

NOTICE OF PONTIAC CITY COUNCIL MEETING
January 12, 2021
at 6:00 p.m.

THE MEETING WILL BE HELD ELECTRONICALLY

The City Council of the City of Pontiac will hold a Study Session on January 12, 2021 at 6:00 p.m. This meeting will be held electronically as allowed by the amended Open Meetings Act. The agenda for the Study Session is attached. The Pontiac City Council gives notice of the following:

1. **Procedures.** The public may view the meeting electronically through the following method.
<http://pontiac.mi.us/council/pontiactv/index.php>
2. **Public Comment.** For individuals who desire to make a public comment, please submit your name and comment in writing to publiccomments@pontiac.mi.us. Additionally, you may submit your public comment in writing directly to the Office of the City Clerk during regular business hours. All public comments must be received no later than 5:30 p.m. on January 12, 2021. Public comments are limited to three (3) minutes. The City Clerk will read your comments during the public comment section of the meeting.
3. **Persons with Disabilities.** Persons with disabilities may participate in the meeting through the methods set forth in paragraph 2. Individuals with disabilities requiring auxiliary aids or services in order to attend electronically should notify the Interim City Clerk, Garland Doyle at (248) 758-3200 or clerk@pontiac.mi.us at least 24 hours in advance of the meeting.

Dated 1-8-2021, 5:00 p.m.
Garland S. Doyle, Interim City Clerk
City of Pontiac
47450 Woodward Ave. Pontiac, MI 48342 Phone: (248) 758-3200

PONTIAC CITY COUNCIL

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



Patrice Waterman, District 1
Megan Shramski, 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."

Website: <http://pontiaccityclerk.com/city-council-meetings>

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

STUDY SESSION

January 12, 2021

6:00 P.M.

209th Session of the 10th Council

Call to order

Invocation

Pledge of Allegiance

Roll Call

Authorization to Excuse Councilmembers

Amendments to and Approval of the Agenda

Approval of the Minutes

1. November 21, 2020 Special Meeting (These minutes were not approved on December 8, 2020.)
2. January 5, 2021 Formal Meeting

Public Comment

Agenda Items

Resolutions

Building and Safety

3. Resolution to approve extension of CARES Act Landlord Reimbursement for Tenant Non-Payment or Stay of Eviction

Department of Public Works (DPW)

4. Resolution to authorize the Mayor to sign the Michigan Department of Transportation (MDOT) funding agreement for construction of the Orchard Lake Road Signal Modernization Project.

Finance/Treasury

5. Resolution to approve Mayor recommendation of a Waiver in accrual of penalties for unpaid Winter 2020 property taxes, to provide economic relief to the City of Pontiac residents.

Information Technology

6. Resolution to approve the update of the City of Pontiac's current ShoreTel phone system to a cloud based "Ring Central" system.

Communications from the Mayor

7. Small Business Town Hall
8. Extension of the Executive Order 2020-01-Outdoor dining

Adjournment

#1

MINUTES

11-21-20

November 21, 2020 Special

**Official Proceedings
Pontiac City Council
201th Session of the Tenth Council**

Call to order

A Special Meeting of the City Council of Pontiac, Michigan was called to order electronically, on Saturday, November 21, 2020 at 10:00 a.m. by Council President Kermit Williams.

Roll Call

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

Members Absent: Pro Tem Carter and Miller

Mayor Waterman was present.

Clerk announced a quorum.

Excuse Councilmembers

20-529 **Motion to excuse Pro Tem Carter and Councilperson Miller for personal reasons. Moved by Councilperson Waterman and second by Councilperson Pietila.**

Ayes: Pietila, Shramski, Taylor-Burks, Waterman, and Williams

No: None

Motion Carried

Discussion on additional information on Dearborn Capital and with bond counsel on alternative mechanisms for financing on debt placement and potentially take action on these items.

20-530 **Resolution to approve purchase and sale agreement incorporating the letter we received Nov 20th from Mr. Brian Wloch and authorize the Mayor to sign the agreement accepting the terms and conditions there in. Moved by Councilperson Pietila and second by Councilperson Waterman.**

Ayes: Pietila, Shramski, Taylor-Burks & Waterman

No: Williams

Resolution Passed

Note: T2 Capital Management, LLC letter is attached as Exhibit A. Dearborn Capital letter is attached as Exhibit B. Agreement between City of Pontiac and Dearborn Capital Partners, LLC is attached as Exhibit C.

Public Comment - None

Adjournment

Council President Kermit Williams adjourned the meeting at 10:26 a.m.

GARLAND S DOYLE
INTERIM CITY CLERK

**T2 CAPITAL
MANAGEMENT**

November 20, 2020

The Honorable Mayor Deirdre Waterman
C/O Matthew Gibb
33 N Saginaw
Pontiac, MI 48232

via Email | giblaw@hotmail.com

Re: 31 Judson and 51111 Woodward, Pontiac, MI 48232
Acquisition Financing for Ottawa Towers I / II

Dear Matt,

On behalf of T2 Capital Management, LLC ("T2"), I am thankful to offer this Letter of Intent ("LOI") to provide financing to facilitate the purchase of the above referenced property ("Loan"). The Loan is secured by the property and improvements located at 31 Judson and 51111 Woodward, Pontiac, MI ("Property"). It is understood that the property consists of two 9-story office buildings containing approximately 425,000 sf.

This LOI is presented as an expression of interest and is not to be construed as a formal commitment. Upon your acceptance of this LOI, T2 will complete its due diligence and seek to provide a formal commitment and/or loan documents shortly thereafter. The following outlines the general terms of T2's proposed financing:

Borrower: A to-be-formed SPE in form and substance acceptable to Lender ("Borrower")

Loan amount: Capped at the lesser of (i) \$6,300,000, (ii) 35% Loan-to-Cost, (iii) 50% Loan-to-Value or (iv) Debt Yield not-less-than 12.0%

Funding: Borrower shall contribute \$6,800,000 in equity.

Among other customary conditions precedent to closing T2's loan, the following shall have been satisfied, each in form and substance acceptable to Lender:

1. Opinion of legal counsel that the City of Pontiac can borrow and guaranty debt to facilitate the proposed acquisition
2. Receipt and review of financial statements for the City of Pontiac
3. Receipt and review of any and all documentation related to the Seller financing
4. Receipt and review of any and all documentation related to the proposed land contract sale to Dearborn Capital Partners
5. Receipt and review of the lease between The City of Pontiac and Dearborn Capital Partners for the Phoenix Center Parking Garage

6. The property must be in compliance with all municipal codes and without any outstanding nor known pending violations
7. Review and approval of all applicable Lease Agreements
8. Review and approval of bank statements, and supporting historical financial statements / rent roll applicable to the subject property
9. Review and approval of the CapEx and TI/LC budget applicable to the subject property
10. Receipt and approval all customary due diligence items including, but not limited to (i) Title Commitment for a Lenders Loan Policy, (ii) ALTA survey(s), (iii) environmental report(s), (iv) current zoning, (v) Easement Agreement(s), (vi) appraisal, (vii) property condition report, (viii) organizational documents, and (ix) financial statements and tax returns for all guarantors

Term:	Twelve months from the date of close
Repayment:	Interest-only will be payable on the outstanding loan balance each month that the loan remains outstanding
Interest Rate:	Prime Rate plus 6.75%, floating with a floor of 10.0%
Up-front points:	\$63,000 (1%) will be paid to T2 at closing
Deferred points:	Regardless of when the loan is repaid, \$126,000 (2%) in deferred points are to be paid to Lender at the earlier of loan maturity or payoff of the loan
Minimum Interest:	A minimum of \$315,000 in interest must have been paid to T2 prior to payoff of the loan. To the extent that the loan is slated to be paid off prior to T2 having received less than \$315,000 in interest, the difference is to be paid to T2 at payoff
Collateral:	1 st mortgage on the subject property and assignment of all rents, leases, UCCs, management agreements, licenses, etc.
Recourse:	Full joint and several recourse to the City of Pontiac, Bob Waun and Brien Wloch
Title Insurance:	T2 is to receive acceptable title insurance at closing. The policy is to include mechanic's lien coverage, a survey, location and access endorsements, and any other endorsements required by T2
Flood Insurance:	The survey is to contain certification that the subject property is not located within a designated flood hazard area. If the subject property is located within a flood hazard area and T2 elects to go forward with the loan, acceptable flood insurance must be issued at closing.

