

**BIRMINGHAM CITY COMMISSION AGENDA**  
**JUNE 26, 2023**  
**MUNICIPAL BUILDING, 151 MARTIN**  
**7:30 P.M.**

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Therese Longe, Mayor

**II. ROLL CALL**

Alexandria Bingham, City Clerk

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

**ANNOUNCEMENTS**

- Proclamation Recognizing Astrein’s Creative Jewelers for 50 Years Serving Birmingham

**APPOINTMENTS**

- A. Appointment to the Ad Hoc Aging in Place Committee
1. Rebekah Craft – Representative from Baldwin Library
  2. Leslie Pielack – Representative from Birmingham Museum
  3. Cris Braun
  4. Melissa Mark
  5. Rackeline Hoff
  6. Rosemary O’Malley

To acknowledge Rebekah Craft as the Representative from Baldwin Library for the Ad Hoc Aging in Place Committee as a regular to serve an 18-month term to expire January 31, 2025.

To acknowledge Leslie Pielack as the Representative from Birmingham Museum for the Ad Hoc Aging in Place Committee as a regular to serve an 18-month term to expire January 31, 2025.

To appoint \_\_\_\_\_ to the Ad Hoc Aging in Place Committee as a regular member who is a \_\_\_\_\_ to serve an 18-month term to expire January 31, 2025.

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To appoint \_\_\_\_\_ to the Ad Hoc Aging in Place Committee as a regular member who is a \_\_\_\_\_ to serve an 18-month term to expire January 31, 2025.

B. Appointment to the Board of Ethics

1. S. Joseph Cross

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

To appoint \_\_\_\_\_ as an alternate regular member to the Board of Ethics to serve a three-year term to expire June 30, 2026.

To appoint \_\_\_\_\_ as an alternate regular member to the Board of Ethics to serve a three-year term to expire June 30, 2026.

C. Appointment to the Museum Board

1. Caroline Ashleigh
2. Marty Logue
3. Alexandria Harris

To appoint \_\_\_\_\_ to the Museum Board as a regular member to serve a three-year term to expire July 6, 2026.

To appoint \_\_\_\_\_ to the Museum Board as a regular member to serve a three-year term to expire July 6, 2026.

To appoint \_\_\_\_\_ to the Museum Board as a regular member to serve a three-year term to expire July 6, 2026.

To appoint \_\_\_\_\_ to the Museum Board as an alternate member to serve a three-year term to expire July 6, 2026.

D. Appointment to the Public Arts Board

1. Andi Harris
2. Lisa M. Beverly

To appoint \_\_\_\_\_ to the Public Arts Board as a regular member to serve the remainder of a three-year term to expire January 28, 2025.

To appoint \_\_\_\_\_ to the Public Arts Board as an alternate member to serve the remainder of a three-year term to expire January 28, 2025.

E. Appointment to the Martha Baldwin Park Board

1. Linda Forrester

To appoint \_\_\_\_\_, as a regular member to the Martha Baldwin Park Board to serve a four-year term to expire May 1, 2027.

To appoint \_\_\_\_\_, as a regular member to the Martha Baldwin Park Board to serve a four-year term to expire May 1, 2027.

To appoint \_\_\_\_\_, as a regular member to the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2024.

- F. Appointment to the Retirement Board
  - 1. Christopher Conti

To concur with the Mayor's recommendation to appoint \_\_\_\_\_ to the Retirement Board, as the resident member who is not eligible to participate in the retirement system, to serve a three-year term to expire July 1, 2026.

- G. Appointment to the Greenwood Cemetery Advisory Board
  - 1. Paul S. Connell

To appoint \_\_\_\_\_ to the Greenwood Cemetery Advisory Board as a regular member to serve a three-year term to expire July 6, 2024.

- H. Employee Recognition
  - 1. City Clerk Bingham received the Certified Municipal Clerk (CMC) Designation from the International Institute of Municipal Clerks (IIMC) for demonstrating mastery of administrative skills critical to good government.

<b>IV. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA</b>
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<b>V. CONSENT AGENDA</b>
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 revised City Commission meeting minutes of May 22, 2023.
- B. Resolution to approve the City Commission workshop meeting minutes of June 5, 2023.
- C. Resolution to approve the City Commission meeting minutes of June 5, 2023.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated June 7, 2023, in the amount of \$1,197,876.28.
- E. Resolution to approve the warrant list, including Automated Clearing House payments, dated June 14, 2023, in the amount of \$821,955.20.
- F. Resolution to approve the warrant list, including Automated Clearing House payments, dated June 22, 2023, in the amount of \$1,891,383.34.
- G. Resolution to approve the Forestry Services Contract 2023-2026 agreement with J. H. Hart Urban Forestry, for three years commencing July 1, 2023 and ending June 30, 2026, for

forestry services in the amounts set forth in Attachment C – Cost Proposal, and to further approve the City Manager’s ability to extend the service contract for up to an additional 2-years pending future staff review. Funds are available in each of the following accounts for these services: Major Street Fund – Street Trees account #202.0-449.005-819.0000; Local Street Fund – Street Trees account #203.0-449.005-819.0000; Parks Forestry Services account #101.0-751.000-819.0000; and Property Maintenance Forestry Services account #101.0- 441.003-819.0000. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City Commission.

- H. Resolution to approve, pending the signed Purchase Agreement by Gorno Ford, the purchase of (1) 2023 Hybrid Explorer, and (2) Police Admin Package Explorers from Gorno Ford, located at 22025 Allen Rd, Woodhaven, MI 48183, through the State of Michigan MiDeal Contract # 071B7700181, MiDeal Spec # 3003-POL, in an amount not to exceed \$51,902.00 for the Police Hybrid Explorer, and \$47,243.00 Per Police Admin Package Explorer (total amount not to exceed \$146,388.00 for all three vehicle purchases combined). In addition, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City. Funds for this purchase are available in the FY 2022-2023 Auto Equipment Fund account #661.0-441.006.971.0100.
- I. Resolution to approve the Second Addendum with Superior Scape, Inc. for landscape bed maintenance services for an additional amount not to exceed \$55,166 for a total yearly amount not to exceed \$120,100. In addition, to authorize the Mayor and City Clerk to sign the addendum on behalf of the City. Funding for this project has been budgeted in the following accounts: Parks Other Contractual Services, 101.0-751.000-811.0000, Property Maintenance Other Contractual Services, 101.0-441.003-811.0000, and Major Streets Contract Maintenance, 202.0-449.003-937.0400.
- J. Resolution, authorizing Birmingham to apply for a grant from the Michigan Spark Grants Program, and further, directing the City Clerk to sign the resolution.
- K. Resolution to approve the purchase of the replacement for the Nutanix Hyper-converged Server Infrastructure from CDWG at a total cost not to exceed \$203,192.00. Funds are available in the Machinery and Equipment fund account # 636.0-228.000-971.0100.
- L. Resolution to approve the replacement of the Darktrace appliance, purchase of additional security services and renewal the 4-year agreement with the initial payment of \$43,936.00 and a total 4-year contract price of \$271,555.00 from SHI using funds available in account #636.0-228.000-973.0400.
- M. Resolution to approve the Local Road Improvement Matching Fund Program Cost Participation Agreement between Oakland County and the City of Birmingham. In addition, authorize the Mayor to sign the agreement on behalf of the City. Funding for this project has been budgeted in accounts 202.0-449.001-981.0100, 101.0-444.000-981.0100, 590.0-537.000-981.0100, and 591.0-544.000-981.0100.
- N. Resolution to award the 2023 Asphalt Resurfacing Program Project #7-23 (P) to Asphalt Specialist, Inc. in the amount of \$845,485.00 plus a 10% construction contingency for a total of \$930,033.50. In addition, authorize the Mayor and City Clerk to sign the agreement on behalf of the City after the review of Asphalt Specialist, Inc.’s insurance and bonds, contingent upon execution of the agreement and meeting all insurance and bonding requirements. Funding for this project has been budgeted in the following accounts:

2022-2023 Fiscal Year

Fund Account	Fund ID Number	Project Award	10% Contingencies	Total
Major Street Fund	202.0-449.001-981.0100	\$435,772.80	\$43,577.28	\$479,350.08
Local Street Fund	203.0-449.001-981.0100	\$108,943.20	\$10,894.32	\$119,837.52
Sewer Fund	590.0-537.000-981.0100	\$84,030.50	\$8,403.05	\$92,433.55
Water Fund	591.0-544.000-981.0100	\$84,030.50	\$8,403.05	\$92,433.55
Total Construction Costs		\$712,777.00	\$71,277.70	\$784,054.70

2023-2024 Fiscal Year

Fund Account	Fund ID Number	Project Award	10% Contingencies	Total
Golf Course Fund	584.2-753.001-981.0100	\$132,708.00	\$13,270.80	\$145,978.80
Total Construction Costs		\$132,708.00	\$13,270.80	\$145,978.80

And to approve the appropriation and amendment of the fiscal year 2022/2023 budget as follows:

Sewer Fund:

Revenues:

590.0-000.000-400.0000	Draw from Net Position	\$92,440
Total Revenue		\$92,440

Expenditures:

590.0-537.000-981.0100	Public Improvement	\$92,440
Total Expenses		\$92,440

Water Fund:

Revenues:

591.0-000.000-400.0000	Draw from Net Position	\$52,440
Total Revenue		<u>\$52,440</u>

Expenditures:

591.0-544.000-981.0100	Public Improvement	\$52,440
Total Expenses		<u>\$52,440</u>

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

Golf Course Fund:

Revenues:

584.2-000.000-400.0000	Draw from Net Position	\$145,980
Total Revenue		<u>\$145,980</u>

Expenditures:

584.2-753.001-981.0100	Public Improvement	<u>\$145,980</u>
Total Expenses		<u>\$145,980</u>

- O. Resolution to approve the appropriation and amendment of the 2022/2023 budget as follows:

Major Street Fund:

Revenues:

202.0-000.000-400.0000	Draw from Fund Balance	\$23,010
Total Revenue		\$23,010

Expenditures:

202.0-449.001-981.0100	Public Improvement	\$23,010
Total Expenses		\$23,010

Sewer Fund:

Revenues:

590.0-000.000-400.0000	Draw from Fund Balance	\$23,010
Total Revenue		\$23,010

Expenditures:

590.0-537.000-981.0100	Public Improvement	\$23,010
Total Expenses		\$23,010

And to award a contract to repair the 10 inch sewer on Maple to D'Angelo Brothers Inc., in an amount not to exceed \$43,824.50.

- P. Resolution to set a public hearing date of July 24th, 2023 to consider the proposed ordinance amendments to Article 2, Section 2.27, Article 4, Section 4.46 Table A, Article 5, Section 5.09, and Article 9, Section 9.02 for the B1 Neighborhood Business District to include Specialty Food Store, Boutique, Bank, and Café as permitted uses, to include Health Club/Studio as a use requiring a Special Land Use Permit, to include indoor dining as an accessory use limited to 500 square feet or less, to create a definition for a Café use, and to create a parking ratio requirement for a Café use.
- Q. Resolution to approve the right-of-way parking request for 33866 Woodward to permit 3 on-street parking spaces in the Woodward right-of-way to be counted towards the required off street parking requirements of the subject site pursuant to Article 4, Section 4.45 (G)(1) and subject to the condition that the area be improved in accordance with plans which have been approved by the Engineering Department.
- R. Resolution approving the service agreement with Next in the amount of \$126,632 for services described in Attachment A of the agreement for fiscal year 2023-2024, account number 101.0-656.000-811.0000, and further direct the Mayor and City Clerk to sign the agreement on behalf of the City.

- S. Resolution awarding the contract to Wiss, Janney, Elstner Associates, Inc. for construction period services in an amount not to exceed \$88,000; further, to charge the contract to the structure's capital outlay account as costs are incurred. Furthermore, to authorize the Mayor and City Clerk to sign the contract on behalf of the city.

**VI. UNFINISHED BUSINESS**

None

**VII. NEW BUSINESS**

- A. Public Hearing of Necessity – Pierce Street Paving Project – Hearing of Necessity for Water Service Special Assessment District

- 1. Motion to adopt the following resolution:

WHEREAS, Notice was given pursuant to Section 94-7 of the City Code, to each owner or party-in-interest of property and lots to be assessed, by first class mail, and by publication in a newspaper generally circulated in the City; and

WHEREAS, The City Commission has conducted a public hearing and has determined to proceed with the project of replacing water services that are less than 1 inch in diameter on Pierce Street between E. Lincoln Street and W. 14 Mile Road; and

WHEREAS, The City has previously established a policy requiring replacement of water services less than 1 inch in diameter when a water main is being replaced and the City street is open for repairs or reconstruction; and

WHEREAS, The City Commission, after the public hearing, has determined that the Pierce Street Project, and the replacing of water services that are less than 1 inch in diameter, is a necessity and is in the best interest of the City; and

WHEREAS, The Commission has approved the detailed plans and estimates of cost prepared by the City Engineer; and

WHEREAS, Formal bids have been received and the actual cost of water service replacement has been determined; and

WHEREAS, The City Engineer has determined the boundaries of water service laterals located within the limits of the following streets shall be installed as part of the Pierce Street Project (Contract #3-23(W)):

Pierce Street – Lincoln Street to 14 Mile Road; and

WHEREAS, The formula used in making the assessment is 100% of the contractor’s charge for replacing the water service that is less than 1 inch in diameter within the public right-of-way between the new water main and the property line (calculated at the rate of \$115.00 per foot of water service pipe).

THEREFORE LET IT BE RESOLVED, The City Commission has determined that the scope of the public improvement as described is in the best interest of the City and will benefit the properties listed in the assessment roll, and the City Commission directs the Manager to prepare a Special Assessment Roll and present the same to the Commission for confirmation and further set a Public Hearing and give notice on July 10, 2023.

<b>Parcel ID / Sidwell Number</b>	<b>Street Address</b>
19-36-401-006	1105 Pierce Street
19-36-329-011	1234 Pierce Street
19-36-401-009	1245 Pierce Street
19-36-329-012	1252 Pierce Street
19-36-329-013	1270 Pierce Street
19-36-329-014	1290 Pierce Street
19-36-401-046	1321 Pierce Street
19-36-329-015	1340 Pierce Street
19-36-401-013	1355 Pierce Street
19-36-329-017	1380 Pierce Street
19-36-401-017	1415 Pierce Street
19-36-333-020	1418 Pierce Street
19-36-401-018	1421 Pierce Street

<b>Parcel ID / Sidwell Number</b>	<b>Street Address</b>
19-36-333-021	1424 Pierce Street
19-36-333-022	1436 Pierce Street
19-36-401-019	1437 Pierce Street
19-36-333-023	1450 Pierce Street
19-36-401-021	1469 Pierce Street
19-36-333-025	1474 Pierce Street
19-36-333-027	1492 Pierce Street
19-36-333-028	1510 Pierce Street
19-36-333-032	1570 Pierce Street
19-36-333-033	1584 Pierce Street
19-36-333-035	1638 Pierce Street
19-36-333-036	1682 Pierce Street
19-36-379-025	100 W. 14 Mile Road

- B. Resolution to adopt in its entirety the completed Birmingham Historic District Design Guidelines as recommended by the Historic District Commission on June 7, 2023.



- C. Resolution to approve the appropriations and amendments to the fiscal year 2022-2023 budget as follows:

**General Fund:**

Revenues:

Fines and Forfeitures	101.0-000.000-657.0001	300,000
Total Revenue Adjustments		<u>\$ 300,000</u>

Expenditures:

Judicial	101.0-286.000-959.0300	\$ 300,000
Public Works	101.0-448.000-981.0100	(60,000)
Health and Welfare	101.0-656.000-811.0000	10,000
Recreation and Culture	101.0-785.001-702.0001	<u>50,000</u>
Total Expenditure Adjustments		<u>\$ 300,000</u>

**Capital Projects Fund:**

Revenues:

Local Contributions	403.0-901.020-587.0000	\$ 60,000
Interest and Rent	403.0-000.000-665.0001	<u>23,000</u>
Total Revenue Adjustments		<u>\$ 83,000</u>

Expenditures:

Capital Outlay	403.0-901.020-971.0100	\$ 70,000
	403.0-901.004-977.0000	<u>13,000</u>
Total Expenditure Adjustments		<u>\$ 83,000</u>

- D. Resolution to meet in closed session to discuss a written attorney/client privilege communication pursuant to MCL § 15.268 Sec. 8(h) of the Open Meetings Act.

**(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.)**

- 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. Unimproved Streets – Commissioner Host

**VIII. REMOVED FROM CONSENT AGENDA**

**IX. COMMUNICATIONS**

- A. Short Term Rentals Letter

**X. REPORTS**

- A. Commissioner Reports
- B. Commissioner Comments
- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
  - 1. Short Term Rentals Report by City Attorney Kucharek
  - 2. City Manager's Report

INFORMATION ONLY

**XI. ADJOURN**

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

*NOTICE: Individuals requiring accommodations, such as mobility, visual, hearing, interpreter or other assistance, for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice), or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.  
Las personas que requieren alojamiento, tales como servicios de interpretación, la participación efectiva en esta reunión deben ponerse en contacto con la Oficina del Secretario Municipal al (248) 530-1880 por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).*



## PROCLAMATION

### Recognizing Astrein's Creative Jewelers for 50 Years Serving Birmingham

- WHEREAS,** The City of Birmingham values long-standing businesses for their dedication and support of the Birmingham community; and
- WHEREAS,** Astrein's Creative Jewelers, locally owned and operated by Richard and Gary Astrein since 1973, has been a successful business leader in downtown Birmingham, providing exceptional personal service and products while sharing of their time and resources to make the community and the lives of the persons in the community a better place; and
- WHEREAS,** Legendary for their giving nature, Astrein's Creative Jewelers enthusiastically gave both volunteer time and financial support to countless local events, programs and charitable organizations; and
- WHEREAS,** Birmingham benefitted from their charity with notable events like the Fall Spectacular, the Village Fair, as well as creating and organizing new events that still carry on today such as Day on the Town; and
- WHEREAS,** Richard Astrein has been a vital and active Board of Director of the Birmingham Shopping District since its inception in 1992, being a founder member, a cheerleader and spokesperson for the needs of the downtown; and
- WHEREAS,** Richard Astrein serves in many leadership roles, including current Chairman of the BSD Special Events Committee and Member of the City of Birmingham Parking Committee, as well as beyond Birmingham serving as a Director of the Beaumont Health System and Co- Chair of the Beaumont Foundation Stars & Guitars; and

**THEREFORE,** be it resolved with this official proclamation that I, Therese Longe, Mayor of the City of Birmingham, on behalf of the City Commission, citizens and businesses of Birmingham, extend sincere appreciation and gratitude to Astrein's Creative Jewelers and to Richard Astrein for 50 years of unconditional dedication and support of the Birmingham community. We wish the Astrein family all the best as they set to retire. Their commitment and passion will be sorely missed in Birmingham.

*On Behalf of the City of Birmingham and the residents and businesses of Birmingham this 26<sup>th</sup> day of June, 2023.*

Therese Longe, Mayor



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

At the regular meeting of Monday, June 26, 2023, the Birmingham City Commission intends to appoint 7 regular members to the Ad Hoc Aging in Place Committee to serve 18-month terms expiring January 31, 2025.

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

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

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

Applicant(s) Presented for City Commission Consideration:

<b>Applicant Name</b>	<b>Criteria/Qualifications</b>
	A majority of members must be Birmingham Residents and electorates. Preferred qualifications/areas of professional expertise and experience include gerontologist, senior health or nutrition, adult education, elder law, representative of Birmingham NEXT, and intergenerational specialist.
Rebekah Craft	Representative from Baldwin Library
Leslie Pielack	Representative from Birmingham Museum
Cris Braun	Representative of NEXT Senior Services, Birmingham voter
Melissa Mark	Representative from Baldwin Library, senior resident, Birmingham voter
Rackeline Hoff	Senior resident, Birmingham voter
Rosemary O’Malley	Adult education, Birmingham voter

*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 acknowledge Rebekah Craft as the Representative from Baldwin Library for the Ad Hoc Aging in Place Committee as a regular to serve an 18-month term to expire January 31, 2025.

To acknowledge Leslie Pielack as the Representative from Birmingham Museum for the Ad Hoc Aging in Place Committee as a regular to serve an 18-month term to expire January 31, 2025.

To appoint \_\_\_\_\_ to the Ad Hoc Aging in Place Committee as a regular member who is a \_\_\_\_\_ to serve an 18-month term to expire January 31, 2025.

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To appoint \_\_\_\_\_ to the Ad Hoc Aging in Place Committee as a regular member who is a \_\_\_\_\_ to serve an 18-month term to expire January 31, 2025.



# Ad Hoc Aging in Place Committee

Resolution # 04-093-23

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

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

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
Clemence	Mark	248-530-1824		1/31/2025
151 Martin Street			Ex-Officio From Manager's Office	
Vacant				1/31/2025
				Representative from Birmingham Museum
Vacant				1/31/2025
				Representative from Baldwin Library

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
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**Vacant** 1/31/2025  
gerontologist, senior health or nutrition, adult education, elder law, representative of Birmingham NEXT, and intergenerational specialist

**Vacant** 1/31/2025  
gerontologist, senior health or nutrition, adult education, elder law, representative of Birmingham NEXT, and intergenerational specialist

**Vacant** 1/31/2025  
gerontologist, senior health or nutrition, adult education, elder law, representative of Birmingham NEXT, and intergenerational specialist

**Vacant** 1/31/2025  
gerontologist, senior health or nutrition, adult education, elder law, representative of Birmingham NEXT, and intergenerational specialist

**Vacant** 1/31/2025  
gerontologist, senior health or nutrition, adult education, elder law, representative of Birmingham NEXT, and intergenerational specialist



<b>OFFICE USE ONLY</b>	
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).

Clerks Office  
City of Birmingham, MI  
JUN 20 2023

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

(Please print clearly)

RECEIVED

KD

Board/Committee of Interest Ad hoc Aging in Place

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

Name Rebekah Craft

Phone 248-554-4681

Residential Address \_\_\_\_\_

Email \* rebekah.craft@baldwinlib.org

Residential City, Zip \_\_\_\_\_

Length of Residence \_\_\_\_\_

Business Address 300 W. Merrill

Occupation Baldwin Library Director

Business City, Zip Birmingham, MI 48009

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

I have partnered with Chris Braun at Next for the last 8 years on library & senior center programs. I have significant experience chairing and working on a variety of committees in the library, in the community, and w/ fundraising.  
List your related employment experience library director in Birmingham, lead monthly book club at Next (7 years), former outreach librarian working with seniors

List your related community activities Friends of Michigan Libraries board member, Michigan Library Association Annual conference committee member, Birmingham Area Cultural Hub member

List your related educational experience Masters in Library and Information Science from Wayne State. Business Communications BA from Calvin College

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? NO

Rebekah Craft  
Signature of Applicant

6/20/2023  
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](mailto: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.

SA





<b>OFFICE USE ONLY</b>	
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](http://www.bhamgov.org/boardopportunities).

(Please print clearly)

Board/Committee of Interest Ad Hoc Aging in Place Committee

Specific Category/Vacancy on Board Birmingham Museum representative (see back of this form for information)

Name Leslie Pielack

Phone 248-530-1682

Residential Address n/a

Email \* lpielack@bhamgov.org

Residential City, Zip n/a

Length of Residence n/a

Business Address 556 W. Maple

Occupation Museum Director

Business City, Zip Birmingham, MI 48009

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

Museum Director, I have background in historic preservation, sense of place, and perspective of the importance of culture and history to the community. My background in psychology may prove helpful.

List your related employment experience Museum Director at the Birmingham Museum for 12 years and over 30 years' experience as a counselor in private practice.

List your related community activities Familiar with planning and development. Serve on the planning commission in my community.

List your related educational experience Master's Certificate in Historic Preservation; M.A. in Counseling; B.A. in Psychology

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? no

Signature of Applicant 

6/19/2023  
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](mailto:clerksoffice@bhamgov.org) or by fax to 248.530.1080. Updated 3/24/2021

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<b>OFFICE USE ONLY</b>	
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](http://www.bhamgov.org/boardopportunities).

(Please print clearly)

Board/Committee of Interest Ad Hoc Senior Services

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

Name Cris Braun

Phone 586 295 8849

Residential Address 320 Fairfax

Email \*crisbraun24@gmail.com

Residential City, Zip Birmingham 48007

Length of Residence 35 yrs.

Business Address 2121 Midvale

Occupation Executive Dir.

Business City, Zip Birmingham 48007

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

I have always been passionate and interested in serving the under represented of our community. I have experience in strategic development, community organization, fund raising and outreach that aligns well with this Ad Hoc Committee's mission.

List your related employment experience I am the Director of Next, Birmingham's 50 plus Community Center - Nine years.

List your related community activities I have sat on numerous committees whose focus is/was on our active adults and providing the services needed to keep this group active and connected to the community as well as aging in place.

List your related educational experience Continued ongoing studies of the 50+ cohort with classes, conferences and research. MSU Business grad.

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

Cris Braun

6/13/2023

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 [clerk@bhamgov.org](mailto:clerk@bhamgov.org) or fax to 248.530.1080. Updated 11/18/2020

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RCVD 5/9/23

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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 Aging in Place Ad Hoc Committee

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

Name Melissa Mark

Phone 248-644-8451

Residential Address 635 Puritan Ave

Email \* weir527@gmail.com

Residential City, Zip Birmingham 48009

Length of Residence 24 years

Business Address

Occupation Baldwin Public Library elected trustee

Business City, Zip

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

I have lived in Birmingham/Beverly Hills for 40 years. I was an active member of school PTAs in early years, previous Beaumont Hospital volunteer, NEXT volunteer and supporter, Baldwin Public Library trustee and former Friends board member, and key promoter of library Outreach. I am closing

In on my 70th birthday and plan to remain in the Birmingham area. I think there are many ways we can expand senior services and support in our community, and I am interested in learning more about such opportunities.

List your related employment experience Currently serving 2nd Baldwin Public Library trustee term with Outreach Committee responsibility. Served on the NEXT Senior Services Day event, April 2018.

List your related community activities Baldwin Public Library Outreach committee visiting several area organizations/associations to bring services and programs to the BPL community. Participate in NEXT programs.

List your related educational experience Undergraduate business degree/Fairfield Univ, WSU Library & Info Sciences graduate degree

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

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

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

Signature of Applicant [Handwritten Signature]

Date May 6, 2023

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

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**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](http://www.bhamgov.org/boardopportunities).

(Please print clearly)

Board/Committee of Interest AD HOC AGING IN PLACE COMMITTEE

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

Name RACHELINE HOFF

Phone 248-642-1957

Residential Address 941 ARDEN LANE

Email \* rachyhoff@hotmail.com

Residential City, Zip BIRMINGHAM 48009

Length of Residence 45 yrs.

Business Address \_\_\_\_\_

Occupation RETIRED

Business City, Zip \_\_\_\_\_

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied ACTIVE SENIOR RESIDENT PERSONALLY EXPLORING HOUSING OPTIONS; MEMBER OF NEXT; DEALT WITH HOUSING CRISIS FOR MY MOTHER WHO LIVED IN B'HAM FOR 26 YRS. IN A CONDO AND BALDWIN HOUSE.

List your related employment experience MEMBER OF CITY COMMISSION FOR 20 YRS. (2001-2021); MAYOR (2005, 2010, 2016); FAMILIAR WITH ZONING, ORDINANCES AND POLICIES.

List your related community activities MEMBER & CHAIR OF FDTION. FOR B'HAM SENIOR RESIDENTS (2002-2021) UNTIL FDTION. WAS TAKEN OVER BY NEXT; COMMISSION REPRESENTATIVE TO AD-HOC JOINT SENIOR SERVICES COMMITTEE (2012-2013)

List your related educational experience B.A. ADVERTISING, MI STATE UNIVERSITY

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

Racheline J. Hoff  
Signature of Applicant

6/19/23  
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



JUN 20 2023

120

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](http://www.bhamgov.org/boardopportunities).

Board/Committee of Interest: **Ad Hoc Aging in Place Committee**

Specific Category/Vacancy on Board: **Adult Education** (see back of this form for information)

Name: **Rosemary O'Malley**

Phone: **248-225-5920**

Residential Address: **1255 Birmingham Boulevard**

Email: **rjoh20@gmail.com**

Residential City, Zip: **Birmingham, MI 48009**

Length of Residence: **29 years**

Business Address: **N/A**

Occupation: **Retired / Ford Motor Company**

Reason for Interest: **Explain how your background and skills will enhance the board to which you have applied: My professional experience at Ford Motor Company includes executive experience in adult education & training (and customer satisfaction). In retirement, I designed and facilitated programs focused on successful retirement and aging in place initiatives. My training and experience with Trinity Health Hospice added to my understanding of the physical, emotional, and financial issues facing aging seniors in our community.**

List your related employment experience: **Education & Training Manager for Marketing, Sales & Service, Ford Motor Company / Customer Satisfaction Manager, North America, Ford Motor Company**

List your related community activities: **Boomer Summit Committee Member (NEXT), Retirement Re-imagined Program Team Member (NEXT), Purposeful Retirement Program Facilitator (Troy Senior Center), Trinity Health Hospice Volunteer, GED Tutor (St. Vincent & Sarah Fisher Adult Education Program)**

List your related educational experience: **Michigan State University, Business Administration / Duke Fuqua School of Business, Executive Education / University of Michigan Ross School of Business, Executive Education / Trinity Health Hospice Volunteer Training Program**

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

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

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

Signature of Applicant *Rosemary O'Malley*

Date: **June 20, 2023**

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to [clerk@bhamgov.org](mailto:clerk@bhamgov.org) or fax to 248.530.1080. Updated 11/18/2020

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

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

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

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

**ABSENT:** None

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

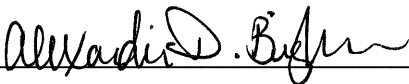
Nays, None

Absent, None

Passed, adopted and approved this 24<sup>th</sup> day of April 2023.

**CERTIFICATION**

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

  
\_\_\_\_\_

Alexandria Bingham, City Clerk



**NOTICE OF INTENTION TO APPOINT TO THE  
BOARD OF ETHICS**

At the regular meeting of Monday, June 26, 2023, the Birmingham City Commission intends to appoint one regular member to the Board of Ethics to serve a three-year term to expire June 30, 2026 and two alternate members to the Board of Ethics to serve a three-year term to expire June 30, 2026.

Board members are to serve as an advisory body for the purposes 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 [www.bhamgov.org/boardopportunities](http://www.bhamgov.org/boardopportunities). Applications must be submitted to the City Clerk’s office on or before noon on Wednesday, June 21, 2023. These documents will appear in the public agenda for the regular meeting at which time the City Commission will discuss recommendations, and may make nominations and vote on appointments.

Applicant(s) Presented For City Commission Consideration:

<b>Applicant Name</b>	<b>Criteria/Qualifications</b>
S. Joseph Cross	Resident, attorney-at-law

Sophie Fierro-Share was appointed to the Board of Ethics on July 14, 2003 and resigned on May 16, 2023. We thank Sophie Fierro-Share for more than 19 years of service to the city.

*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 COMMISSION ACTION:**

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

To appoint \_\_\_\_\_ as an alternate regular member to the Board of Ethics to serve a three-year term to expire June 30, 2026.

To appoint \_\_\_\_\_ as an alternate regular member to the Board of Ethics to serve a three-year term to expire June 30, 2026.



# 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
<b>Robb</b> 1533 Pleasant Court	<b>James</b>	(517)712-3469 <i>jamesdrobb55@gmail.com</i>	8/11/2003	6/30/2025
<b>Schrot</b> 1878 Fairway	<b>John</b>	(248) 646-6513 <i>jschrot@berrymoorman.com</i>	7/14/2003	6/30/2024
<b>Vacant</b>			6/26/2023	6/30/2026
<b>Vacant</b>			Alternate Member	6/30/2026
<b>Vacant</b>			Alternate Member	6/30/2026





RCVD 5/17/23

<b>OFFICE USE ONLY</b>	
Meets Requirements?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will Attend / Unable to Attend	<input checked="" type="checkbox"/> 6/26

### APPLICATION FOR CITY BOARD OR COMMITTEE

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(Please print clearly)

Board/Committee of Interest Board of Ethics

Specific Category/Vacancy on Board Alternate or regular (see back of this form for information)

Name S. Joseph Cross

Phone 248-752-5663

Residential Address 160 Pleasant St.

Email \* JOE.CROSS@crossdefense.NET

Residential City, Zip Birmingham 48009

Length of Residence 25 years

Business Address 1821 W. Maple Rd.

Occupation Attorney

Business City, Zip Birmingham 48009

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

As an attorney, we are a self governed community held to high ethical standards. I have learned to identify legal issues and to reconcile those issues with ethical implications.

List your related employment experience Federal Law Clerk, U.S.D.C. Eastern District

Hardy Lewis & Page (Employment Law) Collins, Einton (Insurance Law)  
S. Joseph Cross P.C. (Criminal Defense)

List your related community activities I support several charities through Birmingham Country Club (former Board member) and coached Youth Sports for 25 years.

List your related educational experience B.A. Communications, Albian College  
J.D. Michigan State Univ. (former Det. College of Law)

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

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

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

Signature of Applicant S. Joseph Cross

Date 5/17/23

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](mailto:clerksoffice@bhamgov.org) or by fax to 248.530.1080.

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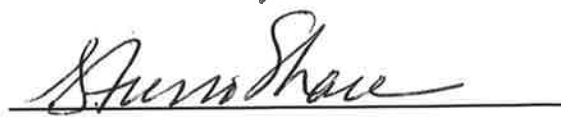
**1040 Gordon Lane  
Birmingham, MI 48009**

May 16, 2023

Ms. Alexandria Bingham  
Birmingham City Clerk  
151 Martin Street  
Birmingham MI 48009

Dear Ms. Bingham:

I am resigning from the Birmingham Board of Ethics, effective immediately. It has been my honor to have been on the Board of Ethics since its very beginning. I wish to thank the City for giving me the opportunity to serve.

A handwritten signature in cursive script, reading "Sophie Fierro-Share", is written above a solid horizontal line.

Sophie Fierro-Share

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 MUSEUM BOARD**

At the regular meeting of Monday, June 26, 2023, the Birmingham City Commission intends to appoint to the Museum Board three regular members to serve three-year terms to expire July 6, 2026, and one alternate member to serve a three-year term to expire July 6, 2026.

Interested parties may submit an application available at the City Clerk's office on or before noon on Wednesday, June 21, 2023. These applications will appear in the public agenda for the regular meeting at which time the commission will discuss recommendations, and may make nominations and vote on appointments.

Board Duties

The Museum Board is charged with collecting, arranging, cataloguing and preserving historical material. The Board may locate and erect plaques or markers at historic sites, buildings or properties in the City of Birmingham with the consent of the owner or owners of any such property and subject to the approval of the City Commission with respect to properties that, in the opinion of the Board, have historic significance. Further, the Board shall have the power to develop, operate and maintain the Allen House as a museum and to exercise authority, control and management over the Hunter House and John West Hunter Memorial Park.

*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.*

Applicant(s) Presented For City Commission Consideration:

<b>Applicant Name</b>	<b>Criteria/Qualifications</b>
Caroline Ashleigh	<ul style="list-style-type: none"> <li>Shall be qualified electors of the City and members of the Friends of the Birmingham Museum</li> </ul> Current Museum Board alternate member; qualified elector and Friends of the Birmingham Museum member *applying as regular or **alternate member
Marty Logue	Current Museum Board member; qualified elector and Friends of the Birmingham Museum member * applying as a regular member
Alexandra Harris	Current Museum Board member; qualified elector and Friends of the Birmingham Museum member *applying as a regular member

**SUGGESTED COMMISSION ACTION:**

\*To appoint \_\_\_\_\_ to the Museum Board as a regular member to serve a three-year term to expire July 6, 2026.

\*To appoint \_\_\_\_\_ to the Museum Board as a regular member to serve a three-year term to expire July 6, 2026.

\*To appoint \_\_\_\_\_ to the Museum Board as a regular member to serve a three-year term to expire July 6, 2026.

\*\*To appoint \_\_\_\_\_ to the Museum Board as an alternate member to serve a three-year term to expire July 6, 2026.



# MUSEUM BOARD

Chapter 62 - Section 62-26

Terms - Three years - expiring first Monday in July

Eight Members:           Six are electors and appointed by city commission  
                                   One member is an Alternate  
                                   One is owner of a business and appointed by the city manager

The Museum Board is charged with collecting, arranging, cataloguing and preserving historical material. The board may locate and erect plaques or markers at historic sites, buildings or properties in the City of Birmingham with the consent of the owner or owners of any such property and subject to the approval of the city commission with respect to properties that, in the opinion of the board, have historic significance. Further, the board shall have the power to develop, operate and maintain the Allen House as a museum and to exercise authority, control and management over the Hunter House and John West Hunter Memorial Park.

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
<b>Ashleigh</b>	<b>Caroline</b>	(248)613-4056  <i>info@appraiseyourart.com</i>	12/5/2022 Alternate Member	7/5/2023
<b>Barrett</b>	<b>Kristy Hull</b>	(248)504-1981  <i>kristybarrett1@yahoo.com</i>	4/2/2022 Regular Member	7/5/2023
<b>Erickson</b>	<b>Bev</b>	(248) 561-4178  <i>beverickson@comcast.net</i>	7/26/2021 Regular Member/BHS	7/5/2024

**BIRMINGHAM HISTORICAL MUSEUM & PARK**, 556 West Maple, Birmingham, MI 48009  
 phone: 248.530.1928 fax: 248.530.1685 [www.bhamgov.org/museum](http://www.bhamgov.org/museum)  
 Leslie Pielack, Museum Director: [lpielack@ci.birmingham.mi.us](mailto:lpielack@ci.birmingham.mi.us)

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
<b>Harris</b> 2600 Buckingham	<b>Alexandra</b>	(248) 686-4077 <i>akharrisart@gmail.com</i>	7/26/2021 Regular Member/BHS	7/5/2023
<b>Hughes</b> 915 Kennesaw	<b>Patrick J</b>	(248)417-0470 <i>phughes@brickstory.com</i>	9/23/2019 City manager Appointee/Business Owner	7/5/2025
<b>Keefer</b> 505 E. Lincoln #4	<b>Judith</b>	(248)249-0996 <i>jlwk2014@gmail.com</i>	7/11/2016 Regular Member/BHS	7/5/2025
<b>Logue</b> 2010 Buckingham	<b>Marty</b>	(248) 649-4921 <i>gtfieros@comcast.net</i>	9/26/2011 Regular Member/BHS	7/5/2023
<b>Motea</b>	<b>Alex</b>		2/27/2023 Student representative	12/31/2023
<b>Schaufler</b>	<b>Alexandria</b>		2/27/2023 Student representative	12/31/2023
<b>Shell</b> 1121 Northlawn	<b>Jay R.</b>	(248) 890-6333 <i>jay.shell@gmail.com</i>	8/9/2021 Regular Member/BHS	7/5/2024

**BIRMINGHAM HISTORICAL MUSEUM & PARK**, 556 West Maple, Birmingham, MI 48009  
 phone: 248.530.1928 fax: 248.530.1685 [www.bhamgov.org/museum](http://www.bhamgov.org/museum)  
 Leslie Pielack, Museum Director: [lpielack@ci.birmingham.mi.us](mailto:lpielack@ci.birmingham.mi.us)



## CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board:      Museum Board

Year:      2023

Members Required for Quorum:      4

MEMBER NAME	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	SPEC MTG	SPEC MTG	Total Mtgs. Att.	Total Absent	Percent Attended Available
<b>REGULAR MEMBERS</b>																	
Marty Logue	P	P	P	NM	P	P									5	0	100%
Judith Keefer	P	A	P	NM	A	A									2	3	40%
Pat Hughes	A	P	A	NM	P	A									2	3	40%
Jay Shell	P	P	A	NM	P	P									4	1	80%
Bev Erickson	P	P	P	NM	P	P									5	0	100%
Kristy Barrett	P	A	P	NM	P	P									4	1	80%
Alexandra Harris	P	P	P	NM	P	P									5	0	100%
Reserved															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
<b>ALTERNATES</b>																	
Caroline Ashleigh	P	P	P	NM	P	P									5	0	100%
Member 2															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
Present or Available	<b>7</b>	<b>6</b>	<b>6</b>	0	<b>7</b>	<b>6</b>	0	0	0	0	0	0	0	0			

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

\_\_\_\_\_  
Department Head Signature

## CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board:      Museum Board

Year:      2022

Members Required for Quorum:      4

MEMBER NAME	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	SPEC MTG	SPEC MTG	Total Mtgs. Att.	Total Absent	Percent Attended Available
<b>REGULAR MEMBERS</b>																	
Marty Logue	P	P	P	P	P	P	NM	P	P	P	P	P			11	0	100%
Judith Keefer	P	P	A	P	P	A	NM	A	A	P	P	A			6	5	55%
Pat Hughes	P	A	P	P	A	A	NM	P	P	P	A	P			7	4	64%
Jay Shell	P	P	A	P	P	A	NM	P	P	P	P	A			8	3	73%
Bev Erickson	P	A	A	P	A	P	NM	A	P	P	P	P			7	4	64%
Kristy Barrett	NA	NA	NA	NA	P	P	NM	P	P	P	A	P			6	1	86%
Caitlin Rosso	A	A	P	A	P	A	NM	A	NA	NA	NA	NA	NA	NA	2	5	29%
Reserved															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
<b>ALTERNATES</b>																	
Alexandra Harris	P	P	P	P	P	P									6	0	100%
Member 2															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
Present or Available	<b>6</b>	<b>4</b>	<b>4</b>	<b>6</b>	<b>6</b>	<b>4</b>	<b>0</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>0</b>			

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

\_\_\_\_\_  
Department Head Signature

## CITY BOARD/COMMITTEE ATTENDANCE RECORD

*Birmingham Museum Board*

Year: 21-22

4

MEMBER NAME	2021 JULY	AUG	SEPT	OCT	NOV	DEC	2022 JAN	FEB	MAR	APR	MAY	JUNE	SPEC MTG	SPEC MTG	Total Mtgs. Att.	Total Absen t	Percent Attend ed
<b>REGULAR MEMBERS</b>																	
Patt, Jacquie	P	P	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA			3	0	100%
Dixon, Russ	*P	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA			0	0	#DIV/0!
Keefer, Judith	P	P	P	P	A	P	P	P	A	P	P	A			9	3	75%
Krizanic, Tina	A	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA			0	1	0%
Logue, Marty	P	P	P	P	P	P	P	P	P	P	P	P			12	0	100%
Rosso, Caitlin	P	A	P	P	A	P	A	A	P	A	P	A			6	6	50%
Erickson, Bev	NA	P	P	P	P	A	P	A	A	P	A	P			7	4	64%
Hughes, Pat	P	A	A	P	P	P	P	A	P	P	A	A			7	5	58%
Shell, Jay	NA	NA	P	P	P	P	P	P	A	P	P	A					
Barrett, Kristy	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	P	P					
<b>ALTERNATE MEMBER</b>																	
Harris, Alexandra	NA	P	P	P	P	P	P	P	P	P	P	P			11	0	100%
Present or Available	5	5	6	7	5	6	6	4	4	6	6	4	0	0			

**KEY:**

\* Meeting was held on July 1, 2021. Retiring members still considered in FY 20-21 until AFTER July 1. Therefore attendance for FY 21-2

## CITY BOARD/COMMITTEE ATTENDANCE RECORD

Year: 20-2021

4

MEMBER NAME	2020 JULY	AUG	SEPT	OCT	NOV	DEC	2021 JAN	FEB	MAR	APR	MAY	JUNE	SPEC MTG	SPEC MTG	Total Mtgs. Att.	Total Absen t	Percent Attend ed
<b>REGULAR MEMBERS</b>																	
Patt, Jacquie	NA	NA	NA	NA	NA	NA	NA	NA	NA	P	P	P			3	0	100%
Dixon, Russ	P	P	P	P	P	P	P	P	P	P	P	P			12	0	100%
Keefer, Judith	P	P	P	P	P	P	A	P	P	P	A	P			10	2	83%
Krizanic, Tina	P	P	P	P	P	P	P	P	P	P	P	P			12	0	100%
Logue, Marty	P	P	P	A	P	P	P	P	P	P	P	P			11	1	92%
Rosso, Caitlin	A	P	A	A	P	P	A	P	P	P	P	A			7	5	58%
Haugen, Dan	A	P	P	P	A	NA	NA	NA	NA	NA	NA	NA			3	2	60%
Hughes, Pat	A	P	P	P	P	P	P	A	P	P	P	P			10	2	83%
Present or Available	<b>4</b>	<b>7</b>	<b>6</b>	<b>5</b>	<b>6</b>	<b>6</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>6</b>	<b>6</b>	0	0			

**KEY:**



<b>OFFICE USE ONLY</b>	
Meets Requirements?	<input checked="" type="radio"/> Yes <input type="radio"/> No
Will Attend	<input checked="" type="radio"/> Will Attend <input type="radio"/> Unable to Attend

**APPLICATION FOR CITY BOARD OR COMMITTEE**

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(Please print clearly)

Board/Committee of Interest MUSEUM BOARD

Specific Category/Vacancy on Board REGULAR OR ALTERNATE (see back of this form for information)

Name CAROLINE ASHLEIGH

Phone 248.613.4056

Residential Address 806 E. LINCOLN ST

Email \*info@appraiseyourart.com

Residential City, Zip BIRMINGHAM, 48009

Length of Residence 1993 TO PRESENT

Business Address 1221 BOWERS ST #1869

Occupation ART APPRAISER/HISTORIAN

Business City, Zip BIRMINGHAM 48012

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

MY LIFELONG CAREER HAS BEEN DEVOTED TO THE FIELD OF ARTS AND ANTIQUES, AS AN EDUCATOR, ART & ANTIQUES APPRAISER, FORMER MEMBER OF VOCENT BOARD AT THE DIA, PBS ANTIQUES ROADSHOW SENIOR APPRAISER, ETC

List your related employment experience CAROLINE ASHLEIGH ASSOCIATES APPRAISERS & AUCTIONEERS (PLEASE SEE ATTACHED CV)

List your related community activities I SERVE OUR COMMUNITY THROUGH EDUCATIONAL/OUTREACH AND HISTORIC PRESERVATION THROUGH MY MEMBERSHIP WITH THE BIRMINGHAM PINEY HILL CHAPTER OF THE D.A.R. (DAUGHTERS OF AMERICAN REVOLUTION)

List your related educational experience NYU-NEW YORK UNIVERSITY-GRADUATE IN APPRAISAL STUDIES IN FINE AND DECORATIVE ART (PLEASE SEE ATTACHED CV)

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

Caroline Ashleigh  
Signature of Applicant

April 29, 2023  
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](mailto: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.

## CAROLINE ASHLEIGH, AAA\*, ISA-AM\*, NAA\*

### Appraisal Experience

Specific expertise in Personal Property valuation in the preparation of Mass Appraisals and IRS appraisals for private collectors, estates, fiduciaries, foundations, galleries, and museums for insurance and IRS purposes. Specialty areas include: fine and decorative art, celebrity memorabilia, folk art, collectibles, textiles, documents, books and manuscripts, antiquities, and luxury accessories

### Education

USPAP Compliant Appraiser through 2024

Uniform Standards of Professional Appraisal Practice-Tested & Passed: 1997, 2007, 2012, 2014, 2016, 2018, 2022

New York University New York, New York - Graduate of Appraisal Studies in Fine and Decorative Arts

University of Colorado at Boulder/Worcester College at Worcester

Bachelors of Art, Art History/Education/Summa Cum Laude

### Professional Affiliations, Accreditations and Designations

Appraisers Association of America (AAA), Certified Member\*

International Society of appraisers (ISA), Accredited Member\*

National Auctioneers Association, (NAA), Former Member\*

Art & Antiques Advisors

Art Insurance Advisors Group

Art Professionals Worldwide

Expert Witness Network

Film and TV Professionals

Fine Art Professionals & Collectors

High Value Personal Property Experts

PBS's *Antiques Roadshow* & *HG-TV* Senior Appraiser

Trusts and Estates Network

Daughters of the American Revolution

The Mayflower Society

Ms. Ashleigh is a graduate of New York University in Appraisal Studies in Fine and Decorative Arts, and is a Certified Member of the Appraisers Association of America since 1995 and a former Accredited Member in good standing of the International Society of Appraisers, as well as, a former Member in good standing of the National Auctioneers Association of America. She has served as Co-Chairman of the National Conference Committee and Midwest Regional Representative of the Appraisers Association of America. She is a current USPAP (Uniform Standards of Professional Appraisal Practice) Compliant Appraiser since 1997, and has completed specialized training in Art Crime Investigation by the founder of the FBI Art Crime Team, and has completed Expert Witness Training. She is a current Alternate Board Member of the Birmingham Museum and member of the Collections Sub-Committee at the Birmingham Museum in Birmingham, Michigan, Advisory Board Member of Find Art Experts.com, and Art Curator for several major private collections.

Ms. Ashleigh's career began in the museum world as a member of the Educational Department staff and Docent Board of Directors of the Detroit Institute of Arts in Detroit, Michigan, and Cranbrook Academy of Art in Bloomfield Hills, Michigan. She became involved in art appraising and founded Caroline Ashleigh Appraisers and Auctioneers, where she catalogued important collections, estates, archives, and served as an expert in court cases. She has worked closely with major museums and foundations, and served as a consultant to several major auction houses including Sotheby's, Doyle Auctioneers in New York, Leslie Hindman Auctioneers in Chicago, and as Consignment Director and Personal Auction Concierge at Heritage Auctions in Dallas, Texas. She is a nationally known appraiser and has regularly appeared on the PBS program *Antiques Roadshow* since 1996, and as an art expert on *HG-TV*. Ms. Ashleigh lectures extensively on connoisseurship and is a columnist and author on art and antiques. She is a contributing author on arts and antiques to the *Antiques Roadshow Collectibles Primer*, the *Antiques Roadshow Insider Magazine*; *Art and Antiques Magazine*; *All About Appraising: The Definitive Appraisal Handbook*; *Antiques Roadshow - Behind the Scenes*; and *Warman's Antiques & Collectibles Price Guides - 43<sup>rd</sup> and 44<sup>th</sup> Editions*. She has been the subject of feature presentations in the *New York Times*, the *Guardian UK*, *Art and Antiques Magazine*, *Forbes Magazine*, *Crains Business*, *Hour Magazine*, and served as consultant to *CBS News*, "Inside Edition" on the subject of fakes and frauds. She is the author of *Warman's Field Guide* published in 2010, *Preserving Our Ancestor's Treasures* published in 2023, and worked with New York University and the Appraisers Association of America to develop online accredited courses for appraisers and specialized exams for certification purposes

Caroline Ashleigh Associates, LLC received the Best of Birmingham Award in the Auctioneers and Appraisers category for a company that achieved exceptional marketing success through the implementation of programs that generate competitive advantages and demonstrable success by setting benchmarks in the small business community. Caroline Ashleigh Associates, LLC was also selected for the Michigan Excellence Award amongst its peers and competitors by the Small Business Institute for Excellence in Commerce for upholding business ethics and company values



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

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(Please print clearly)

Board/Committee of Interest Marty Logue Museum Board

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

Name Marty Logue

Phone 248 496 3378

Residential Address 2010 Buckingham

Email \* gtFieros@comcast.net

Residential City, Zip B'ham 48009

Length of Residence 35 yrs

Business Address \_\_\_\_\_

Occupation retired

Business City, Zip \_\_\_\_\_

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

I have been on the museum board for 8 yrs. I have been involved in many of the changes at the museum: The school bell, Heritage zone, paint & new and floor windows.

List your related employment experience \_\_\_\_\_

List your related community activities member of the Friends of the Museum  
Treasurer of the Friends, volunteer for Cemetery Tours

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: No

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

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

Signature of Applicant Marty Logue

Date 5/1/23

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](mailto:clerksoffice@bhamgov.org) or by fax to 248.530.1080.

\*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.





<b>OFFICE USE ONLY</b>	
Meets Requirements?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<input checked="" type="radio"/> Will Attend	<input type="radio"/> Unable to Attend

**APPLICATION FOR CITY BOARD OR COMMITTEE**

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(Please print clearly)

Board/Committee of Interest MUSEUM

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

Name Alexandra HARRIS

Phone 248-686-4077

Residential Address 2600 Buckingham

Email \* akharrisart@gmail.com

Residential City, Zip Birmingham 48009

Length of Residence 26 years

Business Address \_\_\_\_\_

Occupation artist, crossing guard, barista

Business City, Zip \_\_\_\_\_

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

I've been able to contribute with my art background - plant exchange last year and portrait of George & Eliza Taylor this year

List your related employment experience though not related my work experience in art, ministry, crossing guard and as a barista have me involved & invested in our community

List your related community activities We have raised 3 children here and enjoyed our time with the schools, sports & neighborhoods. Now that they are grown, I would like to faithfully serve the community on the Museum Board and give it my all.

List your related educational experience Univ. of Michigan Bachelor of Arts, Alliance Francaise certificate (Intermediate French), Continuing Ed in Art - School of Visual Arts, NYC

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? NO

Signature of Applicant Alexandra Harris

Date 6/15/23

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](mailto:clerksoffice@bhamgov.org) or by fax to 248.530.1080. Updated 3/24/2021

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## ***ARTICLE II. MUSEUM BOARD<sup>1</sup>***

### **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'

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<sup>1</sup>Editor'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.

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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

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(Supp. No. 45)

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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.**



**NOTICE OF INTENTION TO APPOINT TO  
PUBLIC ARTS BOARD**

At the regular meeting of Monday, June 26, 2023, the Birmingham City Commission intends to appoint to the Public Arts Board one regular member for the remainder of a three-year term to expire January 28, 2025, and one alternate member to serve the remainder of a three-year term to expire January 28, 2025.

In so far as possible, the members shall represent a major cultural institution, a registered architect of the State of Michigan, an artist, an art historian and an art consultant. Members may also be members of the Historic District Commission, Design Review Board, the Parks and Recreation Board or the Planning Board. At least four members of the Board shall be residents of the City of Birmingham.

The objectives of the Public Arts Board are to enrich the City's civic and cultural heritage; to promote a rich, diverse and stimulating cultural environment in order to enrich the lives of the City's residents, business owners, employees and all visitors; and to establish an environment where differing points of view are fostered, expected and celebrated by providing the opportunity for such expression through the display of public art.

Interested citizens may apply for this position by submitting an application available from the city clerk's office. Applications for consideration at this meeting must be submitted to the city clerk's office on or before noon on Wednesday, June 21, 2023. These applications will appear in the public agenda for the regular meeting at which time the commission will discuss recommendations, and may make nominations and vote on the appointments.

Applicant(s) Presented For City Commission Consideration:

<b>Applicant Name</b>	<b>Criteria</b>	<b>Qualifications</b>
	At least four members must be a resident of the City of Birmingham	Members shall, <u>in so far as possible</u> , represent a major cultural institution, a registered architect of the State of Michigan, an artist, an art historian and an art consultant. Members may also be members of the Historic District Commission, Design Review Board, the Parks and Recreation Board or the Planning Board.
Andi Harris	Resident	Current PAB alternate member; cultural institution representative, adjunct arts professor at Wayne State University. *applying as a regular member
Lisa M. Beverly	Resident	Creative content producer, former CEO of an in-school volunteer art education program *applying as a regular or **alternate member

*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 Public Arts Board as a regular member to serve the remainder of a three-year term to expire January 28, 2025.

\*\*To appoint \_\_\_\_\_ to the Public Arts Board as an alternate member to serve the remainder of a three-year term to expire January 28, 2025.



# PUBLIC ARTS BOARD

City Code - Chapter 78, Article V

Terms - 3 years

7 regular members - At least 4 members shall be residents of the City of Birmingham. The remaining members may or may not be residents of Birmingham. In so far as possible, the members shall represent a major cultural institution, a registered architect of the State of Michigan, an artist, an art historian, and an art consultant. Members may also be members of the Historic District Commission, Design Review Board, the Parks and Recreation Board, or the Planning Board.

2 alternate members - must meet one of the already established criteria for regular members

Objectives -

- to enrich the City's civic and cultural heritage;
- to promote a rich, diverse, and stimulating cultural environment in order to enrich the lives of the City's residents, business owners, employees, and all visitors;
- to establish an environment where differing points of view are fostered, expected, and celebrated by providing the opportunity for such expression through the display of public art.

Last Name	First Name	Home Business	E-Mail	Appointed	Term Expires
<b>Andi</b>	<b>Harris</b>	(248)765-3202		3/27/2023	1/28/2026
1819 Washington Blvd				Alternate member	
Birmingham	48009	<i>andi.celeste.harris@gmail.com</i>			
<b>DeSanto</b>	<b>Luca</b>			2/27/2023	12/31/2023
				Student representative	
<b>Eddleston</b>	<b>Jason</b>	(248) 703-3808		12/5/2016	1/28/2025
892 Purdy				Regular member	
Birmingham	48009	<i>jason28e@yahoo.com</i>			
<b>Graham</b>	<b>Pam</b>	(248) 408-6277		2/27/2023	1/28/2026
884 Knox				Regular member	
Birmingham	48009	<i>pamcracker@gmail.com</i>			

Last Name Home Address	First Name	Home Business E-Mail	Appointed	Term Expires
<b>Heller</b> 176 Linden Birmingham	<b>Barbara</b>  48009	(248) 540-1310 (313) 833-7834 <i>bheller@dia.org</i>	1/28/2002 Regular member	1/28/2024
<b>McLean</b>	<b>Andrew</b>		2/27/2023 Student representative	12/31/2023
<b>Neville</b> 1516 E. Melton Birmingham	<b>Monica</b>  48009	(248) 321-1776  <i>monica.neville1@gmail.com</i>	2/27/2017 Regular member	1/28/2024
<b>Ritchie</b> 1455 South Eton Birmingham	<b>Anne</b>  48009	(248) 635-1765  <i>anneritchie7@yahoo.com</i>	9/12/2016 Regular member	1/28/2025
<b>Vacated</b>	<b>1/2020</b>			1/28/2025 Alternate member
<b>Vacated</b>	<b>4/21/2023</b>			1/28/2025 Regular member
<b>VanGeldereren</b> 3795 Loch Bend Commerce Twp.	<b>Annie</b>  48382	(248) 408-6132  <i>annievangeldereren@bbartcenter.org</i>	1/13/2020 Artist/major cultural institution	1/28/2026



## CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board: **PUBLIC ARTS BOARD**

Year: **2023**

Members Required for Quorum: **4**

MEMBER NAME	1/18	2/15	3/15	4/19	5/17	6/21	7/19	8/16	9/20	10/18	11/15	12/20	SPEC MTG	SPEC MTG	Total Mtgs. Att.	Total Absent	Percent Attended Available
<b>REGULAR MEMBERS</b>																	
Natalie Bishai	P	P	CM												2	0	100%
Jason Eddleston	A	P	CM												1	1	50%
Barbara Heller	P	P	CM												2	0	100%
Monica Neville	P	P	CM												2	0	100%
Anne Ritchie	P	P	CM												2	0	100%
Jane Schulak	A	A	CM												0	2	0%
Annie VanGelderren	P	P	CM												2	0	100%
<b>ALTERNATES</b>																	
Andi Harris	NA	NA	CM												0	0	#DIV/0!
															0	0	
															0	0	
															0	0	
															0	0	
<b>TOTAL</b>	<b>5</b>	<b>6</b>	0	0	0	0	0	0	0	0	0	0	0	0			

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

## CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board: **PUBLIC ARTS BOARD**

Year: **2022**

Members Required for Quorum: **4**

MEMBER NAME	1/19	2/16	3/16	4/21	5/18	6/15	7/20	8/17	9/21	10/19	11/16	12/21	SPEC MTG	SPEC MTG	Total Mtgs. Att.	Total Absent	Percent Attended Available
<b>REGULAR MEMBERS</b>																	
Natalie Bishai	A	P	A		A	A		A	P	P					3	5	38%
Jason Eddleston	P	P	A		P	P		A	P	A					5	3	63%
Barbara Heller	P	P	P		P	P		P	P	P					8	0	100%
Monica Neville	P	P	P		P	P		P	P	P					8	0	100%
Anne Ritchie	P	A	P		A	A		P	P	P					5	3	63%
Jane Schulak	NA	P			A	A		P	A	A							
Annie VanGelderren	P	P	P		P	P		P	A	P							
<b>ALTERNATES</b>																	
Marla Kaftan	P	NA	NA		NA	NA		NA		NA		NA			1	0	100%
															0	0	
															0	0	
															0	0	
															0	0	
<b>TOTAL</b>	<b>6</b>	<b>6</b>	<b>4</b>	<b>0</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>			

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  - CA = Member not available and meeting was canceled for lack of quorum**
  - NA = Member not appointed at that time**
  - NM = No meeting scheduled that month**
  - CM = Meeting canceled for lack of business items**

## CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board: **PUBLIC ARTS BOARD**

Year: **2021**

Members Required for Quorum: **4**

MEMBER NAME	1/20	2/10	3/17	4/21	5/19	6/16	7/21	10/20	11/17	12/15	SPEC MTG	SPEC MTG	Total Mtgs. Att.	Total Absent	Percent Attended Available
<b>REGULAR MEMBERS</b>															
Natalie Bishai	P	P	P	P	A	A	P	P	A	P			7	3	70%
Peggy Daitch	P	P	P	P	A	P	P	NA	NA	NA			6	1	86%
Jason Eddleston	P	P	A	P	A	P	P	A	P	P			7	3	70%
Barbara Heller	P	P	P	P	P	P	P	P	P	P			10	0	100%
Hadley Lovell (student)	NA	NA	A	A	P	A	A	A	A	A			1	7	13%
Monica Neville	P	P	P	P	P	P	P	P	P	P			10	0	100%
Anne Ritchie	P	P	P	P	P	P	A	P	A	P			8	2	80%
Nora Sherifaj (student)	NA	NA	P	P	A	P	A	A	A	A			3	5	37%
Linda Wells	P	P	A	A	NA	NA	NA	NA	NA	NA			2	2	50%
Annie VanGelderren	P	P	P	P	P	P	P	P	P	P			10	0	100%
<b>ALTERNATES</b>															
Marla Kaftan	NA	NA	P	P	P	P	A	P	P	A			6	2	75%
													0	0	
<b>TOTAL</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>9</b>	<b>6</b>	<b>8</b>	<b>6</b>	<b>6</b>	<b>5</b>	<b>6</b>	<b>0</b>	<b>0</b>			

- KEY:**
- A** = Member absent
  - P** = Member present or available
  - CP** = Member available, but meeting canceled for lack of quorum
  - CA** = Member not available and meeting was canceled for lack of quorum
  - NA** = Member not appointed at that time
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## CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board: **Public Arts Board**

Year: **2020**

Members Required for Quorum: **4**

MEMBER NAME	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	SPEC MTG	SPEC MTG	Total Mtgs. Att.	Total Absent	Percent Attended Available
<b>REGULAR MEMBERS</b>																	
Barbara Heller	P	P	NM	P	P	P	P	P	P	P	P	P			11	0	100%
Monica Neville	P	P	NM	P	P	P	P	P	P	P	P	P			9	0	100%
Annie Van Gelderen	NA	P	NM	P	P	P	P	P	P	P	P	P			9	0	100%
Anne Ritchie	P	P	NM	P	P	P	P	P	P	A	P	P			8	1	89%
Linda Wells	P	P	NM	P	A	A	P	P	P	P	P	P			7	2	78%
Jason Eddleston	P	P	NM	P	P	P	P	P	P	P	P	P			9	0	100%
Natalie Bishai	P	A	NM	P	P	P	A	P	A	A	A	P			6	5	55%
															0	0	#DIV/0!
															0	0	#DIV/0!
<b>ALTERNATES</b>																	
															0	0	#DIV/0!
															0	0	#DIV/0!
															0	0	#DIV/0!
															0	0	#DIV/0!
Present or Available	6	6	0	7	6	6	6	7	6	5	6	7	0	0			

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

  
 \_\_\_\_\_  
 Department Head Signature



RCVD 4/25/2023

<b>OFFICE USE ONLY</b>	
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](http://www.bhamgov.org/boardopportunities).

(Please print clearly)

Board/Committee of Interest Public Arts Board

Specific Category/Vacancy on Board Cultural institution representative (see back of this form for information)

Name Andi Harris

Phone 248-765-3202

Residential Address 1819 Washington Blvd.

Email \* andi.celeste.harris@gmail.com

Residential City, Zip Birmingham, MI., 48009

Length of Residence 2.5 years

Business Address New York, New York (Remote employee)

Occupation Art Basel Art Fair, Global Social Media Manager

Business City, Zip \_\_\_\_\_

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

As a resident of Birmingham who works in the visual arts field, I feel very passionate about the impact public art has on community. I have 10 years of industry experience ranging from non-profit work to being an arts adjunct professor at New York University and Wayne State University.

List your related employment experience Currently, I am the Global Social Media Manager at Art Basel, an art fair with expos in Hong Kong, Switzerland, Paris, and Miami Beach. I have worked with the organization for over 5 years.

In addition, I have consulted for a variety of artists, museums, galleries, and companies with an interest in the arts.

List your related community activities Current member of the Detroit Institute of Arts' Founders Junior Council and adjunct professor in arts department at Wayne State University.

List your related educational experience MA in Visual Arts Business from New York University and a Bachelors in Theatre Direction from Western Michigan University.

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

Andi Harris  
Signature of Applicant

March 1, 2023  
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](mailto:clerk@bhamgov.org) or fax to 248.530.1080. Updated 11/18/2020

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

**OFFICE USE ONLY**

Meets Requirements?  Yes  No

Will Attend / Unable to Attend

**APPLICATION FOR CITY BOARD OR COMMITTEE**

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

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

(Please print clearly)

Board/Committee of Interest Public Arts Board

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

Name Lisa M. Beverly Phone 310-308-3212

Residential Address 750 S Bates St. Email \* libev00@gmail.com

Residential City, Zip Birmingham 48009 Length of Residence 9 yrs

Business Address \_\_\_\_\_ Occupation Creative Content Production

Business City, Zip \_\_\_\_\_

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

*Having illustrated comic books during my school years, multi-media painting for 30+ years, and been a docent then the school CEO of a volunteer art teaching program serving one of the largest school districts in So Cal., I know that art provides important mental benefits for all individuals but especially our youth. With school budgets being cut, art programs are being eliminated. It is critical the next generation of art producers find inspiration and we all experience diverse voices and perspectives by enriching the world around us.*

List your related employment experience Research and fact finding; determining and negotiating solutions; writing, assembling and execution of executive Presentations via Power Point; Heavy interaction with the public of all ages and English language abilities; use of design applications

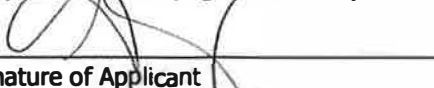
List your related community activities \_\_\_\_\_

List your related educational experience Masters in Business Administration, Finance

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

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

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

Signature of Applicant  Date 6/20/23

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](mailto:clerk@bhamgov.org) or fax to 248.530.1080. Updated 11/18/2020

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ARTICLE V. - PUBLIC ARTS BOARD

*Footnotes:*

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**Editor's note**— *Ord. No. 1773, adopted December 17, 2001, enacted provisions intended for use as §§ 78-100—78-112. To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as §§ 78-101—78-113.*

Sec. 78-101. - Definitions.

*Art, civic* means visual art pertaining to a person, place or event relating to or belonging to a city or municipality.

*Art, public* means one or more pieces of civic, visual or performance art designed specifically for ownership by the public or display on property owned by the public.

*Art, visual* means the conscious production or arrangement of colors, forms or other elements in a manner that affects the human senses in a graphic or plastic medium.

*Competition* means a process established by the public arts board to review specific art work(s) for a specific site, for the purposes of making a recommendation to the public arts board.

*Jury* means an ad hoc committee or individual appointed by the public arts board to review specific art work(s) for the purposes of making a recommendation to the public arts board.

*Performance art* means works of art that create a situation and are conducted for a duration determined by the artist and/or spectator.

*Rules of procedure* means a written description of the board's mission statement, objectives, organization of meetings, membership, terms of service, procedure for the election of officers, and procedures for the review of public art work.

(Ord. No. 1773, 12-17-01)

Sec. 78-102. - Created.

There is hereby created a public arts board for the city. The public arts board is a locally organized board and is not established by any enabling legislation of the state.

(Ord. No. 1773, 12-17-01)

Sec. 78-103. - Composition and terms of members.

The public arts board shall be appointed by the city commission and consists of the city manager and his/her designated representative(s) as nonvoting ex-officio members and seven voting members.

At least four members of the public arts board shall be residents of the city. The remaining members and ex-officio members may or may not be residents of the city.

In so far as possible, the members shall represent a major cultural institution such as Cranbrook Academy and/or the Detroit Institute of Arts, the Birmingham/Bloomfield Arts Council (BBAC), a registered architect of the state, an artist, an art historian and an art consultant. Members of the public arts board may also be members of the design review board, the historic district commission, the parks and recreation board, or the planning board.

The initial members of the public arts board shall be appointed for the following terms: Two for one year, two for two years and three for three years. Thereafter, all such appointments, except to fill vacancies, shall be for a term of three years.

The city commission may appoint two alternate members to serve as needed on the public arts board during their term of appointment. An alternate member may be called on a rotating basis to sit as a regular member of the public arts board in the absence of a regular member. An alternate member may also be called to service in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member having been appointed shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the public arts board.

(Ord. No. 1773, 12-17-01; Ord. No. 1884, 7-24-06; Ord. No. 2234, 5-22-17)

Sec. 78-104. - Vacancies.

All appointments for the purpose of filling vacancies occurring otherwise than by expiration of term of office, shall be for the remainder of the term of office.

(Ord. No. 1773, 12-17-01)

Sec. 78-105. - Compensation.

The members of the public arts board shall serve as such without compensation.

(Ord. No. 1773, 12-17-01)

Sec. 78-106. - Removal.

Members of the public arts board may, after a public hearing, may be removed without cause by a majority vote of the city commission.



(Ord. No. 1773, 12-17-01)

Sec. 78-107. - Organization and election of officers.

The public arts board shall, from its appointed members, annually elect a chairperson and vice-chairperson whose terms of office shall be fixed by the rules of procedure of the public arts board. The chairperson shall preside over the public arts board and shall have the right to vote. The vice-chairperson shall, in absence, or disability of the chairperson perform the duties of the chairperson and shall have the right to vote. The city manager or his or her authorized representative shall act as secretary of the public arts board, and maintain a record of all of its proceedings.

The public arts board shall, at its first meeting establish the rules of procedure for conducting its business.

(Ord. No. 1773, 12-17-01)

Sec. 78-108. - Meetings and quorum.

The public arts board shall set a time and place for a regular meeting which will be held at least four times annually and shall determine the manner in which special meetings may noticed and held.

All meetings of the public arts board shall be open to the public. Any person or his duly constituted representative shall be entitled to appear and be heard on any matter applicable to the business at hand before the public arts board makes its recommendation to the city commission.

At least four members of the public arts board shall constitute a quorum for the transaction of its business.

The proceedings of each meeting of the public arts board, shall be recorded by the city manager or his or her authorized representative, acting as secretary.

(Ord. No. 1773, 12-17-01)

Sec. 78-109. - Assistance.

The public arts board may call upon the city manager for information and services from the various city departments as it may require. The public arts board may recommend to the city commission the securing of professional and consulting services as it may require, however, no expenditures of funds shall be made or contracts entered into for providing such services unless the same shall first be approved and authorized by the city commission.

(Ord. No. 1773, 12-17-01)

### Sec. 78-110. - Objectives.

To enrich the city's civic and cultural heritage, the public arts board is established to provide a level of expertise and objectivity to recommend to the city commission works of art to become the property of or for display upon property owned by the city.

To promote a rich, diverse, and stimulating cultural environment in order to enrich the lives of the city's residents, business owners, employees and visitors and to enhance the city's image both nationally and internationally.

To establish an environment where differing points of view are fostered, expected and celebrated by providing the opportunity for such expression through the display of public art.

(Ord. No. 1773, 12-17-01)

### Sec. 78-111. - Duties.

The public arts board shall establish rules of procedure to describe the board's mission statement, objectives, organization of meetings, membership, terms of service, procedure for the election of officers, and procedures for the review of public art work. See section 78-106.

With the exception of art works to be placed in museums or art galleries, the public arts board shall have the responsibility to review all works of art to become the property of or placed upon property owned by the city. See section 78-109.

The public arts board shall have the responsibility to review publicly owned property for the purposes of consideration for the display of public art. The public arts board shall recommend to the city commission the establishment of general guidelines for site selection, maintenance program(s) for ensuring the structural integrity and aesthetic quality of the site and any work of art, including the removal of any work of art.

The public arts board shall have the responsibility to pursue sources of public funding for arts and cultural education, design competitions, special events etc., that may be necessary to advance the objectives of the public arts board. See section 78-109. In fulfilling such duties, the public arts board may seek assistance from city staff, and others for the completion of applications for grants, scholarships and other sources of public funding, including the administration of such funds. See section 78-108. The city may also accept private donations and gifts to advance the goals, objectives and duties of the public arts board. The city manager shall be responsible for the administration of any funds, account or endowments created to accept such gifts or donations and to administer any honorariums or other expenses incurred for the activities of the public arts board including but not limited to juries and design competitions.

It shall also be the responsibility of the public arts board to increase public awareness and promote education of the importance of public art as an enrichment of the quality of life for the residents, business owners, employees and visitors to the city.

The public arts board shall prepare an annual report of its activities, accomplishments and a description of how the public arts board has attempted to achieve its objectives. See section 78-109. This report shall be presented to the city commission.

(Ord. No. 1773, 12-17-01)

#### Sec. 78-112. - Review of public art.

The public arts board, within its rules of procedure, as set forth in section 78-106, shall establish its vision statement and processes for the review of public art works. The public arts board may also appoint a jury or hold design competitions for the selection and review of public art works. See section 78-108.

The public arts board shall make a recommendation regarding the proposed public art work to the city commission. However, a positive recommendation shall not be required to advance the proposed artwork for review by the city commission.

In the event that a display and/or installation of civic, public or visual art is proposed on a site that is within the jurisdiction of another board of this city, it shall be reviewed by and reported on by such board before it is presented to the city commission.

(Ord. No. 1773, 12-17-01)

#### Sec. 78-113. - Scope of authority.

The public arts board may select and appoint a jury or hold a competition for the review of any public art project as provided for in sections 78-106 and 78-111. The jury or competition held for any public art project shall serve the public arts board as an ad hoc committee for the duration of the project only.

The public arts board is a non-administrative board serving to make recommendations to the city commission but may not assume any legislative or administrative authority in the operation of any city department or publicly owned property, except as specifically provided in this article.

(Ord. No. 1773, 12-17-01)



**NOTICE OF INTENTION TO APPOINT TO THE  
MARTHA BALDWIN PARK BOARD**

At the regular meeting of Monday, June 26, 2023, the Birmingham City Commission intends to appoint two regular members to the Martha Baldwin Park Board to serve four-year terms to expire May 1, 2027 and the remainder of a 4-year term to expire May 1, 2024. Members must be electors 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](http://www.bhamgov.org/boardopportunities). Applications must be submitted to the city clerk’s office on or before noon on Wednesday, June 21, 2023. These documents will appear in the public agenda for the regular meeting at which time the City Commission will discuss recommendations, and may make nominations and vote on appointments.

Applicant(s) Presented For City Commission Consideration:

Applicant Name	Criteria/Qualifications
Linda Forrester	Applicants must be electors in the City of Birmingham. Registered voter at 1252 S. Bates

*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 \_\_\_\_\_, as a regular member to the Martha Baldwin Park Board to serve a four-year term to expire May 1, 2027.

To appoint \_\_\_\_\_, as a regular member to the Martha Baldwin Park Board to serve a four-year term to expire May 1, 2027.

To appoint \_\_\_\_\_, as a regular member to the Martha Baldwin Park Board to serve the remainder of a four-year term to expire May 1, 2024.



# MARTHA BALDWIN PARK BOARD

Chapter 78 - Section 78-56 Ordinance No. 65, Adopted May 10, 1915

Term: four years

Appointed by the City Commission

Qualifications: The board shall consist of four persons who shall be electors of the city.

Duties: The control and management of the Martha Baldwin Park shall be vested in the Martha Baldwin Park Board. (Section 78-56)

Last Name	First Name	Home Business Fax	E-Mail	Appointed	Term Expires
<b>Forrester</b> 1252 S. Bates	<b>Linda</b>	(248) 761-2367	<i>linozfor@att.net</i>	7/9/2012	5/1/2023
<b>Kenning</b> 1700 Villa	<b>Robert</b>	(248) 642-6161	<i>rskandsek@aol.com</i>	6/8/1992	5/1/2024
<b>Linovitz</b> 911 Henrietta	<b>Andrew</b>	(248) 506-2296	<i>ajlino@gmail.com</i>	8/14/2017	5/1/2023
<b>Vacated</b>	<b>2/7/2023</b>			Resident	5/1/2024

## CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board:

Martha Baldwin Park Board

Members Required for Quorum:

3

MEMBER NAME	12/16/2021	6/16/2022	8/24/2022	4/27/2023			SPEC MTG	SPEC MTG	Total Mtg. Att.	Total Absent	Percent Attended Available
<b>REGULAR MEMBERS</b>											
Linda Forrester	P	P	P	P					4	0	100%
Robert Kenning	P	P	P	P					4	0	100%
Andrew Linovitz	A	P	P	NA					2	1	67%
Patrick Rock	P	P	P	P					4	0	100%
Member 5									0	0	#DIV/0!
Member 6									0	0	#DIV/0!
Member 7									0	0	#DIV/0!
Reserved											
Reserved											
<b>ALTERNATES</b>											
Member 1											
Member 2											
Reserved									0	0	#DIV/0!
Reserved									0	0	#DIV/0!
Present or Available	3	4	4	3	0	0	0	0			

**KEY:**

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



Received

6-20-2023

5/2/23

10:30 am

<b>OFFICE USE ONLY</b>	
Meets Requirements?	<u>Yes</u> No
Will Attend	<u>Unable to Attend</u>

### 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](http://www.bhamgov.org/boardopportunities).

(Please print clearly)

Board/Committee of Interest MARTHA BALDWIN PARK BOARD

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

Name LINDA FORRESTER

Phone 248.761.2367

Residential Address 1252 S. BATES

Email \* linozfor@att.net

Residential City, Zip BIRMINGHAM 48009

Length of Residence 42 yrs.

Business Address \_\_\_\_\_

Occupation RETIRED

Business City, Zip \_\_\_\_\_

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

MY HUSBAND & I INITIALLY PLANNED + PLANTED THIS PARK & HAVE BEEN INVOLVED IN ALL PAST IMPROVEMENTS TO THIS PARK.

List your related employment experience \_\_\_\_\_

List your related community activities VOLUNTEERED FOR MANY YEARS ON ROUGE RIVER DAY AT BOOTH + LINDEN PARKS.

APPLIED + PURCHASED REGISTRY OF MARTHA BALDWIN

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: \_\_\_\_\_

No

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

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

Signature of Applicant Linda Forrester

Date 5/2/23

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](mailto: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.

AS A MONARCH WAY STATION

## ARTICLE III. - MARTHA BALDWIN PARK BOARD

*Footnotes:*

--- (3) ---

**Cross reference**— *Boards and commissions, § 2-171 et seq.*

## Sec. 78-56. - Scope.

The control and management of the Martha Baldwin Park shall be vested in the Martha Baldwin Park Board.

(Code 1963, § 3.11)

## Sec. 78-57. - Continuance of board.

The Martha Baldwin Park Board, heretofore established, is hereby continued in full force and effect.

(Code 1963, § 3.11)

## Sec. 78-58. - Composition, appointment, terms.

The Martha Baldwin Park Board shall consist of four persons who shall be electors of the city, one of whom shall be appointed to office each year by the city commission to hold office from May 1 of the year in which appointed for a term of four years.

(Code 1963, § 3.11; Ord. No. 2180, 5-9-16)

## Sec. 78-59. - Filling vacancies, removal of member.

Any vacancy occurring in the membership of the Martha Baldwin Park Board shall be filled for the remainder of the unexpired term by the city commission. The commission may remove any member of the board for cause.

(Code 1963, § 3.11)

## Sec. 78-60. - Compensation.

The members of the Martha Baldwin Park Board shall serve without compensation therefor.

(Code 1963, § 3.11)

## Sec. 78-61. - Tax for park purposes.



The city commission shall each year appropriate and raise by general tax not less than the sum of \$25.00, which sum shall be expended for the improvement and maintenance of Martha Baldwin Park.

(Code 1963, § 3.11)

Secs. 78-62—78-80. - Reserved.



## **NOTICE OF INTENTION TO APPOINT TO RETIREMENT BOARD**

At the regular meeting of Monday, June 26, 2023, the Birmingham City Commission intends to appoint one member to serve a three-year term to expire July 1, 2026.

The retirement board shall consist of seven voting trustees as follows:

- (1) The mayor.
- (2) A city commissioner to be selected by the city commission and to serve at the pleasure of the city commission.
- (3) The city manager.
- (4) A citizen, who is an elector of the city, and who is not eligible to participate in the retirement system as a member or retired member, to be appointed by the mayor by and with the consent of the city commission.
- (5) A police member to be elected by the police members.
- (6) A fire member to be elected by the fire members.
- (7) A general member to be elected by the general members.

In addition, there shall be one nonvoting ex officio retired member/beneficiary member to be elected by the retired members and beneficiaries currently receiving benefits from the system.

### RETIREMENT BOARD DUTIES

The retirement board consists of seven members who serve three-year terms without compensation. The retirement board shall hold meetings regularly, at least one in each quarter year. The retirement board shall have the power to administer, manage, and properly operate the retirement system, and to make effective the applicable provisions of the City Code.

Interested citizens may submit an application available at the city clerk's office or online at [www.bhamgov.org/boardopportunities](http://www.bhamgov.org/boardopportunities). Applications must be submitted to the city clerk's office on or before noon on Wednesday, June 21, 2023. 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.

Applicant(s) Presented For City Commission Consideration:

<b>Applicant Name</b>	<b>Criteria/Qualifications</b>
Christopher Conti	(4) A citizen, who is an elector of the city, and who is not eligible to participate in the retirement system as a member or retired member, to be appointed by the mayor by and with the consent of the city commission.

*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 concur with the Mayor's recommendation to appoint \_\_\_\_\_ to the Retirement Board, as the resident member who is not eligible to participate in the retirement system, to serve a three-year term to expire July 1, 2026.

# RETIREMENT BOARD

Chapter 2 – Section 2-207 – Eight members for three-year terms:

Mayor, city commissioner, city manager, citizen who is elector and is not eligible to participate in the retirement system, police member, fire member, general city member and non-voting retiree/beneficiary member.

Last Name	First Name	Home Business Fax	E-Mail	Appointed	Term Expires
<b>Bartalino</b>	<b>Matthew</b>	(248) 530-1900		8/3/2015	7/1/2021
572 S. Adams				Fire Dept. Member - Elected by Fire Dept.	
			<i>mbartalino@bhamgov.org</i>		
<b>Conti</b>	<b>Christopher</b>	248-594-1568		9/26/2005	7/1/2023
759 Greenwood		(313) 418-1673		Citizen Member - Appointed by the Commission	
			<i>conti8@comcast.net</i>		
<b>Johnson</b>	<b>Bruce</b>	(248) 530-1842		2/28/2020	7/1/2023
151 Martin				General Member	
			<i>bjohnson@bhamgov.org</i>		
<b>Longe</b>	<b>Therese</b>	(248) 310-2535		11/11/2019	11/1/2023
1253 Yosemite				Mayor	
			<i>tlonge@bhamgov.org</i>		
<b>Markus</b>	<b>Thomas</b>	(248)530-1808			
151 Martin				City Manager	
			<i>tmarkus@bhamgov.org</i>		

Last Name	First Name	Home Business Fax	E-Mail	Appointed	Term Expires
<b>McLain</b> 1400 Haynes	<b>Elaine</b>	(248)225-9903	<i>emclain@bhamgov.org</i>	11/14/2022 Mayor Pro Tem	11/1/2023
<b>VanGorder</b> 1800 E. Lincoln	<b>John</b>	(248) 563-7915		11/11/2020 Non voting Retiree member - elected by retirees	7/1/2025
<b>Whipple</b> 151 Martin	<b>Jeff</b>	(248) 530-1870	<i>jwhipple@bhamgov.org</i>	7/16/2007 Police Member - Elected by Police Dept	7/1/2025

## CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board: **Birmingham Employee Retirement System** Year: **2020**

Members Required for Quorum: **5**

MEMBER NAME	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	SPEC MTG	SPEC MTG	Total Mtgs. Att.	Total Absent	Percent Attended Available
<b>REGULAR MEMBERS</b>																	
Chris Conti	NM	NM	P	NM	NM	P	NM	NM	P	NM	NM	P			4	0	100%
Joseph Valentine	NM	NM	P	NM	NM	P	NM	NM	P	NM	NM	P			4	0	100%
Mayor	NM	NM	P	NM	NM	P	NM	NM	P	NM	NM	P			4	0	100%
Mayor Pro-Tem	NM	NM	P	NM	NM	P	NM	NM	P	NM	NM	P			4	0	100%
Matt Bartalino	NM	NM	P	NM	NM	P	NM	NM	P	NM	NM	P			4	0	100%
Jeff Whipple	NM	NM	P	NM	NM	A	NM	NM	P	NM	NM	P			3	1	75%
Bruce Johnson	NM	NM	P	NM	NM	P	NM	NM	P	NM	NM	P			4	0	100%
Reserved															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
<b>ALTERNATES</b>																	
Member 1															0	0	#DIV/0!
Member 2															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
Present or Available	0	0	7	0	0	6	0	0	7	0	0	7	0	0			

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



Department Head Signature

## CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board: **Birmingham Employee Retirement System** Year: **2021**

Members Required for Quorum: **5**

MEMBER NAME	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	SPEC MTG	SPEC MTG	Total Mtgs. Att.	Total Absent	Percent Attended Available
<b>REGULAR MEMBERS</b>																	
Chris Conti	NM	NM	P	NM	NM	P	NM	NM	P	NM	NM	P	P		5	0	100%
Tom Markus	NM	NM	A	NM	NM	P	NM	NM	P	NM	NM	P	P		4	1	80%
Mayor	NM	NM	P	NM	NM	P	NM	NM	A	NM	NM	P	P		4	1	80%
Mayor Pro-Tem	NM	NM	P	NM	NM	P	NM	NM	P	NM	NM	A	P		4	1	80%
Matt Bartalino	NM	NM	P	NM	NM	P	NM	NM	P	NM	NM	P	P		5	0	100%
Jeff Whipple	NM	NM	P	NM	NM	P	NM	NM	P	NM	NM	P	P		5	0	100%
Bruce Johnson	NM	NM	P	NM	NM	P	NM	NM	P	NM	NM	P	P		5	0	100%
Reserved															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
<b>ALTERNATES</b>																	
Member 1															0	0	#DIV/0!
Member 2															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
Present or Available	0	0	6	0	0	7	0	0	6	0	0	6	7	0			

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

  
 \_\_\_\_\_  
 Department Head Signature

## CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board: **Birmingham Employee Retirement System** Year: **2022**

Members Required for Quorum: **5**

MEMBER NAME	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	SPEC MTG	SPEC MTG	Total Mtgs. Att.	Total Absent	Percent Attended Available
<b>REGULAR MEMBERS</b>																	
Chris Conti	NM	NM	NM	P	NM	P	NM	NM	CP	NM	NM	P			3	0	100%
Tom Markus	NM	NM	NM	P	NM	P	NM	NM	A	NM	NM	P			3	1	75%
Mayor	NM	NM	NM	P	NM	P	NM	NM	CP	NM	NM	P			3	0	100%
Mayor Pro-Tem	NM	NM	NM	P	NM	A	NM	NM	A	NM	NM	P			2	2	50%
Matt Bartalino	NM	NM	NM	P	NM	P	NM	NM	CP	NM	NM	P			3	0	100%
Jeff Whipple	NM	NM	NM	P	NM	P	NM	NM	A	NM	NM	P			3	1	75%
Bruce Johnson	NM	NM	NM	P	NM	P	NM	NM	CP	NM	NM	P			3	0	100%
Reserved															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
<b>ALTERNATES</b>																	
Member 1															0	0	#DIV/0!
Member 2															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
Present or Available	0	0	0	7	0	6	0	0	4	0	0	7	0	0			

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  - NA** = Member not appointed at that time
  - NM** = No meeting scheduled that month
  - CM** = Meeting canceled for lack of business items



Department Head Signature



## CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board: **Birmingham Employee Retirement System** Year: **2023**

Members Required for Quorum: **5**

MEMBER NAME	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	SPEC MTG	SPEC MTG	Total Mtgs. Att.	Total Absent	Percent Attended Available
<b>REGULAR MEMBERS</b>																	
Chris Conti	NM	NM	NM	P	NM	P									2	0	100%
Tom Markus	NM	NM	NM	A	NM	P									1	1	50%
Mayor	NM	NM	NM	P	NM	P									2	0	100%
Mayor Pro-Tem	NM	NM	NM	A	NM	p									1	1	50%
Matt Bartalino	NM	NM	NM	P	NM	P									2	0	100%
Jeff Whipple	NM	NM	NM	P	NM	P									2	0	100%
Bruce Johnson	NM	NM	NM	P	NM	P									2	0	100%
Reserved															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
<b>ALTERNATES</b>																	
Member 1															0	0	#DIV/0!
Member 2															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
Reserved															0	0	#DIV/0!
Present or Available	0	0	0	5	0	7	0	0	0	0	0	0	0	0			

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



Department Head Signature



<b>OFFICE USE ONLY</b>	
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](http://www.bhamgov.org/boardopportunities).

(Please print clearly)

Board/Committee of Interest Retirement Investment Committee

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

Name Christopher Conti

Phone 313-418-1673

Residential Address 759 Greenwood

Email \* CONTI8@COMCAST.NET

Residential City, Zip Birmingham, MI 48009

Length of Residence ~ 25 years

Business Address One American Drive

Occupation CORPORATE TREASURY

Business City, Zip Dearborn, MI 48126

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

My experience in corporate finance provides a unique ability to problem solve, to see the big picture, and to work well with others.

List your related employment experience Ford Motor Co. various finance, treasury, and strategy roles.

List your related community activities Retirement Investment Committee for 15+ years, Birmingham School Board for nine years.

List your related educational experience BA, MBA

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

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

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

Signature of Applicant Christopher P. Conti

Date June 8, 2023

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to [clerksoffice@bhamgov.org](mailto: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.

Section 3. - [Retirement board.]

There shall be continued a retirement board as created in chapter XIX of the city Charter as originally adopted on April 3, 1944, in which is vested the power to administer, manage, and properly operate the retirement system, and to make effective the provisions of this chapter. The board shall consist of seven (7) voting trustees as follows:

- (a) The mayor.
- (b) A city commissioner to be selected by the city commission and to serve at the pleasure of the city commission.
- (c) The city manager.
- (d) A citizen, who is an elector of the city, and who is not eligible to participate in the retirement system as a member or retired member, to be appointed by the mayor by and with the consent of the city commission.
- (e) A police member to be elected by the police members.
- (f) A fire member to be elected by the fire members.
- (g) A general member to be elected by the general members.

In addition, there shall be one (1) nonvoting ex officio retired member/beneficiary member to be elected by the retired members and beneficiaries currently receiving benefits from the system. If more than one beneficiary is receiving a retirement allowance or other benefit from the retirement system attributable to the service of one former member or retired member, such beneficiaries shall be entitled to a single vote on behalf of the former member or retired member.



## **NOTICE OF INTENTION TO APPOINT TO THE GREENWOOD CEMETERY ADVISORY BOARD**

At the regular meeting of Monday, June 26, 2023 the Birmingham City Commission intends to appoint one regular member to the Greenwood Cemetery Advisory Board to serve the remainder of a three-year term to expire July 6, 2024.

Members must be chosen from among the citizens of Birmingham and, insofar as possible, represent diverse interests, such as persons with family members interred in Greenwood Cemetery; owners of burial sites within Greenwood Cemetery intending to be interred in Greenwood Cemetery; persons familiar with and interested in the history of Birmingham; persons with familiarity and experience in landscape architecture, horticulture, law or cemetery or funeral professionals.

Interested citizens may submit a form available at the City Clerk's Office on or before noon on Wednesday, June 21, 2023. 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.

### Committee Duties

In general, it shall be the duty of the Greenwood Cemetery Advisory Board to provide recommendations to the City Commission on:

1. Modifications. As to modifications of the rules and regulations governing Greenwood Cemetery.
2. Capital Improvements. As to what capital improvements should be made to the cemetery. Future Demands. As to how to respond to future demands for cemetery services.
3. Day to Day Administration. The day to day administration of the cemetery shall be under the direction and control of the City, through the City Manager or his/her designee.
4. Reports. The Greenwood Cemetery Advisory Board shall make and submit to the City Commission an annual report of the general activities, operation, and condition of the Greenwood Cemetery for the preceding 12 months. The Greenwood Cemetery Advisory Board shall, from time to time, as occasion requires, either in the annual report, or at any time deemed necessary by the Greenwood Cemetery Advisory Board, advise the City Commission in writing on all matters necessary and proper for and pertaining to the proper operation of Greenwood Cemetery and any of its activities or properties.

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.

Applicant(s) Presented for City Commission Consideration:

<b>Applicant Name</b>	<b>Criteria/Qualifications</b>
Paul S. Connell	Must be a resident of Birmingham and insofar as possible, represent diverse interests, such as persons with family members interred in Greenwood Cemetery; owners of burial sites within Greenwood Cemetery intending to be interred in Greenwood Cemetery; persons familiar with and interested in the history of Birmingham; persons with familiarity and experience in landscape architecture, horticulture, law or cemetery or funeral professionals.

SUGGESTED RESOLUTION:

To appoint \_\_\_\_\_ to the Greenwood Cemetery Advisory Board as a regular member to serve a three-year term to expire July 6, 2024.



# GREENWOOD CEMETERY ADVISORY BOARD

Resolution No. 10-240-14 October 13, 2014.

The Greenwood Cemetery Advisory Board shall consist of seven members who shall serve without compensation. Members must be chosen from among the citizens of Birmingham and, insofar as possible, represent diverse interests, such as persons with family members interred in Greenwood Cemetery; owners of burial sites within Greenwood Cemetery intending to be interred in Greenwood Cemetery; persons familiar with and interested in the history of Birmingham; persons with familiarity and experience in landscape architecture, horticulture, law or cemetery or funeral professionals. The City Manager or his/her designee shall serve as ex official, non-voting members of the Board.

Term: Three years.

In general, it shall be the duty of the Greenwood Cemetery Advisory Board to provide recommendations to the City Commission on:

1. Modifications. As to modifications of the rules and regulations governing Greenwood Cemetery.
2. Capital Improvements. As to what capital improvements should be made to the cemetery.
3. Future Demands. As to how to respond to future demands for cemetery services.
3. Day to Day Administration. The day to day administration of the cemetery shall be under the direction and control of the City, through the City Manager or his/her designee.
4. Reports. The Greenwood Cemetery Advisory Board shall make and submit to the City Commission an annual report of the general activities, operation, and condition of the Greenwood Cemetery for the preceding 12 months. The Greenwood Cemetery Advisory Board shall, from time to time, as occasion requires, either in the annual report, or at any time deemed necessary by the Greenwood Cemetery Advisory Board, advise the City Commission in writing on all matters necessary and proper for and pertaining to the proper operation of Greenwood Cemetery and any of its activities or properties.

Last Name	First Name	Home Business E-Mail	Appointed	Term Expires
Buchanan	Linda	(248) 646-3297 <i>lgbfeb23@gmail.com</i>	12/14/2015 Chair	7/7/2025
Patt	Jacqueline	2485614052 <i>jl patt2@gmail.com</i>	6/5/2023	7/6/2026

<b>Last Name</b>	<b>First Name</b>	<b>Home Business</b>	<b>E-Mail</b>	<b>Appointed</b>	<b>Term Expires</b>
<b>Peterson</b> 1532 Melton Birmingham	<b>Linda</b> 48009	(248) 894-9010	<i>lpeterson02@comcast.net</i>	11/24/2014 Vice Chair	7/6/2024
<b>Schreiner</b> 591 Bird Birmingham	<b>Laura</b> 48009	(248) 593-0335	<i>laschreiner@yahoo.com</i>	11/24/2014 owner of burial site in Greenwood; person familiar with and interested in the history of Birmingham.	7/6/2024
<b>Suter</b> 1795 Yosemite Birmingham	<b>Margaret</b> 48009	(248) 644-5925	<i>maasuter@gmail.com</i>	5/23/2016 owns a plot, relative buried in Greenwood Cemetery	7/7/2025
<b>Vacated</b>	<b>4/14/2023</b>				7/6/2024
<b>Vercellone</b> 572 W. Lincoln Birmingham	<b>Joseph</b> 48009	(248) 798-0460	<i>jvercellone@gmail.com</i>	8/10/2020 Plot Owner	7/6/2026

<b>OFFICE USE ONLY</b>	
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 9 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](http://www.bhamgov.org/boardopportunities).

(Please print clearly)

JUN 20 2023

KD

Board/Committee of Interest Greenwood Cemetery RECEIVED

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

Name Paul S. Connell Phone 248-770-0968

Residential Address 870 Davis Ave. Email \* pconnell@AJDesmond.com

Residential City, Zip Birmingham, MI 48009 Length of Residence 50 plus

Business Address \_\_\_\_\_ Occupation Retired Funeral Director

Business City, Zip \_\_\_\_\_

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

**As a Funeral Director for over 45 years, I have a unique set of skills and experience to share with my fellow board members and the community.**

List your related employment experience see attached bio...

List your related community activities see attached bio

List your related educational experience see attached bio

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

Paul S. Connell

June 19, 2023  
Date

Signature of Applicant

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](mailto:clerk@bhamgov.org) or fax to 248.530.1080. Updated 11/18/2020

\*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.



# A.J. DESMOND & SONS

FUNERAL DIRECTORS



Paul S. Connell

Licensed Funeral Director and Senior Vice President, Retired

*"After serving families for over 40 years... I am honored and humbled to professionally guide families through the saddest times of their lives."*

Paul has been serving families at the Vasu, Rodgers & Connell Chapel of A.J. Desmond & Sons for over 40 years. He graduated from Bloomfield Hills Lahser High School in 1970 and remains active with their alumni association. He graduated from Wayne State University School of Mortuary Science in 1974. Paul has been designated a Certified Michigan Funeral Practitioner by The Michigan Institute of Funeral Professionals. He is a member of the National Funeral Directors Association, the Michigan Funeral Directors Association and a past president of the Michigan Funeral Directors Association, District 6. Paul is a long-time member of the board of directors, a two-time past president and current president of the Birmingham Lions Club. The Birmingham Lions Club is an annual recipient of the "Top Dog" honors for raising funds for Leader Dogs for the Blind. His dedicated service to Lions Club International was recognized in 2007 when he received their prestigious Melvin Jones Award.

Paul is an active member of Our Lady Queen of Martyrs Church where he serves as an usher and is a past president of the Ushers Club. A lifelong resident of the Birmingham/Bloomfield area, Paul currently lives in Birmingham with his family.

2600 Crooks Road • Troy, MI 48084 • 248-362-2500 • crooksrd@ajdesmond.com

Vasu, Rodgers & Connell Chapel • 32515 Woodward Avenue • Royal Oak, MI 48073 • 248-549-0500 • woodward@ajdesmond.com

Price Chapel • 3725 Rochester Road • Troy, MI 48083 • 248-689-0700 • rochrd@ajdesmond.com

AJDesmond.com



## Sec. 34-30. - Establishment of the Greenwood Cemetery advisory board.

- (a) *Composition.* There is hereby established the Greenwood Cemetery advisory board for the city which shall consist of seven members who shall serve without compensation. Members must be chosen from among the citizens of Birmingham and, insofar as possible, represent diverse interests, such as persons with family members interred in Greenwood Cemetery; owners of burial sites within Greenwood Cemetery intending to be interred in Greenwood Cemetery; persons familiar with and interested in the history of Birmingham; persons with familiarity and experience in landscape architecture, horticulture, law or cemetery or funeral professionals. The city manager or his/her designee shall serve as ex officio, non-voting members of the board.
- (b) *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. Vacancies occurring other than through the expiration of term shall be filled for the unexpired term by the city commission.
- (c) *Removal of members.* Members of the Greenwood Cemetery advisory board shall hold office at the pleasure of the city commission and can be removed at any time with or without cause.
- (d) *Organization.* The Greenwood Cemetery Advisory Board shall elect a chairperson and vice-chairperson from its membership annually at its first meeting after the first Monday of July.
- (e) *Meetings.* The Greenwood Cemetery Advisory 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 Greenwood Cemetery advisory board. The Greenwood Cemetery advisory board shall keep a written or printed record of its proceedings which shall be a public record and property of the city.
- (f) *Expenditures and assistance.* The Greenwood Cemetery advisory board may call upon the city manager for such services and data from the various departments as it may require. The Greenwood Cemetery advisory board may recommend to the city commission the securing of such professional and consulting services as it may require, however, the Greenwood Cemetery advisory board shall not have any authority to authorize or otherwise obligate the city to incur expenses and/or approve contracts. Requests for expenditures shall be routed through the ex-officio member(s) of the board to the city commission for consideration.
- (g) *Powers and duties.* In general, it shall be the duty of the Greenwood Cemetery advisory board to provide recommendations to the city commission:
- (1) *Modifications.* As to modifications of the rules and regulations governing Greenwood Cemetery;
  - (2) *Capital improvements.* As to what capital improvements should be made to the cemetery;
  - (3) *Future demands.* As to how to respond to future demands for cemetery services; and

(4) *Day to day administration.* The day to day administration of the cemetery shall be under the direction and control of the city, through the city manager or his/her designee.

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

(i) *Protection of property.* No person shall take, use, or occupy the Greenwood Cemetery except in accordance with such rules and regulations governing such as may from time to time be authorized by the city commission.

(Ord. No. 2146, 10-13-14)

**Birmingham City Commission Minutes**  
**May 22, 2023**  
**Municipal Building, 151 Martin**  
**7:30 p.m.**  
Vimeo Link: <https://vimeo.com/824941849>

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

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

**II. ROLL CALL**

City Clerk Bingham called the roll.

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

Absent: None

Staff: City Manager Markus; Information Technology Assistant Abdullaah, City Clerk Bingham, Information Technology Manager Brunk, Information Technology Assistant Carrick, City Engineer Coatta, Planning Director Dupuis, Assistant City Manager Ecker, Parking Systems Manager Ford, Finance Director Gerber, Deputy Treasurer Katz, City Attorney Kucharek, Museum Director Pielack

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

**Announcements**

- Proclamation declaring the first Friday in June to be National Gun Violence Awareness Day
- Thank you for joining us at the DPS Open House on May 13th! Your presence made it a day of family fun and community engagement. We appreciate your support, enthusiasm, and interest in meeting our City staff, exploring equipment displays, and learning from informational exhibits. A special thanks to all city staff and volunteers who helped make this event a resounding success.
- Thank you to all the parade participants, vendors, and visitors who took part in the Celebrate Birmingham Parade and Party in Shain Park. We are grateful to the sponsors of the event and the multiple City departments and organizations that worked together to present this family-focused gathering. For a glimpse into the memorable moments, please visit [www.bhamgov.org/parade](http://www.bhamgov.org/parade) to view photos and videos.

**Appointments**

**05-110-23 Appointment to the Advisory Parking Committee**

Michelle Moody was interviewed by the Commission for the appointment.

**MOTION:** Nomination by MPT Boutros:  
To appoint Michelle Moody to the Advisory Parking Committee as a regular member who is a resident to serve the remainder of a three-year term to expire September 1, 2025.

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

Nays, None

The Mayor noted for the public that the Advisory Parking Committee had additional openings.

CC Bingham swore in Ms. Moody.

**Employee Recognition**

- 1. Gavin Carrick, IT Assistant
- 2. Mazumder Abdullaah, IT Assistant

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

The Mayor announced that public comments during the evening’s proceedings would be limited to three minutes each.

**V. CONSENT AGENDA**

**05-111-23 Consent Agenda**

The following items were pulled from the Consent Agenda:

- CC Bingham and Commissioner Host: Item C – City Commission Regular Minutes of May 8, 2023
- Commissioner Haig: Item H – Collection Deaccession-Birmingham Museum School Yearbooks
- Commissioner Host: Item L – 2023 North Old Woodward Parking Structure Repair Project Award

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner Schafer:  
To approve the Consent Agenda excluding Items C, H, and L.

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

Commissioner Haig  
Commissioner Schafer  
Commissioner Baller

Nays, None

- A. Resolution to approve the City Commission Budget Hearing meeting minutes of April 29, 2023.
- B. Resolution to approve the City Commission workshop meeting minutes of May 8, 2023.
- D. Resolution to approve the warrant list, including Automated Clearing House payments, dated May 11, 2023 in the amount of \$1,176,829.18.
- E. Resolution to approve the warrant list, including Automated Clearing House payments, dated May 18, 2023 in the amount of \$1,326,509.93.
- F. Resolution to approve a special event permit as requested by the Schools Offer Support to hold the Strides for SOS Race on October 1, 2023 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 opt into Oakland County's Urban County Community Development Block Grant (CDBG) programs for the years 2024, 2025 and 2026. Furthermore, to remain in Oakland County's Urban County Community Development programs, which shall be automatically renewed in successive three-year qualification periods of time, or until such time that it is in the best interest of the City to terminate the Cooperative Agreement.
- I. Resolution to approve the purchase of (3) 2023 GMC Sierra 1500 Trucks from Todd Wenzel Buick GMC of Westland, located at 35100 FORD RD, WESTLAND, MI 48185, through State of Michigan MiDeal Contract # 071B7700184, MiDeal Spec # 0073-4WDL, in the amount not to exceed \$45,301.70 per truck for total amount not to exceed \$135,905.10. In addition, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City. Funds for this purchase are available in the FY 2022-2023 Auto Equipment Fund account #661.0-441.006.971.0100.
- J. Resolution to award the project to ProPump & Controls, Inc. in the amount not to exceed \$24,583.05. In addition, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City. Funding for this project is available in account #584.2-753.001-981.0100.
- K. Resolution to approve an agreement with McKenna for the preparation of the City's Parks and Recreation Master Plan update in the amount not to exceed \$68,500. In addition, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City. Funding for this project has been budgeted in account # 101.0-751.000-811.0000.

**05-112-23 City Commission Regular Minutes of May 8, 2023 (Item C)**

Commissioner Host requested that the word 'urgent' be added to the Woodward noise item.

CC Bingham said her Staff would review the recording. She noted that '9:25 a.m.' at the end of the minutes should be changed to '9:25 p.m.'

**MOTION:** Motion by Commissioner Baller, seconded by Commissioner Haig:  
To approve the Commission regular meeting minutes of May 8, 2023.

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

Nays, None

**05-113-23 Collection Deaccession-Birmingham Museum School Yearbooks (Item H)**

MD Pielack answered two brief informational questions about the project.

**MOTION:** Motion by Commissioner Haig, seconded by Commissioner Host:  
To approve the deaccession and disposal of 87 redundant and damaged school yearbooks from the Birmingham Museum's permanent collection in accordance with the Birmingham Museum Collection Policy.

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

Nays, None

**05-114-23 2023 North Old Woodward Parking Structure Repair Project Award (Item L)**

Commissioner Host noted that on July 5, 2019, WJE said that the City had neglected \$6.2 million of maintenance on the N. Old Woodward parking deck over the prior ten years. He noted that with this present motion the City would still be short \$4 million from the 2019 estimate.

PSM Ford answered a brief informational question about the parking deck improvements.

Commissioner Host spoke in support of the item and commended PSM Ford and CM Markus for their continued efforts to improve the parking decks.

**MOTION:** Motion by Commissioner Host, seconded by Commissioner McLain:  
To award the contract to RAM Construction for the proposed work at the North Old Woodward Parking Structure in the amount of \$803,286.00; further, to authorize the Mayor and City Clerk to sign the contract on behalf of the city.

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

Nays, None

## **VI. UNFINISHED BUSINESS**

### **05-115-23 Public Hearing – Proposed Amendments to Chapter 126 (Zoning) – Outdoor Dining**

The Mayor opened the public hearing at 7:53 p.m.

PD Dupuis presented the item.

#### Public Comment

Kelly Allen, attorney for Toast and Social, thanked the City on behalf of her clients and said the proposed ordinance amendments were a great result.

Seeing no further public comment, the Mayor closed the public hearing at 8:07 p.m.

PD Dupuis, CM Markus, and CA Kucharek answered informational questions from the Commission.

Commissioner Baller said, regarding the furnishing zone, the Planning Board usually likes to have specific standards so they can make objective judgments on whether a feature should be allowed.

Commissioner Haig observed that any structure with an HVAC system could not be considered a temporary structure.

Commissioner Boutros thanked those who were involved in crafting the ordinance amendments. He described the proposed ordinance amendments as fair and meeting the needs of both the public and the business owners in the City.

MPT McLain noted that the intent of the ordinance was to provide clear guidelines and to allow for a balanced and consistent application of those guidelines. She encouraged residents to



communicate with Staff about any potential obstructions or problems they encounter with outdoor dining.

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner Haig:  
To adopt an ordinance to amend Chapter 126 (Zoning), Article 3, Section 3.04, Article 3, Section 3.16, Article 4, Section 4.44, and Article 9, Section 9.02 to provide clear and enforceable outdoor dining standards.

AND

To adopt an ordinance to amend Chapter 98 (Streets, Sidewalks and Other Public Places), Articles 2 and 3 to add language for outdoor dining facilities on public property.

Commissioner Host thanked the Planning Board for their extensive work on the item and offered his support for increasing conformity among outdoor dining locations in the City.

Commissioner Haig said the ordinance amendments were offering minimum standards for outdoor dining. He said that Birmingham is an aspirational community and part of that is maintaining standards. He said the ordinance amendments were a change for the better.

The Mayor thanked the Planning Board and Staff for their work on the item. She noted the many competing interests in crafting the ordinance amendments listing the aims of maintaining the community's health, safety, and welfare; maintaining public assets for the public good; having a welcoming, lively, and entertaining downtown; attracting visitors; and, supporting businesses. She said the ordinance amendments were a good balance of those interests.

Public Comment

David Bloom said it would be appropriate to prohibit the continued use of a preexisting nonconformity after a transfer of ownership.

Joe Bongiovanni, proprietor of four restaurants in the City, said ACM Ecker should have been more involved in the process of amending these ordinances, that the impetus for these amendments was a City survey demonstrating the popularity of outdoor dining and direction from the Commission to find ways of increasing outdoor dining, and that he hoped the community saw that nonconforming establishments bring value to the City.

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

Nays, None

**VII. NEW BUSINESS**

**05-116-23 Public Hearing – Confirmation of Special Assessment District Roll 904  
Brown Street Paving – Sidewalk and Streetscape**

The Mayor opened the public hearing at 8:55 p.m.

FD Gerber introduced DT Katz. DT Katz presented the item.

Seeing no public comment, the Mayor closed the public hearing at 8:58 p.m.

There was no Commissioner comment or inquiry on the item.

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner Host:  
WHEREAS, Special Assessment Roll, designated Roll No. 904, has been heretofore prepared for collection, and

WHEREAS, notice was given pursuant to Section 94-7 of the City Code, to each owner or party-in-interest of property to be assessed, and

WHEREAS, the Commission has deemed it practicable to cause payment of the cost thereof to be made after the time of construction and

WHEREAS, The Commission Resolution 05-104-23 provided it would meet this 22nd day of May, 2023 for the sole purpose of reviewing the assessment roll, and

WHEREAS, at said hearing held this May 22, 2023, all those property owners or their representatives present have been given an opportunity to be heard specifically concerning costs appearing in said special assessment roll,

NOW, THEREFORE, BE IT RESOLVED, that Special Assessment Roll No. 904 be in all things ratified and confirmed, and that the City Clerk be and is hereby instructed to endorse said roll, showing the date of confirmation thereof, and to certify said assessment roll to the City Treasurer for collection at or near the time of construction of the improvement.

BE IT FURTHER RESOLVED, that special assessment shall be payable in ten (10) payments as provided in Section 94-10 of the Code of the City of Birmingham, with an annual interest rate of nine and one quarter percent (9.25%) on all unpaid installments.

All Parcel ID/Sidwell numbers as listed on page three of Item 7A of the Agenda.

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

Nays, None

**05-117-23 Brown Street Paving Project Contract # 5-23 (P) Contract Award**

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

Commissioner Baller noted that the City was making it safer to cross a State road and was not receiving any funds from the State to do so. He said that the area will become a higher-traffic pedestrian area and raised concerns about using concrete planter boxes.

Commissioner Haig recommended the City consider bell bollards to protect the planter boxes.

In reply to Commissioner Baller, the Mayor said she was sure the City would address issues with permit parking access to the Peabody Deck if such issues arose.

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner Host: To approve the construction project budget and award Brown Street Paving Project #5-23 (P) to V.I.L. Construction in the amount of \$1,832,529.69 and not to exceed \$1,924,156.18. In addition, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City after the review of V.I.L. Construction's insurance and bonds, contingent upon execution of the agreement and meeting all insurance and bonding requirements. Funding for this project has been budgeted in the accounts as stated in Item 7B, pages three and four.

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

Nays, None

### **05-118-23 Public Hearing – The Birmingham Plan 2040**

The Mayor opened the public hearing at 9:24 p.m.

PD Dupuis introduced Matt Lambert of DPZ, Laura Haw of McKenna, and Planning Board Members Clein, Emerine, Share, and Boyle. He thanked Planning Department Staff, the City Commission, and City Administration for their support of the master planning process. He then presented the item.

The Mayor commended PD Dupuis on the presentation.

#### Public Comment

Larry Lyng said he and some other residents of Bird Avenue would prefer that the north side of 14 Mile between Grant and Woodward remain zoned only for single-family residential. He provided the Commission with a petition to that effect.

Linda Schrenk said some people had the impression that allowing multi-family homes to be built near single family homes lowers the value of single family homes. She said she heard from some single family homeowners concerned about that possibility. She asked about a perceived discrepancy between the 2040 Plan anticipating an increase in the City's population and the Birmingham School Board reporting a decrease in children attending the City's public schools.

Norm Cohen spoke in opposition to accessory dwelling units (ADUs) being allowed on Bird Avenue. He said there could be issues with increased parking demand, decreased privacy, and a change in the present homeowners' views.

Kevin Kozlowski said that increasing residential and light mixed-use development would help the City's residents achieve their sustainability, traffic, infrastructure, and safety goals through increased walkability. He said that the elimination or reduction of minimum parking requirements needed to be studied in order to make Birmingham more walkable. He spoke in favor of more detail in the cycling plan and said that while the 2040 Plan spoke to the benefits of commercial destinations in the neighborhoods, it proposed few zoning changes to allow them. He said the Commission should determine whether Birmingham aims to truly be a walkable city, and if so the 2040 Plan should be revised with that aim in mind.

Michael Shock raised concerns about potential future upzoning of Oakland Ave. He also reported having the impression that allowing multi-family homes to be built near single family homes lowers the value of single family homes. He suggested that the single family homes on Oakland provide a better buffer between Woodward and the Little San Francisco neighborhood.

Larry Bertollini said he was concerned that the 2040 Plan would allow properties abutting single family homes to be developed to similar densities as properties further from single family homes. He said properties abutting single family homes should be treated uniquely, with more limitations on the permitted density.

Denise Rumzey asked whether many City infrastructure projects would require bonds, which would require a public vote. She questioned the proposed zoning for the Adams Square area. She asked the City to maintain the green space at Eton and Lincoln since there was presently no park in the Torry neighborhood.

In reply to Mr. Bertollini and Ms. Rumzey, PD Dupuis said the appropriateness of zoning for an area would be considered as part of any future potential zoning change process.

~~Mr. Bloom commented on the seams, access zone, R-2 and R-3 zones, commercial destinations in parks, ADUs, Haynes Square, and the process of zoning changes. said that the City should speak with residents in the potential future TZ 3, R 7, and R 6 zones about said residents' preferences, that he was concerned with portions of the proposed access zone, that some homes in the R-2 and R-3 zones exceed the height allowances, that commercial destinations in parks should likely be limited to kiosks or food trucks, that ADUs would need to be studied carefully, that the City should study plans for Haynes Square carefully and consider potential alternative plans, and that staying aware of potential zoning changes would require effort and attention from~~

~~residents 'who do not spend extra money to live in Birmingham to have to have that pressure and stress on them'.<sup>1</sup>~~

Peggy Peterson said she was concerned about the new mixed use development on Adams because of present traffic congestion from Haynes to Maple and from Haynes to Woodward.

In reply to an inquiry from Ms. Peterson, PD Dupuis explained that the aforementioned development on Adams, like all larger developments in the City, submitted a Community Impact Study (CIS). He explained that the CIS includes a Transportation Impact Study. He explained those studies are reviewed by the Planning Board as part of the project consideration process.

Paul Regan said that the 2040 Plan's vision was one of increased density, which he said was unnecessary and out of the character of the City.

Kim Delgrosso asked whether the 2040 Plan could be described as similar to a '15 Minute City' plan.

PD Dupuis explained that a '15 Minute City' aims to create areas where civic, commercial, and recreational destinations could be reached from one's home within 15 minutes. He said there was some similarity between that concept and the 2040 Plan.

In reply to a further inquiry from Ms. Delgrosso, the Mayor said she did not believe the 2040 Plan was designed to control public behavior.

The Mayor noted that there were late correspondences received by the Commission from Mr. Bertollini, which he spoke to during the present meeting, from Robert Gibbs regarding the benefits of multi-family housing, from Mr. Colosanti and Mr. Rider requesting that ADUs be considered for R-1, R-2, and R-3 zoning, and a letter from Paul Sebold regarding changes over time. She noted that the City Clerk would file all received correspondences.

A number of the commenters thanked those involved for their work on the 2040 Plan.

The Mayor closed the public hearing at 10:32 p.m.

Staff answered informational questions from the Commission.

Comments from Commissioners were as follows:

- The change to the recommended zoning to the northwest at Lincoln and Eton might not be considered non-substantive to the residents who requested the change. The Planning Board and Staff spent a substantial amount of time and energy on the master planning process. The Commission had limited opportunity to ask questions or discuss the draft 2040 Plan. Aspects of the draft 2040 Plan were welcome, including maintaining neighborhood character. Some aspects of the draft 2040 Plan may be superfluous given that Birmingham is already a flourishing community. The joint Commission-Planning Board meeting for June 12, 2023 should have remained scheduled in order to provide further time to discuss the draft 2040 Plan. There were no estimated costs for the proposals in

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<sup>1</sup> As amended at the June 5, 2023 meeting.

the draft 2040 Plan. Some of the aspects of the draft 2040 Plan reflect a pre-Covid-19 context. The City has recently approved residential development that would accommodate a large percentage of the projected 25 year population increase in Birmingham. The process of approving the draft 2040 Plan should not be rushed;

- The draft 2040 Plan was written for the benefit of younger generations. It was possible for Commissioners to get their questions answered along the way if they so choose. Rezoning processes have to go through extensive reviews, some of which would require supermajorities if there were certain objections raised to the proposal. The draft 2040 Plan could be discussed further or could be approved presently, depending on the Commission's preferences. Sufficient information was available to approve the draft 2040 Plan presently. Gratitude was owed to all members of the public who participated in the process;
- The Planning Board and consultants invested a significant amount of effort into the master planning process. Commissioners were able to participate in the master planning process at every step along the way as members of the public. Every comment from members of the public were taken very seriously. Implementation of any aspect of the draft 2040 Plan would have to undergo thorough review. Those who worked on the draft 2040 Plan have endeavored to answer all questions that arose throughout the master planning process. The draft 2040 Plan as presented was fair, transparent, and well-studied in terms of providing the City direction over the next 20 years. The draft 2040 Plan should be approved presently;
- While the Commission had not had much opportunity to comment on the draft 2040 Plan during Commission meetings, the Commission had access to each iteration of the draft 2040 Plan and every aspect of the master planning process. The draft 2040 Plan sets forth a high-level concept, and does not rezone any parcel in the community. The Planning Board was tasked with doing the majority of the work for the draft 2040 Plan, and the Commission was responsible for trusting the Planning Board and noting any obvious issues with the draft 2040 Plan. There were no obvious issues with the draft 2040 Plan. The northeast parcel at Lincoln and Eton, the seams, and the vision for the draft 2040 Plan changed throughout the master planning process. Staff, consultants, and the Planning Board were to be thanked for their work. The public should endeavor to trust that any rezoning processes would be subject to review by both the Planning Board and the Commission. The draft 2040 Plan should be approved presently;
- All the residents who provided comment deserve thanks. All the members of the Commission are Birmingham residents who take their responsibilities very seriously. All aspects of proposals before the Commission are reviewed and considered thoroughly. The draft 2040 Plan provides an opportunity for the public and the Commission to continue to collaborate on making the community a place where everybody can thrive. The draft 2040 Plan provides a template, not rules, for future planning. The master planning process was very public and transparent. The draft 2040 Plan should be approved presently;
- The work of the Planning Board was appreciated. It is not the role of the Commission to re-do the work of any City board. While the Commission is responsible for raising issues as they arise, it would not be appropriate to restart the review process at the Commission table. The City has boards because they do the work, have the expertise, and invest the time. The Commission does not have the history, background, or professional specializations to start over on any recommendation that comes from a City board. The Commission's role is to assess, evaluate, hear comment from the public, to hear from Staff, and to trust the work of the board that brings a recommendation to the Commission.

The history of planning in Birmingham shows that a number of plans have been not implemented. Plans provide a horizon and a guide, are not guaranteed to be implemented, and do not include cost estimates. It would take an extended process for any item in the draft 2040 Plan to be implemented, and could be rejected or changed during the process. The draft 2040 Plan provides a vision, not ordinances, laws, or zoning changes. The process was done with transparency, and Staff and the Planning Board integrated many of the recommendations made by the public. It is the role of the Commission and the Staff to evaluate each proposal individually as it becomes relevant. The estimated increase in future population is based on what the Southeast Michigan Council of Governments thinks will happen in the State, and what share of those people might be attributed to Birmingham. That number does not represent an upper limit of the number of people who may want to live in Birmingham. Renters' rights was a recent topic before the Commission. New multi-family developments depress rental increases in older multi-family units through increased competition, which benefits renters. Many aspects of the draft 2040 Plan were wonderful, including sustainability, parks, and maintaining neighborhood character. Aspects that raise concern with the public will be subject to further review. Not all aspects of the 2016 Plan were implemented but allowed Birmingham to remain relevant, vibrant, and to maintain its property values. As a whole, the draft 2040 Plan was a well-written, well-researched, comprehensive document that focuses on improving quality of life, access to amenities, maintaining Birmingham as a destination, and maintaining property values and the school system. The community could be proud of the draft 2040 Plan should it pass presently;

- Staff, the Planning Board, and the consultants should be commended for improving the draft 2040 Plan during the master planning process. The process of approving the draft 2040 Plan should not be rushed. The draft 2040 Plan would be ready for approval with these three items: the seams should be eliminated from the draft 2040 Plan, the language in the draft 2040 Plan should clearly indicate that commercial destinations in the parks are not desired, and ADUs should be prohibited, as they are not compatible with a single family zoned community. Those items should be removed from the draft 2040 Plan because they set a course and define the character of the City's future. The draft 2040 Plan should be approved with those three items removed.

A number of Commissioners commented that they read every iteration of the draft 2040 Plan and attended or watched the discussions and meetings regarding the draft 2040 Plan.

Commissioner Boutros observed that the majority of Commissioners agreed with the majority of the draft 2040 Plan.

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner Schafer: To adopt and approve in its entirety the Birmingham Plan 2040, inclusive of all maps, plats, charts, and other related matter, figures and the Future Land Use Map, as recommended by the hard-working Planning Board.

Commissioner Haig said there were aspects of the draft 2040 Plan that should be reviewed further. He said that the draft 2040 Plan, once approved, would be used to set precedents. He said that a joint Commission-Planning Board meeting could be held in June 2023 to finalize the remaining few points. He said feedback was heard and improvements were made between the

first draft of the 2040 Plan and the present draft of the 2040 Plan and thanked those responsible for integrating those changes.

Commissioner Host said seams, commercial destinations in the parks, and ADUs would be boons to commercial developers and detrimental to the future. He said Birmingham was largely zoned as a single family residential community prior to 1970. He said that potentially impacting people's property values raises concerns.

Commissioner Baller said the City was not conceived of as a single family residential community, and noted that 30% of Birmingham's housing stock was multi-family residences. He said the concerns raised had been addressed. He said he had not heard a proposal for how further review would proceed. He said he would vote to support the motion and that he had not heard a good alternative process offered.

Commissioner Schafer said the Commissioners supporting the draft 2040 Plan felt good about doing so. She said those Commissioners feel a duty to all of the residents, including those who live in multi-family residences.

The Mayor said that regarding seams, commercial destinations in the parks, and ADUs, the Commission represents the entirety of the City and not just those who attend meetings and provide comment. She noted that the survey data and charrettes indicated that ADUs were supported by 50% of Birmingham respondents. She said those three topics would be further discussed should they be raised at the Planning Board level in the future. Regarding the seams, she noted that no one would force residents to sell their property to a developer intent on building multi-family residences. She noted that a recent lot split had three Commissioners vote against it because they did not see the need for an additional unit of housing on that street. She said the opportunity to support, oppose, or come to a consensus on the items set forth in the draft 2040 Plan would continue to exist. She said those processes would be years in the making, so that everyone had time to participate.

#### Public Comment

Ms. Schrenk asked that the draft 2040 Plan remove the seams and multi-family units from all neighborhoods.

Mr. Lyng said seams should be eliminated, the language should clearly indicate that commercial destinations in the parks are not desired, and ADUs should be prohibited.

Mr. Bloom raised concerns about passing the draft 2040 Plan presently. He stated that the draft 2040 Plan would significantly change the community, and was being advanced over a number of residents' objections.

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

                                  Nays,   Commissioner Host



Commissioner Haig

**05-119-23 Water/Sewer Rate Changes for 2023-2024**

FD Gerber presented the item.

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner Host:  
To amend the Schedule of Fees, Charges, Bonds and Insurance for changes in water, sewer, storm water, industrial surcharge, and industrial waste control charge rates effective for bills with read dates on or after July 1, 2023 as recommended in the attached Water/Sewer Rate Changes Report for 2023-2024 by Finance Director Mark Gerber dated May 11, 2023 and approve the appropriation and amendment to the 2023-2024 Sewage Disposal Fund as follows: page 7D, page four.

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

Nays, None

**Commission Items for Future Discussion**

**05-120-23 Parking Deck Enhancements**

**MOTION:** Motion by Commissioner ~~Baller~~ Boutros<sup>2</sup>, seconded by Commissioner Host:  
To discuss some mechanism, or directing Staff, to enhance the usability, the aesthetics of the parking system parking decks.

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

Nays, None

**05-121-23 Parking Operations Workshop**

**MOTION:** Motion by Commissioner Host, seconded by Commissioner Haig:  
For a joint workshop on parking operations with the Advisory Parking Committee.

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<sup>2</sup> As amended at the June 5, 2023 meeting.

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

Nays, None

**Commission Discussion On Items From A Prior Meeting**

None

**05-122-23   Closed Session Pursuant to MCL § 15.268 Sec. 8(d) of the Open Meetings Act**

**MOTION:**            Motion by Commissioner Baller, seconded by MPT McLain:  
To adopt a resolution to meet in closed session to discuss the potential purchase of real property pursuant to MCL § 15.268 Sec. 8(d) of the Open Meetings Act.

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

Nays, None

The Commission went into closed session at 12:00 a.m.

The Commission returned from closed session at 12:26 a.m.

**VIII. REMOVED FROM CONSENT AGENDA**

**IX. COMMUNICATIONS**

**X. REPORTS**

- A. Commissioner Reports
  - 1. Notice of Intention to Appoint to the Retirement Board
- B. Commissioner Comments

Commissioner Host observed that when the Mayor requests Commissioner questions on an item, sometimes both questions and comments are posed by the Commissioners. He said he hoped that process could be clarified for the future.

Commissioner Schafer provided recommendations for the Celebrate Birmingham Parade and Party in Shain Park. She offered to continue the dialogue with CC Bingham.

MPT McLain reported back from attending the May 16, 2023 Detroit Ethics Conference and the MML Core Weekender on May 19 and 20, 2023.

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

**05-123-23 Review Item 10E at the Next Commission Meeting**

**MOTION:** Motion by Commissioner Baller, seconded by MPT McLain:  
To move Item 10E to the next agenda.

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

Nays, Commissioner Host

1. City Manager's Report
2. Letter from Mary Kucharek regarding the Board of Ethics Advisory Opinion Concerning Commissioner Host
  - i. 2023-01 Opinion Robb and Schrot
  - ii. 2023-01 Opinion Fierro-Share

INFORMATION ONLY

**XI. ADJOURN**

Mayor Longe adjourned the meeting at 12:26 a.m.

Alexandria Bingham, City Clerk



Laura Eichenhorn, City Transcriptionist

**Birmingham City Commission  
Special Meeting Minutes - Workshop  
Monday, June 5, 2023  
6:30 p.m.**

**Vimeo Link: <https://vimeo.com/829286413>**

**This will be considered a workshop session of the City Commission. No formal actions will be taken. The purpose of this workshop is to participate in a discussion regarding a Code of Conduct for the City Commission.**

**I. Call to Order**

Therese Longe, Mayor

**II. Roll Call**

City Clerk Bingham called the roll.

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

Absent: None

Staff: City Manager Markus; City Clerk Bingham, Assistant City Manager Ecker, City Attorney Kucharek

**III. Presentation & Discussion**

CM Markus, Mayor Longe, MPT McLain, and CA Kucharek introduced the topic. CA Kucharek answered informational questions from the Commission. The Commission discussed the origin of the need for a Code of Conduct. Some Commissioners indicated that creating a Code of Conduct was appropriate, and some indicated they were only interested in a Code of Conduct if it could be brief. The Commission then had a discussion about how to approach formulating a Code of Conduct.

Commissioner comments on the potential content of the Code of Conduct were as follows:

- Civility and respect, the process and the pitfalls, ethical guidelines, and references to existing agreements should all be included;
- There were useful aspects of the Yakima City Council Rules of Procedure that would be valuable to replicate in some type of document but did not need to be included in a Code of Conduct specifically;
- The Yakima City Council Code of Conduct summary could be replicated for Birmingham's potential Code of

Conduct;

- The Yakima City Council Code of Conduct summary document is used in the context of the City Council's other documents and procedures and does not stand on its own;
- It would be difficult to have a simple document that provides for complex levels of accountability. Detail in the Code of Conduct may be required; and,
- There was no consensus on whether a Code of Conduct should include potential sanctions.

Commissioner Baller recommended the Mayor, Mayor Pro Tem, and City Manager meet and compose a potential Code of Conduct for the Commission to vote on.

The Mayor said that was a consideration that could be addressed at a later meeting.

**IV. Public Comment**

David Bloom commented on a potential Code of Conduct.

**V. Adjourn**

Mayor Longe adjourned the meeting at 7:27 p.m.



Alexandria Bingham, City Clerk

Laura Eichenhorn, City Transcriptionist

**Birmingham City Commission Minutes**  
**June 5, 2023**  
**Municipal Building, 151 Martin**  
**7:30 p.m.**  
Vimeo Link: <https://vimeo.com/829286413>

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

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

**II. ROLL CALL**

City Clerk Bingham called the roll.

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

Absent: None

Staff: City Manager Ecker, City Manager Markus; City Clerk Bingham, Assistant City Manager Clemence, Senior Planner Cowan, Planning Director Dupuis, Assistant City Manager Fairbairn, Finance Director Gerber, Police Chief Grewe, City Attorney Kucharek, Management Intern McCarthy, Fire Chief Wells, Human Resources Manager Woods, Department of Public Services Director Zielinski

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

**Announcements**

**06-124-23 Move Item: Woodward Traffic Noise**

The Mayor advocated moving the items regarding Woodward Traffic Noise to a portion of the agenda that would allow public comment.

**MOTION:** Motion by Mayor Longe, seconded by Commissioner Boutros:  
To move these items to New Business Item C1, after our discussions of NEXT and the Lot Combination and the Millage. New Item C1, Woodward noise proclamation and Chief Grewe presentation.

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

Commissioner Haig  
Commissioner Schafer  
Commissioner Baller

Nays, None

## **Appointments**

### **06-125-23 Appointment to the Historic District Study Committee**

Michael Xenos was interviewed by the Commission for the appointment.

**MOTION:** Nomination by Commissioner Boutros:  
To appoint Michael Xenos as a regular member to the Historic District Study Committee to serve a three-year term to expire June 25, 2026.

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

Nays, None

The Mayor noted for the public that the Historic District Study Committee had additional openings.

### **06-126-23 Appointment to the Greenwood Cemetery Advisory Board**

Jacqueline Patt was interviewed by the Commission for the appointment.

**MOTION:** Nomination by Commissioner Haig:  
To appoint Jacqueline Patt to the Greenwood Cemetery Advisory Board as a regular member to serve a three-year term to expire July 6, 2026.

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

Nays, None

### **06-127-23 Appointment to the Greenwood Cemetery Advisory Board**

Joseph Vercellone was interviewed by the Commission for the appointment.

**MOTION:** Nomination by Commissioner Boutros:  
To appoint Joseph Vercellone to the Greenwood Cemetery Advisory Board as a regular member to serve a three-year term to expire July 6, 2026.

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

Nays, None

CC Bingham swore in the present appointees. It was noted that absent appointees would be sworn in at a later date.

**Employee Recognition**

1. Mark Clemence, Assistant City Manager
2. Christina Woods, Human Resources Manager
3. Jack McCarthy, Management Intern

**Administration of Oath to City Manager Jana Ecker**

CC Bingham swore in City Manager Jana Ecker.

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

**V. CONSENT AGENDA**

**06-128-23 Consent Agenda**

The following items were pulled from the Consent Agenda:

- Public: Item A – City Commission Regular Minutes of May 22, 2023
- Commr. McLain: Item B – Warrant List Dated 05/24/2023
- Commr. Haig: Item E – Irrigation Consultant for Springdale GC
- Item H – Proposed Amendments to the Rules of Procedure for the City Commission

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner Host:  
To approve the Consent Agenda excluding Items A, B, E, and H.

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



Commissioner Schafer  
Commissioner Baller

Nays, None

- C. Resolution to approve the warrant list, including Automated Clearing House payments, dated June 1, 2023, in the amount of \$415,725.34.
- D. Resolution to set the Public Hearing of Necessity for the replacement and improvement of Water Laterals meeting the requirements for assessment, for all properties within the project area on Pierce Street between E. Lincoln Street and 14 Mile Road on Monday, June 26, 2023, at 7:30 P.M.; and

If necessity is determined on June 26, 2023, to meet on Monday, July 10, 2023, at 7:30 P.M., for the purpose of conducting the Public Hearing to Confirm the Assessment Roll for the replacement and improvement of Water Laterals meeting the requirements for assessment, for all properties within the project area on Pierce Street between E. Lincoln Street and 14 Mile Road.

- F. Resolution to approve the DTE Master Street Lighting Agreement for the removal of existing lighting and installation of the planned new lighting for the Brown Street Paving Project. In addition, to authorize the Mayor to sign the agreement on behalf of the City. Funding for this project is from account 101.0-448.000-981.0100.

To approve the appropriation and amendment of the fiscal year 2022/2023 budget as follows:

General Fund:

Revenues:

101.0-000.000-400.0000	Draw from Fund Balance	\$134,430
Total Revenue		<u>\$134,430</u>

Expenditures:

101.0-448.000-981.0100	Public Improvement	\$134,430
Total Expenses		<u>\$134,430</u>

- G. Resolution to approve a special event permit as requested by the Birmingham Shopping District to hold the 2023 Birmingham Cruise Event on August 19, 2023, 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.

**06-129-23 Irrigation Consultant for Springdale GC (Item E)**

DPSD Zielinski answered a question regarding silt from Commissioner Haig.

**MOTION:**

Motion by Commissioner Haig, seconded by Commissioner Host:

To award the Irrigation Consultant project for Springdale Golf Course to Michael Kuhn, Inc. in the amount not to exceed \$48,750.00. In addition, to authorize the Mayor and City Clerk to sign the

agreement on behalf of the City. Funding for this project is available in account #584.2-753.001-981.0100.

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

Nays, None

**06-130-23 Proposed Amendments to the Rules of Procedure for the City Commission (Item H)**

CA Kucharek and CM Markus addressed a concern raised by Commissioner Haig regarding the final sentence of the second paragraph under 'Presiding Officer'.

Commissioner Haig recommended the sentence be a standalone paragraph.

CA Kucharek explained to Commissioner Baller why the sentence in question was included in both the Rules of Procedure and the City Charter.

**MOTION:** Motion by Commissioner Haig, seconded by Commissioner Host:  
To approve the proposed amendments to the Rules of Procedure for the City Commission.

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

Nays, None

**06-131-23 Warrant List Dated 05/24/2023 (Item B)**

MPT McLain noted a payment to the 48th District Court in the Warrant List.

**MOTION:** Motion by MPT McLain, seconded by Commissioner Boutros:  
To approve the warrant list, including Automated Clearing House payments, dated May 24, 2023, in the amount of \$631,224.76.

ROLL CALL VOTE: Ayes, MPT McLain  
Commissioner Boutros  
Commissioner Host

Mayor Longe  
Commissioner Haig  
Commissioner Schafer  
Commissioner Baller

Nays, None

**06-132-23 City Commission Regular Minutes of May 22, 2023 (Item A)**

David Bloom made comments about the minutes.

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner Haig:  
To review the video and see if there is anything that needs to be edited.

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

Nays, None

**VI. UNFINISHED BUSINESS**

**06-133-23 City Commission Minutes of May 8, 2023**

CC Bingham presented her memorandum regarding motions.

**MOTION:** Motion by Commissioner Haig, seconded by MPT McLain:  
To approve the minutes of May 8, 2023.

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

Nays, None

**VII. NEW BUSINESS**

**06-134-23 Public Hearing - Lot Combination - 36877 Woodward Ave – Gasow  
Veterinary Clinic - Parcels #19-25-101-008, 19-25-101-009, 19-25-  
101-010, and 19-25-101-011**

The Mayor opened the public hearing at 8:22 p.m.

CP Cowan presented the item.

Seeing no public comment, the Mayor closed the public hearing at 8:24 p.m.

Staff answered an informational question from the Commission.

**MOTION:** Motion by Commissioner Boutros, seconded by MPT McLain:  
To approve a lot combination 36877 Woodward Avenue, Gasow Veterinary Clinic, Parcel #19-25-101-008, and as stated the three parcels with the parcel IDs.

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

Nays, None

### **06-135-23 Future Location for NEXT and Purchase of Property**

CM Markus, CA Kucharek, CM Ecker, FD Gerber, Helene Weir, President & CEO of the YMCA of Detroit, and Cris Braun, Executive Director of NEXT, presented the item.

Staff, Ms. Weir, and Ms. Braun answered informational questions from the Commission.

CA Kucharek noted that the fifth paragraph beginning 'Whereas' in the full motion was amended to say 'may enter into' instead of 'has entered into'.

MPT McLain noted that she serves as a volunteer on NEXT's Board. Commissioner Boutros noted that he serves as a liaison between the City and NEXT on NEXT's Board.

CA Kucharek noted that MPT McLain and Commissioner Boutros did not have any conflicts of interest pertaining to this item and their service on the NEXT Board.

Commission discussion was as follows:

- Many communities have senior services millages to support their facilities;
- Any further millages would also require a public vote;
- Integrating senior, youth, and community services in the building would benefit the community and hopefully could last beyond the proposed, initial three-year period;
- The City Manager, Staff, Ms. Weir, and Ms. Braun deserved thanks for their work on the item;
- The YMCA leadership deserved thanks for choosing to continue its service to the community instead of selling the property to the highest bidder;
- This change would offer more space for senior and community center programming; and,
- This proposal was an excellent option put forth by CM Markus, Ms. Weir, and Ms. Braun.

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner Host:  
1. To approve and execute the Purchase Agreement between the City of Birmingham and YMCA as presented to us with the modification this evening. 2. To approve and execute the Memorandum of Understanding between the City and NEXT. AND To further direct the current and successor City Manager to pursue and implement the necessary steps to bring the transition from the YMCA building's current use to a combined Senior Center/Community Center use.

Commissioner Host said this proposal could create one of the community's biggest assets for living in Birmingham. He commended everyone involved in the proposal.

MPT McLain noted that the facility is contiguous to an existing park and is accessible.

Commissioner Schafer said she appreciated the opportunity to support both the youth and senior populations in the community. She emphasized the importance of intergenerational interactions and said this was an opportunity for that work to continue. She thanked CM Markus and offered her support to CM Ecker, Ms. Braun and Ms. Weir.

Public Comment

Gordon Rinschler, David Underdown, and Lori Soifer offered their support for the motion.

CA Kucharek answered a question from Mr. Bloom.

Mr. Bloom provided a recommendation regarding the proposal.

CM Markus replied to the recommendation from Mr. Bloom.

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

Nays, None

**06-136-23 Proposed Senior Millage**

**MOTION:** Motion by Commissioner Boutros, seconded by Commissioner Host:  
To submit a 0.33 senior millage proposition to the electorate on the ballot for the November 7, 2023 general election as follows:

Do you approve of the addition of a new 0.33 mill levy to collect approximately \$1,053,750 per year in revenue to be disbursed to the City of Birmingham for the purpose of making interim improvements and establishing a sinking fund for a senior center that will provide an array of services for older citizens for a three year term, ending on July 1, 2027?

Commissioner Baller recommended the motion be modified to remove 'full' from before 'array' since the definition of a 'full array' could vary between people.

The Commission concurred with Commissioner Baller's recommendation.

In reply to Commissioner Baller, CM Markus stated that the General Fund could be a way to fund this effort if the voters did not approve the millage proposition.

Commissioner Haig noted that, with a previous millage ending, the increase in payments for individual homeowners would be very minimal if this millage proposition were approved.

Staff stated the City would provide factual information to residents about the millage proposition.

The Mayor said the public information model the City followed for the Park Bond was appropriate, and would expect the City to do similar for this millage proposition.

Commissioner Host said a previous failed bond proposal for the Birmingham School District resulted in the School District working with NEXT subsequently.

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

Nays,   None

### **Woodward Traffic Noise**

The Mayor introduced the item and read the proclamation entitled 'Declaring Woodward traffic noise as negatively and seriously impacting the health, safety and welfare of residents of the City of Birmingham.'

The Commission affirmed their concurrence with the proclamation.

PC Grewe presented the item. Staff answered informational questions from the Commission.

Commissioner discussion was as follows:

- The problem was not cruising along Woodward, but the noise along Woodward. More tickets should be written for vehicles creating an excess of noise;
- In meetings with police chiefs of other affected communities, it needs to be determined who the leader of the efforts to reduce noise along Woodward will be;
- Industry groups for the products that make vehicles noisier lobby against legislation that would reduce the ability for those products to be sold;

- The voters, municipal leaders, county leaders, and state legislators could collectively request a meeting with the Governor about the issue;
- Asking Oakland County officials to reach out to the Governor about the issue would likely be the most effective option;
- PC Grewe deserved thanks for being proactive on this matter;
- There are serious concerns about speeding and reckless driving. The Governor should appreciate fears that major, preventable accidents could occur;
- Modifications to vehicles that increase noise can be stopped when the brakes are tapped on, making enforcement more difficult;
- Increasing enforcement in one area of the City causes the noisier vehicles to move elsewhere in the City;
- The noise often goes until 3 a.m., and it would be beneficial to extend the increased enforcement hours; and,
- Increased enforcement on weeknights, in addition to weekend nights, should be considered.

Public Comment

Paul Reagan said increased ticketing would be beneficial.

**06-137-23 2008 Sutphen SPH100 Aerial Platform Replacement (Ladder 1)**

FC Wells presented the item.

**MOTION:** Motion by Commissioner Host, seconded by Commissioner Boutros: To make a resolution to approve the purchase of a 2026 Sutphen SPH100 MidMount Aerial Platform from Sutphen Corporation, 6450 Eiterman Road, Dublin, OH 43016 in the amount not to exceed \$1,850,000.00. In addition, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City. Funding for this project will be available in the Machinery and Equipment account #663.0-344.000-971.0100.

FC Wells and CM Markus answered brief informational questions from Commissioner Baller.

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

Nays, None

**06-138-23 2023-2024 Compensation Recommendations for Department Heads and Administrative/Management Employees**

ACM Fairbairn presented the item.

**MOTION:** Motion by Commissioner Baller, seconded by MPT McLain:  
To make a motion adopting a resolution to approve a 3.5% salary range adjustment and in-range adjustments based upon performance for full-time and part-time employees in the Department Head and Administrative/Management classifications effective July 1, 2023 and approving a 2.5% performance increment through June 30, 2024 with individual eligibility to be in accordance with the attached merit increase guidelines. Further, to authorize the budget amendments from the wage adjustment account 101.0-272.000-709.0000 to the appropriate departments.

Commissioner Host said this motion was in line with the previous year's salary increases given to employees. He said he hoped it would continue next year as well.

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

Nays, None

### **Commission Items for Future Discussion**

#### **06-139-23 Unimproved Roads and Infrastructure**

**MOTION:** Motion by Commissioner Host, no second:  
To have the Commission discuss next time the unimproved road evaluation tool and unimproved infrastructure.

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

Nays, Commissioner Haig

#### **06-140-23 Not to Extend the Present Meeting Beyond 11:30 p.m.**

**MOTION:** Motion by Commissioner Boutros, Commissioner Schafer:  
To make a motion not to exceed the meeting tonight further than 11:30 p.m.

VOICE VOTE: Ayes, Commissioner Boutros  
Commissioner Schafer

Nays, Commissioner Baller



Commissioner Haig  
Commissioner Host  
Mayor Longe  
MPT McLain

**Commission Discussion On Items From A Prior Meeting**

**06-141-23 Leaf Blowers and Other Noise Generating Items**

Commissioner Host presented the item.

**MOTION:** Motion by Commissioner Host, Commissioner Baller:  
To move a discussion of an ordinance regulating the noise from leaf blowers to a regular agenda item.

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

Nays, Commissioner Haig

**VIII. REMOVED FROM CONSENT AGENDA**

**IX. COMMUNICATIONS**

**X. REPORTS**

- A. Commissioner Reports
- B. Commissioner Comments

On behalf of himself, the Commission, and the public, Commissioner Baller thanked CM Markus for his work with the City.

CM Markus reflected on his work with the City and with incoming City Manager Ecker.

The Mayor described a number of CM Markus' accomplishments during his most recent tenure with the City.

The Commission applauded CM Markus.

- C. Advisory Boards, Committees, Commissions' Reports and Agendas
- D. Legislation
- E. City Staff
  - 1. City Manager's Report – May 2023

CM Markus presented the item.

2. Letter from Mary Kucharek regarding the Board of Ethics Advisory Opinion Concerning Commissioner Host

CA Kucharek presented the item.

- i. 2023-01 Opinion Robb and Schrot
- ii. 2023-01 Opinion Fierro-Share

3. Memo Regarding Mare Mediterranean – 115 Willits – Work Without Approvals

INFORMATION ONLY

**XI. ADJOURN**

Mayor Longe adjourned the meeting at 11:39 p.m.



Alexandria Bingham, City Clerk

Laura Eichenhorn, City Transcriptionist

**City of Birmingham**  
**Warrant List Dated 06/07/2023**

Meeting of 06/26/2023

Check Number	Early Release	Vendor #	Vendor	Amount
<u>PAPER CHECK</u>				
292467		005430	21ST CENTURY MEDIA- MICHIGAN	2,015.50
292467	*	005430	21ST CENTURY MEDIA- MICHIGAN	750.00
292468	*	006965	7UP DETROIT	222.80
292469		009440	ALLIANCE ENTERTAINMENT, LLC	1,340.45
292470		006092	ALLIANCE OF ROUGE COMMUNITIES	4,209.00
292471		000167	ANDERSON ECKSTEIN WESTRICK INC	4,150.00
292472		009290	ARSENAL POWERSPORTS LLC	1,703.02
292473		000500	ARTECH PRINTING INC	225.00
292474	*	006112	BDS ENVIRONMENTAL	180.00
292475		000522	BIG BEAVER PLUMBING, HEATING INC.	133.00
292476		009535	BIRMINGHAM PAPERS	624.00
292477		008355	BIRMINGHAM PUBLIC SCHOOLS	56.14
292478		003526	BOUND TREE MEDICAL, LLC	71.76
292479		006966	BRIDGESTONE GOLF, INC	231.00
292480	*	006953	JACQUELYN BRITO	324.00
292481		005717	BSB COMMUNICATIONS, INC.	907.50
292482	*	003786	C & G PUBLISHING INC.	2,453.70
292483		003907	CADILLAC ASPHALT, LLC	1,112.65
292484		008385	CALLAWAY GOLF	980.40
292485		000902	CENGAGE LEARNING INC	301.45
292486		004269	CENTER POINT LARGE PRINT	56.64
292487	*	009660	NATIONAL PEN CO., LLC	1,252.45
292488		007774	COMCAST BUSINESS	1,288.68
292489	*	000627	CONSUMERS ENERGY	469.59
292490		008582	CORE & MAIN LP	2,673.70
292491		000575	DEMCO, INC	82.17
292492		005318	DEWOLF & ASSOCIATES, LLC	845.00
292493		001555	DIXON ENGINEERING INC	5,350.00
292494		007940	DOUBLETREE HOTEL	242.00
292495	*	006688	DRUM DANCER RECORDS INC	400.00
292496	*	000179	DTE ENERGY	170.58
292497	*	000179	DTE ENERGY	18.36
292498	*	000179	DTE ENERGY	61.63
292499	*	000179	DTE ENERGY	510.65
292500		000274	E-Z-GO DIVISION OF TEXTRON INC	8,556.41
292501		009425	ENCURATE MOBILE TECHNOLOGY	300.00
292502	*	006689	F.D.M. CONTRACTING INC.	385,174.50
292503	*	008574	DENNIS FARAC	200.00
292504	*	009613	FEDEWA INC	128,789.10
292505	*	000936	FEDEX	21.09
292506		BDREFUND	GAPONOV, ALEKSEY	30.00
292507	*	005347	GMIS INTERNATIONAL	375.00

**City of Birmingham**  
**Warrant List Dated 06/07/2023**

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292508	*	004604	GORDON FOOD	2,299.14
292509	*	001956	HOME DEPOT CREDIT SERVICES	1,875.07
292510	*	001040	HOUR MEDIA LLC	3,990.00
292511	*	009659	EMILY JOY HOWARD	200.00
292512		000948	HYDROCORP	1,381.00
292513		001090	INGRAM LIBRARY SERVICES	11,343.41
292517	*	009657	KAITLIN RIDGWAY	200.00
292518	*	BDREFUND	KELLETT BUILDERS INC	100.00
292519	*	009626	MICHELLE FRANCIS	2,380.00
292520	*	004779	BILL LOIZON	15.00
292521		009663	MACQUEEN EQUIPMENT, LLC	924.94
292522		008793	MERGE MOBILE, INC.	61.00
292523	*	MISC	MIA CHARARA	90.00
292524	*	009680	MICHAEL DAVIES	105.72
292525		002207	MICHIGAN AUTOMATIC SPRINKLER, INC.	152.00
292526		002207	MICHIGAN AUTOMATIC SPRINKLER, INC.	206.50
292527		002207	MICHIGAN AUTOMATIC SPRINKLER, INC.	196.00
292528		002207	MICHIGAN AUTOMATIC SPRINKLER, INC.	192.00
292529		002207	MICHIGAN AUTOMATIC SPRINKLER, INC.	238.50
292530	*	006461	MID AMERICA RINK SERVICES	37.53
292531		MISC	MIDSTATES RECREATION	5,351.00
292532		009630	MIDWAY CLEANING CO, LLC	800.00
292533		006349	MIDWEST COLLABORATIVE	330.00
292534		008319	MKSK INC	10,998.75
292535	*	001783	MMTA	198.00
292536	*	009047	ROBERT MONTELEONE	200.00
292537	*	005431	NILFISK, INC.	500.91
292538	*	004370	OCCUPATIONAL HEALTH CENTERS	129.00
292539		007823	PITNEY BOWES GLOBAL FINANCIAL	479.25
292540		009612	PLAYAWAY PRODUCTS LLC	2,178.14
292541		001263	POSITIVE PROMOTIONS INC	2,008.48
292542	*	000801	POSTMASTER	1,934.18
292543		009614	PROGRESSIVE PLUMBING SUPPLY CO	43.85
292544		BDREFUND	RANDAZZO MECHANICAL HTG CLG	145.00
292545		MISC	SAGINAW VALLEY STATE UNIVERSITY	15.00
292546		007817	SAND SALES COMPANY LLC	2,291.06
292547		007697	SAVE THE MOMENT	99.00
292548	*	004727	MARGARET SCHMALTZ	200.00
292549	*	007262	SHARON THE FUN	350.00
292550	*	008073	SITEONE LANDSCAPE SUPPLY, INC	542.36
292551		008144	SMARTDEPLOY	1,414.00
292552		007907	SP+ CORPORATION	250.00
292553		004544	STRYKER SALES CORPORATION	1,808.95

**City of Birmingham**  
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292554	*	009658	STEVE TAYLOR MUSIC	200.00
292555	*	009486	TEXTMYGOV	1,916.67
292556		000275	TIRE WHOLESALERS CO INC	827.96
292557		009552	TRAFFIC & SAFETY CONTROL SYSTEMS	116,646.00
292558		009081	TYLER TECHNOLOGIES INC	2,550.45
292559	*	000158	VERIZON WIRELESS	147.18
292560	*	000158	VERIZON WIRELESS	49.06
292561	*	000158	VERIZON WIRELESS	821.78
292562		001490	WEST SHORE FIRE INC	544.70
292563	*	008391	XEROX CORPORATION	38.14
292564	*	MISC	MEDICARE	92,818.56
SUBTOTAL PAPER CHECK				\$833,674.16

ACH TRANSACTION

8214	*	009126	AMAZON CAPITAL SERVICES INC	6.78
8215	*	009126	AMAZON CAPITAL SERVICES INC	99.61
8216	*	009126	AMAZON CAPITAL SERVICES INC	75.98
8217	*	009126	AMAZON CAPITAL SERVICES INC	37.95
8218	*	009126	AMAZON CAPITAL SERVICES INC	24.43
8219	*	009126	AMAZON CAPITAL SERVICES INC	99.99
8220	*	009126	AMAZON CAPITAL SERVICES INC	13.29
8221	*	009126	AMAZON CAPITAL SERVICES INC	13.29
8222	*	009126	AMAZON CAPITAL SERVICES INC	45.92
8223		009126	AMAZON CAPITAL SERVICES INC	109.59
8224		009126	AMAZON CAPITAL SERVICES INC	24.24
8225		009126	AMAZON CAPITAL SERVICES INC	15.99
8226		009126	AMAZON CAPITAL SERVICES INC	67.99
8227		009126	AMAZON CAPITAL SERVICES INC	87.67
8228		009126	AMAZON CAPITAL SERVICES INC	152.70
8229		009126	AMAZON CAPITAL SERVICES INC	138.99
8230		009126	AMAZON CAPITAL SERVICES INC	9.99
8231		009126	AMAZON CAPITAL SERVICES INC	112.15
8232		009126	AMAZON CAPITAL SERVICES INC	291.98
8233		009126	AMAZON CAPITAL SERVICES INC	21.48
8234		009126	AMAZON CAPITAL SERVICES INC	69.00
8235		009126	AMAZON CAPITAL SERVICES INC	138.00
8236		009126	AMAZON CAPITAL SERVICES INC	44.99
8237		009126	AMAZON CAPITAL SERVICES INC	11.99
8238	*	000517	BEIER HOWLETT P.C.	231.00
8239		008545	JAIMI BROOK	234.97
8240	*	009122	CLAIRE CHUNG	741.75
8241		000605	CINTAS CORPORATION	228.11
8242		000605	CINTAS CORPORATION	38.82
8243	*	008044	CLUB PRO	540.00

**City of Birmingham**  
**Warrant List Dated 06/07/2023**

Meeting of 06/26/2023

Check Number	Early Release	Vendor #	Vendor	Amount
8244	*	009557	ZECO, LLC	1,164.00
8245	*	006999	CHRISTOPHER DEMAN	54.00
8246	*	007807	G2 CONSULTING GROUP LLC	15,165.56
8247	*	000592	GAYLORD BROS., INC	2,319.15
8248		003870	GREAT LAKES TURF, LLC	3,634.00
8249		007927	MICHELLE HOLLO	673.75
8250		000331	HUBBELL ROTH & CLARK INC	12,675.00
8251	*	008851	INSIGHT INVESTMENT	6,094.39
8252	*	008827	KANOPY, INC	421.60
8253	*	005550	LEE & ASSOCIATES CO., INC.	1,476.20
8254	*	003527	LOWER HURON SUPPLY CO INC	1,098.90
8255		002013	MIDWEST TAPE	10,459.33
8256	*	009242	MILES PARTNERSHIP LLLP	1,752.50
8257	*	009331	MY CONCIERGE MICHIGAN, LLC	2,321.00
8258		007755	NETWORK SERVICES COMPANY	903.00
8259	*	006359	NYE UNIFORM COMPANY	34.50
8260	*	005688	PEGASUS ENTERTAINMENT INC	900.00
8261	*	001181	ROSE PEST SOLUTIONS	79.00
8262	*	003785	SIGNS-N-DESIGNS INC	1,495.00
8263		000254	SOCRRA	82,545.00
8264	*	001097	SOCWA	196,606.02
8265	*	002433	THELMA GOLDEN	38.13
8266		009266	US SIGNAL COMPANY LLC	7,412.97
8267	*	007278	WHITLOCK BUSINESS SYSTEMS, INC.	3,950.48
8268	*	005360	WORRY FREE INC	7,200.00
SUBTOTAL ACH TRANSACTION				\$364,202.12
GRAND TOTAL				\$1,197,876.28

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 06/15/2023**

Meeting of 06/26/2023

Check Number	Early Release	Vendor #	Vendor	Amount
<u>PAPER CHECK</u>				
292565	*	005430	21ST CENTURY MEDIA- MICHIGAN	634.25
292566		BDREFUND	24 HOUR EMERGENCY SERVICES	50.00
292567		009542	ACE CUTTING EQUIPMENT & SUPPLY INC.	2,600.00
292568		009507	AIR HANDLERS SERVICE CORP.	605.00
292569		009507	AIR HANDLERS SERVICE CORP.	325.00
292570		009507	AIR HANDLERS SERVICE CORP.	646.11
292571		BDREFUND	AJLOUNY, JENNIFER	100.00
292572	*	MISC	ALCO GLASS-MIRROR INC.	50.00
292573		BDREFUND	ALIMOFF BUILDING & DEVELOPMENT LLC	1,150.00
292574		BDREFUND	ALL SEASONS ROOFS	100.00
292575		001000	ALLIED INC	2,791.40
292576		BDREFUND	ALLIED SIGNS INC	100.00
292577		BDREFUND	ALLSHIRE BUILDING	100.00
292578		BDREFUND	ANDREW EVANKO	200.00
292579		BDREFUND	ANTONIO JOSEPH DESANO	100.00
292580		009202	AQUARIUM DESIGN INC	240.00
292581		009290	ARSENAL POWERSPORTS LLC	552.95
292582		006759	AT&T	155.65
292583		BDREFUND	AVE MARIA LANDSCAPING	100.00
292584		BDREFUND	BABI CONSTRUCTION INC	2,000.00
292585		000408	BALDWIN PUBLIC LIBRARY	18.38
292586		009609	BALIAN LEGAL, PLC	1,500.00
292587		009568	BEDROCK EXPRESS LTD	344.25
292588		MISC	BENTON HARBOR PUBLIC LIBRARY	18.99
292589		009682	BERESFORD COMPANY	526.00
292590		BDREFUND	BESHOURI RESIDENTIAL DEVELOPMENT	500.00
292591		002231	BILLINGS LAWN EQUIPMENT INC.	716.40
292592		005003	BIRMINGHAM BLOOMFIELD COMMUNITY	1,741.60
292593		BDREFUND	block, lauren	100.00
292594		003526	BOUND TREE MEDICAL, LLC	1,801.76
292595		BDREFUND	BOWMAN, JOHN	100.00
292596		MISC	BRUCE MILLER	103.49
292597		BDREFUND	C & M CONSTRUCTION CORP	200.00
292598		BDREFUND	C.A. WILLIAMS BLDG.	1,200.00
292599		003907	CADILLAC ASPHALT, LLC	560.90
292600		009684	CALWEN INC	2,423.88
292601	*	009078	CANON SOLUTIONS AMERICA INC	163.20
292602		BDREFUND	CARRERA LANDSCAPING INC	100.00
292603		000444	CDW GOVERNMENT INC	1,391.98
292603	*	000444	CDW GOVERNMENT INC	519.28
292604		MISC	CHERYL MYERS	6.19
292605		BDREFUND	CHRISTIAN HERNANDEZ	100.00

**City of Birmingham**  
**Warrant List Dated 06/15/2023**

Meeting of 06/26/2023

Check Number	Early Release	Vendor #	Vendor	Amount
292606		002234	CMP DISTRIBUTORS INC	816.95
292607		001907	COMMON GROUND	1,500.00
292608	*	009145	CREATIVE COLLABORATIONS	4,150.00
292609	*	009207	D'ANGELO BROTHERS INC	31,835.80
292610		009024	THE D.M. BURR GROUP	4,819.00
292611		BDREFUND	DABALDO, THOMAS A	100.00
292612		009549	DANIEL CRUMP DBA	1,650.00
292613	*	009669	DOUBLE DARE AIRBRUSH TATTOOS	400.00
292614	*	006688	DRUM DANCER RECORDS INC	200.00
292615	*	006688	DRUM DANCER RECORDS INC	200.00
292616	*	000179	DTE ENERGY	72.24
292617	*	000179	DTE ENERGY	97.52
292618	*	000179	DTE ENERGY	1,394.86
292619	*	000179	DTE ENERGY	117.88
292620	*	000179	DTE ENERGY	2,167.70
292621	*	000179	DTE ENERGY	762.79
292622	*	000179	DTE ENERGY	33.60
292623	*	000179	DTE ENERGY	15.00
292624	*	000179	DTE ENERGY	1,022.42
292625	*	000179	DTE ENERGY	91.08
292626	*	000179	DTE ENERGY	18.33
292627	*	000179	DTE ENERGY	35.53
292628	*	000180	DTE ENERGY	49,842.40
292629	*	008970	ENCODEPLUS, LLC	144.00
292630		BDREFUND	ERIC STEVEN KAMEN	500.00
292631		BDREFUND	EVERLY, MOLLY	500.00
292632		BDREFUND	EVOLUTION POOLS	1,250.00
292633		BDREFUND	FAIRPLAY HOME MAINTENANCE	400.00
292634	*	008469	VICTOR FAVOT	1,400.00
292635		BDREFUND	FOUNDATION SYSTEMS OF MICHIGAN INC.	200.00
292636		006388	GODDARD COATINGS COMPANY	63,750.00
292637		009686	GREAT LAKES SOFTWASH, LLC	1,788.20
292638		000249	GUARDIAN ALARM	233.58
292639		001531	GUNNERS METER & PARTS INC	7,491.00
292640		007458	HERITAGE - CRYSTAL CLEAN, LLC	731.57
292641	*	MISC	HOCKEY BOARD DOCTOR	710.00
292642	*	001956	HOME DEPOT CREDIT SERVICES	1,910.32
292643		001090	INGRAM LIBRARY SERVICES	3,579.78
292644	*	009401	IRENE S WASSEL	600.00
292645		BDREFUND	ITALY AMERICAN CONSTRUCTION CO	200.00
292646		000344	J.T. EXPRESS, LTD.	2,596.91
292647		BDREFUND	JAMES CASSELL	100.00
292648		BDREFUND	JOSEPH L DROUIN	100.00



**City of Birmingham**  
**Warrant List Dated 06/15/2023**

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Check Number	Early Release	Vendor #	Vendor	Amount
292649	*	009403	JUSTIN ZAYID	1,100.00
292650		005291	KAESER & BLAIR INC	608.69
292651		BDREFUND	KELLY BUILDING & DEVELOPMENT CO LLC	500.00
292652		004904	KONICA MINOLTA BUSINESS SOLUTIONS	4,046.50
292653		BDREFUND	KOSECK, BERT H	100.00
292654	*	009386	LAW OFFICE OF BRIAN P. FENECH	900.00
292655	*	009388	LAW OFFICE OF PATRICK G. GAGNIUK	2,235.00
292656		006817	LEXISNEXIS RISK DATA MANAGEMENT INC	105.00
292657		BDREFUND	MAINSTREET DESIGN & BUILD	300.00
292658		BDREFUND	MAPLEWOOD EQUITIES	10,000.00
292659		BDREFUND	MAPLEWOOD EQUITIES LLC	100.00
292660		BDREFUND	MARX, JOSEPH	100.00
292661		BDREFUND	MATT CONSTRUCTION	200.00
292662		BDREFUND	MCLEAN, DANIEL	1,000.00
292663		009351	MERRITT CIESLAK DESIGN PLC	1,000.00
292664		BDREFUND	MICHAEL E WEBSTER TRUST	1,000.00
292665		BDREFUND	MICHAEL SAVINO CONCRETE	100.00
292666	*	009143	MICHAEL SHUKWIT	1,500.00
292667	*	UBREFUND	MICHAEL TWEDDLE	107.17
292668		BDREFUND	MILLS SIDING & ROOFING	200.00
292669	*	009664	MORGAN MCPEAK	1,050.00
292670		BDREFUND	MOSHER & ASSOCIATES LANDSCAPE DESIG	400.00
292671		BDREFUND	MOSHER DOLAN	300.00
292672		008592	NATIONAL HOSE TESTING SPECIALTIES I	1,561.00
292673	*	000668	NATIONAL TIME & SIGNAL CORP	989.00
292674	*	001686	OAKLAND CO CLERKS ASSOC	40.00
292675	*	009478	ODP BUSINESS SOLUTIONS, LLC	213.68
292676		BDREFUND	OSKUI, BEHROUZ	2,000.00
292677		006785	OVERDRIVE, INC.	13,296.95
292678		BDREFUND	PAVLOFF, KIA P	100.00
292679		BDREFUND	PELLA WINDOWS & DOORS, INC.	500.00
292680		BDREFUND	PETRUCCI HOMES	300.00
292681	*	009672	PHILLIP VIGELIUS	1,500.00
292682		009612	PLAYAWAY PRODUCTS LLC	58.49
292683		BDREFUND	PULFORD, ANDRE G	100.00
292684		BDREFUND	Redwine, Barbara	100.00
292685		BDREFUND	Rolar Property Services	100.00
292686		BDREFUND	ROMA CEMENT CO INC	400.00
292687		BDREFUND	RULE, ROSANNE BARTUSH	100.00
292688		BDREFUND	SACHSE CONSTRUCTION	500.00
292689	*	004727	MARGARET SCHMALTZ	200.00
292690		BDREFUND	SCHMALTZ, PAUL J	100.00
292691		BDREFUND	SHARRAK, BRIAN	100.00

**City of Birmingham**  
**Warrant List Dated 06/15/2023**

Meeting of 06/26/2023

Check Number	Early Release	Vendor #	Vendor	Amount
292692		007142	SHERWIN-WILLIAMS COMPANY	270.66
292693		BDREFUND	SMITH, GREGORY M	100.00
292694		002809	STATE OF MICHIGAN	837.47
292695	*	006895	STATE OF MICHIGAN	125.00
292696		BDREFUND	STERLING DEVELOPMENT CORP	4,000.00
292697		BDREFUND	STUART FRANKEL DEVELOPMENT COMPANY	15.00
292698		MISC	SUSAN MAHONEY	16.99
292699		007408	T-MOBILE	672.80
292700	*	009384	THE EDITH BLAKNEY LAW FIRM, PLLC	300.00
292701		008473	THE FINANCIAL TIMES LIMITED INC	1,848.00
292702		BDREFUND	TIMOTHY ALLEN MULROY	200.00
292703		BDREFUND	TITTLE BROTHERS CONSTRUCTION LLC	400.00
292704		009552	TRAFFIC & SAFETY CONTROL SYSTEMS	3,408.96
292705		008941	UPTOWN MARKET OF BIRMINGHAM	144.14
292706	*	000293	VAN DYKE GAS CO.	58.40
292707	*	000158	VERIZON WIRELESS	102.75
292708	*	000158	VERIZON WIRELESS	1,242.05
292709	*	000158	VERIZON WIRELESS	76.02
292710	*	000158	VERIZON WIRELESS	149.25
292711	*	000158	VERIZON WIRELESS	151.54
292712		BDREFUND	VILLANOVA CONSTRUCTION CO	300.00
292713		BDREFUND	WALLSIDE INC	500.00
292714		009026	WELLS FARGO VENDOR FIN SERV	677.87
292715		001490	WEST SHORE FIRE INC	390.00
292716	*	008391	XEROX CORPORATION	353.37
292717	*	BDREFUND	ZWEIG, BRYAN M	200.00
SUBTOTAL PAPER CHECK				\$282,016.87

ACH TRANSACTION

42	*	009126	AMAZON CAPITAL SERVICES INC	16.70
43	*	009126	AMAZON CAPITAL SERVICES INC	58.13
8283		009126	AMAZON CAPITAL SERVICES INC	(3.11)
8284	*	009126	AMAZON CAPITAL SERVICES INC	414.25
8285	*	001357	ART/DESIGN GROUP LTD	1,050.00
8286	*	009383	BATTI LAW PLLC	700.00
8287	*	007345	BEVERLY HILLS ACE	24.28
8288	*	001441	BIRMINGHAM CONCERT BAND	1,500.00
8289	*	006683	BIRMINGHAM LAWN MAINTENANCE, INC	724.00
8290	*	000542	BLUE WATER INDUSTRIAL PRODUCTS INC	89.25
8291		009183	BOB ADAMS TOWING	278.10
8292		009352	CHRISTINA WOODS	80.00
8293		000605	CINTAS CORPORATION	184.27
8294	*	000605	CINTAS CORPORATION	147.68
8295		000605	CINTAS CORPORATION	38.82

**City of Birmingham**  
**Warrant List Dated 06/15/2023**

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Check Number	Early Release	Vendor #	Vendor	Amount
8296		001750	COMERICA BANK	1,151.92
8296		001750	COMERICA BANK	272,619.00
8297		003176	COMERICA BANK - RHC	1,070.67
8297		003176	COMERICA BANK - RHC	120,732.91
8298		002668	CONTRACTORS CLOTHING CO	343.88
8299	*	009557	ZECO, LLC	520.00
8300	*	000847	DETROIT SALT COMPANY	64,495.99
8301	*	001077	DUNCAN PARKING TECH INC	6,393.15
8302	*	007538	EGANIX, INC.	720.00
8303		000217	FOUR SEASON RADIATOR SERVICE INC	920.42
8304	*	000592	GAYLORD BROS., INC	267.58
8305	*	000243	GRAINGER	438.97
8306	*	009382	HB LAW, PLLC	600.00
8307	*	000331	HUBBELL ROTH & CLARK INC	1,289.26
8308	*	009390	IDUMESARO LAW FIRM, PLLC	570.00
8309		000261	J.H. HART URBAN FORESTRY	38,641.00
8309	*	000261	J.H. HART URBAN FORESTRY	1,162.00
8310		009298	JCR SUPPLY INC	1,447.56
8311	*	003458	JOE'S AUTO PARTS, INC.	835.30
8312	*	007827	HAILEY R KASPER	521.50
8313	*	003404	LADUKE ROOF.& SHT.METAL CORP	2,200.00
8314	*	009392	LAMB LEGAL CONSULTING SERVICES	1,200.00
8315	*	009385	LAW OFFICE OF MICHAEL J. DICK	900.00
8316	*	005550	LEE & ASSOCIATES CO., INC.	3,215.21
8317	*	009398	MARCIA C ROSS PC	300.00
8318		002013	MIDWEST TAPE	459.14
8319	*	009331	MY CONCIERGE MICHIGAN, LLC	328.00
8320		008336	NBS COMMERCIAL INTERIORS	294.00
8321	*	001194	NELSON BROTHERS SEWER	245.00
8322	*	006359	NYE UNIFORM COMPANY	902.00
8323	*	006853	PAUL C SCOTT PLUMBING INC	421.00
8324	*	001181	ROSE PEST SOLUTIONS	204.00
8325		005380	SALZBURG LANDSCAPE SUPPLY, INC	3,231.00
8326		005861	UNIQUE MGMT SERVICE, INC	51.50
8327	*	009379	YELLOW DOOR LAW	5,944.00
SUBTOTAL ACH TRANSACTION				\$539,938.33

**City of Birmingham**  
**Warrant List Dated 06/15/2023**

Meeting of 06/26/2023

Check Number	Early Release	Vendor #	Vendor	Amount
GRAND TOTAL				\$821,955.20

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 06/22/2023**

Meeting of 06/26/2023

Check Number	Early Release	Vendor #	Vendor	Amount
<u>PAPER CHECK</u>				
292718		009346	ACCUFORM PRINTING & GRAPHICS, INC	1,795.00
292719		008106	ACUSHNET COMPANY	537.51
292720		BDREFUND	ADVOCATE CONSTRUCTION	200.00
292721		003708	AIRGAS USA, LLC	342.35
292722		000951	ALL AMERICAN CASH REGISTER INC	220.00
292723		MISC	AMAL ALCODRAY	805.50
292724		BDREFUND	AMERICAN CONSTRUCTION SOLUTIONS	100.00
292725		009633	ANDERSON ORD LLC	320.00
292726		BDREFUND	ANNE B LOTZ REV LVNG TRUST	100.00
292727		000500	ARTECH PRINTING INC	173.00
292727	*	000500	ARTECH PRINTING INC	120.00
292728		009688	ARTPACK SERVICES, INC	3,205.18
292729		BDREFUND	BARRY ANDREW NOVICK	100.00
292730		BDREFUND	BCM HOME IMPROVEMENT	200.00
292731		009568	BEDROCK EXPRESS LTD	2,026.93
292732		BDREFUND	BESONSON, DREW E	100.00
292733		BDREFUND	BINGHAM DEVELOPMENT LLC	1,250.00
292734		007540	BIO SYSTEMS, INC.	1,245.00
292735		005003	BIRMINGHAM BLOOMFIELD COMMUNITY	1,258.40
292736		BDREFUND	BIRMINGHAM PLBG CO INC	100.00
292737		BDREFUND	BRADLEY DICKS	100.00
292738		BDREFUND	BROWNING CONTRACTING INC	200.00
292739		003907	CADILLAC ASPHALT, LLC	962.59
292740	*	008082	CAMFIL USA INC	2,346.45
292741		000571	CAR TRUCKING INC	2,250.00
292742		000151	CCI-ATX, LLC	344.70
292743	*	000444	CDW GOVERNMENT INC	9,682.48
292744		008540	CERTIFIED LABORATORIES	702.70
292745		002234	CMP DISTRIBUTORS INC	817.95
292746	*	009667	CONTROLLED DEHUMIDIFICATION	4,443.00
292747	*	009599	CRISTINA SHEPPARD-DECIUS	263.87
292748		003923	CUMMINS BRIDGEWAY LLC	1,249.23
292749		009529	DAVEY RESOURCE GROUP, INC.	2,275.00
292750		008559	DETROIT BATTERY COMPANY LLC	1,071.48
292751	*	000274	E-Z-GO DIVISION OF TEXTRON INC	9,412.05
292752		007505	EAGLE LANDSCAPING & SUPPLY	533.00
292753		004493	ELITE IMAGING SYSTEMS, INC	966.03
292754		BDREFUND	ELIZONDO GONZALES	100.00
292755	*	009690	FAIRYTALE ENTERTAINMENT PARTYS INC	1,100.00
292756	*	009613	FEDEWA INC	55,440.00
292757	*	000936	FEDEX	19.93
292758		BDREFUND	FINISHED BASEMENTS PLUS LLC	500.00
292759		005964	FIRE SUPPRESSION PRODUCTS, INC	1,067.00

**City of Birmingham**  
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Check Number	Early Release	Vendor #	Vendor	Amount
292760	*	007366	FIRST ADVANTAGE OCCUPATIONAL CORP	256.30
292761	*	001233	GCSAA	485.00
292762	*	004604	GORDON FOOD	1,208.69
292763		000249	GUARDIAN ALARM	190.80
292764		001531	GUNNERS METER & PARTS INC	410.00
292765		009691	HALIDAY PRODUCT, INC	747.72
292766		001447	HALT FIRE INC	477.93
292767		006346	HARRELL'S LLC	1,553.26
292768	*	001956	HOME DEPOT CREDIT SERVICES	685.20
292769		BDREFUND	HOME DEPOT USA INC	500.00
292770		BDREFUND	HOME PRO ROOFING	100.00
292771		BDREFUND	HRH CONSTRUCTION LLC	10,000.00
292772		001874	HUNT SIGN COMPANY, INC	1,621.00
292773		BDREFUND	HUNTER ROBERTS HOMES	1,850.00
292774		001090	INGRAM LIBRARY SERVICES	668.57
292775		BDREFUND	Invision Group LLC	647.51
292776		009564	JOE PIZIK ELECTRIC	274.00
292777		BDREFUND	K.D. CEMENT LLC	100.00
292778		004088	KGM DISTRIBUTORS INC	342.00
292779		004904	KONICA MINOLTA BUSINESS SOLUTIONS	1,593.00
292780		009524	KRAEMER DESIGN GROUP LLC	2,000.00
292781		BDREFUND	LAURA M DROUILLARD LIVING TRUST	100.00
292782		009375	LITHIA MOTORS, INC SUPPORT SERVICES	77.55
292783		BLREFUND	LOAN X MORTGAGE	200.00
292784	*	003527	LOWER HURON SUPPLY CO INC	462.74
292785		MISC	MARJORY PRINTZ	120.00
292786		009546	MASTERS TELECOM	67.89
292787		BDREFUND	MATERAZZO, CARLO	500.00
292788		000888	MCKENNA ASSOCIATES INC	1,712.50
292789		BDREFUND	METROPOLITAN CONCRETE CORP	100.00
292790	*	009085	MGSE SECURITY LLC	2,158.00
292791		002207	MICHIGAN AUTOMATIC SPRINKLER, INC.	604.00
292792	*	001387	MICHIGAN MUNICIPAL LEAGUE	308,310.00
292793		001253	MICHIGAN MUNICIPAL RISK	4,091.00
292794	*	006461	MID AMERICA RINK SERVICES	3,271.00
292795		001950	MILLER CANFIELD PADDOCK AND	105.00
292796		BDREFUND	MILO BUILDING CO	100.00
292797		007163	MOBILE HEALTH RESOURCES	2,489.57
292798		BDREFUND	N & M GENERAL CONSTRUCTION	100.00
292799	*	005431	NILFISK, INC.	186.12
292800	*	000477	OAKLAND COUNTY	713,461.08
292801	*	004370	OCCUPATIONAL HEALTH CENTERS	1,677.00
292802		000678	OCLC, INC.	319.83

**City of Birmingham**  
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Check Number	Early Release	Vendor #	Vendor	Amount
292803	*	009478	ODP BUSINESS SOLUTIONS, LLC	82.42
292804	*	009578	OLIVIA PARKIN	408.00
292805		BDREFUND	PELLA WINDOWS & DOORS, INC.	100.00
292806		BDREFUND	PETRUCCI HOMES/MICHAEL PETRUCCI	900.00
292807	*	MISC	PGA OF AMERICA	642.00
292808		006625	PTS COMMUNICATIONS, INC	78.00
292809		BDREFUND	RENEWAL BY ANDERSEN LLC	500.00
292810		BDREFUND	ROBERT L BITTNER JR	1,400.00
292811		MISC	ROSEVILLE PUBLIC LIBRARY	22.00
292812	*	006590	SECURE DOOR, LLC	159.00
292813	*	009009	SIGNATURE CLEANING LLC	12,336.98
292814		009587	REPCOLITE PAINTS INC	63.48
292815		BDREFUND	SOULLIERE STONE DESIGN	100.00
292816		000260	SPARTAN DISTRIBUTORS INC	70.32
292817		BDREFUND	SPURLOCK'S NATURAL STONE	100.00
292818		BDREFUND	STRAWBERRY SOLAR	200.00
292819		BDREFUND	SYNERGY GROUP, INC	1,000.00
292820		005498	KRISTEN TAIT	92.59
292821		000286	TARGET SPECIALTY PRODUCTS	825.00
292822		BDREFUND	TEK-TON BUILDING CO	100.00
292823		BDREFUND	THORNTON & GROOMS INC.	1,000.00
292824		BDREFUND	TRU VISION CONSTRUCTION INC	200.00
292825		BDREFUND	TUFF SHED INC	100.00
292826		BDREFUND	UNIQUE REMODELING CONCEPTS INC	500.00
292827		007226	VALLEY CITY LINEN, INC	159.40
292828	*	000293	VAN DYKE GAS CO.	146.00
292829	*	000158	VERIZON WIRELESS	365.35
292830	*	000158	VERIZON WIRELESS	308.16
292831		000158	VERIZON WIRELESS	98.12
292832		BDREFUND	WALLSIDE WINDOWS	500.00
292833		BDREFUND	WAYNE-CRAFT	100.00
292834		BDREFUND	WITTER CONSTRUCTION LLC	200.00
292835		BDREFUND	WITTLINGER, TIMOTHY	100.00

SUBTOTAL PAPER CHECK \$1,198,927.41

ACH TRANSACTION

8331		002909	ACOM SOLUTIONS, INC.	912.53
8332		000394	AERO FILTER INC	165.00
8333		007013	AHEAD USA LLC	2,962.88
8334		007622	ALLSTAR PRO GOLF	260.32
8335		009126	AMAZON CAPITAL SERVICES INC	95.88
8336		009126	AMAZON CAPITAL SERVICES INC	173.78
8337	*	009126	AMAZON CAPITAL SERVICES INC	35.13
8338		009126	AMAZON CAPITAL SERVICES INC	39.99

**City of Birmingham**  
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Check Number	Early Release	Vendor #	Vendor	Amount
8339		009126	AMAZON CAPITAL SERVICES INC	29.77
8340		009126	AMAZON CAPITAL SERVICES INC	73.44
8341		009126	AMAZON CAPITAL SERVICES INC	54.49
8342		009126	AMAZON CAPITAL SERVICES INC	27.98
8343	*	008655	ANGELO IAFRATE CONSTRUCTION	381,026.95
8344	*	000517	BEIER HOWLETT P.C.	49,325.25
8345	*	000518	BELL EQUIPMENT COMPANY	650.52
8346	*	007345	BEVERLY HILLS ACE	72.06
8347		006683	BIRMINGHAM LAWN MAINTENANCE, INC	294.00
8347	*	006683	BIRMINGHAM LAWN MAINTENANCE, INC	684.00
8348		000605	CINTAS CORPORATION	184.27
8349		000605	CINTAS CORPORATION	245.43
8350	*	000605	CINTAS CORPORATION	130.33
8351		002668	CONTRACTORS CLOTHING CO	1,499.51
8352	*	009195	CROWN CASTLE FIBER LLC	4,493.05
8353	*	009557	ZECO, LLC	330.00
8354	*	000847	DETROIT SALT COMPANY	45,360.54
8355		009515	KAMERON DIMITRY	93.67
8356		000196	EJ USA, INC.	4,003.00
8357		000213	FIRE DEFENSE EQUIP CO INC	182.60
8358		000217	FOUR SEASON RADIATOR SERVICE INC	1,089.00
8359	*	007807	G2 CONSULTING GROUP LLC	2,977.38
8360	*	000592	GAYLORD BROS., INC	532.95
8361	*	000243	GRAINGER	186.05
8362		003938	HART PAVEMENT STRIPING CORP	138,060.00
8363	*	001672	HAYES PRECISION INC	480.00
8364	*	007870	J.C. EHRLICH CO. INC.	162.84
8365		000261	J.H. HART URBAN FORESTRY	18,315.00
8366		009298	JCR SUPPLY INC	287.97
8367	*	003458	JOE'S AUTO PARTS, INC.	356.12
8368	*	004085	KONE INC	2,086.45
8369		002013	MIDWEST TAPE	750.46
8370		008336	NBS COMMERCIAL INTERIORS	1,736.00
8371		001194	NELSON BROTHERS SEWER	261.00
8372	*	006359	NYE UNIFORM COMPANY	59.50
8373	*	006853	PAUL C SCOTT PLUMBING INC	280.00
8374	*	006027	PENCHURA, LLC	1,656.16
8375	*	001753	PEPSI COLA	1,067.36
8376	*	003554	RKA PETROLEUM	15,422.61
8377	*	000478	ROAD COMM FOR OAKLAND CO	9,988.41
8378	*	009603	SERV-ICE REFRIGERATION, INC	1,678.50
8379	*	003785	SIGNS-N-DESIGNS INC	135.00
8380		009687	WAGEWORKS, INC.	105.00



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<u>Check Number</u>	<u>Early Release</u>	<u>Vendor #</u>	<u>Vendor</u>	<u>Amount</u>
8381		009128	WITMER PUBLIC SAFETY GROUP INC	616.30
8382		002088	WM. CROOK FIRE PROTECTION CO.	759.50
SUBTOTAL ACH TRANSACTION				\$692,455.93
GRAND TOTAL				\$1,891,383.34

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

Department of Public Services

**DATE:** June 26, 2023

**TO:** Jana Ecker, Acting City Manager

**FROM:** Scott Zielinski, Director of Public Services  
Brendan McGaughey, Parks and Forestry Foreman  
Carrie Laird, Parks and Recreation Manager

**SUBJECT:** Forestry Services Contract 2023-2026 Award

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### INTRODUCTION:

The current five-year contract for "Tree Care and Removal" agreement with J.H. Hart Urban Forestry was approved at the June 11, 2018 City Commission meeting, and it expires June 30, 2023. Sealed bids were opened on Thursday, June 8, 2023 for the cost to provide forestry services, such as tree care, trimming, removal and emergency storm response for the City of Birmingham. The term of the contract is three (3) years - from July 1, 2023 through June 30, 2026 - with an option for the City to extend for an additional two years if the Contractor's performance meets or exceeds all expectations at the Department of Public Services (DPS) and the City Commission's sole discretion. Two (2) bidders responded, Chop Tree Services from Milford and J.H. Hart Urban Forestry from Sterling Heights, and the cost proposals and other required bid documents for each are attached.

