

# PONTIAC CITY COUNCIL

**Kermit Williams, District 7**  
**President**  
**Randy Carter, District 4**  
**President Pro Tem**



**Patrice Waterman, District 1**  
**District 2**  
**Mary Pietila, District 3**  
**Gloria Miller, District 5**  
**Dr. Doris Taylor Burks, District 6**

*It is this Council's mission "To serve the citizens of Pontiac by committing to help provide an enhanced quality of life for its residents, fostering the vision of a family-friendly community that is a great place to live, work and play."*

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Garland S. Doyle, M.P.A.  
Interim City Clerk

## STUDY SESSION

**September 10, 2019**

**6:00 P.M.**

**114<sup>th</sup> Session of the 10<sup>th</sup> Council**

### Call to order

### Moment of Silence

1. Honor of the late **Councilman Don Woodward, District 2**

### Roll Call

### Authorization to Excuse Councilmembers

### Amendments to and Approval of the Agenda

### Approval of the Minutes

2. September 3, 2019

### Public Comment

### Communications

3. Community Benefits Ordinance Timeline
4. Statement from the Mayor Regarding Veto of As Ordinance to Amend Chapter 42, "Community Development", to add Article VII, entitled "Provisioning Center Community Benefits Agreements"

### Resolution

5. Resolution to Override Mayor's Veto of Ordinance to Amend Chapter 42, "Community Development", to add Article VII, entitled "Provisioning Center Community Benefits Agreements"

### Discussions

6. Dangerous Animal Ordinance
7. Filling of the Council Vacancy District 2

### Ordinances

8. Adoption of an Emergency Ordinance to amend Emergency Ordinance 2346 for the General Employee Retirement System (The City Council adopted a version of this ordinance on August 27, 2019. The administration had an incorrect date in the ordinance. The City Council will need to adopt the ordinance with the correct date.)

9. An Ordinance to amend the Municipal Code of the City of Pontiac by amending Chapter 92, General Employees' Retirement System, Section 92-2 to update interest rate and mortality table used to determine actuarial equivalence (First Reading)
10. Adoption of an Ordinance to Amend the Zoning Ordinance of City Of Pontiac, Oakland County, Michigan by Addressing Temporary Construction Fencing Regulations

## **Resolutions**

### **City Council**

11. Resolution to authorize the posting of the vacant Legislative Fiscal Analyst position

### **Office of the City Clerk**

12. Resolution to authorize the posting of the vacant Assistant City Clerk position
13. Status Update on the RFP for the for Professional Expert-Financial Advisor to the City Clerk and RFP for Hearing Officer

### **Finance**

14. Resolution to approve DTE easement for parcel address located at 68 Oakland Avenue, Pontiac, Michigan.
15. Resolution to approve a Notice of Intent to Issue Capital Improvement Bonds, Series 2019 (Limited Tax General Obligation), in an amount not to exceed 19,500,000.00, for the purpose of paying all or part of the costs of acquiring, constructing, furnishing and equipping improvements to the parking deck, plaza and related improvement to the City's Phoenix Center.
16. Resolution to authorize the Mayor to issue a Request for Proposals (an "RFP") to invite qualified parties to submit proposals for the purchase of the Phoenix Center facility.
17. Resolution to authorize the Mayor to issue a Request for Proposals (an "RFP") to invite qualified parties to submit proposals for the leasing of the Phoenix Center facility.
18. Resolution to authorize the Mayor to issue a Request for Proposals (an "RFP") to invite qualified parties to submit proposals for the management of the Phoenix Center facility.
19. Resolution to authorize Mayor to issue Request for Proposals (RFP) to invite qualified parties to submit proposals for a Public Private Partnership with a qualified party or parties for the Phoenix Center facility.
20. Resolution to approve the \$100,000.00 budget amendment for City-wide park enhancements.

## **Adjournment**

**#2**

**MINUTES**

September 3, 2019 Formal

**Official Proceedings  
Pontiac City Council  
113<sup>th</sup> Session of the Tenth Council**

A Formal Meeting of the City Council of Pontiac, Michigan was called to order in City Hall, Tuesday, September 3, 2019 at 6:00 p.m. by Council President Kermit Williams.

Call to Order

Invocation- Pastor Matlock

Pledge of Allegiance

Roll Call

Members Present: Carter, Pietila, Taylor-Burks, Waterman, Williams and Woodward.

Councilwoman Gloria Miller arrived at 6:01 p.m.

Mayor Waterman was present.

Clerk announced a quorum.

Council President Williams gave a Point of Privilege to Councilman Don Woodward to announce that he would resign effective October 2019.

19-448           **Motion to add a resolution for the position of Customer Service Representative in the Clerk's Office.** Moved by Councilperson Woodward and second by Councilperson Pietila.  
**Discussion: Council President also called for a motion to postpone for two weeks items #10, #11, #12, #14, #15 and #16.** Moved by Councilperson Woodward and second by Councilperson Taylor-Burks.

Ayes: Taylor-Burks, Waterman, Williams, Carter, Miller and Pietila

No: None

**Motion Carried.**

19-449           **Approval of the agenda as amended.** Moved by Councilperson Taylor-Burks and second by Councilperson Pietila.

Ayes: Waterman, Williams, Woodward, Carter, Miller, Pietila and Taylor-Burks

No: None

**Motion Carried.**

19-450           **Approve meeting minutes of August 20, 2019.** Moved by Councilperson Waterman and second by Councilperson Taylor-Burks.

September 3, 2019 Formal

Ayes: Williams, Woodward, Carter, Miller, Pietila, Taylor-Burks and Waterman  
No: None  
**Motion Carried.**

19-451            **Approve meeting minutes of August 27, 2019.** Moved by Councilperson Pietila and second by Councilperson Waterman.

Ayes: Woodward, Carter, Miller, Pietila, Taylor-Burks, Waterman and Williams  
No: None  
**Motion Carried.**

19-452            **Resolution for Customer Service Representative Position in the Clerk's Office. (Agenda add-on)** Moved by Councilperson Waterman and second by Councilperson Taylor-Burks.

Whereas, the City posted the open position of Customer Service Representative (City Clerk's Office), along with a copy of the job description, by way of the City's website; and  
Whereas, the City's 2019-2020 budget specifically provides for such a position in the City Clerk's Office and currently has the funds available for such a position; and  
Whereas, Ordinance No. 22xx Division 3. Office of the City Clerk Section 2.112 City Clerk states that "the City Clerk may hire such number of full-time, part-time, or seasonal employees as the City budget shall authorize to assist him in fulfilling the responsibilities of his position"; and  
Whereas, the Charter has established that the City Clerk is a part of the Legislative Branch and not the Executive Branch which makes this hire not subject to approval of the Mayor or any Executive Branch designee; and  
Whereas, additional responsibilities have been given to the Office of the City Clerk it is crucial that this position and the vacant Assistant City Clerk position be filled as soon as possible; and  
Whereas, after careful review by the Human Resources Manager and Interim City Clerk of the resumes submitted and interviews with the candidates, the Interim City Clerk desires to have Jonathan Starks, hired as the Customer Service Representative;  
Whereas, Jonathan Starks has previous customer service experience, bachelor's degree from Cleary University and is an information technology specialist for the U.S. Army Reserves  
Now Therefore, Be It Resolved, that the City Council approves the hiring of Jonathan Starks as the Customer Service Representative at a hourly rate of \$17.00, and with benefits available at the same level as other City employees with an effective start date of September 9, 2019.

Ayes: Carter, Miller, Pietila, Tylor-Burks, Waterman, Williams and Woodward  
No: None  
**Resolution Passed.**

**Discussion-10<sup>th</sup> Pontiac City Council Rules and Procedures**

19-453            **Motion to Censure Councilwoman Mary Pietila for Egregious Violation of the Council Code of Ethics.** Moved by Councilperson Taylor-Burks and second by Councilperson Carter.

September 3, 2019 Formal

Ayes: Miller, Pietila, Taylor-Burks, Waterman, Williams, Williams and Carter  
No: None  
Abstain: Woodward  
**Motion Carried.**

19-454 **Motion to suspend Councilwoman Mary Pietila as Public Safety Subcommittee Chair for three (3) months.** Moved by Councilperson Taylor-Burks and second by Councilperson Waterman.

Ayes: Taylor-Burks, Waterman, Williams, and Carter  
No: Pietila, Woodward and Miller  
**Motion Carried.**

19-455 **Motion to Censure Council President Pro-Tem Randy Carter for Egregious Violation of the Council Code of Ethics.** Moved by Councilperson Waterman and second by Councilperson Taylor-Burks.

Ayes: Williams and Carter  
No: Taylor-Burks, and Miller  
Abstain: Waterman and Woodward  
**Motion Failed.**  
Councilperson Pietila did not vote.

19-456 **Motion for no videos playing/showing during public comment.** Moved by Councilperson Woodward and second by Councilperson Taylor-Burks.

Ayes: Waterman, Williams, Woodward, Carter, Miller, Pietila and Taylor-Burks  
No: None  
**Motion Carried.**

19-457 **Motion for no yielding of time during public comment.** Moved by Councilperson Woodward and second by Councilperson Taylor-Burks,

Ayes: Williams, Woodward, Carter, Miller, Pietila, Taylor-Burks and Waterman  
No: None  
**Motion Carried.**

**Discussion-** Implementing a Vicious Dog Ordinance

**Communication from the Office of the City Clerk**

Status Update on RFP for Professional Expert-Financial Advisor to the City Clerk and RFP for Hearing Officer will be brought back next week.

September 3, 2019 Formal

**Special Presentation-Phoenix Center Town Hall Update**

Presentation Presenter: Mayor Deidre Waterman

19-458            **Resolution to approve a Zoning Text Amendment of the City of Pontiac Zoning Ordinance to add Temporary Construction Fencing in the City of Pontiac.** Moved by Councilperson Taylor-Burks and second by Councilperson Woodward.

Whereas, the City prepared a Zoning Text Amendment of City of Pontiac Zoning Ordinance to add Temporary Construction Fencing regulations. The Ordinance include revisions to; Amend Article 4, General Provisions, Chapter 1 Accessory Structure and Fences, Section 4.103 Fences or Walls and add Item E. Temporary Construction Fencing.

Whereas, In accordance with procedures outlined in the Zoning Ordinance, Sections 6.802 as it relates to Zoning Text Amendments, the request has undergone the required; technical review, Public hearing and Planning Commission recommendation; and

Whereas, On August 7, 2019 a public Hearing was held and the Planning Commission approved the Zoning Text Amendment to amend the City of Pontiac Zoning Ordinance to include Temporary Construction Fencing within the City of Pontiac, and the Planning Commission recommends City Council to approve the Zoning Text Amendment; and

Now, therefore, Be It resolved, that the City Council for the City of Pontiac approve the Planning Commission recommendation for the Zoning Text Amendment of the city of Pontiac Zoning Ordinance to add Temporary Construction Fencing in the City of Pontiac.

Ayes: Woodward, Carter, Miller, Pietila, Taylor-Burks, Waterman and Williams

No: None

**Resolution Passed.**

Councilwoman Mary Pietila asked to be excused from the meeting.

Fourteen (14) individuals addressed the body during public comment.

Councilwoman Patrice Waterman left meeting during public comment.

Mayor Waterman, Interim City Clerk Garland Doyle, Legislative Counsel Monique Sharp, Councilwoman Taylor-Burks, Councilman Don Woodward, Councilwoman Gloria Miller, Council Pro-Tem Randy Carter and Council President Williams made closing comments.

