

BIRMINGHAM CITY COMMISSION AGENDA
APRIL 8, 2024
MUNICIPAL BUILDING, 151 MARTIN
7:30 P.M.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Elaine McLain, 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

- Happy Birthday Mayor Pro Tem Schafer

APPOINTMENTS

A. Board of Ethics

1. Melissa Demorest LeDuc, Esq.

To appoint _____ as a regular member to the Board of Ethics to serve a three-year term to expire June 30, 2024.

B. Cablecasting Board

1. George Abraham
2. R. David Eick

To appoint _____ to the Cablecasting Board as a regular member to serve a three-year term expiring March 30, 2027.

To appoint _____ to the Cablecasting Board as a regular member to serve a three-year term expiring March 30, 2027.

C. Ad Hoc Senior/Recreation Center Committee

1. To appoint _____ as a regular member from the City Commission to the Ad Hoc Senior/Recreation Center Committee to a serve three-year term to expire March 4, 2027.

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 amended City Commission meeting minutes of March 4, 2024.
- B. Resolution to approve the City Commission meeting minutes of March 18, 2024.
- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated March 21, 2024 in the amount of \$1,430,987.28.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated March 28, 2024 in the amount of \$942,661.05.
- E. Resolution to approve the warrant list, including Automated Clearing House payments, dated April 4, 2024 in the amount of \$240,511.42.
- F. Resolution to approve the Program Year 2024 High Intensity Drug Trafficking Area (HIDTA) sub recipient agreement between the County of Oakland and the City of Birmingham. Further, to authorize the Mayor to sign the agreement on behalf of the City.
- G. Resolution to set a public hearing on May 6, 2024 to determine whether Ms. Caroline Ashleigh, a Museum Board member, ought to be removed from her position as a Museum Board member as she is a Plaintiff in a lawsuit against the City and acting in a way that is adverse to the City as previously opined by the Ethics Board.

-OR-

Resolution to request an Advisory opinion from the Ethics Board to determine whether or not Ms. Ashleigh is creating an irreconcilable conflict of interest and unable to serve on a voluntary board when she is in the position of being a Plaintiff in a multi-Plaintiff cited lawsuit against the City and potentially acting in a position which is adverse and in conflict to the City's best interest.

- H. Resolution to direct the Director of Public Services to apply for West Nile Virus Fund Expense Reimbursement.
- I. Resolution to approve the Amended OAKWAY Interlocal Agreement between Participating Political Subdivisions, in addition, to authorize the Mayor and City Manager to sign the agreement on behalf of the City.
- J. Resolution to approve an agreement for Parking Lot No. 6 Floodwall Phase 1 Professional Design Engineering Services with Anderson Eckstein & Westrick, Inc. addition, to authorize the Mayor and the City Clerk to sign the agreement on behalf of the City contingent upon execution of the agreement and meeting all insurance requirements;

AND

To approve the appropriation and amendment to the Capital Project Funds – Streambank Improvement as follows:

Revenues:		
Appropriation from Fund Balance	403.0-000.000-400.0000	<u>\$4,340</u>

Expenses:

Capital Projects Fund – Capital Outlay 403.0-901.018-981.0100 \$4,340

- K. Resolution to approve an agreement for Lead and Copper Monitoring Services with Hydrocorp, LLC. In addition, to authorize the Mayor and the City Clerk to sign the agreement on behalf of the City contingent upon execution of the agreement and meeting all insurance requirements. Funding for this program has been budgeted in the Water and Service Maintenance Fund, account #591.0-545.000-811.000;

AND

To approve the appropriation and amendment of the fiscal year 2023-2024 budget as follows:

Water Service and Maintenance Fund:

Revenues:

591.0-000.000-400.0000	Draw from Net Position	<u>\$10,500</u>
Total Revenue		<u>\$10,500</u>

Expenditures:

591.0-545.000-811.0000	Other Contractual Service	<u>\$10,500</u>
Total Expenses		<u>\$10,500</u>

VI. CITY MANAGER’S REPORT

The City Manager’s Report regularly occurs on the second City Commission meeting of the month. Additionally, reports from prior months can be viewed on the City’s [website bhamgov.org/manager](http://bhamgov.org/manager).

None

VII. UNFINISHED BUSINESS

- A. Motion from February 5, 2024 to discuss amending the Ethics Ordinance.

VIII. NEW BUSINESS

- A. Resolution to approve the bond authorizing resolution for the 2024 unlimited tax general obligation bonds as submitted by bond counsel.
- B. Resolution to approve the vision statement, goals and objectives, and the project timeline for the senior/recreation center as recommended by the Ad Hoc Senior/Recreation Center Committee for the planning and development of a senior/recreation center at 400 E. Lincoln.
- C. Advisory Parking Committee Letter of Concerns
- D. Cameras for City Vehicles

- E. 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.
- F. Commission discussion on items from a prior meeting.
 - 1. City Commission Room Cameras
 - 2. Ad Hoc Environmental Sustainability Committee Report
- G. Resolution to meet in closed session to discuss the periodic personnel evaluation of City Manager Ecker and to discuss pending litigation regarding Yasamin Aziz, et al v City of Birmingham, Oakland County Circuit Court Case No. 2024-206496-NZ, Honorable Phyllis C. McMillen pursuant to MCL § 15.268 Sec. 8(1)(a) and (e) of the Open Meetings Acts respectively.

(A roll call vote is required and the vote must be approved by a 2/3 majority of the commission. The commission will adjourn to closed session after all other business has been addressed in open session and reconvene to open session, after the closed session, for purposes of taking formal action resulting from the closed session and for purposes of adjourning the meeting.)

IX. REMOVED FROM CONSENT AGENDA

X. COMMUNICATIONS

- A. Shirley & Arlington Letters

XI. REPORTS

- A. Commissioner Reports
 - 1. Notice of intention to appoint to the Parks and Recreation Board
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions’ Reports and Agendas
 - 1. Cable Board Report Update
- D. Legislation
- E. City Staff
 - 1. Police Department Annual 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 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 BOARD OF ETHICS**

At the regular meeting of Monday, April 8, 2024, the Birmingham City Commission intends to appoint one regular member to the Ethics Board to serve a three-year term set to expire June 30, 2024.

Board members are to serve as an advisory body for the purpose of interpreting the Code of Ethics. The board consists of three regular members and up to two alternate members who serve without compensation. The members shall be residents and have legal, administrative, or other desirable qualifications.

Interested citizens may submit an application available at the City Clerk’s Office or online at bhamgov.org/boardopportunities. Applications must be submitted to the City Clerk’s Office at or before noon on Wednesday, April 3, 2024. 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 vote on appointments.

Applicant(s) Presented for City Commission Consideration:

Applicant Name	Criteria/ Qualifications
Melissa Demorest LeDuc, Esq.	Applicants shall be residents and have legal administrative or other desirable qualifications. 19-year practicing attorney with experience in real estate matters and advising business on best practice standards.

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

SUGGESTED COMMISSION ACTION:

To appoint _____ as a regular member to the Board of Ethics to serve a three-year term to expire June 30, 2024.



Clerk's Office RCVD
3/7/24

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 _____

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

Name _____

Phone _____

Residential Address _____

Email * _____

Residential City, Zip _____

Length of Residence _____

Business Address _____

Occupation _____

Business City, Zip _____

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

I have been a practicing attorney for almost 19 years. I handle business and real estate transactions, as well as advise businesses on employment matters, contracts, and other business issues. As an attorney, I am bound by a code of ethics and am familiar with ethical obligations and issues.

List your related employment experience _____


List your related community activities _____

List your related educational experience _____

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: _____

Do you currently have a relative serving on the board/committee to which you have applied? _____

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



Signature of Applicant

Date

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.



BOARD OF ETHICS

Ordinance 1805 (Birmingham Code of Ordinances Sec. 2-320 through 2-326)
 Ordinance 2378 (Birmingham Code of Ordinances Sec. 2-320 through 2-326)
 The board shall serve as an advisory body for purposes of interpreting the Code of Ethics. The board consists of three regular members and two alternate members who serve without compensation. The members shall be residents and have legal, administrative, or other desirable qualifications.

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
3/18/2024	Vacated		Regular Member	6/30/2024
Coakley 280 Millrace	Michael	(248) 321-2001 <i>coakley@milleranfield.com</i>	8/14/2023 Regular Member	6/30/2026
Doyle 622 Purdy	Judy	(248) 514-1897 <i>bhamjudy@gmail.com</i>	12/18/2023 Alternate Member	6/30/2026
LeDuc 1357 W Lincoln	Melissa	(248) 723-5500 <i>melissa@demolaw.com</i>	3/18/2024 Alternate Member	6/30/2026
Robb 1533 Pleasant Court	James	(517) 712-3469 <i>jamesdrobb55@gmail.com</i>	8/11/2003 Regular Member	6/30/2025

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)



NOTICE OF INTENTION TO APPOINT TO THE CABLECASTING BOARD

At the regular meeting of Monday, April 8, 2024, the Birmingham City Commission intends to appoint three regular members to the Cablecasting Board to serve three-year terms expiring March 30, 2027, one regular member to serve the remainder of a three-year term expiring March 30, 2026, and one alternate member to serve the remainder of a three-year term expiring March 30, 2025. Applicants must be residents of the City of 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 Wednesday, April 3, 2024. These applications will appear in the public agenda for the regular meeting at which time the City Commission will discuss recommendations, and may make nominations and vote on the appointments.

Duties of the Cablecasting Board

- 1) Advise the municipalities on matters relating to cable communications;
- 2) Monitor the franchisee's compliance with the franchise agreement and the cable communications ordinance;
- 3) Conduct performance reviews as outlined in Chapter 30, Article VII of the City Code;
- 4) Act as liaison between the franchisee and the public; hear complaints from the public and seek their resolution from the franchisee;
- 5) Advise the various municipalities on rate adjustments and services according to the procedure outlined in Chapter 30; Article VI;
- 6) Advise the municipalities on renewal, extension or termination of a franchise;
- 7) Appropriate those moneys deposited in an account in the name of the cablecasting board by the member communities;
- 8) Oversee the operation of the education, governmental and public access channels;
- 9) Apprise the municipalities of new developments in cable communication technology;
- 10) Hear and decide all matters or requests by the operator (Comcast Cablevision);
- 11) Hear and make recommendations to the municipalities of any request of the operator for modification of the franchise requirement as to channel capacity and addressable converters or maintenance of the security fund;
- 12) Hear and decide all matters in the franchise agreement which would require the operator to expend moneys up to fifty thousand dollars;
- 13) Enter into contracts as authorized by resolutions of the member municipalities;
- 14) Administer contracts entered into by the board and terminate such contracts.

Applicant(s) Presented For City Commission Consideration:

Applicant Name	Criteria	Qualifications
George Abraham	Must be a resident of Birmingham	Current Board Member
R. David Eick	Birmingham Resident	Current Board Member

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 Cablecasting Board as a regular member to serve a three-year term expiring March 30, 2027.

To appoint _____ to the Cablecasting Board as a regular member to serve a three-year term expiring March 30, 2027.

To appoint _____ to the Cablecasting Board as a regular member to serve a three-year term expiring March 30, 2027.

To appoint _____ to the Cablecasting Board as a regular member to serve the remainder of a three-year term expiring March 30, 2026.

To appoint _____ to the Cablecasting Board as an alternate member to serve the remainder of a three-year term expiring March 30, 2025.



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

APPLICATION FOR CITY BOARD OR COMMITTEE

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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 Birmingham Area Cable Board

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

Name George Abraham

Phone 248-642-1257

Residential Address 898 Arlington

Email * georgeabrahamjr@outlook.com

Residential City, Zip Birmingham 48009

Length of Residence 32 years

Business Address _____

Occupation Retired Chemical Engineer

Business City, Zip _____

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

I have been a member of the Cable Board for the past 6 years.

List your related employment experience Have extensively used computers in various jobs for over 40 years.

List your related community activities None

List your related educational experience PhD, PE in Chemical Engineering with minor in Computer Science

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

George Abraham
Signature of Applicant

1/16/2024
Date

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. Updated 11/18/2020

**By providing your email to the City, you agree to receive emails & 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).

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 BACB Birmingham Area Cable Board

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

Name R. David Eick

Phone 248-231-8067

Residential Address 559 Greenwood Street

Email eickhouse@comcast.net

Residential City, Zip Birmingham, MI 48009

Length of Residence 62 years

Business Address SAME

Occupation Marketing/Sales/Publishing

Business City, Zip SAME

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied _____
40 plus years in the advertising/marketing business with national advertising agencies gives me the important background to contribute to BACB.

List your related employment experience National advertising agencies, marketing, publishing companies

List your related community activities Chair of the Allen House, BACB, Birmingham Public Schools' PTA, Booth Park Reconstruction Committee, Millpond Home Owners Association

List your related educational experience BBA and MA from Western Michigan University
Majoring in business and communications

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

R. David Eick
 Signature of Applicant

Date 1/28/24

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

Updated 12/02/19

Cablecasting Board Appointment

execdir@birminghamareacableboard.org <execdir@birminghamareacableboard.org>

Wed, Mar 27, 2024 at 10:43 AM

Reply-To: execdir@birminghamareacableboard.org

To: Mya Brown <mbrown@bhamgov.org>

Cc: Eick <eickhouse@comcast.net>, "Clearyjp@gmail.com" <clearyjp@gmail.com>, George Abraham <gabraham@comcast.net>, D Shand <dgshand@gmail.com>, "deannadbrown@comcast.net" <deannadbrown@comcast.net>, Gil Gugni <ggugni50@gmail.com>

Hi Mya: Here are the attendance records.

Jan. 18, 2023: Present - Eick, Cleary, Shand (Absent-Abraham)

March 15, 2023: Present- Eick, Shand, Abraham (Absent-Cleary)

May 17, 2023: Present-Eick, Abraham, Brown (appointed April1, 2024), Cleary (Absent-Shand)

July 19, 2023: Present-Eick, Abraham, Brown, Cleary, Shand

September 20, 2023: Present-Eick, Abraham, Cleary (Absent-Brown, Shand)

November 15, 2023: Present-Eick, Abraham, Brown (Absent-Cleary, Shand)

Cathy White

Executive Director of BACB

[P.O.Box 165](#)

Birmingham, MI 48012

248-336-9445

From: "Mya Brown" <mbrown@bhamgov.org>

Sent: 3/26/24 1:40 PM

To: execdir@birminghamareacableboard.org

Subject: Cablecasting Board Appointment

[Quoted text hidden]



Ann Tappan <atappan@bhamgov.org>

Jim Cleary attendance records

execdir@birminghamareacableboard.org <execdir@birminghamareacableboard.org> Fri, Feb 25, 2022 at 2:10 PM
Reply-To: execdir@birminghamareacableboard.org
To: Ann Tappan <atappan@bhamgov.org>
Cc: "clearyjp@gmail.com" <clearyjp@gmail.com>

Hi Ann: Jim was appointed to the Cable Board on 12-21-20. Since that time he has only missed two meetings, one in November 2021 and one in February 2022. Hope this helps. Let me know if you need anything further.

Cathy White
Executive Director of BACB
P.O.Box 165
Birmingham, MI 48012
248-336-9445



CABLECASTING BOARD

Chapter 30 - Section 30-226 - Birmingham City Code
 Meeting Schedule: 3rd Wednesday of the month - 7:45 A. M

The Board shall consist of 12 members, which includes 7 members who are residents of the City of Birmingham. Each member community shall also appoint one alternative representative. (30-226)

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
Abraham	George	(248) 642-1257 <i>georgeabrahamjr@outlook.com</i>	5/14/2018 Birmingham resident	3/30/2024
Brown	Deanna	(248) 705-8371 <i>deannadbrown@comcast.net</i>	2/27/2023 Birmingham Resident	3/30/2026
Cleary	Jim	(248) 840- 8416 <i>clearyjp@gmail.com</i>	12/21/2020 Birmingham resident	3/30/2025
Eick	R. David	(248) 231-8067 <i>eickhouse@comcast.net</i>	12/14/2015 Birmingham resident	3/30/2024
Shand	Donovan	(248) 330-0747 <i>dgshand@gmail.com</i>	12/4/2017 Birmingham resident	3/30/2026

For Cable Inquires:
 Cathy White 248-336-9445
 P.O. Box 165, Birmingham, MI 48012

Saturday, February 24, 2024 Page 1 of 2

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
Vacated	3/30/2018		Birmingham resident	3/30/2024
Vacated	3/30/2022		ALTERNATE	3/20/2025
Vacated	3/30/2023		Birmingham Resident	3/30/2026

For Cable Inquires:

Cathy White 248-336-9445
P.O. Box 165, Birmingham, MI 48012

Sec. 30-226. Creation and membership of board.

- (a) The Birmingham City Commission and the Village Councils of Beverly Hills, Bingham Farms, and Franklin have established a cablecasting board. The board shall continue to consist of 12 members, seven who are residents of the City of Birmingham who shall be appointed by the City of Birmingham, four who shall be residents of Beverly Hills who shall be appointed by that Village, one who shall be a resident of Bingham Farms who shall be appointed by that Village, and one who shall be a resident or appointed official of the Village of Franklin who shall be appointed by the Village. Each member shall also appoint one alternate representative. Members of the board shall serve without compensation and for such terms as their respective authorities shall determine. The City of Birmingham and the villages shall also have sole power to remove and/or replace their respective appointees.
- (b) Each of the board's member communities is encouraged to appoint an elected or appointed official of that community to act as a liaison to the board, to attend board meetings, and to participate in board discussions.
- (c) The Birmingham School District and the Baldwin Library are each also encouraged to appoint a representative to act as a liaison to the board and to participate in board discussions regarding matters relevant to their respective interests and constituencies.
- (d) Seven members of the board shall constitute a quorum and the affirmative vote of a majority of the full board shall be required for board action.

(Ord. No. 1540, § 2.2909, 11-9-92; Ord. No. 1724, 3-20-00; Ord. No. 1757, 6-11-01)

Birmingham City Commission Minutes
March 4, 2024
Municipal Building, 151 Martin
7:30 p.m.
Vimeo Link: <https://vimeo.com/912465280>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Elaine McLain, Mayor, opened the meeting with the Pledge of Allegiance.

II. ROLL CALL

City Clerk Bingham called the roll.

Present: Mayor McLain
Commissioner Baller
Commissioner Haig
Commissioner Host
Commissioner Long
Commissioner Longe

Absent: MPT Schafer

Staff: City Manager Ecker; City Clerk Bingham, Assistant City Manager Clemence, Assistant City Manager Fairbairn, City Engineer Coatta, Parking Systems Manager Ford, Police Chief Grewe, City Attorney Kucharek

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

The Commission motioned to have Commissioner Longe serve as temporary Mayor Pro Tem (tMPT) for the evening's meeting.

Announcements

- Happy Birthday Commissioner Baller

Appointments

Paul A. Eddleston was interviewed for potential appointment to the Multi-Modal Transportation Board (MMTB). While he was not nominated for a regular position, he was encouraged to apply for an alternate position on the Board.

03-054-24 Multi-Modal Transportation Board

The Commission interviewed Patrick Hillberg for the appointment.

MOTION: Nomination by Commissioner Host:
To appoint Patrick Hillberg as a regular member to the Multi-Modal Transportation Board to serve a three-year term to expire March 24, 2027.

VOICE VOTE: Ayes, tMPT Longe
Commissioner Long
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Baller

Nays, None

03-055-24 Multi-Modal Transportation Board

The Commission interviewed Gordon Davies for the appointment.

MOTION: Nomination by tMPT Longe:
To appoint Gordon Davies as a regular member to the Multi-Modal Transportation Board to serve a three-year term to expire March 24, 2027.

VOICE VOTE: Ayes, tMPT Longe
Commissioner Long
Commissioner Haig
Commissioner Host
Mayor McLain
Commissioner Baller

Nays, None

Commissioner Baller commented on the MMTB's charge and on the City's project review process and on the City's good fortune to have Messrs. Hillberg and Davies on the MMTB.

CC Bingham swore in the present appointees.

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

Jim Mirro and Lauren Buttazoni spoke in support of horizontal directional drilling on Arlington and Shirley.

V. CONSENT AGENDA

03-056-24 Consent Agenda

MOTION: Motion by tMPT Longe, seconded by Commissioner Long:
To move the Consent Agenda with the exception of Item J.

ROLL CALL VOTE: Ayes, Commissioner Host

tMPT Longe
Commissioner Long
Commissioner Haig
Mayor McLain
Commissioner Baller

Nays, None

- A. Resolution to approve the City Commission Workshop meeting minutes of February 5, 2024.
- B. Resolution to approve the City Commission regular meeting minutes of February 5, 2024.
- C. Resolution to approve the City Commission regular meeting minutes of February 12, 2024.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated February 15, 2024 in the amount of \$3,273,834.74.
- E. Resolution to approve the warrant list, including Automated Clearing House payments, dated February 23, 2024 in the amount of \$1,544,386.34.
- F. Resolution to approve the warrant list, including Automated Clearing House payments, dated February 28, 2024 in the amount of \$6,148,060.15.
- G. Resolution to approve a special event permit as requested by the Birmingham Shopping District to hold the Day on the Town event on July 27, 2024 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event, or event cancellation that may be deemed necessary by administrative staff, leading up to or at the time of the event.
- H. Resolution to approve a special event permit as requested by the Birmingham Shopping District to hold the Birmingham Farmers Market on Sundays from May 5 – October 27, 2024 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event, or event cancellation that may be deemed necessary by administrative staff, leading up to or at the time of the event.
- I. Resolution to approve a special event permit as requested by the Birmingham Shopping District to hold Birmingham Movie Nights on Friday June 7, July 19, August 9, and September 6, 2024 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event, or event cancellation that may be deemed necessary by administrative staff, leading up to or at the time of the event.

03-057-24 Edgewood Road Project — Contract #6-24(S) Contract Award (Item J)

Item J was pulled by Commissioner Haig. CE Coatta answered informational questions from the Commission.

Commissioner comments were as follows:

- The City uses horizontal directional drilling when the application is appropriate and dispelled the notion that staff was uninformed regarding the method.

MOTION: Motion by Commissioner Haig, seconded by tMPT Longe:
 To award the Edgewood Road Project #6-24(S) to Eminent Excavating LLC in the amount of \$2,225,421.50 and a 5% construction contingency for a total of \$2,336,692.58. In addition, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City contingent upon execution of the agreement and meeting all insurance and bond requirements by Eminent Excavating LLC. Funding for this project has been budgeted in the following accounts:

Fund Account	Fund ID Number	Project Award	5% Contingencies	Total
Local Street Fund	203.0-449.001-981.0100	\$1,306,002.78	\$65,300.14	\$1,371,302.92
Sewer Fund	590.0-537.000-981.0100	\$703,716.92	\$35,185.85	\$738,902.76
Water Fund	591.0-544.000-981.0100	\$245,701.80	\$12,285.09	\$257,986.89

AND

To approve the appropriation and amendment of the fiscal year 2023/2024 budget as follows:

Local Street Fund:

Revenues:

203.0-000.000-400.0000	Draw from Fund Balance	<u>\$691,310</u>
Total Revenue		<u>\$691,310</u>

Expenditures:

203.0-449.001-981.0100	Public Improvements	<u>\$691,310</u>
Total Expenses		<u>\$691,310</u>

Sewer Fund:

Revenues:

590.0-000.000-400.0000	Draw from Net Position	<u>\$528,910</u>
Total Revenue		<u>\$528,910</u>

Expenditures:

590.0-537.000-981.0100	Public Improvements	<u>\$528,910</u>
Total Expenses		<u>\$528,910</u>

Water Fund:

Revenues:

591.0-000.000-400.0000	Draw from Net Position	<u>\$127,990</u>
Total Revenue		<u>\$127,990</u>

Expenditures:		
591.0-544.000-981.0100	Public Improvements	<u>\$127,990</u>
Total Expenses		<u>\$127,990</u>

ROLL CALL VOTE: Ayes, Commissioner Host
tMPT Longe
Commissioner Long
Commissioner Haig
Mayor McLain
Commissioner Baller

Nays, None

VI. CITY MANAGER’S REPORT

The Commission asked that each Commission agenda include the date of the upcoming report if no report is included in the present agenda packet.

VII. UNFINISHED BUSINESS

VIII. NEW BUSINESS

03-058-24 North Adams Road Traffic Study

CE Coatta presented the item and answered informational questions from the Commission.

Commissioner comment was as follows:

- Three Commissioners shared support for the project;
- Correspondence from Russell Dixon was noted as received;
- A sidewalk over the west side of the bridge should be considered.

MOTION: Motion by tMPT Longe, seconded by Commissioner Host:

To direct the Engineering Department to proceed with the final design of the North Adams Road Project from Madison Street to the northern City limits to reduce the existing 4 lanes to 3 lanes, and to investigate installing a sidewalk on the west side of Adams Road to the northern City limits.

Commissioner comment was as follows:

- The City must consider how the project would address the potential sidewalk’s end at the northern City limits.
- An island could be considered.
- Staff should factor in those concerns when creating its project recommendations.

ROLL CALL VOTE: Ayes, Commissioner Host

tMPT Longe
Commissioner Long
Commissioner Haig
Mayor McLain
Commissioner Baller

Nays, None

03-059-24 2023-24 On-Street Parking Changes (Part I)

PSM Ford presented the item and answered informational questions from the Commission.

Commissioner comments were as follows:

- People should be encouraged to park in the decks if they were seeking to park for two hours or longer.
- The first two hours in the parking decks are free. Wayfinding should be used to encourage people parking for longer than two hours in the decks. The City should also ensure that the decks are inviting. The City should use policy to encourage parking behaviors that are beneficial to the City;
- Ticketing and signage should be used to discourage parking over 15 minutes in the 15 minute spaces. Signage should be used to deter parking in the striped areas on the road;
- While the 15 minute spaces could be trialed, the meters at those spaces should still require payment in order to encourage compliance. To evaluate the 15 minute spaces, the City could look at the number of citations written in those spaces, could see if there is a reduction in the number of instances and citations of inappropriate parking in the center turn lane, moped parking, and accessible parking areas, and observations can be made whether it seems there is less inappropriate parking. Since illegal parking in inappropriate areas is dangerous, adding 15 minute spaces would also possibly reduce an ongoing safety issue;
- There was a concern about the loss of revenue if the 15 minute spaces were provided free of charge. The bollards in the striped areas need to be permanent installations. Given some concerns about present parking enforcement challenges, it may be difficult to add the enforcement of the 15 minute spaces as well. The signage for the trial would cost money and the trial would reduce revenue;
- This was a reasonable pilot program and the Commission would have further opportunity for evaluation in the future;
- The City should maintain easy parking access whenever possible in order to be consumer-oriented.

Public Comment

Jim Arpin, APC member, said the BSD members should be encouraged to provide feedback during the trialed changes.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To expand the 15-minute short-term pilot program through downtown, between Brown St. and Harmon, and Woodward and Chester, to the designated 16 parking spaces, to include the parking

meters, to make the meters 15 minutes, and for it to be a six month pilot program once implemented.

ROLL CALL VOTE: Ayes, Commissioner Host
tMPT Longe
Commissioner Long
Commissioner Haig
Mayor McLain
Commissioner Baller

Nays, None

03-060-24 2023-24 On-Street Parking Changes (Part II)

MOTION: Motion by tMPT Longe, seconded by Commissioner Host:
To convert all one (1) hour parking meters to two (2) hour meters, except those on Maple between Old Woodward and Chester, and those on Old Woodward between Willits and Brown St., for a six month pilot program from implementation.

ROLL CALL VOTE: Ayes, Commissioner Host
tMPT Longe
Commissioner Long
Mayor McLain

Nays, Commissioner Baller
Commissioner Haig

03-061-24 Establishment of an Ad Hoc Senior/Recreation Center Committee

CM Ecker presented the item and answered informational questions from the Commission.

Commissioner comments were as follows:

- The committee should have two Commissioners and two NEXT representatives.
- Mr. Koseck's recommended committee structure should be adopted.
- There should be young people on the committee in addition to seniors.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To establish the Ad Hoc Senior/Recreation Center Committee for a term of 3 years, with the duties as outlined in the memorandum from February 21, 2024 from City Manager Jana Ecker 'Establishing the Ad Hoc Senior/Recreation Center Committee' and the duties defined therein, recommending the use of consultants for design and/or build services and/or the use of an owner's representative as soon as possible, and to direct the City Manager to serve as an ex-officio member of the committee to facilitate the oversight and provision of input on the planning and development of a senior/recreation center at 400 E. Lincoln.

Said Ad Hoc Committee to include nine members or their designee representing two Commissioners, one NEXT representative, one YMCA representative, one architect, one

MOTION: Motion by Commissioner Long, seconded by Commissioner Haig:
To put onto the next reasonable agenda how to better advertise board positions.

ROLL CALL VOTE: Ayes, Commissioner Host
tMPT Longe
Mayor McLain
Commissioner Baller
Commissioner Haig
Commissioner Long

Nays, None

Commission Discussion On Items From A Prior Meeting

The Commission motioned to review 'Cameras On Vehicles' and 'City Run Events and Sponsors' at a future meeting since meetings are not supposed to run much longer than 10 p.m. on nights with workshops.

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

A. Advisory Parking Committee Letter

It was noted this letter would be discussed at a future meeting per motion 03-062-24.

B. Shirley Arlington Letters

Commissioners noted they read all of the letters. Staff answered informational questions from the Commission.

Commissioner comments were as follows:

- It was unclear if the Ad Hoc Unimproved Street Study Committee had considered the Army Corps of Engineers' road specifications from the 1940s when conducting its study;
- Shirley and Arlington are unimproved by City standards, and will be improved after the conclusion of the project;
- The Commission and staff know the difference between an improved and unimproved road and the appropriate applications of horizontal directional drilling. Implying otherwise because one is dissatisfied with the Commission's decisions is irresponsible and engenders mistrust.

X. REPORTS

A. Commissioner Reports

1. Notice of intention to appoint to the Martha Baldwin Park Board
2. Notice of intention to appoint to the Housing Board of Appeals

- 3. Notice of intention to appoint to the Ad Hoc Senior/Recreation Center Committee
- B. Commissioner Comments

The Mayor congratulated a couple on their wedding and noted that Birmingham allows non-resident couples to be married by the Birmingham Mayor.

The Mayor and Commissioners Baller and Haig shared their responses to the Community House's recent survey.

Commissioner Longe noted that parking along Woodward had been changed to 15 minutes, and said it was an excellent step towards reducing Woodward noise.

The Mayor encouraged people to pay close attention at crosswalks.

- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation

The Mayor noted ongoing efforts to pass legislation regarding Woodward, and credited the City Manager and the Police Chief for their efforts on the topic thus far.

- E. City Staff
 - 1. 2nd Quarter Budget
 - 2. 2nd Quarter Investment
 - 3. Southeastern Oakland County Water Authority Quarterly Report
 - 4. Torry and Haynes Yield Sign Review

The Mayor recommended balloons for the sign, and said the sign was already benefiting the neighborhood.

INFORMATION ONLY

XI. ADJOURN

The Commission motioned to adjourn at 10:28 p.m.

Alexandria Bingham, City Clerk



Laura Eichenhorn, City Transcriptionist

Birmingham City Commission Minutes
March 18, 2024
Municipal Building, 151 Martin
7:30 p.m.
Vimeo Link: <https://vimeo.com/924747285>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Elaine McLain, Mayor, opened the meeting with the Pledge of Allegiance.

II. ROLL CALL

City Clerk Bingham called the roll.

Present: Mayor McLain
MPT Schafer
Commissioner Baller
Commissioner Haig
Commissioner Host
Commissioner Longe

Absent: Commissioner Long

Staff: City Manager Ecker; City Clerk Bingham, Assistant City Engineer Borton, Planning Director Dupuis, Assistant City Manager Fairbairn, Parking Systems Manager Ford, Police Chief Grewe, City Attorney Kucharek, Parks and Recreation Manager Laird, Department of Public Services Director Zielinski

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

Announcements

- Announcement regarding Pierce School threat
- The Ad Hoc Aging in Place Committee will accept Community Surveys until April 1, 2024. The Community Surveys can be mailed to City Hall or dropped off at City Hall, the Baldwin Public Library, The Birmingham Museum and Next. Access the survey on Engage Birmingham or bhamgov.org/aginginplacesurvey.
- The Clerk's Office would like to thank all of the Election Inspectors and City Staff that helped conduct a safe and successful 2024 Presidential Primary Election. We appreciate all of the voters who participated by voting early, absentee, or in-person voting. 28.5% of Birmingham registered voters participated, which exceeds the county-wide turnout of 26.6%. Official results are available at oakgov.com/elections under the 2024 elections tab.

Appointments

03-064-24 Planning Board

The Commission interviewed J. Bryan Williams, Jason Emerine, Stuart Jeffares, and Daniel Share for reappointments to the Planning Board. Nasseem Ramin also applied for reappointment and was not present for an interview.

MOTION: Nomination by Commissioner Baller:
To nominate Bryan Williams, Stuart Jeffares, and Dan Share for the positions of regular members for three year terms expiring March 28, 2027, and Jason Emerine and Nasseem Ramin for the alternate members for three year terms expiring March 28, 2027.

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

Nays, None

03-065-24 Architectural Review Committee

Larry Bertollini applied for reappointment and was not present for an interview.

MOTION: Nomination by Commissioner Host:
To appoint Larry Bertollini to the Architectural Review Committee as a regular member to serve a three-year term to expire April 11, 2027.

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

Nays, None

03-066-24 Parks and Recreation Board

Jessica Einstein was interviewed by the Commission. Susan Collins and Heather Carmona applied for reappointment and were not present for an interview.

MOTION: Nomination by Commissioner Longe:
To appoint Jessica Einstein, Susan Collins, and Heather Carmona to the Parks and Recreation Board as regular members to serve three-year terms to expire March 13, 2027.

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

Nays, None

03-067-24 Board of Ethics

The Commission interviewed Michael Minelli, Tina Marie Varlesi, Irene Hathaway, and Melissa Demorest LeDuc for the position.

MOTION: Nomination by Commissioner Longe:
To nominate Melissa Demorest LeDuc as an alternate member to the Board of Ethics to serve a three-year term to expire June 30, 2026.

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

Nays, Commissioner Haig
Commissioner Host

03-068-24 Board of Ethics

MOTION: Nomination by Commissioner Haig:
To nominate Irene Hathaway as an alternate member to the Board of Ethics to serve a three-year term to expire June 30, 2026.

VOICE VOTE: Ayes, Commissioner Haig
Commissioner Host

Nays, MPT Schafer
Commissioner Longe
Mayor McLain
Commissioner Baller

03-069-24 Ad Hoc Senior/Recreation Center Committee

The Commission interviewed Donald Rogers, Bert Koseck, and Jason Emerine.

MOTION: Nomination by Commissioner Baller:
To nominate Donald Rogers as the contractor, Bert Koseck as the architect, and Jason Emerine as the engineer on the Ad Hoc Senior/Recreation Center Committee each to a serve three-year term to expire March 4, 2027.

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

Nays, None

03-070-24 Ad Hoc Senior/Recreation Center Committee

MOTION: Nomination by Commissioner Longe:
To appoint Mayor McLain as a regular member from the City Commission to the Ad Hoc Senior/Recreation Center Committee to a serve three-year term to expire March 4, 2027.

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

Nays, None

Did not vote, Mayor McLain

03-071-24 Ad Hoc Senior/Recreation Center Committee

MOTION: Nomination by Commissioner Host:
To appoint Commissioner Haig as a regular member from the City Commission to the Ad Hoc Senior/Recreation Center Committee to a serve three-year term to expire March 4, 2027.

VOICE VOTE: Ayes, Commissioner Haig
Commissioner Host
Commissioner Baller

Nays, MPT Schafer
Commissioner Longe

Did not vote, Mayor McLain

03-072-24 Ad Hoc Senior/Recreation Center Committee

MOTION: Nomination by Mayor McLain:
To appoint Commissioner Long as a regular member from the City Commission to the Ad Hoc Senior/Recreation Center Committee to a serve three-year term to expire March 4, 2027.

VOICE VOTE: Ayes, MPT Schafer

Commissioner Longe
Mayor McLain

Nays, Commissioner Haig
Commissioner Host
Commissioner Baller

03-073-24 Board of Review

The Commission interviewed Rich Pennock.

MOTION: Nomination by Commissioner Baller:
To appoint Rich Pennock to the Board of Review as a regular member to serve a three-year term to expire December 31, 2026.

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

Nays, None

Noting motions 03-070-24 and 030-071-24 resulted in a tie, the Commission agreed to postpone the appointment of a second Commissioner to the Ad Hoc Senior/Recreation Center Committee to the next Commission meeting.

CC Bingham swore in the present appointees.

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

V. CONSENT AGENDA

03-074-24 Consent Agenda

MOTION: Motion by Commissioner Host, seconded by Commissioner Longe:
To approve the Consent Agenda items D, E, G, K, L, and M.

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

Nays, None

- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated March 14, 2024 in the amount of \$2,012,821.03.
- E. Resolution to approve a special event permit as requested by the City of Birmingham, Department of Public Services to hold the 2024 City of Birmingham In The Park Concert Series weekly June 7, 2024 – August 14, 2024 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event, or event cancellation that may be deemed necessary by administrative staff, leading up to or at the time of the event.
- G. Resolution to approve the budget amendment of \$132,774.75 for the Pierce Street Paving Project Contract. Further to charge the additional cost to the following accounts:

Fund Account	Fund ID Number	Amount
Major Street Fund	202.0-449.001-981.0100	\$53,121.51
Sewer Fund	590.0-537.000-981.0100	\$6,633.18
Water Fund	591.0-544.000-981.0100	\$73,020.06

AND

To approve the appropriation and amendment of the fiscal year 2023/2024 budget as follows:

Major Street Fund:

Revenues:

202.0-000.000-400.0000	Draw from Fund Balance	\$53,121.51
Total Revenue		<u>\$53,121.51</u>

Expenditures:

202.0-449.001-981.0100	Public Improvement	\$53,121.51
Total Expenses		<u>\$53,121.51</u>

Sewer Fund:

Revenues:

590.0-000.000-400.0000	Draw from Net Position	\$6,633.18
Total Revenue		<u>\$6,633.18</u>

Expenditures:

590.0-537.000-981.0100	Public Improvement	\$6,633.18
Total Expenses		<u>\$6,633.18</u>

Water Fund:

Revenues:

591.0-000.000-400.0000	Draw from Net Position	\$73,020.06
Total Revenue		<u>\$73,020.06</u>

Expenditures:		
591.0-544.000-981.0100	Public Improvement	<u>\$73,020.06</u>
Total Expenses		<u>\$73,020.06</u>

- K. Resolution to authorize Birmingham to apply for a Michigan Natural Resource Trust Fund grant through the Michigan Department of Natural Resources, and further directing the City Clerk to sign the resolution.
- L. Resolution to approve the 2023 Multi-Jurisdictional Oakland County Hazard Mitigation Plan, in addition, to authorize the Mayor and City Clerk to sign the resolution.
- M. Resolution to set a public hearing date of April 15, 2024 to consider the Special Land Use Permit Amendment, Final Site Plan and Design Review application for 245 S. Eton – Big Rock Italian Chophouse.

03-075-24 Birmingham City Commission Special Meeting Minutes - Workshop - March 4, 2024 (Item A)

Commissioner Baller removed Item A and recommended an addition to the minutes.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Longe:
To approve the City Commission workshop meeting minutes of March 4, 2024 as amended.

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

Nays, None

Birmingham City Commission Minutes - March 4, 2024 (Item B)

Commissioner Baller removed Item B.

After brief discussion, it was determined that the regular meeting minutes of March 4, 2024 would be revised and returned for approval at the next meeting.

03-076-24 Warrant List - 03/07/2024 (Item C)

Mayor McLain removed Item C, noting that payments were made to the 48th District Court.

MOTION: Motion by Commissioner Longe, seconded by Commissioner Host:
To approve the warrant list, including Automated Clearing House payments, dated March 7, 2024 in the amount of \$537,026.92.

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

Nays, None

03-077-24 Special Event Application: Celebrate Birmingham Hometown Parade (Item F)

Mayor McLain removed Item F to highlight the upcoming Hometown Parade.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To approve a special event permit as requested by the City of Birmingham to hold the Celebrate Birmingham Hometown Parade on May 19, 2024 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event, or event cancellation that may be deemed necessary by administrative staff, leading up to or at the time of the event.

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

Nays, None

03-078-24 Extenet Systems Small Cell and Pole Height Variance (Item H)

Commissioner Haig removed Item H. The Mayor summarized the item for the public. ACE Borton answered an informational question from the Commission.

MOTION: Motion by Commissioner Haig, seconded by Commissioner Host:
To approve the application for placement of Extenet Systems, LLC equipment on DTE's utility pole located at 910 Fairfax within 18 inches of the sidewalk, with a maximum height of 46' 2".

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

Nays, None

03-079-24 Michigan Department of Transportation Local Bridge Program Derby Road Bridge Replacement Application (Item I)

Commissioner Haig removed Item I. ACE Borton answered brief informational questions from the Commission.

MOTION: Motion by Commissioner Haig, seconded by Commissioner Host: Resolution of the City of Birmingham demonstrating support of the Derby Road bridge project and submittal of an application to the Michigan Department of Transportation for fiscal year 2027 funding assistance under their Local Bridge Program.

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

Nays, None

03-080-24 Parks and City Property Lawn Maintenance Services 2024-2027 (Item J)

Commissioner Haig removed Item J. Staff answered informational questions from the Commission.

Commissioners' comments were as follows:

- The City should put pressure on its lawn maintenance services to become more sustainable.
- While sustainable technology is changing quickly, using sustainable lawn maintenance services presently would represent a significant cost increase for the City.
- The City could ask Birmingham Lawn Maintenance & Snow Removal, Inc. to look into making its services more sustainable once the first year of the contract has been completed. This would allow for possible price decreases in the costs of sustainable technology.
- Birmingham Lawn Maintenance & Snow Removal, Inc. was offering four years of service to the City with no price increase, and the Commission has an obligation to be fiscally responsible. Birmingham Lawn Maintenance & Snow Removal, Inc. has also already proven that it can meet the City's standards.
- The City could encourage sustainable practices in other ways, such as No Mow May, without delaying this particular contract. The City can also emphasize its commitment to sustainability.
- The Commission would need to consider the increased workload if every Commission item first required a comment from the Sustainability Board. Additionally, there would be other ways to increase sustainability in the community, such as ceasing to treat the

medians for crabgrass and turning some of the medians into sustainable wildflower gardens.

MOTION: Motion by Commissioner Haig, seconded by Commissioner Longe:
To approve the purchase of Parks and City Property Lawn Maintenance Services 2024-2027 from Birmingham Lawn Maintenance & Snow Removal, Inc. for a total contract cost of \$698,004.00 in the following accounts for contractual services as follows:

Account	Year 1 (2024)	Year 2 (2025)	Year 3 (2026)	Year 4 (2027)	Total
Parks: 101.0- 751.000-811.0000	\$89,447	\$89,447	\$89,447	\$89,447	\$357,788
Property Maintenance: 101.0-441.003-811.0000	\$25,312	\$25,312	\$25,312	\$25,312	\$101,248
Well Sites: 591.0-537.002-811.0000	\$8,905	\$8,905	\$8,905	\$8,905	\$35,620
Local Streets: 203.0-449.003-937.0400	\$7,707	\$7,707	\$7,707	\$7,707	\$30,828
Major Streets: 202.0-449.003-937.0400	\$38,130	\$38,130	\$38,130	\$38,130	\$152,520
Grass/ Noxious Weed Enforcement: 101-441.007-811.0000	\$5,000	\$5,000	\$5,000	\$5,000	\$20,000

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

Nays, Commissioner Baller

03-081-24 Board of Ethics Member Resignation (Item N)

Commissioner Haig removed Item N and expressed appreciation for Mr. Schrot’s long period of service on the Board of Ethics. The Commissioner also encouraged some of the evening’s Board of Ethics applicants to reapply for the now-vacant position.

MOTION: Motion by Commissioner Haig, seconded by Commissioner Longe:
To accept the resignation of John J. Schrot, Jr. from the Ethics Board, to thank him for his service and to direct the City Clerk to begin the process of filling the vacancy.

ROLL CALL VOTE: Ayes, Commissioner Baller

MPT Schafer
Commissioner Longe
Commissioner Haig
Commissioner Host
Mayor McLain

Nays, None

VI. CITY MANAGER'S REPORT

CM Ecker presented the report and answered informational questions from the Commission.

Commissioners' comments were as follows:

- The Building Department Monthly Report and the Parking Report could include more detail and context.
- The report about February's Average Parking Capacity was likely inaccurate.

VII. UNFINISHED BUSINESS

VIII. NEW BUSINESS

03-082-24 Public Hearings – 2024 Outstanding Liquor License Renewals

The Mayor opened the public hearing at 9:22 p.m.

PD Dupuis presented the item.

Seeing no public comment, the Mayor closed the public hearing at 9:28 p.m.

Staff answered informational questions from the Commission.

Commissioners' comments were as follows:

- Unannounced inspections of Papa Joe's/Bistro Joe's would be appropriate given concerns that the seating may sometimes exceed the amount of seating permitted by the bistro ordinance.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Longe:
To approve the renewal of the liquor licenses for the 2024 licensing period for the following restaurants which hold Class C liquor licenses and are in compliance with Chapter 10, Alcoholic Liquors of the City Code: 220 Restaurant, Adachi, Sidecar/Slice/Shift, Social Kitchen and Bar, Toast, Zana, Employee Meal, and Market North End.

ROLL CALL VOTE: Ayes, Commissioner Baller
MPT Schafer
Commissioner Longe
Commissioner Haig

Commissioner Host
Mayor McLain

Nays, None

03-083-24 2024 Outstanding Liquor License Renewals – Papa Joe’s/Bistro Joe’s

MOTION: Motion by Commissioner Longe, seconded by Commissioner Haig:
To set a public hearing for April 15, 2024 to adopt a resolution to approve the renewal of liquor license for the 2024 licensing period for Papa Joe’s/Bistro Joe’s, which holds a Class C liquor license, that is in compliance with Chapter 10, Alcoholic Liquors of the City Code, and to request consideration of the memorandum of understanding, and to determine whether they are in violation or compliance with their Special Land Use Permit.

Public Comment

Kelly Allen, attorney, spoke on behalf of the owner of Papa Joe’s/Bistro Joe’s.

Tony Curtis, owner of Papa Joe’s/Bistro Joe’s, spoke regarding the item and answered informational questions from the Commission.

Commissioners’ comments were as follows:

- Observations from Commissioners and City staff indicate that table service in an unpermitted area likely occurred more than once. Papa Joe’s/Bistro Joe’s staff may have made counterfactual representations to City staff about the use of that area.
- Mr. Curtis should consider additional ways of discouraging his staff from seating customers seeking table service in the unpermitted area.
- While this is Papa Joe’s/Bistro Joe’s first violation of this type, the violation amounted to an excess of 38 seats.
- The City could still have an additional discussion on the item in order to educate the new manager of Papa Joe’s/Bistro Joe’s and ways of discouraging table service seating in the unpermitted area could still be explored.

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

Nays, None

03-084-24 Special Event Application: Next Level Summer Performance

Rona Fidler, co-owner of Next Level Summer Performance, spoke on behalf of the request.

Commissioners’ comments were as follows:

- Ms. Fidler received thanks for proposing this event.

- The City needs more events like this, and it would be helpful for Ms. Fidler to provide feedback on the City's special event process.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Longe:
To approve a special event permit as requested by the Next Level Dance Center to hold the Next Level Summer Performance on August 11, 2024 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event, or event cancellation that may be deemed necessary by administrative staff, leading up to or at the time of the event.

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

Nays, None

03-085-24 Special Event Application: Holy Name School Rosary 5K Walk

DeAnn Brzezinski, principal of Holy Name School, spoke on behalf of the request.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Haig:
To approve a special event permit as requested by the Holy Name Catholic School to hold the Holy Name School Rosary 5K Walk on May 31, 2024 contingent upon compliance with all permit and insurance requirements and payment of all fees and, further pursuant to any minor modifications that may be deemed necessary by administrative staff at the time of the event, or event cancellation that may be deemed necessary by administrative staff, leading up to or at the time of the event.

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

Nays, None

03-086-24 Professional Design Services – Booth Park Entry Plaza & Trail Improvements

DPSD Zielinski introduced the item and City staff answered questions from the Commission. Teams from MKSK, Grissim Metz Andriese (GMA) Associates, and PEA Group presented their proposals and also answered questions from the Commission.

Commissioners' comments were as follows:

- The location of the park restroom was chosen because of underground utilities and to make it more convenient for Farmers' Market visitors.
- This is an extant, functioning park, and the intended improvements would be relatively limited in terms of both scope and funding.
- MKSK's presentation did not meet expectations, and GMA Associates had a good presentation, are good architects, and addressed the issues.
- GMA Associates was the evident choice, given their enthusiasm, public engagement experience, and contextual sensitivity. PEA Group's response was beyond the scope of the project request.
- GMA Associates had a creative vision while demonstrating respect for the project's budgetary constraints.
- GMA Associates described public engagement experience within other highly engaged communities, demonstrated a respect for the parameters of project, and Hubbell, Roth & Clark, Inc.'s (HRC) familiarity with Birmingham would be a benefit.
- MKSK's presentation was insufficient. GMA Associates' sketches shown during their presentation were useful. HRC's familiarity with Birmingham, and their experience with water and watershed areas, would benefit this project as well. PEA Group's presentation was well done, and their willingness to propose new ideas was intriguing as well. There would be some concern that PEA Group would be out of scope very quickly. While GMA Associates was a more appropriate choice over PEA Group, PEA Group's approach should potentially be considered.
- GMA Associates' team would be the most beneficial for this project.

MOTION:

Motion by Commissioner Host, seconded by Commissioner Longe:

To approve Grissim, Metz, Andriese Associates as the selected consultant for professional design services for the Booth Park Entry Plaza and Trail Improvements project for the base bid amount of \$137,300, with a contingency of \$71,550 for potential alternates and additional meetings. Funding is available from the park improvements construction fund: account # 408.1-751.000-979.0000. In addition to authorize the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of the required insurance.

Commissioner comments were as follows:

- This experience offered lessons for the public improvement process. It might be useful to integrate a question on 'vision' to assess whether the respondents adequately understand the purpose of a project. It might also be useful to determine whether the respondents have visited the project site.
- An interview by the Commission will yield different information than an interview by staff, which should be considered. It might be possible to further refine the process a bit more.
- The budget should have been made clear in the presentation materials. It might be useful to have RFPs ask respondents for active site feedback.

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

Mayor McLain

Nays, None

Commission Items for Future Discussion

It was noted that a review of the City Manager would be on the next agenda.

03-087-24 Sustainability Board Report

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To ask for a report from the staff member responsible for, and the chair of, the Sustainability Board.

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

Nays, None

03-088-24 Commission Room Camera

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To discuss a camera mounted above the Commission if it can be done for less than \$1,000.

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

Nays, None

Commission Discussion On Items From A Prior Meeting

Cameras on City Cars

Staff was asked to return with information regarding whether the users of City-owned vehicles felt they could benefit from the installation of outward-facing vehicle cameras.

03-089-24 City Run Events and Sponsors

Commissioner Baller explained the topic.

Commissioner comments were as follows:

- This would be a worthwhile idea to explore further, and a value-added value engineering process could help with optimizing the costs.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Host:
To get a report from the City on spending more money on special events and a report from the City administration on why the cost to an event sponsor has increased.

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

Nays, None

Publicizing Board and Committee Openings

Commissioner Host explained the topic.

Commissioner comments were as follows:

- The City should publicize board and committee openings via social media video interviews of serving board members.
- The City could increase its efforts to publicize board openings via e-blast.

03-090-24 Advisory Parking Committee Letter

Commissioner Host explained the topic.

MOTION: Motion by Commissioner Host, seconded by Commissioner Haig:
To put the APC letter on the agenda.

Commissioner comments were as follows:

- City boards and committees begin with a specific mission, and evolve to meet the City's needs. Some decisions previously made by the APC would now be made by PSM Ford or the City Manager. The APC should not be made to feel that it is being disregarded. It could be valuable for the APC to work with City staff to create an onboarding book for new committee members. Staff could evaluate how the purview of the APC may have changed.
- It was positive that the APC submitted this letter to the Commission. It was valuable that the APC wanted further parking-related information and wanted to have further parking-related impacts.

Public Comment

Al Vaitas, Chair of the APC, and Jim Arpin, member of the APC, spoke regarding the APC.

VOICE VOTE: Ayes, Commissioner Baller

MPT Schafer
Commissioner Longe
Commissioner Haig
Commissioner Host
Mayor McLain

Nays, None

VIII. REMOVED FROM CONSENT AGENDA

IX. COMMUNICATIONS

A. Shirley Arlington Letters

Public Comment

Jim Mirro spoke regarding the letters.

Regarding the letters provided by Mr. Mirro, management of both MDOT and OCRC confirmed to City administration that none of their employees had been authorized to provide official opinions regarding Arlington and Shirley. Management of both organizations also noted that neither organization had authority over Arlington and Shirley.

Commissioner comments were as follows:

- By City definition, Arlington and Shirley are unimproved roads. Since both roads are unimproved, horizontal directional drilling is not a viable option. Public discourse around this project has sometimes mischaracterized the process. Some of the public discourse has also been confusing and threatening, which makes the process of making sound decisions more challenging. It would be helpful for the City to provide public links to the Commission's prior public discussion of Shirley and Arlington, and to provide estimated dates of future Commission discussion of both streets. As is the normal process, all Commission discussion and action regarding these streets will occur at public meetings.

X. REPORTS

A. Commissioner Reports

1. Notice of intention to appoint to the Board of Building Trades Appeals
2. Notice of intention to appoint to the Brownfield Redevelopment Authority
3. Notice of Intention to appoint to the Multi-Modal Transportation Board
4. Notice of Intention to appoint to the Ethics Board

B. Commissioner Comments

The Mayor attended MML CapCon and had the opportunity to discuss PFAS in Michigan.

C. Advisory Boards, Committees, Commissions' Reports and Agendas

1. Birmingham Area Cable Board Annual Report FY 2022-2023

The Mayor asked staff to provide further information regarding the administrative grants to the four interlocal communities.

D. Legislation

The Mayor said that efforts to reduce noise on Woodward were continuing.

E. City Staff

1. Planning Division Annual Report

Commissioner Baller said the report was good, that the report ended abruptly, and that efforts should be made to increase the capacities of the Multi-Modal Transportation Board.

INFORMATION ONLY

XI. ADJOURN

The Commission motioned to adjourn at 12:38 a.m.



Alexandria Bingham, City Clerk

Laura Eichenhorn, City Transcriptionist

City of Birmingham

Warrant List Dated 03/21/2024

Meeting of 04/08/2024

Check Number	Early Release	Vendor #	Vendor	Amount
<u>PAPER CHECK</u>				
297026	*	000855	48TH DISTRICT COURT	279.00
297027	*	000855	48TH DISTRICT COURT	500.00
297028		006638	ACTION MAT & TOWEL RENTAL, INC	40.00
297029		BDREFUND	ALLSHIRE BUILDING	200.00
297030		BDREFUND	ARMANDO GIUSEPPE INC	2,500.00
297031		BDREFUND	BOJI GROUP	700.00
297032		003526	BOUND TREE MEDICAL, LLC	100.19
297033		BDREFUND	C & L WARD BROS CO	500.00
297034		007134	CERTIFIED POWER, INC	472.78
297035		009836	CHYNA HARMON	68.76
297036	*	000627	CONSUMERS ENERGY	1,456.57
297037		008512	COOL THREADS EMBROIDERY	1,651.78
297038		BDREFUND	CRG ELECTRIC LLC	105.00
297039		000575	DEMCO, INC	216.56
297040		BDREFUND	DONS ELECTRICAL SERVICE INC	260.00
297041	*	000179	DTE ENERGY	21.34
297042	*	000179	DTE ENERGY	122.26
297043	*	000179	DTE ENERGY	67.82
297044	*	000180	DTE ENERGY	9,214.26
297045		004493	ELITE IMAGING SYSTEMS, INC	885.66
297046		001495	ETNA SUPPLY	3,100.00
297047	*	007366	FIRST ADVANTAGE OCCUPATIONAL CORP	169.05
297048		BDREFUND	FOUR SEASONS ROOFING & SHEET METAL	200.00
297049	*	004604	GORDON FOOD	367.43
297050		BDREFUND	GREAT LAKES CUSTOM BUILDER LLC	1,000.00
297051		009834	GT JERSEYS	6,536.23
297052		001447	HALT FIRE INC	1,437.10
297053	*	001956	HOME DEPOT CREDIT SERVICES	611.38
297054		000344	J.T. EXPRESS, LTD.	1,149.75
297055		BDREFUND	JAMES RICHARD VERVISCH	500.00
297056		BDREFUND	JAMES VERVISCH	250.00
297057		000347	JOHN R. SPRING & TIRE CENTER INC.	414.46
297058	*	000362	KROGER COMPANY	54.91
297059		BDREFUND	KURTIS KITCHEN & BATH CENTERS	400.00
297060		000784	LAKESHORE LEARNING	308.99
297061		003620	LANGUAGE LINE SERVICES INC	31.00
297062		BDREFUND	LEVINE & SONS INC	670.00
297063		000797	THE LIBRARY NETWORK	1,859.01
297064		009375	LITHIA MOTORS, INC SUPPORT SERVICES	1,240.99
297065		001669	MACP	940.00
297066		BDREFUND	MAINSTREET DESIGN & BUILD	700.00
297067		000230	MIKE SAVOIE CHEVROLET INC	490.66

City of Birmingham
Warrant List Dated 03/21/2024

Meeting of 04/08/2024

Check Number	Early Release	Vendor #	Vendor	Amount
297068		001950	MILLER CANFIELD PADDOCK AND	2,380.00
297069		009770	MOBILE COMMUNICATIONS AMERICA INC	9,482.00
297070		007163	MOBILE HEALTH RESOURCES	1,535.58
297071		BDREFUND	N A MANS & SONS INC	500.00
297072		BDREFUND	NEW ERA CONCRETE	100.00
297073		008687	NORTH BREATHING AIR, LLC	1,125.00
297074	*	000477	OAKLAND COUNTY	525,061.68
297075	*	004370	OCCUPATIONAL HEALTH CENTERS	891.00
297076	*	009478	ODP BUSINESS SOLUTIONS, LLC	59.67
297077		006785	OVERDRIVE, INC.	12,665.53
297078		MISC	OWEN ROBERT REIBSCHEID	60.00
297079	*	009835	PATRICK BRZOZOWSKI	104.18
297080		BDREFUND	PATRICK, ERNEST C.	1,000.00
297081		009698	PCI INDUSTRIES, INC	163,091.55
297082		009612	PLAYAWAY PRODUCTS LLC	149.98
297083		BDREFUND	REEM AKKAD DESIGN	500.00
297084		BDREFUND	Ryan Kelly	100.00
297085	*	002806	SAM'S CLUB/SYNCHRONY BANK	270.78
297086		BDREFUND	SHENEFELT, ROBERT CLARK	200.00
297087	*	007142	SHERWIN-WILLIAMS COMPANY	90.20
297088	*	009338	SPECIALIZED STEELWORKS, LLC	6,500.00
297089		BDREFUND	STERLING DEVELOPMENT CORP	500.00
297090	*	004914	STERLING HEIGHTS TREASURY	502.94
297091		BDREFUND	SW LUXURY HOMES	2,500.00
297092		007087	TECHRADIUM, INC	240.00
297093		BDREFUND	TRADEMARK CONSTRUCTION SERVICES	100.00
297094		BDREFUND	TRI PHASE COMMERCIAL CONST LLC	1,000.00
297095	*	004379	TURNER SANITATION, INC	315.00
297096	*	001279	US FIGURE SKATING ASSOC.	507.50
297097	*	000293	VAN DYKE GAS CO.	158.00
297098	*	000158	VERIZON WIRELESS	76.04
297099	*	000158	VERIZON WIRELESS	365.98
297100	*	000158	VERIZON WIRELESS	308.16
297101	*	000158	VERIZON WIRELESS	384.87
297102	*	000158	VERIZON WIRELESS	152.05
297103		BDREFUND	WEATHERGARD WINDOW CO INC	500.00
297104		009026	WELLS FARGO VENDOR FIN SERV	768.47
297105	*	004512	WOLVERINE POWER SYSTEMS	415.00
297106	*	009460	BRANDON WYNN	79.00
297107	*	008391	XEROX CORPORATION	67.94
297108		008902	ZORO TOOLS, INC.	1,467.00

SUBTOTAL PAPER CHECK

\$778,068.04

City of Birmingham
Warrant List Dated 03/21/2024

Meeting of 04/08/2024

Check Number	Early Release	Vendor #	Vendor	Amount
10290		003708	AIRGAS USA, LLC	373.72
10291	*	008655	ANGELO IAFRATE CONSTRUCTION	165,823.15
10292	*	000517	BEIER HOWLETT PC	22,525.52
10293	*	007345	BEVERLY HILLS ACE	69.55
10294		000605	CINTAS CORPORATION	186.84
10295	*	000605	CINTAS CORPORATION	178.02
10296		000605	CINTAS CORPORATION	29.56
10297	*	000605	CINTAS CORPORATION	132.30
10298		002234	CMP DISTRIBUTORS INC	2,980.00
10299		001750	COMERICA BANK	1,470.58
10299		001750	COMERICA BANK	303,995.09
10300		003176	COMERICA BANK - RHC	739.83
10300		003176	COMERICA BANK - RHC	98,930.19
10301		001367	CONTRACTORS CONNECTION INC	11.30
10302	*	009529	DAVEY RESOURCE GROUP, INC.	6,512.19
10303	*	009557	ZECO, LLC	330.00
10304	*	007538	EGANIX, INC.	720.00
10305		009250	ERIKA BASSETT	2,228.65
10306		000217	FOUR SEASON RADIATOR SERVICE INC	1,329.60
10307	*	000243	GRAINGER	500.42
10308	*	001663	SCOTT GREWE	144.16
10309	*	007870	J.C. EHRLICH CO. INC.	65.88
10310		000261	J.H. HART URBAN FORESTRY	32,315.56
10311	*	002576	JAX KAR WASH	220.00
10312	*	003458	JOE'S AUTO PARTS, INC.	531.65
10313	*	000891	KELLER THOMA	453.75
10314	*	004085	KONE INC	2,086.45
10315	*	005876	KROPF MECHANICAL SERVICE COMPANY	3,945.00
10316		008336	NBS COMMERCIAL INTERIORS	856.00
10317		001194	NELSON BROTHERS SEWER	1,226.00
10318	*	006853	PAUL C SCOTT PLUMBING INC	1,354.25
10319	*	001181	ROSE PEST SOLUTIONS	103.00
10320	*	000969	VIGILANTE SECURITY INC	85.00
10321	*	007278	WHITLOCK BUSINESS SYSTEMS, INC.	466.03
SUBTOTAL ACH TRANSACTION				\$652,919.24

City of Birmingham
Warrant List Dated 03/21/2024

Meeting of 04/08/2024

Check Number	Early Release	Vendor #	Vendor	Amount
GRAND TOTAL				\$1,430,987.28

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 03/28/2024

Meeting of 04/08/2024

Check Number	Early Release	Vendor #	Vendor	Amount
<u>PAPER CHECK</u>				
297109	*	000855	48TH DISTRICT COURT	466,481.00
297110	*	000855	48TH DISTRICT COURT	285.00
297111	*	006965	7UP DETROIT	255.20
297112		009699	ADVANCED VETERINARY MEDICAL CENTER	69.00
297113		BDREFUND	ALIMOFF BUILDING & DEVELOPMENT LLC	2,500.00
297114	*	009393	AMANDA MCBRIDE	720.00
297115		BDREFUND	Anne Hepler	100.00
297116		000881	APWA	864.00
297117		BDREFUND	ARANEAE INC	200.00
297118	*	006759	AT&T	340.03
297119	*	006759	AT&T	148.85
297120	*	006759	AT&T	179.02
297121	*	003703	AT&T MOBILITY	1,240.81
297122		BDREFUND	AVER SIGN COMPANY	200.00
297123		000843	BAKER & TAYLOR BOOKS	13.78
297124		009609	BALIAN LEGAL, PLC	1,560.00
297125		009568	BEDROCK EXPRESS LTD	679.37
297126	*	007129	BELFOR PROPERTY RESTORATION	2,000.00
297127		BDREFUND	BEST SIGNS	200.00
297128	*	002231	BILLINGS LAWN EQUIPMENT INC.	2,078.96
297129		BDREFUND	BIRMINGHAM KITCHEN (S) & BATH (S)	200.00
297130		003526	BOUND TREE MEDICAL, LLC	170.56
297131		006966	BRIDGESTONE GOLF, INC	58.08
297131	*	006966	BRIDGESTONE GOLF, INC	104.25
297132	*	000444	CDW GOVERNMENT INC	2,596.22
297133	*	009837	CHERYL VASSALLO	10.54
297134	*	000627	CONSUMERS ENERGY	5,237.22
297135		BDREFUND	DEROCHER INC.	50.00
297136		008191	DETROIT JEWISH NEWS	850.00
297137	*	000190	DOWNRIVER REFRIGERATION	295.84
297138	*	000179	DTE ENERGY	19.97
297139	*	000179	DTE ENERGY	8,029.18
297140	*	003253	ESRI, INC	11,405.41
297141		001495	ETNA SUPPLY	36.40
297142		BDREFUND	EXCELSIOR MICHIGAN LLC	300.00
297143	*	007415	EZ GOLF CART CO. INC	11,313.26
297144		BDREFUND	FELDMAN, ANN	100.00
297145		007314	FLEIS AND VANDENBRINK ENG. INC	5,208.00
297145	*	007314	FLEIS AND VANDENBRINK ENG. INC	1,780.00
297146		007212	FOSTER BLUE WATER OIL	1,867.14
297147		BDREFUND	FOUNDATION SYSTEMS OF MICHIGAN INC.	100.00
297148	*	009387	FRAIBERG & PERNIE PLLC	360.00

City of Birmingham
Warrant List Dated 03/28/2024

Meeting of 04/08/2024

Check Number	Early Release	Vendor #	Vendor	Amount
297149		007172	GARY KNUREK INC	1,626.12
297150	*	005103	GORNO FORD, INC.	47,243.00
297151	*	008007	GREAT LAKES WATER AUTHORITY	10,796.24
297152	*	006666	GRID 4 COMMUNICATIONS INC.	228.87
297153		BDREFUND	HESSEN, KEVIN L	100.00
297154		BDREFUND	Highland Landscape	100.00
297155	*	001956	HOME DEPOT CREDIT SERVICES	482.46
297156	*	007211	HOME DEPOT CREDIT SERVICES	49.82
297157		BDREFUND	HUGHES BUILDING LLC	100.00
297158		009839	IMPACT RESCUE LLC	1,170.00
297159	*	009401	IRENE S WASSEL	360.00
297160		BDREFUND	ITEC ENTERPRISES LLC	200.00
297161		004904	KONICA MINOLTA BUSINESS SOLUTIONS	1,741.45
297162		BDREFUND	L & L CONTRACTING	100.00
297163		BDREFUND	LAPIANA, LOUIS	1,750.00
297164	*	009386	LAW OFFICE OF BRIAN P. FENECH	360.00
297165	*	009388	LAW OFFICE OF PATRICK G. GAGNIUK	996.00
297166		009375	LITHIA MOTORS, INC SUPPORT SERVICES	268.03
297167		BDREFUND	LIVE WELL CUSTOM HOME LLC	2,000.00
297168		BDREFUND	MAKOS BUILDING CO	500.00
297169		BDREFUND	MC KINNEY BROS CARPENTRY INC	1,750.00
297170	*	000888	MCKENNA ASSOCIATES INC	47,817.76
297171		BDREFUND	METRO DETROIT SIGNS INC	200.00
297172	*	004663	MGIA-MICHIGAN GREEN INDUSTRY ASSOC.	275.00
297173		BDREFUND	MICHIGAN ASPHALT PAVING	200.00
297174		BDREFUND	MILLER, MATTHEW H	100.00
297175	*	001783	MMTA	198.00
297176		BDREFUND	MOSHER DOLAN	200.00
297177		BDREFUND	N A MANS & SONS INC	500.00
297178		BDREFUND	NC CEMENT	200.00
297179		BDREFUND	OAKES ROOFING SIDING & WINDOWS INC	100.00
297180	*	008712	OAKLAND COUNTY HEALTH DIVISION	298.00
297181	*	004370	OCCUPATIONAL HEALTH CENTERS	405.00
297182	*	009478	ODP BUSINESS SOLUTIONS, LLC	111.18
297183		003881	ORKIN PEST CONTROL	4,679.00
297184		009151	PARAGON LABORATORIES INC	1,025.00
297185		BDREFUND	PHELPS, JEFFREY F	100.00
297186		006432	ELISABETH PHOU	22.78
297187		008028	PK SAFETY SUPPLY	187.42
297188		BDREFUND	POWER HOME REMODELING GROUP	100.00
297189		005733	POWER LINE SUPPLY	58.87
297190	*	006625	PTS COMMUNICATIONS, INC	85.80
297191		BDREFUND	ROMA CEMENT CO INC	100.00

City of Birmingham
Warrant List Dated 03/28/2024

Meeting of 04/08/2024

Check Number	Early Release	Vendor #	Vendor	Amount
297192	*	007562	MIKE ROMANOWSKI	229.39
297193		BDREFUND	ROSEN, DAVID J	300.00
297194		BDREFUND	SACHSE CONSTRUCTION	100.00
297195		BDREFUND	SCHUSTER CONSTRUCTION	200.00
297196		009178	SERVICE GLASS COMPANY INC	130.00
297197		009548	SHARE CORPORATION	476.97
297198		BDREFUND	SIGNARAMA/FLINT	200.00
297199	*	009009	SIGNATURE CLEANING LLC	4,937.99
297200		BDREFUND	SIGNGRAPHIX, INC.	100.00
297201		004544	STRYKER SALES CORPORATION	2,946.60
297202		MISC	TANYA FARAH	25.99
297203		000286	TARGET SPECIALTY PRODUCTS	9,446.00
297204	*	009841	TEAM D3	2,340.00
297205	*	009384	THE EDITH BLAKNEY LAW FIRM, PLLC	360.00
297206		000275	TIRE WHOLESALERS CO INC	613.92
297207	*	MISC	TODD BORSE	71.02
297208		BDREFUND	TOWN BUILDING COMPANY	200.00
297209	*	009552	TRAFFIC & SAFETY CONTROL SYSTEMS	778.00
297210	*	000293	VAN DYKE GAS CO.	154.00
297211		009838	VANTAGE APPAREL	807.91
297212	*	000158	VERIZON WIRELESS	976.76
297213	*	000158	VERIZON WIRELESS	98.38
297214		BDREFUND	WALLSIDE INC	500.00
297215		BDREFUND	WEATHERGARD WINDOWS CO INC	500.00
297216		001490	WEST SHORE FIRE INC	316.68
297217	*	007278	WHITLOCK BUSINESS SYSTEMS, INC.	1,882.25
SUBTOTAL PAPER CHECK				\$687,784.75

ACH TRANSACTION

10322		007013	AHEAD USA LLC	1,490.03
10323	*	009383	BATTI LAW PLLC	852.00
10324	*	000517	BEIER HOWLETT P.C.	280.50
10325	*	000518	BELL EQUIPMENT COMPANY	2,657.63
10326	*	007345	BEVERLY HILLS ACE	31.46
10327	*	007624	BIRMINGHAM OIL CHANGE CENTER, LLC	70.97
10328		009183	BOB ADAMS TOWING	378.00
10329	*	003282	LISA MARIE BRADLEY	462.00
10330	*	009396	CECILIA QUIRINDONGO BAUNSOE	360.00
10331	*	009122	CLAIRE CHUNG	494.50
10332		000605	CINTAS CORPORATION	300.72
10333		000605	CINTAS CORPORATION	356.22
10334	*	009195	CROWN CASTLE FIBER LLC	4,651.25
10335		009181	DELTA TEMP SERVICES INC	6,257.54
10336	*	000565	DORNBOSCH & SAFETY INC	1,858.31

City of Birmingham
Warrant List Dated 03/28/2024

Meeting of 04/08/2024

Check Number	Early Release	Vendor #	Vendor	Amount
10337		001230	FIRE SYSTEMS OF MICHIGAN LLC	724.75
10338	*	000929	CONNIE FOLK	15.10
10339	*	000243	GRAINGER	396.28
10340	*	001672	HAYES PRECISION INC	235.00
10341	*	009382	HB LAW, PLLC	360.00
10342		007927	MICHELLE HOLLO	621.25
10343		000261	J.H. HART URBAN FORESTRY	52,759.65
10344		009298	JCR SUPPLY INC	604.93
10345	*	003458	JOE'S AUTO PARTS, INC.	178.48
10346	*	008827	KANOPY, INC	381.65
10347	*	009392	LAMB LEGAL CONSULTING SERVICES	360.00
10348	*	009385	LAW OFFICE OF MICHAEL J. DICK	1,164.00
10349	*	007977	KAREN LINGENFELTER	385.00
10350	*	009398	MARCIA C ROSS PC	702.00
10351		002013	MIDWEST TAPE	9,108.21
10352	*	001035	MUNICIPAL EMERGENCY SERVICES INC	49.46
10353		008336	NBS COMMERCIAL INTERIORS	294.00
10354	*	009706	NORTHSTAR MAT SERVICE	299.74
10355		001864	NOWAK & FRAUS ENGINEERS	77,968.00
10356	*	009395	ORLANDO LAW PRACTICE PC	360.00
10357	*	001753	PEPSI COLA	843.96
10358	*	000478	ROAD COMM FOR OAKLAND CO	1,241.51
10359	*	009301	SECURE-CENTRIC INC	1,512.00
10360	*	003785	SIGNS-N-DESIGNS INC	195.00
10361		000254	SOCRRA	76,801.00
10362		000273	TERMINAL SUPPLY CO.	197.00
10363		005861	UNIQUE MGMT SERVICE, INC	41.20
10364	*	009379	YELLOW DOOR LAW	6,576.00
SUBTOTAL ACH TRANSACTION				\$254,876.30
GRAND TOTAL				\$942,661.05

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 04/04/2024

Meeting of 04/08/2024

Check Number	Early Release	Vendor #	Vendor	Amount
<u>PAPER CHECK</u>				
297218		BDREFUND	220 PARK, LLC	10,000.00
297219		008309	ABSOLUTE LOCKSMITHS	175.00
297220	*	009346	ACCUFORM PRINTING & GRAPHICS, INC	5,848.00
297221	*	MISC	ADAM REDMOND	13.99
297222		009507	AIR HANDLERS SERVICE CORP.	853.00
297223	*	009126	AMAZON CAPITAL SERVICES INC	12.97
297224		BDREFUND	APG CONSTRUCTION LLC	300.00
297225	*	008988	ASTI ENVIRONMENTAL	2,185.00
297226	*	006759	AT&T	371.12
297227	*	006759	AT&T	3,798.10
297228		BDREFUND	BABI CONSTRUCTION INC	3,075.00
297229	*	MISC	BARTOLOMEO GIOIA	1,278.28
297230		BDREFUND	BCM HOME IMPROVEMENT	100.00
297231		BDREFUND	Benchmark Pool, LLC	1,000.00
297232		BDREFUND	BOJI GROUP	2,500.00
297233		003526	BOUND TREE MEDICAL, LLC	75.40
297234	*	MISC	BRANDON BOLEK-TOUBEAUX	60.00
297235		006966	BRIDGESTONE GOLF, INC	(577.52)
297235	*	006966	BRIDGESTONE GOLF, INC	1,282.21
297236		000433	BRODART COMPANY	59.56
297237		BDREFUND	BRR ARCHITECTURE	200.00
297238	*	MISC	CAMERON CRAWFORD	166.63
297239	*	003904	CAPITAL ONE BANK	26,263.55
297243		007732	CAPITAL TIRE, INC.	720.00
297244		008243	CHARTER TOWNSHIP OF BLOOMFIELD	558.08
297245	*	008006	CLEAR RATE COMMUNICATIONS, INC	1,650.72
297246		BDREFUND	CLOG BUSTERS	1,000.00
297247	*	000627	CONSUMERS ENERGY	5,388.84
297248	*	009145	CREATIVE COLLABORATIONS	3,800.00
297249	*	009549	DAN'S LAWN MAINTENANCE	1,400.00
297250	*	009715	DAVE'S CONTRACTING, INC.	8,129.00
297251		000575	DEMCO, INC	351.00
297252	*	008777	DESIGN INDUSTRY, LLC	42,950.00
297253		BDREFUND	DETROIT BUILD INC	200.00
297254	*	000190	DOWNRIVER REFRIGERATION	694.60
297255	*	000179	DTE ENERGY	140.00
297256		000179	DTE ENERGY	17.63
297257	*	000179	DTE ENERGY	3,218.69
297258	*	000179	DTE ENERGY	17.63
297259	*	000179	DTE ENERGY	1,772.71
297260	*	000179	DTE ENERGY	46.16
297261	*	000179	DTE ENERGY	18.40

City of Birmingham
Warrant List Dated 04/04/2024

Meeting of 04/08/2024

Check Number	Early Release	Vendor #	Vendor	Amount
297262	*	000179	DTE ENERGY	25.85
297263	*	000179	DTE ENERGY	23.49
297264	*	000179	DTE ENERGY	486.52
297265	*	000179	DTE ENERGY	213.31
297266	*	000179	DTE ENERGY	20.60
297267	*	000179	DTE ENERGY	1,919.55
297268	*	000179	DTE ENERGY	49.77
297269	*	000179	DTE ENERGY	287.98
297270	*	000179	DTE ENERGY	6,369.18
297271	*	000179	DTE ENERGY	1,960.89
297272	*	000179	DTE ENERGY	5,781.77
297273	*	000179	DTE ENERGY	28.49
297274		008164	GARY EISELE	84.42
297275		BDREFUND	FACILITIES MANAGEMENT GROUP	200.00
297276		BDREFUND	G & M GUTTER COMPANY INC	100.00
297277		MISC	GMAN EMBLEM	330.00
297278		BDREFUND	GREAT LAKES CUSTOM BUILDER LLC	2,000.00
297279		009030	SYNTHA GREEN	23.05
297280		BDREFUND	GUMMA GROUP, LLC	100.00
297281		001447	HALT FIRE INC	932.66
297282	*	001956	HOME DEPOT CREDIT SERVICES	406.08
297283		BDREFUND	HRH CONSTRUCTION LLC	1,000.00
297284		BDREFUND	INTERIORS UNLIMITED LLC	5,300.00
297285	*	MISC	JAMIE RICHARDS	277.12
297286		BDREFUND	K B C CONSTRUCTION LLC	750.00
297287		BDREFUND	KHAN, ZAFAR	100.00
297288		000797	THE LIBRARY NETWORK	1,712.00
297289		009375	LITHIA MOTORS, INC SUPPORT SERVICES	5,335.54
297290		BDREFUND	LYNCH CUSTOM HOMES	7,825.00
297291	*	009143	MICHAEL SHUKWIT	250.00
297292		BDREFUND	MICHIGAN ASPHALT PAVING	100.00
297293		000230	MIKE SAVOIE CHEVROLET INC	142.24
297294		008319	MKSK INC	1,837.50
297295		BDREFUND	OAKES ROOFING SIDING & WINDOWS INC	200.00
297296		002853	OAKLAND COMMUNITY COLLEGE	300.00
297297		000919	OAKLAND COUNTY TREASURER	21.25
297298	*	004370	OCCUPATIONAL HEALTH CENTERS	333.00
297299	*	UBREFUND	PAUL CHOUKOURIAN	437.80
297300		BDREFUND	PELLA WINDOWS & DOORS, INC.	500.00
297301		BDREFUND	PETRUCCI HOMES/MICHAEL PETRUCCI	1,075.00
297302		006959	PHOENIX COMMUNICATIONS & CABLING	705.13
297303		009612	PLAYAWAY PRODUCTS LLC	638.90
297304		001132	PRIMO'S PIZZA	212.60

City of Birmingham
Warrant List Dated 04/04/2024

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Check Number	Early Release	Vendor #	Vendor	Amount
297305		BDREFUND	REGER, ANDREAS	100.00
297306		BDREFUND	RENEWAL BY ANDERSEN	500.00
297307		BDREFUND	ROBERT J SOWLES	100.00
297308	*	002806	SAM'S CLUB/SYNCHRONY BANK	328.22
297309		BDREFUND	SCHULTZ ROOFING	100.00
297310		MISC	SENTRY AIR SYSTEMS INC	978.72
297311		BDREFUND	SMITH, STEPHEN T	100.00
297312		BDREFUND	Terry Glime	100.00
297313	*	009608	THE ROSSOW GROUP	195.00
297314		BDREFUND	THE BENEICKE GROUP	100.00
297315		BDREFUND	TOWN BUILDING COMPANY	2,400.00
297316	*	004379	TURNER SANITATION, INC	340.00
297317	*	000293	VAN DYKE GAS CO.	123.20
297318	*	000158	VERIZON WIRELESS	907.08
297319	*	004497	WATERFORD REGIONAL FIRE DEPT.	196.00
297320	*	004512	WOLVERINE POWER SYSTEMS	2,975.54
SUBTOTAL PAPER CHECK				\$191,054.20

ACH TRANSACTION

10368	*	001357	ART/DESIGN GROUP LTD	292.50
10369	*	000518	BELL EQUIPMENT COMPANY	2,179.39
10370		007875	CANFIELD EQUIPMENT SERVICE INC.	491.60
10371		009122	CLAIRE CHUNG	408.25
10372		000605	CINTAS CORPORATION	233.37
10373		000605	CINTAS CORPORATION	49.56
10374	*	000605	CINTAS CORPORATION	1,509.97
10375	*	009540	CIVICPLUS, LLC	500.00
10376		003633	CLARKE MOSQUITO CONTROL PRODUCT INC	11,797.63
10377		002668	CONTRACTORS CLOTHING CO	498.28
10378		001367	CONTRACTORS CONNECTION INC	112.60
10379	*	009557	ZECO, LLC	550.00
10380	*	000565	DORNBOS SIGN & SAFETY INC	474.23
10381	*	003801	JANA ECKER	500.00
10382		001230	FIRE SYSTEMS OF MICHIGAN LLC	179.00
10383	*	000243	GRAINGER	534.24
10384	*	008851	INSIGHT INVESTMENT	6,832.79
10385		009249	JCC CREATIVE LLC	450.00
10386	*	003458	JOE'S AUTO PARTS, INC.	479.47
10387		002013	MIDWEST TAPE	742.04
10388	*	001194	NELSON BROTHERS SEWER	636.00
10389		007755	NETWORK SERVICES COMPANY	1,354.50
10389	*	007755	NETWORK SERVICES COMPANY	1,623.71
10390		001864	NOWAK & FRAUS ENGINEERS	1,780.00
10391	*	006359	NYE UNIFORM COMPANY	138.45

City of Birmingham
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Check Number	Early Release	Vendor #	Vendor	Amount
10392	*	001753	PEPSI COLA	562.17
10393	*	000897	PRINTING SYSTEMS INC	535.70
10394		006729	QUENCH USA INC	417.12
10395	*	005344	RESERVE ACCOUNT	8,000.00
10396	*	001181	ROSE PEST SOLUTIONS	158.00
10397	*	007514	SIGNS BY CRANNIE, INC.	4,315.65
10398	*	003785	SIGNS-N-DESIGNS INC	510.00
10399		005787	SOUTHEASTERN EQUIPMENT CO. INC	611.00
SUBTOTAL ACH TRANSACTION				\$49,457.22
GRAND TOTAL				\$240,511.42

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

Police Department

DATE: April 1, 2024

TO: Jana L. Ecker, City Manager

FROM: Chris Koch, Investigative Captain

APPROVED BY: Scott A. Grewe, Police Chief

SUBJECT: PROGRAM YEAR 2024 HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA) SUBRECIPIENT AGREEMENT BETWEEN THE COUNTY OF OAKLAND AND CITY OF BIRMINGHAM Unique Entity Identifier (UEI) #: J32HKEJRJNJS

INTRODUCTION:

The Police Department is a member of the Oakland County Sheriff's Office Narcotic Enforcement Team (NET) by an approved inter-local agreement between the City and Oakland County. In addition to Birmingham, thirteen other communities are also members of NET by the inter-local agreement.

BACKGROUND:

In 2024, with the permission and cooperation of all thirteen member agencies, the Oakland County Sheriff's Office applied for a grant through the Executive Board for Michigan High Intensity Drug Trafficking Area (HIDTA) requesting the United States Office of Drug Control Policy (ONDCP) grant NET an award of \$132,300.00 for the program year 2024 (January 1, to December 31, 2024). The grant award will allow partial funding for overtime reimbursement of NET investigators for drug investigations. Oakland County will reimburse the City up to \$6,000.00 for qualifying NET related overtime.

LEGAL REVIEW:

Legal counsel reviewed the sub recipient agreement and had no objections to form or content.

FISCAL IMPACT:

The City of Novi is listed on the HIDTA contract as they have been selected as the fiduciary for the grant. If approved, the City would receive grant funding reimbursement from Oakland County up to \$6,000 for qualifying NET related overtime.

SUSTAINABILITY:

N/A

PUBLIC COMMUNICATIONS:

N/A

SUMMARY:

In order to receive funds from the grant, the City of Birmingham is required to enter into a sub recipient agreement with Oakland County. The purpose of the agreement is to delineate the relationship and responsibilities regarding the County's use of grant funds to reimburse municipalities for overtime incurred as it relates to participation in the Oakland County Narcotic Enforcement Team (NET).

ATTACHMENTS:

1. Program Year 2024 High Intensity Drug Trafficking Area (HIDTA) sub recipient Agreement between the County of Oakland and the City of Birmingham.
2. Program Year 2024 High Intensity Drug Trafficking Area (HIDTA) Exhibits A-E.

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to approve the Program Year 2024 High Intensity Drug Trafficking Area (HIDTA) sub recipient agreement between the County of Oakland and the City of Birmingham. Further, to authorize the Mayor to sign the agreement on behalf of the City.

**PROGRAM YEAR 2024
HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA)
SUBRECIPIENT AGREEMENT BETWEEN
THE COUNTY OF OAKLAND AND CITY OF BIRMINGHAM
Unique Entity Identifier (UEI) #: J32HKEJRJN8**

This Agreement is made between Oakland County, a Constitutional Corporation, 1200 North Telegraph, Pontiac, Michigan 48341 ("County") and City of Birmingham, 151 Martin St., Birmingham, MI 48009, a Michigan Municipal Corporation ("Municipality"). The County and Municipality shall be collectively referred to as the "Parties."

PURPOSE OF AGREEMENT.

The Parties enter into this Agreement for the purpose of delineating their relationship and responsibilities regarding the County's use of Grant funds (defined below) to reimburse the Municipality for overtime expenses that it incurred related to its participation in the Oakland County Narcotic Enforcement Team ("N.E.T."), a multijurisdictional drug enforcement task force under the direction and supervision of the Oakland County Sheriff's Office ("OCSO").

Under the Parties' separate N.E.T. agreement, the Municipality is responsible for providing a full-time employee for participation in N.E.T. and for all costs associated with that employment, including overtime.

The County, as the legal entity that administers N.E.T., submitted an Initiative Description and Budget Proposal (Exhibit A) to the Executive Board for Michigan HIDTA requesting the United States Office of National Drug Control Policy ("ONDCP") to grant N.E.T. an award for program year (PY) 2024 to reimburse N.E.T. participating agencies for eligible law enforcement officer overtime. PY 2024 begins January 1, 2024, and ends December 31, 2024.

If ONDCP grants N.E.T. an award for PY 2024, the ONDCP disburses the HIDTA grant funds to the City of Novi. To receive the Grant funds for overtime costs, N.E.T. must submit requests for reimbursement with the required supporting documentation to Michigan HIDTA. If Michigan HIDTA approves the N.E.T. overtime reimbursement requests, the City of Novi should distribute the Grant funds to County on behalf of N.E.T. The County has the authority to allocate a portion of the Grant funds to reimburse the Municipality for qualifying overtime costs subject to the terms and conditions of this Agreement.

