

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."

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

FORMAL MEETING/STUDY SESSION

September 24, 2019

6:00 P.M.

116th Session of the 10th Council

Call to order

Roll Call

Authorization to Excuse Councilmembers

Amendments to and Approval of the Agenda

FORMAL MEETING

Approval of the Minutes

1. September 17, 2019

Subcommittee Reports

2. Finance- September 10, 2019

Discussions

3. Dangerous Animal Ordinance
4. Michigan Indigent Defense Commission (MIDC) Interlocal Agreement between Oakland County and City of Pontiac

Special Presentations (Presentations are limited to 10 minutes.)

5. Phoenix Center Settlement Agreement
Presentation Presenters: Mayor Waterman, City Attorney Anthony Chubb and Vince DeLeonardis, President, AUCH Construction
6. City of Pontiac Retired Employees Association (CPREA)- Retiree Health Care Lawsuit Settlement Action Plan
Presentation Presenters: Mayor Waterman, Samantha Kopacz, Miller Canfield and City Attorney Rich Warren

Ordinances

7. Adoption of 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

8. Adoption of an Ordinance to Amend the Zoning Ordinance of City Of Pontiac, Oakland County, Michigan by Addressing Temporary Construction Fencing Regulations

Resolutions

Department of Public Works (DPW)

9. Resolution to approve DTE easement for parcel address located at 68 Oakland Avenue, Pontiac, Michigan.
10. Resolution to authorize the Mayor to conduct preliminary due diligence regarding the potential purchase of 235 Wesson Street and to negotiate terms and conditions of sale at a cost not to exceed \$45,000.00 and to complete process within 60 days. (This resolution has been updated. The previous version of this resolution failed on August 13, 2019)
11. Resolution to approve the \$100,000.00 budget amendment for City-wide park enhancements.

Communication from the Mayor

12. Report Regarding Check Register, New Hires and Credit Card.

STUDY SESSION

Public Comment

Department of Public Works

13. Resolution to approve budget amendments to transfer a total of \$767,207 for Major Street Fund Road Projects; a total of \$1,317,545 for Local Street Fund Road Projects; and a total of \$30,000.00 for Mowing Services as presented.

Finance

14. Resolution to approve budget amendment in the amount of \$90,000.00 to restore Finance Director's Salary to \$140,000 as presented in Mayor's 2019-2020 proposed budget
15. Request to renew consideration of 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.

Economic Development

16. Resolution to Approve Amendment 1 to the 2016 Oakland County Brownfield Consortium Agreement between Oakland County and the City of Pontiac.

Communication from the Mayor

17. Report- Jobs' Pipeline/Workforce Development Report - Silverdome Site Development Amazon Announcement.

Adjournment

#1

MINUTES

September 17, 2019 Formal

**Official Proceedings
Pontiac City Council
115th Session of the Tenth Council**

A Formal Meeting of the City Council of Pontiac, Michigan was called to order in City Hall, Tuesday, September 17, 2019 at 6:04 p.m. by Council President Pro-Tem Randy Carter.

Call to Order

Invocation – Pastor Matlock

Pledge of Allegiance

Roll Call

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

Members Absent: Williams.

Mayor Waterman was present.

Clerk announced a quorum.

19-475 **Excuse Councilperson Kermit Williams for personal reasons.** Moved by Councilperson Waterman and second by Councilperson Pietila.

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

No: None

Motion Carried.

Council President Kermit Williams arrived at 6:05 p.m.

19-476 **Amendments to the agenda to discuss only items #3 (filling of the council vacancy for district 2), item # 6 (Medical Marihuana Budget & Status update on RFP for professional Expert-Financial Advisor to the City Clerk & RFP for Hearing Officer) public comment and approve amended agenda.** Moved by Councilperson Taylor-Burks and second by Councilperson Waterman.

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

No: Pietila

Motion Carried.

19-477 **Approve amended meeting minutes of September 10, 2019.** Moved by Councilperson Waterman and second by Councilperson Taylor-Burks.

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

No: Pietila
Motion Carried.

Recognition of Elected Officials- None

Agenda Address- None

19-478 **Motion to accept submitted resumes in the Clerk's Office starting tomorrow morning (9/18/2019) for one week to fill Council Vacancy Seat for District 2.** Moved by Councilperson Waterman and second by Councilperson Taylor-Burks.

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

Discussion- Medical Marijuana Budget and Status Update on RFP for Professional Expert-Financial Advisor to the City Clerk and RFP for Hearing Officer

The Interim City Clerk gave a presentation on his budget. He stated that the Clerk's Office has no budget deficit (see Attachment A City Clerk 2019-2020 Budget Presentation and Attachment B Medical Marijuana Application Fee Calculation 9/11/2019 Updated Clerk Revisions).

Nine (9) individuals addressed the body during public comment.

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

Council President Kermit Williams adjourned the meeting at 7:15 p.m.

GARLAND S. DOYLE
INTERIM CITY CLERK



City Clerk

2019-2020 Budget Presentation

Pontiac City Council
September 17, 2019
Garland S. Doyle, M.P.A., CNP
Interim City Clerk

Three Separate Budgets

Direct Oversight

- Dept 191- Elections (Budget is balanced.)
- Dept 21- City Clerk (Budget is balanced.)

Partial Oversight

- Dept 255- Medical Marihuana Applications **(The Clerk's portion of the budget is balanced. The Mayor's portion is not do to overestimating expenses and underestimating revenue.)**

Budgeted Positions

Dept	How is Budget Funded?	Budgeted Positions	Status
Clerk (215)	General Fund	City Clerk (Interim)	Filled
		Deputy City Clerk	Filled
		Customer Service Rep	Filled
Elections (191)	General Fund	Assistant City Clerk	Open
Filling this position has no effect on the Medical Marihuana Applications Budget because it has its own budget. It would be financially irresponsible to move money out of the Elections Budget to cover Medical Marihuana.			
Medical Marihuana Applications (255)	Application Fee	Financial Advisor to Clerk	Open (Contract)
		Hearing Officer	Open (Contract)
		Legal Advisor to Clerk	Open (Contract)

The Medical Marihuana Applications Budget is funded with the Medical Marihuana Application Fee. The purpose of this fee is to “help defray administrative costs associated with the application for the medical marihuana facility, which shall be set by a resolution adopted by Council, but shall not exceed five thousand (\$5,000.00) per application” (Ordinance 2357(B) Section 8(d)).

It is financially irresponsible and maybe illegal to allocate medical marihuana application fees to the general fund and not to designate them to cover the administrative costs associated with the application for the medical marihuana facility.

If the Administration was going to base the Medical Marihuana Budget Expenses on receiving 200 applications than they should have budgeted the Medical Marihuana Revenue on receiving 200 application fees of \$5,000 = \$1,000,000.00 (1 million) and not the 100,000 that they allocated.

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Clerk fixes Mayor's Medical Marihuana Budget

How?

- By not padding the budget by underestimating revenue and overestimating expenses unlike the Mayor and her budget team in their proposed budget.
- Designate the \$5,000 application fee to cover the administrative cost associated with reviewing applications
- Reduced the \$6,362.00 estimated administrative costs to review and approve an application to \$5,000.00 **so no general fund dollars have to be used to cover administrative costs**

How is the Clerk going to reduce administrative costs?

1. The applicant will have to pay for building, mechanical, electrical and plumbing inspections fees separately. (Lansing's Medical Marihuana Ordinance is similar to Pontiac's and applicants in Lansing pay inspection fees separately.)

Rationale: Not all applications will be approved and if we state that a part of our non-refundable application fee is used for inspection fees than unapproved applicants could be entitled to part of their application fee back.

2. The applicant will have to pay Site Plan and Special Exemption Review fees separately
3. The applicant will have to pay Fire inspection fees separately

•Estimated Medical Marihuana Review Expenses do not exceed Estimated Medical Marihuana Application Fee Revenue----- **NO DEFICIT**

•**Utilize contractors as oppose to City employees in the application review process whenever possible. THIS WILL ENSURE THAT CITY SERVICES WILL NOT BE EFFECTED.**

Recommendation

Although applicants should pay various building and planning inspection fees separately, we need to designate them as medical marihuana income. This way we will know all the medical marihuana revenue and expenses for the City.

Status of RFPs

Hearing Officer issued to the public
Due Oct 8th

Financial Advisor still awaiting
Mayor's signature before Purchasing
can issue to the public

Proposed Application Review Process for Grower, Processor, Secure Transporter, and Safety Compliance Applicants

1

The Office of the City Clerk will review all applications to make sure all information and exhibits have been submitted.

The City Clerk will check with the following departments to ensure that the applicant is not in default with the City.

2

50th District Court Review, to be completed by City Clerk

Income Tax

Treasury

3

The Legal Advisor to the City Clerk will conduct the criminal background checks of the applicants.

4

The City Clerk will refer the applications to the following.

Building

- Sec. 9(b)(1)
- Sec. 9(b)(3)

Planning

- Sec. 8(c)(18)-(20)
- Sec. 8(c)(27), (30)
- Sec. 9(b)(2)

Fire

- Sec. 8(c)(31)
- Sec. 9(b)(1)

Financial Advisor to City Clerk

- Sec. 8(c)(6)-(13)
- Sec. 8(c)(22), (24)

Sheriff

- Sec. 8(c)(17)

Finance

- Sec. 8(c)(25)

DPW

- Sec. 8(c)(21)

Legal Advisor

- Sec. 8(c)(5)
- Sec. 8(c)(14)

City Clerk

- Sec. 8(c)(15)-(16)

5

The City Clerk will award permits to applicants that have satisfactorily met all requirements of Ordinance 2357(b) and have received 9(b)(1) clearance from Building and Fire, 9(b)(2) clearance from Planning, and 9(b)(3) clearance from Building.

Proposed Application Review Process for Provisioning Centers

1

The Office of the City Clerk will divide all applications into one of four (1 of 4) districts. Applicants will be scored and ranked by district.

2

The City Clerk will check with the following departments to ensure that the applicant is not in default with the City.

50th District Court Review, to be completed by City Clerk

Income Tax

Treasury

3

The Scoring Team will consist of the City Clerk, Planning Manager, Professional Expert- Financial Advisor to the City Clerk and the Professional Expert-Legal Advisor to the City Clerk.

The City Clerk, Planning Manager and Professional Expert-Financial Advisor will score the relevant sections of the application.

The Scoring Team will meet after all the applications in a district have been scored by the City Clerk, Planning Manager and Professional Expert-Financial Advisor to tally the total score and rank the applications. (The scoring team will meet at least four times.)

4

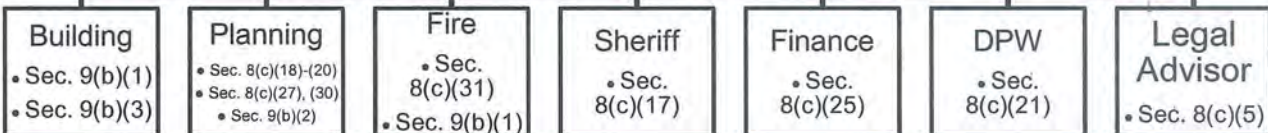
No Scoring or Ranking will be announced until all four of the districts have been scored and ranked. The City Clerk will conduct the criminal background checks of the top 5 ranked applicants by district.

5

The City Clerk will announce the application rankings by district.

6

The City Clerk will refer the applications of the top 5 ranked applicants to the following.



7

The City Clerk will award permits to the top 5 applicants from each district after they have received 9(b)(1) clearance from Building and Fire, 9(b)(2) clearance from Planning, and 9(b)(3) clearance from Building.

Appeal Process

- An applicant denied a permit may appeal to the City Clerk, who shall appoint a hearing officer to hear and evaluate an appeal and make a recommendation to the City Clerk. Such appeal would be taken by filing a written statement of appeal with the City Clerk, within fourteen (14) days after notice of the denial.
 - The City Clerk would review the report and recommendation of the hearing officer and make a decision on the matter.
- The City Clerk's decision may be further appealed to the Medical Marihuana Commission by written appeal no later than thirty (30) days after the City Clerk's decision.
- IN THE ALTERNATIVE, an applicant may waive, in writing within fourteen (14) days after notice of the denial, its opportunity to be heard before a hearing officer, and instead submit its appeal directly to the Medical Marihuana Commission no later than (30) days after mailing of the denial decision.
- The Medical Marihuana Commission shall only overturn a decision or finding of the clerk if it finds such decision or finding to be arbitrary or capricious and not supported by material, substantial, and competent facts on the whole record considered by the clerk in arriving at such decision or finding (Ordinance 2357B).

**APPEAL
OPTION 1**

PROCESS FOR APPEAL

**APPEAL
OPTION 2**

Pontiac City Clerk makes decision on application

Applicant submits written appeal to Pontiac City Clerk within 14 days.

Pontiac City Clerk appoints hearing officer to hear and evaluate appeal.

Applicant can present additional clarifying information or evidence that the applicant believes should be considered in assessing its

Hearing officer conducts hearing on appeal and makes recommendation to Pontiac City Clerk, who makes a decision on the matter.

Applicant may submit further written appeal to medical marihuana commission within 30 days.

Applicant waives, in writing, its right to be heard before a hearing officer within 14 days.

After waiving its right in writing to be heard before a hearing officer, Applicant submits written appeal to medical marihuana commission through the Pontiac City Clerk's Office within 30 days.

The medical marihuana commission shall only overturn a decision or finding of the Pontiac City Clerk if it finds such decision or finding to be arbitrary or capricious and not supported by material, substantial, and competent facts on the whole record considered by the Pontiac City Clerk in arriving at such decision or finding.

Questions

Medical Marijuana Application Fee calculation
9/11/2019 Updated Clerk Revisions

Procedure: Hours and tasks were reviewed with personnel from various departments of the City. Hours are an average per facility - some facilities and applications with supporting documentation may be much larger than others and require more review and inspection. Rates were determined based on salaries of employees or average hourly rate of 3rd party contractors most recent contract.

Figures assume volume of 200 applications: @ 5,000 application fee

Department	Avg Hours per task	Rate	Fee	Total w/exp vol
Planning and Zoning				
Review scaled location area map of the medical marijuana facility and surrounding areas	5.00	\$42.50	\$212.50	\$42,500.00
TOTAL PLANNING AND ZONING:				\$42,500.00
Building				
Review Floor plans of the medical marijuana facility, as well as a site survey.	2.00	\$71.07	\$142.14	\$28,428.00
Review Building elevations and description of all exterior elevation of the proposed medical Marijuana facility	2.00	\$71.07	\$142.14	\$28,428.00
TOTAL BUILDING INSPECTION:				\$56,856.00
Fire				
Review hazardous material plan	2.00	\$71.07	\$142.14	\$28,428.00
TOTAL FIRE:				\$28,428.00
Police				
Review Medical Marijuana Facility Security Plan	5.00	\$66.56	\$332.80	\$66,560.00
TOTAL POLICE:				\$66,560.00
Professional Expert - Financial Advisor to City Clerk				
Sec. 8(c)(6) (Business Plan)/Sec. 8(c)(13) (Business Goals and Objectives)	3.00	\$60.00	\$180.00	\$36,000.00
Sec. 8(c)(7) (Ownership Structure)	0.25	\$60.00	\$15.00	\$3,000.00
Sec. 8(c)(8) (Organization Chart)	0.25	\$60.00	\$15.00	\$3,000.00
Sec. 8(c)(9) (Marketing, Advertising and Business Promotion Plan)	1.00	\$60.00	\$60.00	\$12,000.00
Sec. 8(c)(10) (Planned Tangible Capital Investment)/Sec. 8(c)(12) (Financial Structure and Financing)/Sec 8(c)(24) (Verification of Minimum Capitalization)	3.00	\$60.00	\$180.00	\$36,000.00
Sec. 8(c)(11) (Economic Benefits/Job Creation)	2.00	\$60.00	\$120.00	\$24,000.00
Sec. 8(c)(22) (Inventory and Recordkeeping Plan)	2.00	\$60.00	\$120.00	\$24,000.00
TOTAL PROFESSION EXPERT - FINANCIAL ADVISOR:				\$138,000.00
Finance/Income Tax				
Sec 8(c)(23) No default to the City	0.50	\$32.76	\$16.38	\$3,276.00
TOTAL FIANANCE/INCOME TAX:				\$3,276.00
Finance/Treasury				
Sec 8(c)(23) No default to the City	0.50	\$42.50	\$21.25	\$4,250.00
TOTAL FINANCE/TREASURY:				\$4,250.00
Department of Public Works/WRC				
Review of traffic flow in and out of facility	2.00	\$47.50	\$95.00	\$19,000.00
Review facility sanitation plan	2.00	\$47.50	\$95.00	\$19,000.00
Review for industrial discharge	2.00	\$47.50	\$95.00	\$19,000.00
TOTAL DEPARTMENT OF PUBLIC WORKS/WRC:				\$57,000.00
Professional Expert - Legal Advisor to City Clerk				
Review training and education plan that the applicant will provide to all employees	0.50	\$288.49	\$144.25	\$28,849.00
Review criminal background report of the applicant's criminal history	0.50	\$288.49	\$144.25	\$28,849.00
Assist the Clerk with application review	1.00	\$288.49	\$288.49	\$57,698.00
TOTAL PROFESSIONAL EXPERT - LEGAL ADVISOR:				\$115,396.00
City Clerk				
Review proof of ownership of the entire premises where in the medical marijuana facility is to operated; or written consent from the property owner for the use c	0.25	\$43.27	\$10.82	\$2,163.50
Review LARA application documents	0.25	\$43.27	\$10.82	\$2,163.50
Review proof of an adequate premises liability and casualty insurance policy in the amount not exceeding the requirments addressed in the Medical Marijuana Fac	1.00	\$43.27	\$43.27	\$8,654.00
Review affidavit that the transfer of Marijuana to and from the medical marijuana facilities shall be in compliance with the MMMA and the Medical Facilites Licen:	0.50	\$43.27	\$21.64	\$4,327.00
Review application in its entirety and certify all required materials have been presented and approved by various departments of the City	3.00	\$43.27	\$129.81	\$25,962.00
Process and Review all applications to make sure all questions have been answered completely and all attachments have been submitted	5.00	\$43.27	\$216.35	\$43,270.00