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GARLAND S. DOYLE  
INTERIM CITY CLERK

**#3**

# **COMMUNICATION**

GARLAND S. DOYLE, M.P.A.  
*Interim City Clerk*  
*FOIA Coordinator*

SHEILA GRANDISON  
*Deputy City Clerk*



OFFICE OF THE CITY CLERK  
47450 Woodward Avenue  
Pontiac, Michigan 48342  
Phone: (248) 758-3200  
Fax: (248) 758-3160

## MEMORANDUM

TO: Honorable City Council

FR: Garland S. Doyle, M.P.A., Interim City Clerk

DA: September 6, 2019

RE: Community Benefits Ordinance Timeline

March 5, 2019

The Interim City Clerk makes a presentation to the City Council about adopting a Community Benefits Ordinance that could assist him in scoring and ranking Medical Marihuana Applications.

April 29, 2019

The City Council has a special meeting to discuss the development of a Community Benefits Ordinance. At that meeting, the City Council ask City Attorney Chubb to work with their Legislative Counsel to draft an ordinance by the next meeting set for June 3, 2019.

June 3, 2019

The City Council holds a special meeting on the Community Benefits Ordinance. City Attorney Chubb had not prepared an ordinance.

June 4, 2019

The City Council adopts a resolution instructing the City Attorney to prepare a Community Benefits Ordinance by June 14, 2019.

July 16, 2019

The City Council holds a special meeting to discuss the Community Benefits Ordinance drafted by City Attorney Chubb. The City Council ask for revisions to be made to the ordinance.

August 13, 2019

The City Council conducts the first reading on the ordinance prepared by City Attorney Chubb. At that meeting, the Interim City Clerk introduces an alternative Community Benefits Ordinance that was prepared with the assistance of an attorney from Miller Canfield who was hired as the professional expert to assist the Clerk with application materials. The alternative ordinance was prepared because the one prepared by City Attorney Chubb did not assist the Clerk in the

Medical Marihuana Provisioning Center scoring process. The City Council conducts the first reading of the alternative ordinance. City Attorney Chubb stated that he could rectify any discrepancies between the two ordinances by the meeting on August 20, 2019.

August 15, 2019

City Attorney Chubb sends an email stating that he has not received the amendments to the alternative ordinance and therefore will not be able to approve it as to form by the August 20, 2019.

August 16, 2019

The Mayor's administration refuses to post the City Council's agenda for the August 20, 2019 meeting on the City's website.

August 19, 2019

City Attorney Chubb and the Interim City Clerk had a meeting. At that meeting, the City Attorney states that he would be able to approve the alternative ordinance as to form by the August 27, 2019 City Council meeting. The Interim City Clerk agrees to remove all of the Community Benefits Ordinances off of the August 20, 2019 City Council agenda.

August 27, 2019

**The City Attorney fails to submit the Provisioning Center Community Benefits Agreements Ordinance for adoption at the City Council Meeting.**

September 3, 2019

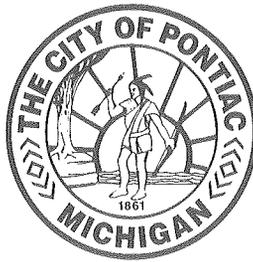
**City Attorney Chubb again fails to submit the Provisioning Center Community Benefits Agreements Ordinance for adoption at the City Council Meeting. Attorney Chubb has now had the Provisioning Center Community Benefits Agreements Ordinance since August 13, 2019 close to a month.** The City Council decides to add the ordinance to its agenda and approves it.

September 6, 2019

The Mayor vetoes the ordinance.

**#4**

# **COMMUNICATION**



DR. DEIRDRE WATERMAN  
MAYOR  
CITY OF PONTIAC

**Statement of Mayor Waterman's veto regarding Resolution to Appeal Ordinance to Amend Chapter 42 "Community Development" to add Article VII, "Provisioning Center Community Benefits Agreements (Agenda item Add-on).**

I have issued this veto for several reasons. The most decisive of which is that the ordinance has not been approved by the City Attorney as to form. This step is a critical part of the process for ordinances as stated by our city charter.

It is important to the city, and apparently important to the voters who approved the city charter, that this process be observed. Other reasons for my veto are as stated by the city attorney on multiple occasions at city council meetings where add-on items appeared at council meetings without either the city attorney or the administration having a chance to review or and be prepared to comment. It is important that we follow an orderly process as has been mandated by our charter and explained by our city attorney on multiple occasions. Unless and until the city attorney has reviewed and approved this ordinance change voted by council, it is not enforceable or implementable and for that reason I veto it.

(see attached copy of email for signature)  
Mayor Deirdre Waterman

## Mayor Deirdre Waterman

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**To:** Garland Doyle  
**Cc:** Sheila Grandison; Jane Bais-DiSessa; Tamura Veasy (tveasy@pontiac.mi.us); achubb@gmhlaw.com  
**Subject:** RE: Resolutions and/or Ordinances from City Council August 27, 2019 Meeting

Interim Clerk, I have received and reviewed the packet of the Resolutions and Ordinances from the City Council August 27, 2019 meeting.

Of those, my veto is for the agenda item add-on matter entitled "An Ordinance to amend chapter 42; community development, to add Article VII entitle "Provisioning center community benefits agreements."

My statement is as follows:

I have issued this veto for several reasons. The most decisive of which is that the ordinance has not been approved by the City attorney as to form. This step is a critical part of the process for ordinances as stated by our city charter. It is important to the city, and apparently important to the voters who approved the city charter, that this process be observed. Other reasons for my veto are as stated by the city attorney on multiple occasions at city council meetings where add-on items appeared at council meetings without either the city attorney or the administration having a chance review and be prepared to comment. It is important that we follow an orderly process as has been mandated by our charter and explained by our city attorney on multiple occasion. Unless and until the city attorney has reviewed and approved this ordinance change voted by council, it is not enforceable or implementable and for that reason I veto it.



Dr. Deirdre Waterman  
Mayor City of Pontiac  
Appointments – (248) 758-3133  
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[www.pontiac.mi.us](http://www.pontiac.mi.us)



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**From:** Garland Doyle  
**Sent:** Friday, August 30, 2019 3:00 PM  
**To:** Mayor Deirdre Waterman  
**Cc:** Sheila Grandison  
**Subject:** Resolutions and/or Ordinances from City Council August 27, 2019 Meeting

Mayor,

Per section 3.112(f) of the Home Rule Charter of the City of Pontiac, I am forwarding the applicable resolutions and/or ordinances within the required 4 business days after adjournment of the meeting at which the ordinance or resolution was adopted. If you choose to veto a resolution and/or ordinance, please submit it within 7 days of receipt with a written statement to the Interim City Clerk.

Otherwise, no signature is required for the resolution and/or ordinance. Additionally, the packet will not need to be returned to the City Clerk.

**#5**

# **RESOLUTION**

## Pontiac City Council Resolution



### **RESOLUTION ADOPTING RESOLUTION 19-436 ADOPTION OF AN ORDINANCE TO AMEND CHAPTER 42 “COMMUNITY DEVELOPMENT” TO ADD ARTICLE VII, ENTITLED “PROVISIONING CENTER COMMUNITY BENEFITS AGREEMENTS” OVER MAYOR’S VETO**

**WHEREAS,** on August 27, 2019, the City Council of the City of Pontiac adopted an ordinance to amend Chapter 42 “Community Development” to add Article VII entitled “Provisioning Center Community Benefits Agreements ; and,

**WHEREAS,** it is in the best interest of the City of Pontiac to adopt an ordinance allow developers of provisioning centers to enter into Community Benefits Agreements that identify potential negative aspects of such developments and identify proportional community benefits to the City of Pontiac to rectify those negative aspects.; and,

**WHEREAS,** the City of Pontiac recognizes amenities, benefits or commitments for the following purposes as community benefits such as Roads; Infrastructure, Road Repair, Potholes; Road Matching; Parks, Park Safety (cameras), Law Enforcement; High School Pool, Hawthorne Park (Water Park), Neighborhood Revitalization Plan; Job Training and Employment, Transitional Programs (previously incarcerated); Library and Literacy, Health Initiative Education; and Business Development Fund (to assist City of Pontiac residents with funding for businesses and with starting and growing businesses); and,

**WHEREAS,** the pledges of community benefits would be incorporated into Community Benefits Agreements that will be used in part to assist the City Clerk with scoring and ranking of provisioning center applications pursuant to City Ordinance 2357 (B); and

**WHEREAS,** on September 6, 2019, the Mayor vetoed the ordinance (resolution 19-436); and,

**WHEREAS,** pursuant to Pontiac City Charter Provision 3.112 (f), the City Council wishes to reconsider resolution 19-436 over the Mayor’s veto. Five (5) affirmative votes are required by Pontiac City Charter Provision 3.112(f),

**NOW, THEREFORE BE IT RESOLVED,** by the Pontiac City Council that the Council hereby adopts the Resolution 19-436 over the Mayor’s veto.

**#8**

**ORDINANCE**



# City of Pontiac, Michigan

## Department of Finance

Mayor Deirdre Waterman

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**To:** Honorable Mayor Waterman, City Council President Williams and City Council Members

**From:** Hughey Newsome, Interim Finance Director, through Jane Bais-DiSessa, Deputy Mayor

**Date:** August 22, 2019

**Cc:** Anthony Chubb, City Attorney

**Re:** Agenda Request: Amendment to Emergency Ordinance 2346

Honorable Council President and City Council:

As you may recall, on June 15, 2017, the City Council approved Emergency Ordinance 2346, which extended the temporary increase in pension payments to GERS retirees until August 31, 2018.

Attached for your consideration is an emergency ordinance to extend the supplemental payment for GERS retirees from September 1, 2019 ending August 31, 2020, or when the CPREA health care litigation is resolved and health insurance will be provided to retiree class, whichever comes first.

As such, the following resolution is recommended for your consideration:

*Whereas, the temporary increase to certain members of the GERS pension system is set to expire on August 31, 2019; and,*

*Whereas, the City Council desires that this temporary increase continues for at least one more year; and,*

*Whereas, such ordinance, if approved, will take effect from September 1, 2019 and expire on August 31, 2020 or when the CPREA health care litigation is resolved and health insurance will be provided to retiree class, whichever comes first, and,*

*Whereas, the Pontiac City Council considers this an emergency.*

*Now therefore, an Ordinance to provide limited increase in pension systems members of the General Employee Retirement System (GERS) is hereby approved.*

## **An Amendment to Ordinance No. XXXX**

**An ordinance to provide for a limited increase in pension payments for certain members of the General Employee Retirement System.**

The City of Pontiac ordains:

### **Section 1. Amendments.**

The General Employee Retirement System ordinance shall be amended to read as follows:

- a. Section 17.6 shall be amended to add the following language:  
**Temporary Pension Increase:**  
"All persons who are receiving retirement benefits as of August 1, 2019 and who enter pay status through August 1, 2020, shall be entitled to receive an increase in their monthly allowance of four hundred dollars (\$400.00) per month beginning September 1, 2019 through August 31, 2020, or when the CPREA litigation is resolved and health insurance will be provided to the retiree class, whichever comes first."

### **Section 2. Severability.**

If any section, or provision of this Ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of the Ordinance shall stand and be in full force and effect.

### **Section 3. Repealer.**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

### **Section 4. Publication.**

The Clerk shall publish this Ordinance in a newspaper of general circulation.

### **Section 5. Emergency Declaration and Effective Date.**

This Ordinance is declared an emergency of health and safety to allow the pension recipients to collect the increase authorized in this Ordinance on the date identified in this Ordinance and shall be effective immediately upon adoption by the City Council, this ordinance must be approved by the City Council by August 31, 2019.

**#9**

**ORDINANCE**

PONTIAC GENERAL EMPLOYEES' RETIREMENT SYSTEM  
**OFFICIAL MEMORANDUM**

TO: Pontiac City Council

CC: Mayor Deirdre Waterman  
GERS Board of Trustees

FROM: Deborah Munson, Executive Director

DATE: August 6, 2019

RE: **GERS Proposed Ordinance Update RE: Actuarial Equivalence**

EXECUTIVE SUMMARY:

In 2013, the Retirement System submitted its periodic application to the IRS for a favourable Letter of Determination. The IRS issued a favourable Letter contingent on adoption of several amendments (Exhibit A) to the Retirement System Ordinance which the City Council adopted in May 2014.