T2 CAPITAL MANAGEMENT™

Taxes:	Property taxes applicable to the subject property must be paid current throughout the time that T2's loan remains outstanding. Such taxes are expected to be paid out of the property tax escrow
Insurance:	The subject property and any applicable construction work must be adequately insured as approved by T2 throughout the time that T2's loan remains outstanding. Property insurance is expected to be paid out of the insurance escrow.
Appraisal:	Lender will order a FIRREA compliant appraisal. The loan will be subject to LTV covenant not to exceed 50%.
Leverage:	Beyond Lenders proposed loan, no leverage is permitted to encumber any portion of Lenders collateral.
Reporting:	Borrower is to provide a Rent Roll of the subject property as well as its financials (i.e. P&L, Balance Sheet, etc.) to T2 on a quarterly basis by no later than 30 days from the calendar quarter-end (i.e. March 31 reports are to be provided to T2 by no later than April 30).
Financial Covenants:	Borrower is to maintain: <ul style="list-style-type: none">• A Debt Yield of at least 9.0%• A DSCR of at least 1.30x (NOI/T2's prevailing debt service on annualized basis)
Special Condition:	Dearborn Capital Partner and The City of Pontiac will be co-borrowers
Loan syndication:	Lender reserves the right to syndicate and/or sell part of the proposed Loan. While the Loan is not subject to such syndication or Loan sale, Borrower agrees to cooperate with Lender as it relates to any efforts toward that end
Earnest Deposit:	Upon acceptance of this LOI, Borrower is to pay T2 a \$50,000 earnest deposit ("EMD"). The EMD is to be wired to T2 (wiring instructions on the following page) and will be credited against the up-front points at closing. If closing does not materialize, \$10,000 will be retained by T2, with the balance refunded to Borrower, less any costs incurred by T2 in its conducting due diligence (i.e. legal, 3 rd party reports, travel, etc.)
Expenses:	All expenses incurred by T2 to affect this transaction shall be borne by Borrower. These costs may be covered via loan proceeds and include but not limited to legal fees, title fees, 3 rd party reports, travel, etc.
Broker:	T2 and Borrower acknowledge that no broker was involved in effectuating this proposed transaction.
Closing date:	Assuming completion of due diligence, T2 will seek to be able to close the loan by no later than January 4, 2021.

T2

CAPITAL
MANAGEMENT™

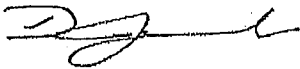
Post-closing:

Upon consummating the proposed acquisition as outlined in this LOI, Borrower grants T2 the right to reference the transaction in its marketing materials (i.e. brochures, website, etc.). The reference may include photos of the subject property and/or written materials such as summaries of the transaction, testimonials, etc.

Please remit the \$50,000 EMD and sign and return this LOI to me on or before **Tuesday, November 24, 2020.**

Sincerely,

Acknowledged and Agreed on behalf of Borrower and Guarantor(s):



Dennis Jacobs
Chief Credit Officer

Printed name: _____

Signature: _____

Date: _____

Cc: Jeff Brown | T2 CEO / Co-CIO
John Felker | T2 Co-CIO

Wiring instructions

CIBC Bank USA
120 S. LaSalle Street
Chicago, IL 60603

Routing #: 071006486
Account #: 2690837

Account name:
T2 Strategic Real Estate Income Fund, LLC



Dearborn Capital
Commercial Real Estate

November 20, 2020

Members of Council,

We are hopeful for your acceptance and approval of the Purchase and Sale Agreement at your November 21, 2020 meeting. It is important that our partnership move forward on Saturday as the time limits imposed by the Global Settlement Agreement are fast approaching. While we have worked to achieve several important pre-conditions, in order to meet the deadlines imposed in your approved settlement we do need a signed agreement to quickly move forward.

Several concepts and questions have come to us over the course of your present consideration and we want to assure council of certain aspects of our proposal. We are committed to working with the City in planning a dynamic vision for the Phoenix Center, one that will benefit the entire community. As part of the language in the Agreement that speaks to our Public Private Partnership, please know we are committed to the following:

- Exploring the feasibility of incorporating the library or a community themed resource center into the complex
- Enhancing the reach of educational and training resources to the community
- Collaborating in the development of other City owned assets like the Perdue School
- Assuring that the long-term parking commitments are tied to timely and quality development of the Center
- Adopting language that allows the City to compel progress if aspects of the redevelopment stall.

Upon execution of the agreement between us, we are ready too immediately work with the City, its staff and council, to finalize all the additional documents for this exciting partnership. As final assurance, we want the City to know that our company has a commitment to social justice and community empowerment. Dearborn Capital as an Exclusive Correspondent of T2 Capital Management has access to T2's dynamic Social Impact Fund, which focuses on providing workforce housing on a national basis. The fund, which was launched at the beginning of 2020 is currently completing two redevelopment workforce housing projects in Florida. We intend to deploy that same creativity and commitment in Pontiac. The T2 team is available to meet, in person, as the situation allows, or via Zoom at your convenience.

Further, as this moves forward our team will coordinate resources so that residents and businesses in Pontiac have an open opportunity to be involved in this project.

We look forward to working with you to move quickly to the next important step of this partnership.

Sincerely

Brian Wloch

**AGREEMENT OF SALE AND PURCHASE
OTTAWA TOWERS AND OTHER PROPERTY, PONTIAC, MICHIGAN**

THIS AGREEMENT OF SALE AND PURCHASE (the "Agreement") is made and entered into by and between the parties listed below as "Seller" and "Purchaser", effective as of the date Seller executes this Agreement (the "Effective Date").

1. BASIC TERMS. The following shall constitute the Basic Terms of this Agreement;

Seller

CITY OF PONTIAC

47450 Woodward Ave
Pontiac, MI 48342
Attn: Deirdre Waterman
Phone: (248) 758-3000

Copy To: John C. Clark, Esq.
101 W Big Beaver Rd.
Troy, MI 48084
Phone: (248) 457-7000
Email: jclark@gmhlaw.com

Purchaser

DEARBORN CAPITAL PARTNERS, LLC,

980 N Michigan Ave Suite 1620
Chicago, IL 60611
Phone: 312.882.4300
Email: brien.wloch@dearcapcre.com
Attn: Brien Wloch

Copy To: William Freeman
33 Bloomfield Hills Pkwy, Ste 100
Bloomfield Hills, MI 48304
Phone: 248-724-3706
Email: wfreeman@lfglawfirm.com

Property/Project: That certain office buildings known as Ottawa Towers, consisting of;

51111 Woodward Avenue, Pontiac, Oakland County, Michigan 48342
One (1) eight-story office building of approximately 225,303 square feet in the aggregate, approximately 147,303 of which is leased by the State of Michigan under four separate leases (the "State Lease"), and situated on Parcel ID 14-32-226-020, as more particularly described on **Exhibit A-1** attached hereto, including the so-called "Grassy Lot", also described on Exhibit A-1. This property is commonly known and herein referred to as "Ottawa Tower I".

31 East Judson Street, Pontiac, Oakland County, Michigan 48342
One (1) eight-story office building of approximately 207,084 square feet in the aggregate situated on Parcel ID 14-32-227-002, as more particularly described on **Exhibit A-2** attached hereto. This property is commonly known and herein referred to as "Ottawa Tower II",

In addition to the following properties as described on Exhibit A-3, representing PINs 14-32-226-021, 14-29-484-003, 14-29-484-010, 14-32-231-009, 14-32-227-003 and the triangle parcel across Jackson Street from 140 S. Saginaw.

Collectively, the property ("Property")

Purchase Price: \$7,400,000.00, which shall be paid by and from Purchaser:

Accelerated Closing. Due to the requirement that the Global Settlement Agreement between the City of Pontiac and Charles Stephens must close, on or before January 4, 2021, with only two (2) fifteen (15) day extensions available to the City in the event of a necessary delay, Purchaser has agreed to the following:

- a. Purchaser's earnest money deposit of \$100,000, defined below, shall be applied to the purchase price at closing.
- b. Purchaser shall pay an additional \$300,000 in cash at Closing;
- c. The Seller shall continue to own the Property as security.
- d. The parties will enter a Land Contract providing for the payment from Purchaser to Seller of \$7,000,000 within 12 months of the date of closing, with interest at the rate of 3% accruing on the amount not financed pursuant to paragraph (c) below, and subject to any costs or charges in this Agreement
- e. The Land Contract may be paid off at any time without penalty.
- f. Purchaser shall have an equity interest in the property pursuant to the Land Contract and as such may use and occupy the Property during the term of the Land Contract, holding Seller harmless from any liability or action arising out of the possession and use of the property. All work, improvement or investment, if any, shall be completed at Purchasers sole risk.
- g. TO ASSURE THE CASH NECESSARY TO CLOSE THE GLOBAL SETTLEMENT AGREEMENT the City will retain a fee simple interest in the Property as security for Purchasers obligations under the Land Contract and the parties shall commit and agree to the following;
 - i. Seller and Purchaser shall act as co-borrowers and obtain a loan from Purchasers directly related equity fund, known as T2 Capital Management, secured by a mortgage on the Property in the amount of \$6,300,000.
 - ii. The parties will document the loan as follows:
 - a) The City of Pontiac will join the mortgage, pledging the Property as collateral, and acting as a guarantor under its terms;
 - b) Brien Wloch and Robert Waun (each a "Guarantor, and collectively, the "Guarantors") shall execute individual personal guarantees in favor of lender and upon such terms as agreed by lender, and providing to lender evidence of net worth or other personal capital sufficient to guarantee the loan amount..
 - iii. The proceeds of the loan shall be allocated such that \$6,200,000 is dedicated to closing capital and \$100,000 for all lender fees or other costs of securing the loan from lender
 - iv. Except in an instance of default under the terms of the loan, Purchaser assumes responsibility for all payments or liabilities arising from the loan, and Purchaser shall pay the debt service on said loan.