In consideration of the mutual promises, obligations, representations, and assurances in this Agreement, the Parties agree to the following:

- DEFINITIONS.** The following terms, whether used in the singular or plural, within or without quotation marks, or possessive or nonpossessive, shall be defined, read, and interpreted as follows:

2024 HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA) GRANT
SUBRECIPIENT AGREEMENT BETWEEN
OAKLAND COUNTY
AND
CITY OF BIRMINGHAM

- 1.1. **Claim** means any alleged loss, claim, complaint, demand for relief or damages, cause of action, proceeding, judgment, deficiency, liability, penalty, fine, litigation, costs, and/or expenses, including, but not limited to, reimbursement for attorney fees, witness fees, court costs, investigation expenses, litigation expenses, and amounts paid in settlement, which are imposed on, incurred by, or asserted against the County or Municipality, or the County’s or Municipality’s agents or employees, whether such claim is brought in law or equity, tort, contract, or otherwise.
- 1.2. **Grant funds** mean the funds that may be awarded to the County and the other participating agencies in N.E.T. pursuant to Michigan HIDTA Initiative Description and Budget Proposal Version 2024 (Exhibit A) submitted to Michigan HIDTA by County on behalf of itself and the other participating agencies in N.E.T.

2. EXHIBITS. The Exhibits listed below are incorporated and are part of this Agreement.

- 2.1. **Exhibit A** – Michigan HIDTA Initiative Description and Budget Proposal Version 2024.
- 2.2. **Exhibit B** - Template Request for HIDTA Overtime Reimbursement (Locals to County).
- 2.3. **Exhibit C** – Sample letter regarding notification of current overtime pay rate.
- 2.4. **Exhibit D** – Sample overtime slip, signed by the officer’s supervisor that supports each Request for HIDTA Overtime Reimbursement.
- 2.5. **Exhibit E** – Sample paystub or payroll report that supports each Request for HIDTA Overtime Reimbursement.

3. FEDERAL AWARD PROJECT DESCRIPTION.

- 3.1. Catalog of Federal Domestic Assistance (“CFDA”) #: 95.001
- 3.2. Federal Awarding Agency: United States Office of National Drug Control Policy (“ONDCP”)
- 3.3. Program: High Intensity Drug Trafficking Areas (HIDTA)
 - 3.3.1. HIDTA Objective: To reduce drug trafficking and drug production in the United States by: (A) facilitating cooperation among Federal, State, local, and tribal law enforcement agencies to share information and implement coordinated enforcement activities; (B) enhancing law enforcement intelligence sharing among Federal, State, local, and tribal law enforcement agencies; (C) providing reliable law enforcement intelligence to law enforcement agencies needed to design effective enforcement strategies and operations; and (D) supporting coordinated law enforcement strategies which maximize use of available resources to reduce the supply of illegal drugs in designated areas and in the United States as a whole.
- 3.4. Period of Performance: January 1, 2024, through December 31, 2024.

2024 HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA) GRANT
 SUBRECIPIENT AGREEMENT BETWEEN
 OAKLAND COUNTY
 AND
 CITY OF BIRMINGHAM

3.5. The Federal Award Identification Number (FAIN) is provided in the HIDTA Grant Agreement between ONDCP and the City of Novi, which is incorporated into this Agreement by reference.

4. USE OF HIDTA FUNDS.

4.1. The total amount of the federal award for overtime costs committed to the Municipality and obligated by this action by the County to the Municipality is not to exceed **\$6,000.00** for each participating law enforcement officer unless otherwise provided herein. That amount is based on the number of N.E.T participating agencies and eligible law enforcement officers at the time this Agreement was executed by both Parties. If the number of N.E.T participating agencies and/or eligible law enforcement officers changes during the term of this Agreement, the total amount of the federal award for overtime costs committed to the Municipality and obligated by this action by the County to the Municipality amount may change as funds are available on a pro rata basis. Such commitment and obligation for overtime costs is contingent upon the ONDCP awarding the Grant funds to N.E.T and the City of Novi reimbursing the County.

4.2. The County will reimburse the Municipality up to **\$6,000.00** for each participating law enforcement officer for qualifying N.E.T.-related overtime unless otherwise provided herein. That amount is based on the number of N.E.T participating agencies and eligible law enforcement officers at the time this Agreement was executed by both Parties. If the number of N.E.T participating agencies and/or eligible law enforcement officers changes during the term of this Agreement, the maximum reimbursement amount may change as funds are available on a pro rata basis. Such reimbursement shall only be made after the supporting documentation is submitted by the Municipality and approved by the County, as described in Paragraph 5.1. Such reimbursement is contingent upon the ONDCP awarding the grant funds to N.E.T and the City of Novi reimbursing the County.

4.2.1. HIDTA funds shall be used to pay overtime only if the overtime was performed in support of a HIDTA-designated Enforcement initiative or Intelligence and information Sharing Initiative. HIDTA funds shall not be used to pay overtime related to training attendance, financial management, drug treatment, drug demand reduction or prevention, or non-investigative related administrative work.

4.2.2. No HIDTA funds shall be used to supplant the Municipality's funds that would otherwise be made available for the same purposes.

4.3. There is no research and development performed pursuant to this Agreement.

4.4. No indirect costs shall be charged or reimbursed under performance of this Agreement.

5. REIMBURSEMENT OF ELIGIBLE N.E.T. OVERTIME.

5.1. To request reimbursement for eligible N.E.T. overtime costs, the Municipality shall submit to the County the documentation described in the following subparagraphs no later than thirty (30) days after PY 2024 has expired. If the County, in its sole discretion, determines that the

2024 HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA) GRANT
SUBRECIPIENT AGREEMENT BETWEEN
OAKLAND COUNTY
AND
CITY OF BIRMINGHAM

documentation submitted by the Municipality does not reconcile, then the Municipality shall provide any additional documentation requested by the County in order to process payment.

- 5.1.1. A fully completed and signed Request for HIDTA Overtime Reimbursement attached as Exhibit B.
- 5.1.2. A letter substantively similar to the sample letter regarding notification of current overtime pay rate attached as Exhibit C.
- 5.1.3. Overtime slips, signed by the officer’s supervisor, that support each Request for HIDTA Overtime Reimbursement. The overtime slips shall be substantively similar to the sample overtime slip attached as Exhibit D.
- 5.1.4. The paystub or payroll report that supports each Request for HIDTA Overtime Reimbursement. The paystub or payroll report shall be substantively similar to the sample paystub attached as Exhibit E.
- 5.2. County will only reimburse Municipality for approved overtime costs after County has received the Grant funds from the City of Novi for that particular reimbursement request.

6. GENERAL COMPLIANCE.

- 6.1. The Municipality shall comply with to 28 C.F.R. Part 69 (New Restrictions on Lobbying) and 2 C.F.R. Part 25 (Universal Identifier and System of Award Management).
- 6.2. The Municipality shall comply with the Government-wide Suspension and Debarment provision set forth at 2 CFR Part 180.
- 6.3. The Municipality shall perform all activities in accordance with The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200 (the “Part 200 Uniform Requirements”), as adopted and implemented by the Office of National Drug Control Policy (ONDCP) in 2 C.F.R. Part 3603. For this award, the Part 200 Uniform Requirements supersede, among other things, the provisions of 28 C.F.R. Parts 66 and 70, as well as those of 2 C.F.R. Parts 215, 220, 225, and 230.
- 6.4. The Municipality shall comply with ONDCP’s HIDTA Program Policy and Budget Guidance, all other applicable Federal, state, and local laws and regulations, and the terms and conditions contained in this Agreement.
- 6.5. The Municipality shall comply with all applicable requirements for subrecipients that are provided in the HIDTA Grant Agreement between ONDCP and the City of Novi. The HIDTA Grant Agreement between ONDCP and the City of Novi will be provided to the Municipality within a reasonable time after the County receives a copy of it.
- 6.6. As specified in the HIDTA Program Policy and Budget Guidance, the Municipality must:

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- 6.6.1. Establish and maintain effective internal controls over the Federal award that provides reasonable assurance that Federal award funds are managed in compliance with Federal statutes, regulations and award terms and conditions. These internal controls should be in compliance with the guidance in “Standards for Internal Control in the Federal Government,” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework,” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- 6.6.2. Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- 6.6.3. Evaluate and monitor compliance with applicable statute and regulations, and the terms and conditions of the Federal award.
- 6.6.4. Take prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings.
- 6.6.5. Take reasonable measures to safeguard protected personally identified information (PII) and other information ONDCP or the Municipality designates consistent with applicable Federal, state, and local laws regarding privacy and obligations of confidentiality.

7. FINANCIAL ACCOUNTABILITY AND AUDIT REQUIREMENTS.

- 7.1. The Municipality shall maintain standards of financial accountability that conform to 2 C.F.R. §200.302 (Financial Management) and 2 C.F.R. §200.303 (Internal Controls).
- 7.2. The Municipality shall comply with audit requirements contained in 2 C.F.R. Part 200, Subpart F, which requires the Municipality to have an annual audit conducted within nine (9) months of the end of their fiscal year, if the Municipality has an aggregate expenditure of more than \$750,000 in federal funds in a fiscal year. Any deficiencies noted in audit reports must be fully cleared by the Municipality within thirty (30) days after receipt of same. The Grant funds spent by the County on behalf of the Municipality for training expenses shall be included on the Schedule of Expenditures of Federal Awards if the Municipality is required to have a single audit performed. Municipalities that are exempt from the Single Audit requirements that receive less than \$750,000 of total Federal funding must submit a Financial Statement Audit prepared in accordance with Generally Accepted Auditing Standards (“GAAS”) if the audit includes disclosures that may negatively impact the HIDTA program including, but not limited to fraud, financial misstatements, and violations of any contract or grant provisions. The County shall have the right to review and audit all records of the Municipality pertaining to any payment by the County.

8. CONFLICT OF INTEREST.

- 8.1. The Municipality shall comply with the following ONDCP conflict of interest policies:

- 8.1.1. As a non-Federal entity, you must maintain written standards of conduct covering conflicts of interest and governing the performance of your employees engaged in the selection, award, and administration of subawards and contracts.
- 8.1.2. None of your employees may participate in the selection, award, or administration of a subaward or contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from an organization considered for a subaward or contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from subrecipients or contractors or parties to subawards or contracts.
- 8.1.3. If you have a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, you must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, you are unable or appear to be unable to be impartial in conducting a sub-award or procurement action involving a related organization.

9. MANDATORY DISCLOSURE.

- 9.1. As a non-Federal entity, the Municipality must disclose, in a timely manner, in writing to ONDCP all violations of Federal criminal law involving fraud, bribery or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award that includes the term and condition outlined in 200 CFR Part 200, Appendix XII “Award Term and Condition for Recipient Integrity and Performance Matters,” are required to report certain civil, criminal, or administrative proceedings to System for Award Management (SAM). Failure to make required disclosures can result in remedies such as: temporary withholding of payments pending correction of the deficiency, disallowance of all or part of the costs associated with noncompliance, suspension, termination of award, debarment, or other legally available remedies outlined in 2 CFR 200.338 “Remedies for Noncompliance”.

10. RECORD RETENTION.

- 10.1. The Municipality shall comply with the record retention provisions of 2 C.F.R. 200.333 (Retention requirements for records).
- 10.2. The Municipality should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine readable formats rather than in closed formats or on paper in accordance with 2 C.F.R. 200.335 (Methods for collection, transmission and storage of information).

11. ACCESS TO RECORDS.

- 11.1. The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the County, or any of their authorized representatives, have the right of access to any documents, papers, or other records of the Municipal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the Municipality's personnel for the purpose of interview and discussion related to such documents. The right of access to the Municipality's records is not limited to the required retention period but last as long as the records are retained.
- 11.2. The Municipality shall permit the County and auditors to have access to the Municipality's records and financial statements as necessary for the County to meet the requirements of 2 C.F.R. Part 200.

12. TERM.

- 12.1. This Agreement and any amendments hereto shall be effective when executed by both Parties with concurrent resolutions passed by the governing bodies of each Party, and when the Agreement is filed according to MCL 124.510. The approval and terms of this Agreement and any amendments hereto shall be entered in the official minutes of the governing bodies of each Party. This Agreement shall end on December 31, 2024.

13. ASSURANCES.

- 13.1. Each Party shall be responsible for its own acts and the acts of its employees and agents, the costs associated with those acts, and the defense of those acts.
- 13.2. The Parties have taken all actions and secured all approvals necessary to authorize and complete this Agreement. The persons signing this Agreement on behalf of each Party have legal authority to sign this Agreement and bind the Parties to the terms and conditions contained herein.
- 13.3. Each Party shall comply with all federal, state, and local ordinances, regulations, administrative rules, laws, and requirements applicable to its activities performed under this Agreement.

14. TERMINATION OF AGREEMENT.

- 14.1. This Agreement may be terminated in whole or in part as follows:
 - 14.1.1. by the County, if the Municipality fails to comply with the terms and conditions of this Agreement;
 - 14.1.2. by the County for cause;

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14.1.3. by the County with the consent of the Municipality, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;

14.1.4. by the Municipality upon sending to the County written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the County determines in the case of partial termination that the reduced or modified portion of the subaward will not accomplish the purpose for which this Agreement was made, the County may terminate the Agreement in its entirety.

14.2. The County must provide to the Municipality a notice of termination. Written suspension or notice of termination will be sent to the Municipality’s business address. If this Agreement is terminated or partially terminated, both the County and the Municipality remain responsible for compliance with the requirements at 2 CFR 200.343 Closeout and 2 CFR 200.344 Post-closeout Adjustments and Continuing Responsibilities.

15. CLOSEOUT.

15.1. The County shall close-out this Agreement when it determines that all applicable administrative actions and all required work under this Agreement have been completed by Municipality.

15.2. The Municipality shall comply with the closeout provisions of 2 C.F.R. 200.343 (Closeout).

16. POST-CLOSEOUT ADJUSTMENTS AND CONTINUING RESPONSIBILITIES.

16.1. The closeout of this Agreement does not affect any of the following:

16.1.1. The right of County to disallow costs and recover funds on the basis of a later audit or other review. The County must make any cost disallowance determination and notify the Municipality within the record retention period;

16.1.2. The obligation of the Municipality to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments;

16.1.3. Audit requirements in Subpart F—Audit Requirements of 2 C.F.R. Part 200.

16.1.4. Records retention as required in Subpart D—Post Federal Award Requirements of this part, §200.333 Retention requirements for records through §200.337 Restrictions on public access to records.

17. REMEDIES FOR NONCOMPLIANCE.

17.1. If the Municipality fails to comply with federal statutes, regulations, or the terms and conditions of this Agreement, the County may impose additional conditions, as described in 2 CFR §200.207 Specific Conditions. If the County determines that noncompliance cannot be

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remedied by imposing additional conditions, the County may take one or more of the following actions, as appropriate in the circumstances:

- 17.1.1. temporarily withhold cash payments pending correction of the deficiency by the Municipality or more severe enforcement action by the County;
- 17.1.2. disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
- 17.1.3. wholly or partly suspend or terminate the Agreement;
- 17.1.4. recommend that the Federal awarding agency initiate suspension or debarment proceedings as authorized under 2 CFR Part 180 and Federal awarding agency regulations;
- 17.1.5. withhold further funds for the project or program;
- 17.1.6. take other remedies that may be legally available.

18. NO THIRD-PARTY BENEFICIARIES. Except as provided for the benefit of the Parties, this Agreement does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to indemnification, right to subrogation, and/or any other right, in favor of any other person or entity.

19. DISCRIMINATION. The Parties shall not discriminate against their employees, agents, applicants for employment, or another persons or entities with respect to hire, tenure, terms, conditions, and privileges of employment, or any matter directly or indirectly related to employment in violation of any federal, state or local law.

20. PERMITS AND LICENSES. Each Party shall be responsible for obtaining and maintaining, throughout the term of this Agreement, all licenses, permits, certificates, and governmental authorizations necessary to carry out its obligations and duties pursuant to this Agreement.

21. RESERVATION OF RIGHTS. This Agreement does not, and is not intended to waive, impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties.

22. DELEGATION/SUBCONTRACT/ASSIGNMENT. Neither Party shall delegate, subcontract, and/or assign any obligations or rights under this Agreement without the prior written consent of the other Party.

23. NO IMPLIED WAIVER. Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement.

No waiver by either Party shall subsequently affect its right to require strict performance of this Agreement.

24. SEVERABILITY. If a court of competent jurisdiction finds a term, or condition, of this Agreement to be illegal or invalid, then the term, or condition, shall be deemed severed from this Agreement. All other terms, conditions, and provisions of this Agreement shall remain in full force.

25. CAPTIONS. The section and subsection numbers and captions in this Agreement are intended for the convenience of the reader and are not intended to have any substantive meaning. The numbers and captions shall not be interpreted or be considered as part of this Agreement. Any use of the singular or plural number, any reference to the male, female, or neuter genders, and any possessive or nonpossessive use in this Agreement shall be deemed the appropriate plurality, gender or possession as the context requires.

26. NOTICES. Notices given under this Agreement shall be in writing and shall be personally delivered, sent by express delivery service, certified mail, or first-class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

26.1. If Notice is sent to the County, it shall be addressed and sent to: Oakland County Board of Commissioners Chairperson, 1200 North Telegraph, Pontiac, Michigan 48341, with a copy to Oakland County Sheriff’s Office, Sheriff Fiscal Officer, 1200 N. Telegraph, Bldg. 38E, Pontiac, Michigan 48341.

26.2. If Notice is sent to the Political Subdivision, it shall be addressed to: City of Birmingham.

26.3. Either Party may change the address and/or individual to which Notice is sent by notifying the other Party in writing of the change.

27. CONTACT INFORMATION.

<p><u>County of Oakland</u> Lieutenant Bryan Wood Investigative & Forensic Services Division Narcotics Enforcement Team Office: 248-858-1722 Fax: 248-858-1754 Email: woodb@oakgov.com</p>	<p><u>City of Birmingham</u> Captain Chris Koch Birmingham Police Department 151 Martin Birmingham, MI 48009 248-530-1769 Email: ckoch@bhamgov.org</p>
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28. GOVERNING LAW. This Agreement shall be governed, interpreted, and enforced by the laws of the State of Michigan, without regard to Michigan’s conflict of laws provisions.

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29. AGREEMENT MODIFICATIONS OR AMENDMENTS. Any modifications, amendments, rescissions, waivers, or releases to this Agreement must be in writing and executed by both Parties.

30. ENTIRE AGREEMENT. This Agreement represents the entire agreement and understanding between the Parties. This Agreement supersedes all other oral or written agreements between the Parties. The language of this Agreement shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

IN WITNESS WHEREOF, David T. Woodward, Chairperson, Oakland County Board of Commissioners, 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 Agreement, and hereby accepts and binds the County to the terms and conditions of this Agreement.

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

WITNESSED: _____ DATE: _____
Printed Name:
Title:

IN WITNESS WHEREOF, _____, acknowledges that he/she has been authorized by a resolution of the Municipality’s governing body, a certified copy of which is attached, to execute this Agreement, and hereby accepts and binds the Municipality to the terms and conditions of this Agreement.

EXECUTED: _____ DATE: _____
Printed Name:
Title:

WITNESSED: _____ DATE: _____
Printed Name:
Title:



Michigan HIDTA

Initiative Description and Budget Proposal

All Initiatives which seek HIDTA funding must complete this proposal and return to Michigan HIDTA via e-mail by the announced deadline. Completion of all sections of this proposal is required. The Office of National Drug Control Policy examines these submissions very closely. Your proposal must be clear, concise and complete. **A complete proposal consists of this form AND the Michigan HIDTA FMS Budget Sheet.**

Program Year: Initiative Title:

Submitter's Rank/Name: Submitter's Telephone #:

Submitter's E-mail Address:

SECTION 1: INITIATIVES

Level of Activity - Check all that apply

Local DTO Focus Multi-State DTO Focus International DTO Focus Interdiction Focus

Does this Initiative Routinely Provide Information to the HIDTA Investigative Support Center (ISDC)?

YES NO

SECTION 2: PROFILE

Initiative Description

Enter Lead Agency:

Enter Location of Initiative (City):

Check All That Apply

- Initiative is Collocated with other HIDTA Initiatives
- Initiative is Staffed with Full-Time Federal and Full-Time State/Local Personnel
- Full-Time Members of Initiative are Collocated and Commingled with Federal and State/Local Personnel

Initiative Description and Budget Proposal Instructions

Enter your initiative description and budget detail in the text box on the following page. The text box is not character limited, nor is it limited to the visible field on the page. It works best to compose the narrative in Word and copy into the text field on the following page. Please use narrative only to complete this section. The PMP software will not accept graphs, tables, charts, images, etc.

The narrative section is intended to describe the mission and proposed activities for your initiative (dismantling DTOs, meth labs, interdicting drugs/money, apprehending fugitives, etc.) and detail your initiative's funding request. This description should indicate when the initiative was first funded by HIDTA.

Your narrative must be clear, concise and complete. Do not include a long narrative detailing the history or accomplishments of your initiative. Please **limit** your initiative description to several short paragraphs.

The first paragraph should clearly **identify the threat** (drug problem, violent crime, money laundering) in your area. ONDCP expects detailed information regarding the threat in the **HIDTA county/counties which your initiative serves**. Describe the types of drugs being trafficked, the presence/activities of gangs and drug-related violent crime. Include information on DTOs and MLOs operating in your area. DO NOT use specific names/addresses for any organizations or provide any information which is law enforcement sensitive or classified. Referring to the Michigan HIDTA Annual Threat Assessment/Drug Market Analysis is essential when describing the threat in your region.

In the next paragraph **discuss your plan to attack the threat** in your region. Describe your initiative and detail your plan to address the specific threats/problems in your area and achieve your performance targets. If your initiative consists of multiple teams, explain how each team's activities attack the drug threat in your HIDTA county. Detail how you will work more efficiently and effectively by conducting intelligence-driven investigations and sharing information (leads).

The next paragraph(s) should **present your budget request**. Remember that HIDTA funding is added-value funding and cannot be used to supplant normal operating budget items. Each budget line item (overtime, equipment, supplies, vehicles, phones, services, etc.) must be detailed in narrative form, specifying the amount requested and how each line item amount will be utilized. It is important to relate why each line item is needed and how it fits into your plan to attack the threat in your region and attain your performance targets. Provide a clear, concise and complete explanation of all items in your budget request. The budget narrative will be reviewed by the Michigan HIDTA Steering Committee and Executive Board before being sent to ONDCP for review and approval.

ONDCP closely examines **vehicle expenditures**. Lease costs and other vehicle-related expenses must be detailed. Ensure the number of vehicles and expenses match the number of eligible officers in your initiative. Examples: "6 vehicles @ \$500/month x 12 months = \$36,000; Gasoline Expense, 6 officers @ \$200/month x 12 months = \$14,400 .

ONDCP also scrutinizes **overtime expenses**. Ensure these expenses line-up with eligible officers in your initiative. ONDCP caps overtime for individual officers at \$9,500 annually. The Michigan HIDTA limits the cap to \$6,500 per officer annually. Each initiative is required to maintain documentation/spreadsheet to ensure these limits are not exceeded. Example: 10 task force officers x \$3,000/annually = \$30,000 annual overtime.

PLEASE NOTE: Equipment vs. Supplies - There has been a change in how these items are categorized. All items purchased for **\$5,000 or more per item** are categorized as **Equipment**. All items purchased for **\$4,999 or less per item** are categorized as **Supplies**.

Equipment expenses must be detailed. Provide specifics for what will be purchased, the cost, and how it relates to your plan to address the threat. Example: 10 ballistic shields @ \$6,000 each = \$60,000.

Supplies expenses must be detailed. Provide specifics for what will be purchased, the cost, and how it relates to your plan to address the threat. Example: 12 laptop computers @ \$1,000 each = \$12,000.

Service expenses must also be detailed. Example: Monthly cell phone service for 12 officers @ \$100/monthly x 12 months = \$14,400.

The total of all items must match the total entered in the **"Total Dollar Amount Requested"** field at the top of the next page.

A complete proposal consists of this form AND the Michigan HIDTA FMS Budget Sheet.

Enter Initiative Description and Budget Proposal Detail Below

Total Dollar Amount Requested: \$132,300

Explain the mission of the initiative and provide a detailed explanation of the specific threat/s identified in the Michigan HIDTA Annual Threat Assessment that this initiative is designed to address. All sections below must be completed.

INITIATIVE PURPOSE:

The Oakland County Narcotic Enforcement Team (NET) is a cooperative partnership of federal, county and local law enforcement agencies in Oakland County, Michigan, and collocated at the Oakland County Sheriff's Office in Pontiac. NET

- Focuses on mid- to upper-level drug trafficking organizations (DTOs) and criminal groups operating in Oakland County
- Supports street-level investigative operations targeting illegal drug trafficking of cocaine, crack cocaine, methamphetamine, fentanyl, heroin, and controlled prescription drugs

THREAT PRIORITIES:

Primary Threats:

- Regional and local DTOs are the primary drug trafficking threats in the NET Area of Responsibility (AOR)
 - o DTOs transport cocaine, heroin, fentanyl, and methamphetamine into Oakland County
 - o Fentanyl and fentanyl mixed with other narcotics continue to be the most lethal category of illicit substances misused in Oakland County
 - o Heroin-related overdose deaths remain at high levels in the county
 - o NET has observed a substantial increase in methamphetamine distribution and use
 - o Cocaine has become a resurgent threat and is widely available throughout the county
 - o Controlled prescription drugs remain an area of concern
 - o Most of the illegal narcotics remain in Oakland County and are distributed by local DTOs and eventually consumed by users

INVESTIGATIVE APPROACH: (See Worksheet/Sample - 2024 IDBP handout with new format)

- NET will leverage HIDTA funds to support investigative overtime and communication services
 - o Drug seizures will be thoroughly investigated by NET investigators in order to
 - Trace seizures back to source(s) of supply
 - Assist investigators in ultimately disrupting and dismantling DTOs
 - o NET investigators monitor DTO trafficking patterns and share the information with our federal partners
 - NET's primary focus is investigations into upper- and mid-level DTOs to identify, disrupt and dismantle their illicit drug trafficking operations

Predicting Expected Outputs: When developing your expected outputs for the Program Year, please ensure you take into consideration your past 2-3 year performance averages. ONDCP frequently refers to these averages when evaluating future performance target numbers.

SECTION 3: DTOs

DTO Expected Outputs:

Predict the number of DTOs and MLOs you expect to disrupt and/or dismantle during the Program Year. Your performance targets should be aggressive but reasonably attainable, considering expected staffing and funding. Remember that your initiative's performance is compared to how successfully it attained its predicted totals. Please note Initiative's performance is not compared to the performance of other initiatives. Include pertinent notes in the Notes/Additional Information box.

DISRUPTED Defined

DISMANTLED Defined

Enter Number of **DTOs** Expected to be Disrupted or Dismantled This Program Year:

Notes/Additional Information:

N/A

Enter Number of **MLOs** Expected to be Disrupted or Dismantled This Program Year:

Notes/Additional Information:

N/A

SECTION 4: CLANDESTINE LABS

Predict the number of each of the following items which you expect to seize during the Program Year. Include pertinent notes in the Notes/Additional Information box.

Enter the Number of Lab Dump Sites Expected to be Seized

Enter the Number of Chemical/Glassware/Equipment Expected to be Seized

Enter the Number of Children Expected to be Affected

Enter the Number of **Meth Labs** Expected to be Dismantled

Enter the Number of **Other Clan Labs** (Production/Conversion) Expected to be Dismantled

Notes/Additional Information:

N/A

SECTION 5: ACTIVITIES

Predict the number of each of the following items for the Program Year. Include pertinent notes in the Notes/Additional Information box.

New HIDTA Cases:

Enter the Number of New HIDTA Initiative Cases Expected to be Opened This Program Year:

Notes/Additional Information:

Case Support:

Enter the Number of Cases Expected to be Provided Analytical Support This Program Year:

Refer to definition of Analytical Support (AS). Project only number of cases which will receive AS from an analyst embedded with your TF or the DSEMIIC/MIOC. Do not include cases which will receive AS from an analyst seated at the HIDTA. A case can be reported receiving AS only ***ONCE IN A CALENDAR YEAR*** but can be counted each calendar year it receives AS. Project the number of separate cases to receive AS in the year, not the number of times AS is received on all cases. ***Important: Remember to submit a completed survey with your quarterly report for each case receiving AS.***

Enter the Number of Event Deconflictions Expected to be Submitted This Program Year:

Enter the Number of Case Matching Requests Expected to be Submitted This Program Year:

Notes/Additional Information:

SECTION 6: FUGITIVES

Predict the number of fugitives you expect to apprehend for the Program Year. A *Fugitive* is defined as an apprehension made pursuant to some type of court-issued pick-up order, such as an arrest warrant, a writ, etc. An *Arrest* is defined as any apprehension made absent any type of court-issued pick-up order, primarily arrests made on probable cause. Initiative plans to make *Arrests* during the year are indicated by selecting *Arrests* from the *Other Outputs* pick list in Section 7.

Enter the Number of Fugitives Expected to be Arrested This Program Year:

Notes/Additional Information:

SECTION 7: OTHER OUTPUTS

ENTRY OF MANDATORY OUTPUTS

FORENSIC ENHANCEMENT - MSP TECHNICAL SUPPORT UNIT - REDRUM

Continue to report Other Outputs contained in the pick list boxes below. Other Output information provided will be maintained internally at the HIDTA but will not be reported in PMP.

ALL OTHER HIDTA INITIATIVES

Report **ONLY** the four Other Outputs **ARRESTS, CRIMINAL GROUPS, FIREARMS SEIZED and T-III WIRETAPS.** This information will be reported in PMP.

FUGITIVES VS. ARRESTS

Fugitives: Provide a projection of how many fugitives your task force will arrest for the year in *Section 6: Fugitives.* **A fugitive is defined as an apprehension made pursuant to some type of court-issued pick-up order, such as an arrest warrant, a writ, etc.**

Arrests: No projection of how many arrests your task force will make for the year is required. **An arrest is defined as any apprehension made absent any type of court-issued pick-up order; primarily arrests made on probable cause.** Indicate your task force's intentions to make arrests during the year by selecting/loading ARRESTS into one of the Other Output boxes below.

Definition of Wiretap

A wiretap is a form of electronic monitoring where a Federal or state court order authorizes law enforcement to surreptitiously listen to phone calls or intercept wireless electronic text messages or video communications. Indicate your plan to utilize wiretaps by selecting T-III WIRETAPS in one Other Output box to the right.

Reporting Wiretaps

No projection regarding the number of wiretaps to be utilized is required. The actual number of wiretaps is reported each quarter on the Task Force Quarterly Report. Report only the number of lines (telephone numbers) for which a court order authorized eavesdropping. Do not report an extension of a court order for the same telephone line (number) unless the extension is spanning the calendar year being reported. Note: Dialed number recorders (Pen Registers) are not considered a wiretap for PMP reporting purposes.

Select the Other Outputs your initiative plans to utilize in the pick list boxes below.

Other Output:	<input type="text"/>
Other Output:	<input type="text"/>
Other Output:	<input type="text"/>
Other Output:	<input type="text"/>
Other Output:	<input type="text"/>
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Other Output:	<input type="text"/>
Other Output:	<input type="text"/>



Michigan HIDTA

Request for HIDTA **Overtime** Reimbursement

ONE FORM PER OFFICER

REGULAR OVERTIME

Exhibit B

Michigan HIDTA
 Mary Szymanski - Financial Manager
 FAX: 248.356.6513
 mszymanski@mi.hidta.net

OFFICER'S NAME AND RANK

HOME DEPARTMENT NAME

PHONE NUMBER

MAILING ADDRESS

FEDERAL TAX ID OR MSP INDEX/PCA

REQUESTING OFFICER IS REQUIRED TO TYPE HIS/HER NAME IN THE BLUE BORDERED BOX BELOW. By typing my name in the box below, I certify that this overtime was incurred pursuant to HIDTA-related investigations on the dates and in the amounts listed.

APPROVING TASK FORCE COMMANDER IS REQUIRED TO TYPE HIS/HER NAME IN THE RED BORDERED BOX BELOW: By typing my name in the box below, I certify I received this overtime request from the Requesting Officer, and have reviewed and approved after determining it to be in compliance with ONDCP Program Policy as previously provided to me.

ITEM #	COMPLAINT #	DATE OT WORKED	# OT HOURS WORKED	OT HOURLY RATE	TOTAL ENTRY COST	LOCATION: Address, City/Township/County
OVERTIME APPROVED FOR STATE/LOCAL OFFICERS ONLY. LIMIT PER OFFICER IS \$8,000 ANNUALLY AS PER MICHIGAN HIDTA PROGRAM POLICY.						
FEDERAL PARTICIPANTS ARE NOT ELIGIBLE TO RECEIVE HIDTA OVERTIME.						
1					\$0.0000	
2					\$0.0000	
3					\$0.0000	
4					\$0.0000	
5					\$0.0000	
6					\$0.0000	
					\$0.0000	

ITEM #	PROVIDE A BRIEF DETAIL OF THE CORRESPONDING ITEM # FROM THE TABLE ABOVE.
1	
2	
3	
4	
5	
6	

THIS INFORMATION IS CONFIDENTIAL. DISCLOSURE OF CONFIDENTIAL INFORMATION IS PROTECTED BY THE FEDERAL PRIVACY ACT.

YOUR AGENCY LETTERHEAD

CLERK OF SUPERIOR COURT
JUDICIAL CENTER
200 N. ZEEB RD.
LANSING, MI 48226
313.224.2000

January 17, 2022

Director
Michigan HIDTA
26211 Central Park Blvd.
Southfield, MI 48076

Dear Director:

Please accept this correspondence as notification of the current pay rate for the listed **ADD YOUR AGENCY NAME** police officer assigned to the Oakland County Narcotic Enforcement Team (NET). The rate became effective **July 1, 2021.**

Parent Agency:	ADD YOUR AGENCY NAME
Employee Name/Rank:	ADD OFFICER'S NAME AND RANK
Regular Pay Rate:	OFFICER'S REGULAR HOURLY RATE
Overtime Pay Rate:	OFFICER'S OVERTIME HOURLY RATE

As requested, the overtime rate listed does not include any fringe benefits, such as retirement, FICA, etc. Please contact my office if additional information is required.

Sincerely,

Please Note: This document is used for illustrative purposes only and the required documentation does not have to be the same, but must contain the same elements.

Required: Overtime slip signed by officer's supervisor. This item should include name, date, and overtime hours associated with HIDTA. The overtime rate should also be included unless provided in the paystub or payroll report.



[Redacted header text]



[Redacted] TIME SHEET

DATE	HOURS	OVERTIME	NET#
07/11/2016	08:30-16:30		
07/12/2016	08:30-16:30		
07/13/2016	08:30-16:30		
07/14/2016	08:30-16:30		
07/15/2016	08:30-16:30		
<p>APPROVED 8/16/16</p> <p>[Redacted Signature]</p>			
08/01/2016	15:00-23:00		
08/02/2016	15:00-23:00		
08/03/2016	14:00-00:00	2hour	16-net-419
08/04/2016	14:00-23:00	1hour	IR-16-263
08/05/2016	03:00-07:00	4hour	IR-16-264
08/05/2016	15:00-23:00		

APPROVING SIGNATURE: [Redacted Signature]

OVERTIME IN RED HAS BEEN TAKEN AS NET TIME (COMP)
OVERTIME IN GREEN HAS BEEN SUBMITTED FOR MJ OT GRAMP

Please sign and return.

Please Note: This document is used for illustrative purposes only and the required documentation does not have to be the same, but must contain the same elements. **Exhibit E**

Required: Pay stub or payroll report containing the same information as pay stub. If the paystub does not indicate the overtime rate of pay, then please include with the overtime slip.

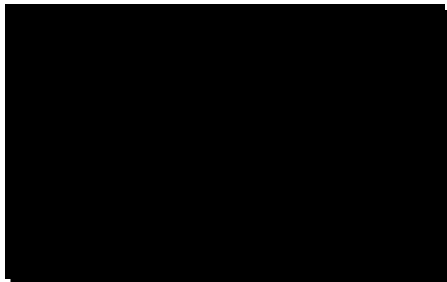


Pay Period Ending On: 08/07/2016
 Check #: [REDACTED]
 Check Date: 08/12/2016
 Primary Rate: 31.2962
 Withholding Rate: 00
 Federal Allowances: 0

PAYCODE ID	HOURS	OT HOURS	GROSS	YTD	DEDUCTION ID	AMOUNT	YTD
LONGEVITY_PS	0.00	0.00	0.00	350.00	FITW	475.02	8,268.40
SALARY	80.00	7.00	2,832.31	41,498.79	SITW	112.08	1,906.87
TRAINING_PS	0.00	0.00	0.00	876.28	SOCSEC_EE	176.08	2,991.56
SICK_PS 07/01	0.00	0.00	0.00	625.92	MEDICARE_EE	41.18	699.64
F/Y SICK PAYOUT	0.00	0.00	0.00	594.63	DUES_PSO	29.63	444.38
PS SCK GAP	0.00	0.00	0.00	2,879.25	PS_HBL VISION	9.13	104.73
IN_LIEU_MED_P_S	0.00	0.00	115.38	1,846.08	RETIRE_PS_OFF	84.97	1,424.49
LIFE_INS	0.00	0.00	0.00	8.96	ICMA_PCNT	117.91	1,959.14
HOLIDAY	0.00	0.00	0.00	1,251.85	FLEX_PLAN	98.50	1,576.00
					SAVINGS_PSO	5.60	84.00
					PNC	647.59	11,474.94
					PNC	1,000.00	16,588.65
					ALLY	150.00	2,400.00
TOTALS:	80.00	7.00	2,947.69	49,931.76	TOTALS:	2,947.69	49,922.80

Net Pay This Period: 1,797.59

LEAVE BANK	PRIOR BALANCE	HOURS ACCRUED	HOURS LOST	HOURS TAKEN	NEW BALANCE
COMP_PS	7.50	0.00	0.00	0.00	7.50
F/Y SICK PAYOUT	0.00	0.00	0.00	0.00	0.00
PS KELLY BANK	0.00	0.00	0.00	0.00	0.00
SICK_PS 07/01	96.00	0.00	0.00	0.00	96.00
SICK_PS GAP	41.00	0.00	0.00	0.00	41.00
VAC_PS	124.00	0.00	0.00	0.00	124.00

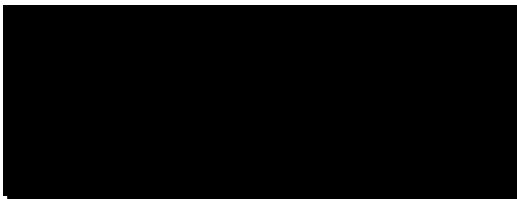


08/12/2016



1,797.59

VOID**VOID*****VOID*****CHECK STUB REPRINT*****





MEMORANDUM

Legal – City Attorney

DATE: April 3, 2024
TO: City Commission
FROM: Jana L. Ecker, City Manager
SUBJECT: Museum Board Member Caroline Ashleigh

INTRODUCTION:

On November 28, 2023 Ms. Caroline Ashleigh, a Museum Board member, filed suit against the City of Birmingham along with twelve (12) other Plaintiffs in the case of *Caroline Ashleigh, et al v City of Birmingham, et al*, Oakland County Circuit Court Case No. 23-202347-NZ, Honorable Jacob L. Cunningham. As a result of a prior opinion of the Ethics Board, and listening to the Ethics Board speak to such issues, the Birmingham City Manager attempted to communicate with Ms. Ashleigh for weeks regarding her continuing service on a City board when it is believed that the board membership is in irreconcilable conflict with her action against the City.

BACKGROUND:

On June 26, 2023 Ms. Caroline Ashleigh was appointed to the Museum Board to serve a term beginning on June 26, 2023 and ending on July 6, 2026 (see attachment 1). On November 28, 2023, Caroline Ashleigh, along with 12 other residents filed suit against the City of Birmingham, alleging that on or about August 28, 2020, July 24, 2021 and August 24, 2023 the Plaintiffs' properties were flooded and physically damaged by the contents of the sewage disposal system owned or operated by the City of Birmingham. The Complaint alleges that the Birmingham sewage disposal system has defects in design and construction, maintenance, and operation. The Plaintiffs have not stated the exact amount of their financial claim, just that they have enough damage for a Circuit Court action. The defense of her case is at a direct cost to the City of Birmingham as this type of litigation is not covered by the City's insurance.

After numerous attempts to contact Ms. Ashleigh (please see attachment 2), on March 15, 2024 the City Manager sent a letter to Ms. Ashleigh describing to her that it was the City's position, based upon the Ethics Board's previously determined opinion in a similar situation, that while Ms. Ashleigh is in the role as a Plaintiff against the City, this is incompatible with the public interest and in irreconcilable conflict between her private interest as a Plaintiff and the public interest on the Museum Board. (Please see attachment 3.) Ms. Ashleigh responded to the Manager's letter on March 24, 2024 (see attachment 4) stating that she disagreed with this position and did not

believe that her ability to serve is incompatible with her position as a Plaintiff. As result, the City Attorney drafted a letter to her on March 28, 2024 (see attachment 5) suggesting that the City Manager and Ms. Ashleigh jointly request an Advisory opinion from the Ethics Board in order to “fairly evaluate” Ms. Ashleigh’s position, as well as the City Manager’s position.

As of this date, Ms. Ashleigh has stated that she will confer with her counsel and will get back with us.

At this time, the City Manager’s office and the City Attorney would recommend that in order to provide due process for Ms. Ashleigh, that Ms. Ashleigh is afforded a public hearing in order for the City Commission to determine whether Ms. Ashleigh should be removed from her position as a Museum Board member. In the alternative, the City Commission may choose to direct this issue to the Ethics Board for an Advisory opinion before conducting or setting of a public hearing.

LEGAL REVIEW:

The Museum Board was established in 2005 by ordinance and amended by Ordinance No. 2349 on July 20, 2020 (see attachment 6). The Museum Board consists of seven (7) members, six (6) of which are appointed by the City Commission and one (1) member, a business owner located in the City, is appointed by the City Manager, with the concurrence of the City Commission, which need not be a resident. Chapter 62, Historical Preservation, Article II. Museum Board, Sec. 62-27 states that, “Members of the museum board shall hold office at the pleasure of the city commission.” Therefore, the City Commission may remove members of the Museum Board without cause. However, based upon the notion of fair play and due process, the City Attorney would recommend the City Commission set a public hearing at a future date, and then hold a public hearing in order to determine whether Ms. Ashleigh should be removed from the Museum Board. If the removal of Ms. Ashleigh is determined at public hearing by the City Commission, then the City Commission would move forward with the process to fill the vacancy according to ordinance.

FISCAL IMPACT:

The fiscal impact at this time is the cost of noticing a public hearing, and the expensive defense of the City against Ms. Ashleigh’s claims in the lawsuit.

PUBLIC COMMUNICATIONS:

A legal ad will be placed in a newspaper of local circulation to advertise the nature of the public hearing at least fourteen (14) days in advance of the public hearing. A letter notifying Ms. Ashleigh of the hearing will be mailed to her both via email and by First Class mail to her last known home address.

SUMMARY:

The City Manager is requesting this issue be placed on the agenda for the May 6, 2024 City Commission meeting in order to conduct a public hearing to determine whether Ms. Ashleigh should be removed from serving as a Museum Board member while she is in the process of suing the City as a Plaintiff in a multi-Plaintiff named lawsuit.

ATTACHMENTS:

- #1 – Appointment of Ms. Ashleigh to the Museum Board.
- #2 - Numerous attempts to contact Ms. Ashleigh from City Manager.
- #3 – Letter to Ms. Ashleigh dated March 15, 2024 from City Manager.

- #4 – Ms. Ashleigh’s letter to City Manager dated March 24, 2024.
- #5 – March 28, 2024 letter to Ms. Ashleigh from City Attorney.
- #6 – Ordinance No. 2349 Establishing Museum Board.

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to set a public hearing on May 6, 2024 to determine whether Ms. Caroline Ashleigh, a Museum Board member, ought to be removed from her position as a Museum Board member as she is a Plaintiff in a lawsuit against the City and acting in a way that is adverse to the City as previously opined by the Ethics Board.

-OR-

Make a motion adopting a resolution to request an Advisory opinion from the Ethics Board to determine whether or not Ms. Ashleigh is creating an irreconcilable conflict of interest and unable to serve on a voluntary board when she is in the position of being a Plaintiff in a multi-Plaintiff cited lawsuit against the City and potentially acting in a position which is adverse and in conflict to the City’s best interest.

ATTACHMENT 1

Birmingham City Commission Minutes
June 26, 2023
Municipal Building, 151 Martin
7:30 p.m.
Vimeo Link: <https://vimeo.com/event/3470>

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 Haig
Commissioner Host
Commissioner Schafer

Absent: Commissioner Boutros

Staff: Acting City Manager Ecker; City Clerk Bingham, City Engineer Coatta, Library Director Craft, Planning Director Dupuis, Finance Director Gerber, City Attorney Kucharek, Parks & Forestry Foreman McGaughey, Museum Director Pielack, Department of Public Services Director Zielinski

06-147-23 Appointment to the Museum Board

Caroline Ashleigh was interviewed by the Commission for the appointment.

MOTION: Nomination by Commissioner Baller:
To appoint Caroline Ashleigh to the Museum Board as a regular member to serve a three-year term to expire July 6, 2026.

VOICE VOTE: Ayes, MPT McLain
Commissioner Host
Mayor Longe
Commissioner Haig
Commissioner Schafer
Commissioner Baller
Nays, None

ATTACHMENT 2

Mary Kucharek

From: Jana Ecker <Jecker@bhamgov.org>
Sent: Wednesday, March 27, 2024 12:24 PM
To: Mary Kucharek
Subject: Fwd: Issue to be Addressed

Jana L. Ecker
City Manager
Birmingham, MI
(248) 530-1811

----- Forwarded message -----

From: Support <info@appraiseyourart.com>
Date: Mon, Jan 29, 2024 at 2:14 PM
Subject: Re: Issue to be Addressed
To: Jana Ecker <Jecker@bhamgov.org>

Hello Jana,

I am out-of-town on a continuing appraisal assignment for an institution with a fluid return date. As mentioned, if you would kindly send me an email with the issue you would like to address, and the parties involved, I will respond via email and/or in person, depending upon my work schedule.

With best regards,

Caroline Ashleigh



AppraiseYourArt.com

CONFIDENTIALITY NOTICE: This communication, including any attachments is confidential, intended only for the addressee(s) and cannot be forwarded without prior consent. If you have received this communication in error, please delete it and notify the sender by telephone or email immediately.

On Fri, Jan 26, 2024 at 1:38 PM Jana Ecker <Jecker@bhamgov.org> wrote:

Good afternoon Ms. Ashleigh,

I would be happy to meet with you upon your return at the end of the month. Please let me know any available dates you may have and we can get a meeting on our calendars.

Thank you. Have a great day,

Jana L. Ecker
City Manager
Birmingham, MI
(248) 530-1811

On Mon, Jan 8, 2024 at 10:21 AM Support <info@appraiseyourart.com> wrote:
Hello Jana and Leslie,

I received your recent voicemail and called and left a message this morning at 248.530.1811.

As I was unable to reach you, would you kindly send me an email with the issue you would like to address, which I will evaluate, and get back to you when I return at the end of the month.

Thank you and I look forward to hearing from you via email.

Caroline Ashleigh



AppraiseYourArt.com

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Sent: Wednesday, March 27, 2024 12:24 PM
To: Mary Kucharek
Subject: Fwd: Issue to be Addressed

Jana L. Ecker
City Manager
Birmingham, MI
(248) 530-1811

----- Forwarded message -----

From: Support <info@appraiseyourart.com>
Date: Thu, Feb 8, 2024 at 1:13 PM
Subject: Fwd: Issue to be Addressed
To: Ecker, Jana <Jecker@bhamgov.org>

Hello Jana,

As I have not heard back from you with the information requested in my emails of January 29th and January 8th, nor have I been able to reach you by phone, please let me know if the issue to which you referred is still something that needs to be addressed. Any additional information regarding this matter would be helpful in order for me to best address any questions or concerns you might have.

With best regards,

Caroline Ashleigh

----- Forwarded message -----

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Thank you. Have a great day,

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City Manager
Birmingham, MI
(248) 530-1811

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Thank you and I look forward to hearing from you via email.

Caroline Ashleigh



AppraiseYourArt.com

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Mary Kucharek

From: Jana Ecker <Jecker@bhamgov.org>
Sent: Wednesday, March 27, 2024 12:23 PM
To: Mary Kucharek
Subject: Fwd: Issue to be Addressed

Jana L. Ecker
City Manager
Birmingham, MI
(248) 530-1811

----- Forwarded message -----

From: Support <info@appraiseyourart.com>
Date: Mon, Feb 19, 2024 at 8:44 AM
Subject: Fwd: Issue to be Addressed
To: Ecker, Jana <Jecker@bhamgov.org>

Hi Jana,

If this is something that still needs to be addressed, please let me know before the end of the month and we can put something on our calendars.

Thank you,

Caroline Ashleigh

----- Forwarded message -----

From: Support <info@appraiseyourart.com>
Date: Thu, Feb 8, 2024 at 1:12 PM
Subject: Fwd: Issue to be Addressed
To: Ecker, Jana <Jecker@bhamgov.org>

hello Jana,

As I have not heard back from you with the information requested in my emails of January 29th and January 8th, nor have I been able to reach you by phone, please let me know if the issue to which you referred is still something that needs to be addressed. Any additional information regarding this matter would be helpful in order for me to best address any questions or concerns you might have.

With best regards,

Caroline Ashleigh

----- Forwarded message -----

From: **Support** <info@appraiseyourart.com>

Date: Mon, Jan 29, 2024 at 2:14 PM

Subject: Re: Issue to be Addressed

To: Jana Ecker <Jecker@bhamgov.org>

Hello Jana,

I am out-of-town on a continuing appraisal assignment for an institution with a fluid return date. As mentioned, if you would kindly send me an email with the issue you would like to address, and the parties involved, I will respond via email and/or in person, depending upon my work schedule.

With best regards,

Caroline Ashleigh



AppraiseYourArt.com

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Thank you. Have a great day,

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City Manager
Birmingham, MI
(248) 530-1811

On Mon, Jan 8, 2024 at 10:21 AM Support <info@appraiseyourart.com> wrote:

Hello Jana and Leslie,

I received your recent voicemail and called and left a message this morning at 248.530.1811.

As I was unable to reach you, would you kindly send me an email with the issue you would like to address, which I will evaluate, and get back to you when I return at the end of the month.

Thank you and I look forward to hearing from you via email.

Caroline Ashleigh



AppraiseYourArt.com

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Mary Kucharek

From: Jana Ecker <Jecker@bhamgov.org>
Sent: Wednesday, March 27, 2024 12:22 PM
To: Mary Kucharek
Subject: Fwd: Museum Board
Attachments: Ashleigh Letter - Museum Board Signed - 3-15-24.pdf

Jana L. Ecker
City Manager
Birmingham, MI
(248) 530-1811

----- Forwarded message -----

From: Jana Ecker <Jecker@bhamgov.org>
Date: Fri, Mar 15, 2024 at 2:11 PM
Subject: Museum Board
To: Support <info@appraiseyourart.com>
Cc: Pielack, Leslie <LPielack@bhamgov.org>

Ms. Ashleigh,

Please see attached letter.

If you have any questions or concerns, please feel free to contact me.

Jana L. Ecker
City Manager
Birmingham, MI
(248) 530-1811

Mary Kucharek

From: Jana Ecker <Jecker@bhamgov.org>
Sent: Wednesday, March 27, 2024 12:22 PM
To: Mary Kucharek
Subject: Fwd: Museum Board Membership
Attachments: Ashleigh Letter - Museum Board Signed - 3-15-24 (1).pdf; Ashleigh Response to B'Ham Cty Mgr.pdf

Jana L. Ecker
City Manager
Birmingham, MI
(248) 530-1811

----- Forwarded message -----

From: **Support** <info@appraiseyourart.com>
Date: Tue, Mar 26, 2024 at 2:49 PM
Subject: Museum Board Membership
To: Ecker, Jana <Jecker@bhamgov.org>, Leslie Pielack <LPielack@bhamgov.org>, emclain@bhamgov.org <emclain@bhamgov.org>, cballer@bhamgov.org <cballer@bhamgov.org>, ahaig@bhamgov.org <ahaig@bhamgov.org>, bhost@bhamgov.org <bhost@bhamgov.org>, along@bhamgov.org <along@bhamgov.org>, tlonge@bhamgov.org <tlonge@bhamgov.org>, kschafer@bhamgov.org <kschafer@bhamgov.org>

Dear Ms. Ecker,

I am in receipt of your email and letter dated March 15, 2024 (as attached) expressing the City's intentions regarding my position on the Museum Board.

Please see my response (as attached) and my request for a public hearing on May 6, 2024, to present my position with regard to the issues.

Respectfully,

Caroline Ashleigh



AppraiseYourArt.com

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ATTACHMENT 3



March 15, 2024

Sent Via Email to info@appraiseyourart.com

Ms. Ashleigh
800 E. Lincoln St.
Birmingham, MI 48009

Re: Museum Board Membership

I confirm that you and I have been attempting to communicate over the last few weeks to set up an in person meeting, to no avail. Therefore, I am writing to inform you of the City's intentions regarding your position on the Museum Board.

As a Museum Board member, you are considered a City Official for the purpose of the Ethics Ordinance, and are thus subject to and bound by its provisions. Included, but not limited to the following, the Ethics Ordinance requires City officials to:

- Avoid conduct which tends to undermine respect for the City and carry out their duties impartially, and remain nonpartisan in your role as a Museum Board member (Section 2-321);
- Avoid any action that might result in or create the appearance of adversely affecting the confidence of the public or the integrity of the City government (Section 2-323(5));
- Prohibits the rendering of services for any public or private interest when that service is incompatible or in conflict with the discharge of your official duties, or may tend to impair your independence of judgment or action in the performance of your official duties (Section 2-324(a)(6)).

As you recently filed a lawsuit against the City of Birmingham seeking recovery of damages and relief against the City for a tort action, it is the City's position that this action appears to be in conflict with your service on the Museum Board as your lead of a multi-plaintiff suit against the City may result in or create the appearance of adversely affecting the confidence of the public or the integrity of City government. The Ethics Board has previously determined in a prior opinion involving a similar situation, that while you are in the role as a Plaintiff against the City, this is incompatible with the public interest and results in an irreconcilable conflict between your private interests as a plaintiff, and the public interest in your position on a City board.

Please be advised that you have the opportunity to resign your position on the Museum Board, and if you choose to do so please provide this in writing to the City Clerk. If you do not choose to resign from the Museum Board based upon the aforementioned ethical concerns, please be advised that a memorandum and recommendation to the Birmingham City Commission will be prepared for the April 8, 2024 City Commission meeting to request a public hearing date be set for May 6, 2024 to consider your

removal from the Museum Board. Should the City Commission set a public hearing, you will have the opportunity to present your position with regards to the issues, and you will receive notice of the date and time of the public hearing.

In the interim, until the City Commission renders a decision regarding your ability to serve as a board member while leading a suit against the City, I would encourage you to refrain from attendance and action at upcoming Museum Board meetings.

Respectfully,



Jana L. Ecker
City Manager

ATTACHMENT 4

Ms. Jana Ecker, City Manager
151 Martin Street
Birmingham, MI 48009
March 24, 2024

Sent Via email to: Jana Ecker, Leslie Pielack, Clinton Baller, Anthony Long, Brad Host, Therese Longe, Katie Schafer, Andrew Haig, Elaine McLain

Dear Ms. Ecker,

I confirm receipt of your email (as attached) dated March 15, 2024 advising me of the City's intentions regarding my position on the Museum Board. I wish to respond with my decision to request a public hearing date on May 6, 2024 to present my position with regard to the issues.

After thoroughly discussing the content of your letter with counsel, I wish to state the following:

- Your recommendation to remove me from my Board position at the Museum (as stated in the second bullet point of your letter) as a result of my pursuing relief against the City for repeated city sewage back-up damage to my property, would ironically appear to undermine the confidence of the public in the integrity of City government. Thus, you are creating the very situation you are attempting to avoid.
- My position on the Museum Board has nothing to do with a violation of "official" conduct (a keyword left unstated in the first bullet point in your letter, which is contained in Sec. 2-231) In fact, I have carried out all my duties, both impartially and responsibly, in a non-partisan manner, and have meaningfully contributed my professional expertise and specialized skills attained in the museum sector and as a business owner of an appraisal and auction firm in the City of Birmingham for nearly 30 years.
- Given the nature of the problem that I have experienced, which has persisted over a ten year period, my tenure on the Board demonstrates that there has been no incompatibility or conflict with discharging my official duties, nor impairment of my independent judgment or performance, (Contrary to your assertion in bullet point three of your letter) which has strictly been on a pro bono basis.
- To remove me from the Board due to the weakness of the arguments you presented would cause me public embarrassment, emotional distress and reputational damage. This step would appear to be an improper action taken by the City by punishing me for exercising my constitutional rights to pursue a civil case, the resolution of which may benefit a great many other Birmingham residents who have suffered the same inaction by the City to address its ongoing infrastructure issues.

Respectfully,

Caroline Ashleigh
Caroline Ashleigh Associates, Appraisers & Auctioneers

ATTACHMENT 5

March 28, 2024

Via Email: info@appraiseyourart.com

Ms. Ashleigh
800 E. Lincoln St.
Birmingham, MI 48009

Re: Museum Board Membership

Dear Ms. Ashleigh:

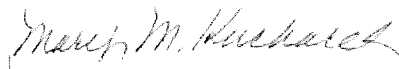
Allow me to introduce myself. My name is Mary Kucharek and I act as the City Attorney for the City of Birmingham. I am aware of the communications between yourself and Ms. Ecker of late regarding your position on the Museum Board and your lawsuit against the City. Attached you will find an earlier opinion of the City's Ethics Board, wherein they offered their opinion as to a situation where a Board member had an irreconcilable conflict of interest when the board member acted in an adversarial position to the City. Ms. Ecker's email sent to you March 15, 2024 was based upon the opinion attached as the Board found when one funds a lawsuit seeking financial damages against the City that creates a conflict and violates the Ethics Ordinance.

Ms. Ecker has shared with me your response to her dated March 24, 2024 in which you offer your position regarding this issue. We understand you have a differing view and you do not believe that your position as a Plaintiff in a lawsuit against the City is adverse to your position as a Museum Board member. In respecting your position, we would like to offer an equitable solution that the City Manager and you jointly request an advisory opinion from our Ethics Board in order to fairly evaluate your position, as well as the City Manager's position. I would assume that the City Commission would be very interested in the Board's official opinion before considering such an important decision against your board membership at a public hearing.

In conclusion, please review the attached opinion, and discuss this idea with your counsel. I think it would be very beneficial for both the City staff and officials and yourself to obtain an advisory opinion from the Ethics Board before any further action is taken. If you concur in this, please advise Ms. Ecker and myself so that we can prepare the necessary requests for advisory opinion as soon as possible. I thank you in advance.

Very truly yours,

BEIER HOWLETT, P.C.



Mary M. Kucharek
Birmingham City Attorney

MMK/em
Enclosures

**CITY OF BIRMINGHAM
BOARD OF ETHICS
COMPLAINT 2004-02**

DECISION

June 8, 2004

I. ISSUES PRESENTED

A. Is it a violation of the City of Birmingham's Ethics Ordinance for a volunteer member of a city board to advocate on behalf of a person who has brought a lawsuit against the city and certain of its officials and to solicit the donation of funds for the purpose of defraying the expense of that lawsuit?

Answer: It is not. A volunteer member of a city board may advocate on behalf of a person who has brought a lawsuit against the city and certain of its officials and may solicit the donation of funds for the purpose of defraying the expense of that lawsuit. To the extent that the city's Ethics Ordinance as presently drafted can be interpreted to prohibit such activity, that prohibition is barred by First Amendment principles.

B. Is it a violation of the City of Birmingham's Ethics Ordinance for a volunteer member of a city board to be the signatory to or a fiduciary of a bank account the use of which is dedicated solely to funding another person's lawsuit against the city?

Answer: It is. A volunteer member of a city board may not, consistent with the Ethics Ordinance, be the signatory to or a fiduciary of a bank account the use of which is dedicated solely to funding another person's lawsuit against the city. In becoming a signatory to or a fiduciary of such an account, the volunteer assumes a role directly against the interests of the city. That conduct presents an irreconcilable conflict of interest, may tend to undermine respect for city officials and employees and for the city as an institution, might result in or create the appearance of affecting adversely the confidence of the public or the integrity of the city government, and is incompatible and in conflict with the discharge of the volunteer's official duties. It is not protected under First Amendment principles.

II. OPINION

This matter came to the Board of Ethics on a complaint filed by Ms. Dorothy Conrad, a resident of the City of Birmingham, as Complainant, against Mr. Ralph L. Seger, Jr., also a resident of the city, as Respondent. The complaint alleges that Mr.

Seger has violated various portions of sections 2-320 to 2-324 of the city's Ethics Ordinance.

The Board of Ethics is an advisory body created by the City Commission to interpret the Ethics Ordinance. Birmingham Code of Ordinances, § 2-325(a)(1). The Board is required to determine whether the Respondent's conduct as alleged in the complaint or demonstrated at the hearing is in breach of the Ethics Ordinance. Board of Ethics Rule 314. The Board is to make its decision upon a vote of a majority of its members based upon the evidence in the record and controlling law. *Id.* The Board must issue its decision in the form of a written opinion. *Id.*

The City Clerk gave appropriate notice to the parties and scheduled the matter to be heard at the Board's regular April 6, 2004 meeting. The Respondent did not file a written answer to the complaint ahead of the hearing, nor was he required to, but he appeared in person on April 6 to defend.

On March 4, 2004, the City Attorney wrote to the Respondent informing him of his right to have the matter heard in open, public session or in closed, private session. On March 8, 2004, the Respondent notified the City Attorney of his election to proceed in open session. In that same letter, the Respondent requested that city employees Thelma Golden, Lauren Wood and Robert J. Fox be present to testify on his behalf.

At its regular meeting on April 6, 2004, the Board convened in open session to consider this matter. The Complainant and the Respondent appeared before the Board, made opening statements, offered evidence, and presented closing statements. Documents presented included the complaint and its exhibits and Mr. Seger's written response. The witnesses included Ms. Conrad; Mr. Seger; Ms. Thelma Golden, City Treasurer; Mr. Donald Carney, who is Mayor of the City of Birmingham but who appeared in his private capacity; Ms. Lauren Wood, Staff and Services Manager within the Department of Public Services; and Mr. Robert J. Fox, Assistant Director of Public Services. The Board also received public comment from two city residents, Mr. George Stern and Mr. Tom Elliott.

Mayor Carney later raised the question of whether city policy permitted or prohibited his testimony, even though he had testified that he was appearing in his private, not public, capacity. After the City Attorney considered the question, Mayor Carney concluded that under City Resolution No. 1261, he should not have testified.¹ He informed the City Attorney of his conclusion in that regard, who in turn informed the Board and the parties before the Board's deliberations at its May 4, 2004 meeting. At that meeting, the Board asked the parties whether they had an objection to striking and disregarding Mayor Carney's testimony. Neither the Complainant nor the Respondent

¹ "No elected or appointed official should appear before any City board or commission as counsel or advocate for any party participating in any proceedings before such board or commission, whether he is being paid for his services or not." Statement of Policy of Birmingham City Commission, City Resolution No. 1261 (August 5, 1968).

objected. Moreover, Mayor Carney's testimony was cumulative of testimony and argument presented by the Respondent. Accordingly, his testimony was struck and is disregarded by the Board in its consideration of this matter. The Board thanks Mayor Carney for timely raising the question of his disqualification from testifying in this matter.

After receiving the evidence and the argument of the parties on April 6, 2004, the Board reconvened at its next regular meeting on May 4, 2004, where it deliberated and voted on the matter. As a result of the vote, the Board issues this opinion as its final decision in this case. The Respondent raised a defense based upon constitutional law as well as defenses based upon the facts. Because the constitutional defense is substantial, the Board addresses it in this opinion. To facilitate the process, the Board issues this opinion in the form of findings of fact, conclusions of law and discussion.

A. FINDINGS OF FACT.

The relevant facts are not in dispute. Mr. Seger forthrightly admitted that the facts as alleged in the complaint are true.

Mr. Seger serves on two city advisory committees. He is a member of the General Investment Committee, and he is chairperson of the Barnum Center Steering Committee. He serves in those positions by appointment of the Birmingham City Commission. He is a volunteer to the city, not a paid employee.

The General Investment Committee is a citizen advisory committee created to provide technical investment assistance to the City Treasurer and to provide an additional periodic professional review of the city's general investment portfolio. Its mandate is to assist the City Treasurer in determining the types of investments which are most appropriate within the investment policy approved by the City Commission and to report annually to the City Commission on investment performance. City Resolution No. 04-328-85 (April 1, 1985). Members of the General Investment Committee are included under the city's fiduciary liability insurance policy. *Id.*

As a member of the General Investment Committee, Mr. Seger is involved in making recommendations to the city and the city's treasurer about investment policy, including the investment of surplus funds that may be used for general city purposes, as may be in the best interests of the city. Among other things, these unrestricted funds may be used to defray the city's litigation expense and satisfy judgments or fund settlements of lawsuits against the city. The General Investment Committee does not recommend specific investments. Rather, it advises the city on the types of investments available, approves a list of brokers the city might employ, and confers on general investment policy as a guideline for use by the City Commission. The General Investment Committee meets quarterly. Its most recent meeting before the Board's April 6 hearing was sometime in the middle of January 2004. The General Investment Committee is governed by the city's General Investment Policy, as approved by the City Commission

on September 8, 2003. Section 6.0 of the General Investment Policy addresses ethics and conflicts of interest specific to that committee. Mr. Seger considers himself bound by the requirements of that section.²

The Barnum Center Study Committee is an ad hoc citizen advisory committee created to advise the city on the use of the property that formerly was Barnum Junior High School and, more recently, owned by William Beaumont Hospital. Its mandate is to gather data, develop an acceptable plan for the interim and long-term public use of the Barnum facility, and make recommendations to the Department of Public Services and ultimately the City Commission.

As chair of the Barnum Center Study Committee, Mr. Seger is involved with making recommendations to the city about the Barnum property, including recommendations about a consultant to advise on its potential uses. The Barnum Center Study Committee usually meets monthly. According to published minutes, it met on December 11, 2003 and January 8 and February 26, 2004.

The complaint commencing this matter arises out of Mr. Seger's efforts on behalf of Mr. Gary Kulak. Mr. Kulak is a former member of the City of Birmingham's Planning Board and Barnum Center Study Committee. On January 26, 2004, Mr. Kulak was removed from those bodies by action of the Birmingham City Commission. On January 29, 2004, he filed a lawsuit in the United State District Court for the Eastern District of Michigan against the city and certain of its elected officials, alleging that the city wrongfully removed him. His lawsuit sought both money damages and injunctive relief. The federal court denied his motion for injunctive relief and dismissed the action. Mr. Kulak then filed suit in the Oakland County Circuit Court.

Approximately one week before Mr. Kulak's removal by the City Commission, Mr. Seger and two other individuals, Ms. Denise Grzech and Ms. Denise McKewan, formed a group to raise funds to help Mr. Kulak defray the cost of his lawsuit against the city. Mr. Kulak, Ms. Grzech and Ms. McKewan established with Midwest Guaranty Bank an account called the Gary Kulak Legal Defense Fund ("the Kulak Fund"). Each of the three individuals is a signatory to the account, and two of them must sign any check drawn on it. To establish the account, the three obtained from the Internal Revenue Service a taxpayer identification number. They did not incorporate, and they made no other filing with a governmental agency.

² Section 6.0 of the city's General Investment Policy requires, among other things, that officers and employees in the investment process refrain from personal business activity that could conflict with proper execution of the investment program or that could impair their ability to make impartial investment decisions. City of Birmingham, General Investment Policy, § 6.0 (Sept. 8, 2003). As mentioned before, Mr. Seger considers himself bound by this policy, but the Board does not undertake to decide whether he acted in conformity with it because no violation was alleged in the complaint and the Board did not address or consider it during the hearing.

The Kulak Fund bank account was established and used for a sole, restricted purpose. Monies deposited into the account may be spent only to defray expenses incurred relative to Mr. Kulak's lawsuit against the city. Mr. Seger considers himself a fiduciary of the Kulak Fund account, and the Board finds that he is a fiduciary.

Mr. Seger personally solicited and received monies on behalf of Mr. Kulak and deposited those monies into the Kulak Fund bank account. He also deposited checks he received via Mr. Kulak from others. Mr. Seger made payments from the Kulak Fund account in furtherance of the lawsuit.

Mr. Seger also participated in a written solicitation for contributions to the Kulak Fund. With Mr. Seger's knowledge, this solicitation was incorporated into an e-mail distributed to a number of Birmingham area citizens by Mr. Paul Reagan through a subscription called "bEline." The solicitation read:

Kulak Legal Defense Fund Established

Citizen voluteers [*sic*] are under attack by a commissioners [*sic*] indebted to the architects / commercial developers / and realestate [*sic*] speculators that financed their election. Gary Kulak represents an obstacle to the deal making and political spoils system that taken [*sic*] over City Hall. Gary's defense will be expensive. He needs your help.

Please send a check for a contribution to the "Gary Kulak Legal Defense Fund". There is no limit on the amount except the size of your purse and your heart. Mail checks to

Ralph Seger
1199 Pilgrim
Birmingham, MI 48009

This solicitation is the only written request for contributions that Mr. Seger made. Although the solicitation was styled as one in furtherance of the Gary Kulak Legal Defense Fund, Mr. Seger knows that Mr. Kulak is a plaintiff, not a defendant, in the litigation against the city.

Mr. Seger solicited contributions to the Kulak Fund from a number of individuals, some of whom themselves serve on city boards or committees. He did not, however, solicit contributions from the members or staff of the General Investment Committee or the Barnum Center Study Committee. It appears that the General Investment Committee did not meet between the time the Kulak Fund was established in mid-January 2004 and the Board's April 6 hearing.

Mr. Seger did not inform the General Investment Committee, the Barnum Center Study Committee, the City Treasurer or Ms. Wood that he was establishing the Kulak

Fund. The first time Ms. Wood heard that Mr. Seger had established the Kulak Fund was when she was requested to testify at the April 6 hearing. Mr. Kulak did not solicit donations to the Kulak Fund in the presence of Ms. Golden, Ms. Wood or Mr. Fox.

Mr. Seger is aware that the Ethics Ordinance allows city employees or board members to seek an advisory opinion from the Board of Ethics about whether their conduct conforms to the ordinance. He knew that his fellow General Investment Committee member, Mr. Peter Root, sought and obtained such an opinion on an unrelated topic in 2003.

Mr. Seger has performed a range of volunteer services, both directly for the City of Birmingham and for other organizations and causes, for many years. It is important to note that Mr. Seger's official conduct as a member of the General Investment Committee or the Barnum Center Steering Committee has not been called into question in this case. There is no evidence, indeed there has been no accusation or even suggestion, that he used his positions on those committees to gain favor for himself or for Mr. Kulak.

Given his role with the city, however, Mr. Seger's conduct with respect to the Kulak Fund is called into question under several provisions of the city's Ethics Ordinance. He conceded that his conduct in participating in the Kulak Fund may tend to undermine respect for city officials and employees and for the city as an institution.

B. CONCLUSIONS OF LAW AND DISCUSSION.

1. Jurisdiction.

The first question is jurisdictional: whether the Ethics Ordinance applies to Mr. Seger. He conceded that it does apply, and he is correct. The Ethics Ordinance defines "city official or employee" to include "persons who serve on advisory boards and commissions." Birmingham Code of Ordinances, § 2-322. Thus, Mr. Seger is a city official for purposes of the Ethics Ordinance and is subject to and bound by its provisions. Accordingly, the Board of Ethics has jurisdiction to determine the matter.

2. Constitutional Analysis of the Ethics Ordinance as Applied to Mr. Seger's Activities.

The Board must determine whether Mr. Seger's activities meet or violate the provisions of the Ethics Ordinance. But because one of Mr. Seger's defenses is that his activities are protected speech under First Amendment principles, the Board looks first to those principles to determine if they are dispositive of the case in his favor. Mr. Seger's constitutional defense is substantial, requiring the Board to interpret the Ethics Ordinance in light of First Amendment jurisprudence.

The freedom of speech embodied in the First Amendments to the U.S. Constitution and the Michigan Constitution enjoys important stature in American society. It is "the indispensable condition of nearly every form of freedom." *Palko v. Connecticut*, 302 U.S. 319, 327, 58 S. Ct. 149, 152, 82 L. Ed. 288 (1937) (Cardozo, J.). Freedom of speech is not absolute, however. The government may validly restrict the time, place and manner of speech and may regulate, prohibit or punish certain speech, such as commercial speech, defamation, advocacy of violence, and obscenity. Ronald D. Rotunda & John E. Nowak, *TREATISE ON CONSTITUTIONAL LAW – SUBSTANCE AND PROCEDURE* § 20.7 (3d. ed. 1999).

The constitutional jurisprudence most closely relevant to the instant matter involves the statutory prohibition of political activity undertaken by governmental employees. It has long been held that governmental employees may be prohibited from participating in political campaigns, including the solicitation of donations. *Broadrick v. Oklahoma*, 413 U.S. 601, 93 S. Ct. 2908, 37 L. Ed. 2d. 830 (1973) (construing the Hatch Act); *United States Civil Service Commission v. National Association of Letter Carriers*, 413 U.S. 548, 93 S. Ct. 2880, 37 L. Ed. 2d. 796 (1973). Indeed, Michigan has long prohibited certain governmental employees from soliciting or receiving political contributions. *See, e.g.*, Mich. Comp. Laws Ann. § 38.419 (county employees), § 38.465 (township employees). The Board notes, however, that, to be enforceable, restrictions on the political activity of governmental employees must not be vague or overly broad. Rather, they must be drawn sufficiently clearly so as to give the employees appropriate notice of the prohibited conduct and not drawn so broadly as to exceed the governmental purpose furthered by the restriction. *See generally, United States Civil Service Commission, supra.*

Certain activity, though characterized as speech or being related to speech, is held for constitutional purposes not to be speech at all but rather is conduct that may validly be regulated or even prohibited. *Virginia v. Hicks*, ___ U.S. ___, 123 S. Ct. 2191, 156 L. Ed. 2d. 148 (2003) (public housing agency may ban from low-income housing development a trespasser who sought to distribute leaflets); *Board of Trustees of the State of New York v. Fox*, 492 U.S. 469, 473, 109 S. Ct. 3028, 106 L. Ed. 2d. 388 (1989) (state university may prohibit Tupperware parties from residential dormitories even though such parties have a home economics (and thus speech) component as well as a commercial component).

Under this analysis, Mr. Seger's activities with respect to the Kulak Fund are separable into two categories: speech and conduct. Each category is accorded different constitutional protection.

Mr. Seger's advocacy on behalf of Mr. Kulak's cause, including his solicitation of contributions to the Kulak Fund, is speech. Under the facts presented and the language of the Ethics Ordinance, those activities are protected by the First Amendment. The Board does not decide the question of whether the city may validly regulate or prohibit Mr. Seger's speech under the facts presented, or even whether it should do so. Rather, the Board concludes that, although the Ethics Ordinance could be interpreted to prohibit Mr.

Seger from soliciting contributions to the Kulak Fund, its language is not sufficiently clear and narrow to withstand constitutional scrutiny. Thus, the Board finds that Mr. Seger's activities in advocating on behalf of Mr. Kulak's cause and in soliciting donations to support Mr. Kulak's litigation against the city do not constitute a violation of the Ethics Ordinance. On the other hand, Mr. Kulak's role as a signatory to and a fiduciary for the Kulak Fund bank account constitutes conduct, not speech, which may validly be prohibited by the city.

3. Analysis of Whether Mr. Seger's Role As a Signatory to and Fiduciary of the Kulak Fund Account Violates the Ethics Ordinance.

The sole purpose of the Kulak Fund is to support Mr. Kulak's litigation seeking the recovery of damages and injunctive relief against the city and certain of its officials. Mr. Seger admitted that he deemed himself a fiduciary of the Kulak Fund, and the Board concludes that he is a fiduciary. Furthermore, The Ethics Ordinance declares that public office is a public trust. Birmingham Code of Ordinances, § 2-320. The complaint alleges that Mr. Seger owes a fiduciary obligation to the city as well, and the Board so concludes. Thus, the Board concludes that Mr. Seger's activity as a signatory to and fiduciary of the Kulak Fund account constitutes a violation of the Ethics Ordinance, for several reasons presented below.

a. Violation of Section 2-320.

The Ethics Ordinance proscribes actions that are incompatible with the public interest. *Id.* § 2-320. It requires city officials or employees to avoid conflicts between their private interests and the public interest. *Id.* City officials or employees hold their positions in public trust, which they are required to honor by integrity and conduct. *Id.*

The Board holds that Mr. Seger violated section 2-320 of the Ethics Ordinance. His fiduciary role and his service as a signatory to the Kulak Fund account is incompatible with the public interest and results in an irreconcilable conflict between his private interest in supporting Mr. Kulak's cause against the city and the public interest. Mr. Seger's integrity is not at issue, and his advocacy on behalf of Mr. Kulak is not prohibited by section 2-320 under the facts presented, but his conduct in assuming a fiduciary responsibility directly against the interest of the city violates section 2-320.

b. Violation of Section 2-321.

Section 2-321 requires city officials or employees to avoid conduct which may tend to undermine respect for city officials and employees and for the city as an institution. Section 2-321 also requires city officials and employees to carry out their duties impartially and remain non-partisan in their official acts.

The Board finds no evidence, nor even an allegation, of partisanship in Mr. Seger's official acts. But Mr. Seger admitted, and the Board concludes, that his conduct tends to undermine respect for city officials and employees and for the city as an institution. The Board points out that the Kulak lawsuit is brought against both the city and certain of its elected officials.

c. Violation of Section 2-323.

Section 2-323(5) requires city officials or employees to avoid any action that might result in or create the appearance of affecting adversely the confidence of the public or the integrity of city government.

The Board concludes that Mr. Seger's service as a signatory to and fiduciary of the Kulak Fund account might result in or create the appearance of affecting adversely the confidence of the public or the integrity of city government. His role on a city committee could readily be compromised and his vote subjected to challenge were someone appearing before that committee to make a contribution to the Kulak Fund, even absent Mr. Seger's solicitation or knowledge. The risk of the appearance of adversely affecting the confidence of the public or the integrity of city government, even inadvertently, is a risk that the Ethics Ordinance holds the city is unwilling to assume under the facts of this case. The legality of Mr. Seger's conduct is not in question, but that is not relevant. Moreover, the substantiality of his conflict of interest or the perceived risk to the public's confidence in the city is not relevant. Indeed, the risk to the public's confidence was increased by Mr. Seger's failure to disclose his association with the Kulak Fund to the two city committees on which he serves.

d. No Violation of Section 2-324 (a)(4).

Section 2-324(a)(4) forbids a city official or employee to solicit any gift of money for the benefit of any other 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.

The Board concludes that Mr. Seger has not violated section 2-324(a)(4). Although Mr. Seger solicited and received gifts of money for the benefit of Mr. Kulak, there has been no showing that the gifts have influenced or even tend to influence the manner in which he has performed his official duties or any other officials or employees have performed their official duties.

e. Violation of Section 2-324 (a)(6).

Section 2-324(a)(6) forbids a city official or employee to render services for any private or public interest when that service is incompatible or in conflict with the

discharge of his or her official duties or may tend to impair his or her independence of judgment or action in the performance of his or her officials duties.

The Board concludes that Mr. Seger has violated section 2-324 (a)(6). His fiduciary role and his service as a signatory to the Kulak Fund account are, as a matter of fact and as a matter of law, incompatible and in conflict with the discharge of his official duties, which involve maximizing the financial resources of the city. Mr. Seger contended that, even if he is a fiduciary, he is a fiduciary only for a limited, private purpose. Thus, he contended, there is no conflict between his role in the Kulak Fund and his role in the city. He is incorrect. The first and paramount duty of a fiduciary is loyalty to the principal. *Stephenson v. Golden*, 279 Mich. 710, 276 N.W. 849 (1937). That loyalty must be absolutely undivided. *Cozzens v. Bazzani Building Co.*, 456 F. Supp. 192 (E.D. Mich. 1978). He cannot serve both interests consistent with the Ethics Ordinance. Moreover, the Ethics Ordinance makes no provision for substantiality of the conflict. Without regard to the content of his speech, Mr. Kulak's status as a fiduciary in a matter against the direct interest of the city is incompatible with his role as a city official or employee under the Ethics Ordinance.

4. Discussion of Other Defenses Asserted.

Mr. Seger asserted several defenses in addition to this constitutional defense. The Board rejects these defenses.

Mr. Seger asserted that his conduct in his official capacity on the two city committees on which he serves has been beyond reproach. The Board accepts that assertion, for there is evidence in the record to support it, and no evidence to the contrary has been presented. But, as stated above, that defense is irrelevant. Mr. Seger was not charged with any malfeasance or improper conduct while serving on the committees. What is at issue is his role in supporting Mr. Kulak's lawsuit by serving as a signatory to and fiduciary of the Kulak Fund account, the sole purpose of which is to fund litigation against the city.

Mr. Seger also asserted that his activity on behalf of the Kulak Fund is personal activity that is not subject to the Ethics Ordinance. He is incorrect. The ordinance explicitly addresses private activity and the need to balance, indeed sometimes subordinate, a volunteer's private interest with the interests of the city and the people. Birmingham Code of Ordinances, § 2-321.

Finally, Mr. Seger contended that the complaint submitted in this case is politically and personally motivated. The Board rejects that defense for three reasons. First, the defense is irrelevant. Mr. Seger admitted that the allegations of the complaint are true. Consequently, the veracity of the Complainant was not brought into issue at the hearing. Thus, her motivation in filing the complaint has no bearing on any fact of consequence to the determination of the matter.

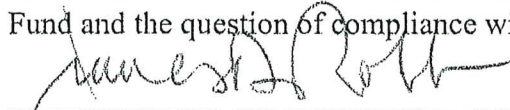
Second, in enacting the Ethics Ordinance, the city has devised a way for the public to seek a determination of whether the conduct of its officials and employees meets the prescribed standard of conduct. The Board has jurisdiction to review that conduct, whether brought in the form of a complaint by a citizen, as in this case, or as a request by the official or employee for an opinion about his or her own conduct. The Complainant had the legal right to file the complaint. Moreover, had Mr. Seger been sensitive to the question of whether his conduct might violate the Ethics Ordinance, he himself could have requested from the Board an advisory opinion, a process that he admittedly knew existed, thereby avoiding the filing of the complaint altogether.

Third, the Board concludes as a matter of fact that there is insufficient basis to demonstrate that the complaint was politically or personally motivated. Mr. Seger accused the Complainant of filing the complaint out of personal animus. He was correct in arguing that the Ethics Ordinance is not to be used to settle personal or political scores. But he did not demonstrate animus on the part of the Complainant. Rather, the animus demonstrated in the record appears to be Mr. Seger's animus towards the Complainant. The Board specifically rejects Mr. Seger's irrelevant, misleading, unjustified, and disrespectful *ad hominem* attack against the Complainant.

5. Recommendations.

The Board is vested with the authority to determine whether the Respondent's conduct conforms to the Ethics Ordinance. The Board is not empowered to prescribe a sanction or penalty, not does it undertake to do so, but instead leaves that consideration to the City Commission as the ordinance prescribes.

Because the Board has an advisory function, however, it customarily recommends ways in which city officials and employees can meet the requirements of the ordinance. In his written submission to the Board, Mr. Seger indicated that he could either recuse himself from the matter before the General Investment Committee or the Barnum Center Steering Committee or terminate his association with the Kulak Fund. In the opinion of the Board, because his conflict is one of status, he may cure the conflict only by resigning from the committees or from the Kulak Fund. For purposes of advising similarly situated volunteers, the Board holds that, at the time he assumed his role with the Kulak Fund, he should have informed the General Investment Committee and the Barnum Center Steering Committee so that its members could have taken that factor into account during their consideration of the matters before them. He should not have participated in any discussions or decisions of those bodies until he disclosed his association with the Kulak Fund and the question of compliance with the Ethics Ordinance was decided.



James D. Robb



John J. Schrot, Jr.

Ms. Fierro-Share submitted a dissenting opinion.

Sophie Fierro-Share

ATTACHMENT 6

ARTICLE II. MUSEUM BOARD¹

Sec. 62-26. Establishment; composition.

- (a) There is hereby established the museum board for the city which shall consist of seven members who shall serve without compensation. Six of the members shall be appointed by the city commission and shall be qualified city electors. One member shall be the owner of a business located in the city to be appointed by the city manager with the concurrence of the city commission (need not be a resident). A majority of the members of the museum board shall also be members of the Birmingham Historical Society.
- (b) In addition to the seven members of the museum board, the city commission shall appoint one alternate member to serve a term of three years, who shall be a qualified city elector.

(Ord. No. 2005, 1-25-10; Ord. No. 2349, 7-20-20)

Sec. 62-27. Terms of members.

Each member shall be appointed for a term of three years ending on the first Monday of July of the third year after appointment, or upon the appointment of his successor, whichever is later, except that in the first instance three of the members shall be appointed for a one-year term and two shall be appointed for two-year terms. Members of the museum board shall hold office at the pleasure of the city commission. Vacancies occurring other than through the expiration of term shall be filled for the unexpired term by the city commission.

(Ord. No. 2005, 1-25-10)

Sec. 62-28. Organization.

The museum board shall elect a chairman from its membership annually at its first meeting after the first Monday of July. The city clerk shall be a nonvoting ex officio member of the museum board and shall serve as its secretary; and the city treasurer shall be a nonvoting ex officio member of the museum board and shall serve as its treasurer.

(Ord. No. 2005, 1-25-10)

Sec. 62-29. Meetings.

The museum board shall hold at least one regular public meeting in each quarter on such date and at such time and place as may be established by resolution of the museum board. Special meetings may be called by the secretary on the written request of the chairman or any three members of the museum board on at least two days'

¹Editor's note(s)—Ord. No. 2005, adopted January 25, 2010, amended article II in its entirety to read as herein set out. Formerly, article II pertained to the historical board, and derived from the Code of 1963, §§ 1.201—1.210, and Ord. No. 1719, adopted December 20, 1999.

Cross reference(s)—Boards and commissions, § 2-171 et seq.

notice. The museum board shall adopt such rules for the conduct of its business as it may from time to time adopt by resolution. The museum board shall keep a written or printed record of its proceedings which shall be a public record and property of the city.

(Ord. No. 2005, 1-25-10)

Sec. 62-30. Expenditures.

The museum board shall have the power to expend such funds as may from time to time be appropriated to it by the city commission or otherwise received by it for the purpose of carrying out the powers and duties of the museum board. An account of all its receipts and expenditures shall be maintained which shall be a public record and property of the city.

(Ord. No. 2005, 1-25-10)

Sec. 62-31. Powers and duties.

- (a) Mission statement. The Birmingham Museum will explore meaningful connections with our past, in order to enrich our community and enhance its character and sustainability. Our mission is to promote understanding of Birmingham's historical and cultural legacy through preservation and interpretation of its ongoing story.
- (b) In general, it shall be the duty of the museum board to:
 - (1) Collect, arrange, catalogue and preserve historical material including books, pamphlets, maps, charts, manuscripts, papers, records and archives, paintings, statuary and other objects and materials relating to the history of the city and the surrounding area;
 - (2) Procure and preserve narratives of the residents of such area;
 - (3) Collect material of every description relative to the history, and culture of our Oakland County Native American tribes;
 - (4) Collect, prepare and display objects indicative of the life, customs, dress and resources of the residents of this area; and
 - (5) Make available from time to time source materials and historical studies relative to and illustrative of the history of the area.
- (c) The museum board shall have the power, with the assistance of all city public officials, to collect from the public offices in the city reproductions of any records, files, documents, books and papers which, in the opinion of the museum board are of historical value.
- (d) The museum board shall have the power to develop, operate and maintain the 1928 Allen House, 1822 John West Hunter House and John West Hunter Memorial Park, as part of the Birmingham Museum, as a museum and to serve as an advisory authority exercising control and management over this cultural resource.
- (e) The museum board shall have the power to raise funds for the exercise of its powers and duties.

(Ord. No. 2005, 1-25-10; Ord. No. 2176, 3-14-16)

Sec. 62-32. Executive director.

There shall be an executive director who shall be an employee of the city. The executive director shall, among other duties as established by the museum board, operate and manage the museum. The executive

director shall report to the museum board and shall be appointed, removed and supervised by the city manager. The executive director shall attend all meetings of the museum board.

(Ord. No. 2005, 1-25-10)

Sec. 62-33. Reports.