One of those required amendments was an update to the Retirement System Ordinance's definition of 'Actuarial Equivalent' such that the definition now includes the specific interest rate and mortality table which are used to determine the present value of the various forms of benefit payments.

Ordinance Sec. 92-2 Definitions:

*Actuarial equivalent* means the equivalence in the present value of various forms of payment. Present value will be determined by the retirement system's actuary based upon the mortality tables and interest rates established from time to time by the Board. For purposes of determining the actuarial equivalence of benefits, the actuary for the Retirement System shall use 6.50% interest rate and the 1971 Group Annuity Mortality Table - Male - Set Forward 0 Years for retirees and the 1971 Group Annuity Mortality Table - Female - Set Forward 0 years for beneficiaries. The unisex mix shall be 0.0% Male and 100.0% Female. (2014 Amendment Language Added)

The Retirement System Ordinance Sec. 92-10 provides that "The Board shall adopt such mortality and other tables of experience as are necessary in the operation of the retirement system on an actuarial basis."

The Board periodically reviews the tables and rates used for actuarial purposes and - in 2017 - adopted an updated mortality table and interest rate. Specifically, present value is now determined using a 7% interest rate and the RP-2014 Healthy Annuitant Mortality Table.

An ordinance has not been adopted by the City Council so that the Retirement System Ordinance's Definition of Actuarial Equivalent reflects the current interest rate and mortality table used to determine present value.

REQUESTED ACTION:

Request that the City Council adopt the attached proposed ordinance to revise the Sec. 92-2 definition of Actuarial Equivalent to reflect the current interest rate and mortality table used to determine present value.

BACKGROUND:

The IRS issued the Retirement System a favorable Letter of Determination in 2014; however, it was contingent on the City Council adopting several amendments to the Retirement System Ordinance. The City Council adopted those amendments at their May 1, 2014 meeting (Ex. B). It was discovered this year that the amendments had not yet been codified.

The Board periodically reviews the tables and rates used for actuarial purposes. The Board relies on the advice of its' investment consultant and actuary to determine those tables and rates and the System's auditor annually reviews these assumptions for reasonableness.

The Retirement System's Advisor and Review Policy requires that the Board annually select one of its eight major services providers for review. In 2016, the actuary was selected, an RFP was issued and Gabriel, Roeder, Smith & Company was hired as the System's actuary. As part of the transition to the new actuary, the Board directed that an actuarial audit be conducted and the results of that audit were presented to the Board on February 22, 2017. Pursuant to the responsibilities delegated to it by the Ordinance, the Board - at the March 29, 2017 meeting - adopted the actuary's recommendation to use an investment (interest) rate of return of 7% and the RP-2014 Healthy Annuitant Mortality Table to determine the present value of the various forms of payment.

The Retirement System Ordinance Sec. 92-25 reads, in part:

- (a) Prior to the effective date of the member's retirement... a member may elect to receive his/her retirement allowance as a regular retirement allowance payable throughout his/her life; or he/she may elect to receive the *actuarial equivalent*... of his/her regular retirement allowance in a reduced retirement allowance payable throughout his/her life, and nominate a beneficiary, in accordance with the provisions of Option 1, 2, 3, 4, or 5...

The various forms of payment (Options 1 – 5) allow the member to opt to receive a reduced benefit amount in order to provide a benefit for their beneficiary. The interest/investment rate and mortality table are used in determining what (reduced) benefit amounts should be paid to the member and their beneficiary so that the present value of the total of those payments is *equivalent* to the present value of the total (unreduced) of the payments that would have been paid to just the member if he had selected the Regular benefit. In May 2017, the System's member data software – which calculates these various forms of payment - was updated to incorporate the adopted interest rate and mortality table for use in determining the present value of the various forms of payment.

The City Council has not previously been notified of the Board's adoption of the updated interest rate and mortality table. Having consulted with the System's attorney, the Board approved at their July 31, 2019 meeting to forward to the City Council the attached ordinance and recommendation for adoption.

EXAMPLE:

A sample member benefit calculation is attached (Ex. C). The interest rate and mortality table are used to determine the present value of each optional form of payment to ensure actuarial equivalence. What this means is that the present value of all of the payments that would be made if the member selects the Regular Option must be equal to the present value of all of the payments that would be made if the member selects either Option I, II, III or IV or V. The following is an oversimplified example.

A member's *Regular* (unreduced) retirement benefit is calculated as follows:

$$\text{Final Average Compensation} * \text{Years of Service} * \text{Multiplier (determined by union)}$$

Regular Option: Member Selects Regular (unreduced) Benefit: The benefit ends upon the death of the member:

Based on the formula above, his annual retirement benefit is \$10,000.00 (\$833.33/month). According to the mortality table, he is expected to live for 20 years so he will be paid a total of \$200,000. If the System earns a 7% rate of return, we only need to invest \$114,000 today (present value) in order to have enough assets to make all of those future payments.

**OR**

Option II: Member selects Joint & 100% Survivor (reduced). Upon the death of the member, the beneficiary will receive a lifetime pension equal to the amount of the member's:

The member is still expected to live 20 years but has a younger beneficiary whose life expectancy is 5 years longer. *Actuarial equivalence requires that the present value of total payments to be paid to the member and the beneficiary under Option II equal the present value of the payments that would have been paid to just the member under the Regular Option - \$114,000.* Since there are more expected payments, the payment amount must be lower (reduced): The annual retirement benefit is \$8,880 (\$740.00/month) payable to the member and the same amount to the beneficiary upon his death.

Options III, IV and V simply offer the member other reduced forms of payment which have slightly different benefits for the member and the beneficiary. The benefits payable under any and all of these options must meet the actuarial equivalence standard.

To summarize, a retirement benefit can be thought of as a lump sum amount. The member above has earned a benefit that in today's dollars (present value) is worth \$114,000. The various forms of payment merely give the member the option of receiving that benefit over his lifetime or sharing it with a beneficiary over both of their lifetimes. Actuarial equivalence ensures that whether the member shares the payments using Option I, II, III, IV or V, the present value of those payments is still \$114,000. The Board employs the services of professional advisors to ensure that the tables and rates used to determine present value are appropriate to sustain sound fiscal management of the Retirement System.

An ordinance to amend the Municipal Code of the City of Pontiac by amending Chapter 92, General Employees' Retirement System, Section 92-2 to update interest rate and mortality table used to determine actuarial equivalence.

The City of Pontiac ordains:

**Section 1. Amendments.**

The General Employee's Retirement System Ordinance Section 92-2 shall be amended so that the definition of "Actuarial Equivalent" shall read:

*Actuarial equivalent* means the equivalence in the present value of various forms of payment. Present value will be determined by the Retirement System's actuary based upon the mortality tables and interest rates established from time to time by the Board. For purposes of determining the actuarial equivalence of benefits, the actuary for the Retirement System shall use ~~6.50%~~ 7.00% interest rate and the ~~1971 Group Annuity Mortality Table - Male - Set Forward 0 Years~~ RP-2014 Healthy Annuitant Mortality Table projected to 2021 using the 2-dimensional MP-2014 improvement scale Set Forward 0 Years for retirees ~~and the 1971 Group Annuity Mortality Table - Female - Set Forward 0 years~~ and for beneficiaries. The unisex mix shall be ~~0.0%~~ 50% Male and 50% Female.

**Section 2. Severability**

If any section, clause, or provision of this Ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any Court of competent jurisdiction, such section, clause, or provision declared to be unconstitutional, void, or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

**Section 3. Repealer.**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**Section 4. Publication**

The Clerk shall publish this Ordinance in a newspaper of general circulation.

**Section 5. Effective Date**

This Ordinance shall be effective ten days after date of adoption.

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: JAN 30 2014

Employer Identification Number:

38-6005034

DEIN:

17007149051023

CITY OF PONTIAC

C/O SULLIVAN, WARD, ASHER & RATTON PC Person to Contact:

RUTH CHEN

ID# 95048

CYNTHIA J BILLINGS

25800 NORTHWESTERN HWY STE 1000

Contact Telephone Number:

(626) 927-1423

SOUTH FIELD, MI 48075

Plan Name:

CITY OF PONTIAC GENERAL EMPLOYEES

RETIREMENT SYSTEM

Plan Number: 003

Dear Applicant:

We have made a favorable determination on the plan identified above based on the information you have supplied. Please keep this letter, the application forms submitted to request this letter and all correspondence with the Internal Revenue Service regarding your application for a determination letter in your permanent records. You must retain this information to preserve your reliance on this letter.

Continued qualification of the plan under its present form will depend on its effect in operation. See section 1.401-1(b)(3) of the Income Tax Regulations. We will review the status of the plan in operation periodically.

The enclosed Publication 794 explains the significance and the scope of this favorable determination letter based on the determination requests selected on your application forms. Publication 794 describes the information that must be retained to have reliance on this favorable determination letter. The publication also provides examples of the effect of a plan's operation on its qualified status and discusses the reporting requirements for qualified plans. Please read Publication 794.

This letter relates only to the status of your plan under the Internal Revenue Code. It is not a determination regarding the effect of other federal or local statutes.

~~This determination letter gives no reliance for any qualification change that becomes effective, any guidance published, or any statutes enacted, after the issuance of the Cumulative List (unless the item has been identified in the Cumulative List) for the cycle under which this application was submitted.~~

This determination letter is applicable for the amendment(s) executed on 5-3-11/1-30-12.

This determination letter is also applicable for the amendment(s) dated on 3-6-12/11-16-12.

This determination letter is also applicable for the amendment(s) dated on

Letter 2002

Exhibit A

6

CITY OF PONTIAC

12-22-11/4-25-12.



This determination is subject to your adoption of the proposed amendments submitted in your letter dated 5-24-13/11-8-13. The proposed amendments should be adopted on or before the date prescribed by the regulations under Code section 401(b).

This letter supersedes our letter dated on or about 11-21-13.

This determination letter is based solely on your assertion that the plan is entitled to be treated as a Governmental plan under section 414(d) of the Internal Revenue Code.

This letter may not be relied on after the end of the plan's first five-year remedial amendment cycle that ends more than 12 months after the application was received. This letter expires on January 31, 2019. This letter considered the 2012 Cumulative List of Changes in Plan Qualification Requirements.

This is not a determination with respect to any language in the plan or any amendment to the plan that reflects Section 3 of the Defense of Marriage Act, Pub. L. 104-199, 110 Stat. 2419 (DOMA) or U.S. v. Windsor, 133 S. Ct. 2675 (2013), which invalidated that section.

The information on the enclosed addendum is an integral part of this determination. Please be sure to read and keep it with this letter.

We have sent a copy of this letter to your representative as indicated in the Form 2848 Power of Attorney or appointee as indicated by the Form 8821 Tax Information Authorization.

If you have questions concerning this matter, please contact the person whose name and telephone number are shown above.

Sincerely,

Andrew E. Zuckerman  
Director, EP Rulings & Agreements

Enclosures:  
Publication 794  
Addendum

Letter 2002

Exhibit A

7

PROPOSED AMENDMENT TO THE  
CITY OF PONTIAC GENERAL EMPLOYEES' RETIREMENT SYSTEM

I. Section 42.1(c)(1) is hereby amended and restated in its entirety as follows:

1. Designated beneficiary. The individual who is designated as the beneficiary under section of the plan and is the designated beneficiary under section 401(a)(9) of the Internal Revenue Code and section 1.401(a)(9)-4~~1~~, Q&A-4, of the Treasury regulations.

II. Section 13 shall be amended by adding the following provision thereto, for compliance with the Heroes Earning Assistance and Relief Tax Act of 2008 (HEART Act):

An individual receiving a differential wage payment is treated as an employee of the employer making the payment, and further, the differential wage payment shall be treated as compensation for purposes of IRC section 415.

