1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE
   Pierre Boutros, Mayor

2. ROLL CALL
   Cheryl Arft, Acting City Clerk

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

ANNOUNCEMENTS:

APPOINTMENTS:
A. Parks & Recreation Board
   1. Eleanor Noble
   2. Pam Graham
   3. Andrew Haig

B. To appoint _____________ to the Parks & Recreation Board as a regular member to serve the remainder of a three-year term to expire March 13, 2022.

C. Public Arts Board
   1. Annie Van Gelderan
   2. Natalie Bishai
   3. Anne Ritchie
   4. Jason Eddleston

D. To appoint _____________ to the Public Arts Board as a regular member to serve the remainder of a three-year term to expire January 28, 2022.

   To appoint _____________ to the Public Arts Board as an alternate member to serve a three-year term to expire January 28, 2023.

   To appoint _____________ to the Public Arts Board as a regular member to serve a three-year term to expire January 28, 2023.

   To appoint _____________ to the Public Arts Board as a regular member to serve a three-year term to expire January 28, 2023.
E. Multi-Modal Transportation Board
   1. Thomas Peard

F. To appoint ____________ to the Multi-Modal Transportation Board as a regular member who has urban planning, architecture or design education and/or experience to serve the remainder of a three-year term to expire March 24, 2022.

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

A. Resolution approving the Regular City Commission meeting minutes of December 16, 2019.

B. Resolution approving the Ad Hoc Clerk Selection Committee meeting minutes of January 3, 2020.

C. Resolution approving the warrant list, including Automated Clearing House payments, dated December 18, 2019 in the amount of $567,686.36.

D. Resolution approving the warrant list, including Automated Clearing House payments, dated January 8, 2020 in the amount of $3,376,128.65.

E. Resolution delegating to the Birmingham City Clerk and her authorized assistants, those being the members of her staff, the following duties of the election commission for the March 10th Presidential Primary Election, August 4th, 2020 Primary Election and November 3rd, 2020 General Election:
   • Preparing meeting materials for the election commission, including ballot proofs for approval and a listing of election inspectors for appointment;
   • Contracting for the preparation, printing and delivery of ballots;
   • Providing candidates and the Secretary of State with proof copies of ballots;
   • Providing notice to voters in the case of precinct changes/consolidations;
   • Providing election supplies and ballot containers; and
   • Preliminary logic and accuracy testing.

F. Resolution designating Finance Director Mark Gerber, Assistant Finance Director Kim Wickenheiser, DPS Director Lauren Wood, Building Official Bruce Johnson, Assistant Building Official Mike Morad, Birmingham Museum Director Leslie Pielack, and Police Commander Scott Grewe as representatives for Election Commission members Mayor Pierre Boutros, Mayor Pro Tem Therese Longe, and Commissioners Rackeline Hoff, Brad Host, Mark Nickita and Stuart Sherman for the purpose of conducting the Public Accuracy Tests of the electronic tabulating equipment which will be used to count votes cast at the March 10, 2020, August 4, 2020 and November 3, 2020 elections.

G. Resolution approving the cost sharing agreement with Bloomfield Township to proceed with the installation of a new Woodward Ave. crosswalk on the south leg of the Woodward Ave. and Quarton Rd./Big Beaver Rd. intersection at the estimated amount of $65,320.50, to be charged to the General Sidewalk Fund Capital Improvements, 101-444.001-981.0100. Also, directing the Mayor to sign the agreement on behalf of the City. Further, approving the appropriation and amendment to the fiscal year 2019-2020 General Fund budget.
H. Resolution appointing Assistant City Engineer Austin Fletcher as representative, and Assistant City Engineer Theresa Bridges as alternate representative, for the City of Birmingham, on the Southeastern Oakland County Water Authority Board of Trustees for the period starting January 13, 2020.

I. Resolution approving the Amended and Restated Professional Services Agreement with McKenna Associates, Inc. for inspection, code enforcement and support services as planned in the current fiscal year, and thereafter, as budgeted. Further, directing the Mayor and City Clerk to sign the agreement on behalf of the City.

J. Resolution approving the use of six parking spaces in the right-of-way adjacent to the property located at 707-717 S. Eton to fulfill the parking requirements per Article 4, section 4.43 (G)(4) of the Zoning Ordinance, subject to the recommended repairs being completed as required by the Engineering Department.

K. Resolution awarding the Video Inspection – Maple Road to M-1 Studios of Ferndale, MI in the amount of $28,400.00 to be charged to the various accounts as detailed in this report.

L. Resolution awarding the Maple Road Traffic Signal Mast Arm Materials Contract to Farr & Faron Associates of Brighton, MI in the amount of $95,429.00 to be charged to Major Street Fund (Traffic Control) 202-303.001-977.0100.

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

A. Public hearing to consider Zoning Ordinance amendments – Overlay Districts
   Resolution approving the following amendments to Chapter 126, Zoning:
   1. Article 3, Overlay Districts, section 3.04(A) to amend the building height standards in the D5 zone of the Downtown Birmingham Overlay District; and
   2. Article 9, Definitions, section 9.02 to add a definition for the term abutting.

B. Resolution approving the applicant’s request to waive the application fees and expedite the request for a SLUP Amendment for Dick O’Dows at 160 W. Maple to allow the applicant to temporarily relocate the outdoor dining area at the rear of the building during the 2020 outdoor dining season.

C. Resolution approving the 2020 Lead and Copper Compliance Testing Sampling proposal from HydroCorp, Inc. using Paragon Laboratories at the cost of $48.00 per site for a total amount not to exceed $35,088.00; and approving the quote from Paragon Laboratories at the cost of $41.00 per site for a total amount not to exceed $29,971.00, contingent upon receipt of proper insurance. Further, waiving the formal bidding requirements. In addition, approving the appropriation and amendment to the fiscal year 2019-2020 Water Fund budget.

D. Resolution revising the public comment section of the commission agenda to move public comment prior to the consent agenda for a six (6) month trial period and to include the suggested guidelines for public comment.
   OR

   Resolution revising the public comment section of the commission agenda to move public comment prior to the consent agenda and to include the suggested guidelines for public comment.
OR
Resolution maintaining the public comment section at the current location on the agenda and to include the suggested guidelines for public comment.

VII. REMOVED FROM CONSENT AGENDA

VIII. COMMUNICATIONS
A. Communication from Mr. Kojaian re Maple alley and city response

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

X. REPORTS
A. Commissioner Reports
B. Commissioner Comments
C. Advisory Boards, Committees, Commissions’ Reports and Agendas
D. Legislation
E. City Staff
   1. City Clerk report, submitted by City Manager Valentine

INFORMATION ONLY

XI. ADJOURN

PLEASE NOTE: Due to building security, public entrance during non-business hours is through the Police Department - Pierce St. entrance only.

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).
At the regular meeting of Monday, January 13, 2020, the Birmingham City Commission intends to appoint a regular member to the Parks and Recreation Board to serve the remainder of a three-year term to expire March 13, 2022.

Interested citizens may submit an application available at the City Clerk's office or online at www.bhamgov.org/boardopportunities. Applications must be submitted to the City Clerk’s office on or before noon on Wednesday, May 1, 2019. These applications will appear in the public agenda for the regular meeting at which time the City Commission will discuss recommendations, and may make nominations and vote on the appointments.

Responsibilities
The Parks & Recreation Board consists of seven members and two alternate members who serve for three-year terms without compensation. The goal of the board is to promote a recreation program and a park development program for the City of Birmingham. The Board shall recommend to the City Commission for adoption such rules and regulations pertaining to the conduct and use of parks and public grounds as are necessary to administer the same and to protect public property and the safety, health, morals, and welfare of the public.

The meetings are held the first Tuesday of the month at 6:30 P.M.

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:

<table>
<thead>
<tr>
<th>Applicant Name</th>
<th>Criteria/ Qualifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eleanor Noble</td>
<td>Registered voter; currently alternate member on board</td>
</tr>
<tr>
<td>Pam Graham</td>
<td>Registered voter; currently alternate member on board</td>
</tr>
<tr>
<td>Andrew Haig</td>
<td>Registered voter</td>
</tr>
</tbody>
</table>

SUGGESTED ACTION:

To appoint _____, to the Parks and Recreation Board as a regular member to serve the remainder of a three-year term to expire March 13, 2022.
PARKS AND RECREATION BOARD

Article II, Section 78

Objectives: The Parks and Recreation Board shall promote a recreation program and a park development program for the City. The Board shall recommend to the city commission for adoption such rules and regulations pertaining to the conduct and use of parks and public grounds as are necessary to administer the same and to protect public property and the safety, health, morals, and welfare of the public.

Seven regular members, Three-year Terms, Appointed by the City Commission
Two alternate members, Three-year Terms, Appointed by the City Commission
Members must be electors of the City of Birmingham
Meetings held the first Tuesday of each month at 6:30 PM.

<table>
<thead>
<tr>
<th>Last Name</th>
<th>First Name</th>
<th>Home Address</th>
<th>Business</th>
<th>Home E-Mail</th>
<th>Appointed</th>
<th>Term Expires</th>
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</thead>
<tbody>
<tr>
<td>Carmona</td>
<td>Heather</td>
<td>887 Lakeview Ave.</td>
<td>(248) 867-1346</td>
<td><a href="mailto:htcarmona@sbcglobal.net">htcarmona@sbcglobal.net</a></td>
<td>2/25/2019</td>
<td>12/31/2019</td>
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<td></td>
<td>Student Representative</td>
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<tr>
<td>Graham</td>
<td>Pam</td>
<td>884 Knox</td>
<td>(248) 408-6277</td>
<td><a href="mailto:pamcracker@gmail.com">pamcracker@gmail.com</a></td>
<td>6/3/2019</td>
<td>3/13/2020</td>
</tr>
<tr>
<td>Kaplan</td>
<td>Ross</td>
<td>635 Oak</td>
<td>(248) 645-6526</td>
<td><a href="mailto:rkaplan@neumannsmith.com">rkaplan@neumannsmith.com</a></td>
<td>10/22/2007</td>
<td>3/13/2020</td>
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<td>Last Name</td>
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<td>Home Business</td>
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<tr>
<td>Noble</td>
<td>Eleanor</td>
<td>1160 Lake Park Dr.</td>
<td>(248) 417-7777</td>
<td>7/10/2017</td>
<td>3/13/2020</td>
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<tr>
<td>Pulis</td>
<td>Dominick</td>
<td>824 Wimbledon Dr.</td>
<td>(586) 381-5831</td>
<td>3/25/2019</td>
<td>3/13/2022</td>
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<tr>
<td>Rusche</td>
<td>John</td>
<td>358 Henley St.</td>
<td>(248) 731-7068</td>
<td>9/6/2018</td>
<td>3/13/2021</td>
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<tr>
<td>Wiebrecht</td>
<td>William</td>
<td>1714 Torry</td>
<td>(248) 703-6503</td>
<td>10/14/1991</td>
<td>3/13/2021</td>
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**VACANCY**

|            |            |                       |               |           | 3/13/2022       |

*john.meehan@att.net*

*elliecnoble@hotmail.com*

*dompulis@hotmail.com*

*jprusche@aol.com*

*whw989@wowway.com*
**CITY BOARD/ COMMITTEE ATTENDANCE RECORD**

Name of Board: Parks and Recreation Board Year: 2019
Members Required for Quorum: 4

<table>
<thead>
<tr>
<th>MEMBER NAME</th>
<th>JAN</th>
<th>FEB</th>
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<th>MAY</th>
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<th>Total Mtgs.</th>
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<tr>
<td>Heather Carmona</td>
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<td>Ross Kaplan</td>
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<td>Therese Longe</td>
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<td>John Meehan</td>
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<td>William Wiebrecht</td>
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<td>CeCe Cousins (student)</td>
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<td>Jakob Sayers (student)</td>
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<td><strong>ALTERNATES</strong></td>
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<td>Pam Graham</td>
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**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

**Present or Available**

9 8 8 6 8 8 5 7 6 8 8 8 8 0 0

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**Department Head Signature**
### CITY BOARD/COMMITTEE ATTENDANCE RECORD

**Name of Board:** Parks and Recreation Board  
**Year:** 2018  
**Members Required for Quorum:** 4

<table>
<thead>
<tr>
<th>MEMBER NAME</th>
<th>JAN</th>
<th>FEB</th>
<th>MAR</th>
<th>APR</th>
<th>MAY</th>
<th>JUNE</th>
<th>JULY</th>
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<th>OCT</th>
<th>NOV</th>
<th>DEC</th>
<th>SPEC MTG</th>
<th>SPEC MTG</th>
<th>Total Mtgs.</th>
<th>Total Absent</th>
<th>Percent Attended</th>
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<td><strong>REGULAR MEMBERS</strong></td>
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<tr>
<td>Heather Carmona</td>
<td>NA</td>
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<td>NA</td>
<td>P</td>
<td>P</td>
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<td>Ross Kaplan</td>
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<tr>
<td>Therese Longe</td>
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<td>11</td>
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<td>John Rusche (frm Alt to Bd 9/6/18)</td>
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<tr>
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<td>NA</td>
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<tr>
<td>William Wiebrecht</td>
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<td>P</td>
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<tr>
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**Present or Available:** 7 7 8 8 9 9 7 8 8 8 8 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

**Board/Committee:** Parks and Recreation Board  
**Year:** 2017

<table>
<thead>
<tr>
<th>MEMBER NAME</th>
<th>1/10</th>
<th>2/7</th>
<th>3/7</th>
<th>4/12</th>
<th>5/2</th>
<th>6/6</th>
<th>7/11</th>
<th>8/1</th>
<th>9/12</th>
<th>10/3</th>
<th>11/14</th>
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<th>Total Mtgs. Att.</th>
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<th>Percent Attend</th>
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<tr>
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<td>A</td>
<td>P</td>
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<td>A</td>
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<td>P</td>
<td>A</td>
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<tr>
<td>Therese Longe</td>
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<td>Bill Wiebrecht</td>
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<tr>
<td>Eleanor Noble 7/10/17</td>
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<tr>
<td>John Rusche 7/10/17</td>
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<td>4</td>
<td>5</td>
<td>6</td>
<td>6</td>
<td>5</td>
<td>7</td>
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<td>7</td>
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<td>6</td>
<td>7</td>
</tr>
</tbody>
</table>

**KEY:**  
A = Absent  
P = Present  
NM = No Meeting  
na = not appointed at that time  

Department Head Signature
APPLICATION FOR CITY BOARD OR COMMITTEE

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

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

(Please print clearly)

Board/Committee of Interest: Parks and Recreation Board

Specific Category/Vacancy on Board: member due to vacancy of Therese Longe

Name: Eleanor Noble

Phone: 248-417-7777

Email: elliecnoble@hotmail.com

Residential Address: 1160 Lake Park Dr.

Residential City, Zip: Birmingham 48009

Business Address: ________________________________

Business City, Zip: ________________________________

Length of Residence: Over 50 years

Occupation: Sales, part time

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

see enclosed sheet

List your related employment experience

List your related community activities

List your related educational experience

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain:

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: Eleanor Noble

Date: November 13, 2019

Return the completed and signed application form to: City of Birmingham, City Clerk’s Office, 151 Martin, Birmingham, MI 48009 or by email to cmwnsberge@bhamgov.org or by fax to 248.530.1080. Updated 8/16/17
APPLICATION FOR CITY BOARD OR COMMITTEE

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

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

(Please print clearly)

Board/Committee of Interest __________________________________________________________________________

Specific Category/Vacancy on Board ____________________________

Name __________________________________________  Phone _________________________________

Residential Address _______________________________  Email __________________________________

Residential City, Zip _______________________________  Length of Residence ______________________

Business Address _________________________________  Occupation _____________________________

Business City, Zip _________________________________

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

__________________________________________________________________________________________________

__________________________________________________________________________________________________

List your related employment experience _________________________________________________________________

__________________________________________________________________________________________________

List your related community activities __________________________________________________________________

__________________________________________________________________________________________________

List your related educational experience __________________________________________________________________

__________________________________________________________________________________________________

To the best of your knowledge, do you or a member of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit? If yes, please explain: __________________ 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 12/1/2019

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

Updated 8/16/17
APPLICATION FOR CITY BOARD OR COMMITTEE

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

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

(Please print clearly)

Board/Committee of Interest PARKS AND RECREATION BOARD

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

Name Andrew Haig
Residential Address 1814 Banbury St
Residential City, Zip 48009
Business Address 1 Continental Drive
Business City, Zip 48326

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied. With 2 small children and an interest in open space preservation - I volunteered with the Detroit Mower Gang for many years, and grew up in the countryside.

List your related employment experience Financial analysis, Mechanical Engineering

List your related community activities Detroit Mower Gang volunteer.
Responsible for rezoning denial of NE corner of Lincoln/Eton green space into development area.

List your related educational experience B.Eng (Hons), M.Sc. PMP

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

12/11/2019
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 carft@bhamgov.org or by fax to 248.530.1080.
NOTICE OF INTENTION TO APPOINT TO PUBLIC ARTS BOARD

At the regular meeting of Monday, January 13, 2020, the Birmingham City Commission intends to appoint two regular members to the Public Arts Board to serve three-year terms to expire January 28, 2023, two regular members to serve the remainder of a three-year term to expire January 28, 2022, and 2 alternate members to serve three-year terms to expire January 28, 2023.

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 must be submitted to the City Clerk's office on or before noon on Wednesday, January 8, 2020. 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:

<table>
<thead>
<tr>
<th>Applicant Name</th>
<th>Criteria/Qualifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annie VanGelderan</td>
<td>Art Consultant/Artist/Cultural institution representative member</td>
</tr>
<tr>
<td>Natalie Bishai</td>
<td>Resident member</td>
</tr>
<tr>
<td>Anne Ritchie</td>
<td>Artist member</td>
</tr>
<tr>
<td>Jason Eddleston</td>
<td>Resident member</td>
</tr>
</tbody>
</table>

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, 2022.
To appoint _____________ to the Public Arts Board as an alternate member to serve a three-year term to expire January 28, 2023.

To appoint _____________ to the Public Arts Board as a regular member to serve a three-year term to expire January 28, 2023.

To appoint _____________ to the Public Arts Board as a regular member to serve a three-year term to expire January 28, 2023.
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 HDDRC, 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.

<table>
<thead>
<tr>
<th>Last Name</th>
<th>First Name</th>
<th>Home Address</th>
<th>Home Business</th>
<th>E-Mail</th>
<th>Appointed</th>
<th>Term Expires</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bishai</td>
<td>Natalie</td>
<td>1173 Latham St.</td>
<td>(248) 640-0088</td>
<td><a href="mailto:nlbishai@yahoo.com">nlbishai@yahoo.com</a></td>
<td>2/12/2018</td>
<td>1/28/2020</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Birmingham</td>
<td>48009</td>
<td></td>
<td>Alternate</td>
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</tbody>
</table>

| Eddleston | Jason      | 892 Purdy | (248) 703-3808 | jason28e@yahoo.com | 12/5/2016 | 1/28/2020 |
|           |            | Birmingham | 48009       |        | Resident Member |              |

| Heller    | Barbara    | 176 Linden | (248) 540-1310 | bheller@dia.org | 1/28/2002 | 1/28/2021 |
|           |            | Birmingham | 48009         |        | Major Cultural Institution-DIA (Conservator) |

<p>| Neville   | Monica     | 1516 E. Melton | (248) 321-1776 | <a href="mailto:monica.neville1@gmail.com">monica.neville1@gmail.com</a> | 2/27/2017 | 1/28/2021 |
|           |            | Birmingham | 48009         |        | Resident Member |</p>
<table>
<thead>
<tr>
<th>Last Name</th>
<th>First Name</th>
<th>Home Address</th>
<th>Business E-Mail</th>
<th>Appointed</th>
<th>Term Expires</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ritchie</td>
<td>Anne</td>
<td>(248) 635-1765</td>
<td>anne <a href="mailto:Ritchie7@yahoo.com">Ritchie7@yahoo.com</a></td>
<td>9/12/2016</td>
<td>1/28/2020</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1455 South Eton</td>
<td></td>
<td>Artist</td>
<td></td>
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**VACANT**

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<th>Art Historian (Degree in Fine Arts &amp; Art History)</th>
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**VACANT**

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**VACANT**

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<table>
<thead>
<tr>
<th>Wells</th>
<th>Linda</th>
<th>(248) 647-1165</th>
<th><a href="mailto:lawells126@gmail.com">lawells126@gmail.com</a></th>
<th>2/11/2013</th>
<th>1/28/2022</th>
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<tr>
<td></td>
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<td>588 Cherry Ct.</td>
<td>Birmingham 48009</td>
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## CITY BOARD/COMMITTEE ATTENDANCE RECORD

Name of Board: Public Arts Board  
Members Required for Quorum: [ ]  
Year: 2019  

<table>
<thead>
<tr>
<th>MEMBER NAME</th>
<th>JAN</th>
<th>FEB</th>
<th>MAR</th>
<th>APR</th>
<th>MAY</th>
<th>JUNE</th>
<th>JULY</th>
<th>AUG</th>
<th>SEPT</th>
<th>OCT</th>
<th>NOV</th>
<th>DEC</th>
<th>SPEC MTG</th>
<th>SPEC MTG</th>
<th>Total Mtgs. Att.</th>
<th>Total Absent</th>
<th>Percent Attended Available</th>
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<tr>
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<td>P</td>
<td>P</td>
<td>CP</td>
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Present or Available: 0 7 6 3 5 3 5 5 4 4 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  
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Department Head Signature
### CITY BOARD/ COMMITTEE ATTENDANCE RECORD

**Name of Board:** Public Arts Board  
**Year:** 2018  
**Members Required for Quorum:** 4

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<th>MEMBER NAME</th>
<th>JAN</th>
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<th>MAY</th>
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<th>NOV</th>
<th>DEC</th>
<th>SPEC MTG</th>
<th>SPEC MTG</th>
<th>Total Mtgs. Att.</th>
<th>Total Absent</th>
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**KEY:**  
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__C. Mynsberge__  
Department Head Signature
# CITY BOARD/COMMITTEE ATTENDANCE RECORD

**Board/Committee:** Public Arts Board  
**Year:** 2017

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</table>

- **KEY:**  
  - A = Absent  
  - P = Present  
  - NM = No Meeting  
  - ** = Not yet appointed  
  - X = no longer serving
APPLICATION FOR CITY BOARD OR COMMITTEE

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

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

(Please print clearly)

Board/Committee of Interest: Public Arts Board  [non-resident position]

Name: Annie VanGelderan

Residential Address: 379S Loch Bend Dr

Residential City, Zip: Commerce Twp MI 48382

Business Address: 1516 S Cranbrook Rd

Business City, Zip: Birmingham, MI 48009

Reason for Interest: I have been an advocate for the arts for at least 20 years— an artist, a teacher, on numerous boards & as CEO of an arts organization.

List your related employment experience: I have been President & CEO of the Birmingham Bloomfield Art Center for 9 years. I have a vast experience in exhibitions & broad relationships w/ artists in S. Michigan.

List your related community activities: Board of Bank, VP Cultural Council of Birm/Beauf, Southfield Partnership for Education Council, Arts & Healing/MI, & sit on Detroit Arts Symposium Committee.

List your related educational experience: Along w/ being a professor, artist & running an arts organization, have a certificate in Filmmaking from Indiana University, Graduate of Leadership Oakland, Advanced Leadership Institute.

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: Annie VanGelderan

Date: 9-3-17

Return the completed and signed application form to: City of Birmingham, City Clerk’s Office, 151 Martin, Birmingham, MI 48009 or by email to cmynsberge@bhamgov.org or by fax to 248.530.1080.
APPLICATION FOR CITY BOARD OR COMMITTEE

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(Please print clearly)

Board/Committee of Interest Public Arts Board
Specific Category/Vacancy on Board Resident member (see back of this form for information) or Alternate

Name Natalie L Bishai

Residential Address 1173 Latham St

Residential City, Zip Birmingham 48009

Business Address n/a

Business City, Zip n/a

Phone 248 640 0088

Email nlbishai@yahoo.com

Length of Residence 11 years

Occupation Homemaker

Current Public Art Board Alternate

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied. My experience in fashion and visual merchandising allows me the knowledge of visual flow and what is pleasing to the eye. My love for art and the contribution it brings to our lives.

List your related employment experience District sales manager for Express and a limited brand corporation. Store manager of sales and visual merchandising for the container store.

List your related community activities I have sat on the Art Board for the last 2 years involved in the self-expression community. The piano in the park and the Kids Zone at the Farmers Market.

List your related educational experience Fashion Merchandising degree with a focus on visual merchandising

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 1/7/2020

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to carsf@bhamgov.org or by fax to 248.530.1080.
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  PUBLIC ARTS BOARD
Specific Category/Vacancy on Board  BOARD MEMBER (see back of this form for information)

Name  ANNE L. RITCHIE  Phone  248.635.1765
Residential Address  1455 S. ETON ST
Residential City, Zip  BIRMINGHAM MI 48009
Business Address  
Business City, Zip  

Length of Residence  16 YRS
Occupation  ARTIST

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied  CURRENT BOARD MEMBER, ACTIVE WITH BOARD, SUPPORTING MISSION & OBJECTIVES

List your related employment experience  35 YRS+ ADVERTISING/ MARKETING, CURRENTLY ART INSTRUCTOR BBAC/DPS

List your related community activities  PARTICIPATE IN BOARD ACTIVITIES, CREATED PUB POSTER, COLLATERAL, POPCORN BOX!

List your related educational experience  GRAPHIC DESIGN/WEB  C.S

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  1/8/20

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

Updated 12/02/19
APPLICATION FOR CITY BOARD OR COMMITTEE

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

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(Please print clearly)

Board/Committee of Interest Public Arts Board
Specific Category/Vacancy on Board (see back of this form for information)

Name Jason Eddleston
Phone 248-703-3808
Residential Address 892 Purdy
Email jason28e@yahoo.com
Residential City, Zip Birmingham 48009
Length of Residence 13 years
Business Address 702 E 11 Mile Road
Occupation Small Business Owner
Business City, Zip Royal Oak 48067

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied
Spent years on JC board of DTA, Funded art projects in Detroit, DTA, & Ann Arbor.

List your related employment experience

List your related community activities Royal Oak Commission Board, Farmhouse Recycling Commission

List your related educational experience Western School of Business

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 12-11-19

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to carft@bhamgov.org or by fax to 248.530.1080.
NOTICE OF INTENTION TO APPOINT TO THE
MULTI-MODAL TRANSPORTATION BOARD

At the regular meeting of Monday, December 9, 2019, the Birmingham City Commission intends to appoint one Regular member to the Multi-Modal Transportation Board with Urban Planning/Architecture/Design Education/Experience to serve a three-year term to expire March 24, 2022, and one Alternate member to serve a three-year term to expire October 27, 2022.

Interested citizens may submit an application available at the City Clerk’s office or online at www.bhamgov.org/boardopportunities. Applications must be submitted to the City Clerk’s office on or before noon on Wednesday, March 6, 2019. 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.

In so far as possible, the seven member committee shall be composed of the following: one pedestrian advocate member; one member with a mobility or vision impairment; one member with traffic-focused education and/or experience; one bicycle advocate member; one member with urban planning, architecture or design education and/or experience; and two members at large living in different geographical areas of the City. Applicants for this position do not have to be a qualified elector or property owner in Birmingham.

Duties of the Multi-Modal Transportation Board
The purpose of the Multi-Modal Transportation Board shall be to assist in maintaining the safe and efficient movement of motorized and non-motorized vehicles and pedestrians on the streets and walkways of the city and to advise the City Commission on the implementation of the Multi-Modal Transportation Plan, including reviewing project phasing and budgeting.

Applicant(s) Presented For City Commission Consideration:

<table>
<thead>
<tr>
<th>Applicant Name</th>
<th>Criteria/ Qualifications</th>
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</thead>
<tbody>
<tr>
<td>Thomas Peard</td>
<td>Urban Planning/Architecture/Design</td>
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</tbody>
</table>

SUGGESTED ACTION:
To appoint ________, as a regular member who has urban planning, architecture or design education and/or experience to the Multi-Modal Transportation Board to serve the remainder of a three-year term to expire March 24, 2022.
MULTI-MODAL TRANSPORTATION BOARD

Chapter 110, Sections 110-26 & 110-27

The purpose of the Multi-Modal Transportation Board shall be to assist in maintaining the safe and efficient movement of motorized and non-motorized vehicles and pedestrians on the streets and walkways of the city and to advise the city commission on the implementation of the Multi-Modal Transportation Plan, including reviewing project phasing and budgeting.

In so far as possible, the seven member committee shall be composed of the following: one pedestrian advocate member; one member with a mobility or vision impairment; one member with traffic-focused education and/or experience; one bicycle advocate member; one member with urban planning, architecture or design education and/or experience; and two members at large living in different geographical areas of the city. At least five Board members shall be electors or property owners in the city. The remaining Board members may or may not be electors or property owners in the City.

Term: Three years.

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<tr>
<th>Last Name</th>
<th>First Name</th>
<th>Home Address</th>
<th>Home Business</th>
<th>E-Mail</th>
<th>Appointed</th>
<th>Term Expires</th>
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<tbody>
<tr>
<td>Capone</td>
<td>Chris</td>
<td>1493 Fairfax</td>
<td>(258) 979-4113</td>
<td>2/25/2019</td>
<td>12/31/2019</td>
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<td>Birmingham</td>
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Student Representative

cjcapone@yahoo.com

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Member at large from different geographical areas of the city.
lmedwards08@gmail.com

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<thead>
<tr>
<th>Folberg</th>
<th>Amy</th>
<th>1580 Latham</th>
<th>(248) 890-9965</th>
<th>12/14/2015</th>
<th>3/24/2020</th>
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<td>Birmingham</td>
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Member at large from different geographical areas of the city.
amy.folberg@gmail.com
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<th>Home Address</th>
<th>Business</th>
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<th>Experience/Expertise</th>
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<tr>
<td>Pompi</td>
<td>Bennett</td>
<td>295 Argyle</td>
<td>(412) 932-8120</td>
<td>2/25/2019</td>
<td>12/31/2019</td>
<td><a href="mailto:bennettp2002@gmail.com">bennettp2002@gmail.com</a></td>
<td>Student Representative</td>
</tr>
<tr>
<td>Rontal</td>
<td>Daniel</td>
<td>926 Bird</td>
<td>(734) 904-2544</td>
<td>10/27/2016</td>
<td>3/24/2020</td>
<td><a href="mailto:darontal@gmail.com">darontal@gmail.com</a></td>
<td>Mobility or Vision Impairment Experience/Expertise</td>
</tr>
<tr>
<td>Schafer</td>
<td>Katie</td>
<td>1966 Fairway</td>
<td>(248) 835-5064</td>
<td>3/13/2017</td>
<td>3/24/2021</td>
<td><a href="mailto:schafekat@gmail.com">schafekat@gmail.com</a></td>
<td>Pedestrian Advocate</td>
</tr>
<tr>
<td>Slanga</td>
<td>Johanna</td>
<td>4410 Charing Way</td>
<td>(248) 761-9567</td>
<td>5/5/2014</td>
<td>3/24/2022</td>
<td><a href="mailto:johannaslanga@gmail.com">johannaslanga@gmail.com</a></td>
<td>Traffic-Focus Education/Experience Member</td>
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<td><strong>VACANT</strong></td>
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<td>Urban Planning /Architecture /Design</td>
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<tr>
<td>White</td>
<td>Doug</td>
<td>(248) 825-2223</td>
<td>5/14/2018</td>
<td>3/24/2021</td>
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<td>Bicycle/Pedestrian Advocate</td>
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<td><a href="mailto:dwhite10@peoplepc.com">dwhite10@peoplepc.com</a></td>
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<tr>
<td>Zane</td>
<td>Joseph</td>
<td>(248) 563-3381</td>
<td>12/10/2018</td>
<td>10/27/2022</td>
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<td></td>
<td></td>
<td><a href="mailto:Joseph.Michael.Zane@gmail.com">Joseph.Michael.Zane@gmail.com</a></td>
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APPLICATION FOR CITY BOARD OR COMMITTEE

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(Please print clearly)

Board/Committee of Interest: Multi-Modal Transportation Board
Specific Category/Vacancy on Board: Regular w/ Design Exp. (see back of this form for information)

Name: Thomas Peard
Residential Address: 645 Suffield Avenue
Residential City, Zip: Birmingham, MI 48009
Business Address: 24777 Denso Drive
Business City, Zip: Southfield, MI 48086

Phone: 248-770-7761
Email: thomaspeard@yahoo.com
Length of Residence: 10 years
Occupation: Engineer

Reason for Interest: Explain how your background and skills will enhance the board to which you have applied
I am looking for an opportunity to utilize my technical and analytical skills toward the continuous improvement of (continued on page 2)

List your related employment experience
I bring 26 years of design and engineering management experience with (con't on page 2)

List your related community activities
My coaching activity in Birmingham Little League baseball led to discussions (con't on page 2)

List your related educational experience
BSME (Mechanical Engineering), University of Michigan, 1989;
MSME, University of Illinois, 1992; MBA, Wayne State University, 2003

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: 12/13/2019

Return the completed and signed application form to: City of Birmingham, City Clerk's Office, 151 Martin, Birmingham, MI 48009 or by email to carft@bhamgov.org or by fax to 248.530.1080.
Sorry, but my laptop here at my office and the City's Application for City Board form aren't playing nice, so I'm not able to either change/format the font size in the form or to enter my responses in the fields so that everything appears when the document is printed.

Therefore, I hope it's OK if I start my responses on page 1 and finish them in the paragraphs below. Thanks for your consideration.

**Reason for Interest**

...our vibrant community. Through my work experience, I have had opportunities to successfully create, analyze, and evaluate complex technical proposals involving a variety of stakeholders such as (Det3 OEM) customers, my employer's supply base, and global manufacturing facilities.

**Related Employment Experience**

...DENSO International America, Inc. (an automotive supplier locally based in Southfield) that I am confident would benefit the board in achieving its goals.

Since the birth of my second child, I have been working for DENSO part-time. However, before retiring from full time employment I was responsible for all of DENSO's HVAC module business with the Detroit 3 automakers which included business development, detailed product design activity, manpower and budgetary planning, and work with global affiliates.

**Related Community Activities**

...with former City Commissioner Andrew Harris who recommended this opportunity as a possible means to utilize my technical skills and become more formally involved in the community in which I've lived for 10 years.
I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Pierre Boutros called the meeting to order at 7:30 PM.

II. ROLL CALL

ROLL CALL: Present: Mayor Boutros
Mayor Pro Tem Longe
Commissioner Baller
Commissioner Hoff
Commissioner Host
Commissioner Nickita
Commissioner Sherman

Absent: None

Administration: City Manager Valentine, Assistant City Manager Gunter, City Attorney Currier, Acting City Clerk Arft, Human Resource Manager Myers, DPS Director Wood, Assistant City Engineer Fletcher, Police Commander Grewe, Police Chief Clemence, City Planner Ecker, Assistant City Manager Gunter

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

12-298-19 ANNOUNCEMENTS:

- Commissioner Hoff’s birthday.
- City offices and Baldwin Library will be closed Tuesday, Dec. 24th & Wednesday, Dec. 25th, and Tuesday, Dec. 31st & Wednesday, Jan. 1st, 2020.
- The City will hold the Long Range Planning Workshop on Saturday, January 25, 2020 at 8:30 A.M. in City Hall.

12-299-19 APPOINTMENT OF JAMES N. ALLEN, BIRMINGHAM CITY CLERK:

Human Resource Manager Myers presented this item.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Hoff:

To accept the recommendation of the City Clerk Selection Sub-Committee to appoint James N. Allen as the Birmingham City Clerk effective January 2, 2020.

VOTE: Ayes, 7
Nays, 0

12-300-19 ADMINISTRATION OF OATH

Acting City Clerk Arft administered the Oath of Office to James N. Allen, City Clerk.
IV. CONSENT AGENDA

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

12-301-19 APPROVAL OF CONSENT AGENDA

The following items were removed from the Consent Agenda:

Commissioner Hoff: Item D - Resolution confirming the City Manager's authorization for the emergency expenditure related to the repair of vehicle #157 by J.B. DLCO Auto Repair Center & Multistate Transmissions for $14,483.65 from the Auto Equipment Fund account #641-441.006-933.0200, pursuant to Sec. 2-286 of the City Code.

Commissioner Baller: Item G - Resolution accepting the resignation of Christopher Longe from the Architectural Review Committee, thanking him for his service, and directing the City Clerk to begin the process of filling the vacancy.

Item I - Resolution approving the Professional Communications Services Agreement with Van Dyke●Horn in the amount of $7,000 per month and additional communications services charged in accordance with their rate card of December 11, 2019 subject to compliance with the City's insurance requirements as specified in the agreement, and authorizing the Mayor and Acting City Clerk to sign the agreement on behalf of the City.

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Hoff:
To approve the Consent Agenda, excluding Items D, G, and I, which were pulled from consent.

ROLL CALL VOTE: Ayes, Mayor Boutros
Mayor Pro Tem Longe
Commissioner Baller
Commissioner Hoff
Commissioner Host
Commissioner Nickita
Commissioner Sherman

Nays, None

A. Resolution approving the Regular City Commission meeting minutes of December 9, 2019

B. Resolution approving the Ad Hoc Clerk Selection Committee special meeting minutes of December 10, 2019.

C. Resolution approving the warrant list, including Automated Clearing House payments, dated December 11, 2019 in the amount of $1,205,771.25.

E. Resolution approving both Change Orders #1 and #2 with Mechanical Design & Installation, LLC. in the combined amount not to exceed $17,549.00 to be funded from the City Hall and Grounds...
Capital Improvement Account #401-265-001-977-0000 to complete the New Boilers and Controls Upgrade for City Hall and further; approving the appropriation and amendment to the fiscal year 2019-2020 Capital Projects Fund budget as presented.

F. Resolution setting Monday, January 13, 2020 at 7:30 PM for a public hearing to consider approval of the following amendments to Chapter 126, Zoning:
   1. Article 3, Overlay Districts, section 3.04(A) to amend the building height standards in the D5 zone of the Downtown Birmingham Overlay District; and
   2. Article 9, Definitions, section 9.02 to add a definition for the term abutting.

H. Resolution approving the invoices from Harvey Electronics to perform system upgrades totaling $24,756.80, allocated equally to each garage to ensure PCI compliance requirements are met and customer credit data remains secure when using the parking garages. The upgrades will be charged to the following accounts:

- Pierce Street Garage          $4,951.36      Account 585-538.002-971.0100
- Park Street Garage            $4,951.36      Account 585-538.003-971.0100
- Peabody Street Garage         $4,951.36      Account 585-538.003-971.0100
- N. Old Woodward Garage        $4,951.36      Account 585-538.005-971.0100
- Chester Garage                $4,951.36      Account 585-538.008-971.0100

12-302-19 (ITEM D) EMERGENCY REPAIR OF VEHICLE #157
Commissioner Hoff asked if the failure was due to operator error or a vehicle defect. She also wanted clarification on the scope of work and if the invoice accurately reflected the scope.

DPS Director Wood confirmed that the recommended repairs resulted from transmission failure. The invoice reflects the removal of the old transmission assembly and installation of a new transmission assembly.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Nickita:
To approve the resolution confirming the City Manager’s authorization for the emergency expenditure related to the repair of vehicle #157 by J.B. DLCO Auto Repair Center & Multistate Transmissions for $14,483.65 from the Auto Equipment Fund account #641-441.006-933.0200, pursuant to Sec. 2-286 of the City Code.

VOTE: Ayes, 7
Nays, 0

12-303-19 (ITEM G) RESIGNATION OF CHRISTOPHER LONGE FROM ARC
Commissioner Baller pulled this item from consent to recognize the many years of service of Christopher Longe to this City and to highlight a few of his accomplishments.

- 1984  Began practicing Architecture in the City of Birmingham
- 2004  Appointed to the Architectural Review Committee
  - Design of Shain Park
  - New Chesterfield Fire Station
  - Brookside Terrace
  - Dakota Condominium
  - McCain Worldwide Renovation
  - 250 Martin St. Renovation
  - Briggs Building Renovation - Lulu Lemon
  - Universal Watch Building Renovation
  - Peabody Mansion Restoration for Hidachi
Numerous homes and townhomes in Birmingham.

Mayor Boutros explained that while he has been an asset to the City in serving on the ARC, he could not serve on a board if he had a spouse serving as a commissioner; it is viewed as a conflict of interest as outlined in the applicable City Ordinance.

**MOTION:** Motion by Commissioner Baller, seconded by Commissioner Host:
To approve the resolution accepting the resignation of Christopher Longe from the Architectural Review Committee, thanking him for his service, and directing the City Clerk to begin the process of filling the vacancy.

**VOTE:**
- Ayes, 7
- Nays, 0

**12-304-19** (ITEM I) PROFESSIONAL SERVICE AGREEMENT FOR VAN DYKE-HORN
Commissioner Baller pulled from consent to hear from the City Manager on this contract.

City Manager Valentine explained that the City, in the past, had an individual who served in a communications capacity overseeing communications planning; the individual has left employ with the City. As a result, staff evaluated what needed to be done on a short-term basis moving forward. An RFQ was issued to several firms that have the capacity to provide the services that the City is looking for and at the caliber that the City wants to provide them. This firm was chosen because they submitted the best-qualified quote to provide daily management of the City's social media platforms, and the overall strategic direction of the communications plan. The new approach would be re-evaluated over the next 6 months and a recommendation would be brought back to the commission as to whether to continue with this type of arrangement, modify it, or move in a different direction.

Commissioner Hoff asked:
- Who would be the city contact,
- who would direct the work of this contractor,
- and will a person be located in City Hall.

City Manager Valentine replied that he is also the public information officer for the City, and will direct the work. He went on to say that, there would be someone here at least 1 day a week to meet with staff, City Manager, and others in reference to communications.

Anne Marie Erickson, Beverly Hills resident, spoke on behalf of Van Dyke-Horn. She referenced Kay Byrd, a Birmingham resident, as the person who will work with the City and be the primary point of contact.

Commissioner Hoff commented that the firm's previous municipal experience seemed to be project-oriented; she asked how that experience would transfer to ongoing communications.

Ms. Erickson agreed that her experience is project based but went on to say that the City of Birmingham is in a unique position to evaluate whether an Agency or FTE would better suit the needs of the City.

Commissioner Baller asked Ms. Erickson to identify the City's strengths and weaknesses in terms of the current communications plan.

Ms. Erickson replied that a deep dive had not been done, but in reviewing current information, she felt the City did not need a complete overhaul. Ms. Erickson expressed that there appeared to be a robust communications platform in place, which is a great foundation to build.
City Manager Valentine added that one of the tasks is to offer critiques and recommendations for improvement over the next several months.

**MOTION:** Motion by Commissioner Baller, seconded by Mayor Pro Tem Longe:
To approve the resolution for the Professional Communications Services Agreement with Van Dyke•Horn in the amount of $7,000 per month and additional communications services charged in accordance with their rate card of December 11, 2019 subject to compliance with the City’s insurance requirements as specified in the agreement, and authorize the Mayor and Acting City Clerk to sign the agreement on behalf of the City.

VOTE:  Ayes, 7  
Nays, 0

**V. UNFINISHED BUSINESS**

**12-305-19  PLANNING BOARD REVIEW SCHEDULE FOR CITY’S MASTER PLAN**
Director Ecker presented this item.

Commissioner Host suggested that the staff bring in some of the experts from Birmingham and surrounding communities to provide input, such as Kate Beebe, who was the Master Planner for the City of Detroit under the Archer’s administration.

Commissioner Baller commented that the resolution before the commission is to approve the schedule, but he recalled that at the last meeting, the issue was raised whether the planning board was the appropriate body to set the schedule. While he believes that it is, he also felt that the City should supplement the planning board. He agreed with Commissioner Host’s suggestion.

Mayor Boutros called for a point of order and further explained to Commissioners Host and Baller that the discussion on the table was a resolution for the Master Plan schedule only.

Commissioner Hoff noted that the planning board had an action list and that many of the items on the list would be part of the Master Plan. However, three of the items are not part of the Master Plan and she felt that the commission should give direction to the planning board on when to consider them.

2. Balcony/Terrace Enclosure  
3. Aging in Place

Director Ecker expressed that the planning board would address those items as they could get to them. She is hoping that they would be addressed at the February 8, 2020 meeting.

Commissioner Sherman agreed with Commissioner Hoff and further expressed that it would be helpful to have the priority list. Understanding the planning board’s desire for continuity in their discussions, he suggested that they start in February and go thru June on the same schedule just move each item back a month.

**MOTION:** Motion by Commissioner Sherman, seconded by Mayor Pro Tem Longe:
To approve the review schedule recommended by the planning board on November 13, 2019 for an in depth review of the first draft of the Master Plan.
Commissioner Hoff asked if DPZ is willing to move their schedule back to the middle of the year.

Director Ecker affirmed that DPZ is willing.

Commissioner Baller expressed concern about DPZ falling behind schedule.

Mayor Pro Tem Longe commented that DPZ agreed to begin their days early and stay late to avoid falling behind.

VOTE:  Ayes, 7  
Nays, 0

12-306-19  FUNDING TO SUPPORT PUBLIC ENGAGEMENT OPPORTUNITIES FOR THE CITY’S MASTER PLAN FIRST DRAFT REVIEW

Commissioner Hoff commented that it is premature to approve the suggested resolution.

Commissioner Sherman clarified that the resolution is an allocation of funds for public outreach if needed.

Mayor Boutros affirmed.

Commissioner Baller asked for more clarification.

City Manager Valentine expressed that the planning board would determine if and when there would be a need for public engagement. Approving the resolution would allow staff to spend up to the suggested amount at the right time for the services.

Commissioner Hoff expressed that before she would approve additional spending for surveys, she would like to know the results of the previous surveys and the demographic of the responses.

Director Ecker provided the number of responses to the previous surveys; and believed that there has been a significant response and is able to provide the demographics associated with the responses. She went on to say that DPZ felt the surveys were very successful.

Commissioner Nickita commented that the allotment is very flexible and felt that the commission would have the ability to evaluate results and he supports the resolution.

Commissioner Baller asked who would decide how the funding would be disbursed. City Manager Valentine expressed that while he welcomes commission input, he would make the determination.

**Motion:** Motion by Commissioner Nickita, seconded by Commissioner Sherman:  
To approve the resolution for the expenditure of funds from Other Contractual Services, account #101-721.000-811.0000 to incorporate additional public engagement opportunities into the remaining portion of the master plan update, in an amount not to exceed $28,600, as needed, to be determined by the City Manager.

**AND**

To approve an amendment to the 2019-2020 General Fund budget as presented.

VOTE:  Ayes, 7  
Nays, 0
VI. NEW BUSINESS

12-307-19  CONTINUATION OF PARKING RESTRICTIONS
Commander Grewe presented this item.

Commissioner Hoff asked when the restrictions would be reviewed next. Commander Grewe responded that after the Citywide Master Plan review is complete and the recommendations are out, there would be a review of the existing parking restrictions.

Commissioner Nickita commented that it is clear that the City needs to continue with things as they are until the master plan review is complete; and expressed his support for this resolution at this point.

**MOTION:** Motion by Commissioner Nickita, seconded by Mayor Pro Tem Longe:
To approve the resolution for continuation of the parking restrictions already in place on Frank between Bates and Chester, Glenhurst between Lincoln and Midvale, Haynes between S. Eton and Columbia and Hazel between S. Eton and Columbia, and to conduct an additional review following the acceptance of the City Master Plan.

Mayor Boutros asked what would happen with new petitions from residents. Commander Grewe affirmed that he has received new petitions recently; and the residents understand that the master plan process is under review and are willing to wait until it is complete.

**VOTE:**

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12-308-19  CONSULTING SERVICES FOR THE BIRMINGHAM ICE ARENA
DPS Director Wood presented this item.

Mayor Pro Tem Longe and Mayor Boutros engaged in a discussion supporting the proposed resolution.

