Birmingham, or in any area covered by a 425 Agreement to which the City of Birmingham is party?
 2. If your answer to question 1. is affirmative, to the best of your knowledge state the following information for each such interest owned:
 - (a) The nature of your interest in the real property;
 - (b) The location of the real property (for improved property, provide the street address; for unimproved property state its location in relation to existing streets), and;
 - (c) The property's permanent real estate tax identification number.
 3. To the best of your knowledge, do you or members of your immediate family own five percent (5%) or more of any business entity located in the City of Birmingham?
 4. If your answer to question 3. is in the affirmative, state the following, to the best of your knowledge:
 - (a) The name of the entity;
 - (b) The address of the entity;
 - (c) The nature of your relationship to the entity, and;

- (d) The date relationship commenced.
- 5. To the best of your knowledge, do you or any members of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit that is not reported in the prior answers.
- 6. To the best of your knowledge, have you or any members of your immediate family given or received any gifts, other than from immediate family members, the value of which exceeds \$50.00, within the last year, or since the effective date of this code, whichever time period is shorter, to or from any person or business or other legal entity doing business with the City, other than legal campaign contributions? If so, list the names and addresses of each donor or donee of each such gift and the date upon which it was made and the nature of the gift.
- B. An affidavit in which the City official or employee states: "I have read and I understand the Code of Ethics of the City of Birmingham and, to the best of my knowledge, I am not in conflict with its provisions."

Dated:

Subscribed and sworn to before me this ___ day of _____, 20__.

Notary Public

_____ County, Michigan

My Commission Expires:_____

(Ord. No. 1805, 4-28-03; Ord. No. 1810, 5-19-03; Ord. No. 1819, 1-12-04)

RULES OF PROCEDURE FOR THE CITY COMMISSION

Open Meetings

Regular meetings and special meetings of the Birmingham City Commission, which are normally held in the Commission Room of the Municipal Building, 151 Martin Street, shall be open to the public, in compliance with the Michigan Open Meetings Act.

It is the desire of the city commission to conclude all business not later than 11:00 PM. The commission will consider this goal during their deliberations.

Closed Sessions

All meetings of the Commission shall be open to the public and shall be held in a place available to the general public. A closed session, a meeting or part of a meeting that is closed to the public, may be called for the permissible purposes included in the Open Meetings Act (Act 267 of 1976 as amended). Examples of such purposes include personnel evaluation, collective bargaining, purchase or lease of real property, and pending litigation.

Agenda

The Commission Meeting Agenda, including minutes, warrants, correspondence and reports shall be distributed to the City Commission on or before the Friday prior to the meeting date. Agendas shall also be made available for public review in the City Clerk's Office and on the City website. Minutes shall not normally be read as part of the meeting.

Minutes

The minutes shall include the mandatory information as required by the Open Meetings Act 267 of 1976; Section 15.269. The minutes shall reflect an overview or brief summary of the subject matter and any Commission comments that may have had an effect on the outcome. Commission comments may include a summary in support or opposed and discussion which may be relevant for future reference.

The minutes shall include a participating citizen's name and position on an issue when there is public comment during the commission meeting in all of the following instances: (1) a public hearing, (2) an agenda item or (3) recognition of citizens in the audience.

Presiding Officer

On the second Monday of November annually, the City Commission shall meet at a special workshop prior to the regular City Commission meeting, in order to discuss the selection of one of its members to serve as Mayor, who shall be the presiding officer of the Commission. At the workshop, the City Commission will discuss the qualifications, characters, willingness and abilities of particular commissioners to serve as Mayor. At the regular meeting, the City Commission shall enter into a motion and vote as to the election of the Mayor. The Mayor shall preside at all meetings of the City Commission, and be the Chief Executive head of the City and shall have other powers and perform other duties as are or may be imposed or authorized by

the laws of the State, by the City Charter, or by the Commission. He or she shall be the conservator of the peace and may exercise within the City the powers conferred to suppress disorder.

At the same workshop the City Commission shall discuss the qualifications, characters, willingness, and abilities to elect another member of the Commission as Mayor Pro-Tem. At the regular meeting, the City Commission shall enter into a motion and vote as to the election of the Mayor Pro-Tem, who in the absence or disability of the Mayor shall act in his or her stead and shall during the time of such absence or disability exercise all of the duties and possess all of the powers of the Mayor.

In the absence or disability of the Mayor Pro-Tem, the City Commission may temporarily appoint one of its members to that office.

The Mayor and Mayor Pro-Tem, as a member of the City Commission, shall have the right to vote on all matters before the Commission; however, he or she shall not have the right to veto.

Conduct of Business

Commission Meetings shall be governed by the rules contained in the most recent edition of Robert's Rules of Order, Newly Revised in all instances in which they are applicable and not inconsistent with the statutes of the United States or the State of Michigan, or with the Charter or adopted of the City of Birmingham or these Rules of Procedure.

Commissioners should be recognized by the presiding officer before speaking.

Commissioners' Attendance at Boards and Committees

It is the decision of the Commission that to avoid the appearance of or a possibility of potential influence or duress upon appointees, or to avoid the possibility of violating the OMA, commissioners shall refrain from appearing at various boards and committees in person or with their names addressed upon remote attendance. Exceptions may occur upon presentation and vote of the entire Commission.

Voting

Birmingham's City Charter states that four members of the City Commission shall constitute a quorum; that the Commission shall act only by ordinance or resolution, that is, an official action in the form of a motion; and that a minimum of four votes shall be required to adopt any such motion.

For all Boards, Commissions or Committees appointed by the City Commission the minimum number of votes shall be the same as the quorum number for that body. State statute, City of Birmingham Charter or ordinance may require a larger number of affirmative votes to approve certain actions for either the City Commission or appointed Boards.

The City Commission may take action on any motion either by voice or by roll-call vote. A roll-call vote shall be taken if requested by any Commissioner, the City Clerk, or any member of the public in attendance.

A motion may be amended or modified by combining the original motion and the modifications in one motion, provided all City Commission Members agree to include the "friendly amendment" in the original motion.

A Commission member may abstain from voting on a motion if he or she: 1) has a conflict of

interest; or 2) lacks sufficient information about the issue to be decided. Any Commissioner who abstains from voting on a motion shall state, for the record, at the outset of the discussion both his or her intention to abstain and reason for doing so. Should the need to abstain become clear during discussion, the member shall state his or her intention at that time. The Commissioner shall then be prohibited from participating in any further discussion or debate on the issue.

After a motion has been voted upon, any Commissioner who voted on the prevailing side may move to "reconsider" said motion at the same meeting, or at the next regularly scheduled meeting, provided no action has been taken as a result of the previous vote.

General consent or consensus (in lieu of a motion) may be used to give direction. In this case, the minutes shall indicate that a majority consented.

Citizen Participation

During any City Commission meeting, any person may question or comment upon any specific agenda item at the time the City Commission considers that item.

The public shall also be invited to make comments on any item not on the meeting agenda under the agenda item, "Meeting Open To The Public For Items Not On The Printed Agenda."

No person shall address the City Commission without first having been recognized by the presiding officer. Once recognized, the member of the public shall go to one of the available microphones, and state his or her name and community of residence before speaking.

Speakers may be requested to limit their comments so as to provide opportunities for comments from all interested persons. In particular, no member of the public shall normally be permitted to speak a second time on the same issue until all others wishing to make a presentation on the subject have had an opportunity to do so.

If any person becomes loud or unruly, the presiding officer may rule that person out of order and may forfeit that person's opportunity to speak further. A person may also be expelled from the meeting for breach of the peace.

Commission Vacancies

If a vacancy occurs on the City Commission, it shall be filled by a vote of the remaining Commissioners (not including the member who is vacating his or her seat). The vote to fill a vacancy shall be taken during a public meeting held within the time prescribed by State Law. Candidates for a vacant seat need not have previously served on, nor sought election to, the Commission.

The person selected to fill a vacancy shall serve only until the next following general election, at which time any remaining unexpired term shall be filled by the voters.

Appointment Procedures

No member of the City Commission shall serve on any Board of the City of Birmingham, except the Retirement System, unless membership is required by Michigan Statute or the Birmingham City Charter.

When the City Commission desires to fill a vacancy on an appointed City of Birmingham Board, Commission or Committee, the City Clerk shall give notice to the public by publishing the intent to fill the vacancy on the City website.

If the number of persons nominated for appointment to a City Board, Commission or Committee does not exceed the number of positions to be filled, the City Commission may use a voice vote. If the number of nominations exceeds the number of positions to be filled, nominees shall be voted upon in the order in which they were nominated, either by voice or by roll-call vote.

If no nominee receives the required four votes for appointment, the process of nomination and voting may be repeated either at the same meeting or at a subsequent meeting. If the Commission desires, the position may be re-noticed.

Requests for members of the City Commission to serve on non-city bodies shall be given to the Mayor, who shall make such information available to all Commissioners. Members shall indicate their interest in such positions to the Mayor and the appointment shall officially be made at a public meeting.

Amendment or Suspension of the Rules of Procedure

These rules may be changed at any meeting of the City Commission by a majority vote with notice at the previous meeting or by a 2/3 vote (5) without notice.

Drafted by Eleanor A. Siewert, Birmingham City Commissioner - June, 1991

Revised June 28, 2004, April 8, 2013, August 26, 2013, December 13, 2021, May 18, 2023



MEMORANDUM

Planning Division

DATE: August 23, 2023

TO: Jana Ecker, City Manager

FROM: Nicholas Dupuis, Planning Director

SUBJECT: Public Hearing for 245 S. Eton – Big Rock Italian Chophouse – Special Land Use Permit, Final Site Plan & Design Review

INTRODUCTION:

The applicant has submitted a Special Land Use Permit, Final Site Plan and Design Review application for a new food and drink establishment serving alcoholic liquors for on premise consumption in the historic Birmingham Grand Trunk Western Railroad Depot building. The subject site is located on the east side of S. Eton, south of Maple. The building is not only a local historically designated resource; it is also listed on the [National Register of Historic Places](#).

The applicant is proposing a new restaurant concept, Big Rock Italian Chophouse, with little change to the existing building and site. The proposal includes a new outdoor dining area on the south side of the building, replacement of select existing materials, new fixtures/furnishings, new signage, and minor façade changes.

BACKGROUND:

On April 19, 2023 ([Agenda](#) – [Minutes](#)), the Historic District Commission (HDC) moved to approve the Design Review application and issue a Certificate of Appropriateness for 245 S. Eton - Birmingham Grand Trunk Western Railroad Depot – with the conditions listed below. The HDC determined that the proposed work would meet the Secretary of the Interior Standards for Rehabilitation numbers 1, 2, 5, 9, and 10 upon the conditions being met:

1. The applicant must submit revised plans that remove all existing awnings on the main façade of the historical structure;
2. The applicant must submit revised plans that relocate the fireplace to the south end of the historical building;
3. The applicant must reduce the hedge plantings in front of the historical facade to four feet;
4. The applicant must reduce the lighting on site and submit specification sheets for all newly proposed fixtures;
5. The applicant must revise the canopy sign to adhere to the ordinance; and,
6. The applicant must provide revised drawings to reflect the modifications.

On July 12, 2023 ([Agenda](#) – [Minutes](#)), the Planning Board moved to recommend approval to the City Commission of the Special Land Use Permit, Final Site Plan & Design Review subject to the following conditions:

1. The applicant must submit revised site/design plans and provide screening for all new mechanical units in accordance with Article 4, Section 4.54 of the Zoning Ordinance;
2. The property owner work with City Staff to provide an easement to the City of up to 5 feet attached to the sidewalk north of the existing historic building for the purpose of an 8'-10' wide shared use path, contingent upon the City receiving a TAP Grant for the proposed S. Eton project, applied for on June 21st, 2023 and subsequently amended;
3. The applicant must submit revised site/design plans demonstrating one off-street loading space at the minimum dimensions required;
4. The Planning Board grants a waiver for non-cutoff light fixtures pursuant to Article 4, Section 4.21 (D)(1) of the Zoning Ordinance;
5. The applicant must submit revised site/design plans that meet the outdoor dining standards of Article 4, Section 4.44 of the Zoning Ordinance and must remove the proposed roof and roll down screens on the outdoor dining facility;
6. The applicant must revise the site/design plans to include sufficient details and signs that meet the requirements of the Sign Ordinance; and
7. The applicant must comply with the requests of all City Departments.

The applicant has submitted revised plans that address all of the conditions of approval assigned by the Historic District Commission and Planning Board including mechanical screening, signage and outdoor dining related items.

LEGAL REVIEW:

The City Attorney has reviewed this request and has no objections as to form and content.

FISCAL IMPACT:

There are no fiscal impacts for this agenda item.

SUSTAINABILITY:

The proposed adaptive reuse of the existing historic Birmingham Grand Trunk Railroad Depot is an exceedingly sustainable approach. The Planning Division will continue to work with the applicant to introduce other sustainability elements into the project.

PUBLIC COMMUNICATIONS:

As required for Special Land Use Permit and Final Site Plan Reviews, a legal ad was placed in a newspaper of local circulation to advertise the nature of the request in advance of the July 12, 2023 Planning Board meeting, and notices were sent out to all property owners and tenants within 300 ft. of the property. Similar notice was also given for the review at the Historic District Commission. In addition, a second round of notices was sent out to advertise the public hearing at the City Commission meeting on August 28, 2023.

SUMMARY:

The Planning Division requests that the City Commission consider approval of the Special Land Use Permit, Final Site Plan and Design Review application for 245 S. Eton – Big Rock Italian Chophouse.

ATTACHMENTS:

Please see attached the following documents (click attachment to jump to item):

- Special Land Use Permit Resolution
- Special Land Use Permit Contract
- Planning Board Report
- Historic District Commission Report
- Current Site/Design Plans

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to approve the Special Land Use Permit, Final Site Plan and Design Review application for 245 S. Eton – Big Rock Italian Chophouse.

**Big Rock Italian Chophouse – 245 S. Eton
Special Land Use Permit 2023**

WHEREAS, A Special Land Use Permit application was filed in June 2023 for approval of a new food and drink establishment serving alcoholic liquors for on premise consumption in the historic Birmingham Grand Trunk Western Railroad Depot building at 245 S. Eton;

WHEREAS, The land for which the Special Land Use Permit is sought is located on the east side of S. Eton, south of Maple Rd.;

WHEREAS, The land is zoned B2B (General Business), which permits alcoholic beverage sales for on premise consumption with a Special Land Use Permit;

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit to be considered and acted upon by the Birmingham City Commission, after receiving recommendations on the site plan and design from the Planning Board for the proposed Special Land Use;

WHEREAS, The Historic District Commission on April 19, 2023 reviewed an application for Design Review and moved to approve the Design Review application and issue a Certificate of Appropriateness with the following conditions:

1. The applicant must submit revised plans that remove all existing awnings on the main façade of the historical structure;
2. The applicant must submit revised plans that relocate the fireplace to the south end of the historical building;
3. The applicant must reduce the hedge plantings in front of the historical facade to four feet;
4. The applicant must reduce the lighting on site and submit specification sheets for all newly proposed fixtures;
5. The applicant must revise the canopy sign to adhere to the ordinance; and,
6. The applicant must provide revised drawings to reflect the modifications.

WHEREAS, The Planning Board on July 12, 2023 reviewed the application for a Special Land Use Permit, Final Site Plan and Design Review and recommended approval to the City Commission with the following conditions:

1. The applicant must submit revised site/design plans and provide screening for all new mechanical units in accordance with Article 4, Section 4.54 of the Zoning Ordinance;
2. The property owner work with City Staff to provide an easement to the City of up to 5 feet attached to the sidewalk north of the existing historic building for the purpose of an 8'-10' wide shared use path, contingent upon the City receiving a TAP Grant for the proposed S. Eton project, applied for on June 21st, 2023 and subsequently amended;
3. The applicant must submit revised site/design plans demonstrating one off-street loading space at the minimum dimensions required;
4. The Planning Board grants a waiver for non-cutoff light fixtures pursuant to Article 4, Section 4.21 (D)(1) of the Zoning Ordinance;
5. The applicant must submit revised site/design plans that meet the outdoor dining

- standards of Article 4, Section 4.44 of the Zoning Ordinance and must remove the proposed roof and roll down screens on the outdoor dining facility;
6. The applicant must revise the site/design plans to include sufficient details and signs that meet the requirements of the Sign Ordinance; and
 7. The applicant must comply with the requests of all City Departments.

WHEREAS, The applicant has complied with the conditions of approval required by the Historic District Commission, Planning Board and all City Departments;

WHEREAS, The Birmingham City Commission has conducted a public hearing on August 28, 2023, and has reviewed Big Rock Italian Chophouse's Special Land Use Permit application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;

NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and that Big Rock Italian Chophouse's application for a Special Land Use Permit, Final Site Plan and Design Review at 245 S. Eton is hereby approved;

BE IT FURTHER RESOLVED, That the City Commission determines that to ensure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit is granted subject to the following conditions:

1. Big Rock Italian Chophouse shall abide by all provisions of the Birmingham City Code;
2. Big Rock Italian Chophouse shall comply with the conditions of approval assigned by the Historic District Commission, Planning Board and City Commission;
3. The property owner work with City Staff to provide an easement to the City of up to 5 feet attached to the sidewalk north of the existing historic building for the purpose of an 8'-10' wide shared use path, contingent upon the City receiving a TAP Grant for the proposed S. Eton project, applied for on June 21st, 2023 and subsequently amended; and
4. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest.

BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.

BE IT FURTHER RESOLVED, Except as herein specifically provided, Big Rock Italian Chophouse and its heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of Big Rock Italian Chophouse to comply with all the ordinances of the City may result in the Commission revoking this Special Land Use Permit.

BE FURTHER RESOLVED that Big Rock Italian Chophouse is recommended for approval of a new food and drink establishment serving alcoholic liquors for on premise consumption in the historic Birmingham Grand Trunk Western Railroad Depot building, above all others, subject to final inspection.

I, Alexandria Bingham, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on August 28, 2023.

Alexandria Bingham
City Clerk

CONTRACT FOR A CLASS C LIQUOR LICENSE FOR 245 S. ETON – BIG ROCK ITALIAN CHOPHOUSE

This Contract is entered into this ____ day of _____, 2023 by and between **BIG ROCK CHOPHOUSE VENTURE, LLC**, whose address is 245 S. Eton Street, Birmingham, MI 48009 (Licensee), **ETON STATION, LLC**, whose address is 2051 Villa Ste. 106, Birmingham, MI 48009 (Property Owner), and the **CITY OF BIRMINGHAM**, a Michigan Municipal Corporation, whose address is 151 Martin Street, Birmingham, Michigan 48009 (City).

R E C I T A L S:

WHEREAS, a Special Land Use Permit Application was filed in June 2023 for approval of a business serving alcoholic liquors for on premise consumption and associated interior/exterior renovations; and,

WHEREAS, the land for which the Special Land Use Permit Agreement is sought is located on the east side of S. Eton, south of Maple Rd.; and,

WHEREAS, the land is zoned B2B (General Business) which permits the sale of alcoholic liquors for on premise consumption with a Special Land Use Permit; and,

WHEREAS, Article 7, Section 7.34 of Chapter 126 Zoning requires a Special Land Use Permit to be considered and acted upon by the Birmingham City Commission after reviewing recommendations on the site plan and design from the Planning Board for the proposed Special Land Use; and,

WHEREAS, the City of Birmingham Commission is granting a contract to Licensee for the approval of the use of an on-premises liquor license, Special Land Use Permit.

NOW, THEREFORE, the parties agree as follows:

1. Licensee has a state issued liquor license for use solely at the Property. Any transfer of the aforementioned license from the Property to any other location in the City of Birmingham shall require the approval of the Birmingham City Commission in accordance with Section 10-83 of the City of Birmingham Code of Ordinances. In addition, any expansion of the Property shall also require the approval of the Birmingham City Commission.

2. Licensee further acknowledges that it must maintain a Special Land Use Permit for the sale of alcoholic liquors for on premise consumption as required by the Birmingham City Code of Ordinances. It is agreed that Licensee shall comply with all provisions of the Special Land Use Permit, or any amendments thereto, as a condition of this contract. Licensee further acknowledges and agrees that a violation of any provision of the Special Land Use Permit or the Michigan Liquor Control Code is a violation of the terms of this contract entitling the City to exercise any or all of the remedies provided herein.

3. Licensee acknowledges that no modifications to the site plan, floor plan, elevations or operation of the establishment may be made unless approved by the City Commission through a Special Land Use Permit Amendment as required in the Zoning Ordinance. Modifications include,

but are not limited to, name changes, ownership changes, remodeling, changes in the number of interior or exterior seats, etc.

4. Licensee acknowledges that outdoor dining is permitted with a valid Outdoor Dining License which is applied for and granted annually.

5. Licensee agrees that it shall not apply or seek from the Michigan Liquor Control Commission any permit endorsements to its liquor license whether available in the current Michigan Liquor Control Code or in future Michigan Liquor Control Codes, or amendments thereto, without the prior approval of the Birmingham City Commission.

6. Licensee further agrees that it shall not seek any change in its license status/class whether such changes are available now in the current Michigan Liquor Control Code or in future Michigan Liquor Control Codes, or amendments thereto, without prior approval of the Birmingham City Commission.

7. Licensee agrees that it shall adhere to all Federal, State and Local ordinances currently in effect or as subsequently amended or enacted.

8. Licensee agrees that its failure to follow any of the provisions herein may be grounds for the Michigan Liquor Control Commission to suspend, revoke or not renew its liquor license and/or for the Birmingham City Commission to revoke the Special Land Use Permit, either of which would prohibit Licensee from operating the establishment. Licensee agrees that in addition to the City of Birmingham's right to seek suspension, revocation or non-renewal of its liquor license and/or revocation of the Special Land Use Permit, the City retains any and all rights to enforce this Contract that may be available to it in law or in equity. Licensee further agrees that it shall reimburse the City all of its costs and actual attorney fees incurred by the City in seeking the suspension, revocation or non-renewal of its liquor license and revocation of the Special Land Use Permit, as well as enforcing such other rights as may be available at law and/or in equity.

9. To the fullest extent permitted by law, Licensee and any entity or person for whom Licensee is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City, its elected and appointed officials, employees and volunteers and others working on behalf of the City against any and all claims, demands, suits, or loss, including all costs connected therewith, including all costs and actual attorney fees, and for any damages which may be asserted, claimed or recovered against or from the City, its elected and appointed officials, employees, volunteers or others working on behalf of the City, by reason of personal injury, including bodily injury, death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with Licensee's operation of an establishment at the Property. The Licensee is not liable if the act or omission is the City's.

10. In the event Licensee fails to reimburse the City the costs and/or attorney fees as required herein, or any part thereof, then said amount could be transferred to the tax roll in accordance with Section 1-14 of the Birmingham City Code as acknowledged by the Property Owner, ETON STATION, LLC, whose address is 2051 Villa Ste. 106, Birmingham, MI 48009.

11. Any disputes arising under this Contract, not within the jurisdiction of the Michigan Liquor Control Commission, shall be settled either by commencement of a suit in Oakland County

Circuit Court or by compulsory arbitration, at the election of the City. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds \$1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL §600.5001 et seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. The laws of the State of Michigan shall govern this Agreement, and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in a federal or state court with jurisdiction over Oakland County, Michigan.

12. This contract shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan.

13. If any provision of this contract is declared invalid, illegal or unenforceable, such provision shall be severed from this contract and all other provisions shall remain in full force and effect.

14. The City determines that to ensure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit is granted subject to the following conditions:

- a. Licensee shall abide by all provisions of the Birmingham City Code; and
- b. Licensee shall comply with the conditions of approval assigned by the Historic District Commission, Planning Board and City Commission;
- c. The property owner work with City Staff to provide an easement to the City of up to 5 feet attached to the sidewalk north of the existing historic building for the purpose of an 8'-10' wide shared use path, contingent upon the City receiving a TAP Grant for the proposed S. Eton project, applied for on June 21, 2023 and subsequently amended; and
- d. The Special Land Use Permit may be canceled by the City Commission upon finding, after proper notice and a hearing, that the continued use is not in the public interest.

15. Failure to comply with any of the above conditions may result in termination of the Special Land Use Permit after the licensee has been given notice and a hearing.

16. Except as herein specifically provided, Licensee and its heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of Licensee to comply with all the ordinances of the City may result in the Commission revoking this Special Land Use Permit, after notice and a hearing.

17. Licensee is recommended for the operation of an establishment serving alcoholic beverages for on premise consumption and associated interior/exterior renovations, above all others, subject to final inspection.

18. This Contract shall be binding upon and apply and inure to the benefit of the parties hereto and their respective successors or assigns. The covenants, conditions, and the agreements herein contained are hereby declared binding on the City and Licensee. It is further agreed that there shall be no change, modification, or alteration hereof, except in writing, signed by all of the parties hereto. Neither party shall assign any of the rights under this contract without prior approval, in writing, of the other. Any attempt at assignment without prior written consent shall be void and of no effect.

(This space intentionally left blank)

IN WITNESS WHEREOF, the parties hereby have executed this Contract as of the date set forth above.

BIG ROCK CHOPHOUSE VENTURE, LLC (Licensee)

By: *[Signature]*
 Its: Founder & CEO
 Date: 8-23-2023

STATE OF MICHIGAN)
) ss:
 COUNTY OF OAKLAND)

On this 23 day of August, 2023, before me personally appeared Cameron Mitchell who acknowledged that with authority on behalf ~~Cameron Mitchell~~ Restaurants, LLC to do so signed this Agreement.

[Signature]
 Notary Public
Franklin County, Michigan Ohio
 Acting in Franklin County, Michigan Ohio
 My commission expires: N/A



*Big Rock Chop House
 Venture, LLC*
 KERRY T. BOYLE
 Attorney at Law
 Notary Public, State of Ohio
 My Commission Has No Expiration
 Section 147.03 R.C.

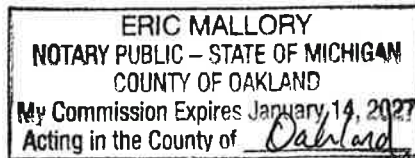
ETON STATION, LLC (Property Owner)
 (as to paragraph 10 only)

By: *[Signature]*
 Its: Partner

STATE OF MICHIGAN)
) ss:
 COUNTY OF OAKLAND)

On this 23rd day of August, 2023, before me personally appeared John Kelly who acknowledged that with authority on behalf of Eton Station, LLC to do so signed this Agreement.

[Signature]
 Notary Public
Oakland County, Michigan
 Acting in Oakland County, Michigan
 My commission expires: 1/14/2027




CITY OF BIRMINGHAM

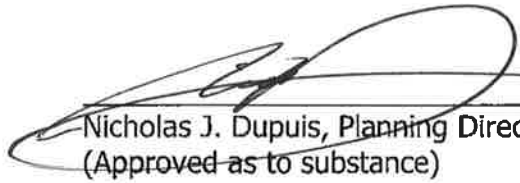
By: _____
Therese Longe, Mayor

By: _____
Alexandria D. Bingham, City Clerk

APPROVED:



Jana L. Ecker, City Manager
(Approved as to substance)



Nicholas J. Dupuis, Planning Director
(Approved as to substance)

Mary M. Kucharek, City Attorney
(Approved as to form)



MEMORANDUM

Planning Division

DATE: July 12, 2023

TO: Planning Board Members

FROM: Nicholas Dupuis, Planning Director

SUBJECT: 245 S. Eton – Big Rock — Special Land Use Permit (SLUP), Final Site Plan & Design Review

The applicant has submitted a Special Land Use Permit, Final Site Plan and Design Review application for a new food and drink establishment serving alcoholic liquors for on premise consumption in the historic Birmingham Grand Trunk Western Railroad Depot building. The subject site is located on the east side of S. Eton, south of Maple.

The applicant is proposing a new restaurant concept, Big Rock Italian Chophouse, with little change to the existing building and site. The proposals include a new outdoor dining area on the south side of the building, replacement of select existing materials, new fixtures/furnishings, new signage, and minor façade changes.

On April 19, 2023 ([Agenda](#) – [Minutes](#)), the Historic District Commission (HDC) reviewed and approved a Design Review application for the changes proposed to the historic building. During the review, the HDC focused predominantly on the changes to the historic building itself, as well as changes that directly affected the historic façade. As noted in the report, many of the changes (outdoor dining, mechanicals, etc.) were to be left to the Planning Board at Special Land Use Permit, Final Site Plan & Design Review.

The Birmingham Code of Ordinances states that a contract for transfer and a Special Land Use Permit are required for all licenses approved under Chapter 10 – Alcoholic Liquors. The licensee must comply with all provisions of the contract and Special Land Use Permit, and any amendments thereto as a condition of granting of a requested transfer. Accordingly, the applicant must obtain a recommendation from the Planning Board on the Special Land Use and Final Site Plan/Design Review application, which is then reviewed for final consideration by the City Commission.

1.0 Land Use and Zoning

- 1.1 Existing Land Use – The existing site is a vacant two-story commercial building, which is a designated historic resource.
- 1.2 Existing Zoning – B2B General-Business)
- 1.3 Summary of Adjacent Land Use and Zoning – The following chart summarizes the existing land use and zoning adjacent to and/or in the vicinity of the subject site.

	North	South	East	West
Existing Land Use	Public Property	Commercial/ Residential	Public Property	Residential
Existing Zoning District	PP (Public Property)	MX (Mixed-Use)	PP (Public Property)	R6 (Multiple-Family Residential)
Overlay Zoning District	N/A	N/A	N/A	N/A

2.0 Setback and Height Requirements

There are no additions or modifications being proposed to the current building or its setbacks, height or area.

3.0 Screening and Landscaping

- 3.1 Dumpster Screening – The applicant does not appear to be making any changes to the dumpster conditions on site. The site currently contains a dumpster enclosure on the south side of the building that appears to meet the requirements of the Zoning Ordinance. As a note, the Planning Division has observed receptacles placed outside of the enclosure in the past (including grease disposal containers). The new tenant is expected to maintain a neat and orderly dumpster enclosure area with all receptacles located within the enclosure.
- 3.2 Parking Lot Screening – There are no changes proposed to the existing parking lot or existing capped masonry screen wall. The existing screen wall appears to meet current ordinances.
- 3.3 Mechanical Equipment Screening – The applicant has submitted mechanical plans that appear to demonstrate several new units on both the ground and the

roof of the building. Most of the areas proposed for new units have been used for mechanical equipment in the past, with some new locations proposed. The locations are all on the rear of the building. Although the new units are in the rear of the building and adjacent to a railroad, all new units are required to be screened from view. As observed in the following photograph, several of the existing units (and areas where new units are proposed) are clearly visible from adjacent properties:



Thus, the applicant must submit revised site/design plans and provide screening for all new mechanical units in accordance with Article 4, Section 4.54 of the Zoning Ordinance.

- 3.4 Landscaping – Although landscaping is not required for the site, the applicant is proposing several new landscaping beds on the site adjacent to the building while also proposing to maintain existing trees and the ivy currently covering much of the existing façade. The applicant is proposing the following plantings:

Planting Type	Location	Quantity
Pink Flair Flowering Cherry Tree	South side	2
Northern Charm Boxwood	North side	40
Sprinter Boxwood	North/south side	42
Kelsey Red Twig Dogwood	North side	26
Annabelle Hydrangea	South side	5
Emerald Green Arborvitae	South Side	20
Karl Forester Feather Reed Grass	North Side	29
All Gold Japanese Forest Grass	North/south side	76
Risky Business Hosta	North side	21

Creeping Lilyturf	North/south side	104
Tara Prairie Dropseed	North side	32

In terms of the proposed landscaping, none of the plantings are directly listed on the Prohibited Species List in Article 4, Section 4.20 of the Zoning Ordinance. However, the proposed Pink Flair Flowering Cherry Tree does produce a small fruit, which could make the tree a succulent fruit-bearing tree, which is indeed located on the prohibited species list. In addition, the proposed Creeping Lilyturf, although not on the Prohibited Species List, is considered invasive according to the Invasive Plant Atlas of the United States.

The Planning Board should discuss these issues and determine whether or not any changes will be required.

- 3.5 Streetscape – There are no new streetscape items proposed as a part of this Special Land Use Permit Amendment and Final Site Plan/Design Review application. However, as a part of the broader S. Eton Reconstruction project, the City has approached the property owner regarding an easement to continue a bike path north to better connect with the bicycle infrastructure on N. Eton. The change to the property would be nominal from a visual perspective, and would be located north of the building and its outdoor dining components where the road begins to turn. The potential change in the site is tied to a Transportation Alternatives Program (TAP) grant funding opportunity that the City has applied for. At this time, the Planning Division has included in the approval language below a condition that states that the property owner work with City Staff to provide an easement to the City of up to 5 feet attached to the sidewalk north of the existing historic building for the purpose of an 8'-10' wide shared use path, contingent upon the City receiving a TAP Grant for the proposed S. Eton project, applied for on June 21st, 2023 and subsequently amended.

4.0 Parking, Loading and Circulation

- 4.1 Parking – Please see the below breakdown of the parking required for the Big Rock, as well as the other sites that utilize the nearby private parking structure (figures derived from [December 16, 2021](#) parking analysis from the District Lofts Phase III review and updated with more specific Big Rock figures):

(This space intentionally left blank)

Property	Required Off-Street Parking
Big Rock Chophouse	162
2051 Villa (Building A)	49
375 S. Eton (Building B)	56
325 S. Eton (Building C)	73
FAR Overages	57
Total Required	397
Total Provided	403

- 4.2 Loading – Based on the size of the building and the commercial use, the applicant is required to provide one off-street loading space measuring the minimum dimensions of 40 ft. x 12 ft. x 14 ft. The site plans submitted do not explicitly designate a loading area, although it is apparent that there is plenty of room on the site for one. Still, **the applicant must submit revised site/design plans demonstrating one off-street loading space at the minimum dimensions required.**
- 4.3 Vehicular Circulation and Access – Vehicular circulation and access is not proposed to change. The site will retain the existing drive approach from S. Eton, as well as the existing circular drive and parking facility.
- 4.4 Pedestrian Circulation and Access – Pedestrian circulation and access is not proposed to change. The site will retain the existing pedestrian walkways and main pedestrian entrance.

5.0 Lighting

The applicant is proposing new lantern-style light fixtures on the pergola posts, pendant lighting, as well as replacement accent lighting along key areas of the facade. In addition, the applicant is proposing to maintain several existing fixtures in the parking lot/circulation area in front of the building. Due to the perceived minimal impact of these new fixtures, the Planning Division did not seek a photometric plan beyond what was submitted (existing lighting) pursuant to Article 4, Section 4.21 (C) of the Zoning Ordinance.

In addition, the Planning Division has reviewed the specification sheets provided and determined that none of the proposed fixtures are cutoff or full cutoff as defined by the Zoning Ordinance. Exception to cutoff luminaires can be made at the discretion of the Planning Board under any of the following conditions:

1. The distribution of upward light is controlled by means of refractors or shielding to the effect that it be used solely for the purpose of decorative enhancement of the luminaire itself and does not expel undue ambient light into the nighttime environment.

2. The luminaire is neither obtrusive nor distracting, nor will it create a traffic hazard or otherwise adversely impact public safety, with appropriate methods used to eliminate undesirable glare and/or reflections.
3. The luminaire is consistent with the intent of the Master Plan, Urban Design Plan(s), Triangle district plan, Rail District plan and/or Downtown Birmingham 2016 Report, as applicable.
4. The scale, color, design or material of the luminaire will enhance the site on which it is located, as well as be compatible with the surrounding buildings or neighborhood.
5. Lighting designed for architectural enhancement of building features (i.e. architectural enhancement lighting). Appropriate methods shall be used to minimize reflection and glare.
6. The site lighting meets all requirements set forth in this ordinance including, but not limited to, light trespass and nuisance violations.

The Planning Board should review the information provided and provide a waiver for non-cutoff light fixtures based on the above criteria.

6.0 Design Review

As noted above, the Historic District Commission performed a historic Design Review for the proposal, which is summarized below. Each item has also been re-reviewed for applicability to other sections of the Zoning Ordinance that the HDC may not have considered.

Trim: The applicant is proposing to paint all of the trim and half-timber details black (Benjamin Moore "Black"). The existing trim was painted red as a part of the Big Rock Chop and Brew House renovations.

Awnings: There are awnings currently located in several places on the building. The applicant is proposing to remove all of the existing awnings from the historic portion of the building. As for the awnings on the addition at the north side of the building, the applicant is proposing to re-cover and reinstall the awnings in the same locations (Sunbrella "Slate" fabric awnings).

Façade: There are no changes proposed to the main façade of the building. However, the applicant is proposing new façade materials on the north side of the addition portion of the building. The new material is stained wood ("Cabot Semi Transparent – Black"). In addition, the slightly pitched roof that currently contains a striped fabric material is proposed to be replaced with a standing seam metal roof. There are no specific architectural standards that are required to be met in this zoning district.

Outdoor Dining: The applicant is proposing to maintain an existing outdoor dining patio located on the north side of the building, which will contain 46-seats. The applicant is also proposing a new outdoor dining patio on the south side of the building, which will replace an existing valet stand and landscaped area. This new patio will contain 42-

seats. Both patios will be covered by a wood pergola. Each pergola will have a clear polycarbonate roof.

Overall, the applicant is required to familiarize themselves with the Outdoor Dining Standards outlined in Article 4, Section 4.44 of the Zoning Ordinance. Some design-related standards that should be discussed in this report are:

1. All outdoor dining elements, fixtures and furnishings must be constructed of high quality and durable materials that are compatible with the establishment and the environment in which the outdoor dining facility is located.
 - The Planning Division has some concerns about the proposed polycarbonate roofing system on the pergolas. The material appears to be somewhat fragile and susceptible to discoloration.
2. Outdoor dining facilities shall provide and service refuse containers within the outdoor dining facility and maintain the area in good order. Public trash receptacles are not permitted to be utilized by outdoor dining facilities.
 - The site plans submitted do not show a trash receptacle within either of the outdoor dining facilities.
3. Outdoor dining facilities shall not contain enclosures as defined in Article 9, Section 9.02 of the Zoning Ordinance.
 - Enclosure is defined as “a vertical wall, panel, or other material that extends above 42 in. in height which provides extended relief from weather and impedes physical and/or visual access to the outdoor dining space. For the purposes of this definition, enclosure does not include exterior building walls.” There are two issues related to enclosures in regards to the outdoor dining patios on the site/design plans submitted. First, the proposed 4 ft. evergreen hedge provides a visual impediment to the outdoor dining facilities at a height greater than 42 in. Second, the applicant is proposing “seasonal roll down screens” which is considered an enclosure as well.
4. Barriers defining outdoor dining facilities shall be constructed of quality and durable materials, and shall be maintained and placed in a consistent and organized fashion. Barriers may not exceed 42 inches in height measured from grade or finished floor.
 - As noted above, the evergreen barriers proposed at 4 ft. (48 in.) exceed the permitted height for barriers.

In summary , there are several outdoor dining-related issues that need to be resolved with this proposal. Thus, **the applicant must submit revised site/design plans that meet the outdoor dining standards of Article 4, Section 4.44 of the Zoning Ordinance.**

Signage: The applicant is proposing at least one new sign as a part of this application, with a possibility for a second sign. The clearer proposal is a canopy sign ("BIG ROCK") located above the main entrance. In short, the proposed canopy sign does not appear to meet the requirements of the Sign Ordinance, as it exceeds the maximum permitted height of a canopy sign. Less clear is what appears to be a small ground sign in the landscape island in the circulation area that appears to be made of stone with metal letters affixed to the face. This sign may be permitted, but the Planning Division does not have sufficient detail at this time. Thus, **the applicant must revise the site/design plans to include sufficient details and signs that meet the requirements of the Sign Ordinance.**

7.0 Required Attachments

	Submitted	Not Submitted	Not Required
Existing Conditions Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Detailed and Scaled Site Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Certified Land Survey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Interior Floor Plans	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Landscape Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Photometric Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Colored Elevations	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Material Specification Sheets	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Material Samples	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Site & Aerial Photographs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8.0 Approval Criteria

In accordance with Article 7, section 7.27 of the Zoning Ordinance, the proposed plans for development must meet the following conditions:

- (1) The location, size and height of the building, walls and fences shall be such that there is adequate landscaped open space so as to provide light, air and access to the persons occupying the structure.
- (2) The location, size and height of the building, walls and fences shall be such that there will be no interference with adequate light, air and access to adjacent lands and buildings.

- (3) The location, size and height of the building, walls and fences shall be such that they will not hinder the reasonable development of adjoining property nor diminish the value thereof.
- (4) The site plan, and its relation to streets, driveways and sidewalks, shall be such as to not interfere with or be hazardous to vehicular and pedestrian traffic.
- (5) The proposed development will be compatible with other uses and buildings in the neighborhood and will not be contrary to the spirit and purpose of this chapter.
- (6) The location, shape and size of required landscaped open space is such as to provide adequate open space for the benefit of the inhabitants of the building and the surrounding neighborhood.

In addition, Article 7, Section 7.26 requires applications for a Special Land Use Permit to meet the following criteria:

- (1) The use is consistent with and will promote the intent and purpose of this Zoning Ordinance.
- (2) The use will be compatible with adjacent uses of land, the natural environment, and the capabilities of public services and facilities affected by the land use.
- (3) The use is consistent with the public health, safety and welfare of the city.
- (4) The use is in compliance with all other requirements of this Zoning Ordinance.
- (5) The use will not be injurious to the surrounding neighborhood.
- (6) The use is in compliance with state and federal statutes.

9.0 Recommendation

Based on a review of the site plan submitted, the Planning Division recommends that the Planning Board recommend **APPROVAL** of the Special Land Use and Final Site Plan/Design Review application for 245 S. Eton – Big Rock – subject to the following conditions:

- 1. The applicant must submit revised site/design plans and provide screening for all new mechanical units in accordance with Article 4, Section 4.54 of the Zoning Ordinance;
- 2. The property owner work with City Staff to provide an easement to the City of up to 5 feet attached to the sidewalk north of the existing historic building for the purpose of an 8'-10' wide shared use path, contingent upon the City receiving a TAP Grant for the proposed S. Eton project, applied for on June 21st, 2023 and subsequently amended;
- 3. The applicant must submit revised site/design plans demonstrating one off-street loading space at the minimum dimensions required;
- 4. The Planning Board grants a waiver for non-cutoff light fixtures pursuant to Article 4, Section 4.21 (D)(1) of the Zoning Ordinance;

5. The applicant must submit revised site/design plans that meet the outdoor dining standards of Article 4, Section 4.44 of the Zoning Ordinance;
6. The applicant must revise the site/design plans to include sufficient details and signs that meet the requirements of the Sign Ordinance; and
7. The applicant must comply with the requests of all City Departments.

10.0 Sample Motion Language (*Final Site Plan & Design Review*)

Motion to recommend for **APPROVAL** the Final Site Plan & Design Review for 245 S. Eton – Big Rock – subject to the following conditions:

1. The applicant must submit revised site/design plans and provide screening for all new mechanical units in accordance with Article 4, Section 4.54 of the Zoning Ordinance;
2. The property owner work with City Staff to provide an easement to the City of up to 5 feet attached to the sidewalk north of the existing historic building for the purpose of an 8'-10' wide shared use path, contingent upon the City receiving a TAP Grant for the proposed S. Eton project, applied for on June 21st, 2023 and subsequently amended;
3. The applicant must submit revised site/design plans demonstrating one off-street loading space at the minimum dimensions required;
4. The Planning Board grants a waiver for non-cutoff light fixtures pursuant to Article 4, Section 4.21 (D)(1) of the Zoning Ordinance;
5. The applicant must submit revised site/design plans that meet the outdoor dining standards of Article 4, Section 4.44 of the Zoning Ordinance;
6. The applicant must revise the site/design plans to include sufficient details and signs that meet the requirements of the Sign Ordinance; and
7. The applicant must comply with the requests of all City Departments.

OR

Motion to **POSTPONE** the Final Site Plan & Design Review for 245 S. Eton – Big Rock – pending receipt of the following:

1. The applicant must submit revised site/design plans and provide screening for all new mechanical units in accordance with Article 4, Section 4.54 of the Zoning Ordinance;
2. The property owner work with City Staff to provide an easement to the City of up to 5 feet attached to the sidewalk north of the existing historic building for the purpose of an 8'-10' wide shared use path, contingent upon the City receiving a TAP Grant for the proposed S. Eton project, applied for on June 21st, 2023 and subsequently amended;
3. The applicant must submit revised site/design plans demonstrating one off-street loading space at the minimum dimensions required;

4. The Planning Board grants a waiver for non-cutoff light fixtures pursuant to Article 4, Section 4.21 (D)(1) of the Zoning Ordinance;
5. The applicant must submit revised site/design plans that meet the outdoor dining standards of Article 4, Section 4.44 of the Zoning Ordinance;
6. The applicant must revise the site/design plans to include sufficient details and signs that meet the requirements of the Sign Ordinance; and
7. The applicant must comply with the requests of all City Departments.

OR

Motion to recommend for **DENIAL** to the City Commission the Final Site Plan & Design Review for 245 S. Eton – Big Rock – for the following reasons:

1. _____
2. _____
3. _____

11.0 Sample Motion Language (*Special Land Use Permit*)

Motion to recommend for **APPROVAL** to the City Commission the Special Land Use Permit for 245 S. Eton – Big Rock – subject to the conditions of Final Site Plan & Design Review approval.