III. Section 42(b) shall be amended by adding the following provision thereto:

Compensation for purposes of IRC §415(c)(3) shall also include, (1) regular pay after severance from employment; (2) leave cashouts and deferred compensation including cash out of accrued sick, vacation or other leave time if the employee would have been able to use the leave if employment had continued or the payment of nonqualified deferred compensation that would have been paid to the employee at the same time if the employee had remained employed and only to the extent that the payment is includable in the employee's gross income. The compensation items listed in this paragraph must be paid by the later of two and one-half-months of severance from employment or the end of the limitation year that includes the date of severance with the city.

IV. Section 2.2 shall be amended by adding the following provision thereto:

For purposes of determining the actuarial equivalence of benefits, the actuary for the Retirement System shall use 6.50% interest rate and the 1971 Group Annuity Mortality Table - Male - Set Forward 0 Years for retirees and the 1971 Group Annuity Mortality Table - Female - Set Forward 0 years for beneficiaries. The unisex mix shall be 0.0% Male and 100.0% Female

W1374927

Exhibit A

9

May 1, 2014

14-167        **Defer up to two weeks the report received from the City Administrator concerning the DTE streetlight master agreement.** Moved by Councilperson Williams and supported by Councilperson Pietila.

Ayes: Carter, Holland, Pietila, Taylor-Burks, Waterman, Williams and Woodward

No: None

**Deferred for up to two weeks.**

14-168        **Resolution for consideration of GERS Ordinance Amendment-IRS Compliance.** Moved by Councilperson Woodward and supported by Councilperson Taylor-Burks.

Whereas, on April 3, 2014, the City of Pontiac received a request from the GERS board to amend the Code of Ordinances concerning provisions required by the IRS to maintain a tax exempt status; and

Whereas, the City Clerk has distributed a copy of the proposed ordinance to each Council member and to the Mayor, filed a reasonable number of copies in the office of the City Clerk, and published a summary of the proposed ordinance in the Oakland Legal News together with a notice of the time and place for consideration by the Council;

Now, Therefore, Be It Resolved, that the Pontiac City Council adopts:

An ordinance to amend Chapter 92 of the Code of Ordinances to add language to comply with IRS requirements.

Ayes: Holland, Pietila, Taylor-Burks, Waterman, Williams and Woodward

No: Carter

**Resolution Adopted.**

14-169        **Resolution for consideration of GERS Ordinance Amendment-420 Transfer.** Moved by Councilperson Williams and supported by Councilperson Holland.

Whereas, on April 3, 2014, the City of Pontiac received a request from the GERS board to amend the Code of Ordinances concerning provisions required by the IRS to maintain a tax exempt status; and

Whereas, the City Clerk has distributed a copy of the proposed ordinance to each Council member and to the Mayor, filed a reasonable number of copies in the office of the City Clerk, and published a summary of the proposed ordinance in the Oakland Legal News together with a notice of the time and place for consideration by the Council;

Now, Therefore, Be It Resolved, that the Pontiac City Council adopts:

An ordinance to amend Chapter 92 of the Code of Ordinances to add language to authorize a Section 420 transfer.

Exhibit B

Ordinance No. xxxx

An ordinance to amend Chapter 92 of the Code of Ordinances to add language to comply with IRS requirements.

The City of Pontiac ordains:

Section 1. Amendments:

- A. The definition of "Actuarial Equivalent" in Section 92-2 of the Code of Ordinances shall be amended to read as follows:

*Actuarial equivalent* means the equivalence in the present value of various forms of payment. Present value will be determined by the retirement system's actuary based upon the mortality tables and interest rates established from time to time by the Board. For purposes of determining the actuarial equivalence of benefits, the actuary for the Retirement System shall use 6.50% interest rate and the 1971 Group Annuity Mortality Table – Male – Set Forward 0 Years for retirees and the 1971 Group Annuity Mortality Table – Female – Set Forward 0 years for beneficiaries. The unisex mix shall be 0.0% Male and 100.0% Female.

- B. Section 92-14 of the Code of Ordinances shall be amended to read as follows:

92-14 Active military service.

In the event any person, who, while employed by the City, was called to or entered any armed service of the United States, or any member who is called to or enters any armed service of the United States, and who has been or shall be on active duty in such armed service during time of war or other national emergency, and is re-employed by the City within 90 days from the date of termination of required armed service, then such armed service shall be credited as City service in the same manner as if the individual had served the City uninterrupted; provided, that the member returns to the annuity savings fund all amounts withdrawn therefrom at the time the member entered, or while in such armed service, together with regular interest thereon from the date of withdrawal to the date of repayment. In any case of doubt as to the period to be so credited any member, the Board shall have final power to determine such period. During the period of such armed service rendered to the Federal government and until the individual's re-employment by the City, the member's contributions to the annuity savings fund shall be suspended and the balance standing to the member's credit in the said fund shall be accumulated at regular interest. Notwithstanding any provision of the plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with IRC section 414(u) and regulations.

Effective January 1, 2007, the beneficiary of a member on a leave of absence to perform military service with reemployment rights described in IRC section 414(u) where the member cannot return to employment on account of his or her death shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under the plan had the member died as an active employee, in accordance with IRC section 401(a)37.

Exhibit B

**City of Pontiac Employees Retirement System  
Final Retirement Benefit Calculation**

*Member Data:*

Name: \_\_\_\_\_ Social Security No.: **XXX-XX-3579**  
 Date of Birth: **7/21/1959** Age at Effective Date: **59 Years 11 Months** Sex: **Male**

*Beneficiary Data:*

Name: \_\_\_\_\_ Social Security No.: **XXX-XX-**  
 Date of Birth: **5/13/1964** Age at Effective Date: **55 Years 1 Month** Sex: **Female**

*Retirement Data:*

Date of Hire: **12/12/1984** Final Average Compensation: **\$ 25,000.00**  
 Date of Termination: **6/30/2019** Credited Service: **20 Years 0 Months**  
 Date of Retirement: **7/1/2019** Eligibility Service: **20 Years 0 Months**  
 Retirement Number: **1803**  
 Benefit Group: \_\_\_\_\_ After Tax Contributions: **\$ 0.00**  
 Retirement Type: **Age & Service** Total Contributions: **\$ 35,966.78**  
 Option Elected: **Option II**

Comments:

*Computed Monthly Benefit Amounts:*

Benefit Formula: **2.00% \* 20.0000 yrs. \* \$25,000.00**

	<i>Factor</i>	<i>Member</i>	<i>Potential to Benef</i>
Regular	N/A	\$833.33	N/A
Option I	0.00691	\$825.06	N/A
Option II	0.88800	\$740.00	\$740.00
Option III	0.94068	\$783.90	\$391.95
Option IV	0.87943	\$732.86	\$732.86
Option V	0.93585	\$779.87	\$389.94

*Exhibit C*

**Important Note:** This calculation is provided only as a point-in-time estimate and is not a guarantee of your actual benefit. This calculation may contain errors and is subject to correction even if utilized in a formal benefit determination. You may not rely on this calculation as an accurate statement of your benefit. The accuracy of this calculation is based on the underlying data and assumptions that were provided to us and utilized to generate this estimate. We reserve the right to alter this calculation at any time, including after the payment of a benefit. The Plan also reserves the right to recover any payments made to you in error. If you become aware of any errors in this calculation, please contact a plan representative.

**#10**

**ORDINANCE**

## THE CITY OF PONTIAC ORDAINS

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF CITY OF PONTIAC, OAKLAND COUNTY, MICHIGAN BY ADDRESSING TEMPORARY CONSTRUCTION FENCING REGULATIONS.

Article 4 General Provisions, Chapter 1 Accessory Structures and Fences, Section 4.103 Fences or Walls of the City of Pontiac Zoning Ordinance shall be stated as follows.

E. Temporary Construction Fencing. Temporary fencing shall be installed on all residential and non-residential construction sites to ensure security, public safety and mitigate noise and/or dust in accordance with the following:

1. General Provisions
  - a. Temporary Construction Fencing shall be installed at the start of any site grading, excavation or building construction, renovation or demolition and be maintained and shall be removed before a certificate of occupancy from the Building & Safety Department.
  - b. All construction fencing shall be constructed in a sound and sturdy manner and shall be maintained in a good state of repair, including the replacement of defective parts, and other acts required for maintenance.
  - c. Temporary Construction Fencing shall not be permanently attached to the ground or attached to any other structure or material that is itself permanently attached to the ground.
  - d. All Temporary Construction Fencing to be secured with metal posts spaced eight foot on-center.
  - e. Temporary Construction fencing to be erected in an the public right-of-way or drive way clear vision area shall be subject to the approval of DPW Director, City Engineer or designee.
  - f. Temporary Construction fencing shall not enclose a fire hydrant.
2. Non-Residential Construction Sites
  - a. Permitted Materials:
    - i. Six foot chain link fence with fabric and/or vinyl screen is permitted.
    - ii. Temporary Construction fencing shall be installed on all property lines of the construction site property/parcel with the approval of the Building Official or designee.
    - iii. Access opening(s) in the Temporary Construction fencing shall be protected by gates with Chain Link fence.
    - iv. Screening made of fabric and/or vinyl must be attached to chain link on the outside of the Temporary Construction fence.
    - v. Prohibited Materials
      1. Plywood, metal sheets, or similar materials are not permitted.

3. Residential Construction Sites

a. Permitted Materials:

- i. Four foot snow fencing is permitted.
- ii. Temporary Construction Fencing at a residential construction site shall be limited to the area of construction, renovation and/or demolition area on the site. If the area exceeds 60 percent of the total parcel/property area, Temporary Construction Fencing shall be located on all property lines of the construction site parcel/property.

iii. Prohibited Materials

- 1. Plywood, metal sheets, or similar materials are not permitted.

4. Temporary Construction Fencing Signs

- a. A temporary construction sign shall be installed in conformance to the Zoning Ordinance and Section 5.106 Temporary Signs. The provisions of this section shall precede over conflict subsequent sections.
- b. Emergency access signs, access and safety signs, and visitor check-in signs may be attached to the fencing only on both sides of an entrance for a distance of ten feet, or at locations required by the Building Official or designee.
- c. Location of traffic control signs attached to Temporary Construction fencing shall be subject to the approval of DPW Director, City Engineer or designee.

Article 6 Administration, Chapter 2 Site Plan Review. Section 6.208 Required Information Table 17 of the City of Pontiac Zoning Ordinance shall be stated as follows.

<b>LANDSCAPING and SCREENING</b>			
Landscape plan, including location, size, quantity and type of proposed shrubs, trees, ground cover (including grass) and other live plant materials, and the location, size and type of any existing plant materials that will be preserved. All landscape plans shall be signed and sealed by a registered landscape architect.	•	•	
Planting list for proposed landscape materials with quantity, caliper-size and height of material, botanical and common names, and standards of installation.	•	•	
Location, dimensions, construction materials, cross-section and slope ratio for any required or proposed berms or greenbelts.	•		
Proposed fences and walls, including typical cross-section, materials and height above the ground on both sides.	•		
Complete irrigation system design.	•		
A basic annual landscape maintenance program.	•		
Include drawing details, dimensions, proposed locations, and materials for all Temporary Construction Fencing. Temporary Construction Fencing required as determined necessary by the Planning & Zoning Administrator.	•	•	•

**#11**

**RESOLUTION**

**Pontiac City Council Resolution**



**WHEREAS**, on June 24, 2019, at a Special Meeting on the Budget, the Pontiac City Council passed the Fiscal Year 2019-2020 budget and General Appropriations Act; and,

**WHEREAS**, the Pontiac City Council included a Legislative Fiscal Analyst position in the budget with an annual salary of \$65,000 and with benefits comparable to other City employees.