	Avg Hours per task	Rate	Fee	Total w/exp vol
Section 8(c)(23) No default to the City Review for 50th District Court	2.00	\$43.27	\$86.54	\$17,308.00
Refer applications to departments and track the progress of applications	3.00	\$43.27	\$129.81	\$25,962.00
Section 8(c)(15) community outreach and education strategies	3.00	\$43.27	\$129.81	\$25,962.00
Section 8(c)(16) charitable plans	2.00	\$43.27	\$86.54	\$17,308.00
Prepare applications for appeals with hearing officer and/or commission	0.75	\$43.27	\$32.45	\$6,490.50
Issue permits or denial letters	0.25	\$43.27	\$10.82	\$2,163.50
TOTAL CITY CLERK:				\$181,734.00
Hearing Officer				
Section 16 appeal review	4.00	\$70.00	\$280.00	\$56,000.00
TOTAL HEARING OFFICER:				\$56,000.00
City Attorney				
Review any legal questions related to applications that arise	10.00	\$125.00	\$1,250.00	\$250,000.00
Appeal Process			\$0.00	\$0.00
Provisioning Center Community Benefits Agreements			\$0.00	\$0.00
TOTAL CITY ATTORNEY:				\$250,000.00
TOTAL ESTIMATED ADMINISTRATIVE COST TO REVIEW AND APPROVE APPLICATION (COST PER APPLICATION)			\$5,000.00	
TOTAL ESTIMATED ADMINISTRATIVE COST TO REVIEW AND APPROVE APPLICATION:				\$1,000,000.00
TOTAL ESTIMATED REVENUE (APPLICATION FEE) - ADMINISTRATIVE COST TO REVIEW (TOTAL ESTIMATED EXPENSES):				\$0.00

City Employee Position	Salary	Hours	Rate per hour
Planning Manager	\$88,400.00	2080.00	\$42.50
City Clerk	\$90,000.00	2080.00	\$43.27
Treasurer	\$88,400.00	2080.00	\$42.50
DPW Director	\$98,800.00	2080.00	\$47.50
Income Tax Director	\$68,140.00		\$32.76
3rd party contractors	Annual Contracts	Hours	Rate per hour
Wade Trim - Building and Safety (on average 11 full time employees)	\$1,626.00	22880.00	\$71.07
Oakland County Sheriff (Contract 2019 - Patrol Investigator, no fill. 18 officers at 2,080 houses	\$2,492.00	37440.00	\$66.56
Fire Inspector - assume same rate as Wade Trim. Could not determine based on contract.			
Financial Advisor to City Clerk			\$60.00
Legal Advisor to City Clerk			\$288.49
Hearing Officer			\$70.00

Medical Marijuana Application Fee calculation

9/9/2019

Figures assume volume of 200 applications:

Procedure: Hours and tasks were reviewed with personnel from various departments of the City. Hours are an average per facility- some facilities and applications with supporting documentation may be much larger than others and require more review and inspection. Rates were determined based on salaries of employees or average hourly rate of 3rd party contractors most recent contract.

Planning and Zoning

Review scaled location area map of the medical marijuana facility and surrounding areas.

Special exemption use review

Site Plan review

Public Hearing procedures

Average Hours per task	Rate	Fee	Total w/exp vol	Clerk's Revisions
5.00	\$ 40.87	\$ 204.35	\$ 40,870.00	
5.00	\$ 40.87	\$ 204.35	\$ 40,870.00	
5.00	\$ 40.87	\$ 204.35	\$ 40,870.00	
5.00	\$ 40.87	\$ 204.35	\$ 40,870.00	

TOTAL PLANNING AND ZONING: \$ 163,480.00

\$ 40,870.00 \$ 122,610.00 savings

Building

Perform Building inspection on facility and supporting documentation

Perform Mechanical inspection on facility and supporting documentation

Perform Electrical inspection on facility and supporting documentation

Perform Plumbing inspection on facility and supporting documentation

Review Floor plans of the medical marijuana facility, as well as a site survey.

Review Building elevations and description of all exterior elevation of the proposed medical Marijuana facility

6.00	\$ 71.07	\$ 426.42	\$ 85,284.00	
6.00	\$ 71.07	\$ 426.42	\$ 85,284.00	
6.00	\$ 71.07	\$ 426.42	\$ 85,284.00	
6.00	\$ 71.07	\$ 426.42	\$ 85,284.00	
2.00	\$ 71.07	\$ 142.14	\$ 28,428.00	
2.00	\$ 71.07	\$ 142.14	\$ 28,428.00	

TOTAL BUILDING INSPECTION: \$ 397,992.00

\$ 56,856.00 \$ 341,136.00 savings

Fire

Perform Fire inspection on facility

Review hazardous material plan

6.00	\$ 71.07	\$ 426.42	\$ 85,284.00	
2.00	\$ 71.07	\$ 142.14	\$ 28,428.00	

TOTAL FIRE: \$ 113,712.00

\$ 28,428.00 \$ 85,284.00 savings

Police

Review Medical Marijuana Facility Security Plan

5.00	\$ 66.56	\$ 332.80	\$ 66,560.74	
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TOTAL POLICE: \$ 66,560.74

\$ 549,030.00 savings

Finance

Review proof of ownership structure of the entity that identifies the ownership percentage held by each stakeholder and organization chart with names of each person and position description

Review affidavit that neither the applicant nor any stakeholder of the applicant is in default to the City. (See modification on Clerk's worksheet)

Review the applicant's business plan

Review proposed patient recordkeeping plan that tracks quantities sold to individual patients and caregivers, and will monitor inventory.

Review the marketing, advertising, and business promotion plan for the proposed medical marijuana facility.

Review documents describing the financial structure and financing of proposed medical marijuana facility.

0.50	\$ 60.00	\$ 30.00	\$ 6,000.00	
1.50	\$ 60.00	\$ 90.00	\$ 18,000.00	
3.00	\$ 60.00	\$ 180.00	\$ 36,000.00	
2.00	\$ 60.00	\$ 120.00	\$ 24,000.00	
1.00	\$ 60.00	\$ 60.00	\$ 12,000.00	
3.00	\$ 60.00	\$ 180.00	\$ 36,000.00	

TOTAL FINANCE: \$ 132,000.00

Department of Public Works/WRC

Review of traffic flow in and out of facility

Review facility sanitation plan.

Review for industrial discharge.

2.00	\$ 45.68	\$ 91.35	\$ 18,270.00	
2.00	\$ 45.68	\$ 91.35	\$ 18,270.00	
2.00	\$ 45.68	\$ 91.35	\$ 18,270.00	

TOTAL DPW / WRC: \$ 54,810.00

Human Resources

Review training and education plan that the applicant will provide to all employees.

Review criminal background report of the applicant's criminal history.

1.00	\$ 30.45	\$ 30.45	\$ 6,090.00	
1.00	\$ 30.45	\$ 30.45	\$ 6,090.00	

TOTAL HUMAN RESOURCES: \$ 12,180.00

Clerk

Review proof of ownership of the entire premises where in the medical marijuana facility is to operated; or written consent from the property owner for use of the premises and a manner requiring licensure under this ordinance along with a copy of the lease for the premises.

Review LARA application documents

Review proof of an adequate premises liability and casualty insurance policy in the amount not exceeding the requirements addressed in the Medical Marijuana Facilities Licensing Act or applicable State laws.

Review affidavit that the transfer of Marijuana to and from the medical marijuana facilities shall be in compliance with the MMMA and the Medical Marijuana Facilities Licensing Act or other applicable State Laws.

Review application in its entirety and certify all required materials have been presented and approved by various departments of the City.

0.25	\$ 40.87	\$ 10.22	\$ 2,043.27	
0.25	\$ 40.87	\$ 10.22	\$ 2,043.27	
1.00	\$ 40.87	\$ 40.87	\$ 8,173.08	
0.50	\$ 40.87	\$ 20.43	\$ 4,086.54	
8.00	\$ 40.87	\$ 326.92	\$ 65,384.62	

TOTAL CLERK: \$ 81,730.77

City Attorney

Review any legal questions related to applications that arise

10.00	\$ 125.00	\$ 1,250.00	\$ 250,000.00	
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TOTAL CITY ATTORNEY: \$ 250,000.00

	Average Hours per task	Rate	Fee	Total w/exp vol	Clerk's Revisions
Total estimated administrative cost to review and approve application (cost per application)			\$ 6,362.33		
Total estimated administrative cost to review and approve application				\$ 1,272,465.51	
Total estimated with original costs in budget for external support				\$ 1,491,360.51	
B/(W) vs adopted budget				\$ (1,272,465.51)	

City Employee Position	Salary	Hours	Rate per hour	
City Planner	\$ 85,000	2,080.00	\$ 40.87	
City Clerk	\$ 85,000	2,080.00	\$ 40.87	
Finance Director	\$ 124,800	2,080.00	\$ 60.00	
DPW Director	\$ 95,004	2,080.00	\$ 45.68	
HR Manager	\$ 63,336	2,080.00	\$ 30.45	
<i>Implied per adopted budget</i>				
				\$ 960,000 Total est FA cost
				\$ 4,800 PER app fee
				\$ 60 rate
				80 Avg hrs per task
3rd party contractors				
	Annual Contrac	Hours		
Wade Trim - Building and Safety (on average 11 full time employees)	\$ 1,626,000	22,880.00	\$ 71.07	
Oakland County Sheriff (Contract 2019 - Patrol Investigator, no fill. 18 officers at 2,080 hou	\$ 2,492,034	37,440.00	\$ 66.56	
Fire Inspector - assume same rate as Wade Trim. Could not determine based on contract.				

#2

SUB

COMMITTEE

REPORT

FINANCE SUBCOMMITTEE NOTES

September 10, 2019

In attendance:

Council members: Chairperson Patrice Waterman and Council President Kermit

Mayor: Deirdre Waterman

Hughey Newsome

Captain Andre Ewing

Detective Sargent Hicks

Start time: 4:00 p.m.

AGENDA

A. Sherriff's DPU Unit

-In a report, there is a proposed amendment to the Sherriff's contract with the City of Pontiac. There is strike through language which will represent changes to reflect additions from the proposed DPU, which was proposed by the Sherriff's office. The total additional cost to the city would have been \$729,150. This includes a Sergeant and 4 Deputy II officers. The administration will present a counterproposal in Public Safety subcommittee on 9/13, per a previous commitment.

-A resolution was also given by the public safety subcommittee.

-Detective Sargent Hicks has been running the DPU unit for about three years. Sargent Hicks teaches active shooter training and did the ALICE Program at United Shore.

-The day-to-day work of the unit consists of, assisting the detective bureau, talking to witnesses, following-up with interviews, targeting the street, responding to shootings and community violence and assisting crime stoppers.

- The unit stays in areas where there is more crime and tries to get guns out of the hands of young people. The unit focuses on road patrol and apartment complexes in an effort to curb crime. The unit deals with drug deals, violent crimes, looks at social media pages and does surveillance. The unit took five guns off the street last week.

The unit can cover half the city and does not get dispatched in the traditional way.

The unit works with other special units and has solved three homicides.

When a crime is solved, typically it's because of the response time, when the investigation starts.

The unit doesn't get off until late and is extremely valuable with investigations. The shift was from 5:00 p.m. until 3:00 a.m. However, the start time will change to allow for the unit to have more time before the shift ends in order to start an investigation.

How can there be a cost reduction? Changing the shift time, so there is less overtime. Possibly reducing the number of deputies by one, as the Sargent or supervisor is necessary.

B. Art Dunlap Park

M1 Concourse would like to donate \$17,390 to the City and have the city to pay a contractor for improvements to the park. To do this, the budget will have to be amended. This will be a three step process:

- a. The money has to be received
- b. The money has to be appropriated
- c. A contractor has to receive it.

A series of budget amendments will be given to the Clerk on Thursday, for Tuesday's Council meeting.

A resolution should be added that can include the proposed amendments.

Council also passed a resolution to include roll-overs from FY 2019.

C. New Business

Reports for July 2019 financial activities

Items of interest:

- The total cash and investments in all funds for the City as of 7/31/2019 was \$52,208,383. The General fund portion of the total amount of cash is \$16,061,902. The net increase in the balance compared to the previous month is as the result of increased income tax collection.
- Income tax collections for the current fiscal year vs prior fiscal year. Cash receipts were \$1,159,331 at 7/31/2019 compared to \$1,122,804 during the month of 7/31/2018 (unaudited).
- Property tax collections as of 8/13/2019 show a total amount of City millages collected as \$11,079,397.09 vs \$12,559,699.81 billed, which is approximately 88%

Budget Amendments are needed in order to pay for expenditures for the following:

1. **Public Improvement Fund:** projects for City Hall lot repairs and Building additions were not completed in FY 19. The balance is not yet known, since the books for FY 19 are not closed. This impacts account numbers 445-265-974.021(City Hall Lot Repairs) and 445-265-976.001(Building Additions).
2. **Major Street Fund:** the work on Perry Street and Mill Street projects were not completed in FY 19 and more money will be needed in FY 20. This impacts account numbers 202-563-987.000(Perry Street) and 202-463-988.00 (Mill Street).
3. **Local Street Fund:** The Highwood Blvd and Kettering projects were not completed in FY 19 and will need more money in 20. This impacts account numbers 203-463-989.000 (Highwood Blvd) and 203-463-990.00 (Kettering)
4. **Cemetery Fund:** approximately \$38,000 will be needed to do some crypt front repairs. This work would be at both cemeteries, Ottawa Park and Oak Hill. Money will be need to be moved from building maintenance into professional services.
5. **Mowing:** Code Enforcement's budget needs more money, so \$30,000 will be needed and should be moved from Wade Trim 101-690-818-060 to 101-733-818.006.

The budget for medical marijuana may be incorrect and need to be amended. There should be a tracking mechanism so everything related to marihuana and marihuana should have a separate account. The application fee could not be more than \$5,000 and had to be justified. The cost to operate is separate from the revenue.

D. Questions posed by the subcommittee to the Administration:

1. **Blight Officer:** No money has been spent on a Blight Officer.
2. **Sherriff's DPU unit** (See above)
3. **Street Repairs at Stonegate and Golf Drive condos:** no money has been spent on Golf Drive. Discussions regarding repair status has been sent to the DPW Director and he will provide a response in a separate report. The repairs at Stonegate are out of the scope because they are private roads.
4. **Repairs at the 50th District Court:** the City has spent a total of \$252,875 at the court building. Roughly \$4,000 was on an HVAC.
5. **National League of Cities (NLC):** the share of invoice will be paid by the Executive soon.

6. **Villages of Bloomfield:** there is a commitment to provide \$2M worth of jobs, job training or a \$2M care-out of business for Pontiac contractors. Satisfactory progress has been reported in the first year. Once a new Economic Development Director is put in place, the City will re-establish a reporting a cadence. OU & Marshall plan was done with \$150,000. The Promise Zone is paying for 18 years and over. The City needs to determine whether the Village of Bloomfield has provided job training etc.
7. **Road Kill & Dream Cruise Budgets:** the budget is incomplete as sponsors have not yet paid, the program now includes the Pontiac Music Festival, the Sherriff's Office and Fire Department have not fully billed and ticket sales are not yet complete. Once all is finalized, administration will prepare a final report.