Cost proposal pricing is based on a time and material cost method, which is an hourly rate for each requested service (i.e. 2-person trim crew with an aerial tower, chipper, all of the necessary equipment and traffic control, debris removal, etc.). The RFP included a list of anticipated needs for equal comparison purposes, which are based on estimates of forestry services DPS currently utilizes. The RFP also requires bidders to provide a list of references, staff and equipment, and complete a contractor's questionnaire.

The Contractor will provide said services only when requested to do so by the Department of Public Services and works under the direction of the Parks and Recreation Manager. Daily crews are assigned to work during the week Monday through Friday from 8 a.m. to 4 p.m., and additionally the Contractor will serve as our emergency forestry services contractor for after hour calls.

**BACKGROUND:**

There has been a steady increase in the City's efforts and forestry services necessary to maintain and cultivate Birmingham's urban forest, which includes approximately 25,000 City-owned trees on street right-of-ways, parks and City properties. The Department of Public Services continues to strive to assure the highest level of service throughout the community, and responds to each citizen request for forestry services (an estimated more than 1,000 every year) with a thoughtful approach guided by our Birmingham Tree Manual and Standards of Practice, as well as our Tree Preservation Ordinance.

DPS initial review of anticipated costs provided on each proposal showed JH Hart \$180,929.28 – or 5.16% - higher than Chop for the 3-year duration of the contract. Also, if the City were to exercise its right to extend the contract an additional 2-years, JH Hart would be \$387,699.84 – or 6.38% - higher than Chop for the 5-year duration of the contract.

DPS proceeded with post bid interviews and reference checks for both companies. After conducting post bid interviews and checking with the provided references for both contractors, it was determined the costs are not directly comparable due to the fact that Chop does not possess a saw crane, nor do they have the staff familiar for its efficient operation. It is anticipated Chop would instead use a 3-person removal crew to accomplish tree removals assigned to them, as opposed to renting a piece of equipment they are unfamiliar with (if even locally available).

JH Hart acquired a saw crane in June 2021 and the City has been successfully utilizing it ever since, especially for emergency and time sensitive operations including but not limited to storm responses, Engineering road construction projects, and public hazards such as water main breaks where trees are compromised by the excavation. The saw crane has proven to be the most powerful tool when it matters the most, in situations that occur after hours and/or require a quick, safe and effective response. The saw crane's productivity in removing large limbs and trees is conservatively 2.5x faster than any other method, with its ability to "pluck" limbs off from 105' away with a grapple claw and saw attached, without ever having the operator near the limb or trunk itself. See attachment #5 with photos for reference. The City also utilizes the saw crane to remove City trees deemed necessary for removal, often times removing 3x large species trees, such as Silver Maples, in a day.

Attachment #1 compares J.H. Hart's 2022 Saw Crane usage to a 3-person removal crew from Chop (multiplied by 2.5x to approximately project the same amount of work accomplished). When this comparison is used (with 441.75 actual hours in 2022 instead of the 288 projected per the cost proposal based on fiscal years), Chop would be \$205,306.28 more expensive for the duration of a 3-year contract, and \$289,690.22 more for the duration of a 5-year contract. For additional cost comparison if the proposed rate comparison were used with the substituted saw crane usage during the calendar year of 2022, Chop would have cost approximately \$70,000 more to accomplish the same amount of work.

Based on information provided about company practices and reference review, the City has concerns with Chop's ability to provide services to meet Birmingham's standards for communication, emergency response time, same day availability, and they have had significant staff turnover. At the time of the interview, no reference was provided for emergency storm damage clean up (unblocking roads, driveways, etc.), but it was described by a reference as more of an emergent call in to address hanging limbs following storm events. Thus, a "we will get to it in time" model would be had as Chop

does not have "local" staff at this time.

J.H. Hart Urban Forestry has demonstrated the ability to complete any task the City has given them over the past 30+ years, and has not shown any reason they will not be able to continue to do so. Throughout their service to the City, their staff has repeatedly demonstrated professionalism and a level of personal attention to their duties and residents unparalleled in a private contractor capacity.

The expectations of Birmingham residents and City leadership commands the highest level of service possible, and DPS believes J.H. Hart has always effectively met this demand with determination and a genuine desire to enhance Birmingham's urban forest. City staff is confident in J.H. Hart's ability to serve the City, and recommends the contract be awarded to them.

**LEGAL REVIEW:**

The City Attorney has completed a review of this contract agreement and approved with signature.

**FISCAL IMPACT:**

Contracted forestry services are budgeted for every fiscal year, and \$1,412,030 is included in the 2023-2024 Approved Budget. The budgeted funds for these services derive from various accounts, including:

Major Street Fund – Street Trees account #202.0-449.005-819.0000;

Local Street Fund – Street Trees account #203.0-449.005-819.0000;

Parks – Forestry services account #101.0-751.000-819.0000;

Property Maintenance – Forestry services account #101.0-441.003-819.0000.

The forestry budget for these listed funds includes other work by different contractors, such as tree inventory, health evaluations and annual spring and fall tree plantings, for a total amount of \$1,412,030 budgeted for Citywide contracted forestry services.

**PUBLIC COMMUNICATIONS:**

Communications are provided on an as needed basis for required work.

**SUMMARY:**

After reviewing all submitted materials, checking references and determining overall contractor value and capabilities, the Department of Public Services recommends awarding the "Forestry Services Contract 2023-2026" to J.H. Hart Urban Forestry at the quoted rates provided.

**ATTACHMENTS:**

1. Estimated Expenditure Table (based on Cost Proposal Anticipated Needs) and Estimated Expenditure Table with adjusted J.H. Hart Saw Crane 2022 Usage Compared with Chop 3-Person Removal Crew
2. Original RFP
3. J.H. Hart's and Chop's Proposals including completed Bidder's Agreement, Cost Proposal, Iran Sanctions Act Vendor Certification Form, Equipment List, Staff List, and References
4. J.H. Hart's Signed and Notarized Agreement including Required Insurance Certificate
5. Saw Crane Photos

**SUGGESTED ACTION:**

To make a motion to approve the Forestry Services Contract 2023-2026 agreement with J. H. Hart Urban Forestry, for three years commencing July 1, 2023 and ending June 30, 2026, for forestry services in the amounts set forth in Attachment C – Cost Proposal, and to further approve the City Manager’s ability to extend the service contract for up to an additional 2-years pending future staff review. Funds are available in each of the following accounts for these services: Major Street Fund – Street Trees account #202.0-449.005-819.0000; Local Street Fund – Street Trees account #203.0-449.005-819.0000; Parks Forestry Services account #101.0-751.000-819.0000; and Property Maintenance Forestry Services account #101.0- 441.003-819.0000. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City Commission.

Attachment #1  
Estimated Expenditure Tables

**J.H. Hart Urban Forestry - Cost Proposal Pricing w/ Anticipated Needs Crew Hours**

Hours	Crew	2023-2024 Rate	2023-2024 Total	2024-2025 Rate	2024-2025 Total	2025-2026 Rate	2025-2026 Total	2026-2027 Rate	2026-2027 Total	2027-2028 Rate	2027-2028 Total
2080	3 person Removal	\$ 222.81	\$ 463,444.80	\$ 233.96	\$ 486,636.80	\$ 245.66	\$ 510,972.80	\$ 257.93	\$ 536,494.40	\$ 270.83	\$ 563,326.40
2080	2 person Trim	\$ 155.44	\$ 323,315.20	\$ 163.22	\$ 339,497.60	\$ 171.38	\$ 356,470.40	\$ 179.94	\$ 374,275.20	\$ 188.94	\$ 392,995.20
416	3 person Stump	\$ 274.56	\$ 114,216.96	\$ 288.29	\$ 119,928.64	\$ 302.71	\$ 125,927.36	\$ 317.83	\$ 132,217.28	\$ 333.73	\$ 138,831.68
768	2 person Brush	\$ 146.24	\$ 112,312.32	\$ 153.56	\$ 117,934.08	\$ 161.24	\$ 123,832.32	\$ 169.29	\$ 130,014.72	\$ 177.76	\$ 136,519.68
288	2 person Saw Crane	\$465.75	\$ 134,136.00	\$ 465.75	\$ 134,136.00	\$ 465.75	\$ 134,136.00	\$ 465.75	\$ 134,136.00	\$ 465.75	\$ 134,136.00
			<b>\$ 1,147,425.28</b>		<b>\$ 1,198,133.12</b>		<b>\$ 1,251,338.88</b>		<b>\$ 1,307,137.60</b>		<b>\$ 1,365,808.96</b>

**3-year total:** \$ **3,596,897.28**  
**5-year total:** \$ **6,269,843.84**

**Chop - Cost Proposal Pricing w/ Anticipated Needs Crew Hours**

Hours	Crew	2023-2024 Rate	2023-2024 Total	2024-2025 Rate	2024-2025 Total	2025-2026 Rate	2025-2026 Total	2026-2027 Rate	2026-2027 Total	2027-2028 Rate	2027-2028 Total
2080	3 person Removal	\$ 254.00	\$ 528,320.00	\$ 262.00	\$ 544,960.00	\$ 270.00	\$ 561,600.00	\$ 279.00	\$ 580,320.00	\$ 288.00	\$ 599,040.00
2080	2 person Trim	\$ 145.00	\$ 301,600.00	\$ 150.00	\$ 312,000.00	\$ 155.00	\$ 322,400.00	\$ 160.00	\$ 332,800.00	\$ 165.00	\$ 343,200.00
416	3 person Stump	\$ 200.00	\$ 83,200.00	\$ 206.00	\$ 85,696.00	\$ 212.00	\$ 88,192.00	\$ 219.00	\$ 91,104.00	\$ 227.00	\$ 94,432.00
768	2 person Brush	\$ 135.00	\$ 103,680.00	\$ 139.00	\$ 106,752.00	\$ 144.00	\$ 110,592.00	\$ 149.00	\$ 114,432.00	\$ 155.00	\$ 119,040.00
288	2 person Saw Crane	\$300.00	\$ 86,400.00	\$ 309.00	\$ 88,992.00	\$ 318.00	\$ 91,584.00	\$ 328.00	\$ 94,464.00	\$ 338.00	\$ 97,344.00
			<b>\$ 1,103,200.00</b>		<b>\$ 1,138,400.00</b>		<b>\$ 1,174,368.00</b>		<b>\$ 1,213,120.00</b>		<b>\$ 1,253,056.00</b>

**3-year total:** \$ **3,415,968.00**  
**5-year total:** \$ **5,882,144.00**  
**3yr total difference:** \$ **180,929.28**  
**3yr % difference:** **5.16%**  
**5yr total difference:** \$ **387,699.84**  
**5 yr % difference:** **6.38%**

**Annual Difference:** (JH Hart FY Total - Chop FY Total) \$ **44,225.28**      \$ **59,733.12**      \$ **76,970.88**      \$ **94,017.60**      \$ **112,752.96**

**J.H. Hart Urban Forestry w/ 2022 Actual Saw Crane Usage**

Hours	Crew	2023-2024 Rate	2023-2024 Total	2024-2025 Rate	2024-2025 Total	2025-2026 Rate	2025-2026 Total	2026-2027 Rate	2026-2027 Total	2027-2028 Rate	2027-2028 Total
2080	3 person Removal	\$ 222.81	\$ 463,444.80	\$ 233.96	\$ 486,636.80	\$ 245.66	\$ 510,972.80	\$ 257.93	\$ 536,494.40	\$ 270.83	\$ 563,326.40
2080	2 person Trim	\$ 155.44	\$ 323,315.20	\$ 163.22	\$ 339,497.60	\$ 171.38	\$ 356,470.40	\$ 179.94	\$ 374,275.20	\$ 188.94	\$ 392,995.20
416	3 person Stump	\$ 274.56	\$ 114,216.96	\$ 288.29	\$ 119,928.64	\$ 302.71	\$ 125,927.36	\$ 317.83	\$ 132,217.28	\$ 333.73	\$ 138,831.68
768	2 person Brush	\$ 146.24	\$ 112,312.32	\$ 153.56	\$ 117,934.08	\$ 161.24	\$ 123,832.32	\$ 169.29	\$ 130,014.72	\$ 177.76	\$ 136,519.68
0	2 person Saw Crane	\$465.75	\$ -	\$ 465.75	\$ -	\$ 465.75	\$ -	\$ 465.75	\$ -	\$ 465.75	\$ -
441.75	2 person Saw Crane	\$465.75	\$ 205,745.06	\$465.75	\$ 205,745.06	\$465.75	\$ 205,745.06	\$465.75	\$ 205,745.06	\$465.75	\$ 205,745.06
			<b>\$ 1,219,034.34</b>		<b>\$ 1,269,742.18</b>		<b>\$ 1,322,947.94</b>		<b>\$ 1,378,746.66</b>		<b>\$ 1,437,418.02</b>

**3yr total:** \$ **3,811,724.47**  
**5yr total:** \$ **6,627,889.15**

**Chop - w/ additional 3-person removal crew hours in lieu of actualized saw crane usage in 2022 (441.75 x 2.5 = 1104.375)**

Hours	Crew	2023-2024 Rate	2023-2024 Total	2024-2025 Rate	2024-2025 Total	2025-2026 Rate	2025-2026 Total	2026-2027 Rate	2026-2027 Total	2027-2028 Rate	2027-2028 Total
2080	3 person Removal	\$ 254.00	\$ 528,320.00	\$ 262.00	\$ 544,960.00	\$ 270.00	\$ 561,600.00	\$ 279.00	\$ 580,320.00	\$ 288.00	\$ 599,040.00
2080	2 person Trim	\$ 145.00	\$ 301,600.00	\$ 150.00	\$ 312,000.00	\$ 155.00	\$ 322,400.00	\$ 160.00	\$ 332,800.00	\$ 165.00	\$ 343,200.00
416	3 person Stump	\$ 200.00	\$ 83,200.00	\$ 206.00	\$ 85,696.00	\$ 212.00	\$ 88,192.00	\$ 219.00	\$ 91,104.00	\$ 227.00	\$ 94,432.00
768	2 person Brush	\$ 135.00	\$ 103,680.00	\$ 139.00	\$ 106,752.00	\$ 144.00	\$ 110,592.00	\$ 149.00	\$ 114,432.00	\$ 155.00	\$ 119,040.00
0	2 person Saw Crane	\$300.00	\$ -	\$ 309.00	\$ -	\$ 318.00	\$ -	\$ 328.00	\$ -	\$ 338.00	\$ -
1104.375	3 person removal	\$ 254.00	\$ 280,511.25	\$ 262.00	\$ 289,346.25	\$ 270.00	\$ 298,181.25	\$ 279.00	\$ 308,120.63	\$ 288.00	\$ 318,060.00
(441.75x 2.5) = 1104.375			<b>\$ 1,297,311.25</b>		<b>\$ 1,338,754.25</b>		<b>\$ 1,380,965.25</b>		<b>\$ 1,426,776.63</b>		<b>\$ 1,473,772.00</b>
			<b>\$ (78,276.91)</b>		<b>\$ (69,012.07)</b>		<b>\$ (58,017.31)</b>		<b>\$ (48,029.96)</b>		<b>\$ (36,353.98)</b>

**3-year total:** \$ **4,017,030.75**  
**5-year total:** \$ **6,917,579.38**  
**3yr total difference:** \$ **(205,306.28)**  
**3yr % difference:** **5.24%**  
**5yr total difference:** \$ **(289,690.22)**  
**5 yr % difference:** **4.28%**

**Annual Difference:** (J.H. Hart FY total - Chop FY Total) \$ **(78,276.91)**      \$ **(69,012.07)**      \$ **(58,017.31)**      \$ **(48,029.96)**      \$ **(36,353.98)**

Attachment #2  
Original RFP





**REQUEST FOR PROPOSALS**  
**For “Forestry Services Contract 2023-2026 - Birmingham, MI”**

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Sealed proposals endorsed, **“Forestry Services Contract 2023-2026 - Birmingham, MI”** will be received at City Hall, 151 Martin St, Birmingham, MI 48009; until Thursday, June 8, 2023 at 2:00 pm after which time bids will be publicly opened and read. Results will be posted on MITN.

The City of Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms for the maintenance, care and removal of City trees, which includes stump grinding and restoration, brush chipping, tree removals, request and block trimming located along city street right-of-ways, parks and other public properties. 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, 851 S. Eton, Birmingham, Michigan, 48009 ATTENTION: Carrie Laird.

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:	May 18, 2023
Deadline for Submissions:	Thursday, June 8, 2023 at 2:00 pm
Contact Person:	Carrie Laird 851 S. Eton Birmingham MI 48009 Phone: 248-530-1714 Email: <a href="mailto:claird@bhamgov.org">claird@bhamgov.org</a>



**REQUEST FOR PROPOSALS**  
**For “Forestry Services Contract 2023-2026 – Birmingham, MI”**

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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 Department of Public Services is accepting sealed bid proposals from qualified Contractors to perform forestry services. 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 award of this contract will be completed by June 27, 2023. 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 maintenance, care and removal of trees, stumps, brush chipping, storm cleanup and emergency services, and block trimming located along city right-of-ways, parks and other public properties.

## INVITATION TO SUBMIT A PROPOSAL

Proposals must be received no later than 2:00 pm on June 8, 2023 to:

Birmingham City Hall

**Forestry Services Contract 2023-2026 – Birmingham, MI**

Attn: Carrie Laird

151 Martin St

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, **“Forestry Services Contract 2023-2026 – Birmingham, MI”**. Any proposal received after the June 8, 2023 at 2 p.m. 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. Bid proposals shall be made part of the agreement.

2. Any request for clarification of this RFP shall be made in writing and delivered to:

Department of Public Services, ATTN: Carrie Laird, 851 S. Eton St, Birmingham, MI 48009

OR [claird@bhamgov.org](mailto:claird@bhamgov.org)

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 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.

7. Proposals submitted for this contract shall be limited to individuals, partnerships, and corporations actively engaged in the field of arboriculture. Bidders shall demonstrate competence, experience, and financial capability to carry out the terms of this contract. The City may require proof of these qualifications and work performance references.

8. Proposals shall state an hourly crew rate. Bids shall be in conformance with and subject to all specifications and the "Terms & Conditions," and other bid documents which

may be part of this proposal. Bid amounts for labor and equipment shall be "all inclusive" and shall include expenses for employee compensation, insurance, other benefits provided to the employees, including holiday and vacation pay, fuel, supplies and materials needed for operation of equipment assigned to the project.

8. Unless specifically noted as being an extra charge, hourly charge for labor shall include the personal equipment used by the worker, including climbing gear, lines, saws, pruners, safety gear, etc. Hourly charges shall begin when work crew arrives on the site and employees are prepared for work, and shall end when the crew or employees leave the final job site in Birmingham for the day. Charges shall not be "portal-to-portal." Down time from equipment failure will not be paid for by the City. All maintenance on equipment must be performed either before or after the work day.

9. An hourly rate for each additional employee shall be indicated when work requires additional personnel and/or each major piece of equipment. This rate shall be all inclusive and the same as that used for the basic charges.

## **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. Related experience with similar projects, Contractor background, and personnel qualifications.
3. Quality of materials proposed.
4. Overall Costs.
5. References.
6. Equipment List.
7. Employee roster (with job title, certifications, etc. if applicable).

## **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 should it be 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 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 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 Contractor and shall not be chargeable in any manner to the City.

6. Each proposal must be accompanied by a certified check, bidders bond or bank draft in an amount of **\$50,000** payable to the City of Birmingham, Michigan, which it is agreed will be forfeited to the City of Birmingham if the undersigned fails to enter into a contract in conformity with the form of contract incorporated herein, and furnish bonds and insurance as specified within twenty-one (21) days after the contract is awarded to the undersigned or withdraws this bid within sixty (60) days of the date thereof. No proposal shall be withdrawn for a period of six (6) months after the date set for the opening of bids.

A single check, bond or draft may serve to cover 2 or more alternative proposals when such alternative proposals are submitted by the same bidder.

The bid deposit of all except 3 lowest bidders will be returned within 3 weeks after the bid opening. The bid deposit of the 3 lowest bidders will be returned within 2 weeks after the contract has been executed by both parties.

7. Payment will be made within thirty (30) days after invoice. Acceptance by the City is defined as authorizations 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.

8. The Contractor shall perform without subletting, 90% of the work provided for in this contract, computed on the basis of cost. The subletting of any portion of the contract work shall be subject to approval by the Department of Public Services, but such approval shall not relieve the Contractor of responsibility for the work of such Subcontractors who likewise shall be bound by all pertinent provisions of these specifications. Before any work is sublet, the Contractor shall satisfy the Department of Public Services that the proposed Subcontractor is suitably equipped and experienced in that kind of work, and that he has proper financial resources to enable him to carry it out.

9. It is anticipated this contract shall commence on July 1, 2023 and expire on June 30, 2026.

At the City's sole discretion, a 2-year contract extension may be desired if the Contractor's performance meets or exceeds all expectations of the Department of Public

Services. The City Commission will also need to authorize such an extension. The 2-year extension would commence July 1, 2026 and expire June 30, 2028.

10. The successful bidder shall enter into and will execute the contract as set forth and attached as Attachment A.

11. The successful bidder will be required to furnish a performance bond in an amount not less than 100% of the contract price in favor of the City of Birmingham, conditioned upon the faithful performance of the contract, and completion on or before the date specified and;

## **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 – pg. 26)
  - b. Cost Proposal (Attachment C – pg. 27)
  - c. Iran Sanctions Act Vendor Certification Form (Attachment D – pg. 32)
  - d. Agreement (Attachment A – pg. 17 **only if selected by the City**)
  - e. 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.
  - f. Completed Contractor's Questionnaire
2. Provide a list of sub-contractors and their qualifications, if applicable.
3. Provide a description of the firm, including resumes and professional qualifications of the principals involved in administering the project.
4. Contractor attire shall be neat, clean and in good repair. Shirts must be worn at all times. Tee shirts and sleeved work shirts are acceptable. Objectionable slogans are not acceptable. No logos, pictures, commercial advertisements, other than that of the Contractor's will be exposed while on City property or in route to job site. Completely enclosed shoes must be worn at all times.
5. Reflective vests must be worn when working along streets. Proper work zone safety shall be exhibited by all employees while working in the City, and all the necessary traffic control devices shall be provided by the Contractor to maintain a safe and proper work zone – flaggers, cones, arrow boards, road closed signs, etc.
6. The Contractor will be responsible for obtaining obstruction and/or parking permits if applicable at no cost to the Contractor.

7. The Contractor shall have designated personnel available 24 hours a day and 7 days a week in the case of emergency situations. The City shall be able to reach the designated personnel to evaluate tree damage and provide other necessary services (tree and debris removal, provide photographs of downed limbs and/or damaged personal property, block off a road closed due to tree debris, etc.).

## **CITY RESPONSIBILITY**

1. The City will provide a designated representative(s) 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.
2. The City will provide an in house arborist or contract a third party arborist to evaluate general health of trees, and confirm trees for removal that are non-emergent in nature.
3. 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 bidder 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 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 17 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.

## **SCOPE OF WORK**

The Contractor shall perform the following services in accordance with the requirements as defined and noted herein:

### **A. Contractor Qualifications**

1. Contractors shall demonstrate competence, fifteen (15) years minimum municipal experience and financial capability to carry out the terms of this contract. The City may require proof of these qualifications and work performance references.

### **B. Working Hours**

1. Contractor should be aware of the City of Birmingham Ordinance limits working hours to be between 7:00 a.m. and 7:00 p.m. Monday through Friday. Applying for a variance to this ordinance will be the responsibility of the Contractor if longer working hours are required. Permission must be obtained from the City to work on Saturdays, Sundays and holidays.

### **C. Scope of Services**

1. The contract term shall be three (3) years in length commencing from July 1, 2023 and ending June 30, 2026 with the City's option to extend the contract for 2 additional years from July 1, 2026 and ending June 30, 2028.
2. The Contractor shall provide all necessary material, labor, and equipment for the services outlined in these specifications. The Contractor shall furnish all labor, machinery, tools, fuel, repairs, and other items necessary to trim, remove, and perform other tree care as authorized and directed by the Director of Public Services, or his designee, on trees located within public right-of-way, parks and other public properties within the City of Birmingham in accordance with the following specifications and terms.
3. All trees on which work will be performed shall be specified to the Contractor by the City. The Contractor shall maintain a record of all trees on which work is performed, including location, and submit this information to the City on a weekly basis. "Weekly basis" is defined as 40 hours per week, Monday through Friday.
4. During the contract period, the Contractor shall have at least one work crew available to respond to emergency situations as may be directed by the City. The Contractor shall supply the City with the names, addresses and telephone numbers of representatives of the Contractor that have authority to dispatch the work crew for emergency work during weekends, holidays and other time outside of normal working hours. The emergency crew shall be available, and at the job

site, within one (1) hour of the placement of the emergency call by the City. Hourly charges for such response shall be at the overtime rate indicated on the bid sheet.

5. Unless specifically noted as being an extra charge, hourly charge for labor shall include the personal equipment used by the worker, including climbing gear, lines, saws, pruners, safety gear, waders, etc. Hourly charges shall begin when work crew arrives on the site and employees are prepared for work, and end when employees leave the final work site in Birmingham for the day. Charges shall not be "portal-to-portal." Down time from equipment failure will not be paid for by the City. All maintenance on equipment must be performed either before or after the work day.
6. The Contractor shall provide qualified supervision of the work crew at all times while working under this contract. A Certified Arborist (as administered by the International Society of Arboriculture) shall be present or readily available upon request by the City.
7. A representative of the Contractor having the authority to speak on the behalf of the Contractor relative to this contract, shall meet weekly, or more frequently as may be determined by the City, to discuss and be given work assignments. Contractor is to notify the City in advance of all occasions when absence of crew is anticipated, or, if due to unforeseen emergency, within an hour after normal starting time. Work on holidays observed by the City may be worked by the Contractor provided advance permission of this intent is provided by the City.
8. Contractor agrees to start work under this proposal. Contractor will establish a work schedule that is acceptable to the City, and agrees to provide employees and equipment to the City on this schedule for the duration of the contract, unless advance notice is given to, and approval granted by, the City.
9. All equipment to be used and all work to be performed must be in full compliance with the most current revision of ANSI Z-133.1 (Safety Requirements for Pruning, Repairing, Maintaining, Removing Trees and for Cutting Brush), ANSI A300 Parts 1, 2, & 3 (Tree, Shrub, and Other Woody Plant Maintenance), the Michigan Department of Labor, Safety Standards, Part 53, (Tree Trimming and Removal, as amended 1983) and the Michigan Department of Labor, Bureau of Safety and Regulations, MIOSHA requirements, and the Michigan Department of Transportation regulations. These standards are made part of this contract by this reference.
10. Adequate warning devices, barricades, guards, flag-persons, and all other necessary precautions shall be taken by Contractor to give advised and reasonable protection, safety and warning to persons and vehicle traffic within the area.
11. Traffic shall not be totally detoured without pre-approval of the Director of Public

Services, or his/her designee. During the progress of work, adequate provisions shall be made by the Contractor to accommodate normal traffic flow over the public streets in order to minimize inconvenience to the general public. Users of property adjacent to the work shall be afforded with convenient access to driveways, housing, or buildings.

12. The Contractor shall be responsible at all times for keeping the work-site, adjoining premises, streets, walks and driveways clear. All tree parts and/or other debris must be cleaned up at the end of each workday. Branches, trimmings, logs, and debris, shall be removed and the area and disposed by the Contractor, with job sites left "broom clean" daily.
13. The Contractor shall not engage in any activity or practices which pose an unreasonable hazard or threat to the safety of persons or property.
14. Working in close proximity of electrical utilities: A close inspection shall be made by the Contractor or his representative to determine whether an electrical conductor passes through the tree or passes within 10 feet of the tree worker before climbing, entering, or working around any tree. All block trimming work pertaining to line clearance shall only be handled by a qualified and experienced line clearance personnel employed by the electrical power distribution company. At least one worker on the crew shall have completed the Electrical Hazards Awareness Program administered by the National Arborists Association.
15. Protection of overhead utilities: Tree trimming and removal operations may be conducted in areas where overhead electric, telephone and cable television facilities exist. The Contractor shall protect all utilities from damage, shall immediately contact the appropriate utility if damage should occur, and shall be responsible for all claims for damage due to his operations.
16. The Contractor shall make arrangements with the utility company for removal of all necessary limbs and branches which may conflict with or create a personal injury hazard in conducting the operations called for in this contract. If the Contractor has properly contacted the utility in sufficient time to arrange for the required work by the utility, delays encountered by the Contractor in waiting for the utility to complete its work shall not be the responsibility of the Contractor.
17. The Protection of Underground Utilities: The Contractor shall be responsible for contacting MISSDIG or the appropriate utility company for location of any underground utility services which are in the work area and which could be damaged by the Contractor's operation. If the Contractor has properly contacted the utility in sufficient time (THREE WORKING DAYS) to arrange for location and protection of underground services, delays encountered by the Contractor in waiting for the utility to complete its work shall not be the responsibility of the Contractor.

18. The Director of Public Services, or his/her designee, may inspect the work of the Contractor at any time to monitor performance and may suspend operations, if, in the opinion of the Director or designee, it is being performed in an unsafe or unsatisfactory manner, or not in accordance with contract specifications.
19. Trimming/pruning will be done according to the latest revisions of the American National Standards Institute (ANSI) Z-133.1 (Safety Requirements for Pruning, Repairing, Maintaining, Removing Trees and for Cutting Brush), ANSI A300 Parts 1, 2, & 3 (Tree, Shrub, and Other Woody Plant Maintenance and made a part of these specifications by reference. The pruning class requirement for each tree will be decided by the City.
20. Elevation pruning to provide for pedestrian and vehicular clearance shall be done to provide clearance as directed by the City. Clearance heights shall be determined at a point over the sidewalk and at a lowest point of branch overhang over the street, to provide 8 feet and 14 feet respectively for several years.
21. All pruning cuts must be made in a manner that will not allow peeling or tearing of the bark (three-cut method).
22. The following techniques are not acceptable for City tree maintenance:
  - a) Topping or pollarding - when a tree is severely pruned back to consist of one main trunk and a number of short lateral branch stubs.
  - b) Framing - a pruning technique which removes many of the inside branches and results in clusters of small branches at the ends of main branches, also known as lion tailing.
  - c) Rounding-over or shearing - when branches are trimmed to present a "sheared" appearance of the crown or just on top. This type of pruning places cuts along a branch (not necessarily at the base of the limb) and results in severe suckering.
23. Trees shall be removed in accordance with accepted industry standards and procedures and in accordance with the following minimum requirements;
  - a) Extreme care shall be taken so as to prevent limbs, branches, and trunks from falling and creating damage to adjacent homes, driveways, sidewalks, streets, and other property, both public and private.
  - b) Limbs, branches and tree trunks shall be lowered to the ground through the use of ropes or other mechanical devices as necessary to prevent property damage. Felling of trees for removals may be performed provided it can be done in a safe, work like manner, without unduly obstructing traffic. Final responsibility for damage lies with the Contractor.

- c) Tree trunks shall be cut to ground level. Stumps shall be removed to a depth of a minimum of six inches (6") below grade, unless specified by the City. Any berm will be removed as well as any large surface roots.
24. When not in use, equipment must be left at the Contractor's place of business, unless travel distance is excessive. In that case, the Contractor shall make private arrangements for local storage. Storage will not be provided by the City unless authorized by the City at the City's discretion.
25. The Contractor shall not sub-contract any or all portions of the work unless prior written approval is granted by the City. Any sub-contractor, if so approved, shall be bound by the terms and conditions of this contract. All required notices, work orders, directives, and requests for emergency services will be directed to the sub-contractor as if the notice had been given directly to the Contractor.
26. The Contractor will be responsible for the preservation of all public and private property along and adjacent to working area and shall exercise due care and caution to avoid and prevent any damage or injury as a consequence of the work. All trees, shrubs, ground covers, fences, irrigation and any other utilities shall be adequately protected.
27. Climbing irons, spurs, or spikes are not to be used on trees to be pruned. Any tree damage caused by the Contractor is to be repaired immediately, to the satisfaction of the City, at no additional expense. Trees damaged beyond repair, as judged by a qualified arborist acceptable to both parties, are to be removed at no expense to the City and replaced by a tree of size and species approved by, and at no additional expense to the City; or the dollar value of such damaged trees, as determined by a qualified arborist acceptable to the City and the Contractor, shall be deducted from the monies owed the Contractor.
28. Should any direct or indirect damage or injury result to any public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work or as a consequence of the execution or non-execution thereof on the part of the Contractor or any of his employees or agents, such property shall be restored, by and at the expense of the Contractor, to a condition equivalent to that existing before the damage or injury occurred, by repairing or rebuilding the same or by otherwise making good such damage or injury in a acceptable manner.
29. The Contractor shall be responsible for the disposal of all wood fiber and material in a safe and legal manner.
30. The Contractor shall operate in a safe manner and will observe all MIOSHA guidelines. **The Contractor shall provide the City with a copy of its COVID-19 Plan required by MIOSHA.**

31. The Contractor shall be responsible for repairing any damage caused as a result of working, including grass repairs with seed and topsoil. Damage to irrigation systems must be reported immediately to the City representative. Damaged irrigation pipes should be left above ground and capped/taped off until Contractor is able to repair it.
32. Stump removal/grinding shall be completed within 60 days of the tree removal date.
33. Travel time from the contractor's yard to job sites at the start and end of each workday will not be paid for.

**Forestry Services to include but are not limited to:**

- a) Cutting and removal of trees and its parts to ground level, removal of stump, clean up of debris, transport and disposal of brush, logs and chips at a disposal site provided by the Contractor. The Contractor shall be responsible for landscaping stump holes and any turf damage as a result of tree work. Stump holes will receive a placement of 6" (minimum) of topsoil and seeding in accordance with directions by the City.
- b) Trimming trees and other plants in accordance with standard arboricultural standards and general direction by the City, and chipping logs and limb wood into wood chips, and the transport and disposal of this material to a disposal site provided by the Contractor.
- c) Residential brush pick-up (typically Wed-Fri, April through mid-December) and 4 weeks of Christmas tree pick-up after the Holidays.
- d) Woody debris disposal from natural areas (including dam clearing when necessary).
- e) Trimming and/or removal of trees, shrubs and other vegetation for certain private lots that are determined by the Department of Public Services to be in violation of the City's vegetation ordinance.
- f) **Anticipated weekly required schedule:** 1 removal crew and 1 trim crew 5 days a week, 1 brush crew W-F from April through mid-December, 1 stump removal crew as required (1 day a week on average), 1 saw crane removal crew as required (3 days a month on average), plant health care crews as requested based on required services (10 days a year on average).

**CONTRACTOR QUESTIONNAIRE**

How many years of experience do you have servicing municipalities?

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Do you have Certified Pesticide Applicators on staff? If so, how many?  
Do you have an IPM division or department?

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Please list the total number of employees on your staff, and indicate how many are Certified Arborists:

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Please list an inventory of your equipment (a separate attachment is acceptable):

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Any exceptions, substitutions, deviations, etc. from the City of Birmingham specifications and this proposal **shall be stated** below. The reason(s) for the substitution, deviation, etc. are an integral part of this bid (a separate attachment is acceptable).

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# **ATTACHMENT A – AGREEMENT**

## **AGREEMENT OF “Forestry Services Contract 2023-2026 - Birmingham MI”**

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**THIS AGREEMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the **CITY OF BIRMINGHAM**, whose address is 151 Martin Street, Birmingham, MI 48009 (hereinafter referred to as the City) and \_\_\_\_\_(name of party) a Michigan \_\_\_\_\_ (Corporation, P.C., LLC, etc.), whose address is \_\_\_\_\_, (hereafter referred to as Contractor and the foregoing shall collectively be referred to as the parties.

**WHEREAS**, the City, through its Department of Public Services, desires to have the urban forest maintained along the City’s right-of-ways, parks and other public properties including trimming, removal and planting operations; and

**WHEREAS**, the City, through its Department of Public Services, desires to have the residential brush picked up and chipped along the City’s right-of-ways, parks and other public properties; and

**WHEREAS** the City, through its Department of Public Services, desires to have trees, shrubs and other vegetation for certain private lots that are determined by the Department of Public Services to be in violation of the City’s vegetation ordinances trimmed and/or removed; and,

**WHEREAS** the City, through its Department of Public Services, desires to have performed on its behalf and in connection therewith, has prepared a request for sealed proposals (RFP) endorsed “Forestry Services Contract 2023-2026 – Birmingham, MI” which includes certain instructions to bidders and specifications, and, in connection therewith, has advertised for and sought sealed proposals endorsed " Forestry Services Contract 2023-2026 – Birmingham, MI," which includes certain qualifications, instructions to bidders, specifications, and General Contract Conditions (collectively the "RFP"); and,

**WHEREAS**, the Contractor has made a bid ("Bid") to provide tree care services including trimming, removal, residential brush pickup, and certified arborist services in accordance with the RFP, in the amount set forth in its bid form, and which bid has been accepted by the City.

**NOW, THEREFORE**, for and 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 documents consisting of the Request of Proposal for “Forestry Services Contract 2023-2026 – Birmingham, MI” and the Contractor’s cost proposal dated \_\_\_\_\_, 2023, 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"). If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. **TERM:** This Agreement shall have a term of three (3) years from July 1, 2023 through June 30, 2026. The City shall have the right to unilaterally terminate this Agreement on thirty (30) days written notice. In the event of termination, the Contractor shall receive compensation for services to the date the termination takes effect. At the City's sole discretion, a 2-year extension through June 30, 2028 may be requested with City Commission approval.

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. **PERSONNEL:** 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 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 Contractor 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) 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. 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.

I. Professional Liability: If applicable, professional liability insurance with limits of not less than \$2,000,000 per claim if Contractor will provide services that are customarily subject to this type of coverage.

II. Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than \$1,000,000, per occurrence preferred, but claims made accepted.

III. 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.

E. 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.

F. 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: Scott Zielinski

Contractor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

- 13. COVID:** The Contractor shall follow all of the City's COVID-19 safety protocols while on City property. Additionally, Contractor 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 Contractor staff. Failure to provide proof of vaccination when requested will cause the City to request unvaccinated personnel to leave, request alternate staff, and if the Contractor is unable to comply, this violation of safety protocols will constitute a breach of contract by the Contractor.
- 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 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.

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 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.
18. **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.
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 48<sup>th</sup> 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 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 \_\_\_\_\_(attached hereto as Attachment "A"). In the event of a conflict in any of the terms of this Agreement and the Contractor's \_\_\_\_\_ (date of response) response, the terms of this Agreement shall prevail.
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.



**IN WITNESS WHEREOF**, the parties hereto agree to be bound by the above terms and conditions, and Contractor, 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 \_\_\_\_\_, 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: \_\_\_\_\_  
Therese Longe, Mayor

By: \_\_\_\_\_  
Alexandria D. Bingham, City Clerk

**APPROVED:**

\_\_\_\_\_  
Thomas M. Markus, City Manager  
(Approved as to substance)

\_\_\_\_\_  
Scott Zielinski, PE, Director of Public  
Services  
(Approved as to substance)

\_\_\_\_\_  
Mary Kucharek, City Attorney  
(Approved as to form)

\_\_\_\_\_  
Mark Gerber, Director of Finance  
(Approved as to financial obligation)

**ATTACHMENT B - BIDDER'S AGREEMENT**  
**For "Forestry Services Contract 2023-2026 – Birmingham, MI"**

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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.

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**BID PREPARED BY**  
**(Print Name)**

**DATE**

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**TITLE**

**DATE**

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**AUTHORIZED SIGNATURE**

**E-MAIL ADDRESS**

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**COMPANY**

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**ADDRESS**

**PHONE**

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**NAME OF PARENT COMPANY**

**PHONE**

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**ADDRESS**

## **ATTACHMENT C - COST PROPOSAL**

### **For “Forestry Services Contract 2023-2026 - Birmingham, MI”**

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**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 a lump sum, as follows:

***Attach technical specifications for all proposed materials as outlined in the Contractor’s Responsibilities section of the RFP***

#### **Contract Price:**

The final project cost on the bid form should be determined by multiplying the number, or fraction thereof, units of work actually performed, labor, or material, by the price designated for such items in the proposal.

Anticipated needs (based on averages, subject to change):

- (1) 3-man removal crew – 5 days a week
- (2) 2-man trim crew – 5 days a week
- (3) 2-man brush crew W-F (from April through mid-December)
- (4) 3-man stump removal crew as required (1 day a week on average)
- (5) 2-man saw crane removal crew as required (3 days a month on average)
- (6) Plant health care as requested based on required services (10 days a year on average, priced based on additional proposals based on varying needs)

<b>Time and Material Crew</b>	<b>2023-2024 Hourly Rate</b>	<b>2024-2025 Hourly Rate</b>	<b>2025-2026 Hourly Rate</b>	<b>2026-2027 Hourly Rate (if extended)</b>	<b>2027-2028 Hourly Rate (if extended)</b>
Trim – 2 - member Plus aerial tower, chipper, saws, all equipment, traffic control devices, etc					
Trim – 2 - member Overtime Rate					
Removal – 3 - member Plus aerial tower, dump truck, chipper, saws, all equipment, traffic control devices, etc					
Removal – 3 - member Overtime Rate					
Removal – 4 - member Plus aerial tower, dump truck, chipper, saws, all equipment, traffic control devices, etc					
Removal – 4 - member Overtime Rate					
Removal – 5 - member Plus aerial tower, dump truck, chipper, saws, arrow board, all equipment, traffic control devices, etc					
Removal – 5 - member Overtime Rate					

<b>Time and Material Crew</b>	<b>2023-2024 Hourly Rate</b>	<b>2024-2025 Hourly Rate</b>	<b>2025-2026 Hourly Rate</b>	<b>2026-2027 Hourly Rate (if extended)</b>	<b>2027-2028 Hourly Rate (if extended)</b>
Stump Removal w/ restoration– 3 – member Plus dump truck, stump chipper, equipment, traffic control devices, etc					
Stump Removal – 3 – member Overtime Rate					
Stump Removal w/o restoration – 2 – member Plus dump truck, all equipment, traffic control devices, etc					
Stump Removal w/o restoration – 2 – member Overtime Rate					
Saw Crane Removal crew – 2 - member Plus saw crane, dump truck, chipper, boxer, all equipment, traffic control devices, etc					
Saw Crane Removal crew – 2 - member Overtime Rate					
Residential Brush Pickup – 2 - member Plus dump truck, chipper, saws, all equipment, traffic control devices, etc					
Residential Brush Pickup – 2 - member Overtime Rate					

<b>Additional Personnel</b> Rate for each additional person Foreman, Trimmer, Ground Man, etc.	2023-2024 Hourly Rate	2024-2025 Hourly Rate	2025-2026 Hourly Rate	2026-2027 Hourly Rate (if extended)	2027-2028 Hourly Rate (if extended)
Certified Arborist					
Overtime rate					
Foreman					
Overtime rate					
Ground Man					
Overtime rate					
Plant Health Care Professional					
Overtime Rate					
Watering Man					
Other:					
Overtime rate					

<b>Additional Equipment Rate for each additional piece of equipment</b>	<b>2023-2024 Hourly Rate</b>	<b>2024-2025 Hourly Rate</b>	<b>2025-2026 Hourly Rate</b>	<b>2026-2027 Hourly Rate (if extended)</b>	<b>2027-2028 Hourly Rate (if extended)</b>
Aerial Tower					
Brush Chipper					
Dump Truck					
Logging Truck W / Lift					
Saw Crane					
Stump Chipper					
Water Tanker					
Loader					
Truck Lift (75ft)					
Arrow Board					
Pick- up Truck					



**ATTACHMENT D – IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM  
For “Forestry Services Contract 2023-2026 – Birmingham, MI”**

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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.

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<b>PREPARED BY</b> (Print Name)	<b>DATE</b>
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<b>TITLE</b>	<b>DATE</b>
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<b>AUTHORIZED SIGNATURE</b>	<b>E-MAIL ADDRESS</b>
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**COMPANY**

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<b>ADDRESS</b>	<b>PHONE</b>
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<b>NAME OF PARENT COMPANY</b>	<b>PHONE</b>
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**ADDRESS**

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**TAXPAYER I.D.#**

Attachment #3  
J.H. Hart Proposal  
Chop Proposal

**ATTACHMENT B - BIDDER'S AGREEMENT**  
**For "Forestry Services Contract 2023-2026 – Birmingham, MI"**

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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.

Meghan Olsen	06/07/2023
<b>BID PREPARED BY (Print Name)</b>	<b>DATE</b>
Controller	06/07/2023
<b>TITLE</b>	<b>DATE</b>
	jharturbanforestry@gmail.com
<b>AUTHORIZED SIGNATURE</b>	<b>E-MAIL ADDRESS</b>
J.H. Hart Company, Inc., dba J.H. Hart Urban Forestry	
<b>COMPANY</b>	
6600 Product Drive, Sterling Heights, MI 48312	(586) 795-5581
<b>ADDRESS</b>	<b>PHONE</b>
n/a	n/a
<b>NAME OF PARENT COMPANY</b>	<b>PHONE</b>
n/a	
<b>ADDRESS</b>	

## **ATTACHMENT C - COST PROPOSAL**

### **For "Forestry Services Contract 2023-2026 - Birmingham, MI"**

**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 a lump sum, as follows:

***Attach technical specifications for all proposed materials as outlined in the Contractor's Responsibilities section of the RFP***

#### **Contract Price:**

The final project cost on the bid form should be determined by multiplying the number, or fraction thereof, units of work actually performed, labor, or material, by the price designated for such items in the proposal.

Anticipated needs (based on averages, subject to change):

- (1) 3-man removal crew – 5 days a week
- (2) 2-man trim crew – 5 days a week
- (3) 2-man brush crew W-F (from April through mid-December)
- (4) 3-man stump removal crew as required (1 day a week on average)
- (5) 2-man saw crane removal crew as required (3 days a month on average)
- (6) Plant health care as requested based on required services (10 days a year on average, priced based on additional proposals based on varying needs)

<b>Time and Material Crew</b>	<b>2023-2024 Hourly Rate</b>	<b>2024-2025 Hourly Rate</b>	<b>2025-2026 Hourly Rate</b>	<b>2026-2027 Hourly Rate (if extended)</b>	<b>2027-2028 Hourly Rate (if extended)</b>
Trim – 2 - member Plus aerial tower, chipper, saws, all equipment, traffic control devices, etc	\$155.44	\$163.22	\$171.38	\$179.94	\$188.94
Trim – 2 - member Overtime Rate	\$215.91	\$226.72	\$238.05	\$249.94	\$262.44
Removal – 3 - member Plus aerial tower, dump truck, chipper, saws, all equipment, traffic control devices, etc	\$222.81	\$233.96	\$245.66	\$257.93	\$270.83
Removal – 3 - member Overtime Rate	\$310.07	\$325.58	\$341.86	\$358.94	\$376.89
Removal – 4 - member Plus aerial tower, dump truck, chipper, saws, all equipment, traffic control devices, etc	\$276.38	\$290.21	\$304.72	\$319.94	\$335.94
Removal – 4 - member Overtime Rate	\$363.64	\$381.83	\$400.92	\$420.95	\$442.00
Removal – 5 - member Plus aerial tower, dump truck, chipper, saws, arrow board, all equipment, traffic control devices, etc	\$329.95	\$346.46	\$363.78	\$381.95	\$401.05
Removal – 5 - member Overtime Rate	\$417.21	\$438.08	\$459.98	\$482.96	\$507.11

<b>Time and Material Crew</b>	<b>2023-2024 Hourly Rate</b>	<b>2024-2025 Hourly Rate</b>	<b>2025-2026 Hourly Rate</b>	<b>2026-2027 Hourly Rate (if extended)</b>	<b>2027-2028 Hourly Rate (if extended)</b>
Stump Removal w/ restoration– 3 – member Plus dump truck, stump chipper, equipment, traffic control devices, etc	\$274.56	\$288.29	\$302.71	\$317.83	\$333.73
Stump Removal – 3 – member Overtime Rate	\$361.82	\$379.91	\$398.91	\$418.84	\$439.79
Stump Removal w/o restoration – 2 – member Plus dump truck, all equipment, traffic control devices, etc	\$220.99	\$232.04	\$243.65	\$255.82	\$268.62
Stump Removal w/o restoration – 2 – member Overtime Rate	\$281.46	\$295.54	\$310.32	\$325.82	\$342.12
Saw Crane Removal crew – 2 - member Plus saw crane, dump truck, chipper, boxer, all equipment, traffic control devices, etc	\$465.75	\$465.75	\$465.75	\$465.75	\$465.75
Saw Crane Removal crew – 2 - member Overtime Rate	\$580	\$580	\$580	\$580	\$580
Residential Brush Pickup – 2 - member Plus dump truck, chipper, saws, all equipment, traffic control devices, etc	\$146.24	\$153.56	\$161.24	\$169.29	\$177.76
Residential Brush Pickup – 2 - member Overtime Rate	\$206.71	\$217.06	\$227.91	\$239.29	\$251.26

<b>Additional Personnel</b> Rate for each additional person Foreman, Trimmer, Ground Man, etc.	2023-2024 Hourly Rate	2024-2025 Hourly Rate	2025-2026 Hourly Rate	2026-2027 Hourly Rate (if extended)	2027-2028 Hourly Rate (if extended)
Certified Arborist	\$75	\$78.75	\$82.69	\$82.69	\$82.69
Overtime rate	\$112.50	\$118.13	\$124.04	\$124.04	\$124.04
Foreman	\$67.37	\$70.74	\$74.28	\$77.99	\$81.89
Overtime rate	\$101.06	\$106.11	\$111.42	\$116.99	\$122.84
Ground Man	\$53.57	\$56.25	\$59.06	\$62.01	\$65.11
Overtime rate	\$80.36	\$84.38	\$88.59	\$93.02	\$97.67
Plant Health Care Professional	\$67.37	\$70.74	\$74.28	\$77.99	\$81.89
Overtime Rate	\$101.06	\$106.11	\$111.42	\$116.99	\$122.84
Watering Man	\$67.37	\$70.74	\$74.28	\$77.99	\$81.89
Other: Certified Arborist in Training	\$65	\$68.25	\$71.66	\$71.66	\$71.66
Overtime rate	\$97.50	\$102.38	\$107.49	\$107.49	\$107.49

<b>Additional Equipment Rate for each additional piece of equipment</b>	<b>2023-2024 Hourly Rate</b>	<b>2024-2025 Hourly Rate</b>	<b>2025-2026 Hourly Rate</b>	<b>2026-2027 Hourly Rate (if extended)</b>	<b>2027-2028 Hourly Rate (if extended)</b>
Aerial Tower	\$23.00	\$24.15	\$25.36	\$26.63	\$27.96
Brush Chipper	\$11.50	\$12.08	\$12.68	\$13.31	\$13.98
Dump Truck	\$13.80	\$14.49	\$15.22	\$15.98	\$16.78
Logging Truck W / Lift	\$67.85	\$71.24	\$74.80	\$78.54	\$82.47
Saw Crane (*with Foreman)	\$353.05	\$353.05	\$353.05	\$353.05	\$353.05
Stump Chipper	\$64.40	\$67.62	\$71.00	\$74.55	\$78.28
Water Tanker	\$40.25	\$42.26	\$44.37	\$46.59	\$48.92
Loader	\$8.05	\$8.45	\$8.87	\$9.31	\$9.78
Truck Lift (75ft)	\$20.70	\$21.74	\$22.83	\$23.97	\$25.17
Arrow Board	\$6.90	\$7.25	\$7.61	\$7.99	\$8.39
Pick- up Truck	\$11.50	\$12.08	\$12.68	\$13.31	\$13.98



**ATTACHMENT D – IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM  
For “Forestry Services Contract 2023-2026 – Birmingham, MI”**

---

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.

Meghan Olsen	06/07/2023
<b>PREPARED BY (Print Name)</b>	<b>DATE</b>
Controller	06/07/2023
<b>TITLE</b>	<b>DATE</b>
	jharturbanforestry@gmail.com
<b>AUTHORIZED SIGNATURE</b>	<b>E-MAIL ADDRESS</b>
J.H. Hart Company, Inc dba J.H. Hart Urban Forestry	
<b>COMPANY</b>	
6600 Product Drive, Sterling Heights, MI 48312	(586) 795-5581
<b>ADDRESS</b>	<b>PHONE</b>
n/a	n/a
<b>NAME OF PARENT COMPANY</b>	<b>PHONE</b>
n/a	
<b>ADDRESS</b>	
38-2802253	
<b>TAXPAYER I.D.#</b>	

## **EQUIPMENT**

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J H HART DESCRIPTION	DESCRIPTION
TOWER 21	2012 FREIGHTLINER
TOWER 22	2012 FREIGHTLINER
TOWER 27	2014 FREIGHTLINER
TOWER 28	2015 FORD F750 ALTEC LR7-60E70
TOWER 29	2019 FREIGHLINER
TOWER 30	2020 INTERNATIONAL
TOWER 31	2021 INTERNATIONAL
TOWER 32	2021 INTERNATIONAL
TOWER 33	2023 INTERNATIONAL
TOWER 34	2023 INTERNATIONAL
DUMP 02	2003 INTERNATIONAL
DUMP 20	2008 FORD F-450
DUMP 21	2008 FORD F-450
DUMP 22	2011 FORD F-750
DUMP 23	2011 FORD F-750
DUMP 24	2013 FORD F-750
DUMP 25	2013 FORD F-750
DUMP 26	2016 FORD F-750
DUMP 27	2016 FORD F-750
DUMP 28	2005 FREIGHTLINER M-2 DUMP TRUCK
TRUCK 01	1989 PETERBILT
TRUCK 2	2000 PETERBILT (2 - MEGHAN)
TRUCK 1	2000 PETERBILT (1-ASHLEY)
TRUCK 2	2022 KENWORTH T8000 (2-BEN)
TRUCK 3	2022 KENWORTH T8000 (3-WHITTAKER)
TRUCK 06	1985 CHEVY ME-6500 (KK)
TRUCK 04	1995 WHGM CONVENTIONAL
TRUCK 01	1997 KENWORTH TRACTOR
TRUCK 03	1994 INTERNATIONAL 8100
TRAILER 05	1992 DORSEY TRAILER
TRAILER 5	2012 UTILITY OPEN TRAILER
TRAILER 2	2013 UTILITY OPEN TRAILER
JOHN	2014 ATLAS CAROG TRAILER
TITAN TRAILER 3	2014 TITAN THINWALL TRAILER
TRAILER 8	2010 PJ 16FT - DUMP TRAILER
TITAN TRAILER 1	2008 TITAN THINWALL TRAILER
TITAN TRAILER 2	2008 TITAN THINWALL TRAILER
TITAN TRAILER 4	2023 TITAN THINWALL TRAILER
TRAILER 6	2010 ANGLE LANDSCAPE TRAILER
TRAILER 3	2015 24FT UTILITY TRAILER
TRAILER 4	2016 J&J LANDSCAPE TRAILER
LEGEND TRAILER	2017 LEGEND TRAILER
SURE-TRAC	2021 SURE-TRAC (WHITE ENCLOSED)
TRAILER 9	2021 SURE-TRAC
TRAILER 10	2022 SURE-TRAC
TRAILER 11	2022 SURE-TRAC
NEW LEGEND TRAILER	2023 NEW LEGEND TRAILMASTER TRAILER
GRAPPLE SAW	2020 KENWORTH T880
IPM TRUCK	2013 DODGE RAM 3500
IPM TRUCK	2014 DODGE RAM
IPM TRUCK (4)	2020 ALTEC
IPM TRUCK (5)	2020 ALTEC
MISC 22	2014 SILVERADO TRUCK
MISC 10	2008 FORD RANGER

MISC 25	2015 GMC SIERRA
MISC 29	2018 CHEVY COLORADO
MISC 30	2018 CHEVY COLORADO
MISC 02	1994 FORD F-350 - Maintenance
MISC 34	2019 Chevy Silverado
MISC 35	2014 Chevy Silverado
MISC 38	2023 Chevy 2500 HD Silverado
MISC 39	2024 Silverado High Country

J H HART DESCRIPTION	DESCRIPTION	YEAR OF MANUFACTURE
STUMP 02	VERMEER SC372	2011
STUMP 03	RAYCO RG110X	2013
STUMPER 02	RAYCO RG90	2006
STUMPER 04	RAYCO RG100X	2015
STUMPER 05	VERMEER SC852	2021
WHEEL LOADER	JOHN DEERE 544K	2009
WHEEL LOADER	JOHN DEERE 544K	2009
WHEEL LOADER	JOHN DEERE 544K	2017
TUB GRINDER	VERMEER 7000	2014
TUB GRINDER	VERMEER TG 7000	2007
MINI-LOADERS	VERMEER MODEL S925TX	2021
MINI-LOADERS	VERMEER MODEL S925TX	2020
MINI-LOADERS	VERMEER MODEL S925tx	2021
BOXER	BOXER, MODEL 525DX	2016
CHIPPER	BANDIT 250 XP	2010
CHIPPER	BANDIT 250 XP	2010
CHIPPER	BANDIT 250 XP	2012
CHIPPER	BANDIT 250 XP	2012
CHIPPER	MORBARK BEEVER M15RX	2013
CHIPPER	MORBARK BEEVER M15RX	2013
CHIPPER	MORBARK BEEVER M15RX	2013
CHIPPER	MORBARK BEEVER M15RX	2014
CHIPPER	MORBARK BEEVER M15RX	2015
CHIPPER	BANDIT 250 XP	2017
CHIPPER	BANDIT 250 XP	2018
CHIPPER	BANDIT 250	2019
CHIPPER	BANDIT 250 XP	2020
CHIPPER	VERMEER AZ19	2019
TRACK LIFT	TRACK AERIAL LIFT	2016
TRACK LIFT	EASY LIFT 101-48AJ	2022

**OUR STAFF**

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#	Name	Years @ JHHart	Roles	Certifications	Additional Notable Experience
1	Dan Adragna	24	Foreman	CDL-B, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
2	Jeff Allen	29	Foreman	CDL-B, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
3	Josh Allen	7	Groundman	E-Hap/Aerial Rescue Trained	
4	Jeff Beeckman	7	Foreman	CDL-A, Certified Arborist, TRAQ Certified, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	Climber, Log Truck Operator
5	Kyle Beeckman	1	Groundman	E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
6	Jim Bommer	2	Salesman, PHC Manager	Certified Arborist, Pesticide Applicator Certified, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained, CDL-A Permit	Ability to fill in both as groundman and PHC applicator
7	Mike Bourgeois	25	Yard Foreman	CDL-A, CPR/First-Aid Trained	Log Truck Operator
8	Jim Brockmiller	13	Groundman, Mulch Driver, Yard Assistant	CDL-A, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
9	Mike Compinski	6	Foreman	CDL-B, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
10	John Cypoth	13	Foreman	CDL-A, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
11	Nick Daigler	1	Groundman	E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	Climber
12	Warren DeWitt	17	Salesman, Key Holder	CDL-A, Certified Arborist, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	Ability to fill in as both foreman and groundman
13	Zach Gill	3	Groundman	E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
14	Karen Grass	28	Dispatcher, Office Manager, Key Holder	Masters in JHHart Administration	
15	Sal Hansen	6	PHC Foreman, Groundman	CDL-B, Certified Arborist, Pesticide Applicator Certified, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
16	Casey Hardin	1	Groundman	Pesticide Applicator Certified, Certified Arborist in Training, E-Hap/Aerial Rescue Trained	
17	Brent Harrison	8	Groundman, Foreman	CDL-B, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
18	Zack Harrison	6	Groundman	CDL-B, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	Climber in training
19	Judd Hart	37	Owner, Mulch Driver	CDL-A, Retired fireman/Medic, Arborist	
20	Tyler Hart	13	Foreman, Field Operations Manager, Key Holder	CDL-A, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	Climber, Grapple Operator, Log Truck Operator
21	Matt Jabiro	8	Foreman	CDL-B, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
22	Larry Jennex	37	City Arborist, Safety Manager, Foreman	CDL-B, Certified Arborist, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	Previously was a certified pesticide applicator
23	Mitch Kaverman	3	Groundman, Yard Assistant	E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
24	Aaron Keyworth	29	Foreman	CDL-A, Certified Arborist, Certified Pesticide Applicator, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	Climber, Log Truck Operator
25	Chris Kustrzyk	4	Groundman, Foreman	CDL-A, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	Grapple operator assistant, Climber in training
26	Bill LaGassa	5	Mulch Driver, Yard Assistant, Groundman, Key Holder	CDL-A, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	Log Truck Operator
27	Chris Luckey	2	Groundman	CDL-A, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
28	Chris Lukanowski	3	Groundman	CDL-A Permit, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
29	Meghan Olsen	6	Controller, General Manager, Key Holder	BA in Business Management from DePaul University	
30	Priessorn	5	Groundman	E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
31	Liz Raschke	19	Office Manager, Assistant to Owner and PHC Manager, Key Holder	BA in Criminal Justice from Michigan State University and MBA from Wayne State University	

32	Ryan Raschke	18	Mulch Driver, Yard Assistant, Foreman, Key Holder	CDL-A, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	Log Truck Operator
33	Matt Schipono	23	Foreman	CDL-A, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
34	Aaron Shar	2	Safety Manager, City Arborist in Training, Groundman	CDL-A, Certified Arborist, TRAQ Certified, Certified Pesticide Applicator, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
35	Joe Shiller	1	Groundman	CDL-A	
36	Bob Stempnik	7	Foreman	CDL-A, Certified Arborist, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	Climber
37	Brian Sullivan	2	Groundman	E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
38	Jason Uhlig	6	Small Engine Mechanic	CPR/First-Aid Trained	
39	Will Wilcox	5	Foreman, Groundman	CDL-B, E-Hap/Aerial Rescue Trained, CPR/First-Aid Trained	
40	Owen Zysk	1	Groundman	E-Hap/Aerial Rescue Trained	Climber in training

After Hour Storm Damage Contacts			
Order of Contact	Name	Title	Phone Number
1	Tyler Hart	Foreman/Field Operations Manager	(586) 348-2233
2	Karen Grass	Dispatcher/ Office Manager/Key Holder	(248) 866-1634
3	Bill LaGassa	Foreman/Key Holder	(586) 713-4107
4	Meghan Olsen	Controller/General Manager	(248) 721-2730
5	Judd Hart	Owner	(248) 755-1793
6	Liz Raschke	Office Manager/Key Holder	(248) 701-0978
7	Ryan Raschke	Foreman/Key Holder	(586) 876-3575



## Municipal References

1. City: City of Troy  
Address: 4693 Rochester Road, Troy, MI 48085  
Phone: (248) 524-3392  
Contact: Kurt Bovensiep  
E-mail : [k.bovensiep@troymi.gov](mailto:k.bovensiep@troymi.gov)

2. City: City of Royal Oak  
Address: 1600 N. Campbell Road, Royal Oak, MI 48067  
Phone: (248) 246-3300  
Contact: Aaron Filipski  
E-mail: [aaronf@romi.gov](mailto:aaronf@romi.gov)

3. City: City of Berkley  
Address: 3238 Bacon, Berkley, MI 48072  
Phone: Shawn Young  
Contact: (248) 658-3499  
E-mail: [syoung@berkleymich.net](mailto:syoung@berkleymich.net)

**ATTACHMENT B - BIDDER'S AGREEMENT**  
**For "Forestry Services Contract 2023-2026 – Birmingham, MI"**


---

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.

John Huizenga 6-6-23  
**BID PREPARED BY** **DATE**  
(Print Name)

Supervisor 1 6-10-23  
**TITLE** **DATE**

 john@we-chop.com  
**AUTHORIZED SIGNATURE** **EMAIL ADDRESS**

Chop  
**COMPANY**

1505 Steele Ave SW 616 5839821  
**ADDRESS** Grand Rapids, MI 49507 **PHONE**

**NAME OF PARENT COMPANY** **PHONE**

**ADDRESS**

## **ATTACHMENT C - COST PROPOSAL**

### **For "Forestry Services Contract 2023-2026 - Birmingham, MI"**

**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 a lump sum, as follows:**

***Attach technical specifications for all proposed materials as outlined in the Contractor's Responsibilities section of the RFP***

#### **Contract Price:**

The final project cost on the bid form should be determined by multiplying the number, or fraction thereof, units of work actually performed, labor, or material, by the price designated for such items in the proposal.

Anticipated needs (based on averages, subject to change):

- (1) 3-man removal crew – 5 days a week
- (2) 2-man trim crew – 5 days a week
- (3) 2-man brush crew W-F (from April through mid-December)
- (4) 3-man stump removal crew as required (1 day a week on average)
- (5) 2-man saw crane removal crew as required (3 days a month on average)
- (6) Plant health care as requested based on required services (10 days a year on average, priced based on additional proposals based on varying needs)

Time and Material Crew	2023-2024 Hourly Rate	2024-2025 Hourly Rate	2025-2026 Hourly Rate	2026-2027 Hourly Rate (if extended)	2027-2028 Hourly Rate (if extended)
Trim – 2 - member Plus aerial tower, chipper, saws, all equipment, traffic control devices, etc	\$145.00	\$150.00	\$155.00	\$160.00	\$165.00
Trim – 2 - member Overtime Rate	\$185.00	\$191.00	\$197.00	\$203.00	\$210.00
Removal – 3 - member Plus aerial tower, dump truck, chipper, saws, all equipment, traffic control devices, etc	\$254.00	\$262.00	\$270.00	\$279.00	\$288.00
Removal – 3 - member Overtime Rate	\$310.00	\$320.00	\$330.00	\$340.00	\$350.00
Removal – 4 - member Plus aerial tower, dump truck, chipper, saws, all equipment, traffic control devices, etc	\$301.00	\$310.00	\$320.00	\$330.00	\$340.00
Removal – 4 - member Overtime Rate	\$376.00	\$388.00	\$399.00	\$411.00	\$425.00
Removal – 5 - member Plus aerial tower, dump truck, chipper, saws, arrow board, all equipment, traffic control devices, etc	\$357.00	\$368.00	\$379.00	\$390.00	\$402.00
Removal – 5 - member Overtime Rate	\$450.00	\$464.00	\$478.00	\$493.00	\$507.00

Time and Material Crew	2023-2024 Hourly Rate	2024-2025 Hourly Rate	2025-2026 Hourly Rate	2026-2027 Hourly Rate (if extended)	2027-2028 Hourly Rate (if extended)
Stump Removal w/ restoration- 3 - member Plus dump truck, stump chipper, equipment, traffic control devices, etc	\$200.00	\$206.00	\$212.00	\$219.00	\$227.00
Stump Removal - 3 - member Overtime Rate	\$250.00	\$258.00	\$266.00	\$274.00	\$283.00
Stump Removal w/o restoration - 2 - member Plus dump truck, all equipment, traffic control devices, etc	\$145.00	\$150.00	\$155.00	\$160.00	\$165.00
Stump Removal w/o restoration - 2 - member Overtime Rate	\$190.00	\$196.00	\$202.00	\$209.00	\$218.00
Saw Crane Removal crew - 2 - member Plus saw crane, dump truck, chipper, boxer, all equipment, traffic control devices, etc	\$300.00	\$309.00	\$318.00	\$328.00	\$338.00
Saw Crane Removal crew - 2 - member Overtime Rate	\$500.00	\$515.00	\$530.00	\$546.00	\$562.00
Residential Brush Pickup - 2 - member Plus dump truck, chipper, saws, all equipment, traffic control devices, etc	\$135.00	\$139.00	\$144.00	\$149.00	\$155.00
Residential Brush Pickup - 2 - member Overtime Rate	\$170.00	\$175.00	\$181.00	\$187.00	\$203.00

<b>Additional Personnel</b> Rate for each additional person Foreman, Trimmer, Ground Man, etc.	2023-2024 Hourly Rate	2024-2025 Hourly Rate	2025-2026 Hourly Rate	2026-2027 Hourly Rate (if extended)	2027-2028 Hourly Rate (if extended)
Certified Arborist	\$60.00	\$62.00	\$65.00	\$68.00	\$72.00
Overtime rate	\$88.00	\$91.00	\$94.00	\$98.00	\$101.00
Foreman	\$55.00	\$57.00	\$59.00	\$61.00	\$64.00
Overtime rate	\$75.00	\$79.00	\$83.00	\$88.00	\$92.00
Ground Man	\$43.00	\$45.00	\$47.00	\$49.00	\$52.00
Overtime rate	\$59.00	\$62.00	\$65.00	\$68.00	\$71.00
Plant Health Care Professional	\$58.00	\$60.00	\$62.00	\$64.00	\$68.00
Overtime Rate	\$80.00	\$84.00	\$87.00	\$91.00	\$94.00
Watering Man	\$43.00	\$45.00	\$47.00	\$49.00	\$52.00
Other:					
Overtime rate					

Additional Equipment Rate for each additional piece of equipment	2023-2024 Hourly Rate	2024-2025 Hourly Rate	2025-2026 Hourly Rate	2026-2027 Hourly Rate (if extended)	2027-2028 Hourly Rate (if extended)
Aerial Tower	\$35.00	\$37.50	\$40.00	\$42.50	\$45.00
Brush Chipper	\$10.00	\$11.00	\$12.00	\$14.00	\$16.00
Dump Truck	\$20.00	\$22.00	\$25.00	\$27.00	\$30.00
Logging Truck W / Lift	\$40.00	\$42.50	\$45.00	\$47.50	\$50.00
Saw Crane	\$250.00	\$258.00	\$266.00	\$274.00	\$282.00
Stump Chipper	\$35.00	\$36.00	\$37.00	\$38.00	\$40.00
Water Tanker	\$20.00	\$22.00	\$24.00	\$26.00	\$28.00
Loader	\$70.00	\$75.00	\$80.00	\$85.00	\$90.00
Truck Lift (75ft)	\$40.00	\$42.00	\$45.00	\$47.00	\$50.00
Arrow Board	\$10.00	\$11.00	\$12.00	\$13.00	\$14.00
Pick- up Truck	\$15.00	\$17.00	\$19.00	\$21.00	\$23.00

**ATTACHMENT D – IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM**  
**For “Forestry Services Contract 2023-2026 – Birmingham, MI”**

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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.

<i>Jay Gorman</i>	<i>6-6-23</i>
<b>PREPARED BY</b> (Print Name)	<b>DATE</b>
<i>Office Manager</i>	<i>6-6-23</i>
<b>TITLE</b>	<b>DATE</b>
<i>Jay Gorman</i>	<i>info@we-chap.com</i>
<b>AUTHORIZED SIGNATURE</b>	<b>E-MAIL ADDRESS</b>
<i>Chap</i>	
<b>COMPANY</b>	
<i>1505 Steele Ave SW Grand Rapids, MI 49507</i>	<i>616 583-9821</i>
<b>ADDRESS</b>	<b>PHONE</b>
<b>NAME OF PARENT COMPANY</b>	<b>PHONE</b>
<b>ADDRESS</b>	
<i>26-1719593</i>	
<b>TAXPAYER I.D.#</b>	



# CHOP

## Estimators/Managers/

### Supervisors/GFs:

**Elvis Peacock Sr/Estimator**-35+ years of experience  
MI Chauffeur Driver's License  
CHOP Equipment and Training Programs

### **Nate Gibson/GF**

30+ years experience  
MI Dept. of Agriculture Pesticide Certification  
CHOP's Equipment and Training Programs

### **Ben Euwema/PM** - 10+ years of experience

ISA Certified Arborist MI-4283A  
MI Commercial Driver's License  
Red Cross - First Aid and CPR Certification  
MI Dept. of Agriculture Pesticide Certification  
Line Clearance Certified  
CHOP's Equipment and Training Programs

### **Elvis Peacock Jr/Supervisor** - 7 years of experience

MI Chauffeur Driver's License  
CHOP Equipment and Training Programs

### **Jason Peacock/GF** - 1 year experience

MI Chauffeurs Driver's License  
CHOP's Equipment and Training Programs

### **Thomas Stockwell/GF** - 5 years of experience

MI Commercial Driver's License  
CHOP's Equipment and Training Programs

### **Kenneth Beeson/GF** - 3 years of experience

MI Commercial Driver's License  
First Aid and CPR Certification  
CHOP's Equipment and Training Programs

### **Zach Bakhuyzen/Supervisor** - 2 year experience

CHOP's Equipment and Training Programs

### **Gerardo Moreno**- 10+ years of experience

Line Clearance Certified  
Red Cross- First Aid and CPR Certification  
CHOP's Equipment and Training Programs

## Crew Leaders:

### **Mike Lodes** - 10 years of experience

ISA Certified Arborist MI-4547A  
MI Commercial Driver's License  
Red Cross- First Aid and CPR Certification  
Line Clearance Certified  
CHOP's Equipment and Training Programs

### **Jeff McDonald** - 7 years of experience

MI Commercial Driver's License  
Red Cross- First Aid and CPR certification  
Line Clearance Certified  
CHOP's Equipment and Training Programs

### **Dexter Hayes** - 10 years of experience

MI Commercial Driver's License  
Red Cross- First Aid and CPR Certification  
Line Clearance Certified  
CHOP's Equipment and Training Programs

## Crew Members:

**Joseph Keeler** - 5 years of experience  
MI Commercial Driver's License

**Domenic Putansu** - 5 years of experience  
MI Chauffeurs Driver's License  
CHOP's Equipment and Training Programs

**Calvin Moffett** - 4 years experience  
CHOP's Equipment and Training Programs

**Ben Dodge** - 3 years of experience  
MI Commercial Driver's License  
CHOP's Equipment and Training Programs

**Hans Ott** - 2 years of experience  
MI Chauffeur Driver's License  
CHOP's Equipment and Training Programs

**James Leonard** - 2 years of experience  
MI Chauffeurs Driver's License  
CHOP's Equipment and Training Programs

**Eric Colmus** - 1 year experience  
MI Commercial Driver's License  
CHOP's Equipment and Training Programs

**Andy Fouts** - 1 year experience  
MI Commercial Driver's License  
CHOP's Equipment and Training Programs

**Manuel Garces** - 1 year experience  
MI Chauffeur Driver's License  
CHOP's Equipment and Training Programs

**Vincent Keeler** - 1 year experience  
MI Chauffeurs Driver's License  
CHOP's Equipment and Training Programs

**Josh Allen** - 1 year experience  
CHOP's Equipment and Training Programs

**Ben Pitts** - 1 year experience  
CHOP's Equipment and Training Programs

**Mark Obenour** - 1 year experience  
CHOP's Equipment and Training Programs

**Anthony Near** - 1 year experience  
CHOP's Equipment and Training Programs

**Austin Kanine** - 1 year experience  
CHOP's Equipment and Training Programs

## Mechanics:

**Tony Catania** - 20 years experience  
CHOP's Equipment and Training Programs

**Eric Belanger** - 7 years experience  
CHOP's Equipment and Training Programs

**James Roberts** - 6 years experience  
CHOP's Equipment and Training Programs

**Dean Lexson** - 1 year experience  
CHOP's Equipment and Training Programs

# CHOP

Equipment	Typical Use	Make/Model Manufacturer	Approximate Age of Equipment & Owned or Rented
Feller Buncher	Land & Lot	Tigercat	Own
Loader	Haul logs	Fiat Allis	1994 own
Loader	Haul logs	Kawasaki	1994 own
Loader	Haul logs	Volvo L90	1985 own
Bucket truck	Aerial work platform	GMC/Lift-all	1994 own
Bucket truck	Aerial work platform	Freightliner	2021 own
Bucket truck	Aerial work platform	Freightliner	2021 own
Bucket truck	Aerial work platform	International/ Hi- Ranger	2006 own
Bucket truck	Aerial work platform	International	2013 own
Bucket truck	Aerial work platform	Freightliner	2018 own
Chip truck	Collecting/hauling chips	International/ South Co	2001 own
Chip truck	Collecting/hauling chips	Dodge Ram/South Co	2016 own
Chip truck	Collecting/hauling chips	Freightliner	2006 own
Chip truck	Collecting/hauling chips	Ford	2015 own
Chip truck	Collecting/hauling chips	Ford	2015 own
Chip/Log truck	Collecting/hauling chips Hauling logs	International	2016 own
Log truck	Hauling logs	Freightliner	2007 own
Log truck	Hauling logs	International	2003 own
Log truck	Hauling logs	Freightliner	2002 own
Log truck	Hauling logs	Sterling LT9500 Grapple	2007 own
Dump truck	Hauling logs/ chips	International - switch and go	2017 own
Dump truck	Hauling logs/ chips	International - switch and go	2018 own
Dump truck	Hauling logs/ chips	Chevrolet	2005 own
Pick-up trucks, several	Transport	Chevrolet, Ford, GMC, Dodge	2009-19 own
Skid steer loader	Loading logs	John Deere	2008 own
Skid steer loader	Loading logs	Bobcat s250	2011 own
Skid steer loader	Loading logs	Bobcat 725	2013 own
Skid steer loader	Loading logs	John Deere	2017 own
Skid steer loader	Loading logs	John Deere track	2017 own
Skid steer loader	Loading logs	Viring Forestry Mower	own
Skid steer loader	Loading logs	Multi-tek Grapple	own
Skid steer loader	Loading logs	Multi-tek Grapple	own
Chipper	Chip brush	Morbark model 15	1995 own
Chipper	Chip brush	Vermeer 1800XL	2005 own
Chipper	Chip brush	Vermeer 1800XL	2012 own
Chipper	Chip brush	Vermeer 1800	2013 own
Chipper	Chip brush	Bandit 1890XP	2014 own
Chipper	Chip brush	Vermeer Ax19	2019 own
Chipper	Chip brush	Morbark 2230 Eeger Beaver	2019 own
Chipper	Chip brush	Morbark 1621 Eeger Beaver	2020 own
Chipper	Chip brush	Morbark 1621 Eeger Beaver	2020 own
Stump Grinder	Land & Lot	Rayco	2002 own
Stump Grinder	Grinding stumps	Vermeer sc1102	2008 own
Stump Grinder	Grinding stumps	Vermeer Portable	2014 own
Stump Grinder	Grinding stumps	Rayco	2017 own
Stump Grinder	Grinding stumps	Vermeer AX19	2019 own
Stump Grinder	Grinding stumps	Morbark Eeger Beaver	2019 own



MDOT Prequalification # 06505

### REFERENCE LIST

Aero Communications 2012 – Present (Merged with Kanaan Communications in 2018)

40665 Koppernick Rd Canton, MI 48187

Dave Rickert Ph (740)225-0755 [david.rickert@kanaancomm.com](mailto:david.rickert@kanaancomm.com)

Respond to normal trim requests and emergency tree related issues across southwest Michigan, requiring contact and coordination with property owners for backyard easement work.

City of Ecorse 2021 – Present

3869 W Jefferson Ave Ecorse, MI 48229

Timothy Sadowski Ph (313)294-3740 [finance@ecorsemi.gov](mailto:finance@ecorsemi.gov)

Tree Trimming, Tree Removal, Stump Removal and Brush Clearing contract

City of Wyoming 2009 – Present

1155 28<sup>th</sup> St SW Wyoming, MI 49509

Joe Wahlfield Ph (616)890-0581 [wahlfieldj@wyomingmi.gov](mailto:wahlfieldj@wyomingmi.gov)

Tree Trimming and Removal contract. Respond to normal trim and removal requests as well as emergency tree related issues.

City of Dearborn 2022 – Present

16901 Michigan Ave Ste 2 Dearborn, MI 48126

Scott Racer Ph (313)943-2375 [sracer@dearborn.gov](mailto:sracer@dearborn.gov)

Tree Removal and Tree Trimming contracts

City of Rochester Hills 2022 – Present

1000 Rochester Hills Dr Rochester Hills, MI 48309

Gerry Pink Ph (248)656-4685 [pinkg@rochesterhills.org](mailto:pinkg@rochesterhills.org)

Tree Maintenance contract

We have also worked as a subcontractor on several gas and electric utility maintenance contracts.

Attachment #4  
J.H. Hart Agreement & Insurance

# **ATTACHMENT A – AGREEMENT**

## **AGREEMENT OF “Forestry Services Contract 2023-2026 - Birmingham MI”**

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**THIS AGREEMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the **CITY OF BIRMINGHAM**, whose address is 151 Martin Street, Birmingham, MI 48009 (hereinafter referred to as the City) and J.H. Hart Company, Inc. name of party) a Michigan Corporation (Corporation, P.C., LLC, etc.), whose address is 6600 Product Drive, Sterling Heights, MI 48067, (hereafter referred to as Contractor and the foregoing shall collectively be referred to as the parties.

**WHEREAS**, the City, through its Department of Public Services, desires to have the urban forest maintained along the City’s right-of-ways, parks and other public properties including trimming, removal and planting operations; and

**WHEREAS**, the City, through its Department of Public Services, desires to have the residential brush picked up and chipped along the City’s right-of-ways, parks and other public properties; and

**WHEREAS** the City, through its Department of Public Services, desires to have trees, shrubs and other vegetation for certain private lots that are determined by the Department of Public Services to be in violation of the City’s vegetation ordinances trimmed and/or removed; and,

**WHEREAS** the City, through its Department of Public Services, desires to have performed on its behalf and in connection therewith, has prepared a request for sealed proposals (RFP) endorsed “Forestry Services Contract 2023-2026 – Birmingham, MI” which includes certain instructions to bidders and specifications, and, in connection therewith, has advertised for and sought sealed proposals endorsed " Forestry Services Contract 2023-2026 – Birmingham, MI," which includes certain qualifications, instructions to bidders, specifications, and General Contract Conditions (collectively the "RFP"); and,

**WHEREAS**, the Contractor has made a bid ("Bid") to provide tree care services including trimming, removal, residential brush pickup, and certified arborist services in accordance with the RFP, in the amount set forth in its bid form, and which bid has been accepted by the City.

**NOW, THEREFORE**, for and 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 documents consisting of the Request of Proposal for “Forestry Services Contract 2023-2026 – Birmingham, MI” and the Contractor’s cost proposal dated June 7, 2023, 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"). If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. **TERM:** This Agreement shall have a term of three (3) years from July 1, 2023 through June 30, 2026. The City shall have the right to unilaterally terminate this Agreement on thirty (30) days written notice. In the event of termination, the Contractor shall receive compensation for services to the date the termination takes effect. At the City's sole discretion, a 2-year extension through June 30, 2028 may be requested with City Commission approval.

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. **PERSONNEL:** 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 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 Contractor 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) 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. 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.

I. Professional Liability: If applicable, professional liability insurance with limits of not less than \$2,000,000 per claim if Contractor will provide services that are customarily subject to this type of coverage.

II. Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than \$1,000,000, per occurrence preferred, but claims made accepted.

III. 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.

E. 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.

F. 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: Scott Zielinski

Contractor:  
J.H. Hart Company, Inc.  
6600 Product Drive  
Sterling Heights, MI 48312  
Attn: Judd Hart

- 13. COVID:** The Contractor shall follow all of the City's COVID-19 safety protocols while on City property. Additionally, Contractor 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 Contractor staff. Failure to provide proof of vaccination when requested will cause the City to request unvaccinated personnel to leave, request alternate staff, and if the Contractor is unable to comply, this violation of safety protocols will constitute a breach of contract by the Contractor.
- 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 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.

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 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.
18. **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.
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 48<sup>th</sup> 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 PROPOSALS:** The Contractor shall be held to and bound by all terms, conditions, warranties and representations which it made in its written response dated June 7, 2023, to the City's Request for Proposals dated May 18, 2023 (attached hereto as Attachment "A"). In the event of a conflict in any of the terms of this Agreement and the Contractor's June 7, 2023 (date of response) response, the terms of this Agreement shall prevail.
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.

**IN WITNESS WHEREOF**, the parties hereto agree to be bound by the above terms and conditions, and Contractor, 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: *Judd A. Hart*  
Its: *President / CEO*

STATE OF MICHIGAN    )  
  ) ss:  
COUNTY OF OAKLAND    )

On this 16<sup>th</sup> day of June, 2023, before me personally appeared Judd Hart, who acknowledged that with authority on behalf of J.H. Hart P.C. Inc to do so he/she signed this Agreement.

*Karen Lynn Grass*  
Notary Public  
Macomb County, Michigan  
Acting in Macomb County, Michigan  
My commission expires: 10/30/2028

KAREN LYNN GRASS  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF MACOMB  
My Commission Expires October 30, 2028


**CITY OF BIRMINGHAM:**

By: \_\_\_\_\_  
Therese Longe, Mayor

By: \_\_\_\_\_  
Alexandria D. Bingham, City Clerk

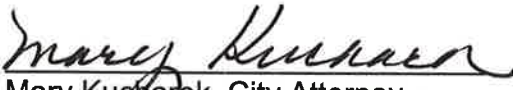
**APPROVED:**

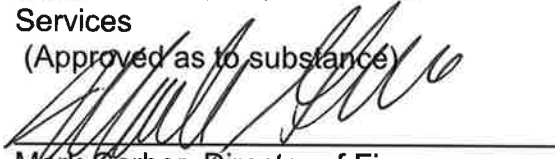
*Jana Ecker*

 *acting*  
\_\_\_\_\_  
Thomas M. Markus, City Manager  
(Approved as to substance)



\_\_\_\_\_  
Scott Zielinski, PE, Director of Public  
Services  
(Approved as to substance)

  
\_\_\_\_\_  
Mary Kucharek, City Attorney  
(Approved as to form)

  
\_\_\_\_\_  
Mark Gerber, Director of Finance  
(Approved as to financial obligation)



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/16/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> License # 958967 <b>Johnston Lewis Associates, Inc.</b> 5600 New King, Ste. 210 Troy, MI 48098	<b>CONTACT NAME:</b> Melissa VanHollebeke <b>PHONE (A/C, No, Ext):</b> _____ <b>FAX (A/C, No):</b> _____ <b>E-MAIL ADDRESS:</b> melissav@jlains.com	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b>  <b>JH Hart Urban Forestry</b> <b>J H Hart Company Inc.</b> 6600 Product Dr. Sterling Heights, MI 48312	<b>INSURER A :</b> American International Group <b>NAIC #</b> 19410	
	<b>INSURER B :</b> Travelers Casualty Insurance Company of Americ <b>19046</b>	
	<b>INSURER C :</b>	
	<b>INSURER D :</b>	
	<b>INSURER E :</b>	
	<b>INSURER F :</b>	

**COVERAGES** **CERTIFICATE NUMBER:** **REVISION NUMBER:**

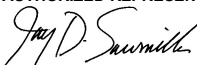
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE 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 type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: <b>15,000,000 Aggregate</b>			GL 5268297	6/1/2023	6/1/2024	EACH OCCURRENCE	\$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 4,000,000
							PRODUCTS - COMP/OP AGG	\$ 4,000,000
								\$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			CA 4489780	6/1/2023	6/1/2024	COMBINED SINGLE LIMIT (Ea accident)	\$ 2,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUP2S330719	6/1/2023	6/1/2024	EACH OCCURRENCE	\$ 2,000,000
							AGGREGATE	\$ 2,000,000
								\$
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A	WC 22298206	6/1/2023	6/1/2024	<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

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
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 Insured with respects to General Liability/Auto Liability when required by written contract.

### CERTIFICATE HOLDER

### CANCELLATION

City of Birmingham 151 Martin Street 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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Attachment #5  
Saw Crane







## MEMORANDUM

Department of Public Services

**DATE:** June 26, 2023  
**TO:** Jana Ecker, Acting City Manager  
**FROM:** Scott D. Zielinski, DPS Director  
**SUBJECT:** Purchase of Police, Engineering, and DPS Fleet Vehicles

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### INTRODUCTION:

The Department of Public Services recommends the purchase of three vehicles. One is a 2023 Explorer Utility Hybrid to be utilized by the Police Department, and two other Police Admin Package Ford Explorers, one to be utilized by the Engineering Department and one to be utilized by the Department of Public Services. All purchases are to be completed through MiDeals (MIDEAL 071B770181, Spec #3003-POL) and will be purchased from Gorno Ford, located at 22025 Allen Road, Woodhaven, MI 48183.

### BACKGROUND:

Police Vehicle #579 a 2018 Ford Explorer Interceptor has been identified as in need of replacement. The Department of Public Services reviews and scores factors including; age, hours of runtime/ miles of use, type of service, reliability, maintenance and repair costs, and the condition of the vehicle. The score of the vehicle determines the City's need to replace a vehicle, as seen in the table below.

Point Range	Rating	Replacement Recommendation
0-17	Excellent	Do Not Replace
18-22	Good	Re-evaluate for next year's budget
23-27	Satisfactory	Qualifies for replacement this year if budget allows
28+	Poor	Needs priority replacement

Based on the established criteria the following scores were assigned to Police Vehicle #579.

<b>FACTOR</b>	<b>DESCRIPTION</b>	<b>POINTS</b>
Age	1 point each year of age	5
Hours	1 point each 250 hrs of usage	104
Type of Service	Type 5 – Police, Fire, and Rescue services vehicles	5
Reliability	Level 3 – In shop more than twice within one month time period, no major breakdowns/road calls	3
Maintenance & Replacement Costs	Level 5 – Maintenance costs are greater than or equal to replacement cost	5
Condition	Level 3 – Noticeable imperfections in body and paint surface, minor rust, worn interior, weak drive train	3
<b>Total points 28+, poor, needs priority replacement</b>		<b>125</b>

In preparation for the replacement of Police Vehicle #579 the Police Department was provided a Hybrid Explorer to evaluate for use. The Department found the Hybrid to be suitable for use, and it is available for the City to purchase from Gorno Ford.

Additionally, through talks with Gorno Ford it has come to the Department of Public Service’s attention that Ford Corporate has canceled all general municipal sales on Explorers (associated with shortages) This included the cancelation of two Ford Explorers previously approved for purchase by the City Commission in October of 2022. The two regular explorers were intended for Engineering and DPS.

Gorno Ford assures us that they can complete purchase of two Explorers for the City if we purchase the Police Admin packages for the Explorers. This package type exceeds the technical needs of each department. But the purchase of the Police Admin packages would ensure that we are able to receive the vehicles this year as Ford continues to fill the emergency response vehicle sales. The revised purchase costs adds an additional \$15,382 per vehicle.

The Department of Public Services recommends purchase of all three Ford Explorers, (1) Hybrid and (2) Admin Packages, as due to chip shortages and other related shortages within the auto industry, it has become increasingly difficult to purchase vehicles.

**LEGAL REVIEW:**

This purchase has been reviewed and approved by the City Attorney. Final approval of the purchase would be pending completion of the signed agreement.

**FISCAL IMPACT:**

The cost for the purchase of the Hybrid Explorer is \$51,902.00, and each Admin package Explorer is an additional \$15,382 per Explorer then previously approved bringing the total cost per Explorer to \$47,243.00. The total cost to purchase all vehicles is \$146,388.00. Funds are available in the Auto Equipment Fund, account #661.0-441.006-971.0100. There are currently no EV models of this type available for purchase at this time. However, the new Hybrid Explorer will be the first Hybrid vehicle in the City’s fleet.

**PUBLIC COMMUNICATIONS:**

None.

**SUMMARY:**

DPS supports the Police Departments request for the purchase of a new vehicle and based on age and condition of vehicle #579, the Department of Public Services recommends the purchase of the 2023 Hybrid Explorer. Upon receipt of the new vehicle, vehicle #579 will be listed on the Michigan Inter-governmental Trade Network (MITN) for public auction. DPS also recommends the additional expenditure of \$15,382.00 to complete the purchase of the two Admin Police package Explorers for the Engineering Department and the DPS due to a lack of availability of previously contracted Explorers.

**ATTACHMENTS:**

- Unsigned Purchase Agreement of (Purchase of Trucks),
- Gorno Ford's Quote for pricing for 2023 Hybrid Explorer and Admin Package Explorer and spec sheets,

**SUGGESTED COMMISSION ACTION:**

Make a motion, pending the signed Purchase Agreement by Gorno Ford, adopting a resolution to approve the purchase of (1) 2023 Hybrid Explorer, and (2) Police Admin Package Explorers from Gorno Ford, located at 22025 Allen Rd, Woodhaven, MI 48183, through the State of Michigan MiDeal Contract # 071B7700181, MiDeal Spec # 3003-POL, in an amount not to exceed \$51,902.00 for the Police Hybrid Explorer, and \$47,243.00 Per Police Admin Package Explorer (total amount not to exceed \$146,388.00 for all three vehicle purchases combined). In addition, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City. Funds for this purchase are available in the FY 2022-2023 Auto Equipment Fund account #661.0-441.006.971.0100.

## **AGREEMENT OF Purchase of Three MiDeal Ford Explorers**

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**THIS AGREEMENT** is entered into this \_\_\_ day of \_\_\_\_\_, 2023, by and between the **CITY OF BIRMINGHAM**, whose address is 151 Martin Street, Birmingham, MI 48009 (hereinafter referred to as the City) and Gorno Ford, whose address is 22025 Allen Rd Westland, MI 48183, (hereafter referred to as Vendor) and the foregoing shall collectively be referred to as the parties.

**WHEREAS**, the City desires to purchase, pursuant to the government cooperative purchasing agreement under the State of Michigan MiDeal Contract # 071B7700181 MiDeal Spec # 3003-POL, for (1) 2023 Hybrid Ford Explorer and (2) 2023 Police Admin Package Ford Explorer's, as described in Attachments "A and B"; and

**WHEREAS**, Vender has qualifications that meet the project requirements and has provided a response and cost proposal to perform the sale of required Ford Explorers.

**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 Vendor's Quotation for the 2023 Ford Explorers, (1) Hybrid, and (2) Police Admin packages, which includes a description of the vehicle accessory packages and warranty, 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 Attachments "A and B"). The Vendor shall deliver (3) Explorers as described. The Hybrid has been previously delivered and inspected. The additional (2) Police Admin Explorers will be delivered to the DPS located at 851 S. Eton, Birmingham, MI, 48009 when available, where DPS staff with the City Garage will inspect, and receive them.

**2. TERM:** This is an outright purchase and shall have no term.

**3. TERMS OF PAYMENT:** The Vendor will invoice the City for the sale. 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.** Vendor shall employ personnel of good moral character and fitness in performing all services under this Agreement.

**5. CONFIDENTIAL AND OR PROPRIETARY INFORMATION:** While the City

acknowledges it is unlikely, the Vendor 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 Vendor recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Vendor agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Vendor 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 Vendor further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

**6. INDEPENDENT VENDOR:** The Vendor and the City agree that the Vendor is acting as an independent contractor with respect to the Vendor's role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither Vendor 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 Vendor 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 Vendor 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.

**7. COMPLIANCE WITH LAWS:** Vendor 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 Vendor is subject, Vendor 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.

**8. INDEMNIFICATION:** To the fullest extent permitted by law, Vendor and any entity or person for whom the Vendor 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 Vendor 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.

**9. 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: Scott Zielinski

Vendor:  
Gorno Ford  
22025 Allen Road,  
Woodhaven, MI 48183  
Attn: Jim Agney

**10. 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.

**11. 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.

**12. COMPLETE AGREEMENT:** The parties agree that the conditions set forth in this Agreement sets forth all terms and conditions of Vendor 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 Vendor 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.

**13. FAILURE TO PERFORM.** If Vendor 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.

**14. 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 48<sup>th</sup> 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.

**15. RESPONSE TO GOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT:** The Vendor shall be held to and bound by all terms, conditions, warranties and representations which it made in its written response dated April 10, 2023 to the City's Request for Quote (attached hereto as Attachment "A"). In the event of a conflict in any of the terms of this Agreement and the Vendor's response, the terms of this Agreement shall prevail.

**16. 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 Vendor, 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.

Gorno Ford

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: \_\_\_\_\_  
Therese Longe, Mayor

By: \_\_\_\_\_  
Alexandria D. Bingham, City Clerk

**APPROVED:**

\_\_\_\_\_  
Jana Ecker, Acting City Manager  
(Approved as to substance)

\_\_\_\_\_  
Scott D. Zielinski, Director of Public Services  
(Approved as to substance)

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

\_\_\_\_\_  
Mark A. Gerber, Finance Director  
(Approved as to Financial Obligation)

DATE: 6/2/23 **(2023MY Explorer P.I. Utility-Hybrid)**  
**(OSS) "First Come – First Serve"**

TO: Ofc. GINA MOODY, BIRMINGHAM P.D.  
248-530-1772 (DIRECT) (CELL) ?????????? [gmoody@bhamgov.org](mailto:gmoody@bhamgov.org)  
SCOTT ZIELINSKI, CITY OF BIRMINGHAM  
248-530-1702 (DIRECT) (CELL) ?????????? [szielinski@bhamgov.org](mailto:szielinski@bhamgov.org)

FROM: JIM AGNEY, GORNO FORD, GOVERNMENT & FLEET SALES  
734-671-4033 (DIRECT) [jagney@gornoford.com](mailto:jagney@gornoford.com)

RE: MIDEAL 071B7700181 #3003-POL **2023MY P.I. UTILITY,**  
**STERLING GRAY/BLACK CLOTH** Buckets – VINYL Rear bench, **3.3L V6 Hybrid /10 Spd.** 4WD,  
DISC BRKS.w/ABS (H.D.ROTORS/CALIPERS), ELEC. PWR. ASSIST STEERING, H.D. (POLICE  
CALIBRATED) 10 Spd. AT, H.D. ALT./BATT., H.D. RADIATOR/TRANS. OIL COOLER/ENGINE-  
OIL COOLER, ENGINE HOUR METER, TPMS, COLUMN SHIFT, TILT/CRUISE,  
PWR. ADJUSTABLE PEDALS, PWR. DRIVER SEAT, 19 gal. TANK, **CLOTH FRONT –**  
**SEATSw/INTRUSION PLATES/VINYL REAR,** 3.73 AXLE RATIO, ADVANCE TRACw/ROLL –  
STABILITY CNTRL. & GYROSCOPIC SENSORS, FRNT. PRIVACY GLASS, 255/60R18 AS,  
18”H.D. STEEL WHEELS, PWR. WINDOWS/LOCKS/Htd.MIRRORS, BATT. SAVER,  
CAPLESS FUEL FILLER, FRNT./SIDE AIR BAGSw/ROLL CURTAIN & SAFETY -  
CANOPY, AM/FM/MP3w/CLOCK, 4.2”LCD INFO SCREEN, OBD CONNECTOR,  
**KEY FOBw/(2) EXTRA KEYS, REMOTE START, RED WHITE DOME LAMP, REAR CAMERA-**  
**ON DEMAND, BLIND SPOT INFO SYSTEM, COURTESY LAMP DISABLE, REAR DOOR HNDLE-**  
**LOCKS IN-OP, REVERSE SENSING**

F.O.B. DELIVERED TO BIRMINGHAM, MI ..... \$51,902.00  
(MSRP = \$55,979.00)

**Above quoted unit is currently in stock for an (OSS) out of stock sale and can be delivered as soon as possible.**

**2023MY Explorer Police Utility is currently sold out and is on allocation.**

Please review, sign and email back or email Purchase Order to Jim Agney.

Customer Signature: \_\_\_\_\_

Thank you,

*Jim Agney*

This quotation is confidential and privileged and is intended solely for the use of Gorno Ford and City of Birmingham. This quotation is compiled in association with the Oakland County Cooperative Contract and intended for use by local municipalities and State of Michigan government agencies stated above. Information/specifications in this quotation have been established by and are intended only for use by the stated parties. This document is not to be disclosed, distributed, used/re-used as a basis for specifications subsequent bids or request(s) for quotation(s) to any other party or bidders other than the intended parties and/or their authorized personnel.

DATE: 6/2/23 **(2023MY EXPLORER P.I. Admin. 65U)**

TO: Ofc.GINA MOODY, CITY OF BIRMINGHAM P.D.  
248-530-1772 (DIRECT) (CELL) ???????? [gmoody@bhamgov.org](mailto:gmoody@bhamgov.org)  
SCOTT ZIELINSKI, CITY OF BIRMINGHAM  
248-530-1702 (DIRECT) (CELL) [szielinski@bhamgov.org](mailto:szielinski@bhamgov.org)

FROM: JIM AGNEY, GORNO FORD, GOVERNMENT & FLEET SALES  
734-671-4033 (DIRECT) [jagney@gornoford.com](mailto:jagney@gornoford.com)

RE: MIDEAL 3003-POL Contract 071B7700181  
2023MY EXPLORER P.I. UTILITY  
**AGATE BLACK/BLACK-CLOTH**, 3.3L V6 (POLICE CALIBRATED), 4WD,  
1<sup>st</sup>/2<sup>nd</sup> ROW CARPET, CLOTH RR SEATS, CENTER CONSOLE, SYNC3 BlueTooth,  
DISC BRKS.w/ABS (H.D.ROTORS/CALIPERS), ELEC. PWR. ASSIST STEERING,  
AM/FM/MP3w/CLOCK,H.D. (POLICE CALIBRATED) 10 Spd. AT, H.D. ALT./BATT.,  
H.D. RADIATOR/TRANS., OIL COOLER/ENGINE OIL COOLER, ENGINE HOUR –  
METER, TPMS, **COLUMN SHIFT**, TILT/CRUISE, PWR. ADJUSTABLE PEDALS,  
PWR. DRIVER SEAT, (4) FLEET KEYw/FOB, 19 gal. TANK, DARK CAR FEATURE,  
RED/WHITE DOME, REVERSE SENSING, CLOTH FRONT SEATSw/INTRUSION –  
PLATES/VINYL REAR, 3.73 AXLE RATIO, ADVANCE TRACw/ROLL STABILITY –  
CNTRL. & GYROSCOPIC SENSORS,, PRIVACY GLASS, 255/60Rx18 AS,  
18” ALUM. WHEELS, PWR. WINDOWS/LOCKS/Htd.MIRRORS, BATT. –  
SAVER, CAPLESS FUEL FILLER, FRNT./SIDE AIR BAGSw/ROLL CURTAIN –  
& CANOPY, 2-WAY RADIO PRE-WIRE, AM/FM/MP3w/CLOCK, 4.2”LCD INFO –  
SCREEN, FRONT/REAR HEADLAMP SOLUTION (LED’S), POLICE BADGE DELETE

**WARRANTY; 3 YEAR/36,000 MILES BUMPER TO BUMPER**  
**5 YEAR/100,000 MILES POWERTRAIN**

F.O.B. DELIVERED TO BIRMINGHAM,, MI ..... \$47,243.00  
(MSRP = \$50,297.00)

**Due to current computer chip shortage and various other supply chain issues, Ford Motor Company has put Government Fleet Sales on “allocation” and a signed Purchase Order is required to secure unit(s). 2023MY Order book is closed.**

**Above quoted unit is currently on order as a Patrol unit and can be converted for Birmingham P.D. with ETA of fall 2023.**

**Please review, sign and e-mail back or e-mail Purchase Order to Jim Agney.**

Customer Signature: \_\_\_\_\_  
Thank you,

*Jim Agney*

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248-530-1702 (DIRECT) (CELL) [szielinski@bhamgov.org](mailto:szielinski@bhamgov.org)

FROM: JIM AGNEY, GORNO FORD, GOVERNMENT & FLEET SALES  
734-671-4033 (DIRECT) [jagnev@gornoford.com](mailto:jagnev@gornoford.com)

RE: MIDEAL 3003-POL Contract 071B7700181  
2023MY EXPLORER P.I. UTILITY  
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DISC BRKS.w/ABS (H.D.ROTORS/CALIPERS), ELEC. PWR. ASSIST STEERING,  
AM/FM/MP3w/CLOCK,H.D. (POLICE CALIBRATED) 10 Spd. AT, H.D. ALT./BATT.,  
H.D. RADIATOR/TRANS., OIL COOLER/ENGINE OIL COOLER, ENGINE HOUR –  
METER, TPMS, **COLUMN SHIFT**, TILT/CRUISE, PWR. ADJUSTABLE PEDALS,  
PWR. DRIVER SEAT, (4) FLEET KEYw/FOB, 19 gal. TANK, DARK CAR FEATURE,  
RED/WHITE DOME, REVERSE SENSING, CLOTH FRONT SEATSw/INTRUSION –  
PLATES/VINYL REAR, 3.73 AXLE RATIO, ADVANCE TRACw/ROLL STABILITY –  
CNTRL. & GYROSCOPIC SENSORS,, PRIVACY GLASS, 255/60Rx18 AS,  
18” ALUM. WHEELS, PWR. WINDOWS/LOCKS/Htd.MIRRORS, BATT. –  
SAVER, CAPLESS FUEL FILLER, FRNT./SIDE AIR BAGSw/ROLL CURTAIN –  
& CANOPY, 2-WAY RADIO PRE-WIRE, AM/FM/MP3w/CLOCK, 4.2”LCD INFO –  
SCREEN, FRONT/REAR HEADLAMP SOLUTION (LED’S), POLICE BADGE DELETE

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**Please review, sign and e-mail back or e-mail Purchase Order to Jim Agney.**

Customer Signature: \_\_\_\_\_

Thank you,

*Jim Agney*

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## **MEMORANDUM**

Department of Public Services

DATE: June 26, 2023

TO: Thomas M. Markus, City Manager

FROM: Carrie Laird, Parks and Recreation Manager

APPROVED: Scott Zielinski, DPS Director

SUBJECT: Landscape Bed Maintenance Contract Addendum

---

### **INTRODUCTION:**

The Department of Public Services is under contract for landscape bed maintenance services with Superior Scape, Inc. through November 30, 2024. The current contract does not include certain areas requiring landscaping bed maintenance, therefore the department is requesting these areas be included with an addendum to the contract.

### **BACKGROUND:**

The Department of Public Services uses Superior Scape, Inc., for landscape bed maintenance services, which includes spring and fall clean ups, and 12 weed control visits throughout the season. There are 23 locations serviced under the current contract, including parks (Booth Park, Barnum Park, etc.), city properties (Baldwin Library, Fire Stations, etc.), major streets (Old Woodward and Maple raised planters, etc.). The total cost per year under the existing contract is \$64,934.

The areas that are not currently under the existing contract are: Adams Park, South Old Woodward (Brown to Landon) landscape planter beds, Maple landscape planter beds, Woodward Avenue Median (enhanced area), Southfield triangle bed and the Buckingham property at Cambridge and Buckingham. With the exception of the last two locations described above, these areas are quite significant in size. The total cost per year to add these areas to the existing contract is \$55,166 per year. Adding these areas to the existing contract will ensure they are provided with routine upkeep.

Superior Scape, Inc. has performed landscape bed maintenance services with the City since 2018, currently under an extension to their second contract, with no issues. Management and crews are professional and flexible when the City requires additional clean ups at properties, or when there are scheduling conflicts with various park permit holders.

### **LEGAL REVIEW:**

The City attorney has reviewed this contract addendum and has no concerns with form or content.

**FISCAL IMPACT:**

Funds for this expenditure are available and budgeted for in the approved Budget under the following accounts: Parks Other Contractual Services account #101.0-751.000-811.0000, Property Maintenance Other Contractual Services account# 101.0-441.003-811.0000, and in Major Streets Contract Maintenance account #202.0-449.003-937.0400.

**PUBLIC COMMUNICATIONS:**

This purchase does not require public communication.

**SUMMARY:**

The Department of Public Services recommends the approval of an addendum to the existing contract with Superior Scape to include the regular maintenance of landscape beds at the following locations: Adams Park, South Old Woodward between Brown and Landon, Maple between Peabody and Southfield, Woodward Avenue median islands, Southfield triangle bed, and Buckingham property at Cambridge and Buckingham, using funds from the following accounts: Parks Other Contractual Services account# 101.0-751.000-811.0000 in the amount of \$10,500, Property Maintenance Other Contractual Services account #101.0-441.003-811.0000 in the amount of \$3,350, and in Major Streets Contract Maintenance account #202.0-449.003-937.0400 in the amount of \$41,316 for a total additional expenditure of \$55,166 per year.

**ATTACHMENTS:**

1. Second Addendum including locations and pricing
2. Insurance

**SUGGESTED COMMISSION ACTION:**

Make a motion adopting a resolution to approve the Second Addendum with Superior Scape, Inc. for landscape bed maintenance services for an additional amount not to exceed \$55,166 for a total yearly amount not to exceed \$120,100. In addition, to authorize the Mayor and City Clerk to sign the addendum on behalf of the City. Funding for this project has been budgeted in the following accounts: Parks Other Contractual Services, 101.0-751.000-811.0000, Property Maintenance Other Contractual Services, 101.0-441.003-811.0000, and Major Streets Contract Maintenance, 202.0-449.003-937.0400.

**SECOND ADDENDUM TO THE AGREEMENT FOR  
LANDSCAPE BED MAINTENANCE SERVICES BETWEEN  
THE CITY OF BIRMINGHAM AND SUPERIOR SCAPE, INC.**

**THIS ADDENDUM** to the Agreement for Landscape Bed Maintenance Services dated February 24, 2020, First Amended on November 16, 2022, and this Second Amendment dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by and between the **CITY OF BIRMINGHAM**, having its principal municipal office at 151 Martin Street, Birmingham, MI and **SUPERIOR SCAPE, INC.** having its principal office at 51989 Schoenherr Rd., Shelby Twp., MI, 48316, does hereby amend its Agreement to include the attached: 1) 2023 Maintenance of Additional Garden Beds at Adams Park, and 2) 2023 Maintenance of Additional Garden Beds at Old Woodward and Brown Road South to Landon St.; 3) Maintenance of Additional Garden Beds on Maple, East of Old Woodward, from Pierce St. W. to Southfield; 4) Woodward Avenue Landscaping Enhancements and Maintenance; 5) Triangle Bed at Maple & Southfield; and 6) Park at Buckingham & Cambridge.

All other provisions of the Agreement for Landscape Bed Maintenance Services Extension dated February 24, 2020 and First Amendment dated November 16, 2022, shall remain in full force and effect.

**IN WITNESS WHEREOF**, the said parties have caused this Second Addendum to be executed on this 14th day of June, 2023.

**SUPERIOR SCAPE, INC.**

By: 

Its: VP of Maint.

STATE OF MICHIGAN )  
 ) ss:  
COUNTY OF OAKLAND )

On this 14<sup>th</sup> day of June, 2023, before me personally appeared \_\_\_\_\_, who acknowledged that with authority on behalf of **SUPERIOR SCAPE, INC.** to do so he/she signed this Agreement.



Kristina Staffel  
Notary Public  
Genesee County, Michigan  
Acting in MACOMB County, Michigan  
My commission expires: 6/29/25

**CITY OF BIRMINGHAM**

By: \_\_\_\_\_  
Therese Longe, Mayor

By: \_\_\_\_\_  
Alexandria D. Bingham, Clerk

Approved:

Iana Eckert Thomas M. Markus, City Manager Acting  
(Approved as to substance)

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

Scott Zielinski  
Scott D. Zielinski, Director of DPS  
(Approved as to substance)

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





**Superior Scape, Inc.**  
 51989 Schoenherr Road  
 Shelby Twp, MI 48315  
 586-739-9630

**Quote**

Date
12/14/2022

[www.superiorscape.com](http://www.superiorscape.com)

City of Birmingham  
 Attn: Brendan McGaughey  
 851 S Eton  
 Birmingham, MI 48009

Customer Phone
248-417-7773

Rep
JH

Customer E-mail
bmcgaughey@bhamgov.org

Description	Total
2023 Maintenance of Additional Garden Beds at Adams Park	
Spring Clean Up: Remove Debris from Turf, Bed Areas, Walks & Parking Areas	800.00
Weeding/Deadheading All Summer	6,500.00
Fall Clean Up: Remove Debris from Turf, Bed Areas, Walks & Parking Areas	1,450.00
Double Shredded Hardwood Mulch - 35 cu yds	1,750.00
<b>TOTAL:</b>	<b>10,500.00</b>

\_\_\_\_\_

Customer Signature/Initials



**Superior Scape, Inc.**

51989 Schoenherr Road  
Shelby Twp, MI 48315

586-739-9630

[www.superiorscape.com](http://www.superiorscape.com)

**Quote**

Date
3/30/2023

City of Birmingham  
Attn: Brendan McGaughey  
851 S Eton  
Birmingham, MI 48009

Customer Phone
248-417-7773

Rep
JH

Customer E-mail
bmcgaughey@bhamgov.org

Description	Total
2023 Maintenance of Additional Garden Beds at Old Woodward from Brown Road South to Landon St	
Spring Clean Up: Remove Debris from Turf, Bed Areas, Walks & Parking Areas	1,200.00
Weeding/Deadheading All Summer	9,800.00
Fall Clean Up: Remove Debris from Turf, Bed Areas, Walks & Parking Areas	2,100.00
Double Shredded Hardwood Mulch - 50 cu yds	2,500.00
<b>TOTAL:</b>	<b>15,600.00</b>

\_\_\_\_\_

\_\_\_\_\_  
Customer Signature/Initials



**Superior Scape, Inc.**

51989 Schoenherr Road  
Shelby Twp, MI 48315

586-739-9630

[www.superiorscape.com](http://www.superiorscape.com)

**Quote**

Date
2/8/2021

City of Birmingham  
Attn: Brendan McGaughey  
851 S Eton  
Birmingham, MI 48009

Customer Phone
248-417-7773

Rep
JH

Customer E-mail
bmcgaughey@bhamgov.org

Description	Total
Maintenance of Additional Garden Beds on Maple, East of Old Woodward, from Pierce St W to Southfield:	
Spring Clean Up: Remove Debris from Turf, Bed Areas, Walks & Parking Areas	600.00
Weeding/Deadheading All Summer	6,900.00
Fall Clean Up: Remove Debris from Turf, Bed Areas, Walks & Parking Areas	1,700.00
Double Shredded Hardwood Mulch - 30 cu yds	1,500.00
<b>TOTAL:</b>	<b>10,700.00</b>

\_\_\_\_\_

Customer Signature/Initials



**Superior Scape, Inc.**  
 51989 Schoenherr Road  
 Shelby Twp, MI 48315  
**586-739-9630**

# Quote

Date
6/13/2023

[www.superiorscape.com](http://www.superiorscape.com)

City of Birmingham  
 Attn: Brendan McGaughey  
 851 S Eton  
 Birmingham, MI 48009

Customer Phone
248-417-7773
Customer E-mail
bmcgaughey@bhamgov.org

Rep
JH

Qty	U/M	Description	Total
176	ft	Woodward Avenue Landscaping Enhancements and Maintenance  Annual Planting 2023 2023 Bed Maintenance	2,112.00 11,904.00

Thank you, Jeremy	<b>Total</b>	\$14,016.00
-------------------	--------------	-------------



**Superior Scape, Inc.**

51989 Schoenherr Road  
Shelby Twp, MI 48315

586-739-9630

[www.superiorscape.com](http://www.superiorscape.com)

**Quote**

Date
1/14/2021

City of Birmingham  
Attn: Brendan McGaughey  
851 S Eton  
Birmingham, MI 48009

Customer Phone
248-417-7773

Rep
JH

Customer E-mail
bmcgaughey@bhamgov.org

Description	Total
Triangle Bed at Maple & Southfield:	
Spring Clean Up: Remove Debris from Turf, Bed Areas, Walks & Parking Areas	200.00
Weeding/Deadheading All Summer	400.00
Fall Clean Up: Remove Debris from Turf, Bed Areas, Walks & Parking Areas	300.00
Double Shredded Hardwood Mulch - 2 cu yds	100.00
<b>TOTAL:</b>	<b>1,000.00</b>
Park at Buckingham & Cambridge:	
Spring Clean Up: Remove Debris from Turf, Bed Areas, Walks & Parking Areas	300.00
Weeding/Deadheading All Summer	1,300.00
Fall Clean Up: Remove Debris from Turf, Bed Areas, Walks & Parking Areas	750.00
Double Shredded Hardwood Mulch - 20 cu yds	1,000.00
<b>TOTAL:</b>	<b>3,350.00</b>



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/13/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must 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).

<b>PRODUCER</b> VTC Insurance Group Troy Office 1175 W. Long Lake Ste. 200 Troy MI 48098-4960	<b>CONTACT NAME:</b> Michelle Davis <b>PHONE (A/C, No, Ext):</b> (248) 530-3257 <b>E-MAIL ADDRESS:</b> mdavis@vtcins.com	<b>FAX (A/C, No):</b> (248) 828-3741
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> Superior Scape, Inc. 51989 Schoenherr Rd Shelby TWP MI 48315	<b>INSURER A:</b> SECURA Insurance, A Mutual Company	
	<b>INSURER B:</b> Midwest Employers Casualty Company	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES**

CERTIFICATE NUMBER: 23-24 Master WC 22-23

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:	X	Y	80-TC-003383877-0	3/8/2023	3/8/2024	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	\$ 3,000,000
							PRODUCTS - COMP/OP AGG	\$ 3,000,000
								\$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X	Y	80-A-003383878-0	3/8/2023	3/8/2024	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 type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			20-CU-003383879-0	3/8/2023	3/8/2024	EACH OCCURRENCE	\$ 3,000,000
							AGGREGATE	\$ 3,000,000
								\$
B	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	SUPER2H	7/1/2022	7/1/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
							E.L. EACH ACCIDENT	\$ 500,000
							E.L. DISEASE - EA EMPLOYEE	\$ 500,000
							E.L. DISEASE - POLICY LIMIT	\$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Where required by written contract, 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 add'l insured for General Liability as respects ongoing & completed operations on a primary & non-contributory basis and additional insured respects to auto liability. General Liability, Auto Liability & Workers' Compensation includes waiver of subrogation on behalf of add'l insured as required by written contract and where allowed by law. Excess liability coverage follows form over GL, Auto & Employers Liability.

**CERTIFICATE HOLDER**

bmcgaughey@bhamgov.org

City of Birmingham  
851 S. Eton  
Birmingham, MI 48009

**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

Alan Chandler/JOLIVE

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## MEMORANDUM

Department of Public Services

**DATE:** June 26, 2023  
**TO:** Thomas M. Markus, City Manager  
**FROM:** Carrie Laird, Parks and Recreation Manager  
**APPROVED:** Scott Zielinski, DPS Director  
**SUBJECT:** Michigan Spark Grants - Round Two

---

### INTRODUCTION:

Administered by the DNR, Michigan Spark Grants support projects that provide safe, accessible, public recreation facilities and spaces to improve people's health, introduce new recreation experiences, build on existing park infrastructure and make it easier for people to enjoy both indoor and outdoor recreation. This grant opportunity is possible because of the Building Michigan Together Plan, signed in March 2022, which included a historic infusion of federal funding in our state and local parks.

Communities must include an approved resolution by their governing body in order to apply.

### BACKGROUND:

The Department Public Services submitted an application for trail improvements for the first round in December of 2022. The City received no funding from the first round. Over 460 applications requesting more than \$280 million in grant funds were submitted for this statewide grant opportunity and less than 5% of applications received were recommended for funding in the first round.

Trail improvements are slated as a priority project as part of the approved Parks and Recreation Bond. We are currently in the preliminary design phase for trail improvements. The draft Trail Improvement Concept Plan has undergone public review and comment on Engage Birmingham, at our Parks and Recreation Board meetings, and with City departments and various boards such as the Museum and Multi-Modal Transportation Board. The architect is currently updating the concept plan to incorporate feedback received.

This is our next priority project in the queue, to accomplish with Parks and Recreation Bond funding. We have a preliminary concept plan, cost estimate, and funding available for a match in 2024. All of these items are part of the grant application.

Included in the preliminary concept plan are ADA compliant and accessible connections and overlooks, green infrastructure and sustainability features, the Booth Park corner feature with gardens, trees, seating, a restroom facility, trail entry identifiers, a connection to the Birmingham Museum, and connectivity improvements including confidence markers and wayfinding in navigating from Booth Park to Linden Park.

For round one, we applied for the maximum amount of \$1,000,000 and included all 3 sections of the Trail Improvement Concept Plan, the Booth Park Section, the Museum Section, and the Linden Park Section. For this second round of applications, we plan to ask for grant funding for the Booth Park Section of the plan only (estimated at \$656,345 in total) based upon review of our prior scores, the extraordinary number of organizations and municipalities across the state of MI applying for funding, and the guidance and additional information about the scoring process provided by the State. A local match is included in this round as well.

We continue to explore other grant opportunities and currently have an application submitted for the 2023 Oakland County Parks and Recreation Trailways program, for a pre-development grant for the Booth Park Section.

**LEGAL REVIEW:**

The City Attorney has reviewed the resolution and has no objection.

**FISCAL IMPACT:**

This grant would potentially award Birmingham up to \$350,000 to apply toward the cost of the Booth Park Section of the Trail Improvements project. Funding for the Trail Improvements project including the Booth Park corner feature is budgeted and available with Parks and Recreation Bond Funding, with the next bond issue in 2024. Additionally, a donation received by the City towards trail improvements is part of this application. Matching funds are not required, but encouraged.

**PUBLIC COMMUNICATION:**

The round two grant application has been discussed with the Parks and Recreation Board at previous meetings and will be announced at the July 11, 2023 Parks and Recreation Board meeting. Should Birmingham be awarded MI Spark Grants funding, it will be communicated through all appropriate communication avenues.

**SUMMARY:**

The Department of Public Services recommends approving the attached resolution so that Birmingham may apply for round two of the MI Spark Grants Program.

**ATTACHMENTS:**

- Resolution of Authorization for Birmingham to apply to the MI Spark Grants Program
- [Michigan Spark Grants overview](#)

**SUGGESTED COMMISSION ACTION:**

Make a motion to approve the attached resolution, authorizing Birmingham to apply for a grant from the Michigan Spark Grants Program, and further, directing the City Clerk to sign the resolution.



**RESOLUTION AUTHORIZING THE CITY OF BIRMINGHAM TO APPLY FOR A GRANT  
FROM THE MICHIGAN SPARK GRANTS PROGRAM**

WHEREAS, the City of Birmingham supports the submission of an application titled, "Booth Park Trail Improvements" to the Spark Grant Program for improvements to the Booth Park Section of the trail system including trail entry identifiers, accessible connections and viewing areas, connectivity improvements including confidence markers and wayfinding signage, and a Booth Park entry area with a restroom facility along the Birmingham Rouge River trail system, and,

WHEREAS, the City of Birmingham has funded the concept plan and has budgeted for trail improvements and the Booth Park corner feature in its capital improvement plan, has received private donations, and proposes to use parks and recreation bond funding,

NOW THEREFORE, BE IT RESOLVED that the City of Birmingham hereby authorizes submission of a Spark Grants Application for \$350,000.00, and further resolves to make available a local match during the 2024-2025 fiscal year.

AYES:

NAYES:

ABSENT:

MOTION APPROVED.

I, Alexandria Bingham, City Clerk, of the City of Birmingham, HEREBY CERTIFY, that the foregoing is a Resolution duly made and passed by the Birmingham City Commission at their regular meeting held on June 26, 2023, at 7:30 p.m., with a quorum present.

\_\_\_\_\_  
Alexandria Bingham, City Clerk

Dated: \_\_\_\_\_



## **MEMORANDUM**

Information Technology

**DATE:** June 26, 2023

**TO:** Jana Ecker, Acting City Manager

**FROM:** Eric Brunk, IT Manager

**SUBJECT:** Nutanix Infrastructure Replacement

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### **INTRODUCTION:**

The current server infrastructure at the City of Birmingham is in need of replacing as it is nearing the end of service date. The IT department would like to purchase a replacement system for our existing Nutanix Hyper-converged Server Infrastructure from CDWG using governmental extendable contracts.

### **BACKGROUND:**

The IT department replaced the server infrastructure in 2017 using the existing server load at that time as a base and included a 5-year expected growth model for sizing. The infrastructure has performed well and we are now at the point where we expected a need to replace the system. The IT department contacted Nutanix and their vendor of choice CDWG to get a quote on replacing our existing Hyper-converged Environment and they proposed an increase in space and performance as well as moving us to a new supported chassis. Included in the pricing is 5 years of licensing and maintenance support. That quote came in at \$203,192.00 and is based on Michigan Master Computing-MiDEAL extendable contract 071B6600110. The IT department would like to purchase this replacement for our existing Nutanix Hyper-converged Server Infrastructure from CDWG using this contract.

### **LEGAL REVIEW:**

Although not in our standard format, as it is part of the state cooperative purchasing program, the City Attorney has no objections.

### **FISCAL IMPACT:**

Total expense for the CDWG – Nutanix quote is \$203,192.00 which is based on Michigan Master Computing-MiDEAL extendable contract 071B6600110. There is money budgeted in the Machinery and Equipment fund account # 636-0-228.000-971.0100 to cover this expense.

**5K**

**SUMMARY:**

The IT department would like authorization to purchase the replacement to our Nutanix Hyper-converged Server Infrastructure from CDWG using the Michigan Master Computing-MiDEAL extendable contract. Total cost of equipment is \$203,192.00 using funds from the Machinery and Equipment fund account # 636-0-228.000-971.0100.

**SUGGESTED COMMISSION ACTION:**

Make a motion adopting a resolution to approve the purchase of the replacement for the Nutanix Hyper-converged Server Infrastructure from CDWG at a total cost not to exceed \$203,192.00. Funds are available in the Machinery and Equipment fund account # 636.0-228.000-971.0100.



Thank you for choosing CDW. We have received your quote.

Hardware      Software      Services      IT Solutions      Brands      Research Hub

# Review and Complete Purchase

**ERIC BRUNK,**

Thank you for considering CDW•G for your technology needs. The details of your quote are below. **If you are an eProcurement or single sign on customer, please log into your system to access the CDW site.** You can search for your quote to retrieve and transfer back into your system for processing.

For all other customers, click below to convert your quote to an order.

**Convert Quote to Order**

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
NKTC677	6/12/2023	NKTC677	5969901	<b>\$203,192.00</b>

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
<a href="#">NUTANIX CLD INFRA NCI PRO LIC+SUP</a> Mfg. Part#: SW-NCI-PRO-PR Electronic distribution - NO MEDIA Contract: Michigan Master Computing-MiDEAL (071B6600110)	64	6880250	\$1,525.00	\$97,600.00
<a href="#">Nutanix AOS Pro - Term License - 1 license</a> Mfg. Part#: TERM-MONTHS Electronic distribution - NO MEDIA Contract: MARKET	60	6501791	\$0.00	\$0.00
<a href="#">NUTANIX CLD INFRA NCI SEC AO SUP</a> Mfg. Part#: SWA-NCI-SEC-PR Electronic distribution - NO MEDIA Contract: Michigan Master Computing-MiDEAL (071B6600110)	64	6914678	\$305.00	\$19,520.00
<a href="#">Nutanix AOS Pro - Term License - 1 license</a> Mfg. Part#: TERM-MONTHS Electronic distribution - NO MEDIA Contract: MARKET	60	6501791	\$0.00	\$0.00
<a href="#">NUTANIX CLD MGMT NCM STARTER LIC+SUP</a> Mfg. Part#: SW-NCM-STR-PR Electronic distribution - NO MEDIA Contract: Michigan Master Computing-MiDEAL (071B6600110)	64	6880251	\$257.00	\$16,448.00
<a href="#">Nutanix AOS Pro - Term License - 1 license</a> Mfg. Part#: TERM-MONTHS Electronic distribution - NO MEDIA Contract: MARKET	60	6501791	\$0.00	\$0.00
<a href="#">NUTANIX SUPPORT TERM</a> Mfg. Part#: SUPPORT-TERM	60	5642025	\$0.00	\$0.00

**5K**

**QUOTE DETAILS (CONT.)**

Electronic distribution - NO MEDIA

Contract: MARKET

<a href="#"><u>Nutanix Xpert Services Deployment Starter - deployment - for Nutanix HCI CI</u></a>	4	6472035	\$2,400.00	\$9,600.00
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Mfg. Part#: CNS-INF-A-SVC-DEP-STR

Electronic distribution - NO MEDIA

Contract: Michigan Master Computing-MiDEAL (071B6600110)

<a href="#"><u>NUTANIX SELECTED REGION F CNSRES RES</u></a>	4	6276276	\$0.00	\$0.00
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Mfg. Part#: UNITED STATES

Electronic distribution - NO MEDIA

Contract: MARKET

<a href="#"><u>NUTANIX AHV HYPERVISOR</u></a>	4	6444122	\$0.00	\$0.00
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Mfg. Part#: AHV

Electronic distribution - NO MEDIA

Contract: MARKET

<a href="#"><u>NUTANIX FASTTRACK FLOW DEPLOY+CONFIG</u></a>	1	6454147	\$7,100.00	\$7,100.00
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Mfg. Part#: CNS-INF-FST-FLOW

Electronic distribution - NO MEDIA

Contract: Michigan Master Computing-MiDEAL (071B6600110)

<a href="#"><u>NUTANIX SELECTED REGION F CNSRES RES</u></a>	1	6276276	\$0.00	\$0.00
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Mfg. Part#: UNITED STATES

Electronic distribution - NO MEDIA

Contract: MARKET

<a href="#"><u>Nutanix NX-1175S-G8 1 Node Xeon Gold 6326 Application Accelerator</u></a>	4	6855273	\$4,825.00	\$19,300.00
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Mfg. Part#: NX-1175S-G8-6326-CM

Contract: Michigan Master Computing-MiDEAL (071B6600110)

<a href="#"><u>Nutanix - DDR4 - 32 GB - DIMM 288-pin - 3200 MHz PC4-25600 - registered</u></a>	32	6325110	\$120.00	\$3,840.00
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Mfg. Part#: C-MEM-32GB-3200-CM

Contract: Michigan Master Computing-MiDEAL (071B6600110)

<a href="#"><u>Nutanix NO Hard Drive</u></a>	4	4891111	\$0.00	\$0.00
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Mfg. Part#: C-HDD-NONE-CM

Contract: MARKET

<a href="#"><u>Nutanix 7.68TB Solid State Drive</u></a>	16	6681100	\$1,170.00	\$18,720.00
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Mfg. Part#: C-SSD-7.68TB-A-CM

Contract: Michigan Master Computing-MiDEAL (071B6600110)

<a href="#"><u>Nutanix 2-Port 25GbE SFP28 Network Adapter</u></a>	4	5907351	\$475.00	\$1,900.00
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Mfg. Part#: C-NIC-25G-2-B-CM

Contract: Michigan Master Computing-MiDEAL (071B6600110)

<a href="#"><u>Nutanix - power supply - 600 Watt</u></a>	8	6810971	\$220.00	\$1,760.00
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Mfg. Part#: C-PSU-600-A-CM

Contract: Michigan Master Computing-MiDEAL (071B6600110)

**QUOTE DETAILS (CONT.)**

<a href="#">Nutanix - power cable - IEC 380-C13 to IEC 60320 C14 - 4 ft</a>	8	6688036	\$13.00	\$104.00
Mfg. Part#: C-PWR-4FC13C14A-CM Contract: Michigan Master Computing-MiDEAL (071B6600110)				
<a href="#">NUTANIX 24X7 PROD HW SUP HCI APP</a>	4	5642018	\$1,825.00	\$7,300.00
Mfg. Part#: S-HW-PRD Electronic distribution - NO MEDIA Contract: Michigan Master Computing-MiDEAL (071B6600110)				

These services are considered Third Party Services, and this purchase is subject to CDW's [Third Party Cloud Services Terms and Conditions](#), unless you have a written agreement with CDW covering your purchase of products and services, in which case this purchase is subject to such other written agreement.

The third-party Service Provider will provide these services directly to you pursuant to the Service Provider's standard terms and conditions or such other terms as agreed upon directly between you and the Service Provider. The Service Provider, not CDW, will be responsible to you for delivery and performance of these services. Except as otherwise set forth in the Service Provider's agreement, these services are non-cancellable, and all fees are non-refundable.

<b>SUBTOTAL</b>	\$203,192.00
<b>SHIPPING</b>	\$0.00
<b>SALES TAX</b>	\$0.00
<b>GRAND TOTAL</b>	<b>\$203,192.00</b>

**PURCHASER BILLING INFO**

**Billing Address:**  
CITY OF BIRMINGHAM  
ACCOUNTS PAYABLE  
151 MARTIN ST  
PO BOX 3001  
BIRMINGHAM, MI 48009-3368  
**Phone:** (248) 530-1850  
**Payment Terms:** Net 30 Days-Govt State/Local

**DELIVER TO**

**Shipping Address:**  
CITY OF BIRMINGHAM  
ERIC BRUNK  
151 MARTIN ST  
BIRMINGHAM, MI 48009-3368  
**Phone:** (248) 530-1885  
**Shipping Method:** DROP SHIP-GROUND

**Please remit payments to:**

CDW Government  
75 Remittance Drive  
Suite 1515  
Chicago, IL 60675-1515



**Sales Contact Info**

**Ryan Marron** | (877) 219-8208 | [ryamarr@cdwg.com](mailto:ryamarr@cdwg.com)

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This order is subject to CDW's Terms and Conditions of Sales and Service Projects at <http://www.cdwg.com/content/terms-conditions/product-sales.aspx>

For more information, contact a CDW account manager





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## TERMS AND CONDITIONS

# SALES AND SERVICE PROJECTS

### PLEASE READ THESE TERMS AND CONDITIONS VERY CAREFULLY

THE TERMS AND CONDITIONS OF PRODUCT SALES AND SERVICE PROJECTS ARE LIMITED TO THOSE CONTAINED HEREIN. ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS IN ANY FORM DELIVERED BY YOU ("CUSTOMER") ARE HEREBY DEEMED TO BE MATERIAL ALTERATIONS AND NOTICE OF OBJECTION TO THEM AND REJECTION OF THEM IS HEREBY GIVEN.

BY ACCEPTING DELIVERY OF THE PRODUCTS OR BY ENGAGING THE CDW AFFILIATE IDENTIFIED ON THE INVOICE, STATEMENT OF WORK OR OTHER CDW DOCUMENTATION ("SELLER") TO PROVIDE PRODUCT OR PERFORM OR PROCURE ANY SERVICES, CUSTOMER AGREES TO BE BOUND BY AND ACCEPTS THESE TERMS AND CONDITIONS UNLESS CUSTOMER AND SELLER HAVE SIGNED A SEPARATE AGREEMENT, IN WHICH CASE THE SEPARATE AGREEMENT WILL GOVERN.

ANY GENERAL DESCRIPTION OF THE TYPES OF PRODUCTS OR SERVICES AND RESULTS THEREOF POSTED ON ANY SELLER WEBSITE OR MOBILE APPLICATION DO NOT CONSTITUTE PART OF THE AGREEMENT BETWEEN SELLER AND CUSTOMER.

### Important Information About These Terms and Conditions

These Terms and Conditions constitute a binding contract between Customer and Seller and are referred to herein as either "Terms and Conditions" or this "Agreement". Customer accepts these Terms and Conditions by making a purchase from or placing an order with Seller or shopping on any Seller Website or Mobile Application (each, a "Site") or otherwise requesting products (the "Products") or engaging Seller to perform or procure any Services (as this and all capitalized terms are defined herein). These Terms and Conditions are subject to change without prior notice, except that the Terms and Conditions posted on a Site at the time Customer places an order or signs a Statement of Work will govern the order in question, unless otherwise agreed in writing by Seller and Customer.

Customer consents to receiving electronic records, which may be provided via a Web browser or e-mail application connected to the Internet; individual consumers may withdraw consent to receiving electronic records or have the record provided in non-electronic form by contacting Seller. In addition, Internet connectivity requires access services from an Internet access provider. Contact your local access provider for details. Electronic signatures (or copies of signatures sent via electronic means) are the equivalent of written and signed documents.

Customer may issue a purchase order for administrative purposes only. Additional or different terms and conditions contained in any such purchase order will be null and void. No course of prior dealings between the parties and no usage of trade will be relevant to determine the meaning of these Terms and Conditions or any purchase order or invoice, or any document in electronic or written form that is signed and delivered by each of the parties for the performance of Services other than Third Party Services (each, a "Statement of Work"). This Agreement contains the entire understanding of the parties with respect to the matters contained herein and supersedes and replaces in its entirety any and all prior communications and contemporaneous agreements and understandings, whether oral, written, electronic or implied, if any, between the parties with respect to the subject matter hereof.

### Governing Law



THESE TERMS AND CONDITIONS, ANY STATEMENTS OF WORK, THE SERVICES HEREUNDER AND ANY SALE OF PRODUCTS HEREUNDER WILL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS, WITHOUT REGARD TO CONFLICTS OF LAWS RULES. ANY ARBITRATION, ENFORCEMENT OF AN ARBITRATION OR LITIGATION WILL BE BROUGHT EXCLUSIVELY IN COOK COUNTY, ILLINOIS, AND CUSTOMER CONSENTS TO THE JURISDICTION OF THE FEDERAL AND STATE COURTS LOCATED THEREIN, SUBMITS TO THE JURISDICTION THEREOF AND WAIVES THE RIGHT TO CHANGE VENUE. CUSTOMER FURTHER CONSENTS TO THE EXERCISE OF PERSONAL JURISDICTION BY ANY SUCH COURT WITH RESPECT TO ANY SUCH PROCEEDING. Except in the case of nonpayment, neither party may institute any action in any form arising out of these Terms and Conditions more than one (1) year after the cause of action has arisen. The rights and remedies provided Seller under these Terms and Conditions are cumulative, are in addition to, and do not limit or prejudice any other right or remedy available at law or in equity.

## Title; Risk of Loss

If Customer provides Seller with Customer's carrier account number or selects a carrier other than a carrier that regularly ships for Seller, title to Products and risk of loss or damage during shipment pass from Seller to Customer upon delivery to the carrier (F.O.B. Origin, freight collect). For all other shipments, title to Products and risk of loss or damage during shipment pass from Seller to Customer upon delivery to the specified destination (F.O.B. Destination, freight prepaid and added). Notwithstanding the foregoing, title to software will remain with the applicable licensor(s), and Customer's rights therein are contained in the license agreement between such licensor(s) and Customer.

## Services

Customers may order services (collectively, "Services") from or through Seller from time to time. Certain Services may be provided by third parties, including, but not limited to, extended warranty service by manufacturers, and are sold by Seller as distributor or sales agent ("Third Party Services").

In the case of Third Party Services, Customer shall consider the third party to be the contracting party and the third party shall be the party responsible for providing the services to the Customer and Customer will look solely to the third party for any loss, claims or damages arising from or related to the provision of such Third Party Services. Customer and Customer's Affiliates (defined below) hereby release Seller and Seller's Affiliates (defined below) from any and all claims arising from or relating to the purchase or provision of any such Third Parties Services. Any amounts, including, but not limited to, taxes, associated with Third Party Services which may be collected by Seller will be collected solely in the capacity as an independent sales agent. "Affiliate" means, with respect to a party, an entity that controls, is controlled by, or is under common control with such party.

Where Services are ordered in a Statement of Work, each Statement of Work hereby incorporates these Terms and Conditions and constitutes a separate agreement with respect to the Services performed. Seller, or any of its Affiliates on behalf of Seller, may execute a Statement of Work. In the event of an addition to or a conflict between any term or condition of the Statement of Work and these Terms and Conditions, these Terms and Conditions will control, except as expressly amended in the applicable Statement of Work by specific reference to this Agreement. Each such amendment will be applicable only with respect to such Statement of Work and not to future Statements of Work. Changes to the scope of the Services described in a Statement of Work will be made only in a writing executed by authorized representatives of both parties. Seller will have no obligation to commence work in connection with any such change, unless and until the change is agreed upon in that writing executed by both parties. All such changes to the scope of the Services will be governed by these Terms and Conditions and the applicable Statement of Work. Each Statement of Work may be signed in separate counterparts each of which shall be deemed an original and all of which together will be deemed to be one original.

## Cooperation

In addition to any specific Customer duties set forth in any applicable Statement of Work, Customer agrees to cooperate with Seller in connection with performance of the Services by providing: (i) timely responses to Seller's inquiries and requests for approvals and authorizations, (ii) access to any information or materials reasonably requested by Seller which are necessary or useful as determined by Seller in connection with providing the Services, including, but not limited to, physical and computer access to Customer's computer systems, and (iii) all Required Consents necessary for Seller to provide the Services. "Required Consents" means consents or approvals required to give Seller, its

Affiliates, and its and their subcontractors the right or license to access, use and modify all data and third party products. Customer acknowledges and agrees that the Services are dependent upon the completeness and accuracy of information provided by Customer and the knowledge and cooperation of the agents, employees or subcontractors ("Personnel") engaged or appointed by Customer who are selected by Customer to work with Seller.

Seller will follow all reasonable Customer security rules and procedures, as communicated in writing by Customer to Seller from time to time.

## Access

Seller may perform the Services at Customer's place of business, at Seller's own facilities or such other locations as Seller and Customer deem appropriate. When the Services are performed at Customer's premises, Seller will attempt to perform such Services within Customer's normal business hours unless otherwise jointly agreed to by the parties. Customer will also provide Seller access to Customer's staff and any other Customer resources (and when the Services are provided at another location designated by Customer, the staff and resources at such location) that Seller determines are useful or necessary for Seller to provide the Services. When the Services are provided on Customer's premises or at another location designated by Customer, Customer agrees to maintain adequate insurance coverage to protect Seller and Customer's premises and to indemnify and hold Seller and its Affiliates, and its and their agents and employees harmless from any loss, cost, damage or expense (including, but not limited to, attorneys' fees and expenses) arising out of any product liability, death, personal injury or property damage or destruction occurring at such location in connection with the performance of the Services, other than solely as a result of Seller's gross negligence or willful misconduct.

## Payment

Orders are not binding upon Seller until accepted by Seller. Customer agrees to pay the total purchase price for the Products plus shipping (to the extent shipping is not prepaid by Customer), including shipping charges that are billed to Seller as a result of using Customer's carrier account number. Terms of payment are within Seller's sole discretion. In connection with Services being performed pursuant to a Statement of Work, Customer will pay for the Services in the amounts and in accordance with any payment schedule set forth in the applicable Statement of Work. If no payment schedule is provided, Customer will pay for the Services as invoiced by Seller. Invoices are due and payable within the time period specified on the invoice, measured from the date of invoice, subject to continuing credit approval by Seller. Seller, or any of its Affiliates on behalf of Seller may issue an invoice to Customer. Seller may invoice Customer separately for partial shipments, and Seller may invoice Customer for all of the Services described in a Statement of Work or any portion thereof. Customer agrees to pay interest on all past-due sums at the lower of one and one-half percent (1.5%) per month or the highest rate allowed by law. Customer will pay for, and will indemnify and hold Seller and its Affiliates harmless from, any applicable sales, use, transaction, excise or similar taxes and any federal, state or local fees or charges (including, but not limited to, environmental or similar fees), imposed on, in respect of or otherwise associated with any Statement of Work, the Products or the Services. Customer must claim any exemption from such taxes, fees or charges at the time of purchase and provide Seller with the necessary supporting documentation. In the event of a payment default, Customer will be responsible for all of Seller's costs of collection, including, but not limited to, court costs, filing fees and attorneys' fees. In addition, if payments are not received as described above, Seller reserves the right to suspend Services until payment is received. Customer hereby grants to Seller a security interest in the Products to secure payment in full. Customer authorizes Seller to file a financing statement reflecting such security interest. Except as otherwise specified on an applicable Statement of Work, Customer will reimburse Seller for all reasonable out-of-pocket expenses incurred by Seller in connection with the performance of the Services, including, but not limited to, travel and living expenses.

## Export Sales

If this transaction involves an export of items (including, but not limited to, commodities, software or technology) subject to the Export Administration Regulations, such items were exported from the United States by Seller in accordance with the Export Administration Regulations. Customer agrees that it will not divert, use, export or re-export such items contrary to United States law. Customer expressly acknowledges and agrees that it will not export, re-export, or provide such items to any entity or person within any country that is subject to United States economic sanctions imposing comprehensive embargoes without obtaining prior authorization from the United States Government. The list of such countries subject to United States economic sanctions or embargoes may change from time to time

but currently includes Cuba, Iran, Sudan and Syria. Customer also expressly acknowledges and agrees that it will not export, re-export, or provide such items to entities and persons that are ineligible under United States law to receive such items, including but not limited to, any person or entity on the United States Treasury Department's list of Specially Designated Nationals or on the United States Commerce Department's Denied Persons List, Entity List or Unverified List. In addition, manufacturers' warranties for exported Products may vary or may be null and void for Products exported outside the United States.

## Warranties

Customer understands that Seller is not the manufacturer of the Products purchased by Customer hereunder and the only warranties offered are those of the manufacturer, not Seller or its Affiliates. In purchasing the Products, Customer is relying on the manufacturer's specifications only and is not relying on any statements, specifications, photographs or other illustrations representing the Products that may be provided by Seller or its Affiliates. SELLER AND ITS AFFILIATES HEREBY EXPRESSLY DISCLAIM ALL WARRANTIES EITHER EXPRESS OR IMPLIED, RELATED TO PRODUCTS, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF TITLE, ACCURACY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF NONINFRINGEMENT, OR ANY WARRANTY RELATING TO THIRD PARTY SERVICES. THE DISCLAIMER CONTAINED IN THIS PARAGRAPH DOES NOT AFFECT THE TERMS OF ANY MANUFACTURER'S WARRANTY. Customer expressly waives any claim that it may have against Seller or its Affiliates based on any product liability or infringement or alleged infringement of any patent, copyright, trade secret or other intellectual property rights (each a "Claim") with respect to any Product and also waives any right to indemnification from Seller or its Affiliates against any such Claim made against Customer by a third party. Customer acknowledges that no employee of Seller or its Affiliates is authorized to make any representation or warranty on behalf of Seller or any of its Affiliates that is not in this Agreement.

Seller makes no warranties to the Customer and the Customer hereby acknowledges that Seller makes no warranties in regard to the applicability of all laws and regulations affecting, without limitation the manufacture, performance, sale, packaging and labelling of the Products which are in force within the Customer's territory.

Customer further acknowledges and agrees that Seller makes no representations, warranties or assurances that the Products are designed for or suitable for use in any high risk environment, including but not limited to aircraft or automobile safety devices or navigation, life support systems or medical devices, nuclear facilities, or weapon systems, and Customer agrees to indemnify Seller in connection with any such use of the Products. Customer further agrees to review and comply with the manufacturer's disclaimers and restrictions regarding the use of the Products in high risk environments.

Seller warrants that the Services will be performed in a good and workmanlike manner. Customer's sole and exclusive remedy and Seller's entire liability with respect to this warranty will be, at the sole option of Seller, to either (a) use its reasonable commercial efforts to reperform or cause to be reperformed any Services not in substantial compliance with this warranty or (b) refund amounts paid by Customer related to the portion of the Services not in substantial compliance; provided, in each case, Customer notifies Seller in writing within five (5) business days after performance of the applicable Services. EXCEPT AS SET FORTH HEREIN OR IN ANY STATEMENT OF WORK THAT EXPRESSLY AMENDS SELLER'S WARRANTY, AND SUBJECT TO APPLICABLE LAW, SELLER MAKES NO OTHER, AND EXPRESSLY DISCLAIMS ALL OTHER, REPRESENTATIONS, WARRANTIES, CONDITIONS OR COVENANTS, EITHER EXPRESS OR IMPLIED (INCLUDING WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, DURABILITY, TITLE, ACCURACY OR NON-INFRINGEMENT) ARISING OUT OF OR RELATED TO THE PERFORMANCE OR NON-PERFORMANCE OF THE SERVICES, INCLUDING BUT NOT LIMITED TO ANY WARRANTY RELATING TO THIRD PARTY SERVICES, ANY WARRANTY WITH RESPECT TO THE PERFORMANCE OF ANY HARDWARE OR SOFTWARE USED IN PERFORMING SERVICES AND ANY WARRANTY CONCERNING THE RESULTS TO BE OBTAINED FROM THE SERVICES. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY AND LIMITED REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE. CUSTOMER ACKNOWLEDGES THAT NO REPRESENTATIVE OF SELLER OR OF ITS AFFILIATES IS AUTHORIZED TO MAKE ANY REPRESENTATION OR WARRANTY ON BEHALF OF SELLER OR ANY OF ITS AFFILIATES THAT IS NOT IN THIS AGREEMENT OR IN A STATEMENT OF WORK EXPRESSLY AMENDING SELLER'S WARRANTY.

Customer shall be solely responsible for daily back-up and other protection of its data and software against loss, damage or corruption. Customer shall be solely responsible for reconstructing data (including but not limited to data located on disk files and memories) and software that may be lost, damaged or corrupted during the performance of Services. SELLER, ITS AFFILIATES, AND ITS AND THEIR SUPPLIERS, SUBCONTRACTORS AND AGENTS ARE HEREBY RELEASED AND SHALL CONTINUE TO BE RELEASED FROM ALL LIABILITY IN

CONNECTION WITH THE LOSS, DAMAGE OR CORRUPTION OF DATA AND SOFTWARE, AND CUSTOMER ASSUMES ALL RISK OF LOSS, DAMAGE OR CORRUPTION OF DATA AND SOFTWARE IN ANY WAY RELATED TO OR RESULTING FROM THE SERVICES.

Seller will not be responsible for and no liability shall result to Seller or any of its Affiliates for any delays in delivery or in performance which result from any circumstances beyond Seller's reasonable control, including, but not limited to, Product unavailability, carrier delays, delays due to fire, severe weather conditions, failure of power, labor problems, acts of war, terrorism, embargo, acts of God or acts or laws of any government or agency. Any shipping dates or completion dates provided by Seller or any purported deadlines contained in a Statement of Work or any other document are estimates only.

### Pricing Information; Availability Disclaimer

Seller reserves the right to make adjustments to pricing, Products and Service offerings for reasons including, but not limited to, changing market conditions, Product discontinuation, Product unavailability, manufacturer price changes, supplier price changes and errors in advertisements. All orders are subject to Product availability and the availability of Personnel to perform the Services. Therefore, Seller cannot guarantee that it will be able to fulfill Customer's orders. If Services are being performed on a time and materials basis, any estimates provided by Seller are for planning purposes only.

### Credits

Any credit issued by Seller to Customer for any reason must be used within two (2) years from the date that the credit was issued and may only be used for future purchases of Products and/or Services. Any credit or portion thereof not used within the two (2) year period will automatically expire.

### Limitation of Liability

**UNDER NO CIRCUMSTANCES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY SET FORTH HEREIN, WILL SELLER, ITS AFFILIATES OR ITS OR THEIR SUPPLIERS, SUBCONTRACTORS OR AGENTS BE LIABLE FOR: (A) ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS, BUSINESS, REVENUES OR SAVINGS, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES OR IF SUCH DAMAGES ARE OTHERWISE FORESEEABLE, IN EACH CASE, WHETHER A CLAIM FOR ANY SUCH LIABILITY IS PREMISED UPON BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY OF LIABILITY; (B) ANY CLAIMS, DEMANDS OR ACTIONS AGAINST CUSTOMER BY ANY THIRD PARTY; (C) ANY LOSS OR CLAIM ARISING OUT OF OR IN CONNECTION WITH CUSTOMER'S IMPLEMENTATION OF ANY CONCLUSIONS OR RECOMMENDATIONS BY SELLER OR ITS AFFILIATES BASED ON, RESULTING FROM, ARISING OUT OF OR OTHERWISE RELATED TO THE PRODUCTS OR SERVICES; OR (D) ANY UNAVAILABILITY OF THE PRODUCT FOR USE OR ANY LOST, DAMAGED OR CORRUPTED DATA OR SOFTWARE. IN THE EVENT OF ANY LIABILITY INCURRED BY SELLER OR ANY OF ITS AFFILIATES, THE ENTIRE LIABILITY OF SELLER AND ITS AFFILIATES FOR DAMAGES FROM ANY CAUSE WHATSOEVER WILL NOT EXCEED THE LESSER OF: (A) THE DOLLAR AMOUNT PAID BY CUSTOMER FOR THE PRODUCT(S) GIVING RISE TO THE CLAIM OR THE SPECIFIC SERVICES GIVING RISE TO THE CLAIM; OR (B) \$50,000.00.**

### Limited License

Customer's sole rights to the work product, materials and other deliverables to be provided or created (individually or jointly) in connection with the Services, including but not limited to, all inventions, discoveries, methods, processes, formulae, ideas, concepts, techniques, know-how, data, designs, models, prototypes, works of authorship, computer programs, proprietary tools, methods of analysis and other information (whether or not capable of protection by patent, copyright, trade secret, confidentiality, or other proprietary rights) or discovered in the course of performance of this Agreement that are embodied in such work or materials ("Work Product") will be, upon payment in full, a non-transferable, non-exclusive, royalty-free license to use such Work Products solely for Customer's internal use. Customer will have no ownership or other property rights thereto and Customer shall have no right to use any such Work Product for any other purpose whatsoever. Customer acknowledges that Sellers may incorporate intellectual property created by third parties into the Work Product ("Third Party Intellectual Property"). Customer agrees that its right to

use the Work Product containing Third Party Intellectual Property may be subject to the rights of third parties and limited by agreements with such third parties.

## Confidential Information

Each party anticipates that it may be necessary to provide access to information of a confidential nature of such party, the Affiliates or a third party (hereinafter referred to as "Confidential Information") to the other party in the performance of this Agreement and any Statement of Work. "Confidential Information" means any information or data in oral, electronic or written form which the receiving party knows or has reason to know is proprietary or confidential and which is disclosed by a party in connection with this Agreement or which the receiving party may have access to in connection with this Agreement, including but not limited to the terms and conditions of each Statement of Work. Confidential Information will not include information which: (a) becomes known to the public through no act of the receiving party; (b) was known to the receiving party, or becomes known to the receiving party from a third party having the right to disclose it and having no obligation of confidentiality to the disclosing party with respect to the applicable information; or (c) is independently developed by agents, employees or subcontractors of the receiving party who have not had access to such information. To the extent practicable, Confidential Information should be clearly identified or labeled as such by the disclosing party at the time of disclosure or as promptly thereafter as possible, however, failure to so identify or label such Confidential Information will not be evidence that such information is not confidential or protectable.

Each party agrees to hold the other party's Confidential Information confidential for a period of three (3) years following the date of disclosure and to do so in a manner at least as protective as it holds its own Confidential Information of like kind but to use no less than a reasonable degree of care. Disclosures of the other party's Confidential Information will be restricted (i) to those individuals who are participating in the performance of this Agreement or the applicable Statement of Work and need to know such Confidential Information for purposes of providing or receiving the Products or Services or otherwise in connection with this Agreement or the applicable Statement of Work, or (ii) to its business, legal and financial advisors, each on a confidential basis. Each party agrees not to use any Confidential Information of the other party for any purpose other than the business purposes contemplated by this Agreement and the applicable Statement of Work. Upon the written request of a party, the other party will either return or certify the destruction of the Confidential Information of the other party.

If a receiving party is required by law, rule or regulation, or requested in any judicial or administrative proceeding or by any governmental or regulatory authority, to disclose Confidential Information of the other party, the receiving party will give the disclosing party prompt notice of such request so that the disclosing party may seek an appropriate protective order or similar protective measure and will use reasonable efforts to obtain confidential treatment of the Confidential Information so disclosed.

## Return Privileges

CDW allows Customer returns based on the policies of the original product manufacturer. Software is not returnable if the packaging has been opened. If software was distributed electronically, it is not returnable if the licenses were downloaded. For additional information see CDW's full Product Return Policy at the following link: [Return Policy](#). Customers should contact CDW Customer Relations at 866.SVC.4CDW or e-mail at [Customer Relations](#) to initiate a return or for additional information. Customers must notify CDW Customer Relations of any damaged Products within fifteen (15) days of receipt.

## Termination

Either party may terminate performance of a Service or a Statement of Work for cause if the other party fails to cure a material default in the time period specified herein. Any material default must be specifically identified in a written notice of termination. After written notice, the notified party will, subject to the provision of warranties herein, have thirty (30) days to remedy its performance except that it will only have ten (10) days to remedy any monetary default. Failure to remedy any material default within the applicable time period provided for herein will give cause for immediate termination, unless such default is incapable of being cured within the time period in which case the defaulting party will not be in breach (except for Customer's payment obligations) if it used its reasonable efforts to cure the default. In the event of any termination of the Services or a Statement of Work, Customer will pay Seller for all Services performed and expenses incurred up to and including the date of termination plus any termination fee if one is set forth in the applicable Statement of

Work. In such event Customer will also pay Seller for any out-of-pocket demobilization or other direct costs resulting from termination. Upon termination, all rights and obligations of the parties under this Agreement will automatically terminate except for any right of action occurring prior to termination, payment obligations and obligations that expressly or by implication are intended to survive termination (including, but not limited to, limitation of liability, indemnity, confidentiality, or licensing of Work Product and this survival provision).

## Provisions Related to Custom Imaging

If in connection with the provision of Products or Services, Customer desires to have Seller provide installation of custom software images, Customer will be required to execute an Installation Indemnity Agreement, a form of which is provided at <https://www.cdw.com/content/cdw/en/landing-pages/installation-and-custom-engraving-indemnity-agreement.html>

## Arbitration

Any claim, dispute, or controversy (whether in contract, tort or otherwise, whether preexisting, present or future, and including, but not limited to, statutory, common law, intentional tort and equitable claims) arising from or relating to the Products, the Services, the interpretation or application of these Terms and Conditions or any Statement of Work or the breach, termination or validity thereof, the relationships which result from these Terms and Conditions or any Statement of Work (including, to the full extent permitted by applicable law, relationships with third parties who are not signatories hereto), or Seller's or any of its Affiliates' advertising or marketing (collectively, a "Claim") WILL BE RESOLVED, UPON THE ELECTION OF ANY OF SELLER, CUSTOMER OR THE THIRD PARTIES INVOLVED, EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION. If arbitration is chosen, it will be conducted pursuant to the Rules of the American Arbitration Association. If arbitration is chosen by any party with respect to a Claim, neither Seller nor Customer will have the right to litigate that Claim in court or to have a jury trial on that Claim or to engage in pre-arbitration discovery, except as provided for in the applicable arbitration rules or by agreement of the parties involved. **Further, Customer will not have the right to participate as a representative or member of any class of claimants pertaining to any Claim.** Notwithstanding any choice of law provision included in these Terms and Conditions, this arbitration agreement is subject to the Federal Arbitration Act (9 U.S.C. §§ 1-16). The arbitration will take place exclusively in Chicago, Illinois. Any court having jurisdiction may enter judgment on the award rendered by the arbitrator(s). Each party involved will bear its own cost of any legal representation, discovery or research required to complete arbitration. The existence or results of any arbitration will be treated as confidential. **Notwithstanding anything to the contrary contained herein, all matters pertaining to the collection of amounts due to Seller arising out of the Products or Services will be exclusively litigated in court rather than through arbitration.**

## Data Protection

This Section shall apply to the extent Seller performs any operation or set of operations, including collecting, recording, storing, retaining, using, disclosing or otherwise accessing, (collectively, "Process," "Processed," or "Processing") on any information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular individual or household in connection with the Services ("Personal Data"), including without limitation any information that qualifies as "personal information" under the California Consumer Privacy Act, Cal. Civ. Code §§ 1798.100 et seq. ("CCPA"). Seller shall only Process Personal Data in accordance with the instructions of Customer as detailed in the Agreement or the applicable SOW or PO and applicable data privacy law, including, if applicable, the CCPA ("Privacy Laws"). For the avoidance of doubt, it is the intention of the Parties that Seller be a "service provider" of Customer pursuant to the CCPA. Notwithstanding the foregoing, to the extent expressly set forth in the Agreement, Seller (1) shall have the right to retain, use or disclose de-identified or aggregated data derived from Personal Data ("Seller Data"), provided that Seller Data shall not include any Personal Data, and (2) if Seller Processes any "personal information" as such term is defined in the CCPA in connection with the Services, Seller shall have the right to Process such "personal information" for any purpose permitted by the CCPA. Where applicable law requires Seller to Process Personal Data under terms other than those of the Agreement, Seller shall promptly notify Customer of such legal requirement before Processing, unless applicable law prohibits such disclosure. Where required by applicable law, Seller shall also notify Customer if Seller determines any of Customer's instructions infringe applicable Privacy Laws.

The Parties agree that Customer is responsible for obtaining any consents required by applicable Privacy Laws, as well as providing and ensuring the accuracy of any notices required to disclose Personal Data to Seller, Seller's Affiliates, or any Seller subcontractor providing Services for use in accordance with the Agreement. Furthermore, Customer warrants that all Personal Data provided to Seller has been obtained, Processed, and provided to Seller in accordance with all applicable laws and ensured that there are legitimate grounds for Processing any and all Personal Data by Seller, Seller's Affiliates, or any Seller subcontractor providing Services for use in accordance with the Agreement.

Seller shall promptly notify Customer of any request, complaint, claim, or other communication received by Seller or a subcontractor regarding its Processing of Personal Data. Seller shall cooperate with and provide any necessary assistance to Customer in responding to any such inquiries, in so far as possible and taking into account the nature of Seller's Processing and the Personal Data available to Seller. Seller shall be obliged to provide such assistance only in so far that the Customer cannot respond to such request on its own. Notwithstanding anything to the contrary in the Agreement, Customer is obliged to reimburse Seller for out of pocket expenses in connection with such requests. Such expenses will be invoiced to Customer in accordance with the Agreement.