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner Nickita:
To approve the suggested resolution approving the proposal from Plante & Moran Cresa, LLC in the amount not to exceed $18,000, plus out-of-pocket expenses not-to-exceed two hundred fifty Dollars ($250.00) for the purpose of assisting with capital planning and operational review consulting services for the Birmingham Ice Arena; contingent upon receipt of proper insurance. Further, to waive the formal bidding requirements. Funds for this purchase are available from General Fund – Parks – Other Contractual Service account #101-751.000-811.0000.

**VOTE:**

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12-309-19  OAKLAND COUNTY WATER RESOURCES COMMISSIONER’S REQUEST FOR EASEMENT AT LINCOLN GOLF COURSE
Assistant City Engineer Fletcher presented this item. Mr. Mantis, OCWRC, was present for questions.

Commissioner Sherman clarified that the easement request is over an existing easement that the OCWRC currently possess.
MOTION: Motion by Commissioner Sherman, seconded by Commissioner Nickita:
To approve the resolution approving the easement document presented by the Oakland County Water Resources Commissioner’s office to allow the construction, operation and maintenance of two (2) communication and electrical conduits within the Lincoln Hills Golf Course.

Commissioner Host asked how long the proposed construction would take to complete. Mr. Mantis estimated 4-5 months to avoid disruption to the golf season.

Commissioner Sherman confirmed with Mr. Mantis that the golf course would be restored to its current condition or better after the project is complete.

Mayor Boutros asked for an estimate if the winter season was severe. Mr. Mantis expressed that it would be delayed by that time.

VOTE: Ayes, 7
Nays, 0

12-314-19 ENGINEERING AND FIRE DEPARTMENT FEE SCHEDULE AMENDMENT
Acting City Clerk Arft presented this item.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner Sherman:
To approve the resolution amending the Schedule of Fees, Charges, Bonds and Insurance, in the following sections, as stated in this report Engineering and Fire Department.

VOTE: Ayes, 7
Nays, 0

VII. REMOVED FROM CONSENT AGENDA
Addressed at the beginning of the meeting.

VIII. COMMUNICATIONS

12-315-19 COMMUNICATION FROM MR. BLACK
Mr. Mitch Black, Dick O’Dows, addressed the commission about the road construction in front of his business blocking the use of his front entrance. The restaurant was unable to use their outdoor seating area during the summer of 2017 through 2019 due to the same road construction. Now, moving forward to 2020 they are subject to the same and would like to use the rear area of this space, now called “The Dow”, for outdoor seating on a temporary basis for the summer. When road construction is complete, the restaurant will need to re-engineer the platform they have used in prior years and at that time would need to use the rear space for business. The owners would like the commission to waive the formal permit process and allow outdoor seating at the rear of the restaurant, temporarily, for the summer of 2020.

Mayor Boutros noted that the commission does not take action on this part of the agenda, but could request more information for an agenda item at a future meeting.
Commissioner Sherman asked if this type of request would require an amendment to the SLUP that would be able to time-out.

Commissioner Hoff suggested that the administration put this request on a future agenda.

Commissioner Host agreed with Commissioner Hoff.

Commissioner Baller asked for clarification of what exactly would be put on the agenda.

City Manager Valentine explained that it would be an amendment to the SLUP to consider relocating the outdoor dining from the street to the back area owned by the applicant for a time during 2020; and consider the request to waive the fee for the application process.

Commissioner Nickita commented that the process would have to be recognized; the planning board would need to review the SLUP amendment and make a recommendation.

City Manager Valentine commented that it is a very simple and straightforward request. The administration would proceed in a way to accommodate the demands of the outdoor seating season.

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

12-316-19 PUBLIC COMMENT
- Paul Reagan, 997 Purdy Street, expressed his concern about commercial parking on Purdy, parking around Barnum Park as if it were a City parking lot, and using existing data in the planning process for additional parking.

- Eric Wolfe, 393 E. Frank Street, noted that parking on his street is for residents only, but the commercially zoned businesses have been issued guest parking permits. He expressed that he would like the City to correct the practice of issuing commercial businesses guest parking permits in residential parking areas.

X. REPORTS

12-317-19 COMMISSIONER COMMENTS
- Commissioner Host commented on the 26 miles of unimproved roads in the City, and the commission should allow the residents to speak at the beginning of the meeting to express their opinion on road improvements.

- Commissioner Baller asked that the commission consider expediting review of neighborhood parking in the master plan and enforcement of parking policies. He went on to say that, the commissioners’ silence on this issue is sending a message to the community about parking.

- Commissioner Hoff suggested that Commissioner Host encourage Ms. Kate Beebe to apply to the planning board when there is an opening.

- Mayor Pro Tem Longe asked if there could be a mechanism to have an individual appointed to a board or committee for limited service.

- In response to Mayor Pro Tem Longe’s question, City Manager Valentine explained that in order to appoint individuals for limited service, the composition of the board would have to be amended in accordance with the ordinance that governs that board.

- Commissioner Nickita expressed that an ad hoc committee could satisfy this request; relative to Ms. Beebe, he would support her input and expertise at the table.
• Mayor Boutros felt that adding an additional layer would complicate the process.
• Commissioner Sherman pointed out that the current Ad Hoc Street Committee was set up to provide information to the commission and now Commissioner Host is asking that the decision come back to the commission instead of waiting for a recommendation.
• Commissioner Baller expressed that he appreciated the discussion.
• Commissioner Sherman recognized Cheryl Arft for her service as Acting City Clerk. He went on to say that, she ran a successful election and let her know that it could not have been done without her. He extended his thanks on behalf of the commission for her efforts.
• Mayor Pro Tem Longe suggested a joint meeting with the Advisory Parking Committee in 2020.
• Commissioner Baller and Commissioner Host both support the idea of a joint meeting.
• Commissioner Nickita added for clarity that a consultant was hired to work on the master plan. The consultant’s scope of work included a thorough parking analysis; and it would not be prudent to discuss parking until the consultant’s recommendation have been presented.
• Mayor Boutros agreed with Commissioner Nickita.
• Commissioner Baller asked if the September 2018 Downtown Parking Plan, submitted by Nelson and Nygaard, were experts providing recommendations based on data.
• City Manager Valentine explained that it was a series of recommendations for the APC to digest and begin implementing.
• Mayor Pro Tem Longe clarified that she wants to hear from the APC about their philosophies, priorities, and opinions on the Nelson and Nygaard report.
• Commissioner Sherman suggested that this discussion be tabled until the new commissioners have completed the Commissioner’s Academy in January.
• City Manager Valentine suggested that the commission invite the APC to the Long Range Planning Meeting in January.

XI. ADJOURN

Mayor Boutros ended the meeting by wishing everyone a Happy Holiday and Prosperous New Year; and adjourned the meeting at 9:26 p.m.
AD HOC CITY CLERK SELECTION COMMITTEE
SPECIAL MEETING AGENDA
FRIDAY, JANUARY 3, 2020
MUNICIPAL BUILDING, 151 MARTIN
CONFERENCE ROOM 202
11:00 A.M.

I. CALL TO ORDER
   Roll Call

II. DISCUSSION OF CITY CLERK SELECTION

III. PUBLIC COMMENT

IV. ADJOURN

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).
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# City of Birmingham

**Warrant List Dated 12/18/2019**

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**SUBTOTAL PAPER CHECK** $489,237.38
### Warrant List Dated 12/18/2019

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**SUBTOTAL ACH TRANSACTION**  $78,448.98  
**GRAND TOTAL**  $567,686.36  

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.
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**SUBTOTAL PAPER CHECK** $2,865,512.47
## City of Birmingham
### Warrant List Dated 01/08/2020

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**SUBTOTAL ACH TRANSACTION** $510,616.18
# City of Birmingham

## Warrant List Dated 01/08/2020

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GRAND TOTAL: $3,376,128.65

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.
The Birmingham City Charter names the city commission as the election commission:

Chapter IV. – Registrations, Nominations and Elections
Section 22. - [Election commission.]
The city commission shall constitute the election commission for the city and shall perform all of the duties required of the city election commissions by the general laws of the state. It shall appoint the inspectors of election and fix their compensation.

The attached excerpt from the Election Officials’ Manual of the Michigan Bureau of Elections (BOE) cites the duties of a city election commission and draws distinctions between those which must be conducted by the election commission and those which may be delegated by the election commission to the City Clerk and her authorized assistants.

To comply with the BOE’s recommendation that the election commission documents the delegation of its duties, I respectfully request the City Commission, in its role as the election commission, adopt the following resolution.

SUGGESTED RESOLUTION:
To delegate to the Birmingham City Clerk and her authorized assistants, those being the members of her staff, the following duties of the election commission for the March 10th Presidential Primary Election, August 4th, 2020 Primary Election and November 3rd, 2020 General Election:

- Preparing meeting materials for the election commission, including ballot proofs for approval and a listing of election inspectors for appointment;
- Contracting for the preparation, printing and delivery of ballots;
- Providing candidates and the Secretary of State with proof copies of ballots;
- Providing notice to voters in the case of precinct changes/consolidations;
- Providing election supplies and ballot containers; and
- Preliminary logic and accuracy testing.
CITY AND TOWNSHIP ELECTION COMMISSIONS:

Note: The chart above outlines the composition of the local election commissions based on your jurisdiction’s form of government. The only exception to the composition of the local election commission must be provided by a city charter.

City and Township Election Commission members are responsible for the following:

- Establishing precincts, including temporary precinct consolidations for non-State/Federal elections;
- Establishing Absent Voter Counting Boards (AVCBs);
- Assessing voting equipment needs;
- Performing logic and accuracy testing for voting equipment. NOTE: Even if the county performs the programming for the local jurisdictions, it is still the responsibility of the local election commission to conduct pre-election logic and accuracy testing for their voting equipment prior to each election. Preliminary testing may be delegated to the local clerk; however, public accuracy testing must be conducted by the election commission or each members’ designated representative.
- Authorizing the printing and provision of ballots for use in city, township, village and certain school district elections;
- Providing election supplies (including forms and ballot containers);
- Appointing precinct inspectors prior to each election, including AVCB members, Receiving Board members, precinct chairpersons and alternates; note that certified election inspectors must be appointed at least 21 days prior to the election and no more than 40 days prior to each election;
- Notifying major political parties of the appointment of election inspectors in federal and state elections; and
- Carrying out other election related duties for their respective jurisdictions.
**Election Commission Responsibilities that should be handled via an Open Meeting by Election Commission Members:**

- Approving of ballots
- Appointing precinct inspectors
- **Public Accuracy Test**
- Precinct Changes / Consolidations
- Adoption of resolution outlining delegated duties

**Election Commission Duties that may be delegated to the Local Clerk or authorized assistant** (note: Delegated duties should be documented via resolution):

- Preparing meeting materials for the Election Commission (ballots proof for approval, list of election inspectors for appointment, etc.)
- Preparing, printing and delivering ballots
- Providing candidates and the Secretary of State with proof copies of ballots
- Providing notice to voters in the case of precinct changes/consolidations
- Providing election supplies and ballot containers
- Preliminary logic and accuracy testing
- Notifying major political parties of certified precinct Inspector appointments (federal and state elections only)

**SCHOOL ELECTION COORDINATING COMMITTEE:** Every school district has a School Election Coordinating Committee responsible for determining the details of how special school elections will be administered. The School Election Coordinating Committee is composed of a school election coordinator, the secretary of the school board and the clerks of all jurisdictions covered by the school district. For a school district wholly contained within a single jurisdiction, that clerk is the school election coordinator. In a school district that crosses jurisdiction lines the county clerk is the coordinator.

**TYPES OF ELECTIONS**

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

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


Popular name: Election Code

DATE: January 10, 2020

TO: Joseph A. Valentine, City Manager

FROM: Cheryl Arft, Acting City Clerk

SUBJECT: Election Commission Delegation of Duties for March 10, 2020, August 4, 2020 and November 3, 2020 Elections to City Clerk and Authorized Assistants

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

BACKGROUND:
The Birmingham City Charter names the City Commission as the Election Commission:

Chapter IV. – Registrations, Nominations and Elections
Section 22. - [Election commission.]
The city commission shall constitute the election commission for the city and shall perform all of the duties required of the city election commissions by the general laws of the state. It shall appoint the inspectors of election and fix their compensation.

The Public Accuracy Test is required by Michigan Election Law, MCL 168.798 “to determine if the electronic tabulating equipment will accurately count the votes cast for all offices”. This is done by creating a chart of predetermined results in compliance with promulgated rule R 168.778, and marking a set of test ballots to correspond. The results produced by the tabulator must match the totals in the chart of predetermined results.

The creation of the chart of predetermined results and the marking of a set of test ballots may be done by the City Clerk, her staff, and/or a vendor. The test must be conducted by the Election Commission or its representatives. The test consists of tabulating the marked test ballots through a tabulator and certifying that the totals reported by the tabulator match the totals contained in the chart of predetermined results.

I recommend the members of the Commission designate representatives to conduct the Public Accuracy Tests in their stead. The test would be conducted during the work day by the Clerk or a member of Clerk's staff, attended by the Election Commission’s designated representatives, and any interested members of the public as it is conducted pursuant to the Open Meetings Act. The City Clerk and her staff are not eligible to be the designated representatives for the Public Accuracy Tests.
The Public Accuracy Test for the March 10, 2020 Presidential Primary election is scheduled for Wednesday, February 26, 2020 at 10:00 a.m. in Room 205 of the Birmingham Municipal Building, 151 Martin, Birmingham. The Public Accuracy Test for the August 4, 2020 General Primary election is scheduled for Wednesday, July 29, 2020 at 10:00 a.m., and the Public Accuracy Test for the November 3, 2020 election is scheduled for Wednesday, October 28, 2020 at 10:00 a.m. in Room 205 of the Birmingham Municipal Building, 151 Martin, Birmingham.

LEGAL REVIEW:
n/a

FISCAL IMPACT:
n/a

SUMMARY
It is recommended that the Birmingham City Commission, acting as the Election Commission, designate city staff members to act as their representatives for the purpose of conducting the Public Accuracy Tests for the March 10, 2020, August 4, 2020 and the November 3, 2020 elections.

ATTACHMENTS:
MCL 168.798 Testing of electronic tabulating equipment
Excerpt from the Election Officials’ Manual of the Michigan Bureau of Elections listing duties that should be handled via an Open Meeting by election commission members.

SUGGESTED RESOLUTION:
Resolution designating Finance Director Mark Gerber, Assistant Finance Director Kim Wickenheiser, DPS Director Lauren Wood, Building Official Bruce Johnson, Assistant Building Official Mike Morad, Birmingham Museum Director Leslie Pielack, and Police Commander Scott Grewe as representatives for Election Commission members Mayor Pierre Boutros, Mayor Pro Tem Therese Longe, and Commissioners Rackeline Hoff, Brad Host, Mark Nickita and Stuart Sherman for the purpose of conducting the Public Accuracy Tests of the electronic tabulating equipment which will be used to count votes cast at the March 10, 2020, August 4, 2020 and November 3, 2020 elections.
168.798 Testing of electronic tabulating equipment; notice; method; sealing programs, test materials, and ballots; rules; sealing memory device.

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

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


Popular name: Election Code

CITY AND TOWNSHIP ELECTION COMMISSIONS:

Note: The chart above outlines the composition of the local election commissions based on your jurisdiction’s form of government. The only exception to the composition of the local election commission must be provided by a city charter.

City and Township Election Commission members are responsible for the following:

- Establishing precincts, including temporary precinct consolidations for non-State/Federal elections;
- Establishing Absent Voter Counting Boards (AVCBs);
- Assessing voting equipment needs;
- Performing logic and accuracy testing for voting equipment. NOTE: Even if the county performs the programming for the local jurisdictions, it is still the responsibility of the local election commission to conduct pre-election logic and accuracy testing for their voting equipment prior to each election. Preliminary testing may be delegated to the local clerk; however, public accuracy testing must be conducted by the election commission or each member’s designated representative.
- Authorizing the printing and provision of ballots for use in city, township, village and certain school district elections;
- Providing election supplies (including forms and ballot containers);
- Appointing precinct inspectors prior to each election, including AVCB members, Receiving Board members, precinct chairpersons and alternates; note that certified election inspectors must be appointed at least 21 days prior to the election and no more than 40 days prior to each election;
- Notifying major political parties of the appointment of election inspectors in federal and state elections; and
- Carrying out other election related duties for their respective jurisdictions.
Election Commission Responsibilities that should be handled via an Open Meeting by Election Commission Members:

- Approving of ballots
- Appointing precinct inspectors
- Public Accuracy Test
- Precinct Changes / Consolidations
- Adoption of resolution outlining delegated duties

Election Commission Duties that may be delegated to the Local Clerk or authorized assistant (note: Delegated duties should be documented via resolution):

- Preparing meeting materials for the Election Commission (ballots proof for approval, list of election inspectors for appointment, etc.)
- Preparing, printing and delivering ballots
- Providing candidates and the Secretary of State with proof copies of ballots
- Providing notice to voters in the case of precinct changes/consolidations
- Providing election supplies and ballot containers
- Preliminary logic and accuracy testing
- Notifying major political parties of certified precinct Inspector appointments (federal and state elections only)

SCHOOL ELECTION COORDINATING COMMITTEE: Every school district has a School Election Coordinating Committee responsible for determining the details of how special school elections will be administered. The School Election Coordinating Committee is composed of a school election coordinator, the secretary of the school board and the clerks of all jurisdictions covered by the school district. For a school district wholly contained within a single jurisdiction, that clerk is the school election coordinator. In a school district that crosses jurisdiction lines the county clerk is the coordinator.

TYPES OF ELECTIONS

There are several types of elections conducted in Michigan. The following is an overview of the various types.
INTRODUCTION:
For many years, Bloomfield Twp. has been improving pedestrian accessibility through a safety path installation program. Concrete sidewalks and pedestrian paths have been installed on many miles of major streets throughout the township, as a result. In 2018, the township installed a sidewalk on the east side of Woodward Ave. from Strathmore (north of Big Beaver Rd.) south to Manor Rd. (south of Big Beaver Rd.). At that time, a signalized pedestrian crosswalk was installed on the east leg of the Woodward Ave. & Big Beaver Rd. intersection. It is their intention to continue the construction south to the current Birmingham sidewalk located at the intersection of Oak St.

As a part of the work in this area, the township initiated a plan to provide a signalized crosswalk for the south leg of the Woodward Ave. & Quarton Rd./Big Beaver Rd. intersection, with the understanding that the cost could potentially be shared with the City of Birmingham.

BACKGROUND:
As you know, in 2018, significant progress was made at several locations with respect to Woodward Ave. crosswalk improvements within Birmingham. Also in 2018, the Engineering Dept. designed sidewalk improvements on the southwest corner of Woodward Ave. and Quarton Rd., adjacent to a vacant commercial site. Last May, new City sidewalk was installed to provide a complete sidewalk loop on this block, on both the Quarton Rd. and Woodward Ave. frontages. The attached aerial map depicts in red the new sidewalk that was installed on this corner. The new crosswalk being discussed on this memo is depicted in yellow.

Also in 2018, we were contacted by Bloomfield Twp. relative to their proposal to install a new Woodward Ave. crosswalk on the south leg of this same intersection. Staff indicated that Birmingham would likely consider this endeavor with a 50/50 split between the two jurisdictions (the township confirmed that the Michigan Dept. of Transportation (MDOT) would not be able to financially contribute to this endeavor).

Attached are plans for the improvement, as bid. The work includes sidewalk at 8 ft. wide (consistent with the other new crosswalks located further south), pedestrian signals, and pavement markings. When reviewing the plans, it is noted that the plans call for crosswalk markings using a 12-inch wide, instead of 24-inch wide white bars, using the Polyurea
material. In order to align with Birmingham’s crosswalk standards, we have requested the township staff have the plan modified so that the 24-inch wide white bars are used for the pavement markings. At the time of the bid, this change had not yet been approved by MDOT, but it has since been approved. (The plan is to build the crosswalk using the same dimensions and materials that were used for the several other recently improved Woodward Ave. crosswalks.) In accordance with previous discussions with MDOT, the City will become responsible for the long term maintenance of the crosswalk, which is estimated at $7,000 every four years for the installation of new polyurea material.

The contract for this work was bid by the township as a stand-alone project last July. The only bid received was higher than expected. The Township Board rejected the bid and directed the staff to repackage the project.

In August, the township repackaged the work with a larger safety path program. Bids of the new project were opened. Three bids were received this time. The work pertaining to the Woodward Ave. crossing went up in price, to $117,922.50 (including contingency). In October, the Township Board passed a resolution awarding the latter contract to the low bidder, with the caveat that the work at the Woodward Ave. & Quarton Rd. intersection would be subject to approval by the City of Birmingham as well. The township has taken the position that rather than splitting the cost evenly, the cost should be based on the sum of the actual work required to complete the project east and west of the center of Woodward Ave., thereby literally asking each agency to pay only for the work within each one’s jurisdiction. Using the numbers as bid (with contingency), their engineer has calculated the recommended cost split at $52,602.00 for Bloomfield Twp., and $65,320.50 for Birmingham.

More recently, Birmingham’s Planning Dept. has been in preliminary discussions with a developer considering new retail construction on the adjacent vacant parcel. No plans have yet been submitted for review. There are no conflicts between what is proposed for this crosswalk and the preliminary concepts being considered by the adjacent developer at this time.

LEGAL REVIEW:
The attached cost participation agreement was prepared by Bloomfield Township’s legal staff. Birmingham’s City Attorney reviewed the document, and it was modified slightly per his request before it was presented to the Township Board and subsequently approved.

FISCAL IMPACT:
The City’s responsibility to Bloomfield Township is estimated at $65,320.50. The township has paid for the design costs of this project, and will be responsible for contract administration. This work was not included in the fiscal 2019-2020 budget. A request for a budget appropriation is included in the suggested resolution below.

PUBLIC COMMUNICATIONS:
No communications to the public have been issued as of this date.
SUMMARY:
In an effort to improve pedestrian facilities in this part of the City, it is recommended that the City partner with Bloomfield Twp. to install a signalized pedestrian crosswalk at the south leg of the Woodward Ave. and Quarton Rd./Big Beaver Rd. intersection.

ATTACHMENTS:
- Cost sharing agreement as approved by the Bloomfield Township Board of Trustees.
- Birmingham sidewalk and alley improvement plans for the southwest corner of Woodward Ave. & Quarton Rd. from the 2018 Concrete Sidewalk Replacement Program (now completed).
- Traffic signal and sidewalk plans for the proposed crosswalk on the south leg of the intersection of Woodward Ave. & Quarton Rd./Big Beaver Rd.
- Township Board report from meeting of July 22, 2019, rejecting the bid received for the pedestrian crosswalk at Woodward Ave. and Quarton Rd.
- Township Board report from the meeting of October 19, 2019, approving the low bid of JB Contractors for the Township’s safety path program, with the work involving the Woodward Ave. and Quarton Rd. intersection contingent upon the City of Birmingham approving the cost sharing agreement.

SUGGESTED RESOLUTION:
To approve the cost sharing agreement with Bloomfield Township to proceed with the installation of a new Woodward Ave. crosswalk on the south leg of the Woodward Ave. and Quarton Rd./Big Beaver Rd. intersection at the estimated amount of $65,320.50, to be charged to the General Sidewalk Fund Capital Improvements, 101-444.001-981.0100. Also, to direct the Mayor to sign the agreement on behalf of the City. Further, to approve the appropriation and amendment to the fiscal year 2019-2020 General Fund budget as follows:

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This Intergovernmental Agreement ("Agreement") is made between the City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012 ("City of Birmingham"), and the Charter Township of Bloomfield, 4200 Telegraph Road, P.O. Box 489, Bloomfield Township, Michigan 48303-0489 ("Bloomfield Township"). In this Agreement, the City of Birmingham or the Township of Bloomfield may also be referred to as "Party" or "Communities."

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

1. **AUTHORITY**

   The Parties enter into this Agreement pursuant to the authorization under The Intergovernmental Contracts Between Municipal Corporations Act, P.A. 35 of 1951, MCL 124.1, et seq.

2. **PURPOSE OF AGREEMENT**

   The purpose of this Agreement is to make improvements to the existing intersection of Big Beaver Road and Woodward Avenue, and more specifically to install a crosswalk/safety path crossing on the south side of Big Beaver Road across Woodward Avenue, said portion of the intersection of Big Beaver Road and Woodward Avenue to be improved between the City of Birmingham and the Township of Bloomfield as described herein. The project will be installed and constructed at the east-west crossing of Woodward Avenue on the south side of Woodward Avenue’s intersection with Big Beaver Road from the southwest corner (City of Birmingham) to the southeast corner (Township of Bloomfield). The project work calls for installation and construction of the crosswalk/safety path crossing to connect to the existing safety paths and the installation of intersection ramps to meet current ADA standards and the installation of signals, equipment and other appurtenances to meet current ADA and Road Commission for Oakland County standards.

3. **RESPONSIBILITIES OF EACH COMMUNITY**

   3.1. **Construction Costs.** The Communities agree to share the expense of the construction costs for said project in accordance with Exhibit A, which is attached hereto and incorporated herein by reference. Bloomfield Township will install and construct the project improvements and the City of Birmingham shall reimburse and pay to Bloomfield Township the City of Birmingham’s share of the cost as described herein and on Exhibit A. The City of Birmingham’s contribution toward the costs of constructing and installing the project, which is estimated at $65,320.50, shall be payable to Bloomfield Township when the project has been completed. Furthermore, in the event of any overages, said overages must be approved by both Communities in advance and shall be paid in accordance with the percentages of the current breakdown of the total of $117,922.50 for the entire project.
3.2 Employee benefits. Each Community is responsible for the wages, salary, overtime, workers compensation, retirement, insurance, local, state and federal income tax withholding, and other fringe benefits for its employees.

3.3 Compliance with laws. Each Party shall comply with all federal, state, and local statutes, ordinances, regulations, administrative rules, and requirements applicable to its activities performed under this Agreement including, but not limited to, the policies, procedures, rules and regulations of their Community.

3.4 Responsibility. Each Community shall be responsible for its own acts and the acts of its employees, agents, and subcontractors acting within the scope of their employment.

3.5 Crosswalk striping maintenance. The City of Birmingham shall at its own cost maintain the 24 inch wide striping on the entire crosswalk across Woodward Avenue.

4. NOTICES

Notices given under this Agreement shall be in writing and shall be personally delivered, sent by certified mail, registered mail, or tracked express delivery service and shall be addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent express delivery service or personal delivery.

To the City of Birmingham: Pierre Boutros, Mayor
151 Martin Street
P.O. Box 3001
Birmingham, MI 48012

To Bloomfield Township: Leo Savoie, Supervisor
4200 Telegraph Road
P.O. Box 489
Bloomfield Township, MI 48303-0489

The address and/or individual to which Notice is sent may be changed by notifying each Community in writing of the change.

5. INSURANCE

Each Community shall procure and maintain for the duration of this Agreement, at its sole and exclusive expense, the following insurance coverage:

5.1 Workers’ Compensation Insurance, including Employers’ Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

5.2 Motor Vehicle Liability Insurance, including Michigan No-Fault Coverage, with limits of liability not less than $1,000,000 per occurrence combined single limit for Bodily Injury, and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
5.3. Commercial General Liability Insurance on an “Occurrence Basis” with limits of liability not less than $1,000,000 per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury, and Property Damage.

5.4. Excess Liability (Umbrella) Insurance in the amount of $1,000,000 per occurrence and $2,000,000 aggregate.

6. **RESPONSIBILITY**

Each party shall be responsible for any claims made against that party and for the acts of its respective officers, officials and employees. For any claims that may arise from the performance of this Agreement, each party shall seek its own legal representation and bear the costs associated with such representation including any attorney fees. Except as otherwise provided in this Agreement, none of the parties shall have any right under any legal principle to be indemnified by either of the other parties or any of the other parties’ respective officers, officials, or employees in connection with any claim. For purposes of this paragraph, the term “claims” shall mean and include any alleged losses, claims, complaints, demands for relief or damages, suits, causes of action, proceedings, judgments, deficiencies, liability, penalties, litigation, costs and/or expenses of any kind which are imposed upon, incurred by, or asserted against a party.

Nothing in this Agreement is intended, nor shall it operate, to diminish, delegate, divest, impair, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, capacity, immunity or character of office including, but not limited to, governmental immunity on behalf of the parties to this Agreement or any of their respective employees, appointees, officials or agents.

7. **GOVERNMENTAL IMMUNITY**

Each Community being a public entity is immune from liability under the Governmental Liability for Negligence Act, MCL 691.1401 et seq., and nothing herein shall abrogate or impair the immunity granted thereby. All activities performed under this Agreement are hereby deemed to be governmental functions. Neither the Communities nor their officials and employees, except in cases of willful misconduct or gross negligence, shall be liable for the death of or injury to persons, or for damage to property.

8. **NO THIRD PARTY BENEFICIARIES**

Nothing in the provisions of this Agreement is intended to 1) create duties or obligations to or rights in third parties not parties to this Agreement, or 2) to affect the legal liability of any party to this Agreement by imposing any standard of care with respect to third party claims.

9. **EFFECTIVE DATE AND TERM**

This Agreement shall take effect on the final date of execution and shall remain in effect until cancelled or terminated in writing pursuant to the terms contained in this Agreement.
10. **SEVERABILITY**

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

11. **RESERVATION OF RIGHTS**

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

12. **ASSIGNMENT PROHIBITED**

There shall be no assignment of this Agreement or any of the rights and obligations under this Agreement.

13. **AMENDMENT**

Amendment of this Agreement shall be in writing, approved by Resolution of the legislative body for each of the Communities and shall be signed by authorized representatives.

14. **GOVERNING LAW**

This Agreement shall be governed, construed, and enforced under the laws of the State of Michigan. Venue is proper in a court of competent jurisdiction within the State of Michigan.

15. **ENTIRE AGREEMENT**

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

AS WITNESSED, and pursuant to the Resolution adopted by the Charter Township of Bloomfield Board of Trustees approving this Intergovernmental Agreement and authorizing the execution thereof, duly authorized representatives have executed this Agreement as of the date below.

**CHARTER TOWNSHIP OF BLOOMFIELD**

By: ________________________________
   Leo Savoie
   Township Supervisor

By: ________________________________
   Janet Roncelli
   Township Clerk
The foregoing instrument was acknowledged before me this____ day of_____, 2019, by Leo Savoie, Township Supervisor, and Janet Roncelli, Township Clerk of the Charter Township of Bloomfield.

__________________________
Notary Public
_________ County, Michigan
My commission expires: _______
Acting in the County of Oakland

AS WITNESSED, and pursuant to the Resolution adopted by the City of Birmingham City Commission approving this Intergovernmental Agreement and authorizing the execution thereof, duly authorized representative has executed this Agreement as of the date below.

CITY OF BIRMINGHAM

__________
Date

By: ____________________________
Pierre Boutros
Mayor

The foregoing instrument was acknowledged before me this____ day of_____, 2019, by Pierre Boutros, Mayor, City of Birmingham.

__________________________
Notary Public
_________ County, Michigan
My commission expires: _______
Acting in the County of Oakland

5809802
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<td>50</td>
<td>Syd</td>
<td>$4.00</td>
<td>$200.00</td>
</tr>
<tr>
<td>Pave Mrk., Polyurea, 12 inch, Crosswalk</td>
<td>150</td>
<td>Ft</td>
<td>$5.75</td>
<td>$862.50</td>
</tr>
<tr>
<td>Pave Mrk., Polyurea, 24 inch Crosswalk</td>
<td>0</td>
<td>Ft</td>
<td>$11.50</td>
<td>-</td>
</tr>
<tr>
<td>Remove Keystone Retaining Wall</td>
<td>0</td>
<td>SB</td>
<td>$50.00</td>
<td>-</td>
</tr>
<tr>
<td>Sign, Type II, Rem</td>
<td>1</td>
<td>Ea</td>
<td>$345.00</td>
<td>$345.00</td>
</tr>
<tr>
<td>Sign, Type I, Rem</td>
<td>1</td>
<td>Ea</td>
<td>$403.00</td>
<td>$403.00</td>
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<td>Sign, Type III, Rem</td>
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<td>$288.00</td>
</tr>
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<td>Sign, Type III, Erect, Salv</td>
<td>1</td>
<td>Ea</td>
<td>$402.00</td>
<td>$402.00</td>
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<tr>
<td>Fdn., Perforated Steel Square Tube Sign Breakaway System Rem</td>
<td>3</td>
<td>Ea</td>
<td>$604.00</td>
<td>$1,812.00</td>
</tr>
<tr>
<td>Post, Wood, 6 inch by 8 inch</td>
<td>32</td>
<td>Ft</td>
<td>$115.00</td>
<td>$3,680.00</td>
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<tr>
<td>Post, Steel, 3 lb</td>
<td>14</td>
<td>Ft</td>
<td>$21.00</td>
<td>$294.00</td>
</tr>
<tr>
<td>Rem Spec Mrk</td>
<td>0</td>
<td>SB</td>
<td>$3.00</td>
<td>-</td>
</tr>
<tr>
<td>Conduit, DB, 1, 1 1/2 inch</td>
<td>0</td>
<td>Ft</td>
<td>$58.00</td>
<td>-</td>
</tr>
<tr>
<td>Conduit, DB, 1, 3 inch</td>
<td>25</td>
<td>Ft</td>
<td>$63.00</td>
<td>$1,575.00</td>
</tr>
<tr>
<td>Conduit, Directional Bore, 1, 3 inch</td>
<td>70</td>
<td>Ft</td>
<td>$115.00</td>
<td>$8,050.00</td>
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<tr>
<td>Hh, Round</td>
<td>2</td>
<td>Ea</td>
<td>$2,875.00</td>
<td>$5,750.00</td>
</tr>
<tr>
<td>Pedestal, Alum</td>
<td>2</td>
<td>Ea</td>
<td>$1,380.00</td>
<td>$2,760.00</td>
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<tr>
<td>Pedestal, Fdn</td>
<td>2</td>
<td>Ea</td>
<td>$2,070.00</td>
<td>$4,140.00</td>
</tr>
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<td>Pushbutton and Sign</td>
<td>2</td>
<td>Ea</td>
<td>$1,495.00</td>
<td>$2,990.00</td>
</tr>
<tr>
<td>Pushbutton Pedestal, Alum</td>
<td>0</td>
<td>Ea</td>
<td>$1,150.00</td>
<td>-</td>
</tr>
<tr>
<td>TS, Pedestrian, Pedestal Mfd, Rem</td>
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<td>Ea</td>
<td>$460.00</td>
<td>-</td>
</tr>
<tr>
<td>TS, Pedestrian, One Way Pedestal Mfd (LED) Countdown</td>
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<td>Ea</td>
<td>$7,560.00</td>
<td>$4,600.00</td>
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<tr>
<td>TS, Pedestrian, Two Way Pedestal Mfd (LED) Countdown</td>
<td>0</td>
<td>Ea</td>
<td>$3,100.00</td>
<td>-</td>
</tr>
<tr>
<td>Maintaining Traffic</td>
<td>7</td>
<td>Day</td>
<td>$800.00</td>
<td>$5,600.00</td>
</tr>
<tr>
<td>BLOOMFIELD TOWNSHIP (EAST HALF OF INT.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mobilization, Max 5%</td>
<td>1</td>
<td>LS</td>
<td>$2,500.00</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>Curb and Gutter, Rem</td>
<td>41</td>
<td>Ft</td>
<td>$20.00</td>
<td>$820.00</td>
</tr>
<tr>
<td>Embankment, CIP</td>
<td>7</td>
<td>Cyd</td>
<td>$30.00</td>
<td>$210.00</td>
</tr>
<tr>
<td>Excavation, Earth</td>
<td>25</td>
<td>Cyd</td>
<td>$25.00</td>
<td>$625.00</td>
</tr>
<tr>
<td>Aggregate Base, 4 inch</td>
<td>41</td>
<td>Syd</td>
<td>$12.00</td>
<td>$492.00</td>
</tr>
<tr>
<td>Aggregate Base, 8 inch</td>
<td>12</td>
<td>Syd</td>
<td>$18.00</td>
<td>$216.00</td>
</tr>
<tr>
<td>Hand Patching</td>
<td>3</td>
<td>Ton</td>
<td>$600.00</td>
<td>$1,800.00</td>
</tr>
<tr>
<td>Sidewalk, Rem</td>
<td>19</td>
<td>Syd</td>
<td>$20.00</td>
<td>$380.00</td>
</tr>
<tr>
<td>HMA Surface, Rem</td>
<td>5</td>
<td>Syd</td>
<td>$35.00</td>
<td>$175.00</td>
</tr>
<tr>
<td>Lane Tie, Epoxy Anchored</td>
<td>8</td>
<td>Ea</td>
<td>$10.00</td>
<td>$80.00</td>
</tr>
<tr>
<td>Curb Ramp Opening, Conc</td>
<td>41</td>
<td>Ft</td>
<td>$40.00</td>
<td>$1,640.00</td>
</tr>
<tr>
<td>Detachable Warning Surface, Cast Iron</td>
<td>19</td>
<td>Ft</td>
<td>$90.00</td>
<td>$1,710.00</td>
</tr>
<tr>
<td>Sidewalk Ramp, Conc, 6 inch</td>
<td>268</td>
<td>SB</td>
<td>$8.00</td>
<td>$2,144.00</td>
</tr>
<tr>
<td>Sidewalk, Conc, 4 inch</td>
<td>100</td>
<td>SB</td>
<td>$4.50</td>
<td>$450.00</td>
</tr>
<tr>
<td>Tuff Establishment, Performance, Modified</td>
<td>50</td>
<td>Syd</td>
<td>$4.00</td>
<td>$200.00</td>
</tr>
<tr>
<td>Pave Mrk., Orly Cold Plastic, 12 inch, Crosswalk</td>
<td>200</td>
<td>Ft</td>
<td>$5.75</td>
<td>$1,150.00</td>
</tr>
<tr>
<td>Pave Mrk., Orly Cold Plastic, 24 inch, Stop Bar</td>
<td>60</td>
<td>Ft</td>
<td>$11.50</td>
<td>$690.00</td>
</tr>
<tr>
<td>Remove Keystone Retaining Wall</td>
<td>40</td>
<td>SB</td>
<td>$50.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Sign, Type III, Rem</td>
<td>1</td>
<td>Ea</td>
<td>$288.00</td>
<td>$288.00</td>
</tr>
<tr>
<td>Sign, Type III, Erect, Salv</td>
<td>1</td>
<td>Ea</td>
<td>$403.00</td>
<td>$403.00</td>
</tr>
<tr>
<td>Post, Steel, 3 lb</td>
<td>14</td>
<td>Ft</td>
<td>$21.00</td>
<td>$294.00</td>
</tr>
<tr>
<td>Rem Spec Mrk</td>
<td>120</td>
<td>SB</td>
<td>$3.00</td>
<td>$390.00</td>
</tr>
<tr>
<td>Conduit, DB, 1, 1 1/2 inch</td>
<td>25</td>
<td>Ft</td>
<td>$58.00</td>
<td>$1,450.00</td>
</tr>
<tr>
<td>Conduit, DB, 1, 3 inch</td>
<td>25</td>
<td>Ft</td>
<td>$63.00</td>
<td>$1,575.00</td>
</tr>
<tr>
<td>Pedestal, Alum</td>
<td>1</td>
<td>Ea</td>
<td>$1,380.00</td>
<td>$1,380.00</td>
</tr>
<tr>
<td>Pedestal, Fdn</td>
<td>2</td>
<td>Ea</td>
<td>$2,070.00</td>
<td>$4,140.00</td>
</tr>
<tr>
<td>Pushbutton and Sign</td>
<td>2</td>
<td>Ea</td>
<td>$1,495.00</td>
<td>$2,990.00</td>
</tr>
<tr>
<td>Pushbutton Pedestal, Alum</td>
<td>1</td>
<td>Ea</td>
<td>$1,150.00</td>
<td>$1,150.00</td>
</tr>
<tr>
<td>TS, Pedestrian, Pedestal Mfd, Rem</td>
<td>1</td>
<td>Ea</td>
<td>$460.00</td>
<td>$460.00</td>
</tr>
<tr>
<td>TS, Pedestrian, One Way Pedestal Mfd (LED) Countdown</td>
<td>1</td>
<td>Ea</td>
<td>$2,300.00</td>
<td>$2,300.00</td>
</tr>
<tr>
<td>TS, Pedestrian, Two Way Pedestal Mfd (LED) Countdown</td>
<td>1</td>
<td>Ea</td>
<td>$3,100.00</td>
<td>$3,100.00</td>
</tr>
<tr>
<td>Maintaining Traffic</td>
<td>1</td>
<td>LS</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>Observation Crew days</td>
<td>7</td>
<td>Day</td>
<td>$800.00</td>
<td>$5,600.00</td>
</tr>
<tr>
<td>Cost for City of Birmingham</td>
<td>-</td>
<td>-</td>
<td>$59,320.50</td>
<td></td>
</tr>
<tr>
<td>Contingency (10%)</td>
<td>-</td>
<td>-</td>
<td>$6,000.00</td>
<td></td>
</tr>
<tr>
<td>Cost for Bloomfield Township</td>
<td>-</td>
<td>-</td>
<td>$47,862.00</td>
<td></td>
</tr>
<tr>
<td>Contingency (10%)</td>
<td>-</td>
<td>-</td>
<td>$4,800.00</td>
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</tr>
<tr>
<td>Total Construction Estimators</td>
<td>-</td>
<td>-</td>
<td>$117,922.50</td>
<td></td>
</tr>
</tbody>
</table>
GENERAL

The project shall be constructed in accordance with the requirements of the Michigan Department of Transportation (MDOT) and the Township of Bloomfield, as specified in the construction plans, specifications, and these instructions.

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The project shall be constructed in accordance with the requirements of the Michigan Department of Transportation (MDOT) and the Township of Bloomfield, as specified in the construction plans, specifications, and these instructions.
REQUIRED FOR ALL CURB CONSTRUCTION PER RCOC STANDARDS. SEE PLAN SHEET NO. 6 FOR CURB DETAILS. CURB MACHINE EXIST. FULL DEPTH HMA PAVEMENT VARIES 1'-0" 1:4 MAX.

NOTE: EPOXY COATED #4 BAR REQUIRED AT 8" AGGREGATE FILL BEHIND AND UNDER CURB 2 FT. MIN.

1:6 MAX.

HMA PAVEMENT TYPICAL CONCRETE SAFETY PATH SECTION

TYPICAL  CUT  SECTION

TYPICAL  FILL  SECTION

TYPICAL OUT SECTION

REQUIRED FOR ALL BASE MATERIAL TO BE INCLUDED IN THE UNIT PRICE BID FOR SAFETY PATH.

NOTE: CONTRACTOR SHALL PROVIDE IN THE UNIT PRICE BID FOR EACH CONCRETE PAVEMENT ITEM. ALL JOINTS SHALL BE INCIDENTAL TO THE UNIT PRICE BID FOR EACH CONCRETE PAVEMENT ITEM.

1:1 2 % (MAX.)

1 ON 4 MAX.

2'-0" 1 ON 6 MAX.

TYPICAL SECTIONS

NOTES:

- CONTRACTOR SHALL STRIP ALL VEGETATION AND TOPSOIL WITHIN INTERSECTIONS WITH EXISTING WALKS, DRIVEWAYS, AND STREETS. THE TOP OF THE JOINT FILLER SHALL BE SLIGHTLY BELOW THE FINISHED GRADE.

- PLACING FILL, SEE SPEC. SEC. 02201 THE 1 ON 1 INFLUENCE PRIOR TO THE 1 ON 2 SAFETY PATH RAMP.

- GROUND EXISTING MEET EXISTING WEAKNESS JOINTS) SHALL BE PLACED AT UNIFORM INTERVALS (MATCHING PATH WIDTH) BETWEEN TRANSVERSE PLANE EXPANSION JOINTS. THEY SHALL BE CONSTRUCTED AS SPECIFIED.

- NOTE: CONTRACTOR SHALL PROVIDE WEAKNESS JOINTS) SHALL BE PLACED AT UNIFORM INTERVALS (MATCHING PATH WIDTH)

- 1 ON 2 TRANSVERSE EXPANSION JOINTS SHALL BE PLACED AT A TRANSVERSE EXPANSION JOINT SHALL BE PLACED AT A TRANSVERSE EXPANSION JOINT SHAPE TO MATCH THE CURB LINING JOINING CURBS AND DRIVEWAYS OR EXISTING GROUND STRUCTURES.

- LONGITUDINAL CENTERLINE GRADE SHALL NOT EXCEED 8.33% (OR AS SPECIFIED BY ENGINEER).

- CURVED AREAS WILL NOT BE ACCEPTABLE. CONTINUOUS CURVE. RIGID FORMING WITHIN THE AREAS SHALL BE ACCOMPLISHED WITH FLEXIBLE FORMS, SUFFICIENT TO OBTAIN A NEAT, SMOOTH, AND PROPER SAFETY PATH.

- A TRANSVERSE EXPANSION JOINT SHALL BE PLACED AT A TRANSVERSE EXPANSION JOINT SHAPE TO MATCH THE CURB LINING JOINING CURBS AND DRIVEWAYS OR MEET EXISTING

- THE SAFETY PATH AND THE BACK OF THE SAFETY PATH SHALL FULL DEPTH OF THE POUR SHALL BE 1 ON 6 OR FLATTER UNIFORM SLOPE PROVIDE MIN. 2'-0" AS A TOOLED JOINT.

- DONE AS DIRECTED BY THE ENGINEER IN ORDER TO PROTECT THE SAFETY PATH FROM THE EFFECTS OF WEATHERING AND WEAR, THE SAFETY PATH AND DRIVEWAYS MAY BE CONSTRUCTED ON A FREDERICK JORDAN

- CONTRACTOR SHALL PROVIDE WEAKNESS JOINTS) SHALL BE PLaced AT UNIFORM INTERVALS (MATCHING PATH WIDTH) BETWEEN TRANSVERSE PLANE EXPANSION JOINTS. THEY SHALL BE CONSTRUCTED AS SPECIFIED.

- 1:6 MAX.

- SLOPE 2.00% MAX

- SCALE

- 2'-0"

- 1:4 MAX.

- 1:6 MAX.

- 1:1 2 % (MAX.)

- TYPICAL CONCRETE SAFETY PATH SECTION

- TYPICAL  CUT  SECTION

- TYPICAL  FILL  SECTION

- TYPICAL OUT SECTION

- CONCRETE JOINTING WIDTH MAY VARY AS SPECIFIED

- 4" AGGREGATE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.

- 2.00 % MAX

- SCALE

- 2'-0"

- 1 ON 4 MAX.

- 2'-0" 1 ON 6 MAX.
CURB OR CONCRETE PAVEMENT

NOTE: EPOXY COATED #4 BAR REQUIRED AT

555 HULET DRIVE
BLOOMFIELD HILLS, MICH.
P.O. BOX 824
48303 - 0824
PHONE: (248) 454-6300
WEB SITE: http://www.hrcengr.com
FAX (1st. Floor): (248) 454-6312

CROSSING PEDESTRIAN
WOODWARD AVENUE

NOTE: BUMP CURB 4 BEN MARKED AT
CROSSING PEDESTRIAN TO WALKWAY
CURB TO CONCRETE PAVEMENT
NOTES:
1. ALL ENGINEERING DRAWINGS SHOWN ARE IN TOLERANCE WITHIN 0.04 INCH AND 3% 
   OF THE PROJECT DIMENSIONS AS SHOWN. 
2. ALL DIMENSIONS ARE IN FEET AND INCHES. 
3. ALL CONCRETE WALLS, FENCES, AND艦 FENCING IS 8" HIGH, UNLESS SPECIFIED. 
4. ALL STREETS SHOWN ARE CONSTRUCTED WITH 6" REINFORCED CONCRETE. 
5. ALL PAVING WILL BE STAINED OR TINTED AS SHOWN. 
6. ALL GUARDRAILS WILL BE SHOWN IN CONSTRUCTION OR FINISHED SHAPE AS 
   SHOWN AND 12" HIGH. 
7. ALL ELECTRICAL INSTALLATIONS WILL BE COMPLETED IN ACCORDANCE WITH THE 
   MICHIGAN ELECTRICAL CODE. 
8. ALL SIGNS AND MARKINGS SHOWN ARE IN CONSTRUCTION OR FINISHED SHAPE AS 
   SHOWN. 
9. ALL EARTHWORK SHOWN IS FOR CONSTRUCTION OR FINISHED SHAPE AS SHOWN. 
10. ALL STRUCTURAL CONSTRUCTION IS IN CONSTRUCTION OR FINISHED SHAPE AS 
    SHOWN. 