**NOW, THEREFORE BE IT RESOLVED** that the Pontiac City Council hereby authorizes the immediate posting of the Legislative Fiscal Analyst position.

**#12**

**RESOLUTION**

## Pontiac City Council Resolution



**WHEREAS**, on June 24, 2019, at a Special Meeting on the Budget, the Pontiac City Council passed the Fiscal Year 2019-2020 budget and General Appropriations Act; and,

**WHEREAS**, the Office of the City Clerk budget included an Assistant City Clerk position with an annual salary of \$55,000 and with benefits comparable to other City employees; and,

**WHEREAS**, the Interim City Clerk worked with the Human Resources Manager and Oakland County Elections Division in developing a job description; and,

**WHEREAS**, Ordinance No. 22xx Division 3. Office of the City Clerk Section 2.112 City Clerk states that "the City Clerk may hire such number of full-time, part-time, or seasonal employees as the City budget shall authorize to assist him in fulfilling the responsibilities of his position"; and

**WHEREAS**, the Charter has established that the City Clerk is a part of the Legislative Branch and not the Executive Branch which makes the posting of this vacant position and hire not subject to approval of the Mayor or any Executive Branch designee; and

**WHEREAS**, additional responsibilities have been given to the Office of the City Clerk and with several upcoming elections the first one scheduled for November 2019, it is crucial that the position of Assistant City Clerk position be filled as soon as possible.

**NOW, THEREFORE BE IT RESOLVED** that the Pontiac City Council hereby authorizes the immediate posting of the Assistant City Clerk position.

**#14**

**RESOLUTION**



# CITY OF PONTIAC

## OFFICIAL MEMORANDUM

*Executive Branch*

---

**TO:** Honorable Mayor, Council President and City Council Members

**FROM:** Jane Bais-DiSessa, Deputy Mayor, at the request of  
John V. Balint, City Engineer

**DATE:** September 5, 2019

**RE: Easement to DTE at 68 Oakland Avenue**

DTE Energy has requested that the City grant an easement on a parcel owned by the City located at 68 Oakland Avenue in the North end of the Downtown. The request from DTE is for the installation of a vault as part of their electoral revitalization in the Downtown. As part of this program, DTE is installing new equipment in all of their downtown facilities as well as installing some new. The property located at 98 Oakland is a vacant parcel the City has owned since prior to 1994.

The Engineering Division has reviewed and approved the attached documents prepared by WRC and does not see any concern with the granting of this easement. In addition, these easement documents have been reviewed and approved by the City's consulting engineer and by the City's attorney.

It is the recommendation of the Department of Public Works, Engineering Division that the attached easement be signed by the City.

WHEREAS, The City of Pontiac has reviewed the documents provided by DTE, and;

WHEREAS, The Department of Public Works, Engineering Division finds that there are no concerns with the City granting the requested easement, and;

NOW, THEREFORE,  
BE IT RESOLVED, The Pontiac City Council authorized the Mayor or Deputy Mayor to sign the subject easement.

JVB

attachments



**Residential Property Profile**

**68 OAKLAND AVE PONTIAC MI 48342-2043**

beds / full baths / half baths / sq ft

14-29-258-004

Note: Please be advised the data included in Property Gateway originates from multiple local municipalities. Data, in regard to properties, may be classified and updated differently by municipalities. If you have any questions, please contact the local community where the data originated.

**Owner Information**

Owner(s) : CITY OF PONTIAC  
 Postal Address : 8 N SAGINAW ST PONTIAC MI 48342-2110

**Location Information**

Site Address : 68 OAKLAND AVE PONTIAC MI 48342-2043  
 PIN : 14-29-258-004 Neighborhood Code : CME  
 Municipality : City of Pontiac  
 School District : 210 PONTIAC CITY SCHOOLS  
 Class Code : 402 RES VAC (Includes prior SV-Suburban Vac & ME-Miscellaneous Exempt)

**Property Description**

**T3N, R10E, SEC 29 ASSESSOR'S PLAT NO. 29 LOT 39**

**No Sales Since 1994**

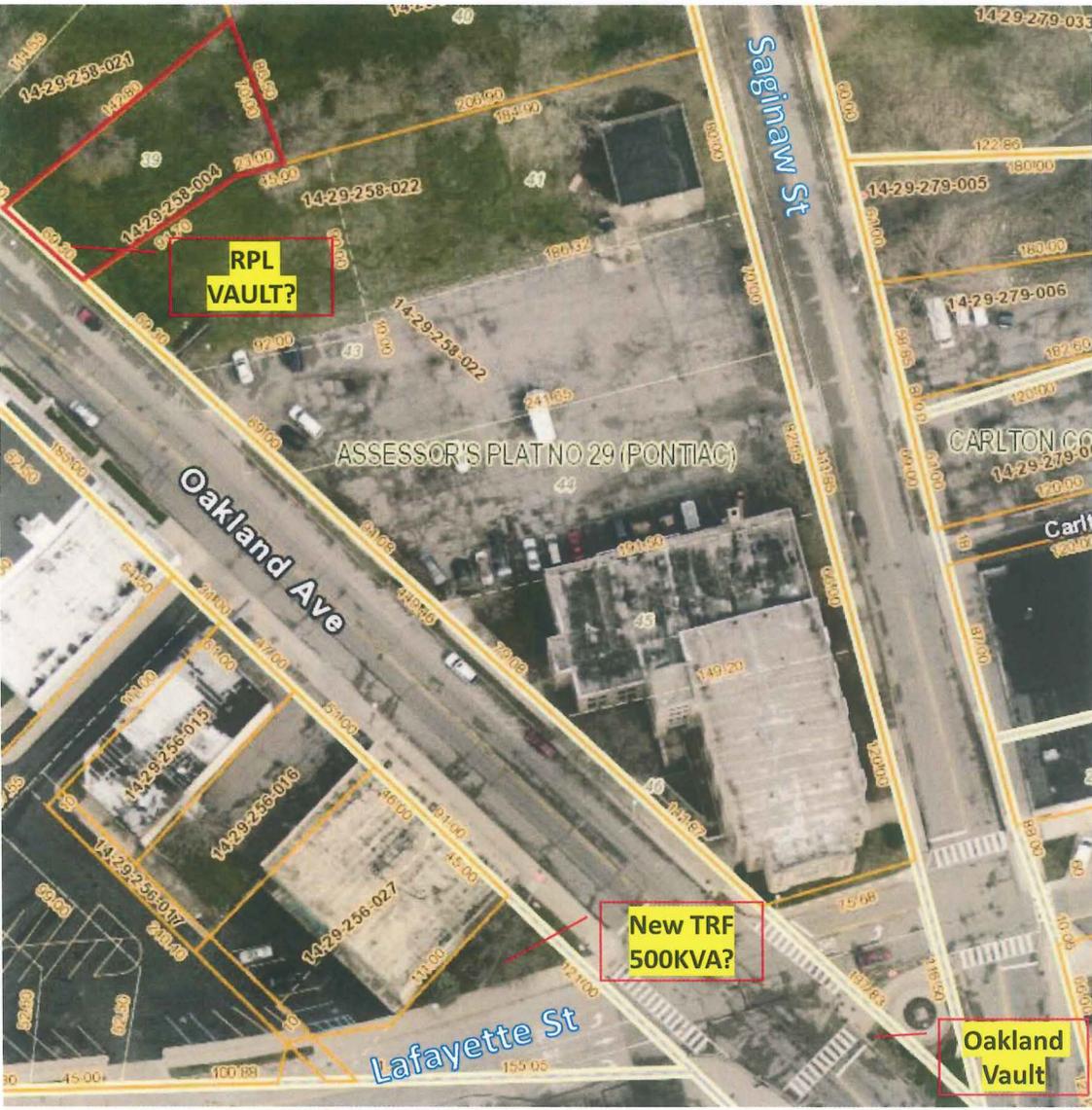
**Tax Information**

Taxable Value :	State Equalized Value :
Current Assessed Value :	Capped Value :
Effective Date For Taxes : 12/01/2018	Principal Residence Exemption Type : N/A
Summer Principal Residence Exemption Percent : 0%	Winter Principal Residence Exemption Percent : 0%
<b>2017 Taxes</b>	<b>2018 Taxes</b>
Summer : \$0.00	Summer : \$0.00
Winter : \$0.00	Winter : \$0.00
Village :	Village :

**Lot Information**

Description : LEVEL Area : 0.177 ACRES







14-29-258-004

Proposed  
25' x 15' x 15'  
below grade

91.70

142.80

69.30

MH 18290

Oakland Avenue

MH 18291

© 2018 Google

Go



14-29-258-004

Proposed  
25' x 15' x 15'  
below grade





2018

Google

**DTE Electric Company Underground Easement (Right of Way) No. 48516064-48516093**

On \_\_\_\_\_, 2019, for the consideration of system betterment, Grantor grants to Grantee a permanent, non-exclusive underground easement ("Right of Way") in, on, and across a part of Grantor's Land called the "Right of Way Area".

"Grantor" is: PONTIAC DOWNTOWN DEVELOPMENT AUTHORITY, WHOSE ADDRESS IS 8 N. SAGINAW ST,  
PONTIAC, MI 48342

"Grantee" is: DTE Electric Company, a Michigan corporation, One Energy Plaza Drive, Detroit, Michigan 48226

"Grantor's Land" is in NE 1/4, SEC 29, T3N, R10E, CITY OF PONTIAC, County of OAKLAND, and State of Michigan, and is described as follows:

**T3N, R10E, SEC 29 ASSESSOR'S PLAT NO. 29 LOT 39**

Tax Identification Number(s): 14-29-258-004

More commonly known as: 68 OAKLAND AVE, PONTIAC, MI 48342

The "Right of Way Area" is a fifteen (15') foot wide easement on part of Grantor's Land. The centerline of the Right of Way Area shall be established in the as-built location of the centerline of Grantee's facilities, and shall be installed on Grantor's Land in the approximate location described as follows:

THE LEGAL DESCRIPTION OR EASEMENT DRAWING IS MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

Tax Identification Number(s): 14-29-258-004

More commonly known as: 68 OAKLAND AVE, PONTIAC, MI 48342

- 1. Purpose:** The purpose of this Right of Way is to construct, reconstruct, modify, add to, repair, replace, inspect, operate and maintain underground utility line facilities, which may consist of poles, guys, anchors, wires, manholes, conduits, pipes, cables, transformers and accessories.
- 2. Access:** Grantee has the right of pedestrian and vehicular ingress and egress to and from the Right of Way Area over and across Grantor's Land.
- 3. Buildings or other Permanent Structures:** No buildings or other permanent structures or improvements may be constructed or placed in the Right of Way Area without Grantee's prior, written consent. Grantor agrees, at its own expense, to remove any improvement that interferes with the safe and reliable operation, maintenance and repair of Grantee's facilities upon the written demand of Grantee. If Grantor fails to comply with such demand, Grantor agrees that Grantee may remove any such improvement and bill Grantor for the cost thereof, which cost Grantor shall pay within thirty (30) days after demand therefor.
- 4. Excavation:** Pursuant to 2013 Public Act 174, MISS DIG (1-800-482-7171 or 811 in some areas) must be called before any excavation in the Right of Way Area may proceed.
- 5. Trees, Bushes, Branches, Roots, Structures and Fences:** Grantee may trim, cut down, remove or otherwise control any trees, bushes, branches and roots growing or that could grow or fall in the Right of Way Area and remove any structures, improvements, fences, buildings or landscaping in the Right of Way Area that Grantee believes could interfere with the safe and reliable construction, operation, maintenance and repair of Grantee's facilities. No landscaping, trees, plant life, structures, improvements or fences may be planted, grown or installed within 8 feet of the front door, or within 2 feet of the other sides, of transformers or switching cabinet

enclosures, and Grantee shall not be responsible for any damage to, or removal of, landscaping, trees, plant life, structures, improvements and/or fences located in such areas.