OR

Motion to **POSTPONE** the Special Land Use Permit 245 S. Eton – Big Rock – pending receipt of the following:

1. The applicant must submit revised site/design plans and provide screening for all new mechanical units in accordance with Article 4, Section 4.54 of the Zoning Ordinance;
2. The property owner work with City Staff to provide an easement to the City of up to 5 feet attached to the sidewalk north of the existing historic building for the purpose of an 8'-10' wide shared use path, contingent upon the City receiving a TAP Grant for the proposed S. Eton project, applied for on June 21st, 2023 and subsequently amended;
3. The applicant must submit revised site/design plans demonstrating one off-street loading space at the minimum dimensions required;
4. The Planning Board grants a waiver for non-cutoff light fixtures pursuant to Article 4, Section 4.21 (D)(1) of the Zoning Ordinance;
5. The applicant must submit revised site/design plans that meet the outdoor dining standards of Article 4, Section 4.44 of the Zoning Ordinance;

6. The applicant must revise the site/design plans to include sufficient details and signs that meet the requirements of the Sign Ordinance; and
7. The applicant must comply with the requests of all City Departments.

OR

Motion to recommend for **DENIAL** to the City Commission the Special Land Use Permit for 245 S. Eton – Big Rock – for the following reasons:

1. _____
2. _____
3. _____



MEMORANDUM

Planning Division

DATE: April 19, 2023
TO: Historic District Commission Members
FROM: Nicholas Dupuis, Planning Director
SUBJECT: 245 S. Eton – Birmingham Grand Trunk Western Railroad Depot – Design Review

Zoning: MX (Mixed Use)
Existing Use: Two-Story Commercial Building

History

A sixty-boat parade and speech by the Governor marked the opening of the Train Station on August 1, 1931. The “new” station was considered modern in every respect. The Eton St. Station was the third built to service the City of Birmingham. The opening of the station symbolized the end of a long struggle over the two basic forms of transportation; rail and the internal combustion engine. The location of the railroad right of way was moved a quarter of a mile to the east to its present location to relieve the continued increasing demands of automobiles. This prompted the construction of the Eton St. Station, the automobile became increasingly popular after World War I and eventually maintenance costs and lack of use led to the closing of the railroad depot in 1978. After the purchase of the depot by Norm Lepage, the Eton Street Station was converted into a restaurant which became the Big Rock Chop and Brew House restaurant.

Introduction

A Design Review application has been submitted for minor cosmetic changes to the building, as well as modifications to the outdoor dining on site. In addition to being a designated historic resource, the building is also listed on the National Register of Historic Places. The proposed renovations are related to a new restaurant tenant that will inhabit the space after the Big Rock Chop and Brew House was closed permanently in 2021.

Proposal

As a general statement, the proposed renovations to the historic building are minor and consist of paint and other cosmetic changes to elements that currently exist including trim and awnings. The changes to outdoor dining are taking place in two separate areas. On the north side of the building, the applicant is proposing to re-clad the non-historic addition and build a pergola where there was formerly open patio space that was often inhabited by a large plastic tent. On the south side of the building, the applicant is proposing to remove the existing valet stand/enclosure and build an additional outdoor dining facility with a pergola, fireplace, and hedge screening.

The color palate is a dark/neutral one with Benjamin Moore black paint, stained wood, and Sunbrella awnings in slate color.

Planning & Zoning

Due to the new restaurant use inhabiting the space and the liquor license that will be used, a Special Land Use Permit review will be undertaken by the Planning Board. At this time, the Planning Division has reviewed the proposal and has no major concerns with the applicable planning/zoning issues. Included in the particular areas of study will be the outdoor dining facilities and the proposed screens that will enclose the pergola areas on the north and south. Thus, this report will focus on the historical aspects of the renovation.

Signage

The site/design plans submitted demonstrate two new signs as a part of this renovation. The first sign is located on the canopy above the main entrance. The second sign is located in the garden at the center of the driveway, which the application suggests is there presently, but will be updated with new lettering to reflect the new establishment.

Article 2, Section 2.02 of the Sign Ordinance states that "the City Commission shall hear and deny, approve, or approve with conditions, those signs for special land uses, after receiving the recommendation of the Planning Board." However, the Historic District Commission has purview here as well and should review the proposed signage against the Secretary of the Interior standards outlined in a later section of this report. Although a detailed review of the dimensional aspects of the proposed signage is not necessary at this time. It appears to be clear that the applicant is not exceeding the combined sign area for the building, but there are issues with the sign proposed on the canopy. The sign exceeds the permitted height of a canopy sign, and may exceed the maximum area for canopy signage.

Lighting

The applicant is proposing new lantern-style light fixtures on the pergola posts. Due to the minimal impact of these fixtures, the Planning Division did not seek a photometric plan pursuant to Article 4, Section 4.21 (C) of the Zoning Ordinance.

In addition, there is a note on the elevation drawing that indicates that there are existing lights on the building that will be replaced "one for one", which the Planning Division understands to mean a like-for-like or in-kind replacement. Although the lights are existing, it does not grant the applicant latitude to replace the fixtures without approval and further study. Thus, **the applicant must submit specification sheets for the proposed replacement fixtures for review.** In addition, these lights are subject to the Secretary of the Interior standards outlined below.

Design Review Standards and Guidelines

Chapter 127, Section 127-11 of the Birmingham Code of Ordinances states that in reviewing plans, the commission shall follow the U.S. secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings as set forth in 36 C.F.R. part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the commission may be followed if they are equivalent in guidance to the secretary of interior's standards and guidelines and are established or approved by the state historic preservation office of the Michigan Historical Center. The U.S. Secretary of the Interior Standards for Rehabilitation ("SOI Standards") are provided in full at the end of this report.

In reviewing plans, the commission shall also consider all of the following:

1. The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.
2. The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.
3. The general compatibility of the design, arrangement, texture, and materials proposed to be used.
4. Other factors, such as aesthetic value, that the commission finds relevant.
5. Whether the applicant has certified in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

Recommendation

The Michigan State Historic Preservation Office defines rehabilitation as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

Considering the above, the proposed exterior renovations, as proposed by the applicant, generally meets the Secretary of the Interior Standards for Rehabilitation numbers 1, 5, 9 and 10. Standard number 2, however, requires some discussion. The following analysis breaks down the proposal through the lens of each standard above:

1. *A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.*

Due to the unique circumstance, this standard does not necessarily apply. As stated, and as indicated on the plans, the existing historic building will remain as-is and relatively unchanged in terms of its use as a commercial space/restaurant. Of course, the historic use as a railroad depot no longer remains, but the applicant is not proposing any changes to the existing building that risk altering any defining use-based characteristics of the site.

2. *The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.*

There are several aspects of this proposal that need to be discussed under this standard. Some of these features may have been present for some time, but it does not mean that these character-changing elements of the building cannot be re-assessed at this time. The aspects of the plan that need to be discussed are the painting of the trim, recovering of certain awnings, outdoor dining facility at the south side of the building, lighting, and canopy signage.

Trim: The applicant is proposing to paint all of the trim and half-timber details black. The existing trim was painted red as a part of the Big Rock Chop and Brew House renovations. A review of historical photographs, including a photograph from 1931 after the building was constructed, shows these trim elements in a dark color as well. This affirms that the proposed color is appropriate, and brings an important character element back to the building that was previously changed.

Awnings: There are awnings currently located in several places on the building, most importantly on the main façade of the historic structure. The applicant is proposing to remove several of the inappropriate awnings from the first floor windows, which is a vast improvement. However, there are two awnings proposed to remain on windows flanking the main entrance, and two awnings remaining on the upper floor windows. These awnings alter features that define the character of this property and should be removed with the other awnings. As for the awnings on the addition at the north side of the building, the Planning Division has no issues with the recovering and reinstallation of these.

Outdoor Dining: Not all aspects of the outdoor dining proposed at the south end may be considered inappropriate. One of the main elements, the pergola, is constructed so that it does not obstruct ones view of the windows in that area and does not extend beyond the eave line, which is a tactful design approach to this area of the building in terms of preserving character. In addition, the applicant is proposing to remove a modern valet stand building and a large covered walkway area. However, the applicant is also proposing 5 ft. hedge plantings and a large fireplace that impede on the features of the building located in this area. The fireplace and hedge plantings should be reconsidered.

Lighting: The lighting that is proposed to be replaced in-kind are spotlight/accent light type features located in various places, mostly at the roof/second level. This type of lighting is of course not historically accurate, and its purpose is to illuminate various

architectural features of the building. Different guidelines that have been reviewed by the Planning Division indicate that some lighting of this style *could* be appropriate, but it should add to a persons appreciation of the building and not be excessive or distracting. Based on the number of fixtures located in some areas of the building, the Planning Division feels as though the number of fixtures could be excessive, and encourages the applicant to use soft lighting so that the building may be enjoyed as it was in its historical context. The applicant will need to submit specification sheets for the lighting to ensure that the brightness is not excessive.

Canopy Signage: The proposed canopy sign is located on a significant feature of the main entrance on the main façade of this building. Guidelines suggest that new commercial signage should not obscure historic materials or character defining features of a building. The introduction of this new sign may be considered inappropriate.

5. *Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.*

There are several defining features of this building and craftsmanship that is nearly impossible to replicate with modern materials and techniques. The applicant is not proposing to change any of these features or finishes.

9. *New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.*

The applicant is not proposing to remove any historic materials. Any new work or new material proposed are on modern portions of the building such as awnings and the addition to the north. The modern areas of the building remain differentiated and appropriate with the massing and scale of the historic property.

10. *New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

Each of the proposals offered in the site/design plans submitted could be removed without damaging the essential form and integrity of the historic property and its environment.

Based on the review above, the Planning Division recommends that the Historic District Commission consider **APPROVAL** of the Design Review application for 245 S. Eton - Birmingham Grand Trunk Western Railroad Depot – with the conditions listed below. The Planning Division feels as though the proposed work will meet the Secretary of the Interior Standards for Rehabilitation numbers 1, 2, 5, 9 and 10 upon the conditions being met:

1. The applicant must submit revised plans that remove all existing awnings on the main façade of the historical structure;
2. The applicant must submit revised plans that remove the fireplace and hedge plantings from the southern outdoor dining area;
3. The applicant must reduce the lighting on site and submit specification sheets for all newly proposed fixtures; and
4. The applicant must remove the canopy sign.

Wording for Motions

I move that the Commission **APPROVE** the Design Review application and issue a Certificate of Appropriateness for 245 S. Eton - Birmingham Grand Trunk Western Railroad Depot – with the conditions listed below. The proposed work will meet the Secretary of the Interior Standards for Rehabilitation numbers 1, 2, 5, 9 and 10 upon the conditions being met:

1. The applicant must submit revised plans that remove all existing awnings on the main façade of the historical structure;
2. The applicant must submit revised plans that remove the fireplace and hedge plantings from the southern outdoor dining area;
3. The applicant must reduce the lighting on site and submit specification sheets for all newly proposed fixtures; and
4. The applicant must remove the canopy sign.

OR

I move that the Commission **POSTPONE** the Design Review application and the issuance of a Certificate of Appropriateness for 245 S. Eton - Birmingham Grand Trunk Western Railroad Depot – for the following reason(s):

1. _____
2. _____
3. _____

OR

I move that the Commission **DENY** the Design Review application for 245 S. Eton - Birmingham Grand Trunk Western Railroad Depot. Because of _____ the work does not meet The Secretary of the Interior's Standards for Rehabilitation standard number(s) _____.

Notice to Proceed

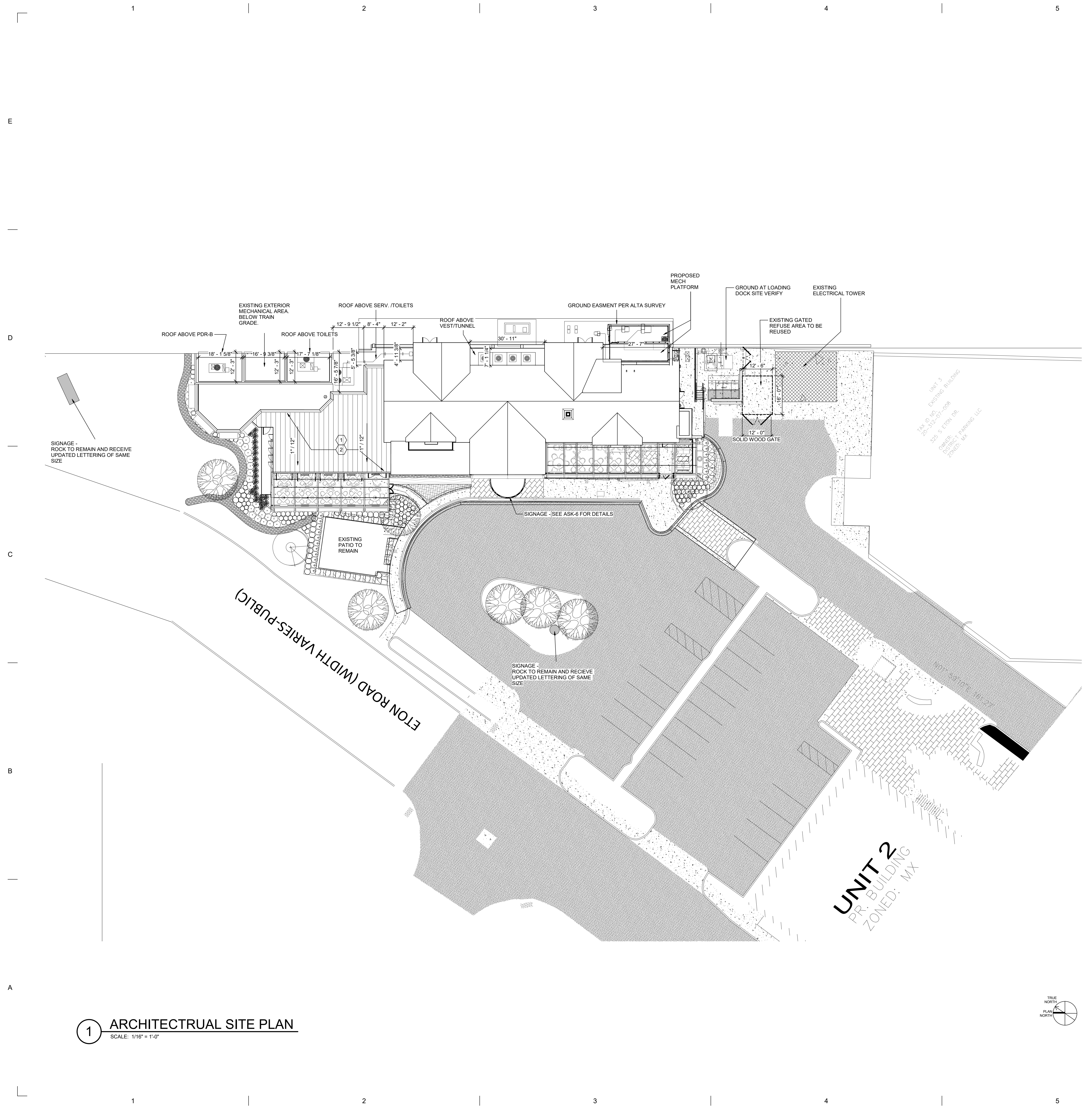
I move the Commission issue a Notice to Proceed for number _____. The work is not appropriate, however the following condition prevails: _____ and the proposed application will materially correct the condition.

Choose from one of these conditions:

- a) The resource constitutes hazard to the safety of the public or the structure's occupants.
- b) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.
- c) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district. have been attempted and exhausted by the owner.
- d) Retaining the resource is not in the best of the majority of the community.

THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION AND GUIDELINES FOR REHABILITATING HISTORIC BUILDINGS

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

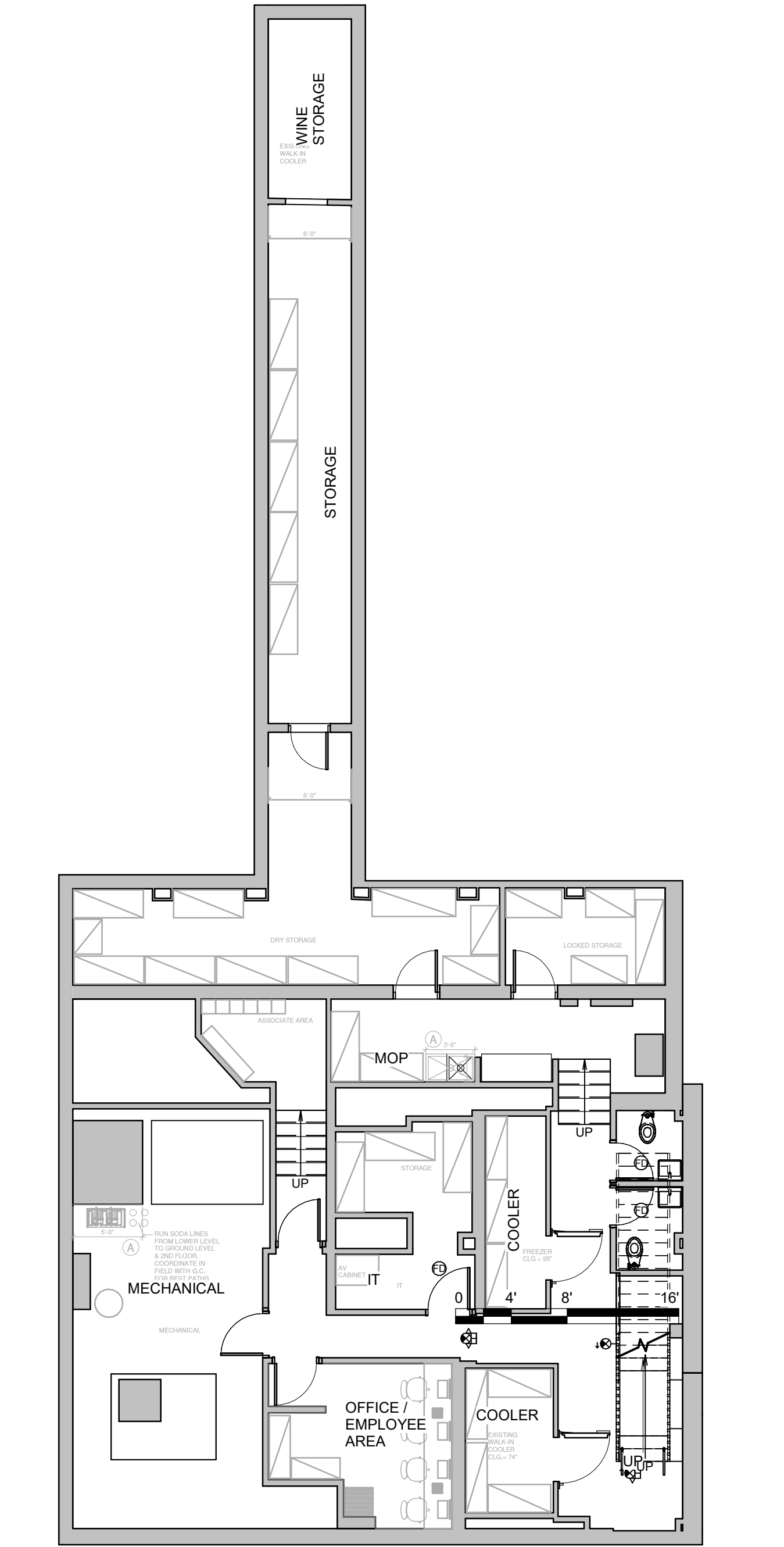
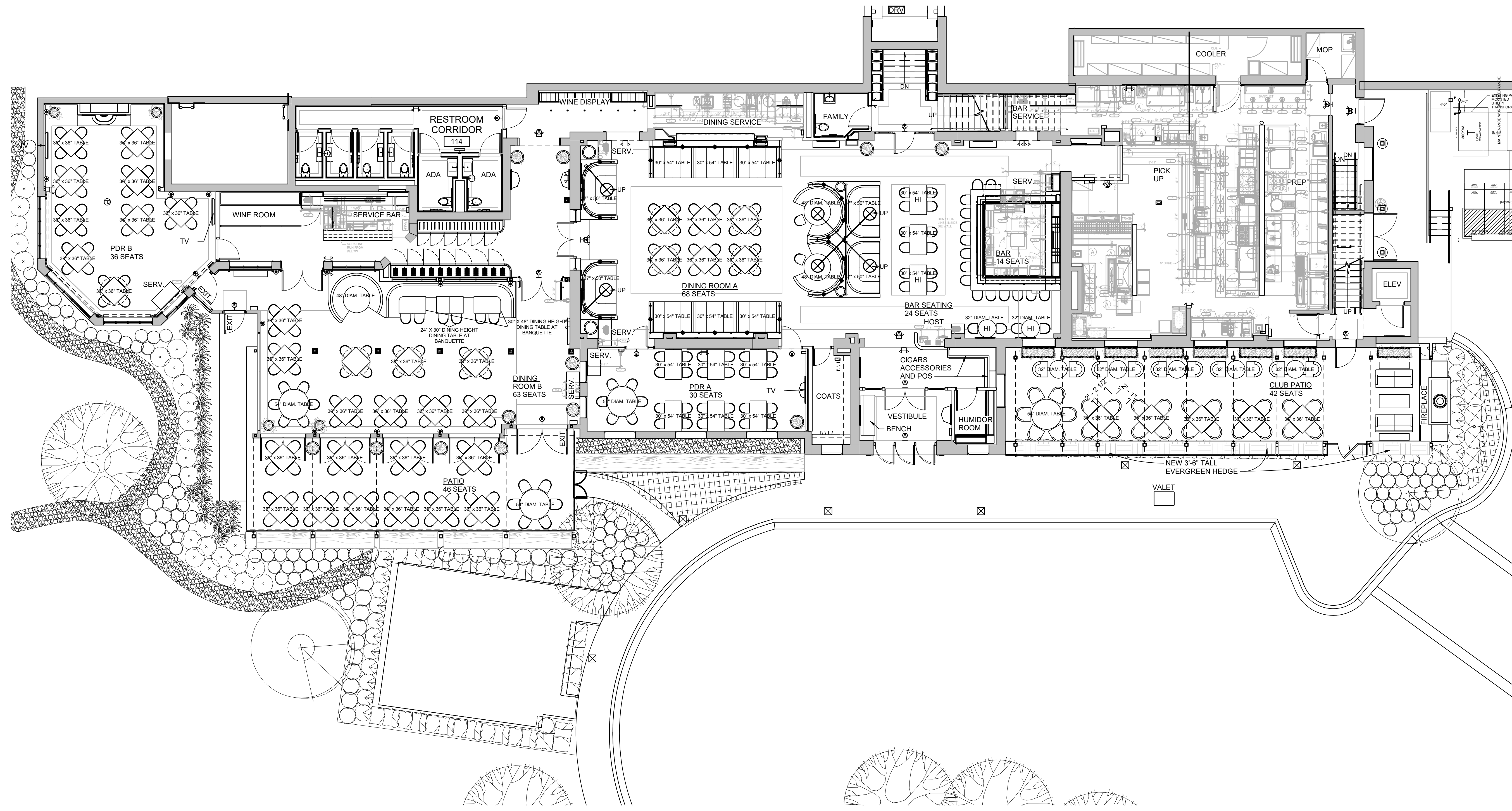
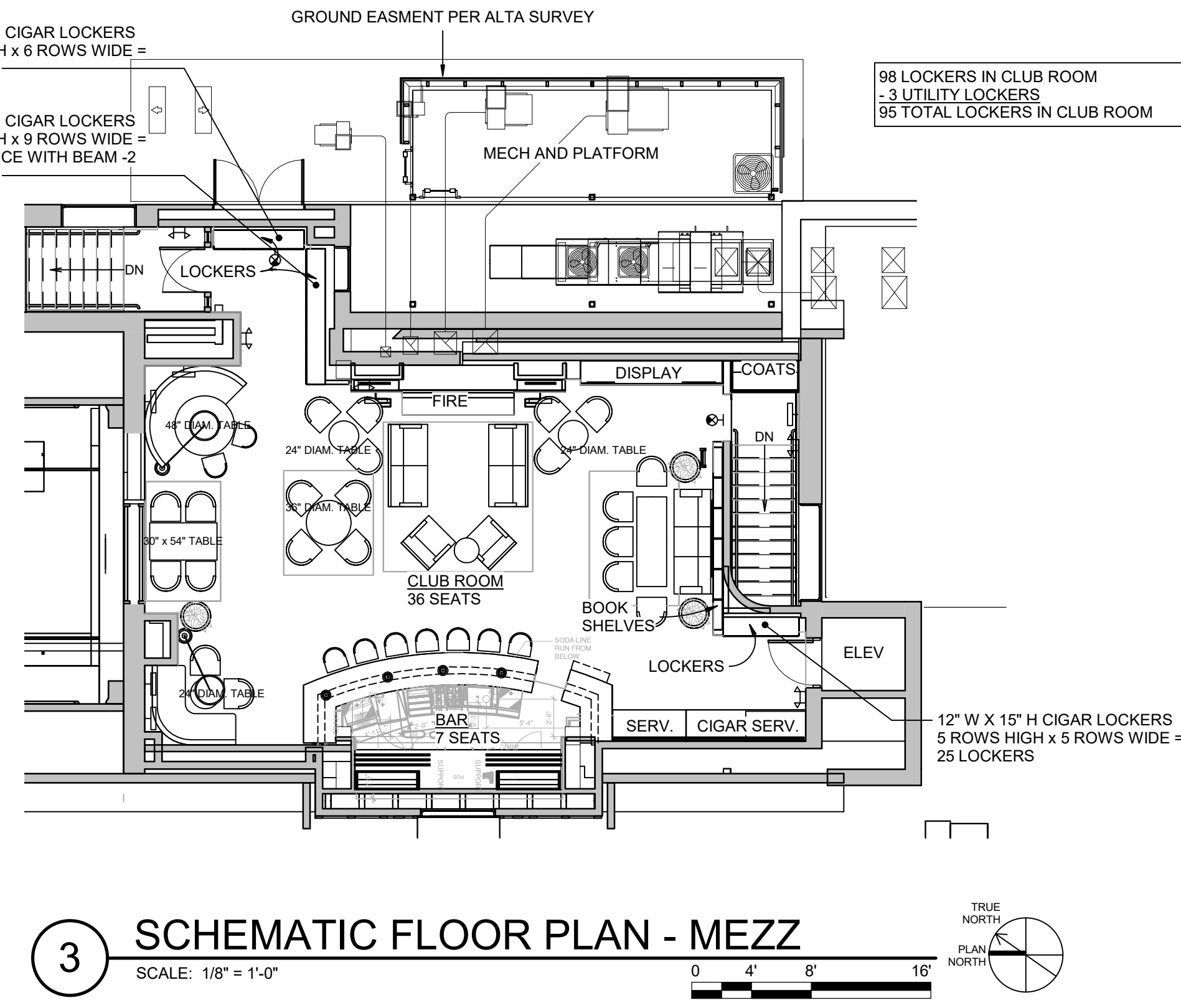
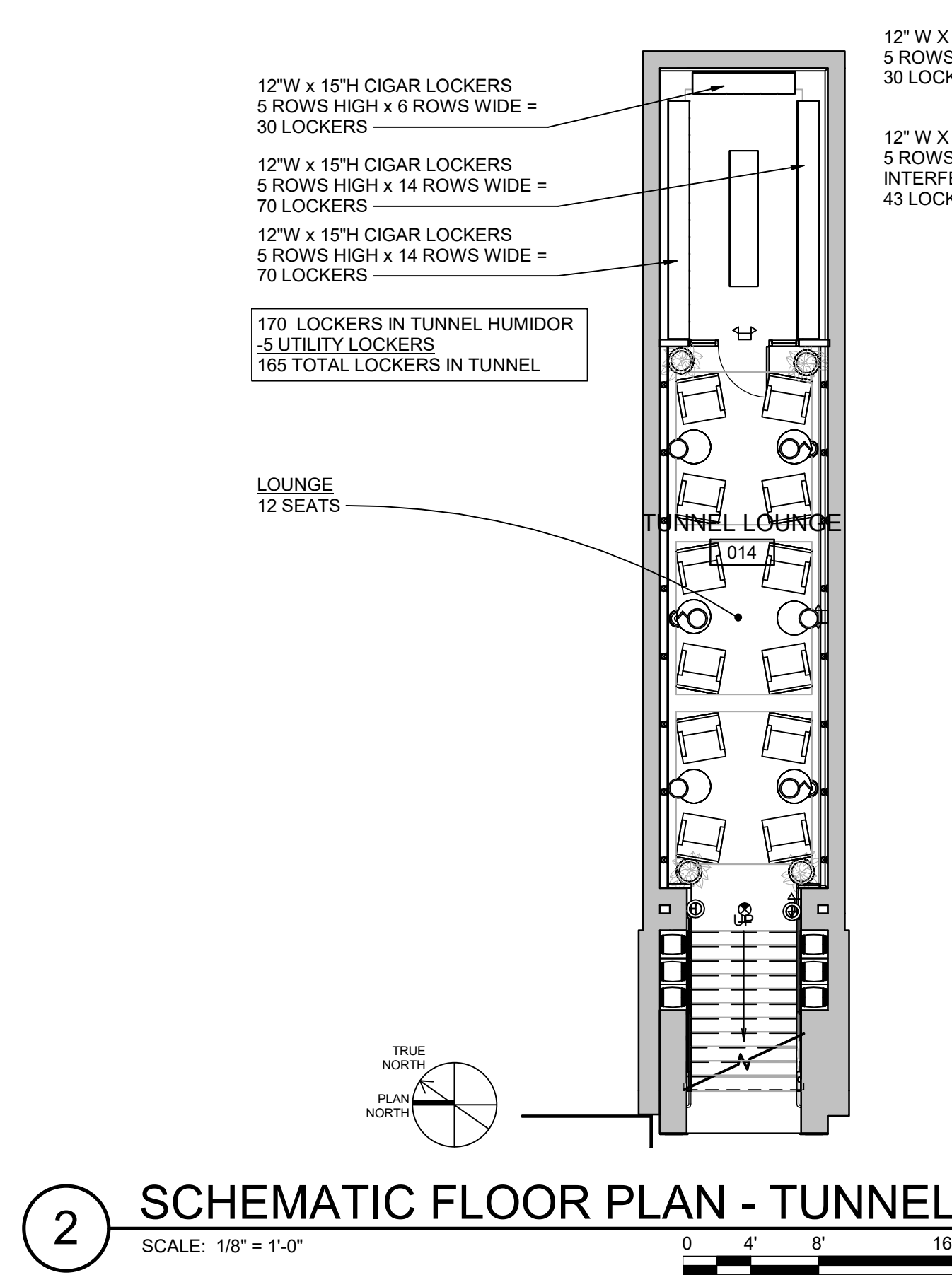


1 ARCHITECTURAL SITE PLAN
SCALE: 1/16" = 1'-0"

<p>PARKING DATA</p>	<p>KNAUER</p> <p style="font-size: small;">Knauer Incorporated 226 Green Bay Road Highwood, IL 60040 (847) 948-9500 www.knauerinc.com</p>																																																																																																				
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SEATING COUNT TABLE

TYPE	COUNT	TOTAL
BAR SEATING		
2 TOP	2	=4
4 TOP	3	=12
4 TOP U-BOOTH	2	=8
BAR STOOL	15	=15
BAR SEATING		
CLUB PATIO		
12 TOP - PATIO	5	=10
4 TOP - PATIO	5	=20
6 TOP - PATIO	1	=6
SOFA	2	=4
CLUB PATIO		
CLUB ROOM		
4 TOP	5	=20
6 TOP	1	=6
BAR STOOL	7	=7
LOUNGE CHAIR	2	=2
SOFA	2	=4
CLUB ROOM		
COVERED PATIO		
4 TOP - PATIO	10	=40
6 TOP - PATIO	1	=6
COVERED PATIO		
DINING ROOM B		
2 TOP	2	=4
4 TOP	9	=36
5 TOP	2	=10
15 TOP - ROUND BOOTH	1	=15
6 TOP	1	=6
DINING ROOM B		
MAIN DINING ROOM		
4 TOP	6	=24
4 TOP PULLMAN BOOTH	6	=24
4 TOP U-BOOTH	2	=8
6 TOP	2	=12
MAIN DINING ROOM		
PDR A		
4 TOP	6	=24
6 TOP	1	=6
PDR A		
PDR B		
4 TOP	9	=36
PDR B		
TUNNEL		
LOUNGE CHAIR	12	=12
TUNNEL		
		12
TOTAL DINING		376



EXISTING FABRIC ROOF REPLACED WITH INSULATED STANDING SEAM METAL ROOF

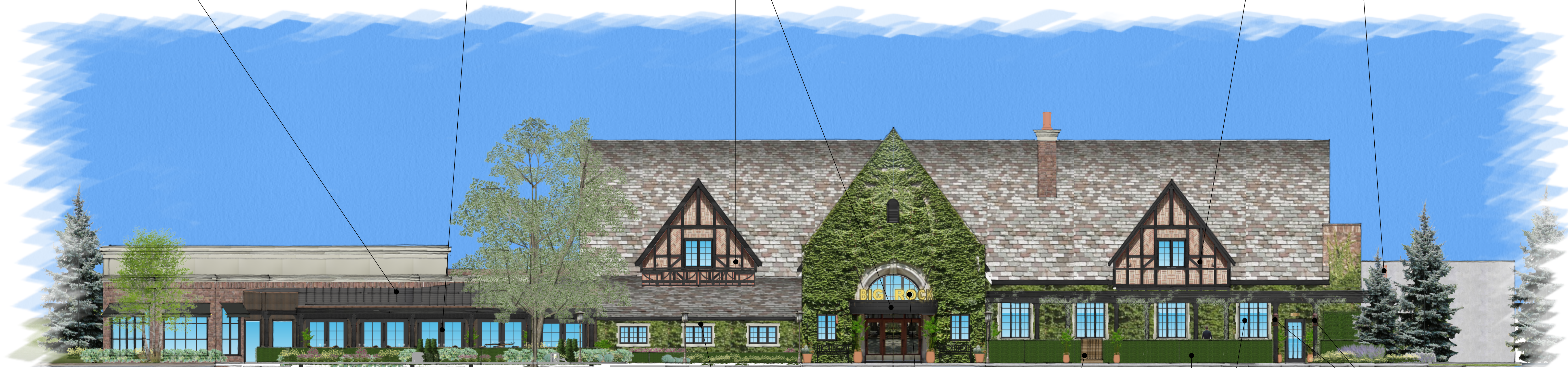
PERGOLA AT PATIO SEATING WITH WOOD STRUCTURE PAINTED BLACK, NEW LIGHTS, FANS, AND HEATERS.

ALL EXTERIOR LIGHTING TO BE REPLACED ONE FOR ONE.

PAINT ALL EXISTING WOOD TRIM BLACK TYPICAL FOR ALL EXTERIOR SOFFITS, TRIM, AND HALF TIMBER DETAILS.

PAINT ALL EXISTING WOOD TRIM BLACK TYPICAL FOR ALL EXTERIOR SOFFITS, TRIM, AND HALF TIMBER DETAILS.

GAS POWERED MASONRY FIREPLACE, MATCHING BRICK VENEER, LIMESTONE, TRIM AND TARRACOTTA CHIMNEY DETAILS



WEST EXTERIOR ELEVATION

SCALE : 1/8" = 1'-0"

REMOVE EXISTING AWNINGS AND FRAMES AS SHOWN

18" HIGH STAND UP MARQUEE LIT SIGN, EXISTING MARQUEE LIGHTS TO REMAIN AND CHANGE BULBS TO LED.

PORTABLE VALET STAND

NEW 3'-6" TALL EVERGREEN HEDGEROW

PERGOLA AT PATIO SEATING WITH WOOD STRUCTURE PAINTED BLACK, NEW LIGHTS, FANS, AND HEATERS

NEW WALL LANTERN LIGHTS, MOUNTED ON NEW PERGOLA POST.

PERGOLA AT PATIO SEATING WITH WOOD STRUCTURE PAINTED BLACK, NEW LIGHTS, FANS, AND HEATERS

ROOF PANELS REPLACED WITH INSULATED METAL ROOF

PAINT ALL EXISTING WOOD TRIM BLACK TYPICAL FOR ALL EXTERIOR SOFFITS, TRIM, AND HALF TIMBER DETAILS

MECHANICAL SCREENING METAL SIDING BLACK HORIZ.

ALL EXTERIOR LIGHTING TO BE REPLACED ONE FOR ONE

18" HIGH STAND UP MARQUEE LIT SIGN, EXISTING MARQUEE LIGHTS TO REMAIN AND BULBS REPLACED WITH LED

PERGOLA AT PATIO SEATING WITH WOOD STRUCTURE PAINTED BLACK, NEW LIGHTS, FANS, AND HEATERS.

NEW WALL LANTERN LIGHTS, MOUNTED ON NEW PERGOLA POST

GAS POWERED MASONRY FIREPLACE, MATCHING BRICK VENEER LIMESTONE, TRIM AND TARRACOTTA CHIMNEY DETAILS

PAINT ALL EXISTING WOOD TRIM BLACK TYPICAL FOR ALL EXTERIOR SOFFITS, TRIM, AND HALF TIMBER DETAILS.

MECHANICAL SCREENING METAL SIDING BLACK HORIZ.



NORTH EXTERIOR ELEVATION

SCALE : 1/8" = 1'-0"

NEW 3'-6" TALL EVERGREEN HEDGEROW



SOUTH EXTERIOR ELEVATION

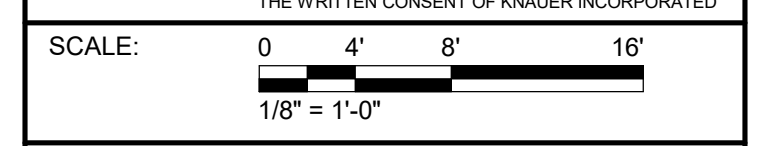
SCALE : 1/8" = 1'-0"

MARK	DATE	DESCRIPTION
	06/09/2023	ISSUED FOR PLANNING DEPT. REV.
	06/09/2023	ISSUED FOR DESIGN DEVELOPMENT
	03/24/2023	DESIGN REVIEW - PLANNING

SCHEMATIC DESIGN FOR
BIG ROCK

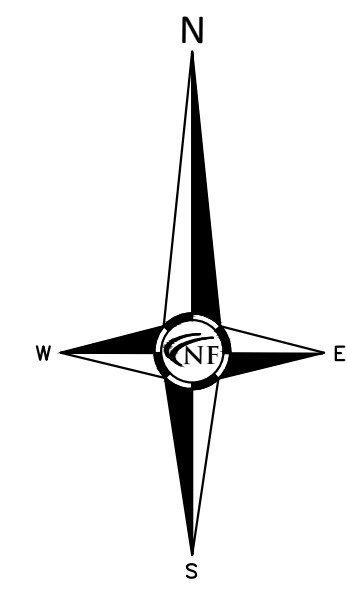
245 S ETON STREET
 BIRMINGHAM, MI 48009

PROJECT NO: 3672
 CAD DWG FILE: C:\Users\jstanley\Documents\3672 Big Rock_RSD_3672\3672BIGAT.rvt
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 CHECKED BY: Checker
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SHEET TITLE
SCHEMATIC EXTERIOR ELEVATIONS

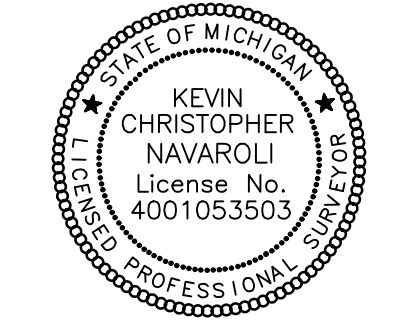
A-2



CIVIL ENGINEERS
LAND SURVEYORS
LAND PLANNERS

NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL. (248) 332-7931
FAX. (248) 332-8257
WWW.NFE-ENGR.COM

SEAL



PROJECT
Old Big Rock Restaurant

CLIENT
Cameron Mitchell
Restaurants

Contact: Randy Roberty
Ph: (380) 219-2582

PROJECT LOCATION
Part of the Northeast 1/4
of Section 31
T. 2 North, R. 11 East
City of Birmingham,
Oakland County, Michigan

SHEET
Boundary / Topographic
Survey



DATE ISSUED/REVISED
07-25-23 REVISED PER CITY

DRAWN BY:
G. Burr

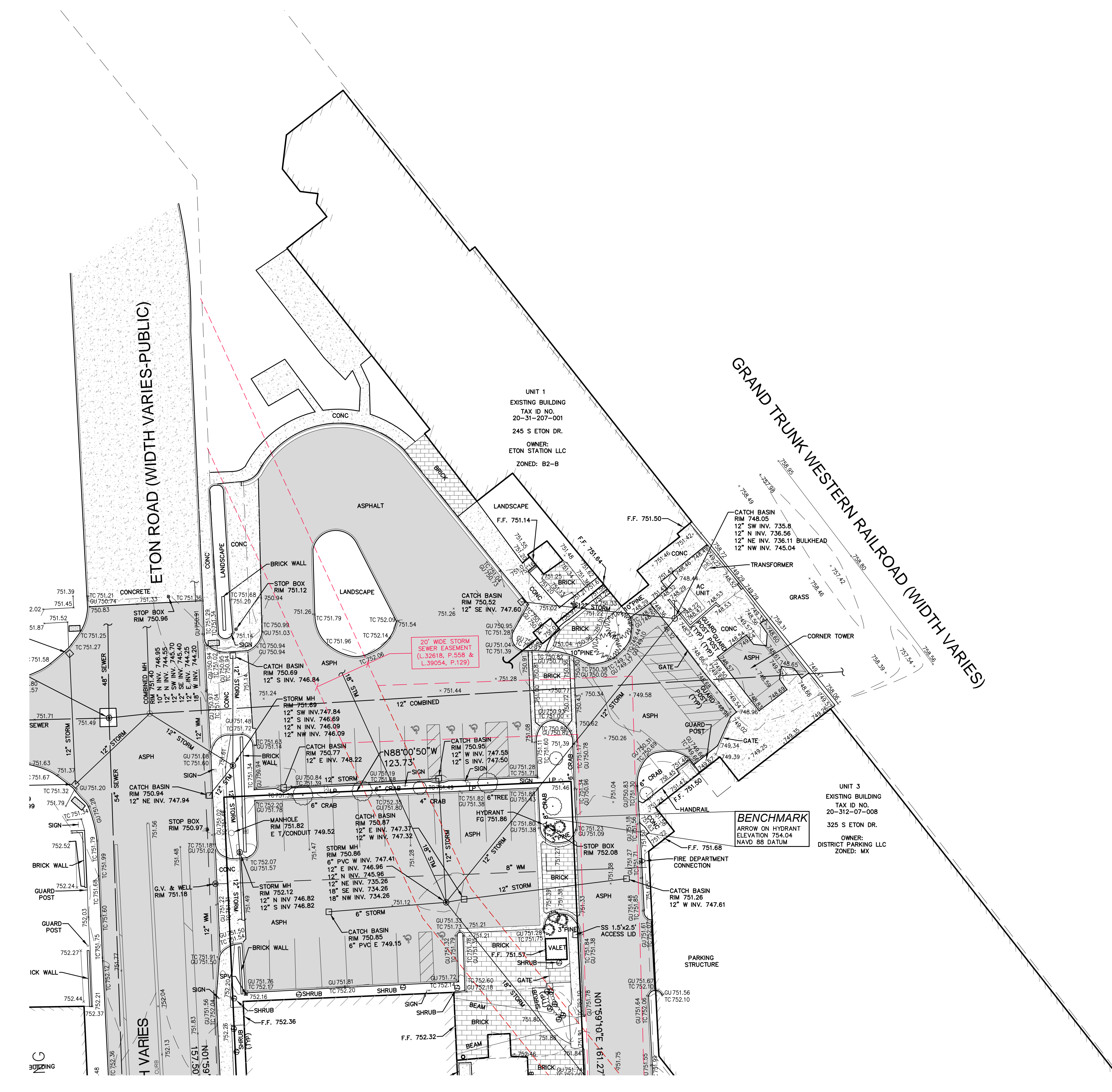
DESIGNED BY:

APPROVED BY:
K. Navaroli

DATE:
May 25, 2023

SCALE: 1" = 20'

NFE JOB NO. SHEET NO.
E103-04 SP01



BIRMINGHAM BENCHMARK NOTE

THE CITY OF BIRMINGHAM'S VERTICAL DATUM, REFERENCED HEREON, IS ONE (1) FOOT HIGHER THAN THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).

LEGAL DESCRIPTION

UNIT 1, ETON CONDOMINIUM PROPERTIES, ACCORDING TO THE MASTER DEED RECORDED IN LIBER 37854, PAGES 533 THROUGH 583, BOTH INCLUSIVE, AND FIRST AMENDMENT TO THE MASTER DEED RECORDED IN LIBER 38725, PAGES 110 THROUGH 112, BOTH INCLUSIVE, AND SECOND AMENDMENT TO THE MASTER DEED RECORDED IN LIBER 38725, PAGES 110 THROUGH 112, BOTH INCLUSIVE, OAKLAND COUNTY RECORDS, AS AMENDED, AND DESIGNATED AS OAKLAND COUNTY CONDOMINIUM SUBDIVISION PLAN NO. 1883, TOGETHER WITH RIGHTS IN GENERAL COMMON ELEMENTS AND LIMITED COMMON ELEMENTS AS SET FORTH IN THE ABOVE-DESCRIBED MASTER DEED, AS AMENDED, AND AS DESCRIBED IN ACT 59 OF THE PUBLIC ACTS OF 1978, AS AMENDED.

MISS DIG / UTILITY DISCLAIMER NOTES

THE LOCATION OF THE COMCAST CABLE/FIBER LINES SHOWN ON THE RECORDS PROVIDED BY COMCAST COULD NOT BE ACCURATELY PLOTTED DUE TO A LACK OF DIMENSIONS AND/OR SCALE. CLIENT SHALL CONTACT COMCAST TO DETERMINE THE LOCATION OF THE UNDERGROUND UTILITY.