The museum board shall make and submit to the city commission annually a report of the general activities, operation, and condition of the Birmingham Museum for the preceding 12 months. The museum board shall, from time to time, as occasion requires, either in the annual report, or at any time deemed necessary by the museum board, advise the city commission in writing on all matters necessary and proper for and pertaining to the proper operation of the Birmingham Museum and any of its activities or properties.

(Ord. No. 2005, 1-25-10; Ord. No. 2176, 3-14-16)

Sec. 62-34. Budget.

The executive director, on behalf of the museum board, will submit a complete itemized budget for the ensuing fiscal year to the city manager based on guidelines established in the city budgetary process.

(Ord. No. 2005, 1-25-10)

Sec. 62-35. Protection of property.

No person shall take, use, or occupy any property under the control of the museum board except in accordance with such rules and regulations governing such as may from time to time be prescribed by the museum board.

(Ord. No. 2005, 1-25-10)

Secs. 62-36—62-55. Reserved.

CITY OF BIRMINGHAM

ORDINANCE NO. 2349

AN ORDINANCE TO AMEND PART II OF THE CITY CODE, CHAPTER 62 – HISTORICAL PRESERVATION, ARTICLE II. – MUSEUM BOARD, SEC. 62-26 ESTABLISHMENT; COMPOSITION.

THE CITY OF BIRMINGHAM ORDAINS:

The City Code, Part II, Chapter 62 – Historical Preservation, Article II. Museum Board, Sec. 62-26 – Establishment; Composition, shall read as follows:

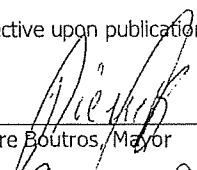
DIVISION 1. – GENERALLY

Sec. 62-26. - Establishment; composition.

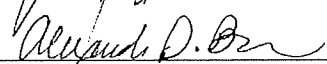
- (a) There is hereby established the Museum Board for the City which shall consist of seven members who shall serve without compensation. Six of the members shall be appointed by the City Commission and shall be qualified city electors. One member shall be the owner of a business located in the City to be appointed by the City Manager with the concurrence of the City Commission (need not be a resident). A majority of the members of the Museum Board shall also be members of the Birmingham Historical Society.
- (b) In addition to the seven members of the Museum Board, the City Commission shall appoint one alternate member to serve a term of three (3) years, who shall be a qualified city elector.

All other Sections of Chapter 62 – Historical Preservation, shall remain unaffected.

Ordained this 20th day of July, 2020. Effective upon publication.

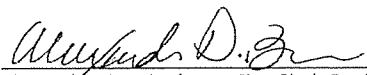


Pierre Boutros, Mayor



Alexandria D. Bingham, City Clerk Designee

I, Alexandria D. Bingham, City Clerk Designee of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held July 20, 2020 and that a summary was published in the Observer & Eccentric newspaper on August 2, 2020.



Alexandria D. Bingham, City Clerk Designee



MEMORANDUM

Department of Public Services

DATE: April 1, 2024

TO: Jana L. Ecker, City Manager

FROM: Charles T. Markus, DPS Manager
Scott D. Zielinski, DPS Director

SUBJECT: Resolution for West Nile Virus Prevention Program Reimbursement

INTRODUCTION:

The City currently participates in Oakland County's West Nile Virus Prevention Program. The County provides reimbursement for eligible expenses to combat the West Nile Virus along with other mosquito carried viruses.

BACKGROUND:

The City treats approximately 2,300 catch basins yearly to destroy mosquito larvae, and help prevent mosquito emergence. The City has participated in the West Nile Virus program for the last 20 years to help mitigate the issues caused by larger mosquito populations. The program is partially funded through a reimbursement that the City has regularly received from the County to combat the West Nile Virus.

To be eligible for the reimbursement the City must complete 3 steps. The first step includes providing a quote for eligible expenses and treatments with a plan for distributing the mosquito control products. The second step requires the City's commission to adopt the West Nile Virus resolution and to provide the signed resolution to the county for reimbursement. The third step requires the City to provide documentation of actual cost and proof of payment to the County to receive the reimbursement.

The City finds this program to be very successful and we continually re-evaluate our plans and methods associated with mosquito control.

Today the City will be looking for the City Commission to pass the required resolution language to reimburse some of the expenses involved with the program.

LEGAL REVIEW:

Language in resolution has been reviewed and approved by the City Attorney.

FISCAL IMPACT:

This year we purchased 12 cases of Natular XRT Tablets at \$983.14/case. Funds were budgeted for in Sewer Fund-Operating Supplies Account #590.0-538.000-729.0000. The City will receive \$2,705.23 in reimbursement from Oakland County upon the completion of the aforementioned steps 1-3.

PUBLIC COMMUNICATIONS:

Information on West Nile is available on the City website.

SUMMARY:

The Department of Public Services (DPS) has completed the purchase of this material from Clarke Mosquito Control for a total price of \$11,797.63. The money was budgeted in Account #590.0-538.000-729.0000 Sewer Fund-Operating Supplies for this purchase and was approved by the City Manager. The reimbursement from Oakland County for the program this year is \$2,705.23.

ATTACHMENTS:

- West Nile Virus Resolution

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to direct the Director of Public Services to apply for West Nile Virus Fund Expense Reimbursement.

**CITY OF BIRMINGHAM RESOLUTION AUTHORIZING WEST
NILE VIRUS FUND EXPENSE REIMBURSEMENT REQUEST**

WHEREAS, upon recommendation of the Oakland County Executive, the Oakland County Board of Commissioners has established a West Nile Virus Fund Program to assist Oakland County cities, villages and townships in addressing mosquito control activities; and

WHEREAS, Oakland County's West Nile Virus Fund Program authorizes Oakland County cities, villages and townships to apply for reimbursement of eligible expenses incurred in connection with personal mosquito protection measures/activity, mosquito habitat eradication, mosquito larviciding or focused adult mosquito insecticide spraying in designated community green areas; and

WHEREAS, the City of Birmingham, Oakland County, Michigan has incurred expenses in connection with mosquito control activities believed to be eligible for reimbursement under Oakland County's West Nile Virus Fund Program.

NOW THEREFORE BE IT RESOLVED that the Birmingham City Commission authorizes and directs its Director of Public Services, as agent for the City of Birmingham, in the manner and to the extent provided under Oakland County Board of Commissioners, to request reimbursement of eligible mosquito control activity under Oakland County's West Nile Virus Fund Program.

DATED

SIGNED

CERTIFIED



MEMORANDUM

Fire Department

DATE: April 1, 2024
TO: Jana L. Ecker, City Manager
FROM: Matthew J. Bartalino, Assistant Fire Chief
SUBJECT: Amended OAKWAY Interlocal Agreement

INTRODUCTION:

The Birmingham Fire Department is a member of OAKWAY, which is based upon a mutual interlocal aid agreement between other full-time, career fire departments in Oakland County. The interlocal agreement established the association and described requirements for departments to become members of this mutual aid pact.

BACKGROUND:

The OAKWAY Mutual Aid Association was formed in the early 1980s. The original 9 cities were as follows; Birmingham, Royal Oak, Southfield, Madison Heights, Ferndale, Waterford Township, Pontiac, West Bloomfield, and Bloomfield Township. OAKWAY now consists of 12 full-time career fire departments. In 2019, Farmington Hills and Rochester Hills joined OAKWAY and the most recent addition to OAKWAY is the Independence Township Fire Department. OAKWAY departments train monthly in areas of hazardous material response, technical rescue, firefighting, and emergency medicine. Daily, mutual aid departments assist each other in fire and medical responses.

Following the State of Michigan's three-year protocol review for emergency medical services in 2023, they concluded that the OAKWAY interlocal agreement must be reviewed assuring the aid pact remains compliant for Advanced Life Support (ALS) license renewals in 2024. Emergency medical services are an integral part of the services the Birmingham Fire Department provides to the residents and visitors to the City. Renewal of the department's ALS license is of critical importance.

Another benefit of the pact is that certain State and Federal grant opportunities are specific to departments working within a mutual aid agreement. These opportunities are typically for equipment shared by several departments throughout a broad geographic area ensuring a large population is served by receiving the grant award(s). Therefore, continuance of our participation with OAKWAY is very advantageous.

LEGAL REVIEW:

A legal review of the agreement and memo was conducted and there were no objections.

FISCAL IMPACT:

Without approval of the agreement, the Fire Department's Advanced Life Support agency license renewal through the State of Michigan could be jeopardized. Through our EMS billing company, the Fire Department generates over \$500,000.00 in revenue from EMS transports. The lack of an updated signed interlocal agreement would make the Fire Department ineligible for certain State and Federal grant opportunities.

SUSTAINABILITY:

N/A

PUBLIC COMMUNICATIONS:

This memo has been published in the City Commission agenda packet.

SUMMARY:

It is recommended that the City Commission accept the amended interlocal agreement for the City of Birmingham and have the agreement signed by the Mayor and City Manager. This will ensure the Fire Department has the necessary documents required for our ALS license renewal through the State of Michigan and remain eligible to receive State and Federal grants.

ATTACHMENTS:

- Amended OAKWAY Interlocal Agreement

SUGGESTED COMMISSION ACTION:

Make a motion approving the Amended OAKWAY Interlocal Agreement between Participating Political Subdivisions, in addition, to authorize the Mayor and City Manager to sign the agreement on behalf of the City.

AMENDED INTERLOCAL AGREEMENT

BETWEEN

**PARTICIPATING POLITICAL SUBDIVISIONS AS SIGNATORIES TO THIS
INTERLOCAL AGREEMENT**

CREATING THE

**OAKWAY MUTUAL AID ASSOCIATION AND
MUTUAL AID BOX ALARM SYSTEM DIVISION 3202**

A Michigan Public Body Corporate

THIS AMENDED AND RESTATED INTERLOCAL AGREEMENT is entered into by the City of Birmingham and the other political subdivisions that approve and sign this Agreement referred to in this Agreement as “Party” and collectively as the “Parties.”

RECITALS:

WHEREAS, each Party has the power, privilege, and authority to maintain and operate a fire department providing fire protection, fire suppression, transporting emergency medical services, technical rescue services, hazardous incident response and other emergency response services (“Fire Services”) and provides such Fire Services as a paid, career Fire Department; and

WHEREAS, Fire Services can further be improved by cooperation between political subdivisions during times of public emergency, conflagration, or disaster (“Incidents”); and

WHEREAS, the Michigan Constitution of 1963, Article 7, § 28 and the Urban Cooperation Act of 1967, Act No. 7 of the Public Acts of 1967, Ex. Sess., being MCL 124.501 *et seq.* of the Michigan Compiled Laws (the “Act”), permit a political subdivision to exercise jointly with any other political subdivision any power, privilege, or authority which such political subdivisions share in common and which each might exercise separately; and

WHEREAS, the Parties desire to enter into an interlocal agreement, pursuant to the Act, to further improve Fire Services; and

WHEREAS, as a result of entering into an interlocal agreement to further improve Fire Services, the Parties are creating the Oakway Mutual Aid Association and Mutual Aid Box Alarm System Division 3202 (“MABAS 3202”), as a separate legal entity and a public body corporate (the “Association”) pursuant to the Act; and

WHEREAS, each Party has the authority to execute this Agreement pursuant to a resolution of its governing body; and

WHEREAS, each Party desires to commit personnel and equipment to another Party upon request of another Party as provided in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, undertakings, understandings, and agreements set forth in this Agreement, and the background facts presented above, it is hereby agreed as follows:

ARTICLE I DEFINITIONS

The Parties agree that the following words and expressions, as used in this Agreement, whenever initially capitalized, whether used in the singular or plural, possessive or non-possessive, either within or without quotation marks, shall be defined and interpreted as follows:

Section 1.01. Agreement. “Agreement” means this Agreement creating the Oakway Mutual aid Association and Mutual Aid Box Alarm System 3202.

Section 1.02. Association Board. “Association Board” means the board of the Association created by this Agreement.

Section 1.03. Bylaws. “Bylaws” means such rules and procedures for the operation of the Association as established by the Association Board and as may from time to time be amended by the Association Board.

Section 1.04. Days. “Days” means calendar days.

Section 1.05. Fire Apparatus. “Fire Apparatus” means vehicles and equipment of a Party used in performing Fire Services.

Section 1.06. Fire Chief. “Fire Chief” means the chief of a Fire Department, or Executive Officer of Fire Operations within a public safety department.

Section 1.07. Fire Department. “Fire Department” means the operating fire department of a Party.

Section 1.08. Fire Fighters. “Fire Fighters” means personnel qualified and trained in providing Fire Services.

Section 1.09. Fire Services. “Fire Services” means providing fire protection, fire suppression, transporting emergency medical services, special operations, and such other services as may be set forth in the Bylaws for an Incident.

Section 1.10. Fiscal Year. “Fiscal Year” means the fiscal year of the Association starting on January 1 and ending on December 31st of each year.

Section 1.11. Incident. “Incident” means a public emergency, conflagration, or disaster.

Section 1.12. Member. “Member” means the Fire Chief appointed by a Party to serve on the Association Board.

Section 1.13. Mutual Aid Box Alarm System. “Mutual Aid Box Alarm System,” or

“MABAS,” means a definite and prearranged plan whereby response and assistance is provided to a requesting Party by an assisting Party in accordance with the system established and maintained by MABAS members.

Section 1.14. Open Meetings Act. “Open Meetings Act” means Act No. 267 of the Public Acts of 1976, as amended, being MCL 15.261 et seq.

Section 1.15. Party. “Party” means a political subdivision which is a signatory to this Agreement.

Section 1.16. Standard Operating Guideline. Standard Operating Guideline “SOG” means such rules and procedures for the operation of the Association as established by the Association Board and as may from time to time be amended by the Association Board.

Section 1.17. State. “State” means the State of Michigan.

ARTICLE II ESTABLISHMENT OF THE ASSOCIATION

Section 2.01. Establishment and Legal Status of the Association. The Parties intend and agree that MABAS 3202 is established as a separate legal entity and public body corporate pursuant to the Act and this Agreement.

Section 2.02. Name of Association. The name of the Association is “Oakway Mutual Aid Association and Mutual Aid Box Alarm System Division 3202” (“MABAS 3202”).

Section 2.03. Federal Tax Status. The Parties intend that the Association shall be exempt from federal income tax under Section 115(1) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any future tax code.

Section 2.04. State and Local Tax Status. The parties intend that the Association shall be exempt from all State and local taxation including, but not limited to, sales, use, income, single business, and property taxes under the applicable provisions of the laws of the State.

Section 2.05. Title to Association Property. All property is owned by the Association as a separate legal entity. The Association may hold any of its property in its own name or in the name of one (1) or more nominees, as determined by the Parties.

Section 2.06. Compliance with Law. The Association shall comply with all federal and State laws, rules, regulations, and orders applicable to this Agreement.

Section 2.07. Principal Office. The principal office of the Association (“Principal Office”) shall be at such locations determined by the Association Board.

ARTICLE III PURPOSE

Section 3.01. Purpose. The purpose of the Association shall include joint exercise of the shared and essential governmental power, privilege, or authority of the Parties for the mutual protection of persons and property without regard to boundary lines between the Parties during incidents as provided in this Agreement.

Section 3.02. Major Activities. The major activities of the Association in the exercise of this shared power shall be the cooperative efforts of the Parties in lending personnel and equipment for Fire Services. Additional activities include facilitating cooperative efforts of the Parties in planning, preparedness, exercise and training for Incidents.

ARTICLE IV SHARED POWERS

Section 4.01. Shared Powers of the Association. In carrying out the purpose as set forth in Article III of this Agreement, the Association is authorized to perform the following, either independently or with any individual or legal entity, subject to the limitations contained in this Agreement:

- (a). Sue and be sued;
- (b). Make, execute, and deliver contracts, conveyances, and other instruments that are necessary or convenient;
- (c). Make and amend bylaws;
- (d). Solicit and accept gifts, grants, loans, and other aids from any individual or legal entity or to participate in any other way in any federal, State, or local government program;
- (e). Procure insurance against any loss in connection with the Association's property or activities;
- (f). Engage personnel as is necessary and engage the services of private consultants, managers, counsel, auditors, and others for rendering professional management and technical assistance and advice;
- (g). Charge, impose, and collect fees and charges in connection with any transactions or services as approved by the Association Board;
- (h). To the extent allowed by law, indemnify and procure insurance indemnifying any members of the Association Board, officers, or employees for personal loss or accountability from liability asserted by any individual or legal entity for any acts or omissions of the Association;

- (i). Borrow money and incur debts, liabilities, or obligations. The debts, liabilities, or obligations of the Association shall not constitute debts, liabilities, or obligations of any Party; and
- (j). Exercise any and all other necessary and proper powers to effectuate the purposes and intent of this Agreement.

ARTICLE V
ADDITIONAL POWERS; LIMITATION ON POWERS; NO WAIVER
OF GOVERNMENTAL IMMUNITY

Section 5.01. Additional Powers. In addition to the powers set forth in Article IV of this Agreement, the Association is authorized to:

- (a). Form and own other legal entities to further the purposes of this Agreement; and
- (b). Cooperate with a political subdivision, an instrumentality of that political subdivision, or other legal or administrative entity created under the Act.

Section 5.02. Limitation of Powers. The Association may not:

- (a). Levy any type of tax; or
- (b). Incur debts, liabilities, or obligations that constitute debts, liabilities, or obligations of any Party.

Section 5.03. No Waiver of Governmental Immunity. The Parties agree that no provision of the Agreement is intended, nor shall any provision be construed, as a waiver by any Party of any governmental immunity provided by law.

ARTICLE VI
DURATION, WITHDRAWAL, AND TERMINATION OF
INTERLOCAL AGREEMENT

Section 6.01. Duration. The existence of the Association commences on January 1, 2019, or as soon thereafter as this Agreement is filed under the Act with at least two Parties as signatories (“Effective Date”), and continues until terminated in accordance with Section 6.03.

Section 6.02. Withdrawal by a Party. Any Party may withdraw from the Agreement at any time upon thirty (30) Days notice to the Association. The withdrawal of any Party shall not terminate nor have any effect upon the provisions of the Agreement so long as the Association remains composed of at least two (2) Parties.

Section 6.03. Termination. This Agreement shall continue until terminated by the first to occur of the following:

- (a). The Association consists of less than two (2) Parties; or
- (b). Unanimous vote of termination by the Association Board.

Section 6.04. Disposition upon Termination. As soon as possible after termination of this Agreement, the Association shall wind up its affairs as follows:

- (a) All of the Association's debts, liabilities, and obligations to its creditors and all expenses incurred in connection with the termination of the Association and distribution of its assets shall be paid first.
- (b) Assets that were transferred to the Association by any Party that remain with the Association at the time of termination shall be returned to that Party.
- (b). The remaining assets, if any, shall be distributed to the Parties on an equitable basis as determined by the Association Board.
- (c). All of the Association's records shall be maintained by any Member possessing Association records as set forth in the Association's Bylaws, whether in hard copy or electronic format, and for a period of two (2) years after termination of this Agreement, or longer if required by law.

ARTICLE VII ASSOCIATION BOARD

Section 7.01. Association Board Composition. The governing body of each Party shall appoint one (1) Member to the Association Board who shall serve at the pleasure of the governing body of the appointing Party. In the absence of a specific appointment by a Party's governing body, its Fire Chief shall be its appointed representative.

Section 7.02. Association Board Authority. The Association Board shall exercise the powers of the Association. The Association Board shall elect a President, Vice-President, Secretary, and Treasurer, and such other officers as it deems necessary, from the membership, and the duties of the officers may be set forth in the Bylaws. The Association may combine the elected offices of Secretary and Treasurer. The Association Board shall select a Member and an alternate to serve as the voting representative on the Michigan MABAS Executive Board. The Association Board shall select a Member to serve as Plans Coordinator. The Association Board may establish committees as it deems necessary.

Section 7.03. Meetings. The Association Board shall hold at least one (1) annual meeting at the place, date, and time as the Association Board shall determine. Additional meetings shall take place as provided in the Bylaws. Meetings shall comply with the Open Meetings Act and the Bylaws.

Section 7.04. Quorum and Voting. Members constituting a majority of the Association Board shall be required to constitute a quorum for the transaction of business and a

majority vote at a meeting at which a quorum is present shall be necessary for the transaction of business. Presence in person shall be required for both quorum and voting. In the event that an Association Member cannot attend the meeting, a pre-identified proxy can attend and vote in the Association Member's stead, as stated in the Bylaws.

Section 7.05. Fiduciary Duty. The Members of the Association Board are under a fiduciary duty to conduct the activities and affairs of the Association in the best interests of the Association, including the safekeeping and use of all Association monies and assets for the benefit of the Association. The Members of the Association Board shall discharge this duty in good faith with the care an ordinarily prudent individual in a like position would exercise under similar circumstances.

Section 7.06. Compensation. The Members of the Association Board shall receive no compensation for the performance of their duties, but each Member shall be reimbursed for the reasonable expenses of its Member in carrying out those duties. Each Party shall appoint its Fire Chief to represent its municipality as a member of the Association Board.

ARTICLE VIII PARTY CONTRIBUTION

Section 8.01. Fire Fighters. Each Party shall make available without cost to the Association or any other Party such Fire Fighters as set forth in the Bylaws who will actively participate in Incidents if assistance is requested. These Fire Fighters shall remain at all times employees of the Party providing them and shall continue to be solely in that Party's benefit system including wages, pension, seniority, sick leave, vacation, health and welfare, longevity, and other benefits, if applicable.

Section 8.02. Fire Apparatus. Each Party shall make available without cost to the Association or any other Party such Fire Apparatus as set forth in the Bylaws.

ARTICLE IX FIRE SERVICES

Section 9.01. Requests for Fire Services. A Party's Fire Chief, the ranking officer on duty, or other officer as designated by the Fire Chief, shall have the right to initiate requests for Fire Services at such times as deemed to be in the best interests of the Party to do so. When initiating requests for Fire Services, each Fire Department shall use MI-MABAS box cards.

Section 9.02. Response to Request for Fire Services. Upon a Fire Department's receipt of a request from another Party for Fire Services, the Fire Chief, the ranking officer on duty, or other officer as designated by the Fire Chief shall have the right to commit the requested Fire Fighters, other personnel, and Fire Apparatus to the assistance of the requesting Party. A Party shall provide Fire Services to any other Party upon request provided that the Fire Fighters and Fire Apparatus of the requested Party are not already engaged in providing Fire Services within the geographic boundaries of the requested Party, or elsewhere, in a manner precluding the extension of Fire Services to the

requesting Party. A Party shall always have the right to maintain the operational capacity of its own jurisdiction. A Party which has withheld or refused or provide requested assistance under this Agreement shall immediately notify the requesting Party, and if requested, shall submit a written explanation for the refusal to the Association Board and requesting Party within ten (10) days of the refusal.

A Party responding to a request for Fire Services shall not be required to maintain Fire Fighters or Fire Apparatus within the boundaries of the Party requesting Fire Services for a period longer than is necessary. Additional response guidelines may be established by the Association Board or by the Bylaws.

Section 9.03. Mutual Aid Box Alarm System. Response of mutual aid resources shall be in accordance with the Mutual Aid Box Alarm System in place at the time of the request. This Agreement replaces and supersedes any and all mutual aid box alarm system agreements by and between the Parties to this Agreement, except for the Michigan Mutual Aid Box Alarm System Agreement.

Section 9.04. Incident Management System. Command, control, and coordination at the Incident shall be based on a nationally recognized Incident Management System, as set forth in writing by a Party to the Association. The Fire Chief, the ranking officer on duty, or other officer of the requesting Party shall be the officer in charge of the operations at the Incident. All Fire Fighters, other personnel, and Fire Apparatus of a responding Party shall be under the command and control of the highest commanding officer of the responding Party. All directives and orders by the officer in charge of operations at the Incident regarding Fire Fighters, other personnel, and Fire Apparatus shall be directed to the highest ranking officer attached to the responding Party.

Section 9.05. Obligations to non-Parties. This Agreement shall not release any Party from any other obligations or agreements such Party may have with any individual or legal entity relating to Fire Services that is not a Party to this Agreement.

ARTICLE X ADMISSION AND REMOVAL OF PARTIES

Section 10.01. Admission. After the Effective Date, additional municipalities may become a Party to this Agreement with the approval by resolution adopted by that municipality's legislative body and upon two thirds (2/3rds) approval of the Members of the Association Board present at the meeting when the vote is taken. A new Party shall submit a signed copy of this Agreement to the Association Board and its appointment of a Member to the Association Board shall be effective upon filing the Agreement as set forth in the Act.

Section 10.02. Removal. A Party may be removed from the Association upon a two thirds (2/3rd) vote of the Members of the Association Board present at the meeting when the vote is taken.

ARTICLE XI BOOKS AND REPORTS

Section 11.01. Accrual Basis. The Association shall maintain its books of account on an accrual basis of accounting.

Section 11.02. Financial Statements and Reports. The Association shall cause financial statements (i.e. balance sheet, statement of revenue and expenses, statement of cash flows, and statement tracking changes in fund balance) to be prepared at least annually at Association expense. A copy of the various financial statements shall be provided to each Party.

ARTICLE XII FINANCES

Section 12.01. Assessment. The Association Board shall determine dues, fees, and assessments to be contributed by each Party, the amount of which and payment procedure shall be set forth in the Bylaws.

ARTICLE XIII MISCELLANEOUS

Section 13.01. Liability. Each Party will be solely responsible for the acts of its own employees, agents, and subcontractors, the costs associated with those acts, and the defense of those acts. No liability, right, or benefit arising out of any employer/employee relationship, either express or implied, shall arise or accrue to any Party as a result of this Agreement. The Parties shall not be responsible for any liability or costs associated with the acts, or the defense of the acts, of Parties outside of their political jurisdictions, but will make personnel available for any legal process upon request of a Party defending a claim relating to services provided pursuant to this Agreement. It is agreed that none of the Parties shall be liable for failure to respond for any reason to any request for Fire Services or for leaving the scene of an Incident with proper notice, or without significant notice in the case of an emergency, after responding to a request for service.

Section 13.02. Entire Agreement. This Agreement sets forth the entire agreement between the Parties and 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 that there are no other agreements, understandings, contracts, or representations between the Parties in any way related to the subject matter hereof, except as expressly stated herein.

Section 13.03. Severability of Provisions. If any provision of this Agreement, or its application to any person or circumstance, is invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances is not affected but will be enforced to the extent permitted by law.

Section 13.04. Governing Law. This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced, and governed under the laws of the State of Michigan without regard to the doctrines of conflict of laws. The language of all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

Section 13.05. Captions. The captions, headings, and titles in this Agreement 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 Agreement.

Section 13.06. Terminology. All terms and words used in this Agreement, regardless of the numbers or gender in which they are used, are deemed to include any other number and any other gender as the context may require.

Section 13.07. Cross-References. References in this Agreement to any Article include all Sections, subsections, and paragraphs in the Article; references in this Agreement to any Section include all subsections and paragraphs in the Section.

Section 13.08. Jurisdiction and Venue. In the event of any disputes between the Parties over the meaning, interpretation, or implementation of the terms, covenants, or conditions of this Agreement, the matter under dispute, unless resolved between the Parties, or unless an alternative is agreed upon by the Parties, shall be submitted to the courts of the State of Michigan, with original jurisdiction and venue vested in the Oakland County Circuit Court.

Section 13.09. Recitals. The Recitals shall be considered an integral part of this Agreement.

Section 13.10. No Third Party Beneficiaries. Except as expressly provided herein, this Agreement does not create, by implication or otherwise, any direct or indirect obligation, duty, promise, benefit, right of indemnification (i.e., contractual, legal, equitable, or by implication), right of subrogation as to any Party's rights in this Agreement, or any other right of any kind in favor of any individual or legal entity.

Section 13.11. Amendment. The Agreement may be amended or an alternative form of the Agreement adopted only upon written agreement of the Parties.

Section 13.12. Counterpart Signatures. This Agreement may be signed in counterpart. The counterparts taken together shall constitute one (1) Agreement.

By their signatures, the undersigned represent that they are duly authorized to sign this Agreement on behalf of, and to bind, their respective municipalities, and the municipalities listed hereafter shall constitute the membership of the Association upon their respective execution of this Agreement:

[Individual Municipal Signature Pages Follow]

COMMUNITY: City of Birmingham

Address: 151 Martin
Birmingham, MI 48009

WITNESSES:

Acting Fire Chief

BY: _____

City Clerk

ITS: Mayor

DATE: 4-8-2024

Communications

BY: _____

ITS: City Manager

DATE: 4-8-2024



MEMORANDUM

Engineering Department

DATE: April 2, 2024

TO: Jana L. Ecker, City Manager

FROM: Melissa A. Coatta, City Engineer

SUBJECT: Parking Lot No. 6 Floodwall Phase 1 Professional Design Engineering Services Agreement

INTRODUCTION:

A request for proposals (RFP) for Parking Lot No. 6 Floodwall Phase 1 Engineering Services was publicly bid. The Engineering Department recommends Anderson Eckstein & Westrick, Inc. (AEW) to provide professional design engineering services for Phase 1 of the project.

BACKGROUND:

At the October 2, 2023, City Commission Meeting, the City Commission passed a resolution to approve the State of Michigan Hazard Mitigation Assistance Grant Agreement for DR-4607-MI Hazard Mitigation Grant Program between the Michigan Department of State Police, Emergency Management and Homeland Security Division, and the City of Birmingham. The grant requires to publicly bid on the design engineering for this project.

The City issued the RFP on November 29, 2023, and received zero proposals on December 22, 2023. After following up with the State, the City re-issued the request for proposals and posted this on several websites. Bids were received on February 22, 2024, and the City received one (1) proposal from Anderson Eckstein & Westrick, Inc. (AEW) for \$297,800.00

AEW is currently one of the City's Engineering Consultants and is used for structural engineering and the concrete repair program. AEW has previously worked on similar projects for other public agencies regarding floodplain studies and structural design.

LEGAL REVIEW:

The City has reviewed the agreement and has no objection as to form or content.

FISCAL IMPACT:

A budget amendment of \$4,340.00 is needed for the City's additional cost of phase one of the project. Per the grant agreement, the grant amount is \$264,116.70 with the City's amount of \$29,346.30, for a total amount of \$293,463.00. AEW's proposal cost for Phase 1 Professional Design Engineering Services is \$297,800.00.

SUSTAINABILITY:

The City will review ways to include sustainability during the design of the project.

PUBLIC COMMUNICATIONS:

Discussion will occur with adjacent property owners to Parking Lot No. 6 during the design of the project.

SUMMARY:

The Engineering Department recommends that Anderson Eckstein & Westrick, Inc. be engaged to provide professional services for Parking Lot No. 6 Floodwall Phase 1 as specified in their proposal.

ATTACHMENTS:

- October 2, 2024, City Commission Report Michigan Hazard Mitigation Grant Agreement – Parking Lot #6 Floodwall
- Request for Proposals (RFP) and Clarification
- AEW Proposal
- Agreement

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to approve an agreement for Parking Lot No. 6 Floodwall Phase 1 Professional Design Engineering Services with Anderson Eckstein & Westrick, Inc. In addition, to authorize the Mayor and the City Clerk to sign the agreement on behalf of the City contingent upon execution of the agreement and meeting all insurance requirements.

AND

to approve the appropriation and amendment to the Capital Project Funds – Streambank Improvement as follows:

Revenues:

Appropriation from Fund Balance	403.0-000.000-400.0000	<u>\$ 4,340</u>
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Expenses:

Capital Projects Fund – Capital Outlay	403.0-901.018-981.0100	\$ 4,340
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**REQUEST FOR PROPOSALS
PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6 FLOOD
WALL - REBID**

Sealed proposals endorsed “**PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6 FLOOD WALL - REBID**”, will be received at the Office of the City Clerk, 151 Martin Street, PO Box 3001, Birmingham, Michigan, 48012; until **Thursday, February 22, 2024, at 2:00 p.m.** after which time bids will be publicly opened and read.

Bidders will be required to attend an optional pre-bid meeting on Monday, February 5, 2024, at 2:00 p.m. at Parking Lot No. 6 located between 588 N. Old Woodward and 600 N. Old Woodward, Birmingham, Michigan 48009.

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms to furnish all labor, equipment, material, and supervision necessary to complete Engineering Design Services for Parking Lot No. 6 Flood Wall - REBID. This work must be performed as specified in accordance with the specifications contained in the Request For Proposals (RFP).

The RFP, including the Specifications, may be obtained online from the Michigan Inter governmental Trade Network at <http://www.mitn.info>, Construction Association of Michigan (<http://www.buildwithcam.com>), and Builders Exchange of Michigan (<https://home.grbx.com/>).

The acceptance of any proposal made pursuant to this invitation shall not be binding upon the City until an agreement has been executed.

**Submitted to MITN,
Construction Association
of Michigan, and Builders
Exchange of Michigan:**

Wednesday, January 23, 2024

Optional Pre-Bid Meeting:

Monday, February 5, 2024 at 2:00 pm
Between 588 N. Old Woodward and 600 N. Old
Woodward, Birmingham, Michigan 48009

**Deadline for Submissions:
Contact Person:**

Thursday, February 22, 2024 at 2:00 p.m.
Melissa A. Coatta, City Engineer
P.O. Box 3001, 151 Martin Street
Birmingham, MI 48012-3001
Phone: (248) 530-1839
Email: mcoatta@bhamgov.org



**REQUEST FOR PROPOSALS
PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6 FLOOD
WALL - REBID**

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INTRODUCTION

For purposes of this request for proposal, the City of Birmingham will hereby be referred to as "City" and the private firm will hereby be referred to as "Consultant."

The City of Birmingham, Michigan is accepting proposals from qualified professional firms to submit a proposal for **PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6 FLOOD WALL - REBID**. This work must be performed as specified in accordance with the specifications outlined by the Scope of Work contained in this Request For Proposals (RFP).

During the evaluation process, the City reserves the right, where it may serve the City's best interest, to request additional information or clarification from proposers, or to allow corrections of errors or omissions. At the discretion of the City, firms submitting proposals may be requested to make oral presentations as part of the evaluation.

It is anticipated the selection of a firm will be completed by February 27, 2024 and pending award at the City Commission meeting on March 5, 2024. An Agreement for services will be required with the selected Consultant. A copy of the Agreement is contained herein for reference. Contract services will commence upon execution of the service agreement by the City.

REQUEST FOR PROPOSALS (RFP)

The purpose of this RFP is to request sealed bid proposals from parties to present their qualifications, capabilities, and costs to provide **PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6 FLOOD WALL - REBID**. for construction plans and specifications, Hydrologic and Hydraulic (H&H) Study with Executive Summary, apply for permits to construction a project, and public notice.

RE-BID MEETING

Prior to submitting a bid, interested firms are required to attend a pre-bid meeting to conduct an on-site visit of the parking lot located between 588 N. Old Woodward and 600 N. Old Woodward, Birmingham, Michigan 48009. This meeting will be held on Monday, February 5, 2024, at 2:00 pm.

INVITATION TO SUBMIT A PROPOSAL

Proposals shall be submitted no later than 2:00 p.m. local time, on Thursday, February 22, 2024, to:

City of Birmingham
Attn: City Clerk
151 Martin Street
Birmingham, Michigan 48009

One (1) original and one (1) electronic copy of the bid proposal shall be submitted. The bid proposal should be firmly sealed in an envelope, which shall be clearly marked on the outside, "**PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6 FLOOD WALL - REBID**". Any bid proposals received after the due date cannot be accepted and will be rejected and returned, unopened, to the proposer. The proposer may submit more than one proposal provided each proposal meets the functional requirements of this Request For Proposal.

INSTRUCTIONS TO BIDDERS

1. Any and all forms requesting information from the consultant must be completed on the attached forms contained herein (see Consultant's Responsibilities). If more than one bid is submitted, a separate bid proposal form must be used for each.
2. Any request for clarification of this RFP shall be made in writing and delivered to: Melissa Coatta, City Engineer, 248-530-1840, mcoatta@bhamgov.org, 151 Martin Street, Birmingham, MI 48009. Such request for clarification shall be submitted, no later than 5:00 pm Tuesday, February 13, 2024.
3. All bid proposals must be submitted following the RFP format as stated in this document and shall be subject to all requirements of this document including the instruction to Bidder and general information sections. All bid proposals must be regular in every respect and no interlineations, excision, or special conditions shall be made or included in the RFP format by the Consultant.
4. The contract will be awarded by the City of Birmingham, at our sole discretion to the most responsive and responsible bidder with the lowest price and the contract will require the completion of the work pursuant to these documents.
5. Each respondent shall include in his or her proposal, in the format requested, and the cost of performing the work. Municipalities are exempt from Michigan State Sales and Federal Excise taxes. Do not include such taxes in the proposal figure. The City will furnish the successful company with tax exemption information when requested.
6. Each Bidder shall include in their proposal the following information: Firm name, address, city, state, zip code, telephone number, and e-mail address of an individual in their organization to whom notices and inquiries by the City should be directed as part of their proposal.

EVALUATION PROCEDURE, CRITERIA AND SCORING

The City will utilize a qualifications-based selection process in choosing a consultant for the completion of this work.

An evaluation panel will consist of City staff and any other person(s) designated by the City. The panel will evaluate the proposals based on, but not limited to, the following criteria:

1. **Ability to provide services as outlined.**
2. **Bidder background and personnel qualifications**
3. **Related experience with similar projects**
4. **Project team**
5. **Cost of services** – Note: A cost plus a percentage of construction cost methods of contracting cannot be used.
6. **Timeline and schedule for completion**
7. **References**

TERMS AND CONDITIONS

1. The City reserves the right to reject any or all proposals received, waive informalities, or accept any proposal, in whole or in part, it deems in the best interest of the City.
2. The City reserves the right to request clarification of the information submitted and to request additional information from one or more Bidders.
3. The City reserves the right to terminate the contract at its discretion for any or no reason, or should it be determined that the services provided do not meet the specifications contained herein, or in the case, the City elects not to proceed to the next phase of the RFP. The City may terminate this Agreement at any point in the process upon notice to the contract sufficient to indicate the City's desire to do so. In the case of such a stoppage, the City agrees to pay the Consultant for services rendered up to the time of notice, subject to the contract maximum amount.
4. Any proposal may be withdrawn up until the date and time set above for the opening of the proposals. Any proposals not so withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days, to provide the services set forth in the proposal.
5. The cost of preparing and submitting a proposal is the responsibility of the Consultant and shall not be chargeable in any manner to the City.
6. Payment will usually be made within forty-five (45) days after invoice. Acceptance by the City is defined as authorization by the designated City representative to this project that all the criteria requested under the Scope of Work contained herein have been provided. Invoices are to be rendered each month following the date of execution of an Agreement with the City.
7. The Consultant will not exceed the timelines established for the completion of this project.
8. The successful consultant shall enter into and will execute the contract as set forth and attached as Attachment A.

CONSULTANT'S RESPONSIBILITIES

Each consultant shall provide the following as part of their proposal:

1. Complete and sign all forms requested for completion within this RFP.
 - a. Contract Executed (Attachment A – pg. 11-20)
 - b. Bidder's Agreement (Attachment B - p. 21)
 - c. Cost Proposal (Attachment C - p. 22)
 - d. Agreement Iran Sanctions Act Vendor Certification Form (Attachment D - p. 23)
 - e. Certification Regarding Lobbying (Attached E – p. 24)
2. Provide a description of completed projects that demonstrate the bidder's ability to complete projects of similar scope, size, and purpose, in a timely manner, and within budget.
3. The proposal shall include a project timeline addressing each section within the Scope of Work and a description of the overall project approach. In the proposal, suggest technical

or procedural innovation that have been used successfully on other projects and which may provide the City with better service delivery. Discuss any ideas, innovative approach, or specific new concepts included in the proposal that would provide a benefit to the City and the environment. Include a statement that the bidder will be available according to the proposed timeline. It is expected that the design engineering will be completed by October 31, 2024.

4. A description of the bidder, including resumes and professional qualifications of the principals involved in administrating the project.
5. A list of sub-consultants and their qualifications, if applicable.
6. Three (3) client references from past projects, including current phone numbers. At least (2) of the client references should be for similar projects.
7. An acknowledgment that the Consultant will be available according to the proposed timeline.
8. The Consultant will be responsible for transportation to and from the City, as well as within the City for field work, at no cost to the City.

CITY RESPONSIBILITY

1. The City will provide a designated representative to work with the Consultant to coordinate both the City's and the Consultant's efforts and to inspect and verify any work performed by the Consultant.
2. The City will provide access to the City of Birmingham during regular business hours or during nights and weekends as approved by the City's designated representative.

SETTLEMENT OF DISPUTES

The successful consultant agrees to certain dispute resolution avenues/limitations. Please refer to paragraph 19 of the Agreement attached as Attachment A for the details and what is required of the successful consultant.

INSURANCE

The successful consultant is required to procure and maintain certain types of insurances. Please refer to paragraph 11 of the Agreement attached as Attachment A for the details and what is required of the successful consultant.

CONTINUATION OF COVERAGE

The Consultant also agrees to provide all insurance coverages as specified. Upon failure of the Consultant to obtain or maintain such insurance coverage for the term of the agreement, the City may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the contract amount. In obtaining such coverage, Birmingham shall have no obligation to procure the most cost effective coverage but may contract with any insurer for such coverage.

EXECUTION OF CONTRACT

The consultant whose proposal is accepted shall be required to execute the contract and to furnish all insurance coverages as specified within ten (10) days after receiving notice of such acceptance. Any contract awarded pursuant to any bid shall not be binding upon the City until a written contract has been executed by both parties. Failure or refusal to execute the contract shall be considered an abandoned all rights and interest in the award and the contract may be awarded to another. The successful consultant agrees to enter into and will execute the contract as set forth and attached as Attachment A.

INDEMNIFICATION

The successful consultant agrees to indemnify the City and various associated persons. Please refer to paragraph 10 of the Agreement attached as Attachment A for the details and what is required of the successful consultant.

CONFLICT OF INTEREST

The successful consultant is subject to certain conflict of interest requirements/restrictions. Please refer to paragraph 17 of the Agreement attached as Attachment A for the details and what is required of the successful consultant.

EXAMINATION OF PROPOSAL MATERIALS

The submission of a proposal shall be deemed a representation and warranty by the Consultant that it has investigated all aspects of the RFP, that it is aware of the applicable facts pertaining to the RFP process and its procedures and requirements, and that it has read and understands the RFP. Statistical information which may be contained in the RFP or any addendum thereto is for informational purposes only.

**Submitted to MITN,
Construction Association
of Michigan, and Builders
Exchange of Michigan:**

Wednesday, January 23, 2024

Optional Pre-Bid Meeting:

Monday, February 5, 2024 at 2:00 pm Between 588 N. Old Woodward and 600 N. Old Woodward, Birmingham, Michigan 48009

Deadline for Submissions:

Thursday, February 22, 2024, at 2:00 p.m., Bids publicly opened 151 Martin Street, Birmingham, MI 48009, City Commission Room 2nd floor.

Award of Bid:

Estimated Award by March 5, 2024.

Project Kickoff:

Work expected to begin upon approval by the City Commission (anticipated March 11, 2024)

Completion:

October 31, 2024

The Consultant will not exceed the timelines established for completion of this project.

SUSPENSION AND DEBARMENT

This contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the consultant is required to verify that none of the consultant's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). Please refer to paragraph 22 of the Agreement attached as Attachment A for the details and what is required of the successful consultant.

BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED)

Consultants who apply or bid for an award of more than \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

Section 889(b)(1) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY2019 NDAA) and 2 C.F.R. § 200.216, as implemented by FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), prohibit the obligation or expending of federal award funds on certain telecommunication products or from certain entities for national security reasons. Please refer to paragraph 23 of the Agreement attached as Attachment A for the detail and what is required of the successful consultant.

DEPARTMENT OF SECURITY SEAL, LOGO, AND FLAGS

Recipients must obtain permission before using the DHS seal(s), logos, crests, reproductions of flags, or likenesses of DHS agency officials. Please refer to paragraph 25 of the Agreement attached as Attachment A for details.

ACCESS TO RECORDS

The City of Birmingham and their consultants, contractors, and subcontractors must give the Department of Homeland Security (DHS) and FEMA access to records associated with their awards during the federally required record retention period and as long as the records are retained. Please refer to paragraph 24 of the Agreement attached as Attached A for details and what is required of the successful consultant.

COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS AND ACKNOWLEDGEMENT OF FEDERAL FUNDING

The City of Birmingham and its consultant are required to comply with all federal laws, regulations, and executive orders. Additionally, recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds. Please refer to paragraph 26 of the Agreement attached as Attachment A for details.

NO OBLIGATION BY FEDERAL GOVERNMENT

FEMA is not a party to any transaction between the City of Birmingham and its consultant. Therefore, FEMA is not subject to any obligations or liable to any party for any matter relating to the contract between the City and its consultant. Please refer to paragraph 27 of the Agreement attached as Attachment A for details.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The City of Birmingham must comply with the requirements of the False Claims Act which prohibits submitting false or fraudulent claims for payment to the federal government. As a part of the contract, the consultant must acknowledge that 31 U.S.C. Chap. 38, regarding administrative remedies for false claims and statements, applies to their actions under their contract. Please refer to paragraph 28 of the Agreement attached as Attachment A for details.

AFFIRMATIVE SOCIOECONOMIC STEPS

For procurements under FEMA declarations and awards issued on or after November 12, 2020, all Non-Federal Entities are required to take the six affirmative steps to ensure the use of small and minority businesses, women's business enterprises, and labor surplus area firms when possible. One of the six steps is to require the prime consultant if subcontracts are to be let, to take the five other affirmative steps. Please refer to paragraph 29 of the Agreement attached as Attachment A for details.

COPYRIGHT AND DATA RIGHTS

The City of Birmingham is required by 2 C.F.R. § 200.315 to provide certain licenses with respect to copyright and data to the federal awarding agency. 2 C.F.R. § 200.315(b) provides to the federal awarding agency "a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use [any work that is subject to copyright] for federal purposes, and to authorize others to do so." 2 C.F.R. § 200.315(d) provides to the federal government the rights to "obtain, reproduce, publish, or otherwise use" data produced under a federal award and to authorize others to do the same. Please refer to paragraph 30 of the Agreement attached as Attached A for details.

BACKGROUND

The extreme rain event that occurred on June 25, 2021, resulted in reports of widespread damages due to flooding across the City, especially for properties along the Rouge River, which flooded above its riverbanks and into the adjoining floodplain areas. The City's Parking Lot No. 6, located off of N. Old Woodward Avenue, between Ravine and Oak, is situated immediately adjacent to the Rouge River and within the floodplain and has historically been subject to periodic flooding. A group of commercial buildings along N. Old Woodward have lower-level entrances to Parking Lot No. 6 and are also at risk of flooding. For many years, when potential flood events occurred that could impact these buildings, the City responded with emergency personnel (Department of Public Services and Fire Department) to deploy temporary flood protection measures to protect the buildings. When these events occur, City emergency response forces

have other issues to respond to across the City resulting from the storm event, and being concerned about deploying the flood protection measures at this location is an additional stress on these forces.

Because this storm event was declared a natural disaster by the State of Michigan, an opportunity was given to apply for a grant through FEMA's Hazard Mitigation Grant Program (HMGP) to construct flood protection measures. The City received this grant in August 2023. This grant is a phase project. Phase 1 is the study, development of plans, and permitting, and Phase 2 is the construction of the project. **This RFP is for Phase 1 only.** If the results of Phase 1 are not favorable and the construction of the project is determined not to be feasible, Phase 2 of the project can be canceled.

The City had preliminary plans to construct a floodwall in Parking Lot No. 6 in 2002. These plans will be available in PDF format to the awarded consultant.

SCOPE OF WORK

The Consultant shall perform the following services in accordance with the requirements as defined and noted herein:

PHASE 1:

1. Conduct a topographic survey of the project area.
2. Prepare plans of installing a floodwall to protect the group of commercial buildings along N. Old Woodward that have lower-level entrances to Parking Lot No. 6 while providing ADA compliant walking and entrances to the building.
3. Conduct and Complete a Hydrologic and Hydraulic (H&H) study of the Rouge River at the east edge of Parking Lot No. 6 to determine the impact of the proposed project.
4. Apply for permits for the project, which include the City of Birmingham, State of Michigan Department of Environment, Great Lakes, and Energy (EGLE) / U.S. Army Corps of Engineers.
5. Deliverables:
 - a. Hydrologic and Hydraulic (H&H) study
 - b. 100% of design drawings
 - c. Permit applications of the City of Birmingham and the State of Michigan Department of Environment, Great Lakes, and Energy (EGLE) / U.S. Army Corps of Engineers.
 - d. Submittal to State/FEMA for review and consideration for approval.

ATTACHMENT A - AGREEMENT

AGREEMENT OF PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6 FLOOD WALL - REBID

THIS AGREEMENT is entered into this ___ day of _____, 20___, by and between the **CITY OF BIRMINGHAM**, whose address is 151 Martin Street, Birmingham, MI 48009 (hereinafter referred to as the City) and _____ a Michigan _____, whose address is _____, (hereafter referred to as Consultant) and the foregoing shall collectively be referred to as the parties.

WHEREAS, the City desires Consultant Service for Professional Design Engineering Services, and in connection therewith has requested quotes for Parking Lot No. 6 Flood Wall; and

WHEREAS, Consultant has qualifications that meet the project requirements and has provided a response and cost quote to perform Professional Design Engineering Services.

NOW, THEREFORE, in consideration of the foregoing preambles, the adequacy of which is acknowledged by and between the parties to this Agreement, the parties agree as follows:

1. MUTUALLY AGREE: It is mutually agreed by and between the parties that the City's Request for Proposals for Design Engineering Service for Parking Lot No. 6 Flood Wall - REBID posted on Wednesday, January 24, 2024 shall be fully incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. (Attached hereto as Attachment "A.")

2. TERM: This Agreement shall have a term of eight months from the date stated above. The City shall have the right to unilaterally terminate this Agreement on thirty (30) days written notice. In the event of termination, the Consultant shall receive compensation for services to the date the termination takes effect and the City shall be entitled to retain and use the results of all designs and renovations prepared by the Consultant through such date.

3. TERMS OF PAYMENT: The Consultant will invoice monthly for all labor supplied and work completed. In no event shall invoices be submitted more than 45 days after completion of services. Submitted invoices shall include the following detailed information: the type of work performed, the time spent on the work, the individual who performed the work and the per hour billing rate charged. The City may, at its sole discretion demand review and the right to request at any time further detailed accounting information for any or all bills. The right to inspection of any bill and invoice shall never be at any cost or billings to the City, nor shall preparation of said invoices be billed to the City or against the general retainer. Payment terms will be net 30 days unless otherwise specified by the City.

4. PERSONNEL: Consultant shall employ personnel of good moral character and fitness in performing all services under this Agreement.

5. INSURANCE SUBMISSION REQUIREMENTS: The Consultant has submitted proof to the City that it meets all City insurance requirements. Insurance, with coverage amounts at no less than the City's minimum requirements, must be held by the Consultant throughout the term of this Agreement. Certificates of insurance as stated below will be required no later than five (5) business days from the date of Consultant acceptance of the terms of this Agreement.

6. CONFIDENTIAL AND OR PROPRIETARY INFORMATION: The Consultant acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The Consultant recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Consultant agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Consultant shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Consultant further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

7. INDEPENDENT CONSULTANT: The Consultant and the City agree that the Consultant is acting as an independent contractor with respect to the Consultant role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Consultant nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Consultant shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Consultant shall not be considered entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

8. COMPLIANCE WITH LAWS: Consultant agrees to fully and faithfully carry out the duties of set forth herein using its best efforts in accomplishing all assignments from the City, and further, in addition to upholding all federal, and state laws and applicable codes of professional conduct to which Consultant is subject, Consultant hereby agrees to be bound by all Federal, State, or City of Birmingham ordinances, rules, regulations and policies as are amended from time to time, and including without limitation the Fair Labor Standards Act, the Equal Employment Opportunity rules and regulations, the Transportation Safety Act and the Occupational Safety and Health Acts.

9. NON-COMPLIANCE WITH INSURANCE REQUIREMENTS: Failure to deliver and maintain insurance in accordance with the terms of this Agreement will be cause for the City, by and through its City Manager, to terminate this Agreement, or at the City's option, the City may purchase on the open market such required insurance and shall be entitled to charge any additional cost to the Consultant, either by offset to any amounts due and owing for services provided to the City, or, by separate bill and demand for payment. Nothing in this paragraph shall be deemed to create or be interpreted as establishing a "for cause" termination; Consultant agrees and understands that its engagement is at will and may be terminated by the City Manager for any cause or no cause.

10. INDEMNIFICATION: To the fullest extent permitted by law, the Consultant and any entity or person for whom the Consultant is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on their behalf against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, 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 their behalf, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arise out of the acts, errors or omissions of the Consultant including its employees and agents, in the performance of this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City.

11. STANDARD INSURANCE REQUIREMENTS:

The Consultant shall maintain during the life of this Agreement the applicable types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance:

For Non-Sole Proprietorships: Consultant shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

For Sole Proprietorships: Consultant shall complete and furnish to the City prior to the commencement of work under this Agreement a signed and notarized Sole Proprietor Form, for sole proprietors with no employees or with employees, as the case may be.

B. Commercial General Liability Insurance: Consultant shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than **\$1,000,000** per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Consultant Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: Consultant shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following **Additional Insureds: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof.** This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.

E. Professional Liability: If applicable, professional liability insurance with limits of not less than \$2,000,000 per claim if Consultant will provide services that are customarily subject to this type of coverage.

F. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Consultant shall deliver renewal certificates and/or policies to the City at least (10) days prior to the expiration date.

G. Proof of Insurance Coverage: Consultant shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.

- 1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance, or a signed and notarized copy of the Sole Proprietor Form;
- 2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
- 3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
- 4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance, if applicable;
- 5) If so requested, Certified Copies of all policies mentioned above will be furnished.

H. Maintaining Insurance: Upon failure of the Consultant to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

12. WRITTEN NOTICES: Written notices regarding this Agreement shall be addressed to the following:

City: City of Birmingham
P.O. Box 3001
Birmingham, Michigan 48012
Attn: Melissa A. Coatta

Consultant: _____

Attn: _____

13. COVID: The Consultant shall follow all of the City's COVID-19 safety protocols while on City property. Additionally, Consultant staff which will be in physical contact with city staff must have current vaccinations against COVID-19. The City, at its discretion, may ask for proof of vaccination of Consultant staff. Failure to provide proof of vaccination when requested will cause the City to request un-vaccinated personnel to leave, request alternate staff, and if the Consultant is unable to comply, this violation of safety protocols will constitute a breach of contract by the Consultant.

14. AMENDMENTS: No amendment, modification or supplement to this Agreement shall be binding unless it is in writing and signed by authorized representatives of the parties.

15. WAIVER OF BREACH: No waiver by either party of any breach of any of the terms, covenants or conditions herein contained by the other party shall be construed as a waiver of any succeeding breach of this same or of any other term, covenant or condition.

16. COMPLETE AGREEMENT: The parties agree that the conditions set forth in this Agreement sets forth all terms and conditions of Consultant agreement with the City of Birmingham. This Agreement

supersedes all prior agreements or understandings between the parties. There are no promises, conditions or understandings other than those stated herein, and, that any prior negotiations, terms or conditions discussed between the City and the Consultant shall not constitute a part of this Agreement. The term "agreement" as used in this clause shall include any future written amendments, modifications, or supplements made in accordance herewith.

17. DIRECT OR INDIRECT INTEREST: If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Consultant, the City shall have the right to terminate this Agreement without further liability to the Consultant if the disqualification has not been removed within thirty (30) days after the City has given the Consultant notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

18. FAILURE TO PERFORM. If Consultant fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

19. LEGAL PROCEEDINGS: Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. 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.

20. RESPONSE TO REQUESTS FOR QUOTES: The Consultant shall be held to and bound by all terms, conditions, warranties and representations which it made in its written response dated _____, 2023, to the City's Request for Proposal dated November 29, 2023. In the event of a conflict in any of the terms of this Agreement and the Consultant _____, 2023 response, the terms of this Agreement shall prevail. (Attached hereto as Attachment "B.")

21. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

22. SUSPENSION AND DEBARMENT: This contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the consultant is required to verify that none of the consultant's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The consultant must comply with 2 C.F.R. Part 180, subpart C and 2C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by the City of Birmingham. If it is later determined that the consultant did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to the City of Birmingham the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

23. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES:

(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

(b) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the consultant and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

(iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit consultant from providing—

(i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to: (i) Covered telecommunications equipment or services that:

(i) Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system.

(ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

(1) In the event the consultant identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the consultant is notified of such by a subcontractor at any tier or by any other source, the consultant shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Consultant shall report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the consultant shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Consultant shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.”

24. ACCESS TO RECORDS: The Consultant agrees to provide the City of Birmingham, Michigan Department of State Police (MSP), Emergency Management and Homeland Security Division (EMHSD), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Consultant which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The Consultant agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

25. DEPARTMENT OF SECURITY SEAL, LOGO, AND FLAGS: The consultant shall not use the Department of Homeland Security seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The consultant shall include this provision in any subcontracts.

26. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS AND ACKNOWLEDGEMENT OF FEDERAL FUNDING: This is an acknowledgment that FEMA financial assistance will be used to fund all or a portion of the contract. The consultant will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

27. NO OBLIGATION BY FEDERAL GOVERNMENT: The federal government is not a party to this contract and is not subject to any obligations or liabilities to the non-federal entity, consultant, contractor,

or any other party pertaining to any matter resulting from the contract.

28. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS: The consultant acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the consultant’s actions pertaining to this contract.

29. AFFIRMATIVE SOCIOECONOMIC STEPS: If subcontracts are to be let, the prime consultant is required to take all necessary steps. identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

30. LICENSE AND DELIVERY OF WORKS SUBJECT TO COPYRIGHT AND DATA RIGHTS: The Consultant grants to the City of Birmingham, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Consultant will identify such data and grant to the City of Birmingham or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Consultant will deliver to the City of Birmingham data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the City of Birmingham.

IN WITNESS WHEREOF, the parties hereto agree to be bound by the above terms and conditions, and Consultant, by its authorized signature below, expressly accepts this Agreement upon the above provided terms and conditions contained in this Agreement as of the date first above written.

Consultant

By: _____

Its: _____

STATE OF MICHIGAN)
) ss:
COUNTY OF OAKLAND)

On this _____ day of _____, 20____, 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: _____
Elaine McLain, Mayor

Date: _____

By: _____
Alexandria D. Bingham, City Clerk

Date: _____

APPROVED:

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

Melissa A. Coatta, City Engineer
(Approved as to substance)

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

Mark A. Gerber, Finance Director
(Approved as to Financial Obligation)

ATTACHMENT B - CONSULTANT'S AGREEMENT
For PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6
FLOOD WALL - REBID

In submitting this proposal, as herein described, the Consultant agrees that:

1. They have carefully examined the specifications, terms and Agreement of the Request for Proposal and all other provisions of this document and understand the meaning, intent, and requirement of it.

2. They will enter into a written contract and furnish the item or items in the time specified in conformance with the specifications and conditions contained therein for the price quoted by the proponent on this proposal.

BID PREPARED BY (Print Name)	DATE
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TITLE	DATE
--------------	-------------

AUTHORIZED SIGNATURE	E-MAIL ADDRESS
-----------------------------	-----------------------

COMPANY

ADDRESS	PHONE
----------------	--------------

NAME OF PARENT COMPANY	PHONE
-------------------------------	--------------

ADDRESS

ATTACHMENT C - COST PROPOSAL

**For PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6
FLOOD WALL - REBID**

In order for the proposal to be considered valid, this form must be completed in its entirety. The fee for the Scope of Work as stated in the Request for Proposal documents shall be determined pursuant to the fee schedule, as follows:

FEE PROPOSAL	
ITEM	BID AMOUNT
Total - Phase 1	\$

Firm Name _____

Authorized signature _____

Printed Name _____

Date _____

ATTACHMENT D – IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM
For PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6
FLOOD WALL - REBID

Pursuant to Michigan Law and the Iran Economic Sanction Act, 2012 PA 517 (“Act”), prior to the City accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must certify that it is not an “Iran Linked Business”, as defined by the Act.

By completing this form, the Vendor certifies that it is not an “Iran Linked Business”, as defined by the Act and is in full compliance with all provisions of the Act and is legally eligible to submit a bid for consideration by the City.

PREPARED BY
(Print Name)

TITLE	DATE
--------------	-------------

TITLE	DATE
--------------	-------------

COMPANY

ADDRESS

NAME OF PARENT COMPANY

ADDRESS

TAXPAYER I.D.

ATTACHMENT E – CERTIFICATION REGARDING LOBBYING FORM
For PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6
FLOOD WALL - REBID

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Bidder, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Consultant understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

SIGNATURE OF CONSULTANT'S AUTHORIZED OFFICIAL

NAME AND TITLE OF CONSULTANT'S AUTHORIZED OFFICIAL

DATE



ADDENDUM NO. 1
 REQUEST FOR PROPOSALS
 PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6 FLOOD WALL - REDBID

February 15, 2024

In response to inquiries on the above Request for Proposal, the following clarifications are provided to assist with the preparation of the quote:

- As part of installing the flood wall, parking spaces closest to the building would likely be impacted. Is the city open to reconstructing the center of the parking lot in order to provide adequate space between parking areas for vehicle maneuverability?

Response: The City would be open to reconstruction the center of the parking lot but parking meters would have to be incorporated.

- There is a man door and garage doors as part of the Roma Sposa unit (710 old Woodward) along the building. Please confirm this unit does not need to be protected as part of this project.

Response: The man door needs to be protected and is dependent on its relationship to the floodplain. The garage doors do not need to be protected.

- Does the city have a copy of the FEMA effective model that could be shared with the awarded bidder?

Response: Currently the City does not have a copy of the FEMA model.

- Do to the impacts to the floodway, FEMA concurrence is required. Is it expected that the FEMA approval would be in hand or submitted by October? FEMA correspondence timelines for review are 3 months to respond. If the project has any FEMA comment or requested edit on the submitted project or model, this may cause a delay that would exceed the October timeframe of this project (FEMA would have two review periods of 90 days).

Response: The project timeline is to submit to FEMA by October.

- What is the value of the HMGP grant that was awarded in August 2023?

Response:

	Grant Project Cost	City Project Cost	City Management Cost	Total
Phase 1	\$264,116.70	\$29,346.30	\$14,673.15	\$308,136.15
Phase 2	\$1,031,553.90	\$114,617.10	\$57,308.55	\$1,203,479.55
Total	\$1,295,670.60	\$143,963.40	\$71,981.70	\$1,511,615.70

- We understand that this is a 2 phase HMGP grant with phase 2 being for the construction. Can you please share the construction budget that was submitted for the HMGP grant?

Response:

	Grant Project Cost	City Project Cost	City Management Cost	Total

Phase 1	\$264,116.70	\$29,346.30	\$14,673.15	\$308,136.15
Phase 2	\$1,031,553.90	\$114,617.10	\$57,308.55	\$1,203,479.55
Total	\$1,295,670.60	\$143,963.40	\$71,981.70	\$1,511,615.70

7. Can you please provide us with any drawings or exhibits that were used to secure the grant that shows the preliminary intent/concept of the potential solution?
Response: Attached are plans from the early 2000's that was include grant application.
8. Do you have geotechnical data or will the selected team need to include the gathering of soil data and foundation recommendations?
Response: The City currently has a contract with a geotechnical consultant, and the City can obtain soil borings for foundation design through them.
9. Does the site have ground water issues?
Response: Unknown.
10. Is the flood protection intended to go through the surface parking or can it be integrated into the existing buildings? If not, are modifications to the existing buildings excluded from the scope?
Response: The intended is to have flood protection on the City's property. The City does not own the building.
11. Are the buildings south of Parking Lot 6 included in the proposed flood protection (588 – 526 N. Old Woodward)?
Response: No.
12. Do you have a set budget for consulting fees?
Response: See Questions 5 and 6 above.
13. It appears from the FEMA Flood Insurance Study that the effective hydraulic models are HEC-2 models based on cross sections from 1978 field surveyed data. Is it correct to say that these are the latest models available. If so, are these effective HEC-2 models available locally through the City or County, or will we need to obtain them from FEMA?
Response: The HEC-2 models will have to obtain from FEMA.
14. If these models are not the latest (i.e., if there are more up-to-date models of the River Rouge), will the latest models be provided by the City?
Response: Currently the City does not have a copy of the FEMA model.
15. Will hydrology need to be updated through the site or will we be using the FEMA effective discharges?
Response: The goal of the project is not to modify the parking discharge; it is to install a wall on the City's property to protect the buildings to the west.
16. For the U.S. Army Corps of Engineers permitting, is it correct to assume that there is not federal project along this reach of the River Rouge which will require a Section 408 submittal (i.e., to make sure that any federal flood damage reduction project does not lose benefits as a result of this current flood protection project)?
Response: There is not a federal project along this reach of the Rouge River.

DEADLINE FOR SUBMISSIONS: The City has modified the time that proposals are due. Proposals are now due at **3:00 P.M.** on Thursday, February 22, 2024

Sincerely,



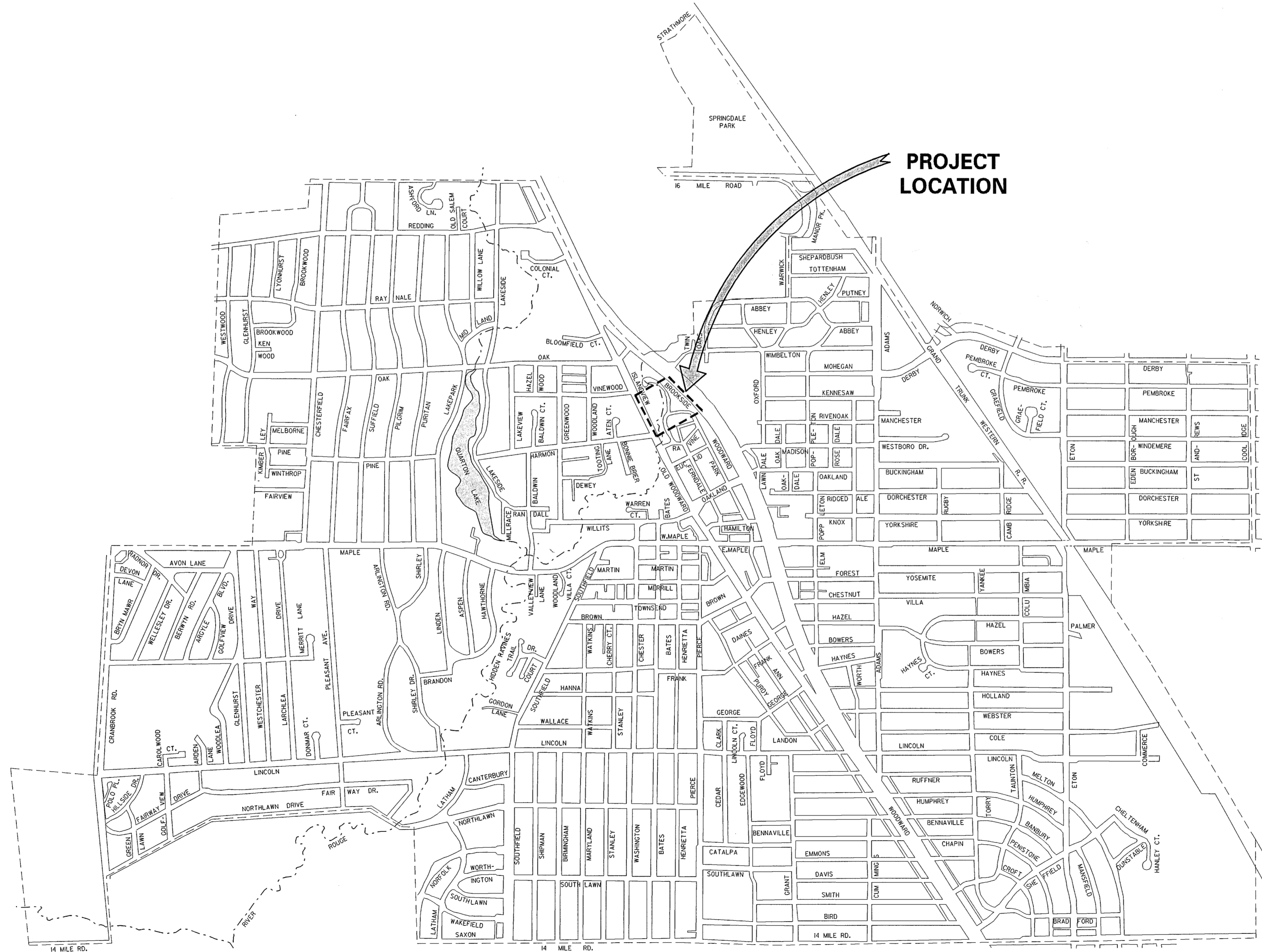
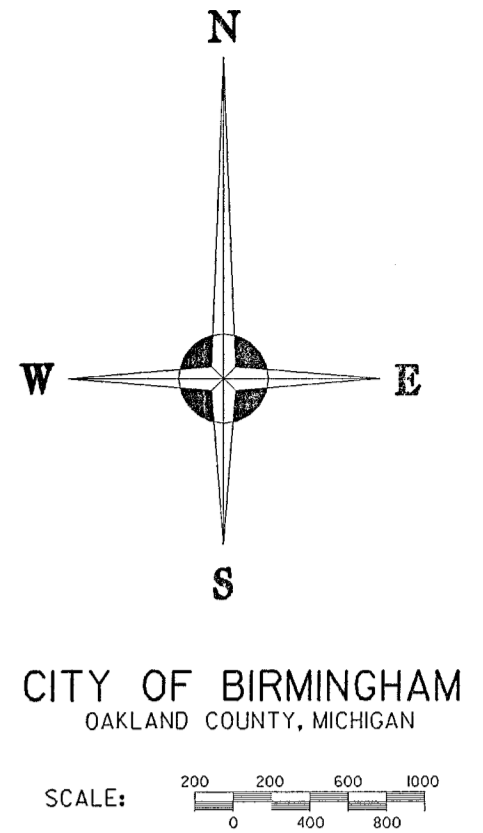
Melissa A. Coatta, P.E.
City Engineer

LEGEND

PROPOSED SEWER	
PROPOSED WATER MAIN	
BUILDING	
ASPHALT	
CONCRETE	
GRAVEL	
STORM	
SANITARY	
WATER MAIN	
GAS	
UND. TELEPHONE	
UND. ELECTRICAL	
TRAVERSE LINE & TRAVERSE POINT	
BENCH MARK SYMBOL	
DEAD TREE	
DECIDUOUS TREE	
DECIDUOUS SHRUB	
CONIFEROUS TREE	
CONIFEROUS SHRUB	
STUMP	
SO & R.O. CATCH BASINS & INLETS IN PAVEMENT	
STORM MANHOLE & PIPE END	
UNSPECIFIED MH	
RISER & DOWN SPOUT	
PUMP STATION	
FIRE HYDRANT	
GATE & VALVE & WELL	
CISTERN & WELL	
WATER STOP BOX & SPRINKLER HEAD	
WATER TOWER BASE & METER PIT	
UTILITY POLE	
LIGHT POLE	
GUY WIRE ANCHOR	
UNDERGROUND MARKER	
RISER	
GAS BOX & BLOW OFF	
BUILD. CORNER & 1st FLOOR ELEV.	
TOP OF DITCH & TOE OF SLOPE	
TOP OF BANK & RIDGE	
TOP OF BERM	
STORE OF BERM	
EDGE OF WATER & WATER SURFACE	
HEADWALL & RETAINING WALL	
SIGNS & SIGN POST	
LOCAL LOW POINT & LOCAL HIGH POINT	
EXISTING WATER SERVICE	
EXISTING SEWER SERVICE	
SOIL BORING LOCATION	
PAVEMENT CORE LOCATION	

CITY OF BIRMINGHAM ENGINEERING DEPARTMENT

PARKING LOT #6 FLOOD WALL - CONTRACT #6-02(M)

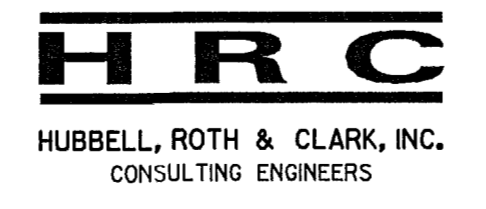


LIST OF DRAWINGS

COVER SHEET	PROJECT LOCATION AND BENCH MARK DESCRIPTIONS
S-1	SOUTH AREA FLOOD PLATE DETAILS
S-2	NORTH AREA FLOOD WALL PLAN AND SECTIONS
S-3	NORTH AREA FLOOD WALL SECTIONS AND DETAILS
S-4	NORTH AREA FLOOD WALL SECTIONS AND DETAILS
	OAKLAND COUNTY SOIL EROSION AND SEDIMENTATION CONTROL DETAILS