LEGEND:
- PAVING SHOWN AS:
  - PAVING CONSTRUCTION
  - PAVING FINISHED SHAPE
- GUARDRAIL SHOWN AS:
  - GUARDRAIL CONSTRUCTION
  - GUARDRAIL FINISHED SHAPE
- FENCING SHOWN AS:
  - FENCING CONSTRUCTION
  - FENCING FINISHED SHAPE
- PLANTING SHOWN AS:
  - PLANTING CONSTRUCTION
  - PLANTING FINISHED SHAPE
- SITEWORK SHOWN AS:
  - SITEWORK CONSTRUCTION
  - SITEWORK FINISHED SHAPE
- SIGNS AND MARKINGS SHOWN AS:
  - SIGNS AND MARKINGS CONSTRUCTION
  - SIGNS AND MARKINGS FINISHED SHAPE
- PAVEMENT SHOWN AS:
  - PAVEMENT CONSTRUCTION
  - PAVEMENT FINISHED SHAPE
- STRUCTURAL CONSTRUCTION SHOWN AS:
  - STRUCTURAL CONSTRUCTION CONSTRUCTION
  - STRUCTURAL CONSTRUCTION FINISHED SHAPE
- SITE UTILITY WORK SHOWN AS:
  - SITE UTILITY WORK CONSTRUCTION
  - SITE UTILITY WORK FINISHED SHAPE
- WATER FEATURES SHOWN AS:
  - WATER FEATURES CONSTRUCTION
  - WATER FEATURES FINISHED SHAPE
- LANDSCAPING SHOWN AS:
  - LANDSCAPING CONSTRUCTION
  - LANDSCAPING FINISHED SHAPE
- BUILDING SETBACK SHOWN AS:
  - BUILDING SETBACK CONSTRUCTION
  - BUILDING SETBACK FINISHED SHAPE
- EARTHWORK CONSTRUCTION SHOWN AS:
  - EARTHWORK CONSTRUCTION CONSTRUCTION
  - EARTHWORK CONSTRUCTION FINISHED SHAPE
- EARTHWORK FINISHED SHAPE SHOWN AS:
  - EARTHWORK FINISHED SHAPE CONSTRUCTION
  - EARTHWORK FINISHED SHAPE FINISHED SHAPE
GENERAL NOTES

UTILITIES
MISS DIG/UNDERGROUND UTILITY NOTIFICATION
For the protection of underground utilities and in accordance with Public Act 174 of 2013, the Contractor shall contact MISS DIG System, Inc, by phone at 811 or 800-462-7777 or via the web at either:
11k9a7a.nissd.org for single address or
www.missdig.org, a minimum of 3 business days prior to excavating, excluding weekends and holidays.

OUT OF SERVICE UTILITIES
If prior information indicates an existing underground utility is or will be out of service within the limits of this contract, the Contractor is cautioned to treat such a line as if it were still in service and notify “Miss Dig” when working in the area of the out of service facility.

EXISTING WATER MAINS AND SEWERS
The Contractor shall be responsible for any damage to properly identified existing water mains and/or existing sewers during the construction of this project.

SIGNALS
PREVIOUS GENERAL NOTES
Some notes previously included in "General Notes" are now located within the Frequently Used Special Provision titled "Traffic Signal Work - Construction Methods".

MAINTENANCE AGENCY CONTACT INFORMATION
• Road Commission for Oakland County (248-646-2000)

NOTIFICATIONS TO MAINTENANCE AGENCIES
Contact MDOT (and any other maintaining agency) seven working days prior to start of construction and seven working days prior to signal activation.

FACILITIES NOT ON PLANS
Existing O/I & S/E facilities are not necessarily shown on plans.

EXISTING STREET SIGNS
All traffic street signs such as "no parking", "no standing", etc. shall be transferred from old signs, or pole to new sign, or pole at some location in close proximity by the Contractor.

UNDERGROUND UTILITY SEPARATION
A minimum clearance of 3'4" horizontal & 1'40" vertical must be maintained between proposed facilities & existing U/O, water facilities.

PLAN DEVIATIONS DURING CONSTRUCTION
No changes from plans in location of supporting structures signal head placements or traffic signals equipment will be allowed without prior approval of the Michigan Department of Transportation, Traffic Signals Unit in Lansing, MI (517-373-3323).

POLE BAND CLAMP ACCEPTANCE
The current bands of acceptance for this material is now part of the QPL (Qualified Product List). This can be found in the materials Acceptance Requirements Table, published in the MQAP and repeated for convenience in the Materials Source Guide.

SIGNAL HEAD LANDING POINT
Ensure each traffic signal head assembly has its own landing point with all neutrals connected together with a metal type jumper.
### Utilities

#### Combined Sewer
- Combined sewer
- Combined sewer - out of service
- Combined sewer - to be turned out of service
- Combined sewer - to be removed

#### Communication
- Fiber optic
- Fiber optic - out of service
- Fiber optic - disabled
- Fiber optic - damage
- Cable
- Cable - out of service
- Cable - damaged
- Telephone
- Telephone - out of service
- Telephone - damaged
- Telephone - missing
- Telephone - dead
- Telephone - repair

#### Fuel/Petroleum
- Petroleum storage
- Petroleum storage - damage
- Petroleum pipeline
- Petroleum pipeline - out of service
- Petroleum pipeline - no service
- Petroleum pipeline - dead
- Petroleum pipeline - repair

#### Natural Gas
- Gas line
- Gas line - out of service
- Gas line - damaged
- Gas line - repair

#### Sanitary Sewer
- Sanitary sewer
- Sanitary sewer cover
- Sanitary sewer - damaged
- Sanitary sewer - out of service
- Sanitary sewer - to be turned out of service
- Sanitary sewer - to be removed

#### Water
- Water main
- Water main - damage
- Water main - out of service
- Water main - to be removed

#### Steam
- Steam
- Steam - out of service

#### Drainage
- Drainage
- Drainage cover
- Drainage - damage
- Drainage - out of service
- Drainage - to be removed

#### Generic Existing Utilities
- Generic existing utilities
- Generic existing utilities - damage
- Generic existing utilities - out of service
- Generic existing utilities - to be removed

### Note:
Existing items are represented by dark line weights. Removed items are represented by lighter line weights.
PEDESTAL FOUNDATION

NOT TO SCALE

ENGINEER OF DELIVERY

DESIGNER OF DEVELOPMENT

MICHIGAN DEPARTMENT OF TRANSPORTATION
ENGINEER OF RECORD

PEDESTAL FOUNDATION

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MICHIGAN DEPARTMENT OF TRANSPORTATION
ENGINEER OF RECORD

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MICHIGAN DEPARTMENT OF TRANSPORTATION
ENGINEER OF RECORD

PEDESTAL FOUNDATION
ANCHOR BOLT DETAIL

NOTES: Anchor bolts are to be ASTM A490 steel (4 required)

NOTES:
1) Foundation may be constructed to
2) 22"x22" square - 48" deep.
3) Grounding system shall measure 30 ohms or less to ground.
4) Construction joints not permitted in foundation.
5) Bolted base must meet the requirements of National Cooperative Highway Research Program Report 352 (NCHRP 352) or Manual for Assessing Safety Hardware (MASH) and from Federal Highway Administration (FHWA).
6) Bolted base must also be certified to have a fixed minimum stud height after the support has been determined to be 150% of the 2500 lb. Ultimate Load. See Table 5-3 of MASH for acceptable stud heights.
7) Use the minimum base as a requirement by the Road Commission for Oakland County (RCOC) for use on Oakland County roads only.

For use on MDOT Trunkline:

For use on Oakland County roads only.
COLOR CODE FOR WIRING CONNECTING TRAFFIC SIGNAL LAMPS

NOTE: No splices allowed between traffic signal head and controller.

COLOR CODE FOR WIRING CONNECTING PEDESTRIAN SIGNAL LAMPS

(WALKING PERSON - HAND SYMBOL)

COLOR CODE FOR WIRING CONNECTING TRAFFIC SIGNAL LAMPS
DIRECT BURIAL CONDUIT(S)/CABLE(S)

NOTE:
Working tape shall have proper tape as supplied by the Engineer and installed by the Contractor.

TYPICAL SECTION OF TRENCH

NOTE:
Preferred trench width "W" not wider than conduit excavation width "E".

ENCASED CONDUIT SECTIONS

NOT TO SCALE
PEDESTRIAN PUSH BUTTON DETAILS ON WOOD POLE

NOT TO SCALE

NOTES:
1. For projects maintained by the Wayne Co. Department of Public Services (MDPS), use rigid metal conduit for connection of conductors to Grade level to 10' (3m) above Grade or as directed by the Engineer.
2. If pushbutton is from 10" to 24" from edge of sidewalk on acceptable range is 38° to 45°.

PEDESTRIAN PUSH BUTTON FEET

DETAIL FOR PEDESTRIAN PUSH BUTTON FEET

DETAIL FOR PEDESTRIAN PUSH BUTTON FEET

CAST MOUNTING BRACKET FOR PEDESTRIAN PUSHBUTTON

PEDESTRIAN PUSHBUTTON INSTALLATION ON STEEL POLE OR PEDESTAL

NOTES:
1. Alternate foundation may be constructed 22" x 22" square - 48" deep.
2. Grounding system shall measure 10 ohm or less to ground.

PUSH BUTTON FEET

NOT TO SCALE

M-1 (WOODWARD AVENUE) AT BIG BEAVER ROAD
BLOOMFIELD TWP. OAKLAND COUNTY

MDOT MARKINGS

ENGINEER OF DESIGN

SPECIAL DETAILS

PLAN

SIG-400-A

SHEET

1 OF 4

SIG-400-A

SHEET

2 OF 4

MDOT MARKINGS

ENGINEER OF DESIGN

SPECIAL DETAILS

PLAN

SIG-400-A

SHEET

1 OF 4

SIG-400-A

SHEET

2 OF 4

THE VIEW

PEDESTRIAN PUSH BUTTON DETAILS ON WOOD POLE

DETAIL FOR PEDESTRIAN PUSH BUTTON FEET

DETAIL FOR PEDESTRIAN PUSH BUTTON FEET

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SIG-400-A

SHEET

1 OF 4

SIG-400-A

SHEET

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THE VIEW

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BLOOMFIELD TWP. OAKLAND COUNTY

MDOT MARKINGS

ENGINEER OF DESIGN

SPECIAL DETAILS

PLAN

SIG-400-A

SHEET

1 OF 4

SIG-400-A

SHEET

2 OF 4

THE VIEW

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BLOOMFIELD TWP. OAKLAND COUNTY

MDOT MARKINGS

ENGINEER OF DESIGN

SPECIAL DETAILS

PLAN

SIG-400-A

SHEET

1 OF 4

SIG-400-A

SHEET

2 OF 4
To: Leo Savoie, Township Supervisor
From: Olivia Olsztyn-Budry, P.E., Director of Engineering & Environmental Services
Subject: 2019 Safety Path Program – Woodward Avenue/Big Beaver Pedestrian Crossing
Date: July 25, 2019
Cc: Charles Markus, Engineering & Environmental Services

On Monday, July 15, 2019 bids were taken for the Woodward Pedestrian Crossing at Big Beaver project. Although the advertisement for the project was posted through the Michigan Intergovernmental Trade Network (MITN), and the Township website, only one response bid was received. Furthermore, the bid received is $26,695 over the estimate prepared by Hubbell, Roth & Clark, Inc. (HRC); about 39% over. The bid results were reviewed and it was generally found that most of the line items in the bid proposal were higher than those used in the engineer’s estimate. The engineer’s estimate was based on recent pricing information on projects in other communities.

Attached is a letter from HRC recommending that the bid received from J. Rank Electric, Inc., in the amount of $95,437.00 be rejected. Rather than consider the Woodward Pedestrian Crossing at Big Beaver as a separate project, it has been included as a separate division in the overall 2019 Safety Path Program, currently out for bids. By incorporating this pedestrian crossing into a much larger scale project, it is anticipated that the bid prices for the work will potentially be lower.

Recommendation
Attached is the bid result. We recommend that the Board of Trustees consider rejecting the bid submitted by J. Rank Electric, Inc. in the amount of $95,437.00 for the Woodward Pedestrian Crossing at Big Beaver project. This project is included as a separate division in the overall 2019 Safety Path program.
July 22, 2019

Charter Township of Bloomfield
4200 Telegraph Road
Bloomfield Hills, Michigan 48302

Attn: Ms. Olivia Olsztyn-Budry, P.E.
Director of Engineering & Environmental Services

Re: Presentation of Bid Results
Woodward Pedestrian Crossing at Big Beaver

Dear Ms. Olsztyn-Budry;

Bids for the subject project were taken on Monday, July 15, 2019 at 2:00 p.m. local time at the Bloomfield Township offices. A total of one (1) bid was received and read. The bids have been checked and they are in order. The total amount bid for the project was $95,437.00 from J. Ranck Electric, Inc. out of Mt. Pleasant, Michigan.

The amount bid was significantly higher than the Engineer’s Estimate of $68,742. In a line-by-line comparison of the bid results to our estimate, we did not note a single item that was greatly beyond a reasonable range of costs, but rather, nearly all items were bid marginally higher and that accumulated into a significant difference in the total cost. The Engineer’s Estimate was based on recent pricing information, and we believe is still a fair representation of the value of this contract. We believe that the biggest factor contributing to the higher bid price is that local qualified contractors are fully committed on other projects, and did not feel that they could dedicate the resources to this new project.

In our capacity as Consulting Engineers for Bloomfield Township, we recommend that the bid received on July 15, 2019 be discarded, and that the project be re-bid as part of the upcoming Safety Path Program project.

Attached, please find a copy of the bid tabulation. Please feel free to call should you have any questions or comments.

Very truly yours,

James J. Surhigh, P.E.
Associate

pc: HRC – J. Burton, K. Slickel, C. Bauer, File
## Bid Tabulation - Woodward Ave Sanitary Sewer Replacement

**Township of Bloomfield**

**Oakland County, Michigan**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobilization - Max 10%</td>
<td>1</td>
<td>LS</td>
<td>$9,000.00</td>
<td>$9,000.00</td>
</tr>
<tr>
<td>Curb and Gutter, Rem</td>
<td>67</td>
<td>Ft</td>
<td>$15.00</td>
<td>$1,005.00</td>
</tr>
<tr>
<td>Embankment, CIP</td>
<td>15</td>
<td>Cyd</td>
<td>$30.00</td>
<td>$450.00</td>
</tr>
<tr>
<td>Excavation, Earth</td>
<td>50</td>
<td>Cyd</td>
<td>$50.00</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>Aggregate Base, 4 inch</td>
<td>88</td>
<td>Syd</td>
<td>$11.00</td>
<td>$968.00</td>
</tr>
<tr>
<td>Aggregate Base, 6 inch</td>
<td>20</td>
<td>Syd</td>
<td>$22.00</td>
<td>$440.00</td>
</tr>
<tr>
<td>Hand Patching</td>
<td>5</td>
<td>Ton</td>
<td>$300.00</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>Sidewalk, Rem</td>
<td>19</td>
<td>Syd</td>
<td>$15.00</td>
<td>$285.00</td>
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<tr>
<td>HMA Surface, Rem</td>
<td>10</td>
<td>Syd</td>
<td>$20.00</td>
<td>$200.00</td>
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<tr>
<td>Lane Tie, Epoxy Anchored</td>
<td>16</td>
<td>Ea</td>
<td>$12.00</td>
<td>$192.00</td>
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<tr>
<td>Curb Ramp Opening, Conc</td>
<td>67</td>
<td>Ft</td>
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<td>Detectable Warning Surface, Cast Iron</td>
<td>29</td>
<td>Ft</td>
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<tr>
<td>Sidewalk Ramp, Conc, 6 inch</td>
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<td>Sft</td>
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<td>Sidewalk, Conc, 4 inch</td>
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<td>Sft</td>
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<tr>
<td>Turf Establishment, Performance, Modified</td>
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<td>Syd</td>
<td>$25.00</td>
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<td>Pavt Mrkg, Ovly Cold Plastic, 12 inch, Crosswalk</td>
<td>350</td>
<td>Ft</td>
<td>$6.00</td>
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<td>Pavt Mrkg, Ovly Cold Plastic, 24 inch, Stop Bar</td>
<td>60</td>
<td>Ft</td>
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<td>Remove Keystone Retaining Wall</td>
<td>40</td>
<td>Sft</td>
<td>$45.00</td>
<td>$1,800.00</td>
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<tr>
<td>Sign, Type II, Rem</td>
<td>1</td>
<td>Ea</td>
<td>$100.00</td>
<td>$100.00</td>
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<tr>
<td>Sign, Type II, Erect, Salv</td>
<td>1</td>
<td>Ea</td>
<td>$200.00</td>
<td>$200.00</td>
</tr>
<tr>
<td>Sign, Type III, Rem</td>
<td>2</td>
<td>Ea</td>
<td>$100.00</td>
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<tr>
<td>Sign, Type III, Erect, Salv</td>
<td>2</td>
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<td>Fdn, Perforated Steel Square Tube Sign Breakaway</td>
<td>3</td>
<td>Ea</td>
<td>$500.00</td>
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<td>Post, Wood, 6 inch by 8 inch</td>
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<td>$60.00</td>
<td>$1,920.00</td>
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<td>Rem Spec Mrkg</td>
<td>130</td>
<td>Sft</td>
<td>$5.00</td>
<td>$650.00</td>
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<tr>
<td>Conduit, DB, 1, 1 1/2 inch</td>
<td>25</td>
<td>Ft</td>
<td>$30.00</td>
<td>$750.00</td>
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<tr>
<td>Conduit, DB, 1, 3 inch</td>
<td>50</td>
<td>Ft</td>
<td>$50.00</td>
<td>$2,500.00</td>
</tr>
</tbody>
</table>

**J. Ranck Electric, Inc.**

1993 Gover Parkway

Mt. Pleasant, MI 48858

Bids due: July 15, 2019

Project No. 20181016
<table>
<thead>
<tr>
<th>Item Description</th>
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<th>Unit Price</th>
<th>Total Cost</th>
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<td>Conduit, Directional Bore, 1, 3 inch</td>
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<td>Hh, Round</td>
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<td>Ea</td>
<td>$1,800.00</td>
<td>$3,600.00</td>
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<td>Pedestal, Alum</td>
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<td>Ea</td>
<td>$1,400.00</td>
<td>$4,200.00</td>
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<td>Ea</td>
<td>$1,400.00</td>
<td>$5,600.00</td>
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<td>Pushbutton and Sign</td>
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<td>Ea</td>
<td>$1,400.00</td>
<td>$5,600.00</td>
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<tr>
<td>Pushbutton Pedestal, Alum</td>
<td>1</td>
<td>Ea</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
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<td>TS, Pedestrian, Pedestal Mtd, Rem</td>
<td>1</td>
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<td>$250.00</td>
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<td>Ea</td>
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</tbody>
</table>

Total $95,437.00

Note:
Engineer's Estimate - $68,742.00
Bloomfield Township

Memorandum

To: Leo Savoie, Township Supervisor

From: Olivia Olsztyn-Budry, P.E., Director of Engineering & Environmental Services

Subject: 2019 Safety Path Program

Date: September 4, 2019

Cc: Charles Markus

Background
On October 22, 2018, the Township Board of Trustees approved the routes and authorized the final design of the 2019 Safety Path program which includes the east side of Telegraph Road from Lincoln Road to Maple Road, the west side of Cranbrook Road from Westbourne Drive to Middlebury Lane, the east side of Woodward Avenue from Oak Street to Manor Road, and a pedestrian crossing at Woodward Avenue and Big Beaver Road. The 2019 program also includes funding to provide for maintenance repairs for both the safety path and retaining walls at miscellaneous locations.

The design for the three safety path routes has been completed. Several unique circumstances were identified through the collection of the topographic data and development of the design along Telegraph Road and Woodward Avenue that changed the final construction plans. Some of these factors identified through the design process include:

- **Pedestrian Signals and Crosswalk at Woodward Avenue and Big Beaver Road:** This work includes installing push-button signals, a crosswalk, and reconfiguring the landing ramps at the intersections. An intergovernmental agreement was approved on July 22, 2019. The as-bid cost is higher than originally presented on August 12, 2019, based on the lowest received bid. The intergovernmental agreement has been revised with the bid price for the Board of Trustees consideration. The City of Birmingham will have to present the intergovernmental agreement to the Birmingham City Council to request cost sharing of this portion of the project.

- **Telegraph Road:** The planned safety path installation along east side of Telegraph Road has been shortened from what was approved in October. On Telegraph Road the path will be constructed from Lincoln Road to Fairlane Drive, excluding the portion from Fairlane Drive to Maple Road. This section of path has been excluded due to the difficulties meeting ADA requirements at several of the commercial drive approaches. The existing grade along the commercial drive approach from Telegraph Road to the existing parking lot for several properties is very steep. It is impossible to modify the existing drives within the Telegraph Road right of way to meet ADA requirements for pedestrians crossing the drives. Obtaining easements into the private properties and
extending the work to modify the existing parking lots outside of the Telegraph Road right of ways very significant and in some cases require the construction or reconstruction of retaining walls, the loss of parking spaces or is not feasible due to the location of the building.

- **Woodward Avenue**: The planned safety path installation on the east side of Woodward Avenue has been modified to include only the portion from Oak Street to Maywood Road. Parking lots are extended within a few feet of the curb for several commercial properties between Maywood and Manor Roads in the right of way of Woodward Avenue. Installation of safety path between Manor and Maywood roads will require eliminating a substantial amount of parking spaces from several commercial businesses along this stretch which already have limited parking. Alternative parking layouts were reviewed during the safety path design process, but all alternatives significantly reduced the number of parking spots for the businesses.

- **Retaining wall repairs**: Several retaining walls are in need of repairs as was identified during the Board of Trustees meeting on October 22, 2018. This project will be bid out separately this fall. Design is not complete, but it is expected that the cost estimate will be higher than originally presented in October 22, 2018 due to the anticipated scope of work and the addition of other locations where the retaining wall has to be addressed.

### 2019 Safety Path Program Cost Summary

A preliminary cost estimate was provided for the proposed 2019 program at the October 22, 2018 Board of Trustees meeting with an estimate for engineering and construction of $1,361,423. This included the Woodward Avenue from Oak Street to Manor Road, Telegraph Road from Lincoln Road to Maple Road, Cranbrook Road from Westview to Middlebury Roads, and the pedestrian crossing at Big Beaver and Woodward Avenue. The recommended program also included safety path repair work throughout the Township, and sidewalk repair work in Bloomfield Village. As described above, the routes were modified for Woodward Avenue and Telegraph Road due to compliance issues with ADA and impacts to existing parking.

On August 15, 2019, the Township received bids for the 2019 Safety Path Program. Three bids were received, with JB Contractors submitting the lowest bid. JB Contractors has not previously worked for Bloomfield Township. They have served as prime and sub-contractor for neighboring communities and is an MDOT prequalified contractor. The EESD held a pre-award meeting on August 28, 2019 and it was found that JB Contractors has an understanding of the project.

The low-bid submitted by JB Contractors for the 2019 Safety Path program significantly lower than the estimate presented in October due to the shortening of the path on Woodward Avenue and Telegraph Road. However, the bid price for the pedestrian crossing and both repair programs is higher. The repair locations for the safety path program are based on staff inspections and resident reporting. Repair locations for 2019 include miscellaneous areas throughout Bloomfield Township (Division E) and areas in Bloomfield Village (Division F). The sidewalks in Bloomfield Village are being inspected and scheduled for repair in a phased approach that will take place over several years.

Below is a table that summarizes the estimate cost and the low-bid price for each division.
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<tr>
<th>Division</th>
<th>October Estimate</th>
<th>Bid Price</th>
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<tbody>
<tr>
<td>(A) Woodward Avenue</td>
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<td>(B) Cranbrook Road</td>
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<td>(C) Telegraph Road</td>
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<tr>
<td>(D) Pedestrian Crossing</td>
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<td>(E) Misc. Safety Path Repairs (Bloomfield Village)</td>
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<tr>
<td>TOTAL</td>
<td>$1,163,112</td>
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**Engineering Costs**
The estimate for construction services for the safety path construction from HRC is $81,000 for this year’s program. Remaining funds in the budget will be used in the fall and winter of 2019-2020 for the design of the 2020 Safety Path program, yet to be determined.

**Grant Opportunities**
The Southeast Michigan Council of Governments (SEMCG) offers Transportation Alternatives Program (TAP) grant opportunities for transportation improvements including pedestrian and bicycle infrastructure and safety programs. SEMCOG typically receives $5 million each year for grant funds to member communities. There is 20 percent minimum match requirement for applications, however, applicants that provide higher matching funds have the potential of being more favorable during the grant selection process. Two locations are offered for consideration of application for TAP grant funding.

**Pedestrian Crossing – Square Lake Road & Telegraph Road**
The EESD had a preliminary meeting with Michigan Department of Transportation (MDOT) and SEMCOG in March of 2019. The meeting focused on an opportunity to apply for a TAP grant to construct pedestrian crossings along Telegraph Road and Square Lake Road. Both agencies expressed support for a crossing at this location and potential TAP grant funding. The total estimated project length is 4,200 lineal feet and the total not-to-exceed budget for Hubbell Roth & Clark (HRC) to develop the grant is $29,700. The TAP grant funding schedule requires that the grant application be submitted in October, with the funds available, if the project is selected, by 2020 or 2021 construction year.

**Pedestrian Crossing - Woodward Avenue & Big Beaver**
Another consideration for the pedestrian crossing at Woodward Avenue & Big Beaver is to apply for a TAP grant at this location. The cost to develop a TAP grant is $2,500. The schedule for the project would be the same as above. This location has not been discussed with SEMCOG or MDOT. Should the Board of Trustees desire to pursue a TAP grant for this location, then Division D of the 2019 Safety Path Program would not be awarded.

**Board of Trustees Consideration**
EESD recommends that the Board of Trustees consider approving the development of TAP application for the pedestrian crossing at Telegraph and Square Lake Road.

EESD also recommends that the Board of Trustees consider approving the development of a TAP grant for the pedestrian crossing at Woodward Avenue and Big Beaver Road.
In the event that the Board of Trustees approves the recommendation to make application for a TAP grant for the Woodward Ave & Big Beaver Road pedestrian crossing, the EESD recommends award of the Divisions A, B, C, E and F of the 2019 Safety Path contract to JB Contractors, Inc. in the amount of $436,860.15. Division D is the pedestrian crossing at Woodward Avenue and Big Beaver Road.

Should the Board of Trustees elect not to pursue a TAP grant for the Woodward Avenue and Big Beaver Road, then the EESD recommends awarding all divisions of the 2019 Safety Path contract to JB Contractors, Inc. in the amount of $543,982.65 subject to the approval of the attached revised intergovernmental agreement between Bloomfield Township and the City of Birmingham for Division D, the pedestrian crossing at Woodward Avenue and Big Beaver. The revised intergovernmental agreement reflects the bid price for the pedestrian crossing at Woodward Avenue and Big Beaver.

Attached is the recommendation letter from HRC for JB Contractors and the bid tab with the results of the three bids submitted.
September 4, 2019

Charter Township of Bloomfield
4200 Telegraph Road
Bloomfield Hills, Michigan 48302

Attn: Ms. Olivia Olsztyn-Budry, P.E.
   Director of Engineering & Environmental Services

Re: Recommendation for Bid Award
   2019 Safety Path Program

Dear Ms. Olsztyn-Budry;

Bids for the subject project were taken on Thursday, August 15 at 02:00 p.m. local time at the Bloomfield Township offices. A total of three (3) bids were received and read. The bids have been checked and they are in order. The low bidder for the project is JB Contractors, Inc. out of Detroit, Michigan with a bid of $543,982.65.

Although JB Contractors has not exclusively worked for Bloomfield Township, they have served as prime and sub-contractor on a number of sidewalk construction projects in neighboring southeast Michigan communities. JB Contractors is a MDOT prequalified contractor for Concrete Construction, Sidewalk, and Driveways. JB Contractors provided several references for similar sidewalk work performed recently, and we received favorable responses to our inquiry about their job performance.

A significant component of this project involves pedestrian and signal work across Woodward at Big Beaver. JB Contractors will be utilizing J. Ranck Electric, Inc as a subcontractor to complete that work. J. Ranck is a MDOT prequalified contractor for the Electrical Construction, Intelligent Transportation System Installation, and several other categories and has experience on similar projects.

A pre-award meeting was held on August 28 between the Township, JB Contractors, and HRC. JB Contractors demonstrated their understanding of the project requirements and explained their planned approach for completing the project.

In our capacity as Consulting Engineers for Bloomfield Township, we recommend that the contract for the 2019 Safety Path Program project be awarded to JB Contractors, Inc., in the amount of $543,982.65, or appropriately adjusted total amount if one or more Divisions are omitted from this contract.

Attached, please find a copy of the bid tabulation. Please feel free to call should you have any questions or comments.

Very truly yours,

HUBBELL, ROTH & CLARK, INC.

James J. Surhigh, P.E.
Associate
pc: Bloomfield Township – Leo Savoie, Tom Trice, Charles Markus
   JB Contractors – Juan Lopez
   HRC – J. Burton, K. Stickel, File
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<th>Item Description</th>
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Division A Subtotal

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|                         |          |      |            |            |            | $165,771.45|

HRC Project No. 20181016
Bids due-August 15, 2019

Hubbell, Roth and Clark, Inc
555 Hulet Dr.
Bloomfield Hills, MI 48303

Page 1 of 6
## Bid Tabulation - 2019 Safety Path Program

### Township of Bloomfield
4200 Telegraph Rd., Bloomfield Township, MI 48303

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
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<th>Unit Price</th>
<th>Total Cost</th>
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**Division B Subtotal**

$77,222.50 | $121,729.64 | $155,685.08

---

JB Contractors, Inc
3201 Livernois Ave.
Detroit, MI 48210

Italia Construction, Inc
57151 Deer Creek Ct
Washington, MI 48094

Lacaria Concrete Construction, Inc
3720 Central Avenue
Detroit, MI 48210

Bids due-August 15, 2019
HRC Project No. 20181016

JB Contractors, Inc
3201 Livernois Ave.
Detroit, MI 48210

Italia Construction, Inc
57151 Deer Creek Ct
Washington, MI 48094

Lacaria Concrete Construction, Inc
3720 Central Avenue
Detroit, MI 48210
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Division C Subtotal

$68,445.10  $101,698.03  $126,565.43
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<td>780.00</td>
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<tr>
<td>105 Conduit, DB, 1, 1 1/2 inch</td>
<td>25 FT</td>
<td>58.00</td>
<td>1,450.00</td>
<td>90.00</td>
<td>2,250.00</td>
<td>100.00</td>
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<tr>
<td>106 Conduit, DB, 1, 3 inch</td>
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<td>3,150.00</td>
<td>90.00</td>
<td>4,500.00</td>
<td>100.00</td>
<td>5,000.00</td>
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<tr>
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<td>120.00</td>
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<tr>
<td>108 Hh, Round</td>
<td>2 EA</td>
<td>2,875.00</td>
<td>5,750.00</td>
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<td>4,000.00</td>
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<tr>
<td>109 Pedestal, Alum</td>
<td>3 EA</td>
<td>1,380.00</td>
<td>4,140.00</td>
<td>980.00</td>
<td>2,940.00</td>
<td>950.00</td>
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</table>

Hubbell, Roth and Clark, Inc
555 Hulet Dr.
Bloomfield Hills, MI 48303
Bid Tabulation - 2019 Safety Path Program

Township of Bloomfield
4200 Telegraph Rd., Bloomfield Township, MI 48303

Item Description | Quantity | Unit | Unit Price | Total Cost | Unit | Total Cost
---|---|---|---|---|---|---
110 Pedestal, Fdn | 1.00 | EA | 2,070.00 | 8,280.00 | EA | 7,200.00
111 Pushbutton and Sign | 1.00 | EA | 1,495.00 | 5,980.00 | EA | 3,600.00
112 Pushbutton Pedestal, Alum | 1.00 | EA | 1,150.00 | 1,150.00 | EA | 900.00
113 TS, Pedestrian, Pedestal Mtd, Rem | 1.00 | EA | 460.00 | 460.00 | EA | 210.00
114 TS, Pedestrian, One Way Pedestal Mtd (LED Countdown | 1.00 | EA | 2,300.00 | 6,900.00 | EA | 1,700.00
115 TS, Pedestrian, Two Way Pedestal Mtd (LED) Countdown | 1.00 | EA | 3,100.00 | 3,100.00 | EA | 2,500.00
116 Traffic Maintenance | 1.00 | LS | 10,000.00 | 10,000.00 | LS | 33,000.00
117 Observation Crew Days | 14 | DAY | $800 | 11,200.00 | DAY | 11,200.00
118 Observation Crew Days – Amount over Contract | 10 | $800 | - | 8,000.00 | $800 | 8,000.00

Division D Subtotal | $107,122.50 | $126,759.55 | $137,298.00

Division E - Misc. Safety Path Repairs

119 Pavement Removal | 1155 | SYD | 14.00 | 16,170.00 | SYD | 15,015.00
120 Sidewalk, Conc, 4 inch | 9668 | SFT | 5.65 | 54,624.20 | SFT | 44,762.84
121 Sidewalk, Conc, 6 inch | 732 | SFT | 6.50 | 4,758.00 | SFT | 3,755.16
122 Turf Restoration, Performance, Modified | 1158 | SYD | 1.00 | 1,158.00 | SYD | 3,474.00
123 Class A Sod, Inc. 2' Topsoil | 1158 | SYD | 3.00 | 3,474.00 | SYD | 10,422.00
124 Observation Crew Days | 10 | $800 | 8,000.00 | 8,000.00 | $800 | 9,600.00
125 Observation Crew Days – Amount over Contract | 12 | $800 | - | 9,600.00 | $800 | 9,600.00

Division E Subtotal | $88,184.20 | $85,429.00 | $190,512.00

Division F - Misc. Safety Path Repairs

126 Pavement Removal | 1257 | SYD | 14.00 | 17,598.00 | SYD | 16,341.00
127 Sidewalk, Conc, 4 inch | 10527 | SFT | 5.65 | 59,477.55 | SFT | 48,740.01
128 Sidewalk, Conc, 6 inch | 256 | SFT | 6.50 | 1,664.00 | SFT | 1,313.28
129 Sidewalk Ramp, Conc, 6 inch | 524 | SYD | 8.00 | 4,192.00 | SYD | 38,252.00
130 Detectable Warning Surface | 70 | FT | 87.00 | 6,090.00 | FT | 2,310.00
131 Dr Structure Cover, Adj, Case 2 | 3 | EA | 300.00 | 900.00 | EA | 1,350.00
132 Turf Restoration, Performance, Modified | 1150 | SYD | 1.00 | 1,150.00 | SYD | 3,450.00
133 Class A Sod, Inc. 2' Topsoil | 1150 | SYD | 3.00 | 3,450.00 | SYD | 10,350.00

Hubbell, Roth and Clark, Inc
555 Hulet Dr.
Bloomfield Hills, MI 48303

Page 5 of 6
<table>
<thead>
<tr>
<th>Item Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total Cost</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total Cost</th>
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<td>134 Observation Crew Days</td>
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<td>DAY</td>
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<td>-</td>
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<tr>
<td>135 Observation Crew Days – Amount over Contract</td>
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<td></td>
<td>$800</td>
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<td>0</td>
<td></td>
<td>12</td>
<td>$800</td>
<td></td>
<td>$9,600.00</td>
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Division F Subtotal

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<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total Cost</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total Cost</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total Cost</th>
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<tbody>
<tr>
<td>A Subtotal</td>
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<td>$96,886.80</td>
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<td>B Subtotal</td>
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<td></td>
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<td>C Subtotal</td>
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<tr>
<td>D Subtotal</td>
<td></td>
<td></td>
<td>$107,122.50</td>
<td>$126,759.55</td>
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<td></td>
<td></td>
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<tr>
<td>E Subtotal</td>
<td></td>
<td></td>
<td>$88,184.20</td>
<td>$85,429.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>F Subtotal</td>
<td></td>
<td></td>
<td>$104,121.55</td>
<td>$131,706.29</td>
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</tr>
</tbody>
</table>

Total

| | | | $543,982.65 | $689,690.74 | | | | | | $945,918.49 |

* Corrected by Engineer

Note:

Engineer's Estimate: $654,557.75
MEMORANDUM

Engineering Dept.

DATE: December 20, 2019
TO: Joseph A. Valentine, City Manager
FROM: Paul T. O’Meara, City Engineer
SUBJECT: SOCWA Board of Trustees Membership

INTRODUCTION:
As a founding member of the Southeastern Oakland Co. Water Authority (SOCWA), Birmingham has representation on the Board of Trustees. The Board typically meets once per month to review expenditures, budget, capital improvements, and management priorities of the authority, as administered through its general manager.

BACKGROUND:
Paul O’Meara has represented Birmingham on the SOCWA Board of Trustees since 2009. Assistant City Engineer Austin Fletcher has acted as the alternate board member since 2015. With Mr. O’Meara’s pending retirement, new appointments to the Board will have to be made. It is recommended that Austin Fletcher be appointed as the Birmingham official representative on the SOCWA Board of Trustees as of January 13, 2020. Further, it is recommended that Assistant City Engineer Theresa Bridges be appointed as the alternate Birmingham representative on the SOCWA Board as of the same date.

LEGAL REVIEW:
No legal review is required.

FISCAL IMPACT:
There is no fiscal impact in relation to this item.

PUBLIC COMMUNICATIONS:
No public notification is required in relation to this item.

SUMMARY
It is recommended that Austin Fletcher be appointed as the Birmingham official representative on the SOCWA Board of Trustees as of January 13, 2020. Further, it is recommended that Assistant City Engineer Theresa Bridges be appointed as the alternate Birmingham representative on the SOCWA Board as of the same date.

ATTACHMENTS:
None
SUGGESTED RESOLUTION:
To appoint Assistant City Engineer Austin Fletcher as representative, and Assistant City Engineer Theresa Bridges as alternate representative, for the City of Birmingham, on the Southeastern Oakland County Water Authority Board of Trustees for the period starting January 13, 2020.
INTRODUCTION:
In 2015 the City entered into a professional services agreement with McKenna Associates, Inc. to augment the Building Department services such as inspection, plan review and code enforcement. This agreement will expire on January 26, 2020. It is because of the high number of residential construction projects and the numerous ongoing large-scale commercial projects that the Building Department recommends extending the agreement an additional five years.

BACKGROUND:
The Building Department has utilized McKenna over the past five years as an additional resource to manage the high level of construction activity within the City. We currently have six McKenna staff members assigned to the department assisting us with building inspections, code enforcement at construction sites, and office support. These individuals are assigned specifically to Birmingham and they are very familiar with our processes and procedures and have established a rapport with City Staff, contractors and residents.

In 2017 the current agreement was amended to add language allowing McKenna staff who perform specific construction site code enforcement duties to drive a City vehicle while performing inspections on behalf of the Building Department. That modification along with other minor changes to update insurance language is incorporated into the attached amended and restated agreement.

The fees McKenna charges for the services we are using have remained the same over the prior five years and they have proposed a modest three percent increase to extend the agreement for an additional five years.

LEGAL REVIEW:
The City Attorney has reviewed the amended and restated agreement and has no legal concerns.

FISCAL IMPACT:
Services provided under this agreement are paid for from revenue generated from permit fees. The Building Department budgets funds each year for these services based on forecasted permit revenue.
PUBLIC COMMUNICATIONS:
The proposed amended and restated agreement continues an existing service, and therefore additional public notice is not required.

SUMMARY
The Building Department utilizes the professional services of McKenna to complement its service during periods of peak construction activity. The continued high level of residential and commercial construction projects within the City warrants extending the current agreement with McKenna an additional five years.

ATTACHMENTS:
Amended and Restated Agreement
Certificate of Insurance

SUGGESTED RESOLUTION:
To approve the Amended and Restated Professional Services Agreement with McKenna Associates, Inc. for inspection, code enforcement and support services as planned in the current fiscal year, and thereafter, as budgeted. Further, to direct the Mayor and City Clerk to sign the agreement on behalf of the City.
AMENDED AND RESTATED
PROFESSIONAL SERVICES AGREEMENT

THIS AMENDMENT TO THE MCKENNA INSPECTION SERVICES AGREEMENT, entered
into this _______ day of _________, 2020, by and between the CITY OF BIRMINGHAM, State of
Michigan, hereinafter referred to as “City” and McKENNA ASSOCIATES, INC., a Michigan
corporation of Northville, Michigan, hereinafter referred to as “Consultant.”

WITNESSETH:

WHEREAS, the City regularly performs inspection service and plan review services; and

WHEREAS, the City engaged the professional services of McKenna in 2015 to assist with
inspection and plan review services; and

WHEREAS, the City wishes to continue utilizing the professional services of McKenna; and

WHEREAS, The Consultant is willing to render such services desired by the City for the
considerations hereinafter expressed.

NOW, THEREFORE, for and in consideration of the mutual undertakings of the parties hereto,
all as hereinafter set forth, it is agreed by and between the parties as follows:

SECTION 1. SCOPE OF SERVICES

The Consultant represents and warrants to the City that he employs or contracts for, State of
Michigan licensed building officials, building, mechanical, electrical and plumbing inspectors and
plan reviewers and that they shall remain so licensed during the term of this agreement. The
Consultant shall perform all the following services under this Agreement:

A. Provide the City with proof that each of the Consultant’s servants, agents and employees
performing services pursuant to the contract possesses a valid operator’s/driving license or
identification card issued by the State of Michigan. The City shall provide a vehicle to be used
by Consultant’s employees who perform specific construction site code enforcement duties. The
Consultant agrees that all employees who drive this vehicle shall be duly licensed as set
forth above and agree that the vehicle will be parked in the Chester Street parking structure
deck and will not be driven out of the City except when on official City business. The City
shall provide all vehicle expenses including fuel, routine maintenance and necessary repairs.

B. Provide and maintain a sufficient number of inspectors, to the satisfaction of the City
Administration. The Consultant shall provide the City with information showing that the
Consultant performed background checks on each of its servants, agents and employees to
determine their fitness to perform services under the agreement.

C. Provide transportation and other equipment used in the performance of the requested
services.
D. When performing inspection services of any kind, the Consultant’s servants, agents and employees shall wear presentable attire. When performing services under the agreement, such individuals shall be in possession of, and shall display, identification to be provided by the City.

E. Provide services to the public on-site in the City and elsewhere, as necessary. Such services shall be provided pursuant to a regular schedule for the term of this agreement.

F. Maintain written and electronic files pertaining to all services rendered by the Consultant.

G. Review building plans and related construction documents for new construction, additions, and alterations or improvements to existing structures within the City, which are subject to review and approval by the City for conformance with the requirements of the City and State building codes. Consultant shall delineate on the plans provided to it, or in written report format, or both as requested by the City, items requiring correction or alteration for conformance with the appropriate codes. The Consultant shall re-review all revised plans to determine whether corrections previously noted have been made.

H. Upon notification and request of the City, Consultant shall inspect buildings and structures for which a building, electrical, mechanical, or plumbing permit has been issued by the City in order to determine whether the construction and installations meet the requirements of the appropriate codes and permit requirements. The Consultant shall perform required business license building inspections as requested by the City. Upon completion of each inspection, Consultant shall enter the results into the City’s database, or provide the City a written report of the inspection results, or both as requested by the City. The results shall include comments in sufficient detail delineating what was approved and/or items requiring correction or alteration for conformance with the permit.

I. Work performed by the Consultant shall comply with approved State and local codes, which govern the plan review, permit and inspection processes.

The Consultant shall not allow any person to perform any plan reviews or construction codes inspections (1) without first determining each servant, agent and employee of the Consultant providing plan review or inspection services is qualified and possesses all the necessary licenses and credentials required by the State of Michigan to perform the inspection and (2) shall provide the City with documentary proof verifying that each such servant, agent or employee has been issued an “Registered Code Official and Inspectors” card issued by the Michigan Department of Labor and Economic Growth, Bureau of Construction Codes setting forth their State Registration Number, the Expiration Date and specific categories for which each is licensed. The Consultant shall also provide the City with any correspondence from the State of Michigan approving the Consultant and its employees in accordance with Act 407 or otherwise, or approving the Consultant to perform “Plan Review,” and “Inspector” duties, as these terms are defined by Act 407 and Michigan law.

J. In providing these Construction code services the Consultant shall:

1. Provide “inspector” services as these terms are defined by Michigan law. The Consultant shall also provide “plan review” services as defined by Michigan law; provide a written
report of each plan review within five (5) working days of receipt of said plans by the Consultant in a professional and competent manner.

2. Review plans for the issuance of permits; conduct and/or attend pre-plan review meeting to provide guidance in the plan development process; and meet with customers to discuss plan review findings.

3. The physical preparation and issuance of permits and the scheduling of inspections will be performed by the City. City personnel shall be responsible for the issuance of certificates, as necessary, for completed and compliant work.

4. Conduct inspection of the construction, renovation, rehabilitation or integrity of residential and non-residential structures to determine compliance with approved plans, applicable codes and ordinances; under the oversight and authority of the City’s Building Official, issue violation notices for non-compliant work and issue stop-work orders;

5. Conduct open hole and final grade demolition inspections;

6. Participate in enforcement activities, including court appearances, regarding non-compliant work;

7. Evaluate existing structures for safety and health issues, the necessity of permits for work performed, hazardous or unsafe condition, or other violations, including declarations of emergencies and emergency demolition orders.

8. Monitor expiring permits, open inspection findings and non-compliant corrections notices and contact property owners to schedule follow-up inspections; provide information to City on status of expirations, non-compliant inspections; and facilitate scheduling of same;

9. Assist customers by phone, internet and in person, as necessary.

10. Participate in meetings with the public, other City agencies and elected officials, or other jurisdiction, State or Federal representatives,

11. When requested, provide opinions in development and implementation of goals, objectives, fee schedules, ordinances, budgets, policies and priorities for the City.

K. It is recognized, in accordance with state law, that the City of Birmingham will retain the authority to determine the fees for permits and applications. The City of Birmingham in consultation with the Building Official will also be responsible for any necessary interpretations of the various codes with the City administration.

L. It is recognized that, in accordance with state law, documents that are prepared by architects and engineers are required to be signed and sealed by the design professional in accordance with Public Act 299 of 1980.
SECTION 2: CITY AUTHORITY

The City, in its sole discretion to make the following determinations and give the following directives:

A. The City Manager or his designee shall determine the projects the Consultant shall perform services on.

B. The City Manager or his designee shall direct when the Consultant’s services shall be used.

C. The City Manager or his designee shall determine when the Consultant’s services on a given project shall cease.

SECTION 3: INSURANCE

A. The Consultant 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 coverages shall be with insurance carriers acceptable to the City of Birmingham. The Consultant shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

1. Workers’ Compensation Insurance:
   For Non-Sole Proprietorships: Consultant shall procure and maintain during the life of this Agreement, Workers’ Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

   For Sole Proprietorships: Consultant shall complete and furnish to the City prior to the commencement of work under this Agreement a signed and notarized Sole Proprietor Form, for sole proprietors with no employees or with employees, as the case may be.