6. **Restoration:** If Grantee's agents, employees, contractors, subcontractors, vehicles or equipment damage Grantor's Land while entering Grantor's Land for the purposes stated in this Right of Way, then Grantee will restore Grantor's Land as nearly as is reasonably practicable to the condition in which it existed prior to such damage. Restoration with respect to paved surfaces shall consist of asphalt cold patching of the damaged portion of any asphalted surfaces when the weather conditions suggest such use and the cement patching of the damaged portion of any cemented surfaces. Grantee shall have no liability, however, for the restoration or cost of any improvements located within the Right of Way Area, including, but not limited to, parking islands, gutters, fences or landscaping such as trees, bushes, or flowers (but not a simple lawn which, if damaged, will be patched and re-seeded by Grantee) that are damaged by Grantee in the course of constructing, reconstructing, modifying, adding to, repairing, replacing, operating or maintaining its facilities as described in paragraph 1 above.

7. **Successors:** This Right of Way runs with the land and binds and benefits Grantor's and Grantee's successors and assigns.

8. **Exemptions:** This Right of Way is exempt from transfer tax pursuant to MCL 207.505(a) and MCL 207.526(a).

9. **Governing Law:** This Right of Way shall be governed by the laws of the State of Michigan.

**Grantor(s):** Pontiac Downtown Development Authority

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Acknowledged before me in \_\_\_\_\_ County, Michigan, on \_\_\_\_\_, 2019,  
by \_\_\_\_\_, Its: \_\_\_\_\_ for Pontiac Downtown Development Authority.

Notary's  
Stamp \_\_\_\_\_  
Acting in \_\_\_\_\_ County, Michigan

Notary's  
Signature \_\_\_\_\_

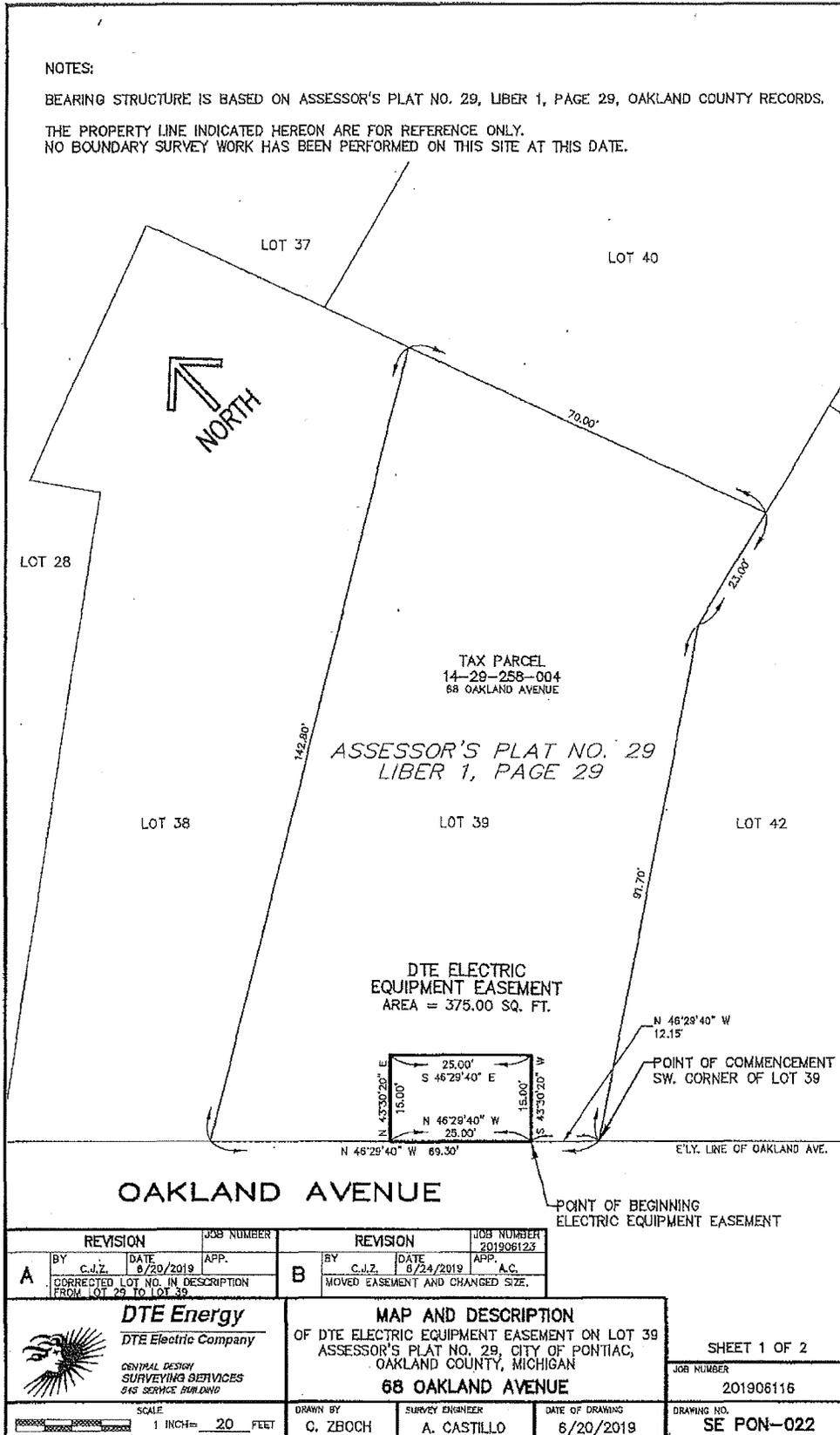
Drafted by and when recorded, return to: Cassandra Dansby, DTE Electric Company, NW Planning & Design, 37849 Interchange Dr., Farmington Hills, MI 48335

# Exhibit A

**NOTES:**

BEARING STRUCTURE IS BASED ON ASSESSOR'S PLAT NO. 29, LIBER 1, PAGE 29, OAKLAND COUNTY RECORDS.

THE PROPERTY LINE INDICATED HEREON ARE FOR REFERENCE ONLY.  
NO BOUNDARY SURVEY WORK HAS BEEN PERFORMED ON THIS SITE AT THIS DATE.



REVISION		JOB NUMBER		REVISION		JOB NUMBER	
A	BY C.J.Z.	DATE 6/20/2019	APP.	B	BY C.J.Z.	DATE 6/24/2019	APP. A.C.
CORRECTED LOT NO. IN DESCRIPTION FROM LOT 29 TO LOT 39.				MOVED EASEMENT AND CHANGED SIZE.			

**DTE Energy**  
DTE Electric Company

CENTRAL DESIGN  
SURVEYING SERVICES  
545 SERVICE BUILDING

SCALE  
1 INCH = 20 FEET

**MAP AND DESCRIPTION**  
OF DTE ELECTRIC EQUIPMENT EASEMENT ON LOT 39  
ASSESSOR'S PLAT NO. 29, CITY OF PONTIAC,  
OAKLAND COUNTY, MICHIGAN  
**68 OAKLAND AVENUE**

DRAWN BY  
G. ZBOCH

SURVEY ENGINEER  
A. CASTILLO

DATE OF DRAWING  
6/20/2019

SHEET 1 OF 2

JOB NUMBER  
201906116

DRAWING NO.  
SE PON-022

**PARCEL DESCRIPTION (TAX ID: 14-29-258-004)**

Lot 39, ASSESSOR'S PLAT NO. 29, of Parts of the N.E. and S.E. 1/4 of Section 29, Town 3 North, Range 10 East, City of Pontiac, Oakland County, Michigan, as recorded in Liber 1 of Assessors Plats, Page 29, Oakland County Records.

**DTE ELECTRIC EQUIPMENT EASEMENT**

An Electric Equipment Easement on part of Lot 39, ASSESSOR'S PLAT NO. 29, of Parts of the N.E. and S.E. 1/4 of Section 29, Town 3 North, Range 10 East, City of Pontiac, Oakland County, Michigan, as recorded in Liber 1 of Assessors Plats, Page 29, Oakland County Records, being described as: Commencing at the Southwest corner of said Lot 39, thence North 46°29'40" West, 12.15 feet along the Easterly line of Oakland Avenue to the POINT OF BEGINNING; thence continuing along said Easterly line of Oakland Avenue North 46°29'40" West, 25.00 feet; thence North 43°30'20" East, 15.00 feet; thence South 46°29'40" East, 25.00 feet; thence South 43°30'20" West, 15.00 feet to the Point of Beginning. Containing 375.00 square feet of land, more or less.

<b>REVISION</b> BY: C.J.Z. DATE: 6/20/2019 APP. A.C. CORRECTED LOT NO. IN DESCRIPTION FROM LOT 29 TO LOT 39		<b>REVISION</b> BY: C.J.Z. DATE: 6/24/2019 APP. A.C. MOVED EASEMENT AND CHANGED SIZE		JOB NUMBER 201906123	
 <b>DTE Energy</b> DTE Electric Company CENTRAL DESIGN SURVEYING SERVICES 345 SERVICE BUILDING		<b>MAP AND DESCRIPTION</b> OF DTE ELECTRIC EQUIPMENT EASEMENT ON LOT 39 ASSESSOR'S PLAT NO. 29, CITY OF PONTIAC, OAKLAND COUNTY, MICHIGAN <b>68 OAKLAND AVENUE</b>		SHEET 2 OF 2 JOB NUMBER 201906116	
SCALE 1 INCH = N.A. FEET		DRAWN BY C. ZBOCH	SURVEY ENGINEER A. CASTILLO	DATE OF DRAWING 6/20/2019	DRAWING NO. SE PON-022

**#15**

**RESOLUTION**

**NOTICE OF INTENT RESOLUTION  
CAPITAL IMPROVEMENT BONDS, SERIES 2019  
(LIMITED TAX GENERAL OBLIGATION)**

City of Pontiac  
County of Oakland, State of Michigan

---

Minutes of a regular meeting of the City Council of the City of Pontiac, County of Oakland, State of Michigan, held on \_\_\_\_\_, 2019, at 6:00 p.m., prevailing Eastern Time.

PRESENT: Members \_\_\_\_\_  
\_\_\_\_\_

ABSENT: Members \_\_\_\_\_

The following preamble and resolution were offered by Member \_\_\_\_\_ and supported by Member \_\_\_\_\_:

WHEREAS, the City of Pontiac, County of Oakland, State of Michigan (the "City"), intends to issue and sell its limited tax general obligation bonds in one or more series pursuant to Act 34, Public Acts of Michigan, 2001, as amended ("Act 34"), in the aggregate principal amount of not-to-exceed Nineteen Million Five Hundred Thousand Dollars (\$19,500,000) (the "Bonds") for the purpose of paying all or part of the costs of acquiring, constructing, furnishing and equipping improvements to the parking deck, plaza and related improvements to the facility commonly known as the Phoenix Center, together with all appurtenances and attachments thereto (the "Project"); and

WHEREAS, a notice of intent (the "Notice") to issue the Bonds must be published before the issuance of the Bonds in order to comply with the requirements of Section 517 of Act 34; and

WHEREAS, the Notice will be published in accordance with Act 34, which provides that the capital improvement bonds may be issued without a vote of the electors of the City unless a proper petition for an election on the question of the issuance of the bonds is filed with the City Clerk within a period of forty-five (45) days from the date of publication and no petition was filed within said time.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Notice of Intent; Publication. The City Clerk is authorized and directed to publish a notice of intent to issue bonds in the *Oakland Press*, a newspaper of general circulation in the City.
2. Notice of Intent; Form. The notice of intent shall be published as a display advertisement not less than one-quarter (1/4) page in size in substantially the form attached to this resolution as Exhibit A.