Earnest Money: \$100,000.00, to be delivered to the Title Company (defined below) on or before five (5) business days after the Effective Date (defined below). Such deposit is referred to as the "Earnest Money". The Earnest Money is to be placed in an interest-bearing

account, the interest being the property of the party entitled to the Earnest Money as herein provided, and which shall be applied to the Purchase Price at Closing.

ATA National Title Group (Seaver Title Agency)
c/o John Cook
42651 Woodward Avenue
Bloomfield Hills, Michigan 48304

2. **CLOSING.** Closing shall occur on or before January 4, 2021 at a place and time mutually agreed upon by the parties, provided, however, that Purchaser may extend the Closing until February 4, 2021 by exercising two separate fifteen (15) day extensions, as outlined in the Global Settlement Agreement, by payment of additional Earnest Money in the amount of \$25,000 for each extension, which shall also be applied to the Purchase Price at Closing. The procedure to be followed by the parties in connection with the Closing shall be as follows:
- a. At the Closing the Seller shall cause to be delivered to the Title Company (sometimes herein referred to as the "Escrow Agent") or to Purchaser, as applicable, the items specified herein and the following documents and instruments duly executed and acknowledged, in recordable form and in form acceptable to Purchaser:
 - i. A warranty deed (the "Deed") dated as of the Closing Date, conveying Ottawa Tower I, in the form attached hereto as Exhibit "B", to be held in escrow pending payment of the Land Contract;
 - ii. A warranty deed (the "Deed") dated as of the Closing Date, conveying Ottawa Tower II, in the form attached hereto as Exhibit "B", to be held in escrow pending payment of the Land Contract;
 - iii. An Assignment of Leases (including the Ground Leases) and Contracts and Bill of Sale, in the form attached hereto as Exhibit "C" (the "Lease Assignment");
 - iv. Possession of the Property, subject only to the Permitted Exceptions (defined below);
 - v. Seller shall submit to each Tenant under the Leases a Tenant Estoppel (herein so called) in the form required by Purchaser's lender and shall thereafter use commercially reasonable efforts to obtain an executed Tenant Estoppel from each such Tenant. Seller agrees to circulate with the Tenant Estoppels any SNDA form required by Purchaser's lender;
 - vi. A certificate in such form as may be required by the Internal Revenue Service pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended, or the regulations issued pursuant thereto, certifying as to the nonforeign status of a transferor, in the form required by the Internal Revenue Service ("IRS"); and
 - vii. Warranty deeds to the properties described in Exhibit A-3, in the form attached as Exhibit D;
 - viii. A form of Land Contract acceptable to the parties, in addition to a Deed Escrow Agreement;
 - ix. Such other documents as may be required by the Title Company or either party.
 - b. At the Closing, in order to assure the Sellers closing of the Global Settlement Agreement, Purchaser shall deliver to the Seller funds, payable to the Seller, in an amount not less than \$6,600,000 representing that portion of the Settlement amount required by Seller to satisfy the Global Settlement Agreement as of January 4, 2021, or as extended,, plus or minus the prorations described below and applying a credit equal to the Earnest Money, and the loan amounts set forth above.. Purchaser shall also execute and deliver a Lease Assignment acknowledging that Purchaser has assumed all obligations of Seller and all rights thereto have transferred to Purchaser, holding Seller harmless from all obligations or liability attributed to such Lease Agreement(s) arising from and after the date of closing.
 - c. Upon the completion of the deliveries specified above, the Escrow Agent shall be authorized to cause the appropriate closing documents to be immediately recorded in the appropriate records of

the county in which the Property is located, and shall deliver the balance of the proceeds from the sale to Seller, after deducting all expenses thereof or such other items as may be specified herein. As soon as reasonably possible after Closing, the Title Company shall cause an Owner's Title Policy to be issued, with the basic premium to be paid by Seller, and the premiums for extended coverage or endorsements required by Purchaser or its lender shall be paid by Purchaser. Seller and Purchaser shall also execute and deliver all documents reasonably required by the Title Company to consummate the transaction contemplated by this Agreement.

3. **EVIDENCE OF TITLE / DILIGENCE.** Upon execution of this Agreement, Purchaser and/or Seller, as the case may be, shall perform the following within the time stated, each of which shall be a condition precedent to Closing:
- a. As evidence of title, within ten (10) days after the Effective Date, Seller, at Seller's sole cost and expense, shall obtain a Commitment for Title Insurance or a Commitment to Insure, in either case with the standard exceptions deleted (the "Commitment") dated not earlier than the date of this Agreement, issued by the Title Company, showing Seller's title to the Property to be good and marketable, together with true, correct and legible copies of all items and documents referred to therein. At closing, Seller shall deliver the title in its existing condition and Purchaser shall, by acceptance of such title, waive any objections to such title except as to warranties contained in the documents of conveyance.
 - b. Purchaser acknowledges receipt of an additional and previously issued commitment for an A.L.T.A. fee owners policy of Title Insurance. This additional commitment is presented as a courtesy to Purchaser and Seller makes no representation as to its accuracy, and no policy shall be purchased based upon the provided commitment.
 - c. Purchaser acknowledges and agrees that all environmental assessments and other third party reports, materials, data and other information prepared by others for Seller or for any other person, and delivered by Seller to Purchaser or otherwise made available to Purchaser for inspection in connection with this transaction, are provided to Purchaser as a courtesy and convenience only and Seller expressly disclaims all representations and warranties of every kind concerning such third party reports. Any reliance on or use of such materials, data or information by Purchaser or any other person shall be at the sole risk of Purchaser or such other person, and further, Purchaser acknowledges and agrees that such reliance may be expressly prohibited by the preparer thereof.
 - d. Within five (5) days after the Effective Date, Seller will deliver, or make available, to Purchaser all non-proprietary documents pertaining to the Property in Seller's possession, including without limitation the following:
 - i. Copies of all leases pertaining to the Property;
 - ii. Certified Rent Rolls for all of the Property that is leased;
 - iii. Operating statements for all Property for 2017, 2018, 2019 and trailing 12 months;
 - iv. Breakdown of Dropbox spreadsheet showing expenses of \$623,700;
 - v. All Service Contracts;
 - vi. All prior title commitments or policies for the Property;
 - vii. All surveys of the Property;
 - viii. All Engineering and Environmental reports for the Property;
 - ix. All Stacking plans for the Property;
 - x. 12 months of all utility bills for the Property;
 - xi. All property tax bills for the Property since and including 2019;
 - xii. All Security Deposit records for the Property;
 - xiii. A site plan which includes all Property for potential future development;
 - xiv. The Phoenix Center Engineering Study

- e. Purchaser shall have the right to perform any and all inspections or studies of the Property which Purchaser may desire, up to the date of Closing, including but not limited to a physical and mechanical inspection of the Property, a feasibility study of the Property, interviews with tenants of the Property and an inspection of all books and records and financial information pertaining thereto (the "Inspection Period"). A representative of Seller shall be entitled to be present during all such inspections. Purchaser shall be responsible for any and all losses, damages, charges and other costs associated with such inspections and studies, and Purchaser covenants and agrees to repair any damage to the Property caused by such inspections and studies. Purchaser agrees not to allow any liens to arise against the Property as a result of such inspections and studies and agrees to indemnify and hold Seller harmless from and against any and all claims, charges, actions, costs, suits, damages, injuries, or other liabilities which arise, either directly or indirectly, from Purchaser's or its agent's or employee's entry onto the Property prior to Closing, unless said liabilities are the result of the negligence or misdeeds of Seller. This indemnity shall survive Closing or a termination of this Agreement by Purchaser.