2. Commercial General Liability Insurance: Consultant shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an “Occurrence Basis” with limits of liability not less than $1,000,000 per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

3. Motor Vehicle Liability Insurance: Consultant shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than $1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
4. **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 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.

5. **Professional Liability Insurance:** Professional liability insurance with limits of not less than $1,000,000 per claim if Consultant will provide service that are customarily subject to this type of coverage.

6. **Cancellation Notice:** Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

7. **Proof of Insurance Coverage:** Consultant shall provide the City at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City, as listed below.
   
   i. Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;
   
   ii. Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
   
   iii. Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
   
   iv. Two (2) copies of Certificate of Insurance for Professional Liability Insurance;
   
   v. If so requested, Certified Copies of all policies mentioned above will be furnished.

8. **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.

**SECTION 4: INDEMNIFICATION**

To the fullest extent permitted by law, the Consultant agrees to indemnify and hold harmless the City of Birmingham, its elected and appointed officials, and employees against all damages and liabilities including costs and reasonable attorney fees to the extent caused by the acts, errors and omissions of the Consultant in the performance of services under this Agreement, including the Consultant’s subconsultants and others for whom the Consultant is legally liable.
SECTION 5. COMPENSATION AND METHOD OF PAYMENT

A. Inspections. The City shall pay the Consultant for services, as described in SECTION 1. SCOPE OF SERVICES, as follows:

The City shall compensate the Consultant for Inspection and Plan Review services on an hourly basis or at a maximum rate of 70 percent of the City’s revenue on a project basis. Hourly rate for inspectors and plan reviewers is $77.25 per hour; however, there shall be a cost savings for extended engagements of one month or more.

The following table is the Consultant for inspection and plan review services for 8 hours per day on a weekly and a monthly basis based on our hourly rate.

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<th>Inspection Categories</th>
<th>Hourly Compensation Schedule</th>
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<tr>
<td></td>
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<tr>
<td>A. Building</td>
<td>$77.25</td>
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<tr>
<td>B. Mechanical</td>
<td>$77.25</td>
</tr>
<tr>
<td>C. Plumbing</td>
<td>$77.25</td>
</tr>
<tr>
<td>D. Electrical</td>
<td>$77.25</td>
</tr>
<tr>
<td>E. Fire Alarm</td>
<td>$77.25</td>
</tr>
<tr>
<td>F. Fire Suppression</td>
<td>$77.25</td>
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</tbody>
</table>

*Represents a 7 percent cost savings.

The following table is the Consultant percentage fee for inspection and plan review services provided on a project basis.

<table>
<thead>
<tr>
<th>Fee Type</th>
<th>Milestone</th>
<th>% Invoiced</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plan Review</td>
<td>First comment submittal: Plan review completion:</td>
<td>50%</td>
</tr>
<tr>
<td>Inspection</td>
<td>Date permit issued: 3 months from issuance: 6 months from issuance: Project completion or 12 months from issuance whichever comes first: 30 days after completion:</td>
<td>20% 20% 20% 30% 10%</td>
</tr>
</tbody>
</table>

The Consultant will work with the City to establish a mutually acceptable threshold for using hourly rates or percentage based compensation.

For the rates cited above, Consultant will furnish all materials and services including salaries of employees engaged by Consultant and other overhead expenses necessary to undertake the above services for the City and to assume all cost, including transportation, insurance, licensing, benefits, etc.

B. Additional Services. At the hourly rates below, the Consultant shall provide additional professional services to the City, at the City’s request, which are beyond the Scope of Services described in Section 1. above, including:
1. Attendance at City internal and public meeting, and appearing at court or at depositions.
2. Written evaluation of structures for safety and health issues other than code compliance.
3. Permit Technician for assisting the public with permit applications, entering permit data, issuing permits, etc.
4. Support staff services in assisting the public and directing inquiries appropriately.
5. Generating special reports for the City, beyond the regular maintenance of written and electronic files pertaining to all services,
6. Other services at the request of the City.

The Consultant shall provide additional services on an hourly basis as follows:

<table>
<thead>
<tr>
<th>Professional Classification</th>
<th>Rate Per Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>President</td>
<td>$154.50</td>
</tr>
<tr>
<td>Executive or Senior Vice President</td>
<td>$139.05</td>
</tr>
<tr>
<td>Vice President</td>
<td>$133.90</td>
</tr>
<tr>
<td>Director</td>
<td>$123.60</td>
</tr>
<tr>
<td>Senior Principal or Manager</td>
<td>$113.30</td>
</tr>
<tr>
<td>Principal</td>
<td>$ 99.01</td>
</tr>
<tr>
<td>Senior</td>
<td>$ 80.34</td>
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<tr>
<td>Building Trade Inspector</td>
<td>$ 77.25</td>
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<tr>
<td>Associate</td>
<td>$ 70.04</td>
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<tr>
<td>Building Code Enforcement</td>
<td>$ 56.65</td>
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<tr>
<td>Assistant (Permit Technician)</td>
<td>$ 56.65</td>
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<tr>
<td>Aide (Support Staff)</td>
<td>$ 45.32</td>
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<tr>
<td>Administrative Assistant</td>
<td>$ 43.26</td>
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</table>

Note: These hourly rates are valid through June 30, 2020, after which the Consultant may increase the hourly rates per classification by a percentage equal to the increase in the Consumer Price Index.

C. Payment. Payment for hourly rate services shall be monthly. Payment for project based services shall be in accordance with a mutually agreed upon percentage based schedule. Consultant shall submit a monthly invoice for hourly services and milestone invoices for project services, and the City shall within thirty (30) days satisfy itself as to the performance of such work and pay the amount for services and reimbursement requested by the invoice.

SECTION 6. TERM

This contract shall continue in effect for five (5) years from the date hereof. However, each party may terminate the Agreement earlier, with sixty days (60) written notice of termination. After the initial five (5) year term, this contract may be extended for additional one (1) year terms by the written agreement of the parties.
SECTION 7. CITY DATA AND SERVICES TO BE PROVIDED TO CONSULTANT

If requested by the Consultant and if available, the City shall furnish the following in digital format, or paper format if no digital version is available, without charge to the consultant:

A. Copies of applicable revenue reports of Building Department activity showing permit revenue amounts for each permit issued, within five (5) calendar days after the 1st day of each month.
B. One set of the most recent aerial photos (with property lines) of the City.
C. Hard copies of City Ordinances for each inspector or make available online.
D. Access to updated assessment and ownership date, tax maps, and other basic data to be gathered and/or made available from City and County files, as may become available.
E. Access to information on utilities, both public and private, applicable records, minutes, agendas, base maps, tax maps, environmental data and other basic data to be gathered and/or made available from City files.
F. Any professional, legal or accounting services connected with the project and the cost of publication, postings, notices and mailings. The City shall be responsible for all scheduling and notification of meetings.
G. Designation of a project manager for Consultant services.
H. Should the City reduce inspection fees during the term of this agreement, the Consultant percentage of compensation shall increase proportionately to avoid any reduction in annual compensation.

SECTION 8. SERVICES

The City hereby engages the services of the Consultant to perform the duties, provide the information, prepare such materials and render such advice as are fully described herein.

SECTION 9. TIME

The Consultant shall complete work required and described in the Agreement according to a mutually agreed upon schedule.

SECTION 10. ACCEPTANCE

Consultant hereby agrees to perform the services described herein.

SECTION 11. EQUAL EMPLOYMENT OPPORTUNITY

There shall be no discrimination against any employee who is employed in the work covered by this Contract or against any applicant for such employment because of race, color, religion, sex or nation of origin. This provision shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training.

SECTION 12. OWNERSHIP OF DATA

All reports, charts, maps, and graphics shall become the property of the City, and shall not be furnished to any other party without written permission of the City.
SECTION 13. COMPLIANCE WITH ALL LAWS

In performance of this agreement, the Consultant agrees to comply with all applicable federal, State and local statutes, ordinances and regulations, when applicable, including minimum wages, Social Security, unemployment compensation insurance, and Worker’s Compensation, and to obtain any and all permits applicable to the performance of this agreement.

SECTION 14. NO CONFLICT OF INTEREST

During the term of this contract, the Consultant agrees that it shall not accept employment, nor shall it perform services for or on behalf of any client whose interests are adverse to that of the City, or for which a conflict between the City and Consultant would be created, without the prior written consent of the City.

If, after the effective date of this contract, 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 contract Lease, or the affairs of the Consultant, the City shall have the right to terminate this contract without further liability to the Consultant if the disqualification has not been removed within thirty (30) days after the City has given the Consultant notice of the disqualifying interest. Employment shall be a disqualifying interest.

SECTION 15. CONTROVERSY/ ARBITRATION

If Consultant fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

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 the Oakland County Circuit Court or the 48th District Court.

SECTION 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 said parties have caused this Agreement to be executed as of the date and year above written.

WITNESSES:

[Signatures]

McKENNA ASSOCIATES, INC.

By: [Signatures]

Its: President

THE CITY OF BIRMINGHAM

By: Pierre Boutros, Mayor

By: Cheryl Arft, Acting City Clerk

APPROVAL:

Bruce R. Johnson, Building Official
(Approved as to substance)

Timothy J. Currier, City Attorney
(Approved as to form)

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

Joseph A. Valentine, City Manager
(Approved as to substance)
**CERTIFICATE OF LIABILITY INSURANCE**

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not affirmatively or negatively amend, extend or alter the coverage afforded by the policies below. This certificate of insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder.

**IMPORTANT:** If the certificate holder is an additional insured, the policy(ies) must have additional insured provisions or be endorsed. If subrogation is waived, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

### PRODUCER
McNish Group, Inc.
26622 Woodward Ave. Ste 200
Royal Oak MI 48067

### INSURED
McKenna Associates, Inc.
235 E Main St, Ste.105
Northville MI 48167-2499

### COVERAGES

<table>
<thead>
<tr>
<th>INSR LTR</th>
<th>TYPE OF INSURANCE</th>
<th>ADDL SUB/ INSD</th>
<th>POLICY NUMBER</th>
<th>POLICY EFF (MM/DD/YYYY)</th>
<th>POLICY EXP (MM/DD/YYYY)</th>
<th>LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>COMMERCIAL GENERAL LIABILITY</td>
<td>CLAIMS-MADE</td>
<td>35SBARU2022</td>
<td>1/1/2020</td>
<td>1/1/2021</td>
<td>EACH OCCURRENCE: $2,000,000</td>
</tr>
</tbody>
</table>
|          |                   | OCCUR | | | | DAMAGE TO PROP 
|          |                   | | | | | PREMISES (Ea occurrence): $300,000 |
|          |                   | | | | | MED EXP (Any one person): $10,000 |
|          |                   | | | | | PERSONAL & ADV INJURY: $2,000,000 |
|          |                   | | | | | GENERAL AGGREGATE: $4,000,000 |
|          |                   | | | | | PRODUCTS - COM/POL AGG: $4,000,000 |
| A        | AUTOMOBILE LIABILITY | ANY AUTO | 35SBARU2022 | 1/1/2020 | 1/1/2021 | COMBINED SINGLE LIMIT: $2,000,000 |
|          | OWNED AUTOS ONLY | NON-OWNED BODILY INJURY (Per person): $ | |
|          | HIRED AUTOS ONLY | SCHEDULED | | | | BODILY INJURY (Per accident): $ | |
|          | NON-OWNED AUTOS ONLY | | | | | PROPERTY DAMAGE | |
| A        | UMBRELLA LIAB | OCCUR | 35SBARU2022 | 1/1/2020 | 1/1/2021 | EACH OCCURRENCE: $1,000,000 |
|          | CLAIMS-MADE | | | | | AGGREGATE: $1,000,000 |
| A        | WORKERS COMPENSATION | N/A | 35WECNP2013 | 1/1/2020 | X | PER STATUTE | E.L. EACH ACCIDENT: $1,000,000 |
| AND EMPLOYERS LIABILITY | | | | | | E.L. DISEASE - EA EMPLOYEE: $1,000,000 |
| ANY PROPRIETOR/PARTNER/EXECUTIVE | | | | | | E.L. DISEASE - POLICY LIMIT: $1,000,000 |
| OFFICER/MEMBER EXCLUDED? | | | | | | (Mandatory in NH) |

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101). Additional Remarks Schedule, may be attached if more space is required**

Additional insured as required by written contract on a primary and non-contributory basis: 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. Thirty (30) days prior written notice except ten (10) days for non payment shall be given to Certificate Holder in the event of cancellation or non-renewal of the insurance.

**CERTIFICATE HOLDER**

City of Birmingham
151 Martin Street
Birmingham MI 48012

**CANCELLATION**

Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**AUTHORIZED REPRESENTATIVE**

© 1988-2015 ACORD CORPORATION. All rights reserved.
INTRODUCTION:
The subject site, 707-717 S. Eton, contains an existing two-story commercial/office building and 13-space private parking lot. The applicant is currently seeking permission from the City Commission to include six parking spaces in the City’s right-of-way along S. Eton to assist them in meeting the parking requirements for the proposed building uses pursuant to Article 4, Section 4.45 (G)(4) of the Zoning Ordinance:

4.45 PK-01 General Parking Standards
G. Methods of Providing Parking Facilities: The required off-street parking facilities for buildings used for other than residential purposes may be provided by any one of the following methods:

4. 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 existing site is zoned MX (Mixed Use). The proposed office uses (general & medical) are permitted uses within the MX Zoning District. Based on the total square footage of each use proposed, the applicant is required to provide 19 off-street parking spaces:

<table>
<thead>
<tr>
<th>Use</th>
<th>Square Feet</th>
<th>Parking Requirement</th>
<th>Total Required Parking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office – General</td>
<td>3745.9</td>
<td>1 per 300 sq. ft.</td>
<td>13 spaces</td>
</tr>
<tr>
<td>Office – Medical</td>
<td>908.3</td>
<td>1 per 150 sq. ft.</td>
<td>6 spaces</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>= 19 spaces total</td>
</tr>
</tbody>
</table>

As mentioned above, the existing property contains 13 parking spaces in a private off-street parking facility, thus requiring 6 more spaces to operate the office uses proposed. Additionally,
the applicant must improve the right-of-way proposed to be utilized for the parking needs of the building in accordance with plans that have been approved by the Engineering Division.

The Engineering Division has reviewed the right-of-way located in front of 707-717 S. Eton and determined that there are minor improvements that will be required of the applicant if the City Commission were to proceed, including some curb repair, potholes, and cracks.

LEGAL REVIEW
The City Attorney has reviewed the documentation and has no concerns.

FISCAL IMPACT
The proposed request has no fiscal impact on the City.

PUBLIC ENGAGEMENT:
There has been no public input submitted in regards to the proposal.

SUMMARY:
In accordance with Article 4, section 4.43(G)(4) of the Zoning Ordinance, the applicant requests that the City Commission include six right-of-way parking spaces adjacent to their proposed property in their required parking calculation. The inclusion of these spaces will enable the applicant to meet their parking requirement for general/medical office use without pursuing a variance.

ATTACHMENTS:
- Letter from Mark S. Turnbull
- Use breakdown & aerial photos of site
- 1st floor interior floor plans

SUGGESTED RESOLUTION:
To approve the use of six parking spaces in the right-of-way adjacent to the property located at 707-717 S. Eton to fulfill the parking requirements per Article 4, section 4.43 (G)(4) of the Zoning Ordinance, subject to the recommended repairs being completed as required by the Engineering Department.
December 16, 2019

City Commission
City of Birmingham
151 Martin Street
Birmingham, MI 48012

RE: REQUEST TO USE PARKING IN CITY RIGHT OF WAY 717 S. ETON STREET

Dear Commissioners:

This letter is to request Commission approval to use the six (6) spaces that are in the City right of way adjacent to this property (as designated on the attached aerial), in the calculation of the parking requirements for our proposed use at 717 S. Eton Street. Please note that these spaces are not street parking and that they have historically only been used by the tenants in this building. There is also additional street parking in front of this property that is seldom used.

Thank you in advance for your consideration.

Sincerely,

Mark S. Turnbull
Managing Member
# 717 S Eton Street Parking Space Calculation

<table>
<thead>
<tr>
<th>General Office</th>
<th>Medical</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Usable</td>
<td>Usable</td>
<td></td>
</tr>
<tr>
<td>Birmingham Wellness</td>
<td>908.3</td>
<td>908.3</td>
</tr>
<tr>
<td>Best of Organics</td>
<td>497.8</td>
<td>497.8</td>
</tr>
<tr>
<td>2nd Floor</td>
<td>2327</td>
<td>2327.2</td>
</tr>
<tr>
<td>Common</td>
<td>921.1</td>
<td>921.1</td>
</tr>
<tr>
<td>Total</td>
<td>3745.9</td>
<td>4654.4</td>
</tr>
</tbody>
</table>

Parking per square footage
- 300
- 150

Spaces Required
- 12.49
- 6.06
- 18.54167

Spaces Available
- 19

Excess Spaces over Required
- 0.458333
<table>
<thead>
<tr>
<th>Total</th>
<th>Common Med</th>
<th>Shared</th>
<th>GO</th>
</tr>
</thead>
<tbody>
<tr>
<td>168.1</td>
<td>168.1</td>
<td></td>
<td>163.5</td>
</tr>
<tr>
<td>117.3</td>
<td>117.3</td>
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<td></td>
</tr>
<tr>
<td>110.2</td>
<td>110.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>113.5</td>
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<td>71.1</td>
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<td>71.1</td>
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<td>12</td>
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<td>216</td>
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</tr>
<tr>
<td>164.1</td>
<td>164.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>45</td>
<td></td>
<td>45</td>
<td></td>
</tr>
<tr>
<td>331.6</td>
<td>331.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>52.6</td>
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<td></td>
<td></td>
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<tr>
<td>80</td>
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<tr>
<td>111.6</td>
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<td>111.6</td>
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<tr>
<td>57.7</td>
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<tr>
<td>52.7</td>
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<td>69</td>
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<td>37</td>
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<td>168</td>
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<td>168</td>
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<tr>
<td>122.5</td>
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<td>122.5</td>
</tr>
<tr>
<td>Total</td>
<td>2327.2</td>
<td>908.3</td>
<td>921.1</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>497.3</td>
</tr>
</tbody>
</table>
BW = BIRMINGHAM WELLNESS CENTER
BO = BEST OF ORGANICS
MEMORANDUM

DATE: January 6, 2020
TO: Joseph A. Valentine, City Manager
FROM: Austin W. Fletcher, Assistant City Engineer
SUBJECT: Video Inspection Award – Maple Road

INTRODUCTION:

Bids for the Video Inspection Services were opened on December 20, 2019. The City received one (1) bid. The low bidder was M-1 Studios.

BACKGROUND:

As you are aware, our office is currently preparing to reconstruct Maple Road this Spring (from Southfield Road to Woodward Avenue). In preparation for this project, the City would like to document the pre-construction conditions (both outside and inside) of the buildings within the project area. This is similar to what was done for the Old Woodward Project in 2018. This work is critical due to the type and age of the buildings along this stretch of Maple Road. It will assist the City and Contractor when dealing with any claims that may occur during or after the construction.

Only one (1) company submitted a bid for this project. A bid summary is attached for your reference. It should be noted that this is specialty work and we suspect that attributed to the lack of responses.

The low bidder was M-1 Studios, of Ferndale, MI with their bid of $28,400. M-1 Studios was the company that was used for the Old Woodward Project in 2018, for which only one (1) bid was received then as well. It should be noted that unit prices for the work are the same as the 2018 prices provided by M-1 Studios with the exception of a slight increase for mobilization. We are confident that they are qualified to perform the work and the City was very satisfied with their performance and end product on the Old Woodward project.

The project includes video documentation of existing conditions throughout the project area, both inside and outside of the buildings, including basements. Having a record of existing defects will help both the City and private property owners negotiate a settlement if vibrations or other issues arise that cause interior or exterior damage to these buildings. This proved to be a valuable resource during and after the Old Woodward project.

The work on this project is expected to commence in late January / early February with a completion date of March 13, 2020. This work will be completed prior to the start of the Maple Road Reconstruction Project.
As is required for all of the City’s projects, M-1 Studios has submitted a certified check (in the amount of 5% of the base bid) as security with their bid which will be forfeited if they do not provide the signed contracts, bonds and insurance required by the contract following the award by the City Commission.

LEGAL REVIEW:

The City’s standard contract language was used for this bidding document. No legal review is required at this time.

FISCAL IMPACT:

This cost was anticipated and included in the Maple Road Project budget and will be charged to the following accounts:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Account Number</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major Street Fund</td>
<td>202-449.001-981.0100</td>
<td>$9,500.00</td>
</tr>
<tr>
<td>Sewer Fund</td>
<td>590-536.001-981.0100</td>
<td>$9,450.00</td>
</tr>
<tr>
<td>Water Fund</td>
<td>591-537.004-981.0100</td>
<td>$9,450.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$28,400.00</strong></td>
</tr>
</tbody>
</table>

PUBLIC COMMUNICATIONS:

The City will be mailing a letter (on City letterhead) to each Building Owner within the project area outlining the process and the reasoning behind the video inspections. Also, included will be a form for them to sign giving the City permission to perform the necessary inspection. M-1 Studios will then be contacting the Building Owners or Tenants to schedule the inspection times and dates.

SUMMARY

It is recommended that the Video Inspection – Maple Road Contract be awarded to M-1 Studios of Ferndale, MI in the amount of $28,400.00.

ATTACHMENTS:

- Bid Summary – December 20, 2019 (one page)

SUGGESTED RESOLUTION:

To award the Video Inspection – Maple Road to M-1 Studios of Ferndale, MI in the amount of $28,400.00 to be charged to the various accounts as detailed in this report.
CITY OF BIRMINGHAM
VIDEO INSPECTION SERVICES for MAPLE ROAD PAVING PROJECT

BID SUMMARY
December 20, 2019 - 2:00 PM

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Addendums</th>
<th>5% Bid Security</th>
<th>Base Bid</th>
</tr>
</thead>
<tbody>
<tr>
<td>M-1 Studios</td>
<td>No. 1</td>
<td>Cashiers Check</td>
<td>$28,400.00</td>
</tr>
</tbody>
</table>
MEMORANDUM

DATE: January 10, 2020
TO: Joseph A. Valentine, City Manager
FROM: Austin W. Fletcher, Assistant City Engineer
SUBJECT: Maple Road Traffic Signal Mast Arm Materials Award

INTRODUCTION:

Bids for the Maple Road Traffic Signal Mast Arm Materials were opened on January 10, 2020. The City received two (2) bids. The low bidder was Farr & Faron Associates.

BACKGROUND:

As you are aware, our office is currently preparing to reconstruct Maple Road this Spring (from Southfield Road to Woodward Avenue). A key component of the project is the new Mast Arm Traffic Signals at Southfield, Bates and Henrietta. Mast Arms typically have a lead time of four (4) to six (6) months due to the limited number of suppliers and demand.

Since the contract for the Maple Road project will likely not be awarded until late February, the selected general contractor would not be in a position to order the necessary Mast Arms for this project until the middle/end of March. For these reasons, our office decided to advance purchase the Mast Arms in order to allow as much time as possible to obtain them.

The City received two (2) bids for this project. A bid summary is attached for your reference. As referenced above, there are a limited number of suppliers and we suspect that attributed to the lack of responses.

The low bidder was Farr & Faron Associates, of Brighton, MI with their bid of $95,429.00. While the City has never purchased equipment for this company in the past, our Consulting Engineer (Tetra Tech) is very familiar their company and has worked with them on several projects in the past. Tetra Tech is confident that they will be able to perform per the requirements of the RFP. The Engineer’s Estimate for this project was $110,000.00

The Mast Arms and Poles are expected to arrive at the Maple Road site on or before July 1, 2020.

LEGAL REVIEW:

The City's standard contract language was used for this bidding document. No legal review is required at this time.
FISCAL IMPACT:

This cost was anticipated and included in the Maple Road Project budget and will be charged to the following account:

Major Street Fund (Traffic Control) 202-303.001-977.0100 $95,429.00

PUBLIC COMMUNICATIONS:

No public communication is planned as this is a materials purchase.

SUMMARY

It is recommended that the Maple Road Traffic Signal Mast Arm Materials Contract be awarded to Farr & Faron Associates of Brighton, MI in the amount of $95,429.00.

ATTACHMENTS:

- Bid Summary – January 10, 2020 (one page)

SUGGESTED RESOLUTION:

To award the Maple Road Traffic Signal Mast Arm Materials Contract to Farr & Faron Associates of Brighton, MI in the amount of $95,429.00 to be charged to Major Street Fund (Traffic Control) 202-303.001-977.0100.
<table>
<thead>
<tr>
<th>Company Name</th>
<th>Addendums</th>
<th>Base Bid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farr &amp; Faron Associates</td>
<td>No. 1</td>
<td>$95,429.00</td>
</tr>
<tr>
<td>Carrie &amp; Gable, Inc.</td>
<td>No. 1</td>
<td>$175,198.95</td>
</tr>
</tbody>
</table>
| **NOTICE OF PUBLIC HEARING**  
**BIRMINGHAM CITY COMMISSION**  
**ORDINANCE AMENDMENT** |
|---|
| **Meeting - Date, Time, Location:** | Monday, January 13, 2020 at 7:30 PM  
Municipal Building, 151 Martin  
Birmingham, MI  48009 |
| **Nature of Hearing:** | To consider the following **zoning** ordinance amendments:  
1) Article 3, Overlay Districts, section 3.04(A) to amend the building height standards in the D5 zone of the Downtown Birmingham Overlay District; and  
2) Article 9, Definitions, section 9.02 to add a definition for the term **abutting**  
A complete copy of the proposed ordinance amendments may be reviewed at the City Clerk’s Office. |
| **City Staff Contact:** | Jana Ecker 248.530.1841  
jecker@bhamgov.org |
| **Notice:** | Publish: December 29, 2019 |
| **Approved minutes may be reviewed at:** | City Clerk’s Office |

Should you have any statement regarding the above, you are invited to attend the meeting or 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.  

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.
MEMORANDUM

Planning Division

DATE: January 3, 2020

TO: Joseph A. Valentine, City Manager

FROM: Jana Ecker, Planning Director

SUBJECT: Public Hearing for Zoning Amendments to Chapter 126, Zoning, Article 3, Overlay Districts, section 3.04(A) to amend the building height standards in the D5 zone of the Downtown Birmingham Overlay District and Article 9, Definitions, section 9.02 to add a definition for abutting

INTRODUCTION:
The Planning Board received a petition requesting an amendment to the Zoning Ordinance and / or the Zoning Map. Specifically, the applicant requested that the Planning Board address the following issues and suggest any zoning amendments necessary to do so:

1. Clarify the applicable standards to determine building height in the D5 Zone;
2. Clarify the meaning of “immediately adjacent or abutting”; and
3. Determine which properties to consider, if any, for rezoning to the D5 zoning.

BACKGROUND:
On July 10, 2019, the Planning Board discussed the applicant’s petition. Board consensus was that the applicable regulations to determine building height were sufficiently clear in the Zoning Ordinance and no amendments were needed. Board members agreed that clarification was required for the terms “immediately adjacent” and “abutting”. With regards to the determination of which properties to consider, if any, for rezoning to D5, the Planning Board recommended having DPZ CoDesign conduct a focused study to assist in this determination.

On September 11, 2019, the Planning Board reviewed the study prepared by DPZ CoDesign with respect to the area in Downtown Birmingham bounded by Haynes, Brown, Old Woodward and Woodward Avenue and the findings as to which properties should be considered for rezoning to D5 given their proximity to properties with existing buildings over 5 stories in height. The Board requested additional massing illustrations. The Planning Board also discussed proposed ordinance language to clarify the meaning of the terms “immediately adjacent” and “abutting”. The Planning Board concluded that further study was needed on a clear definition of abutting, and stated that draft ordinance language should also address how streets and alleys would affect the definition of abutting.

On November 13, 2019, the Planning Board reviewed the additional massing studies provided by DPZ and stated that the study was requested to determine whether good planning practices would support future rezoning requests for parcels in the subject area. The Planning Board then discussed draft ordinance language that removed the use of the term “immediately adjacent” from the D5 language, and provided a definition for abutting, as well as clarifying how the presence of streets and alleys would affect whether properties were deemed abutting. After
much discussion, the Planning Board voted to set a public hearing to amend Article 3, Overlay Districts, section 3.04(A) to amend the building height standards in the D5 zone of the Downtown Birmingham Overlay District and Article 9, Definitions, section 9.02 to add a definition for abutting.

On December 11, 2019, the Planning Board conducted a public hearing on the proposed ordinance amendments. The Planning Board voted unanimously to recommend the proposed amendments to the City Commission.

On December 16, 2019, the City Commission set a public hearing date for January 13, 2020.

LEGAL REVIEW:
The City Attorney has reviewed the documentation and has no concerns.

FISCAL IMPACT:
The proposed amendments do not have any direct fiscal impacts to the City.

PUBLIC COMMUNICATIONS:
As required for proposed Zoning Ordinance amendments, a legal ad was placed in a newspaper of local circulation to advertise the proposed amendments to Article 3, section 3.04(A) and Article 9, section 9.02 of the Zoning Ordinance in advance of the December 11, 2019 Planning Board meeting.

SUMMARY:
The Planning Board recommends that the City Commission consider ordinance amendments to D5 to amend the building height standards in the D5 zone and to add a definition for the term “abutting”.

ATTACHMENTS:
- Draft Ordinance language
- Zoning Amendment Application
- Planning Board Staff Reports (including Report by DPZ CoDesign)
- Relevant Minutes
- Letters from Residents

SUGGESTED RESOLUTION:
To approve the following amendments to Chapter 126, Zoning:

1. Article 3, Overlay Districts, section 3.04(A) to amend the building height standards in the D5 zone of the Downtown Birmingham Overlay District; and
2. Article 9, Definitions, section 9.02 to add a definition for the term abutting.
CITY OF BIRMINGHAM
ORDINANCE NO.

THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 3, OVERLAY DISTRICTS, SECTION 3.04(A) TO AMEND THE BUILDING HEIGHT STANDARDS IN THE D5 ZONE OF THE DOWNTOWN BIRMINGHAM OVERLAY DISTRICT.

Article 3, section 3.04 (A) of the Zoning Ordinance:

New buildings constructed or additions to existing buildings in the D5 Zone must meet the requirements of the Downtown Birmingham Overlay District and the D4 Zone, except that the height of any addition and new construction in the D5 Zone may be over the maximum building height up to, but not exceeding, the height of an existing building on a directly abutting D5 Zone property, to which they are immediately adjacent or abutting if the property owner agrees to the construction of the building under the provisions of a Special Land Use Permit. **For the purposes of this section, private properties separated by public property (including public right-of-way and public vias), will not be deemed abutting.**

ORDAINED this _________ publication day of_______, 2020 to become effective 7 days after publication.

____________________________

Pierre Boutros, Mayor

____________________________

Cheryl Arft, Acting City Clerk
CITY OF BIRMINGHAM
ORDINANCE NO.

THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 9, DEFINITIONS, SECTION 9.02 TO DEFINE THE TERM ABUTTING.

Abutting: Sharing a boundary or property line.

ORDAINED this ________ publication day of_______, 2020 to become effective 7 days after publication.

________________________________________
Pierre Boutros, Mayor

________________________________________
Cheryl Arft, Acting City Clerk
June 19, 2019

Via Hand Delivery
Ms. Jana Ecker
Planning Director
City of Birmingham
151 Martin Street
Birmingham, MI 48009

Re: Application and request for study session of Planning Board to discuss clarification of the terms and scope of the D5 Zoning Ordinance

Dear Ms. Ecker:

On behalf of our client, Birmingham Tower Partners, LLC, please find enclosed an application and request for a study session of the Planning Board regarding the captioned matter. We understand that this matter is scheduled to be heard at the Planning Board’s July 10, 2019 meeting. Attached in support of the application and request is a copy of our letter dated April 26, 2019, originally emailed to the City at the end of April.

Thank you for your assistance.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

Richard D. Rattner, Esq.

RDR/jmg
Encl.
cc: Mr. Joseph Valentine
     Mr. Timothy Currier, Esq.
     Mr. Doraid Markus
     Mr. Christopher Longe
APPLICATION AND REQUEST FOR STUDY SESSION OF PLANNING BOARD
TO DISCUSS CLARIFICATION OF THE TERMS AND SCOPE OF THE
D5 ZONING ORDINANCE
Birmingham, Michigan

TO THE PLANNING BOARD:

The undersigned hereby makes application for a study session of the Planning Board to discuss clarification of the terms and scope of the D5 Zoning ordinance:

1. Amendments to the zoning ordinance text:

   Article 03 Downtown Birmingham Overlay District, Section 3.04 Specific Standards,
   A. Building Height, Overlay, 4. D5 Zone (over 5 stories) in order to:
   - Clarify building height standards within the D5 Zone
   - Clarify the meaning of the words “immediately adjacent and abutting”

   Statements and reasons for this request or other data having a direct bearing on the request are attached.

2. Determine the properties to which the D5 overlay classification should be applied in Downtown Birmingham within the area bounded by Haynes, Brown, Old Woodward, and Woodward.

   Statements and reasons for this request or other data having a direct bearing on the request are attached.

BIRMINGHAM TOWER PARTNERS, LLC
Applicant

By: Richard D. Rattner, Esq

Address and Telephone Number: Williams, Williams, Rattner & Plunket, P.C.
380 N. Old Woodward, Suite 300
Birmingham, MI 48009
(248) 642-0333
rdr@wwrplaw.com

Date Received: ___________________________ Received By: ___________________________
Resolution No. ___________________________ Approved/Denied ___________________________
VIA EMAIL ONLY
Ms. Jana Ecker
Planning Director
City of Birmingham
jecker@bhamgov.org

Re: Request to Amend the D5 Overlay Zoning Ordinance

Dear Ms. Ecker:

This firm represents the owner of the property located at 469 – 479 S. Old Woodward. Please accept this letter as a request that the Planning Board consider amendments to the Birmingham Zoning Ordinance.

There have been many recent discussions regarding our client’s request to rezone the its property to D5. The discussion during the public hearing in March at the City Commission centered around the following three topics:

1. The applicable standards with respect to determining building height within the D5 overlay district.

2. Further clarification of the meaning of the words “immediately adjacent or abutting” in the ordinance. The ordinance currently provides:

   New buildings constructed or additions to existing buildings in the D5 Zone must meet the requirements of the Downtown Birmingham Overlay District and the D4 Zone, except that the height of any addition and new construction in the D5 Zone may be over the maximum building height up to, but not exceeding, the height of an existing D5 Zone to which they are immediately adjacent or abutting if the property owner agrees to the construction of the building under the provisions of a Special Land Use Permit.

3. To which properties the D5 overlay classification should be applied in Downtown Birmingham within the confines of Haynes, Brown, Old Woodward, and Woodward.

The City Commission did not take action on these matters. On behalf of our client, we request that the Planning Board move forward consistent with the concerns discussed at the hearing. An excerpt from the hearing minutes is attached as Exhibit A, with the salient points highlighted.
1. **Proposed Amendment to Clarify Maximum Building Height**

   There was confusion regarding how the height of an existing D5 building is determined. Questions were raised as to whether height is determined by the building’s eave line, roof line, or overall height with mechanicals.

   See the comments of Commissioner Hoff on page 14 of the hearing minutes.

2. **Proposed Amendment to Define “Immediately Adjacent or Abutting”**

   There was a discussion regarding the meaning of the ordinance language: “the height of any addition and new construction in the D5 Zone may be over the maximum building height up to, but not exceeding, the height of an existing building in the D5 to which they are immediately adjacent or abutting.” Concerns were expressed about whether a building located across a side street, or even across big Woodward, could be considered adjacent for purposes of D5.

   See the last bullet point of Commissioner Nickita’s comments on page 12 of the hearing minutes.

3. **The Properties to Which D5 Overlay Should Apply**

   There was discussion regarding the issue as to which properties in the small area of Downtown Birmingham, located between Haynes, Brown, Old Woodward, and Woodward, should be classified as D5 overlay. See the comments of Commissioner Sherman on page 12 of the hearing minutes.

   It should be noted that there are only 7 properties (not including the Peabody Mansion at the northeast Corner of Brown and S. Old Woodward) within the proposed area of study. Half of the properties within this area are already zoned D5. A map showing the current overlay zoning classifications is attached as Exhibit B.

   See the first two bullet points on page 12 and the 4th bullet point on page 13 of the hearing minutes (Exhibit A).
Conclusion

On behalf of our client, we request that the Planning Board move forward with considering amendments to the D5 ordinance and study the issues raised in prior hearings and this letter. Please place this matter on the agenda for the Planning Board's next study session.

Please contact me to further discuss. I look forward to hearing from you.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

[Signature]

Richard D. Rattner, Esq.

RDR/jmg

Encl.

cc: Mr. Joseph Valentine
    Mr. Timothy Currier, Esq.
    Mr. Draiad Markus
    Mr. Christopher Longe
Exhibit A

From March 11, 2019 City Commission Hearing Minutes:
Excerpt regarding discussion of the rezoning of 469 - 479 S. Old Woodward
Commissioner Sherman said the question of what buildings and areas would be appropriately included in the D5 zoning area, with specific attention from Haines to Brown, should be sent back to the PB with a request for a definitive answer. No action should be taken on the motion because it is too related to the potential development in this case.

Commissioner DeWeese said he would be comfortable sending this back to the PB with the request that they pay particular attention to the issues broached this evening. He added that he was not comfortable with the 4-3 vote by the PB and would like more unanimity in their recommendation.

Mayor Bordman said she was not in favor of sending the matter back to the PB. She noted all the information the Commission had been provided with in order to make a decision and said it would not be appropriate to delay.

Commissioner Nickita said:

- The 200-foot right-of-way of the Woodward Corridor between the 555 Building and Birmingham Place on the west side and the west side of the Triangle District on the east side has been intentionally planned and developed as a high-density area.
- While the Downtown Overlay has always adhered to buildings that are no more than five stories in height, the Woodward Corridor has been built with taller buildings. For this reason, rezoning the parcel at 469 - 479 S. Old Woodward to D5 would not establish a precedent for the buildings in the Downtown Overlay. The D4 parcel in question is anomalous among the other buildings along the Woodward Corridor.
- The City has much more influence on any development at 469 - 479 S. Old Woodward if they change the zoning to D5 because of the SLUP requirement.
- The Citywide Master Plan is a broad view, and as such will not focus on specific zoning details like the question currently before the Commission.
- The ability to update non-conforming properties or parcels was the intention of the D5 classification. The ordinance was supposed to refer to whatever property is closest to the property in question in order to determine the maximum height. Because the ordinance language seems not to be clear on the issue, it would be inappropriate to vote on this since the definition of ‘adjacent and abutting’ is being interpreted more broadly than may have been originally intended. The point in the D5 ordinance language should be clarified so that an ‘adjacent’ building cannot be interpreted as a building across the street.

Mayor Pro Tem Boutros said he would like to see this studied as part of the Master Planning process.

Commissioner Harris said he agrees with Mayor Bordman that the decision should be made this evening. Referring to 7.02(2)(b)(2), he continued:

- He does not see a significant difference between the first criterion requiring rezoning for the necessity and preservation of enjoyment and rights and the second criterion requiring rezoning if the zoning classification is no longer appropriate. That said, the applicant made a compelling case that parking is unfeasible with this parcel zoned to D4, which satisfies both criteria.
• He was hoping to hear how D5 zoning would resolve the issue of parking, but since the applicant sufficiently demonstrated that parking would be an issue in D4 the criteria were still met.

• A staff report from November 8, 2018 stated adhering to a D4 would be "completely inconsistent and dominated by the height of the adjacent Birmingham Place and 555 Buildings."

• The last criterion under 7.02(b)(2)(b) is "why the proposed zoning will not be detrimental to the surrounding properties." The applicant made a compelling case as to why D5 is better for Birmingham Place, and the SLUP requirement would allow the City to encourage the accommodation of the neighboring properties.

• Commissioner Nickita’s assessment that there are limitations on when the D5 can be applied to future properties is accurate. There is no real risk of a ‘slippery slope’ with this zoning because this decision is not binding for any other decision. In addition, any building that sought to be rezoned to D5 would be subject to a SLUP.

• The risk level that the property owner assumed when buying the 469 - 479 S. Old Woodward parcel is irrelevant to the present discussion.

• Although the D5 was designed with the particular focus on the previous non-conforming properties, it was not restricted to only those non-conforming properties.

• For all those reasons, he is inclined to support the rezoning request.

• He also took heed of Commissioner Nikita’s comments about the ambiguity in the ordinance, which he agrees should be addressed, but at a later date. The ambiguity does not dissuade him from approving the rezoning for this particular property.

Commissioner Hoff said there were valid reasons for sending this back to the PB, but she believed that a decision should be made.

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner DeWeese:
To deny the rezoning of 469 - 479 S. Old Woodward from B3/D4 to B3/D5.

City Attorney Currier said he would have to research whether the applicant could submit a new application before a year's time elapses if the City makes changes to the D5 ordinance, because it might sufficiently constitute a material change in circumstance.

Mayor Bordman said she would be supporting the motion because she does not want the issue to go back to the PB.

**VOTE:**
- Yeas, 3
- Nays, 4 (Boutros, Harris, Nickita, Sherman)

**MOTION FAILED**

**MOTION:** Motion by Commissioner Harris
To approve the rezoning of 469 - 479 S. Old Woodward from B3/D4 to B3/D5.

**MOTION DIED FOR LACK OF A SECOND**
MOTION: Motion by Mayor Pro Tem Boutros
To postpone the hearing to do a comprehensive study.

MOTION DIED FOR LACK OF SECOND

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Nickita:
To postpone the public hearing to July 22, 2019 for the purposes of sending it back to the Planning Board with specific direction to look at the issues raised by Commissioner Nickita on the D-5 ordinance and to look at the properties between Haines and Brown, Old Woodward and Woodward for the appropriate zoning classification.

Planning Director Ecker said the ordinance language could possibly be reviewed and brought back by July 22, 2019. She was not sure if the PB would reach consensus in three months on the geographic area to which the D5 zoning should be applied, since they have already studied the issue and were not able to reach consensus.

Commissioner Hoff said she would be interested in knowing whether building heights should be to the eaves or to the tallest structure on a building, and the specific meaning of the ‘adjacent’ and ‘abutting’ in the context of the ordinance.

Commissioner Sherman said he would be willing to change the date in the motion to allow an additional month of study.

Commissioner Nickita said it should not take four months to define the method of determining building height and the definitions of ‘adjacent’ and ‘abutting’.

Mayor Bordman invited public comment on the motion.

Mr. Rattner stated the applicant had no objection to the motion.

Mr. Schwartz said that all the interested parties have weighed in on the issue, and the Commission is in effect postponing a civic duty.

Mr. Bloom said he would like to know the impact on the City if the parcel is built up as a hotel, office building, mixed use space, or any other type of development. He would want the PB to report on each building-type’s likely impact on parking, public safety, density, and overall quality of life for Birmingham residents.

Mr. Reagan said ‘adjacent’ and ‘abutting’ were terms already discussed at the beginning of the 2016 planning process. In addition, the expansion of the geographic area being studied concerned Mr. Reagan because, as he stated, the neighborhood included within that area already deals with significant congestion, cut-through traffic, and parking issues. If these developments occur, there has to be sufficient parking accommodations. Mr. Reagan asserted parking shortages would stem the possible larger D5 developments the City is considering allowing.
Ms. Friedlaender said choosing to raise the heights of buildings should be part of a community study process, and all the buildings around the Merrillwood building should be included in this motion and studied since Merrillwood is also zoned D5.

Mr. Abel said the Commission should make a decision this evening.

Commissioner Hoff said Commissioner Nickita’s concerns should be spelled out in the motion.

Mayor Bordman agreed with Mr. Abel and Commissioner Hoff. She asked if there was a motion to amend in order to include Commissioner Nickita’s comments.

No motion to amend was offered.

**VOTE:**

<table>
<thead>
<tr>
<th>Yeas</th>
<th>2 (Nickita, Sherman)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nays</td>
<td>5</td>
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</table>

**MOTION FAILED**

The Commission took no action. The property remains zoned D4.

Mayor Bordman referred the issue to City Attorney Currier to determine the specific terms under which the applicant may re-apply, since the application was not denied.

Mayor Bordman recessed the meeting for three minutes. The meeting resumed at 10:48 p.m.

03-060-19  **PUBLIC HEARING ON SPECIAL ASSESSMENT DISTRICT FOR PARK STREET PAVING PROJECT – OAKLAND TO HAMILTON STREETSCAPE AND STREET LIGHT**

Mayor Bordman opened the public hearing at 10:48 p.m.

Assistant City Engineer Fletcher presented the proposed project and special assessment district (SAD).

**Clarifications/Comments**

City Manager Valentine clarified that the SAD would be assessed for the same standard streetscape that exists throughout the downtown. The only corner that would be different is Park and Hamilton, which is publicly owned and currently before the Architectural Review Committee for design.

City Engineer O’Meara advised the Commission that all residents affected by the SAD have been sent a two page letter documenting all the information, and the City has received no questions or concerns regarding the issue.

Commissioner Sherman reminded the Commission that it has approved similar SADs in other locations without plans. The proposal encompasses the standard streetscape of the sidewalk, exposed aggregate, the trees and the lights. He said there is no reason to postpone this decision.

15  March 11, 2019
Exhibit B

Map of Current Overlay Zoning Classifications
MEMORANDUM
Planning Division

DATE: July 5, 2019
TO: Planning Board Members
FROM: Jana L. Ecker, Planning Director
SUBJECT: Application for Zoning Ordinance Change

On March 11, 2019, the City Commission conducted a public hearing to consider a rezoning request for 469-479 S. Old Woodward from B3/D4 to B3/D5 to allow construction of a nine story mixed use building on the corner of Haynes and Woodward/S. Old Woodward. After much discussion, the City Commission took no action on the matter. However, based on the extensive discussion (minutes attached) that occurred at the City Commission meeting, the owners of 469-479 S. Old Woodward have now submitted an application requesting an amendment to the Zoning Ordinance and/or Zoning Map. The application and supporting documentation are attached for your review. Specifically, the applicant is requesting that the Planning Board address the following issues and suggest any zoning amendments necessary to do so:

1. Clarify the applicable standards to determine building height in the D5 Zone;
2. Clarify the meaning of “immediately adjacent or abutting”; and
3. Determine which properties to consider, if any, for rezoning to the D5 zoning classification.

Background

The D5 Zone was created in recent years as a new zoning district within the Downtown Overlay District. The D5 classification currently applies to three properties, the 555 Building, Birmingham Place, and the Merrillwood Building. The provisions of the D5 zone are outlined in Article 3, section 3.04 (A) of the Zoning Ordinance:

New buildings constructed or additions to existing buildings in the D5 Zone must meet the requirements of the Downtown Birmingham Overlay District and the D4 Zone, except that the height of any addition and new construction in the D5 Zone may be over the maximum building height up to, but not exceeding, the height of an existing D5 Zone to which they are immediately adjacent or abutting if the property owner agrees to the construction of the building under the provisions of a Special Land Use Permit.
Thus, the D5 Zone requires buildings in this zone to meet all requirements of the D4 Zone, with the exception of the building height requirements. With regards to height, buildings in the D5 zone may be constructed up to, but not exceeding, the height of an existing immediately adjacent or abutting building that is within the D5 Zone, provided the owner agrees to build under a SLUP.

**Issue 1: Calculating Building Height**

Based on comments made at the City Commission meeting on March 11, 2019, the applicant is requesting clarification on how to calculate building height in the Downtown Birmingham Overlay District.

Article 9, Section 9.02, Definitions, of the Zoning Ordinance defines building height specifically for buildings located within the Downtown Birmingham Overlay District as follows:

The *vertical distance from the average grade at the sidewalk at the frontage line to the highest point of the roof surface in a flat roof and to the eaves/eave line for a gable, hip, gambrel or mansard roof*. Height limits do not apply to parapet walls, belfries, steeple, flagpoles, skylights, chimneys, or roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building.