**NOT FOR
CONSTRUCTION**

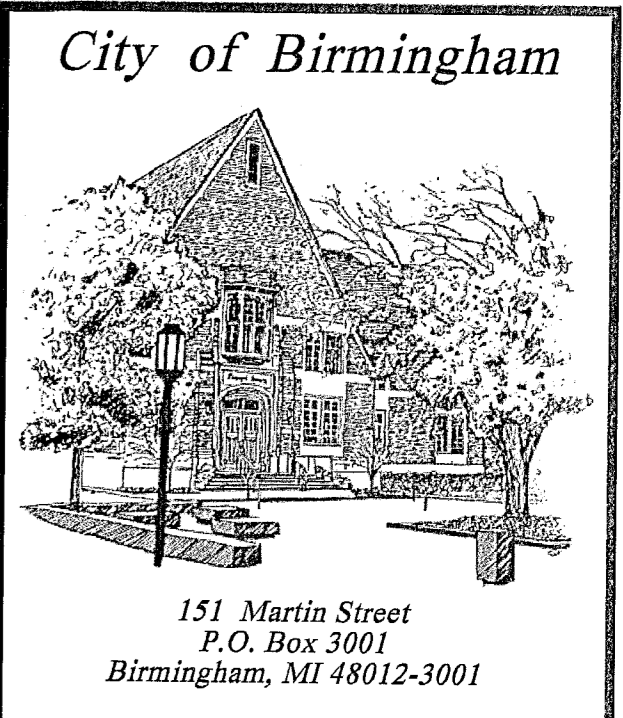
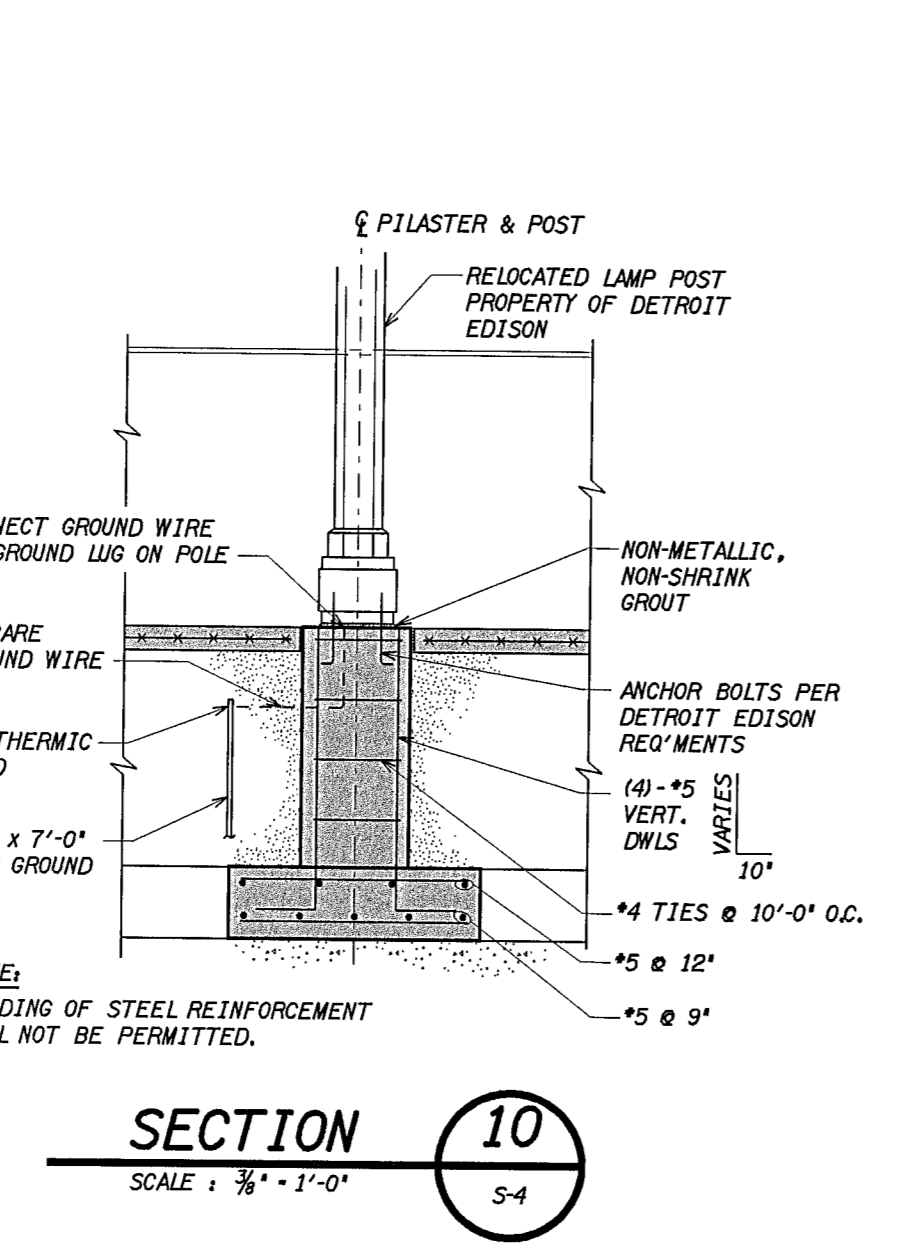
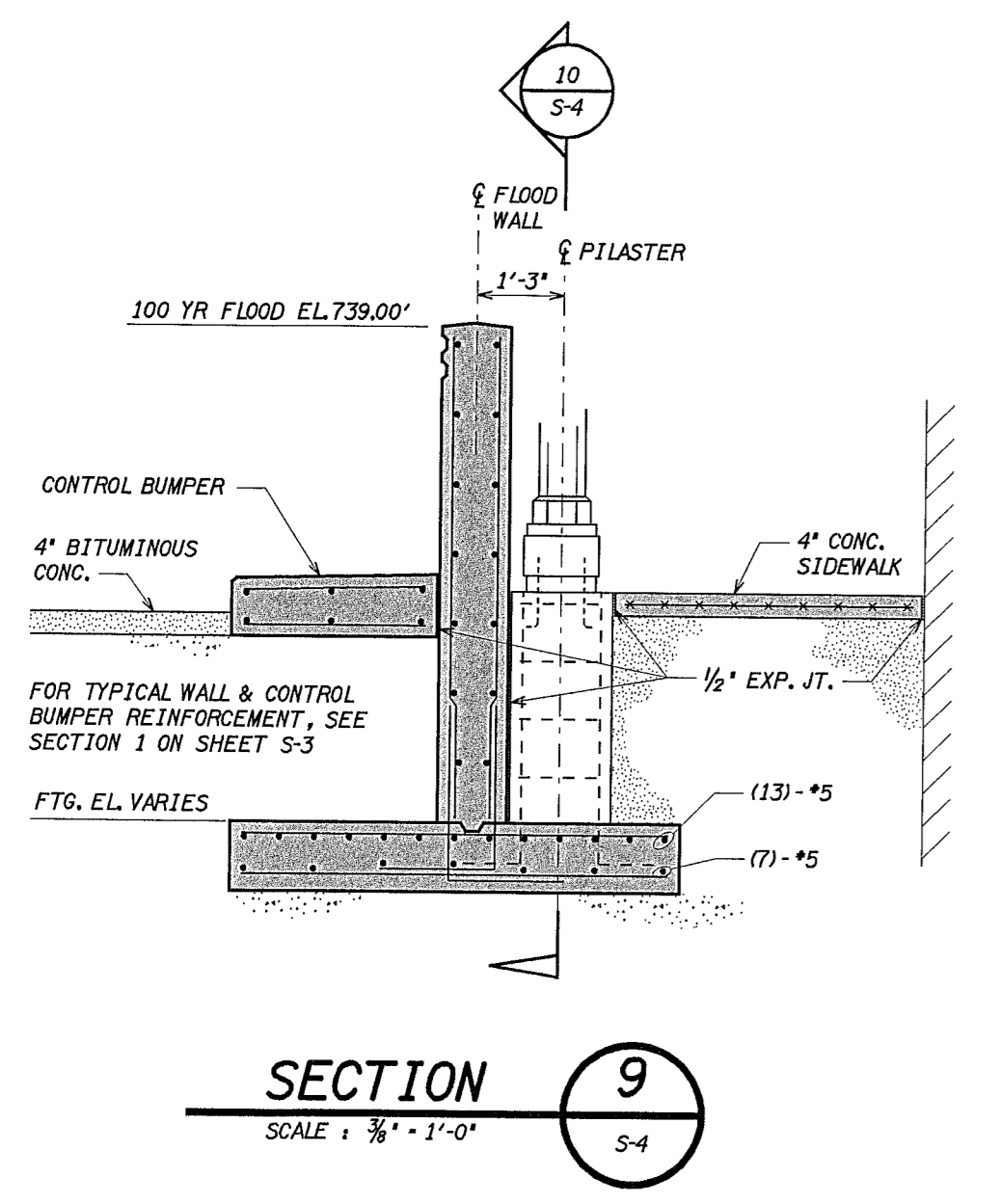
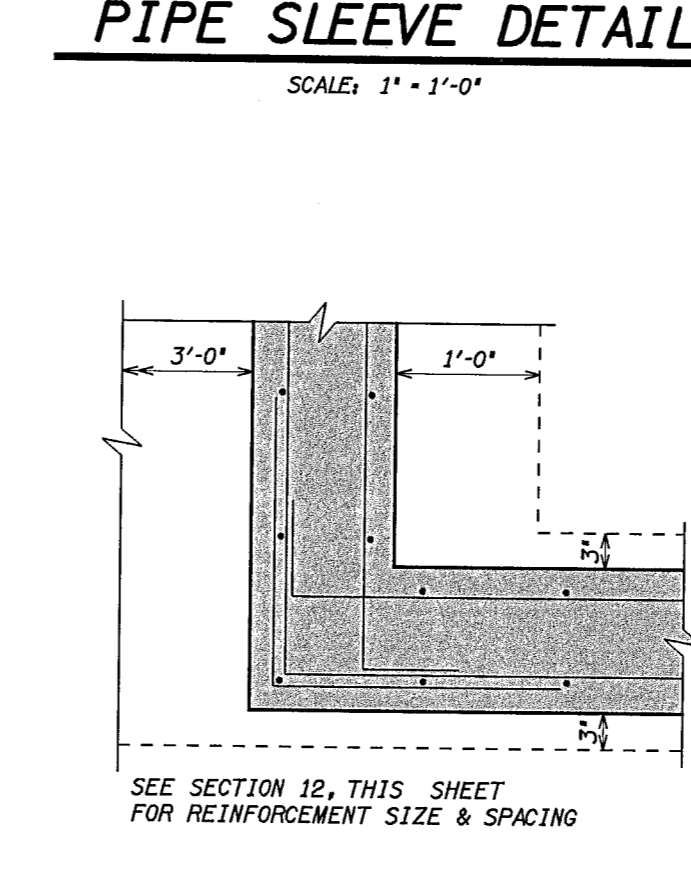
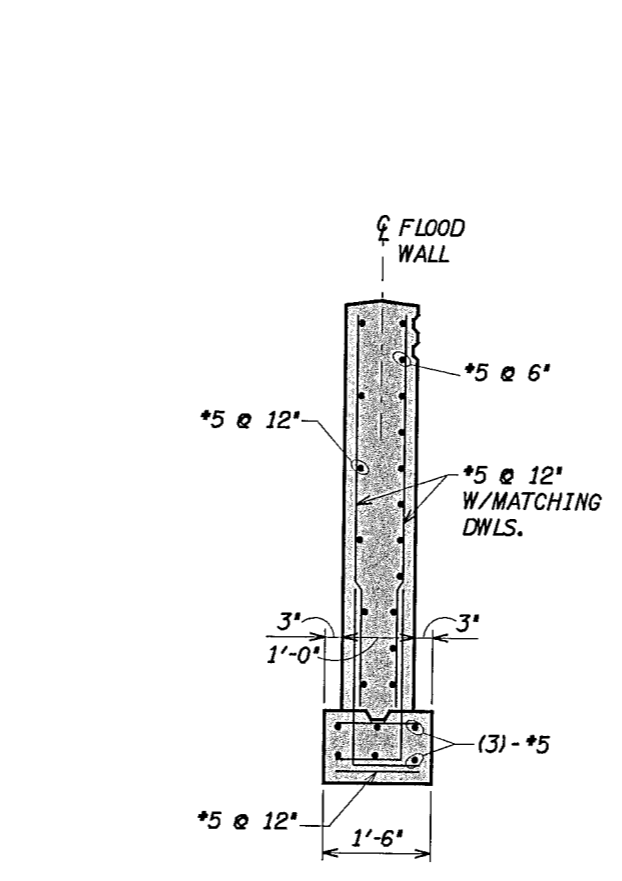
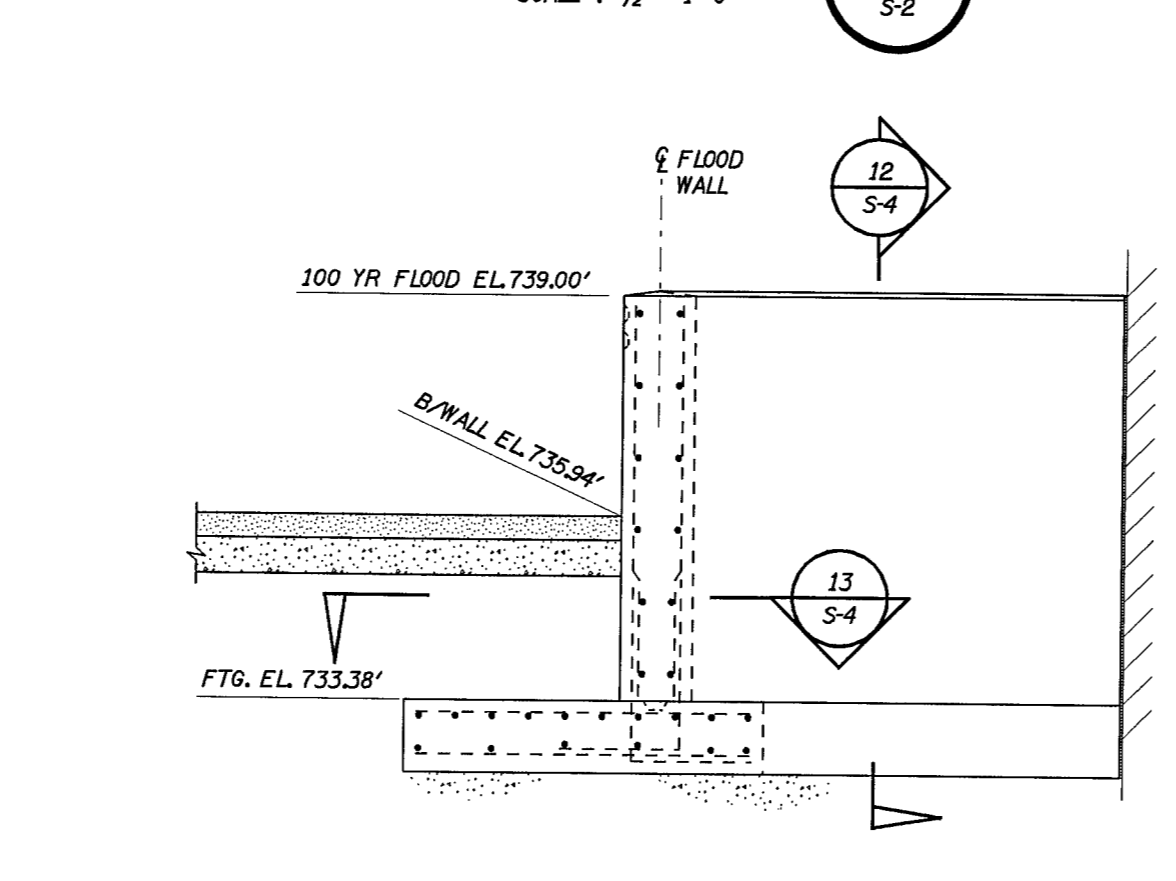
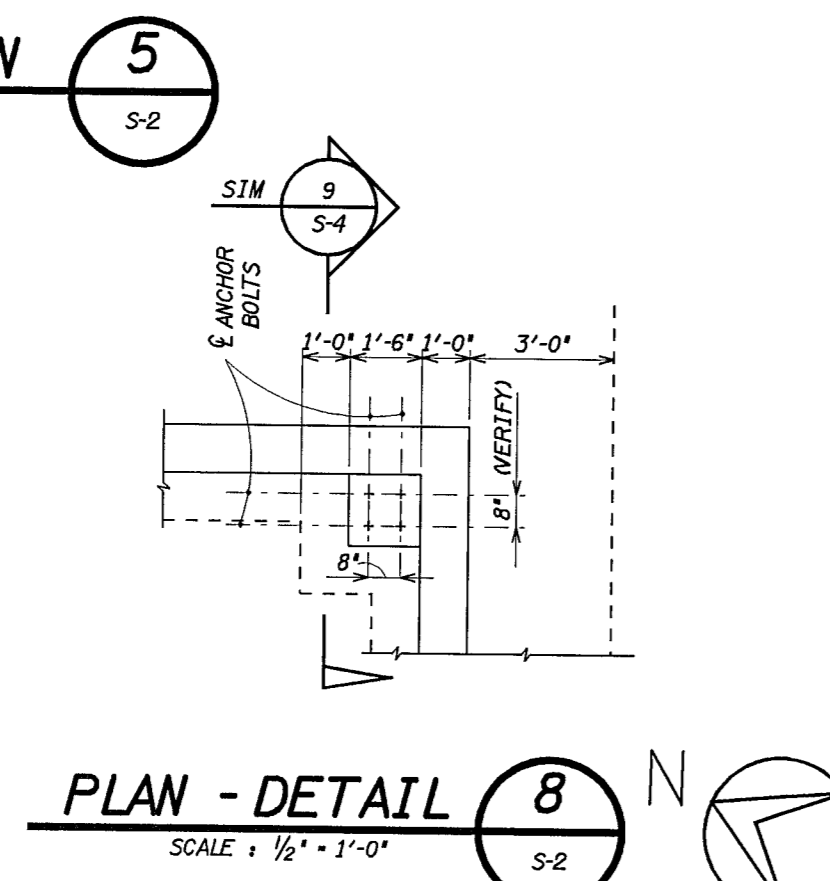
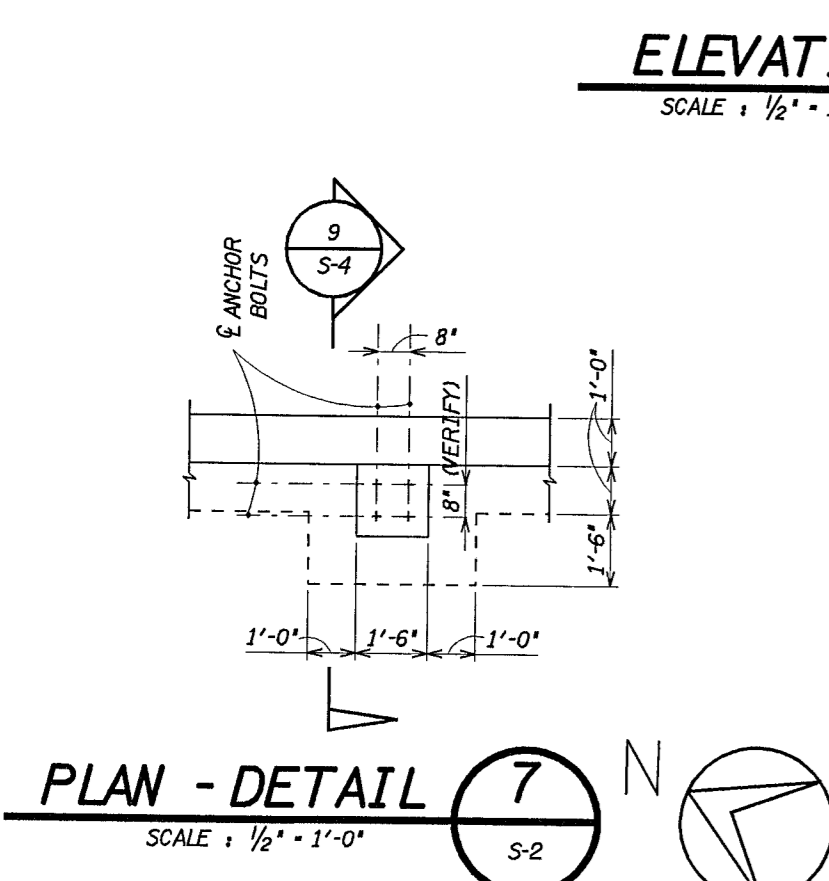
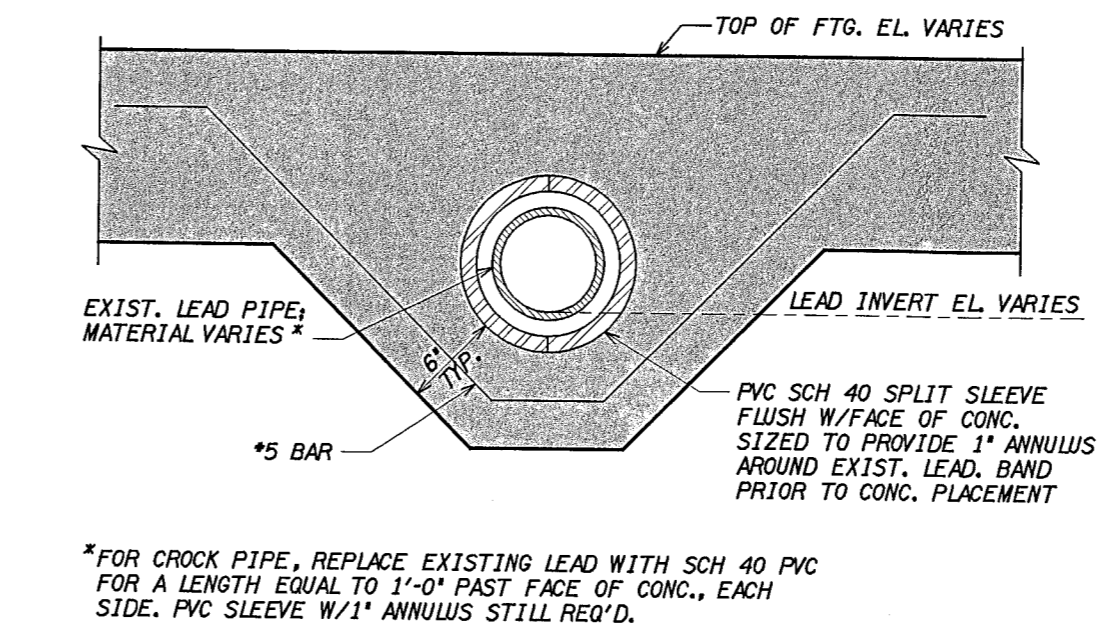
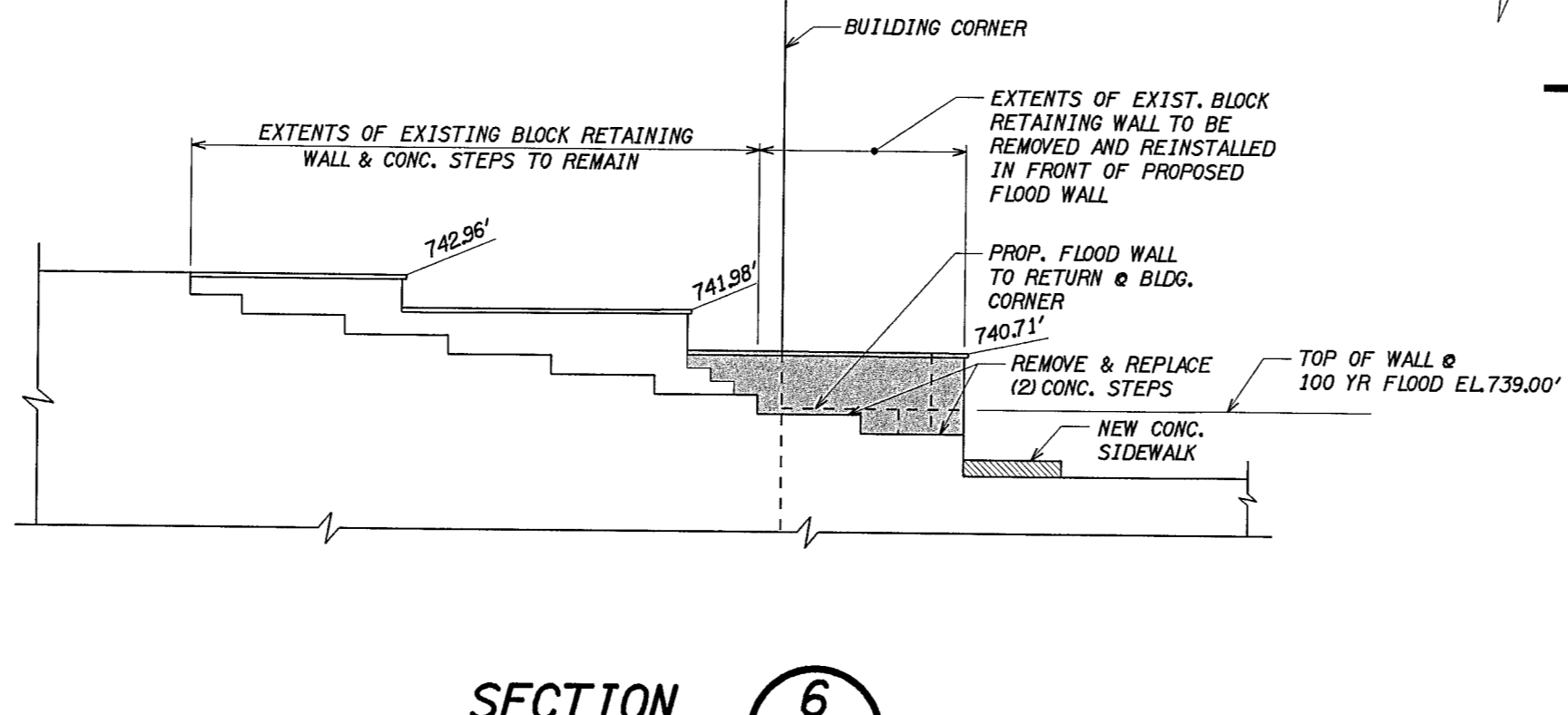
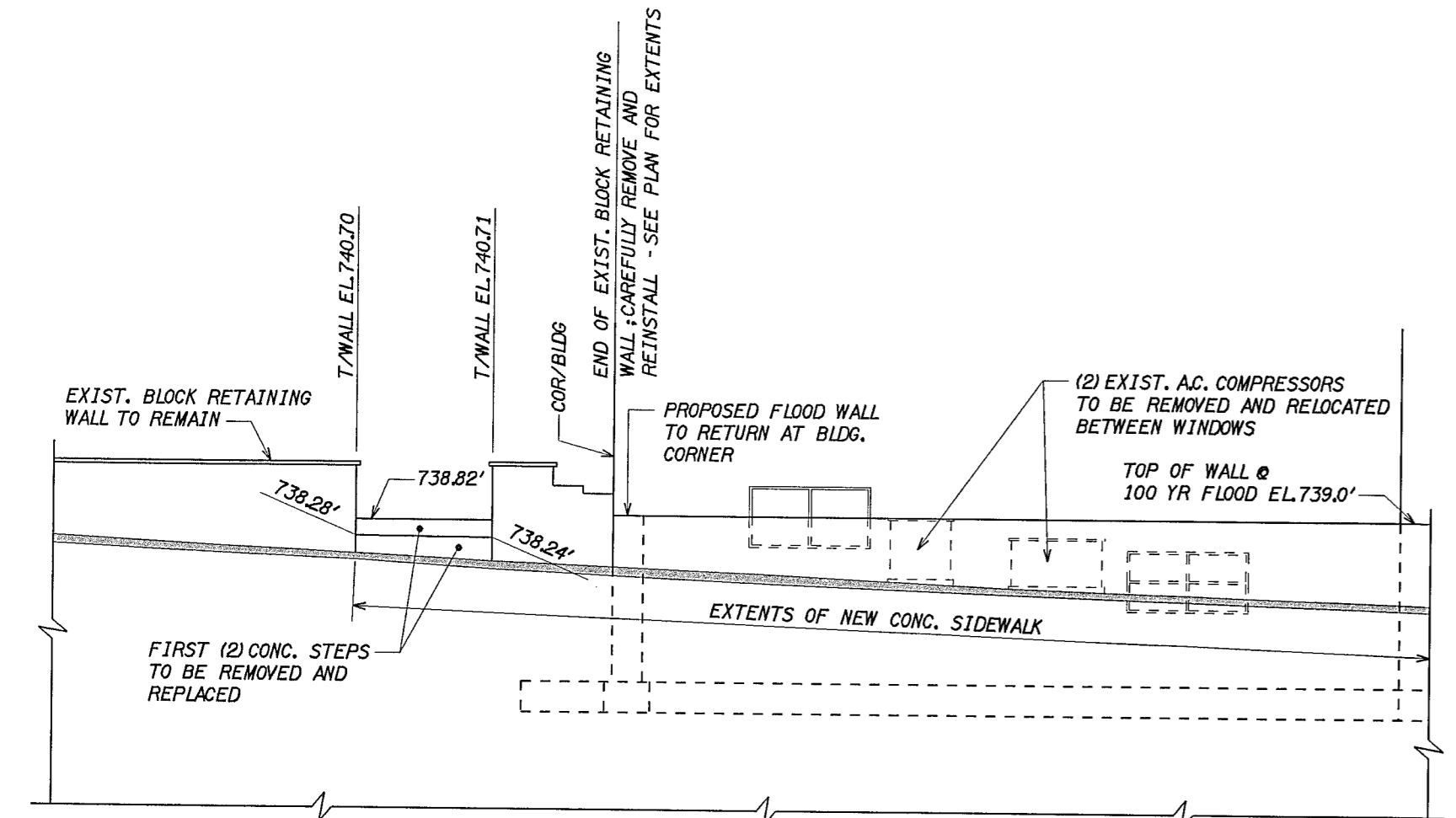
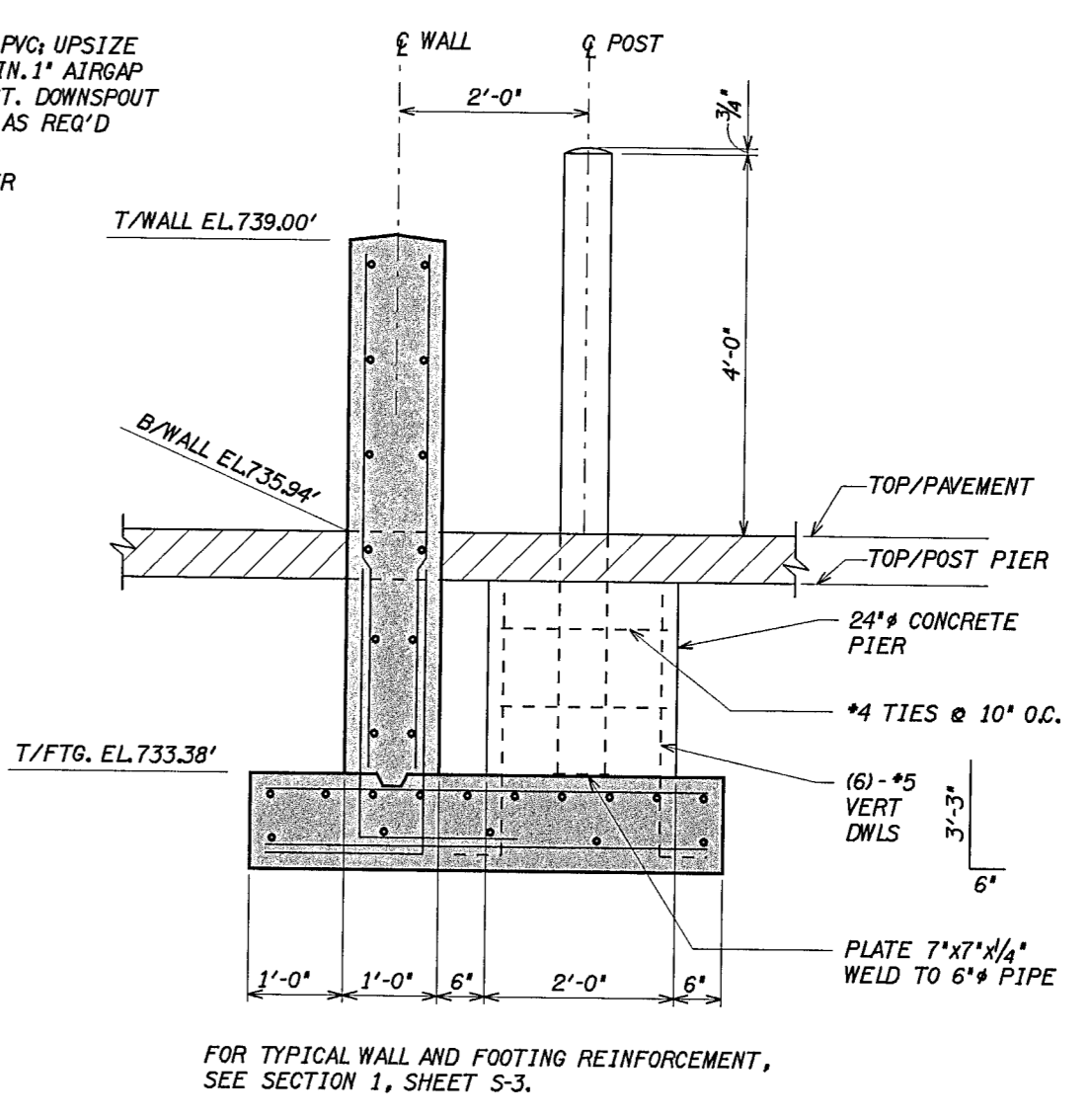
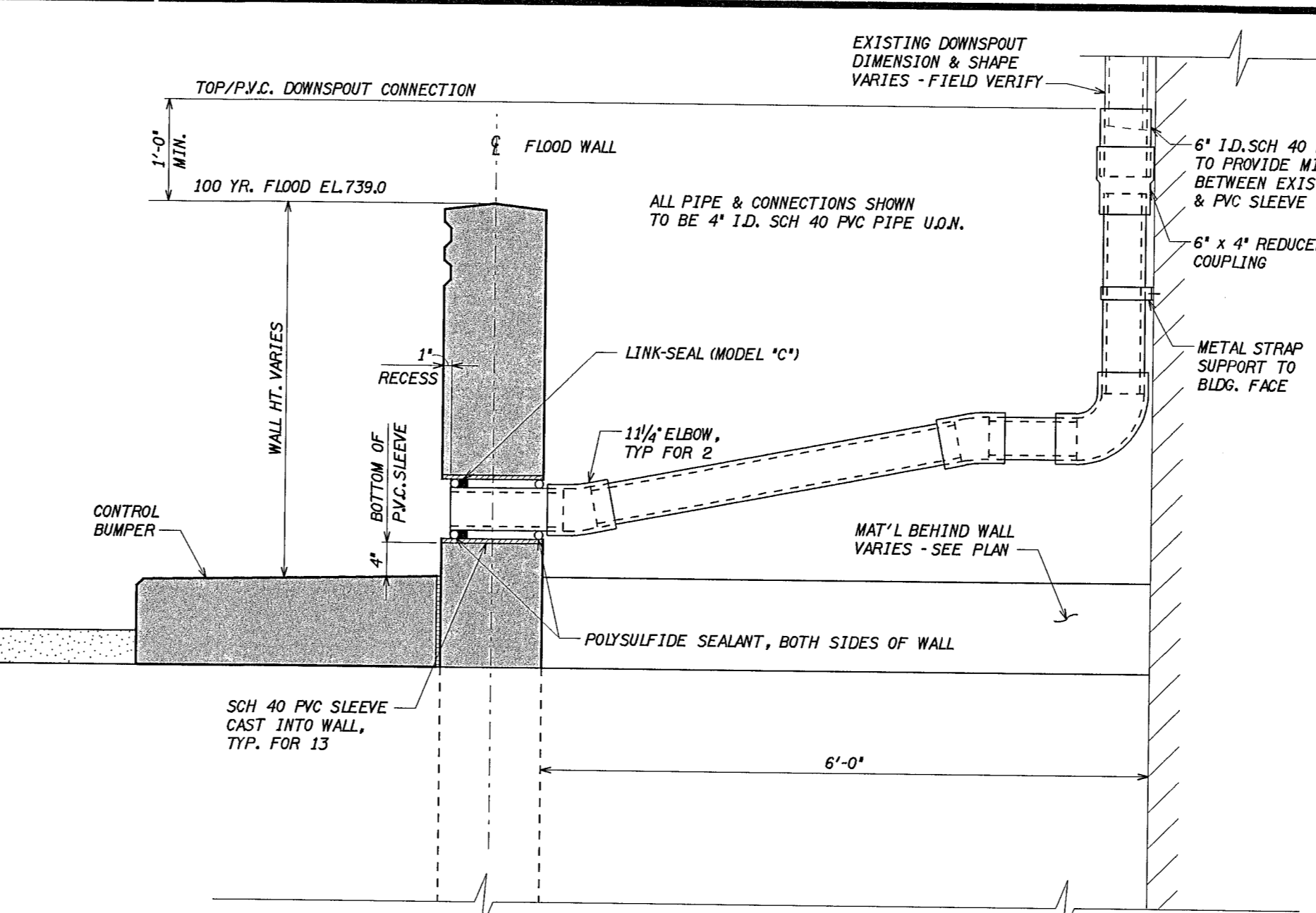
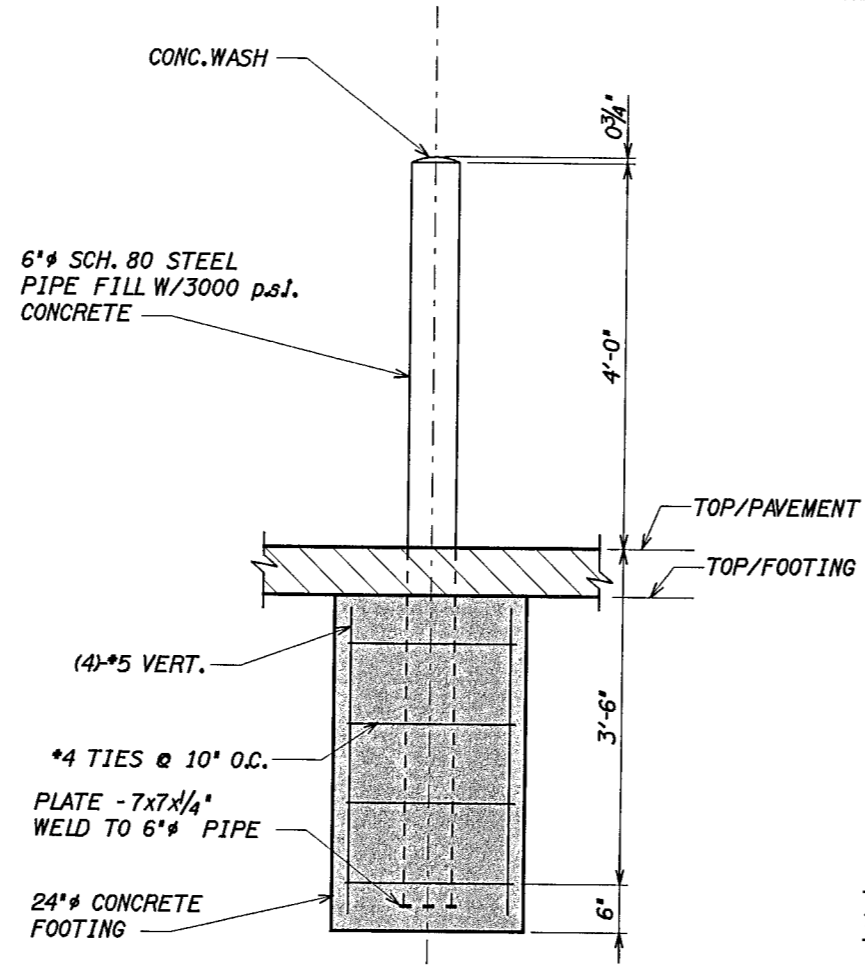
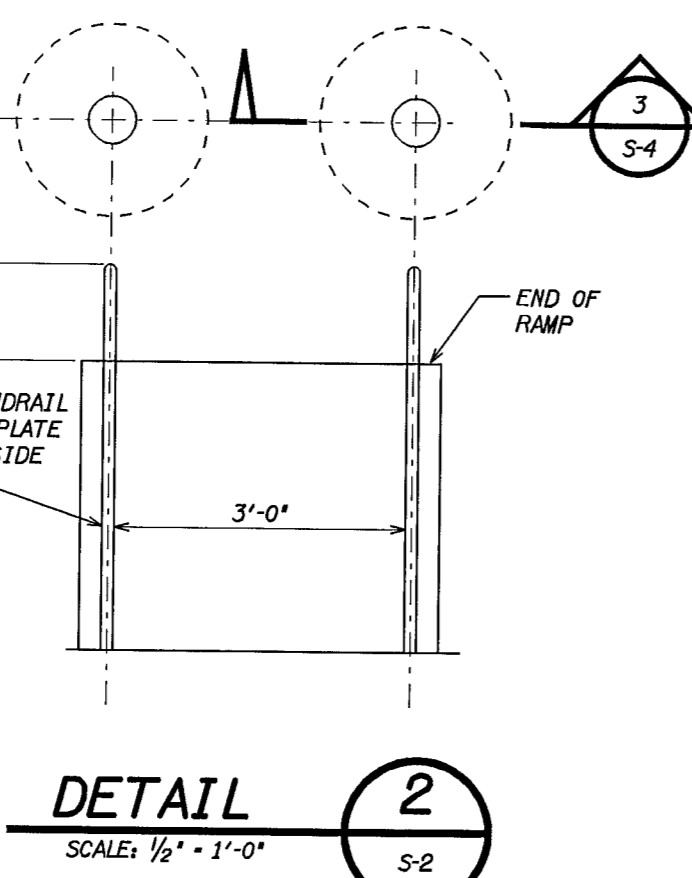
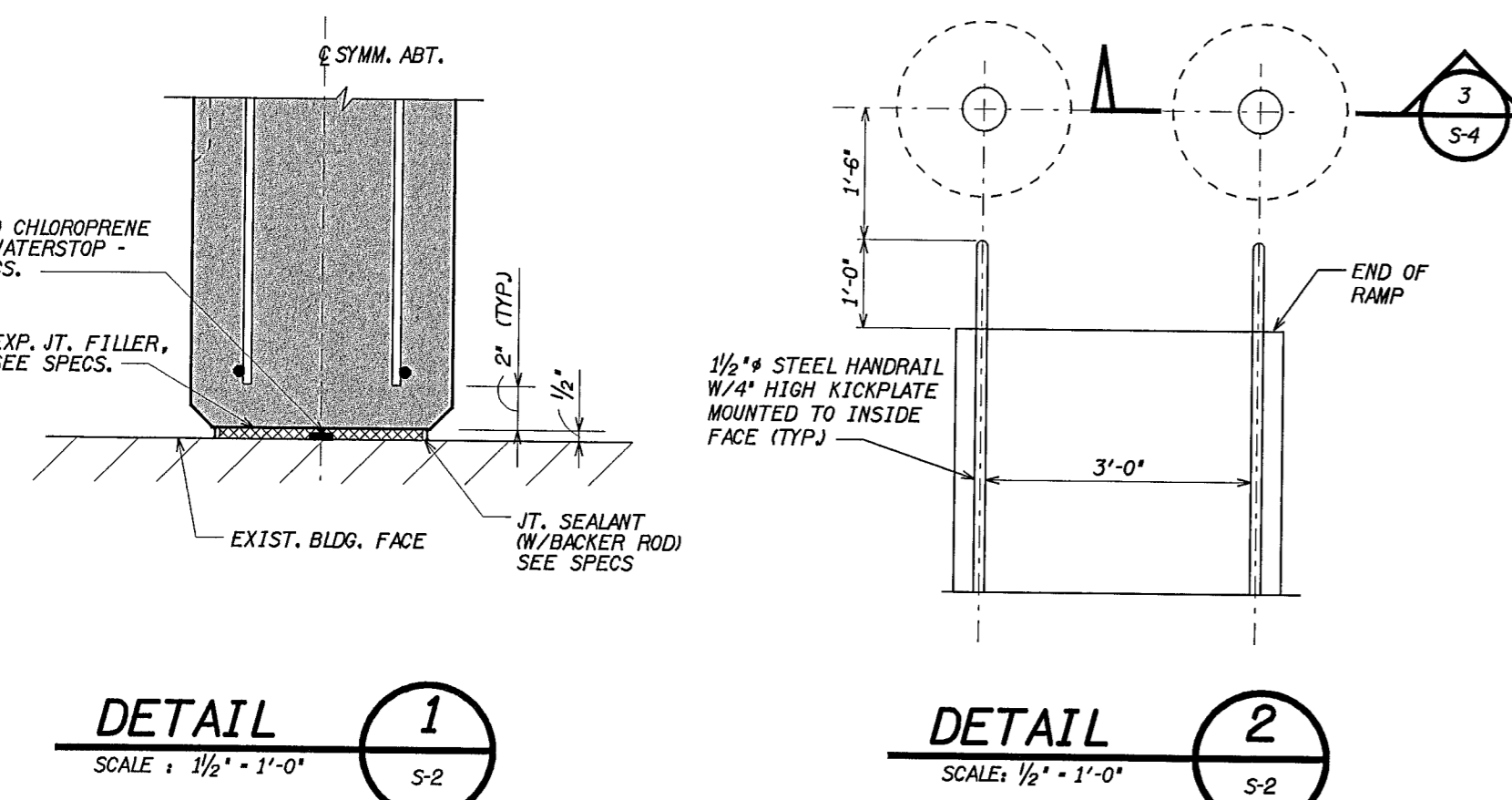
APPROVED _____ DATE _____



M-558

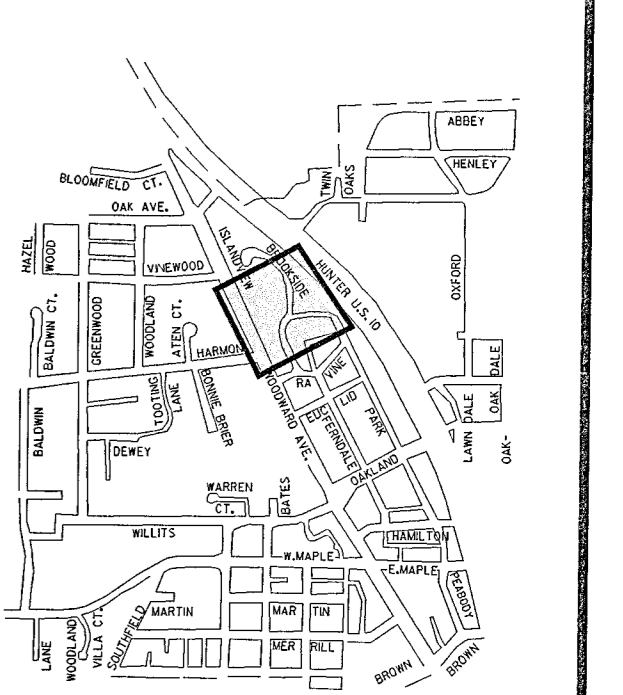
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USER NAME = kj/jws/81
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 C.L.P., T.B.L. = A:\standards\standards\checktbl
 PEN TBL = A:\standards\standards\checktbl
 TIME = 12-AUG-2002 11:08



HRC
Hubbell, Roth & Clark, Inc.
CONSULTING ENGINEERS
555 HULET DRIVE P.O. BOX 824
BLOOMFIELD HILLS, MICH. 48303 - 0824
PHONE: (248) 338-8241
FAX (1st Floor): (248) 454-6312
FAX (2nd Floor): (248) 338-8392
WEB SITE: http://www.hrc-engr.com

DATE	ADDITIONS AND/OR REVISIONS
DESIGNED	C.K.C.
DRAWN	K.R.K.
CHECKED	F.Z.N.
APPROVED	W.H.A.
F:\1998\19980721\work\struc\shp\shp.dwg	



LOCATION MAP

**CITY OF BIRMINGHAM
PARKING LOT #6
FLOOD PROTECTION**

OAKLAND COUNTY MICHIGAN

**NORTH AREA
FLOOD WALL
SECTIONS AND DETAILS**

HRC JOB NO. 19980721	SCALE AS NOTED
DATE JULY 2002	SHEET NO. S-4

**NOT FOR
CONSTRUCTION**



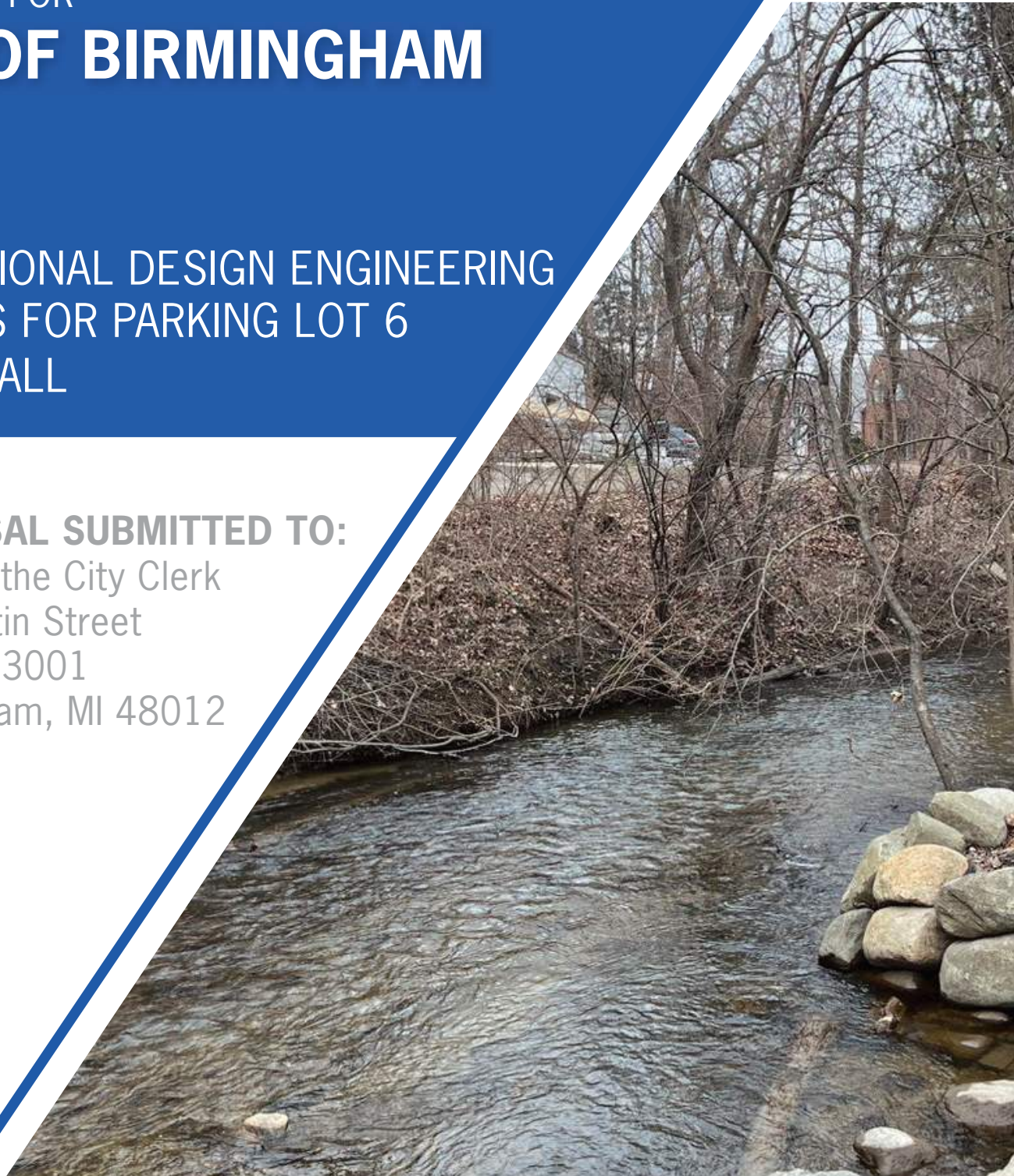
ANDERSON, ECKSTEIN & WESTRICK, INC.
CIVIL ENGINEERS - SURVEYORS - ARCHITECTS

PROPOSAL FOR
CITY OF BIRMINGHAM

PROFESSIONAL DESIGN ENGINEERING
SERVICES FOR PARKING LOT 6
FLOOD WALL

PROPOSAL SUBMITTED TO:

Office of the City Clerk
151 Martin Street
P.O. Box 3001
Birmingham, MI 48012



February 22, 2024



	COVER LETTER	
SECTION 1.0	PROJECT UNDERSTANDING <ul style="list-style-type: none">• PROJECT TIMELINE	Page 5
SECTION 2.0	FIRM PROFILE	Page 7
SECTION 3.0	PROJECT EXPERIENCE	Page 9
SECTION 4.0	ORGANIZATIONAL CHART - RESUMES	Page 17
SECTION 5.0	REFERENCES	Page 24
SECTION 6.0	REQUIRED FORMS <ul style="list-style-type: none">• CONSULTANTS AGREEMENT• COST PROPOSAL• IRAN SANCTIONS ACT VENDOR CERTIFICATION• CERTIFICATION REGARDING LOBBYING	Page 26



ANDERSON, ECKSTEIN & WESTRICK, INC.

CIVIL ENGINEERS - SURVEYORS - ARCHITECTS

Shelby Township - Roseville - Livonia

586.726.1234 | www.aewinc.com

February 22, 2024

Melissa Coatta, City Engineer
City of Birmingham
Office of the City Clerk
151 Martin Street, PO Box 3001
Birmingham, MI 48012

**Reference: Professional Design Engineering Services for Parking Lot No. 6
Flood Wall - Rebid**

Dear Ms. Coatta:


Thank you for the opportunity to provide our qualifications for the requested engineering services for parking lot no. 6 flood wall in the City of Birmingham.

Our project approach and work plan outlined in this proposal demonstrate how the AEW Team will provide the best value to the City. Within our proposal, you will learn that the Team employs over 140 professionals with the knowledge to provide quality services, conducting themselves with honesty and integrity while promoting the interests of the clients we serve. Ongoing experience has shown that our team approach provides our clients with consistent and effective communication, along with reliable engineering options.

We look forward to the opportunity to address the engineering needs of the City. The primary contact for AEW will be Taylor M. Sting, PE, CFM, Project Manager. Mr. Sting has valued experience with stormwater management and will work to ensure client satisfaction. The secondary contact supporting Taylor will be Stephen V. Pangori, PE, Principal, and CEO. We hope that our proposal not only conveys our capabilities but also our passion for this important project. We look forward to the opportunity to service the residents and business owners of the City of Birmingham.

Respectfully,

Taylor M. Sting, PE, CFM
**Water Resources Group Lead/
Project Manager**
tsting@aeuinc.com
586-726-1234 ext. 161 (office)
616-450-5458 (cell)



Stephen V. Pangori, PE
President
spangori@aeuinc.com
586-726-1234 ext. 116 (office)
586-855-9551 (cell)



SECTION 1.0 PROJECT UNDERSTANDING



City of Birmingham - Parking Lot No.6

We understand that the City of Birmingham owns and maintains the Parking Lot No.6. The parking lot is in between the Rouge River and the multi-tenant building with store fronts along Old Woodward Avenue which have entrances along the parking lot side of the buildings. Due to the proximity with the Rouge River, the parking lot experiences flooding on a regular basis. This proposal includes the survey, analysis, study, permits and plans that would be required to construct a levee wall that would protect the building and its businesses during flooding conditions.

The plans will be developed that will concept around a flood levee wall that will have ADA accessible openings. The openings will be fitted with stop logs that may be closed during times of elevated floodwaters to protect the buildings west of Parking Lot No. 6.

The AEW team will begin the project by collecting required modeling data from FEMA and a new topographic survey that will support the model and design documents.

The current spacing of the parking lane closest to the building does not have adequate room to

shift the parking spaces near the building without impacting the rest of the parking lot spacing. As a result, the project would include reconfiguration of the center island of the parking lot by moving it southward, in order to maintain as many possible meter parking spaces. Some existing utility poles within the parking lot may not be able to be relocated and may result in the loss of a few spaces.

Due to required sequencing of permits, a FEMA MT-2 CLOMR will be submitted. Upon approval, the EGLE JPA will be submitted.

AEW would plan to use Barr Engineering or ASTI Environmental for the endangered species report that will be required by FEMA.

Project representatives from AEW will be available according to the proposed time line.

Representatives from AEW will be responsible for transportation to and from the City, as well as within the City for fieldwork, at no cost to the City.

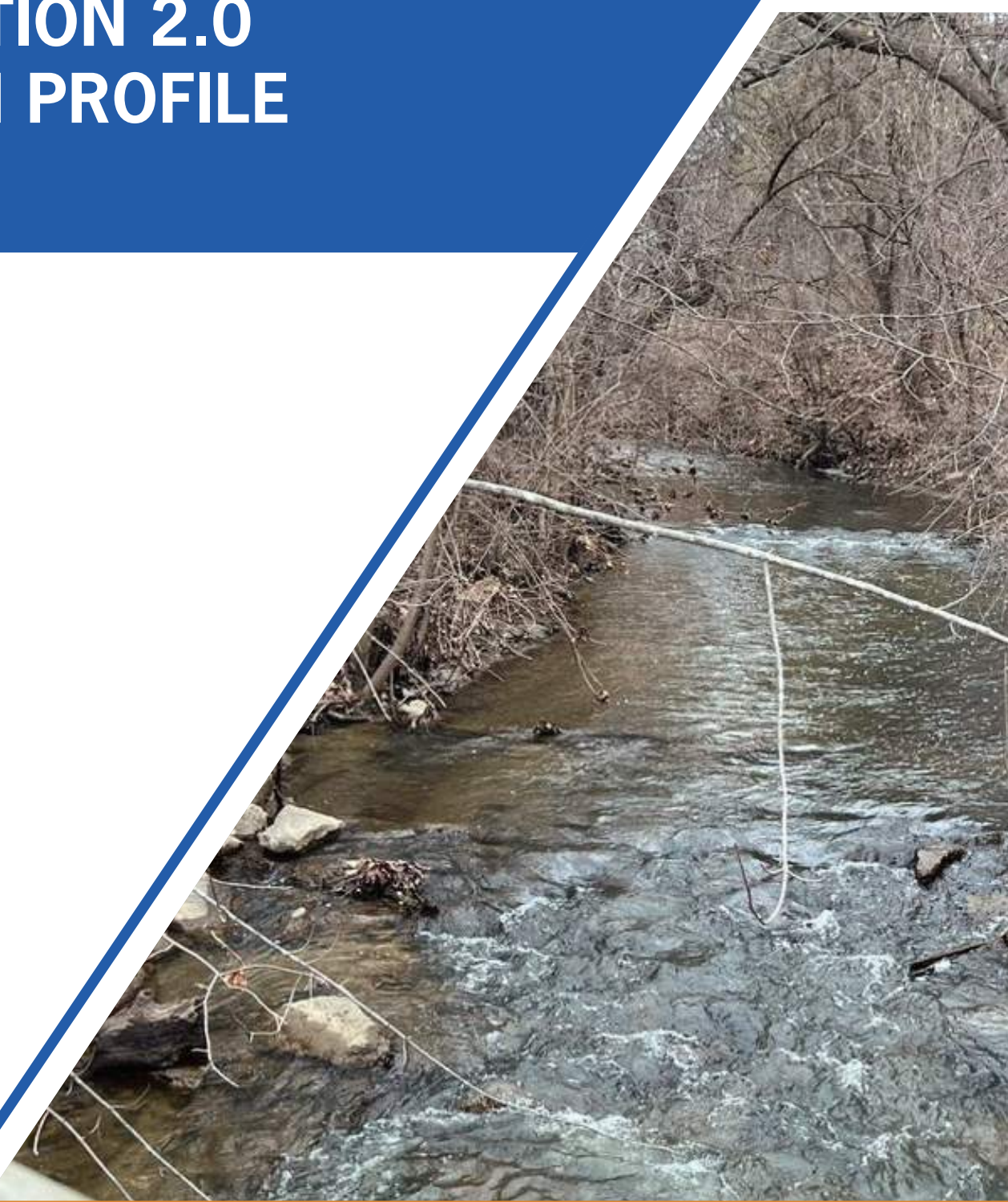
Below is the projected timeline for the project:

Birmingham - Parking Lot No.6 Floodwall												
Tasks	Start Date	Finish Date	January 1, 2024 - January 1, 2025									
			Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
Preliminary Data Collection	March 1, 2024	May 1, 2024										
Topographical Survey	March 1, 2024	May 31, 2024										
Hydraulic Model and Study	May 1, 2024	July 31, 2024										
Threatened and Endangered Species Survey (By Others)	April 1, 2024	July 31, 2024										
Permit Applications (FEMA)	June 1, 2024	August 31, 2024										
Plan Preparation	June 1, 2024	August 31, 2024										
Meeting & Consultation	April 1, 2024	September 30, 2024										





SECTION 2.0 FIRM PROFILE



City of Birmingham - Parking Lot No.6



Since 1968, our primary goal is to serve our clients. We listen in order to provide a service that meets our clients' needs, expectations, vision and budget. By maintaining this level of service, we build long term client relationships.

WHO WE ARE & DISCLOSURE

Anderson, Eckstein & Westrick, Inc. is a privately held corporation with no subsidiaries or affiliated companies, and is incorporated and licensed to operate in the State of Michigan. **AEW has no conflicts of interest in Birmingham.**

OUR SERVICES

We pride ourselves on providing a wide range of solutions to our clients, with technical knowledge and expertise in many specialties including:



AEW ADVANTAGE

AEW is vested in the advancement and success of each of our clients. We respect the people and the vision of the communities in which we work. AEW is a well-respected firm with a significant amount of relevant municipal and water resource engineering experience. **We are confident in our ability to deliver your projects efficiently and successfully, in an effort to enhance the public health, safety, and welfare for the City of Birmingham.**

Our team is able to offer a comprehensive engineering, design, and management approach to accommodate all project types. We are confident that our performance will demonstrate the qualifications and attributes which are consistent with your needs and expectations.

AVAILABILITY

We have over 140 staff who are versatile with multiple disciplines working under the same roof, which promotes connectivity, creativity, and effective communication throughout the design and construction process. Between our seasonal and full-time staff, we are able to provide the knowledgeable personnel required to support projects year-round.

LOCATIONS

Shelby Township Office (HQ)

51301 Schoenherr Rd. | Shelby Township, MI 48315

Roseville Office

27087 Gratiot Avenue | Roseville, MI 48066

Livonia Office

17322 Farmington Rd. | Livonia, MI 48152



SECTION 3.0 PROJECT EXPERIENCE



City of Birmingham - Parking Lot No.6



Yates Tributary No. 1, Washington Township, MI

AEW worked with Community Engineering Services, Inc. to evaluate the condition of Tributary No. 1 near Campground and Old Van Dyke, and perform a hydrology and hydraulic study of the 78" enclosed drain and upstream area.

OUR SERVICES

Anderson, Eckstein & Westrick, Inc. (AEW) provided the following services:

- Hydrology/Hydraulics
- Drain Law
- Floodplain Management

PROJECT CHALLENGES

The Enclaves condo complex located near the intersection of Campground and Old Van Dyke were developed in the late 1990s and included enclosing a section of Tributary No. 1 of the Yates drain with a 78" diameter pipe along the edge of the Enclaves property.

While the condo complex plans had provided a drain easement over the enclosed drain, Macomb County did not recognize it as their asset. The upstream and downstream ends of the enclosed section include a FEMA regulated Floodway and

Floodplain.

The enclosure inlet had been known to frequently backup and residents of the Enclaves condos have historically experienced flooding as a result. The enclosure inlet includes a custom inlet structure with a heavy-duty bar rack. Improvements to the inlet and an emergency spillway through the MDOT right of way have been proposed, but an actionable plan had been difficult due to the uncertainty of ownership.

OUR SOLUTIONS

AEW worked with the developer, county drain commissioner and MDOT to investigate ownership and provide cost effective modifications that would prevent flooding to the condo complex. A retaining wall was installed as part of the solution that will corral storm water to the enclosed drain inlet and prevent surface flooding of the condo development.

STRONGER COMMUNITY

The development has seen an increased level of service by completing recommended prevention measures.

CLIENT CONTACT

Richard Hodsdon, PE
Community E.S. Inc.
5805 24 Mile Road
Shelby Township, MI 48316
(586) 677-4081
rich@communityeng.com



PROJECT HIGHLIGHTS

07/22 - 10/23
Cost: \$22,800
Project #1678-0001



KEY STAFF

Taylor M. Sting, PE, CFM
Project Manager
Stephen V. Pangori, PE
Quality Assurance
Dulanga Pathirana, PE
Civil Engineering



Stillwater Crossing Subdivision, Macomb, MI

AEW worked with Lombardo Company in the Stillwater Crossing subdivision in Macomb Township to complete multiple studies to establish flows and water surface elevations for the Hart Drain and Bowman Ditch. This was done on the east side of North Avenue and in between 23 Mile Road and 24 Mile Road along the Hart Drain and Bowman Ditch, which flow through the site. A Letter of Map Revision (LOMR) was submitted to FEMA to reflect the results of the study.

OUR SERVICES

Anderson, Eckstein & Westrick, Inc. (AEW) was a part of the engineering as-needed contract and provided design and construction engineering services including:

- Hydraulics/Hydrology Analysis
- Surveying
- Civil Engineering Design
- Floodplain Management

PROJECT CHALLENGES

This project required hydrology and hydraulics of the Hart Drain and Bowman Ditch, which involved defining drainage areas, determining land use and

time of concentration of flow, and completing calculations for estimating peak discharge. The main challenge was designing a plan that would allow the drain and the ditch to handle the flood waters to keep the neighborhood and residents safe and reduce the risk of flooding.

OUR SOLUTIONS

Utilizing previous models and updated surveying knowledge, several design options were analyzed, including hydrology work maps and water surface elevations. The drainage modeling determined what upgrades and additions needed to be done on the drain and the ditch. Since the Hart Drain and Bowman Ditch are separate water courses it was necessary to prepare separate studies and LOMR applications for each drain.

STRONGER COMMUNITY

Residents of the Stillwater Crossing subdivision are experiencing improved drainage throughout the neighborhood, which decreases the likelihood of flooding and improves the sanitation of the area.

CLIENT CONTACT

Gregory Windingland
Vice President of Development
Lombardo Company
13001 Twenty-Three Mile Rd, Suite 200
Shelby Township, MI 48315
(586) 781-7900
gwindingland@lombardohomes.com



PROJECT HIGHLIGHTS

07/19 - 07/20
Cost: \$29,750
Project #0546-0052



KEY STAFF

Gordon B. Wilson, PE, CFM, EXW
Project Manager
Stephen V. Pangori, PE
Quality Assurance
Taylor M. Sting, PE
Dulanga Pathirana, PE
Civil Engineering
Michael Sopczynski
Civil Engineering Design
Andrew Dourjalian
GIS



Middle Branch Clinton River, Macomb Township, MI

The Wolverine Country Club Estates II and Wolverine Villas Duplexes are developments located along the east side of Romeo Plank, north of 25 Mile Road. The Country Club Estates II is located along the north side of the Middle Branch of the Clinton River and the Villas Duplexes is located along the south side of the Middle Branch of the Clinton River. The design for the Country Club Estates II was completed by Anderson, Eckstein and Westrick, Inc. (AEW) and the design for the Villas Duplexes was completed by Urban Land Consultants (ULC).

AEW prepared the necessary modeling related to cut-fill floodplain construction for both the Country Club Estates and the Villas Duplexes.

OUR SERVICES

AEW provided the following services:

- Hydraulic Modeling
- Hydraulic Reporting
- Design
- Floodplain Management

PROJECT CHALLENGES

The project included coordination with EGLE, FEMA and Macomb Township. Providing a solution that was acceptable to all governing agencies required additional coordination. Due to the unique nature and geometry of the site, different agencies had varied opinions on how to approach floodplain in the nearby detention ponds and wetland areas.

OUR SOLUTIONS

AEW was able to work with the permitting agencies to develop a model that met the National Flood Insurance Program (NFIP) standards for the changes to the drain, which included modifications to four bridges.

STRONGER COMMUNITY

Through this project, The community was able to develop additional neighborhoods near a local body of water. Residents will be able to enjoy the natural features around the drain, while their homes will be protected from flooding.

CLIENT CONTACT

Gregory Windingland
VP of Development
Lombardo Company
13001 23 Mile Road, Suite 200
Shelby Township, MI 48315
(586) 781-7900
gwindingland@lombardohomes.com



PROJECT HIGHLIGHTS

12/20 - 12/23
Final Cost \$50,000
Project #0546-0054



KEY STAFF

Taylor Sting, PE
Project Manager
Dulanga Pathirana, PE
Project Engineer



Stoney Creek South of Stony Creek Road, Oakland Twp., MI

AEW completed document review and evaluation of the crossing design, and provided a hydraulic report for use in permitting with the Township, EGLE, and FEMA.

The purpose of the crossing was to ensure that a newly proposed residential neighborhood had adequate emergency access routes.

OUR SERVICES

AEW provided the following services:

- Hydraulic Modeling
- Hydraulic Reporting
- Design
- Floodplain Management

PROJECT CHALLENGES

Due to the flat topography of the area and the significant amount of wetlands, selection of the drain crossing type, material, and location were paramount to keep the proposed culvert cost effective.

AEW had researched and modeled various options in order to find the balance of hydraulics and cost. The project included coordination with EGLE, FEMA and Oakland Township.

OUR SOLUTIONS

AEW worked with the developer to find a cost-effective solution that posed minimal impact to nearby residences, while providing sufficient capacity to transport flooding conditions of the drain.

STRONGER COMMUNITY

Through this project, The community was able to develop additional neighborhoods near a local body of water. and provide the required emergency access routes required by the township. In addition, residents will be able to enjoy the natural features around the drain, while their homes will be protected from flooding.

CLIENT CONTACT

Gregory Windingland
 VP of Development
 Lombardo Company
 13001 23 Mile Road, Suite 200
 Shelby Township, MI 48315
 (586) 781-7900
 gwindingland@lombardohomes.com



PROJECT HIGHLIGHTS

12/20 - Ongoing
 Final Cost \$45,000
 Project #0546-0055



KEY STAFF

Taylor M. Sting, PE
 Project Manager
 Dulanga Pathirana, PE
 Project Engineer





UAW Solidarity House, Detroit, MI

AEW designed and assisted throughout construction of phase one of the UAW Parking Lot. Phase two completed the reconstruction of the remaining storm sewer and paving along the westerly side of the site from Jefferson Avenue to the Detroit River. Topography was previously completed for the entire site. As-built elevations of phase one and the recently completed seawall project that is adjacent to phase two needed to be surveyed. The existing on-site retaining wall was partially reconstructed in phase one and was completed in phase two.

OUR SERVICES

Anderson, Eckstein & Westrick, Inc. provided the following services:

- Engineering Plan Preparation
- Design Engineering
- Permits and drawings prepared and submitted to EGLE and US Army Corp
- Construction Observation
- Construction Administration
- Floodplain Management



Preparing for Drone Footage

PROJECT CHALLENGES

The UAW Generator Pad was located within the Floodplain. AEW worked with FEMA and the City of Detroit to keep the generator in the same location while providing a flood protection enclosure for the generator.

OUR SOLUTIONS

By designing the generator enclosure, the building was able to meet the requirements of the NFIP with minimal changes to the electrical system and provided flooding protection for the generator.

CLIENT CONTACT

Norm Wirgau
Supt. of Bldg. & Properties
UAW Solidarity House
8000 E. Jefferson Avenue
Detroit, MI 48214
(313) 926-5210
nwirgau@uaw.net



PROJECT HIGHLIGHTS

06/17 - Ongoing
Cost: \$1,236,831
(construction cost)
Project #1101-0005



KEY STAFF

Aseel A. Putros, PE, CFM
Project Manager
Gordon B. Wilson, PE, CFM, EXW
Quality Assurance
Taylor M. Sting, PE, CFM
Civil Engineering
Structural Engineering
Kevin E. Zavel, PE
Jeffrey L. Allegoet
Civil Design



General Motors Detroit Hamtramck Factory

AEW partnered with Smith Group on a project involving the renewal effort of the General Motors (GM) Detroit Hamtramck Assembly Plant. GM leadership had been tasked with creating a Green Infrastructure Plan for the site, as it related to their focus on electric vehicle production.

The objective of the project was to build on existing efforts to mitigate storm water, strengthen and create wildlife habitat through landscape improvements, study hardscape removals or improvements to increase green space, and uncover stormwater opportunities that improve overall site sustainability and biodiversity.

OUR SERVICES

Anderson, Eckstein & Westrick, Inc. (AEW) completed a hydrologic and hydraulic analysis of the approximately 420-acre site, which included reviewing the Detroit Drainage Manual for potential reduction of sewer billing costs, developing an existing and proposed storm network model, and recommending storm water management projects that address the factory's problems and account for climate change.

PROJECT CHALLENGES

AEW was asked to propose site features that would

reduce the hardscape and decrease stormwater runoff, which would allow GM to earn stormwater credits from the Detroit Water and Sewer Department (DWSD) and reduce their overall site runoff and stormwater fees. Additionally, during the project, the plant had experienced flooding.

OUR SOLUTIONS

AEW developed a Hydraulic model including all pipes within the site larger than 12 inches. The model identified system deficiencies. Storm network improvements were recommended based on the findings from the model.

Sections of the sewer were under parts of the facility. Specific attention to potential building flooding was addressed in the recommended improvements. AEW worked closely with Smith Group to identify locations of in system storage within the property that would work with the existing and proposed infrastructure.

STRONGER COMMUNITY

The GM Factory Zero has a master plan that includes guidance for continually increasing the level of sewer service provided along the site as the plant is transformed into Factory Zero.

CLIENT CONTACT

Clare Jagenow
Smith Group JJR
201 Depot Street
Ann Arbor, MI 48104
(734) 669-2733
Clare.Jagenow@smithgroup.com



PROJECT HIGHLIGHTS

12/20 - 06/22
Cost: \$77,100
Project #1176-0003



KEY STAFF

Kyle M. Seidel, PE
Project Manager
Stephen V. Pangori, PE
Quality Assurance
Taylor M. Sting, PE
Dulanga Pathirana, PE
Civil Engineering
Jeffrey Miller
Joseph Svoboda
GIS



CLOMR Site Plan Review, St. Clair Shores, MI

AEW provided CLOMR review for the proposed development of a project site on Jefferson Avenue in the City of St. Clair Shores. Due to the changes in the existing grade, a Conditional Letter of Map Revision (CLOMR) needed to be submitted to the Federal Emergency Management Agency (FEMA).

OUR SERVICES

Anderson, Eckstein & Westrick, Inc. (AEW, Inc.) was a part of the engineering as-needed contract and provided design and construction engineering services including:

- Civil Engineering
- Plan Review
- Hydraulics
- Floodplain Management

PROJECT CHALLENGES

The proposed basement did not clearly meet the requirements of FEMA or the City's ordinance.

OUR SOLUTIONS

AEW worked with the developer to come up with an option that would preserve the walk out basement while meeting the FEMA guidelines for reasonably safe from flooding.

STRONGER COMMUNITY

The City was able to approve plans that met their flooding ordinance, as well as the needs of the developer to provide a walkout stairway from the basement.



CLIENT CONTACT

Denise Pike, AICP
City of St. Clair Shores
27600 Jefferson Circle Drive
St. Clair Shores, MI 48081
(586) 447-3403
piked@scsmi.net



PROJECT HIGHLIGHTS

10/23 - 02/24
Cost: \$6,500
Project #0150-0603



KEY STAFF

Taylor M. Sting, PE, CFM
Project Manager
Kyle M. Seidel, PE
Quality Assurance
Dulanga Pathirana, PE
Civil Engineering



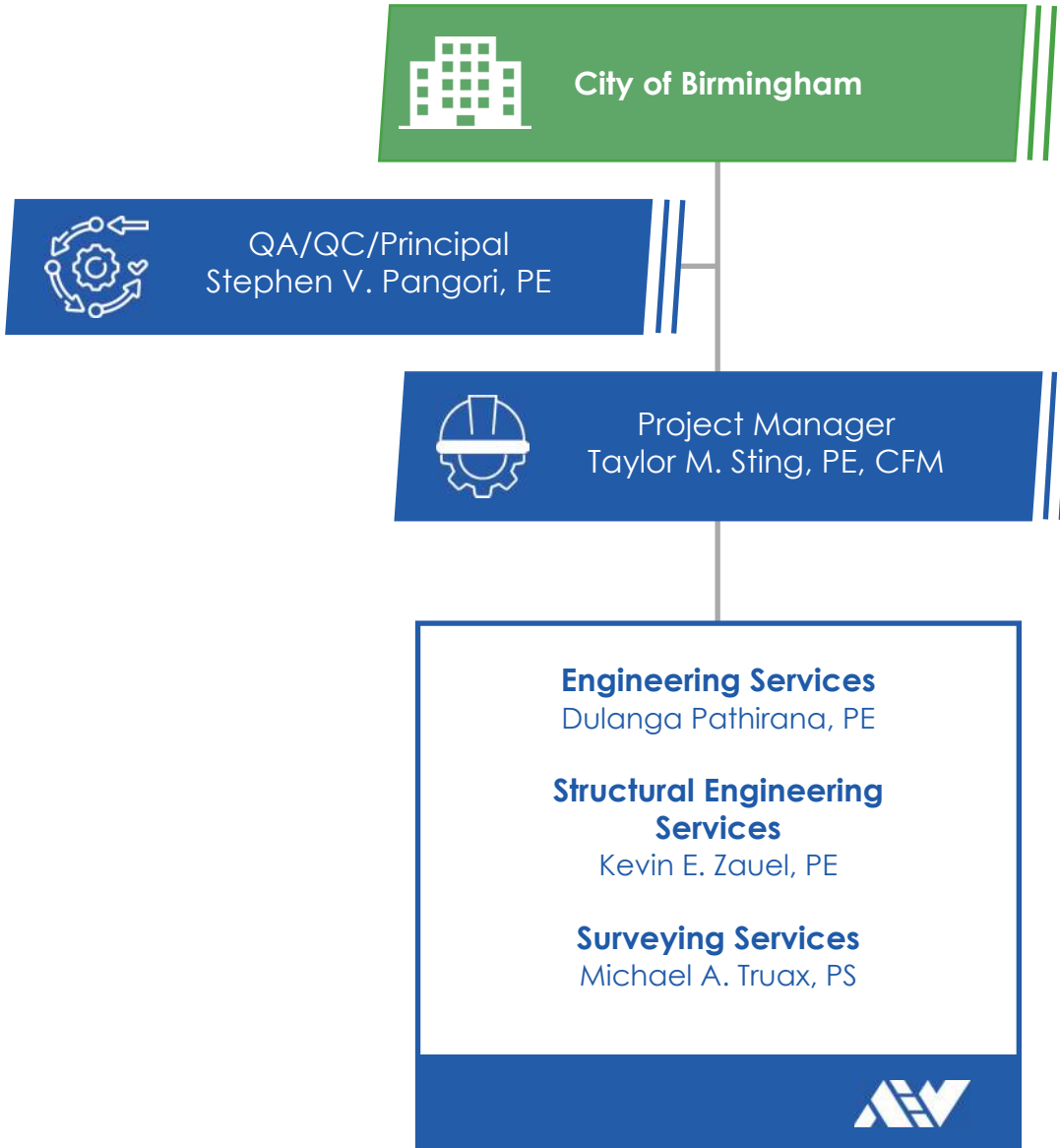
SECTION 4.0 ORGANIZATIONAL CHART AND RESUMES



City of Birmingham - Parking Lot No.6



Organizational Chart



Stephen V. Pangori, PE

President



EDUCATION

Bachelors of Science, 1987,
Michigan State University,
East Lansing, MI

LICENSING & CERTIFICATIONS

Professional Engineer,
Michigan, #6201037769
Wisconsin, #29922-6

EMPLOYMENT HISTORY

AEW, Inc.
Shelby Township, MI
03/1987 - Current

PROFESSIONAL MEMBERSHIP

American Society of Civil
Engineers

PROFESSIONAL DEVELOPMENT

Principals Bootcamp, PSMJ
Resources, Inc.

Project Manager
Bootcamp, PSMJ
Resources, Inc.

HEC-2 Floodplain
Hydraulics, Pennsylvania
State University

HEC-1 Floodplain
Hydrology, University of
Texas

Hydraulics of Bridges and
Culverts, Michigan DNR

Roadside Design Guide,
Michigan Technological
University

Leadership Macomb XVII

Steve is President & CEO of AEW, serves on our Board of Directors, and has more than 30 years of valued and varied experience in civil engineering. He is the Client Manager for a number of our highly regarded communities, including the cities of Eastpointe, Grosse Pointe, Harper Woods, St. Clair and Elba Township.

He is responsible for providing sound engineering advice to these municipalities, along with day-to-day engineering duties, and for the quality assurance of the services provided by our firm. Along with two Executive VPs, he shares responsibility for management and oversight of AEW's Municipal Engineering Services, a very important segment of our clientele.

His long-term experience portfolio includes construction observation, retail, health care, and industrial site design, hydraulic studies for bridge replacements, drain improvements, and Letters of Map Amendments/Revisions (LOMA/LOMR). Additionally, he has expertise in bridge inspections, reinforced concrete bridge design, and a number of municipal engineering projects that include parks and recreation developments, water main and sewer replacement, stormwater management, and street repair and replacement projects.

RELEVANT EXPERIENCE

Municipal Engineering: Steve's wealth of experience in municipal engineering has given him broad knowledge and experience in managing infrastructure, master planning, review/approval/permitting of developments, design/construction administration of water main, sewer and road rehabilitation and reconstruction projects, development of capital improvement programs, Enhancement Grants, Safety Grants, Community Development Block Grant (CDBG) Program, State Revolving Fund (SRF), Michigan Department of Environmental Quality (MDEQ), Michigan Department of Natural Resources (MDNR), Environmental Protection Agency (EPA), and the Michigan Department of Transportation (MDOT).

Geographic Information Systems (GIS): As the Client Manager for the cities of Eastpointe, Grosse Pointe, Harper Woods, and St. Clair, Steve has managed the development of various aspects of the GIS in these communities. These include mapping of sewer and water utilities, as well as annual updates to the utilities and the parcel base.

Taylor M. Sting, PE, CFM

Project Manager/Water Resources Group Lead



Taylor has more than ten years of Civil Engineering experience in a number of areas of expertise including engineering design, fieldwork, and construction services for water and wastewater treatment plants and systems and drafting of plans, specifications, schedules, budgets, and estimates. He has managed projects including watermain, road reconstruction, bridges, and park pathway design.

EDUCATION

Masters of Science, Civil Engineering, 2017, Wayne State University, Detroit, MI
Bachelors of Science, Civil Engineering, 2013, Michigan State University, East Lansing, MI

LICENSING & CERTIFICATIONS

Professional Engineer, Michigan, 2018
#6201067286

Certified Floodplain Manager, ASFP, 2024

EMPLOYMENT HISTORY

AEW, Inc.
Shelby Township, MI
06/2019 - Current

SPECIALIZED TRAINING

OSHA 30-Hour Construction Industry Outreach Training
OSHA Hazard Communication Training
Confined Space Training - Entrant and Attendant
New York Erosion and Sediment Control (GP-0-10-001)

TECHNICAL CAPABILITIES

HEC-RAS
AutoCAD Civil 3D
ArcGIS
SWMM

He is experienced in providing design services and construction oversight for water treatment plant operations, performing hydraulic and hydrologic analysis using HEC-RAS and SWMM models for municipal sanitary and storm water system analysis and managing large hydraulic and hydrologic data sets. Taylor has conducted various hydrology and hydraulic studies for municipalities, developers, and auto makers.

Additionally, Taylor has developed flow control strategies and alternatives to allow cleaning, inspection, and repair work in regional facilities selection, and flow control sequencing. He also conducted confined space entries for inspection and field measurements.

RELEVANT EXPERIENCE

Hydrology and Hydraulics: He's well versed in hydraulic, hydrologic, and water quality computer models for the evaluation of storm, sanitary, and combined sewer systems and design improvements. Taylor has provided reports for developers and municipalities requiring revisions to their floodplain mapping. He has participated in the design and implementation of sanitary sewage overflow control projects and assisted communities in working toward their goal of meeting control requirements mandated by regulatory agencies. Taylor has provided assistance in lawsuit reviews of basement backup cases by providing modeling analysis and review.

Site Development: Assists client with obtaining necessary permits and construction drawings related to utility location and design.

Municipal Engineering: Taylor has designed and managed various municipal engineering projects including sanitary sewer, storm sewer, developments and parking lots.

Dulanga C. Pathirana, PE

Project Engineer



Dulanga has more than 15 years of valued engineering experience, and is skilled in the development and implementation of designs for sewer collection and water distribution systems. Her experience includes sewer evaluation studies, hydraulics and hydrologic computer modeling, and infrastructure rehabilitation programs. This requires development of practical engineering cost estimates and project plan preparation for AEW's municipal and private clients.

EDUCATION

M.S. Civil Engineering,
Environmental and Water
Resource Engineering,
2014, Lawrence
Technological University

B.S. Civil and Environmental
Engineering, 2006,
University of Ruhuna, Galle,
Sri Lanka

LICENSING & CERTIFICATIONS

Professional Engineer,
Michigan, 2021

PROFESSIONAL AFFILIATIONS / AWARDS

National Council of
Examiners for Engineering
and Surveying

Association of State
Floodplain Managers, 2018

EMPLOYMENT HISTORY

AEW, Inc.
Shelby Township, MI
10/2014 - Current

TECHNICAL CAPABILITIES

ArcGIS	GeoHEC-RAS
SWMM	EPA SSOAP
HEC-RAS	Flow-Ware
MIKE 21	Flowlink 5
MIKE II	On Center
Flow Master	On-Screen Takeoff
Culvert Master	GeoHECHMS
Slope/W	
Civil 3D	

RELEVANT EXPERIENCE

Floodplain Analysis: Dulanga compiles necessary data and applies the appropriate hydrologic/hydraulic calculations for a number of our municipal and private clients' projects. The information she develops is used to assist in determining construction sectors and wetland mitigation areas. She also attains FEMA Letters of Map Revisions (LOMRs) in addition to Permit Applications with the State of Michigan Department of Environment, Great Lakes and Energy (EGLE).

Stormwater and Watershed Management: Dulanga is experienced in the study and modeling of watershed areas and design and implementation of Best Management Practices (BMPs) and preparation of permit applications for National Pollutant Discharge Elimination System (NPDES) Permit for Discharge of Stormwater to Surface Water from a Municipal Separate Storm Sewer System (MS4).

Hydraulics/Hydrology: Dulanga is knowledgeable in developing master plans and computer models for a wide range of topographies. She has performed peak flow studies, retention basin evaluations, infiltration/inflow investigations, bridge scour analyses, and dry and wet weather analysis for a variety of projects. She has performed hydraulic analysis for complex culvert/bridge installation and replacement projects and conducted scour analysis.

Coastal Engineering: Dulanga is qualified in the study, design, modeling and implementation of hydraulic and environmental conditions unique to coastal structures.

Quality Control: Dulanga's skills include the preparation and implementation of quality assurance documents, including inspection test plans, specifications and method statements.

Michael A. Truax, PS

Director of Survey



EDUCATION

B.S. Surveying
Engineering, 2005, Ferris
State University

LICENSING & CERTIFICATIONS

Professional Surveyor,
Michigan, 2013
#4001060863

Confined Space Entry
Supervisor/Entrant/
Attendant, Metro
Occupational Trainers

EMPLOYMENT HISTORY

AEW, Inc.
51301 Schoenherr
Shelby Township, MI 48315
03/2004 - Current

Mike has more than 19 years of experience and is the director of our survey department. His responsibilities include the coordination of field personnel with design staff requirements, along with management and quality control of our survey crews, which can number up to nine.

He also supervises the preparation of subdivision plats, condominium documents, construction control drawings, and ALTA surveys. In addition, he is knowledgeable in GPS and robotic surveying for global positioning mapping of large areas, Michigan Department of Transportation (MDOT) projects, and private and municipal construction staking.

Mike has additional responsibility where he performs data research, maintains accurate notes, records and sketches to describe and clarify completed work, as well as construction layout for pavement and all utilities. He also assists in deciding the methods and procedures used for establishing survey controls.

RELEVANT EXPERIENCE

Topographical Surveys: Over 19 years of experience in data collection needed to prepare topographical surveys for developments of differing size and complexity, and he is also skilled in roadways, acreage parcels, and buildings.

Construction Layout: Qualified in all areas of layout that are required for residential and commercial developments involving sanitary and storm sewers, water mains, and paving.

Boundary Surveys: Served as a crew chief and assistant crew chief on many boundary and ALTA/NSPS surveys.

Written Descriptions: Extensive experience in writing legal descriptions for boundary parcels, ALTA/NSPS surveys, condominium projects, and a variety of easements.

Kevin E. Zavel, PE

Structural Group Lead/Project Manager



Kevin has 31 years of valued engineering experience, and leads our Structural Engineering department. He serves as a lead engineer and project manager for both municipal and private clients on a broad range of projects, and also performs stand-alone consulting services. Additionally, he and his team provide valued expertise to other AEW project managers for both internal and external clients.

The Structural Engineering team, under Kevin's leadership, also has responsibility for the preparation of proposals, estimates, scoping studies, investigations and reports, contract documents and specifications, in addition to construction administration services.

He brings a strong knowledge of industry standard software applications, as well as AutoCAD, MicroStation and Revit, all of which are instrumental in the plan development process.

Kevin's expertise includes working with structures created from a number of materials that include concrete, steel, timber and masonry, and foundations that include shallow spread and wall footings, deeper drilled pier and driven pile varieties.

His extensive project experience also includes the design, analysis and rehabilitation of commercial, educational and industrial buildings, vehicular and pedestrian bridges and boardwalks, waste treatment plants, municipal infrastructure projects, and equipment support structures.

EDUCATION

B.S. Civil Engineering,
1991, Michigan
Technological University

LICENSING & CERTIFICATIONS

Professional Engineer,
Michigan, 1997
#6201042708

LTAP
Confined Space Entry
Training (2012)

EMPLOYMENT HISTORY

AEW, Inc.
Shelby Township, MI
09/2006 - Current

SPECIALIZED TRAINING

Construction Cost
Estimating (2017)
Halfmoon

Bridge Annual
Conference (2015) LTAP

Project Management
Bootcamp (2016) PSMJ

Bridge Element
Inspection and Annual
Conference (2014)

PROFESSIONAL AFFILIATIONS / AWARDS

Structural Engineers
Association of Michigan

American Concrete
Institute - Greater MI
Chapter

RELEVANT EXPERIENCE

Bridge Inspection and Design: Certified in safety inspections of in-service bridges, Kevin performs inspections, scour analysis and load ratings for a number of local agencies in accordance with Michigan Department of Transportation (MDOT) and federal requirements. He also assists communities in securing funding through the MDOT Local Bridge Program and has overseen literally hundreds of bridge inspection, reconstruction, and rehabilitation projects.

Automotive and Industrial Facilities: With more than 15 years of experience in the automotive and industrial arena, Kevin has completed a significant number of projects for some of our area's leading manufacturers. These projects vary from process changeovers to complete design services for both new facilities and additions. He is also skilled in steel truss design and reinforcement, crane runway upgrades, conveyor and slab loading analysis, and stamping press, pit and floor replacement.



SECTION 5.0 REFERENCES



City of Birmingham - Parking Lot No.6



References

We take great pride in the relationships we have developed with our clients. We have included the following references from clients for whom we have completed similar project work in recent years.

Lombardo Companies
13001 23 Mile Road, Suite 200
Shelby Township, MI 48315
Lyle Winn, Development Compliance Manager
(586) 781-7900
lwinn@lombardohomes.com

Community E.S. Inc
Richard Hodsdon, PE
5805 24 Mile Road
Shelby Township, MI 48316
586-677-4081
rich@communityeng.com

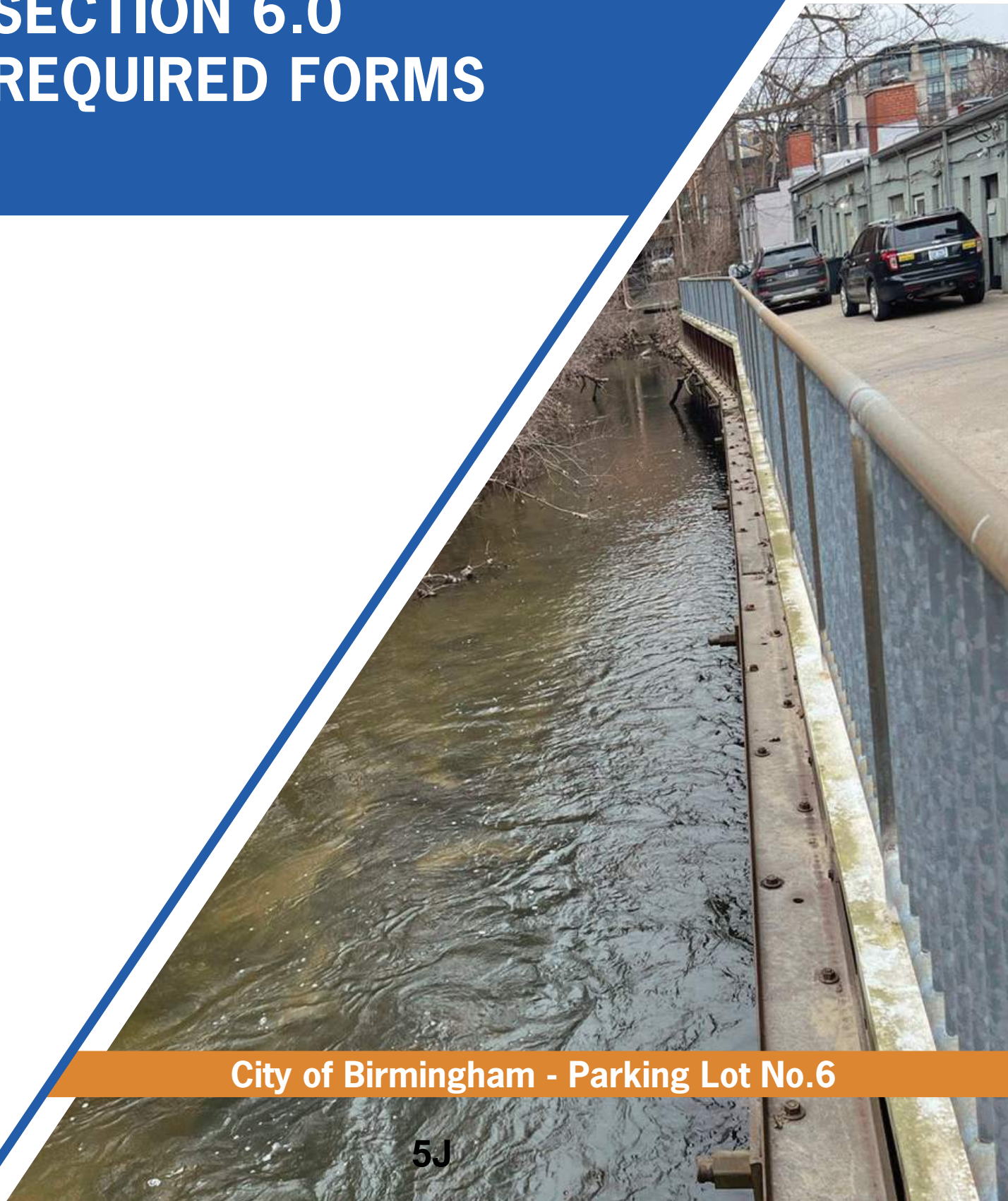
City of Troy
Scott Finlay, PE
500 West Big Beaver Road
Troy, MI 48084
248-524-3383
finlaysg@troymi.gov

City of St. Clair Shores
Denise Pike, AICP
27600 Jefferson Circle Drive
St. Clair Shores, MI 48081
(586) 447-3403
piked@scsmi.net



SECTION 6.0 REQUIRED FORMS

City of Birmingham - Parking Lot No.6





ATTACHMENT B - CONSULTANT'S AGREEMENT
For PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6
FLOOD WALL - REBID

In submitting this proposal, as herein described, the Consultant agrees that:

1. They have carefully examined the specifications, terms and Agreement of the Request for Proposal and all other provisions of this document and understand the meaning, intent, and requirement of it.
2. They will enter into a written contract and furnish the item or items in the time specified in conformance with the specifications and conditions contained therein for the price quoted by the proponent on this proposal.

Stephen V. Pangori, PE

February 22, 2024

BID PREPARED BY
(Print Name)

DATE

President / CEO

TITLE

DATE

spangori@awinc.com

AUTHORIZED SIGNATURE

E-MAIL ADDRESS

Anderson, Eckstein & Westrick, Inc.

COMPANY

51301 Schoenherr Rd., Shelby Twp. MI 48315

586-726-1234

ADDRESS

PHONE

N/A

NAME OF PARENT COMPANY

PHONE

N/A

ADDRESS



ATTACHMENT C - COST PROPOSAL

**For PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6
FLOOD WALL - REBID**

In order for the proposal to be considered valid, this form must be completed in its entirety.
The fee for the Scope of Work as stated in the Request for Proposal documents shall be determined pursuant to the fee schedule, as follows:

FEE PROPOSAL	
ITEM	BID AMOUNT
Total - Phase 1	\$ 297,800.00

Firm Name Anderson, Eckstein & Westrick, Inc.

Authorized signature 

Printed Name Stephen V. Pangori, PE

Date 2/22/2024

Birmingham - Parking Lot No.6 Floodwall									
Project Tasks	Rates	\$ 218	\$ 198	\$ 180	\$ 148	\$ 148	\$ 122	\$ 296	Total
	Personal	Principal Engineer	Project Manger	Licensed Engineer	Graduate Engineer	Team Leader	Engineering Aide	Survey	
Preliminary Data Collection									
1. Visit Project Site for Field Reconnaissance.	Time / Hours		8	8				2	
2. Request Data from FEMA					8				
3. Develop Base Map			8	8	16				
		\$ -	\$ 3,168.00	\$ 2,880.00	\$ 3,552.00	\$ -	\$ -	\$ 592.00	\$ 10,192.00
Topographical Survey									
1. Drain Survey	Time / Hours		8	8		40	40	80	
		\$ -	\$ 1,584.00	\$ 1,440.00	\$ -	\$ 5,920.00	\$ 4,880.00	\$ 23,680.00	\$ 37,504.00
Threatened and Endangered Species survey									
1.Environmental Engineering	Time / Hours								
		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 25,000.00
Hydrology and Hydraulic Analysis									
1. Existing Hydrology Research (EGLE flood flow request)	Time / Hours			4	4				
2. Develop Existing Models			16	60	8	8			
3. Hydrologic Modeling			40	160	20				
4. Results Review and Discussion			8	16	16	8			
		\$ 1,744.00	\$ 14,256.00	\$ 43,200.00	\$ 5,920.00	\$ 1,184.00	\$ -	\$ -	\$ 66,304.00
Plan & Specification Development									
1. Develop Options	Time / Hours		40	50	16				
2. Structural Design			25	40	8				
3. Civil Design			20	40					
4. Specifications			40	40					
5. Cost Estimation for Possible Solutions			8	16	16	24			
		\$ 1,744.00	\$ 27,918.00	\$ 33,480.00	\$ 7,104.00	\$ -	\$ -	\$ -	\$ 70,246.00
Study Report									
1.Quarty Report Preparation	Time / Hours		16	16	32				
2.Final Report Preparation			8	40	80	40		8	
3.Hydraulic Work Map Preparation			8	12	16		16		
4. Permitting			8	20	50		16		
		\$ 5,232.00	\$ 17,424.00	\$ 29,160.00	\$ 10,656.00	\$ 4,736.00	\$ 976.00	\$ -	\$ 68,184.00
Meeting & Consultation									
1. Progress Meeting	Time / Hours	24	40	40					
		\$ 5,232.00	\$ 7,920.00	\$ 7,200.00	\$ -	\$ -	\$ -	\$ -	\$ 20,352.00
Total									\$ 297,800.00



**ANDERSON, ECKSTEIN AND WESTRICK, INC.
EXHIBIT "A"
STANDARD HOURLY CHARGE RATES**

<u>EMPLOYEE CLASSIFICATION</u>	<u>HOURLY CHARGE RATE</u>
PRINCIPAL ENGINEER / SURVEYOR / ARCHITECT	\$ 218.00
SENIOR PROJECT ENGINEER / SURVEYOR / ARCHITECT	198.00
LICENSED ENGINEER / SURVEYOR / ARCHITECT	180.00
GRADUATE ENGINEER / SURVEYOR / ARCHITECT	148.00
TEAM LEADER	148.00
ENGINEERING AIDE III	122.00
ENGINEERING AIDE II	111.00
ENGINEERING AIDE I	100.00
ENGINEERING AIDE TRAINEE	72.00
SECRETARIAL (Special Projects)	60.00
SURVEY FIELD (3 PERSON CREW)	296.00
SURVEY FIELD (2 PERSON CREW)	249.00
SURVEY FIELD (1 PERSON CREW)	194.00
CONFINED SPACE ENTRY CREW	285.00
CONFINED SPACE ENTRY (EACH ADDITIONAL PERSON)	96.00
GPS SURVEY EQUIPMENT	103.00

LEGAL MATTERS BILLED AT 1.5 TIMES ABOVE RATES.

EFFECTIVE JANUARY 2024 AND
UPDATED ANNUALLY TO REFLECT CPI.



**ATTACHMENT D – IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM
For PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6
FLOOD WALL - REBID**

Pursuant to Michigan Law and the Iran Economic Sanction Act, 2012 PA 517 (“Act”), prior to the City accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must certify that it is not an “Iran Linked Business”, as defined by the Act.

By completing this form, the Vendor certifies that it is not an “Iran Linked Business”, as defined by the Act and is in full compliance with all provisions of the Act and is legally eligible to submit a bid for consideration by the City.

Stephen V. Pangori, PE

**PREPARED BY
(Print Name)**

President, CEO
TITLE

2/22/2024
DATE

TITLE

DATE

Anderson, Eckstein & Westrick, Inc.
COMPANY

51301 Schoenherr Road, Shelby Township, MI 48315
ADDRESS

N/A
NAME OF PARENT COMPANY

ADDRESS

38-1904829
TAXPAYER I.D.



ATTACHMENT E – CERTIFICATION REGARDING LOBBYING FORM
For PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6
FLOOD WALL - REBID

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Bidder, AEW, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Consultant understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

SIGNATURE OF CONSULTANT'S AUTHORIZED OFFICIAL

Stephen V. Pangori, PE, Principal, CEO

NAME AND TITLE OF CONSULTANT'S AUTHORIZED OFFICIAL

2/22/2024

DATE

AGREEMENT OF PROFESSIONAL DESIGN ENGINEERING SERVICES FOR PARKING LOT NO. 6 FLOOD WALL - REBID

THIS AGREEMENT is entered into this __ day of _____, 20__, by and between the **CITY OF BIRMINGHAM**, whose address is 151 Martin Street, Birmingham, MI 48009 (hereinafter referred to as the City) and Anderson, Eckstein and Westrick, Inc., a Michigan corporation, whose address is 51301 Schoenherr, Shelby Township, Michigan 48315, (hereafter referred to as Consultant) and the foregoing shall collectively be referred to as the parties.

WHEREAS, the City desires Consultant Service for Professional Design Engineering Services, and in connection therewith has requested quotes for Parking Lot No. 6 Flood Wall; and

WHEREAS, Consultant has qualifications that meet the project requirements and has provided a response and cost quote to perform Professional Design Engineering Services.