THE LOCATION OF THE DTE UNDERGROUND LINES SHOWN ON THE RECORDS PROVIDED BY DTE COULD NOT BE ACCURATELY PLOTTED DUE TO A LACK OF DIMENSIONS AND/OR SCALE. CLIENT SHALL CONTACT DTE TO DETERMINE THE LOCATION OF THE UNDERGROUND UTILITY.

FLOOD HAZARD NOTE

THE PROPERTY DESCRIBED ON THIS SURVEY DOES NOT LIE WITHIN A SPECIAL FLOOD HAZARD AREA AS DEFINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. THE PROPERTY LIES WITHIN ZONE X OF THE FLOOD INSURANCE RATE MAP IDENTIFIED AS MAP NO. 26125C0537F BEARING AN EFFECTIVE DATE OF 09-29-2006.

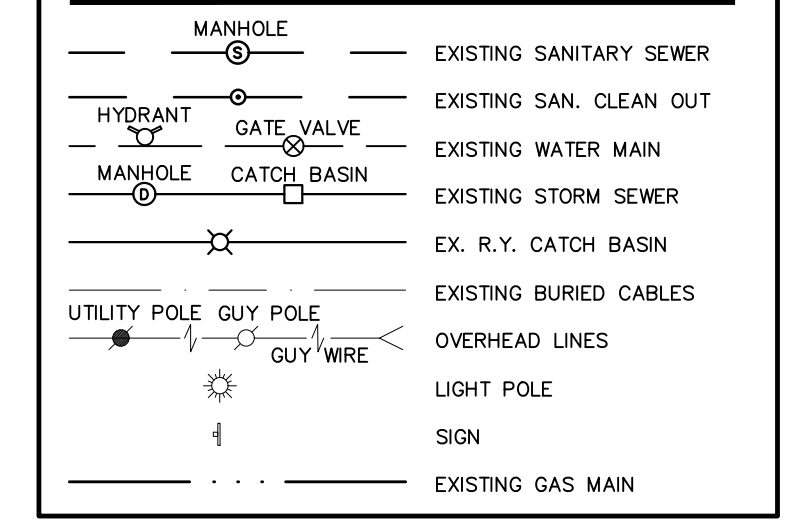
TOPOGRAPHIC SURVEY NOTES

ALL ELEVATIONS ARE EXISTING ELEVATIONS, UNLESS OTHERWISE NOTED.

UTILITY LOCATIONS WERE OBTAINED FROM MUNICIPAL OFFICIALS AND RECORDS OF UTILITY COMPANIES, AND NO GUARANTEE CAN BE MADE TO THE COMPLETENESS, OR EXACTNESS OF LOCATION.

THIS SURVEY MAY NOT SHOW ALL EASEMENTS OF RECORD UNLESS AN UPDATED TITLE POLICY IS FURNISHED TO THE SURVEYOR BY THE OWNER.

LEGEND

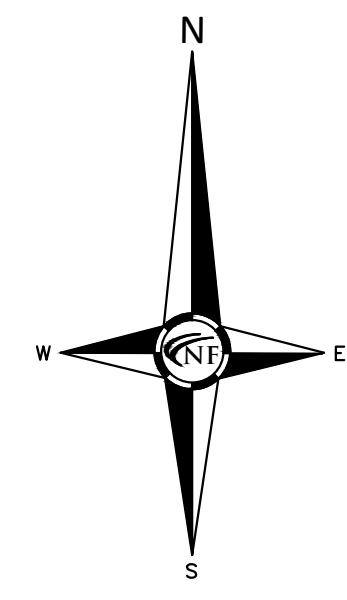
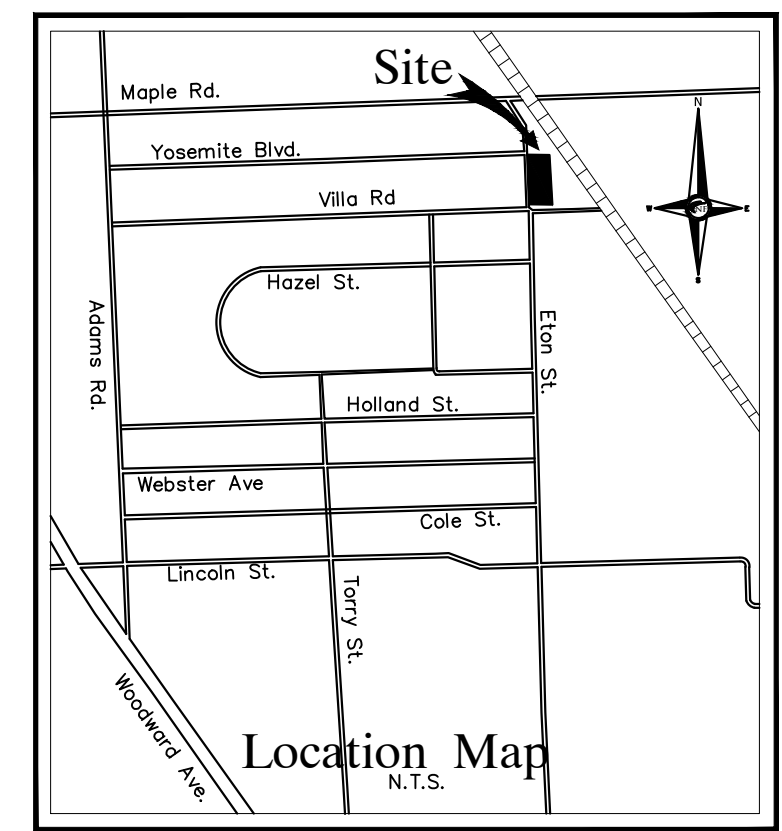


SANITARY SEWER NOTES

ALL WORKMANSHIP AND MATERIALS SHALL BE IN ACCORDANCE WITH THE CURRENT STANDARDS AND SPECIFICATIONS OF THE MUNICIPALITY. THE MUNICIPALITY STANDARD NOTES, DETAILS AND SPECIFICATIONS SHALL BE INCORPORATED AS PART OF THESE PLANS.

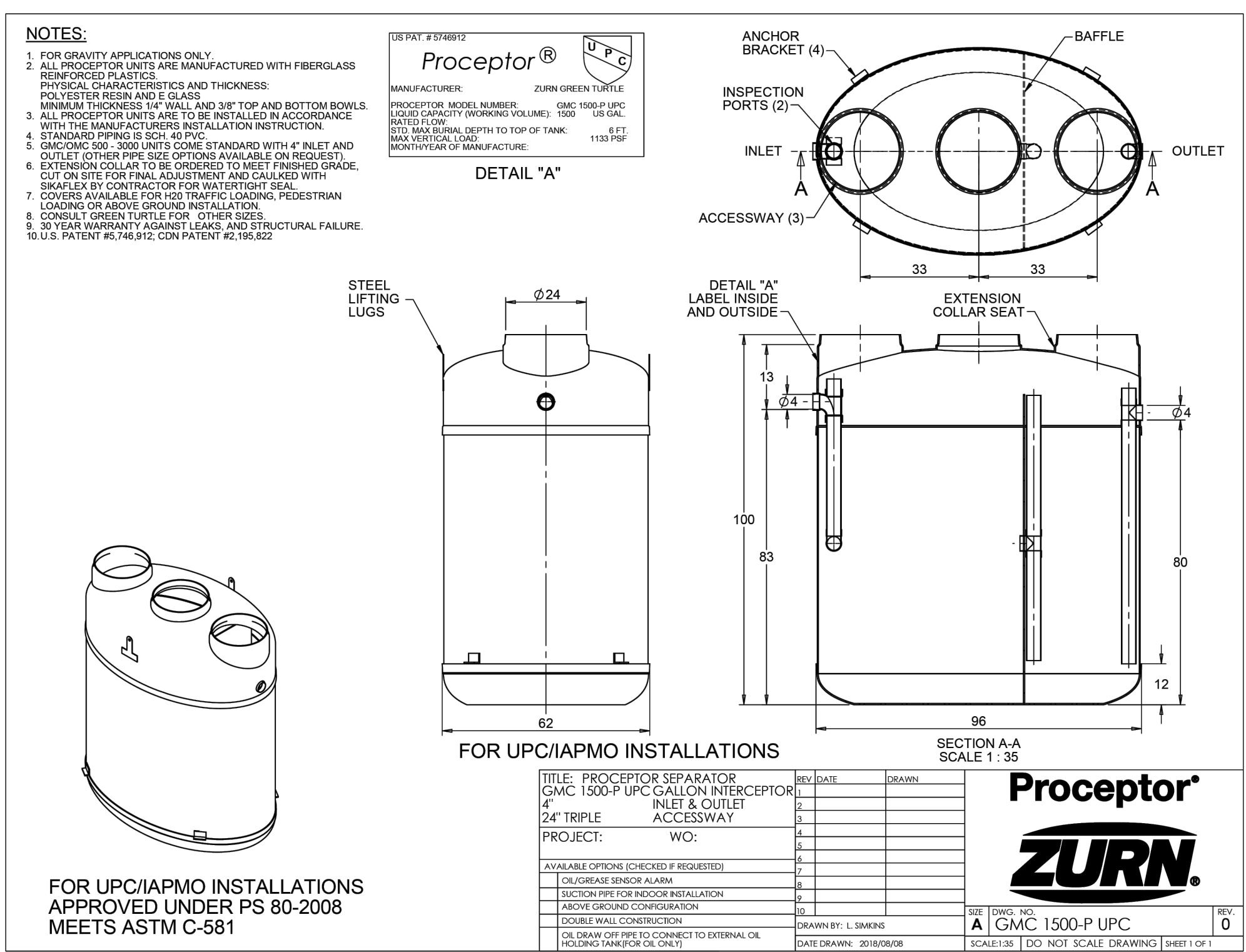
SANITARY SEWER NOTES

ABS COMPOSITE SEWER PIPING SHALL CONFORM TO A.S.T.M. DESIGNATION D-2680 WITH TYPE SC JOINTS.



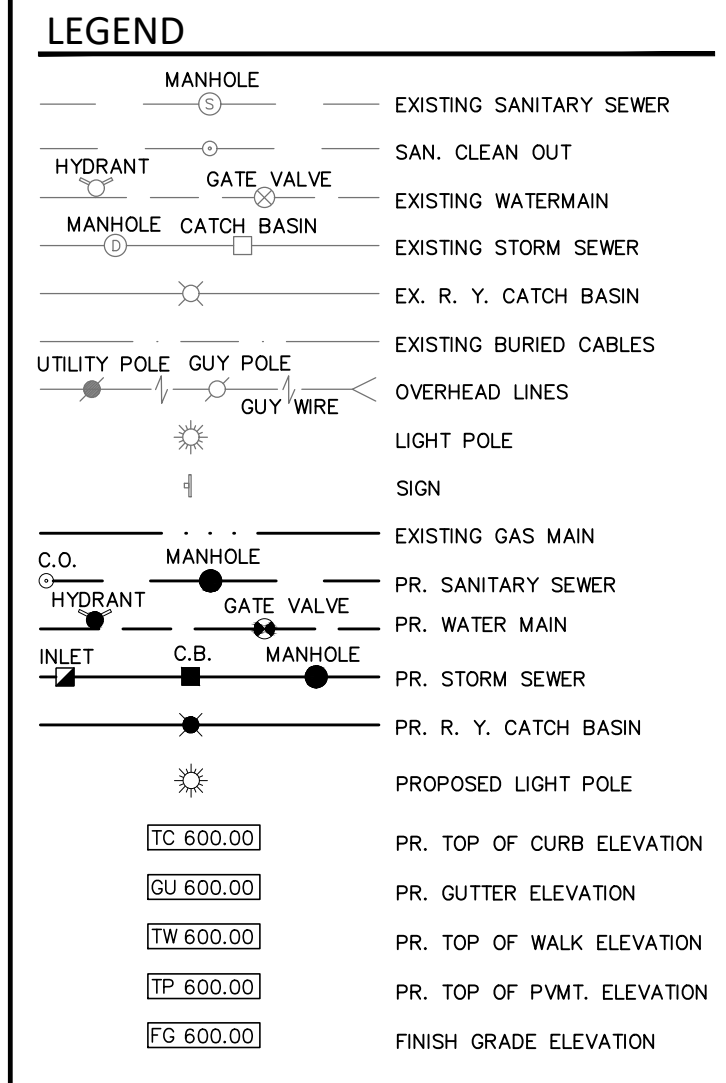
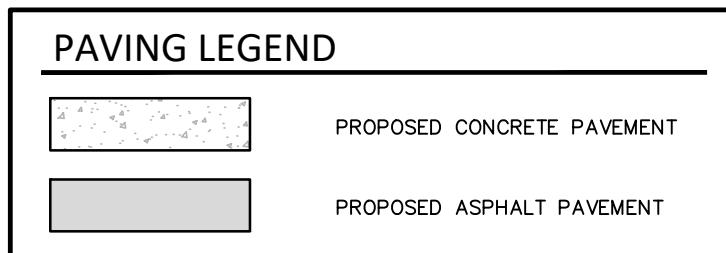
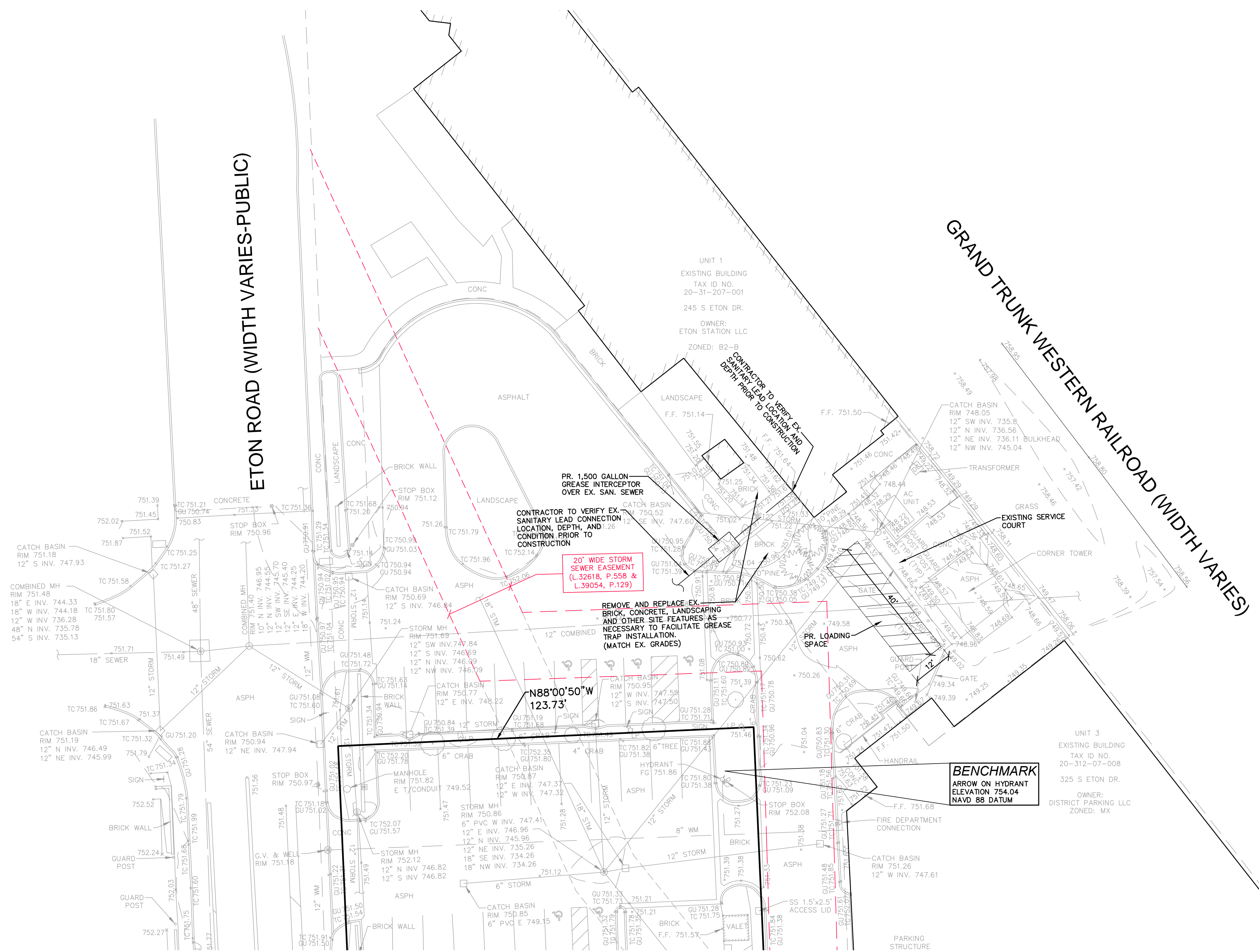
ALLOWABLE TYPE OF SEWER PIPE SHALL BE AS FOLLOWS, SUBJECT TO MUNICIPAL STANDARDS:
- EXTRA STRENGTH VITRIFIED GLAY SEWER PIPE SHALL CONFORM TO THE CURRENT ADOPTED A.S.T.M. SPECIFICATIONS FOR EXTRA STRENGTH GLAY PIPE, C-700.

ALL SEWERS OVER TWENTY-FOUR (24) INCHES DIAMETER SHALL BE SUBJECT TO INFILTRATION TESTS. ALL SEWERS OF TWENTY-FOUR (24) INCHES DIAMETER OR SMALLER, WHERE GROUND WATER LEVEL ABOVE THE TOP OF SEWER IS OVER SEVEN (7) FEET, SHALL BE SUBJECT TO AN INFILTRATION TEST.

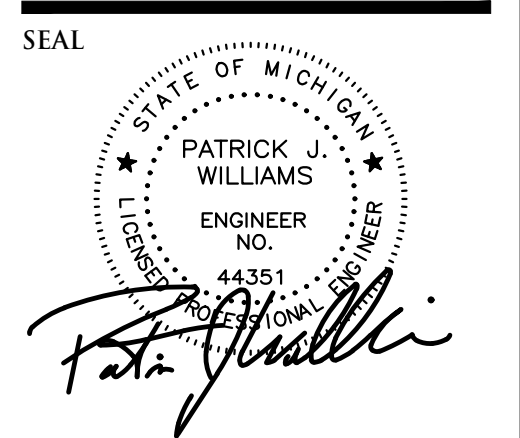


ETON ROAD (WIDTH VARIES-PUBLIC)

GRAND TRUNK WESTERN RAILROAD (WIDTH VARIES)



NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL. (248) 332-7931
FAX. (248) 332-8257
WWW.NFE-ENGR.COM



PROJECT: Old Big Rock Restaurant

CLIENT: Cameron Mitchell Restaurants

Contact: Randy Roberty
Ph: (380) 219-2582

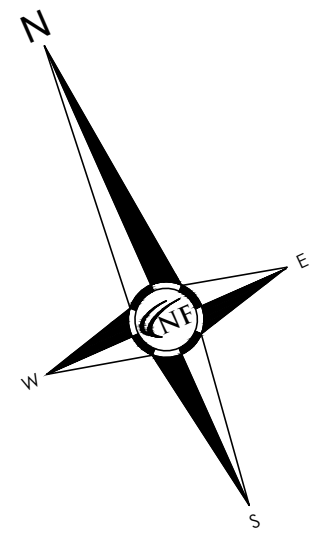
PROJECT LOCATION: Part of the Northeast 1/4 of Section 31, T. 2 North, R. 11 East, City of Birmingham, Oakland County, Michigan

SHEET: Engineering Site Plan



DATE ISSUED/REVISED: 07-25-23 REVISED PER CITY

DRAWN BY: A. Eizember
DESIGNED BY: A. Eizember
APPROVED BY: P. Williams
DATE: May 25, 2023
SCALE: 1" = 20'
NFE JOB NO. E103-04 SHEET NO. SP02



NOWAK & FRAUS ENGINEERS
 46777 WOODWARD AVE.
 PONTIAC, MI 48342-5032
 TEL. (248) 332-7931
 FAX. (248) 332-8257

SEAL

PROJECT
 Proposed Restaurant

CLIENT
 Cameron Mitchell
 Restaurants
 Contact: Randy Roberty
 Phone: 380-219-2582
 Email:
 rroberty@cameronmitchell.com

PROJECT LOCATION
 Part of the NE 1/4
 of Section 31
 T. 2 North, R. 11 East,
 City of Birmingham,
 Oakland County, Michigan

SHEET
 Tree Removal Plan



REVISIONS
 05/18/23 REVISED PER OWNER REVIEW
 07/25/23 REVISED PER PC

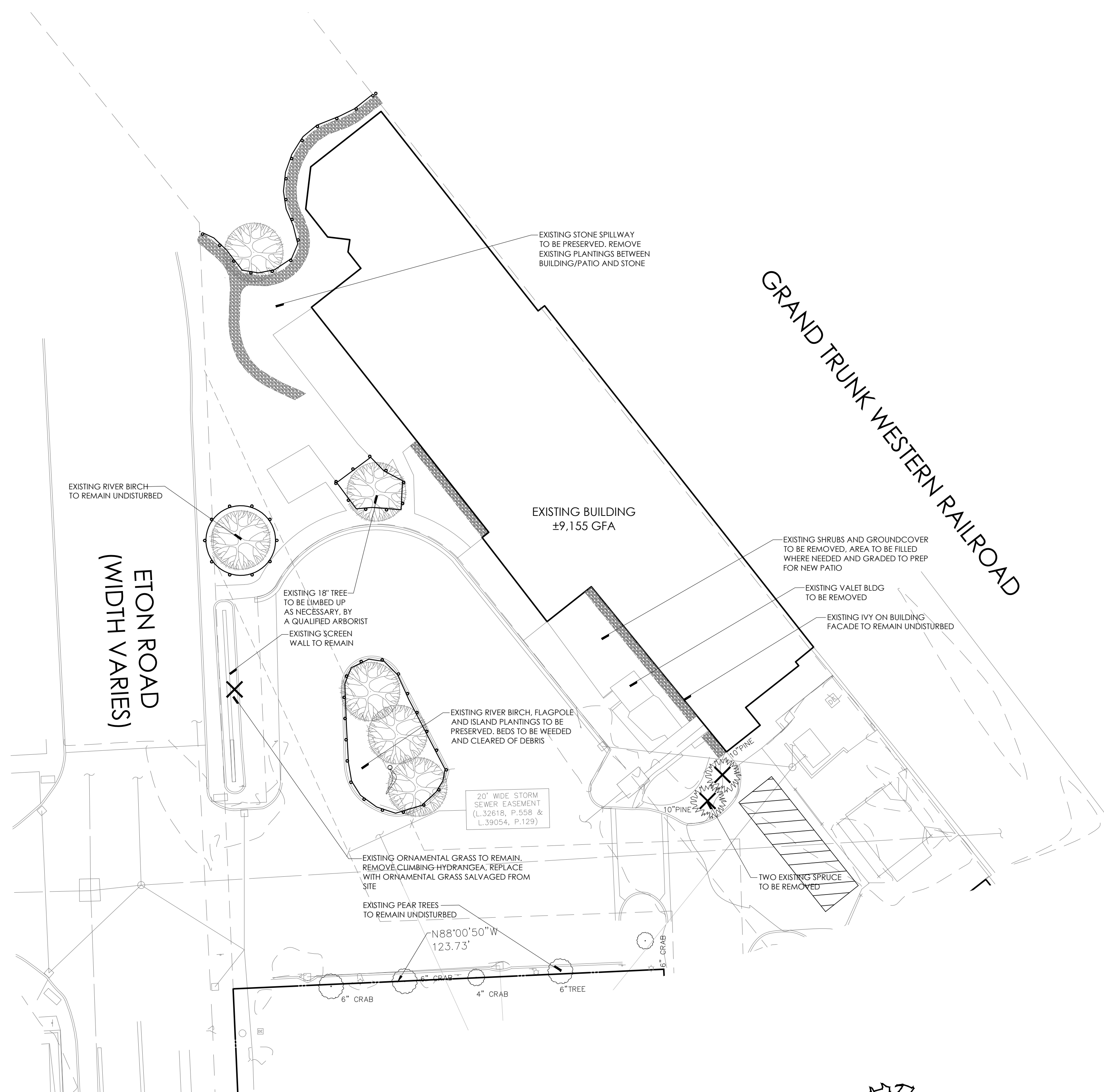
DRAWN BY:
 G. Ostrowski
 DESIGNED BY:
 G. Ostrowski
 APPROVED BY:
 G. Ostrowski

DATE:
 05-01-2023

SCALE: 1" = 20'

NFE JOB NO. SHEET NO.

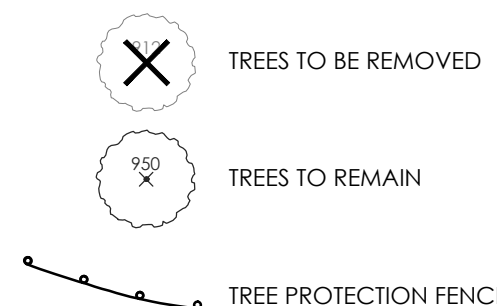
E103-04 L1



DEMOLITION NOTES:

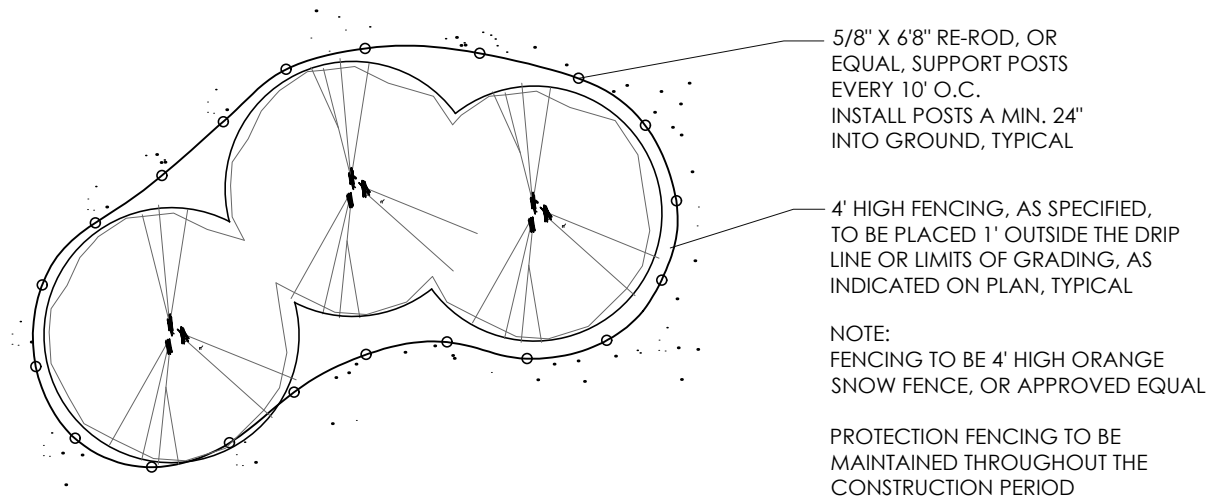
- IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY ALL EXISTING SURVEY INFORMATION INCLUDING THE UTILITY SYSTEMS BEFORE ANY DEMOLITION OR CONSTRUCTION WORK OCCURS. ANY DISCREPANCIES WITH THE SURVEY INFORMATION SHALL BE REPORTED TO THE ARCHITECT AND OWNER'S REPRESENTATIVE IMMEDIATELY.
- CONTRACTOR SHALL BE RESPONSIBLE FOR MAKING HIMSELF FAMILIAR WITH ALL UNDERGROUND UTILITIES, PIPES AND STRUCTURES. CONTRACTOR SHALL TAKE SOLE RESPONSIBILITY FOR COST INCURRED DUE TO DAMAGE AND REPLACEMENT OF SAID UTILITIES.
- ALL EXISTING IMPROVEMENTS, MATERIALS AND PLANT MATERIAL TO REMAIN WITHIN THE NEW CONSTRUCTION AREA SHALL BE PROPERLY AND ADEQUATELY PROTECTED FROM DAMAGE DURING THE DEMOLITION OPERATIONS. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO RESTORE TO THE ORIGINAL CONDITION ANY OF THESE EXISTING ITEMS THAT ARE DAMAGED OR DISTURBED IN ANY WAY.
- ALL MATERIALS TO BE REUSED OR SALVAGED SHALL BE STORED IN AN AREA DESIGNATED BY THE CITY ENGINEER FOR THAT PURPOSE. ALL SALVAGED MATERIALS SHALL REMAIN THE PROPERTY OF THE CITY ENGINEER.
- STREETS, SIDEWALKS AND ADJACENT PROPERTIES SHALL BE PROTECTED THROUGHOUT THE WORK AS REQUIRED BY LOCAL CODES AND REGULATIONS AND APPROVED BY THE OWNER.
- ALL MATERIAL SPECIFIED TO BE REMOVED SHALL BE DISPOSED OF OFF-SITE PER LOCAL CODES AND REGULATIONS. CONTRACTOR SHALL COORDINATE METHOD OF DISPOSAL WITH CITY ENGINEER PRIOR TO COMMENCEMENT OF WORK.
- MATERIALS TO BE REUSED OR SALVAGED SHALL BE STORED IN AN AREA DESIGNATED BY THE OWNER'S REPRESENTATIVE FOR THAT PURPOSE. ALL SALVAGED MATERIALS SHALL REMAIN THE PROPERTY OF THE OWNER.
- DURING DEMOLITION OPERATIONS EVERY EFFORT SHALL BE MADE TO CONTROL DUST, PER CITY REQUIREMENTS.
- TREES AND SHRUBS TO BE REMOVED WITHIN THE LIMITS OF WORK SHALL BE CLEARLY IDENTIFIED WITH BRIGHTLY COLORED RIBBON.
- GRUBBING SHALL INCLUDE ALL WEEDS, SHRUBS, STUMPS AND ROOT SYSTEMS OF REMOVED PLANT MATERIAL, IRRIGATION PIPING AND ANY OTHER IRRIGATION MATERIALS WITHIN THE LIMITS OF DEMOLITION. GRUBBING SHALL BE TO THE DEPTHS BELOW PROPOSED IMPROVEMENTS INDICATED AS FOLLOWS: CONCRETE PAVING AND WALKWAYS-TOTAL DEPTH OF PAVING AND SUB-BASE, ASPHALT PAVING-TOTAL DEPTH OF PAVING AND SUB-BASE; LAWN AND OTHER PLANTINGS AREAS-REMOVE DEPTH REQUIRED OF STUMPS AND ROOTS OVER TWO (2) INCHES IN DIAMETER AND TURF.
- PROTECT EXISTING TREES TO REMAIN PER TYPICAL TREE PROTECTION DETAIL.
- STOCKPILED TOPSOIL SHALL BE STORED ON SITE AND REMAIN PROTECTED FROM CONTAMINATION PRIOR TO REDISTRIBUTION.
- SAWCUT AND REMOVE EXISTING ASPHALT AS REQUIRED TO INSTALL NEW SITE IMPROVEMENTS AND ADJUST GRADES WITHIN CITY STREETS. ALL WORK WITHIN CITY RIGHT OF WAY SHALL MEET CITY STANDARDS AND SPECIFICATIONS.
- ARRANGE FOR APPLICABLE UTILITY COMPANY TO RELOCATE EXISTING CABLES, WIRES, PHONE LINES, ETC. ALONG WITH EDISON POWER LINES AS REQUIRED.
- CONTRACTOR SHALL SECURE AND PAY FOR ALL APPLICABLE PERMITS AND FEES NECESSARY FOR THE COMPLETE CONSTRUCTION OF THE PROJECT.

LEGEND:

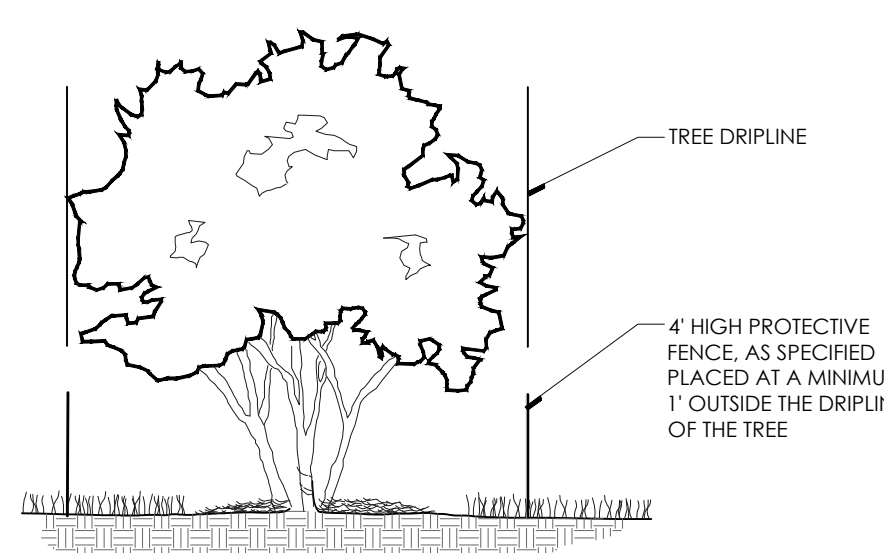


GENERAL TREE PROTECTION NOTES

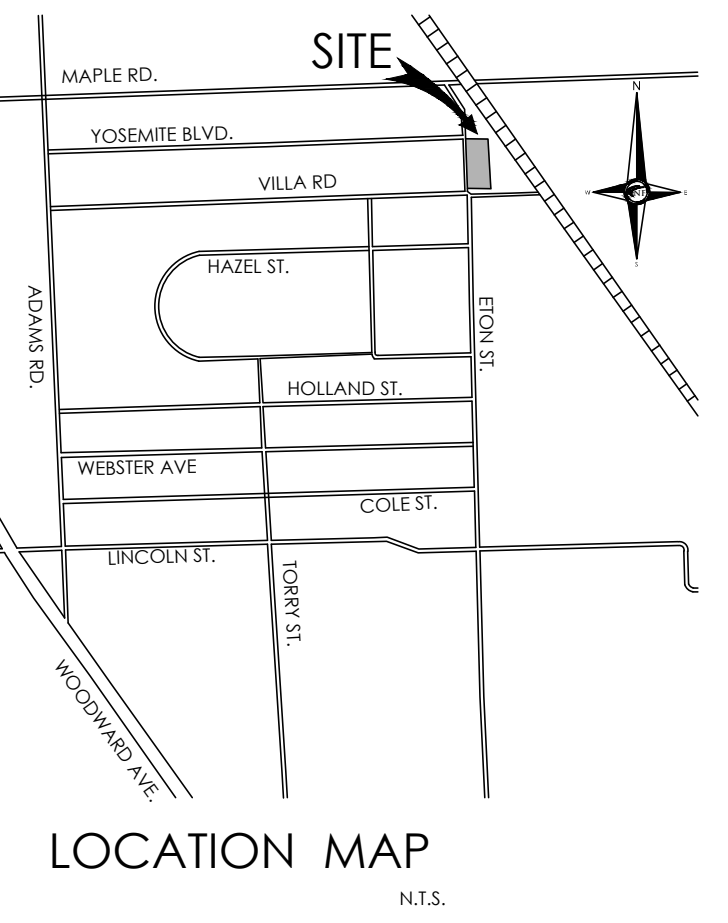
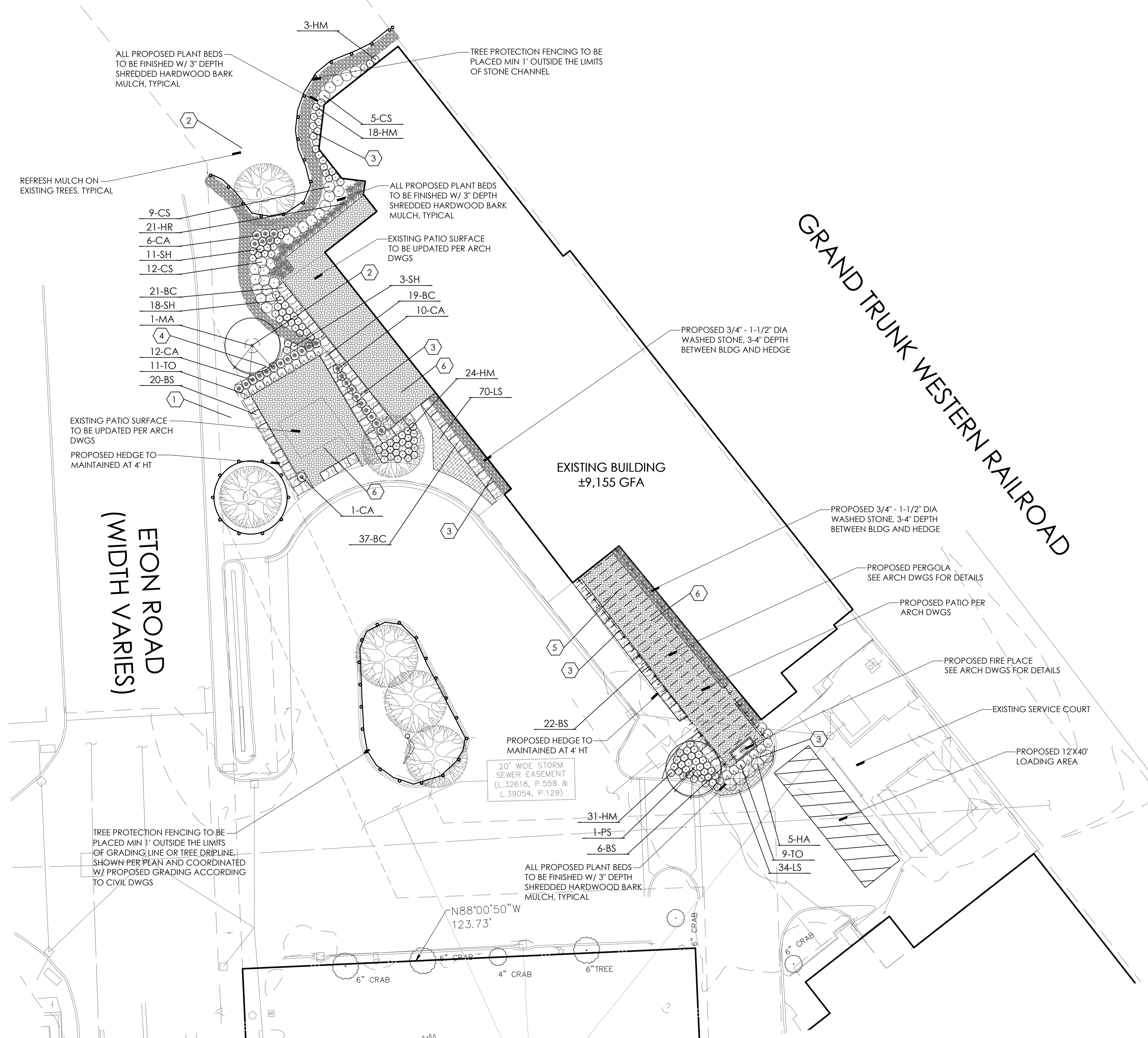
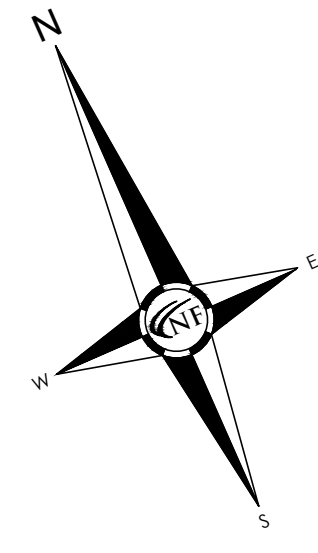
- APPROVED TREE PROTECTION SHALL BE ERECTED PRIOR TO THE START OF CONSTRUCTION ACTIVITIES, AND SHALL REMAIN IN PLACE UNTIL THE IN PLACE UNTIL CONSTRUCTION IS COMPLETE.
- ALL UNDERSTORY VEGETATION WITHIN THE LIMITS OF PROTECTIVE FENCING SHALL BE PRESERVED.
- NO PERSON MAY CONDUCT ANY ACTIVITY WITHIN THE DRIP LINE OF ANY TREE DESIGNATED TO REMAIN, INCLUDING BUT NOT LIMITED TO, PLACING SOLVENTS, BUILDING MATERIALS, CONSTRUCTION EQUIPMENT, OR SOIL DEPOSITS WITHIN THE DRIP LINE.
- WHERE GROUPINGS OF TREES ARE TO REMAIN, TREE FENCING SHALL BE PLACED AT THE LIMITS OF GRADING LINE.
- DURING CONSTRUCTION, NO PERSON SHALL ATTACH ANY DEVICE OR WIRE TO ANY TREE, SCHEDULED TO REMAIN.
- ALL UTILITY SERVICE REQUESTS MUST INCLUDE NOTIFICATION TO THE INSTALLER THAT PROTECTED TREES MUST BE AVOIDED. ALL TRENCHING SHALL OCCUR OUTSIDE OF THE PROTECTIVE FENCING.
- SWALES SHALL BE ROUTED TO AVOID THE AREA WITHIN THE DRIP LINES OF PROTECTED TREES.
- TREES LOCATED ON ADJACENT PROPERTIES THAT MAY BE AFFECTED BY CONSTRUCTION ACTIVITIES MUST BE PROTECTED.
- ROOT ZONES OF PROTECTED TREES SHOULD BE SURROUNDED WITH RIGIDLY STAKED FENCING.
- THE PARKING OF IDLE AND RUNNING EQUIPMENT SHALL BE PROHIBITED UNDER THE DRIP LINE OF PROTECTED TREES.
- THE STRIPPING OF TOPSOIL FROM AROUND PROTECTED TREES SHALL BE PROHIBITED.
- ALL TREES TO BE REMOVED SHALL BE CUT AWAY FROM TREES TO REMAIN.
- THE GRUBBING OF UNDERSTORY VEGETATION WITHIN CONSTRUCTION AREAS SHOULD BE CLEARED BY CUTTING VEGETATION AT THE GROUND WITH A CHAIN SAW OR MINIMALLY WITH A HYDRO-AXE.
- THE CONTRACTOR IS RESPONSIBLE FOR THE REPLACEMENT PER ORDINANCE GUIDELINES, FOR THE DAMAGE OR REMOVAL OF ANY TREE DESIGNATED TO REMAIN.
- TREES TO BE REMOVED SHALL BE FIELD VERIFIED, EVALUATED AND FLAGGED FOR REMOVAL BY THE LANDSCAPE ARCHITECT OR FORESTER, ONLY AS DIRECTED BY THE OWNER OR OWNER'S REPRESENTATIVE.



TREE PROTECTION DETAIL-PLAN



TREE PROTECTION DETAIL-SECTION

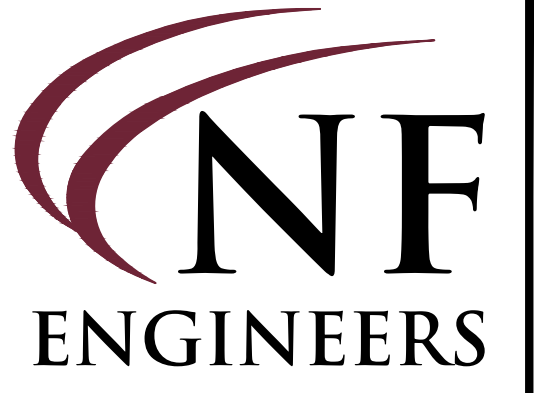


CONSTRUCTION NOTES:

- IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY ALL EXISTING SURVEY INFORMATION INCLUDING THE UTILITY SYSTEMS BEFORE ANY DEMOLITION OR CONSTRUCTION WORK OCCURS. ANY DISCREPANCIES WITH THE SURVEY INFORMATION SHALL BE REPORTED TO THE ARCHITECT AND OWNER'S REPRESENTATIVE IMMEDIATELY.
- CONTRACTOR SHALL BE RESPONSIBLE FOR MAKING HIMSELF FAMILIAR WITH ALL UNDERGROUND UTILITIES, PIPES AND STRUCTURES. CONTRACTOR SHALL TAKE SOLE RESPONSIBILITY FOR COST INCURRED DUE TO DAMAGE AND REPLACEMENT OF SAID UTILITIES.
- CONTRACTOR SHALL NOT WILLFULLY PROCEED WITH CONSTRUCTION AS DESIGNED WHEN IT IS OBVIOUS THAT UNKNOWN OBSTRUCTIONS AND / OR GRADE DIFFERENCES EXIST THAT MAY NOT HAVE BEEN KNOWN DURING THE DESIGN. SUCH CONDITIONS SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF THE CITY ENGINEER. THE CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR ALL NECESSARY REVISIONS DUE TO LACK OF SUCH NOTIFICATION.
- CONTRACTOR SHALL BE RESPONSIBLE FOR ANY COORDINATION WITH SUBCONTRACTORS AS REQUIRED TO ACCOMPLISH OPERATIONS.
- CONTRACTOR IS RESPONSIBLE FOR REPLACEMENT OF ANY EXISTING MATERIALS THAT ARE DAMAGED DURING CONSTRUCTION.
- SEE SPECIFICATIONS FOR CONSTRUCTION REQUIREMENTS, MATERIALS, AND EXECUTION.
- ALL PROPERTY LINES AND LOT LINES SHALL BE VERIFIED PRIOR TO COMMENCING WORK.
- CONTRACTOR SHALL SUBMIT ALL SAMPLES PER SPECIFICATIONS. ALL SAMPLES SHALL BE APPROVED BY THE ARCHITECT OR OWNER'S REPRESENTATIVE PRIOR TO CONSTRUCTION.
- DIMENSIONAL FLEXIBILITY SHALL BE WITHIN PLANT BEDS ONLY.
- CONTRACTOR SHALL COORDINATE ALL SITE LAYOUT WITH THE LANDSCAPE ARCHITECT AND REPORT ANY DIMENSIONAL DISCREPANCIES PRIOR TO CONSTRUCTION.
- HANDICAPPED RAMP SHALL MEET ALL CURRENT BARRIER FREE DESIGN CODES.