Article 9, section 9.02 provides specific instructions for calculating a building’s height when the building is located within the Downtown Birmingham Overlay District. This definition has been successfully interpreted and applied over the past 20 years, and provides clarity to allow applicants to determine a building’s height.

Thus, the Planning Division does not recommend any changes to the existing, clearly defined, method of calculating building height in the Downtown Overlay.

**Issue 2: Clarify the Meanings of Adjacent and Abutting**

Article 9, section 9.02 of the Zoning Ordinance provides definitions for specific words to be "observed and applied in the interpretation of all Articles" within the Zoning Ordinance where clarification is needed. There are currently no definitions provided in Article 9, section 9.02 for either of the terms adjacent or abutting.

Thus, the Planning Board may wish to consider adding definitions for both adjacent and / or abutting to Article 9, section 9.02 to clarify their meanings to allow applicants to clearly identify which surrounding properties would be considered to determine the maximum height permitted on a D5 zoned property. Sample definitions for discussion are noted below.

**Definitions of “Adjacent”**
• **Lying near or close to; neighboring.**adjacent means that objects or parcels of land are not widely separated, though perhaps they are not actually touching; but adjoining implies that they are united so closely that no other object comes between them.

• **Next to or near something else**

• **a)** Not distant, nearby
  • **b)** Having a common endpoint or border
  • **c)** Immediately preceding or following

• **Near or close (to something); adjoining**

**Definitions of “Abutting”**

• **To reach; to touch. To touch at the end; be contiguous; join at a border or boundary; terminate on; end at; border on; reach ortouch with an end. The term abutting implies a closer proximity than the term adjacent.**

When referring to real property, abutting means that there is no intervening land between the abutting parcels. Generally, properties that share a common boundary are abutting. A statute may require abutting owners to pay proportional shares of the cost of a street improvement project.

- **v. when two parcels of real property touch each other.**

• **Adjoining, bordering**

• **Sharing a boundary**

• **To end (on) or lean (upon) at one end; border (on) terminate (against) To end at; border upon**

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1 West’s Encyclopedia of American Law, edition 2. Copyright 2008 The Gale Group, Inc. All rights reserved.
2 Macmillandictionary.com
3 Merriam-webster.com
4 Collinsdictionary.com
5 West’s Encyclopedia of American Law, edition 2. Copyright 2008 The Gale Group, Inc. All rights reserved.
6 West’s Encyclopedia of American Law, edition 2. Copyright 2008 The Gale Group, Inc. All rights reserved.
7 Merriam-webster.com
8 Macmillandictionary.com
9 Collinsdictionary.com
Given the sometimes conflicting definitions of adjacent and abutting noted above, the Planning Board may wish to consider amending the existing D5 ordinance language that refers to the height of buildings “immediately adjacent or abutting”. This language could be amended to simply refer to the height of “immediately abutting” or simply “abutting” buildings. A concise definition for abutting could then be added to Article 9, section 9.02 of the Zoning Ordinance that clarifies that abutting properties are only those that join at a border or share a boundary line.

**Issue 3: Determine which properties, if any, warrant rezoning to the D5 zoning classification within the area bounded by Haynes, Brown, Old Woodward and Woodward Avenue**

Several years ago, the Planning Board addressed the specific issues of which properties to consider for rezoning to the D5 Zone within the Downtown Overlay District. At that time, the Planning Board considered rezoning properties along Woodward Avenue up to Maple, and then scaled back the properties under consideration for the D5 zoning. Ultimately, the Planning Board recommended to the City Commission that only the three existing, non-conforming buildings (with respect to height) within the Downtown Overlay District be rezoned to D5. This included the 555 Building, Birmingham Place and the Merrillwood Building, which were ultimately rezoned to D5 by the City Commission.

The applicant’s request at this time is to consider which properties within the area bounded by Haynes, Brown, Old Woodward and Woodward Avenue only, should be considered for rezoning to D5. Please find attached a map created in 2015 during the Planning Board’s previous discussions as to which properties, if any, should be considered for rezoning to D5. This map shows properties in green that were previously discussed for potential rezoning to D5 within the area bounded by Haynes, Brown, Old Woodward and Woodward Avenue. All properties within the area noted were discussed for rezoning to D5, with the exception of the historic Peabody Mansion on the southeast corner of Brown and S. Old Woodward.

If the Planning Board wishes to amend the existing D5 ordinance language noted above that refers to the height of buildings “immediately adjacent or abutting” to refer to the height of buildings “immediately abutting” or simply “abutting”, a similar approach could be taken for considering which properties, if any, should be considered for rezoning to D5.

For instance, the Planning Board may wish to consider only those parcels that abut (join at a border or share a boundary line) with one or more parcels already zoned D5. This approach would limit the properties under consideration for rezoning to D5 at this time to the two properties on S. Old Woodward that abut the Merrillwood Building, and the two properties that abut Birmingham Place, one to the south, and one to the north. However, should these 4 properties be rezoned to D5, this would then potentially allow up to 9 additional parcels to be rezoned to D5 over time until no further properties abut a D5 zoned parcel (due to the block ending and an alley or street separating any other adjacent properties). In this scenario, the
remaining 6 properties on the same block running north on S. Old Woodward from the Merrillwood Building would eventually be considered for rezoning to D5, as well as the remaining 4 parcels on the same block both north and south on S. Old Woodward and the Jax Karwash site on Brown.

This approach of allowing only those properties that abut an existing D5 Zone could be further limited however by adding that only those parcels that are not located in an Historic District and abut one or more parcels already zoned D5 may be considered for rezoning to D5. This would limit the properties that may be considered for rezoning to D5 over time to the two properties that are located north of Birmingham Place (not including the Peabody Mansion parcel) and the two properties south of Birmingham, due to the block ending. All other surrounding parcels are separated from any D5 parcels by a street in all directions, and thus would not join at a border or share a boundary line in order to qualify for rezoning to D5, if the above amendments were made.

**Next Steps**

Once the Planning Board has discussed each of the issues noted above, draft ordinance language will be drafted for your review. In addition, should the Planning Board wish to recommend any other parcels for rezoning to the D5 Zone, a map will be created to identify these parcels as well as the zoning classification and permitted heights of all other properties in the surrounding area. Massing studies can also be prepared to further study the impact of any parcels recommended for rezoning to D5.
MEMORANDUM
Planning Department

DATE: September 5, 2019
TO: Planning Board
FROM: Jana Ecker, Planning Director
SUBJECT: D5 Study – Downtown Overlay District

At the July 10, 2019 Planning Board meeting, the owner of the properties at 469 – 479 S. Old Woodward submitted an application requesting an amendment to the Zoning Ordinance and/or Zoning Map. Specifically, the applicant requested that the Planning Board address the following issues and suggest any zoning amendments necessary to do so:

1. Clarify the applicable standards to determine building height in the D5 Zone;
2. Clarify the meaning of “immediately adjacent or abutting”; and
3. Determine which properties to consider, if any, for rezoning to the D5 zoning

At that meeting, the Planning Board reviewed the application and supporting documentation submitted by the applicant, as well as the Planning Division memo addressing each of the three issues noted above. Both the application and the staff memo are attached for your review. The Planning Board reviewed the findings and recommendations in the staff memo. After much discussion, the Planning Board recommended having DPZ CoDesign conduct a focused study of the area in Downtown Birmingham bounded by Haynes, Brown, Old Woodward and Woodward Avenue. The study was to make recommendations as to which properties should be considered for rezoning to D5 given their proximity to properties with existing buildings over 5 stories in height, to properties that are currently zoned to allow greater than 5 stories of height or due to other identified factors. The Planning Board also discussed conducting massing studies in the study area to determine the impact of any parcels recommended for rezoning to D5.

Accordingly, the Planning Division forwarded the Planning Board’s request for a D5 study to the City Manager for authorization to proceed. The City Manager approved the request, and the City obtained a proposal from DPZ to conduct the study. The D5 Study completed by DPZ CoDesign, dated September 5, 2019 is attached for your review and discussion.

The D5 Study contains a massing study of the subject block and surrounding properties, as well as a detailed analysis of the current and recommended zoning for properties within the block. The D5 Study’s recommendation is “that all properties within the study area should be eligible for rezoning to D5, with the potential exception of the Ford-Peabody Mansion for considerations related to preservation” (D5 Study, DPZ CoDesign, September 5, 2019, p. 9). This recommendation is consistent with the previous discussion of the Planning Board at the July 10, 2019 meeting.
Accordingly, please find attached draft ordinance language for your review and consideration to clarify the proximity requirements to existing D5 properties as abutting, to add a definition for abutting, and to recommend properties to be considered for rezoning to D5 in the Downtown Birmingham Overlay District as recommended in the D5 Study prepared by DPZ CoDesign at the request of the Planning Board.

**Suggested Action:**

To set a public hearing for October 23, 2019 to consider the following amendments to Chapter 126, Zoning:

1. To amend Article 3, Overlay Districts, Section 3.04(A)(4), Specific Standards, to amend the building height requirements for the D5 zone (over 5 stories) of the Downtown Birmingham Overlay District;
2. To amend Article 9, Definitions, Section 9.02 to add a definition for abutting; and
3. To amend the Zoning Map to alter the Downtown Birmingham Overlay District zones as follows:
   a) 355 S. Old Woodward from D3 and D4 to D5;
   b) 469 S. Old Woodward from D4 to D5;
   c) 479 S. Old Woodward from D4 to D5; and
   d) 34745 Woodward from D4 to D5.
THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 3, OVERLAY DISTRICTS, SECTION 3.04(A) TO AMEND THE BUILDING HEIGHT STANDARDS IN THE D5 ZONE OF THE DOWNTOWN BIRMINGHAM OVERLAY DISTRICT.

Article 3, section 3.04 (A) of the Zoning Ordinance:

New buildings constructed or additions to existing buildings in the D5 Zone must meet the requirements of the Downtown Birmingham Overlay District and the D4 Zone, except that the height of any addition and new construction in the D5 Zone may be over the maximum building height up to, but not exceeding, the height of an existing and abutting D5 Zone property to which they are immediately adjacent or abutting if the property owner agrees to the construction of the building under the provisions of a Special Land Use Permit.

ORDAINED this __________ publication day of ________, 2019 to become effective 7 days after publication.

______________________________
Patty Bordman, Mayor

______________________________
Cherilynn Mynsberge, City Clerk
CITY OF BIRMINGHAM
ORDINANCE NO.

THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 9, DEFINITIONS, SECTION 9.02 TO DEFINE THE TERM ABUTTING.

Abutting: Sharing a boundary or property line.

ORDAINED this ________ publication day of_______, 2019 to become effective 7 days after publication.

__________________________
Patty Bordman, Mayor

__________________________
Cherilynn Mynsberge, City Clerk
Purpose:

To conduct a focused study of the area in Downtown Birmingham bounded by Haynes, Brown, Old Woodward and Woodward Avenue and make recommendations as to which properties should be considered for rezoning to D5 given their proximity to properties with existing buildings over 5 stories in height, to properties that are currently zoned to allow greater than 5 stories of height or due to other identified factors.

The Planning Board would then review the recommendations and use them to assist in clarifying the terms “abutting” and “adjacent” with regards to the D5 zone.

Zoning Enabling Act Reference:

125.3201 Regulation of land development and establishment of districts; provisions; uniformity of regulations; designations; limitations.

Sec. 201.

1. A local unit of government may provide by zoning ordinance for the regulation of land development and the establishment of 1 or more districts within its zoning jurisdiction which regulate the use of land and structures to meet the needs of the state’s citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare.

2. Except as otherwise provided under this act, the regulations shall be uniform for each class of land or buildings, dwellings, and structures within a district.

3. A local unit of government may provide under the zoning ordinance for the regulation of land development and the establishment of districts which apply only to land areas and activities involved in a special program to achieve specific land management objectives and avert or solve specific land use problems, including the regulation of land development and the establishment of districts in areas subject to damage from flooding or beach erosion.

4. A local unit of government may adopt land development regulations under the zoning ordinance designating or limiting the location, height, bulk, number of stories, uses, and size of dwellings, buildings, and structures that may be erected or altered, including tents and recreational vehicles.
Background:
The D5 zone is an overlay zone within the Downtown Birmingham Overlay District (DBOD), which is intended to implement the Downtown Birmingham 2016 Plan. Originally, the DBOD included 3 overlay zones: D2, D3, and D4, as well as Civic and Parking zones for parks and public parking. The D5 zone was established in order to make three otherwise legally non-conforming buildings legally conforming, two of which are within the study area. Prior to D5, the three non-conforming buildings fell within the D4 district, which restricts buildings to 5 stories if the upper floor is residential and 4 stories otherwise. The D5 district permits building height per the D4 requirements, except where a Special Land Use Permit (SLUP) allows heights over 5 stories. Above 5 stories there is no specified limit, outside of the subjective evaluation requirements of the SLUP process requiring recommendation of the Planning Board and approval of the City Commission.

The study area includes D5, D4, and D3 overlay zones, which are mapped over B-3, office-residential, and B-2, general business. D3 limits height to 4 stories where the upper floor is residential and 3 stories otherwise. The limits for D4 were previously stated. Properties mapped with D5 include two existing structures which exceeded 5 stories prior to the DBOD. The D3 and D4 district boundaries do not coincide with property lines at the northern end of the study area where one property is mapped with both D3 and D4. This is likely due to the location of Downtown Overlay zones recommended within the 2016 Plan which were drawn by hand prior to widespread adoption of GIS. Within the mid-block, there are two small properties mapped with D4, properties to the south and north of these being D5. See the map above and on the following page with D5 in dark gray, D4 in light blue, D3 in orange, and D2 in light green. The light gray parcels are public parking.
The current City Master Plan, from 1980, had recommended reducing the overall development capacity within Downtown from its 4 story limit at the time to 2 stories, due to parking limitations. The buildings which required the D5 zone had already been constructed, and some indicate that their presence at the time is in part what instigated the desire for a Master Plan update in 1980. The 555 Building is specifically discussed in the Master Plan as being out of character due to its bulk, not necessarily its height. The Master Plan also indicates that other high-rise buildings may be appropriate within the downtown to accentuate the skyline, provided careful regulation to ensure compatibility. At the time, most of Downtown was 2 stories or below, with a few taller buildings. The incompatibility between the higher buildings and 2 story downtown as a general practice is noted. Discussion of the Merrillwood Building, a 6 story building which steps back at the 3rd floor, states that its corner location is appropriate for taller buildings as a compliment to the otherwise low height of Downtown.

The Downtown Birmingham 2016 plan provided a recommended overlay district for Downtown and discussed heights such that the area generally retain a cap of five stories as most traditional American downtowns are between 2 and 4 stories. The Downtown Overlay District follows the height recommendations of the 2016 plan and zoning district boundary recommendations, shown below, with the exception of D5 which was added later. The boundary between D3 and D4 within the study area that does not coincide with property lines is a result of this map. Presumably, since D4 generally surrounds the area, the D3 portion is intended to preserve an existing historic building. Across Old Woodward, D3 and D2 districts are intended to provide a transition to the adjacent neighborhood.
REGULATING PLAN OF THE DOWNTOWN BIRMINGHAM OVERLAY ZONING DISTRICT
In addition to the core Downtown, the vision for the Triangle District, updated in 2007, is important contextually. Both the study area and the Triangle District frame the vision of Downtown Birmingham along big Woodward. The Triangle District Plan recommends that taller mixed-use buildings be located along Woodward, 7 to 9 stories, with medium height mixed-use buildings, 3 to 6 stories, within the District’s interior. In all cases, the maximum permitted height is unclear due to the use of height bonuses where each stated height district can be increased in height, such as 3 Story Mixed-Use qualifying for 5 story buildings. The allocation of height and the Triangle District Overlay focus heavily on transitions to adjacent neighborhoods, especially the single-family housing which remains within the District. The study area is generally adjacent to areas of 5 to 6 story mixed-use buildings, due to the adjacency of those properties to residences along Forest, Chestnut, and Hazel. As apparent at Maple and Woodward and at Haynes and south along Woodward, the 7 to 9 story district would be mapped along the entirety of Woodward if residences were further, transitioning upward from the 5 to 6 story district.

The Birmingham Plan for 2040, currently in progress, has proposed that Downtown Birmingham be considered to include 3 districts: Market North, Maple and Woodward, and Haynes Square. This proposal is aimed at bridging the Woodward divide and at improving the quality of retail and development along south Old Woodward. Presently, the experience of travel along Woodward is that one drives by Downtown Birmingham, rather than through Downtown Birmingham. The 2040 plan intends to change this perception to one of driving through the core of Downtown Birmingham. The study area occurs at a key seam between Haynes Square and Maple and Woodward, framing the northern end of Haynes Square. The concept for Haynes Square is to connect Old Woodward with big Woodward at a right-angle, accompanied by a public open space, the square. This alleviates the dangerous traffic condition at the current intersection of these roads, and provides a central public space to mark the entrance to greater Downtown Birmingham.
Triangle District Urban Design Plan | Birmingham Michigan

Building Heights

A hierarchy of heights is recommended between Woodward Avenue and the adjacent single-family residential neighborhoods. Taller buildings at least seven stories are needed to properly define the scale of Woodward Avenue’s wide right-of-way and the taller buildings on the west side of the road. Building height should then step down to 4-5 stories in the interior of the Triangle District along the narrower streets. Buildings adjacent to single-family residential neighborhoods should be limited to three stories. Height bonuses of up to an additional two stories will be allowed for developments that offer certain public amenities. These could include making public parking available in private parking structures, providing public open spaces, improvements to the public streetscape or incorporating energy-efficient green building design into structures. Payments to an escrow account designated for off-site amenities should be accepted in lieu of providing them.

New construction should create architectural variety by stepping back upper floors and varying the massing of buildings. Taller building should also be setback from nearby residential neighborhoods.

In order for the Triangle District to efficiently redevelop, parking will need to be provided with multi-level parking structures. The largest public parking structure will be required in the vicinity of Worth Plaza and should be located between the plaza and Woodward to take advantage of the highest allowable heights and best access.

**HEIGHT PLAN**

- 2.5 Story Single-Family
- 3 Story Attached Single-Family
- 3 Story Mixed-Use
- 5 Story Mixed-Use
- 7 Story Mixed-Use

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**Footnotes:**

- Up to 2 bonus stories except where adjacent to single family
- Up to 1 bonus story
- Up to 2 bonus stories

Bonus stories available as incentives when providing public amenities such as public parking, public open space, residential units, green building design. See ordinance for specific guidance.

**Height Plan**

Birmingham Triangle District

Data Sources: City of Birmingham, MECG, ULI Planning, Inc.
Discussion:

In order to evaluate the request, DPZ Partners Matthew Lambert and Marina Khoury discussed the conditions of the study area and surrounding Downtown Districts. Marina was consulted due to her extensive code experience and her lack of familiarity with the specifics of Birmingham, and objective party. Matthew provided familiarity with the conditions of the study area, the 2040 plan in progress, and the reason for this request.

Prior to being informed about further specifics, Marina was provided the information included in the Background section of this document, including the 3d models of the current conditions and present zoning allowances. Her initial take away was based upon 3 assertions:

1. Nothing in the present assignment of height through zoning justifies retaining a lower height for any properties within the study area.
2. Zones should generally be contiguous.
3. The design of buildings has a greater impact on compatibility than height.

Initial assertions from Marina reinforced the conclusions that Matthew had also arrived at. Further discussion ensued, addressing other issues of design compatibility and public benefit that are beyond the scope of the request, and addressed through the existing Special Land Use Permit (SLUP) process that is embedded in the D5 zone.
Overall, it is clear that the entire study area merits rezoning to D5. This triangle of land occupies a very special position in Downtown Birmingham where Woodward and Old Woodward separate from each other. Already, the study area has been developed at a scale above the majority of the downtown area. Were the Triangle District height map extended in concept across Woodward, the study area would be mapped with the 7 to 9 story district. The most significant position within the study area is the site of the 555 building, which merits the greatest height. The remainder of the study area provides background to that key site: a podium which is capped by place where the Woodwards meet.

Impact overall must also be addressed. The sites within the study area that are not currently D5 would only impact directly abutting (sharing a property line) properties, Birmingham Place, which is already a taller building within D5. Context is established by the nearby properties, which includes the 555 building even though it is in the study area, properties zoned between 6 and 9 stories in the Triangle District, and 4 to 5 story properties within the overall Downtown District. Old Woodward and Woodward are both very wide roads where taller buildings on one side of the road have a limited impact on those adjacent properties across the road. In fact, due to the size of both roads, they require taller buildings to create a street room, greater height along Woodward than Old Woodward, as is recognized by the Triangle District zoning. Brown is also a relatively wide road, a portion of which is occupied by a parking structure. Taller buildings along the south side of Brown may require one or more stepbacks, which is already provided for in D4 and further requirements possible through D5’s SLUP process. Hazel is the street where nearby properties are most impacted, however the only impacted property is the 555 building which is already tall and presents a mostly blank wall to the north.

One concern remains which is the preservation of the Ford-Peabody Mansion. This concern reflects the Downtown Overlay mapping of the 2016 Plan. While presently a listed historic resource, the Historic Preservation Ordinance provides little protection for the building overall. While the allocation of heights and zoning districts is not necessarily to be concerned with preservation in a downtown area, allocating significant additional height may induce development and loss of the historic asset. Yet the mansion could be relocated were the site to be redeveloped. This is a consideration left for the appointed boards and elected officials to address. Concerning the specifics of the request made, setting aside the question of historic significance, this site would also qualify for rezoning to D5.

Lastly, we want to reiterate an important point: the design of buildings is more impactful to compatibility than height. This sentiment was discussed at length in review of the study area, and also stated in the 1980 Master Plan which considered this same issue of the impact of height on the city. As also stated in the 1980 plan, the design of the 555 building was considered to be less compatible due to the long mass of the larger portion of the building. Should the study area be rezoned to D5 as recommended, it is incumbent upon the Planning Board and City Commission to ensure that the massing and design of any new building is compatible with the context.

**Recommendation:**

All properties within the study area should be eligible for rezoning to D5, with the potential exception of the Ford-Peabody Mansion for considerations related to preservation.
Massing Studies - Existing condition

# Height of buildings in stories
# Height of buildings in stories
D5 Study
Massing Studies - Development potential under current zoning

**Downtown Overlay**
max allowable heights:
- D2 3-story development - 56'
- D3 4-story development - 68'
- D4 5-story development - 80'

**Triangle Overlay**
max allowable heights:
- MU-3 MFR - 60'
- MU-5 attached SF - 82'
- MU-7 general business - 118'
Massing Studies - Development potential under current zoning

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max allowable heights:
- D2 3-story development - 56’
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max allowable heights:
- MU-3 MFR - 60’
- MU-5 attached SF - 82’
- MU-7 general business - 118’
July 25, 2019

Jana L. Ecker  
Planning Director  
City of Birmingham, MI

Proposal to study D5 properties in Birmingham

Dear Jana,

Pursuant to your request and that of the City of Birmingham Planning Board, we have prepared the following proposal for consideration.

Scope of Work

To conduct a focused study of the area in Downtown Birmingham bounded by Haynes, Brown, Old Woodward, and Woodward Avenue, and make recommendations as to which properties should be considered for rezoning to D5 given their proximity to properties with existing buildings over 5 stories in height, to properties that are currently zoned to allow greater than 5 stories of height or due to other identified factors.

Process

To achieve a fair outcome, we propose including both our Birmingham Master Plan staff who may efficiently produce diagrams as necessary for this evaluation as well as additional opinion from DPZ partner Marina Khoury, who has had no contact with the Birmingham Master Plan. Marina has extensive experience with zoning, including co-leading Miami21, re-zoning of the entire City of Miami. We will diagram the existing conditions and potential development capacity given current zoning, provide opinion of current and future conditions by two partners, independently, and finally provide a coordinated recommendation. Particular attention will be paid to those elements which influence the recommendation, in consideration of Planning Board’s discussions over the terms “abutting” and “adjacent” as they have considered this question.
Cost

Cost for this work is determined by DPZ’s normal hourly rates and an estimate of time required to complete the study, producing a lump sum to be contracted for. The estimate and sum are as follows:

Diagramming and analysis: $2,300.00
  Partner - 2 hours @ $250 / hr.
  Staff - 12 hours @ $150 / hr.
Independent opinion and combined recommendation: $1,500.00
  Partner - 2 people, 3 hours @ $250 / hr.
Assembly of study and recommendations: $1,275.00
  Partner - 1.5 hours @ $250 / hr.
  Staff - 6 hours @ $150 / hr.

Lump sum proposal: $5,075.00

We hope that you find this proposal acceptable, and we believe that it can provide an unbiased recommendation to assist the Planning Board in this and future decisions.

Sincerely yours,

Matthew Lambert
Partner, DPZ CoDesign
Exhibit 1

(see attached)
July 25, 2019

Jana L. Ecker  
Planning Director  
City of Birmingham, MI

Proposal to study D5 properties in Birmingham

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Staff - 6 hours @ $150 / hr.

Lump sum proposal: $5,075.00

We hope that you find this proposal acceptable, and we believe that it can provide an unbiased recommendation to assist the Planning Board in this and future decisions.

Sincerely yours,

Matthew Lambert
Partner, DPZ CoDesign
DATE: November 8, 2019

TO: Planning Board

FROM: Jana Ecker, Planning Director

SUBJECT: D5 Study – Downtown Overlay District

At the July 10, 2019 Planning Board meeting, the owner of the properties at 469 – 479 S. Old Woodward submitted an application requesting an amendment to the Zoning Ordinance and/or Zoning Map. Specifically, the applicant requested that the Planning Board address the following issues and suggest any zoning amendments necessary to do so:

1. Clarify the applicable standards to determine building height in the D5 Zone;
2. Clarify the meaning of “immediately adjacent or abutting”; and
3. Determine which properties to consider, if any, for rezoning to the D5 zoning

At that meeting, the Planning Board reviewed the application and supporting documentation submitted by the applicant, as well as the Planning Division memo addressing each of the three issues noted above. Both the application and the staff memo are attached for your review. The Planning Board reviewed the findings and recommendations in the staff memo. After much discussion, the Planning Board recommended having DPZ CoDesign conduct a focused study of the area in Downtown Birmingham bounded by Haynes, Brown, Old Woodward and Woodward Avenue. The study was to make recommendations as to which properties should be considered for rezoning to D5 given their proximity to properties with existing buildings over 5 stories in height, to properties that are currently zoned to allow greater than 5 stories of height or due to other identified factors. The Planning Board also discussed conducting massing studies in the study area to determine the impact of any parcels recommended for rezoning to D5.

Accordingly, the Planning Division forwarded the Planning Board’s request for a D5 study to the City Manager for authorization to proceed. The City Manager approved the request, and the City obtained a proposal from DPZ to conduct the study. The D5 Study completed by DPZ CoDesign, dated September 5, 2019 is attached for your review and discussion.

On September 11, 2019, the Planning Board reviewed the D5 Study completed by DPZ CoDesign. The D5 Study contains a massing study of the subject block and surrounding properties, as well as a detailed analysis of the current and recommended zoning for properties within the block. The D5 Study’s recommendation is “that all properties within the study area should be eligible for rezoning to D5, with the potential exception of the Ford-Peabody Mansion for considerations related to preservation” (D5 Study, DPZ CoDesign, September 5, 2019, p. 9). This recommendation is consistent with the previous discussion of the Planning Board at the July 10, 2019 meeting. After much discussion, the Planning Board requested additional illustrations.
showing the massing of the study area if the area was rezoned to D5 from DPZ for inclusion in the D5 Study. In addition, board members requested that potential ordinance language address how streets and alleys would play into the definition of abutting, and provide a definition of abutting for review, looking at definitions used by other cities.

Accordingly, please find attached an updated D5 study that contains the massing illustrations using the D5 zoning that were requested by the board. In addition, please find attached draft ordinance language for your review and consideration to clarify the proximity requirements to existing D5 properties as abutting and to add a definition for abutting. Definitions of abutting used in other cities are provided, along with many dictionary definitions previously reviewed in July 2019.
THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 3, OVERLAY DISTRICTS, SECTION 3.04(A) TO AMEND THE BUILDING HEIGHT STANDARDS IN THE D5 ZONE OF THE DOWNTOWN BIRMINGHAM OVERLAY DISTRICT.

Article 3, section 3.04 (A) of the Zoning Ordinance:

New buildings constructed or additions to existing buildings in the D5 Zone must meet the requirements of the Downtown Birmingham Overlay District and the D4 Zone, except that the height of any addition and new construction in the D5 Zone may be over the maximum building height up to, but not exceeding, the height of an existing building on a directly abutting D5 Zone property, to which they are immediately adjacent or abutting if the property owner agrees to the construction of the building under the provisions of a Special Land Use Permit. For the purposes of this section, private properties separated by public property (including public right-of-way and public vias), will not be deemed abutting.

ORDAINED this __________ publication day of________, 2019 to become effective 7 days after publication.

__________________________

Patty Bordman, Mayor

__________________________

Cherilynn Mynsberge, City Clerk
CITY OF BIRMINGHAM
ORDINANCE NO.

THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 9, DEFINITIONS, SECTION 9.02 TO DEFINE THE TERM ABUTTING.

Abutting: Sharing a boundary or property line.

ORDAINED this ________ publication day of_______, 2019 to become effective 7 days after publication.

Patty Bordman, Mayor

Cheryl Arft, Acting City Clerk
Sample Definitions from Other Communities

**Alexandria, VA**
All property that touches the property in question and any property that directly faces (and, in the case of a corner lot, diagonally faces) the property in question.

**Laquinta, CA**
“Abutting” or “adjacent” means two or more parcels sharing a common boundary at one or more points.

**Montgomery County, MD**
Abutting: properties that share a property line or easement

**NYC, NY**
“Abut” is to be in contact with or join at the edge or border.

**San Carlos, CA**
“Abutting” or “adjoining” means having a common boundary, except that parcels having no common boundary other than a common corner shall not be considered abutting.

**Institute for Local Government**
**Abutting.** Having property or zone district boundaries in common; for example, two lots are abutting if they have property lines in common.
July 25, 2019

Jana L. Ecker
Planning Director
City of Birmingham, MI

Proposal to study D5 properties in Birmingham

Dear Jana,

Pursuant to your request and that of the City of Birmingham Planning Board, we have prepared the following proposal for consideration.

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To achieve a fair outcome, we propose including both our Birmingham Master Plan staff who may efficiently produce diagrams as necessary for this evaluation as well as additional opinion from DPZ partner Marina Khoury, who has had no contact with the Birmingham Master Plan. Marina has extensive experience with zoning, including co-leading Miami21, re-zoning of the entire City of Miami. We will diagram the existing conditions and potential development capacity given current zoning, provide opinion of current and future conditions by two partners, independently, and finally provide a coordinated recommendation. Particular attention will be paid to those elements which influence the recommendation, in consideration of Planning Board's discussions over the terms "abutting" and "adjacent" as they have considered this question.
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Lump sum proposal: $5,075.00

We hope that you find this proposal acceptable, and we believe that it can provide an unbiased recommendation to assist the Planning Board in this and future decisions.

Sincerely yours,

Matthew Lambert
Partner, DPZ CoDesign
Here are the built-out views. I hope that it is understood that it’s not likely any building would actually be built to the maximum envelope as there is need for windows and such which would further break down the potential massing of new buildings.
D5 Study

Massing Studies - Development potential under D5 zoning

**Downtown Overlay**

max allowable heights:

- D2 3-story development - 56’
- D3 4-story development - 68’
- D5 special land use - by permit

**Triangle Overlay**

max allowable heights:

- MU-3 MFR - 60’
- MU-5 attached SF - 82’
- MU-7 general business - 118’
Massing Studies - Development potential under D5 zoning

Downtown Overlay
max allowable heights:
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- D5 special land use - by permit

Triangle Overlay
max allowable heights:
- MU-3 MFR - 60'
- MU-5 attached SF - 82'
- MU-7 general business - 118'
DATE: December 4, 2019

TO: Planning Board

FROM: Jana Ecker, Planning Director

SUBJECT: Public Hearing - D5 Building Height Standards

At the July 10, 2019 Planning Board meeting, the owner of the properties at 469 – 479 S. Old Woodward submitted an application requesting an amendment to the Zoning Ordinance and/or Zoning Map. Specifically, the applicant requested that the Planning Board address the following issues and suggest any zoning amendments necessary to do so:

1. Clarify the applicable standards to determine building height in the D5 Zone;
2. Clarify the meaning of “immediately adjacent or abutting”; and
3. Determine which properties to consider, if any, for rezoning to the D5 zoning

At that meeting, the Planning Board reviewed the application and supporting documentation submitted by the applicant, as well as the Planning Division memo addressing each of the three issues noted above. Both the application and the staff memo are attached for your review. The Planning Board reviewed the findings and recommendations in the staff memo. After much discussion, the Planning Board recommended having DPZ CoDesign conduct a focused study of the area in Downtown Birmingham bounded by Haynes, Brown, Old Woodward and Woodward Avenue. The study was to make recommendations as to which properties should be considered for rezoning to D5 given their proximity to properties with existing buildings over 5 stories in height, to properties that are currently zoned to allow greater than 5 stories of height or due to other identified factors. The Planning Board also discussed conducting massing studies in the study area to determine the impact of any parcels recommended for rezoning to D5.

Accordingly, the Planning Division forwarded the Planning Board’s request for a D5 study to the City Manager for authorization to proceed. The City Manager approved the request, and the City obtained a proposal from DPZ to conduct the study. The D5 Study completed by DPZ CoDesign, dated September 5, 2019 is attached for your review and discussion.

On September 11, 2019, the Planning Board reviewed the D5 Study completed by DPZ CoDesign. The D5 Study contains a massing study of the subject block and surrounding properties, as well as a detailed analysis of the current and recommended zoning for properties within the block. The D5 Study’s recommendation is “that all properties within the study area should be eligible for rezoning to D5, with the potential exception of the Ford-Peabody Mansion for considerations related to preservation” (D5 Study, DPZ CoDesign, September 5, 2019, p. 9). This recommendation is consistent with the previous discussion of the Planning Board at the July 10, 2019 meeting. After much discussion, the Planning Board requested additional illustrations...
showing the massing of the study area if the area was rezoned to D5 from DPZ for inclusion in the D5 Study. In addition, board members requested that potential ordinance language address how streets and alleys would play into the definition of abutting, and provide a definition of abutting for review, looking at definitions used by other cities.

On November 13, 2019, the Planning Board reviewed an updated D5 study that contained the massing illustrations using the D5 zoning that were requested by the board. In addition, the Planning Board reviewed draft ordinance language to clarify the proximity requirements to existing D5 properties as abutting and to add a definition for abutting. Definitions of the term abutting used in other cities were also provided and discussed, along with many dictionary definitions previously reviewed in July 2019. After discussion and public input, the Planning Board voted unanimously to set a public hearing for December 11, 2019.

**Suggested Action:**

To recommend approval to the City Commission for the amendment of the following sections of the Birmingham Zoning Ordinance:

1. **Article 3, Overlay Districts, section 3.04(A) to amend the building height standards in the D5 zone of the Downtown Birmingham Overlay District; and**
2. **Article 9, Definitions, section 9.02 to add a definition for the term abutting.**
THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 3, OVERLAY DISTRICTS, SECTION 3.04(A) TO AMEND THE BUILDING HEIGHT STANDARDS IN THE D5 ZONE OF THE DOWNTOWN BIRMINGHAM OVERLAY DISTRICT.

Article 3, section 3.04 (A) of the Zoning Ordinance:

New buildings constructed or additions to existing buildings in the D5 Zone must meet the requirements of the Downtown Birmingham Overlay District and the D4 Zone, except that the height of any addition and new construction in the D5 Zone may be over the maximum building height up to, but not exceeding, the height of an existing building in the directly abutting D5 Zone property, to which they are immediately adjacent or abutting if the property owner agrees to the construction of the building under the provisions of a Special Land Use Permit. **For the purposes of this section, private properties separated by public property (including public right-of-way and public vias), will not be deemed abutting.**

ORDAINED this __________ publication day of________, 2019 to become effective 7 days after publication.

________________________

Pierre Boutros, Mayor

________________________

Cheryl Arft, Acting City Clerk
CITY OF BIRMINGHAM
ORDINANCE NO.

THE CITY OF BIRMINGHAM ORDAINS: AN ORDINANCE TO AMEND CHAPTER 126, ZONING, OF THE CODE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 9, DEFINITIONS, SECTION 9.02 TO DEFINE THE TERM ABUTTING.

Abutting: Sharing a boundary or property line.

ORDAINED this ________ publication day of_______, 2019 to become effective 7 days after publication.

________________________________________
Pierre Boutros, Mayor

________________________________________
Cheryl Arft, Acting City Clerk
Sample Definitions from Other Communities

Alexandria, VA
All property that touches the property in question and any property that directly faces (and, in the case of a corner lot, diagonally faces) the property in question.

Laquinta, CA
“Abutting” or “adjacent” means two or more parcels sharing a common boundary at one or more points.

Montgomery County, MD
Abutting: properties that share a property line or easement

NYC, NY
“Abut” is to be in contact with or join at the edge or border.

San Carlos, CA
“Abutting” or “adjoining” means having a common boundary, except that parcels having no common boundary other than a common corner shall not be considered abutting.

Institute for Local Government
Abutting. Having property or zone district boundaries in common; for example, two lots are abutting if they have property lines in common.
PUBLIC HEARING TO CONSIDER THE REZONING OF 469 – 479 S. OLD WOODWARD FROM B3/D4 TO B3/D5

Mayor Bordman suggested the Commission consider including this property in the Parking Assessment District (PAD) before considering whether to rezone the property, since they are separate considerations.

Commissioner DeWeese supported Mayor Bordman’s suggestion.

Commissioner Hoff said she was unsure whether the issues were actually separate, since the parking requirements for a property are partially dependent on whether the property is part of the PAD.

Mayor Bordman advised that the contractor’s decisions vis-a-vis parking may change if the property is included in the PAD, but the Commission’s decision on how to zone the property will not, and as a result should be considered separately.

Agreeing with Mayor Bordman, Commissioner Sherman suggested the entire discussion of this property’s potential inclusion in the PAD be moved to a later date so as not to confuse this evening’s public hearing on rezoning.

Commissioner DeWeese opined that if the Commission sends the possibility of this property’s inclusion in the PAD to the Advisory Parking Committee (APC) for further study, it clarifies the topic of the evening’s public hearing in the same way Commissioner Sherman intended.

Mayor Bordman sought comment from the Commission on whether this property’s potential inclusion in the PAD should be sent to the APC for further study.

Mayor Pro Tem Boutros said the question of this property’s inclusion in the PAD is an important subject and he would be comfortable voting on the issue separately this evening.

Commissioner Harris agreed with Commissioner Sherman and said he would like to see more thorough information from staff before the Commission decides whether to refer the question to the APC.

Commissioner Nickita said this will end up before the APC, so it would be most efficient to move the PAD question for their study now.

Commissioner Sherman opined that this discussion was inappropriate in both timing and procedure. He said that not only does this conversation have nothing to do with
the current rezoning request, but the onus for requesting a property’s inclusion in the PAD is on the property owner, not the City.

The Commission took no action on the question of the property’s inclusion in the PAD, and Mayor Bordman affirmed it would not be part of the evening’s discussions.

Mayor Bordman noted for the record that the City received a confirmed petition from the property’s neighbors. As a result, according to state statute, the motion to rezone would have to pass with a ¾ vote, meaning six out of the seven Commissioners approving.

Mayor Bordman then gave a review of public hearing procedure and opened the public hearing at 7:59 p.m.
Planning Director Ecker presented the proposed rezoning. Clarifications/Comments Commissioner Nickita stated Birmingham Place, in terms of space which can be occupied, is 98’ 2” tall. The mechanicals bring the height of the building up to 114’ 4”. This makes Birmingham Place 18’ 2” taller in eave height than the allowable D4 height.

Planning Director Ecker explained:

- The on-site parking requirements do not change between D4 and D5.
- A D4 zoned building has a five-story and 80′ maximum, including all mechanicals. If a property in the D4 district wanted to go to six stories and 80′, the property would have to receive a variance from the Board of Zoning Appeals (BZA).
- Any building zoned D5 is subject to a Special Land Use Permit (SLUP) over five stories or 80′.
- Any Birmingham property owner can apply for any zoning classification, but it does not mean the owner will be granted approval for the rezoning.
- Buildings in the downtown overlay district have a maximum overall height, which includes mechanical height.
- The City has increased flexibility in influencing the design, development and use of buildings zoned D5 through the SLUP requirement, once the building is over five stories or 80′.

Rick Rattner, attorney for the applicant, presented the rezoning request. The presentation began with a four-minute video excerpt from the July 8, 2015 Planning Board (PB) meeting. Mr. Rattner said:

- The Planning Board considered the matter of the D5 zoning designation very carefully, as the video excerpt demonstrated. He reviewed the Board’s process for creating the D5 designation, adding that new construction was anticipated as a result of the D5 zoning classification.
- This is clearly not an instance of spot-zoning, since spot-zoning entails changing one building to be zoned differently from the surrounding properties, allowing permitted uses that are inconsistent with the area, and is an unreasonable classification. None of those conditions are present in the subject
rezoning request. The proposed rezoning would make this building the same as the surrounding properties, have similar use to the surrounding buildings, and would be a reasonable classification change.

- Rezoning 469 - 479 S. Old Woodward to D5 fits the Master Plan by allowing for the building of aesthetically similar buildings in the downtown in order to encourage a sense of place. While the property owner could build a D4-compliant building, this would result in the owner of the property not being able to enjoy the same rights of usage that the adjacent buildings enjoy.

- If Birmingham Place or the 555 Building had owned 469 - 479 S. Old Woodward at the time the D5 zoning designation was created, it is likely the 469 - 479 S. Old Woodward property would have been rezoned to D5 at the time as well. Mr. Rattner cited the 555 Building’s pursuit and eventual receipt of a D5 rezoning of the vacant lot to the south of the property.

- The 469 - 479 S. Old Woodward lot is unusual in that it is long, narrow, and neither part of the PAD nor adjacent to any building that is part of the PAD. To not rezone this parcel would be to leave it as a D4 island surrounded by two D5 buildings.

- Part of the due diligence done in purchasing this parcel was understanding the City ordinance could potentially permit the rezoning of this parcel to D5. Purchasing the parcel with the intent to request its rezoning was appropriate and in-line with the intention of the D5 zoning ordinance.

- The applicant is not pursuing entry into the PAD because of their distance from the relevant parking decks.

Mayor Bordman made clear that the current issue before the Commission is whether to rezone the parcel to D5, and not any consideration of what might be built on the parcel. She emphasized that the focus must remain on whether rezoning the parcel is appropriate for the City as a whole.

Mayor Bordman also noted that the building to the south of 469 - 479 S. Old Woodward is 77½’ tall, which is 2½’ shorter than the permitted height for a D4 building.

Mr. Rattner replied that the height of the closest building to the 469 - 479 S. Old Woodward parcel is 114’. He suggested it is more appropriate to compare the parcel to the buildings directly abutting it, rather than to the building across the street. He added that the 77½’ building being reference is zoned D5, and if they were approved for a SLUP could build higher because of that zoning.

Mayor Bordman invited members of the public to speak.

Mr. Rattner spoke once more, stating an objection to the submitted petition since he and the applicant have not yet had an opportunity to review its contents.

Mayor Bordman thanked Mr. Rattner for his comments.
Susan Friedlaender, attorney at Friedlaender Nykanen & Rogowski, said the excerpt Mr. Rattner presented from the July 8, 2015 PB meeting was irrelevant because the minutes from a PB meeting in January 2016 reflect the PB was unable to reach consensus about D5 zoning. At that time the PB decided to address the non-conforming aspects of the 555 Building and not the whole surrounding area. Ms. Friedlaender continued:

- At the July 26, 2016 City Commission meeting, a motion was passed “to review the non-conformance provisions pertaining to commercial buildings to provide specific requirements considering a new zoning category or categories that allow for changes to non-conforming buildings for the maintenance and renovation of existing buildings consistent with those permitted for residential buildings and structures.”
- The reason the applicant asked for the rehearing from the PB was because the PB failed to recognize the applicant was not in the PAD.
- The Master Plan recognizes that building height varies within the City, and the standard is that the maximum building height should be based on the smaller buildings in proximity.

Michele Prentice, property manager at Birmingham Place, said a number of condominiums sold in the building were partially purchased on the assurance that the parcel at 469 - 479 S. Old Woodward could not be built over five stories, and thus would not significantly obstruct southern sun or views even when developed. She continued:

- The effect of the proposed rezoning on the south-facing condominiums is already apparent, as one was taken off the market with no offers and two have been on the market for over 120 days, when in the last four years condominiums in Birmingham Place were on the market for less than 35 day.
- Sales of condominiums in other parts of the building have not fared better.
- A sixteen-year office tenant of Birmingham Place informed Ms. Prentice he would not be renewing his lease because he did not want his view to be obstructed by a hotel.
- Continued slow residential sales and rentals will decrease the taxable value of Birmingham Place and decrease tax revenue received by the City. The current taxable value of Birmingham Place is estimated at $36 million which generates an estimated $1.6 million in yearly property taxes to the City.
- Birmingham Place has 146 residential units.

Patrick Howe, attorney representing the Birmingham Place Commercial Condo Association, said:

- The Commission has to determine whether the whole of the downtown overlay district should be eligible to go from D4 to D5.
- The record reflects that this matter has only been considered by the Commission for a cumulative 18 minutes prior to this evening, in the context of discussing the applicability of the D5 ordinance to three non-conforming buildings.
Birmingham’s Master Plan speaks to compatible building heights, not whether it is appropriate for buildings to be built taller than five stories.

According to Planning Director Ecker, the height maximum for a building zoned D5 on the 469 - 479 S. Old Woodward parcel would be 15 stories. In addition, Planning Director Ecker indicated that buildings across the street can be considered adjacent for the purpose of determining height maximums. Given this, many more parcels could reasonably argue for a D5 rezoning, which would change the look of Woodward Ave.

It would be most appropriate to explore the potential ramifications during the City’s planning process rather than exclusively during the consideration of the rezoning of a single parcel.

Bob Clemente of 411 S. Old Woodward advised the Commission that he owns a couple of condominiums in Birmingham Place, and works in a Birmingham Place office where his employer has been a tenant since around 1985. Mr. Clemente agreed with Mr. Howe. He added:

- The goal of the 2016 Plan was to strengthen the spatial and architectural character of the downtown area in mass and scale with the immediate surroundings and the downtown tradition of two- to four-story buildings.
- Rezoning the 469 - 479 S. Old Woodward parcel stands to have an intensely negative impact on Birmingham Place over an eighteen-foot height difference.
- The applicant and their representative have made it clear that the building would be viable if they kept the D4 zoning on the parcel in question, but just prefer it to be D5.

Jason Abel, attorney for the Birmingham Place Development Master Association, said:

- The implications of 7.02(b)(5)(d) and 7.02(b)(2)(b)(1) would be the focus of his comments.
- The PB recommended the Commission consider the rezoning by a 4-3 vote, with two of the dissenting members asking why the rezoning would be required for enjoyment of use. Mr. Abel asserted they were not provided with an answer to that inquiry because the rezoning is not, in fact, necessary for the enjoyment of use.
- City staff reports show no finding of fact that would allow for the legitimate support of the applicant on this issue. The findings of fact only noted that under the current zoning classification all the same uses are permitted as under the D5 classification, and that the building is not part of the PAD.
- He challenges the applicant to prove that the property cannot be used under the D4 classification, as that is the fundamental consideration of 7.02(b)(2)(b)(1).