Customer acknowledges that Seller is reliant on Customer for instruction as to the extent to which Seller is entitled to use and Process Personal Data, and that Seller is not liable for any claim brought by a data subject to the extent that such claim arises from the Customer's instructions.

Upon request, Seller shall provide reasonable cooperation and assistance to Customer with its obligations under applicable Privacy Laws, in so far as possible in connection with the Services, taking into account the nature of Seller's Processing and the Personal Data available to Seller. Seller shall be obliged to provide such assistance only in so far that Customer's obligations cannot be met by Customer through other means. Notwithstanding anything to the contrary in the Agreement, Customer is obliged to reimburse Seller for out of pocket expenses in connection with such assistance. Such expenses will be invoiced to Customer in accordance with the Agreement.

To the extent that Personal Data includes information about individuals who are located in the European Economic Area ("EEA") and/or Switzerland, and Seller stores or otherwise obtains access to such Personal Data outside of the EEA and/or Switzerland, Seller agrees it has implemented appropriate measures to address the cross-border transfer of Personal Data.

Seller shall implement and maintain an information security program that includes appropriate technical and procedural safeguards to protect Personal Data, taking into account the nature of Seller's Processing and the Personal Data available to Seller. To the extent required by applicable Privacy Laws, upon request, Seller shall make available to Customer information reasonably necessary to demonstrate compliance with this obligation.

The parties agree that Seller may subcontract its obligations to subcontractors as necessary to perform the Services under the Agreement. Seller shall remain responsible for subcontractors' performance under the Agreement, and shall enter into an agreement with subcontractors that impose materially the same obligations as set forth in this Section. Seller also agrees that any subcontractors who have access to Personal Data are bound to Process Personal Data in accordance with Seller's instructions and are subject to obligations to maintain confidentiality.

Notwithstanding any provisions in the Agreement to the contrary, Seller shall promptly notify Customer in the event Seller discovers or is notified of a known breach of security leading to unauthorized disclosure of or access to Personal Data as a result of its Processing of Personal Data ("**Security Breach**"). Seller shall reasonably cooperate in the investigation of the Security Breach.

The parties agree that to the extent required by applicable Privacy Laws, and upon thirty (30) days written notice to Seller, and no more than once per calendar year, Customer may request reasonable access to Seller's facilities, systems, and supporting documentation used to provide the Services, to the extent necessary to assess Seller's compliance with its obligations under this Section. Such assessments shall be subject to Seller's security and confidentiality policies, and shall be conducted in a manner that minimizes any disruption of Seller's performance of services and other normal operations. Such expenses will be invoiced to Customer in accordance with the Agreement.

Notwithstanding any other provision of the Agreement to the contrary, upon termination of the Agreement or otherwise at Customer's written request, Seller shall, at the choice of Customer, either return or delete Personal Data from its systems unless required by law, rule

or regulation, or requested in any judicial or administrative proceeding or by any governmental or regulatory authority.

Customer shall reimburse Seller and its managers, officers, directors, employees, agents, affiliates, successors and permitted assigns (collectively, "Reimbursed Party") against any and all losses costs, or expenses of whatever kind, including professional fees and attorney's fees, that are incurred by any Reimbursed Party for any investigation or any preparation for any investigation by any governmental or regulatory authority arising out of Customer's violation of any Privacy Laws in connection with this Agreement.

### Miscellaneous

Seller may assign or subcontract all or any portion of its rights or obligations with respect to the sale of Products or the performance of Services or assign the right to receive payments, without Customer's consent. Customer may not assign these Terms and Conditions, or any of its rights or obligations herein without the prior written consent of Seller. Subject to the restrictions in assignment contained herein, these Terms and Conditions will be binding on and inure to the benefit of the parties hereto and their successors and assigns. No provision of this Agreement or any Statement of Work will be deemed waived, amended or modified by either party unless such waiver, amendment or modification is in writing and signed by both parties. The relationship between Seller and Customer is that of independent contractors and not that of employer/employee, partnership or joint venture. If any term or condition of this Agreement or a Statement of Work is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or conditions hereof or thereof or the whole of this Agreement or the applicable Statement of Work. Notices provided under this Agreement will be given in writing and deemed received upon the earlier of actual receipt or three (3) days after mailing if mailed postage prepaid by regular mail or airmail or one (1) day after such notice is sent by courier or facsimile transmission. Any delay or failure by either party to exercise any right or remedy will not constitute a waiver of that party to thereafter enforce such rights.

Version Date: 12-27-2019

### Related Links

- [Site Use](#)
- [Privacy Policy](#)
- [Product Recalls](#)
- [Site Accessibility](#)
- [Site Map](#)

## WE GET GETTING RESULTS

With full-stack expertise, CDW helps you design, orchestrate and manage technologies that drive business success.

What We Solve  
Research Hub  
Products

My Account  
Quick Order Status

#### ABOUT US

- Why CDW
- About Us
- Careers
- Diversity and Inclusion
- ESG
- Investor Relations
- International Solutions
- Locations
- Newsroom & Media
- Suppliers

#### HOW CAN WE HELP

- Customer Support / FAQs
- eProcurement
- e-Waste Recycling
- Leasing Services
- Product Recalls
- Product Finders
- CDW Outlet

Contact An Expert: P 800.808.4239 | Email Us

CDW CDW-G Canada CDW-UK





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This Nutanix License and Services Agreement (“Agreement”) governs Your receipt and use of any Products (as defined below) and becomes effective when you (a) issue a purchase order for the Products; (b) click the “ACCEPT” button when downloading or installing the Software; or (c) access or use the Software or Cloud Services. This Agreement is entered into between Nutanix Inc., located at 1740 Technology Dr. Ste. 150, San Jose, CA 95110, United States, if You are contracting in the Americas, or Nutanix Netherlands B.V., located at Mercuriusplein 1, 2132 HA Hoofddorp, The Netherlands, if You are contracting anywhere else in the world, or both if you are contracting globally (“Us”, “We” or “Our”) and your organization (“You or Your”). You represent and warrant that You have the authority to enter into this Agreement on behalf of Your organization.

**1. Definitions.**

- 1.1. **“Affiliates”** means any corporation or other business entity which controls, is controlled by or is under common control with You through the ownership of more than fifty percent (50%) of the outstanding voting stock of the controlled corporation or more than fifty percent (50%) of the equity interest of a non-corporate entity. If You are a public sector entity, an Affiliate is an organization over which You exercise administrative control by applicable laws, regulations or governmental decree.
- 1.2. **“Certified Hardware”** means computer equipment that has been approved and certified by Us as interoperable with Our Software. A list of that hardware can be found at <https://www.nutanix.com/products/hardware-platforms>. Other hardware may be submitted for general or limited certification.
- 1.3. **“Cloud Services”** means Our internet-based or hosted offerings.
- 1.4. **“Documentation”** means Our operating manuals and technical literature describing the features, functions, certifications and other characteristics of the Software and Cloud Services.
- 1.5. **“Delivery”** means the date on which We make the license key for the applicable Software available to You or when We make the Software or Cloud Services otherwise available to You for use.
- 1.6. **“Entitlement”** means Our statement of the SKUs, types, quantities or other metrics for Our Products provided to You. We will supply You with a copy of each Entitlement and make it available in the Portal.
- 1.7. **“Error”** means any reproducible failure of the Software or Cloud Services to substantially perform any material function as set forth in the Documentation.
- 1.8. **“FlexCredits”** means the pre-paid credits which can be redeemed against Professional Services.
- 1.9. **“Partner”** means any entity that is authorized by Us to distribute, resell, act as a service provider or otherwise provide Our Products to You.
- 1.10. **“Portal”** means Our website for the receipt by You of Support Services, management of Entitlements, download of Software etc. which can be found at <https://portal.nutanix.com>
- 1.11. **“Previews”** means Products provided for preview, evaluation, demonstration or trial purposes, or early access (e.g. alpha, beta, pre-release) versions of the Products. Previews also include Products that are provided free of charge (“No-Charge Products”).
- 1.12. **“Products”** means Our Software, Cloud Services, Support Services, Professional Services and applicable Documentation.
- 1.13. **“Professional Services”** means consulting, implementation, optimization, training, certification or other services related to the Software and Cloud Services.
- 1.14. **“Service Levels”** means the availability and uptime warranties applicable to the Cloud Services which can be found at <https://www.nutanix.com/support-services/product-support/policies> subject to planned downtime and any unscheduled emergency maintenance.
- 1.15. **“Service Provider”** means a Nutanix Partner who has entered into an agreement with Nutanix to act as a provider of a service which employs the Software or Cloud Services.
- 1.16. **“Software”** means the Nutanix-branded computer programs specified in the Entitlement, Updates and Upgrades provided as part of Support Services, and APIs, libraries, utilities, tools, add-ons, license keys and other executables related to the Software or Cloud Services.
- 1.17. **“SOW”** means a document issued by Us that describes the Professional Services.
- 1.18. **“Subscription Term”** means the duration of Your subscription to the applicable Software, Support Services and/or Cloud Services as specified in the Entitlement.
- 1.19. **“Support Guide”** means the Nutanix Worldwide Support Program Guide which can be found at <https://www.nutanix.com/content/dam/nutanix/resources/support/nutanix-support-guide.pdf>.
- 1.20. **“Support Policies”** means Our Software End of Life Policy, Our Versioning and Compatibility Matrix, Our extended Support Policy, Our Third Party Hardware and Software Policy and Our Return Material Authorization Policy, which can be found at <https://www.nutanix.com/support-services/product-support/policies>.
- 1.21. **“Support Services”** means Our Software support and maintenance offerings described in the Support Guide.
- 1.22. **“Update”** means either a Minor Release, Maintenance Release or Patch Release as defined in the Support Guide.
- 1.23. **“Upgrade”** means a Major Release as defined in the Support Guide.
- 1.24. **“Usage Capacity”** means the maximum permitted usage of the i) Software based on certain licensing metrics such as the number of raw CPU cores, raw total flash drive capacity in terabytes, cores managed, used terabytes, named users or concurrent users, VMs or VM packs, per node or configured node, percentage of cloud spend, vCPU of each managed database server, per cluster or per vCPU, GB RAM and DR characteristic, per edge instance, or any other applicable licensing metrics; or ii) Cloud Services based on certain metrics, as specified in the Entitlement and described in the applicable Documentation.
- 1.25. **“Your Content”** means any data, software, applications, content, websites, platforms and services that You introduce into or otherwise use in connection with the Products.

**2. Software.**

- 2.1. **License Grant.** We grant You a limited, non-exclusive, non-transferable, worldwide license to download, install and use the Software (in object code form only) and its Documentation for Your internal business purposes only. The Software is licensed either: (a) independently of hardware nodes, portable between hardware nodes and for a fixed Subscription Term (a “Term Based License”); or (b) for use solely on the hardware node on which it was initially installed and supplied for the life of that hardware node (a “Life of Device License”), or as may be otherwise indicated in Your Entitlement. Subject to Section 13 “Term and Termination”, the licenses for the Software and its Documentation expire when the: (a) subscription term ends in the case of Term Based Licenses; or (b) original hardware node is decommissioned in the case of Life of Device Licenses. Both Term Based Licenses and Life of Device Licenses are subject to the Usage Capacity.
- 2.2. **License Restrictions.** You agree not to: (a) exceed the Usage Capacity or otherwise use the Software or its Documentation in breach of the Entitlement or this Agreement; (b) transfer, resell, rent, lease, distribute, sublicense or otherwise use Software or its Documentation in a service bureau, commercial hosting service or any similar capacity unless: (i) as agreed with Nutanix in Your capacity as a Service Provider; or (ii) as otherwise explicitly permitted in the Entitlement; (c) disclose the results of any Software benchmark tests or competitive analysis; (d) decompile, disassemble or reverse-engineer any Software, or determine or attempt to determine any source code, algorithms, methods or techniques embodied in the Software, except to the extent expressly permitted by applicable law; (e) install or use the Software on (i) any hardware other than Certified Hardware and certified public cloud bare metal offerings; or (ii) grey-market hardware or components; (f) transfer or use any Life of Device Licenses on the hardware node other than that on which it was initially installed and supplied; (g) modify, adapt or create a derivative work of the Software or Documentation; or (h) remove, conceal or alter any product identification, copyright or other proprietary notices in the Software or Documentation; (i) assist or encourage any third party to do any of the foregoing or; (j) use the Products after the expiration of a Term.
- 2.3. **License Conversion.** Subject to You placing a valid purchase order for the same with a Partner, You may convert legacy Life of Device Licenses into Term Based Licenses, in which case, We will alter Your Entitlement to reflect the different usage model.
- 2.4. **Previews License Grant.** Subject to Your compliance with this Agreement, and the licenses granted hereunder, We grant You a license to Previews, for the purposes of evaluation, or as applicable, to Previews specifically identified as alpha, beta, pre-release, demonstration or preview and its Documentation for Your internal business purposes within the Usage Capacity or other licensing metrics as applicable. Previews may only be used in non-production environments and not for commercial purposes or the processing of any production data. Notwithstanding the forgoing within this section 2.4, and subject to Your compliance with the rest of this Agreement, We grant You a non-exclusive, non-transferable, non-sublicensable, terminable (in accordance with Section 13 herein) license to Use the No-Charge Products solely for internal purposes on Licensee’s own premises. Previews are likely to be under development, and might not ever be generally released.

**3. Support Services.**

- 3.1. **General.** Depending on the software license type You purchase, Support Services are either included in the subscription (Term Based License) or available separately for a fee (Life of Device License). We will provide to You the level of Support Services specified in the Entitlement. The Support Services will be provided in the English language.
- 3.2. **Scope of Support Services.** Under a valid Support Service Entitlement, We shall: (a) provide You with access to the Portal; (b) provide telephone and web-based Support 24x7 in accordance with the Support Guide and the Support Policies; (c) respond to reported issues within the applicable timeframes in accordance with the mutually agreed priority level ascribed to the Error; (d) address Errors in the form of Updates or Upgrades, workarounds, procedural solutions, correction of Documentation errors, or other remedial measures as We may reasonably determine to be appropriate; and (e) provide You with access to the current versions of released software, including bug fixes, patches and any generally available Updates and Upgrades.
- 3.3. **Out of Scope Support Services.** Support Services exclude: (a) Software installation; (b) education, training, consulting and Professional Services; (c) services relating to third-party integrations, modifications or customizations; and (d) Software that is end-of-life and no longer supported as outlined in Our Support Policies.
- 3.4. **Exclusions.** We shall have no obligation to provide Support Services for: (a) Software that is not registered and validly licensed; (b) any Errors which are attributable to third party products or modifications, alterations or repairs to the Software made by a party other than Us or a party authorized by Us; (c) any Errors which are attributable to the installation, operation or maintenance of the Software on hardware other than Certified Hardware or authorized public cloud bare metal offerings or otherwise not in accordance with the Documentation; or (d) for Software which is installed on hardware which is not currently covered under a valid support contract or if such hardware has grey-market or second-hand parts installed. We do not guarantee that Software will be compatible with the hardware You purchased except for Certified Hardware in accordance with Our Support Policies.
- 3.5. **Your Responsibilities.** It is Your responsibility to: (a) register an account with Us at Our Portal, to keep Your account profile up to date and to designate, in accordance with the Support Guide, a number of authorized persons who have completed the Nutanix NP certification class (“Technical Personnel”) which will be the preferred contacts for the receipt of Support Services from Us; (b) provide Us with access to Your systems, network and personnel and make available to Us data, information and other materials necessary to perform the Support Services; (c) install Updates as reasonably directed by Us, ensure that licenses have been obtained for all Software and adhere to all licensing

terms and conditions; (d) swiftly notify Us of any Error; and (e) screen first-line technical inquiries and escalate to Us only issues that Technical Personnel have not been able to resolve.

- 3.6. **Reinstatement of Support.** In the event that You wish to reinstate Support for Life of Device Licenses after a lapsed period, following expiration or termination of the original Support term, the applicable support fee for reinstated Support will be calculated as follows: (i) the pro rata Support fees that would have been payable at Nutanix's then applicable annual rate of Support for the lapsed Support period; and (ii) the Support fees for the future period commencing upon the reinstatement of Support.
- 3.7. **Support for NX Branded Hardware.** The NX brand is licensed by Us to third party hardware contract manufacturers. We do not supply or warrant NX branded hardware. If You purchase hardware Support for Your NX branded hardware, it will be governed by the Hardware Support Appendix attached to this Agreement as Appendix 1.

#### 4. Professional Services.

You have the option to purchase Professional Services which We will deliver in accordance with the terms of this Agreement and as specified in the Entitlement and an SOW. We do not do any custom development work. You shall provide Us with any equipment, software, information, timely decisions, directions and facilities necessary for Us to perform the Professional Services. You grant Us a non-exclusive, worldwide, royalty-free license to use Your intellectual property solely for the purpose of performing the Professional Services. We grant You a license to use any deliverables provided as part of the Professional Services on the terms specified in Section 2 above. Any FlexCredits or prepaid Professional Services must be used within twelve (12) months from the purchase date, after which they will automatically expire and are non-refundable.

#### 5. Cloud Services.

- 5.1. **General.** If You purchase Cloud Services, We will make the Cloud Services available to You during the Subscription Term in accordance with the terms of this Agreement, the applicable Entitlement and Documentation.
- 5.2. **Service Levels.** The Service Levels will apply to the Cloud Services. If We fail to meet these Service Levels, Your sole and exclusive remedy will be the service credits specified therein.
- 5.3. **Access Right and Right to Use.** Subject to the terms of this Agreement, We grant You a limited, non-exclusive, non-transferable and revocable right to (a) access and use the Cloud Services and its Documentation for Your internal business purposes only in accordance with this Agreement and the Entitlement for the Usage Capacity and subscription term only; and (b) use any applicable Software made available to You in connection with the Cloud Services and in accordance with the Documentation on the terms specified in Section 2 above.
- 5.4. **Usage Restrictions.** Except as expressly permitted by this Agreement, You will not and have no rights to: (a) use the Cloud Services in excess of the Usage Capacity or otherwise in breach of the Entitlement or this Agreement, (b) use the Cloud Services, the APIs or the Software for service bureau or managed service purposes, or otherwise commercially exploit the Cloud Services unless (i) as agreed with Nutanix in Your capacity as a Service Provider; or (ii) as otherwise explicitly permitted in the Entitlement, (c) publicly communicate, transform, or sublicense the Cloud Services or otherwise assign any rights to the Cloud Services in whole or in part to any third party unless explicitly permitted in the Entitlement, (d) decompile, disassemble or reverse-engineer or determine or attempt to determine any source code, algorithms, methods or techniques embodied in the Cloud Services, the APIs or the Software, except to the extent expressly permitted by applicable law, (e) access or use disabled functions, (f) publish the results of any Cloud Services benchmark tests or competitive analysis without Our prior written consent, (g) modify, adapt or create a derivative work based on the Cloud Services, (h) use the Cloud Services for any illegal or fraudulent purposes (i) circumvent any security features; (j) use the Cloud Services in any way that poses security threats or otherwise introduces security or performance vulnerabilities into the Cloud Services, or (k) assist or encourage any third party to do any of the foregoing.
- 5.5. **Security and Protection of Your Content.** If the Cloud Services include the transmission and processing of Your Content by Us, then We will maintain administrative, physical and technical safeguards to protect the security, confidentiality and integrity of Your Content as specified in the Documentation. You are responsible for using and configuring the Cloud Services in such a manner that it will provide an appropriate level of security and protection from unauthorized access to Your Content.
- 5.6. **License to use Your Content.** By making Your Content available, You grant Us a worldwide, royalty free, non-exclusive license to use Your Content solely to provide the Cloud Services to You.
- 5.7. **Your Obligations.** You are solely responsible to ensure that the use of the Cloud Services and the use of Your Content by its Users is in compliance with this Agreement and all applicable laws. You represent and warrant that Your use of Your Content in connection with Your Products will not violate any third-party rights or Your obligations to any third party. It is Your sole responsibility to provision and control the credentials of Your employees, agents, contractors and other users of the Products ("User(s)").
- 5.8. **Transmission of Your Content.** If the applicable Cloud Services involves the transmission of Your Content, including to a third-party platform, then You are responsible for the transmission of and the security of Your Content to and from the Cloud Services.
- 5.9. **Acceptable Use.** You shall not use the Cloud Services to: (a) transmit or store any content that may pose threats or otherwise engage in any conduct that may disrupt the operation of the Cloud Services or interfere with any third-party; (b) manage specifically regulated data, including, but not limited to data subject to the Health Insurance Portability and Accountability Act, Basel II, Graham Leach Bliley and Payment Card Industry regulations; (c) conduct any abusive, harassing, slanderous, fraudulent, illegal, or defamatory activity; (d) violate any laws or third-party rights, including any intellectual property rights, personal data and privacy rights; or (e) conduct, directly or indirectly, any activities associated with cryptocurrency mining or similar endeavors.
- 5.10. **Temporary Suspension.** We may temporarily suspend Your rights to access the Cloud Services if You use the Cloud Services outside the scope of this Section 5.

#### 6. Proprietary Rights.

- 6.1. **Our Products.** We and Our licensors own all worldwide right, title and interest in the Products including all related including copyrights, trademarks, service marks, patents, trade secrets, know-how, moral rights and all other proprietary rights, including registrations, applications, renewals and extensions of such rights existing anywhere in the world, whether registered or unregistered ("Intellectual Property Rights"). The Products are Our valuable trade secrets and constitute Our Confidential Information. Except for the rights explicitly granted to You in this Agreement, all right, title and interest in the Products are reserved and retained by Us, Our affiliates, and/or Our licensors. You do not acquire any intellectual property or other rights in the Products as a result of downloading, installing, accessing or using the Products except as specified in this Agreement.
- 6.2. **Your Content.** You or Your licensors shall own all right, title and interest in and to all of Your Content and You shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all Your Content.
- 6.3. **Feedback.** If You choose to give Us any ideas, suggestions, enhancement requests, recommendations or any other materials in connection with this Agreement or Our Products (collectively, "Feedback"), You grant Us a royalty-free, fully paid-up, worldwide, transferable, sub-licensable, irrevocable and perpetual license to implement, use, modify, and/or incorporate the Feedback into Our Products or otherwise commercially exploit such Feedback.

#### 7. Warranties and Disclaimer.

- 7.1. **Software Warranty.** We warrant to You that for a period of ninety (90) days from the date of first Delivery of the Software ("Software Warranty Period"), the Software will perform the functions described in the Documentation when used in accordance with that Documentation. The Software is not warranted to be Error free. In the event of a breach of this warranty that is reported to Us during the Software Warranty Period, We shall at Our election either (i) repair or replace the Software so that it conforms to the foregoing warranty or (ii) terminate the license with respect to the non-conforming Software and refund the license fees paid by You for the non-conforming Software. This warranty excludes defects resulting from accidents, abuse, unauthorized repair, modifications, misapplication, or use of the Software in a manner that is inconsistent with the Documentation. If You use the Software in excess of the Usage Capacity or the scope of this Agreement, this warranty becomes void. We warrant, that at Delivery, the Software contains no known virus, malware, spyware, trojan horse or other disabling code.
- 7.2. **Support Services Warranty.** We warrant to You that for the duration of the Support term, Support Services will be performed with industry standard care and skill and in a professional and workmanlike manner. Should You believe that Support Services have not been performed in accordance with this warranty, You must provide Us with a reasonably detailed written notice within thirty (30) days of occurrence of the nonconformance. We will reperform any nonconfirming Support Services.
- 7.3. **Professional Services Warranty.** We warrant to You that Professional Services will be provided in a professional and workmanlike manner in accordance with good industry practice. Your sole and exclusive remedy for a breach of this warranty is reperformance of the Professional Services or at Our discretion a refund of the fees paid by You, provided that You notify Us of any non-conformity within thirty (30) days of the provision of the non-conforming Professional Services.
- 7.4. **Cloud Services Warranty.** We warrant that the Cloud Services will perform substantially in accordance with the Documentation during the Subscription Term. We do not warrant that the Cloud Services will be uninterrupted or Error free. This warranty shall not apply to the extent of any non-conformance which is (i) caused by use of the Cloud Services contrary to the Documentation or instructions, or modification or alteration of the Cloud Services by any party other than Us or Our duly authorized contractors or agents; or (ii) due to Your Content. If the Cloud Services do not conform with this warranty, We will, at Our expense, use all reasonable commercial endeavours to correct any such non-conformance promptly. Subject to Section 7.2 above, if a correction of such non-conformance is not possible, then We will terminate the Cloud Services and refund any prepaid subscription fees for the affected Cloud Service covering the remainder of the applicable Subscription Term after the date You notified Us of any non-conformance.
- 7.5. **Disclaimer.** TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THE WARRANTIES IN THIS SECTION 7 ARE YOUR SOLE AND EXCLUSIVE WARRANTY AND REMEDY. EXCEPT FOR THE WARRANTY SPECIFICALLY DESCRIBED ABOVE, ALL PRODUCTS ARE PROVIDED "AS-IS" AND ALL OTHER WARRANTIES INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, ACCEPTABLE QUALITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARE EXPRESSLY DISCLAIMED.
- 7.6. **Previews Disclaimer.** THE WARRANTIES IN THIS SECTION 7 DO NOT APPLY TO PREVIEWS. PREVIEWS ARE PROVIDED "AS-IS", "WITH ALL FAULTS" AND "AS AVAILABLE". NUTANIX MAY CHANGE OR DISCONTINUE PREVIEWS AT ANY TIME WITHOUT NOTICE. WE DISCLAIM ALL LIABILITIES TO THE MAXIMUM EXTENT PERMITTED BY LAW.

#### 8. Indemnification.

- 8.1. **Indemnification by Us.** SUBJECT to the limitations in this Section 8, We will (a) defend and indemnify You against any third-party claim alleging that the Products infringe or misappropriate a third-party intellectual property right; and (b) pay any settlement amount or the damages and losses finally awarded against You by a court of competent jurisdiction as a result of the claim.
- 8.2. **Exclusion.** We have no obligation to indemnify You and accept no responsibility or liability for any third party infringement claims arising out of: (a) any use of the Products in a manner that is not permitted under this Agreement or the applicable Documentation; (b) any modification of the Products by anyone other than Us, except a third party acting on Our behalf; (c) the combination or use of the Products, as applicable, with any other product, service, software, data, content or method; (d) Your continued use of Products that are no longer supported by Us; or (e) any failure by You to implement Updates or Upgrades provided under Support ("Excluded Claims").

- 8.3. **Indemnification Claims.** If an infringement claim is made or appears likely to be made, We may, at Our own expense and discretion, do any of the following: (a) modify the Products so that it is no longer infringing without substantially limiting its functionality; (b) obtain a license for you to continue to use the Products; or (c) terminate this Agreement and refund the fees paid for the infringing Products. For Term Based Licenses, associated Support Services or Cloud Services, the refund will be calculated on a straightline amortisation basis over the subscription term. For Life of Device Licenses and associated Support Services, the refund will be calculated on a straightline amortization basis over five (5) years. For Professional Services, the refund will be the total fees for those services.
- 8.4. **Indemnification by You.** You will defend and indemnify Us against any claim brought against Us by a third party arising out of or relating to any Excluded Claim or Your Content including any third-party claim alleging that any of Your Content infringes or misappropriates that third-party intellectual property or violates Your obligations to any third party and You agree to pay any settlement amount, or the damages and losses finally awarded against Us by a court of competent jurisdiction as a result of the claim.
- 8.5. **Process.** Each party's defense and indemnity obligations in this Section 8 will apply only if the party seeking defense or indemnity: (a) gives the other party prompt written notice of the claim; (b) permits the other party to control the defense and settlement of the claim; and (c) reasonably cooperates with the other party in the defense and settlement of the claim. In no event will a party agree to any settlement of any claim that involves any admission of wrong doing or acceptance of a material obligation by the other party without the prior written consent of the other party.
- 8.6. **Entire liability and remedies.** The remedies in this Section 8 represent Our entire liability and obligation and Your sole and exclusive remedy with respect to third-party intellectual property rights infringement claims related to the Products.
- 9. Limitation of Liability.**
- 9.1. **Liability Exclusions.** Regardless of the basis of the claim or theory of liability, neither You nor Us will be liable for: (a) any special, indirect, incidental, consequential, or punitive damages, (b) damages arising from the loss of use, loss or corruption of data, lost profits, lost revenue, business interruption or cost of procuring substitute Products, or (c) unavailability of the Cloud Services.
- 9.2. **Damages Cap.** Neither Your nor Our aggregate liability shall exceed the greater of five hundred thousand United States dollars (US\$ 500,000) or the amount received by Us for the applicable Products in the twelve (12) months prior to the event giving rise to this liability.
- 9.3. **Exceptions.** Sections 9.1 and 9.2 do not apply to usage in excess of an Entitlement, a breach of Our intellectual property rights, an indemnification claim under Section 8, a breach of the confidentiality obligations set forth in Section 10, in case of gross negligence, willful misconduct, fraud, personal injury, or to any liability pursuant to an applicable legislation that does not permit to limit or exclude any liability.
- 10. Confidential Information.**
- 10.1. **Confidential Information.** Confidential Information means any non-public information disclosed by one party to the other party in connection with this Agreement and any information that is marked "confidential" or "proprietary" at the time of disclosure; if disclosed orally or visually, is designated "confidential" or "proprietary" at the time of disclosure or would be deemed to be confidential or proprietary to a reasonable recipient. Confidential Information includes copies of such information, but excludes information that: (a) is or becomes a part of the public domain through no action or omission of the receiving party ("Recipient"); (b) was in the receiving party's lawful possession prior to the disclosure and had not been obtained by the receiving party from the disclosing party ("Discloser"); (c) is lawfully disclosed to the receiving party by a third-party without restriction on the disclosure; or (d) is independently developed by the receiving party. Subject to applicable law, the Software, pricing information and Services Data are Confidential Information.
- 10.2. **Treatment.** Confidential Information shall remain the property of the Discloser. Each Party shall have the right to use the other's Confidential Information solely for the purpose of fulfilling its obligations under this Agreement. Each party agrees: (a) to hold the other party's Confidential Information in confidence for a period of three (3) years from the date of disclosure; and (b) to disclose the other party's Confidential Information only to those employees or agents on a need to know basis provided that they are required to protect such Confidential Information against unauthorized disclosure under terms no less restrictive than those specified herein. Recipient shall protect the Confidential Information from unauthorized use, access or disclosure in the same manner as it protects its own confidential or proprietary information of a similar nature, and in any event with at least a reasonable degree of care. Recipient may disclose the other party's Confidential Information to the extent that such disclosure is required pursuant to a judicial or administrative proceeding, provided that, prior to such disclosure, Recipient gives Discloser prompt written notice thereof and the opportunity to seek a protective order or other legal remedies.
- 10.3. **Return or Destruction.** Upon termination of this Agreement or Discloser's written request, all Confidential Information (including all copies thereof) of Discloser shall be returned or destroyed and provide written certification of this destruction, unless Recipient is required to retain such information by law, and the receiving party shall certify its compliance with this Section 10.3.
- 10.4. **Injunctive Relief.** Recipient agrees that, due to the unique nature of the Confidential Information, the unauthorized disclosure or use of the Confidential Information may cause irreparable harm to the disclosing party, the extent of which will be difficult to ascertain and for which there will be no adequate remedy at law. Accordingly, Recipient agrees that Discloser, in addition to any other available remedies, will have the right to an immediate injunction and other equitable relief enjoining any breach or threatened breach of this section 10, without the necessity of posting any security. Recipient will notify Discloser in writing immediately upon the receiving party becoming aware of any breach or threatened breach.
- 11. Data Privacy.**
- 11.1. **Services Data.** Notwithstanding anything to the contrary in the Agreement (including the Data Processing Addendum <https://www.nutanix.com/legal/data-processing-addendum> ("DPA")), where applicable, You agree that We shall have the right to use data pertaining to You and Your users and data related to Your and Your users' use of the Products, support and/or operation of the Products, for Our legitimate business purposes, such as billing, account management, security and support, as well as to develop, improve and market, products and services provided that We will process such data in accordance with Applicable Privacy Law (as defined in the DPA) and our data privacy statement which can be found at <https://www.nutanix.com/legal/privacy-statement>
- 11.2. **Data Processing.** If We process any personal data (as defined under Applicable Privacy Law) on Your behalf when performing Our obligations under this Agreement, subject to Applicable Privacy Law, You are the controller and We are the processor. Our DPA will apply when and to the extent We process Customer Data protected by Applicable Privacy Law (all as defined in the DPA). In the event of a conflict between this Agreement and the DPA, the DPA shall control.
- 12. Compliance.**
- 12.1. **Compliance with Documentation.** You agree that You will comply with all instructions and requirements in any Product specification sheets, user guides, security best practices and policies, and other documentation that We provide or make available to You in connection with the use of the Products.
- 12.2. **Compliance with Anti-Corruption Laws.** We and You shall comply with all applicable laws and regulations including but not limited to those relating to anti-corruption or anti-bribery e.g. the U.S. Foreign Corrupt Practices Act, as amended, the U.K. Bribery Act and legislation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
- 12.3. **Export Control.** The Products are subject to export restriction in the U.S. and other jurisdictions. You are responsible to fully comply with all applicable export laws and regulations that apply to the download, installation and use of the Products in Your jurisdiction. You represent and warrant that You are not subject to sanctions or otherwise designated on any list of prohibited or restricted parties, or owned or controlled by such a party, including but not limited to the lists maintained by the United Nations Security Council, the U.S. Government (e.g., the U.S. Department of Treasury's Specially Designated Nationals list and Foreign Sanctions Evaders list, and the U.S. Department of Commerce's Entity List), the European Union or its member states, or other applicable government authority.
- 12.4. **US Government Restrictions.** You acknowledge that the Products were developed entirely at private expense and no part of the Products were first produced in the context of a government contract. The Products are provided to the U.S. Government as "commercial items," "commercial computer software," "commercial computer software documentation," and "technical data" with the same rights and restrictions generally applicable to the Products. If You are using the Products on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, You will immediately discontinue Your use of the Products. The terms "commercial item" "commercial computer software," "commercial computer software documentation," and "technical data" are defined in the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.
- 13. Term and Termination.**
- 13.1. **Term.** This Agreement will remain effective until terminated in accordance with this Section 13.
- 13.2. **Subscription Renewal.** Your subscription for the Software, Support Services and Cloud Services will automatically renew for a term equal to the previous Subscription Term, or such other term agreed by Us in writing. You may cancel the automatic renewal by providing Us with ninety (90) days written notice prior to the end of Your Subscription Term. Unless You have provided notice of cancellation, You agree to raise a valid purchase order prior to the commencement of the renewal Subscription Term and We or Our Partner will be entitled to invoice You for the applicable fees. If you fail to renew Your subscription for the Software, Support Services and Cloud Services in a timely manner, backdated fees will be due for the continued use of the same, calculated from the end of preceding Subscription Term in addition to any fees due for future periods.
- 13.3. **Termination.** Either party has the right to suspend or terminate this Agreement upon written notice to the other party if the other party: (a) is in default of any material obligation and the default has not been cured within thirty (30) days of receipt of written notice specifying the default; or (b) becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law domestic or foreign, or has been liquidated.
- 13.4. **Effect of Termination or Expiration of Entitlement.** Upon any termination of this Agreement or the expiration of any Entitlement issued hereunder, the rights and licenses granted to You will automatically terminate, and You agree to immediately cease using the Products, return or destroy all copies of the Products, Documentation and other Confidential Information in Your possession and certify to Us in writing completion of the return or destruction. Upon termination We will have no obligation to refund any fees or other amount received from You during the Term and You shall be required to pay immediately all outstanding amounts. All Software license fees and fees paid or owed for any Services rendered or expenses incurred as of the date of termination are non-cancellable, non-contingent and non-refundable
- 13.5. **Return of Your Content.** If the applicable Cloud Services involves the transmission of Your Content, then You may retrieve and remove Your Content in accordance with the Documentation. We shall have no obligation to provide Your Content thirty (30) days following the termination date.

**13.6. Previews Term and Expiration.** Unless otherwise specified in the Entitlement, Previews, except for No-Charge Products, may be used for a period not exceeding ninety (90) days from Delivery or access being granted ("Evaluation Period"). You agree to uninstall, delete and cease using such Previews at the end of the Evaluation Period. No-Charge Products may be used in accordance with this Section 13.

**14. Authorized Partners.**

The terms of the agreement between You and a Partner for the procurement of the Products applies solely between You and that Partner.

**15. Governing Law and Jurisdiction.**

**15.1. Governing Law and Jurisdiction.** This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed and construed in accordance with the laws and under the exclusive jurisdiction of the competent courts as follows:

**15.2**

You are domiciled in	Nutanix contracting entity	Governing law	Courts with exclusive jurisdiction
The Americas	Nutanix Inc.	State of California and controlling United States law	Federal or state courts located in San Francisco
U.S. Federal Government	Nutanix, Inc.	Federal Law	US District Court or the US Court of Federal Claims
France	Nutanix Netherlands B.V.	French law	Paris
Germany	Nutanix Netherlands B.V.	German law	Munich
United Kingdom	Nutanix Netherlands B.V.	English law	England and Wales
Australia, New Zealand, Hong Kong, Korea and Taiwan	Nutanix Netherlands B.V.	State of New South Wales	Sydney
Japan	Nutanix Netherlands B.V.	Japan	District Court of Tokyo
Malaysia, Philippines, Singapore and Thailand	Nutanix Netherlands B.V.	Singapore	Singapore
China	Nutanix Netherlands B.V.	China	CIETAC Beijing
Any other country	Nutanix Netherlands B.V.	The Netherlands	Amsterdam

**15.3 Exclusion.** The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

**16. Certification and Audit.**

You agree to maintain accurate records as necessary to verify Your compliance with this Agreement. Upon Our request, no more than once every twelve (12) months, You agree to furnish Us with a written certification signed by one Your authorized representatives verifying that the Products are being used in accordance with this Agreement and the Entitlement. We or Our independent third-party accountant may examine and audit Your books and records relating to this Agreement and Your access, use, and deployment of the Products to the extent necessary to verify Your compliance with this Agreement and the Entitlement. Any audit will be conducted during regular business hours at Your facilities, will not unreasonably interfere with Your business and will comply with Your reasonable security procedures. If an audit reveals that You have exceeded the Usage Capacity, Usage Limits, other licensing metrics or the scope of Your license granted during the period audited, additional fees for Your excess usage are payable net thirty (30) days.

**17. General.**

**17.1. Affiliates and Contractors.** You may permit Your Affiliates and/or any contractor acting on Your behalf to use the Products within the Usage Capacity as specified in the Entitlement provided that they comply with the terms of this Agreement. You will be jointly and severally liable for any breach of this Agreement by any of the foregoing users.

**17.2. Assignment.** You may not assign this Agreement or any rights that We have given You under it unless We provide written consent, which We shall not unreasonably withhold. Either party can assign this Agreement to a successor in interest in the context of a change of control.

**17.3. Third-Party and Open Source Software.** The Products may contain components of copyrighted third-party software or open source software. Third party and open source software that is delivered as part of the Software is included in the warranty, support and indemnification provisions applicable to the Software provided it is not removed or used separately from the Software. Your internal use of open source software included in the Products without modification and in compliance with this Agreement will not result in the imposition of "copyleft" obligations with respect to Your intellectual property.

**17.4. No Third-Party Beneficiaries.** This Agreement does not confer any rights on any person or party other than the parties to this Agreement except as set forth in Section 1.3., 2, 3, and 9.

**17.5. Relationship of the Parties.** We perform Support Services as an independent contractor, and not as an employee, agent, joint venturer or partner of You, and neither You or We have the authority to bind the other by contract or otherwise.

**17.6. Waiver.** Failure to enforce any provision of this Agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.

**17.7. Subcontractors.** We may use subcontractors, but We shall remain liable to You for all of Our obligations under this Agreement.

**17.8. Force Majeure.** We will not be liable for performance delays during the performance of Support Services or Professional Services or for nonperformance, due to causes beyond Our reasonable control.

**17.9. Severability.** If any provision in this Agreement is found to be unenforceable by a court of competent jurisdiction, the remainder of this Agreement will remain in full force and effect.

**17.10. Notices.** Our notice address is: Nutanix, Inc., 1740 Technology Drive, Suite 150, San Jose, CA 95110, Attn: Chief Legal Officer.

**17.11. Survival.** Sections 2.2, 5.4, 6, 8, 9, 10, 12, 16 and 17.9 shall survive the expiration or termination of this Agreement.

**17.12. Entire Agreement.** This Agreement, together with any additional terms incorporated by reference, including the Entitlement and the Appendices hereto, constitute the complete and exclusive understanding and agreement between You and Us and supersedes any written or oral prior or contemporaneous agreements, communications and understandings. Any terms and conditions contained or referenced by either party in a quote, purchase order, acceptance, invoice or any similar document purporting to modify the terms and conditions contained in this Agreement will be disregarded and have no effect unless otherwise expressly agreed to by You and Us.

**Appendix 1: Hardware Support for NX Branded Hardware**

- 1. Scope of Hardware Support Services.** We will only provide Hardware Support for NX branded hardware (“Hardware”) under a valid Entitlement. If We determine that replacement parts are required for Hardware Support, then We will replace any failed part with a functional equivalent that will have equal or higher specifications. Replacement parts may be new or refurbished, at Our option. All defective parts must be returned following Nutanix’s return material authorization (“RMA”) policy which can be found at <https://www.nutanix.com/support-services/product-support/policies>. If You have purchased the Nutanix non-return disk option, all defective parts except the relevant disks must be returned following the Nutanix RMA policy. If You do not follow Nutanix’s RMA policy, Nutanix may invoice You through its Partners the full cost of the replacement part(s). Returned and defective parts become Our property.
- 2. Exclusions.** We shall have no obligation to provide Support Services for Hardware (a) that has been mishandled, altered or damaged due to willful or negligent acts or omissions or force majeure, or operation of the Hardware other than as specified in the documentation accompanying the Hardware; (b) modified, altered or repaired by a party other than Us or a party authorized by Us; (c) that was subjected to fire suppression discharge or a power failure; that was subjected to abnormal physical or electrical stress, abnormal environmental conditions or environmental and storage conditions (including temperature and/or humidity ranges) which are not in accordance with the documentation accompanying the Hardware; or (d) that has installed Software which is subject to Nutanix’s Software End of Life Policies which can be found at <https://www.nutanix.com/support-services/product-support/policies>.

## Appendix 2: Direct Purchase Terms

The following terms apply only if You purchase Products directly from Us.

### 1. Definitions

- 1.1. **“Delivery”** means the date when We make the license key for the applicable Software available to You or when We make the Software otherwise available to You or when We render the Professional, Support and Cloud Services.
- 1.2. **“Flexcredits”** means the pre-paid credits which can be redeemed against Professional Services.
- 1.3. **“Price List”** means Our the-current list of Products and their associated prices as amended from time to time.
- 1.4. **“Purchase Orders”** means the electronic or written order issued by You directly to Nutanix consistent with the corresponding price quotation for the purchase of the Products.

### 2. Orders & Acceptance

- 2.1. **Purchase Orders.** You shall issue binding, non-contingent, written or electronic Purchase Orders consistent with the corresponding price quote for the purchase of the Products. Your Purchase Orders shall refer exclusively to these Terms and the NLSA or any version thereof negotiated between You and Us.
- 2.2. **Acceptance.** Acceptance by You of the Software occurs upon Delivery. Acceptance of Professional, Support and Cloud Services occurs when such services are rendered unless otherwise agreed between You and Us in a separate document.

### 3. Pricing & Payments

- 3.1. **Pricing.** We may change in Our sole discretion the prices specified in Our price list and add or remove items at any time. A Purchase Order received after the effective date of a price change, but pursuant to a valid and unexpired quote shall be invoiced at the price stated on that quote.
- 3.2. **Payment Terms.** You shall make full payment in the currency specified in the invoice not later than thirty (30) days from the date of Our invoice. The rights to use the Software and Documentation, access the Cloud Services, receive the Support Services and Professional Services are subject to payment in accordance with this Section 3.2. All fees are non-refundable, non-contingent and non-cancellable.
- 3.3. **Credit Cards.** Cloud Services may also be purchased via a credit card through the Nutanix billing center available in the MyNutanix portal which may be found at <https://my.nutanix.com>.

### 4. Flexcredits

You may use FlexCredits, as specified below, to purchase Professional Services. FlexCredits, identified by SKU FLEX-CST-CR on Our price list, or such other SKU as We may determine from time to time, may only be used for packaged or custom Professional Services, technical account manager or resident consultant resources, education offerings, including certifications or any additional services as We may determine at Our discretion. Additional information on Professional Services against which FlexCredits may be utilised is available at: <https://www.nutanix.com/support-services/consulting-services> for consulting services and for education and certification. The cost of FlexCredits is as per the then current price list. FlexCredits expire twelve (12) months from the purchase date, are non-refundable and can be applied to any Professional Services made available by Us at the time of redemption. Balances can be pooled toward a single redemption and may be purchased upfront. You don't have to select in advance the Professional Services against which FlexCredits are to be redeemed.

### 5. Taxes & Duties

You are solely responsible for the payment of taxes, fees, withholding, duties and charges and all related penalties and interest that arise from utilization of or provision of the Software, Cloud Services, Support Services and Professional Services including any taxes that arise on the provision of products to Your affiliates. Taxes include, without limitation, VAT, Service tax, GST, excise taxes, sales and transaction taxes or any other like taxes that are owed with respect to any order placed under this agreement. If You are tax-exempt, provide us with tax exemption certificates or other documentation acceptable to the taxing authorities not later than thirty (30) days from the date you give us an Order. If You don't, We may include such taxes in the invoice and you are obligated to pay them. All payments pursuant to this Agreement shall be made without any withholding or deduction of any withholding tax or other tax or mandatory payment to government agencies. If you are legally required to make any such withholding or deduction from any payment due to us under this Agreement, the sum payable by you upon which such withholding or deduction is based shall be increased to the extent necessary to ensure that, after such withholding or deduction, We receive and retain, free from liability for such withholding or deduction, a net amount equal to the amount We would have received and retained in the absence of such required withholding or deduction. A valid Tax registration number is required for all Non-US orders.

### 6. Conflicting Terms.

The above terms prevail over any conflicting or additional terms referred to in any Purchase Order, quote or similar communication between You and Us. Purchase Orders issued by You shall be deemed to incorporate these Terms except where You and Us have expressly agreed in writing to variations thereto.



**STATE OF MICHIGAN**  
**CENTRAL PROCUREMENT SERVICES**  
 Department of Technology, Management, and Budget  
 320 S. WALNUT ST., LANSING, MICHIGAN 48933  
 P.O. BOX 30026 LANSING, MICHIGAN 48909

**CONTRACT CHANGE NOTICE**

Change Notice Number **3**

to

Contract Number **071B6600110**

<b>CONTRACTOR</b>	CDW GOVERNMENT INC
	One CDW Way, 230 N. Milwaukee Ave.
	Vernon Hills, IL 60061
	Kathleen Wedig
	513-596-8972
	kathleen.wedig@cdwg.com
	CV0017662

<b>STATE</b>	<b>Program Manager</b>	Mary Ladd	MULTI
		517-241-7561	
		LaddM@michigan.gov	
	<b>Contract Administrator</b>	Sean Regan	DTMB
		517-243-8459	
		regans@michigan.gov	

**CONTRACT SUMMARY**

PRE-QUAL PROGRAM MICHIGAN MASTER COMPUTING PROGRAM

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
July 15, 2016	July 31, 2026	10 - 1 Year	July 31, 2026

PAYMENT TERMS	DELIVERY TIMEFRAME

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$120,000,000.00	\$0.00	\$120,000,000.00		

**DESCRIPTION**

Effective 7/25/2022, the Federal Provisions Addendum and Byrd Anti-Lobbying Certification are hereby incorporated into the Contract.

Please note the Contractor's Contract Administrator has been changed to Kathleen Wedig and the State's Contract Administrator has been changed to Sean Regan.

All other terms, conditions, specifications, and pricing remain the same. Per contractor, agency and DTMB procurement.



# FEDERAL PROVISIONS ADDENDUM

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This addendum applies to purchases that will be paid for in whole or in part with funds obtained from the federal government. The provisions below are required and the language is not negotiable. If any provision below conflicts with the State's terms and conditions, including any attachments, schedules, or exhibits to the State's Contract, the provisions below take priority to the extent a provision is required by federal law; otherwise, the order of precedence set forth in the Contract applies. Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

## 1. Equal Employment Opportunity

If this Contract is a “**federally assisted construction contract**” as defined in [41 CFR Part 60-1.3](#), and except as otherwise may be provided under [41 CFR Part 60](#), then during performance of this Contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in

response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of [Executive Order 11246](#) of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by [Executive Order 11246](#) of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in [Executive Order 11246](#) of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in [Executive Order 11246](#) of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of [Executive Order 11246](#) of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

## **2. Davis-Bacon Act (Prevailing Wage)**

If this Contract is a **prime construction contracts** in excess of \$2,000, the Contractor (and its Subcontractors) must comply with the Davis-Bacon Act ([40 USC 3141-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"), and during performance of this Contract the Contractor agrees as follows:

- (1) All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor

shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

- (2) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- (3) Additionally, contractors are required to pay wages not less than once a week.

### **3. Copeland “Anti-Kickback” Act**

If this Contract is a contract for construction or repair work in excess of \$2,000 where the Davis-Bacon Act applies, the Contractor must comply with the Copeland “Anti-Kickback” Act ([40 USC 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”), which prohibits the Contractor and subrecipients from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled, and during performance of this Contract the Contractor agrees as follows:

- (1) Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA or the applicable federal awarding agency may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- (3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor and Subcontractor as provided in 29 C.F.R. § 5.12.

### **4. Contract Work Hours and Safety Standards Act**

If the Contract is **in excess of \$100,000** and **involves the employment of mechanics or laborers**, the Contractor must comply with [40 USC 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)), as applicable, and during performance of this Contract the Contractor agrees as follows:

- (1) Overtime requirements. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The State shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

## 5. Rights to Inventions Made Under a Contract or Agreement

If the Contract is funded by a federal “funding agreement” as defined under [37 CFR §401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

## 6. Clean Air Act and the Federal Water Pollution Control Act

If this Contract is **in excess of \$150,000**, the Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act ([42 USC 7401-7671q](#)) and the Federal Water Pollution Control Act ([33 USC 1251-1387](#)), and during performance of this Contract the Contractor agrees as follows:

### Clean Air Act

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

### Federal Water Pollution Control Act

- (1) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate

Environmental Protection Agency Regional Office.

- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

## 7. Debarment and Suspension

A “contract award” (see [2 CFR 180.220](#)) must not be made to parties listed on the government-wide exclusions in the [System for Award Management](#) (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement [Executive Orders 12549 \(51 FR 6370; February 21, 1986\)](#) and [12689 \(54 FR 34131; August 18, 1989\)](#), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than [Executive Order 12549](#).

- (1) This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor’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).
- (2) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the State. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 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.

## 8. Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of **\$100,000 or more** shall file the required certification in Exhibit 1 – Byrd Anti-Lobbying Certification below. Each tier certifies to the tier above that it will not and has not used Federal 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 awarding agency.

## **9. Procurement of Recovered Materials**

Under [2 CFR 200.322](#), Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- a. Competitively within a timeframe providing for compliance with the contract performance schedule;
- b. Meeting contract performance requirements; or
- c. At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

## **10. Additional FEMA Contract Provisions.**

The following provisions apply to purchases that will be paid for in whole or in part with funds obtained from the Federal Emergency Management Agency (FEMA):

- (1) Access to Records. The following access to records requirements apply to this contract:
  - a. The Contractor agrees to provide the State, 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 Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.



- b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. The Contractor 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.
- d. In compliance with the Disaster Recovery Act of 2018, the State and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

(2) Changes.

See the provisions regarding modifications or change notice in the Contract Terms.

(3) DHS Seal, Logo, And Flags.

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

(4) Compliance with Federal Law, Regulations, and Executive Orders.

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

(5) 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 State, Contractor, or any other party pertaining to any matter resulting from the Contract.”

(6) Program Fraud and False or Fraudulent Statements or Related Acts.

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor’s actions pertaining to this contract.

# ATTACHMENT 1- BYRD ANTI LOBBYING CERTIFICATION

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Contractor must complete this certification if the purchase will be paid for in whole or in part with funds obtained from the federal government and the purchase is greater than \$100,000.

## 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:

1. 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.
2. 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.
3. 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. Code. 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 Contractor, \_\_\_\_\_ certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor 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 Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date



**STATE OF MICHIGAN**  
**CENTRAL PROCUREMENT SERVICES**  
 Department of Technology, Management, and Budget  
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
 P.O. BOX 30026 LANSING, MICHIGAN 48909

**CONTRACT CHANGE NOTICE**

Change Notice Number **2**

to

Contract Number **071B6600110**

<b>CONTRACTOR</b>	CDW Government Inc.
	One CDW Way, 230 N. Milwaukee Ave.
	Vernon Hills, IL 60061
	Paul Somers
	(312) 705-9567
	paulsom@cdwg.com
	CV0017662

<b>STATE</b>	<b>Program Manager</b>	Mary Ladd	MULTI
		(517) 241-7561	
		LaddM@michigan.gov	
	<b>Contract Administrator</b>	Joshua Wilson	DTMB
		(517) 249-0444	
		wilsonj31@michigan.gov	

**CONTRACT SUMMARY**

**MICHIGAN MASTER COMPUTING PROGRAM (MMCP) - PREQUALIFICATION PROGRAM**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 1, 2016	July 31, 2026	10 - 1 Year	July 31, 2026
PAYMENT TERMS		DELIVERY TIMEFRAME	
NET45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$80,000,000.00	\$40,000,000.00	\$120,000,000.00		

**DESCRIPTION**

Effective September 21, 2018, this Contract is hereby increased by \$40,000,000.00.

Please note that the Contract Administrator is hereby updated to Joshua Wilson (Standard Contract Terms, Section 9. Contract Administrator). Please also note Change Notice No. 1 erroneously reflected the Contract Term and this Change Notice No. 2 hereby corrects this error affirming the Contract Term is August 1, 2016 through July 31, 2026 with ten (10), one (1) year renewal options.

All other terms, conditions, specifications and pricing remain the same per Contractor and Agency agreement, DTMB Procurement approval and State Administrative Board approval dated June 21, 2016.



**STATE OF MICHIGAN  
ENTERPRISE PROCUREMENT**  
Department of Technology, Management, and Budget  
525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
P.O. BOX 30026 LANSING, MICHIGAN 48909

**CONTRACT CHANGE NOTICE**

Change Notice Number **1**  
to  
Contract Number **071B6600110**

<b>CONTRACTOR</b>	CDW Government Inc.
	One CDW Way, 230 N. Milwaukee Ave.
	Vernon Hills, IL 60061
	Paul Somers
	312-705-9567
	paulsom@cdwg.com
	CV0017662

<b>STATE</b>	<b>Program Manager</b>	Mary Ladd	MULTI
		517-241-7561	
		LaddM@michigan.gov	
	<b>Contract Administrator</b>	Garrick Paraskevin	DTMB
		(517) 284-6993	
		paraskeving@michigan.gov	

**CONTRACT SUMMARY**

<b>MICHIGAN MASTER COMPUTING PROGRAM (MMCP)</b>			
<b>INITIAL EFFECTIVE DATE</b>	<b>INITIAL EXPIRATION DATE</b>	<b>INITIAL AVAILABLE OPTIONS</b>	<b>EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW</b>
July 15, 2016	July 31, 2026	10 - 1 Year	July 31, 2026
<b>PAYMENT TERMS</b>		<b>DELIVERY TIMEFRAME</b>	
<b>ALTERNATE PAYMENT OPTIONS</b>		<b>EXTENDED PURCHASING</b>	
<input type="checkbox"/> P-Card	<input type="checkbox"/> Direct Voucher (DV)	<input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>MINIMUM DELIVERY REQUIREMENTS</b>			

<b>DESCRIPTION OF CHANGE NOTICE</b>				
<b>OPTION</b>	<b>LENGTH OF OPTION</b>	<b>EXTENSION</b>	<b>LENGTH OF EXTENSION</b>	<b>REVISED EXP. DATE</b>
<input type="checkbox"/>		<input type="checkbox"/>		July 31, 2026
<b>CURRENT VALUE</b>	<b>VALUE OF CHANGE NOTICE</b>	<b>ESTIMATED AGGREGATE CONTRACT VALUE</b>		
\$80,000,000.00	\$0.00	\$80,000,000.00		

**DESCRIPTION**  
Effective 6/13/2018, the vendor's Single Point of Contact is being changed to Paul Somers (formerly Mike Musser). Paul can be reached at (312) 705-9567 or paulsom@cdwg.com.  
All other terms, conditions, specifications, and pricing remain the same. Per the contractor, agency and DTMB procurement.

Form No. DTMB-3522 (Rev. 10/2015)  
 AUTHORITY: Act 431 of 1984  
 COMPLETION: Required  
 PENALTY: Contract change will not be executed unless form is filed

**STATE OF MICHIGAN**  
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT & BUDGET  
 PROCUREMENT

525 W. ALLEGAN STREET  
 LANSING, MI 48933

P.O. BOX 30026  
 LANSING, MI 48909

**NOTICE OF CONTRACT NO. 071B6600110**

between

**THE STATE OF MICHIGAN**

and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
CDW Government LLC One CDW Way, 230 N. Milwaukee Ave. Vernon Hills, IL 60061	Michael Musser	michmus@cdwg.com
	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
	866-339-3642	0110

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER	DTMB	Chad Hardin	517-241-7114	Hardinc1@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Lorri White	517-284-7088	WhiteL13@michigan.gov

CONTRACT SUMMARY

**DESCRIPTION:**

Michigan Master Computing Program Contract – To purchase standardized and as-needed IT commodities and services.

INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
10 years	08/1/2016	07/31/2026	1, 3, or 5 year options.
PAYMENT TERMS	F.O.B.	SHIPPED TO	
Net 45	Delivered	Per Contract	

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

Per Contract

**MISCELLANEOUS INFORMATION**

ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION	\$80,000,000.00
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**For the Contractor:**

\_\_\_\_\_  
**Christina V. Rother,**  
**President**  
**CDW Government, LLC**

\_\_\_\_\_  
**Date**

**For the State:**

\_\_\_\_\_  
**William Pemble,**  
**Director, IT Procurement**  
**State of Michigan**

\_\_\_\_\_  
**Date**



# STATE OF MICHIGAN

## STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and CDW Government, LLC (“**Contractor**”), an Illinois Limited Liability Corporation. This Contract is effective on August 1, 2016 (“**Effective Date**”), and unless terminated, expires on July 31, 2026 (the “**Term**”).

This Contract may be renewed at the discretion of the State, in one-year, three-year, or five-year periods. Renewal must be by written notice from the State and will automatically extend the Term of this Contract.

The parties agree as follows:

1. **Definitions.** For the purposes of this Contract, the following terms have the following meanings:

“**Agency Business Owner**” is the individual appointed by the end-user agency procuring Services or Deliverables under an Engagement SOW to (a) act as such agency’s representative in all matters relating to such Engagement SOW, and (b) co-sign off on the State’s notice of acceptance for all Services and Deliverables. The Agency Business Owner will be identified in the Engagement SOW.

“**Authorized Users**” means all Persons authorized by the State to access and use the Products, Services and Deliverables under this Contract, subject to the maximum number of users specified in an applicable Purchaser Order or Engagement SOW.

“**Business Day**” means a day other than a Saturday, Sunday or other day on which the State is authorized or required by Law to be closed for business.

“**Confidential Information**” has the meaning set forth in **Section 30.a**.

“**Contract**” has the meaning set forth in the preamble.

“**Contract Administrator**” is the individual appointed by each party to (a) administer the terms of this Contract, and (b) approve any Change Notices under this Contract. Each party’s Contract Administrator will be identified in **Section 9**.

“**Contract SOW**” means the statement of work entered into by the parties and attached as **Schedule A** to this Contract.

“**Contractor**” has the meaning set forth in the preamble.

“**Contractor Personnel**” means all employees of Contractor or any Subcontractors involved in the performance of Services hereunder.

“**Data Exchange Gateway**” means the State’s secure electronic file transfer solution.





“**Deliverables**” means documentation, reports, and all other materials that Contractor or any Subcontractor is required to provide to the State under this Contract and otherwise in connection with any Services, including all items specifically identified as Deliverables in the Contract SOW or an individual Engagement SOW.

“**Dispute Resolution Procedure**” has the meaning set forth in **Section 40**.

“**Documentation**” means all user manuals, operating manuals, technical manuals and any other instructions, specifications, documents or materials, in any form or media, that describe the functionality, installation, testing, operation, use, maintenance, support, technical or other components, features or requirements of the Products.

“**DTMB**” means the Michigan Department of Technology, Management and Budget.

“**DTMB Business Manager**” means the applicable business relationship manager or comparable identified authority.

“**DTMB IT Project Manager**” is the individual appointed by each party under an Engagement SOW to (a) monitor and coordinate the day-to-day activities of the Engagement SOW, and (b) in the case of the State, co-sign off on its notice of acceptance for all Services and Deliverables. Each party’s IT Project Manager will be identified in the Engagement SOW

“**Effective Date**” has the meaning set forth in the preamble.

“**Engagement SOW**” means a statement of work entered into by the State and Contractor for the provision of specified Services and Deliverables by the Contractor or its Subcontractor.

“**Incident**” means any interruption in Services.

“**Intellectual Property Rights**” means all or any of the following: (a) patents, patent disclosures, and inventions (whether patentable or not); (b) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, together with all of the associated goodwill; (c) copyrights and copyrightable works (including computer programs), mask works and rights in data and databases; (d) trade secrets, know-how and other confidential information; and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection provided by applicable Law in any jurisdiction throughout the world.

“**ITAM**” means the State’s Information Technology Asset Management System.

“**ITRAC**” means the State’s web application for requesting and tracking IT commodity, maintenance, and service purchases.

“**Key Personnel**” means any Contractor Personnel identified as key personnel in the Statement of Work.

“**Law**” means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree or other requirement or rule of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.



“**Loss or Losses**” means all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

“**OEM**” Original Equipment Manufacturer

“**Person**” means an individual, corporation, partnership, joint venture, limited liability company, governmental agency, governmental department, governmental commission, governmental authority, unincorporated organization, trust, association or other entity.

“**Products**” means hardware, software, components, and accessories that are sold to or provided to the State.

“**Product Web Catalog**” mean the online list of State-approved Products.

“**Recycling**” The series of activities by which materials that are no longer useful to the generator are collected, sorted, processed, and converted into raw materials and used in the production of new products. This definition excludes the use of these materials as a fuel substitute or for energy production.

“**Reports**” means any and all reports that Contractor is obligated to or otherwise does provide under the Contract SOW.

“**Representatives**” means a party's employees, officers, directors, partners, shareholders, agents, attorneys, successors and permitted assigns.

“**Reuse**” means using a product or component of municipal solid waste in its original form more than once.

“**RFP**” means a Request for Proposal.

“**Services**” means any of the services Contractor, or any Subcontractor, is required to or otherwise does provide under this Contract, or an Engagement SOW, including but not limited to installation, implementation, integration, field support, and incident response. “**SIGMA**” means the Statewide Integrated Governmental Management Applications, which is the State’s future ERP system.

“**SLA**” means Service Level Agreement

“**SPOC**” means a Single Point of Contact.

“**State**” means the State of Michigan.

“**State Data**” has the meaning set forth in **Section 29.a**.

“**Stop Work Order**” has the meaning set forth in **Section 20**.

“**Subcontractor**” means any Person with whom Contractor contracts with to provide Services or Deliverables under an Engagement SOW.



“**Supplier**” means any third-party manufacturer, publisher, supplier or material provider that provides Products to the State.

“**Term**” has the meaning set forth in the preamble.

“**Transition Period**” has the meaning set forth in **Section 23**.

“**Transition Responsibilities**” has the meaning set forth in **Section 23**.

“**Unauthorized Removal**” has the meaning set forth in **Section 7.d.ii**.

“**Unauthorized Removal Credit**” has the meaning set forth in **Section 7.d.iii**.

“**User Data**” means all data, information and other content of any type and in any format, medium or form, whether audio, visual, digital, screen, GUI or other, that is input, uploaded to, placed into or collected, stored, processed, generated or output by any device, system or network by or on behalf of the State, including any and all works, inventions, data, analyses and other information and materials resulting from any use of the Software by or on behalf of the State under this Contract, except that User Data does not include the Software or data, information or content, including any GUI, audio, visual or digital or other display or output, that is generated automatically upon executing the Software without additional user input.

“**Verifiable Price Index**” (“VPI”) mean prices recorded in a catalog, price list, schedule, or other verifiable and established record that is regularly maintained by Contractor and is published or otherwise available for customer inspections.

2. **Ordering.** Products, Services and Deliverables must be ordered by one of the following two methods:
  - a. **Engagement Statements of Work.** The State may order Services and Deliverables pursuant to an Engagement SOW. For billing purposes, all Engagement SOWs must have an associated Purchase Order issued by the State. THE TERMS AND CONDITIONS OF THIS CONTRACT WILL APPLY AT ALL TIMES TO ANY ENGAGEMENT SOW ENTERED INTO BETWEEN THE PARTIES.

Engagement SOWs entered into under this Contract shall be developed and agreed to by the parties as set forth below:

- i. The State shall deliver its proposed Engagement SOW to the Contractor engaged to perform the Services, whereupon the Contractor shall review and approve, or raise any exceptions or clarifications to the State’s proposed Engagement SOW. If Contractor raises any such exceptions, the parties shall negotiate in good faith to amend the proposal, provided that:
  1. to the extent that the Contractor’s response does not comply with the requirements of this Contract and the business requirements set forth in the State’s proposed Engagement SOW, it shall be amended to so comply; and
  2. either party may terminate negotiations if the parties fail to agree on a final Engagement SOW.
- ii. Upon the parties' agreement to a final Engagement SOW, each party shall cause the same to be signed by its duly authorized representative. The only individuals authorized to sign on behalf of the State are the DTMB Business Manager and the Agency Business Owner, both of whom must sign for the final Engagement SOW to be valid. Upon its mutual execution, the final Engagement SOW shall be attached to its associated Purchase Order.



- b. **Purchase Orders.** The State may order Products, Services and Deliverables pursuant to a Purchase Order issued by the State, and signed by Contactor. The State reserves the right to cancel any Purchase Order at any time prior to shipment of the Products or delivery of the Services or Deliverables and shall not be subject to any charges or other fees whatsoever as a result of such cancellation. The State may, by written communication, make changes to any Purchase Order subject to an equitable adjustment in the price, delivery schedule, or both, where appropriate. Notwithstanding the foregoing, if Contractor's quote contains notice of non-returnable or non-cancelable Products, the previous two sentences shall not apply. THE TERMS AND CONDITIONS OF THIS CONTRACT WILL APPLY AT ALL TIMES TO ANY PURCHASE ORDERS ISSUED BY THE STATE.
3. **Invoicing.** Requirements for invoicing are set forth in the Contract SOW. THE TERMS AND CONDITIONS OF THIS CONTRACT WILL APPLY AT ALL TIMES TO ANY INVOICES.
4. **Quotes.** Requirements for quotes are set forth in the Contract SOW. THE TERMS AND CONDITIONS OF THIS CONTRACT WILL APPLY AT ALL TIMES TO ANY QUOTES
5. **Delivery.** Delivery requirements are set forth in the Contract SOW.
6. **Warranty.** For orders placed under a Purchase Order, to the extent permitted by the Supplier, Contractor will assign to the State all manufacturer or publisher's warranties on all Products. For orders placed under an Engagement SOW, the terms of the Engagement SOW will control Contractor's and Subcontractor's warranty obligations, if any.
7. **Performance of Services.** Contractor, and all Subcontractors will provide all Services and Deliverables in a timely, professional and workmanlike manner and in accordance with the terms, conditions, and specifications set forth in this Contract, the Contract SOW, and any applicable Engagement SOW.

**a. State Standards**

- i. The Contractor and all Subcontractors must adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at <http://www.michigan.gov/dmb/0,4568,7-150-56355-108233--,00.html>
- ii. To the extent that Contractor or any Subcontractor has access to the State's computer system, Contractor or Subcontractor must comply with the State's Acceptable Use Policy, see [http://michigan.gov/cybersecurity/0,1607,7-217-34395\\_34476---,00.html](http://michigan.gov/cybersecurity/0,1607,7-217-34395_34476---,00.html). All Contractor and Subcontractor personnel will be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State's system. The State reserves the right to terminate Contractor's or Subcontractor's access to the State's system if a violation occurs.

**b. Contractor Personnel**

- i. Contractor is solely responsible for all Contractor personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits.
- ii. Prior to any Contractor personnel performing any Services, Contractor will:
  1. ensure that such Contractor personnel have the legal right to work in the United States; and



2. require such Contractor personnel to execute written agreements, in form and substance acceptable to the State, that bind such Contractor personnel to confidentiality provisions that are at least as protective of the State's information (including all Confidential Information) as those contained in this Contract.
  - iii. Contractor and all Contractor Personnel will comply with all rules, regulations, and policies of the State that are communicated to Contractor in writing, including security procedures concerning systems and data and remote access, building security procedures, including the restriction of access by the State to certain areas of its premises or systems, and general health and safety practices and procedures.
  - iv. The State reserves the right to require the removal of any Contractor Personnel found, in the judgment of the State, to be unacceptable. The State's request must be written with reasonable detail outlining the reasons for the removal request. Replacement personnel for the removed person must be fully qualified for the position. If the State exercises this right, and Contractor cannot immediately replace the removed personnel, the State agrees to negotiate an equitable adjustment in schedule or other terms that may be affected by the State's required removal.
- c. **Background Checks.** If Contractor or its Subcontractor will have access to State systems, State facilities, or State Data, upon request, Contractor must perform background checks on all employees and Subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
- d. **Contractor's Key Personnel**
- i. The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State's Contract Administrator, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection.
  - ii. Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State, not to be unreasonably withheld, is an unauthorized removal ("**Unauthorized Removal**"). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under **Section 21**.
  - iii. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 21**, Contractor will issue to the State the corresponding credits set forth below (each, an "**Unauthorized Removal Credit**"):



1. For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$25,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30 calendar days before the Key Personnel's removal.
2. If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 calendar days, in addition to the \$25,000.00 credit specified above, Contractor will credit the State \$833.33 per calendar day for each day of the 30 calendar-day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$25,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30 calendar days of shadowing will not exceed \$50,000.00 per individual.

iv. Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed under **Subsection iii** above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the State's option, be credited or set off against any Fees or other charges payable to Contractor under this Contract.

8. **Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to State: Lorri White DTMB Procurement State of Michigan 525 W. Allegan, 1 <sup>st</sup> Floor Lansing, MI 48933 <a href="mailto:whitel13@michigan.gov">whitel13@michigan.gov</a> 517-284-7088	If to Contractor: CDW Government, LLC Attn: Director, Program Sales 2 Corporate Drive Suite 800 Shelton, CT 06484 <a href="mailto:ContMgt@cdw.com">ContMgt@cdw.com</a> 800-800-4239
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9. **Contract Administrators.** The following individuals are each party's Contract Administrator:

State: Lorri White DTMB Procurement State of Michigan 525 W. Allegan, 1 <sup>st</sup> Floor Lansing, MI 48933 <a href="mailto:whitel13@michigan.gov">whitel13@michigan.gov</a> 517-284-7088	Contractor: Jumana DiHu 120 S. Riverside Chicago, IL 60606 <a href="mailto:jumdihu@cdwg.com">jumdihu@cdwg.com</a> 312-705-9437
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10. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a Subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A-" or better and a financial size of VII or better.



Insurance Type	Additional Requirements
<b>Commercial General Liability Insurance</b>	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds – see endorsement.
<b>Umbrella or Excess Liability Insurance</b>	
<u>Minimal Limits:</u> \$5,000,000 General Aggregate	Coverage must follow form of underlying primary policies.
<b>Automobile Liability &amp; Hired and Non-Owned Vehicle Insurance</b>	
<u>Minimal Limits:</u> \$1,000,000 Per Occurrence	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds.
<b>Workers' Compensation Insurance</b>	
<u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
<b>Employers Liability Insurance</b>	
<u>Minimal Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	
<b>Professional Liability (Errors and Omissions) Insurance</b>	
<u>Minimal Limits:</u> \$4,000,000 Each Occurrence \$4,000,000 Annual Aggregate	Policy must cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.

If any of the required policies provide claim-made coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Services; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Services; and (c) if coverage is canceled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or purchase order number, at Contract formation and within 30 calendar days of the expiration date of the applicable policies; and (b) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver. The insurer for each insurance policy required herein shall provide notice of cancellation subject to the notification provisions of the policy.



This Section is not intended to and is not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

11. **Administrative Fee and Reporting.** Contractor must pay an administrative fee of 2% on all payments made to Contractor under the Contract including transactions with the State (including its departments, divisions, agencies, offices, and commissions), MiDEAL members, and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made by check payable to the State of Michigan and mailed to:

**Department of Technology, Management and Budget  
Financial Services – Cashier Unit  
Lewis Cass Building  
320 South Walnut St.  
P.O. Box 30681  
Lansing, MI 48909**

Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to DTMB-Procurement.

The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter.

12. **Extended Purchasing Program.** This Contract is extended to MiDEAL members. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at [www.michigan.gov/mideal](http://www.michigan.gov/mideal). Upon written agreement between the State and Contractor, this Contract may also be extended to: (a) State of Michigan employees and (b) other states (including governmental subdivisions and authorized entities).

If extended, Contractor must supply all Products, Services, and Deliverables at the established Contract prices and terms. The State reserves the right to negotiate additional discounts based on any increased volume generated by such extensions.

Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis.

13. **Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any Subcontractors. Prior performance does not modify Contractor's status as an independent contractor.

14. **Intellectual Property Rights.**

- a. **Reports.** As to any Reports, Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in such Reports and all associated Intellectual Property Rights, if any. Such Reports are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Reports and related Intellectual Property Rights do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Reports, including all Intellectual Property Rights therein, except however, that Contractor will retain all Intellectual Property Rights that it owned or controlled prior to the effective date of the agreement between the parties or that it develops or acquires from activities independent of the service performed under the agreement between the parties ("**Background IP**"). Contractor hereby grants to the State and its Authorized Users a perpetual, non-exclusive, world-wide, fully paid and royalty free license to use Background IP for its internal business purposes.





- b. Non-Report Deliverables. Intellectual Property Rights with respect to non-Report Deliverables will be governed by the individual license agreement or Engagement SOW that pertain to that particular Deliverable.

- 15. **Assignment.** Contractor may not assign this Contract to any other party without the prior written approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party.
- 16. **Change of Control.** Contractor will notify the State, at least 30 calendar days before the effective date, of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

17. **Acceptance.**

- a. Products, Services and Deliverables are subject to inspection and testing by the State in accordance with the Contract SOW and any applicable Purchase Order Requirements.
- b. Unless otherwise specified in the applicable Engagement SOW, all Services and Deliverables provided under an Engagement SOW are subject to the acceptance procedures set forth below:
  - i. All Services and Deliverables are subject to inspection and testing by the State within 15 Business Days of the State's receipt of them. The Services and Deliverables must be accepted in writing by the State's IT Project Manager and its Agency Business Owner. If the State finds deficiencies in the Services and Deliverables, it may: (1) demand performance at no additional cost, in the form a written notice to cure; or (2) reject the deficient Services and Deliverables without performing any further inspections, and terminate the Engagement SOW and associated Purchase Order, in whole or in part, in accordance with Section 22. The State's failure to provide notice of acceptance or deficiencies within 5 Business Days of the expiration of the inspection or testing period will constitute acceptance of the Services and Deliverables.
  - ii. Within 15 Business Days from the date of Contractor's receipt of a notice to cure, Contractor must cure, at no additional cost, the noted deficiencies and deliver acceptable Services and Deliverables to the State.
  - iii. If Contractor is unable or refuses to correct the noted deficiencies within the time response standards set forth in subsection (b) above, the State may terminate the Engagement SOW and associated Purchase Order, in whole or in part, in accordance with Section 21. The State, or a third party identified by the State, may provide the Services and Deliverables and the State may recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

- 18. **Terms of Payment.** All undisputed amounts are payable within 45 days of the State's receipt of a valid invoice. Contractor may only charge for Products, Services and Deliverables provided as specified in the Purchase Order or Engagement SOW. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Products, Services and Deliverables purchased under this Contract are for the State's exclusive use. Provided the State delivers to Contractor its tax-exempt certificate, Contractor will not add any sales or use tax to the price of Products or Services.



The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify Contractor of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Products, Services or Deliverables. Contractor's acceptance of final payment by the State constitutes a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/cpexpress> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment.

Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor.

19. **Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in the Contract Statement of Work, or an Engagement SOW if applicable.
20. **Stop Work Order.** The State may suspend any or all Services under the Contract, an individual Purchase Order or an individual Engagement SOW at any time. The State will provide Contractor, or Subcontractor if applicable, a written stop work order detailing the suspension. Contractor, or Subcontractor if applicable, must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract. Unless the work covered by the stop work order is subsequently terminated for cause, the State will pay Contractor reasonable, direct and verifiable costs resulting from the stop work order. Further, the parties will agree upon an equitable adjustment with respect to Contractor Personnel staffing requirements, if as a result of the stop work order, its staffing of the project is affected by such stop work order. For the avoidance of doubt, the State is not liable to Contractor for loss of profits because of a stop work order issued under this Section 20..
21. **Termination for Cause.** The State may terminate this Contract, an individual Purchase Order or an individual Engagement SOW for cause, in whole or in part, if Contractor or its Subcontractors, as determined by the State: (a) endangers the value, integrity, or security of any State location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) fails to perform Services under an Engagement SOW with sufficient personnel and equipment or with sufficient material to ensure adequate performance of the Services; (d) breaches any of its material duties or obligations under this Contract, an individual Purchase Order, or an individual Engagement SOW; or (e) fails to cure a breach within 30 days after a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform in accordance with **Section 23**, Transition Responsibilities. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in **Section 22**, Termination for Convenience.

The State will only pay for amounts due to Contractor for Products, Services and Deliverables accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. The Contractor must pay all direct and verifiable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, and court costs.



22. **Termination for Convenience.** The State may terminate this Contract, an individual Purchase Order or an individual Engagement SOW on 30 days written notice, in whole or in part, without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor or Subcontractor must: (a) cease performance of the Services immediately, or (b) continue to perform the Services in accordance with **Section 23**, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.
23. **Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 180 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Services to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Services at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Services, training, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and Confidential Information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed Deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.
24. **General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all third-party actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, Subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any Intellectual Property Right of any third party caused by Contractor or Subcontractor; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to negligent action or inaction by Contractor (or any of Contractor's employees, agents, Subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any negligent acts or omissions of Contractor (or any of Contractor's employees, agents, Subcontractors, or by anyone else for whose acts any of them may be liable).

The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations.

The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; and (iii) employ its own counsel. Contractor will not, without the State's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. To the extent that any State employee, official, or law may be involved or challenged, the State may, at its own expense, control the defense of that portion of the claim.

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

25. **Infringement Remedies.** If, in either party's opinion, any of the Services or Deliverables supplied by Contractor or its Subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the Services or Deliverables, or if this option is not reasonably



available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

26. **Limitation of Liability.** NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS AND LOST BUSINESS OPPORTUNITIES. IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES SPECIFIED IN THE APPLICABLE PURCHASE ORDER OR ENGAGEMENT STATEMENT OF WORK GIVING RISE TO THE CLAIM.
27. **Disclosure of Litigation, or Other Proceeding.** Unless precluded by law, Contractor must notify the State within 14 calendar days of receiving notice of litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a Subcontractor, or an officer or director of Contractor or Subcontractor, that arises during the term of the Contract, that would have a material effect on Contractor's performance under this Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
28. **State Data.**
- a. **Ownership.** The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) User Data; and (b) the State's data collected, used, processed, stored, or generated in connection with the Services, including but not limited to (i) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Services, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and (ii) personal health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Services, which is defined under the Health Insurance Portability and Accountability Act ("**HIPAA**") and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This Section survives the termination of this Contract.
- b. **Contractor Use of State Data.** Unless expressly specified in an Engagement SOW, the Services to be provided by Contractor will not require or involve access, collection, use, processing, storing, or generating any State Data. The State will not enable, and will use commercially reasonable efforts to prevent access and disclosure of State Data to Contractor. Contractor will use commercially reasonable efforts to prevent gaining access to State Data. If Contractor inadvertently receives access to State Data in the performance of Services despite the parties' efforts, then Contractor shall handle such State Data in accordance with Section 29. If the parties enter into an Engagement SOW that expressly identifies that Contractor or its Subcontractor will require access to State Data to be utilized by Contractor or its Subcontractor in the provision of Services, Contractor will be provided a limited license to State Data for the sole and exclusive purpose of providing the Services, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Services. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in



this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Services, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Contract.

- c. Compromise of State Data. In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than seventy-two (72) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) with approval and assistance from the State, notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twenty-four (24) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney's fees associated with such investigation and resolution; (g) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (h) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and (i) provide to the State a detailed plan within ten (10) calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, not be tangentially used for any solicitation purposes, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. The State will have the option to review and approve any notification sent to affected individuals prior to its delivery. Notification to any other party, including but not limited to public media outlets, must be reviewed and approved by the State in writing prior to its dissemination. This Section survives termination or expiration of this Contract.

29. **Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.

- a. Meaning of Confidential Information. For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar



meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was or is: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA) by the receiving party; (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.

- b. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or Subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and Subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a Subcontractor is permissible where: (a) use of a Subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Subcontractor's responsibilities; and (c) Contractor obligates the Subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any Subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
  - c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
  - d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
  - e. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party.
30. **Data Privacy and Information Security.** Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a)



ensure the security and confidentiality of State Data; (b) protect against any anticipated threats or hazards to the security or integrity of State Data; (c) protect against unauthorized disclosure, access to, or use of State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and Subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which shall be provided to Contractor, which shall be treated as Confidential Information.

31. **Records Maintenance, Inspection, Examination, and Audit.** The State or its designee may, upon 30 days prior written notice, audit Contractor to verify compliance with this Contract. Contractor must retain, and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Financial Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

After providing the notice specified above, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Services are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If any financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Contract must be paid or refunded within 45 calendar days.

This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any Subcontractor that performs Services in connection with this Contract.

32. **Warranties and Representations.** Contractor represents and warrants to the State that:
- a. it will perform all Services in a professional and workmanlike manner in accordance with best industry standards and practices for similar services, using personnel with the requisite skill, experience and qualifications, and will devote adequate resources to meet its obligations under the applicable Statement of Work;
  - b. the Services and Deliverables provided by Contractor will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party;
  - c. it has the full right, power, and authority to enter into this Contract, to grant the rights granted under this Contract, and to perform its contractual obligations;
  - d. all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading;
  - e. it acknowledges that the State cannot indemnify any third parties, including but not limited to any Suppliers or Subcontractors. Notwithstanding anything to the contrary contained in any third-party license agreement or end user license agreement, the State will not indemnify any third-party for any reason whatsoever during the term of this Contract. EXCEPT AS EXPRESSLY STATED HEREIN CONTRACTOR, (INCLUDING ITS AFFILIATES, CONTRACTORS, AND AGENTS, AND EACH OF THEIR RESPECTIVE EMPLOYEES, DIRECTORS, AND OFFICERS), ON BEHALF OF ITSELF AND ITS SUBCONTRACTORS DISCLAIMS, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY OF THE PRODUCTS, SERVICES, AND DELIVERABLES, INCLUDING BUT NOT LIMITED TO ANY WARRANTY (1) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, OR SUITABILITY; OR (2) RELATING TO THIRD-PARTY PRODUCTS OR SERVICES.



A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under **Section 21**, Termination for Cause.

33. **Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any Subcontractor that performs Services in connection with this Contract.
34. **Compliance with Laws.** Both parties must comply with all federal, state and local laws, rules and regulations.
35. **Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, Contractor and its Subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or mental or physical disability. Breach of this covenant is a material breach of this Contract.
36. **Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or Subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
37. **Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
38. **Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Products, Services, and Deliverables from other sources.
39. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster, acts of God, or supply chain disruptions not caused by Contractor that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its Subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
40. **Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to each party's respective Contract Administrator. Such referral must include a description of the issues and all supporting documentation. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely, or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.





41. **Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.
42. **Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
43. **Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
44. **Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.
45. **Entire Agreement.** This Contract, including the Statement of Work, constitutes the sole and entire agreement of the parties to this Contract with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any conflict between the terms of this Contract and those of the Statement of Work or other document, the following order of precedence governs: (a) first, this Contract; (b) second, the Statement of Work; (c) third, attachments and exhibits to the Statement of Work. **EXCEPT FOR LICENSE AGREEMENTS WITH SUPPLIERS AGREED TO IN WRITING BY THE STATE, NO TERMS ON ANY INVOICE, QUOTE, PURCHASE ORDER, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE PRODUCTS, SERVICES, OR DELIVERABLES (INCLUDING SOFTWARE AND HARDWARE) OR DOCUMENTATION, WHETHER BY CONTRACTOR, SUPPLIER, OR SUBCONTRACTOR, WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ANY AUTHORIZED USER FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE, EVEN IF ACCESS TO OR USE OF SUCH PRODUCT, SERVICE, DELIVERABLE (INCLUDING SOFTWARE AND HARDWARE) OR DOCUMENTATION REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.**



Schedule A – Statement of Work  
Exhibit 1 – General Overview

## 1.0 GENERAL OVERVIEW

### 1.0.1 PURPOSE

The purpose of this Contract is for the Contractor to provide as needed IT commodities and services as noted below:

1. Hardware Module (Schedule A, Exhibit 1 and 3) – Computer hardware (including OEM Software), hardware maintenance, & associated assessment, installation, integration, and implementation services purchased through the Contract(s)
2. Software Module (Schedule A, Exhibit 2 and 3) – Licensed software , software maintenance, & associated assessment, installation, integration, and installation services purchased through the Contract(s)

### 1.0.2 PROGRAM

The Michigan Master Computing Program (MMCP) is supported by a bid process to compete for the State's IT purchases that are in scope for each exhibit (Hardware & supporting services; software & supporting services; or both). The MMCP prequalification program consists of multiple contractors.

### 1.0.3 IN SCOPE

Any IT purchase not specifically listed the Out of Scope section below. The scope and requirements related to the purchase of specific IT commodities and services are noted in each exhibit included in Schedule A. The State reserves the right to refresh the vendor pool (increase or decrease) annually as it sees fit in the best interest of the State; including increasing or decreasing the number of modules a contractor is awarded.

Contract shall be available to the State's MiDEAL Program and other states. The MiDEAL program allows local government partners and other states to use State contracts for their procurement needs. Contractor will provide all available products and services to MIDEAL members at their option. The value of MiDEAL procurements will count toward the State's aggregate purchase volume for purposes of calculating volume discounts.

### 1.0.4 OUT OF SCOPE

The following are out of the scope:

- Desktop Application commodity product training required by the State for End-users.
- Staff Augmentation Services as it relates to consultants and specific tool sets not mentioned in this Contract.
- Software Development.
- Professional services for hardware or software not purchased through this Contract.

Individual exhibits in Schedule A may identify other out-of-scope items.

### 1.0.5 REQUIREMENTS/DELIVERABLES FOR ALL PRODUCTS

Contractor will provide State-approved products and services; the State will approve all additions, deletions, or changes to the State-approved products. At the State's request Contractor will source and quote new products and services, including one-time purchases and additions to the Catalog. Contractor will notify the State as specified in each Module of any changes to these products.

Contractor, upon commercial announcement of new components that can be technically and economically substituted or added for/to items listed in the current Product Web Catalog, will offer said items for addition or substitution to the Product Web Catalog. These item(s) may be accepted at the option of the State, provided at least equivalent performance with economic benefits or significantly enhanced performance at no additional cost per unit of capability accrues to the State. End of life ("sunsetting") products frequently purchased by the State should be offered to the State at discounted rates as Contractor sells off its inventory of such items.



### 1.0.5.1 ERP Integration

#### 1.0.5.1.1 ITRAC

The State currently has an Intranet web application, ITRAC, which is used for requesting, approving, reporting and tracking IT commodity and maintenance purchases. Contractor will provide a file that contains the common commodities that are ordered by the State.

The following requirements must be met for integration with ITRAC:

- 1) Catalog file is a text file (flat file) with data elements delimited by tab characters,
- 2) Contractor will provide incremental updates to the catalog received daily (Monday-Friday 6 PM EST)
- 3) A full load file will be received weekly (Friday 6 PM EST)
- 4) The file will be transferred to the State Data Exchange Gateway using FTP.
- 5) The length of "Description" field will be kept under 255 characters.
- 6) The catalog file structure/format may be changed as a new design is implemented in the ITRAC system.
- 7) The Description file must support the addition of a 4 character identification code used to match commonly purchased items. Example: "E01-"
- 8) Required data elements are:
  - OPERATION\_CODE
  - ITEM\_NUMBER
  - MANUFACTURER
  - VENDOR
  - BLANKET PURCHASE ORDER NUMBER
  - DESCRIPTION
  - CATEGORY
  - SKU
  - PRICE
  - AGENCY\_APPROVED

#### 1.0.5.1.2 Future ERP Integration

The State is currently engaged in a project to implement the new State-wide Integrated Governmental Management Applications (SIGMA) ERP System, which is based on the CGI Advantage suite of applications. This is expected to replace ITRAC and other legacy State systems and become the new requisition and procurement system for the State. Migration to SIGMA is tentatively targeted for 2017.

Contractor shall, at no additional cost to the State, provide a State Web Portal and integrate it with the State' ERP Solution when the State migrates purchasing operations to the new system. Contractor will work with the State's identified ERP migration project team to obtain specific integration requirements. The Contractor will supply a catalog for products available under the Contract, which will reflect real-time product inventory, pricing, and availability information.

Contractor will grant the State and the State's authorized ERP provider a non-exclusive, limited license to use, reproduce, transmit, distribute, and publicly display within the ERP Solution the Contractor's punch-out catalog-site, including all of Contractor's trademarks, service marks, logos, trade dress, or other branding designation of Contractor that identifies the products made available under the Contract.

#### 1.0.5.2 MIDEAL WEB PORTAL

Contract shall be available to members of the State's MiDEAL Program. This program allows local governments, other states, and other authorized entities to use State contracts for their procurement needs. The State does not restrict what products and services are available through MiDEAL, so long as they meet the Contract's scope. As a result the Contractor will need to provide a separate, web-based, secure MiDEAL catalog and portal. Contractor' MiDEAL Web Portal will provide to the State on-line, searchable reports on the business conducted through the contract to MiDEAL members. Please see Sections 11 and 12 of the Terms and Conditions.



### **1.0.5.3 ORDER PROCESS**

#### ***1.0.5.3.1 ORDER PROCESSING***

Upon receipt of an approved, executed purchase order, Contractor will fully validate the order to make sure that each product is still valid and that each price is correct.

- i. If the product is valid but the catalog price is lower than the price quoted on the original order, the lower price will be invoiced.
- ii. If the catalog price is higher than an active quoted price, the quoted price will be applied to the order.

After the order is validated, Contractor will send an acknowledgement to the order submitter.

#### **1.0.5.4 SUBSTITUTIONS**

Substitutions may be made when the product is not available because the manufacturer has discontinued its production or due to a documented product constraint. Contractor must notify State of substitutions before sending the replacement product for State approval.

Contractor will offer an equivalent or better substitute at or below the original price, with the State's permission. The offering being substituted must be from the same manufacturer as the product that is discontinued or unavailable.

Contractor will provide the State with written documentation substantiating the need for substitution and that the requirements are met by the product being substituted. The State will review the information submitted and determine in its sole discretion whether substitution is acceptable.

#### **1.0.5.5 DELIVERY**

The Contractor will deliver the product(s) as listed on the State's order. Unless otherwise specified within an individual order, the following are applicable to all orders issued under this Contract. Specific delivery metrics and Service Level Agreements (SLA's) are detailed in Section 1.0.13 Contract Performance, below.

Products purchased and services performed under this Contract shall be delivered to a F.O.B. Destination specified by the State upon issuance of individual purchase orders. The location will be specified at time of delivery. The Contractor is responsible for ensuring the products are transported from the delivery vehicle to the delivery point specified.

Contractor will provide the following delivery options:

- Standard Delivery, meaning where the product is delivered to a fixed delivery point (such as a State Warehouse) and State employees perform the unloading of the truck for the logistics company. Loading dock is available.
- Inside Delivery, meaning where the product is delivered to a location inside of a State building location. Contractor's logistics company is responsible to unload the delivery vehicle. Loading dock may or may not be available.
- Deskside Delivery, meaning where the Contractor's logistics company delivers the product directly to the end users' desk location within a State building. Loading dock may or may not be available.

Items shall not be considered delivered if they are refused due to damage or otherwise considered not to meet original order specifications.

Contractor will provide options to the State for Overnight and Second Day delivery.

#### **1.0.5.6 SHIPMENT NOTIFICATION**

For each order submitted, the Contractor will send e-mail notifications to the order's submitter by the next business day, concerning shipment and expected delivery dates.

#### **1.0.5.7 ACCEPTANCE CRITERIA FOR DELIVERY**

The State will consider products accepted when delivery of product is made to the specified delivery address, complete packing slips with applicable serial numbers are provided to the State, and equipment passes inspection. Equipment discovered to be damaged, defective or failing to conform to the specifications may be



rejected upon initial inspection or at any later time if the defects contained in the equipment or non-compliance with the specifications was not reasonably ascertainable upon initial inspection.

Contractor will not invoice for equipment, and the State will not authorize payment of invoices, until both of the above conditions have been met.

Contractor is responsible to ensure that a copy of the signed receiving documents are forwarded to the State before payment will be authorized.

#### **1.0.5.8 PACKAGE LABELS AND PACKING SLIPS**

##### **1.0.5.8.1 BAR-CODING**

Bar-Coded Information – The following information will be required on the vertical face of packages containing IT assets in a standard bar code format:

- a. State of Michigan Purchase Order Number
- b. Model Number(s)
- c. Serial Number(s)

The data for each field must be in standard print beside/above/below each bar code.

##### **1.0.5.8.2 PACKING SLIPS**

Contractor shall provide a packing slip for each physical shipment. The packing slip shall display:

- a. Purchaser's Name (Procurement Liaisons name)
- b. Ship to address
- c. Order Date
- d. Shipped from (Vendor) information
- e. Shipping Carriers Name
- f. Carriers Tracking Number
- g. Date Shipped
- h. Total Number of Packages
- i. State Purchase Order (PO) Number (or MiDEAL P.O.)
- j. Item / Part Number
- k. Line item description
- l. Quantity ordered
- m. Quantity included in shipment (of total quantity ordered)
- n. Any back order items and date they will be filled
- o. Equipment serial number

#### **1.0.5.9 RETURNED PRODUCTS**

##### **Delivery Errors**

Contractor will provide a product return process that protects the State from any financial obligation and/or costs arising from the delivery of incorrect or wrong and damaged products. This must cover Dead on Arrivals (DOA), damaged products, duplicate deliveries, and incorrect product deliveries.

##### **Returns or Amendments at State's Request**

Contractor will provide an order cancellation and amendment process that will allow the State to return products up to 20 business days from the date of receipt. The State may cancel an order prior to shipment at no cost.

##### **1.0.5.10 PRODUCT RECALL NOTIFICATIONS**

Contractor must provide prompt notice to the DTMB Program Manager in writing of any product recall within three business days. Contractor will also inform the DTMB Program Manager of any potential recalls that Contractor is aware of that could or would impact State purchasing of such products.

##### **1.0.5.11 PROCESS FOR OBTAINING QUOTES**



Contractor will provide a quoting service for products and services ("Quote Desk"). The Quote Desk must also be available in the event an emergency situation. The Quote Desk will facilitate the State's communication with OEM's and Publishers so that the State may uniquely configure hardware and software solutions, obtain technical guidance or expertise, and any other information needed for the basis of quotes.

All quotes, except quotes for servers and or server components from the major manufacturers, will be valid for a period of thirty (30) business days from the date the quote is received by the State.

Quotes for servers and server components from the major manufacturers will be valid for a period of sixty (60) business days from the date the quote is received. Quotes will be subject to change if any quoted component becomes unavailable. Contractor will notify the State of this occurrence. Contractor will then submit a revised quote to the State to satisfy the request, along with explanation.

For any Software quote request where the manufacturer requires the State to sign or agree to a licensing agreement, the Contractor will furnish the licensing agreement as an attachment to the quote.

### **1.0.6 ENGAGEMENT STATEMENT OF WORK PROCESS**

Unless where otherwise specified, Engagement Statements of Work (SOW) shall be used to define engagement-specific services. Please refer to Modules 1 and 2 for specific services allowable for each Module. Services purchased from this Contract must comply with the Contract's allowable scope. See Exhibit E for the Service Engagement Statement of Work Template.

At the State's request, the Contractor will develop and propose in writing a solution, including price that shall be valid for 30 business days. The proposed solution will be submitted to the requestor within 10 business days from the request. Cost structures for all SOW's shall be based on: a) defined milestones or deliverables; or b) per-device fees.

DTMB will execute a Statement of Work through a purchase order.

### **1.0.7 LEASING (Optional)**

Contractor will provide options to lease products to the State, which will include acquisition, installation, maintenance, removal and disposal. Lease options may be either capital or operational. Lease options will be consistent with Governmental Accounting Standards Board (GASB) standards.

### **1.0.8 REPORTS**

Contractor shall publish the following reports in a Web portal for authorized users, and make available as identified below, and update at minimum according to the frequencies listed below. All reports must be exportable to common formats from the Web portal.

#### **1.0.8.1 DAILY REPORTS**

##### **1.0.8.1.1 Shipping Report**

The Contractor will provide a daily shipping report that details the following information on an individual PO line item basis. Items with serial numbers must be on individual lines of the report.

- Ship To Location
- Address
- City
- Zip
- Shipper Tracking Number
- Service Tag
- State PO Number
- Agency
- Category (Server, Desktop, Laptop, Tablet, Software)
- Model / Title
- Quantity
- Unit Price



- Ship Date
- Manufacturer Part#
- Contractor PO Number
- Shipment Carrier
- Agency Code
- Manufacturer/Publisher Name
- Manufacturer Order#
- Expected Delivery Date
- Warranty Start Date
- Warranty End Date

#### 1.0.8.1.2 Open Order Report

Contractor will provide a daily report of all open orders that details the following information on an individual PO basis. The report will include:

- State PO#
- Contractor PO#
- Product Description
- Quantity
- OEM Part#/SKU#

#### 1.0.8.2 MONTHLY REPORTS

Contractor will provide the following reporting solutions:

##### 1.0.8.2.1 Monthly Contract Updates on Prices/Products

Contractor will provide a monthly Contract update to the State as prices and products change. Any update will state:

Changes (product additions/deletions, State price changes, manufacturer's part numbers changes, etc.) that have occurred since the last monthly Contract update and must include the following items:

1. Publisher or Manufacturer's part number, description, State price, type of change, and explanation.
2. Manufacturer/Contractor web address for more detailed product information,
3. Price for added products

#### Vendor Activity Report

Contractor will provide a monthly report of all activities transacted under the contract, which will include:

- Purchase Orders Processed
- Purchase Orders Fulfilled, including days to delivery
- New OEM's Provided
- Invoices Issues
- Invoices Paid
- Quotes Requested and Provided, including days to provide

#### Aged Receivable Report

Contractor will provide a monthly report of all past-due State invoices for payment under the contract, which will include:

- Invoice Number
- Purchase Order Number
- Invoice Issue Date
- Invoice Due Date
- Days Past Due
- Invoice Status

#### DOA Report/Warranty Report



Contractor will provide a monthly report of all products noted as Dead On Arrival (DOA), whose delivery was refused.

- SOM PO Number
- Product Description
- Manufacturer Name (Dell, HP, Lenovo, APC, Oracle, etc.)
- Model Number
- Product Category (Desktop, Laptop, Tablet, Server, etc)
- Serial Number (Vendor Unique Service Tag Number) from Replaced PC
- Warranty End Date
- New Serial Number
- Incident Date
- New Order Ship Date
- Problem Description

### **1.0.8.3 Asset Report**

The Contractor will transmit a file that interfaces with the State's asset management system, Information Technology Asset Management (ITAM), and the State Data Center's Configuration Management Data Base process, for asset reporting at no additional cost to the State.

#### **1.0.8.3.1 Hardware Asset Report**

- Ship To Location
- Address
- Service Tag
- State PO Number
- Agency
- Model
- Category (ex: Server, PC)
- Ship Date
- Agency Code
- Warranty/Maintenance Start Date
- Warranty/Maintenance End Date

#### **1.0.8.3.2 Software Asset Report**

- Ship To Location
- Address
- State PO Number
- Agency
- Title
- Category (ex: Perpetual, Subscription, Maintenance)
- License Metric (ex: User, Device, Processor)
- Quantity
- Software Key
- Ship Date
- Agency Code
- Term Start Date
- Term End Date
- License Cost

### **1.0.8.4 QUARTERLY AND ANNUAL REPORTS**

Contractor will report, within ten (10) days of the end of each quarter the following summary reports:

- Metrics and SLA Summary, showing all SLA's (for each unmet SLA, detailed explanation must be provided)
- Warranty and Maintenance Services Summary, including % of services that met SLA





- Quarterly Purchases Volume, including breakdown by Top 20 OEM's
- MiDEAL Members Purchase Volumes
- Lease Report, detailing initiation and expiration
- Warranty, Maintenance, & Subscription Expiration Report, up to six months in advance.
- State administrative fees collected and payable

The State may require new or different reports over the Contract's term. Contractor will work with the State to revise reports.

Contractor will provide the following annual reports

- SLA Report
- Active Service Engagements
- Annual Purchase Volumes
- Annual Lease Volumes
- MiDEAL members Purchase Volumes

#### **1.0.8.5 AD-HOC REPORTS**

Contractor will provide the ability to generate ad-hoc electronic reports using a report template or other easy to use query tool. Reports must be electronic in the State-requested format. These reports will be made available free of charge as often as needed by the State.

#### **1.0.8.6: REPORT DASHBOARD**

Contractor will provide an online dashboard through their Portal that will show the following reports, which shall be updated monthly:

- Metrics and SLA's
- Volume of End-user Devices ordered by category
- Volume of Servers ordered by manufacturer
- Program Activity Volume:
  - Number of orders
  - Number of quotes
  - Number of SOW's
  - Dollars Spent
  - Savings realized in relation to the proposed cost model

#### **1.0.9 CONTRACTOR STAFF, ROLES & RESPONSIBILITIES**

The Contractor is responsible for:

- Monitoring and proactively resolving issues with delivery dates, quality of products/services, mean time between failure after repairs, billing/invoicing, and other service level agreements.
- Notify the MMCC Program Manager within one business day when products are constrained or otherwise unavailable so that the Program Manager can work with the Contractor to find an appropriate means to resolve these issues.
- The Contractor, its subcontractors and subcontracted staff shall comply with all security standards and the security access requirements for individual State facilities.

The State may, at its sole discretion and expense, conduct a background check of any Contractor resource who is proposed to perform services under this Agreement at a State site, provided that the background check complies with all applicable local, state and federal laws. The State will notify Contractor whether the Resource has or has not passed the background check. No other information, including any detail about the checks performed or results obtained, will be provided to the Contractor. If the State notifies Contractor that the resource has not passed, Contractor will not assign that resource to perform the services. The State will treat any such information provided by, and/or obtained about, a resource as part the background check process as Confidential Information.

#### **1.0.9.1 Technical Support**



The State reserves the right to obtain OEM/Publisher technical support for all products and services on this contract.

#### 1.0.9.2 Key Personnel:

The State has identified the following as **key personnel** for this project:

1. Single Point of Contact (SPOC)
2. Contract Program Manager (CPM)
3. Contract Transition Manager

- **Single Point of Contact (SPOC)**

The Contractor will identify a SPOC for State and MIDEAL authorized personnel to call to obtain order and delivery statuses and to resolve issues (such as configurations, price, returns, inquiries, delivery status questions, etc.), billing/invoicing issues, warranty work, technical advice and remedial maintenance. Access to the SPOC will be provided through a toll free line to the State and MIDEAL Members. This SPOC will be available after business hours for issue escalation.

The State reserves the right to require a change in the current SPOC if the assigned SPOC is not, in the opinion of the State, adequately serving the needs of the State.

- **Contract Program Manager (CPM)**

The Contractor will identify a **Contract Program Manager (CPM)** to oversee all aspects of the Contract including the management of all vendor personnel. The CPM will work closely with the designated personnel from the State. The CPM will coordinate all of the activities of the Contractor personnel assigned to the project and create all reports required by State. The CPM to oversee all aspects of the statewide Contract for the commodity awarded, including the management of all customer representatives and personnel identified in Contractor's proposal. The CPM's responsibilities include, at a minimum:

- Manage Contractor's subcontractors
- Develop the initial project plan and schedule, and update as needed for the Contract implementation and administration of the Contract.
- Serve as the point person for all project issues
- Coordinate and oversee the day-to-day activities of the Contract team
- Assess and report project feedback and status
- Escalate issues, risks, and other concerns
- Review all deliverables and provide feedback
- Proactively propose/suggest options and alternatives for consideration
- Utilize change control procedures
- Prepare documents and materials

#### **Contract Transition Manager**

Contractor will identify a Contract Transition Manager to oversee all aspects of transition and implementation of the Contract as described in Section 1.0.12. The Contract Transition Manager will remain Key Personnel until successful transition to operations of all Contract activities. Likewise, Contractor will identify a Contract Transition Manager as Key Personnel to oversee all aspects of transition at Contract's end, as described in 1.0.12.

#### **Organizational Chart**

The Contractor will provide, and update when changed, an organizational chart indicating lines of authority for personnel involved in performance of this Contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management and indicate who within the firm will have prime responsibility and final authority for the work. When changes occur to the organizational structure an updated organizational chart must be sent to the DTMB Buyer and the DTMB Program Manager within 2 weeks.

#### **Contractor Identified Key Personnel**



Single Point of Contact	Contract Program Manager	Contract Transition Manager
<p>Mike Musser 120 S. Riverside Chicago, IL 60606 <a href="mailto:MMCC@cdwg.com">MMCC@cdwg.com</a> 866-339-6942</p>	<p>Jumana Dihu 120 S. Riverside Chicago, IL 60606 <a href="mailto:jumdihu@cdwg.com">jumdihu@cdwg.com</a> 312-705-9437</p>	<p>Joseph Old 300 S. Washington Square, Suite 200 Lansing, MI 48933 <a href="mailto:Joe.Old@dewpoint.com">Joe.Old@dewpoint.com</a> 810-625-6873</p>

**1.0.10 ROLES & RESPONSIBILITIES OF THE STATE**

State will assign a Program Manager or designee as a single point of contact for all communications. The Program Manager or designee will:

- Serve as the State’s Point of Contact between the Contractor and all other individuals participating in this Contract.
- Review and approve Contract product and support offerings including service levels, delivery times, performance metrics, cost basis and price.
- Act as the authority for determining compliance with SLA’s.

**State Michigan Master Computing Program Manager:**

Chad Hardin  
517-241-7114  
Hardinc1@michigan.gov

**1.0.11 CONTRACT PROGRAM IMPLEMENTATION**

The Contractor will provide sufficient staff that will have explicit responsibility for the administration of this Contract along with responsibility for planning all Contract transition start up activities, day-to-day Contract processes, and the subsequent transitional activities at the end of this Contract.

**1.0.12 TRANSITION PLAN AT THE END OF THE CONTRACT**

Along with all requirements and responsibilities specified in Section 24 of the Contract Terms and Conditions, Contractor will provide:

- **Transition Plan.** The Contractor will work together with the State and/or a Third Party Provider to develop a transition plan (the “Transition Plan”) setting forth the respective tasks to be accomplished by each Party in connection with the Transition and a schedule pursuant to which such tasks are to be completed. The Contractor will also participate in the execution of the Transition Plan by performing tasks mutually agreed upon in the development of the Transition Plan.
- **Knowledgeable Personnel.** The Contractor will make available to the State or the Third Party Provider knowledgeable personnel familiar with the operational processes and procedures used to develop products and services to the State.
- **Single Point of Contact.** The Contractor will maintain a Single Point of Contact (SPOC) for the State after termination of the Contract until all product and service obligations have expired.

**1.0.13 CONTRACT PERFORMANCE**

**1.0.13.1 METRICS**

The Contractor and the State of Michigan will establish procedures to manage all the service providers to be used under this contract. The State and the Contractor will monitor performance throughout the course of this Contract.

The contractor will monitor the performance and coverage of all warranty and maintenance services. In addition to monitoring of repair cases, the Contractor will meet regularly with service providers to discuss



performance metrics, issues affecting the industry or clients, new initiatives, and new innovations in technology. The primary focus is on making sure service commitments are met or exceeded.

Contractor will provide the Services according to the metrics detailed below; based on the awarded module(s). Metrics will be completed with the following operational considerations:

I: Service Metric #	II: Service	III: State Minimum Metric
A1	PC Delivery, No installation (hardware module)	10 business days, aggregate of all line item units delivered
A2	PC Delivery, with installation (hardware module)	15 business days, aggregate of all line item units delivered
A3	Commodity Server Delivery (hardware module)	15 business days, aggregate of all line item units delivered
A4	Custom-configured Server Delivery (hardware module)	20 business days, aggregate of all line item units delivered
A5	Software Delivery (software module)	10 business days, inclusive of all line item units delivered
A6	Non-Server Quote Delivery (all modules)	3 business days from request
A7	Server Quote Delivery (hardware module)	5 business days from request
A8	Engagement Statement of Work (all modules)	10 business days from request
A9	PC Warranty & Maintenance (hardware module)	Next business-day response
A10	Server Onsite Warranty & Maintenance: critical (hardware module)	2-hour response
A11	Server Onsite Warranty & Maintenance: high (hardware module)	4-hour response
A12	Server Onsite Warranty & Maintenance: standard (hardware module)	Next business-day response

**1.0.13.2 SERVICE LEVEL AGREEMENTS AND LIQUIDATED DAMAGES**

Contractor will report on a quarterly basis on all SLA’s calculated from service metrics based on the awarded module(s), which are defined below.

The Contractor acknowledges that late or improper completion of the Services will cause loss and damage to the State, and that it would be impracticable and extremely difficult to determine the actual damage sustained by the State as a result. If there is late or improper completion of the Services, the State is entitled to collect liquidated damages in the amounts designated for the following cases:

- Missed Service Level Agreements will be assessed the amounts detailed in Table 1.0.13.2-A below.
- Unauthorized Removal of Key Personnel will be assessed as detailed in the Contract Terms and Conditions Section 7: Performance of Services.

In the event the Contract is terminated, the State will be entitled to collect liquidated damages. These amounts are not intended to be a penalty.

I: Service Metric#	II: Service	III: Quarterly SLA (% of purchase orders)	IV: Assessed LD
A1	PC Delivery, No installation (hardware module)	95%	10% of order's late line item cost
A2	PC Delivery, with installation (hardware module)	95%	10% of order's late line item cost
A3	Commodity Server Delivery (hardware module)	95%	10% of order's late line item cost
A4	Custom-configured Server Delivery (hardware module)	95%	10% of order's late line item cost



I: Service Metric#	II: Service	III: Quarterly SLA (% of purchase orders)	IV: Assessed LD
A5	Software Delivery (software module)	95%	10% of order's late line item cost
A9	PC Warranty & Maintenance (hardware module)	95%	\$25 per late response
A10	Server Warranty & Maintenance: critical (hardware module)	95%	\$1,000 per late response
A11	Server Warranty & Maintenance: high (hardware module)	95%	\$100 per late response
A12	Server Warranty & Maintenance: standard (hardware module)	95%	\$25 per late response

**1.0.14 PRICING AND INVOICING REQUIREMENTS**

Attached as Schedule B is Contractor product pricing to the State, based on a minimum percentage discount off a verifiable price index (VPI) which will be used to establish a product's not-to-exceed price to the State. Contractor may (and is encouraged) to provide additional discounts. Contractor must notify the MMCC Program Manager of any price increases before the change is made. The State reserves the right to negotiate individual transaction and agreement pricing, as it deems in its best interests. The State reserves the right to establish and use other contracts, as it deems in its best interests.

Contractor will be paid for services as identified in the State's issued Purchase Order. Payments for installation, integration, and implementation services will be set according to an approved Engagement Statement of Work.

Contractor shall invoice the State in order to receive payment. Invoices will be sent to the State address or email account as noted on the purchase order. The State will pay Contractor by EFT.

Contractor will provide the following data as part of all invoices, the absence whereof shall qualify as grounds for the State to reject the invoice for correction and resubmission:

- Invoice Number (unique)
- Invoice Date
- State Purchase Order Number
- Bill-To Address
- Ship-To Address
- Payment Terms
- Commodity/Service Name
- Description
- Unit/Deliverable Price
- Total Price
- Invoice Subtotal
- Shipping and Handling (if applicable)
- Total
- Invoice Payment Due Date
- Period of Service, if applicable



Schedule A  
Exhibit 2 – Hardware Module

## 1.1 HARDWARE

### 1.1.1 PURPOSE

Contractor has been selected to provide the State a broad range of Hardware products and services as listed in this module. These include core hardware and optional hardware, as defined below.

The State does not guarantee it will buy any specific item or any total amount.

### 1.1.2 BACKGROUND

Currently, the State has standardized on specific devices for End-user hardware and servers. The State reviews manufacturer and product standards on an annual basis.

### 1.1.3 IN SCOPE

Contractor, at the State's request, will provide:

- End-User Devices, servers, racking infrastructure, storage, back-up and associated peripherals including any bundled software.
- Assessment, integration, installation, and implementation services in support of the commodities purchased through the resulting Contract.

Warranty and maintenance services will be provided on all equipment that is offered and purchased or leased through this Contract. Delivery, support, warranty and maintenance may be provided by the Contractor using subcontractors. The Contractor will be responsible for the timeliness and quality of all services provided by individual subcontractors.

The Contractor will deliver to locations requested by the State.

Warranty and Maintenance purchased prior to the effective date of this Contract will remain in force with the manufacturer until the end of the service period. Only new services will be purchased through this Contract.

### 1.1.4 RESERVATION OF RIGHTS

The State reserves the right to purchase products outside of the Contract based on its sole determination of best value.

### 1.1.5 REQUIREMENTS/DELIVERABLES

If installation services are required, all equipment delivered will be fully configured, bootable and ready to operate.

#### 1.1.5.1 END-USER DEVICES

The State identifies standards for desktop, laptop and tablet systems bundles/solutions. These are typically reviewed on a yearly basis or as market conditions dictate. The State intends to have End-User Device solutions in place for a minimum of six months with a maximum of 2 configuration changes per year.

Contractor will meet the following requirements:

1. Equipment that has not yet entered the production phase of the manufacturer may not be included in the Contractor portal.
2. The equipment must include associated hardware and OEM software that will allow the operation of the product as a stand-alone unit, a networked unit in a local area network (LAN), a networked unit in a wide area network (WAN), wireless applications or any combination of the four.
3. Where the State does not require an OEM operating system software license, the State expects a decrease in the packaged unit price of the END-USER DEVICE.



4. Contractor will furnish the models, configurations and price on the following desktop, laptop, and tablet products provided in the Hardware Pricing, Schedule B, Exhibit 1; Standard products and pricing for Standard products will be updated periodically through the Program as requested by the Program Manager.
  - a. Contractor should provide any additional discounts available if the equipment is bundled such as a desktop purchased with a standard monitor.
  - b. Contractor should provide any additional discounts available for quantities obtained.
5. Non-Standard Products - In addition to the desktop and laptop models listed in Hardware Pricing, Schedule B, Exhibit 1, Contractor will be required to furnish the complete product line of End-user devices.
6. As part of on-going product refresh, Contractor will provide new product models of equivalent or superior function relevant to end of life models. Contractor will inform the MMCP Program Manager of any product refresh in advance. The Program Manager will advise Contractor of the State's decision on configuration and pricing.
7. Contractor will provide warranty coverage for all End-user devices purchased, or leased, per the following requirements:
  - a. Desktops, laptops, and tablets shall be a minimum of onsite, four (4)-years parts and labor and expense warranty, with next business day repair, and must be included in the purchase price of all equipment. All repairs and component replacements shall be performed by the Warranty Provider.
  - b. The Contractor will provide manufacturer-certified systems engineers, in adequate numbers, to provide support for the State's infrastructure for warranty service and any support required. These engineers must be able to be reached by phone via the toll-free number for problem resolution, and should be able to be onsite within the time frame indicated under the warranty or maintenance service purchased.
  - c. It will be the responsibility of the Contractor to complete warranty requests and to notify the State of service completion, either directly or through a third party provider. Contractor or a designated subcontractor must be a manufacturer's authorized service representative for all equipment on the Contract.
  - d. The Contractor will serve as an agent for the State in obtaining the best (in terms of coverage, pricing, and duration) warranties available and work with manufacturers so that warranty commitments are met.
  - e. All standard warranty costs, excluding any upgrades or extensions, are to be included with the equipment prices.
  - f. State offices are dispersed geographically throughout Michigan. Contractor will provide warranty and/or maintenance services at all State locations, including the Upper Peninsula and State Correctional Facilities.
  - g. Principle Period of Maintenance (PPM) will be the same hours as the State's normal working hours (currently Monday through Friday, 8:00 a.m. to 5:00 p.m., excepting State-observed holidays). The principle period of maintenance hours may be changed upon 20 business days written notice by mutual agreement (between the individual State agency and the Contractor), except that the Contractor shall make every reasonable effort to change its schedule in a shorter period of time, if requested by the State.
  - h. All defective items must be replaced at no additional cost to the State. All equipment dead on arrivals (DOAs) will be replaced with new equipment and treated as a Second Day Rush order delivery at no additional cost to the State or, at the State's option, Contractor will repair the equipment per the terms of the equipment warranty.

The DTMB Client Service Center (CSC) will determine to their best ability the root cause of the failure. The CSC will then notify the Contractor, who will then take ownership of the cases and provide the CSC with a tracking number. The Contractor will include the DTMB tracking number in its information. The Contractor



will maintain status information within its case log and notify the CSC using the DTMB tracking number when repair is completed.

Equipment that cannot be repaired within the response time frame shall be replaced. Replacement equipment provided by Contractor must be from the same manufacturer (unless the device is no longer manufactured) and equal to or better than the original equipment being replaced (e.g. higher resolution monitor, or larger hard drive) at no additional cost to the State.

Defective hard drives that have been in use by the State, regardless of warranty or maintenance status, will not be returned to the manufacturer or the Contractor at completion of replacement due to security issues. DTMB will provide, at Contract signing, the procedure for handling defective drives.

MIDEAL End-User Device Purchases

Contractor will be required to furnish models available to the State as well as other desktop manufacturers to MiDEAL members as long as those manufacturers are appropriate to this Contract.

**1.1.5.2 PERIPHERALS**

Peripherals include but are not limited to monitors, storage, keyboards, uninterruptible power supplies (UPS), optical drives, mice, keyboards, multi-media projectors, memory, speakers, hard drives, GPS receivers, digital cameras, CAD equipment, and Adaptive/Assistive technology devices.

Contractor will furnish peripherals to support the desktop, laptop, and tablet manufacturer models that are offered throughout the Contract’s term.

Peripherals will be covered under the manufacturer’s warranty.

**1.1.5.3 END-USER DEVICE ASSET TAGGING**

Each END-USER DEVICE delivered to the State, will be tagged with the following information:

	State of Michigan	
Bar Code		“Service Tag”
Service Tag #		Serial Number
Model #		Model No. per manufacturer
Client Service Center #		(517) 241-9700
Toll Free #		(800) 968-2644
Warranty End Date		mm/dd/yyyy
MAC Address		Device’s MAC Address

Service Tag # = Serial Number

Model = Model number per manufacturer.

Phone Numbers furnished by State and constant on all tags.

An example of an existing State asset tag follows here:







#### **1.1.5.4 STATE HARD DRIVE IMAGE**

Contractor or their original equipment manufacturer (OEM) will load State-approved images to any requested system hard drive during the factory build process. Contractor will provide the following services:

- Receive, install and manage State-supplied images
- Provide technical resources to support DTMB, test, identify and resolve problems.

Contractor will furnish a device drivers and utilities as needed to perform image development.

System images will be created and maintained by DTMB and uploaded to manufacturer. These images shall not be changed or altered in any fashion except in instances of DTMB approval.

#### **1.1.5.5 EVALUATIONS UNITS**

Contractor will provide DTMB evaluation units of new computer models as they come into existence, without initial cost, for analysis and image adjustment, for a time frame not less than 60 business days. DTMB will return or take an option to purchase the device at the end of the evaluation period.

#### **1.1.5.6 SERVERS**

The State determines standard Server brands and technologies it uses according to its Technology Roadmap.

##### **1.1.5.6.1 CORE SERVER BRANDS**

The State has defined its Core Server Brands. Contractor will provide applicable hardware, maintenance, and onsite field engineer support for Dell, HP, or IBM servers. Additionally, Contractor will provide hardware, maintenance, and support for APC racks.

Contractor will provide the following server warranty options:

- Onsite 2 hour response; 7x24 coverage with 6-hour resolution
- Onsite 4-hour response; 7X24 coverage
- Onsite 8-hour response; 7x24 coverage
- Next Business Day Onsite

At the State's request, the Contractor must furnish manufacturer extended warranties (beyond the originally purchased warranty), warranty upgrades, and time and materials warranty support through the equipment manufacturers or third party providers. Manufacturer's extended warranty service may be purchased in conjunction with or separately at any time. Only Contractors authorized by the manufacturer or distributor of the equipment may provide manufacturer's warranty Services. Extended warranties shall be inclusive of the services provided under the State's normal warranty process.

Defective hard drives that have been in use by the State, regardless of warranty or maintenance status, will not be returned to the manufacturer or the Contractor at completion of replacement due to security issues. DTMB will provide, at Contract signing, the procedure for handling defective drives.

##### **1.1.5.6.2 OPTIONAL SERVER BRANDS**

The State has existing contracts for Cisco and Oracle Servers and Network Storage. The State is interested in options Contractor may provide to procure these solutions.

###### **1.1.5.6.2.1 CISCO SERVERS**

The State may procure Cisco servers, along with maintenance, access to onsite field engineer support, and installation, integration, and implementation services.

###### **1.1.5.6.2.2 ORACLE SERVERS**

The State may procure Oracle servers, along with maintenance, access to onsite field engineer support, and installation, integration, and implementation services.



#### 1.1.5.6.2.3 LENOVO SERVERS

The State may procure Lenovo servers, along with maintenance, access to onsite field engineer support, and installation, integration, and implementation services..

#### 1.1.5.6.2.4 STORAGE SOLUTIONS

The State may procure storage solutions including but not limited to hardware, software, maintenance, support, and services; including but not limited to orchestration, fabric, storage, and backup/continuity.

#### 1.1.5.6.2.5 CUSTOMER-PREMISE TELECOMMUNICATIONS AND SECURITY SOLUTIONS

The State may procure customer-premise telecommunications and security solutions including maintenance, support, and services. Customer-premise telecommunications, security hardware and software, and associated services include but are not limited to; network routers and switches, network management hardware and software, warranty maintenance, pre-sales support, and installation, integration, and implementation services. IP video, IP telephony, and unified communications hardware and software are considered network components.

### 1.1.6 DISCRETIONARY HARDWARE

The State at its option and based on its determination of best value may procure other Hardware through the Contract. This will be effected through a quote process with final decision based on best value. Contractor will provide requested hardware, hardware maintenance, and support, if requested.

Hardware components or peripherals must also be available and may include, additional processors, server rack rails, memory, cables and power cords in varying lengths, extra hard drive units, tape storage backups drives, Network Attached Storage (NAS), direct attached storage (DAS) etc.

The State will have a need to acquire parts for server-based computing platforms already in place at the State, through this Contract. The Contractor must be able to provide these parts as needed during the term of the Contract at the percent off of list, or markup percentage as denoted on the cost model.

### 1.1.7 PRODUCT TECHNOLOGY ROADMAPS

Contractor will provide quarterly technology roadmap updates relevant to changes in products in use by the State. In particular, Contractor will provide six months' advance notice to the State on chipset changes or Product scheduled to go end of life (EOL).

### 1.1.8 HARDWARE ASSESSMENT, INSTALLATION, IMPLEMENTATION, AND INTEGRATION SERVICES

At the option of the State, through a Statement of Work, the State may purchase Installation, Implementation, and Integration service on fixed per-unit basis or as fixed deliverable price. Reimbursement for travel and expenses shall be factored into the cost.

Services will vary, based on the type of equipment being installed. Contractor will ensure the equipment will operate properly in the State's environment at the end of installation. Installation Services may include, but are not limited to:

A. End-User Computing Device Installation - Installation capabilities may include, but not be limited to:

1. Site Hardware Set-Up, which may include
  - a. Desk-side delivery
  - b. Unpack system
  - c. Save files from old systems by copying to server or media
  - d. Removal of old system
  - e. Wipe or remove hard drive for data destruction, as defined
  - f. Pack old system for Asset Recovery
  - g. Install system unit and any previously attached peripherals
  - h. Connect to network and test connection
  - i. Complete User login



- j. Set up and test printer connection
  - k. Initiate Software push
  - l. Confirm successful completion of all activities
- B. Solution training for State administrators and operators

### 1.1.9 DATA RECOVERY (OPTIONAL)

Contractor will provide data recovery services on end-user computing devices and servers.

### 1.1.10 ENVIRONMENTAL (GREEN) REQUIREMENTS

In compliance with the State's directive for energy efficiency, recycling, environmentally-sound disposal and low-toxicity materials. (See Executive Directive 2007-22 at [http://www.michigan.gov/formergovernors/0,4584,7-212-57648\\_36898-180298--,00.html](http://www.michigan.gov/formergovernors/0,4584,7-212-57648_36898-180298--,00.html)). Contractor shall, wherever applicable, provide products that comply with industry-wide standards.

The State requires that the devices be Energy Star compliant, be so labeled, and the Contractor will document, when required, the energy savings the State can expect to realize per year by implementing suggested devices. The devices must also be EPEAT rated, and the vendor must show that the devices they are suggesting for State of Michigan use are in the EPEAT registry. The devices must also minimize the amount of overhead needed during operation. This includes power consumption, heat, and air conditioning

1. Contractor will identify and offer power-state management tools.
2. Contractor will identify and offer a disposal program that ensures value is obtained for old equipment. Such programs may include recycling of the devices through refurbishment, redeploying the equipment in another jurisdiction and/or recycling of parts or materials of the equipment. This program must meet zero landfill requirements and provide for the secure disposal of computer data-storage components at either DoD-standard erasure level, or approved physical destruction of said components.
3. Contractor will offer products whose manufacturer offers a free packaging take-back program where the packaging material can be collected/returned to manufacturer or recycler for reuse or recycling at the State's option. As an option, Contractor may propose bulk packaging such as shipping an order in one pallet or container without individual packaging of equipment.

Contractor will provide products whose manufacturers provide a publicly available written corporate environmental policy consistent with the aspects of the policy requirements laid out in the ISO 14001 standard.

"ISO 14001" is the conformance standard within the family of ISO 14000 documents developed by the International Organization for Standardization (ISO) in Geneva, Switzerland. Similar in structure to the ISO 9000 quality management system standard, ISO 14001 outlines key requirements companies should comply with in order to operate in an environmentally responsible manner. Utilizing ISO 14001, companies can merge environmental programs into one coherent system to efficiently manage all environmental activities. In short, ISO 14001 provides organizations with a way to demonstrate to their customers that their environmental processes and impact are effectively managed, continually improving, and part of the corporate management system. For more information, please refer to [www.iso.org](http://www.iso.org).

### 1.1.11 CONTRACTOR VALUE ADDED SERVICES

Contractor proposed value added services are captured in Schedule C, Exhibit 1- Value Added Services for use by the Michigan Master Computer Program upon the request of the State's Program Manager so support the program activities and goals.



Schedule A  
Exhibit 3 – Software Module

## 1.2 LICENSED SOFTWARE

### 1.2.1 PURPOSE

Contractor will provide a broad range of Software products and services as listed in this module. These include Core Software, Discretionary Software, and Optional Software, as defined below

The total quantity of purchase of any individual item on a contract is not known. The State does not guarantee it will buy any specific item or any total amount.

### 1.2.2 BACKGROUND

The State of Michigan purchases Software licenses and renewable maintenance and support as needed. The State establishes the best portfolio of contracts to provide Software.

### 1.2.3 IN SCOPE

Contractor, at the State's request, will provide Licensed Software to the State. Licensed Software is hereby defined as:

- Commercial off the Shelf (COTS), pre-packaged software , which may be installed on end-user devices, servers, or other computing equipment
- Software maintenance, which is defined herein as related standard commercial Software Publisher's software support services, which may come bundled with the software license or sold separately. Software support services are dictated by the Software Publisher, and may often include bug fixes, error-corrective services, update, and new versions that are improvements, extensions, or other changes that are logical improvements or extensions of the original product. It may also include software documentation or access to remote technical support.
- Pre-configured, pre-integrated Software appliances.

Contractor's services to be provided to the State will include:

- Quote Licensed Software
- Assistance with renewal of Licensed Software subscriptions and software maintenance

Contractor will provide the following services

- Onsite software field technical support and security incident response services at the State's discretion
- Assessment, Installation, Integration, and Implementation services (see Section 1.2.6) at the State's discretion for specific Software engagements, which will be paid based on defined deliverables found on the State's Engagement Statement of Work as agreed to between the State and Contractor/Subcontractor to support software purchased through the Contract.

### 1.2.4 OUT OF SCOPE

- Software services for development, customization, modifications, and/or creation of enhancements are not within the scope of this Contract.
- Enhancements altering the functionality, and/or adding new functions not related to a maintenance modification or a commercial, generally available Software release are not within the scope of the Contract.

The State reserves the right to purchase Licensed Software outside of the Contract when it determines that an items' pricing is not competitive with the open market.

New products and services may be added to the Contract as requested by the DTMB Program Manager.

### 1.2.5 SOFTWARE REQUIREMENTS



### **1.2.5.1 SOFTWARE DELIVERY AND LICENSING**

The Contractor will supply the State with the Publisher's Licensed Software in any media the Publisher makes available and will provide the media requested by the State. If Contractor is unable to obtain the commitment to deliver the software within the applicable delivery metric after receipt of order, Contractor will advise DTMB of the non-delivery. DTMB will determine, in consultation with Contractor, the method of resolution of the request.

The Contractor will ensure that the State shall be the designated Licensee and owner of all entitlements for all purchases made.

### **1.2.5.2 PUBLISHER SOFTWARE LICENSE AGREEMENTS**

The State will enter into software license agreements with specific publishers when those programs are in the best interest of the State. Contractor will facilitate and support both existing and new Software license agreements.

Contractor will assist the State in identifying software publishers that may be receptive to volume purchasing agreements, and recommend additional such programs that may be advantageous to the State.

The State will be contractually responsible for the agreements, while the Contractor will administer the Agreement programs and serve as the program reseller under the requirements of the specific program.

### **1.2.5.3 CORE SOFTWARE**

Core software are those State-standard brands for which this Contract will become the State's primary procurement vehicle. The State-standard brands will change over time as the State sets new standards. Contractor will work vendors identified to provide new State-standard brands. The State has designated the following Core Software brands as critical to operations and data security:

1. Adobe
2. BMC
3. Citrix
4. HP
5. Microsoft
6. Symantec
7. VMWare

Specific requirements for providing Core Software are detailed in the sub-sections below.

#### **1.2.5.3.1 ADOBE SOFTWARE**

Contractor will provide access to and support the State's existing Adobe agreements for Licensed Software, and, at the State's option, assist in the establishment and renewal of new agreements.

#### **1.2.5.3.2 BMC SOFTWARE**

Contractor will provide access to licensing and support of BMC Software, and, at the State's option, assist in the establishment and renewal of new agreements.

#### **1.2.5.3.3 CITRIX SOFTWARE**

Contractor will provide access to and support the State's existing Citrix agreements for Licensed Software, and, at the State's option, assist in the establishment and renewal of new agreements.

#### **1.2.5.3.4 Hewlett Packard Solutions Software**

Contractor will provide access to licensing support for Hewlett Packard Solutions Software, and, at the State's option, assist in the establishment and renewal of new agreements.

#### **1.2.5.3.5 MICROSOFT SOFTWARE**

Contractor will provide access to and support the State's existing Microsoft Agreements, and, at the State's option, assist in the establishment and renewal of new agreements.

**1.2.5.3.6 SYMANTEC SOFTWARE**

Contractor will provide access to and support the State's existing Symantec agreement for Licensed Software, and, at the State's option, assist in the establishment and renewal of new agreements.

**1.2.5.3.7 VMWARE SOFTWARE**

Contractor will provide access to Software license, including federal sku# products, and support for VMWare Software, and, at the State's options, assist in the establishment and renewal of new agreements.

**1.2.5.4 DISCRETIONARY SOFTWARE**

The State at its option and based on its determination of best value may procure other Licensed Software titles through the Contract. Contractor will provide requested software with value-add, including renewals of software maintenance and support.

**1.2.5.5 OPTIONAL SOFTWARE**

The State has certain core software brands that are currently procured through direct contracts with the Software Publishers. The State wishes to determine whether a VAR contract vehicle may provide cost-competitive pricing for these products, relative to the direct contracts. The State reserves the right to include Optional Software, either in award of this Contract or as result of future negotiations, on a brand-by-brand basis.

**1.2.5.5.1 CA SOFTWARE**

Contractor may provide access to CA software licenses, maintenance, support services, and training to perform server operation monitoring.

**1.2.5.5.2 COMPUWARE/DYNATRACE**

Contractor may provide access to Compuware/Dynatrace software licenses, maintenance, support services, and training.

**1.2.5.5.3 IBM SOFTWARE**

Contractor may provide access to IBM software licenses, maintenance, support services, and training.

**1.2.5.5.4 NOVELL SOFTWARE**

Contractor may provide access to Novell software licenses, maintenance, support services, and training.

**1.2.5.5.5 ORACLE SOFTWARE**

Contractor may provide access to Oracle software licenses, maintenance, support services, and training.

**1.2.5.5.6 SAP SOFTWARE**

Contractor may provide access to SAP software licenses, maintenance, support services, and training.

**1.2.6 SOFTWARE ASSESSMENT, IMPLEMENTATION, INTEGRATION, INSTALLATION SERVICES**

Contractor will provide assessment, implementation, integration, and installation services at the State's option, for specific, deliverable-based service engagements, including solution training for State administrators and operators. Contractor will supply trained, qualified personnel on a case-by-case basis, who will provide these services, based on the State's needs. The State will provide an Engagement Statement of Work to the Contract which will be managed, provided to Contractor, and updated by the DTMB Program Manager.



Schedule B - Pricing  
Exhibit 1 - Hardware Price Tables

1. Core End-User Device Configurations

- a. Pricing will be determined by the annual competitive bidding process between vendors who have been selected to source hardware to the State through the Michigan Master Computing Program. If the primary vendor selected during the annual competitive bidding process cannot provide all products a secondary vendor will be selected to provide the remaining products. This will be added as a change notice to each contract in the year awarded.
- b. Not to Exceed Prices based on Contractor’s verifiable price index (VPI) for remainder of calendar 2016 and into calendar year 2017 until bidding process is opened for next annual sourcing (anticipated to be January 2017).
- c. The price lists and products listed are subject to change over time; standard products will be changed in accordance with the State standards kept and updated by DTMB.
  - i. Hardware

Line Item	MFR	Hardware Item	Contractor's Minimum % Discount to VPI Cost
1	Dell	Dell-SFF-wo-Monitor	14.0%
2	Dell	Dell-SFF-w-Monitor	13.9%
3	Dell	Dell Micro-wo-Monitor	14.1%
4	Dell	Dell Micro-w-Monitor	14.0%
5	Dell	Dell CAD-GIS	19.1%
6	Dell	14" Laptop wo Port Rep	19.1%
7	Dell	14" Laptop w Port Rep	19.0%
8	Dell	15" Laptop wo Port Rep	19.1%
9	Dell	15" Laptop w Port Rep	19.1%
10	Dell	CAD GIS Laptop	16.5%
11	Dell	Dell Rugged Extreme	7.6%
12	Dell	Dell Latitude 14 Rugged	19.1%
13	Dell	Dell Latitude 14 Rugged w Port Rep	19.1%
14	Dell	Dell Rugged Tablet	7.6%
15	Dell	Dell Rugged Tablet w Dock	7.6%
16	Dell	Dell 2 in 1 (7275)	7.6%
17	Dell	Dell 7370 Laptop	7.6%
18	Dell	Dell Ultrabook 7250	19.1%
19	Microsoft	Surface Pro 4	4.9%
20	Lenovo	Lenovo X1 Yoga	0.5%
21	Lenovo	Lenovo X1 Tablet	1.0%



ii. Accessories

Part Number	Commodity Description and Part Number	Contractor's Minimum % Discount to VPI Cost*	Comments
469-4546	DELL 90W AUTO/AIR DC TRAVEL ADAPTER (469-4546)	12%	
331-6304	Dell E-series E/port Plus Advanced Port Replicator (331-6304)	2%	
331-6307	Dell E-series E/port Simple Port Replicator (331-6307)	2%	
330-0875	Dell CRT Monitor Stand (330-0875)	6%	
A0390912	Targus Rolling Laptop backpack style carrying case - fits laptops of screen sizes up to 15.4" (A0390912)	10%	
330-9456	Dell MS111 USB Optical Mouse OptiPlex and Fixed Precision (330-9456)	22%	
570-AANS	Dell Wireless Mouse - WM324 (570-AANS)	22%	
331-9653	Dell Business Multimedia Keyboard (331-9653)	22%	
429-AAUX	Dell External DVD/RW (429-AAUX)	5%	
A4051230	Dell Wireless Desktop MK320 Keyboard/Mouse Bundle(A4051230)	21%	
A1586557	Dell Dual-Monitor Stand Flat-Panels Only (A1586557)	6%	
12000 mAh)(451-BBLZ	Dell Power Companion (12000 mAh)(451-BBLZ)	3%	
18000 mAh)(451-BBKV	Dell Power Companion (18000 mAh)(451-BBKV)	2%	
450-AEVM	Dell Thunderbolt Dock-240W (Required for 7370 & 7510)	2%	
390 Watt BE650G Back UPS	APC 390 Watt BE650G Back UPS	12%	
C920	Logitech Web Camera HD Pro C920	6%	
460-BBLR	Nylon Carrying Case	17%	
537-BBCC	Dell Rugged Desk Dock, Customer-Install (537-BBCC)	2%	
A8007905	Vehicle Dock DEVMT,DOCKST,DELL,LAT12-14,SP, (A8007905)	2%	
859-BBBC	Dell 23" Touch Monitor P2314T	3%	
320-9794	320-9794 Dell 24 Monitor - P2414H	2%	
983-7873	983-7873 4th Year Limited Warranty Extension, Monitor, Advanced Exchange	0%	included in part# 320-9794
B00E7W1UFQ	Satechi 3-Port Portable USB 3.0 Hub and Ethernet LAN Network Adapter for Windows Mac and Linux		Not Available in Distribution
4XA0E97775	ULTRASLIM USB DVD BURNER THINKPAD	6%	





45J7915	DISPLAYPORT TO SINGLE-LINK DVI-D MONITOR CABLE	33%	
4X40E77324	PROFESSIONAL BACKPACK	17%	
470-ABQN	Dell Adapter - USB-C to HDMI/VGA/Ethernet/USB 3.0	12%	
4X90E51405	THINKPAD USB3.0 TO ETHERNET ADAPT	12%	
4X50L08495	BATT_BO TP X1 PRODUCTIVITY MODULE	0%	Included in X1 Tablet not sold separately b/c federal law
40A40090US	Lenovo ThinkPad OneLink+ Dock - Port replicator - 90 Watt - for ThinkPad Yoga 260 20FD, 20FE, 20GS	2%	
R9Q-00001	Microsoft Surface Pro 4 Type Cover - Keyboard - English - North American layout - black - commercial	17%	
Q5N-00001	Microsoft Surface 65W Power Supply - Power adapter - 65 Watt - commercial - for Surface Book	17%	
320-9704	Dell P2213 22" Monitor with HAS 22.0 Inch VIS Widescreen VGA/DVI/DC/DP	2%	
983-7873	983-7873 4th Year Limited Warranty Extension, Monitor, Advanced Exchange	0%	included in part# 320-9704
4X40E77325	Case_BO Professional Slim Top Load	17%	
4X40E48910	ThinkPad 14" Sleeve SBR Neoprene	18%	
4X80K32539	Lenovo ThinkPad Pen Pro-X1 Yoga	18%	
0B46994	ThinkPad 90W AC Adapter	4%	
4X20E75131	Lenovo USB-C 45W AC Adapter	12%	

- Server Configurations - Pricing will be determined on a per-purchase competitive bidding process between vendors who have been selected to source hardware to the State through the Michigan Master Computing Program. Below are guaranteed minimum discounts available to the State:

Line Item	MFR	Hardware Item	Contractor's Minimum % Discount to VPI Cost	Comments
1	IBM	P750 (or equivalent)	10.8%	CDW-G recommends the replacement model: IBM S8284-22a.
2	HP	DL380 (or equivalent)	10.0%	
3	Dell	PowerEdge R820 (or equivalent)	10.0%	
4	APC	APC NetShelter Rack (or equivalent)	8.75%	
* Bidders VPI cost is CDWG Advertised which is publically available at <a href="http://www.cdwg.com">www.cdwg.com</a>				
** Equivalent products are the newest models or an updated product line that replaced a current product line used by the State.				



3. Discretionary Hardware - Pricing will be determined on a per-purchase competitive bidding process between vendors who have been selected to source hardware to the State through the Michigan Master Computing Program. Below are guaranteed minimum discounts available to the State:

Transaction Cost Band	Contractor's Minimum % Discount to VPI Cost	Comments
Less than \$10,000	5%	CDW-G will provide our entire hardware catalog based on this minimum discount.
\$10,000 - less than \$25,000	5%	CDW-G will provide our entire hardware catalog based on this minimum discount.
\$25,000 - less than \$250,000	5%	CDW-G will provide our entire hardware catalog based on this minimum discount.
\$250,000 - less than \$2.5 million	5%	CDW-G will provide our entire hardware catalog based on this minimum discount.

4. Optional Server Brands - Pricing will be determined on a per-purchase competitive bidding process between vendors who have been selected to source hardware to the State through the Michigan Master Computing Program. Below are guaranteed minimum discounts available to the State:

Publisher	Minimum % Discount to Bidder's VPI Price on Purchases less than \$500,000	Minimum % Discount to Bidder's VPI Price on Purchases \$500,000 or greater	Estimated Cost to renew FY2017 Hardware Maintenance/Support	Additional % Discount to Other Titles for Inclusion in Contract	Comments
Cisco	58% off hardware, 17% off 3yr Smartnet	58% off hardware, 17% off 3yr Smartnet	Cost will depend on Specific BOMs	0%	Applies to Cisco UCS line only
Oracle	25.0%	25.0%	Cost will depend on Specific BOMs	0%	
Lenovo	5.0%	5.0%	Cost will depend on Specific BOMs	0%	

5. Storage Solutions - Pricing will be determined on a per-purchase competitive bidding process between vendors who have been selected to source hardware to the State through the Michigan Master Computing Program or through other State contracts specifically to storage solutions. Below are guaranteed minimum discounts available to the State:

- a. EMC

EMC Price Offer*		
Category	Product Categories	Contract Discount
A	Enterprise Hardware: Symmetrix, Celerra, Vplex	60%
B	Mid Tier Hardware: Clariion, Celerra, Centera, Disk Library, Appliances, Atmos	41%
C	Enterprise HW: Connectrix Family	53%
D1	Enterprise Platform Software: Symmetrix, Celerra, Connectrix Family	41%
D2	Mid Tier Platform Software: Clariion, Centera, Recoverpoint	41%
D3	Multi Platform SW : Xtender, Ionix, Avamar Networker Families	41%
DE	Enterprise Hardware/Software Data Domain	23%



DH	Mid-Tier Hardware/Software Data Domain	32%
DM	Entry Level Hardware/Software Data Domain	32%
E	EMC 3rd party Hardware and Software Switches	41%
I	Education Services/ Training	10%
F1	PS - Applied to EMC Professional Services Packaged Solutions	10%
UE	VNX HW & SW (Entry Level)	23%
UM-S & UM-H	Unified Mid Tier, VNX HW & SW	25%
PH	High-End Systems (BRS: Data Domain, Disk Library)	32%
PM	Midrange Systems (BRS: Data Domain, Avamar, Atmos, Disk Library)	32%
PE	Entry Systems (BRS: Data Domain)	23%
EN-H	Hardware VMAX - VMAX 10K/20K/40K	41%
EN-S	Software VMAX - VMAX 10K/20K/40K	41%
F2	Services - Residencies	10%
J	Server Flash, VFCache, AX/NX, Insignia	22%

\* CDW•G's Price offer for EMC will be based as a discount by product category from EMC's Retail Pricelist, which is publically available at [www.EMC.com](http://www.EMC.com)

b. NetApp

NetAPP Price offer*		
NetApp Pricing Category	Description	MINIMUM PERCENT DISCOUNT FROM MSRP
A	HW Controllers	17.1%
B	HW Disk/Misc.	17.1%
C	Third Party OEM Switches	3%
D	FAS HW	9%
E	ON Command SW	17%
J	SW	17%
K	FAS SW	9%
L	HW Controllers	17%
M	HW Disk/Misc	15%
N	SW	15%
P	PS	16%
S	Maint @POS	16%
T	Maint @POS	15%
V	Maint Renewal	15%
W	Maint Renewal	15%

\* CDW•G's Price offer for NetApp will be the minimum discount by product category indicated above calculated from NetApp's Retail pricelist, which is publically available at [www.Netapp.com](http://www.Netapp.com)



c. Other Storage Solutions

Additional Storage Brands available from CDW-G	Minimum discount from CDW-G VPI: www.cdwg.com
3WARE	10%
ADAPTEC	10%
ADDONICS	10%
ADVANCED MEDIA SERVICES	10%
ALERA TECHNOLOGIES	10%
ALURATEK	10%
AMC OPTICS	10%
APPLE	10%
APRICORN	10%
ARECA	10%
ASUS	10%
ATTO TECHNOLOGY	10%
AVOCENT	10%
AXIOM	10%
AXIS COMMUNICATIONS	10%
BARRACUDA NETWORKS	10%
BELKIN	10%
BLACK BOX	10%
BROCADE	10%
BUFFALO TECHNOLOGIES	10%
BUSLINK	10%
BYTECC	10%
CHENBRO	10%
CMS PERIPHERALS	10%
Compellent	10%
CORSAIR	10%
CRU	10%
CRUCIAL TECHNOLOGY	10%
DATALOCKER	10%
Dell	10%
D-LINK	10%
DOT HILL SYSTEMS	10%
DROBO	10%
EDGE TECH	10%
EDP	10%
EL GATO	10%
EMULEX NETWORK SYSTEMS	10%
ENHANCE-TECH	10%
ENVOY DATA	10%
EPSON	10%
EVGA	10%
EXAGRID	10%
EXTREME NETWORKS	10%
FANTOM MICRONET	10%
FIREEYE	10%
FUJIFILM	10%
FUJITSU	10%
FUSION IO	10%
GETAC	10%
G-TECH	10%



HIGHPOINT TECHNOLOGIES	10%
HITACHI	10%
HITACHI DATA SYSTEMS	10%
IMATION	10%
INFORTREND	10%
INNOVERA	10%
INTEL	10%
INTELLIGENT COMPUTER SOLUTIONS	10%
IOGEAR	10%
IOMAGIC	10%
IOSAFE	10%
JVC	10%
KANGURU	10%
KINGSTON	10%
LANTRONIX	10%
LENOVO	10%
LG ELECTRONICS	10%
LITE-ON	10%
LOGICUBE	10%
LSI LOGIC	10%
MACALLY	10%
MAXELL	10%
MICROBOARD RIMAGE	10%
MIDDLEATLANTIC	10%
MITSUI ADVANCED MEDIA	10%
MONSTER CABLE	10%
NETGEAR	10%
NEW PARTNER EXCEPTION PURCHASE	10%
NIMBLE STORAGE	10%
NUTANIX	10%
OCZ	10%
ORACLE	10%
OVERLAND	10%
PANASONIC	10%
PANDUIT	10%
PHILIPS	10%
PI ENGINEERING	10%
PINNACLE SYSTEMS	10%
PIONEER NEW MEDIA TECHNOLOGY	10%
PLASMON	10%
PNY TECHNOLOGIES	10%
POLYCOM	10%
PRIMERA	10%
PROLINE	10%
PROMISE TECHNOLOGY	10%
QLOGIC	10%
QNAP	10%
QUANTUM	10%
RETAIL SERVICE PARTS	10%
SAMSUNG	10%
SANDISK	10%
SEAGATE TECHNOLOGY	10%
SIIG	10%
SILEX	10%
SONNET TECHNOLOGIES	10%



SONY	10%
SORNA	10%
SPECTRA LOGIC	10%
STARTECH COM	10%
SUPER MICRO COMPUTER	10%
SYMANTEC	10%
SYNOLOGY	10%
TAIYO YUDEN	10%
TANDBERG DATA	10%
TEAC AMERICA	10%
TEGILE	10%
TEXEL-PLEXTOR	10%
THERMALTAKE TECHNOLOGY	10%
TINTRI	10%
TOSHIBA	10%
TOTAL MICRO TECHNOLOGIES	10%
TP-LINK	10%
TRANSCEND	10%
TRENDWARE INTERNATIONAL	10%
TRIPP LITE	10%
UNIDEN	10%
UNITRENDS	10%
VCE	10%
VERBATIM	10%
VISIONTEK	10%
WESTERN DIGITAL	10%
WIEBETECH	10%
XEROX	10%

6. Customer-Premise Telecommunications and Security Solutions - Pricing will be determined on a per-purchase competitive bidding process between vendors who have been selected to source hardware to the State through the Michigan Master Computing Program. Below are guaranteed minimum discounts available to the State:

Brand	Minimum % Discount to Bidder's VPI Price on Purchases less than \$500,000	Minimum % Discount to Bidder's VPI Price on Purchases \$500,000 or greater	Additional % Discount to Other Titles for Inclusion in Contract	Comments
Cisco	40% off hardware, 17% off 3yr Smartnet	40% off hardware, 17% off 3yr Smartnet	0%	Cisco Pricing will be derived as a discount from Cisco Global Price List.
All other Telecommunications and Security Solutions	10%	10%	0%	All other Telecommunications and Security Solutions pricing will be derived as a discount from CDW-G's VPI available at <a href="http://www.cdwg.com">www.cdwg.com</a>



Schedule B - Pricing  
Exhibit 2 - Software Price Tables

1. The price lists and products listed are subject to change over time; standard products will be changed in accordance with the State standards kept and updated by DTMB.
2. Pricing will be determined on a per-purchase competitive bidding process between vendors who have been selected to source software to the State through the Michigan Master Computing Program. Below are guaranteed minimum discounts available to the State.
3. Core Software Titles
  - a. Microsoft -

la1: Microsoft Enterprise Agreement, runs through 5.31.2018			
	Description	Quantity	Minimum % Discount from VPI Cost
CX2-00093	WINENTFORSAWMDOP ALNG SA MVL PLTRFM	55000	19.3%
U3J-00004	CORECALBRIDGEOFF365 ALNG SA MVL PLTRFM USRCAL	59000	22.4%
D87-01159	VISIOPRO ALNG SA MVL	2	18.0%
D86-01253	VISIOSTD ALNG SA MVL	10	18.1%
9ED-00073	VSPREMWMSDN ALNG SA MVL	28	17.8%
77D-00110	VSPROWMSDN ALNG LICSA PK MVL	10	-1.5%
77D-00111	VSPROWMSDN ALNG SA MVL	100	17.8%
L5D-00162	VSTSTPROWMSDN ALNG SA MVL	4	17.8%
9JD-00053	VSULTWMSDN ALNG SA MVL	44	17.8%
ZFA-00229	DYNCRMPROCAL ALNG SA MVL DVCCAL	18	17.7%
ZFA-00221	DYNCRMPROCAL ALNG SA MVL USRCAL	141	17.9%
N9J-00524	DYNCRMSVR ALNG SA MVL	5	17.7%
395-02504	EXCHGVSRENT ALNG SA MVL	1	17.7%
H04-00268	SHAREPOINTS VR ALNG SA MVL	2	17.7%
359-00792	SQLCAL ALNG SA MVL DVCCAL	6	17.8%
7JQ-00343	SQLSVRENTCORE ALNG SA MVL 2LIC CORELIC	194	17.7%



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228-04433	SQLSVRSTD ALNG SA MVL	12	17.7%
7NQ-00292	SQLSVRSTDCORE ALNG SA MVL 2LIC CORELIC	36	17.8%
T9L-00223	SYSCTRSTD ALNG SA MVL 2PROC	912	18.1%
125-00124	VSTEAMFNDTNSVR ALNG SA MVL	1	17.7%
126-00196	VSTEAMFNDTNSVRAL ALNG SA MVL USRCAL	40	18.2%
6VC-01254	WINRMTDSKTPSRVCSAL ALNG SA MVL USRCAL	3200	18.1%
P71-07282	WINSVRDATACTR ALNG SA MVL 2PROC	237	17.8%
R39-00396	WINSVREXTCONN ALNG SA MVL	2	17.9%
P73-05898	WINSVRSTD ALNG SA MVL 2PROC	538	18.1%
7R2-00001	O365GOVE3FROMSA SHRDSVR ALNG SUBSVL MVL PERUSR 12 MONTHS	59000	37.9%
J5U-00001	AZUREMNTRYCMMTMTG SHRDSVR ALNG SUBSVL	34	20.0%
U2V-00007	BINGMAPSENTPLATFOM ALNG SUBSVL MVL SRVCS	1	18.1%
T9V-00014	BINGMAPSPUBLICWBST ALNG SUBSVL MVL	2	17.7%
DSD-00030	DYNCRMONLNPRO SHRDSVR ALNG SUBSVL MVL	40	20.1%
V9W-00001	DYNCRMONLNPRODINST SHRDSVR ALNG SUBSVL MVL RESTRICTED SRVCS 12 MONTHS	1	19.9%
V6W-00001	DYNCRMONLNTESTINST SHRDSVR ALNG SUBSVL MVL RESTRICTED SRVCS 12 MONTHS	1	20.0%

1a2: Microsoft Premier Support, runs 6.1.2016 - 5.31.2017, equivalent to one year				
	Quantity	Bidder's VPI Cost	Minimum % Discount from VPI Cost	Evaluation Comments
Application Development and Infrastructure Consulting Services	300 hours	238	0%	
Support Account Management	420 hours	227	0%	
Service Delivery Management	80 hours	227	0%	
Support Assistance	750 hours	232	0%	
Problem Resolution Support	450 hours	220	0%	
Onsite Services Resource Site Visits	18 visits	75	0%	
Senior Consultant	2300 hours	263	0%	

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Engagement Manager	150 hours	263	0%
Unlimited Access to Premier Online Services	1 year	0	0%
Third Tier Support for Exchange	1 year	27944	0%
Third Tier Support for System Center	1 year	13974	0%

<b>1a3: Microsoft Select Plus Agreement, Level D Discount Level</b>			
			Minimum % Discount from VPI Cost
			15%
			Evaluation Comments

b. Symantec

<b>1b: Symantec True-Up Agreement, Software Maintenance 10/1/2016-9/30/2017</b>				
	Description	Quantity	Minimum % Discount from VPI Cost	Evaluation Comments
NHT0XZZ0-ER1GS	SYMC CONTROL COMPLIANCE SUITE STANDARDS MANAGER 11.0 XPLAT PER MANAGED SERVER RENEWAL ESSENTIAL 12 MONTHS GOV BAND S 10/1/16 - 9/30/17	102	17%	
6ZKLOZZ0-ER1GH	SYMC CRITICAL SYSTEM PROTECTION CLIENT EDITION 6.0 PER NODE RENEWAL ESSENTIAL 12 MONTHS GOV BAND H 10/1/16 - 9/30/17	100	17%	
RU1QOZZ0-ER1GS	SYMC DATA CENTER SECURITY SERVER ADVANCED 6.0 PER MANAGED SERVER RENEWAL ESSENTIAL 12 MONTHS GOV BAND S 10/1/16 - 9/30/17	5	17%	
0E7IOZZ0-ER1GH	SYMC ENDPOINT PROTECTION 12.1 PER USER RENEWAL ESSENTIAL 12 MONTHS GOV BAND H 10/1/16 - 9/30/17	305	17%	
14055203	SYMC GHOST SOLUTION SUITE 2.5 WIN DEVICE RENEWAL ESSENTIAL 12 MONTHS GOV BAND H 10/1/16 - 9/30/17	53,967	17%	
4GMSOZZ0-ER1GH	SYMC PROTECTION SUITE ENTERPRISE EDITION 4.0 PER USER RENEWAL ESSENTIAL 12 MONTHS GOV BAND H 10/3/16 - 10/2/17	56,160	17%	
21236908	SYMC BUSINESS CRITICAL SERVICES PREMIER FOR ENDPOINT PROTECTION FAMILY 10/1/16 - 9/30/17	1	17%	
21170448	SYMC DEEPSIGHT EARLY WARNING SERVICES SILVER PACK 8.0 1000-4999 PER NODE SUB LIC GOV BAND S ESSENTIAL 12 MONTHS 10/1/16 - 9/30/17	1	17%	
11642046	Third Year Expert Residency Services	1	17%	



1c: BMC Software Maintenance, 10/1/2016-9/30/2017			
Description	Quantity	Minimum % Discount from VPI Cost	Comments
LP#1825367 BMC Remedy IT Service Management Suite - per enterprise	1		We understand the State of Michigan recently renewed all of their BMC support contracts through Dec 31, 2018. At this time CDW does not anticipate anything to quote per the term 10/1/2016 – 9/30/2017; however, we can honor the existing discount of record which we reflected in our offer.
LP#1825375 BMC Remedy IT Service Management Suite - Floating User License Add-on - per concurrent user	330		
LP#1825386 BMC Remedy IT Service Management Suite - User License Add-on - per named user	260		
LP#1825407 BMC Remedy Knowledge Management Specialist - Floating User Add-On License - per concurrent user	10		
LP#1825408 BMC Remedy Knowledge Management Specialist - User Add - On License - per named user	10		
LP#1825441 BMC Remedy Self Service - Floating User Add - On License 25-Pk Lsn - per concurrent user	1		
LP#1863612 BMC Service Desk - Floating User License Addon - per concurrent user	25		
LP#1863619 BMC Service Desk - User License Add-on - per named user	15		
LP#1825437 BMC Service Management Specialist - Floating User License Add-on - per concurrent user	34		
LP#1825440 BMC Service Management Specialist - User License Add-on - per named user	10		
LP#18254402 BMC Premier Advanced Support - Shared Engineer - Remedy IT Service Management - per License Add-on - Original	1		
LP#2142357 BMC Atrium Dashboards and Analytics - User License Add-on - per named user	10		
LP#2347532 BMC Atrium Discovery and Dependency Mapping - per managed asset - server endpoint	3500		
LP#2347542 BMC Atrium Discovery and Dependency Mapping Extended Data Pack - License Add-on - per managed asset - server endpoint	3500		
LP#2564645 BMC Atrium Discovery for Storage - per managed asset - server endpoint	3500		
LP#2564646 BMC Atrium Orchestrator - Development Pack License Addon - per enterprise	1		
LP#2142355 BMC BladeLogic Automation Suite - Base License - per enterprise	1		
LP#2347540 BMC Cloud Lifecycle Management - Core License Add-on - per managed asset - server endpoint	50		
LP#2142356 BMC Server Automation - License Add-on - per managed asset - server endpoint	5		
			Comments



c. BMC

d. Adobe

<b>1d: Adobe Enterprise Term License Agreement, 11/1/2016-10/31/2017</b>					
	<b>Description</b>	<b>Quantity</b>	<b>Minimum % Discount from VPI Cost</b>	<b>Comments</b>	
210-3280-1	Adobe Acrobat Standard - Term License & Maintenance & Support 1 User - 12 Month - FLP	53	10.8%		
210-3280-1	Adobe Acrobat Professional - Term License & Maintenance & Support 1 User - 12 Month - FLP	238	10.8%		
210-3280-1	Adobe After Effects - Term License & Maintenance & Support 1 User - 12 Month - FLP	1	10.8%		
210-3280-1	Adobe Audition - Term License & Maintenance & Support 1 User - 12 Month - FLP	1	10.8%		
210-3280-1	Adobe Dreamweaver - Term License & Maintenance & Support 1 User - 12 Month - FLP	14	10.8%		
210-3280-1	Adobe Flash Professional - Term License & Maintenance & Support 1 User - 12 Month - FLP	1	10.8%		
210-3280-1	Adobe Illustrator - Term License & Maintenance & Support 1 User - 12 Month - FLP	1	10.8%		
210-3280-1	Adobe InCopy - Term License & Maintenance & Support 1 User - 12 Month - FLP	1	10.8%		
210-3280-1	Adobe InDesign - Term License & Maintenance & Support 1 User - 12 Month - FLP	3	10.8%		
210-3280-1	Adobe Photoshop - Term License & Maintenance & Support 1 User - 12 Month - FLP	16	10.8%		
210-3280-1	Adobe Premiere Pro - Term License & Maintenance & Support 1 User - 12 Month - FLP	3	10.8%		
210-3280-1	Adobe Design Standard - Term License & Maintenance & Support 1 User - 12 Month - FLP	1	10.8%		
210-3280-1	Adobe Design & Web Premium - Term License & Maintenance & Support 1 User - 12 Month - FLP	12	10.8%		
210-3280-1	Adobe Production Premium - Term License & Maintenance & Support 1 User - 12 Month - FLP	1	10.8%		
210-3280-1	Adobe Creative Cloud Enterprise - Term License & Maintenance & Support 1 User - 12 Month - FLP	4	10.8%		

210-3280-1	Adobe Lightroom - Term License & Maintenance & Support 1 User - 12 Month - FLP	1	10.8%	
210T-3238	Adobe FrameMaker Enterprise Term License with Maintenance & Gold Support - 12 Months	1	10.8%	
210T-3251	Adobe RoboHelp Office Enterprise Term License with Maintenance & Gold Support - 12 Months	1	10.8%	
210T-3251-S	Adobe RoboHelp Server Enterprise Term License with Maintenance & Gold Support - 12 Months	1	10.8%	
210T-3225	Adobe Captivate Enterprise Term License with Maintenance & Gold Support - 12 Months	1	10.8%	
210T-6178	Adobe Presenter Enterprise Term License with Maintenance & Gold Support - 12 Months	1	10.8%	
210T-3230	Adobe eLearning Suite Enterprise Term License with Maintenance & Gold Support - 12 Months	1	10.8%	
210-3280-1	Adobe Photoshop Elements - Term License & Maintenance & Support 1 User - 12 Month - FLP	1	10.8%	
				Comments



e. Citrix

1e: Citrix Software Maintenance, 10/1/2016 - 9/30/2017			
Description and Quantity	Quantity	Minimum % Discount from VPI Cost	Evaluation Comments
XenApp Platinum Edition 4.5 with Feature Pack 1 from XenApp Enterprise Upgrade - User Count 410 - Coverage dates: 10/1/14 - 7/1/17	1	10.8%	
XenApp Platinum Edition 4.5 with Feature Pack 1 from XenApp Enterprise Upgrade - User Count 390 - Coverage dates: 10/1/14 - 7/1/17	1	10.8%	
XenApp Platinum Edition 4.5 with Feature Pack 1 from XenApp Enterprise Upgrade - User Count 25 - Coverage dates: 10/1/14 - 7/1/17	1	10.8%	
XenApp Platinum Edition 4.5 with Feature Pack 1 from XenApp Enterprise Upgrade - User Count 70 - Coverage dates: 3/29/15 - 7/1/17	1	10.8%	
UPG XENAPP PLAT ED F/ENT - X1 CONC U CONN LICs W/ SUB ADV ELP-3	1	10.8%	
ELA-3 XENDESKTOP PLAT ED TRADE UP FROM XENAPP ADV X1 CCU	1	10.8%	
NETSCALER MPX 12500 FIPS PLAT ED 2X10GX SFP+ 8X1000BX SFP+ ELA-3	1	10.8%	
NETSCALER MPX 9700 FIPS PLAT ED 2X10GX SFP+ 8X1000BASE-X SFP+ ELA-3	1	10.8%	
ELA3 3YR GOLD MNT NETSCALER MPX 12500 FIPS 10GE PLAT ED	1	10.8%	
ELA3 3YR GOLD MNT NETSCALER MPX 9700 FIPS 10GE PLAT ED	1	10.8%	
300M NETSCALER SFP+ 10GB ENET SHORT RANGE SINGLE ELA-3	1	10.8%	
NETSCALER APP SWITCH SFP PACK 4GFB	1	10.8%	
PREFERRED EXT HOURS SUPPORT SOFTWARE	1	10.8%	
SOFTWARE PREFERRED 200HRS TRM ADD-ON	1	10.8%	
2YR SUB XENAPP PLAT ED ADV ADD-ON ELP-3	1	10.8%	
ELA-3 2YR XENDESKTOP PLAT ED SUB ADV ADD ON X1 CCU	1	10.8%	
			Comments



f. HP

1f: HP Software Maintenance, 10/1/2016 - 9/30/2017			
	Description	Quantity	Minimum % Discount from VPI Cost
T6489AAE	HP Enterprise Std Unlimited Support for QC Add'l Defects Site CC Usr SW LTU	7	10%
T6471AAE	HP Enterprise Std Unlimited Support for QC Ent Area 5 CC Usr Pk SW LTU	1	10%
T6481AAE	HP Enterprise Std Unlimited Support for QC Ent Area CC Usr SW E-LTU	5	10%
T6821AA	HP Enterprise Std Unlimited Support for QTP Siebel Add-in Site CC Usr SW LTU	5	10%
T6822AA	HP Enterprise Std Unlimited Support for QTP Site CC Usr SW LTU	5	10%
A8F90AAE	HP Enterprise SW maintenance for HP LR Foundation Entitlement SW E-LTU	1	10%
A8F57AAE	HP Enterprise SW maintenance for HP LR Oracle EB 1-499 VU+C SW E-LTU	200	10%
TF063AAE	HP FT Seat to UFT Seat Upgrade SW E-LTU / HP SW Tech Unlimited Sppt & HP SW Updts Svc	5	10%
TA332AAE	HP FT Seat Usr SW E-LTU	5	10%
TF060AAE	HP FT Site to UFT CC User UPG SW E-LTU	15	10%
TD028AAE	HP LR Database 100-499 VU SW E-LTU	100	10%
TD010AAE	HP LR Oracle EB 500-4999 VU SW E-LTU	2000	10%
TC969AAE	HP LR Web 2.0 500-4999 VU SW E-LTU	2000	10%
TC967AAE	HP LR Web/Mmed 100-499 VU SW E-LTU	200	10%
TC964AAE	HP LR Web/Mmed 500-4999 VU SW E-LTU	2400	10%
TC964AAE	HP LR Web/Mmed 500-4999 VU SW E-LTU	500	10%
TB141AAE	HP LR/PC Diag for Comp Applnst SW E-LTU	17	10%
T6234AAE	HP LRner Cntrlr & Monitors SW E-LTU	4	10%
T6482AAE	HP QC ENT Global CC User SW E-LTU	30	10%
T6470AAE	HP QC Ent Site 5 CC Usr Pk SW E-LTU	1	10%
T6480AAE	HP QC Ent Site CC Usr SW E-LTU	57	10%
T6480AAE	HP QC Ent Site CC Usr SW E-LTU - HP SW Technical Unlimited Support & SW Updates Svc	15	10%
T6822AA	HP QTP Site CC Usr SW LTU	10	10%
T9871AAE	HP Software Enterprise Basic Support for HP ALM Area CC Usr SW E-LTU	5	10%
TF008AAE	HP Software Enterprise Basic Support for HP UFT CC User SW E-LTU	15	10%



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T7373AAE	HP SW Enterprise Basic Support - HP PPM DM Oracle Ext Named User SW E-LTU	1	10%
TA333AAE	HP SW Enterprise Basic Support for HP Functional Test Site CC User SW E-LTU	15	10%
TD038AAE	HP SW Technical Unlimited Support & Updates Svc for HP LR .NET 100-499 VU SW E-LTU	100	10%
TC997AAE	HP SW Technical Unlimited Support & Updates Svc for HP LR RIA 100-499 VU SW E-LTU	100	10%
T6481AAE	HP SW Technical Unlimited Support & Updates Svc for HP QC Ent Area CC User SW E-LTU	15	10%
T9500AAE	HP Tech Sppt & Updates Svc for AM Srv SW L TU	1	10%
T9503AAE	HP Tech Sppt & Updates Svc forAM Asset Portfolio CC User SW L TU	5	10%
T9502AAE	HP Tech Sppt & Updates Svc forAM Asset Portfolio Nmd User SW L TU	5	10%
T9513AAE	HP Tech Sppt & Updates Svc forAM Contract Mgmt Fit User SW L TU	5	10%
T9512AAE	HP Tech Sppt & Updates Svc forAM Contract Mgmt Nmd User SW L TU	5	10%
T9509AAE	HP Tech Sppt & Updates Svc forAM Financial Mgmt Fit User SW L TU	5	10%
T9508AAE	HP Tech Sppt & Updates Svc forAM Financial Mgmt Nmd User SW L TU	5	10%
T9520AAE	HP Tech Sppt & Updates Svc forAM Procurement Fit User SW L TU	5	10%
T9519AAE	HP Tech Sppt & Updates Svc forAM Procurement Nmd User SW L TU	5	10%
T4247AAE	HP Tech Sppt & Updates Svc forCnct Base Connectors SW E-LTU	1	10%
TF235AAE	HP Tech Sppt & Updates Svc forUCMDB 10.00+ FndFedTpl Entitlement SW E-LTU	1	10%
T4247AAE	HP Tech Support and Updates Svc for HP Cnct Base Connectors SW E-LTU	1	10%
T4503AAE	HP Tech Support and Updates Svc for HP Cnct Database User SW E-LTU	10	10%
T4505AAE	HP Tech Support and Updates Svc for HP Cnct Email User SW E-LTU	10	10%
T4511AAE	HP Tech Support and Updates Svc for HP Cnct LDAP User SW E-LTU	10	10%
T9768AAE	HP Tech Support and Updates Svc for HP IT Change Mgmt Suite Nmd User SW E-LTU	10	10%
T5015AAE	HP Tech Support and Updates Svc for HP SM Foundation Nmd User SW E-LTU	10	10%
T5017AAE	HP Tech Support and Updates Svc for HP SM Help Desk Nmd User SW E-LTU	10	10%
T5000AAE	HP Tech Support and Updates Svc for HP SM Server SW E-LTU	1	10%
T5025AAE	HP Tech Support and Updates Svc for HP SM SLM Nmd User SW E-LTU	10	10%
TF235AAE	HP Tech Support and Updates Svc for HP UCMDB 10.00+ FndFedTpl Entitlement SW E-LTU	1	10%
TF008AAE	HP UFT CC User SW E-LTU - HP SW Enterprise Standard Support	10	10%

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g. VMWare

1g: VMWare Enterprise License Agreement, 1/1/2016-12/31/2019				
Description	Quantity	Minimum % Discount from VPI Cost	Comments	Comments
vCenter Server Standard	2	8.0%		
vCenter Site Recovery Manager	1	8.0%		
vCloud Suite Enterprise	40	8.0%		
vSphere with Operations Management Standard for 1 Processor	4	8.0%		
Horizon Suite 10 Pack	3	8.0%		
vCenter Ops Management Suite Standard (25 VM Pack)	1	8.0%		
Workstation for Linux and Windows	5	8.0%		
Workstation for Linux and Windows (volume pricing for 10-99 licenses)	15	8.0%		
Fusion Professional Edition	10	8.0%		
				Comments

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4. Discretionary Software

II: Discretionary Software		
For each Transaction Cost Band in the table below, please provide the % discount from VPI, which shall be used to calculate the maximum, not-to-exceed price of software products to be purchased.		
Transaction Cost Band	Minimum % Discount from VPI Cost	Comments
Less than \$10,000	5%	Discount will apply to all software titles not referenced above using the VPI displayed at <a href="http://www.cdwg.com">www.cdwg.com</a>
\$10,000 - less than \$25,000	5%	
\$25,000 - less than \$250,000	5%	
\$250,000 - less than \$2.5 million	5%	





5. Optional Software Titles

III: Optional Software Titles					
1. For each Publisher in the table below, please provide the Minimum % Discount to Bidder VPI Cost for transaction valued at less than \$500,000 and for transactions valued at \$500,000 or greater.					
2. For each Publisher in the table below, please provide the estimate cost to renew the State's FY2017 Software Maintenance or Support under your Contract.					
3. For each Publisher in the table below, please provide the additional discount to other Title you will provide, if the State includes the Publisher under your Contract.					
Publisher	Maximum (not-to-exceed) % Markup to Bidder cost on Purchases less than \$500,000	Minimum % Discount to Bidder VPI cost on Purchases \$500,000 or greater	Estimated Cost to renew FY2017 Software Maintenance/Support	Additional % Discount to Other Titles for Inclusion in Contract	Comments
CA		5%	CDW•G understands the State's CA legacy deployment and will work with CA Technologies to establish the most cost effective Enterprise Agreement upon award. Baseline discounts will be at least 30% for licenses and 20% for SaaS*. *Certain discount restrictions may apply contingent upon final approval by CA.	0%	If the state can provide a BOM for these titles, we can make an informed decision on costs to renew as well as additional discounts CDW-G can offer.
Compuware		5%	CDW-G is not currently authorized to provide an accurate quote for this publisher. However, we are actively involved in an onboarding process with our distributors so that we can provide all budgetary information and custom quotes in the near future.	0%	If the state can provide a BOM for these titles, we can make an informed decision on costs to renew as well as additional discounts CDW-G can offer.
IBM		5%	CDW•G is working with IBM on this contract renewal and will facilitate the IBM maintenance renewal process.	0%	If the state can provide a BOM for these titles, we can make an informed decision on costs to renew as well as

					additional discounts CDW-G can offer.
Novell		5%	CDW•G is working with Novell on this contract renewal and will facilitate the Novell maintenance renewal process.	0%	If the state can provide a BOM for these titles, we can make an informed decision on costs to renew as well as additional discounts CDW-G can offer.
Oracle		39%*	CDW•G is working with Oracle on this contract renewal and will facilitate the Oracle maintenance renewal process.	0%	If the state can provide a BOM for these titles, we can make an informed decision on costs to renew as well as additional discounts CDW-G can offer.
SAP		5%	CDW•G is working with SAP on this contract renewal and will facilitate the SAP maintenance renewal process.	0%	If the state can provide a BOM for these titles, we can make an informed decision on costs to renew as well as additional discounts CDW-G can offer.