NOW, THEREFORE, in consideration of the foregoing preambles, the adequacy of which is acknowledged by and between the parties to this Agreement, the parties agree as follows:

- 1. MUTUALLY AGREE:** It is mutually agreed by and between the parties that the City's Request for Proposals for Design Engineering Service for Parking Lot No. 6 Flood Wall - REBID posted on Wednesday, January 24, 2024 shall be fully incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. (Attached hereto as Attachment "A.")
- 2. TERM:** This Agreement shall have a term of eight months from the date stated above. The City shall have the right to unilaterally terminate this Agreement on thirty (30) days written notice. In the event of termination, the Consultant shall receive compensation for services to the date the termination takes effect and the City shall be entitled to retain and use the results of all designs and renovations prepared by the Consultant through such date.
- 3. TERMS OF PAYMENT:** The Consultant will invoice monthly for all labor supplied and work completed. In no event shall invoices be submitted more than 45 days after completion of services. Submitted invoices shall include the following detailed information: the type of work performed, the time spent on the work, the individual who performed the work and the per hour billing rate charged. The City may, at its sole discretion demand review and the right to request at any time further detailed accounting information for any or all bills. The right to inspection of any bill and invoice shall never be at any cost or billings to the City, nor shall preparation of said invoices be billed to the City or against the general retainer. Payment terms will be net 30 days unless otherwise specified by the City.
- 4. PERSONNEL:** Consultant shall employ personnel of good moral character and fitness in performing all services under this Agreement.
- 5. INSURANCE SUBMISSION REQUIREMENTS:** The Consultant has submitted proof to the City that it meets all City insurance requirements. Insurance, with coverage amounts at no less than the City's minimum requirements, must be held by the Consultant throughout the term of this Agreement. Certificates of insurance as stated below will be required no later than five (5) business days from the date of Consultant acceptance of the terms of this Agreement.

6. CONFIDENTIAL AND OR PROPRIETARY INFORMATION: The Consultant acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The Consultant recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Consultant agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Consultant shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Consultant further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

7. INDEPENDENT CONSULTANT: The Consultant and the City agree that the Consultant is acting as an independent contractor with respect to the Consultant role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Consultant nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Consultant shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Consultant shall not be considered entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

8. COMPLIANCE WITH LAWS: Consultant agrees to fully and faithfully carry out the duties of set forth herein using its best efforts in accomplishing all assignments from the City, and further, in addition to upholding all federal, and state laws and applicable codes of professional conduct to which Consultant is subject, Consultant hereby agrees to be bound by all Federal, State, or City of Birmingham ordinances, rules, regulations and policies as are amended from time to time, and including without limitation the Fair Labor Standards Act, the Equal Employment Opportunity rules and regulations, the Transportation Safety Act and the Occupational Safety and Health Acts.

9. NON-COMPLIANCE WITH INSURANCE REQUIREMENTS: Failure to deliver and maintain insurance in accordance with the terms of this Agreement will be cause for the City, by and through its City Manager, to terminate this Agreement, or at the City's option, the City may purchase on the open market such required insurance and shall be entitled to charge any additional cost to the Consultant, either by offset to any amounts due and owing for services provided to the City, or, by separate bill and demand for payment. Nothing in this paragraph shall be deemed to create or be interpreted as establishing a "for cause" termination; Consultant agrees and understands that its engagement is at will and may be terminated by the City Manager for any cause or no cause.

10. INDEMNIFICATION: To the fullest extent permitted by law, the Consultant and any entity or person for whom the Consultant is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on their behalf against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, 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 their behalf, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arise out of the acts, errors or omissions of the Consultant including its employees and agents, in the performance of this Agreement, with such responsibility limited to the damages actually attributable to Consultant, its employees, and its agents. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City. In addition to its responsibilities under this paragraph being limited to damages actually attributable to Consultant, the parties further agree that Consultant is not required to pay, or reimburse, attorney's fees or legal expenses for any claims covered under Consultant's professional liability insurance policy.

11. STANDARD INSURANCE REQUIREMENTS:

The Consultant shall maintain during the life of this Agreement the applicable types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance:

For Non-Sole Proprietorships: Consultant shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

For Sole Proprietorships: Consultant shall complete and furnish to the City prior to the commencement of work under this Agreement a signed and notarized Sole Proprietor Form, for sole proprietors with no employees or with employees, as the case may be.

B. Commercial General Liability Insurance: Consultant shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than **\$1,000,000** per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Consultant Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: Consultant shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following Additional Insureds: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.

E. Professional Liability: If applicable, professional liability insurance with limits of not less than \$2,000,000 per claim if Consultant will provide services that are customarily subject to this type of coverage.

F. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Consultant shall deliver renewal certificates and/or policies to the City at least (10) days prior to the expiration date.

G. Proof of Insurance Coverage: Consultant shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.

- 1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance, or a signed and notarized copy of the Sole Proprietor Form;
- 2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
- 3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
- 4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance, if applicable;
- 5) If so requested, Certified Copies of all policies mentioned above will be furnished.

H. Maintaining Insurance: Upon failure of the Consultant to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

12. WRITTEN NOTICES: Written notices regarding this Agreement shall be addressed to the following:

City: City of Birmingham
P.O. Box 3001
Birmingham, Michigan 48012
Attn: Melissa A. Coatta

Consultant: Anderson, Eckstein and Westrick, Inc.
51301 Schoenherr
Shelby Township, Mi., 48315
Attn: Stephen V. Pangori, P.E.

13. COVID: The Consultant shall follow all of the City's COVID-19 safety protocols while on City property. Additionally, Consultant staff which will be in physical contact with city staff must have current vaccinations against COVID-19. The City, at its discretion, may ask for proof of vaccination of Consultant staff. Failure to provide proof of vaccination when requested will cause the City to request un-vaccinated personnel to leave, request alternate staff, and if the Consultant is unable to comply, this violation of safety protocols will constitute a breach of contract by the Consultant.

14. AMENDMENTS: No amendment, modification or supplement to this Agreement shall be binding unless it is in writing and signed by authorized representatives of the parties.

15. WAIVER OF BREACH: No waiver by either party of any breach of any of the terms, covenants or conditions herein contained by the other party shall be construed as a waiver of any succeeding breach of this same or of any other term, covenant or condition.

16. COMPLETE AGREEMENT: The parties agree that the conditions set forth in this Agreement sets forth all terms and conditions of Consultant agreement with the City of Birmingham. This Agreement supersedes all prior agreements or understandings between the parties. There are no promises, conditions or understandings other than those stated herein, and, that any prior negotiations, terms or conditions discussed between the City and the Consultant shall not constitute a part of this Agreement. The term "agreement" as used in this clause shall include any future written amendments, modifications, or supplements made in accordance herewith.

17. DIRECT OR INDIRECT INTEREST: If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Consultant, the City shall have the right to terminate this Agreement without further liability to the Consultant if the disqualification has not been removed within thirty (30) days after the City has given the Consultant notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

18. FAILURE TO PERFORM. If Consultant fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

19. LEGAL PROCEEDINGS: Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. 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.

20. RESPONSE TO REQUESTS FOR QUOTES: The Consultant shall be held to and bound by all terms, conditions, warranties and representations which it made in its written response dated February 22, 2024, to the City's Request for Proposal dated January 23, 2024. In the event of a conflict in any of the terms of this Agreement and the Consultants response, the terms of this Agreement shall prevail. (Attached hereto as Attachment "B.")

21. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

22. SUSPENSION AND DEBARMENT: This contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the consultant is required to verify that none of the consultant's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded

(defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The consultant must comply with 2 C.F.R. Part 180, subpart C and 2C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. This certification is a material representation of fact relied upon by the City of Birmingham. If it is later determined that the consultant did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to the City of Birmingham the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

23. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES:

(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause-

(b) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the consultant and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

(iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit consultant from providing-

(i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to: (i) Covered telecommunications equipment or services that:

(i) Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system.

(ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d)) Reporting requirement.

(1) In the event the consultant identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the consultant is notified of such by a subcontractor at any tier or by any other source, the consultant shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Consultant shall report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the consultant shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Consultant shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments."

24. ACCESS TO RECORDS: The Consultant agrees to provide the City of Birmingham, Michigan Department of State Police (MSP), Emergency Management and Homeland Security Division (EMHSD), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Consultant which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The Consultant agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

25. DEPARTMENT OF SECURITY SEAL, LOGO, AND FLAGS: The consultant shall not use the Department of Homeland Security seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The consultant shall include this provision in any subcontracts.

26. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS AND ACKNOWLEDGEMENT OF FEDERAL FUNDING: This is an acknowledgment that FEMA financial assistance will be used to fund all or a portion of the contract. The consultant will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

CITY OF BIRMINGHAM:

By: _____
Elaine McLain, Mayor

Date: _____

By: _____
Alexandria D. Bingham, City Clerk

Date: _____

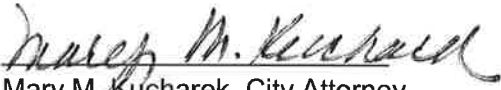
APPROVED:

 _____

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

 _____

Melissa A. Coatta, City Engineer
(Approved as to substance)

 _____

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

 _____

Mark A. Gerber, Finance Director
(Approved as to Financial Obligation)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/28/2024

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 Gompers, Cornish & Barr 22955 21 Mile Road Macomb MI 48042	CONTACT NAME: Lisa Gerber PHONE (A/C, No, Ext): 586-949-2300 E-MAIL ADDRESS: lgerber@gcbinsurance.com	FAX (A/C, No):
	INSURER(S) AFFORDING COVERAGE	
INSURED Anderson, Eckstein & Westrick, Inc. 51301 Schoenherr Rd. Shelby Township MI 48315	INSURER A: Frankenmuth Mutual Ins. Co.	NAIC # 13986
	INSURER B: Global Aerospace Inc.	
	INSURER C: Lloyd's of London	15792
	INSURER D:	
	INSURER E:	

COVERAGES **CERTIFICATE NUMBER: 722503522** **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
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		6695659	7/1/2023	7/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	Y		6695658	7/1/2023	7/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			6695659	7/1/2023	7/1/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
A	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	6695657	7/1/2023	7/1/2024	<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
B C	Aviation Liability Cyber Liability			9000936 ESM0539693549	7/1/2023 7/1/2023	7/1/2024 7/1/2024	Bodily Injury \$2,000,000 Property Dam Included Limit of Liability \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: City of Birmingham Parking Lot Flood Wall Study/Design

The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof are Additional Insured with respect to General Liability and Automobile Liability if required in a written contract or agreement with the insured. General Liability and Automobile Liability are Primary and Non-Contributory if required in a written contract or agreement with the insured.

CERTIFICATE HOLDER

City of Birmingham
 151 Martin Street
 PO Box 3001
 Birmingham MI 48012

CANCELLATION

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

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/28/2024

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 Professional Underwriters, Inc. 39475 13 Mile Rd Ste 106 Novi MI 48377	CONTACT NAME: Leah Fritch PHONE (A/C, No, Ext): 248-553-8300 E-MAIL ADDRESS: lfritch@profunderwriters.com		FAX (A/C, No): 248-553-8305
	INSURER(S) AFFORDING COVERAGE		
INSURED Anderson, Eckstein & Westrick Inc. 51301 Schoenherr Road Shelby Township MI 48315	ANDER-1	INSURER A : Continental Casualty Company	NAIC # 20443
		INSURER B :	
		INSURER C :	
		INSURER D :	
		INSURER E :	
		INSURER F :	

COVERAGES

CERTIFICATE NUMBER: 1092274524

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	
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE	\$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	\$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE	\$
	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 <input type="checkbox"/> N/A				PER STATUTE	OTH-ER
A	Professional Liability Claims Made Basis			AEH003011886	6/4/2023	6/4/2024	Per Claim Aggregate	\$2,000,000 \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 City of Birmingham Parking Lot Flood Wall Study/Design

CERTIFICATE HOLDER**CANCELLATION**

City of Birmingham
 151 Martin Street
 P.O. 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

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MEMORANDUM

Engineering Department

DATE: April 2, 2024

TO: Jana L. Ecker, City Manager

FROM: Melissa A. Coatta, City Engineer

SUBJECT: Lead and Copper Monitoring Program Services Agreement

INTRODUCTION:

A request for proposals (RFP) for the City's Lead and Copper Monitoring Program Services was publicly bid. The Engineering Department recommends Hydrocorp, LLC to provide lead and copper monitoring services for the three-year contract.

BACKGROUND:

As part of the Lead and Copper Regulations in the State of Michigan, water systems are required to conduct annual tap sampling. Currently the City of Birmingham is required to sample 60 structures twice each year. However, the Michigan Department of Environment, Great Lakes and Energy (EGLE) may reduce this number to 30 samples once a year in the future.

The City issued an RFP on February 29, 2024 for services to conduct the lead and copper monitoring, and received three (3) proposals on March 22, 2024. The proposals were written to provide a cost per site sampled for each of three years. Hydrocorp, LLC proposed \$178 per site sampled in 2024, \$185 per site in 2025, and \$192 per site sampled in 2026. Should the number of sites required to be sampled by EGLE be reduced in the future, the cost per site sampled will not be affected.

Hydrocorp, LLC is currently a City contractor working on the City's Cross Connection Program and conducted the lead and copper monitoring in past years.

LEGAL REVIEW:

The City's standard RFP and agreement language was used for the Request for Proposals which the City Attorney has reviewed and approved. No legal issues existed nor objections by the City Attorney.

FISCAL IMPACT:

This program is budgeted for the 23/24 fiscal year, and is proposed for the following fiscal years as required by the State of Michigan. However, the 23/24 fiscal year budget was for the reduced

EGLE requirement of 30 samples once a year. Due to the Treatment Technique Violation that the City received in 2023, the sampling requirements have been temporarily returned to the standard 60 samples for two consecutive monitoring periods. The proposed cost for the January 1 to June 30, 2024 monitoring period is \$10,680.00 (60 sites at \$178 a site). A budget amendment of \$10,500.00 is needed for the City's additional cost of sampling.

SUSTAINABILITY:

N/A

PUBLIC COMMUNICATIONS:

The contractor will send out letters to homes and business with known lead water services to request they volunteer for the sampling.

SUMMARY:

The Engineering Department recommends that Hydrocorp, LLC. be engaged to provide lead and copper monitoring services as specified in their proposal.

ATTACHMENTS:

- Request for Proposals (RFP) and Clarification
- Hydrocorp, LLC Proposal
- Agreement

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to approve an agreement for Lead and Copper Monitoring Services with Hydrocorp, LLC. In addition, to authorize the Mayor and the City Clerk to sign the agreement on behalf of the City contingent upon execution of the agreement and meeting all insurance requirements. Funding for this program has been budgeted in the Water Service and Maintenance Fund, account #591.0-545.000-811.000;

AND

To approve the appropriation and amendment of the fiscal year 2023/2024 budget as follows:

Water Service and Maintenance Fund:

Revenues:		
591.0-000.000-400.0000	Draw from Net Position	<u>\$10,500</u>
Total Revenue		\$10,500
Expenditures:		
591.0-545.000-811.0000	Other Contractual Services	<u>\$10,500</u>
Total Expenses		\$10,500



REQUEST FOR PROPOSALS
LEAD AND COPPER COMPLIANCE PROGRAM

Sealed proposals endorsed “**LEAD AND COPPER COMPLIANCE**”, will be received at the Office of the City Clerk, 151 Martin Street, Birmingham, Michigan, 48009; until March 21st, 2024 2:00pm after which time bids will be publicly opened and read.

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms to collect lead and copper water samples from homes throughout the City of Birmingham for a three (3) year term. This work must be performed as specified accordance with the specifications contained in the Request for Proposals (RFP).

The RFP, including the Specifications, may be obtained online from the Michigan Inter-governmental Trade Network at <http://www.mitn.info> or at the city of Birmingham, 151 Martin St., Birmingham, Michigan, ATTENTION: Melissa A. Coatta, P.E., City Engineer.

The acceptance of any proposal made pursuant to this invitation shall not be binding upon the City until an agreement has been executed.

Submitted to MITN:	February 29 th , 2024
Deadline for Submissions:	March 21 st , 2024 2:00pm
Contact Person:	Melissa A. Coatta, City Engineer 151 Martin Street Birmingham, MI 48009 Phone: (248) 530-1839 Email: mcoatta@bhamgov.org



**REQUEST FOR PROPOSALS
LEAD AND COPPER COMPLIANCE PROGRAM**

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INTRODUCTION

For purposes of this request for proposals the City of Birmingham will hereby be referred to as "City" and the private firm will hereby be referred to as "Contractor."

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms to provide services, for a three (3) year term, to complete the lead and copper monitoring/sampling required by the Michigan Department of Environment, Great Lakes and Energy (EGLE). This work must be performed as specified in accordance with the specifications outlined by the Scope of Work contained in this Request for Proposals (RFP).

During the evaluation process, the City reserves the right where it may serve the City's best interest to request additional information or clarification from proposers, or to allow corrections of errors or omissions. At the discretion of the City, firms submitting proposals may be requested to make oral presentations as part of the evaluation.

It is anticipated the selection of a firm will be completed by April 8, 2024. An Agreement for services will be required with the selected Contractor. A copy of the Agreement is contained herein for reference. Contract services will commence upon execution of the service agreement by the City.

REQUEST FOR PROPOSALS (RFP)

The purpose of this RFP is to request sealed bid proposals from qualified parties presenting their qualifications, capabilities and costs to provide the collection of lead and copper water samples from up to sixty (60) different homes/businesses throughout the City of Birmingham as often as every six (6) months.

INVITATION TO SUBMIT A PROPOSAL

Proposals shall be submitted no later than March 21st, 2024 2:00pm to:

City of Birmingham
Attn: City Clerk
151 Martin Street
Birmingham, MI 48009

One (1) original and one (1) copy of the proposal shall be submitted. The proposal should be firmly sealed in an envelope, which shall be clearly marked on the outside, "**LEAD AND COPPER MONITORING**". Any proposal received after the due date cannot be accepted and will be rejected and returned, unopened, to the proposer. Proposer may submit more than one proposal provided each proposal meets the functional requirements.

INSTRUCTIONS TO BIDDERS

1. Any and all forms requesting information from the bidder must be completed on the attached forms contained herein (see Contractor's Responsibilities). If more than one bid is submitted, a separate bid proposal form must be used for each.
2. Any request for clarification of this RFP shall be made in writing and delivered to: Melissa Coatta, City Engineer, (248) 530-1840, mcoatta@bhamgov.org, 151 Martin Street, Birmingham, MI 48009. Such request for clarification shall be delivered, in writing, no later than 5 days prior to the deadline for submissions.
3. All proposals must be submitted following the RFP format as stated in this document and shall be subject to all requirements of this document including the instruction to respondents and general information sections. All proposals must be regular in every respect and no interlineations, excisions, or special conditions shall be made or included in the RFP format by the respondent.
4. The contract will be awarded by the City of Birmingham to the most responsive and responsible bidder based upon the City's determination of the evaluation of the value of its processes in combination with lowest price and the contract will require the completion of the work pursuant to these documents.
5. Each respondent shall include in his or her proposal, in the format requested, the cost of performing the work. Municipalities are exempt from Michigan State Sales and Federal Excise taxes. Do not include such taxes in the proposal figure. The City will furnish the successful company with tax exemption information when requested.
6. Each respondent shall include in their proposal the following information: Firm name, address, city, state, zip code, telephone number, and fax number. The company shall also provide the name, address, telephone number and e-mail address of an individual in their organization to whom notices and inquiries by the City should be directed as part of their proposal.

EVALUATION PROCEDURE AND CRITERIA

The evaluation panel will consist of City staff and any other person(s) designated by the City who will evaluate the proposals based on, but not limited to, the following criteria:

1. Ability to provide services as outlined.
2. Bidder background and personnel qualifications.
3. Cost of services.
4. References.

TERMS AND CONDITIONS

1. The City reserves the right to reject any or all proposals received, waive informalities, or accept any proposal, in whole or in part, it deems best. The City reserves the right to award the contract to the next most qualified Contractor if the successful Contractor does not execute a contract within ten (10) days after the award of the proposal.
2. The City reserves the right to request clarification of information submitted and to request additional information of one or more Contractors.
3. The City reserves the right to terminate the contract at its discretion any time during the three (3) year contract should it be determined that the services provided do not meet the specifications contained herein, or for any or no reason as determined by the City with 30 days written notice. The City may terminate this Agreement at any point in the process upon notice to Contractor sufficient to indicate the City's desire to do so. In the case of such a stoppage of the contract once entered, the City agrees to pay Contractor for services rendered up to the time of notice, subject to the contract maximum amount.
4. Any proposal may be withdrawn by the bidder up until the date and time set above for the opening of the proposals. Any proposals not so withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days, to provide the services set forth in the proposal.
5. The cost of preparing and submitting a proposal is the responsibility of the Contractor and shall not be chargeable in any manner to the City.
6. Payment will usually be made within forty-five (45) days after invoice. Acceptance by the City is defined as authorization by the designated City representative to this project that all the criteria requested under the Scope of Work contained herein have been provided. Invoices are to be rendered each month following the date of execution of an Agreement with the City.

7. The Contractor will not exceed the timelines established for the completion of this project.
8. The successful bidder shall enter into and will execute the contract as set forth and attached as Attachment A.

CONTRACTOR'S RESPONSIBILITIES

Each bidder shall provide the following as part of their proposal:

1. Complete and sign all forms requested for completion within this RFP.
 - a. Bidder's Agreement (Attachment B - p. 19)
 - b. Cost Proposal (Attachment C - p. 20)
 - c. Agreement (p. 10).
2. Provide a description of completed projects that demonstrate the firm's ability to complete projects of similar scope, size, and purpose, and in a timely manner, and within budget.
3. Provide a written plan detailing the anticipated timeline for completion of the tasks set forth in the Scope of Work (p. 8).
4. Provide a description of the firm, including resumes and professional qualifications of the principals involved in administering the project.
5. Provide a list of sub-contractors and their qualifications, if applicable.
6. Provide three (3) client references from past projects, include current phone numbers. At least two (2) of the client references should be for projects utilizing the same materials included in the Contractor's proposal.
7. The Contractor will be responsible for the disposal of all material and any damages which occur as a result of any of employees or subcontractors of the Contractor during this project.
8. Provide a project timeline addressing each section within the Scope of Work and a description of the overall project approach. Include a statement that the Contractor will be available according to the proposed timeline.

CITY RESPONSIBILITY

The City will provide a designated representative to work with the Contractor to coordinate both the City's and Contractor's efforts and to inspect and verify any work performed by the Contractor.

SETTLEMENT OF DISPUTES

The successful bidder agrees to certain dispute resolution avenues/limitations. Please refer to paragraph 18 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

INSURANCE

The successful bidder is required to procure and maintain certain types of insurances. Please refer to paragraph 11 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

CONTINUATION OF COVERAGE

The Contractor also agrees to provide all insurance coverages as specified. Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the agreement, the City may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the contract amount. In obtaining such coverage, Birmingham shall have no obligation to procure the most cost effective coverage but may contract with any insurer for such coverage.

EXECUTION OF CONTRACT

The bidder whose proposal is accepted shall be required to execute the contract and to furnish all insurance coverages as specified within ten (10) days after receiving notice of such acceptance. Any contract awarded pursuant to any bid shall not be binding upon the City until a written contract has been executed by both parties. Failure or refusal to execute the contract shall be considered an abandoned all rights and interest in the award and the contract may be awarded to another. The successful bidder agrees to enter into and will execute the contract as set forth and attached as Attachment A.

INDEMNIFICATION

The successful bidder agrees to indemnify the City and various associated persons. Please refer to paragraph 10 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

CONFLICT OF INTEREST

The successful bidder is subject to certain conflict of interest requirements/restrictions. Please refer to paragraph 16 of the Agreement attached as Attachment A for the details and what is required of the successful bidder.

EXAMINATION OF PROPOSAL MATERIALS

The submission of a proposal shall be deemed a representation and warranty by the Contractor that it has investigated all aspects of the RFP, that it is aware of the applicable facts pertaining to the RFP process and its procedures and requirements, and that it has read and understands the RFP. Statistical information which may be contained in the RFP or any addendum thereto is for informational purposes only.

PROJECT TIMELINE

Lead and Copper Monitoring results are due to the Michigan Department of Environment, Great Lakes and Energy (EGLE) by June 30 and December 31 each year unless changed by EGLE. Sampling/Monitoring is to occur during each monitoring period of January 1 to June 30, and July 1 to December 31 each year, unless changed by EGLE.

The Contractor will not exceed the timelines established for the completion of this project.

SCOPE OF WORK

This project will include the collection and lab submittal of potable water from homes/business in the City of Birmingham to comply with the requirements of the State of Michigan Lead and Copper Sampling Requirements. Bidder is not responsible for the selection of the State Certified Laboratory or laboratory fees. Services will be as follows:

1. Lead and Copper Rule water sampling required by the Michigan Department of Environment, Great Lakes and Energy (EGLE). Collection of potable water samples and submittal to a lab for testing. Currently samples are to be obtained from a minimum of sixty (60) homes and businesses twice a year. Monitoring reports are due to EGLE at the end of June and December. At the discretion of EGLE, the lead and copper monitoring requirements may change in the future to a reduced number of structures sampled and only once a year.
2. The contractor will submit notices via postal service/mail to water customers within the City of Birmingham to solicit participation in the Lead and Copper water sampling program. Notice to be approved by the City. All homes are Tier 1 (lead service line) homes requiring a 1st liter and 5th liter sample collection. One (1) additional notice may be sent to homes that are non-responsive to the first/initial mailing.
3. Notices shall instruct homeowners to call the contractor to schedule an appointment for samples to be collected. The contractor shall schedule collections to ensure the minimum number of homes (currently 60) are successfully processed.

4. The contractor shall collect Lead and Copper potable water samples from the minimum number of different homes (currently 60) throughout the City of Birmingham to comply with the requirements of the State of Michigan Lead and Copper Rule. Completed samples shall be submitted to a city selected, State Certified, Laboratory within 24 hours to be analyzed for lead and copper. Sample bottles to be provided by the City. The list of acceptable sample locations shall be provided by the City of Birmingham. All samples shall be obtained from properties on the list.
5. All water samples shall be collected by the contractor's staff and expedited to a State Certified Laboratory.
6. All data will be submitted directly from the State Certified Laboratory to the City of Birmingham.
7. The contractor shall prepare individual home reports and send via postal services as required by EGLE.
8. The contractor shall assist in the preparations of the EGLE Lead and Copper compliance report.
9. The cost of each sampling event includes notices generation and submittal, project scheduling, administration and field time, home reporting and regulatory reporting fees.
10. All report copies and documents will be provided electronically to the City of Birmingham.
11. The Contractor shall be responsible for the disposal of all materials in a safe and legal manner.
12. The Contractor shall operate in a safe manner and will observe all MIOSHA guidelines.
13. This section and referenced documents shall constitute the Scope of Work for this project and as such all requirements must be met.

ATTACHMENT A - AGREEMENT

AGREEMENT OF LEAD AND COPPER COMPLIANCE PROGRAM

THIS AGREEMENT is entered into this ___ day of _____, 2024, by and between the **CITY OF BIRMINGHAM**, whose address is 151 Martin Street, Birmingham, MI 48009 (hereinafter referred to as the City) and _____, a _____ (Corporation, Limited Liability Co., etc.), whose address is _____ (hereafter referred to as _____) and the foregoing shall collectively be referred to as the parties, and effective upon the date of the Mayor's signature.

WHEREAS, the City desires to contract services for lead and copper compliance, and in connection therewith has requested proposals for the Lead and Copper Compliance Program; and

WHEREAS, Contractor has qualifications that meet the project requirements and has provided a response and cost proposal to perform lead and copper compliance monitoring.

NOW, THEREFORE, in consideration of the foregoing preambles, the adequacy of which is acknowledged by and between the parties to this Agreement, the parties agree as follows:

1. MUTUALLY AGREE: It is mutually agreed by and between the parties that the City's Request for Proposal for the Lead and Copper Compliance Program dated February 29, 2024, shall be fully incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. (Attached hereto as Attachment "A.").

2. TERM: This Agreement shall have a term of three (3) years from the date stated above. The City shall have the right to unilaterally terminate this Agreement, with or without cause, on thirty (30) days written notice. In the event of termination, the Vendor shall receive compensation for services up to the date the termination takes effect and the City shall be entitled to retain and use the results of all services, goods and information prepared by the Vendor through such date.

3. TERMS OF PAYMENT: The Contractor will invoice monthly for all labor supplied and work completed. In no event shall invoices be submitted more than 45 days after completion of services. Submitted invoices shall include the following detailed information: the type of work performed, the time spent on the work, the individual who performed the work and the per hour billing rate charged. The City may, at its sole discretion demand review and the right to request at any time further detailed accounting information for any or all bills. The right to inspection of any bill and invoice shall never be at any cost or billings to the City, nor shall preparation of said invoices be billed to the City or against the general retainer. Payment terms will be net 30 days unless otherwise specified by the City.

4. GOOD MORAL CHARACTER: Contractor shall employ personnel of good moral character and fitness in performing all services under this Agreement.

5. INSURANCE SUBMISSION REQUIREMENTS: The Contractor has submitted proof to the City that it meets all City insurance requirements. Insurance, with coverage amounts at no less than the City's minimum requirements, must be held by the Contractor throughout the term of this Agreement. Certificates of insurance as stated below will be required no later than five (5) business days from the date of Contractor acceptance of the terms of this Agreement.

6. CONFIDENTIAL AND OR PROPRIETARY INFORMATION: The Contractor acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The Contractor recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Contractor agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Contractor shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Contractor further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

7. INDEPENDENT CONTRACTOR: The Contractor and the City agree that the Contractor is acting as an independent contractor with respect to the Contractor role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Contractor nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Contractor shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Contractor shall not be considered entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

8. COMPLIANCE WITH LAWS: Contractor agrees to fully and faithfully carry out the duties of set forth herein using its best efforts in accomplishing all assignments from the City, and further, in addition to upholding all federal, and state laws and applicable codes of professional conduct to which Contractor is subject, Contractor hereby agrees to be bound by all Federal, State, or City of Birmingham ordinances, rules, regulations and policies as are amended from time to time, and including without limitation the Fair Labor Standards Act, the Equal Employment Opportunity rules and regulations, the Transportation Safety Act and the Occupational Safety and Health Acts.

9. NON-COMPLIANCE WITH INSURANCE REQUIREMENTS: Failure to deliver and maintain insurance in accordance with the terms of this Agreement will be cause for the City, by and through its City Manager, to terminate this Agreement, or at the City's option, the City may purchase on the open market such required insurance and shall be entitled to charge any

additional cost to the Contractor, either by offset to any amounts due and owing for services provided to the City, or, by separate bill and demand for payment. Nothing in this paragraph shall be deemed to create or be interpreted as establishing a "for cause" termination; Contractor agrees and understands that its engagement is at will and may be terminated by the City Manager for any cause or no cause.

10. INDEMNIFICATION: To the fullest extent permitted by law, the Contractor and any entity or person for whom the Contractor is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on their behalf against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, 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 their behalf, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arise out of the acts, errors or omissions of the Contractor including its employees and agents, in the performance of this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City.

11. STANDARD INSURANCE REQUIREMENTS:

The Contractor shall maintain during the life of this Agreement the applicable types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance:

For Non-Sole Proprietorships: Contractor shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

For Sole Proprietorships: Contractor shall complete and furnish to the City prior to the commencement of work under this Agreement a signed and notarized Sole Proprietor Form, for sole proprietors with no employees or with employees, as the case may be.

B. Commercial General Liability Insurance: Contractor shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than **\$1,000,000** per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractor Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: Contractor shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

D. Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of \$1,000,000, per occurrence preferred, but claims made accepted.

E. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following **Additional Insureds: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof.** This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.

F. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Contractor shall deliver renewal certificates and/or policies to the City at least (10) days prior to the expiration date.

G. Proof of Insurance Coverage: Contractor shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.

- 1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance, or a signed and notarized copy of the Sole Proprietor Form;
- 2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
- 3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
- 4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance, if applicable;
- 5) If so requested, Certified Copies of all policies mentioned above will be furnished.

H. Maintaining Insurance: Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

12. WRITTEN NOTICES: Written notices regarding this Agreement shall be addressed to the following:

City: City of Birmingham
P.O. Box 3001
Birmingham, Michigan 48012
Attn: Melissa A. Coatta, P.E., City Engineer

Contractor: _____

Attn: _____

13. AMENDMENTS: No amendment, modification or supplement to this Agreement shall be binding unless it is in writing and signed by authorized representatives of the parties.

14. WAIVER OF BREACH: No waiver by either party of any breach of any of the terms, covenants or conditions herein contained by the other party shall be construed as a waiver of any succeeding breach of this same or of any other term, covenant or condition.

15. COMPLETE AGREEMENT: The parties agree that the conditions set forth in this Agreement sets forth all terms and conditions of Contractor agreement with the City of Birmingham. This Agreement supersedes all prior agreements or understandings between the parties. There are no promises, conditions or understandings other than those stated herein, and, that any prior negotiations, terms or conditions discussed between the City and the Contractor shall not constitute a part of this Agreement. The term "agreement" as used in this clause shall include any future written amendments, modifications, or supplements made in accordance herewith.

16. DIRECT OR INDIRECT INTEREST: If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Contractor, the City shall have the right to terminate this Agreement without further liability to the Contractor if the disqualification has not been removed within thirty (30) days after the City has given the Contractor notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

17. FAILURE TO PERFORM. If Contractor fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

18. LEGAL PROCEEDINGS: Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. 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.

19. RESPONSE TO REQUESTS FOR PROPOSALS: The Contractor shall be held to and bound by all terms, conditions, warranties and representations which it made in its written response dated _____, to the City's Request for Proposals dated February 29, 2024. In the event of a conflict in any of the terms of this Agreement and the Contractor _____ (date of response) response, the terms of this Agreement shall prevail. (Attached hereto as Attachment "B.")

20. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

IN WITNESS WHEREOF, the parties hereto agree to be bound by the above terms and conditions, and _____(Consultant/Contractor/Vendor/Seller), by its authorized signature below, expressly accepts this Agreement upon the above provided terms and conditions contained in this Agreement as of the date first above written.

Contractor

By: _____

Its: _____

STATE OF MICHIGAN)
) ss:
COUNTY OF OAKLAND)

On this _____ day of _____, 2024 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: _____
Elaine McLain, Mayor
Dated: _____

By: _____
Alexandria D. Bingham, City Clerk
Dated: _____

APPROVED:

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

Melissa A. Coatta, City Engineer
(Approved as to substance)

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

Mark A. Gerber, Finance Director
(Approved as to Financial Obligation)

VENDOR CERTIFICATION THAT IT IS NOT AN "IRAN LINKED BUSINESS"

Pursuant to Michigan law, (*the Iran Economic Sanctions Act, 2012 PA 517, MCL 129.311 et seq.*), before accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must first certify that it is not an "IRAN LINKED BUSINESS, as defined by law.

Vendor	
Legal Name	
Street Address	
City	
State, Zip	
Corporate I.D. Number / State	
Taxpayer I.D. #	

The undersigned, with: 1) full knowledge of all of Vendors business activities, 2) full knowledge of the requirements and possible penalties under the law MCL 129.311 et seq. and 3) the full and complete authority to make this certification on behalf of the Vendor, by his/her signature below, certifies that: the Vendor is NOT an "IRAN LINKED BUSINESS" as required by MCL 129.311 et seq., and as such that Vendor is legally eligible to submit a bid and be considered for a possible contract to supply goods and/or services to the County of Oakland.

Signature of Vendor's
Authorized Agent:

Printed Name of Vendor's
Authorized Agent:

Witness Signature:

Printed Name of Witness:

**ATTACHMENT B - BIDDER'S AGREEMENT
LEAD AND COPPER COMPLIANCE PROGRAM**

In submitting this proposal, as herein described, the Contractor agrees that:

1. They have carefully examined the specifications, terms and Agreement of the Request for Proposal and all other provisions of this document and understand the meaning, intent, and requirement of it.

2. They will enter into a written contract and furnish the item or items in the time specified in conformance with the specifications and conditions contained therein for the price quoted by the proponent on this proposal.

BID PREPARED BY (Print Name)	DATE
---	-------------

TITLE	DATE
--------------	-------------

AUTHORIZED SIGNATURE	E-MAIL ADDRESS
-----------------------------	-----------------------

COMPANY

ADDRESS	PHONE
----------------	--------------

NAME OF PARENT COMPANY	PHONE
-------------------------------	--------------

ADDRESS

ATTACHMENT C - COST PROPOSAL
LEAD AND COPPER COMPLIANCE PROGRAM

In order for the bid to be considered valid, this form must be completed in its entirety. The cost for the Scope of Work as stated in the Request for Proposal documents shall be priced per site sampled.

Attach technical specifications for all proposed materials as outlined in the Contractor's Responsibilities section of the RFP (p. 6)

This contract is for a three (3) year period with work to be completed by deadlines set by the Michigan Department of Environment, Great Lakes and Energy (EGLE). The City reserves the right to terminate the contract at its discretion and any time during the contract term if determined that the services provided do not meet the specifications contained herein. The City may terminate this Agreement at any point in the process upon written notice to Contractor sufficient to indicate the City's desire to do so. In the case of such a stoppage, the City agrees to pay Contractor for services rendered up to the time of notice, subject to the contract maximum amount.

UNIT COST BID ITEMS		
Year 1 (2024) Cost Per Site Sampled	\$	per
Year 2 (2025) Cost Per Site Sampled	\$	per
Year 3 (2026) Cost Per Site Sampled	\$	per

Firm Name _____

Authorized signature _____ Date _____

Printed Name _____ Title _____



ADDENDUM NO. 1
REQUEST FOR PROPOSALS
LEAD AND COPPER COMPLIANCE PROGRAM

March 15, 2024

In response to inquiries on the above Request for Proposal, the following clarifications are provided to assist with the preparation of the quote:

1. Is the Contractor required to have a current Michigan Lead Professional Certification?
Response: A Michigan Lead Professional Certification is not necessary. However, all relevant certifications and experience will be reviewed as part of the reviews of the proposal submitted.

2. If awarded the contract, is the Contractor required to create and submit documentation through a Michigan Environmental Health and Drinking Water Information System (MiEHDWIS) account?
Response: The contractor is required to submit all information to the City. The City will submit all reports to the Michigan Department of Environment, Great Lakes and Energy (EGLE) through MiEHDWIS. In the past, the contractor completed the Tap Sampling Data portion of the EGLE form EQP5942a. The City will fill out the remainder of the form and submit it.

3. Will any aspects of the SOW require the Contractor to "certify documents on behalf of the water supply(ies)" and is the Contractor required to obtain a "Certifier Role" as defined by MiEHDWIS?
Response: The contractor is required to compile the sampling and laboratory information and submit it to the City. The City will submit all reports to EGLE through MiEHDWIS.

4. If EGLE changes requirements such that sampling is to be conducted more than twice per year, can the Contractor amend the contract to reflect the cost increase per sample site? Requesting this clarification due to:
 - ATTACHMENT C – COST PROPOSAL, Contractors are to submit bids on a "Cost Per Site Sampled" basis.
 - Page 8 - SCOPE OF WORK, 1. "Currently samples are to be obtained from a minimum of sixty (60) homes and businesses twice a year."
Response: The RFP requests a Cost Per Site for each year of the contract. Therefore, should the City need to sample 60 sites twice a year or 30 sites once a year, the cost of obtaining the samples would be the unit cost times the number of sites sampled.

5. Is the Contractor responsible for identifying sampling sites, creating, or updating sampling plans and/or determining Tier levels of sampling sites?

Response: No. The City will provide a list of sites for the contractor to notify regarding sampling. The City will provide the data regarding their Tier level and make any updates to sampling plans that are submitted to EGLE.

6. Will the City notify the contractor of the Tier definition for businesses, if required for sampling? Requesting this clarification due to:

- Page 3 - REQUEST FOR PROPOSALS (RFP): "...provide the collection of lead and copper water samples from up to sixty (60) different homes/businesses..."
- Page 8 - SCOPE OF WORK, 2. "All homes are Tier 1 (lead service line) homes..."

Response: Yes. The City will provide the Tier level of all sampled sites.

7. Does the City approve the use of EGLE Lead and Copper Report and Consumer Notice – Form A EQP5942a? Requesting clarification due to:

- Page 8 - SCOPE OF WORK, 7. "The contractor shall prepare individual home reports and send via postal services as required by EGLE."

Response: EGLE form EQP5942a should be used for submittal of the sampling data to the City and for the Consumer Notice information to the owners of the sampling sites.

8. In addition to instructing homeowners to call the contractor to schedule an appointment, would it be acceptable to also include a QR code on the notice? The QR code, once scanned by the homeowner's phone, would offer a convenient second option for quickly selecting a date and time to schedule appointments. We are requesting this clarification with regard to:

- Page 8 - SCOPE OF WORK 2.: "The contractor will submit notices via postal service/mail to water customers within the City of Birmingham to solicit participation in the Lead and Copper water sampling program. Notice to be approved by the City."
- Page 8 - SCOPE OF WORK 3: "Notices shall instruct homeowners to call the contractor to schedule an appointment for samples to be collected."

Response: Yes. The contractor is required to send notices to the water customers to participate in the program. The contractor can select how the customer contacts them (phone call, email, QR Code, etc.) to participate in the program and schedule the appointment. In the past, 120 notices were sent to water customers to obtain 60 samples.

Sincerely,



Melissa A. Coatta, P.E.
City Engineer

**ATTACHMENT C - COST PROPOSAL
LEAD AND COPPER COMPLIANCE PROGRAM**

In order for the bid to be considered valid, this form must be completed in its entirety. The cost for the Scope of Work as stated in the Request for Proposal documents shall be priced per site sampled.

Attach technical specifications for all proposed materials as outlined in the Contractor's Responsibilities section of the RFP (p. 6)

This contract is for a three (3) year period with work to be completed by deadlines set by the Michigan Department of Environment, Great Lakes and Energy (EGLE). The City reserves the right to terminate the contract at its discretion and any time during the contract term if determined that the services provided do not meet the specifications contained herein. The City may terminate this Agreement at any point in the process upon written notice to Contractor sufficient to indicate the City's desire to do so. In the case of such a stoppage, the City agrees to pay Contractor for services rendered up to the time of notice, subject to the contract maximum amount.

UNIT COST BID ITEMS		
Year 1 (2024) Cost Per Site Sampled	\$ 178.00	per
Year 2 (2025) Cost Per Site Sampled	\$ 185.00	per
Year 3 (2026) Cost Per Site Sampled	\$ 192.00	per

Firm Name HydroCorp, LLC

Authorized signature  Date 3/21/2024

Printed Name Paul M. Patterson Title Senior Vice President

**ATTACHMENT B - BIDDER'S AGREEMENT
LEAD AND COPPER COMPLIANCE PROGRAM**

In submitting this proposal, as herein described, the Contractor agrees that:

1. They have carefully examined the specifications, terms and Agreement of the Request for Proposal and all other provisions of this document and understand the meaning, intent, and requirement of it.

2. They will enter into a written contract and furnish the item or items in the time specified in conformance with the specifications and conditions contained therein for the price quoted by the proponent on this proposal.

Paul M. Patterson 3/21/2024

BID PREPARED BY **DATE**

(Print Name)

Senior Vice President 3/21/2024

TITLE **DATE**

 ppatterson@hydrocorpinc.com

AUTHORIZED SIGNATURE **E-MAIL ADDRESS**

HydroCorp, LLC

COMPANY

5700 Crooks Road, Suite 100, Troy, MI 48098 248.250.5000

ADDRESS **PHONE**

HydroCorp, LLC 248.250.5000

NAME OF PARENT COMPANY **PHONE**

5700 Crooks Road, Suite 100, Troy, MI 48098

ADDRESS

**VENDOR CERTIFICATION THAT IT IS NOT AN
"IRAN LINKED BUSINESS"**

Pursuant to Michigan law, (*the Iran Economic Sanctions Act, 2012 PA 517, MCL 129.311 et seq.*), before accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must first certify that it is not an "IRAN LINKED BUSINESS, as defined by law.

Vendor	
Legal Name	HydroCorp, LLC
Street Address	5700 Crooks Road, Suite 100
City	Troy
State, Zip	Michigan, 48098
Corporate I.D. Number / State	38-2810008
Taxpayer I.D. #	38-2810008

The undersigned, with: 1) full knowledge of all of Vendors business activities, 2) full knowledge of the requirements and possible penalties under the law MCL 129.311 et seq. and 3) the full and complete authority to make this certification on behalf of the Vendor, by his/her signature below, certifies that: the Vendor is NOT an "IRAN LINKED BUSINESS" as required by MCL 129.311 et seq., and as such that Vendor is legally eligible to submit a bid and be considered for a possible contract to supply goods and/or services to the County of Oakland.

Signature of Vendor's
Authorized Agent:



Printed Name of Vendor's
Authorized Agent:

Paul M. Patterson

Witness Signature:



Printed Name of Witness:





THE SAFE WATER AUTHORITY®

Proposal For:

RFP: Lead and Copper Compliance

City of Birmingham

ATTN: Melissa A. Coatta

City Engineer

151 Martin Street

Birmingham, MI 48009

PROJECT CONSULTANT

Paul M. Patterson, Senior Vice President

DIRECT LINE: 248.250.5022

EMAIL: ppatterson@hydrocorpinc.com

Bid Due:

March 21, 2024

2:00 PM EST





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1. EXECUTIVE SUMMARY

1.1. Summary of proposed Scope of Work

To assist the City of Birmingham in complying with the requirements of the Lead and Copper Rule, HydroCorp will provide the following services:

1. Submit notices via postal service/mail to water customers within the City of Birmingham to solicit participation in the lead and copper water sampling program. Notice to be approved by the City. HydroCorp requests that at least 180 addresses be provided to assist in targeting at least sixty- (60) homes. HydroCorp assumes all homes are Tier 1 (i.e., lead service line) homes requiring a 1st liter and 5th liter sample collection. One- (1) additional notice may be sent to homes that are non-responsive to the first/initial mailing.
2. Notices shall instruct homeowners to call HydroCorp to schedule an appointment for samples to be collected on a first come- first served basis. Water customers will be requested to schedule collections during one- (1) designated week. HydroCorp shall schedule collections for approximately 70 homes to attempt to ensure at least sixty- (60) homes are successfully processed.
3. HydroCorp staff shall collect **Lead and Copper** potable water samples from sixty- (60) different homes throughout the City of Birmingham to comply with the requirements of the State of Michigan Lead and Copper Rule. Completed samples shall be submitted to a city selected - State Certified Laboratory (within 24 hours) to be analyzed for lead and copper. Sample bottles to be provided by the City. **HydroCorp is not responsible for any lab fees. The list of sample locations shall be provided to HydroCorp by the City of Birmingham at least thirty- (30) days before in-field sampling. HydroCorp shall use provided list only - to schedule homes for sampling unless instructed otherwise by the City.**
4. All sixty- (60) samples shall be collected within a designated one- (1) week period.
5. All water samples shall be collected by HydroCorp staff and expedited to a State Certified Laboratory.
6. All data will be submitted directly from the State Certified Laboratory to the City of Birmingham.
7. HydroCorp shall prepare individual home reports and send them via postal service as required by EGLE.
8. HydroCorp shall assist in the preparation of the EGLE Lead and Copper compliance report.
9. The cost of each sampling event includes notices generation and submittal, project scheduling, administration and field time, home reporting and regulatory reporting fees.
10. All report copies and documents will be provided electronically to the City of Birmingham.

*The full scope of work proposed, as required in the RFP, is located in Appendix A.

HydroCorp Headquarters

5700 Crooks Rd Suite 100 Troy, MI 48098 844.793.7646 www.hydrocorpinc.com

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2. QUALIFICATIONS

2.1. HydroCorp, The Safe Water Authority

- Founded in 1983 and incorporated in 1988. The firm has grown from two employees to a staff of over 100 full-time associates in multiple states.
- HydroCorp provides drinking water related services to over 400 communities in several states including: Michigan, Wisconsin, Delaware, Maryland, Virginia, Florida, South Carolina, and Minnesota. We still have our first customer!
- Our highly trained staff works in an efficient manner to achieve maximum productivity and keep program costs affordable. We have a detailed **system** and **process** that each of our field inspectors follow in order to meet productivity and quality assurance goals.
- Our municipal inspection team has attended training classes and received certification from the following organizations:
 - USC -Foundation for Cross Connection Control and Hydraulic Research
 - ASSE- American Society for Sanitary Engineering
 - ABPA - American Backflow Prevention Association
- Our trained administrative staff/call center can answer most technical calls related to the services we provide.
- HydroCorp staff and company are active members in many water industry associations including:
 - American Water Works Association (AWWA)
 - National Rural Water Association (NRWA)
 - American Public Works Association (APWA)
- HydroCorp has provided significant input/expertise in the revision of 3rd and 4th Edition of the Michigan Department of Environment, Great Lakes and Energy (EGLE) Cross-Connection Rules Manual.

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2.2. References

- a. **City of Royal Oak, MI**, 1600 N. Campbell Road, Royal Oak, MI 48067 | Aaron Filipski, Director of Public Works, AaronF@romi.org , 248-246-3313
HydroCorp Municipal Client since 2015
- b. **City of Clawson, MI**, 425 Main Street, Clawson, MI 48017 | Trevor Zablocki, Public Works Superintendent, Tzablocki@cityofclawson.com , 248-288-3222
-HydroCorp Municipal Contract Client since 2004
- c. **City of Madison Heights**, 300 W. 13 Mile Road, Madison Heights, MI 48071 | Sean Ballantine, Director of Public Service, seanballantine@madison-heights.org , 248-589-2294
-HydroCorp Municipal Contract Client since 2007
- d. **City of Livonia**, 12973 Farmington Road, Livonia, MI 48150 | Don Rohraff, Director of Public Works, drohraff@livonia.gov , 734-466-2607
-HydroCorp Municipal Contract Client since 2006

Contact:	Paul Patterson	<p style="text-align: center;">Troy, MI Corporate Office</p> 
Telephone:	734-904-5153 (Cell)	
Email:	ppatterson@hydrocorpinc.com	
(Remit to Address)	HydroCorp 5700 Crooks Rd., Ste. 100 Troy, MI 48098	
Telephone:	800.690.6651 or 248.250.5000	
Legal Status:	E.I.D. 38-2810008	



3. STAFF BIOS

Corporate Officers



Mark L. Martin, CEO. Mr. Martin joined HydroCorp in early 2007 and is a seasoned business executive experienced in working with growing small and mid-size companies across a broad range of industries. Mark received a B.S. in Accounting from Michigan State University in 1980 and is also a 10-year board member of Haiti Outreach Mission.



Glenn Adamus, COO. A member of the HydroCorp team for the past fourteen years, Glenn has managed various water quality analysis projects related to process water and potable water systems on HydroCorp's behalf, including Stage 2 DBPR, Lead and Copper Rule, water distribution system/quality characterization studies, water main/system disinfections, legionella risk assessment and monitoring, and industry compliance monitoring. He has also performed and managed numerous cross connection control surveys/consulting projects for large industry and public water systems throughout the United States.



Paul Patterson, Mr. Patterson joined HydroCorp, Inc. in 2004, and is responsible for the development and implementation of HydroCorp's sales and growth strategies in the municipal and industrial markets. Before joining HydroCorp, Mr. Patterson was a member of the U.S. Air Force, where he served as a Utility Systems Specialist and was responsible for operating and maintaining potable water systems and wastewater collection systems both at home and abroad. Mr. Patterson is an American Society of Sanitary Engineers certified instructor and regularly presents at national and regional water industry association conferences.



Dave Cardinal, Vice President, Municipal Division. Dave has over twenty years' experience as a water professional and has a successful record of accomplishments in the cross-connection control industry. Experienced in program development, project management, developing and conducting employee education and training programs, developing and instructing State certified education and training classes, quality assurance, customer service, and client satisfaction.

Dave is responsible for establishing business practices, field operation procedures, and administrative functions related to cross connection control program management. He has assisted with developing State certified training programs in Michigan and Wisconsin and has trained members of the Michigan Department of Environment Great Lakes and Energy, Michigan Department of Health, Wisconsin

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Department of Natural Resources, municipal employees, plumbers and miscellaneous contractor employees. He has been a guest speaker at many conferences and training seminars.



Ryan Hensley, Administrative Account Manager – Municipal Division. As an Administrative Account Manager Ryan Hensley is responsible for providing administrative support to field surveyors, regional managers and division directors with all components associated with managing a comprehensive cross connection control program, in addition to providing highest level of customer service to our municipal clients. Ryan has been a member of the HydroCorp team for over 10 years and is an ASSE 5150 certified Backflow Prevention Program Administrator.

He is an advanced user of the HydroSoft data management program & responsible for providing day to day tech support to the entire staff and external clients. Ryan also assists in the planning, testing & training of HydroSoft for clients and end users.



APPENDIX A – SCOPE OF SERVICES

SCOPE OF WORK

This project will include the collection and lab submittal of potable water from homes/business in the City of Birmingham to comply with the requirements of the State of Michigan Lead and Copper Sampling Requirements. Bidder is not responsible for the selection of the State Certified Laboratory or laboratory fees. Services will be as follows:

1. Lead and Copper Rule water sampling required by the Michigan Department of Environment, Great Lakes and Energy (EGLE). Collection of potable water samples and submittal to a lab for testing. Currently samples are to be obtained from a minimum of sixty (60) homes and businesses twice a year. Monitoring reports are due to EGLE at the end of June and December. At the discretion of EGLE, the lead and copper monitoring requirements may change in the future to a reduced number of structures sampled and only once a year.
2. The contractor will submit notices via postal service/mail to water customers within the City of Birmingham to solicit participation in the Lead and Copper water sampling program. Notice to be approved by the City. All homes are Tier 1 (lead service line) homes requiring a 1st liter and 5th liter sample collection. One (1) additional notice may be sent to homes that are non-responsive to the first/initial mailing.
3. Notices shall instruct homeowners to call the contractor to schedule an appointment for samples to be collected. The contractor shall schedule collections to ensure the minimum number of homes (currently 60) are successfully processed.
4. The contractor shall collect Lead and Copper potable water samples from the minimum number of different homes (currently 60) throughout the City of Birmingham to comply with the requirements of the State of Michigan Lead and Copper Rule. Completed samples shall be submitted to a city selected, State Certified, Laboratory within 24 hours to be analyzed for lead and copper. Sample bottles to be provided by the City. The list of acceptable sample locations shall be provided by the City of Birmingham. All samples shall be obtained from properties on the list.
5. All water samples shall be collected by the contractor's staff and expedited to a State Certified Laboratory.
6. All data will be submitted directly from the State Certified Laboratory to the City of Birmingham.
7. The contractor shall prepare individual home reports and send via postal services as required by EGLE.
8. The contractor shall assist in the preparations of the EGLE Lead and Copper compliance report.



9. The cost of each sampling event includes notices generation and submittal, project scheduling, administration and field time, home reporting and regulatory reporting fees.

10. All report copies and documents will be provided electronically to the City of Birmingham.

11. The Contractor shall be responsible for the disposal of all materials in a safe and legal manner.

12. The Contractor shall operate in a safe manner and will observe all MIOSHA guidelines.

13. This section and referenced documents shall constitute the Scope of Work for this project and as such all requirements must be met.

AGREEMENT OF LEAD AND COPPER COMPLIANCE PROGRAM

THIS AGREEMENT is entered into this ___ day of _____, 2024, by and between the **CITY OF BIRMINGHAM**, whose address is 151 Martin Street, Birmingham, MI 48009 (hereinafter referred to as the City) and HydroCorp, a Limited Liability Company (Corporation, Limited Liability Co., etc.), whose address is 5700 Crooks Road, Suite 100, Troy, MI 48098 (hereafter referred to as Contractor) and the foregoing shall collectively be referred to as the parties, and effective upon the date of the Mayor's signature.

WHEREAS, the City desires to contract services for lead and copper compliance, and in connection therewith has requested proposals for the Lead and Copper Compliance Program; and

WHEREAS, Contractor has qualifications that meet the project requirements and has provided a response and cost proposal to perform lead and copper compliance monitoring.

NOW, THEREFORE, in consideration of the foregoing preambles, the adequacy of which is acknowledged by and between the parties to this Agreement, the parties agree as follows:

1. MUTUALLY AGREE: It is mutually agreed by and between the parties that the City's Request for Proposal for the Lead and Copper Compliance Program dated February 29, 2024, shall be fully incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. (Attached hereto as Attachment "A.")

2. TERM: This Agreement shall have a term of three (3) years from the date stated above. The City shall have the right to unilaterally terminate this Agreement, with or without cause, on thirty (30) days written notice. In the event of termination, the Vendor shall receive compensation for services up to the date the termination takes effect and the City shall be entitled to retain and use the results of all services, goods and information prepared by the Vendor through such date.

3. TERMS OF PAYMENT: The Contractor will invoice monthly for all labor supplied and work completed. In no event shall invoices be submitted more than 45 days after completion of services. Submitted invoices shall include the following detailed information: the type of work performed, the time spent on the work, the individual who performed the work and the per hour billing rate charged. The City may, at its sole discretion demand review and the right to request at any time further detailed accounting information for any or all bills. The right to inspection of any bill and invoice shall never be at any cost or billings to the City, nor shall preparation of said invoices be billed to the City or against the general retainer. Payment terms will be net 30 days unless otherwise specified by the City.

4. GOOD MORAL CHARACTER: Contractor shall employ personnel of good moral character and fitness in performing all services under this Agreement.

5. INSURANCE SUBMISSION REQUIREMENTS: The Contractor has submitted proof to the City that it meets all City insurance requirements. Insurance, with coverage amounts at no less than the City's minimum requirements, must be held by the Contractor throughout the term of this Agreement. Certificates of insurance as stated below will be required no later than five (5) business days from the date of Contractor acceptance of the terms of this Agreement.

6. CONFIDENTIAL AND OR PROPRIETARY INFORMATION: The Contractor acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The Contractor recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Contractor agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Contractor shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Contractor further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

7. INDEPENDENT CONTRACTOR: The Contractor and the City agree that the Contractor is acting as an independent contractor with respect to the Contractor role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Contractor nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Contractor shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Contractor shall not be considered entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

8. COMPLIANCE WITH LAWS: Contractor agrees to fully and faithfully carry out the duties of set forth herein using its best efforts in accomplishing all assignments from the City, and further, in addition to upholding all federal, and state laws and applicable codes of professional conduct to which Contractor is subject, Contractor hereby agrees to be bound by all Federal, State, or City of Birmingham ordinances, rules, regulations and policies as are amended from time to time, and including without limitation the Fair Labor Standards Act, the Equal Employment Opportunity rules and regulations, the Transportation Safety Act and the Occupational Safety and Health Acts.

9. NON-COMPLIANCE WITH INSURANCE REQUIREMENTS: Failure to deliver and maintain insurance in accordance with the terms of this Agreement will be cause for the City, by and through its City Manager, to terminate this Agreement, or at the City's option, the City may purchase on the open market such required insurance and shall be entitled to charge any

additional cost to the Contractor, either by offset to any amounts due and owing for services provided to the City, or, by separate bill and demand for payment. Nothing in this paragraph shall be deemed to create or be interpreted as establishing a "for cause" termination; Contractor agrees and understands that its engagement is at will and may be terminated by the City Manager for any cause or no cause.

10. INDEMNIFICATION: To the fullest extent permitted by law, the Contractor and any entity or person for whom the Contractor is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on their behalf against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, 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 their behalf, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arise out of the acts, errors or omissions of the Contractor including its employees and agents, in the performance of this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City.

11. STANDARD INSURANCE REQUIREMENTS:

The Contractor shall maintain during the life of this Agreement the applicable types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance:

For Non-Sole Proprietorships: Contractor shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

For Sole Proprietorships: Contractor shall complete and furnish to the City prior to the commencement of work under this Agreement a signed and notarized Sole Proprietor Form, for sole proprietors with no employees or with employees, as the case may be.

B. Commercial General Liability Insurance: Contractor shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than **\$1,000,000** per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractor Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: Contractor shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

D. Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of \$1,000,000, per occurrence preferred, but claims made accepted.

E. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following **Additional Insureds: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof.** This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.

F. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Contractor shall deliver renewal certificates and/or policies to the City at least (10) days prior to the expiration date.

G. Proof of Insurance Coverage: Contractor shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.

- 1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance, or a signed and notarized copy of the Sole Proprietor Form;
- 2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
- 3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
- 4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance, if applicable;
- 5) If so requested, Certified Copies of all policies mentioned above will be furnished.

H. Maintaining Insurance: Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

12. WRITTEN NOTICES: Written notices regarding this Agreement shall be addressed to the following:

City: City of Birmingham
P.O. Box 3001
Birmingham, Michigan 48012
Attn: Melissa A. Coatta, P.E., City Engineer

Contractor: HydroCorp, LLC
5700 Crooks Road, Suite 100
Troy, MI 48098
Attn: Mark Martin

13. AMENDMENTS: No amendment, modification or supplement to this Agreement shall be binding unless it is in writing and signed by authorized representatives of the parties.

14. WAIVER OF BREACH: No waiver by either party of any breach of any of the terms, covenants or conditions herein contained by the other party shall be construed as a waiver of any succeeding breach of this same or of any other term, covenant or condition.

15. COMPLETE AGREEMENT: The parties agree that the conditions set forth in this Agreement sets forth all terms and conditions of Contractor agreement with the City of Birmingham. This Agreement supersedes all prior agreements or understandings between the parties. There are no promises, conditions or understandings other than those stated herein, and, that any prior negotiations, terms or conditions discussed between the City and the Contractor shall not constitute a part of this Agreement. The term "agreement" as used in this clause shall include any future written amendments, modifications, or supplements made in accordance herewith.

16. DIRECT OR INDIRECT INTEREST: If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Contractor, the City shall have the right to terminate this Agreement without further liability to the Contractor if the disqualification has not been removed within thirty (30) days after the City has given the Contractor notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

17. FAILURE TO PERFORM. If Contractor fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

18. LEGAL PROCEEDINGS: Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. 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.

19. RESPONSE TO REQUESTS FOR PROPOSALS: The Contractor shall be held to and bound by all terms, conditions, warranties and representations which it made in its written response dated March 21, 2024, to the City's Request for Proposals dated February 29, 2024. In the event of a conflict in any of the terms of this Agreement and the Contractor March 21, 2024 (date of response) response, the terms of this Agreement shall prevail. (Attached hereto as Attachment "B.")

20. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

IN WITNESS WHEREOF, the parties hereto agree to be bound by the above terms and conditions, and Hydrop (Consultant/Contractor/Vendor/Seller), by its authorized signature below, expressly accepts this Agreement upon the above provided terms and conditions contained in this Agreement as of the date first above written.

Contractor

By: Paul M. Patterson



Its: Senior Vice President

STATE OF MICHIGAN)
) ss:
COUNTY OF OAKLAND)

On this 21st day of March, 2024 before me personally appeared Paul Patterson who acknowledged that with authority on behalf of Hydro Corp to do so he/she signed this Agreement.

Karen Lynn Hanson
Notary Public
Oakland County, Michigan
Acting in Oakland County, Michigan
My commission expires: July 11, 2025



CITY OF BIRMINGHAM:

By: _____
Elaine McLain, Mayor
Dated: _____

By: _____
Alexandria D. Bingham, City Clerk
Dated: _____

APPROVED:

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

Melissa A. Coatta, City Engineer
(Approved as to substance)

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

Mark A. Gerber, Finance Director
(Approved as to Financial Obligation)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/2/2024

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 RBN & Associates, Inc. 303 E Wacker Dr Suite 650 Chicago IL 60601	CONTACT NAME: Telisa Gibson PHONE (A/C, No, Ext): 312-856-9400 E-MAIL ADDRESS: tgibson@rbninsurance.com		FAX (A/C, No): 312-856-9425
	INSURER(S) AFFORDING COVERAGE		
INSURED HydroCorp, LLC HydroSoft, LLC Florida HydroCorp, Inc 5700 Crooks Road, Suite 100 Troy MI 48098	HYDRDES-01	INSURER A : The Travelers Indemnity Co.	NAIC # 25658
		INSURER B : Travelers Prop Cas Co of Amer	25674
		INSURER C : Travelers Casualty & Surety Co of America	19038
		INSURER D : Twin City Fire Insurance Co.	29459
		INSURER E : ARCH SPECIAITY INS CO	21199
		INSURER F : St. Paul Travelers	

COVERAGES

CERTIFICATE NUMBER: 851419774

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
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		6602W649777	12/15/2023	12/15/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
F	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y		BA2W651552	12/15/2023	12/15/2024	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 checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUP2W652616	12/15/2023	12/15/2024	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	N/A	UBW651969	12/15/2023	12/15/2024	<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
D E	Crime Cyber E & O/Pollution Liability			83KB0486036-23 C-4LPY-053219-CYBER-2023	11/4/2023 12/15/2023	12/15/2024 12/15/2024	Limit Limit/Aggregate PLEASE SEE BELOW 2,000,000 2,000,000 FOR LIMITS

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Professional (E & O) & Pollution Liability
 Carrier: Underwriters at Lloyds
 Effective 12/15/2023 Expiration 12/15/2024
 Policy number: ANE1010955.23
 Each Limit: 2,000,000
 Aggregate Limit: 2,000,000
 The City of Birmingham, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof are included as additional insureds for general liability and Auto Liability per written contract.

CERTIFICATE HOLDER**CANCELLATION**

City of Birmingham 151 Martin Street Birmingham MI 48009	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 
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|---|
| <ul style="list-style-type: none"> A. BROAD FORM NAMED INSURED B. BLANKET ADDITIONAL INSURED C. EMPLOYEE HIRED AUTO D. EMPLOYEES AS INSURED E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS G. WAIVER OF DEDUCTIBLE – GLASS | <ul style="list-style-type: none"> H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT J. PERSONAL PROPERTY K. AIRBAGS L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS M. BLANKET WAIVER OF SUBROGATION N. UNINTENTIONAL ERRORS OR OMISSIONS |
|---|---|

PROVISIONS

A. BROAD FORM NAMED INSURED

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

B. BLANKET ADDITIONAL INSURED

The following is added to Paragraph **c.** in **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which

this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

C. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph **A.1., Who Is An Insured, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:**

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. The following replaces Paragraph **b. in **B.5., Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:**

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1)** Any covered "auto" you lease, hire, rent or borrow; and
- (2)** Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your

COMMERCIAL AUTO

permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

D. EMPLOYEES AS INSURED

The following is added to Paragraph **A.1.**, **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph **A.2.a.(2)**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph **A.2.a.(4)**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS

The following replaces Subparagraph (5) in Paragraph **B.7.**, **Policy Period, Coverage Territory**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

(5) Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or within such country or jurisdiction, for Covered Autos Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

(a) With respect to any claim made or "suit" brought outside the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada:

(i) You must arrange to defend the "insured" against, and investigate or settle any such claim or "suit" and keep us advised of all proceedings and actions.

(ii) Neither you nor any other involved "insured" will make any settlement without our consent.

(iii) We may, at our discretion, participate in defending the "insured" against, or in the settlement of, any claim or "suit".

(iv) We will reimburse the "insured" for sums that the "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, that the "insured" pays with our consent, but only up to the limit described in Paragraph **C.**, **Limits Of Insurance**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**.

(v) We will reimburse the "insured" for the reasonable expenses incurred with our consent for your investigation of such claims and your defense of the "insured" against any such "suit", but only up to and included within the limit described in Paragraph **C.**, **Limits Of Insurance**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, and not in addition to such limit. Our duty to make such payments ends when we have used up the applicable limit of insurance in payments for damages, settlements or defense expenses.

(b) This insurance is excess over any valid and collectible other insurance available to the "insured" whether primary, excess, contingent or on any other basis.

(c) This insurance is not a substitute for required or compulsory insurance in any country outside the United States, its territories and possessions, Puerto Rico and Canada.

You agree to maintain all required or compulsory insurance in any such country up to the minimum limits required by local law. Your failure to comply with compulsory insurance requirements will not invalidate the coverage afforded by this policy, but we will only be liable to the same extent we would have been liable had you complied with the compulsory insurance requirements.

- (d) It is understood that we are not an admitted or authorized insurer outside the United States of America, its territories and possessions, Puerto Rico and Canada. We assume no responsibility for the furnishing of certificates of insurance, or for compliance in any way with the laws of other countries relating to insurance.

G. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph **D.**, **Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT

The following replaces the last sentence of Paragraph **A.4.b.**, **Loss Of Use Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

However, the most we will pay for any expenses for loss of use is \$65 per day, to a maximum of \$750 for any one "accident".

I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph **A.4.a.**, **Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

J. PERSONAL PROPERTY

The following is added to Paragraph **A.4.**, **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Personal Property

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

- (1) Owned by an "insured"; and

- (2) In or on your covered "auto".

This coverage applies only in the event of a total theft of your covered "auto".

No deductibles apply to this Personal Property coverage.

K. AIRBAGS

The following is added to Paragraph **B.3.**, **Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion **3.a.** does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs **A.1.b.** and **A.1.c.**, but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
 - b. The airbags are not covered under any warranty; and
 - c. The airbags were not intentionally inflated.
- We will pay up to a maximum of \$1,000 for any one "loss".

L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS

The following is added to Paragraph **A.2.a.**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (a) You (if you are an individual);
- (b) A partner (if you are a partnership);
- (c) A member (if you are a limited liability company);
- (d) An executive officer, director or insurance manager (if you are a corporation or other organization); or
- (e) Any "employee" authorized by you to give notice of the "accident" or "loss".

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph **A.5.**, **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by

such contract. The waiver applies only to the person or organization designated in such contract.

N. UNINTENTIONAL ERRORS OR OMISSIONS

The following is added to Paragraph **B.2., Concealment, Misrepresentation, Or Fraud,** of **SECTION IV – BUSINESS AUTO CONDITIONS:**

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

XTEND ENDORSEMENT FOR ARCHITECTS, ENGINEERS AND SURVEYORS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|---|
| <ul style="list-style-type: none"> A. Non-Owned Watercraft – 75 Feet Long Or Less B. Who Is An Insured – Unnamed Subsidiaries C. Who Is An Insured – Retired Partners, Members, Directors And Employees D. Who Is An Insured – Employees And Volunteer Workers – Bodily Injury To Co-Employees, Co-Volunteer Workers And Retired Partners, Members, Directors And Employees E. Who Is An Insured – Newly Acquired Or Formed Limited Liability Companies F. Blanket Additional Insured – Controlling Interest G. Blanket Additional Insured – Mortgagees, Assignees, Successors Or Receivers | <ul style="list-style-type: none"> H. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Premises I. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations J. Incidental Medical Malpractice K. Medical Payments – Increased Limit L. Amendment Of Excess Insurance Condition – Professional Liability M. Blanket Waiver Of Subrogation – When Required By Written Contract Or Agreement N. Contractual Liability – Railroads |
|---|---|

PROVISIONS

A. NON-OWNED WATERCRAFT – 75 FEET LONG OR LESS

1. The following replaces Paragraph (2) of Exclusion **g.**, **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:
 - (2) A watercraft you do not own that is:
 - (a) 75 feet long or less; and
 - (b) Not being used to carry any person or property for a charge;
2. The following replaces Paragraph 2.e. of **SECTION II – WHO IS AN INSURED**:
 - e. Any person or organization that, with your express or implied consent, either

uses or is responsible for the use of a watercraft that you do not own that is:

- (1) 75 feet long or less; and
- (2) Not being used to carry any person or property for a charge;

B. WHO IS AN INSURED – UNNAMED SUBSIDIARIES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and

COMMERCIAL GENERAL LIABILITY

- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph 1. of Section II – Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

- a. A limited liability company;
- b. An organization other than a partnership, joint venture or limited liability company; or
- c. A trust;

as indicated in its name or the documents that govern its structure.

C. WHO IS AN INSURED – RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

The following is added to Paragraph 2. of SECTION II – WHO IS AN INSURED:

Any person who is your retired partner, member, director or "employee" that is performing services for you under your direct supervision, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, no such retired partner, member, director or "employee" is an insured for:

- (1) "Bodily injury":
 - (a) To you, to your current partners or members (if you are a partnership or joint venture), to your current members (if you are a limited liability company) or to your current directors;
 - (b) To the spouse, child, parent, brother or sister of that current partner, member or director as a consequence of Paragraph (1)(a) above;
 - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your retired partners, members, directors or "employees", other than a doctor. Any such retired partners, members, directors or "employees" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

- (2) "Personal injury":
 - (a) To you, to your current or retired partners or members (if you are a partnership or joint venture), to your current or retired members (if you are a limited liability company), to your other current or retired directors or "employees" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that current or retired partner, member, director, "employee" or "volunteer worker" as a consequence of Paragraph (2)(a) above;
 - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (2)(a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services.
- (3) "Property damage" to property:
 - (a) Owned, occupied or used by; or
 - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your retired partners, members or directors, your current or retired "employees" or "volunteer workers", any current partner or member (if you are a partnership or joint venture), or any current member (if you are a limited liability company) or current director.

D. WHO IS AN INSURED – EMPLOYEES AND VOLUNTEER WORKERS – BODILY INJURY TO CO-EMPLOYEES, CO-VOLUNTEER WORKERS AND RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

The following is added to Paragraph 2.a.(1) of SECTION II – WHO IS AN INSURED:

Paragraphs (1)(a), (b) and (c) above do not apply to "bodily injury" to a current or retired co-"employee" while in the course of the co-"employee's" employment by you or performing duties related to the conduct of your business, or to "bodily injury" to your other "volunteer workers" or retired partners, members or directors while performing duties related to the conduct of your business.

E. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED LIMITED LIABILITY COMPANIES

The following replaces Paragraph 3. of SECTION II – WHO IS AN INSURED:

3. Any organization you newly acquire or form, other than a partnership or joint venture, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only:

(1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or

(2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it;

b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph 1. of Section II – Who Is An Insured, each such

organization will be deemed to be designated in the Declarations as:

- a. A limited liability company;
- b. An organization other than a partnership, joint venture or limited liability company; or
- c. A trust;

as indicated in its name or the documents that govern its structure.

F. BLANKET ADDITIONAL INSURED – CONTROLLING INTEREST

1. The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that has financial control of you is an insured with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that arises out of:

- a. Such financial control; or
- b. Such person's or organization's ownership, maintenance or use of premises leased to or occupied by you.

The insurance provided to such person or organization does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

2. The following is added to Paragraph 4. of SECTION II – WHO IS AN INSURED:

This paragraph does not apply to any premises owner, manager or lessor that has financial control of you.

G. BLANKET ADDITIONAL INSURED – MORTGAGEES, ASSIGNEES, SUCCESSORS OR RECEIVERS

The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that is a mortgagee, assignee, successor or receiver and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to its liability as mortgagee, assignee, successor or receiver for "bodily injury", "property damage" or "personal and advertising injury" that:

- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed,

COMMERCIAL GENERAL LIABILITY

subsequent to the signing of that contract or agreement; and

- b. Arises out of the ownership, maintenance or use of the premises for which that mortgagee, assignee, successor or receiver is required under that contract or agreement to be included as an additional insured on this Coverage Part.

The insurance provided to such mortgagee, assignee, successor or receiver is subject to the following provisions:

- a. The limits of insurance provided to such mortgagee, assignee, successor or receiver will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such person or organization does not apply to:
 - (1) Any "bodily injury" or "property damage" that occurs, or any "personal and advertising injury" caused by an offense that is committed, after such contract or agreement is no longer in effect; or
 - (2) Any "bodily injury", "property damage" or "personal and advertising injury" arising out of any structural alterations, new construction or demolition operations performed by or on behalf of such mortgagee, assignee, successor or receiver.

H. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO PREMISES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to premises owned or occupied by, or rented or loaned to, you and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of any of the following for which that governmental entity has issued such permit or authorization: advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away

openings, sidewalk vaults, elevators, street banners or decorations.

I. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

J. INCIDENTAL MEDICAL MALPRACTICE

1. The following replaces Paragraph **b.** of the definition of "occurrence" in the **DEFINITIONS** Section:

- b. An act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

2. The following replaces the last paragraph of Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED**:

Unless you are in the business or occupation of providing professional health care services, Paragraphs **(1)(a)**, **(b)**, **(c)** and **(d)** above do not apply to "bodily injury" arising out of providing or failing to provide:

- (a) "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician, paramedic, athletic trainer, audiologist, dietician, nutritionist,

occupational therapist or occupational therapy assistant, physical therapist or speech-language pathologist; or

- (b) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

- 3. The following replaces the last sentence of Paragraph 5. of **SECTION III – LIMITS OF INSURANCE:**

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

- 4. The following exclusion is added to Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

Sale Of Pharmaceuticals

"Bodily injury" or "property damage" arising out of the violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by, or with the knowledge or consent of the insured.

- 5. The following is added to the **DEFINITIONS** Section:

"Incidental medical services" means:

- a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or
- b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

- 6. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis,

that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

K. MEDICAL PAYMENTS – INCREASED LIMIT

The following replaces Paragraph 7. of **SECTION III – LIMITS OF INSURANCE:**

- 7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person, and will be the higher of:

- a. \$10,000; or
- b. The amount shown in the Declarations of this Coverage Part for Medical Expense Limit.

L. AMENDMENT OF EXCESS INSURANCE CONDITION – PROFESSIONAL LIABILITY

The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is Professional Liability or similar coverage, to the extent the loss is not subject to the professional services exclusion of Coverage A or Coverage B.

M. BLANKET WAIVER OF SUBROGATION – WHEN REQUIRED BY WRITTEN CONTRACT OR AGREEMENT

The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

If the insured has agreed in a written contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" that occurs; or
- b. "Personal and advertising injury" caused by an offense that is committed;

subsequent to the signing of that contract or agreement.

N. CONTRACTUAL LIABILITY – RAILROADS

1. The following replaces Paragraph **c.** of the definition of "insured contract" in the **DEFINITIONS** Section:
 - c.** Any easement or license agreement;
2. Paragraph **f.(1)** of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.



MEMORANDUM

Legal – City Attorney

DATE: April 4, 2024

TO: Jana L. Ecker, City Manager

FROM: Mary M. Kucharek, City Attorney

SUBJECT: Motion from February 5, 2024 to Discuss Amending Ethics Ordinance

INTRODUCTION:

On February 5, 2024 there was a recommendation for an amendment to the Board of Ethics expanding the potential pool of applicants for the Ethics Board for regular and alternate members. On that date and time, the motion to accept the amendment failed, however, Commissioner Anthony Longe made a motion to “table the issue” and wait sixty (60) days to review whether there have been “a plethora” of applications to fill any potential open seats on the Ethics Board.

BACKGROUND:

The Board of Ethics was created by ordinance in 2003 and provides for three (3) members of the Board to be appointed by the City Commission. A presentation was made on February 5, 2024 describing that at times it has been difficult to fill vacant positions with qualified candidates who are capable of quasi-judicial roles including legal analysis and writing extensive opinions. There was robust discussion by the City Commission and numerous members of the public. At the beginning, a motion was made to accept the amendment, but after extensive discussion, the motion failed unanimously. After that, Commissioner Anthony Longe made commentary saying that this was a very important issue, and he was hopeful that the conversation would “generate enough resident awareness and interest that there will be no shortage of applicants for the Board of Ethics.” As a result of his comments, he ultimately made a motion to table the issue for sixty (60) days and then bring it back to the Commission for review. That motion passed in favor 6 to 1. Therefore, the issue is brought before the City Commission again for review to discuss whether there has been ample interest and enough qualified candidates for the Commission to have an active selection process in filling any vacancies on the Board of Ethics.

LEGAL REVIEW:

The City Attorney’s office proffered the suggested amendment to the Board of Ethics ordinance when it was concerned that there was not a plethora of qualified candidates applying for the quasi-judicial board. The ability for the City Commission to review this issue is proper and if there are changes to the previous motion, it is important to follow the Roberts Rules of Order. In order

to change a prior action from a previous meeting of the City Commission, a member on the side of the prevailing motion would have to bring a "motion to reconsider." If the City Commission would like to entertain the ability to amend the Ethics Ordinance to add for the opportunity for a business or property owner located in the City to serve, then because it was a unanimous vote, any Commissioner may make a motion to reconsider the action of the February 5, 2024. The motion to reconsider is handled first as a separate motion. If there is a motion to reconsider and it passes, the original motion can be brought back to life. Or, in the alternative, if the City Commission is satisfied that there has been enough public interest and a plethora of qualified applicants to serve this quasi-judicial role, then nothing further needs to occur and the February 5, 2024 vote cited above remains.

FISCAL IMPACT:

There is no fiscal impact as they are non-paid voluntary positions.

PUBLIC COMMUNICATIONS:

This item has been publicly noticed as an agenda item.

SUMMARY:

This issue is being brought before the City Commission based upon the motion to table by Commissioner Longe to determine whether or not there has been a sufficient pool of applicants to fill open positions on the Ethics Board and whether the City Commission is satisfied with the potential pool and interest of the residents.

ATTACHMENTS:

- #1 – February 5, 2024 Minutes - see pages 5, 6, and 7.
- #2 – City Commission packet regarding this issue from February 5, 2024, Item No. 5H.

SUGGESTED COMMISSION ACTION:

There is no suggested Commission action at this time as the item is returned to the City Commission for review. The City Attorney will be available to assist the City Commission in making motions if that is the Commission's direction and pleasure after having discussion regarding the tabled issue.

ATTACHMENT 1

Birmingham City Commission Minutes
February 5, 2024
Municipal Building, 151 Martin
7:30 p.m.
Vimeo Link: <https://vimeo.com/905430821>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Elaine McLain, Mayor, opened the meeting with the Pledge of Allegiance.

II. ROLL CALL

City Clerk Bingham called the roll.

Present: Mayor McLain
MPT Schafer
Commissioner Baller
Commissioner Haig
Commissioner Host
Commissioner Long
Commissioner Longe

Absent: None

Staff: City Manager Ecker; City Clerk Bingham, Assistant City Manager Clemence, City Engineer Coatta, Senior Planner Cowan, Police Chief Grewe, Building Official Johnson, Police Captain Kearney, City Attorney Kucharek, Public Services Manager Markus

02-035-24 Amendment to Chapter 2 – Administration, Article IX. – Ethics, Sec. 2-325(a)(4) (Item H)

Paul Reagan, a member of the public, pulled Item H. He opposed the proposed change to the Ethics Ordinance.

Public Comment

Jim Mirro supported Mr. Reagan.

MOTION: Motion by Commissioner Baller, seconded by Commissioner Long:
To amend Chapter 2 – Administration, Article IX. – Ethics, Sec. 2-325(a) Board of ethics (4) allowing for a business or property owner in the City of Birmingham to serve on the Ethics Board as appointed by the City Commission.

Staff answered informational questions from the Commission.

Individual Commissioner comments were as follows:

- The change would not eliminate residents from the Board of Ethics. It would expand eligibility to allow for property- or business-owning non-residents to serve on the Board of Ethics. Board of Ethics opinions are thorough and considered, and there is likely a small pool of applicants who have both the capacity and availability to serve on the Board. Having two alternate positions on the Board is wise, given that succession planning for

the Board is necessary. The Commission would have to use its discretion to determine appropriate appointees;

- The change was being proposed because too few residents were volunteering their time. Any interested residents would be encouraged to apply for volunteer boards and committees in order to ensure there are enough members to conduct City business;
- The proposed language was not an attempt to obscure any outcome, and it was disappointing that the Board of Ethics has seen an increase in its utilization recently;
- The Commission should not make the recommended changes because the Board of Ethics can judge Commissioners, which could have the outcome of non-residents impacting voter-elected officials. If applications to the Board of Ethics remain an issue, the matter should be revisited in a year's time; and,
- The City strives to ensure that its boards and committees are devoid of conflicts-of-interest. Many municipalities do not have formal Boards of Ethics, and it is valuable that the City has one.

Public Comment

Mr. Bloom commented on how the independence of the Board of Ethics members could potentially be increased.

Irene Hathaway opposed the proposed change to the Ethics Ordinance, and supported the City increasing its efforts to publicize Board of Ethics positions to residents first.

Suzanne Faber also supported the City increasing its efforts to publicize Board of Ethics positions to residents first.

It was noted in reply to Brooke Reiter that residential renters are able to serve on the City's boards and committees.

Judy Doyle, alternate on the Board of Ethics, commented that the preceding discussion might serve to recruit additional resident applications to serve on the Board of Ethics.

Mr. Mirro reiterated his support for Mr. Reagan, and commented on the increased frequency of the Board of Ethics' utilization.

ROLL CALL VOTE: Ayes, None

Nays, MPT Schafer
Commissioner Host
Commissioner Longe
Commissioner Long
Commissioner Haig
Mayor McLain
Commissioner Baller

02-036-24 Amendment to Chapter 2 – Administration, Article IX. – Ethics, Sec. 2-325(a)(4) (Item H) (Part II)

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

To table this issue for 60 days, and then to bring it back.

Commissioner comments were as follows:

- This conversation hopefully will generate enough resident awareness and interest that there will be no shortage of applications for the Board of Ethics. Residents should sign up for the City's emails and other communications, and should encourage others to do the same. Residents can also note open board and committee positions at the end of each Commission agenda; and,
- City information is available via multiple different sources, and now that residents are aware of it they should seek it out.

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

 Nays, Commissioner Host

ATTACHMENT 2



MEMORANDUM

Legal – City Attorney

DATE: January 29, 2024

TO: Jana L. Ecker, City Manager

FROM: Mary M. Kucharek, City Attorney

SUBJECT: Amendment to Chapter 2 – Administration, Article IX. – Ethics, Sec. 2-325(a)(4)

INTRODUCTION:

City staff is recommending an amendment to the Board of Ethics Ordinance expanding the potential pool of applicants for the Ethics Board for regular and alternate members.

BACKGROUND:

The Board of Ethics was created by ordinance in 2003 and provided for three (3) members of the Board to be appointed by the City Commission. City staff is suggesting that the Board of Ethics membership be amended to include a business or property owner located in the City.

In 2003 the Ethics Ordinance was created and Sec. 2-325(a)(4) states that the Board of Ethics shall be made up of three residents of the City who have legal, administrative or other desirable qualifications. On April 24, 2023, the City Commission recently amended the Board of Ethics Ordinance to allot for two (2) alternate members to serve in the place of a regular member when a regular member must abstain or recuse themselves for the reason of a conflict of interest or because of a lack of quorum. Other communities in passing their Ethics Ordinance have not made residency a requirement for their Board of Ethics members. Instead, they have focused more on the qualifications of the members by either education and/or expertise in order to assure that the Board position is being filled with the best possible candidates who are in the position of making very difficult decisions regarding conduct of appointed, elected, or employee positions within a community.

As the City Commission is aware the Ethics Board can meet with some regularity and therefore it is important that vacant positions be filled. For instance, on May 16, 2023, one regular member resigned. A new member was not appointed, and the vacant position was not filled until August 14, 2023 and only one of the two alternate positions has been filled on December 18, 2023. The second alternate position remains unfilled as of this date.

By opening up the requirements to include or allow for a business or property owner in the City, would possibly open up potential candidates to fill positions more easily as they become open. The ability for non-residents to serve on boards occurs with multiple other boards in the City as listed below:

- Birmingham Shopping District
- Brownfield Redevelopment Authority
- Housing Board of Appeals
- Multi-Modal Transportation Board
- Museum Board
- Public Arts Board

By allowing business and/or property owners in the City of Birmingham to participate may increase the ability of finding qualified and desirable candidates.

LEGAL REVIEW:

The City Attorney and City Clerk join in their efforts to propose these changes and have prepared the proposed amendment.

FISCAL IMPACT:

There is no fiscal impact as these are non-paid voluntary positions.

PUBLIC COMMUNICATIONS:

This item has been publicly announced as an agenda item.

SUMMARY:

Staff is recommending a change to the Ethics Ordinance to include that members of the Board may not only be residents but also property and/or business owners in the City.

ATTACHMENTS:

Redlined version of the proposed amendment to Chapter 2 – Administration, Article IX. – Ethics, Sec. 2-325(a)(4).

Clean version of the proposed amendment to Chapter 2 – Administration, Article IX. – Ethics, Sec. 2-325(a)(4).

SUGGESTED COMMISSION ACTION:

Make a motion amending Chapter 2 – Administration, Article IX. – Ethics, Sec. 2-325(a) *Board of ethics* (4) allowing for a business or property owner in the City of Birmingham to serve on the Ethics Board as appointed by the City Commission.

CITY OF BIRMINGHAM

ORDINANCE NO. _____

AN ORDINANCE TO AMEND PART II, CHAPTER 2. - ADMINISTRATION, ARTICLE IX. - ETHICS, SEC. 2-325. - VIOLATION, ENFORCEMENT AND ADVISORY OPINIONS

THE CITY OF BIRMINGHAM ORDAINS:

The City Code, Part II, Chapter 2. - Administration, Article IX. - Ethics, Sec. 2-325. - Violation, Enforcement and Advisory Opinions, shall read as follows:

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, or a business or property owner in 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.