3. Notice of Intent; Determinations. The City Council does hereby determine that the foregoing form of Notice of Intent to Issue Bonds and the manner of publication directed is the method best calculated to give notice to the City's electors and taxpayers residing in the boundaries of the City of the City's intent to issue the Bonds, the maximum amount of the Bonds, the purpose of the Bonds, the source of payment for the Bonds and the right of referendum relating thereto, and the newspaper named for publication is hereby determined to reach the largest number of persons to whom the notice is directed.

4. Reimbursement. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

- (a) The City reasonably expects to reimburse itself with proceeds of the Bonds for certain costs of the Project which were paid or will be paid from funds of the City subsequent to sixty (60) days prior to today.
- (b) The maximum principal amount of debt expected to be issued for the Project, including issuance costs, is \$19,500,000.
- (c) A reimbursement allocation of the capital expenditures described above with the proceeds of the Bonds will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the Bonds to reimburse the City for a capital expenditure made pursuant to this resolution.

5. Authorization to Apply for Rating. Each of the Mayor and the Deputy Mayor may apply and pay the fees for bond ratings from such municipal bond rating agencies as is deemed appropriate in consultation with the Municipal Advisor of the City.

6. Municipal Advisor. Robert W. Baird & Co. is hereby confirmed as the municipal advisor to the City with respect to the Bonds (the "Municipal Advisor"). The fees and expenses of the Municipal Advisor shall be payable as a cost of issuance from proceeds of the Bonds or other available funds of the City.

7. Bond Counsel. Miller, Canfield, Paddock and Stone, P.L.C. is hereby confirmed as bond counsel for the Bonds, notwithstanding periodic representation in unrelated matters of other parties or potential parties to the transaction contemplated by this resolution. The fees and expenses of Miller, Canfield, Paddock and Stone, P.L.C. as Bond Counsel and other accumulated bond related fees and expenses shall be payable as a cost of issuance from proceeds of the Bonds or other available funds of the City.

8. Severability. If any one or more sections, clauses or provisions of this Resolution shall be determined by a court of competent jurisdiction to be invalid or ineffective for any reason, such determination shall in no way affect the validity and effectiveness of the remaining sections, clauses and provisions hereof.

9. Rescission. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES:       Members       \_\_\_\_\_

\_\_\_\_\_

NAYS:       Members       \_\_\_\_\_

RESOLUTION DECLARED ADOPTED.

\_\_\_\_\_

City Clerk

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Pontiac, County of Oakland, State of Michigan, at a regular meeting held on May 21, 2019, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

\_\_\_\_\_

City Clerk

EXHIBIT A

NOTICE TO ELECTORS  
OF THE CITY OF PONTIAC  
OF INTENT TO ISSUE A BOND SECURED BY THE TAXING  
POWER OF THE CITY AND RIGHT OF REFERENDUM THEREON

PLEASE TAKE NOTICE that the City of Pontiac, County of Oakland, State of Michigan (the "City"), intends to issue and sell its general obligation limited tax bonds pursuant to Act 34, Public Acts of Michigan, 2001, as amended, in an aggregate principal amount of not to exceed Nineteen Million Five Hundred Thousand Dollars (\$19,500,000), in one or more series, for the purpose of paying all or part of the costs of acquiring, constructing, furnishing and equipping improvements to the parking deck, plaza and related improvements to the facility commonly known as the Phoenix Center, together with all appurtenances and attachments thereto (the "Project").

SOURCE OF PAYMENT OF BONDS

THE PRINCIPAL OF AND INTEREST ON SAID BONDS SHALL BE PAYABLE from the general funds of the City lawfully available for such purposes including property taxes levied within applicable constitutional, statutory and charter tax rate limitations.

THE CITY MAY PLEDGE FOR THE PAYMENT OF THE BONDS MONEY RECEIVED OR TO BE RECEIVED BY THE CITY DERIVED FROM IMPOSITION OF TAXES BY THE STATE OF MICHIGAN AND RETURNED OR TO BE RETURNED TO THE CITY AS PROVIDED BY LAW, except for money the use of which is prohibited for such purposes by the State Constitution.

BOND DETAILS

SAID BONDS will be payable in annual installments not to exceed thirty (30) in number and will bear interest at the rate or rates to be determined at a public or private sale but in no event to exceed the maximum rate permitted by law on the balance of the bonds from time to time remaining unpaid.

RIGHT OF REFERENDUM

THE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS UNLESS A PETITION REQUESTING SUCH A VOTE SIGNED BY NOT LESS THAN 10% OR 15,000 OF THE REGISTERED ELECTORS OF THE CITY, WHICHEVER IS LESS, IS FILED WITH THE CITY CLERK WITHIN FORTY-FIVE (45) DAYS AFTER PUBLICATION OF THIS NOTICE. IF SUCH PETITION IS FILED, THE BONDS MAY NOT BE ISSUED WITHOUT AN APPROVING VOTE OF A MAJORITY OF THE QUALIFIED ELECTORS RESIDING WITHIN THE BOUNDARIES OF THE CITY VOTING THEREON.

THIS NOTICE is given pursuant to the requirements of Section 517, Act 34, Public Acts of Michigan, 2001, as amended.

[ \_\_\_\_\_ ]

City Clerk

**#16**

**RESOLUTION**

**RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS  
RELATED TO THE SALE OF THE PHOENIX CENTER FACILITY**

City of Pontiac  
County of Oakland, State of Michigan

---

Minutes of a regular meeting of the City Council of the City of Pontiac, County of Oakland, State of Michigan, held on \_\_\_\_\_, 2019, at 6:00 p.m., prevailing Eastern Time.

PRESENT: Members \_\_\_\_\_  
\_\_\_\_\_

ABSENT: Members \_\_\_\_\_

The following preamble and resolution were offered by Member \_\_\_\_\_ and supported by Member \_\_\_\_\_:

WHEREAS, the City of Pontiac, County of Oakland, State of Michigan (the "City"), owns that certain facility within the City consisting of a parking garage, amphitheater and plaza commonly known as the Phoenix Center; and

WHEREAS, the City was a party to certain lawsuits in the Oakland County Circuit Court (case nos. 12-130331-CH and 14-139761-CC) related to the maintenance and improvement of the Phoenix Center which were disposed of pursuant to a settlement agreement (the "Settlement Agreement") between the City and Ottawa Tower II, LLC and the North Bay Drywall, Inc. Profit Sharing Plan & Trust; and

WHEREAS, the terms of the Settlement Agreement require the City to make certain improvements to the Phoenix Center; and

WHEREAS, the City Council of the City desires to explore all options related to the City's continued ownership or disposition of the Phoenix Center before it determines to issue bonds to provide funds to pay the expenses related to the Phoenix Center improvements; and

WHEREAS, the City Council desires to issue an Request for Proposals to seek proposals from qualified parties related to a potential disposition of the Phoenix Center as an option to satisfy the terms of the Settlement Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Request for Proposals; Publication. The City is hereby authorized and directed to issue a Request for Proposals (an "RFP") to invite qualified parties to submit proposals for the purchase of the Phoenix Center.

The RFP shall contain, at a minimum, all material information related to the Phoenix Center, including the terms of the Settlement Agreement, the scope of the improvements

required under the Settlement Agreement and all easements applicable to the Phoenix Center.

A proposal shall be deemed qualified if it is submitted by a party that, at minimum, is able to demonstrate it possesses sufficient capital to purchase and to finance the continued operation and improvements to the Phoenix Center required under the Settlement Agreement.

The City Clerk is authorized and directed to publish the RFP in accordance with the City's procurement process in a manner designed to incur the broadest circulation possible.

2. Authorization of Other Actions; Submission of Proposals.

The Mayor and other appropriate personnel are hereby authorized to take all other necessary actions required to prepare and publish the RFP.

If proposals are submitted in paper format, the RFP shall require that two copies be submitted to the City. One copy shall be retained by the Mayor's staff and one copy shall be submitted to the City Clerk.

If the proposals are submitted electronically, the RFP shall require that the City Clerk be copied on each submission.

3. Severability. If any one or more sections, clauses or provisions of this Resolution shall be determined by a court of competent jurisdiction to be invalid or ineffective for any reason, such determination shall in no way affect the validity and effectiveness of the remaining sections, clauses and provisions hereof.

AYES:       Members       \_\_\_\_\_

\_\_\_\_\_

NAYS:       Members       \_\_\_\_\_

\_\_\_\_\_

RESOLUTION DECLARED ADOPTED.

\_\_\_\_\_

City Clerk

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Pontiac, County of Oakland, State of Michigan, at a regular meeting held on August 20, 2019, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

---

City Clerk

34214163.2071371-00076

**#17**

**RESOLUTION**

**RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS  
RELATED TO THE LEASING OF THE PHOENIX CENTER FACILITY**

City of Pontiac  
County of Oakland, State of Michigan

---

Minutes of a regular meeting of the City Council of the City of Pontiac, County of Oakland, State of Michigan, held on \_\_\_\_\_, 2019; at 6:00 p.m., prevailing Eastern Time.

PRESENT: Members \_\_\_\_\_

---

ABSENT: Members \_\_\_\_\_

The following preamble and resolution were offered by Member \_\_\_\_\_ and supported by Member \_\_\_\_\_:

WHEREAS, the City of Pontiac, County of Oakland, State of Michigan (the "City"), owns that certain facility within the City consisting of a parking garage, amphitheater and plaza commonly known as the Phoenix Center; and

WHEREAS, the City was a party to certain lawsuits in the Oakland County Circuit Court (case nos. 12-130331-CH and 14-139761-CC) related to the maintenance and improvement of the Phoenix Center which were disposed of pursuant to a settlement agreement (the "Settlement Agreement") between the City and Ottawa Tower II, LLC and the North Bay Drywall, Inc. Profit Sharing Plan & Trust; and

WHEREAS, the terms of the Settlement Agreement require the City to make certain improvements to the Phoenix Center; and

WHEREAS, the City Council of the City desires to explore all options related to the City's continued ownership or disposition of the Phoenix Center before it determines to issue bonds to provide funds to pay the expenses related to the Phoenix Center improvements; and

WHEREAS, the City Council desires to issue an Request for Proposals to seek proposals from qualified parties related to a potential disposition of the Phoenix Center as an option to satisfy the terms of the Settlement Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Request for Proposals; Publication. The City is hereby authorized and directed to issue a Request for Proposals (an "RFP") to invite qualified parties to submit proposals for the the leasing of the Phoenix Center.

The RFP shall contain, at a minimum, all material information related to the Phoenix Center, including the terms of the Settlement Agreement, the scope of the improvements required

under the Settlement Agreement and all easements applicable to the Phoenix Center.

A proposal shall be deemed qualified if it is submitted by a party that, at minimum, is able to demonstrate it possesses sufficient capital to finance the continued operation and improvements to the Phoenix Center required under the Settlement Agreement.

The City Clerk is authorized and directed to publish the RFP in accordance with the City's procurement process in a manner designed to incur the broadest circulation possible.

2. Authorization of Other Actions; Submission of Proposals.

The Mayor and other appropriate personnel are hereby authorized to take all other necessary actions required to prepare and publish the RFP.

If proposals are submitted in paper format, the RFP shall require that two copies be submitted to the City. One copy shall be retained by the Mayor's staff and one copy shall be submitted to the City Clerk.

If the proposals are submitted electronically, the RFP shall require that the City Clerk be copied on each submission.

3. Severability. If any one or more sections, clauses or provisions of this Resolution shall be determined by a court of competent jurisdiction to be invalid or ineffective for any reason, such determination shall in no way affect the validity and effectiveness of the remaining sections, clauses and provisions hereof.

AYES:       Members       \_\_\_\_\_

\_\_\_\_\_

NAYS:       Members       \_\_\_\_\_

\_\_\_\_\_

RESOLUTION DECLARED ADOPTED.