4. "AS-IS" SALE"; SELLER REPRESENTATION

- a. **EXCEPT AS EXPRESSLY PROVIDED HEREIN, PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES (OTHER THAN THE SPECIAL WARRANTY OF TITLE AS SET OUT IN THE DEED) PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION, (1) THE WATER, SOIL AND GEOLOGY; (2) THE INCOME TO BE DERIVED FROM THE PROPERTY; (3) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER MAY CONDUCT THEREON; (4) THE COMPLIANCE OF OR BY THE PROPERTY OF ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (5) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; OR (6) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY. PURCHASER ACKNOWLEDGES SELLER HAS NOT MADE DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USES LAWS, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE PROPERTY OF HAZARDOUS MATERIALS. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY DURING THE REVIEW PERIOD, PURCHASER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER AND AT CLOSING AGREES TO ACCEPT THE PROPERTY AND WAIVES ALL OBJECTIONS AGAINST SELLER ARISING FROM OR RELATED TO THE PROPERTY OR TO ANY HAZARDOUS MATERIALS ON THE PROPERTY. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS" CONDITION AND BASIS WITH ALL FAULTS. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE HAS BEEN NEGOTIATED BASED ON THE FACT THAT THE PROPERTY IS SOLD BY SELLER AND PURCHASED BY PURCHASER SUBJECT TO THE FOREGOING. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE CLOSING IN PERPETUITY.**

b. Seller makes the following representations as of the Effective Date and as of the Closing Date:

- i. To the best of Seller's knowledge, Seller has received no notice advising Seller of its violation of a law, governmental ordinance, order or regulation relating to the Property. Seller agrees to provide Purchaser with copies of any such notices it receives following the date hereof.
- ii. After the date hereof, Seller agrees to operate the Project in the ordinary course of business, and perform all of its obligations under the leases, Ground Leases and service contracts, including maintenance until Closing. Seller shall not enter into any new leases or agreements affecting the Property without the prior written consent of Purchaser, not to be unreasonably withheld, delayed or conditioned. Seller shall promptly provide to Purchaser copies of any leases or agreements executed prior to the expiration of the Review Period. Seller shall provide Purchaser with monthly rent rolls and tenant reports generated after the Effective Date, as well as copies of all notices received from or sent to tenants and Ground Lease Landlords.
- iii. Seller has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by Seller at the Closing will be, authorized and properly executed and constitutes, or will constitute, as appropriate, the valid and binding obligation of each Seller, enforceable in accordance with their terms.
- iv. Purchaser acknowledges receipt of the Global Settlement Agreement between the City of Pontiac and the present owners of Ottawa Towers. Other than the Global Settlement Agreement, there is no other agreement to which a Seller is a party or to Sellers' knowledge binding on Seller which is in conflict with this Agreement. Seller agrees to obtain all due diligence items required by Purchaser above as part of the Global Settlement Agreement or such other means as are necessary. There is no action or proceeding pending or, to Sellers' knowledge, threatened against Seller or the Property, including condemnation proceedings, which challenges or impairs either Seller's ability to execute or perform its obligations under this Agreement.
- v. The Rent Roll, leases, operating statements and the service contracts provided to Purchaser are true, complete and accurate and do not omit any material matter.
- vi. All of Seller's representations contained above shall survive the execution and delivery of the Deed and shall survive the Closing hereof for a period of six (6) months.

5. PRORATIONS AND ADJUSTMENTS

- a. It is intended that the closing of this Agreement shall occur currently with the closing of the Global Settlement, as such, there may be no proration as contemplated in this paragraph 5.a. as these amounts would be properly accounted and prorated in the closing of the Global settlement. If, however, such closing is not concurrent, or there remain additional amounts as outlined in this paragraph 5.a., the parties agree as follows: Collected rents (including CAM payments), operating expenses, ad valorem taxes on the Property and personal property taxes for the tax year in which the Closing occurs, and utility charges shall be prorated at the Closing, effective as of the Closing Date with Purchaser receiving the rents and paying the expenses for the date of Closing. Delinquent rents collected by Purchaser or Seller after Closing shall be first delivered to Purchaser and applied to any amounts due Purchaser by any such tenant, and next delivered to Seller. If current ad valorem tax assessments are unavailable at Closing, said ad valorem taxes shall be adjusted based on tax assessments for the immediately preceding tax year, with said tax proration to be adjusted in cash between the parties, based on actual taxes for the current year, at the time such actual taxes are determined; provided, however, all special tax assessments made by any taxing authority with respect to the Property shall be the sole responsibility of Seller and shall be paid by Seller at Closing. Purchaser shall receive a credit for tenant security deposits that are not yet forfeited or due to be refunded to tenants of the Property. Seller and Purchaser shall consult

and cooperate with each other concerning the billing and collection of operating expenses for calendar year of Closing from the tenants. When collected, such operating expenses shall be prorated as of the Closing Date and the prorated portion paid to the other party by the party receiving such payments. Insurance costs shall not be prorated.

- b. To the best of Sellers knowledge, disclaiming all representation thereto, there are no Tenant and/or related landlord improvement expenses, lease commissions, tenant allowances and other out-of-pocket costs related to tenant improvements.
- c. Seller is an exempt organization under Michigan law for purposes of transfer tax and other closing cost, as such all deed and transfer taxes and any deed recording fees are exempt. All escrow costs shall be shared equally. All other closing costs shall be allocated in accordance with local practices in Oakland County, Michigan.
- d. Purchaser agrees to indemnify and hold Seller harmless from any and all liabilities, claims, demands, suits, and judgments, of any kind or nature, including court costs and reasonable attorney fees (except those items which under the terms of this Agreement specifically become the obligation of Seller), brought by third parties and based on events occurring after the Closing and which are in any way related to the Property. Seller agrees to indemnify and hold Purchaser harmless from any and all liabilities, claims, demands, suits, and judgments, of any kind or nature, including court costs and reasonable attorney fees, brought by third parties and based on events occurring before the Closing and which are in any way related to the Property

6. **PUBLIC PRIVATE PARTNERSHIP.** At Closing, Seller and Purchaser shall enter into a Public-Private Partnership (PPP) Agreement for the Phoenix Center. The parties intend that the PPP will provide Purchaser exclusive use of the parking structure to support the commercial demands of the Property, but also allow for shared parking for the Property and for the Phoenix Plaza/Amphitheater when restored and opened or use by Seller. Purchaser's grant of perpetual access to and use all of the parking areas in the Phoenix Center is in exchange for Purchaser's agreement to repair, maintain and operate said parking areas. The terms of the Public Private Partnership that grant access and control of the parking areas shall be contained in a Master Ground Lease from Seller of said parking areas for an initial term of twelve (12) months, or as shortened by the early payoff and satisfaction of the Land Contract by Purchaser. Upon satisfaction of the Land Contract, the Master Ground Lease shall be concurrently extended for a 50-year term, with five (5) ten year options to extend said lease, all at a rental rate of \$1.00 per year. Seller shall have exclusive control of the roof and plaza of the Phoenix Center and shall at its own expense maintain, repair and exercise control over the Phoenix Center roof, plaza and its access elements. Seller shall assign all property and development rights in any manner related to the Property and Phoenix Center including, without limitation, the two developable building pads on the roof of the Phoenix Center. Seller shall support research and application for certain available local, state and federal incentives to support the redevelopment of the Phoenix Center and the Property, including all adjacent parcels and building sites. Examples of potential incentives for the property may include, without limitation, an application for a 12 year OPRA Agreement, a Brownfield TIF Redevelopment Agreement, and/or such grant funds as may be available to create a park-like setting with the amphitheater. It is the parties intent to mutually agree upon the design and planning standards for the Phoenix Center, with elements that may be in a form set forth in "The CNU Plan of 2017", or the "Moving Pontiac Forward Plan". Any final development plan for the property shall include input from the City, its Council and officials.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS PURCHASE AGREEMENT, THE COMMITMENT(S) TO BE PROVIDED TO PURCHASER UNDER THIS AGREEMENT OR THE ITEMS OF RECORD DISCLOSED IN THE COMMITMENT(S), PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER, FOLLOWING ITS ACQUISITION OF TITLE TO THE OTTAWA TOWER I, THE GRASSY LOT AND OTTAWA TOWER II (THE "PROPERTY") AND PRIOR TO THE CONVEYANCE OF THE PROPERTY TO PURCHASER HEREUNDER, THAT THE SELLER SHALL EXTINGUISH, TERMINATE, CANCEL AND/OR DISCHARGE ANY AND ALL DOCUMENTS, EASEMENTS AND LICENSES WHICH PERMIT OR AUTHORIZE THE USE OF THE PHOENIX CENTER PARKING GARAGE FOR PARKING PURPOSES OR ANY OTHER PURPOSE. PURCHASER ACKNOWLEDGES AND AGREES THAT IT IS PURCHASING THE PROPERTY WITHOUT ANY

**EASEMENT OR LICENSE TO UTILIZE THE PHOENIX CENTER FOR ANY PURPOSE WHATSOEVER
OTHER THAN AS EXPRESSLY SET FORTH IN THIS PURCHASE AGREEMENT**