Secs. 2-317 – 2-319. Reserved.

All other Sections of Chapter 2. – ADMINISTRATION, shall remain unaffected.

Ordained this _____ day of _____, 2024. Effective upon publication.

Elaine McLain, Mayor

Alexandria D. Bingham, City Clerk

I, Alexandria D. Bingham, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held _____ and that a summary was published _____, 2024.

Alexandria D. Bingham, City Clerk

CITY OF BIRMINGHAM

ORDINANCE NO. _____

AN ORDINANCE TO AMEND PART II, CHAPTER 2. - ADMINISTRATION, ARTICLE IX. – ETHICS, SEC. 2-325. – VIOLATION, ENFORCEMENT AND ADVISORY OPINIONS

THE CITY OF BIRMINGHAM ORDAINS:

The City Code, Part II, Chapter 2. - Administration, Article IX. – Ethics, Sec. 2-325. – Violation, Enforcement and Advisory Opinions, shall read as follows:

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, or a business or property owner in 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.

Secs. 2-317 – 2-319. Reserved.

All other Sections of Chapter 2. – ADMINISTRATION, shall remain unaffected.

Ordained this _____ day of _____, 2024. Effective upon publication.

Elaine McLain, Mayor

Alexandria D. Bingham, City Clerk

I, Alexandria D. Bingham, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held _____ and that a summary was published _____, 2024.

Alexandria D. Bingham, City Clerk



MEMORANDUM

Finance Department

DATE: April 1, 2024

TO: Jana L. Ecker, City Manager

FROM: Mark Gerber, Finance Director/Treasurer

SUBJECT: Parks & Recreation Bond Authorizing Resolution

INTRODUCTION:

In order to proceed with the sale of the second series of parks and recreation bonds, a bond authorizing resolution must be approved by the City Commission.

BACKGROUND:

In November 2020, voters approved a ballot authorizing \$11.25M in general obligation bonds for parks and recreation improvements. The first series was sold in May 2021 for \$4.75M. These bonds were sold at a premium of \$262,104. The majority of these funds were used to renovate the ice arena and to make improvements at Adams Park. It is anticipated that this second bond series will be used to make improvements at various parks and the trail system.

In order to sell the remaining bonds, a bond authorizing resolution must be passed by the City Commission. This resolution would authorize the City Manager and Finance Director to proceed with the sale of the bonds. The sale of the bonds is anticipated to be completed in early June with the first debt levy to start with July 1, 2024's tax bills.

Representatives from our bond counsel Miller Canfield and our municipal finance advisors Bendzinski & Co. will be available to answer any questions concerning the resolution.

LEGAL REVIEW:

The bond authorizing resolution was prepared by our bond counsel Patrick McGow from Miller Canfield.

FISCAL IMPACT:

The second series of the bond was timed to coincide with a reduction in the 2016 Refunding Bond debt requirements. As a result, the overall bond levy is projected to decrease from .5137 mills in 2023-2024 to .2236 mills in 2024-2025.

SUSTAINABILITY:

Not applicable.

PUBLIC COMMUNICATIONS:

No public communications are required to issue the 2nd series of these bonds as the voters authorized the total bond amount in November of 2020.

SUMMARY:

It is recommended that the City Commission approve the bond authorizing resolution, so City management may proceed with the sale of the bonds.

ATTACHMENTS:

- Letter from Miller Canfield
- Bond Authorizing Resolution Prepared by Miller Canfield
- Schedule of Bond Costs Prepared by Bendzinski & Co.
- Debt Service Schedule Prepared by Bendzinski & Co.

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to approve the bond authorizing resolution for the 2024 unlimited tax general obligation bonds as submitted by bond counsel.

MILLER CANFIELD

MICHIGAN
ILLINOIS
NEW YORK
OHIO
WASHINGTON, D.C.
CALIFORNIA
CANADA
CHINA
MEXICO
POLAND
UKRAINE
QATAR

PATRICK F. MCGOW
TEL (313) 496-7684
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Miller, Canfield, Paddock and Stone, P.L.C.
150 West Jefferson, Suite 2500
Detroit, Michigan 48226
TEL (313) 963-6420
FAX (313) 496-7500
www.millercanfield.com

March 27, 2024

Ms. Jana Ecker
City Manager
City of Birmingham
151 Martin Street
Birmingham MI 48012-3001

Re: City of Birmingham –Unlimited Tax General Obligation Bonds for Parks and Recreation Bonds

Dear Jana:

As we discussed, I have enclosed a Bond Authorizing Resolution to be considered for approval by the City Commission at its regular meeting on Monday, April 8th. The Resolution authorizes the issuance of the second series of Bonds for the parks and recreation improvements based on the bond proposal approved by the City's voters in November 2020. The City issued the first series of bonds in 2021 in the principal amount of \$4,750,000 and this is the second and final series of bonds pursuant to the 2020 voter-approved bond proposal. The Bonds will pledge the City's unlimited tax full faith and credit for support of the Bonds and will be paid from the special debt millage levied to pay the debt service on the Bonds.

The Resolution is based on the bond specifications prepared by Bendzinski & Co., the City's financial advisor, and sets forth the terms of the Bonds, the form of Bonds, and provides for a competitive public sale of the Bonds. There are various blanks in the Resolution in the form of bond and form of Notice of Sale that are intended to be in blank as those items will be completed in the final forms of those documents.

The Resolution is the final action item required by the City Commission for the Bond issue. Once approved, the Resolution authorizes various City officials, including the City Manager and Finance Director, to take the necessary actions to issue, sell and deliver the Bonds and delegates the authority to award the Bonds to the authorized officers, based on the lowest true interest cost to the City.

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Ms. Jana Ecker

-2-

March 27, 2024

If approved, the bond sale would occur in early June, with proceeds available in late June. I would appreciate it if you could have the City Clerk's office send me three certified copies of the Resolution upon approval.

I plan to attend the Council meeting to answer any questions about the Resolution or the Bonds. If you have any questions, please give me a call.

Very truly yours,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.



By:

Patrick F. McGow

cc: Mark Gerber
Robert J. Bendzinski
Stephen Hayduk
Emily Barr

41965356.1/008626.00034

**RESOLUTION AUTHORIZING
2024 UNLIMITED TAX GENERAL OBLIGATION BONDS**

CITY OF BIRMINGHAM
County of Oakland, State of Michigan

Minutes of a regular meeting of the City Commission of the City of Birmingham, County of Oakland, State of Michigan, held on April 8, 2024, at 7:30 p.m., prevailing Eastern Time.

PRESENT: Members: _____

ABSENT: Members: _____

The following preamble and resolution were offered by Member _____ and supported by Member _____:

WHEREAS, the qualified electors of the City of Birmingham, County of Oakland, State of Michigan (the “City”), at the election duly called and held on November 3, 2020, did by more than the required majority of those voting approve the following proposition (the “2020 Proposal”):

PARKS AND RECREATION BOND PROPOSAL

Shall the City of Birmingham, Oakland County, Michigan, borrow the principal sum of not to exceed Eleven Million Two Hundred Fifty Thousand Dollars (\$11,250,000), and issue its unlimited tax general obligation bonds in one or more series, payable over a period not to exceed twenty-one (21) years from the date of issuance, to be used by the City for the purpose of paying all or part of the cost of acquiring, constructing, furnishing, equipping and renovating parks and recreation improvements, including parks, playgrounds and trail system improvements and renovations to the Birmingham Sports Ice Arena, including all appurtenances and attachments? The estimated millage to be levied in 2021 is 0.0485 mills (\$0.05 per \$1,000 of taxable value) and the estimated simple average annual millage rate required to retire the bonds is 0.2064 mills (\$0.21 per \$1,000 of taxable value).

WHEREAS, pursuant to the 2020 Proposal, the City Commission previously issued its 2021 Unlimited Tax General Obligation Bonds in the aggregate principal amount of Four Million Seven Hundred Fifty Thousand Dollars (\$4,750,000) for the purpose of paying all or part of the cost of acquiring, constructing, furnishing, equipping and renovating parks and recreation improvements, including parks, playgrounds and trail system improvements and renovations to the Birmingham Sports Ice Arena, including all appurtenances and attachments (the “Project”); and

WHEREAS, the City Commission has determined that it is necessary to issue the second series of its unlimited tax general obligation bonds pursuant to the 2020 Proposal in the aggregate principal amount of Six Million Two Hundred Thirty-Five Thousand Dollars (\$6,235,000) for the purpose of paying part of the cost the Project.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Authorization of Bonds; Bond Terms. Bonds of the City designated 2024 UNLIMITED TAX GENERAL OBLIGATION BONDS (the “Bonds”) are authorized to be issued in the aggregate principal sum of not to exceed Six Million Two Hundred Thirty-Five Thousand Dollars (\$6,235,000) for the purpose of paying the costs of the Project, including the costs incidental to the issuance, sale and delivery of the Bonds. The issue shall consist of bonds in fully-registered form of the denomination of \$5,000, or multiples thereof not exceeding for each maturity the maximum principal amount of that maturity, numbered consecutively in order of registration, dated as of the date of delivery. The Bonds shall bear interest, mature and be payable at the times and in the manner set forth in Sections 6 and 7 hereof.

The bonds shall bear interest at a rate or rates to be determined at the time of the sale thereof, but in any event not to exceed six percent (6%) per annum, payable on October 1, 2024 (or such date as determined at the time of the sale thereof) and semiannually thereafter. The Bonds shall be sold at public sale at a price not less than 99% of the principal amount thereof.

The Bonds shall be subject to redemption prior to maturity in the manner and at the times and prices set forth in Sections 6 and 7 hereof and if term bonds are selected by the original purchaser of the Bonds, then the Bonds will be subject to mandatory redemption in accordance with the foregoing maturity schedule at par.

Interest shall be payable to the registered owner of record as of the 15th day of the month prior to the payment date for each interest payment. The record date of determination of registered owner for purposes of payment of interest as provided in this paragraph may be changed by the City to conform to market practice in the future. The principal of the Bonds shall be payable at The Huntington National Bank, Grand Rapids, Michigan, who is hereby selected to act as transfer agent for the Bonds (the “Transfer Agent”), or such other bank or trust company as may be selected by the City Manager or Finance Director (each an “Authorized Officer”) at the time of sale of the Bonds.

The Bonds may be issued in book-entry-only form through The Depository Trust Company in New York, New York (“DTC”) and each Authorized Officer is authorized to execute such custodial or other agreement with DTC as may be necessary to accomplish the issuance of the Bonds in book-entry-only form and to make such changes in the Bond Form within the parameters of this resolution as may be required to accomplish the foregoing.

2. Execution of Bonds. The Bonds of this issue shall be executed in the name of the City with the manual or facsimile signatures of the Mayor and City Clerk and shall have the seal of the City, or a facsimile thereof, printed or impressed on the Bonds. No Bond executed by facsimile signature shall be valid until authenticated by an authorized officer or representative of

the Transfer Agent. The Bonds shall be delivered to the Transfer Agent for authentication and be delivered by the Transfer Agent to the purchaser or other person in accordance with instructions from an Authorized Officer upon payment of the purchase price for the Bonds in accordance with the bid therefor when accepted.

3. Transfer of Bonds. The Transfer Agent shall keep the books of registration for this issue on behalf of the City. Any Bond may be transferred upon such registration books by the registered owner of record, in person or by the registered owner's duly authorized attorney, upon surrender of the Bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Transfer Agent. Whenever any Bond or Bonds shall be surrendered for transfer, the City shall execute and the Transfer Agent shall authenticate and deliver a new Bond or Bonds, for like aggregate principal amount. The Transfer Agent shall require the payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer.

Unless waived by any registered owner of Bonds to be redeemed, official notice of redemption shall be given by the Transfer Agent on behalf of the City. Such notice shall be dated and shall contain at a minimum the following information: original issue date; maturity dates; interest rates; CUSIP numbers, if any; certificate numbers (and in the case of partial redemption) the called amounts of each certificate; the place where the Bonds called for redemption are to be surrendered for payment; and that interest on the Bonds or portions thereof called for redemption shall cease to accrue from and after the redemption date.

In addition, further notice shall be given by the Transfer Agent in such manner as may be required or suggested by regulations or market practice at the applicable time, but no defect in such further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as prescribed herein.

4. Debt Retirement Fund; Unlimited Tax Pledge; Defeasance of Bonds. The City Treasurer is authorized and directed to open a depository account with a bank or trust company designated by the City Commission, to be designated 2024 Unlimited Tax General Obligation Bonds DEBT RETIREMENT FUND (the "Debt Retirement Fund"), the moneys to be deposited into the Debt Retirement Fund to be specifically earmarked and used solely for the purpose of paying principal of and interest on the Bonds as they mature. The City hereby pledges its unlimited tax full faith and credit for the prompt payment of the Bonds. Commencing with the year 2024, there shall be levied upon the tax rolls of the City for the purpose of the Debt Retirement Fund each year, in the manner required by the provisions of Act 34, Public Acts of Michigan, 2001, as amended, an amount sufficient so that the estimated collection therefrom will be sufficient to promptly pay, when due, the principal of and interest on the Bonds becoming due prior to the next annual tax levy; provided, however, that if at the time of making any such annual tax levy there shall be other funds available or surplus moneys on hand in the Debt Retirement Fund for the payment of principal of and interest on the Bonds, then credit therefor may be taken against such annual levy for the Debt Retirement Fund.

In the event cash or direct obligations of the United States or obligations the principal of and interest on which are guaranteed by the United States, or a combination thereof, the principal

of and interest on which, without reinvestment, come due at times and in amounts sufficient to pay at maturity or irrevocable call for earlier optional redemption, the principal of, premium, if any, and interest on the Bonds, shall be deposited in trust, this resolution shall be defeased and the owners of the Bonds shall have no further rights under this resolution except to receive payment of the principal of, premium, if any, and interest on the Bonds from the cash or securities deposited in trust and the interest and gains thereon and to transfer and exchange Bonds as provided herein.

5. Construction Fund; Proceeds of Bond Sale. The City Treasurer is authorized and directed to open a separate depository account with a bank or trust company designated by the City Commission, to be designated 2024 UNLIMITED TAX GENERAL OBLIGATION BONDS CONSTRUCTION FUND (the “Construction Fund”), and deposit into said Construction Fund the proceeds of the Bonds less accrued interest, if any, which shall be deposited into the Debt Retirement Fund. The moneys in the Construction Fund shall be used solely to pay the costs of the Project and the costs of issuance of the Bonds.

6. Bond Form. The Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF OAKLAND

CITY OF BIRMINGHAM

2024 UNLIMITED TAX GENERAL OBLIGATION BOND

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	October 1, _____	_____, 2024	

Registered Owner:

Principal Amount: _____ Dollars

The City of Birmingham, County of Oakland, State of Michigan (the "City"), acknowledges itself to owe and for value received hereby promises to pay to the Registered Owner specified above, or registered assigns, the Principal Amount specified above, in lawful money of the United States of America, on the Maturity Date specified above, unless prepaid prior thereto as hereinafter provided, with interest thereon (computed on the basis of a 360-day year consisting of twelve 30-day months) from the Date of Original Issue specified above or such later date to which interest has been paid, until paid, at the Interest Rate per annum specified above, first payable on October 1, 2024 and semiannually thereafter. Principal of this bond is payable at the corporate trust office of The Huntington National Bank, Grand Rapids, Michigan, or such other transfer agent as the City may hereafter designate by notice mailed to the registered owner not less than sixty (60) days prior to any interest payment date (the "Transfer Agent"). Interest on this bond is payable to the registered owner of record as of the fifteenth (15th) day of the month preceding the interest payment date as shown on the registration books of the City kept by the Transfer Agent by check or draft mailed to the registered owner of record at the registered address. For prompt payment of this bond, both principal and interest, the full faith, credit and resources of the City are hereby irrevocably pledged.

This bond is one of a series of bonds of even Date of Original Issue aggregating the principal sum of \$_____, issued for the purpose of constructing parks and recreation improvements throughout the City and paying costs incidental to the issuance of the bonds in pursuance of a vote of the qualified electors of the City voting thereon at an election duly called and held on November 3, 2020.

Bonds of this issue maturing in the years 2026 to 2033, inclusive, shall not be subject to redemption prior to maturity. Bonds or portions of bonds of this issue in multiples of \$5,000 maturing in the year 2034 and thereafter shall be subject to redemption prior to maturity, at the option of the City, in any order of maturity and by lot within any maturity, on any date on or after October 1, 2033, at par and accrued interest to the date fixed for redemption.

[Insert Term Bond redemption provisions, if necessary.]

In case less than the full amount of an outstanding bond is called for redemption, the Transfer Agent, upon presentation of the bond called in part for redemption, shall register, authenticate and deliver to the registered owner of record a new bond in the principal amount of the portion of the original bond not called for redemption.

Notice of redemption shall be given to the registered owner of any bond or portion thereof called for redemption by mailing of such notice not less than thirty (30) days prior to the date fixed for redemption to the registered address of the registered owner of record. A bond or portion thereof so called for redemption shall not bear interest after the date fixed for redemption provided funds are on hand with the Transfer Agent to redeem said bond or portion thereof.

This bond is transferable only upon the registration books of the City kept by the Transfer Agent by the registered owner of record in person, or by the registered owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or the registered owner's attorney duly authorized in writing, and thereupon a new registered bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the resolution authorizing this bond and upon the payment of the charges, if any, therein prescribed.

This bond is payable out of the City's Debt Retirement Fund for this issue and in order to make such payment, the City is required each year to levy taxes on all taxable property within the boundaries of the City for such payment, without limitation as to either rate or amount.

It is hereby certified and recited that all acts, conditions and things required by law to be done, precedent to and in the issuance of this bond and the series of bonds of which this is one, exist and have been done and performed in regular and due form and time as required by law, and that the total indebtedness of the City, including this bond, does not exceed any constitutional, statutory or charter debt limitation.

This bond is not valid or obligatory for any purpose until the Transfer Agent's Certificate of Authentication on this bond has been executed by the Transfer Agent.

IN WITNESS WHEREOF, the City of Birmingham, by its City Commission, has caused this bond to be signed in the name of the City by the facsimile signatures of its Mayor and City Clerk and a facsimile of its corporate seal to be printed hereon, all as of the Date of Original Issue.

CITY OF BIRMINGHAM

County of Oakland
State of Michigan

(SEAL)

By: _____
Its Mayor

By: _____
Its City Clerk

(Form of Transfer Agent's Certificate of Authentication)

DATE OF AUTHENTICATION:

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned resolution.

The Huntington National Bank
Grand Rapids, Michigan
Transfer Agent

By: _____
Authorized Signatory

[Bond printer to insert form of assignment]

7. Notice of Sale. Each Authorized Officers is individually authorized to fix a date of sale for the Bonds and to cause to be published a notice of sale for the Bonds in *The Bond Buyer*, New York, New York, which notice of sale shall be in substantially the following form with such completions and revisions within the parameters established by this resolution as may be deemed necessary or appropriate by an Authorized Officer in consultation with the City's bond counsel and municipal advisor:

OFFICIAL NOTICE OF SALE

\$6,235,000*

CITY OF BIRMINGHAM

COUNTY OF OAKLAND, STATE OF MICHIGAN

2024 UNLIMITED TAX GENERAL OBLIGATION BONDS

**Subject to adjustment as provided in this Notice of Sale*

Bids for the purchase of the above bonds will be received in the manner described in this Notice of Sale on _____, _____, 2024 until __:___.m., prevailing Eastern Time, at which time and place said bids will be read. The award or rejection of the bids will occur on that date.

ELECTRONIC BIDS: Bidders may submit bids for the purchase of the above bonds as follows:

Electronic bids may be submitted to the office of Bendzinski & Co. Municipal Finance Advisors at info@bendzinski.com; provided that electronic bids must arrive before the time of sale and the bidder bears all risks of transmission failure.

Electronic bids will also be received on the same date and until the same time by Bidcomp/Parity as agent of the undersigned. Further information about Bidcomp/Parity, including any fee charged, may be obtained from Bidcomp/Parity, Anthony Leyden or CLIENT SERVICES, 1359 Broadway, Second Floor, New York, New York 10018, (212) 849-5021. IF ANY PROVISION OF THIS OFFICIAL NOTICE OF SALE SHALL CONFLICT WITH INFORMATION PROVIDED BY BIDCOMP/PARITY, AS THE APPROVED PROVIDER OF ELECTRONIC BIDDING SERVICES, THIS OFFICIAL NOTICE OF SALE SHALL CONTROL.

Bidders may choose any means or location to present bids but a bidder may not present a bid by more than one means.

BOND DETAILS: The bonds will be registered bonds of the denomination of \$5,000 or multiples thereof not exceeding for each maturity the maximum principal amount of that maturity, originally dated as of the date of initial delivery, numbered in order of registration, and will bear interest from their date payable on October 1, 2024, and semiannually thereafter.

The bonds will mature on the 1st day of October in each of the years, as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2026	65,000	2034	445,000
2027	80,000	2035	455,000
2028	100,000	2036	470,000
2029	385,000	2037	480,000
2030	395,000	2038	495,000
2031	410,000	2039	520,000
2032	415,000	2040	535,000
2033	430,000	2041	555,000

*ADJUSTMENT OF TOTAL PAR AMOUNT OF BONDS AND PRINCIPAL

MATURITIES: The City reserves the right to decrease the aggregate principal amount of the bonds after receipt of the bids and prior to final award, if necessary, so that the purchase price of the bonds will provide an amount determined by the City to be sufficient to construct the project and to pay costs of issuance of the bonds. The adjustments, if necessary, will be in increments of \$5,000. The purchase price will be adjusted proportionately to the increase or decrease in issue size, but the interest rates specified by the successful bidder for all maturities will not change. The successful bidder may not withdraw its bid as a result of any changes made within these limits.

*ADJUSTMENT TO PURCHASE PRICE: Should any adjustment to the aggregate principal amount of the bonds be made by the City, the purchase price of the bonds will be adjusted by the City proportionally to the adjustment in principal amount of the bonds. The adjusted purchase price will reflect changes in the dollar amount of the underwriter's discount and original issue discount/premium, if any, but will not change the per-bond underwriter's discount as calculated from the bid and initial reoffering prices.

INTEREST RATE AND BIDDING DETAILS: The bonds shall bear interest at rate or rates not exceeding six percent (6%) per annum, to be fixed by the bids therefor, expressed in any fraction of 1%. The interest on any one bond shall be at one rate only and all bonds maturing in any one year must carry the same interest rate. The difference between the highest and lowest interest rates bid shall not exceed two percent (2%) per annum. No proposal for the purchase of less than all of the bonds or at a price less than 99% of their par value will be considered.

PRIOR REDEMPTION OF BONDS: Bonds maturing in the years 2026 to 2033 inclusive, shall not be subject to redemption prior to maturity. Bonds or portions of bonds in multiples of \$5,000 maturing in the year 2034 and thereafter shall be subject to redemption prior to maturity, at the option of the City, in any order of maturity and by lot within any maturity, on any date on or after October 1, 2033, at par and accrued interest to the date fixed for redemption.

In case less than the full amount of an outstanding bond is called for redemption, the transfer agent, upon presentation of the bond called for redemption, shall register, authenticate and deliver to the registered owner of record a new bond in the principal amount of the portion of the original bond not called for redemption.

Notice of redemption shall be given to the registered owner of any bond or portion thereof called for redemption by mailing of such notice not less than thirty (30) days prior to the date fixed for redemption to the registered address of the registered owner of record. A bond or portion thereof so called for redemption shall not bear interest after the date fixed for redemption provided funds are on hand with the transfer agent to redeem said bond or portion thereof.

TERM BOND OPTION: The initial purchaser of the bonds may designate any one or more maturities from October 1, 2026 through the final maturity as term bonds and the consecutive maturities on or after the year 2026 which shall be aggregated in the term bonds. The amounts of the maturities which are aggregated in a designated term bond shall be subject to mandatory redemption on October 1 of the years and in the amounts set forth in the above maturity schedule at a redemption price of par, plus accrued interest to the date of mandatory redemption. Term bonds or portions thereof mandatorily redeemed shall be selected by lot. Any such designation must be made at the time bids are submitted and must be listed on the bid.

BOOK-ENTRY ONLY: The bonds will be issued in book-entry-only form as one fully registered bond per maturity and will be registered in the name of Cede & Co., as bondholder and nominee for The Depository Trust Company (“DTC”), New York, New York. DTC will act as securities depository for the bonds. Purchase of the bonds will be made in book-entry-only form, in the denomination of \$5,000 or any multiple thereof. Purchasers will not receive certificates representing their interest in bonds purchased. It will be the responsibility of the purchaser to obtain DTC eligibility. Failure of the purchaser to obtain DTC eligibility shall not constitute cause for a failure or refusal by the purchaser to accept delivery of and pay for the bonds.

TRANSFER AGENT AND REGISTRATION: Principal shall be payable at the principal corporate trust office of The Huntington National Bank, Grand Rapids, Michigan, or such other transfer agent as the City may hereafter designate by notice mailed to the registered owner of record not less than 60 days prior to an interest payment date. Interest shall be paid by check mailed to the registered owner of record as shown on the registration books of the City as of the 15th day prior to an interest payment date. The bonds will be transferred only upon the registration books of the City kept by the transfer agent.

PURPOSE AND SECURITY: The bonds were authorized at an election held on November 3, 2020 for the purpose of acquiring and constructing parks and recreation improvements. The bonds will pledge the full faith and credit of the City for payment of the principal and interest thereon and will be payable from ad valorem taxes which may be levied without limitation as to rate or amount. The rights or remedies of bondholders may be affected by bankruptcy, insolvency, fraudulent conveyance or other laws affecting creditors’ rights generally now existing or hereafter enacted and by the application of general principles of equity including those relating to equitable subordination.

AWARD OF BONDS: The bonds will be awarded to the bidder whose bid produces the lowest true interest cost determined in the following manner: the lowest true interest cost will be the single interest rate (compounded on October 1, 2024 and semi-annually thereafter) necessary to discount the debt service payments from their respective payment date to the date of closing, in an amount equal to the price bid, excluding accrued interest. Each bidder shall state in its bid the true interest cost to the City, computed in the manner specified above.

TAX MATTERS: In the opinion of Miller, Canfield, Paddock and Stone, P.L.C., bond counsel, under existing law, assuming compliance with certain covenants, interest on the bonds is excludable from gross income for federal income tax purposes as described in the opinion, and the bonds and interest thereon are exempt from all taxation by the State of Michigan or by any taxing authority within the State of Michigan except estate taxes and taxes on gains realized from the sale, payment or other disposition thereof.

“QUALIFIED TAX-EXEMPT OBLIGATIONS”: The City has designated the bonds as “qualified tax-exempt obligations” for purposes of deduction of interest expense by financial institutions pursuant to the Internal Revenue Code of 1986, as amended.

ISSUE PRICE: The winning bidder shall assist the City in establishing the issue price of the bonds and shall execute and deliver to the City at closing an “issue price” or similar certificate setting forth the reasonably expected initial offering price to the public or the sales price or prices

of the bonds, together with the supporting pricing wires or equivalent communications, substantially in the form attached either as Appendix I-1 or Appendix I-2 to the Preliminary Official Statement for the bonds, with such modifications as may be appropriate or necessary, in the reasonable judgment of the winning bidder, the City and bond counsel.

The City intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining “competitive sale” for purposes of establishing the issue price of the bonds) will apply to the initial sale of the bonds (the “Competitive Sale Requirements”) because:

- a. the City is disseminating this Notice of Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;
- b. all bidders shall have an equal opportunity to bid;
- c. the City anticipates receiving bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and
- d. the City anticipates awarding the sale of the bonds to the bidder who submits a firm offer to purchase the bonds at the lowest true interest cost, as set forth in this Notice of Sale.

Any bid submitted pursuant to this Notice of Sale shall be considered a firm offer for the purchase of the bonds, as specified in the bid.

In the event that all of the Competitive Sale Requirements are not satisfied, the City shall so advise the winning bidder. The City will not require bidders to comply with the “hold-the-offering price rule” (as described below), and therefore does not intend to use the initial offering price to the public as of the sale date of any maturity of the bonds as the issue price of that maturity, though the winning bidder, in consultation with the City, may elect to apply the “hold-the-offering price rule.” Bids will not be subject to cancellation in the event the Competitive Sale Requirements are not satisfied. Unless a bidder intends to apply the “hold-the-offering price rule” (as described below), bidders should prepare their bids on the assumption that all of the maturities of the bonds will be subject to the 10% Test (as described below). The winning bidder must notify the City of its intention to apply either the “hold-the-offering-price rule” or the 10% Test at or prior to the time the bonds are awarded.

If the winning bidder does not request that the “hold-the-offering price rule” apply to determine the issue price of the bonds, then the following two paragraphs shall apply:

- a. The City shall treat the first price at which 10% of a maturity of the bonds (the “10% Test”) is sold to the public as the issue price of that maturity, applied on a maturity-by-maturity basis. The winning bidder shall advise the City if any maturity of the Bonds satisfies the 10% Test as of the date and time of the award of the bonds; and
- b. Until the 10% Test has been satisfied as to each maturity of the bonds, the winning bidder agrees to promptly report to the City the prices at which the unsold bonds of that maturity have been sold to the public. That reporting obligation shall continue, whether

or not the closing date has occurred, until either (i) all bonds of that maturity have been sold or (ii) the 10% Test has been satisfied as to the bonds of that maturity, provided that, the winning bidder's reporting obligation after the closing date may be at reasonable periodic intervals or otherwise upon request of the City or bond counsel.

If the winning bidder does request that the "hold-the-offering price rule" apply to determine the issue price of the bonds, then following three paragraphs shall apply:

- a. The winning bidder, in consultation with the City, may determine to treat (i) pursuant to the 10% Test, the first price at which 10% of a maturity of the bonds is sold to the public as the issue price of that maturity and/or (ii) the initial offering price to the public as of the sale date of any maturity of the bonds as the issue price of that maturity (the "hold-the-offering price rule"), in each case applied on a maturity-by-maturity basis. The winning bidder shall advise the City if any maturity of the bonds satisfies the 10% Test as of the date and time of the award of the bonds. The winning bidder shall promptly advise the City, at or before the time of award of the bonds, which maturities of the bonds shall be subject to the 10% Test or shall be subject to the hold-the-offering price rule or both.
- b. By submitting a bid, the winning bidder shall (i) confirm that the underwriters have offered or will offer the bonds to the public on or before the date of the award at the offering price or prices (the "initial offering price"), or at the corresponding yield or yields, set forth in the bid submitted by the winning bidder, and (ii) if the hold-the-offering-price rule applies, agree, on behalf of the underwriters participating in the purchase of the bonds, that the underwriters will neither offer nor sell unsold bonds of any maturity to which the hold-the-offering-price rule shall apply to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:
 - a. the close of the fifth (5th) business day after the sale date; or
 - b. the date on which the underwriters have sold at least 10% of that maturity of the bonds to the public at a price that is no higher than the initial offering price to the public;

The winning bidder shall promptly advise the City when the underwriters have sold 10% of that maturity of the bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5th) business day after the sale date.

- c. The City acknowledges that, in making the representation set forth above, the winning bidder will rely on (i) the agreement of each underwriter to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the bonds to the public, the agreement of each dealer who is a member of the selling group

to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an underwriter or dealer who is a member of the selling group is a party to a third-party distribution agreement that was employed in connection with the initial sale of the bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, as set forth in the third-party distribution agreement and the related pricing wires. The City further acknowledges that each underwriter shall be solely liable for its failure to comply with its agreement regarding the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, and that no underwriter shall be liable for the failure of any other underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a third-party distribution agreement to comply with its corresponding agreement to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds.

By submitting a bid, each bidder confirms that:

- a. any agreement among underwriters, any selling group agreement and each third-party distribution agreement (to which the bidder is a party) relating to the initial sale of the bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such third-party distribution agreement, as applicable, (A)(i) to report the prices at which it sells to the public the unsold bonds of each maturity allocated to it, whether or not the closing date has occurred, until either all bonds of that maturity allocated to it have been sold or it is notified by the winning bidder that the 10% Test has been satisfied as to the bonds of that maturity, provided that, the reporting obligation after the closing date may be at reasonable periodic intervals or otherwise upon request of the winning bidder, and (ii) to comply with the hold-the-offering-price rule, if applicable, if and for so long as directed by the winning bidder and as set forth in the related pricing wires, (B) to promptly notify the winning bidder of any sales of bonds that, to its knowledge, are made to a purchaser who is a related party to an underwriter participating in the initial sale of the bonds to the public (each such term being used as defined below), and (C) to acknowledge that, unless otherwise advised by the underwriter, dealer or broker-dealer, the winning bidder shall assume that each order submitted by the underwriter, dealer or broker-dealer is a sale to the public.
- b. any agreement among underwriters or selling group agreement relating to the initial sale of the bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter or dealer that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the bonds to the public to require each broker-dealer that is a party to such third-party distribution

agreement to (i) report the prices at which it sells to the public the unsold bonds of each maturity allocated to it, whether or not the closing date has occurred, until either all bonds of that maturity allocated to it have been sold or it is notified by the winning bidder or such underwriter that the 10% Test has been satisfied as to the bonds of that maturity, provided that, the reporting obligation after the closing date may be at reasonable periodic intervals or otherwise upon request of the winning bidder or such underwriter, and (ii) comply with the hold-the-offering-price rule, if applicable, if and for so long as directed by the winning bidder or the underwriter and as set forth in the related pricing wires.

- c. sales of any bonds to any person that is a related party to an underwriter shall not constitute sales to the public for purposes of this Notice of Sale.

Further, for purposes of this Notice of Sale:

- a. “public” means any person other than an underwriter or a related party;
- b. “underwriter” means (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the bonds to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the bonds to the public);
- c. a purchaser of any of the bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other); and
- d. “sale date” means the date that the bonds are awarded by the City to the winning bidder.

LEGAL OPINION: Bids shall be conditioned upon the approving opinion of Miller, Canfield, Paddock and Stone, P.L.C., attorneys of Detroit, Michigan, a copy of which opinion will be furnished without expense to the purchaser of the bonds at the delivery thereof. The fees of Miller, Canfield, Paddock and Stone, P.L.C. for services rendered in connection with such approving opinion are expected to be paid from bond proceeds. Except to the extent necessary to issue its approving opinion as to validity of the above bonds, Miller, Canfield, Paddock and Stone, P.L.C. has not been requested to examine or review and has not examined or reviewed any

financial documents, statements or materials that have been or may be furnished in connection with the authorization, issuance or marketing of the bonds, and accordingly will not express any opinion with respect to the accuracy or completeness of any such financial documents, statements or materials.

DELIVERY OF BONDS: The City will furnish bonds ready for execution at its expense. Bonds will be delivered without expense to the purchaser through DTC in New York, New York, or such other place to be agreed upon. The usual closing documents, including a certificate that no litigation is pending affecting the issuance of the bonds, will be delivered at the time of delivery of the bonds. If the bonds are not tendered for delivery by twelve o'clock noon, prevailing Eastern Time, on the 45th day following the date of sale, or the first business day thereafter if said 45th day is not a business day, the successful bidder may on that day, or any time thereafter until delivery of the bonds, withdraw its proposal by serving notice of cancellation, in writing, on the undersigned in which event the City shall promptly return the good faith deposit. Payment for the bonds shall be made in Federal Reserve Funds. Accrued interest to the date of delivery of the bonds shall be paid by the purchaser at the time of delivery.

CUSIP NUMBERS: It is anticipated that CUSIP identification numbers will be printed on the bonds, but neither the failure to print such numbers on any bonds nor any error with respect thereto shall constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and pay for the bonds in accordance with terms of the purchase contract. All expenses in relation to the printing of CUSIP numbers on the bonds shall be paid for by the City; provided, however, that the CUSIP Service Bureau charge for the assignment of such numbers shall be the responsibility of and shall be paid for by the purchaser.

OFFICIAL STATEMENT: A preliminary Official Statement that the City deems to be final as of its date, except for the omission of information permitted to be omitted by Rule 15c2-12 of the Securities and Exchange Commission, has been prepared and may be obtained from Bendzinski & Co. Municipal Finance Advisors, financial advisors to the City, at the address and telephone listed under REGISTERED MUNICIPAL ADVISOR below. Bendzinski & Co. Municipal Finance Advisors will provide the winning bidder with 50 final Official Statements within 7 business days from the date of sale to permit the purchaser to comply with Securities and Exchange Commission Rule 15c2-12. Additional copies of the Official Statement will be supplied by Bendzinski & Co. Municipal Finance Advisors upon request and agreement by the purchaser to Bendzinski & Co. Municipal Finance Advisors, within 24 hours of the time of sale.

BOND INSURANCE AT PURCHASER'S OPTION: If the bonds qualify for issuance of any policy of municipal bond insurance or commitment therefor at the option of the bidder/purchaser, the purchase of any such insurance policy or the issuance of any such commitment shall be at the option and expense of the purchaser of the bonds. Any and all increased costs of issuance of the bonds resulting from such purchase of insurance shall be paid by the purchaser, except that if the City has requested and received a rating on the bonds from a rating agency, the City shall pay the fee for the requested rating. Any other rating agency fees shall be the responsibility of the purchaser. **FAILURE OF THE MUNICIPAL BOND INSURER TO ISSUE THE POLICY AFTER THE BONDS HAVE BEEN AWARDED TO THE PURCHASER SHALL NOT CONSTITUTE CAUSE FOR FAILURE OR REFUSAL BY THE PURCHASER TO ACCEPT DELIVERY OF THE BONDS FROM THE CITY.**

CONTINUING DISCLOSURE: As described more fully in the Official Statement, the City has agreed to provide or cause to be provided, in accordance with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission, on or prior to the sixth month after the end of each fiscal year commencing with the fiscal year ended June 30, 2024, (i) certain annual financial information and operating data, including audited financial statements for the preceding fiscal year, generally consistent with the information contained or cross-referenced in the Official Statement relating to the bonds, (ii) timely notice of the occurrence of certain material events with respect to the bonds and (iii) timely notice of a failure by the City to provide the required annual financial information on or before the date specified in (i) above.

BIDDER CERTIFICATION: NOT “IRAN-LINKED BUSINESS” By submitting a bid, the bidder shall be deemed to have certified that it is not an “Iran-Linked Business” as defined in Act 517 Michigan Public Acts of 2012, being MCL 129.311 et. seq.

REGISTERED MUNICIPAL ADVISORS: Bendzinski & Co. Municipal Finance Advisors, Grosse Pointe, MI (the “Municipal Advisor”) is a Registered Municipal Advisor in accordance with the rules of the Municipal Securities Rulemaking Board (“MSRB”). The Municipal Advisor has been retained by the City to provide certain financial advisory services relating to the planning, structuring and issuance of the bonds. The Municipal Advisor is not engaged in the business of underwriting, trading, marketing or the distribution of securities or any other negotiable instruments. The Municipal Advisor’s duties, responsibilities and fees arise solely as a Registered Municipal Advisor to the City and it has no secondary obligation or other responsibility.

FURTHER INFORMATION relating to the bonds may be obtained from Bendzinski & Co. Municipal Finance Advisors, 17000 Kercheval Ave., Suite 230, Grosse Pointe, MI 48230. Telephone (313) 961-8222.

THE RIGHT IS RESERVED TO REJECT ANY OR ALL BIDS.

Alexandria Bingham
City Clerk
City of Birmingham

8. Useful Life of Project. The estimated period of usefulness of the Project is hereby declared to be not less than twenty (20) years.

9. Tax Covenant; “Qualified Tax-Exempt Obligations”. The City shall, to the extent permitted by law, take all actions within its control necessary to maintain the exclusion of the interest on the Bonds from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the “Code”), including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditures and investment of Bond proceeds and moneys deemed to be Bond proceeds. The City hereby designates the Bonds as “qualified tax-exempt obligations” for purposes of deduction of interest expense by financial institutions pursuant to the Code.

10. Official Statement; Qualification for Insurance; Ratings. Each Authorized Officer is hereby authorized and directed to (a) approve the circulation of a preliminary Official Statement describing the Bonds and to deem the preliminary Official Statement “final” for purposes of Rule 15c2-12 of the SEC; (b) solicit bids for and approve the purchase of a municipal bond insurance policy for the Bonds, if deemed economically advantageous to the City; (c) apply for ratings on the Bonds; and, (d) do all other acts and take all other necessary procedures required to effectuate the sale, issuance and delivery of the Bonds.

11. Continuing Disclosure. The City agrees to enter into a continuing disclosure undertaking for the benefit of the holders and beneficial owners of the Bonds in accordance with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission, and each Authorized Officer is hereby authorized to execute such undertaking prior to delivery of the Bonds.

12. Authorization of Other Actions. Each Authorized Officer is hereby authorized to adjust the final bond details set forth herein to the extent necessary or convenient to complete the transaction authorized herein, and in pursuance of the foregoing are authorized to exercise the authority and make the determinations authorized pursuant to Section 315(1)(d) of Act 34, Public Acts of Michigan, 2001, as amended, including but not limited to, determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights, the place of delivery and payment, and other matters within the parameters described in this resolution. Each Authorized Officer is hereby authorized and directed to take all other actions necessary or advisable, and to make such other filings with any parties, including the Michigan Department of Treasury, to enable the sale and delivery of the Bonds as contemplated herein.

13. Award of Sale of Bonds. Each Authorized Officer is hereby authorized on behalf of the City to award the sale of the Bonds to the bidder whose bid meets the requirements of law and which produces the lowest true interest cost to the City computed in accordance with the terms of the Official Notice of Sale as published.

14. Bond Counsel. The City recognizes that Miller, Canfield, Paddock and Stone, P.L.C., has represented from time to time, and currently represents financial institutions and other potential participants in the bond financing process for unrelated projects, any of which might offer to purchase the City’s Bonds. The City appoints Miller, Canfield, Paddock and Stone, P.L.C. as

bond counsel for this issue notwithstanding the potential representation of any such bidder regarding any unrelated manner.

15. Municipal Advisor. Bendzinski & Co. Municipal Finance Advisors is retained as the registered municipal advisor to the City in connection with the issuance of the Bonds.

16. Rescission. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES: Members: _____

NAYS: Members: _____

RESOLUTION DECLARED ADOPTED.

Alexandria Bingham, City Clerk

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Birmingham, County of Oakland, State of Michigan, at a regular meeting held on April 8, 2024, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Alexandria Bingham, City Clerk

41951887.2/008626.00034



\$6,235,000
CITY OF BIRMINGHAM
COUNTY OF OAKLAND, STATE OF MICHIGAN
GENERAL OBLIGATION UNLIMITED TAX BONDS, SERIES 2021

ESTIMATE OF COST

	Series 2024 \$6,235,000
CONSTRUCTION, ENGINEERING, AND CONTINGENCIES	\$ 6,079,810
 COST OF ISSUANCE	
Bond Counsel	\$ 39,970
Registered Municipal Advisor	30,670
Official Statement	750
Rating Fees	17,500
MAC Fee	450
Bond Discount (1.0%)	62,350
Printing and Publishing	2,500
Michigan Treasury Fee (.02% of par \$1,000 max)	1,000
TOTAL COST OF ISSUANCE	\$ 155,190
 TOTAL PROJECT COST	 \$ 6,235,000

17000 Kercheval Ave. Suite 230, Grosse Pointe, Michigan 48230
PHONE: (313) 961-8222

The information contained herein was derived from sources generally recognized as reliable and does not make any representations as to correctness or completeness and has in no way been altered except to the extent that some information may be summarized, and is in no way intended to be a solicitation for orders.

\$10,985,000
CITY OF BIRMINGHAM
COUNTY OF OAKLAND, STATE OF MICHIGAN
UNLIMITED TAX GENERAL OBLIGATION BONDS, SERIES 2021 AND SERIES 2024

SCHEDULE OF DEBT SERVICE AND MILLAGE REQUIREMENTS

Fiscal Year Beginning July 1	2016 EXISTING BONDS					2021 BONDS					2024 BONDS					2021 & 2024	2021 & 2024 BONDS MILLAGE		TOTAL	TOTAL MILLAGE	
	Principal Due October 1	Interest Rate	Interest Due October 1	Interest Due April 1 <i>NEXT</i>	Total Principal & Interest Requirements	Principal Due October 1	Interest Rate	Interest Due October 1	Interest Due April 1 <i>NEXT</i>	Total Principal & Interest Requirements	Principal Due October 1	Interest Rate	Interest Due October 1	Interest Due April 1 <i>NEXT</i>	Total Principal & Interest Requirements	Total Principal & Interest Requirements	Taxable Value in 1,000	July 1 Millage Requirement	Total Principal & Interest Requirements	Taxable Value in 1,000	July 1 Millage Requirement
2019	\$ -	0.000%	\$ -	\$ 114,550	\$ 114,550	\$ -	-	\$ -	-	\$ -	-	\$ -	-	\$ -	\$0	\$2,497,255 ¹	0.0000	\$114,550	\$2,497,255 ¹	0.0459	
2020	2,460,000	2.000%	114,550	89,950	2,664,500	-	-	-	-	-	-	-	-	-	0	2,638,284 ¹	0.0000	2,664,500	2,638,284 ¹	1.0099	
2021	1,310,000	2.000%	89,950	76,850	1,476,800	-	-	37,525	51,561	89,086	-	-	-	-	89,086	2,763,364 ¹	0.0322	1,565,886	2,763,364 ¹	0.5667	
2022	1,270,000	2.000%	76,850	64,150	1,411,000	-	-	51,561	51,561	103,123	-	-	-	-	103,123	2,961,383 ¹	0.0348	1,514,123	2,961,383 ¹	0.5113	
2023	1,450,000	5.000%	64,150	27,900	1,542,050	-	-	51,561	51,561	103,123	-	-	-	-	103,123	3,193,178 ¹	0.0323	1,645,173	3,193,178 ¹	0.5152	
2024	280,000	4.000%	27,900	22,300	330,200	150,000	3.000%	51,561	49,311	250,873	-	-	50,460	96,625	397,958	3,257,041	0.1222	728,158	3,257,041	0.2236	
2025	280,000	4.000%	22,300	16,700	319,000	150,000	3.000%	49,311	47,061	246,373	-	-	96,625	96,625	439,623	3,322,182	0.1323	758,623	3,322,182	0.2284	
2026	280,000	4.000%	16,700	11,100	307,800	150,000	3.000%	47,061	44,811	241,873	65,000	2.910%	96,625	95,680	499,177	3,388,626	0.1473	806,977	3,388,626	0.2381	
2027	280,000	4.000%	11,100	5,500	296,600	175,000	3.000%	44,811	42,186	261,998	80,000	2.750%	95,680	94,580	532,257	3,456,398	0.1540	828,857	3,456,398	0.2398	
2028	275,000	4.000%	5,500	-	280,500	175,000	3.000%	42,186	39,561	256,748	100,000	2.700%	94,580	93,230	287,809	3,525,526	0.1545	825,057	3,525,526	0.2340	
2029	-	0.000%	-	-	-	200,000	3.000%	39,561	36,561	276,123	385,000	2.700%	93,230	88,032	566,262	3,596,037	0.2343	842,384	3,596,037	0.2343	
2030	-	0.000%	-	-	-	245,000	3.000%	36,561	32,886	314,448	395,000	2.700%	88,032	82,700	565,732	3,667,957	0.2400	880,179	3,667,957	0.2400	
2031	-	0.000%	-	-	-	250,000	2.000%	32,886	30,386	313,273	410,000	2.700%	82,700	77,165	569,864	3,741,316	0.2360	883,137	3,741,316	0.2360	
2032	-	0.000%	-	-	-	260,000	1.550%	30,386	28,371	318,758	415,000	2.710%	77,165	71,541	563,706	3,816,143	0.2312	882,463	3,816,143	0.2312	
2033	-	0.000%	-	-	-	265,000	1.550%	28,371	26,318	319,689	430,000	2.710%	71,541	65,715	567,256	3,892,466	0.2279	886,945	3,892,466	0.2279	
2034	-	0.000%	-	-	-	270,000	1.550%	26,318	24,225	320,543	445,000	2.720%	65,715	59,663	570,378	3,970,315	0.2244	890,920	3,970,315	0.2244	
2035	-	0.000%	-	-	-	300,000	1.750%	24,225	21,600	345,825	455,000	2.820%	59,663	53,247	567,910	4,049,721	0.2256	913,735	4,049,721	0.2256	
2036	-	0.000%	-	-	-	330,000	2.000%	21,600	18,300	369,900	470,000	2.920%	53,247	46,385	569,633	4,130,716	0.2275	939,533	4,130,716	0.2275	
2037	-	0.000%	-	-	-	340,000	2.000%	18,300	14,900	373,200	480,000	3.030%	46,385	39,113	565,499	4,213,330	0.2228	938,699	4,213,330	0.2228	
2038	-	0.000%	-	-	-	360,000	2.000%	14,900	11,300	386,200	495,000	3.500%	39,113	30,451	564,564	4,297,597	0.2212	950,764	4,297,597	0.2212	
2039	-	0.000%	-	-	-	365,000	2.000%	11,300	7,650	383,950	520,000	3.650%	30,451	20,961	571,412	4,383,549	0.2179	955,362	4,383,549	0.2179	
2040	-	0.000%	-	-	-	375,000	2.000%	7,650	3,900	386,550	535,000	3.790%	20,961	10,823	566,783	4,471,220	0.2132	953,333	4,471,220	0.2132	
2041	-	0.000%	-	-	-	390,000	2.000%	3,900	-	393,900	555,000	3.900%	10,823	-	565,823	4,560,644	0.2104	959,723	4,560,644	0.2104	
	\$ 7,885,000		\$ 429,000	\$ 429,000	\$ 8,743,000	\$ 4,750,000		\$ 671,538	\$ 634,013	\$ 6,055,550	\$ 6,235,000		\$ 1,172,993	\$ 1,122,534	\$ 8,530,527	\$ 14,586,077		\$ 23,329,077	\$ 23,329,077	0.3045	

* Average
¹ Actual taxable value

2016 Existing Bonds:	
Bonds Dated:	10/01/2019
First Interest Payment:	04/01/2020
Number of Days:	180 *
Subsequent Interest Payment:	10/01/2020
Number of Days:	180
First Principal Payment:	10/01/2020

2021 Bond Assumptions:	
Bonds Dated:	05/20/2021
First Interest Payment:	10/01/2021
Number of Days:	131 *
Subsequent Interest Payment:	04/01/2022
Number of Days:	180
First Principal Payment:	10/01/2024
True Interest Cost:	1.63%
2020 Taxable Value (in 1,000s):	\$2,638,284,320
Growth Rate in Taxable Value:	2.00%

2024 Bond Assumptions:	
Bonds Dated:	06/27/2024
First Interest Payment:	10/01/2024
Number of Days:	94 *
Subsequent Interest Payment:	04/01/2025
Number of Days:	180
First Principal Payment:	10/01/2026
Projected True Interest Cost:	3.22%
2023 Taxable Value (in 1,000s):	\$3,193,177,600
Growth Rate in Taxable Value:	2.00%

17000 Kercheval Ave, Suite 230, Grosse Pointe, Michigan, 48230
PHONE: (313) 961-8222

The information contained herein was derived from sources generally recognized as reliable and does not make any representations as to correctness or completeness and has in no way been altered except to the extent that some information may be summarized, and is in no way intended to be a solicitation for orders.



MEMORANDUM

City Manager's Office

DATE: April 4, 2024
TO: City Commission
FROM: Jana L. Ecker, City Manager
SUBJECT: Ad Hoc Senior/Recreation Center Committee Progress

INTRODUCTION:

The City of Birmingham, like the rest of the country, is watching its population age. By 2040, approximately one in five Americans will be age 65 or older, up from approximately one in eight in 2000.

BACKGROUND:

The City Commission adopted strategic goals in November of 2022, which included supporting an engaged and connected community by offering City services and amenities that enrich the lives of residents of all ages as a main goal. This strategic goal includes a recommendation to "create a task force to facilitate an aging in place plan, develop a plan for a permanent senior/community center to house NEXT senior services and to offer space for multigenerational programs, engage with youth in the community with a teen board or committee".

Based on the goals identified in the Strategic Plan, the City Commission purchased the current YMCA building and property at 400 E. Lincoln in July 2023. The property was proposed for future use as a senior/recreation center, including the future home of Birmingham NEXT. Additionally, recreational services may be provided by the YMCA or other community based organizations, community meeting space may be provided and/or the Birmingham Parks and Recreation Division offices may be relocated to the site, or similar uses.

The City Commission created the new Ad Hoc Senior/Recreation Center Committee (SCC) to provide oversight and input on the planning and development of a senior/recreation center at 400 E. Lincoln, and to provide recommendations throughout the process to the City Commission. The scope of work of the SCC included the following:

- Crafting the project vision, goals and objectives
- Preparing the project process outline and estimated timeline
- Reviewing final needs analysis report
- Evaluating concept plan options and recommending the preferred option
- Outlining the parameters and applicable regulations for site plan and design review
- Conducting final site plan and design review

- Reviewing potential funding options
- Recommending the use of consultants for design and/or build services
- Drafting RFPs for final design, construction plan preparation and/or construction

The SCC held their first meeting on March 20, 2024, which included the establishment of a regular meeting schedule, an overview of the committee's scope of work, the introduction of NORR architects and review and approval of a Community Survey. The SCC also began preliminary discussions on developing a vision statement, goals, objectives and a project timeline. The Community Survey was live on Engage Birmingham on March 22, 2024, and remains open through April 26, 2024. Hard copies of the Community Survey were also placed at Next, the YMCA, the Baldwin Library, City Hall, DPS, the ice arena and at the Baldwin House.

On March 27, 2024, the SCC finalized a vision statement, goals and objectives for the planning and development of a senior/recreation center at 400 E. Lincoln, and recommended approval to the City Commission.

On April 3, 2024, the SCC finalized a project timeline for the development of a senior/recreation center at 400 E. Lincoln, and recommended approval of the timeline to the City Commission.

LEGAL REVIEW:

The City Attorney has reviewed the resolution and has no concerns or objections.

FISCAL IMPACT:

There are no fiscal impacts associated with this agenda item at this time.

PUBLIC COMMUNICATIONS:

There are no public communications required for this agenda item. The vision statement, goals and objectives, as well as the project timeline were discussed at the SCC meetings on March 27, 2024 and April 3, 2024, and the public was invited to provide comments.

SUMMARY:

The City Commission is asked to adopt a resolution to approve the vision statement, goals and objectives, and the project timeline for the Senior/Recreation Center as recommended by the Ad Hoc Senior/Recreation Center Committee for the planning and development of a senior/recreation center at 400 E. Lincoln.

ATTACHMENTS:

- Vision Statement, Goals and Objectives
- Senior/Recreation Center Project Timeline
- Community Survey (live on Engage Birmingham March 22, 2024 through April 26, 2024)

SUGGESTED COMMISSION ACTION:

Make a motion adopting a resolution to approve the vision statement, goals and objectives, and the project timeline for the senior/recreation center as recommended by the Ad Hoc Senior/Recreation Center Committee for the planning and development of a senior/recreation center at 400 E. Lincoln.



Senior / Recreation Center Project

Vision Statement:

Create a welcoming and dynamic hub where all the members of the community can gather in an environment that promotes socialization, physical activity and lifelong learning that enhance both personal and community wellness.

Goals:

1. Develop a plan for an open, welcoming, adaptable active senior/community facility with flexibility for current and future uses.
2. Integrate the design and use of the senior/community center with St. James Park.
3. Ensure safe and accessible design of the building(s) and site for users of all ages and abilities.
4. Incorporate sustainable concepts, design and materials, when practical, to reduce environmental impact.
5. Complete design and construction of a new or renovated facility and site on time and within the established budget.

Objectives:

1. Create a permanent home for Next.
2. Support Next in providing a wide range of programs and services.
3. Provide community gathering spaces (indoors and outdoors).
4. Provide a facility that promotes the provision of health, fitness, and recreation programming for the community.
5. Design a facility that encourages social interaction and emotional enrichment for the community.
6. Design a facility that promotes multigenerational programming opportunities and lifelong learning.

Relevant City Strategic Goal:

- Offer City services and amenities that enrich the lives of residents of all ages
 - Recommended Actions: Create a task force to facilitate an aging in place plan, develop a plan for a permanent senior/community center to house Next senior services and to offer space for multigenerational programs, engage with youth in the community with a teen board or committee

Proposed Timeline

Phase 1: Needs Assessment	
2/12 - CC	<ul style="list-style-type: none"> Hired Consultants for Needs Assessment & Concept Plans
3/4 - CC	<ul style="list-style-type: none"> Creation of Ad Hoc Senior/Recreation Center Committee
3/18 - CC	<ul style="list-style-type: none"> Appointments to Ad Hoc Senior/Recreation Center Committee
3/20 - SCC	<ul style="list-style-type: none"> Select Chair and Vice-Chair Establish future meeting schedule Review purpose of Ad Hoc Committee Discuss duties of Ad Hoc Committee Review draft Community Survey Begin crafting vision, goals & objectives of project Prepare draft project process and timeline
3/22 - Survey	<ul style="list-style-type: none"> Go live with Community Survey (through 4/26)
3/27 - SCC	<ul style="list-style-type: none"> Finalize vision, goals and objectives of project Finalize project process and timeline
4/3 - SCC	<ul style="list-style-type: none"> Finalize project process and timeline Discuss use and timing of owner's representative
4/8 - CC	<ul style="list-style-type: none"> Appointment of City Commissioner to Ad Hoc Senior/Recreation Center Committee Present vision, goals and objectives to City Commission for approval Present project process and timeline to City Commission for approval
4/10 - SCC	<ul style="list-style-type: none"> YMCA facility tour (meeting to be held on site at 400 E. Lincoln)
4/17 - SCC	<ul style="list-style-type: none"> Review findings of Programming Study Review and finalize RFP for owner's representative
4/18 - Post RFP for OR	<ul style="list-style-type: none"> Post RFP on MITN for owner's representative (due 5/10)
4/24 - SCC	<ul style="list-style-type: none"> Finalize RFQ for architects to qualify for final design and construction plan preparation
4/25 - Post RFQ for Architects	<ul style="list-style-type: none"> Post RFQ on MITN for architects to qualify for final design and construction plan preparation (due 5/16)
4/26 - Report	<ul style="list-style-type: none"> Delivery of Needs Assessment Report
4/29 - Open House	<ul style="list-style-type: none"> Conduct community open house at YMCA (6-8pm) Present findings of Community Survey
5/1 - SCC	<ul style="list-style-type: none"> Review Community Survey & open house public input
5/8 - SCC	<ul style="list-style-type: none"> Final review and recommendation of Needs Assessment Report to City Commission
5/10 - OR Responses	<ul style="list-style-type: none"> Responses due from RFP for owner's representative
5/15 - SCC	<ul style="list-style-type: none"> Review and evaluate proposals for owner's representative Recommend preferred owner's representative to City Commission
5/16 - RFQ Responses	<ul style="list-style-type: none"> Responses due from RFQ for architects
5/20 - CC	<ul style="list-style-type: none"> Needs Assessment Report presented to City Commission for approval City Commission selects owner's representative

Proposed Timeline

Phase 2: Concept Plans	
5/22 - SCC	<ul style="list-style-type: none"> • Owner's representative attends first ad hoc meeting • Review responses from RFQ for architects
5/29 - SCC	<ul style="list-style-type: none"> • Review draft RFP for final design and construction plan preparation
6/11 – Report (90%)	<ul style="list-style-type: none"> • Delivery of Draft Report (90% complete)
6/12 - SCC	<ul style="list-style-type: none"> • Finalize RFP for final design and construction plan preparation • Discuss potential funding options
6/19 - SCC	<ul style="list-style-type: none"> • Review Draft Report
6/21 – Concept Plans & Final Report	<ul style="list-style-type: none"> • Delivery of concept plan options • Delivery of Final Report
6/26 - SCC	<ul style="list-style-type: none"> • Evaluate concept plan options • Review Final Report
7/10 - SCC	<ul style="list-style-type: none"> • Recommend preferred concept plan & Final Report to City Commission
7/22 - CC	<ul style="list-style-type: none"> • Preferred concept plan & Final Report presented to City Commission for approval • Discuss potential funding options

Phase 3: Final Site Plan & Design Review, Preparation of Construction Plans	
7/23 – Post RFP	<ul style="list-style-type: none"> • Post RFP for final design and construction plan preparation (due 8/22)
7/24 - SCC	<ul style="list-style-type: none"> • Available if needed
7/31 - SCC	<ul style="list-style-type: none"> • Discuss parameters and applicable regulations for site plan and design review
8/22 – RFP Proposals	<ul style="list-style-type: none"> • Final design and construction plan proposals due
8/28 - SCC	<ul style="list-style-type: none"> • Review and evaluate architectural proposals received
9/4 - SCC	<ul style="list-style-type: none"> • Interview architectural consultants • Recommend architectural consultants to City Commission
9/16 – CC	<ul style="list-style-type: none"> • Recommend and/or interview architectural consultants at City Commission • Award consultant contract
9/18 - SCC	<ul style="list-style-type: none"> • Begin design discussions with architectural consultants
9/25 - SCC	<ul style="list-style-type: none"> • Review draft RFP / bid for project construction
10/2 - SCC	<ul style="list-style-type: none"> • Begin site plan and design review
10/9 – SCC	<ul style="list-style-type: none"> • Continue site plan and design review
10/16 - SCC	<ul style="list-style-type: none"> • Continue site plan and design review
10/23 – SCC	<ul style="list-style-type: none"> • Continue site plan and design review • Recommend final site plan and design to City Commission
10/28 - CC	<ul style="list-style-type: none"> • Final site plan and design for 400 E. Lincoln presented to City Commission for approval
10/30 - SCC	<ul style="list-style-type: none"> • Finalize RFP / bid for project construction
11/18 - CC	<ul style="list-style-type: none"> • Second meeting if needed for final site plan and design approval

Proposed Timeline

Phase 4: Construction & Construction Management

11/11 – 12/2 Post RFP/Bid	<ul style="list-style-type: none">• Post RFP or bid for construction with approved site plan and design plans (due in 30-45 days)
1/27/25 - CC	<ul style="list-style-type: none">• Award construction contract



MEMORANDUM

Parking

DATE: March 27, 2024

TO: Jana L. Ecker, City Manager

FROM: Aaron Ford, Parking Manager
Mark H. Clemence, Assistant City Manager

SUBJECT: APC Letter of Concerns

INTRODUCTION:

At the February 7, 2024 Advisory Parking Committee (APC) meeting, the APC unanimously voted to send a letter to the City Commission outlining their concerns over whether or not the APC is still of value to the City and the Commission in terms of providing assistance to the City Commission on the management of the City's parking system. This letter was presented to the City Commission under communications at the March 4, 2024 City Commission meeting. The City Commission responded by asking for the item to be made part of a future City Commission agenda.

BACKGROUND:

The APC was created in August of 1984 by the City Commission by resolution. The "purpose" of the APC was to "provide guidance to the Birmingham City Commission in the management of the Birmingham Auto Parking System 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."

The powers and duties of the APC were to make recommendations regarding:

1. The proper rate relationship between the charges for street meters, parking lot fees (short 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 the 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 help to improve the system operation as a whole.

Other key parts of the original resolution creating the APC were:

1. The City Engineer shall serve as the coordinating link between the Committee and the various City departments.
2. The Committee will consist of seven (7) members (two (2) retail, one (1) professional firm, one (1) building owner, one (1) downtown employee and two (2) members who do not qualify under any of the above categories).
3. The Committee will hold one (1) regular public meeting per quarter.
4. 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.
5. The Committee shall have the power to expend such funds as may be from time to time appropriated to it by the City Commission for the purposes of carrying out the powers and duties of the Committee.
6. 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 no later than the first day of February of each year.

Since its inception, there have been several modifications to the APC, basically consisting of membership changes in the number of members and the make-up or composition of the APC. The APC started out with seven members, went up to nine members, then eleven members and now is currently at nine members as approved by this Commission in 2023.

The other significant change to the APC occurred in October of 2019, when the City Commission approved by resolution the removal of the City Engineer as the staff liaison to the APC and replaced the City Engineer with the City Manager or the City Manager's designee.

Over the years, the City's Automobile Parking System (APS) was overseen by the City's Engineering Dept. with assistance from the Police Department and the Department of Public Services. The day to day operations of the parking structures (including all permit parking) was contracted by the City to a third party vendor. The same vendor, National Garages, and later SP+, handled these responsibilities until January of 2024. The City's Department of Public Services assisted with grounds maintenance and snow removal. All on-street parking was the responsibility of the Police Department. Thus, oversight of the APS was fragmented between three City departments and a third party, private sector, vendor.

In November of 2019, Assistant City Manager Tiffany Gunter replaced retiring City Engineer Paul O'Meara as the City's parking staff liaison. In September of 2020, Ms. Gunter left employment of the City and the parking responsibilities were turned over to the Police Department. Then Police

Commander Scott Grewe, now Chief Scott Grewe, became the City's parking liaison. Chief Grewe and other police and City staff took an extensive examination of the City's parking operation, including looking at the City's parking vendor, SP+, current parking trends, billing practices, operational practices, maintenance practices and financial considerations. The APS brings in approximately eight million dollars (\$8,000,000.00) in revenue and spends approximately four million dollars (\$4,000,000.00) in expenses, not including capital costs. Together with City Manager Markus, the decision was made to create a new "parking manager" position that would be a full time position devoted to supervising the City's entire parking operation and be the City's permanent liaison to the APC, SP+ and other City departments. It was decided that the new parking manager would first start with oversight of the five parking structures and then move onto supervising the on-street parking operation sometime in the future (not including parking enforcement).

In October of 2021, the City hired its first parking manager, Ryan Weingartz. Mr. Weingartz left employment of the City in June of 2022. The parking manager position was then filled by current Parking Manager Aaron Ford at the end of June of 2022.

As is evident from the above information, the oversight and management of the City's Automated Parking System had been divided and shared for most of its history. It was only recently (2020-2023) that the City Manager, City Staff and the City Commission, citing concerns with parking operations, maintenance, equipment and finances decided that the best way to address all of these issues was to take the parking operation in-house under the supervision of the City's parking manager. The topic was discussed at the City's Long Range Planning Meeting in both 2022 and 2023. In both the 2022-2023 and 2023-2024 City budgets, the City Commission approved funding to bring the City's parking operations in-house.

City staff feel very strongly that citizen participation in the governing process via committees and boards is essential to good government and the APC is no exception. The APC stated in their letter that they are "charged with providing guidance to the City Commission on the management of the City's parking system." This scope appears to go well beyond the parameters set forth in 1984. As indicated earlier, the scope of their purpose was to provide guidance to the Birmingham City Commission in the management of the Birmingham Auto Parking System that will:

1. Recognize parking requirements of the various interests in the Central Business District (CBD).
2. Assess the costs of the parking system to users of the facility.
3. Create the least possible traffic impact on the CBD and the immediately abutting residential areas.
4. Provide for attractive, well maintained, safe facilities.
5. Include plans for an orderly and responsive answer to future parking needs.

A further examination of the nine powers and duties of the APC enumerated earlier also further determined the scope of what the APC was designed to address. How the City determines to operate and manage the parking system itself is under the purview of the City Commission. If the City Commission wanted the APC to weigh in on how the parking system is set-up or operated, it would have specifically addressed this issue in their purpose and/or enumerated this information in their powers and duties. City staff and the City Commission openly discussed, in public, the moving of the parking management system in-house and moving on from a third party vendor.

The APC letter further stated, "There have been several other cases where the City staff nor the City Commission has sought nor the Commission required input from the APC before making changes to the parking system." Again, this interpretation appears to indicate that any proposed change to the parking system should come before the APC. As previously addressed, this interpretation appears to go well beyond the scope of the purpose and/or power and duties of the APC as designated by the City Commission.

In the letter, the APC further stated, "In another instance, the APC was formerly consulted on the addition of outdoor dining decks which would be built on top of (and therefore remove) street parking spaces. Previously, proposals for these decks were presented to the APC for review and recommendation. However, we recently learned that because the Commission votes were not typically following the APC recommendations, staff simply stopped presenting these proposals to the APC." Please refer to the attached City staff report completed by Planning Director Nick Dupuis dated February 28, 2024 in response to this item.

Finally, the APC letter stated, "Having no formal authority ourselves, we are dependent on you, the Commission, for support. The most concrete way you can support us is by simply requiring an APC vote on parking related-related issues before the Commission is willing to vote on them." The APC fully understands that they are an advisory committee and that the City Commission is the public body that holds the final decision on all City related matters. It again appears that the APC wants all parking related issues that are going to go before the City Commission for consideration to first be required to go through the APC. This is not their mandate and this is not their purpose. If the City Commission feels that all parking related matters must first be considered by the APC prior to coming before the City Commission, then the purpose and powers and duties of the APC need to be updated to accurately and effectively address current parking system operations, technology and finances. Obviously, many things have changed since 1984 as it relates to parking and parking operations and technology. City staff is not opposed to examining the purpose, powers and duties of the APC with the APC to clarify and refine their roles for consideration by the City Commission if the City Commission so desires.

With the addition of a full time parking manager who oversees the day to day operation of the City's APS, the City now has an immediate, on-site resource to improve the overall parking operation and hopefully improve the parking experience for everyone who uses the APS. It is our hope that with greater understanding of the new role of the parking manager, the APC will work with the parking manager to ensure that they receive all of the information they need to fulfill their responsibilities, including, but not limited to:

1. Better financial reporting with the addition of an Open Gov dashboard on the City's website for all to view.
2. At least two "in person" appearances at APC meetings by someone from the City's Finance Department to present financial numbers and receive questions.
3. Provide, upon request, expert analysis or explanation from City staff or City vendors on capital projects/expenses.
4. Open and clear communication between the parking manager and the APC.
5. Providing recommendations on parking related matters pertinent to their purpose, powers and duties as needed.

LEGAL REVIEW:

No legal review required.

FISCAL IMPACT:

The APC, as part of its purpose and in its duties and powers, does have responsibilities that involve fiscal issues. These responsibilities are unchanged. The parking manager will be responsible, as the City staff liaison to the APC, to provide the APC with financial information that allows them to fulfill their responsibilities in a timely fashion.

SUSTAINABILITY:

No impact on sustainability.

PUBLIC COMMUNICATIONS:

The letter issued by the APC was discussed in a public forum at the APC meeting on February 7, 2024 and approved by a vote of the APC to be sent to the City Commission. The City Commission received the APC letter as a communication at the March 4, 2024 City Commission meeting. In both instances, the letter was published for the public.

SUMMARY:

On February 7, 2024, the APC unanimously voted to send a letter to the City Commission voicing their concern as to how the APC was being used, or not being used, on matters related to parking in the City. The letter was received by the City Commission at their March 4, 2024 City Commission meeting. The City Commission requested that the letter and a response from City staff be included as a new business item in a future City Commission meeting.

The APC was created in 1984 by City resolution. In the resolution, the City Commission provided the APC with their purpose and their powers and duties. The current APC feels that "important decisions about the parking system have been made with either limited input from the APC, or sometimes without any input whatsoever." The current APC also stated in the letter, "The most concrete way you can support us is by simply requiring an APC vote on parking-related issues before the Commission is willing to vote on them."

City staff is in full support of all boards and commissions. Public participation and input is crucial to the success of government. However, City staff believes that the scope of what the APC wants to be consulted on, which is all parking related matters, far exceeds its scope as outlined in their purpose, powers and duties in the resolution that created the APC in 1984.

When created in 1984, the City Commission made the City Engineer the staff liaison to the APC and other City departments. Oversight of the APS was fragmented between three City departments and a third party, private sector, vendor that managed the day to day operations of the parking structures, including all billing (1984 to 2019). This was a less than ideal format for managing the APS effectively. In addition, there were several leadership changes on the City staff side concerning the staff liaison position from 2019 to 2022. It was only recently (2020-2023) that City staff, the City Manager and the City Commission, citing concerns with parking operations, maintenance, equipment and finances decided that the best way to address all of these issues was to take the parking operation in-house under the supervision of a designated parking manager. The topic was discussed at the City's Long Range Planning Meeting in both 2022 and 2023. In both the 2022-2023 and 2023-2024 City budgets, the City Commission approved funding to bring the City's parking operations in-house to be managed by the City's parking manager.

If the City Commission feels that all parking related matters must first be considered by the APC prior to coming before the City Commission, then the purpose, powers and duties of the APC need to be updated to accurately and effectively address current parking system operations, technology and finances. Obviously, many things have changed since 1984 as it relates to parking and parking operations and technology. City staff is not opposed to examining the purpose, powers and duties of the APC with the APC to clarify and refine their roles for consideration by the City Commission if the City Commission requests that review.

It is our hope that with greater understanding of the new role of the parking manager, the APC will work with the parking manager to ensure that they receive all of the information they need to fulfill their responsibilities, including, but not limited to:

1. Better financial reporting with the addition of an Open Gov dashboard on the City's website for all to view.
2. At least two in person appearances at APC meetings by someone from the City's Finance Department to present financial numbers and receive questions.
3. Provide, upon request, expert analysis or explanation from City staff or City vendors on capital projects/expenses.
4. Open and clear communication between the parking manager and the APC.
5. Providing recommendations on parking related matters pertinent to their purpose, power and duties as needed.

ATTACHMENTS:

1. APC Letter to the City Commission
2. Resolution 08-882-84 creating the Advisory Parking Committee
3. Staff report from Planning Director Dupuis regarding dining decks and the APC

SUGGESTED COMMISSION ACTION:

None.

To the Birmingham City Commission,

We at the Advisory Parking Committee are charged with providing guidance to the City Commission on the management of the City's parking system. Recently, however, a number of important decisions about the parking system have been made with either limited input from the APC, or sometimes without any input whatsoever. The most recent of these was the decision to replace our parking management contractor, SP+, with a large new team of city staff. Setting aside whether this was the right decision for the City, it is most certainly a decision which fundamentally affects the Parking System both operationally and financially. The APC, however, was not even informed that such a change was being considered until after all decisions had been made.

There have been several other cases where neither City staff nor the Commission has sought nor the Commission required input from the APC before making changes to the parking system. A similar situation occurred with the Parking Equipment in the structures. Originally, staff had only brought to the APC their recommended vendor for parking equipment, a company called Flash. We were not shown the equipment in operation and were only given promotional materials for Flash, not for any of the other companies that responded to the RFP. We were essentially asked to rubber-stamp staff's recommendation having never seen or touched the equipment that was going to be installed and having virtually no information about the competing bids. Eventually, after being provided with presentations from both Flash and Tiba, staff's second-pick, we voted to recommend Flash. However, it was determined later that Flash did not properly respond to the RFP, so they were disqualified. Instead of returning to the APC for further input, staff simply presented Tiba to the Commission for approval, and received it.

In another instance, the APC was formerly consulted on the addition of outdoor dining decks which would be built on top of (and therefore remove) street parking spaces. Previously, proposals for these decks were presented to the APC for review and recommendation. However, we recently learned that because the Commission votes were not typically following the APC recommendations, staff simply stopped presenting these proposals to the APC.

At this point we would like to note that the Advisory Parking Committee is just that - advisory. We don't have any formal power and fully accept that. We do not expect the Commission to follow our recommendations all or even most of the time, but we believe that our input can be valuable to the Commission regardless of your final decision. As of late, however, our input has often been sought only in a token way, or sometimes not at all. This is typically done in the name of expediency or efficiency. We have all volunteered our time in hopes that we can do our part to improve this City, and it is painful and frustrating to be treated as an obstacle to be overcome or evaded rather than a valuable source of input.

Having no formal authority ourselves, we are dependent on you, the Commission, for support. The most concrete way you can support us is by simply requiring an APC vote on parking-related issues before the Commission is willing to vote on them. We are not requesting that you vote in accordance with our recommendations - only that we be given an opportunity to weigh in on matters pertinent to the parking system. Another element of support we need is periodic reporting, at least annual, from someone in the City's finance department. Financial management of the parking system is one of our most critical duties, but we are provided with

no regular, comprehensive information about the revenues and expenses of the system, much less projections of capital expenses.

We endeavor to use our different perspectives and expertise to improve this City by helping to manage some of its most valuable assets. We also wish to be a point of contact for the public, who bring their concerns about parking to us for consideration and action. We know that as Commissioners you are motivated by the same desire to be of service to this community. With your support, we know that we can be a resource you can rely on for insight and advice concerning parking in Birmingham. Thank you for your time and consideration.

- The Advisory Parking Committee

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 assessment 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. 09-1028-84 - September 17, 1984

Referred to the Traffic and Safety Board for review of meters in the following locations to determine if they are still appropriate in view of the change in the entrance to the Baldwin Library: twelve 30-minute meters on Martin between Bates and Chester; five 15-minute meters on Bates between Maple and Martin; three 15-minute meters on Bates near the former entrance on Martin Street to the library.

8:07

08-881-84: CITY COMMISSIONER REPORTS

Commissioner Miller reported that the Otsu Children's Choir will sing at the Community House at 2:00 P.M., Saturday, August 11, 1984. She also commented that AAA will provide transportation for the children to Bob-Lo.

Mayor Appleford reported that he attended a reception in Ann Arbor last week for the Governor of Shiga Province.

8.08

08-882-84: ADVISORY PARKING COMMITTEE ESTABLISHED

MOTION: Motion by Miller, supported by Hockman:

To receive the report of the City Manager re: Advisory Parking Committee; to establish an Advisory Parking Committee as follows:

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 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 seven (7) members, each to be appointed for a term of three (3) years, but in the first instance, two (2) members shall be appointed for terms expiring on the first Monday in September, 1985, two (2) 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 there shall be one member representing each of the following:

- I. Downtown Commercial Representatives -
 - A. Retail - Two (2) members
 - B. Professional Firm - One (1) member
 - C. Building 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.

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.

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 help to improve the system operation as a whole.

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.

VOTE: Yeas, 6 Nays, None Absent, Sights

MOTION: Motion by Kain, supported by Jeske:
That the Ad Hoc Parking Committee be dissolved.

VOTE: Yeas, 6 Nays, None Absent, Sights

Resumes for membership on the Committee are to be submitted by August 27, 1984, and Commissioners are to submit names to the Mayor by the first meeting in September. They are also to advise the Mayor if they have a particular area in which they are interested.

MOTION: Motion by Hockman, supported by Miller:
That resumes for appointment to the Advisory Parking Committee be submitted by August 27, 1984, for consideration by the City Commission at its September 4 meeting.

VOTE: Yeas, 6 Nays, None Absent, Sights

8:50

08-883-84: BORDERLINE TREES

MOTION: Motion by Jeske, supported by Jensen:
To receive the report of the City Engineer and the City Manager re: Borderline Trees; to direct the Administration to draft an ordinance whereby sidewalks damaged by trees which are entirely or partly in the public right-of-way will be City responsibility.

MOTION: Motion by Kain, supported by Hockman:
To amend the previous Motion by directing that the proposed ordinance state that the cost of sidewalk replacement resulting from damage caused by borderline trees be borne equally by the City and the property owner.

VOTE ON AMENDMENT: Yeas 3 (Hockman, Kain, Miller)
Nays, 3
Absent, Sights

AMENDING MOTION FAILED

VOTE ON MAIN MOTION: Yeas, 3 (Appleford, Jensen, Jeske)
Nays, 3
Absent, Sights

MOTION FAILED

9:28

09-987-84: ORDINANCE AMENDMENT - B-4 PARKING
REQUIREMENTS

MOTION: Motion by Jeske, supported by Sights:
To receive the report of the City Planner and the City
Manager re: Amendment to B-4 Parking Requirements; to
refer to the Planning Board for public hearing and
recommendation to the City Commission.

VOTE: Yeas, 7 Nays, None

9:29

09-988-84: INVOICE RE: BUTZEL, LONG, GUST,
KLEIN AND VAN ZILE

Report received from the Director of Finance and the City
Manager re: Invoice from Butzel, Long, Gust, Klein and
Van Zile.

9:30

09-989-84: ADVISORY PARKING COMMITTEE APPOINTMENTS

MOTION: Motion by Hockman, supported by Sights:
To receive the report of the City Clerk re: Appointments
to Advisory Parking Committee; to direct that street
parking meters be included in the charge to the Advisory
Parking Committee.

MOTION: Motion by Kain, supported by Jensen:
To amend the previous Motion to include only those street
parking meters in the Parking Assessment District.

VOTE ON AMENDMENT: Yeas, 3 (Jensen, Kain, Sights)
Nays, 4

MOTION FAILED

VOTE ON MAIN MOTION: Yeas, 7 Nays, None

MOTION: Motion by Jeske:
To appoint Dante Lanzetta as a Resident Member to the
Advisory Parking Committee.

MOTION: Motion by Kain:
To appoint Anne Honhart to a one-year term as Resident
Member of the Advisory Parking Committee.

MOTION: Motion by Jensen:
To appoint Keith Ege as the Small Retail Member of the
Advisory Parking Committee.

MOTION: Motion by Appleford:
To appoint Katharine Beebe as the Professional Member of
the Advisory Parking Committee.

MOTION: Motion by Miller:
To appoint Samuel Walker to a one-year term as the Building
Owner Member of the Advisory Parking Committee.

MOTION: Motion by Hockman:
To appoint Katharine Thibodeau as the Downtown Employee
Representative Member of the Advisory Parking Committee.

MOTION: Motion by Sights:
To appoint James Peabody as the Large Retail Member of the
Advisory Parking Committee.

Discussion was held on whether or not Mr. Peabody met the qualifications for the Large Retail Member and Mr. Walker for the Building Owner Member.

MOTION: Motion by Kain, supported by Sights:
That the Commission recess for five minutes.

VOTE: Yeas, 7 Nays, None

10:05 P.M. - Meeting recessed.

10:22 P.M. - Meeting reconvened.

MOTION: Motion by Jeske, supported by Miller:
That the Advisory Parking Committee be expanded to nine members to include a Restaurant Owner Member and a Resident Shopper Member.

MOTION: Motion by Kain, supported by Sights:
To amend the previous Motion by adding an ex officio member for a three-year term to the Advisory Parking Committee, the number of committee members to remain at seven.

VOTE ON AMENDMENT: Yeas, 2 (Kain, Sights) Nays, 5

MOTION FAILED

VOTE ON MAIN MOTION: Yeas, 4 Nays, 3 (Jensen, Kain, Sights)

MOTION: Motion by Sights, supported by Kain:
To vote for the nominations on the floor, and to appoint the Large Retailer Member and Resident Shopper Member at the Commission Meeting of September 10, 1984.

In response to a question from Commissioner Jeske, Commissioner Sights stated that he is changing his nomination of Mr. Peabody from the Large Retail Member to that of Restaurant Owner Member.

VOTE: Yeas, 7 Nays, None

MOTION: Motion by Kain, supported by Hockman:
That the term of office for the nine-member Advisory Parking Committee shall be three years, but, in the first instance, three members shall be appointed for terms expiring on the first Monday in September, 1985, three members shall be appointed for terms expiring on the first Monday in September, 1986, and three members shall be appointed for terms expiring on the first Monday in September, 1987.

VOTE: Yeas, 7 Nays, None

MOTION: Motion by Jeske, supported by Jensen:
That the terms of the seven remaining members be decided by draw.

VOTE: Yeas, 7 Nays, None



MEMORANDUM

Planning Division

DATE: February 28, 2024

TO: Jana L. Ecker, City Manager

FROM: Nicholas Dupuis, Planning Director

SUBJECT: Advisory Parking Committee and Outdoor Dining Platforms

This memorandum is meant to serve as a point of clarification to the letter submitted by the Advisory Parking Committee to the City Commission on March 4, 2024. Within the letter, it was stated that:

“...the APC was formerly consulted on the addition of outdoor dining decks which would be built on top of (and therefore remove) street parking spaces. Previously, proposals for these decks were presented to the APC for review and recommendation. However, we recently learned that because the Commission votes were not typically following the APC recommendations, staff simply stopped presenting these proposals to the APC.”

Overall, it is unclear where the APC has drawn their conclusions, or from whom they received the information about the decision making process within the City, but I do not believe it to be correct.

At present, there are 17 outdoor dining platforms approved in the City that take up a total of 31 parking spaces. The last outdoor dining platform to be reviewed by the APC was for Wilders Bistro at 460 N. Old Woodward on August 3, 2022. Before that, there were 6 other platforms approved in the years 2021 and 2022, all of which were presented to the APC. This influx of outdoor dining platforms was directly related to the COVID-19 pandemic and the expanded outdoor dining permissions in which several restaurants constructed platforms that they then wanted to keep coming out of the pandemic.

Since Wilders Bistro in 2022, only one outdoor dining platform has been approved by the City at 221 Hamilton Row - Greek Islands. Although it is true that City Staff did make the decision to stop presenting outdoor dining platforms, it is not for the reasons outlined in the letter. Rather, the following issues were considered:

- The powers and duties of the APC are clearly defined in the enabling resolution from 1984 (attached), which reads:

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.

Because outdoor dining platforms are a more modern occurrence, it is no surprise that they are not included in the powers and duties listed above. However, I do feel as though the APC has been approached with many things that are not technically in their purview over the years, including outdoor dining platforms.

- There are no methods, standards or metrics that the APC uses, or has used, to determine the appropriateness of an outdoor dining platform in their recommendations. To be completely transparent, the APC *has* asked to develop metrics, but there has been no formal action or direction from the City Commission to develop such. Due to lack of standards, the recommendations provided by the APC have tended to feel arbitrary and fallacious. The Planning Division is not opposed to reporting information to the APC, but the review and recommendation process has just not worked.
- The presentation of outdoor dining platforms to the APC has always been a courtesy, not a requirement. Before it was amended in 2023, the Zoning Ordinance read:

“An elevated, ADA compliant, enclosed platform may be erected on the street in front of an eating establishments to create an outdoor dining area from April 1 to November 15 **only if the Engineering Department determines** there is sufficient space available for this purpose given parking and traffic conditions.”

This section of the Zoning Ordinance was amended in 2023 to read:

“An ADA compliant platform may be erected in the on-street parking space(s) immediately in front of a food or drink establishment to create an outdoor dining facility from April 1 through December 31, subject to additional review by city administration.”

During the ordinance amendment process, the APC was approached for feedback related to outdoor dining platforms as well. Although their feedback was well received, the Planning Board was unable to draft sufficient language or standards that were equitable in regards to platform placement.

In conclusion, the Planning Division has kept data on outdoor dining platforms for several years now and can easily report new decks to the APC if so desired. However, a full review and recommendation by the APC for all new outdoor dining platforms is unnecessary and is not supported by ordinance.



MEMORANDUM

Department of Public Services

DATE: April 2, 2024
TO: Jana L. Ecker, City Manager
FROM: Scott D. Zielinski, PE, Director of DPS
SUBJECT: Cameras for City Vehicles

INTRODUCTION:

Commissioners have requested that the City Staff look into cameras and see if they are appropriate for limiting issues with the public, specifically related to hit and run items.

BACKGROUND:

On review with the Police Department, over the past 3 years the City has been involved in 16 motor vehicle accidents of which the City was found not at fault for 11 of the 16 incidents. We have no recorded hit and runs involving the public and City vehicles.

The Police Department further note that they have requirements for cameras for patrol vehicles that are already required and installed, additionally staff has body cameras that they use in the field.

The Fire Department has backup cameras on all equipment and has required interior cameras for the ambulances. At this time they do not believe the additional cameras for cab or 360 degree view would assist in their emergency operations.

City staff outside of emergency personnel that are responsible for driving City vehicles were provided a questionnaire to review the want or need for some various camera options which included; back up cameras, driver facing cameras, and 360 degree cameras.

Of the staff that answered the questionnaire, the majority of staff believes that back up cameras are beneficial. Approximately a third of staff found cameras in the cab to be acceptable and saw the benefit of having them, the majority of staff feels they are not needed. Staff was nearly fifty/fifty on the need for 360 degree cameras. Some stated they saw value in the 360 degree cameras as we would be able to use video to show work is being completed, they may assist with parking, but did not feel they were absolutely necessary. It is the opinion of City staff that there are not regular issues with the public that would warrant the purchase of additional cameras.

FISCAL IMPACT:

The City has approximately 90 vehicles that would qualify for some or all the vehicle cameras listed including cars, vans, SUV's, dump trucks, snow plows, loaders, and bucket trucks.

Add on backup cameras that appear to be of reasonable quality range in price from \$200-\$800; Driver Facing Cameras range in price from \$150-\$1,000; and 360 degree view cameras range between \$1,000 - \$2,000.

Total cost could range from approximately \$6,750.00 for equipping vehicles with low cost backup cameras (assuming approximately half of the vehicles do not already have a backup camera) that don't already have them, to over \$180,000.00 to ensure all of the non-emergency vehicles have 360 degree cameras. Please note these are rough estimates for the two highest supported camera options.