Mr. Rattner argued that rezoning should be considered based on whether it is necessary in order to bestow the rights and usage common to an adjacent property to the property in question, which is not what the City ordinance says. The question the ordinance actually addresses is whether the current zoning allows for the enjoyment of property ownership.
Mickey Schwartz of Birmingham Place said the City’s previous plans intentionally limited building height, and this matter should be considered as part of the current Master Planning process. He noted that a number of other buildings in the area have conformed to their D4 zoning and it has not been a problem for them.

Richard Huddleston, vice-president of Valstone Asset Management and office tenant at 260 E. Brown, explained that from November 2010 - December 2017 Valstone owned the commercial space at Birmingham Place. He continued:

- Valstone rescued the commercial space at Birmingham Place from foreclosure by purchasing the note, renovating the building, and turning it into one of the most desirable business addresses in southeastern Michigan.
- When 469 - 479 S. Old Woodward was on the market, he was approached by the real estate brokers to purchase the property. After running the numbers, he determined that the only way to make the parcel profitable would be to significantly obscure the southern view for the tenants of Birmingham Place, and he found that he would not in good conscience be able to do that.

Karl Sachs of 666 Baldwin Ct. said he would be concerned about the domino effect of granting D5 zoning to this parcel and other buildings along Woodward pursuing the same height increases through their own subsequent requests for rezoning.

Anthony Yousaif, one of the developers of the 469 - 479 S. Old Woodward parcel, yielded his time to Duraid Markus.

Duraid Markus introduced himself as one of the partners in the 469 - 479 S. Old Woodward development. Mr. Markus said:

- The project went back to the PB because the developers were unsure whether a D5 zoning allowed for the expansion of buildings, not only because the building had not been appropriately described as being outside of the PAD.
- City Attorney Currier had already opined that the parcel is eligible for D5 rezoning.
- When he considered purchasing the parcel, research into the City ordinances indicated rezoning should be possible subject to the owners entering into a SLUP.
- There are no other buildings in Birmingham where the middle building is zoned differently from the buildings on the left and the right.
- Rezoning to D5 would allow the proposed building to be stepped back, which would minimize the impact on Birmingham Place. Leaving the zoning at D4 would require the building to be built up to the lot line, resulting in far more obstruction for south-facing Birmingham Place tenants.
- The domino effect concern with rezoning leading to more rezoning is a red herring.
- Considering the loss of flexibility a developer experiences when agreeing to a SLUP. In many cases it is more likely that a developer would find it more beneficial to remain in D4 than to agree to a SLUP.

Alice Lezotte, a Birmingham Place resident, said that Birmingham Place is a vertical neighborhood and entreated the Commissioners to consider it as such, keeping in
mind what they would want for their horizontal neighborhoods. She explained this discussion is a matter of quality of life, air, space, noise, and safety for the residents of Birmingham Place.

Fred Lavery, owner of the Audi Dealership on Woodward in Birmingham, said that as a business owner who has been party to SLUPs with the City he believes Mr. Markus is correct in saying that the City gains control by rezoning the parcel to D5 because of the SLUP requirement. The Triangle District, which is designed with consideration of New Urbanism, requires building heights from five to nine stories, meaning the precedent for taller buildings has already been set in Birmingham.

Paul Reagan, 997 Purdy, said he had occasion to attend the PB meeting on adjacent buildings and recalled it being said that it was nothing more than cleaning house for the two non-conforming buildings. The 555 Building and Birmingham Place are aberrations in Birmingham planning, not an appropriate standard. Mr. Reagan shared concern that this is an attempt to get a parcel rezoned in a way that would no longer be possible after the community has its say as part of the upcoming Master Planning process, and he urged the Commission not to let it go through. He asked the Commission to send the issue back to the PB with a focus on respecting the 2016 Plan and figuring out the issue of shared parking for the parcel.

Mayor Bordman closed the public hearing at 9:42 p.m.

Commissioner Hoff explained that she understood Birmingham Place residents’ concerns, but the decision before the Commission is the rezoning of a parcel, not how that rezoning might affect the residents of Birmingham Place. She continued:

- Rezoning the parcel to D5 would not significantly change or benefit the streetscape versus a D4 parcel, despite the applicant’s assertion that it would.
- When the PB determined which buildings would be part of the D5 zone, the decision specifically applied to those buildings. The ordinance specifies that it is “to allow for the extension or enlargement of existing legal non-conforming commercial buildings.”
- She is concerned about setting a precedent for further D5 zoning. The condition of buildings of different heights in Birmingham already exists, and Birmingham is a beautiful city with it.
- Section 7.02(b)(2) states that rezoning must be proven necessary for the preservation and enjoyment of rights of usage, and she was not convinced that it is necessary.
- She would not be voting in favor of the rezoning.

Commissioner DeWeese said he did not understand the D5 zoning designation to be applicable to any buildings beyond the specific non-conforming buildings for which the designation was designed. He said he was not convinced the zoning needed to be changed for enjoyment of use, and that the 555 Building seems to be made up of two buildings, the shorter of which would be more appropriate to determine the height to which the proposed building at 469 – 479 Old Woodward could go. While he said he would consider other points, at this time Commissioner DeWeese indicated he would not be voting to approve the rezoning.
Commissioner Sherman said the question of what buildings and areas would be appropriately included in the D5 zoning area, with specific attention from Haines to Brown, should be sent back to the PB with a request for a definitive answer. No action should be taken on the motion because it is too related to the potential development in this case.

Commissioner DeWeese said he would be comfortable sending this back to the PB with the request that they pay particular attention to the issues broached this evening. He added that he was not comfortable with the 4-3 vote by the PB and would like more unanimity in their recommendation.

Mayor Bordman said she was not in favor of sending the matter back to the PB. She noted all the information the Commission had been provided with in order to make a decision and said it would not be appropriate to delay.

Commissioner Nickita said:
- The 200-foot right-of-way of the Woodward Corridor between the 555 Building and Birmingham Place on the west side and the west side of the Triangle District on the east side has been intentionally planned and developed as a high-density area.
- While the Downtown Overlay has always adhered to buildings that are no more than five stories in height, the Woodward Corridor has been built with taller buildings. For this reason, rezoning the parcel at 469 - 479 S. Old Woodward to D5 would not establish a precedent for the buildings in the Downtown Overlay. The D4 parcel in question is anomalous among the other buildings along the Woodward Corridor.
- The City has much more influence on any development at 469 - 479 S. Old Woodward if they change the zoning to D5 because of the SLUP requirement.
- The Citywide Master Plan is a broad view, and as such will not focus on specific zoning details like the question currently before the Commission.
- The ability to update non-conforming properties or parcels was the intention of the D5 classification. The ordinance was supposed to refer to whatever property is closest to the property in question in order to determine the maximum height. Because the ordinance language seems not to be clear on the issue, it would be inappropriate to vote on this since the definition of ‘adjacent and abutting’ is being interpreted more broadly than may have been originally intended. The point in the D5 ordinance language should be clarified so that an ‘adjacent’ building cannot be interpreted as a building across the street.

Mayor Pro Tem Boutros said he would like to see this studied as part of the Master Planning process.

Commissioner Harris said he agrees with Mayor Bordman that the decision should be made this evening. Referring to 7.02(2)(b)(2), he continued:
- He does not see a significant difference between the first criterion requiring rezoning for
the necessity and preservation of enjoyment and rights and the second criterion requiring rezoning if the zoning classification is no longer appropriate. That said, the applicant made a compelling case that parking is unfeasible with this parcel zoned to D4, which satisfies both criteria.

- He was hoping to hear how D5 zoning would resolve the issue of parking, but since the applicant sufficiently demonstrated that parking would be an issue in D4 the criteria were still met.
- A staff report from November 8, 2018 stated adhering to a D4 would be “completely inconsistent and dominated by the height of the adjacent Birmingham Place and 555 Buildings.”
- The last criterion under 7.02(b)(2)(b) is “why the proposed zoning will not be detrimental to the surrounding properties.” The applicant made a compelling case as to why D5 is better for Birmingham Place, and the SLUP requirement would allow the City to encourage the accommodation of the neighboring properties.
- Commissioner Nickita’s assessment that there are limitations on when the D5 can be applied to future properties is accurate. There is no real risk of a ‘slippery slope’ with this zoning because this decision is not binding for any other decision. In addition, any building that sought to be rezoned to D5 would be subject to a SLUP.
- The risk level that the property owner assumed when buying the 469 - 479 S. Old Woodward parcel is irrelevant to the present discussion.
- Although the D5 was designed with the particular focus on the previous non-conforming properties, it was not restricted to only those non-conforming properties.
- For all those reasons, he is inclined to support the rezoning request.
- He also took heed of Commissioner Nikita’s comments about the ambiguity in the ordinance, which he agrees should be addressed, but at a later date. The ambiguity does not dissuade him from approving the rezoning for this particular property.

Commissioner Hoff said there were valid reasons for sending this back to the PB, but she believed that a decision should be made.

MOTION: Motion by Commissioner Hoff, seconded by Commissioner DeWeese: To deny the rezoning of 469 - 479 S. Old Woodward from B3/D4 to B3/D5.

City Attorney Currier said he would have to research whether the applicant could submit a new application before a year’s time elapses if the City makes changes to the D5 ordinance, because it might sufficiently constitute a material change in circumstance.

Mayor Bordman said she would be supporting the motion because she does not want the issue to go back to the PB.

VOTE: Yeas, 3
Nays, 4 (Boutros, Harris, Nickita, Sherman)
MOTION FAILED

MOTION: Motion by Commissioner Harris
To approve the rezoning of 469 - 479 S. Old Woodward from B3/D4 to B3/D5.
MOTION DIED FOR LACK OF A SECOND

MOTION: Motion by Mayor Pro Tem Boutros
To postpone the hearing to do a comprehensive study.
MOTION DIED FOR LACK OF SECOND

MOTION: Motion by Commissioner Sherman, seconded by Commissioner Nickita:
To postpone the public hearing to July 22, 2019 for the purposes of sending it back to the Planning Board with specific direction to look at the issues raised by Commissioner Nickita on the D-5 ordinance and to look at the properties between Haines and Brown, Old Woodward and Woodward for the appropriate zoning classification.

Planning Director Ecker said the ordinance language could possibly be reviewed and brought back by July 22, 2019. She was not sure if the PB would reach consensus in three months on the geographic area to which the D5 zoning should be applied, since they have already studied the issue and were not able to reach consensus.

Commissioner Hoff said she would be interested in knowing whether building heights should be to the eaves or to the tallest structure on a building, and the specific meaning of the ‘adjacent’ and ‘abutting’ in the context of the ordinance.

Commissioner Sherman said he would be willing to change the date in the motion to allow an additional month of study.

Commissioner Nickita said it should not take four months to define the method of determining building height and the definitions of ‘adjacent’ and ‘abutting’. He said it would be better to keep the date in the motion and to extend it if necessary.

Mayor Bordman invited public comment on the motion.

Mr. Rattner stated the applicant had no objection to the motion.

Mr. Schwartz said that all the interested parties have weighed in on the issue, and the Commission is in effect postponing a civic duty.

Mr. Bloom said he would like to know the impact on the City if the parcel is built up as a hotel, office building, mixed use space, or any other type of development. He would want the PB to report on each building-type’s likely impact on parking, public safety, density, and overall quality of life for Birmingham residents.

Mr. Reagan said ‘adjacent’ and ‘abutting’ were terms already discussed at the beginning of the 2016 planning process. In addition, the expansion of the geographic
area being studied concerned Mr. Reagan because, as he stated, the neighborhood included within that area already deals with significant congestion, cut-through traffic, and parking issues. If these developments occur, there has to be sufficient parking accommodations. Mr. Reagan asserted parking shortages would stem the possible larger D5 developments the City is considering allowing.

Ms. Friedlaender said choosing to raise the heights of buildings should be part of a community study process, and all the buildings around the Merrillwood building should be included in this motion and studied since Merrillwood is also zoned D5.

Mr. Abel said the Commission should make a decision this evening.

Commissioner Hoff said Commissioner Nickita’s concerns should be spelled out in the motion. Mayor Bordman agreed with Mr. Abel and Commissioner Hoff. She asked if there was a motion to amend in order to include Commissioner Nickita’s comments. No motion to amend was offered.

VOTE: Yeas, 2 (Nickita, Sherman)
      Nays, 5

MOTION FAILED

The Commission took no action. The property remains zoned D4.

Mayor Bordman referred the issue to City Attorney Currier to determine the specific terms under which the applicant may re-apply, since the application was not denied.

Mayor Bordman recessed the meeting for three minutes. The meeting resumed at 10:48 p.m.
2. Zoning Ordinance Amendment – D5 Overlay Zoning

Planning Director Ecker summarized the history of the issue and reviewed the item.

Vice-Chairman Williams recalled the Board had previously decided not to rezone property where the property owner was not making application. He maintained that was the correct approach, explaining that if he were a property owner, he would not want his property rezoned without his knowledge or request. As a result of that consideration, the Board decided at the time not to expand the D5 designation beyond the three requesting properties. Mr. Williams said he welcomed instruction from the City Commission if they believe the issue should be approached differently.

Mr. Koseck said he agreed with Vice-Chairman Williams’ assessment, saying that from a 30,000-foot view certain buildings may seem appropriate to zone together, but that a more detailed view might find other factors to disrupt such a finding. For this reason Mr. Koseck said it was appropriate to create the zoning categories, and then to allow owners to apply to the Board for a rezoning if desired. He added that it was not spot zoning, since each application involves a methodical process for deciding whether a rezoning should be granted.

Chairman Clein requested the Board avoid comments on any previous D5 rezoning applicants, noting the matter before the Board was an ordinance amendment, not a particular rezoning consideration.

Ms. Whipple-Boyce said the building height matter seemed clear and that the Board should discuss the definitions of ‘adjacent’ and ‘abutting’. While acknowledging that she believes the Board acted appropriately when it decided not to rezone properties without a property owner’s request, she also noted that there is one property zoned differently from the buildings to either side of it, which she said was odd.

Citing Mr. Lambert’s experience with different cities and the likelihood of him having seen similar issues in the past, Mr. Jeffares asked if Mr. Lambert might be able to weigh in on the matter.

Chairman Clein said that while he did not want to ask Mr. Lambert for input on the matter this evening, he suggested that the Board could request that the Commission solicit additional services from its planning consultant to provide a small area report and some recommendations. Chairman Clein stated this would be the best approach because defining ‘adjacent’ and ‘abutting’ now could give the impression that the Board is effectively choosing which properties are eligible for possible future D5 rezoning. He said the Board may have previously erred in its use of the two words because deciding on the density and heights in question with D5 should not be done one property at a time. He said it is more appropriate to approach the issue through a plan in which a zoning area is decided, and lots are eligible or ineligible for zoning changes based on their location.

Mr. Boyle said he agreed with Mr. Jeffares’ and Chairman Clein’s inclinations to seek insight from the City’s planning consultants. Noting that this seemed to be a matter of significance for the City, he opined that it would be most appropriately addressed in the master plan.
Ms. Whipple-Boyce and Vice-Chairman Williams concurred with Mr. Boyle, Mr. Jeffares, and Chairman Clein. Vice-Chairman Williams said he would rather the master plan have an analysis of D5 zoning instead of the Board trying to solve the problem by piecemeal.

Chairman Clein said that waiting to include this in the master plan could result in the applicant not having an answer until January 2020 at the earliest. Stating he did not want that to happen, Chairman Clein recommended that the Board frame the request as a subarea plan.

Mr. Koseck said the Board could answer the issue as it is posed, noting that an adverse effect on a neighboring property is a prohibitive circumstance for granting a rezoning. He said while a consultant may ultimately be asked to study the issue, he thought the Board could also determine through discussion the questions of building height and the definitions of ‘abutting’ and ‘adjacent’.

Mr. Jeffares suggested that the Board permit D5 rezoning applications from buildings that both abut or are adjacent to other D5 buildings, and have frontage along the Woodward corridor. This would prevent every newly zoned D5 building from causing its neighbors to also be candidates for D5 rezoning, and would allow massing that echoes the buildings across Woodward in the Triangle District.

Mr. Boyle said the Board, possibly in conjunction with Staff, should define the geographical area the consultant would look at. He noted that the Board could prevent an ever-increasing D5 zone if they set the final parameters of where the zone would be permitted.

Vice-Chairman Williams asked if all the taller buildings in the Triangle District had frontage on Woodward.

Planning Director Ecker replied that the majority of the tall buildings in the Triangle District have Woodward frontage, but that she was unsure if there was a taller property one row back from Woodward behind Papa Joe’s.

Ms. Whipple-Boyce said she was supportive of asking for the planning consultant’s help in considering the issue, and said she would suggest limiting it to the Haynes, Brown, Old Woodward and Woodward Ave. area.

Chairman Clein asked Planning Director Ecker for her opinion on the possibility of requesting a small subarea study.

Planning Director Ecker said the City would benefit from further clarity on the issue, should the Commission see fit to proceed with a small subarea study, since the community is clearly divided on the issue and has been unable to reach consensus.

Mr. Koseck noted that the City has before hired consultants to provide similar input and that it was very helpful.

Chairman Clein invited comment from the applicant and their representatives.
Rick Rattner, attorney for the applicant, stated that while he understood the neighbors’ consternation at the potential D5 rezoning, the applicant meets all the requirements for getting the Zoning Ordinance changed. He said D5 zoning is an appropriate zoning for that area given the surrounding properties and the nature of the surrounding properties, including its immediate proximity to Birmingham Place. He said the applicant would like the Board to solve the definitional issues of ‘adjacent’ and ‘abutting’ in order to resolve whether the property in question could be rezoned to D5.

Chairman Clein stated the Board’s goal is to answer the applicant’s questions in the most expedient and accurate way. He asked Mr. Rattner if the applicant would be supportive of the Board’s potential request for a subarea plan from the City’s planning consultant.

Mr. Rattner said a months-long study would be a problem for the applicant. Barring that, he said a study would be useful because the applicant’s team is sure a consultant would find it appropriate to allow the applicant’s building’s rezoning to D5.

Duraid Markus, a member of the applicant team, said he would be in support of a subarea study that follows the boundaries as outlined in Planning Director Ecker’s report. He noted that a D4 as it currently sits would be higher than the Merrillwood Building, and that no other developer would likely build a D5 that could only go to the height of the Merrillwood Building when a D4 building could go higher. He said that if he were to build a D4 building, the neighbors would be adversely affected as much as they would be by a D5 building. He was in favor of a study session to decide the definitions and specific issues, noting that planning cannot always satisfy all parties.

Mr. Markus said that ultimately if the Board believes D4 is appropriate, he would proceed with a D4 building even though he believes there will be consensus that his building should be zoned D5. Emphasizing that time is of the essence, he reiterated that a small study done to the boundaries suggested would be his ideal outcome since he believes a D5 rezoning allowance would likely prevail.

Chairman Clein invited public comment.

Mr. Baller said he was disappointed to not see more members of the public present to discuss this item. He suggested that more online surveys or other opportunities to express opinions on matters like this would benefit the City. He would like to see the City soliciting and encouraging more proactive engagement beyond the people noticed within a 300 square foot radius of properties. He said that while he did not live near Mr. Markus’ building, he thought rezoning the building to D5 was a logical and appropriate thing to do.

Toni Schwartz, resident of Birmingham Place, was under the impression that the agenda item had been added to the agenda at the last minute and opined that was why there was not more public present for the discussion. She said that Birmingham Place is an entire neighborhood and that the Board is already aware of all the reasons to leave the zoning at D4. Ms. Schwartz said she was unclear why the conversation was continuing to occur when she sees the matter as clearly decided for D4 zoning.

Patrick Howe, attorney representing the Birmingham Condo Association, said he was also unaware that the item was on the agenda until this evening when he was told by his client. He
stated that ‘abutting’ and ‘adjacent’ was a question of how other possible buildings could go on the properties that were already zoned D5. He suggested that if the City publicized the question as “Is the City in favor of raising heights in the downtown district?” many more members of the public would attend the discussion. Mr. Howe said that asking the Board to determine this issue is inappropriate, and would be better done through consultation of the City’s previous and upcoming planning documents, including the master plan.

Chairman Clein returned the conversation to the Board.

Mr. Jeffares reminded those following the conversation that a D5 zoning allows the Board to have an impact on various aspects of the building through the use of a Special Land Use Permit that D4 zoning would not.

There was Board consensus to request that Planning Director Ecker go to City Manager Valentine to explain that the Board would like to tackle the matter of ‘abutting’ and ‘adjacent’ more closely, that the Board believes the City’s planning consultant may be able to quickly and inexpensively provide the City with a professional opinion regarding the Haynes, Brown, Old Woodward and Woodward Ave. area to help inform those definitions.

Vice-Chairman Williams said the City should ask their current planning consultants to conduct this subarea plan, and that he would not be in favor of enlisting a different consultant.

Chairman Clein reiterated that this is a very focused effort, not a detailed plan.
F. **Study Session Items**

1. **D5 Study Report from DPZ**

Chairman Clein indicated that he would be recusing himself from discussion of this item, as his consulting firm was recently retained by a client who owns property within the City block being discussed.

Chairman Clein recused himself and left the room at 8:12 p.m. Vice-Chairman Williams began chairing the meeting at 8:12 p.m.

Planning Director Ecker reviewed the item.

Mr. Share said it would be important to see the massing of the area if it were rezoned to D5. Mr. Jeffares concurred.

Mr. Share also said that potential ordinance language should address how streets and alleys would play into the definition of abutting. He noted that if a public alley abutting a D5 property were to be turned private, then the abutting property owner would be allowed to split the alley in half which could result in zoning creep.

In reply to Mr. Share, Planning Director Ecker stated that the SLUP process is broad enough to affect the design of the buildings in the area, since the report determined that the design of the buildings are largely more important than the height of the buildings.

Vice-Chairman Williams said he did not believe the Board has a sufficient definition of abutting, and that without a definition it would not be appropriate to set a public hearing on the issue. Vice-Chairman Williams said asking Planning Director Ecker to devise some proposed language for abutting would be an appropriate next step, with information on how other cities define ‘abutting’ to be included for the discussion.

In reply to Ms. Whipple-Boyce, Planning Director Ecker confirmed that the most challenging block in regards to defining ‘abutting’ would be around Hazel. She said that the language must be clarified to determine whether heights are measured from the shortest part of a building, the tallest part of a building, the part of a building closest to another building, or other possible aspects that could be used to determine what a building’s ‘height’ is considered to be in regards to the D5 language.

In reply to Mr. Emerine, Planning Director Ecker confirmed that the Board could use the SLUP process to affect building heights even if a building were within the D5 zone.

Board consensus was that the item was not ready to set a public hearing, that the definition of ‘abutting’ needs to be studied and determined, and that a map with massing of the maximum potential D5 height should be included in future materials for the Board’s consideration.
Vice-Chairman Williams then invited public comment.

In reply to Alice Lazatt, Planning Director Ecker explained that in order to determine the City’s definition of ‘abutting’, the Board would study and discuss the matter at a study session, come to a consensus, send the definition to the City Attorney for review, and set a public hearing at the Board level. After any revisions resulting from the study session, the Board would recommend the definition to the City Commission, the City Commission would conduct further review and a public hearing, and subsequent to the review, potential revisions, and discussion at the Commission level, the Commission would vote on whether to adopt the definition.

Michele Prentiss said she thought the study’s aim was define terms like ‘abutting’, and asked the Board why the study did not do that.

Vice-Chairman Williams said Ms. Prentiss’ understanding of the study’s aim was incorrect. He said the report determined which properties to consider for the D5 question, which was point number three. He said the Board would conduct further study on the definition of ‘abutting’.

Patrick Howe, lawyer for the Birmingham Place Condo Association, reprised the contents of his August 26, 2019 letter, which was included in the meeting’s agenda packet.

Jim Arpin asked that the Board include this study as part of the more general master planning process.

In reply to Karl Sachs, Planning Director Ecker explained that in D2-D5, buildings must be at least two stories. She also confirmed that D5 zoning is actually a bit more restrictive than D4 because a SLUP process is involved in a D5 application.

In reply to Rick Rattner, Vice-Chairman Williams said the earliest the Board would be holding a public hearing would be November, assuming they were able to reach an agreement on the definition of ‘abutting’ within the next month and then were able to set a public hearing for the month following. He said that would be the fastest the Board could proceed, but that the process could move slower.

Doraid Markus spoke as one of the principals who owns the lot next to Birmingham Place. He noted that when D5 zoning was made, the mechanism to allow adjacent or abutting buildings to request increase in heights was intentionally included at the time subsequent to immense study and discussion. He emphasized that his request to change his lot’s zoning is not out of caprice, but rather out of direct respect for the mechanism the City chose to build in to the D5 ordinance.

Mr. Howe said Mr. Markus’ assertion was inaccurate, stating that D5 was created to accommodate the three specific buildings that requested it at the time. He said the ordinance change did not involve study of the broader area in terms of zoning.

Vice-Chairman Williams stated that the City’s records will best reflect how D5 came to be and that it would not be necessary for members of the public to continue debating what review of the records will show.
Mickey Schwartz said there that while the setbacks are a positive requirement, Mr. Markus’ lot does not have sufficient room to accommodate creating a setback. Citing the power the Board has from the SLUP requirement for D5, Dr. Schwartz said that perhaps D4 zoning should require a SLUP as well. He asserted that City ordinance only sufficiently addresses the height of buildings, while disregarding matters of massing, aesthetics, or impact on the community. He noted that the consultant’s main conclusion in regards to D5 was to consider expanding the buildings it applied to, but did not actually recommend an expansion. Dr. Schwartz said this conclusion did not provide much new information to the City, and should not supercede the conversation that has been occuring in the City prior to the study’s release.

Seeing no further comment from the public, Vice-Chairman Williams advised the public that this matter would next be discussed on October 23, 2019 with additional consideration of the definition of ‘abutting’ and massing that shows the maximum height if all the buildings on the block were zoned D5.

Vice-Chairman Williams then called for a recess at 9:00 p.m.

Chairman Clein re-commenced chairing the meeting and resumed the meeting at 9:03 p.m.
G. Study Session Items

1. D5 Study

Planning Director Ecker presented the item.

Mr. Williams observed that the area north of 411 S. Old Woodward is D4 and in the parking assessment district (PAD) while the area south is not, and said that difference may be one of the factors to consider in this discussion moving forward.

Chairman Clein said Mr. Williams’ point was well-taken while clarifying that the evening’s discussion was about D5 in general and was not regarding any individual parcels.

Seeing no further Board comment, Chairman Clein invited public comment.

In reply to Mr. Arpin, Chairman Clein explained there is already a D5 ordinance in effect, and the goal of this review is to clarify the scope of that ordinance. He said the study was requested to determine whether good urban planning practices would support future rezoning requests for parcels in the area in question.

Planning Director Ecker told Mr. Arpin that the D5 study is available to the public in previous Planning Board agendas posted on the City’s website.

In reply to a request by Mr. Arpin, Chairman Clein asked that the City Manager and City Commission consider whether it might be useful to provide the D5 study on thebirminghamplan.com website as well.

Mr. Arpin shared his gratitude for the Board’s thoroughness when discussing a CIS, and expressed concern that, in his opinion, the Board was not proceeding as thoroughly when discussing potential zoning changes that would impact a three or four block area of the City.

Chairman Clein thanked Mr. Arpin for his comments.

Patrick Howe, attorney representing the Birmingham Place Condo Association, spoke. He reviewed the minutes from the February 13, 2017 City Commission meeting minutes in order to highlight the original intent of the D5 ordinance. Mr. Howe argued that the only piece of property that was both abutting and adjacent was the south strip next to the 555 Building. He noted that the entire transcript of the D5 portion of the February 13, 2017 City Commission meeting was 18 minutes long, and echoed Mr. Arpin’s assertion that more discussion is merited before an amendment to the D5 ordinance is considered.

Motion by Mr. Share
Seconded by Mr. Williams to set a public hearing for December 11, 2019 for the two proposed ordinance amendments to Article 3, section 3.04 (A) and Article 9,
Definitions, Section 9.02 as presented on pages 132 and 133 of the Board’s November 13, 2019 agenda.

Duraid Markus, owner of 469-479 S. Old Woodward, asked whether an adjacent building’s height would be calculated from the height of the closest point of a building, which could be five stories, for example, or from the highest part of a building as a whole, which could extend to nine stories on the far side of a building.

Planning Director Ecker confirmed for Mr. Markus and for Michele Prentiss that a building’s height is calculated based off of a building’s overall height, and not just the height of the closest part of the building.

Motion carried, 7-0.

VOICE VOTE
Yeas: Share, Williams, Whipple-Boyce, Boyle, Clein, Jeffares, Koseck
Nays: None
E. Public Hearings

1. An ordinance to amend Chapter 126, Zoning, of the Code of the City of Birmingham:
   To amend Article 3, Overlay Districts, Section 3.04(A), to consider amending the
   building height standards in the D5 zone of the Downtown Birmingham Overlay District;

   AND

   To amend Article 9, Section 9.02, Definitions, to add a definition for abutting.

Chairman Clein opened the public hearing at 7:33 p.m.

Planning Director Ecker presented the item.

Seeing no comments from the Board, Chairman Clein invited public comment.

Duraid Markus said he would like to see it specified that height refers to the highest point of an
entire building, as opposed to the highest point of a setback or the highest point of the nearest
part of a building.

Planning Director Ecker confirmed for Chairman Clein that the Zoning Ordinance already defines
height as the highest point of a building. She said this can vary for single family homes and mixed-use properties.

Motion by Mr. Share
Seconded by Mr. Williams to recommend approval to the City Commission for the
amendment of the following sections of the Birmingham Zoning Ordinance: 1. Article
3, Overlay Districts, section 3.04(A) to amend the building height standards in the D5
zone of the Downtown Birmingham Overlay District; and 2. Article 9, Definitions,
section 9.02 to add a definition for the term abutting.

Motion carried, 7-0.

VOICE VOTE
Yeas: Share, Williams, Boyle, Clein, Jeffares, Whipple-Boyce, Koseck
Nays: None

Chairman Clein closed the public hearing at 7:39 p.m.
August 26, 2019
Birmingham Planning Board:

I write to you regarding the process by which the Planning Board has asked the current planning consultants to conduct a sub area plan with respect to D5 zoning.

At the July 10, 2019 Birmingham Planning Board meeting, the Board requested the planning director to go to the city manager to explain that the board would like to tackle the matter of “abutting and adjacent” more closely and that they believe the city Master Planning Consultants may be able to quickly and inexpensively provide the city with a professional opinion regarding the Haynes, Brown, Old Woodward and Woodward Avenue area to help inform those definitions.

I write this letter as a Birmingham Citizen in strong opposition to the process. After careful thought, I do not believe that a reasonable scope of work can be done inexpensively or quickly.

As proposed, the mandate to the planning consultants is extremely limited and will not clarify any of the controversy regarding the proposed development project at 449 South Old Woodward.

The controversy involves rezoning a plot of land to D5 which cannot be addressed in a short term limited study. As proposed, the consultants will have a limited amount of resources to make recommendations. 1½ days are allocated to diagramming and analysis. 7/8 of a day for independent opinion and combined recommendation, and slightly less than 1 day for assemble of study and recommendations. This issue has been before the Board and City Commissioners for over a year. Reviewing the minutes and multiple legal arguments (on both sides) will take considerably more effort than the proposed contract. Most importantly, there is no public input into this process. This flies in the face of open government.

The essence of this controversy regards a request for D5 rezoning for a very specific project. There is no way that consultants can accurately comment on this in the proposed short period of time.

How the question to be addressed by the Consultants is critical to a fair process. By limiting the scope of their work to the area in question creates an unnecessary bias. An alternative (and reasonable) suggestion is to ask the Consultants if Birmingham should have more tall buildings than the D4 zoning allows and if so where? It does not take much imagination to realize that this is an extremely complex issue.

The specific issues revolving around the property in question have everything to do with the legal history of the creation of D5 as a means to allow nonconforming buildings to remodel and not to provide a loophole for Developers to turn Birmingham into Troy. The impact of taller structures on adjacent property needs more than a brief review. A few days’ work is unrealistic.
At the July 10 meeting, Mr. Boyle suggested limiting the subcontract to the proposed area to prevent an ever increasing D5 zone. While an excellent suggestion, it may not limit future attempts to rezone. If this rezoning occurs, there is no way to stop the moving train of Developers seeking to maximize profits by building higher building at a great loss to this wonderful community. The essence of our first-class community is the upscale small town concept, not the urban sprawl of Southfield or Troy.

The Developer emphasized that time is of the essence. By rushing through a process that requires considerable due diligence, a poor outcome for all parties is guaranteed. Asking consultants to form a quick opinion on whether 1 property show be rezoned is fraught with problems and only adds to the conflict.

I am not opposed to development in downtown Birmingham. In fact, I was most disappointed that the parking structure bond did not pass and the RH project which could have been a great magnet for new money into downtown Birmingham will not see the light of day.

However, I am strongly opposed to building the largest construction project in downtown Birmingham on a small property which risks damage to adjacent and adjoining structures, along with congestion, noise, parking problems, etc. That project would also close Hayes Street which is a much-used neighborhood street for the years of construction.

I respectfully request the City Commissioners to terminate the proposed sub contract. Perhaps the consultants should address the question as to whether or not Birmingham should have any more buildings that exceed D4 regulations. I hope not.

Michael L. Schwartz, MD
411 South Old Woodward #1018
Birmingham, MI 48009
August 26, 2019

VIA EMAIL & HAND DELIVERY

City of Birmingham Planning Board  
c/o Ms. Jana L. Ecker  
Planning Director  
City of Birmingham  
151 Martin St.  
Birmingham, MI 48012

Re: Objection to DPZ Proposal to Study D5 Properties in Birmingham

Dear Members of the Planning Board,

This firm represents Birmingham Place Master Condominium Association, which is comprised of various owners and occupants of the Birmingham Place mixed use building located at 411 S. Old Woodward. The undersigned was present at the July 10, 2019 Birmingham Planning Board (the “Board”) meeting, wherein the Board considered a request from the owner of 469-479 S. Old Woodward Ave. (the “D5 Applicant”) to amend the City of Birmingham Zoning Ordinance to address the following: (i) clarify building height standards within the D5 zone, (ii) clarify the meaning of the words “immediately adjacent and abutting”, and (iii) determine the properties to which the D5 overlay classification should be applied in Downtown Birmingham within the area bounding by Haynes, Brown, Old Woodward, and Woodward Ave. The Board declined to address these questions at the July 10th meeting, and Chairman Klein noted that it would be inappropriate to address these questions in the context of a single property or project when he stated:

“I think determining which parcels should be allowed to go up to densities and heights and massing of this nature, is not properly done through simple rezoning on a one by one basis. It is done by doing a downtown plan, it is done looking at this region and saying that lot should be there; we don’t have to do it now, but it is eligible because we think it should be, and if the owner wants to come forth and do it they should be allowed to.” (July 10, 2019 Planning Board Video, 1 hr. 43 min. mark).
The Board directed City Planner, Jana Ecker, to obtain a proposal from planning firm, DPZ CoDesign ("DPZ"), which is currently updating the City of Birmingham Master Plan, to provide guidance on the questions presented by the D5 Applicant. Specifically, the Board wanted DPZ to provide a “subarea plan” for the downtown area bounded by Haynes, Brown, Old Woodward, and Woodward Ave. DPZ submitted a proposal to the City on July 25, 2019, which is attached as Exhibit 1 (the “DPZ Proposal”). The purpose of this letter is advise the Board of our client’s objection to: (i) the scope of the DPZ Proposal, and (ii) the Board’s reliance on any recommendations from DPZ related to the questions presented by the D5 Applicant, or any “subarea plan” provided by DPZ, which are prepared without the same outreach, public engagement, and citizen input that has been (and will be) afforded to City residents and stakeholders during the ongoing City Master Plan creation and implementation process.

For some reason, it appears that the Board feels that it owes the D5 Applicant an expedited “subarea plan” to address the D5 Applicant’s questions. This Board and the City need to slow down, and let the City’s master planning process takes its course. Just because the D5 Applicant asked the Board to address certain questions about the D5 Zoning Ordinance, does not mean that the Board has to immediately engage a third party consultant to address them. **The sole question before the City is whether it is appropriate to increase the permitted building height in downtown Birmingham above 5 stories.** That is the only question that the D5 Applicant wants addressed, and that is essentially the only question that DPZ will be addressing in a “subarea plan.” This is exactly the type of question that should be addressed in a master plan. Why the Board believes that this vitally important question needs to be addressed outside of the ongoing master plan process is simply without explanation.

With respect to the DPZ Proposal itself, the scope outlined by DPZ does not reflect the charge issued by the Board. The DPZ Proposal states that DPZ will “make recommendations as to which properties should be considered for rezoning to D5 given their proximity to properties with existing buildings over 5 stories in height.” This scope makes it appear that there is consensus among the Board (and presumably all stakeholders), that new buildings in downtown Birmingham should exceed 5 stories, and DPZ now needs to tell us which properties are eligible. This assumption is wrong and misleading. The Board, City Commission, residents and stakeholders have not been afforded an opportunity to thoroughly discuss increasing building heights above 5 stories generally, along with all the associated consequences of increasing building heights. Our client believes (and the current City zoning ordinance clearly states), that 5 stories is the appropriate height for all new construction in downtown Birmingham. DPZ should begin any study that it completes, whether as part of the City Master Plan, or a “subarea plan”, with this same assumption. To assume otherwise is wrong, and is not supported by any formal action or position taken by the Board, the City Commission, or the City’s residents and stakeholders.

If the City decides to engage DPZ to prepare a “subarea plan”, our Client adamantly objects to the Board’s reliance on it in any respect unless it is created with the same outreach, public engagement, and citizen input that has been part of the ongoing City master planning process. To turn the vitally important question of increased building
heights in downtown Birmingham over to a third party consultant for a recommendation, while skipping the public engagement component of the planning process (which is not mentioned anywhere in the DPZ Proposal), flies in the face of planning best practices, and may produce a recommendation that is completely contrary to what actual City residents and stakeholders deem appropriate. We urge you to not create a “subarea plan” for the area in question, but to address the question of increased building heights in the updated Master Plan that is currently in process. If you authorize DPZ to create a “subarea plan” for the area in question, you must require DPZ to complete a thorough public engagement process similar to what it designed and completed for the update of the City Master Plan.

We appreciate you taking the time to consider our client’s position with respect to this important matter, and look forward to further discussing this matter with the Board at an upcoming Board meeting.

Very truly yours,

JPHOWE, PLLC

J. Patrick Howe

cc: Birmingham Place Master Condominium Association
INTRODUCTION:
Dick O’Dows Irish Pub was the first restaurant in Birmingham to open an outdoor dining patio in front of their establishment in an on-street parking space. Their custom made patio platform was installed in 2007, and has been in continuous use during the warmer months since that time.

BACKGROUND:
The City of Birmingham completed Phase 1 of the Maple and N. Old Woodward reconstruction project in the summer of 2018. This coming summer, the City plans to complete a reconstruction of Maple Road extending from the limits of Phase 1 west to Southfield Road, and from the limits of Phase 1 east to Woodward Avenue. As a result of this ongoing construction, Dick O’Dows restaurant will not be able to continue using their outdoor dining platform on Maple.

On December 16, 2019, the owner of Dick O’Dows attended the City Commission meeting and requested approval to use the rear of his property at 160 W. Maple for outdoor dining temporarily during the 2020 outdoor dining season due to construction on Maple Road. The applicant sent in a letter requesting an expedited review of the proposed temporary outdoor dining, and requested that the City waive the Special Land Use Permit ("SLUP") application fees, as the request was the result of construction disruption.

The owner has now submitted an application for a SLUP Amendment to temporarily relocate the outdoor dining area to the rear of the building adjacent to “The Dow” space, on private property adjacent to the Willits via. This matter is scheduled to be reviewed by the Planning Board on February 26, 2020.

LEGAL REVIEW:
The City Attorney has reviewed the proposed schedule and has no concerns.

FISCAL IMPACT:
There are no fiscal impacts that will occur if the above review schedule proposed by the Planning Board is approved.
PUBLIC COMMUNICATIONS:
Prior to the application being considered by the Planning Board on February 26, 2020, the Planning Division will send out notices to all property owners and tenants within 300’ of 160 W. Maple seeking public comment on the proposal. This process will be repeated by the City Clerk’s Office when the matter is scheduled before the City Commission for final approval.

SUMMARY:
The owner of Dick O’Dows restaurant is requesting a SLUP Amendment to temporarily locate their outdoor dining at the rear of the building adjacent to the Willits via for the 2020 outdoor dining season. The applicant is further requesting that the City Commission waive the application fee for the SLUP amendment, and expedite processing of the SLUP application to allow the relocated outdoor dining area to open at the beginning of the outdoor dining seasons on April 1, 2020.

ATTACHMENTS:
- Letter from Applicant
- Existing Storefront and Patio on W. Maple
- Maple Road Construction Plans for W. Maple in front of Dick O’Dows

SUGGESTED RESOLUTION:
To approve the applicant’s request to waive the application fees and expedite the request for a SLUP Amendment for Dick O’Dows at 160 W. Maple to allow the applicant to temporarily relocate the outdoor dining area at the rear of the building during the 2020 outdoor dining season.
Mitch Black  
160 West Maple  
Birmingham Mi. 48009  
11-21-2019

Birmingham City Council  
Birmingham, Mi. 48009

Dear Birmingham Commission,

I am submitting this letter in regard to the upcoming road construction on Maple Road this spring and summer of 2020. I have been a part of the Birmingham community for over 23 years. Over that period of time I have witnessed many exciting and positive changes in the city. As a small business owner, it has not always been easy with many economic and competitive challenges. When Old Woodward was redone in the summer of 2018, we were the only restaurant with a dining platform that was affected. We are unique in the fact that we are the only restaurant in Birmingham that will be as adversely affected by this upcoming for two out of three summers. We are also unique in the fact that we own property at the rear of the building that is currently designated by planters. Given our unique circumstances, I am respectfully requesting your consideration during the 2020 construction project on Maple Road to temporarily allow use of our private property to relocate our outdoor dining.

This spring will be equally if not more challenging as there are even more options for summer outdoor dining. With the opening of the Dow space in the rear of the pub we have been able to clean and revitalize our rear entrance. We would like the City to consider relief from the upcoming construction by allowing us to place tables on our property on a temporary basis. We are not currently allowed to use this space and I would like you to consider the normal cost and fees consistent with the application process be waived and allow us to operate next summer on our property, The request would give us the chance to further enhance the alley that has been the goal and vision of the city plan, but also allow some accommodation for the challenges this project will bring.

We are also faced with the real possibility of having to replace our dining platform with the changes in the curb and sidewalk area that would be consistent of rebuilding the
road. We anticipate that our current platform will require at minimum rebuilding and the real likelihood of complete replacement at significant cost.

I feel that we have been an important part of the downtown experience and we value our role in the community. By allowing us to use the property at the rear would allow us to remain competitive in the summer months and as a small business I am trying to be as proactive as possible in light of expected challenges ahead. Thank you for the consideration and look forward to being and part of the fabric of Birmingham for the next 20 year. We are not asking you to forgo the usual application process only an exception to allow us an equal competitive basis with other legacy licenses and newly developed bistros as we prepare for the much needed infrastructure and beautification project that is planned in 2020.

In closing here is the specific requests that I would like you to consider

1. The temporary use of owned property at the rear of 160 West Maple for the spring and summer of 2020 for the placement of outdoor dining
2. Waive fees associated with application process
3. Understanding that this is only a temporary request that can be revoked at any time

Thank you for your consideration and allowing Dick O’Dow’s to be a part of our great community.

Best,

Mitch Black

Dick O’Dows Irish Pub and The Dow
MEMORANDUM

Department of Public Services

DATE: January 6, 2020

TO: Joseph A. Valentine, City Manager

FROM: Lauren A. Wood, Director of Public Services

SUBJECT: 2020 Lead and Copper Compliance Testing - Sampling and Lab Services

INTRODUCTION:

As part of our lead testing initiative, the City of Birmingham plans to begin lead and copper sampling all of its 731 identified sites with lead service lines, in the public right-of-way and/or on private property as soon as feasible. The purpose of beginning this extensive water-testing program is to allow us to evaluate the results of the lead locations to determine an overall plan and schedule for replacing the lead service lines for short-term and long-term planning.

The City of Birmingham has an existing contract with HydroCorp, Inc. for our Cross Connection Control Program, since 1998, and we requested a proposal from them to assist with the sample collections at individual homes located within the City of Birmingham. By way of the cross connection background, the Michigan Department of Environment, Great Lakes and Energy (EGLE) requires all communities to maintain a comprehensive cross connection inspection program to provide a safe potable water system. HydroCorp performs the inspections for the City’s commercial and industrial buildings to prevent backflow into the City’s water supply system causing contamination.

Rather than HydroCorp only conduct the required sampling of sixty (60) sites during the first six months of 2020 they provided us pricing for all 731 locations with lead service lines. The cost of each sampling event includes scheduling of sample sites, delivery and pick-up of sample bottles and delivery/processing of samples to Paragon Labs. Paragon Laboratories is a certified lab with the State of Michigan. Not only does HydroCorp use this lab for the lead and copper compliance testing program, but also the City of Birmingham used Paragon Labs during the testing last year.

We requested pricing for the lab work from Paragon Laboratories and Oakland County for this upcoming project. The lead and copper samples (1st and 5th liter draw) shall be collected and analyzed consistent with the State of Michigan Lead and Copper Rule/Compliance Program. The price from Paragon Labs is $41.00 per site. They are equipped to receive samples from at least thirty (30) sites per day. The price from the Oakland County Health Division is $48.00 per site. Oakland County can only accept samples from fifteen (15) sites per day. HydroCorp provided pricing under both lab scenarios: $48.00 per site to submit to Paragon Labs and $58.00 per site to submit to the Oakland County lab. HydroCorp estimates it will take approximately 5-6 weeks to complete the field sample collections using Paragon Labs and estimates it will take 12-13 weeks using Oakland County lab.
BACKGROUND:
The Michigan Department of Environment, Great Lakes and Energy (EGLE) added the new water sampling rules to better detect possible lead in drinking water. These new sampling requirements will result in higher lead results, not because the water source or quality for residents has changed, but rather because the Michigan Safe Drinking Water Act has created more stringent sampling procedures and analysis. After conducting lead testing of 32 sites during September 2019 five (5) of the thirty-two (32) sites tested exceeded the action level based on the new water sampling rules.

Because the City of Birmingham exceeded the action level during the testing last year, we want to expedite the testing of the identified lead service line locations to achieve compliance as soon as reasonably feasible.

LEGAL REVIEW:
The City Attorney will be reviewing the 2020 Lead and Copper Compliance Testing Proposal from HydroCorp as part of this report.

FISCAL IMPACT:
An amendment to the fiscal year 2019-2020 Water Fund is necessary for the expenditures related to this project. Funds will be available in the 2019-2020 budget Water Service – Other Contractual Services account #591-537.005-811.0000. Once the project begins, the expected duration is approximately 5-6 weeks.

PUBLIC COMMUNICATIONS:
The City of Birmingham will be sending a letter to the affected residents informing them of this upcoming project and that HydroCorp will be sending letters to them to arrange for the testing. In addition, the City website will have information and updates during the course of this project. Other social media methods will launch during this time as well. Included in the next communication to the 731 sites will also be information about the City of Birmingham providing a faucet filter to each site.

SUMMARY:
The Department of Public Services recommends approving the 2020 Lead and Copper Compliance Testing proposal with HydroCorp, Inc. and lab services with Paragon Laboratories in the amount of $48.00 and $41.00 per site; respectively. During the past monitoring period, our samples were sent to Paragon Labs, which provided good timely service compared to other labs. We do not have any experience with the Oakland County lab.