**5K**

6. Installation, integration and implementation hourly rates – see Schedule B, Exhibit 3 – Services Price Tables



Schedule B - Pricing  
Exhibit 3 -Services Price Tables

- Hardware Services- Pricing will be determined on a per-purchase competitive bidding process between vendors who have been selected to source hardware to the State through the Michigan Master Computing Program. Below are guaranteed not to exceed hourly rates available to the State (services are not limited to the individual positions below):

<b>Hardware Installation, Integration, and Implementation Hourly Rates (not to exceed).</b>			
Not to be used for billing, but for calculation of deliverable costs.			
Please list all applicable rates. Individual rates may be specified for specific brands.			
Description	Hourly Rate		
<b>Bidder's Badged Resources</b>			
Digital Forensics Analyst	\$ 142.36		
Field Services Technician - Junior	\$ 72.22		
Field Services Technician - Senior	\$ 94.44		
Network Analyst	\$ 86.58		
Network Analyst Sr.	\$ 132.67		
Network Administrator	\$ 97.40		
Network Administrator Sr.	\$ 140.96		
Support Engineer	\$ 97.40		
Support Engineer Sr	\$ 127.31		
Support Engineer, Level 3	\$ 140.69		
System Technician	\$ 83.33		
System Technician Sr.	\$ 105.56		
Security Analyst	\$ 134.92		
Security Specialist	\$ 183.69		
<b>OEM Badged Resources - End-User Hardware</b>			
Dell -	\$ 145.56	CDW•G and our Partners are fully certified to deliver Dell End-User Professional Services	
Lenovo -	\$ 145.56	CDW•G and our Partners are fully certified to deliver Lenovo End-User Professional Services	
<b>OEM Badged Resources - Server Hardware</b>			
Dell	\$ 162.22	CDW•G and our Partners are fully certified to deliver Dell Server Professional Services	
HP	\$ 273.61	CDW•G and our Partners are fully certified to deliver HP Server Professional Services	S1 Technician; 8 hour minimum
IBM	\$300 - \$395	CDW•G and our Partners are fully certified to deliver IBM Server (AIX) Professional Services	Hardware Engineer Services



APC	\$185-\$290	CDW•G and our Partners are fully certified to deliver APC Professional Services	
<b>OEM Badged Resources -Optional Server Hardware</b>			
Cisco	\$210-\$235	CDW•G and our Partners are fully certified to deliver Cisco UCS Professional Services	
Oracle	\$325-\$450	CDW•G and our Partners are fully certified to deliver Oracle Server Professional Services	
Lenovo	\$ 162.22	CDW•G and our Partners are fully certified to deliver Lenovo Server Professional Services	
<b>OEM Badged Resources - Optional Storage Solutions</b>			
EMC	\$ 233.33	CDW•G and our Partners are fully certified to deliver EMC Professional Services	8 hour minimum / VNX, VNXe, Avamar, Data Domain, Isilon
NetApp	\$210-225	CDW•G and our Partners are fully certified to deliver NetApp Professional Services	8 hour minimum/Engineer - Consultant
Brocade	\$235-\$295	CDW•G and our Partners are fully certified to deliver Brocade Professional Services	
Dell Storage	\$250-\$345	CDW•G and our Partners are fully certified to deliver Dell Storage Professional Services	
Nimble	\$ 233.33	CDW•G and our Partners are fully certified to deliver Nimble Storage Professional Services	8 hour minimum / CSXXX Storage Arrays, SmartStack Arrays, HFS, AFS
<b>OEM Badged Resources - Customer-Premise Telecommunications and Security Solutions</b>			
Cisco UC or Cisco Security	\$220-\$285	CDW•G and our Partners are fully certified to deliver Cisco UC & Security Professional Services	
Avaya UC	\$ 183.33	CDW•G and our Partners are fully certified to deliver Avaya UC Professional Services	Plan, Design, Configure, Install
Avaya UC	\$ 145.56		Smart Hands Only (no engineering)



2. Software Services – Pricing will be determined on a per-purchase competitive bidding process between vendors who have been selected to source hardware to the State through the Michigan Master Computing Program. Below are guaranteed not to exceed hourly rates available to the State (services are not limited to the individual positions below):

<b>Software Installation, Integration, and Implementation Hourly Rates (not to exceed).</b>		
Not to be used for billing, but for calculation of deliverable costs.		
Please list all applicable rates. Individual rates may be specified for specific brands.		
Description	Hourly Rate	Comments
<b>Bidder's Badged Resources</b>		
Application/Software Engineer	\$ 108.02	
Application/Software Engineer Sr	\$ 129.63	
Application/Software Engineer, Level 3	\$ 154.32	
Systems Analyst	\$ 101.01	
Systems Analyst Sr	\$ 131.17	
Database Administrator	\$ 108.23	
Database Administrator Sr.	\$ 138.89	
Database Analyst	\$ 92.59	
Database Analyst Sr.	\$ 147.85	
Technical Writer	\$ 82.97	
Technical Writer Sr.	\$ 111.11	
Testing Technician	\$ 84.88	
Testing Technician Sr.	\$ 111.11	
Quality Assurance Analyst	\$ 100.31	
Quality Assurance Analyst Sr.	\$ 128.82	
Security Analyst	\$ 134.92	
Security Specialist	\$ 183.69	
Field Services Technician - Junior	\$ 56.33	
Field Services Technician - Senior	\$ 79.37	
<b>Microsoft Resources (if not included already)</b>		
CDW•G Project Manager	\$ 220.00	CDW•G is fully certified to deliver Microsoft Professional Services
CDW•G Architect	\$ 235.00	
CDW•G Senior Consultant	\$ 220.00	
CDW•G Consultant	\$ 210.00	
CDW•G Development	\$ 133.00	Visual Studio, .Net, C++
<b>Symantec &amp; Veritas Badged Resources</b>		
CDW•G Application Engineer Level 3	\$ 154.32	CDW•G is fully certified to deliver Symantec & Veritas Professional Services
<b>BMC Badged Resources</b>		



CDW•G Senior Remedy Integrations Consultant	\$ 252.78	CDW•G and our Partners are fully certified to deliver BMC professional services
CDW•G Remedy Solutions Architect	\$ 247.22	
CDW•G Senior Remedy Consultant	\$ 238.89	
CDW•G Mid-Level Remedy Consultant	\$ 225.00	
CDW•G Senior BI Consultant	\$ 238.89	
CDW•G Service Automation Architect	\$ 261.11	
CDW•G Service Automation Consultant	\$ 238.89	
CDW•G Project Manager - Level 1	\$ 194.44	
CDW•G Project Manager - Level 2	\$ 180.56	
<b>Adobe Badged Resources</b>		
CDW•G Adobe	\$ 194.44	CDW•G and our Partners are fully certified to deliver Adobe professional services
<b>Citrix Badged Resources</b>		
CDW•G Project Manager	\$ 220.00	CDW•G and our Partners are fully certified to deliver Citrix professional services
CDW•G Architect	\$ 250.00	
CDW•G Senior Consultant	\$ 235.00	
CDW•G Consultant	\$ 215.00	
<b>HP Software Badged Resources</b>		
CDW•G	\$ 194.44	CDW•G and our Partners are fully certified to deliver HP professional services
<b>VMWare Badged Resources</b>		
CDW•G Project Manager	\$ 220.00	CDW•G and our Partners are fully certified to deliver VMware professional services
CDW•G Architect	\$ 250.00	
CDW•G Senior Consultant	\$ 235.00	
CDW•G Consultant	\$ 215.00	
<b>CA Badged Resources (Optional)</b>		
CA Consulting Various Roles	\$290 - \$575	CDW•G and our Partners are fully certified to deliver CA professional services



<b>Compuware Badged Resources (Optional)</b>		
Compuware Consulting various roles	\$310 - \$465	CDW•G and our Partners are fully certified to deliver Compuware professional services
<b>IBM Badged Resources (Optional)</b>		
IBM Consulting for Software Deployment various roles	\$330 - \$575	CDW•G and our Partners are fully certified to deliver IBM professional services
<b>Novell Badged Resources (Optional)</b>		
CDW•G Consulting various roles	\$210 - \$375	CDW•G and our Partners are fully certified to deliver Novell professional services
<b>Oracle Badged Resources (Optional)</b>		
Oracle Consulting various roles	\$345 - \$675	CDW•G and our Partners are fully certified to deliver Oracle professional services
<b>SAP Badged Resources (Optional)</b>		
CDW•G Consulting		CDW•G and our Partners are fully certified to deliver Oracle professional services
CDW•G SAP Developer	\$ 177.78	K1 Level
CDW•G SAP Analyst	\$ 200.00	K1 & K2 Level
CDW•G SAP Basis Consultant	\$ 250.00	K2 & K3 Level
CDW•G SAP Senior Consultant	\$ 277.78	K3 & K4 Level



Schedule C  
Exhibit 1 – Value Added Services

CDW•G Value Added Services

For ease of review, CDW•G has laid out our value added services in the charts below. In addition to the hardware and software value added services, we provide significant value to the State for both hardware and software in the final chart.

Based on the typical rate for the Hardware and Software value added services below, we offer an **estimated value for the State in excess of \$2 million over the contract duration.**

Hardware		
Value Add	Description	Cost to Michigan and Estimated Value
<b>New Product Roadshow</b>	CDW•G plans to host an annual “New Product Roadshow” for the State of Michigan and MiDEAL members, to raise awareness of current and upcoming products available in the market. At this Michigan-based, open-house style event, the State and MiDeal members will have the opportunity to meet with several key resources including the CDW•G account team, manufacturers, services providers, and the CDW•G contracts team. The event provides an opportunity to explore IT needs and receive immediate answers to questions.	<b>CDW•G-Funded: No Charge to State of Michigan</b> <i>Value Added Worth:</i> \$7,500
<b>CDW•G provided 30 day warranty</b>	CDW•G funds a <b>30 day warranty</b> for all products we sell, including products that have no manufacturer warranty. Once the 30 days have expired, CDW•G’s technical support or the State’s dedicated SPOC facilitates the manufacturer warranty service, as needed.	<b>CDW•G-Funded: No Charge to State of Michigan</b> <i>Value Added Worth:</i> <i>0.25% of items purchased. If the State purchases \$30 million worth of product per year the value is \$75,000 or \$300,000 over four years</i>
<b>Certified Technician Support</b>	We provide toll-free, email, and on-line chat technical support on all hardware and operating systems for up to <u>two years</u> after purchase from CDW•G. Our technical support technicians are US-based. All of our technicians are US-based, CompTIA certified, and hold, at minimum, A+ and Network+ certifications. The State can monitor this support, including the frequency and type of request, via the CDW•G Account Center.	<b>CDW•G-Funded: No Charge to State of Michigan</b> <i>Value Added Worth:</i> <i>Estimated usage 500 hours annually,</i> <i>value \$50,000 over four years</i>
<b>Extensive Pre-Sales Engineering Support</b>	As of this writing, we have <b>over 1,060 service-dedicated coworkers, nationwide</b> , aiding in pre- and post-sale questions. As with the technical support above, a key to our engineer support is that many are “vendor neutral.” This allows them to support the interoperability of the State’s entire solution, not promote a single brand. We know certain solutions also call for OEM-specific expertise, such as Cisco UC or Microsoft SharePoint, so our engineer total also includes such experts. All of CDW•G’s experienced and certificated engineers provide support with configurations and infrastructure shifts.	<b>CDW•G-Funded: No Charge to State of Michigan</b> <i>Value Added Worth:</i> <i>Estimated usage 2,000 hours annually,</i> <i>Value \$1,600,000 over four years</i>





Software		
Value Add	Description	Estimated Value
<b>Software License Review</b>	Through the Software License Review, the State can recognize over- or under-licensing situations, giving you the tools to consolidate licenses and fill in gaps. This review provides a report of all the software assets and licenses purchased throughout the organization, no matter what vendor the State purchased its licenses through. A CDW•G licensing specialist then leads the State to potential savings in over-licensing situations and possibly avoiding large fines by ensuring all software being used has the appropriate licensing. Our licensing strategy consultations include analysis of current usage and gaps; procurement preferences; and side by side comparisons of potential solutions. Our licensing experts then use the gathered information to predict future needs.	<b>CDW•G-Funded: No Charge to State of Michigan</b> <i>Estimated Value Added Worth: 0.5% of the software purchased. If the State purchases \$30 million worth of software the value is \$150,000 annually or \$600,000 over four years</i>
<b>Citrix Health Check</b>	CDW•G offers the State a <b>two week engagement with our Citrix engineering team</b> . The particular focus of this engagement can vary, but typically the recommended first step is a XenApp health check. At the conclusion of the engagement, CDW•G discusses the health check findings and recommendations to ensure the system is functioning to industry best practices and provides the State a PDF report of our findings	<b>CDW•G-Funded: No Charge to State of Michigan</b> <i>Value Added Worth: \$19,800</i>
<b>Active Directory Health Check</b>	<b>CDW•G offers the State an Active Directory Health Check (or similar service) four week engagement</b> . This engagement provides tremendous value to the State to understand the current state of its Active Directory to industry best practice. If desired, CDW•G will also discuss a future roadmap to ensure the State can maintain its directory structure.	<b>CDW•G-Funded: No Charge to State of Michigan</b> <i>Value Added Worth: \$39,600</i>
<b>VMWare Health Check</b>	CDW•G offers highly experienced and certified specialists to assist the State's team with technical issues and architecture to leverage the exciting, virtual capabilities of the VMware solution set. <b>We offer the State a four week Health Check of your vSphere environment, conducted by CDW•G experts</b> . The scope of the effort analyzes up to 30 ESX/ESXi hosts and one vCenter and provides a written report and conference call discussion as follow-up. The target audience for this engagement includes infrastructure and IT managers and the implementers/administrators of the ESX/ESXi system.	<b>CDW•G-Funded: No Charge to State of Michigan</b> <i>Value Added Worth: \$39,600</i>

Additional Value Added Services		
Value Add	Description	
<b>Local Team</b>		
<b>CDW•G and Dewpoint – A National and Local Team</b>	Through our strategic partnership the State receives technology products, expertise, customer support, and competitive pricing tailored to your needs. We provide this assistance via a team of 300 Michigan-based coworkers with a proven record supporting some of the most critical solutions of the State. These individuals <b>help</b> to bring the State's procurement of IT solutions to the next level. In one interaction, the SPOC can deliver to the State complementary quotes for notebooks/mobile devices (including tablets), network communications, converged infrastructure, video monitors, printers, desktop computers, and servers because they understand the State's IT infrastructure as a whole, rather than a single purchase.	
<b>Vendor Neutral</b>		
<b>Vendor Neutral Solutions – A Win for Michigan</b>	We offer over 1,000 leading OEMs partnerships to the State and access to additional OEMs through our distribution partners, ensuring that we always consider the best value outcome for your purchases. As, CDW•G has no ownership ties to specific manufacturers or vendors, we are <b>free to act in the best interest of the State of Michigan</b> .	



Additional Value Added Services	
Value Add	Description
	Our vested OEM partnerships and product management team provides the State additional benefits such as advance product notifications, consistent checks on pricing, and extended warranty options. Should a frequently product be no longer available or the State is looking for a cost-effective alternative, you can be sure your SPOC will provide recommendations based solely on your specific needs.
eProcurement	
<b>Cutting-Edge eProcurement Capabilities</b>	Our tools allow customers to flip quotes to orders on the website as well as create and flip a quote to an order via a Punchout tool. We offer same day turnaround with Punchout credentials.
<b>Dedicated eProcurement Team Keeps Ecommerce Reliable</b>	CDW•G has <b>over 140 coworkers dedicated to improving our ecommerce capabilities.</b> Our in-house, highly experience e-procurement team provides assistance for any integration the State or MiDeal members seek. Fourteen of those ecommerce coworkers are dedicated to integrations, such as for ITRAC and future CGI integration for the State. Additionally, we work with three third-party services partners to ensure the product data remains current. They have performed no-cost integrations with over 72 eProcurement vendors. Our resources and partnerships allow us to provide early notice for when products will be discontinued.
<b>Bundled Purchases Allow End Users Convenient Access to State Standards</b>	CDW•G offers the State the ability to create bundled peripherals to form a complete desktop solution, all in one package. The peripheral bundles can be designed to complement the State's predetermined device standards. For example, bundles are common for a headset that needs a particular cable every time that is ordered, or a user set-up that might include a mixture of products such as a notebook, docking station, external keyboard/mouse, and cables. These commonly bundled items can be created in your shopping cart in the Account Center, and they viewed on the Premium Page dedicated to MMCC. Users can then quickly find the correct product mix to create an order.
Distribution Model	
<b>Distribution Model Provides Quick Access to the Products Michigan Needs</b>	Our own distribution centers have a million square feet of storage space and stock over \$200 million in inventory at any given time. This combination of stock and shipping infrastructure allows us to ship on average 37,000 boxes per day. We utilize a blended distribution model, so we are not rely solely on these two facilities to support our customers. With roughly 50% of our orders drop shipped, our model leverages an extensive partner network for competitively priced products and quick delivery. This in turn, <b>allows approximately 90% of our orders to be available for shipping the same day the order is place.</b>
<b>Extensive Shipping Options to Meet Purchasing and Project Requirements</b>	We understand that our logistical capabilities have to match the diverse needs of the State and offer a variety of options for shipping from a packaging, carrier service, and speed perspective. We provide the option to receive products in single shipments or partial shipment. We utilize our shipping partnerships with carriers such as UPS, FedEx, AIT, CEVA, Dynamex, and Veterans Messenger service to allow shipment anywhere within the State via same day (where available), overnight, 2nd day, 3rd day, or ground commitments. <b>Custom Shipping Solutions</b> If the State requires deliveries to be palletized, we can do that too. Our custom shipping solutions include pre-assembling kits for remote employees or offices, palletizing large orders, and shipping equipment inside customized rugged containers, as examples. This benefits the State by lowering the cost of shipping for large deliveries and can reduce implementation time upon delivery as equipment arrives ready to "plug and play".
Configuration Center	
<b>Asset Tracking via the State's Web Portal Account Center</b>	The asset tag reference number is captured along with the serial number of the product into CDW's Order Processing system. This automatically syncs to the Asset Management page of the MMCC Account Center on your web portal. The State can use this Asset Management Tool to track their packages or import the information via a comma delimited file to the State's asset management tool. For any products not purchased through CDW•G, users can upload device information to track alongside CDW•G purchases.
Contract Management and Contract Promotion	



Additional Value Added Services	
Value Add	Description
<b>Maximizing the value of the State's Licensing Agreements</b>	As a part of our total software management methodology, our team conducts regular business reviews and examines the contract to help manage the State's licenses over the lifetime of MMCC. Prior to software purchase and any renewals, we evaluate total spend, assets, usage, and purchase history. Our recommendations may include any potential options that would optimize investment through vendor and contract consolidation; including volume transactional purchasing options or contractual volume agreements. Additionally, our team is educated in the nuances of software contracts and informs the State of any aggregate purchase opportunities specific to the contract or related entities that may be available to leverage.
<b>Reporting Capabilities – Best in Class and Specific to the State's Needs</b>	While the State has the option to receive daily reports from our Program Management team, authorized users from both the State and MiDEAL member community can pull reports directly from their CDW•G Web Portal. As a rich source of detail on purchase history, license agreements, and asset tracking, CDW•G lightens the burden of generating reports. <b>The reporting options in the Web Portal give authorized users the exact detail they require, whenever they need it.</b>
Resources	
<b>MiDEAL Focus – Supporting the State's Partnerships</b>	Combined, CDW•G and Dewpoint currently does business with approximately 33% of the 1049 members of MiDEAL. Since MiDEAL members are already familiar with either CDW•G or Dewpoint in most cases, this allows for smooth transitions and for us to focus on expanding the number of entities that take advantage of the program. To demonstrate the impact of these relationships, <b>CDW•G's current business with 1,376 current potential MiDEAL members totals \$30 million annually.</b>
<b>Dynamic Pricing – We Have It Covered</b>	We have a team dedicated to monitoring our Nationally Advertised Pricing (NAP) to ensure it remains aligned with market trends. Different than a stagnant price point of an MSRP list, our NAP is a dynamic list; providing the greatest value in a fast moving industry like IT. Because our price offer is based on our NAP it allows the State to take advantage of price reductions in the timeliest manner possible. Through MMCC, <b>the State has access to CDW•G's Verifiable Price Index 24/7 via cdwg.com. You can feel confident that your pricing is both up-to-date and competitive.</b>
<b>OEM Resources Partnering with CDW•G Ensure Michigan's Success</b>	Many of our OEM partners have staff dedicated to supporting CDW•G customers exclusively. As of this writing, <b>over 900 OEM resources from over 164 of our partners were collocated with CDW•G, collaborating with our account team and engineers to quickly provide expert help to the State.</b> The variety of partners that are on-site more easily facilitates our ability to help the State analyze the best value among the products under consideration and provide the right product the first time.



## MEMORANDUM

Information Technology

**DATE:** June 26, 2023

**TO:** Jana Ecker, Acting City Manager

**FROM:** Eric Brunk, IT Manager

**SUBJECT:** Renewal of Darktrace Appliance and Support

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### INTRODUCTION:

In January of 2020 the City purchased a network security appliance from Darktrace through their vendor of choice SHI on a 4-year contract. The total cost of the unit was \$239,292.00 and was broken down into 4 annual installments of \$59,823.00 each. That appliance is reaching its end of life and we would like to renew the contract, update the appliance with new hardware and add some additional security services.

### BACKGROUND:

In the past the City has had attacks attempted on our network. While most of these attacks were thwarted by our existing safeguards there were instances where attempts have gained a foothold in our network. During those events, viruses had to be manually tracked and removed from machines. Also affected data needed to be restored from backup, or recreated, causing downtime for departments and a duplication of work. Even though after each foothold situation the IT department tightened security on the network, it was determined that no matter how tight external security is, diligent attackers and the human factor (users inside our network) would still allow unplanned access to network resources. We needed a safeguard in place for any activity that may find its way past our external security measures.

The IT department settled on Darktrace as our solution of choice. The system is housed onsite, has an autonomous component (AI) that monitors the network and instantly takes needed action. It has the ability to notify the IT staff of actions taken and allows us to adjust those actions, if needed, remotely.

The current appliance has surpassed all of our expectations for ease of use, additional security on the network, minimal requirements on existing resources, and the amount of data that we can review on the operation and security of our environment. It has shut down possible security breaches without IT intervention. Darktrace has recently added additional security features to help secure our "attack surface" (internet facing ports and equipment) that we would like to add to the existing contract to help make the network even more secure.

**LEGAL REVIEW:**

Although not in our standard format, as it is part of the state cooperative purchasing program, the City Attorney has no objections.

**FISCAL IMPACT:**

The IT department worked with SHI and Darktrace to get a renewal contract replacing the existing hardware and add additional security services under sourcewell Contract# 081419-SHI. Total cost of the replacement unit and additional services is \$271,555.00, and this cost is broken down into 4 annual installments as follows. The first payment is prorated at \$43,936.00 which will synchronize the existing services with the additional services and adjust the overall payment schedule to match our fiscal year. The next three annual installments will be due each year in July at an annual cost of \$75,873.00. The total cost for the 4-year contract is \$271,555.00. The first installment cost was included in the 2023-24 budget in the network upgrade account #636-0-228.000-973.0400; the budget for the additional years will be adjusted appropriately.

**SUMMARY:**

The IT department recommends the City of Birmingham renew our Darktrace agreement and add additional security services with a 4-year contract renewal with Darktrace through SHI.

**SUGGESTED COMMISSION ACTION:**

Make a motion adopting a resolution to approve the replacement of the Darktrace appliance, purchase of additional security services and renewal the 4-year agreement with the initial payment of \$43,936.00 and a total 4-year contract price of \$271,555.00 from SHI using funds available in account #636.0-228.000-973.0400.



Pricing Proposal  
 Quotation #: 23556968  
 Created On: 6/6/2023  
 Valid Until: 6/28/2023

## MI-City of Birmingham

## Inside Account Executive

### Eric Brunk

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### Christopher Owens

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 Fax: 732-  
 Email: christopher\_owens@shi.com

All Prices are in US Dollar (USD)

Product	Qty	Your Price	Total
1 Darktrace PREVENT/Attack Surface Management Darktrace - Part#: PR/ASM Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 7/1/2023 – 6/30/2024 <b>Note:</b> Year 1	1	\$43,936.00	\$43,936.00
2 Darktrace PREVENT/Attack Surface Management Darktrace - Part#: PR/ASM Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 7/1/2024 – 6/30/2025 <b>Note:</b> Year 2	1	\$75,873.00	\$75,873.00
3 Darktrace PREVENT/Attack Surface Management Darktrace - Part#: PR/ASM Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 7/1/2025 – 6/30/2026 <b>Note:</b> Year 3	1	\$75,873.00	\$75,873.00
4 Darktrace PREVENT/Attack Surface Management Darktrace - Part#: PR/ASM Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 7/1/2026 – 6/30/2027 <b>Note:</b> Year 4	1	\$75,873.00	\$75,873.00
5 Darktrace DETECT/Apps/Google Workspace Darktrace - Part#: DE/App/GW Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 2/1/2024 – 6/30/2027	250	\$0.00	\$0.00
6 Darktrace DETECT/Endpoint Darktrace - Part#: DE/EP Contract Name: Sourcewell- Technology Catalog Solutions	25	\$0.00	\$0.00

Contract #: 081419-SHI  
Coverage Term: 2/1/2024 – 6/30/2027

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7	Darktrace DETECT/Network Darktrace - Part#: DE/N Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 2/1/2024 – 6/30/2027	1150	\$0.00	\$0.00
8	Darktrace RESPOND/Endpoint Darktrace - Part#: RE/EP Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 2/1/2024 – 6/30/2027	25	\$0.00	\$0.00
9	Darktrace RESPOND/Network Darktrace - Part#: RE/N Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 2/1/2024 – 6/30/2027	1150	\$0.00	\$0.00
10	Darktrace Deployment Options/Appliance (Medium) Darktrace - Part#: Dep/Ap/M Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 2/1/2024 – 6/30/2027	1	\$0.00	\$0.00
11	Darktrace Services/Ask The Expert Darktrace - Part#: Sv/ATE Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 2/1/2024 – 6/30/2027	1	\$0.00	\$0.00
12	Private Training (Remote) Darktrace - Part#: Sv/Tr(PvR) Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 2/1/2024 – 6/30/2027	2	\$0.00	\$0.00
			Total	\$271,555.00

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### Additional Comments

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Please note: additional manufacturer terms and conditions may apply. Your inside sales team will reach out to you with updates as needed.

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

Please note, if Emergency Connectivity Funds (ECF) will be used to pay for all or part of this quote, please let us know as we will need to ensure compliance with the funding program.

Thank you for choosing SHI International Corp! The pricing offered on this quote proposal is valid through the expiration date listed above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order. For any additional information including Hardware, Software and Services Contracts, please contact an SHI Inside Sales Representative at (888) 744-4084.

SHI International Corp. is 100% Minority Owned, Woman Owned Business.  
TAX ID# 22-3009648; DUNS# 61-1429481; CCR# 61-243957G; CAGE 1HTF0

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*The products offered under this proposal are resold in accordance with the terms and conditions of the Contract referenced under that applicable line item.*





Search...



# SHI Online Customer Resale Terms and Conditions

Unless a resale agreement currently exists between Reseller and Customer, these terms (the "Terms") shall constitute the entire understanding between SHI and the firm ("Customer") ordering the software, hardware, or third party services (collectively "Products") under the ordering document ("Order"). Issuance of an Order shall be deemed Customer's acceptance of these terms. If a resale agreement currently exists between SHI and Customer, the Order shall be subject to the terms and conditions of that resale agreement in lieu of these Terms.

## 1. Definition of SHI

"SHI" means one of the following, depending on which SHI office receives the Order:

- If the Order is received by SHI International Corp.:  
"SHI" means SHI International Corp., a New Jersey corporation with offices at 290 Davidson Ave., Somerset, NJ 08873.
- If the Order is received by SHI/Government Solutions, Inc.:  
"SHI" means SHI Government Solutions, Inc., a Texas corporation with offices at 3828 Pecana Trail Austin, TX 78749.
- If the Order is received by StrataScale Solutions, LLC:  
"SHI" means StrataScale Solutions, LLC, a Delaware Limited Liability Company with offices at 3828 Pecana Trail Austin, TX 78749
- If the Order is received by SHI Canada ULC:  
"SHI" means SHI Canada ULC, a Canadian corporation with offices at 895 Don Mills Road, Tower II, Suite 400, Toronto, Ontario M3C 1W3.
- If the Order is received by SHI Corporation UK Limited:  
"SHI" means SHI Corporation UK Limited, with offices at 401 Grafton Gate, Milton Keynes, Buckinghamshire, England MK9 1AQ.
- If the Order is received by SHI Global IT Solutions Ireland Ltd:  
"SHI" means SHI Global IT Solutions Ireland Ltd, with offices at Pembroke House, 28 - 32 Pembroke Street Upper, Dublin 2, Ireland.
- If the Order is received by SHI International B.V.:  
"SHI" means SHI International B.V., with offices at Herengracht 124, 1015 BT, Amsterdam, Netherlands
- If the Order is received by SHI International SAS:  
"SHI" means SHI International SAS, with offices at 9-15 Rue Maurice Mallet, 92130 Issy les Moulineaux, France
- If the Order is received by SHI International Corp Hong Kong Limited:  
"SHI" means SHI Hong Kong, with offices at 29/F, Tower 5, The Gateway, 15 Canton Road, Harbour City, Tsim Sha Tsui, Kowloon, Hong Kong SAR, China
- If the Order is received by SHI Singapore Solutions Pte. Ltd:  
"SHI" means SHI Singapore Solutions Pte. Ltd, with offices at One Raffles Place, #20-61 Tower 2, Suite 2032, Singapore 048616
- If the Order is received by SHI International Corp Australia Pty. Ltd:  
"SHI" means SHI International Corp Australia Pty. Ltd. with offices at Level 45, 680 George Street Sydney, NSW 2000 Australia

## 2. Terms of Payment

The invoice shall be paid ("paid" being defined as "issuance of payment from Customer's Accounts Payable Department") net thirty days after Customer's receipt of a valid invoice at the remit-to address referenced in the Order ("Payment Due Date"). Any invoice or portion thereof that is subject to a good faith dispute will not be paid; in such case, Customer will promptly notify SHI of any rejected invoice or portion thereof, with reasons for such rejection. The rejected costs, adjusted to the extent as mutually agreed to, shall then be paid within ten days after resolution of the reason for rejection ("Resolution Payment Due Date"). Customer will pay any federal, state, and local sales, use, withholding tax, duties or similar taxes imposed or based on the sale of Products under this Agreement. When SHI is authorized to collect such taxes they will be separately stated on SHI's invoices and reported and paid to appropriate governmental authorities by SHI. SHI shall charge interest at the rate of 1.5% per month (or the maximum rate that as is permitted by applicable laws, if less) from the Payment Due Date or Resolution Due Date, as the case may be, to the date payment is received by SHI.

## 3. Shipping

Products shipped to Customer's facilities shall be packaged in such a manner as to preclude all reasonably anticipated in-transit damage and in accordance with commercial standards. All shipments of Products will be clearly labeled with the shipping address stated on the order, the applicable PO number, recipient's name and if applicable, building and room number. Shipment terms are FOB Destination, freight pre-paid and added.

## 4. Returns

Product returns are subject to SHI's return policy, which is found at [www.shi.com/returnpolicy](http://www.shi.com/returnpolicy) (/returnpolicy).

## 5. Warranty

SHI warrants that SHI will maintain all necessary local, state, and federal licenses and certifications that may be required in order to legally deliver the Product described in the PO and has all rights, approvals, and/or authorizations necessary to provide the Products. SHI is a value added reseller ("VAR") of Product, not the original equipment manufacturer or licensor ("OEM"), and therefore disclaims any warranty responsibility regarding Product provided under this Order. SHI shall forward the end user warranties to Customer which are provided to SHI from the OEM of the Product, and to the extent granted by the OEM, Customer shall be the beneficiary of the OEM's warranties. SHI is not a party to any warranty terms between Customer and OEM and Customer agrees to look solely to the OEM for satisfaction of any and all warranty claims related to that OEM's Product. EXCEPT AS OTHERWISE PROVIDED IN THIS ORDER, SHI HEREBY DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF NONINFRINGEMENT, OR ANY WARRANTY RELATING TO THIRD PARTY SERVICES. THE DISCLAIMER CONTAINED IN THIS PARAGRAPH DOES NOT AFFECT THE TERMS OF ANY WARRANTY PROVIDED BY AN OEM.

## 6. Software License

Software Products resold under this Order, as well as related maintenance or support services, will be governed by either the license agreement between Customer and the OEM or, if no such agreement exists, the OEM's standard license and support agreements, which SHI shall forward to Customer at the time of delivery of the Products, when provided to SHI by the OEM. SHI is not a party to any such terms between Customer and OEM and Customer agrees to look solely to the OEM for satisfaction of any and all license and support claims or obligations related to that OEM's Product.

## 7. Product Indemnification

As a Value Added Reseller of Products and third party services, SHI disclaims any indemnification responsibility regarding Product provided under the Order. Customer agrees to look solely to the OEM for satisfaction of any and all indemnification claims related to that OEM's Product.

## 8. Limitation of liability

NEITHER PARTY WILL BE LIABLE FOR ANY SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF OR DAMAGE TO DATA, LOSS OF ANTICIPATED REVENUE OR PROFITS, WORK STOPPAGE OR IMPAIRMENT OF OTHER ASSETS, WHETHER OR NOT FORESEEABLE AND WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EITHER PARTY'S TOTAL CUMULATIVE LIABILITY TO THE OTHER IN CONNECTION WITH THESE TERMS OR AN ORDER, WHETHER IN CONTRACT, TORT OR OTHER THEORY, WILL NOT EXCEED THE TOTAL AMOUNT OF FEES ACTUALLY PAID OR PAYABLE BY CUSTOMER TO SHI UNDER THE ORDERS RECEIVED FOR THE YEAR PREVIOUS TO THE INCIDENT WHICH GAVE CAUSE FOR SUCH LIABILITY. CUSTOMER ACKNOWLEDGES THAT SUCH AMOUNT REFLECTS THE ALLOCATION OF RISK SET FORTH IN THESE TERMS AND THAT SHI WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY.

## 9. Cancellation

Provided the Order or some part thereof has not been designated "non-cancellable" or "non-returnable" by SHI, Customer shall have the right to cancel or postpone, in whole or in part, the Order, without penalty, provided that notice of such cancellation or postponement is received by SHI prior to shipment of the ordered Products. If Customer cancels the Order following shipment of the Products but prior to delivery, Customer shall pay all freight and handling charges for shipment and return shipment of such Products to SHI. Notwithstanding the foregoing, any such cancellations shall be subject to charges imposed by the OEM associated with cancellation.

## 10. Assignment

Neither party may assign, subcontract, or transfer the Order, or any part thereof, without the other party's prior written consent, and any such assignment or transfer without such consent shall be null and void.

## 11. Force Majeure

Neither party shall be liable to the other for any failure or delay in performing its obligations hereunder, or for any loss or damage resulting therefrom, due to: (1) acts of God or public enemy, acts of government, riots, terrorism, fires, floods, strikes, lock outs, epidemics, act or failure to act by the other party, or unusually severe weather affecting Customer, SHI or its subcontractors, or (2) causes beyond their reasonable control and which are not foreseeable (each a "Force Majeure Event"). In the event of any such Force Majeure Event, the date of delivery or performance shall be extended for a period equal to the time lost by reason of the delay. The party experiencing the delay shall be prompt in restoring normal conditions, establishing new schedules and resuming operations as soon as the event causing the failure or delay has ceased. SHI shall notify Customer promptly of any such delay and shall specify the effect on the Product as soon as practical.

## 12. No Waiver

Any failure by either party to insist upon observance or performance by the other of the provisions of these Terms shall not be deemed a "course of dealing" waiver of any such provision or a waiver of the right of the parties to enforce any and all provisions in the future.

## 13.No Severance

Should any of these Terms be declared unenforceable in law for whatever reason, all other terms and conditions shall survive and the unenforceable provision(s) will be severed from these Terms and the balance of the terms and conditions shall be binding on both parties as if the severed provision(s) had never existed, unless performance thereof is rendered legally impractical and no longer fulfills the intentions the Order.

## 14. Governing Law/Jurisdiction: one of the following will apply, depending on which SHI office receives the Order

- If the Order is received by SHI International Corp, SHI Government Solutions, Inc., StrataScale Solutions, LLC, SHI International Corp Hong Kong Limited, or SHI Singapore Solutions Pte. Ltd: The Order, and any claims or disputes arising out of or relating thereto shall be interpreted in accordance with the laws of the State of New Jersey, without regard to: (1) conflict of law principles; (2) the United Nations Convention on Contracts for the International Sale of Goods; and, (3) the Uniform

Computer Information Transactions Act ("UCITA"). The parties hereby consent to the exclusive jurisdiction and venue of the federal and state courts of the State of New Jersey.

- If the Order is received by SHI Canada ULC: The Order, and any claims or disputes arising out of or relating thereto shall be interpreted in accordance with the laws of the province of British Columbia and those laws of Canada applicable therein, without regard to choice of law provisions or the United Nations Convention on Contracts for the International Sale of Goods and the parties hereby irrevocably submit to the exclusive jurisdiction and venue of the Superior Court of Justice for the province of British Columbia.
- If the Order is received by SHI Corporation UK Limited: The Order, and any claims or disputes arising out of or relating thereto shall be interpreted in accordance with the laws of England and Wales without regard to the United Nations Convention on Contracts for the International Sale of Goods and the parties hereby irrevocably submit to the exclusive jurisdiction and venue of the English courts. Products supplied to SHI Corporation UK Limited are subject to UK VAT by means of a reverse charge (ex VAT invoice for non-UK based suppliers) pursuant to Article 44 in EU VAT Directive 2006/112 for electronic shipment, licensing or services.
- If the Order is received by SHI Global IT Solutions Ireland Ltd: The Order, and any claims or disputes arising out of or relating thereto shall be interpreted in accordance with Irish law without regard to the United Nations Convention on Contracts for the International Sale of Goods and the parties hereby irrevocably submit to the exclusive jurisdiction and venue of the Irish courts. Products supplied to SHI Global IT Solutions Ireland Ltd are subject to Irish VAT by means of a reverse charge (ex VAT invoice for non-Ireland based suppliers) pursuant to Article 44 in EU VAT Directive 2006/112 for electronic shipment, licensing or services.
- If the Order is received by SHI International B.V.: The Order, and any claims or disputes arising out of or relating thereto shall be interpreted in accordance with the law of The Netherlands without regard to the United Nations Convention on Contracts for the International Sale of Goods and the parties hereby irrevocably submit to the exclusive jurisdiction and venue of the courts of The Netherlands. Products supplied to SHI International B.V. are subject to Dutch VAT by means of a reverse charge (ex VAT invoice for non-Dutch based suppliers) pursuant to Article 44 in EU VAT Directive 2006/112 for electronic shipment, licensing or services.
- If the Order is received by SHI International SAS: The Order, and any claims or disputes arising out of or relating thereto shall be interpreted in accordance with French law without regard to the United Nations Convention on Contracts for the International Sale of Goods, and the parties hereby irrevocably submit to the exclusive jurisdiction of the Courts of Paris, unless otherwise required by law.
- If the Order is received by SHI International Corp Australia Pty. Ltd: The Order, and any claims or disputes arising out of or relating thereto shall be interpreted in accordance with the laws of New South Wales, without regard to the United Nations Convention on Contracts for the International Sale of Goods and the parties hereby irrevocably submit to the exclusive jurisdiction and venue of the courts of New South Wales.

If any claim or dispute arising hereunder is not resolved through such negotiations within thirty days following written presentment, either Party may, upon giving the other Party at least ten days prior written notice, initiate litigation submitting such claims or disputes for decision by a court of competent jurisdiction within the appropriate above, in accordance with the rules of that court and laws of that jurisdiction. Either Party may, at its option and at any time during the dispute resolution process, seek injunctive relief (including, but not limited to preliminary injunctive relief). Each party irrevocably waives its rights to trial by jury in any action or proceeding arising out of or relating to the Order or these Terms.

The prevailing party in any litigation arising out of or relating to the Order or these Terms shall be entitled to recover its expenses, costs of litigation (including, without limitation, clerk, paralegal, and expert witness costs), and reasonable attorneys' fees from the losing party, whether or not otherwise specifically awardable under any law or court rule.

## 15. Exportation

Export of Products by Customer is subject to applicable US export regulations and Customer shall be solely responsible for compliance thereof.

## 16. Entire Agreement

These Terms shall constitute the entire agreement between the parties with respect to the subject matter of the Orders. These Terms and any Order shall not be modified or rescinded, except by a writing signed by SHI and Customer. These Terms supersede all contemporaneous and prior oral and written communications, understandings and agreements of the Parties with respect to the subject matter of these Terms. This Agreement shall govern and supersede any preprinted terms and conditions stated on or attached to any Order, which are null and void with respect to these Terms and the Order.



(<https://www.facebook.com/pages/SHI-International-Corp/164409770296612>)



([https://twitter.com/SHI\\_Intl](https://twitter.com/SHI_Intl))



(<https://www.linkedin.com/company/shi-international-corp->)



(<https://blog.shi.com/>)



(<https://www.youtube.com/user/shicorporation>)



([https://www.instagram.com/shi\\_intl/](https://www.instagram.com/shi_intl/))

**[About SHI \(/CustomerServices/SHIMarketing.aspx?ContentID=86768\)](/CustomerServices/SHIMarketing.aspx?ContentID=86768)**

**[Events \(/CustomerServices/SHIMarketing.aspx?ContentID=92523\)](/CustomerServices/SHIMarketing.aspx?ContentID=92523)**

**[Careers \(/CustomerServices/SHIMarketing.aspx?ContentID=88370\)](/CustomerServices/SHIMarketing.aspx?ContentID=88370)**

English

[Privacy \(/CustomerServices/SHIInfo.aspx?ContentID=22\)](/CustomerServices/SHIInfo.aspx?ContentID=22) | [Terms and Conditions \(/CustomerServices/SHIInfo.aspx?ContentID=23\)](/CustomerServices/SHIInfo.aspx?ContentID=23) | [ISO 9001 \(/CustomerServices/SHIInfo.aspx?ContentID=21&Menu=about\)](/CustomerServices/SHIInfo.aspx?ContentID=21&Menu=about) | [FAQ \(/customerservice/frequently-asked-questions\)](/customerservice/frequently-asked-questions) |

California Transparency in Supply Chains

([https://www.content.shi.com/SHIcom/ContentAttachments/Files/PDF/Modern\\_Slavery\\_Act\\_Transparency\\_Statement.pdf](https://www.content.shi.com/SHIcom/ContentAttachments/Files/PDF/Modern_Slavery_Act_Transparency_Statement.pdf))

Do Not Sell or Share My Personal Information (/customerservice/donotsellpii)



## **DARKTRACE MASTER CUSTOMER AGREEMENT**

### **IMPORTANT - READ CAREFULLY:**

Please read the following legally binding Darktrace Master Customer Agreement ("Agreement") between Darktrace Limited or any of its Affiliates ("Darktrace") and the person or entity that has been granted rights under this Agreement ("Customer") carefully. THIS AGREEMENT WILL APPLY TO ANY QUOTE, PRODUCT ORDER FORM, ORDER ACKNOWLEDGEMENT, AND INVOICE, AND ANY SALE, LICENCE, OR DELIVERY OF ANY APPLIANCES OR SERVICES BY DARKTRACE. By selecting the accept option, breaking the seal on the package, or installing, or otherwise accessing or using the Offering (as defined herein), Customer acknowledges that Customer has read, understands and agrees to be bound by the terms and conditions of this Agreement. Where a reseller, service provider, consultant, contractor or other permitted third party downloads, installs or otherwise uses the Appliance on Customer's behalf, such party will be deemed to be Customer's agent and Customer will be deemed to have accepted all of the terms and conditions of this Agreement as if Customer had directly downloaded, installed or used the Appliance.

If Customer does not agree with the terms and conditions of this Agreement, Customer is not authorised to install the Appliance or otherwise use the Offering for any purpose whatsoever. If Customer returns the unused Appliance and all accompanying items in their original condition and packaging within twenty-one (21) calendar days of delivery by Darktrace, together with proof of purchase, Customer may receive a full refund of any Fees paid.

Darktrace and Customer may be collectively referred to as "Parties" or individually as "Party".

### **RECITALS**

Whereas, Darktrace is the supplier of the Offering that is more fully described in the applicable quotation, ordering document, or commercial terms schedule provided by Darktrace or its authorised reseller, as applicable, and accepted by Darktrace, which identifies the Appliances and any Services ordered by Customer from Darktrace or its authorised reseller, as applicable, the term, the respective quantities, the applicable fees, together with any other specifications or requirements and any other restrictions (if any) ("Product Order Form").

Whereas, Customer is interested in using the Offering for its internal use and Darktrace has agreed to Customer's use of the Offering on the terms of this Agreement.

Now therefore, in consideration of the mutual covenants and the payment of Fees described herein, the Parties agree as follows:

#### **1. DEFINITIONS**

Certain capitalised terms used but not defined herein are as set forth in Appendix 1 to this Agreement.

#### **2. EVALUATIONS AND BETA TESTING**

The following terms in this Clause 2 apply to a Darktrace proof of value or technical preview of the Offering.

- 2.1. If Darktrace permits Customer to conduct a proof of value of the Offering (the "Evaluation"), Customer shall be granted a non-exclusive, non-transferable, non-sublicensable licence to use the Appliance free of charge for evaluation purposes only for a maximum of four (4) weeks, or such other duration as specified by Darktrace in writing at its sole discretion (the "Evaluation Period"). Except for the foregoing, Darktrace does not grant Customer any rights, implied or otherwise in or to the Offering in respect of an Evaluation. Customer must keep the Appliance free from liens, will be responsible for any damage to such Appliance during the Evaluation Period (reasonable wear and tear excepted) and will carry insurance coverage (all risks) in an amount equal to the full replacement value of the Appliance. On the expiry of the Evaluation Period, Customer shall return the Appliance to Darktrace securely and properly packaged, with carriage (and insurance at Customer's option) and this Agreement will terminate.
- 2.2. If Darktrace provides Customer with a new product or new version of the Offering for technical preview or beta testing purposes (a "Preview Product"), Customer may use the Preview Product for evaluation purposes, in a non-production test environment only, for the period specified by Darktrace (the "Test Period"). Customer will test the Preview Product in accordance with any conditions specified in the readme file for the software or any accompanying Documentation and will gather and report test data, feedback, comments and suggestions to Darktrace. Customer's right to use the Preview Product will terminate upon expiry of the Test Period. Darktrace does not warrant that it will release a commercial version of the Preview Product, or that a commercial version will contain the same or similar features as the Preview Product.

- 2.3. Clause 9 and Clause 12 will not apply to Evaluations or Preview Products. APPLIANCES PROVIDED FOR THE PURPOSES OF EVALUATION (“EVALUATION PRODUCTS”) AND PREVIEW PRODUCTS ARE PROVIDED “AS IS” AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: (i) DARKTRACE MAKES NO WARRANTIES, CONDITIONS, REPRESENTATIONS OR UNDERTAKINGS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE WITH RELATION TO SUCH EVALUATION PRODUCTS OR PREVIEW PRODUCTS; AND (ii) IN NO EVENT SHALL DARKTRACE BE LIABLE TO CUSTOMER OR TO THOSE CLAIMING THROUGH CUSTOMER FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGE OR LOSS OF ANY KIND, OR ANY LOSS OF PROFITS, LOSS OF CONTRACTS, BUSINESS INTERRUPTIONS, LOSS OF OR CORRUPTION OF INFORMATION OR DATA HOWEVER CAUSED AND WHETHER ARISING UNDER CONTRACT OR TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE), EVEN IF DARKTRACE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 2.4. IF ANY LIMITATION, EXCLUSION, DISCLAIMER OR OTHER PROVISION CONTAINED IN CLAUSE 2.3 ABOVE IS HELD TO BE INVALID FOR ANY REASON BY A COURT OF COMPETENT JURISDICTION AND DARKTRACE BECOMES LIABLE THEREBY FOR LOSS OR DAMAGE THAT MAY LAWFULLY BE LIMITED, SUCH LIABILITY WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED TEN THOUSAND POUNDS STERLING (£10,000).

### **3. OFFERING; ORDER PROCESS**

- 3.1. Darktrace agrees to provide to Customer: (i) the number and type of Appliances; (ii) the Support Services; and (iii) the training to be provided to Customer, if any, as set out in the Product Order Form. The Product Order Form must be in writing and reference this Agreement to be valid. The Product Order Form will be governed by this Agreement and any different or additional terms presented with or in any communication, including but not limited to, Customer’s purchase order, are deemed null and void and of no effect unless the additional terms are agreed upon by the Parties in writing prior to acceptance of that Product Order Form. This clause shall not apply where Customer purchases the Offering through a Darktrace authorised reseller.
- 3.2. Darktrace acknowledges and agrees that the Offering is provided for the benefit of Affiliates of Customer from time to time. Accordingly, such Customer Affiliates will be entitled to utilise the Offering in the same way as Customer under the terms of this Agreement. To the extent that any such Customer Affiliate utilises the Offering in accordance with this Clause 3.2, Customer (acting as agent and trustee of the relevant Customer Affiliate) will be entitled to enforce any term of this Agreement and recover all losses suffered by such Customer Affiliate pursuant to this Agreement as though Customer had suffered such loss itself, provided that in no event may Customer make multiple recoveries in respect of the same loss.

### **4. HARDWARE**

- 4.1. Hardware Products. Excluding Evaluations and Preview Products, and subject to Clause 4.3, Darktrace, or its authorised reseller, will sell to Customer, and Customer will purchase, the Hardware element of the Appliance in accordance with the terms of this Agreement. Unless otherwise agreed in the Product Order Form, the cost of the Hardware is included in the Fees. Customer acknowledges that, with respect to the Software that is delivered on Hardware, the Hardware is provided solely as the medium for delivery and operation of the Software. Customer will be granted a licence to the Software on the terms of Clause 5 below. .
- 4.2. Delivery. Darktrace will use commercially reasonable efforts to ship the Appliance(s) on the agreed delivery dates (in partial or full shipments); provided, however, that Darktrace will in no event be liable for any delay in delivery or for failure to give notice of delay. Without liability to any person and without prejudice to any other remedy, Darktrace may withhold or delay shipment of any order if Customer is late in payment or is otherwise in default under this Agreement. Darktrace will deliver the Hardware FCA (Incoterms 2010) to the agreed Sites. In the absence of specific shipping instructions from Customer, Darktrace will ship by the method of its choice. Unless otherwise agreed, Customer will pay and be exclusively liable for all costs associated with shipping and delivery including without limitation, freight, shipping, customs charges and expenses, cost of special packaging or handling and insurance premiums incurred by Darktrace in connection with the shipment of the Appliance(s) to Customer. Darktrace will identify itself in all documents related to the shipment of the Appliance(s) as the exporter of record from the applicable jurisdiction of export, and Customer (or its agent, as applicable) as the importer of record into the country of delivery.
- 4.3. Title to Hardware. Notwithstanding anything in the Agreement to the contrary, title to the Hardware will remain with Darktrace during the first twenty-four (24) month period of the Term. Following such initial twenty-four (24) month period and provided Customer is current in all payment obligations to Darktrace, title in the Hardware will pass to Customer. Upon termination for any reason during the first twenty-four (24) month period of the Term (or if the Term is less than twenty-four (24) months in duration, on expiration of the Term), Customer shall return the Hardware to Darktrace, securely and

properly packaged, with carriage (and insurance at Customer's option) prepaid. During such initial twenty-four (24) month period, Customer must (a) clearly designate the Hardware as Darktrace's property; (b) hold the Hardware on a fiduciary basis as Darktrace's bailee; (c) store and use the Hardware in a proper manner in conditions which adequately protect and preserve the Hardware; (d) insure the Hardware against all risks to its full replacement value; and I not sell, charge, pledge, mortgage or otherwise dispose of the Hardware or any part of it or permit any lien to arise over the Hardware (or part thereof) and will keep the Hardware free from distress, execution and other legal process.

## 5. LICENCE GRANT FOR THE SOFTWARE AND RESTRICTIONS

- 5.1. Licence Grant for Software. In consideration of the Fees paid by Customer to Darktrace, and subject to the terms and conditions of this Agreement and the Product Order Form, Darktrace grants to Customer a non-exclusive, non-transferable, non-sublicensable licence for the Term to: (i) install and use the Appliance on the Site(s) or an Outsource Provider's site(s) for Customer's or its Affiliate's internal business purposes (provided that neither Customer nor its Affiliates may use the Appliance or the Services as a commercial product or for the benefit of an unaffiliated third party); (ii) make a commercially reasonable number of copies of the Documentation; provided however, that Customer must reproduce and include all of Darktrace's and its suppliers' copyright notices and proprietary legends on each such copy; and (iii) use Reports, and reproduce and distribute such Reports, internally solely for Customer's or its Affiliate's own business purposes.
- 5.2. Licence Restrictions. All Software is licensed, not sold. The restrictions in this Agreement represent conditions of Customer's licence. Unless otherwise specified in the Product Order Form or the applicable datasheet, the Software is pre-installed on the Hardware and Customer agrees to use the Software solely in conjunction with such Hardware and not separately or apart from the Hardware. Customer specifically agrees not to: (i) sub-licence, rent, sell, lease, distribute or otherwise transfer the Software or any part thereof or use the Offering, or allow the Offering to be used, for timesharing or service bureau purposes or otherwise use or allow others to use for the benefit of any third party (other than Customer's Affiliates); (ii) attempt to reverse engineer, decompile, disassemble, or attempt to derive the source code or underlying ideas or algorithms of the Software or Third Party Software (other than the GPL Software) or any portion thereof, except as required to be permitted by applicable law; (iii) modify, port, translate, localise or create derivative works of the Software, the Third Party Software, the Documentation or Reports (save as expressly permitted by Clause 5.1 above); (iv) use the Offering: (a) in violation of any law, statute, ordinance or regulation applicable to Customer (including but not limited to the laws and regulations governing publicity or privacy, export/import control, federal, state and local laws and regulations governing the use of network scanners and related software in all jurisdictions in which systems are scanned or scanning is controlled, or anti-discrimination, in each case that are applicable to Customer); or (b) negligently, intentionally or wilfully propagate any virus, worms, Trojan horses or other programming routine intended to damage any system or data; (v) remove or modify any acknowledgements, credits or legal notices contained on the Appliance or any part thereof; (vi) install or run on the Hardware any software applications other than the Software and Third Party Software installed by Darktrace on such Hardware; (vii) collect any information from or through the Offering using any automated means (other than Darktrace approved APIs), including without limitation any script, spider, "screen scraping," or "database scraping" application or gain or attempt to gain non-permitted access by any means to any Darktrace computer system, network, or database; and (viii) file copyright or patent applications that include the Offering or any portion thereof. .
- 5.3. Outsource Provider. In the event that Customer contracts with any third party service provider(s) such as an outsourcer, hosting or collocation service provider or other information technology service provider for the performance of information technology functions (each, an "Outsource Provider"), Customer may permit such Outsource Provider to exercise all or any portion of the rights granted in Clause 5.1 above solely on Customer's or its Affiliates' behalf, provided that, (i) the Outsource Provider will only use or operate the Offering for Customer's use subject to terms and conditions that are consistent with the rights and limitations set out in this Agreement; and (ii) Customer will remain liable for the acts and omissions of the Outsource Provider under this Agreement
- 5.4. Third Party Software/ Open Source Software. Customer acknowledges that the Software may contain or be accompanied by certain third-party hardware and software products or components ("Third Party Products") including Open Source Software. Any Open Source Software provided to Customer as part of the Offering is copyrighted and is licensed to Customer under the GPL/LGPL and other Open Source Software licences. Copies of, or references to, those licences may be set out in a Product Order Form, the Third Party Product packaging or in a text file, installation file or folder accompanying the Software. If delivery of Open Source Software source code is required by the applicable licence, Customer may obtain the complete corresponding Open Source Software source code for a period of three years after Darktrace's last shipment of the Software by sending a request to: Attn: Legal Department - Open Source Software Request, Darktrace Limited, Maurice Wilkes Building, Cowley Road, Cambridge CB4 0DS, United Kingdom.

## 6. SERVICES

- 6.1. **Installation.** Darktrace will conduct its standard installation and test procedures to confirm completion of the installation of the Appliance on Customer's or its Outsource Provider's site ("Installation Services").
- 6.2. **Support Services.** Darktrace will provide the Standard Support Services for the Term and any Support Service Options specified in the Product Order Form (collectively, the "Support Services"). Darktrace's Support Services are further described in the Support Services Data Sheet, which details Darktrace's Standard Support Services and Support Service Options, and their respective eligibility requirements, service limitations and Customer responsibilities.
- 6.3. **Call Home.** Darktrace's Call Home feature is critical for certain Support Services. Darktrace will limit its access solely to the extent relevant to Darktrace's provision of the Support Services, and such remote access will be subject to Customer's reasonable policies and procedures provided to Darktrace in writing in advance. The Call Home connection remains within Customer's complete control and is initiated by the onsite Appliance. It can be initiated and terminated at any time by Customer.
- 6.4. **DISCLAIMER.** UNLESS EXPRESSLY AGREED, THE SERVICES DO NOT INCLUDE THE MONITORING, INTERPRETATION OR CORRECTIVE ACTION WITH RESPECT TO ANY ALERTS GENERATED BY THE OFFERING. NO ADVICE, REPORT, OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY CUSTOMER FROM DARKTRACE OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT. CUSTOMER UNDERSTANDS THAT: (A) ANY OUTCOME OF THE SERVICES INVOLVING SECURITY ASSESSMENT IS LIMITED TO A POINT-IN-TIME EXAMINATION OF CUSTOMER'S SECURITY STATUS; AND (B) THE SERVICES DO NOT CONSTITUTE ANY FORM OF REPRESENTATION, WARRANTY OR GUARANTEE THAT CUSTOMER'S SYSTEMS ARE SECURE FROM EVERY FORM OF ATTACK, EVEN IF FULLY IMPLEMENTED. CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT NOT ALL ANOMALIES / INTRUSIONS MAY BE REPORTED OR PREVENTED.

## 7. FEES, PAYMENT AND TAXES

- 7.1. **Fees.** Fees are stated in the Product Order Form. No refunds will be made except as provided in Clause 9 and Clause 10.3 of this Agreement. Unless otherwise explicitly agreed in writing, fees are: (i) exclusive of sales and use taxes assessed by any taxing authority in the jurisdiction(s) in which Customer is physically located and takes delivery of the Appliance or Services; and (ii) exclusive of duties and shipping and handling fees, which unless otherwise agreed will be the responsibility of Customer. Should Customer be required under any law or regulation of any governmental entity or authority outside of the United Kingdom to withhold or deduct any portion of the payments due to Darktrace, then Customer will increase the sum payable to Darktrace by the amount necessary to yield to Darktrace an amount equal to the sum Darktrace would have received had no withholdings or deductions been made. Darktrace may also charge for hardware replacement costs not provided under the Support Services.
- 7.2. **Invoices and Payment.** Customer will be invoiced the Fees from the Commencement Date as defined and set out in the Product Order Form, if not expressly stated in a Product Order Form, Fees will be invoiced on the date of delivery of the first Appliance (the "Commencement Date"). Any other charges, such as out of pocket expenses will be invoiced monthly in arrears. Invoicing will occur via email. Unless otherwise agreed in the Product Order Form, Customer agrees to pay all undisputed amounts within thirty (30) days of Customer's receipt of the applicable invoice by direct bank or wire transfer in accordance with the instructions on the invoice, and any bank charges assessed on Customer by Customer's bank. UNLESS PAYMENTS ARE MADE BY BANK OR WIRE TRANSFER, THEY MUST BE MADE ANNUALLY IN ADVANCE. Darktrace may suspend or cancel performance of open orders or Services if Customer fails to make payments when due, reserving all other rights and remedies as may be provided by law. Darktrace may impose late charges on overdue payments at a rate equal to two percent (2%) per annum above the official dealing rate of the Bank of England, calculated from the date payment was due until the date payment is made, and all reasonable expenses incurred in collection, including legal fees.
- 7.3. **Lapsed Fees.** If Customer has lapsed in the payment of Fees due hereunder, Darktrace may suspend the provision of Services and prior to recommencement of the Services by Darktrace, Customer will be responsible for paying all fees associated with the Offering from the date such Service was stopped through to the then-current date.
- 7.4. Clause 7 shall not apply where Customer has purchased the Offering through a Darktrace authorised reseller.



## 8. INTELLECTUAL PROPERTY; OWNERSHIP

- 8.1. **Intellectual Property.** Except as expressly set forth herein: (i) this Agreement does not grant either Party any rights, implied or otherwise, to the other's Intellectual Property; and (ii) Darktrace, its suppliers and licensors, retain all right, title and interest in and to the Offering, and the Documentation and all copies thereof, including all enhancements, error correction, new releases, updates, derivations, and modifications thereto (collectively, "**Darktrace Intellectual Property**"). Customer agrees to inform Darktrace promptly of any infringement or other improper action with respect to Darktrace Intellectual Property that comes to Customer's attention.

## 9. WARRANTIES

- 9.1. **Hardware Warranty.** Darktrace warrants to Customer that during the three (3) year period from the date of delivery of the Appliance, the Hardware will perform materially in accordance with the applicable Documentation.
- 9.2. **Software Warranty.** Darktrace warrants to Customer that during a period of ninety (90) days from the date of delivery of the Appliance, the Software will perform materially in accordance with the applicable Documentation.
- 9.3. **Services Warranty.** Darktrace warrants to Customer that all Services will be performed with all reasonable care, skill and diligence in accordance with generally recognised commercial practices and standards.
- 9.4. **Exceptions.** The warranties contained in Clause 9.1 and Clause 9.2 above will not apply if: (i) Customer's use of the Offering is not in accordance with this Agreement; (ii) Customer fails to follow Darktrace's environmental, installation, operation or maintenance instructions or procedures in the Documentation; (iii) the Appliance has been subject to Customer's (or its agent's) abuse, negligence, improper storage, servicing or operation (including without limitation use with incompatible equipment), reasonable wear and tear excepted; (iv) the Appliance has been modified, repaired or improperly installed other than by Darktrace or any contractor or subcontractor of Darktrace; (v) Customer (or its agent) has failed to implement, or to allow Darktrace or its agents to implement, any corrections or modifications to the Appliance made available to Customer by Darktrace; or (vi) Customer (or its agent) has combined the Appliance with other software, services, or products that are not provided by Darktrace or not otherwise specified in the Documentation, and, but for such combination, the breach of warranty would have been avoided.
- 9.5. **Remedies.** If during the applicable warranty period contained in Clause 9.1 or Clause 9.2 above: (i) Darktrace is notified promptly in writing upon discovery of an error in any of the Appliance, including a detailed description of such alleged error; and (ii) Darktrace's inspections and tests determine that the Appliance contains an error and it is not subject to any of the exceptions set out in Clause 9.4, then, as Darktrace's entire liability and Customer's sole remedy for such breach of warranty, Darktrace will (at Darktrace's option and sole expense) correct, repair or replace the Appliance within a reasonable time or provide or authorise a refund of the unused portion of the Fees Customer has paid for the Offering following the return of the Appliance to Darktrace and the Agreement will terminate. Any items provided as replacement under the terms of the applicable warranty will be warranted for the remainder of such original warranty period. Darktrace will pay for, and will bear all risk of loss of or damage to, the return shipment of the Appliance to Darktrace and the shipment of repaired or replaced the Appliance to Customer. Customer agrees to provide prompt notice of any failure under Clause 9.3 and Darktrace will re-perform any Service that fails to meet the warranted standard.
- 9.6. **DISCLAIMER.** EXCEPT FOR THE EXPRESS WARRANTIES SET OUT IN THIS AGREEMENT, AND TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER DARKTRACE NOR ANY OF ITS THIRD PARTY LICENSORS OR SUPPLIERS MAKE ANY WARRANTIES, CONDITIONS, UNDERTAKINGS OR REPRESENTATIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE IN RELATION TO ANY SUBJECT MATTER OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR ARISING FROM COURSE OF PERFORMANCE, DEALING, USAGE OR TRADE.. DARKTRACE DOES NOT WARRANT THAT THE OPERATION OF THE OFFERING WILL BE ERROR-FREE OR UNINTERRUPTED.

## 10. INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT INDEMNITY

- 10.1. **Darktrace Indemnity.** Darktrace will indemnify and defend Customer, Customer's Affiliates, and their respective officers, directors, employees, agents and representatives (and any successors and assigns of the foregoing) (collectively, the "**Customer Indemnitees**") against all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of a third party claim that the Software provided or made available by Darktrace under this Agreement (or any portion thereof), or its receipt, possession or use by any Customer Indemnitee, infringes a European or U.S. patent, any copyright, or misappropriates any third party trade secrets. The indemnification obligations of Darktrace will be subject to

Customer: (i) notifying Darktrace in writing within twenty (20) days of receiving notice of any threat or claim of such action; (ii) giving Darktrace exclusive control and authority over the defence or settlement of such action (provided that: (A) any settlement will not entail an admission of fault or guilt by any Customer Indemnitee; and (B) the settlement includes, as an unconditional term, the claimant's or the plaintiff's release of Customer Indemnitees from all liability in respect of the claim); (iii) not entering into any settlement or compromise of any such action without Darktrace's prior written consent; and (iv) providing reasonable assistance requested by Darktrace at Darktrace's expense. Customer may join in the defence with its own counsel at its own expense. Customer will be obliged to mitigate its losses insofar as is reasonable in the circumstances.

- 10.2. **Exclusions.** The obligations set out in Clause 10.1 do not apply to the extent that a third party claim is caused by, or results from: (a) Customer's combination or use of the Software that is the subject of the claim with other software, services, or products that are not provided or authorised by Darktrace in writing, if the claim would have been avoided by the non-combined or independent use of the Software that is the subject of the claim; (b) modification of the Software that is the subject of the claim by anyone other than Darktrace or any contractor or subcontractor of Darktrace, if the third party claim would have been avoided by use of the unmodified Offering or other intellectual property that is the subject of the claim; (c) Customer's continued allegedly infringing activity after being notified thereof and being provided with modifications that would have avoided the alleged infringement (which in implementing such modifications, Darktrace will use commercially reasonable efforts to have substantially preserve the utility and functionality of the Offering or other intellectual property that is the subject of the claim); (d) Customer's use of the Software that is the subject of the claim in a manner not in accordance with this Agreement or the Documentation; (e) use of other than Darktrace's most current release of the Software that is the subject of the claim if the third party claim would have been avoided by use of the most current release or revision release or revision.
- 10.3. **Remedies.** If Darktrace reasonably believes the Software infringes a third party's Intellectual Property Rights, then Darktrace will, at its option and at no additional cost to Customer: (a) procure for Customer the right to continue to use the Software; (b) replace the Software; or (c) modify the Software to avoid the alleged infringement. If none of the options in the previous sentence are commercially reasonable, Darktrace may terminate the licence for the allegedly infringing Software and refund a pro rata refund of the Fees paid by Customer from the date a third party claim arose for the allegedly infringing Software to the then-current date, whereupon this Agreement will automatically terminate.
- 10.4. THIS CLAUSE 10 IS A COMPLETE STATEMENT OF THE CUSTOMER'S REMEDIES FOR THIRD PARTY CLAIMS FOR INFRINGEMENT AS DESCRIBED IN CLAUSE 10.1.

## **11. CUSTOMER DATA; CUSTOMER UNDERTAKINGS AND INDEMNITY**

- 11.1. **Customer Data; Licence Grant.** Customer will own all right, title and interest in and to the Customer Data and to the extent such Customer Data is included in a Report, the actual content of such Report. For any Customer Data stored on the Appliance, to the extent required to provide the Services, Customer grants to Darktrace a limited, and non-exclusive licence to access and use the Customer Data only to the extent necessary for Darktrace to perform the Services. Customer agrees Darktrace may utilise the details of any Alerts occurring in Customer's network and any connected data source to develop the Offering on an anonymised basis and excluding any Customer Confidential Information.
- 11.2. **Customer Security Obligations.** In using the Offering or authorising its Outsource Provider and third parties to use it on Customer's behalf, Customer (and not Darktrace) will be responsible for establishing, monitoring, and implementing security practices to control the physical access to and use of the Offering and all Customer Data therein, including Personal Data.
- 11.3. **DATA DISCLAIMER; INDEMNITY.** CUSTOMER IS SOLELY RESPONSIBLE FOR ITS USE OF THE OFFERING, THE ACTIVITIES OF ITS USERS AND FOR THE ACCURACY, INTEGRITY, LEGALITY, RELIABILITY AND APPROPRIATENESS OF ALL CUSTOMER DATA. CUSTOMER EXPRESSLY RECOGNISES THAT DARKTRACE DOES NOT CREATE OR ENDORSE ANY CUSTOMER DATA PROCESSED BY OR USED IN CONJUNCTION WITH THE OFFERING. CUSTOMER FURTHER ACKNOWLEDGES THAT DARKTRACE AND ITS AFFILIATES DO NOT PROVIDE BACKUP SERVICES FOR CUSTOMER DATA AND CUSTOMER UNDERTAKES THAT IT SHALL BE SOLELY RESPONSIBLE FOR BACKUP OF ALL CUSTOMER DATA. Customer will, at Customer's own expense, indemnify, defend and hold Darktrace, its Affiliates, and their respective officers, directors, employees, agents and representatives ("**Darktrace Indemnitees**") harmless from and against all liabilities, damages, and costs, including settlement costs and reasonable attorneys' fees, incurred by reason of Darktrace's compliance with the instructions of Customer with respect to the ownership, custody, processing or disposition of the Customer Data by Darktrace, as applicable.

## 12. LIMITATION OF LIABILITY

- 12.1. LIMITATION OF LIABILITY. SUBJECT TO THE REMAINDER OF THIS CLAUSE 12, EACH PARTY'S MAXIMUM LIABILITY TO THE OTHER PARTY FOR ANY AND ALL CLAIMS, LOSS OR DAMAGE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNT OF ALL FEES PAID OR PAYABLE TO DARKTRACE FOR THE OFFERING DURING THE THEN-APPLICABLE TERM, EXCEPT THAT IN RESPECT OF A BREACH BY EITHER PARTY OF CLAUSE 15 ("DATA PROTECTION") SUCH LIABILITY SHALL NOT EXCEED, IN THE AGGREGATE FOR THE THEN-APPLICABLE TERM, THE GREATER OF (A) THREE TIMES (3X) TOTAL FEES PAID OR PAYABLE TO DARKTRACE FOR THE OFFERING DURING THE THEN-APPLICABLE TERM OR (B) TWO HUNDRED AND FIFTY THOUSAND POUNDS STERLING (£250,000).
- 12.2. EXCLUSION OF CONSEQUENTIAL DAMAGES. SUBJECT TO CLAUSE 12.3 BELOW, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT OR CONSEQUENTIAL LOSS; OR ANY LOSS OF PROFITS; LOSS OF REVENUE OR BUSINESS; LOSS OF GOODWILL OR REPUTATION; LOSS OF OR CORRUPTION OR DAMAGE TO DATA; LOSS OF MANAGEMENT TIME, HOWSOEVER ARISING AND WHETHER OR NOT SUCH PARTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, CORRUPTION OR DAMAGE.
- 12.3. Exclusions from Limitation of Liability. Nothing in this Agreement will exclude or limit either Party's liability: (i) for death or personal injury due to negligence; (ii) fraud; (iii) under Clause 11.13 ("Data Disclaimer; Indemnity"); (iv) for breach of Clause 14 ("Confidentiality"); (v) for violations of a Party's Intellectual Property Rights, or (vi) for any other matter in respect of which liability cannot lawfully be limited or excluded.

## 13. TERM; TERMINATION

- 13.1. Term. This Agreement is effective from the Effective Date and will remain in force until: (i) expiry of the Evaluation Period in accordance with Clause 2.1 above ; or (ii) the end of the term specified in a Product Order Form (as applicable the "Term"). In the event of extension or renewal of the Product Order Form, such extension or renewal shall be considered a new and separate Term.
- 13.2. Expiration of the Term. Notwithstanding any provision of this Clause 13, Customer's right to use, and Customer's access to, the Appliance will automatically terminate on expiry of the Term unless and until Customer renews or extends the Term for the Appliance.
- 13.3. Termination for Breach. Either Party may terminate this Agreement if: (i) the other Party is in material breach of the Agreement and fails to cure such breach within thirty (30) days after receipt of written notice; or (ii) the other Party ceases its business operations or becomes subject to insolvency proceedings, which proceedings are not dismissed within thirty (30) days.
- 13.4. Termination or Suspension by Darktrace. Without prejudice to any other right or remedy available to Darktrace:
- 13.4.1. Darktrace may restrict, suspend or terminate Customer's licence or use of the Offering without liability if a court or other government authority issues an order prohibiting Darktrace from furnishing the Offering to Customer. Customer's obligation to pay Fees during any period of suspension under this Clause 13.4.1 will also be suspended. In the event the Offering is suspended pursuant to this Clause 13.4.1 then provided it is lawful to do so, Darktrace will inform Customer of the reasons for the suspension and will work with Customer to resolve such issues and re-instate the Offering.
- 13.4.2. Additionally, Darktrace may terminate, suspend or limit Customer's licence grant or use of the Offering without liability if Darktrace provides Customer with written notice that it has a reasonable suspicion that Customer is using the Offering: (i) in breach of Clause 5.1 or Clause 5.2; or (ii) in a manner that is otherwise unlawful, and in each case Customer does not cure the condition identified in such notice within five (5) business days.
- 13.5. Effect of Termination. Upon termination or expiration of this Agreement:
- 13.5.1 the Term and all other rights and licences granted by one Party to the other, or any services provided by Darktrace to Customer, will cease immediately;
- 13.5.2 in the event that title to the Hardware has not transferred to Customer, Customer shall ensure all Customer Data is removed from the Appliance and return the Appliance to Darktrace in accordance with Clause 4.3. If Customer wishes to retain the Hardware, this will be chargeable at Darktrace's then-current list price. If Customer fails to return the Hardware, Darktrace may invoice, and Customer will pay, for the Hardware at Darktrace's then-current list price. DARKTRACE WILL

NOT BE RESPONSIBLE FOR MAINTAINING OR PROTECTING ANY CONFIGURATION SETTINGS OR DATA FOUND ON THE RETURNED HARDWARE OR COMPONENT PART OF THE HARDWARE AND IT IS CUSTOMER'S SOLE RESPONSIBILITY TO DELETE ANY SUCH INFORMATION PRIOR TO RETURN;

13.5.3 if title to the Hardware has transferred to Customer pursuant to Clause 4.3, Customer must immediately permanently delete the Software from the Hardware and certify erasure to Darktrace in writing or Darktrace will be allowed (i) entry to the Site(s) as necessary to access the Appliance (on reasonable advance notice and subject to Customer's applicable policies and procedures); or (ii) remote access to the Appliance, in each case in order to delete or disable the Software from the Hardware; and;

13.5.4 all undisputed Fees owing to Darktrace at the date on which termination takes effect will become due and payable.

13.6. **Survival.** The following provisions will survive any termination of this Agreement: Clause 2 ("Evaluations and Beta Testing"); Clause 5 ("Licence Grant For the Software and Restrictions"); Clause 7 ("Fees, Payments and Taxes"); Clause 8 ("Intellectual Property; Ownership"); Clause 9.6 ("Disclaimer"); Clause 10 ("Intellectual Property Rights Infringement Indemnity"); Clause 11.3 ("Data Disclaimer; Indemnity"); Clause 12 ("Limitation of Liability"); Clause 13.5 ("Effect of Termination"); Clause 13.6 ("Survival"); Clause 14 ("Confidentiality;"); Clause 16 ("Data Protection"); and Clause 16 ("General Provisions").

#### **14. CONFIDENTIALITY**

14.1. Each party will treat the other party's Confidential Information as confidential. Confidential Information of one Party (the "Disclosing Party") may only be used by the other Party (the "Receiving Party") for the purpose of fulfilling obligations or exercising rights under this Agreement, and may only be shared with employees, agents or contractors of the Receiving Party who have a need to know such information to support such purpose ("Representatives"). Each Party will procure that any of its Representatives to whom Confidential Information is disclosed are bound by contractual obligations equivalent to those in this Clause 14.1. Notwithstanding the foregoing, the Receiving Party shall remain liable for the acts or omissions of its Representatives. Confidential Information will be protected using a reasonable degree of care to prevent unauthorised use or disclosure for five (5) years from the date of receipt or (if longer) for such period as the information remains confidential. These obligations do not cover information that: (i) was known or becomes known to the Receiving Party on a non-confidential basis from a third party, provided that: (a) the Receiving Party has no knowledge that the third party is subject to a confidentiality agreement with the Disclosing Party in respect of the information; and (b) such information is not of a type or character that a reasonable person would have regarded it as confidential; (ii) is independently developed by the Receiving Party without violating the Disclosing Party's rights; (iii) is or becomes publicly known other than through disclosure by the Receiving Party or one of its Representatives in breach of this Agreement; (iv) was lawfully in the possession of the Receiving Party before the information was disclosed by the Disclosing Party. A party may disclose Confidential Information to the extent disclosure is required by law or a governmental agency provided that, to the extent it is lawful to do so, the Receiving Party notifies the Disclosing Party of the request giving it reasonable opportunity to respond, and cooperate with the Disclosing Party's reasonable, lawful efforts to resist, limit or delay disclosure at the Disclosing Party's expense, and except for making such required disclosure, such information will otherwise continue to be Confidential Information. On termination of the Agreement, each Party will promptly return or destroy all Confidential Information of the other Party.

#### **15. DATA PROTECTION**

15.1. The Parties acknowledge that the Offering may be used to process Personal Data regulated by the Data Privacy Laws and the Parties shall comply with the data processing requirements as set out in Appendix 2.

#### **16. GENERAL PROVISIONS**

16.1. Entire Agreement; Integration.

16.1.1. This Agreement, the appendices and any documents referenced herein, represent the entire agreement between the Parties on the subject matter hereof and supersedes all prior discussions, agreements and understandings of every kind and nature between the Parties and excludes, without limitation, any terms appearing on a purchase order, invoice or other Customer paperwork or any other terms (in each case whether by way of conduct or otherwise). No modification of this Agreement will be effective unless in writing and signed by both Parties. Each Party acknowledges and agrees that, in connection with the Agreement, it has not been induced to enter into the Agreement in reliance upon, and does not have any remedy in respect of, any representation or other promise of

any nature other than as expressly set out in this Agreement. Each Party signing this Agreement acknowledges that it has had the opportunity to review this Agreement with legal counsel of its choice and there will be no presumption that ambiguities will be construed or interpreted against the drafter.

- 16.1.2. Unless otherwise specifically agreed to in a writing signed by each of the Parties, in the event of any conflict or inconsistency between this Agreement, an appendix hereto, any Product Order Form issued hereunder, and or any document incorporated by reference, the order of precedence of the documents from highest to lowest is the Product Order Form, this Agreement, any appendix hereto and the documents incorporated by reference.
- 16.2. Severability. The illegality or unenforceability of any provision of this Agreement will not affect the validity and enforceability of any legal and enforceable provisions hereof.
- 16.3. Force Majeure. Neither Party will be liable for any failure or delay in performing services or any other obligation under this Agreement, nor for any damages suffered by the other or a Customer by reason of such failure or delay, which is, indirectly or directly, caused by an event beyond such Party's reasonable control, riots, natural catastrophes, terrorist acts, governmental intervention, refusal of licences by any government or other government agency, or other acts of god (each, a "Force Majeure Event"), and such non-performance, hindrance or delay could not have been avoided by the non-performing Party through commercially reasonable precautions and cannot be overcome by the non-performing Party through commercially reasonable substitute services, alternate sources, workarounds or other means. During the continuation of a Force Majeure Event, the non-performing Party will use commercially reasonable efforts to overcome the Force Majeure Event and, to the extent it is able, continue to perform its obligations under the Agreement.
- 16.4. Notices. Any notice will be delivered by hand or sent by recorded delivery, registered post or registered airmail and satisfactory proof of such delivery must be retained by the sender. All notices will only become effective on actual receipt. Any notices required to be given in writing to Darktrace or any questions concerning this Agreement should be addressed to: Attn: Legal Department, Darktrace Limited, Maurice Wilkes Building, Cowley Road, Cambridge CB4 0DS, United Kingdom.
- 16.5. Rights of Third Parties. The provisions of this Agreement concerning restrictions on usage of the Offering and protection of Intellectual Property Rights are for the benefit of and may be enforced by each of Darktrace, any Darktrace Affiliate and the Darktrace Indemnitees. Except for the foregoing sentence, or as otherwise expressly set out in the Agreement, this Agreement does not create any rights for any person who is not a party to it and no person who is not a party to this Agreement may enforce any of its terms or rely on any exclusion or limitation contained herein.
- 16.6. Audit. Customer will permit Darktrace or an independent certified accountant appointed by Darktrace access, on written notice, to Customer's premises and Customer's books of account and records at any time during normal business hours for the purpose of inspecting, auditing, verifying or monitoring the manner and performance of Customer's obligations under this Agreement. Darktrace will not be able to exercise this right more than twice in each calendar year.
- 16.7. Independent Contractors. The Parties are independent contractors. Nothing in this Agreement will be construed to create a partnership, joint venture, or agency relationship between the Parties.
- 16.8. Assignment. This Agreement may not be assigned by either Party without the written consent of the other Party. Notwithstanding the foregoing, consent of the other Party will not be required for a transfer to an Affiliate of a Party or if a Party undertakes an initial public offering, a sale of all or substantially all of its shares or assigns all or substantially all of its business and assets to another entity that is not a direct competitor of the non-assigning Party. Any attempt to assign this Agreement in violation of the foregoing will be null and void. This Agreement binds the Parties, their respective Affiliates, successors and permitted assigns.
- 16.9. Governing Law. In the event the Darktrace subsidiary entity from which Customer has purchased the Appliance is located in: (a) the United States of America, Canada or Latin America, this Agreement will be governed by and construed in accordance with the laws of the State of California and the state and federal courts located in the City of San Francisco, California will have exclusive jurisdiction to determine any disputes, which may arise out of, under, or in connection with, this Agreement; and (b) any other country, this Agreement will be governed by and construed in accordance with the laws of England and Wales and the courts of England and Wales will have exclusive jurisdiction to determine any disputes, which may arise out of, under, or in connection with, this Agreement, however, Darktrace or its Affiliate may, bring suit for payment in the country where the Customer Affiliate that placed the Product Order Form is located. Customer and Darktrace agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply.

- 16.10. Export Restrictions. The Offering is for Customer's use and not for further commercialisation. Customer acknowledges that the Offering may be classified and controlled as encryption items under the United Kingdom's Export Regulations and other national regulations. Each Party will comply with all applicable laws regarding export-controlled items, and will not export, re-export or import, directly or indirectly, any export-controlled items, or any direct product of them, nor undertake any transaction hereunder in violation of any applicable export laws; provided that it will be for the disclosing Party's account to provide to the other Party all the necessary information regarding any export restrictions imposed on such information and identify such data using appropriate restrictive legends.
- 16.11. ITAR. Customer understands that employees of Darktrace and/or its suppliers may have access to native data to perform the Support Services herein and represents that none of this data requires protection from access by foreign persons because it contains technical information regarding defence articles or defence services within the meaning of the United States International Traffic in Arms Regulations (22 CFR § 120) or technical data within the meaning of the United States Export Administration Regulations (15 CFR §§ 730 - 774). If any of this data does contain any such information, Customer will either lock down access to any such data and/or identify any folders containing such data as export-controlled information and acknowledges that special service rates may apply thereto.
- 16.12. Government End-User Notice (applicable to United States government customers only). The Offering is commercial within the meaning of the applicable civilian and military Federal acquisition regulations and any supplements thereto. If the user of the Appliance is an agency, department, employee, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Appliance, including technical data or manuals, is governed by the terms, conditions and covenants contained in the Darktrace standard commercial licence agreement, as contained herein.
- 16.13. Waiver. Each Party agrees that the failure of the other Party at any time to require performance by such Party of any of the provisions herein will not operate as a waiver of the rights of such Party to request strict performance of the same or like provisions, or any other provisions hereof, at a later time.
- 16.14. Headings. All headings used herein are for convenience of reference only and will not in any way affect the interpretation of this Agreement.
- 16.15. Equitable Remedies. The Parties agree that with respect to a breach by a Party of Clauses 5, 8 or 14, monetary damages may not be an adequate or sufficient remedy for a breach of this Agreement. Therefore, in addition to any applicable monetary damages, a Party will also be entitled to apply for injunctive relief and other equitable relief to prevent breaches of the Agreement, without proof of actual damage.

## Appendix 1 – Definitions

### 1. DEFINITIONS:

- 1.1. **Defined Terms.** Terms defined in this Appendix 1 will have the meanings given below. Defined terms may be used in the singular or plural depending on the context.
- “**Affiliate**” means any corporation or other business entity that directly or indirectly controls, is controlled by or is under common control with a Party. Control means direct or indirect ownership of or other beneficial interest in fifty percent (50%) or more of the voting stock, other vesting interest, or income of a corporation or other business entity;
- “**Alerts**” means features of the Software that generates alerts of suspected malicious activity on a Customer’s network;
- “**Appliance(s)**” means the Software, or Software combined with Hardware, as more fully described on the Product Order Form
- “**Call Home**” means the secure and encrypted channel that connects the Appliance to Darktrace central management;
- “**Confidential Information**” means any information, however conveyed or presented, that relates to the business, affairs, operations, customers, suppliers, processes, budgets, pricing policies, product information, strategies, developments, trade secrets, Intellectual Property, and know-how of a Party, and any other information clearly designated by a Party as being confidential to it (whether or not it is marked "confidential"), and information that ought reasonably be considered to be confidential, but in all circumstances excludes any Personal Data.
- “**Customer Data**” means all data and information provided by Customer to, or accessible by, Darktrace under this Agreement in connection with the performance of the Services (which may include information about network traffic on Customer’s network (metrics), log/metadata collection, as well as the raw packet capture data from Customer’s network);
- “**Data Privacy Laws**” means the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the General Data Protection Regulation (Regulation (EU) 2016/679) (“**GDPR**”), and laws of similar purpose or effect in any relevant jurisdiction, in each case as amended, updated, re-enacted or replaced from time to time;
- “**Documentation**” means user manuals for the Appliance consisting of the applicable installation guides, service descriptions, technical specifications and online help files provided by Darktrace or available on Darktrace’s online portal;
- “**Effective Date**” means the Effective Date specified in the Product Order Form;
- “**EU Model Clauses**” means the standard contractual clauses for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection under Directive 95/46/EC, pursuant to the European Commission Decision of 5 February 2010;
- “**Fees**” means all applicable fees as set out in the Product Order Form;
- “**GDPR**” is as defined in “Data Privacy Laws” above;
- “**GPL Software**” means third party software provided by Darktrace on the Hardware to support use of the Software that is licensed directly to Customer and the relevant Customer Affiliates by the relevant rights holder on the terms of the version included or provided with it of the GNU General Public Licence, GNU Lesser General Public Licence or other comparable licence.
- “**Hardware**” means any hardware device (including embedded firmware) shipped and installed as part of the Offering;
- “**Information Security Standards**” means Darktrace’s information security code of conduct, as amended from time to time in Darktrace’s sole discretion and available upon request;
- “**Intellectual Property**” means patents, trademarks, service marks, rights (registered or unregistered) in any designs, applications for any of the foregoing, trade or business names, copyright (including rights in computer software) and topography rights, know-how and other proprietary knowledge and information, internet domain names, rights protecting goodwill and reputation, database rights (including rights of extraction) and all rights and forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world and all rights under licences and consents in respect of any of the rights and forms of protection mentioned in this definition (and “**Intellectual Property Rights**” will be construed accordingly);
- “**Offering**” means collectively the Appliance(s), Software, Services and the Documentation;

“Open Source Software” means third party software that Darktrace distributes with the Software pursuant to a licence that requires, as a condition of use, modification or distribution of such software, that the software or other software combined and/or distributed with it be: (i) disclosed or distributed in source code form; (ii) licensed for the purpose of making derivative works; (iii) redistributable at no charge; or (iv) redistributable but subject to other limitations;

“Product Order Form” has the meaning set forth in the introductory paragraphs;

“Personal Data” means, generally, information relating to an identified or identifiable natural person, or other regulated data types as defined by applicable Data Privacy Laws;

“Reports” means Threat Intelligence Reports as more fully described in the Support Services Data Sheet;

“Services” means the Darktrace Support Services, and any Installation Services, training or professional services which may be provided by Darktrace as specified in the Product Order Form;

“Support Service Options” means the optional support services, if any, as specified in the Product Order Form and further described in the Support Services Data Sheet;

“Site(s)” means the Customer’s business location or its datacentre at the locations described in a Product Order Form;

“Software” means the Darktrace and the Third Party Software (in object code form) delivered to Customer as part of the Offering or on a standalone basis, together with all enhancements, error corrections, and/or updates which are generally made available by Darktrace as part of the Offering. The GPL Software does not form part of the Software and is licensed to Customer and the Customer Affiliates directly on the terms of the applicable licences, provided that the GPL Software will nevertheless be deemed to form part of the Software for the purposes of the Support Services, such that Darktrace will support it as if it were part of the Software;

“Standard Support Services” means the standard support services provided by Darktrace as set out in the Darktrace Support Services Data Sheet;

“Support Services Data Sheet” means the Documentation describing the terms of the Support Services.

“Third Party Licensors” means the suppliers of the Third Party Software to Darktrace; and

“Third Party Software” means: (i) any software or other technology that is licensed to Darktrace from Third Party Licensors for the purpose of making the Offering available commercially; and (ii) Open Source Software.

1.2. Construction. In this Agreement (except where the context otherwise requires):

- 1.2.1. any reference to a clause or schedule is to the relevant clause or schedule of or to this Agreement and any reference to a paragraph is to the relevant paragraph of the clause or schedule in which it appears;
- 1.2.2. the index and clause headings are included for convenience only and will not affect the interpretation of this Agreement;
- 1.2.3. use of the singular will include the plural and vice versa;
- 1.2.4. use of any gender will include any other gender;
- 1.2.5. any reference to persons includes natural persons, firms, partnerships, companies, corporations, associations, organisations, governments, foundations and trust (in each case whether or not having separate legal personality);
- 1.2.6. any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression will be construed as illustrative and will not limit the sense of the words preceding those terms;
- 1.2.7. any reference to any other document is a reference to that other document as amended, varied, supplemented, or novated (in each case, other than in breach of the provisions of this Agreement) at any time.



## Appendix 2: Data Protection Agreement

1. **DEFINITIONS.** For the purposes of this DPA, the terms defined in this Appendix shall have the meanings as set forth in the Agreement. Any terms not specifically defined by this DPA or the Agreement shall have the meaning given by GDPR.
2. **SUBJECT MATTER OF THE DATA PROCESSING AGREEMENT**
  - 2.1 This Data Processing Agreement (“DPA”) applies to the processing of Customer Personal Data under the Agreement.
  - 2.2 Customer will be the “Data Controller” and Darktrace will be the “Data Processor” as defined under GDPR. Each Party agrees that it shall comply with its obligations as a Data Controller and a Data Processor, respectively under the Data Privacy Laws in exercising its rights and performing its obligations under this Agreement.
  - 2.3 This DPA is an Appendix to the Agreement.
3. **NATURE AND PURPOSE OF PROCESSING REGULATED DATA**
  - 3.1 The Data Processor shall process Personal Data in order to provide the Support Services as set forth in the Support Services Datasheet.
  - 3.2 In the event that the Data Controller has purchased Antigena Email, the additional data protection provisions of the Antigena Email Schedule shall apply and be incorporated into this DPA.
4. **TYPES AND CATEGORIES OF PERSONAL DATA**
  - 4.1 Categories of Data Subjects.
    - Employees including volunteers, agents, temporary workers, independent contractors;
    - Contractors
    - Customer clients, prospects
    - Suppliers, vendors
    - Advisors, consultants and other professional experts
    - Customer officers, directors
    - And any other categories of Data Subjects that may be contained in the Data Controller’s network.
  - 4.2 Types of Personal Data:
    - IP addresses
    - Host names
    - File names
    - Email addresses
    - And any other types of Personal Data that may be contained in the Data Controller’s network.
5. **RIGHTS AND OBLIGATIONS OF THE CONTROLLER**
  - 5.1 The Data Controller hereby instructs the Data Processor to take such steps in the processing of Personal Data as are reasonably necessary for the performance of the Data Processor’s obligations under the Agreement, and agrees that such instructions, including the terms of this DPA and the Agreement, constitute its full and complete instructions as to the means by which Personal Data shall be processed by the Data Processor.
6. **RIGHTS AND OBLIGATIONS OF THE PROCESSOR**
  - 6.1 The Data Processor shall only process Personal Data in accordance with the Data Controller’s written instruction as specified herein and shall not use Personal Data except to deliver the Offering and the Services as instructed by the Agreement, unless such processing is required by law to which the Data Processor is subject, in which case the Data Processor shall, to the extent permitted by law, inform the Data Controller of that legal requirement prior to carrying out the applicable processing.
  - 6.2 The Data Processor shall immediately inform the Data Processor if, in the Data Processor’s reasonable opinion, an instruction from the Data Controller infringes the Data Privacy Laws.
  - 6.3 If Personal data originates in the European Union, the Data Processor shall not transfer Personal Data outside the European Economic Area (“EEA”) without the prior written consent of the Data Controller and not without procuring provision of adequate safeguards (as defined by the European Commission from time to time);
  - 6.4 In the event that the UK ceases to be a member of the European Union or ceases to be considered by the European Commission to be an adequate country pursuant to Article 45 of GDPR, then the parties agree that Darktrace will apply the EU Model Clauses to any relevant transfer of data and the EU Model Clauses will be deemed incorporated from the date of first transfer. Any processing of Personal Data under the EU Model Clauses will reflect the subject matter, purpose and scope of Personal Data processed under this DPA (for the purpose of Appendix 1 of the EU Model Clauses) and be subject to the technical and organisational measures detailed herein (for the purpose of Appendix 2 of the EU Model Clauses).
  - 6.5 The Data Processor shall take reasonable steps to ensure the reliability of its agents and employees who have access to any Personal Data.

## 7. SECURITY

7.1 Taking into account the nature, scope, context and purposes of processing, the Data Processor has implemented and will maintain the administrative, physical, technical and organisational measures as described in the Darktrace Information Security Policy to protect any Personal Data accessed or processed by it against unauthorised or unlawful processing or accidental loss, destruction, damage or disclosure. The parties agree that for the purposes of the processing hereunder, the measures contained within the Darktrace Information Security Policy are appropriate, given the nature of the data to be processed and the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction, disclosure, access or damage.

## 8. PERSONAL DATA BREACH NOTIFICATION

8.1 In the event that the Data Processor suffers a Personal Data Breach, the Data Processor shall inform the Data Controller within twenty-four (24) hours upon learning of the same and reasonably cooperate with the Data Controller to mitigate the effects and to minimise any damage resulting therefrom. To the extent reasonably possible, the notification to the Data Controller shall include: (i) a description of the nature of the incident, including where possible the categories and approximate number of data subjects concerned and the categories and approximate number of Personal Data records concerned; (ii) the name and contact details of the Data Processor's data protection officer or another contact point where more information can be obtained; (iii) a description of the likely consequences of the incident; and (iv) a description of the measures taken or proposed to be taken by the Data Processor to address the incident including, where appropriate, measures to mitigate its possible adverse effects

## 9. SUBPROCESSORS

9.1 Save as expressly provided herein, the Data Processor will not use subprocessors for the processing of Personal Data. For the purposes of providing Support Services alone: (i) The Data Controller hereby authorises the Data Processor to use its affiliates specified in the Support Services Datasheet to process Personal Data (the "Affiliate Subprocessors"); (ii) The Data Processor shall have in place with the Affiliate Subprocessors a written agreement equivalent to the terms contained herein to protect Personal Data; and (iii) The EU Model Clauses shall apply to the extent the processing of Personal Data by the Affiliate Subprocessors involves a transfer of Personal Data which originates in the EEA to a third country outside of the EEA. For such purposes, the Data Controller hereby authorises the Data Processor to enter into the EU Model Clauses with the Affiliate Subprocessors on the Data Controller's behalf.

9.2 Save for the foregoing, the Data Processor shall not engage any subprocessors without the prior written authorisation of the Data Controller. In the event that the Data Controller authorises the use by the Data Processor of any other subprocessors, the Data Processor shall procure that such subprocessors enter into a written agreement containing provisions no less stringent than this DPA.

9.3 The Data Processor shall be fully liable for any breach by the subprocessors of any data protection obligations set out in this Clause.

## 10. ASSISTANCE WHEN HANDLING REQUESTS FROM DATA SUBJECTS

10.1 Taking into account the nature of processing and the information available to the Data Processor, the Data Processor will provide reasonable support to the Data Controller: (i) in complying with any legally mandated request for access to or correction of any Personal Data by a data subject under Chapter III GDPR (and where such request is submitted to the Data Processor, the Data Processor will promptly notify the Data Controller of it); (ii) in responding to requests or demands made to the Data Controller by any court or governmental authority responsible for enforcing privacy or data protection laws; or (iii) in its preparation of a Data Protection Impact Assessment.


## 11. AUDIT


11.1 The Data Processor agrees to maintain ISO 27001 certification for the duration of the Term. The Data Processor will use an external auditor to verify that its security measures meet ISO 27001 standards in accordance with the ISO certification process. On the Data Controller's written request, and subject to appropriate confidentiality obligations, the Data Processor will make available to the Data Controller: (i) a copy of the current certificate in relation to the ISO 27001 certification; and (ii) Information reasonably requested by the Data Controller in writing with regards to the Data Processor's processing of Personal Data under this DPA. The Data Controller agrees to exercise any right it may have to conduct an audit or inspection under GDPR (or the EU Model Clauses if they apply) by requesting the foregoing information.

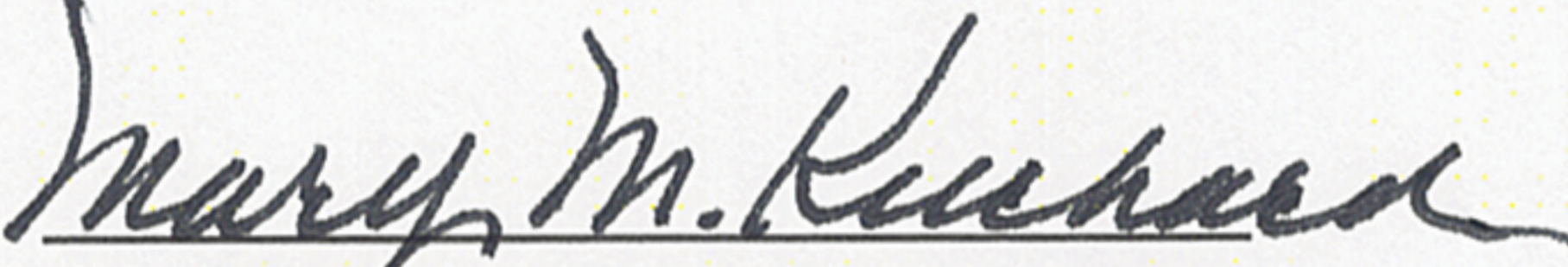
## 12. RETURN/DESTRUCTION OF PERSONAL DATA

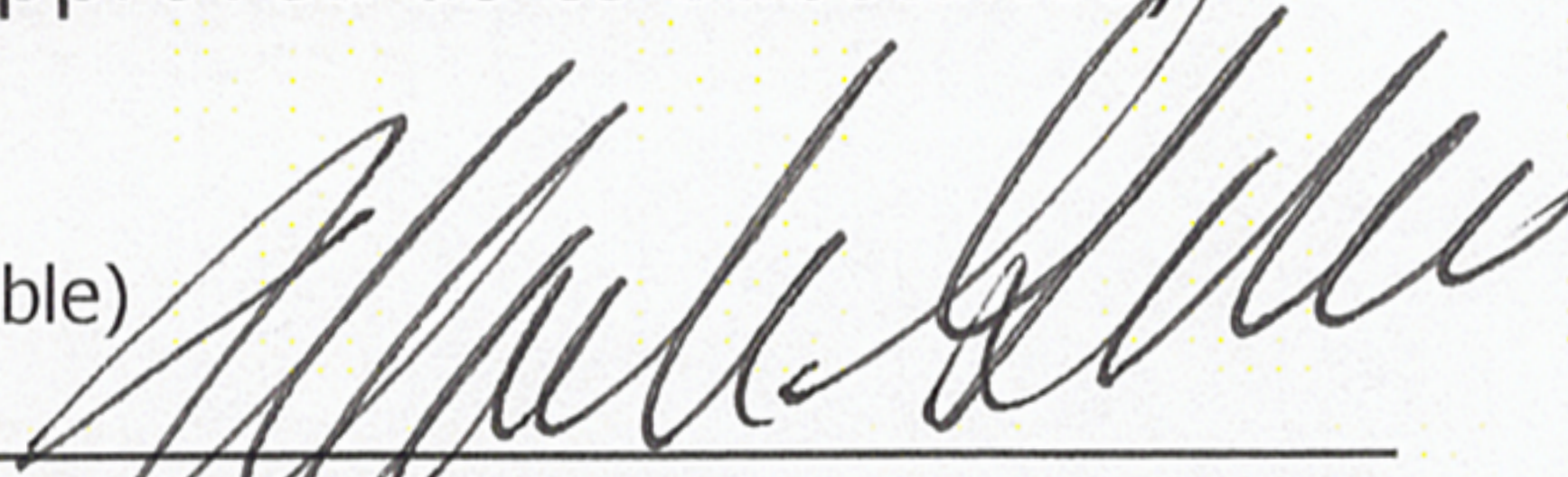
12.1 Upon termination of the Agreement, the Data Processor shall delete or return all Personal Data in accordance with the Data Controller's written instructions.

**APPROVED:**

  
\_\_\_\_\_  
Jana Ecker, Acting City Manager  
(Approved as to substance)

  
\_\_\_\_\_  
Eric Brunk, IT Manager  
(Approved as to substance)

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

(If applicable)   
\_\_\_\_\_  
Mark A. Gerber, Finance Director  
(Approved as to Financial Obligation)



## MEMORANDUM

Engineering Department

**DATE:** June 26, 2023  
**TO:** Jana Ecker, Acting City Manager  
**FROM:** Melissa A. Coatta, City Engineer  
**SUBJECT:** Oakland County 2023 Local Road Grant Agreement for Brown Street Paving Project

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### INTRODUCTION:

The City applied for and received a \$75,413.00 grant from Oakland County 2023 Local Road Grant Project for the Brown Street Paving Project. A grant agreement is required for the grant award with a one-to-one local match.

### BACKGROUND:

On March 15, 2023, Oakland County announced a local government grant opportunity for a local road project. The grant has a maximum award to the City of \$75,413.00 and required a one-to-one local match. The Engineering Department submitted a grant application for the Brown Street Paving Project #5-23 (P) on April 21, 2023.

The City received notification of the grant award from Oakland County on May 30, 2023. The grant requires an agreement between Oakland County and the City, and a report at the completion of the project. The City plans to complete the report and spend the grant money by the end of this year.

### LEGAL REVIEW:

The City Attorney has reviewed the agreement and has no comments or objections.

### FISCAL IMPACT:

This project was approved by the City Commission on May 22, 2023, by the following accounts, and the grant award going toward the following fund:

Fund Account	Fund ID Number	Project Award	5% Contingencies	Total	Grant Award
Major Street Fund	202.0-449.001-981.0100	\$705,388.34	\$35,269.42	\$740,657.75	\$75,413.00

Sidewalk Fund	101.0-444.000-981.0100	\$567,178.95	\$28,358.95	\$595,537.90	
Sewer Fund	590.0-537.000-981.0100	\$551,152.91	\$27,557.65	\$578,710.55	
Water Fund	591.0-544.000-981.0100	\$8,809.50	\$440.49	\$9,249.99	

No amendments to the 2022/2023 fiscal year budget are required for this work.

**PUBLIC COMMUNICATIONS:**

Communication with property owners in the project area has been provided previously during the design and contract award of the project.

**SUMMARY:**

It is recommended that the City Commission accept the \$75,413.00 Local Road Improvement Matching Fund Program Cost Participation Agreement by entering into a contract with Oakland County and authorizing the Mayor to electronically sign the agreement.

**ATTACHMENTS:**

- Grant Award Letter (1 page)
- Local Road Improvement Matching Fund Program Cost Participation Agreement (9 pages)

**SUGGESTED COMMISSION ACTION:**

Make a motion adopting a resolution to approve the Local Road Improvement Matching Fund Program Cost Participation Agreement between Oakland County and the City of Birmingham. In addition, authorize the Mayor to sign the agreement on behalf of the City. Funding for this project has been budgeted in accounts 202.0-449.001-981.0100, 101.0-444.000-981.0100, 590.0-537.000-981.0100, and 591.0-544.000-981.0100.



May 30, 2023

Greetings,

We are pleased to inform you that the Board of Commissioners has approved your application for funding under the 2023 Local Road Improvement Program. Poor conditions on our roads create an impediment to the economic development of our community and diminish the excellent quality of life our residents expect. Oakland County is proud to be a partner with your local government to provide much needed investment in our local transportation infrastructure.

**For execution, you will receive a separate email requesting a digital signature on your Cost Participation Agreement.** This email will come from JoAnn Stringfellow at the email address: [echosign@echosign.com](mailto:echosign@echosign.com). If you are not the designated signer, please click the “**DELEGATE**” link in the email and enter the name and email address of the appropriate individual. Following approval by your governing authority as applicable, and execution of the agreement, please electronically sign the agreement. If you require additional signature lines, please email [aubrya@oakgov.com](mailto:aubrya@oakgov.com). All signers will automatically receive a digital sealed copy of the executed document for your records.

After you receive the digital sealed and executed agreement, you can invoice our office via email, as instructed in the agreement for payment. Upon project completion, a report should be submitted to verify the funds were used in accordance with the terms of the agreement.

If you have any questions regarding the program or agreement, please feel to contact Amy Aubry, Analyst of the Board of Commissioners, at 248-425-7056 or [aubrya@oakgov.com](mailto:aubrya@oakgov.com).

Sincerely,

The Oakland County Board of Commissioners

**LOCAL ROAD IMPROVEMENT MATCHING FUND PROGRAM**

**COST PARTICIPATION AGREEMENT**

Improvements to E. Brown Street (S. Old Woodward to Woodward Ave)

City of Birmingham

Board Project No. 2023-04

This Agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the Board of Commissioners of the County of Oakland, Michigan, hereinafter referred to as the BOARD, and the City of Birmingham, hereinafter referred to as the COMMUNITY, provides as follows:

WHEREAS, the BOARD has established the Local Road Improvement Matching Fund Program, hereinafter the PROGRAM, for the purposes of improving economic development in Oakland County cities and villages. The terms and policies of the PROGRAM are contained in Attachment A. The BOARD intends the PROGRAM to assist its municipalities by offering limited funds, from state statutory revenue sharing funds, for specific, targeted road maintenance and/or improvement projects on roadways under the jurisdiction of cities and villages; and

WHEREAS, the BOARD shall participate in a city or village road project in an amount not exceeding 50% of the cost of the road improvement, hereinafter referred to as the PROJECT, and also not exceeding the Preliminary Distribution Formula as it relates to the COMMUNITY, (Attachment B); and

WHEREAS, the COMMUNITY has identified the PROJECT as the Improvements to E. Brown Street (S. Old Woodward to Woodward Ave), which improvements involve roads under the jurisdiction of and within the COMMUNITY and are not under the jurisdiction of the Road Commission for Oakland County or state trunk lines; and

WHEREAS, the COMMUNITY has acknowledged and agreed to the BOARD's policies regarding the PROGRAM, Attachment A, and further acknowledge and agree that the PROJECT's purpose is to encourage and assist businesses to locate and expand within Oakland County and shall submit a report to the BOARD identifying the effect of the PROJECT on businesses in the COMMUNITY at the completion of the PROJECT. In addition, the COMMUNITY acknowledges that the program is meant to supplement and not replace funding for existing road programs or projects; and

WHEREAS, the COMMUNITY has acknowledged and agreed that the PROGRAM is expressly established as an annual program and there is no guarantee that the PROGRAM will be continued from year to year. The BOARD anticipates that most PROJECTS funded under the PROGRAM will be completed by the end of calendar year 2023. There is no obligation on behalf of the BOARD to fund either the PROJECT or the PROGRAM in the future; and

WHEREAS the COMMUNITY has acknowledged and agreed that the COMMUNITY shall assume any and all responsibilities and liabilities arising out of the administration of the PROJECT and that Oakland County shares no such responsibilities in administering the PROJECT; and

WHEREAS, the estimated total cost of the PROJECT is \$920,900; and

WHEREAS, said PROJECT involves certain designated and approved Local Road Improvement Matching Funds in an amount not to exceed \$75,413, which amount shall be paid to the COMMUNITY by the BOARD; and

WHEREAS, the BOARD and the COMMUNITY have reached a mutual understanding regarding the cost sharing of the PROJECT and wish to commit that understanding to writing in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and in conformity with applicable law and BOARD resolution(s), it is hereby agreed between the COMMUNITY and the BOARD that:

1. The BOARD approves of the PROJECT, and in reliance upon the acknowledgements of the COMMUNITY, finds that the PROJECT meets the purpose of the PROGRAM.
2. The BOARD approves of a total funding amount under the PROGRAM for the PROJECT in an amount not to exceed \$75,413. The COMMUNITY shall submit an invoice to the COUNTY in an amount not to exceed \$75,413.

- a. The Invoice shall be sent to:

Amy Aubry, Analyst  
Board of Commissioners  
aubrya@oakgov.com

3. Upon receipt of said invoice and upon execution of this Agreement, the BOARD shall pay the COMMUNITY in an amount not to exceed \$75,413 from funds available in the PROGRAM.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and date first written above.

**OAKLAND COUNTY BOARD OF COMMISSIONERS**

By: \_\_\_\_\_  
David T. Woodward

Its: Chair

**COMMUNITY**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**LOCAL ROAD IMPROVEMENT MATCHING FUND PROGRAM**

**STATEMENT OF PURPOSE**

Oakland County Government recognizes that Michigan law places the primary responsibility for road funding on the State and non-county local units of government. However, the County also recognizes that the law does permit a limited, discretionary role for the County in assisting a road commission and local units within a county by supporting some road maintenance and improvement efforts.

Accordingly, for many years Oakland County has voluntarily provided limited assistance to its cities, villages and townships (CVT's) and to the Road Commission of Oakland County (RCOC) by investing in a discretionary Tri-Party Road Program. Authorized under Michigan law, the County's tri-party funding contributions primarily facilitate safety improvement projects on CVT roads under the jurisdiction of the RCOC. By law, tri-party funds cannot be used to fund projects on roads solely under the jurisdiction of CVT's.

Recognizing a continuing need to better maintain local CVT streets and roads, yet being ever mindful of the County's limited responsibility for and jurisdiction over non-County roads and streets, Oakland County Government is continuing the success of the pilot program launched in 2016 that was more flexible than the current Tri-Party Road Program; one that allowed Oakland County to assist its cities and villages with maintenance and safety projects on non-County roads.

Not being the funding responsibility of County government, local CVT roads generally cannot be maintained or improved using County funds because doing so would be considered to be the "gifting" of County resources. However laudable the purpose, Michigan law generally forbids the gifting of government resources. To avoid application of the constitutionally-based gifting restriction, the state legislature must, and in this arena has, determined that a public benefit results from a taxpayer investment, one that provides a *quid pro quo* sufficient to avoid application of the gifting prohibition. Here, the legislature has determined that the economic development benefit presumed to accrue to a county as a result of local street and road investments can provide a sufficient *quid pro quo* to county taxpayers justifying a discretionary county investment in a non-county road, a benefit that constitutes a fair exchange for value and not a gift.

This legislative determination is set forth in 1985 P.A. 9, which amended 1913 P.A. 380, by adding a new section 2, which in pertinent part provides:

"(1) ...A county may grant or loan funds to a township, village or city located within that county for the purpose of encouraging and assisting businesses to locate and expand within the county...

(2) A loan or grant made under subsection (1) may be used for local public improvements or to encourage and assist businesses in locating or expanding in this state, to preserve jobs in this state, to encourage investment in the communities in this state, or for other public purposes."

Communities that wish to attract, retain and grow business, retain jobs and encourage community investment, needs a safely maintained road infrastructure. This road infrastructure must include

both residential and commercial roads as workers and consumers need to get to and from work, shopping, schools and recreation. In a fiscally prudent and limited manner, the County wishes to help its cities and villages accomplish this through its Local Road Improvement Matching Fund Program, commonly known as the Local Road Improvement Program (LRIP).

Any such program must be mindful of the limits imposed under Public Act 9. One important restriction Public Act 9 imposed on grants or loans made pursuant to Subsection 2 of the Act is the mandate that, "A grant or loan under this Subsection shall not be derived from ad valorem taxes except for ad valorem taxes approved by a vote of the people for economic development." This means that funding for an expanded local road assistance program cannot utilize proceeds from any of Oakland County's ad valorem tax levies since no levy has been approved by voters specifically for economic development.

Given this limitation, it appears that the state statutory revenue sharing appropriated to the County can provide a non-ad valorem source of funds that legally can be used to support the program. Competition for those funds, which are limited in amount, is fierce and their yearly availability is subject to the state legislative process. In the recent past, the State stripped all of those funds away from Michigan counties. Understanding that reality, it shall be the policy of the Oakland County Board of Commissioners that the Board shall not appropriate any County funds for a local road improvement matching fund program for non-County roads in any year where the State of Michigan fails to appropriate statutory revenue sharing funds to Oakland County in an amount sufficient to allow the County to first prudently address its core functions.

Act 9 imposes additional conditions on grants and loans. These include requirements that the loan or grant shall be administered within an established application process for proposals; that any grant or loan shall be made at a public hearing of the county board of commissioners and that the Board shall require a report to the county board of commissioners regarding the activities of the recipient and a report as to the degree to which the recipient has met the stated public purpose of the funding.

Understanding all of the above, the Oakland County Board of Commissioners hereby establishes the following Local Road Improvement Matching Fund Program:

### **PROGRAM SUMMARY**

The Board of Commissioners established a Pilot Local Road Improvement Matching Fund Program through Miscellaneous Resolution #16103 for the purposes of improving economic development in Oakland County cities and villages. The County intends to continue this Program to assist its municipalities by offering limited matching funds for specific, targeted road maintenance and/or improvement projects on roadways under the jurisdiction of cities and villages.

A city or village participating in the Local Road Improvement Matching Fund Program shall match any fund authorized by the Board of Commissioners in an amount equal to a minimum of 50% of the cost of the total project award. County participation shall be limited to a maximum of 50% of the cost of the total project budget. Funding shall be utilized to supplement and enhance local road maintenance and improvement programs. Funding is not intended to replace existing budgeted local road programs or to replace funding already committed to road improvements.

## PROJECT GUIDELINES

Program funding shall be utilized solely for the purposes of road improvements to roads under the jurisdiction of local cities and villages. Road improvements may include, but not be limited to, paving, resurfacing, lane additions or lengthening, bridges, or drainage as such improvements relate to road safety, structure or relieving congestion.

Program funding:

- **May** be utilized to supplement a local government's matched funding for the purposes of receiving additional federal transportation funding;
- **May not** be utilized to fulfill a local government's responsibility to fund improvements to state trunklines;
- **Shall be limited to** real capital improvements to roadways and shall not be utilized for other purposes, such as administrative expenses, personnel, consultants or other similar purposes;
- **Shall not be** utilized for non-motorized improvements, unless these improvements are included in a project plan for major improvements to a motorized roadway;
- **Shall be** utilized for projects that will result in a measurable improvement in the development of the local economy and contribute to business growth. Recipients shall be responsible for providing an outline of the economic benefits of the project prior to approval and for reporting to the Board of Commissioners after the completion of the project on the benefits achieved as a result of the projects.

## ADMINISTRATION

Local Road Improvement Matching Fund Program projects may be appropriated by the Board of Commissioners in compliance with the County budget process. The amount of funds to be dedicated for the Program shall be determined by the Board of Commissioners on an annual basis. Program funding may be reduced or eliminated based upon the ability of the County government to meet primary constitutional and statutory duties. The Board of Commissioners expressly reserves the right to adjust the County matching funds share at any time based upon County budget needs.

In accordance with MCL 123.872, funds dedicated to the Local Road Improvement Matching Fund Program shall not be derived from ad valorem tax revenues. Program funding shall be limited to funds derived from the County's distribution from the Michigan General Revenue Sharing Act. Reduction or elimination of the County's distribution of revenue sharing funds may result in the elimination or suspension of the program.

Funding availability shall be distributed based upon a formula updated annually. The formula will consist of:

1. A percentage derived from the number of certified local major street miles in each city and village divided by aggregate total of certified local major street miles of all cities and villages in the County.
2. A percentage derived from the population of each city and village as determined by the last decennial census conducted by the U.S. Census Bureau divided by the aggregate total population of cities and villages in the County.

3. A percentage derived from the three-year rolling total of the number of crashes on city and village major local streets divided by the aggregate three-year rolling crash numbers for all city and village major local streets, using the most recent data available. The crash data will be supplied by the South East Michigan Council of Governments (SEMCOG).

Each city and village's percentage allocation shall be determined by adding each factor percentage and dividing that total by three. The amount of funds available for match shall be determined by the total amount of funds allocated by the Board of Commissioners added to an equal amount representing the match provided by local cities and villages.

The Chairman of the Board of Commissioners shall establish a Special Committee on the Local Road Improvement Program. This Special Committee shall consist of three members, with two members representing the majority caucus and one member representing the minority caucus. It shall be the responsibility of the Special Committee to direct the administration of this program, receive applications for program funding, and make recommendations of acceptance to the Board of Commissioners. The Special Committee may consult with County departments, staff, the South East Michigan Council of Governments (SEMCOG), and the Road Commission for Oakland County in the conduct of its business.

## **DISBURSEMENT**

The Special Committee shall forward recommendations for approval of Local Road Improvement Matching Fund Program projects to the Chairman of the Board of Commissioners. This recommendation shall include a cost participation agreement between the County and participating municipality. Minimally, cost participation agreements shall include: responsibility for administering the project, the project location, purpose, scope, estimated costs including supporting detail, provisions ensuring compliance with project guidelines, as well as disbursement eligibility requirements. The cost participation agreement shall also require the maintenance of supporting documentation to ensure compliance with the following provisions:

1. Any and all supporting documentation for project expenditures reimbursed with appropriated funding shall be maintained a minimum of seven years from the date of final reimbursement for actual expenditures incurred.
2. The Oakland County Auditing Division reserves the right to audit any and all project expenditures reimbursed through the program.

Upon receipt of recommendation of project approval from the Special Committee, the County Commissioner or Commissioners representing the area included in the proposed project may introduce a resolution authorizing approval of the project and the release of funds. Resolutions shall be forwarded to the Economic Development and Infrastructure Committee of the Board of Commissioners, who shall review and issue a recommendation to the Board on the adoption of the resolution. A public hearing shall be scheduled before the Board of Commissioners prior to consideration of final approval of the resolution.

The deadline for projects to be submitted for consideration shall be established by the Special Committee. The Special Committee may work with participating municipalities to develop a plan for projects that exceed that municipality's annual allocation amount. This may include a limited

plan to rollover that municipality's allocation for a period of years until enough funding availability has accrued to complete the project, subject to funding availability.

Upon completion of project plans and execution of the cost participation agreement by the County and governing authority of the local municipality, the participating municipality shall submit an invoice in accordance with the terms and conditions included in the agreement. The Oakland County Department of Management and Budget Fiscal Services Division shall process payments in accordance with policies and procedures as set forth by the Department of Management and Budget and the Oakland County Treasurer.

In the event an eligible local unit of government chooses not to participate in the Local Road Improvement Matching Fund Program, or an approved project is cancelled, any previously undistributed allocated funding may be reallocated to all participating local units of government at the discretion of the Local Road Improvement Program Special Committee.

At the completion of each project, the participating local government shall provide a report to the Board of Commissioners regarding the activities of the recipient and the degree to which the recipient has met the stated public purpose of the funding as required by MCL 123.872.

LRIP DISTRIBUTION FORMULA  
2023

Attachment "B"

City/Village	Cert Major Local		Crash Data			Miles + Pop +	Max County	Minimum	
	Road Miles	Miles %	Population	Pop %	2019-2021				
Auburn Hills	32.33	4.82%	24,880	3.17%	865	4.31%	4.10%	\$ 88,352	\$ 176,704
Berkley	13.63	2.33%	13,277	1.94%	246	1.22%	1.83%	\$ 39,527	\$ 79,053
Beverly Hills	10.99	1.64%	10,276	1.31%	101	0.50%	1.15%	\$ 24,793	\$ 49,583
Bingham Farms	1.02	0.15%	1,138	0.14%	0	0.00%	0.10%	\$ 2,134	\$ 4,269
Birmingham	21.87	3.26%	21,312	2.71%	908	4.32%	3.50%	\$ 73,413	\$ 150,825
Bloomfield Hills	8.83	1.32%	3,988	0.51%	96	0.48%	0.77%	\$ 16,547	\$ 33,094
Clarkston	1.48	0.22%	914	0.12%	23	0.11%	0.15%	\$ 3,245	\$ 6,490
Clawson	9.62	1.44%	11,731	1.49%	247	1.23%	1.39%	\$ 29,876	\$ 59,752
Farmington	7.36	1.10%	10,393	1.32%	86	0.43%	0.93%	\$ 20,473	\$ 40,946
Farmington Hills	38.36	8.71%	80,017	10.18%	1840	9.16%	9.35%	\$ 201,556	\$ 403,112
Ferndale	20.99	3.13%	20,198	2.37%	551	2.74%	2.81%	\$ 60,682	\$ 121,364
Franklin	4.34	0.63%	3,221	0.41%	14	0.07%	0.38%	\$ 8,099	\$ 16,199
Hazel Park	17.12	2.55%	16,209	2.06%	638	3.18%	2.60%	\$ 51,997	\$ 103,993
Holly	7	1.04%	6,079	0.77%	67	0.33%	0.72%	\$ 15,460	\$ 30,921
Huntington Woods	6.99	1.04%	6,203	0.79%	38	0.19%	0.67%	\$ 14,483	\$ 28,966
Keego Harbor	1.93	0.29%	3,334	0.43%	14	0.07%	0.26%	\$ 5,637	\$ 11,273
Lake Angelus	0	0.00%	308	0.04%	0	0.00%	0.01%	\$ 282	\$ 563
Lake Orion	2.74	0.41%	3,191	0.41%	48	0.24%	0.35%	\$ 7,373	\$ 14,743
Lathrup Village	7.36	1.10%	4,031	0.52%	364	1.81%	1.14%	\$ 24,614	\$ 49,228
Leonard	2.34	0.35%	416	0.05%	7	0.03%	0.15%	\$ 3,139	\$ 6,279
Madison Heights	21.5	3.21%	29,633	3.77%	1041	3.18%	4.03%	\$ 87,383	\$ 174,766
Milford	7.3	1.09%	6,473	0.82%	169	0.84%	0.92%	\$ 19,792	\$ 39,583
Northville	0.8	0.12%	3,926	0.5%	23	0.11%	0.33%	\$ 7,100	\$ 14,200
Novi	39.32	5.90%	60,532	7.74%	823	4.10%	5.91%	\$ 127,457	\$ 254,913
Oak Park	18.35	2.74%	29,293	3.73%	757	3.77%	3.41%	\$ 73,538	\$ 147,075
Orchard Lake Village	1.8	0.27%	2,471	0.31%	42	0.21%	0.26%	\$ 5,692	\$ 11,384
Ortonville	3.21	0.48%	1,430	0.18%	9	0.04%	0.24%	\$ 5,071	\$ 10,142
Oxford	6.01	0.90%	3,541	0.45%	73	0.36%	0.57%	\$ 12,293	\$ 24,583
Pleasant Ridge	3.39	0.54%	2,403	0.31%	89	0.44%	0.43%	\$ 9,230	\$ 18,459
Pontiac	70.21	10.47%	58,911	7.50%	2709	13.48%	10.49%	\$ 226,037	\$ 452,073
Rochester	8.39	1.28%	13,201	1.68%	259	1.29%	1.42%	\$ 30,546	\$ 61,091
Rochester Hills	38.61	5.76%	74,111	9.43%	601	2.95%	6.06%	\$ 130,667	\$ 261,333
Royal Oak	63.96	9.34%	58,963	7.50%	2883	14.33%	10.47%	\$ 223,608	\$ 447,215
South Lyon	4.43	0.66%	11,846	1.51%	48	0.24%	0.80%	\$ 17,300	\$ 34,600
Southfield	64.71	9.63%	72,174	9.19%	1830	9.11%	9.32%	\$ 200,833	\$ 401,666
Sylvan Lake	2.38	0.38%	1,840	0.23%	9	0.04%	0.22%	\$ 4,771	\$ 9,541
Troy	37.34	8.33%	83,589	10.64%	2036	10.13%	9.78%	\$ 210,739	\$ 421,478
Warred Lake	5.34	0.80%	7,080	0.90%	122	0.61%	0.77%	\$ 16,563	\$ 33,127
Wixom	10.49	1.56%	14,086	1.79%	401	2.00%	1.78%	\$ 38,471	\$ 76,941
Wolverine Lake	3.69	0.55%	4,743	0.60%	15	0.07%	0.41%	\$ 8,832	\$ 17,664
<b>TOTAL</b>	<b>670.29</b>	<b>100.00%</b>	<b>785,728</b>	<b>100.00%</b>	<b>20,092</b>	<b>100.00%</b>	<b>100.00%</b>	<b>\$ 2,155,804</b>	<b>\$ 4,311,608</b>



## MEMORANDUM

Engineering Department

**DATE:** June 26, 2023

**TO:** Jana Ecker, Acting City Manager

**FROM:** Melissa A. Coatta, City Engineer

**SUBJECT:** 2023 Asphalt Resurfacing Program  
Contract #7-23 (P) Contract Award

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### INTRODUCTION:

Bids for the 2023 Asphalt Resurfacing Program Project Contract #7-23 (P) were opened on June 1, 2023. Two (2) bids were received for consideration, and the Engineering Department is recommending awarding this contract to Asphalt Specialist, Inc. (ASI).

### BACKGROUND:

The 2023 Asphalt Resurfacing Program Project includes multiple street sections that will receive pavement resurfacing and preventative maintenance measures to extend the pavement life cycle. The streets are: S. Old Woodward Avenue – Landon to Lincoln, Birmingham Blvd. – Lincoln to Northlawn, Smith Ave. – Cummings to Woodward Ave, Holland Street – Adams to Torry, and crack sealing on Villa Road, Hazel Street, Lewis Street, Attard Street, and Graten Street east of S. Eton.

This program also includes pavement resurfacing and additional golf cart path paving at Springdale Golf Course at the following locations: in front of the clubhouse, from the clubhouse to Tee No. 1, new path at Hole No. 2, and path extension to the bridge at Hole No. 7.

The Engineering Department opened bids on June 1, 2023. Two (2) bids were received, as listed in the attached summary. The low bidder was ASI, with a bid of \$1,104,564.00. ASI's bid exceeded the Engineer's Estimate of \$1,077,794.00.

Installing a new water main and resurfacing the roadway on Grant Street from Humphrey to Bennaville was included in the bid documents. The total cost for work on Grant Street was \$259,079.00. The cost per foot for the water main installation came in extremely high at approximately \$500.00 per foot and was over budget. The Engineering Department is recommending we do not award Grant Street in the 2023 Asphalt Resurfacing Program, and that we review the upcoming 2024 construction projects to add this project in with other proposed



water main projects. Thus, the letter from our engineering consultant, Hubbell, Roth & Clark, Inc., recommending the award of the contract to ASI is attached for reference.

ASI has worked for the City in the past, most recently in the 2019 Asphalt Resurfacing Program and Parking Lot No. 6. Based on the performance of previous projects, we are confident that they are fully qualified to perform the type of work included in the Asphalt Resurfacing Project.

As required for all of the City's construction projects, ASI has submitted a 5% bid security with their bid which will be forfeited if they do not provide signed contracts, bonds, and insurance required following the award by the City Commission.

**LEGAL REVIEW:**

The City's standard contract language was used for the bidding documents, which the City Attorney has reviewed and approved. No legal issues exist based on the documentation.

**FISCAL IMPACT:**

This project was budgeted for in the 2022/2023 budget across the Major Street Fund, Local Street Fund, Sewer Fund, and Water Fund, and the 2023/2024 budget across the Golf Course Fund. The total construction cost of the project is estimated to be \$930,033.50 which includes ASI's bid amount of \$845,485.00 and a 10% construction contingency. The project will be funded by the following accounts:

**2022-2023 Fiscal Year**

Fund Account	Fund ID Number	Project Award	10% Contingencies	Total
Major Street Fund	202.0-449.001-981.0100	\$435,772.80	\$43,577.28	\$479,350.08
Local Street Fund	203.0-449.001-981.0100	\$108,943.20	\$10,894.32	\$119,837.52
Sewer Fund	590.0-537.000-981.0100	\$84,030.50	\$8,403.05	\$92,433.55
Water Fund	591.0-544.000-981.0100	\$84,030.50	\$8,403.05	\$92,433.55
Total Construction Costs		\$712,777.00	\$71,277.70	\$784,054.70

**2023-2024 Fiscal Year**

Fund Account	Fund ID Number	Project Award	10% Contingencies	Total
Golf Course Fund	584.2-753.002-981.0100	\$132,708.00	\$13,270.80	\$145,978.80
Total Construction Costs		\$132,708.00	\$13,270.80	\$145,978.80

No amendment is required to the 2022/2023 fiscal year budget for Major Street Fund and Local Street Fund as there are adequate funds. A budget amendment is required for the 2022/2023 fiscal year Sewer Fund and Water Fund, and in the 2023/2024 fiscal year budget to the Golf Course Fund to accommodate this request.

**PUBLIC COMMUNICATIONS:**

Communication with the residents in the project area will include the project announcement, project start date, and regular updates. Residents will be encouraged to sign up for the City's Constant Contact to receive additional information during the project.

**SUMMARY:**

The Engineering Department recommends the 2023 Asphalt Resurfacing Program Project #7-23 (P) be awarded to Asphalt Specialist, Inc.

**ATTACHMENTS:**

- Project Area Map (3 pages)
- Bid Summary (3 pages)
- Hubbell, Roth & Clark Recommendation Letter (1 page)
- [Contract](#)
- [Plans](#)

**SUGGESTED COMMISSION ACTION:**

Make a motion adopting a resolution to award the 2023 Asphalt Resurfacing Program Project #7-23 (P) to Asphalt Specialist, Inc. in the amount of \$845,485.00 plus a 10% construction contingency for a total of \$930,033.50. In addition, authorize the Mayor and City Clerk to sign the agreement on behalf of the City after the review of Asphalt Specialist, Inc.’s insurance and bonds, contingent upon execution of the agreement and meeting all insurance and bonding requirements. Funding for this project has been budgeted in the following accounts:

**2022-2023 Fiscal Year**

Fund Account	Fund ID Number	Project Award	10% Contingencies	Total
Major Street Fund	202.0-449.001-981.0100	\$435,772.80	\$43,577.28	\$479,350.08
Local Street Fund	203.0-449.001-981.0100	\$108,943.20	\$10,894.32	\$119,837.52
Sewer Fund	590.0-537.000-981.0100	\$84,030.50	\$8,403.05	\$92,433.55
Water Fund	591.0-544.000-981.0100	\$84,030.50	\$8,403.05	\$92,433.55
Total Construction Costs		\$712,777.00	\$71,277.70	\$784,054.70

**2023-2024 Fiscal Year**

Fund Account	Fund ID Number	Project Award	10% Contingencies	Total
Golf Course Fund	584.2-753.001-981.0100	\$132,708.00	\$13,270.80	\$145,978.80
Total Construction Costs		\$132,708.00	\$13,270.80	\$145,978.80

And to approve the appropriation and amendment of the fiscal year 2022/2023 budget as follows:

**Sewer Fund:**

Revenues:

590.0-000.000-400.0000	Draw from Net Position	<u>\$92,440</u>
Total Revenue		<u>\$92,440</u>

Expenditures:

590.0-537.000-981.0100	Public Improvement	<u>\$92,440</u>
Total Expenses		<u>\$92,440</u>

Water Fund:

Revenues:		
591.0-000.000-400.0000	Draw from Net Position	<u>\$52,440</u>
Total Revenue		<u>\$52,440</u>
Expenditures:		
591.0-544.000-981.0100	Public Improvement	<u>\$52,440</u>
Total Expenses		<u>\$52,440</u>

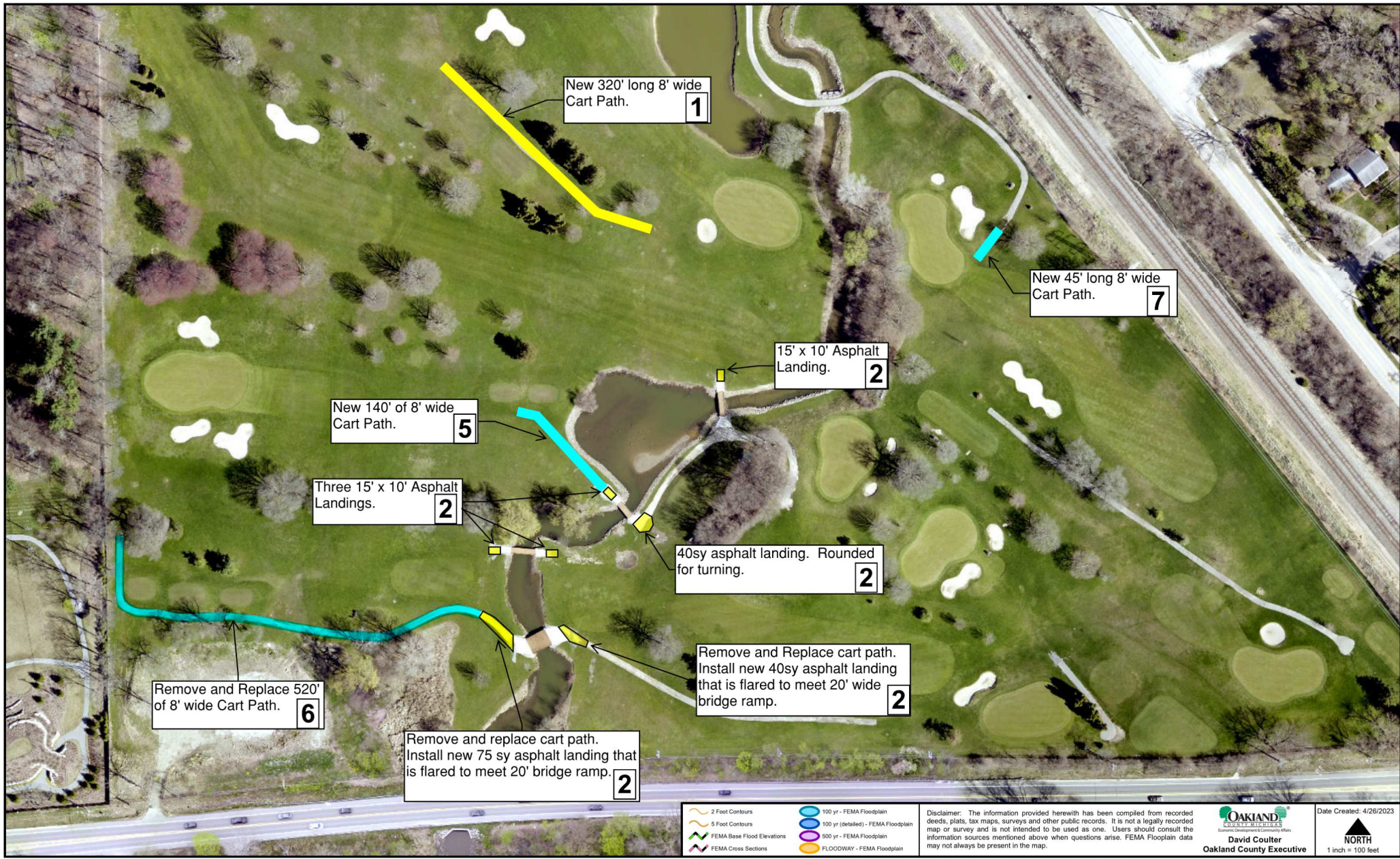
And to approve the appropriation and amendment of the fiscal year 2023/2024 budget as follows:

Golf Course Fund:

Revenues:		
584.2-000.000-400.0000	Draw from Net Position	<u>\$145,980</u>
Total Revenue		<u>\$145,980</u>
Expenditures:		
584.2-753.001-981.0100	Public Improvement	<u>\$145,980</u>
Total Expenses		<u>\$145,980</u>



# Springdale Golf Course



# Springdale Golf Course



Remove and Replace  
225sy cart path and  
disturbed area. **3**


Remove and Replace 300sy  
cart storage area and 161' of  
8' cart path. **4**

New 180' of 8' wide  
Cart Path **8**

-  2 Foot Contours
-  5 Foot Contours
-  FEMA Base Flood Elevations
-  FEMA Cross Sections
-  100 yr - FEMA Floodplain
-  100 yr (detailed) - FEMA Floodplain
-  500 yr - FEMA Floodplain
-  FLOODWAY - FEMA Floodplain

Disclaimer: The information provided herewith has been compiled from recorded deeds, plat maps, surveys and other public records. It is not a legally recorded map or survey and is not intended to be used as one. Users should consult the information mentioned above when questions arise. FEMA Floodplain data may not be present in the map.

**OAKLAND COUNTY**  
Economic Development & Community Affairs  
**David Coulter**  
Oakland County Executive

Date Created: 4/26/2023  
  
1 Inch = 100 feet

BID TABULATION  
 CITY OF BIRMINGHAM  
 2023 ASPHALT RESURFACING PROGRAM  
 CONTRACT #7-23(P)

Bids Due: June 1, 2023

**Asphalt Specialists, Inc.**  
 1780 E. Highland Road  
 Pontiac, Michigan 48340

**Best Asphalt Inc.**  
 6334 N. Beverly Plaza  
 Romulus, Michigan 48174

Item	Quantity	Unit	Unit Price	Total Cost	Unit Price	Total Cost
<b>DIVISION 1</b>						
1. Erosion Control, Inlet Protection Fabric Drop	52	Ea	\$ 150.00	\$ 7,800.00	\$ 100.00	\$ 5,200.00
2. Cold Milling HMA 1½"	8,157	SY	\$ 4.00	\$ 32,628.00	\$ 6.00	\$ 48,942.00
3. Cold Milling HMA 3"	1,834	SY	\$ 7.00	\$ 12,838.00	\$ 15.00	\$ 27,510.00
4. Edge Profile Milling 0-1½"	978	SY	\$ 5.00	\$ 4,890.00	\$ 10.00	\$ 9,780.00
5. Milling, 24" butt joint or mat seam	348	FT	\$ 6.00	\$ 2,088.00	\$ 10.00	\$ 3,480.00
6. Pavement Cleaning	1	LS	\$ 8,000.00	\$ 8,000.00	\$ 20,000.00	\$ 20,000.00
7. Profile Milling for Utility Structure Cover	13	Ea	\$ 200.00	\$ 2,600.00	\$ 500.00	\$ 6,500.00
8. Utility Structure Cover Adjusting Rings	7	Ea	\$ 800.00	\$ 5,600.00	\$ 1,000.00	\$ 7,000.00
9. Utility Structure Cover Adjustment	7	Ea	\$ 800.00	\$ 5,600.00	\$ 600.00	\$ 4,200.00
10. HMA Surface Removal	1,380	SY	\$ 10.00	\$ 13,800.00	\$ 15.00	\$ 20,700.00
11. Crack Sealing	0.54	roadbed mile	\$ 20,000.00	\$ 10,800.00	\$ 17,000.00	\$ 9,180.00
12. Pavement Joint and Crack Repair Detail 7	400	FT	\$ 20.00	\$ 8,000.00	\$ 15.00	\$ 6,000.00
13. Subgrade Undercut & Backfill	200	CY	\$ 60.00	\$ 12,000.00	\$ 90.00	\$ 18,000.00
14. Agg base, 21AA LS, 4 inch	879	SY	\$ 9.00	\$ 7,911.00	\$ 19.00	\$ 16,701.00
15. Agg base, 21AA LS, 8 inch	501	SY	\$ 20.00	\$ 10,020.00	\$ 31.00	\$ 15,531.00
16. Maintenance Aggregate	125	Ton	\$ 1.00	\$ 125.00	\$ 95.00	\$ 11,875.00
17. Curb and Gutter, Remove	90	Ft	\$ 25.00	\$ 2,250.00	\$ 20.00	\$ 1,800.00
18. Curb and Gutter, Concrete, Detail F4	90	Ft	\$ 110.00	\$ 9,900.00	\$ 99.00	\$ 8,910.00
19. HMA Hand Patching	291	Ton	\$ 150.00	\$ 43,650.00	\$ 290.00	\$ 84,390.00
20. HMA 4EML	250	Ton	\$ 155.00	\$ 38,750.00	\$ 158.00	\$ 39,500.00
21. HMA 5EML	1,270	Ton	\$ 160.00	\$ 203,200.00	\$ 165.00	\$ 209,550.00
22. DPW 'Buffalo Box' Structure Adjust	5	Ea	\$ 1,000.00	\$ 5,000.00	\$ 750.00	\$ 3,750.00
23. Traffic Maintenance and Control – South Old Woodward	1	LS	\$ 20,000.00	\$ 20,000.00	\$ 10,000.00	\$ 10,000.00
24. Traffic Maintenance and Control – Local Streets	1	LS	\$ 20,000.00	\$ 20,000.00	\$ 35,000.00	\$ 35,000.00
25. Waterborne Pavement Marking 24 inch Stop Bar	60	Ft	\$ 5.00	\$ 300.00	\$ 10.50	\$ 630.00
26. Waterborne Pavement Marking 12 inch	24	Ft	\$ 2.50	\$ 60.00	\$ 5.50	\$ 132.00
27. Waterborne Pavement Marking 4", White	484	Ft	\$ 0.50	\$ 242.00	\$ 2.40	\$ 1,161.60
28. Waterborne Pavement Marking 12 inch	556	Ft	\$ 2.50	\$ 1,390.00	\$ 5.75	\$ 3,197.00
29. Turf Establishment – Pavement Rehab	55	SY	\$ 30.00	\$ 1,650.00	\$ 36.00	\$ 1,980.00

BID TABULATION  
 CITY OF BIRMINGHAM  
 2023 ASPHALT RESURFACING PROGRAM  
 CONTRACT #7-23(P)

Bids Due: June 1, 2023

**Asphalt Specialists, Inc.**  
 1780 E. Highland Road  
 Pontiac, Michigan 48340

**Best Asphalt Inc.**  
 6334 N. Beverly Plaza  
 Romulus, Michigan 48174

Item	Quantity	Unit	Unit Price	Total Cost	Unit Price	Total Cost
30. Sidewalk, Remove	769	SF	\$ 5.00	\$ 3,845.00	\$ 4.00	\$ 3,076.00
31. Curb Ramp Opening, Concrete (Cast Iron)	56	FT	\$ 300.00	\$ 16,800.00	\$ 330.00	\$ 18,480.00
32. Curb Ramp, 6 inch	300	SF	\$ 18.00	\$ 5,400.00	\$ 16.50	\$ 4,950.00
33. Sidewalk, Concrete, 4 inch	469	SF	\$ 12.00	\$ 5,628.00	\$ 12.00	\$ 5,628.00
34. Sewer, CI IV, 10 inch, Tr Det B	40	Ft	\$ 120.00	\$ 4,800.00	\$ 95.00	\$ 3,800.00
35. Sewer Tap, 10 inch	1	Ea	\$ 750.00	\$ 750.00	\$ 600.00	\$ 600.00
36. Dr Structure, 24 inch	1	Ea	\$ 2,500.00	\$ 2,500.00	\$ 5,500.00	\$ 5,500.00
37. Dr Structure with 2 ft sump, 48 inch	1	Ea	\$ 6,500.00	\$ 6,500.00	\$ 10,000.00	\$ 10,000.00
38. Dr. Structure MH over existing sewer, 48 inch	1	Ea	\$ 11,000.00	\$ 11,000.00	\$ 12,000.00	\$ 12,000.00
39. Curb Ramp Opening, Concrete	60	FT	\$ 110.00	\$ 6,600.00	\$ 99.00	\$ 5,940.00
<b>SUBTOTAL DIVISION 1</b>				<b>\$ 554,915.00</b>	<b>\$ 700,573.60</b>	
<b>DIVISION 2 - WATER MAIN</b>						
40. Water Main, 8 inch DI CL 54 w/Poly Wrap, Tr A	396	Ft	\$ 240.00	\$ 95,040.00	\$ 245.00	\$ 97,020.00
41. Gate Valve & Well, 8 inch	2	Ea	\$ 12,000.00	\$ 24,000.00	\$ 7,200.00	\$ 14,400.00
42. Water Main Connection, 8 inch to existing 8 inch	4	Ea	\$ 5,400.00	\$ 21,600.00	\$ 2,000.00	\$ 8,000.00
43. Temp Hydra-Stop, 8 inch	2	Ea	\$ 20,000.00	\$ 40,000.00	\$ 5,500.00	\$ 11,000.00
44. Water Main, Abandon	406	Ft	\$ 40.00	\$ 16,240.00	\$ 20.00	\$ 8,120.00
<b>SUBTOTAL DIVISION 2 - WATER MAIN</b>				<b>\$ 196,880.00</b>	<b>\$ 138,540.00</b>	
<b>DIVISION 3 - SPRINGDALE GOLF COURSE</b>						
45. HMA Surface Removal	534	SY	\$ 16.00	\$ 8,544.00	\$ 19.00	\$ 10,146.00
46. Site Grading - Springdale	12	Sta	\$ 2,000.00	\$ 24,000.00	\$ 2,900.00	\$ 34,800.00
47. Agg base, 21AA LS, 6 inch	940	SY	\$ 20.00	\$ 18,800.00	\$ 33.00	\$ 31,020.00
48. HMA 5EML – 1½ " top course	100	Ton	\$ 275.00	\$ 27,500.00	\$ 385.00	\$ 38,500.00
49. HMA 5EML – 2 " Leveling course	129	Ton	\$ 240.00	\$ 30,960.00	\$ 325.00	\$ 41,925.00
50. Turf Establishment -Springdale	376	Sy	\$ 29.00	\$ 10,904.00	\$ 30.00	\$ 11,280.00



BID TABULATION  
 CITY OF BIRMINGHAM  
 2023 ASPHALT RESURFACING PROGRAM  
 CONTRACT #7-23(P)

Bids Due: June 1, 2023

**Asphalt Specialists, Inc.**  
 1780 E. Highland Road  
 Pontiac, Michigan 48340

**Best Asphalt Inc.**  
 6334 N. Beverly Plaza  
 Romulus, Michigan 48174

Item	Quantity	Unit	Unit Price	Total Cost	Unit Price	Total Cost
<b>SUBTOTAL DIVISION 3 - SPRINGDALE GOLF COURSE</b>				<b>\$ 120,708.00</b>		<b>\$ 167,671.00</b>
<b>DIVISION 4 - TRENCH REPAIR DETAILS</b>						
51. HMA Surface Removal	986	SY	\$ 27.00	\$ 26,622.00	\$ 31.00	\$ 30,566.00
52. Sidewalk, remove	133	SY	\$ 45.00	\$ 5,985.00	\$ 35.00	\$ 4,655.00
53. Sidewalk, Concrete, 4 inch	133	SY	\$ 110.00	\$ 14,630.00	\$ 99.00	\$ 13,167.00
54. Agg base, 21AA LS, 4 inch	986	SY	\$ 14.00	\$ 13,804.00	\$ 20.00	\$ 19,720.00
55. Curb and Gutter, remove	288	Ft	\$ 25.00	\$ 7,200.00	\$ 30.00	\$ 8,640.00
56. HMA Hand Patching	288	Ft	\$ 40.00	\$ 11,520.00	\$ 12.50	\$ 3,600.00
57. HMA Hand Patching	300	Ton	\$ 225.00	\$ 67,500.00	\$ 285.00	\$ 85,500.00
58. Turf Establishment – Trench Repairs	160	SY	\$ 30.00	\$ 4,800.00	\$ 30.00	\$ 4,800.00
<b>SUBTOTAL DIVISION 4 - TRENCH REPAIR DETAILS</b>				<b>\$ 152,061.00</b>		<b>\$ 170,648.00</b>
<b>DIVISION 5 - GENERAL ITEMS</b>						
59. Mobilization, Maximum \$25,000	1	LS	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00
60. Color Audio-Visual Survey	1	EA	\$ 7,000.00	\$ 7,000.00	\$ 6,000.00	\$ 6,000.00
61. Minor Traffic Control Devices	1	LS	\$ 20,000.00	\$ 20,000.00	\$ 25,000.00	\$ 25,000.00
62. Inspector Crew Days	\$400	/DAY	70 Days	\$ 28,000.00	70 Days	\$ 28,000.00
<b>SUBTOTAL DIVISION 5 - GENERAL ITEMS</b>				<b>\$ 80,000.00</b>		<b>\$ 84,000.00</b>
<b>TOTAL AMOUNT BID</b>				<b>\$ 1,104,564.00</b>		<b>\$ 1,261,432.60</b>



June 20, 2023

City of Birmingham  
151 Martin Street  
Birmingham, Michigan 48012

Attn: Ms. Melissa Coatta, P.E., City Engineer

Re: 2023 Asphalt Resurfacing Program  
City Contract #7-23(P)  
Recommendation for Bid Award

HRC Job No. 20221161

Dear Ms. Coatta,

Bids for the subject project were taken on Thursday, June 1<sup>st</sup> at 2:00pm, at City Hall. The City received two (2) bids for the project, with a low bid of \$1,104,564.00 submitted by Asphalt Specialties LLC (ASI). HRC's Engineer's Opinion of Estimated Construction Cost for the project was \$1,077,795.

The amounts bid for the various items of work in the proposal were reviewed and compared to the City's approved budget for the project. After discussion with the City, it was decided to reduce the scope of the project to better fit the approved budget. After adjusting the items of work for the reduced project scope, the revised total contract amount is \$844,885.00.

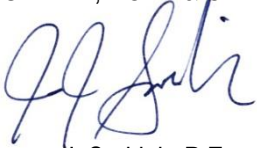
ASI has constructed projects for the City in the past, and have performed well. ASI provided several references for similar work performed recently, and HRC received favorable responses to our inquiry about their job performance.

In our capacity as Consulting Engineers for the City of Birmingham, we recommend that the contract for the *Birmingham 2023 Asphalt Resurfacing Program – Contract #7-23(P)* be awarded to Asphalt Specialists LLC in the amount of **\$844,885.00**.

If you have any questions or require any additional information, please contact the undersigned.

Very Truly Yours,

HUBBELL, ROTH & CLARK, INC.



James J. Surhigh, P.E.  
Senior Associate

Pc: Birmingham – Cory Borton  
HRC – M. MacDonald, W. West, File



## **MEMORANDUM**

Engineering Department

**DATE:** June 26, 2023

**TO:** Jana Ecker, Acting City Manager

**FROM:** Melissa A. Coatta, City Engineer

**SUBJECT:** Repair of 10-Inch Sewer  
Maple Road east of Suffield Avenue

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### **INTRODUCTION:**

On May 31, 2023, a minor depression was observed on the north side of Maple Road just east of Suffield Ave, and it has been determined there is a hole in the 10-inch sewer. Due to the depth of the existing sewer, the Department of Public Services (DPS) is unable to make the repair, and D'Angelo Brothers, Inc. provided the lowest quote to make the sewer repair by the end of July 2023. A budget amendment is required for the repair of the 10-inch sewer.

### **BACKGROUND:**

Around the end of May, DPS observed a small depression occurring on the north portion of Maple Road east of Suffield. After reviewing the existing 10-inch sewer conditions, it was noted there is a hole in the sewer at the same location as the small depression.

The city asked for three (3) quotes for the completion of the repair by the end of July 2023. We received three (3) quotes from contractors as listed in the attached summary, all of whom currently have contracts and insurance with the city. The lowest quote was for \$43,824.50 from D'Angelo Brothers, Inc., the current contractor for the Lead Service Replacement Program. They can complete this repair by the beginning of July 2023.

### **LEGAL REVIEW:**

The City Attorney has reviewed the proposal, and is satisfied it complies with the purchasing ordinance and guidelines.

### **FISCAL IMPACT:**

A budget amendment is required in the following funds for the repair of the 10-inch sewer:

Fund Account	Fund ID Number	Budget	Quotes	5% Contingencies	Total
Major Road Fund	202.0-449.001-981.0100	\$0.00	\$21,912.25	\$1,095.61	\$23,007.86
Sewer Fund	590.0-537.000-981.0200	\$0.00	\$21,912.25	\$1,095.61	\$23,007.86

**PUBLIC COMMUNICATIONS:**

Notification will be given to adjacent properties and the general public since westbound Maple Road traffic will be shifted to the center turn lane.

**SUMMARY:**

The Engineering Department requests a budget amendment for the necessary repair of the 10-inch sewer on Maple Road east of Suffield Avenue.

**ATTACHMENTS:**

- Maple Road east of Suffield Avenue 10-inch Sewer Repair Quote Summary (1 page)
- D’Angelo Brothers Quote (2 pages)

**SUGGESTED COMMISSION ACTION:**

Make a motion adopting a resolution to approve the appropriation and amendment of the 2022/2023 budget as follows:

Major Street Fund:

Revenues:		
202.0-000.000-400.0000	Draw from Fund Balance	<u>\$23,010</u>
Total Revenue		<u>\$23,010</u>
Expenditures:		
202.0-449.001-981.0100	Public Improvement	<u>\$23,010</u>
Total Expenses		<u>\$23,010</u>

Sewer Fund:

Revenues:		
590.0-000.000-400.0000	Draw from Net Position	<u>\$23,010</u>
Total Revenue		<u>\$23,010</u>
Expenditures:		
590.0-537.000-981.0100	Public Improvement	<u>\$23,010</u>
Total Expenses		<u>\$23,010</u>

And to award a contract to repair the 10 inch sewer on Maple to D’Angelo Brothers Inc., in an amount not to exceed \$43,824.50

<b>Maple Road east of Suffield Avenue 10-inch Sewer Repair</b>			
	<b>D'Angelo Brothers, Inc.</b>	<b>F.D.M. Contracting</b>	<b>V.I.L. Construction</b>
10-inch Sewer Repair	\$43,824.50	\$97,960.00	\$66,300.00



Invoice # 8752-BIRM

3/27/23

30836 W 8 Mile Rd

Farmington Hills, MI 48336

TO: City of Birmingham

ATTN: Melissa Coatta

Maple & Suffield: Sanitary Sewer Repair

DESCRIPTION OF WORK	Qty.	Unit	Hrs.	Rate	Total Per Line
Excavate Sanitary Sewer In Road. Replace 20LF of Pipe. Haul Off All Spoils, backfill w/class II and 21AA					
Mobilize Excavator & Skid	2	EA	-	\$ 575.00	\$ 1,150.00
Service Trucks	3	HR	11	\$ 35.00	\$ 1,155.00
Excavator & Operator	1	HR	11	\$ 155.00	\$ 1,705.00
Skidsteer & Operator Reg Time	1	HR	8	\$ 110.00	\$ 880.00
Skidsteer & Operator Over Time	1	HR	3	\$ 130.00	\$ 390.00
Labor, Regular Time	4	HR	8	\$ 65.00	\$ 2,080.00
Labor, Over Time	4	HR	3	\$ 75.00	\$ 900.00
Dump Truck >15 cy Reg Time	3	HR	8	\$ 140.00	\$ 3,360.00
Dump Truck >15 cy Over Time	3	HR	3	\$ 160.00	\$ 1,440.00
Generators	1	EA	-	\$ 100.00	\$ 100.00
Pumps	1	EA	-	\$ 60.00	\$ 60.00
Compaction	1	HR	3	\$ 84.00	\$ 252.00
Trench Box	1	EA	-	\$ 750.00	\$ 750.00
Plates & Sheeting	1	EA	-	\$ 750.00	\$ 750.00
					\$ 14,972.00

Clean Site. De Mobilize. Prep for Pavement Restoration

DeMobilize Excavator & Skid	2	EA	-	\$ 575.00	\$ 1,150.00
Service Trucks	2	HR	8	\$ 35.00	\$ 560.00
Excavator & Operator	1	HR	8	\$ 155.00	\$ 1,240.00
Skidsteer & Operator Reg Time	1	HR	8	\$ 110.00	\$ 880.00
Skidsteer & Operator Over Time	1	HR	4	\$ 130.00	\$ 520.00
Labor, Regular Time	3	HR	8	\$ 65.00	\$ 1,560.00
Dump Truck >15 cy Reg Time	3	HR	8	\$ 140.00	\$ 3,360.00
					\$ 9,270.00

Materials					
Sawcutting	1	LS	-	\$ 1,800.00	\$ 1,800.00
Class II Sand	200	Ton	-	\$ 18.00	\$ 3,600.00
6A stone	15	Ton	-	\$ 32.00	\$ 480.00
Haul Off Spoils & Pavement	250	Ton	-	\$ 11.00	\$ 2,750.00
Sanitary Sewer Materials	1	LSx15%	-	\$ 850.00	\$ 977.50
Concrete Curb Placement	35	LF	-	\$ 85.00	\$ 2,975.00
6" Asphalt	50	SY	-	\$ 140.00	\$ 7,000.00
					\$ 19,582.50

Grand Total					\$ 43,824.50
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Vincent D'Angelo (248-515-1942)

Excludes Traffic Control, Permits, Dewatering, Bypass Pumping, Additional installation of Scope other than listed above. Excludes added time, resources, & materials associated with unknow objects or utilities.



## MEMORANDUM

Planning Division

**DATE:** June 19<sup>th</sup>, 2023

**TO:** Thomas M. Markus, City Manager

**FROM:** Brooks Cowan, Senior Planner

**APPROVED:** Nicholas Dupuis, Planning Director

**SUBJECT:** Set a Public Hearing to amend Chapter 126 (Zoning), Article 2, Section 2.27, Article 4, Section 4.46 Table A, Article 5, Section 5.09, and Article 9, Section 9.02 for the B1 Neighborhood Business District to include Specialty Food Store, Boutique, Bank, and Café as permitted uses, to include Health Club/Studio as a use requiring a Special Land Use Permit, to include indoor dining as an accessory use, to create a definition for a Café use, and to create a parking ratio requirement for a Café use.

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### INTRODUCTION:

The owner of 100 W. 14 Mile is applying to amend the Zoning Ordinance for the B1 Neighborhood Business District to enable additional uses. Such uses proposed include health club/studio, specialty food store, boutique, bank, and cafe. Amendments to limit the square footage of indoor dining in the B1 zone and to calculate parking for café uses based on indoor dining space has also been proposed by the Planning Division and Planning Board, which the applicant is amenable to.

### BACKGROUND:

The applicant is the owner of 100 W. 14 Mile, which was formerly the Grapevine Market. The applicant has cited difficulty in finding a new tenant as the reason for requesting the zoning amendment to expand permissible uses.

There are eight areas in the City of Birmingham with B1 Neighborhood Business designations. Photos and a map of these zones are attached following this report. Such B1 locations with notable tenants include the following:

1. Maple & Cranbrook (DFCU)
2. Maple & Chesterfield (Mills Pharmacy, Holiday Market Select, etc)
3. 151 N. Eton (Canelle Patisserie, Jets Pizza, Eton Market, etc)
4. 256 S. Eton (Beauty Collective)
5. 1213 Forest Hills Ln (Forest Hills Swim Club)
6. Lincoln & Grant (MUCU, Ginger Ground for Hair, Ortiz Educare)



7. 14 Mile & Southfield (Market Square, Birmingham Oil Change Center)
8. 14 Mile & Pierce (Blue Canary Confections, former Grapevine Market)

The Planning Board held four study sessions related to the proposed amendments. There were no concerns with adding specialty food store or boutique to the list of permitted uses. The B1 zone currently allows banks under the category of office, though there was general consensus that adding banks to the list of permitted uses in Article 2 makes it easier for owners, brokers, and potential tenants to quickly understand what is allowed rather than referencing the Article 9 definition for office.

A food and drink establishment use was initially proposed, however the Planning Board felt that this use encompasses full service restaurants and fast food establishments, which are not appropriate for the B1 zone, and was therefore removed from the proposal. The Planning Board did feel that smaller café style uses were appropriate. The Planning Division coordinated with the applicant and Planning Board on creating a new use category and definition for café.

The Planning Board also discussed what would be the appropriate amount of indoor dining for the B1 zone. The result was including indoor dining as an accessory use to cafés, bakeries, grocery stores, and specialty food stores. Indoor dining is limited to 50% of the tenant space, or 500 square feet, whichever is less. This allows such uses to have small indoor seating areas without being considered a full-scale restaurant.

In addition, the existing parking calculations of 1 space per 75 square feet for the food and drink establishment use often prevents of any type of food and beverage category occupying a smaller B1 property. Currently, a 1,500 square foot coffee shop would be required to have 20 parking spaces, even if it only has indoor seating space for 5-10 chairs. The Planning Division coordinated with the applicant and Planning Board to create a parking category for cafés that requires 1 parking space per 75 square feet of assembly seating space. This way, cafés would not be penalized with extra parking for kitchen, refrigerator, and storage space.

In regards to health club/studio uses in the B1 zone, the Planning Board was amenable to small classes with 5-10 people, but was opposed to the types of fitness classes with large groups of people that rotate on a regular basis. The Planning Division considered regulating the number of patrons through Article 5, Use Specific Standards, but found this would be difficult to enforce. The Planning Division and Planning Board felt that the best way to permit and regulate smaller classes was through a Special Land Use Permit (SLUP). The applicant was amenable to this suggestion as well.

On June 14<sup>th</sup>, 2023 ([Agenda](#)), the Planning Board held a public hearing to review the proposed ordinance amendments. The board discussed some concern about regulating health club/fitness studios with a SLUP, as well as distinguishing between the café and food and drink establishment uses. The general consensus from the Planning Board and the Planning Division was they were comfortable dealing with each health club/studio use request on a case-by-case basis. The Planning Board moved to recommend approval to the City Commission of the proposed amendments.

#### LEGAL REVIEW:

The City Attorney has reviewed the proposed ordinance amendments and has no objections.

**FISCAL IMPACT:**

There are no direct fiscal impacts for this agenda item.

**PUBLIC COMMUNICATIONS:**

As required for the proposed Zoning Ordinance amendments, a legal ad was placed in a newspaper of local circulation to advertise the public hearing at the Planning Board on June 14<sup>th</sup>, 2023. A similar ad will be prepared in advance of the public hearing at the City Commission meeting on July 24<sup>th</sup>, 2023.

**SUMMARY:**

The Planning Division requests that the City Commission set a public hearing date of July 24<sup>th</sup>, 2023 to consider the proposed ordinance amendments to Article 2, Section 2.27, Article 4, Section 4.46 Table A, Article 5, Section 5.09, and Article 9, Section 9.02 for the B1 Neighborhood Business District to include Specialty Food Store, Boutique, Bank, and Café as permitted uses, to include Health Club/Studio as a use requiring a Special Land Use Permit, to include indoor dining as an accessory use limited to 500 square feet or less, to create a definition for a Café use, and to create a parking ratio requirement for a Café use.

**ATTACHMENTS:**

Please see the following attached documents:

- Proposed Amendments to Chapter 126 – Zoning
- Final Planning Board Report
- Maps of B1 zone compared to proposed uses
- Canelle Patisserie and Holiday Market floor plans with indoor dining
- Application for zoning amendment

**SUGGESTED COMMISSION ACTION:**

Make a motion adopting a resolution to set a public hearing date of July 24<sup>th</sup>, 2023 to consider the proposed ordinance amendments to Article 2, Section 2.27, Article 4, Section 4.46 Table A, Article 5, Section 5.09, and Article 9, Section 9.02 for the B1 Neighborhood Business District to include Specialty Food Store, Boutique, Bank, and Café as permitted uses, to include Health Club/Studio as a use requiring a Special Land Use Permit, to include indoor dining as an accessory use limited to 500 square feet or less, to create a definition for a Café use, and to create a parking ratio requirement for a Café use.

CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 2, SECTION 2.27, B1 (NEIGHBORHOOD BUSINESS) DISTRICT INTENT, PERMITTED USES, AND SPECIAL USES, TO ADD BANK, BOUTIQUE, CAFÉ, AND SPECIALTY FOOD STORE TO COMMERCIAL PERMITTED USES, INDOOR DINING TO ACCESSORY PERMITTED USES, AND HEALTH CLUB/STUDIO TO USES REQUIRING A SPECIAL LAND USE PERMIT.

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ARTICLE 2: ZONING DISTRICTS AND REGULATIONS

2.27 B1 (Neighborhood Business) District Intent, Permitted Uses, and Special Uses

B. Permitted Uses

1. Institutional Permitted Uses
  - a. community center
  - b. government office
  - c. government use
  - d. religious institution
  - e. school - private
  - f. school - public
  - g. social club
2. Recreational Permitted Uses
  - a. recreational club
  - b. swimming pool – semiprivate
3. Commercial Permitted Uses
  - a. Bakery
  - b. bank**
  - c. barber shop/beauty salon
  - d. boutique**
  - e. café**
  - f. drugstore
  - g. dry cleaning
  - h. grocery store
  - i. hardware store
  - j. neighborhood convenience store
  - k. office
  - l. shoe store/shoe repair
  - m. specialty food store**
  - n. tailor
4. Other Permitted Uses

- a. utility substation
- C. Other Use Regulations
  - 1. Accessory Permitted Uses
    - a. alcoholic beverage sales\*
    - b. indoor dining\***
    - c. kennel\*
    - d. laboratory - medical/dental\*
    - e. loading facility - off-street\*
    - f. outdoor cafe
    - g. outdoor display\*
    - h. parking facility - off-street\*
    - i. sign
  - 2. Uses Requiring a Special Land Use Permit
    - a. alcoholic beverage sales (off-premise consumption)
    - b. alcoholic beverage sales (on-premise consumption)
    - c. child care center
    - d. continued care retirement community
    - e. health club/studio**
    - f. independent hospice facility
    - g. drive-in facility\*
    - h. gasoline full service station\*
    - i. skilled nursing facility

\* = Use Specific Standards in Section 5.09 Apply

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2023 to become effective 7 days after publication.

\_\_\_\_\_  
Therese Longe, Mayor

\_\_\_\_\_  
Alex Bingham, City Clerk

CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 4, TABLE A, REQUIRED OFF-STREET PARKING SPACES, TO CREATE A PARKING RATIO REQUIREMENT FOR A CAFÉ USE.

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ARTICLE 4: DEVELOPMENT STANDARDS

Table A: Required Off-Street Parking Spaces

Land Use	Number of Off-Street Parking Spaces Required
<b>Café:</b>	<b>1 space per 75 square feet of indoor dining area to be calculated from the area consisting of the designated assembly space for tables, seats, and patron circulation.</b>

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2023 to become effective 7 days after publication.

---

Therese Longe, Mayor

---

Alex Bingham, City Clerk

CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 5, SECTION 5.09, USE SPECIFIC STANDARDS, TO ADD LANGUAGE TO PERMIT INDOOR DINING AS AN ACCESSORY USE TO BAKERIES, SPECIALTY FOOD STORES, GROCERY STORES, AND CAFES.

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ARTICLE 5: USE SPECIFIC STANDARDS

5.09 B1 District

This Use Specific Standards section applies to the following district:

**B1**

The following use specific standards apply:

- A. Alcoholic Beverage Sales: Alcoholic beverage sales for consumption off the premises in conjunction with grocery stores and drugstores is permitted subject to special land use permit.
- B. Drive-in Facility: A drive-in facility is permitted provided it is accessory to the permitted principal use.
- C. Gasoline Full Service Station: A gasoline full service station is permitted provided any mechanized car wash systems shall be limited to 25 cars per hour.
- D. Indoor Dining: Indoor dining is permitted as an accessory use to a bakery, specialty food store, grocery store, and café provided that the indoor dining area consisting of the assembly space for tables, seats, and patron circulation does not exceed 50 percent of the tenant space, or 500 square feet, whichever is less.**
- E. Kennel: A kennel is permitted in conjunction with veterinary clinics when completely enclosed within a building (see Sections 18-86, 18-87, 18-88 of the Birmingham City Code).
- F. Laboratory: A laboratory is permitted when incidental to a medical or dental office located within the same building.
- G. Loading Facility: A loading facility is permitted provided facilities are screened according to Section 4.54.
- H. Parking Facility: A parking facility is permitted provide such facilities are screened according to Section 4.54.
- I. Rooftop Use Standards:
  - 1. Rooftop amenities such as pergolas, trellises and other similar items are permitted on a rooftop, provided:
    - i. They are set back at least 5 feet from the eave line.

- ii. They are of sufficient weight or anchored to the building to resist anticipated wind loads.
  - iii. They do not have full enclosures.
  - iv. They do not include eisenglass or similar enclosure materials.
2. Rooftop structures and amenities may not contain habitable space.

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2023 to become effective 7 days after publication.

---

Therese Longe, Mayor

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Alex Bingham, City Clerk

CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 9, SECTION 9.02, DEFINITIONS, TO CREATE A DEFINITION FOR A CAFÉ USE.

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ARTICLE 9: DEFINITIONS

9.02 Definitions

**Café: an eating or drinking establishment where the business to consumer operation is predominantly through counter service provided for a combination of dine-in and carry-out, and does not offer full table service through a wait staff.**

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2023 to become effective 7 days after publication.

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Therese Longe, Mayor

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Alex Bingham, City Clerk





## MEMORANDUM

Planning Division

**DATE:** June 9<sup>th</sup>, 2023

**TO:** Planning Board Members

**FROM:** Brooks Cowan, Senior Planner

**APPROVED:** Nicholas Dupuis, Planning Director

**SUBJECT:** Public Hearing - B1 Neighborhood Business Zoning Amendment Application

---

The owner of 100 W. 14 Mile is applying to amend the Zoning Ordinance for the B1 Neighborhood Business District to enable additional uses. The additional uses being proposed include Health Club/ Studio, Specialty Food Store, Boutique, Bank, Food & Beverage, and Fast Casual / Cafe. The applicant is the owner of the space where Grapevine Market used to be. The reason for requesting the zoning amendment is to provide additional tenant options.

There are eight areas in the City of Birmingham with B1 Neighborhood Business designations. Photos and a map of these zones are attached following the memo. Such B1 locations with notable tenants include the following:

1. Maple & Cranbrook (DFCU)
2. Maple & Chesterfield (Mills Pharmacy, Holiday Market Select, etc)
3. 151 N. Eton (Canelle Patisserie, Jets Pizza, Eton Market, etc)
4. 256 S. Eton (Beauty Collective)
5. 1213 Forest Hills Ln (Forest Hills Swim Club)
6. Lincoln & Grant (MUCU, Ginger Ground for Hair, Ortiz Educare)
7. 14 Mile & Southfield (Market Square, Birmingham Oil Change Center)
8. 14 Mile & Pierce (Blue Canary Confections, former Grapevine Market)

Study Session 1 – February 8<sup>th</sup>, 2023 ([Agenda – Minutes](#))

City staff began by summarizing the intent of the B1 Neighborhood Business District, Article 2, Section 2.27(A) which states the following:

The B1 (Neighborhood Business) District is established for the convenience of shopping for persons residing in adjacent residential areas to permit only such uses as are necessary

to satisfy those limited basic shopping and/or service needs which by their very nature are not related to the shopping pattern of the general business district.

City staff then discussed the proposed uses in relation to the district intent of the B1 zone. It was brought up that bank was indirectly allowed through the definition of office, but adding it to the list of permitted uses would make it easier for users to understand the Zoning Ordinance. It was also discussed how staff had no concerns regarding specialty food store, or boutique.

Given the wide variety of health club/studios, there was some concern regarding parking and fitness classes that could draw a large number of patrons for an hour session. Staff also discussed a potential new definition for cafés that limited the amount of indoor seating space. Doing so could help resolve issues for the city in having to make distinguishments between bakeries, food and drink establishments, and specialty food stores.