- a. The Seller and Purchaser shall commence final drafting of the Master Ground Lease and Public Private Partnership Agreement within five (5) days of the date hereof, and in that process include representative input from members of the City Administration and Council.
 - b. The Letter from Dearborn Capital, dated and signed on November 20, 2020, is incorporated herein by reference.
7. **COMMISSIONS** The parties acknowledge and shall be responsible for the payment of a real estate commission arising out of this transaction in the amount of \$296,000.00 payable to Dirt Realty, LLC, as set forth above. The commission represents 4% of the purchase price which is assigned as follows: Seller shall pay 2.9% and Purchaser shall pay 1.1% of the 4% total commission upon satisfaction of the Land Contract. Purchaser and Seller do hereby represent and warrant that, other than the commission claim of Dirt Realty, LLC, it its officers, employees and agents, they have not contracted for any such real estate commissions, nor have they, without knowledge of the other party, contacted real estate agents or brokers, nor have they, without the other party's knowledge, acted in a manner so as to give rise to a claim for such real estate commissions or similar fees. Purchaser and Seller do hereby agree to indemnify the other party against and hold the other party harmless from any and all such real estate commissions, claims for such commissions or similar fees, including attorneys' fees incurred in any lawsuit regarding such commissions or fees claimed by persons by or through Seller or Purchaser, as the case may be. The provisions of this paragraph shall survive Closing.
8. **RISK OF LOSS** Risk of loss until the Closing shall be borne by Seller. In the event that damage, loss or destruction of the Property or any part thereof, by fire or other casualty, including an environmental casualty, or through condemnation or sale in lieu thereof, occurs prior to the actual closing of the transactions contemplated hereby, the extent of such damage or taking involving more than \$1,000,000, the Purchaser shall, at its option, elect one of the following:
 - a. To terminate this Agreement and receive an immediate refund of all Earnest Money previously deposited.
 - b. To close the transactions contemplated hereby and take an assignment of and receive in cash all insurance or condemnation proceeds payable as a result of such casualty loss or condemnation, and receive a credit in the amount of any deductible applicable to such insurance coverage, or, if such proceeds are not made available by the holder or holders of any indebtedness secured by liens against the Property, to receive a credit against the Purchase Price (applied first against the cash portion thereof due at Closing) in the amount of such casualty loss or condemnation proceeds together with any deductible amount applicable thereto.
9. **TERMINATION AND DEFAULT**
 - a. Purchaser acknowledges that the failure of Purchaser to complete the closing hereunder shall cause significant and irreparable damage to the Seller. As such, if Seller is not then in default in its obligations or agreements and Purchaser fails to close the transaction contemplated hereby, Seller shall be entitled to receive the Earnest Money or Seller may seek specific performance of this agreement.
 - b. In the event that any of the Seller's representations or warranties contained herein are untrue or if Seller shall have failed to have performed any of the covenants and/or agreements contained herein which are to be performed by Seller, or if any of the conditions precedent to Purchaser's obligation to consummate the transactions contemplated hereby shall have failed to occur, Purchaser may, at its option, terminate this Agreement by giving written notice of termination to Seller and receive a full and immediate refund of any and all Earnest Money previously deposited as its remedy or Purchaser may seek specific performance of this agreement.

10. **NOTICES** Any notice, request, demand, instruction or other communication to be given to either party hereunder, except those required to be delivered at Closing, shall be in writing, and shall be deemed to be given upon receipt, if hand delivered or delivered by express delivery service, or two (2) days after deposit of such notice in registered or certified mail, return receipt requested (provided that any notice of termination shall be effective immediately upon deposit in registered or certified mail, return receipt requested), addressed to the parties at the address provided in Article 1.

11. **MISCELLANEOUS**

- a. **Entire Agreement.** THIS AGREEMENT AND THE EXHIBITS ATTACHED HERETO CONTAIN THE ENTIRE AGREEMENT BETWEEN THE PARTIES, AND NO PROMISE, REPRESENTATION, WARRANTY OR COVENANT NOT INCLUDED IN THIS AGREEMENT OR ANY SUCH REFERENCED AGREEMENTS HAS BEEN OR IS RELIED UPON BY EITHER PARTY.
- b. **No Oral Modification.** NO MODIFICATION OR AMENDMENT OF THIS AGREEMENT SHALL BE OF ANY FORCE OR EFFECT UNLESS MADE IN WRITING AND EXECUTED BY BOTH PURCHASER AND SELLER.
- c. **Choice of Law and Venue.** In the event that any litigation arises hereunder, it is specifically stipulated that this Agreement shall be interpreted and construed according to the laws of the State of Michigan, and shall be performable in Oakland County, Michigan.
- d. **Attorneys' Fees.** The prevailing party in any litigation between the parties arising under this Agreement shall be entitled to recover reasonable attorney's fees.
- e. **Counterparts.** This Agreement may be executed in any number of counterparts which together shall constitute the agreement of the parties. The article headings herein contained are for purposes of identification only and shall not be considered in construing this Agreement.
- f. **Assignment.** This Agreement, and the rights and obligations hereunder, may not be assigned by Purchaser without the written consent of the Seller, which consent shall not unreasonably be withheld, and further provided that Purchaser may assign to any entity a majority of which is owned by Purchaser.
- g. **Date of Agreement.** All references in this Agreement to "the date hereof," "Effective Date", or similar references shall be deemed to refer to the date the Escrow Agent provides the parties with a written receipt of a fully executed counterpart of this Agreement.
- h. **Parties Bound.** This Agreement and the terms and provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, personal representatives, successors and assigns whenever the context so requires or admits.
- i. **Enforceability.** If any provisions of this Agreement are held to be illegal, invalid or unenforceable under present or future laws, such provisions shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement, provided that both parties hereto may still effectively realize the complete benefit of the transaction contemplated hereby.
- j. **Confidentiality.** This Agreement and all of the terms and provisions hereof are confidential. Purchaser and Seller agree to keep confidential (and shall use their best efforts to cause their agents, employees and brokers to keep confidential) all discussions of this Agreement, the proposed acquisition, all documents and materials delivered pursuant to this Agreement, except for necessary disclosure to partners, employees, accountants, attorneys, brokers, potential investors, lenders and consultants of the parties hereto. No public announcements concerning this Agreement or the transaction contemplated herein shall be made by either party without the mutual consent of the parties. SPECIFICALLY, SELLER SHALL KEEP THE PURCHASE PRICE AND THE TERMS OF THIS AGREEMENT STRICTLY CONFIDENTIAL.

[SIGNATURE PAGE FOLLOWS]

SELLER:

CITY OF PONTIAC

By: Deirdre Waterman

Date:

PURCHASER:

DEARBORN CAPITAL PARTNERS, LLC, on behalf on
an entity to be formed.

By: Brien Wloch



Date: November 29, 2020

ACCEPTANCE BY TITLE COMPANY

The undersigned title company, ATA National Title Group (Seaver Title Agency) referred to in the foregoing Contract as the "Title Company", hereby acknowledges receipt of a fully executed copy (or executed counterparts) of the foregoing Contract and accepts the obligations of the Title Company as set forth in such Contract.

By: _____

Its:

Date:

EXHIBIT A-1

LEGAL DESCRIPTION OF SUBJECT PREMISES

"Ottawa Tower I" or "Woodward Parcel", being Tax Parcel 14-32-226-020:

All or parts of the following Lots and parcels in the City of Pontiac, Oakland County, Michigan: Lot numbers 5, 6, 7, 8, 10 and 11, ASSESSOR'S PLAT NO. 65, as recorded in Liber 1A on Page 65 of Plats, Oakland County Records and Lot numbers 31 through 39, inclusive, ASSESSOR'S PLAT NO. 114, as recorded in Liber 53 on Page 9 of Plats, Oakland County Records, and part of Lot 7 of SUBDIVISION OF OUTLOTS 18, 22 AND 23 in the Southeast 1/4 of Section 29, Town 3 North, Range 10 East, City of Pontiac, Oakland County, Michigan, as recorded in Liber 1 on Page 3 of Plats, Oakland County Records, (shown as Detroit Grand Haven & Milwaukee Railroad, excepted from Assessors Plat No. 114), also vacated Dawson Alley, all the aforementioned being more particularly described as follows: Beginning at a point located Northerly 79.00 feet along the Easterly Right of Way line of Saginaw Street and South 75 degrees 25 minutes 42 seconds West 249.58 feet along the Northerly Right of Way line of proposed Judson Street from the Northwest corner of Lot 16 of Assessor's Plat No. 130, as recorded in Liber 54A of Plats on Page 71, Oakland County Records; thence South 75 degrees 25 minutes 42 seconds West 108.89 feet, along the Northerly Right of Way line of proposed Judson Street; thence North 31 degrees 27 minutes 19 seconds West 451.91 feet along the Easterly Right of Way line of West Wide Track to a point on the South Right of Way line of revised Orchard Lake Avenue; thence along the said Orchard Lake Right of Way line North 88 degrees 47 minutes 56 seconds East 25.00 feet and North 75 degrees 47 minutes 56 seconds East 173.34 feet to the beginning of a curve, along the arc of said curve to the right 51.05 feet (Delta = 13 degrees 00 minutes 00 seconds, Radius = 225.00 feet, Chord bearing and distance North 82 degrees 17 minutes 56 seconds East 50.94 feet) and North 88 degrees 47 minutes 56 seconds East, 48.06 feet; thence South 14 degrees 32 minutes 05 seconds East, 66.56 feet; thence South 75 degrees 27 minutes 55 seconds West, 54.58 feet; thence South 14 degrees 32 minutes 05 seconds East, 341.81 feet to the point of beginning, known as Parcel 'F'. This description being parts of Urban Renewal Project Area R-44 and Urban Renewal Project Area R-20. ALSO described as: Assessors Plat No. 65, Sections 29 and 32, Town 3 North, Range 10 East, City of Pontiac, Oakland County, Michigan, Part of Lots 5 through 8 inclusive, Part of Lots 10 and 11, ALSO Part of vacated Dawson Alley, ALSO part of Lots 31 through 39, inclusive, of ASSESSORS PLAT NO. 114, ALSO Part of Lot 7 of Subdivision of Outlots 18, 22 and 23 in Southeast 1/4 of Section 29, ALSO Part of Northeast 1/4 of Section 32 adjacent to Lot 5 of Assessor's Plat No. 65, all described as: Beginning at point distant North 14 degrees 22 minutes 45 seconds West 79.00 feet and South 75 degrees 25 minutes 42 seconds West 249.58 feet from Northwest corner of Lot 16 of Assessors Plat No. 130; thence South 75 degrees 25 minutes 42 seconds West 108.89 feet; thence North 31 degrees 27 minutes 19 seconds West 451.91 feet; thence North 88 degrees 47 minutes 56 seconds East 25.00 feet; thence North 75 degrees 47 minutes 56 seconds East 173.34 feet; thence along curve to right, Radius 225.00 feet, Chord bears North 82 degrees 17 minutes 56 seconds East 50.94 feet, Distance of 51.05 feet, thence North 88 degrees 47 minutes 56 seconds East 48.06 feet; thence South 14 degrees 32 minutes 05 seconds East 66.56 feet; thence South 75 degrees 27 minutes 55 seconds West 54.58 feet; thence South 14 degrees 32 minutes 05 seconds East 341.81 feet to beginning.

Grassy Lot" aka "Vacant Lot", being Tax Parcel 14-32-226-021:

Part of Lots 4, 8, 9, 10 and 11, including part of vacated Dawson Alley, of ASSESSOR'S PLAT NO. 65, according to the plat thereof as recorded in Liber 1 of Assessor's Plats, page 65, Oakland County Records, all described as: Commencing at the Northwest corner of Lot 16, of ASSESSORS PLAT NO. 130 A REPLAT OF ASSESSOR'S PLAT NO. 64, CRAWFORD'S ADDITION AND SUBDIVISION OF OUTLOT 6, according to the plat thereof as recorded in Liber 54A of Plats, page 71, Oakland County Records; thence Northerly along the Easterly right-of-way line of Saginaw Street 79.00 feet to a point on the Northerly right-of-way line of proposed Judson Street; thence South 75 degrees 25 minutes 42 seconds West, 96.55 feet to the Point of Beginning at the intersection of the Northerly right-of-way line of proposed Judson Street (79 feet wide) and the Westerly right-of-way line of Saginaw Street; thence continuing South 75 degrees 25 minutes 42 seconds West, 153.03 feet to a point; thence North 14 degrees 32 minutes 05 seconds West, 144.81 feet to a point; thence North 75 degrees 27 minutes 55 seconds East, 153.93 feet to a point on the Westerly right-of-way line of Saginaw Street; thence South 14 degrees 10 minutes 39 seconds East, 144.72 feet along said right-of-way line to the Point of Beginning.

EXHIBIT A-2

"Ottawa Tower II" aka "Judson Parcel", being Tax Parcel 14-32-227-002:

All or parts of Lots 1 through 8, both inclusive, 14, 15 and part of vacated Auburn Avenue, ASSESSOR'S PLAT NO. 130 A REPLAT OF ASSESSOR'S PLAT NO. 64, CRAWFORD'S ADDITION, AND SUBDIVISION OF OUTLOT NO. 6 IN THE N.E. ¼ SEC. 32, according to the plat thereof as recorded in Liber 54A of Plats, page 71, Oakland County Records, described as: 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 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 Street 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 the 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 ¼ 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.

EXHIBIT A-3

Legal Description for Additional Partial Lots

Legal Descriptions for the following Parcels shall be incorporated at closing, as reviewed and approved in the final closing documents.

14-32-226-021, 14-29-484-003, 14-29-484-010, 14-32-231-009, 14-32-227-003 and the triangle parcel across Jackson Street from 140 S. Saginaw

EXHIBIT B

To Be Completed by the Parties

EXHIBIT C

To Be Completed by the Parties

EXHIBIT D

To Be Completed by the Parties

#2

MINUTES

1-5-21

January 5, 2021 Formal

**Official Proceedings
Pontiac City Council
208th Session of the Tenth Council**

Call to order

A Formal Meeting of the City Council of Pontiac, Michigan was called to order electronically, on Tuesday January 5, 2021 at 6:00 p.m. by Council President Kermit Williams.

Invocation – Councilperson Doris Taylor-Burks

Pledge of Allegiance

Roll Call

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

Members Absent: None

Mayor Waterman was present.

Clerk announced a quorum.

Approval of the Agenda

20-593 **Motion to approve the agenda.** Moved by Councilperson Pietila and second by Councilperson Miller

Ayes: Pietila, Shramski, Taylor-Burks, Waterman, Williams, Carter, & Miller

No: None

Motion Carried

Approval of the Minutes

20-594 **Motion to approve the meeting minutes for December 29, 2020.** Moved by Councilperson Pietila and second by Councilperson Taylor-Burks.

Ayes: Taylor-Burks, Waterman, Williams, Carter, Miller, Pietila & Shramski

No: None

Motion Carried

Special Presentations

Status of Medical Marihuana applications review procedures; Attorney opinions regarding existing for Special Exemption Permit which renders unnecessary another ordinance amendment, status of Medical Marihuana line item expenditures

Presentation Presenters: Mayor Waterman and Matt Gibb, Esq, Special Counsel for Economic Development

City Clerk's Response to the Continuation of Mayor Waterman, Attorney Chubb and Attorney Matt Gibb Conflicting Opinions and Distributing Inaccurate Information about the Medical Marihuana Review Process

Presentation Presenter: Garland Doyle, Interim City Clerk

Recognition of Elected Officials – None

Agenda Address - None

Resolution

City Council

20-595 **Resolution for Michigan Department of Transportation (MDOT). Moved by Councilperson Waterman and second by Councilperson Taylor-Burks.**

WHEREAS, the City of Pontiac received a request from the Michigan Department of Transportation to perform a road diet on Perry Street (I-75 Business Loop), effectively taking the roadway from a five-lane section to a three-lane section; and,

WHEREAS, this change was created for the purpose of creating a safer environment for both motorists, bicyclists and pedestrians and only consisted of pavement markings; and,

WHEREAS, the Pontiac City Council passed a resolution authorizing the Michigan Department of Transportation (MDOT) Transportation to perform the road diet on Perry Street (I-75 Business Loop) for a six-month trial period (November 2018 to April 2019); and,

WHEREAS, Council adamantly expressed that it is in the best interest of the City to end the road diet on Perry Street (-75 Business Loop) and consequently passed a resolution on June 11, 2019 authorizing the Michigan Department of Transportation to, discontinue the road diet on Perry Street (I-75 Business Loop), remove the pavement markings and return the roadway back to a five-lane section; and,

WHEREAS, to date, Perry Street has remained unchanged; and,

WHEREAS, at the request of Council, DPW prepared an estimate of the cost for the City to perform the work of reverting Perry Street back to its original configuration; and,

WHEREAS, in a City of Pontiac Official Memorandum from Abdul Siddiqui, PE City Engineer, dated December 23, 2020 addressed to the Honorable City Council President Williams and City Council Members, Mr. Siddiqui stated that in order for the City to perform the work through its own contractor, the City will be required to apply for and obtain a permit from MDOT. Further, based on the email from MDOT's Oakland TSC Manager, it was explained that it may not be clear to the TSC Manager that the City would be paying for the project through its own funds; and,

WHEREAS, the estimate was prepared and attached to the Memorandum. The total estimated cost is \$115,000.00 which includes estimated construction cost of \$94,000.00 and preliminary engineering and construction engineering costs.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Pontiac City Council authorizes the Mayor, DPW and or the City Engineer to further discuss reverting Perry Street back to its original configuration with the Michigan Department of Transportation (MDOT) and to clearly and expressly state to MDOT that the City of Pontiac in preparing an estimate of the cost of performing the work through its own contractor, is prepared to and will commit to paying for the project using its own funds and will agree to work through the MDOT permitting process.