Adjourned: 5:00 pm

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PRESENTATION

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is entered into effective as of the ____ day of ~~September~~ August, 2018 (the "Effective Date"), by and among OTTAWA TOWER II, LLC, a Michigan limited liability company, and the NORTH BAY DRYWALL, INC. PROFIT SHARING PLAN & TRUST, a California pension and profit sharing trust, (individually a "Plaintiff" and collectively herein "Plaintiffs" or "Ottawa Towers"), and the CITY OF PONTIAC, a Michigan municipal corporation, ("City"), LOUIS SCHIMMEL, an individual formerly acting as the Emergency Manager of the City of Pontiac, ("Emergency Manager"), OAKLAND COUNTY ("County"), a Michigan municipal corporation, and the OAKLAND COUNTY BUILDING AUTHORITY, a Michigan building authority, (collectively herein "Defendants"). The Plaintiffs and Defendants are hereinafter individually a "Party" and collectively the "Parties."

RECITALS

A. On October 30, 1979, the City, the Pontiac Downtown Development Authority, and the Downtown Pontiac Development Company entered into a Comprehensive Development Agreement ("Development Agreement"), recorded at Liber 7770, Page 127, Oakland County Records, that required, among other obligations, that the developer construct a parking deck (the "Deck"), a plaza (the "Plaza"), and other improvements on the public sites of a certain parcel of land located in the City of Pontiac, now commonly known as the "Phoenix Center."

B. The Development Agreement provided that the City would convey certain parcels of land within the project area to the developer to develop various buildings on the private sites within the project area including, but not limited to, two office buildings that are now known as the Ottawa Towers.

C. On May 8, 1980, a Declaration of Easements ("Declaration of Easements") was executed and recorded at Liber 7788, Page 01, Oakland County Records, that created certain easements and other rights and obligations as referenced therein.

D. The Ottawa Towers office buildings are now owned by Ottawa Tower II, LLC and the North Bay Drywall, Inc. Profit Sharing Plan and Trust.

E. On July 5, 2012, the City's Emergency Manager issued Order S-221 Regarding the Approval to Request the County of Oakland to Approve the Demolition of the Phoenix Center. Thereafter, in July 2012, the Ottawa Towers commenced litigation against Defendants to prevent the demolition and to assert related claims against the Defendants (Oakland County Circuit Court Case No. 12-130331-CH, the "2012 Case"). The City and County filed counterclaims against the Ottawa Towers. On November 30, 2012, the Oakland County Circuit Court entered a preliminary injunction preventing the demolition of the Phoenix Center, among other relief. At the time the case was commenced, the County held title to the Phoenix Center. However, during the pendency of the case, the County transferred title to the Phoenix Center back to the City, and thereafter the County dismissed its counterclaim.

F.- On March 28, 2014, the City filed a condemnation action against the Ottawa Towers, among others, relating to the Phoenix Center (Oakland County Case No. 14-139761-CC, the "2014 Case"). The City's condemnation action was dismissed in October 2014 by the Oakland County Circuit Court, which dismissal was thereafter affirmed upon appeal; however, the Ottawa Towers' claim for reimbursement of attorney fees and costs under MCL 213.66 remains pending. Both the 2012 Case and the 2014 Case are referred to herein as the "Litigation."

G. The Parties participated in mediation facilitated by the Hon. Gerald Rosen (retired), and the Parties agreed upon the material terms of the settlement of their disputes in the form of a Proposed Term Sheet dated April 30, 2018 ("Proposed Term Sheet"). Based upon the Proposed Term Sheet, the Parties

→ *James*

now desire to memorialize the settlement by this Agreement which shall control and which has been duly authorized by all Parties and, as necessary, their duly authorized officials or agents.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, the Parties agree as follows:

1.0 PARTIES TO THIS AGREEMENT

1.1 As used in this Agreement, "Plaintiffs" shall include Ottawa Tower II, LLC, and North Bay Drywall, Inc. Profit Sharing Plan and Trust, their respective owners, managers, employees, officers, trustees, members, agents, attorneys, past and present, and their successors and assigns. The signatories for Plaintiffs acknowledge and represent that they have been duly authorized by their respective entities to execute this Agreement and are acting in their official capacity.

1.2 As used in this Agreement, "Defendants" shall include the City, the Emergency Manager, the County and the Oakland County Building Authority and their elected officials, emergency managers, appointees, employees, insurers, representatives, agents, attorneys, past and present, and their successors, and assigns. The signatories for Defendants acknowledge and represent that they have been duly authorized by their respective entities to execute this Agreement and are acting in their official capacity. Defendants represent that no approval is required from the State of Michigan, the Michigan Department of Treasury or any Transition Advisory Board.

2.0 DISMISSAL OF LITIGATION AND DISCHARGE OF LIENS

2.1 The Parties agree that upon payment in full of the settlement payments as set forth in Section 3.1.1 and 3.1.3, they shall execute and concurrently submit to the court for entry a stipulated order of voluntary dismissal with prejudice in the form attached hereto as **Exhibit 1** that resolves all pending claims and closes Case Nos. 12-130331-CH and 14-139761-CC. By entering into this Agreement, no Party admits to any wrongdoing, liability, or responsibility for damages of any kind whatsoever.

2.2 Concurrently, upon payment in full by the City of the amounts set forth in Section 3.1.1 and 3.1.3, Plaintiffs shall discharge and release any and all existing liens that Plaintiffs have filed against the Phoenix Center. The discharge and release of the liens shall be recorded with the Oakland County Register of Deeds at the expense of the Plaintiffs. Any future lien claims after the Effective Date of this Agreement shall be subject to conclusion of the alternative dispute resolution process established in Section 6.4, below, prior to the filing of the liens.

3.0 PAYMENTS

3.1 In consideration of the immediate discharge of all liens and encumbrances on the Phoenix Center as provided herein at Section 2.2, and the full, final and absolute release of all claims described in Section 4.0 Release and Waiver of Claims, the City shall pay Ottawa Towers II, LLC and North Bay Drywall, Inc. Profit Sharing Plan & Trust, jointly and severally, a total of Seven Million Three Hundred and Fifty Thousand Dollars and 00/100 (\$7,350,000.00), without any offset or deduction for any reason, in the manner and form as provided below:

3.1.1 Three Million Five Hundred Thousand Dollars (\$3,500,000.00) (the "Initial Payment") shall be paid upon the execution of all settlement documents, including stipulations and orders for dismissal with prejudice of the Oakland County Circuit Court Case No. 12-130331-CH, with One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) paid to Ottawa Tower II, LLC, and One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) paid to North Bay Drywall, Inc. Profit Sharing Plan & Trust (Charles Stephens, Trustee).

3.1.2 Three Million Five Hundred Thousand Dollars (\$3,500,000.00) payable, to North Bay Drywall, Inc. Profit Sharing Plan & Trust (Charles Stephens, Trustee), in five (5) annual installments of \$700,000.00 ("annual installment payment(s)"), without interest, the first annual installment shall be due on the date all settlement documents are executed. No interest shall accrue on any balance due hereunder. The City may elect to pay the balance of the remaining settlement amount in full at any time. If the City fails to make any installment payment within twenty (20) days of the date that such payment is due, then the entire remaining balance shall be due and payable immediately. Upon written notice from North Bay Drywall, Inc. Profit Sharing Plan & Trust (Charles Stephens, Trustee), or its counsel, given at least 90 days before an installment payment is due, the City shall then pay some or all of the remaining installment payments to Ottawa Tower II, LLC and/or such other payee(s) as set forth in such notice.

3.1.3 The City shall pay Plaintiffs the sum of Three Hundred and Fifty Thousand Dollars (\$350,000.00) as full and final reimbursement for all attorney fees and costs incurred by Plaintiffs in the condemnation action, being Oakland Circuit Case No. 14-139761-CC. This reimbursement shall be paid with the Initial Payment in Section 3.1.1 above. Upon payment, Plaintiffs and the City shall submit to the court a final stipulated order of dismissal to close the 2014 Case.

3.2 To secure the payments due to Plaintiffs in 3.1.2 above, the City will execute a confession of judgment (a/k/a "pocket judgment"), in favor of Plaintiffs, which shall expire and terminate by its terms upon delivery of the final payment under Section 3.1.2. If the City fails to make timely payment of any amount required in Section 3.1, Plaintiffs may enter the confession of judgment with the Court. The confession of judgment shall be in the form attached hereto as Exhibit 2. Unless and until there is a default in payment by the City, Plaintiffs' counsel shall hold the confession of judgment and shall immediately provide the confession of judgment to the City's counsel upon the City's payment of the City's final payment required by Section 3.1.2.

3.3 The Parties acknowledge and represent that none of the other Parties, or their attorneys, have made any representations regarding the tax consequences of this Agreement. Each Party shall be solely responsible for any tax consequences resulting from the Agreement or the payments or other actions taken to effectuate its provisions. Any and all reporting or payment of taxes, if any, shall be governed by and in compliance with state and federal laws and regulations governing the same. Plaintiffs will provide the City with a completed Form W-9 for reporting of the payments to each of the Plaintiffs by the City to the Internal Revenue Service.

4.0 RELEASE AND WAIVER OF CLAIMS BY PLAINTIFFS

4.1 Other than as set forth in this Agreement, Plaintiffs hereby forever release, waive, and discharge each of the Defendants and their agents, officers, elected officials, directors, supervisors, emergency managers, appointees, employees, insurers, representatives, agents, attorneys, past and present, in their official and/or individual capacities, and their successors, predecessors and assigns, from any and all suits, causes of action, complaints, charges, obligations, demands or claims of any kind, whether in law or in equity, either direct or indirect, and known or unknown, which Plaintiffs ever had or may have as of the Effective Date of this Agreement (hereinafter collectively referred to as "Claims") related to any of the allegations as pled in any of the versions of Plaintiffs' Complaints as filed in the Litigation described herein from the beginning of time up to and through the Effective Date of this Agreement. Plaintiffs' release and waiver of claims specifically includes, but is not limited to, the release, waiver, and discharge of the following:

4.1.1 Any and all Claims actually pled or that could have been pled as part of the Litigation or any other action at law or in equity;

4.1.2 Any and all Claims of alleged violations of any federal, state or local statute, ordinance, regulation, judicial precedent or executive order, including, but not limited to, claims of breach of contract, breach of declaration of easements, and/or any other applicable federal, state or local law, regulation, rule or ordinance of any kind;

4.1.3 Any and all Claims in tort, not limited to, any claims for innocent misrepresentation, fraudulent misrepresentation, fraud, negligence, breach of implied covenant of good faith and fair dealing, misappropriation, self-dealing, defamation, libel, slander, intentional infliction of emotional distress, for emotional distress damages, breach of fiduciary duty, business torts, and all other tort claims of any kind;

4.1.4 Any and all Claims for attorney's fees, sanctions and costs under statute, including, but not limited to MCL 213.66 and 42 USC §§ 1983 and 1988 (b) and (c), court rules or case law;

4.1.5 Any and all Claims arising under the United States Constitution or the Michigan Constitution of 1963, as amended.

4.2 Plaintiffs acknowledge and agree that this Release and Waiver of Claims covers all of the aforementioned claims and potential claims, which arose on or accrued from the beginning of time and through the Effective Date of this Agreement, whether known or unknown, suspected or unsuspected, matured or not matured, and that this constitutes the essential basis of this Agreement. This Release and Waiver of Claims shall be read as broadly as possible such that the Defendants shall have no further obligations or liability of any sort or nature to Plaintiffs, directly or indirectly, in the existing Litigation other than as provided in this Agreement.

5.0 RELEASE AND WAIVER OF CLAIMS BY DEFENDANTS

5.1 Other than as set forth in this Agreement, Defendants hereby forever release, waive, and discharge each of the Plaintiffs and their agents, trustees, members, managers, officers, directors, supervisors, employees, insurers, representatives, agents, attorneys, past and present, in their official and/or individual capacities, and their successors, predecessors and assigns, from any and all suits, causes of action, complaints, charges, obligations, demands or claims of any kind, whether in law or in equity, either direct or indirect, and known or unknown, which Defendants ever had or may have as of the Effective Date of this Agreement (hereinafter collectively referred to as "Claims") related to any of the allegations made or that could have been made in the Litigation from the beginning of time up to and through the Effective Date of this Agreement. Defendants' release and waiver of claims specifically includes, but is not limited to, the release, waiver, and discharge of the following:

5.1.1 Any and all Claims actually pled or that could have been pled as part of the Litigation or any other action at law or in equity;

5.1.2 Any and all Claims of alleged past violations of any federal, state or local statute, ordinance, regulation, judicial precedent or executive order, including, but not limited to, claims of breach of contract, breach of declaration of easements, inverse condemnation, improper or illegal taking of property rights, reformation/modification of easements, slander of title, specific performance and/or any other applicable federal, state or local law, regulation, rule or ordinance of any kind;

5.1.3 Any and all Claims in tort, not limited to, any claims for innocent misrepresentation, fraudulent misrepresentation, fraud, negligence, breach of implied covenant of good faith and fair dealing, misappropriation, self-dealing, defamation, libel, slander, intentional

infliction of emotional distress, for emotional distress damages, breach of fiduciary duty, business torts, and all other tort claims of any kind;

5.1.4 Any and all Claims for attorney's fees, sanctions and costs under statute, including, but not limited to MCL 213.66 and 42 USC §§ 1983 and 1988 (b) and (c), court rules or case law;

5.1.5 Any and all Claims arising under the United States Constitution or the Michigan Constitution of 1963, as amended.

5.2 Defendants acknowledge and agree that this Agreement covers all of the aforementioned claims and potential claims, which arose on or accrued from the beginning of time and through the Effective Date of this Agreement, whether known or unknown, suspected or unsuspected, matured or not matured, and that this constitutes the essential basis of this Agreement. This Release and Waiver of Claims shall be read as broadly as possible such that the Plaintiffs shall have no further obligations or liability of any sort or nature to Defendants, directly or indirectly, in the existing Litigation other than as provided in this Agreement.

6.0 REPAIR AND MAINTENANCE OF THE PHOENIX CENTER AND TUNNEL

6.1 The City is the owner of the Plaza, the Deck, and the Orchard Lake Road Tunnel ("Tunnel"), subject to the existing encumbrances on title, as of the Effective Date of this Agreement.

6.2 In addition to the payments set forth in Section 3.0 of this Agreement, the City shall pay up to Six Million & 00/100 (\$6,000,000.00) dollars over a ten (10) year period beginning as of the Effective Date of this Agreement for the repair and maintenance of the Phoenix Center so as to do all maintenance and repairs necessary to bring and maintain the Phoenix Center into conformance with the requirements of the International Property Maintenance Code (2015 edition), as referenced in the Michigan Building Code and the Michigan Rehabilitation Code (2015 edition) (herein "Code").

6.3 The repairs and maintenance that the City commits to make shall include all electrical, lighting, elevator and structural repairs in the north and south sections of the Deck to be completed within the first two years after the Effective Date of this Agreement as more fully detailed on Exhibit 3 attached hereto. The repairs and maintenance performed by the City shall be done in a good and workmanlike manner in conformance with the Code. A detailed schedule to perform the specific work on the Phoenix Center as required by Exhibit 3 shall be prepared by the Parties' respective engineering contractors and/or experts after meeting to develop a specific scope of work, scheduling, and staging; provided, however, that the minimum required work and timeframes listed on Exhibit 3 shall not be delayed or diminished in scope. Plaintiffs have provided the City with all of Plaintiffs' relevant engineering reports, drawings, specifications, and cost estimates for the completed repairs to the Phoenix Center as of the Effective Date of this Agreement, without any representation that the drawings or source documents may be useable by the City without paying fees to, or retaining for itself, the preparers and/or experts.

6.4 In the event Plaintiffs (or successors in title) believe that the City is not maintaining or repairing the Phoenix Center in compliance with its obligations hereunder or under the Declaration, then the following procedures shall be followed: Plaintiffs (or successors in title) shall provide written notice to the City identifying and explaining the alleged deficiency. The City shall then have seven (7) days after receipt of such written notice to confirm in writing that the City will remedy the deficiency expeditiously within a defined time period specified in the City's written response. If the City either declines or otherwise fails to confirm that a remedy will be made expeditiously, or fails to respond in writing, or if the time period specified by the City is not reasonable or expeditious, Plaintiffs (or successors in title) may commence an expedited mediation by contacting Judicial Arbitration and Mediation Services, Inc., now known as "JAMS" (and, if available, utilizing Hon. Judge Gerald Rosen) or another qualified mediation organization

if JAMS is unavailable. Plaintiffs (or successors in title) and the City shall mediate their dispute within seven (7) days, or on the first mutually available date, but no later than thirty (30) days after Plaintiff's initial written request letter to the City. The mediator's fees and expenses shall be borne equally by the parties, but the mediator shall award to the substantially-prevailing party the mediator's fees and expenses, and the reasonable attorneys' fees and costs incurred by such party. If the mediator is unable to resolve the dispute within thirty (30) days of the mediator's retention to serve as mediator, or if the City declines, fails and/or refuses to participate in the mediation and in good faith, and the mediator terminates the mediation, then the parties shall proceed as provided by the Declaration relating to liens. Notwithstanding the foregoing, nothing in this paragraph shall be deemed or construed to permit or justify the City to delay responding to and remedying any dangerous conditions for which it is responsible to repair under the Declaration.