HydroCorp has the ability to handle more samples on a daily basis than Oakland County can receive each day. This is strictly based on the quantity of samples that can be handled each day for drop off at the Oakland County Health Division versus at Paragon Labs. Therefore, the project duration will take about twice as long using Oakland County because of this reason. The collective costs do increase by $12,427 if the City selects the HydroCorp proposal using the Oakland County lab. Otherwise, the advantage for the City of Birmingham is a reduced project duration and lower total project cost by approving this recommendation.
Whether we sampled 731 sites or 60 sites, we would recommend using HydroCorp. Last year we requested pricing from HydroCorp for 60 sites and the proposal from them was at a cost of $147.50 per site. This did include lab fees and, of course, the quantity was much smaller compared to the current project scope. Not only do we have an existing contract with them for other water services which gives them extensive community knowledge and experience, they provide a turnkey system for the lead and copper compliance testing. The City has a long-standing positive experience with them; they are local and experts in this business.

Based on the above background information; therefore, it is determined no advantage will be gained by the City bidding out these services. Therefore, no competitive bids were obtained for the sampling services.

ATTACHMENTS:
- HydroCorp Proposal
- Paragon Laboratories Quote
- HydroCorp Insurance Certificate

SUGGESTED RESOLUTION:
To approve the 2020 Lead and Copper Compliance Testing Sampling proposal from HydroCorp, Inc. using Paragon Laboratories at the cost of $48.00 per site for a total amount not to exceed $35,088.00; and to approve the quote from Paragon Laboratories at the cost of $41.00 per site for a total amount not to exceed $29,971.00, contingent upon receipt of proper insurance. Further, to waive the formal bidding requirements. In addition, to approve the appropriation and amendment to the fiscal year 2019-2020 Water Fund budget as follows:

**Water Fund**

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<th>Revenues:</th>
<th>Draw from Net Position</th>
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</thead>
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<tr>
<td>Total Expenses</td>
<td></td>
<td>$65,059</td>
</tr>
</tbody>
</table>
January 6, 2020

City of Birmingham
Lauren Wood
Director of Public Services
851 S. Eton Road
Birmingham, MI 48009

RE: 2020 LEAD AND COPPER COMPLIANCE TESTING – SAMPLING PROPOSAL

Dear Ms. Wood:

In accordance with the information provided by the City of Birmingham, HydroCorp, Inc. has assembled a proposal to assist in complying with the monitoring requirements for lead and copper per the Michigan Department of Environment, Great Lakes & Energy (EGLE) and United States Environmental Protection Agency (USEPA).

HydroCorp will assist with performing sample collections at individual homes located within the City. The cost of each sampling event includes scheduling of sample sites, delivery and pick up of sample bottles, and delivery/processing of samples to Paragon Labs. This project may be initiated and scheduled with the issuing of a Purchase Order to:

HydroCorp, Inc. 5700 Crooks Rd, Suite 100 Troy, MI 48098

I will be in contact with you soon. In the interim, should you have any questions or require any additional information, please feel free to call me at (248) 250-5022. We look forward to working with you and your associates!

Sincerely,

Paul Patterson, HydroCorp
Proposal

City of Birmingham
Lauren Wood
Director of Public Services
851 S. Eton Road
Birmingham, MI 48009

Executive Summary/Cost Proposal 2
Experience 3
Scope of Work 4
General Terms & Conditions 5
Additional Considerations 6

“Our Goal is Cost-effective Compliance”
Executive Summary

The City of Birmingham has requested that HydroCorp assist in the scheduling, collection and delivery of lead and copper drinking water samples. The samples shall be collected and analyzed consistent with the State of Michigan Lead and Copper Rule/Compliance Program.

Cost Proposal

<table>
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<tr>
<th>Project Name:</th>
<th>Water Quality Testing</th>
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<tr>
<td>Project Type:</td>
<td>Lead and Copper Testing</td>
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<tr>
<td>Proposal Date:</td>
<td>January 6, 2020</td>
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<tr>
<td>Valid Through:</td>
<td>June 30, 2020</td>
</tr>
<tr>
<td>Prepared By:</td>
<td>Paul Patterson</td>
</tr>
</tbody>
</table>

Collect up to seven hundred eighty- (780) Lead and Copper Samples, and submit to Paragon Labs:
- Requires at least two- (2) week notice prior to sample collection
  - Tier 1 Site Sampling (1st and 5th Liter Draw) - $48.00 per site, per sampling event.
  - The above costs include travel to and from the sample location, HydroCorp personnel delivering and collecting the sample bottles and delivering all collected samples to Paragon Labs for processing. Paragon Labs will invoice the City of Birmingham directly for all associated lab fees, and report results directly to the City.
  - HydroCorp estimates it will take approximately 5 to 6 weeks to complete the field sample collections.

Fine Print
1. The terms and conditions pertaining to this and other project proposals are contained in the General Terms and Conditions section included in this, and every, HydroCorp, Inc. proposal.

2. Specific project requirements are detailed in the Additional Considerations section of this proposal.

Approval: _______________ Client  _____________ HydroCorp
Experience

Glenn Adamus, COO

Mr. Adamus has been with HDI for over fifteen years and is responsible for all field operations. He is conversant in Federal, State and industry drinking water regulations/guidelines as they apply to water quality control and maintenance practices. Mr. Adamus holds a B.S. in Biochemistry and a Master of Science Degree in Environmental Science from the University of Michigan – Dearborn, performing research on water system contamination-forensic modeling techniques. He has performed and managed various water quality analysis projects related to process water and potable water systems including Stage 2 DBPR, Lead and Copper Rule, water distribution system/quality characterization studies, water main/system disinfections, legionella risk assessment and monitoring, and industry compliance monitoring. He has also performed and managed numerous cross connection control surveys/projects for large industry and public water systems throughout the United States.

Glenn has conducted and developed numerous training programs, to include the following:

- Michigan Department of Environmental Quality (MDEQ) - Cross Connection Control - Basic Training
- MDEQ Advanced Cross Connection Control Training – (Food Establishments, Complex Facilities)
- MDEQ Cross Connection Control Training – CCC Plan Development
- Michigan Rural Water Association – MDEQ Cross Connection Control Report Training
- Industry Cross Connection Control and Water Quality Training (Honeywell, Ford, Chrysler Corporation) – Basic Cross Connection Control Field Training
- Delaware Rural Water Association - 40 Hour Cross Connection Control Surveyor and 40 Hour Backflow Prevention Assembly Testing Training Courses

In addition to his field experience, Mr. Adamus has the following certifications and membership affiliations:

University of Wisconsin Madison – College of Engineering

- Cross Connection Control and Backflow Prevention Assembly Testing Certificate
- Cross Connection Control Surveyor Certification

American Society of Sanitary Engineering

- Accredited Backflow Prevention Assembly Tester Course (5110) Instructor and Proctor
- Accredited Cross Connection Control Survey Course (5120) Instructor and Proctor
- Accredited Cross Connection Control Program Management Course (5150) Instructor and Proctor
- Backflow Prevention Program Manager (5150) Certification
- Backflow Prevention Assembly Tester (5110) Certification

Michigan Department of Environmental Quality

- Michigan Department of Environmental Quality (MDEQ) Water Bureau, Certified Construction Site Storm Water Operator Certification
- Michigan Department of Environmental Quality (MDEQ) Water Bureau, Certified Industrial Site Storm Water Operator Certification

Professional Memberships

- Member - American Water Works Association (AWWA)
- Member - Michigan Industrial Hygiene Society (MIHS)
Scope of Work

Based on our current understanding of this project, our services will be as follows:

1. Collect lead and copper samples on dates and times approved by the City. The City of Birmingham will approve the date/time of sampling and will provide a list of sample sites.

2. HydroCorp will submit letters to selected sample sites requesting the homeowners to agree to collect samples in accordance with specific sampling instructions as provided by the Michigan Department of Environment, Great Lakes and Energy (EGLE) website. All letters sent by HydroCorp on behalf of the City shall be reviewed and approved by a City representative prior to delivery. Upon homeowner response, HydroCorp will schedule a specific date for the required sampling event and supply sample collection instructions for the home/facility owner. HydroCorp will make every attempt to ensure the samples are collected in accordance with EGLE lead and copper sampling requirements.

3. For homes that are not able to be accessed on the predetermined sampling date, HydroCorp shall make one-(1) additional attempt to coordinate sample collection for any remaining homes.

4. All water samples will be collected by HydroCorp and delivered to the Paragon Labs.

5. All data will be submitted directly from Paragon Labs to the City of Birmingham. The City will be responsible for forwarding all lab results to homeowners as required.

6. HydroCorp shall maintain a copy of all homeowner signed EGLE sample collection sheets, and all lab chain of custodies.

7. Any additional reporting requirements will be the responsibility of the City of Birmingham.

8. The cost of each sampling event includes time, travel, and materials.
General Terms and Conditions

1. **Acceptance and Scheduling**: This project can be initiated and scheduled upon receipt of a Purchase Order Release to HydroCorp, or receipt of an executed copy of this document.

   *You will be contacted within five (5) working days of order (i.e. release) receipt.*
   *The project will be scheduled accordingly as instructed by the City of Birmingham.*

2. **Primary Contacts**: Paul Patterson shall be your Primary Contact Person at HydroCorp. He must approve all issues relating to pricing, status inquiries, and production related issues.

   Lauren Wood shall be the Primary Contact Person at the City of Birmingham. All issues relating to project approvals, project status inquiries, project changes and other related issues must be approved by Lauren Wood.

   Should either primary contact person change it shall be the responsibility of each primary contact to notify the other primary contact person, in writing, to advise the contact information for the new primary contact person assigned to the project.

3. **Project Status Inquiries**: A Project Manager will be assigned after the project is accepted by HydroCorp. Status Inquiries should be directed to your Project Manager. In the event the Project Manager is unavailable when you call please also feel free to contact me. Every effort will be made to respond to Status Inquiries in a timely basis.

4. **Cost Projections**: HydroCorp reserves the right to halt production if the actual project cost is expected to exceed the proposed amount, as a result of new information, additional work, or a change in scope, that is not specifically the fault of HydroCorp. Approval for the project may then be directed to Lauren Wood.

5. **Payment**: Payment for all HydroCorp projects are payable in U.S. funds (30 days).

6. **Client Confidentiality**: All communication between HydroCorp and the City of Birmingham regarding business practices and other methods and forms of doing business will be considered confidential.

7. **Client Protection Plan**: The City of Birmingham may terminate this agreement at any time. The City representative will be required to submit this request to HydroCorp, Inc. in writing. A final reconciliation of services rendered up to the date of termination will then be submitted to the City of Birmingham.

8. **Client Responsibility**: The City of Birmingham must provide accurate sample locations and date information with respect to collecting the samples.
Additional Considerations

1. HydroCorp has generated this proposal based upon our knowledge of the lead and copper rule program for the City of Birmingham. If there are any modifications to the scope of work, additional funds may be required.

2. HydroCorp will provide all “basic” safety equipment (safety glasses with side shields (ANSI 12-87), steel toe safety shoes (ANSI Z-41), ear plugs, safety vest and hard hats (if required)). If additional safety equipment or apparel is required, then the City shall provide it.

3. HydroCorp Hours of Work: This proposal cost is based on all work being performed during straight time, 6:00am to 6:00pm, Monday thru Friday.

4. HydroCorp representatives will not enter confined spaces.

5. HydroCorp representatives will not risk injury. We practice safe work habits.

WE LOOK FORWARD TO CONTINUING OUR PARTNERSHIP!

CORPORATE MISSION STATEMENT
We keep drinking water safe!
We make people aware of the inherent risks & associated compliance issues related to water distributions systems.
Our goal is cost-effective compliance.
<table>
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<tr>
<th>Line Item #</th>
<th>Quantity</th>
<th>Type of Analysis</th>
<th>Sample Type</th>
<th>Method Reference</th>
<th>Unit Cost [a]</th>
<th>Total Extended Cost</th>
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<td>EPA 200.8</td>
<td>$ 41.00</td>
<td>$ 30,750.00</td>
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Total Cost: $ 30,750.00

Notations

[a] SAMPLE CONTAINERS - Paragon Laboratories, Inc. will provide sample containers at no additional cost. 48 Hour notice is required for bottle order fulfillment. Shipping charges may apply.
[b] SUBCONTRACTED PARAMETERS - Paragon utilizes MDEQ drinking water certified subcontract laboratories for parameters denoted with a † symbol in this quotation.
[c] MDEQ DRINKING WATER CERTIFICATION - MDEQ does not offer certification for procedures marked with a * symbol.
[d] ALL OTHER REQUESTS - For all requests not covered by this quotation or other active quotations issued to the client, Paragon Laboratories, Inc. will invoice the client at current list fees for work performed.
[e] STANDARD TERMS - Unless otherwise specified in this quotation or other offer documents, all conditions specified in the Standard Terms document in effect at the time of service will be enforced.
**CERTIFICATE OF LIABILITY INSURANCE**

**PRODUCER**
Brown & Brown of Detroit  
35735 Mound Road  
Sterling Heights, MI 48310

**INSURED**
Hydro Designs Inc. dba HydroCorp  
5700 Crooks Rd., Ste. 100  
Troy, MI 48098

**INSURER(S) AFFORDING COVERAGE**
- **INSURER A:** The Cincinnati Specialty Underwriters Insurance Company  
  NAIC #: 13037
- **INSURER B:** Ohio Security Insurance Company  
  NAIC #: 24082
- **INSURER C:** Scottsdale Insurance Company  
  NAIC #: 41297
- **INSURER D:** Hiscox Insurance Company Inc.  
  NAIC #: 003030

**COVERAGES**

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**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES**

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 is primary subject to the policy conditions.

**CERTIFICATE HOLDER**
City of Birmingham  
PO Box 3001 151 Martin  
Birmingham, MI 48012

**CANCELLATION**

Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**AUTHORIZED REPRESENTATIVE**

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INTRODUCTION
Public comment is an important part of public meetings. Public meetings are meetings of the public body to conduct its business. During these meetings, the public has the opportunity to comment on agenda and non-agenda items. The City of Birmingham currently places the public comment section at the end of the agenda for commission meetings and allows the public to comment on each agenda item as they occur. A review of other Michigan cities found that they hold public comment period various points in their meetings depending on each community’s dynamic.

BACKGROUND
At the December 9, 2019 meeting, the Commission asked for research regarding the placement of open public comment on the agenda considering pros and cons and best practices.

RESEARCH
Research was conducted by evaluations of Birmingham’s Rules of Procedure, the Michigan Open Meetings Act, other communities’ practices, best practices, and pros and cons.

The City of Birmingham’s Rules of Procedure for citizen participation state:
“During any City Commission meeting, any person may question or comment upon any specific agenda item at the time the City Commission considers that item.

The public shall also be invited to make comments on any item not on the meeting agenda under the agenda item, “Meeting Open to the Public for Items Not on the Printed Agenda.”

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

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

If any person becomes loud or unruly, the presiding office may rule that person out of order and may forfeit that person’s opportunity to speak further. A person may also be expelled from the meeting for breach of the peace.”
The State of Michigan’s Open Meetings Act Handbook (2019) states:
“Timing of public comment—a public body has discretion under the OMA when to schedule public comment during the meeting. Thus, scheduling public comment at the beginning or the end of the meeting agenda does not violate OMA. The public has no right to address the commission during its deliberations on a particular matter.”

The State of Michigan’s Open Meetings Act Handbook also lays out the state laws regarding public hearings. Per the State of Michigan regarding public hearings, municipalities:
• may choose the timing of open comment during public meetings
• may not limit the total time allowed for public comment
• may limit the amount of time given each individual speaker
• may encourage groups to choose an individual to address the public body

After reviewing commission and council meeting agendas from 31 cities in Oakland County and 15 other Michigan cities, it was found that there is no consensus as to the placement of public comment. Each community placed public comment sessions at different points in their agendas based upon their unique political dynamics and cultures.

Seventeen cities hold public comment periods in the middle of meetings. The public comment portion of these meetings followed the consent agenda but preceded new business and presentations.

Fourteen cities place public comment at the beginning of meetings. These cities open for public comment following introductory items such as roll call and the approval of minutes but prior to addressing the consent agenda.

Ten cities, including Birmingham, place public comment at the end of their meetings.

Five cities, Grand Rapids, Grosse Pointe Shores, Lansing, South Lyon and Troy, offer two public comment times: one to comment upon any agenda item and one for open comments. These cities only allow public comment to take place during the two comment periods rather than during business discussions. While this commenting structure is uncommon for the reviewed cities, it is legal under the State of Michigan Open Meetings Act which states “The public has no right to address the commission during its deliberation on a particular manner.”

Per the State of Michigan’s Open Meetings Act, municipalities may not limit the total time allotted to public comment because that may eliminate an individual’s ability to address the commission. The State does allow commissions to set rules that limit the amount of time that a person has to speak. In Oakland County, twelve cities limit an individual to three minutes to address their public body, while three cities (Farmington Hills, Northville, and Wixom) limit individuals to five minutes. Six of the other reviewed cities also limit comment to three minutes. A visible timer may be used to help speakers monitor their remaining time.
## Placement of Public Comment on Meeting Agendas

### Oakland County Cities

<table>
<thead>
<tr>
<th>City</th>
<th>Beginning</th>
<th>Middle</th>
<th>End</th>
<th>Time Limit (Minutes)</th>
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### Sampling of Other Communities

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BEST PRACTICES
The purpose of commission meetings is for the public body to conduct business. The public is encouraged to offer input during the commenting period but the government body has responsibility for decision making about business. Ann Macfarlane, Professional Registered Parliamentarian and owner of consulting group Jurassic Parliament, has authored best practices for public meetings (See attached). She recommends that commissioners actively listen to public comment and show interest through their body language. Commenters should be thanked for their input but commissioners should not engage in back-and-forth discussions with commenters. This allows for the meeting to move quickly and focuses the commission on its business agenda.

Ann Macfarlane, PRP, recommends making the rules and guidelines for public comment very clear. These guidelines can include time limits, name and address policies, and expectations for civil conduct while speaking. Five Oakland County cities (Keego Harbor, Novi, Oak Park, Orchard Lake, and Wixom) include their rules for public comment on each agenda. Ann Arbor, Lansing, Grosse Pointe, Plymouth, and Sterling Heights also include guidelines in their agendas. Public comment is limited in each of these cities and is clearly stated in their agendas. Adding such language to the public comment section should be included as a best practice.

The following are examples of guidelines set forth in other cities’ agendas:

Keego Harbor
Keego Harbor City Council welcomes public comment limited to three (3) minutes, on items that do not appear on the printed agenda. In accordance with its Meeting Conduct Rules, the Council will take no action on or discuss any item not appearing on the posted agenda. Exceptions may be made at the discretion of the chair. The public can speak to agenda items as they occur when the presiding officer opens the floor to the public. When recognized by the presiding officer, please step to the microphone, state your name for the record, and direct all comments or questions to the presiding officer.

Novi
AUDIENCE COMMENT – In order to hear all citizen comments at a reasonable hour, the City Council requests that speakers respect the three-minute time limit. This is not a question-answer session. However, it is an opportunity to voice your thoughts with City Council. Speakers wishing to display visual materials through the City’s audiovisual system must provide the materials to the City Clerk’s Office no later than 12:00 P.M. the day of the meeting. The materials cannot be changed before the meeting.

Oak Park
Each speaker's remarks are a matter of public record: the speaker alone, is responsible for his or her comments and the City of Oak Park does not, by permitting such remarks, support, endorse, or accept the content, thereof, as being true or accurate. “Any person while being heard at a City Council Meeting may be called to order by the Chair, or any Council Member for failure to be germane to the business of the
City, vulgarity, or personal attacks on persons or institutions.” There is a three minute time limit per speaker.

Orchard Lake
Any citizen wishing to provide comment on an agenda item shall address the Chair and be recognized. That person shall give his name and shall state whether or not he is a resident in the City of Orchard Lake Village. The speaker shall be asked for his address. The speaker shall approach the podium and provide comment. The chair or any member of Council may ask the speaker a question for clarification. The Mayor shall recognize any individual wishing to speak in the matter and shall limit such discussion to three (3) minutes per speaker per agenda item unless the Council shall agree by majority vote to waive such limit. Any person speaking in this manner shall not be interrupted during the time allotted to such person to speak. Any speaker shall be allowed to provide one comment per agenda item unless Council agrees by unanimous vote to waive such restriction.

Sterling Heights
This item shall be taken up at 9:30 p.m. if the business portion of the agenda has not been concluded. In accordance with the Sterling Heights Governing Body Rules of Procedure, under this agenda item, citizens are permitted to address the City Council on issues not on the agenda. Citizens are afforded a reasonable opportunity to be heard. Generally, no response shall be made to any communication from a citizen until all citizens have been permitted to speak. You may be called to order by the Chair or a Council member if you:
• Attempt to engage the Council or any member in debate
• Fail to address the Council on matters germane to City business
• Use vulgarity
• Make personal attacks on persons or institutions
• Disrupt the public meeting If you are called to order, you will be required to take your seat until the Council determines whether you will be permitted to continue. These rules are in place and will be followed to ensure order and civility.

Wixom
Call to the Public:
• The public shall address the Council during the “Call to the Public” which shall be included on the agenda immediately after Correspondence and again immediately after New Business. The first Call to the Public immediately after Correspondence shall be limited to agenda items only.
• A person shall not address the Council in excess of five minutes unless the time is extended by a majority vote of the Council present.
• Persons wishing to address the Council shall identify themselves and their place of residence and shall state their reason for addressing the Council.
• All comments by the public shall be made directly to the Council.

PROS AND CONS
• Place public comment period earlier in the agenda on trial basis.
  o Pro: Opening public comment early in commission meetings would not require the public to stay until the end of the meeting.
  o Con: Moving the public commenting period may delay the commission from attending to business items on the agenda.
• Maintain public comment at the end of the agenda.
  o Pro: Maintaining open public comment at the end of public meetings allows the commission to address city business early in meetings.
  o Con: Residents may choose to not voice their comments due to the long wait time prior to having an opportunity to comment.

LEGAL REVIEW
The City Attorney has reviewed the suggestions and has no concerns.

FISCAL IMPACT
There is no fiscal impact associated with this policy.

SUMMARY
Public comment is an important facet of public meetings. Residents and other stakeholders are able to use public comment times to voice concerns or praise of their city. The following are parliamentary best practices as referenced to in the attachments that the commission may consider:

- Set time limits for individual comments. Generally, the City of Birmingham does not limit an individual’s amount of speaking time during public comment. However, the City may place a limit on individual speaking times when addressing agenda items where significant discussion may prolong the business meeting and affect subsequent business.
- Listen to public comments thoughtfully but do not engage. Public meetings are business meetings to address agenda items. They are not question and answer sessions.
- Manage the public’s expectations. The City of Birmingham does not currently have guidelines for public comment stated in meeting agendas. Including the guidelines on the agenda sets the public’s expectations as to how the process will occur. In review of best practices and other communications the following language has been prepared:

  The City of Birmingham welcomes public comment limited to three (3) minutes per speaker, on items that do not appear in the printed agenda in order to allow for an efficient meeting. The Commission will take no action on any item not appearing on the posted agenda. The public can also speak to agenda items as they occur when the presiding officer opens the floor to the public. When recognized by the presiding officer, please step to the microphone, state your name for the record, and direct all comments or questions to the presiding officer.

- Schedule comment to promote participation. The City of Birmingham currently allows the public to address each business item and to comment during the “Meeting Open to the Public for Items Not on the Printed Agenda” agenda item. Three suggested resolutions have been provided for the Commission’s consideration.

   Based upon the research into parliamentary best practices, the Michigan Open Meetings Act, and the policies of the surrounding communities, Staff offers the following suggested actions for consideration.

ATTACHMENTS
- Excerpts from the Michigan Open Meeting Act Handbook
- “Guidelines for Public Comment in Local Government” by Ann Macfarlane
- “Don’t get into Back-and-Forth Exchanges during Public Comment” by Ann Macfarlane
- “Don’t Include Detailed Public Comment in Meeting Minutes” by Ann Macfarlane

SUGGESTED RESOLUTION
1. To revise the public comment section of the commission agenda to move public comment prior to the consent agenda for a six (6) month trial period and to include the suggested guidelines for public comment.

   or

2. To revise the public comment section of the commission agenda to move public comment prior to the consent agenda and to include the suggested guidelines for public comment.
3. To maintain the public comment section at the current location on the agenda and to include the suggested guidelines for public comment.
PUBLIC ATTENDING OPEN MEETINGS

Excluding individuals – no one may be excluded from a meeting otherwise open to the public except for a breach of the peace actually committed at the meeting.\(^{65}\)

Identifying public attendees – no one may be required to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attend a public meeting.\(^{66}\)

Building security at the meeting site may cause issues. Members of the public might object, based on the OMA, to signing in to gain access to the building where a public meeting is being held.\(^{67}\) We, therefore, recommend that public bodies meet in facilities or areas not subject to public access restrictions.

If the public body wishes the members of the public to identify themselves at the meeting, we suggest the board chair announce something like this:

> The Board would appreciate having the members of the public attending the meeting today identify themselves and mention if they would like the opportunity to speak during the public comment period. However, you do not need to give your name to attend this meeting. When the time comes to introduce yourself and you do not want to do so, just say pass.

Since speaking at the meeting is a step beyond "attending" the public meeting and the OMA provides that a person may address the public body "under rules established and recorded by the public body," the board may establish a rule requiring individuals to identify themselves if they wish to speak at a meeting.\(^{68}\)

Limiting public comment – a public body may adopt a rule imposing individual time limits for members of the public addressing the public body.\(^{69}\) In order to carry out its responsibilities, the board can also consider establishing rules allowing the chairperson to encourage groups to designate one or more individuals to speak on their behalf to avoid cumulative comments. But a rule limiting the period of public comment may not be applied in a manner that denies a person the right to address the public body, such as by limiting all public comment to a half-hour period.\(^{70}\)

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\(^{65}\) MCL 15.263(6).

\(^{66}\) MCL 15.263(4).

\(^{67}\) In addition, "[a]ll meetings of a public body . . . shall be held in a place available to the general public." MCL 15.263(1).

\(^{68}\) MCL 15.263(5). OAG, 1977-1978, No 5183, at p 34.


\(^{70}\) OAG No 5332 at p 538.
Meeting location – the OMA only requires that a meeting be held "in a place available to the general public;" it does not dictate that the meeting be held within the geographical limits of the public body's jurisdiction.\textsuperscript{71} However, if a meeting is held so far from the public which it serves that it would be difficult or inconvenient for its citizens to attend, the meeting may not be considered as being held at a place available to the general public. Whenever possible, the meeting should be held within the public body's geographical boundaries.

Timing of public comment – a public body has discretion under the OMA when to schedule public comment during the meeting.\textsuperscript{72} Thus, scheduling public comment at the beginning\textsuperscript{73} or the end\textsuperscript{74} of the meeting agenda does not violate the OMA. The public has no right to address the commission during its deliberations on a particular matter.\textsuperscript{75}

Taping and broadcasting – the right to attend a public meeting includes the right to tape-record, videotape, broadcast live on radio, and telecast live on television the proceedings of a public body at the public meeting.\textsuperscript{76} A board may establish reasonable regulations governing the televising or filming by the electronic media of a hearing open to the public in order to minimize any disruption to the hearing, but it may not prohibit such coverage.\textsuperscript{77} And the exercise of the right to tape-record, videotape, and broadcast public meetings may not be dependent upon the prior approval of the public body.\textsuperscript{78}

\begin{footnotesize}
\begin{enumerate}
\item OAG, 1979-1980, No 5560, p 386 (September 13, 1979). Of course, local charter provisions or ordinances may impose geographical limits on public body meetings.
\item MCL 15.263(5).
\item OAG, 1979-1980, No 5716, p 812 (June 4, 1980).
\item OAG, 1977-1978, No 5310, p 465, 468 (June 7, 1978).
\item MCL 15.263(1).
\item OAG, 1987-1988, No 6499, p 280 (February 24, 1988).
\item MCL 15.263(1).
\end{enumerate}
\end{footnotesize}
The public comment period is an essential part of local government meetings. These are our guidelines for public comment periods in local government. They refer to ordinary business and work or study meetings of councils, boards and committees. Public hearings and quasi-judicial hearings are governed by different rules.

It is important for elected officials and for the public to be very clear about the purpose of the public comment period. This is an opportunity for members of the public to inform the governing body about their views. The meeting itself belongs to the governing body. The public does not PARTICIPATE in the decision-making. Instead, it PROVIDES INPUT to the governing body, which takes the input into consideration in making its decisions.

A governmental body must craft its requirements with care in order to to preserve the free speech rights of its citizens. If questions arise about the public comment period, consult your attorney. State law and regulations and your specific bylaws or rules of procedure have higher standing than Robert’s Rules of Order, other parliamentary authorities, or these guidelines.
TIME CONSIDERATIONS
1. Establish specific periods for public comment during your meetings, in a way that is consistent with your community’s expectations and customs.
2. Set a length of time by which each period will conclude, unless the council votes to extend it.
3. Set a time limit for each individual to speak.
4. Speakers may not give their time to other people.

WRITTEN GUIDELINES
5. Provide printed copies of the guidelines and expectations.
6. Review the guidelines at the beginning of each comment period if necessary, and explain that this is the time for citizens and residents to express their views in order to inform the council. Explain that the council will not engage in dialogue with the public during this time.
7. The council has the right to set limits on what subjects may be addressed, how long public comment will be, and how many times people may speak. All such limits must be viewpoint neutral: they must not favor one point of view over another.

DURING PUBLIC COMMENT
8. Check your state law as to whether you may require speakers to give their name and address.
9. Require all speakers to address their remarks to the chair.
10. Require all speakers to keep to the time limits. It is important to be consistent for the appearance of fairness. Some jurisdictions provide a visible public timer, so the speaker knows how much time is available.
11. The chair should thank each speaker, whether positive or negative.
12. In general, it is best not to respond at all to public comment. However, the chair may provide brief factual information, if appropriate. This must not degenerate into lecturing or criticism.
13. The chair must not under any circumstances enter into back-and-forth exchanges with the public. See our blog entry below for more information.
14. We recommend using surnames to address speakers. If you use first names for some speakers, use them for all.
15. Councilmembers refrain from speaking during this portion of the meeting.
16. Have staff ready to note input or questions from the public and to provide responses at a later date. Do not call on staff to give public answers on the spot.

BEHAVIORAL EXPECTATIONS
17. Model courtesy and respect and encourage members of the public to do the same.
18. The public has the right to make critical and harsh remarks. Courts have consistently found that public bodies may not require members of the public to follow the rules of decorum that apply to council members themselves. (See our blog entry below for more information on decorum rules.)
19. Members of the public do not have the right to disrupt the meeting. However, mere words most likely do not constitute a disruption in themselves. All concerned should become familiar with case law on this point, and be able to determine when conduct becomes truly disruptive.
20. The council may prohibit demonstrations (booing, hissing, clapping). These can be chilling to discourse and inhibit free speech, both on the part of the elected officials and of the public.
21. Consult with your attorney and develop an action plan for steps to take in case of disruption. The League of California Cities has excellent material available on their website. In cases of serious disruption, state law may allow you to adjourn the meeting to a different location.

22. Be very cautious about ordering a disruptive member of the public to leave the meeting. It may be advisable to give three warnings to cease from the disruptive behavior before taking any action. Consult with your attorney before doing this.

- **RESPONSIVENESS TO THE PUBLIC**
  23. The body language and manner of the chair and other elected officials are critical to running successful public comment sessions. Councilmembers should listen to each person speaking as if there were no one else in the room.
  24. Councilmembers should keep an interested expression on their faces and refrain from checking electronic devices, whispering to each other, or otherwise demonstrating lack of interest in what the public is saying.
  25. It is helpful to see oneself on video in order to gauge the impression given to the public. We recommend a facial expression that projects warmth and genuine interest. If a speaker is highly negative, it is appropriate to keep a neutral, serious expression. Do not frown, grimace, sigh, or roll your eyes.
  26. It is vital for elected officials to be responsive to their public, and to appear responsive. Given the limitations on the public comment period, we recommend establishing other channels to connect with your public, such as community forums, personal discussions, “coffee with the mayor,” a form on your website, surveys, etc.

- **OTHER CONSIDERATIONS**
  27. The council has the right to invite anyone to speak whom it wishes to hear from at other times than the public comment period. This is done by unanimous consent or a majority vote.
  28. Provide clearly marked paper inviting individuals who are not heard during the public comment period due to time constraints to provide written comment for the council.
  29. We recommend that detailed public comment should not be included in the minutes. It is sufficient to say, “Public comment was given.” See our blog entry below for more information.

- **SAMPLE POLICY**
  - Now is the time to hear from our public. We welcome your comments which are very important to us. Note that all comments are limited to three minutes.
  - As a reminder, please go to the podium to comment. It is helpful for the council if you would give us your name. Please address your remarks to the chair.
  - Note that we will not be entering into dialogue at this time. The purpose of this agenda item is for YOU, the public, to inform US, the council, about your views.
  - If members of the public have factual questions, staff will be glad to address them. Please speak with the executive assistant who is seated next to the dais.
More information:

- Don’t get into back-and-forth exchanges during public comment
- Don’t include detailed public comment in meeting minutes
- Citizen’s Guide to Effective Conduct of Public Meetings
- Inappropriate remarks on local government councils

Do you have feedback on these guidelines for us? We are always eager to improve our publications. Visit our website at www.jurassicparliament.com/category/effective-local-government for much more information on local government issues. Contact us at info@jurassicparliament.com or 206-542-8422 with your suggestions. We look forward to hearing from you!
Don’t get into back-and-forth exchanges during public comment

By Ann Macfarlane | March 6, 2018 | 6

When city councils, school boards or other public bodies hold their meetings, it is usual to reserve a time in the meeting for members of the public to speak to their elected officials. One common name for this is the public comment period. We strongly recommend that elected officials should not get into back-and-forth exchanges with members of the public during the public comment period.

Whose meeting is it anyway?

In most states of the union, members of the public are authorized by state law to attend local government meetings. These laws may be called “sunshine acts” or “open public meeting acts.” States usually allow members of the public to address their elected officials on matters of concern during the meetings. But though the local government meetings are HELD IN PUBLIC, they are not MEETINGS OF THE PUBLIC. The meetings belong to the local government body that is meeting.

What is the purpose of the public comment period?

The purpose of the public comment period is for members of the public to inform the governing body of their views. This is an important function and it is critical for the
elected officials to listen with care to the public, and to consider what they hear in their deliberations. It is also critical for the elected officials to convey to the public that they care! Don’t follow the example of a certain county in my home state of Washington, where the elected officials wander out to get coffee or check their cell phones while the public is speaking.

**Why the public comment period is not a chance to dialogue**

While listening with attention is critical, we believe that it is best not to enter into dialogue with the public during the meeting. It is highly challenging to give accurate responses on critical and complex issues on the spot. We have seen too many instances where the discussion degenerates into a back-and-forth exchange that ends up creating more heat than light. To use a slang expression, sometimes the meeting goes “down the tubes” and never really recovers. This can lead to a fraught atmosphere at future meetings, public outrage, and a general loss of confidence in the board or council.

**What should you say?**

In general, it is best not to respond at all to public comment. However, the chair may provide brief factual information, if appropriate. This must not degenerate into lecturing or criticism.

The best approach is for the chair to say, “Thank you for your comment” to each speaker. Keep a warm and pleasant expression if the speaker was complimentary, or a neutral face if not, and then move on to the next speaker. Don’t play favorites with the public, and do your best to treat all speakers the same. Be sure to observe any time limits consistently.

**How can you appear interested and concerned if you can’t answer?**

It isn’t easy, but the chair and the members of the public body convey interest and concern by their body language. Ideally they should listen to each person speaking as if there were no one else in the room.

**Structuring the public comment period**

You can also take structural steps to let the public know how much you care. We recommend:

- Announcing the policy at the beginning of each meeting, so people know they won’t be getting answers to their questions or concerns during the public comment period.
• Providing a handout on the policy, including an invitation to submit comments in writing and other ways to make your views known.
• Having a staff person available so people with specific concerns can convey them, to be addressed after the meeting by the appropriate party.
• Establishing other channels to connect with your public, such as community forums, personal discussions, “coffee with the mayor,” a form on your website, surveys, etc.
Don’t include detailed public comment in meeting minutes

By Ann Macfarlane | March 21, 2018 | 6

When city councils, school boards or other public bodies hold their meetings, it is usual to reserve a time in the meeting for members of the public to speak to their elected officials. One common name for this is the public comment period.

We recommend that detailed public comment should not be included in the body’s minutes. For background, read our suggestions about how to conduct the public comment period.

What is the purpose of meeting minutes?

According to Robert’s Rules of Order, and the common understanding of parliamentary procedure, minutes are a record of the decisions made by the body. They are supposed
to include “what is done,” and not “what is said.” Personal comments and observations made by elected officials should not be included in the minutes.

**What is the purpose of the public comment period?**

The purpose of the public comment period is for members of the public to inform the body of their views. This is an important function and it is critical for the elected officials to listen with care to the public, and to consider what they hear in their deliberations. Just as with the elected officials themselves, however, there is no need to make a permanent written record of the public’s observations.

**Public hearings are different from the public comment period**

Note that public hearings, formal structured events required by law for certain kinds of local government decisions, are different from the public comment period. It is characteristically a requirement that testimony provided at a public hearing should be recorded. This article is not about public hearings.

**How should you record public comment?**

Here are some different ways to record public comment:

- Public comment was given.
- Public comment was given by Resident Smith and Resident Valdez.
- Public comment was given. Residents expressed their appreciation for the work done by the board, expressed concern about the headquarters building, and asked the board to consider employee welfare in the current negotiations.
- Public comment was given as follows:
  - Resident Green said the board was doing a great job.
  - Resident Khan expressed concern about the cost of the new building.
  - Resident Robinson asked the board to consider employee welfare in the current negotiations.

**Don’t record detailed public comment like this**

- Resident Jones said that she was very concerned about her latest water bill. She only uses water for basic functions of cooking and cleaning, and a person ought to be able to do that without paying $40/month. She didn’t understand why the board had decided to raise the rates when the district was clearly doing very well financially. After all, commissioners had found the money to attend the state-wide conference last month, and what was the point of all that gallivanting about
anyway? Surely in these days of online learning, people can get what they need for training over the Internet…and so on…

Avoid these pitfalls of recording detailed public comment

Recently we’ve seen instances where detailed public comment in the minutes led to problems. During public comment, a resident objected to the way his comments at the previous meeting had been recorded. The body postponed approval of the minutes in order to redraft the comments to the resident’s satisfaction. This was a waste of public time and money.

In another instance, the secretary was asked to include a notation in the minutes correcting a statement, made by a resident during the public comment period, which was considered to be erroneous. This violates the purpose of minutes, which is to create a record of the meeting itself.

In yet another instance, the resident himself recognized that his remarks sounded foolish in the detailed record, and agreed that a change in practice was desirable.
Mondial Properties II, LLC  
139 W Maple Road, Ste C  
Birmingham, MI 48009

City Commission, c/o City Clerk  
City of Birmingham  
151 Martin Street  
Birmingham, MI 48009  
RE: Townhouse restaurant’s continued blocking of alley

Dear Commissioner’s,

I write to you as the owner of the above referenced building and specifically in regards to Townhouse restaurant continually blocking the alley behind our buildings parking area. As you are aware the Townhouse is unique among Birmingham restaurants in that they DELIVER AND STORE THEIR FOOD IN THE BUILDING BASEMENT ACROSS THE ALLEY located at 148 Pierce and in connection with those deliveries they routinely block both the alley and our private parking area. Unlike other area restaurants like 220, Hyde Park etc. that have their deliveries come at specified times and use the street for loading, the Townhouse simply blocks the alley and our parking lot. Other affected parties include the residents of the building directly above the Townhouse itself and AT&T who also has a parking lot on the alley. Please find pictures taken earlier today and a police report was made as I have done many times previous. Also, I send previous correspondence written to Chief of Police Clements.

In summary, the Townhouse is overburdening the alley which is not only inconvenient to neighboring land owners but is also a life safety issue. I am asking for a review of this issue as I know that ALL bistros are subject to compliance with the slup and appropriate ordinances.

Sincerely,

[Signature]
Kenneth J Kojaian

Mondial Properties II, LLC / KJK.Equities@yahoo.com
Its sole member
Cc; City Manager w enc.
Mondial Properties II, LLC
139 W Maple Rd, Suite C
Birmingham, MI 48009

RE: Alley Behind Our Building, 137-141 W Maple Rd

Chief Clemence,

I write to ask for patrols of the alley behind our building. The alley is frequently blocked and very often it is blocked at both ends. Typically, the Townhouse restaurant will have their drivers block in our 4-place private parking lot or alternatively they will block off the Townhouse side of the alley only to find that a construction vehicle or an illegally parked vehicle is blocking the Brooklyn pizza side as well. This has been happening on a daily basis and sometimes multiple times in one day.

In the event you have questions you may contact me at 248.892.1350

Sincerely,

/\/
Ken Kojaian

Cc; Mr. James Gallagher – Assistant to City Manager
City of Birmingham- Code Enforcement
151 Martin Street, P.O. Box 3001
Birmingham, MI 48012
Re: New Dumpsters added behind 139-141 W Maple Parking Area (ALLEY)

Dear Sirs / Madam;

Behind our building Two new dumpsters were just added that impede our parking area ingress and egress. We as all the business’s in the area of the Townhouse restaurant – have been negatively impacted by the spread out nature of the Townhouse restaurant’s business including;

- Storing food in the basement of one building and delivering to their restaurant all day
- Delivery trucks frequently blocking alley, sometimes from both ends
- Multiple trash bins, grease bins
- Their employees constant smoke breaks on our property- and the trash they generate and leave on our property

We would ask that you make certain that the spread of this business does not further impact our property.

Sincerely,

[Signature]
Kenneth J Kojian
Mondial Properties II, LLC
Cc: Theodore Piccirilli- via e-mail Theodore.Piccirilli@freq.com
Commander Grewe,

Thanks very much for looking into this matter, appreciate.

Ken Kojaian

139 W Maple Suite C
Birmingham Mi. 48009

---

Scott Grewe
Operations Commander
Birmingham Police Department
151 Martin St.
Birmingham, MI. 48009
(248)530-1867
DATE: January 6, 2020

TO: City Commission

FROM: Joseph A. Valentine, City Manager

CC: Benjamin I. Myers, HR Manager

SUBJECT: City Clerk Selection

As City staff and I were preparing for the start of City Clerk James Allen on January 2nd, Mr. Allen provided the attached December 30th letter rescinding his acceptance of the employment offer. Staff attempted to address Mr. Allen’s concerns, but he indicated that his decision was final, for the reasons noted in his letter.

On January 3rd, the Ad Hoc City Clerk Selection Committee met to consider our next steps. In this discussion, two points were noted that caused the committee to decide to wait on making any recommendations at this time. The first was that our current Acting City Clerk will be leaving the end of this year and the second is that we currently have a recruitment for Deputy City Clerk in process. The deadline for the Deputy City Clerk applications is January 17th and the Committee felt it would be best to reconvene following this process and having an opportunity to assess our internal staffing prior to initiating a recommendation for continuing in this process once the capabilities and skillsets of our internal staff were better known. In the meantime, Cheryl Arft will continue to serve as Acting City Clerk.
December 30, 2019

Mr. Joseph Valentine, City Manager
151 Martin Street
Birmingham, MI 48009

Dear Mr. Valentine

It is with my deepest regret that I must ask you to rescind my acceptance of the position of City Clerk with the City of Birmingham. Words cannot express how difficult the decision was for me to come to this conclusion, and I cannot state how deeply sorry I am for bringing this to your attention so abruptly.

Two weeks ago, I was given the honor of being appointed the next City Clerk. From what I had learned in Mr. Myers’ introduction, I was selected over 126 other applicants. I felt a lot of pride when I learned that.

However, in that time, I have dealt with an unexpected weight of anxiety that I have been unable to overcome. It was my hope that in the days following my appointment, the anxiety I’ve felt would subside and I would eventually be able to move past this.

As I stated in my interviews, I am a very low-key individual. The spotlight is not something I seek out. During my candidacy, I was contacted by the local media and asked to do an interview. I granted a short interview and afterwards realized that the job going forward would require having a higher profile or more visible public presence than I am comfortable with.

On the morning of December 30, I spoke with Mr. Myers, who was very respectful of my concerns. He is a good man who did an admirable job of addressing all of them and tried to reassure me that my anxiety would subside. Unfortunately, I could not come to the same realization he had. He was very gracious and diplomatic when I made my final decision.

Elections Administration is something I take great pride in. I have had the privilege of being able to do so unencumbered from the nonelection-related functions of the office, or at the very least, the ability to set aside such tasks until after an election and during the off-peak times. This allows me to work independently with little supervision and in a slightly more casual and isolated setting.

I understand this will come as a disappointment to everyone from the City Administration to the City Commission, and I cannot apologize enough for the amount of time spent on conducting research and background checks. I did not intend to cause an unnecessary burden while the City prepares for its upcoming Presidential Primary.

This has nothing to do with my feelings towards the City of Birmingham, which is a place I hold in high regard. Nevertheless, I do not know if the City is best served by an
individual like myself, who is more comfortable in smaller circles and I wish I had come to this conclusion much sooner.

Respectfully,

[Signature]

James N. Allen
“Smart” Meters

Cancer & RF Radiation. The World Health Organization (WHO) states that radio frequency (RF) electromagnetic fields (EMF) from non-ionizing radiation-emitting devices (such as “smart” meters, cell phones, and Wi-Fi) are a Class 2B possible cancer causing agent in the same category as lead, DDT, and chloroform. Studies show DNA breaks and damage.

“Smart” meters pulse RF radiation up to 190,000 times/day at levels hundreds of times stronger than that which have been found to cause serious health problems. Children, pregnant women, seniors, those with immune deficiencies, medical conditions, pacemakers and implants are especially at risk.

Upon installation of smart meters and infrastructure, some people report headaches, ringing ears, dizziness, breathing problems, insomnia, nausea, cognitive problems, memory loss, muscle spasms, rash, heart problems, and even seizures. Some have had to abandon their homes. Electromagnetic Sensitivity (EMS) can be caused (and worsened) by exposure.

Time bomb. Peer-reviewed science confirms many harmful effects of EMF emitting technologies like smart meters. At first, the dangers of smoking and asbestos were ignored. Many illnesses, like cancer, take years to develop. Will you allow the utilities to put your family’s health at risk?

“Adverse neurological effects have been reported in people who sustain close proximity to wireless meters, especially under 10 feet,” say 54 experts in 20 countries, including Joel Moskowitz of UC Berkeley School of Public Health and David Carpenter, Director, University of Albany NY Institute for Health and the Environment.

WHAT CAN WE DO?

- Inform elected officials that you oppose smart meters—hold them accountable.
- Organize a public meeting or panel discussion on the subject.
- Refuse together with your community. There is power in numbers.
- Take direct action to block deployments and have smart meters removed.
- If you have an analog meter:
  - Send a certified letter to utility refusing consent.
  - Secure analog meters behind locked gates or lock box.
  - Do not allow installers on your property. Call police if they trespass. Form a neighborhood watch.
  - Tell them “You are trespassing. Get off my property, I prohibit installation of the digital meter.”
  - Don’t agree to illegal ‘opt out’ fees. We never opted in!
- If you have a “smart” meter:
  - Revoke consent by certified letter (samples on our website). Set a deadline for removal.
  - Insist on written confirmation that replacement meters are “electromechanical analogs with no electronics.”
  - When utilities refuse to remove unauthorized “smart” meters, people are buying analog meters online and having them installed. It can be dangerous to swap an electric meter if you don’t know what you are doing.
  - In the event of a disconnect, be prepared to speak out to the local council, the community, and the media. Report service cuts and other abuses to us.
  - Get it in writing! Keep copies of all correspondence. Avoid circular conversations. Ask for a supervisor. Insist on an analog meter for no charge. Don’t back down.
  - Don’t give up your power or your rights—assume the utility company is being deceptive.