GENERAL LANDSCAPE NOTES

- LANDSCAPE CONTRACTOR SHALL VISIT SITE, INSPECT EXISTING CONDITIONS AND REVIEW PROPOSED PLANNING AND RELATED WORK. IN CASE OF DISCREPANCY BETWEEN PLAN AND PLANT LIST, THE PLAN SHALL GOVERN UNLESS CONTRACTOR AGREES TO A DIFFERENT PLAN WITH CONCERNING.
- CONTRACTOR SHALL VERIFY LOCATIONS OF ALL ON-SITE UTILITIES PRIOR TO BEGINNING CONSTRUCTION ON EITHER PHASE OF WORK. ANY DAMAGE OF WIRE/PURPOSE OF SERVICES SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
- CONTRACTOR SHALL COORDINATE ALL RELATED ACTIVITIES WITH OTHER TRADES AND SHALL REPORT ANY UNACCEPTABLE SITE CONDITIONS TO THE OWNER'S REPRESENTATIVE PRIOR TO COMMENCING CONSTRUCTION.
- PLANTS SHALL BE FULLY BRANCHED AND HEALTHY VIGOROUS GROWING CONDITIONS.
- PLANTS SHALL BE WATERED BEFORE AND AFTER PLANTING IS COMPLETE.
- ALL TREES MUST BE FERTILIZED AND MULCHED AND SHALL BE GUARANTEED TO EXHIBIT A NORMAL GROWTH CYCLE FOR AT LEAST ONE (1) YEAR FOLLOWING PLANTING.
- ALL MATERIAL SHALL CONFORM TO THE GUIDELINES ESTABLISHED IN THE MOST RECENT EDITION OF THE "NURSERY STANDARD FOR NURSERY STOCK". CONTRACTOR WILL SUPPLY FINISHED GRADE AND EXCAVATE AS NECESSARY TO SUPPLY PLANT MIX DEPTH AND PLANTING BEDS AS INDICATED IN PLANT DETAILS AND A DEPTH OF 4" IN ALL LAWN AREAS.
- LOW RELEASE FERTILIZER SHALL BE APPLIED TO THE PLANT BEDS BEFORE BEING BACKFILLED. APPLICATION SHALL BE AT THE MANUFACTURER'S RECOMMENDED RATE.
- AMENDED PLANT MIX (PREPARED TOPSOIL) SHALL CONSIST OF 1/3 SCREENED TOPSOIL, 1/3 SAND, AND 1/3 "DIRTY DIRT" COMPOST, MIXED WELL AND SPREAD TO A DEPTH AS INDICATED IN PLANTING DETAILS.
- ALL PLANTINGS SHALL BE MULCHED WITH SHREDDED HARDWOOD BARK SPREAD TO A DEPTH OF 2" FOR TREES AND SHRUBS, AND 2" ON ANNUALS, PERENNIALS, AND GROUNDCOVER PLANTINGS. MULCH SHALL BE FREE FROM DEBRIS AND FOREIGN MATERIAL AND PECS OF INCONSISTENT SIZE.
- NO SUBSTITUTIONS OR CHANGES OF LOCATION OR PLANT TYPE SHALL BE MADE WITHOUT THE APPROVAL OF THE LANDSCAPE ARCHITECT OR OWNER'S REPRESENTATIVE.
- THE LANDSCAPE ARCHITECT SHALL BE NOTIFIED OF ANY DISCREPANCIES BETWEEN THE PLANS AND FIELD CONDITIONS THROUGHOUT THE GUARANTEED PERIOD.
- THE LANDSCAPE ARCHITECT SHALL BE RESPONSIBLE FOR MAINTAINING ALL PLANT PLANTS IN A VERTICAL CONDITION THROUGHOUT THE GUARANTEED PERIOD.
- THE LANDSCAPE ARCHITECT OR OWNER'S REPRESENTATIVE SHALL HAVE THE RIGHT TO RECTIFY ANY WORK OR MATERIAL THAT DOES NOT MEET THE REQUIREMENTS OF THE PLANS AND/OR SPECIFICATIONS.
- THE LANDSCAPE ARCHITECT SHALL BE NOTIFIED OF ANY DISCREPANCIES IN PLANS ALL AREAS DESIGNATED AS SUCH ON THE PLANS, THROUGHOUT THE CONTRACT LIMITS. THEREAFTER, THE CONTRACTOR SHALL BE RESPONSIBLE FOR RESTORING AREA DISTURBED DURING CONSTRUCTION, NOT IN THE CONTRACT LIMITS, TO EQUAL OR GREATER CONDITION.
- ALL LANDSCAPE AREAS SHALL HAVE PROPER DRAINAGE THAT PREVENTS EXCESSIVE WATER FROM PONDING ON LAWN AREAS OR AROUND TREES AND SHRUBS.
- ALL LANDSCAPE AREAS SHALL BE BARRICADED WITH AN AUTOMATIC UNDERGROUND SYSTEM.



CIVIL ENGINEERS
LAND SURVEYORS
LAND PLANNERS

NOWAK & FRAUS ENGINEERS
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PROJECT
Proposed Restaurant

CLIENT
Cameron Mitchell Restaurants
Contact: Randy Roberty
Phone: 380-219-2582
Email: roberty@cameronmitchell.com

PROJECT LOCATION
Part of the NE 1/4 of Section 31
T. 2 North, R. 11 East,
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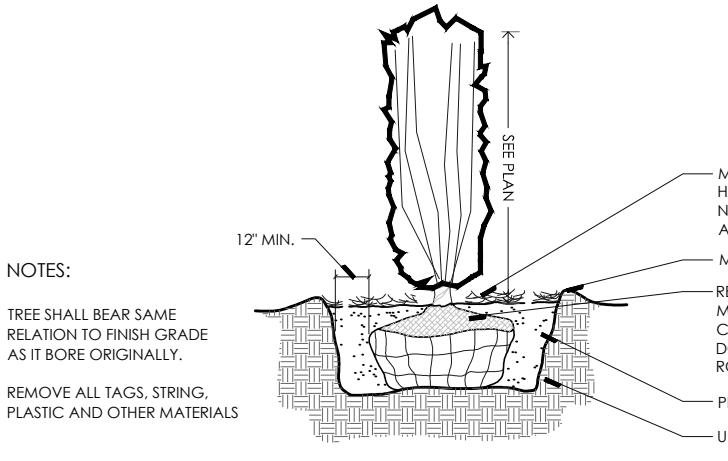
SHEET
Landscape Plan



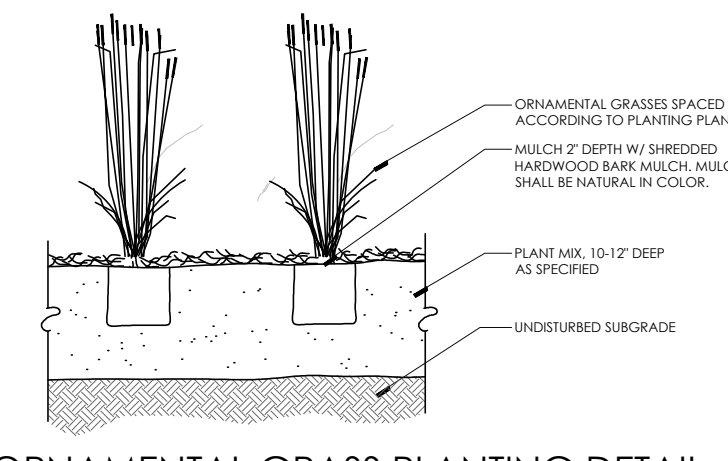
REVISIONS
05/18/23 REVISED PER OWNER REVIEW
07/25/23 REVISED PER PC

DRAWN BY:
G. Ostrowski
DESIGNED BY:
G. Ostrowski
APPROVED BY:
G. Ostrowski

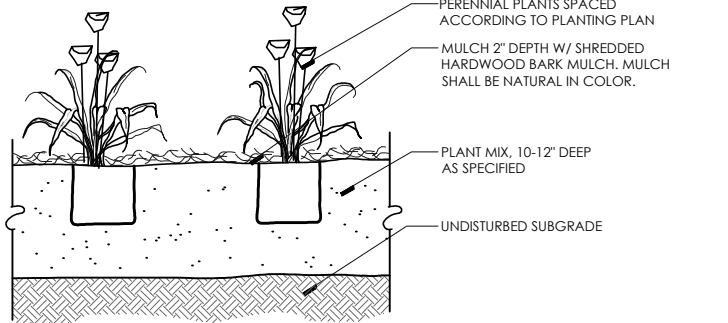
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05-01-2023
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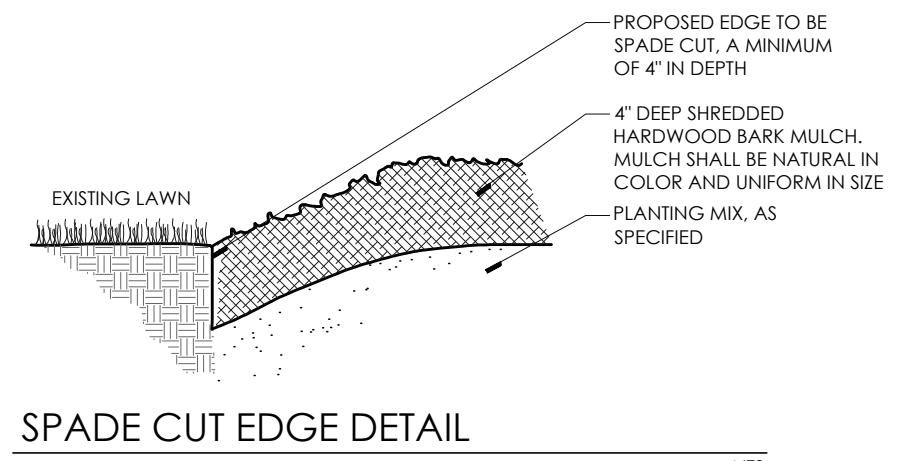
UPRIGHT EVERGREEN SHRUB PLANTING DETAIL N.T.S.



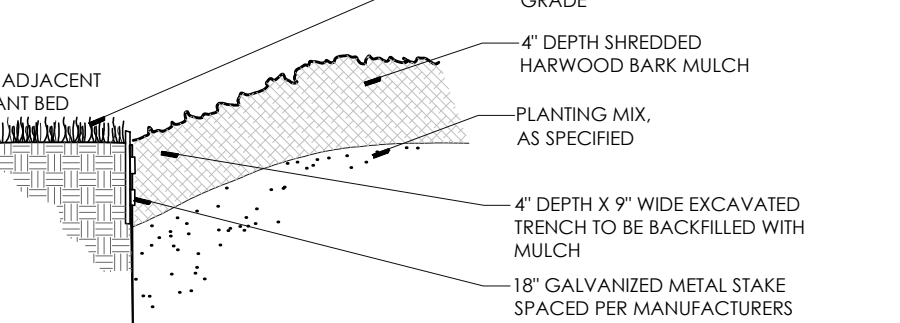
ORNAMENTAL GRASS PLANTING DETAIL N.T.S.



PERENNIAL PLANTING DETAIL N.T.S.



SPADE CUT EDGE DETAIL N.T.S.



METAL EDGING DETAIL N.T.S.

PLANT SCHEDULE

KEY	QTY	BOTANICAL/Common NAME	SIZE	SPACING	ROOT	COMMENT
TREES						
PS	2	<i>Prunus sargentii</i> 'Pink Flr' Pink Flr Flowering Cherry	2.5' CAL	SEE PLAN	B&B	FULLY BRANCHED HEADS
SHRUBS						
BC	40	<i>Buxus</i> x 'Northern Charm' Northern Charm Boxwood	30-36" HT	30' OC	B&B	MAINTAIN AS 3' HT HEDGE
BS	42	<i>Buxus microphylla</i> 'Sprinter' Sprinter Boxwood	36" HT	30' OC	B&B	MAINTAIN AS 4' HT HEDGE
CS	26	<i>Cornus sericea</i> 'Kelsey' Kelsey Red Twig Dogwood	24" HT	3' OC	B&B	
HA	5	<i>Hydrangea arborescens</i> 'Annabelle' Annabelle Hydrangea	36" HT	4' OC	B&B	
TO	20	<i>Thuja occidentalis</i> 'Smaragd' Emerald Green Arborvitae	6-7 HT	36' OC	B&B	MAINTAIN AS HEDGE
GROUNDCOVERS/PERENNIALS						
CA	29	<i>Calamagrostis</i> s. 'Karl Foerster' Karl Foerster Feather Reed Grass	3 GAL	28" OC	CONT	
HM	76	<i>Hakonechloa macra</i> 'All Gold' All Gold Japanese Forest Grass	2 GAL	18" OC	CONT	
HR	21	Hosta: Risky Business Risky Business Hosta	2 GAL	18" OC	CONT	
LS	104	<i>Liriope spicata</i> Creeping Lilyturf	1 GAL	15" OC	CONT	
SH	32	<i>Sporobolus heterolepis</i> 'Tara' Tara Prairie Dropseed	2 GAL	18" OC	CONT	

GROUND COVER KEY

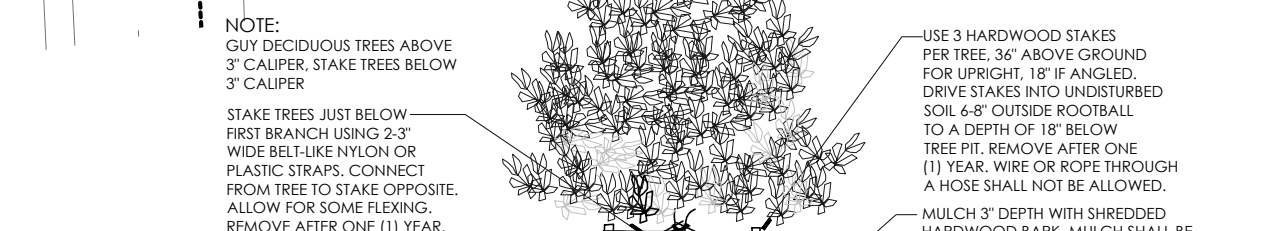
- SOD DISTURBED AREAS ON 3" TOPSOIL
- 4" DIA SPADE CUT EDGE W/ 3" SHREDDED BARK MULCH
- 3" DEPTH DOUBLE SHREDDED HARDWOOD BARK MULCH
- 3/16" X 4" STEEL EDGING STAKED PER MANUFACTURER
- PERGOLA STRUCTURE PER ARCH DWGS
- PATIO PAVEMENT PER ARCH DWGS

IRRIGATION NOTE:

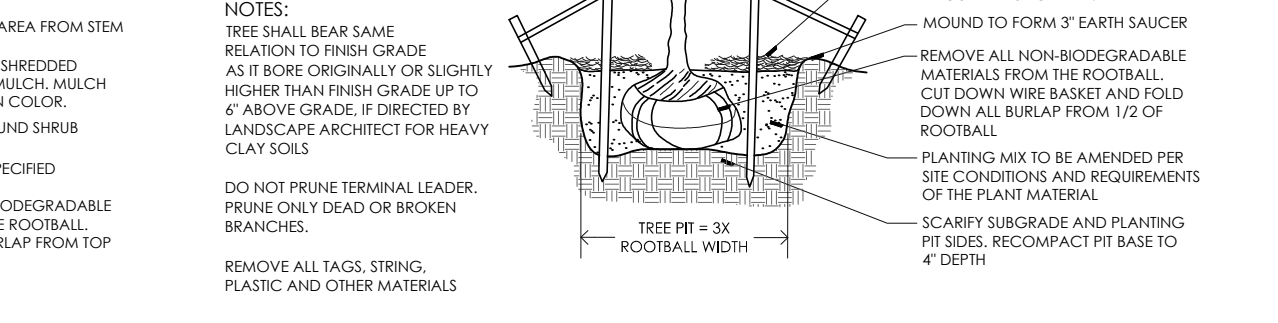
ALL LANDSCAPE AREAS, INCLUDING THOSE WITHIN THE R.O.M., SHALL BE IRRIGATED WITH AN AUTOMATIC UNDERGROUND IRRIGATION SYSTEM. THE SYSTEM SHALL OPERATE IN COMPLIANCE WITH LOCAL STANDARDS AND SEASONAL RESTRICTIONS. SEPARATE ZONES SHALL BE PROVIDED FOR LAWN AREAS AND PLANTING BEDS. IRRIGATION SHALL BE DESIGNED IN THE MOST EFFICIENT MANNER NECESSARY TO FULLY IRRIGATE ALL PLANTING AREAS.

GENERAL SOD NOTE:

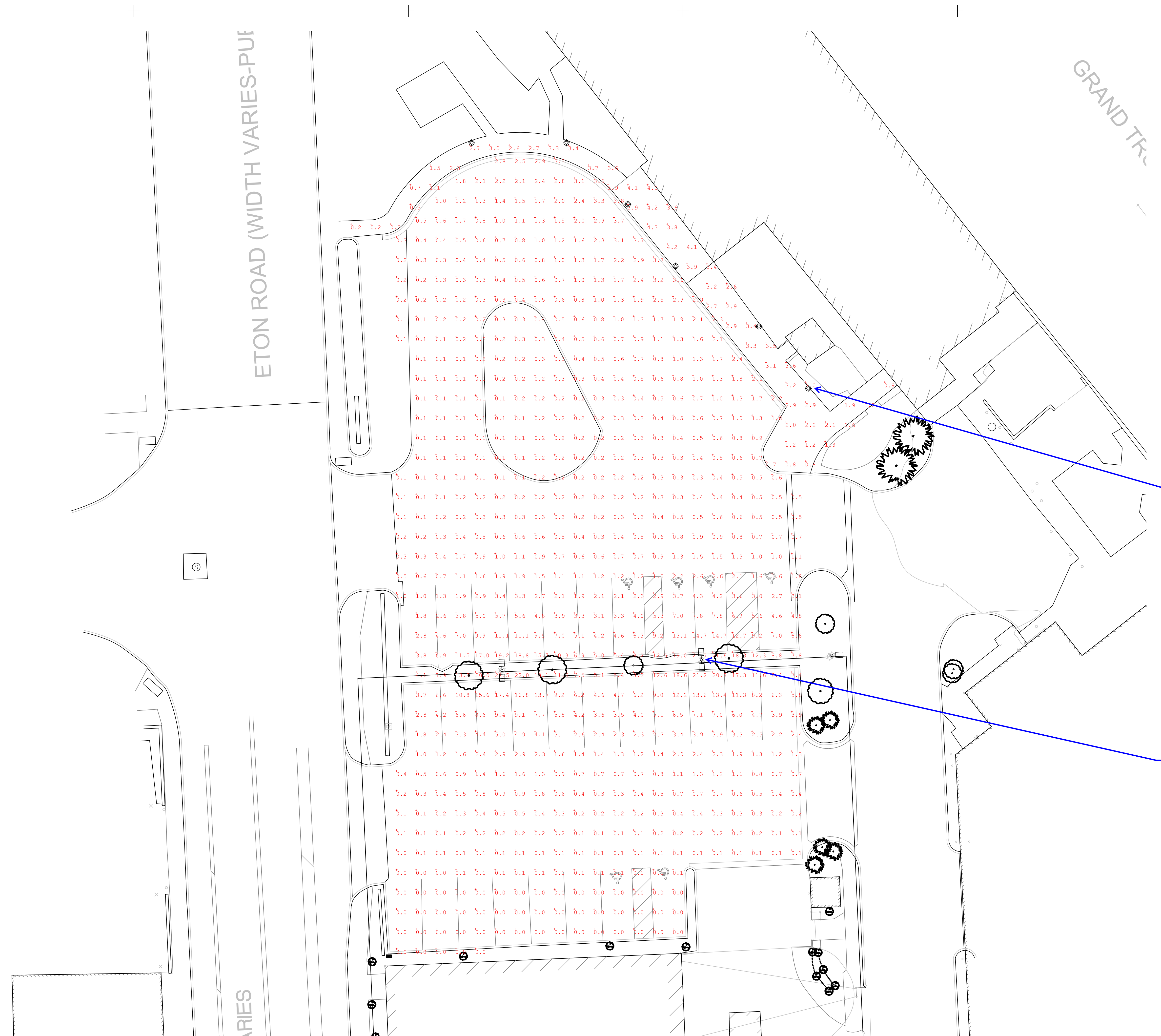
ALL LAWN AREAS DESIGNATED TO BE SODDED, SHALL BE SODDED WITH A BLENDED DURABLE BLUEGRASS SOD, TYPICALLY GROWN IN THE REGION. ALL TURF SHALL BE PLACED ON A MINIMUM 3" PREPARED TOPSOIL, AND WATERED DAILY UNTIL ESTABLISHMENT. IN AREAS SUBJECT TO EROSION, SODDED LAWN SHALL BE STABILIZED WHERE NECESSARY, AND LAID PERPENDICULAR TO SLOPES. SOD INSTALLATION SHALL OCCUR ONLY: SPRING: APRIL TO JUNE, FALL: AUGUST 15 TO OCTOBER 15



DECIDUOUS TREE PLANTING DETAIL N.T.S.



HEDGE PLANTING DETAIL N.T.S.



CALCULATION NOTES:

- VALUES REPORTED HERE ARE CALCULATED AVERAGE MAINTAINED ILLUMINANCE LEVELS ON THE FLOOR OR TABLETOP BUT DO NOT ACCOUNT FOR LIGHT LOSS FACTORS, INCLUDING BUT NOT LIMITED TO LAMP LUMEN DEPRECIATION, LUMINAIRE DIRT DEPRECIATION, ETC.
- PHOTOMETRIC DATA FOR ALL LUMINAIRES IS SOURCED FROM ESTIMATED SIMILAR LUMINAIRE MANUFACTURERS. WHERE POSSIBLE, THE DESIGNER HAS USED ACTUAL PHOTOMETRIC DATA, AS TESTED BY AN INDEPENDENT TESTING LABORATORY. IN THE EVENT ACTUAL PHOTOMETRIC TEST DATA WAS UNAVAILABLE, VIRTUAL PHOTOMETRIC FILES PRODUCED USING INDUSTRY STANDARD SOFTWARE (I.E., PHOTOPA) HAVE BEEN USED TO PROVIDE AN APPROXIMATION OF EXPECTED ILLUMINANCE LEVELS.
- ACTUAL PHOTOMETRIC DATA IS COLLECTED IN A LABORATORY ENVIRONMENT, UNDER CONTROLLED CONDITIONS. LUMINAIRE PERFORMANCE MAY BE ADVERSELY AFFECTED DUE TO AMBIENT TEMPERATURE, HUMIDITY LEVELS, MAINTENANCE/CLEANING SCHEDULES, ETC.
- WHEN PHOTOMETRY IS UNAVAILABLE FOR A SPECIFIED LUMINAIRE, THE DESIGNER HAS USED PHOTOMETRY FOR A COMPARABLE LUMINAIRE TO APPROXIMATE ILLUMINANCE VALUES.
- CONTRIBUTION FROM DAYLIGHT OR MOONLIGHT IS NOT INCLUDED IN THIS CALCULATION.



EXISTING LIGHT POLE FIXTURE - TYPE A



EXISTING LIGHT POLE FIXTURE - TYPE B

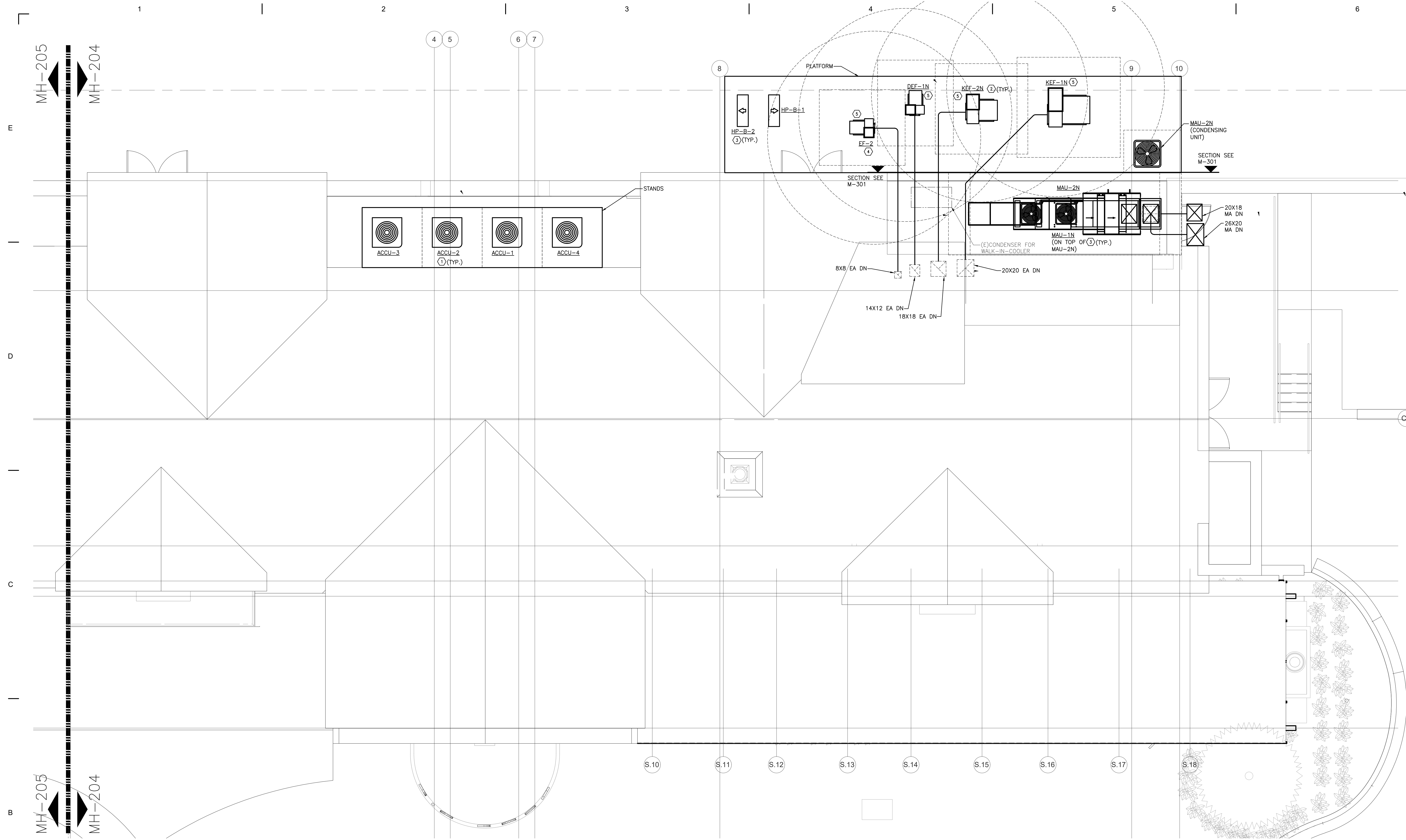
THIS FILE CONTAINS LIGHTING LAYERS. THE LAYERS IN THIS FILE ARE MEANT TO BE INCORPORATED INTO THE CEILING AND LIGHTING PLANS PRODUCED BY THE ARCHITECT AND ENGINEER. HARD COPY AND ELECTRONIC PRINTS OF THIS FILE ARE NOT TO BE ISSUED AS CONSTRUCTION DOCUMENTS.



Project Name:
BIG ROCK ITALIAN
CHOPHOUSE
BIRMINGHAM, MI

Sheet Title:
PARKING LOT CALCULATION
STUDY

Project No. 23059.00
Scale 1" = 1'-0"
Date 05/11/23



MECHANICAL HVAC ROOF PLAN-SOUTH
 SCALE: 1/4"=1'-0"
 NORTH

GENERAL NOTES:

- GN1. SEE M-100 TO M-106 FOR SCHEDULES, NOTES & LEGENDS.
- GN2. PROVIDE ACCESS DOOR FOR ALL FIRE DAMPERS & MANUAL BALANCE DAMPER IN GYP BOARD CEILING OR SOFFIT.
- GN3. SEE ARCHITECTURAL DRAWING FOR LIFE SAFETY TO PROVIDE APPROPRIATE DAMPERS.
- GN4. MAINTAIN MINIMUM 10'-0" DISTANCE FROM ROOF EDGE FOR ALL HVAC UNITS. OTHERWISE PROVIDE HANDRAIL.
- GN5. TERMINATE ALL VENTS 3'-0" ABOVE ANY FORCED AIR INLET LOCATED WITH IN 10'-0".
- GN6. TERMINATE ALL EXHAUST DUCTS 3'-0" FROM ROOF EDGE.
- GN7. PROVIDE 2" FOAM INSULATION WITH PVC JACKET FOR ALL DUCTS RUN ON ROOF. JACKET COLOR TO MATCH THE ROOF.

KEY DRAWING NOTES:

- ① PROVIDE AIR COOLED CONDENSING UNIT AS SHOWN ON PLAN. SEE SCHEDULE FOR DETAIL. COORDINATE FINAL LOCATION WITH ARCHITECT/OWNER. DISTANCE BETWEEN INDOOR AND OUTDOOR UNIT SHALL NOT EXCEED MANUFACTURER RECOMMENDATION.
- ② PROVIDE KITCHEN EXHAUST FAN AS SHOWN ON PLAN. SEE SCHEDULE FOR DETAIL.
- ③ PROVIDE MAKE UP UNIT AS SHOWN ON PLAN. SEE SCHEDULE FOR DETAIL.
- ④ PROVIDE EXHAUST FAN. SEE SCHEDULE FOR DETAILS.
- ⑤ MAINTAIN MINIMUM 10'-0" DISTANCE BETWEEN EXHAUST OUTLET AND MAU INTAKE. IF DISTANCE CAN'T BE ACHIEVED, EXTEND EXHAUST OUTLET MINIMUM 3'-0" ABOVE OUTSIDE AIR INTAKE.

KNAUER
 Knauer Incorporated
 228 Green Bay Road
 Highwood, IL 60040
 (847) 948.9500
 www.knauerinc.com

architecture
 design
 direction

SYSTEMS SOLUTION ENGINEERING
 3205 W 95th Street #100
 Chicago, IL 60642
 Phone/Fax 248.241.1183
 312.975.6500
 www.knauerinc.com
 knaueses@knauerinc.com

STATE OF MICHIGAN
 MICHAEL MADIGAN
 LICENSED PROFESSIONAL ENGINEER

MARK	DATE	DESCRIPTION
2	07/24/23	PERMIT
1	08/29/23	REVIEW

ISSUED

BIG ROCK

245 S ETON STREET
 BIRMINGHAM, MI 48009

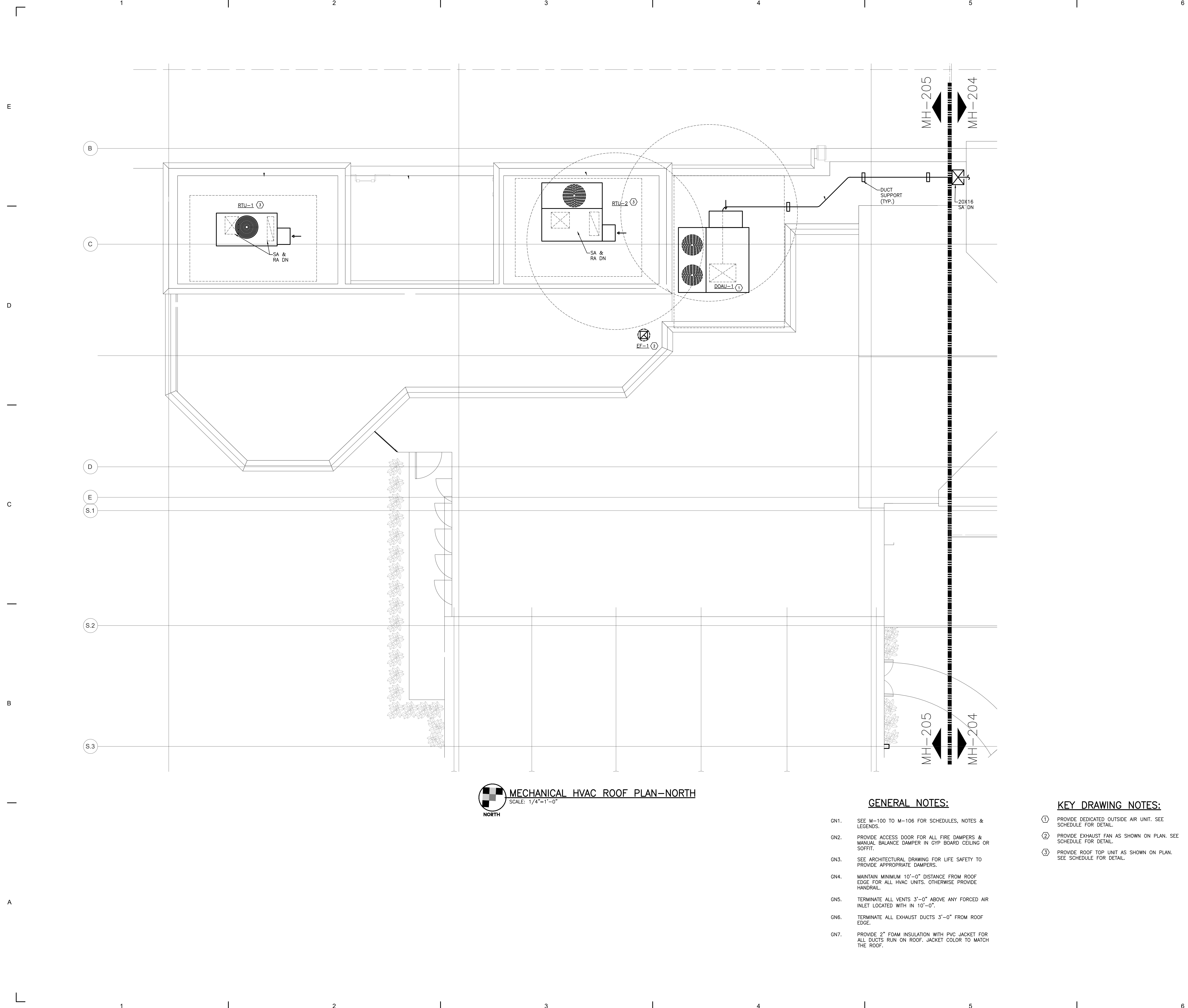
PROJECT NO: 3672
 CAD DWG FILE:
 DRAWN BY: SSE
 CHECKED BY: MMM

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SCALE: 0 2' 4' 8'
 1/4" = 1'-0"

SHEET TITLE
MECHANICAL HVAC ROOF PLAN - SOUTH

MH-204



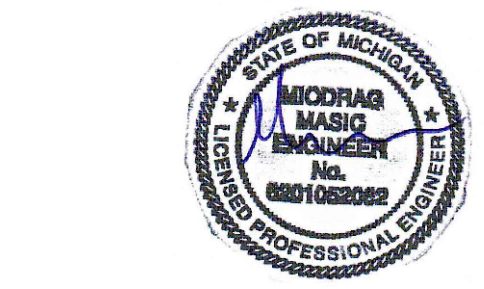
MECHANICAL HVAC ROOF PLAN-NORTH
SCALE: 1/4"=1'-0"
NORTH

GENERAL NOTES:

- GN1. SEE M-100 TO M-106 FOR SCHEDULES, NOTES & LEGENDS.
- GN2. PROVIDE ACCESS DOOR FOR ALL FIRE DAMPERS & MANUAL BALANCE DAMPER IN GYP BOARD CEILING OR SOFFIT.
- GN3. SEE ARCHITECTURAL DRAWING FOR LIFE SAFETY TO PROVIDE APPROPRIATE DAMPERS.
- GN4. MAINTAIN MINIMUM 10'-0" DISTANCE FROM ROOF EDGE FOR ALL HVAC UNITS. OTHERWISE PROVIDE HANDRAIL.
- GN5. TERMINATE ALL VENTS 3'-0" ABOVE ANY FORCED AIR INLET LOCATED WITH IN 10'-0".
- GN6. TERMINATE ALL EXHAUST DUCTS 3'-0" FROM ROOF EDGE.
- GN7. PROVIDE 2" FOAM INSULATION WITH PVC JACKET FOR ALL DUCTS RUN ON ROOF. JACKET COLOR TO MATCH THE ROOF.

KEY DRAWING NOTES:

- ① PROVIDE DEDICATED OUTSIDE AIR UNIT. SEE SCHEDULE FOR DETAIL.
- ② PROVIDE EXHAUST FAN AS SHOWN ON PLAN. SEE SCHEDULE FOR DETAIL.
- ③ PROVIDE ROOF TOP UNIT AS SHOWN ON PLAN. SEE SCHEDULE FOR DETAIL.



MARK	DATE	DESCRIPTION
2	07/24/23	PERMIT
1	08/28/23	REVIEW

BIG ROCK

245 S ETON STREET
BIRMINGHAM, MI 48009

PROJECT NO: 3672
CAD DWG FILE:
DRAWN BY: SSE
CHECKED BY: MMM
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SCALE: 0 2' 4' 8'
1/4" = 1'-0"

MECHANICAL HVAC ROOF PLAN - NORTH

MH-205

BIRMINGHAM CITY COMMISSION

August 15th, 2023



KNAUER

Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan

7A

CAMERON MITCHELL
▪ RESTAURANTS ▪

EXISTING CONDITIONS



Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan
August 15th, 2023

KNAUER

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CAMERON MITCHELL
RESTAURANTS

EXISTING CONDITIONS



Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan
August 15th, 2023

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CAMERON MITCHELL
RESTAURANTS

EXISTING CONDITIONS



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245 S. Eton, Birmingham, Michigan
August 15th, 2023

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CAMERON MITCHELL
▪ RESTAURANTS ▪

EXISTING CONDITIONS



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245 S. Eton, Birmingham, Michigan
August 15th, 2023

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EXISTING CONDITIONS



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245 S. Eton, Birmingham, Michigan
August 15th, 2023

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CAMERON MITCHELL
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EXISTING CONDITIONS



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245 S. Eton, Birmingham, Michigan
August 15th, 2023

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CAMERON MITCHELL
▪ RESTAURANTS ▪

EXISTING CONDITIONS



Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan
August 15th, 2023

EXISTING CONDITIONS

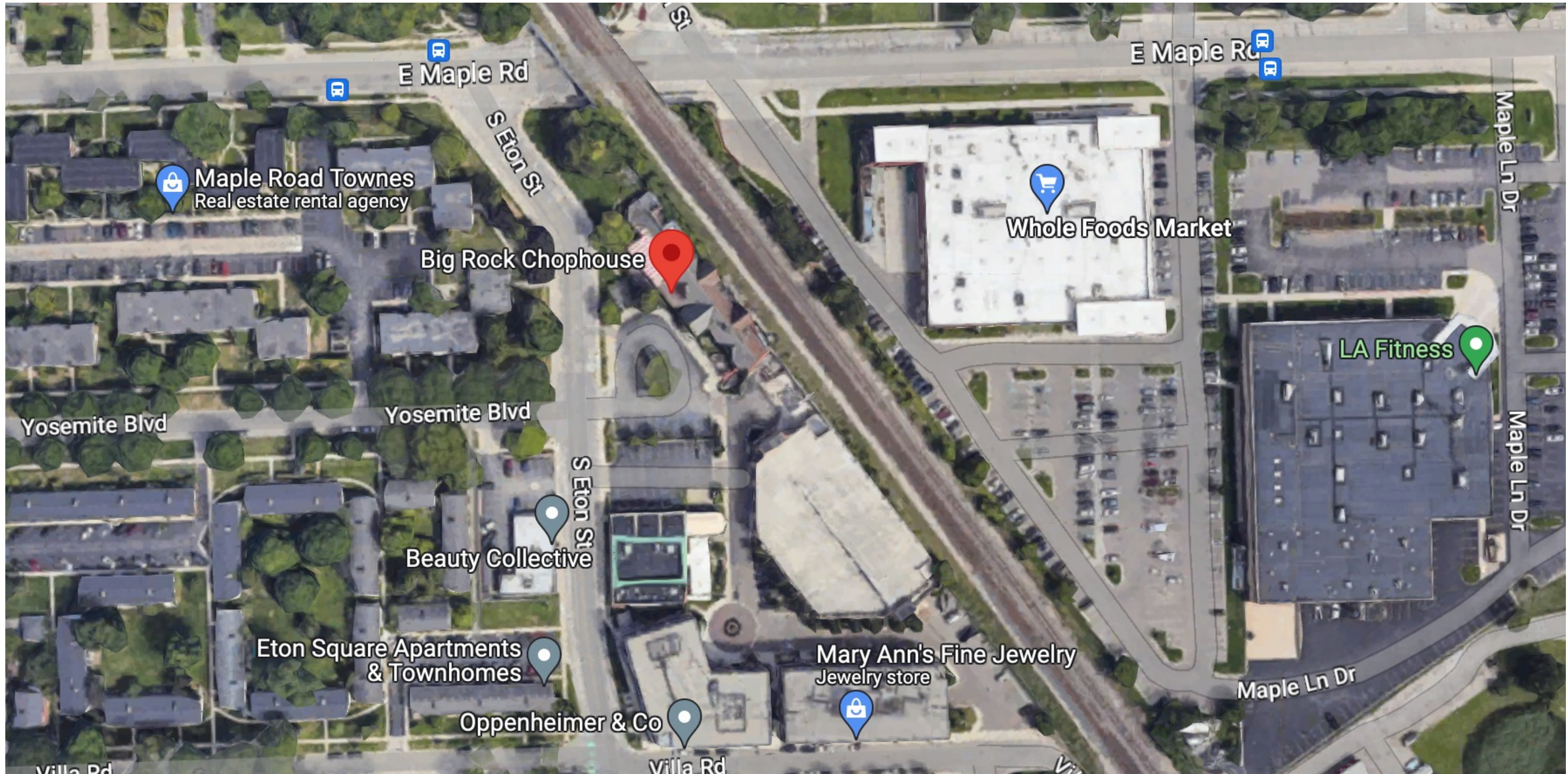


Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan
August 15th, 2023

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CAMERON MITCHELL
RESTAURANTS



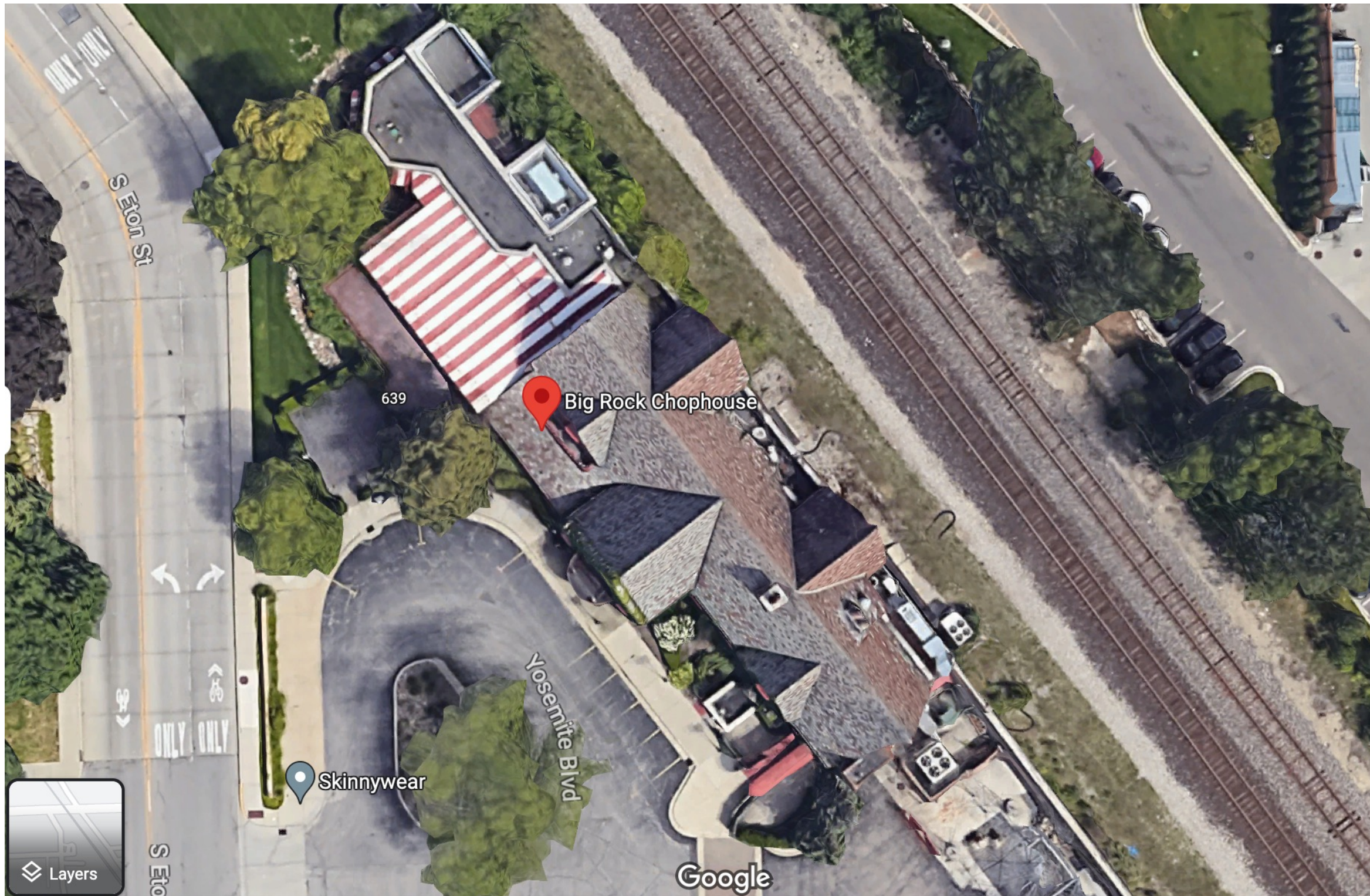
Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan

August 15th, 2023

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CAMERON MITCHELL
RESTAURANTS



Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan
August 15th, 2023

PROPOSED 3-D Views



Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan

August 15th, 2023

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CAMERON MITCHELL
▪ RESTAURANTS ▪

PROPOSED 3-D Views



Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan
August 15th, 2023

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CAMERON MITCHELL
▪ RESTAURANTS ▪

PROPOSED 3-D Views



Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan
August 15th, 2023

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CAMERON MITCHELL
▪ RESTAURANTS ▪

PROPOSED 3-D Views



Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan
August 15th, 2023

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CAMERON MITCHELL
▪ RESTAURANTS ▪

PROPOSED 3-D Views



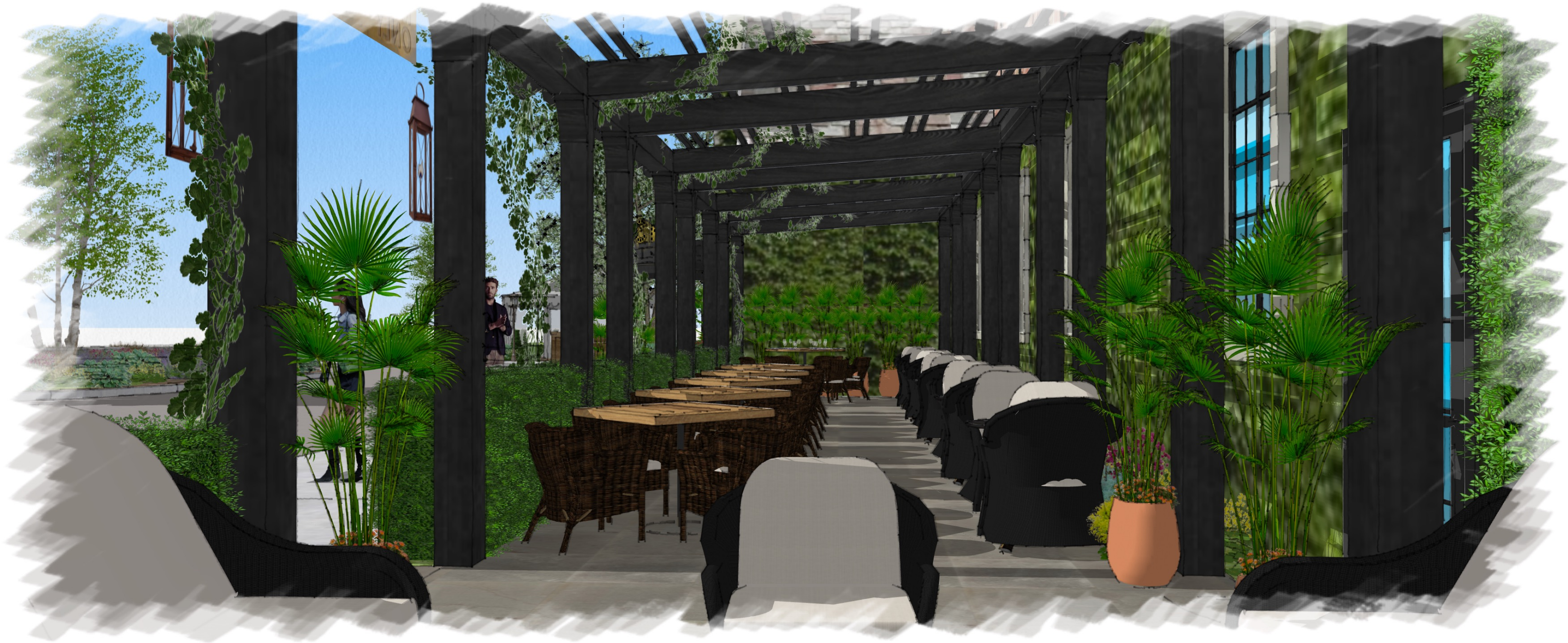
Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan
August 15th, 2023

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CAMERON MITCHELL
▪ RESTAURANTS ▪

PROPOSED 3-D Views



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245 S. Eton, Birmingham, Michigan
August 15th, 2023

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August 15th, 2023

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PROPOSED 3-D Views



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August 15th, 2023

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PROPOSED 3-D Views



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▪ RESTAURANTS ▪

PROPOSED 3-D Views



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245 S. Eton, Birmingham, Michigan
August 15th, 2023

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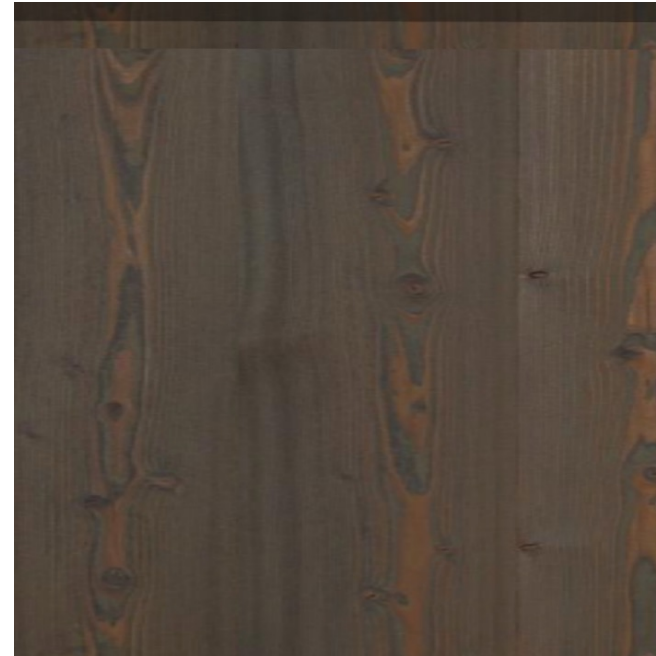
7A

CAMERON MITCHELL
▪ RESTAURANTS ▪

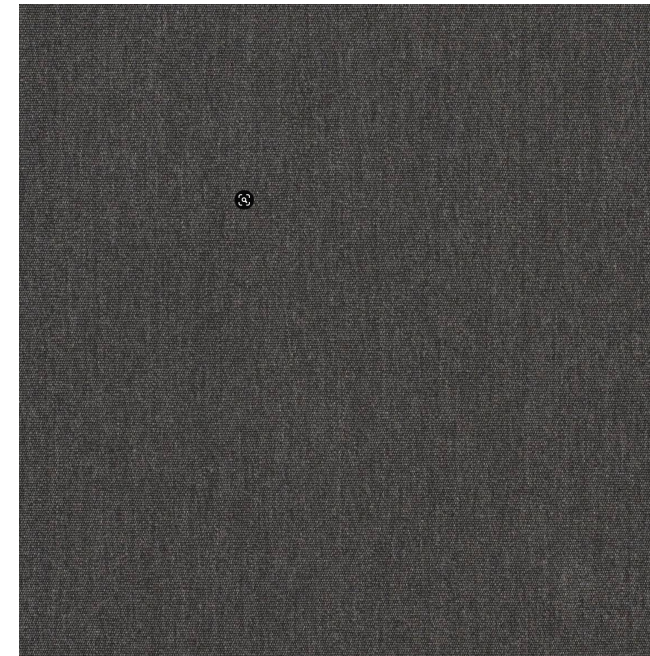
FINISHES AND MATERIALS: PAVER, PAINT, STAIN & AWNING



Paint
Trim, Soffits, Trellis,
and Windows:
Benjamin Moore
Black HC-190



Stain
Siding at North Private
Dining Room:
Vertical T&G Wood,
Stained
Cabot Semi-Transparent
- Black



Fabric Awnings
Sunbrella
Slate 4684-0000



Patio Pavers
Kronos Pennsylvania
Ashlar Pattern
Mix of Colors

FINISHES AND MATERIALS: PORCH WALL SCONCE

COACH HOUSE®
ORIGINAL BRACKET

BEVOLO
—established 1945—
GAS & ELECTRIC LIGHTS

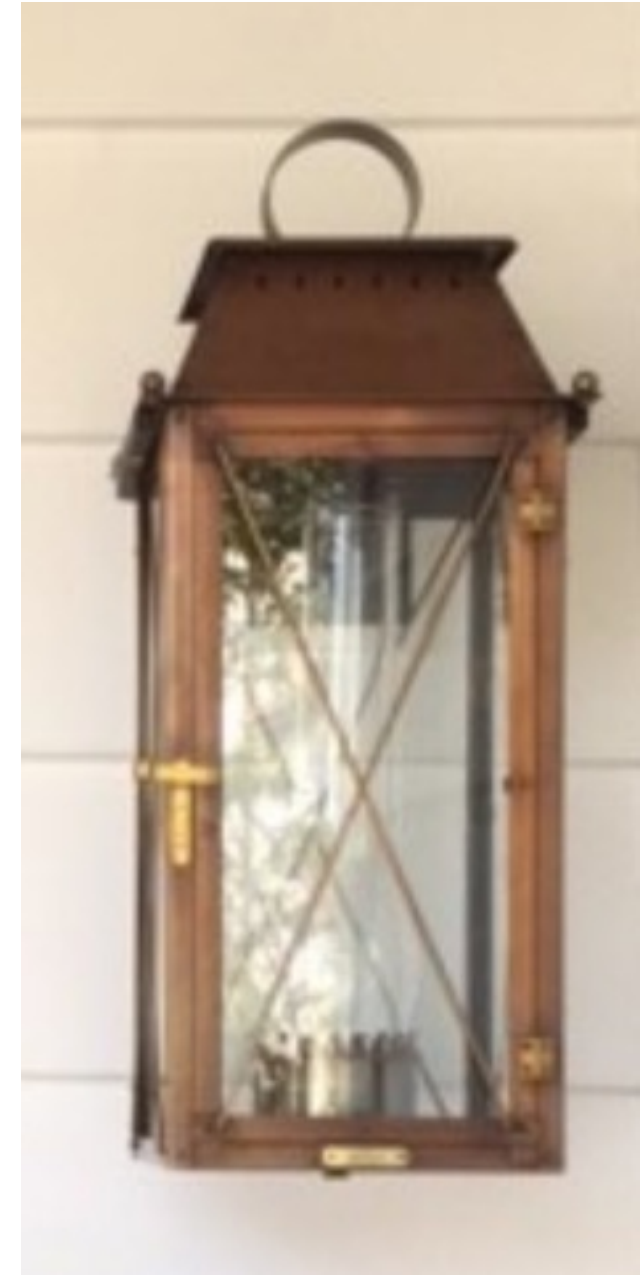


The Coach House® lantern is a great complement to the New England style of architecture. This lantern features a rustic design and also can be used as a secondary light with the London Street when you are addressing side doors, back doors or garage doors. The Coach House loop adds appx 4" to the height of each size. Available in natural gas, liquid propane & electric. [Read Less](#)

VIEW SIZE OPTIONS ▲

Standard Lantern Sizes

Height	Width	Depth
22.0"	10.25"	9.25"



Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan
August 15th, 2023

KNAUER

CAMERON MITCHELL
▪ RESTAURANTS ▪

FINISHES AND MATERIALS:
REPLACEMENT LIGHTS AND LAMPS



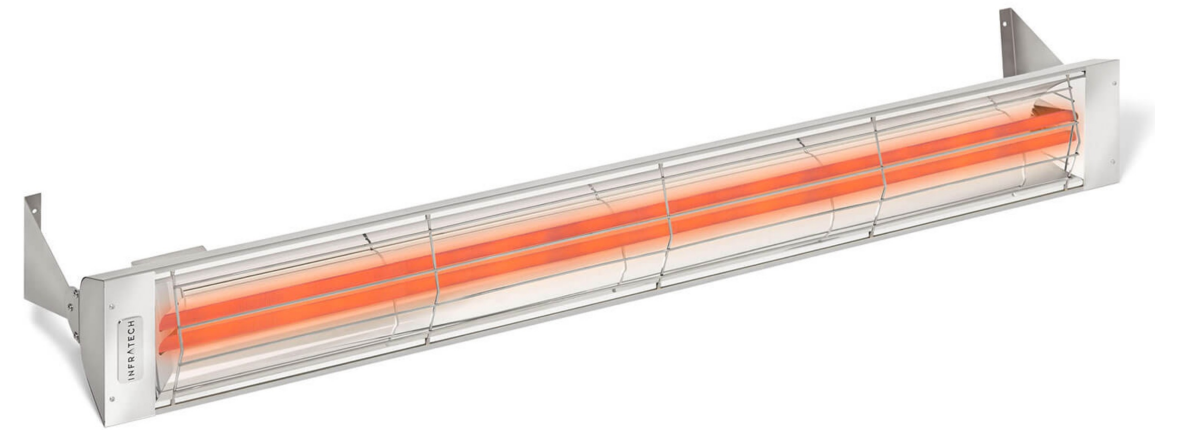
Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan
August 15th, 2023

KNAUER

7A

CAMERON MITCHELL
▪ RESTAURANTS ▪

FINISHES AND MATERIALS:
PATIO LIGHTS, FANS, HEATERS



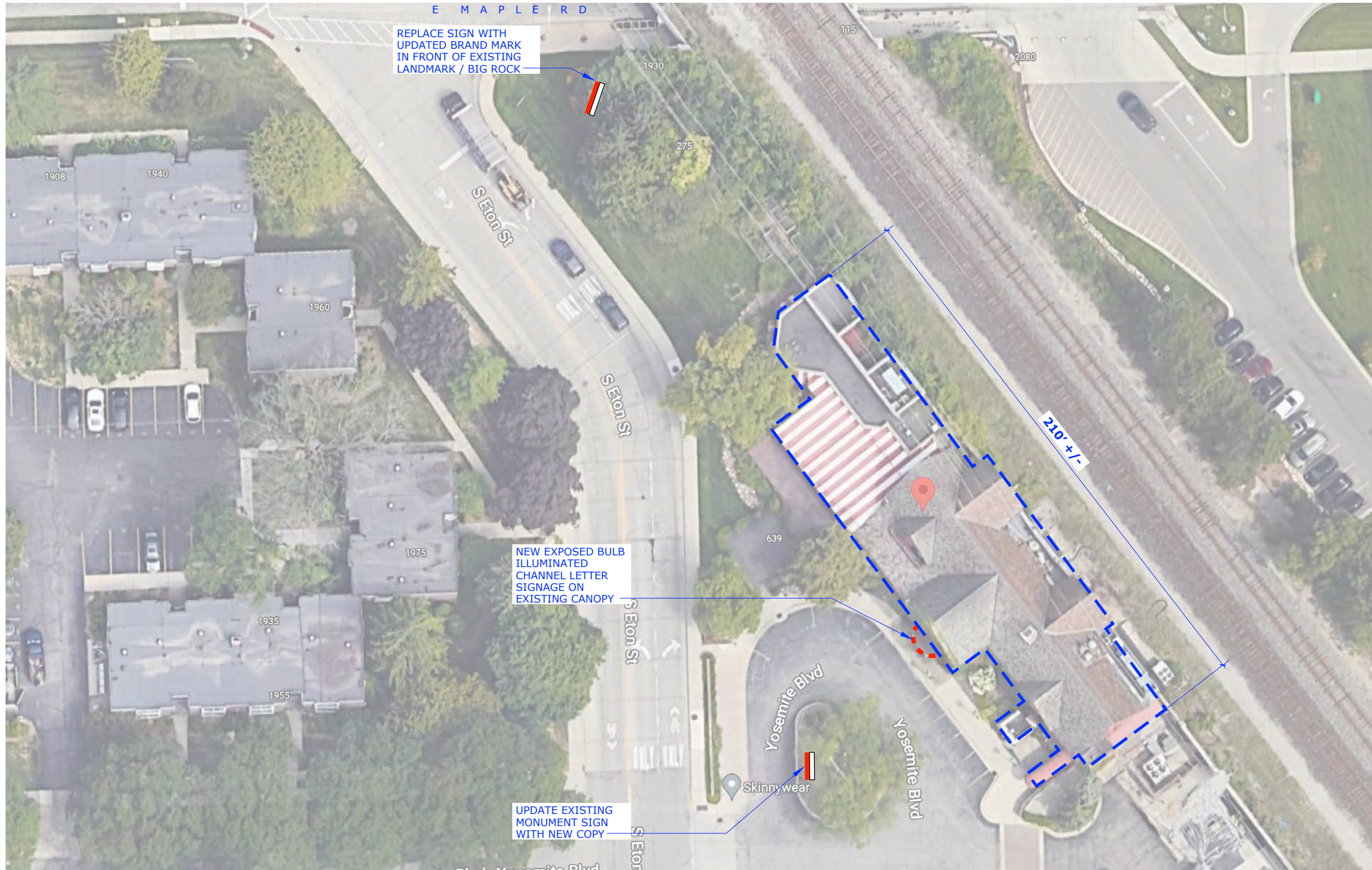
KNAUER

Big Rock | Italian Chop House
245 S. Eton, Birmingham, Michigan
August 15th, 2023

7A

CAMERON MITCHELL
RESTAURANTS

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GENERAL NOTES

1. ALL SIGN MESSAGING/BRANDING TO BE PER OWNER-PROVIDED CONTENT
2. SIGN MOUNTING STRUCTURE DESIGN PER CURRENT EDITION OF COSA



MECHANICAL INSTALLATION NOTE:
 Installer is required to verify actual field conditions & provide necessary mounting hardware & method of attachment to ensure safe installation. Installation to meet N.E.C., UL & Local Codes.

ELECTRIC NOTE:
 It is the customers responsibility to provide 120 volt primary electric service with dedicated circuits(s). Including ground wiring directly from panel box within (6) feet of signage. Installation to meet N.E.C., UL & Local Codes.

ELECTRICAL INSTALLATION NOTE:
 This sign is intended to be installed in accordance with the requirements of article 600 of the N.E.C. and/or other applicable local codes. This includes proper grounding and bonding of the sign.



1 SITE PLAN
 SCALE: NONE



**BUILDING SIGNAGE
 PRELIMINARY DESIGN**

08/14/2023

Project address:

BIG ROCK ITALIAN CHOPHOUSE
 245 S ETON ST
 BIRMINGHAM, MI 48009

Project Layout

- Approved
- Approved as Noted

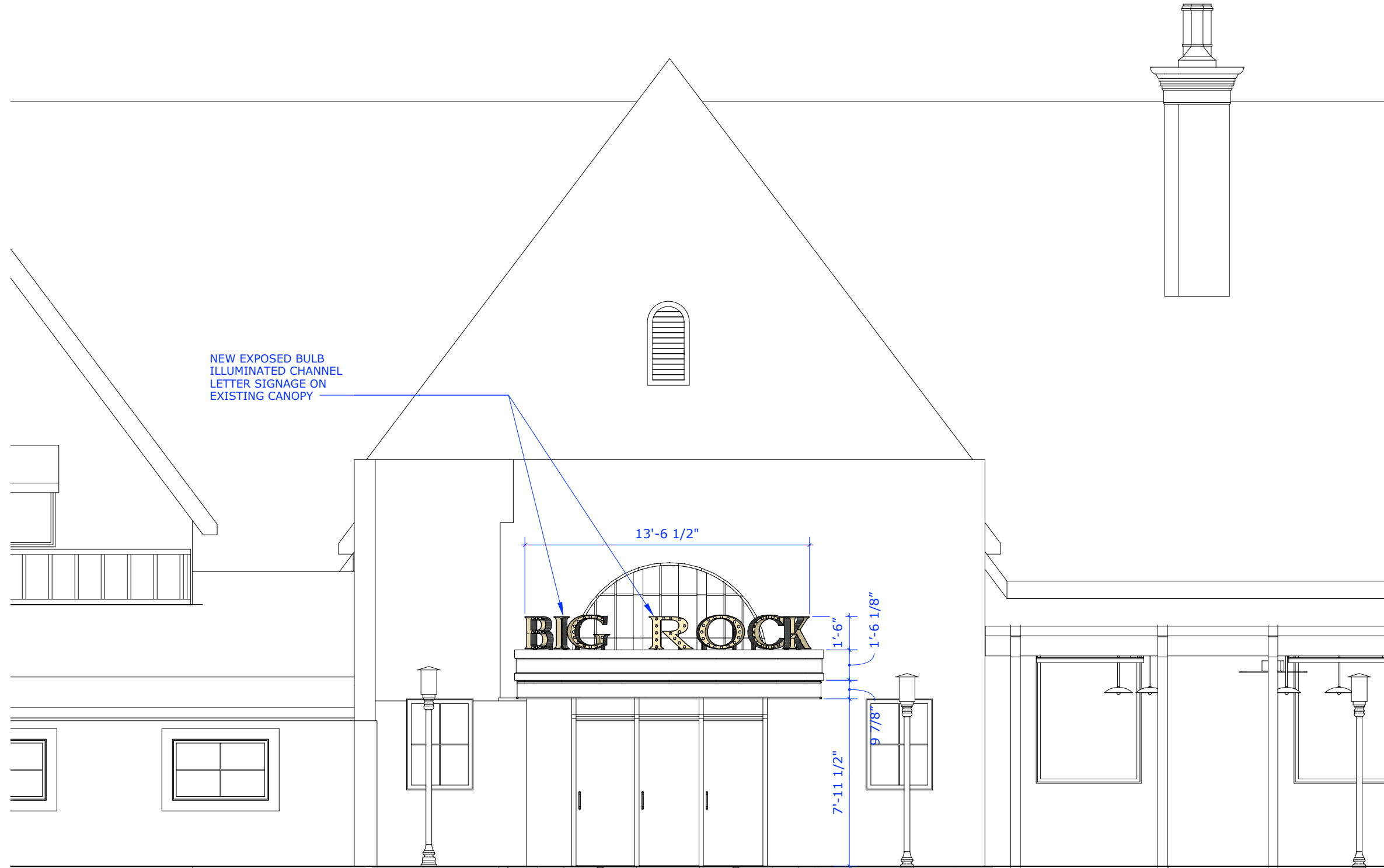
Approval Signature _____

Sales: EH
 Design: BAY
 Dwg: #23_090

UL:
 YES NO
 INSTALL PER
 NEC 600
 -GROUNDING
 -BONDING



NAME LETTER SIGN



1 PARTIAL SW ELEVATION
SCALE: N/A

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**BUILDING SIGNAGE
PRELIMINARY DESIGN**
08/14/2023

Project address:
BIG ROCK ITALIAN CHOPHOUSE
245 S ETON ST
BIRMINGHAM, MI 48009

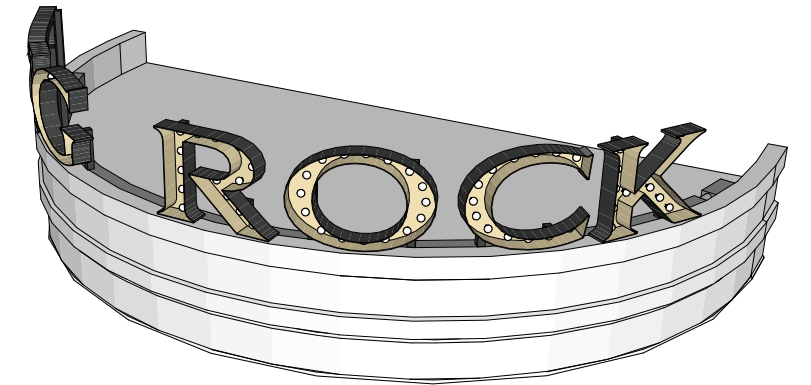
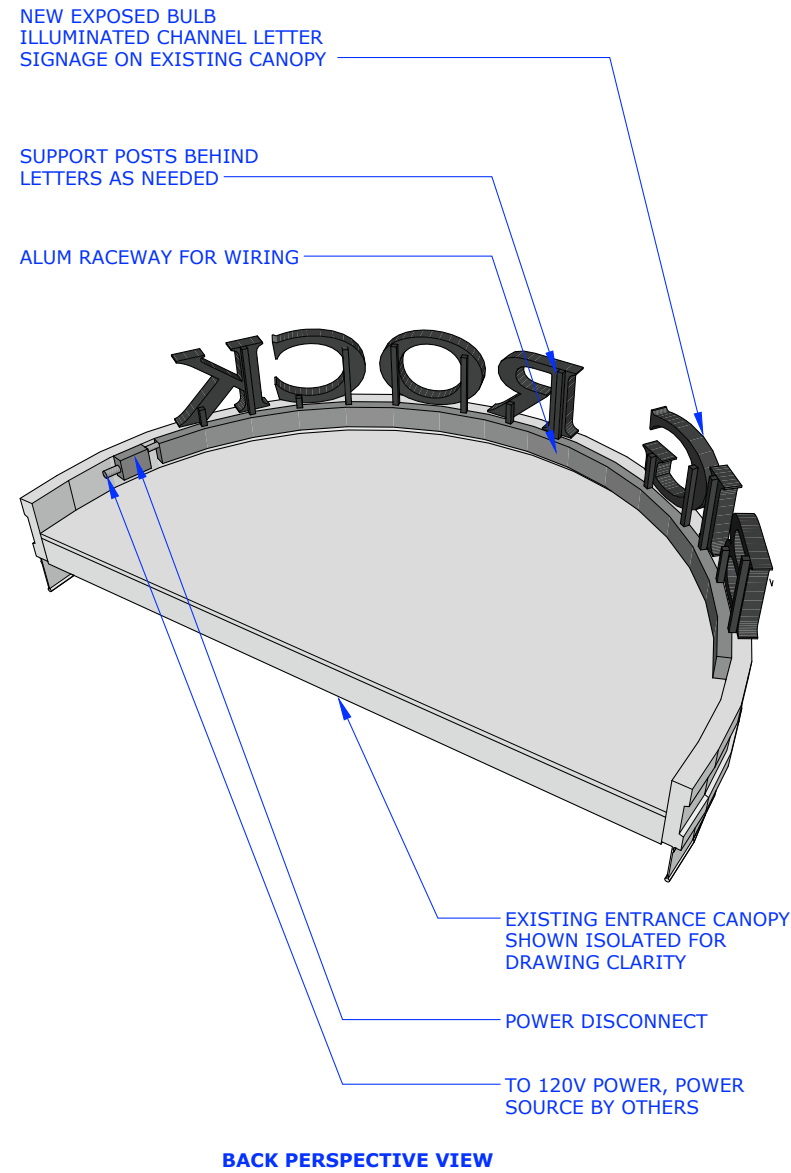
Project Layout
 Approved
 Approved as Noted

Approval Signature _____

Sales: EH
 Design: BAY
 Dwg: #23_090

UL:
 YES NO
 INSTALL PER
 NEC 600
 -GROUNDING
 -BONDING

NAME LETTER SIGN



CHANNEL LETTERS TO BE PAINTED ALUM. RETURNS AND BACK TO BE PAINTED BLACK WITH SATIN FINISH. INSIDE FACE AND RETURNS PAINT COLOR TBD
INTENSITY: ≤ 0.08 FOOTCANDLES

1 ISOLATED VIEWS
SCALE: N/A

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**BUILDING SIGNAGE
PRELIMINARY DESIGN**
08/14/2023

Project address:
BIG ROCK ITALIAN CHOPHOUSE
245 S ETON ST
BIRMINGHAM, MI 48009

Project Layout
 Approved
 Approved as Noted

Approval Signature _____

Sales: EH
Design: BAY
Dwg: #23_090

UL:
 YES NO
 INSTALL PER
 NEC 600
 -GROUNDING
 -BONDING

MONUMENT SIGN 1

PAINT ALUM SIGN CABINET

HALO-ILLUMINATED CHANNEL LETTERS

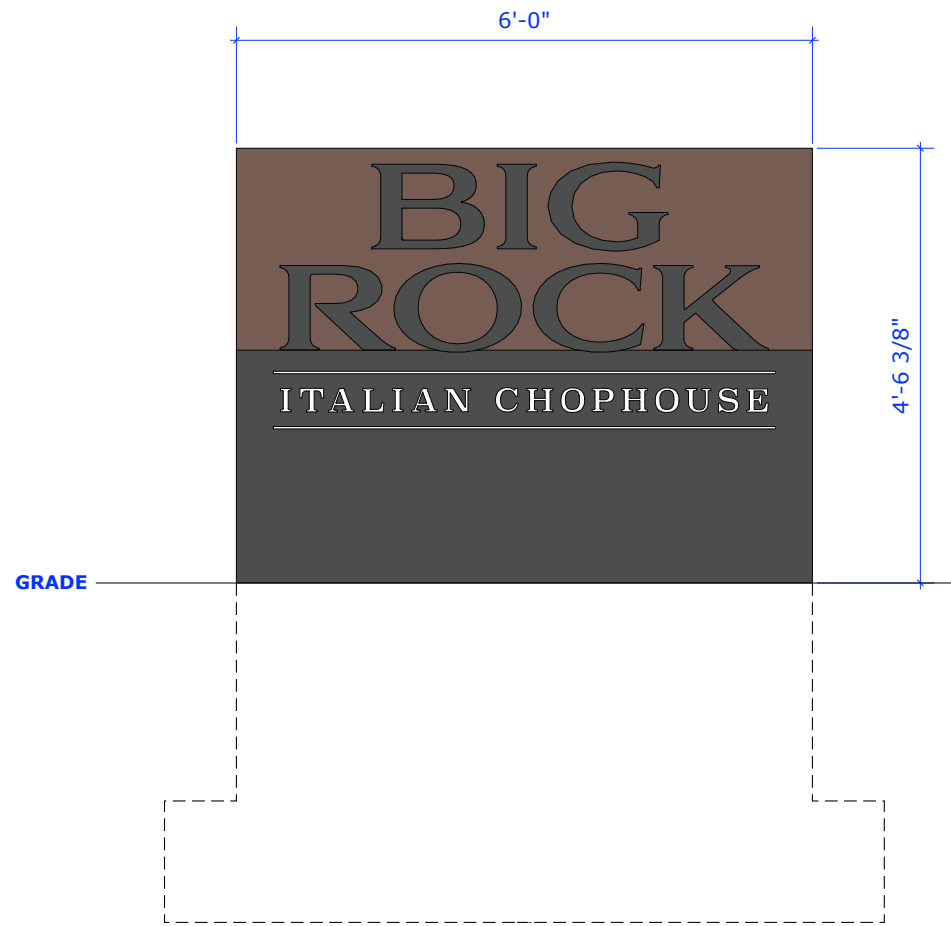
3/8" ACRYLIC PUSH-THROUGH LETTERS AND LINES



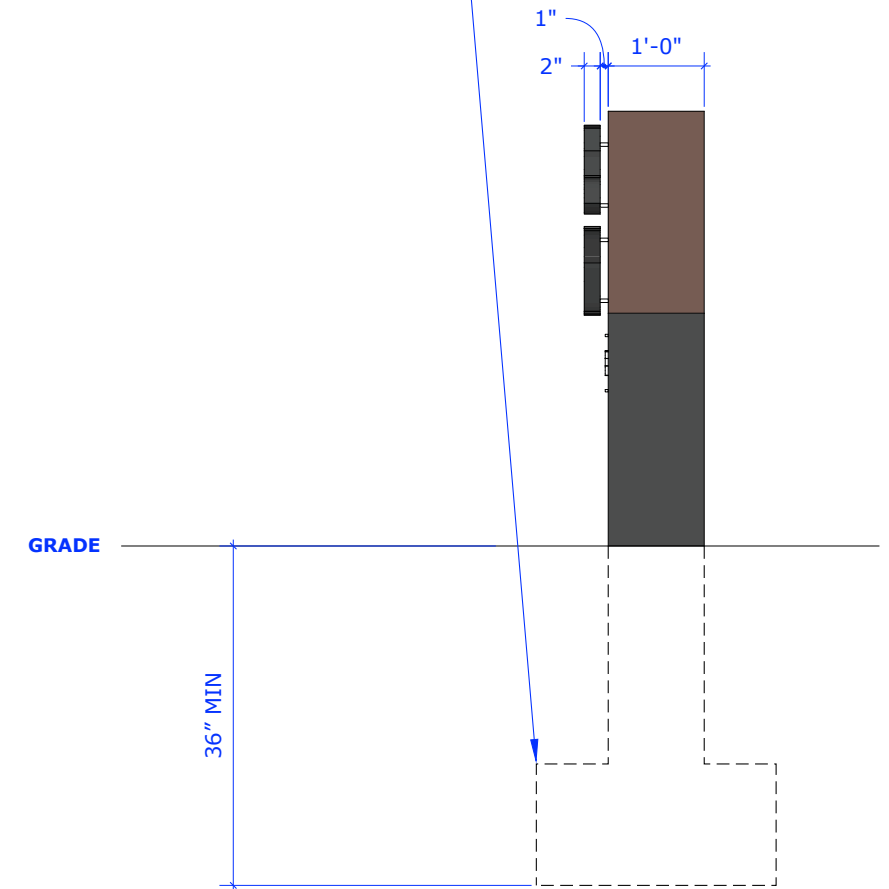
FRONT PERSPECTIVE VIEW

FINAL COLORS TBD
FABRICATION DETAILS TO BE PROVIDED NEXT PHASE

STRUCTURAL DETAIL TO BE PROVIDED NEXT PHASE



FRONT FACDE VIEW



RIGHT SIDE VIEW

1 ISOLATED VIEWS
SCALE: N/A



**BUILDING SIGNAGE
PRELIMINARY DESIGN**
08/14/2023

Project address:
BIG ROCK ITALIAN CHOPHOUSE
245 S ETON ST
BIRMINGHAM, MI 48009

Project Layout
 Approved
 Approved as Noted

Approval Signature _____

Sales: EH
Design: BAY
Dwg: #23_090

UL:
 YES NO
INSTALL PER
NEC 600
-GROUNDING
-BONDING

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NAME LETTER SIGN

MONUMENT SIGN 1

1 DAYTIME RENDERED VIEW
SCALE: N/A



**BUILDING SIGNAGE
PRELIMINARY DESIGN**

08/14/2023

Project address:

BIG ROCK ITALIAN CHOPHOUSE
245 S ETON ST
BIRMINGHAM, MI 48009

Project Layout

- Approved
- Approved as Noted

Approval Signature _____

Sales: EH

Design: BAY

Dwg: #23_090

UL:

- YES NO
- INSTALL PER NEC 600
- GROUNDING
- BONDING



NAME LETTER SIGN

MONUMENT SIGN 1

1 NIGHT TIME RENDERED VIEW
SCALE: N/A



**BUILDING SIGNAGE
PRELIMINARY DESIGN**
08/14/2023

Project address:
BIG ROCK ITALIAN CHOPHOUSE
245 S ETON ST
BIRMINGHAM, MI 48009

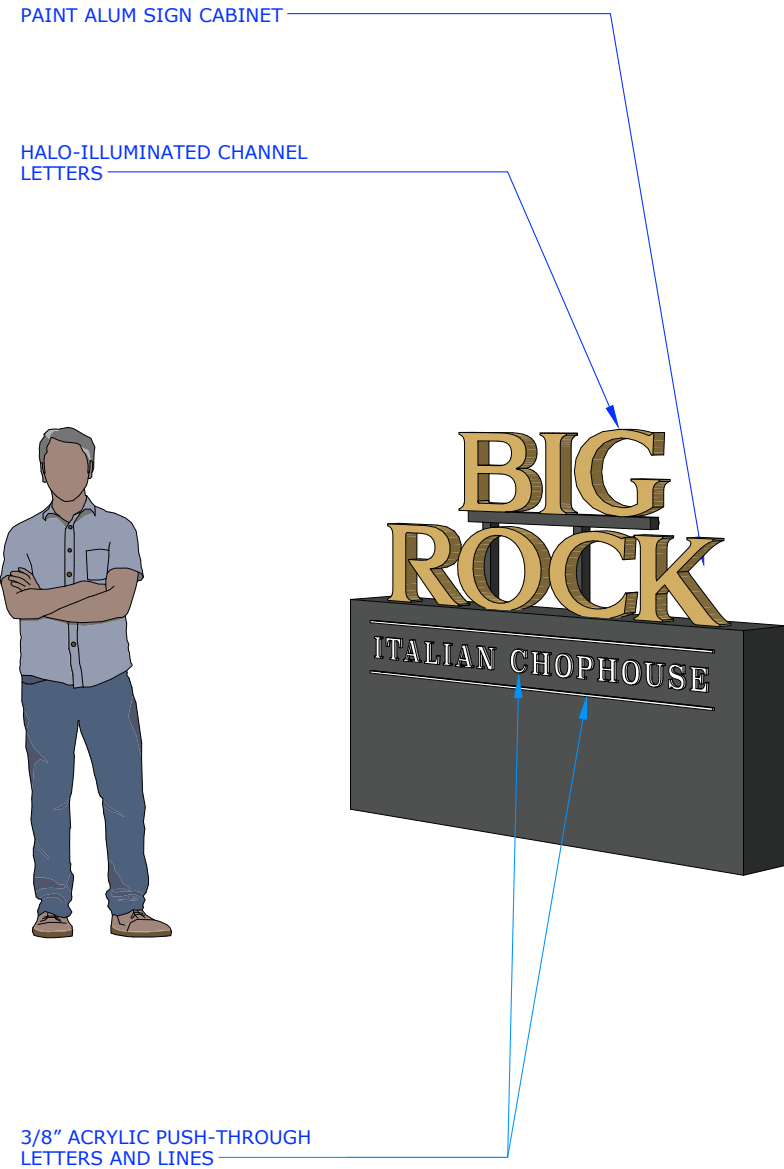
Project Layout
 Approved
 Approved as Noted

Approval Signature _____

Sales: EH
Design: BAY
Dwg: #23_090

UL:
 YES NO
INSTALL PER
NEC 600
-GROUNDING
-BONDING

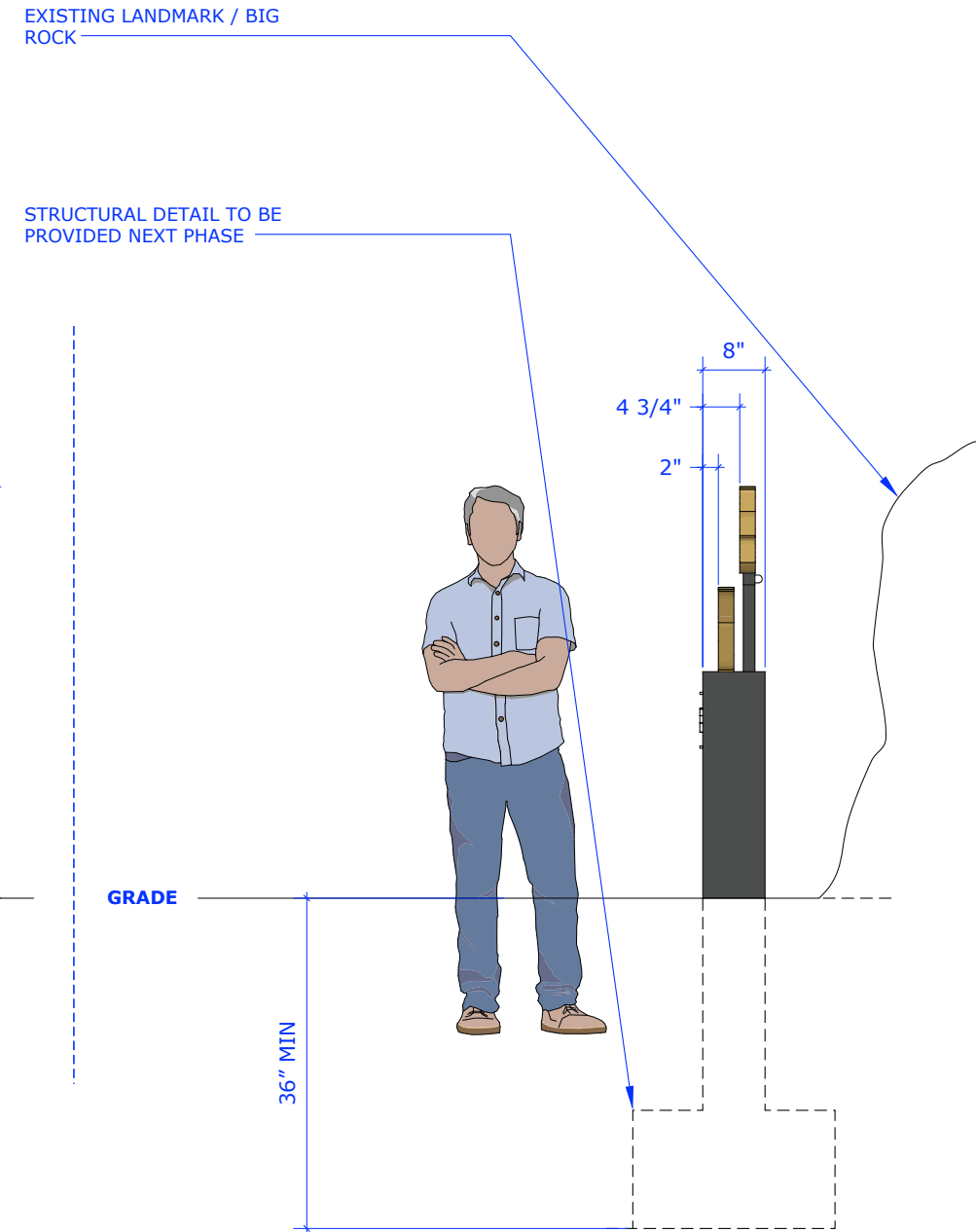
MONUMENT SIGN 2 (E MAPLE RD + S ETON ST)



FRONT PERSPECTIVE VIEW



FRONT FACDE VIEW



RIGHT SIDE VIEW

1 ISOLATED VIEWS
SCALE: N/A

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**BUILDING SIGNAGE
PRELIMINARY DESIGN**
08/14/2023

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245 S ETON ST
BIRMINGHAM, MI 48009

Project Layout
 Approved
 Approved as Noted

Approval Signature _____

Sales: EH
 Design: BAY
 Dwg: #23_090

UL:
 YES NO
 INSTALL PER
 NEC 600
 -GROUNDING
 -BONDING

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EXISTING LANDMARK / BIG ROCK

MONUMENT SIGN 2



1 DAYTIME RENDERED VIEW
SCALE: N/A



**BUILDING SIGNAGE
PRELIMINARY DESIGN**

08/14/2023

Project address:

BIG ROCK ITALIAN CHOPHOUSE
245 S ETON ST
BIRMINGHAM, MI 48009

Project Layout

- Approved
- Approved as Noted

Approval Signature _____

Sales: EH
Design: BAY
Dwg: #23_090

UL:
 YES NO
INSTALL PER
NEC 600
-GROUNDING
-BONDING

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/Users/bakoulabdar/ Documents/PROJECTS/_23_090_BIG_ROCK

EXISTING LANDMARK / BIG
ROCK TO RECEIVE LIGHT WASH
FROM BACK OF SIGN

MONUMENT SIGN 2



1 NIGHT TIME RENDERED VIEW
SCALE: N/A



**BUILDING SIGNAGE
PRELIMINARY DESIGN**

08/14/2023

Project address:

BIG ROCK ITALIAN CHOPHOUSE
245 S ETON ST
BIRMINGHAM, MI 48009

Project Layout

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UL:

- YES NO
- INSTALL PER
- NEC 600
- GROUNDING
- BONDING



MEMORANDUM

Finance Department

DATE: August 23, 2023
TO: Jana L. Ecker, City Manager
FROM: Mark Gerber, Finance Director/Treasurer
SUBJECT: Budgeting Software

INTRODUCTION:

The Finance Department is seeking approval from the City Commission to purchase budgeting software in order to improve efficiency and communication of the budget with the public.

BACKGROUND:

The current process for creating the proposed and final budget documents involve many inefficient processes including: converting Word or Excel documents to PDF, entering capital project requests in multiple places, and several rounds of the document review due to the number of changes made during the budget creation process.

To address these issues, the Finance Department posted a RFP for a budgeting software solution which would create a web-based budget document, assist in the preparation of a capital improvement plan, calculate and create a personnel budget, and have the ability for the public to review the City's financial data. The Finance Department asked bidders to give the City a 3-year proposal including implementation costs. The City received four responses to the RFP listed below.

Vendor	Total 3-Year Cost	Avg. Scores
OpenGov	\$152,670	85
Euna (Questica)	\$215,334	84
IGM (Gravity)	\$125,609	83
ClearGov	\$139,832	77

The four bidders each demonstrated their products to several department heads and Finance staff. Staff graded the bidders on their proposals, demonstrations, and references. Based on these criteria, OpenGov was selected.

Out of the top three bidders, OpenGov has the most experience with our financial software BS&A. In addition, the City's asset management software, Cartegraph, is owed by OpenGov and connects with the capital improvement plan software. OpenGov also has a full suite of financial software which in the future the City may wish to pursue as a replacement to BS&A.

LEGAL REVIEW:

Legal has reviewed and approved the Master Services Agreement.

FISCAL IMPACT:

The first year of the contract will cost approximately \$79,000 including implementation. Years two and three will be between \$35,000 and \$40,000 each. The Finance Department has budgeted \$40,000 in the current fiscal year which is enough to cover the software but not the implementation. Therefore, a budget amendment will be necessary for the implementation costs.

SUSTAINABILITY:

This software should reduce the amount of paper that is used during the budget preparation process.

PUBLIC COMMUNICATIONS:

This software includes the ability to present the City's financial data in an easy to read format to the public.

SUMMARY:

The Finance Department is requesting that the City Commission approve this purchase and the necessary budget amendment.