Ayes: Taylor-Burks, Waterman, Williams, Carter, Miller, & Shramski

No: Pietila

Resolution Passed

Planning

20-596 **Resolution to Approve Scheduling a Public Hearing for the 2021-2025 Parks & Recreation Master Plan on January 19, 2021. Moved by Councilperson Waterman and second by Councilperson Taylor-Burks.**

January 5, 2021 Formal

WHEREAS, the Pontiac City Council will hold a PUBLIC HEARING at its Regular Meeting on January 19, 2021 at Noon. This meeting will be held electronically as allowed by the amended Open Meetings Act.

WHEREAS, individuals who desire to make a public comment at the PUBLIC HEARING, please submit your name and comment(s) in writing to publiccomments@pontiac.mi.us. All public comments must be received no later than 11:30AM on January 19, 2021. The Interim City Clerk will read your comments during the PUBLIC HEARING section of the meeting and is limited to three (3) minutes.

WHEREAS, the 2021-2025 Parks & Recreation Master Plan can be viewed on the City of Pontiac Website:

<https://documentcloud.adobe.com/link/review?uri=urn:aaid:scds:US:276a9a2a-8374-4a81-9a2f-010022aadd82#pageNum=12>

WHEREAS, NOTICE IS FURTHER GIVEN that the text of the proposed 2021-2025 Parks and Recreation Master Plan may be examined at the Pontiac Public Library, 60 East Pike Street, Pontiac, Michigan 48342 and Pontiac City Hall, Building Safety Department, 47450 Woodward Avenue Pontiac, Michigan 48342 during the hours of 9:00AM and 2:00PM

NOW, THEREFORE BE IT RESOLVED, that a Public Hearing for the City of Pontiac 2021-2025 Parks & Recreation Master Plan be held on January 19, 2021 at Noon. This meeting will be held electronically as allowed by the amended Open Meetings Act.

Ayes: Pietila

No: Waterman, Williams, Carter, Miller, Shramski, & Taylor-Burks

Resolution Failed

Mayoral Monthly Reports were received.

Public Comment

One (1) individual submitted a public comment read by the City Clerk

Mayor, Clerk and Council Closing Comments

Mayor Waterman, Legislative Council Sharpe, Interim Clerk Doyle, Councilwoman Waterman, Councilwoman Shramski, Councilwoman Pietila, Councilwoman Miller, Council Pro Tem Carter & Council President Williams made closing comments.

Adjournment

President Kermit Williams adjourned the meeting at 7:08 p.m.

GARLAND S DOYLE
INTERIM CITY CLERK

#3

RESOLUTION



CITY OF PONTIAC OFFICIAL MEMORANDUM

Executive Branch

TO: Honorable City Council President Williams and City Council Members

FROM: Honorable Mayor Deirdre Waterman
Mike Wilson, Building and Safety

DATE: January 7, 2021

RE: **Mayor's Recommendation for Resolution to Waive rental inspection fee for eligible landlords who have participated in tenants receiving rental assistance Cares Act relief funds or eviction moratorium**

To provide a one-time waiver of rental inspection fees by the City of Pontiac for landlords who have been impacted by tenants unable to pay rent due to the impacts of the COVID 19 Novel Coronavirus, until March 31, 2021.

This program is for all landlords who have retained tenants who are behind in rent. Eligible landlords must meet at least one of the following conditions:

- a) have applied for and received federal CARES Act mortgage assistance through Oakland County as a result of tenants not paying rent,
- b) have not evicted renters who are behind in rent as a result of a stay of eviction order from Oakland County Circuit Court,
- c) have received federal assistance to cover a portion of rent for their tenants in the form of Housing choice vouchers, Section 8 project based rental assistance, LIHTC program or
- d) have a federally backed mortgage or multi-family mortgage loan and have not evicted tenants for non-payment of rent since April 1, 2020.

Attachment



CITY OF PONTIAC

OFFICIAL MEMORANDUM

Executive Branch

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

FROM: Honorable Mayor Deirdre Waterman

CC: Linnette Phillips, Economic Development Director
Michael J. Wilson, Building and Safety

DATE: January 7, 2021

RE: **Resolution to Approve Extension of the Cares Act Landlord Reimbursement for Tenant Non-Payment or Stay of Eviction**

To provide a one-time waiver of rental inspection fees by the City of Pontiac, for landlords who have been impacted by tenants unable to pay rent due to the impacts of the COVID 19 Novel Coronavirus. As such, the following resolution is recommended for your consideration:

WHEREAS, the City of Pontiac in the midst of the Pandemic is offering relief for Qualifying Pontiac Landlords, and;

WHEREAS, the City of Pontiac would waive one time the rental inspection fee for Qualifying Landlords, and;

WHEREAS, the Mayor is proposing along with City Council to pass along this relief gesture to qualifying landlords until March 31, 2021,

NOW THEREFORE be resolved that the City Council in solidarity with the Mayor hereby authorizes the waiver of fees for qualifying landlords until March 31, 2001.



Waive Recommendation of Rental Inspection Fees for Eligible Landlords Who Have Participated in Tenants Receiving Rental Assistance Through the Cares Act Relief Funds or Eviction Moratorium

Purpose:

To provide a one-time waiver of rental inspection fees by the City of Pontiac for landlords who have been impacted by tenants unable to pay rent due to the impacts of the COVID 19 Novel Coronavirus.

This program is for all landlords who have retained tenants who are behind in rent. Eligible landlords must meet at least one of the following conditions: a) have applied for and received federal CARES Act mortgage assistance through Oakland County as a result of tenants not paying rent, b) have not evicted renters who are behind in rent as a result of a stay of eviction order from Oakland County Circuit Court, c) have received federal assistance to cover a portion of rent for their tenants in the form of Housing choice vouchers, Section 8 project based rental assistance, LIHTC program or d) have a federally backed mortgage or multifamily mortgage loan and have not evicted tenants for non-payment of rent since April 1, 2020.

Qualifications:

Landlords who have expiring rental certificates of compliance and are otherwise in good standing, and who have already completed the required Cares Act process with Oakland county, and who may be receiving payment assistance can request to have rental inspection fees waived through March 31st. Landlords applying for the waiver of Pontiac rental inspection fees must have made application for reimbursement of non-payment by a tenant to Oakland County and/or have a stay of eviction issued by the Circuit Court.

Waiver:

If landlords meet the above criteria, they are eligible for a one-time waiver of any rental inspection or re-inspection fees for Certificates of Compliance that expire between April 1, 2020 and March 31, 2021.

CARES Act FAQ'S

What Properties Does the CARES Act Protect?

- The CARES Act's eviction protections apply to "covered dwellings," which are rental units in properties: (1) that participate in federal assistance programs, (2) are subject to a "federally backed mortgage loan," or (3) are subject to a "federally backed multifamily mortgage loan."
- Covered federal assistance programs include most rental assistance and housing grant programs, including public housing, Housing Choice Vouchers, Section 8 Project-Based Rental Assistance, rural housing programs, and the Low Income Housing Tax Credit (LIHTC) program.
- A "federally backed mortgage loan" is a single-family (1-4 units) residential mortgage owned or securitized by Fannie Mae or Freddie Mac or insured, guaranteed, or otherwise assisted by the federal government. The term includes mortgages insured by the Federal Housing Administration and the Department of Veterans Affairs, and the Department of Agriculture's direct and guaranteed loans. The act defines a "federally backed *multifamily* mortgage loan" almost identically to "federally backed mortgage loan" except that it applies to properties designed for five or more families.

Unless the CDC order is extended, changed, or ended, if a tenant meets certain conditions, the order prevents you from being evicted or removed from where you are living through January 31, 2021.

#4

RESOLUTION



CITY OF PONTIAC

OFFICIAL MEMORANDUM

Executive Branch

TO: Honorable Council President, and City Council Members

FROM: Honorable Mayor Deirdre Waterman
Abdul H Siddiqui, PE, City Engineer

DATE: January 12, 2021

RE: **MDOT Orchard Lake Rd Signal Modernization Construction Funding Agreement (Contract No. 20-5510)**

The Michigan Department of Transportation (MDOT) has prepared and delivered the attached funding agreement for construction of the Orchard Lake Rd Signal Modernization CMAQ Project. The construction for this project is mostly funded through MDOT Congestion Mitigation and Air Quality (CMAQ) funds totaling \$1,185,000. The total estimated cost of the project is \$1,220,764.60, with the City's portion of the project being \$35,764.60. This project is budgeted in fiscal year 2021/22.