Commented [MCH1]: If the outside date for the conclusion of the process is 30 days, this should be 30 days and not 7?

7.0 PARKING RIGHTS AND ACCESS

The Parties have agreed to amend the Declaration of Easements in order to clarify Plaintiffs' parking and access rights with respect to the Deck. The form of amendment to the Declaration of Easement is set forth as Exhibit 4 and shall be executed and recorded with the Oakland County Register of Deeds concurrent with the discharge of liens referenced herein. In addition to the provisions of the Declaration of Easements, the access and parking rights by Plaintiffs, their tenants, and employees in the Phoenix Center are set forth on Exhibit 5. The City shall install a card-reader system (or equivalent) and thereafter issue parking cards to the Ottawa Towers as set forth on Exhibit 5. Plaintiffs represent that the parking cards referenced therein are for use only by Plaintiffs (or successors in title) and their tenants and employees and shall not be resold or transferred to any other person or entity. The City shall provide replacement cards to the Ottawa Towers immediately upon request from Plaintiffs or their tenants or their successors in title, as set forth on Exhibit 5.

8.0 INTERIM MAINTENANCE, AND MANAGEMENT OF THE PHOENIX CENTER

In anticipation of the City reassuming and undertaking its obligations for sole day-to-day property management of the Deck, Plaintiffs shall continue their services at the Phoenix Center, in conformity with their same level, extent and scope of services as of the date of the execution of this Agreement, to perform the day-to-day maintenance, operations, and facilities management for the South Side (being that portion of the Deck located to the south of Orchard Lake Road) of the Deck that is in use by Plaintiffs, their tenants and employees, as set forth on Exhibit 6, for \$9,810.00 per month payable in advance on the first day of each month to be paid by the City to Plaintiffs commencing upon May 1, 2018 through the earlier of: (i) the City undertaking sole day-to-day property management of the Deck, Tunnel, and Plaza as set forth on Exhibit 6; or (ii) six (6) months from the Effective Date of this Agreement. Plaintiffs shall name the City as an additional insured on its insurance policies and provide certificates of insurance to the City. This amount does not include charges for materials (such as salt, lightbulbs/fixtures, scaffolding, fuel, waste containers, etc.), permit fees, subcontractor charges (although scheduling and coordination of painting of lines for parking spaces is included, actual layout and painting will be by subcontractor as an additional cost), equipment rental or other similar non-labor expenses, or services for any activities not currently performed by Plaintiffs. Any and all cleanup, repairs and costs of vandalism and graffiti removal shall be an extra charge; provided, however, that Plaintiffs will not perform such additional work and incur such extra charges until first providing to the City ten (10) days' prior written notice of the need therefor. Any invoices submitted by Plaintiffs to the City for the period after May 1, 2018 shall be paid in full upon execution of this Agreement. Payments to Plaintiffs for the monthly payment under this section and also the monthly payment for the electrical charges relating to the Tunnel shall be made by the City through electronic deposit to Plaintiffs' account as provided in writing to the City by Plaintiffs with Plaintiffs' invoices. Any of Plaintiffs' invoices that are not timely paid by the City within twenty days shall incur a late fee of 5% of the amount of the invoice, plus interest of 1% per month from the date due.

9.0 RIGHTS IN FOYER, CONNECTOR, AND ATRIUM CONNECTOR

The City will execute a quitclaim deed to North Ottawa Tower II, LLC, for all of the City's claimed right, title and interest in or to the Atrium Connector, which is the 2-story atrium structure adjacent to the Judson Tower and located upon North Bay's property between the Judson Tower and the Phoenix Center, in the form of quitclaim deed attached as Exhibit 7. The City acknowledges and agrees that Plaintiffs shall have an easement for rights to ingress and egress through the Foyer and Connector as defined in the City's Counterclaim to/from the Phoenix Center to/from both of Plaintiff's office towers, and that such rights are set forth in the Amended Declaration of Easements attached as Exhibit 4.

10.0 REVIEW OF AGREEMENT

The Parties acknowledge and agree that they have been advised of the right to consult with an attorney regarding the terms of this Agreement and their rights under this Agreement and state and federal statutes and common law. Each Party acknowledges that before signing this Agreement they have read the entire Agreement and fully understands the terms, content, and effect of the Agreement; that they have had the benefit of advice from an attorney of their choosing; and that they relied fully and completely on their own judgment and/or on the advice of their attorney in executing this Agreement.

11.0 ASSIGNMENT

Plaintiffs may, but are not obligated to, assign this Agreement, in whole or in part, upon the sale of either or both of the Towers, the sale of Ottawa Tower II, LLC, or the transfer of all, or substantially all of a Plaintiff's assets.

12.0 GOVERNING LAW

This Agreement is executed under the laws of the State of Michigan, and shall be governed by, the laws of the State of Michigan.

13.0 SEVERABILITY

Each provision of this Agreement is intended to be severable. If any term or provision is held to be invalid, void, or unenforceable by a court of competent jurisdiction for any reason whatsoever, such ruling shall not affect the validity of the other terms or the remainder of this Agreement.

14.0 INTEGRATION

The Parties acknowledge and agree that this Agreement, and the Exhibits and schedules attached hereto, contains all of the terms and conditions agreed upon by the Parties hereto regarding the subject matter of this Agreement. This Agreement supersedes any prior agreements, promises, negotiations, or representations concerning the subject matter of this Agreement not expressly set forth in this Agreement. This Agreement, including its schedules and exhibits, may not be amended, revoked, waived, changed or modified, except in a writing executed by all of the Parties to this Agreement.

15.0 CLOSING AND EXECUTION OF DOCUMENTS

This Agreement and any other settlement document of which an original signature is not required may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement. This Agreement may be recorded by any Party with the Oakland County Register of Deeds.

16.0 SCOPE OF AGREEMENT

The Parties understand that this Agreement covers all of the aforementioned claims and potential claims, which arose on or before the date that they executed this Agreement, whether known or unknown, suspected or unsuspected, and that this constitutes an essential term of this Agreement. The Parties acknowledge that, except as otherwise provided herein, the terms and conditions of this Agreement represent a full and complete disposition and satisfaction of each Party's legal, statutory, regulatory, and contractual obligations to the other Parties through the Effective Date hereof.

17.0 SECTION HEADINGS

The section headings contained in this Agreement are for the convenience of the Parties only and are not to be used in interpreting this Agreement.

18.0 SUCCESSORS AND ASSIGNS

The terms, rights and obligations of the Parties under this Agreement shall be binding on, inure to the benefit of, and be enforceable by any successors or assigns of the Parties.

19.0 WARRANTIES

Each Party and signatory hereto warrants and represents that:

19.1 The Party relies exclusively on its own judgment, and that the Party has not been influenced by any statement made by or on behalf of any of the other Parties to this Agreement;

19.2 The Party has been fully informed and has full knowledge of the terms, conditions, and effects of this Agreement;

19.3 The Party has, either on its own or through its attorneys, fully investigated, to its full satisfaction, all the facts surrounding the various claims, controversies, and disputes and is fully satisfied with the terms and effects of the Agreement;

19.4 The Party has not assigned or transferred any of the claims, demands, actions and rights being released by such party in this Agreement;

19.5 The Party has the full and complete authority to enter into this Agreement, to release the Claims that the Party is releasing herein, and to execute any and all documents required pursuant to this Agreement, and that this Agreement is binding upon the Party; and

19.6 The Parties have executed this Agreement as their own free act and without reliance upon any representations, warranties, or promises other than those contained in this Agreement.

20.0 NOTICES

All notices, requests or other communications required or permitted to be given hereunder shall be given in writing, and shall be deemed received (a) when hand delivered, or (b) one (1) business day after delivery to FedEx or similar overnight delivery service, when posted for next business day delivery, or (c) when received after deposit in the U.S. certified mail, return receipt requested, or (d) when sent, if sent during normal business hours by email transmission, and such transmission is promptly followed by any of the other methods for giving notice. In all cases notices shall be addressed to the parties at their respective addresses as follows or to such other address as either party hereto may designate by a notice given in accordance with this Section:

To City: _____

With a copy to:
Giarmarco, Mullins & Horton, P.C.
Attn: John Clark
Tenth Floor Columbia Center
101 West Big Beaver Road
Troy, Michigan 48084-5280
Email: jclark@gmhlaw.com

To Ottawa Towers: OTTAWA TOWER II, LLC
Attn: Charles Stephens, Manager
715 Southpoint Blvd., Suite B
Petaluma, CA 94954-6836
Email: cstephens@northbayco.com

And:
NORTH BAY DRYWALL, INC. PROFIT SHARING PLAN & TRUST
Attn: Charles Stephens, Trustee
715 Southpoint Blvd., Suite B
Petaluma, CA 94954-6836
Email: cstephens@northbayco.com

With a copy to: Maddin Hauser Roth & Heller, PC
Attn: Steven D. Sallen, Esq.
28400 Northwestern Hwy.
Suite 200
Southfield, MI 48034
Email: ssallen@maddinhauser.com

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IN WITNESS WHEREOF, the Parties acknowledge and agree that each is acting of their own free will to cause the execution of this Agreement as of the Effective Date first written above.

WITNESSES

Plaintiff:

OTTAWA TOWER II, LLC

Print:

By: Charles R. Stephens
Its: Authorized Manager

Plaintiff:

NORTH BAY DRYWALL, INC. PROFIT

SHARING PLAN & TRUST

Print:

By: Charles R. Stephens
Its: Authorized Trustee

Defendants:

CITY OF PONTIAC, on behalf of itself and
LOUIS H. SCHIMMEL, formerly acting as the
Emergency Manager of the City

Print:

By: Deirdre Waterman
Its: Mayor, duly authorized and approved by City
Council Resolution No. ____,
approved ____, 2018

OAKLAND COUNTY

Print:

By: L. Brooks Patterson, or his designee
Its: Oakland County Executive

OAKLAND COUNTY BUILDING
AUTHORITY

Print:

By:
Its:

2158788v6 8/6/18

EXHIBIT 1 – DISMISSAL ORDERS

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

OTTAWA TOWER II, LLC, A Michigan
Limited Liability Company, and NORTH
BAY DRYWALL, INC., PROFIT
SHARING PLAN & TRUST, a California
Pension and Profit Sharing Trust,

Case No. 12-130331-CH
Hon. Michael Warren

Plaintiffs/Counter Defendants,
vs.

**STIPULATED
ORDER FOR
DISMISSAL WITH
PREJUDICE AND
WITHOUT COSTS
OR FEES**

CITY OF PONTIAC, a Michigan Municipal
Corporation, LOUIS SCHIMMEL, an individual
acting as the Emergency Manager of the City of
Pontiac, and OAKLAND COUNTY, a Michigan
Municipal Corporation, and OAKLAND COUNTY
BUILDING AUTHORITY, a Michigan Building
Authority,

Defendants/Counter-Plaintiffs.

MICHELLE C. HARRELL (P48768)
Maddin Hauser Wartell Roth & Heller, P.C.
Attorneys for Plaintiff
28400 Northwestern Highway, 3rd Floor
Southfield, Michigan 48034
(248) 354-4030 or (248) 355-5200

JOHN C. CLARK (P51356)
STEPHEN J. HITCHCOCK (P15005)
JOHN L. MILLER (P71913)
Giarmarco Mullins & Horton
Attorneys for City of Pontiac & Schimmel
101 West Big Beaver Road, Tenth Floor
Troy, Michigan 48084-5280
(248) 457-7000/(248) 404-6313

DAVID B. TIMMIS (P40539)
Vandeveer Garzia, P.C.
Attorneys for Defendant Oakland County
840 W. Long Lake Road, Suite 600
Troy, Michigan 48098
(248) 312-2800

KEITH J. LERMINIAUX (P30190)
Attorney for Defendants Oakland County
1200 N. Telegraph Road, Bldg. 14E
Pontiac, Michigan 48341
(248) 858-0557

THOMAS J. MCCARTHY (P36755)
Monaghan, P.C.
Attorneys for Defendant City of Pontiac and
Louis Schimmel
33 Bloomfield Hills Pkwy., Ste. 260
Bloomfield Hills, MI 48304
(248) 642-5770

JEROME P. PESICK (P29029)
Steinhardt Pesick & Cohen
Co-Counsel for Plaintiffs
380 N. Old Woodward, Ste. 120
Birmingham, MI 48009
(248) 646-0888

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**STIPULATED ORDER FOR DISMISSAL WITH PREJUDICE
AND WITHOUT COSTS OR FEES**

THIS MATTER is before the court upon the stipulation of counsel for the parties and with the Court being duly advised that the parties have settled this case in its entirety, and with the Court being otherwise fully advised in the premises:

IT IS ORDERED THAT this case is dismissed in its entirety with prejudice and without costs or fees to any party. This Court retains jurisdiction to enforce the Settlement Agreement and Release dated effective as of September ~~June 20~~, 2018 which is incorporated herein by reference as if fully restated herein.

This Order resolves the last pending claim and closes the case.

CIRCUIT COURT JUDGE

I STIPULATE TO ENTRY OF THE ABOVE ORDER:

/s/ Michelle C. Harrell
Michelle C. Harrell (P48768)
Attorney for Plaintiffs

/s/ John C. Clark
John C. Clark (P51356)
Attorney for City of Pontiac and Schimmel

/s/ David B. Timmis
David B. Timmis (P40539)
Attorney for Defendant Oakland County

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

*The Condemnation Complaint of the City of Pontiac
for the acquisition of property interests
for public purposes in Oakland County, Michigan*

CITY OF PONTIAC, a Michigan
municipal corporation,

Plaintiff,

Case No. 14-139761-CC

Hon. Michael Warren

vs.

OTTAWA TOWER II, LLC,
a Michigan limited liability company;
CHARLES R. STEPHENS, as Trustee of the
NORTH BAY DRYWALL, INC. PROFIT SHARING
PLAN AND TRUST DATED OCTOBER 1, 1985,
a California entity,

STIPULATED ORDER OF
DISMISSAL WITH
PREJUDICE

Defendants.

Thomas J. McCarthy (P36755)
Matthew T. Jane (P58396)
MONAGHAN, P.C.
Attorneys for Plaintiff
33 Bloomfield Hills Pkwy., Ste. 260
Bloomfield Hills, MI 48304
(248) 642-5770

William H. Horton (P31567)
John C. Clark (P51356)
Stephen J. Hitchcock (P15005)
GIARMARCO MULLINS & HORTON PC
Attorneys for Plaintiff
101 West Big Beaver Road, Tenth Floor
Troy, MI 48064
(248) 457-7000

Jerome P. Pesick (P29039)
Jason C. Long (P59244)
STEINHARDT PESICK & COHEN
Attorneys for Defendants Ottawa Tower II, LLC
and Charles R. Stephens, as Trustee of the North
Bay Drywall, Inc. Profit Sharing Plan and Trust
Dated October 1, 1985
380 N. Old Woodward Ave., Suite 120
Birmingham, MI 48009
(248) 646-0888

Steven D. Sallen (P36991)
Michelle C. Harrell (P48768)
MADDIN, HAUSER, ROTH &
HELLER, P.C.
Attorneys for Defendants Ottawa Tower II, LLC
and Charles R. Stephens, as Trustee of the North
Bay Drywall, Inc. Profit Sharing Plan and Trust
Dated October 1, 1985
28400 Northwestern Hwy., Second Floor
Southfield, MI 48034
(248) 354-4030

~~STIPULATED ORDER FOR DISMISSAL WITH PREJUDICE~~

~~THIS MATTER is before the court upon the stipulation of counsel for the parties and with the Court being duly advised that the parties have settled this case in its entirety, and with the Court being otherwise fully advised in the premises;~~

~~IT IS ORDERED THAT this case is dismissed in its entirety with prejudice. This Court retains jurisdiction to enforce the Settlement Agreement and Release dated effective as of June 30, 2018 which is incorporated herein by reference as if fully restated herein.~~

~~This is a final Order that resolves the last pending claim and closes the case.~~

~~CIRCUIT COURT JUDGE~~

~~I STIPULATE TO ENTRY OF THE ABOVE ORDER:~~

~~/s/ Michelle C. Harrell
Michelle C. Harrell (P48768)
Attorney for Plaintiffs~~

~~/s/ Thomas J. McCarthy
Thomas J. McCarthy (P36755)
Attorney for City of Pontiac~~

**EXHIBIT 2 – CONSENT JUDGMENT,
CONFESSION OF JUDGMENT AND AFFIDAVIT OF
CONFESSION OF JUDGMENT**

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

OTTAWA TOWER II, LLC, A Michigan
Limited Liability Company, and NORTH
BAY DRYWALL, INC., PROFIT
SHARING PLAN & TRUST, a California
Pension and Profit Sharing Trust,

Case No. 12-130331-CH
Hon. Michael Warren

Plaintiffs/Counter Defendants,

vs.