The Planning Board requested maps of where each use is permitted, as well as comparisons of how other cities regulate such uses, particularly parking requirements for small restaurants and gyms.

#### Study Session 2 – March 8<sup>th</sup>, 2023 (Agenda – Minutes)

City staff began the second study session by reviewing maps of where each use is permitted in the City in comparison to the B1 zone. Staff then reviewed other ways cities have regulated parking for smaller restaurants and fitness studios.

There appeared to be general consensus from the Planning Board that they were amenable to allowing the proposed uses of bank, specialty food store, and boutique as permitted uses in the B1 zone.

Upon discussion of creating terminology to enable smaller eating and drinking establishments, there was general consensus that adding “indoor dining” as an accessory permitted use would be beneficial. There was also general consensus that a new definition for Café should be reviewed.

In regards to health club / studio, it was discussed how the difficulty in this use is distinguishing between a 5 person class vs a 40 person class. A SLUP could be useful in regulating the various uses in this category, however the application requirements are more cumbersome and could deter potential tenants from trying.

#### Study Session 3 – April 17<sup>th</sup>, 2023 (Agenda – Minutes)

City staff added “indoor dining\*” to the list of accessory uses for the B1 District. A proposed amendment to Article 5, Section 5.09, Use Specific Standards was also included to limit the space of indoor dining assembly area to 750 square feet for places where indoor dining may occur. For comparable spaces, Holiday Market has approximately 375 square feet of indoor dining space, and Canelle Patisserie has 500 square feet of indoor dining space.

The applicant has proposed the addition of food and drink establishments to the B1 zone, however City staff is hesitant to include this use. There appeared to be a general consensus that this use incorporates a full service restaurant with a 1 parking space per 75 square feet parking requirement with a higher intensity of users.

City staff recommended that a lighter intensity food and drink category be created – this could be called a “café” which includes a small mix of carry-out and dine-in. Proposed regulations on the size of the indoor dining area would be associated with the café use. A parking amendment based on the size of the indoor dining area, and not the entire tenant space was proposed. Such changes to the Zoning Ordinance for Café use in the B1 zone were proposed as the following:

Article 9, Section 9.02 Definitions:

*Cafe: an eating or drinking establishment where the business to consumer operation is predominantly through counter service provided for a combination of dine-in and carry-out, and does not offer full table service through a wait staff.*

Article 5, Section 5.09 Use Specific Standards for the B1 District:

*Indoor dining: Indoor dining is permitted as an accessory use to a bakery, specialty food store, grocery store, and **café** provided that the space for tables, seats, and patron circulation does not exceed 750 square feet.*

Article 4, Table A: Off-Street Parking Spaces

*Eating establishment – café use: 1 space per 75 square feet of indoor dining assembly area, plus 2 spaces for employees.*

In regards to health club/studio use, city staff mentioned that they are amenable to a SLUP for this use due to the variety of uses the category encompasses. An alternative to a SLUP could be to cap the amount of patrons for a fitness class through Use Specific Standards of Article 5.09, however this would be difficult to enforce. The Planning Board appeared amenable to exploring ways to allow small classes while prohibiting larger ones.

Discussion from the Planning Board involved concern about banks in the B1 Zone and that the use of some banks appeared to be more like large offices. The Planning Board also discussed parking requirements for the proposed “café” as well as the new indoor dining accessory use. There was a discussion about 1 per 75 SF of assembly area + 2 spaces for employees vs. 1 per 100 SF for the assembly area. No general consensus was reached at that time. Questions about calculating total parking when there is indoor dining within another use such as a grocery store was also raised.

#### Study Session 4 – May 10<sup>th</sup>, 2023 (Agenda)

In regards to adding “bank” to the list of commercial permitted uses, the purpose is to improve convenience for users reading the Zoning Ordinance due to the fact that banks are already allowed under the definition of Office. The Planning Division has not encountered issues with bank proposals in the B1 District. The applicant has indicated that if adding “bank” to the permitted uses is controversial then they are amenable to removing it in order to expedite the review process. Providing “Bank” in the list of permissible uses makes it easier for potential users to understand when reading the Zoning Ordinance.

Staff suggested adding health club/studio as a use requiring a Special Land Use Permit due to the variety of class sizes that the use entails. Creating a definition for personal training studio and potentially limiting the number of patrons was discussed, though upon review of other cities, attempting to regulate health club/studios in the B1 neighborhood business district presents a number of challenges. Staff wants to allow and promote small fitness businesses, however studios

with 40-50 people per class would not be appropriate for the district's intent. The three possible avenues would be to either regulate the use with a SLUP, to regulate the size of the tenant space through use specific standards, or to regulate the number of patrons per session through use specific standards. A summary of each is below:

1. SLUP – Would require a lengthier and more cumbersome application process for the tenant, however the Planning Board and City Commission would be able to review applications on a case-by-case basis and include any special conditions of approval to help make the use appropriate with surrounding uses.
2. Regulate size – A number of cities allow “fitness studios” up to 1000 or 1500 SF to enable uses such as yoga and barre classes. Capping the size of the space limits the ability for a big box gym to move in. The issue is that placing a cap on the size of the studio does not prevent the tenant from hosting classes with a packed room of 40 or so people per hour.
3. Regulate number of patrons – City staff have explored the idea of creating a “personal training” use category and writing a definition for smaller fitness classes that could be accompanied with a limit on the number of patrons in the use specific standards. Staff foresees a number of gray area issues with doing so - the biggest issue being enforcement.

Upon review of alternative ways to allow health club/studio in the B1 District, and discussion with the applicant, staff recommended having the use within the SLUP requirement category. This would enable staff, the Planning Board, and City Commission to review applications on a case-by-case basis and include special conditions of approval. Doing so could help filter out classes for 5 clients vs. 40 clients.

In regards to parking calculations and the newly proposed “Café” use, the applicant has indicated a desire for a 1 per 100 SF of assembly space requirement. Meanwhile the City standard for eating establishments has historically been 1 per 75 SF of gross floor area. At previous meetings, City staff cited other cities using 1 per 75 SF of assembly area + 2 for staff. Upon review, the Planning Board felt most comfortable with 1 per 75 SF of assembly area in order to be consistent with existing food and beverage parking calculations.

Indoor dining as an accessory use has also been amended to consist of the assembly space for tables, seats, and patron circulation up to 50 percent of the tenant space, or 500 square feet, whichever is less. This way the indoor dining area is a function of the size of the space and cannot exceed one half of the tenant space, or 500 square feet, whichever is less. This enables indoor dining to remain an “accessory use”.

Questions about calculating parking for bakery, grocery, or specialty food store uses with indoor dining have come up. City staff recommends that the calculation be based off of the principle use, which in the aforementioned cases would be 1 per 300 SF. “Indoor Dining” is listed as an accessory use and is limited in size in order to keep it accessory to the principle use, therefore staff does not recommend including both indoor dining calculations with the principle use for total parking calculations. It is of note that “Café” has it's own parking category proposed to align with

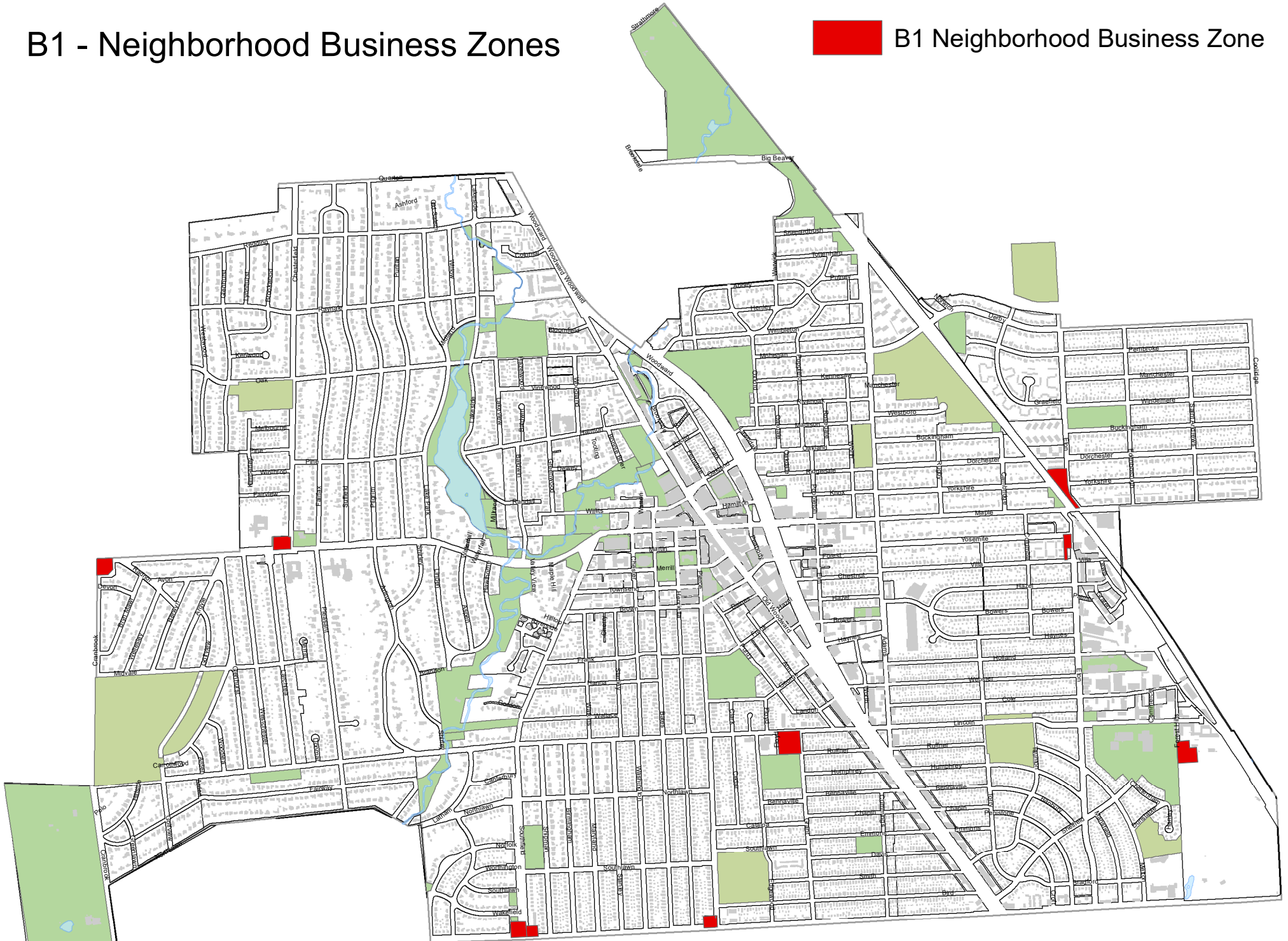
its principle use, and would be calculated different than a grocery store or specialty food store with indoor seating.

**Suggested Action:**

Move to recommend to the City Commission APPROVAL of the proposed amendments to Article 2, Section 2.27, Article 4, Section 4.46 Table A, Article 5, Section 5.09, and Article 9, Section 9.02 for the B1 Neighborhood Business District to include Specialty Food Store, Boutique, Bank, and Café as permitted uses, to include Health Club/Studio as a use requiring a Special Land Use Permit, to include indoor dining as an accessory use limited up to 500 square feet, to create a definition for a Café use, and to create a parking ratio requirement for a Café use.

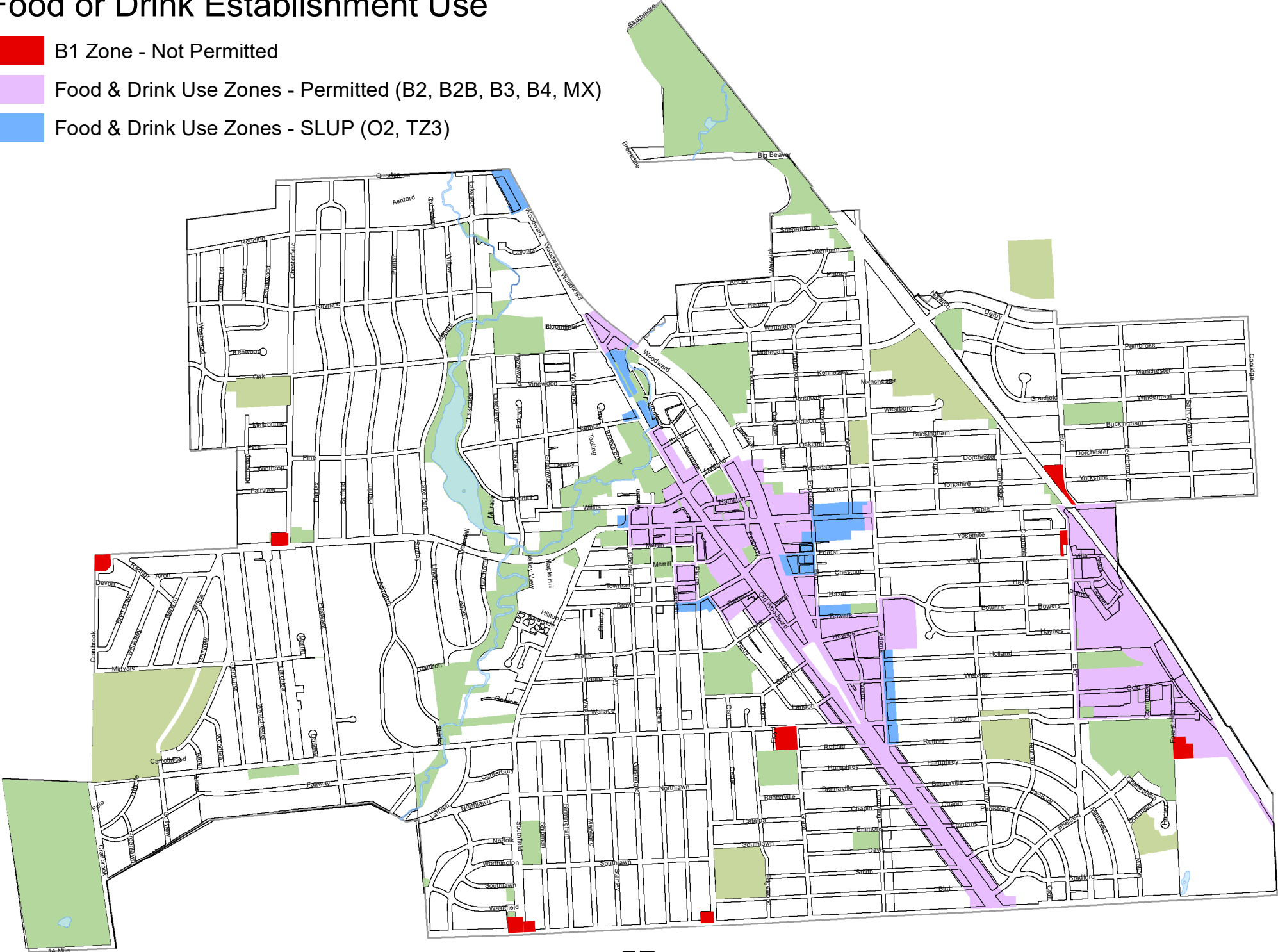
# B1 - Neighborhood Business Zones

 B1 Neighborhood Business Zone



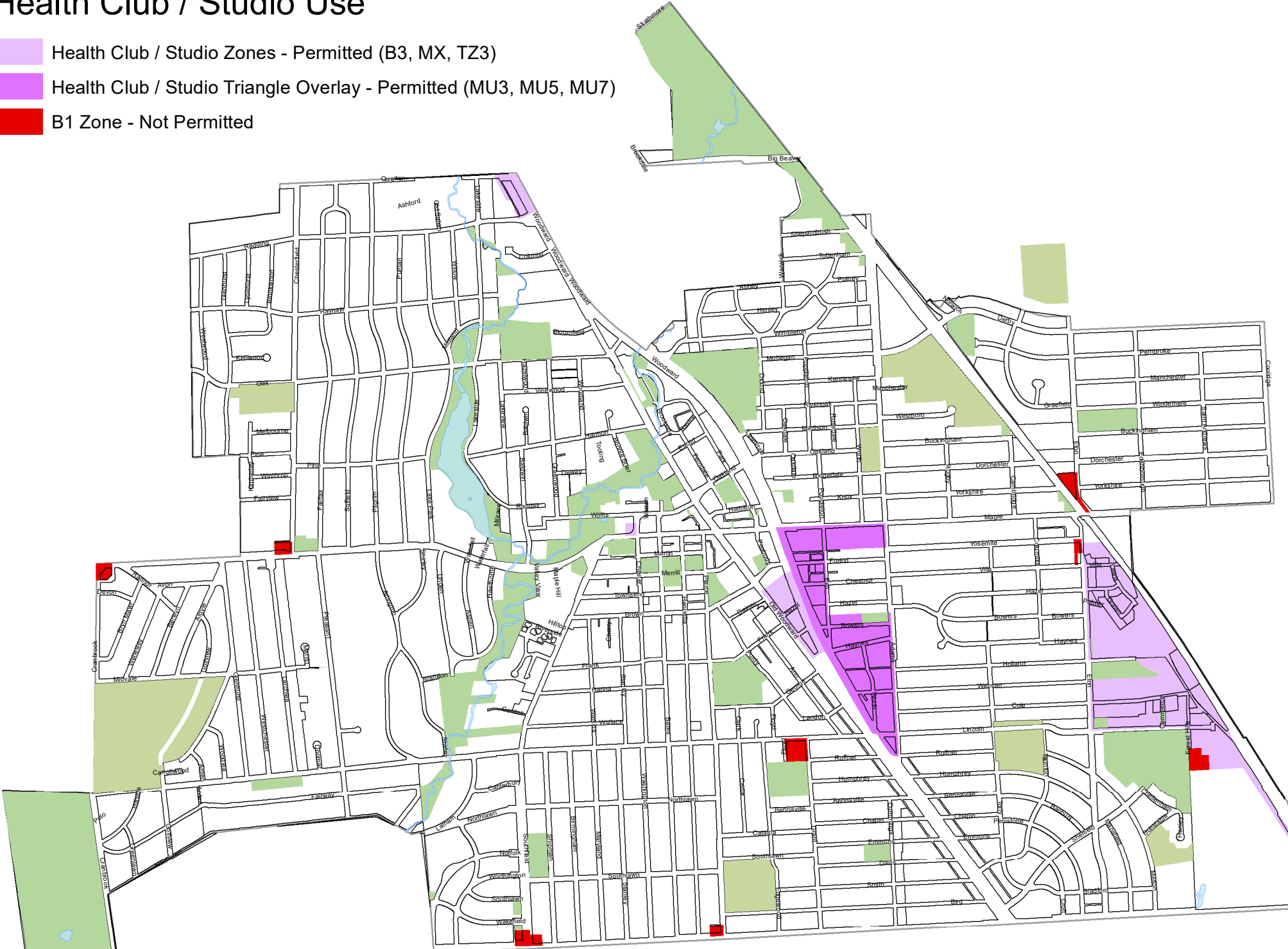
# Food or Drink Establishment Use

- B1 Zone - Not Permitted
- Food & Drink Use Zones - Permitted (B2, B2B, B3, B4, MX)
- Food & Drink Use Zones - SLUP (O2, TZ3)



# Health Club / Studio Use

- Health Club / Studio Zones - Permitted (B3, MX, TZ3)
- Health Club / Studio Triangle Overlay - Permitted (MU3, MU5, MU7)
- B1 Zone - Not Permitted





# Specialty Foods Stores

- Specialty Food Store - Permitted (O2, MX)
- Specialty Food Store - SLUP (TZ3)
- B1 Zone - Not Permitted



5P

# Boutique Use

- Boutique - Permitted (O2, MX)
- Boutique - SLUP (TZ3)
- B1 Zone - Not Permitted



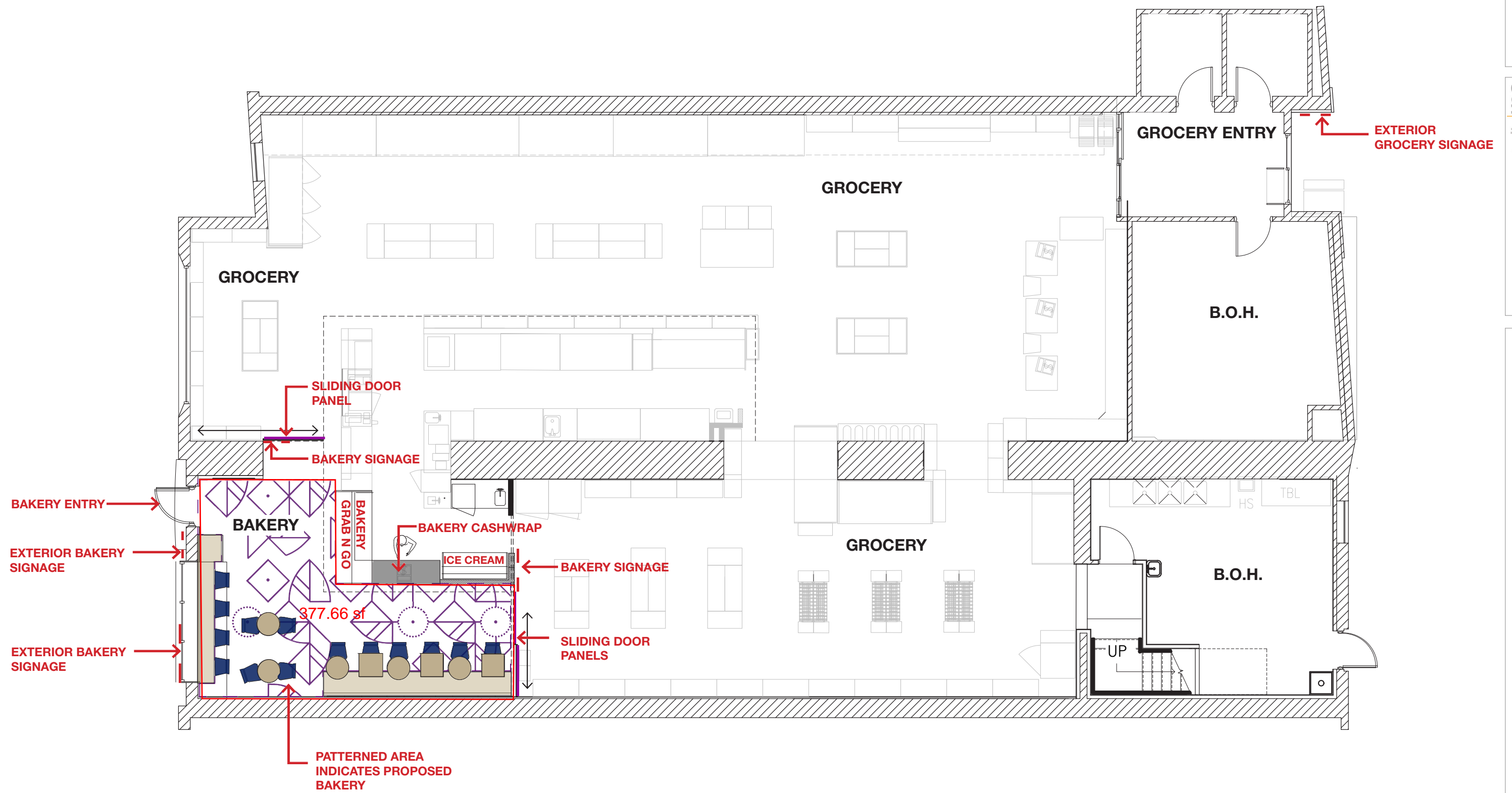
**5P**

NOTE: EQUIPMENT SHOWN IS FOR DESIGN INTENT ONLY. COORDINATE ALL EQUIPMENT WITH ARCHITECT AND EQUIPMENT SUPPLIER. (TYP.)

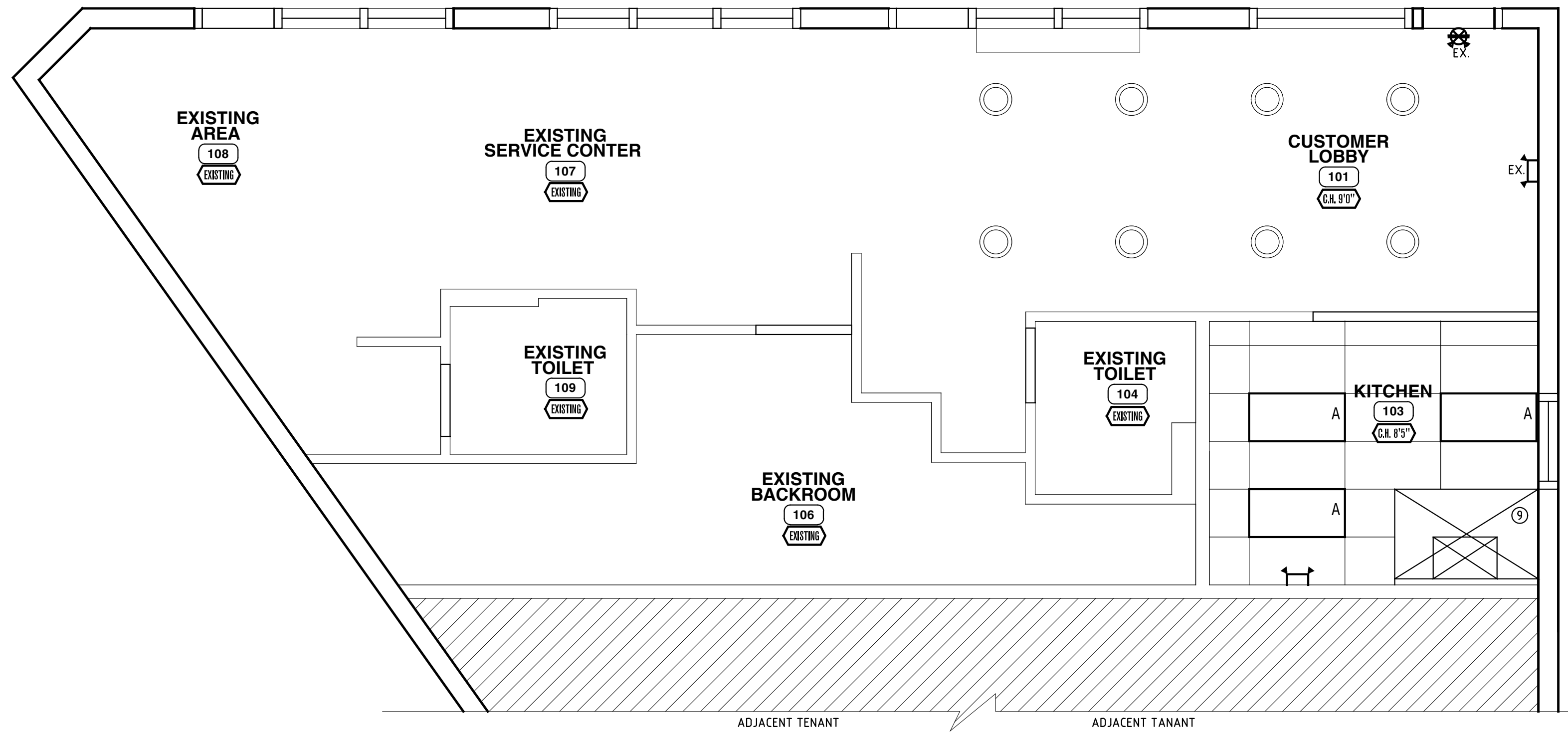
NOTE: CEILING HEIGHTS ARE BASED ON AN ASSUMED 10'-6". DIMENSIONS TO BE VERIFIED. IF DIFFERENT CONTACT STUDIO H2G (TYP.)

NOTE: DIMENSIONS ARE FOR DESIGN PURPOSES ONLY (V.I.F.) SEE ARCHITECTURAL DRAWINGS. VERIFY EQUIP SIZES BEFORE STARTING ANY CONSTRUCTION

NOTE: DRAWINGS ARE FOR DESIGN PURPOSES ONLY. SEE ARCHITECT AND ENGINEERS DRAWINGS FOR NOTES DIMENSIONS AND DETAILS (TYP.)

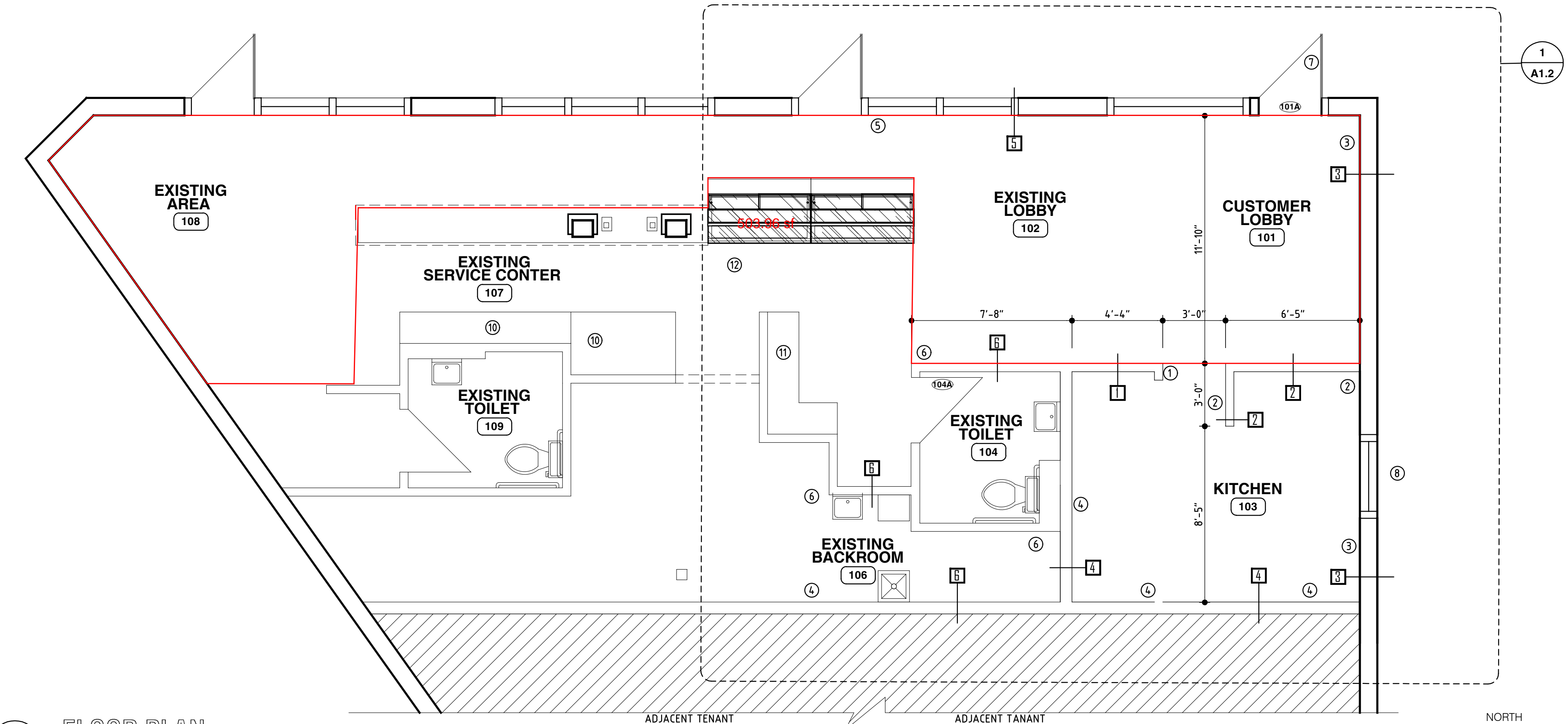


FLOOR PLAN  
N.T.S. (NOT TO SCALE)



2 REFLECTED CEILING PLAN

SCALE: 1/4" = 1' NORTH



1 FLOOR PLAN

SCALE: 1/4" = 1' NORTH

**DIMENSIONS**

NEW INTERIOR PARTITIONS:  
GYP. BD. TO GYP. BD.

EXISTING CMU & DEMISING WALLS:  
FACE OF MASONRY / STUD

**PLAN LEGEND**

	EXISTING WALL - TO REMAIN SEE ASSEMBLY TYPES
	NEW WALL SEE ASSEMBLY TYPES
	EXISTING DOOR & FRAME - TO REMAIN SEE DOOR SCHEDULE
	NEW DOOR SEE DOOR SCHEDULE

**CEILING LEGEND**

	LAY-IN CEILING TILE SEE FINISH SCHEDULE
	NEW 2x4 SUSPENDED CEILING GRID LAY-IN LIGHT FIXTURE
	WALL MOUNTED EMERGENCY LIGHT FIXTURE
	EXIT SIGN WITH EMERGENCY LIGHT
	PENDANT LIGHT TO MATCH EXISTING
	RECESSED CAN LIGHTS

**ASSEMBLY TYPE**

MARK	DESCRIPTION	DETAIL
1	TYP. INTERIOR PARTITION W/ NEW FINISH GYP + 3-5/8" MTL STUD	1/A6.1
2	TYP. INTERIOR PARTITION W/ NEW FINISH WALL HEIGHT 5'-0" GYP + 3-5/8" MTL STUD	1/A6.1
3	EX. EXTERIOR WALL W/ NEW FINISH	2/A6.1
4	EXIST. DEMISING W/ NEW FINISH FIELD VERIFY & REPAIR AS REQ'D	3/A6.1
5	EX. STORE FRONT GLAZING SYSTEM FIELD VERIFY & REPAIR AS REQ'D	4/A6.1
6	EX. INTERIOR PARTITION TO REMAIN FIELD VERIFY & REPAIR AS REQ'D	NO DETAIL
7	-	-

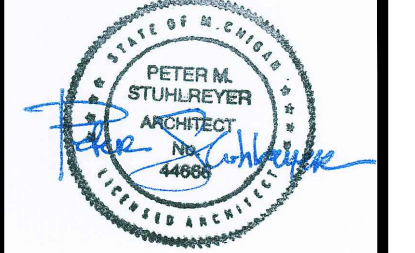
- KEY NOTES**
- TYP. INTERIOR PARTITION W/ NEW FINISH SEE ASSEMBLY TYPES & FINISH SCHEDULE
  - TYP. 5'-0" INTERIOR PARTITION W/ NEW FINISH SEE ASSEMBLY TYPES & FINISH SCHEDULE
  - EXISTING EXTERIOR WALL W/ NEW FINISH SEE ASSEMBLY TYPES & FINISH SCHEDULE
  - EXISTING DEMISING WALL W/ NEW FINISH SEE ASSEMBLY TYPES & FINISH SCHEDULE
  - EXISTING STORE FRONT GLAZING SYSTEM SEE ASSEMBLY TYPES & FINISH SCHEDULE
  - EXISTING INTERIOR PARTITION TO REMAIN SEE ASSEMBLY TYPES & FINISH SCHEDULE
  - EXISTING STORE FRONT DOOR TO REMAIN
  - NEW 3'-0" X 5'-0" EXPO. WINDOW SEE ENLARGED ELEVATIONS
  - NEW HOOD VENT SEE EQUIPMENT PLAN & SCHEDULE
  - EXISTING BREAD & BAKED GOOD DISPLAY TO REMAIN
  - EXISTING ESPRESSO COUNTER
  - EXISTING REFRIGERATED PASTRY DISPLAY

**REVISION #1:**  
PER BLDG DEPT. - REVIEW #1:  
REVISED PLANS TO SHOW FULL LAYOUT OF  
EXISTING BAKERY. PER

**DESIGNHAUS** EST. 1998  
**ARCHITECTURE**

3300 AUBURN RD., SUITE 300  
AUBURN HILLS, MI 48326  
T: 248.601.4422 F: 248.459.5854  
WWW.DESIGNHAUS.COM  
INFO@DESIGNHAUS.COM

Revision #1	Date
10.20.21	
08.20.21	
Revision/Issue	Date



**Cannelle Bakery Addition**  
159 N. Eton St.  
Birmingham, MI 48009

**First Floor & Reflected Ceiling Plan**

021103  
**A1.1**

Michael R. Vogt  
T (248) 530-6335  
F (248) 530-9173  
Email: MVogt@ClarkHill.com

Clark Hill PLC  
151 S. Old Woodward Ave., Ste 200  
Birmingham, MI 48009  
T (248) 642-9692  
F (248) 530-9173

February 3, 2023

**VIA HAND DELIVERY**

Birmingham City Commission  
151 Martin St.  
Birmingham, MI 48009

Re: **Application for Zoning Ordinance Change to Expand Permitted Uses Within B-1 Zoning District**

To Whom It May Concern:

Clark Hill PLC is legal counsel to Mura, LLC ("Mura"), who is the owner of the commercial development located at 100 W 14 Mile Rd., Birmingham, MI 48009. Mura is seeking to amend the City's Zoning Ordinance to expand the list of permitted uses in the B-1 (Neighborhood Business) Zoning District as stated in Section 2.27(B). On behalf of Mura, we respectfully ask that the enclosed Application be reviewed by the City's planning department and placed on the City Commission's agenda for consideration at the first available date.

Attached as **Exhibit A** to this letter is the proposed amendment to Section 2.27B(3), which would add the following low-intensity neighborhood uses to the list of permitted commercial uses in the B-1 district:

- a. Health Club/Studio
- b. Specialty Food Store
- c. Boutique
- d. Bank
- e. Food or drink establishment
- f. Fast casual/cafe

Each of these commercial uses would bring desired goods and services to Birmingham neighborhoods, furthering the stated intent of the B-1 zoning district to provide "convenience of shopping for residing in adjacent residential areas to

permit only such uses as are necessary to satisfy those limited basic shopping and/or service needs which by their very nature are not related to the shopping pattern of the general business district.” Further, the addition of these similar commercial uses to Section 2.27(B)(3) will broaden the market for potential tenants at all B-1 properties, thereby increasing the variety of businesses that citizens have access to in their neighborhoods, and decreasing the risk that properties sit vacant for extended periods between tenancies.

The City’s Zoning Map provides for only eight B-1 properties/areas in the City and those areas are relatively small in geographic footprint. Attached as **Exhibit B** is a list of the eight B-1 properties/areas on the Zoning Map and the businesses that currently operate thereon (according to Google). A review of Exhibit B reveals that the five proposed additional uses in Exhibit A are similar in nature and intensity to the businesses currently operating on B-1 properties. In fact, Exhibit B shows that two credit unions and a bank already operate harmoniously on B-1 property even though banks are neither permitted by right nor special land use approval in the B-1 district. There are also existing restaurants (Jet’s Pizza) and businesses similar in use characteristics to health clubs/studios like dance studios and Forest Hills Swim Club. Accordingly, the addition of the proposed uses listed on Exhibit A will have no negative impact on properties adjacent to B-1 districts, but will provide a material benefit to B-1 property owners, and increase the convenience for the neighborhood residents who rely on these small businesses.

In conclusion, we respectfully request that the above analysis and the attached supporting materials be considered by the City Commission, and Mura’s Application to modify the list of permitted commercial uses in Section 2.27(B)(3) be approved. On behalf of Mura, we thank you in advance for your timely attention to this Application and look forward to working with the City throughout the approval process.

Sincerely,

CLARK HILL PLC

*/s/ Michael R. Vogt*

Michael R. Vogt

# EXHIBIT A

## 2.27 B1 (Neighborhood Business) District Intent, Permitted Uses, and Special Uses **B1**

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### A. District Intent

1. The B1 (Neighborhood Business) District is established for the convenience of shopping for persons residing in adjacent residential areas to permit only such uses as are necessary to satisfy those limited basic shopping and/or service needs which by their very nature are not related to the shopping pattern of the general business district.

### B. Permitted Uses

1. Institutional Permitted Uses
  - a. community center
  - b. government office
  - c. government use
  - d. religious institution
  - e. school - private
  - f. school - public
  - g. social club
2. Recreational Permitted Uses
  - a. recreational club
  - b. swimming pool – semiprivate
3. Commercial Permitted Uses
  - a. bakery
  - b. barber shop/beauty salon
  - c. drugstore
  - d. dry cleaning
  - e. grocery store
  - f. hardware store
  - g. neighborhood convenience store
  - h. office
  - i. shoe store/shoe repair
  - j. tailor
  - k. Health Club/Studio
  - l. Specialty Food Store
  - m. Boutique
  - n. Bank
  - o. Food or drink establishment
  - p. Fast casual/café
4. Other Permitted Uses
  - a. utility substation

### C. Other Use Regulations

1. Accessory Permitted Uses



- a. alcoholic beverage sales\*
  - b. kennel\*
  - c. laboratory - medical/dental\*
  - d. loading facility - off-street\*
  - e. outdoor cafe
  - f. outdoor display\*
  - g. parking facility - off-street\*
  - h. sign
2. Uses Requiring a Special Land Use Permit
- a. alcoholic beverage sales (off-premise consumption)
  - b. alcoholic beverage sales (on-premise consumption)
  - c. child care center
  - d. continued care retirement community
  - e. independent hospice facility
  - f. drive-in facility\*
  - g. gasoline full service station\*
  - h. skilled nursing facility

\* = Use Specific Standards in Section [5.09](#) Apply

( ) = Subject to Regulations of the Specified District

# EXHIBIT B

## **B-1 Locations Per Zoning Map and Existing Business Per Google**

1. **SE Corner of Maple and Cranbrook**
  - a. DFCU Financial
  
2. **NW Corner of Maple and Chesterfield**
  - a. Mills Pharmacy;
  - b. Holiday Market;
  - c. Detroit Barber Co.; and
  - d. First Merchant's Bank
  
3. **151 N. Eton**
  - a. Jet's Pizza;
  - b. Cannelle Patisserie;
  - c. Spa Mariana; and
  - d. Zack's Alteration Shop
  
4. **256 S. Eton**
  - a. Beauty Collective
  
5. **1213 Forest Hills Ln**
  - a. Forest Hills Swim Club
  
6. **SE Corner of Lincoln and Grant**
  - a. MUCU;
  - b. Ginger Group for Hair;
  - c. STARZ Performing Arts;
  - d. Kramm & Associates Dental Lab;
  - e. Birmingham Laundromat
  
7. **NW and NE Corner of Southfield Rd. and 14 Mile Rd.**
  - a. Market Square (NW Corner) and
  - b. Birmingham Oil Change Center (NE Corner)
  
8. **NW Corner of 14 Mile Rd. and Pierce**
  - a. Blue Canary Confections;
  - b. Birmingham Dance Academy; and
  - c. Beauty Collective Hair Salon.



## MEMORANDUM

Planning Division

**DATE:** June 26, 2023

**TO:** Thomas M. Markus, City Manager

**FROM:** Nicholas Dupuis, Planning Director

**SUBJECT:** 33866 Woodward - Polestar – Right-of-Way Parking Request

---

### INTRODUCTION:

The subject site, 33866 Woodward, is a single-story commercial building located in the B2B (General Business) zoning district on the east side of Woodward at the intersection of Adams and Woodward. The applicant is requesting to utilize 3 parking spaces in the Woodward Ave. right-of-way towards their off-street parking requirements for a new prospective tenant, Polestar.

The request is being made pursuant to Article 4, Section 4.45 (G)(1) which states that the required off street parking for buildings used for non-residential purposes may be provided “by providing the required off-street parking on the same lot as the building being served, or where practical, and with the permission of the City Commission, the area in the public right-of-way abutting the property in question may be included as a portion of the required parking area if such area is improved in accordance with plans which have been approved by the engineering department.”

### BACKGROUND:

The subject site currently contains 11 off-street parking spaces that will be maintained to service the new auto sales agency tenant. The applicant has applied for Final Site Plan and Design Review for building renovations and minor site improvements with no additional square footage proposed, which is currently under consideration by the Planning Board. The parking is located on the northwest portion of the development. The building currently contains 7,340 square feet, which requires 13 off-street parking spaces.

One June 14, 2023 ([Agenda](#)), the Planning Board moved to postpone the Final Site Plan and Design Review application to July 12, 2023 to allow the applicant time to address minor details in the plans that are consistency and design related. The Planning Board was supportive of the use of public parking to be counted towards the off-street parking requirements due to the upgrades/repairs that would be required and the limited in-person visits that are anticipated to the car dealership based on the business model of the prospective tenant, Polestar.

As required by Section 4.45 (G)(1), the Engineering Department has assessed the areas requested and has provided comments to the Planning Division. In summary, the Engineering Department will require the applicant to replace the entire Woodward right-of-way, which is in poor condition

**LEGAL REVIEW:**

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

**FISCAL IMPACT:**

There are no fiscal impacts for this agenda item.

**PUBLIC COMMUNICATIONS:**

There are no required public notices for this agenda item.

**SUMMARY:**

The Planning Division requests that the City Commission consider the right-of-way parking request for 33866 Woodward pursuant to Article 4, Section 4.45 (G)(1) of the Zoning Ordinance.

**ATTACHMENTS:**

Please find attached the following documents for your review:

- Request Letter
- Site Plans
- Site Photographs
- Property Map

**SUGGESTED COMMISSION ACTION:**

Make a motion adopting a resolution to approve the right-of-way parking request for 33866 Woodward to permit 3 on-street parking spaces in the Woodward right-of-way to be counted towards the required off street parking requirements of the subject site pursuant to Article 4, Section 4.45 (G)(1) and subject to the condition that the area be improved in accordance with plans which have been approved by the Engineering Department.



# LAG Development

*Your Strong Construction Connection*

Date: June 21, 2023

To: City Council  
City of Birmingham  
151 Martin Street  
Birmingham, MI 48012

From: Elizabeth Marchese  
LAG Development  
9990 E. Highland Rd.  
Howell, MI 48843

Re: 30533 Woodward Avenue – Polestar Dealership Site Plan Review

Polestar is Volvo's upscale performance and electric-vehicle brand; their goal is to blend high-tech offerings with modern styling. Polestar spaces are carefully designed, unique retail environments deliberately intimate, accessible, and staffed by Polestar Specialists. These Specialists can provide buyers the opportunity to interact physically with the brand and products before committing.

LaFontaine Automotive Group is proposing a Polestar dealership located at 33866 Woodward Avenue. The showroom will have full interior modifications to create a luxury space according to Polestar standards. Exterior renovations will include additional storefront glass, a clean modern parapet with ACM covering, new site lights, a screen wall and updated landscaping. The signage is sleek and contemporary with a minimalistic design that allows the brand itself to stand out. We will also be installing two overhead doors on the Western wall of the building with interior lighting to highlight the current models parked inside.

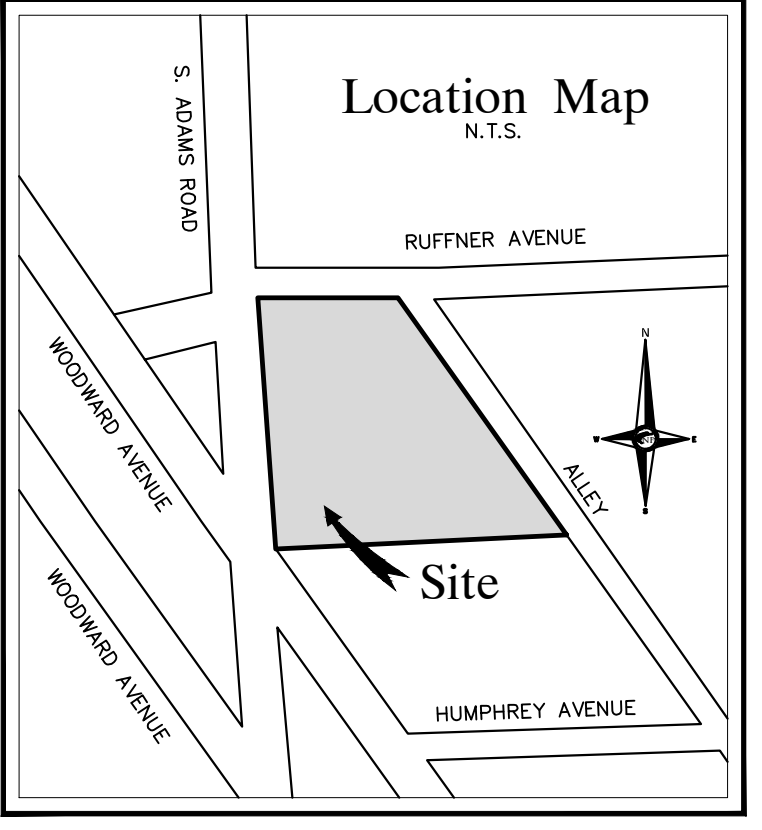
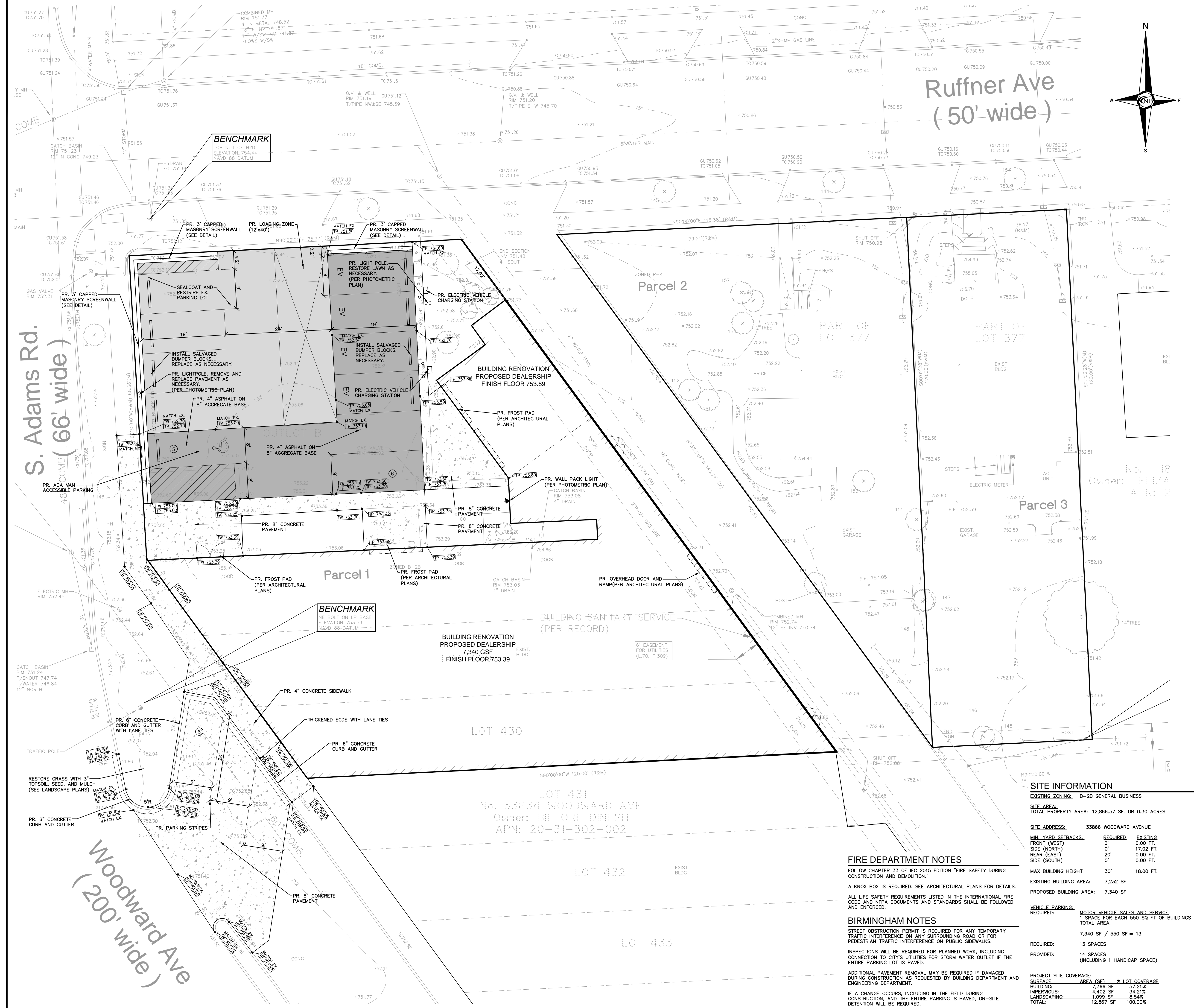
The existing building is zoned B2B which allows for a boutique retail auto agency, "other commercial use." The building measures 7,340 square feet which calculates out to 13 required off-site parking spots. Our site has 11 off-street parking spots and 3 public in the Woodward right of way. We are requesting the Council grant the three public spaces toward the off-street parking requirements.

We look forward to working with the City of Birmingham to bring this luxury brand of vehicle to your community.

Thank you,

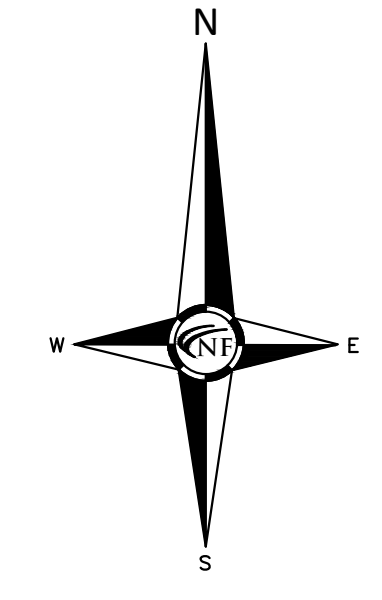
Elizabeth Marchese  
LAG Development





**NF ENGINEERS**  
 CIVIL ENGINEERS  
 LAND SURVEYORS  
 LAND PLANNERS

NOWAK & FRAUS ENGINEERS  
 4677 WOODWARD AVE.  
 PONTIAC, MI 48342-5032  
 TEL. (248) 332-7931  
 FAX. (248) 332-8257  
 WWW.NFE-ENGR.COM



**TRASH BIN NOTE**  
 TRASH BINS WILL BE STORED INSIDE THE BUILDING

**NOTES**  
 EXISTING WATER MAIN AND SANITARY LINES TO REMAIN  
 CONNECT TO EXISTING ROOF DRAINS.

**GENERAL PAVING NOTES**  
 PAVEMENT SHALL BE OF THE TYPE, THICKNESS AND CROSS SECTION AS INDICATED ON THE PLANS AND AS FOLLOWS:

**CONCRETE:** PORTLAND CEMENT TYPE IA (AIR-ENTRAINED) WITH A MINIMUM CEMENT CONTENT OF SIX SACKS PER CUBIC YARD, MINIMUM 28 DAY COMPRESSIVE STRENGTH OF 3,500 PSI AND A SLUMP OF 1 1/2 TO 3 INCHES.

**ASPHALT:** BASE COURSE - MDOT BITUMINOUS MIXTURE HMA 4E MI. SURFACE COURSE - MDOT BITUMINOUS MIXTURE HMA SE MI. BOND COAT - MDOT SS-1H EMULSION AT 0.10 GALLON PER SQUARE YARD

PAVEMENT BASE SHALL BE COMPACTED TO 95% OF THE MAXIMUM DENSITY (MODIFIED PROCTOR) PRIOR TO PLACEMENT OF PROPOSED PAVEMENT. EXISTING SUB-BASE SHALL BE PROOF-ROLLED IN THE PRESENCE OF THE ENGINEER TO DETERMINE STABILITY.

ALL CONCRETE PAVEMENT, DRIVEWAYS, CURB & GUTTER, ETC., SHALL BE SPRAY CURED WITH WHITE MEMBRANE CURING COMPOUND IMMEDIATELY FOLLOWING FINISHING OPERATION.

ALL CONCRETE PAVEMENT JOINTS SHALL BE FILLED WITH HOT POURED RUBBERIZED ASPHALT JOINT SEALING COMPOUND IMMEDIATELY AFTER SAWCUT OPERATION. FEDERAL SPECIFICATION SS-S164.

ALL WORKMANSHIP AND MATERIALS SHALL BE IN ACCORDANCE WITH THE CURRENT STANDARDS AND SPECIFICATIONS OF THE MUNICIPALITY AND THE MICHIGAN DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR CONSTRUCTION, CURRENT EDITION.

ALL TOP OF CURB ELEVATIONS, AS SHOWN ON THE PLANS, ARE CALCULATED FOR A 6" CONCRETE CURB UNLESS OTHERWISE NOTED.

ALL SIDEWALK RAMPS, CONFORMING TO PUBLIC ACT NO. 8, 1993, SHALL BE INSTALLED AS INDICATED ON THE PLANS.

CONSTRUCTION OF A NEW OR RECONSTRUCTED DRIVE APPROACH CONNECTING TO AN EXISTING STATE OR COUNTY ROADWAY SHALL BE ALLOWED ONLY AFTER AN APPROVED PERMIT HAS BEEN SECURED FROM THE AGENCY HAVING JURISDICTION OVER SAID ROADWAY.

FOR ANY WORK WITHIN THE PUBLIC RIGHT-OF-WAY, THE CONTRACTOR SHALL PAY FOR AND SECURE ALL NECESSARY PERMITS AND LIKEWISE ARRANGE FOR ALL INSPECTION.

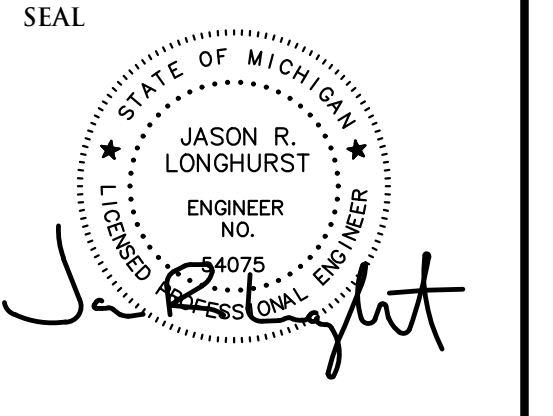
EXISTING TOPSOIL, VEGETATION AND ORGANIC MATERIALS SHALL BE STRIPPED AND REMOVED FROM PROPOSED PAVEMENT AREA PRIOR TO PLACEMENT OF BASE MATERIALS.

EXPANSION JOINTS SHOULD BE INSTALLED AT THE END OF ALL INTERSECTION RADII.

SIDEWALK RAMPS, CONFORMING TO PUBLIC ACT NO. 8, 1973, SHALL BE INSTALLED AS SHOWN AT ALL STREET INTERSECTIONS AND AT ALL BARRIER FREE PARKING AREAS AS INDICATED ON THE PLANS.

ALL PAVEMENT AREAS SHALL BE PROOF-ROLLED UNDER THE SUPERVISION OF A GEOTECHNICAL ENGINEER PRIOR TO THE PLACEMENT OF BASE MATERIALS AND PAVING MATERIALS.

FILL AREAS SHALL BE MACHINE COMPACTED IN UNIFORM LIFTS NOT EXCEEDING 9 INCHES THICK TO 98% OF THE MAXIMUM DENSITY (MODIFIED PROCTOR) PRIOR TO PLACEMENT OF PROPOSED PAVEMENT.



**PROJECT**  
 Polestar  
 33866 Woodward Avenue

**CLIENT**  
 LaFontaine Automotive Group  
 4000 West Highland Rd.  
 Highland, MI 48357

**Contact: Mr. Gary Laundroche**  
 Phone: (248) 714-1502  
 Email: glaundroche@lafontainemotors.com

**PROJECT LOCATION**  
 Part of the NE 1/4  
 of Section 31  
 T. 2N, R. 11E  
 City of Birmingham,  
 Oakland County, Michigan

**SHEET**  
 Engineering Plan



**DATE ISSUED/REVISED**  
 2023-05-01 ISSUED FOR OWNER REVIEW  
 2023-06-12 REVISED PER OWNER  
 2023-06-19 REVISED PER CITY

**DRAWN BY:**  
 B. Girschach

**DESIGNED BY:**  
 T. Wood

**APPROVED BY:**  
 J. Longhurst

**DATE:**  
 May 1, 2023

**SCALE: 1" = 10'**  
 10 5 0 5 10 5

**NFE JOB NO. SHEET NO.**  
 N044 C3

**SITE INFORMATION**

EXISTING ZONING: B-2B GENERAL BUSINESS

**SITE AREA:**  
 TOTAL PROPERTY AREA: 12,866.57 SF OR 0.30 ACRES

**SITE ADDRESS:** 33866 WOODWARD AVENUE

MIN. YARD SETBACKS:	REQUIRED:	EXISTING:
FRONT (WEST)	0'	0.00 FT.
SIDE (NORTH)	0'	17.02 FT.
REAR (EAST)	20'	0.00 FT.
SIDE (SOUTH)	0'	0.00 FT.

MAX BUILDING HEIGHT: 30' 18.00 FT.

EXISTING BUILDING AREA: 7,232 SF

PROPOSED BUILDING AREA: 7,340 SF

**VEHICLE PARKING:**  
 REQUIRED: MOTOR VEHICLE SALES AND SERVICE 1 SPACE FOR EACH 550 SQ FT OF BUILDINGS TOTAL AREA.  
 7,340 SF / 550 SF = 13  
 PROVIDED: 13 SPACES  
 14 SPACES (INCLUDING 1 HANDICAP SPACE)

PROJECT SITE COVERAGE:	AREA (SF)	% LOT COVERAGE
BUILDING	7,366 SF	57.25%
IMPERVIOUS	4,402 SF	34.21%
LANDSCAPING	1,099 SF	8.54%
TOTAL:	12,867 SF	100.00%

**FIRE DEPARTMENT NOTES**  
 FOLLOW CHAPTER 33 OF IFC 2015 EDITION "FIRE SAFETY DURING CONSTRUCTION AND DEMOLITION"  
 A KNOX BOX IS REQUIRED. SEE ARCHITECTURAL PLANS FOR DETAILS.  
 ALL LIFE SAFETY REQUIREMENTS LISTED IN THE INTERNATIONAL FIRE CODE AND NFPA DOCUMENTS AND STANDARDS SHALL BE FOLLOWED AND ENFORCED.

**BIRMINGHAM NOTES**  
 STREET OBSTRUCTION PERMIT IS REQUIRED FOR ANY TEMPORARY TRAFFIC INTERFERENCE ON ANY SURROUNDING ROAD OR FOR PEDESTRIAN TRAFFIC INTERFERENCE ON PUBLIC SIDEWALKS.  
 INSPECTIONS WILL BE REQUIRED FOR PLANNED WORK, INCLUDING CONNECTION TO CITY'S UTILITIES FOR STORM WATER OUTLET IF THE ENTIRE PARKING LOT IS PAVED.  
 ADDITIONAL PAVEMENT REMOVAL MAY BE REQUIRED IF DAMAGED DURING CONSTRUCTION AS REQUESTED BY BUILDING DEPARTMENT AND ENGINEERING DEPARTMENT.  
 IF A CHANGE OCCURS, INCLUDING IN THE FIELD DURING CONSTRUCTION, AND THE ENTIRE PARKING IS PAVED, ON-SITE DETENTION WILL BE REQUIRED.

**PAVING LEGEND**

	PROPOSED CONCRETE PAVEMENT
	PROPOSED SEALCOAT AND RESTRIPE
	PROPOSED ASPHALT PAVEMENT

**LEGEND**

	EXISTING SANITARY SEWER
	SAN. CLEAN OUT
	EXISTING WATERMAIN
	EXISTING STORM SEWER
	EX. R. Y. CATCH BASIN
	EXISTING BURIED CABLES
	OVERHEAD LINES
	LIGHT POLE
	SIGN
	EXISTING GAS MAIN
	PROPOSED LIGHT POLE



SEAL

PROJECT  
Polestar  
33866 Woodward Avenue

CLIENT  
LaFontaine Automotive Group  
4000 West Highland Rd.  
Highland, MI 48357

Contact: Mr. Gary Laundroche  
Phone: (248) 714-1502  
Email:  
glaundroche@lafontainemotors.com

PROJECT LOCATION  
Part of the NE 1/4  
of Section 31  
T. 2N, R. 11E  
City of Birmingham,  
Oakland County, Michigan

SHEET  
Notes and Details  
Plan



Know what's below  
Call before you dig.

DATE	ISSUED/REVISED
2023-05-01	ISSUED FOR OWNER REVIEW
2023-06-12	REVISED PER OWNER
2023-06-19	REVISED PER CITY

DRAWN BY:  
T. Wood

DESIGNED BY:  
T. Wood

APPROVED BY:  
J. Longhurst

DATE:  
May 1, 2023

SCALE: N.T.S.

NFE JOB NO. SHEET NO.  
N044 C4

**UTILITIES**

AT LEAST 72 HOURS (3 WORKING DAYS) PRIOR TO THE START OF CONSTRUCTION, THE CONTRACTOR SHALL NOTIFY MISS DIG AND THE LOCAL COMMUNITY (WHERE APPLICABLE) TO STAKE LOCATIONS OF EXISTING UTILITIES.

THE CONTRACTOR SHALL EXPOSE AND VERIFY EXISTING UTILITIES FOR LOCATION, SIZE, DEPTH, MATERIAL AND CONFIGURATION PRIOR TO CONSTRUCTION. COSTS FOR EXPLORATORY EXCAVATION IS AN INCIDENTAL COST AND SHALL NOT BE CONSIDERED AN EXTRA TO THE CONTRACT.

THE CONTRACTOR SHALL NOTIFY THE ENGINEER OF ANY EXISTING UTILITIES WHICH DO NOT MATCH THE PLANS AND SPECIFICATIONS PRIOR TO COMMENCING WORK. ANY FIELD CHANGES OF THE PROPOSED UTILITIES SHALL BE APPROVED BY THE OWNER AND ENGINEER BEFORE THE WORK IS DONE.

THE CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES FROM DAMAGE. ANY SERVICE OR UTILITY DAMAGED OR REMOVED BY THE CONTRACTOR SHALL BE REPAIRED OR REPLACED AT THE EXPENSE OF THE CONTRACTOR, IN CONFORMANCE WITH THE REQUIREMENTS OF THE UTILITY COMPANY PROVIDER.

**DAMAGE TO PRIVATE PROPERTY**

ALL SIDEWALKS, DRIVEWAYS, LAWNS, FENCING, TREES, SHRUBS, SPRINKLERS, LANDSCAPING, ETC., THAT ARE DAMAGED DURING CONSTRUCTION MUST BE REPAIRED OR REPLACED, IN KIND OR BETTER, BY THE CONTRACTOR. ALL STREET SIGNS, MAIL BOXES, ETC., REMOVED SHALL BE REPLACED IN KIND OR BETTER, BY THE CONTRACTOR. ALL THE REPAIRS OR REPLACEMENTS DUE TO THE CONTRACTOR'S WORK ARE TO BE INCLUDED IN THE CONTRACT PRICE(S) AND SHALL NOT BE AN EXTRA TO THE CONTRACT.

THE CONTRACTOR SHALL SECURE PERMISSION IN WRITING FROM ADJACENT PROPERTY OWNERS PRIOR TO ENTERING UPON ANY ADJOINING PROPERTIES, UNLESS OFFSITE PERMITS HAVE ALREADY BEEN OBTAINED BY THE OWNER AND/OR CONTRACTOR.

**DEWATERING OF TRENCH AND EXCAVATIONS**

IF NOT SPECIFICALLY PROVIDED FOR IN THE CONSTRUCTION DESIGN DOCUMENTS, THE DESIGN OR QUALITATIVE ANALYSIS OF GROUND WATER DEWATERING SYSTEMS IS BEYOND THE SCOPE OF DESIGN FOR THESE DOCUMENTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR SELECTING AND PROVIDING APPROPRIATE EXCAVATION DEWATERING SYSTEMS FOR USE DURING CONSTRUCTION.

THE DEWATERING METHOD SELECTED BY THE CONTRACTOR WILL NOT ADVERSELY AFFECT ADJACENT PAVEMENTS OR STRUCTURES PRIOR TO BEGINNING DEWATERING CONDITIONS. MEANS AND METHODS OF DEWATERING ARE SOLELY THE RESPONSIBILITY OF THE CONTRACTOR. THE COST OF DEWATERING WILL BE CONSIDERED PART OF THE WORK OF CONSTRUCTING THE UNDERGROUND UTILITIES UNLESS SPECIFICALLY INDICATED OTHERWISE.

**BY-PASS PUMPING**

FROM TIME TO TIME IT MAY BE NECESSARY FOR THE CONTRACTOR TO BY-PASS PUMP TO COMPLETE THE WORK INDICATED ON THE PLANS. THE COST OF BY-PASS PUMPING, THE METHODS, EQUIPMENT AND MEANS OF PROVIDING THAT WORK ARE THE RESPONSIBILITY OF THE CONTRACTOR AND SHALL BE CONSIDERED PART OF THE WORK WHETHER SPECIFICALLY CALLED OUT ON THE PLANS OR NOT.

**MEANS AND METHODS FOR PIPE CONSTRUCTION**

IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE THE MEANS AND METHODS FOR CONSTRUCTING THE UNDERGROUND PIPE SYSTEMS PROPOSED ON THE PLANS, INCLUDING BUT NOT LIMITED TO THE NEED FOR SHORING/BRACING OF TRENCHES, DEWATERING OF TRENCHES, SCHEDULING THE WORK AT OFF PEAK HOURS, AND/OR MAINTAINING EXISTING FLOWS THAT MAY BE ENCOUNTERED VIA PUMPING, BY-PASS PIPING OR OTHER MEANS. THE CONTRACTOR SHALL NOT BE PAID ANY ADDITIONAL COMPENSATION TO IMPLEMENT ANY MEANS AND METHODS TO SATISFACTORILY COMPLETE THE CONSTRUCTION.

**PAVEMENT REMOVAL**

THE CONTRACTOR IS RESPONSIBLE FOR DETERMINING THE THICKNESS OF THE PAVEMENT REMOVAL. PAVEMENT CORE SAMPLES ARE FOR INFORMATIONAL PURPOSES ONLY AS TO THE THICKNESS OF THE PAVEMENT AT THE LOCATION OF THE SAMPLE. THE OWNER AND ENGINEER MAKE NO REPRESENTATION, WARRANTY OR GUARANTY THAT THE SAMPLES ACCURATELY REFLECT THE PAVEMENT THICKNESS ON THE PROJECT.

**MAINTENANCE OF TRAFFIC**

DURING THE PROGRESS OF THE WORK THE CONTRACTOR SHALL ACCOMMODATE BOTH VEHICULAR AND PEDESTRIAN RIGHT OF WAY. THE CONTRACTOR'S RESPONSIBILITY FOR THE EQUIPMENT AND OPERATIONS ON PUBLIC STREETS SHALL BE GOVERNED BY ALL APPLICABLE LOCAL, COUNTY AND STATE ORDINANCES, REGULATIONS AND LAWS. THE CONTRACTOR SHALL OBTAIN AND SATISFY ANY AND ALL PERMIT REQUIREMENTS BY THE LOCAL, COUNTY AND STATE GOVERNMENTAL AGENCIES.

IN ADDITION, WHERE THE WORK REQUIRES THE CLOSURE OF ONE OR MORE LANES OR IS WITHIN THE INFLUENCE OF THE ROAD OR PEDESTRIAN RIGHT OF WAY, THE CONTRACTOR SHALL PROVIDE ALL SIGNS, BARRICADES, FLAG PERSONS AND OTHER TRAFFIC CONTROL MEASURES AS REQUIRED BY MDT, THE COUNTY, OR THE COMMUNITY HAVING JURISDICTION OF THE ROAD AND IN CONFORMANCE WITH THE MICHIGAN MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES.

COMPENSATION FOR TRAFFIC CONTROL SHALL BE CONSIDERED INCLUDED IN THE CONTRACT PRICE(S) UNLESS SPECIFIC TRAFFIC CONTROL ITEMS ARE INCLUDED IN THE ACCEPTED BID PROPOSAL.

**IRRIGATION**

THE CONTRACTOR SHALL MAINTAIN OR REPAIR ANY EXISTING IRRIGATION SYSTEMS WITHIN THE PROJECT AREA UNLESS THE DRAWINGS CALL FOR THE IRRIGATION SYSTEM TO BE REMOVED. THE OWNER AND NFE MAKE NO REPRESENTATIONS, WARRANTY OR GUARANTY AS TO THE LOCATION OF THE IRRIGATION SYSTEM. THE CONTRACTOR SHALL TAKE ALL NECESSARY MEASURES TO PROTECT THE IRRIGATION SYSTEM DURING CONSTRUCTION ACTIVITIES. COMPENSATION FOR MAINTAINING OR REPAIRING EXISTING IRRIGATION SYSTEMS SHALL BE CONSIDERED INCLUDED IN THE CONTRACT PRICE(S) UNLESS SPECIFIC IRRIGATION SYSTEM REPAIR ITEMS ARE INCLUDED IN THE ACCEPTED BID PROPOSAL.

**SUB-SOIL CONDITIONS**

ANY SOIL BORING PROVIDED BY THE OWNER AND/OR ENGINEER IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THIS INFORMATION IS NOT OFFERED AS EVIDENCE OF GROUND CONDITIONS THROUGHOUT THE PROJECT AND ONLY REFLECT THE GROUND CONDITIONS AT THE LOCATION OF THE BORING ON THE DATE THEY WERE TAKEN.

THE ACCURACY AND RELIABILITY OF THE SOIL LOGS AND REPORT ARE NOT WARRANTED OR GUARANTEED IN ANY WAY BY THE OWNER OR ENGINEER AS TO THE SUB-SOIL CONDITIONS FOUND ON THE SITE. THE CONTRACTOR SHALL MAKE THEIR OWN DETERMINATION AND SUB-SOIL INVESTIGATION AND SECURE OTHER SUCH INFORMATION AS THE CONTRACTOR CONSIDERS NECESSARY TO DO THE WORK PROPOSED AND IN PREPARATION OF THEIR BID.

**SUBGRADE UNDERCUTTING AND PREPARATION**

IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO REMOVE ANY AND ALL SOILS WHICH DO NOT CONFORM TO THE PLANS AND SPECIFICATIONS. THE CONTRACTOR SHALL BE RESPONSIBLE TO PROVIDE A SUBGRADE IN CONFORMANCE WITH THE PROJECT PLANS AND/OR SPECIFICATIONS. THE MEANS AND METHODS USED TO ACHIEVE THE REQUIRED RESULT SHALL REST SOLELY WITH THE CONTRACTOR.

ANY AREAS OF UNDERCUTTING THAT RESULT IN ADDITIONAL OR EXTRA WORK BECAUSE THEY COULD NOT BE IDENTIFIED BY THE CONTRACTOR'S PRE-BID SITE OBSERVATION OR ARE NOT SET FORTH IN THE PLANS AND SPECIFICATIONS, SHALL BE BROUGHT TO THE ATTENTION OF THE OWNER AND ENGINEER BEFORE ANY EXTRA WORK IS PERFORMED. THE CONTRACTOR SHALL MAKE A REQUEST FOR ANY ADDITIONAL COMPENSATION FOR THE UNDERCUTTING IN WRITING AND THE REQUEST SHALL CONFORM TO THE CONTRACT'S CHANGE ORDER PROVISIONS.

**STRUCTURE BACKFILL**

STRUCTURAL BACKFILL SHALL BE PLACED IN CONFORMANCE WITH THE PROJECT PLANS, SPECIFICATIONS OR AS REQUIRED BY THE COMMUNITY, GOVERNMENT AGENCY OR UTILITY THAT HAS JURISDICTION OVER THE WORK.

**TRENCH BACKFILL**

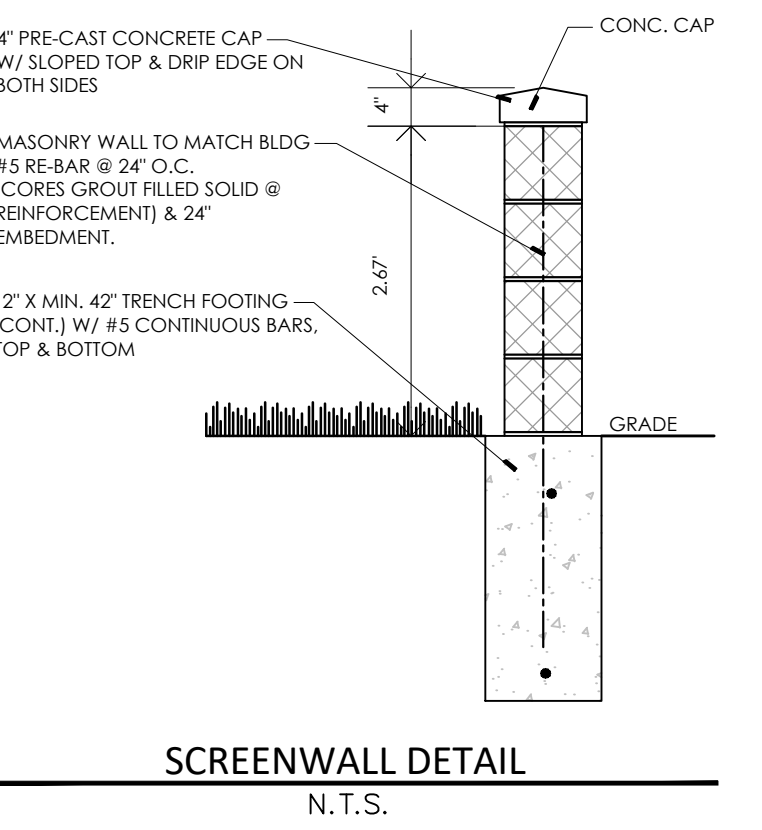
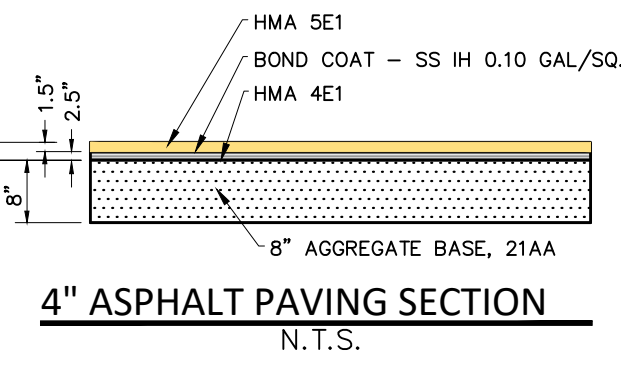
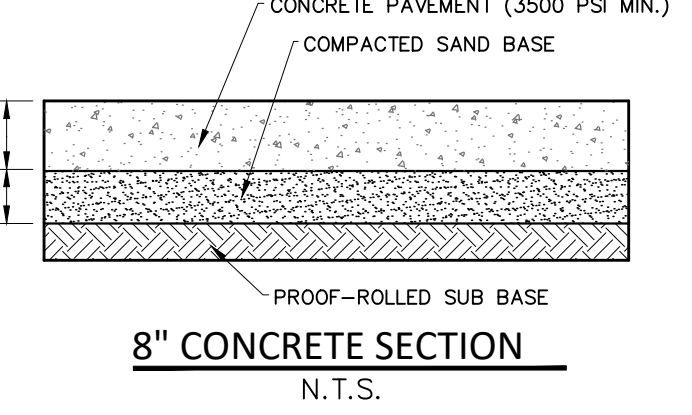
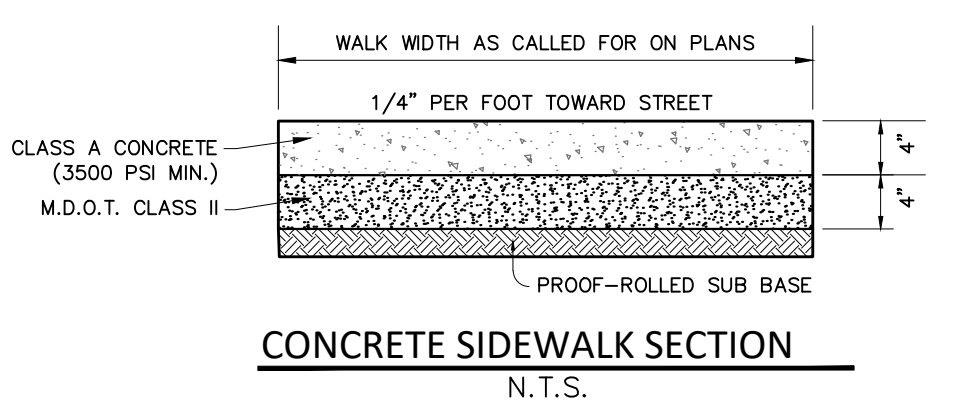
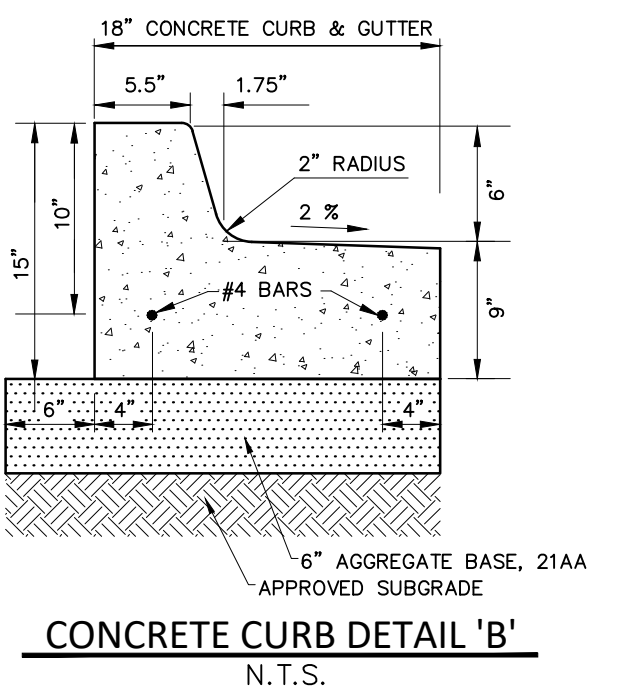
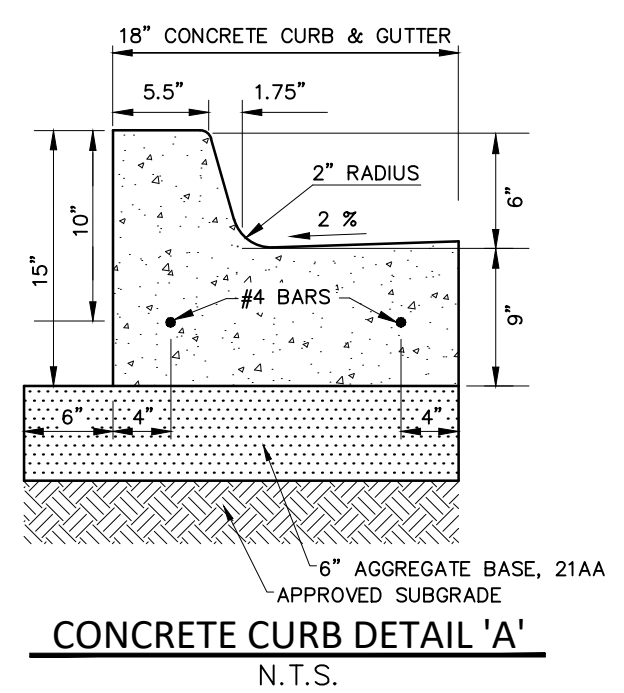
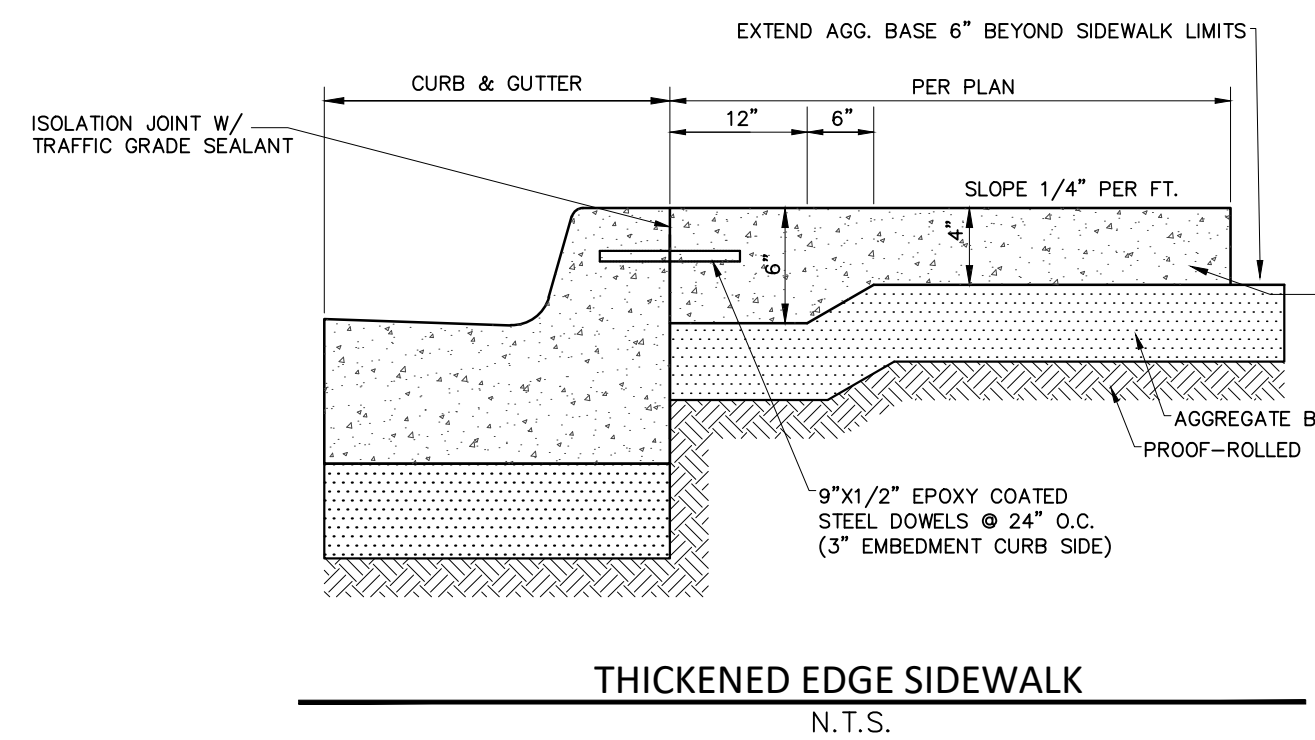
TRENCH BACKFILL SHALL BE PLACED IN CONFORMANCE WITH THE PLANS AND/OR SPECIFICATIONS. TRENCH BACKFILL SHALL ALSO BE INSTALLED IN CONFORMANCE WITH THE COMMUNITY REQUIREMENTS OR AGENCY/UTILITY GOVERNING SAID TRENCH CONSTRUCTION. IN THE CASE OF CONFLICTING REQUIREMENTS, THE MORE STRINGENT SHALL APPLY.

**EARTH BALANCE / GRADING**

IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE WHETHER THE SITE EARTHWORK BALANCES OR NOT. ANY EXCESS CUT MATERIAL SHALL BE DISPOSED OF BY THE CONTRACTOR. IN A LIKE MANNER, IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO IMPORT APPROVED FILL MATERIAL AND PLACE IT AS REQUIRED TO ATTAIN THE SITE GRADE AND COMPACTION REQUIREMENTS PER THE ENGINEER'S PLAN AND ALL APPLICABLE GOVERNMENTAL STANDARDS. THE ENGINEER AND OWNER MAKE NO REPRESENTATION AS TO THE QUANTITIES THAT MAY BE NEEDED TO CREATE A BALANCED EARTHWORK CONDITION OR THAT THE SITE EARTHWORK IS BALANCED.

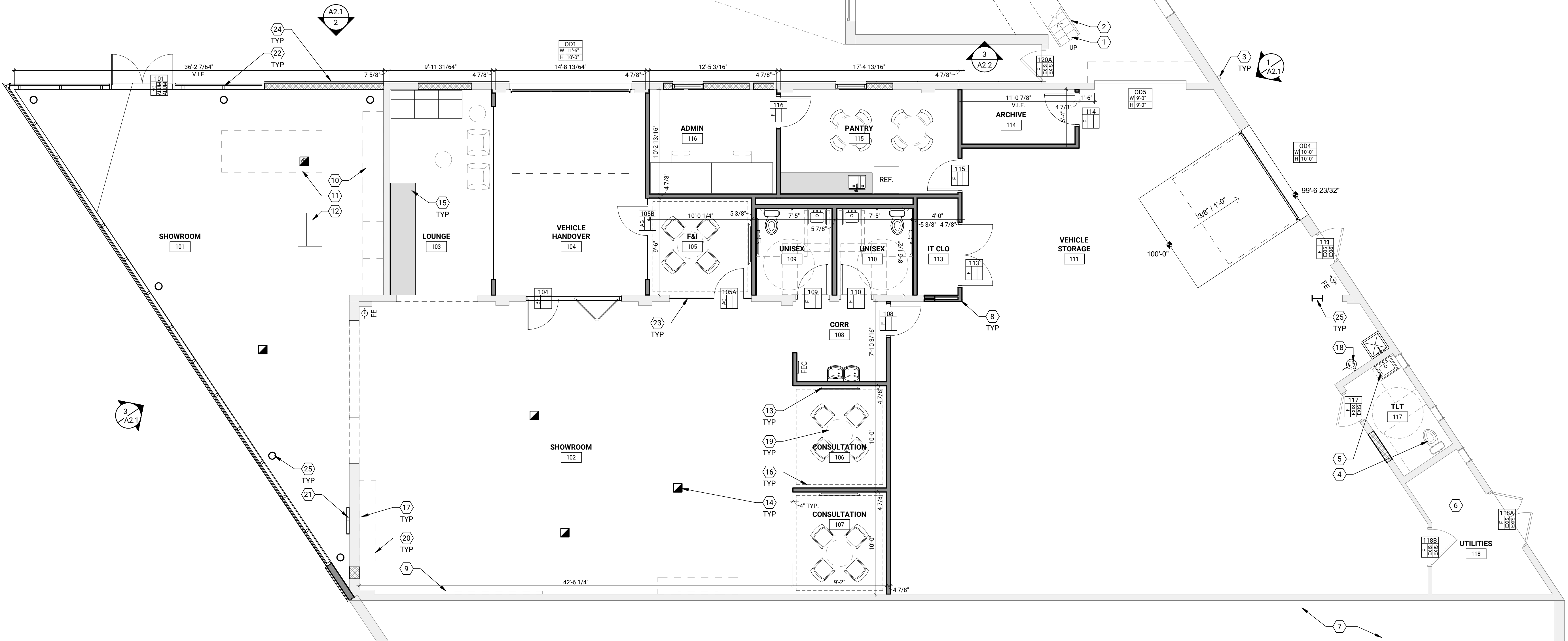
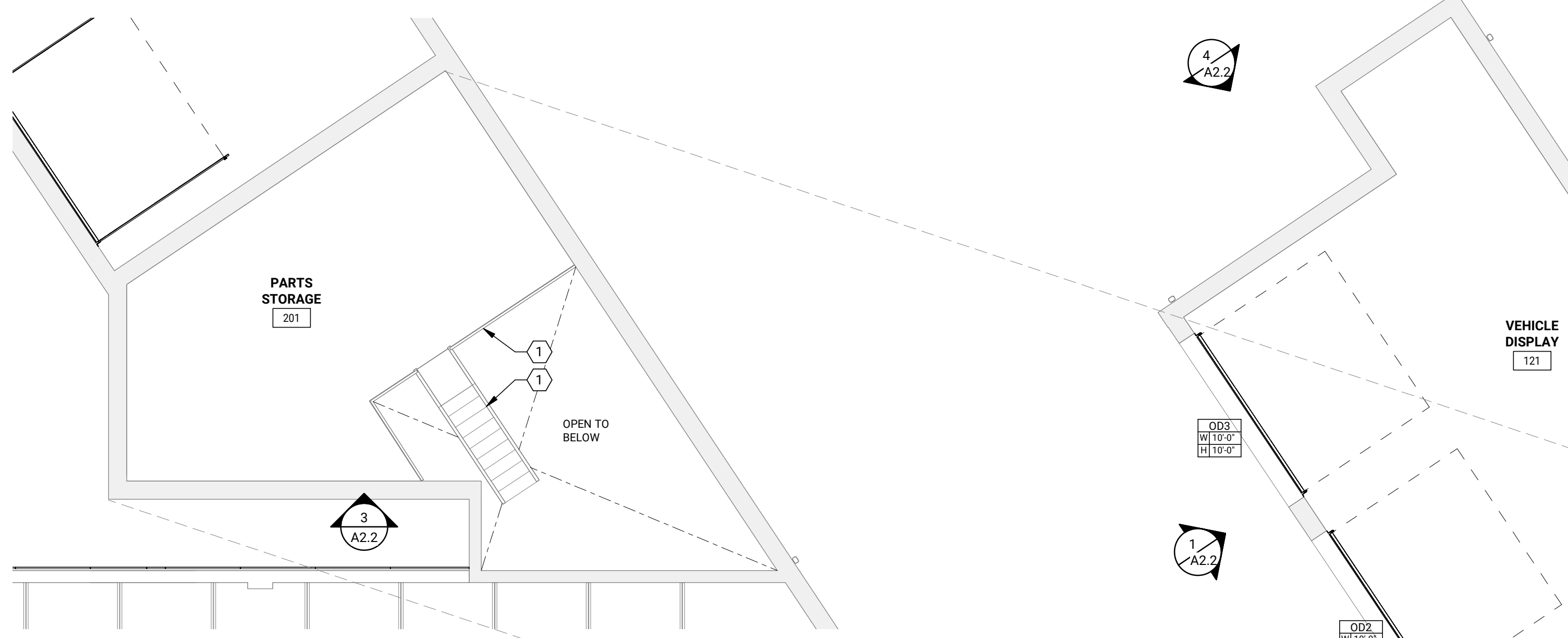
**SOIL EROSION / SEDIMENTATION CONTROL**

THE CONTRACTOR SHALL OBTAIN THE REQUIRED SOIL EROSION PERMIT AND SATISFY ALL REGULATORY REQUIREMENTS FOR CONTROLLING SOIL EROSION AND SEDIMENT TRANSPORT. THE CONTRACTOR IS RESPONSIBLE FOR THE MEANS AND METHODS. THE ENGINEER AND OWNER ARE NOT RESPONSIBLE FOR INSPECTION OR APPROVAL OF THE CONTRACTOR'S WORK IN CONNECTION WITH SATISFYING THE SOIL EROSION PERMIT REQUIREMENTS UNLESS SPECIFICALLY STATED IN THE CONTRACT DOCUMENTS.



SYMBOL	DESCRIPTION
	WALL MOUNTED FIRE EXTINGUISHER
	SEMI RECESSED FIRE EXTINGUISHER CABINET
	MILLWORK ELEMENT REFER TO A9.X EQUIPMENT PLAN FOR RESPONSIBILITY
	ELECTRIC WATER COOLER WITH BOTTLE FILLER; COORDINATE WITH PLUMBING AND ELECTRICAL
	FLOORBOX OUTLET; COORDINATE WITH ELECTRICAL
	FLOORBOX POKE-THRU DEVICE; COORDINATE WITH ELECTRICAL
	OVERHEAD DOOR CONTROL; COORDINATE WITH ELECTRICAL
	FLOOR DRAIN; COORDINATE WITH PLUMBING

- FLOOR PLAN KEY NOTES:**  
 (TYPICAL THIS SHEET ONLY)
- EXISTING STEEL MEZZANINE STAIR, PRIME AND PAINT AS REQUIRED
  - EXISTING STEEL RAILING, PRIME AND PAINT AS REQUIRED
  - EXISTING DOWNSPOUT
  - EXISTING PLUMBING FIXTURE
  - RELOCATE EXISTING PLUMBING FIXTURE IN NEW LOCATION; REFER TO SHEET AS.1
  - EXISTING UTILITY HOOKUP; REFER TO MECHANICAL, ELECTRICAL, PLUMBING
  - EXISTING ADJACENT BUILDING, N.I.S.
  - ALL EXISTING CMU CORNERS TO RECEIVE CORNER GUARDS, TYP.
  - LED SCREEN BY VENDOR; COORD w/ ELECTRICAL
  - DISPLAY WALL (COMPACT) BY VENDOR; COORD ELECTRICAL REQUIREMENTS
  - ATELIER TABLE BY VENDOR; COORD ELECTRICAL REQUIREMENTS
  - GOLDEN DESK BY VENDOR; COORD ELECTRICAL REQUIREMENTS
  - OWNER PROVIDED TELEVISION; CONFIRM FINAL MOUNTING HEIGHT w/ OWNER AND PROVIDE BLOCKING IN WALL FOR TV BRACKET SUPPORT
  - NEW ELECTRICAL FLOOR BOX (POWER/DATA); COORDINATE w/ FINAL FURNITURE LAYOUT AND ELECTRICAL
  - PROVIDE NEW MILLWORK; SEE MILLWORK DETAILS
  - INDICATES LINE OF SOFFIT / COVE ABOVE
  - ART LIGHT BOX BY VENDOR; COORD w/ ELECTRICAL
  - EMERGENCY EYEWASH STATION; COORD w/ PLUMBING
  - FURNITURE; REPURPOSE FROM EXISTING TEMP. LOCATION WHERE POSSIBLE; SEE SHEET A9.2 FOR FURNITURE/EQUIPMENT PLAN
  - FREE STANDING BENCH BY VENDOR
  - POLESTAR WALL STAR; COORD w/ ELECTRICAL
  - GLASS AND ALUMINUM CURTAINWALL/STOREFRONT CONSTRUCTION
  - FRAMELESS GLASS WALL SYSTEM w/ DOORS AS INDICATED; PROVIDE PREFINISHED METAL T&B TRACK, PROVIDE FILM AS INDICATED
  - ALUMINUM COMPOSITE PANEL SYSTEM w/ SEAMLESS JOINTS; SEE MATERIAL FINISH SCHEDULE
  - STEEL COLUMN, PRIME AND PAINT EXPOSED; COORD w/ STRUCTURAL



DO NOT SCALE DRAWINGS

ISSUED	OWNER REVIEW
04.21.23	OWNER REVIEW
05.02.23	OWNER REVIEW

DRAWN AMA  
 CHECKED SHF

**NOT FOR CONSTRUCTION**

THIS DOCUMENT AND THE INFORMATION CONTAINED THEREIN IS THE SOLE POSSESSION OF STUDIO DETROIT AND SHALL NOT BE ALTERED OR MODIFIED WITHOUT THE EXPRESS WRITTEN PERMISSION OF STUDIO DETROIT. ANY MODIFICATION OR ALTERATION THEREOF SHALL INDEMNIFY AND HOLD HARMLESS STUDIO DETROIT OF ALL EXPENSES, CLAIMS AND/OR LIABILITY RESULTING FROM SUCH MODIFICATIONS OR ALTERATIONS.  
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CLIENT  
**LAFONTAINE AUTOMOTIVE GROUP**

PROJECT 22083

**POLESTAR BIRMINGHAM**  
 33866 WOODWARD AVENUE  
 BIRMINGHAM, OAKLAND COUNTY, MI



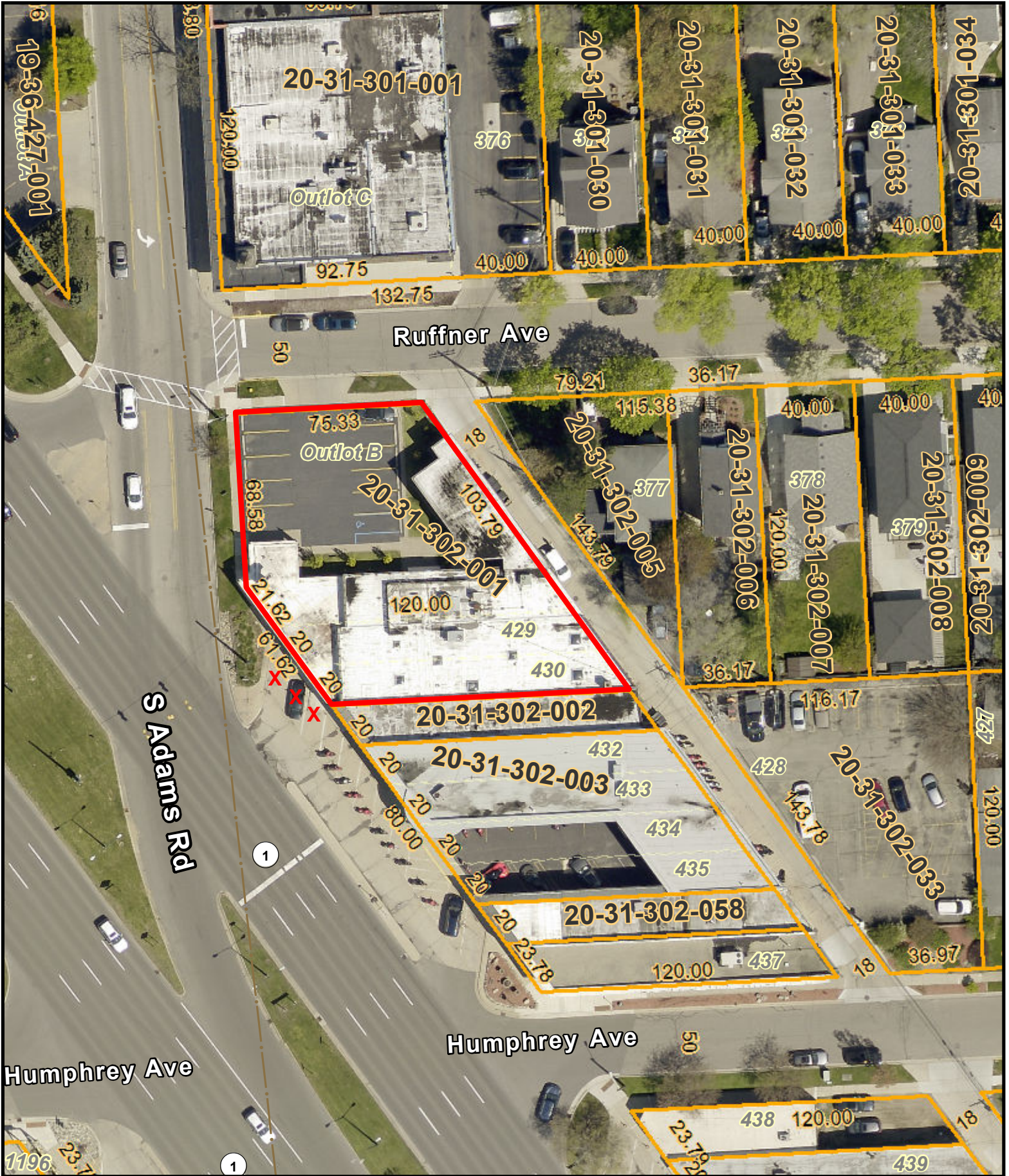
**SITE PLAN REVIEW**  
PLANNING BOARD  
CITY COMMISSION  
Questions? (248) 530-1850  
[www.bhamgov.org/publicnotices](http://www.bhamgov.org/publicnotices)  
BIRMINGHAM







# 33866 Woodward



- 2 Foot Contours
- 5 Foot Contours
- FEMA Base Flood Elevations
- FEMA Cross Sections
- 100 yr - FEMA Floodplain
- 100 yr (detailed) - FEMA Floodplain
- 500 yr - FEMA Floodplain
- FLOODWAY - FEMA Floodplain

Disclaimer: The information provided herewith has been compiled from recorded deeds, plats, tax maps, surveys and other public records. It is not a legally recorded map or survey and is not intended to be used as one. Users should consult the information sources mentioned above when questions arise. FEMA Floodplain data may not always be present on the map.

**OAKLAND COUNTY MICHIGAN**  
 Economic Development & Community Affairs  
**David Coulter**  
 Oakland County Executive

Date Created: 6/20/2023  
**NORTH**  
 1 inch = 50 feet



## **MEMORANDUM**

Finance Department

**DATE:** June 16, 2023  
**TO:** Thomas M. Markus, City Manager  
**FROM:** Mark Gerber, Finance Director/Treasurer  
**SUBJECT:** Next Service Agreement 2023-2024

---

### **INTRODUCTION:**

The City contracts with outside agencies which provide services that benefit the community and are not provided by City operations. These contracts are reviewed on an annual basis along with a description of services to be provided in the next fiscal year and a summary of services provided in the current fiscal year.

### **BACKGROUND:**

The City Commission previously approved a master service agreement to be used by various outside agencies that are requesting and have previously received funding from the City. Next has completed the required agreement and Attachments A and B, which provides a description of the services to be provided and the direct benefit of their services to the City and how the money is being spent in the current fiscal year.

### **LEGAL REVIEW:**

The City attorney has reviewed and approved the contract with Next.

### **FISCAL IMPACT:**

Next is requesting funding totaling \$126,632 for fiscal year 2023-2024. This is an increase of 3% from fiscal year 2022-2023. Funding has been approved in the fiscal year 2023-2024 budget in account 101.0-656.000-811.0000 for this expenditure.

### **PUBLIC COMMUNICATIONS:**

None required.

### **SUMMARY:**

Based on the services that Next provides and the direct benefit to the City, it is recommended that the City Commission approve Next's funding request in the amount of \$126,632.

### **ATTACHMENTS:**

1. Contract with Next for fiscal year 2023-2024



2. Attachment A – Summary of Services to be Provided – Fiscal Year 2023-2024
3. Attachment B – Summary of Services Provided – Fiscal Year 2022-2023

**SUGGESTED COMMISSION ACTION:**

Make a motion adopting a resolution approving the service agreement with Next in the amount of \$126,632 for services described in Attachment A of the agreement for fiscal year 2023-2024, account number 101.0-656.000-811.0000, and further direct the Mayor and City Clerk to sign the agreement on behalf of the City.

**SERVICES AGREEMENT**

**THIS SERVICES AGREEMENT** ("Agreement"), made this 13 day of June, 2023 by and between the **CITY OF BIRMINGHAM**, having its principal office at 151 Martin Road, Birmingham, MI 48009 ("CITY"), and Next, whose address is 2121 Wadvale, Birmingham MI ("SERVICE PROVIDER"), provides as follows:

**WITNESSETH:**

**WHEREAS**, the CITY desires to have certain services provided, which shall be of the type, nature and extent as set forth on Attachment A; and

**WHEREAS**, SERVICE PROVIDER desires to provide said services for the CITY, which it shall do in accordance with the experience it has attained from providing similar services of this nature, under the terms and conditions hereinafter stated.

**NOW, THEREFORE**, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. SERVICE PROVIDER shall perform the services as set forth on Attachment A. The type, nature and scope may be changed if mutually agreed upon in writing by SERVICE PROVIDER and the CITY.
2. The CITY shall pay a total of \$126,632 to SERVICE PROVIDER for the performance of this Agreement, which amount shall compensate SERVICE PROVIDER for all aspects of the services to be performed including, but not limited to, all preparation, coordination, management, staffing and all other services incidental thereto. Payment shall be made to SERVICE PROVIDER pursuant to the schedule contained in Attachment A.
3. All services performed shall be of the highest quality and standards that meet or exceed that which is required and expected in that service industry.

4. SERVICE PROVIDER shall provide and designate one supervisor responsible for the coordination of services provided, who shall handle problem solving and be the contact person for the CITY.

5. This Agreement shall commence immediately after both parties have signed in the place and manner indicated below and shall terminate in accordance with the provisions as set forth in Attachment A.

6. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. SERVICE PROVIDER agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

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

8. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by SERVICE PROVIDER without the prior written consent of the CITY. Any attempt at assignment without prior written consent shall be void and of no effect.

9. SERVICE PROVIDER agrees that neither it nor its employees will discriminate against any employee, independent contractor, or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. SERVICE PROVIDER shall inform the CITY of all claims or suits asserted against it by SERVICE PROVIDER's employees or contractors who work pursuant to this Agreement. SERVICE PROVIDER shall provide the CITY with periodic status reports concerning all such claims or suits, at intervals established by the CITY.

10. To the fullest extent permitted by law, SERVICE PROVIDER and any entity or person for whom SERVICE PROVIDER is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the CITY, its elected and appointed officials, employees and volunteers and others working on behalf of the CITY against any and all claims, demands, suits, or loss, including all costs connected therewith, including reasonable attorney fees, and for any damages which may be asserted, claimed or recovered against or from the CITY, its elected and appointed officials, employees, volunteers or others working on behalf of the CITY, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting solely from the act or omission of the CITY, its elected or appointed officials, employees, volunteers or others working on behalf of the CITY.

11. SERVICE PROVIDER shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required by this paragraph. All certificates of insurance shall be with insurance carriers licensed and admitted to do business in the State of Michigan. All certificates of insurance shall be with insurance carriers acceptable to the CITY. SERVICE PROVIDER shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

- A. Workers' Compensation Insurance: SERVICE PROVIDER shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.
- B. Commercial General Liability Insurance: SERVICE PROVIDER 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 for 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 Contractors 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: SERVICE PROVIDER 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 shall be *Additional Insureds*. 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. This coverage shall be primary and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance required from SERVICE PROVIDER under this Section.
- E. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal shall be sent to: Finance Department, City of Birmingham, P.O. Box 3001, 151 Martin Street, Birmingham, Michigan 48012.
- F. Proof of Insurance Coverage: SERVICE PROVIDER shall provide the CITY at the time the contracts are returned for execution, Certificates of Insurance and/or policies, acceptable to the CITY, as listed below.
1. Two (2) copies of Certificate of Insurance for Workers' Compensation;
  2. Two (2) copies of Certificate of Insurance for Commercial General Liability;
  3. Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
  4. If so requested, Certified Copies of all policies mentioned above will be furnished.
- G. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, SERVICE PROVIDER shall deliver renewal certificates and/or policies to the CITY at least (10) days prior to the expiration date.

12. 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 SERVICE PROVIDER, the CITY shall have the right to terminate this Agreement without further liability to SERVICE PROVIDER if the disqualification has not been removed within thirty (30) days after the CITY has given SERVICE PROVIDER 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.

13. 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 48<sup>th</sup> 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. This Agreement shall be governed by the laws of the State of Michigan 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 the Oakland County Circuit Court or the 48<sup>th</sup> District Court.

14. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties, except as specifically set forth herein. No supplement, modification, addition, deletion or waiver of this Agreement or any provision of this Agreement shall be binding unless executed in writing by both parties to be bound thereby.

15. SERVICE PROVIDER and the CITY agree that SERVICE PROVIDER shall be liable for its own actions and neither SERVICE PROVIDER nor its employees or contractors shall be construed as employees of the CITY. 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. SERVICE PROVIDER, including its employees and contractors, 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 and other employer contributions on behalf of SERVICE PROVIDER or SERVICE PROVIDER's employees or contractors.

16. SERVICE PROVIDER 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. SERVICE PROVIDER recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the CITY. Therefore, the SERVICE PROVIDER agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. SERVICE PROVIDER shall inform its employees and contractors of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. SERVICE PROVIDER further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

The said parties have caused this Agreement to be executed as of the date and year above written.

C. WOODS  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES Oct 16, 2028  
ACTING IN COUNTY OF Oakland

By: Christine Brown  
Its: Executive Director - Next

STATE OF MICHIGAN)  
) ss:  
COUNTY OF OAKLAND )

On this 14 day of June, 2023, before me personally appeared Christine Brown, who acknowledged that with authority on behalf of NEXT to do so he/she signed this Agreement.

C. Woods  
Notary Public  
Oakland County, Michigan  
Acting in Oakland County, Michigan  
My commission expires: 10/16/2028

**CITY OF BIRMINGHAM**

By: \_\_\_\_\_  
Therese Longe, Mayor

By: \_\_\_\_\_  
Alexandria Bingham  
Its: City Clerk

**APPROVED:**

Thomas M. Markus  
Thomas M. Markus, City Manager  
(Approved as to substance)

[Signature]  
Department Head  
(Approved as to substance)

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

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



## ATTACHMENT A

I. Name of Organization: Next, Your Place to Stay Active & Connected

II. Funding Request: \$126,632.00

III. Amount of funding received from City in current fiscal year: \$122,944.00

IV. Organization's Purpose or Mission:

The mission of Next, is to identify and meet the needs of older adults by soliciting and coordinating community resources to provide educational recreational and social programs; support outreach searches; and volunteer opportunities.

V. Description of Services to be provided (Scope of Work):

Extensive quality programming for community residents including lifelong learning and wellness, fitness, creative arts and social enrichment. In addition, Next provides comprehensive support services to assist residents who need additional support to age in place. This might include but not limited to Meals on Wheels, transportation, free tax preparation, health screenings and legal assistance, low income assistance with home and yard maintenance, home loans for major repairs along with information and referrals.

VI. Explain the value of the services to the City of Birmingham:

As Birmingham's aging population continues rapidly grow, Next provides vital enrichment opportunities while supporting independence to area residents. Strong communities are built and sustained when there is a diverse population of engaged citizens. A partnership between the city and Next is important to provide a wide variety of high quality activities, and supportive services to Birmingham residents in order to live comfortably in the City.

VII. Provide a list of the other funding sources: (List below. Attach additional sheet if necessary.)

Facility use, in-kind donation Birmingham Public Schools 36% of Next operating budget, additional sources of revenue as part of the operating budget: business donations 11%, transportation 10%, fundraisers 8% program fees 7%, membership dues 5% of the Next operating budget.

VIII. Provide a detailed list of services provided in the 2022-2023 Fiscal Year (July 1, 2022

– June 30, 2023). Include the following for each quarter:

Date & Timeframe of each service provided

- Explanation of the service provided
- Number of Birmingham residents in attendance/effectuated by service
- Explanation of how the funds were used

(Use Attachment B to record the services. Attach additional sheets if necessary.)

NOTE: Organizations receiving funding are required to provide invoices to the City for services coinciding with the timing of the delivery of those services.

Submitted by: Cris Brawn Title: Executive Director, Next  
(Print Name)

Signature:  Date: 6/13/2023

Name of Organization: \_\_\_\_ Next \_\_\_\_\_

**First Quarter (July 1, 2022 – September 30, 2022)**

<b>Date of Service</b>	<b>Duration of Service (timeframe)</b>	<b>Explain the services provided</b>	<b>Number of Birmingham residents in attendance or affected by the service</b>	<b>Breakdown of the funds used for that service</b>
7/1/22-9/30/22	On-going	Next provides lifelong learning, enrichment, creative art, fitness and travel opportunities to more than 2300 members.	Close to 800 Birmingham residents	\$16,386.00
7/1/22-9/30/22	On-going	Transportation – 420 rides provided quarterly	132 Birmingham residents	\$3,900.00
7/1/22-9/30/22	On-going	Support Services provided 2510 units of service to more than 550 area residents quarterly: DME equipment, consolations, Meals on Wheels, home visits	265 Birmingham residents	\$10,450.00

**Second Quarter (October 1, 2022 – December 31, 2022)**

<b>Date of Service</b>	<b>Duration of Service (timeframe)</b>	<b>Explain the services provided</b>	<b>Number of Birmingham residents in attendance or affected by the service</b>	<b>Breakdown of the funds used for that service</b>
10/01/2022-12/31/2022	On-going	Next provides lifelong learning, enrichment, creative art, fitness and travel opportunities to more than 2300 members.	Close to 800 Birmingham residents	\$16,386.00
10/01/2022-12/31/2022	On-going	Transportation – 420 rides provided quarterly	132 Birmingham residents	\$3,900.00
10/01/2022-12/31/2022	On-going	Support Services provided 2510 units of service to more than 550 area residents quarterly: DME equipment, consolations, Meals on Wheels, home visits	265 Birmingham residents	\$10,450.00

Name of Organization: \_\_\_\_ Next \_\_\_\_\_

**Third Quarter (January 1, 2023 – March 31, 2023)**

<b>Date of Service</b>	<b>Duration of Service (timeframe)</b>	<b>Explain the service provided</b>	<b>Number of Birmingham residents in attendance or affected by the service</b>	<b>Breakdown of the funds used for that service</b>
01/01/2023-03/31/2023	On-going	Next provides lifelong learning, enrichment, creative art, fitness and travel opportunities to more than 2300 members.	Close to 800 Birmingham residents	\$16,386.00
01/01/2023-03/31/2023	On-going	Transportation – 420 rides provided quarterly	132 Birmingham residents	\$3,900.00
01/01/2023-03/31/2023	On-going	Support Services provided 2510 units of service to more than 550 area residents quarterly: DME equipment, consolations, Meals on Wheels, home visits	265 Birmingham residents	\$10,450.00

**Fourth Quarter (April 1, 2023 – June 30, 2023)**

<b>Date of Service</b>	<b>Duration of Service (timeframe)</b>	<b>Explain the service provided</b>	<b>Number of Birmingham residents in attendance or affected by the service</b>	<b>Breakdown of the funds used for that service</b>
04/01/2023-06/30/2023	On-going	Next provides lifelong learning, enrichment, creative art, fitness and travel opportunities to more than 2300 members.	Close to 800 Birmingham residents	\$16,386.00
04/01/2023-06/30/2023	On-going	Transportation – 420 rides provided quarterly	132 Birmingham residents	\$3,900.00
04/01/2023-06/30/2023	On-going	Support Services provided 2510 units of service to more than 550 area residents quarterly: DME equipment, consolations, Meals on Wheels, home visits	265 Birmingham residents	\$10,450.00



BIRMARE-01

LJOLLIFF

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
6/20/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Hershey Insurance Group, Inc. 2855 Coolidge Highway Ste 204 Troy, MI 48084	<b>CONTACT NAME:</b> Andrew White	
	<b>PHONE (A/C, No, Ext):</b>	<b>FAX (A/C, No):</b>
<b>E-MAIL ADDRESS:</b> dreww@higmi.com		
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURER A : Philadelphia Indemnity Insurance Co.</b>		<b>18058</b>
<b>INSURER B : Citizens Insurance Company of America</b>		<b>31534</b>
<b>INSURER C :</b>		
<b>INSURER D :</b>		
<b>INSURER E :</b>		
<b>INSURER F :</b>		

**INSURED**

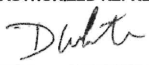
Birmingham Area Seniors Coordinating Council dba NEXT  
 2121 Midvale Street.  
 Birmingham, MI 48009

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **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 VWD	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 <input checked="" type="checkbox"/> Prof \$1M / \$2M <input checked="" type="checkbox"/> Abuse \$500k / \$500k GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X		PHPK2467981	11/1/2022	11/1/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X		PHPK2467981	11/1/2022	11/1/2023	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			PHUB833708	11/1/2022	11/1/2023	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	W8B7925648	1/9/2023	1/9/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 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. This coverage shall be primary and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing.

<b>CERTIFICATE HOLDER</b>  City of Birmingham P.O. Box 3001 Birmingham, MI 48012	<b>CANCELLATION</b>  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**

Parking System

DATE: June 26<sup>th</sup>, 2023

TO: Jana Ecker, Acting City Manager

FROM: Aaron Ford, Parking Systems Manager

SUBJECT: 2023 N. Old Woodward Garage Repair – Construction Period Services

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### **INTRODUCTION:**

Structural assessment reports were completed at all five of the City's parking structures by Wiss, Janney, Elstner Associates, Inc. (WJE). As part of those assessments, WJE was asked to prepare a 5-year plan to address all the repairs needed. "Immediate Repair Recommendations" were approved by the City Commission and completed by the end of 2022. WJE received approval to design repairs and develop construction documents for each of the City's five parking structures as part of a long-term (3-5 years) repair plan with construction beginning at the North Old Woodward Garage in June 2023. RAM Construction was awarded the repair contract and the City is looking to have WJE provide Construction Period Services for the duration of the repairs at N. Old Woodward.

### **BACKGROUND:**

In 2020 and 2021, WJE performed condition assessments at four of the five subject parking structures for the purpose of developing short, mid, and long-term repair and maintenance strategies, as well as solutions to rehabilitate and extend the useful life of the structures. Following the completion of the condition assessments, the City chose to perform limited repairs at the North Old Woodward, Chester, Park, and Peabody parking structures. WJE designed repairs, developed construction documents, and provided construction period services for the repair projects during fall 2021. The projects at the Chester, Park, Peabody, and NOW parking structures have been completed. WJE also has previous experience, prior to the 2020-2021 assessment program, with the North Old Woodward and Pierce Street parking structures.

At a meeting with WJE on February 3, 2022, staff requested that WJE submit a proposal to design repairs and prepare construction drawings for the anticipated comprehensive repair projects at each parking structure, with the repair work to be performed over the subsequent years. The anticipated repair projects were to include all remaining repair recommendations outlined in WJE's original condition assessment reports, which generally consist of structural repairs, waterproofing

and facade repairs. City staff also requested that WJE include aesthetic and serviceability improvements within the parking structures and stairwells, including painting, and lighting.

The scope of services in the proposed agreement provides the City with a consultant that has extensive knowledge of the structures and recommended repairs. WJE will lead preconstruction and progress meetings, observe work in progress to ensure it is completed within the specifications required in the BID documents, measure work quantities to verify payments to contractors, review and make recommendations requiring further inspection once concrete is removed and review contractor submittals and quantities. WJE estimates 36 site visits during construction.

**LEGAL REVIEW:**

The City Attorney reviewed and approved the agreement with WJE and the Construction Period Services Proposal.

**FISCAL IMPACT:**

WJE's proposal for construction period services for the 2023 N. Old Woodward Repair project are \$88,000. During the budgeting process for the 2023-2024 fiscal year, the repair design and construction documents were still being developed. Repair recommendations were unknown at the time and therefore only a placeholder of \$67,000 was budgeted for construction period services; however, there is sufficient fund balance in the capital outlay account to offset these costs.

**PUBLIC COMMUNICATIONS:**

None.

**SUMMARY:**

RAM Construction began repairs to the N. Old Woodward Garage in June 2023. Work is expected to be completed by October 31<sup>st</sup>, 2023.

Staff recommends this construction period services agreement with WJE to provide the City with a consultant to oversee the work done by RAM Construction and to provide on-site inspections and ensure conformance with repair specifications. Additionally, WJE will measure work quantities to verify contractor payments.

**ATTACHMENTS:**

1. Proposal from WJE – Construction Period Services
2. Agreement between the City and WJE.

**SUGGESTED COMMISSION ACTION:**

Make a motion to adopt a resolution awarding the contract to Wiss, Janney, Elstner Associates, Inc. for construction period services in an amount not to exceed \$88,000; further, to charge the contract to the structure's capital outlay account as costs are incurred. Furthermore, to authorize the Mayor and City Clerk to sign the contract on behalf of the city.

## **AGREEMENT OF CONSTRUCTION PERIOD SERVICES**

**THIS AGREEMENT** is entered into this \_\_\_ day of \_\_\_\_\_, 2023, by and between the **CITY OF BIRMINGHAM**, whose address is 151 Martin Street, Birmingham, MI 48009 (hereinafter referred to as the City) and **WJE ENGINEERS AND ARCHITECTS**, A Michigan P.C., whose address is 30700 Telegraph Road, Suite 3580, Bingham Farms, MI 48025, (hereafter referred to as Contractor and the foregoing shall collectively be referred to as the parties.

**WHEREAS**, the City desires hiring a qualified professional firm to furnish construction period services and supervision necessary to complete inspections as detailed in the City owned parking structure known as: N. Old Woodward Ave; and

**WHEREAS**, the Contractor has professional qualifications and unique historical knowledge that meet the project requirements and has provided a response and cost proposal to perform the requested repair design and construction document development as descriptive in the scope of work.

**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 Construction Period Services for 2023 N. Old Woodward Parking Structure Repairs and the Contractors cost proposal dated June 14, 2023, 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 one (1) years 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 Contractor 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 design and construction documents prepared by the Contractor 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. The total contract amount is \$88,000 and includes the scope of work as indicated in the Terms and Conditions on page 2 of the Construction Period Services for North Old Woodward 2023 Repairs which is attachment A.

**4.** 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 Contractors 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's 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 professional 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 Contractor 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, to the extent caused by the negligent 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 4 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. 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 Contractor 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, 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: Aaron Ford  
(248) 530-1257

Contractor: Matthew E. Lewis, PE  
Senior Associate and Project Manager  
WJE Engineers and Architects  
(Wiss, Janney, Elstner Associates)  
30700 Telegraph Road - Suite 3580  
Bingham Farms, MI 48025  
Phone: 248-593-0900

**13. COVID:** The Contractor shall follow all of the City's COVID-19 safety protocols while on City property. Additionally, Contractor 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 Contractor's 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 Contractor is unable to comply, this violation of safety protocols will constitute a breach of contract by the Contractor.

**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 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.

**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 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.

**18. 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.

**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 PROPOSALS:** The Contractor shall be held to and bound by all terms, conditions, warranties and representations which it made in its written proposal dated September 30, 2022. In the event of a conflict in any of the terms of this Agreement and the proposal dated September 30, 2022, the terms of this Agreement shall prevail.

**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.

**IN WITNESS WHEREOF,** the parties hereto agree to be bound by the above terms and conditions, and Contractor, 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.

WJE ENGINEERS AND ARCHITECTS

By: *Matthew Lewis*

Its: Senior Associate

STATE OF MICHIGAN )  
 ) ss:  
COUNTY OF OAKLAND )

On this 21st day of June, 2022, before me personally appeared Matthew Lewis, who acknowledged that with authority on behalf of WJE ENGINEERS AND ARCHITECTS to do so he/she signed this Agreement.

*Karen A. Izzard*  
Notary Public

MACOMB County, Michigan  
Acting in OAKLAND County, Michigan

My commission expires: 8/15/2029



**CITY OF BIRMINGHAM:**

By: \_\_\_\_\_  
Therese Longe, Mayor

By: \_\_\_\_\_  
Alexandria D. Bingham, City Clerk

**APPROVED:**

*Jana Eker*  
Jana Eker, City Manager (Acting)  
(Approved as to substance)  
*Eker*

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

*Aaron Ford*  
Aaron Ford, Parking Manager  
(Approved as to substance)

*Mark A. Gerber*  
Mark A. Gerber, Finance Director  
(Approved as to Financial Obligation)



## **MEMORANDUM**

ENGINEERING DEPARTMENT

**DATE:** June 26, 2023

**TO:** Jana Ecker, Acting City Manager

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

**SUBJECT:** Pierce Street Paving Project  
Hearing of Necessity for Water Service Special Assessment District (SAD)

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### **INTRODUCTION:**

The Pierce Street Paving Project includes the replacement of the water main on Pierce Street between E. Lincoln Street and 14 Mile Road and the repaving of that section of the road. The City proposes to replace private water services meeting size criteria in the Right-Of-Way (ROW) in an effort to protect the public investments being made with this project.

### **BACKGROUND:**

In accordance with current City policy established to protect the public investment being made with capital improvement projects in public roadways, as part of the project, the City intends to replace all water services less than 1 inch in diameter. All undersized water services less than 1 inch in diameter will be replaced with a new 1-inch diameter service, for service lengths located within the public road right-of-way. The City is not aware of any water services of unsuitable material, such as lead, in this area. Per rules from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) requiring the complete removal of lead water services from the water main to the water meter on private property, should a lead service be discovered it will also be replaced as part of the project. Per EGLE, the City is not allowed to charge a property owner for costs associated with the replacement of an existing lead water service.

The parcels within the project zone that are subject to the Water Service Special Assessment District are highlighted on the attached map. Appended to this report is a list of properties that the department plans to include in the assessment district, along with estimated construction costs to be assessed.

### **LEGAL REVIEW:**

Chapter 94 – Special Assessments of the Birmingham City Code outlines the process by which a special assessment is conducted in the City of Birmingham. This project will follow the prescribed City Code procedures. The City Attorney has no objections.

**FISCAL IMPACT:**

Revenue generated from the Water Service SAD for the Pierce Street Project will defray the costs incurred by the City for the construction of these improvements. One hundred percent of the costs for the water service within the public right-of-way will be paid by the property owner. The cost can be paid back in either a lump sum or over up to a 5-year period with interest. The interest rate will be confirmed at the Confirmation of Roll.

**PUBLIC COMMUNICATIONS:**

Notice for the Confirmation of Roll is to be distributed by the Clerk’s Office. The Engineering Department previously sent a letter to all property owners explaining the scope of work and held a property owners meeting on June 6, 2023, to discuss the project. The department will send all property owners another letter explaining the project and an explanation of assessment costs.

**SUMMARY:**

The Engineering Department recommends that the Commission declare necessity and approve a Special Assessment District for Water Service as part of the Pierce Street Project. Should the Commission approve the Special Assessment District, a Public Hearing for Confirmation of the Roll should be set at the City Commission meeting on July 10, 2023.

**ATTACHMENTS:**

- Map of Proposed Special Assessment District for Water Service Replacements (2 pages)
- Pierce Street Paving Project Plans (25 pages)
- Spreadsheet with Estimated Costs of Services (1 page)
- Clerk’s Confirmation of Public Hearing Notice (11 pages)

**SUGGESTED COMMISSION ACTION:**

WHEREAS, Notice was given pursuant to Section 94-7 of the City Code, to each owner or party-in-interest of property and lots to be assessed, by first class mail, and by publication in a newspaper generally circulated in the City; and

WHEREAS, The City Commission has conducted a public hearing and has determined to proceed with the project of replacing water services that are less than 1 inch in diameter on Pierce Street between E. Lincoln Street and W. 14 Mile Road; and

WHEREAS, The City has previously established a policy requiring replacement of water services less than 1 inch in diameter when a water main is being replaced and the City street is open for repairs or reconstruction; and

WHEREAS, The City Commission, after the public hearing, has determined that the Pierce Street Project, and the replacing of water services that are less than 1 inch in diameter, is a necessity and is in the best interest of the City; and

WHEREAS, The Commission has approved the detailed plans and estimates of cost prepared by the City Engineer; and

WHEREAS, Formal bids have been received and the actual cost of water service replacement has been determined; and



WHEREAS, The City Engineer has determined the boundaries of water service laterals located within the limits of the following streets shall be installed as part of the Pierce Street Project (Contract #3-23(W)):

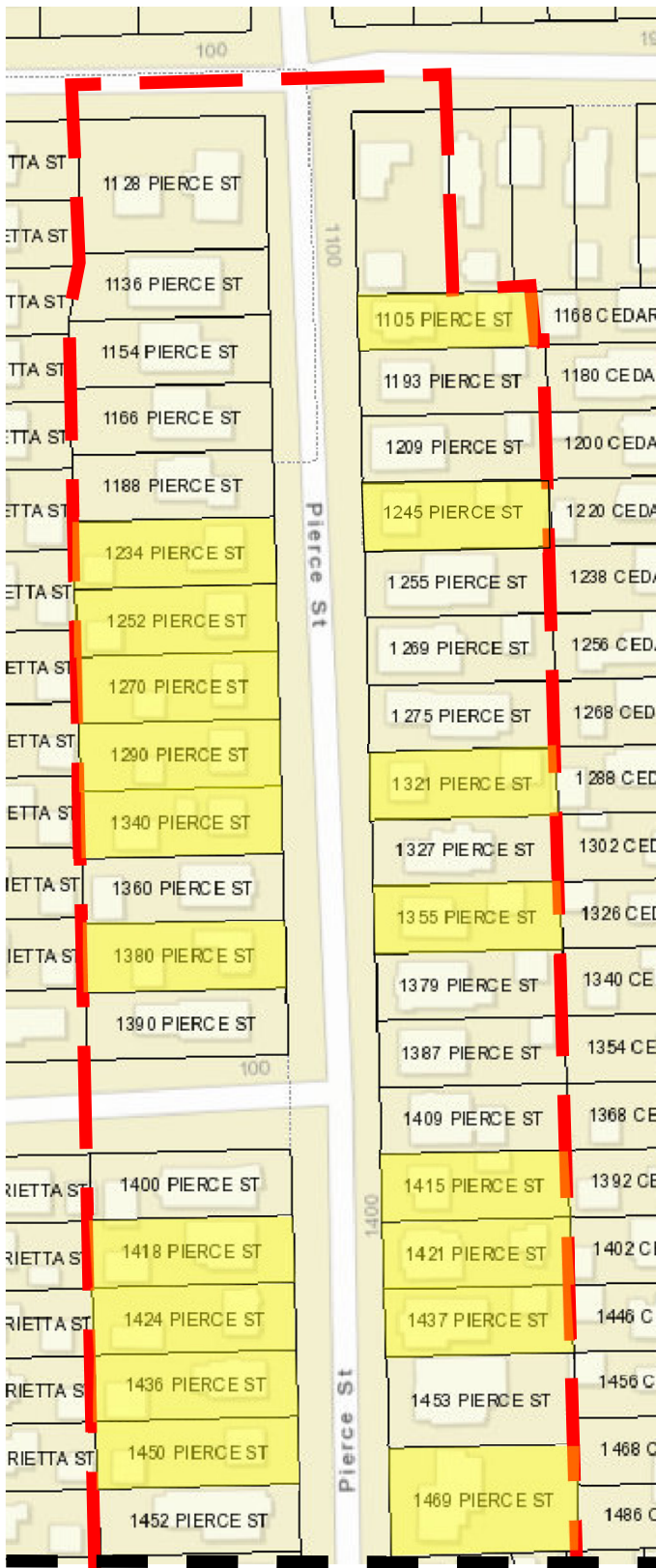
Pierce Street – Lincoln Street to 14 Mile Road; and

WHEREAS, The formula used in making the assessment is 100% of the contractor’s charge for replacing the water service that is less than 1 inch in diameter within the public right-of-way between the new water main and the property line (calculated at the rate of \$115.00 per foot of water service pipe).

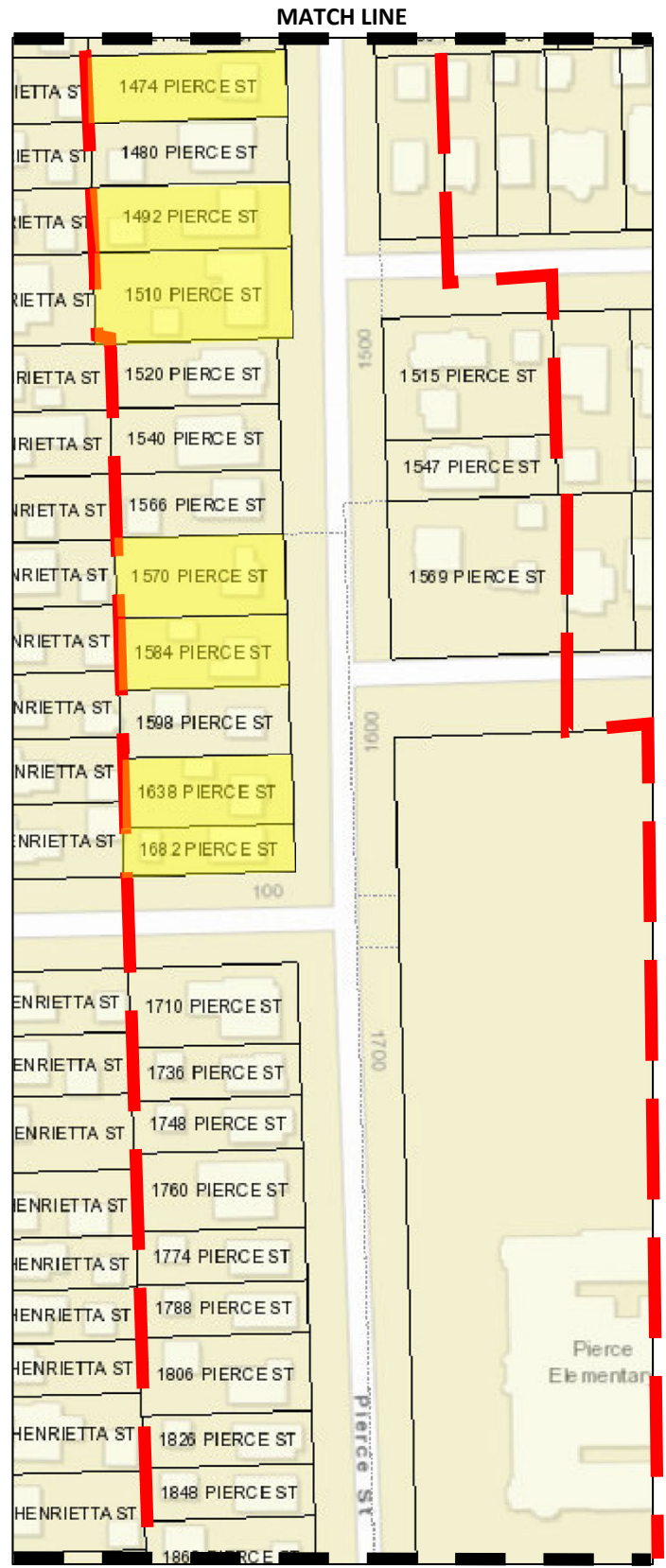
THEREFORE LET IT BE RESOLVED, The City Commission has determined that the scope of the public improvement as described is in the best interest of the City and will benefit the properties listed in the assessment roll, and the City Commission directs the Manager to prepare a Special Assessment Roll and present the same to the Commission for confirmation and further set a Public Hearing and give notice on July 10, 2023.

Parcel ID / Sidwell Number	Street Address
19-36-401-006	1105 Pierce Street
19-36-329-011	1234 Pierce Street
19-36-401-009	1245 Pierce Street
19-36-329-012	1252 Pierce Street
19-36-329-013	1270 Pierce Street
19-36-329-014	1290 Pierce Street
19-36-401-046	1321 Pierce Street
19-36-329-015	1340 Pierce Street
19-36-401-013	1355 Pierce Street
19-36-329-017	1380 Pierce Street
19-36-401-017	1415 Pierce Street
19-36-333-020	1418 Pierce Street
19-36-401-018	1421 Pierce Street

Parcel ID / Sidwell Number	Street Address
19-36-333-021	1424 Pierce Street
19-36-333-022	1436 Pierce Street
19-36-401-019	1437 Pierce Street
19-36-333-023	1450 Pierce Street
19-36-401-021	1469 Pierce Street
19-36-333-025	1474 Pierce Street
19-36-333-027	1492 Pierce Street
19-36-333-028	1510 Pierce Street
19-36-333-032	1570 Pierce Street
19-36-333-033	1584 Pierce Street
19-36-333-035	1638 Pierce Street
19-36-333-036	1682 Pierce Street
19-36-379-025	100 W. 14 Mile Road

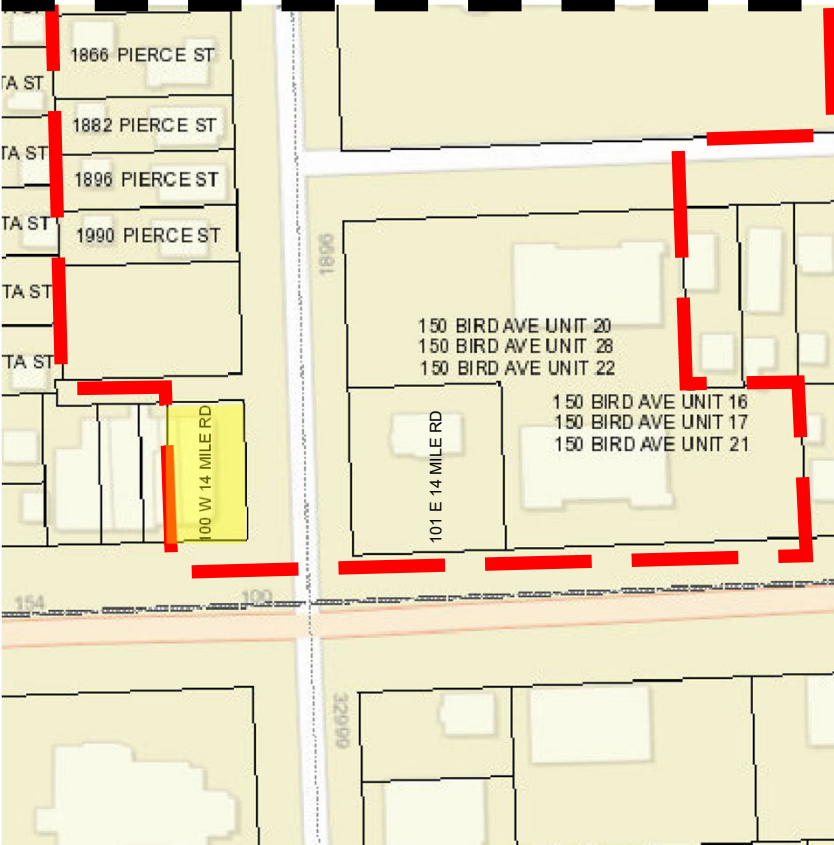


MATCH LINE



MATCH LINE NEXT PAGE

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= Limits of Project



= Property within Water Service SAD



**BIRMINGHAM**  
A WALKABLE CITY

ENGINEERING DEPARTMENT

**PIERCE STREET PAVING PROJECT**  
CONTRACT#3-23(P)

**SHEET INDEX**

- COVER SHEET
- C1 PAVING & UTILITY PLAN STA. P.O. B. TO 5+00
- C2 PAVING & UTILITY PLAN STA. 5+00 TO 6+00
- C3 PAVING & UTILITY PLAN STA. 6+00 TO 7+00
- C4 PAVING & UTILITY PLAN STA. 7+00 TO 8+00
- C5 PAVING & UTILITY PLAN STA. 8+00 TO 9+00
- C6 HYDRANT LEAD PROFILES
- C7 STORM SEWER PROFILES
- C8 STORM SEWER PROFILES
- C9 STORM SEWER PROFILES
- C10 GRADING PLAN STA. 4+00 TO 5+00
- C11 GRADING PLAN STA. 5+00 TO 6+00
- C12 GRADING PLAN STA. 6+00 TO 7+00
- C13 GRADING PLAN STA. 7+00 TO 8+00
- C14 GRADING PLAN STA. 8+00 TO 9+00
- C15 INTERSECTION GRADING DETAILS (1 of 2)
- C16 INTERSECTION GRADING DETAILS (2 of 2)
- C17 EXISTING & PROPOSED CROSS-SECTIONS
- C18 ADVANCED WARNING SIGNAGE OVERLAP - PIERCE STREET
- C19 NOTES & DETAILS (2 of 3)
- C20 NOTES & DETAILS (3 OF 3)
- C21 QUANTITIES

CITY OF BIRMINGHAM - SEWER STANDARD DETAILS  
CITY OF BIRMINGHAM - WATER MAIN STANDARD DETAILS

**WATER SERVICE NOTE**  
ALL WATER AND SEWER SERVICE LATERALS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF BIRMINGHAM WATER MAIN STANDARD DETAILS. THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF BIRMINGHAM.

**UTILITY NOTE**  
THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF BIRMINGHAM. THE CONTRACTOR SHALL PROTECT ALL UTILITIES THAT ARE NOT TO BE DISTURBED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF BIRMINGHAM.

**811**  
Know what's Below  
Call before you dig.

**BENCHMARK NOTE**  
THE BENCHMARK POINTS SHOWN ON THIS SHEET WERE ESTABLISHED OFF OF THE CITY OF BIRMINGHAM BENCHMARK DATUM.



**ALL WATER MAIN, STORM AND SEWER SERVICE LATERALS SHALL BE BROADCASTED WITH COMPACTED GRANULAR SAND MATERIAL.**

**CAUTION! LIVE WATER MAIN**  
BEFORE CUTTING IN NEW MAIN FITTINGS, THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF BIRMINGHAM. THE CONTRACTOR SHALL PROTECT ALL UTILITIES THAT ARE NOT TO BE DISTURBED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF BIRMINGHAM.

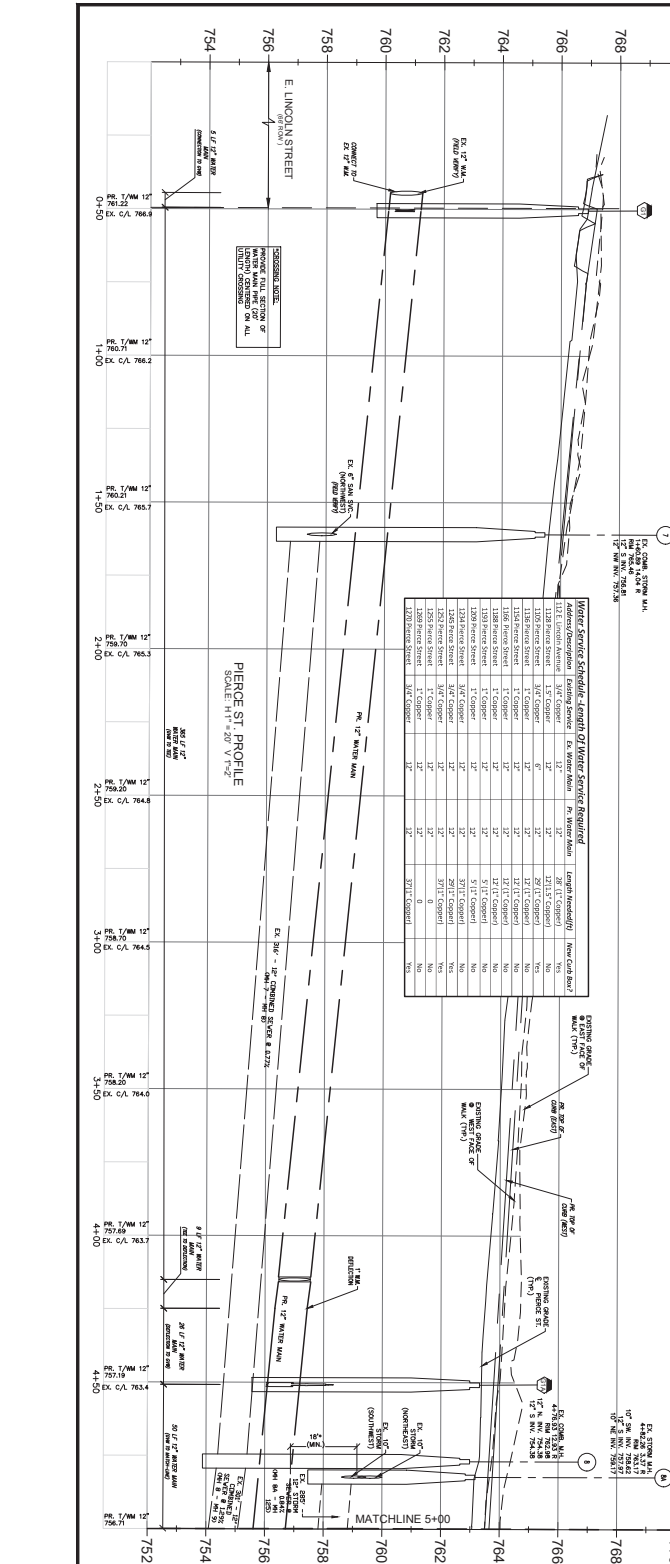
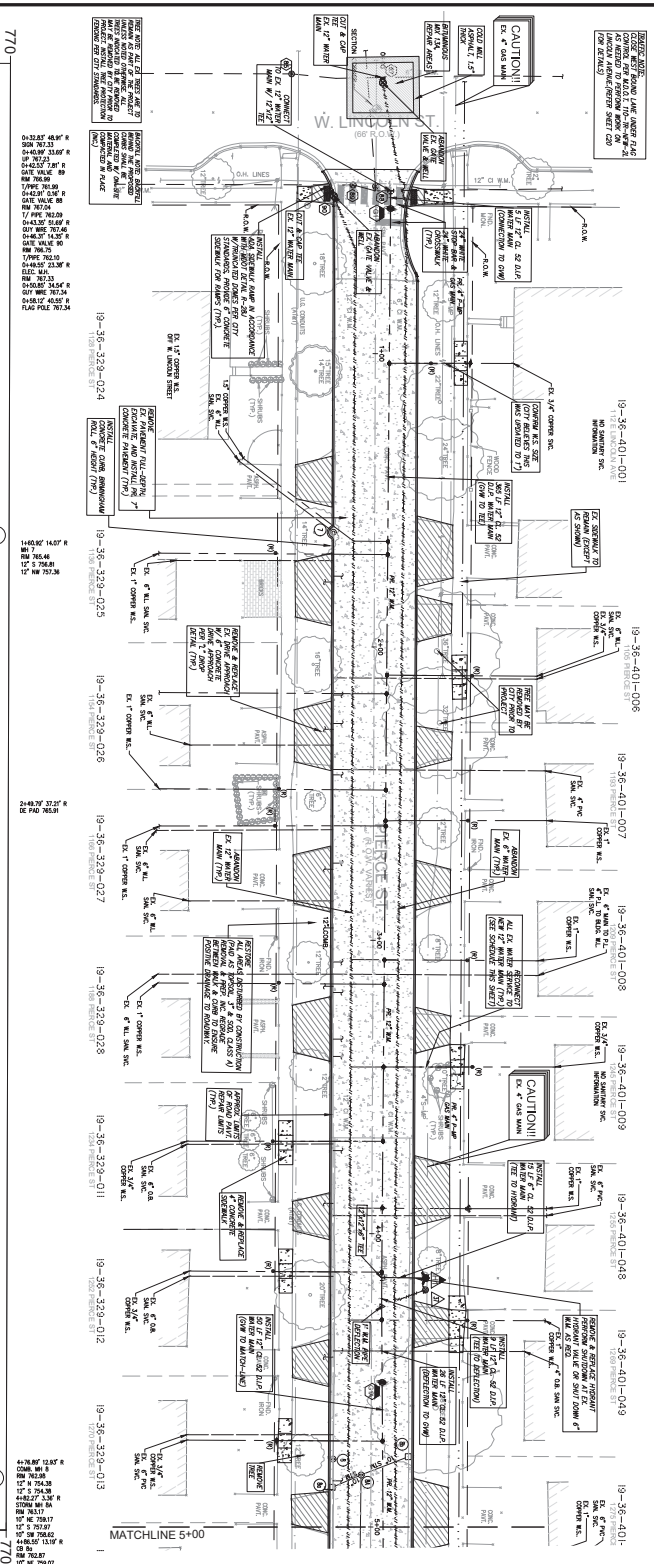
**CONSTRUCTION NOTES**

1. The contractor shall apply for all work within the contract.
2. The contractor shall notify MISS D/G 1-800-482-7171 at least 3 working days in advance of any excavation or installation of any utility or structure and prior to the start of construction. (248-526-1850).
3. See the City of Birmingham drawings, "Sewer Standard Details" and "Water Main Standard Details" for details of manholes, catch basins, inlets, and related sewer and water main work.
4. All excavation under or within three feet of pavement, public or private, shall be backfilled and compacted with sand.
5. The points at the edge of all excavations in the pavement shall be sawcut, or pavement will be removed to existing grade, as directed by the Engineer. There shall be no exposed soil, rock or saw cutting pavements.
6. The contractor shall be responsible for damage to existing utilities, government, trees, landscaping, green, etc., whether located on public or private property. Such trees and plantings shall be protected, replaced, or new construction shall be installed to match existing conditions. Make-up coverings shall be EIMV (void) covers as noted on the detail sheets and plans, unless otherwise specified.
7. Storm, sewer and water main trenches shall be backfilled with MDOT Class II sand and properly compacted to 95% of modified proctor density.
8. A permit from the Michigan Department of Environment, Great Lakes & Energy (EGLE) is required for all new water main installations. Also, no work shall be performed in the City of Birmingham without a permit from the Michigan Department of Environment, Great Lakes & Energy (EGLE).
9. The contractor shall coordinate and cooperate with all other utility companies working in the same area, project related or not, during the same allotted construction period.
10. All proposed Public Water Main for this project shall be Pressure Class 52, unless otherwise noted.