ATTACHMENTS:

- OpenGov Master Services Agreement
- OpenGov Scope of Work
- OpenGov Order Form
- OpenGov Insurance

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to approve the Master Services Agreement with OpenGov in the amount of \$78,997, charging this cost to account number 101.0-191.000-901.0000, authorizing the Mayor and the City Clerk to sign the master services agreement on behalf of the City, and authorizing the Finance Director to sign the order form. Furthermore, to amend the General Fund appropriations and budget as follows:

Revenues:

Appropriation from Fund Balance	101.0-000.000-400.0000	\$39,000
---------------------------------	------------------------	----------

Expenditures:

General Government-Finance	101.0-191.000-901.0000	\$39,000
----------------------------	------------------------	----------

OpenGov Master Services Agreement

The parties to this Master Services Agreement (this “Agreement”) are OpenGov, Inc., a Delaware corporation (“OpenGov”), and the customer named in the signature block below (“Customer”). This Agreement, which becomes binding when the parties have signed it (the “Effective Date”), sets forth the terms under which Customer will be permitted to use OpenGov’s hosted software services and receive professional services.

1. Definitions

- 1.1. “Customer Data” means data that is provided by Customer to OpenGov pursuant to this Agreement (for example, by email or through Customer’s software systems of record). Customer Data does not include any confidential personally identifiable information.
- 1.2. “Documentation” means materials produced by OpenGov that provide information about OpenGov’s software products and systems. Customers may access the most up-to-date Documentation on the Customer Resource Center page at opengov.zendesk.com.
- 1.3. “Intellectual Property Rights” means all intellectual property rights including all past, present, and future rights associated with works of authorship, including exclusive exploitation rights, copyrights, and moral rights, trademark and trade name rights and similar rights, trade secret rights, patent rights, and any other proprietary rights in intellectual property of every kind and nature.
- 1.4. “Order Form” means the document executed by the parties that specifies the Software Services that OpenGov will provide to Customer under this Agreement.
- 1.5. “Term” refers to the Initial Term defined in Section 6.1 plus all Renewal Terms defined in Section 6.2.

2. Software Services, Support, and Professional Services

- 2.1. Software Services. Subject to the terms and conditions of this Agreement, OpenGov will use commercially reasonable efforts to provide the commercial off-the-shelf software solutions identified in the applicable Order Form (“Software Services”).
- 2.2. Support and Service Levels. Customer support is available by email to support@opengov.com or by using the chat messaging functionality of the Software Services, both of which are available during OpenGov’s standard business hours. Customer may report issues any time. However, OpenGov will address issues during business hours. OpenGov will provide support for the Software Services in accordance with the Support and Software Service Levels found at opengov.com/service-sla, as long as Customer is entitled to receive support under the applicable Order Form and this Agreement.
- 2.3. Professional Services
 - 2.3.1. If OpenGov or its authorized independent contractors provides professional services

to Customer, such as implementation services, then these professional services ("Professional Services") will be described in an applicable statement of work ("SOW") agreed to by the parties. Unless otherwise specified in the SOW, any pre-paid Professional Services must be utilized within one year from the Effective Date.

- 2.3.2. Relevant travel expenses are provided in the SOW. Any other travel expenses related to the performance of the Professional Services shall be pre-approved by and reimbursed by Customer.

3. Restrictions and Responsibilities

- 3.1. Restrictions. Customer may not use the Software Services in any manner or for any purpose other than as expressly permitted by the Agreement and Documentation. In addition, Customer shall not, and shall not permit or enable any third party to: (a) use or access any of the Software Services to build a competitive product or service; (b) modify, disassemble, decompile, reverse engineer or otherwise make any derivative use of the Software Services (except to the extent applicable laws specifically prohibit such restriction); (c) sell, license, rent, lease, assign, distribute, display, host, disclose, outsource, copy or otherwise commercially exploit the Software Services; (d) perform or disclose any benchmarking or performance testing of the Software Services; (e) remove any proprietary notices included with the Software Services; (f) use the Software Services in violation of applicable law; or (g) transfer any confidential personally identifiable information to OpenGov or the Software Services platform.
- 3.2. Responsibilities. Customer shall be responsible for obtaining and maintaining computers and third party software systems of record (such as Customer's ERP systems) needed to connect to, access or otherwise use the Software Services. Customer also shall be responsible for: (a) ensuring that such equipment is compatible with the Software Services, (b) maintaining the security of such equipment, user accounts, passwords and files, and (c) all uses of Customer user accounts by any party other than OpenGov.

4. Intellectual Property Rights; License Grants; Access to Customer Data

- 4.1. Software Services. OpenGov owns all interests and Intellectual Property Rights in the Software Services. The look and feel of the Software Services, including any custom fonts, graphics and button icons, are the property of OpenGov. Customer may not copy, imitate, or use them, in whole or in part, without OpenGov's prior written consent. Subject to Customer's obligations under this Agreement, OpenGov grants Customer a non-exclusive, royalty-free license during the Term to use the Software Services.
- 4.2. Customer Data. Customer Data and the Intellectual Property Rights therein belong to the Customer. Customer grants OpenGov and its partners (such as hosting providers) a non-exclusive, royalty-free license to use, store, edit, and reformat the Customer Data for the purpose of providing the Software Services. Customer further agrees that OpenGov and its partners may use aggregated, anonymized Customer Data for purposes of sales, marketing, business development, product enhancement, customer service, and data

analysis. Insights gleaned from aggregated, anonymized Customer Data will belong to OpenGov.

- 4.3. Access to Customer Data. Customer may download the Customer Data from the Software Services at any time during the Term, excluding during routine software maintenance periods. OpenGov has no obligation to return Customer Data to Customer.
- 4.4. Deletion of Customer Data. Unless otherwise requested pursuant to this Section 4.4, upon the termination of this Agreement, the Customer Data shall be deleted pursuant to OpenGov's standard data deletion and retention practices. Upon written request, Customer may request deletion of Customer Data prior to the date of termination of this Agreement. Such a request must be addressed to "OpenGov Vice President, Customer Success" at OpenGov's address for notice in Section 10.2.
- 4.5. Feedback. "Feedback" means suggestions, comments, improvements, ideas, or other feedback or materials regarding the Software Services provided by Customer to OpenGov, including feedback provided through online developer community forums. Customer grants OpenGov a non-exclusive, royalty-free, irrevocable, perpetual, worldwide license to use and incorporate into the Software Services and Documentation Customer's Feedback. OpenGov will exclusively own any improvements or modifications to the Software Services and Documentation based on or derived from any of Customer's Feedback including all Intellectual Property Rights in and to the improvements and modifications.

5. Confidentiality

- 5.1. "Confidential Information" means all confidential business, technical, and financial information of the disclosing party that is marked as "Confidential" or an equivalent designation or that should reasonably be understood to be confidential given the nature of the information and/or the circumstances surrounding the disclosure. OpenGov's Confidential Information includes, without limitation, the software underlying the Software Services, and all Documentation.
- 5.2. Confidential Information does not include: (a) data that the Customer has previously released to the public; (b) data that Customer would be required to release to the public upon request under applicable federal, state, or local public records laws; (c) Customer Data that Customer requests OpenGov make available to the public in conjunction with the Software Services; (d) information that becomes publicly known through no breach by either party; (e) information that was rightfully received by a party from a third party without restriction on use or disclosure; or (f) information independently developed by the Receiving Party without access to the Disclosing Party's Confidential Information.
- 5.3. Each party agrees to obtain prior written consent before disclosing any of the other party's Confidential Information. Each party further agrees to use the other's Confidential Information only in connection with this Agreement. Each party further agrees to protect the other party's Confidential Information using the measures that it employs with respect to its own Confidential Information of a similar nature, but in no

event with less than reasonable care. If a party is required to disclose Confidential Information by law or court order, they must notify the other party in writing before making the disclosure to give the other party an opportunity to oppose or limit the disclosure.

6. Term and Termination

- 6.1. Initial Term. This Agreement begins on the Effective Date and ends on the date the subscription ends (“Initial Term”), according to the Order Form, unless sooner terminated pursuant to Section 6.3.
- 6.2. Renewal. This Agreement shall automatically renew for another period of the same duration as the Initial Term (each one is a new “Renewal Term”) unless either party notifies the other party of its intent not to renew this Agreement in writing no less than 30 days before the end of the then-current term.
- 6.3. Termination. If either party materially breaches any term of this Agreement and fails to cure such breach within 30 days after receiving written notice by the non-breaching party (10 days in the case of non-payment), the non-breaching party may terminate this Agreement. Neither party shall have the right to terminate this Agreement early without a legally valid cause.
- 6.4. Termination for Non-Appropriation. After the first full year of this Agreement, Customer may terminate this Agreement if it does not appropriate funds to continue this Agreement in a future fiscal year. To invoke termination under this Section, the Customer’s staff responsible for the management of this Agreement must use good faith efforts to secure the appropriate funds for the next year’s fees, and provide written notice of the non-appropriation 90 days before the anniversary of the Effective Date. Customer may not terminate for non-appropriation if it acquires similar products or services or requests a proposal for similar products or services.
- 6.5. Effect of Termination. Upon termination of this Agreement pursuant to Section 6.1, 6.2, or 6.3: (a) Customer shall pay in full for all Software Services and Professional Services performed up to and including the date of termination or expiration, (b) OpenGov shall stop providing Software Services and Professional Services to Customer; and (c) each party shall (at the other party’s option) return or delete any of the other party’s Confidential Information in its possession.

7. Payment of Fees

- 7.1. Fees; Invoicing; Payment; Expenses.
 - 7.1.1. Fees. Fees for Software Services and for Professional Services are set forth in the applicable Order Form, and OpenGov will invoice Customer accordingly. Customer agrees to pay invoices within 30 days without setoffs, withholdings or deductions of any kind. Invoices are deemed received when OpenGov emails them to Customer’s designated billing contact. Obligations to pay fees are non-cancelable, and payments are non-refundable.
 - 7.1.2. Annual Software Maintenance Price Adjustment. OpenGov shall increase the fees for

- the Software Services during any Renewal Term by 5% each year of the Renewal Term.
- 7.1.3. Travel Expenses. OpenGov will invoice Customer for travel expenses provided in the SOW as they are incurred. Customer shall pay all such valid invoices within 30 days of receipt of invoice. Each invoice shall include receipts for the travel expenses listed on the invoice.
- 7.1.4. Customer Delays; On Hold Fee.
- 7.1.4.1. On Hold. Excluding delays caused by a force majeure event as described in Section 10.5, if OpenGov determines that Customer's personnel or contractors are not completing Customer's responsibilities described in the applicable SOW timely or accurately, OpenGov may place the Professional Services on hold. If OpenGov places a Customer on hold, OpenGov will ensure that Customer is made aware of its obligations necessary for OpenGov to continue performing the Professional Services. Upon placing a customer on hold, OpenGov may, without penalty, suspend Professional Services to the Customer and reallocate resources until the Customer has fulfilled its obligations. OpenGov shall bear no liability or otherwise be responsible for delays in the provision of the Professional Services occasioned by Customer's failure to complete Customer's responsibilities.
- 7.1.4.2. On Hold Notice; On Hold Fee. OpenGov may also issue an "On Hold Notice" specifying that the Customer will be invoiced for lost time in production (e.g., delayed or lost revenue resulting from rescheduling work on other projects, delay in receiving milestone payments from Customer, equipment, hosting providers and human resources idle) for a fee equal to 10% of the first year's fee for Software Services. OpenGov may remove the on hold status and may rescind the fee in its discretion upon Customer's fulfillment of its obligations set out in the On Hold Notice. And OpenGov may extend the timeline to complete certain Professional Services depending on the availability of qualified team resources (OpenGov cannot guarantee that these team resources will be the same as those who were working on the project prior to it being placed On Hold).
- 7.2. Consequences of Non-Payment. If Customer fails to make any payments required under any Order Form or SOW, then in addition to any other rights OpenGov may have under this Agreement or applicable law, (a) Customer will owe late interest penalty of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower and (b) If Customer's account remains delinquent (with respect to payment of a valid invoice) for 30 days after receipt of a delinquency notice from OpenGov, which may be provided via email to Customer's designated billing contact, OpenGov may temporarily suspend Customer's access to the Software Service for up to 90 days to pursue good faith negotiations before pursuing termination in accordance with Section 6.3. Customer will continue to incur and owe all applicable fees irrespective of any such Service suspension based on such Customer delinquency.

7.3. Taxes. All fees under this Agreement are exclusive of any applicable sales, value-added, use or other taxes (“Sales Taxes”). Customer is solely responsible for any and all Sales Taxes, not including taxes based solely on OpenGov’s net income. If any Sales Taxes related to the fees under this Agreement are found at any time to be payable, the amount may be billed by OpenGov to, and shall be paid by, Customer. If Customer fails to pay any Sales Taxes, then Customer will be liable for any related penalties or interest, and will indemnify OpenGov for any liability or expense incurred in connection with such Sales Taxes. In the event Customer or the transactions contemplated by the Agreement are exempt from Sales Taxes, Customer agrees to provide OpenGov, as evidence of such tax exempt status, proper exemption certificates or other documentation acceptable to OpenGov.

8. Representations and Warranties; Disclaimer

8.1. By OpenGov.

- 8.1.1. General Warranty. OpenGov represents and warrants that it has all right and authority necessary to enter into and perform this Agreement.
- 8.1.2. Professional Services Warranty. OpenGov further represents and warrants that the Professional Services, if any, will be performed in a professional and workmanlike manner in accordance with the related SOW and generally prevailing industry standards. For any breach of the Professional Services warranty, Customer’s exclusive remedy and OpenGov’s entire liability will be the re-performance of the applicable services. If OpenGov is unable to re-perform such work as warranted, Customer will be entitled to recover all fees paid to OpenGov for the deficient work. Customer must give written notice of any claim under this warranty to OpenGov within 90 days of performance of such work to receive such warranty remedies.
- 8.1.3. Software Services Warranty. OpenGov further represents and warrants that for a period of 90 days after the Effective Date, the Software Services will perform in all material respects in accordance with the Documentation. The foregoing warranty does not apply to any Software Services that have been used in a manner other than as set forth in the Documentation and authorized under this Agreement. OpenGov does not warrant that the Software Services will be uninterrupted or error-free. Customer must give written notice of any claim under this warranty to OpenGov during the Term. OpenGov’s entire liability for any breach of the foregoing warranty is to repair or replace any nonconforming Software Services so that the affected portion of the Software Services operates as warranted or, if OpenGov is unable to do so, terminate the license for such Software Services and refund the pre-paid, unused portion of the fee for such Software Services.

8.2. By Customer. Customer represents and warrants that (a) it has all right and authority necessary to enter into and perform this Agreement; and (b) OpenGov’s use of the Customer Data pursuant to this Agreement will not infringe, violate or misappropriate the Intellectual Property Rights of any third party.

- 8.3. Disclaimer. OPENGOV DOES NOT WARRANT THAT THE SOFTWARE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SOFTWARE SERVICES. EXCEPT AS SET FORTH IN THIS SECTION 8, THE SOFTWARE SERVICES ARE PROVIDED "AS IS" AND OPENGOV DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

9. Limitation of Liability

- 9.1. By Type. NEITHER PARTY, NOR ITS SUPPLIERS, OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS OR EMPLOYEES, SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; OR (C) FOR ANY MATTER BEYOND A PARTY'S REASONABLE CONTROL, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
- 9.2. By Amount. IN NO EVENT SHALL EITHER PARTY'S AGGREGATE, CUMULATIVE LIABILITY FOR ANY CLAIMS ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT EXCEED THE FEES PAID BY CUSTOMER TO OPENGOV FOR THE SOFTWARE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY.
- 9.3. Limitation of Liability Exclusions. The limitations of liability set forth in Sections 9.1 and 9.2 above do not apply to, and each party accepts liability to the other for: (a) claims based on either party's intentional breach of its obligations set forth in Section 5 (Confidentiality), (b) claims arising out of fraud or willful misconduct by either party and (c) either party's infringement of the other party's Intellectual Property Rights.
- 9.4. No Limitation of Liability by Law. Because some jurisdictions do not allow liability or damages to be limited to the extent set forth above, some of the above limitations may not apply to Customer.

10. Miscellaneous


- 10.1. Logo Use. OpenGov shall have the right to use and display Customer's logos and trade names for marketing and promotional purposes in OpenGov's website and marketing materials, subject to Customer's trademark usage guidelines provided to OpenGov.
- 10.2. Notice. Ordinary day-to-day operational communications may be conducted by email, live chat or telephone. However, for notices, including legal notices, required by the Agreement (in sections where the word "notice" appears) the parties must communicate more formally in a writing sent via USPS certified mail and via email. OpenGov's addresses for notice are: OpenGov, Inc., 6525 Crown Blvd #41340, San Jose, CA 95160, and legal@opengov.com.

- 10.3. Anti-corruption. Neither OpenGov nor any of its employees or agents has offered or provided any illegal or improper payment, gift, or transfer of value in connection with this Agreement. The parties will promptly notify each other if they become aware of any violation of any applicable anti-corruption laws in connection with this Agreement.
- 10.4. Injunctive Relief. The parties acknowledge that any breach of the confidentiality provisions or the unauthorized use of a party's intellectual property may result in serious and irreparable injury to the aggrieved party for which damages may not adequately compensate the aggrieved party. The parties agree, therefore, that, in addition to any other remedy that the aggrieved party may have, it shall be entitled to seek equitable injunctive relief without being required to post a bond or other surety or to prove either actual damages or that damages would be an inadequate remedy.
- 10.5. Force Majeure. Neither party shall be held responsible or liable for any losses arising out of any delay or failure in performance of any part of this Agreement, other than payment obligations, due to any act of god, act of governmental authority, or due to war, riot, labor difficulty, failure of performance by any third-party service, utilities, or equipment provider, or any other cause beyond the reasonable control of the party delayed or prevented from performing.
- 10.6. Severability; Waiver. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. Any express waiver or failure to exercise promptly any right under this Agreement will not create a continuing waiver or any expectation of non-enforcement.
- 10.7. Survival. The following sections of this Agreement shall survive termination: Section 5. (Confidentiality), Section 7 (Payment of Fees), Section 4.4 (Deletion of Customer Data), Section 8.3 (Warranty Disclaimer), Section 9 (Limitation of Liability) and Section 10 (Miscellaneous).
- 10.8. Assignment. There are no third-party beneficiaries to this Agreement. Except as set forth in this Section 10.8, neither party may assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations to a third party without the other party's written consent, which consent may not be unreasonably withheld, conditioned, or delayed. Either party may assign, without such consent but upon written notice, its rights and obligations under this Agreement to its corporate affiliate or to any entity that acquires all or substantially all of its capital stock or its assets related to this Agreement, through purchase, merger, consolidation, or otherwise. Any other attempted assignment shall be void. This Agreement will benefit and bind permitted assigns and successors.
- 10.9. Independent Contractors. This Agreement does not create an agency, partnership, joint venture, or employment relationship, and neither party has any authority to bind the other.
- 10.10. Governing Law and Jurisdiction. This Agreement will be governed by the laws of the

Customer's jurisdiction, without regard to conflict of laws principles. The parties submit to personal jurisdiction and venue in the courts of the Customer's jurisdiction.

- 10.11. Complete Agreement. OpenGov has made no other promises or representations to Customer other than those contained in this Agreement. Any modification to this Agreement must be in writing and signed by an authorized representative of each party.

OpenGov, Inc.

Signature: 
Name: Sunil Sean Wani
Title: General Counsel
Date: 8/16/2023

State of Washington
County of Clatsop

On this 16th day of August, 2023, before me personally appeared Sunil Sean Wani, who acknowledged that with authority on behalf of OpenGov, Inc. to do so he signed this Agreement.



Notary Public

Clatsop County, Washington
(County) (State)

Acting in Clatsop County, Washington
(County) (State)



City of Birmingham, MI

Signature: _____

Name: Therese Longe

Title: Mayor

Date: _____

Signature: _____

Name: Alexandria Bingham

Title: City Clerk

Date: _____

Approved: 

Mark Gerber, Director of Finance
(Approved as to substance and financial obligation)



Mary Kucharek, City Attorney
(Approved as to form)



Jana L. Ecker, City Manager
(Approved as to substance)



Statement of Work

City of Birmingham, MI

Creation Date: 8/9/2023
Document Number: PS-04321
Version Number: 1
Created by: Sidney Barnes

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1. Overview and Approach

1.1. Agreement

This Statement of Work (“SOW”) identifies services that OpenGov, Inc. (“OpenGov” or “we”) will perform for City of Birmingham, MI (“Customer” or “you”) pursuant to that order for Professional Services entered into between OpenGov and the Customer (“Order Form”) which references the Master Services Agreement or other applicable agreement entered into by the parties (the “Agreement”).

- Customer acknowledges and agrees that this Statement of Work is subject to the confidentiality obligations set forth in the Agreement between OpenGov and Customer.
- The Deliverables listed in [Appendix B](#) are the single source of the truth of the deliverables to be provided.
- Customer’s use of the Professional Services is governed by the Agreement and not this SOW.
- Upon execution of the Order Form or other documentation referencing the SOW, this SOW shall be incorporated by reference into the Agreement.
- In the event of any inconsistency or conflict between the terms and conditions of this SOW and the Agreement, the terms and conditions of this SOW shall govern with respect to the subject matter of this SOW only. Unless otherwise defined herein, capitalized terms used in this SOW shall have the meaning defined in the Agreement.
- This SOW may not be modified or amended except in a written agreement signed by a duly authorized representative of each party.
- OpenGov will be deployed as is, Customer has access to all functionality available in the current release.

2. Statement of Work

This SOW is limited to the Implementation of the OpenGov Budgeting & Planning as defined in the [OpenGov Responsibilities](#) section of this document. Any additional services or support will be considered out of scope.

2.1. Project Scope

Under this project, OpenGov will deliver cloud based Budgeting & Planning solutions to help the Customer power a more effective and accountable government. OpenGov’s estimated charges and schedule are based on performance of the activities listed in the “OpenGov Responsibilities” section below. Deviations that arise during the project will be managed through the procedure described in [Appendix A-2: Change Order Process](#), and may result in adjustments to the Project Scope, Estimated Schedule, Charges and other terms. These adjustments may include charges on a time-and-materials or fixed-fee basis using OpenGov’s standard rates in effect from time to time for any resulting additional work or waiting time.

2.2. Facilities and Hours of Coverage

OpenGov will:

- A. Perform the work under this SOW remotely, except for any project-related activity which OpenGov determines would be best performed at your facility in order to complete its responsibilities under this SOW.
- B. Provide the Services under this SOW during normal business hours, 8:30 am to 6:00 pm local time, Monday through Friday, except holidays.

2.3. Key Assumptions

The SOW and OpenGov estimates are based on the following key assumptions. Deviations that arise during the proposed project will be managed through the project Change Order Process (see [Appendix A-2](#)), and may result in adjustments to the Project Scope, Estimated Schedule, Charges, and other terms.

- A. The OpenGov Suites are not customized beyond current capacities based on the latest release of the software.
- B. Individual software modules are configured based on discussions between OpenGov and Customer.
- C. OpenGov or its authorized independent contractors provide Professional Services to Customer as described in this SOW as agreed to by the parties.
- D. Budgeting and Planning Suite
 - i. Customer will provide Budget and Actuals data within two (2) weeks immediately following the kick-off meeting.
 - ii. Customer's Integration is unidirectional from BS&A into OpenGov. The integrated data will be linked to the Customer's OpenGov Chart Of Accounts.
 - iii. Customer has provided the following relevant dates:
 1. Budget Kick Off is December 2023.
 - iv. OpenGov budget proposal configuration will include: up to fifty (50) department proposals and up to fifty (50) project proposals.
 - v. OpenGov Online Budget Book (OBB) configuration will include:
 1. Six (6) Standard OBB templates; up to fifty(50) department stories pages and up to fifty(50) project pages from the templates; and up to two (2) reports with report views to use in the OBB.

2.4. Exclusions

- A. Scope excludes budget proposal and OBB department and project page build out.

2.5. OpenGov Responsibilities

2.5.1. Activity 1 – Project Management

OpenGov will provide project management for the OpenGov responsibilities in this SOW. The purpose of this activity is to provide direction to the OpenGov project personnel and to provide a framework for project planning, communications, reporting, procedural and contractual activity. This activity is composed of the following tasks:

Planning

OpenGov will:

- A. review the SOW, contract and project plan with Customer's Project Manager and key stakeholders to ensure alignment and agreed upon timelines;
- B. maintain project communications through your Project Manager;
- C. establish documentation and procedural standards for deliverable Materials; and
- D. assist your Project Manager to prepare and maintain the project plan for the performance of this SOW which will include the activities, tasks, assignments, and project milestones.

Project Tracking and Reporting

OpenGov will:

- A. review project tasks, schedules, and resources and make changes or additions, as appropriate. Measure and evaluate progress against the project plan with your Project Manager;
- B. work with your Project Manager to address and resolve deviations from the project plan;
- C. conduct regularly scheduled project status meetings; and
- D. administer the Project Change Control Procedure with your Project Manager.

Completion Criteria:

This is an on-going activity which will be considered complete at the end of the Services

Deliverable Materials:

- Weekly status reports
- Project plan
- Project Charter
- Risk, Action, Issues and Decisions Register (RAID)

2.5.2. Activity 2 - Initialization

OpenGov will provide the following:

- A. Customer Entity configuration
- B. System Administrators creation
- C. Solution Blueprint creation
- D. Data Validation strategy confirmation

Completion Criteria:

This activity will be considered complete when:

- Customer Entity is created
- System Administrators have access to Customer Entity
- Solution Blueprint is presented to Customer

Deliverable Materials:

- Solution Blueprint
- Sign-off of Initial Draft Solution Blueprint

2.5.3. Activity 3 – OpenGov Use Cases

OpenGov will provide the following:

Budget & Planning Use Cases

- A. Centralized Operating Budget
- B. Multi-Year Workforce Planning
- C. Capital Improvement Planning
- D. Interactive Online Budget Books

Completion Criteria:

This activity will be considered complete when:

Budget & Planning Use Cases

- Chart of Accounts is configured
- Operating Budget proposals are configured
- Capital Budget proposals are configured
- Workforce Plan is configured
- Online Budget Book templates are configured
- Financial integration is configured
- Budget reports are configured

Deliverable Materials:

- Formal sign off document

2.5.4. Activity 4 – Training

Training will be provided in instructor-led virtual sessions or through OpenGov University Training courses. For any instructor-led virtual sessions, the class size is recommended to be 10 (ten), for class sizes larger than 10 (ten) it may be necessary to have more than one instructor.

Completion Criteria:

- Administrator training is provided
- End User training is provided

Deliverable Materials:

- Formal sign off document

2.6. Your Responsibilities

The completion of the proposed scope of work depends on the full commitment and participation of your management and personnel. The responsibilities listed in this section are in addition to those responsibilities specified in the Agreement and are to be provided at no charge to OpenGov. OpenGov's performance is predicated upon the following responsibilities being managed and fulfilled by you. Delays in performance of these responsibilities may result in delay of the completion of the project and will be handled in accordance with Appendix A-1: Communication and Escalation Procedure.

2.6.1. Your Project Manager

Prior to the start of this project, you will designate a person called your Project Manager who will be the focal point for OpenGov communications relative to this project and will have the authority to act on behalf of you in all matters regarding this project.

Your Project Manager's responsibilities include the following:

- A. manage your personnel and responsibilities for this project (for example: ensure personnel complete any self-paced training sessions, configuration, validation or user acceptance testing);
- B. serve as the interface between OpenGov and all your departments participating in the project;
- C. administer the Project Change Control Procedure with the Project Manager;
- D. participate in project status meetings;
- E. obtain and provide information, data, and decisions within five (5) business days of OpenGov's request unless you and OpenGov agree in writing to a different response time;
- F. resolve deviations from the estimated schedule, which may be caused by you;
- G. help resolve project issues and escalate issues within your organization, as necessary; and
- H. create, with OpenGov's assistance, the project plan for the performance of this SOW which will include the activities, tasks, assignments, milestones and estimates.

2.7. Completion Criteria

OpenGov will have fulfilled its obligations under this SOW when any of the following first occurs:

- A. OpenGov accomplishes the activities set forth in "OpenGov responsibilities" section and delivers the Materials listed, if any; or
- B. The End date is reached

2.8. Estimated Schedule

OpenGov will schedule resources for this project upon signature of the order form. Unless specifically noted, the OpenGov assigned project manager will work with Customer Project Manager to develop the project schedule for all requested deliverables under this SOW. OpenGov reserves the right to adjust the schedule based on the availability of OpenGov resources and/or Customer resources, and the timeliness of deliverables provided by the Customer.

The Services are currently estimated to start within two (2) weeks but no later than four (4) weeks from signatures and have an estimated end date of seven (7) months from signatures ("End Date") or on other dates mutually agreed to between you and OpenGov.

2.9. Illustrative Project Timelines

The typical project timelines are for illustrative purposes only and may not reflect your use cases.

Budgeting & Planning Suite Illustrative Timeline		Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7
Financial Integration								
Budget and Planning Suite	Chart of Accounts							
	Operating Budget							
	Workforce Planning							
	Capital Budget							
	Online Budget Book							
	Budget End User Training							
GoLive Support	Hypercare							
Customer is responsible for attending the kick off of each phase, providing any necessary data for each phase, participating in working sessions during active phases, and signing off on deliverables at the end of each phase.								

2.10. Charges

The Services will be conducted on a Fixed Price basis. The fixed price is exclusive of any travel and living expenses and other reasonable expenses incurred in connection with the Services. All charges are exclusive of any applicable taxes.

Customer shall reimburse OpenGov for reasonable out-of-pocket expenses OpenGov incurs providing Professional Services. Reasonable expenses include, but are not limited to, travel, lodging, and meals. Expenses are billed based on actual costs incurred. OpenGov shall not exceed the estimated \$5,000 in expenses, per trip, without written approval from the Customer.

2.11. Offer Expiration Date

This offer will expire on September 1, 2023 unless extended by OpenGov in writing.

Appendix A: Engagement Charter

A-1: Communication and Escalation Procedure

Active engagement throughout the implementation process is the foundation of a successful deployment. To help assess progress, address questions, and minimize risk during the course of deployment both parties agree to the following:

- **Regular communication** aligned to the agreed upon project plan and timing.
 - OpenGov expects our customers to raise questions or concerns as soon as they arise. OpenGov will do the same, in order to be able to address items when known.
- **Executive involvement**
 - Executives may be called upon to clarify expectations and/or resolve confusion.
 - Executives may be needed to steer strategic items to maximize the value through the deployment.
- **Escalation Process:**
 - OpenGov and Customer agree to raise concerns and follow the escalation process, resource responsibility, and documentation in the event an escalation is needed to support issues raised
 - Identification of an issue impeding deployment progress, outcome or capturing the value proposition, that is not acceptable.
 - Customer or OpenGov Project Manager summarizes the problem statement and impasse.
 - Customer and OpenGov Project Managers jointly will outline solution, acceptance or schedule Executive review.
 - Resolution will be documented and signed off following Executive review.
- **Phase Sign-Off**
 - OpenGov requests sign-offs at various stages during the implementation of the project. Once the Customer has signed-off, any additional changes requested by Customer on that stage will require a paid change order for additional hours for OpenGov to complete the requested changes.

A-2: Change Order Process

This SOW and related efforts are based on the information provided and gathered by OpenGov. Customers acknowledge that changes to the scope may require additional effort or time, resulting in additional cost. Any change to scope must be agreed to in writing or email, by both Customer and OpenGov, and documented as such via a:

- *Change Order* - Work that is added to or deleted from the original scope of this SOW. Depending on the magnitude of the change, it may or may not alter the original contract amount or completion date and be paid for by Customer. Changes might include:
 - Timeline for completion
 - Sign off process
 - Cost of change and Invoice timing
 - Amending the SOW to correct an error.

- o Extension of work as the complexity identified exceeds what was expected by Customer or OpenGov.
- o Change in type of OpenGov resources to support the SOW.

A-3: Deliverable Materials Acceptance Procedure

Deliverable Materials as defined herein will be reviewed and accepted in accordance with the following procedure:

- The deliverable Material will be submitted to your Project Manager.
- Your Project Manager will have decision authority to approve/reject all project Criteria, Phase Acceptance and Engagement Acceptance.
- Within five (5) business days of receipt, your Project Manager will either accept the deliverable Material or provide OpenGov's Project Manager a written list of requested revisions. If OpenGov receives no response from your Project Manager within five (5) business days, then the deliverable Material will be deemed accepted. The process will repeat for the requested revisions until acceptance.
- All acceptance milestones and associated review periods will be tracked on the project plan.
- Both OpenGov and Customer recognize that failure to complete tasks and respond to open issues may have a negative impact on the project.
- For any tasks not yet complete, OpenGov and/or Customer will provide sufficient resources to expedite completion of tasks to prevent negatively impacting the project.
- Any conflict arising from the deliverable Materials Acceptance Procedure will be addressed as specified in the Escalation Procedure set forth in Appendix A-1. As set forth in the "Customer Delays" provision of the Agreement, if there are extended delays (greater than 10 business days) in Customer's response for requested information or deliverable; OpenGov may opt to put the project on an "On Hold" status. After the Customer has fulfilled its obligations, Professional Services can be resumed and the project will be taken off the "On-Hold" status.
- Putting a project "on Hold" may have several ramifications including, but not restricted, to the following:
 - o Professional Services to the customer could be stopped;
 - o Delay to any agreed timelines; or
 - o Not having the same Professional Services team assigned.

Appendix B: Implementation Activities

B-1: OpenGov Budgeting & Planning Suite

Instance Creation

Budgeting & Planning Suite		
Description	OpenGov Responsibilities	Customer Responsibilities
Provisioning Reporting & Transparency Platform	<p>OpenGov will:</p> <ul style="list-style-type: none"> OpenGov will provision Customer's OpenGov entity and verify Customer has access to all purchased modules. 	<p>Customer will:</p> <ul style="list-style-type: none"> Confirm access to entity and modules.

Technical Project Review

Description	OpenGov Responsibilities	Customer Responsibilities
Technical Project Review	<p>OpenGov will:</p> <ul style="list-style-type: none"> Provide up to one (1) one-hour working sessions at the beginning of the project to: <ul style="list-style-type: none"> Review deliverables Review technical requirements Provide documentation on requirements and processes <p>OpenGov Assumptions:</p> <ul style="list-style-type: none"> Customer will provide relevant data within two (2) weeks immediately following the kick-off meeting. 	<p>Customer will:</p> <ul style="list-style-type: none"> Identify relevant participants for attendance. Confirm deliverables. Gather and provide relevant data for the project.

Chart of Accounts Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
Chart of Accounts (COA)	OpenGov will:	Customer will:

	<ul style="list-style-type: none"> ● Build Customer's COA in OpenGov in accordance with OpenGov technical requirements. ● Review configured COA and uploaded data and provide training to Customer on how to: <ul style="list-style-type: none"> ○ Manage new codes ○ Edit COA ○ Create Masks 	<ul style="list-style-type: none"> ● Provide current COA and transactional data. ● Validate and provide sign off on COA. ● Maintain the COA following configuration.
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Integration Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
Financial Integration	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● Installation of Agent and Database View Deployment ● Integrate the following functionalities: <ul style="list-style-type: none"> ○ Actuals and Budget (Revenue and Expenses) ● Extract, transform (when required) and load the data ● Build Reports for the required functionalities ● Validate the historical data and current year data based on the Customer provided summary report. ● Schedule the current year data load ● Monitor the data load <p>OpenGov assumptions:</p> <ul style="list-style-type: none"> ● Integration is unidirectional from the Customer's BS&A into OpenGov. ● The data will be linked to the Customer's COA. 	<p>Customer will:</p> <ul style="list-style-type: none"> ● Provide an IT resource to assist the project team in the initial set-up. ● Provide assistance to understand source system specific customizations and configurations when building the data extract. ● If OpenGov is unable to access the data per requirements, provide .csv data files via OpenGov SFTP Location. ● Any charges for the data from ERP system will be the customer responsibility. ● Broker OpenGov's access to Customer's source accounting data if hosted by any third vendor. ● Provide a summary export data to validate against. ● Validate and provide sign off on the integrated data and reports.

Operating Budget Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
Operating Budget	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● Configure one (1) Budget instance. ● Configure and upload Customer's base budget files into OpenGov budget instances. ● Configure OpenGov Budget Proposals and Worksheets for up to fifty (50) Departments in the base budget file based on the agreed upon structure. ● Review configured OpenGov Budget and provide training to Customer on how to: <ul style="list-style-type: none"> ○ Create new Proposals and Worksheets ○ Manage Budgets 	<p>Customer will:</p> <ul style="list-style-type: none"> ● Provide current budget. ● Validate and provide signoff on Budget Proposals and Worksheets. ● Configure OpenGov Budget Proposals and Worksheets for Departments in the base budget file.
Operating Budget Community Feedback Topic	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● Configure one (1) standard budget topic in Community Feedback. ● Review configured OpenGov Topic and provide training to Customer on how to: <ul style="list-style-type: none"> ○ Create new topics ○ Manage topics ○ Set Topics to Public and Closed. 	<p>Customer will:</p> <ul style="list-style-type: none"> ● Provide logo and branding guidelines. ● Validate and provide signoff on the standard budget topic. ● Update the standard budget topic with Customer relevant information.
Operating Budget Story	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● Configure one (1) standard budget Story template. ● Review configured OpenGov Story and provide training to Customer on how to: <ul style="list-style-type: none"> ○ Create new Stories ○ Manage Stories ○ Publish Stories 	<p>Customer will:</p> <ul style="list-style-type: none"> ● Provide logo and branding guidelines. ● Validate and provide signoff on Operating Budget Story template. ● Update standard budget Story with Customer relevant information

Capital Budget Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
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Capital Budget	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● Configure one (1) Budget instance. ● Configure and upload Customer's base budget files into OpenGov budget instances. ● Configure proposals and worksheets for up to fifty (50) Capital Projects in the base budget file based on the agreed upon structure ● Review configured OpenGov Budget and provide training to Customer on how to: <ul style="list-style-type: none"> ○ Create new Proposals and Worksheets ○ Manage Budgets 	<p>Customer will:</p> <ul style="list-style-type: none"> ● Provide current budget. ● Validate Proof of Concept prior to OpenGov building out proposals and worksheets ● Validate and provide signoff on Budget Proposals. ● Configure proposals and worksheets for Capital Projects in the base budget file.
Capital Budget Story	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● Configure one (1) standard capital budget Story template. ● Review configured OpenGov Story and provide training to Customer on how to: <ul style="list-style-type: none"> ○ Create new Stories ○ Manage Stories ○ Publish Stories 	<p>Customer will:</p> <ul style="list-style-type: none"> ● Provide logo and branding guidelines. ● Validate and provide signoff on Capital Budget Story template. ● Update standard budget Story with Customer relevant information

Workforce Planning Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
Workforce Planning	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● Provide cost elements based on Customer's existing personnel forecast to workforce document as per OpenGov's best practices. ● Review configured OpenGov Workforce Plan and provide training to Customer on how to: <ul style="list-style-type: none"> ○ Create Cost Elements ○ Populate and upload the Position Template 	<p>Customer will:</p> <ul style="list-style-type: none"> ● Provide Position calculations and tables. ● Populate the Position Template and upload the completed template into OpenGov. ● Validate and provide signoff on the Workforce Plan calculations. ● Maintain the Workforce Plan and data once configured.

Budget and Planning Suite Reporting Configuration

<p>Budget and Planning Suite Reporting</p>	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● Set up one (1) export and Dataset View to enable OpenGov Budget Reports for the Operating and Capital Budget(s). ● Configure up three (3) standard reports using the customer's integrated financial data: <ul style="list-style-type: none"> ○ Annual ○ Budget to Actuals ○ Transactions ● Configure up to four (4) Operating Budget Reports using OpenGov budget data: <ul style="list-style-type: none"> ○ Milestones ○ Development ○ Details ○ Categories* ● Configure up to four (4) Capital Budget Reports using OpenGov budget data: <ul style="list-style-type: none"> ○ Development ○ Details ○ Categories* ○ Capital Plan ● Review configured OpenGov Reports and provide training Customer on how to: <ul style="list-style-type: none"> ○ Export Budget Data for use in OpenGov Reports. ○ Create new Reports ○ Manage Reports ○ Share Reports <p>*Budget Categories report is only available to customers using a zero-based budget.</p>	<p>Customer will:</p> <ul style="list-style-type: none"> ● Validate and provide sign-off of Reports. ● Maintain the Reports once configured. ● Map OpenGov Budget export to Customer ERP import format.
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Online Budget Book Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
Online Budget Book (OBB)	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● Based on best practices, build out the look and feel of six (6) Standard OBB Templates: <ul style="list-style-type: none"> ○ Home Page ○ Generic (multi-use) ○ Operating ○ Department ○ Capital ○ Capital Project ● Create up to two (2) OBB Reports using OpenGov Budget data and Report Views to use in Department and Project OBB Story Shells. ● Create Department and Project OBB Story Shells from OBB Templates for up to fifty (50) Departments and up to fifty(50) Projects and add OpenGov Report Views to Department and Project Story Shells. ● Provide up to ten (10) one-hour working sessions to answer Customer questions on OBB Configuration. 	<p>Customer will:</p> <ul style="list-style-type: none"> ● Provide logo and branding colors to OpenGov. ● Sign off on OBB Templates prior to OBB Story Shell Configuration. ● Validate and sign off on OBB Department and Project Story Shells. ● Complete Department and Project Story Shells by adding Customer content including: <ul style="list-style-type: none"> ○ Narrative ○ Images ○ External Data ● Create remaining OBB Stories from OBB Templates for each section of the Table of Contents and add Customer content including: <ul style="list-style-type: none"> ○ Narrative ○ Images ○ External Data ● Create any additional Reports and Report Views needed to add to OBB. ● Attend working sessions to get answers on OBB questions. ● Make Stories public and Publish OBB.

Working Sessions and Trainings

Description	OpenGov Responsibilities	Customer Responsibilities
Budgeting & Planning Working Sessions	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● Per the agreed upon Project Plan, schedule working sessions with Customer's System Administrators to: <ul style="list-style-type: none"> ○ Review configurations; 	<p>Customer will:</p> <ul style="list-style-type: none"> ● Per the agreed upon Project Plan, attend working sessions to: <ul style="list-style-type: none"> ○ Understand configurations;

	<ul style="list-style-type: none"> ○ Provide training on system functionality; ○ Gain feedback; and ○ Answer questions regarding configured system functionality. 	<ul style="list-style-type: none"> ○ Gain training on system functionality; ○ Give feedback; and ○ Ask questions regarding configured system functionality
OpenGov University	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● provide access to OpenGov University online training courses intended to teach users on the basics of OpenGov. 	<p>Customer will:</p> <ul style="list-style-type: none"> ● Review training courses
Reporting & Transparency Administrator Training	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● Provide training to Customer System Administrators on how to: <ul style="list-style-type: none"> ○ Maintain the Chart of Accounts ○ Upload and manage data for reporting ○ Create and share Reports, Dashboards, Stories, and Topics. 	<p>Customer will:</p> <ul style="list-style-type: none"> ● Identify relevant participants and attend scheduled trainings.
Budgeting & Workforce Administrator Training	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● Provide training to Customer System Administrators on how to: <ul style="list-style-type: none"> ○ Create and manage Budgets ○ Prepare to set up Next Year's Budget ○ Create and manage Workforce Plans including Cost Elements and Position Upload Templates ○ Export Budget Data for use in OpenGov Reports. 	<p>Customer will:</p> <ul style="list-style-type: none"> ● Identify relevant participants and attend scheduled trainings.
Online Budget Book / Budget-in-Brief Administrator Training	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● Provide one (1) 60- Minute System Training designed for OBB Administrators on how to: 	<p>Customer will:</p> <ul style="list-style-type: none"> ● Identify relevant participants and attend scheduled trainings.

	<ul style="list-style-type: none"> ○ Use and copy OBB Templates ○ Add Reports Views to Stories ○ Add Customer content including: narrative, images, and external data to Stories ○ Publish Stories ○ Update and maintain Stories. 	
<p>Virtual Budget End-User Training</p>	<p>OpenGov will:</p> <ul style="list-style-type: none"> ● Provide two (2), 60-Minute training session(s) to Customer's Internal Users on how to: <ul style="list-style-type: none"> ○ Navigate Opengov Budgets and Reports 	<p>Customer will:</p> <ul style="list-style-type: none"> ● Identify relevant participants and attend scheduled trainings.

Appendix C: Technical Requirements

C-1: OpenGov Budgeting & Planning Suite

Budgeting & Planning Suite	
Description	Technical Requirements
Chart of Accounts	<ul style="list-style-type: none"> ● Flat file ● .csv, .xls, .xlsx with headers ● Active Accounts and Accounts with activity in the years of data being loaded into OpenGov.
Financial Data Files (Transactional Export)	<ul style="list-style-type: none"> ● Flat file ● .csv, .xls, .xlsx with headers ● 3-5 Years of Data
Financial Data Files (Summary Revenue and Expense Export)	<ul style="list-style-type: none"> ● PDF export
Current Budget	<ul style="list-style-type: none"> ● Flat file ● .csv, .xls, .xlsx with headers ● Operating Budget ● Capital Budget
Personnel Calculations and Tables	<ul style="list-style-type: none"> ● PDF, Word, csv, .xls, .xlsx with headers
Logo Image	<ul style="list-style-type: none"> ● .jpg or .png format ● Transparent
Branding guidelines	<ul style="list-style-type: none"> ● Hex codes



OpenGov Inc.
6525 Crown Blvd #41340
San Jose, CA 95160
United States

Order Form Number: Q011273
Created On: August 14, 2023
Quote Expiration Date: September 30, 2023
Subscription Start Date: August 28, 2023
Subscription End Date: August 27, 2026

Prepared By: Chris King
Email: cking@opengov.com
Contract Term: 36 Months

Customer Information

Customer: City of Birmingham, MI
Bill To/Ship To: 151 Martin St
Birmingham, MI US

Contact Name: MARK GERBER
Email: mgerber@bhamgov.org
Phone: 248-530-1814

Order Details

Billing Frequency: Annual

Payment Terms: Net 30


SOFTWARE SERVICES:			
Product / Service	Interval Start Date	Interval End Date	Interval Fee
Budgeting & Planning <i>Dashboards, Financial Integration, Online Budget Book, Open Town Hall, Operating & Capital Budgeting, Reporting & Analytics, Story Builder, Transparency, Workforce Planning</i>	August 28, 2023	August 27, 2024	\$34,227.00
Budgeting & Planning <i>Dashboards, Financial Integration, Workforce Planning, Transparency, Story Builder, Reporting & Analytics, Operating & Capital Budgeting, Open Town Hall, Online Budget Book</i>	August 28, 2024	August 27, 2025	\$35,938.00
Budgeting & Planning <i>Dashboards, Transparency, Story Builder, Reporting & Analytics, Workforce Planning, Open Town Hall, Online Budget Book, Financial Integration, Operating & Capital Budgeting</i>	August 28, 2025	August 27, 2026	\$37,735.00
Total Amount			\$107,900.00

PROFESSIONAL SERVICES:		
Product / Service	Start Date	Total Amount
Professional Services Deployment - Prepaid	August 28, 2023	\$44,770.00
Services Total Amount		\$44,770.00

Order Form Legal Terms

Welcome to OpenGov!