**CONSENT
JUDGMENT**

CITY OF PONTIAC, a Michigan Municipal
Corporation, LOUIS SCHIMMEL, an individual
acting as the Emergency Manager of the City of
Pontiac, and OAKLAND COUNTY, a Michigan
Municipal Corporation, and OAKLAND COUNTY
BUILDING AUTHORITY, a Michigan Building
Authority,

Defendants/Counter-Plaintiffs.

MICHELLE C. HARRELL (P48768)
Maddin Hauser Roth & Heller, P.C.
Attorneys for Plaintiffs
28400 Northwestern Highway, 3rd Floor
Southfield, Michigan 48034
(248) 354-4030 or (248) 355-5200

JOHN C. CLARK (P51356)
STEPHEN J. HITCHCOCK (P15005)
JOHN L. MILLER (P71913)
Giarmarco Mullins & Horton
Attorneys for City of Pontiac & Schimmel
101 West Big Beaver Road, Tenth Floor
Troy, Michigan 48084-5280
(248) 457-7000/(248) 404-6313

THOMAS J. MCCARTHY (P36755)
Monaghan, P.C.
Attorneys for Defendant City of Pontiac and
Louis Schimmel
33 Bloomfield Hills Pkwy., Ste. 260
Bloomfield Hills, MI 48304
(248) 642-5770

DAVID B. TIMMIS (P40539)
Vandever Garzia, P.C.
Attorneys for Defendant Oakland County
840 W. Long Lake Road, Suite 600
Troy, Michigan 48098
(248) 312-2800

KEITH J. LERMINIAUX (P30190)
Attorney for Defendants Oakland County
1200 N. Telegraph Road, Bldg. 14E
Pontiac, Michigan 48341
(248) 858-0557

JEROME P. PESICK (P29029)
Steinhardt Pesick & Cohen
Co-Counsel for Plaintiffs
380 N. Old Woodward, Ste. 120
Birmingham, MI 48009
(248) 646-0888

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CONSENT JUDGMENT

THIS MATTER is before the court upon the filing of an Affidavit of Confession of Judgment and the Confession of Judgment by the Plaintiffs pursuant to the Settlement Agreement and Release previously executed by Plaintiffs and Defendant City of Pontiac, and with the Court being otherwise fully advised in the premises:

IT IS ORDERED THAT this case is reopened, and judgment is entered in favor of Plaintiffs and against Defendant City of Pontiac, in the amount of \$3,500,000.00, less amounts paid to Plaintiffs by the City towards such amount due as of the date of entry of this Consent Judgment, for a total judgment due of \$_____. This Consent Judgment shall bear interest at the statutory judgment interest rate until paid in full.

This Order resolves the last pending claim and closes the case.

CIRCUIT COURT JUDGE

I STIPULATE TO ENTRY OF THIS CONSENT JUDGMENT
PURSUANT TO THE TERMS AND CONDITIONS OF THE
SETTLEMENT AGREEMENT AND RELEASE:

/s/ Michelle C. Harrell
Michelle C. Harrell (P48768)
Attorney for Plaintiffs

/s/ John C. Clark
John C. Clark (P51356)
Attorney for City of Pontiac

CONFESSION OF JUDGMENT

The City of Pontiac ("City"), a Michigan municipal corporation, hereby authorizes, without power of revocation, any attorney of any court of record to appear for the City in any such court after a default has been declared by Plaintiffs under the terms of the Settlement Agreement and Release dated effective June 30, 2018 (the "Agreement"), to waive process and service thereof, and to confess judgment against the City and in favor of Plaintiffs Ottawa Tower II, LLC and North Bay Drywall, Inc. Profit Sharing Plan & Trust, which judgment provides for a monetary consent judgment in favor of the Plaintiffs in the amount of \$3,500,000.00, less the amount of any payments made by the City upon such amount. Plaintiffs' counsel is authorized to complete the Consent Judgment to state the current amount due to Plaintiffs, net of any payments then made.

Executed as of this September ~~August~~ ____, 2018.

City of Pontiac
By: Deirdre Waterman
Its: Mayor, duly authorized and approved by
City Council Resolution No. ____,
Approved ____, 2018

STATE OF MICHIGAN)
) ss:
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this ____ day of _____,
2018 by Deirdre Waterman, as Mayor of the City of Pontiac.

Notary Public

County, Michigan
Acting in the County of _____
My commission expires _____

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

OTTAWA TOWER II, LLC, A Michigan
Limited Liability Company; and NORTH
BAY DRYWALL, INC., PROFIT
SHARING PLAN & TRUST, a California
Pension and Profit Sharing Trust,

Case No. 12-130331-CH
Hon. Michael Warren

Plaintiffs/Counter Defendants,

vs.

CITY OF PONTIAC, a Michigan Municipal
Corporation, LOUIS SCHIMMEL, an individual
acting as the Emergency Manager of the City of
Pontiac, and OAKLAND COUNTY, a Michigan
Municipal Corporation, and OAKLAND COUNTY
BUILDING AUTHORITY, a Michigan Building
Authority,

Defendants/Counter-Plaintiffs.

**AFFIDAVIT OF DEFAULT AND CONFESSION OF JUDGMENT
AGAINST DEFENDANT CITY OF PONTIAC**

The undersigned, having been duly sworn, states the following under oath to the best of
his/her knowledge, information and belief:

1. I am an attorney of record in the above-captioned matter.
2. The parties previously executed a Settlement Agreement and Release that required
Defendant City of Pontiac to make installment payments to Plaintiffs on a timely basis. The
Settlement Agreement and Release further provided that if such installment payments were not
timely made to Plaintiffs, that Defendant City of Pontiac consented and confessed to entry of a
consent judgment for the full unpaid settlement amount.
3. Defendant City of Pontiac has defaulted upon its payment obligations as set forth
in the Settlement Agreement and Release thereby justifying entry of the Consent Judgment
submitted to this Court for entry.

4. The undersigned certifies the amount stated in the Consent Judgment is true and accurate.

(P _____)
Counsel for Plaintiffs

Subscribed and sworn to before me,
A Notary Public, on this ____ day of
_____, _____.

Notary Public

EXHIBIT 3 – SCHEDULE OF MAINTENANCE AND REPAIRS

- (A) The City shall pay up to Six Million (\$6,000,000) Dollars to do all maintenance and repairs necessary to bring the Phoenix Center into conformance with the requirements of the International Property Maintenance Code (2015 edition), as referenced in the Michigan Building Code and the Michigan Rehabilitation Code (2015 edition), within the ten (10) year period after the Effective Date of this Agreement; provided, however, that:

Within thirty (30) days of the Effective Date of this Agreement, the City shall repair vandalism damage previously reported by Plaintiffs; within twenty-four (24) months of the Effective Date of this Agreement, the City shall complete all necessary electrical, lighting, elevator and serious structural repairs to the Deck in the following stages:

- 1) repairs to the third (3rd) floor of the north side of the Deck which is defined as that portion of the Deck located to the north of Orchard Lake Road ("North Side") – both electrical and structural and the repairs to both of the south side elevators;
 - 2) then all south side sections of the Deck, being that portion of the Deck located to the South of Orchard Lake Road ("South Side");
 - 3) then return to repair the remaining portions of the North Side of the Deck.
- (B) Notwithstanding the 24-month schedule above, if Ottawa Towers II, LLC, or any subsequent owner, leases the Judson tower (or portion thereof), the City shall, within six (6) months of the date that City is served written notice of such lease execution ("Notice of Lease"), complete the following repairs to the Deck:
- 1) all electrical and structural repairs on the south side of the Deck;
 - 2) two elevators on the south side of the Deck;
 - 3) make both electrical and structural repairs to have the 3rd floor on the north side of the Deck ready for parking;
- (C) Commencing upon May 1, 2018, the City will reimburse Plaintiffs in advance on the first day of each month for the actual costs of providing electricity to the Deck and Tunnel (\$4,374.00 per month) to continue until such time as the City can establish and assume the costs of providing electricity to the Deck and Tunnel; all payments to be paid electronically to an account designated by Plaintiffs on or before the first day of the month. The City shall immediately upon execution of this Agreement pay any past due invoices to Plaintiffs for the period after the signing of the Term Sheet until this Agreement is signed. As soon as is feasible, the City will have the electrical power for the Deck and Tunnel placed on the City's account with the electric provider, pay any actual costs associated with doing so, and thereafter pay the electrical charges directly.
- (D) FIRE SUPPRESSION SYSTEM: A portion of the fire suppression system for the Phoenix Center that services the secured parking area on the second floor of the Deck (near Tower I) is connected to fire pumping equipment located in the 31 Judson Tower. The City shall disconnect and relocate the fire suppression service pumping equipment from the 31 Judson Tower, and reconnect it to the City's own fire suppression pumping equipment. There are 175 parking spaces within this secured parking area on the second floor of the Deck; the City agrees to provide these same 175 parking spaces within the Deck, free of charge to the owner of the 31 Judson Tower Plaintiffs, their tenants and employees, until such time as City completes the work to disconnect/reconnect the fire suppression system as above described.

EXHIBIT 4 – AMENDMENT TO DECLARATION OF EASEMENTS

AMENDMENT TO DECLARATION OF EASEMENTS

This Amendment to Declaration of Easements ("Amendment") is made as effective of the ____ day of ~~September~~ August, 2018, by the City of Pontiac, a municipal corporation of the State of Michigan, with offices at 450 E. Wide Track Drive, Pontiac, Michigan ("City"), and North Bay Drywall Inc. Profit Sharing Plan & Trust, a California Pension and Profit Sharing Trust, ("North Bay") and Ottawa Tower II, LLC, a Michigan limited liability company with offices at 51111 Woodward Avenue, Pontiac, Michigan ("Ottawa").

Background

WHEREAS, the City declared that certain Declaration of Easements on May 8, 1980 ("Declaration"), and said Declaration was recorded in the office of Oakland County Register of Deeds on May 19, 1980, in Liber 7788, page 01; and

WHEREAS, North Bay is now the owner of the office building located at 51111 Woodward Avenue, Pontiac, Michigan, and legally described in the Declaration and referred to therein as Parcel D; and

WHEREAS, Ottawa is now the owner of the office building located at 31 E. Judson Street, Pontiac, Michigan, and legally described in the Declaration and referred to therein as Parcel E; and

WHEREAS, The City is the owner of all Sites legally described in the Declaration other than Parcel D and Parcel E [and the grassy lot]; and

WHEREAS, the City, North Bay, and Ottawa desire herein to amend the Declaration;

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the parties herein agree to amend the Declaration as herein provided:

1. The following paragraph is added to the Declaration after Section 1 for the purpose of clarifying the rights of the parties in regards to parking in the Deck:

Parking Easement in the Deck. The City hereby declares, grants conveys and reserves to and for the benefit of all Owners of the Parcels, and the tenants, subtenants and occupants thereof, and their respective agents, employees, customers and invitees, the right and easement to park passenger automobiles in the Deck located on Parcels K and A-1, and for ingress and egress thereto and therefrom, including but not limited to ingress and egress through any connectors, foyers and vestibules located within or connected to the Deck, and

the right to drive passenger automobiles to and from the Deck and the parking spaces therein. Notwithstanding the forgoing, the City shall have the right to charge reasonable parking fees for the use of the Deck for parking. Further notwithstanding the forgoing, the Plaza located at the top level of the Deck is not for parking, except for temporary parking of service and maintenance vehicles, or specialty vehicles specifically participating in events taking place on the top Plaza level of the Deck.

2. The first complete paragraph of Section 3 of the Declaration is hereby amended and restated in its entirety, as follows:
 3. Common Walls. As used herein, the term "Common Walls" shall mean any and all common walls between the (a) Deck or Plaza and (b) the Ottawa Towers office buildings. The Owners of the respective parcels abutting any Common Wall shall have the following rights and obligations with respect to said Common Wall:
4. Section 8 of the Declaration is hereby amended and restated in its entirety, as follows:
 8. Maintenance. Each Owner shall cause the parking areas, driveways and sidewalks contained within its respective portion of the Project and any landscape areas contained therein to be continuously repaired and maintained, including cleaning, lighting, painting, landscaping, removal of debris, removal of snow and ice, making of repairs to the driveways and sidewalks, and other similar maintenance, each at their own expense.
5. The Parties represent and warrant to each other that, with the exception of this Amendment, there are no prior amendments of the Declaration to their knowledge.
6. Except as specifically amended herein, all of the terms and provisions of the Declaration are hereby ratified and affirmed. To the extent of any conflict between the Declaration and this Amendment, the terms and provisions of this Amendment shall govern and control, and any conflicting terms and provisions of the Declaration shall be deemed amended to the extent necessary not to conflict with the provisions hereof.
7. Capitalized terms used herein shall have the same meaning as used in the Declaration, unless a different or contrary meaning is expressly provided in this Amendment.
8. This Amendment shall be promptly recorded in the office of the Oakland County Register of Deeds by Ottawa.

Dated: _____, 2018

CITY OF PONTIAC, a municipal
corporation of the State of Michigan

By: _____
Dr. Deirdre Waterman
Its: Mayor

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

Acknowledged before me on _____, 2018, by Dr. Deirdre Waterman, Mayor, for the
City of Pontiac.

[SEAL]

_____, Notary Public
_____ County, Michigan
Acting in _____ County, MI
My Commission Expires: _____

Dated: _____, 2018

NORTH BAY DRYWALL INC. PROFIT
SHARING PLAN & TRUST, a California
Pension and Profit Sharing Trust

By: _____
Charles Stephens
Its: _____

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

Acknowledged before me on _____, 2018, by Charles Stephens, Trustee of North Bay
Drywall Inc. Profit Sharing Plan & Trust.

[SEAL]

_____, Notary Public
_____ County, Michigan
Acting in _____ County, MI
My Commission Expires: _____

Dated: _____, 2018

OTTAWA TOWER II, LLC, a Michigan
limited liability company

By: _____
Charles Stephens

Its: _____

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

Acknowledged before me on _____, 2018, by Charles Stephens, Manager of Ottawa
Tower II, LLC.

[SEAL]

_____, Notary Public
_____ County, Michigan
Acting in _____ County, MI
My Commission Expires: _____

Drafted by and when recorded, return to:

Steven D. Sallen, Esq.
Maddin Hauser Roth & Heller, PC
28400 Northwestern Highway, 2nd Floor
Southfield, Michigan 48034
248-827-1861

EXHIBIT 5 -PARKING AGREEMENT

PARKING AGREEMENT

This Agreement is entered into effective as of ~~September~~ August ____, 2018 between the City of Pontiac ("City"), North Bay Drywall, Inc. Profit Sharing Plan & Trust ("North Bay") and Ottawa Tower II, LLC ("OTII"). OTII and North Bay may also be referred to as "Plaintiffs."

Recitals

1. North Bay and OTII are the owners and operators of two office towers (each, a "Tower" and both, "Towers") that are located adjacent to the Phoenix Center Parking Deck & Plaza ("PC") which is owned by the City.
2. The tenants, invitees and employees of North Bay and OTII utilize the PC for parking and ingress/egress to/from the PC and the Towers.
3. A dispute previously arose between the City, on the one hand, and North Bay and OTII, on the other hand, relating to the PC. The City, North Bay and OTII entered into a Settlement Agreement and Release contemporaneously with this Agreement to resolve their dispute, which resolution includes execution of this Agreement.
4. As part of the settlement, the City, North Bay and OTII entered into an Amendment to Declaration of Easements ("Easement") regarding the use of the PC and related matters as set forth in the Easement.
5. The parties have agreed to the specific terms set forth in this Agreement relating to the parking rights of North Bay and OTII, in furtherance of the Settlement Agreement and Release and the Easement.

Wherefore, the City, North Bay and OTII agree as follows:

- (A) North Bay and OTII shall be entitled to park in the PC at no charge for ten (10) years for the vehicles of all of their employees and their Tenants' employees beginning on the Effective Date of this Agreement. North Bay and OTII may renew this Agreement relating to parking for successive ten-year periods: (a) the maximum parking charge for years 11-20 shall be \$20 per car, per month, provided however that, (b) the maximum parking charge for years 21-30 shall increase to market rates, but in no event more than 100% higher than the preceding period, and (c) the maximum parking charge for any following 10 year period after year 30 shall be indexed according to the Consumer Price Index (Midwest). This

parking agreement shall be freely assignable, in whole or in part, to any purchaser(s) of either or both of the Towers and binding on the City.