DESIGN ENGINEER SEAL  
Professional Engineer  
State of Michigan  
No. 12345  
Date: 06/08/2023

APPROVED DATE  
JUNE 08, 2023 ADDENDUM #1

1. 1.25' 11.11' UTILITY FILE 767.0  
 1. 2.25' 22.22' UTILITY  
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 1. 86.25' 866.66' UTILITY  
 1. 87.25' 877.77' UTILITY  
 1. 88.25' 888.88' UTILITY  
 1. 89.25' 899.99' UTILITY  
 1. 90.25' 900.00' UTILITY  
 1. 91.25' 911.11' UTILITY  
 1. 92.25' 922.22' UTILITY  
 1. 93.25' 933.33' UTILITY  
 1. 94.25' 944.44' UTILITY  
 1. 95.25' 955.55' UTILITY  
 1. 96.25' 966.66' UTILITY  
 1. 97.25' 977.77' UTILITY  
 1. 98.25' 988.88' UTILITY  
 1. 99.25' 999.99' UTILITY  
 1. 100.25' 1000.00' UTILITY



**Manhole Service Schedule Length of Manhole Service Required**

Manhole/Structure	Existing Service	Ex. Water Main	Prop. Water Main	Length Required	Notes/Comments
1203 Service Street	12"	12"	12"	12"	12" Concrete
1204 Service Street	12"	12"	12"	12"	12" Concrete
1205 Service Street	12"	12"	12"	12"	12" Concrete
1206 Service Street	12"	12"	12"	12"	12" Concrete
1207 Service Street	12"	12"	12"	12"	12" Concrete
1208 Service Street	12"	12"	12"	12"	12" Concrete
1209 Service Street	12"	12"	12"	12"	12" Concrete
1210 Service Street	12"	12"	12"	12"	12" Concrete
1211 Service Street	12"	12"	12"	12"	12" Concrete
1212 Service Street	12"	12"	12"	12"	12" Concrete
1213 Service Street	12"	12"	12"	12"	12" Concrete
1214 Service Street	12"	12"	12"	12"	12" Concrete
1215 Service Street	12"	12"	12"	12"	12" Concrete
1216 Service Street	12"	12"	12"	12"	12" Concrete
1217 Service Street	12"	12"	12"	12"	12" Concrete
1218 Service Street	12"	12"	12"	12"	12" Concrete
1219 Service Street	12"	12"	12"	12"	12" Concrete
1220 Service Street	12"	12"	12"	12"	12" Concrete

**SEWER STRUCTURE SCHEDULE**

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

**WATER MAIN SCHEDULE**

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

**LEGEND**

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

**UTILITIES NOTE**

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

**PROJECT LOCATION**

Part of the Southeast 1/4 of Section 36, Town 2 North, Range 11 North, C&G of Birmingham, Madison County, Michigan

**CLIENT**

BIRMINGHAM Engineering Department  
151 Martin Street  
Birmingham, MI 48203  
Phone: 248-333-8257  
Fax: 248-333-8257  
WWW.MOWAREFAIRUS.COM

**DATE**

12-08-2021

**SCALE**

1" = 20' / 1" = 2'

**DATE**

12-08-2021

**SCALE**

1" = 20' / 1" = 2'

**DATE**

12-08-2021

**SCALE**

1" = 20' / 1" = 2'

**PROJECT**

Pierce Street Paving

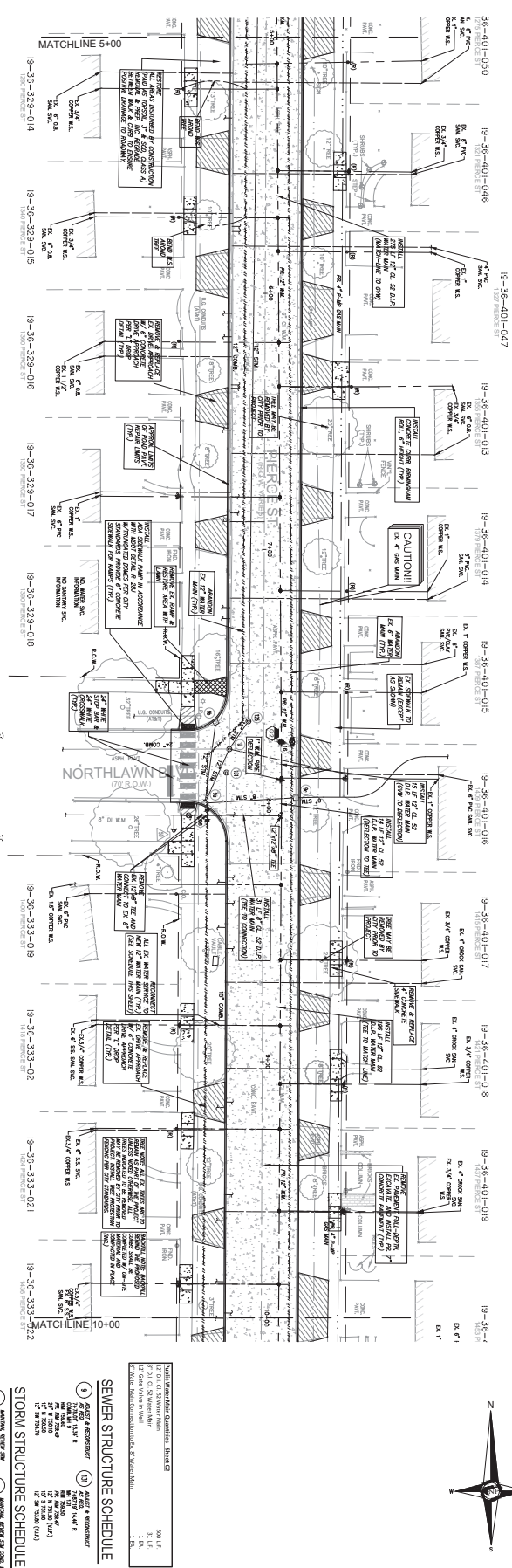
**PROJECT LOCATION**

Part of the Southeast 1/4 of Section 36, Town 2 North, Range 11 North, C&G of Birmingham, Madison County, Michigan

**CLIENT**

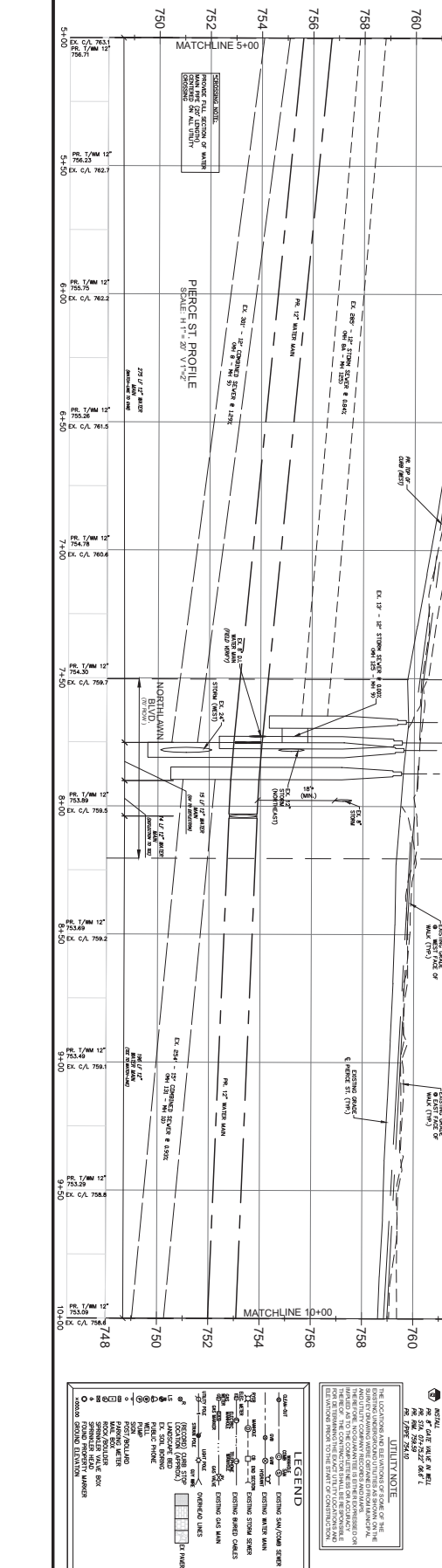
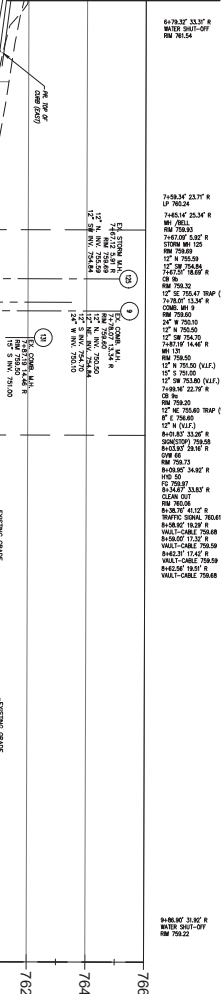
BIRMINGHAM Engineering Department  
151 Martin Street  
Birmingham, MI 48203  
Phone: 248-333-8257  
Fax: 248-333-8257  
WWW.MOWAREFAIRUS.COM

1'-0" = 12'-0" (VERTICAL)  
 1" = 100'-0" (HORIZONTAL)



**WATER SERVICE SCHEDULE - LENGTH OF WATER SERVICE CONNECTION**

| STREET             | CONNECTION   | LENGTH (FEET) | CONNECTION   | LENGTH (FEET) |
|--------------------|--------------|---------------|--------------|---------------|
| 1175 PIERCE STREET | 1/2" COMP.   | 12'           | 1/2" COMP.   | 0             |
| 1175 PIERCE STREET | 3/4" COMP.   | 12'           | 3/4" COMP.   | 0             |
| 1175 PIERCE STREET | 1" COMP.     | 12'           | 1" COMP.     | 0             |
| 1175 PIERCE STREET | 1 1/2" COMP. | 12'           | 1 1/2" COMP. | 0             |
| 1175 PIERCE STREET | 2" COMP.     | 12'           | 2" COMP.     | 0             |
| 1175 PIERCE STREET | 3" COMP.     | 12'           | 3" COMP.     | 0             |
| 1175 PIERCE STREET | 4" COMP.     | 12'           | 4" COMP.     | 0             |
| 1175 PIERCE STREET | 6" COMP.     | 12'           | 6" COMP.     | 0             |
| 1175 PIERCE STREET | 8" COMP.     | 12'           | 8" COMP.     | 0             |
| 1175 PIERCE STREET | 10" COMP.    | 12'           | 10" COMP.    | 0             |
| 1175 PIERCE STREET | 12" COMP.    | 12'           | 12" COMP.    | 0             |
| 1175 PIERCE STREET | 15" COMP.    | 12'           | 15" COMP.    | 0             |
| 1175 PIERCE STREET | 18" COMP.    | 12'           | 18" COMP.    | 0             |
| 1175 PIERCE STREET | 21" COMP.    | 12'           | 21" COMP.    | 0             |
| 1175 PIERCE STREET | 24" COMP.    | 12'           | 24" COMP.    | 0             |
| 1175 PIERCE STREET | 30" COMP.    | 12'           | 30" COMP.    | 0             |
| 1175 PIERCE STREET | 36" COMP.    | 12'           | 36" COMP.    | 0             |
| 1175 PIERCE STREET | 42" COMP.    | 12'           | 42" COMP.    | 0             |
| 1175 PIERCE STREET | 48" COMP.    | 12'           | 48" COMP.    | 0             |
| 1175 PIERCE STREET | 54" COMP.    | 12'           | 54" COMP.    | 0             |
| 1175 PIERCE STREET | 60" COMP.    | 12'           | 60" COMP.    | 0             |
| 1175 PIERCE STREET | 72" COMP.    | 12'           | 72" COMP.    | 0             |
| 1175 PIERCE STREET | 84" COMP.    | 12'           | 84" COMP.    | 0             |
| 1175 PIERCE STREET | 96" COMP.    | 12'           | 96" COMP.    | 0             |
| 1175 PIERCE STREET | 108" COMP.   | 12'           | 108" COMP.   | 0             |
| 1175 PIERCE STREET | 120" COMP.   | 12'           | 120" COMP.   | 0             |



**WATER MAIN SCHEDULE**

**LEGEND**

**UTILITIES NOTE:**

**PROJECT LOCATION:**

**ENGINEERING DEPARTMENT:**

**DATE:**

**SCALE:**

**PROJECT NO.:**

**SHEET NO.:**

**ENGINEERS**  
 CIVIL ENGINEERS  
 LAND SURVEYORS  
 LAND PLANNERS

**NOWAK & HEARS ENGINEERS**  
 4677 WOODWARD AVE  
 HOUSTON, TX 77056  
 TEL: (281) 333-8257  
 WWW.NOWAKHEARS.COM

**BIRMINGHAM**  
 Engineering Department  
 151 Martin Street  
 Birmingham, AL 35203

**PROJECT LOCATION:**  
 Part of the Southeast 1/4 of Section 36, Town 2 North, Range 11 East, C&G of Birmingham City and County, Michigan

**PROJECT:**  
 Pierce Street  
 Pavement & Utility Plan  
 Set 54-01 to 10-00

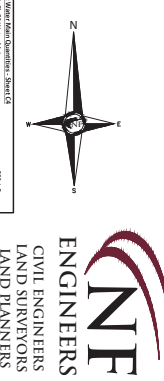
**DATE:** 12-08-2021

**SCALE:** 1" = 20' 1/2" = 2'

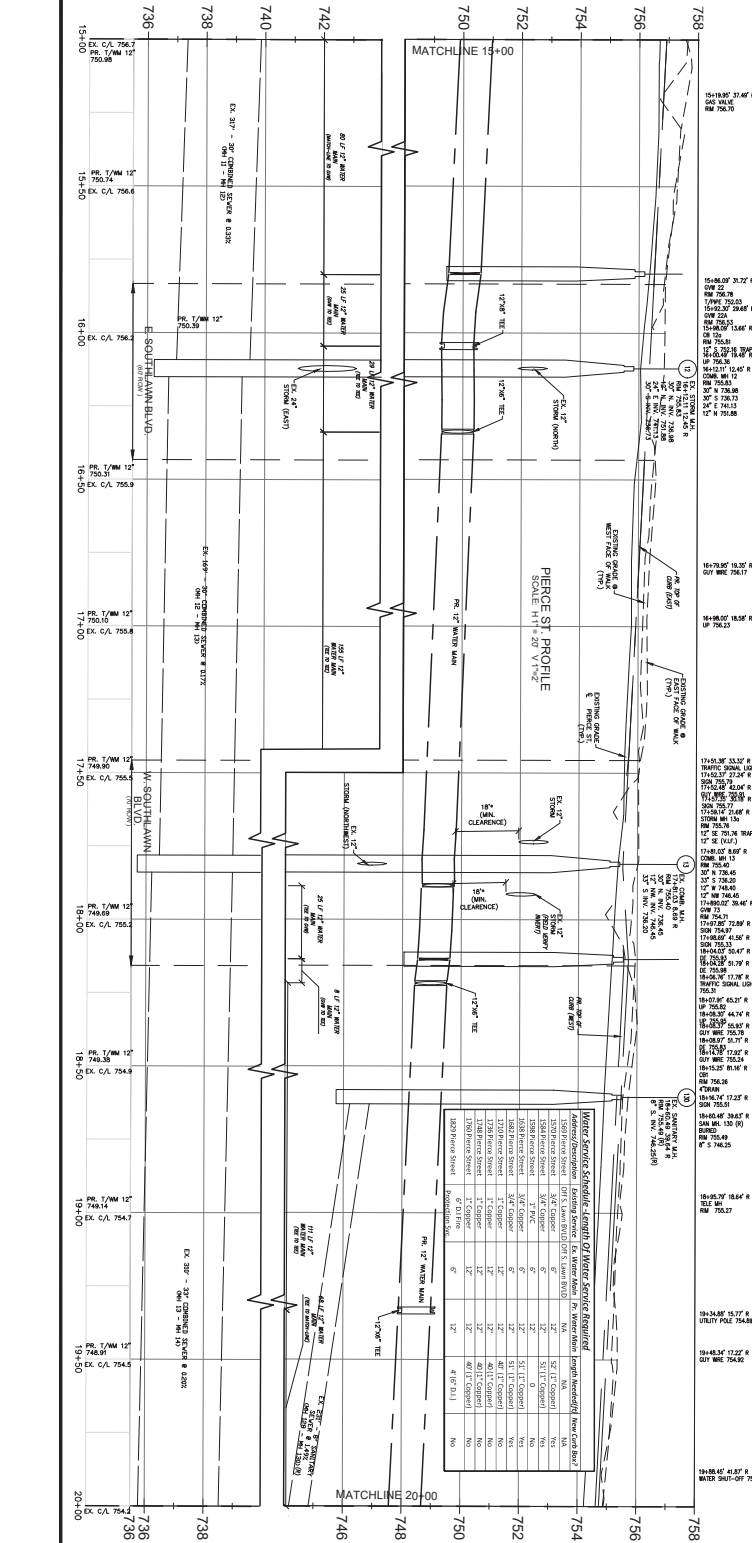
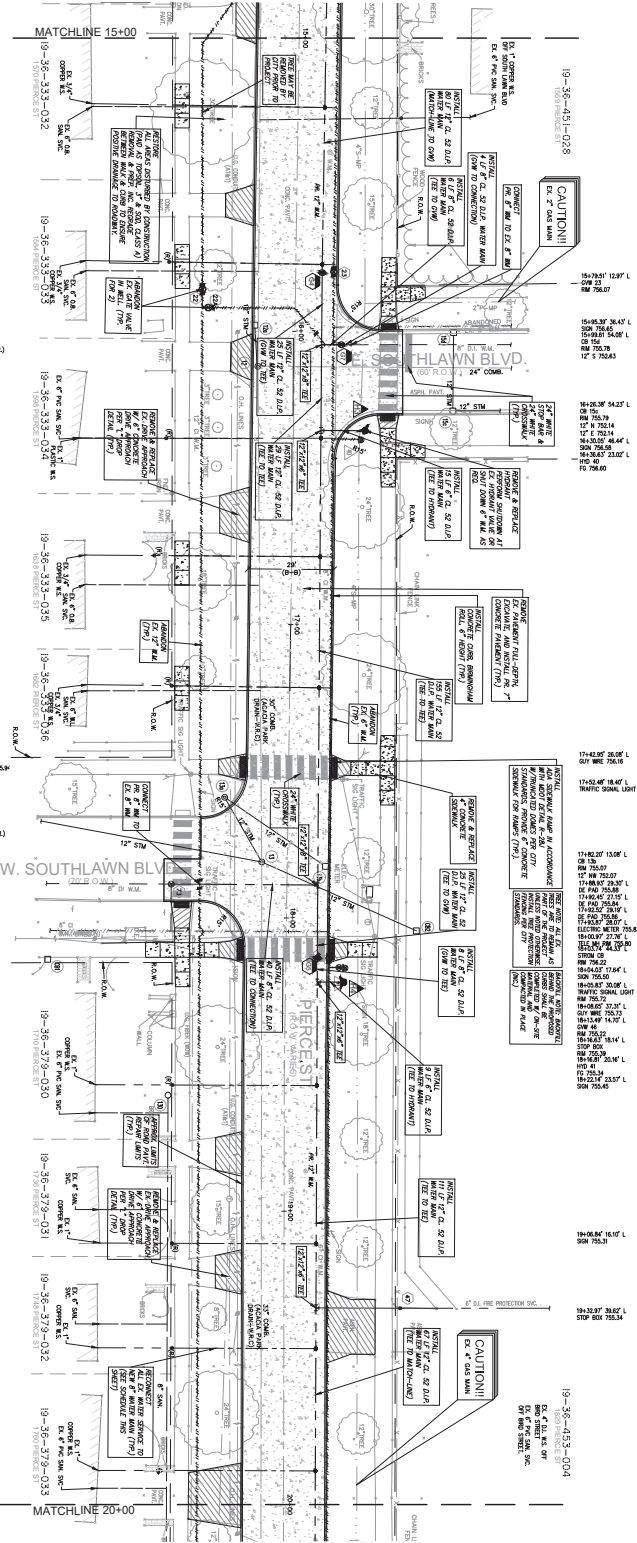
**PROJECT NO.:** MS15

**SHEET NO.:** C2





NOVAK & FARIS ENGINEERS  
4677 WOODWARD AVE  
HOUSTON, TX 77057-5032  
TEL: (281) 333-8257  
WWW.NOVAKEFARIS.COM



**WATER SERVICE SCHEDULE - LENGTH OF WATER SERVICE REQUIRED**

| WATER SERVICE SCHEDULE | LENGTH OF WATER SERVICE REQUIRED (FEET) | WATER SERVICE SCHEDULE | LENGTH OF WATER SERVICE REQUIRED (FEET) |
|------------------------|---|------------------------|---|
| 1                      | 0.00                                    | 13                     | 11.00                                   |
| 2                      | 1.00                                    | 14                     | 12.00                                   |
| 3                      | 2.00                                    | 15                     | 13.00                                   |
| 4                      | 3.00                                    | 16                     | 14.00                                   |
| 5                      | 4.00                                    | 17                     | 15.00                                   |
| 6                      | 5.00                                    | 18                     | 16.00                                   |
| 7                      | 6.00                                    | 19                     | 17.00                                   |
| 8                      | 7.00                                    | 20                     | 18.00                                   |
| 9                      | 8.00                                    | 21                     | 19.00                                   |
| 10                     | 9.00                                    | 22                     | 20.00                                   |
| 11                     | 10.00                                   | 23                     | 21.00                                   |
| 12                     | 11.00                                   | 24                     | 22.00                                   |
| 13                     | 12.00                                   | 25                     | 23.00                                   |
| 14                     | 13.00                                   | 26                     | 24.00                                   |
| 15                     | 14.00                                   | 27                     | 25.00                                   |
| 16                     | 15.00                                   | 28                     | 26.00                                   |
| 17                     | 16.00                                   | 29                     | 27.00                                   |
| 18                     | 17.00                                   | 30                     | 28.00                                   |
| 19                     | 18.00                                   | 31                     | 29.00                                   |
| 20                     | 19.00                                   | 32                     | 30.00                                   |
| 21                     | 20.00                                   | 33                     | 31.00                                   |
| 22                     | 21.00                                   | 34                     | 32.00                                   |
| 23                     | 22.00                                   | 35                     | 33.00                                   |
| 24                     | 23.00                                   | 36                     | 34.00                                   |
| 25                     | 24.00                                   | 37                     | 35.00                                   |
| 26                     | 25.00                                   | 38                     | 36.00                                   |
| 27                     | 26.00                                   | 39                     | 37.00                                   |
| 28                     | 27.00                                   | 40                     | 38.00                                   |
| 29                     | 28.00                                   | 41                     | 39.00                                   |
| 30                     | 29.00                                   | 42                     | 40.00                                   |
| 31                     | 30.00                                   | 43                     | 41.00                                   |
| 32                     | 31.00                                   | 44                     | 42.00                                   |
| 33                     | 32.00                                   | 45                     | 43.00                                   |
| 34                     | 33.00                                   | 46                     | 44.00                                   |
| 35                     | 34.00                                   | 47                     | 45.00                                   |
| 36                     | 35.00                                   | 48                     | 46.00                                   |
| 37                     | 36.00                                   | 49                     | 47.00                                   |
| 38                     | 37.00                                   | 50                     | 48.00                                   |
| 39                     | 38.00                                   | 51                     | 49.00                                   |
| 40                     | 39.00                                   | 52                     | 50.00                                   |
| 41                     | 40.00                                   | 53                     | 51.00                                   |
| 42                     | 41.00                                   | 54                     | 52.00                                   |
| 43                     | 42.00                                   | 55                     | 53.00                                   |
| 44                     | 43.00                                   | 56                     | 54.00                                   |
| 45                     | 44.00                                   | 57                     | 55.00                                   |
| 46                     | 45.00                                   | 58                     | 56.00                                   |
| 47                     | 46.00                                   | 59                     | 57.00                                   |
| 48                     | 47.00                                   | 60                     | 58.00                                   |
| 49                     | 48.00                                   | 61                     | 59.00                                   |
| 50                     | 49.00                                   | 62                     | 60.00                                   |
| 51                     | 50.00                                   | 63                     | 61.00                                   |
| 52                     | 51.00                                   | 64                     | 62.00                                   |
| 53                     | 52.00                                   | 65                     | 63.00                                   |
| 54                     | 53.00                                   | 66                     | 64.00                                   |
| 55                     | 54.00                                   | 67                     | 65.00                                   |
| 56                     | 55.00                                   | 68                     | 66.00                                   |
| 57                     | 56.00                                   | 69                     | 67.00                                   |
| 58                     | 57.00                                   | 70                     | 68.00                                   |
| 59                     | 58.00                                   | 71                     | 69.00                                   |
| 60                     | 59.00                                   | 72                     | 70.00                                   |
| 61                     | 60.00                                   | 73                     | 71.00                                   |
| 62                     | 61.00                                   | 74                     | 72.00                                   |
| 63                     | 62.00                                   | 75                     | 73.00                                   |
| 64                     | 63.00                                   | 76                     | 74.00                                   |
| 65                     | 64.00                                   | 77                     | 75.00                                   |
| 66                     | 65.00                                   | 78                     | 76.00                                   |
| 67                     | 66.00                                   | 79                     | 77.00                                   |
| 68                     | 67.00                                   | 80                     | 78.00                                   |
| 69                     | 68.00                                   | 81                     | 79.00                                   |
| 70                     | 69.00                                   | 82                     | 80.00                                   |
| 71                     | 70.00                                   | 83                     | 81.00                                   |
| 72                     | 71.00                                   | 84                     | 82.00                                   |
| 73                     | 72.00                                   | 85                     | 83.00                                   |
| 74                     | 73.00                                   | 86                     | 84.00                                   |
| 75                     | 74.00                                   | 87                     | 85.00                                   |
| 76                     | 75.00                                   | 88                     | 86.00                                   |
| 77                     | 76.00                                   | 89                     | 87.00                                   |
| 78                     | 77.00                                   | 90                     | 88.00                                   |
| 79                     | 78.00                                   | 91                     | 89.00                                   |
| 80                     | 79.00                                   | 92                     | 90.00                                   |
| 81                     | 80.00                                   | 93                     | 91.00                                   |
| 82                     | 81.00                                   | 94                     | 92.00                                   |
| 83                     | 82.00                                   | 95                     | 93.00                                   |
| 84                     | 83.00                                   | 96                     | 94.00                                   |
| 85                     | 84.00                                   | 97                     | 95.00                                   |
| 86                     | 85.00                                   | 98                     | 96.00                                   |
| 87                     | 86.00                                   | 99                     | 97.00                                   |
| 88                     | 87.00                                   | 100                    | 98.00                                   |
| 89                     | 88.00                                   | 101                    | 99.00                                   |
| 90                     | 89.00                                   | 102                    | 100.00                                  |
| 91                     | 90.00                                   | 103                    | 101.00                                  |
| 92                     | 91.00                                   | 104                    | 102.00                                  |
| 93                     | 92.00                                   | 105                    | 103.00                                  |
| 94                     | 93.00                                   | 106                    | 104.00                                  |
| 95                     | 94.00                                   | 107                    | 105.00                                  |
| 96                     | 95.00                                   | 108                    | 106.00                                  |
| 97                     | 96.00                                   | 109                    | 107.00                                  |
| 98                     | 97.00                                   | 110                    | 108.00                                  |
| 99                     | 98.00                                   | 111                    | 109.00                                  |
| 100                    | 99.00                                   | 112                    | 110.00                                  |
| 101                    | 100.00                                  | 113                    | 111.00                                  |
| 102                    | 101.00                                  | 114                    | 112.00                                  |
| 103                    | 102.00                                  | 115                    | 113.00                                  |
| 104                    | 103.00                                  | 116                    | 114.00                                  |
| 105                    | 104.00                                  | 117                    | 115.00                                  |
| 106                    | 105.00                                  | 118                    | 116.00                                  |
| 107                    | 106.00                                  | 119                    | 117.00                                  |
| 108                    | 107.00                                  | 120                    | 118.00                                  |
| 109                    | 108.00                                  | 121                    | 119.00                                  |
| 110                    | 109.00                                  | 122                    | 120.00                                  |
| 111                    | 110.00                                  | 123                    | 121.00                                  |
| 112                    | 111.00                                  | 124                    | 122.00                                  |
| 113                    | 112.00                                  | 125                    | 123.00                                  |
| 114                    | 113.00                                  | 126                    | 124.00                                  |
| 115                    | 114.00                                  | 127                    | 125.00                                  |
| 116                    | 115.00                                  | 128                    | 126.00                                  |
| 117                    | 116.00                                  | 129                    | 127.00                                  |
| 118                    | 117.00                                  | 130                    | 128.00                                  |
| 119                    | 118.00                                  | 131                    | 129.00                                  |
| 120                    | 119.00                                  | 132                    | 130.00                                  |
| 121                    | 120.00                                  | 133                    | 131.00                                  |
| 122                    | 121.00                                  | 134                    | 132.00                                  |
| 123                    | 122.00                                  | 135                    | 133.00                                  |
| 124                    | 123.00                                  | 136                    | 134.00                                  |
| 125                    | 124.00                                  | 137                    | 135.00                                  |
| 126                    | 125.00                                  | 138                    | 136.00                                  |
| 127                    | 126.00                                  | 139                    | 137.00                                  |
| 128                    | 127.00                                  | 140                    | 138.00                                  |
| 129                    | 128.00                                  | 141                    | 139.00                                  |
| 130                    | 129.00                                  | 142                    | 140.00                                  |
| 131                    | 130.00                                  | 143                    | 141.00                                  |
| 132                    | 131.00                                  | 144                    | 142.00                                  |
| 133                    | 132.00                                  | 145                    | 143.00                                  |
| 134                    | 133.00                                  | 146                    | 144.00                                  |
| 135                    | 134.00                                  | 147                    | 145.00                                  |
| 136                    | 135.00                                  | 148                    | 146.00                                  |
| 137                    | 136.00                                  | 149                    | 147.00                                  |
| 138                    | 137.00                                  | 150                    | 148.00                                  |
| 139                    | 138.00                                  | 151                    | 149.00                                  |
| 140                    | 139.00                                  | 152                    | 150.00                                  |
| 141                    | 140.00                                  | 153                    | 151.00                                  |
| 142                    | 141.00                                  | 154                    | 152.00                                  |
| 143                    | 142.00                                  | 155                    | 153.00                                  |
| 144                    | 143.00                                  | 156                    | 154.00                                  |
| 145                    | 144.00                                  | 157                    | 155.00                                  |
| 146                    | 145.00                                  | 158                    | 156.00                                  |
| 147                    | 146.00                                  | 159                    | 157.00                                  |
| 148                    | 147.00                                  | 160                    | 158.00                                  |
| 149                    | 148.00                                  | 161                    | 159.00                                  |
| 150                    | 149.00                                  | 162                    | 160.00                                  |
| 151                    | 150.00                                  | 163                    | 161.00                                  |
| 152                    | 151.00                                  | 164                    | 162.00                                  |
| 153                    | 152.00                                  | 165                    | 163.00                                  |
| 154                    | 153.00                                  | 166                    | 164.00                                  |
| 155                    | 154.00                                  | 167                    | 165.00                                  |
| 156                    | 155.00                                  | 168                    | 166.00                                  |
| 157                    | 156.00                                  | 169                    | 167.00                                  |
| 158                    | 157.00                                  | 170                    | 168.00                                  |
| 159                    | 158.00                                  | 171                    | 169.00                                  |
| 160                    | 159.00                                  | 172                    | 170.00                                  |
| 161                    | 160.00                                  | 173                    | 171.00                                  |
| 162                    | 161.00                                  | 174                    | 172.00                                  |
| 163                    | 162.00                                  | 175                    | 173.00                                  |
| 164                    | 163.00                                  | 176                    | 174.00                                  |
| 165                    | 164.00                                  | 177                    | 175.00                                  |
| 166                    | 165.00                                  | 178                    | 176.00                                  |
| 167                    | 166.00                                  | 179                    | 177.00                                  |
| 168                    | 167.00                                  | 180                    | 178.00                                  |
| 169                    | 168.00                                  | 181                    | 179.00                                  |
| 170                    | 169.00                                  | 182                    | 180.00                                  |
| 171                    | 170.00                                  | 183                    | 181.00                                  |
| 172                    | 171.00                                  | 184                    | 182.00                                  |
| 173                    | 172.00                                  | 185                    | 183.00                                  |
| 174                    | 173.00                                  | 186                    | 184.00                                  |
| 175                    | 174.00                                  | 187                    | 185.00                                  |
| 176                    | 175.00                                  | 188                    | 186.00                                  |
| 177                    | 176.00                                  | 189                    | 187.00                                  |
| 178                    | 177.00                                  | 190                    | 188.00                                  |
| 179                    | 178.00                                  | 191                    | 189.00                                  |
| 180                    | 179.00                                  | 192                    | 190.00                                  |
| 181                    | 180.00                                  | 193                    | 191.00                                  |
| 182                    | 181.00                                  | 194                    | 192.00                                  |
| 183                    | 182.00                                  | 195                    | 193.00                                  |
| 184                    | 183.00                                  | 196                    | 194.00                                  |
| 185                    | 184.00                                  | 197                    | 195.00                                  |
| 186                    | 185.00                                  | 198                    | 196.00                                  |
| 187                    | 186.00                                  | 199                    | 197.00                                  |
| 188                    | 187.00                                  | 200                    | 198.00                                  |
| 189                    | 188.00                                  | 201                    | 199.00                                  |
| 190                    | 189.00                                  | 202                    | 200.00                                  |
| 191                    | 190.00                                  | 203                    | 201.00                                  |
| 192                    | 191.00                                  | 204                    | 202.00                                  |
| 193                    | 192.00                                  | 205                    | 203.00                                  |
| 194                    | 193.00                                  | 206                    | 204.00                                  |
| 195                    | 194.00                                  | 207                    | 205.00                                  |
| 196                    | 195.00                                  | 208                    | 206.00                                  |
| 197                    | 196.00                                  | 209                    | 207.00                                  |
| 198                    | 197.00                                  | 210                    | 208.00                                  |
| 199                    | 198.00                                  | 211                    | 209.00                                  |
| 200                    | 199.00                                  | 212                    | 210.00                                  |
| 201                    | 200.00                                  | 213                    | 211.00                                  |
| 202                    | 201.00                                  | 214                    | 212.00                                  |
| 203                    | 202.00                                  | 215                    | 213.00                                  |
| 204                    | 203.00                                  | 216                    | 214.00                                  |
| 205                    | 204.00                                  | 217                    | 215.00                                  |
| 206                    | 205.00                                  | 218                    | 216.00                                  |
| 207                    | 206.00                                  | 219                    | 217.00                                  |
| 208                    | 207.00                                  | 220                    | 218.00                                  |
| 209                    | 208.00                                  | 221                    | 219.00                                  |
| 210                    | 209.00                                  | 222                    | 220.00                                  |
| 211                    | 210.00                                  | 223                    | 221.00                                  |
| 212                    | 211.00                                  | 224                    | 222.00                                  |
| 213                    | 212.00                                  | 225                    | 223.00                                  |
| 214                    | 213.00                                  | 226                    | 224.00                                  |
| 215                    | 214.00                                  | 227                    | 225.00                                  |
| 216                    | 215.00                                  | 228                    | 226.00                                  |
| 217                    | 216.00                                  | 229                    | 227.00                                  |
| 218                    | 217.00                                  | 230                    | 228.00                                  |
| 219                    | 218.00                                  | 231                    | 229.00                                  |
| 220                    | 219.00                                  | 232                    | 230.00                                  |
| 221                    | 220.00                                  | 233                    | 231.00                                  |
| 222                    | 221.00                                  | 234                    | 232.00                                  |
| 223                    | 222.00                                  | 235                    | 233.00                                  |
| 224                    | 223.00                                  | 236                    | 234.00                                  |
| 225                    | 224.00                                  | 237                    | 235.00                                  |
| 226                    | 225.00                                  | 238                    | 236.00                                  |
| 227                    | 226.00                                  | 239                    | 237.00                                  |
| 228                    | 227.00                                  | 240                    | 238.00                                  |
| 229                    | 228.00                                  | 241                    | 239.00                                  |
| 230                    | 229.00                                  | 242                    | 240.00                                  |
| 231                    | 230.00                                  | 243                    | 241.00                                  |
| 232                    | 231.00                                  | 244                    | 242.00                                  |
| 233                    | 232.00                                  | 245                    | 243.00                                  |
| 234                    | 233.00                                  | 246                    | 244.00                                  |
| 235                    | 234.00                                  | 247                    | 245.00                                  |
| 236                    | 235.00                                  | 248                    | 246.00                                  |
| 237                    | 236.00                                  | 249                    | 247.00                                  |
| 238                    | 237.00                                  | 250                    | 248.00                                  |
| 239                    | 238.00                                  | 251                    | 249.00                                  |
| 240                    | 239.00                                  | 252                    | 250.00                                  |
| 241                    | 240.00                                  | 253                    | 251.00                                  |
| 242                    | 241.00                                  | 254                    | 252.00                                  |
| 243                    | 242.00                                  | 255                    | 253.00                                  |
| 244                    | 243.00                                  | 256                    | 254.00                                  |
| 245                    | 244.00                                  | 257                    | 255.00                                  |
| 246                    | 245.00                                  | 258                    | 256.00                                  |
| 247                    | 246.00                                  | 259                    | 257.00                                  |
| 248                    | 247.00                                  | 260                    | 258.00                                  |
| 249                    | 248.00                                  | 261                    | 259.00                                  |
| 250                    | 249.00                                  | 262                    | 260.00                                  |
| 251                    | 250.00                                  | 263                    | 261.00                                  |
| 252                    | 251.00                                  | 264                    | 262.00                                  |
| 253                    | 252.00                                  | 265                    |   |









**ENGINEERS**  
**CIVIL ENGINEERS**  
**LAND SURVEYORS**  
**LAND PLANNERS**  
 NOWAK & FRANK ENGINEERS  
 4677 WOODWARD AVE  
 PONTIAC, MI 48342-5032  
 FAX: (248) 333-8257  
 WWW.NOWAKFRANK.COM

SCALE

PROJECT  
 Pierce Street Paving  
 Contract # 324VP



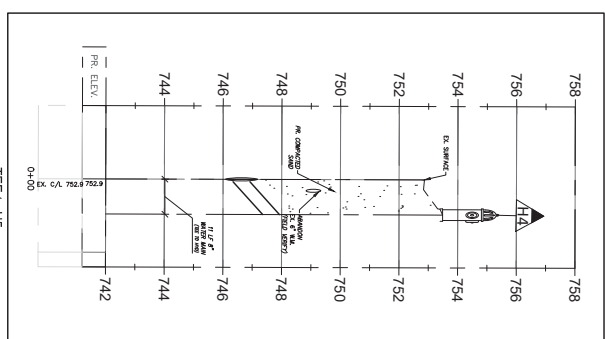
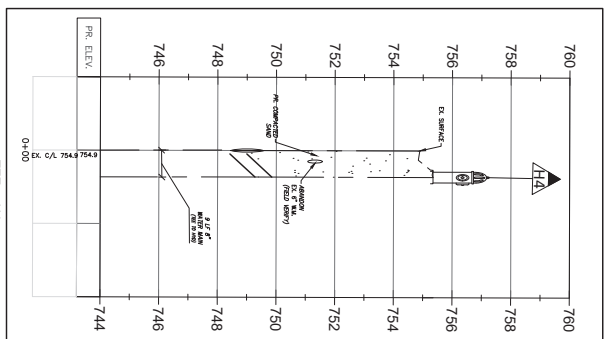
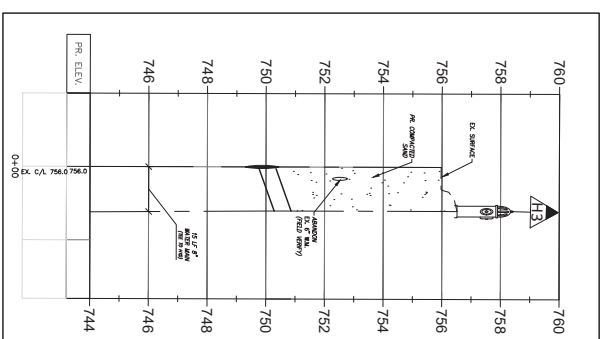
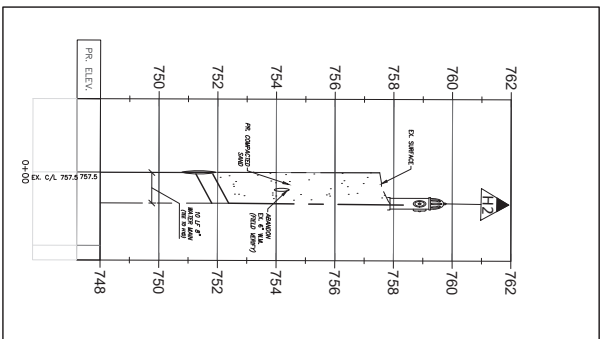
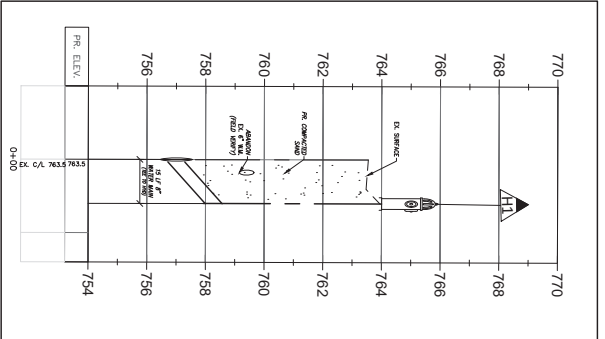
PROJECT LOCATION  
 Part of the Southeast 1/4  
 of Section 36, Town 2 North,  
 Range 19 East, C18 9th  
 Broughton, Oakland  
 County, Michigan

DATE  
 12-08-2021

DRAWN BY  
 M. Hill  
 CHECKED BY  
 B. Borchholz

DATE  
 12-08-2021

SCALE 1" = 20' / 1" = 2'  
 SHEET NO. **C7**



811  
 Non-emergency  
 Call before you dig.



**ENGINEERS**  
**CIVIL ENGINEERS**  
**LAND SURVEYORS**  
**LAND PLANNERS**  
 NOWAK & ERUIS ENGINEERS  
 4677 WOODWARD AVE  
 PONTIAC, MI 48342-5032  
 FAX: (248) 333-8357  
 WWW.NOWAKERUIS.COM

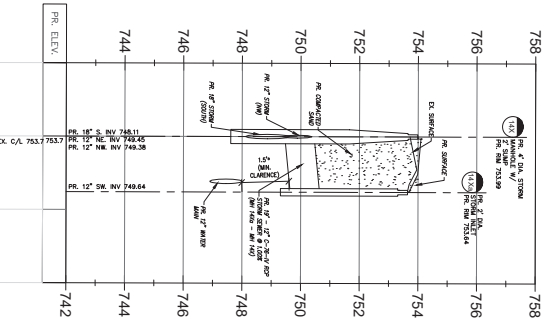
**PROJECT**  
 Pierce Street Paving  
**Project**  
 Contract# 2321P)  
**CLIENT**

**PROJECT LOCATION**  
 Part of the Southeast 1/4 of Section 36, Town 2 North, Range 11 East, C&D of Birmingham, MI 48030  
 City of Birmingham  
 County, Michigan

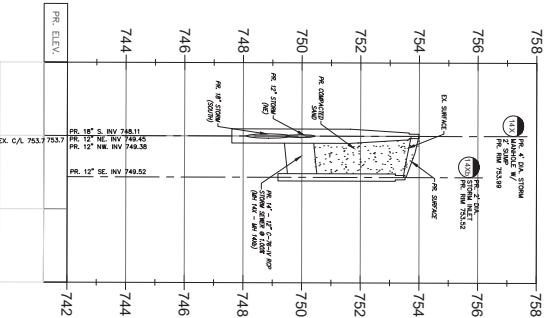
**DRAWN BY**  
 M. Hahn  
**CHECKED BY**  
 B. Borchholz  
**DATE**  
 12/08/2021

**SCALE**  
 1" = 20' 1/2" = 2'

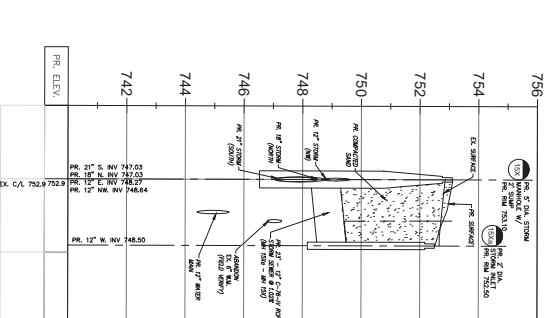
**SHEET NO.**  
 MS15  
**SHEET TOTAL**  
 C8



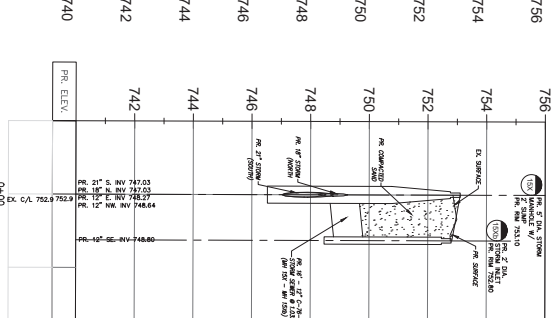
STORM SEWER (MH 14K-CB14XA)  
 SCALE: 1"=20' (H), 1"=2' (V)



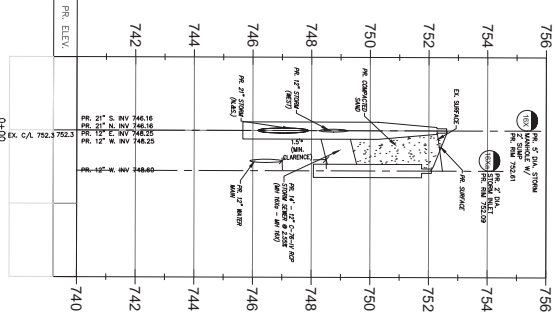
STORM SEWER (MH 14X-CB14XB)  
 SCALE: 1"=20' (H), 1"=2' (V)



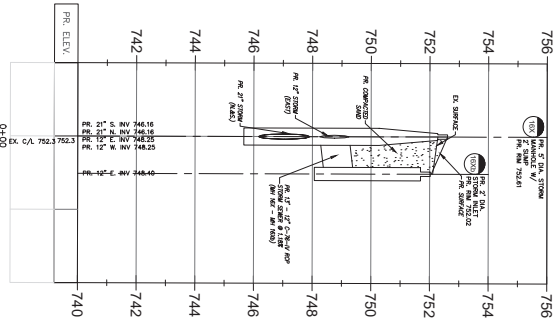
STORM SEWER (MH 15X-CB15XA)  
 SCALE: 1"=20' (H), 1"=2' (V)



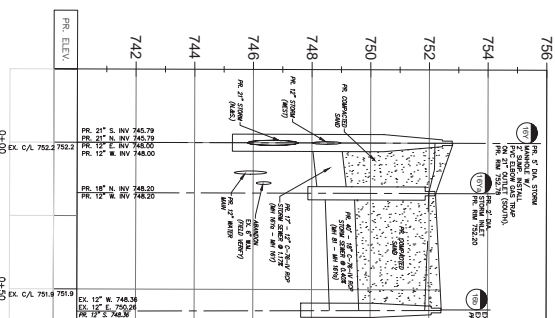
STORM SEWER (MH 15K-CB15XB)  
 SCALE: 1"=20' (H), 1"=2' (V)



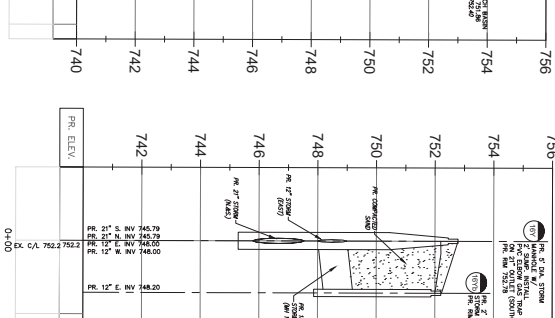
STORM SEWER (MH 16K-CB16XA)  
 SCALE: 1"=20' (H), 1"=2' (V)



STORM SEWER (MH 16K-CB16XB)  
 SCALE: 1"=20' (H), 1"=2' (V)



STORM SEWER (MH 16K-CB16B)  
 SCALE: 1"=20' (H), 1"=2' (V)



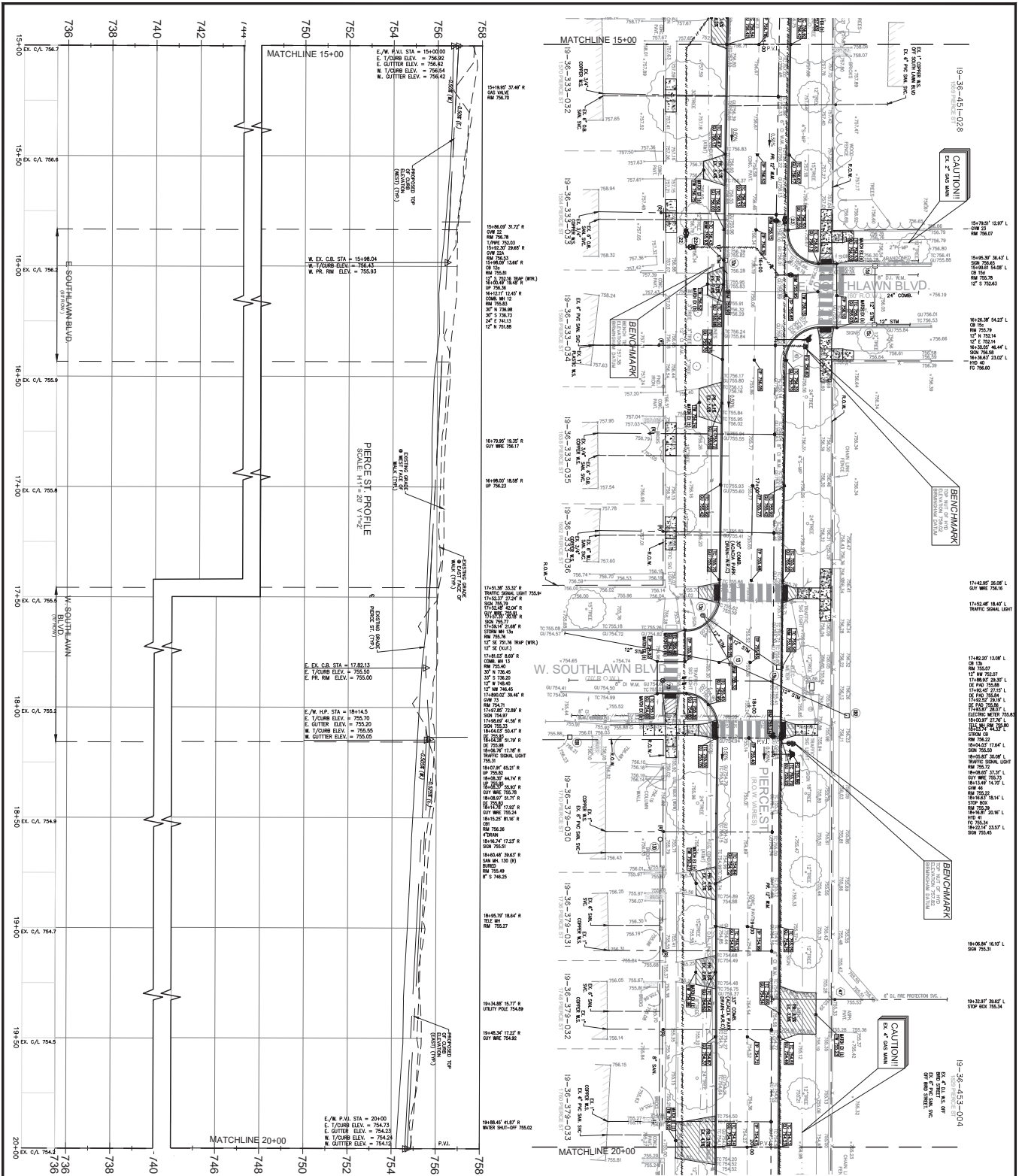
STORM SEWER (MH 16K-CB16XB)  
 SCALE: 1"=20' (H), 1"=2' (V)

**811**  
 Michigan 811  
 Call before you dig.









### DRIVEWAY SCHEDULE

| NO. | TYPE     | DATE       | BY           | REVISIONS |
|-----|----------|------------|--------------|-----------|
| 1   | EXISTING | 12/18/2011 | B. Barchnick |           |
| 2   | PROPOSED | 12/18/2011 | B. Barchnick |           |

### LEGEND

EXISTING DRIVEWAY SCHEDULE  
 PROPOSED DRIVEWAY SCHEDULE  
 EXISTING SIDEWALK  
 PROPOSED SIDEWALK  
 EXISTING DRIVEWAY  
 PROPOSED DRIVEWAY  
 EXISTING DRIVEWAY  
 PROPOSED DRIVEWAY  
 EXISTING DRIVEWAY  
 PROPOSED DRIVEWAY

### UTILITIES

EXISTING WATER MAIN  
 PROPOSED WATER MAIN  
 EXISTING SEWER MAIN  
 PROPOSED SEWER MAIN  
 EXISTING GAS MAIN  
 PROPOSED GAS MAIN  
 EXISTING TELEPHONE  
 PROPOSED TELEPHONE  
 EXISTING CABLE TV  
 PROPOSED CABLE TV  
 EXISTING FIBER OPTIC  
 PROPOSED FIBER OPTIC

### PROJECT INFORMATION

PROJECT: Pierce Street Paving  
 CLIENT: City of Birmingham  
 DATE: 12/18/2011  
 SCALE: 1" = 20' / 1" = 2'

### ENGINEERING

ENGINEER: [Signature]  
 CHECKED: [Signature]  
 DATE: 12/18/2011

### NOTES

- SEE SHEET 15-00 FOR PREVIOUS WORK.
- ALL UTILITIES TO BE DELETED AND REINSTALLED AT THE SAME DEPTH AND LOCATION AS SHOWN ON THIS SHEET.
- CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF BIRMINGHAM STANDARD SPECIFICATIONS FOR ROADWAY CONSTRUCTION.
- CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF BIRMINGHAM STANDARD SPECIFICATIONS FOR UTILITIES CONSTRUCTION.

### PROJECT

Pierce Street Paving  
 Project #249P  
 CLIENT

### ENGINEERS

CIVIL ENGINEERS  
 LAND SURVEYORS  
 LAND PLANNERS  
 NOWAK & FRANK ENGINEERS  
 4077 WOODWARD AVE  
 HOUSTON, TX 77062  
 TEL: (281) 416-8257  
 WWW.NOWAKFRANK.COM

### DRIVING INSTRUCTIONS

1. FROM THE SOUTH: Take I-65 North to Exit 107B, turn right onto South Lawn Blvd. Drive east on South Lawn Blvd. to the intersection with Pierce Street. Turn right onto Pierce Street. The driveway is on the left side of the street.

### NOTES

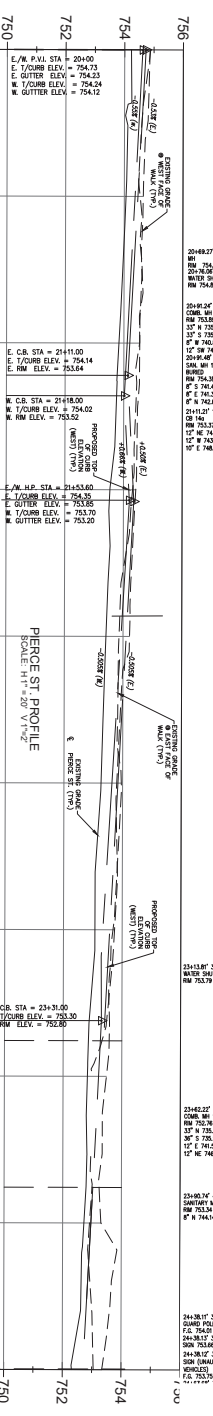
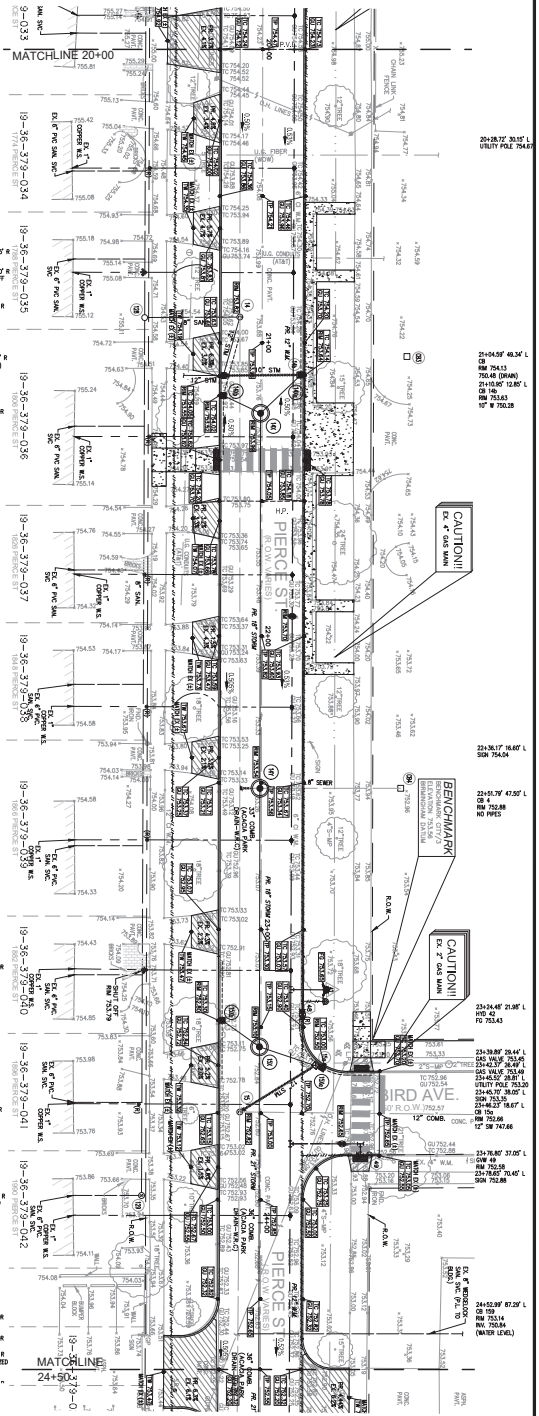
1. SEE SHEET 15-00 FOR PREVIOUS WORK.





**NFE**  
**ENGINEERS**  
 CIVIL ENGINEERS  
 LAND SURVEYORS  
 LAND PLANNERS

NOWAK & FRANK ENGINEERS  
 4677 WOODWARD AVE  
 FOUNTAIN CITY, IN 46342-5032  
 TEL: (317) 833-8357  
 FAX: (317) 833-8357  
 WWW.NOWAKFRANK.COM



**DRIVEWAY SCHEDULE**

| STATION | THICKNESS | GRADE | FINISH   |
|---------|-----------|-------|----------|
| 20+00   | 12"       | 1.0%  | CONCRETE |
| 20+10   | 12"       | 1.0%  | CONCRETE |
| 20+20   | 12"       | 1.0%  | CONCRETE |
| 20+30   | 12"       | 1.0%  | CONCRETE |
| 20+40   | 12"       | 1.0%  | CONCRETE |
| 20+50   | 12"       | 1.0%  | CONCRETE |
| 21+00   | 12"       | 1.0%  | CONCRETE |
| 21+50   | 12"       | 1.0%  | CONCRETE |
| 22+00   | 12"       | 1.0%  | CONCRETE |
| 22+50   | 12"       | 1.0%  | CONCRETE |
| 23+00   | 12"       | 1.0%  | CONCRETE |
| 23+50   | 12"       | 1.0%  | CONCRETE |
| 24+00   | 12"       | 1.0%  | CONCRETE |
| 24+50   | 12"       | 1.0%  | CONCRETE |

**BIRMINGHAM**  
 A Division of  
 Engineering Department  
 151 Martin Street  
 Birmingham, MI 48020

**PROJECT LOCATION**  
 Part of the Southeast 1/4  
 of Section 36, Town 2 North,  
 Range 9 East, C&G 9 of  
 Bland Township, Oakland  
 County, Michigan

**CLIENT**  
 Pierce Street  
 Creating Plan  
 Sls. 20+00 to 24+50

**811**  
 Michigan 811  
 Call before you dig.

**UTILITY NOTE**  
 THE LOCATION AND DEPTH OF ALL UTILITIES SHOWN ON THIS PLAN IS BASED ON THE RECORD DRAWINGS AND FIELD SURVEY DATA. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.

**LEGEND**

- EXISTING DRIVEWAY SURFACE
- EXISTING DRIVEWAY CURB
- EXISTING DRIVEWAY GUTTER
- EXISTING DRIVEWAY SLOPE
- EXISTING DRIVEWAY DRAINAGE
- EXISTING DRIVEWAY MANHOLE
- EXISTING DRIVEWAY BENCHMARK
- EXISTING DRIVEWAY CAUTION
- EXISTING DRIVEWAY PERC ST
- EXISTING DRIVEWAY CONC
- EXISTING DRIVEWAY ASPHALT
- EXISTING DRIVEWAY GRAVEL
- EXISTING DRIVEWAY SAND
- EXISTING DRIVEWAY SOIL
- EXISTING DRIVEWAY VEGETATION
- EXISTING DRIVEWAY OBSTACLE
- EXISTING DRIVEWAY ELEVATION
- EXISTING DRIVEWAY STATION
- EXISTING DRIVEWAY POINT
- EXISTING DRIVEWAY LINE
- EXISTING DRIVEWAY AREA
- EXISTING DRIVEWAY VOLUME
- EXISTING DRIVEWAY MASS
- EXISTING DRIVEWAY MOMENT
- EXISTING DRIVEWAY FORCE
- EXISTING DRIVEWAY ENERGY
- EXISTING DRIVEWAY POWER
- EXISTING DRIVEWAY HEAT
- EXISTING DRIVEWAY COOLING
- EXISTING DRIVEWAY LIGHTING
- EXISTING DRIVEWAY SOUND
- EXISTING DRIVEWAY VIBRATION
- EXISTING DRIVEWAY ELECTROMAGNETIC INTERFERENCE
- EXISTING DRIVEWAY CHEMICAL CONTAMINATION
- EXISTING DRIVEWAY BIOLOGICAL CONTAMINATION
- EXISTING DRIVEWAY RADIOACTIVE CONTAMINATION
- EXISTING DRIVEWAY OTHER CONTAMINATION

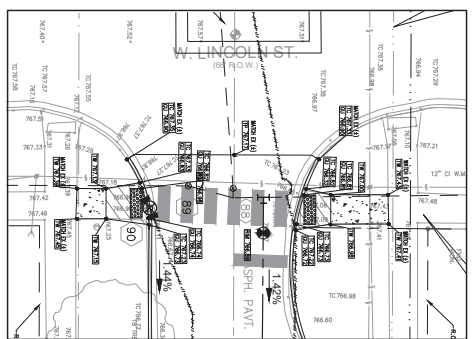
**DATE:** 12-08-2021  
**SCALE:** 1" = 20' / 1" = 2'  
**PROJECT NO.:** MS15  
**SHEET NO.:** C13



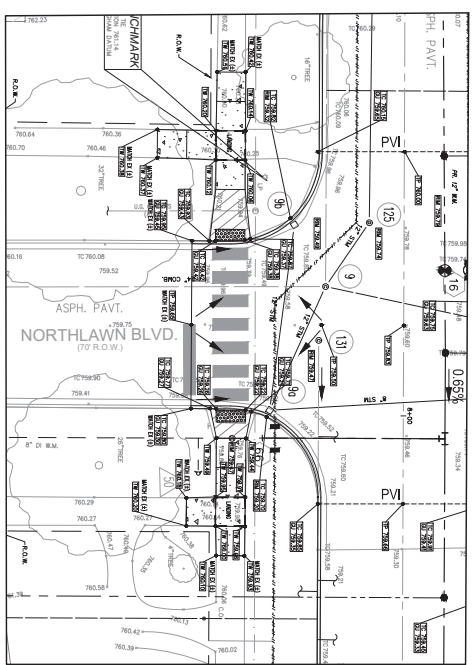


**ENGINEERS**  
**CIVIL ENGINEERS**  
**LAND SURVEYORS**  
**LAND PLANNERS**

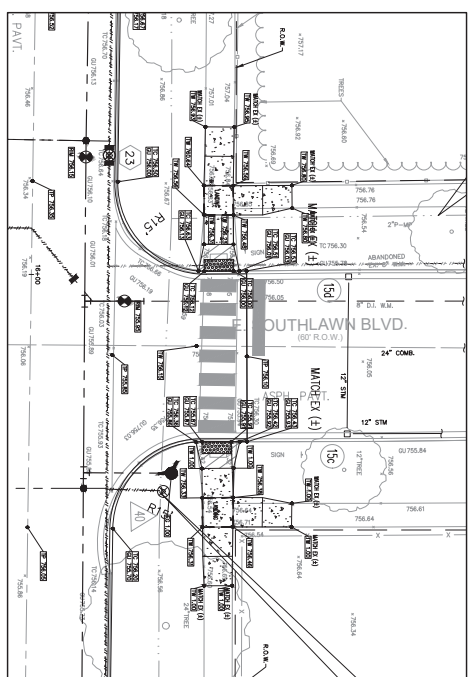
NOWAK & FARIS ENGINEERS  
 4677 WOODWARD AVE.  
 FORT MYERS, FL 34942-5032  
 TEL: (239) 335-8257  
 FAX: (239) 335-8257  
 WWW.NOWAKFARIS.COM



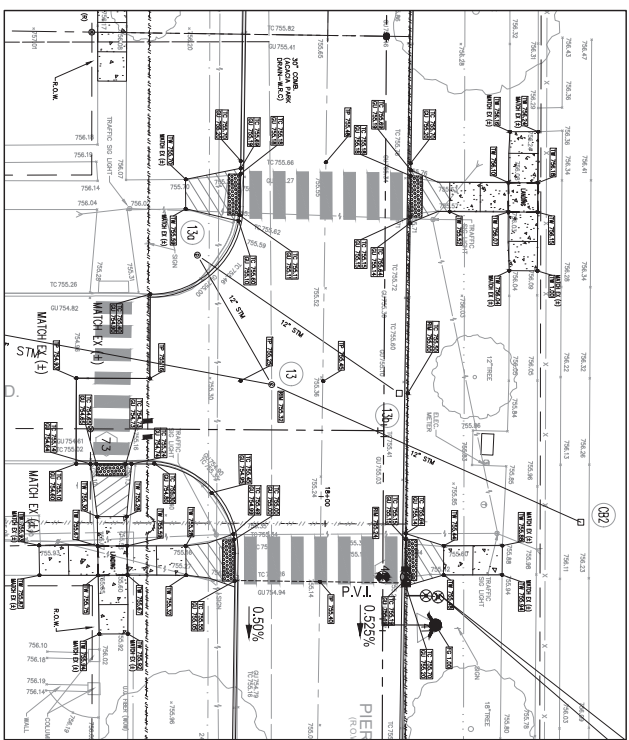
CROSSING AT PIERCE STREET AND W. LINCOLN STREET



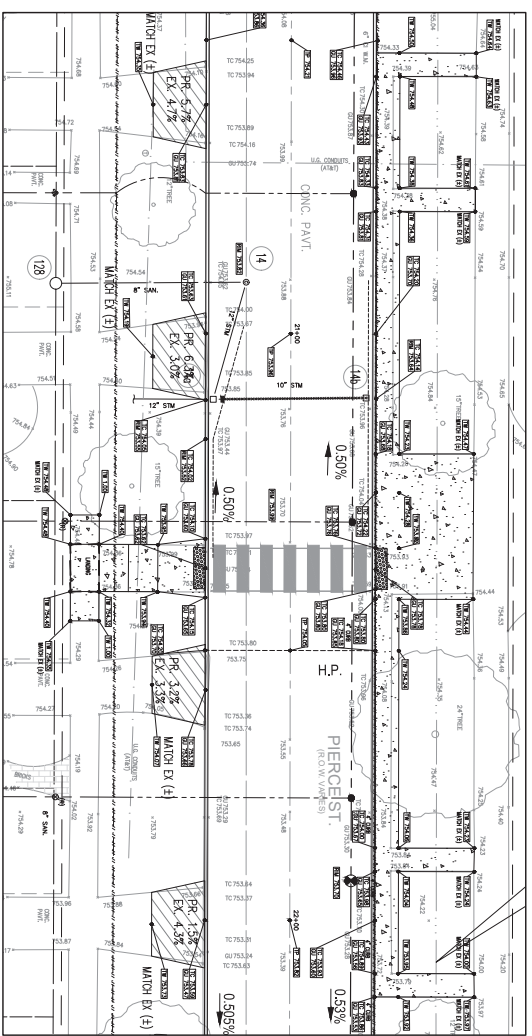
CROSSING AT PIERCE STREET AND NORTHLAWN BLVD.



CROSSING AT PIERCE STREET AND E. SOUTHLAWN BLVD.



CROSSING AT PIERCE STREET AND W. SOUTHLAWN BLVD.



CROSSING AT PIERCE ELEMENTARY SCHOOL

DATE: 12-08-2021  
 SCALE: 1" = 20' / 1" = 2'  
 SHEET NO. M515  
 C15

**811**  
 Non-emergency  
 Call before you dig.

Engineering Department  
 151 Martin Street  
 Birmingham, MI 48201

**AV**  
 PROJECT LOCATION  
 Part of the Southeast 1/4 of Section 36, Town 2 North, Range 18 East, C-139 of the Birmingham Official Land County, Michigan

INTERSECTION GRADING  
 Details  
 (1 of 2)

DRAWN BY: M. HART  
 CHECKED BY: S. GIBSON  
 DATE: 12-08-2021



**ENGINEERS**  
**CIVIL ENGINEERS**  
**LAND SURVEYORS**  
**LAND PLANNERS**

NOWAK & FRANK ENGINEERS  
 4677 WOODWARD AVE  
 FORT MYERS, FL 33907  
 FAX: (239) 335-8257  
 WWW.NOWAKFRANK.COM

SHEET NO. \_\_\_\_\_

**PROJECT**  
 Pierce Street Paving  
**Project**  
 Contract # 3247P

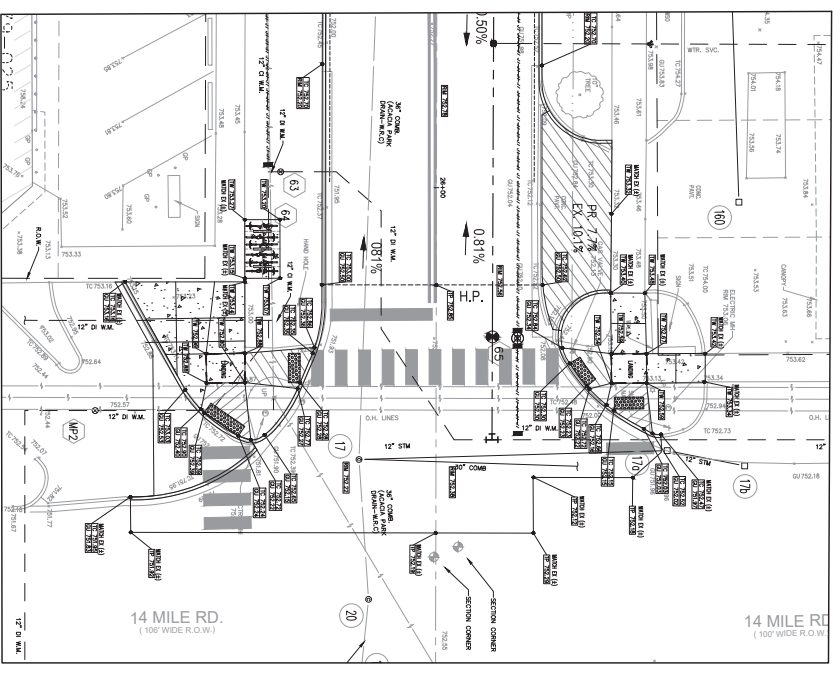
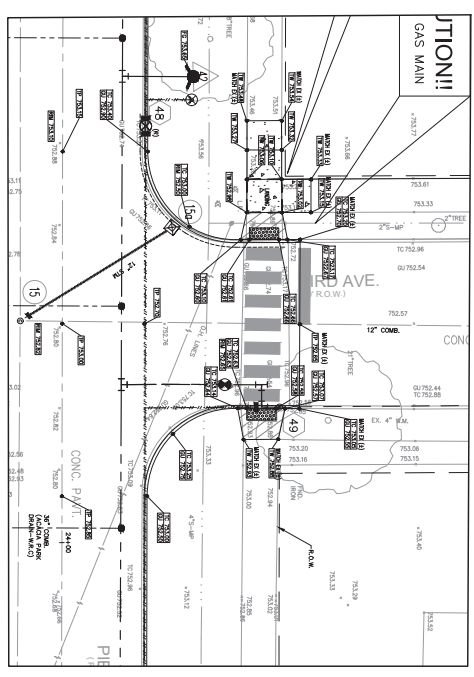
**CLIENT**  
 BIRMINGHAM  
 A Division of City  
 Engineering Department  
 151 Martin Street  
 Birmingham, MI 48203

**PROJECT LOCATION**  
 Part of the Southeast 1/4  
 of Section 36, Town 2 North,  
 Range 18 East, City of  
 Birmingham, Oakland  
 County, Michigan

**SHEET**  
 Intersection Grading  
 Details  
 (2 of 2)

**811**  
 Michigan's Toll-Free  
 Call before you dig.

**DATE:** ISSUED BY/REVISED  
 12/28/2021  
**DESIGNED BY:** M. HAHN  
**CHECKED BY:** M. HAHN  
**DATE:** 12/28/2021  
**DATE:** 12/28/2021  
**SCALE:** 1" = 30' / 1" = 2'



NET JOB NO. **M515**  
 SHEET NO. **C16**



**ENGINEERS**  
**CIVIL ENGINEERS**  
**LAND SURVEYORS**  
**LAND PLANNERS**

NOVAK & FEUER ENGINEERS  
 6077 WOODWARD AVE  
 PONTIAC, MI 48342-3032  
 TEL: (248) 532-7931  
 FAX: (248) 532-9237

**PROJECT**  
 Pierce Street Paving  
 Project  
 Contract #3.234(P)

**CLIENT**  
 Existing & Proposed Road Cross-Sections



**BIRNCRUM JAM**  
 A WOODWARD CLAY COMPANY  
 Engineering Department  
 151 Martin Street  
 Birmingham, MI 48403

**PROJECT LOCATION**  
 Part of the Southeast 1/4 of Section 26, Town 2 North, Range 19 of Township of Birmingham, Oakland County, Michigan

**SHEET**  
 Existing & Proposed Road Cross-Sections

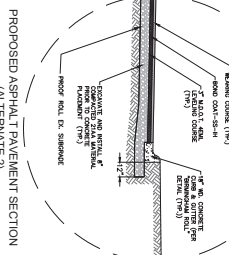
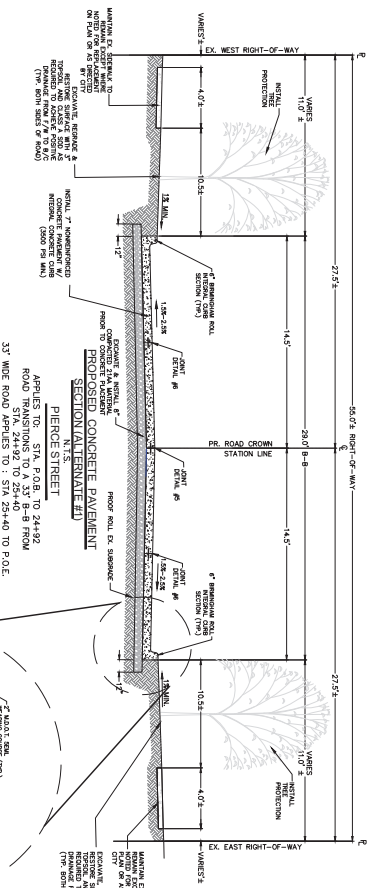
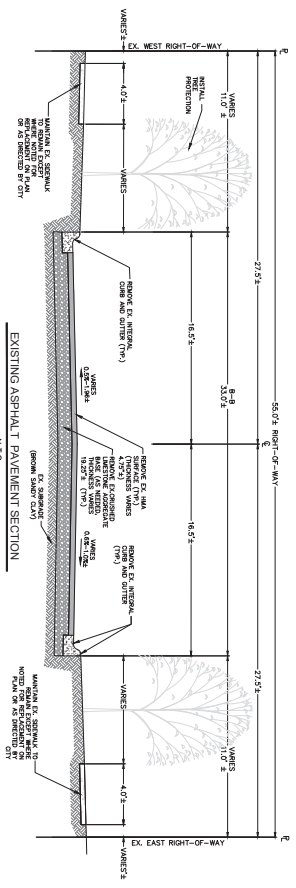
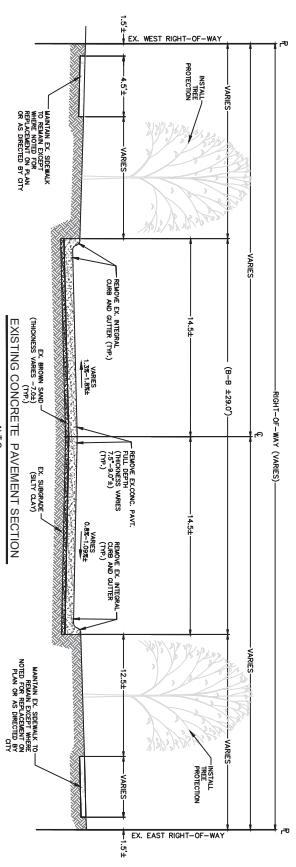


**King City, Michigan**  
 Call before you dig.

**DATE** ISSUED: 04/20/2021  
**DATE** DESIGNED: 04/20/2021  
**DATE** CHECKED: 04/20/2021  
**DATE** APPROVED: 04/20/2021  
**DATE** 04/20/2021

**DRAWN BY** G.A. YILDIZ  
**CHECKED BY** P. STONER  
**APPROVED BY** B. Biechholz  
**DATE** 12-08-2021

**SCALE** N.T.S.  
**NET JOB NO.** M515  
**SHEET NO.** C17



ADVANCED WARNING SIGNAGE & DETOUR PLAN: PIERCE ST.



PIERCE ST CLOSED FROM  
LINCOLN TO 14 MILE  
SEEK ALT ROUTE

36" x 72" ADVANCE WARNING SIGN "A"  
BLACK LEGEND ON ORANGE BACKGROUND



36" x 36"  
ADVANCE WARNING SIGN "R"  
BLACK LEGEND ON ORANGE  
BACKGROUND



ADVANCED WARNING SIGN "R-1"



ADVANCED WARNING SIGN "R-2"

**SYMBOL KEY**  
I TYPE III BARRICADES  
- ADVANCED WARNING SIGN



| DESCRIPTION                                     | QUANTITY  |          |
|---|-----------|----------|
| SPECIAL ADVANCED WARNING SIGN QUANTITIES        |           |          |
| DESCRIPTION                                     | SIZE      | QUANTITY |
| SIGN "A"  | 36" X 72" | 27       |
| OTHER ADVANCED WARNING SIGN QUANTITIES AS SHOWN |           |          |
| DESCRIPTION                                     | SIZE      | QUANTITY |
| R11-2   | 60" X 30" | 8        |
| R11-4   | 60" X 30" | 5        |
| R3-1  | 28" X 24" | 9        |
| R3-2  | 28" X 24" | 8        |

**NHF ENGINEERS**  
CIVIL ENGINEERS  
LAND SURVEYORS  
LAND PLANNERS

NORWALK & FRANKS ENGINEERS  
46777 WOODWARD AVE.  
PONTIAC, MI 48342-3032  
TEL: (248) 532-7911  
FAX: (248) 532-6297

**BERNARDINI ENGINEERS**  
Engineering Department  
151 Martin Street  
Birmingham, MI 48010

PROJECT LOCATION  
Part of the Southeast 1/4  
of Section 36, Town 2 North,  
Range 10 East, City of  
Birmingham, Jefferson  
County, Michigan

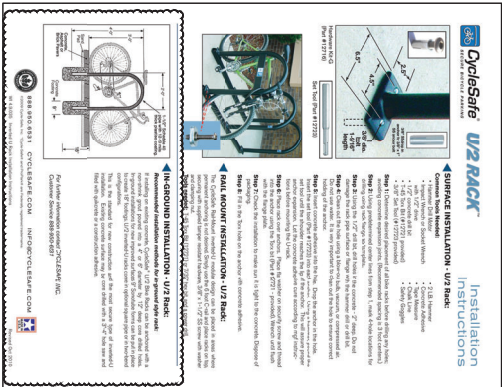
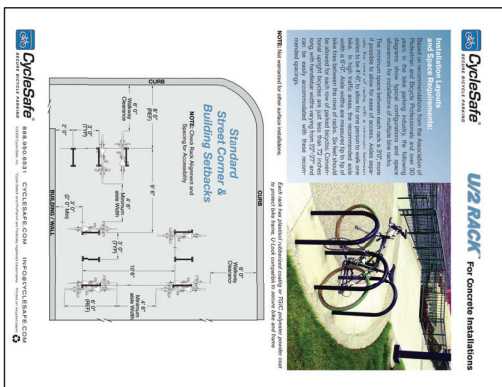
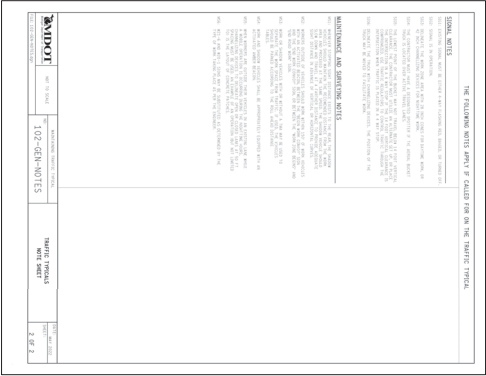
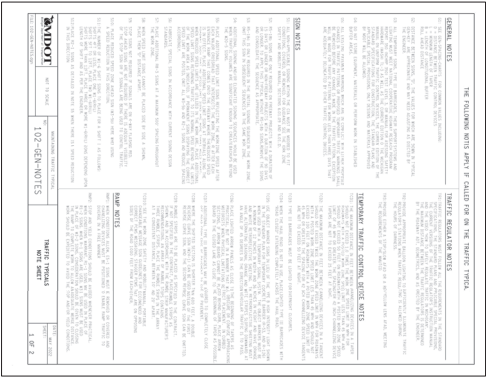
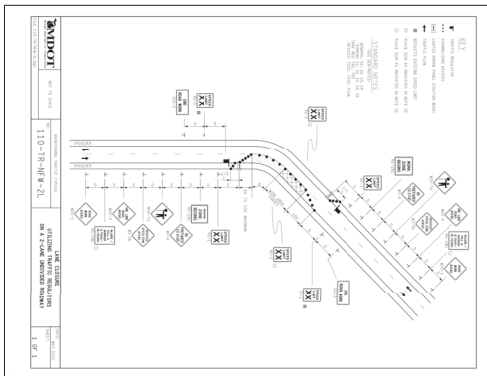
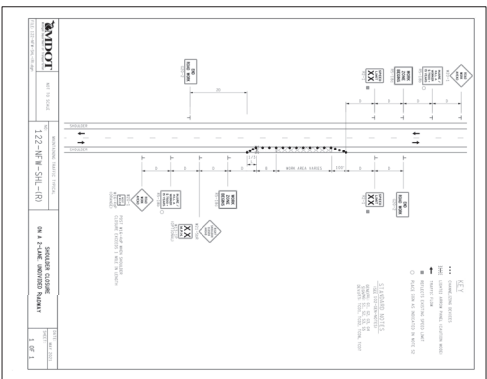
**811**  
Michigan's 811  
Call before you dig

Advanced Warning  
Signage & Traffic Detour  
Plan - Pierce Street

DATE: 12/05/2021  
DRAWN BY: G. VITA  
DESIGNED BY: L.J. JENSEN  
CHECKED BY: K. BUCHHEIT  
DATE: 12/05/2021  
SCALE: N.T.S.

NEE FOR NO. **MS15** SHEET NO. **C18**





**ENGINEERS**  
**CIVIL ENGINEERS**  
**LAND SURVEYORS**  
**LAND PLANNERS**

NOVAK & FEUER ENGINEERS  
 6077 WOODWARD AVE  
 PONTIAC, MI 48342-3032  
 TEL: (248) 532-7931  
 FAX: (248) 532-8297

PROJECT  
 Pierce Street Paving  
 Project  
 Contract #3-23(P)

**BIRMINGHAM**  
 A NOVAK & FEUER COMPANY

Engineering Department  
 151 Martin Street  
 Birmingham, MI 48203

PROJECT LOCATION  
 Part of the Southeast 1/4  
 of Section 26, Town 2 North,  
 Range 19 East, 3rd Principal  
 Meridian, Oakland  
 County, Michigan

NOTE & Details (2 of 3)

**811**  
 Know what's below  
 Call before you dig.

DATE: 12-08-2021  
 SCALE: N.T.S.  
 SHEET NO: **C20**

DATE: 12-08-2021  
 SCALE: N.T.S.

DATE: 12-08-2021  
 SCALE: N.T.S.

DATE: 12-08-2021  
 SCALE: N.T.S.








**NFE ENGINEERS**  
 CIVIL ENGINEERS  
 LAND SURVEYORS  
 LAND PLANNERS

NOVAK & FRANK ENGINEERS  
 6077 WOODWARD AVE  
 PONTIAC, MI 48342-3032  
 TEL: (248) 532-7931  
 FAX: (248) 532-8297

PROJECT  
 Pierce Street Paving  
 Project #3-23(P)  
 Contract #3-23(P)

CINBT



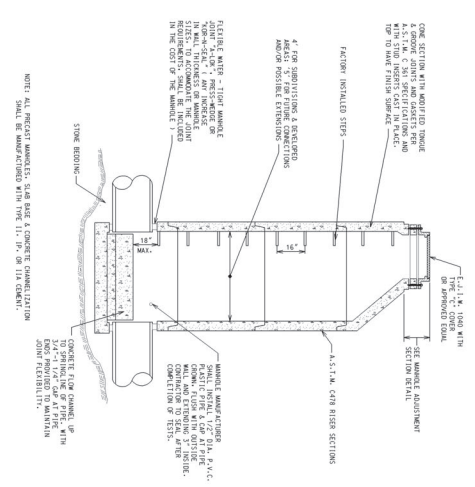
**BIRMINGHAM AVALON CITY**  
 Engineering Department  
 151 Main Street  
 Birmingham, MI 48202

PROJECT LOCATION  
 Part of the Southeast 1/4  
 of Section 36, Town 2 North,  
 Range 17 East of  
 Birmingham, Oakland  
 County, Michigan

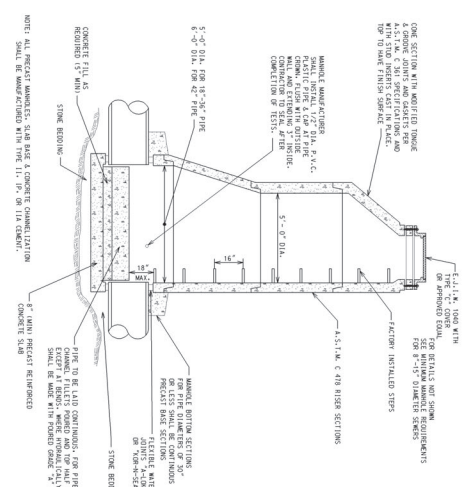
DATE: 12-08-2021  
 SCALE: N.T.S.  
 SHEET NO. 01

| NO. | ITEM DESCRIPTION                         | UNIT | SHEET C1 | SHEET C2 | SHEET C3 | SHEET C4 | SHEET C5 | SHEET C6 | SHEET C7 | SHEET C8 | SHEET C9 | TOTAL QUANTITY |
|-----|--|------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------------|
| 1   | 1" Square Sheet, 24" x 36", 1/4" Thick A | LF   |          |          |          |          |          |          |          |          |          |                |
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| 27  | 1" Square Sheet, 24" x 36", 1/4" Thick A | LF   |          |          |          |          |          |          |          |          |          |                |
| 28  | 1" Square Sheet, 24" x 36", 1/4" Thick A | LF   |          |          |          |          |          |          |          |          |          |                |
| 29  | 1" Square Sheet, 24" x 36", 1/4" Thick A | LF   |          |          |          |          |          |          |          |          |          |                |
| 30  | 1" Square Sheet, 24" x 36", 1/4" Thick A | LF   |          |          |          |          |          |          |          |          |          |                |
| 31  | 1" Square Sheet, 24" x 36", 1/4" Thick A | LF   |          |          |          |          |          |          |          |          |          |                |
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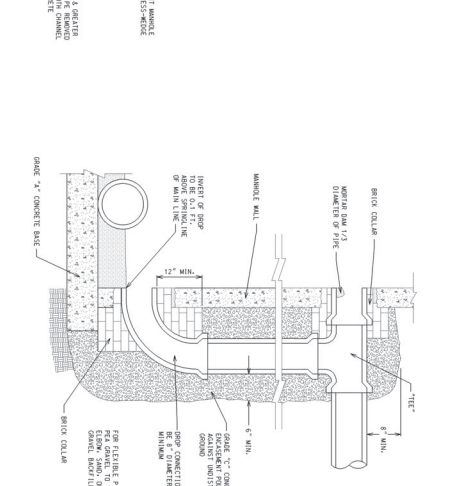
| NO. | ITEM DESCRIPTION                         | UNIT | SHEET C1 | SHEET C2 | SHEET C3 | SHEET C4 | SHEET C5 | SHEET C6 | SHEET C7 | SHEET C8 | SHEET C9 | TOTAL QUANTITY |
|-----|--|------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------------|
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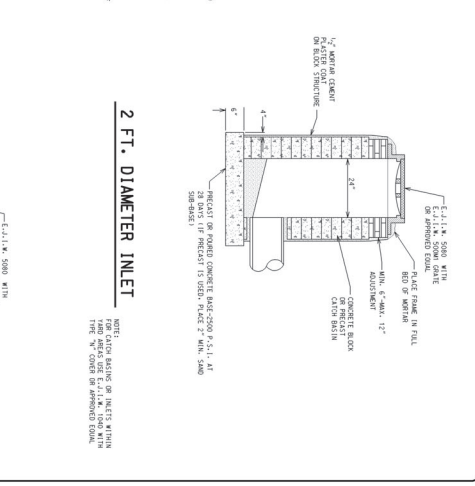
**SEWER MANHOLE**  
1/4" DIA. (1/4" DIA. SEWER)



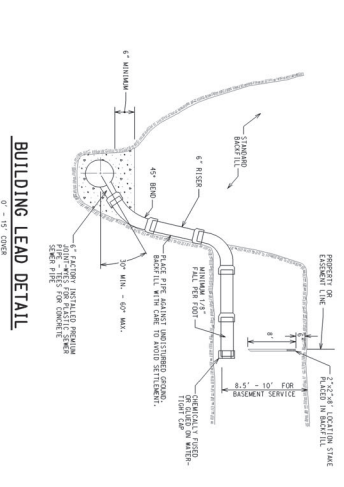
**SEWER MANHOLE**  
1/4" DIA. (1/4" DIA. SEWER)



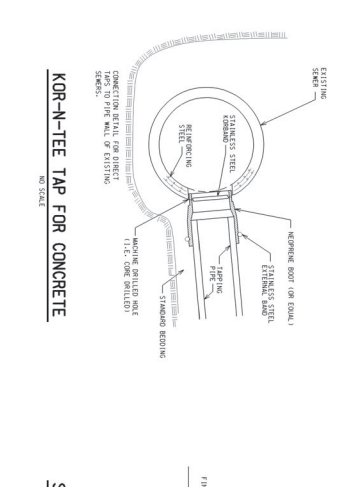
**EXTERNAL DROP CONNECTION**



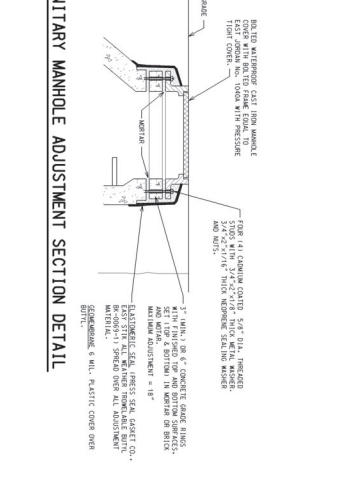
**2 FT. DIAMETER INLET**



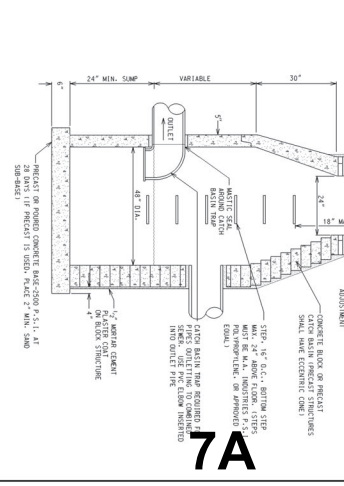
**BUILDING LEAD DETAIL**



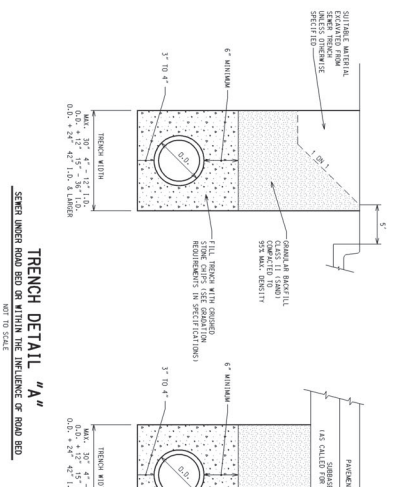
**KOR-N-TEE TAP FOR CONCRETE**



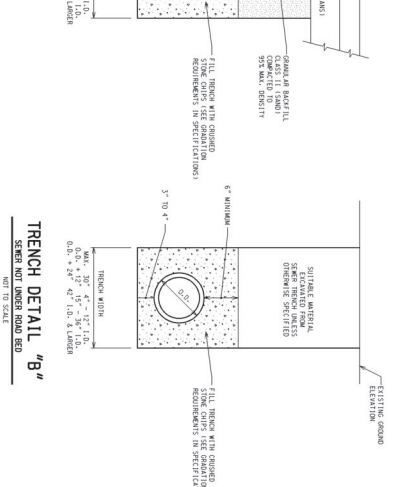
**SANITARY MANHOLE ADJUSTMENT SECTION DETAIL**



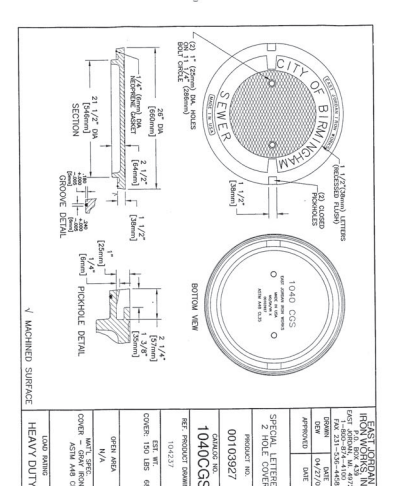
**4 FT. DIAMETER CATCH BASIN**



**TRENCH DETAIL "A"**  
SEWER UNDER ROAD BED WITHIN THE IMPAVEMENT OR ROAD BED



**TRENCH DETAIL "B"**  
SEWER UNDER ROAD BED



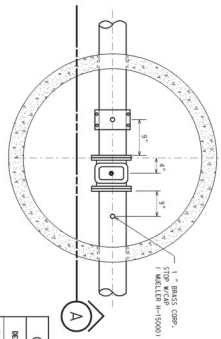
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| PROJECT NO. 10400CGS<br>DATE 08/27/02<br>DRAWN BY [Name]<br>CHECKED BY [Name]<br>APPROVED BY [Name] | SPECIAL LETTERED<br>2. REVISIONS:<br>001108827<br>10400CGS<br>08/27/02 | CITY OF BIRMINGHAM<br>DEPARTMENT OF PUBLIC WORKS<br>151 MARTIN STREET, BIRMINGHAM, MICHIGAN 48102<br>205-263-1000 |
|---|--|---|

**City of Birmingham**  
BIRMINGHAM, MICHIGAN

151 MARTIN STREET BIRMINGHAM, MICHIGAN 48102

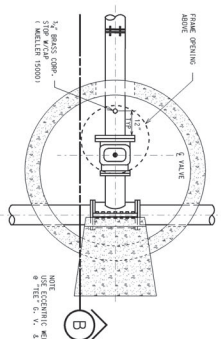
**SEWER STANDARD DETAILS**

|                    |                   |
|--------------------|-------------------|
| DATE: _____        | SCALE: _____      |
| PROJECT NO.: _____ | DATE: _____       |
| DRAWN BY: _____    | CHECKED BY: _____ |
| APPROVED BY: _____ | DATE: _____       |



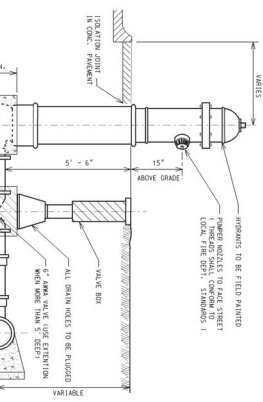
**GATE WELL SCHEDULE**

| DESCRIPTION | Q.M. | PRICE | EXT.   |
|-------------|------|-------|--------|
| WELL DIA.   | A    | 6' 0" | 12' 0" |
| WELL DIA.   | B    | 5' 0" | 12' 0" |
| WELL DIA.   | C    | 4' 0" | 12' 0" |
| WELL DIA.   | D    | 3' 0" | 12' 0" |

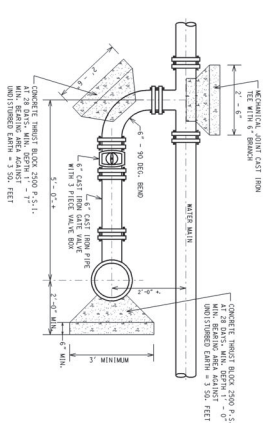


**SECTION "A" GATE WELL**  
NO SCALE  
M-1 & M-3

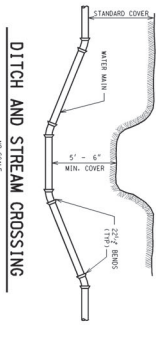
**SECTION "B" TAPPING SLEEVE, VALVE & WELL**  
NO SCALE



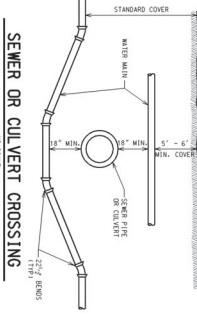
**FIRE HYDRANT GUARD POSTS DETAIL**  
NO SCALE



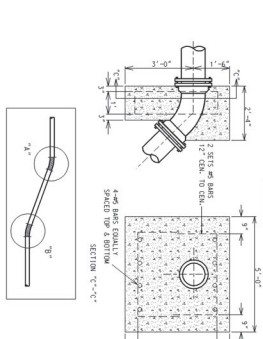
**1/2\"/>**



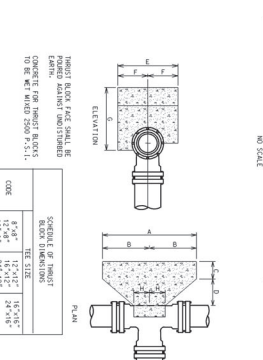
**DITCH AND STREAM CROSSING**  
NO SCALE



**SEWER OR CULVERT CROSSING**  
NO SCALE

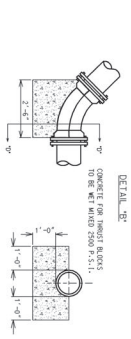


**DETAIL 'A'**



**ELEVATION**

**PLAN**



**DETAIL 'B'**



**ELEVATION**

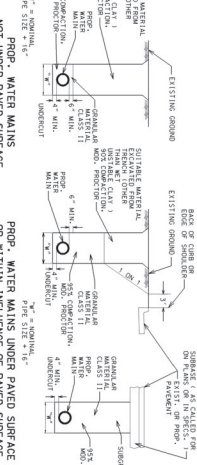
**PLAN**

**VERTICAL BEND THRUST BLOCKS FOR 8"-12" MAINS**  
NO SCALE

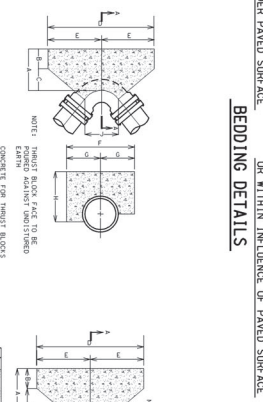
**CONCRETE THRUST BLOCK FOR TEES**  
NO SCALE

**CONCRETE THRUST BLOCK FOR BENDS**  
NO SCALE

**CONC. THRUST BLOCKS FOR PLUGS & CAPS**  
NO SCALE



**BEDDING DETAILS**  
NO SCALE



**ELEVATION**

**PLAN**

**SCHEDULE OF THRUST BLOCK SIZES**

| CODE | SIZE      | Q.M. | PRICE | EXT.  |
|------|-----------|------|-------|-------|
| A    | 8" x 8"   | 1.00 | 12.00 | 12.00 |
| B    | 12" x 12" | 1.00 | 18.00 | 18.00 |
| C    | 18" x 18" | 1.00 | 24.00 | 24.00 |
| D    | 24" x 24" | 1.00 | 30.00 | 30.00 |
| E    | 30" x 30" | 1.00 | 36.00 | 36.00 |
| F    | 36" x 36" | 1.00 | 42.00 | 42.00 |
| G    | 42" x 42" | 1.00 | 48.00 | 48.00 |
| H    | 48" x 48" | 1.00 | 54.00 | 54.00 |
| I    | 54" x 54" | 1.00 | 60.00 | 60.00 |
| J    | 60" x 60" | 1.00 | 66.00 | 66.00 |

**SCHEDULE OF THRUST BLOCK SIZES**

| SIZE | A    | B    | C    | D    | E    | F    | G    | H    | I    | J    |
|------|------|------|------|------|------|------|------|------|------|------|
| 8"   | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 12"  | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 18"  | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 24"  | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 30"  | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 36"  | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 42"  | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 48"  | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 54"  | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| 60"  | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |

**City of Birmingham**  
151 MARTIN STREET, BIRMINGHAM, MICHIGAN 48102

**WATER MAIN STANDARD DETAILS**

DATE: \_\_\_\_\_  
DRAWN: \_\_\_\_\_  
CHECKED: \_\_\_\_\_  
SCALE: \_\_\_\_\_  
SHEET NO.: \_\_\_\_\_  
TOTAL SHEETS: \_\_\_\_\_  
PROJECT NO.: \_\_\_\_\_  
PROJECT NAME: \_\_\_\_\_

WM-1

**Pierce Street Project  
Water Service Special Assessment District (SAD)**

| <b>Parcel ID / Sidewell Number</b> | <b>Street Address</b> | <b>Water Service Footage<br/>(WM to Prop. Line)</b> | <b>Estimated<br/>Cost</b> |
|------------------------------------|-----------------------|---|---------------------------|
| 19-36-401-006                      | 1105 Pierce Street    | 28.5  | \$ 3,277.50               |
| 19-36-329-011                      | 1234 Pierce Street    | 37.5  | \$ 4,312.50               |
| 19-36-401-009                      | 1245 Pierce Street    | 30.0  | \$ 3,450.00               |
| 19-36-329-012                      | 1252 Pierce Street    | 36.5  | \$ 4,197.50               |
| 19-36-329-013                      | 1270 Pierce Street    | 36.5  | \$ 4,197.50               |
| 19-36-329-014                      | 1290 Pierce Street    | 39.0  | \$ 4,485.00               |
| 19-36-401-046                      | 1321 Pierce Street    | 28.0  | \$ 3,220.00               |
| 19-36-329-015                      | 1340 Pierce Street    | 42.0  | \$ 4,830.00               |
| 19-36-401-013                      | 1355 Pierce Street    | 28.0  | \$ 3,220.00               |
| 19-36-329-017                      | 1380 Pierce Street    | 39.0  | \$ 4,485.00               |
| 19-36-401-017                      | 1415 Pierce Street    | 26.0  | \$ 2,990.00               |
| 19-36-333-020                      | 1418 Pierce Street    | 40.0  | \$ 4,600.00               |
| 19-36-401-018                      | 1421 Pierce Street    | 26.0  | \$ 2,990.00               |
| 19-36-333-021                      | 1424 Pierce Street    | 40.0  | \$ 4,600.00               |
| 19-36-333-022                      | 1436 Pierce Street    | 40.0  | \$ 4,600.00               |
| 19-36-401-019                      | 1437 Pierce Street    | 26.0  | \$ 2,990.00               |
| 19-36-333-023                      | 1450 Pierce Street    | 42.0  | \$ 4,830.00               |
| 19-36-401-021                      | 1469 Pierce Street    | 26.0  | \$ 2,990.00               |
| 19-36-333-025                      | 1474 Pierce Street    | 40.0  | \$ 4,600.00               |
| 19-36-333-027                      | 1492 Pierce Street    | 40.0  | \$ 4,600.00               |
| 19-36-333-028                      | 1510 Pierce Street    | 40.0  | \$ 4,600.00               |
| 19-36-333-032                      | 1570 Pierce Street    | 52.0  | \$ 5,980.00               |
| 19-36-333-033                      | 1584 Pierce Street    | 52.0  | \$ 5,980.00               |
| 19-36-333-035                      | 1638 Pierce Street    | 56.0  | \$ 6,440.00               |
| 19-36-333-036                      | 1682 Pierce Street    | 50.0  | \$ 5,750.00               |
| 19-36-379-025                      | 100 W. 14 Mile Road   | 49.0  | \$ 5,635.00               |



## **MEMORANDUM**

City Clerk's Office

**DATE:** June 21, 2023

**TO:** Melissa Coatta, City Engineer

**FROM:** Alexandria Bingham, City Clerk

**SUBJECT:** Clerk's Confirmation of Public Hearing Notice: Pierce Street Water Lateral Improvement

---

The public hearing notice process has been completed for Pierce Street Water Lateral Improvement. Please see attachments for further confirmation.

Mailing Date: 06/12/2023

Test Mail Return Date:

Publishing Dates in the Oakland Press: June 12, 2023 and June 18, 2023

Posted in [www.bhamgov/publicnotices](http://www.bhamgov/publicnotices): 6/12/2023

Attachments:

1. Public Hearing Notice
2. Addresses
3. Mailing Letter
4. Mail Machine Counter Report
5. Proof of publishing for 6/12/2023. Second publish date 6/18/2023.

| <b>NOTICE OF PUBLIC HEARINGS</b>  |   |
|---|---|
| <b>BIRMINGHAM CITY COMMISSION</b>   |   |
| <b>PUBLIC HEARING OF NECESSITY</b>  |   |
| <b>PUBLIC HEARING OF CONFIRMATION</b>   |   |
| Meeting Date, Time, Location:   | HEARING OF NECESSITY FOR SPECIAL ASSESSMENT DISTRICT<br>Monday, June 26, 2023, 7:30 PM<br>Municipal Building, 151 Martin, Birmingham, MI 48009  |
| Meeting Date, Time, Location:   | HEARING FOR CONFIRMATION OF THE ROLL<br>Monday, July 10, 2023, 7:30 PM<br>Municipal Building, 151 Martin, Birmingham, MI 48009  |
| Project Location:   | Pierce Street between East Lincoln Street and 14 Mile Road  |
| Nature of Improvement:  | Replacement and improvement of water laterals meeting the requirements for assessment, for all properties within the project area. Affected addresses as follows:<br>1105 Pierce Street 19-36-401-006<br>1234 Pierce Street 19-36-329-011<br>1245 Pierce Street 19-36-401-009<br>1252 Pierce Street 19-36-329-012<br>1270 Pierce Street 19-36-329-013<br>1290 Pierce Street 19-36-329-014<br>1321 Pierce Street 19-36-401-046<br>1340 Pierce Street 19-36-329-015<br>1355 Pierce Street 19-36-401-013<br>1380 Pierce Street 19-36-329-017<br>1390 Pierce Street 19-36-329-018<br>1415 Pierce Street 19-36-401-017<br>1418 Pierce Street 19-36-333-020<br>1421 Pierce Street 19-36-401-018<br>1424 Pierce Street 19-36-333-021<br>1436 Pierce Street 19-36-333-022<br>1437 Pierce Street 19-36-401-019<br>1450 Pierce Street 19-36-333-023<br>1469 Pierce Street 19-36-401-021<br>1474 Pierce Street 19-36-333-025<br>1492 Pierce Street 19-36-333-027<br>1510 Pierce Street 19-36-333-028<br>1570 Pierce Street 19-36-333-032<br>1584 Pierce Street 19-36-333-033<br>1638 Pierce Street 19-36-333-035<br>1682 Pierce Street 19-36-333-036<br>100 W. 14 Mile Road 19-36-379-025<br>1128 Lincoln Avenue 19-36-329-024 |
| City Staff Contact:   | Melissa Coatta, City Engineer<br><a href="mailto:mcoatta@bhamgov.org">mcoatta@bhamgov.org</a> , (248)530-1839   |
| Notice Requirements:  | Mail to affected property owners<br>Publish June 12, 2023 and June 18, 2023   |
| Approved minutes may be reviewed at:  | City Clerk's Office or <a href="http://www.bhamgov.org/commissionagendas">www.bhamgov.org/commissionagendas</a>   |
| Should you have any statement regarding the above, you are invited to attend the meeting in person or virtually through ZOOM: <b><a href="https://zoom.us/j/655079760">https://zoom.us/j/655079760</a></b> Meeting ID: <b>655 079 760</b> |   |

You or your agent may appear at the hearings to express your views; however, if you fail to protest either in person or by letter received on or before the date of the hearing, you cannot appeal the amount of the special assessment to the Michigan Tax Tribunal. Mail any correspondence to: City Clerk, P.O. Box 3001, Birmingham, MI 48012.

The property owner may file a written appeal of the special assessment with the State Tax Tribunal within 30 days after the confirmation of the special assessment roll if that special assessment was protested at the hearing held for the purpose of confirming the roll.

All special assessments, including installment payments, shall, from the date of the confirmation thereof, constitute a lien on the respective lots or parcels assessed, and until paid shall be charged against the respective owners of the lots or parcels assessed.

Persons with disabilities needing accommodations 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.



| <b>Street Address</b> | <b>Parcel ID / Sidewell Number</b> |
|-----------------------|------------------------------------|
| 1105 Pierce Street    | 19-36-401-006                      |
| 1234 Pierce Street    | 19-36-329-011                      |
| 1245 Pierce Street    | 19-36-401-009                      |
| 1252 Pierce Street    | 19-36-329-012                      |
| 1270 Pierce Street    | 19-36-329-013                      |
| 1290 Pierce Street    | 19-36-329-014                      |
| 1321 Pierce Street    | 19-36-401-046                      |
| 1340 Pierce Street    | 19-36-329-015                      |
| 1355 Pierce Street    | 19-36-401-013                      |
| 1380 Pierce Street    | 19-36-329-017                      |
| 1390 Pierce Street    | 19-36-329-018                      |
| 1415 Pierce Street    | 19-36-401-017                      |
| 1418 Pierce Street    | 19-36-333-020                      |
| 1421 Pierce Street    | 19-36-401-018                      |
| 1424 Pierce Street    | 19-36-333-021                      |
| 1436 Pierce Street    | 19-36-333-022                      |
| 1437 Pierce Street    | 19-36-401-019                      |
| 1450 Pierce Street    | 19-36-333-023                      |
| 1469 Pierce Street    | 19-36-401-021                      |
| 1474 Pierce Street    | 19-36-333-025                      |
| 1492 Pierce Street    | 19-36-333-027                      |
| 1510 Pierce Street    | 19-36-333-028                      |
| 1570 Pierce Street    | 19-36-333-032                      |
| 1584 Pierce Street    | 19-36-333-033                      |
| 1638 Pierce Street    | 19-36-333-035                      |
| 1682 Pierce Street    | 19-36-333-036                      |
| 100 W. 14 Mile Road   | 19-36-379-025                      |
| 1128 Lincoln Avenue   | 19-36-329-024                      |

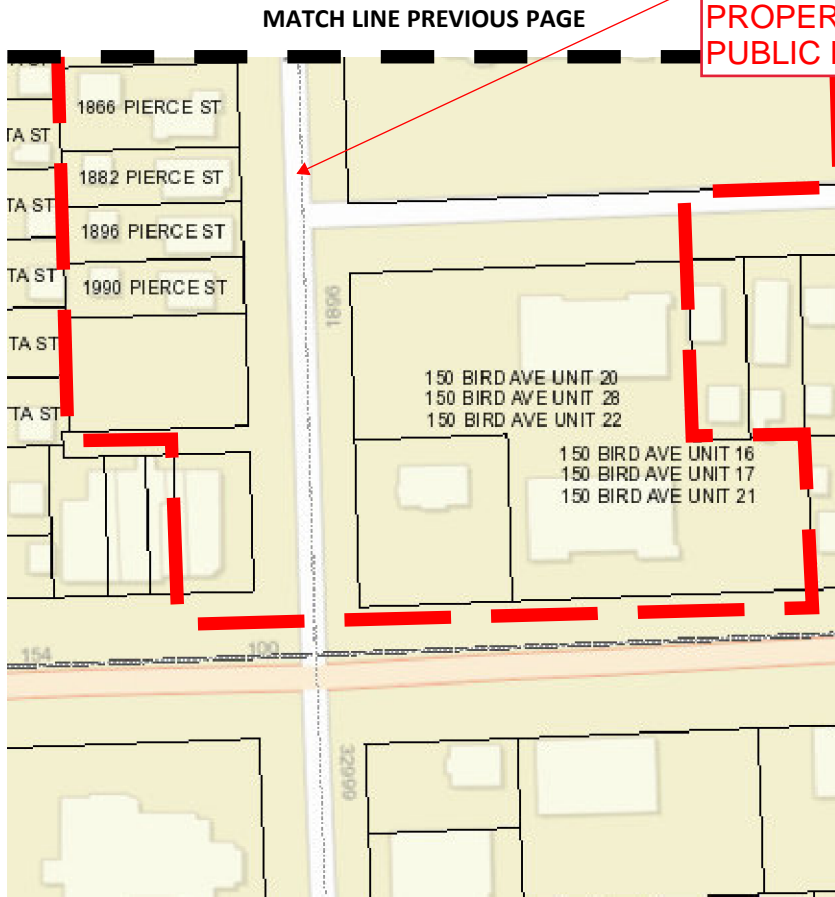
# Pierce Street Project Area

PROPERTIES POTENTIALLY INCLUDED IN PROPOSED WATERLATERAL REPLACEMENT SPECIAL ASSESSMENT DISTRICT (ACTUAL PROPERTIES TO BE DETERMINED PRIOR TO PUBLIC HEARING OF NECESSITY)



# Pierce Street Project Area

PROPERTIES POTENTIALLY INCLUDED IN PROPOSED WATERLATERAL REPLACEMENT SPECIAL ASSESSMENT DISTRICT (ACTUAL PROPERTIES TO BE DETERMINED PRIOR TO PUBLIC HEARING OF NECESSITY)





Monday, June 12, 2023

TO: 19-36-401-018  
Property Owner  
1421 Pierce Street  
Birmingham, MI 48009

RE: Pierce Street Water Lateral Replacement and Improvement Special Assessment District

The City of Birmingham's Pierce Street Paving Project will start soon and includes the replacement of the water main on Pierce Street between East Lincoln Street and 14 Mile Road and the repaving of that section. Construction on this project is anticipated to start in July 2023 and be completed by November 2023.

As part of the project, the city intends to replace water service laterals less than 1 inch in diameter from the new water main location to the right-of-way. Not all property owners in the project area will need the replacement of their water laterals and be subject to this special assessment. Replacement during infrastructure projects protects the city's investment by reducing the chance of a lateral failure within the right-of-way area. City ordinance establishes private water service laterals only benefit one property and they are not considered a part of the city's public water system. Therefore, the maintenance and repair of the water services from the building to the connection at the public main is the responsibility of each property owner and are completed at the property owner's expense.

With this letter, you are receiving a notification for two public hearings regarding this project:

- The Public Hearing of Necessity to form a Special Assessment District for the replacement of water laterals meeting the requirements as part of the Pierce Street Paving Project is **Monday, June 26, 2023**, at the regularly scheduled City Commission meeting at 7:30 p.m. in City Hall at 151 Martin St. Official estimates of replacing the water lateral will be provided at the Hearing of Necessity.
- If necessity is determined at the June 26 hearing, a Public Hearing of Confirmation to confirm the Special Assessment District will follow on **Monday, July 10, 2023**, at the regularly scheduled City Commission meeting at 7:30 p.m. in City Hall at 151 Martin St.

The actual cost of replacing the section of the water lateral charged to you will vary depending on the actual location of the city mains, and any other obstacles, such as trees that are in the way. Property owners are only charged for the actual length of service replaced if their service qualifies for assessment as described above.

After the work is completed, an invoice will be generated and sent to the property owner of record for the length of service replaced. Payment in full will be expected within 30 days of receipt. If you are not in a position to pay off the charge in one payment, it can be broken into as many as 5 annual payments. An annual interest charge on the remaining balance, currently about 9.25 percent, will apply.

If you have any questions or concerns, please contact the Engineering Office at (248) 530-1850. You have the opportunity to speak directly to the City Commission at the Public Hearing of Necessity that will be held on June 26, 2023.

Sincerely,



Melissa A. Coatta, P.E.  
City Engineer

|                 |                         |             |                     |                     |
|-----------------|-------------------------|-------------|---------------------|---------------------|
| Funds<br>Report | Available:              | \$4,023.86  | PBP Account Number: | 35884980            |
|                 | Used:                   | \$23,976.14 | Indicia Number:     | 0001404691          |
|                 | Total Pieces:           | 36797       | Meter Number:       | 1404691             |
|                 | Control Sum:            | \$28,000.00 | Meter Name:         |                     |
|                 | Resettable Piece Count: | 29          | Printed:            | JUN 12 2023 1:03 PM |
|                 | Piece Count Value:      | \$17.40     |                     |                     |

### Contact us

Classified Sales: 877-271-1272 | 248-745-4500 ads@newspaperclassifieds.com

Noelle Klomp, Director: 586-783-0393 nklomp@newspapersclassifieds.com

Monday, June 12, 2023 » MORE UPDATES AT FACEBOOK.COM/THEOAKLANDPRESS AND TWITTER.COM/THEOAKLANDPRESS

theoaklandpress.com

### COLLECTIBLES & MEMORABILIA

**BUYING COINS, Sports Cards and Stamp Collections.** Top \$\$\$\$ Paid. Call 248-471-4451

**SENIOR HUNTERS** Collection of Apparel and Equipment. 1 lot. No firearms. Photo inventory available via text. \$1500 obo. Ron @ 248-224-8756

### FIREWOOD

**FIREWOOD** 4 X 4 X 8 Cords, green or seasoned. Buy it by the semi-load and Save! 989-426-5916

### HELP WANTED GENERAL



Mac Valves Inc., leading manufacturer of pneumatic valves is seeking associates for **ASSEMBLY LINES**, **MATERIAL HANDLERS**, **MACHINE OPERATORS**

Mac Valves Inc. offers a competitive benefit package including 401K, Medical, Dental as well as short term and long term profit sharing.

Please apply in person at 30569 Beck Road, Wixom MI 48393 248-624-7700.

### HELP WANTED SEASONAL



248-477-9695 NOW HIRING

**CERTIFIED PESTICIDE APPLICATOR**

**CREW LEADERS**

WILL TRAIN AS NEEDED

We offer hourly wages from \$17- \$25 per hour with paid holidays and paid training. Health care available. Friendly atmosphere, in business over 60 years.

Call: 248-477-9695 or email landscape45@sbcglobal.net

### HEALTHCARE



**CAREGIVERS NEEDED !!** \$500 signing bonus and benefits - -

Help elderly in their homes, so they can stay at home. We work to your schedule. Must be reliable and caring with experience.

Full time/ Part time, all shifts and weekends. 401K with match, paid sick leave Call today 586-726-6999 between 9-3p

### APARTMENTS FOR RENT (UNFURNISHED)



**FARMINGTON HILLS**

**ANNIE APARTMENTS**

1 BDRM @ \$900 FREE HEAT 9 Mile/Middlebelt

248-478-7489

or: 248-544-9779 (Mon-Fri) 9 a.m. - 4:30 p.m.

### CEMETERY LOTS

**CEMETERY PLOTS**

2 adjacent plots Christian Memorial Cemetery Located Rochester Hills Garden of Baptism (fountain) Lot 471 -spaces 1 & 2 \$8700 fair market value Asking \$6300 248-296-2333



**CHRISTIAN MEMORIAL**

Cemetery, (Rochester Hills) 2 plots, 2 vaults, 1 deluxe marker, Garden of Grace, lot #1667, spaces 1 and 2, fair market value \$15,000, asking \$6,000. Call 248-852-1465

### PASSENGER CARS

2008 SUBARU FORESTER WAGON spotless inside & out, 5 speed, full power, air. \$2950 Private owner. Call Barnowsky 734-695-0819

### 4WD & SUV

2011 FORD FLEX 4 dr. Wagon, very clean inside/out, full power, air, new tires. \$6500 OBO. Private owner. Call Barnowsky 734-695-0819

### CLASSICS & EXOTICS

1965 MUSTANG - coupe - 6 cyl, 3 speed manual trans, 2nd owner, 43,000 miles; new paint, white / blue interior. Garaged all its life. \$20,000. 248-224-5346

CLASSIC 1996 MERCURY COUGAR XR7 SUV, 4 solid black finish, low miles. \$4000 invested. \$2650 pics avail. Private owner. Call Barnowsky 734-695-0819

CLASSIC CAR ENTHUSIAST 2009 Pontiac GT V6, hard top convertible. Must See. One of a kind, like new, no rust, low miles. \$8000. Priv owner Call Barnowsky 734-695-0819

FORD MUSTANG conv. 1968 289Z8, auto, pwr steer/roof, lime green/white top, runs well, all VIN #'s match. \$12,000 248-766-9804

FORD MUSTANG conv. 1968 289Z8, auto, pwr steer/roof, lime green/white top, runs well, all VIN #'s match. \$12,000 248-766-9804

CLASSIFIEDS hold many, many opportunities. They give opportunity for you to buy items, meet people, sell unwanted items, find housing, save money, earn a couple bucks, and much more.

### HELP WANTED GENERAL

## Steve's RESTAURANT

6646 Telegraph Rd Maple Rd & Telegraph Bloomfield Hills

START RIGHT AWAY

- Manager
- Deli Clerk
- Grill Person
- Dishwashers

Ask for Jan or Steve

248-932-0800

info@stevesdeli.com

### LEGAL NOTICES



### City of Pontiac 2022-23 Proposed Budget Amendments Notice

The Pontiac City Council will consider the following proposed budget amendments for the fiscal year 2022-23:

Reduce the budget appropriations in Fund 202 - Major Streets and Fund 203 - Local Streets, as given below;

| Fund 202 - Major Streets                                      | Dept 463 - Routine Maintenance Roads                          | Dept 478 - Winter Maintenance                                 | Dept 443 - NONMOTORIZED                                       |
|---|---|---|---|
| 202-463-777.005 STREET LIGHT PARTS & SUPPLIES (40,000)        | 202-478-749.001 Motor Fuel, Oil & Lubricants (18,500)         | 203-443-816.000 Services - Contracted Construction (30,000)   | 203-463-779.006 Surface Mount. - Permanent Asphalt (20,000)   |
| 202-463-779.003 SURFACE MAINTENANCE - ASPHALT (40,000)        | 202-478-779.004 SNOW REMOV SUPPLIES (15,000)                  | Dept 463 - Routine Maintenance Roads                          | 203-463-806.001 STORMWATER SERVICES (300,000)                 |
| 202-463-779.008 Pavement Markings (130,000)                   | 202-478-779.009 Other Road Maintenance Supplies (5,000)       | 203-463-779.009 Other Road Maintenance Supplies (4,000)       | 203-463-806.002 ASSET MANAGEMENT (64,000)                     |
| 202-463-779.009 Other Road Maintenance Supplies (4,000)       | Dept 485 - TRAFFIC CONTROL                                    | 202-463-806.000 Engineering Services (910,000)                | 203-463-816.000 Services - Contracted Construction (150,000)  |
| 202-463-806.001 STORMWATER SERVICES (100,000)                 | 202-485-777.001 Traffic Signals (55,000)                      | 202-463-806.001 STORMWATER SERVICES (100,000)                 | 203-463-818.000 Other Professional Services (15,000)          |
| 202-463-816.000 Services - Contracted Construction (400,000)  | Net Reduction in Fund 202 Appropriations (2,276,600)          | 202-463-818.000 Other Professional Services (2,000)           | 203-463-818.000 PROF. SERV - TREE SERVICES (20,000)           |
| 202-463-818.000 Contractual Mowing Services (15,100)          | Fund 203 - Local Streets                                      | 202-463-818.006 PROF. SERVICE - TREE SERVICES (20,000)        | Dept 443 - NONMOTORIZED                                       |
| 202-463-818.236 PROF. SERV - GUARDRAILS (20,000)              | Dept 443 - NONMOTORIZED                                       | 202-463-818.257 PROF SERV - GUARDRAILS (20,000)               | 203-443-816.000 Services - Contracted Construction (30,000)   |
| 202-463-818.260 OTHER PROF. SERV. - STREET PATCHING (80,000)  | Dept 463 - Routine Maintenance Roads                          | 202-463-818.260 OTHER PROF. SERV. - STREET PATCHING (80,000)  | 203-463-779.006 Surface Mount. - Permanent Asphalt (20,000)   |
| 202-463-931.002 Services - Ground Maintenance (15,000)        | 203-463-779.006 Surface Mount. - Permanent Asphalt (20,000)   | 202-463-931.002 Services - Ground Maintenance (15,000)        | 203-463-806.001 STORMWATER SERVICES (300,000)                 |
| 202-463-942.000 Services - Equipment Rent Non-City (37,000)   | 203-463-806.001 STORMWATER SERVICES (300,000)                 | 202-463-942.000 Services - Equipment Rent Non-City (37,000)   | 203-463-806.002 ASSET MANAGEMENT (64,000)                     |
| 202-463-977.002 VEHICLES (370,000)                            | 203-463-806.002 ASSET MANAGEMENT (64,000)                     | 202-463-977.002 VEHICLES (370,000)                            | 203-463-816.000 Services - Contracted Construction (150,000)  |
| Dept 478 - Winter Maintenance                                 | 203-463-816.000 Services - Contracted Construction (150,000)  | Dept 478 - Winter Maintenance                                 | 203-463-818.000 Other Professional Services (15,000)          |
| 202-478-749.001 Motor Fuel, Oil & Lubricants (18,500)         | 203-463-818.000 Other Professional Services (15,000)          | 202-478-749.001 Motor Fuel, Oil & Lubricants (18,500)         | 203-463-818.230 PROF. SERV - STREETLIGHT REPAIR (10,000)      |
| 202-478-779.004 SNOW REMOV SUPPLIES (15,000)                  | 203-463-818.230 PROF. SERV - STREETLIGHT REPAIR (10,000)      | 202-478-779.004 SNOW REMOV SUPPLIES (15,000)                  | 203-463-818.260 OTHER PROF. SERV. - STREET PATCHING (50,000)  |
| 202-478-779.009 Other Road Maintenance Supplies (5,000)       | 203-463-818.260 OTHER PROF. SERV. - STREET PATCHING (50,000)  | 202-478-779.009 Other Road Maintenance Supplies (5,000)       | 203-463-942.000 Services - Equipment Rental Non-City (25,000) |
| Dept 485 - TRAFFIC CONTROL                                    | 203-463-942.000 Services - Equipment Rental Non-City (25,000) | Dept 485 - TRAFFIC CONTROL                                    | 203-463-974.074 ROAD CONSTRUCTION (245,847)                   |
| 202-485-777.001 Traffic Signals (55,000)                      | 203-463-974.074 ROAD CONSTRUCTION (245,847)                   | 202-485-777.001 Traffic Signals (55,000)                      | Dept 478 - Winter Maintenance                                 |
| Net Reduction in Fund 202 Appropriations (2,276,600)          | Dept 478 - Winter Maintenance                                 | Net Reduction in Fund 202 Appropriations (2,276,600)          | 203-478-719.000 Workers Compensation Insurance (18,000)       |
| Fund 203 - Local Streets                                      | 203-478-719.000 Workers Compensation Insurance (18,000)       | Fund 203 - Local Streets                                      | 203-478-779.004 SNOW REMOV SUPPLIES (30,000)                  |
| Dept 443 - NONMOTORIZED                                       | 203-478-779.004 SNOW REMOV SUPPLIES (30,000)                  | Dept 443 - NONMOTORIZED                                       | 203-478-818.245 PROF. SERV - SNOW REMOVAL (25,000)            |
| 203-443-816.000 Services - Contracted Construction (30,000)   | 203-478-818.245 PROF. SERV - SNOW REMOVAL (25,000)            | 203-443-816.000 Services - Contracted Construction (30,000)   | Net Reduction in Fund 203 Appropriations (982,847)            |
| Dept 463 - Routine Maintenance Roads                          | Net Reduction in Fund 203 Appropriations (982,847)            | Dept 463 - Routine Maintenance Roads                          |   |
| 203-463-779.006 Surface Mount. - Permanent Asphalt (20,000)   |   | 203-463-779.006 Surface Mount. - Permanent Asphalt (20,000)   |   |
| 203-463-806.001 STORMWATER SERVICES (300,000)                 |   | 203-463-806.001 STORMWATER SERVICES (300,000)                 |   |
| 203-463-806.002 ASSET MANAGEMENT (64,000)                     |   | 203-463-806.002 ASSET MANAGEMENT (64,000)                     |   |
| 203-463-816.000 Services - Contracted Construction (150,000)  |   | 203-463-816.000 Services - Contracted Construction (150,000)  |   |
| 203-463-818.000 Other Professional Services (15,000)          |   | 203-463-818.000 Other Professional Services (15,000)          |   |
| 203-463-818.230 PROF. SERV - STREETLIGHT REPAIR (10,000)      |   | 203-463-818.230 PROF. SERV - STREETLIGHT REPAIR (10,000)      |   |
| 203-463-818.260 OTHER PROF. SERV. - STREET PATCHING (50,000)  |   | 203-463-818.260 OTHER PROF. SERV. - STREET PATCHING (50,000)  |   |
| 203-463-942.000 Services - Equipment Rental Non-City (25,000) |   | 203-463-942.000 Services - Equipment Rental Non-City (25,000) |   |
| 203-463-974.074 ROAD CONSTRUCTION (245,847)                   |   | 203-463-974.074 ROAD CONSTRUCTION (245,847)                   |   |
| Dept 478 - Winter Maintenance                                 |   | Dept 478 - Winter Maintenance                                 |   |
| 203-478-719.000 Workers Compensation Insurance (18,000)       |   | 203-478-719.000 Workers Compensation Insurance (18,000)       |   |
| 203-478-779.004 SNOW REMOV SUPPLIES (30,000)                  |   | 203-478-779.004 SNOW REMOV SUPPLIES (30,000)                  |   |
| 203-478-818.245 PROF. SERV - SNOW REMOVAL (25,000)            |   | 203-478-818.245 PROF. SERV - SNOW REMOVAL (25,000)            |   |
| Net Reduction in Fund 203 Appropriations (982,847)            |   | Net Reduction in Fund 203 Appropriations (982,847)            |   |

Increase budget appropriation in the following GL accounts: 101-202-818.061 - Prof. Serv. Innovative Software Serv. - \$65,000, Decrease the budget appropriation in the following GL account: 101-202-702.000 - Salaries & Wages - (\$65,000).

Increase the budget appropriation in the following GL accounts: 208-756-779.020 - Programing \$10,000, Decrease the budget appropriation in the following GL account: 208-756-922.000 - Utilities Water & Sewer (\$10,000). (Youth Recreation)

The budget amendments will be considered on Tuesday, June 20, 2023, at 6:00 p.m. at the Pontiac City Council Meeting. The meeting will be held in the City Council Chambers 47450 Woodward Pontiac, MI 48342. Garland S. Doyle, City Clerk Published June 13, 2023 Oakland Press

### LANDSCAPE & TREE MAINTENANCE

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### LEGAL NOTICES

### BLOOMFIELD HILLS SCHOOLS NOTICE OF A PUBLIC HEARING ON PROPOSED 2023 - 2024 BUDGET

PLEASE TAKE NOTICE that on June 22, 2023 at 6:30 o'clock p.m., Bloomfield Hills Schools will hold a public hearing to consider the District's proposed 2023 - 2024 budget. The public hearing will be held during the Board of Education meeting and may be attended in-person at 7273 Wing Lake Road, Bloomfield Hills, MI 48301.

The Board may not adopt its proposed 2023 - 2024 budget until after the public hearing. A copy of the proposed 2023 - 2024 budget, including the proposed property tax millage rates, will be available online Wednesday, June 21st, 2023 at 4:00PM at: <https://www.bloomfield.org/about-us/board-of-education/meeting-minutes>. Select either the Online Agenda or Download Agenda options for the Board of Education meeting date of 06/22/23. If you would like to view the budget in person, please call (248) 341-5445 to schedule a time.

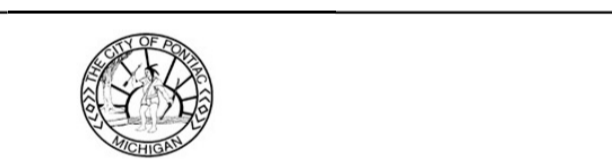
The property tax millage rates proposed to be levied to support the proposed budget will be a subject of this hearing.

This notice is given by order of the Board of Education.

John VanGemert, Secretary  
Bloomfield Hills Schools Board of Education

Publish: June 12, 2023

### LEGAL NOTICES



### City of Pontiac 2022-23 Proposed Budget Amendments Notice

The Pontiac City Council will consider the following proposed budget amendments for the fiscal year 2022-23:

Reduce the budget appropriations in Fund 202 - Major Streets and Fund 203 - Local Streets, as given below;

| Fund 202 - Major Streets                                     | Dept 463 - Routine Maintenance Roads                          | Dept 478 - Winter Maintenance                                | Dept 443 - NONMOTORIZED                                      |
|--|---|--|--|
| 202-463-777.005 STREET LIGHT PARTS & SUPPLIES (40,000)       | 202-478-749.001 Motor Fuel, Oil & Lubricants (18,500)         | 203-443-816.000 Services - Contracted Construction (30,000)  | 203-463-779.006 Surface Mount. - Permanent Asphalt (20,000)  |
| 202-463-779.003 SURFACE MAINTENANCE - ASPHALT (40,000)       | 202-478-779.004 SNOW REMOV SUPPLIES (15,000)                  | Dept 463 - Routine Maintenance Roads                         | 203-463-806.001 STORMWATER SERVICES (300,000)                |
| 202-463-779.008 Pavement Markings (130,000)                  | 202-478-779.009 Other Road Maintenance Supplies (5,000)       | 203-463-779.009 Other Road Maintenance Supplies (4,000)      | 203-463-806.002 ASSET MANAGEMENT (64,000)                    |
| 202-463-779.009 Other Road Maintenance Supplies (4,000)      | Dept 485 - TRAFFIC CONTROL                                    | 202-463-806.000 Engineering Services (910,000)               | 203-463-816.000 Services - Contracted Construction (150,000) |
| 202-463-806.001 STORMWATER SERVICES (100,000)                | 202-485-777.001 Traffic Signals (55,000)                      | 202-463-806.001 STORMWATER SERVICES (100,000)                | 203-463-818.000 Other Professional Services (15,000)         |
| 202-463-816.000 Services - Contracted Construction (400,000) | Net Reduction in Fund 202 Appropriations (2,276,600)          | 202-463-818.000 Other Professional Services (2,000)          | 203-463-818.000 PROF. SERV - TREE SERVICES (20,000)          |
| 202-463-818.000 Contractual Mowing Services (15,100)         | Fund 203 - Local Streets                                      | 202-463-818.006 PROF. SERVICE - TREE SERVICES (20,000)       | 203-463-818.230 PROF SERV - GUARDRAILS (20,000)              |
| 202-463-818.236 PROF. SERV - GUARDRAILS (20,000)             | Dept 443 - NONMOTORIZED                                       | 202-463-818.257 PROF SERV - GUARDRAILS (20,000)              | 203-463-818.260 OTHER PROF. SERV. - STREET PATCHING (80,000) |
| 202-463-818.260 OTHER PROF. SERV. - STREET PATCHING (80,000) | Dept 463 - Routine Maintenance Roads                          | 202-463-818.260 OTHER PROF. SERV. - STREET PATCHING (80,000) | 202-463-931.002 Services - Ground Maintenance (15,000)       |
| 202-463-931.002 Services - Ground Maintenance (15,000)       | 203-463-779.006 Surface Mount. - Permanent Asphalt (20,000)   | 202-463-931.002 Services - Ground Maintenance (15,000)       | 202-463-942.000 Services - Equipment Rent Non-City (37,000)  |
| 202-463-942.000 Services - Equipment Rent Non-City (37,000)  | 203-463-806.001 STORMWATER SERVICES (300,000)                 | 202-463-942.000 Services - Equipment Rent Non-City (37,000)  | 202-463-977.002 VEHICLES (370,000)                           |
| 202-463-977.002 VEHICLES (370,000)                           | 203-463-806.002 ASSET MANAGEMENT (64,000)                     | 202-463-977.002 VEHICLES (370,000)                           | Dept 478 - Winter Maintenance                                |
| Dept 478 - Winter Maintenance                                | 203-463-816.000 Services - Contracted Construction (150,000)  | Dept 478 - Winter Maintenance                                | 203-478-719.000 Workers Compensation Insurance (18,000)      |
| 202-478-749.001 Motor Fuel, Oil & Lubricants (18,500)        | 203-463-818.000 Other Professional Services (15,000)          | 202-478-749.001 Motor Fuel, Oil & Lubricants (18,500)        | 203-478-779.004 SNOW REMOV SUPPLIES (30,000)                 |
| 202-478-779.004 SNOW REMOV SUPPLIES (15,000)                 | 203-463-818.230 PROF. SERV - STREETLIGHT REPAIR (10,000)      | 202-478-779.004 SNOW REMOV SUPPLIES (15,000)                 | 203-478-818.245 PROF. SERV - SNOW REMOVAL (25,000)           |
| 202-478-779.009 Other Road Maintenance Supplies (5,000)      | 203-463-818.260 OTHER PROF. SERV. - STREET PATCHING (50,000)  | 202-478-779.009 Other Road Maintenance Supplies (5,000)      | Net Reduction in Fund 203 Appropriations (982,847)           |
| Dept 485 - TRAFFIC CONTROL                                   | 203-463-942.000 Services - Equipment Rental Non-City (25,000) | Dept 485 - TRAFFIC CONTROL                                   |  |
| 202-485-777.001 Traffic Signals (55,000)                     | 203-463-974.074 ROAD CONSTRUCTION (245,847)                   | 202-485-777.001 Traffic Signals (55,000)                     |  |
| Net Reduction in Fund 202 Appropriations (2,276,600)         | Dept 478 - Winter Maintenance                                 | Net Reduction in Fund 202 Appropriations (2,276,600)         |  |
| Fund 203 - Local Streets                                     | 203-478-719.000 Workers Compensation Insurance (18,000)       | Fund 203 - Local Streets                                     |  |
| Dept 443 - NONMOTORIZED                                      | 203-478-779.004 SNOW REMOV SUPPLIES (30,000)                  | Dept 443 - NONMOTORIZED                                      |  |
| 203-443-816.000 Services - Contracted Construction (30,000)  | 203-478-818.245 PROF. SERV - SNOW REMOVAL (25,000)            | 203-443-816.000 Services - Contracted Construction (30,000)  |  |
| Dept 463 - Routine Maintenance Roads                         | Net Reduction in Fund 203 Appropriations (982,847)            | Dept 463 - Routine Maintenance Roads                         |  |
| 203-463-779.006 Surface Mount. - Permanent Asphalt (20,000)  |   | 203-463-77   |  |

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**WE HAVE A VARIETY OF POSITIONS AVAILABLE**

We offer a stable work environment, competitive salaries, a full benefits package, growth opportunities and employee training along with generous tuition reimbursement.

**GROUNDSKEEPER II**  
 Full Time - \$38,550.98 - \$50,216.92 Annually  
 Performs various duties involved in landscaping and maintaining County grounds/parking areas

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For Further Information and to apply, visit [www.oakgov.com/jobs](http://www.oakgov.com/jobs)  
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- A wide variety of Season Park Positions now available
- Outdoor work for Waterparks, Golf Courses, Rec Programs/Services, Campground, Lifeguards and MORE!
- Explore opportunities to Grow into Park Supervisors, Naturalists and other full time, year round positions!!

**Starting at: \$13.26 - \$14.52**

Seasonal Workers are eligible for up to \$500 in cash bonuses and receive permits and passes to enjoy various facilities.

**2023 Summer Jobs**

- All positions are part-time/seasonal
- Open to anyone age 16 and over
- Not all positions require experience

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**IMMEDIATE OPENINGS**

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- ~ MOLD MAKERS - Experienced - Days - Nights
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**LEGAL NOTICES**

**LEGAL NOTICES**

**NOTICE OF PUBLIC HEARINGS BIRMINGHAM CITY COMMISSION PUBLIC HEARING OF NECESSITY PUBLIC HEARING OF CONFIRMATION**

**Meeting Date, Time, Location:**  
 HEARING OF NECESSITY FOR SPECIAL ASSESSMENT DISTRICT  
 Monday, June 26, 2023, 7:30 PM  
 Municipal Building, 151 Martin, Birmingham, MI 48009

**Meeting Date, Time, Location:**  
 HEARING FOR CONFIRMATION OF THE ROLL  
 Monday, July 10, 2023, 7:30 PM  
 Municipal Building, 151 Martin, Birmingham, MI 48009

**Project Location:**  
 Pierce Street between East Lincoln Street and 14 Mile Road

**Nature of Improvement:**  
 Replacement and improvement of water laterals meeting the requirements for assessment, for all properties within the project area. Affected addresses as follows:

|                     |               |
|---------------------|---------------|
| 1105 Pierce Street  | 19-36-401-006 |
| 1234 Pierce Street  | 19-36-329-011 |
| 1245 Pierce Street  | 19-36-401-009 |
| 1252 Pierce Street  | 19-36-329-012 |
| 1270 Pierce Street  | 19-36-329-013 |
| 1290 Pierce Street  | 19-36-329-014 |
| 1321 Pierce Street  | 19-36-401-046 |
| 1340 Pierce Street  | 19-36-329-015 |
| 1355 Pierce Street  | 19-36-401-013 |
| 1380 Pierce Street  | 19-36-329-017 |
| 1390 Pierce Street  | 19-36-329-018 |
| 1415 Pierce Street  | 19-36-401-017 |
| 1418 Pierce Street  | 19-36-333-020 |
| 1421 Pierce Street  | 19-36-401-018 |
| 1424 Pierce Street  | 19-36-333-021 |
| 1436 Pierce Street  | 19-36-333-022 |
| 1437 Pierce Street  | 19-36-401-019 |
| 1450 Pierce Street  | 19-36-333-023 |
| 1469 Pierce Street  | 19-36-401-021 |
| 1474 Pierce Street  | 19-36-333-025 |
| 1492 Pierce Street  | 19-36-333-027 |
| 1510 Pierce Street  | 19-36-333-028 |
| 1570 Pierce Street  | 19-36-333-032 |
| 1584 Pierce Street  | 19-36-333-033 |
| 1638 Pierce Street  | 19-36-333-035 |
| 1682 Pierce Street  | 19-36-333-036 |
| 100 W. 14 Mile Road | 19-36-379-025 |
| 1128 Lincoln Avenue | 19-36-329-024 |

**City Staff Contact:**  
 Melissa Coatta, City Engineer  
[mcoatta@bhamgov.org](mailto:mcoatta@bhamgov.org), (248)530-1839

**Notice Requirements:**  
 Mail to affected property owners  
 Publish June 12, 2023 and June 18, 2023

**Approved minutes may be reviewed at:**  
 City Clerk's Office or  
[www.bhamgov.org/commissionagendas](http://www.bhamgov.org/commissionagendas)

Should you have any statement regarding the above, you are invited to attend the meeting in person or virtually through ZOOM: <https://zoom.us/j/655079760> Meeting ID: 655 079 760

You or your agent may appear at the hearings to express your views; however, if you fail to protest either in person or by letter received on or before the date of the hearing, you cannot appeal the amount of the special assessment to the Michigan Tax Tribunal. Mail any correspondence to: City Clerk, P.O. Box 3001, Birmingham, MI 48012.

The property owner may file a written appeal of the special assessment with the State Tax Tribunal within 30 days after the confirmation of the special assessment roll if that special assessment was protested at the hearing held for the purpose of confirming the roll.

All special assessments, including installment payments, shall, from the date of the confirmation thereof, constitute a lien on the respective lots or parcels assessed, and until paid shall be charged against the respective owners of the lots or parcels assessed.

**LEGAL NOTICES**

**LEGAL NOTICES**

**ADVERTISEMENT TO BID**

**BP 32 & 35: PONTIAC SCHOOLS PRE-PURCHASE MECHANICAL & ELECTRICAL EQUIPMENT - ROGERS & HERRINGTON ELEMENTARY SCHOOLS**

School District of the City of Pontiac requests Bid Proposals for Bid Pack 32 and 35 Pre-Purchase Mechanical & Electrical Equipment for Rogers & Herrington Elementary Schools. All Proposals shall be submitted through Building Connected no later than 1:00 PM on Tuesday, June 27, 2023. To view the project and submit your bid, please follow this link: <https://bit.ly/3mslyUL>

**DOGS**

**DOGS**



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**COMMUNITY-WIDE GARAGE SALE**

June 23, 24, 25, 2023  
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 Pontiac, 48340

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**Steve's RESTAURANT**

6646 Telegraph Rd  
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## MEMORANDUM

Planning Division

**DATE:** June 26, 2023

**TO:** Thomas M. Markus, City Manager

**FROM:** Nicholas Dupuis, Planning Director

**SUBJECT:** Birmingham Historic District Design Guidelines

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### INTRODUCTION:

The City of Birmingham has been a Certified Local Government since February 2010. The Certified Local Government (CLG) program, through the State Historic Preservation Office (SHPO), provides local governments with a multitude of resources and support, including yearly grant opportunities. In 2021, the City was awarded a grant to create the City's first set of comprehensive historic preservation design guidelines. The new design guidelines are intended to synthesize and summarize 50+ years of historic preservation efforts in the City while also equipping the Birmingham Historic District Commission to be better suited to perform their duties in an environment where development pressures are tremendous and ongoing. Design guidelines are an important facet of the historic design review process, as they provide consistency in design review, a basis for making fair decisions, incentives for investment, property value enhancement and are an important educational tool.

### BACKGROUND:

On June 13, 2022 ([Agenda](#) – [Minutes](#)), the City Commission approved an agreement with Kraemer Design Group to create a new historic design guidelines document for use by the Historic District Commission and its constituents.

On September 7, 2022 ([Agenda](#) – [Minutes](#)), the Historic District Commission (HDC) reviewed Deliverable #1 and provided feedback to the consultants on the outline/contents of the design guidelines document, as well as feedback on a sample section that had been completed.

On January 4, 2023 ([Agenda](#) – [Minutes](#)), the HDC reviewed Deliverable #2, which consisted of an introduction and 6 separate sections in various stages of completeness (75% draft). The HDC provided several items of feedback relating to captions, the types of information proposed, and provided a consensus that they felt as though the consultant team was on the right track.

On March 15, 2023 ([Agenda](#) – [Minutes](#)), the HDC spent a considerable amount of time reviewing Deliverable #3 with the consultant, which was a 90% draft. The feedback at that point was mostly detail-oriented, as the HDC was generally pleased with the format, content, and design of the guidelines.

On June 7, 2023 ([Agenda](#)), the HDC moved to recommend approval of Deliverable #4 (Final Draft) to the City Commission. The HDC commended the consultant for their attentiveness to comments and the overall composition of the document.

Throughout the process, the Planning Division worked closely with the SHPO to ensure that the requirements of the CLG Grant Agreement were met. This included sending the SHPO each deliverable for review, providing quarterly CLG Grant progress reports, and maintaining constant contact with the CLG Grants Coordinator.

**LEGAL REVIEW:**

The City Attorney has reviewed the documentation as to form and substance and has no objections.

**FISCAL IMPACT:**

The CLG Grant Program is a reimbursement program. The City was awarded a total of \$20,000 for the project, which was budgeted for in the 21-22 fiscal year and all invoices have been paid. At this time, the City has received the reimbursement form and will begin the reimbursement process once the project is completed.

**PUBLIC COMMUNICATIONS:**

There are no public communications required for this agenda item. However, there have been several engagement opportunities offered throughout the process such as presence at the Day on the Town event in 2022, a survey on Engage Birmingham, and a final engagement planned post-adoption to help introduce the guidelines to the City. In addition, the guidelines were discussed at open public meetings, and copies of each deliverable were available online throughout the process.

**SUMMARY:**

The Planning Division requests that the City Commission consider the adoption of the completed Birmingham Historic District Design Guidelines.

**ATTACHMENTS:**

- Historic District Design Guidelines
- Historic District Commission – Final Report

**SUGGESTED COMMISSION ACTION:**

Make a motion adopting a resolution to adopt in its entirety the completed Birmingham Historic District Design Guidelines as recommended by the Historic District Commission on June 7, 2023.



**BIRMINGHAM**

A WALKABLE CITY

---

**Historic District  
Design Guidelines**

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**City of Birmingham  
Planning Department**

Nicholas Dupuis, Planning Director

**State Historic Preservation Office**

S. Alan Higgins

Amy Arnold

**Kraemer Design Group, LLC**

Cassandra Talley

Lillian Candela

Katie Cook

Kyle Berryman

**City of Birmingham Historic  
District Commission**

Gigi Debbrecht

Keith W. Deyer

Natalia Dukas

John Henke III

Mary E. Jaye

Dustin Kolo

Patricia Lang

Steven Lemberg

Michael Willoughby

**Birmingham City  
Commission**

Therese Longe, Mayor

Elain McLain, Mayor Pro-Tem

Clinton Baller

Pierre Boutros

Brad Host

Andrew Haig

Katie Schafer

**Credits**

The activity that is the subject of this project has been financed in part with Federal funds from the National Park Service, U.S. Department of the Interior, through the Michigan Strategic Fund, State Historic Preservation Office. However, the contents and opinions herein do not necessarily reflect the views or policies of the Department of the Interior or the Michigan Strategic Fund, State Historic Preservation Office nor does the mention of trade names or commercial products herein constitute endorsement or recommendation by the Department of the Interior or the Michigan Strategic Fund, State Historic Preservation Office.

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# Introduction



*The Birmingham Theatre in the Central Business Historic District. City of Birmingham, photo by KDG, 2022.*

Birmingham has a local historic district ordinance which declares that historic preservation is a public purpose. In order to encourage and foster historic preservation in the City of Birmingham the design guidelines presented here aim to help local stakeholders make informed design decisions that are consistent with historic preservation principles. Design guidelines are a preservation and development management tool that are used to help retain historic materials and historic character in a designated historic district.

All exterior work performed on buildings, sites, structures, and objects inside a local historic district is subject to review and approval by the Birmingham Historic District Commission (HDC). This includes both historic and non-historic resources located within the bounds of designated historic districts. When performing work in a local historic district, the applicant will need to obtain a certificate of appropriateness before work begins to ensure that work complies with the design guidelines. To help guide residents, business owners, the commission, and others, this document provides guidelines for recommended, acceptable, and non-recommended treatments of exterior features.

For quick reference to Birmingham's Historic District Design Guidelines: [view the Historic District Design Guidelines Executive Summary.](#)

Throughout these guidelines a few acronyms will be consistently used:

**HDC** = Historic District Commission

**COA** = Certificate of Appropriateness

The terms below, defined in the City of Birmingham's Historic District Ordinance will be used repeatedly throughout the guidelines:

**Resource** = One or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a historic district (Sec. 127-3)

**Work** = Construction, addition, alteration, repair, moving, excavation, or demolition (Sec. 127-3)

Local historic districts can be comprised of a single property, or they may span a larger area and include many properties and buildings within the boundaries of the district. Birmingham has both single property historic districts and larger, multi-property historic districts. A historic district is defined as a section of a community that contains historic resources (buildings, sites, structures, or objects) considered valuable for historical or architectural reasons and deemed worthy of protection. A district with multiple resources often gains its historical and/or architectural significance from the interrelationship between the individual properties that work together to create a visual sense of its history.

## Introduction

*Buildings and other historic resources change and evolve with use over time, but these design guidelines attempt to balance historic preservation goals with character-appropriate maintenance and work strategies. These design guidelines have been drafted and implemented with three main objectives in mind:*

**Consistency:** To provide a consistent source document to guide future work in Birmingham’s local historic districts. If every homeowner, business owner, developer, and Commission member are designing and reviewing projects based upon the same standards, there will be consistency of expectation and application.

**Flexibility:** The guidelines are meant to provide flexible options by listing “recommended” treatments, “acceptable” treatments, and “not recommended” treatments. By providing a sliding scale the aim is to provide flexibility while still indicating the most preferable and least preferable options.

**Education:** These guidelines explain both recommended methods for work on a historic property and explains why some methods are not recommended.

Design guidelines do not dictate solutions, but rather, they convey general policies about the design of proposed work to existing buildings and properties. They define a range of appropriate responses to a variety of differing conditions and design issues. Rather than providing prescriptive solutions, these design guidelines offer general approaches for identifying significant features and maintaining, repairing, and treating historically significant features and materials. Every project will have nuances and different opportunities and constraints, however, the approaches and guidelines given in this document will allow for renovations, upgrades, and modernizations while still maintaining historic character and materials.



*This photograph from c.1885 shows the southwest and northwest corners of Old Woodward and Maple. Photo courtesy of the Walter P. Reuther Library, Archives of Labor and Urban Affairs, Wayne State University.*



*The intersection of Southfield Road (at left) and Maple Road (at right), c. 1885. Photo courtesy of the Walter P. Reuther Library, Archives of Labor and Urban Affairs, Wayne State University.*

## Background

In 1966 Congress passed the National Historic Preservation Act as a way of promoting the retention of our nation’s architectural heritage. In the 1970s, the National Park Service developed the Secretary of the Interior’s Standards for assessing the treatment of historic buildings. The loss of nationally important buildings like Pennsylvania Station in New York, combined with the passage of the National Historic Preservation Act spurred nationwide interest in preservation as the country grappled with other significant architectural losses experienced during urban renewal.

Michigan’s local historic district enabling legislation, Public Act 169, was passed in 1970 in partial response to these events. [Public Act 169 of 1970](#) (Michigan’s Local Historic District Act) authorizes local governments to create local historic district ordinances in order to effectuate preservation at the local level and requires that, when reviewing plans, local commissions must follow the Secretary of the Interior’s Standards for Rehabilitation (Standards). Commissions may also develop guidelines that provide locally specific information and guidance to supplement the “Standards”. The “Standards” are used nationwide and provide ten touchstones upon which most modern preservation programs are built. All municipalities in Michigan that have a Local Historic District Ordinance and a Local Historic District Commission must follow these Standards.

Historic District Commissions must use the [Secretary of the Interior’s Standards for Rehabilitation](#) when reviewing projects. Local guidelines like these provide additional information so that proposed work meets the Standards and can be approved the first time it comes before the commission, helping to keep projects on track.

What is the purpose of Historic Preservation in the City of Birmingham?

- Safeguard the heritage of the city by preserving the areas which reflect elements of its cultural, social, spiritual, economic, political, and engineering or architectural history
- Stabilize and improve property values in such areas
- Foster civic beauty and community pride
- Strengthen the local economy
- Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the city, state, and country

## Why Preserve?

Local historic districts are the most powerful tool local governments have to protect the character and history of an area against irrevocable loss. Protection and promotion of the city’s architectural, cultural, and historic assets are two of the most important functions of a local historic district. Designating resources by creating local historic districts provides the City’s Historic District Commission the chance to review exterior work, which helps promote retention of the community’s irreplaceable character and vibrancy. This process of review also helps promote these local districts and inform citizens about the value of these places by educating homeowners about appropriate materials and designs for the exterior of these historic buildings.

Many studies have found that creating local historic districts increases property values — a [2016 study](#) conducted by the Michigan Historic Preservation Network found that homes located in local historic districts added 12.6% to the property value as compared to similar, non-designated properties. Local historic districts furnish insight into our past and are a rallying point for promoting features that make Birmingham a desirable place to live: walkability, high quality materials, mature landscaping and streetscapes, and a cohesive feel to the community. Birmingham’s historic districts are an essential part of the character of the City. Birmingham’s charming downtown, historic homes, and mature trees and landscaping are just a few reasons people love to live in and visit Birmingham. Recognizing and preserving these features is an important part of the overall stewardship of this vibrant and historic community.

The results of public outreach efforts in Birmingham identified several areas of concern for local residents. Perhaps the primary concern was that infill construction included the removal of existing, historic housing and the construction of new housing that was out of scale to the surrounding neighborhood. For instance, a small, single-story Bungalow may be demolished and replaced with a large and imposing two-story house. The professional practice of Historic Preservation as a whole attempts to address problems like these by the creation of historic districts to preserve neighborhood landscapes and to create design guidelines — like those found in this report — as a foundation for the preservation of historic resources like those found in Birmingham.



## Secretary of the Interior's Standards for Rehabilitation

The Secretary of the Interior's Standards for Rehabilitation provide direction in making appropriate choices in planning the repairs, alterations, and additions that may be part of a rehabilitation project. The National Park Service also publishes Guidelines for Rehabilitating Historic Buildings which describe specific treatments that do and do not meet the Standards.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

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

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

The overarching goal of the rehabilitation standards and guidelines is to protect and maintain historic building materials and character-defining features while giving latitude to replace extensively deteriorated, damaged, or missing features using either the same or compatible substitute materials.



A 1929 aerial photograph of downtown Birmingham, looking west. Courtesy of Walter P. Reuther Library, Archives of Labor and Urban Affairs, Wayne State University

**The Secretary of the Interior's Standards for the Treatment of Historic Properties:** <https://www.nps.gov/orgs/1739/upload/treatment-guidelines-2017-part1-preservation-rehabilitation.pdf>

## Additional Considerations in Public Act 169 of 1970

In addition to the Secretary of the Interior's Standards for Rehabilitation, both Public Act 169 and the City of Birmingham's Local Historic District ordinance outline a few additional criteria the Historic District Commission must consider when reviewing applications. These include:

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

These additional considerations, combined with the Secretary of the Interior's Standards for Rehabilitation and these guidelines, provide the basic framework for reviewing work proposed in a local historic district in Birmingham.



Shown here in the mid-1950s, the corner of Old Woodward and Maple is located at the center of the Central Business Historic District. Photo courtesy of the Walter Reuther Library, Archives of Labor and Urban Affairs, Wayne State University.



The Grand Trunk Western Railroad Depot is a historic district located on the east side of Birmingham. Shown here in the 1920s. Photo courtesy of the Walter P. Reuther Library, Archives of Labor and Urban Affairs, Wayne State University.



The Municipal Building (City Hall) is an important resource in the center of the Shain Park Historic District. Undated. Photo courtesy of the Walter P. Reuther Library, Archives of Labor and Urban Affairs, Wayne State University.

## Basic Preservation Principles

Historic materials and character defining features are essential to establishing the visual characteristics of a local historic district. Historic features like windows, siding, roofing material, and massing/scale of a building directly impact the visual qualities of a historic neighborhood. For these reasons, the design guidelines presented here address typical features that affect the historic integrity and character of a resource. One basic, underlying principle of historic preservation is to preserve historic materials and features whenever possible. If historic materials become so deteriorated that they must be replaced, then the replacement must be compatible with the historic character of the resource and district. That is the guiding ethos of this document and each section presented here will go into further detail on how to accomplish these goals.

These design guidelines are intended to be an easy-to-use reference for homeowners, business owners, realtors, architects/designers, builders, City staff, and Historic District Commission members in planning and executing historically appropriate work on properties located in designated local historic districts.

A word of caution: Some buildings in designated local districts might not look like they comply with the guidance in this document. This work may have predated the existence of the Historic District Commission or been affected by other factors. Thus, it is important to keep in mind that the existence of perceived historically inappropriate work in the City's historic districts does not serve as precedence for approval of historically incompatible work by the commission. Each project must be reviewed individually on its own merits.



*Historic Pewabic tile on the Shain Townhouses in the Central Business Historic District. City of Birmingham, photo by KDG, 2022.*

## What is Historic?



Historic landscape elements are character defining features in historic districts, such as this stepped waterfall in the Mill Pond Historic District. Shown here in 1957. Photo courtesy of the Walter P. Reuther Library, Archives of Labor and Urban Affairs, Wayne State University.

Determining what resources are historic in a community is generally accomplished by conducting architectural surveys. These surveys analyze each resource in a given area (or resources connected to a specific theme such as religious architecture) and help city planners and preservationists establish local priorities.

*A historic resource is a publicly or privately owned building, structure, site, object, feature, or open space that is significant in the history, architecture, archaeology, engineering, and/or culture of the city, state, or United States.*

Surveying is important as it involves documenting a property's historic character and identifying important associations that may be present. This kind of survey work is crucial to ensure historic resources are not overlooked as smaller, less elaborate resources can have as much significance as high style architecture if connected to people and events important to local, state, or national history.

It is also important to recognize that later additions can acquire significance in their own right even if the later addition is more modern in style. For instance, a commercial structure built in 1895 may have had a Streamline Modern

storefront added in 1942 — even though the storefront is stylistically different than the rest of the building, the storefront itself may have acquired significance for being a particularly good example of the style. Historic surveys can help a community recognize these nuances and better plan for the preservation of their buildings.

Finally, when determining what is historic it is important to keep in mind that large collections of intact resources, even if they are not high style architecture, can, together, become significance based upon the cohesion of the collection. For instance, Eco City is a neighborhood in Birmingham containing a collection of modest bungalows built in the early 1900s. Birmingham also has large neighborhoods of 1940s-era Minimal Traditional style homes on the eastern side of the city. These resources may not have high style details or monumental scale but, taken together, they tell an important piece of American history of the post-WWII development of the suburbs. These common resources gain significance based upon the cohesiveness of the neighborhood, the landscape, and the quintessential architectural features even if those features are simple stylistic elements.

## Applicability of the Design Guidelines

These design guidelines are meant to be applied within the boundaries of the City of Birmingham’s designated local historic districts. The design guidelines apply to all properties located within the designated districts including both historic and non-historic resources. These guidelines are also intended to be flexible enough to ‘look forward’ and anticipate new, additional historic districts the City may designate over time.

Note that these guidelines do not cover every potential material or design choice. They are guidelines that attempt to be both specific enough to provide good guidance to existing designated buildings while being general enough to be applicable to properties that may be designated in the future. The final decision on whether to approve an application for a permit COA in a local historic district rests with the Birmingham HDC.



*Craftsman Style House, City of Birmingham, photo by KDG, 2022.*

## Who Uses the Design Guidelines

There are many different parties, with differing needs and expectations, who may find value in these design guidelines. These guidelines could be merely informative for some parties whereas other parties, such as the HDC, will use these guidelines to define recommended and not recommended work while reviewing permit applications for certificates of appropriateness.

**Property Owners:** Those who own property located in a local historic district may use the design guidelines to plan for the maintenance and renovations of their buildings and property.

**General Public:** Anyone in Birmingham and beyond who wishes to obtain more information about historic districts, processes for obtaining approval for proposed work, and how best to maintain and renovate historic buildings may use these guidelines.

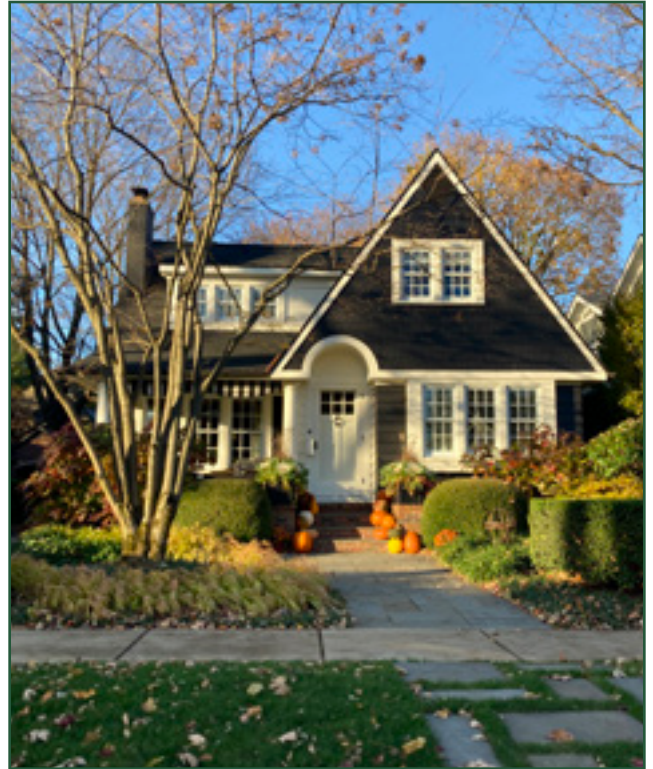
**City Planning and Building Department Staff:** Staff in the City of Birmingham's Planning and Building Departments will use these guidelines when advising building owners and other city residents. Staff will also use these guidelines when advising the Historic District Commission.

**Historic District Commission:** The HDC will use these guidelines when reviewing projects brought before the Commission for a permit for a certificate of appropriateness. Compliance with the design guidelines will be a primary consideration when issuing a Certificate of Appropriateness.

**City Commission:** The City Commission manages the historic district study committee and provides final approval for the historic district design guidelines.

**Developers and Architects:** Developers and architects will use these guidelines to prepare projects and plans that conform with the recommendations. This will help ensure the projects moves smoothly through the HDC process.

**Realtors:** Realtors will use the guidelines to assess which properties are located within Birmingham's historic districts



*Tudor Revival Style House, City of Birmingham, photo by KDG, 2022.*



*Craftsman Style House, City of Birmingham, photo by KDG, 2022.*

# The Historic District Commission

The function and duty of the Historic District Commission (HDC) is to advise the City Commission with respect to the proper development of the city with primary emphasis upon the city's established local historic districts. The HDC is also authorized to recommend amendments to the City Code relating to the control and development of lands within local historic districts.

To fulfill their duty, the HDC interprets the [Secretary of Interior Standards for Rehabilitation](#) and the additional considerations described in Michigan's [Local Historic Districts Act of 1970](#). These standards and considerations are outlined in the "Secretary of the Interior's Standards for Rehabilitation" and the "Additional Considerations in Michigan's Local Historic Districts Act of 1970" sections of these guidelines.

## What does the HDC Review?

Birmingham's HDC reviews proposed work within local historic districts on the **exterior of a resource and its site**. This includes both **historic and non-historic** resources within the boundaries of historic districts (Sec. 127-10). Moreover, the HDC may review proposed work on resources within proposed historic districts.

### Per the City of Birmingham's Historic District Ordinance:

- Resource means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a historic district (Sec. 127-3)
- Work means construction, addition, alteration, repair, moving, excavation, or demolition (Sec. 127-3)

### Examples of proposed work on resources reviewed by the HDC:

- Removal of mature trees within the boundary of a resources
- Construction of a second-story addition to a garage
- Installation of new siding
- Installation of a new roof
- Removal of shutters on a house
- Proposed exterior work on a house within a proposed historic district

## What does the HDC not Review?

Birmingham's HDC does not review certain items regarding resources within historic districts such as ordinary maintenance and minor classes of work, which are defined below.

- **Ordinary Maintenance.** As defined by Birmingham's Historic District Ordinance, ordinary maintenance means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for the purposes of Chapter 127 of the Historic District Ordinance.
- **Delegation of Minor Classes of Work.** Public Act 169 of 1970 gives the commission the authority to delegate the issuance of certificates of appropriateness for specified minor classes of work to city staff (the planning division).

### Examples of ordinary maintenance that are not reviewed by the HDC:

- Repairing and repainting a small portion of exterior wood cladding that has deteriorated
- Repairing a broken windowpane
- Repairing a rotted wood windowsill
- Repairing a broken door

**Public School Buildings owned by the Birmingham School Board.** Public K-12 school buildings owned by the Birmingham School Board are not subject to HDC. Work planned on buildings owned by the school district and used for instructional or non-instructional school purposes are not subject to HDC review.

The Historic District Commission also oversees [Birmingham's Historic Marker Program](#), which was established in 2000. Multiple plaques have been placed on historic buildings throughout the city, highlighting aspects of Birmingham's history.

# The HDC Review Process

A certificate of appropriateness (COA) is a written permit approval that is issued by the Historic District Commission for work that is appropriate (i.e., meets the [Standards](#) and the design guidelines) and does not adversely affect resources within historic districts.

## How to Obtain a COA

If your property is located in a local historic district, regardless of whether it is a historic or non-historic resource, you must obtain a COA **before** beginning exterior work on your property. A building permit cannot be issued until you have received a COA from the HDC for the proposed work. In addition, a performance bond must be posted, and a copy provided to the Building Official before a permit application will be presented to the Historic District Commission. If work is performed without a COA or a performance bond, completed non-compliant work may need to be retroactively removed or altered in order to obtain a COA.

## The HDC Review process is detailed on the next page

The HDC review process can result in one of three outcomes:

- **Issuance of a COA** by the HDC, to the Building Official
- **Issuance of a Notice to Proceed** by the HDC, to the Building Official. A Notice to Proceed is the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under Section 399.205(6) of [Public Act 169 of 1970](#), as amended. There are only certain conditions under which a Notice to Proceed can be issued as defined by Public Act 169. See appendix for the list of circumstances in which a Notice to Proceed can be issued.
- **Denial of the permit application** by the HDC. Denial is the written rejection of a permit application for work that is inappropriate and that adversely affects a resource. If a project is denied, the applicant can revise it so that it meets the Standards and the design guidelines and then reapply to the HDC.

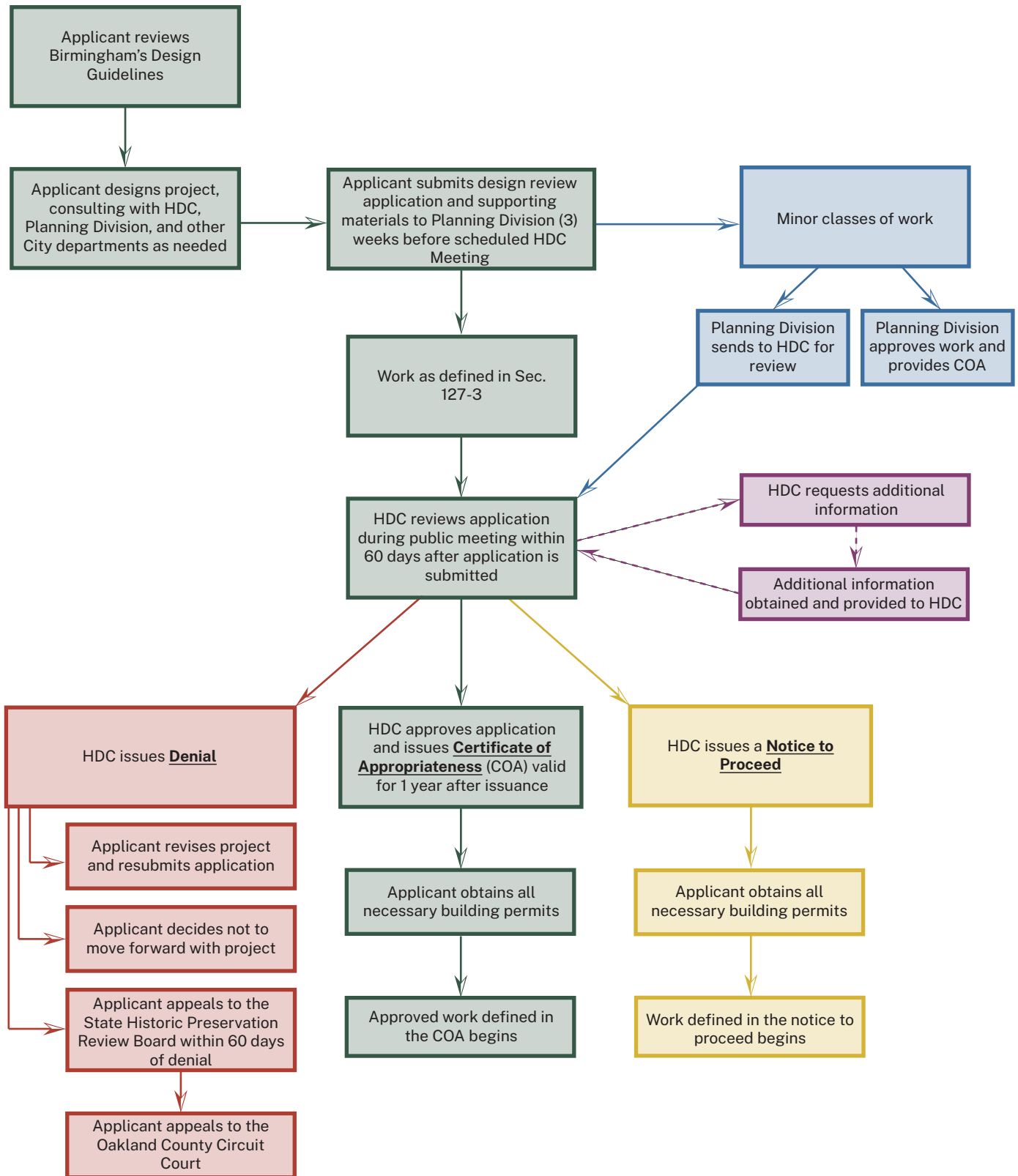
## Minor Classes of Work

Depending on the type of work proposed, a COA may be issued through an administrative review by the Planning Division staff and thus may not need to go before the HDC. The HDC has provided staff with written instructions and guidelines to conduct review of these minor classes of work. Note that if the Planning Division determines the proposed work does not meet the minor classes of work requirements or the Standards or guidelines, the application will be forwarded to the HDC for review. Below are examples of the type of work that may be eligible for administrative approval by the Planning Division.

- Lighting
- Landscaping
- Roofing material
- Dumpster enclosures
- Fences
- Screen walls

Contact the Planning Division for more information about what exterior work can be administratively approved by Planning Division staff.





## Tax Credits for Preservation

There are two types of historic preservation tax credits available: the federal historic preservation tax credit and the Michigan state historic preservation tax credit. Each program has specific criteria and is open to certain categories of properties. More information about these programs and applicability to designated properties is provided below.

### Federal Historic Preservation Tax Credit

The federal government offers a lucrative 20% tax credit for the rehabilitation of qualified historic buildings. The building must be individually listed on the National Register of Historic Places or a contributing building within a nationally designated historic district. Buildings in local historic districts do not qualify for the credit. There are some additional requirements as well. The building must be income producing, however, which means owner-occupied buildings are not eligible for the federal historic tax credit. That being said, residential rental properties would qualify. The rehabilitation must be “substantial” meaning the qualified rehabilitation expenditures (QRE) exceed the building’s adjusted basis. The adjusted basis is generally defined as the purchase price, minus

the value of the land, plus the value of any capital improvements made since the building acquisition, minus any depreciation already claimed. The State Historic Preservation Office and the National Park Service review each portion of the application to ensure the project complies with the Secretary of the Interior’s Standards.

### Michigan State Historic Preservation Tax Credit

The State of Michigan passed Public Act 343 of 2020 which is a program that helps support place-based projects while promoting the preservation of Michigan’s historic places. The credit is a 25% dollar-for-dollar reduction available as either Michigan Personal Income Tax Credits or Michigan Business Income Tax Credits or a combination thereof. Properties must be listed in the National Register of Historic Places or the State Register of Historic Sites or be in a local historic district. Properties may be individually designated or identified as a contributing resource to an established district. Residents of Birmingham who have a building located in a local historic district can take advantage of this lucrative tax credit program by applying during the annual application window. Contact the State Historic Preservation Office for more information about how to apply for this program.

### Local vs. National Designation

Most financial incentives for preservation are only available to properties listed on the National Register of Historic Places – either individually or as a part of a district. To understand if your property may qualify for tax credits for preservation it is important to know if you are located in a locally or nationally designated district.

**Local Historic District:** A district created and administrated by a local historic district commission, in Michigan enabled by Public Act 169 of 1970

**National Register Historic District:** A district listed on the National Register of Historic Places, and administrated by the National Park Service

At the time of this publication there are no National Register Historic Districts in Birmingham, although there are multiple properties individually listed on the National Register of Historic Places.

**Federal Historic Tax Credit Program:** Explore more information about the program at the National Park Service’s Technical Preservation Office website: <https://www.nps.gov/subjects/taxincentives/index.htm>

**Michigan State Historic Preservation Tax Credit Program:** Explore more information about this program at: <https://www.miplace.org/historic-preservation/programs-and-services/historic-preservation-tax-credits/>

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**PART 1:**  
**Historic Resources  
in Birmingham**

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# Historic Resources in Birmingham

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## Historic Districts

The City of Birmingham has designated several local historic districts throughout the city that largely center around the commercial business district. Many districts are individual properties, while others are entire streets or neighborhoods. In addition to formally designated districts, there are swaths of early- and mid-twentieth century neighborhoods that are not designated but nonetheless contribute to Birmingham's history. Although only exterior work in designated districts are subject to review by the Historic District Commission these other areas with a high concentration of historic resources may be areas in which to conduct future historic resource surveys to identify potential historic districts.

The historic districts described below are those that are presently designated as local historic districts by the City of Birmingham.



535 W. Merrill St, Daisy Benedict House Historic District, City of Birmingham, photo by KDG, 2022.



Birmingham Grand Trunk Western Railroad Depot Historic District, City of Birmingham, photo by KDG, 2022.



Birmingham Theatre Building, Central Business Historic District, City of Birmingham, photo by KDG, 2022.

# Central Business Historic District

Birmingham’s Central Business Historic District is composed of several commercial buildings near the intersection of Maple Road and Old Woodward Avenue. Dating from the late-nineteenth and early-twentieth centuries, the buildings form the backbone of the commercial district. Exemplifying commercial building forms from these eras, most buildings are one or two stories with recessed entrances, large expanses of windows and glass, and constructed of masonry.



# Central Business Historic District Examples



*Ford Building, Central Business Historic District, City of Birmingham, photo by KDG, 2022.*



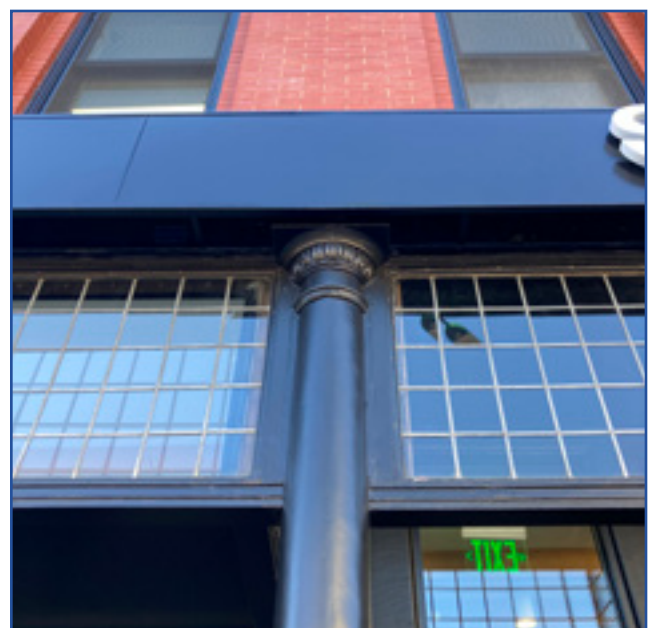
*Buildings on the north side of Maple Street, Central Business Historic District, City of Birmingham, photo by KDG, 2022.*



*Parks Building, Central Business Historic District, City of Birmingham, photo by KDG, 2022.*



*Buildings on the east side of Pierce Street, Central Business Historic District, City of Birmingham, photo by KDG, 2022.*



*Storefront details on the Ery and Nixon Building, Central Business Historic District, City of Birmingham, photo by KDG, 2022.*

## Shain Park Historic District

Birmingham's municipal and public buildings surround Shain Park and are part of the Shain Park Historic District. Developed in the early-twentieth century, the park and municipal buildings illustrate the Tudor Revival and Colonial Revival styles that were popular during this time. Typical Tudor Revival architectural features in the district include English Bond brickwork, stone accents, and large, slate tile roofs. The Community House illustrates Colonial Revival details such as classical-inspired entrances and decorative cornices with modillions.





# Shain Park Historic District Examples



Shain Park, Shain Park Historic District, City of Birmingham, photo by KDG, 2022.



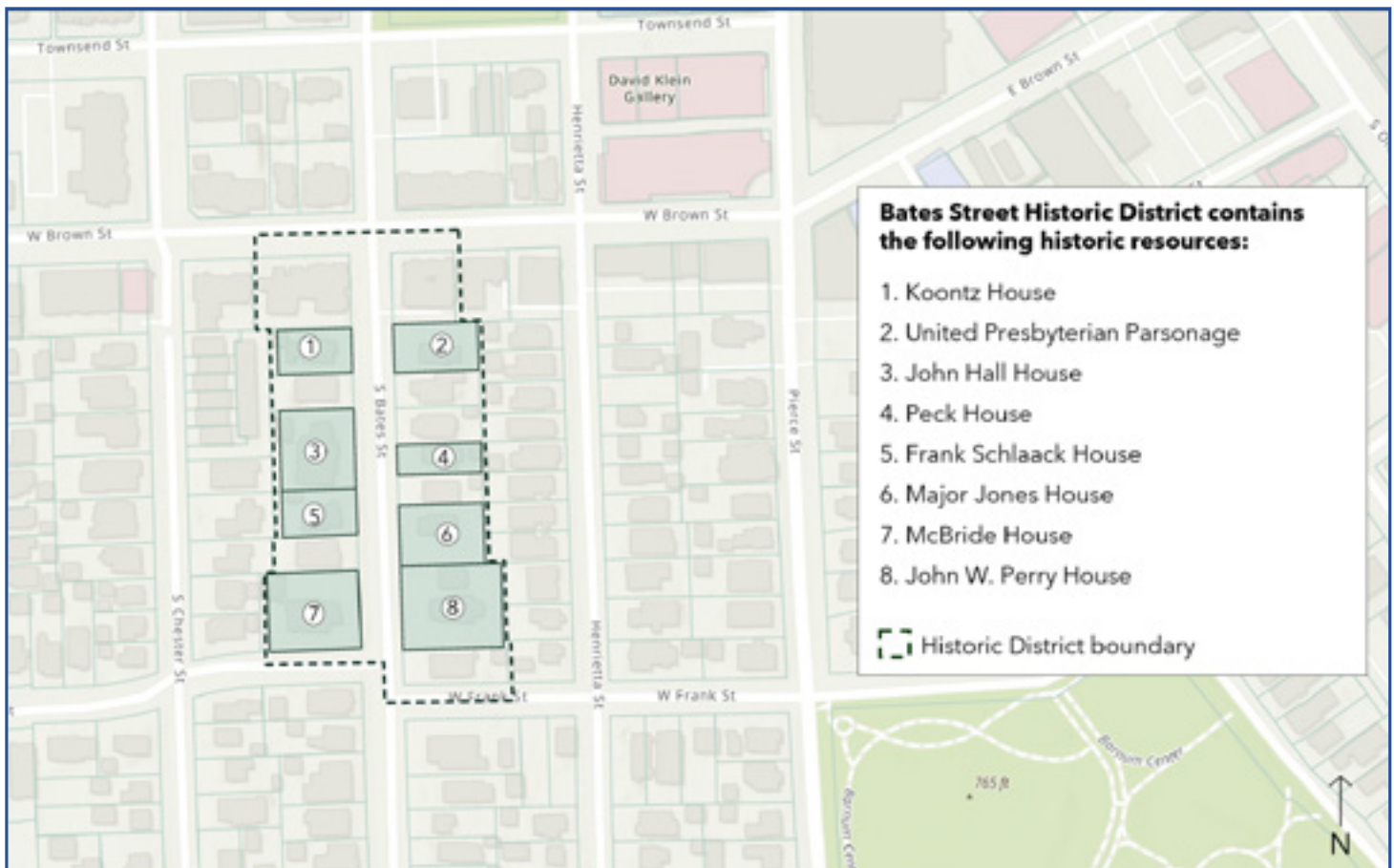
City Hall, Shain Park Historic District, City of Birmingham, photo by KDG, 2022.



City Hall, Shain Park Historic District, City of Birmingham, photo by KDG, 2022.

## Bates Street Historic District

The Bates Street Historic District contains houses on Bates between Brown Street and Frank Street. Homes within the district date to the late-nineteenth and early-twentieth centuries and display Queen Anne and Folk Victorian styles. Queen Anne style homes within the district have steeply pitched hipped or gable roofs with lower cross gables, porch spindle work and multiple exterior textures from the use of wood weatherboard and variously shaped wood shingles. In the Bates Street Historic District, the footprints of Folk Victorian homes were smaller compared to neighboring Queen Anne homes and decoration on Folk Victorian homes is more subdued. Common decorations in the district include applied gabled pediments above windows, small brackets, and bargeboard.



# Bates Street Historic District Examples



*John Hall House, Bates Street Historic District, City of Birmingham, photo by KDG, 2022.*



*Houses along Bates Street, City of Birmingham, photo by KDG, 2022.*



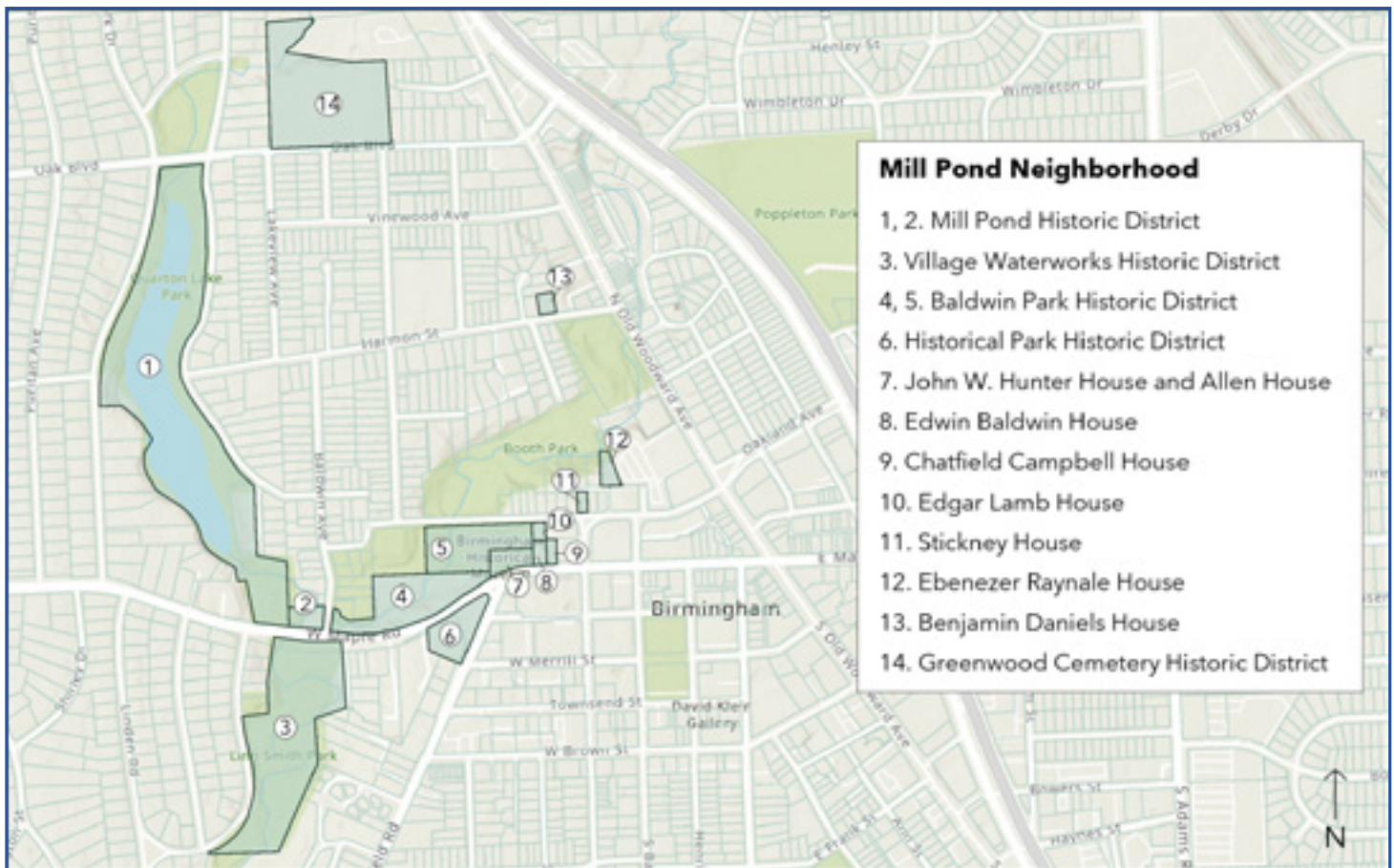
*Frank Schlaack House, Bates Street Historic District, City of Birmingham, photo by KDG, 2022.*



*United Presbyterian Parsonage, Bates Street Historic District, City of Birmingham, photo by KDG, 2022.*

## Mill Pond Neighborhood

The Mill Pond Neighborhood contains several adjacent and dispersed properties. Historic resources are largely found near the intersection of West Maple and Southfield roads, but Greenwood Cemetery and the Benjamin Daniels House are north of this intersection. This neighborhood contains green space and public parks such as Baldwin Park, Quarton Lake Park, and Linn Smith Park. Some of the oldest homes in Birmingham are located here as well, including the Hunter House built in the early 1800s.



# Mill Pond Neighborhood Examples



*The Allen House, Mill Pond Neighborhood, City of Birmingham, photo by KDG, 2022.*



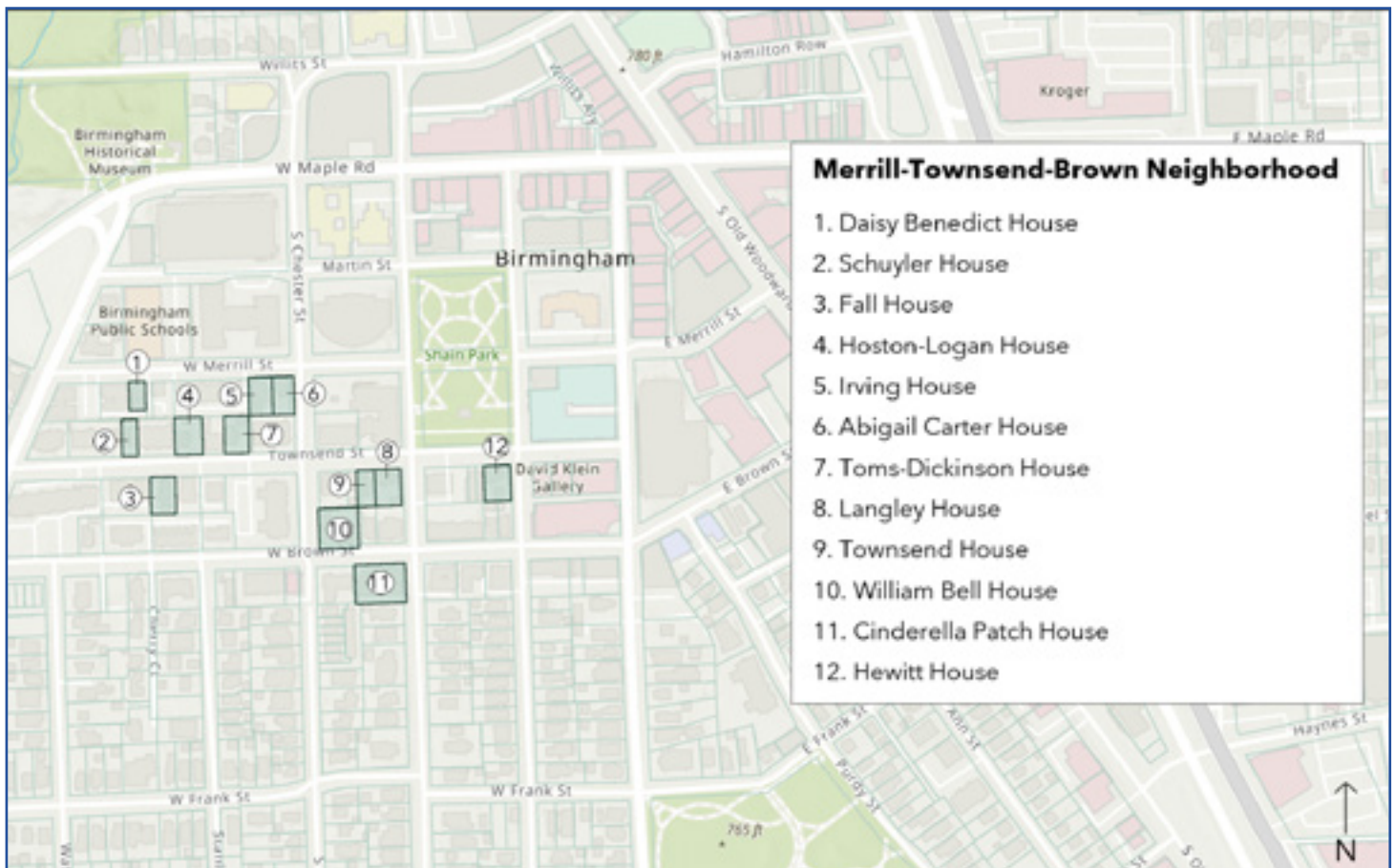
*Green space within the neighborhood, Mill Pond Neighborhood, City of Birmingham, photo by KDG, 2022.*



*Green space within the neighborhood, Mill Pond Neighborhood, City of Birmingham, photo by KDG, 2022.*

## Merrill-Townsend-Brown Neighborhood

Several historic homes, each within a distinct historic district, make up the Merrill-Townsend-Brown Neighborhood. The homes date from the late-nineteenth century, exhibiting various architectural styles such as Italianate and Folk Victorian and illustrating common Midwest house forms like the Upright and Wing. Subtle architectural features throughout the neighborhood include the use of multiple exterior cladding elements and restrained wood trim.