This Order Form is entered into between OpenGov, Inc. ("OpenGov"), and you, the entity identified above ("Customer"), effective as of the date of the last signature below. This Order Form incorporates the OpenGov Master Services Agreement ("MSA") available at <https://opengov.com/terms-of-service/master-services-agreement>. If professional services are purchased, the applicable Statement of Work ("SOW") is also incorporated. The Order Form, MSA, and, if applicable, the SOW are the full "Agreement". Unless otherwise specified above, fees for the Software Services and Professional Services shall be due and payable, in advance, 30 days from receipt of the invoice. By signing this Agreement, Customer acknowledges that it has reviewed, and agrees to be legally bound by the Agreement. Each party's acceptance of this Agreement is conditional upon the other's acceptance of the Agreement to the exclusion of all other terms.

City of Birmingham, MI	OpenGov, Inc.
Signature:	Signature: 
Name:	Name: SUNIL SEAN WANI
Title:	Title: GENERAL COUNSEL
Date:	Date: 8/14/2023



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/16/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Woodruff-Sawyer & Co. 50 California Street, Floor 12 San Francisco CA 94111	CONTACT NAME: Henry Laris		
	PHONE (A/C, No, Ext): 415-402-6588	FAX (A/C, No):	
E-MAIL ADDRESS: hlaris@woodrufflawyer.com			
INSURED OpenGov, Inc PO Box 41340 San Jose, CA 95160	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : North American Capacity Insurance Company		25038
	INSURER B : Continental Insurance Company		35289
	INSURER C : American Casualty Company of Reading		20427
	INSURER D : Valley Forge Insurance Company		20508
	INSURER E : Admiral Insurance Company		24856
INSURER F : Continental Casualty Company		20443	

COVERAGES

CERTIFICATE NUMBER: 1143544594

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
D	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	Y	Y	6079220146	2/15/2023	2/15/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPI/OP AGG \$ 2,000,000 \$
F	<input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			6079220132	2/15/2023	2/15/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			6079220180	2/15/2023	2/15/2024	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	6079220177 6079220163	2/15/2023 2/15/2023	2/15/2024 2/15/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A E	Tech Errors & Omissions/Cyber Excess Errors & Omissions/Cyber			C4LPE040432CYBER2022 XE00000082101	2/15/2023 2/15/2023	2/15/2024 2/15/2024	Per Claim/ Aggregate Excess Limit/Aggregat \$3,000,000 \$2,000,000 xs \$3M

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Birmingham is included as Additional Insured as respects General Liability on a Primary and Non-contributory basis with a waiver of subrogation to the extent provided in the attached form.

CERTIFICATE HOLDER**CANCELLATION**

City of Birmingham
PO Box 3001
Birmingham, MI 48012

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Zoe Overberg

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ACORD 25 (2016/03)

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Technology General Liability Extension Endorsement

1. ADDITIONAL INSURED

- a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **K.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

- (1) is currently in effect or becomes effective during the term of this **Coverage Part**; and
(2) was executed prior to:

- (a) the **bodily injury** or **property damage**; or
(b) the offense that caused the **personal and advertising injury**,
for which such additional insured seeks coverage.

- b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

- (1) a higher limit of insurance than required by such contract or agreement; or
(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **K.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

A. Controlling Interest

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury, property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or
2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

B. Co-owner of Insured Premises

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury, property damage** or **personal and advertising injury** as co-owner of such premises.

C. Grantor of Franchise

Any person or organization that has granted a franchise to a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury, property damage** or **personal and advertising injury** as grantor of a franchise to the **Named Insured**.

D. Lessor of Equipment

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury, property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury, property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

Technology General Liability Extension Endorsement**I. Trade Show Event Lessor**

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** caused by:
 - a. the **Named Insured's** acts or omissions; or
 - b. the acts or omissions of those acting on the **Named Insured's** behalf,in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.
2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard**.

J. Vendor

Any person or organization but only with respect to such person or organization's liability for **bodily injury** or **property damage** arising out of **your products** which are distributed or sold in the regular course of such person or organization's business, provided that:

1. The coverage granted by this paragraph does not apply to:
 - a. **bodily injury** or **property damage** for which such person or organization is obligated to pay **damages** by reason of the assumption of liability in a contract or agreement unless such liability exists in the absence of the contract or agreement;
 - b. any express warranty unauthorized by the **Named Insured**;
 - c. any physical or chemical change in any product made intentionally by such person or organization;
 - d. repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - e. any failure to make any inspections, adjustments, tests or servicing that such person or organization has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - f. demonstration, installation, servicing or repair operations, except such operations performed at such person or organization's premises in connection with the sale of a product;
 - g. products which, after distribution or sale by the **Named Insured**, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for such person or organization; or
 - h. **bodily injury** or **property damage** arising out of the sole negligence of such person or organization for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - (1) the exceptions contained in Subparagraphs d. or f. above; or
 - (2) such inspections, adjustments, tests or servicing as such person or organization has agreed with the **Named Insured** to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
2. This Paragraph J. does not apply to any insured person or organization, from whom the **Named Insured** has acquired such products, nor to any ingredient, part or container, entering into, accompanying or containing such products.

Technology General Liability Extension Endorsement

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or to an **employee** designated by any of the above to give such notice.

B. NOTICE OF OCCURRENCE

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

5. BROAD NAMED INSURED

WHO IS AN INSURED is amended to delete its Paragraph 3. in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph 4. below, any organization in which a **Named Insured** has management control:

- a. on the effective date of this **Coverage Part**; or
- b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

- (a) any partnership or joint venture; or
- (b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, and of this endorsement's **JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES** provision, management control means:

- A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation, or the members of the management board of a limited liability company; or
- B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph 3. above, this insurance does not apply to:

- a. **bodily injury** or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor
- b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.

5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

Technology General Liability Extension Endorsement**Contractual Liability**

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

- iii. add the following additional exclusions.

This insurance does not apply to:

Discrimination

any actual or alleged discrimination, humiliation or harassment, that includes but shall not be limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

Dishonesty or Crime

Any actual or alleged dishonest, criminal or malicious act, error or omission.

Medicare/Medicaid Fraud

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

Services Excluded by Endorsement

Any **health care incident** for which coverage is excluded by endorsement.

C. DEFINITIONS is amended to:

- i. add the following definitions:

Health care incident means an act, error or omission by the **Named Insured's employees or volunteer workers** in the rendering of:

- a. **professional health care services** on behalf of the **Named Insured** or
b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

Professional health care services means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

- a. Physician;
b. Nurse;
c. Nurse practitioner;
d. Emergency medical technician;
e. Paramedic;
f. Dentist;
g. Physical therapist;
h. Psychologist;
i. Speech therapist;
j. Other allied health professional; or

Professional health care services does not include any services rendered in connection with human clinical trials or product testing.



Technology General Liability Extension Endorsement

Named Insured is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

- a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense, first occurred after such termination date;
- b. the **bodily injury** or **property damage** first occurred after such termination date; and
- c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company.

11. LEGAL LIABILITY – DAMAGE TO PREMISES

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the first paragraph immediately following subparagraph (6) of the **Damage to Property** exclusion and replace it with the following:

Paragraphs (1), (3) and (4) of this exclusion do not apply to **property damage** (other than damage by fire, lightning, explosion, smoke or leakage from automatic fire protective systems) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

- B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions c. through n. do not apply to damage by fire, lightning, explosion, smoke or leakage from automatic fire protective systems to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in the **LIMITS OF INSURANCE** Section.

- C. **LIMITS OF INSURANCE** is amended to delete Paragraph 6. (the Damage To Premises Rented To You Limit) and replace it with the following:

6. Subject to Paragraph 5. above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **COVERAGE A** for **damages** because of **property damage** to:

- a. any one premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with the permission of the owner; and
- b. contents of such premises if the premises is rented to the **Named Insured** for a period of 7 or fewer consecutive days.

The Damage To Premises Rented To You Limit is \$500,000. unless a higher Damage to Premises Rented to You Limit is shown in the Declarations.

- D. The **Other Insurance** Condition is amended to delete Paragraph b.(1)(a)(ii), and replace it with the following:

(ii) That is property insurance for premises rented to a **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

- E. This Provision 11. does not apply if liability for damage to premises rented to a **Named Insured** is excluded by another endorsement attached to this **Coverage Part**.

Technology General Liability Extension Endorsement**Knowing Violation of Rights of Another**

Personal and advertising injury caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

- (a) the **Named Insured**; or
- (b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:

This insurance does not apply to:

Employment Related Discrimination

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured**.

Premises Related Discrimination

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured**.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

- Provision 1. **ADDITIONAL INSURED** of this endorsement; or
- attachment of an additional insured endorsement to this **Coverage Part**.

16. PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY

- A. Under **COVERAGES**, **Coverage B –Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

Contractual Liability

Personal and advertising injury for which the **Insured** has assumed liability in a contract or agreement.

This exclusion does not apply to liability for **damages**:

- (1) that the **Insured** would have in the absence of the contract or agreement; or
- (2) assumed in a contract or agreement that is an **insured contract** provided the offense that caused such **personal or advertising injury** first occurred subsequent to the execution of such **insured contract**. Solely for the purpose of liability assumed in an **insured contract**, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an **Insured** are deemed to be **damages** because of **personal and advertising injury** provided:
 - (a) liability to such party for, or for the cost of, that party's defense has also been assumed in such **insured contract**; and
 - (b) such attorney fees and litigation expenses are for defense of such party against a civil or alternative dispute resolution proceeding in which covered **damages** are alleged.



Technology General Liability Extension Endorsement

- A. is included within the General Aggregate Limit as described in **LIMITS OF INSURANCE**; and
- B. applies excess over any valid and collectible property insurance available to the **Insured**, including any deductible applicable to such insurance; the **Other Insurance** condition is changed accordingly.

20. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

21. WAIVER OF SUBROGATION - BLANKET

Under **CONDITIONS**, the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part**; and
2. was executed prior to the **bodily injury, property damage or personal and advertising injury** giving rise to the **claim**.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

CNA74872XX (1-15)
Page 14 of 14
VALLEY FORGE INSURANCE COMPANY
Insured Name: OPENGOV, INC.

Policy No: 6079220146
Endorsement No: 6
Effective Date: 02/15/2023

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Fwd: Pool at YMCA

1 message

Jana Ecker <jecker@bhamgov.org>
To: Alex Bingham <abingham@bhamgov.org>

Please place under communications on the Aug 28th agenda.

Begin forwarded message:

From: Maureen Field <maureen.b.field@gmail.com>
Date: August 10, 2023 at 5:00:49 PM EDT
To: Jana Ecker <jecker@bhamgov.org>, Therese Longe <tlonge@bhamgov.org>, emclain@bhamgov.org, pboutros@bhamgov.org, Brad Host <bhost@bhamgov.org>, cballer@bhamgov.org, ahaig@bhamgov.org, kschafer@bhamgov.org
Cc: Tmarkus@bhamgov.org, Cris Braun <cbraun@birmingham.k12.mi.us>, George Dilgard <gdilgard@hotmail.com>, Jay Reynolds <jayw.reynolds@gmail.com>
Subject: Pool at YMCA

Dear City Manager Eker and City Commissioners Longe, Mclain, Boutros, Haig, Schafer, Host and Baller:

I was very disappointed to learn in the August 9, 2023 Birmingham-Bloomfield Eagle that "At this point, there is no intent from the city to invest in the ongoing upkeep of the Y's pool."

Many senior centers, such as the OPC in Rochester, benefit from a pool. A pool would be a great asset at the new Next senior center. Pools are important exercise and therapeutic opportunity for seniors both for lap swimming and water aerobics/exercise. It would be a waste and a shame to let an existing expensive-to-build structure that has been well maintained throughout its life be decommissioned and ripped out. Not too long ago the pool was closed for an extended period for maintenance and as far as I know it has been regularly maintained.

I have been swimming at the YMCA pool for 45 years and know many senior Birmingham residents who use the pool many times per week.

The pool at the YMCA, is an important asset for healthy seniors in our community. Please reconsider and continue maintaining the pool at the YMCA. Please listen to the members of our community.

Sincerely,

Maureen Bell Field
1732 Norfolk St.
Birmingham, MI 48009

B



CITY MANAGER'S REPORT

August 2023

Baldwin Public Library

Upcoming Closures

The Baldwin Public Library will be closed Saturday, September 2 through Monday, September 4 for Labor Day weekend. The library will also be closed on Friday, September 22 for Staff Development Day.

Library Board

The Library Board met on August 21, 2023 at 7:30 p.m. for its regular meeting. The board approved the 2024 calendar and discussed fundraising via an annual appeal letter to be mailed in November of each year. During the front entrance construction, Board meetings will be held in the second floor Board Room. The next board meeting will be held on Monday, September 18 at 7:30 p.m.

Phase 3 Construction Project of the Library's Front Entrance

Follow along with the library's construction project at www.baldwinlib.org/renovation. The August 2023 renovation report is available at https://www.baldwinlib.org/wp-content/uploads/2023/08/Phase-3_August-2023-Update.pdf.



Youth Room Minor Water Damage

Overnight on August 11, the youth room sustained water damage from an as yet unidentified source during a heavy downpour. Upon arrival on Saturday, August 12 staff onsite immediately began water removal via shop vac, and pitched in to make sure that walkways were clear. Fans were set up, caution tape was hung, computers were functioning, and patrons were well served. It was a stressful situation

and everyone worked hard to make sure that patrons could still use the library and work around the damage. Staff did a great job under less than ideal circumstances. Another thanks goes out to the Birmingham Fire Department for their loan of several box fans and a floor squeegee. Administration and Nelson Brothers Plumbing are still working to determine the cause and potential solutions. For the time being, the sewer line in the youth room was partially cleaned out on Friday morning and several tree roots were found in the line. A blockage was found 40 feet down the line. John Galik will work with the Building, Engineering, and DPS departments to further investigate the cause of this blockage.

Library Tour

If you'd like to learn even more about the library, join Library Director Rebekah Craft for a Behind the Scenes Tour. You'll visit staff areas, learn how items are added to the collection, and hear about new programs and services. The next tour will meet in the Library's Claudia Ireland room on Thursday, September 14 at 11:00 a.m.

Upcoming Events of Interest

The library's fall newsletter was mailed to all homes in Birmingham, Beverly Hills, Bingham Farms, and the City of Bloomfield Hills. The newsletter shares all upcoming programs, a few of which are highlighted below. Register for these programs and more online at www.baldwinlib.org/calendar.

Intro to 3D Character Animation in Blender

Tuesday, September 5 — 7:00 p.m. to 8:00 p.m.

Join The Idea Lab for an introductory presentation on 3D animation. We'll walk through the entire pipeline, from modeling to rigging to rendering your animation. Project files will be available if you would like to follow along on your own laptop. Registration required.

Wiggle Worms

Monday, September 11 — 10:00 a.m. to 11:00 a.m.

Birth to 2 years old and a grown up.

Drop in between 10:00 a.m. and 11:00 a.m. for open-ended, unstructured play with your child and to socialize with other families. Caregivers must stay with children. No registration required.

Pewabic Pottery

Tuesday, September 12 — 7:00 p.m. to 8:00 p.m.

Join us as Baldwin welcomes speakers from Pewabic Pottery, a National Historic Landmark located in Detroit, Michigan. This year Pewabic is celebrating 120 years of business and ceramic excellence. In celebration of this big anniversary, Pewabic is doing a virtual lecture about Pewabic's legacy of hand craftsmanship. Founded in 1903, Pewabic is one of the oldest continually operating potteries in the country. Working out of their National Historic Landmark studio on Detroit's east side, they preserve a tradition of craftsmanship that has enriched lives for generations. Pewabic today is an active working pottery, architectural tile studio, ceramic arts education center, and vibrant cultural destination that attracts visitors from around the world. Registration required. Virtual event.

Genealogy Series: Trees Made Easy

Thursday, September 14 — 7:00 p.m. to 8:00 p.m.

Now that you've collected your family history, how do you document your findings in a clear and concise text format without using an online (often expensive) source? How about a genealogy numbering

system? If you've never heard of Ahnentafel or NGSQ, this session is for you! Virtual Event - Registration required.

Teens Night Out

Thursday, September 14 — 7:00 p.m. to 8:30 p.m.

Spend an evening hanging out with other teens who love the library as much as you do! There will be video games, board games, crafts, food, and other shenanigans. Grades 7-12. Registration required.

The Birmingham Museum

The popular tours of Greenwood Cemetery led by the Friends of the Birmingham Museum (a.k.a., the Birmingham Historical Society) take place twice a year, with September featuring the Pioneer period of Birmingham's past. The Friends, who have hosted the bi-annual tours for over twenty years, work with the Birmingham Museum to incorporate new research into the lives of the people who shaped our community. The Pioneer tour begins with the founding of the cemetery after the 1825 ax murder of Polly and Cynthia Ann Utter, and how Dr. Ziba Swan donated a portion of his land to become one of the first public cemeteries in Michigan Territory. It will also feature a host of other well-known historical figures from our past, including John West Hunter and Martha Baldwin, as well as local abolitionist Elijah Fish and formerly enslaved Birmingham residents George and Eliza Taylor. The Friends recently initiated the restoration of the Utter and Fish markers as part of their ongoing efforts to preserve the cemetery and its history. This year the tour will be held on Saturday, September 23 at 1 PM, regardless of weather. Participants should meet at the east gate of the cemetery on Oak Avenue. Tours are \$10 per person, and proceeds go to the Friends of the Birmingham Museum.

Birmingham Shopping District (BSD)

Dream Cruise

The Birmingham Cruise Event and surrounding Dream Cruise festivities went very smoothly thanks to the many volunteers, BSD and City staff. Being back in the original location along South Old Woodward created some new challenges this year with set-up and layout due to the new streetscape configuration, but nothing that couldn't be overcome. Sunshine and smiles can't be beat!

Movie Nights

The final movie feature of the season is the community's choice of Toy Story on September 8. Pre-show entertainment begins at 6:30 p.m.; movie at 7:30 p.m. A special thanks to our Movie Night sponsors, including presenting sponsor Wells Fargo Advisors; series sponsors Bank of Ann Arbor-Birmingham, Bloom Pediatrics and KW Domain; and sponsors Goldfish Swim School and TDR Orthodontics for all the free treats and giveaways.

Farmers Market

The Farmers Market continues through the end of October with a special Harvest Festival on Sept. 10.

Art Walk

The second annual Art Walk is planned for October 12 in downtown Birmingham from 5-8 p.m. Merchants are encouraged to sign up now to host an artist and be a part of the route.

Business Recruitment

The business usage survey is still open for residents, businesses and employees to take part in. With over 200 responses thus far, results align with the BSD's key messages and strategies. Final results will be made available in September. To participate, visit <https://www.allinbirmingham.com/survey>.

Property Owner & Broker Round Table

The BSD will host a property owner and broker round table on October 19 from 3-5 p.m. at Boji Group offices above CB2. The round table discussion will include a presentation on the business mix analysis, recruitment strategy, and an overview of business and development processes with the City.

Advisory Committees

As noted previously, the BSD is establishing three new advisory committees and focus groups to help expand its reach, communications and collaborations with specific industries and areas of the district, including tourism, restaurant and North Old Woodward. The Tourism Advisory Committee will be appointed by the BSD Board, and the restaurant and North Old Woodward focus groups will be an open invitation to a meeting in the early fall. Those interested in participating in either the advisory committee or focus groups should contact the BSD Executive Director Cristina Sheppard-Decius at csdecius@bhamgov.org.

Volunteers Needed

The BSD hosts a number of events throughout the year in which volunteers are needed. This is a great opportunity to network with businesses and the community, as well as a great cause – supporting Birmingham! Volunteers are currently needed for the following events:

- Farmers Market - Every Sunday from 7 a.m. - 11 a.m. and 11 a.m. - 3 p.m.
- Winter Markt - December 1-3 – various shifts
- Santa House - call for non-profit organizations to volunteer and raise funds! Every weekend in December up until Christmas.

Volunteer duties include event set-up, tear-down, information booth, check-in and monitoring kids activities. Please contact Jaimi Brook at jbrook@bhamgov.org for more information.

Special Event Planning

The Special Events and Marketing & Advertising Committees met on July 21 to discuss the 2024 event season. From that meeting, the committees will be proposing two new events for 2024, as well as other enhancements to existing events. The draft proposal was presented to the Board in August, and a final schedule will be presented in October for approval.

Via Art Unveiling

The Daxton Hotel unveiled a new piece of art in the via between the hotel and Zana on August 17 to a crowd of over 40 people in the rain. The Daxton's efforts to embrace the via plan is a great example of partnerships to achieve a vision. The 100-foot-long installation by Detroit artist James Kaye features mixed materials to create one incredible cohesive piece. Coupled with new seating, landscape beds and lighting – all drawing people through the via, as well as their ice cream window.

BSD Summer Calendar of Events

Birmingham Farmers Market	Every Sunday now until Oct. 29 at Lot 6
Movie Night	September 8 at Booth Park
Harvest Festival @Farmers Market	September 10
Art Walk	October 12

2023 Dashboard Metrics

Retail Occupancy Rate - 99% (out of 1.5 million sq.ft.)

Office Occupancy - 89% (out of 2 million sq.ft.)

12 New Business Openings in 2023 (11 more in process)

75/25% Local vs. National Mix

Commercial, Mixed-Use & Residential Development Projects In Construction/Planning - 12 projects totaling 827,727 sq. ft.

31 Active Volunteers (Board and Committee members)

Building Department

Board of Zoning Appeals

The following six cases are on the agenda for the September 12, 2023 Board of Zoning Appeals regular meeting:

1. 680 Farifax: Variance from the minimum open space requirements to rebuild an existing pool deck.
2. 1340 Puritan: A variance from the minimum combined side yard setbacks to construct an addition to the existing house.
3. 1450 Bird: Variances from the maximum lot coverage and height standards to reconstruct a detached garage that was damaged by fire.
4. 463 Hanna: Variances from the maximum lot coverage and accessory structure area requirements for the construction of a pergola.
5. 2649 Yorkshire: A variance from the minimum distance between principal structures to construct an addition to the existing house.
6. 220 Park: A variance from the storefront standards of the Downtown Overlay District to remove an existing entry door in the storefront on the south elevation.

Staffing Update

Two members of our support staff team hired over the past few months decided to pursue other employment and resigned from their positions with the City. We are working with the Human Resources Department to fill the vacancies and the recruitment process is underway. In the meantime Sabrina Martin, who retired from the department five years ago, came back part-time to assist us during the hiring period and training process.

Monthly Report

The [Building Department's monthly report](#) provides an update on the following construction activity: building permits issued, building inspections conducted, trades permits issued and trades inspections conducted.

City Clerk's Office

General Election on November 7, 2023

Birmingham will hold a general election on Tuesday, November 7, 2023. At this time, the ballot will include four Birmingham Commissioner seats and three Birmingham Library Board positions, all for four-year terms. Birmingham residents will vote on a senior millage proposition and a proposed Marihuana Sales ordinance amendment. Information regarding the senior millage is available on the City's website

at www.bhamgov.org/seniormillage. Information regarding the Ordinance Amending Prohibition of Marihuana Sales is available on the City's website at www.bhamgov.org/cannabis.

What is on the ballot?

Candidate Section

Birmingham Commissioner (Vote for not more than 4, 4 Year Term)

- Clinton Baller
- Brad Host
- Anthony Long
- Therese Longe

Library Board Member (Vote for no more than 3, 4 Year Term)

- Wendy Friedman
- Karen Gilbert Rock
- Curtis Trimble
- Jennifer Wheeler

Proposal Section

Senior Millage Proposition

Do you approve of the addition of a new 0.33 mill levy to collect approximately \$1,053,750 per year in revenue to be disbursed to the City of Birmingham for the purpose of making interim improvements and establishing a sinking fund for a senior center that will provide an array of services for older citizens for a three year term, ending on July 1, 2027?

- Yes
- No

Ordinance Amending Prohibition of Marihuana Sales

Shall the Birmingham City Code ordinance, Chapter 26 – Businesses, Article XII, which currently prohibits the sale of marihuana in the City of Birmingham, be amended to authorize and allow one (1) medical marihuana facility and one (1) marihuana recreational establishment to operate in the City of Birmingham?

- Yes
- No

New permanent absentee ballot list registration

All voters on the permanent absentee ballot application list should have received their application by mail for the November 7, 2023 election. One of the requirements in Proposal 2022-2 is that clerks now maintain a Permanent Ballot List. The application for the upcoming November 7, 2023 election will include new checkbox language for voters to opt into receiving a ballot for every election. Going forward, absentee ballot applications will not be required for any voter who has opted into the Permanent Ballot List. During partisan primary elections, such as the presidential primary in March 2024, permanent ballot voters will need to respond to a mailing and select which ballot type they would like to receive. Typically the ballot types are Democratic Party Presidential Primary, Republican Party Presidential Primary, and if applicable, a ballot without the Presidential Primary if there is a non-partisan question accompanying the Presidential Primary Election. A preview of the application is pictured below with the new check box to opt into the Permanent Ballot List.

APPLICATION FOR ABSENT VOTER'S BALLOT

SEE REVERSE SIDE FOR INSTRUCTIONS 

NOVEMBER 7, 2023 ELECTION

I certify that I am a United States citizen and a qualified and registered elector in the CITY OF BIRMINGHAM, County of OAKLAND, State of Michigan. I apply for an official ballot, to be voted by me in the election above, and the statements in this application are true.


COMPLETE TO JOIN PERMANENT LIST:

I want to vote absentee in all elections. Automatically send me an absentee voter ballot for all elections.

WARNING: A PERSON WHO MAKES A FALSE STATEMENT IN THIS DECLARATION IS GUILTY OF A MISDEMEANOR.

FOR CLERK'S USE ONLY

1 Sign/Date

I certify that I am a United States citizen and that the statements in this Absent Voter Ballot application are true.
VOTER SIGN HERE  **X**
Power of attorney is not acceptable _____ Date / /
Signature of Absent Voter

Filed _____
Mailed _____
Ballot # _____
Returned _____
Wd./Pct. # _____
Clerk _____

2 Complete

YEAR OF BIRTH

3 Complete

VOTER CONTACT INFORMATION
(_____) _____
Phone Email

NOTE: Michigan law requires that A.V. Ballots be sent to your registered address unless you are hospitalized, institutionalized, or at an address outside of your community. Complete the following ONLY if you want your ballot sent to an address outside of your community or to a hospital or other institution. **Absentee ballots will not be forwarded by USPS.**

4 Complete If Needed

Complete Only if You Want Your Ballot Sent To A Temporary Address. We can mail it to you where you are. If additional addresses are needed or plans change, contact your local clerk.

Date Leaving For Temporary Address / /	Date of Return / /	(PLEASE PRINT) Temporary Address _____ City _____ State _____ Zip _____
---	-----------------------	---

No Postage Necessary!

Starting with the November 7, 2023 General election all absentee ballot applications and absentee ballot return envelopes for the entire State of Michigan are equipped with a business reply mail permit that will cover the cost of postage for any ballot or application mailed within the United States.

New Look to Return Envelopes

Starting with the November 7, 2023 General election all absentee ballot return envelopes will be purple. The United States Post Office and Michigan Bureau of Elections worked to redesign these envelopes and changed the color from green to purple to increase the efficiency of processing election mail.

To be opened only by the
Precinct or Absent Voter
Ballot Counting Board

Office of the City Clerk
City of Birmingham
151 Martin Street
P.O. Box 3001
Birmingham, MI 48012-3001



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES



Official Ballot Return Envelope



Drop off or mail your
ballot so that it is
returned by the deadline.

For deadline information,
drop box location(s),
or to track your ballot,
go to mi.gov/vote

FORM #695 www.PrintingSystems.us
(R 05/23) (P 05/23)

**SIGN BACK
OF ENVELOPE**



BUSINESS REPLY MAIL

FIRST-CLASS MAIL PERMIT NO. 185 LANSING, MI

POSTAGE WILL BE PAID BY ADDRESSEE

OFFICE OF THE CITY CLERK
CITY OF BIRMINGHAM
151 MARTIN ST
PO BOX 3001
BIRMINGHAM MI 48012-9902



IMPORTANT! DID YOU...

- Sign in the box below in your own handwriting?
- Put your ballot in the envelope?
- Return ballot to the local clerk or drop box by the deadline?
For deadline information or drop box location(s) go to mi.gov/vote

I assert that:

- I am a United States citizen.
- I am qualified and registered to vote at the address listed.
- I am voting in conformity with state election law.
- I marked my ballot and placed it in this envelope without showing it to anyone.
- I am returning my ballot to the local clerk or drop box by delivering it myself or a member of my immediate family or household, or sending it by public postal, express mail, parcel post service, or other common carrier.

I understand that knowingly making a false statement is a misdemeanor.

VOTER sign here in ink. Power of attorney is not acceptable.

X _____ / /
Signature of Absent Voter Date

This box must be signed or your vote will not be counted.

If someone assists you or helps you mark your ballot, they must sign and identify themselves.

I assisted the voter who is disabled or unable to mark their ballot according to their directions and without showing it to another person.

Signature of Person Assisting Voter

Print Name of Person Assisting Voter

Address of Person Assisting Voter City State Zip

A person who assists an absent voter and who knowingly makes a false statement is guilty of a felony.

FOR CLERK'S USE ONLY

Returned: _____ Precinct No. _____
Date and Time _____ Ballot No. _____

Voter signature verified (Initials) _____

Rejected? Reason _____

Keep your ballot secure.

It is a felony for anyone to be in possession of an absent voter ballot except authorized election officials, employees of postal services or other common carriers during the normal course of their job handling mail, or a member of the voter's immediate family or household who the absent voter has asked to return the ballot.

Precinct No. _____

**VOTER
SIGNATURE
REQUIRED**

Absentee Voter Information

Voters who wish to vote absentee will need to fill out an Absentee Ballot Application. This application should have been mailed to anyone on the Permanent Absentee Application List by August 14, 2023 for the November 7, 2023 election. An application will need to be completed and returned to the Birmingham Clerk's office in order to receive the absentee ballot. If you are not on the permanent list, you can request an Absentee Ballot Application by going to www.michigan.gov/vote after August 24, 2023.

Absentee ballots will be mailed not earlier than September 28, 2023 to voters who submitted an application. Absentee ballots can be returned in person to the Clerk's office, in the dropbox located behind City Hall, or mailed to City Clerk, P.O. Box 3001, Birmingham, MI 48012.

Early Voting

Another component of proposal 2022-2 includes a Constitutional right to no less than 9 days of early voting in each statewide and federal election (even year election) for no less than 8 hours per day. Although the upcoming November 7, 2023 election is not a statewide or federal election, Oakland County Elections Division, the City of Birmingham, Bloomfield Township and Southfield Township plan to work together to pilot and offer early voting at the Bloomfield Township Library. Stay tuned for more information on Early Voting.

New Military and Overseas Voter Changes

The governor signed legislation on May 3, 2023 to allow additional time to receive absentee voter ballots from military and overseas voters. This change comes after Michiganders approved Ballot Proposal 22-2 to amend the state's Constitution last year. The new law states that absentee ballots from military and overseas voters will be counted if the ballot return envelope was postmarked on or before Election Day and received within six days following the election. Voters who are in the military or will be overseas during the November 7, 2023 election must apply for a MOVE ballot at <https://www.fvap.gov/michigan>.

Greenwood Cemetery Advisory Board

The next meeting for the Greenwood Cemetery Advisory Board will be Friday, September 1, 2023 at 8:30 am. The board will begin working on the annual report for 2022-2023. To view Greenwood Cemetery Advisory Board agendas and minutes visit www.bhamgov.org/GCAB.

Ethics Board

The next Board of Ethics meeting date is yet to be determined. A meeting should be scheduled in the near future to review the draft opinion for Commission Baller regarding the establishment and administration of foundations. More information on the Ethics Board is available at www.bhamgov.org/ethics.

Board Appointments

The City of Birmingham is looking for dedicated individuals who want to give back to their community by serving on one of our many boards or commissions. Birmingham's different boards and commissions make recommendations that shape the City's future. Serving on a board or commission is a great way to get involved in your community, meet new people and make a positive impact. Don't miss out on the chance to make a difference - go to www.bhamgov.org/boardopportunities to view all the available openings and apply to make a difference.

Board	Openings
Ad Hoc Aging in Place Committee	1 Member
Ad Hoc Environmental Sustainability Committee	None
Advisory Parking Committee	1 large retail member term ending 9/1/2025
Architectural Review Committee	1 regular member term ending 4/11/2026 1 regular member term ending 4/11/2025

Birmingham Shopping District	1 business representative term ending 11/16/2026
Birmingham Area Cable Board	1 regular members term ending 3/30/2026 1 regular member term ending 3/30/2024 1 alternate member term ending 3/30/2025
Board of Building Trades Appeals	None
Board of Review	2 alternate members term ending 12/31/2025
Board of Zoning Appeals	1 alternate members term ending 2/18/2026
Brownfield Redevelopment Authority	1 Regular Members term ending 5/23/2026 1 regular member term ending 5/23/2024
Design Review Board	None
Ethics Board	2 Alternate members term ending 6/30/2026
Greenwood Cemetery Advisory Board	None
Hearing Officer	None
Historic District Commission	None
Historic District Study Committee	1 Regular member term ending 6/25/2026
Housing Board of Appeals	3 Regular members term ending 5/4/2026
Martha Baldwin Park Board	1 Regular member term ending 5/1/2024 1 Regular members term ending 5/1/2027
Multi Modal Transportation Board	None
Museum Board	None
Parks & Rec Board	None
Planning Board	None
Public Arts Board	1 alternate member term ending 1/28/2025 1 alternate member term ending 1/28/2026
Retirement Board	None
Stormwater Utility Appeals Board	3 regular member term ending 1/31/2026 2 alternate members term ending 1/31/2025
Triangle District Corridor Improvement Authority	1 regular business owner term ending 12/15/2026

City Manager's Office

YMCA Building Update

City staff has begun the process of working with officials from both Next and the YMCA to learn how both organizations envision their building and operational needs moving forward when joint operations within the building become a reality. The primary goal is prioritizing needs and space to allow both organizations to effectively accomplish their goals and objectives. City staff will then prepare a staff report detailing the proposed building uses by both groups and formulate a model for how the two organizations will co-exist with each other. Collaborative communication between the City, Next and the YMCA will also continue to analyze current building conditions to identify building renovations needed to accomplish the above stated objectives in the short term.

Communications

Welcome, Ann

The communications team recently welcomed Ann Tappan as the new Communications Specialist. Ann previously worked in the City Clerk's Office and has been a great asset to the City. She has extensive experience in communications and excellent writing skills. We are thrilled to welcome her to our team!

Fall/Winter Edition of the Birmingham Beat

The communications team is working on the Fall/Winter edition of the Birmingham Beat Newsletter, due out around October 1. This edition will feature information about the Ad Hoc Aging in Place Committee, Parks and Recreation Master Plan, upcoming Election, holiday events and more.

Around Town e-Newsletter

The communications team is working on the September edition of the Around Town e-Newsletter, which will include information about the upcoming election, discounted fall golf rates and events, new businesses and more. Follow [this link to view the August edition](#) of the Around Town e-Newsletter.

BIRMINGHAM CITY COMMISSION - UPCOMING AGENDA ITEMS

Meeting	Topic	Commissioner	Dates Addressed	Status (resolved/ongoing)
6/5/23	Discuss unimproved streets and infrastructure	M: Host S: McLain	September Workshop	In progress
5/8/23	Parking Operations	M: Baller S: Host	5/8/23 5/22/23	In progress
5/8/23	Woodward Noise	M: Host S: McLain	5/8/23 6/5/23	In progress
2/27/23	Bench and Little Library for Pat Andrews	M: Host S: McLain	3/13/23 5/8/23	In progress
1/10/22	Leaf Blowers	M: Baller S: Host	1/24/22 10/3/22 4/3/23 5/8/23 6/5/23 8/14/23	In Progress

1/10/22	Commissioner Conduct	No vote	2/14/22 2/28/22 7/11/22 2/13/23 4/24/23 6/5/23	In progress
8/15/22	Speed Bumps & Traffic Mitigation Efforts		8/29/22 8/14/23	In progress

Resolved

Meeting	Topic	Commissioner	Status
11/14/22	Renters Rights	M: Host	Resolved
12/5/22	Mayor/MPT Selection	McLain	Resolved
4/11/22	BBCC - Mental Health Workshop - More time to talk	M: Baller S: Haig	Resolved
5/9/22	Pickleball	Baller, no vote	Installed on 6-3-22
1/24/22	Social Districts	M: Schafer S: Boutros	No formal action taken by the Commission
5/23/22	Commission Meeting Start Time	Baller	No changes for now
8/15/22	Birmingham Country Club	M: Host S: Haig	Resolved, letter sent
9/12/22	Banner	M: Baller S: Host	Completed
12/5/22	Lighting to sustainability board	Haig	To be explored by Sustainability Board
6/13/22	Sustainability Board	M: Schafer S: Host	Resolved
1/10/22	Food Trucks	M: Host S: Schafer	Staff monitoring
4/25/22	Improvements in Information Provision and Methodology	M: Haig S: Baller	Resolved
3/13	Community foundation (review former letter from Kucharek)	Baller	Resolved
3/28/22	City Manager Selection Process	M: Host S: Boutros	Resolved

1/9/23	Ad Hoc Senior Services Committee	M: Baller S: Longe	Resolved
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Department of Public Services

Parks & Recreation Master Plan Update

Please visit our [Parks and Recreation Master Plan webpage](#) to learn about planning currently underway for our five year Parks & Recreation Master Plan 2024-2028, including public engagement opportunities. An online survey and park idea map are available on this site through September 18th. To date, three public engagement field days have been held beginning with a concert in the park event, a movie night event, and at a pop-up in the park event at Kenning Park. A fourth (and last) field day is scheduled for the Harvest Festival at the Farmers Market on September 10. The draft plan will be presented at a special meeting of the Parks and Recreation Board in October in preparation for the 30-day public comment period. The City Commission will consider adoption of the plan in December.

Trail Improvement Concept Plan

Since November of 2022, this draft concept plan has been routed to various boards (Parks and Recreation, Multi-Modal Transportation Board, Museum, Martha Baldwin), to all City departments for review and feedback, and a survey on Engage Birmingham was available to the public. An [updated concept plan](#) incorporating feedback received was presented at the August 1 Parks and Recreation Board meeting for a recommendation to the City Commission, which will be forthcoming, anticipated for the September 11, City Commission meeting.

Birmingham-Oakland County Parks and Recreation Community Grant Recipient

Birmingham received a pre-development grant in the amount of \$25,000 (maximum amount for the pre-development category)! The grant will be applied toward the cost of design/development drawings for the Booth Park section of the Trail Improvements concept plan.

The department also applied for a grant to accomplish the Booth Park Section of the trail in the amount of \$350,000 for round two of the MI Spark Grants program. Awardees are expected to be announced in September.

Engineering Department

2023 Construction Update

The following construction projects are currently underway:

- Westwood, Oak, and Raynale Project: Cape seal treatment has been completed and the contractor is completing punch list items to close out the project.
- Parking Lot No. 5 Slope Repair: Fence installation occurred, and planting will occur at the end of the summer.
- 2021 Asphalt Resurfacing Program – Parking Lot No. 5: The parking lot has been paved and punch list items are being completed to close out the project.
- Lincoln Hills Golf Course Tee No. 1 Tee-Box and Cart Path Improvements: The irrigation has been completed and the contractor is working on final restoration.
- 2022-2023 Cape Seal Program (Southeast corner of the City): Cape seal treatment has been completed and the contractor is completing punch list items to close out the project.
- Water Tower Maintenance and Coating:

- Derby Tank and Hunter Tank: Repairs and overcoat painting with the new logo installation have been completed. The contractor is completing punch list items to close out the project.
- 2022 Concrete Sidewalk Program: The contractor has started work on miscellaneous sidewalk repairs throughout the City, including the Ann Street sidewalk located on the west side of Ann Street between Landon Street and Lincoln Street.
- Cranbrook Road Non-Motorized Pathway Improvement Program: Construction began on Cranbrook Road, with the contractor starting work on 14 Mile and working north.
- 2023 Concrete Sidewalk Program: The contractor will start work at the end of August on the following items:
 - Residential area 6: Quarton Road to Maple Road, and western City limits to Lakeside Drive
 - Downtown area 1A: Chester Road to N. Old Woodward, and Rouge River to Maple Road
 - ADA Ramps within the Downtown Area
 - Miscellaneous repairs throughout the City and in Shain Park
 - Installation of bicycle pads and racks in various locations throughout the City
- Pierce Street Paving Project (14 Mile Road to Lincoln): Construction has started on the water main replacement and road installation. As a reminder, Pierce Street is closed between 14 Mile Road and E. Southlawn. One way northbound traffic is open between E. Southlawn and Lincoln.
- 2023 Asphalt Resurfacing Program: Construction started and paving occurred on Birmingham Blvd and Holland Street. Paving will occur in late August/beginning of September in the following areas:
 - Smith Street: Cummings to Woodward Ave
 - S. Old Woodward: Landon Street to Lincoln Street
- 2023 Sewer Rehabilitation Project: This project will start in the next couple of weeks which includes cleaning and televising sewer, and sewer lining at various locations throughout the City.
- 2023 Sidewalk Trip Hazard Program: The contractor will start work the week of September 4. They will complete the remaining work in Area 6, and then start work in Area 7: Maple Road to Quarton Road, and Quarton Lake to Adams.

Affected property owners will receive information about these projects. For more information, please contact the Engineering Department at 248-530-1840.

Water Service Verification Program

As a reminder, the "In-Home/Business" water service line material needs to be determined as part of this program and included in the City's reporting for the State of Michigan. Property owners can schedule an inspection by an authorized City Representative at (248) 303-2292 or determine the in-home/business material themselves with the steps provided in the property owner letter.

Finance Department

Budgeting & Transparency Software

The City posted a RFP for budgeting and transparency software in June. The City received four bids and City staff watched demonstrations of the software on July 13 and 14. Finance has selected OpenGov due to its integration with BS&A and Cartegraph, the City's asset management software. A contract with OpenGov will be presented to the Commission for approval at the August 28, 2023 regular meeting.

Fire Department

The Fire Department hosted two lunch and learn training sessions on Cardiopulmonary Resuscitation (CPR), Choking, and Automatic Defibrillation (AED) August 16 and 17 at City Hall. Over forty (40) City employees from City Hall and the library attended this volunteer class that was around two hours long.

Participation was better than expected and the feedback was all very positive. I would like to thank EMS Coordinator Robert Abraham for teaching the class. The Fire Department is fortunate to have such wonderful professional staff such as Bob. I would also like to commend those that participated in training to learn these lifesaving skills that could very well save a life one day.

The department will continue these educational opportunities in the future.

Human Resources

New Hires

The City of Birmingham extends warm congratulations to our newly hired employees from July 13, 2023 to August 12, 2023. Their skills, expertise, and enthusiasm are a valuable addition to the City. We welcome them to our team!

Department	Position	Name	Type
Library	Library IT Technician	Peter Vangelderren	Part Time
Clerks	Deputy Clerk	Anthony Altovilla	Full Time
Police	Police Officer	James Cardenas	Full Time
Police	Police Dispatcher	Chyna Harmon	Full Time
Police	Pt Parking Enforcement	Ashley Martin	Part-Time
Dps	P&F Operator	Nathan Baranski	Full Time

June Hiring Anniversaries

The City of Birmingham celebrated the hiring anniversaries of several employees. We extend our heartfelt appreciation for their exceptional service and unwavering dedication. Their contributions are deeply valued and recognized.

Years Of Service	Employee	Department	Position
1	Destinee Watson	Police	Police Dispatcher
1	Melissa Coatta	Engineering	City Engineer
1	Valerie Pitts	Treasury	Clerk/Typist B
1	Eric Brunk	IT	Director of IT
2	Sheila Sweeting	Library	Library Assistant II
3	Stacy Vail	DPS	Clerical Assistant
4	Richard Waynick	Meter Lots & Surfaces	Parking Meter /Crossing Guard
5	Jeffrey Rondeau	Building	Inspector Building
5	Andrew Erickson	Building	Inspector Building

6	Jaimi Brook	Principal Shopping District	BSD Events Mgr
7	Brandi Ljungvall	Police	Clerk/Typist B
8	Nicholas Hill	Police	Police Officer
8	Christopher Morton	Engineering	Engineering Tech Senior
8	Rebekah Craft	Library	Library Director
8	Stefan Syts	Police	Police Officer
23	Christopher Koch	Police	Police Captain
23	Pamela Reed	Treasury	Clerk/Typist B
25	Jennifer Davis	Police	Secretary C
33	Connie Folk	Ice Sports Arena	Recreation Coordinator

Employment Opportunities

The City is currently accepting applications for the following positions. To submit an application or for more information go to www.bhamgov.org/jobs.