- (B) The City shall install a card-reader system (or the equivalent) and issue cards to Plaintiffs for the vehicles of North Bay, OTII, their tenants and employees which cards will be at no cost to North Bay, OTII, and all of their tenants and their employees of both Towers. Parking cards shall be issued to Plaintiffs immediately upon their request, with _____ cards (note: this number should be equal to the reserved parking areas) being issued to Plaintiffs upon execution of this Agreement or as soon as such cards become required by the City. Upon leasing of the Judson Tower, the City shall immediately provide Plaintiffs with _____ cards (Note: this number should be equal to the Judson area reserved parking). If Plaintiffs or any subsequent owners of Plaintiffs' buildings require any replacement cards in excess of _____, then a charge of \$10 per replacement card shall apply.
- (C) The public and visitors shall be charged market rates for use of the Deck by the City; provided however, that the State of Michigan, as Tenant, shall be allowed to validate the parking tickets of its invitees and such invitees upon presenting the validated ticket shall not be charged for parking.
- (D) A reserved parking area is hereby established, for the duration of this Agreement, on the entire south portion of the Deck (being that portion of the Deck located to the south of Orchard Lake Road) and the entire north side (being that portion of the Deck located to the north of Orchard Lake Road) of the third floor of the Deck and to be identified as parking solely for Plaintiffs (and successors and assigns), and their tenants and employees (wording and restrictions to be determined by both Plaintiffs or any successor owner(s) of the Towers). The other parking areas of the Deck shall be available and useable by Plaintiffs, their tenants and employees on a first come, first served basis. The City acknowledges that Plaintiffs may designate within the forgoing reserved parking area certain parking spaces for executive use, provided that the City shall have no obligation to enforce such executive use spaces.
- (E) The parking cards permitting free access are not assignable or transferrable by vehicle owner to any party other than Plaintiff or Plaintiffs' tenants and their employees.
- (F) The parking card is the property of the City, and no property rights are transferred or intended to transfer to the parking card user by issuance or delivery of the parking card.
- (G) Plaintiffs agree not to resell or otherwise charge employees, visitors, or the public for the parking cards it receives under this Agreement. This provision does not apply to any provision in the lease(s) that Plaintiffs may sign with their tenants relating to any charges or rental rate(s).
- (H) This Agreement is intended to be complimentary to the Settlement Agreement and Release and Easement and, in the event of any conflict between this Agreement and those documents, those documents shall control. This Agreement may be recorded with the Oakland County Register of Deeds.

- (I) This Agreement cannot be modified without the signed written consent of the Mayor of the City and either Charles Stephens or his designee identified in writing as having his authority, or future owners of the Towers.
- (J) This Agreement may be freely assigned and transferred by Plaintiffs, in whole or in part, to any future owners of either of the Towers.

Dated: _____, 2018

CITY OF PONTIAC, a municipal
corporation of the State of Michigan

By: _____
Dr. Deirdre Waterman

Its: Mayor

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

Acknowledged before me on _____, 2018, by Dr. Deirdre Waterman, Mayor, for the City of Pontiac.

[SEAL]

_____, Notary Public
_____ County, Michigan
Acting in _____ County, MI
My Commission Expires: _____

Dated: _____, 2018

NORTH BAY DRYWALL INC. PROFTT
SHARING PLAN & TRUST, a California
Pension and Profit Sharing Trust

By: _____
Charles Stephens
Its: _____

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

Acknowledged before me on _____, 2018, by Charles Stephens, Trustee of North Bay Drywall Inc. Profit Sharing Plan & Trust.

[SEAL]

_____, Notary Public
_____ County, Michigan
Acting in _____ County, MI
My Commission Expires: _____

Dated: _____, 2018

OTTAWA TOWER II, LLC, a Michigan
limited liability company

By: _____
Charles Stephens
Its: _____

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

Acknowledged before me on _____, 2018, by Charles Stephens, Manager of Ottawa
Tower II, LLC.

[SEAL]

_____, Notary Public
_____, County, Michigan
Acting in _____ County, MI
My Commission Expires: _____

Drafted by and when recorded, return to:

Steven D. Sallen, Esq.
Maddin Hauser Roth & Heller, PC
28400 Northwestern Highway, 2nd Floor
Southfield, Michigan 48034
248-827-1861

EXHIBIT 6 – CITY'S MAINTENANCE SCHEDULE

The City's Day-to-Day Management of the Phoenix Center includes without limitation, the following activities:

(A) Deck and Tunnel Maintenance:

- 1) Lighting and lightbulbs.
- 2) Painting of lines for parking spaces.
- 3) Sweeping and trash removal.
- 4) Snow and Ice Removal (including salting).

(B) Plaza Maintenance:

- 5) Landscaping.
- 6) Trash removal.

7) Snow and ice removal (including salting) as necessary to keep drains clear.

(C) Security. For avoidance of doubt, during the period described in Section 8.0 of the Settlement Agreement, wherein Plaintiffs shall continue their services at the Phoenix Center, Plaintiff's obligations for security shall be limited to the south section of the Deck, from 7:00 am to 7:00 pm, Monday through Fridays, excluding holidays. Any additional security services requested by the City will cost extra.

(D) Snow and ice removal on short section of Saginaw Street north of Judson street, to the south entrance of the Deck, only.

EXHIBIT 7
QUITCLAIM DEED FOR ATRIUM CONNECTOR – JUDSON TOWER

QUITCLAIM DEED

Grantor: The City of Pontiac, a Michigan Municipal Corporation, with an address of 47450 Woodward Avenue, Pontiac, Michigan 48342, quitclaims to:

Grantee: Ottawa Tower II, LLC, a Michigan limited liability company, whose address is 715 Southpoint Boulevard, Suite B, Petaluma, California 94954, any and all of Grantor's right, title, and interest in, any of the real property and improvements located upon the following described premises situated in Pontiac, Oakland County, Michigan, to-wit:

SEE ATTACHED EXHIBIT "A" (the "Property")

For the sum of: One and 00/100 (\$1.00) Dollar.

Dated: _____, 2018

GRANTOR:

CITY OF PONTIAC,
a Michigan Municipal Corporation

By: _____

Deirdre Waterman

Its: Mayor

STATE OF MICHIGAN)
)
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me _____, 2018 by Deirdre Waterman, the Mayor of the City of Pontiac.

Notary Public, _____ County, MI
My Commission Expires: _____

Instrument Drafted by:
Steven D. Sallen, Esq.
Maddin Hauser Wartell Roth & Heller, PC
28400 Northwestern Highway, 3rd Floor
Southfield, MI 48034
(248) 827-1861

When recorded, return to: Grantee
Send subsequent tax bills to: Grantee

EXHIBIT A – LEGAL DESCRIPTION

All real property and improvements, including but not limited to a two-story atrium and connector area adjacent to the office tower, located upon the following parcel with a common street address of 31 East Judson Street, Pontiac, Michigan, and as legally described as:

Being all or parts of the following lots and parcels in the City of Pontiac, Oakland County, Michigan, Lot numbers 1 through 8 and 14, 15 and that part of vacated Auburn Avenue of Assessor's Plat No. 130, as recorded in Liber 54A, Page 71, Oakland County Records, more particularly described as follows: Beginning at a point located Northerly 79.00 feet along the Easterly right of way line of Saginaw Street from the Northwest corner of Lot 16 of said Assessor's Plat No. 130, said point of beginning also being a point on the North right of way line of New Judson Street; thence North 14 degrees 30 minutes 01 seconds West 144.67 feet; thence North 75 degrees 27 minutes 55 seconds East 128.00 feet; thence North 14 degrees 32 minutes 05 seconds West, 2.42 feet; thence North 75 degrees 27 minutes 55 seconds East 64.00 feet; thence South 14 degrees 32 minutes 05 seconds East 2.42 feet; thence North 75 degrees 27 minutes 55 seconds East 124.91 feet; thence South 14 degrees 32 minutes 05 seconds East 181.79 feet to a point on the Northerly right of way line of Judson Street; thence along said Judson right of way line North 85 degrees 36 minutes 10 seconds West 6.48 feet to the beginning of a curve; thence along a curve to the left 214.75 feet, said curve having a radius of 648.70 feet, delta of 18 degrees 58 minutes 04 seconds, chord bearing and distance of South 84 degrees 54 minutes 44 seconds West 213.77 feet; thence South 75 degrees 25 minutes 42 seconds West 100.00 feet to point of beginning.

Together with the right to the use of the following land in accordance with a License Agreement as granted by Pontiac City Commission meeting December 4, 1979, Resolution No. 738 to Downtown Pontiac Development Company, recorded in Liber 7788, Page 142, as more clearly described, limited and defined as: A parcel of land being part of the Saginaw Street right of way adjacent to Lots 1, 2, 3 and 4 of Assessor's Plat No. 130, as recorded in Liber 54A, Page 71, Oakland County Records, more particularly described as follows: Beginning at a point located Northerly 79.00 feet along the Easterly right of way line of Saginaw Street from the Northwest corner of Lot No. 16 of Assessor's Plat No. 130, in the Northeast 1/4 of Section 32, City of Pontiac, Oakland County, Michigan, said point of beginning also being a point on the North right of way line of New Judson Street; thence North 14 degrees 30 minutes 01 seconds West 144.67 feet; thence South 75 degrees 27 minutes 55 seconds West 15.09 feet to a point; thence South 14 degrees 32 minutes 05 seconds East 144.68 feet to a point; thence North 75 degrees 25 minutes 42 seconds East 15.00 feet to the point of beginning.

Commonly known as: 31 East Judson Street, Pontiac, Michigan
Tax Parcel Identification No.: 14-32-227-002

#6

PRESENTATION



MEMORANDUM

TO: Mayor Deirdre Waterman, M.D., City of Pontiac
John Clark, Esq., Giarmarco, Mullins & Horton, P.C.

FROM: Samantha A. Kopacz

RE: Request for Documents
City of Pontiac GERS Transition Plan

DATE: February 20, 2019

As discussed during our meeting on February 15, 2019, in order to complete the City of Pontiac's General Employees' Retirement System ("GERS") transition plan, Miller Canfield needs to review several documents, which include:

GERS Plan Documentation

- Current Version of GERS (Ord. 92) (a copy was provided by Ms. Munson on 1-7-19; please confirm that this version is current and complete)
- Version of GERS that was approved by the IRS in its 1/30/14 Favorable Determination Letter ("2014 FDL")
 - Appears to have included the 2009 amended and restated document along with the following amendments:
 - Amendment executed on 5-3-11 / 1-30-12 (as referenced in the 2014 FDL)
 - Amendment dated 3-6-12 / 11-16-12 (as referenced in the 2014 FDL)
 - Amendment dated 12-22-11 / 4-25-12 (as referenced in the 2014 FDL)
 - Subject to the adoption of the proposed amendments dated 5-24-13 / 11-8-13 (as referenced in the 2014 FDL)
 - Amendment adopted on 4-16-13 (as referenced in the 2014 FDL)
- Ordinances adopted related to GERS since the 1/30/14 Favorable Determination Letter
 - Ord. No. 2300
 - Ord. No. 2327
 - Ord. No. 2329, 7-23-15
 - Ord. No. 2337, §1, 7-21-16
 - Ord. No. 2346, §1(a), 8-1-17
 - Ord. No. 2349, §1, 12-21-17
 - Ord. No. 2356, §1, 8-9-18
 - Any other ordinances
 - [Comment: please confirm that these ordinances are already incorporated into the current version of GERS provided on 1-7-19. We would still like a copy of each

of these ordinances so that we can determine exactly what changes to the GERS were made since the 2014 FDL.]

- City resolutions adopting the GERS-related ordinances
- Collective bargaining agreements addressing GERS benefits

Retiree Health Plan Documentation

- Any documentation setting forth the terms of the retiree health plan (outside of the settlement agreement)
- Current version of the Pontiac Police and Fire Retiree Pre-Funding Group Health Insurance Trust and associated retiree health plan document ("Police and Fire Trust")
- Version of Police and Fire Trust approved most recently by the IRS
- Ordinances / amendments adopted to the Police and Fire Trust since its last IRS approval
- City resolutions related to the retiree health plan and Police and Fire Trust
- Collective bargaining agreements related to the Police and Fire Trust
- Exhibits to the settlement agreement

Actuary / Investment Documentation

- Most recent investment policy statement for GERS (we have the 11/29/17 version)
- Most recent actuarial valuation report from GRS related to the GERS (we have 12/31/16 version)
- Most recent financial report for the GERS (we have the 12/31/17 version)
- Most recent actuarial valuation report for the Police and Fire Trust
- Most recent investment policy statement for Police and Fire Trust
- Most recent financial report for Police and Fire Trust
- Most recent actuarial valuation report related to the new retiree health plan (if any)

IRS Documentation

- ~~1/30/14 Favorable Determination Letter (we already have a copy of this)~~
- Most recent IRS approval documentation for the Police and Fire Trust

City Protocol

- Summary of what governance steps must be taken by the City in order to effectuate the GERS transition plan. This will include terminating the GERS, adopting a new defined benefit plan, adopting a new retiree health plan and trust, and merging the Police and Fire Trust into the new retiree health plan and trust.

Other Documentation

- City's current Code section 125 cafeteria plan document (and corresponding summary plan description), including any amendments since its last restatement, if any.
- City's current defined contribution plan

To date, we have determined that the aforementioned documents need to be reviewed in order to effectuate the GERS transition plan. Please provide us with copies of these documents as soon as possible.

33030986.3\071371-00075



DR. DEIRDRE WATERMAN
MAYOR
CITY OF PONTIAC

Deborah Munson, Executive Director
Pontiac GERS
2201 Auburn Road, Suite B
Auburn Hills, MI 48326

August 7, 2019

RE: Request for GERS Supplemental Actuarial Analysis

Dear Ms. Munson:

As you are aware, the City has retained Samantha A. Kopacz of the Miller Canfield law firm to assist in preparing documents related to the settlement of the litigation with the City of Pontiac Retired Employees Association ("CPREA"). In that regard, Ms. Kopacz is requesting a supplemental actuarial analysis with the following assumptions:

- 3.5% investment returns/funding assumption
- Utilize the Pub-2010 Public Retirement Plans Mortality Tables published by the Society of Actuaries

While the suggested assumption updates are not required by the Internal Revenue Code or other applicable law, Miller Canfield believes that the updates will aid the City and its retirees in evaluating the extent of the GERS overfunding. As part of the updated actuarial analysis, please determine whether the rates of separation from active membership are still accurate. If not, please provide information as to how the accurate rates of separation impact the funding bottom line.

Please be advised that December 31, 2018 can be used as the date of the requested calculations. Additionally, please run the analysis under two assumptions: (1) the \$400/month stipend ceases December 31, 2020; and (2) the \$400/month stipend continues indefinitely.

Your cooperation in obtaining this study is greatly appreciated.

Sincerely,

Dr. Deirdre Waterman
Mayor

cc: GERS Board of Trustees
John Clark, Giarmarco, Mullins & Horton, P.C.
Samantha Kopacz, Miller Canfield
Hughes Newsome, Interim Finance Director

47450 Woodward Avenue • Pontiac, Michigan 48342
Direct: (248) 758-3181 • Appointments: (248) 758-3326 • Fax: (248) 758-3292
E-mail: DWaterman@pontiac.mi.us • www.pontiac.mi.us
<https://www.facebook.com/pontiacmayor/>

#7

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:

Final Average Compensation * Years of Service * 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 & PATTON PC Person to Contact:

CYNTHIA J BILLINGS

RUTH CHEN

ID# 95048

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, BP 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)-41, 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

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.

#8

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.