ATTACHMENTS:

- Questionnaire distributed to City staff

City Owned Vehicle Camera Questionnaire

Backup Camera Option- The City believes backup cameras can make parking easier, reduce blind spots and provide a safer driving experience for the driver, other drivers and pedestrians.

- Yes, I'm in favor of having backup cameras installed on City owned vehicles.
- No, I'm not in favor of having backup cameras installed on City owned vehicles.

Comments:

Driver-Facing Camera Option- The City believes driver-facing cameras can be helpful to exonerate our drivers from claims made against them, provide proof of service as well as provide drivers with access to their own videos so habits can be evaluated and improved by themselves or with the help of a supervisor, which ultimately leads to safer driving habits. Driver-facing cameras can be set to only activate when the vehicle experiences abnormal driving circumstances such as hard braking, swerving or contact. Driver-facing cameras also offer an option of audible recording. The audible recording can be used to verify what was said or not said if an issue arises.

- Yes, I'm in favor of having driver-facing cameras with audio installed on City owned vehicles.
 - Entire drive
 - Only during abnormal driving circumstances
- Yes, I'm in favor of having driver-facing cameras with no audio installed on City owned vehicles.
 - Entire drive
 - Only during abnormal driving circumstances
- No, I'm not in favor of having driver-facing cameras installed on City owned vehicles.

Comments:

360 Degree Camera Option- The City believes 360 degree cameras installed on vehicles can help with proof of work, work completed, pre and post site work conditions, verify current work location and all work locations throughout the day, as well as record any interactions with contractors, residents and fellow employees in the case of an incident, accident or dispute.

- Yes, I'm in favor of having 360 degree cameras with audio installed on City owned vehicles.
- No, I'm not in favor of having 360 degree cameras with audio installed on City owned vehicles.

Comments:

Assigned Department: _____



MEMORANDUM

IT Department

DATE: April 2, 2024
TO: Jana L. Ecker, City Manager
FROM: Eric Brunk, IT Manager
SUBJECT: City Commission Room Cameras

As requested, I have reviewed the broadcasting equipment in the back room. The current camera controller is fully populated; there is no room to add additional cameras into the current system.

As an alternative, I have reviewed the positioning of the existing cameras and was able to find some slack in the cabling allowing me to reposition one camera to give a better angle on the front table.



MEMORANDUM

Planning Department

DATE: April 2, 2024

TO: Jana L. Ecker, City Manager

FROM: Nicholas Dupuis, Planning Director
Jessica Newman, Chairperson – Ad Hoc Environmental Sustainability Committee

SUBJECT: Ad Hoc Environmental Sustainability Committee

The Ad Hoc Environmental Sustainability Committee (ESC) was created by the City Commission in January 2023 and seated in March 2023. The duties of the ESC are to (1) draft a Sustainability and Climate Action Plan (“SCAP”) and (2) complete a greenhouse gas (“GHG”) inventory for the community. The SCAP will provide the City of Birmingham with a vision of what the City should look like in the future and provide a pathway towards resiliency and the reduction of greenhouse gas emissions. By resolution, the ESC was given 18 months to complete these two large tasks. Thus, the SCAP and GHG emissions inventory are expected to be completed in September 2024. At this time, the project is anticipated to be completed by the deadline. Should the ESC require more time, a request will be brought to the City Commission by July 2024.

In terms of what has been completed to this point, the Planning Department and ESC are pleased to report that the GHG emissions inventory is completed and is attached to this report for your review. The GHG emissions inventory will be posted to the City website on a new page dedicated to sustainability that is currently being developed. In addition, the SCAP draft is considered to be around 30% complete, and goals are set for a 60% draft by end of May and a 100% draft by the end of July. A project schedule was developed early on and has been adjusted as we take steps towards completion. The current draft of the project schedule is attached for your review. Agendas that include drafts of the SCAP as well as other pertinent information and reports may be found [HERE](#).

Finally, the ESC has received extremely valuable feedback on sustainability and climate action in the City through “Phase 1” of our planned engagement activities. We continue to be thankful for the time our residents take to help us create meaningful plans. As the summer approaches, the ESC is gearing up for the equally important “Phase 2” of public engagement related to the Sustainability and Climate Action Plan (SCAP). This will include more surveys, in person engagements at events (like the DPS Open House on May 11, 2024), and specific stakeholder engagements with groups like NEXT, Birmingham Public Schools, and Birmingham’s business community.



**City of
Birmingham
2021 Inventory of
Community &
Government
Operations
Greenhouse Gas
Emissions**

April 8th, 2024

**Produced by the City of
Birmingham Planning
Division**

With Assistance from ICLEI – Local
Governments for Sustainability USA

Credits and Acknowledgements

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Summer Aldred, Planning Intern

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Katie Schafer, Mayor Pro-Tem
Clinton Baller, Commissioner
Andrew Haig, Commissioner
Brad Host, Commissioner
Anthony Long, Commissioner
Therese Longe, Commisioner

Jessica Newman, Chair, Ad Hoc Environmental Sustainability Committee
Debra Horner, Vice Ad Hoc Environmental Sustainability Committee
Harvey Bell, Member, Ad Hoc Sustainability Committee
Lois Debacher, Member, Ad Hoc Environmental Sustainability Committee
Lara Edwards, Member, Ad Hoc Environmental Sustainability Committee
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Danielle Todd, Member, Ad Hoc Environmental Sustainability Committee
Daniella Torcolacci, Member, Ad Hoc Environmental Sustainability Committee
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Melissa Coatta, Ex-Officio Member, City Engineer
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Executive Summary

The City of Birmingham recognizes that greenhouse gas (GHG) emissions from human activity are catalyzing climate change, the consequences of which pose substantial risks to the future health, wellbeing, and prosperity of our community.

On January 23rd, 2023 ([Agenda](#) – [Minutes](#)), the City Commission unanimously passed a resolution to declare a climate emergency, establish the Ad Hoc Environmental Sustainability Committee (“ESC”), and direct City Staff to facilitate the immediate development of a greenhouse gas emissions inventory to set a baseline and develop greenhouse gas emission reduction targets. This report represents the completion of the first task of the ESC and will serve as the City of Birmingham’s baseline for developing greenhouse gas emission reduction targets.

In alignment with this resolution the City of Birmingham, as directed by City Commission, is developing a sustainability and climate action plan. Sustainability plans help an organization meet its goals to reduce resource use and other environmental impacts. Climate action plans (CAP) are tools designed to help state and local governments mitigate and adapt to the effects of climate change on their community. They tend to build upon information compiled through greenhouse gas inventories (GHGI) and focus on those activities that can achieve the greatest emissions reductions cost-efficiently. This GHGI report represents completion of a major milestone in the SCAP project schedule.

This report provides estimates of greenhouse gas emissions resulting from activities in the City of Birmingham as a whole in 2021 (the most recent year for which data was available) as well as emissions specifically from the City’s government operations.

Key Findings

Figure 1 shows communitywide emissions by sector. The largest contributor is Residential Energy with 40% of emissions. The next largest contributors are Transportation & Mobile Sources (23%) and Commercial Energy (22%). Actions to reduce emissions in all of these sectors will be a key part of a sustainability and climate action plan. Industrial Energy, Solid Waste and Water & Wastewater were responsible for the remaining (15%) of emissions.

Figure 2 shows local government operations emissions. The Buildings and Facilities sector accounts for a vast majority (48%) of these emissions. The next largest contributor is Employee Commute (22%), followed by vehicle fleet (20%). Actions to reduce emissions from these sectors will be a key part of any future climate action plan developed by the City of Birmingham. Streetlights & Traffic signals were responsible for the remainder (8%) of local government operations emissions. Water & Wastewater Treatment Facilities were responsible for less than 1% of local government operations emissions.

The Inventory Results section of this report provides a detailed profile of emissions sources within the City of Birmingham; information that is key to guiding local reduction efforts. These data will also provide a baseline against which the city will be able to compare future performance and demonstrate progress in reducing emissions.

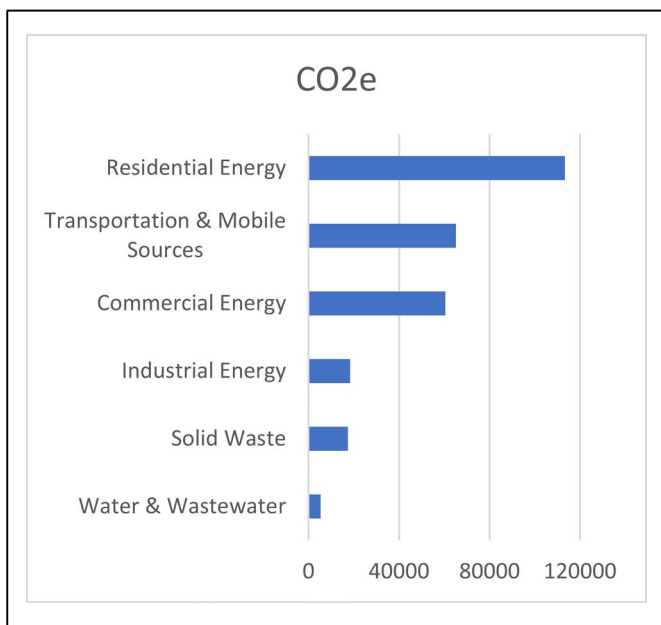


Figure 1: Community-wide Emissions by Sector

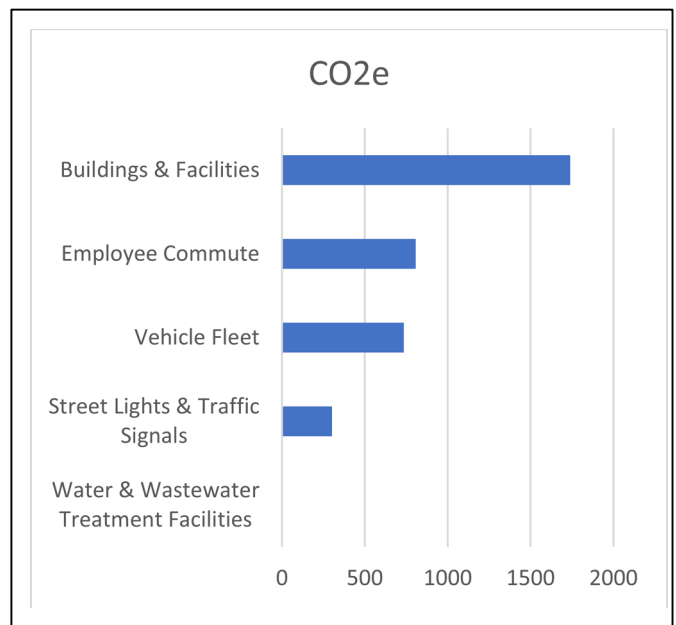


Figure 2: Government Operations Emissions by Sector

Introduction to Climate Change

Naturally occurring gases dispersed in the atmosphere determine the Earth's climate by trapping solar radiation. This phenomenon is known as the greenhouse effect. Evidence shows that human activities are increasing the concentration of greenhouse gases and changing the global climate. The most significant contributor is the burning of fossil fuels for transportation, electricity generation and other purposes, which introduces large amounts of carbon dioxide and other greenhouse gases into the atmosphere. Collectively, these gases intensify the natural greenhouse effect, causing global average surface and lower atmospheric temperatures to rise, threatening the safety, quality of life, and economic prosperity of global communities. Although the natural greenhouse effect is needed to keep the earth warm, a human enhanced greenhouse effect with the rapid accumulation of GHG in the atmosphere leads to too much heat and radiation being trapped. The Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report confirms that human activities have caused an increase in carbon emissions¹. Many regions are already experiencing the consequences of global climate change, and the City of Birmingham is no exception.

Human activities are estimated to have caused approximately 1.0°C of global warming above pre-industrial levels, with a likely range of 0.8°C to 1.2°C. Global warming is likely to reach 1.5°C between 2030 and 2052 if it continues to increase at the current rate - (high confidence).

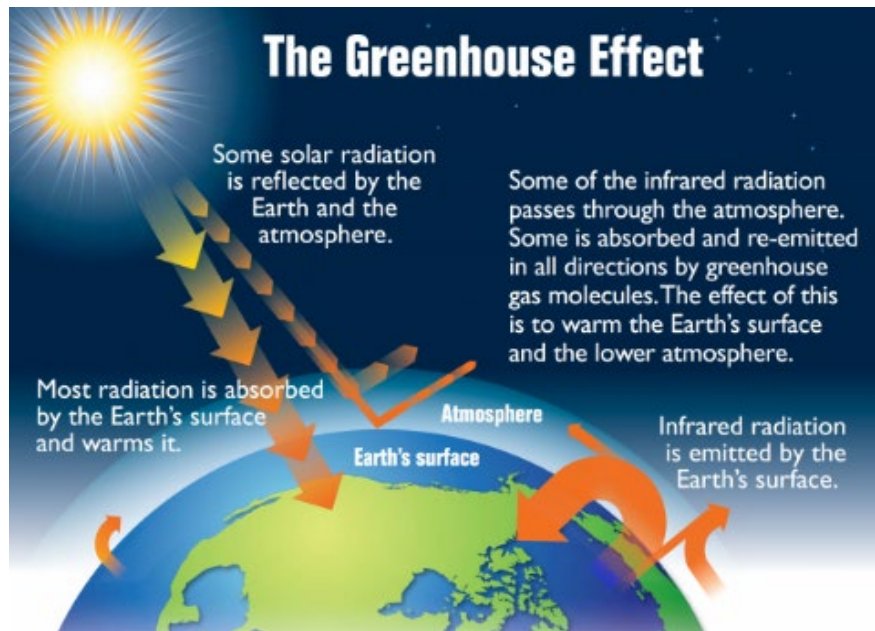


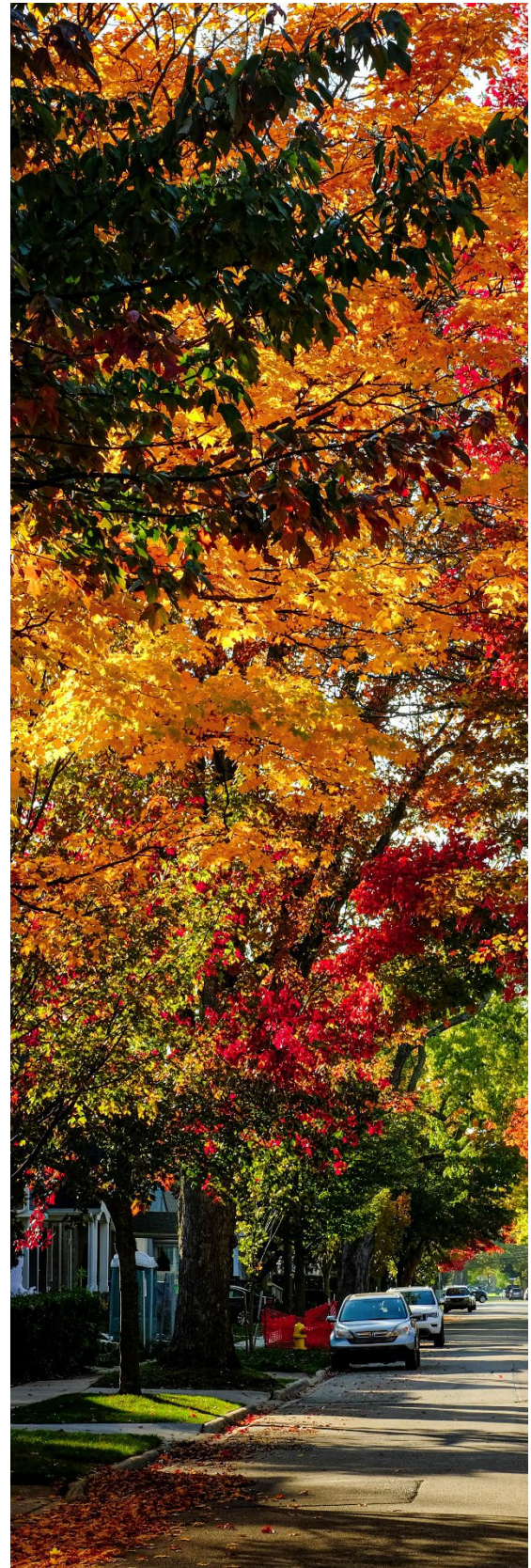
Figure 3: The Greenhouse Effect, EPA

¹IPCC, 2021: Summary for Policymakers. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change. Cambridge University Press. In Press.

According to the Fifth National Climate Assessment (2023), the Midwest, including the City of Birmingham, is at particular risk for extreme precipitation events that degrade riparian ecosystems, erode river and stream banks, disperse contaminants, disrupt plant and animal cycles, and spread invasive species. Climate-driven changes in heavy rainfall are magnified by land use, with pronounced negative effects in urban and agricultural watersheds. Extreme precipitation events have adverse impacts on aquatic and terrestrial ecosystems, human health, infrastructure, and economies. Conservation and management strategies can help moderate these impacts.

The health of Midwestern populations is at risk from increased extreme heat, precipitation, drought, and flooding, along with reductions in air quality and increased incidence of vector- and waterborne illnesses. In addition, rising temperatures can increase the production of ground-level ozone and particulate matter. Projected increases in extreme heat events across the Midwest amplify the risk of heat-related, respiratory and cardiovascular illnesses. Climate change will continue to produce warmer seasons and extreme temperatures and precipitation that threaten many areas within the City of Birmingham and the greater region, most notably, public health, tourism and buildings & infrastructure².

Many communities in the United States have started to take responsibility for addressing climate change at the local level. More efficient use of energy decreases utility and transportation costs for residents and businesses. Retrofitting homes and businesses to be more efficient creates local jobs. In addition, when residents save on energy costs, they are more likely to spend at local businesses and add to the local economy. Reducing fossil fuel use improves air quality, and increasing opportunities for walking and bicycling improves residents' health.



² U.S. Global Change Research Program. 2023. National Climate Assessment – Ch 24: Midwest. Retrieved from <https://nca2023.globalchange.gov/chapter/24/>

Greenhouse Gas Inventory as a Step Toward Carbon Neutrality

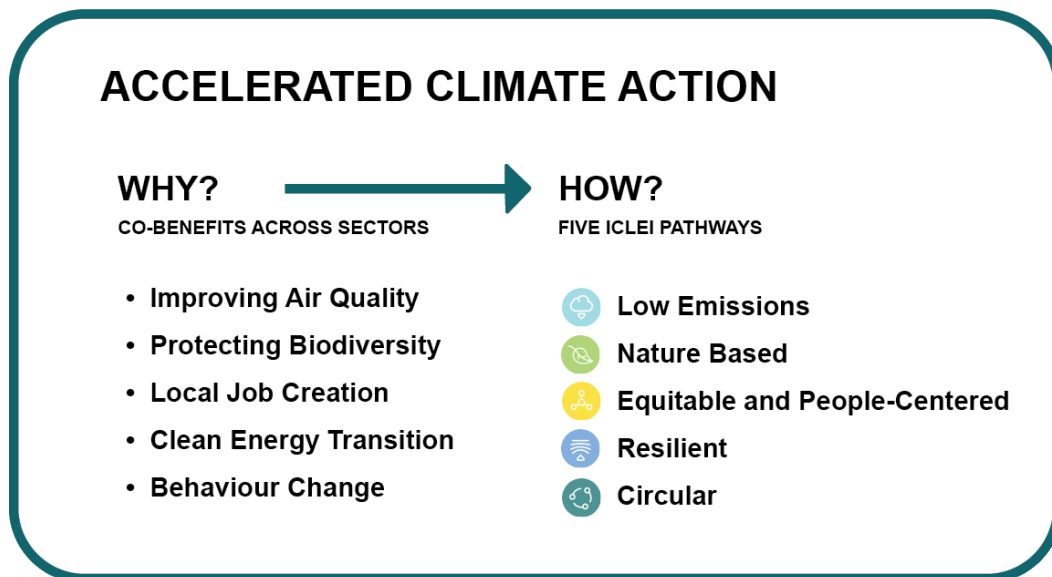
Facing the climate crisis requires the concerted efforts of local governments and their partners, those that are close to the communities directly dealing with the impacts of climate change.

Cities, towns and counties are well placed to define coherent and inclusive plans that address integrated climate action — climate change adaptation, resilience and mitigation. Existing targets and plans need to be reviewed to bring in the necessary level of ambition and outline how to achieve net-zero emissions by 2050 at the latest. Creating a roadmap for climate neutrality requires the City of Birmingham to identify priority sectors for action, while considering climate justice, inclusiveness, local job creation and other benefits of sustainable development.

To complete this inventory, the City of Birmingham utilized tools and guidelines from ICLEI - Local Governments for Sustainability (ICLEI), which provides authoritative direction for greenhouse gas emissions accounting and defines climate neutrality as follows:

The targeted reduction of greenhouse gas (GHG) emissions and GHG avoidance in government operations and across the community in all sectors to an absolute net-zero emission level at the latest by 2050. In parallel to this, it is critical to adapt to climate change and enhance climate resilience across all sectors, in all systems and processes.

To achieve ambitious emissions reduction, and move toward climate neutrality, the City of Birmingham will need to set a clear goal and act rapidly following a holistic and integrated approach. Climate action is an opportunity for our community to experience a wide range of co-benefits, such as creating socio-economic opportunities, reducing poverty and inequality, and improving the health of people and nature.



Inventory Methodology

Understanding a Greenhouse Gas Emissions Inventory

The first step toward achieving tangible greenhouse gas emission reductions requires identifying baseline emissions levels and sources and activities generating emissions in the community. This report presents emissions from both the City of Birmingham community as a whole, and from operations of the Birmingham government. The government operations inventory is mostly a subset of the community inventory, as shown in Figure 4. For example, data on commercial energy use by the community includes energy consumed by municipal buildings, and community vehicle-miles-traveled estimates include miles driven by municipal fleet vehicles.

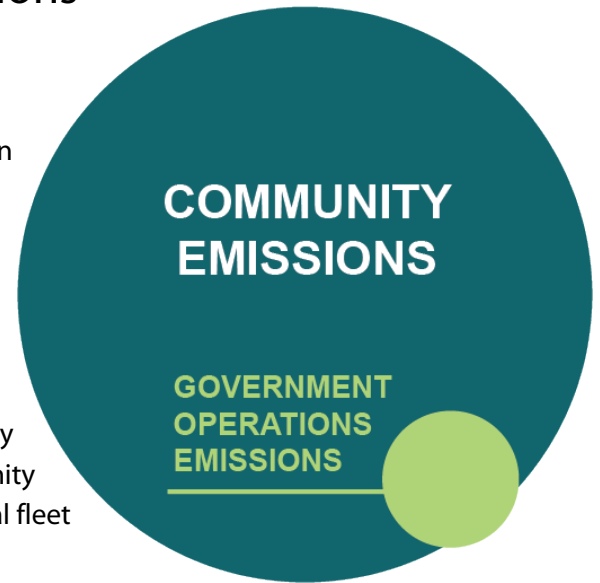


Figure 4: Sample Relationship of Community and Government Operations Inventories

As local governments continue to join the climate protection movement, the need for a standardized approach to quantify GHG emissions has proven essential. This inventory uses the approach and methods provided by the U.S. Community Protocol for Accounting and Reporting Greenhouse Gas Emissions (Community Protocol) and the Local Government Operations Protocol for Accounting and Reporting Greenhouse Gas Emissions (LGO Protocol), both of which are described below.

Three greenhouse gases are included in this inventory: carbon dioxide (CO₂), methane (CH₄) and nitrous oxide (N₂O). Many of the charts in this report represent emissions in “carbon dioxide equivalent” (CO₂e) values, calculated using the Global Warming Potentials (GWP) for methane and nitrous oxide from the IPCC 6th Assessment Report:

Table 1: Global Warming Potential Values (IPCC, 2023)

Greenhouse Gas	Global Warming Potential
Carbon Dioxide (CO ₂)	1
Methane (CH ₄)	27.2
Nitrous Oxide (N ₂ O)	273

Community Emissions Protocol

Version 1.2 of the U.S. Community Protocol for Accounting and Reporting GHG Emissions³ was released by ICLEI in 2019, and represents a national standard in guidance to help U.S. local governments develop effective community GHG emissions inventories. It establishes reporting requirements for all community GHG emissions inventories, provides detailed accounting guidance for quantifying GHG emissions associated with a range of emission sources and community activities, and provides a number of optional reporting frameworks to help local governments customize their community GHG emissions inventory reports based on their local goals and capacities.

The community inventory in this report includes emissions from the five Basic Emissions Generating Activities required by the Community Protocol. These activities are:

- Use of electricity by the community
- Use of fuel in residential and commercial stationary combustion equipment (e.g. HVAC, etc.)
- On-road passenger and freight motor vehicle travel
- Use of energy in potable water and wastewater treatment and distribution
- Generation of solid waste by the community

Carbon dioxide represents the vast majority (93.8%) of the community emissions and is produced from burning fossil fuels such as coal, gasoline, diesel, and natural gas. Nitrous oxide accounts for about .3% of communitywide emissions, primarily from grid electricity (from fuel combusted to create electricity) and gasoline used for passenger vehicles. Methane accounts for about 5.9% of community-wide emissions, and comes primarily from grid electricity (from fuel combusted to create electricity), gasoline used for passenger vehicles, the methane-to-energy plant, flaring of digester gas, and leakage from the local natural gas distribution system.

Local Government Operations (LGO) Protocol

In 2010, ICLEI, the California Air Resources Board (CARB), and the California Climate Action Registry (CCAR) released Version 1.1 of the LGO Protocol.⁴ The LGO Protocol serves as the national standard for quantifying and reporting greenhouse emissions from local government operations. The purpose of the LGO Protocol is to provide the principles, approach, methodology, and procedures needed to develop a local government operations greenhouse gas emissions inventory.

The following activities are included in the LGO inventory:

- Energy and natural gas consumption from buildings & facilities

³ ICLEI. 2012. US Community Protocol for Accounting and Reporting Greenhouse Gas Emissions. Retrieved from <http://www.icleiusa.org/tools/ghg-protocol/community-protocol>

⁴ ICLEI. 2008. Local Government Operations Protocol for Accounting and Reporting Greenhouse Gas Emissions. Retrieved from <http://www.icleiusa.org/programs/climate/ghg-protocol/ghg-protocol>

- Wastewater treatment processes
- On-road transportation from employee commute and vehicle fleet

Quantifying Greenhouse Gas Emissions

Sources and Activities

Communities contribute to greenhouse gas emissions in many ways. Two central categorizations of emissions are used in the community inventory: 1) GHG emissions that are produced by “sources” located within the community boundary, and 2) GHG emissions produced as a consequence of community “activities”.

Source	Activity
Any physical process inside the jurisdictional boundary that releases GHG emissions into the atmosphere	The use of energy, materials, and/or services by members of the community that result in the creation of GHG emissions.

By reporting on both GHG emissions sources and activities, local governments can develop and promote a deeper understanding of GHG emissions associated with their communities. A purely source-based emissions inventory could be summed to estimate total emissions released within the community’s jurisdictional boundary. In contrast, a purely activity-based emissions inventory could provide perspective on the efficiency of the community, even when the associated emissions occur outside the jurisdictional boundary. The division of emissions into sources and activities replaces the scopes framework that is used in government operations inventories, but that does not have a clear definition for application to community inventories.

Base Year

The inventory process requires the selection of a base year with which to compare current emissions. City of Birmingham’s community greenhouse gas emissions inventory utilizes 2021 as its baseline year, because it is the most recent year for which the necessary data are available.

Quantification Methods

Greenhouse gas emissions can be quantified in two ways:

- Measurement-based methodologies refer to the direct measurement of greenhouse gas emissions (from a monitoring system) emitted from a flue of a power plant, wastewater treatment plant, landfill, or industrial facility.
- Calculation-based methodologies calculate emissions using activity data and emission factors. To calculate emissions accordingly, the basic equation below is used:

$$\textit{Activity Data} \times \textit{Emission Factor} = \textit{Emissions}$$

Most emissions sources in this inventory are quantified using calculation-based methodologies. Activity data refer to the relevant measurement of energy use or other greenhouse gas-generating processes such as fuel consumption by fuel type, metered annual electricity consumption, and annual vehicle miles traveled. Please see appendices for a detailed listing of the activity data used in composing this inventory. Known emission factors are used to convert energy usage or other activity data into associated quantities of emissions. Emissions factors are usually expressed in terms of emissions per unit of activity data (e.g. lbs CO₂/kWh of electricity). For this inventory, calculations were made using ICLEI's ClearPath tool.



Community Emissions Inventory Results

The total communitywide emissions for the 2021 inventory are shown in Table 2 and Figure 5.

Table 2: Communitywide Emissions Inventory

Sector	Fuel or source	2021 Usage	Usage unit	2021 Emissions (MTCO _{2e})
Residential energy	Electricity (Detroit Edison)	99,096,629	kWh	54,910
	Natural Gas (Consumer's Energy)	1,097,738	MMBtu	58,381
Residential energy total				113,291
Commercial energy	Electricity	68,619,884	kWh	38,023
	Natural gas	421,229	MMBtu	22,402
Commercial energy total				60,425
Industrial energy	Electricity	33,284,300	kWh	18,443
	Natural gas	Included w/	Commercial per	Consumer's Energy
Industrial energy total				18,443
On-road transportation	Gasoline (passenger vehicles)	119,012,889	VMT	47,470
	Diesel (freight trucks)	12,325,924	VMT	17,685
Transportation total				65,155
Solid Waste	Waste Generated (Landfilled)	9561.02	Tons	16,616
	Waste Generated (Composted)	5179.91	Tons	715
Solid waste total				17,331
Water and wastewater	Water Treatment Energy Usage	51,602	kWh	30
	Wastewater Treatment Energy Usage	1,202,577	kWh	5248
	Wastewater Treatment	.26	MT (N2O)	72
	Nitrogen Discharge	.0048	MT (N2O)	1
Water and wastewater total				5351
Total community-wide emissions				279,996

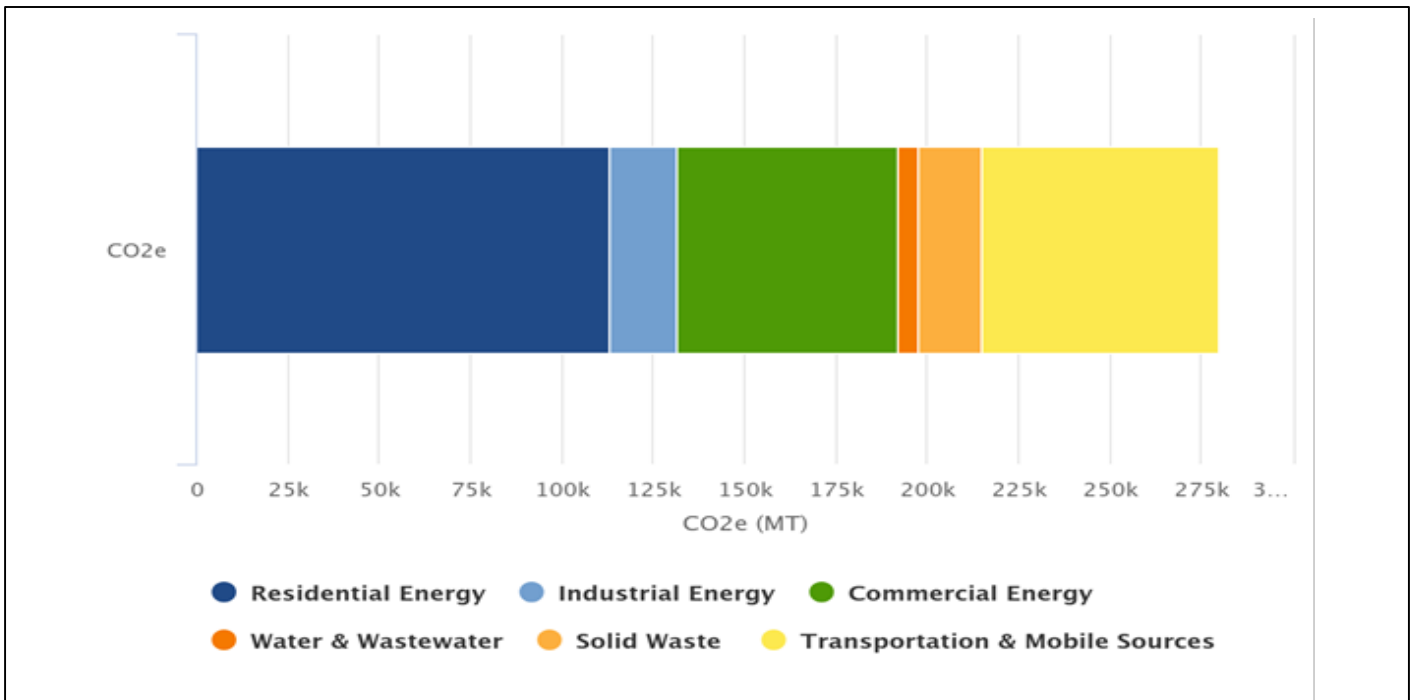


Figure 5: Community-wide Emissions by Sector

Figure 5 shows the distribution of communitywide emissions by sector. Residential Energy is the largest contributor, followed by Transportation & Mobile sources & Commercial Energy.

Next Steps:

The inventory should be used to focus and prioritize actions to reduce emissions. Based on the inventory results, the following areas have the greatest potential for emissions reduction:

- Residential Energy
- Transportation & Mobile Sources
- Commercial Energy

Completion of another GHG inventory in five years is recommended in order to assess progress resulting from any actions implemented. The detailed methodology section of this report, as well as notes and attached data files in the ClearPath tool will be helpful to complete a future inventory consistent with this one.

Government Operations Emissions Inventory Results

Government operations emissions for 2021 are shown in Table 3 and Figure 6.

Table 3: Local Government Operations Inventory

Sector	Fuel or source	2021 Usage	Usage unit	2021 Emissions (MTCO _{2e})
Buildings & Facilities	Electricity	3,090,005	kWh	1712
	Natural Gas	1,128	MMBtu	28
Buildings & Facilities total				1740
Street Lights & Traffic Signals	Electricity	1,331,607	kWh	302
Street Lights & Traffic Signals total				302
Vehicle Fleet	Gasoline	6525	MMBtu	459
	Diesel	3764	MMBtu	278
Vehicle Fleet total				737
Employee Commute	Gasoline	1,767,803	VMT	771
	Diesel	55,893	VMT	31
	Hybrid Gasoline	11,561	VMT	4
Employee Commute Total				806
Solid Waste	Waste Generation	Data was not	received	to calculate LGO waste
	Compost	LGO waste is	included	in community-wide totals
Solid waste total				N/A
Water and wastewater	Water Tower Energy Usage	13,228	kWh	7
Water and wastewater total				7
Total government emissions				3592

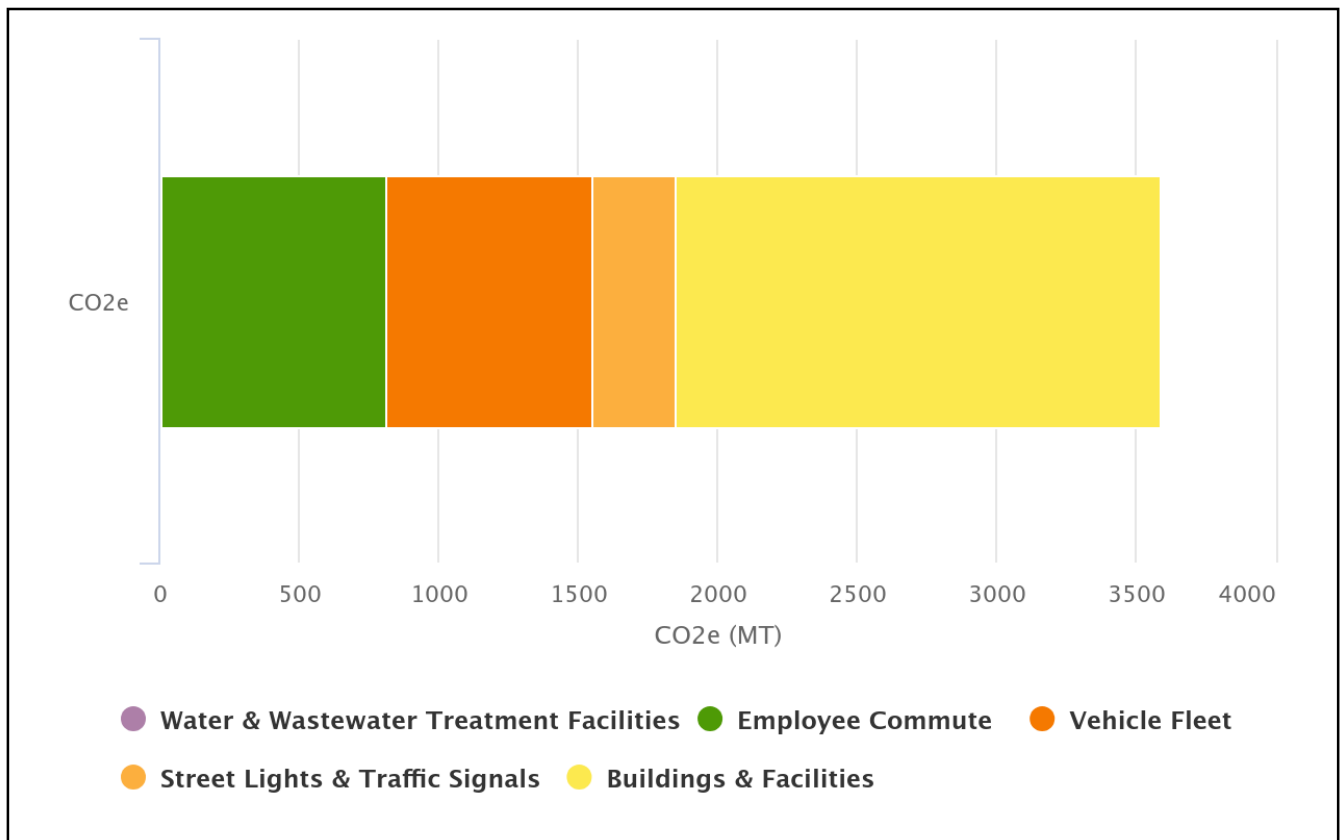


Figure 6: Local Government Operations Emissions by Sector

Figure 6 shows the distribution of emissions among the four sectors included in the inventory. Buildings & Facilities represents the majority of emissions, followed by Employee Commute and Vehicle Fleet. Streetlights & Traffic Signals and Water & Wastewater account for a small portion of emissions.

Next Steps:

The local government operations emissions inventory points to a need to focus and prioritize actions to reduce emissions. Based on the inventory results, the following areas have the greatest potential for emissions reduction:

- Buildings & Facilities
- Employee Commute
- Vehicle Fleet

Completion of another GHG inventory in five years is recommended in order to assess progress resulting from any actions implemented. The detailed methodology section of this report, as well as notes and attached data files in the ClearPath tool will be helpful to complete a future inventory consistent with this one.

Conclusion

This inventory marks the completion of the first milestone of the City of Birmingham’s sustainability and climate action planning process. The next steps are to forecast emissions, set an emissions-reduction target, and develop and adopt the Birmingham Green: Healthy Climate Plan that identifies specific quantified strategies that can cumulatively meet that target.

In addition, the City of Birmingham will continue to track key energy use and emissions indicators on an on-going basis. It is recommended that communities update their inventories on a regular basis, especially as plans are implemented to ensure measurement and verification of impacts. Regular inventories also allow for “rolling averages” to provide insight into sustained changes and can help reduce the change of an anomalous year being incorrectly interpreted. This inventory shows that residential and commercial energy as well as communitywide transportation patterns will be particularly important to focus on. Through these efforts and others, the City of Birmingham can achieve environmental, economic, and social benefits beyond reducing emissions.

Appendix: Methodology Details

Energy

The following tables shows each activity, related data sources, and notes on data gaps.

Table 4: Energy Data Sources

Activity	Data Source	Data Gaps/Assumptions
Communitywide		
Residential, commercial, and industrial electricity consumption	DTE	
Residential, commercial, and industrial natural gas consumption	Consumer's Energy	
Local Government Operations		
Electricity consumption	DTE	
Natural gas consumption	Consumer's Energy	

Table 5: Emissions Factors for Electricity Consumption

Emissions Factor	CO ₂ (lbs./MWh)	CH ₄ (lbs./GWh)	N ₂ O (lbs./GWh)
Grid Electricity	1272.045	67	18

Transportation

Table 6: Transportation Data Sources

Activity	Data Source	Data Gaps/Assumptions
Communitywide		
Vehicle miles travelled	Google EIE	Local VMT was extrapolated from data model at the Oakland County level.
Transit ridership	N/A	No transit data received.
Local Government Operations		
Government vehicle fleet	Department of Public Services	Emissions estimates based on fuel consumption.
Employee commute	Employee Survey	Estimates developed by utilizing a voluntary employee survey, the total number of employees and ICLEI's calculation template.

For vehicle transportation, it is necessary to apply average miles per gallon and emissions factors for CH₄ and N₂O to each vehicle type. The factors used are shown in Table 7.

Table 7: MPG and Emissions Factors by Vehicle Type

Fuel	Vehicle type	MPG	CH ₄ g/mile	N ₂ O g/mile
Gasoline	Passenger car	24.1	.0183	.0069
Gasoline	Light truck	18.2	.0117	.0087
Gasoline	Heavy truck	5.38	.0719	.0611
Gasoline	Motorcycle	44	.0084	.0069
Diesel	Passenger car	25.3	.0005	.001
Diesel	Light truck	18.2	.001	.0015
Diesel	Heavy truck	6.56	.0051	.0048

Wastewater

Table 8: Wastewater Data Sources

Activity	Data Source	Data Gaps/Assumptions
Communitywide & Local Government Operations		
Nitrogen Discharge	Oakland County Water Resources Commissioner	Local data was extrapolated from SOCWA aggregate data based on population %.
Digester Gas Combustion/Flaring		
Energy used in wastewater facilities [if reported separately, omit if not]	GLWA	Local data was extrapolated from regional aggregate data based on population %.

Potable Water

Table 9: Potable Water Data Sources

Activity	Data Source	Data Gaps/Assumptions
Communitywide		
Potable Water	GLWA	Local data was extrapolated based on population %.
Potable Water	SOCWA	Local data was extrapolated based on population %.
Local Government Operations		
Potable Water	DTE	River gauge had zero usage per DTE.

Solid Waste

Table 10: Solid Waste Data Sources

Activity	Data Source	Data Gaps/Assumptions
Communitywide		
Solid Waste (Landfilled)	SOCORA	No waste characterization available, used National Average.
Solid Waste (Compost)	SOCORA	No waste characterization available, used National Average.
Local Government Operations		
Solid Waste (Landfilled)	SOCORA	LGO waste is included in community-wide.
Solid Waste (Compost)	SOCORA	LGO waste is included in community-wide.

Inventory Calculations

The 2021 inventory was calculated following the US Community Protocol and ICLEI’s ClearPath software. As discussed in Inventory Methodology, the IPCC Sixth Assessment was used for global warming potential (GWP) values to convert methane and nitrous oxide to CO2 equivalent units. ClearPath’s inventory calculators allow for input of the sector activity (i.e. kWh or VMT) and emission factor to calculate the final CO2e emissions.



Project Schedule

DRAFT: 3/7/2024

	2023							
Meeting/Event	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
June 12th, ESC		✓						
GHGI Data Requests		✓						
Community Survey Open (Late June)		✓						
Public Engagement Event #1 (Day on the Town, July 29 th 9am-5pm)			✓					
August 21st, ESC				✓				
Public Engagement Event #2 (Farmer’s Market, August)				✓				
Public Engagement Event #3 (Municipal Roundtable, Sept/Oct)					✓	✓		
Community Survey Closes (Late Sept.)					✓			
October 30th, ESC @ BPL Community Visioning Session						✓		
Nov 20th, ESC Public Engagement Summary Review Draft Vision and Objectives							✓	
	2024							
Meeting/Event	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG
January, ESC Finalize SCAP Vision & Objectives	✓							
Present Project Overview to City Boards and new board student reps MMTB, P&R, PB, HDC, DRB, BSD		✓	✓	X				
March, ESC SCAP Draft Intro and Outline Review			✓					
GHGI Final Report Published to City Website				X				
April, ESC GHGI Final Report, Goal Drafting, Survey review				X				
Community Survey #2 Open					X			



	2024							
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG
Public Engagement Event #4 DPS Open House, May 11 th , 2024					X			
May, ESC SCAP 60% Draft Review					X			
June, ESC						X		
July, ESC SCAP 100% Draft Review							X	
Final Draft Published on City Website 30-Day Public Comment Period							X	
August, ESC								X
City Commission Public Hearing / Adoption								X
Publish Final SCAP on City Website								X

Acronyms Decoded

- ESC – Ad Hoc Environmental Sustainability Committee
- GHGI – Greenhouse Gas Emissions Inventory
- SCAP – Sustainability and Climate Action Plan
- MMTB – Multi-Modal Transportation Board
- P&R – Parks and Recreation Advisory Board
- PB – Planning Board
- HDC – Historic District Committee
- DRB – Design Review Board
- BPL – Baldwin Public Library



MEMORANDUM

Legal – City Attorney

DATE: April 1, 2024

TO: Jana L. Ecker, City Manager

FROM: Mary M. Kucharek, City Attorney

SUBJECT: Request for Closed Session Under MCL § 15.268, Sec.8(1)(a) and (e) of the Open Meetings Act

INTRODUCTION:

The City Attorney is requesting to meet with the City Commission in closed session to discuss pending litigation and to discuss the periodic personnel evaluation of the City Manager.

BACKGROUND:

MCL § 15.268 Sec. 8(1)(a) allows for a closed session of the City Commission for a periodic personnel evaluation of the City Manager only if the City Manager requests a closed hearing. Jana Ecker, pursuant to her contract is to be evaluated during the first year of her employment at six (6) month intervals. Jana Ecker should have been evaluated earlier than this, however, the scheduling of her personnel evaluation will be conducted and as the OMA allows, she has requested this be done in a closed session. If there is action to be taken, any action must be completed in open session.

The second request for a closed session is pursuant to MCL § 15.268 Sec. 8(1)(e) of the Open Meetings Act to discuss pending litigation. The City, as of this date, has not yet been served, but I expect service any day of a new matter that was received for filing with the Oakland County Circuit Court on March 29, 2024. This case is entitled *Yasamin Aziz, et al v City of Birmingham*, Case No. 2024-206496-NZ, Honorable Phyllis C. McMillen. This new lawsuit claims that on or about August 23-24, 2024 the Plaintiffs' homes and other private properties located in the City were unreasonably interfered with and flooded alleging defects in the design, construction, and maintenance of its sewage disposal system. This has been filed as a class action; meaning that the Plaintiffs initiated litigation for all persons and entities similarly situated.

LEGAL REVIEW:

I am requesting a closed session on April 8, 2024 pursuant to MCL § 15.268 Sec. 8(1)(a) and (e).

FISCAL IMPACT:

To be discussed in closed session.

ATTACHMENTS:

Open Meetings Act, MCL § 15.268 Sec. 8(1)(a) and (e).

SUGGESTED COMMISSION ACTION:

Adopt a resolution to meet in closed session to discuss the periodic personnel evaluation of City Manager Ecker and to discuss pending litigation regarding *Yasamin Aziz, et al v City of Birmingham*, Oakland County Circuit Court Case No. 2024-206496-NZ, Honorable Phyllis C. McMillen pursuant to MCL § 15.268 Sec. 8(1)(a) and (e) of the Open Meetings Acts respectively.

OPEN MEETINGS ACT (EXCERPT)
Act 267 of 1976

15.268 Closed sessions; permissible purposes; applicability to independent citizens redistricting commission.

Sec. 8. (1) Except as otherwise provided in subsection (2), a public body may meet in a closed session only for the following purposes:

(a) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named individual requests a closed hearing. An individual requesting a closed hearing may rescind the request at any time, in which case the matter at issue must be considered after the rescission only in open sessions.

(b) To consider the dismissal, suspension, or disciplining of a student if the public body is part of the school district, intermediate school district, or institution of higher education that the student is attending, and if the student or the student's parent or guardian requests a closed hearing.

(c) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.

(d) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.

(e) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.

(f) To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential. However, except as otherwise provided in this subdivision, all interviews by a public body for employment or appointment to a public office must be held in an open meeting pursuant to this act. This subdivision does not apply to a public office described in subdivision (j).

(g) Partisan caucuses of members of the state legislature.

(h) To consider material exempt from discussion or disclosure by state or federal statute.

(i) For a compliance conference conducted under section 16231 of the public health code, 1978 PA 368, MCL 333.16231, before a complaint is issued.

(j) In the process of searching for and selecting a president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, to review the specific contents of an application, to conduct an interview with a candidate, or to discuss the specific qualifications of a candidate if the particular process of searching for and selecting a president of an institution of higher education meets all of the following requirements:

(i) The search committee in the process, appointed by the governing board, consists of at least 1 student of the institution, 1 faculty member of the institution, 1 administrator of the institution, 1 alumnus of the institution, and 1 representative of the general public. The search committee also may include 1 or more members of the governing board of the institution, but the number does not constitute a quorum of the governing board. However, the search committee must not be constituted in such a way that any 1 of the groups described in this subparagraph constitutes a majority of the search committee.

(ii) After the search committee recommends the 5 final candidates, the governing board does not take a vote on a final selection for the president until at least 30 days after the 5 final candidates have been publicly identified by the search committee.

(iii) The deliberations and vote of the governing board of the institution on selecting the president take place in an open session of the governing board.

(k) For a school board to consider security planning to address existing threats or prevent potential threats to the safety of the students and staff. As used in this subdivision, "school board" means any of the following:

(i) That term as defined in section 3 of the revised school code, 1976 PA 451, MCL 380.3.

(ii) An intermediate school board as that term is defined in section 4 of the revised school code, 1976 PA 451, MCL 380.4.

(iii) A board of directors of a public school academy as described in section 502 of the revised school code, 1976 PA 451, MCL 380.502.

(iv) The local governing board of a public community or junior college as described in section 7 of article VIII of the state constitution of 1963.

(l) For a county veteran services committee to interview a veteran or a veteran's spouse or dependent regarding that individual's application for benefits or financial assistance and discuss that individual's

application for benefits or financial assistance, if the applicant requests a closed hearing. This subdivision does not apply to a county veteran services committee voting on whether to grant or deny an individual's application for benefits or financial assistance. As used in this subdivision, "county veteran services committee" means a committee created by a county board of commissioners under section 1 of 1953 PA 192, MCL 35.621, or a soldiers' relief commission created under section 2 of 1899 PA 214, MCL 35.22.

(2) This act does not permit the independent citizens redistricting commission to meet in closed session for any purpose. As used in this subsection, "independent citizens redistricting commission" means the independent citizens redistricting commission for state legislative and congressional districts created in section 6 of article IV of the state constitution of 1963.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1984, Act 202, Imd. Eff. July 3, 1984;—Am. 1993, Act 81, Eff. Apr. 1, 1994;—Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996;—Am. 2018, Act 467, Eff. Mar. 27, 2019;—Am. 2021, Act 31, Imd. Eff. June 24, 2021;—Am. 2021, Act 166, Imd. Eff. Dec. 27, 2021.

Compiler's note: Enacting section 1 of Act 166 of 2021 provides:

"Enacting section 1. This amendatory act is intended to clarify that the independent citizens redistricting commission for state legislative and congressional districts, since its establishment under section 6 of article IV of the state constitution of 1963, has been required to conduct all of its business at open meetings, without exception and in a manner that invites wide public participation throughout this state, as provided in section 6(10) of article IV of the state constitution of 1963, and that the commission continues to be subject to this unqualified open meetings requirement."



MEMORANDUM

City Manager's Office

DATE: April 4, 2024
TO: City Commission
FROM: Jana L. Ecker, City Manager
SUBJECT: City Manager Performance Update

Since I began serving as City Manager in July 2023, there have been a significant number of accomplishments, many of which are listed below. I am pleased with the progress made thus far to complete projects and initiatives, in addition to managing the day to day activities of the City. I would like to thank City staff, the City Commission and our many board and committee volunteers who have worked together to tackle complex issues and improve the health, safety and welfare of our residents, and to ensure transparent processes and operations.

City Initiatives

- Closed on the purchase of the YMCA building at 400 E. Lincoln
- Negotiated three year lease with the YMCA for the use of the building at 400 E. Lincoln
- Issued RFP for analysis and concept planning for former YMCA building for future home of Next
- Issued RFP for electric vehicle charging stations in Shain Park lot and Chester Street parking structure
- Prepared 2024 – 2028 Birmingham Parks and Recreation Master Plan
- Currently working on second bond issue from 2020 voter approved parks and recreation bond
- Upgraded historic building plaque program
- Prepared a three year phase out plan for gas powered leaf blowers
- Completed Greenhouse Gas Emissions Inventory
- Completed Wayfinding and Signage Plan
- Established Grant Coordinator position in the City Manager's Office to assist with grant applications, tracking, coordination and grant administration
- Awarded 9 grants for engineering, parks, museum, library and police enforcement efforts since July 2023

- Completed full accounting/audit of parking payments made by Baldwin House residents to the City and/or Baldwin House and conducted negotiations with Baldwin House management for reimbursement of Baldwin House residents for parking fees paid
- Prepared ballot language for voters to consider allowing marijuana establishments
- Prepared ballot language for voters to consider approval of a senior millage
- Participated in pilot program for early voting in November 2023 election
- Completed Code of Conduct for the City Commission
- Transitioned from third party management of public parking system to in house management
- Currently working on Historic Preservation Master Plan

Public Safety Improvements

- Finalized the negotiation of a three year contract for a full time School Resource Officer to work with Birmingham Public Schools, at no cost to the City
- Hired a second CORE responder to assist Police Department with mental health issues
- Implemented wellness program for police officers
- Updated police personal appearance standards to update standards for uniforms, facial hair and body art to enhance recruiting success
- Provided first responder cell phones to City Commission to ensure ongoing communication in the event of an emergency
- Negotiated three year contract with the Birmingham Firefighters Association
- Created community risk reduction position within the Fire Department
- Increased the City's ISO rating to level 2

Community Engagement

- Conducted in person meetings with State Representatives Price, Steckloff and MacDonell and Senator McMorrow, as well as U.S. Representatives Stevens and Tlaib
- Prepared nine monthly City Manager's Reports to enhance City-wide communication
- Established Ad Hoc Senior/Recreation Center Committee to provide oversight for future home of Next
- Newly established Aging in Place Committee prepared and conducted an Aging in Place Community Survey, researched and analyzed demographics, City codes and current senior services
- Established transparent online budgeting software system using OpenGov and prepared draft budget for FY 24/25 using digital application
- Developed new crime mapping tool for residents on the City's website
- Upgraded new resident welcome packets
- Implemented Invoice Cloud in Treasury to expand citizen payment options

Improved Internal Operations

- Updated City holiday schedule to improve inclusivity
- Established Artificial Intelligence Committee, created AI policy guidelines for City staff
- Updated City's social media policy
- Established Employee Engagement Committee to assist with retention efforts

- Brought back the Birmingham Insider Newsletter to showcase employee achievements, encourage interdepartmental connections and enhance employee morale
- Replaced and updated City server environment
- Created new series of podcasts entitled "Birmingham Uncovered" to promote Birmingham Historical Museum, exceeded 1000 downloads all over the world
- Developed first ever Birmingham diversity display at Birmingham Museum
- Created and lead research project that resulted in a multi-jurisdictional travelling display on the Underground Railroad in Oakland County
- Expanded Black History Month programming at Baldwin Library and Birmingham Museum
- Conducted stay interviews with all City Department Heads
- Conducted 38 department head staff meetings to promote improved communication and collaboration
- Commenced quarterly training programs for employees
- Hired 30 full time employees, 22 part time employees since July 2023
- Currently conducting search for Finance Director position due to upcoming retirement

Capital Improvement Projects

- Worked with MDOT and other Woodward communities on the RFP for the Woodward Ave Corridor Plan and attend regular update meetings with entire group
- Completed structural repairs to N. Old Woodward parking structure
- Purchased first electric vehicle for City fleet (parking operations)
- Completed reconstruction of Pierce Street from 14 Mile Road to Lincoln
- Completed reconstruction of Brown Street from S. Old Woodward to Woodward
- Completed 2023 resurfacing program and sewer rehab program
- Awarded Project of 2023 for Transportation (\$5-25 million) by the American Public Works Association and 2024 Merit Award Engineering by the American Council of Engineering Companies for S. Old Woodward reconstruction
- Worked with MDOT to enhance pedestrian safety on Woodward, culminating in current installation of full signalized pedestrian crossing at Woodward and Forest/Brown
- Completed full restoration of 43 historic windows at the Allen House

Professional Development

- Assisted in the recruiting and hiring of a new Executive Director for SOCRA and SOCWA due to retirement
- Hosted Oakland County City Manager's Association meeting in September 2023
- Attended the ICMA Annual Conference 2023
- Completed ICMA Micro-Certificate in "Building High Performing Board-Manager Relations"
- Completed ICMA Micro-Certificate in "Hardwiring Teamwork: Building Engaged, Productive, Inclusive Teams"

Fwd: Horizontal drilling

1 message

Jana Ecker <Jecker@bhamgov.org>
To: Alex Bingham <abingham@bhamgov.org>

Mon, Mar 18, 2024 at 11:10 AM

Jana L. Ecker
City Manager
Birmingham, MI
(248) 530-1811

----- Forwarded message -----

From: **Stuart Borman** <sb@borman.net>

Date: Mon, Mar 18, 2024 at 9:20 AM

Subject: Horizontal drilling

To: <kschafer@bhamgov.org>, <emclain@bhamgov.org>, <along@bhamgov.org>, Haig Andrew <ahaig@bgamgov.org>, Host Brad <bhost@bhamgov.org>, <jecker@bhamgov.org>

Commissioners and City Manager,

I first want to thank you for not ruining the character of our neighborhood by adding sidewalks. I would like you to look into the idea of using horizontal drilling for the replacement of the underground sewers and water mains. If this can be done for less expense and disruption to our neighborhood I feel it should be explored. Other communities are using this technology and would hope that a progressive city such as Birmingham would embrace this.

Sincerely,

Stuart Borman
811 Shirley

Arlington/Shirley HDD - legal & fiscal issues

1 message

Lauren Buttazzoni <lmbuttazzoni@comcast.net>

Mon, Mar 18, 2024 at 10:46 AM

To: "emclain@bhamgov.org" <emclain@bhamgov.org>, "kschafer@bhamgov.org" <kschafer@bhamgov.org>, "along@bhamgov.org" <along@bhamgov.org>, "tlonge@bhamgov.org" <tlonge@bhamgov.org>, "ahaig@bhamgov.org" <ahaig@bhamgov.org>, "jecker@bhamgov.org" <jecker@bhamgov.org>, "abingham@bhamgov.org" <abingham@bhamgov.org>, "mkucharek@bhlaw.us.com" <mkucharek@bhlaw.us.com>, "bhost@bhamgov.org" <bhost@bhamgov.org>

Dear Commissioners:

I understand that there is even more compelling information on this subject since the last meeting, even though I think there was enough at that meeting for the City to at least get bids for HDD. There are two significant issues at hand:

1. **Legal.** Two crucial questions of fact and law:

First, are these streets improved? I think they are. More importantly, many significant experts think they are. Those are compelling letters from Mary Gillis (engineer, Operations Director at Oakland County Road Commission) and Lori Swanson (engineer with MDOT). This is an ISSUE. Which issue must be addressed, and not pushed aside. At the last meeting Mayor McClain said that it is "a fact" that Arlington/Shirley are unimproved roads, but I respectfully disagree that it is absolutely *an issue of fact*. Just because a plan was created last fall on the basis that these roads are unimproved, does not make them so. It has been brought to your attention that in the City's records, upon which you relied in making the original plan, that a mistake may have been made decades ago about the classification. And, based on the City's own definition of improved/unimproved, there are numerous factors to consider in making the determination and yet it seems that your evaluation considers only one factor (something about the layers of the road) and ignores all of the other factors in that definition such as curbs, manholes, etc. There IS an issue here.

Secondly, is the City required to get 51% of the property owners to agree to the plan because Ordinance 94 may be in violation of State of Michigan law which requires 51% of street property owners to agree to a street upgrade project if a property owner assessment is part of the funding plan? This is a question of law, and if required, the City needs to do this before proceeding. The previous survey sent out last fall does not suffice given (a) the melding of so many issues, (b) is not clear about the issue now, and (c) contains no cost information.

2. **Fiscal.** You have a fiduciary duty to the citizens of Birmingham whom you represent, to get HDD bids for this project which we all know will be much less expensive than the current plan. And save so many trees. You have the info to get the bids, Birmingham has used it before, and it can be used here. 21 other Oakland County cities are using it. To not at least get bids may be seen as negligent in the handling and spending of your citizens' taxpayer dollars, and of course in unnecessary and onerous assessments to 80 homeowners now, and in the future.

Sincerely,

Lauren Buttazzoni

Former Arlington resident

248.866.2830

Arlington / Shirley Roadwork

1 message

'bconnolly1@aol.com' via City Commission <city-commission@bhamgov.org>

Sun, Mar 17, 2024 at 11:39 AM

Reply-To: "bconnolly1@aol.com" <bconnolly1@aol.com>

To: City Commission <city-commission@bhamgov.org>

Cc: Jmirro <jmirro@intromarketing.com>

Dear Commissioners.

Please address Jim Mirro's proposal. He has done a great deal of research and what he suggests appears reasonable and prudent. I hope that the city will provide a clear explanation if they proceed with a plan that would be more destructive, disruptive (some residents have suggested that they will have to move out during the proposed reconstruction) and expensive. The impression, fair or unfair, is that the City has rather summarily dismissed alternative suggestions and explaining (perhaps again) the rationale for this would be helpful in laying the matter to rest.

Again, thank you for your time and effort.

Brian Connolly MD.
843 Arlington.

Sent from AOL Mobile Mail

--

You received this message because you are subscribed to the Google Groups "City Commission" group.

To unsubscribe from this group and stop receiving emails from it, send an email to city-commission+unsubscribe@bhamgov.org.

To view this discussion on the web visit <https://groups.google.com/a/bhamgov.org/d/msgid/city-commission/1307513378.3033253.1710689965790%40mail.yahoo.com>.

Shirley and Arlington rd repairs

2 messages

s h <sbh_999@yahoo.com> Sun, Mar 3, 2024 at 6:53 PM
To: "emclain@bhamgov.org" <emclain@bhamgov.org>, "kschafer@bhamgov.org" <kschafer@bhamgov.org>, "along@bhamgov.org" <along@bhamgov.org>, "tlong@bhamgov.org" <tlong@bhamgov.org>, "ahaig@bhamgov.org" <ahaig@bhamgov.org>, "bhost@bhamgov.org" <bhost@bhamgov.org>
Cc: "jecker@bhamgov.org" <jecker@bhamgov.org>, "abingham@bhamgov.org" <abingham@bhamgov.org>

Dear Commissioners,

Thank you for you time and effort spent on this subject. This letter is in support of consideration to be given to Horizontal Directional Drilling (HDD) method to replace water and sewer lines. Our understanding is that this method will reduce considerably the cost of assessment to the homeowners, in addition to environmental benefits.

Thank you for your consideration

Best Regards,

Greta and Safi Hamid
708 Shirley

s h <sbh_999@yahoo.com> Sun, Mar 17, 2024 at 9:52 PM
To: "emclain@bhamgov.org" <emclain@bhamgov.org>, "kschafer@bhamgov.org" <kschafer@bhamgov.org>, "along@bhamgov.org" <along@bhamgov.org>, "tlong@bhamgov.org" <tlong@bhamgov.org>, "ahaig@bhamgov.org" <ahaig@bhamgov.org>, "bhost@bhamgov.org" <bhost@bhamgov.org>
Cc: "jecker@bhamgov.org" <jecker@bhamgov.org>, "abingham@bhamgov.org" <abingham@bhamgov.org>

Dear Commissioners,

As a resident of Shirley Rd., we would like you to consider the Horizontal Directional Drilling (HDD) method to replace water mains/sewers on Arlington/Shirley. This is strictly to reduce the cost to us in addition to environmental benefits. I understand this method is approved by OCRC and MDOT for our street.

Respectfully,
[Quoted text hidden]



Alex Bingham <abingham@bhamgov.org>

Arlington/Shirley HDD Vote

1 message

Carol Hubbard <cardsbycarol.artist@gmail.com>

Sun, Mar 17, 2024 at 12:50 PM

To: emclain@bhamgov.org, kschafer@bhamgov.org, along@bhamgov.org, tlonge@bhamgov.org, ahaig@bhamgov.org, bhost@bhamgov.org

Cc: jecker@bhamgov.org, abingham@bhamgov.org

Carol Ann Hubbard
(248) 885-1587
cardsbycarol.artist@gmail.com
www.cardsbycarol.com

Sent from my iPhone

Please vote for HDD and replace water mains/sewers on Arlington and Shirley to save money and 100 trees as recommended by OCRC and MDOT

Lee Hubbard/ Carol Hubbard former residents of BHAM for 38 years

Arlington and Shirley Streets

1 message

EDWARD KULNIS <ekulnis@comcast.net>

Mon, Mar 18, 2024 at 9:10 AM

To: "emclain@bhamgov.org" <emclain@bhamgov.org>, "kshafer@bhamgov.org" <kshafer@bhamgov.org>, "along@bhamgov.org" <along@bhamgov.org>, "tlonge@bhamgov.org" <tlonge@bhamgov.org>, "ahaig@bhamgov.org" <ahaig@bhamgov.org>, "bhost@bhamgov.org" <bhost@bhamgov.org>

Cc: "ecker@bhamgov.org" <ecker@bhamgov.org>, "abingham@bhamgov.org" <abingham@bhamgov.org>, "mkucharek@bhlaw.us.com" <mkucharek@bhlaw.us.com>

All:

As I have indicated to you in the past, I live within proximity of Arlington and Shirley Streets. For the past 28 years, both my wife and I have walked these streets on many occasions and have always been captivated by the natural beauty of their surroundings.

We have been aware of the recent proposal to drastically adjust this beautiful area by digging up the streets to replace water mains and sewers and consequently removing countless trees, and we have voiced our concern to you.

We are now heartened to hear of an alternate proposal, HDD, which can replace the water mains/sewers, and finished by adding cape seal pavement. By adopting and implementing this method, it will be possible to save approximately 100 trees from root disturbance loss. In addition, considerable taxpayer money, can be saved.

I encourage all of you to give full consideration to this new and proven method. You have the ability to preserve this beautiful area and honor the wishes of many of the residents of Arlington and Shirley.

Sincerely,

Edward and Claudia Kulnis
768 Southfield Road

Arlington/Shirley New Developments

1 message

jmirro <jmirro@intromarketing.com>

Sat, Mar 16, 2024 at 3:40 PM

To: Elaine McLain <emclain@bhamgov.org>, kschafer@bhamgov.org, along@bhamgov.org, tlonge@bhamgov.org, ahaig@bhamgov.org, bhost@bhamgov.org

Cc: Jana Ecker <Jecker@bhamgov.org>, abingham@bhamgov.org, mkucharek@bhlaw.us.com

Dear City Commissioners,

Background: Thank you for discussing the Arlington/Shirley project at the last Commission Meeting. At that time, we made significant progress by having the City Engineer tell us that she has all the information she needs to request Horizontal Directional Drilling (HDD) bids for our two streets to save 100 trees and that the City is already using HDD as part of the Redding Street project. We also learned that a few years ago the City used HDD for replacing Oxford/Mohegan Street sewers and ran the pipes under adjacent Poppleton Park to reach Woodward Avenue.

Improved vs. Unimproved: So, apparently the only reason that no HDD approval vote has been taken is the belief stated at the last Commission Meeting that Arlington and Shirley Streets are “unimproved” and, therefore, they must be excavated/reconstructed as part of the unimproved street upgrade project. This belief is not shared by a half dozen contractors we contacted. They include 38-year City contractor Cranbrook Pavement that has physically inspected both streets and stated that HDD would be the most economical way to replace our water mains and sewers and save our trees, with paving added later to achieve a “pristine status” (1st attachment).

County/State Opinions: Because of the “improved street” issue, we asked for written opinions from both the county and state road departments. The 2nd attachment is a 3-8-24 letter received from Mary Gillis, the Director of Operations from the Oakland County Road Commission. Mary is a Professional Engineer and she physically inspected both streets on 3-7-24. Mary states that our streets are “improved” and goes on to endorse our plan for HDD to avoid losing 100 trees due to root disturbance. The 3rd attachment is a 3-15-24 letter from Lori Swanson who is the Oakland County Transportation Service Center Manager for the Michigan Department of Transportation (MDOT). Mary is a professional engineer too and also believes that Arlington and Shirley should be considered “improved streets” for “all planning purposes.” She further recommends that we use HDD for “economic and environmental benefits.” All 3 of these written opinions are considered “expert witness opinions” should they be needed for future actions.

Fiscal Responsibility: In meeting with over a half dozen contractors, there is a consensus that using HDD to replace water mains/sewers will be at a fraction of the cost to excavate/reconstruct our two streets. The range of HDD costs as a percentage of excavation/reconstruction costs is from 10% to 25%, depending on the city’s design parameters. In talking with some of the 21 other cities in Oakland County using HDD, these savings have been confirmed. The City needs to obtain HDD bids in order to be fiscally responsible in conducting city business. This will achieve the lowest-cost benefit for taxpayers who will pay for 15% of street upgrades and for Arlington/Shirley property owners who will pay for the remaining 85%.

-

Vote Request: We now have 3 expert opinions on the correct classification of our streets as “improved,” 3 recommendations to use HDD to save costs/trees and a compelling cost saving estimate on HDD vs. excavation/reconstruction. Based on this information, we ask that all Commissioners vote “yes” at the 3-18-24 meeting to have the City Engineer request bids for HDD to upgrade water mains and sewers on Arlington and Shirley Streets and to vote “No” on excavation/reconstruction, with the repaving decision to be decided after this work is done.

Other Ramifications: If the Commission does this, it will only affect Arlington and Shirley Streets and can be explained by reclassifying our streets to “improved” status based on 3 expert opinions. On the other hand, if not done and this issue is appealed to a higher level, Birmingham’s Ordinance 94 may be ruled invalid. This is because Ordinance 94 violates a 1931 State of Michigan law still on the books that 51% of street property owners must agree to a street upgrade project if a property owner assessment is part of the funding plan. If this occurs, the City will then lose its upgrade opportunity for all other Birmingham streets that are truly “unimproved.” An Arlington/Shirley “yes” vote on seeking HDD bids for one mile of streets will save the City money, trees and not delay progress on the other 25 miles of streets in the City’s upgrade plan. This will also show taxpayers that the City is fiscally and environmentally responsible. Thank you.


Jim Mirro, Resident Agent

Save Our Streets & Trees


A MI Nonprofit Foundation

248-420-5113

3 attachments

 **Cranbrook Pavement Letter, 2-26-24..pdf**
1312K

 **Oakland County Road Commission Letter, 3-8-24..pdf**
377K

 **MDOT Letter, 3-15-24..pdf**
95K



February 26, 2024

Jim Mirro
737 Arlington
Birmingham, MI
48009

Dear Jim,

With respect to the road project we discussed the other day and your question about whether it was possible and/or feasible to install a new 8" water main with all necessary connections to the existing homes on both sides of both Arlington and or Shirley with minimal disturbance to the existing road, the short answer is yes.

Having driven and walked Arlington and Shirley Streets innumerable times (given that I live on Pleasant Street in Birmingham) I am quite sure that a new 8' water main with all needed connections, stop box valves, gate wells could easily be designed and installed using Horizontal Directional Drilling (HDD) and High-Density Polyethylene (HDPE) pipe in lieu of the more commonly used Ductile Iron (DI) and "open cut" installation methods.

Not only is this method approved in Oakland County by the Water Resource Department (OCWRC) but it has the potential to address many of the items I understand to be of concern to many residents. It also does not force a complete reconstruction of a street that could easily be restored to pristine status with other techniques we can discuss at another time.

There is no question that the City of Birmingham would be well served to explore this option as a viable alternative to their earlier plans and you have my permission to share this letter or the content thereof with the City Commission.

All the best,

Nick Talmers, Managing Member
Cranbrook Contractual Services, LLC
aka Cranbrook Pavement

(See attached details and specifications for horizontal drilling of watermain from OCWRC).

**SECTION 33 05 23.13
HORIZONTAL DIRECTIONAL DRILLING**

PART 1 GENERAL

1.01 SUMMARY

- A. These specifications apply to horizontal directional drilling (HDD) of high density polyethylene pipe (HDPE) for force mains, low pressure sewers, and water mains from 1.25" through 24" diameter.
- B. These specifications are intended to technically describe the nature of the materials, equipment and workmanship required for installing force mains, low pressure sewers, and water mains by HDD methods.
- C. This specification is intended to cover all work necessary for the installation of the pipe as shown on the drawings and as specified herein by HDD methods.

1.02 PRICE AND PAYMENT PROCEDURES

- A. Unless indicated otherwise, HDD shall be paid incidental to and shall be included with the unit prices for the pipe installed.
- B. When a specific pay item for HDD is indicated in the Contractor's bid, HDD will be measured, in place, by length, in linear feet.
- C. The unit price for HDD pipe shall include the following.
 - 1. Excavation, use, and backfilling of all access and exit pits.
 - 2. Pilot tunnel boring.
 - 3. Removal and disposal of spoils and drilling fluid including all costs associated with use of vacuum excavation equipment.
 - 4. Traffic control including efforts to maintain access to roads and driveways during all HDD operations.
 - 5. All costs and activities associated with "potholing" to expose existing utility lines.
 - 6. Any and all labor, equipment, and materials required to complete the work not previously called out above.

1.03 REFERENCES

- A. ASTM F1962 - 11 Standard Guide for Use of Maxi-Horizontal Directional Drilling for Placement of Polyethylene Pipe or Conduit Under Obstacles, Including River Crossings.
- B. Plastics Pipe Institute – Guidelines for Use of Mini-Horizontal Directional Drilling for Placement of High Density Polyethylene Pipe TR-46 2009.

1.04 RELATED REQUIREMENTS

- A. LOW PRESSURE SEWERS – SECTION 33 33 00.

**JIM NASH
OAKLAND COUNTY WATER RESOURCES COMMISSIONER
HDD 1 of 7**

May 20, 2013

**SECTION 33 05 23.13
HORIZONTAL DIRECTIONAL DRILLING**

B. PACKAGED SEWAGE GRINDER PUMPING UNITS – SECTION 33 32 16.13

1.05 QUALIFICATIONS

- A. HDD Contractors shall have actively engaged in the installation of pipe using HDD methods for a minimum of three years, during which time the Contractor has completed at least 80,000 feet of HDD installations from 1.25" to 24" inches in diameter.

1.06 SUBMITTALS

- A. The Contractor shall submit documentation showing a minimum three years of HDD experience with at least 80,000 feet of guided boring installation of 1.25" to 24" diameter projects similar in the scope and value to the project specified in the contract documents. Information must include, but not be limited to the following.
1. Date and duration of work.
 2. Location.
 3. Pipe information (i.e. length, diameter, depth of installation, pipe material, etc.).
 4. Project Owner information (i.e. name, address, telephone number, contact person, etc.).
 5. Contents handled by the pipeline (i.e. water, wastewater, conduit, gas, etc.).
- B. The Contractor shall submit a list of field supervisory personnel and their experience with HDD operations. At least one of the field supervisors listed must be at the site and be responsible for all work at all times when HDD operations are in progress. HDD operations will be postponed until the resume(s) of the Contractor's field supervisory personal have been received.
- C. Working drawings, written procedures, and information that demonstrates in detail the proposed method of operation. This submittal shall include, but not be limited to the following:
1. Size, capacity and setup requirements of all equipment (including drill rig thrust/pullback and rotary torque capacity as well as the mud pump motor size).
 2. HDD guidance system type and information including the accuracy, range, and repeatability values for inclination, roll, and azimuth of the system.
 3. Type of cutting tool head.
 4. Method of monitoring and controlling line and grade.
 5. Arrangement of equipment.
 6. Location and sizes of drilling and receiving pits.
 7. Location of product pipe joining areas and staging areas.
 8. Method of dewatering.
 9. Method of removing spoils.
 10. Carrier pipe type and size.
 11. Method of joining carrier pipe.
 12. Method of installing tracer/detection wire.
 13. Method of abandonment of pilot holes.
 14. Carrier pipe end seals.

**JIM NASH
OAKLAND COUNTY WATER RESOURCES COMMISSIONER
HDD 2 of 7**

May 20, 2013

**SECTION 33 05 23.13
HORIZONTAL DIRECTIONAL DRILLING**

15. Bentonite drilling fluid product information including the following:
 - a. Product information.
 - b. Material specifications.
 - c. Handling procedures.
 - d. Special precautions required.
 - e. Method of mixing and installation.
 - f. Identification of polymer enhancement material or special additives (if applicable).
 - g. Method of measuring and maintaining water and bentonite quality during bore progress.
 - h. MSDS sheet.
- D. Information regarding the clean water source for mixing of drilling fluid.
- E. As-Built Survey
 1. At the completion of pilot hole drilling described herein, Contractor shall provide a tabulation of coordinates referenced to the drilled entry point, which accurately described the location of the pilot hole.
 2. Logs of pullback pressures for each setup upon completion of the installation of each length of pipe.
- F. All drawings, catalog cuts and other descriptive data covering related items in the same system shall be submitted at the same time in order that their complete integrated applicability in the entire system may be adequately reviewed.
- G. If, during construction, the Contractor determines that modifications to the method and equipment as stated in the original submittal are necessary, the Contractor shall submit a plan describing such modifications, including the reasons for the modifications, to the Owner for review prior to making the modification.

1.07 FIELD CONDITIONS

- A. HDD operations shall not interfere with, interrupt, or endanger the ground surface or the activities or items upon the surface.
- B. HDD operations shall be confined to the area of work as shown on the project drawings.
- C. The HDD Contractor shall comply with all local ordinances, codes, statutes, rules, and regulations including the Owner's Engineering standards and Occupational Safety and Health Administration requirements.
- D. When rock stratum, boulders, underground obstructions, or other soil conditions that impede the progress of drilling operations are encountered, the Contractor will review the situation with the Owner. The Contractor shall determine the feasibility of continuing drilling operations and review this with the Owner should adjustments or switching to an alternative construction method determined to be necessary.

**JIM NASH
OAKLAND COUNTY WATER RESOURCES COMMISSIONER
HDD 3 of 7**

May 20, 2013

**SECTION 33 05 23.13
HORIZONTAL DIRECTIONAL DRILLING**

PART 2 PRODUCTS

2.01 PIPING MATERIALS

- A. See **RELATED REQUIREMENTS**.

2.02 DRILLING FLUID

- A. No drilling fluid shall be used that does not comply with environmental regulations.
- B. Drilling fluids shall be a mixture of clean water and bentonite clay. The fluid shall be inert. The fluid should remain in the tunnel to insure the stability of the tunnel, reduce drag on the pulled pipe, and provide backfill within the annulus of the pipe and tunnel.
- C. Disposal of excess drilling fluid and spoils shall be the responsibility of the Contractor and shall be conducted in compliance with all relevant regulations, right-of-way, workspace requirements, and permit agreements. Excess drilling fluid and spoils shall be disposed of at an approved location and shall be performed at no additional cost to the Owner. The Contractor is responsible for transporting all excess drilling fluid and spoils to the disposal site and for paying any disposal costs. Excess drilling fluid and spoils shall be transported in a manner that prevents accidental spillage onto roadways. Excess drilling fluid and spoils shall not be discharged into sanitary or storm drain systems, or waterways.
- D. Drilling fluid returns caused by fracturing, formations, or any other means at locations other than the entry and exit points shall be minimized. The Contractor shall immediately clean up and dispose of any drilling fluid and spoils from return areas.
- E. The Contractor shall provide mobile spoils removal equipment capable of quickly removing spoils from entry and exit pits and from return areas. This equipment must be present during all HDD operations to fulfill the disposal requirements previously described.

2.03 DRILLING WATER

- A. The Contractor shall provide clean water for the mixing of drill fluid.
- B. The Contractor is responsible for locating a clean water source, and for transportation and storage of water.
- C. The Contractor shall secure appropriate permissions from the entity having jurisdiction over the clean water source.

PART 3 EXECUTION

3.01 PREPARATION

- A. Excavate access and exit pits as necessary to horizontally directional drill the proposed pipe alignment as shown on the project drawings.

**JIM NASH
OAKLAND COUNTY WATER RESOURCES COMMISSIONER
HDD 4 of 7**

May 20, 2013

**SECTION 33 05 23.13
HORIZONTAL DIRECTIONAL DRILLING**

- B. The drilling procedures and equipment shall provide protection of workers particularly against electrical shock. As a minimum, grounding mats, grounded equipment, hot boots, hot gloves, safety glasses and hard hats shall be used by crewmembers.
- C. The drilling equipment shall be equipped with an operational alarm system capable of detecting electrical current.
- D. The Contractor is responsible for protecting all existing utilities. The Contractor shall call Miss Dig (811) a minimum of 3 working days before any work is to begin. Existing utilities within the path of the proposed horizontal directional bore shall be "pot holed" to determine depth.

3.02 HORIZONTAL DIRECTIONAL DRILLING OPERATIONS

A. Equipment

- 1. The drilling equipment must be capable of placing the pipe within the planned line and grade without inverse slopes.
- 2. The drilling equipment must meet the minimum thrust/pullback rating, minimum rotary torque rating, and the minimum mud flow pumping capacity to facilitate installation of the product pipe per the contract drawings.
- 3. The guidance system must have the capability of measuring inclination, roll, and azimuth. The guidance system must have an independent means to ensure the accuracy of the installation. The Contractor will demonstrate a viable method to eliminate accumulated error due to inclinometer (pitch or accelerometer). The guidance system shall be capable of generating a plot of the borehole survey for the purpose of an as-built drawing.
- 4. The proposed equipment set up requirements, including but not limited to proposed access and exit pit locations, are at the sole determination of the Contractor. Such information shall be submitted along with all other required information per the specifications.

3.03 PILOT HOLE BORING

- A. The entry angle and the pilot hole and the boring process shall maintain a curvature that does not exceed the allowable bending radius of the product pipe.
- B. The pilot hole shall be drilled along the path shown on the plan and profile drawings to the following tolerances:
 - 1. Elevations: Plus or minus six inches.
 - 2. Alignment: Plus or minus six inches.

**JIM NASH
OAKLAND COUNTY WATER RESOURCES COMMISSIONER
HDD 5 of 7**

May 20, 2013

**SECTION 33 05 23.13
HORIZONTAL DIRECTIONAL DRILLING**

3. Curve Radius: No curves will be accepted with a radius less than that shown on the plan and Profile drawings.

C. Alignment Adjustments and Restarts

1. The Contractor shall follow the pipeline alignment as shown on the drawings within the specifications stated. If adjustments are required, the Contractor shall notify the Engineer and Owner for approval prior to making the adjustments.
2. In the event of difficulties at any time during boring operations requiring the complete withdrawal from the tunnel, the Contractor may be allowed to withdraw and abandon the tunnel and begin a second attempt at a location approved by the Owner. The Contractor may excavate at the point of the difficulty and install the product pipe by trench method, at no additional cost to the Owner, per the general provisions and specification for construction.
3. The number of access pits shall be kept to a minimum. The equipment must be capable of boring and installing the proposed diameter product pipe in a continuous run of a minimum distance of 600 feet without intermediate pits.

3.04 INSTALLING PRODUCT PIPE

- A. After the pilot hole is completed, the Contractor shall install a swivel to the reamer and commence pullback operations. Should pre-reaming of the tunnel be necessary, it shall be performed at the option of the Contractor and at no additional cost to the Owner.
- B. The reaming diameter shall not exceed 1.4 times the diameter of the product pipe being installed.
- C. The product pipe being pulled into the tunnel shall be protected and supported so that it moves freely and is not damaged by stones and debris on the ground during installation.
- D. Pullback forces shall not exceed the allowable pulling forces for the product pipe.
- E. The Contractor shall allow sufficient length of product pipe to extend past the termination point to allow connections to adjacent pipe sections or gate valves.
- F. Pulled pipes will be allowed 24 hours of stabilization prior to making tie-ins.

3.05 INSPECTION

- A. The Contractor will at all times provide and maintain instrumentation which will accurately perform the following functions.
 1. Locate the pilot hole.
 2. Record coordinates referenced to the drilled entry point.
 3. Measure drilling fluid flow discharge rate and pressure.

**JIM NASH
OAKLAND COUNTY WATER RESOURCES COMMISSIONER
HDD 6 of 7**

May 20, 2013

**SECTION 33 05 23.13
HORIZONTAL DIRECTIONAL DRILLING**

- 4. Measure pullback pressure.
- B. The Engineer and Owner will have access to these instruments and readings at all times.

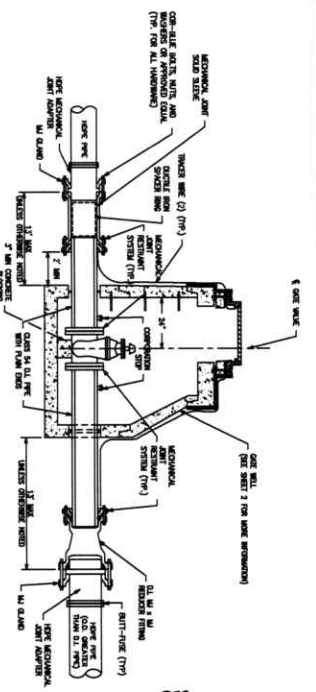
3.06 OBSTRUCTIONS

- A. The Owner and Engineer must be notified immediately if any obstruction is encountered that stops the forward progress of the HDD operation. The Contractor must review the situation with the Engineer and Owner and determine the feasibility of continuing drilling operations or switching to an alternative construction method.
- B. Dewatering of pits and excavations must meet the general provisions and specifications as set forth by the Owner's standards. The type of dewatering method used by the Contractor must be approved by the Owner, prior to commencing with the dewatering activity.

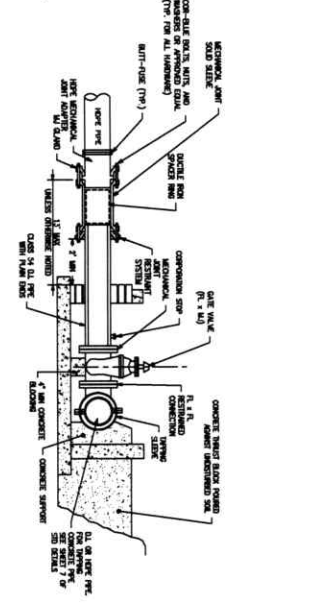
END OF SECTION

**JIM NASH
OAKLAND COUNTY WATER RESOURCES COMMISSIONER
HDD 7 of 7**

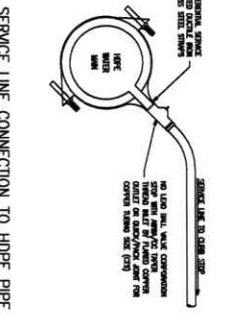
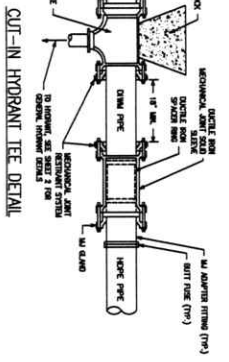
May 20, 2013



- NOTES:
1. BEFORE GATE VALVE IS IN LINE WITH THE HDPE MAIN, INSTALL 10\"/>



- NOTES:
1. SET THE TAPPING SLEEVE TO THE MAIN LINE BEFORE THE VALVE IS OPENED. THE TAPPING SLEEVE SHOULD BE OPENED TO THE MAIN LINE BEFORE THE VALVE IS OPENED.
 2. TAPPING SLEEVES FOR HDPE PIPE SHOULD BE OPENED IN SHEET 2 (SEE DIM. DIMENSION ON APPROX. EQUAL).