## Merrill-Townsend-Brown Neighborhood Examples



*Cinderella Patch House, Merrill-Townsend-Brown Neighborhood, City of Birmingham, photo by KDG, 2022.*



*Irving House, Merrill-Townsend-Brown Neighborhood, City of Birmingham, photo by KDG, 2022.*



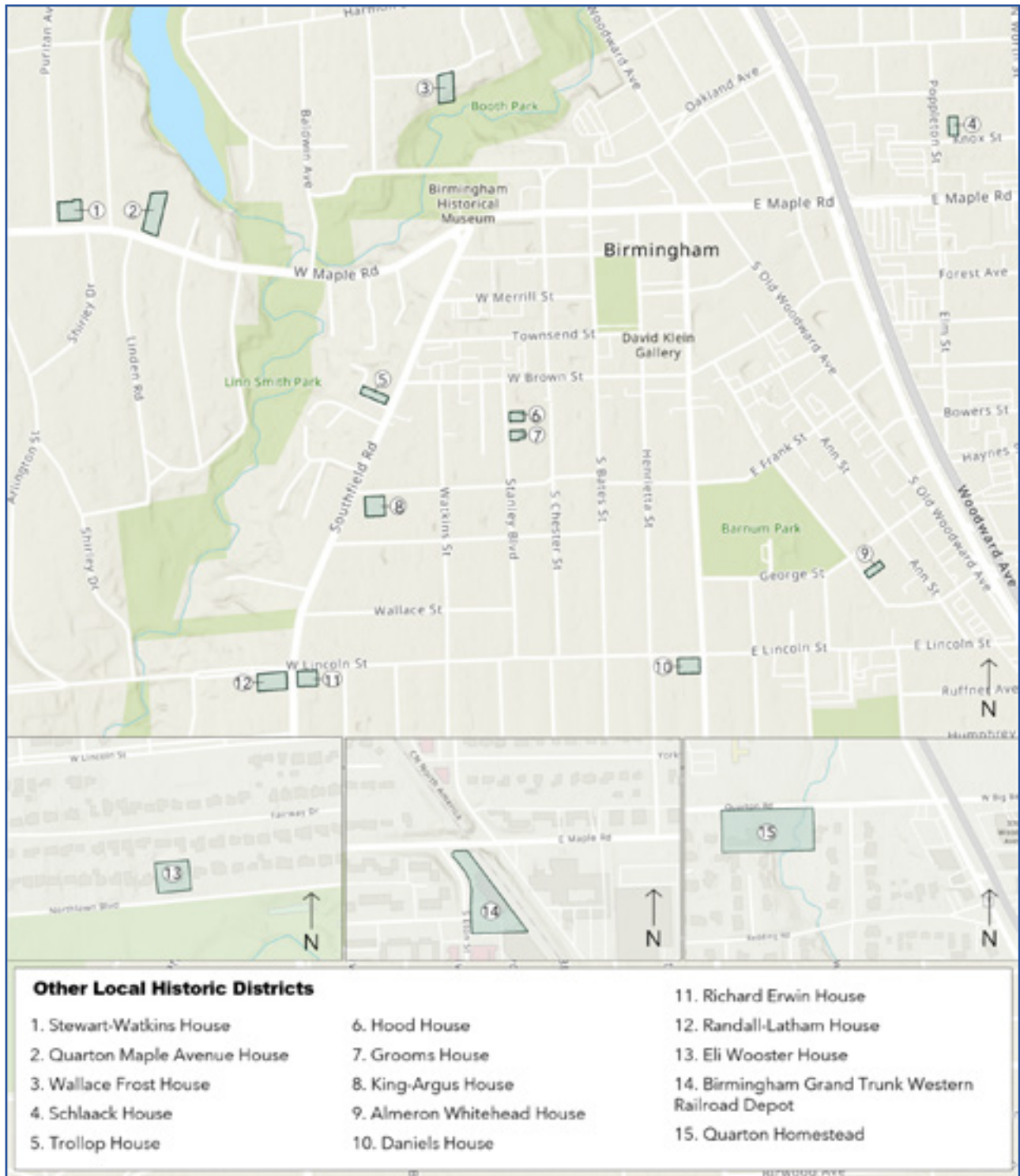
*Hoston-Logan House, Merrill-Townsend-Brown Neighborhood, City of Birmingham, photo by KDG, 2022.*



*Langley House, Merrill-Townsend-Brown Neighborhood, City of Birmingham, photo by KDG, 2022.*

# Other Local Historic Districts

Several of Birmingham’s historic districts are located west of Woodward, outside of the central commercial corridor and center of the city. These districts include individual homes and sites, illustrating a wide range of architectural styles from the mid-nineteenth century up to the early-twentieth century. One example is the Eli Wooster House, dating to the mid-nineteenth century, which is an Upright and Double Wing house in the Greek Revival style. Several Victorian period farmhouses are designated, and are identifiable by their spindle work, large porches, and decorative wood trim.





## Other Local Historic Districts Examples



*Birmingham Grand Trunk Western Railroad Depot Historic District, City of Birmingham, photo by KDG, 2022.*



*Richard Erwin House, City of Birmingham, photo by KDG, 2022.*



*Hood House, City of Birmingham, photo by KDG, 2022.*

# Historic Architectural Styles in Birmingham

There are a variety of architectural styles found in Birmingham. Many of the following descriptions are based upon Virginia McAlester's seminal guidebook *A Field Guide to American Houses*. This book is an excellent source for further information about residential architectural styles and their typical features.

Folk, before 1850-1930

Greek Revival, 1825-1860

Italianate, 1840-1885

Victorian Period, 1860-1900

Folk Victorian, ca.1870-1910

Queen Anne, 1880-1910

Colonial Revival, 1880-1955

Dutch Colonial Revival, 1880-1955

Tudor Revival, 1890-1940

Prairie, 1900-1920

Craftsman, 1900-1930

Art Deco and Streamline Moderne, 1920-1940

Minimal Traditional, ca.1935-1950

Ranch, ca.1935-1975



Example of Folk, before 1850-1930, City of Birmingham, photo by KDG, 2022.



Example of Greek Revival, 1825-1860, City of Birmingham, photo by KDG, 2022.



Example of Folk Victorian, ca.1870-1910, City of Birmingham, photo by KDG, 2022.

## Folk, before 1850-1930

Folk style is one of the earliest and longest-lasting architecture styles and has multiple subtypes including Native American, Pre-Railroad, and National. Unlike other architectural styles which were the product of changing taste and fashion, Folk houses exhibit little architectural decoration and are often simple, unornamented dwellings built with little regard to popular fashions or taste. Folk architecture often uses locally sourced materials, particularly in the Native American and Pre-Railroad subtypes where sourcing materials from a distance was often not feasible due to lack of transportation.

Native American Folk architecture typically constituted of wood frame or earthwork construction and is the earliest Folk structures seen in the United States. European colonists began constructing their variation of Folk architecture upon settling in the Americas in the 17th century until a nationwide railroad system was in place at the end of the 19th century. Pre-Railroad Folk houses typically consisted of hand-hewn timber frame houses, log houses, local stone, or earthwork masonry buildings depending on local material availability.

As a nationwide railroad network developed in the latter half of the nineteenth century, Folk National houses proliferated as material required for balloon framing and wood clapboard became easily transported nationally and mass-produced. Folk National houses typically assume folk forms such the I-house, Upright and Wing, and Gable Fronter, but are constructed of mass-produced, light wood framing rather than hand-hewn, heavy timber framing. Folk National houses lack ornament and are often clad in wood siding. Many houses in Birmingham are Folk Victorian, informed both by Folk forms and details from the Victorian period.



*A Gable Fronter from the early-twentieth century with very minimal decoration. City of Birmingham, photo by KDG, 2022.*



*A one-and-a-half-story Folk house reminiscent of the I-house from the mid-nineteenth century. City of Birmingham, photo by KDG, 2022.*



*The original portion of this house is an Upright and Wing. City of Birmingham, photo by KDG, 2022.*

## Greek Revival, 1825-1860

The Greek Revival style was popular throughout the U.S. during the mid-nineteenth century as an ode to the ancient Greeks and the birth of democracy. Characterized by a shallow side or front gable roof, a prominent entablature, cornice returns, and wood clapboard painted white, the style was once prevalent throughout southeast Michigan, including Birmingham. High style examples may incorporate classical columns, pilasters, pedimented windows, and elaborately detailed entryways. Historic windows are double-hung wood sashes with 6 lites per sash. Decoration is often limited or excluded from vernacular examples, but the prominent entablature and cornice returns are found on many examples.

## Italianate, 1840-1885

The Italianate style was most popular during the 1840s through the mid-1880s with characteristic features of low-pitched roofs, widely overhanging eaves often supported by decorative brackets, and decorative window hoods. Windows are often tall and narrow, with each sash containing 1 or 2 large panes of glass. Elaborate Italianate houses may feature a cupola or tower. Italianate houses are most commonly two or three stories with one story variations rarely seen.



*The Daniels House is an example of the Greek Revival style with its prominent entablature, 6-over-6 windows, and shallow gable roof. The ogee arches near the center of the building would have once been open, accessing a loggia. The Upright and Wing form is characteristic of Folk architecture in southeastern Michigan. City of Birmingham, photo by KDG, 2022.*



*The prominent entablature and cornice returns on the gable end of the Greek Revival Hunter House. City of Birmingham, photo by KDG, 2022.*



*The John W. Perry House in the Bates Street Historic District is an Italianate style house with over hanging eaves, brackets, and tall, narrow windows. City of Birmingham, photo by KDG, 2022.*



*The Schuyler House in the Merrill-Townsend-Brown Neighborhood is an Italianate style house with over hanging eaves, brackets, and tall, narrow windows. City of Birmingham, photo by KDG, 2022.*

## Victorian Period, 1860-1900

The Victorian period ushered in a series of architectural styles all popularized between 1860 and 1900 during the reign of the United Kingdom's Queen Victoria. These styles include: Second Empire, Stick, Queen Anne, Shingle, Richardsonian Romanesque, and Folk Victorian. There are a few Queen Anne style houses in Birmingham and a fair number of Folk Victorian style houses.

### Folk Victorian, ca.1870-1910

Folk Victorian is closely related to the Folk National style and has characteristics of both Folk and Victorian styles. These houses are less elaborate than the Queen Anne style. Folk Victorian style houses have Folk National forms but often have decorative details associated with the Victorian period including spindle work, frieze work, decorative wood trim, and other decorative features such as elaborated window cornices.

### Queen Anne, ca. 1880-1910

Houses in the Queen Anne style typically have a steeply pitched cross gabled or hipped roof with lower cross gables. Of all the Victorian Period subtypes, this style tends to have the most decorative detail such as Palladian windows, windows with colored glass, decorative brickwork, multiple shingle patterns, and spindle work. This style is often irregular in form with angled walls, projecting bays, towers and turrets.



*The cross-gable form was incredibly popular for Folk Victorian houses throughout Michigan and the Midwest. City of Birmingham, photo by KDG, 2022.*



*The hipped roof with lower cross gables, mixture of wood shingles and weatherboard, large porch, bay window, and irregular shape are characteristic of the Queen Anne style. City of Birmingham, photo by KDG, 2022.*

# Victorian Period, 1860-1900

## Folk Victorian, ca.1870-1910



The presence of frieze work, gable decoration, tall and narrow rectangular windows, and decorative window cornices indicate the Folk Victorian style. City of Birmingham, photo by KDG, 2022.



Porch frieze work and gable decoration. City of Birmingham, photo by KDG, 2022.



Folk Victorian with minimal decoration. City of Birmingham, photo by KDG, 2022.



Bargeboard decorating the gable end. City of Birmingham, photo by KDG, 2022.

# Victorian Period, 1860-1900

## Queen Anne, 1880-1910



Multiple roof shapes are characteristic of the Queen Anne style. City of Birmingham, photo by KDG, 2022.



The Richard Erwin House, a large Queen Anne example. City of Birmingham, photo by KDG, 2022.

## Colonial Revival, 1880-1955

Colonial Revival was inspired by the 1876 Philadelphia Centennial event celebrating the centennial of America's independence. A resurgence of interest occurred in the 1930s with the restoration of Williamsburg, Virginia. This revival style represented a romanticized look back to the colonial period and a renewed patriotism in the nation. The Colonial Revival style is often applied to buildings with rectangular footprints with hipped or side gabled roofs. The entryways are often centered on the façade, accentuated with a portico, pilasters, a broken triangular or segmental pediment, fanlights, or sidelights. Windows are often paired, and each sash usually holds 6, 8, 9, or 12 panes; shutters are common. Some elaborate Colonial Revival buildings also feature denticulated cornices. Red brick veneer is a common exterior cladding, but wood cladding may be present instead.



*Birmingham's Community House exemplifies the Colonial Revival style with its classically inspired portico and entrance, denticulated cornice, 8-over-8 windows, and incorporation of large bay windows not usually found in original colonial buildings. Portions of this building are contemporary additions constructed in the Colonial Revival style to match the historic core building. City of Birmingham, photo by KDG, 2022.*



*A Colonial Revival example clad in brick veneer. City of Birmingham, photo by KDG, 2022.*



*A modest Colonial Revival house with an elaborated entrance, non-functioning shutters, simple square footprint, and side gable roof. City of Birmingham, photo by KDG, 2022.*



*The cantilevered second story, shutters, classical entrance, and side gable roof indicate the Colonial Revival style. City of Birmingham, photo by KDG, 2022.*



*The paired, 6-over-6 windows, shutters, portico, symmetrical façade, and side gable roof are indicative of the style. City of Birmingham, photo by KDG, 2022.*



## Dutch Colonial Revival, 1880-1955

Dutch Colonial is considered a subtype of the Colonial style. The Dutch Colonial style was prevalent from around 1625 to circa 1840 and was most often found in areas of Dutch settlement along the Hudson River in the northeast United States. Dutch Colonial Revival, similar to Colonial Revival, was popularized at the tail end of the nineteenth century into the early- to mid- twentieth century during a renewed interest in early English and Dutch colonial houses. Gabled roofs with flared eaves and gambrel roof forms, often with a large, shed dormer, are characteristic of the Dutch Colonial Revival style. Wood cladding and stone often clad the exterior.



*A large gambrel roof with a shed roof dormer. The facades of Dutch Colonial Revival houses are often symmetrical. City of Birmingham, photo by KDG, 2022.*



*Another example of a Dutch Colonial Revival house with a gambrel roof and shed roof dormer. City of Birmingham, photo by KDG, 2022.*



*The gambrel roof with flared eaves paired with a large, shed roof dormer are characteristic of the Dutch Colonial Revival style. City of Birmingham, photo by KDG, 2022.*

## Tudor Revival, 1890-1940

Tudor Revival architecture was at its peak popularity from 1900 through the 1940s. The exteriors of Tudor Revival houses are often clad in dark red brick veneer. Multiple brick veneer patterns, decorative brickwork, stone accents, and false half-timbering are used to decorate the exterior. A steeply pitched side or front gable roof shelters the house and a prominent front-facing gable may be present. Doorways may be rounded, and windows are likely multi-paned leaded glass panels in wood frames or steel casement windows. Chimneys tend to be prominently placed and topped with decorative chimney pots.



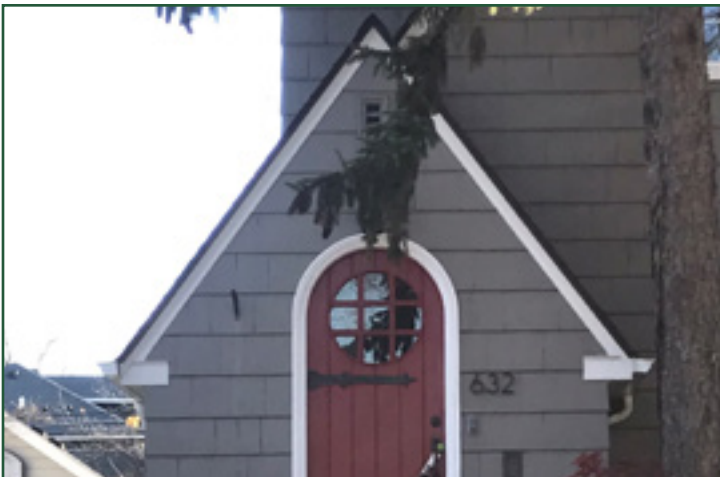
Tudor Revival house with a prominent, front-facing gable and decorative half-timbering. City of Birmingham, photo by KDG, 2022.



The use of multiple exterior cladding materials, prominent gables, and decorative chimney pots illustrate the Tudor Revival style. City of Birmingham, photo by KDG, 2022.



Detailed view of decorative half-timbering. City of Birmingham, photo by KDG, 2022.



Round arched doors with vertical wood cladding and strap hinges, placed within small gables, are characteristic of the style. City of Birmingham, photo by KDG, 2022.



A stucco exterior clads this Tudor Revival with a large, front-facing gable and brick accents around window and door openings. City of Birmingham, photo by KDG, 2022.

## Prairie, 1900-1920

The Prairie style is a form of early Modernism popularized by architect Frank Lloyd Wright. The style was at its peak popularity from 1900 to 1920. Prairie style houses often have hipped roofs with widely overhanging eaves. Further, they tend to have wide, open porches supported by rectangular columns. Prairie style is similar to Craftsman style in its use of rectangular columns, wide overhanging eaves, and windows with divided lites often in a 3-over-1 pattern. Houses in the American Foursquare form often exhibit features inspired by the Prairie style.



*American Foursquare in the Prairie style. City of Birmingham, photo by KDG, 2022.*



*The Prairie style, with the characteristic hipped roof, hipped roof dormers, widely overhanging eaves, and large porch, is often applied to the American Foursquare form. City of Birmingham, photo by KDG, 2022.*



*Closeup image of the hipped roof, hipped roof dormers, widely overhanging eaves, and 3-over-1 windows. City of Birmingham, photo by KDG, 2022.*

## Craftsman, 1900-1930

The Craftsman style is one of multiple Early Modern architectural styles popularized from around 1900 to 1930. Craftsman houses typically have low, gabled roofs and feature exposed rafter tails or decorative false beams or brackets under the gables. The Craftsman style is typically seen on one-and-a-half story bungalow houses but is also applied to two-story houses on occasion. Bungalow type Craftsman houses often have low pitch shed roof dormers or gable roof dormers with exposed rafter tails centered on the primary façade. Craftsman style houses often have deep covered porches supported by battered piers or columns. Windows and doors are similar to those found on Prairie style buildings, and the windows tend to have divided lites in 6-over-1 or 3-over-1 configurations. The Craftsman style is particularly popular in Metro Detroit and Birmingham is no exception. There are many Craftsman style Bungalows in Birmingham.



*Exposed, extended eaves with visible rafters are characteristics of the Craftsman style. City of Birmingham, photo by KDG, 2022.*



*Battered wood piers, a large full-width porch, 3-over-1 windows, and protruding roof beams are some of the Craftsman details applied to this large Foursquare form. City of Birmingham, photo by KDG, 2022.*



*This Craftsman style house has knee brackets, a large porch with massive brick piers, a gabled roof, and 3-over-1 windows. City of Birmingham, photo by KDG, 2022.*



*A large Craftsman Bungalow with a front gable dormer, full-width porch with brick piers topped with battered wood piers, and extended eaves with rafter tails and knee brackets. City of Birmingham, photo by KDG, 2022.*



*A Craftsman Bungalow with a gabled porch with battered wood piers resting on brick piers, rafter tails, and decorative windows in the gable end. City of Birmingham, photo by KDG, 2022.*

## Art Deco and Streamline Moderne, 1920-1940

Art Deco and Streamline Moderne were popularized circa 1920 to 1940 and were typically used on commercial and public buildings. Art Deco buildings emphasize the horizontal with flat walls and roofs with stylized geometric motifs often used on the cornice, parapet, and around openings. The geometric patterns are often chevrons and zigzags. Streamline Moderne buildings are characterized by their streamlined, minimal appearance, smooth wall surface, asymmetrical façade, curved corners, and horizontal emphasis.



Closeup view of the geometric motifs on an Art Deco building. City of Birmingham, photo by KDG, 2022.



The curved corners with curved glass and stark façade are indicative of Streamline Moderne. City of Birmingham, photo by KDG, 2022.



Small Art Deco building with geometric motifs paired with a smooth wall surface. City of Birmingham, photo by KDG, 2022.

## Modern and Contemporary, ca.1925-1970

Modern and Contemporary architecture are characterized by an emphasis on form and a lack of ornament. While there is debate about the precise start and end dates of the Modern Movement, in America its peak popularity spanned from about 1925 to 1970. Many Modern style buildings use innovative materials such as cast concrete, aluminum curtainwall systems, and fiberglass spandrel panels. This style should not be confused with 21st-Century Modern which is a style common to residences constructed in the early 2000s exhibiting geometric forms and unifying materials.



*Modern buildings often incorporate new materials, with the building above incorporating expanses of glass and pebbled spandrels into the design. City of Birmingham, photo by KDG, 2022.*



*View of textured panels. City of Birmingham, photo by KDG, 2022.*



*Verticality is emphasized by the narrow windows and solid spandrels organized in columns on the side elevation. The use of molded, textured panels on the façade is also characteristic of Modern buildings. City of Birmingham, photo by KDG, 2022.*

## Minimal Traditional, ca.1935-1955

The Minimal Traditional style originated in the midst of the Great Depression as low cost housing. The popularity of the style continued for defense worker housing during World War II and in the post-war era to alleviate housing shortages as millions of Americans sought homeownership to satisfy the “American Dream.” The Minimal Traditional style was most popular between 1935 and 1955 and its qualities and characteristics are largely shaped by guidelines released by the Federal Housing Administration (FHA) during that time. The Minimal Traditional house has a small footprint and is often one-story. The house is often side gabled and occasionally has a front-facing gable detail on the façade. These houses have minimal to no architectural detail but commonly exhibit basic elements of the Colonial Revival style and were typically built by developers as tract housing. Due to Birmingham’s development patterns, the majority of Minimal Traditional style houses are on the east side of the city, east of Woodward Avenue.



*Small houses with minimal decoration and side gable roofs are indicative of the Minimal Traditional style. Brick and stone veneer and siding are incorporated into the exterior cladding on this example. City of Birmingham, photo by KDG, 2022.*



*Streetscape of Minimal Traditional housing east of Woodward. City of Birmingham, photo by KDG, 2022.*



*These examples illustrate the small front-facing gable often found on Minimal Traditional houses. City of Birmingham, photo by KDG, 2022.*

## Ranch, ca.1935-1975

The Ranch style was founded in California c. 1932 by architect Cliff May. Like the Minimal Traditional style, it emerged in the midst of the Great Depression but remained popular much longer, throughout the 1970s. The Ranch style is characterized by its one-story, linear form often with side gable or cross gable roofs. Ranch style houses often have moderate eave overhangs and may feature large, fixed picture windows or windows designed for maximizing cross ventilation such as jalousie, awning, or hopper windows. Ranch style houses often have multiple cladding materials such as clapboard or shingle siding, brick, and stone. Wide chimneys were a common feature of late period Ranches. In the 1940s and 1950s, the house was often connected to a garage via a breezeway while in later versions, garages were incorporated into the core block of the house. Due to Birmingham's development patterns, the majority of Ranch style houses are on the east side of the city, east of Woodward Avenue.



*This small, Ranch style house has a side gable roof, large picture window, and cladding includes brick veneer and siding. City of Birmingham, photo by KDG, 2022.*



*A low, Ranch style house with brick veneer and siding, a large picture windows, and a front-facing gable. City of Birmingham, photo by KDG, 2022.*



*Small Ranch style houses. City of Birmingham, photo by KDG, 2022.*



*Streetscape of mid-twentieth century Ranch style houses. City of Birmingham, photo by KDG, 2022.*



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**PART 2:**

**Design Guidelines for  
Historic Commercial  
Resources**

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**BIRMINGHAM**

A WALKABLE CITY

**7B**

## Treatment of Historic Commercial Building Elements

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## Storefronts

The storefront is the most important part of a commercial building. Serving as the face of the business, the expansive areas of glass, architectural decoration, and signage characterize the storefront and draws customers to the establishment. Large expanses of glass providing views of the interior and product displays are characteristic features of commercial architecture. The majority of Birmingham's historic commercial buildings fall into national typologies characteristic of the late-nineteenth and early-twentieth century. Characteristic features include heights ranging from one to four stories, the presence of commercial space on the ground floor and private or office space on the upper floors, and a recessed entrance.

### Recommended

- Identifying, retaining, and preserving all historic storefront elements including such items as recessed entrances, the ratio of glass to building surface, the arrangement of the entrance and windows, architectural decoration related to the storefront, and any historic exterior flooring or exterior ceiling materials within the storefront
- Inspecting and addressing routine maintenance issues related to the storefront
- Retaining expanses of glass and display windows on a commercial building's façade
- If historic transom windows are located beneath modern cladding material, removal of the cladding material and repair and preservation of the transom windows is advised
- Repairing storefront materials by patching, splicing, consolidating, or otherwise reinforcing
- Only replacing storefront components that are beyond repair
- Replacing components with the same materials, or materials as close as possible to the historic in terms of color, dimension, texture, and finish

### Acceptable

- Replacement of historic storefront materials with functionally and visually appropriate materials if repair is not possible or the historic materials cannot be procured. The replacement materials should match the historic storefront in dimension, profile, type, arrangement, and glazing pattern

### Not Recommended

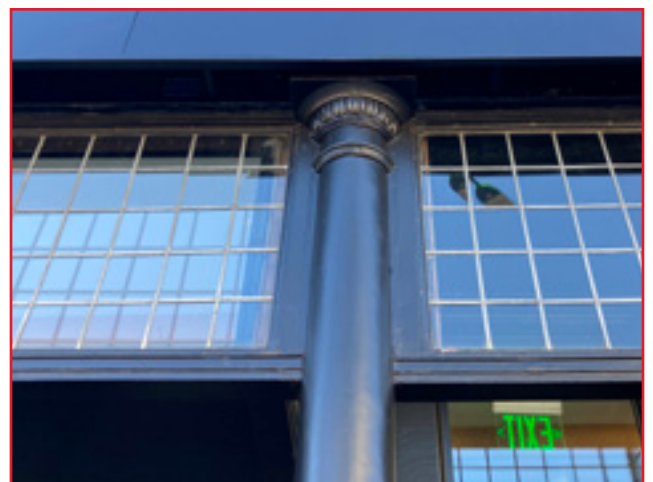
- Removal of historic storefront features
- Replacement of historic materials with unsuitable modern materials if the historic features could be repaired or replaced in-kind
- Altering the arrangement of the entrance and windows on the façade of the building
- Glazing with a tint or reflective coating
- Infilling space previously occupied by windows
- Removing historic exterior flooring, such as tile, or historic exterior ceiling materials within the storefront



A typical historic storefront in the Central Business Historic District, with recessed entrances and large glass windows, City of Birmingham, photo by KDG, 2022.



A mid-century storefront in the Central Business Historic District likely replaced an earlier storefront design. The new storefront utilizes large expanses of glass and a recessed entrance. City of Birmingham, photo by KDG, 2022.



Divided lite transoms are a typical historic feature in the Central Business District. City of Birmingham, photo by KDG, 2022.

## Storefronts



Typical storefront in the Central Business Historic District, City of Birmingham, photo by KDG, 2022.



Typical storefront in the Central Business Historic District, City of Birmingham, photo by KDG, 2022.



Typical storefront in the Central Business Historic District, City of Birmingham, photo by KDG, 2022.



Typical storefront in the Central Business Historic District, City of Birmingham, photo by KDG, 2022.

# Windows

Windows are integral features of historic commercial buildings. They allow light to enter the interior, provide ventilation, and allow businesses to draw customers into their establishment. For commercial buildings that are multiple stories, the upper stories usually employ rectangular or arched windows.

## Recommended

- Identifying, retaining, and preserving windows and their functional and decorative features. This includes features such as frames, transoms, sashes, glass, glazing patterns, trim, and pediments.
- Preserving the ratio of glass to building surface
- Preserve the placement and size of windows on the façade and other elevations
- Inspecting windows yearly for maintenance needs. Inspect the condition of paint, wood, glazing compound, hardware, sills, and other window components
- Performing routine yearly maintenance on windows
- Identifying and resolving the root cause of premature window deterioration. For instance, a wood or steel window may be excessively deteriorated not because of faults in its materials, but because the window header does not have a drip line which would route water away from the window
- Repairing historic windows by patching, splicing, consolidating, or otherwise reinforcing. Wood that appears to be deteriorated can often be repaired rather than replacing the entire window
- Only replacing window components that are beyond repair
- Replacing window components with the same materials, or materials as close as possible to the historic materials

## Acceptable

- Replacement of historic windows with functionally and visually appropriate replacement windows if the historic window units are deteriorated beyond repair
- Replacement windows matching the historic windows in material, dimension, profile, type, arrangement on the exterior, and glazing pattern

## Not Recommended

- Replacement of historic windows that could be repaired
- Replacement of historic windows with unsuitable modern windows
- Installing replacement windows that alter window size, orientation, arrangement, types, profiles, and glazing patterns
- Glazing with a tint or reflective coating
- Infilling space previously occupied by windows



The replacement of historic windows with modern, fixed-sash windows is not recommended as it alters historic, character defining features of the building. Central Business Historic District, City of Birmingham, photo by KDG, 2022.



Maintaining and repairing historic windows is recommended. Where possible, the diamond pane leaded glass windows have been preserved. Central Business Historic District, City of Birmingham, photo by KDG, 2022.



If historic windows are deteriorated beyond repair and cannot be replaced in-kind, modern replacement windows that mimic the originals are acceptable. Central Business Historic District, City of Birmingham, photo by KDG, 2022.

## Doors

Doors work in tandem with the storefront to invite customers into commercial spaces and often contain information about the establishment. Ornatly decorated doors are generally reserved for the façade, whereas utilitarian doors are relegated to side and rear elevations. As with commercial windows, commercial doors often contain large expanses of glass which is a character defining feature and should be retained.

### Recommended

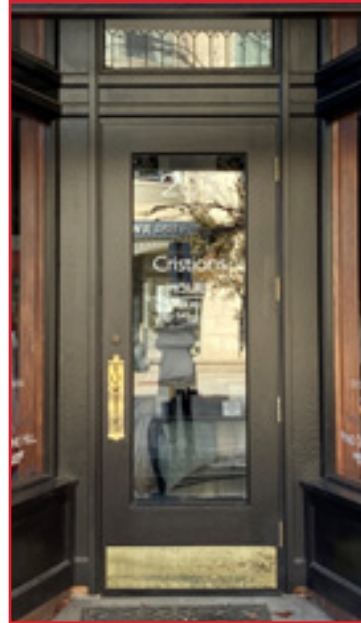
- Identifying, retaining, and preserving historic doors and all their associated components such as screen doors, hardware, trim, transoms, sidelights, fanlights, and door surrounds
- Repairing historic doors by patching, splicing, consolidating, or otherwise reinforcing. Wood doors that appear to be deteriorated may be repaired rather than replaced
- Only replacing doors and their components that are beyond repair
- If a historic door must be replaced, installing a door constructed of the same materials, using the same design and profile, and of the same size as the historic door
- If an historic door is missing or the historic door was previously removed, installing a new door sensitive to historically appropriate materials, designs, profiles, and styles

### Acceptable

- Installing a new door using a substitute material that matches the historic door in design, size, profile, and shape

### Not Recommended

- Replacing a functioning or repairable historic door with a door of modern materials and incompatible design
- Installing a replacement door that does not match the historic in design, such as paneling, number of lites, or color
- Removing or enclosing transom lights, fanlights, or sidelights
- Removing or altering a historic door surround
- Altering the shape or location of the door opening
- Adding a new door to the façade or a visible location on a side elevation



*Maintenance, repair, and preservation of a historic door. Central Business Historic District, City of Birmingham, photo by KDG, 2022.*



*Although it is recommended that historic doors be maintained and repaired, if this cannot be done, replacement with a modern door that is complementary to the design and era of the building is acceptable. Central Business Historic District, City of Birmingham, photo by KDG, 2022.*



*The replacement door above is not complementary to the historic building's style, and is therefore not recommended. Central Business Historic District, City of Birmingham, photo by KDG, 2022.*

## Exterior Wall Materials

### General Recommendations on Exterior Wall Materials

- Retaining and preserving historic wall materials
- If historic wall material is severely deteriorated beyond repair, installing new wall material to match the historic material in dimension, texture, color, and profile is recommended
- If portions of severely deteriorated wall must be replaced, it is recommended that replacement occurs only where necessary and splice new, matching material with existing material rather than replacing in full
- Alternative or modern exterior cladding materials are only used as secondary materials, in new construction, or if historic wall materials are too deteriorated to repair or patch with in-kind materials
- When mixing existing historic wall materials and new modern materials, it is recommended that the historic wall materials reads as dominant while the modern wall material exists on secondary building features and secondary elevations
- It is not recommended that low durability replacement materials be installed at ground level where they may be in contact with road salt, water, and foliage. For example, avoid installing new stucco or exterior insulation and finish system (EIFS) at the ground level where they will prematurely weather

Additional guidelines for the most common exterior wall materials on commercial structures are detailed below.



Wood and brick wall materials in the Central Business Historic District, City of Birmingham, photo by KDG, 2022.



Masonry in the Central Business Historic District, City of Birmingham, photo by KDG, 2022.

# Exterior Wall Materials

## Wood

Wood is a common exterior material used in Birmingham's historic commercial resources. Often used as a form of ornament, wood exterior cladding materials contribute greatly to the integrity and character of historic buildings. Guidelines on proper treatment of historic wood cladding are as follows:

### Recommended

- Identifying, retaining, and preserving wood features that are important to the overall historic character of the resource
- Maintaining and repairing existing wood features to retain the character of the building
- Cleaning wood features with a gentle, water-based cleanser on an as-needed basis
- Painting or staining existing wood features to protect the wood surface from UV and water damage
- Removing damaged, peeling, or deteriorated paint to the next sound layer by hand scraping or hand sanding and then repainting
- Repairing wood features by using the same material to patch, consolidate, splice, and reinforce the existing historic material
- Repairing damaged or deteriorated wood features and selectively replacing where necessary by splicing in new replacement portions
- Replacement wood elements are minimally used only when the existing wood is too deteriorated to repair
- When replacement wood is installed to replace deteriorated wood, the replacement pieces are painted or stained to match the adjacent pieces
- Replacing missing elements or damaged pieces to match the existing size, shape, width, profile, orientation, and installation method of the existing feature

### Acceptable

- If replacing historic wood exterior features, inspecting the existing historic cladding prior to covering or removal to determine the cause of any existing damage. Eliminate the source of the damage prior to installing new synthetic cladding
- When maintenance, repair, or in-kind replacement of historic wood features is not feasible, using modern materials may be considered. It is recommended that the new feature be installed in a manner where historic material is not damaged.
  - If covering would damage the historic material, that would become a "not recommended" treatment
- Installing replacement elements so as not to obscure existing character-defining trim details around windows, at edges of elevations, and around doors

### Not Recommended

- Cleaning wood features with abrasive methods such as high-PSI pressure washing, or media (sand, silicates, etc.) blasting is prohibited
- Stripping paint from wood siding which was historically painted or leaving it as a 'natural' finish
- Unnecessarily replacing historic features with modern materials which contributes to a loss of historic fabric and negatively impacts the integrity of a historic resource. If the existing wood features is damaged beyond repair and must be removed, then replacement of the historic material may be considered
- Covering architectural details such as trim, window and door hoods, or ornamental shingles with replacement elements



Exterior wood wall features in Birmingham's commercial district is largely limited to decorative details. City of Birmingham, photo by KDG, 2022.



Maintenance and repair of original wood exterior details is key. The wood in the image above requires some repair from water damage and repainting. City of Birmingham, photo by KDG, 2022.



Exterior wood maintained with adequate painting. City of Birmingham, photo by KDG, 2022.



## Exterior Wall Materials

### Masonry

Masonry encompasses a variety of materials ranging from brick to terracotta, clay, ceramic tile, granite, stone, stone veneer, stucco, cement, and cement block. It also includes the mortar used to attach the masonry units to each other. Masonry is used in a variety of ways on commercial buildings, most commonly used as foundation and structural material, exterior cladding material, and decorative details. Masonry is often a character defining feature of commercial buildings and the preservation and maintenance of such masonry is critical for preserving the integrity of the structure.

#### Recommended

- Identifying, retaining, and preserving historic masonry, mortar, and stucco
- Protecting and maintaining decorative masonry such as brick, stonework, terracotta, clay tiles
- Only cleaning masonry to halt further deterioration or to remove stubborn stains and graffiti
- Cleaning masonry using the gentlest means possible, ideally a water-based cleanser
- Repointing mortar that is missing or deteriorated or if sufficient mortar is missing to cause water infiltration into the wall system
- Repointing using a new mortar which matches the existing mortar compressive strength, composition, color, texture, joint size, joint profile, and method of application
- Replacing missing or deteriorated masonry units to match the existing in dimension, material, color, texture, finish, and profile. The replacement units match the historic installation method and course type

#### Acceptable

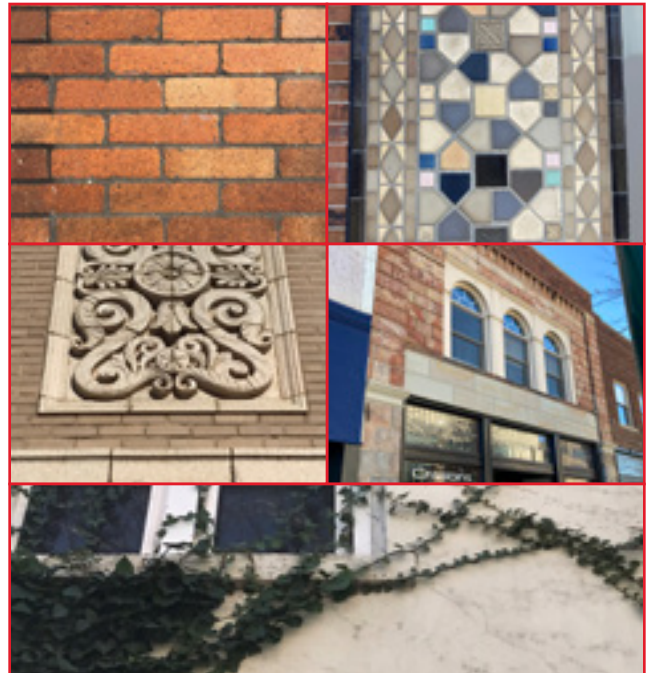
- Removing paint from masonry with a gentle water-based or chemical-based detergent so long as the detergent does not damage the masonry. Always test removal methods on a small, inconspicuous area of the exterior
- Applying maintenance coats of paint to already painted masonry

#### Acceptable (cont.)

- Replacing decorative masonry features which are missing or damaged beyond repair using accurate historic documentation of the historic feature, or if documentation is not available by using a new design which is compatible with the existing historic structure
- Replacing masonry features which are missing or damaged beyond repair, with modern materials that mimic the color, texture, and finish of the historic material if the historic material is no longer available

#### Not Recommended

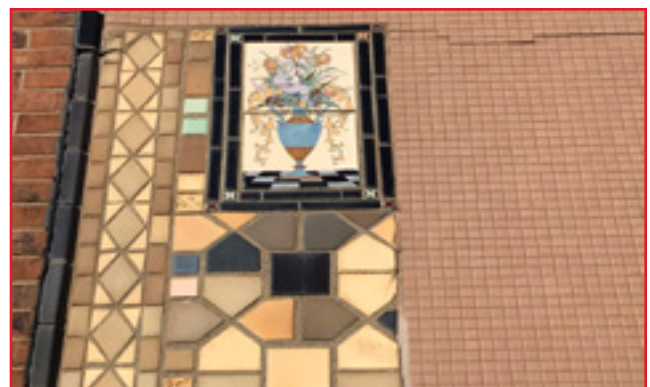
- Using abrasive cleaning methods such as high-PSI pressure washers or media blast cleaning systems is prohibited. These methods damage masonry materials, such as the face of brick and terracotta glaze, and contribute to spalling and future water infiltration
- Painting unpainted masonry. This can damage the existing material and lead to water being trapped in the masonry units which accelerates spalling and deterioration
- Installing new decorative masonry features which appear falsely historic such as decorative sills, brackets, gargoyles, or lions
- Applying stucco or parge to masonry not historically covered in these materials



Masonry materials include, from left to right, brick, tile, terracotta, stone, and stucco. City of Birmingham, photo by KDG, 2022.



The maintenance and repair of historic brick and mortar is recommended. City of Birmingham, photo by KDG, 2022.



The replacement of the historic Flint Faience tile (shown on left) with modern tile (shown on right) is not recommended. City of Birmingham, photo by KDG, 2022.

## Exterior Wall Materials

### Metal

Metal may be incorporated into historic commercial buildings through the use of metal cornices, columns, window hoods, and trim. These features contribute greatly to the historic character of the building, and it is recommended they be maintained, repaired, and preserved.

#### Recommended

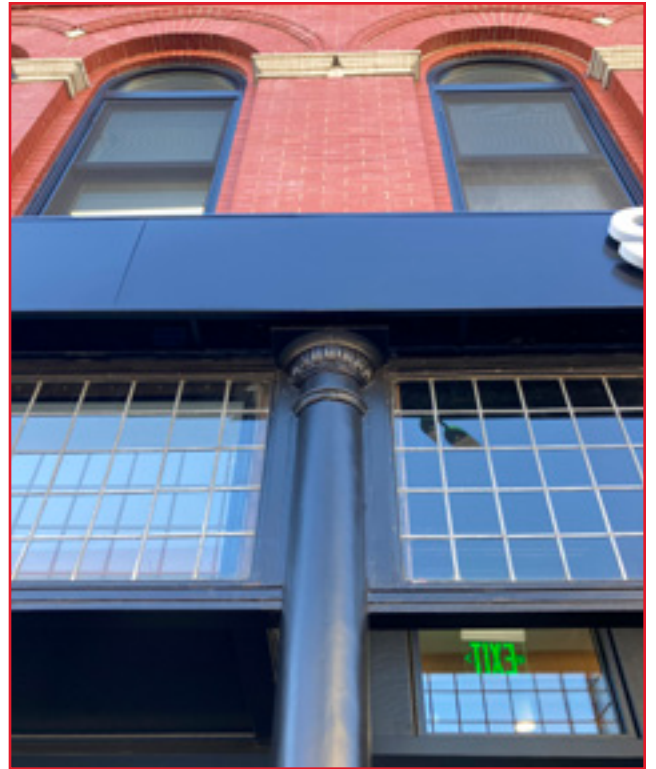
- Identifying, retaining, and preserving metal features through regular maintenance, such as preventing and treating rust and corrosion
- Clean metal features only as needed and using the gentlest means possible
- Only patching or replacing features that have deteriorated beyond the point of repair

#### Acceptable

- If replacement of damaged features using in-kind materials is not feasible, replacement materials match the historic materials in terms of design, finish, and dimensions. Metals can interact with other metals and cause staining and corrosion. Replacement metals should not negatively interact with remaining historic metal features.

#### Not Recommended

- Using incompatible materials such as asphalt or tar to patch deteriorated metal features
- Cleaning metal features with abrasive methods such as media blasting



The metal elements of this storefront have been adequately maintained. Central Business Historic District, City of Birmingham, photo by KDG, 2022.



Metal trim is a common exterior cladding material. City of Birmingham, photo by KDG, 2022.

## Roof Elements

Roof elements are often highly visible, character defining features of historic commercial buildings. Roof elements include the roof itself, dormers, gutters, chimneys, and other roof features. All of these features may be historically significant. Therefore, the maintenance, repair, and preservation of these features is important.

### Recommended

- Identifying, retaining, and preserving the historic roof and any roof elements in terms of materials, texture, decoration, form, and dimensions. Materials and methods used for repair match the historic materials and methods used
- Additional roof drainage such as downspouts, gutters, and scuppers are not visible from primary facades
- Only replacing historic materials that are beyond repair and replacing historic materials with in-kind materials. If replacement of the historic material is not technically feasible, the replacement material is matched as closely as possible to the historic material in terms of color, texture, dimensions, and design
- Performing annual maintenance on all roofs, especially flat roofs which are susceptible to water intrusion

### Acceptable

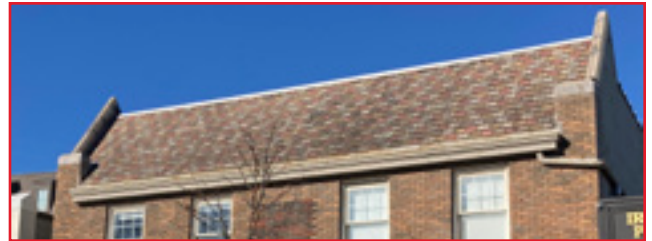
- Replacement of materials which are deteriorated beyond repair or can no longer be obtained for in-kind replacement with substitute materials that mimic the historic materials in dimension, color, design, texture, and appearance
- Addition of new rooftop features such as a penthouse or modern rooftop equipment that are sensitive to the historic character of the building in terms of scale materials

### Not Recommended

- Alteration of roof form or pitch
- Replacement of historic materials with modern materials in lieu of repairing or replacing in-kind
- Removal or addition of prominent roof elements that are incompatible with the building's design



Commercial buildings typically have flat roofs that are obscured by masonry parapets, shielding the roof from view. City of Birmingham, photo by KDG, 2022.



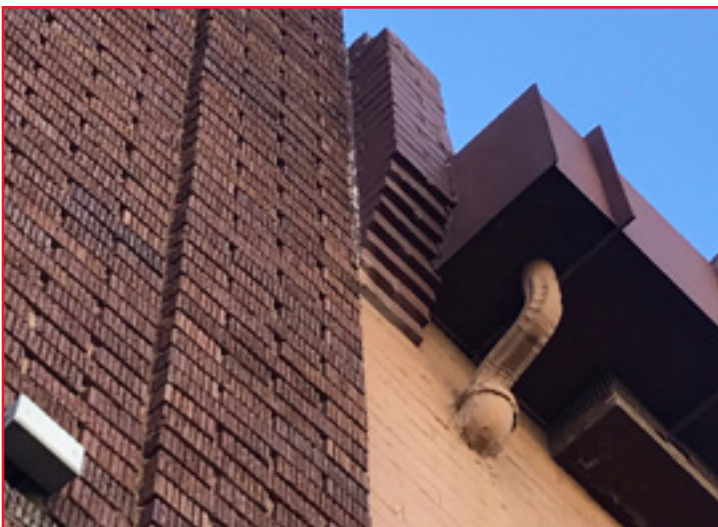
Slate roof in the Central Business Historic District, City of Birmingham, photo by KDG, 2022.



Slate roofing in the commercial districts, City of Birmingham, photo by KDG, 2022.



Clay tile roof in the Central Business Historic District, City of Birmingham, photo by KDG, 2022.



Note the historic gutter system, discretely placed on the facade of this building in Birmingham's Central Business Historic District, City of Birmingham, photo by KDG, 2020

## Rooftop Mechanical Equipment and Penthouses

Installation of modern rooftop mechanical equipment and penthouses is often a necessity in modern life. Modern equipment can be sensitively incorporated into historic buildings through positioning of equipment and penthouses in ways that minimize their visual impact from adjacent buildings and the public right-of-way. Historic rooftop equipment and penthouses may be present and contribute to the character of the historic building and district and should therefore be preserved.

### Recommended

- Identifying, maintaining, and preserving historic, character-defining penthouses and rooftop equipment
- Incorporating new rooftop equipment, penthouses, and screening that are sensitive to the historic character of the building in terms of scale, materials, color, and design and do not damage historic materials
- Positioning rooftop equipment in a manner that is not visible from adjacent buildings and the public right-of-way
- Screening rooftop equipment per Article 4, Section 4.54 of Birmingham's Zoning Ordinance.

### Acceptable

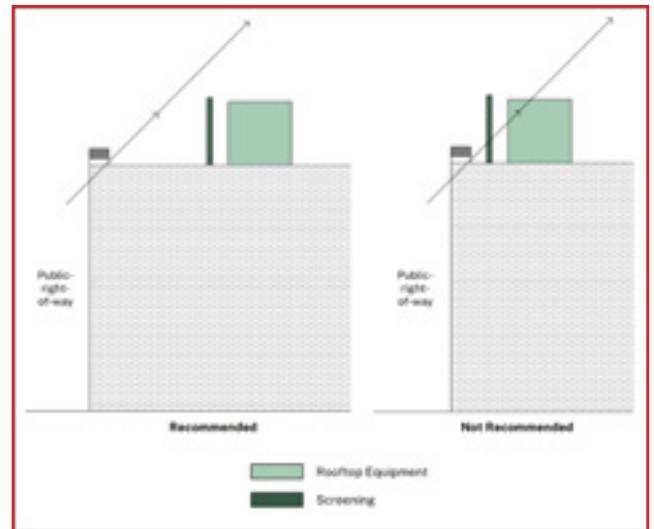
- Positioning rooftop equipment, penthouses, and screening in a manner that is minimally visible from adjacent buildings and the public-right-of-way

### Not Recommended

- Positioning rooftop equipment, penthouses, and screening in a manner that is highly visible from adjacent buildings and the public-right-of-way
- Incorporating new rooftop equipment, penthouses, and screening that are insensitive to the historic character of the building in terms of scale, materials, and design and cause damage to historic materials
- Removing historic rooftop penthouses and equipment



Rooftop mechanical equipment and penthouses that are present on these buildings within Birmingham's Commercial Historic District are positioned such that they are not visible from the public-right-of-way. Positioning rooftop mechanical equipment and penthouses in this manner is recommended. City of Birmingham, photo by KDG, 2022.



It is recommended that rooftop equipment and screening be situated so that it is not visible from the public right-of-way or adjacent buildings. It is not recommended that rooftop equipment and screening be visible

## Awnings and Canopies

On historic commercial buildings, awnings and canopies shield window and door openings from the sun, shelter customers and products from inclement weather, and provide advertising space. Retractable canvas awnings were a common feature of historic storefronts. Awnings are useful for introducing color to a commercial building façade and softening the transition between upper and lower portions of the façade. Typical historic storefront awnings are triangular when viewed from the side and often contain a short vertical valence on the bottom.

Special attention should be given to the sizing and positioning of new awnings to reflect the traditional storefront rhythm seen in the surrounding historic district.

### Recommended

- Identifying, retaining, and preserving historic awnings and associated components. Maintenance and repairs are done in a manner that preserves sound materials
- Replacing an awning that is damaged beyond repair with in-kind materials and design
- Removing non-historic awnings that obscure character defining features

### Acceptable

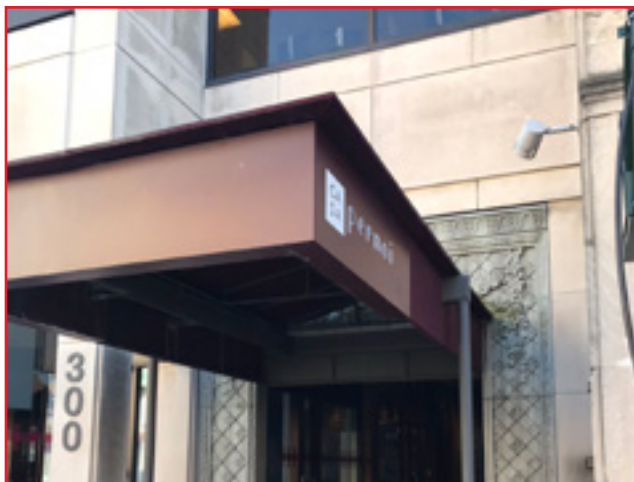
- If repairing or replacing an awning in-kind is not feasible, selecting a replacement awning that is historically compatible with the historic in terms of shape, material, color, texture, and design
- Installing awnings on a building that did not historically have awnings, so long as the new awnings are historically appropriate in terms of shape, color, material, and design, do not damage or obscure historic

materials, and are compatible with nearby historic buildings.

- Installing awnings on a building which no longer has its historic awnings using historic photographs or drawings to guide the design of the new awnings
- Installing new awnings which match the width of a storefront bay and is in keeping with the rhythm of the existing historic façade

### Not Recommended

- Removing historic awnings that could be retained through repair or continued use
- Altering the shape of historic awnings
- Replacing historic awnings with new awnings of a different shape, material, texture, or design
- Installing awnings or canopies that obscure historic features and are under- or over-sized for the openings they shelter.
- Installing translucent, backlit awnings



This canopy obscures the historic, character defining details of the entrance. City of Birmingham, photo by KDG, 2022.



Historic awnings were generally triangularly shaped and extended outward at the base to shelter the façade. An awning may not have existed on this building historically, but this type of modern awning is acceptable. City of Birmingham, photo by KDG, 2022.

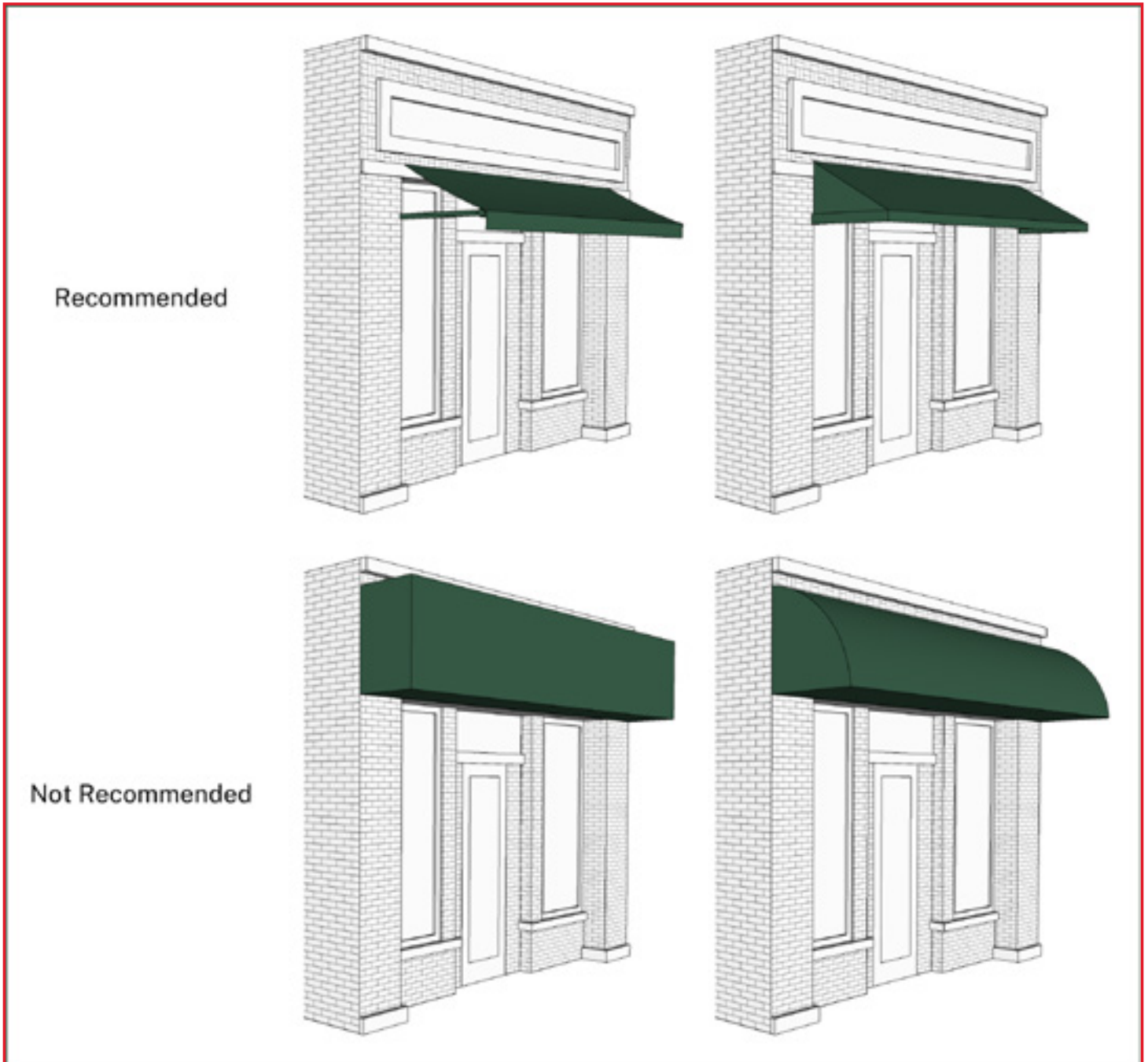


The modern awning here is an inverted version of the historic awning and is not recommended for use on historic buildings. City of Birmingham, photo by KDG, 2022.



Canopies of unique design are acceptable on historic commercial buildings as long as they respect the scale and size of nearby canopies and do not harm historic materials or obscure historic building details. City of Birmingham, photo by KDG, 2022.

## Awnings and Canopies



*Triangular awnings are recommended for historic commercial districts, as these types of awnings were historically used in commercial districts. Boxed, waterfall, and bubble awnings and backlighting are not recommended as these are not historically accurate.*

## Signage

Signage is a key element of historic commercial districts and may include different types of signage such as hanging signs, blade signs, fixed signs, and window signs. Historic signs were incorporated into the design of commercial buildings — they did not obscure decorative features or components of the storefront. Historically, ground floor businesses utilized exterior signage that was affixed to the façade, whereas businesses on upper stories used window signs. New signage must conform to signage standards described in Birmingham’s current sign ordinance.

### Recommended

- Identifying, retaining, and preserving historic commercial signage whether it is affixed to the exterior or painted on windows
- Only replacing historic signage elements that are damaged beyond repair and selecting in-kind replacement materials
- When new signage is required for commercial businesses new to the historic district, the shape, scale, and type of the new signage complements any existing, historic signage and the historic signage of nearby establishments
- New signage or signage-related work, such as installation or repair, does not damage or obscure historic materials on the exterior of the building
- Signage is anchored through mortar joints and not masonry faces to the extent feasible
- Incorporating signage that is easily removed without damage to surrounding historic materials

### Acceptable

- Replacing historic signage that is damaged beyond repair using modern materials so long as the new design complements other existing signage on the building and signage on nearby commercial buildings

### Not Recommended

- Installing obtrusive signage that detracts from the character defining features of the building and district
- Installing signage that obscures historic details
- Damaging historic materials when repairing, maintaining, or installing signage



Typical fixed signage in the commercial districts, City of Birmingham, photo by KDG, 2022.



The retention of historic hanging signs on the Shain Townhouses is recommended, City of Birmingham, photo by KDG, 2022.



Placing signage above a designated signage band obscures the historic brick and is not recommended, City of Birmingham, photo by KDG, 2022.

# Signage



Placement of signage in the signage band above storefront windows is recommended. City of Birmingham, photo by KDG, 2022.



It is recommended that historic signage be retained. City of Birmingham, photo by KDG, 2022.



Signage that does not detract from historic features is recommended. City of Birmingham, photo by KDG, 2022.



Typical signage in the commercial districts, City of Birmingham, photo by KDG, 2022.



The use of small, unobtrusive yet visible blade signs is recommended. City of Birmingham, photo by KDG, 2022.



A small plaque sign along with signage on the canopy coordinates with historic signage in the Central Business District. City of Birmingham, photo by KDG, 2022.



## Lighting

Historic commercial lighting often highlights the establishment's signage and entrance while providing lighting to help keep outdoor areas safe. Lighting refers to features such as hanging and wall mounted lights, pole lights, lighting along pathways, and any other exterior lights on the historic property. Important elements of lighting include the lighting fixture's scale, design, brightness, and direction of the light.

### Recommended

- Identifying, retaining, and preserving historic commercial lighting such that the historic lighting elements and the historic materials of the building are retained
- Refurbishing, without damage or replacement, of historic lighting to meet modern code requirements
- If historic lighting has deteriorated beyond repair and must be replaced, the replacement lighting is an in-kind replacement
- Use warm temperature incandescent or LED lighting. If colored or cool temperature lighting is contemplated this should be studied to ensure it is compatible with the historic district

### Acceptable

- New exterior lighting is located where lighting traditionally existed, to highlight the storefront, entrances, and signage.
- Incorporating architectural lighting aligned with architectural features
- Installation of new exterior lighting does not damage historic materials

### Not Recommended

- Removing historic lighting features
- Replacing historic lighting features that may be repaired or replaced in-kind
- Damaging or obscuring character defining features to repair, replace, or introduce new lighting
- Installing flood lighting on the façade or side elevations
- Installing moving, flashing, or rope lighting



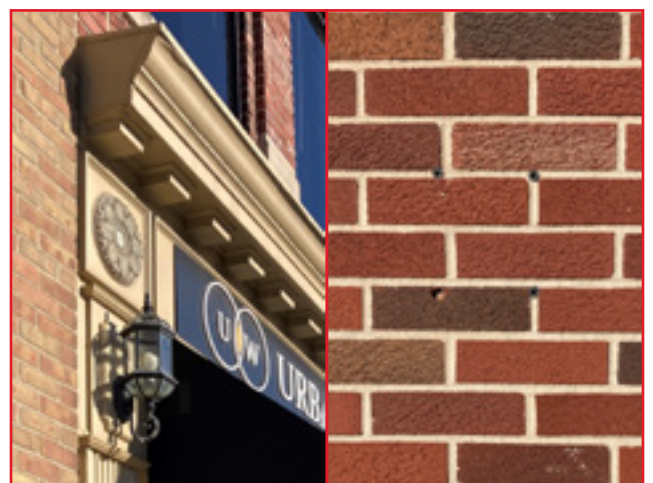
Typical lighting in Birmingham's Central Business Historic District, City of Birmingham, photo by KDG, 2022.



The preservation of exterior theatre lighting displays is recommended, City of Birmingham, photo by KDG, 2022.



Exterior lighting in the Central Business Historic District, City of Birmingham, photo by KDG, 2022.



Historically appropriate lighting is shown at the left. At right shows where previous light fixtures were attached to the exterior. It is not recommended that historic material, such as the brick, be damaged when installing lighting. Lighting should be affixed at the mortar joints, City of Birmingham, photo by KDG, 2022.

## Sidewalk Cafes and Patios

Sidewalk cafes and patios provide space for people to gather and enjoy outdoor space in the commercial historic district. The incorporation of a sidewalk café or patio must comply with any applicable Birmingham ordinances.

### Recommended

- Inclusion of a sidewalk café or patio in front of or behind a historic commercial building that does not damage any historic materials or obscure character defining features
- Cafes or patios do not overwhelm the historic building's facade
- The design of sidewalk features complements the style and design of the building
- Sidewalk café and patio construction is freestanding and not mounted or mechanically fastened to façade
- Any fencing or landscaping related to the patio or sidewalk café follows the guidelines in Part 6: Design Guidelines for Landscapes and Open Spaces
- Cafes or patios are constructed of finished materials

### Acceptable

- Seasonal, temporary or demountable patio furniture, awnings, or umbrellas that obscure historic building features

### Not Recommended

- Incorporation of a sidewalk café or patio that results in the damage or obstruction of historic materials and/or character defining features
- Incorporation of sidewalk café or patio features that utilize materials that are unfinished or incompatible with the historic district



*Patios such as this with a historically sensitive awning, use of finished materials, and appropriate scale are recommended, City of Birmingham, photo by KDG, 2022.*



*Sidewalk cafe and patio that is set away from the building like this one does not damage or obscure character defining features and is recommended. City of Birmingham, photo by KDG, 2022.*



*Cafe patio construction that is fastened/mounted to the building is not recommended. City of Birmingham, photo by KDG, 2022.*

## Evaluating Changes over Time

Buildings are not stagnant objects – they inevitably change over time. A building may be of an age where changes which occurred to the building are now historic in their own right and have gained significance over time. For example, say the owner of a 1900s commercial storefront installed a Modern style canopy on the building in 1950. The Modern style canopy, while not original to the building, could be considered historic and thus any changes to the canopy would also warrant HDC review. When evaluating a building to determine its key historic and significant characteristics, it is best practice to also contemplate the changes to the building that have occurred over time.

### Things to Think About

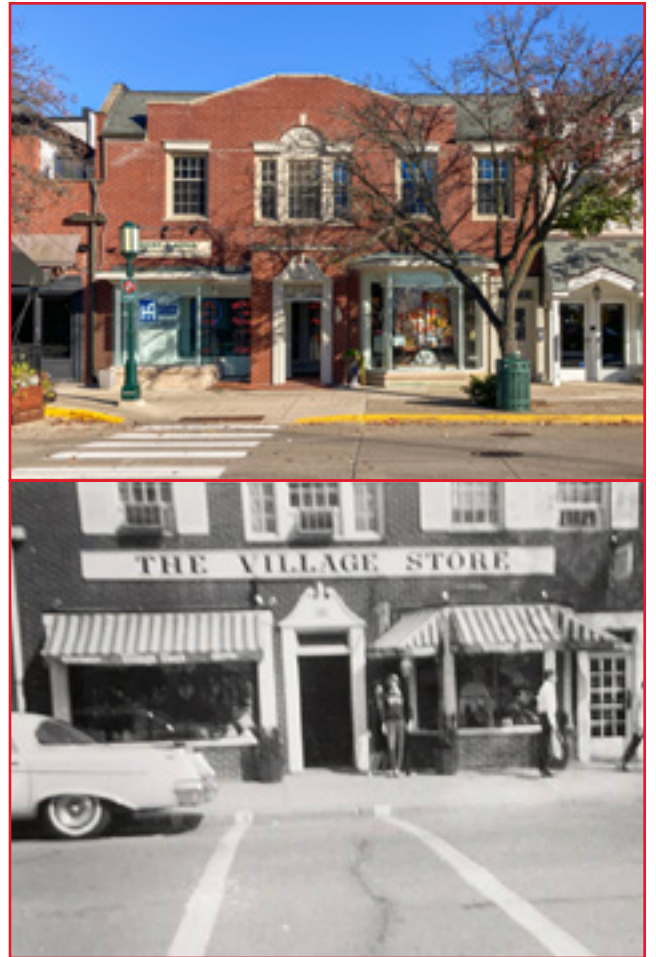
- Has an alteration acquired historic significance in its own right?
- Was the person (property owner, architect, designer, etc.) who made the alteration significant?
- Does the alteration reflect an important theme or event in Birmingham's history?

### Recommended

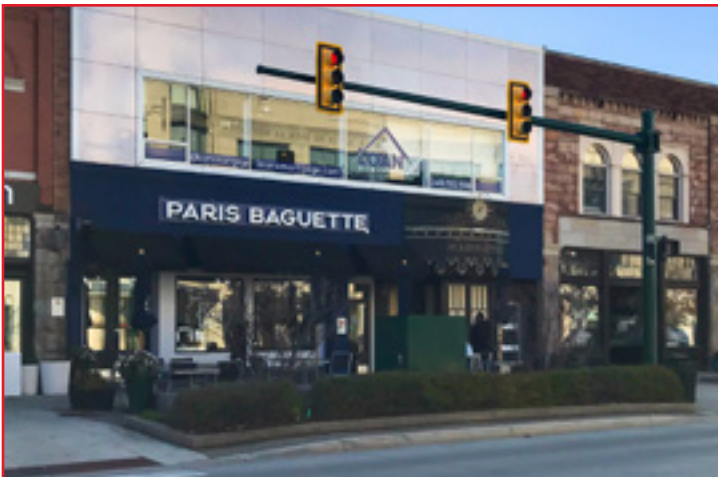
- Considering the full history of a building, including changes over time, when contemplating work to a historic building
- Retaining, repairing, and maintaining non-original features which are now considered historic due to age or significance

### Not Recommended

- Removing architectural features which are historic but do not date to the original building construction date such as canopies or façade material changes
- Only contemplating original building features and characteristics when planning work to a building in a historic district



Considering the full history of a building, including changes over time is recommended. City of Birmingham, photo by KDG, 2022.



Storefronts modified in the early or mid-twentieth century may have gained significance even if they are not original to the building. City of Birmingham, photo by KDG, 2022.



Buildings not considered historic when the district was initially designated may have gained significance over time. City of Birmingham, photo by KDG, 2022.

# Maintenance

Adequate and timely maintenance of historic commercial properties is key to ensuring the preservation of historic materials and features. Moreover, adequately maintaining a building helps avoid overwhelming and costly repairs, as small issues are resolved before they snowball into issues that appear unmanageable.

## Recommended

- Developing and adhering to a maintenance schedule that involves the inspection of all historic materials and features for signs of damage or deterioration. A yearly assessment is ideal, as identifying issues early is critical in preserving historic materials and reducing the cost of repairs
- Inspecting the building’s envelope is key, such as assessing windows, the roof, gutters, and exterior cladding, checking for issues such as cracks, peeling paint, or cracked roof shingles or tiles. These features are not only character defining, but also protect the internal structure from the elements
- Repairing and maintaining materials and features according to the maintenance schedule and needs as identified through the building’s assessment

## Acceptable

- To distribute the financial impact of historic building maintenance, developing a phased maintenance schedule that still involves inspection and assessment of historic materials and their timely repair

## Not Recommended

- Deferring maintenance on historic materials and features, resulting in their degradation or demolition by neglect
- Repairing or maintaining historic materials in such a way that the historic materials or features are damaged, removed, or obscured.



Close inspection, repeatedly completed, is key for a preventative maintenance plan. This storefront is missing modillions, likely a result of deferred maintenance, City of Birmingham, photo by KDG, 2022.



Peeling exterior paint and missing wood trim are indicative of needed maintenance, City of Birmingham, photo by KDG, 2022.

| Recommended Inspection Timetable     |                                     |                                     |                                     |
|--------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Building Element                     | Frequency                           |                                     |                                     |
|                                      | 6 months                            | Yearly                              | 12-60 months                        |
| Storefront elements                  |                                     | <input checked="" type="checkbox"/> |                                     |
| Windows and doors                    |                                     | <input checked="" type="checkbox"/> |                                     |
| Sidings, stucco, and other claddings |                                     | <input checked="" type="checkbox"/> |                                     |
| Masonry and mortar joints            |                                     |                                     | <input checked="" type="checkbox"/> |
| Painted masonry                      |                                     | <input checked="" type="checkbox"/> |                                     |
| Painted wood elements                | <input checked="" type="checkbox"/> |                                     |                                     |
| Roof coverings and roof features     |                                     | <input checked="" type="checkbox"/> |                                     |
| Gutters and downspouts               | <input checked="" type="checkbox"/> |                                     |                                     |
| Flashings                            |                                     | <input checked="" type="checkbox"/> |                                     |
| Awnings and canopies                 |                                     | <input checked="" type="checkbox"/> |                                     |
| Signage and lighting                 |                                     | <input checked="" type="checkbox"/> |                                     |
| Sidewalk cafes and patios            |                                     | <input checked="" type="checkbox"/> |                                     |

The inspection timetable above is for reference only. The [National Park Service's Preservation Brief #47](#) provides additional information on the maintenance of historic buildings.

## Additions

Additions to historic commercial buildings allow building owners the ability to adapt their structure to provide additional interior space. An addition can be an expansion to an existing building footprint or additional stories added atop an existing building. Additions can be compatible and complementary to historic resources when the new addition respects the scale, design, materials, and form of the attached historic building and the historic district as a whole. Conversely, the opposite can occur with new additions that subsume the historic structure or utilize a design and materials that do not complement surrounding historic buildings resulting in a loss of historic character. Therefore, the design, scale, massing, placement, and materials proposed for additions will be carefully considered. An addition should not overpower the original building. For example, a proposed 6-story addition atop a historic 3-story building would overpower the original building and likely would not match the scale or massing of the surrounding context.

### Recommended

- If an addition to a historic commercial building is desired, the addition is located at the rear of the building (not on a primary façade)
- Additions incorporate materials or design elements from the historic portion of the building but do not strive to copy historic designs or attempt to appear falsely “historic”
- Modern additions read as secondary to the historic structure in terms of size, scale, design, materials, and detailing
- Ensuring that historic materials or character defining features are preserved, protected, and not obscured by new construction
- Additions are reversible in that they can be removed at a later date with minimal damage or loss to the building’s historic fabric
- Roof forms and pitch are consistent with the existing building

### Acceptable

- Construction of an addition on a side or secondary elevation which is setback from the primary façade or street and is minimally visible from the public right-of-way
- Construction of a rooftop addition, such as a rooftop patio, is setback from the face of the primary façade and is constructed of materials which are complementary to the historic building

### Not Recommended

- Constructing a modern addition that makes the historic portions of the building appear secondary in terms of size, scale, materials, and detailing
- Building an addition on the primary façade of a commercial building, or an inappropriately sized or designed addition on another street-facing elevation
- Disregarding historic materials and elements of design present in the historic structure when designing an addition
- Removing, damaging, or obscuring historic materials or design elements as a result of constructing an addition



Large and prominent additions that are visible on the primary façades are not recommended, City of Birmingham, photo by KDG, 2022.



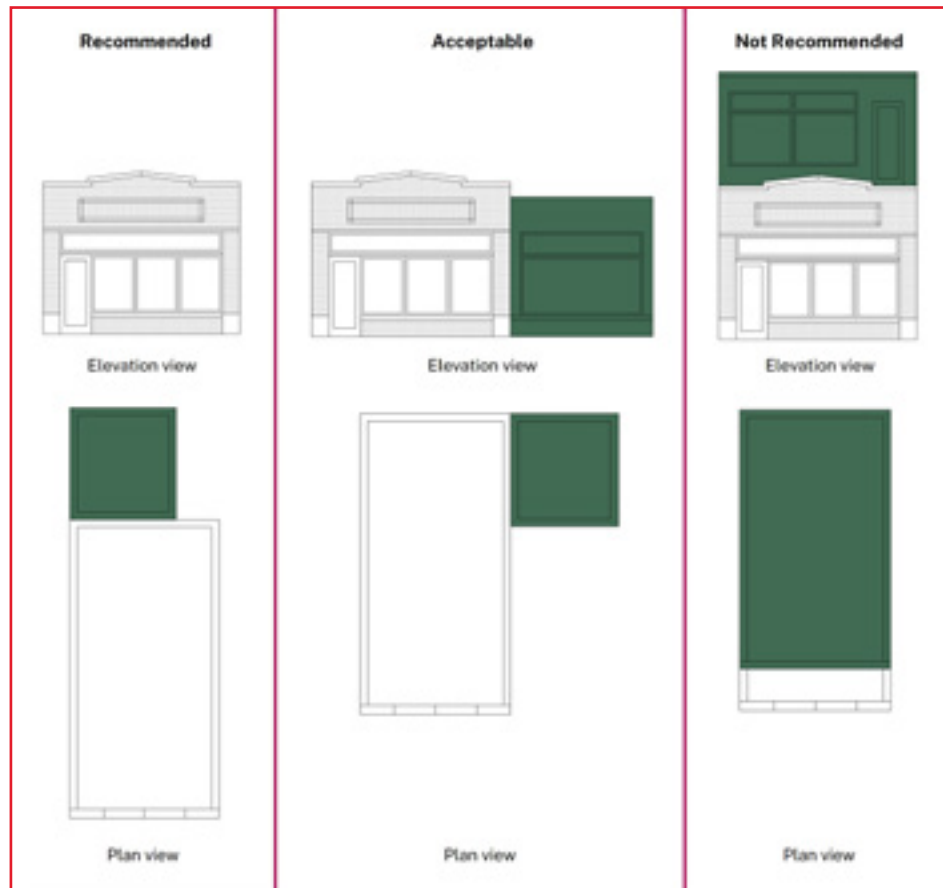
Large and prominent additions that are visible on the primary façades are not recommended, City of Birmingham, photo by KDG, 2022.

### Review of Definitions:

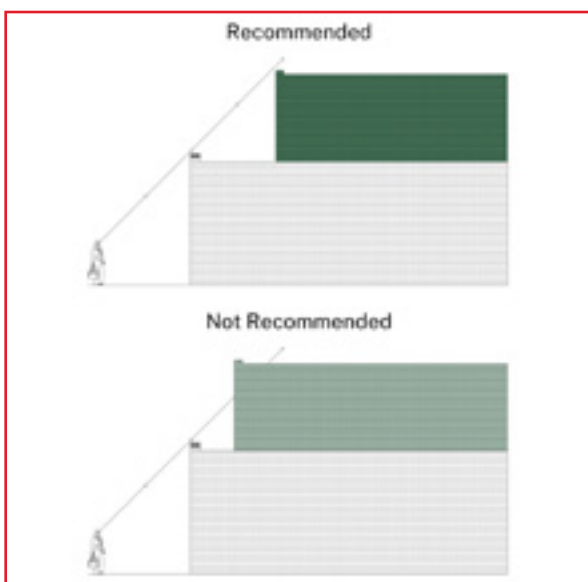
**Primary Façade** means the exterior façade of a structure which contains the principal pedestrian entrance and is often oriented towards a street. Primary façades often feature architectural features and details not found on secondary façades as it is the ‘face’ of the building. Care should be taken when planning additions so as to not negatively impact the character of the primary façade, which is often the most recognizable aspect of a historic building from the exterior

**Secondary Façade** means an exterior façade which often lacks the ornamentation and detail found on the primary façade and usually does not contain the principal pedestrian entrance. Typically, a secondary façade is a side or rear façade that does not face a public thoroughfare.

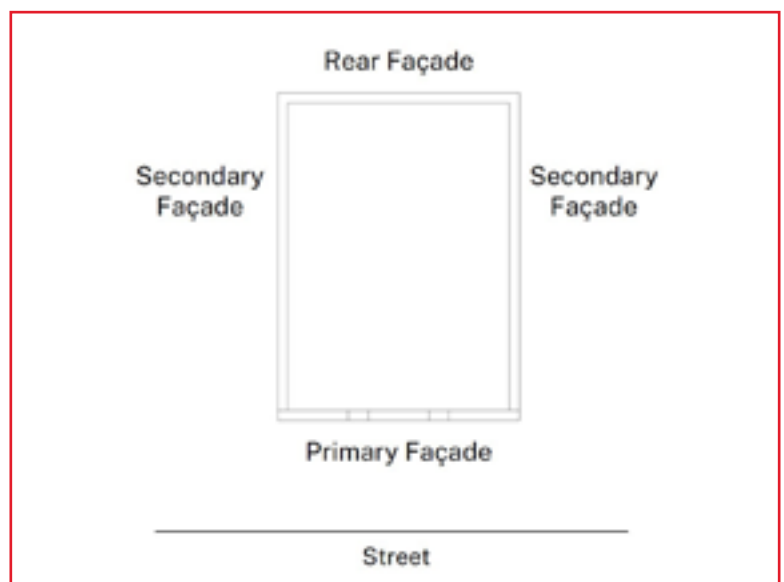
# Additions



Additions located at the rear of a commercial building are recommended, small scale additions to the side elevations are acceptable, and additions that are highly visible and subsume the historic commercial building are not recommended.



Something to keep in mind regarding commercial rooftop additions is a pedestrian's line of sight from the sidewalk. It is recommended that rooftop additions and the installation of any mechanical equipment not be visible from the right-of-way.



The portion of the exterior of a building facing the street is known as the primary façade. The primary façade is often the most elaborately decorated portion of a building. Secondary façades and the rear façade are often less decorated and more utilitarian in design and embellishment.

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**PART 3:**  
**Design Guidelines for  
Historic Residential  
Resources**

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## Treatment of Historic Residential Building Elements

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# Windows

Windows are an incredibly important component of historic houses. They are prominent, character defining features that provide light and ventilation to the interior of a home while forming a visual connection between the interior and exterior. Key window features include:

- **Materials:** Includes materials such as wood or steel sashes, glass, or lead, zinc, and solder in leaded glass windows
- **Window Type:** Double-hung, single-hung, casement, awning, fixed, awning, hopper, jalousie, or slider
- **Window Components:** Interrelated components such as sashes, muntins, number and arrangement of lites (glazing pattern), glazing compound, sills, and trim
- **Profiles:** Width and profile depths of sashes and muntins

## Recommended

- Identifying, retaining, and preserving windows and their functional and decorative features. This includes features such as frames, sashes, glass, glazing patterns, trim, and pediments
- Preserving the placement and size of windows on the façade and other elevations
- Inspecting windows yearly for maintenance needs. Inspect the condition of paint, wood, glazing compound, hardware, sills, and other window components and perform maintenance as needed
- Identifying and resolving the root cause of premature window deterioration. For instance, a wood or steel window may be excessively deteriorated not because of faults in its materials, but because the window header does not have a drip edge which would route water away from the window
- Repairing historic windows by patching, splicing, consolidating, or otherwise reinforcing. Wood that appears to be deteriorated can often be repaired rather than replacing the entire window
- Only replacing window components that are beyond repair
- Replacing window components with the same materials, or materials as close as possible to the historic materials

## Acceptable

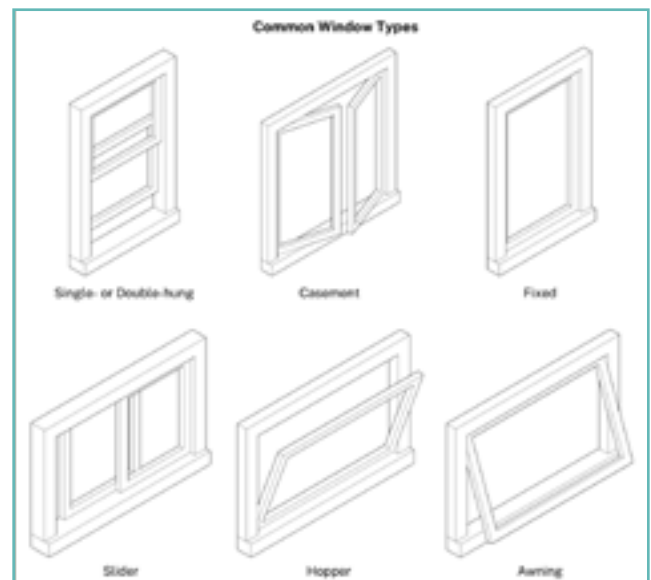
- Replacement of historic windows with functionally and visually appropriate windows if the historic windows are too deteriorated to repair or if in-kind materials cannot be sourced
- Replacement windows matching the historic windows in material, dimension, profile, type, arrangement on the exterior, and glazing pattern. For instance, a replacement for a Craftsman style 3-over-1 window (with three rectangular panes of glass in the upper sash and a single pane of glass in the lower sash) ideally matches this pattern
- If simulated divided lite replacement windows are to be used, the muntins are applied to the exterior of the glass panes and match the profile of the historic muntins as closely as possible

## Not Recommended

- Replacement of historic windows that could be repaired or replaced in-kind with unsuitable modern windows
- Installing replacement windows that alter window types, sizes, orientation, profiles, materials, and glazing patterns. For example, replacing a 6-over-6 double-hung window with a single, fixed pane window unit
- Removing and infilling historic windows

For example, the width and profile depth of a wood window sash and muntins create a defined pattern and distinctive shadow lines across exterior elevations. Most modern windows, such as vinyl windows, have much narrower sashes with little to no profile depth, resulting in minimal shadow lines and minimal definition. Likewise, muntins placed on the interior, in between glass panes, or flat exterior muntins provide no definition or profile and contribute little to the historic window pattern. Thus, most modern window materials, designs and features are not recommended for use in historic houses.

If historic windows are deteriorated beyond repair and replacement is necessary, replacement windows should be compatible with the style and period of the resource. Ensuring that replacement windows match the materials, type, components, and profiles of the historic windows is integral to successful window replacement.



Common Window Types



The maintenance, repair, and preservation of historic wood windows is recommended. Tall, narrow windows are character defining features of Victorian Period houses. City of Birmingham, photo by KDG, 2022.

# Windows

## A note about replacing historic windows —

Older windows can sometimes come with issues: sticking sashes, broken panes, and finicky cranks are all typical. But these are things that can be easily fixed, and they are worthwhile repairs to make. Simply put, historic windows are made of materials that are far superior to those available today. Historic wood windows were made with old growth lumber which is far denser and more rot resistant than modern woods used today. Historic windows are made from individual parts and thus can be repaired when one piece breaks. In contrast, modern vinyl window units are virtually impossible to repair because they are manufactured as one complete unit. When a part fails, when the insulated glass seal breaks, or when the vinyl warps, the entire unit must be replaced.

Setting aside the repair issues the energy savings gained by inserting new windows is far less than the cost of those new units. For example, after spending about \$12,000 dollars on properly installed, high-quality replacement windows, a typical household might save about \$50 a month on heating or cooling bills. However, if a house in Michigan is actively heated or cooled for an average of six months a year, that savings amounts to only \$300 a year. At this rate, it would take 40 years to even begin to recoup in energy savings the amount spent on the new windows. By following some other no-cost and low-cost ways to improve a building's energy efficiency, that \$50 a month can easily be saved without an outlay of thousands of dollars. Going green is about more than just energy efficiency. There is embodied energy (i.e., energy required to extract raw materials, transport them, make them, ship them, and install them) inherent in historic windows and tearing them out and replacing them with new units involves a double cost in terms of embodied energy: the energy already expended on the historic units and the energy required to create and install the new units.

### Improving Energy Efficiency of Older Windows:

- Caulk around the window opening on the exterior
- Caulk around the window trim on the inside
- Add weather stripping to the window sash
- Install interior storms, exterior storms, or thermal panels

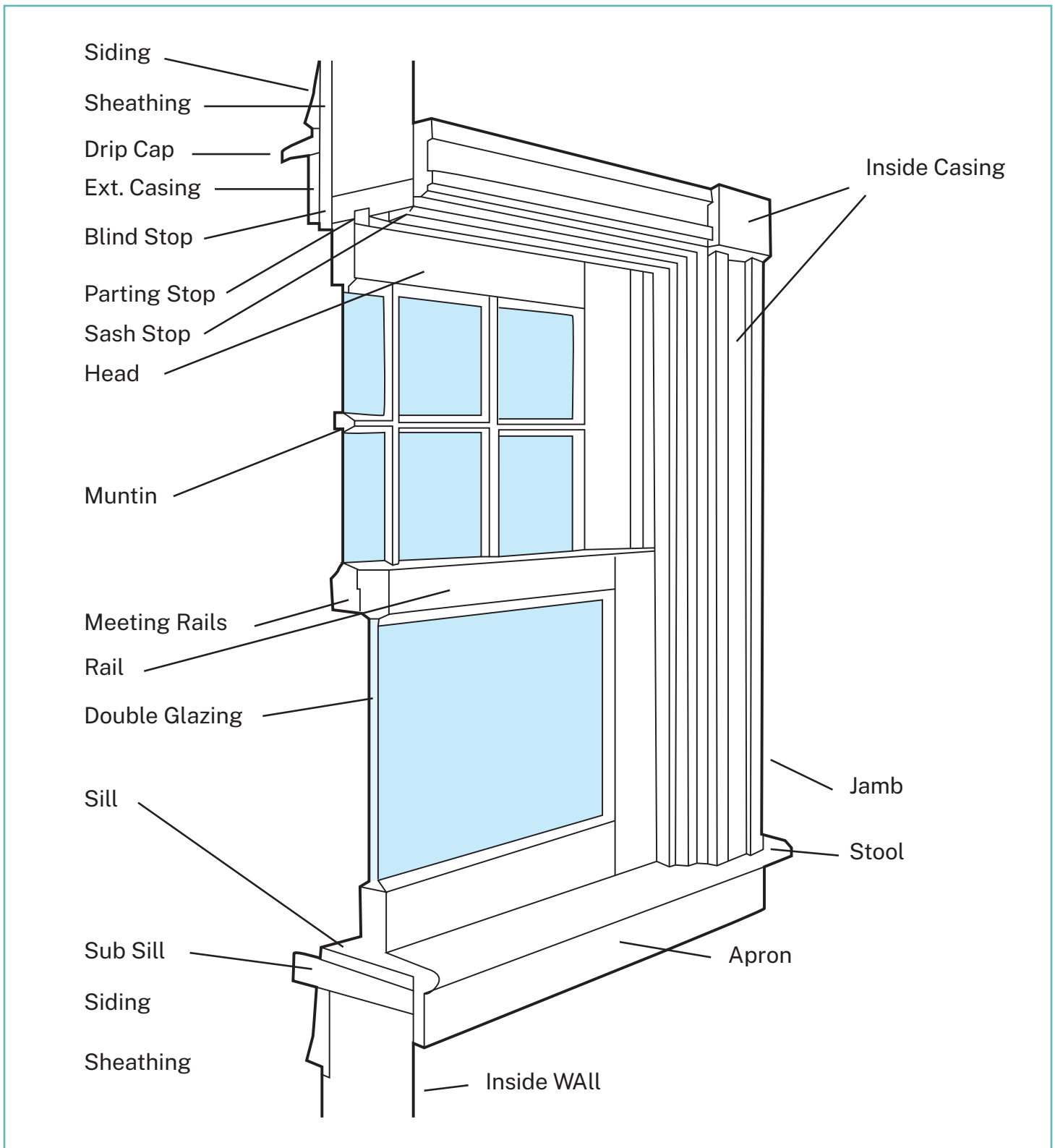


*If circumstances require that modern window replacements are used, it is recommended that replacement windows match the historic windows as closely as possible. The replacement windows shown above would not be recommended as they are fixed sash windows without muntins, which do not match the historic 3-over-1 windows that were originally present. City of Birmingham, photo by KDG, 2022.*



*The replacement of historic windows with a modern, vinyl bay window with no muntins is not recommended as it does not match the historic window. City of Birmingham, photo by KDG, 2022.*

# Windows



Typical components of a historic window

# Windows

## Storm Windows

The installation of storm windows is one cost-effective method for protecting historic windows and increasing their energy efficiency. Storm windows can be installed on the interior or exterior, are reversible, and allow historic windows to be retained. The materials of storm windows may not match the historic window materials. For example, a historic wood window may be protected by an aluminum storm window. However, it is recommended that the color of the storm windows match the color of the historic windows.

### Recommended

- Matching divisions in the storm window to the sash lines and meeting rail of the historic windows
- Matching the color of the storm windows to the color of the window frame
- Sizing exterior storm windows to tightly fit into the historic window openings
- Using only clear glass
- If possible, inset the storm windows from the plane of the elevation as much as is practical

### Acceptable

- Installing a single pane storm window (with no divisions) for a historic window with sash lines and meeting rails

### Not Recommended

- Not matching the color of the storm windows to the color of the historic windows. For example, installing and not painting an aluminum storm window is not recommended
- Installing storm windows with divisions that do not align with the sash lines and meeting rails of the historic windows
- Installing inaccurately sized storm windows
- Removing trim or other features to install a storm window



The storm windows above are not recommended as their color does not match the window sashes. City of Birmingham, photo by KDG, 2022.

Storm windows such as these are recommended as they match the color of the historic window, and the division line matches the sash line of the historic window. City of Birmingham, photo by KDG, 2022.

## Doors

Doors are often accentuated on a house's façade and may be surrounded by eye-catching decoration. Functionally, doors provide access to the interior of the house and provide another means for ventilation, in addition to windows. The prominent placement of doors and their important functionality make them key features to preserve on historic houses.

### Recommended

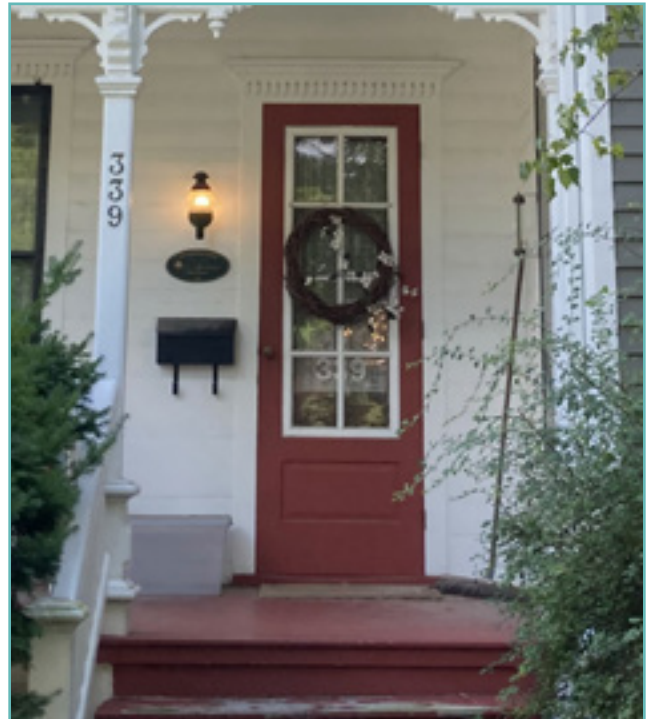
- Identifying, retaining, and preserving historic doors and all their associated components such as screen doors, hardware, trim, transoms, sidelights, fanlights, and door surrounds
- Repairing historic doors by patching, splicing, consolidating, or otherwise reinforcing. Wood doors that appear to be deteriorated may be repaired rather than replaced
- Only replacing doors and their components that are beyond repair
- If a historic door must be replaced, installing a door constructed of the same materials, using the same design and profile, and of the same size as the historic door
- If a historic door is missing or the historic door was previously removed, installing a new door sensitive to historically appropriate materials, designs, profiles, and styles

### Acceptable

- Installing a new door using a substitute material that matches the historic door in design, size, profile, and shape
- Installing a screen door where there was none historically, so long as the historic door remains highly visible through the screen

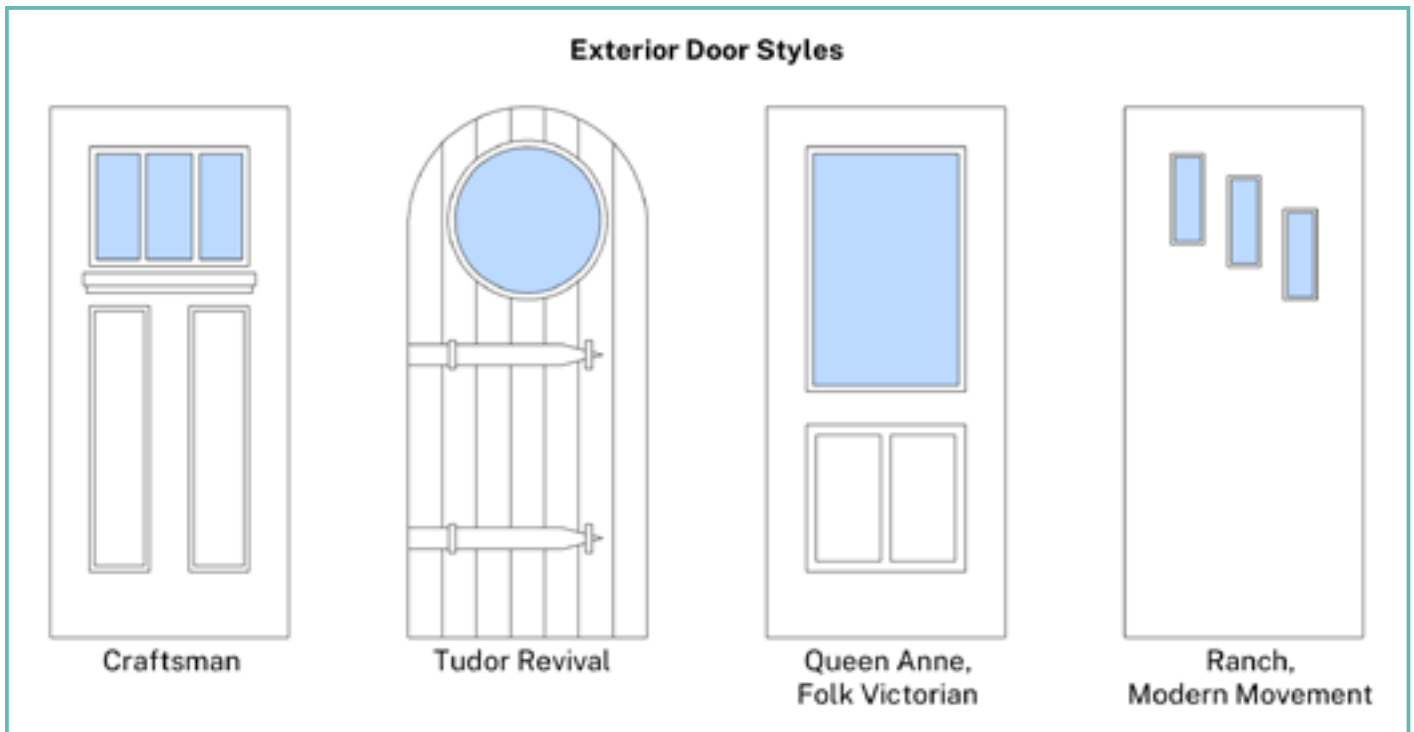
### Not Recommended

- Replacing a functioning or repairable historic door with a door of modern materials and incompatible design
- Overly decorative replacement doors can be misleading and create a false sense of history
- Installing a replacement door that does not match the historic door in design, such as paneling, number of lites, or color
- Removing or enclosing transom lights, fanlights, or sidelights
- Removing or altering a historic door surround
- Altering the shape or size of the door opening
- Adding a new door to the primary façade or a visible location on a side elevation

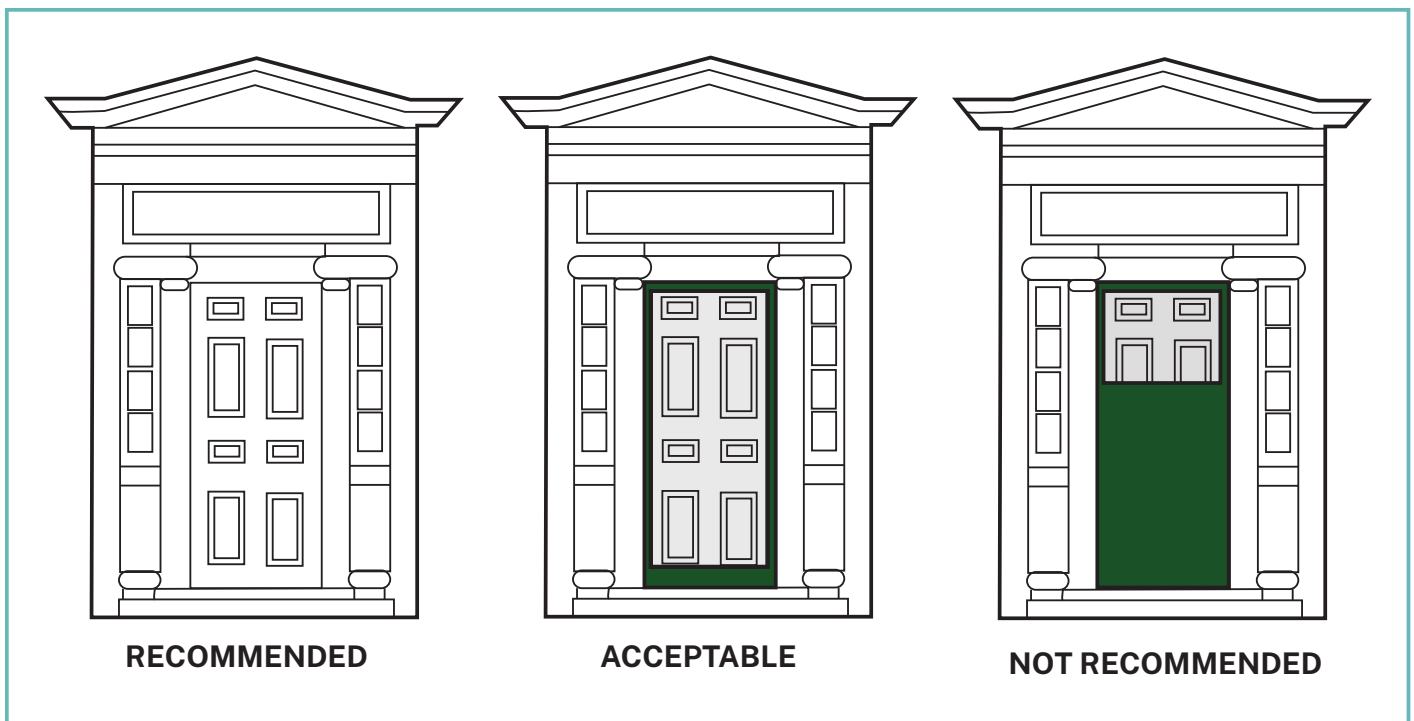


Maintenance and repair of historic doors is recommended. The historic doors above show that exterior doors can be preserved and contribute to the historic character of the house, City of Birmingham, photo by KDG, 2022.

# Doors



Exterior door styles on historic residences contribute to the historic character of resources.



Screen doors are acceptable as long as they maintain visibility of the historic door beyond.

## Exterior Wall Materials

### General Recommendations on Residential Exterior Wall Materials

- Retaining and preserving historic cladding materials
- If historic wall material is severely deteriorated beyond repair, installing new wall material to match the historic material in dimension, texture, color, and profile is recommended
- If portions of severely deteriorated wall material must be replaced, it is recommended that replacement occurs only where necessary and splice new, matching material with existing material rather than replacing in full
- Alternative or modern wall materials (i.e., aluminum, fiber cement board (Hardie Board), vinyl) are only used as secondary materials, for new construction, or if historic wall materials are too deteriorated to repair or patch with in-kind materials and in-kind materials are infeasible.
- When mixing existing historic wall material and new modern materials, it is recommended that the historic material reads as dominant while the modern material exists on secondary building features and secondary elevations
- It is not recommended that low durability replacement materials be installed at ground level where they may be in contact with road salt, water, and foliage. For example, avoid installing new stucco or exterior insulation and finish system (EIFS) at the ground level where they will prematurely weather



Use of brick veneer and stone veneer on a small Ranch house. City of Birmingham, photo by KDG, 2022.



Although this modern replacement siding has a different finish than historic wood siding, the texture and dimensions make it a viable replacement for wood cladding too deteriorated to repair or preserve. City of Birmingham, photo by KDG, 2022.



Painting helps maintain exterior wood cladding. City of Birmingham, photo by KDG, 2022.

# Exterior Wall Materials

## Wood

Wood is the one of the most commonly used exterior wall materials with wood siding and wood shingles being two of the most common types of wood wall material. Wood exterior materials contribute greatly to the integrity and character of historic buildings. Guidelines on proper treatment of historic wood cladding are as follows:

### Recommended

- Identifying, maintaining, and preserving wood features that are important to the overall historic character of the house
- Cleaning wood features with a gentle, water-based cleanser on an as-needed basis
- Painting or staining existing wood features to protect the wood surface from UV and water damage
- Removing damaged, peeling, or deteriorated paint to the next sound layer by hand scraping or hand sanding and then repainting
- Repairing wood siding, shingles, and trim by using the same material to patch, consolidate, splice, and reinforce the existing historic material
- Repairing damaged or deteriorated wood features and selectively replacing where necessary by splicing in new replacement portions
- Replacing wood elements only when the existing wood is too deteriorated to repair
- When replacement wood is installed to replace deteriorated wood, the replacement pieces are painted or stained to match the adjacent pieces
- Replacing missing elements or damaged pieces to match the existing size, shape, width, profile, orientation, and installation method of the existing siding

### Acceptable

- If replacing historic wood features, inspecting the existing historic features prior to covering or removal to determine the cause of any existing damage. Eliminate the source of the damage prior to installing new synthetic features
- When maintenance, repair, or in-kind replacement of the existing historic wood features is not feasible, use of a modern cladding material may be considered. It is recommended the new material be installed atop the existing wood material rather than removing the wood material before installation of the new material. The installation method is done in a manner where, in the future, the modern material could be removed, and the historic wood siding underneath could be restored
- Installing replacement wall material so as not to obscure existing character-defining trim details around windows, at edges of elevations, and around doors

### Not Recommended

- Cleaning wood cladding with abrasive methods such as high-PSI pressure washing or media blasting
- Stripping paint from wood siding which was historically painted or leaving it as a 'natural' finish
- Covering architectural details such as trim, window and door hoods, or ornamental shingles with replacement siding
- Unnecessarily replacing historic siding or trim with modern materials which contributes to a loss of historic fabric and negatively impacts the integrity of a historic resource. If the existing cladding material is damaged beyond repair and must be removed, then replacement of the historic material may be considered



Narrow, historic wood siding and historic wood shingles. City of Birmingham, photo by KDG, 2022.



Historic wood siding and decorative exterior details. City of Birmingham, photo by KDG, 2022.



Historic wood siding and trim details create visual interest. City of Birmingham, photo by KDG, 2022.

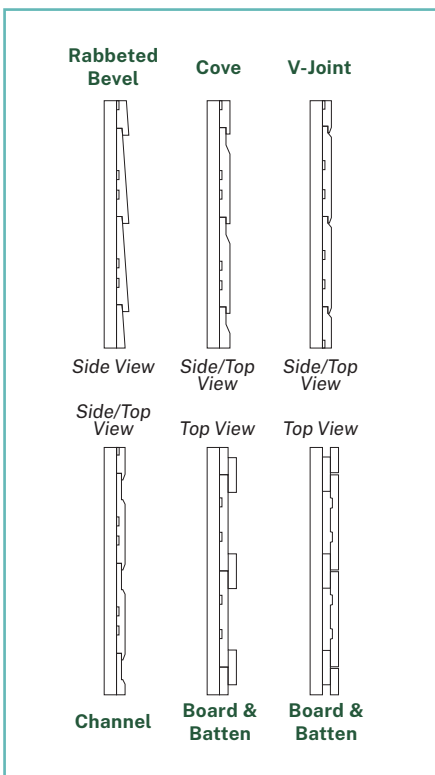


# Exterior Wall Materials

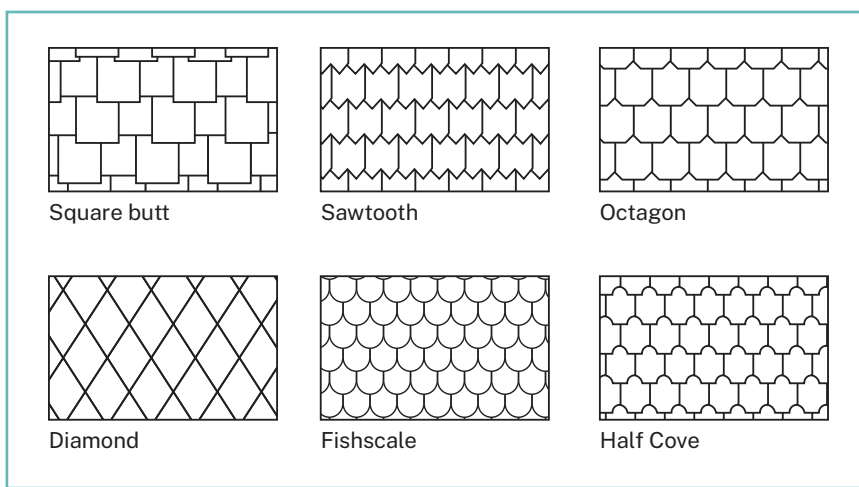
## Wood



Installation of modern siding often obscures or results in the removal of character defining details.



Common Siding Profiles



Common Shingle Types

# Exterior Wall Materials

## Masonry

Masonry includes materials such as brick, stone, cement block, stucco, clay, ceramic tile, and terra-cotta. It also includes the mortar used to attach the masonry units to each other. Masonry is used in a variety of ways on residential buildings, most commonly used as the foundation and structural for residences, exterior cladding material, porches, and decorative details. Masonry is often a character defining feature of a historic residence and the preservation and maintenance of such masonry is critical for preserving the integrity of the structure.

### Recommended

- Identifying, maintaining, and preserving historic masonry, mortar, and stucco, and decorative brick and stonework
- Only cleaning masonry to halt further deterioration or to remove stubborn stains and graffiti
- Cleaning masonry using the gentlest means possible, ideally a water-based cleanser and soft brush
- Repointing mortar that is missing or deteriorated or if sufficient mortar is missing to cause water infiltration into the wall system
- Repointing using a new mortar which matches the existing mortar compressive strength, composition, color, texture, joint size, joint profile, and method of application
- Replacing masonry units to match the existing in dimension, material, and profile
- Replacing damaged or deteriorated masonry to match the existing material including matching the existing installation method and course type

### SPECIAL TIP: Mortar

- Historic mortars are often softer than modern day mortars. Mortars for repointing must be softer and more permeable than the masonry units and no harder or more impermeable than the historic mortar to prevent further damage to the wall assembly

### Acceptable

- Removing paint from historically unpainted masonry with a gentle water-based or chemical-based detergent so long as the detergent does not damage the masonry. Always test removal methods on a small, inconspicuous area of the exterior
- Applying maintenance coats of paint to already painted masonry
- Replacing decorative masonry features which are missing or damaged beyond repair using accurate historic documentation of the historic feature, or, if historic documentation is not available, using a new design which is compatible with the existing historic structure

### Not Recommended

- Using abrasive cleaning methods such as high-PSI pressure washers or media blast cleaning systems. These methods damage masonry materials, such as the face of brick, and contribute to spalling and future water infiltration
- Painting unpainted masonry. This can damage the existing material and lead to water being trapped in the masonry units which accelerates spalling and deterioration
- Applying stucco or parge to masonry not historically covered in these materials
- Installing vinyl siding atop water damaged masonry. This disguises the root problem and can lead to complete failure of the masonry
- Installing new decorative masonry features which appear falsely historic such as decorative sills, brackets, gargoyles, or lions



Patching historic brick with modern brick of a different color or texture on a highly visible elevation is not recommended. City of Birmingham, photo by KDG, 2022.



Sandblasting and other abrasive cleaning methods will severely damage historic masonry as seen here at left. The hard exterior shell of the brick, known as the fire skin, has been destroyed. This brick will begin taking on water and will deteriorate quickly. City of Birmingham, photo by KDG, 2022.



Brick and stone are common exterior wall materials in Birmingham. City of Birmingham, photo by KDG, 2022.

## Roofing, Gutters, Dormers, Chimneys

The roof, dormers, and chimney are highly visible, character defining features that contribute to the historic integrity of a house making their repair, maintenance, and preservation important. The roof and gutter system also provide a crucial defense against premature deterioration of materials on a home's exterior by shielding the house from the elements and moving water away from the house.

### Recommended

- Identifying, retaining, and preserving the historic roof, dormers, gutters, and chimney in terms of materials, texture, decoration, form, and dimensions. Materials and methods used for repair match the historic materials and methods used
- Downspouts are aligned with architectural features or along edges of the facades to not distract from the historic character of the façade
- Other roof elements such as cupolas, towers, and cresting are maintained and repaired using in-kind materials
- If rebuilding a chimney is necessary, salvaging as much historic material as possible for use in the rebuilt chimney and rebuilding with in-kind materials
- Only replacing historic materials that are beyond repair and replacing historic materials with in-kind materials. If replacement of the historic material is not technically feasible, the replacement material is matched as closely as possible to the historic material in terms of color, texture, dimensions, and design

### Acceptable

- Some historic roofing materials such as slate, wood shake, and clay tiles can be prohibitively expensive. Replacement of these deteriorated historic roofing materials with substitute materials may be considered if they are historically compatible by closely matching the historic materials in dimension, color, design, texture, and appearance
- Addition of new dormers or a gutter system that are sensitive to the historic character of the house in terms of scale, materials, and design. Dormer additions or the installation of gutters that do not detract from character defining features of the house
- Should a chimney no longer be in use, a chimney cap may be considered if it does not damage historic materials or detract from the chimney's design

### Not Recommended

- Alteration of roof form and/or additions of inappropriately sized and arranged dormers
- Replacement of historic materials or gutter systems with incompatible replacement materials or materials which never existed on the house and that detract from the historic character of the house
- Removal or addition of prominent dormers, chimneys, or other roof elements such as towers or turrets that are incompatible with the house's design
- Using mortar for chimney repairs that does not match the historic mortar in color, hardness, or joint profile
- Not salvaging reusable historic materials when rebuilding a chimney
- Rebuilding a chimney with historically inappropriate materials and/or designs



Installation of a standing seam metal roof is not recommended on historic houses where a metal roof did not exist historically. City of Birmingham, photo by KDG, 2022.



The maintenance, repair, and preservation of wood shingle roofs is recommended. City of Birmingham, photo by KDG, 2022.



Hipped roof dormers are character defining elements of Craftsman style and Prairie style houses. City of Birmingham, photo by KDG, 2022.

## Porches, Decks, Patios, Balconies

Porches, decks, patios, and balconies are character defining features of historic houses and are therefore historically significant. Porches are located on the façade or street-facing elevation, whereas decks and patios are located at the rear of a house. Components of these features include flooring, railings, roofing, posts, beams, columns, skirts, and trim which may be constructed of wood, concrete block, brick, stone, or a combination of the aforementioned materials. Beyond aesthetics, they also serve as buffer space between the interior and exterior of a house, provide an outdoor shelter from weather and sun, and serve as a gathering and socializing space. In historic districts, the rhythmic streetscape created by the presence of porches, decks, patios, or balconies contributes to the historic character of the district. Some porches were enclosed in the early to mid-twentieth century and the enclosure has become historic in its own right. While enclosing historic porches is typically not recommended, in these circumstances the enclosure can be either retained or removed.

### Recommended

- Identifying, retaining, and preserving historic porches, decks, patios, and balconies
- For features constructed of wood, painting or staining existing wood to protect the wood surface from UV and water damage
- Cleaning features with a gentle, water-based cleanser on an as-needed basis
- Repairing historic materials by using the same material to patch, consolidate, splice, and reinforce the existing historic material
- Selectively replacing where necessary by splicing in new replacement materials. Replacement materials are minimally used only when the existing material is too deteriorated to repair
- Replacing missing elements or damaged pieces to match the material, existing size, shape, width, profile, orientation, and installation method of the existing materials
- Installing rear decks that are self-supporting so that historic materials are not damaged
- Retaining or removing porch enclosures which are historic in their own right

### Acceptable

- When maintenance, repair, or in-kind replacement of the existing historic material is not feasible, using a modern material may be considered if the modern material closely matches the historic material in terms of design, color, texture, and dimension
- Installation on a secondary façade of a porch, deck, patio, or balcony where none existed historically if the new feature is compatible with the house's design, scale, and style. Further, installation and construction does not damage or obscure historic materials or character defining features
- Enclosing a porch, deck, patio, or balcony on a secondary elevation with screens or historically appropriate windows without damage to existing historic materials or obscuring character defining features
- Incorporation of safety features, such as handrails, in an unobtrusive manner that does not detract from character defining features



*Large or small sheltered porches are characteristic of Craftsman, Queen Anne, Folk Victorian, and Folk styles and should therefore be preserved. City of Birmingham, photo by KDG, 2022.*

### Not Recommended

- Power-washing or media-blasting porch, deck, patio, or balcony features
- Removing or replacing historic materials that could be repaired or salvaged
- Removal of a historic porch, deck, patio or balcony
- Removing a historic brick-faced concrete block porch and replacing it with a wood porch
- Enclosure of a historic porch, deck, patio, or balcony on a primary façade
- Enclosure of a porch, deck, patio, or balcony on a secondary elevation with non-transparent materials such as vinyl or aluminum siding
- Construction of a porch, deck, patio, or balcony that is out of line with the house's design, style, scale, or the historic district's design, style, and rhythmic streetscape

## Porches, Decks, Patios, Balconies



*It is not recommended that porches be enclosed, especially on the façade or highly visible elevations. City of Birmingham, photo by KDG, 2022.*



*It is not recommended that porches be enclosed, especially on the façade or highly visible elevations. City of Birmingham, photo by KDG, 2022.*



*It is recommended that historic rooftop balconies be preserved. City of Birmingham, photo by KDG, 2022.*



*Replacement of the original porch columns is acceptable if the original columns are deteriorated beyond repair; however, it is recommended that replacement columns match the originals in terms of dimensions and detail. In the example above, the replacement columns are too slender for the porch. City of Birmingham, photo by KDG, 2022.*

## Lighting

Historic residential lighting refers to features such as porch lights (both hanging and wall mounted), pole lights, lighting along pathways, and any other exterior lights on the historic property. Important elements of lighting include the lighting fixture's scale and design and the brightness of the light.

### Recommended

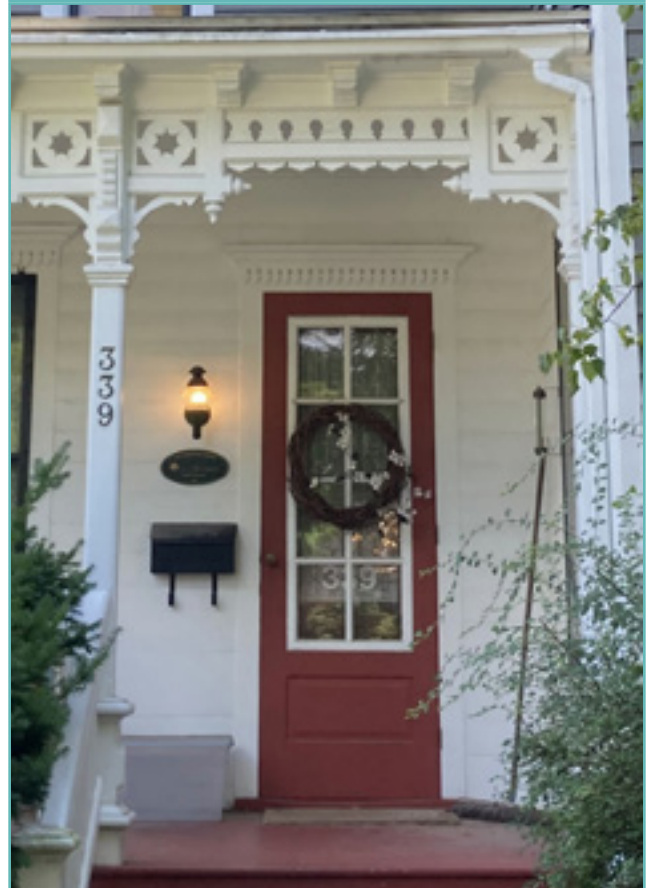
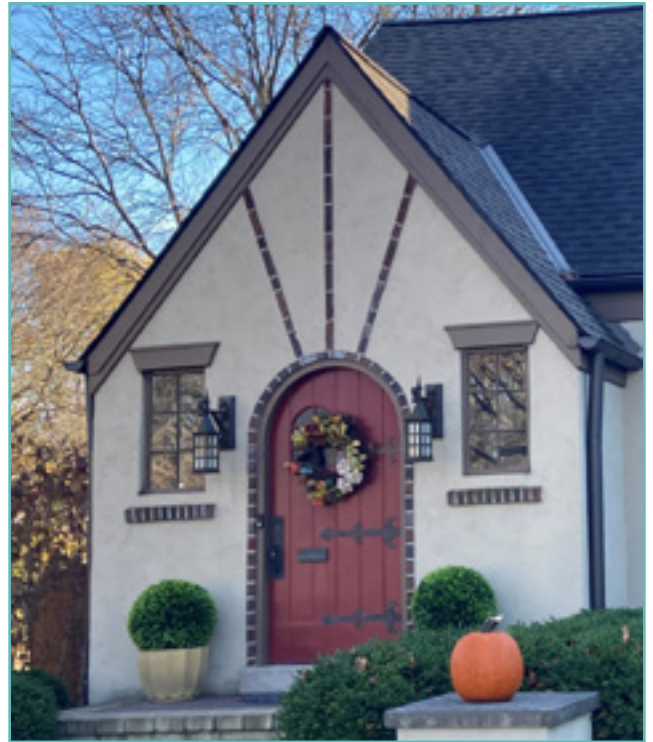
- Identifying, retaining, and preserving historic lighting on the house and on the property such that the historic lighting elements and the historic materials of the house are retained
- Refurbishing, without damage or replacement, of historic lighting to meet modern code requirements
- If historic lighting has deteriorated beyond repair and must be replaced, the replacement lighting is an in-kind replacement

### Acceptable

- Installing exterior lighting on the house where none existed before so long as it is inconspicuous or complementary to the style of the house
- Introducing exterior lighting on the property where none existed before so long as it is historically appropriate, complementing the style and rhythm of the historic district

### Not Recommended

- Removing historic lighting features
- Replacing historic lighting features that may be repaired or replaced in-kind
- Damaging or obscuring character defining features to repair, replace, or introduce new lighting
- Installing flood lighting on the façade or side elevations



The use of exterior lighting as shown on this page is recommended. The design of the fixtures complements the style of each house, the size of each fixture is appropriate, and the lights are not overly bright. City of Birmingham, photos by KDG, 2022.



City of Birmingham, photo by KDG, 2022.

## Awnings

Awnings shield window and door openings from the sun, especially on south-facing elevations or areas where there is little to no tree cover. In historic residences, canvas awnings are typically made of tightly woven canvas or corrugated aluminum. Awnings may be the same color as the exterior cladding or may provide contrast. Edges of awnings may also be scalloped or accentuated by various colors.

Awnings on houses which date back to the late 1800s and early 1900s likely used canvas awnings if any were present while houses dating to the mid-century (1940s and later) often used aluminum awnings. New awnings should use period appropriate materials.

### Recommended

- Identifying, retaining, and preserving historic window and door awnings
- If replacement of historic awnings is necessary, the replacement awning matches the color, texture, design, and dimension of the historic awning

not exist, the new awnings should be simple in color, texture, and design so as not to distract from the historic features of the house

- Installing new awnings which fit within the existing window opening so as to preserve the rhythm of openings on the façade, are compatible in scale and form to the historic house, and use period appropriate materials

### Acceptable

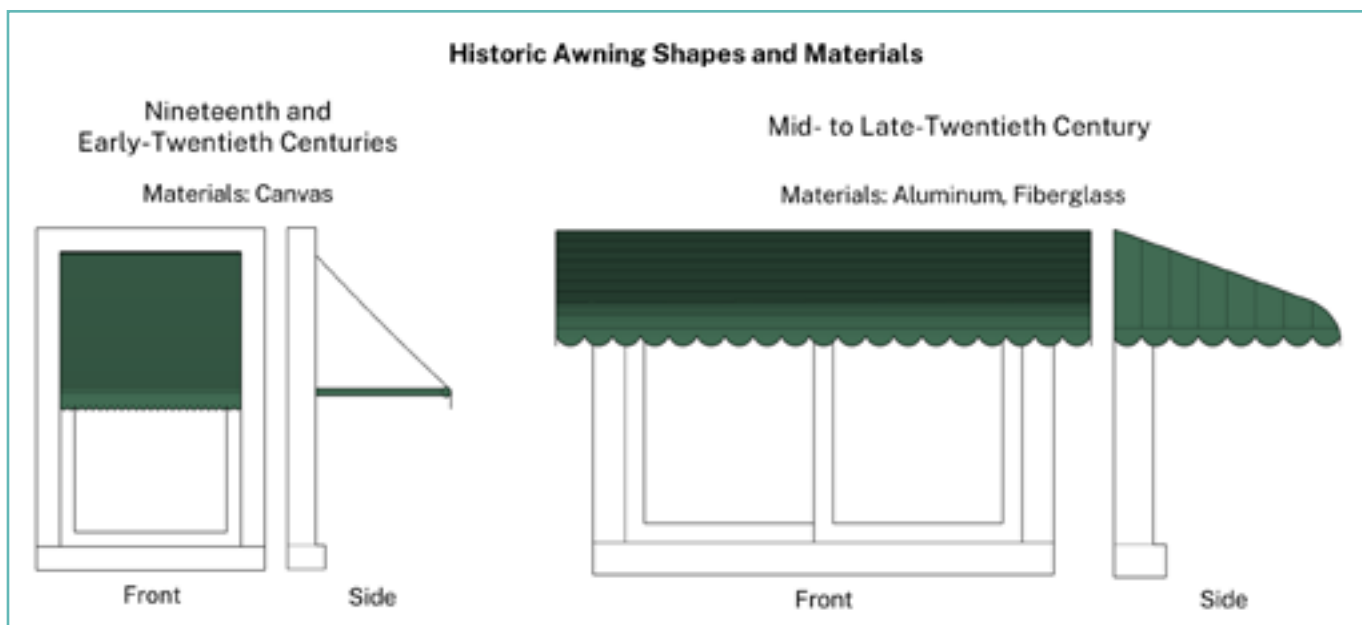
- If the same material cannot be obtained to replace historic awnings, a substitute material or design may be used that is historically compatible with the house's design and closely matches the historic material in terms of color, texture, design, and dimension
- Installing awnings on a house which historically had awnings but no longer does. Historic photographs or drawings should be utilized to match the historic configuration of the awnings. When historic documentation does

### Not Recommended

- Adding awnings to window or doors that were not present historically
- Removing historic awnings
- Replacing historic awnings with historically inappropriate awnings
- Installing awnings that damage surrounding historic materials
- Installing awning supports through masonry units instead of mortar joints. Drilling into masonry can damage and deteriorate the building.



Historic residential awnings are illustrated in the above image. Triangular, striped fabric awnings with scalloped edges were commonly used on residences. Image is used courtesy of the Walter P. Reuther Library, Archives of Labor and Urban Affairs, Wayne State University. City of Birmingham, photo by KDG, 2022.



# Solar Panels

Installation of solar panels provide property owners with a means to harness renewable solar energy for their house’s consumption. Solar panel installation is encouraged so long as the installation of solar panels or shingles does not destroy, damage, or obscure character defining features.

### Recommended

- Installation of solar panels in areas that do not detract from, damage, or conceal a house’s historic, character defining features or the collective design of a historic district
- Panels or shingles will be located in such an area that they are inconspicuous and obscured from public view, such as rear-facing roof slopes. When solar panels are being installed on side elevations, install near the rear of the elevation so as to be minimally visible from the right-of-way

### Acceptable

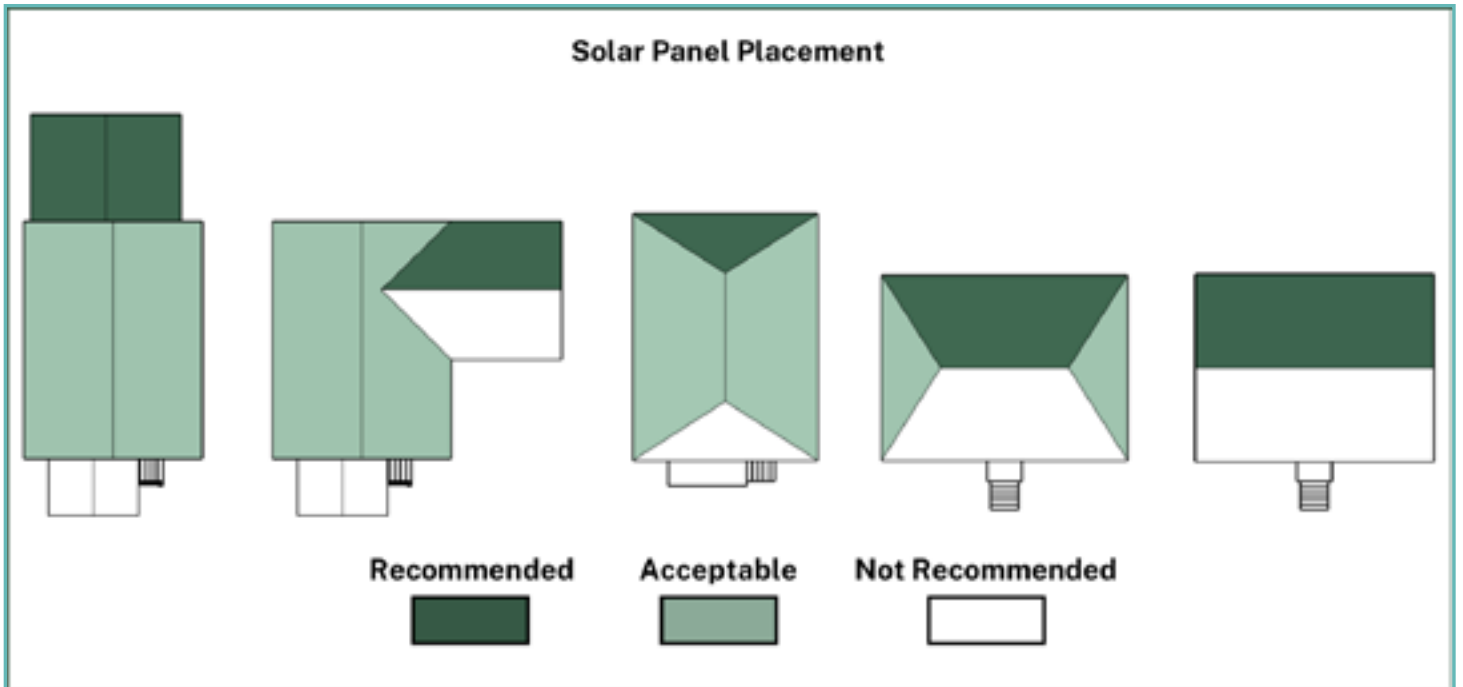
- Installation of solar panels on non-historic accessory buildings such as a modern garage or modern addition, as long as they are not conspicuously placed and highly visible from the public right-of-way

### Not Recommended

- Installing solar panels in conspicuous places that detract from the character defining features of a historic house or a historic district
- Removing, damaging, or covering up historic features and materials to install solar panels



Solar panels placed in an acceptable location on the secondary plane of a side gabled roof, Google Image, 2022.





## Accessory Structures

Accessory structures to historic properties include garages, sheds, and other miscellaneous outbuildings. These structures can be constructed of varying materials, but most are likely constructed of and clad in wood. While these structures are generally located at the rear of a property, their scale, style, and materials still contribute to the historic character of a property and historic district.

### Recommended

- Identifying, maintaining, and preserving historic accessory structures
- Cleaning materials with a gentle, water-based cleanser on an as-needed basis
- Repairing damaged materials with in-kind materials using the historic method or accepted preservation methods such as patching, consolidating, splicing, and reinforcing material
- Selectively replacing material with in-kind material only when the existing material is too deteriorated to repair
- Replacing missing elements or damaged pieces to match the existing size, shape, width, profile, orientation, and installation method of the existing material

### Acceptable

- If the construction of a new accessory structure is desired, the new structure is secondary to the historic house and compatible in terms of scale, design, and materials
- New accessory structures are sited in a historically accurate way, such as garages being located at the rear of the property
- The use of historically appropriate materials for the construction of new accessory structures is prioritized, but modern materials may be used as long as they are compatible with historic materials in terms of color, texture, design, and scale

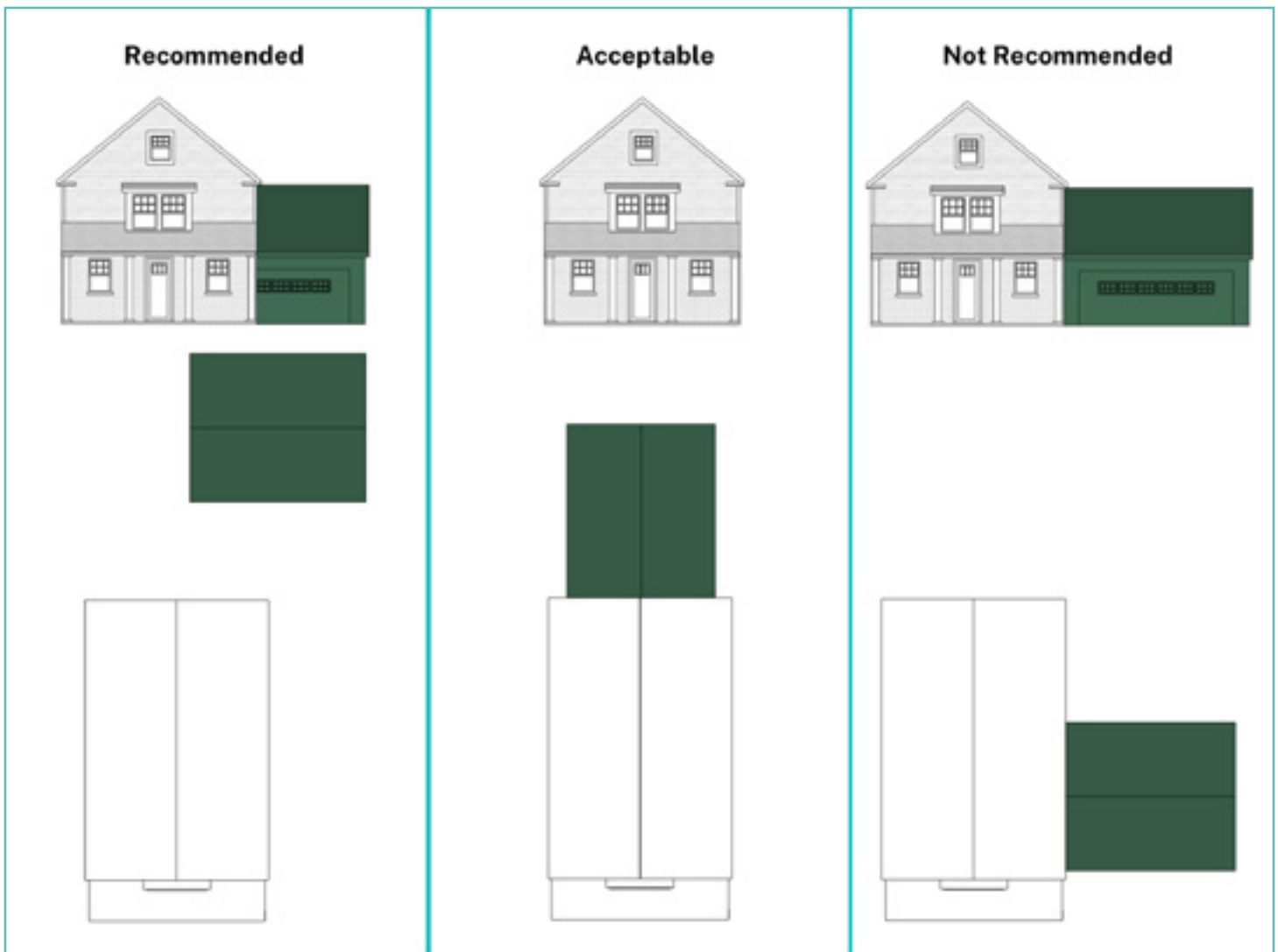
### Not Recommended

- Constructing a new accessory structure that attaches to the historic house and becomes a focal point from the public right-of-way
- Constructing a new accessory structure that is not compatible with the scale of the primary resource (the house)
- Constructing a new accessory structure that is not compatible with historic precedent of placement. For example, if a carriage house was historically located to the east of the house, constructing a new accessory structure to the west of the house is not recommended
- Demolishing historic accessory structures
- Replacing historic materials that could have been repaired or salvaged with modern materials



*It is recommended that accessory structures such as garages be secondary to the historic house and complementary in terms of scale, design, and color scheme. In the images above the garages are located at the rear of the property, behind the historic house. City of Birmingham, photos by KDG, 2022.*

## Accessory Structures



*The recommended garage placement is at the rear of the property, where it is secondary to the house and may be visible from the street, as this placement follows historic norms of garage placement from the early-twentieth century. It is acceptable to attach the garage to the rear of the historic house. It is not recommended that the garage be placed near the front of the house in a highly visible location as the garage then detracts from the primacy of the historic house.*

## Evaluating Changes over Time

Buildings are not stagnant objects – they inevitably change over time. A building may be of an age where changes which occurred to the building are now historic in their own right and have gained significance over time. For example, say the owner of a 1920s Craftsman style bungalow enclosed the front porch in the 1940s. The enclosed porch, while not original to the building, could be considered historic. When evaluating a building to determine its key historic and significant characteristics, it is best practice to also contemplate the changes to the building that have occurred over time.

### Things to Think About

- Has an alteration acquired historic significance in its own right?
- Was the person (property owner, architect, designer, etc.) who made the alteration significant?
- Does the alteration reflect an important theme or event in Birmingham's history?

### Recommended

- Considering the full history of a house, including changes over time, when contemplating work to a historic house
- Retaining, repairing, and maintaining non-original features which are now considered historic due to age or significance

### Not Recommended

- Removing architectural features which are historic but do not date to the original house construction date such as enclosed porches, landscape features, additions, or awnings
- Only contemplating original building features and characteristics when planning work to a house in a historic district



*The screened and glazed porch of this Tudor Revival style house may have originally been open. City of Birmingham, photo by KDG, 2022.*



*Enclosing porches for additional living space is particularly common on modest dwellings.*



*The enclosure of the historic, ogee arch loggia on this Greek Revival house occurred long ago and may now be considered part of the historic character of the house.*

# Maintenance

Adequate and timely maintenance of historic residential properties is key to ensuring the preservation of historic materials and features. Moreover, adequately maintaining a building helps avoid overwhelming and costly repairs, as small issues are resolved before they snowball into issues that appear unmanageable. Allowing a building fall into disrepair due to lack of maintenance can result in a loss of historic features and could prompt demolition by neglect which could result in fines.

## Recommended

- Developing and adhering to a maintenance schedule that involves the inspection of all historic materials and features for signs of damage or deterioration. A yearly assessment is ideal, as identifying issues early is critical in preserving historic materials and reducing the cost of repairs
- Inspecting the building’s envelope is key, such as assessing windows, the roof, gutters, and exterior cladding, checking for issues such as cracks, peeling paint, or cracked roof shingles or tiles. These features are not only character defining, but also protect the internal structure from the elements
- Repairing and maintaining materials and features according to the maintenance schedule and needs as identified through the building’s assessment

## Acceptable

- To distribute the financial impact of historic building maintenance, developing a phased maintenance schedule that still involves inspection and assessment of historic materials and their timely repair

## Not Recommended

- Deferring maintenance on historic materials and features, resulting in their degradation or demolition by neglect
- Repairing or maintaining historic materials in such a way that the historic materials or features are damaged, removed, or obscured



Maintaining the paint of exterior wood materials is a key component of historic house maintenance. Here, the exterior wood cladding, wood window trim wood windows, and storm windows require basic maintenance to continue functioning properly. City of Birmingham, photos by KDG, 2022.



Exterior elements of this house are well maintained and by regular painting and basic maintenance. City of Birmingham, photos by KDG, 2022.

| Recommended Inspection Timetable     |           |        |              |
|--------------------------------------|-----------|--------|--------------|
| Building Element                     | Frequency |        |              |
|                                      | 6 months  | Yearly | 12-60 months |
| Windows and doors                    |           | ☑      |              |
| Roof coverings                       |           | ☑      |              |
| Sidings, stucco, and other claddings |           | ☑      |              |
| Masonry and mortar joints            |           |        | ☑            |
| Painted wood elements                | ☑         |        |              |
| Painted masonry                      |           | ☑      |              |
| Roof coverings and roof features     |           | ☑      |              |
| Gutters and downspouts               | ☑         |        |              |
| Flashings                            |           | ☑      |              |
| Chimneys - inspection from ground    | ☑         |        |              |
| Chimneys - close inspection          |           |        | ☑            |
| Porches, decks, patios, balconies    |           | ☑      |              |
| Lighting and awnings                 |           | ☑      |              |
| Solar panels                         | ☑         |        |              |
| Accessory structures                 |           | ☑      |              |

The inspection timetable above is for reference only. [The National Park Service's Preservation Brief #47](#) provides additional information on the maintenance of historic buildings.

## Additions

Additions to historic residences allow homeowners the ability to adapt their home to provide additional interior space. They can be compatible and complementary to historic resources when the new addition respects the scale, design, materials, and form of the attached historic house and the historic district as a whole. Conversely, the opposite can occur with new additions that subsume the historic structure or utilize a design and materials that do not complement surrounding historic houses, resulting in a loss of historic character. Therefore, the design, scale, massing, placement, and materials proposed for additions will be carefully considered.

### Recommended

- Ensuring that historic materials or character defining features are preserved, protected, and not obscured by new construction
- If an addition to a historic house is desired, the addition is located at the rear of the house so that visibility from the public right-of-way is minimized
- Roof forms and pitch are consistent with the existing house
- Additions incorporate materials or design elements from the historic portion of the house but do not strive to copy historic designs or attempt to appear “historic”
- Modern additions read as secondary to the historic structure in terms of size, scale, design, materials, and detailing

### Acceptable

- Constructing additions that minimally impact historic materials and design elements
- Constructing an addition on a side elevation or the roof that reads as secondary to the historic house

### Not Recommended

- Removing, damaging, or obscuring historic materials or design elements as a result of constructing an addition
- Constructing a modern addition that makes the historic portions of the house appear secondary in terms of size, scale, materials, and detailing
- Constructing an addition that appears falsely historic by mimicking or replicating the historic portion of the house
- Building an addition on the façade of a house, or an inappropriately sized or designed addition highly visible from another street-facing elevation
- Disregarding historic materials and elements of design present in the historic structure when designing an addition



The addition of a large, shed roof dormer on the rear elevation is a recommended method for incorporating an addition into a historic resource. City of Birmingham, photo by KDG, 2022.

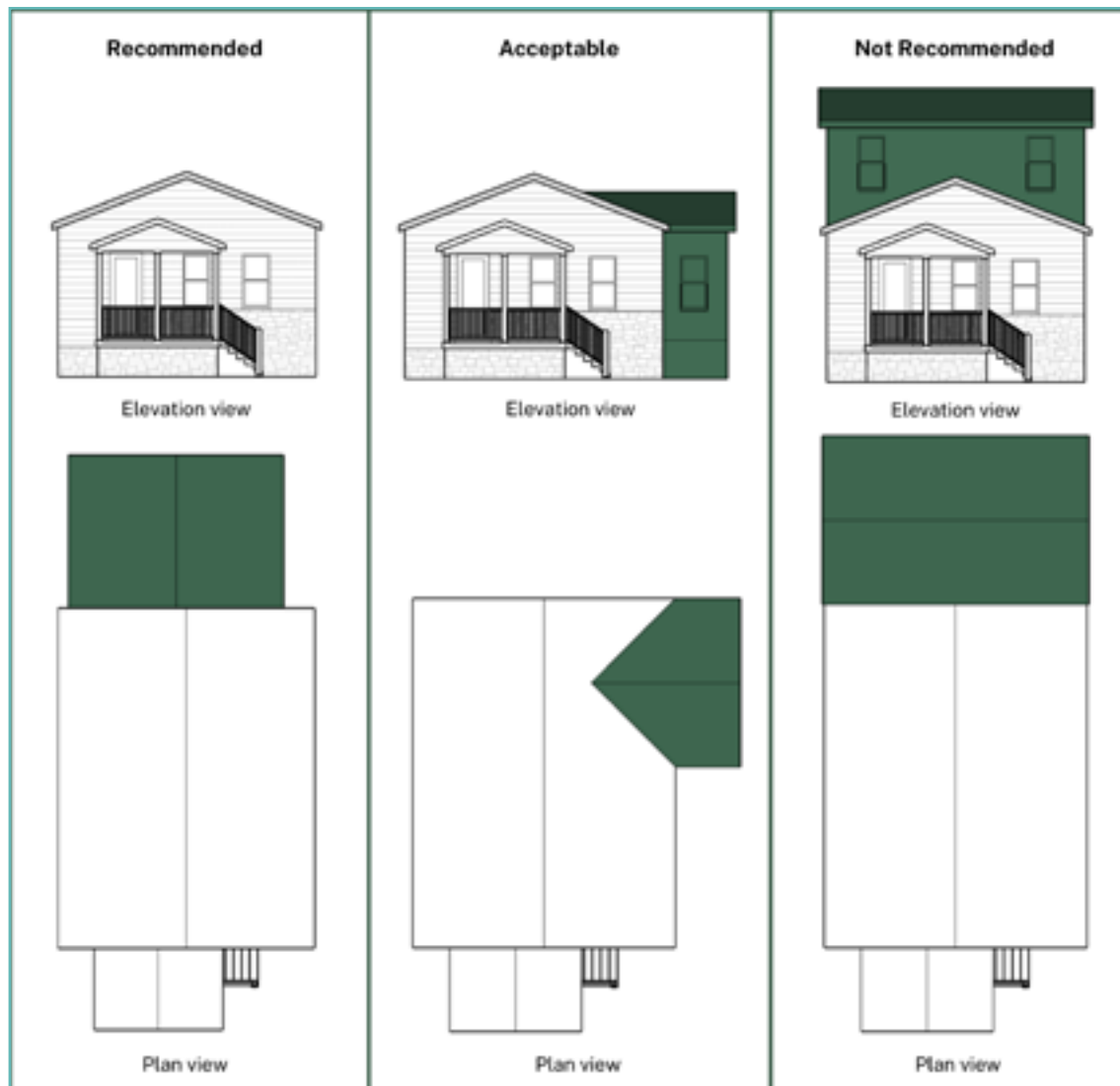


This second-story addition would not be recommended as it is highly visible. City of Birmingham, photo by KDG, 2022.



Incorporating an addition onto the side elevation of a historic ensure the addition remains secondary to the house is acceptable. City of Birmingham, photo by KDG, 2022.

# Additions



Additions located at the rear of a house are recommended, small scale additions to the side elevations of a house are acceptable, and additions that are highly visible and subsume the historic house are not recommended.



The right-half of the house pictured here is an addition that overwhelms and subsumes the historic residence. Additions that make the historic portion of the house appear secondary are not recommended. City of Birmingham, photo by KDG, 2022.

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**PART 4:**  
**Applying Design  
Guidelines to  
Non-Historic Resources  
within Historic Districts**

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## Part 4: Applying Design Guidelines to Non-Historic Resources within Historic Districts

In order to fulfill the Historic District Commission's (HDC) duty to preserve the historic character in historic districts, the HDC has the authority to review proposed work to non-historic resources within local historic districts so that the historic character of the district is preserved.

Owners of both historic and non-historic resources located in a designated historic district are obligated to uphold ordinary maintenance standards on the exterior. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. The completion of ordinary maintenance does not interfere with the historic character of historic districts.

The HDC does have authority to review proposed work on all resources within a district, as work has the potential to detract from or contribute to the historic character of the overall district. The same [Standards](#) and guidelines apply to both non-historic and historic resources. However, the HDC may be concerned with different elements of a project for non-historic resources. For example, when there is no historic material, such as in new construction or heavily altered buildings, the most applicable guidelines will likely be those that relate to size, scale, and massing rather than discrete material changes.

HDC considers the following elements to ensure work in historic districts does not adversely affect the use, appearance, or value of adjacent historic properties:

- Site layout
- Orientation and location of all buildings
- Relationships of adjacent buildings and open space
- Ensure the total design is compatible with the intent of the urban design plan
- Ensure the overall feeling of the historic district as a cohesive unit is maintained

Non-historic resources are resources deemed non-contributing to a historic district. Resources may be non-historic because they are less than 50 years old, do not conform to the district's period of significance, or have been altered resulting in a loss of historic character.



Birmingham's HDC has the authority to review new construction in locally designated historic districts. The images above are of new construction in the Bates Street Historic District. City of Birmingham, photos by KDG, 2022.

### Overlay Districts

Overlay districts are used to apply an additional layer of standards to all areas within a defined overlay district boundary, regardless of the underlying base zoning district. In the context of historic preservation, overlay districts can be developed with the main goal of preserving the historic character of a specific area. Overlay districts with this goal may limit the height, number of stories, or areas of new development or additions to historic buildings in certain areas. The City of Birmingham currently has two overlay districts: the Downtown Birmingham Overlay District and the Triangle Overlay District. More information regarding these existing overlay districts may be found in the City's Zoning Ordinance.



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**PART 5:**  
**Design Guidelines for  
New Construction in  
Historic Districts**

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## Part 5: Design Guidelines for New Construction in Historic Districts

All new construction in historic districts should be compatible with the size, scale, color, material, and character of the property and the neighborhood. Taking cues from the historic resources in the district is a good way to ensure sensitive new construction in each district. Height and scale are two of the issues most cited by Birmingham residents as areas of concern surrounding new construction.

New construction should avoid the following:

1. **Exact Replication.** New infill construction should not be 'falsely historic' or contribute to a false sense of history. Instead, the new construction should blend into the existing streetscape while being distinguishable as modern.
2. **Out-of-Scale.** The height, footprint, and massing of the existing neighborhood should be studied and new infill construction should be compatible with the predominant scale and massing of neighboring buildings. For example, a large suburban-style house would be out-of-scale in a neighborhood of small cottages.
3. **Overly Differentiating from the Old.** While new construction should be distinguishable from its surrounding historic neighbor buildings, a compatible design will still blend with the scale, massing, and proportions of the existing neighborhood.

Before designing an infill building in a local historic district, developers contemplating a new construction project should take a series of steps to align their new development with the existing neighborhood.

1. Understand the historic neighborhood, including historic development patterns and typical architectural characteristics (including ornamentation and fenestration)
2. Study the site and the surrounding buildings, especially the height and scale
3. Review these design guidelines

The [Secretary's Standards](#) state that new construction should be compatible with historic resources yet easily distinguishable, so as not to appear falsely historic. The National Trust for Historic Preservation has published guidelines entitled, "[Regulating New Construction in Historic Districts](#)," for evaluating new construction in historic districts.

New construction infill should be FRESH!

**F – Footprint and Foundation.** The footprint and foundation of the new structure should be similar to the ones surrounding the new structure.

**R – Roof Shape.** The new roof should match existing roofs in pitch, complexity, and orientation.

**E – Envelope.** If you shrink-wrapped a building and removed everything but the shrink-wrap, that is the envelope. The new structure should match the existing ones in projections, height, bulk, relationships between height and width, etc.

**S – Skin.** What is the envelope clad in? What is the surface material and what are its characteristics? New structures should be clad in a visually and physically similar material.

**H – Holes.** Where are the doors, windows, attic vents, etc? How are they divided and segmented? Is it an asymmetrical arrangement or is it more symmetrical?

*Courtesy of the National Trust for Historic Preservation*

## Façade Composition and Building Massing

Part of what makes both residential and commercial historic districts unique and cohesive is the complementary building massing, setbacks, and façade composition of buildings within the district. Buildings that deviate from the norms of the surrounding district often appear out of place and may obstruct historic, character defining elements of the district. The [National Trust for Historic Preservation](#) and the [Secretary's Standards](#) provide guidance for infill and new construction in historic districts, stating that infill and new construction conform to the norms set by surrounding historic resources in terms of massing, setback, and facade composition. These elements are important to preserve the historic character of the district.

### Recommended

- Designing and constructing new buildings that complement the façade composition and massing of surrounding buildings
- Designing and constructing new buildings with similar setbacks and site arrangements to fit in with the surrounding properties in the historic district
- Maintaining the ratio of the building's footprint to lot size similar to historic resources in the historic district

### Not Recommended

- Constructing new buildings that are outside the range sizes of surrounding historic resources
- Designing new buildings with massing and scale that is not compatible with the historic district or obscures historic buildings

The [National Trust for Historic Preservation](#) recommends that the massing and scale of new construction fall within the range of massing and scale of surrounding historic resources.



The scale and massing of this newer, non-historic building significantly differs in size from the surrounding Central Business District Historic District as it is both taller than any of the historic structures and much larger. The historic buildings in the Central Business District are primarily comprised of two and three story buildings. City of Birmingham, photo by KDG, 2022.



Construction of the new home at right would not be recommended in a historic district containing modestly scaled homes, as shown at left. The scale of the new construction overwhelms neighboring homes. City of Birmingham, photo by KDG, 2022.



The facades of historic residential buildings, including the arrangement of doors and windows, lend character to residential historic districts. It is recommended that new construction complement the existing rhythmic pattern of the facades of existing houses. It is not recommended that the façade of new construction include overly large windows, windowless expanses, or an arrangement of exterior doors and windows that disrupts the existing streetscape.

## Façade Composition and Building Massing



*It is recommended that new construction in historic commercial districts take cues from existing historic buildings concerning massing, by ensuring that roof types and shapes of new construction are similar to existing buildings. It is not recommended that new construction employ shapes and roof types that do not complement neighboring buildings.*



*It is recommended that new construction in historic commercial districts respect the scale of existing buildings. Most of the historic commercial buildings in Birmingham's Central Business Historic District are 1 to 3 stories tall; therefore, new construction should stay within this height range. It is not recommended that new construction be at such a scale that neighboring buildings are overwhelmed.*

# New Construction in Historic Residential Districts

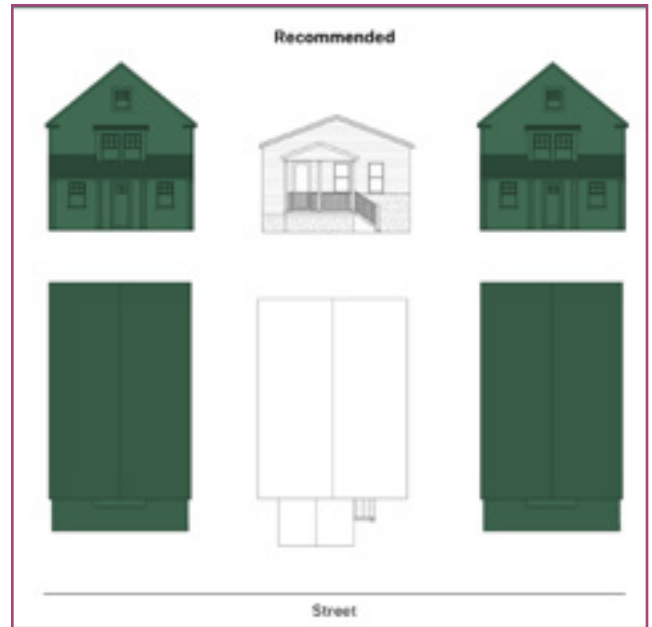
New construction in historic residential settings can either enhance a historic district by respecting the scale, design, materials, and style of existing housing, or it can greatly detract from the historic atmosphere of a district. The goal of historic preservation is not to arrest new development or new construction, but rather guide it in a manner that preserves existing historic resources and enhances historic districts.

## Recommended

- Designing and constructing new residential structures or accessory structures that respect the existing scale, forms, setbacks, style, materials, and streetscape rhythm of existing historic resources
- Utilizing exterior materials that are visually compatible with the surrounding historic resources
- Respecting the historic arrangement of site elements such as the location of and spacing between the house, accessory structures, and open space

## Not Recommended

- Demolishing historic houses in order to build larger houses that do not fit the scale, massing, form, or setback of existing historic resources
- Constructing new houses that are not compatible with existing housing in terms of scale, form, setback, style, materials, and streetscape rhythm.
- Altering the arrangement of the house, accessory structures, and open space in a manner that is not compatible with the historic district. For example, placing the garage in a prominent location on the façade of a new residence in an early-twentieth century neighborhood is not recommended.



*It is recommended that new construction in residential settings take cues from existing housing. In this example, the new construction shown in green is complementary in scale, shape, massing, and setback from the street compared to the existing house in the center.*



*New residential construction, shown in green, is not recommended. The scale of the new construction overwhelms the existing housing and is not complementary in terms of massing, shape, or setback from the street. This type of new construction negatively impacts the character of historic neighborhoods.*



*It is recommended that new construction in historic residential districts take cues from existing historic residences concerning scale and massing. It is recommended that roof types of new construction are similar to existing housing, and that the scale of new construction does not overwhelm neighboring houses. It is not recommended that new construction be of such a scale that it overwhelms existing houses or that its massing alters the historic streetscape.*

## New Construction in Historic Commercial Districts

New construction in historic commercial settings can either enhance a historic district by respecting the scale, design, materials, and style of existing buildings, or it can greatly detract from the historic atmosphere of a district. The goal of historic preservation is not to arrest new development or new construction, but rather guide it in a manner that preserves existing historic resources and enhances historic districts.

Additionally, it is not recommended that new construction involve the demolition of a historic commercial structure or the infill of a historically open space. It should also not cause damage to or obscure existing historic structures around the new building.

### Recommended

- Designing and constructing new commercial structures or accessory structures that respect the existing scale, forms, setbacks, style, materials, and streetscape rhythm of existing historic resources
- Utilizing exterior materials that are visually compatible with the surrounding buildings in terms of finish, color, texture, and design
- Respecting the historic arrangement of site elements such as the location and spacing of the historic buildings, the sidewalk, and the street

### Not Recommended

- Constructing new commercial buildings that are not compatible to existing buildings in terms of scale, form, setback, materials, and streetscape rhythm. For example, a new building constructed without a street level entry would impermissibly change the relationship to the sidewalk and street in a manner that is not compatible with the historic district
- Damaging surrounding historic structures through the construction of a new building



*New construction in historic commercial districts should be complementary in size, scale, and façade composition to existing commercial buildings. Construction of buildings that are out of scale in terms of height to surrounding buildings is not recommended, whereas new construction that is comparable in terms of height is recommended.*



*The facades of historic commercial buildings are usually characterized by their expanses of windows and presence of storefronts. It is recommended that new construction complement these historic norms with the inclusion of windows and storefronts that complement the rhythmic pattern of the existing buildings. It is not recommended that the façade of new construction include large, windowless expanses, exterior doors without a surrounding storefront, or a façade composition that disrupts the existing streetscape.*

# New Construction in Historic Commercial Districts

## Parking Structures

Parking structures and parking areas may be necessary features that lend support to the commercial establishments within a historic district. However, incorporation of these features into, or near, historic districts should not result in the removal or obstruction of historic resources.

### Recommended

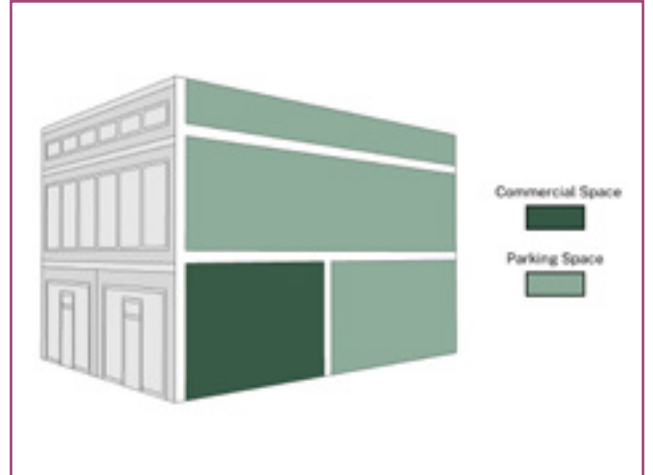
- Designing and constructing parking structures that respect the existing scale, forms, setbacks, style, materials, and streetscape rhythm of existing historic resources
- Maintaining the rhythm of the streetscape, notably the presence of commercial space along the sidewalk, when incorporating a new parking structure into to a historic district
- Utilizing exterior materials that are visually compatible with the surrounding buildings in terms of finish, color, texture, and design
- Respecting the historic arrangement of site elements such as the location and spacing of historic buildings, the sidewalk, and the street
- Only constructing parking areas in spaces not occupied by historic structures or historically open space
- Incorporating a parking garage in an unobtrusive location that does not detract from the historic character of the district.

### Not Recommended

- Demolishing historic structures or infilling historically open space to construct surface parking or a parking structure
- Constructing a parking structure that is not compatible with surrounding buildings in terms of scale, form, setback, style, and streetscape rhythm
- Not incorporating street level commercial space into a new parking structure



*The Pierce Street Garage, a Brutalist style parking structure, would not be recommended in a historic district since it does not incorporate street level commercial space. City of Birmingham, photo by KDG, 2022.*



*It is recommended that new parking structures in historic commercial districts provide commercial space at street level to maintain the historic streetscape.*

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**PART 6:**  
**Design Guidelines for  
Landscapes and Open  
Space**

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## Part 6: Design Guidelines for Landscapes and Open Space

Site and landscape features contribute to the historic character of properties in historic districts. When looking at a historic landscape consider the following features: topography, vegetation, spatial organization and land patterns, circulation patterns, water features, and structures, furnishings and objects. Historic landscape features include fences, vegetation, stone walls, and mature trees and hedges. Work performed in historic districts should respect the character of the landscape and site features.

Man-made landscape features such as fencing or walls are used as a barrier to define boundaries, screen off, or enclose portions of a property. Historic fencing and walls should be retained, preserved, and repaired.

Mature trees, the contour of a landscape, or significant viewsheds and vistas are memorable parts of historic neighborhoods and streets. Natural and man-made landscapes are often character defining features of historic districts and should be preserved and maintained. The introduction of new site features should respect the existing landscape and the existing historic features so as to complement the existing landscape patterns and character of the historic district.

For more information on historic landscapes see the [Secretary of the Interior's Standards for the Treatment of Cultural Landscapes](#).

### Recommended

- Complying with Birmingham's Tree Preservation Ordinance and Birmingham's fencing guidelines in the City's Zoning Ordinance
- Retaining and maintaining historic site features and landscapes such as fences, trees, hedges, stone walls, and open spaces
- Repairing and maintaining historic fencing, walls, and other historic built site features
- Locating new fences on the setback line and on the lot line
- Retaining relationships between buildings, landscape features, and open spaces

- Retaining other historic site features such as stone curbs, decorative paving, designed grades and natural landforms, or hitching posts
- Using hedges in place of fencing and placing vegetation along fencing
- Consider permeable surfaces or hardscaping with permeable qualities for patios and drives to improve runoff capabilities of the site

### Not Recommended

- Removing mature trees, hedges, walls, fencing, and other historic landscaping
- Constructing new landscape or site features that are out of scale with the surrounding character of the historic district

- Introducing large amounts of hardscape (such as concrete pavement) which diminishes or removes historic landscape features and alters the ratio of building to yard or landscape
- Installing fencing in the front yard over 3' tall and over 6' tall in the back yard
- Installing fencing of material that is incompatible with the character of the historic district, such as chain link fencing in the front yard

- Introducing new plant material that is out of character, scale, pattern, or vista with the surrounding historic district
- Introducing new landscaping which destroys site patterns or vistas or conceals character-defining features of the building or site



Mature landscaping and tree cover are an important part of a historic district. City of Birmingham, photo by KDG, 2022.



Maintaining and retaining site features like this stone wall contribute to the character of the neighborhood. City of Birmingham, photo by KDG, 2022.

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**PART 7:**  
**Emerging Issues in  
Historic Preservation**

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## New and Alternative Materials

Restoration and repair of historic and existing materials is always recommended but is not always possible. Occasionally, in-kind material can no longer be sourced, artisan craftspeople are not locally available, or a feature is deteriorated beyond repair. **Only after all repair or restoration alternatives are explored should substitute materials be considered.** Substitute materials should match the historic material as best as possible in size, texture, color and profile. The following sections outline new and alternative materials which may be contemplated for work on historic buildings and explains the benefits and disadvantages of each.

As this outline is not exhaustive and new materials are continuously developed, consider the following when contemplating the use of new and alternative materials:

- The reversibility of the new material's installation
- Ensure installation of the new material does not damage historic materials or features
- The ability of the new material to match the historic material in terms of texture, color, size, and profile.

### Cladding and Architectural Elements

• **Vinyl Siding:** Vinyl siding is an abundant and amply used material. Vinyl siding often lacks the texture found on historic wood siding and thus not a suitable replacement material when wood siding is found to be deteriorated beyond repair. Synthetic siding such as vinyl has a much shorter potential life span than wood siding and can introduce additional maintenance concerns to a historic building. Vinyl is prone to cracking when impacted, deteriorates with exposure to extreme temperature, and has a high co-efficient of expansion and contraction.

• **Cast Stone:** Cast stone is a cement, lime, and aggregate mixture which is dry-tamped into a mold to produce a dense stone-like unit. Cast stone is often a suitable substitute material when new in-kind stone cannot be sourced. Cast stone expands and contracts similarly to stone and adequately replicates stone texture when good molds are used. Work on historic buildings which use cast stone should consider if the cast stone will require additional anchorage due to its weight and consider that cast stone may be more absorbent than natural stone

• **Cementitious Siding:** Cementitious siding is a popular alternative material for exterior siding and shingles to replace historic wood siding and for new construction. Cementitious siding is often marketed as a sustainable cladding alternative although its use of cement indicates the production process is water intensive. Smooth-surfaced cementitious siding is able to achieve the dimension, profile, and reveal of historic wood siding making it a suitable choice when in-kind wood siding is not obtainable.

• **Glass Fiber Reinforced Plastic (GFRP):** Fiberglass, and glass fiber reinforced plastic and polymer products, are typically produced as a thin rigid laminate shell formed by pouring a polyester or epoxy resin gel-coat into a mold. The resulting GFRP cast product is usually then attached to a distinct structural frame and anchored to the building. GFRP is a suitable product to replicate ornate and carved building

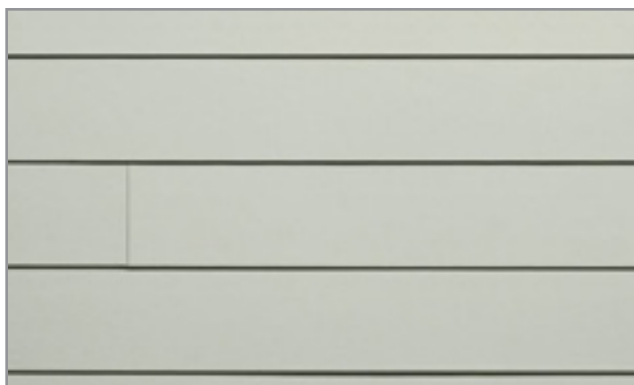
elements which are missing or deteriorated beyond repair. Its lightweight nature, the ability to apply integral color, and its non-corrosive nature makes it easy to install and maintain. When historic architectural elements like cornices or column capitals are deemed too deteriorated to repair and GFRP replacements are considered, the anchorage system and the high co-efficient of expansion and contraction in the material should be contemplated.

### Porch and Deck Flooring

• **Composite Decking:** Composite decking is a popular alternative to exterior wood flooring and decking applications. Composite decking boards are the combination of two or more materials – typically wood fibers and a form of plastic. High density polyethylene (HDPE) or polyvinyl chloride (PVC) are mixed with wood fiber and chemical additives to create a strong and durable wood alternative. Composite decking is often resistant to fading and wear and tear of traditional wood decking although can be costly and has high rates of expansion and contraction to be considered during installation. Wood is preferred to composite decking but composite decking can be considered on applications that are on secondary or tertiary facades or minimally visible from the public right-of-way, for example a deck in the back yard.



*Selecting historically appropriate colors, dimensions, and textures can make the use of composite decking a viable alternative if repair or replacement of a historic wood porch or patio is not possible. Photo courtesy of Buck the Builder.*



*Cementitious siding that matches historic wood siding in terms of texture, color, and dimensions can be used as an alternative when the repair or replacement of historic wood siding is not possible.*

# New and Alternative Materials

## Roofing

- **Metal Roofing:** Metal roofs are a popular roofing material both on new construction and as replacement roofs on historic houses. Metal roofing is distinct in appearance from historic roofing materials such as cedar, slate, or asphalt and as such often is not able to match the color, profile, and texture of a historic roof. The distinct appearance of a metal roof means it is often not a suitable choice on historic buildings. Additionally, new construction in historic districts which introduce metal roofing distract from the cohesive architectural character of a historic district.

- **Synthetic Slate Roof Shingles:** Slate is a common historic roofing material which is long-lasting and durable although does occasionally need to be repaired or replaced during a building's lifespan. When original slate roofing cannot be repaired and in-kind replacement is not feasible, synthetic slate roof shingles are a suitable substitution material. Synthetic slate roofs have a much lower cost than slate although should only be proposed after best efforts have been made to restore the historic slate material or to source actual slate.

- **Solar Roofs and Shingles:** Solar roofs are an excellent way to harness green energy. Design guidelines for solar roof placement is found elsewhere in this document. Several solar system manufacturers often solar shingle products which are better able to mimic the look of a historic shingled roof. Solar shingles are sized to look like traditional shingled roofing products. Similarly sized metal panels can be used where solar cells can't perform for a more consistent appearance on each roof slope. Solar shingles and tiles should be considered in lieu of traditional solar panels when work is contemplated to introduce sustainable measures into a historic building.

## Windows

- **Vinyl Windows:** Historic windows are a defining architectural characteristic of historic buildings. Replacement vinyl windows typically cannot match the color, texture, and trim profiles of historic wood windows. Similarly, simulated divided lites do not have the same profile or depth of mullions on historic windows. For this reason, vinyl windows are not recommended to replace historic windows.

- **Aluminum Clad Windows:** Historic windows should always be evaluated to determine if repair or in-kind replacement is possible. If for some reason this is not feasible, one potential solution is aluminum clad windows. Aluminum clad windows consist of wooden or vinyl frames with a protective aluminum shell on the outside. The aluminum cladding can often be made to mimic the profile and depth of historic wood window frames and comes in a variety of colors – which are enamel baked on. Aluminum clad windows are a suitable solution to achieve appropriate color and profile on replacement windows when repair or new wood windows cannot be sourced.

- **Vacuum Insulated Glass (VIG):** Most historic windows are single panes of glass and lack the thermal efficiency in modern windows. Vacuum insulated glass (VIG) is a solution to increase the thermal performance of a historic window while retaining the existing single pane window frame. VIG is an insulated glass with a vacuum layer between two panes of glass to minimize the thickness of the double pane. The vacuum layer reduces the thickness to the point where a VIG unit can fit in a historic windowpane designed for single pane glass. VIG glass is an excellent product to increase efficiency while maintaining historic windows.

- **Fiberglass Windows:** Fiberglass windows are a potential replacement solution for historic windows which have been determined to not be repairable and replacement in-kind is not an option. Fiberglass windows tend to be more expensive than vinyl windows but less expensive than aluminum clad windows. Fiberglass windows are durable and sturdier than vinyl windows and are considered low maintenance. One drawback to fiberglass windows is that most manufacturers cannot produce the custom or unique shapes and profiles meaning that true historic replica windows can be difficult to achieve with this product. Aluminum clad windows can be a preferred alternative to achieve a price replica of the profiles and look of the original windows.



*If repair or replacement of historic windows is not feasible, aluminum clad windows provide a potential solution that are capable of achieving the profile, depth, and colors of historic windows. Photo courtesy of AVI Windows and Doors.*

## Facadectomy

Facadism or facadectomy is the act of retaining the façade of a building while demolishing and reconstructing a new internal structure behind the original front facing elevation. The facadectomy is often a proposed concept to maintain what is perceived to be the most significant aspects of a historic building, the front elevation, while allowing for complete design freedom behind. Facadism is not an appropriate method of historic preservation as it strips buildings of their contents and context – it retains the ‘thing’ without retaining the actual experience of it. It is not recommended to use the method of facadectomy on a historic building, instead whole building preservation is strongly encouraged where possible.

## Preservation of the Everyday

Historic preservation has evolved beyond only recognizing high style architecture or the buildings designed and occupied by the wealthy. Buildings lived in and built by ordinary people living ordinary lives are just as exceptional and worthy of preservation as they tell the story of the development of a place and the people who lived there. Everyday architecture, from small bungalows to humble commercial buildings, can use these design guidelines to ensure their preservation.

## Historic Districts and Increasing Density

It is a unique design challenge to increase housing density in historic residential districts. Accessible dwelling units, including small housing units above garages or as newly constructed units in back yards, are a popular solution to increasing housing density. When accessible dwelling units are proposed, they should abide by these design guidelines particularly the recommendations for new construction in historic districts and for accessory structures in residential historic districts. These guidelines should adequately guide the introduction of housing density in historic districts when and if it is ever proposed.

## Modern Architecture

Modern style architecture building from around 1950 through the 1970s is now coming of age to be considered historic. When contemplating work to a Modern style building, regardless of if it is in a historic district or not, the design guidelines are an excellent resource to guide proposed work. Additionally, Modern style additions or architectural features to historic buildings should be considered and should be retained, repaired, and preserved when work is proposed.

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**PART 8:**  
**Definitions**  
**and Resources**

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# Appendix A: Definitions

## Historic District Ordinance Definitions

**Alteration** means work that changes the detail of a resource but does not change its basic size or shape.

**Certificate of appropriateness** means the written approval of a permit application for work that is appropriate and does not adversely affect a resource.

**Commission** means the historic district commission of the city.

**Committee** means a historic district study committee appointed by the city commission pursuant to Section 127-4.

**Demolition** means the razing or destruction, whether entirely or in part, of a resource and includes, but is not limited to, demolition by neglect.

**Demolition by neglect** means neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.

**Denial** means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.

**Eco City** means the area in Birmingham generally bound by: the intersection of 14 Mile Road and Woodward Avenue west to Grant Street; north on Grant Street to Lincoln Street; east on Lincoln Street to Adams Road; north on Adams Road to Holland Street; east on Holland Street to Torry Street; and south on Torry Street to Emmons Avenue. Eco City is also known as the Leinbach-Humphrey Woodward Avenue Subdivision and contains a collection of bungalows developed by Leinbach-Humphries Company in the early 1900s.

**Fire alarm system** means a system designed to detect and announce the presence of fire or by-products of fire. Fire alarm system includes smoke alarms.

**Historic district** means an area or group of areas, not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering, and/or culture.

**Historic preservation** means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering, and/or culture.

**Historic resource means** a publicly or privately owned building, structure, site, object, feature, or open space that is significant in the history, architecture, archaeology, engineering, and/or culture of the city, state, or the United States.

**Notice to proceed** means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under Section 399.205(6) of [Public Act 169 of 1970](#), as amended.

**Open space** means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or buffer between other resources.

**Ordinary maintenance** means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for the purposes of this Chapter 127.

**Proposed historic district** means an area or group of areas, not necessarily having contiguous boundaries, that have delineated boundaries and that is under review by a committee or a standing committee for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.

**Repair** means to restore a decayed or damaged resource to good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for the purposes of this chapter.

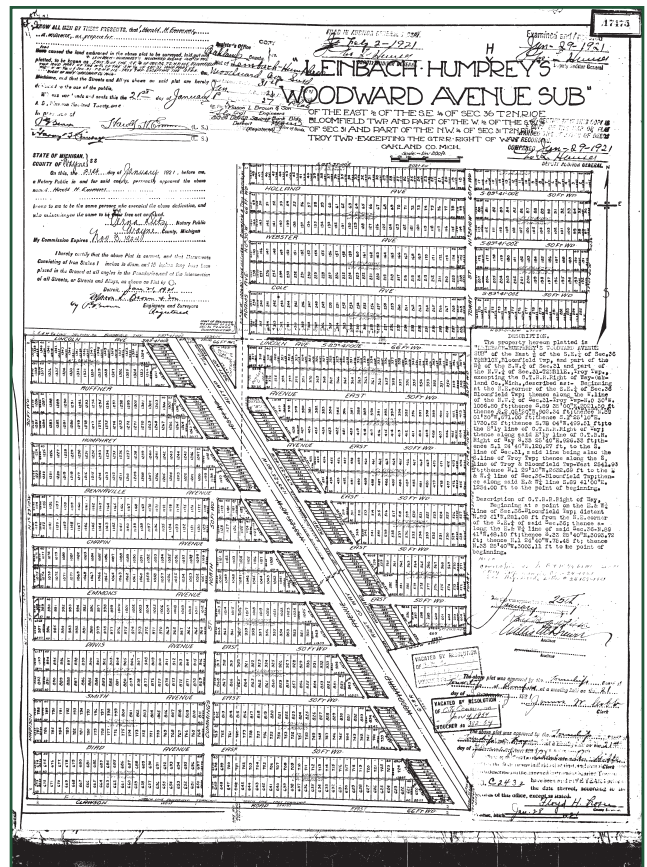
**Resource** means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a historic district.

# Appendix A: Definitions

**Smoke alarm** means a single-station or multiple-station alarm responsive to smoke and not connected to a system. As used in this subsection, "single-station alarm" means an assembly incorporating a detector, the control equipment, and the alarm sounding device into a single unit, operated from a power supply either in the unit or obtained at the point of installation. "Multiple-station alarm" means two or more single-station alarms that are capable of interconnection such that actuation of one alarm causes all integrated separate audible alarms to operate.

**Wallace Frost** is the Birmingham architect (1892-1962) who worked with Albert Kahn and designed 44 houses in or near Birmingham. In 1992, the Birmingham Historic District Commission published a report titled "Wallace Frost: His Architecture in Birmingham, Michigan" which includes an exhaustive list of Frost designed houses in Birmingham.