LANDSCAPING and SCREENING			
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.	•	•	•

#9

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 : N/A
Exemption Type

Summer Principal : 0% Winter Principal Residence : 0%
Residence Exemption Exemption Percent
Percent

2017 Taxes		2018 Taxes	
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

142.80

91.70

15
15
25

69.30

Oakland Avenue

MH 18291

MH 18290

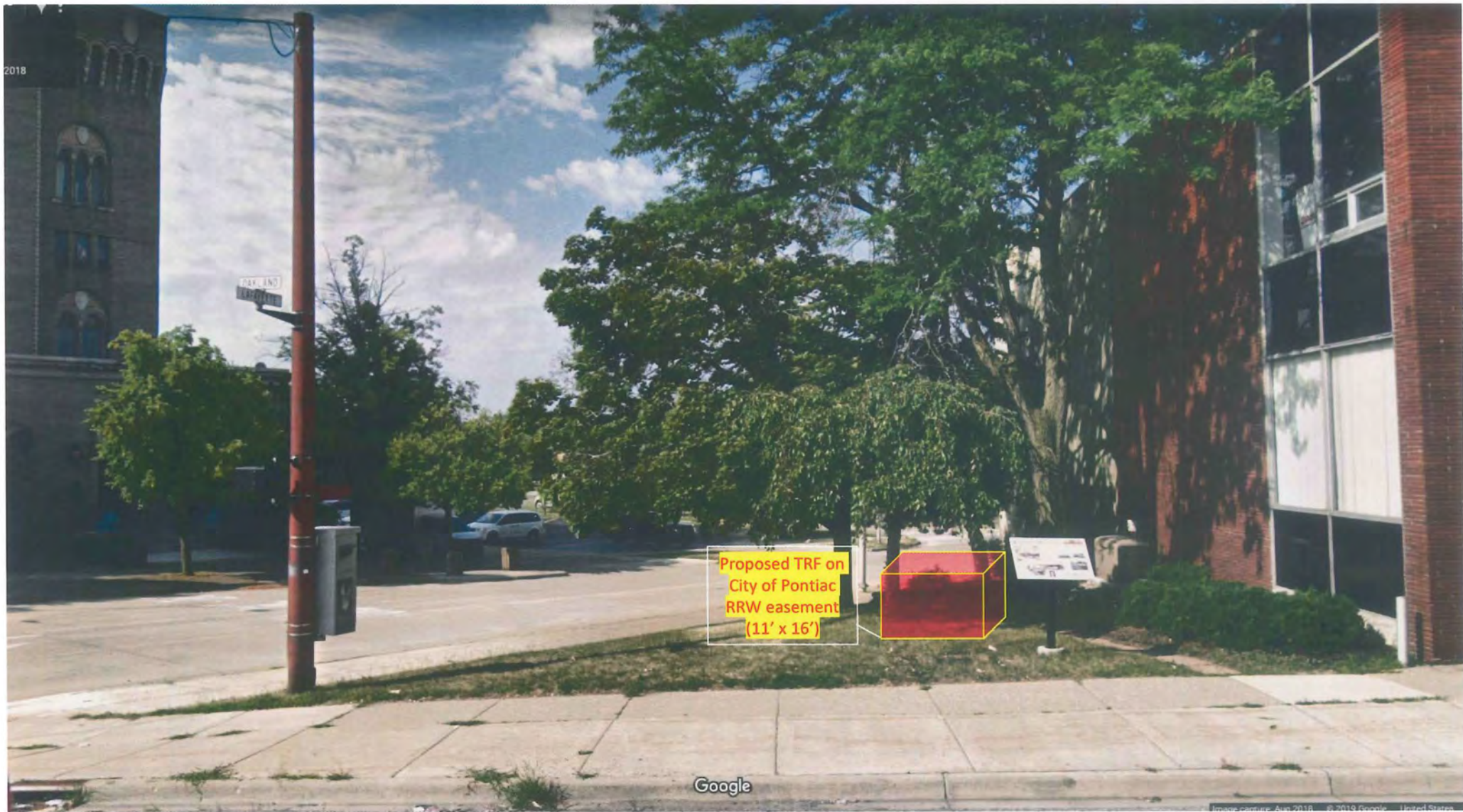
© 2018 Google



14-29-258-004

Proposed
25' x 15' x 15'
below grade





Proposed TRF on
City of Pontiac
RRW easement
(11' x 16')



Google

Image captured: Aug 2018 © 2018 Google United States

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 _____ Notary's _____
Stamp _____ Signature _____
Acting in _____ County, Michigan

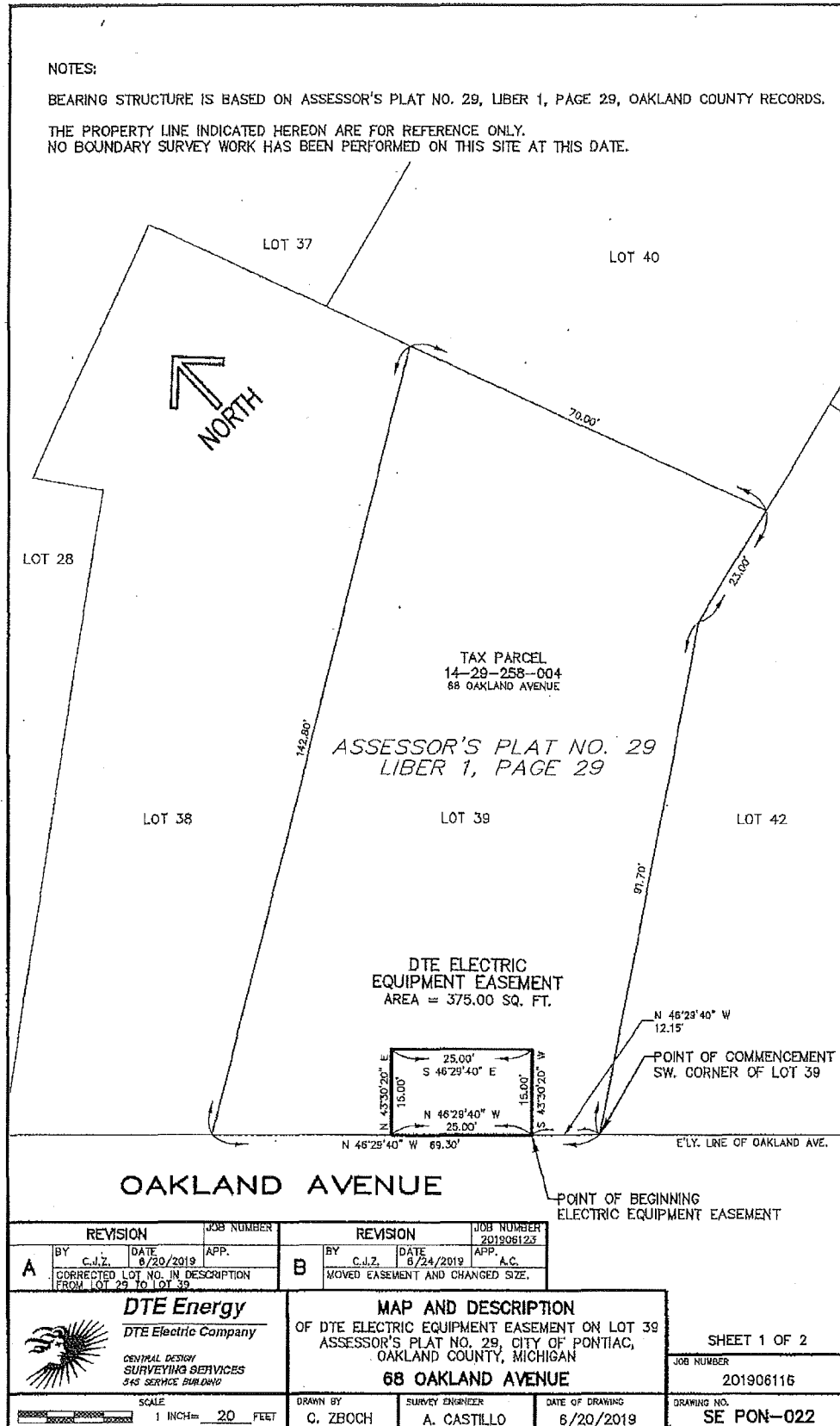
Drafted by and when recorded, return to: Cassandra Dansby, DTE Electric Company, NW Planning & Design, 37849 Interchange Dr., Farmington Hills, MI 48335

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.



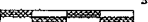


PARCEL DESCRIPTION (TAX ID: 14-29-258-004)

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.

REVISION		JOB NUMBER	REVISION		JOB NUMBER
A	BY C.J.Z. DATE 6/20/2019 APP. 	201906123	B	BY C.J.Z. DATE 6/24/2019 APP. A.C.	201906123
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		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			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

#10

RESOLUTION



CITY OF PONTIAC

OFFICIAL MEMORANDUM

Executive Branch

TO: Honorable City Council President Kermit Williams, and City Council Members

FROM: Mayor Deirdre Waterman thru the Office of Jane Bais DiSessa, Deputy Mayor

DATE: August 29, 2019

RE: **Resolution to authorize the Mayor to negotiate the terms of a purchase agreement for the acquisition of the property located on 235 Wesson Street and conduct due diligence for the benefit of the City, at a cost not to exceed \$45,000.**

The following resolution is recommended for your consideration:

Whereas, on or about July 22, 2019 the City of Pontiac was presented with a Real Estate Purchase and Sale Agreement (the "Purchase Agreement") by PLTC I Realty Investment, LLC, a Michigan limited liability company, for the sale by seller and the purchase by the City of multiple parcels of land consisting of: (i) an 8 acre parcel located at 235 Wesson Street upon which the Wesson Tennis Club currently operates ("Parcel A"); (ii) 2 vacant lots at the corner of Wesson and Branch Streets ("Parcel B"); and (iii) 2 vacant lots located at the corner of Houston and Branch Streets ("Parcels C and D") for a recited sale price of \$2,550,000.

Whereas, the City Council's Real Estate Subcommittee referred the Purchase Agreement to the Mayor's Office for further review.

Whereas, council for the Seller has provided the City Attorney with copies of certain items of due diligence which will not be comprehensively reviewed or vetted without the approval of Council.

Whereas, the Mayor's Office cannot, without the approval of Council: (i) determine if the purchase price proposed by the seller is appropriate; (ii) negotiate terms and conditions to the Purchase Agreement so that it may be resubmitted to Council for its consideration and execution if so approved; and (iii) undertake all necessary due diligence inspections and investigations as any purchaser of commercial property would undertake to determine the suitability of the property for the City's contemplated use, which investigations include, without limitation: title and survey review, environmental review and appraisal.

NOW, THEREFORE, IT IS RESOLVED: the Mayor is authorized to negotiate the terms of a purchase agreement for the acquisition of the above-described property for Council's review and consideration and to conduct or obtain, for the benefit of the City, the following items of due diligence:

- A physical inspection of all improvements located upon the property;

- Receipt and review of a title insurance commitment (obtained at the Seller's cost and expense) to ascertain whether the seller has good and marketable title to the property;
- Obtain: (i) a Phase I Environmental Site Assessment and Report; (ii) Phase II Environmental Site Assessment and Report; and because the property has been environmentally impacted; (iii) a Baseline Environmental Site Assessment which would be submitted to the Michigan Department of Environmental Quality of the City proceeded with the purchase of the property;
- A survey of the property being acquired; and
- An appraisal of the property to determine whether the proposed purchase price tendered by the seller is appropriate.

With all related legal fees (associated with the negotiation of the purchase agreement and review of all items of due diligence) and due diligence costs not to exceed \$45,000.00 and to be completed within 60 days of the date of this Resolution.

JBD

#11

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>	<u>\$ 2,000</u>
Total		<u>\$100,000</u>

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

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

#12

**COMMUNICATION
FROM THE
MAYOR**

Memorandum

To: Pontiac City Council
From: Mayor Deirdre Waterman
Date: September 12, 2019
Re: Mayor's Report

Check Registry:

Check registers are processed and recorded online according to the procedure determined by the Finance Department.

The Interim Finance Director has finalized training of the new procedures related to Purchase Orders.

New Hires:

No new hires to report for the past month but the H/R manager has submitted her resignation in the in action to the video posted which Pro-Tem Randy Carters publicly defamed the female women of this administration in voguer terms.

Credit Card:

Credit card statement is verified monthly and are given directly to Council at their request.

#13

RESOLUTION



CITY OF PONTIAC

OFFICIAL MEMORANDUM

Executive Branch

TO: Honorable Mayor, Council President and City Council Members

FROM: Plante Moran – Controller's Office

Thru: Office of Deputy Mayor, Jane Bais-DiSessa

DATE: 9/19/2019

RE: Resolution to Approve Budget Amendments for Major Streets projects, Local Streets projects, and Code Enforcement

Streets:

The FY 2019-2020 budget as adopted by City Council on June 25, 2019, includes certain appropriations for 2019 Major Street and Local Street repair projects. The proposed appropriations for those projects assumed that a certain amount of work would be completed in FY 19. When the work assumed to be completed in FY 19 had not started or was still in progress by end of fiscal year, a certain amount of those funds were unused; those funds went to fund balance at the end of the fiscal year.

The Director of the Department of Public Works (DPW) has expressed the need to have those unused funds pulled out of fund balance so that these projects can be fully funded for FY 20.

While it is ideal to wait until the full accounting and auditing for the costs incurred during the fiscal year are both complete to fully ascertain what funds would be available out of fund balance, these projects are ongoing and need funding sooner than the November / December timeframe in which the audit would be completed. Due to this, the Finance Department has worked with the DPW to estimate what these amounts would be, based on invoices outstanding that are awaiting payment.

The below table illustrates amounts of money that need to be placed in the FY 20 appropriation for Major Streets from fund balance, based on this calculation:

Project	Account #	FY18/19 Budget	Total Spent in FY18/19	Projected Remaining Budget as of 6/30/19 to be put into Fund Balance	FY19/20 Budget	Additional Funds Needed in FY19/20	Total FY19/20 Budget after Amendment
Hill Street	202-463-974.066	\$ 681,005	\$ 616,048	\$ 64,957	\$ -	\$ 75,000	\$ 75,000
Joslyn	202-463-974.070	\$ 2,115,953	\$ 1,779,301	\$ 336,652	\$ -	\$ 336,652	\$ 336,652
University Drive	202-463-974.071	\$ 296,266	\$ 111,407	\$ 184,859	\$ 30,000	\$ 184,859	\$ 214,859
Perry Street	202-463-987.000	\$ 15,301	\$ -	\$ 15,301	\$ 30,000	\$ 15,301	\$ 45,301
Mill Street	202-463-988.000	\$ 280,241	\$ 124,846	\$ 155,395	\$ 30,000	\$ 155,395	\$ 185,395

Memo - Budget Amendments
September 19, 2019
Page 2 of 6.

Additionally, the below table illustrates amounts of money that need to be placed in the FY 20 appropriation for Local Streets from fund balance, based on this calculation:

Project	Account #	FY18/19 Budget	Total Spent in FY18/19	Projected Remaining Budget as of 6/30/19 to be put into Fund Balance	FY19/20 Budget	Additional Funds Needed in FY19/20	Total FY19/20 Budget after Amendment
Kettering	203-463-974.069	\$ 970,160	\$ 636,975	\$ 333,185	\$ -	\$ 333,185	\$ 333,185
Irwin	203-463-986.000	\$ 610,000	\$ -	\$ 610,000	\$ -	\$ 610,000	\$ 610,000
Ferry	203-463-990.000	\$ 374,360	\$ -	\$ 374,360	\$ -	\$ 374,360	\$ 374,360

Mowing:

The FY 2019-2020 budget as adopted by City Council on June 25, 2019, includes an approved General Fund allocation of \$30,000 for Wade Trim in account 101-690-818.060 within the Economic Development (Redevelopment and Housing) department. Some time ago, mowing services were partially paid from that account as well as Code Enforcement's allocation. Code Enforcement's mowing allocation for FY 2019-2020 budget was \$5,000 found in account 101-733-818.006.

Since then, the Code Enforcement department has already utilized its allocation for mowing and needs to access those funds to complete mowing activities for the calendar year. Likewise, no Community Development mowing has occurred and is not expected for this fiscal year.

Therefore, the Code Enforcement department, through Finance needs the following budget amendment to move the \$30,000 to their department, as follows:

Account #	Description	Amount
101-733-818.006	Contractual Mowing Services	\$ 30,000
101-690-818.060	Prof. Serv-Wade Trim	\$ (30,000)

The following resolution is recommended:

Whereas, the City of Pontiac timely approved the FY 2019-2020 budget on June 25, 2019; and

Whereas, certain funds from the FY 2018-2019 Major Streets Fund and Local Streets Fund will remain unused since projects set to be completed by FY 2018-2019 fiscal year did not conclude before June 30, 2019; and

Whereas, the unused funds would transfer to the Major Streets Fund fund balance and the Local Streets Fund fund balance; and

Memo - Budget Amendments

September 19, 2019

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Whereas, the Finance and Public Works is proposing to the City Council to increase the appropriations for the current year 2019-2020 for the funds and amounts described below as necessary to complete the projects that the City Council had fully funded and approved in the last fiscal year but were not timely expended; and

- *Major Street Fund: \$767,207*
 - *Hill Street - \$75,000*
 - *Joslyn - \$336,652*
 - *University Drive - \$184,859*
 - *Perry Street - \$15,301*
 - *Mill Street - \$155,395*
- *Local Street Fund: \$1,317,545*
 - *Kettering - \$333,185*
 - *Irwin - \$610,000*
 - *Ferry - \$374,360*

Whereas, the increased appropriations will not cause the fund balance in any of the funds to go below the policy mandated thresholds; and

Whereas, the General Fund fund has an appropriation of \$30,000 for mowing that is in account 101-690-818.060 that needs to be utilized by Code Enforcement out of account number 101-733-818.006; and

Now therefore be it resolved that the Pontiac City Council approves the following budget amendments for the fiscal year FY 2019-2020 as requested by the Executive Office:

From	Move To Account	Additional Funds Needed in FY19/20
Fund 202 - Major Street Fund Balance	202-463-974.066 - Hill Street	\$ 75,000
Fund 202 - Major Street Fund Balance	202-463-974.070 - Joslyn	\$ 336,652
Fund 202 - Major Street Fund Balance	202-463-974.071 - University Drive	\$ 184,859
Fund 202 - Major Street Fund Balance	202-463-987.000 - Perry Street	\$ 15,301
Fund 202 - Major Street Fund Balance	202-463-988.000 - Mill Street	\$ 155,395
Fund 203 - Local Street Fund Balance	203-463-974.069 - Kettering	\$ 333,185
Fund 203 - Local Street Fund Balance	203-463-986.000 - Irwin	\$ 610,000
Fund 203 - Local Street Fund Balance	203-463-990.000 - Ferry	\$ 374,360
101-690-818.060 - Prof. Serv-Wade Trim	101-733-818.006 - Contractual Mowing Serv.	\$ 30,000

#14

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: 9/12/2019

RE: **Resolution to Restore the Finance Director's Salary via Amendment to Budget Account that pays Finance Department Salaries.**

The FY 2010-2020 budget as adopted by City Council on June 28, 2019, includes an approved General Fund allocation of \$298,771 for the salaries of personnel working within the Finance Department. The appropriation represents an allocation of \$50,000 set aside to pay the Finance Director's salary, as directed by the City Council during the budget adoption process. As such, effective July 1, 2019, the amount available to pay the Finance Director for his / her during FY 2019-2020 was lowered to \$50,000.