\_\_\_\_\_

City Clerk

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Pontiac, County of Oakland, State of Michigan, at a regular meeting held on August 20, 2019, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

---

City Clerk

34214163.2071371-00076

**#18**

**RESOLUTION**

**RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS  
RELATED TO THE MANAGEMENT OF THE PHOENIX CENTER FACILITY**

City of Pontiac  
County of Oakland, State of Michigan

---

Minutes of a regular meeting of the City Council of the City of Pontiac, County of Oakland, State of Michigan, held on \_\_\_\_\_, 2019, at 6:00 p.m., prevailing Eastern Time.

PRESENT: Members \_\_\_\_\_  
\_\_\_\_\_

ABSENT: Members \_\_\_\_\_

The following preamble and resolution were offered by Member \_\_\_\_\_ and supported by Member \_\_\_\_\_:

WHEREAS, the City of Pontiac, County of Oakland, State of Michigan (the "City"), owns that certain facility within the City consisting of a parking garage, amphitheater and plaza commonly known as the Phoenix Center; and

WHEREAS, the City was a party to certain lawsuits in the Oakland County Circuit Court (case nos. 12-130331-CH and 14-139761-CC) related to the maintenance and improvement of the Phoenix Center which were disposed of pursuant to a settlement agreement (the "Settlement Agreement") between the City and Ottawa Tower II, LLC and the North Bay Drywall, Inc. Profit Sharing Plan & Trust; and

WHEREAS, the terms of the Settlement Agreement require the City to make certain improvements to the Phoenix Center; and

WHEREAS, the City Council of the City desires to explore all options related to the City's continued ownership or disposition of the Phoenix Center before it determines to issue bonds to provide funds to pay the expenses related to the Phoenix Center improvements; and

WHEREAS, the City Council desires to issue an Request for Proposals to seek proposals from qualified parties related to a potential disposition of the Phoenix Center as an option to satisfy the terms of the Settlement Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Request for Proposals; Publication. The City is hereby authorized and directed to issue a Request for Proposals (an "RFP") to invite qualified parties to submit proposals for the management of the Phoenix Center.

The RFP shall contain, at a minimum, all material information related to the Phoenix Center, including the terms of the Settlement Agreement, the scope of the improvements required

under the Settlement Agreement and all easements applicable to the Phoenix Center.

A proposal shall be deemed qualified if it is submitted by a party that, at minimum, is able to demonstrate it possesses sufficient capital to finance the continued operation of the Phoenix Center required under the Settlement Agreement.

The City Clerk is authorized and directed to publish the RFP in accordance with the City's procurement process in a manner designed to incur the broadest circulation possible.

2. Authorization of Other Actions; Submission of Proposals.

The Mayor and other appropriate personnel are hereby authorized to take all other necessary actions required to prepare and publish the RFP.

If proposals are submitted in paper format, the RFP shall require that two copies be submitted to the City. One copy shall be retained by the Mayor's staff and one copy shall be submitted to the City Clerk.

If the proposals are submitted electronically, the RFP shall require that the City Clerk be copied on each submission.

3. Severability. If any one or more sections, clauses or provisions of this Resolution shall be determined by a court of competent jurisdiction to be invalid or ineffective for any reason, such determination shall in no way affect the validity and effectiveness of the remaining sections, clauses and provisions hereof.

AYES:       Members       \_\_\_\_\_

\_\_\_\_\_

NAYS:       Members       \_\_\_\_\_

\_\_\_\_\_

RESOLUTION DECLARED ADOPTED.

\_\_\_\_\_

City Clerk

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Pontiac, County of Oakland, State of Michigan, at a regular meeting held on August 20, 2019, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

---

City Clerk

34214163.2071371-00076

**#19**

**RESOLUTION**

**RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS  
RELATED TO THE PUBLIC PRIVATE PARTNERSHIP OF THE PHOENIX CENTER  
FACILITY**

City of Pontiac  
County of Oakland, State of Michigan

---

Minutes of a regular meeting of the City Council of the City of Pontiac, County of Oakland, State of Michigan, held on August 27, 2019, at 6:00 p.m., prevailing Eastern Time.

PRESENT: Members \_\_\_\_\_  
\_\_\_\_\_

ABSENT: Members \_\_\_\_\_

The following preamble and resolution were offered by Member \_\_\_\_\_ and supported by Member \_\_\_\_\_:

WHEREAS, the City of Pontiac, County of Oakland, State of Michigan (the "City"), owns that certain facility within the City consisting of a parking garage, amphitheater and plaza commonly known as the Phoenix Center; and

WHEREAS, the City was a party to certain lawsuits in the Oakland County Circuit Court (case nos. 12-130331-CH and 14-139761-CC) related to the maintenance and improvement of the Phoenix Center which were disposed of pursuant to a settlement agreement (the "Settlement Agreement") between the City and Ottawa Tower II, LLC and the North Bay Drywall, Inc. Profit Sharing Plan & Trust; and

WHEREAS, the terms of the Settlement Agreement require the City to make certain improvements to the Phoenix Center; and

WHEREAS, the City Council of the City desires to explore all options related to the City's continued ownership or disposition of the Phoenix Center before it determines to issue bonds to provide funds to pay the expenses related to the Phoenix Center improvements; and

WHEREAS, the City Council desires to issue an Request for Proposals to seek proposals from qualified parties related to a potential disposition of the Phoenix Center as an option to satisfy the terms of the Settlement Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Request for Proposals; Publication. The City is hereby authorized and directed to issue a Request for Proposals (an "RFP") to invite qualified parties to submit proposals for a public private partnership with a qualified party or parties.

The RFP shall contain, at a minimum, all material information related to the Phoenix

Center, including the terms of the Settlement Agreement, the scope of the improvements required under the Settlement Agreement and all easements applicable to the Phoenix Center.

A proposal shall be deemed qualified if it is submitted by a party that, at minimum, is able to demonstrate it possesses sufficient capital to finance the continued operation and improvements to the Phoenix Center required under the Settlement Agreement.

The City Clerk is authorized and directed to publish the RFP in accordance with the City's procurement process in a manner designed to incur the broadest circulation possible.

2. Authorization of Other Actions; Submission of Proposals.

The Mayor and other appropriate personnel are hereby authorized to take all other necessary actions required to prepare and publish the RFP.

If proposals are submitted in paper format, the RFP shall require that two copies be submitted to the City. One copy shall be retained by the Mayor's staff and one copy shall be submitted to the City Clerk.

If the proposals are submitted electronically, the RFP shall require that the City Clerk be copied on each submission.

3. Severability. If any one or more sections, clauses or provisions of this Resolution shall be determined by a court of competent jurisdiction to be invalid or ineffective for any reason, such determination shall in no way affect the validity and effectiveness of the remaining sections, clauses and provisions hereof.

AYES:       Members \_\_\_\_\_  
\_\_\_\_\_

NAYS:       Members \_\_\_\_\_

RESOLUTION DECLARED ADOPTED.

\_\_\_\_\_  
City Clerk

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Pontiac, County of Oakland, State of Michigan, at a regular meeting held on August 20, 2019, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

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City Clerk

34214163.2\071371-00076

**#20**

**RESOLUTION**



# CITY OF PONTIAC

## OFFICIAL MEMORANDUM

*Executive Branch*

---

**TO:** Honorable Mayor, Council President and City Council Members

**FROM:** Hughey Newsome, Interim Finance Director

**Thru:** Office of Deputy Mayor, Jane Bais-DiSessa

**DATE:** 9/5/2019

**RE:** **Resolution to Approve Budget Amendment to transfer amount necessary to fund improvements to Pontiac City Parks – move money from City Council budget to Parks**

The FY 2010-2020 budget as adopted by City Council on June 28, 2019, includes an approved General Fund allocation of \$100,000 for Neighborhood Projects within the Parks Grounds Maintenance department. As such, effective July 1, 2019, these funds were set available to perform specific projects to improve the city's parks.

The Director of the Department of Public Works (DPW) has determined that, due to lack of security in the city parks, the amount of money needed to provide certain amenities (e.g. barbecue pits, picnic tables, restrooms) is well above the \$100,000 allocation.

Recently, the Mayor's Office was made aware that certain members of the City Council were concerned with the lack of equipment at city parks in general. Of course, it would not be prudent to purchase and install equipment that is not secure, given that there is risk of theft and vandalism.

Per direction of the Mayor, the Finance Department has identified certain City Council departmental appropriations that would help fund equipment installation and security. In an effort to match what has already been appropriated, it is being proposed with this budget amendment that the City Council provide an additional \$100,000 to the already appropriated \$100,000. The source of these funds would be the following appropriations:

101-101-808.101	District Projects	\$ 98,000
101-101-804.000	<u>Legal Services</u>	\$ 2,000
<b>Total</b>		<b><u>\$100,000</u></b>

**Memo - Budget Amendments**

**November 28, 2018**

**Page 2 of 2.**

As such, with an effective date of proposed effective date of September 10, 2019, the following resolution is recommended:

*Whereas, the City of Pontiac timely approved the FY 2019-2020 budget on June 29, 2019; and*

*Whereas, the adopted FY 2019-2020 General Fund budget includes an approved Parks Ground Maintenance Neighborhoods Projects appropriation of \$100,000 for employee wage increases; and*

*Whereas, the adopted FY 2019-2020 General Fund budget also includes an approved appropriation for City Council District Projects of \$98,000; and*

*Whereas, the adopted FY 2019-2020 General Fund budget also includes an approved appropriation for City Council Legal Services of greater than \$2,000 (actually \$30,000); and*

*Whereas, the account number associated with Parks Ground Maintenance Neighborhoods Projects is 101-818-808.000, the account number associated with City Council District Projects is 101-101-808.101 and the account number associated with City Council Legal Services is 101-101-804.000; and*

*Whereas, the Mayor is proposing to the City Council to decrease the appropriation for 101-101-808.101 by \$98,000 and to decrease the appropriation for 101-101-804.000 by \$2,000 and to increase the appropriation for 101-818-808.000 by \$100,000 for the current fiscal year of 2019-2020.*

*Now therefore, be it resolved that the City Council of the City of Pontiac approves the aforementioned budget amendment for the fiscal year 2018-2019 as requested by the Mayor.*



# CITY OF PONTIAC

## OFFICIAL MEMORANDUM

*Executive Branch*

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**TO:** Honorable Council President and City Council Members  
**FROM:** Jane Bais DiSessa, Office of the Deputy Mayor  
**Cc:** Mayor Deirdre Waterman, Hughey Newsome, Interim Finance Director, and John Balint, DPW Director  
**DATE:** 9/5/2019  
**RE:** **Budget Amendment for Pontiac City Parks.**

Pursuant to the following facts, that:

- a total of 32 parks are located throughout the City of Pontiac;
- there are no Staff dedicated full-time for park maintenance; and
- no budgetary funds were allocated in the FY 2019/20 Adopted Budget for park capital improvements.

As you all know, the City's park maintenance has been done through worked provided by numerous Volunteer groups, and through the Mayor's Neighborhood Empowerment Program (NEP). The following are a few examples of park improvements made through NEP:

- Friends of Pontic Park/ Argyle Park: Installation of a playscape, bench and table at a total cost of \$16,072.00;
- Friends of Pontiac Park/ Beaudette Park: Upgrade the park by adding three tire swing sets and a climbing structure at a total cost of \$32,111.00;
- Project Pontiac/Mattie McKinney Hatchett Park: Upgrade the Park by removal of the current play structures and installation of a new play structure at a total cost of \$28,055.00;
- We Care Neighborhood Association/Oakland Park: Restoration of the basketball court at a total cost of \$23,000; and
- We Care Neighborhood Association/Charlie Harrison Park: Restoration of the basketball court at a total cost of \$13,990.00.

The Mayor respectfully challenges the City Council to match her NEP efforts by approving the recommended \$100,000.00 budget amendment. If approved, these funds may be used for both park maintenance and the acquisition of needed park equipment. Thank you for your consideration. Let me know if any questions arise.

JBD