**Work** means construction, addition, alteration, repair, moving, excavation, or demolition.



The Leinbach-Humphrey's Woodward Avenue Subdivision plat from 1921, containing Birmingham's Eco City. Office of Land Surveys and Remonumentation, Michigan Department of Licensing and Regulatory Affairs.



# Appendix A: Definitions

## Common Architectural Terms

**Bargeboard:** A sometimes richly ornamented board placed on the verge (incline) of a gable to conceal the ends of rafters. Also known as vergeboard.

**Board and Batten:** A siding consisting of vertical boards and thin strips, or battens; the battens are used to conceal the gaps between the siding boards.

**Brackets:** Ornamental supports, usually of wood or pressed metal, which appear at the cornice line of a building. They may be incised into a scrolled pattern or be more simply molded and are commonly found on Italianate style buildings, but often appear with other styles as well.

**Casement:** A window sash that opens on hinges fixed to its vertical edge.

**Chimneys:** A structure containing one or more flues through which smoke and fumes from fireplaces, furnaces, or boilers escape to the outside. A chimney also provides a draft for fireplaces.

**Clapboard:** Siding consisting of boards that are thicker on one edge than the other the bottom (thick) edge of one board overlaps the top (thin) edge of the board below.

**Column:** A pillar, usually circular in plan.

**Coping:** The protective uppermost course of a wall or parapet projects beyond the wall surface to throw off rain. Also known as a cap.

**Corbel:** A projecting block, sometimes carved or molded, that acts as a means of support for floor and roof beams as well as other structural members.

**Cornice:** A cornice is the finished edge of the roof where it meets the exterior wall, of varying sizes, sometime plain, but often decorative and marked by brackets, dentils, modillions, or some other decorative feature.

**Cresting:** Roof cresting is a lacy decorative fencing made of wrought iron, rimming the edge or peak of a roof.

**Cupola:** A cupola is a decorative, small, projecting tower at the top of the roof of a building, often square, round, or octagonal in shape.

**Decorative Half-timbering:** A method of surface decoration that imitates true half-timber construction. Half-timbering was common in sixteenth and seventeenth century England, in which the spaces between the vertical structural timbers were filled with brickwork or plaster.

**Dormer:** A window projecting from the slope of a roof; usually provided with its own roof.

**Drip Cap:** A usually small horizontal drip located above a door or window casing; designed to shed water, causing it to drip beyond the outside of the frame.

**Eaves:** The portion of the roof which overhangs the exterior walls, sometimes with exposed rafters.

**Eyelid Dormer:** A half-elliptical decorative window placed in the roof surface, resembling the shape of an eye.

**Façade:** The face of a building, usually referring to the front.

**Fanlight:** A semi-circular (fan shaped) window placed atop a door, commonly seen in Federal and Colonial Revival style buildings.

**Fascia Board:** A flat board used to cover the ends of roof rafters.

**Fenestration Pattern:** The arrangement of windows and other exterior openings on a building.

**Finial:** An ornament that caps a gable, hip, pinnacle, or other architectural feature.

**Fixed Sash:** A fixed frame window (or part of a window) that does not open.

**Frieze:** Any plain decorative band, or board, on the top of a wall immediately below the cornice; sometimes decorated with brackets, dentils, or modillions. Porch cornices may likewise be decorated with friezes of spindle work.

**Gable:** The triangular end of an exterior wall in a building with a ridged roof.

**Gable Roof:** A sloping (ridged) roof that terminates at one or both ends in a gable.

**Gambrel Roof:** A roof having a double slope on two sides of a building.

**Hip Roof:** A roof formed by four pitched roof surfaces.

**Lintel:** The horizontal structural member that supports a load over an opening; usually made of wood, stone, or steel; may be exposed or obscured by wall covering.

**Lites:** Glass windowpanes

**Masonry:** A type of construction using stone, brick, tile, or concrete block using mortar.

## Appendix A: Definitions

**Molding (Trim):** A decorative raised surface along the edge of an architectural feature such as a window, column, door, or wall.

**Mortar:** A mixture of sand, water, lime, and cement used to lay bricks, stone, tile, or concrete block.

**Mullion:** A vertical bar between coupled windows.

**Muntins:** The wooden divisions between panes of glass on windows.

**Ogee Arch:** A center pointed arch with reverse curve sides.

**Palladian Window:** A three-part, round-arched window, named for the 15th century Italian architect Andreas Palladino, also known as a Venetian Window and common in the Georgian and Colonial Revival styles.

**Parapet:** A parapet is a low stone or brick wall at the top of a building.

**Pediment:** A triangular space created by a front facing gable roof.

**Pewabic Pottery:** Ceramics designed and produced by Pewabic Pottery, a Detroit based pottery founded in 1903. Pewabic pottery has gained local architectural significance and its tiles are often incorporated into commercial facades or fireplace surrounds in metro Detroit locales.

**Pilaster:** A narrowly protruding column attached to a wall, giving the illusion of a free-standing column.

**Pointed Arch:** An arch with a strong center point, usually seen in Gothic Revival style buildings.

**Porch:** A covered space outside the main walls of a building.

**Portico:** A small entrance porch.

**Quoins:** Decorative rectangles or squares of stone, brick, wood, or concrete, placed at the corners of buildings to add architectural interest.

**Rafters:** The wooden structural support beams for a roof, sometimes visible on the exterior for certain building types and styles.

**Roof:** Roofs can be steep, flat, or gently sloped and take many forms such as gable, gambrel, hipped, stepped gable, shed, pent or Mansard. The roof type is an important key to identifying the style of a building.

**Round Arch:** A semicircular arch over a window or door.

**Segmental Arch:** A slightly rounded arch over a window or door.

**Sash:** The framework into which the glass panes of a window are set.

**Sill:** The flat horizontal bottom piece of a window or door on the exterior. It is often wood, but sometimes of stone.

**Stoop:** The uncovered wide step leading into the front or main door of a building.

**Stories:** The number of stories a building reflects its height by counting the stacked floors. If a building has dormer windows inset into the roof, that top section of the building is called a 1/2 story.

**Stucco:** A coating of plaster applied over exterior walls.

**Terra Cotta:** A fine-grained fired clay product used on the exterior of buildings; may be glazed or unglazed, molded or carved.

**Transom Light:** A flat, glass panel above a door, usually multi-paned.

**Trim (Molding):** A decorative raised surface along the edge of an architectural feature such as a window, column, door, or wall.

**Tudor Arch:** A flattened arch with a center point above a door or window, commonly seen in Tudor Revival style buildings.

**Weatherboard:** An exterior horizontal wooden board applied with the lower edge overlapping the board below used to form exterior walls (wider and less shaped than a clapboard, although used for the same purpose).

## Appendix B: Links to Resources

The links below connect to helpful resources regarding the maintenance, repair, and preservation of materials, buildings, and sites.

### Historic Preservation in Birmingham

A section of the City of Birmingham's website is dedicated to historic preservation.

[https://www.bhamgov.org/about\\_birmingham/city\\_departments/planning\\_department/historic\\_preservation/index.php](https://www.bhamgov.org/about_birmingham/city_departments/planning_department/historic_preservation/index.php)

### Michigan State Historic Preservation Office

Michigan's State Historic Preservation Office (SHPO) maintains a website with preservation resources.

<https://www.miplace.org/historic-preservation/>

### Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings.

The Secretary of the Interior's Standards for Rehabilitation provide direction in making appropriate choices in planning the repairs, alterations, and additions that may be part of a rehabilitation project. The National Park Service also publishes Guidelines for Rehabilitating Historic Buildings which describe specific treatments that do and do not meet the Standards.

<https://www.nps.gov/orgs/1739/secretary-standards-treatment-historic-properties.htm>

Grimmer, Anne E. *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings*. Revised edition. U.S. Department of the Interior, National Park Service, 2007.

<https://www.nps.gov/orgs/1739/secretary-standards-treatment-historic-properties.htm>

### Public Act 169 of 1970

Public Act 169 is also known as the Local Historic Districts Act. Passed in 1970, this act is the foundation for the creation and management of historic districts in Michigan

<https://www.legislature.mi.gov/documents/mcl/pdf/mcl-act-169-of-1970.pdf>

### National Register of Historic Places Bulletins

The National Register of Historic Places (NRHP) publishes guidelines and bulletins used for the evaluation of

numerous historic resources, from buildings and subdivisions to cultural landscapes.

<https://www.nps.gov/subjects/nationalregister/publications.htm>

NRHP guidelines of particular interest for the Birmingham community include:

### Historic Landscapes

Keller, Timothy J., and Genevieve P. Keller. *How to Evaluate and Nominate Designed Historic Landscapes*. National Register Bulletin. U.S. Department of the Interior, National Park Service.

<https://www.nps.gov/subjects/nationalregister/upload/NRB18-Complete.pdf>

### Historic Residential Suburbs

Ames, David L., and Linda Flint McClelland. *Historic Residential Suburbs: Guidelines for Evaluation and Documentation for the National Register of Historic Places*. National Register Bulletin. U.S. Department of the Interior, National Park Service, 2002.

Part 1: [https://www.nps.gov/subjects/nationalregister/upload/NRB46\\_Suburbs\\_part1\\_508.pdf](https://www.nps.gov/subjects/nationalregister/upload/NRB46_Suburbs_part1_508.pdf)

Part 2: [https://www.nps.gov/subjects/nationalregister/upload/NRB46\\_Suburbs\\_part2\\_508.pdf](https://www.nps.gov/subjects/nationalregister/upload/NRB46_Suburbs_part2_508.pdf)

### Researching Historic Properties

O'Donnell, Eleanor. *Researching a Historic Property*. National Register Bulletin. U.S. Department of the Interior, National Park Service, 1998.

<https://www.nps.gov/subjects/nationalregister/upload/NRB39-Complete.pdf>

### Technical Preservation Services Publications

The National Park Service provides a webpage with links to technical resources regarding the preservation of buildings and sites.

<https://www.nps.gov/orgs/1739/tps-publications.htm>

### National Park Service Preservation Briefs

The National Park Service (NPS) has published several informational briefs on maintaining, repairing, and preserving historic buildings. The briefs are part of the NPS technical preservation services and are intended to inform owners of historic buildings on recommended methods for the preservation of historic character and materials.

## Appendix B: Links to Resources

Preservation Briefs of interest to the Birmingham community include:

### General

Preservation Brief #17: Architectural Character – Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character

<https://www.nps.gov/orgs/1739/upload/preservation-brief-17-architectural-character.pdf>

Preservation Brief #35: Understanding Old Buildings – The Process of Architectural Investigation

<https://www.nps.gov/orgs/1739/upload/preservation-brief-35-architectural-investigation.pdf>

### Roofing

Preservation Brief #4: Roofing for Historic Buildings

<https://www.nps.gov/orgs/1739/upload/preservation-brief-04-roofing.pdf>

Preservation Brief #19: The Repair and Replacement of Historic Wooden Shingle Roofs

<https://www.nps.gov/orgs/1739/upload/preservation-brief-19-wood-shingle-roofs.pdf>

Preservation Brief #29: The Repair, Replacement, and Maintenance of Historic Slate Roofs

<https://www.nps.gov/orgs/1739/upload/preservation-brief-29-slate-roofs.pdf>

Preservation Brief #30: The Preservation and Repair of Historic Clay Tile Roofs

<https://www.nps.gov/orgs/1739/upload/preservation-brief-30-clay-tile-roofs.pdf>

### Exterior

Preservation Brief #47: Maintaining the Exteriors of Small and Medium Size Historic Buildings

<https://www.nps.gov/orgs/1739/upload/preservation-brief-47-exterior-small-medium-buildings.pdf>

Preservation Brief #10: Exterior Paint Problems on Historic Woodwork

<https://www.nps.gov/orgs/1739/upload/preservation-brief-10-paint-problems-exterior-woodwork.pdf>

Preservation Brief #45: Preservation of Historic Wooden Porches

<https://www.nps.gov/orgs/1739/upload/preservation-brief-45-wood-porches.pdf>

Preservation Brief #8: Aluminum and Vinyl Siding on Historic Buildings

<https://www.nps.gov/orgs/1739/upload/preservation-brief-08-aluminum-vinyl-siding.pdf>

Preservation Brief #2: Repointing Mortar Joints in Historic Masonry Buildings

<https://www.nps.gov/orgs/1739/upload/preservation-brief-02-repointing.pdf>

Preservation Brief #7: The Preservation of Historic Glazed Architectural Terra-Cotta

<https://www.nps.gov/orgs/1739/upload/preservation-brief-07-terra-cotta.pdf>

Preservation Brief #15: Preservation of Historic Concrete

<https://www.nps.gov/orgs/1739/upload/preservation-brief-15-concrete.pdf>

Preservation Brief #22: The Preservation and Repair of Historic Stucco

<https://www.nps.gov/orgs/1739/upload/preservation-brief-22-stucco.pdf>

Preservation Brief #42: The Maintenance, Repair and Replacement of Historic Cast Stone

<https://www.nps.gov/orgs/1739/upload/preservation-brief-42-cast-stone.pdf>

Preservation Brief #27: The Maintenance and Repair of Architectural Cast Iron

<https://www.nps.gov/orgs/1739/upload/preservation-brief-27-cast-iron.pdf>

Preservation Brief #16: The Use of Substitute Materials on Historic Building Exteriors

<https://www.nps.gov/orgs/1739/upload/preservation-brief-16-substitute-materials.pdf>

Preservation Brief #38: Removing Graffiti from Historic Masonry

<https://www.nps.gov/orgs/1739/upload/preservation-brief-38-graffiti.pdf>

### Windows

Preservation Brief #9: The Repair of Historic Wooden Windows

<https://www.nps.gov/orgs/1739/upload/preservation-brief-09-wood-windows.pdf>

## Appendix B: Links to Resources

Preservation Brief #13: The Repair and Thermal Upgrading of Historic Steel Windows

<https://www.nps.gov/orgs/1739/upload/preservation-brief-13-steel-windows.pdf>

Preservation Brief #33: The Preservation and Repair of Historic Stained and Leaded Glass

<https://www.nps.gov/orgs/1739/upload/preservation-brief-33-stained-leaded-glass.pdf>

### Cleaning and Maintenance

Preservation Brief #6: Dangers of Abrasive Cleaning to Historic Buildings

<https://www.nps.gov/orgs/1739/upload/preservation-brief-06-abrasive-cleaning.pdf>

Preservation Brief #39: Holding the Line: Controlling Unwanted Moisture in Historic Buildings

<https://www.nps.gov/orgs/1739/upload/preservation-brief-39-controlling-moisture.pdf>

### Commercial

Preservation Brief #11: Rehabilitating Historic Storefronts

<https://www.nps.gov/orgs/1739/upload/preservation-brief-11-storefronts.pdf>

Preservation Brief #25: The Preservation of Historic Signs

<https://www.nps.gov/orgs/1739/upload/preservation-brief-25-signs.pdf>

Preservation Brief #44: The Use of Awnings on Historic Buildings – Repair, Replacement, and New Design

<https://www.nps.gov/orgs/1739/upload/preservation-brief-44-awnings.pdf>

### Interior

Preservation Brief #18: Rehabilitating Interiors in Historic Buildings – Identifying and Preserving Character-defining Elements

<https://www.nps.gov/orgs/1739/upload/preservation-brief-18-interiors.pdf>

Preservation Brief #21: Repairing Historic Flat Plaster – Walls and Ceilings

<https://www.nps.gov/orgs/1739/upload/preservation-brief-21-flat-plaster.pdf>

Preservation Brief #23: Preserving Historic Ornamental Plaster

<https://www.nps.gov/orgs/1739/upload/preservation-brief-23-ornamental-plaster.pdf>

Preservation Brief #40: Preserving Historic Ceramic Tile Floors

<https://www.nps.gov/orgs/1739/upload/preservation-brief-40-ceramic-tile-floors.pdf>

Preservation Brief #49: Historic Decorative Metal Ceilings and Walls: Use, Repair, and Replacement

<https://www.nps.gov/orgs/1739/upload/preservation-brief-49-metal-ceilings-walls.pdf>

### Other

Preservation Brief #3: Improving Energy Efficiency in Historic Buildings

<https://www.nps.gov/orgs/1739/upload/preservation-brief-03-energy-efficiency.pdf>

Preservation Brief #24: Heating, Ventilating, and Cooling Historic Buildings – Problems and Recommended Approaches

<https://www.nps.gov/orgs/1739/upload/preservation-brief-24-heating-cooling.pdf>

Preservation Brief #14: New Exterior Additions to Historic Buildings – Preservation Concerns

<https://www.nps.gov/orgs/1739/upload/preservation-brief-14-exterior-additions.pdf>

Preservation Brief #32: Making Historic Properties Accessible

<https://www.nps.gov/orgs/1739/upload/preservation-brief-32-accessibility.pdf>

Preservation Brief #36: Protecting Cultural Landscapes – Planning, Treatment and Management of Historic Landscapes

<https://www.nps.gov/orgs/1739/upload/preservation-brief-36-cultural-landscapes.pdf>



**BIRMINGHAM**

A WALKABLE CITY

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**Historic District  
Design Guidelines  
Executive Summary**

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## Why Preserve?

Local historic districts are the most powerful tool local governments have to protect the character and history of an area against irrevocable loss. Protection and promotion of the city's architectural, cultural, and historic assets are two of the most important functions of a local historic district. Designating resources by creating local historic districts provides the City's Historic District Commission the chance to review exterior work, which helps promote retention of the community's irreplaceable character and vibrancy. This process of review also helps promote these local districts and inform citizens about the value of these places by educating homeowners about appropriate materials and designs for the exterior of these historic buildings.

## What is Historic?

Determining what is historic in a community is generally accomplished by conducting architectural surveys. These surveys analyze each resource in a given area (or resources connected to a specific theme such as religious architecture) and help city planners and preservationists establish local priorities. Surveying is important as it involves documenting a property's historic character and identifying important associations that may be present. This kind of survey work is crucial to ensure historic resources are not overlooked as smaller, less elaborate resources can have as much significance as high style architecture if connected to people and events important to local, state, or national history. Examples of important historic places could be the longtime home of an influential writer or activist or a whole neighborhood of intact mid-twentieth century houses that are significant as a collection of buildings because of their association with the rise of planned subdivisions in suburban communities.

## PRESERVATION PRINCIPLES

Identify



Maintain

Preserve



## Applicability of the Design Guidelines

These design guidelines are meant to be applied within the boundaries of the City of Birmingham's designated local historic districts. The design guidelines apply to all properties located within the designated districts including both historic and non-historic resources. These guidelines are also intended to be flexible enough to 'look forward' and anticipate new, additional historic districts the City may designate over time.

## The Historic District Commission (HDC)

The function and duty of the HDC is to advise the City Commission with respect to the proper development of the city with primary emphasis upon the city's established local historic districts. **Birmingham's HDC reviews proposed work within local historic districts on the exterior of a resource and its site. This includes both historic and non-historic resources within the boundaries of historic districts** (Sec. 127-10). Moreover, the HDC may review proposed work on resources within proposed historic districts. Birmingham's HDC does not review certain items within historic districts such as ordinary maintenance and minor classes of work that can be administratively approved by the planning division.

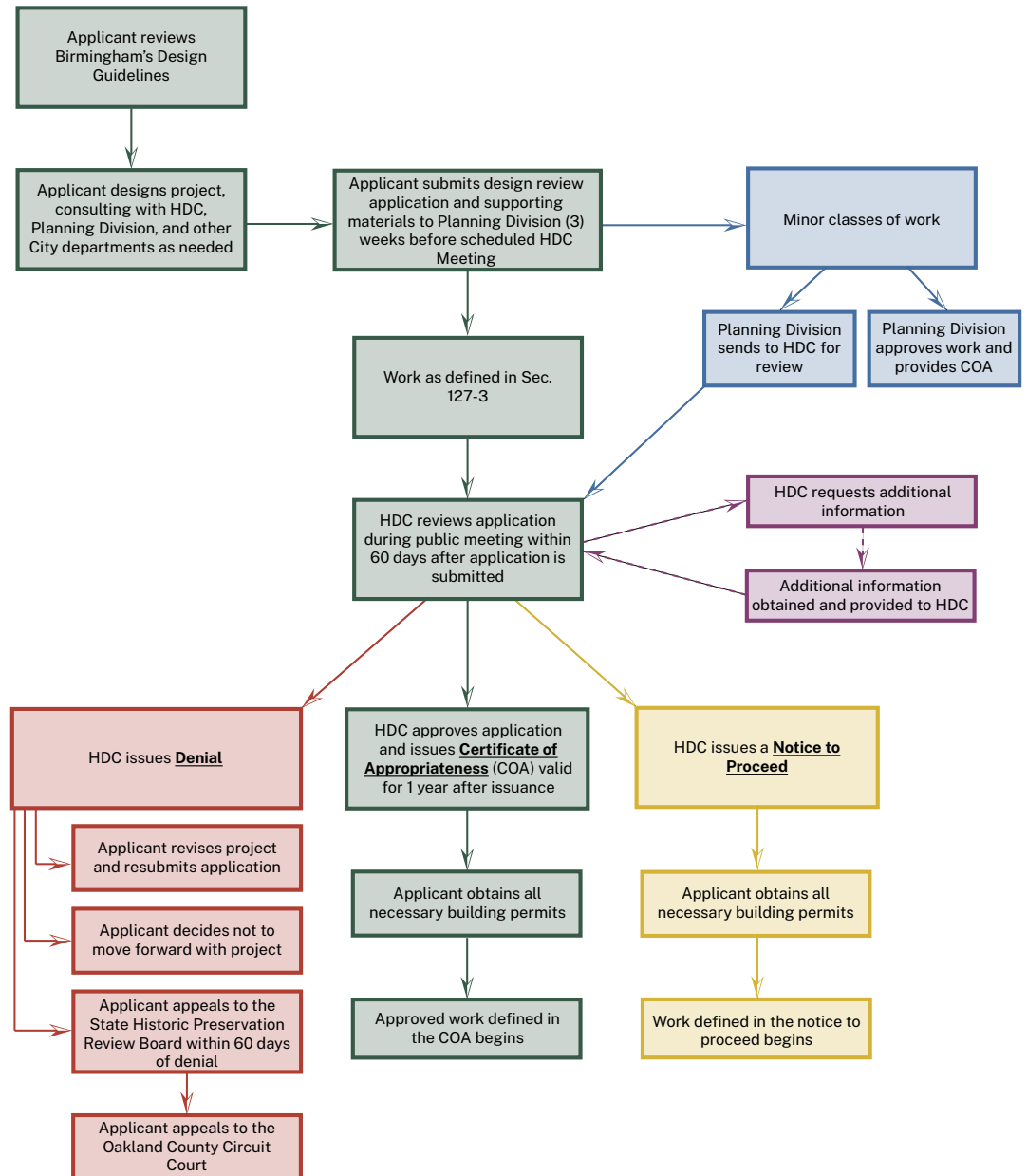
**Before planning a project, [see the full Birmingham Historic District Design Guidelines document for additional details.](#)**





# HDC Review Process

A certificate of appropriateness (COA) is a written permit approval that is issued by the Historic District Commission for work that is appropriate (i.e., meets the Secretary of Interior Standards (Standards) and the Birmingham Historic District Design Guidelines) and does not adversely affect resources within historic districts. If your property is located in a local historic district, regardless of whether it is a historic or non-historic resource, you must obtain a COA before beginning exterior work on your property. A building permit cannot be issued until you have received a COA from the HDC for the proposed work. In addition, a performance bond must be posted, and a copy provided to the Building Official before a permit application will be presented to the HDC. If work is performed without a COA or a performance bond, completed non-compliant work may need to be retroactively removed or altered in order to obtain a COA.



# Historic Resources in Birmingham

The City of Birmingham has designated several local historic districts throughout the city that largely center around the commercial business district. Many districts are individual properties, while others are entire streets or neighborhoods. In addition to formally designated districts, there are swaths of early- and mid-twentieth century neighborhoods that are not designated but nonetheless contribute to Birmingham's history. Although only exterior work in designated districts is subject to review by the Historic District Commission, homeowners in these other areas of the City may benefit from these guidelines if they seek to preserve the historic character of their home.

## Local Historic Districts

Birmingham has the following local historic districts, some of which are contiguous and others which are non-contiguous but are clustered into neighborhoods.

**Central Business District:** A contiguous district centered in the downtown commercial area. There are 28 contributing properties in this district.

**Shain Park Historic District:** A contiguous district centered around Shain Park. There are 5 contributing properties in this district.

**Bates Street Historic District:** A contiguous district centered around Bates Street between W. Brown and W. Frank Streets. There are 8 contributing properties in this district.

**Mill Pond Neighborhood:** A non-contiguous district of several properties clustered around the Mill Pond neighborhood. There are 14 contributing properties in this district.

**Merrill-Townsend-Brown Neighborhood:** A non-contiguous district of several properties clustered south and west of Shain Park. There are 12 contributing properties in this district.

**Other, Discontinuous Historic Districts:** There are an additional 15 contributing properties spread throughout the rest of the city.

For maps that illustrate each contributing and non-contributing property, please see the full [Birmingham Historic District Design Guidelines](#).



# Design Guidelines for Historic Commercial Resources

## Storefronts

**Recommended:** Identifying, maintaining, and preserving all historic storefront elements including recessed entrances, glass and display windows and transoms, among others. Only replacing storefront components that have deteriorated beyond repair.

**Acceptable:** Replacing historic storefront materials with functionally and visually appropriate materials if repair is not possible or historic materials cannot be procured.

**Not Recommended:** Removal of historic features. Altering the arrangement of entrance and windows on the façade.

## Windows

**Recommended:** Identifying, maintaining, and preserving windows and their functional and decorative features. This includes features such as frames, transoms, sashes, glass, glazing patterns, trim, and pediments.

**Acceptable:** Replacement of historic windows with functionally and visually appropriate replacement units if historic windows are deteriorated beyond repair.

**Not Recommended:** Replacement of historic windows that could be repaired. Replacement of historic windows with unsuitable modern windows. Installing replacement windows that alter window size, orientation, arrangement, types, profiles, and glazing patterns.

## Doors

**Recommended:** Identifying, maintaining, and preserving historic doors and all their associated components such as screen doors, hardware, trim, transoms, sidelights, fanlights, and door surrounds.

**Acceptable:** Installing a new door using a substitute material that matches the historic door in design, size, profile, and shape.

**Not Recommended:** Replacing a functioning or repairable historic door with a door of modern materials and incompatible design. Installing a replacement door that does not match the historic in design, such as paneling, number of lites, or color. Altering the shape/location of door.

## Exterior Wall Materials (Wood, Masonry, Metal)

**Recommended:** Identifying, maintaining and preserving historic wall materials. If wall material is deteriorated beyond repair, installing new material to match the historic material. Alternative or modern materials are only used as secondary materials, on new construction, or if historic materials are too deteriorated to repair or patch with in-kind materials.

**Acceptable:** When maintenance, repair, or in-kind replacement of the existing historic wall material is not feasible, using a modern wall material may be considered. It is recommended that the new material be installed atop the existing wall material rather than removing the historic material, and that the installation method is done in a manner where, in the future, the modern cladding material could be removed, and the historic material underneath could be restored.

**Not Recommended:** Cleaning cladding with abrasive methods such as high-PSI pressure washing, or media (sand, silicates, etc.) blasting is prohibited. Unnecessarily replacing historic wall material or trim with modern materials which contributes to a loss of historic fabric and negatively impacts the integrity of a historic resource. Applying stucco or parge to masonry not historically covered in these materials.



Preservation of historic storefront elements such as the recessed entry and leaded glass transoms is recommended. Central Business Historic District, City of Birmingham, photo by KDG, 2022.



Historic exterior wall materials are often embellished with decoration and lends character to historic commercial areas. Central Business Historic District, City of Birmingham, photo by KDG, 2022.

# Design Guidelines for Historic Commercial Resources

## Roofing

**Recommended:** Identifying, maintaining, and preserving the historic roof and any roof elements such as dormers, gutters, and chimneys in terms of materials, texture, decoration, form, and dimensions. Materials and methods used for repair match the historic materials and methods used.

**Acceptable:** Replacement of materials which are deteriorated beyond repair or can no longer be obtained for in-kind replacement with substitute materials that mimic the historic materials in dimension, color, design, texture, and appearance

**Not Recommended:** Alteration of roof form or pitch. Replacement of historic materials with modern materials in lieu of repairing or replacing in-kind.

## Rooftop Equipment and Penthouses

**Recommended:** Identifying, maintaining, and preserving historic, character-defining penthouses and rooftop equipment. Incorporating new rooftop equipment, penthouses, and screening that are sensitive to the historic character of the building in terms of scale, materials, color, and design and do not damage historic materials. Positioning rooftop equipment in a manner that is not visible from adjacent buildings and the public right-of-way. Screening rooftop equipment per Article 4, Section 4.54 of Birmingham's Zoning Ordinance.

**Acceptable:** Positioning rooftop equipment, penthouses, and screening in a manner that is minimally visible from adjacent buildings and the public-right-of-way

**Not Recommended:** Positioning rooftop equipment, penthouses, and screening in a manner that is highly visible from adjacent buildings and the public-right-of-way. Incorporating new rooftop equipment, penthouses, and screening that are insensitive to the historic character of the building in terms of scale, materials, and design and cause damage to historic materials. Removing historic rooftop penthouses and equipment

## Awnings and Canopies

**Recommended:** Identifying, maintaining, and preserving historic awnings. Maintenance and repairs that preserve sound

materials. Replacing an awning damaged beyond repair with in-kind materials and design.

**Acceptable:** If repairing or replacing an awning in-kind is not feasible, selecting a replacement awning that is historically compatible with the historic in terms of shape, material, color, texture, and design.

**Not Recommended:** Removing historic awnings that could be retained through repair or continued use. Altering the shape of historic awnings.

## Lighting

**Recommended:** Identifying, maintaining, and preserving historic commercial lighting such that the historic lighting elements and the historic materials of the building are retained. Refurbishing, without damage or replacement, of historic lighting to meet modern code requirements. Use warm temperature incandescent or LED lighting.

**Acceptable:** Installing exterior lighting where none existed before so long as it is inconspicuous or complementary to the style of the building and surrounding district, and is located where lighting traditionally existed. Incorporating architectural lighting aligned with architectural features. Installation of new exterior lighting does not damage historic materials.

**Not Recommended:** Removing historic lighting features. Replacing historic lighting features that may be repaired or replaced in-kind. Damaging or obscuring character defining features to repair, replace, or introduce new lighting.

## Signage

**Recommended:** Identifying, maintaining, and preserving historic commercial signage. When new signage is required for commercial businesses new to the historic district, the shape, scale, and type of the new signage complements any existing, historic signage and the historic signage of nearby establishments.

**Acceptable:** Replacing historic signage that is damaged beyond repair using modern materials so long as the new design complements other existing signage on the building and signage on nearby commercial buildings.

**Not Recommended:** Installing obtrusive signage that detracts from the character defining features of the building and district. Installing signage that obscures historic details.



*Buildings on the east side of Pierce Street, Central Business Historic District, City of Birmingham, photo by KDG, 2022.*



*Buildings on the north side of Maple Street, Central Business Historic District, City of Birmingham, photo by KDG, 2022.*

# Design Guidelines for Historic Commercial Resources

## Sidewalk Cafes and Patios

**Recommended:** Inclusion of a sidewalk café or patio in front of or behind a historic commercial building that does not damage any historic materials or obscure character defining features. The design of sidewalk features complements the style and design of the building. Sidewalk café and patio construction is freestanding and not mounted or mechanically fastened to façade.

**Acceptable:** Seasonal, temporary, or demountable patio furniture, awnings, or umbrellas that obscure historic building features

**Not Recommended:** Incorporation of a sidewalk café or patio that results in the damage or obstruction of historic materials and/or character defining features. Incorporation of sidewalk café or patio features that utilize materials that are unfinished or incompatible with the historic district.

## Maintenance

**Recommended:** Developing and adhering to a maintenance schedule that involves the inspection of all historic materials and features for signs of damage or deterioration. A yearly assessment is ideal, as identifying issues early is critical in preserving historic materials and reducing the cost of repairs. Inspecting the building's envelope is key, such as assessing windows, the roof, gutters, and exterior cladding.

**Acceptable:** To distribute the financial impact of historic building maintenance, developing a phased maintenance schedule that still involves inspection and assessment of historic materials and their timely repair.

**Not Recommended:** Deferring maintenance on historic materials and features, resulting in their degradation or demolition by neglect. Repairing or maintaining historic materials in such a way that the historic materials or features are damaged, removed, or obscured.

## Additions

**Recommended:** If an addition to a historic commercial building is desired, the addition is located at the rear of the building (not on a primary façade). Additions incorporate materials or design elements from the historic portion of the building but do not strive to copy historic designs or attempt to appear falsely "historic." Modern additions read as secondary to the historic structure in terms of size, scale, design, materials, and detailing.

**Acceptable:** Construction of an addition on a side or secondary elevation which is setback from the primary façade or street and is minimally visible from the public right-of-way.

**Not Recommended:** Constructing a modern addition that makes the historic portions of the building appear secondary in terms of size, scale, materials, and detailing. Building an addition on the primary façade of a commercial building, or an inappropriately sized or designed addition on another street-facing elevation.



*Regular maintenance such as painting exterior wood elements is a key component of historic building preservation. Central Business Historic District, City of Birmingham, photo by KDG, 2022.*



*Sidewalk patio construction should be freestanding and not mounted or mechanically fastened to the façade, as shown here. Central Business Historic District, City of Birmingham, photo by KDG, 2022.*

# Design Guidelines for Historic Residential Resources

## Windows

**Recommended:** Identifying, maintaining, and preserving windows and their functional and decorative features. This includes features such as frames, sashes, glass, glazing patterns, trim, and pediments. Preserving the placement and size of windows on the façade and other elevations. Performing routine yearly maintenance and repairing historic windows by patching, splicing, consolidating, or otherwise reinforcing.

**Acceptable:** Replacement of historic windows with functionally and visually appropriate windows if the historic windows are too deteriorated to repair or if in-kind materials cannot be sourced. Replacement windows matching the historic windows in material, dimension, profile, type, arrangement on the exterior, and glazing pattern.

**Not Recommended:** Replacement of historic windows that could be repaired or replaced in-kind with unsuitable modern windows. Removing and infilling historic windows.

## Doors

**Recommended:** Identifying, maintaining, and preserving historic doors and all their associated components such as screen doors, hardware, trim, transoms, sidelights, fanlights, and door surrounds. Repairing historic doors by patching, splicing, consolidating, or otherwise reinforcing. Wood doors that appear to be deteriorated may be repaired rather than replaced. If a historic door must be replaced, installing a door constructed of the same materials, using the same design and profile, and of the same size as the historic

**Acceptable:** Installing a new door using a substitute material that matches the historic door in design, size, profile, and shape. door.

**Not Recommended:** Replacement of historic doors that could be repaired or replaced in-kind with an unsuitable modern replacement. Removing and infilling of historic door openings.

## Exterior Cladding (Wood, Masonry)

**Recommended:** Identifying, maintaining, and preserving historic cladding materials. If historic cladding material is severely deteriorated beyond repair, installing new cladding material to match the historic material in dimension, texture, color, and profile is recommended. If portions of severely deteriorated cladding must be replaced, it is recommended that replacement occurs only where necessary and splice new, matching material with existing material rather than replacing in full.

**Acceptable:** When maintenance, repair, or in-kind replacement of the existing historic cladding material is not feasible, use of a modern cladding material may be considered. It is recommended the new material be installed atop the existing cladding rather than removing the historic cladding before installation of the new material.

**Not Recommended:** Using abrasive cleaning methods such as high-PSI pressure washers or media blast cleaning systems. Painting unpainted masonry. Unnecessarily replacing historic siding or trim with modern materials.

## Roofing, Gutters, Dormers, Chimneys

**Recommended:** Identifying, maintaining, and preserving the historic roof, dormers, gutters, and chimney in terms of materials, texture, decoration, form, and dimensions. Materials and methods used for repair match the historic materials and methods used. Downspouts are aligned with architectural features or along edges of the façades to not distract from the historic character of the façade. Other roof elements such as cupolas, towers, and cresting are maintained and repaired using in-kind materials.

**Acceptable:** Some historic roofing materials such as slate, wood shake, and clay tiles can be difficult to source. Replacement of these deteriorated historic roofing materials with substitute materials may be considered if they are historically compatible by closely matching the historic materials in dimension, color, design, texture, and appearance. Addition of new dormers or a gutter system that are sensitive to the historic character of the house in terms of scale, materials, and design. Dormer additions or the installation of gutters that do not detract from character defining features of the house.

**Not Recommended:** Alteration of roof form and/or additions of inappropriately sized and arranged dormers. Replacement of historic materials or gutter systems with incompatible replacement materials or materials which never existed on the house and that detract from the historic character of the house.



*Preserving historic windows and maintaining historic exterior cladding preserves historic character in residential areas. City of Birmingham, photo by KDG, 2022.*



*The prominent dormer and wood shingle roof are character defining features and should be preserved. Bates Street Historic District, City of Birmingham, photo by KDG, 2022.*

# Design Guidelines for Historic Residential Resources

## Porches, Decks, Patios, Balconies

**Recommended:** Identifying, maintaining, and preserving historic porches, decks, patios, and balconies. For features constructed of wood, painting or staining existing wood to protect the wood surface from UV and water damage. Cleaning features with a gentle, water-based cleanser on an as-needed basis. Repairing historic materials by using the same material to patch, consolidate, splice, and reinforce the existing historic material.

**Acceptable:** When maintenance, repair, or in-kind replacement of the existing historic material is not feasible, using a modern material may be considered if the modern material closely matches the historic material in terms of design, color, texture, and dimension. Installation on a secondary façade of a porch, deck, patio, or balcony where none existed historically if the new feature is compatible with the house's design, scale, and style. Further, installation and construction does not damage or obscure historic materials or character defining features.

**Not Recommended:** Power-washing or media-blasting porch, deck, patio, or balcony features. Removing or replacing historic materials that could be repaired or salvaged. Removal of a historic porch, deck, patio, or balcony.

## Lighting

**Recommended:** Identifying, maintaining, and preserving historic lighting on the house and on the property such that the historic lighting elements and the historic materials of the house are retained. Refurbishing, without damage or replacement, of historic lighting to meet modern code requirements.

**Acceptable:** Installing exterior lighting on the house where none existed before so long as it is inconspicuous or complementary to the style of the house.

**Not Recommended:** Removing historic lighting features. Replacing historic lighting features that may be repaired or replaced in-kind.

## Awnings

**Recommended:** Identifying, maintaining, and preserving historic window and door awnings. If replacement of historic awnings is necessary, the replacement awning matches the color, texture, design, and dimension of the historic awning.

**Acceptable:** If the same material cannot be obtained to replace historic awnings, a substitute material or design may be used that is historically compatible with the house's design.

**Not Recommended:** Removing historic awnings. Replacing historic awnings with historically inappropriate awnings. Installing awnings that damage surrounding historic materials.

## Solar Panels

**Recommended:** Installation of solar panels in areas that do not detract from, damage, or conceal a house's historic, character defining features or the collective design of a historic district

**Acceptable:** Installation of solar panels on non-historic accessory buildings such as a modern garage or modern addition, as long as they are not conspicuously placed and highly visible from the public right-of-way.

**Not Recommended:** Installing solar panels in conspicuous places that detract from the character defining features of a historic house or a historic district. Removing, damaging, or covering up historic features and materials to install solar panels.



*Porches were common components of historic residences and should be preserved. City of Birmingham, photo by KDG, 2022.*



*Modest, mid-twentieth century homes are worthy of preservation and should not be overlooked. City of Birmingham, photo by KDG, 2022.*

# Design Guidelines for Historic Residential Resources

## Accessory Structures

**Recommended:** Identifying, maintaining, and preserving historic accessory structures. Cleaning materials with a gentle, water-based cleanser on an as-needed basis. Repairing damaged materials with in-kind materials using the historic method or accepted preservation methods such as patching, consolidating, splicing, and reinforcing material. Selectively replacing material with in-kind material only when the existing material is too deteriorated to repair.

**Acceptable:** If the construction of a new accessory structure is desired, the new structure is secondary to the historic house and compatible in terms of scale, design, and materials. New accessory structures are sited in a historically accurate way, such as garages being located at the rear of the property. The use of historically appropriate materials for the construction of new accessory structures is prioritized.

**Not Recommended:** Constructing a new accessory structure that attaches to the historic house and becomes a focal point from the public right-of-way. Constructing a new accessory structure that is not compatible with the scale of the primary resource (the house).

## Maintenance

**Recommended:** Developing and adhering to a maintenance schedule that involves the inspection of all historic materials and features for signs of damage or deterioration. A yearly assessment is ideal, as identifying issues early is critical in preserving historic materials and reducing the cost of repairs. Inspecting the building's envelope is key, such as assessing windows, the roof, gutters, and exterior cladding

**Acceptable:** To distribute the financial impact of historic building maintenance, developing a phased maintenance schedule that still involves inspection and assessment of historic materials and their timely repair.

**Not Recommended:** Deferring maintenance on historic materials and features, resulting in their degradation or demolition by neglect. Repairing or maintaining historic materials in such a way that the historic materials or features are damaged, removed, or obscured.

## Additions

**Recommended:** Ensuring that historic materials or character defining features are preserved, protected, and not obscured by new construction. If an addition to a historic house is desired, the addition is located at the rear of the house so that visibility from the public right-of-way is minimized. Roof forms and pitch are consistent with the existing house.

**Acceptable:** Constructing additions that minimally impact historic materials and design elements. Constructing an addition on a side elevation that reads as secondary to the historic house.

**Not Recommended:** Removing, damaging, or obscuring historic materials or design elements as a result of constructing an addition. Constructing a modern addition that makes the historic portions of the house appear secondary in terms of size, scale, materials, and detailing. Building an addition on the façade of a house, or an inappropriately sized or designed addition highly visible from another street-facing elevation.



*This exterior elements of this Folk Victorian home are well maintained. City of Birmingham, photo by KDG, 2022.*



*The placement of this addition to the left of the historic home is acceptable as it does not overwhelm this historic portion of the home and is placed near the rear. Bates Street Historic District, City of Birmingham, photo by KDG, 2022.*



## Applying the Guidelines to Non-Historic Resources within Historic Districts

The HDC has authority to review proposed work on all resources within a historic district, as work has the potential to detract from or contribute to the historic character of the district. The [Secretary of Interior Standards](#) and [Birmingham's Historic District Design Guidelines](#) apply to both non-historic and historic resources. However, the HDC may be concerned with different elements of a project for non-historic resources. For example, when there is little or no historic material, such as in new construction or heavily altered buildings, the most applicable guidelines will likely be those that relate to size, scale, and massing rather than discrete material changes. When reviewing proposed work on non-historic resources within a historic district, the HDC considers the following elements to ensure work in historic districts does not adversely affect the use, appearance, or value of adjacent historic properties:

- Site layout
- Orientation and location of all buildings
- Relationships of adjacent buildings and open space
- Ensure the total design is compatible with the intent of the urban design plan
- Ensure the overall feeling of the historic district as a cohesive unit is maintained



*Birmingham's HDC has the authority to review modern construction in locally designated historic districts. The images above are of new construction in the Bates Street Historic District. City of Birmingham, photos by KDG, 2022.*

# Design Guidelines for New Construction in Historic Districts

## New construction should avoid the following:

**Exact Replication.** New infill construction should not be ‘falsely historic’ or contribute to a false sense of history. Instead, the new construction should blend into the existing streetscape while being distinguishable as modern.

**Overly Differentiating from the Old.** While new construction should be distinguishable from its surrounding historic neighbor buildings, a compatible design will still blend with the scale, massing, and proportions of the existing neighborhood.

**Out-of-Scale.** The height, footprint, and massing of the existing neighborhood should be studied, and new infill construction should be compatible with the predominant scale and massing of neighboring buildings. For example, a large suburban-style house may be out-of-scale in a neighborhood of small cottages.

## Façade Composition and Massing:

**Recommended:** Designing and constructing new buildings that complement the façade composition and massing of surrounding buildings. Designing and constructing new buildings with similar setbacks and site arrangements to fit in with the surrounding properties in the historic district. Maintaining ratio of building’s footprint to lot size.

**Not Recommended:** Constructing new buildings that significantly differ in size from surrounding buildings. Designing new buildings with massing and scale that is not complementary to the historic district or obscures historic buildings.

## New Construction in Historic Residential Districts:

**Recommended:** Designing and constructing new residential structures or accessory structures that respect the existing scale, forms, setbacks, style, materials, and streetscape rhythm of existing historic resources. Utilizing exterior materials that are visually compatible with the surrounding house in terms. Respecting the historic arrangement of site elements such as the location of and spacing between the house, accessory structures, and open space.

**Not Recommended:** Demolishing historic houses in order to build larger houses that do not fit the scale, massing, form, or setback of existing historic resources. Constructing new houses that are not compatible with existing housing in terms of scale, form, setback, style, materials, and streetscape rhythm. Altering the arrangement of the house, accessory structures, and open space in a manner that is not compatible with the historic district.

## New Construction in Historic Commercial Districts:

**Recommended:** Designing and constructing new commercial structures or accessory structures that respect the existing scale, forms, setbacks, style, materials, and streetscape rhythm of existing historic resources. Utilizing exterior materials that are visually compatible with the surrounding buildings in terms of finish, color, texture, and design. Respecting the historic arrangement of site elements such as the location and spacing of the historic buildings, the sidewalk, and the street.

**Not Recommended:** Constructing new commercial buildings that are not compatible to existing buildings in terms of scale, form, setback, materials, and streetscape rhythm. For example, a new building constructed without a street level entry would impermissibly change the relationship to the sidewalk and street in a manner that is not compatible with the historic district. Damaging surrounding historic structures through the construction of a new building.



Large and prominent additions that are visible on the primary facades are not recommended, City of Birmingham, photo by KDG, 2022.



The Pierce Street Garage is a Brutalist style parking structure that, while not located in a historic district, is directly adjacent to the Shain Park Historic District. While the scale of the garage is compatible with the district, it does not incorporate street level commercial space which is a recommendation for newly built parking garages. City of Birmingham, photo by KDG, 2022.

## Design Guidelines for Landscape and Open Spaces in Historic Districts

**Recommended:** Identifying, maintaining, and preserving historic site features and landscapes such as fences, trees, hedges, stone walls, and open spaces. Repairing and maintaining historic fencing, walls, and other historic features. Locating new fences on the setback line and on the lot line. Retaining other historic site features such as stone curbs, decorative paving, designed grades and natural landforms, or hitching posts. Using hedges in place of fencing and placing vegetation along fencing.

**Not Recommended:** Removing mature trees, hedges, walls, fencing, and other historic landscaping. Constructing new landscape or site features that are out of scale with the surrounding character of the historic district. Introducing large amounts of hardscape (such as concrete pavement) which diminishes or removes historic landscape features and the ratio of building to yard or landscape. Installing fencing in the front yard over 3' tall and over 6' tall in the back yard.



*Mature landscaping and tree cover are an important part of a historic district. City of Birmingham, photo by KDG, 2022.*



*Maintaining and retaining site features like this stone wall contribute to the character of the neighborhood. City of Birmingham, photo by KDG, 2022.*

# Acknowledgements

## **City of Birmingham Planning Department**

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## **State Historic Preservation Office**

S. Alan Higgins

Amy Arnold

## **Kraemer Design Group, LLC**

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## MEMORANDUM

Planning Division

**DATE:** June 7, 2023

**TO:** Historic District Commission Members

**FROM:** Nicholas Dupuis, Planning Director

**SUBJECT:** Historic Design Guidelines – Deliverable #4 (Final)

On June 13, 2022 ([Agenda](#) – [Minutes](#)), the City Commission selected Kraemer Design Group (KDG) to create a new historic design guidelines document for use by the Historic District Commission and its constituents.

Based on the response to the City’s Request for Proposal, as well as the guidelines set forth by the State Historic Preservation Office for the Certified Local Government grant funding, the following timeline was set forth by KDG, and can be expected to be closely followed throughout the project:

| Task   | Due Date       | Comments                     |
|--|----------------|------------------------------|
| Deliverable #1: KDG delivers outline of Guidelines and one completed section to the City | September 2022 | -                            |
| Comments on outline/draft due back to KDG  | September 2022 | 30-day review period         |
| Deliverable 2: KDG delivers first draft of Guidelines (75% completion) to the City       | December 2022  | -                            |
| Comments on draft due back to KDG  | January 2023   | 45-day review period.        |
| Deliverable 3: Second draft of Guidelines to 90% completion                              | March 2023     | -                            |
| Comments on draft due back to KDG  | April 2023     | 30-day review period         |
| Deliverable 4: Final Design Guidelines   | June 2023      | -                            |
| Public Engagement Meeting  | June 2023      | In person or virtual meeting |
| Debriefing Meeting with the City and SHPO  | June 2023      | If needed                    |
| Contract end date  | June 2023      | -                            |

On September 7, 2022 ([Agenda](#) – [Minutes](#)), the Historic District Commission (HDC) reviewed Deliverable #1 provided feedback to the consultants on the outline/contents of the design guidelines document, as well as feedback on a sample section that had been completed. In addition, the SHPO was also provided a copy of Deliverable #1 to review and provide comments.

On January 4, 2023 ([Agenda](#) – [Minutes](#)), the HDC reviewed Deliverable #2, which consisted of an introduction and 6 separate sections in various stages of completeness (75% draft). The HDC provided several items of feedback relating to captions, the types of information proposed, and provided a consensus that they felt as though the consultant team was on the right track.

On March 15, 2023 ([Agenda](#) – [Minutes](#)), the HDC spent a considerable amount of time reviewing Deliverable #3 with the consultant, which was a 90% draft. The feedback at that point was mostly detail-oriented, as the HDC was generally pleased with the format, content, and design of the Guidelines.

At this time, the consultant has delivered the final installment of the Historic Design Guidelines, which includes the executive summary. It appears as though the feedback given by the HDC was all considered, and that the document is complete. In addition, the document appears to meet all of the criteria needed to receive the reimbursement grant from the Certified Local Government program that the City was awarded in 2021.

**Suggested Motion Language**

Motion to recommend APPROVAL to the City Commission the completed Birmingham Historic District Design Guidelines.



## **MEMORANDUM**

Finance Department

**DATE:** June 9, 2023  
**TO:** Thomas M. Markus, City Manager  
**FROM:** Mark Gerber, Finance Director/Treasurer  
**SUBJECT:** 4<sup>th</sup> Quarter Budget Amendment

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### INTRODUCTION:

Annually, projected revenues and expenditures are received by department heads in order to determine whether any additional adjustments are necessary to the City's current year budget. These adjustments are typically brought to the City Commission in June before the end of the fiscal year.

### BACKGROUND:

The Uniform Budgeting Act requires budgets to be amended on a periodic basis as needed. Typically, this is done when the City Commission takes action to approve contracts throughout the year. As the fiscal year end approaches, departments were asked to submit their final revenue and expenditure estimates for the fiscal year. These estimates are compared to the amended budget to determine whether additional budget adjustments are necessary. By state law, only governmental funds are required to have budgets and therefore are the only funds that are recommended to be adjusted.

### LEGAL REVIEW:

No legal review is required for this action.

### FISCAL IMPACT:

Based on an analysis by the Finance Department of information provided by department heads, the following is a list of the City's governmental funds and recommended adjustments:

#### **General Fund**

Fines and Forfeitures are anticipated to be approximately \$.4M over budget as a result of an increase in revenue from the 48<sup>th</sup> District Court due to an increase in the City's caseload percentage. The additional revenue will be used to offset an increase court related expenditures as described below.

Expenditures for Judicial are expected to be over budget by approximately \$.3M due to the City's higher percentage of court costs. Health and Welfare's expenditures are anticipated to be over

budget by approximately \$10,000 due to timing of core clinician invoices from the City of Auburn Hills. Recreation and Culture is not projected to be over budget, but due to the variability of payroll costs as a result of time spent by the Department of Public Service employees, it is recommended to increase this budget to ensure that costs remain under budget. The adjustment to Health and Welfare and Recreation and Culture will be offset by a projected budget surplus in streetlights in the Public Works category.

**Greenwood Cemetery Perpetual Care Fund**

No adjustments needed.

**Major Streets**

No adjustments needed.

**Local Streets**

No adjustments needed.

**Solid Waste Fund**

No adjustments needed.

**Brownfield Redevelopment Authority**

No adjustments needed.

**Principal Shopping District**

No adjustments needed.

**Triangle District Corridor Improvement Authority**

No adjustments needed.

**Law and Drug Enforcement Fund**

No adjustments needed.

**Debt Service Fund**

No adjustments needed.

**Capital Projects Fund**

Investment income is projected to be greater than budget for the fund. As a result of bus shelter repairs and purchases and architectural services, the fund is expected to be over budget in expenditures. The surplus of investment income will be sufficient to cover the bus shelter repairs and architectural services. The bus shelter purchases will be offset by SMART funding.

**Park Improvement Construction Fund**

No adjustments needed.

**SUMMARY:**

Based on the analysis performed by the Finance Department, it is recommended that the City Commission approve the suggested budget amendments to the General and Capital Projects Funds as explained above.



ATTACHMENTS:

None.

SUGGESTED RESOLUTION:

To approve the appropriations and amendments to the fiscal year 2022-2023 budget as follows:

**General Fund:**

Revenues:

|                           |                        |                   |
|---------------------------|------------------------|-------------------|
| Fines and Forfeitures     | 101.0-000.000-657.0001 | 300,000           |
| Total Revenue Adjustments |                        | <u>\$ 300,000</u> |

Expenditures:

|                               |                        |                   |
|-------------------------------|------------------------|-------------------|
| Judicial                      | 101.0-286.000-959.0300 | \$ 300,000        |
| Public Works                  | 101.0-448.000-981.0100 | (60,000)          |
| Health and Welfare            | 101.0-656.000-811.0000 | 10,000            |
| Recreation and Culture        | 101.0-785.001-702.0001 | 50,000            |
| Total Expenditure Adjustments |                        | <u>\$ 300,000</u> |

**Capital Projects Fund:**

Revenues:

|                           |                        |                  |
|---------------------------|------------------------|------------------|
| Local Contributions       | 403.0-901.020-587.0000 | \$ 60,000        |
| Interest and Rent         | 403.0-000.000-665.0001 | 23,000           |
| Total Revenue Adjustments |                        | <u>\$ 83,000</u> |

Expenditures:

|                               |                        |                  |
|-------------------------------|------------------------|------------------|
| Capital Outlay                | 403.0-901.020-971.0100 | \$ 70,000        |
|                               | 403.0-901.004-977.0000 | 13,000           |
| Total Expenditure Adjustments |                        | <u>\$ 83,000</u> |



## **MEMORANDUM**

Legal Department

**DATE:** June 20, 2023  
**TO:** Jana Ecker, Acting City Manager and City Commission  
**FROM:** Mary M. Kucharek  
**SUBJECT:** Request for Closed Session Under MCL § 15.268 Sec. 8(h) of the Open Meetings Act

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### INTRODUCTION:

This matter concerns a written attorney/client privilege communication.

### BACKGROUND:

The City Attorney will discuss and answer questions regarding a written attorney/client privilege communication.

### LEGAL REVIEW:

I am also requesting closed session on June 26, 2023 pursuant to MCL § 15.268 Sec. 8(h) to discuss a written attorney/client privilege communication.

### FISCAL IMPACT:

To be discussed in closed session.

### ATTACHMENTS:

Open Meetings Act (Excerpt) Act 267 of 1976, MCL § 15.268 Closed sessions; permissible purposes, Sec. 8(h).

**SUGGESTED COMMISSION ACTION:**

Make a motion to meet in closed session to discuss a written attorney/client privilege communication pursuant to MCL § 15.268 Sec. 8(h) of the Open Meetings Act.

**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."

JUN 20 2023

RECEIVED

Donna M. Vorhees  
(248) 464-2411  
[dmvorhees613@gmail.com](mailto:dmvorhees613@gmail.com)

June 20, 2023

**Re: Airbnb: Short-Term Rental ("STR")  
located at 1030 Wakefield St., Birmingham,  
MI**

Dear City Officials,

Please see the attached letter from Nathan Scherbarth to Mr. Bruce Johnson sent in July of 2022. Nathan offered to represent our community in a letter to the city, sharing a history of the above- mentioned Airbnb, and a request for the City of Birmingham to amend its ordinances with specific restrictions on the operation of STRs.

Per Mr. Scherbarth, we share his letter again, as it is relevant to serious concerns occurring at the rental property to date.

Sincerely,  
Donna M. Vorhees  
Russell J Vorhees

Enclosure

Via email to: [bjohnson@bhamgov.org](mailto:bjohnson@bhamgov.org)  
Mr. Bruce Johnson, Building Official  
City of Birmingham  
151 Martin Street, #223  
Birmingham, MI 48009

**Re: 1030 Wakefield Street Short-Term Rental Problems**

Dear Mr. Johnson,

The undersigned live in the immediate vicinity of 1030 Wakefield Street (“the Property”), which is currently being used as a short-term rental/AirBnB property by its owner, Clemens Conrad. We are writing to request that the City (1) consider whether the rental license for the Property can be revoked; (2) to request that the City consider prohibiting or placing additional restrictions on the operation of short-term rentals; and (3) to request that the City consider amending its ordinances related to fireworks to prevent individuals from shooting off mortars or other launched fireworks in close proximity to homes and trees. More specifically, please consider the following:

**History of the Property and Current Issues**

Clemens Conrad owns the Property at 1030 Wakefield Street. It is a single-family home, similar in character to many in the surrounding residential neighborhood. The neighborhood is bordered by Southfield to the east, Saxon to the south, and the Birmingham Country Club to the west. It is a quiet, stable neighborhood of colonials, cape cods, and bungalows, filled with a mix of young families and older residents, many of whom have owned their homes for many years and decades.

Mr. Conrad previously lived at the Property with his girlfriend. He moved out last year, and rented to a stable young family for about six months. Upon information and belief, Mr. Conrad is no longer a resident of Birmingham. Prior to moving out, Mr. Conrad did little to keep the property up. He frequently left the grass unmowed. He left construction supplies in his driveway, without permit, for months on end. Upon information and belief, he was cited by the City last summer for this.

In approximately May 2022, surrounding neighbors became aware that Mr. Conrad hired a third-party management company (“Stay Arbor”) to run the Property as a short-term rental property. The Property is being advertised on AirBnB and Stay Arbor, and may be accessible from other short-term rental platforms. Neither Mr.

Conrad nor Stay Arbor ever alerted neighboring homeowners to this change, nor did they provide any contact information which could be used in the event issues occurred on the premises.

On July 4, 2022, short-term renters arrived at the premises. There were approximately eight adults (two women and six men) an infant and two small children. Upon information and belief, they were unable to get into the rental initially, and may have contacted the police for assistance.

That evening, the short-term renters began shooting off a large quantity of fireworks. They were not simply shooting off small consumer fireworks; these were large mortars and other ground-to-air devices that were shot off in rapid succession over a period of approximately an hour. They were shot from the wood deck of the Property, as well as from the ground approximately 5 feet from a neighbor's wooden fence. Many of the fireworks exploded near the ground, were aimed at neighboring homes (it is unclear whether this was intentional), and shot sparks and debris across several neighboring properties.

Neighbors were unable to reach either Mr. Conrad or Stay Arbor (which does not provide a contact number and only lets individuals contact the company by requesting to "book" a property). The Birmingham Police (Officer Krumm, Sergeant Buttigieg) responded. They initially advised that they could not stop the display because Birmingham City Ordinance allows fireworks displays on the 4th of July. They asked the renters to be careful because of the risk of fire to the houses in close proximity. The renters ignored them and continued to detonate streams of fireworks. (See Birmingham Police Complaint Number 22 11169).

The next day, the Fire Marshall, Jack Pesha, inspected neighboring properties. There was debris on several roofs, in trees, in a neighboring pool, on an awning, and all over the ground. This included cinders, ashes, fireworks housings, concrete chunks, nails, pieces of roman candles, and other detritus. The ground where the fireworks had been launched from was burned out, with grass missing. Eventually, it was determined that the renters did not have permission to shoot off fireworks from the premises owner, and fines were issued. Nonetheless, neither Stay Arbor nor Mr. Conrad had the renters removed from the premises.

On July 7, 2022, the renters again shot off fireworks. The police were again called, and citations again issued to the renters. Finally, Stay Arbor attempted to get the renters off the premises. In an illustration of just how inept Stay Arbor and Mr.



Conrad are at maintaining standards for their renters and preventing problems from arising, Stay Arbor asked a *neighboring property owner* for legal advice as to how to remove the offending renters from the premises.

The fireworks incidents created a nuisance for several neighboring properties. Several roofs had debris on them requiring cleaning. A pool needed to be professionally shocked with chemicals, due to debris staining the cement bottom. A pergola cover was damaged from cinders falling. A small dog picked up a mortar fragment containing a chunk of concrete and a nail but thankfully avoided major injury. Yet upon information and belief, Stay Arbor and Mr. Conrad have not paid for any repairs to the neighboring premises necessitated by their renters' thoughtless and dangerous conduct. *Photographs and videos of the fireworks and damages caused are available upon request.*

The very next renters that arrived started their stay by screaming in the driveway of the Property on the phone, threatening to sue Stay Arbor because they could not get into the premises. They proceeded to have several loud parties during their stay in the backyard.

The current renters started their stay by holding an exhibitionist photo shoot on the back deck, in full view of several neighboring properties. A woman removed her clothing on the upper deck and proceeded to take nude photos of herself.

For the duration of these issues, Mr. Conrad has been virtually impossible to reach and has done nothing to address neighborhood concerns. Nor has Stay Arbor provided any indication that they are working on vetting procedures to insure more reliable tenants in the future. It is unclear what, if any, vetting procedures they utilize for this property, but given the events of the past month, it is clear that whatever procedures may be in place are either not followed or do not exist.

Given the myriad issues that have already occurred on the Property in the short period of time Mr. Conrad and Stay Arbor have operated it as a short-term rental, and given their unresponsiveness to issues, neighboring property owners are rightly concerned about what problems the future may bring.

**Consequently, the undersigned request that the City take all enforcement action available against Mr. Conrad and Stay Arbor, and consider revoking the rental license issued for the Property.**

**Request to Consider Limiting or Banning Short-Term Rentals**

Additionally, they undersigned request that the City explore amending its Ordinances to ban or limit short-term rentals. We have seen first-hand how disruptive and deleterious a single poorly-managed short-term rental can be on the character of an otherwise quiet, stable neighborhood. It is our understanding that the City has concluded that the current Ordinances do not allow treating short-term rental units differently than any other residential rental. If that is the case, we respectfully request that the City consider a change in the Ordinances.

Birmingham is a family-friendly, closely woven community with high marks for schools, public safety, and amenities. Short-term rentals threaten the stability, quietude, and safety of our neighborhoods. A steady stream of short-term renters (who are apparently only minimally, if at all, vetted) creates discontinuity and a likelihood of problems arising in the community. The social discontinuity inherent in short-term rentals creates unstable neighborhood dynamics that make it more difficult for a neighborhood to prevent crime (See, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8279333/>: “the prevalence of Airbnb listings erodes the natural ability of a neighborhood to prevent crime”). In addition, more short-term rentals in a community negatively affects housing affordability as investors and speculators impact the market. ([https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3435105](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3435105) ). Specifically, short-term rentals can have negative impacts on the availability of long-term rentals and affordable housing.

Currently, based upon internet searches of AirBnB, Stay Arbor, and other rental sites, it appears that there are only a handful of short-term rentals advertised within the City of Birmingham. This is not yet a widespread issue in our community, but our first-hand experiences have convinced us it should never be allowed to become one. We therefore ask that the City consider banning, or at the very least seriously limiting, short-term rentals within the City.

Michigan law would allow such a prohibition. See, e.g., *Reaume v Tp of Spring Lake*, 505 Mich 1108 (2020); *Concerned Property Owners of Garfield Tp, Inc v Charter Tp of Garfield*, unpublished opinion per curiam of the Michigan Court of Appeals, issued October 25, 2018 (Docket No. 342831).

Moreover, other sizable communities in the area have enacted prohibitions and restrictions, including Ann Arbor and Ferndale. And while House Bill 4722 (2021) would potentially prohibit local governments from eliminating short-term rentals,

the bill has not passed the Michigan Senate. It was referred to committee in October 2021 and has not emerged since (See 2021 SJ 86, 10/27/2021). Thus, it is unlikely to be enacted.


Thus, we respectfully request that the City consider prohibiting all short-term rentals, or limiting short-term rentals to fewer individuals per home, with strict regulations on use, similar to what the City of Ferndale has enacted.


### **Fireworks Ordinance Revision**


Finally, we respectfully request that the City consider revising the fireworks ordinance, Section 74-193 and 74-194, to include additional restrictions on *where* an individual can discharge fireworks. The experiences detailed above show the dangers of using fireworks close to trees and homes. We respectfully request that you consider prohibiting any airborne fireworks discharge within at least 25 feet of structures or trees.


If you have any questions or would like to discuss these issues further, we are happy to engage with the City.


Respectfully submitted,

Signature:   
Name: Nathan Scherbarth  
Address: 955 Wakefield

Signature:   
Name: DONNA VORHEES  
Address: 990 WAKEFIELD

Signature:   
Name: MEL LARSEN  
Address: 948 Wakefield

Signature:   
Name: TIM NASSO  
Address: 900 W. SOUTH LAWN

Signature:   
Name: Mike Grubirich  
Address: 990 West Southlawn Blvd



## MEMORANDUM

Legal

**DATE:** June 21, 2023

**TO:** Jana Ecker, Acting City Manager and City Commission

**FROM:** Mary M. Kucharek

**SUBJECT:** Short-term Rentals

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As you may be aware, the State of Michigan, for the last number of years has been working through the legislature to have statutory language that will strip municipalities of any control over short-term rentals. The MML has been challenging these statutory changes for years. As of this date, no statutory change in Michigan law has occurred.

Last summer, and more recently, there have been complaints regarding a rental house at 1030 Wakefield. It was first brought to our attention after an incident of fireworks gone awry. As a result, the City did amend the fireworks ordinance, which gave the ordinance a little more teeth and the ability to better protect surrounding neighbors.

As a result of the complaints on Wakefield (which I will add is the only complaint of a short-term rental that I have received as City Attorney), the Building Department and the Legal Department spent a considerable amount of time reviewing the City's rental ordinances which can be found in the Birmingham Code of Ordinances at Sec. 22-331 through 22-375. The City's rental requirements are the same for both short-term and long-term rental properties. The owner of a rental unit or dwelling must apply for and receive an annual license for any property being offered for rent or lease. Inspections are conducted in accordance with the International Property Maintenance Code. The Building Official, pursuant to Sec. 22-335 shall not issue an annual license for any dwelling, unit, or room which is in violation of any provisions of the Article or provisions of the Code. The Birmingham City Code demands that all rental properties, whether short-term or long-term, be maintained in conformance with the criteria set forth in the International Property Maintenance Code.

Despite the State of Michigan attempting to remove local control of short-term rentals, we have examined our ordinances to determine if there is anything we could do to decrease negative impacts to surrounding neighborhoods where short-term rentals are involved. We must balance the rights of surrounding neighbors to peace and quiet enjoyment of their homes, and a person's individual rights to utilize their private property as they choose. We do believe the most

important thing that we can do for the neighbors of any rental property is to increase police action when a complaint is made. Sanctions and penalties for violations of the Birmingham Code of Ordinances can be civil infractions or criminal misdemeanors. An officer can issue a ticket, which is a Complaint and Warrant for a misdemeanor committed in their presence. Officers can also issue tickets for civil infractions committed in their presence. The Police Department has always been supportive in responding to complaints made for violations of any of the City's Code of Ordinances, be it short-term rentals, long-term rentals, or any other abode in the City of Birmingham.

No changes to the City's ordinances are necessary, nor would any changes to the ordinances prevent a short-term rental from having potential behavioral issues. The City's Code of Ordinances provides the Building Department, Code Enforcement and Police Department the ability to address any sort of violation for prohibited activities and allows for routine inspections and minimum standards for all long and short-term rental properties.



## **CITY MANAGER'S REPORT**

June 2023

### **Baldwin Public Library**

#### **Independence Day**

The Baldwin Public Library will be closed on Tuesday, July 4 in observance of the Independence Day holiday.

#### **Library Board Update**

The Library Board met on June 21, 2023 for its regular meeting. The board approved a 4% salary increase for all staff and approved an updated Pay & Benefits Schedule for FY2023-24.

#### **Phase 3 Construction Project of the Library's Front Entrance**

The project will start on Wednesday, July 5, 2023. A construction fence will be placed along Bates Street and Merrill Street, and signs will be placed on the fencing directing visitors to the north entrance. A temporary ramp will be placed on the north side of the building to make the Youth Terrace door fully ADA-accessible. As you walk into the new temporary entrance, two circulation workstations will be set up inside the door. The first station will face the door. The second station will be located next to the existing Youth self-check machine.

The curbside drop box will be temporarily moved to the north side of the building at the southwest corner of Martin and Bates street. One diagonal parking spot will be blocked off for drop box access.

#### **Library Tour**

If you'd like to learn even more about the library, join Library Director Rebekah Craft for a Behind the Scenes Tour. You'll visit staff areas, learn how items are added to the collection, and hear about new programs and services. The next tour will meet in the Library's vestibule on Wednesday, July 12 at 11:00 a.m.

#### **Upcoming Events of Interest**

Register for these programs and more at [www.baldwinlib.org/calendar](http://www.baldwinlib.org/calendar).

#### **Parenting Strategy: Social Conflict & Communication for Elementary and Middle School Parents**

Monday, July 10 at 7:00 p.m.

Hosted by Jessica Cortez, LMSW, founder of Bloomfield Child and Family Counseling. Jessica and her staff will discuss different parenting topics along with concrete strategies and insights for parents. Registration required.

### **Baldwin's Digital Library**

Thursday, July 20 at 3:00 p.m.

Learn how to access premium resources with your Baldwin Library card including research databases, online classes, newspapers and magazines, streaming movies, and more.

### **Behind the Scenes of History: The Straits of Mackinac**

Monday, July 24 at 7:00 p.m.

Visited by millions, Mackinac is a special place for many Michiganders. Andrew Kercher tells the incredible history from the indigenous peoples to fur trade and logging to 19th century battles to fudge production! What is it like to wear the wool uniforms and fire muskets for a living? Also, hear tales from behind the porch! What was it like to live on the island in the winter and work security for the Grand Hotel? Andrew is a Community Engagement Manager at Port Huron Museums and freelance lecturer. Before returning to academia, he lived in the Straits of Mackinac for nearly a decade. This is a hybrid event. Registration is required to receive the Zoom link.

### **The Birmingham Museum**

The Birmingham Museum will be undertaking planned improvements in the John West Hunter Park along Willits during July, in accordance with its 2018 Master Landscape Plan. Phases 1 and 2 of a four-phase improvement project will begin, consisting of a barrier-free parking space and sidewalk along Willits to a seating area overlooking the pond. These improvements are funded primarily with federal dollars and will be ADA compliant. Landscaping is funded in part by the Rosso Family Foundation, and will include Michigan native wetland plants and trees to maintain the natural character of the park. Additional barrier-free pathways and a Rouge River overlook in the park are planned for Phases 3 and 4, which are anticipated to be constructed in fiscal year 2024-2025.

### **Birmingham Shopping District (BSD)**

#### **Notable Recognition**

The BSD Board recognized Astrein's Creative Jewelers for 50 years in business in downtown Birmingham at its June Board meeting. Locally owned and operated by Richard and Gary Astrein since 1973, Astrein's has continued to provide exceptional personal service and products while sharing their time and resources to make the community a better place. Astrein's retires this month, and the City Commission will be recognizing them with a proclamation at the June 26, 2023 Commission meeting.

#### **Rosé Soirée**

The BSD launched its new restaurant promotion, the Birmingham Rosé Soirée, June 5-11, which offered 16 restaurants featuring dishes paired with rosé wines, cocktails and mocktails. A portion of each purchase went to Cap & Conquer, a local charity that breaks down financial and educational barriers for reducing hair loss during chemotherapy. Consumers were also able to enter for a chance to win a \$1,000 Birmingham Bucks E-gift card shopping spree. The winner will be announced this coming week, and follow up with restaurants is underway to find out their experiences and total donations to Cap & Conquer.

## Movie Nights

The first Movie Night of the season was held June 9 featuring Encanto, and it was a huge hit! Over 1,000 people attended, and the weather was perfect. July 14 will be the Christmas in July feature of The Grinch with a special visit from Grinchy himself. A special thanks to our Movie Night sponsors, including presenting sponsor Wells Fargo Advisors; series sponsors Bank of Ann Arbor-Birmingham, Bloom Pediatrics and KW Domain; and sponsors Goldfish Swim School and TDR Orthodontics for all the free treats and giveaways.

New this year! Help us select the August 11 and September 8 movie titles by voting at <https://engage.bhamgov.org/movie-nights> by June 30.

## Business Recruitment

The Business Development Committee is in the process of developing a business recruitment survey for Birmingham residents and downtown employees to participate in to gauge their business type needs and interests. This will be disseminated via the Engage platform and launched in late June/early July.

## Advisory Committees

The BSD is establishing three new advisory committees to help expand its reach, communications and collaborations with specific industries and areas of the district, including tourism, restaurant and North Old Woodward. Those interested in participating in the advisory committees should contact the BSD Executive Director Cristina Sheppard-Decius at [csdecius@bhamgov.org](mailto:csdecius@bhamgov.org).

## EV Charging Stations for Private Properties

The General Motors Dealer Community Charging Program is aimed to nearly double the number of level 2 charging stations in the United States and Canada for a total of 40,000 EV chargers to be installed. This initiative supports EV charger access in both urban and rural municipalities for residents and visitors alike. Flo, a charging station provider, has been selected to supply the EV chargers for the program. Charge EV/State Electric Company has been selected as a turnkey solutions provider for installation of EV chargers for the program throughout Michigan, the Great Lakes regions, and beyond.

The free program is being offered to municipalities, and also private property owners. An introductory Zoom meeting is being scheduled for the last week of June for any private property owner to learn more about what is being offered and the logistics necessary to install the stations. Here are a few quick points:

- The municipality/private property owners does not have to own, operate, or maintain the EV chargers;
- Offers publicly accessible EV chargers for residents and visitors to the community;
- The Flo CoRe+ Max 80A 19.2kW Level 2 EV chargers are dual port and pedestal mounted offering the maximum power output in a Level 2 EV charger; and
- The Flo EV charger accommodates all current and next generation EVs.

## BSD Summer Calendar of Events

|                                   |  |
|-----------------------------------|--|
| Birmingham Farmers Market         | Every Sunday now until Oct. 29 at Lot 6          |
| Movie Nights                      | July 14, August 11 and September 8 at Booth Park |
| Super Farmer Day @ Farmers Market | June 25  |
| Day on the Town                   | July 29  |
| Corn Festival @Farmers Market     | August 6   |



Birmingham Cruise Event  
Harvest Festival @Farmers Market

August 19  
September 10

### **2023 Dashboard Metrics**

Retail Occupancy Rate - 99% (out of 1.5 million sq.ft.)

Office Occupancy - 89% (out of 2 million sq.ft.)

10 New Business Openings in 2023 (10 more in process)

Commercial, Mixed-Use & Residential Development Projects In Construction/Planning - 12 projects totaling 827,727 sq. ft.

## **Building Department**

### **RH Project Update**

After receiving approval for the redesign of the building, the design team began developing the construction documents for the new building. Structural plans and calculations were provided on May 2, 2023 for review of the foundations and structural steel. The architect has indicated that full architectural, electrical, mechanical and plumbing drawings are being finalized and should be submitted by the beginning of July for our review and approval.

The review of the structural drawings is nearly complete and they will be approved soon. This approval will allow work to begin on the foundations and erection of the structural steel. We will begin our review of the architectural, electrical, mechanical and plumbing drawings as soon as they are submitted.

The construction manager has informed us that work on the foundations, concrete slabs and construction of the new stair and elevator shafts will begin around the second week in July. Erection of the structural steel is scheduled to start by the middle of October.

### **Monthly Report**

The [Building Department's monthly report](#) provides an update on the following construction activity: building permits issued, building inspections conducted, trades permits issued and trades inspections conducted. In May, we processed 416 online permit applications bringing this year's total to 1655. Compared to the total permit applications last month and so far this year, 71% were processed online in May and 73% have been processed electronically this year.

## **City Clerk's Office**

### **General Election on November 7, 2023**

Birmingham will hold a general election on Tuesday, November 7, 2023. At this time, the ballot will include four Birmingham Commissioner seats and three Birmingham Library Board positions, all for four-year terms. Filing deadline for petitions and candidates is 4:00 p.m. on July 25, 2023. A .33 senior millage proposition will be on the November 7, 2023 ballot. Information regarding the senior millage will be available on the city's website in July.

### **City Commission and Library Board Candidate and Petition Information**

City Commission and Library Board candidates must be registered voters and residents for at least one year before the November 7, 2023 election. Petition packets containing all the information needed to run for these positions are available at the City Clerk's Office during regular business hours. Candidates must complete the petition packet's required paperwork and collect more than 25 but not more than 50 signatures from Birmingham registered voters. Signers must print their names with their current address and date. A signer may only sign one petition for each available seat; in this election that means a single voter can sign no more than four City Commission petitions and three Library Board petitions. The Clerk's

Office must receive all candidates' paperwork no later than July 25, 2023 at 4:00 p.m., after which the Clerk's Office will review to ensure all petition requirements are met. The clerk cannot extend the filing deadline for any reason. For more information regarding petition and candidate filing please visit [www.bhamgov.org/elections](http://www.bhamgov.org/elections).

### **Absentee Voter Information**

Voters who wish to vote absentee will need to fill out an Absentee Ballot Application. This application will be mailed out to anyone on the Permanent Absentee Application List in late August for the November 7, 2023 election. An application will need to be completed and returned to the Birmingham Clerk's office in order to receive the absentee ballot. If you are not on the permanent list, you can request an Absentee Ballot Application by going to [www.michigan.gov/vote](http://www.michigan.gov/vote) after August 24, 2023.

Absentee ballots will be mailed not earlier than September 28, 2023 to voters who submitted an application. Absentee ballots can be returned in person to the Clerk's office, in the dropbox located behind City Hall, or mailed to: City Clerk, P.O. Box 3001, Birmingham, MI 48012.

### **New Military and Overseas Voter Changes**

The governor signed legislation on May 3, 2023 to allow additional time to receive absentee voter ballots from military and overseas voters. This change comes after Michiganders approved Ballot Proposal 22-2 to amend the state's Constitution last year. The new law states that absentee ballots from military and overseas voters will be counted if the ballot return envelope was postmarked on or before Election Day and received within six days following the election. Voters who are in the military or will be overseas during the November 7, 2023 election must apply for a MOVE ballot at <https://www.fvap.gov/michigan>.

### **Greenwood Cemetery Advisory Board**

The next meeting for the Greenwood Cemetery Advisory Board will be Friday, July 7th, 2023 at 8:30 am. The board will receive a field survey report, consider the price of available plots for sale, and discuss another grave release. Additionally the board will discuss strategic planning and the draft annual report for 2022-2023.

### **Ethics Board**

The Board of Ethics met on Friday, June 23rd, 2023, at 9 a.m. to review a new opinion request submitted by Commission Baller regarding the establishment and administration of foundations.

Mayor Pro Tem McLain, Ethics Board Chairperson James D. Robb, and City Clerk Bingham attended the first Detroit Board of Ethics Conference on May 16, 2023. Chairperson Robb sat on a panel regarding strengthening Ethics Ordinances and Enforcement. Other topics of the conference included rules of debate, improving the deliberation process, and Open Meetings Act laws.

### **Board Appointments**

The City of Birmingham is looking for dedicated individuals who want to give back to their community by serving on one of our many boards or commissions. Birmingham's different boards and commissions make recommendations that shape the city's future. Serving on a board or commission is a great way to get involved in your community, meet new people and make a positive impact. Don't miss out on the chance to make a difference - go to [www.bhamgov.org/boardopportunities](http://www.bhamgov.org/boardopportunities) to view all the available openings.

| <b>Board</b>                       | <b>Openings</b>   | <b>Application Due by Noon</b>   | <b>Interview/ Appointment at City Commission meeting 7:30 pm</b> |
|------------------------------------|---|----------------------------------|--|
| Ad Hoc Aging in Place Committee    | 7 members   | 6/21/23                          | 6/26/23  |
| Advisory Parking Committee         | 1 large retail member term ending 9/1/2025  | Until Filled                     |  |
| Architectural Review Committee     | 1 regular member term ending 4/11/2026<br>1 regular member term ending 4/11/2025  | Until Filled                     |  |
| Birmingham Shopping District       | 1 business representative term ending 11/16/2026  | Until Filled                     |  |
| Birmingham Area Cable Board        | 1 regular member terms ending 3/30/2026<br>1 regular member term ending 3/30/2024<br>1 alternate member term ending 3/30/2025 | Until Filled                     |  |
| Board of Review                    | 2 alternate members term ending 12/31/2025  | Until Filled                     |  |
| Board of Zoning Appeals            | 1 alternate member term ending 2/18/2026  | Until Filled                     |  |
| Brownfield Redevelopment Authority | 1 Regular member term ending 5/23/2026<br>1 regular member Term ending 5/23/2024  | Until Filled                     |  |
| Ethics Board                       | 2 Alternate members term ending 6/30/2026<br>1 Regular member term expiring 6/30/2026   | ALT: 5/17/2023<br>REG: 6/21/2023 | ALT: 5/22/2023<br>REG: 6/26/2023                                 |
| Greenwood Cemetery Advisory Board  | 1 Regular member term expiring 7/6/2024   | Until Filled                     | 6/5/23   |

## City Manager's Office

### **Ensuring a Smooth Transition**

I have had the privilege of serving the citizens of Birmingham for the past 21 years in various capacities, and I look forward to serving as your new City Manager. During my time with the City, I have also had the privilege of learning from long-time City Manager Tom Markus, both during his original tenure with the City, and over the past two and half years of his most recent term. I am confident that the last several years of succession planning here in the City Manager's Office will result in a seamless transition as I take on my new role as your City Manager. On behalf of our City staff, we wish to thank Tom for more than 24 years of dedication and service to the City of Birmingham.

Over the next several months, my overarching goal will be to ensure that all of our departments continue to provide effective and efficient services to the public, and to ensure that all of our City staff is working together to meet the goals identified by the City Commission in our recently adopted Strategic Plan. Specifically, my goals for the next several months include the following:

- Close on the City's purchase of the YMCA property in early July
- Negotiate short term and long term leases with both YMCA and NEXT for current and future use after closing
- Work with YMCA and NEXT to begin concept space planning and needs for the future transition of the building to accommodate NEXT
- Select and purchase new budgeting software to increase transparency to the public and streamline the budget process
- Implement new credit card processing software for the public parking system
- Complete a draft Wayfinding Plan for City Commission review to integrate the new City logo into City signage (parks, parking facilities, gateway signs etc.)
- Develop new management team and provide leadership training
- Conduct team-building activities with staff to improve collaboration and enhance morale
- Upgrade building and systems to address safety and security concerns
- Establish the Ad Hoc Aging in Place Committee and commence demographic study, review of existing senior services and unmet needs, develop a City-wide action plan for senior residents
- Establish an internal AI Committee to explore the use of AI in our organization
- Continue sustainability efforts to improve City facilities and operations and prepare a Greenhouse Gas Emissions Plan

Over the next several weeks I am looking forward to meeting with each of the City Commissioners and working together to establish a well-defined chain of communication between the Commission and the Manager's Office to foster transparency, collaboration, and efficient decision-making. I encourage City Commissioners to reach out to me directly to discuss issues that arise, and to send all communications or questions for staff directly to me.

During my 21 years of service to the City, I have watched our City staff dedicate themselves to serving the citizens of Birmingham and provide a high level of service to our residents. In my new role as your City Manager I will ensure that the high level of professionalism and exemplary customer service from City staff will remain strong. I will continue to provide the City Commission with relevant and timely information and updates on City issues, happenings and projects, and any other matters requiring attention as they arise. Working together, we can build on Birmingham's existing strengths and assets to support the high level of service for which Birmingham has been known, and ensure that Birmingham continues to be a great place to live, work and play.

## GovAlert Reminder

City Commissioners are reminded to refer residents to the GovAlert app when approached by residents who have a concern regarding the city. Concerns submitted via the GovAlert app are immediately distributed to the appropriate staff members for the most expedited response. The system enables the city to track data and provide a consistent, professional response to the complainant. When one commissioner delivers a concern to city staff on behalf of a resident, it may appear that the individual commissioner is personally solving the concern rather than as a part of a team of seven elected officials.

GovPilot instruction cards, sized to conveniently fit inside a wallet or pocket, continue to be available for distribution to residents and neighbors who wish to share a concern with the city. As always, residents are encouraged to use the GovAlert app or [website form](#) to submit non-emergency concerns to the city.

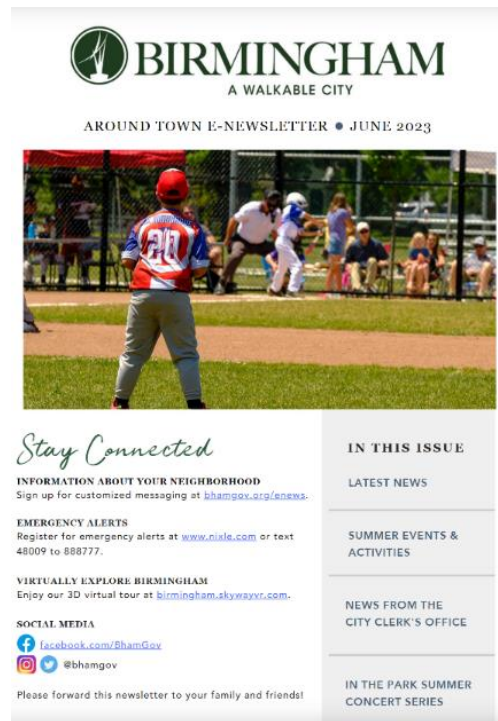
## Communications

### Around Town e-Newsletter

The communications team is working on the July edition of the Around Town e-Newsletter, which will include information about fireworks safety, Martha Baldwin Park sculptures, the inaugural Police Department Open House event, new businesses and more. Follow [this link to view the June edition](#) of the Around Town e-Newsletter.

### Summer Birmingham Beat Newsletter

Residents and businesses received the summer edition of The Birmingham Beat newsletter last week. This edition features information about the Ad Hoc Environmental Sustainability Committee, Day On The Town, Birmingham Cruise Event, barbeque safety tips and more. Download a [digital version of the newsletter here](#).



## BIRMINGHAM CITY COMMISSION - UPCOMING AGENDA ITEMS

### Topics brought up by the Commission

| Meeting            | Topic   | Commissioner         | Staff Follow Up    | Dates Addressed   | Status<br>(resolved/ongoing) |
|--------------------|---|----------------------|--------------------|---|------------------------------|
| <b>In Progress</b> |   |                      |                    |   |                              |
| 6/5/23             | Discuss unimproved streets and infrastructure | M: Host<br>S: McLain |                    |   | In progress                  |
| 5/8/23             | Parking Operations                            | M: Baller<br>S: Host | CM to direct staff | 5/8 Request to discuss parking operations at a workshop meeting<br>5/22 - Motion by host, S: Haig passed to invite the APC to this workshop<br>5/22 - Enhance usability and aesthetics in the decks (Baller)  | In progress                  |
| 5/8/23             | Woodward Noise                                | M: Host<br>S: McLain | Baller & Host      | 5/8 - Request to discuss noise on Woodward as an agenda item<br>6/5 - Proclamation issued   | In progress                  |
| 2/27/23            | Bench and Little Library for Pat Andrews      | M: Host<br>S: McLain | Host               | 3/13 - commission to discuss further - staff working on plans and cost estimate<br><br>5/8 - Estimated costs provided, item referred to B. Host for fundraising   | In progress                  |
| 11/14/22           | Renters Rights                                | M: Host              | Mary               | 11/28 CC Discussion Scheduled - Voted to make a formal agenda item at the next available meeting, no vote taken, staff was already working on the issue<br>1/23/23 Tabled<br>4/24 Tabled, will bring back   | In progress                  |
| 1/10/22            | Leaf Blowers                                  | M: Baller<br>S: Host | Nick Dupuis        | 1/24/22 - make formal item<br>10/3/22 Workshop - staff given direction to return with recommendation<br>4/3 Baller brought up issue again, commission consensus that it is a topic for sustainability board<br>5/8- Host recommends leaf blowers as a CC agenda item.<br>6/5/23 Ordinance regulating leaf blower noise to be discussed at future meeting. | In Progress                  |

|                 |   |                          |                                   |   |  |
|-----------------|---|--------------------------|-----------------------------------|---|--|
| 1/10/22         | Commissioner Conduct                              | No vote                  | Commission Workshop               | 2/14/22 - Workshop<br>2/28/22 Directed CM to prepare Code of Conduct for future agenda<br>7/11/22 - Initial presentation to Commission by CA<br>2/13/23 - City Commission reviewed draft Code and will provide feedback to CM for future workshop<br>4/24 Memo<br>June 5 - Workshop Scheduled | In progress  |
| <b>Resolved</b> |   |                          |                                   |   |  |
| 12/5/22         | Mayor/MPT Selection                               | McLain                   | CM to direct staff                |   | Resolved<br>06/05/23                                 |
| 4/11/22         | BBCC - Mental Health Workshop - More time to talk | M: Baller<br>S: Haig     | Marianne Gamboa                   |   | Resolved<br>05/09/22                                 |
| 5/9/22          | Pickleball  | Baller, no vote          | DPS                               |   | Resolved<br>Temporary courts installed on 06/03/22   |
| 1/24/22         | Social Districts                                  | M: Schafer<br>S: Boutros | Nick Dupuis/Jana Ecker            |   | No formal action taken by the Commission<br>06/20/22 |
| 5/23/22         | Commission Meeting Start Time                     | Baller                   | Mary Kucharek                     |   | No changes for now<br>07/11/22                       |
| 8/15/22         | Birmingham Country Club                           | M: Host<br>S: Haig       | Fairbairn, Dupuis, Clerk's Office |   | Resolved, letter sent<br>08/29/22                    |
| 8/15/22         | Speed Bumps                                       | M: Haig<br>S: Host       | Grewe/Brooks                      |   | Resolved<br>03/27/23                                 |
| 9/12/22         | Banner  | M: Baller<br>S: Host     | TBD                               |   | Completed<br>11/14/22                                |
| 12/5/22         | Lighting to sustainability board                  | Haig                     | Nick Dupuis                       |   | To be explored by Sustainability Board               |
| 6/13/22         | Sustainability Board                              | M: Schafer<br>S: Host    | Nick Dupuis                       |   | Resolved<br>01/23/23                                 |

|         |   |                       |                        |   |                      |
|---------|---|-----------------------|------------------------|---|----------------------|
| 1/10/22 | Food Trucks   | M: Host<br>S: Schafer | Nick Dupuis/Jana Ecker |   | Staff monitoring     |
| 4/25/22 | Improvements in Information Provision and Methodology     | M: Haig<br>S: Baller  | TBD                    | 1/9/23 M: Haig, S: Host<br>To continue discussion<br>-Addressed in Jan 2023 CM report | Resolved<br>01/23/23 |
| 3/13    | Community foundation (review former letter from Kucharek) | Baller                | CM/Atty                |   | Resolved<br>04/03/23 |
| 3/28/22 | City Manager Selection Process                            | M: Host<br>S: Boutros | Managers Office & HR   |   | Resolved<br>03/27/23 |
| 1/9/23  | Ad Hoc Senior Services Committee                          | M: Baller<br>S: Longe | CM                     |   | Resolved<br>04/03/23 |

**Topics Failed**

4/25/22 On Street Parking Study M:Haig S: Host  
 4/11/22 Downtown Parking M: Host S: Haig  
 3/28/22 Parking Matters M: Host S: Haig  
 6/13/22 479 SOW (Doraid) PAD M: Boutros

**Topics With No Vote - Resolved**

1/10/22 Unimproved Streets Discussed during the Long Range Planning meeting.  
 2/28/22 Solidarity with Ukraine City Manager arranged for exterior lighting at City Hall.

**Topics With No Vote**

|        |   |                 |         |
|--------|---|-----------------|---------|
| 5/9/22 | -PAD ordinance/cleanup                      | Baller, no vote | No vote |
| 5/9/22 | -Policy for granting public space ODD/Valet | Baller, no vote | No vote |

**Department of Public Services**

**Parks & Recreation Master Plan Update**

This project was awarded at the [May 22, 2023 City Commission meeting](#). So far, we have had a kickoff meeting with internal city staff and McKenna representatives, and have scheduled park tours with the Parks and Recreation Board, city staff and McKenna. Public engagement will begin this month as well, with a field day event scheduled on Wednesday, June 28, 2023 at the In the Park Concert in Shain Park. Within the next week, a page on the City’s website will include access to idea boards, a parks comment map, surveys and subscriber lists. A full project schedule will be available soon.

**Pickleball**

Crestview pickleball courts are now OPEN! Six (6) new pickleball courts are available during park hours from 6 a.m. – 10 p.m. Open Play (available to all on a first-come, first-served basis) is from 9 a.m. – 12 p.m. daily, and Birmingham residents may reserve courts between the hours of 12 p.m. – 8 p.m. daily. Rules of conduct and instructions on Open Play are posted onsite.



## **Ice Arena Summer Activities**

Cool off during the heat of summer at the rink! We are offering a summer Learn to Skate Program, open skate for all ages, hockey camps, and rental of the main arena by the hour during the summer months at our year-round facility. Visit the [ice arena webpage](#) for more information.

## **Engineering Department**

### **2023 Construction Update**

The following construction projects are currently underway:

- Westwood, Oak, and Raynale Project: Water main replacement and extended storm sewer is complete; cape-seal roadway to begin soon. Construction is anticipated to be complete in June.
- Parking Lot No. 5 Slope Repair: Fence installation occurred, and plant installation will occur at the end of the summer.
- 2021 Asphalt Resurfacing Program – Parking Lot No. 5: Construction Paving began the week of June 19<sup>th</sup>.
- Lincoln Hills Golf Course Tee No. 1 Tee-Box and Cart Path Improvements: Wall installation is complete and the lower portion of the cart path is paved. The rest of the paving and restoration will be complete by the end of June.
- 2022-2023 Cape Seal Program (Southeast corner of the City): Sidewalk installation occurred with pulverizing of the roadway underway. Cape seal treatment will start during the week of June 19<sup>th</sup>.
- Water Tower Maintenance and Coating:
  - o Derby Tank: Repairs and overcoat painting with new logo installation has been completed.
  - o Hunter Tank: Repairs to the water tower have started with overcoat painting occurring in June with new logo installation.
- 2022-2023 Concrete Sidewalk Program: The contractor has started work on miscellaneous sidewalk repairs throughout the City, including the sidewalk located on the west side of Ann Street between Landon Street to Lincoln Street.
- Cranbrook Road Non-Motorized Pathway Improvement Program: Construction started on June 12, 2023. The contractor began work on 14 Mile and is working north.

The following construction projects are scheduled for the rest of the construction season:

- 2023 Concrete Sidewalk Program: The contractor will start work at the beginning of July on the following items: residential area 6: Quarton Road to Maple Road, and western City limits to Lakeside Drive, downtown area 1A: Chester Road to N. Old Woodward, and Rouge River to Maple Road, ADA Ramps within the Downtown Area, miscellaneous repairs throughout the City, miscellaneous sidewalk repairs in Shain Park, installation of bicycle pads and racks in various locations throughout the City.
- Pierce Street Paving Project (14 Mile Road to Lincoln): Construction will start on the water main replacement in July.
- 2023 Asphalt Resurfacing Program: Construction will start on resurfacing in July on the following streets:
  - o Birmingham Blvd: Lincoln Street to 14 Mile Road
  - o Smith Street: Cummings to Woodward Ave
  - o Holland Street: Adams Road to Torry Street
  - o S. Old Woodward: Landon Street to Lincoln Street
- Redding Road (Lakepark Drive to Woodward Ave): Work includes water main replacement, sewer system improvements including new storm sewer outfalls, pavement replacement, and minor structural repairs to the bridge with streambank stabilization. The project is anticipated to start in the summer with completion in the fall.

Affected property owners will receive information about these projects. For more information regarding these projects, please contact the Engineering Department at 248-530-1840.

## **Water Service Verification Program**

As a reminder, the "In-Home/Business" water service line material needs to be determined as part of this program and included in the City's reporting for the State of Michigan. Property owners can schedule an inspection by an authorized City Representative at 248-303-2292 or determine the in-home/business material themselves with the steps provided in the property owner letter.

## **Fire Department**

### **Fight for Air Climb**

Congratulations to Battalion Chief Alan Soave, Battalion Chief Chris Deman, Lieutenant Mark Mischle, Firefighter Nick Soper, Firefighter Trevor Hulbert and Firefighter Owen Bachusz for their 2nd place finish in this year's annual American Lung Association Fight for Air Stair Climb at Comerica Park on May 21, 2023. Over 50 fire departments participated in the event this year. Firefighter Bachusz and Lt. Mischle led the way with 4th and 5th place overall respectively out of over 300 firefighters competing. Climbers have to wear all of their fire gear (which weighs over 60 pounds) while walking/running up and down all of the stairs on the upper deck of the stadium.



### **Physical Agility Test**

This month all fire department personnel will complete the annual physical agility test. The department requires all firefighters to be physically fit in order to safely complete job duties. Firefighting, rescue, and emergency medical service work is very physically demanding. The annual test helps firefighters to know their abilities and work toward maintaining their fitness.

### **K12 Saw**

The department recently purchased a new K12 saw (as seen on the left in the picture below). The new saw is battery powered, lighter, and can outperform the gasoline powered saw pictured on the right. The saw does not produce harmful fumes that can effect firefighters or a person being rescued on emergency scenes. These saws are used to cut concrete, metal, and wood. We appreciate the generous donation of the Gasow Veterinary Hospital from Romeo Plank Properties for allowing the fire and police departments to train on the building before demolition.



## **Human Resources**

### **HR Generalist Position**

The HR Department has successfully concluded interviews for the HR Generalist position. We appreciate the participation of all candidates and will provide further details regarding the selection soon. In the meantime, we are diligently reviewing our onboarding, hiring and recordkeeping processes to ensure compliance with state and federal regulations. Our objective is to streamline and expedite the time spent on these critical tasks. By optimizing our practices, we will enhance efficiency and create a smoother experience for both new hires and the HR team.

### **Bargaining Unit Contract Status**

The American Federation of State, County and Municipal Employees (AFSCME) has reached a tentative agreement with the City, contingent on collective bargaining unit approval. After the members approve this tentative agreement, the agreement will go to the City Commission for approval.

The Birmingham Firefighters Association (BFFA) and the City are currently in the negotiation stage.

### **New Hires**

The City of Birmingham extends warm congratulations to our newly hired employees from May 12, 2023 to June 12, 2023. Their skills, expertise, and enthusiasm are a valuable addition to our team. We welcome them to our organization!

|              |                   |                      |           |
|--------------|-------------------|----------------------|-----------|
| BUILDING     | SECRETARY A       | WALKER, TERI         | Full-Time |
| BUILDING     | SECRETARY A       | GIERALTOWSKI, LAUREN | Full-Time |
| CITY MANAGER | MANAGEMENT INTERN | McCarthy, John       | Part-Time |
| GOLF COURSE  | DPS TEMP LABORER  | BACHELLER, NOAH      | Seasonal  |
| GOLF COURSE  | DPS TEMP LABORER  | GOTTESMAN, BRANDON   | Seasonal  |
| GOLF COURSE  | DPS TEMP LABORER  | STEHNEY, LAUREN      | Seasonal  |
| GOLF COURSE  | DPS TEMP LABORER  | SAWICKE, OWEN        | Seasonal  |
| GOLF COURSE  | DPS TEMP LABORER  | FLYNN, LAUREN        | Seasonal  |
| GOLF COURSE  | DPS TEMP LABORER  | MIKICIUK, CONNOR     | Seasonal  |
| GOLF COURSE  | DPS TEMP LABORER  | STAMELL, CHARLES     | Seasonal  |
| GOLF COURSE  | DPS TEMP LABORER  | RUTKOWSKI, JACK      | Seasonal  |
| DPS          | DPS TEMP LABORER  | HUNTER, LUCAS        | Seasonal  |
| DPS          | DPS TEMP LABORER  | MCLEOD, ANNA         | Seasonal  |
| DPS          | DPS TEMP LABORER  | KOSTELLO, HADLEY     | Seasonal  |

|                  |                                   |                  |           |
|------------------|-----------------------------------|------------------|-----------|
| DPS              | DPS TEMP LABORER                  | ROBERTS, GRIFFIN | Seasonal  |
| ICE SPORTS ARENA | CLERICAL ASSISTANT                | ABELA, KATHERINE | Part-Time |
| LIBRARY          | LIBRARY PAGE                      | Hollo, Samantha  | Part-Time |
| BSD              | BSD INTERN SPECIAL EVENTS & MKTNG | DAVIES, MICHAEL  | Seasonal  |

## Hiring Anniversaries

The City of Birmingham celebrates the hiring anniversaries of several employees this month. Their unwavering commitment, hard work, and genuine compassion have left a profound and lasting impact on our community. We extend our heartfelt appreciation for their exceptional service and unwavering dedication.

| Years Served | Employee         | Department and Position |                              |
|--------------|------------------|-------------------------|------------------------------|
| 1            | ISAACSON, WILL   | POLICE                  | POLICE OFFICER               |
| 1            | DOLLAND, KELLY   | CLERKS                  | PART-TIME CLERICAL ASSISTANT |
| 1            | ROBERTS, JOSEPH  | POLICE                  | POLICE OFFICER               |
| 2            | NOBLE, GRACE     | LIBRARY                 | LIBRARY ASSISTANT            |
| 2            | MALEK, EMILY     | LIBRARY                 | LIB SUBSTITUTE LIBRARIAN     |
| 2            | PAREDES, ANTHONY | POLICE                  | POLICE OFFICER               |
| 2            | HULBERT, TREVOR  | FIRE                    | FIRE / AEMT                  |
| 4            | NEUVILLE, RYAN   | FIRE                    | FIRE / AEMT                  |
| 4            | JENNINGS, JOAN   | LIBRARY                 | LIBRARY ASSISTANT            |
| 4            | BEHRENS, MELISSA | LIBRARY                 | LIBRARIAN PT                 |
| 5            | DAVIS, TIMOTHY   | DPS                     | SSW ASSISTANT FOREMAN        |
| 5            | TERMAN, ROBBIE   | LIBRARY                 | LIB SUBSTITUTE LIBRARIAN     |
| 6            | LEIBOLD, ROSS    | DPS-PARKS               | DPS TEMP LABORER             |
| 6            | JENNINGS, H L    | LIBRARY                 | LIBRARY DEPARTMENT HEAD      |
| 6            | BERTALA, NADIA   | LIBRARY                 | LIBRARY PAGE                 |
| 7            | GRANROTH, JASON  | FIRE                    | FIRE / AEMT                  |
| 7            | DUFFEY, GWYNN    | FINANCE                 | PAYROLL/OFFICE COORDINATOR   |

|    |                        |          |                            |
|----|------------------------|----------|----------------------------|
| 9  | DEBANO, JAMIE          | POLICE   | POLICE DISPATCH<br>MANAGER |
| 10 | FREELS, BRIAN          | FIRE     | FIRE LT/AEMT               |
| 10 | HITCHCOCK, JR, KENNETH | POLICE   | CLERK/TYPIST B             |
| 11 | MANIGOLD, DOUGLAS      | BUILDING | ZONING OFFICER             |
| 20 | HUGHES, THOMAS         | FIRE     | BATT CHIEF                 |
| 22 | ROSETT, EDWARD         | BUILDING | ELECTRICAL<br>INSPECTOR    |
| 23 | WALD, GREGORY          | POLICE   | POLICE CAPTAIN             |
| 24 | JOHNSON, BRUCE         | BUILDING | BUILDING OFFICIAL          |

### Employment Opportunities

The City is currently accepting applications for the following positions. To submit an application or for more information go to [www.bhamgov.org/jobs](http://www.bhamgov.org/jobs).

|                       |  |           |                          |
|-----------------------|--|-----------|--------------------------|
| Clerk's Office        | Deputy City Clerk                      | Full Time | Closing June 23,<br>2023 |
| Community Development | Secretary A                            | Full Time | Until Filled             |
| Community Development | Plumbing Inspector                     | Full Time | Until Filled             |
| DPS                   | P&R Seasonal Laborer                   | Seasonal  | Until Filled             |
| DPS                   | Fleet Mechanic                         | Full Time | Until Filled             |
| DPS                   | Ice Arena Concessions                  | Part Time | Until Filled             |
| DPS                   | Parks and Forestry Operator            | Full Time | Until Filled             |
| DPS                   | Streets/Sewer/Water<br>Operator        | Full Time | Until Filled             |
| DPS                   | Golf Course Maintenance &<br>Clubhouse | Seasonal  | Until Filled             |
| Engineering           | Construction Engineer                  | Full Time | Closing June 19,<br>2023 |
| Fire                  | Firefighter                            | Full Time | Until Filled             |
| Managers Office       | Communications Specialist              | Part Time | Closing June 23,<br>2023 |
| Police                | Parking Enforcement<br>Assistant       | Part Time | Until Filled             |

|          |                      |           |              |
|----------|----------------------|-----------|--------------|
| Police   | Dispatcher           | Part Time | Until Filled |
| Police   | Police Officer       | Full Time | Until Filled |
| Treasury | Treasury Secretary C | Full Time | Until Filled |

## **Planning Department**

### **Setting the Record Straight – Residential Lot Areas Less than the Zoning Ordinance Minimum**

The City has received public comment expressing concern regarding the construction of single family homes on lots that are less than the Zoning Ordinance minimum lot area requirements. Much of this commentary occurred during master plan hearings with the Planning Board and City Commission.

Birmingham's single family zoning districts consist of R1-A, R1, R2, and R3. Article 2 of the Zoning Ordinance specifies a minimum lot area for each zone; R1-A requires a minimum lot area of 20,000 SF, R1 a minimum of 9,000 SF, R2 a minimum of 6,000 SF, and R3 a minimum of 4,500 SF.

The minimum lot area requirement of the Zoning Ordinance does not apply to single family dwellings on originally platted lots. Section 102-51 of the Municipal Code allows the Building Official to approve a single family dwelling on a single platted lot, provided that the minimum requirements of the Zoning Ordinance (Chapter 126) are met, excluding minimum land area requirements. [Section 102-51 of the Municipal Code](#) reads as follows:

*The division of any platted lot, outlot or other parcel of land in a recorded plat is prohibited unless such division is first approved by the city commission.*

*The following exceptions may occur:*

*(1) The building official may permit a single family dwelling to be located on a single platted lot, without approval by the city commission, provided the minimum requirements of [Chapter 126](#) of this Code are met, except as excluded below:*

*a. Such platted lot as described above, shall not be required to meet the minimum land area requirement of [Chapter 126](#) of this Code; and,*

*b. Such platted lot is excluded from the lot width requirements of this Chapter.*

*(2) Where there are two or more, platted lots, or portions thereof, under single ownership, which have not been reduced from the original platted lot dimensions, the building official may, without approval by the city commission, accept the boundary adjustment and may permit a single family dwelling to be located on each platted lot, provided the following conditions are met:*

*a. The resulting lots comply with the minimum requirements of [Chapter 126](#) of this Code, excluding minimum land area; and*

*b. The resulting lots comply with other ordinance requirements stated herein, excluding lot width*

Chapter 102, Article III, "Subdivisions" of the Municipal Code was amended on April 9<sup>th</sup>, 2001 with the intent of clarifying development allowed on a single family lot that is deficient in the required minimum

land area of the zone district. The City Commission memo for the April 9, 2001 Public Hearing containing all relevant minutes can be [downloaded here](#). The attachments from 2001 also include an illustration of “buildable lots”.

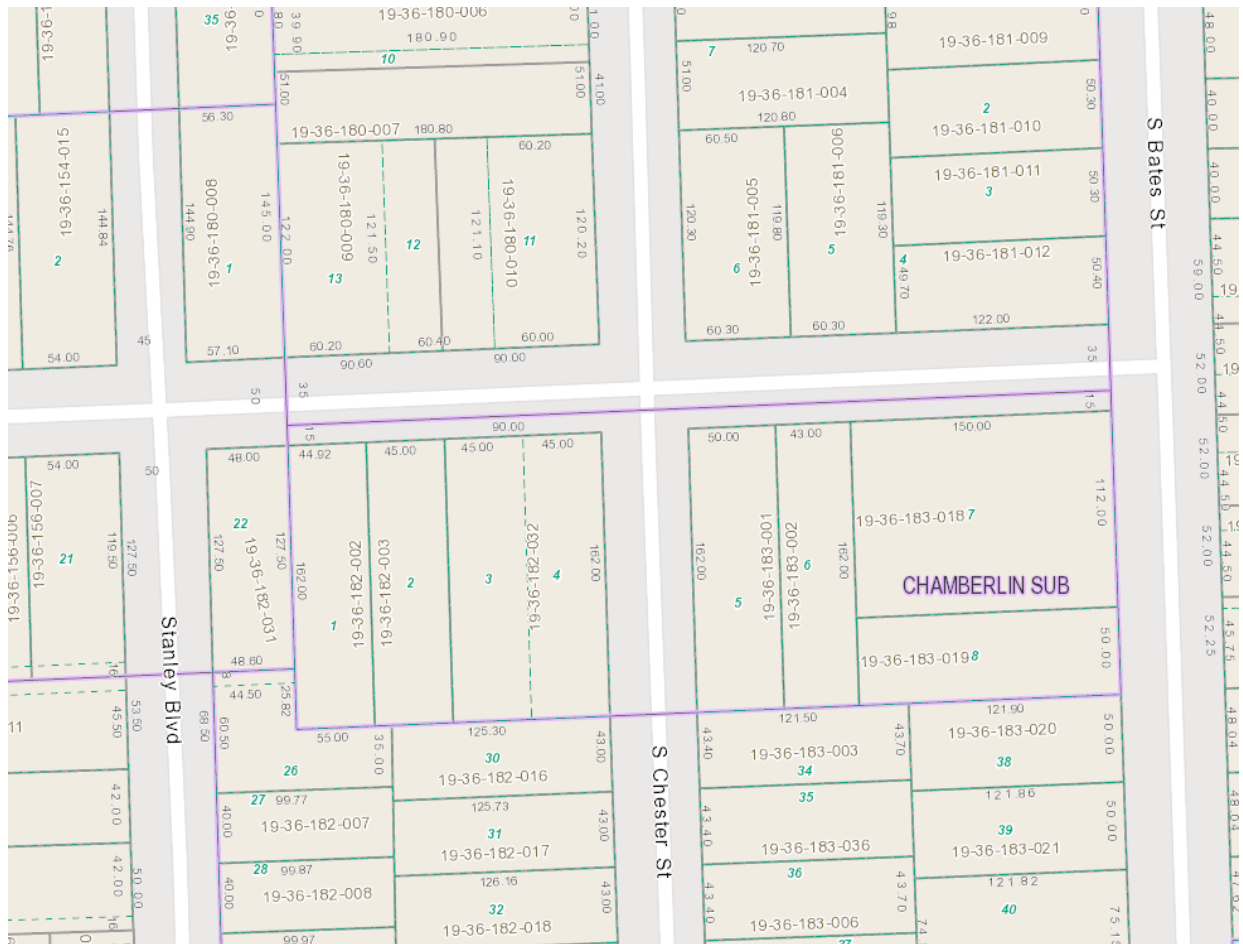
There are examples of single family dwellings on lots less than the minimum land area required by the Zoning Ordinance in all single family zoning districts throughout Birmingham. If such homes were to be destroyed, the Municipal Code would allow a new home to be constructed on the lot, given that the Building Official may permit a single family dwelling on a single platted lot (provided that it satisfies the requirements of the Zoning Ordinance, **excluding minimum land area requirements**).

The City of Birmingham and Oakland County have records of original platted lots. Such lots can be viewed in comparison to the current parcel size on [Oakland County Property Gateway](#). Existing parcel lines are indicated in solid lines while original platted lot lines that do not line up with parcel lines are indicated in dashed lines. An example of the Oakland County database portraying parcel boundaries and original platted lot boundaries is included below.

The minimum lot area requirements of the Zoning Ordinance come into play when property owners apply to move parcel boundaries that do not align with the boundaries of an original platted lot. Moving a parcel boundary to a location different than an original platted lot requires lot division approval from the City Commission. One of the standards of approval is that the lot conforms to all requirements of the Zoning Ordinance.

#### Example from Oakland County Property Gateway

- Solid Line = Parcel boundary aligns with original platted lot
- Dashed Line = Original platted lot boundary within existing parcel
- Number = Recorded lot record within each plat (eg. Chamberlin Subdivision, Lot #7)



## **Planning Board**

A tentative Planning Board list of scheduled and/or recently completed items is provided below:

1. Health Club/Studio Use in B4 Zoning District – Study Session
2. 33866 Woodward – Polestar – Final Site Plan & Design Review

## **Historic District Commission & Historic District Study Committee**

On June 7, 2023, the Historic District Commission (HDC) moved to recommend approval to the City Commission a set of historic design guidelines that will aid the HDC in its review of all historic properties and all development in historic districts. After the City Commission reviews the recommendation and takes action, the consultants (Kraemer Design Group) plan to hold one final engagement session to help the HDC introduce the guidelines to the public.

As for the Historic District Study Committee (HDSC), the Preliminary Historic District Study Committee Report for 1238 Buckingham is nearing completion and will be on to the next stages of review as outlined in Chapter 127 of the City Code. Next steps include transmittal to the Planning Board, State Historic Preservation Office, Michigan Historical Center, and other related bodies. After that review, at least two public hearings will be held, one of which will be at the City Commission.

## **Multi-Modal Transportation Board (MMTB)**

After multiple meetings and public workshops regarding the S. Eton resurfacing design between Yosemite and 14 Mile, the MMTB recommended a roadway design to the City Commission. City staff anticipates that this item and recommendation will appear before the City Commission in July following an open house for public comment on a final plan view.

North of Lincoln Ave, the design consists of pedestrian bumpouts on the east side of the road in the Rail District, and parking spaces set back 30 feet from any intersection or crosswalk in order to increase visibility for turning movements onto S. Eton. The number of parking spaces would be reduced from 51 to 28 spaces with the recommended setback. Painted bike lanes are also recommended to be 5 feet wide on each side of the road so that cyclists can travel with the direction of traffic. A number of options were evaluated with various buffers and designs, however the MMTB determined that maintaining on-street parking while providing pedestrian bumpouts and increasing intersection visibility were top priorities.

South of Lincoln Ave, the MMTB recommended extending designated bike lanes from Lincoln Ave to 14 Mile. Such a design would involve moving the curb back 5 feet on the east side of the road and 8 feet on the west side of the road where on-street parking exists. The current right-of-way between the sidewalk and road is approximately 25 feet between Lincoln Ave and 14 Mile on S. Eton – this would be reduced from 5 to 8 feet.

## **Public Arts Board (PAB)**

The PAB is anticipating two sculpture installations in the month of July, one between Woodward Ave, S. Old Woodward, and Haynes, the other at Fairview Park. The PAB is also beginning to coordinate with the BSD on an art walk scheduled for October of 2023.



## **Sustainability**

The Environmental Sustainability Committee (ESC) held their second meeting on Monday, June 12, 2023. The ESC reviewed a timeline for completion, which included the public engagement activities that are planned. In addition, the ESC approved a survey that will be distributed on the Engage Birmingham platform at the end of June 2023 to help guide the public engagement and the eventual drafting of the plan. Meanwhile, the Planning Division continues to work diligently on the detailed data requests that are required for the Greenhouse Gas Emissions study.



## **Police Department**

### **Regional Youth Police Academy**

Starting on June 26th, the first-ever Regional Youth Police Academy will begin. Twenty-one participants have signed up to be part of this inaugural academy class. Participants will receive training in a variety of police related topics with instructors from Birmingham, Bloomfield Township, Rochester, and Auburn Hills police departments.

### **Inaugural Police Open House**

On Saturday, July 29th, in conjunction with the Day on the Town special event, the police department will hold its first ever Open House. The Open House will include a children's bike rodeo, vehicle displays, and a drunk driving simulator. There will be demonstrations from our evidence technicians, the Fire Department on vehicle extractions, the Michigan State Police Bomb Squad, and the Oakland County Sheriff's Drone Program. Attendees will observe and participate in these programs and more. And don't miss out on an opportunity to dunk one of Birmingham's finest in the dunk tank. Donations will be suggested for your chance to dunk an officer with proceeds benefiting the Special Olympics.

### **Office of Highway Safety Planning Grant Funding**

The Police Department recently applied for grant funding through the Office of Highway Safety Planning (OHSP) for traffic investigation equipment and speed measuring devices. Additionally, the request included funds for traffic overtime to address issues on Woodward Avenue. We have received notice that OHSP has approved our grant funding for the amount of **\$80,187.13** for FY2024 starting on October 1, 2023, which consists of the following:

1. Personnel costs for Woodward traffic OT - **\$28,548.73**
2. Equipment costs (2 LIDAR units, 1 accident investigation forensic mapping tool, and combined radar message sign/trailer) total value - **\$51,638.40**

## **Parking Systems Update**

### **Operations**

Bumper blocks have been put into place on the roof of the Park St. Garage to assist in preventing donuts and burnouts that often take place on the weekends.

### **Construction**

Repairs resumed at the N. Old Woodward Garage on June 12th. Repair work includes concrete restoration, handrails, painting of ceilings, walls, and stairwell walls, and the installation of LED lights. Construction is expected to last through October.

The Engineering Department will repave all of Lot 5 in June.

### **Occupancy**

Monthly average occupancy shows the total average occupancy of each garage for the total month, not the occupancy of each garage at its busiest moment. The averages may be different from previous months now that new parking equipment has been installed and new baseline data is being determined.

| MAY AVG CAPACITY     |        |
|----------------------|--------|
| Chester Garage (880) | 28.00% |
| Old Woodward (745)   | 28.00% |
| Park Garage (811)    | 23.00% |
| Peabody Garage (437) | 38.00% |
| Pierce Garage (706)  | 76.00% |

### **Future Agenda Items**

Download a summary of [future agenda items](#).

### **Future Workshop Items**

Download a summary of [future workshop items](#).



June 15, 2023  
(Sent Via Email)

Ms. Kajal Patel, MDOT  
Ms. Swanson, MDOT  
Mr. Hammad, MDOT  
Ms. Gough, MDOT

Mr. Seder, MDOT  
Mr. Pozolo, MDOT  
Mr. Smalley, MDOT

**Re: Construction Commencement on Brown Street at Woodward**

---

I am writing to confirm that the City of Birmingham approved a bid of \$ 1,832,529.69 to complete the road work requested on Brown Street by the Michigan Department of Transportation ("MDOT") to upgrade the Brown/Forest and Woodward intersection and signal. Our construction project on Brown Street between Woodward and S. Old Woodward includes the elimination of one of the eastbound right turn lanes, widened sidewalks, and the installation of a landscape median in the center of Brown Street.

Please be advised that the City commenced construction of the Brown Street project described above the week of May 29, 2023. Construction on the project is expected to be completed by August 18, 2023, the Friday prior to the Woodward Dream Cruise event.

With the scheduled summer completion of the Brown Street improvements requested by MDOT, we kindly request MDOT's continued cooperation to keep the Woodward and Brown/Forest intersection improvements on track, and to undertake construction this fall as agreed. To assist MDOT in upgrading the signal and intersection, the City has also committed to contribute a total of \$109,900.00 to the MDOT portion of the Woodward and Forest/Brown intersection improvements to be undertaken this fall.

Thank you for your commitment to improving both vehicular and pedestrian safety at this dangerous intersection. We look forward to collaborating with you to ensure a successful project.

Please feel free to reach out to me at [jecker@bhamgov.org](mailto:jecker@bhamgov.org) if you require any additional information or clarification regarding our construction project or with any schedule changes.

Yours truly,

Jana L Ecker,  
Assistant City Manager

**INFORMATION ONLY**

June 20, 2023

Senator Mallory McMorrow  
State of Michigan  
Lansing, MI 48909-7536  
SenMMcMorrow@senate.michigan.gov

Dear Senator McMorrow:

We are a mayoral collaborative expressing unified support for the Michigan state legislature to accelerate regional transit investment across Southeast Michigan. Our shared goal is to make Michigan more competitive by retaining and attracting talent, businesses, and jobs. We believe improved regional transit benefits all people within the communities it reaches and supports the state's economic success.

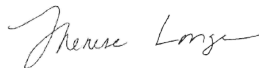
We urge the Legislature to keep the \$100M line item in transportation for regional transit and rail and the \$500M in the MI Partnership Fund. Our region is long overdue for a significant investment in people-focused mobility to help us grow Michigan together.

We appreciate your leadership and consideration.

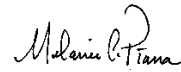
Sincerely,



Mayor Bridget Dean  
City of Berkley



Mayor Therese Longe  
City of Birmingham



Mayor Melanie Piana  
City of Ferndale



Mayor Roslyn Grafstein  
City of Madison Heights



Mayor Marian McClellan  
City of Oak Park



Mayor Bret Scott  
City of Pleasant Ridge



Mayor Mike Fournier  
City of Royal Oak

**INFORMATION ONLY**



June 14, 2023

**Re: Request for Assistance Addressing Noise Concerns along Woodward Avenue**

---

As we welcome another year of beautiful summer weather, I am writing to seek your community's support and collaboration in addressing a persistent issue affecting all of us: excessive noise levels along the Woodward Avenue Corridor that connects each of our communities.

It has become increasingly evident that the noise generated by vehicles modified with after market mufflers and other modifications as well as speeding and racing vehicles has significantly disrupted the health, safety and welfare of residents adjacent to the Woodward Corridor. The noise pollution from vehicles, particularly during summer evenings and weekends, has been causing a multitude of inconveniences, affecting sleep patterns, concentration levels, and the overall quality of life of our residents.

Recognizing that excessive vehicular noise levels affect not only our Birmingham residents, but also the residents of our neighboring communities along Woodward, I firmly believe that joining forces with neighboring communities is crucial to effectively tackle this problem. As you are aware, local noise ordinances cannot be used to enforce noise emitted from a vehicle's exhaust system. By collaborating and presenting a united front, we can demonstrate the magnitude of the issue to the relevant authorities and increase our chances of obtaining a favorable resolution.

Please find attached a Proclamation approved by the Birmingham City Commission on June 5, 2023. This Proclamation has been forwarded to the Governor, our State senators and representatives, as well as Michigan Department of Transportation leadership. I ask that your community consider passing a similar Proclamation and forwarding it to your State officials as well. By each sharing our collective concerns, it is my hope that our State officials will work to develop a comprehensive strategy to address our excessive noise concerns collectively. This will most certainly involve legislation changes at the State level.

Together, we can make a stronger case for noise reduction measures and strive towards a quieter and more peaceful environment for all residents along Woodward.

Thank you for your attention and anticipated support. I look forward to your response and the opportunity to collaborate with you and other concerned neighbors.

Yours truly,

Therese Longe  
Mayor,  
City of Birmingham

**INFORMATION ONLY**



## PROCLAMATION

**Declaring Woodward traffic noise as negatively and seriously impacting the health, safety and welfare of residents of the City of Birmingham.**

- WHEREAS,** persistent and excessive vehicle noise on Woodward Avenue in communities from Ferndale to Pontiac in late evening hours during warm months has risen beyond the level of mere nuisance; and
- WHEREAS,** this noise stems from intentional misuse of the roadway, various unsafe driving behaviors and deliberately modified exhaust systems; and
- WHEREAS,** multiple studies have found that urban road noise pollution causes a variety of psychological, cardiovascular and other health disorders; and
- WHEREAS,** residents report ill effects, including sleep deprivation, increased levels of anxiety, inability to enjoy peaceful recreation outdoors and loss of property value, among other things, due to excessive vehicular noise; and
- WHEREAS,** enforcement efforts have had limited success to fully curtail the nuisance; and
- WHEREAS,** police and city attorneys report that state law is ambiguous and hampers enforcement efforts; and
- WHEREAS,** attempts to enlist state senators and representatives have had no meaningful result to date; and
- THEREFORE,  
BE IT RESOLVED** that I, Therese Longe, Mayor of the City of Birmingham, on behalf of the citizens of Birmingham and the Birmingham City Commission, with their concurrence, do hereby proclaim:

Conditions exist that negatively and seriously impact the health, safety and welfare of residents of the City of Birmingham,

And extraordinary measures must be considered to protect our citizens,

As a conservator of the peace, I hereby appoint the City Manager, the Chief of Police and the Fire Chief, who is also our Chief Health Officer, to an emergency board charged with building a coalition among affected communities along Woodward and with Oakland County to seek immediate remedial action from state officials.

*On behalf of the City of Birmingham and the residents of Birmingham this 5<sup>th</sup> day of June, 2023.*

Therese Longe, Mayor

**INFORMATION ONLY**



MAILED TO:

| COMMUNITY           | ADDRESS                    | CITY                         | CONTACT NAME        | POSITION            |
|---------------------|----------------------------|------------------------------|---------------------|---------------------|
| Royal Oak           | 203 S. Troy                | Royal Oak, MI 48067          | Brake, Paul J.      | City Manager        |
| Berkley             | 3338 Coolidge Hwy.         | Berkley, MI 48072            | Baumgarten, Matthew | City Manager        |
| Huntington Woods    | 26815 Scotia               | Huntington Woods, MI 48070   | Wilson, Chris       | City Manager        |
| Ferndale            | 300 E. Nine Mile Rd.       | Ferndale, MI 48220           | Gacioch, Joseph     | City Manager        |
| Pontiac             | 47450 Woodward Avenue      | Pontiac, Michigan 48342      | Greimel, Tim        | Mayor               |
| Bloomfield Township | 4200 Telegraph Road        | Bloomfield Twp. 48303-0489   | Walsh, Dani         | Township Supervisor |
| Detroit             | 2 Woodward Ave. Suite 1126 | Detroit, MI 48226            | Duggan, Mike        | Mayor               |
| Highland Park       | 12050 Woodward Ave.        | Highland Park, MI 48203-3576 | McDonald, Glenda    | Mayor               |
| Pleasant Ridge      | 23925 Woodward Ave.        | Pleasant Ridge, MI 48069     | Breuckman, James    | City Manager        |

**INFORMATION ONLY**



Proudly serving the 50+ population of Birmingham, Bingham Farms, Beverly Hills, Franklin, and surrounding areas.

Hello Friends of Next,

June 5, 2023

We have exciting news to share ...but first a little background information.

The Next staff and Board of Directors, along with the leadership of the City of Birmingham, have long known that the space where Next resides, the Midvale building, has become inadequate to properly address the needs of active adults now, and in the future. Residents 65 and over are the fastest growing segment of the population and soon will outnumber children 18 and under in Michigan. The Birmingham area is no exception. In fact, we are about to see the most significant demographic shift in our history.

Along with this population shift, Next strives to offer high quality programs; from our well attended Thursday Evening Speaker Series, Henry Ford Health & Wellness presentations, unique art classes, a multitude of fitness offerings, along with travel, enrichment opportunities, and Support Services. And most importantly – so many ways to gather, connect and forge friendships. Our members have responded with almost exponential growth and increased attendance, which is wonderful, but further emphasizes the fact that our current space is very limiting.

As you may be aware, Next does not have a lease or ownership of the Midvale building, making it difficult to plan for the future. For quite a while, we have tried to secure a long-term arrangement with the Birmingham Public Schools, but that has not proven possible. We are grateful for the symbiotic relationship we have shared with BPS over the last 45 years, but after thoughtful consideration, it is time to move on from our long-time partnership to a facility better suited for our growing adult population.

Over the last few years, we have looked and investigated many ideas, sites and non-traditional options to relocate. We have spoken to developers, property managers and property owners, doing due diligence and leaving no stone unturned. This is a tricky market with little open space and expensive property values.

Tom Markus, the Birmingham City Manager, at the charge of the Birmingham Commission, has diligently worked with Next to find our “Next” home. While land acquisitions and building purchases need to remain confidential based on municipal protocol, we are now at the point to be able to share news. The City of Birmingham has



purchased the YMCA building on East Lincoln Street in Birmingham as a combined future site for the Y and Next. The YMCA will reduce its footprint as it looks to expand operations in neighboring communities, and Next will be able to utilize 30,000 square feet of the current 40,000 square foot building – that triples our current space! As the City of Birmingham has worked to secure a bright future for Next, we have also made a significant financial contribution that solidifies our commitment to this new exciting phase in our combined efforts to elevate the programs and services to area residents.

This is great news for Next and the Y as our missions are well-aligned and our view of service to the community are very compatible. The Birmingham City Commission has enthusiastically approved this plan, fulfilling one of the city's important strategic goals – a new home where our 50 plus community can stay active and connected.

There is much yet to accomplish and much to consider but it is all very exciting! This move will unfold in the next few years as we line-up funding, undergo building renovations and make sure we are well situated to provide quality programs and exceptional service well into the future.

Although we are in the preliminary stages of this project, there will no doubt be questions in the coming days and months. We plan to put a couple of town hall forums on the calendar to share more details about our future plans and answer any questions you may have.

In the meantime, if you have any immediate questions, please contact me at [cbraun@birmingham.k12.mi.us](mailto:cbraun@birmingham.k12.mi.us) or stop in to my office when you're in the building.

Thank you to our members for your patience and flexibility, thank you to the Birmingham Commissioners for making the 50 plus community a priority, and a huge thank you to Tom Markus for working so hard on behalf of Next and the entire community.

With respect and gratitude,



Cris Braun  
Executive Director



Jay Reynolds  
Next Board President



Marcia Wilkinson  
Next Board Incoming President



By Emily Baumgaertner, Jason Kao, Eleanor Lutz, Josephine Sedgwick, Rumsey Taylor, Noah Throop and Josh Williams

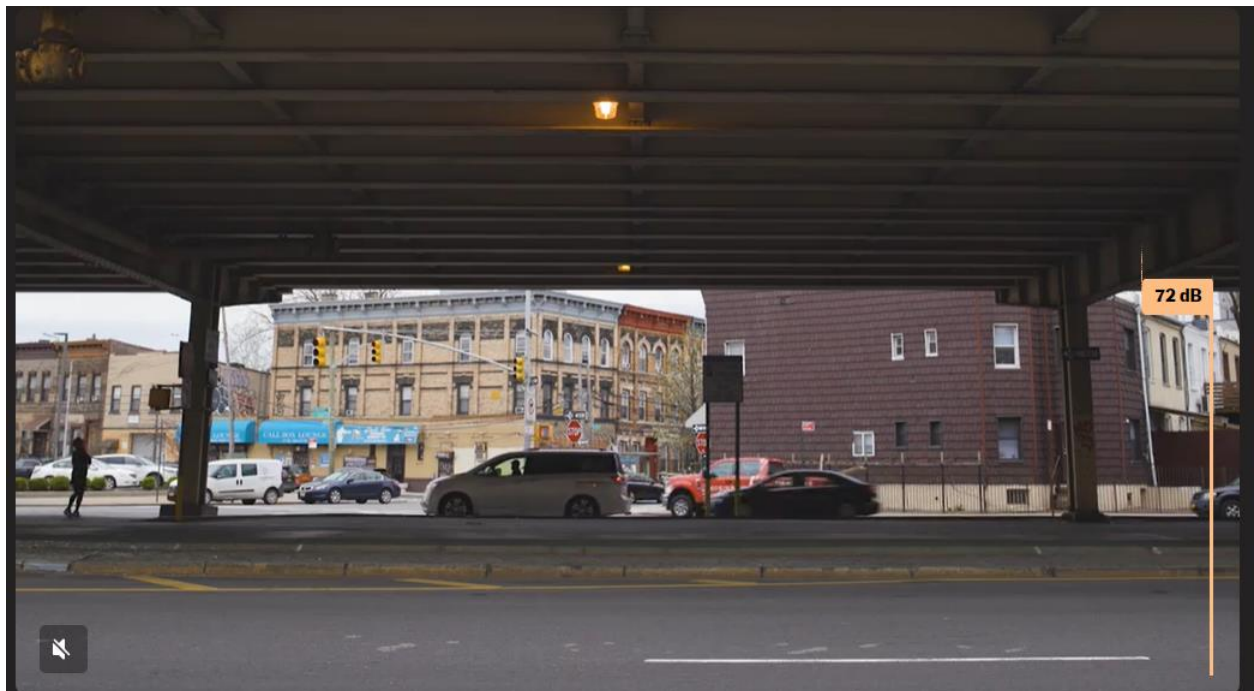
**June 9, 2023**

On a spring afternoon in Bankers Hill, San Diego, the soundscape is serene: Sea breeze rustles through the trees, and neighbors chat pleasantly across driveways.

Except for about every three minutes, when a jet blazes overhead with an ear-piercing roar.

A growing body of research shows that this kind of chronic noise — which rattles the neighborhood over 280 times a day, more than 105,000 each year — is not just annoying. It is a largely unrecognized health threat that is increasing the risk of hypertension, stroke and heart attacks worldwide, including for more than 100 million Americans.

We've all been told to limit the volume on our headphones to protect our hearing. But it is the relentless din of daily life in some places that can have lasting effects throughout the body.



Greenpoint, Brooklyn

**INFORMATION ONLY**

Anyone who lives in a noisy environment, like the neighborhoods near this Brooklyn highway, may feel they have adapted to the cacophony. But data shows the opposite: Prior noise exposure primes the body to overreact, amplifying the negative effects.

Even people who live in relatively peaceful rural and suburban communities can be at risk. The sudden blare of trains that run periodically through D'Lo, Miss. (population: less than 400), can be especially jarring to the body because there is little ambient noise to drown out the jolt.

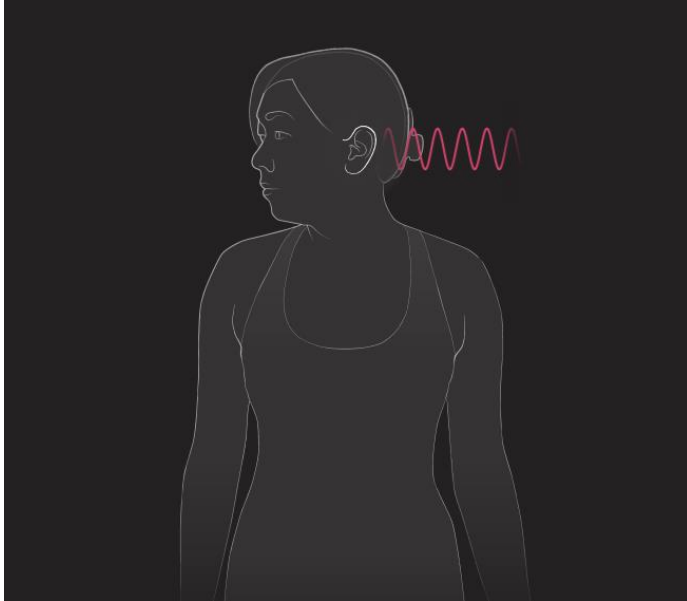


D'Lo, Miss.

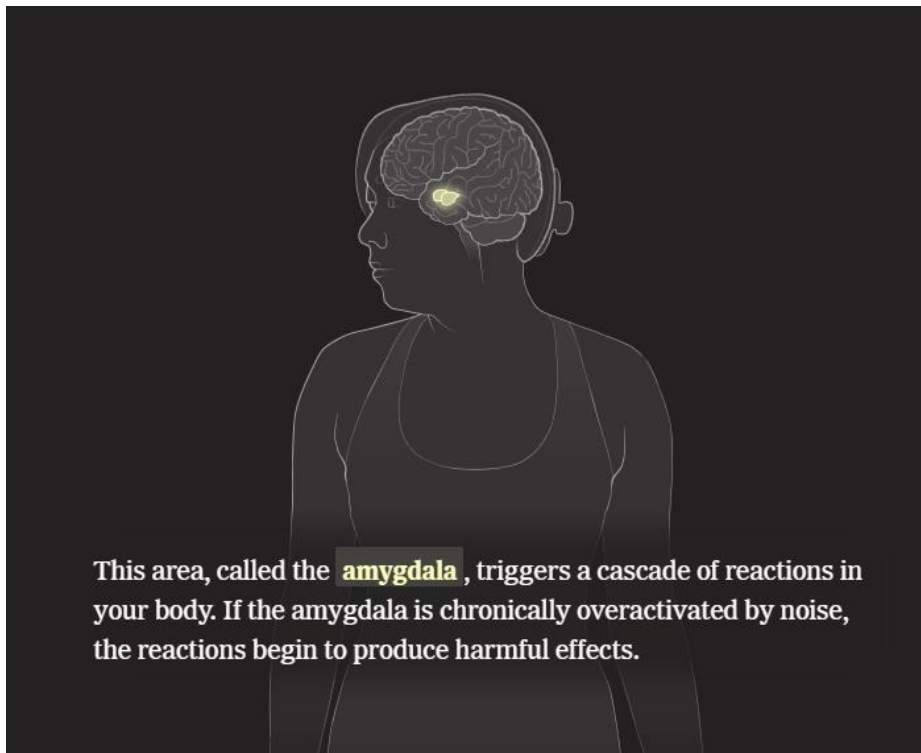
We went to neighborhoods in rural Mississippi, New York City, and suburban California and New Jersey to measure residents' noise exposure and interview them about the commotion in their lives. We consulted more than 30 scientists and reviewed thousands of pages of research and policy to examine the pathology and epidemiology of noise.

## What noise does to your body

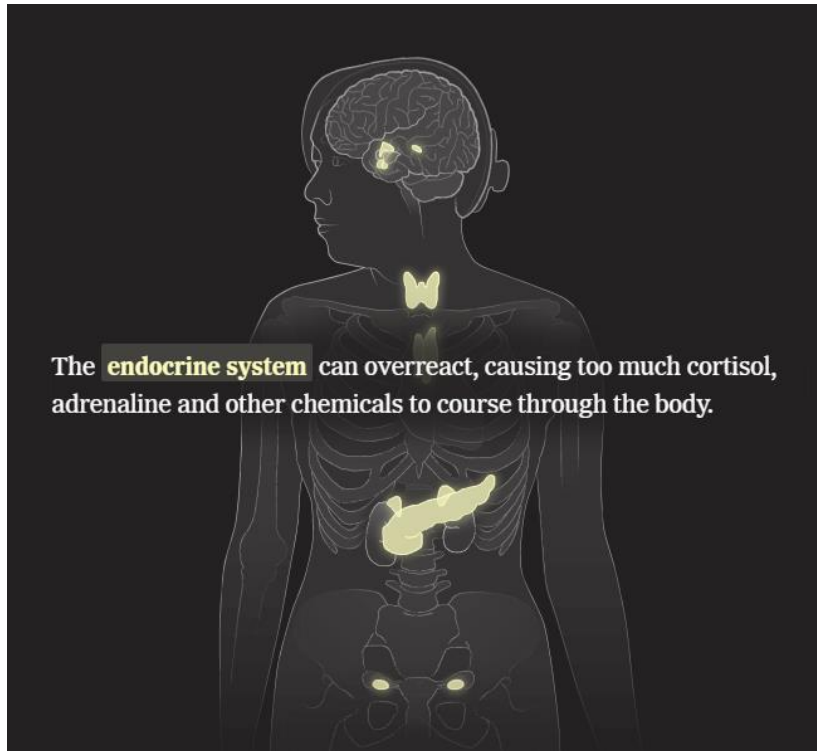
A siren shrills. A dog barks. Engines thrum. Jackhammers clack.



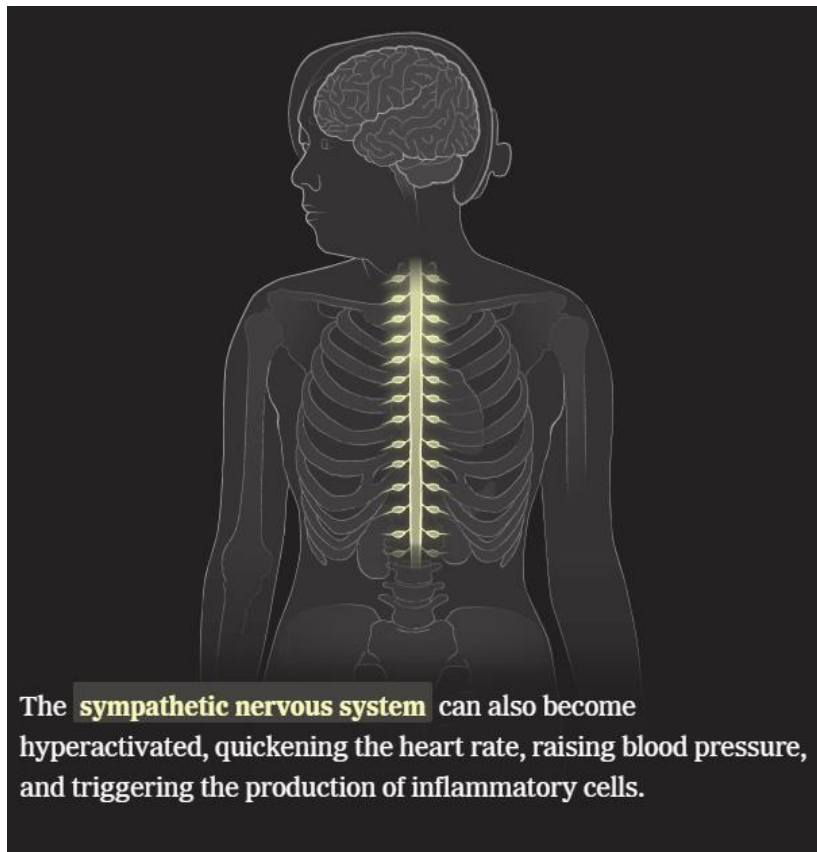
Unpleasant noise enters your body through your ears, but it is relayed to the stress detection center in your brain.



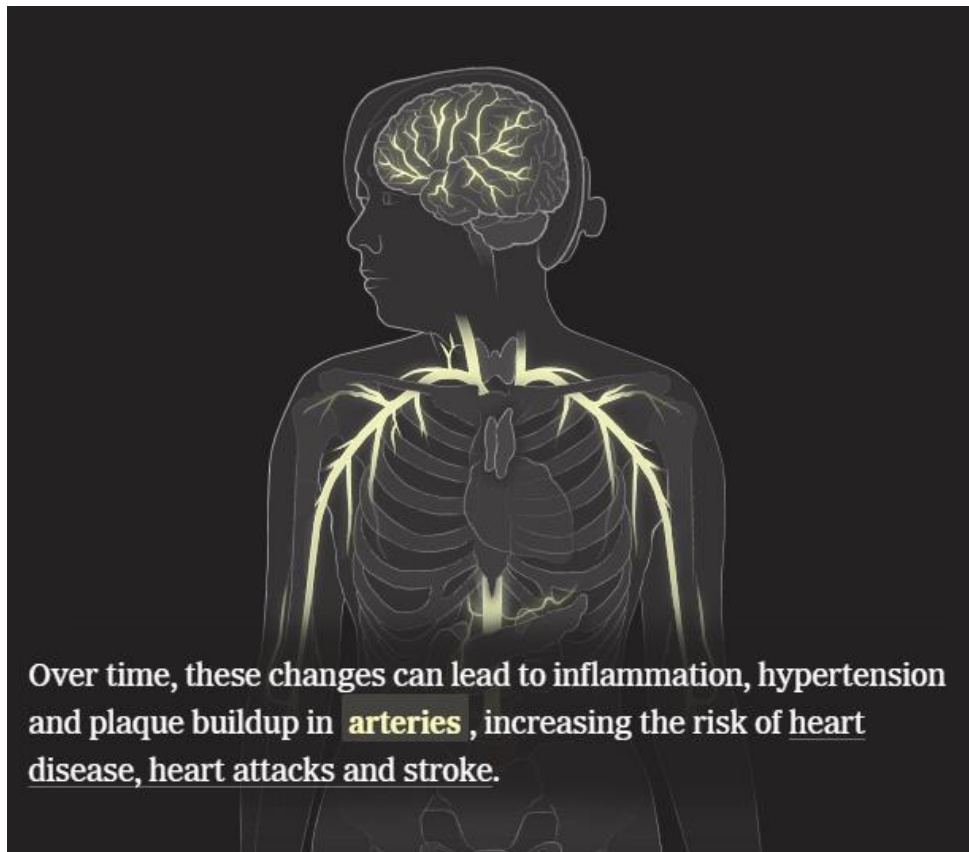
**INFORMATION ONLY**



The **endocrine system** can overreact, causing too much cortisol, adrenaline and other chemicals to course through the body.



The **sympathetic nervous system** can also become hyperactivated, quickening the heart rate, raising blood pressure, and triggering the production of inflammatory cells.



To understand this pathway, researchers broke it down: They scanned the brains of people as they listened to unpleasant sounds — styrofoam rubbing, nails on a chalkboard, a dentist’s drill — and watched live as their amygdalas activated. They also strapped blood pressure monitors and noise dosimeters onto auto assembly plant workers during a shift to see their blood pressures and heart rates rise with their noise exposure.

To simulate relentless nights, scientists played dozens of sporadic recordings of passing trains and planes overhead in healthy volunteers’ bedrooms — recordings taken of real disruptions from people’s homes. They found that the next morning, the volunteers had higher adrenaline levels, stiffened arteries, and spikes in plasma proteins that indicate inflammation.

When researchers analyzed the brain scans and health records of hundreds of people at Massachusetts General Hospital, they made a stunning discovery: Those who lived in areas with high levels of transportation noise were more likely to have highly activated amygdalas, arterial inflammation and — within five years — major cardiac events.

The associations remained even after researchers adjusted for other environmental and behavioral factors that could contribute to poor cardiac health, like air pollution, socioeconomic factors, and smoking.

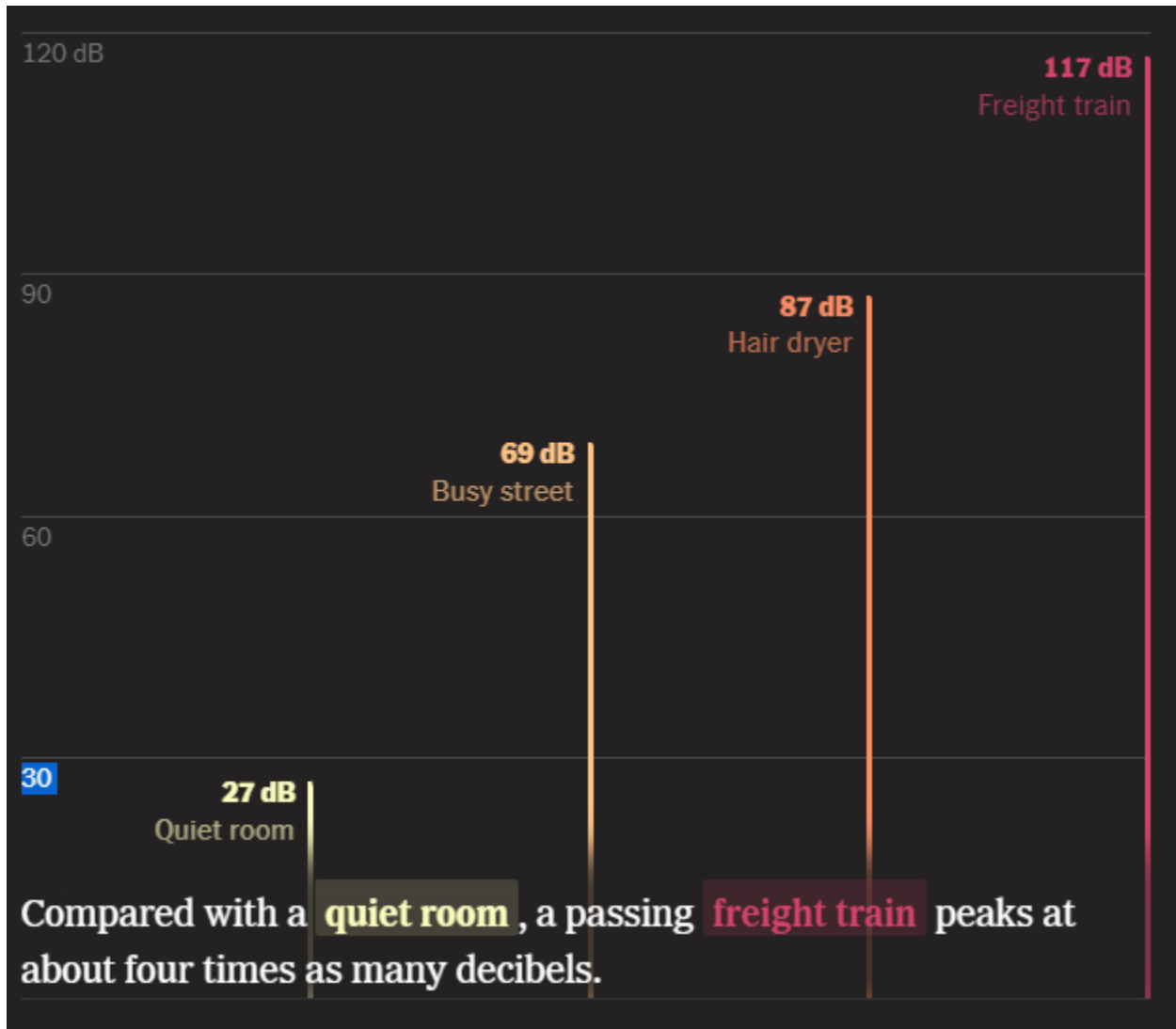
In fact, noise may trigger immediate heart attacks: Higher levels of aircraft noise exposure in the two hours preceding nighttime deaths have been tied to heart-related mortality.

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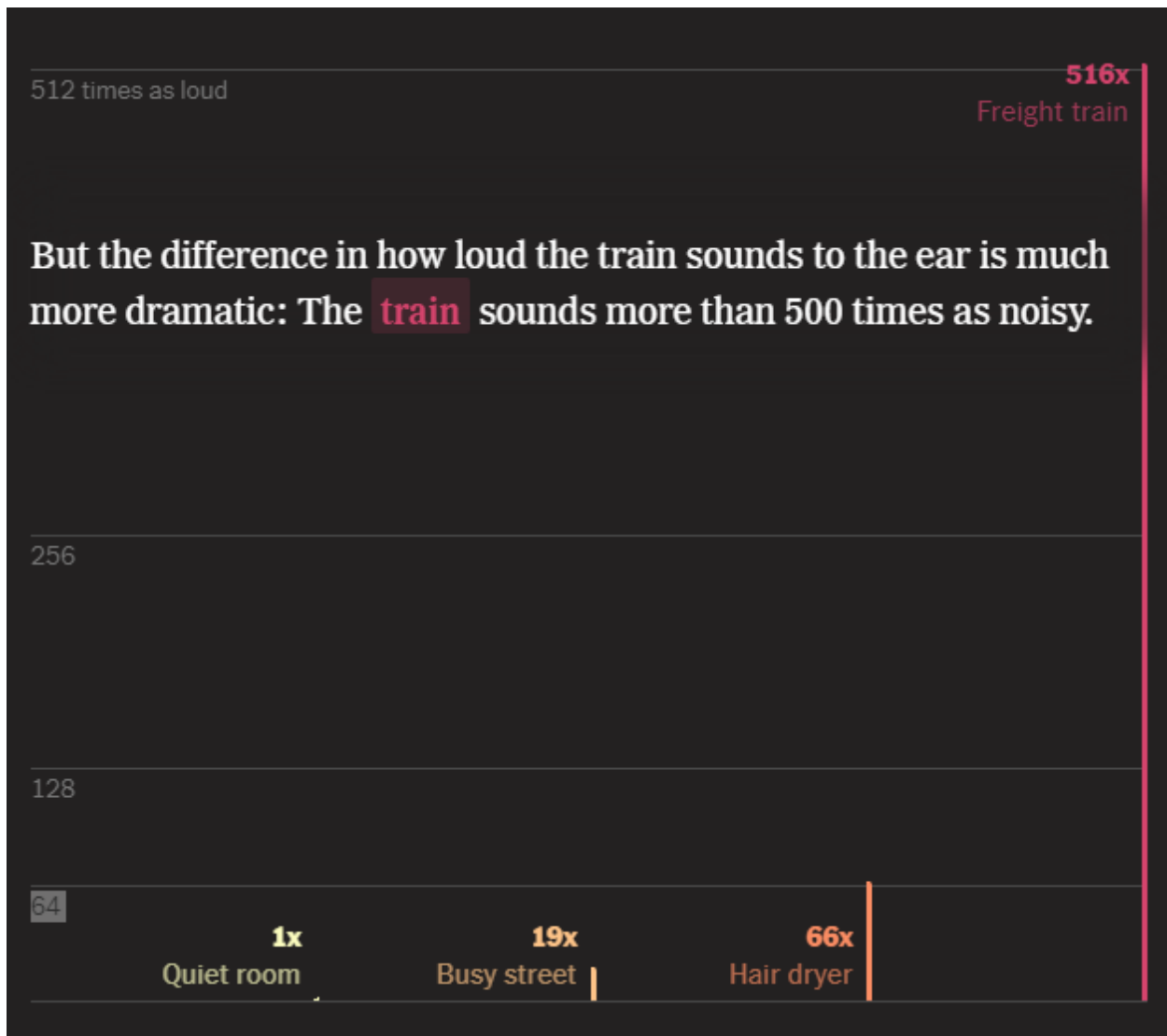
How loud is too loud?

Sound is often measured on a scale of decibels, or dB, in which near total silence is zero dB and a firecracker exploding within a meter of the listener is about 140 dB.

We used a professional device called a sound level meter to record the decibel levels of common sounds and environments.



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That's because the decibel scale is logarithmic, not linear: With every 10 dB increase, the sense of loudness to the ear generally doubles. And that means regular exposure to even a few more decibels of noise above moderate levels can trigger reactions that are harmful to health.

According to the World Health Organization, average road traffic noise above 53 dB or average aircraft noise exposure above about 45 dB are associated with adverse health effects.

Nearly a third of the U.S. population lives in areas exposed to noise levels of at least 45 dB, according to a preliminary analysis based on models of road, rail and aircraft noise in 2020 from the Department of Transportation.

This chart shows how many people in the United States may be exposed to various outdoor noise levels, on average. Since transportation patterns in 2020 were low because of the pandemic, researchers suspect that current transportation-related noise could be notably higher.

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**3 million people** in the U.S. may live in areas with average outside noise levels above 70 dB

**>70 dB**

**60-70 dB** 9 million

**50-60 dB**

39 million

**45-50 dB**

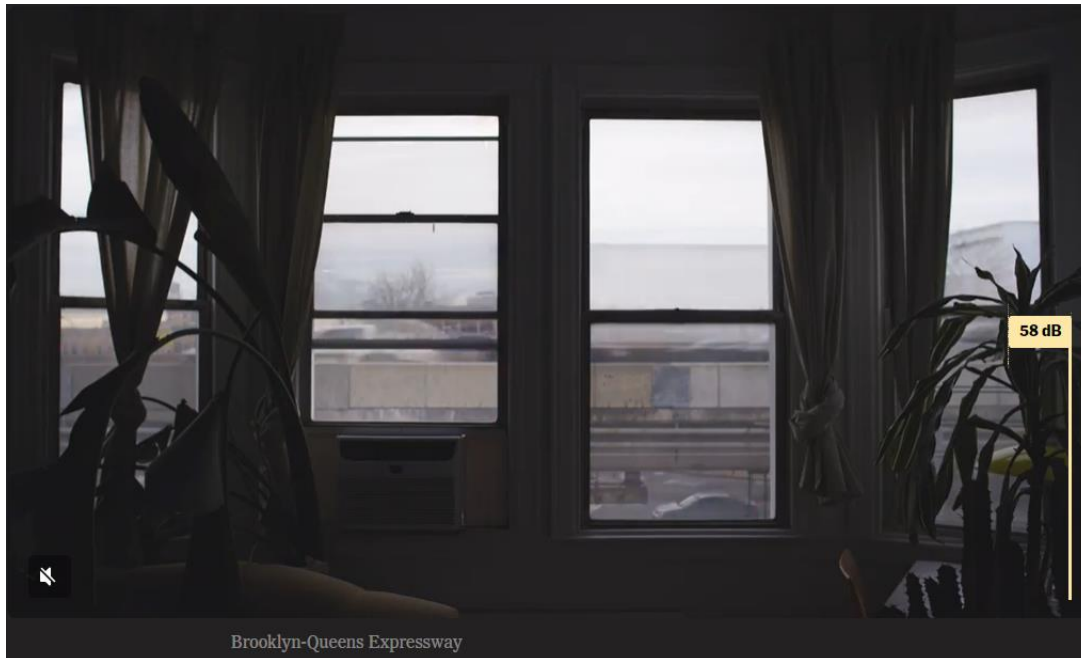
44 million

**<45 dB**

232 million

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In this Brooklyn apartment, the windows are closed, but indoor sound levels are consistently above the maximum average levels recommended by the W.H.O.



The nighttime noise that a person in such an environment experiences is considered particularly detrimental to health because it can fragment sleep and trigger a stress response, even if the person does not recall being roused.

The W.H.O. has long recommended less than 40 dB as an annual average of nighttime noise outside bedrooms to prevent negative health effects, and less than 30 dB of nighttime noise inside bedrooms for high-quality sleep. That's even quieter than inside this house in D'Lo, when a train isn't going by.



D'Lo, Miss., in between trains.

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Mounting research suggests that the relationship between noise levels and disease is eerily consistent: A study following more than four million people for more than a decade, for example, found that, starting at just 35 dB, the risk of dying from cardiovascular disease increased by 2.9 percent for every 10 dB increase in exposure to road traffic noise.

The increase in risk of dying from a heart attack was even more pronounced: Also starting at just 35 dB, it increased by 4.3 percent for every 10 dB increase in road traffic noise.

Not all loud noise is equal

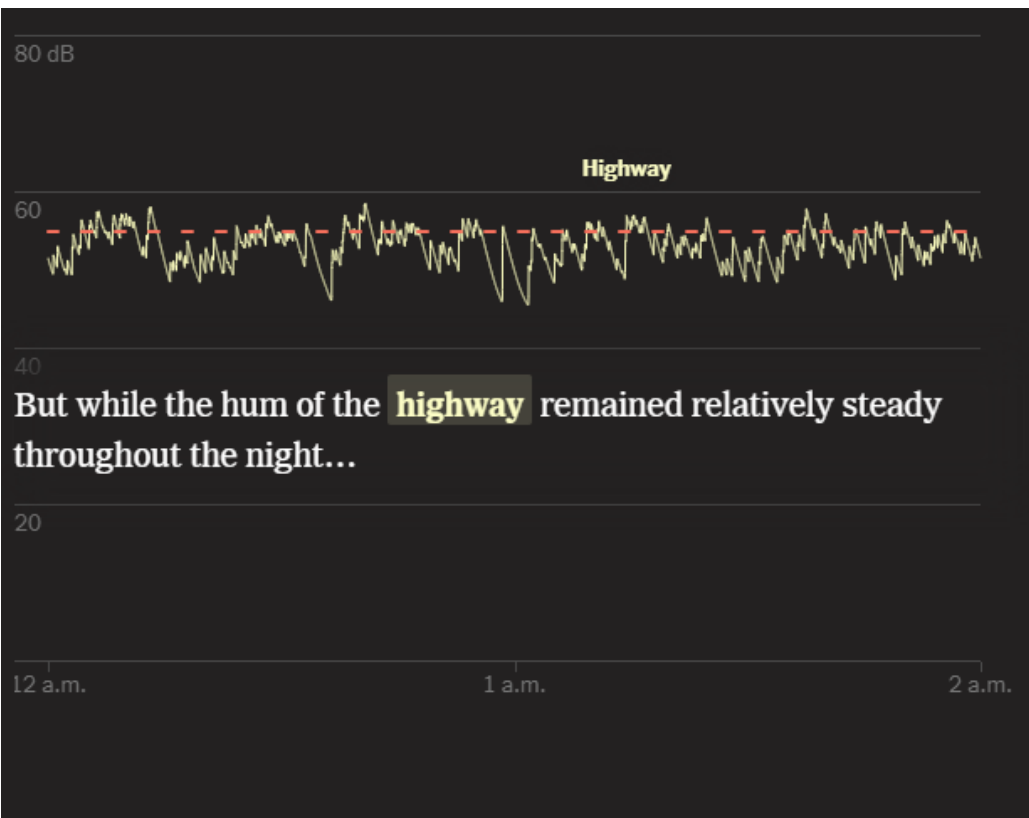
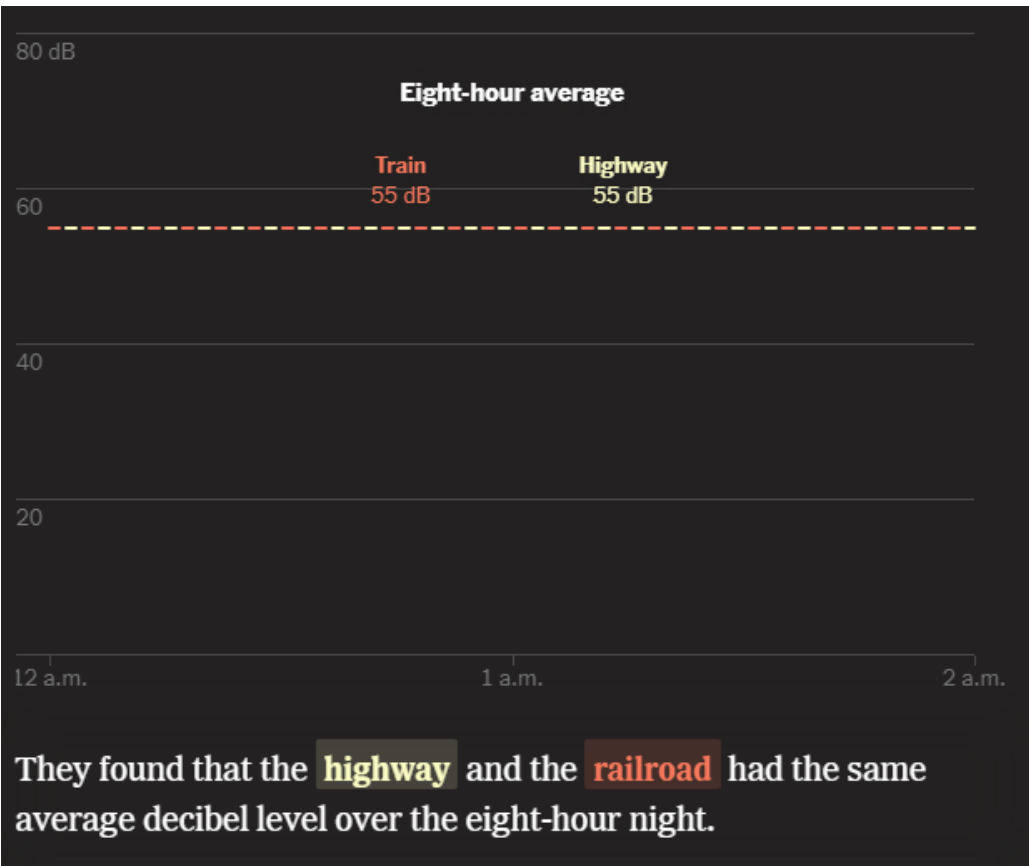
At High Tech Middle School in Point Loma, San Diego — less than a mile from the runway of San Diego International Airport — the roofs above classrooms are heavily insulated to mitigate the rumble. But students still have a term for an aircraft interruption so loud that it halts discussion: the Point Loma Pause.

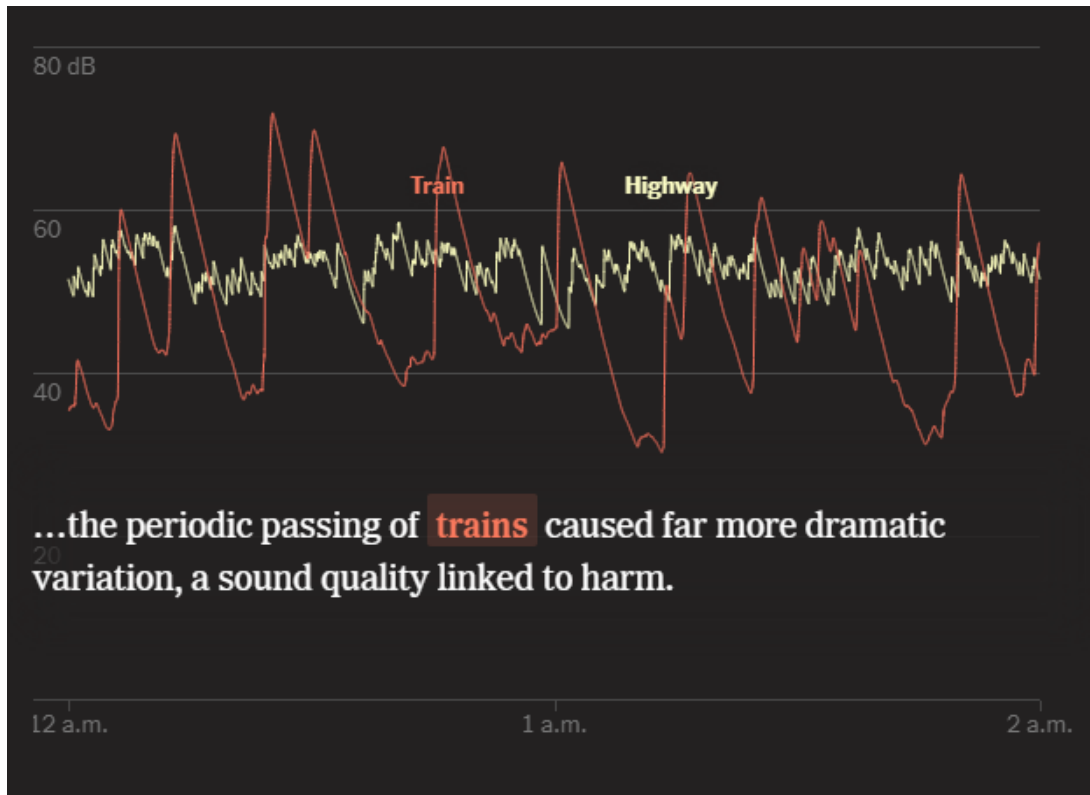


Scientists believe that pronounced fluctuations in noise levels like this might compound the effects on the body. They suspect jarring sounds that break through the ambience — recurring jet engines, a pulsating leaf blower, or the brassy whistle of trains — are more detrimental to health than the continuous whirring of a busy roadway, even if the average decibel levels are comparable.

To visualize the concept, Swiss researchers measured and compared transportation noise along a highway with a railroad track, over the course of a night.

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In a subsequent Swiss study, higher degrees of nighttime “noise intermittency” — or the extent to which sound events were distinguishable from the background levels — were associated with heart disease, heart attacks, heart failure and strokes.

### Who is most at risk?

As with so many health issues, poor people and communities of color are more likely to experience excessive noise exposure because they often have fewer housing choices and are more likely to live near high-traffic roads, raucous waste dumps and industrial areas.

According to a study of more than 94,000 schools, students in those estimated to be most highly exposed to road or aviation noise were significantly more likely to be eligible for free or reduced-price meals and to be Hispanic, Black, or Asian/Pacific Islander. Such excess noise in schools is associated with heightened stress hormones, lower reading scores and even hyperactivity among children.

Nighttime noise shows similar inequities. Census data shows that city communities with almost no low-income residents averaged 44 dB at night, compared with about 47 dB in those where half of residents fall below the poverty line. Neighborhoods with almost no Black residents averaged about 42 dB at night, compared with about 46 dB in communities that were three-fourths Black.

The difference of a few dBs might not seem like much, but for every one dB increase, the risk of developing cardiovascular disease climbs by roughly another percentage point, according to a preliminary analysis of more than 100,000 U.S. nurses. And as dBs climb, so too do associations with death because of cardiovascular disease and heart attack.

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The disparities in noise exposure are likely to be much larger than the noise model suggests, researchers said, since wealthier households and schools are more likely to install triple-pane windows and more insulation. And the inequities are not unique to the United States: Spatial modeling has revealed similar disparities within various countries across four other continents.

### **What can be done?**

Fifty years ago, under the Noise Control Act of 1972, the newly formed Environmental Protection Agency was a trailblazer in recognizing the danger of noise and addressing it: It educated the public, established safety limits, published deep analyses on various culprits and recommended actions to mitigate harm.

But its office of noise abatement was defunded by the Reagan administration, rendering policies unenforceable and regulatory criteria obsolete. The Occupational Safety and Health Administration's eight-hour workplace noise limit is still 90 dB.

European countries have far outpaced the rest of the world in regulating noise. The European Union requires member nations to monitor and assess sound levels across regions and to produce new action plans every five years to address communities at greatest risk. The E.U. now mandates quiet brake locks on rail freight fleets and noise labels on outdoor power equipment; it also requires noise reduction in car manufacturing and mitigation efforts at airports.

Individual cities and countries have taken additional measures. Paris has installed noise cameras that measure the sound level of vehicles and fine drivers who exceed them. Berlin has used new bike lanes to reduce the flow of engine-powered vehicles and move the source of the noise to the center of the road, away from houses. Switzerland has introduced national "quiet hours" — overnight, one midday hour on weekdays, and all day on Sundays.

While scientists say it's too soon to make a prediction about the effects of these policies on cardiovascular health, several European countries have reported tens of thousands fewer residents exposed to major sources of noise.

Like many health issues, protection against noise would be economically advantageous. Economists who analyzed health care spending and productivity loss because of heart disease and hypertension have argued that a 5 dB reduction in U.S. noise could result in an annual benefit of \$3.9 billion.

But unlike most other contributors to heart disease, noise cannot be addressed fully between a patient and a doctor. Protection requires changes in local, state and federal policy.

In the meantime, in D'Lo, Miss., George Jackson has repeatedly jacked his home to decrease the vibration. In Mendenhall, Carolyn Fletcher tried resealing her windows. In Bankers Hill, Ron Allen says all he can do is take vitamin supplements and plug his ears.

### **Sources and methodology**

For the decibel graphic on the videos and the graphic comparing decibel levels, we measured decibels using a SoundAdvisor Model 831C sound level meter from Larson Davis. In both cases, we show A-weighted decibels to emphasize the frequencies that are available to the human ear and that are

commonly used in health studies and regulatory requirements. For each video, we positioned the sound level meter next to the camera, which was about shoulder height.

For the decibel graphic, we measured sound levels in an empty room; on the sidewalk of a busy New York City street; and a few inches away from a hair dryer in a quiet room. The videos show decibel changes on a linear scale.

Most research and policy cited in this article used A-weighted measurements.

Estimates of the number of people in the United States exposed to each decibel range do not include U.S. territories and are from Department of Transportation data analyzed by Edmund Seto and Ching-Hsuan Huang at the University of Washington.

The data for the Swiss transportation noise chart was provided by Jean Marc Wunderli at the Swiss Federal Laboratories for Materials Science and Technology, and it was derived from research in the Journal of Exposure Science and Environmental Epidemiology.

Anatomy references are from the third edition of “Anatomische Atlas,” edited by Anne M. Gilroy, Brian R. MacPherson and Jamie C. Wikenheiser.

### **Additional sources**

Jamie Banks, president of Quiet Communities and chair of the Noise & Health Committee at the American Public Health Association

Dr. Mathias Basner, sleep and health researcher, University of Pennsylvania

Stuart Batterman, professor of environmental health sciences, University of Michigan

Rachel Buxton, soundscape ecologist, Carleton University

Joan Casey, assistant professor, University of Washington School of Public Health

Timothy William Collins, professor of geography, University of Utah

Andreas Daiber, molecular cardiologist, University Medical Center Mainz

Gary Evans, environmental and developmental psychologist, Cornell University

Dr. Daniel Fink, board chair, The Quiet Coalition

Kurt Fristrup, affiliate research scientist at Colorado State University, retired sound researcher at the National Park Service

Ching-Hsuan Huang, doctoral candidate, University of Washington

Chandra Jackson, cardiovascular epidemiologist and investigator, National Institutes of Health

Peter James, environmental epidemiologist, Harvard Medical School

Chucru Kardous, retired research engineer, National Institute for Occupational Safety and Health

Nina Lee, doctoral student and research assistant at the Brown Community Noise Lab

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**INFORMATION ONLY**

Danielle Vienneau, group leader, Swiss Tropical and Public Health Institute

Erica Walker, assistant professor of epidemiology, Brown University School of Public Health

Jean Marc Wunderli, chair of the acoustics and noise control lab, Swiss Federal Laboratories for Materials Science and Technology

Special thanks to community members in D'Lo, Mendenhall and Braxton, Miss.; Loma Portal, Ocean Beach and Bankers Hill in San Diego, Calif.; South Orange, N.J.; and Greenpoint, Brooklyn.

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June 13, 2023

Ms. Alexandria Bingham, Clerk  
City of Birmingham  
151 Martin St.  
Birmingham, MI 48012-3001

RE: Price Change to Starz Channel

Dear Ms. Bingham:

We are committed to keeping you and our customers informed about changes to Xfinity TV services. Accordingly, please note the following change:

- Starz will be increasing its per month price from \$8.99 to \$9.99 effective with a customer's July 2023 billing statement.

Please feel free to contact me at 248-924-4917 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Eric M. Woody".

Eric Woody  
Manager of External Affairs  
Comcast, Heartland Region  
41112 Concept Drive  
Plymouth, MI 48170

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