CUT-IN HYDRANT TEE DETAIL WITH 14" OR 10" HDPE

WATER MAIN
HIGH DENSITY POLYETHYLENE PIPE (HDPE) DETAILS

DATE: 08/11/11
 SCALE: AS SHOWN
 DESIGNED BY: WRC
 CHECKED BY: WRC
 DRAWING NO.: 6 OF 7

WRC
 WATER RESEARCH CORPORATION
 1000 W. 10th Street, Suite 100
 Lincoln, NE 68502
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Nancy Quarles
Commissioner

Dennis G. Kolar, P.E.
Managing Director

Gary Piotrowicz, P.E., P.T.O.E.
Deputy Managing Director
County Highway Engineer

Central Operations Department
Inventory Control

2420 Pontiac Lake Road
Waterford, MI 48328

248-858-4798

www.rcocweb.org

March 8, 2024


Mr. Jim Mirro
737 Arlington Road
Birmingham, MI 48009

Dear Mr. Mirro,

Thank you for inviting me to inspect Arlington and Shirley Streets which I was able to do on March 7, 2024. Based on my 35 years of experience on two road commissions and after reading Birmingham's published definition of "improved" vs. "unimproved" roads, it is my professional opinion that these two streets meet the definition of "improved." Also based on my experience, Horizontal Directional Drilling (HDD) would seem to be a good way to avoid excavating what is basically a very durable road in good condition to replace your water mains and sewers. It is my understanding that you have already talked to my colleague, Mark Davis, who has explained that the City of Birmingham has all the specification information needed from Oakland County to obtain bids from local contractors who know how to do HDD work very successfully.

The property owners of Arlington and Shirley Streets are to be congratulated on proposing a very good plan to save the root system of the 100 trees you have identified as "at risk" if open trench excavation were used instead of HDD. Best wishes for accomplishing your goals and allowing me to comment on your plans.

Sincerely,


Mary N. Gillis, P.E.
Director of Central Operations



STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
METRO REGION

GRETCHEN WHITMER
GOVERNOR

BRADLEY C. WIEFERICH, P.E.
DIRECTOR

March 15, 2024

Jim Mirro
737 Arlington Street
Birmingham, MI 48009

Dear Jim Mirro:

Thank you for contacting the Michigan Department of Transportation (MDOT) with your concern regarding the proposed method of construction to install a new water main on Arlington and Shirley Streets. I reviewed the provided photos and information. My review included the letter from the Oakland County Road Commission and published data from the City of Birmingham. In my professional opinion and for all planning purposes, Arlington and Shirley Streets should be considered "improved streets" and not "unimproved streets".

The Arlington Street and Shirley Street property owners' plan to save these streets with the use of Horizontal Directional Drilling (HDD) to replace water mains and sewers is commendable given the economic and environmental benefits of not excavating two streets that appear to be in excellent condition. If the use of HDD saves the 100 trees you have identified as vulnerable to root disturbance from excavation of the streets, this is a good reason to proceed with HDD.

Again, I thank you for sharing your concern with us. If you have any additional questions regarding this matter, please feel free to contact me at 248-361-0234 or SwansonL@Michigan.gov.

Sincerely,

Lori Swanson, P.E.
Oakland TSC Manager

OAKLAND TRANSPORTATION SERVICE CENTER
800 VANGUARD DRIVE • PONTIAC, MICHIGAN 48341
www.Michigan.gov/MDOT • 248-451-0001

LH-LAN-0 (01/2023)

HDD on Arlington and Shirley

1 message

Justin Mirro <jmirro@kensington-cap.com>

Sun, Mar 17, 2024 at 6:38 PM

To: "emclain@bhamgov.org" <emclain@bhamgov.org>, "kschafer@bhamgov.org" <kschafer@bhamgov.org>, "along@bhamgov.org" <along@bhamgov.org>, "tlong@bhamgov.org" <tlong@bhamgov.org>, "ahaig@bhamgov.org" <ahaig@bhamgov.org>, "bhost@bhamgov.org" <bhost@bhamgov.org>

Cc: "jecker@bhamgov.org" <jecker@bhamgov.org>, "abingham@bhamgov.org" <abingham@bhamgov.org>, "mkucharek@bhlaw.us.com" <mkucharek@bhlaw.us.com>

Please vote for HDD to replace water mains and sewers on Arlington and Shirley to save trees and taxpayer funds as recommended by OCRC and MDOT.

Sincerely,

Justin Mirro

646-382-5153

Arlington & Shirley Streets

1 message

loretta mirro <lmirro@intromarketing.com>

Mon, Mar 18, 2024 at 11:03 AM

To: emclain@bhamgov.org, kschafer@bhamgov.org, along@bhamgov.org, tlonge@bhamgov.org, ahaig@bhamgov.org, bhost@bhamgov.org

Cc: jecker@bhamgov.org, abingham@bhamgov.org, mkucharek@bhlaw.us.com

Dear Commissioners,

The letters from the County Road Commission and MDOT tell the story like it is. Our streets are "improved" and HDD is the perfect way to replace sewers and water mains without risking loss of 100 heritage trees through under-street root disturbance. And, best of all, this accomplishes the job at a lower cost than excavation/reconstruction. Please vote this evening to approve HDD for our streets. Then plan on repairing them where needed after HDD and cape sealing them for the "pristine" result recommended by Cranbrook Pavement. Thank you.

Respectively,
Loretta Mirro
737 Arlington



Alex Bingham <abingham@bhamgov.org>

Arlington/Shirley water Mains and Sewer

1 message

Georgene Moran <georgenemoran@gmail.com>

Sun, Mar 17, 2024 at 11:25 AM

To: emclain@bhamgov.org, kschafer@bhamgov.org, along@bhamgov.org, tlonge@bhamgov.org, ahaig@bhamgov.org, "bhost@bhamgov.org" <bhost@bhamgov.org>

Cc: jecker@bhamgov.org, abingham@bhamgov.org, mkucharek@bhlaw.us.com

Please vote for HDD to replace water mains/sewers on Arlington/Shirley to save money and 100 trees as recommended by OCRC and MDOT.

Georgene Moran
269 Arlington

Arlington and Shirley

2 messages

niharika ramdev <n.ramdev@yahoo.com>

Sun, Mar 17, 2024 at 11:32 PM

To: emclain@bhamgov.org, kshafer@bhamgov.org, along@bhamgov.org, tlonge@bhamgov.org, ahaig@bhamgov.org, bhost@bhamgov.org

Cc: jecker@bhamgov.org, abingham@bhamgov.org, mkucharek@bhlaw.us.com

Respected commissioners,

Please take into consideration the recommendations from OCRC and MDOT and reconsider your position on HDD. It would also be very helpful for the Birmingham residents to understand your logic and rationale if you choose to decide otherwise.

I am traveling in Asia currently; my apologies for this getting to you late Sunday night due to the time difference.

Regards,

Niharika Taskar Ramdev
280 Arlington Street

Suman Sarkar <suman.sarkar.2001@gmail.com>

Mon, Mar 18, 2024 at 8:26 AM

To: emclain@bhamgov.org, kshafer@bhamgov.org, along@bhamgov.org, tlonge@bhamgov.org, ahaig@bhamgov.org, bhost@bhamgov.org, jecker@bhamgov.org, abingham@bhamgov.org, mkucharek@bhlaw.us.com

Cc: niharika ramdev <n.ramdev@yahoo.com>

Respected commissioners,

Please consider the recommendations from OCRC and MDOT and reassess your stance on HDD. Given that Arlington is treated similarly to other streets, we anticipate that the city will cover the costs of repairing and upgrading the sewer and water systems, which residents have contributed to through taxes over the years.

Regards,

Suman Sarkar
280 Arlington Street

Arlington-Shirley project

1 message

Gary Saltzgiver <gsaltzgiver@yahoo.com>

Mon, Mar 18, 2024 at 12:21 PM

To: "kshafer@bhamgov.org" <kshafer@bhamgov.org>, "along@bhamgov.org" <along@bhamgov.org>, "tlonge@bhamgov.org" <tlonge@bhamgov.org>, "ahaig@bhamgov.org" <ahaig@bhamgov.org>, "bhost@bhamgov.org" <bhost@bhamgov.org>, "emclain@bhamgov.org" <emclain@bhamgov.org>

Cc: "jecker@bhamgov.org" <jecker@bhamgov.org>, "abingham@bhamgov.org" <abingham@bhamgov.org>, "mkucharek@bhlaw.us.com" <mkucharek@bhlaw.us.com>

Although most of us appreciate the decision of the Commission to abandon sidewalks and the resulting destruction of trees and landscaping, this matter will fester until the City and Commission can satisfactorily answer these questions:

Unimproved Roads?

Why do the City and Commission protest so insistently without supporting data that Arlington and Shirley are unimproved streets, while deeming Hawthorne, Aspen and Linden to be improved? These roads appear to have been created at the same time by the same developer, and their curbs, gutters, and surfaces appear to be the same. Absent analysis and disclosure of the subsurfaces of all these roads, the distinction appears to be arbitrary, at best.

Is this insistence that Arlington and Shirley are unimproved solely motivated by cost to the City, as City reps have stated that the City covers the cost of rebuilding an improved road while residents bear 85% if a road is deemed unimproved? Simply declaring something does not establish it as fact. Core samples were taken of Shirley and Arlington -- what did they disclose?

How does the City explain the contrary expert opinions of the Oakland County Road Commission (OCRC Director Gillis), MDOT (Swanson), and Cranbrook Pavement (neighbor Talmers) that the roads are improved and that HDD is an appropriate method for installation of water/sewer infrastructure for our streets?

Cost

Why do a majority of Commissioners insist on excavation and asphalt of these roads and refuse to revisit handling this project in a less destructive and more cost efficient manner for the affected residents? As long as the roads are not fully excavated, asphaltting the minimal HDD damage would preserve these "very durable" (OCRC) roads.

Indeed, why do the City and the Commission refuse to support any plan that would save residents so much money when the declaration that Arlington and Shirley are "unimproved" roads appears to be designed to save the City money? Why can't we all share in the savings while accomplishing the City's goal of replacing aging sewers and water mains?

Please support minimally damaging HDD to replace water mains/sewers on Arlington/Shirley with minimal asphalt paving to restore our "unimproved" roads in order to save money (and trees), as recommended by various experts.

Gary Saltzgiver
Elaine Hazel
188 Shirley Rd

Arlington Shirley

'Jenny Shebib' via City Commission <city-commission@bhamgov.org>

Mon, Mar 18, 2024 at 10:31 AM

Reply-To: Jenny Shebib <jcshebib@yahoo.com>

To: City Commission <city-commission@bhamgov.org>

Cc: "nshebib@yahoo.com" <nshebib@yahoo.com>

Commissioners

First off we are very grateful for last months vote against narrowing our streets and including sidewalks, as well as the inclusion of asphalt paving.

We have stayed silent for a bit but Mr Mirro brings up some very valid arguments.

We are in favor of requesting HDD estimate. If it can save the residents as well as the city thousands of dollars why not just get an estimate?

Also with the Oakland County Road Commision determing our street as an Improved status can you give us a detailed explanantion as to why the city does not agree with the Oakland County Road Commision?

We appreciate all you do for our great city

Best

Nick and Jenny Shebib

226 shirley

Jenny Shebib

(248)925-8464 cell

jcshebib@yahoo.com

--

You received this message because you are subscribed to the Google Groups "City Commission" group.

To unsubscribe from this group and stop receiving emails from it, send an email to city-commission+unsubscribe@bhamgov.org.

To view this discussion on the web visit <https://groups.google.com/a/bhamgov.org/d/msgid/city-commission/1312089060.6151796.1710772279389%40mail.yahoo.com>.



Alex Bingham <abingham@bhamgov.org>

HDD on Arlington and Shirley

1 message

JOHN SMITH <johnjrpop@aol.com>

Sat, Mar 16, 2024 at 10:57 PM

To: Elaine McClain <emclain@bhamgov.org>, Therese Longe <tlonge@bhamgov.org>, Katie Schafer <kschafer@bhamgov.org>, Anthony Long <along@bhamgov.org>, Andrew Haig <ahaig@bhamgov.org>, Brad Host <bhost@bhamgov.org>

Cc: Kucharek <mkucharek@blaw.us.com>, Ecker <jecker@bhamgov.org>, Alexandria Bingham <abingham@bhamgov.org>

Please vote for HDD to replace water mains and sewers on Arlington and Shirley to save trees and taxpayer funds as recommended by OCRC and MDOT.

Many thanks,
John and Joan Smith
230 Linden Rd

Sent from my iPhone

Please approve HDD for Arlington and Shirley Streets

1 message

shay spaniola <shayspaniola@gmail.com>

Mon, Mar 18, 2024 at 2:00 PM

To: jecker@bhamgov.org, abingham@bhamgov.org, mkucharek@bhlaw.us.com, emclain@bhamgov.org, kschafer@bhamgov.org, along@bhamgov.org, tlonge@bhamgov.org, ahaig@bhamgov.org, bhost@bhamgov.org

Birmingham Commissioners.

I'm emailing in regards to HDD for Arlington and Shirley Streets as I'm a resident at 503 Arlington. Please approve HDD for Arlington and Shirley Streets for replacing water mains/sewers to save money and trees, not excavation/reconstruction, and repair/cape seal the pavement after HDD is done. This would help us out so much as it's an unexpected expenses that we feel strongly should be covered by our tax dollars.

Best,
Shay Spaniola

--

Shay Spaniola

Designer, Shay Spaniola Creative

586.707.3705 | www.shayspaniolacreative.com

shayspaniola@gmail.com | DETROIT + AUSTIN



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**NOTICE OF INTENTION TO APPOINT TO THE
PARKS & RECREATION BOARD**

At the regular meeting of Monday, April 15, 2024, the Birmingham City Commission intends to appoint one alternate member to the Parks and Recreation Board to serve the remainder of a three-year term to expire March 13, 2025.

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, April 10, 2024. These applications will appear in the public agenda for the regular meeting at which time the City Commission will discuss recommendations, and may make nominations and vote on the appointments.

Responsibilities

The Parks & Recreation Board consists of seven members who serve for three-year terms without compensation. The goal of the board is to promote a recreation program and a park development program for the City of Birmingham. The Board shall recommend to the City Commission for adoption such rules and regulations pertaining to the conduct and use of parks and public grounds as are necessary to administer the same and to protect public property and the safety, health, morals, and welfare of the public.

The meetings are held the first Tuesday of the month at 6:30 P.M.

Criteria/Qualifications of Open Position	Date Applications Due (by noon)	Date of Interview
Members must be electors (registered voters) of the City of Birmingham.	4/10/2024	4/15/2024

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.



Memorandum

To: Birmingham Area Cable Board

From: Richard David, Treasurer

Date: January 8, 2024

Re: 2023 Administrative Grants

This memo addresses three items –

- 1) The payment of the deferred Administrative Grant to the participating communities of the late payment of the 2022 fiscal year Franchise fees from the Village of Franklin which were not paid out in prior year grants due to the late receipt of their franchise fee payment
- 2) A recommendation for a change in the BACB Policy related to Administrative Grants, and
- 3) The resulting individual recommended administrative grant amounts to our four communities

ITEM #1

The payment of the deferred administrative grant to the Village of Franklin.

In the prior fiscal year, the Village of Franklin did not make its franchise fee payment on a timely basis. As such, when the BACB determined the 2022 administrative grants at its January 18, 2023 meeting (see minutes excerpt attached to this memo.) the BACB elected to make an additional payment to all of the affected communities in the current year once the late payment of \$37,076 was received. in the current year administrative grant process.

In light of this, **it is recommended that an Administrative Grant of \$ 35,222** (95% of the late payment), be **paid as follows:**

Birmingham	\$ 5,719
Village of Beverly Hills	\$ 2,913
Village of Franklin	\$ 25,828 (reflects the zero payment made in the prior year)
Village of Bingham Farms	\$ 762

ITEM #2

For the past few years, BACB has been experiencing many financial headwinds

- a ongoing decrease in cable subscribers has caused franchise fees to begin a slow decline
- historically, the BACB has been asked to entertain ever increasing grant requests from our communities and related organizations

(for the upcoming 2023-2024 year alone, the BACB has already committed to a grant of \$185,000 to the Birmingham Public Schools)

- at present, the annual expenditures related to the Bloomfield Community TV (BCTV) contract is soon approaching the entire amount of our annual PEG revenue. This negatively impacts our ability to utilize any remaining PEG funds for grant activity.
- our principal capital asset, the remote broadcast vehicle, is also getting old and its components are in need of regular updating, such as new TV cameras, lens, etc. and it is expected that the BACB will soon be asked to purchase a new vehicle (with a base price in excess of \$300,000)

In light of these financial pressures, I believe that it would be prudent for the BACB to begin to rebuild its financial reserves in order meet its current and future obligations.

The current Board policy regarding Administrative Grants is as follows:

Per the BACB Financial Statement Footnotes

Franchise Fees

In any given year, the policy is to administratively grant back to the communities 95 percent of the previous year's audited franchise fee revenue in excess of board expenditures.

Grants

In addition to its two-channel (public and governmental) programming, the Board allocates PEG fees to the member communities (or their affiliated entities) or Birmingham Public School District upon a grant request. These grants are reported in the financial statements as operating grants.

Unused franchise fees collected by the Board are returned to the Parties annually on a pro rata basis in accordance with the Board's franchise fee fund balance policy. The return of unused franchise fees is reported in the financial statements as administrative grants.

As noted above, the current policy is to return 95% of the unspent franchise fee revenue. **It is proposed that the refund rate be reduced to 50% for the recently concluded 2023 fiscal year.**

ITEM #3

An analysis of the proposed Administrative Grants for the 2023 Fiscal Year can be found in the attached Appendix.

In summary, it is recommended that **the following administrative grants be approved.** (assuming that that the BACB approved recommendation #2)

Birmingham	\$ 99,756
Village of Beverly Hills	\$ 30,287
Village of Franklin	\$ 8,857
Village of Bingham Farms	-0-

Respectfully Submitted

Richard David, Treasurer

Excerpt from the Minutes of the January 18, 2023 BACB meeting

APPROVAL OF PAYMENT OF ADMINISTRATIVE GRANTS

White explained the accounting method and calculation of Administrative Grants year ending 6/30/2022. She noted that Franklin was not included in the total Franchise Fees due to changes in its personnel and its late reporting to the auditors and, therefore, could not be included in the list of Allocation of Administrative Grants. Franklin's payment will be made in 2023. Today the Board will be asked to approve payment adjustments of the 2023 to include Franklin's 2022 allocation.

Gugni further detailed that Administrative Grants are equivalent to 95% of the funds between the Franchise Fee minus the Board Expenditures. Franklin has been notified that it would not be receiving a Grant this year.

Motion by David, seconded by Cleary to approve the Allocation of Administrative Grants to Birmingham, Beverly Hills and Bingham Farms as listed on the information sheet found in the Board's packet.

Birmingham Area Cable Board			
Calculation of Proposed Administrative Grants			
Year ended June 30, 2023			%
Franchise Fees:			
Birmingham		255,245	72%
Village of Beverly Hills		77,495	22%
Village of Franklin	59,739		
(less late payment from 2022)	(37,076)	22,663	6%
Village of Bingham Farms		NONE	0%
	TOTAL	355,403	100%
Board Expenditures:			
Contract labor		381	
Exec Director		39,862	
Liability Insurance		4,531	
Memberships		1,150	
Operating Expenses		5,745	
Professional Fees		19,888	
Municipal Support Services		6,046	
Other			
	TOTAL	77,603	
Excess of Revenues over Exp		277,800	
Proposed Administrative Grant at 50%		138,900	
Birmingham		\$ 99,756	
Beverly Hills		\$ 30,287	
Franklin		\$ 8,857	

Annual Report



2023

Birmingham Police Department

Chief Scott A. Grewe



Professionalism

Integrity
11E1

Courage



11E1

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Chief's Message

Dear Mayor McLain, City Commissioners, City Manager Ecker, Birmingham Residents, Community Leaders, Business Representatives and Visitors:

It is my pleasure to present the 2023 edition of the Police Department's Annual Report. This newly designed annual report will provide you with more information than ever before. We are proud to provide our partners and community members with the opportunity to learn about our agency's work, revisit some important activities from the past year, and look into our future direction.

The men and women of the Birmingham Police Department work tirelessly every day to serve our community with professionalism, integrity, and courage and I could not be more proud of the work accomplished this past year. We work hard to serve our community, to keep people safe, and to protect property. I personally want to thank our staff, whether they don a uniform daily or work behind the scenes in a supportive role. They are the ones who collectively make us successful, who ensure people are treated with respect, who exceed expectations, and who serve our community with honor and integrity.

In 2023, recruitment played a significant role in filling vacancies within the department. The department has a comprehensive recruitment action plan designed primarily to recruit and hire from a diverse pool of candidates for each position. When a position opens, the recruitment team seeks out qualified candidates by issuing job applications, speaking with qualified applicants at certified police academies, placing job postings, as well as participating in job fairs at local colleges and universities. In 2023, the Police Department welcomed seven new members, which included four police officers, one part-time dispatcher, and two part-time parking enforcement assistants. Additionally, we added our first-ever full-time School Resource Officer at the start of the 2023-2024 school year. I am proud of our training staff and all of their hard work that goes into training new members of our agency. They have been and will continue to be busy as we look forward to 2024 and future recruitment needs.

We also saw our CoRe program grow with the addition of a second full-time clinician in 2023. While our program has been very successful in our response to those dealing with mental health or substance abuse crisis', we continue to respond to these types of calls for service at a high frequency. This second CoRe clinician increases the ability of a co-response and provides a higher level of service to our community.



Chief's Message Cont.



In 2023, the Police Department also launched our first-ever wellness program for all members of the agency. Our staff is our most important resource and it is imperative that we provide the support they may need to deal with the stressors of working in a law enforcement agency to ensure they live a long healthy life. Additionally, by providing resources for our staff's wellness, we can ensure they are better equipped and prepared to provide the highest level of service to our community. This new program provides Police Department staff access to local counseling services, a peer support team, information on the City's Employee Assistance Program and direct links to training videos on a variety of topics regarding wellness.

While any crime is unacceptable to the police department, our community should be very proud of a consistently low crime rate. The efforts of all the police department staff and the community should be recognized for continuing to work together to keep our City safe. In 2021 and 2022, we saw a sharp rise in our crime rate as reported incidents returned to pre-pandemic levels. In 2023, we continued to see a rise in crime rates. However, that rate of increase was lower than previously seen. Crime in Birmingham rose just under 3% in 2023 compared to the previous year. This increase was largely due to the increase in motor vehicle thefts and larcenies from automobiles due to unlocked vehicles.

We will continue to collaborate with our local, county, state, and federal partners to find well-thought-out approaches to combat crime while representing the best innovative, engaging police work focused on keeping our communities safe. Since taking office, I've had numerous meetings with our elected officials in Lansing to address the ongoing issue of excessive vehicle noise. I am pleased to report that this push for legislative changes to provide law enforcement with an avenue to address this issue is moving forward and proposed changes to state law are being proposed by Rep. Natalie Price.

I hope you find this annual report insightful as it demonstrates the hard work of our staff. I look forward to the year ahead and as your police chief, I am humbled to serve you, our officers, civilian staff and our dedicated volunteers. Thank you for the support our department receives from all as we strive for the best policing standards.

Scott A. Grewe
Chief of Police



Mission Statement



The Birmingham Police Department is dedicated to serving with Professionalism, Integrity, and Courage to protect life and property through compassionate and equitable police services.



Vision Statement

The Birmingham Police Department, together with our community, will continue working to make Birmingham the safest city in Michigan.

C o r e V a l u e s

Core values are the fundamental beliefs of a person or organization. These guiding principles dictate behavior and can help people understand the differences between right and wrong. The following core values are upheld every day by the staff of the Birmingham Police Department, both personally and throughout the course of their duties.

Professionalism

The Birmingham Police Department strives to provide the highest standard in policing to serve all people within our community. We value professional excellence and civility by rendering services with courtesy and respect. We are committed to the elimination of bias and divisiveness within the criminal justice system, ensuring equitable, effective, and efficient resolutions for our community.

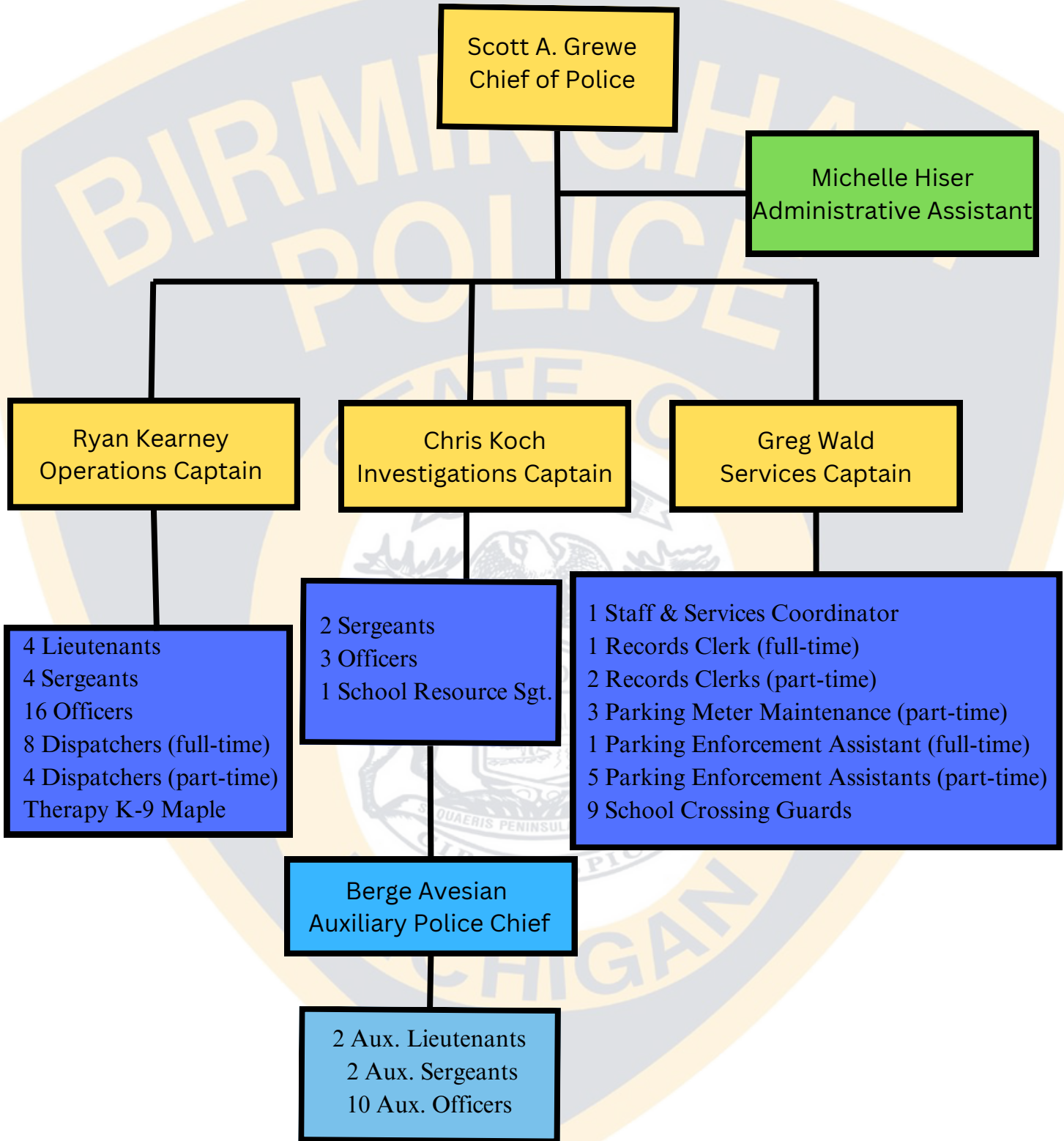
Integrity

Strong moral values and professional ethics are the backbone of the Birmingham Police Department. We are accountable to each other and the citizens we serve. We will always act with honor and honesty without compromising the truth. We will perform our duties in a manner that respects all citizens' rights, and our integrity will be the foundation for building public trust and confidence.

Courage

We hold that courage is the mental, moral, and physical strength to overcome fear, and to do what is right. To have the ability and courage to make tough decisions under stress, pressure and danger. To serve our community guided by a strong sense of fairness and righteousness, in a manner that promotes the well-being of all.

Birmingham Police Department Organizational Chart



POLICE EXECUTIVE COMMAND

Scott A. Grewe, Chief of Police



Chief Grewe began his career with the Birmingham Police Department in 1999 after completing his law enforcement training at Ferris State University. During his career he was promoted through the ranks supervising every aspect of the department and was promoted to the position of Chief in December of 2022.

- M.S. in Public Safety, University of Virginia
- B.S. in Criminal Justice, Ferris State University
- Eastern Michigan University School of Staff and Command
- F.B.I. National Academy Graduate (Session #283)

Captain Greg Wald, Services Division

Serving since 2000, B.S. in Criminal Justice, Ferris State University. Eastern Michigan University School of Police Staff and Command, 2019. Oversees the Police Department Budget, Training, Records, Property & Evidence, Fleet Management & Accreditation.

Captain Chris Koch, Investigations Division

Serving since 2000, Criminal Justice degree, Seneca College in King City Ontario, Eastern Michigan University School of Police Staff and Command, 2018, in charge of investigations, use of force and firearms training coordinator, liquor license inspections, and Auxiliary Officer training.

Captain Ryan Kearney, Patrol Division

Serving since 2003, B.A. in Criminal Justice, Western Michigan University, Eastern Michigan University School of Police Staff and Command, 2021. Supervises the Patrol Division, oversees the City's special events, and is the Police Department's representative for the Multi-Modal Transportation Board.

Personnel Changes - Promotions, Retirements, New Hires

In 2023, the Police Department had 5 internal promotions, 3 retirements and 9 new staff members hired.

Promotions

Sgt. Alex Linke was promoted to Lieutenant
Ofc. Jordan Zale was promoted to Sergeant
Ofc. Micheal Manzo was promoted to Sergeant
Ofc. Kyle McCanham was promoted to Sergeant (SRO)
Disp. Jamie Debanò was promoted to Dispatch Manager



Retirements

Chief Mark Clemence - 37 years with BIPD
PEA Jim Lottridge - 28 years with BIPD
PEA Bob Prew - 8 years with BIPD



New Hires

Officer James Cardenas
Officer Cameron Lease
Officer Matthew Walker
Officer Luxie Kouza
PT Disp. Chyna Harmon
PEA Ashley Martin
PEA Kevin Druzinski
Therapy K-9 Maple



2023 Personnel Distribution and Sworn Seniority Distribution

Full Time Sworn Positions

Chief of Police
 3 Captains
 4 Lieutenants
 7 Seargents
 20 Police Officers
35 Total Sworn Officers

Full Time Civilian Positions

1 Parking Enforcement Assistant
 8 Dispatchers
 1 Records Clerk
10 Total Full Time Civilian Positions

Part Time Civilian Positions

4 Dispatchers
 3 Parking Meter Maintenance
 9 School Crossing Guards
 3 Clerk / Secretaries
 5 Parking Enforcement Assistants
24 Total Part Time Civilian Positions

Aux. Officer Volunteers

15 Auxiliary Officers

84 Total Positions in the Police Department

2023 Seniority

Chief

20 + years of service 1

Lieutenant / Captain

05-09 years of service 1
 10-14 years of service 2
 15-19 years of service 1
 20-24 years of service 3
 25-30 years of service 0

Officer / Sergeant

00-04 years of service 10
 05-09 years of service 11
 10-14 years of service 2
 15-19 years of service 0
 20-24 years of service 1
 25-30 years of service 3

Average Sworn Seniority = 10.4 Years

Dispatchers

00-04 years of service 6
 05-09 years of service 4
 10-14 years of service 1
 15-19 years of service 0
 20-24 years of service 0
 25-35 years of service 1

Average Dispatcher Seniority = 7 Years

MACP Accreditation Program



Accreditation is a proactive and ongoing "health check" of our organization's defined processes and their execution. It supports a culture of continuous improvement through our voluntary commitment to review best practices and how we chose to apply them. It identifies areas of professional excellence and where organizational growth is needed. Clearly defining organizational expectations supports strong service delivery and creates sustainability during succession. Internal reviews and the external validation by outside parties increases trust and transparency with those you serve and your team.



The Birmingham Police Department was first accredited in July 2021 and must apply for re-accreditation in 2024. In order to be approved for re-accreditation status the department must show compliance with over 120 standards per year.

Accreditation is a progressive and time-proven way of helping law enforcement agencies calculate and improve their overall performance. The foundation of Accreditation lies in the adoption of standards containing a clear statement of professional objectives, while ensuring transparency and accountability.

“The accreditation process opens our department up to intense scrutiny by outside assessors to determine if our current policies and procedures are patterned after nationally accepted best practices. Our certification program through the Michigan Association of Chiefs of Police is validation that the high standards we hold our staff to is aligned with national best practices.”

~Chief Scott A. Grewe



Investigations Division

Captain Chris Koch oversees the investigations division which is comprised of two detective sergeants, a school resource sergeant, a narcotics enforcement officer (NET), a special investigations unit officer (SIU), and an FBI Financial Crimes task force officer.

The following chart is a three year summary of offenses:

OFFENSES	2023	2022	2021	3 YEAR AVERAGE
Criminal Homicide	0	0	0	0
Criminal Sexual Conduct I,III	1	3	0	1.33
Robbery	3	0	2	1.66
Assault All	54	51	51	52
Burglary	12	18	8	12.66
Larceny	136	134	99	123
Motor Vehicle Theft	31	42	18	30.33
Arson	0	0	0	0
Criminal Sexual Conduct II,IV	1	9	2	4
Forgery/Counterfeiting	5	2	7	4.66
Fraud	129	109	72	103.33
Embezzlement	5	7	2	4.66
Vandalism	51	40	47	46
Operating While Intoxicated	65	65	44	58
TOTALS	493	480	352	441

Nationally, there has been a steady rise in crime in the post Covid-19 pandemic period, as can be seen in our Summary of Offenses we have seen a rise consistent with this trend over the last three years. However, in 2023 the rate of increase was lower than previous years.

Total Case Reports Assigned for Investigation

<u>2023</u>	<u>2022</u>	<u>2021</u>
703	616	513

Property and financial crimes are the two areas where we have seen the largest increase. These crimes include Larceny from Automobiles, Stolen Vehicles, Identify Theft and Credit Card Fraud. The vast majority of these crimes have occurred in unlocked vehicles.





Investigations Division

Agency Partnerships

School Resource Officer

In 2023, the Birmingham Police Department and Birmingham Public Schools collaborated on a full-time school resource officer position. This position aims to enhance school safety and build positive relationships with students and the community.



Narcotics Enforcement Team

The Oakland County Narcotic Team plays a crucial role in addressing drug-related issues. This team involves officers from different jurisdictions pooling resources to investigate and combat drug-related crime, enhancing the overall effectiveness of law enforcement efforts.



FBI Task Force

Collaboration between local police departments and federal agencies like the FBI in financial crimes task forces aims to enhance the investigation and prosecution of complex financial offenses. Working within the task force has expanded the department's investigative capabilities enabling us to delve deeper into these criminal activities.



Special Investigations Unit

The Troy Police Department heads up a multijurisdictional investigative unit. Birmingham Police as well as several other agencies make up this unit. Participating across jurisdictions in a special investigation unit enhances efficiency, resource allocation, and overall effectiveness in addressing cases, benefiting not only the citizens and City of Birmingham but neighboring departments as well.



Investigations Division

Statistics

Our officers and detectives strive to deliver the best possible police service in a professional, courteous manner to the residents of the City and to those who work, travel and shop here to provide a safe environment for all. As a resident, you have a low probability of being a victim of a crime. However, crimes do exist and the below information compares the number of reported incidents to the number of arrests in each category.

Group A includes: Robbery, forcible sexual assaults, larceny, burglary, damage to property, etc.

Group A Incidents were up 12.8%

2022=437

2023=493

Group A arrests were up 54.55%

2022=33

2023=51

Group B includes: Operating While Intoxicated (OWI), disorderly conduct, liquor law violations, misdemeanor sex offenses, non-violent family offenses, etc.

Group B Incidents were up 20.96%

2022=167

2023=202

Group B Arrests were up 15.79%

2022=95

2023=110

Group C includes: Traffic offenses, traffic crashes, juvenile offenses, warrants arrests, general patrol activity, etc.

Group C incidents were up 3.74%

2022=21,274

2023=22,070

Group C arrests were down 62.99%

2022=154

2023=57



Investigations Division Statistics Cont.

ADULT IN CUSTODY ARRESTS BY MONTH

MONTH	2023	2022	2021
January	9	15	5
February	11	15	5
March	14	15	8
April	15	12	7
May	13	9	17
June	15	8	7
July	11	17	14
August	19	20	16
September	16	13	15
October	22	14	12
November	15	21	8
December	17	13	12
TOTAL	177	172	126

ARREST	2023	2022	2021
Male	28	18	5
Female	12	2	8
TOTAL	40	20	13
Felony*	2	1	3
Misdemeanor*	38	19	12
DISPOSITIONS			
Parental Conference	15	4	0
Youth Assistance	7	8	11
Juvenile Court	18	8	2
* May Represent Multiple Charges			

JUVENILE ARREST DISPOSITIONS

Community Engagement

The Birmingham Police Department strives to have a positive relationship with the community it serves. To maintain communication and interaction with our residents, the police department encourages officers to engage the community in different ways. Officers on patrol can often be found in our neighborhoods to discourage illegal activity and provide assurance to the citizens that we are in the area and available for service.

Officers also participate in speaking engagements which may include a tour of the police department or safety discussions regarding alcohol, online safety or stranger danger.

Community Engagement Statistics for 2023

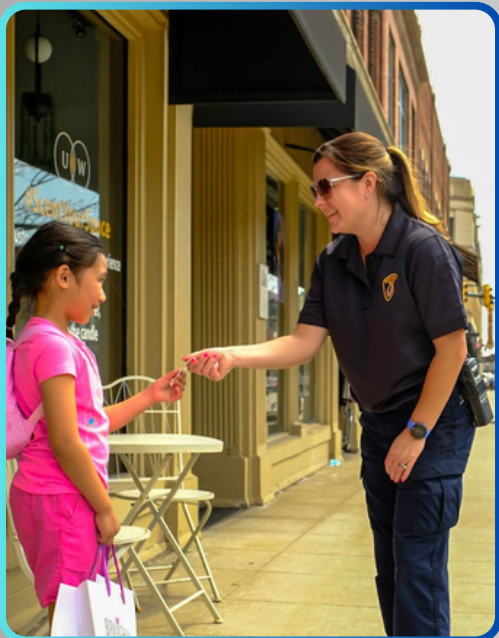
Speaking Engagements: 7

Station Tours: 8

Community Resource Officer Engagements: 28



Community Resource Officer



The Community Resource Officer (CRO) works with various businesses, religious venues and educational programs within the City by providing Active Assailant/Active Shooter training and security assessments of their facilities. The CRO also assists with youth education presentations, provides station tours, and works with senior programs and parent groups to educate them on topics such as personal safety, online threats and any trending crimes. They attend community events such as National Night Out, an activity where the community is encouraged to meet with local first responders of various agencies, and Shop with a Hero when many local agencies allow officers to shop with families in need for the holiday season.

Community Engagement

In July of 2023, the Police Department hosted its first ever Open House. Police staff were on hand to provide demonstrations and share the departments various resources and community partnerships. We were joined by neighboring jurisdictions and the Michigan State Police Bomb Squad to highlight some of our shared resources.

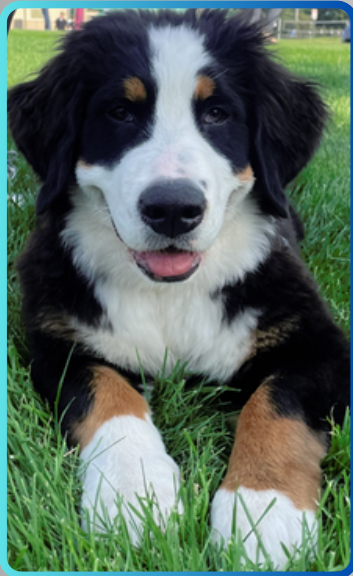


Interacting while engaging in fun activities humanizes our officers making others feel more comfortable speaking with us and not just interacting with us during an unfortunate circumstance. Our officers participate in many events to meet and greet our community members, such as “Skate with a Cop” that takes place in the spring at the Birmingham Ice Arena.

Birmingham also co-hosts a Regional Youth Police Academy which invites high school-aged youth to attend a week-long program to learn about the various aspects of police work and provides them with hands-on experiences of traffic stops, physical/defensive tactics, active assailant training and court room experience. This has provided an inside look at a career in law enforcement and helped promote a bond between community youth and officers. Those interested in this program may contact Community Resource Officer Gina Moody at gmoody@bhamgov.org for more information.



Community Engagement



In July 2023, we introduced Therapy K-9, Maple. Our newest four-legged officer symbolizes approachability and serves as a bridge to connect police officers with the people they serve. She attends community events and is likely to become the focal point, attracting individuals of all ages to interact with law enforcement in a relaxed and friendly atmosphere. The calming and comforting nature of dogs creates an opportunity for open conversations, breaking down barriers, and building trust. Whether at local schools, public gatherings, or neighborhood outreach programs, Maple is vital in enhancing community relations and putting victims at ease.



Officers regularly stop by block parties, sporting events, parks, community gatherings, and other activities to engage with the public and ensure the safety and well-being of our residents and visitors.



Block party permits can be obtained through the police department by contacting Administrative Assistant, Michelle Hiser at (248)530-1863.



Auxiliary Officer Unit

The Birmingham Auxiliary unit is a 15 member team used to supplement officers at Special Events, High School Sporting Events, and any major incident where additional police presence is needed. In 2023, this resulted in 283 hours worked by our Aux. Officers.

The Auxiliary Unit is led by Aux. Chief Berge Avesian.



Auxiliary Officers are volunteers and are required to complete an accredited Reserve Officer training academy conducted at an accredited police academy prior to assuming duties, as well as additional monthly in-service training to be determined by the Services Captain.

In 2023, Aux. Officers participated in 112 hours of training.

The Birmingham Auxiliary unit is currently accepting applications. For those interested in applying, please contact Capt. Chris Koch at ckoch@bhamgov.org.



CoRe Program

The Birmingham Police Department has partnered with the Oakland Community Health Network (OCHN), and police departments from Bloomfield Township, Auburn Hills and Rochester to provide two certified social work clinicians to co-respond to calls for service involving persons dealing with a mental health or substance abuse crisis.



The CoRe program continues to be a valuable asset to the Police Department providing a level of service for those experiencing a crisis we otherwise would not have. When available, our social workers co-respond to calls that deal with someone in crisis. They also provide follow up services to those individuals and their families.

Total CoRe Contacts Resulting from Birmingham Police Calls for Service

2023

136

2022

105



POLICE

Giving Back

The Birmingham Police Department staff regularly participates in supporting various causes and serving others as we identify needs.

Each year, the department participates in the Law Enforcement Torch Run (LETR) for Special Olympics by raising funds and awareness for the athletes. In 2023, department staff also participated in a Polar Plunge event where additional funds were raised for this great cause.



Community Resource Officer Gina Moody participates in Shop with a Cop before the Holiday Season.



Officers shovel the driveway of one of our senior residents that is part of the Police Department's Adopt-A-Senior program. For more information on our Adopt-A-Senior program, contact Dispatcher Joe Misiak at jmisiak@bhamgov.org.



The men and women of the Birmingham Police Department have dedicated their lives in service to others. Working for our department gives them opportunities to serve others.



Services Division

The Services Division is led by Captain Greg Wald and is responsible for the training and certifications necessary for all personnel within the department. Officers are required to complete countless training hours throughout their careers in order to maintain required certification and ensure they are skilled and qualified to serve our community.

Trainings include such topics as firearms, active shooters, precision driving, legal update, bias training, physical and defensive tactics, use of force, Staff and Command, Crisis Intervention Team (CIT-mental health response), domestic violence, suicidal individuals and more.



In 2023, Birmingham officers completed a total of 3,232 hours of advanced police training. 144 of those hours were health and wellness based training and 544 hours were supervisor or leadership specific.



The records department is also responsible for processing all necessary court documents along with completing Freedom of Information Act (FOIA) requests, gun permits, parking permits, sex offender registry and assisting with Operation Medicine Cabinet. In 2023, 350 FOIA requests were completed.





Services Division

Dispatch Center

Public Safety Answering Point

The services division monitors the dispatch center including ensuring all equipment is properly functioning and all dispatchers have completed required annual training. To maintain certification, dispatchers must complete 24 hours of annual training.

Our dispatch center provides emergency dispatch services for the City of Birmingham and the Village of Beverly Hills.



The dispatch center is staffed around the clock by eight full-time and four part-time dispatchers. In 2023, our dispatchers received the following number of incoming calls:

Non emergency phone calls - 43,015

911 calls - 9,285

Text to 911 - 120

Total Incoming Calls = 52,420

Of all the information received, our dispatchers processed 33,225 incidents that were entered into our Computer Aided Dispatch (CAD) equipment for a response by the Birmingham Police Department, Birmingham Fire Department, and the Beverly Hills Public Safety Department.

**THANK YOU,
DISPATCHERS!**



Services Division

Property and evidence management falls under the services division. Property and evidence inventories are completed bi-annually. Property maintained may include criminal evidence, safe keeping of property when an owner cannot be identified or by request of a civilian or court, and any property found by a civilian or police officer. All property is preserved according to a schedule set by State Law.



The services division also plays a significant role in preparing and managing the departments annual budget. While the majority of the budget is personnel costs, operational costs and equipment, budget planning also includes projecting revenues from grants and fees collected from processes such as FOIA requests, etc. In 2023, the Police Department applied for and received funding from multiple grants including the Traffic Improvement Association (TIA), the National Highway and Traffic Safety Administration (NHTSA), and the High Intensity Drug Trafficking Administration (HIDTA).

Parking Enforcement

The Birmingham Police Department has one full-time and five part-time Parking Enforcement Assistants (PEA's). They patrol the City's 1,257 metered spaces and handicap parking spaces, timed parking zones, permit parking areas, and all other parking violations. In 2023, our PEA's targeted the abuse of our handicap parking locations and issued 580 violations to those illegally using these spaces.



2023 Parking Violations Summary

Meter Violations	30,161
<u>Non-Meter Violations</u>	<u>3,876</u>
Total Parking Violations Issued	34,037

Previous Years Totals

<u>2022</u>	<u>2021</u>	<u>2020</u>	<u>2019</u>
40,403	35,825	28,052	45,691

2023

BIRMINGHAM POLICE

Patrol Operations



Birmingham uniform patrol officers interact with the community, answer calls for service, conduct traffic enforcement, issue citations, write reports, investigate crimes and traffic accidents, make arrests, and a variety of other tasks. Our officers conduct proactive patrols of neighborhoods, businesses, parks, and schools to deter crime and improve visibility. Officers are trained in a variety of specializations to further their expertise.

Special Assignments	Specializations
FBI - Financial Crimes Task Force	Mountain Bike
Special Investigations Unit (SIU)	Motorcycle Operator
Narcotic Enforcement Team (NET)	Evidence Technician
Community Resource Officer (CRO)	Field Training Officer (FTO)
School Resource Officer (SRO)	Training Instructor
Detective Bureau	Drone Operator

The Operations Captain oversees the patrol division, which consists of four platoons: two day-shifts (7a-7p) and two night-shifts (7p-7a). Each platoon consists of six uniformed patrol personnel consisting of four officers, supervised by a lieutenant and a sergeant.



2023 PATROL OPERATIONS

CALLS FOR SERVICE

Highest Volume
of Calls in
30+ Years

2020	2021	2022	2023
21,167	20,022	21,840	22,712

A "call for service" is a request or notification received by law enforcement agencies from the community or individuals seeking assistance, intervention, or investigation of a specific incident. These calls can encompass a wide range of situations, including but not limited to emergencies, criminal activities, accidents, disturbances, or concerns requiring police attention. Each call for service prompts a response from police officers, who assess the situation, and take appropriate actions to address issues.



The men and women of the Birmingham Police Department pride themselves on Service-Oriented Policing; a proactive and community-focused approach to law enforcement that prioritizes building positive relationships between police officers and the community for crime prevention and public safety. Through a collaborative effort, we aim to create a safer and more resilient City for all.

2023 PATROL OPERATIONS

CALLS FOR SERVICE

The primary goal of the department is the protection of life and property, prevention of crime, and apprehension of criminal perpetrators. We strive to deliver the best possible police service in a professional, courteous manner to the residents of the City and those who work, travel and shop in Birmingham.

2023 PROACTIVE PATROLS

Crime Prevention	7,828
Radar Enforcement	1,854
Traffic Enforcement	1,454
Foot Patrol	688
Assist Citizen	550
Extra Patrol	420
Assist Motorist	218
Assist other Law Enforcement Agency	163



The department utilizes portable radar trailers and signs used as a proactive measure aimed at enhancing road safety by creating awareness and encouraging drivers to reduce their speed. These signs utilize real-time radar technology to display drivers' current speeds, serving as a visual reminder and prompting them to adhere to speed limits. This temporary intervention effectively contributes to traffic calming efforts, fostering a safer environment for both drivers and pedestrians.



2023 PATROL OPERATIONS

RESPONSE TO RESISTANCE

Responding to resistance is an inevitable aspect of a law enforcement officer's job and integral to maintaining public safety. In the course of their duties, officers may encounter individuals who resist lawful commands or engage in unlawful activities, necessitating a measured and appropriate response. The dynamic nature of law enforcement situations requires officers to make split-second decisions, often in high-stress environments. While the goal is to resolve incidents peacefully, the unpredictable nature of human behavior means that resistance can arise, compelling officers to use force within legal and ethical boundaries. Training, adherence to departmental policies, and a commitment to de-escalation techniques are essential components of preparing officers to navigate such scenarios responsibly. Effectively managing resistance is crucial for safeguarding not only the officers themselves but also the broader community they serve.



Reporting and Review Process

When an officer uses force to gain compliance from a person, he or she is required to complete and submit a Response to Resistance Report and each instance is comprehensively reviewed.

- Initiating officer completes a report
- Reviewed by on-duty supervisor
- Reviewed by Operations Captain
- Reviewed by Chief of Police
- Appropriate determination made
- Annual review of all incidents



The Birmingham Police Department recognizes the value of human life and is committed to protecting those the department serves. Officers regularly complete training in de-escalation and response to resistance to ensure officers understand and appropriately analyze interactions with the public. Training includes both classroom, policy review, and practical scenario-based exercises.

**.00088% OF ALL CALLS FOR SERVICE
RESULTED
IN A RESPONSE TO RESISTANCE**

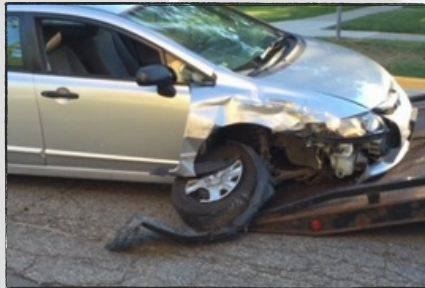
**22,712 CALLS FOR SERVICE
5,895 TRAFFIC CITATIONS
275 ARREST CHARGES
20 RESPONSE TO RESISTANCE INCIDENTS**



2023 PATROL OPERATIONS

Birmingham police officers proactively work traffic enforcement and respond to many citizen traffic complaints. Specific enforcement areas are selected based on a combination of factors including, but not limited to, accident hotspots, complaints and requests, school zone and residential areas, traffic data analysis, special events, time of day, preventative measures, and community policing strategies. Officers wrote 5,895 tickets and handled 728 traffic crash reports in 2023. The presence and diligence of police officers in traffic enforcement contributes to creating safer roadways, protecting lives, and maintaining order within the community.

TICKETS	Hazardous Moving Violations	Non- Hazardous Moving Violations	Total Violations
2023	4,070	1,825	5,895
2022	3,722	2,165	5,877
2021	2,225	1,310	3,535
2020	1,672	1,187	2,859
2019	4,096	3,383	7,479



CRASHES	Property Damage Accidents	Personal Injury Accidents	Fatal Injury Accidents	Total Accidents
2023	670	58	0	728
2022	660	37	0	697

Police Department Contact Information and Informational Links

For All Emergencies
Dial 911

Police Dispatch - Non-Emergency
(248)530-1870

Chief Scott A. Grewe
(248)530-1867
sgrewe@bhamgov.org

Operations Capt. Ryan Kearney
(248)530-1768
rkearney@bhamgov.org

Services Capt. Greg Wald
(248)530-1775
gwald@bhamgov.org

Investigations Capt. Chris Koch
(248)530-1769
ckoch@bhamgov.org

Police Department Records/Clerical Hours:
Monday - Friday
8:00 a.m. to 4:00 p.m.



Facebook.com/BirminghamMiPD



@BirminghamMi_PD



@birmingham_police_mi

For general information and questions, please email birminghampolice@bhamgov.org.

Police Department Website
<https://www.bhamgov.org/police>



The men and women of the Birmingham Police Department thank you for your continued support.



2023 Annual Report



City of Detroit Board of Ethics

City of Detroit Board of Ethics

Kristin Lusn, Esq., Chair
Carron Pinkins, Esq., Vice Chair
Dr. Yvette McElroy-Anderson, Member
Dr. Jameel Smith, Member
Robert Watt, Member

Christal Phillips, Executive Director
Dawn Widman, Senior Investigator
Michael O'Connell, Training Specialist
Hiran Alles, Administrative Assistant

City of Detroit Board of Ethics
7737 Kercheval, Suite #213
Detroit, MI 48214
313-224-9521
<http://www.detroitethics.org>

This report covers activities at the City of Detroit Board of Ethics from January 1, 2023 to December 31, 2023.

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EXECUTIVE DIRECTOR'S MESSAGE

On behalf of the Board of Ethics, I present the 2023 Annual Report. The report summarizes the activities undertaken by our small but committed staff, the number of Complaints and Requests for Advisory Opinions submitted, and the Hearings that were held. You will find recommendations and future goals that would advance the Board of Ethics' work, including the need for an independent Learning Management System and Proportional Funding.

I am proud of the progress that was made this year in increasing the Board of Ethics' visibility and promoting governmental ethics. For the first time, the Board of Ethics hosted a regional ethics conference in May 2023. Annual training for Board of Ethics members was held with experts in the parliamentary procedure and the Open Meeting Act. We continued working group meetings to revise the Ethics Ordinance and Administrative Rules. To round out a successful year, Board members and staff attended and participated in panels at the Council on Governmental Ethics Laws Conference in December.

Despite the many accomplishments made, there is always still more work to do to spread awareness of Board of Ethics services. Only through education and training can public servants understand how to submit proper disclosures and when to file Advisory Opinions with the Board of Ethics. This is why the funding for an Independent Learning Management System for ethics training is so crucial to this mission.

With sufficient resources, the Board of Ethics can succeed in building public trust and a strong ethical culture in the City of Detroit. I thank you for your support.

CHRISTAL PHILLIPS
EXECUTIVE DIRECTOR

Letter to the Mayor and City Council

DATE: April 1, 2024

TO: Hon. Michael E. Duggan, Mayor

Hon. Mary Sheffield, City Council President

Hon. James Tate, City Council President Pro Tem

Hon. Angela Whitfield-Calloway, City Council Member

Hon. Scott Benson, City Council Member

Hon. Latisha Johnson, City Council Member

Hon. Gabriela Santiago-Romero, City Council Member

Hon. Fred Durhal, III, City Council Member

Hon. Mary Waters, City Council Member

Hon. Coleman A. Young, II, City Council Member

FROM: Detroit Board of Ethics

SUBJECT: Annual Report of the Board of Ethics for 2023

The Detroit Board Ethics Annual Report includes its activities beginning January 1, 2023 to December 31, 2023. In accordance with Section 2-5-108 of the Ethics Ordinance this Report contains:

1. An analysis of Board activities, including Advisory Opinions, requested and issued; Complaints filed with each disposition; and Investigations opened and their disposition.
2. A compilation of Advisory Opinions issued; and,
3. Recommendations for improvement of the Disclosure Requirements, Standards of Conduct, and the administration and enforcement of the Ordinance.

Additionally, this Report includes training activity updates, which is included in the City of Detroit Charter at Sec. 2-106.9- Powers and Duties subsections 4 and 5.

cc: Hon. Janice M. Winfrey, Detroit City Clerk

Department Directors

Agency Leaders

The Board of Ethics

The Board of Ethics consists of seven (7) members who are City of Detroit residents. They must not be elective officers, appointees, or employees of the City of Detroit at any time during their term serving on the Board of Ethics.

As of December 31, 2023, the Board of Ethics had four (4) Board members with three (3) vacancies awaiting appointment by the Mayor and City Council.

The Board is required by its Administrative Rules to meet at least four (4) times a year with additional meetings as it deems necessary. In 2023, the Board of Ethics held a total of seven (7) meetings.

Board Members ending December 31, 2023:

- Kristin A. Lusn, Esq., Chair (Term Ends July 13, 2025)
- Carron Pinkins, Esq., Vice Chair (Term Ends June 30, 2024)
- Dr. Yvette McElroy–Anderson (Term Ends October 10, 2028)
- Robert Watt (Term Ends June 30, 2025)
- **Vacancy** (City Council Appointee)
- **Vacancy** (Mayoral Appointee)
- **Vacancy** (Joint Appointee)

Former Board Members:

- Urrond Williams (Resigned April 28, 2023)
- Michael Rafferty (Resigned May 3, 2023)
- Mario L. Morrow, Sr. (Resigned May 31, 2023)
- David Jones, Esq. (Term Ended December 12, 2023)

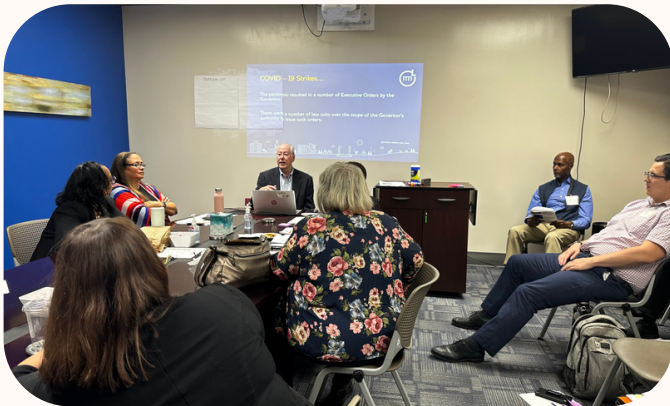
Key Activities and Accomplishments

REGIONAL ETHICS CONFERENCE

For the first time in Detroit history, the Board of Ethics hosted a regional ethics conference at its office on May 16, 2023. The one-day conference was attended by academics and public servants from ethics offices across the State of Michigan, including from the Cities of Birmingham, Eastpointe, Lansing, Macomb County, and Wayne County. The sessions were created based on attendees' votes on topics they thought were most relevant to governmental ethics offices. Presentations covered the Open Meetings Act, improving the deliberation process, investigation resources and techniques, strengthening ethics ordinances and enforcement, and parliamentary rules.

The Board of Ethics would like to thank everyone who attended and the following presenters who helped make the conference a success:

- Stacy Cobb-Muniz, Councilwoman, City of Eastpointe**
- Morela Hernandez, Professor, Ford School of Public Policy, University of Michigan**
- Frances Jackson, Registered Parliamentarian**
- Christopher Johnson, General Counsel, Michigan Municipal League**
- James D. Robb, Chair, Birmingham Board of Ethics**
- Dorie Vazquez-Nolan, Vice Chair, Macomb County Ethics Board**



Key Activities and Accomplishments

COGEL CONFERENCE

From December 3 to 6, 2023, the Board of Ethics participated in the **Council on Governmental Ethics Laws (COGEL) Conference** in Kansas City, Missouri. This annual conference brings together hundreds of ethics experts from around the world to discuss updates in campaign finance, governmental ethics, elections, lobbying, and freedom of information.

The Detroit Board of Ethics were also presenters at the conference. Investigator Dawn Widman was a panelist on effective investigative report writing and best practices in gathering evidence and interviewing witnesses. Ethics Training Specialist Michael O'Connell was a panelist on unlocking the power of data and generative AI.



GROW DETROIT'S YOUNG TALENT

For the fifth year, the Board of Ethics partnered with Grow Detroit's Young Talent program to host two interns in July and August 2023. In addition to attending a Board of Ethics meeting and assisting in daily administrative tasks, the interns had the opportunity to visit other City of Detroit departments to explore their career interests.

Key Activities and Accomplishments

WORKING GROUP TO REVISE THE ETHICS ORDINANCE AND ADMINISTRATIVE RULES

The Board of Ethics established a working group to revise the Ethics Ordinance and Administrative Rules in November 2022. The Administrative Rules will be submitted for approval in 2024. Upon final revision of the Administrative Rules, the group will resume meetings to revise the Ethics Ordinance.

ANNUAL BOARD TRAINING

Annual training for Board of Ethics members and staff was held on January 28, 2023. The training covered the Open Meetings Act, the Ethics Ordinance, parliamentary procedure, and the workflow process of Complaints, Investigations, and RAOs. Experts in parliamentary procedure and the Open Meetings Act gave presentations to the Board members, including **Christopher Johnson of the Michigan Municipal League** and **Eleanor Siewert**, professional registered parliamentarian and former mayor of the City of Birmingham.

CASE MANAGEMENT TRACKING SYSTEM

The Board of Ethics requested funding for WingSwept, a Case Management Tracking System that was implemented at the Office of Inspector General and the Office of the Ombudsman in 2017, and CRIO in 2019. Through the Green Belt/Lean Six Sigma Program, the Board of Ethics was allocated the funds to purchase WingSwept in 2023 and has expended its case management capabilities to more efficiently track Complaints, Investigations, Disclosures, and RAOs.

EDUCATIONAL OUTREACH

Executive Director Christal Phillips participated in a careers in public service panel at the **University of Michigan Ford School of Public Policy** in 2023. This was following the presentations the Executive Director gave on the Board of Ethics to two public policy classes at the Ford School in November 2022.

Ethics Training Specialist Michael O'Connell participated in **Constituent Services Hour** hosted prior to **City Council Evening Community Meetings** and monthly **Monday Morning Live** discussions for City of Detroit employees offered through the Office of Talent Development and Performance Management.

Key Activities and Accomplishments

GIFTS AND GRATUITIES PROCEDURES

Section 2-5-70 of the Ethics Ordinance prohibits public servants from accepting gifts, gratuities, honoraria, or other thing of value from any person or entity doing business or seeking to do business with the City of Detroit. Gifts received by public servants should be submitted to the Board of Ethics.

The Board of Ethics would like to recognize the following departments who turned in gifts to the Board of Ethics in 2023:

City Clerk's Office

City Planning Commission

Department of Innovation and Technology (DoIT)

Detroit Department of Transportation (DDOT)

CHARITABLE GIVING OF GIFTS AND GRATUITIES

Each year, the Board of Ethics receives gift submissions from public servants and departments that include perishable items, clothing, and books. The majority of gifts are submitted during the holiday season.

The Board of Ethics donated gift submissions to several organizations in and around Detroit in December 2023. A coat was donated to an anonymous child patient at the **Children's Hospital of Michigan** through its annual Adopt-A-Family program. Three perishable gift baskets were donated to **Vets Returning Home**, a non-profit and non-government funded organization dedicated to helping veterans transition into stable lives.

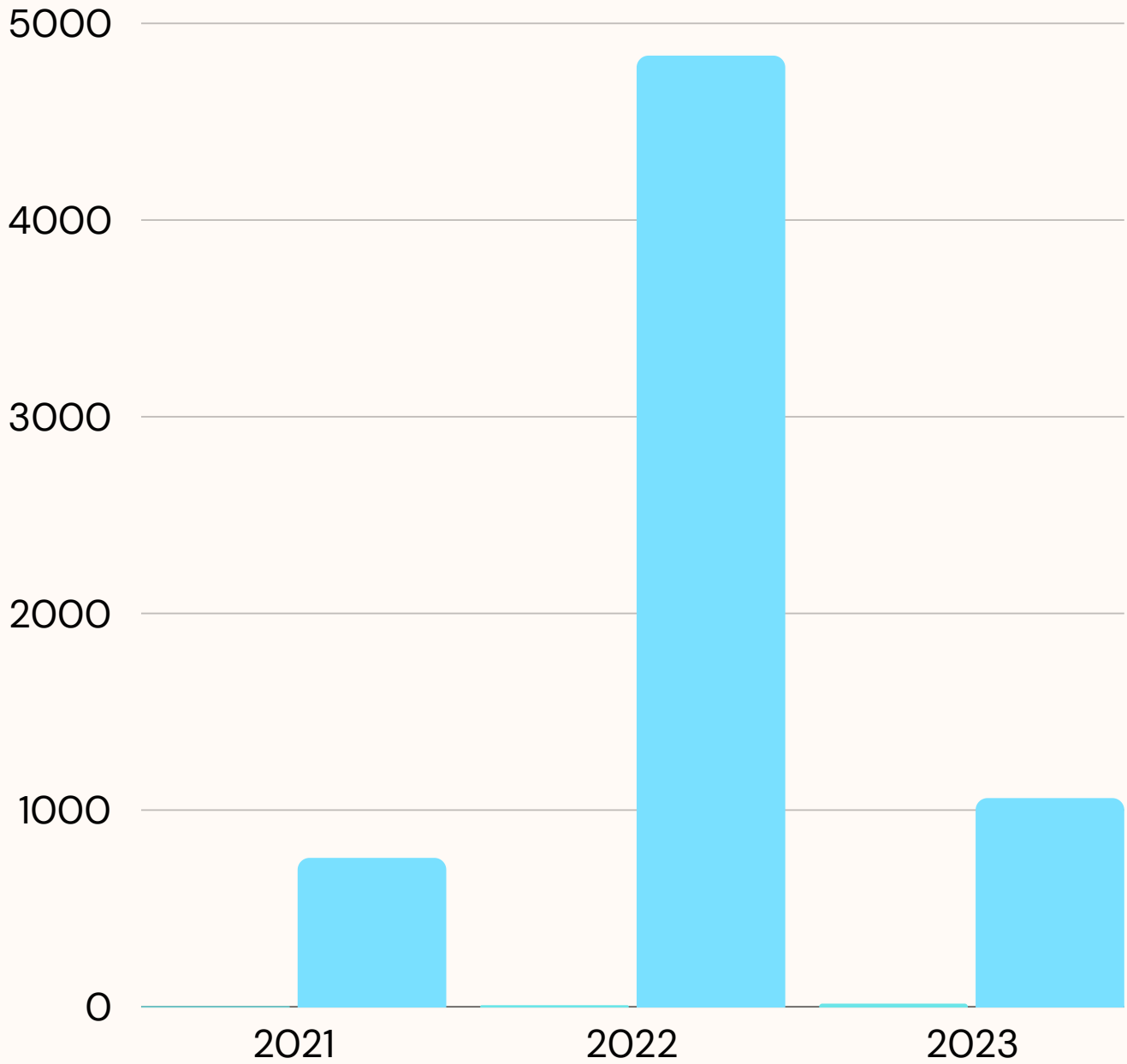
BENCHMARKING & PROFESSIONAL DEVELOPMENT

In May 2023, Executive Director Christal Phillips participated in meetings to exchange ideas and best practices with **Citizens for Responsibility and Ethics in Washington (CREW)**, **Board of Ethics and Government Accountability (BEGA DC)**, **Campaign Legal Center**, and the **Baltimore City Board of Ethics**.

Training Specialist Michael O'Connell spent two days training with **Alexander Kipp**, who serves as the Director of Education & Engagement for the **NYC Conflicts of Interest Board**. He also met with the **Massachusetts State Ethics Commission** on Learning Management System implementation, and was invited to perform a guest lecture at **Harvard University** on Municipal Ethics Laws.

Investigator Dawn Widman attended the 2023 **OSMOSIS Conference** on cyber intelligence investigation to learn skills related to exposing fraud and utilizing artificial intelligence.

Training



Training

The Board of Ethics 2023 Training results showed a marked decrease in participation from the previous year. The change in focus from online training to in-person interaction explains this decrease.

Studies reviewed by Board Staff have found that 90% of all training or the relay of information is more effective when presented in materials and presentations provided during in-person interaction. While effective, online training is not sufficient to provide Ethics training to nearly 10,000 Public Servants.

To that end, the Board of Ethics has taken the following steps to address the training shortfall and better serve City of Detroit Public Servants:

- Adoption of a rotating training schedule that focuses on 50% of City of Detroit Public Servants per year to complete 100% training every two years.
- Efforts to obtain an Independent Learning Management System to better supplement in-person training.
- Efforts to develop interdepartmental relationships to support the training of all City of Detroit Public Servants.

The training of City of Detroit Public Servants is more than an Ordinance Mandate. It is a vital component of risk management and fostering public trust in City Government.

RECOMMENDATIONS AND FUTURE GOALS

INDEPENDENT LEARNING MANAGEMENT SYSTEM

The Board of Ethics is the only oversight agency required to administer its own training. In 2023, the Board of Ethics requested funding to develop a robust Learning Management System that would provide a more effective eLearning tool to train the City's nearly 10,000 public servants. Currently, the Board of Ethics does not have administrative control of the Ethics training eLearning platform housed in EasyGenerator. An independent system offering data-driven training would allow the Board of Ethics to develop multiple learning tracks and individualized training. It would also allow the Board of Ethics to expand training to contractors and vendors as mandated by the Ordinance.

The Detroit City Council encouraged the allocation of \$150,000 ARPA dollars for the development, implementation and maintenance of a Learning Management System in its 2023-2024 Financial and Budgetary Priorities, Public Policy, Planning and Acting Resolution. Despite this recommendation from City Council, the resolution was not supported, and the funds were not granted.

The Board of Ethics believes an independent Learning Management System is crucial for the continued development of its training program as mandated by the City Charter, and to best serve the population of Public Servants, Contractors, Vendors, and the community at large.

PROPORTIONAL FUNDING

Section 8-214 of the City Charter states that oversight agencies, which include the Office of the Inspector General, Auditor General, Ombudsperson and Board of Ethics, shall receive proportional funding. The Board of Ethics remains the lowest funded oversight agency in the City and has never received proportional funding in compliance with Section 8-214. The failure to receive funding for an independent learning management system is a prime example as to why proportional funding is imperative in order "to insure the proper oversight of executive and legislative branches of government" as stated in the City Charter.

Hearings

The Board of Ethics may schedule hearings when it determines that an investigation has compiled facts sufficient to constitute a possible violation of the Ethics Ordinance.

HEARING ON I-2022-03

On July 19, 2023, the Board of Ethics held a Hearing on Investigation 2022-03 in regard to a City employee in the Department of Elections.

The Board found that a violation of the Ethics Ordinance, **Section 2-5-72. Prohibition on campaign activities by using City personnel or property, or during working hours.** had occurred, and to dispose of Investigation 2022-03 with no further action taken.

The Roll Call vote was as follows:

Robert Watt (Yes), David Jones (Yes), Kristin Lusn (Yes), Carron Pinkins (Abstained).
Motion Carried.

HEARING ON I-2023-01

On December 8, 2023, the Board of Ethics held a Hearing on Investigation 2023-01 in regard to an elected public servant not disclosing an immediate family member's employment with the City.

The Board found that a violation of the Ethics Ordinance, **Section 2-5-32. Disclosure of immediate family member's employment or application.** had occurred. The Roll Call vote was as follows:

Robert Watt (Yes), David Jones (Yes), Kristin Lusn (Yes), Yvette McElroy Anderson (Yes), Carron Pinkins (Yes). Motion Carried.

Carron Pinkins, Esq. made a motion to issue a public admonishment for the violation of Section 2-5-32 with respect to the Respondent not disclosing a family member that was hired to the Respondent's office. The Roll Call vote was as follows:

Robert Watt (Yes), David Jones (No), Yvette McElroy Anderson (No), Kristin Lusn (No), Carron Pinkins (Yes). Motion Failed.

Dr. Yvette McElroy Anderson made a motion for a penalty of a public admission before the Board that the Respondent violated the Ethics Ordinance, Section 2-5-32 and to close the matter.

The Roll Call vote was as follows:

Robert Watt (Yes), David Jones (Yes), Kristin Lusn (Yes). Yvette McElroy Anderson (Yes), Carron Pinkins (Abstained). Motion Carried.

Complaint Summaries

COMPLAINT SUMMARIES

Anyone can file a notarized Complaint against a public servant who they believe has violated a standard of conduct or disclosure requirement. In 2023, the Board of Ethics addressed nine (9) complaints, which are summarized below.

COMPLAINT 2023-01

Complaint 2023-01 alleged that the Respondent's behavior violated the following Standards of Conduct and Disclosure Requirements: Interest in real or personal property; Interest in City contracts; Relationship to City Employee; Campaign contributions and expenditures; Willfully or grossly neglect discharge of duties; Use of City property except in accordance with policies; Representation of private person, business; Self-interested regulation; Participation in City transaction where financial interest present; Participation in City transaction where financial interest present; and Improper use of position to influence decisions.

It was determined that 314 days had passed from the date of when the alleged conduct occurred to the date the Complaint was filed. As such, Complaint 2023-01 did not meet the relevant legal standard for consideration by the Board because the statute of limitations had passed. The Board dismissed Complaint 2023-01 pursuant to Section 2-5-145(b)(1)(a).

COMPLAINT 2023-02

Complaint 2023-02 alleged that the Respondent willfully or grossly neglected the discharge of his duties in violation of Section 5-105, Appointment of Deputies of the 2012 Detroit City Charter. It was determined that 224 days had passed from the date that the alleged conduct occurred to the date the Complaint was filed. Section 2-5-144 of the Code prohibits the Board from taking action on the Complaint. Complaint 2023-02 did not meet the relevant legal standard for consideration by the Board because the statute of limitations had passed. The Board dismissed Complaint 2023-02 pursuant to Section 2-5-145(b)(1)(a).

COMPLAINT 2023-03

Complaint 2023-03 alleged that the Respondent violated the following Standards of Conduct: Willfully or grossly neglect discharge of duties and Unduly influence decision to fill city position. It was found that the Complainant's allegations arose out of circumstances that took place beyond the 182-day filing limitation. As a result, the Board was precluded from consideration of this matter. Furthermore, the Ordinance

authorizes dismissal of complaints where there are other pending proceedings arising out of the same transaction or occurrence. It was found that the Complainant had filed a complaint containing the same or similar allegations with the OIG. The Board dismissed Complaint 2023-03 pursuant to Section 2-5-145(b)(1)(e).

COMPLAINT 2023-04

Complaint 2023-04 alleged that the Respondents' conduct amounted to a violation of the following Standards of Conduct: Willfully or grossly neglect discharge of duties; Use or disclosure of confidential information; and Improper use of position to influence decisions. The Complainant had filed a complaint with the same or similar allegations with the City's Labor Relations Department. The Ordinance authorizes dismissal of complaints where there are other pending proceedings arising out of the same transaction or occurrence. The Board found that the Labor Relations Department was better equipped to resolve the allegations as they dealt with employment issues. The Board dismissed Complaint 2023-04 pursuant to Section 2-5-145(b)(1)(e).

COMPLAINT 2023-05

Complaint 2023-05 alleged that the Respondents' conduct amounted to a violation of the following Standards of Conduct: Willfully or grossly neglect discharge of duties; Use or disclosure of confidential information; and Improper use of position to influence decisions. The Complainant had filed a complaint with the same or similar allegations with the City's Labor Relations Department. The Ordinance authorizes dismissal of complaints where there are other pending proceedings arising out of the same transaction or occurrence. The Board found that the Labor Relations Department was better equipped to resolve the allegations as they dealt with employment issues. The Board dismissed Complaint 2023-04 pursuant to Section 2-5-145(b)(1)(e).

COMPLAINT 2023-06

Complaint 2023-06 alleged that the Respondent violated every Standard of Conduct under the Ethics Ordinance by lying about the nature of a dispute that the Respondent responded to and having the Complainant conveyed to a hospital for psychiatric intervention. The Ordinance authorizes dismissal of complaints where there are other pending proceedings arising out of the same transaction or occurrence, The Complainant had filed similar complaints with the MCRC, ACLU, and OCI. The Board dismissed Complaint 2023-06 pursuant to Section 2-5-145(b)(1)(e).

COMPLAINT 2023-07

Complaint 2023-07 alleged that the Respondent violated the following Standards of Conduct: Self-interested regulation and Improper use of position to influence decisions. The Board found that the Complaint did not allege facts sufficient to support a violation of Section 2-5-66 – Self-interested regulation and participation

prohibited. nor Section 2-5-67 of the Code – Improper use of official position prohibited. The Board dismissed Complaint 2023-07 pursuant to Section 2-5-145(b)(1)(b).

COMPLAINT 2023-08

Complaint 2023-08 alleged that the Respondent violated the following Standard of Conduct: Improper use of position to influence decisions. The Complainant alleged that the Respondent improperly used influence to delay and stop the approved capital renovations of the Complainant’s office. The Board determined that the alleged action did not indicate that the Respondent knowingly used their position in violation of state or federal law to improperly influence the decision to delay renovations. Therefore, the alleged action did not fall within the purview of concerns that the Ethics Ordinance seeks to address and did not constitute a violation of Section 2-5-67. Improper use of official position prohibited. The Board dismissed Complaint 2023-08 pursuant to Section 2-5-146(b)(1)(b).

COMPLAINT 2023-09

Complaint 2023-09 alleged that the Respondent violated multiple Standards of Conduct under the Ethics Ordinance by defrauding the Complainant and accepting payment for baseball tickets through a Facebook group. The baseball tickets were not subsequently transferred to the Complainant. The Ordinance authorizes the dismissal of complaints where there are other pending proceedings arising out of the same transaction or occurrence. The Complainant had filed a complaint with the same or similar allegations with a local law enforcement agency in their state better equipped than the Board of Ethics to deal with allegations of fraud and theft. The Board dismissed Complaint 2023-09 pursuant to Section 2-5-145(b)(1)(e).

RAO Summaries

OPINION SUMMARIES

A public servant, a former public servant, or an applicant or candidate to be a public servant may request an advisory opinion from the Board of Ethics regarding the public servant's own conduct. The Board of Ethics received eighteen (18) Requests for Advisory Opinions and issued ten (10) advisory opinions in 2023. Additionally, the Board sent two (2) letters that included summaries of the Board's recommendation due to quorum issues that prevented the Board from meeting before the matters expired.

OPINION 2022-16

Advisory Opinion 2022-16, submitted December 9, 2022, sought guidance regarding the Requestor prospectively seeking election to a City Council in a suburban city. The Council position comes with a stipend of \$5,000 to compensate council members for purchasing materials related to their work and for gas and maintenance on personal vehicles used in the course of council-related activities. The Board found that the Requestor would not be in violation of the Ethics Ordinance in simultaneously serving as both a public servant for the City of Detroit and as a city council member of the suburban city as long as the Requestor comports with the Standards of Conduct of the Ethics Ordinance. The Requestor would not be able to accept the salary for the position and would need to donate it in order to comply with Section 2-5-70. Prohibition on gifts and gratuities; exceptions. of the Ethics Ordinance.

OPINION 2023-01

Advisory Opinion 2023-01, submitted January 5, 2023, sought guidance with respect to prospectively seeking employment with a public accounting and consulting firm in the City of Detroit. The firm currently provides subcontracting services to an infrastructure consulting firm that was awarded a 15 million dollar contract with the City of Detroit to provide consulting services related to the administration of the American Rescue Plan Act ("ARPA") funding. The Requestor is a public servant serving on a Board for the City of Detroit. The Board advised that the Requestor would be required to file a disclosure of interest form for any Board matter initiated by the public accounting and consulting firm and the company to which it provides subcontracting services.

OPINION 2023-02

Advisory Opinion 2023-02, submitted January 10, 2023, sought an opinion regarding the application of Standards of Conduct as to the Requestor's ongoing service as a board member for a non-profit organization. The Requestor has been a board member since 2019 and has been an employee of the City of Detroit since 2014. The Requestor's department at the City of Detroit began collaborating with the Requestor's non-profit organization on marketing and outreach services in June of 2022.

The Requestor notified leadership that there may be an existing conflict given the existing service agreement with the non-profit organization and the Requestor's service to the non-profit organization as a board member. The Requestor claimed that they were advised to refrain from participating in the reviewing/processing of any payments for the non-profit organization. The Board determined that the Requestor could continue to serve on the board of the non-profit organization but prohibited the Requestor from accepting compensation on the board. Furthermore, the Requestor must comport their conduct with the applicable Standards of Conduct of the Ethics Ordinance.

OPINION 2023-03

Advisory Opinion 2023-03, submitted January 13, 2023, indicated that the Requestor, the Deputy Director of the General Services Department ("GSD") intended to host an Employee Engagement Night to celebrate National Employee Appreciation Day and "engage [their] employees, boost morale, and show [their] employees how much [they] appreciate them." The Request further indicated that, due to the large number of employees and the high cost associated with accommodating such a crowd, the GSD management team are prospectively seeking donations from third party sponsors. Potential sponsors specifically named in the Request include Priority Health, Huntington Bank, and the Detroit Pistons. The Board advised the Requestor that the Ethics Ordinance prohibits them from accepting donations from the named prospective sponsors. The Requestor may accept donations from sponsors not presently or prospectively doing business with the City of Detroit.

OPINION 2023-04

Advisory Opinion 2023-04, submitted January 13, 2023, sought an opinion regarding the application of Disclosure requirements as to the Requestor's ongoing service as an uncompensated board member for a non-profit organization located in the City of Detroit. The non-profit organization has done business with the City of Detroit in the past but does not have any current matters pending with the City of Detroit. The Requestor indicated that they are never involved in reviewing any applications and/or proposals that the non-profit organization submits to the City of Detroit. The Board concluded that the Requestor could continue to serve on the non-profit organization's board provided that they comport their conduct with the applicable Standards of Conduct and Disclosure requirements.

OPINION 2023-05

Advisory Opinion 2023-05, submitted January 31, 2023, sought an opinion regarding the application of the Standards of Conduct as to whether the Requestor may accept paid consulting opportunities with independent research/consulting firms that routinely solicit the Requestor for their services. The Board advised the Requestor that any prospective research/consulting firm that does business or intends to do business with the City of Detroit would likely trigger the prohibitions set forth in Sections 2-5-65. Representation of private person, business, or organization prohibited; exceptions,

2-5-66. Self-interested regulation and participation prohibited., and 2-5-70. Prohibition on gifts and gratuities; exceptions, and likely be impermissible.

OPINION 2023-06

The Board declined to issue an advisory opinion because it determined that it did not merit review pursuant to Section 2-5-124(b)(2). Disposition of opinion requests. of the Ethics Ordinance. This was due to the Requestor being recently promoted. Therefore, there was no longer a conflict of interest issue originally presented in the request.

OPINION 2023-07

The Board declined to issue an advisory opinion pursuant to Section 2-5-124(b)(2). Disposition of opinion requests. of the Ethics Ordinance because the conduct giving rise to the Request had already passed, and the issue presented was moot and did not merit review.

OPINION 2023-08

Advisory Opinion 2023-08, submitted March 17, 2023, sought an opinion regarding the application of the Standards of Conduct as to the Requestor's prospective dissemination of both information and materials regarding two events to be hosted by the American Society for Public Administration (ASPA). The Requestor is an active member of ASPA and wanted to circulate flyers with information about ASPA events and, presumably, ASPA itself to co-workers who may be interested in attending or joining. The Board advised the Requestor that information relating to ASPA events may be circulated so long as, in doing so, the Requestor comports their conduct with the Ethics Ordinance.

OPINION 2023-09

The Board received Advisory Opinion 2023-09 on April 6, 2023. On July 19, 2023, the Board voted to decline to issue an advisory opinion due to quorum issues that prevented the Board from holding meetings prior to the Advisory Opinion expiring on July 9, 2023. In lieu of an advisory opinion, a letter was sent to the Requestor that included a summary of the Board's recommendation. The Requestor indicated that they owned a one-half (1/2) ownership interest in six different properties located in the City of Detroit. The Requestor sought an advisory opinion from the Board on the application of Disclosure Requirements and their ability to perform landlord responsibilities on the subject properties. The Board recommended that the Requestor recuse themselves of matters in their City of Detroit department that directly involve the Requestor's properties. The Requestor may perform landlord responsibilities provided that they comport with the applicable Disclosure Requirements and Standards of Conduct and governing provisions of Section 8-2-3 of the City Code.

OPINION 2023-10

The Board received Advisory Opinion 2023-10 on April 14, 2023. On July 19, 2023, the Board voted to decline to issue an advisory opinion due to quorum issues that prevented the Board from holding meetings prior to the Advisory Opinion expiring on July 9, 2023. In lieu of an advisory opinion, a letter was sent to the Requestor that included a summary of the Board's recommendation. The Requestor indicated that they were interested in serving as Treasurer of a City-registered block club and wanted an advisory opinion on whether the Ethics Ordinance would pose any limitations or barriers to their full involvement in that role. The Board recommended that the Requestor recuse themselves from any matter concerning the block club or any of its clients presented to the Requestor's office. If the block club is providing a service to or receiving tax abatements, credits, or any exemptions from the City of Detroit, Section 2-5-68. Solicitation or acceptance of loan or payment prohibited., would preclude the Requestor's ability to receive compensation for their service as Treasurer to the block club. In accordance with Section 2-5-70. Prohibition on gifts and gratuities; exceptions. the only things of value that the Requestor may accept from the block club without being required to provide remuneration are complimentary copies of information materials, and the Requestor may accept an admission or registration fee, travel expenses, entertainment, meals, or refreshments from the block club in connection with their service as its Treasurer, but not if the City of Detroit compensates the Requestor for any of those items in relation to the same activity.

OPINION 2023-11

Advisory Opinion 2023-11, submitted April 25, 2023, asked for an advisory opinion regarding the Requestor prospectively serving as the co-campaign manager for the campaign of another City employee seeking election to the Ferndale City Council. The Requestor is a resident of Ferndale and serves as an attorney in the Office of the Inspector General. The Requestor attached to the Request permission from their agency head to pursue this opportunity. The Board opined that the Requestor would not be in violation of the Ethics Ordinance in simultaneously serving as both a public servant for the City of Detroit and as co-campaign manager to their colleague's Ferndale City Council campaign so long as the Requestor comports with the Standards of Conduct outlined in the opinion.

OPINION 2023-12

The Board declined to issue an advisory opinion pursuant to Section 2-5-124(b)(2). Disposition of opinion requests. of the Ethics Ordinance and advised the Requestor to seek guidance from their employer on Standards of Conduct and ethics issues. It was determined that the Requestor is not a public servant as defined in the Ethics Ordinance.

OPINION 2023-13

Advisory opinion 2023-13, submitted August 28, 2023, the Requestor was employed in a salaried TASS capacity but would soon have their employment dynamic changed to that of an hourly professional services contractor. The Requestor noted that their job duties will remain the same and that the only change is the structure of their compensation. The question presented by this Request was whether the Requestor could continue to perform their duties in light of the changing classification of their employment and compensation structure to that of a professional services contractor. Based on the information provided, if the Requestor is to be employed pursuant to a personal services contract, the prohibitions set forth in Section 2-5-71. One year post-employment prohibition. are inapplicable as personal services contracts are specifically exempted from the one year post-employment prohibition even though personal service contracts are included in the definition of a public servant.

OPINION 2023-14

The Board declined to issue an advisory opinion because it determined that it did not merit review pursuant to Section 2-5-124(b)(3). Disposition of opinion requests. of the Ethics Ordinance. The Board advised the Requestor to look to Advisory Opinion 2018-18 for guidance.

OPINION 2023-15

Advisory opinion 2023-15, submitted September 20, 2023, asked whether the Requestor, who simultaneously serves as a public servant for the City of Detroit and as an employee for a company, can prospectively bid on service contracts awarded by the City to said company. The Request noted that "said contracts will not occur during working hours." Based on the Requestor's job description with the City, it is highly unlikely that the Requestor has access to, or direct knowledge of, confidential information regarding the City's contract bid and award practices. The Board recommended that the Requestor would not be in violation of the Ethics Ordinance so long as the Requestor comports with the Standards of Conduct and Disclosure Requirements outlined in the opinion.

2023 ANNUAL REPORT CITY OF DETROIT BOARD OF ETHICS



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ethics@detroitethics.org



March 18, 2024

Ms. Alexandria Bingham, Clerk
City of Birmingham
151 Martin St.
Birmingham, MI 48012-3001

RE: Programming Advisory

Dear Ms. Bingham:

As part of our ongoing commitment to keep you and our customers informed about changes to Xfinity TV services, we wanted to notify you that the Enlace channel will no longer be available as part of our lineup. As a function of this change, we have implemented a channel slate (advising of unavailability) on the channel and activated www.xfinity.com/programmingchanges to help keep our customers informed during this period.

Please feel free to contact me at 248-924-4917, if you have any questions.

Sincerely,

Eric Woody
Manager of External Affairs
Comcast, Heartland Region
41112 Concept Drive
Plymouth, MI 48170