Department	Position	Type	Application Closing
Building	Plumbing Inspector	Full Time	Until Filled
DPS	Fleet Mechanic (Teamsters)	Full Time	Until Filled
DPS	Ice Arena Concessions & Maintenance	Part Time	Until Filled
DPS	Streets/Sewer/Water Operator (Teamsters)	Full Time	Until Filled
Information Technology	IT Assistant	Part Time	September 7 2023
Engineering	Civil Engineer	Full Time	September 7, 2023
Community Development	Code Enforcement Officer Coordinator	Full Time	August 25, 2023
Clerks Office	Clerical Assistant	Full Time	August 18, 2023
Community Development	Support Staff A (AFSCME)	Full Time	Until Filled

Planning Department

Planning Board

A tentative Planning Board list of scheduled and/or recently completed items is provided below:

1. Health Club/Studio Use in B4 Zoning District – Study Session (September 13, 2023)

2. Dumpster Enclosures – Study Session (September 13, 2023)
3. Triangle District Mixed-Use Standards – Study Session (September 13, 2023)
4. 388 S. Bates – Community House – Community Impact Study & Preliminary Site Plan Review (September 27, 2023)

Historic District Commission & Historic District Study Committee

On August 2, 2023 ([Agenda](#) – [Video](#)), the Historic District Commission began the process of creating a Historic Preservation Master Plan to document the preservation goals of the City and provide for a holistic and proactive approach to preservation. The Plan will be developed as any other master plan would with engagement/input from the public and thorough vetting at public meetings. The Historic District Commission has had the Plan in some form on their Action List for several years. Having completed the Historic Design Guidelines project, time has now been freed up to work on this Plan. The Historic District Commission first discussed the item on September 1, 2021 ([Agenda](#) – [Minutes](#) – [Video](#)) and developed a number of strategies that they would like to study in Birmingham including preservation marketing, audits, incentives and increased training. To stay apprised of the progress, you can review [Historic District Commission agendas](#), or contact ndupuis@bhamgov.org for more information.

Multi-Modal Transportation Board

City staff completed the TAP Grant application for S. Eton with the approved design and is waiting to hear back from SEMCOG on comments and a final decision.

Public Arts Board

The sculpture “Khyber” by Tom Fitzgerald was installed in Fairway Park between the trail and the Rouge River this past week, making it the fourth sculpture installed in Birmingham this summer. The City intends on cleaning the sculpture and applying a new coat of paint prior to a formal unveiling. The Public Arts Board has requested that maintenance be provided for a number of existing sculptures over the next year.

Sustainability

The Environmental Sustainability Committee (ESC) is deep into the data gathering phase of the Greenhouse Gas Emissions inventory, which is slated to be complete, or near complete by the end of the year. The ESC has held several public engagement outreach efforts to help inform the Sustainability and Climate Action Plan, which is the second task that the ESC will be completing in 2024. The remaining scheduled engagement activities for the first leg of this project are as follows:

- Birmingham Engage Survey – [Environmental Sustainability](#) (LIVE NOW)
- Municipal Round Tables – September – October 2023

Police Department

Sergeant McCanham Named School Resource Officer

Interviews were held with three candidates from the Police Department who expressed interest in the position which resulted in the selection of Kyle McCanham as the School Resource Officer (SRO). Kyle received his Bachelor's Degree from Central Michigan University and graduated Summa Cum Laude in the honors programs and received an Academic Excellence Award. He attended the Oakland Police Academy and was hired by the Birmingham Police Department in 2018. During his five years with our Police Department, Kyle has proven to be a valuable member of our agency and was currently assigned to the Narcotic Enforcement Team (NET) for the last year and a half. Sgt. Kyle McCanham (SRO), starts school on Monday, August, 28th.

Legislative Update

On Monday, August 21, 2023, a legislative meeting was held at the Oakland County Sheriff's Office which was attended by Chief Grewe and most chiefs in Oakland County and several from Macomb County. A few elected officials also attended to discuss current legislative actions that can affect law enforcement operations. The Major County Sheriffs of America (MCSA) Executive Director, Megan Nolan, identified the following acts and concerns for law enforcement agencies.

Asset Forfeiture Reform "Fair Act"

Status: The House Judiciary Committee passed the bill unanimously on 06/14/2023.

Impact and Concern: The bill would eliminate the equitable sharing program. This would shrink the number of multijurisdictional drug task forces focused on fentanyl, methamphetamine, and other drug trafficking networks; reduce local participation on federal task forces; and reduce cartel-related intelligence and information-sharing capacity.

MCSA opposes this bill and urges people to contact their Representatives and express their opposition.

Impact on Birmingham: The Birmingham Police Department participates in multiple multijurisdictional task forces. Funds received by our department as a result of forfeitures are used to offset the cost to the City to participate in these groups by providing funds to cover equipment, training and manpower costs.

Investigative Data Restrictions "Fourth Amendment is Not For Sale Act"

Status: House Judiciary Committee passed the bill unanimously on 07/19/2023.

Impact and Concern: This would restrict law enforcement's access to commercially available information that is routinely used to investigate violent crime, drug trafficking, human trafficking, child sexual exploitation, and threats of mass violence. The data this bill would restrict is most useful after a crime occurs but before solid leads have been developed and probable cause can be determined. As such, this information serves as the building blocks of probable cause, which is then used to obtain a warrant where appropriate as the investigation progresses. Without access to this information, investigative timelines would increase, and law enforcement would have more difficulty identifying sources of public safety threats such as school threats.

MCSA opposes this bill in its current form and urges people to contact their Representatives and express their opposition.

Impact on Birmingham: The Birmingham Police Department currently utilizes commercially available programs to obtain information such as LexisNexis. Sites like this are available to private citizens and already contain information important to investigators, especially during emergencies. Information obtained within seconds through these sites could take days to obtain if access is blocked and search warrants are required. During emergency cases, this could have catastrophic consequences.

Sen. McMorrow Meeting

On Tuesday, August 22, 2023, Sen. McMorrow conducted her quarterly meeting with the Police and Fire Chiefs in her district. Chief Grewe attended this meeting where the senator spoke about a few key topics.

Grant Funding: Sen. McMorrow spoke about the state's upcoming budget and noted that \$174.4 million has been set aside for public safety grants, however, advised that she was not yet aware of the uses for the grant. The Police Department will continue to monitor this and apply for grant funding when appropriate.

SB 32: Sen. McMorrow spoke briefly about Senate Bill 32 which allows a police agency to recoup training and equipment costs in the event a new hire leaves employment prior to their fourth year of employment. The bill states either the cost will be billed to the employee who left, or the agency they

transferred to. In the event an officer leaves our department within four years of the date of hire, we will now be able to recoup the costs associated. However, this will also create conflicts in recruitment. Some previous new hires have left other agencies to come to Birmingham and this new standard will make this process more difficult in the future.

Vehicle Noise: Sen. McMorrow stated that her team has drafted a bill that is currently being reviewed internally that would allow local control over vehicle noise. Currently, state law governs the level of sound emanating from a vehicle's exhaust and local ordinances cannot supersede state law. Sen. McMorrow stated this proposed bill would allow for the creation of local ordinances to combat the problem based on the needs of each individual community. She advised that she has also been in contact with Rep. Natalie Price who has proposed a change in the state law language to help address the excessive noise issue. Sen. McMorrow stated that she supported both avenues and is hopeful change can be implemented prior to the end of the calendar year.

Parking Systems Update

Construction

Repairs continue at the N. Old Woodard Garage. Included in the repairs are concrete restoration, repairs to the handrails, painting of ceilings, walls, and stairwell walls, and the installation of LED lights.

15-Minute Parking Pilot

There are four new parking spaces along the south curb of Brown Street between Old Woodward and Woodward. These new spaces are being used as a pilot program for 15-minute parking. The pilot is intended to provide deliveries like UPS/FEDEX, Door Dash/Grub Hub a place to park without having to park illegally. Parking Enforcement will be monitoring the spaces to ensure compliance. If the pilot is successful, expanding the number of 15 minute spaces will be considered throughout the downtown area.

Occupancy

JULY AVG CAPACITY	
Chester Garage (880)	18.65%
Old Woodward (745)	39.38%
Park Garage (811)	26.95%
Peabody Garage (437)	43.80%
Pierce Garage (706)	46.60%

Future Agenda Items

Download a summary of [future agenda items](#).

Future Workshop Items

Download a summary of [future workshop items](#).



August 9, 2023

Ms. Alexandria Bingham, Clerk
City of Birmingham
151 Martin St.
Birmingham, MI 0

Re: Legal Entity Adjustment

Dear Ms. Bingham:

I am writing to inform you that *Comcast of Florida/Michigan/New Mexico/Pennsylvania/Washington, LLC*, the legal entity that is named in the cable franchise with your community, has been merged into *Comcast Cable Communications Management, LLC*. This merger of Comcast legal entities was effective August 4, 2023.

This is purely an internal organizational change and has no impact to you as the franchisor or to the customers we serve in your community. *Comcast Cable Communications Management, LLC*, has inherited all of the obligations and rights of its predecessor entity under the franchise agreement with your community and will fully comply with those obligations.

Enclosed is an Attachment 2 pursuant to 2006 Public Act 480.

Please feel free to contact me at 517-930-5299 if you have any questions.

Sincerely,

Eric Woody
Manager, Government & Regulatory Affairs
Comcast, Heartland Region
41112 Concept Drive
Plymouth, MI 48170

INFORMATION ONLY

ATTACHMENT 2

UNIFORM VIDEO SERVICE LOCAL FRANCHISE AGREEMENT (Pursuant to 2006 Public Act 480) (Form must be typed)

Affected Franchise Agreement(s):) : City of Birmingham and Comcast of Florida/Michigan/New Mexico/Pennsylvania/ Washington, LLC

Date: August 9, 2023

Type of Change (*Check one*): Amended Termination Transfer

Current information on record:

Applicant's Name: Comcast of Florida/Michigan/New Mexico/Pennsylvania/ Washington, LLC		
Address 1: 41112 Concept Dr.		
Address 2:	Phone: 248-233-4700	
City: Plymouth	State: MI	Zip: 48170
Federal I.D. No. (FEIN): 31-1063218		

For Amended Agreement(s):

Agreement that is being Amended: City of Birmingham and Comcast of Florida/Michigan/New Mexico/Pennsylvania/ Washington, LLC

Types of Amendments:

A. Change in Legal Name or assume business name, etc. (Approval from Secretary of State must be attached.)

- | |
|--|
| 1. Existing Name: Comcast of Florida/Michigan/New Mexico/Pennsylvania/ Washington, LLC |
| 2. New Name: Comcast Cable Communications Management, LLC (FEIN: 23-2084784) |

~~B. Change in Principal Business Address or Name of Person Authorized to Receive Notice:~~

~~1. New Principal/business office address:~~

Address 1:	
Address 2:	
City, State, Zip:	
Email:	
Phone:	Fax:

~~2. New Name and Title of person authorized to receive notice:~~

Name:	Title:
Address 1:	
Address 2:	
City, State, Zip:	
Email:	
Phone:	Fax:

INFORMATION ONLY

C. Increase/Decrease in the Territory:

1. <u>Reason for the change:</u>
2. <u>Description of change:</u>
3. <u>List the new unit(s) and unincorporated area(s) to be served under this change:</u>

D. Additional changes (please attach any additional changes that have been made, which have not been previously recorded in this Attachment):

For Termination:

Effective date of Termination:
Agreement associated with the Termination:
Identify the number of customers covered by the Agreement being terminated:
Identify the method used to notify the Franchising Entity of the termination of service (Attach a copy of the notification):

For Transfer of Agreement(s):

(A transfer will require the new franchise holder or new controlling parent company to complete the information for the "New Agreement Holder")

<u>Name of Current Franchise Holder:</u>	
<u>Contact Name:</u>	
<u>Address 1:</u>	
<u>Address 2:</u>	
<u>City, State, Zip:</u>	
<u>Email:</u>	
<u>Phone: _____</u>	<u>Fax: _____</u>
<u>Federal I.D. No. (FEIN):</u>	

ATTACHMENT 2

Name of New Franchise Holder or controlling parent company as applicable:	
Contact Name:	
Address 1:	
Address 2:	
City, State, Zip:	
Email:	
Phone:	Fax:
Federal I.D. No. (FEIN):	
Email:	

Company executive officers:

Name(s):
Title(s):
Person(s) authorized to represent the company before the Franchising Entity and the Commission:

Describe the video service area footprint as set forth in Section 2(3)(e) of the Act. (An exact description of the video service area footprint to be served, as identified by a geographic information system digital boundary meeting or exceeding national map accuracy standards.)

[Option A, for Providers that Options B and C are not applicable, a description based on a geographic information system digital boundary meeting or exceeding national map accuracy standards]

[Option B, for Providers with 1,000,000 or more access lines in Michigan using telecommunication facilities to provide Video Service, a description based on entire wire centers or exchanges located in the Franchising Entity]

Option C, for an Incumbent Video Service Provider, it satisfies this requirement by allowing the Franchising Entity to seek right-of-way information comparable to that required by a permit under the METRO Act as set forth in its last cable franchise or consent agreement from the Franchising Entity entered into before the effective date of the Act]]

Explain the transaction that defines the transferee as a successor in interest (Attachments are acceptable):

<u>Effective date of Transfer:</u> <i>(Per 2006 Public Act 480: A notice of transfer shall be filed with the Franchising Entity within 15 days of the completion of the transfer)</i>
<u>Agreement associated with the Transfer:</u>

For All Applications:

**Verification
(Provider)**

I, Craig D'Agostini, of lawful age, and being first duly sworn, now state: As an officer of the Provider, I am authorized to do and hereby make the above commitments. I further affirm that all statements made above are true and correct to the best of my knowledge and belief.

<u>Name and Title (printed):</u> Craig D'Agostini, Vice President, Government & Regulatory Affairs	
<u>Signature:</u> 	<u>Date:</u> August 8, 2023

(Franchising Entity)

City of Birmingham, a Michigan municipal corporation

By _____
Print Name _____
Title _____
Address _____
City, State, Zip _____
Phone _____
Fax _____
Email _____
Date _____

August 14, 2023

Governor Gretchen Whitmer
P.O. Box 30013
Lansing, Michigan 48909

Jocelyn Benson, Secretary of State
430 W. Allegan St
Richard H. Austin Building – 4th Floor
Lansing, MI 48918

Mallory McMorrow, State Senator, 13th District
Post Office Box 30036
Lansing, MI 48909-7536
senmcmorrow@senate.michigan.gov

Natalie Price, State Representative, District 5
Anderson House Office Building
124 N Capitol Ave.
Lansing, MI 48933

Sharon MacDonnell,
State Representative, District 56
Anderson House Office Building
124 N Capitol Ave.
Lansing, MI 48933

Samantha Steckloff,
State Representative District 19
Anderson House Office Building
124 N Capitol Ave.
Lansing, MI 48933

Dear Governor, Senator, or Representative,

As a citizen of Michigan, I implore you to endorse introduced House Bill No. 6565 which adds a right to renew lease provision to every rental agreement and House Bill No. 4063 which adds the prohibition of discriminating a person from renting based upon their source of income. I also encourage you to advocate for Senate Bills 205, 206, and 207 regarding housing discrimination in regards to source of income.

As a resident of this state, I believe that tenants have the need for further protection, and the need for greater rights in regard to renting property in the State of Michigan. I further implore you to expedite the study of these House Bills and Senate Bills to expedite the adoption of this legislation.

Thank you for your time and consideration in connection with this most pressing matter.

Sincerely,

(Your name)
(Home Address)
(Email)
(Telephone)

INFORMATION ONLY



August 14, 2023

Governor Gretchen Whitmer
P.O. Box 30013
Lansing, Michigan 48909

Jocelyn Benson, Secretary of State
430 W. Allegan St
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Thank you for your time and consideration in connection with this most pressing matter.

Sincerely,

Jana L. Ecker
City Manager
jecker@bhamgov.org

CRAIN'S DETROIT BUSINESS

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Analysis

Michigan's marijuana industry is now the top market in the nation. Here's why.

By Dustin Walsh



Weed. Jazz cabbage. Ganja. Jolly green. Righteous bush. Sin spinach.

Regardless of the name, Michiganders fully embraced marijuana's legalization and commercialization.

Michigan is now the top marijuana market in the country — based on per capita spending.

Through the first seven months of the year, Michigan's marijuana industry sold \$1.7 billion worth of product (\$58.8 million in medical marijuana and \$1.644 billion in recreational), [according to data from the Michigan Cannabis Regulatory Agency](#). Michigan weed is outselling distilled booze in the state and is on track to easily top \$3 billion in 2023.

While Michigan won't top California in overall sales, totaling \$5.3 billion in 2022, it beats out the Golden State and other competitors, including the OG in legalization, Colorado, on per capita

INFORMATION ONLY

spending.

[Sales in the Rocky Mountain State through June topped \\$782 million for a per capita spend of \\$134.03.](#) California is less than \$136 per capita. Michigan, however, topped \$142.13 in per capita spending on marijuana product in the first half of this year.

So are Michiganders just more in tune with getting baked than Californians and Coloradoans? Probably not.

Don't step on the grass, Sam

Michigan's success in the marijuana game is correlated directly to the state's regulatory, tax and overall business framework.

Following the legalization of adult-use recreational marijuana by voters in 2018, Michigan's framework solidified it into an unlimited licensure state with comparatively low taxes.

The unlimited licensure allowed businesses to get approved to operate grow operations, processing plants and retail stores quickly. Yes, there was and still are problems with local municipality business licensure, but those roadblocks are eroding.

[Michigan also taxes consumers among the lowest in the U.S.](#) with a 10% excise tax on recreational marijuana sales. Colorado has a 15% excise tax on wholesale and retail sales. California has a 15% excise tax on wholesale and a per ounce tax on fresh plants and cultivation. Other top players like Washington and Oregon have a 37% excise tax and 17% excise tax on retail, respectively.

It should be noted that Michigan crossed \$1 billion in excise and sales tax revenue collected from the marijuana industry last month, the Michigan Department of Treasury confirmed. That's a number that almost seems unbelievable given the low excise tax.

The low taxes resulted in the Michigan market maturing very quickly due to easy access to marijuana and prices that shrank precipitously — maybe too quickly for some.

Recreational marijuana sales were only \$9.83 million in January 2020, the second full month of legal dispensary sales in the state. By July 2020, six months later, rec sales topped \$57.4 million. In July this year, rec sales were north of \$270 million.

No more illegal smile

And that's all about cost. The average cost of an ounce of flower in July 2020 was \$402.72. In July of this year, the average cost of an ounce of recreational flower was \$98.65 — prices have stabilized since a low in January this year of \$80.16 per ounce.

That price collapse, of course, has crippled several business operators — Skymint and at least six others are under a court-ordered receivership — a natural byproduct of any new industry wrangling supply and demand.

Businesses still struggle under the weight of operating at low margins, but it's certainly helped demand. Low prices and abundant product has pushed more and more Michiganders into the legal marijuana market, according to 2022 data provided by Oregon-based Whitney Economics and published by the National Cannabis Roundtable.

According to the data, 75.5% of all marijuana sales are in the legal market, as opposed to the illicit market. California is only at 44% legal sales; Oregon at 74.8% legal sales; and Washington state at 61.3% legal sales. Colorado is the bright spot here, with Whitney Economics projecting 99.8% of all marijuana sales in the state are in the legal market.

That means it's likely Michigan still has some runway to its total market potential, but also show there is a peak. Whitney Economics projects the total market demand for marijuana in Michigan to top out at just over \$3.2 billion, compared to \$11.93 billion in California. Michigan is likely to come near that total in 2023.

The industry is yet to recognize any slowdown in the market. As of June 30, there were roughly 1.9 million marijuana plants actively being grown in legal operations for recreational sales, according to CRA data. That's well up from the under 1.3 million plants in June 2022.

Passing the dutch?

But whether Michigan remains a top marijuana state by any metric will likely be determined not by Michigan's market, but by whether other states coming into the market follow Michigan's lead and let the industry blossom under less restrictive rules or whether they cultivate a slower, more steady market. Illinois, for instance, limits how many marijuana dispensary licenses it issues annually, limiting the supply to prevent steep price declines like seen in Michigan and elsewhere. Florida is still a medical marijuana only state, as well as Pennsylvania. Texas still doesn't have any legal marijuana.

Ohio will be the one to watch, alongside maybe Indiana. A ballot initiative in Ohio gathered enough signatures and received approval earlier this week to be on the November ballot.

It's likely many Ohioans drive up to dispensaries in Michigan to purchase marijuana. But it's still unknown if recreational legalization there would impact Michigan's market.

INFORMATION ONLY

Ohio is a more populated state and if the Ohio regulators get legalization right, we could see Ohio emerge as a dominant player in the coming years.

But until then, Michigan is tops for dope smokers, edible eaters, vape vendees and those who serve them.

By **Dustin Walsh**

Dustin Walsh is a senior reporter for Crain's Detroit Business, covering health care with a focus on industry change and operations, as well as the state's emerging cannabis industry. He is also a regular columnist on all things health, labor, economics and more.

 Cannabis, News, Politics & Policy

Source URL: <https://www.crainsdetroit.com/analysis/michigan-cannabis-industry-track-top-3b-2023-sales>



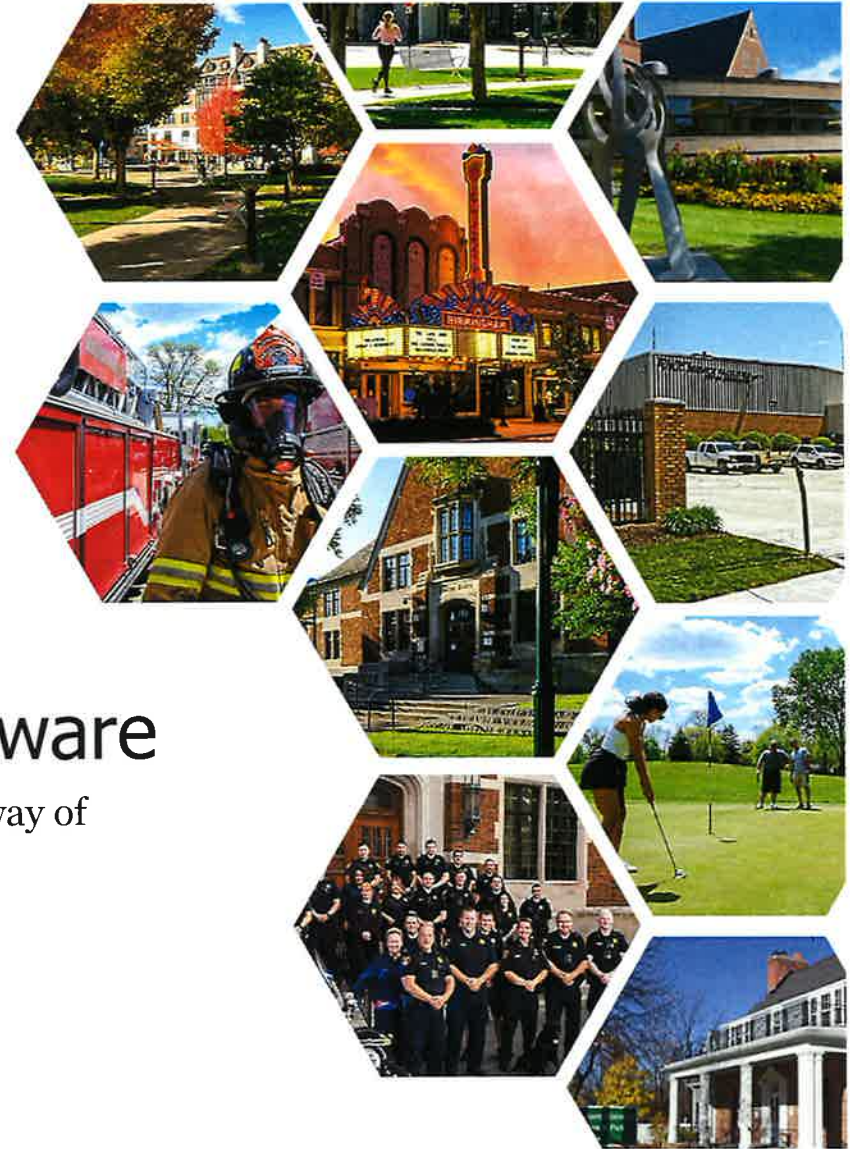
Finance Department

Presented by: Mark Gerber

Date: August 28, 2023

Budgeting and Transparency Software

A more efficient and collaborative way of
budgeting



Why do we need budgeting software?

- Current approach is outdated and inefficient
- Involves creating individual documents and assembling them into a larger document
- Some of the schedules need to be re-keyed or re-formatted (potential for errors)
- When one detail schedule changes, it can affect 5 other schedules (potential for errors)

Why do we need budgeting software?

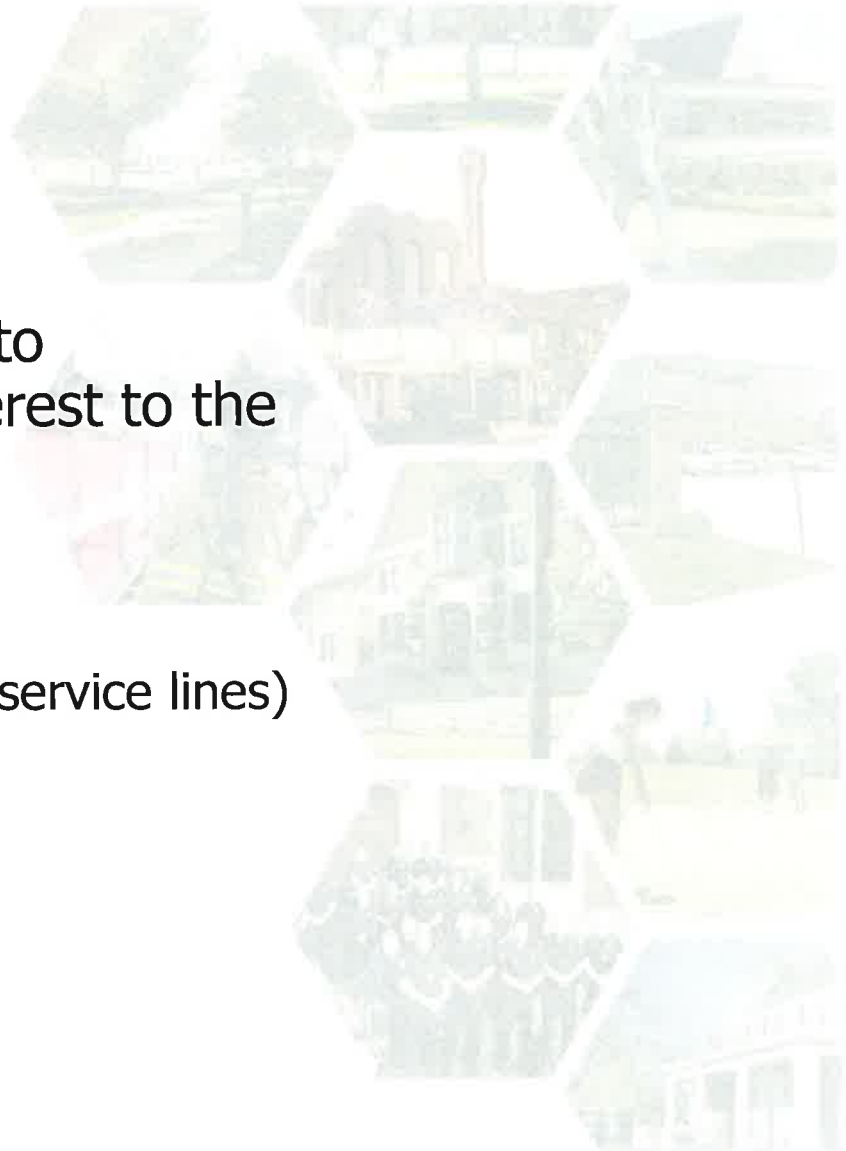
- Several hours are wasted creating documents, reviewing documents, editing documents, re-reviewing documents, etc.
- Typical budget process involves approximately 4 complete reviews
- Lots of paper is wasted in the process

Benefits from using budgeting software

- Better integration of operating, personnel, and capital improvement budgeting
- Less risk of errors
- Better collaboration between employees
- Less time spent on manual processes
- Fully functional web based budget presentation that is easier for the public to view
- Can assist with other applications like the 5 year financial forecast or union contract negotiations

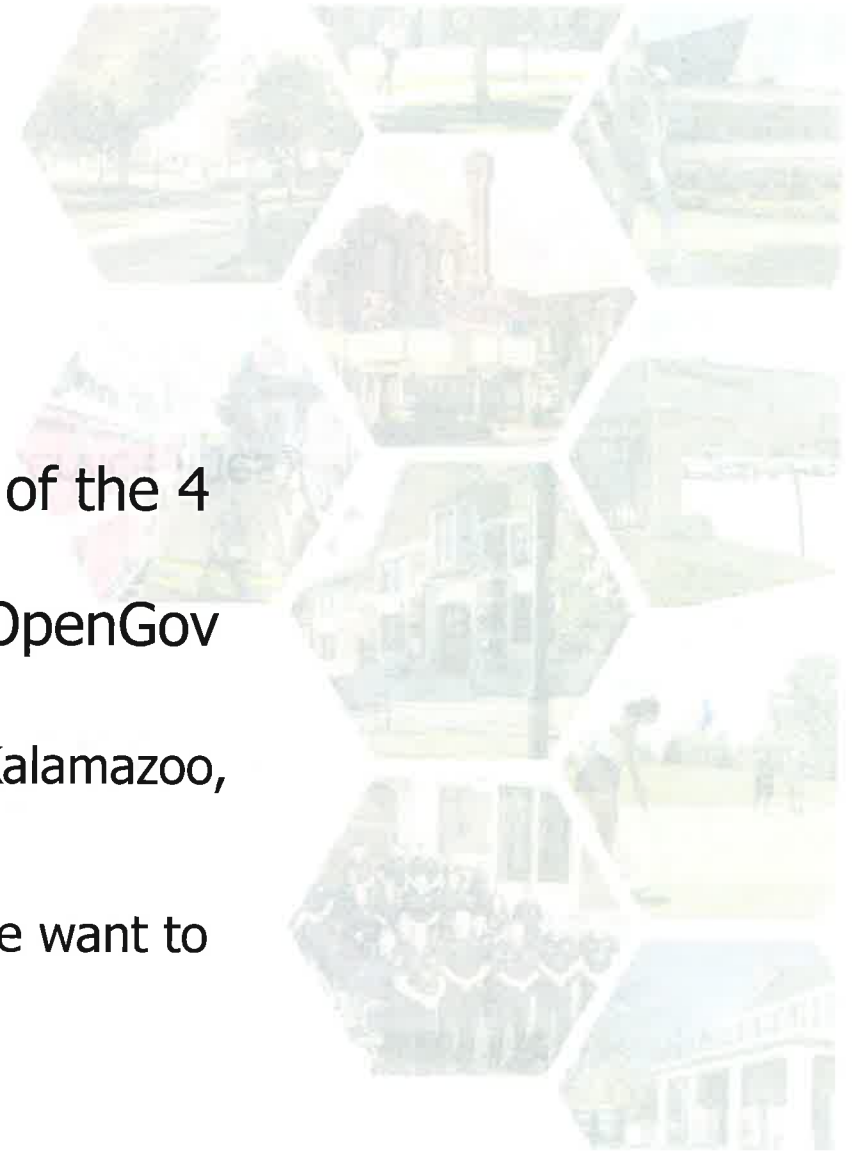
Transparency

- Transparency software can be set up to disseminate information that is of interest to the public
- Examples:
 - Historical financial information
 - Progress towards a particular goal (lead service lines)
 - Operating data (grants)



Selection Process

- City released RFP in May
- City received 4 responses
- City staff sat through demonstrations of the 4 companies
- Based on scoring, City staff selected OpenGov
- Key considerations:
 - Has many Michigan clients (Royal Oak, Kalamazoo, Portage)
 - Has experience integrating with BS&A
 - Also have other accounting modules if we want to change vendors in the future



Examples

- City of Kalamazoo
- City of Royal Oak



Impact of the Cranbrook and Lincoln Non-Motorized Pathway Improvements to Polo Place Homes

Background: Polo Place is a small street located off of Cranbrook near Seaholm with 4 homes. The homes were built in the 1980's. All homes ~10 feet below the street level. All homes have yards with ~1/2 acre of land. These yards are composed of tree filled forest rather than grass.

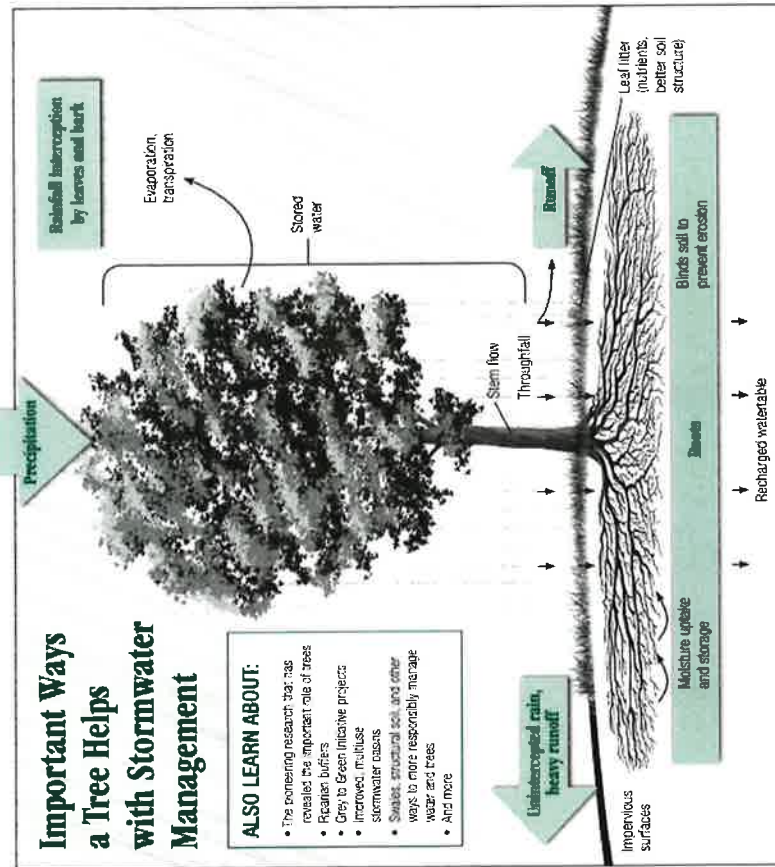
Late Feb: Requests are made by David Wisz (2446 Polo Place) to meet with Melissa A. Coatta, P.E. regarding the tree removal plan for the pathway. Melissa offers to meet with the residents on Polo Place AFTER multiple large, leafed trees were removed along Cranbrook are removed. See email exchange below. Note that leafed trees are critical to the control of water runoff and prevention of ground saturation. Their leaf canopies help reduce erosion caused by falling rain. They also provide surface area where rainwater lands and evaporates. Roots take up water and help create conditions in the soil that promote infiltration.

Trees in our communities provide many services beyond the inherent beauty they lend to streets and properties. One of the most overlooked and underappreciated is their ability to reduce the volume of water rushing through gutters and pipes following a storm. This means less investment in expensive infrastructure and — importantly — cleaner water when the runoff reaches rivers and lakes.

Important Ways a Tree Helps with Stormwater Management

ALSO LEARN ABOUT:

- The emerging research that has revealed the important role of trees
- Resilient buffers
- Gray to Green incentive projects
- Improved, multi-use stormwater basins
- Sweeter, structural soil, and other ways to more responsibly manage water and trees
- And more



Trees help reduce stormwater runoff in several ways. One is to intercept falling rain and hold a portion of it on the leaves and bark. Part of this intercepted water will evaporate and part will be gradually released into the soil below. At the surface of the soil, fallen tree leaves help form a spongy layer that moderates soil temperature, helps retain soil moisture, and breaks down organic matter and recycle nutrients for use in plant growth. This important layer also allows rainwater to percolate into the soil rather than rushing off carrying with it oil, metal particles, and other pollutants. Below ground, roots hold the soil in place and absorb water that will eventually be released into the atmosphere by transpiration.

July/Early Aug: More large, leafed trees were removed along Lincoln to make way for the pathway.

Aug 11th: U Construction lays down sand base for concrete pathway.

Aug 12th: Rain falls in the evening.

Aug 13th: In multiple areas where sand was laid for the pathway, the sand caved in creating streams of sand and water into my backyard.

Stakes labeled "silt fence" have no such fence in place. There was so much sand that it pressed up against and bent my wooden fence. Previously, no dirt was against my fence.



Sand, up to 4 inches in some areas, is in multiple parts of my backyard, and there is sandy standing water in my back and front yard. Multiple plants covered. The sand is visible on my house.



Aug 21st: My neighbor, David Wisz, emails city to notify them that there is sand in my backyard.

dwisz@wiszgroup.com
to Scott, Mkuharek@bhlaw.us.com, cborton@bhamgov.org, kameron, Melissa, Brian, me

Mon, Aug 21, 9:20AM (6 days ago) ☆ ↶ ⋮

Dear Sirs:

I would like to note that since the removal of the vegetation and trees along Cranbrook rd. there has been a significant amount of stagnant water collecting at polo place and Cranbrook. I have never had an issue with water in the basement before and if I experience such now it will be a direct result of this project. I would note that my neighbor along Lincoln Nicole Stone, has also now had "sand slides" onto her property that seems to have effected her fence.

Please advise what measures are being taken to avoid these new water issues.

Best Regards,

David L. Wisz
WiszGroup PC
2466 Polo Place
Birmingham MI 48009
dwisz@WiszGroup.com
248.561.9910

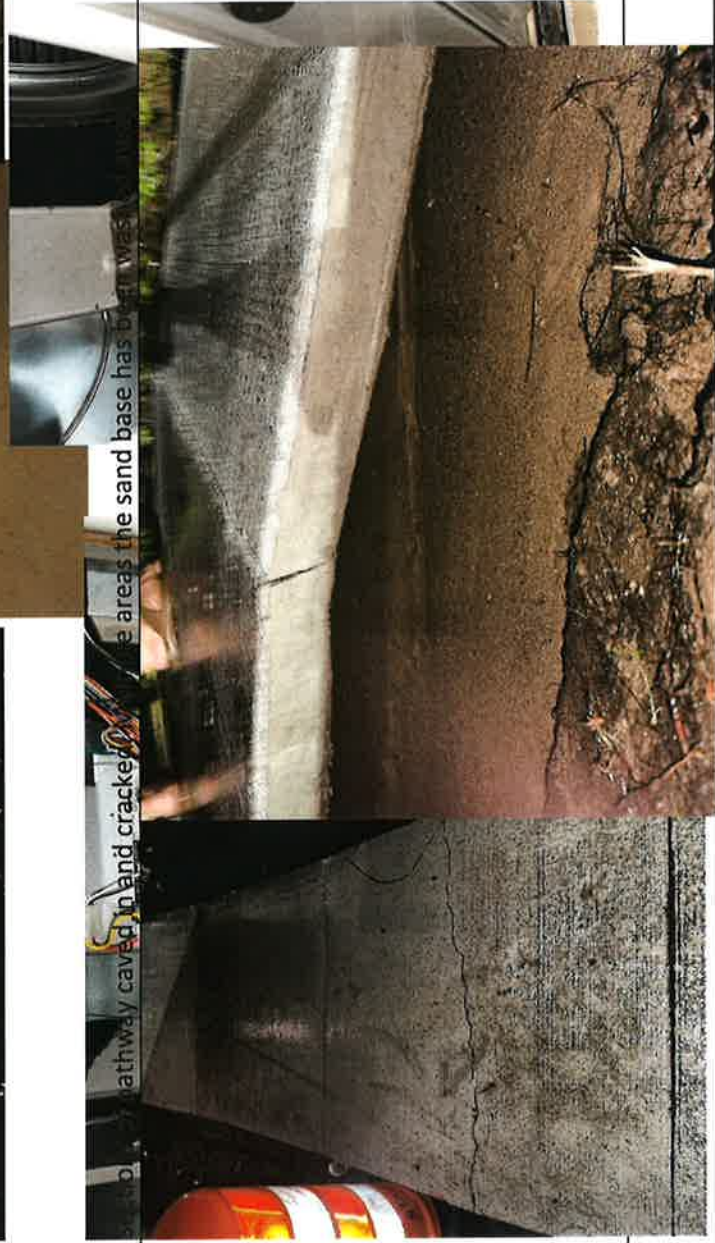
Aug 22nd: I still have sandy standing water in my backyard. This has not occurred in the previous years that I have lived here.

Aug 23rd: I observed a temporary silt fence constructed at the foot of my fence. No other attempts to prevent sand from moving out of place were seen. Silt fence has prevented some sand from touching my fence. This is evidence that even small rains will cause the sand base to erode. The fence is bending more. The cement is poured. Standing water remains in my backyard.



Aug 24th at night: After it has been raining for a while, I hear rushing water in the basement. I observe water coming into my home from the wall around my basement egress window, then the window shatters with me and my boyfriend and I about 15 feet away. We leave the room as quickly as possible, but the door slams extremely hard on my boyfriend's arm as we exit due to the rush of water. After the rain stops, approximately 1 hour after the window is pushed out, the dug in drainage system and sump is able to pump the water out of the basement and a layer of muck and debris is left. Flooding occurs in front yard due to debris clogging storm drain and already saturated ground.

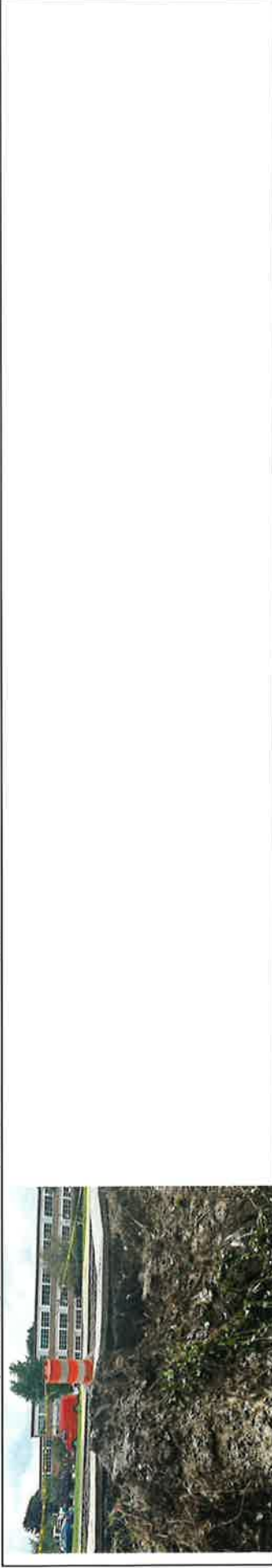




Aug 25th: In the morning I see that a large fence post was broken out of the ground, and panels of the fence are on the ground which is concerning since I have a large dog, my basement is covered in debris and broken glass, and from the water line in the basement I can see that there has been about 20 inches of water in my basement. My deciduous forest backyard now looks like a dirty beach. I contacted a company to mitigate my water damage.



Sand base is visibly missing from under path. Later on in the day, 66 feet of concrete is removed.



Aug 26th: Sand is removed from my backyard by contractor who is working the city pathway project. A fence panel was removed and two trees were cut down to make way for the steam shovel. Two steam shovel buckets of sand removed, and two temporary silt fences set up. Spoke to Kameron Dimitry, Birmingham City Inspector, that the plan is to add more sand and repour concrete so that the pathway can be complete and ready for the public to use. Other than the temporary silt fences, no other supports will be used to stabilize the sand underneath the cement slab. Sand missing under remaining slabs of cement. Noted that storm drain adjacent to my backyard, in area of removed concrete is clogged with sand.

0120 864-7790 Owner
 0200 864-7790
 0200 864-7790
 0200 864-7790

Mobile Storage
 2174 1st Ave
 Birmingham

Half of today's fee will go
 towards final bill
 Please call when calling to schedule

217 50

Spacing Change Reschedule
 ASIPP
 Likely using cable equipment
 and micro jet to clean
 perimeter drain from
 clearest access to stump
 pit. And make some stump
 and pump up working
 deeper. Base may not
 be perfect. Could be
 muddy, i.e. not a 1 day

TOTAL LABOR 8 30/23 TOTAL 217 50





Concerns:

What has this done to the market value of my home? I am extremely worried as to what this project has done to my property, and the safety of my basement. Health hazard. Marked increase in the number of mosquitos. This is not only a nuisance but also a concern for health for my street and the other homes in the area. Eastern Equine Encephalitis (EEE). In 2020, there were four human cases of EEE, two of which were fatal. In 2019, Michigan had 10 cases of EEE, six of which were fatal.

<https://www.michigan.gov/mdhhs/inside-mdhhs/newsroom/2023/07/03/eee-bay>

Health & Human Services

July 03, 2023

Michiganders should take precautions to prevent mosquito bites

-----LANSING, Mich. – Michiganders are urged to take precautions against mosquito bites as mosquitos recently collected in Bay County have tested positive for Eastern Equine Encephalitis (EEE) at the Michigan Department of Health and Human Services (MDHHS) Bureau of Laboratories.

Although no cases have been diagnosed in people or animals, it is important to know they can be infected with EEE from one bite of a mosquito carrying the virus. Anyone can become ill with EEE. People under age 15 and over age 50 are at greatest risk of severe disease following an EEE infection.

“This testing information confirms the virus is here in mosquitos in Michigan,” said Dr. Natasha Bagdasarjan, MDHHS chief medical executive. “EEE is one of the most dangerous mosquito-borne diseases in the United States, with a 33% fatality rate in people who become ill.”

Thanks,
Nicole