As the outgoing Interim Finance Director, I am very concerned that such a low amount would be inadequate to attract and recruit a qualified replacement Finance Director. Consider that the city cannot advertise for wages higher than what is available in the budget; therefore, there is no way the city can find a permanent Finance Director that is willing to work for more than \$50,000.

Indeed, as the city continues to progress from Emergency Financial Management through recovery and into prosperity, it is paramount that the city has a solid Finance Director to focus on the city's finances.

With that, the Finance Department is requesting that the following budget amendment be performed. This amendment would take money out of General Fund fund balance and restore the line item 101-206-702.000 to \$388,771. This would allow us to recruit a solid person for the role.

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 appropriation for salaries for personnel in the Finance Department using account number 101-206-702.000; and

Whereas, the appropriation for account number 101-206-702.000 was \$298,771, which represented a cut in the salary for the Finance Director to \$50,000 per year; and

Whereas, the requested appropriation in the Mayor's Recommended budget for account number 101-206-702.000 was \$388,771; and,

Whereas, the General Fund fund balance would have adequate funding available since it was originally available before the reduction by the duly elected City Council;

Now therefore, be it resolved that the City Council of the City of Pontiac approves the budget amendment for the fiscal year 2019-2020 to move \$90,000 from General Fund fund balance to account number 101-206-702.000 as requested by the Mayor.

#16

RESOLUTION



CITY OF PONTIAC

OFFICIAL MEMORANDUM

Executive Branch

TO: Honorable City Council President Kermit Williams, and City Council Members

FROM: Jane Bais DiSessa, Deputy Mayor

Cc: Mayor Deirdre Waterman, Hughey Newsome, Interim Finance Director, and Garland Doyle, Interim City Clerk.

DATE: August 29, 2019

RE: **Resolution to Approve Amendment 1 to the 2016 Oakland County Brownfield Consortium Agreement between Oakland County and the City of Pontiac.**

Background:

In accordance with the EPA 2016 Brownfield Coalition Assessment Grant, the Oakland County Brownfield Consortium was awarded six hundred thousand dollars (\$600,000.00) for developing inventories of brownfields, prioritizing sites, conducting community involvement activities, and conducting site assessments and clean-up planning related to brownfield sites.

Under the terms of the 2016 Consortium Agreement, the City of Pontiac was allocated sixty thousand dollars (\$60,000.00) to be used to assess brownfield sites in its geographic area. The Grant period and the ability to spend those allocated funds is currently set to expire on September 1, 2019. To-date, the City of Pontiac has exceeded their allocation by \$22,035.

Presently, various Municipalities have unspent allocated funds and do not intend to spend their remaining allocated Grant funds before the expiration period. Whereas, other members have spent their allocated Grant funds and need additional funds to pay for expenses allowed under the Grant. Please know that the County has agreed to reallocate unspent Grant funds to other members of the Consortium at the County's sole discretion, and have asked the Environmental Protection Agency (EPA) to extend the Grant for an additional 180 days.

Council Action Requested:

As such, the County is requesting that all Municipal Consortium members consider approving an amendment to the 2016 Oakland County Brownfield Consortium Agreement as attached. Due to the tight deadline, it is respectfully requested that the City Council consider this amendment at the September 3, 2019 Formal City Council meeting.

The following resolution is recommended for your consideration:

WHEREAS the Oakland County Board of Commissioners approved the USEPA Brownfield Assessment Grant (the "Grant") as well as the Interlocal Agreements of each member of the Oakland County Brownfield Consortium (the "Consortium"); and

Action Requested Continued:

WHEREAS each partner consortium member receives \$60,000 to spend in their communities; and

WHEREAS the Grant is due to expire on September 1, 2019; and

WHEREAS Oakland County has requested a Grant extension from the USEPA in order to spend the remaining Grant funds; and

WHEREAS Oakland County Corporation Counsel has drafted and reviewed an amendment to the Interlocal Agreements ("Amendment 1") for the reallocation of funds between Oakland County and the Consortium members; and

NOW THEREFORE BE IT RESOLVED that the Pontiac City Council approves the attached Amendment 1 and authorizes the Mayor to execute this Amendment on behalf of the City of Pontiac and hereby accepts and binds the City of Pontiac to the terms and conditions of Amendment 1.

Mr. Brad Hansen, Senior Business Development Representative for Oakland County's Economic Development & Community Affairs will be attending this meeting to address any questions from the City Council.

Thank you for your consideration to this request.

Attachment

JBD

**AMENDMENT 1 TO THE
2016 OAKLAND COUNTY BROWNFIELD CONSORTIUM AGREEMENT
BETWEEN
OAKLAND COUNTY
AND
CITY OF PONTIAC**

The County of Oakland (the "County") and the City of Pontiac, (collectively referred to as the "Parties" and individually a "Party"), agree and acknowledge that the purpose of this Amendment 1 is to modify as provided herein and to otherwise continue the present contractual relationship between the Parties as described in their current 2016 Oakland County Brownfield Consortium Agreement (the "2016 Consortium Agreement").

Pursuant to the EPA 2016 Brownfield Coalition Assessment Grant (the "Grant"), the Oakland County Brownfield Consortium (the "Consortium") was awarded six hundred thousand dollars (\$600,000.00) for developing inventories of brownfields, prioritizing sites, conducting community involvement activities, and conducting site assessments and clean-up planning related to brownfield sites. Under the terms of the 2016 Consortium Agreement, Municipality was allocated sixty thousand dollars (\$60,000.00) to be used to assess brownfield sites in its geographic area. The Grant period and the ability to spend those allocated funds is currently set to expire on September 1, 2019.

Municipality has unspent allocated Grant funds and does not intend to spend its remaining allocated Grant funds within its geographic area before the expiration period. Other members of the Consortium have spent their allocated Grant funds and need additional funds to pay for expenditures allowed under the Grant. The County is the fiscal agent/fiduciary of the Consortium for receipt and disbursement of the Grant funds. Municipality wishes, and the County agrees, to allow the County to reallocate Municipality's unspent allocated Grant funds to other members of the Consortium at the County's sole discretion. The County intends to ask the Environmental Protection Agency to extend the current Grant period to allow the Consortium to spend the remaining Grant funds.

The County and Municipality hereby amend the 2016 Consortium Agreement as follows:

Amendment 1

1. Except as provided in this Amendment 1, any and all defined words or phrases in the 2016 Consortium Agreement will apply equally to and throughout this Amendment 1.
2. All other provisions in the 2016 Consortium Agreement not otherwise affected by this Amendment 1 remain in full force and effect.
3. The following provision (Section 5.3) is added to the 2016 Consortium Agreement:

"5.3 Notwithstanding Section 5.2 or anything else herein to the contrary, the County may reallocate, at its sole discretion, the unused grant funds allocated to Municipality to any other member(s) of the Consortium. Furthermore, Municipality may receive grant funds in excess of the amount allocated in Section 5.2, at the sole discretion of County, if grant funds are reallocated to Municipality from other members of the Consortium.

4. Section 6.2 of the 2016 Consortium Agreement is deleted and replaced with the following:

“6.2 Unless terminated pursuant to Section 8 of this Agreement, this Agreement shall end ninety (90) days after the date the Grant period ends (including any extensions to the original Grant period).”

FOR AND IN CONSIDERATION of the mutual assurances, promises, and acknowledgments set forth in this Amendment 1 and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the undersigned hereby execute this Amendment 1 on behalf of the Parties, and by doing so legally obligate and bind the Parties to the terms and conditions of this Amendment 1.

IN WITNESS WHEREOF, Deirdre Waterman, Mayor of City of Pontiac, hereby acknowledges that she has been authorized by a resolution of the Municipality's governing body to execute this Amendment 1 on behalf of the Municipality and hereby accepts and binds the Municipality to the terms and conditions of this Amendment 1.

EXECUTED:

Deirdre Waterman
Mayor

DATE: _____

WITNESSED:

Garland Doyle
Interim City Clerk

DATE: _____

IN WITNESS WHEREOF, David T. Woodward, Chairperson, Oakland County Board of Commissioners hereby acknowledges that he has been authorized by a resolution of the Oakland County Board of Commissioners, to execute this Amendment 1 on behalf of Oakland County, and hereby accepts and binds Oakland County to the terms and conditions of this Amendment 1.

EXECUTED: _____
_____, Chairperson
Oakland County Board of Commissioners

DATE: _____

WITNESSED: _____
County of Oakland

DATE: _____

#17

**COMMUNICATION
FROM THE
MAYOR**



DR. DEIRDRE WATERMAN
MAYOR
CITY OF PONTIAC

FOR IMMEDIATE RELEASE

September 18, 2019

CONTACT:

Amazon
amazon-pr@amazon.com

City of Pontiac
Mayor Deirdre Waterman
248-758-3326
248-758-3181

Pontiac Mayor Deirdre Waterman Announces Development of Former Silverdome Site: Plans set in motion for Distribution Center upon approval of Amazon Deal

PONTIAC – The storied history of the Pontiac Silverdome is soon expected to boast a new chapter. The 127-acre site that is former home of the Detroit Lions and Detroit Pistons may soon land another big name tenant – Amazon.

Plans are in the works to redevelop the site into a regional distribution center for the retail titan. If developed, the \$250 Million planned project is expected to create over 1,500 full time jobs for the area and be the first site nationally for Amazon to have both a fulfillment center and delivery station.

First steps in the process were completed Wednesday night as the Pontiac Planning Commission considered granting a special exemption permit for the site to be used as a warehouse, distribution and fulfillment campus.

The application was made by Atlanta-based Seefried Industrial Properties. Representatives from both Seefried and Amazon were present at the meeting to discuss details of the project. Seefried is under contract to purchase the Silverdome site for the purpose of building two facilities that would be leased by Amazon. Throughout the country, Seefried has built multiple distribution centers for Amazon.

Pontiac Mayor Deirdre Waterman called the potential development and pairing with Amazon a “great match.”

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While a final decision on closing on the purchase of the Silverdome site is still months away, details of the plan reveal immediate construction with the proposed delivery station operational by 3rd quarter 2020 and the fulfillment center operational by 3rd quarter 2021.

Wages for employees would start at \$15 an hour for both full and part-time associates. Amazon's comprehensive benefits start upon hire for all employees including healthcare, vision and dental, 401k, and paid leave.

"The former Silverdome site is an ideal location and Pontiac is poised with a ready workforce" said Mayor Waterman. "Landing Amazon will bolster Pontiac's continued economic success and further our pipeline of pairing industry with talent."

Situated along the junction of southeast Michigan's busiest highways – I75 and M59 – the site is one of Oakland County's most prime big sites for redevelopment including the Palace of Auburn Hills slated for demolition and the Summit Place Mall property that was just torn down – but none with the nostalgia of over 3 decades of memories left from the Silverdome site.

The Silverdome was opened in 1975 and closed permanently in 2013.

The 80,000 seat stadium played host to Super Bowl XVI, the 1979 NBA All-Star Game, Wrestlemania III, FIFA World Cup 1994, mega rock concerts and visits from the likes of U.S. presidents, musical royalty such as the Beatles, Michael Jackson and even His Holiness Pope John Paul II.

After two partial implosions, the Silverdome was demolished in 2017 and cleared for redevelopment.

###

Project Overview

Seefried Industrial Properties, Inc. is under contract to purchase the Silverdome site and is in the midst of conducting its due diligence, which includes feasibility studies and work to secure the necessary municipal approvals for the development of the planned facility. A final decision on closing on the purchase of the site is still several months away. If the purchase closes, Amazon will be the tenant and will be operating two facilities under a long-term lease, as described below.

Project Metrics

- This facility will create over 1,500 full-time jobs.
- The project will include more than \$250M in investment.
- Amazon associates make an industry leading minimum wage of \$15/hour for both full and part time associates.
- More than 100 associates in managerial roles will make \$60K+.
- Amazon's comprehensive benefits start Day 1, including; healthcare, vision and dental, 401k, paid leave, and others.

Project Timeline

- Lease signing EOY 2019. No final decision has been made.
- Construction would immediately start post lease signing.
- Delivery station operational by 3rd quarter 2020.
- Fulfillment center operation by 3rd quarter 2021.

Project Specifics

- This is the 1st site for Amazon to have both a Fulfillment Center and Delivery Station
- Building Heights – Fulfillment Center (94'-5") and Delivery Station (57'-2")
- Grading along Featherstone Rd – provide a 3' high earthen berm
- Building Materials – Both buildings will consist of insulated precast concrete wall panel with reveals and texture coating, micro ribbed insulated metal wall panel, horizontal ribbed insulated metal panel, and vision/tempered/spandrel glass.
- Site Lighting – LED lighting on 25' high poles
- Sound - Provide a Precast concrete sound wall at NW corner of the site
- Traffic – studied 15 intersections with MDOT, Oakland County Road Commission, and City of Pontiac concurrence

Career Choice

- Amazon has created Career Choice, a re-training and upskilling program designed to help our hourly employees obtain vocational certificates and two-year degrees at accredited schools that will lead to employment in in-demand job fields, whether at Amazon or in another industry.
 - Through Career Choice, Amazon prepays or reimburses up to 95% of tuition, associated fees, and required books up to a yearly maximum per rolling 12-month period over four consecutive years.

- To date, more than 25,000 employees have participated in the Career Choice Program, and Amazon is committed to doubling participation by 2020.
- We use resources like the Bureau of Labor and Statistics to ensure that we are only funding educational and training programs that lead to high demand occupations.
- Video: <https://www.youtube.com/watch?v=DLHDAr8d9m4>

Upskilling 2025 programs (additional employee training programs)

- **Launching Machine Learning University (MLU)**, an initiative that helps Amazonians with a background in technology and coding gain skills in Machine Learning. As machine learning plays an increasingly important role in customer innovation, MLU helps employees learn core skills to propel their career growth— skills that are often learned only in higher education. Divided into six-week modules, the program requires only half to one full day of participation a week. MLU is taught by more than 400 Amazon Machine Learning scientists who are passionate about furthering skills in the field. Originally launched as a small cohort, the program is on course to train thousands of employees.
- **Launching Amazon Technical Academy**, a training and job placement program that equips non-technical Amazon employees with the essential skills to transition into, and thrive in, software engineering careers. Combining instructor-led, project-based learning with real-world application, graduates of the program master the most widely used software engineering practices and tools required to thrive in a career at Amazon. This tuition-free program was created by Amazon software engineers for Amazon employees who want to move into the field.
- **Launching Associate2Tech**, a program that provides fulfillment center associates the opportunity to move into technical roles, regardless of their previous IT experience, within Amazon's vast operations network. This fully-paid for 90-day program is designed to place associates in on-the-job training for IT support technician roles and pays for their A+ Certification test, a widely recognized certification. No existing degree is needed, and participants have paid study time during their work week.
- **Growing Career Choice**, Amazon's pre-paid tuition program for fulfillment center associates looking to move into high-demand occupations. Amazon will pay up to 95% of tuition and fees towards a certificate or diploma in qualified fields of study, leading to enhanced employment opportunities in in-demand jobs. Since launching Career Choice in 2012, over 25,000 Amazonians have received training for high-demand occupations including aircraft mechanics, computer-aided design, machine tool technologies, medical lab technologies, and nursing. The company is investing in expanding the program by building additional classrooms in its fulfillment centers globally, and expects to have over 60 on-site classrooms by the end of 2020.
- **Expanding Amazon Apprenticeship**, a Department of Labor certified program that offers paid intensive classroom training and on-the-job apprenticeships with Amazon. Providing a combination of immersive learning and on-the-job training, the Amazon Apprenticeship program has already created paths to technical jobs for hundreds of candidates working to break into professions including cloud support associate, data technician and software development engineer.

Amazon in Michigan

- \$1+ billion invested in Michigan (2010-2018), including customer fulfillment and cloud infrastructure, and compensation to our employees
- \$940 million added into state GDP thanks to Amazon investments
- 5,000+ full-time jobs created in Michigan – and we continue to hire
- 12,000+ jobs created on top of our direct hires in the state (based on Input-Output methodology developed by the U.S. Bureau of Economic Analysis)
- 52,500+ authors, small and medium sized businesses, and developers growing their businesses using Amazon products and services
- 34,000+ charitable organizations that Amazon customers can support simply by shopping on AmazonSmile