VERIFY! Thousands of published and peer-reviewed scientific papers show environmental and human health damage from microwave radiation. To learn more and reduce your risk, go to: StopSmartMeters.org/warning. You and your community have the right to safety, health and privacy. Did you know? Neither smart meters nor “opt out” fees are required by law.

STOPSMARTMETERS.ORG

“Smart” Meters Wireless Radiation Comparison

- Adverse Health Impacts Occur at Very Low Levels Based on Peer-Reviewed Studies
- Current Government Limits Only Protect Public from Overheating and Shocks
- “Smart” Meters Emit Wireless Radiation Pulses that Peak at High Levels

More detailed information at: SmartGridAwareness.org


What is a “Smart” Meter?
An electronic utility meter that:
- Allows utilities, governments, and third parties to spy on your home life
- Emits wireless microwave radiation and dirty electricity that cause health problems
- Can catch fire, explode and damage appliances
- Typically increases utility bills

Communities worldwide are rejecting “smart” meters, ordering safety recalls, and restoring analogs. However, utilities continue to mislead the public and install without a mandate, using coercion, extortion and propaganda to achieve their aims.

INFORMATION ONLY
Why are utilities replacing reliable analog electric, gas and water meters with “smart” meters?

- To cut costs by firing meter readers.
- To obtain federal grants (your tax dollars).
- To charge you more during “peak” hours.
- To enable remote shut-off.
- To extract data on your family’s behavior.

**Smart Meters are NOT Green.**

The manufacture and operation of millions of power-consuming “smart” meters and data centers increases carbon and electrosmog pollution. No power savings have been attributed to “smart” meters, which squander resources needed for efficiency and local renewable energy. RF radiation damages life.

**Types of “Smart” Meters:**

**AMI (Advanced Metering Infrastructure)** uses a “mesh network” of wireless pulses between meters and utility antennas; can remotely shut off power.

**AMR (Automated Meter Reading: aka OMR/ERT)** broadcast your info for utility drive-by reading. “Bubble up” type transmit all the time, “wake up” when signaled.

**PLC (Power Line Communication) aka TWACS** transmits your data over power lines. Though this is a wired system, “dirty electricity” radiates inside homes.

**Radio Off** Digital Meters can still be surveillance devices, cause “dirty electricity” and health problems, overcharge and burn. Utilities may turn radio “on.”

**Know the Difference**

Bottom Line: If it’s plastic and electronic, refuse it. Demand a non-electronic electromechanical analog. Beware “Trojan Horse” meters that resemble analogs. An FCC number = wireless. Use an EMF Meter from Stop Smart Meters! to be sure. Discounted Meters, advice, and support available at: StopSmartMeters.org/store

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**The Path of Your Privacy:**

1. In an AMI “mesh network,” data is transmitted from one “smart” meter and sent by wireless microwave pulses on to the next house’s meter, and the next...
2. Although a neighbor may choose to keep or replace their analog meter, they may still be exposed to microwave radiation from surrounding meters.
3. Anyone whose outside wall has a “smart” meter, or who lives adjacent to banks of meters suffers strong bursts of pulsed radiation, all day and night long, up to 190,000 times/day.
4. “Smart” Meters made cheaply of plastic, carrying high voltage, and installed by temp workers, are prone to fire and explosion and have caused multiple injuries and fatalities.
5. Random homes get “collector meters,” through which data from hundreds of homes is funneled. Radiation exposure is dramatically multiplied for these families who are never informed that their meter is the “collector.”

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**No need for warrants!**

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**A child sleeping on the other side of the wall from a meter or meters is subject to involuntary pulsed radiation at levels far above what peer-reviewed science has found harmful.**

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**Utility and government realize that smart meters and their networks can be attacked.**

**Perhaps the most critical finding of Pike Research’s analysis is that end-to-end protection of private and commercial usage data is impossible.**

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“A so-called ‘Smart Grid’ that is as vulnerable as what we’ve got is not smart at all, it’s a really really stupid grid.”

-James Woolsey, former CIA Director, 2011

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6. The accumulated data is sent to the utility’s data collection unit mounted on a pole (maybe near your home) where it is sent on to a data collection company via cell tower.
7. But first, the easily-hacked wireless data may be intercepted by unauthorized parties, and electricity to homes, or entire cities can be remotely shut down.
8. A third-party company hired by the utility receives detailed data about your private activities; what appliances you use, how many people are home, when you go to bed, when you go on vacation, what TV program you watch etc. Utility bills often significantly rise after a “smart” meter is installed.
9. Utilities want us to buy smart-grid-enabled appliances (that also emit RF into our homes) so they can remotely power down or shut them off, and get more precise usage info that they can sell to marketers. Your personal info may be sold on by the data subcontractor.
10. In violation of Constitutional rights, police, government agencies including the NSA and others suddenly have access to your lifestyle data without needing a warrant.

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Dimensions: 792.0x612.0

Printed on paper using 30% PCW
EVERY TIME YOU USE A WIRELESS DEVICE, YOU ARE EXPOSED TO MICROWAVE RADIATION.
The World Health Organization (WHO) labels this radiation a Class 2B possible carcinogen in the same
category as lead, DDT and chloroform. Cell and cordless phones & other wireless devices, cell
antennas and towers, "smart" meters, microwave ovens and wi-fi routers all create "electro-smog."
MICROWAVE RADIATION IS HARMFUL. Scientists link wireless radiation to health problems,
both short and long term: cancer, infertility, damage to DNA and fetuses, sleep problems, memory
and cognitive impairments, heart problems, immune deficiencies and many others.
MANY PEOPLE SUFFER FROM ELECTROMAGNETIC SENSITIVITY (EMS) and cannot
tolerate common exposures, seriously impacting their health, jobs, housing, and social lives.
GOVERNMENT REGULATIONS DO NOT PROTECT YOU. FCC guidelines were written
decades ago and ignore current science linking wireless radiation to adverse health
effects. In 2015, Berkeley, CA passed a law requiring consumer safety warnings at cell
phone retailers. The wireless industry is suing under the guise of “free speech.”

Protect yourself and those you love:

- GET WIRED! Ethernet cables provide faster, safer, more reliable internet connections.
- USE A CORDED LANDLINE. Cordless phones are as dangerous as cell phones.
- KEEP YOUR DISTANCE. TURN IT OFF. Ditch the cell phone! Manuals tell you to keep
  phones away from your body at all times. Turn it off or keep it on airplane mode.
- DO NOT USE WIRELESS DEVICES INSIDE METAL ENCLOSURES, like cars, elevators,
  buses, and trains, where radiation exposure is amplified for all onboard.
- WIRELESS RADIATION IS ESPECIALLY BAD FOR CHILDREN AND PREGNANT WOMEN.
  Prenatal and childhood exposure is linked to hyperactivity, brain changes, and autism.
- DITCH THE "SMART" METER—IT PULSES MICROWAVE RADIATION 24/7. Demand a
  non-electronic, electromechanical analog meter—no dirty electricity or RF radiation.
- AVOID SMALL AND LARGE CELL TOWERS. Fight to stop their proliferation.
- ALERT YOUR FRIENDS AND FAMILY — GET ORGANIZED. Inform and mobilize your community
  and kick cell towers and other wireless infrastructure out of your neighborhood!

References, Resources & EMF Meters at: StopSmartMeters.Org
Info@stopsmartmeters.org • P.O. Box 682 Portola, CA 96122 • Toll-Free Hotline (888) 965-6435
The 411 on 5G

- 5G is the next generation of wireless technology.
- 5G signals don’t travel as far as 3G or 4G, so 5G “small cell” antennas will be installed in close proximity to homes and apartments.
- Like 3G and 4G, 5G antennas will emit radio-frequency (RF) microwave radiation (“wireless radiation”) 24/7, 365 days a year.
- The U.S. government’s human exposure guidelines for wireless radiation haven’t been updated since 1996. At that time, they were designed to protect humans only from short-term heating effects.
- There are no studies showing that long-term exposure to 5G wireless signals is safe.
- The Federal Communications Commission (FCC) has taken away local government’s ability to regulate or prohibit 5G installations in sensitive locations or on the basis of health concerns.

Learn more at 5GCrisis.com

The Science on Wireless Radiation

- A $30-million-dollar, 10-year study conducted by the U.S. National Toxicology Program found “clear evidence” of cancer from exposure to wireless radiation.
- In 2011, the World Health Organization classified wireless radiation as a “possible human carcinogen.”
- A study by the Ramazzini Institute, funded in part by the U.S. government, found that exposure to wireless radiation from distant cell towers was associated with an increased risk of malignant heart tumors.
- Several recent studies show that men who carried their phones in a pocket or on the belt were more likely to have lower sperm counts and motility.
- Thousands of peer-reviewed studies show adverse health impacts from wireless radiation exposure, including cancer, neurological harm, abnormal brain development and reproductive health problems.
- Over 240 scientists and medical experts from 42 countries have called for a moratorium on the deployment of 5G due to health concerns.

A complete Digest of Independent Science on
What is 5G?
5G is the Fifth generation for wireless communication. It uses small cells for Radio Frequency transmission. “Small cells” are small, low-powered cellular antennas that enhance wireless networks. These small cells have been compared to the small wireless routers that we have in our homes, however it’s estimated that 5G will use between 24 to 90 gigahertz frequency where as 3G & 4G operates at 1-6 gigahertz. 5G is designed to deliver concentrated and focused electromagnetic radiation, up to 100 times more than current levels. These millimeter waves (MMW), can not travel as far as the MMW used in 4G and unlike 4G, these MMW can only travel in a direct path therefore requiring more small cells in closer proximity to each other to communicate. In addition, trees and buildings can cause interference, requiring more small cell deployment with 5G.

Local, State and Federal Control
In December 2018, despite expert testimony explaining the dangers and opposition from City Government Officials, former governor Snyder signed SB 637 & 894 into law. The law helps enable wireless technology providers to increase their capacity, streamline regulations and lay the groundwork for future technologies, such as 5G. It also diminishes local governments ability to recoup or be compensated for costs in right of ways. The State passed fee structure in many situations will not cover their costs, leaving the cost up to taxpayers to pay what should be the private companies responsibility.

This push came from the Federal Government with the FCC’s recently mandated small cell implementation in our cities while the Telecommunications act of 1996 allows for more control from and for private telecommunication companies over the voices of taxpayers, voters and scientists. “The language was codified in Section 704 of the Telecommunications Act, which prohibits discussion of environmental concerns or health concerns (by lack of substantial evidence) in the placement of cell towers. This is despite growing awareness and scientific confirmation of both negative environmental and health effects from exposure to cell tower radiation and all radiofrequency wireless devices.” (Physicians for Safe Technology https://mdsafetech.org/telecommunications-act-of-1996/) In however, new developments allow cities more control.

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Impact on health
While there has been noted health risks with the electromagnetic radiation, 5G has not been subjected to any independent health or safety studies in the world. In fact in 2011, the WHO classified wireless as a Group 2B carcinogen. The US and Canada currently have the highest safety limits compared to other countries. According to a compilation Aug, 2016, the US and Canada safety limit is 61.5 volts per meter (v/m) while the limit in Russia, China, Italy and Switzerland is 6 v/m. Quite the contrast. (emfs.info/wp-content/uploads/2015/07/standards-table-August-2016.pdf)

While industry and the government would have you believe the EMFs are safe, despite their lack of studies, there are over 1,000 studies and scientific research that shows EMFs may increase cancer risks, mutagenic effects, prevent healing, increased hormonal changes and problems affecting memory, learning and behavior. So while there is a lack of any biological studies put out by the EPS, FCC or governmental body, there are now codes for the International classification of diseases (ICD) for health effects caused by non ionizing radiation.
I suggest that you start doing the research so you can see it for yourselves. Here are some places to start:

https://www.americansforresponsibletech.org/scientific-studies

https://mdsafetech.org/links/

https://ehtrust.org/science/

https://mdsafetech.org/links/

https://m.facebook.com/MichiganforSafeTechnology/

You are also welcome to join our Facebook page for concerned individuals in Michigan. https://www.facebook.com/groups/5gfightformichigan/?ref=share

What can you do for now.

Take precautions to protect yourself and your family. Limit your exposure by turning off your WiFi, doing the opt out feature for your smart Meter, getting protective covers for your phone, do not carry your phone on your body, turning off your phone at night or not allowing it in the bedroom and limit or prohibit tablet and phone usage with children.

In addition to health, there are also growing concerns in regards to privacy and security.

https://docs.wixstatic.com/ugd/2cea04_d19574525f534e1ea54ec9355e98d011a.pdf
WAKE UP, SPEAK OUT!

Take ACTION Today!

➢ Educate yourself, share your knowledge, make yourself heard!
➢ Tell friends, family, neighbors, coworkers what’s going on right under their noses.
➢ Hold community meetings; show 5G Apocalypse, 5G Dragnet, and other videos on wireless radiation dangers.
➢ Find a 5G opposition group in your area; organize demonstrations; distribute information about 5G.
➢ Write letters to the editor, citing facts. Share info on social media!
➢ Contact your Town Officials, State Attorney General, State & US Rep & Senators, Governor, etc.!

For more information and to download a PDF of this brochure for printing, please visit https://5gfreevt.wordpress.com/
Contact us: Director@Zero5G.com

12 Good Reasons to Oppose 5G...for life’s sake...

Good sources on microwave radiation science and activism:

➢ Excellent science-based site on wireless and 5G.
   See list of studies relevant to 5G radiation.
   https://www.ehtrust.org
➢ Excellent basic 5G science and advocacy:
   https://zero5g.com/
➢ More good 5G Info in plain language:
   https://whatish5g.info
➢ Advocacy based on scientists’ research of the hazards of RF/MMW radiation
   http://scientists4wiredtouch.com
➢ Offers how to oppose 5G and general EMF Info:
   http://emfsafetynetwork.org
➢ National 5G opposition organizing effort:
   https://5GCriris.com
➢ Science-based report on health effects of wireless radiation:
   https://www.bioinitiative.org
➢ Compelling 5G documentary, 5G Apocalypse:
   https://sachastone.com/5g-apocalypse-extinction-event/
➢ Short documentary on technocracy, 5G Dragnet
   https://www.corbettreport.com/the-5g-dragnet/

References & Links

1 https://www.5gappeal.org/the-appeal
2 https://zero5g.com/
3 https://ehtrust.org/science/electromagnetic-sensitivity/
4a https://www.5gappeal.eu/ 4b https://the5gsummit.com/
6 http://scientists4wiredtouch.com/what-are-4g-5g/cell-tower-installation-plans-lower-property-values/
7 http://www.greenmedinfo.com/blog/20000-satellites-5g-be-launched-sending-focused-beams-intense-microwave-radiation
8 https://whatish5g.info/ethics/
9 https://www.irregulators.net
1 5G wireless could soon be deployed; infrastructure is stealthily being rolled out.
5G (fifth generation) wireless is being rolled out without public input or participation. It is industry- and gov’t.-driven. 5G’s radiofrequency/microwave (RF/MW) radiation, due to its proximity to homes, is orders of magnitude more intense than 4G’s, which itself is very harmful to living beings. Such 24/7/365 exposure to weapons-grade MW radiation has thousands of scientists, doctors, engineers, and lawyers warning about impacts on health, environment, privacy, security, personal choice, and more.¹

2 5G has been proven hazardous to living beings.
The ~ 25,000 scientific studies of RF/MW radiation bioeffects should result in the ban of 5G, but the telecommunications industry has escaped scrutiny. FCC guidelines apply only to RF/MW radiation exposures of 6 minutes or less, not 24/7/365. The US & UK allow radiation exposures up to thousands of times higher than gov’ts of most of the world’s industrial countries. Industry lawyers have stifled discussion of health effects and health science in public hearings.²

3 5G will produce severe health effects worldwide.
Many people, injured by wireless radiation, suffer from Electromagnetic Sensitivity (EMS), a debilitating condition preventing them from using electronic devices.³ Exposing the world’s population to 5G radiation 24/7 would produce neurological, cardiac, immune, fertility, cancer, & other health problems in epidemic proportions. Everyone would be affected to some degree.

4 5G is harmful to ALL life on Earth. 5G deploys MW radiation in wavelengths previously used only as weapons. Some wavelengths are optimally absorbed by the brain & heart, others by children & infants. Yet others by birds & bees. Maximum absorption means maximum harm. When antennas irradiate, escape is impossible. Pets, farm animals, wildlife, pollinators, & plant life would all be gravely affected.²

5 Scientists worldwide warn against 5G. As of Sept 2019, the international appeal for a moratorium on 5G had been signed by 250 scientists⁴; the 5G Space Appeal had gathered ~ 150,000 professional & other signatures⁵; and nearly 200,000 people had written their officials to alert them to harm from 5G⁶.

6 5G tech junk would litter the landscape everywhere.
“Small cell” (5G) antennas emit irradiating power similar to large cell towers. They are to be sited very close to homes, or placed on street lights, utility poles, bus stops, sides of buildings, hills, or on any public property, where people would have full-on exposure when walking by, and would have to live with unsightly views.⁸

7 5G decreases property values.
Real estate studies have determined that property values decrease when cell phone towers are placed in neighborhoods.⁶

8 20,000 5G satellites are planned for launch. Concentrated microwave radiation is to be beamed over entire Earth at all times, with no avoidance possible. Some have already been launched.⁷

9 You neither need nor benefit from 5G. Fiber-optics cable wired to the home provides the safest, fastest, most secure Internet. Wireless systems also facilitate data collection, allowing illegal privacy invasions and warrantless surveillance⁸. Telecoms have applied wired customers’ payments to wireless rollouts, which is fraud.⁹

10 5G will add to, not replace, current wireless systems.
All fixed and mobile devices already work well. There is no good purpose for 5G deployment; it’s not necessary and would have dire consequences.

11 State and local gov’ts. are under enormous pressures.
Governing bodies are told to accept 5G equipment without time or resources to process applications.¹⁰ However, some municipalities, states, and foreign jurisdictions are now resisting.

12 Do you want a 5G antenna in front of YOUR home?
If not, PLEASE HELP!

"Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has." – Margaret Mead
Information on the Biological and Ecological Effects of Radio-Frequency Microwave Radiation Exposure

This information is but only a selection of the information that is out there regarding the effects of radiofrequency microwave (RF/MW) radiation exposure on humans, plants, and animals. If you search reputable resources/websites yourself, you can find more findings from independent (not funded by industry), peer-reviewed research studies that point towards the detrimental biological and ecological effects of exposure to RF/MR.

(a) Here is a document (over 1000 pages long), a compilation of research from 1990-2017, by Henry Lai at bioinitiative.org. And this document of compiled research does not take into consideration the studies conducted prior to 1990 and does not take into consideration the studies looking at the ecological effects of RF/MW radiation:
See #1 for the document: https://bioinitiative.org/research-summaries/

https://bioinitiative.org/research-summaries/

And there are many more studies/evidence to show biological harm from exposure to RF/MW radiation than there are on the harms of smoking and the harms of exposure to lead...and we all, now, accept how harmful these substances are.

So the question is, when will we accept what the independent peer-reviewed research literature is clearly telling us about biological harm from exposure to RF/MW radiation? How many more studies do we need to be convinced? (the answer to the last rhetorical question is: we DON'T need any more studies to prove a clear causal link between RF/MW radiation and biological and ecological harm...we just have to open our eyes and see the evidence that's already in front of us!)

(b) The National Toxicology Program (an inter-agency program run by the United States Department of Health and Human Services) is mandated to coordinate, evaluate, and report on toxicology within public agencies, and it is headquartered at the National Institute of Environmental Health Sciences (NIEHS). In 2018, it published its study results from a 10-year, $25 million study, commissioned by the FCC, on the biological effect of exposure to RF/MR.
The study findings included that there was a statistically significant increase in brain and heart cancers in rats exposed to RF/MR at the radiation levels emitted by 2G and 3G technology. See here for a summary of their results:

(c) On the ecological effects of this technology, here is a video clip of bees dying near 5G cell towers in a 5G test city in California:
https://www.youtube.com/watch?v=yRPO_R1gS3g&feature=youtu.be&fbclid=IwAR2SZNCMWYHtLcleRMHnH6V2s8R3g-hQ3-RP7-3YiLD_lLxyevwW5f-1YuA&app=desktop
This video clip clearly shows a negative ecological impact on our pollinators: "bees are responsible for pollinating about one-sixth of the flowering plant species worldwide and approximately 400 different agricultural types of plants."
(SOURCE: https://www.onegreenplanet.org/animalsandnature/why-bees-are-important-to-our-planet/). Without them, some experts believe that there would be a collapse in some agricultural operations with huge impacts to the food supply (not to mention there would be extinction of certain wild plants that depend on bee pollination, and potentially also as the wildlife that depends on those wild plants).

(d) Based on this clear evidence, it is understandable why there are several appeals to stop 5G out there signed by many around the world. One such appeal (and perhaps one of the more well-known ones) is the 'International Appeal to Stop 5G on Earth and in Space,' signed by thousands of medical doctors, scientists, researchers, lawyers, and EMF experts, just to name a few. The 'Executive Summary' provides a good overview of what all the opposition is about regarding this technology: https://www.5gappeal.org/the-appeal.
You can save a .pdf of the Appeal if you click on the language that you want it in, located off to the left-hand side of the page.

(c) Another international appeal is this one signed by over 250 EMF Scientists from over 40 countries (these are people that research this topic and know their stuff): https://emfcientist.org/images/docs/International_EMF_Scientist-Appeal.pdf

(I) The following document is a 'Legal Opinion' document, from a law firm out of Denmark. It is lengthy (75 pages long), and the first part focuses on 'the facts,' or the research (including biological and ecological effects), while the second part focuses on 'the law.' I humbly think this document does a good job of reporting on the biological and ecological effects related to exposure to RF/MW radiation, as evidenced by the research literature. Moreover, the author of the document concludes, in his legal expertise, that deployment of 5G contravenes human and environmental laws: https://zero5g.com/2019/legal-opinion-on-whether-it-would-be-in-contravention-of-human-rights-and-environmental-law-to-establish-the-5g-system-in-denmark/

(g) Here is a link to a 'Lost Arts Radio' interview with Susan Clarke. I highly recommend listening to it (especially for lawyers interested in helping the cause in Michigan, as she explains some legalities that are grounds to stop/limit deployment of WTFs!). She is an advocate in the movement to bring awareness to the harm associated with exposure to RF/MW radiation, and she uses her knowledge of the law to guide communities to successfully stop deployment of this new technology in their cities. In case you're interested in listening to her interview, Ms. Clarke begins the interview at around the 8-minute mark and ends around the 1 hr and 6 minute mark: https://www.brighteon.com/7a7ae15b-5e2d-4719-ad9d-2ed8271b1e03

(h) Here is a part of the Telecommunications Act of 1996 that Ms. Clarke refers to in the interview above (that many lawyers and public officials misinterpret/misrepresent by saying that it preempts health concerns in the deployment of wireless service facilities, when it clearly doesn't in the language):

"(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions."

In fact, public officials will repeatedly answer that they can't do anything to stop deployment of these WTFs despite the clear evidence of biological harm that independent researchers have found, citing this misrepresented section in the Act to deflect their duty to protect the health and safety of those under their charge.

Ms. Susan Clarke says (in the above interview noted in 'g') that the problem is that a judge once unlawfully misinterpreted 'environmental effects' as 'health concerns,' which is why so many lawyers/public officials, now, follow suit and unlawfully misrepresent this part of the Telecommunications Act of 1996, saying that health effects are preempted when expanding the wireless technology infrastructure. This misrepresentation is currently being explored as a legal means to limit/stop deployment of 5G technology in various States and municipalities across the country.

(i) It appears that, after testing of 5G technology in some test cities, 5G technology is FAR more powerful than even the telecom companies imagined (which is not a good thing) and, therefore, the Telecom companies are in over their heads with regards to the power of the technology that they are bringing into the world.

To illustrate this, here is the Verizon CEO and Chair explaining in the first few minutes of his interview the test data from 5G technology regarding the ability of the small cell towers to transmit a signal even through foliage (which is something they indicated previously that the technology couldn't do, justifying placing the antennas within close proximity to each other, but this interview reveals that placing them in close proximity to each other, and in residential areas within every 2-10 homes, is absolutely NOT necessary): https://youtu.be/tIAuth1gkpI?ti=351 and this Verizon Field Engineer finds the same thing with his testing: https://youtu.be/invG2blKiKCs?ti=30s.
(j) Firefighters are exempt from having 5G cell towers placed near fire stations because back in the early 2000s, they fought to have 2G and 3G cell towers taken off of their fire stations due to the ill health effects that firefighters were experiencing as a result of them. Here is a video clip about the issue: https://www.youtube.com/watch?v=x0Xg5tXWbk&feature=cmb_logo.

In this video clip, Dr. Gunmar Heuser—who is the researcher of the study exploring firefighters' health-related symptoms of exposure to 2G and 3G radio frequency microwave radiation)—is interviewed briefly.

Here is where you can find a letter (see section C. Assembly Appropriations Letter - Fire Station Exemption from SB 649) written by Susan Foster: https://scientists4wiredtech.com/2018/07/firefighters-living-next-to-cell-towers-suffer-neurological-damage/

And there is more information on this website about the firefighters’ exemption to having sWTFs being built on or around their fire houses: http://www.radiationdangers.com/electromagnetic-radiation/fire-fighters-and-police-at-maximum-risk-due-to-installation-of-antennas-and-towers-on-their-buildings/

The above-mentioned website includes the following letter written by a doctor, Dr. Beatrice Golomb, who supports exemptions for those who do not want to be exposed to radio frequency microwave radiation: https://drive.google.com/file/d/0B14R60NkmaXubmZU/W1aERpXJE/view

So the question becomes, if our firefighters fought for and were granted an exemption from having cell towers/antennas on their buildings and properties (due to the ill health effects that they were experiencing from exposure to radio frequency microwave radiation), why isn't the health of other individuals being taken into consideration, as well, such as that of our law enforcement officers and those considered our most vulnerable citizens of society (e.g., babies/children, elderly, those with embedded electronic medical devices, and those with a compromised health/immune system)?

(k) Here are a few useful website resources where anyone can learn more about this issue:

* bioinitiative.org (this one has a great chart (that could be printed and shared with others) that outlines findings from several studies and the power densities at which these biological effects were observed: https://bioinitiative.org/wp-content/uploads/pdfs/BioInitiativeReport-RF-Color-Charts.pdf)
* mdsafetech.org (see tab, ‘scientific literature,’ for information on the studies that show concerns about the effects of RFM radiation
* scientists4wiredtech.com (see tab, ‘Actions -- By City,’ and tab, ‘Law Suits,’ that point towards what other cities are doing to put a stop to 5G deployment until proper safety testing has been done)
* zero5G.com (see tab, ‘articles,’ for interesting information about RFM radiation)

OTHER INFO ON RF/MW RADIATION (FYI):

* ‘Smart meters’ are currently a large source of electromagnetic frequency (EMF) radiation (as well as dirty electricity) in the home. In case you’re interested, here is the website that I have purchased several Smart Meter Guards before (which look like a little Faraday cage that fits over the cylindrical meter) and are currently priced at around $65 (half off regular price!). If you decide to get one for your home, kindly mention when purchasing it that you were sent to them via Linda Kurtz’s ‘Smart Meter Education Network,’ so that her organization (based out of Ann Arbor, MI) can benefit. :) She relies on this kind of income to allow her website to run. :) Anyway, the Smart Meter Guard has been shown to be effective at drastically reducing EMF emissions, and I have had the opportunity myself to purchased several for other family members: https://smartmeterguard.com/. It doesn’t, however, reduce the dirty electricity that the Smart Meters cause and other issues that are related to the meters themselves—but the Static whole-house filter does, which you can purchase online through Linda Kurtz at the ‘Smart Meter Education Network’ at a discount in comparison to other places online,

* It’s sometimes hard to understand the impact of EMFs since we cannot see them, but they do exist, as do the sun’s rays (which we, also, can’t see)! To measure them, here is a meter that you can purchase, in case you’re interested: https://stopsmartmeters.org/store/. It’s called the Cornet
ED8ST+ and according to this website, this device has four modes and can measure the following:

* Detects RF from smart meters, wi-fi, cell phones, cell towers etc. (100 mHz-8 GHz)
* Detects LF from power lines, household wiring, appliances etc. (50 Hz-10kHz)
* Detects E-Fields from power lines, electric wiring, hybrid cars, etc. (50 Hz-50 kHz)
* Detects Primary Broadcast Frequency (between 100MHz and 2.7GHz)

And if you purchase it, here is the accompanying video that Jerry Day (from https://emfhelpercenter.com) has posted to provide an important tutorial on how to use/interpret the meter properly: https://www.youtube.com/watch?v=ogpnOV13O_8
Wireless Telecommunications Facilities-City of Birmingham

Legal developments that allow cities more control over deployment/operations of wireless telecommunications facilities

A. Legal Development

* On August 9, 2019, the DC Circuit Court of Appeals ruled (in the case of ‘Keetoowah Band of Cherokee Indians vs. FCC’; Case 18-1129) that the FCC was not in compliance with the National Environmental Policy Act (NEPA) of 1969, which means that the FCC must complete an Environmental Assessment (EA) and/or Environmental Impact Statements (EIS) to accompany each application for Close Proximity Microwave Radiation Antennas (CPMRA) Wireless Telecommunications Facility (WTF). This ruling effectively stopped all shot-clocks nationwide and gave municipalities the authority to put on hold all 4G and 5G WTFs applications until such a time that the required NEPA review was completed and included in each WTF application.

Moreover on October 1, 2019, the DC Circuit Court of Appeals further ruled against FCC’s overreach. In Case 18-1051, on page 146, with regards to ‘Restoring Internet Freedom, 33 FCC Rcd. 311 (2018) (“2018 Order”),’ the Ruling states:

"[Because] the Commission’s Preemption Directive, see 2018 Order ¶¶ 194–204, lies beyond its authority, we vacate the portion of the 2018 Order purporting to preempt ‘any state or local requirements that are inconsistent with [the Commission’s] deregulatory approach[,]’ see id. ¶ 194.”

In response, the FCC has repealed a large part of the 4G and 5G small cell order (FCC 18-30)— which is a section of the Commission’s rules about the FCC being exempt from doing the necessary NEPA and NHPA review for each WTF—by reinstating full environmental review as of December 5th, 2019.

What Municipalities Can Do

Any WTF application that does not include the required NEPA review is incomplete. This effectively allows local officials to put a hold on WTF applications, as they cannot be considered/processed until such a time that the NEPA review is included in each WTF application.

B. Legal Development

Regarding the FCC repealing ‘net-neutrality,’ the FCC’s regulatory power over the wireless industry has changed from Title 2 (regulated) to Title 1 (unregulated) at the FCC’s request. What this means is that the FCC said that it no longer wants to regulate the Internet, which means that regulation falls back on State and local authorities.

Now, the FCC can only regulate voice calls and not data services (e.g., video, Internet). So when processing WTF applications, municipalities must ensure that they are for voice calls (and that they establish a clearly-identified need for the antenna to close a coverage gap), and are not to be used for data services, because the FCC has no jurisdiction in this area (for requiring antennas to be put up for
data services). Therefore, municipalities do not have to approve applications for WTFs that state they are needed to expand data services but only applications for WTFs that state they are needed in order to expand service for voice calls (and, again, only if they are needed...as there is a provision in the Telecommunications Act of 1996 that, if that transmission is not needed, then a Telecommunications company doesn’t have the right to put that technology there).

**What Municipalities Can Do**

Municipalities can note if a WTF application is for voice calls and not for data services (e.g., video, Internet); if the application states that the WTF is for data services, it does not need to be approved. Note, also if a WTF application identifies a clear need for the antenna to be placed at the prospective location in order to close a coverage gap (and this can be checked by using a cell phone to see how many bars of coverage the cell phone receives when at the prospective location; if there are 4 or 5 bars of coverage, there is no coverage gap to close, so the antenna is not considered needed for this reason and the application can be denied).

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**Legal Development**

Many lawyers and public officials will state that their hands are tied and that they cannot do anything to stop the roll-out of WTFs based on the biological health effects known through independent peer-reviewed research literature to be caused by radiofrequency microwave (RF/MW) radiation. Here is the part of the Telecommunications Act of 1996 (from section 704) that many lawyers and public officials are misinterpreting/misrepresenting by saying that a law exists that preempts consideration of health effects when deploying WTFs:

“(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission’s regulations concerning such emissions.”

As you can see, the word ‘health’ is nowhere in this section of the Act. This misinterpretation began when a judge once unlawfully misinterpreted ‘environmental effects’ as ‘health effects,’ which is why so many lawyers/public officials, now, follow suit and misrepresent this part of the Telecommunications Act of 1996 in the same way. Citing this misrepresented section of the Act to deflect the duty of State and local public officials to protect the health and safety of those in their charge is actually unlawful—because they cannot take away the Oaths of Office of public officials.

**What Municipalities Can Do**

Municipalities can implement more restrictive ordinance amendments that:

* include white zones (e.g., residential, schools/nurseries/daycares, hospitals, seniors homes, public parks, hospices, rehab facilities, and any other places where vulnerable individuals may frequent/reside)
* require Telecommunications companies to be insured against liability for any legal recourse by residents based on health impacts related to exposure to RF/MW radiation from new 4G and 5G WIFIs

* don’t include set-backs, as they indicate that the set-backs are acceptable, and they are not; the research findings unequivocally show that there is no safe amount of exposure to RF/MW radiation; even the FCC guidelines (SAR) do not call them ‘safety’ guidelines/limits, because the research clearly shows that even radiation exposure at the levels indicated in the FCC guidelines produces biological harm

* don’t talk about non-thermal versus thermal effects, because all energy produces some form of heat and all RF/MW radiation causes some level of biological harm

* asks Telecommunications companies to seek the least intrusive implementation plan; that is, the least amount of WIFIs to address the coverage gap for voice calls and no more than that

D. Legal Development

You will notice from the above-quoted section (704) of the Telecommunications Act of 1996 that State and local governments are only preempted from regulating “placement, construction, and modification of personal wireless service facilities.” Here is the section again:

“(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission’s regulations concerning such emissions.”

As you can see, they have not been preempted from regulating the OPERATIONS of WIFIs, which is probably the most important aspect of deploying WIFIs. So State and local governments have the AUTHORITY to regulate the operations of WIFIs.

So if State or local governments have the AUTHORITY to regulate the operations of WIFIs, they also have the OBLIGATION to do so—not only based on health effects, but also based on other factors, such as environmental effects, agricultural effects, aesthetic effects, weather effects, weaponry effects, and economic effects, just to name a few.

What Municipalities Can Do

Because State and local governments have not been preempted from regulating operations of WIFIs, it is within the jurisdiction, and indeed the obligation, of State and local government officials to regulate BASED ON OPERATIONS OF WIFIs. This webpage does a good job of establishing a municipality’s control over the operations of WIFIs: https://scientists4wiredtech.com/compare
Municipalities can exercise its obligation to regulate BASED ON OPERATIONS OF WTFs by passing more restrictive ordinance amendments. Several municipalities are already doing this, based on their authority and obligation to protect their city and residents from such things as health effects, environmental effects, agricultural effects, aesthetic effects, weather effects, weaponry effects, and economic effects. See here for one example of a city’s protective ordinance amendments, BASED ON OPERATIONS OF WTFs (see Code 14.44.095): https://petaluma.municipal.codes/Code/14.44.095.

For example, BASED ON OPERATIONS OF WTFs, local governments can implement an ordinance amendment that addresses environmental effects by regulating the amount of power that each WTF needs to operate. Doing so is necessary, so as to put in place measures that are protective of the environment and prevent effective radiated power from being emitted everywhere (which is a waste of energy and goes against environmentally-friendly initiatives).

More particularly, the ordinance amendment of a city can stipulate a maximum effective radiated power at which each WTF can operate—that is, a measure of power that is just the amount required that will allow the Telecommunications companies to achieve their distance coverage goals for voice calls (again, we are not considering a maximum for data services, because the FCC no longer regulates this area).

EXACT WORDING OF SUCH AN AMENDMENT CAN BE:

> For any Close Proximity Microwave Radiation Antennas (CPMRA) Wireless Telecommunications Facility (WTF) that is

> installed in the public rights-of-way, or

> attached to any building, or

> has antennas installed at a height that is lower than 100 feet off the ground,

... the applicant must install only antennas, radios and other supporting equipment that have no chance of exceeding a total of 40 milliWatts of effective radiated power from the face of the antenna shroud.

If Telecommunications companies balk at the idea of limiting the WTF to 40 milliWatts and say they need more to do Internet transmissions, city officials can remind them that the FCC no longer regulates Internet transmissions and, so, the Telecommunications companies no longer have the right to put the WTF there to expand coverage for Internet transmissions.

Implementing a cap of 40 milliWatts provides cities five main benefits:

(i) Provides coverage for voice call service for about 1/2 mile from the source antenna (more than double the distance of the industry-claimed need for coverage at 1,000 feet down the block)
(ii) Does not effectively prohibit Telecommunications service, making this regulation legally defensible to challenges brought forward by the wireless industry

(iii) Adds necessary measures that residents need to be protect the quiet enjoyment of streets (part of any city's police powers over aesthetics); for an example of one city placing regulations, BASED ON OPERATIONS OF WTFs, in consideration of aesthetic effects, see here: https://scientists4wiredtech.com/2019-ca-supreme-court-decision-t-mobile-v-san-francisco/.

(iv) Power caps can be policed by the city with the installation of an inexpensive, city-owned/controlled/maintained fuse box at each WTF. These fuse boxes would generate significant revenue for the city via fines to the Telecommunications companies (e.g., the first infraction of an antenna going over the maximum of 40 milliWatts is a $25,000 fine; the second infraction is a $50,000 fine; and the third infraction is a $100,000 fine and antenna would have to be removed at the Telecommunications company’s expense)

(v) A cap of 40 milliWatts complies with the FCC RF-EMR exposure guidelines

And here is more information on a city’s benefits when putting in place restrictive ordinance amendments BASED ON OPERATIONS OF WTFs: https://youtu.be/-TvqIqH4U?t=700.

BASED ON OPERATIONS OF WTFs, yet another ordinance amendment that can be put in place is to require that a fiber optic sharing box is installed at the base of each pole in exchanged for permits to install the fiber optic cables in public rights-of-way. In this way, residents can have access fiber optic cables for a high-speed, reliable way of connecting to the Internet, should they so choose. Fiber optic cables have been placed there using public money, so they should not be used exclusively by the Telecommunications companies for their own profit. Moreover, fiber optic cables provide exceedingly more reliable access to the Internet than a wireless connection (especially in cases of emergency), provide faster connection speeds for instant data retrieval, and provide increased data security (it is much less likely to be hacked into). For these and many other reasons, residents must have shared access to this infrastructure.

BASED ON OPERATIONS OF WTFs, yet another ordinance amendment that can be put in place in consideration of health and environmental effects is that each WTF must emit 10% less than the FCC guideline for radiation emissions. Doing so will allow local public officials to not only be mindful of the health of residents, but mindful also of the ecological impacts on wildlife, such as bees (which independent studies have found to be negatively impacted by exposure to radiation; for more information on this, see the attached information sheet from https://emfsafetynetwork.org), as well as the amount of electromagnetic smog emitted into the environment (as hundreds of thousands of new WTFs are planned to be deployed).

The above-mentioned examples are only but a few ideas for ordinance amendments that local public officials can work towards putting in place, BASED ON OPERATIONS OF WTFs, in consideration of the health effects, environmental effects, agricultural effects, aesthetic effects, weather effects, weaponry effects, and economic effects that city officials deem important to protect against.
Other Actions that Municipalities Can Take

* Propose and vote on a moratorium on making a decision on any proposed ordinance amendments until more restrictive ones are drawn up that give cities more control over the operations of WTFs. As outlined in ‘A. Legal Development’ above, as of December 5th, 2019, every application for CPMRAs is incomplete due to lacking a NEPA review. A moratorium, then, if not unwarranted, as it will allow local government officials to take the necessary time to look at the relevant laws and facts to make an informed decision on the matter—one that allows them to not only exercise their duty to appropriately safeguard the health and safety of residents pertaining to radiation exposure from new WTFs, but to also regulate WTFs based on environmental effects, agricultural effects, aesthetic effects, weather effects, weaponry effects, and economic effects. There is ample evidence from independent, peer-reviewed research studies that show biological and ecological harm from exposure to RF/MW radiation, and, based on the Supreme Court’s Daubert Rule, refusing/denying/ignoring this factual evidence when making a decision on proposed ordinance amendments makes cities and/or public officials legally liable for any harm caused to residents as a result of deployment of WTFs without exercising their authority and obligation to take the necessary precautionary measures to regulate the operations of WTFs.

* Cities think that they need to be compliant with two orders, FCC 18-111 and FCC 18-133, but they do not—in fact, they are currently being challenged in court. Once municipalities reach the point where they are ready to consider proposed ordinance amendments, they can decide to pass two different ordinances at the same time, in the eventuality that the two orders get vacated next year when they are challenged in court (and we should hear back around next fall on court decisions). So with two different ordinances in place, if the court decision says that the orders stay, Ordinance A remains in effect and if the orders get vacated, Ordinance B goes into effect. So municipalities can give fair warning to the Telecommunications companies that have placed completed WTF applications and say, you can choose to wait 6-8 months until a court decision is made on the matter, or you can build the WTFs now with the understanding that, should the order get vacated, we reserve the right to have you take them out at your expense. Doing it this way may lead to a de facto stay.
Resolution Supporting Legislation for an Immediate Moratorium on Small Cell Antenna Installations until Health and Environmental Impact is Assessed

Whereas the biological health and environmental impact of a 4G/5G small cell antenna infrastructure has never been assessed.

Whereas current Federal Communications Commission (FCC) radiofrequency (RF) radiation safety guidelines were established in 1996 and are thermally based only.

Whereas current FCC RF safety guidelines do not apply to chronic nonthermal exposure situations as with 4G/5G small cell antennas in public rights-of-way.

Whereas the world’s largest insurance and reinsurance companies refuse to insure the telecommunications industry for liability on electromagnetic fields including wireless RF radiation.

Whereas the insurance industry recognizes wireless radiation as a leading risk and has placed exclusions in their policies not covering damages caused by the pathological properties of electromagnetic radiation.

Whereas cell phone manufacturers have in the legal section within the devise instructions to keep the phone at least 5mm from the body.

Whereas thousands of peer-reviewed studies, including the recently published U.S. National Toxicology Program 16-year $30 million study, are showing a wide-range of statistically significant DNA damage, brain and heart tumors, infertility, and many other ailments, and are being ignored by the FCC.

Whereas the FCC-sanctioned guidelines for public exposure to wireless radiation are based only on the thermal effect on the temperature of the skin and do not account for the non-thermal, non-ionizing, biological effects of wireless RF radiation.

Whereas the FCC radiofrequency exposure limits set for the United States are 100 times higher than countries like Russia, China, Italy, Switzerland, and most of Eastern Europe.

Whereas the World Health Organization (WHO) signify that wireless radiation is a Group B Possibly Carcinogenic to Humans category, a group that includes lead, thalidomide, and others, and some experts who sat on the WHO committee in 2011 are now calling for it to be placed in the Group 1, which are known carcinogens, and such information is being ignored by the FCC.

Whereas more than 250 of the worlds leading scientists signed an appeal to the WHO and the United Nations to protect public health from wireless RF radiation.

Whereas the cumulative biologically damaging effects of the ever-growing numbers of pulsed RF signals riding on the back of the electromagnetic sine waves have not been explored.

Resolved, the City Council of ______ directs the City Administrator to communicate to Michigan’s elected officials at the State government who represent the City’s residents the City’s support for legislation calling for an immediate moratorium on small cell antenna installations in Michigan’s public rights-of-way until environmental impact is assessed and safe levels are established for long-term exposure to pulsed modulated non-ionizing microwave radiofrequency radiation at non-thermal levels, established by independent researchers with absolutely no conflicts of interest.
Climate Change, 5G & the Internet of Things

Massive Increases in 5G Equipment = Massive Increases in Energy Use

Big Tech is Pushing 5G
5G requires millions of new cellular antennas called “small cells” (basically shorter cell towers) to be built in neighborhoods directly in front of our homes. These 5G antennas are to connect with billions of new wirelessly connected “smart” devices referred to as the Internet of Things (IoT). Researchers are warning us that the energy consumption of 5G and the IoT is projected to skyrocket.

5G is NOT Sustainable
The demand for technology is outstripping the increase in efficiency. The energy consumption will rise sharply due to the ever increasing IoT energy demands at every stage of the lifecycle of 5G equipment, from device manufacture to data centers to data transmissions, and networks.

5G is an Energy Hog
“A lurking threat behind the promise of 5G delivering up to 1,000 times as much data as today’s networks is that 5G could also consume up to 1,000 times as much energy.”
— IEEE Spectrum, 5G’s Waveform Is a Battery Vampire

We must consider the environmental footprint of the digital ecosystem.
“Behind each byte we have mining and metal processing, oil extraction and petrochemicals, manufacturing and intermediate transports, public works (to bury the cables) and power generation with coal and gas. As a result, the carbon footprint of the global digital system is already 4% of global greenhouse gas emissions, and its energy consumption rises by 9% per year.”
— Jean-Marc Jancovici, President of The Shift Project, member of the French High Climate Council

The digital version of this document is hyperlinked to online sources for more information. View all sources at EHT’s Climate Change webpage ehtrust.org/climate-change-and-5g

5G was not premarket safety tested.
Fact sources also at EHTrust.org
"Smart" is Not Smart.
The push for all things wireless is the wrong direction.

5G Harms Bees, Trees and Birds

Research finds bees and pollinators absorb between 3% to 370% more of the higher frequencies of 5G, leading the scientists to warn, "This could lead to changes in insect behaviour, physiology, and morphology over time..."

Research finds wireless frequencies interfere with birds' navigation systems and circadian rhythms, and can harm their development and reproduction.

Research finds trees can be harmed by the standard radiation emissions from antenna equipment. Effects include altered growth, thinner cell walls and adverse biochemical changes.

Damage to the Tree Canopy
Trees play a vital role in mitigating climate change, sequestering millions of tons of carbon that would otherwise pollute our climate. The installation of 5G equipment often requires heavy pruning and digging. This will obviously damage the canopy and root system of our trees.

"Wireless devices, antenna networks and data centers are consuming an ever-increasing portion of the global energy supply, based largely on coal..."
— "Re-Inventing Wires: The Future of Landlines and Networks"

"Our energy calculations show that by 2015, wireless cloud will consume up to 43 TWh, compared to only 9.2 TWh in 2012, an increase of 460%. This is an increase in carbon footprint from 6 megatonnes of CO2 in 2012 to up to 30 megatonnes of CO2 in 2015, the equivalent of adding 4.9 million cars to the roads. Up to 90% of this consumption is attributable to wireless access network technologies, data centres account for only 9%...

...wireless access networks are clearly the biggest and most inefficient consumer of energy in the cloud environment."
— The Centre for Energy Efficient Telecommunications, 2013

Solutions for fast, safe and secure internet connections do exist.
A national wireline system can guarantee a superior foundation of Internet access for everyone, unequalled connectivity speed, safety, privacy, security, energy efficiency and long-term sustainability.

Referenced Reports
Thielens et al., "Exposure of Insects to Radio-Frequency Electromagnetic Fields from 2 to 120 GHz" Scientific Reports, 2018
Vertiv, "Telco Industry Hopes and Fears from Energy Costs to Edge Computing Transformation," 2019
Timothy Schoechle, "Re-Inventing Wires: The Future of Landlines and Networks," National Institute for Science, Law & Public Policy, May 2018
Morley et al., Lancaster University, "Digitalisation, energy and data demand: The impact of Internet traffic on overall and peak electricity consumption," Energy Research and Social Science, 2018
The Centre for Energy Efficient Telecommunications at the University of Melbourne, "The Power of Wireless Cloud," 2013

The digital version of this document is hyperlinked to online sources for more information. View all sources at EHT’s Climate Change webpage ehtrust.org/climate-change-and-5g