The CMAQ funding from the Michigan Department of Transportation is provided based on competitive application and is specifically for providing more efficient roadway corridors. These projects go through an MDOT bid letting and are awarded, and funded by MDOT. The City will be responsible for our match on the project as stated above.

It is the recommendation of the Department of Public Works, Engineering Division that the City sign the attached MDOT funding agreement for construction of the Orchard Lake Rd Signal Modernization CMAQ Project:

WHEREAS, The City of Pontiac has received the funding agreement from the Michigan Department of Transportation, and;

WHEREAS, The Department of Public Works, Engineering Division has reviewed the subject agreement, and;

WHEREAS, The project is budgeted in the 2021/22 Major Street budget,

NOW, THEREFORE,
BE IT RESOLVED, The Pontiac City Council authorizes the Mayor to sign the MDOT funding agreement for construction of the Orchard Lake Rd Signal Modernization CMAQ Project.

AHS

attachments

STP

DA

Control Section	CPMG 63000
Job Number	208719CON
Project	21A0113
CFDA No.	20.205 (Highway Research Planning & Construction)
Contract No.	20-5510

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF PONTIAC, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the City of Pontiac, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated December 29, 2020, attached hereto and made a part hereof:

Signal modernization work at five locations along Orchard Lake Road from Home Depot Driveway/Berwick Road to Bagley Street, including signal interconnect, signal optimization, actuation, cabinet upgrades, sidewalk ramp construction work; and all together with necessary related work.

WITNESSETH:

WHEREAS, pursuant to Federal law, monies have been provided for the performance of certain improvements on public roads; and

WHEREAS, the reference "FHWA" in PART I and PART II refers to the United States Department of Transportation, Federal Highway Administration; and

WHEREAS, the PROJECT, or portions of the PROJECT, at the request of the REQUESTING PARTY, are being programmed with the FHWA, for implementation with the use of Federal Funds under the following Federal program(s) or funding:

CONGESTION MITIGATION AND AIR QUALITY FUNDS

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties hereto shall undertake and complete the PROJECT in accordance with the terms of this contract.

2. The term "PROJECT COST", as herein used, is hereby defined as the cost of the physical construction necessary for the completion of the PROJECT, including any other costs incurred by the DEPARTMENT as a result of this contract, except construction engineering and inspection.

No charges will be made by the DEPARTMENT to the PROJECT for any inspection work or construction engineering.

The costs incurred by the REQUESTING PARTY for preliminary engineering, construction engineering, construction materials testing, inspection, and right-of-way are excluded from the PROJECT COST as defined by this contract.

The Michigan Department of Environment, Great Lakes, and Energy (EGLE) has informed the DEPARTMENT that it adopted new administrative rules (R 325.10101, et. seq.) which prohibit any governmental agency from connecting and/or reconnecting lead and/or galvanized service lines to existing and/or new water main. Questions regarding these administrative rules should be directed to EGLE. The cost associated with replacement of any lead and/or galvanized service lines, including but not limited to contractor claims, will be the sole responsibility of the REQUESTING PARTY.

3. The DEPARTMENT is authorized by the REQUESTING PARTY to administer on behalf of the REQUESTING PARTY all phases of the PROJECT, including advertising and awarding the construction contract for the PROJECT or portions of the PROJECT. Such administration shall be in accordance with PART II, Section II of this contract.

Any items of the PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

4. The REQUESTING PARTY, at no cost to the PROJECT or to the DEPARTMENT, shall:

- A. Design or cause to be designed the plans for the PROJECT.
- B. Appoint a project engineer who shall be in responsible charge of the PROJECT and ensure that the plans and specifications are followed.
- C. Perform or cause to be performed the construction engineering, construction materials testing, and inspection services necessary for the completion of the PROJECT.

The REQUESTING PARTY will furnish the DEPARTMENT proposed timing sequences for trunkline signals that, if any, are being made part of the improvement. No timing

adjustments shall be made by the REQUESTING PARTY at any trunkline intersection, without prior issuances by the DEPARTMENT of Standard Traffic Signal Timing Permits.

5. The PROJECT COST shall be met in part by contributions by the Federal Government. Federal Surface Transportation Funds shall be applied to the eligible items of the PROJECT COST up to the lesser of: (1) \$1,185,000, or (2) an amount such that 100 percent, the normal Federal participation ratio for such funds, is not exceeded at the time of the award of the construction contract. The balance of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

Any items of PROJECT COST not reimbursed by Federal Funds will be the sole responsibility of the REQUESTING PARTY.

6. No working capital deposit will be required for this PROJECT.

In order to fulfill the obligations assumed by the REQUESTING PARTY under the provisions of this contract, the REQUESTING PARTY shall make prompt payments of its share of the PROJECT COST upon receipt of progress billings from the DEPARTMENT as herein provided. All payments will be made within 30 days of receipt of billings from the DEPARTMENT. Billings to the REQUESTING PARTY will be based upon the REQUESTING PARTY'S share of the actual costs incurred less Federal Funds earned as the PROJECT progresses.

7. Upon completion of construction of the PROJECT, the REQUESTING PARTY will promptly cause to be enacted and enforced such ordinances or regulations as may be necessary to prohibit parking in the roadway right-of-way throughout the limits of the PROJECT.

8. The performance of the entire PROJECT under this contract, whether Federally funded or not, will be subject to the provisions and requirements of PART II that are applicable to a Federally funded project.

In the event of any discrepancies between PART I and PART II of this contract, the provisions of PART I shall prevail.

Buy America Requirements (23 CFR 635.410) shall apply to the PROJECT and will be adhered to, as applicable, by the parties hereto.

9. The REQUESTING PARTY certifies that it is not aware if and has no reason to believe that the property on which the work is to be performed under this agreement is a facility, as defined by the Michigan Natural Resources and Environmental Protection Act [(NREPA), PA 451, 1994, as amended 2012]; MCL 324.20101(1)(s). The REQUESTING PARTY also certifies that it is not a liable party pursuant to either Part 201 or Part 213 of NREPA, MCL 324.20126 et seq. and MCL 324.21323a et seq. The REQUESTING PARTY is a local unit of government that has acquired or will acquire property for the use of either a transportation

corridor or public right-of-way and was not responsible for any activities causing a release or threat of release of any hazardous materials at or on the property. The REQUESTING PARTY is not a person who is liable for response activity costs, pursuant to MCL 324.20101 (vv) and (ww).

10. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation pursuant to either state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Department of Environmental Quality, shall immediately notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and, with the FHWA, to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall be charged for and shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT, in the event that remediation and delay costs are not deemed eligible by the FHWA. If the REQUESTING PARTY refuses to participate in the cost of remediation, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

11. If federal and/or state funds administered by the DEPARTMENT are used to pay the cost of remediating any hazardous substances discovered after the execution of this contract and if there is a reasonable likelihood of recovery, the REQUESTING PARTY, in cooperation with the Department of Environmental Quality and the DEPARTMENT, shall make a diligent effort to recover such costs from all other possible entities. If recovery is made, the DEPARTMENT shall be reimbursed from such recovery for the proportionate share of the amount paid by the FHWA and/or the DEPARTMENT and the DEPARTMENT shall credit such sums to the appropriate funding source.

12. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the Federal Highway Administration pursuant to Title 23 of the United States Code.

Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT or its agents pursuant to the terms of this contract are done to assist the REQUESTING PARTY in meeting program guidelines in order to qualify for available funds. Such approvals, reviews, inspections and recommendations by the DEPARTMENT or its agents shall not relieve the REQUESTING PARTY and the local agencies, as applicable, of their ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT or its agents is assuming any liability, control or jurisdiction.

The providing of recommendations or advice by the DEPARTMENT or its agents does not relieve the REQUESTING PARTY and the local agencies, as applicable of their exclusive jurisdiction of the highway and responsibility under MCL 691.1402 et seq., as amended.

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT or its agents is performing a governmental function, as that term is defined in MCL 691.1401 et seq., as amended, which is incidental to the completion of the PROJECT.

Upon completion of the PROJECT, the REQUESTING PARTY shall accept the facilities constructed as built to specifications within the contract documents. It is understood that the REQUESTING PARTY shall own the facilities and shall operate and maintain the facilities in accordance with applicable law.

13. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway, described as the PROJECT for purposes of MCL 691.1402 et seq., as amended. Exclusive jurisdiction of such highway for the purposes of MCL 691.1402 et seq., as amended, rests with the REQUESTING PARTY and other local agencies having respective jurisdiction.

14. The REQUESTING PARTY shall approve all of the plans and specifications to be used on the PROJECT and shall be deemed to have approved all changes to the plans and specifications when put into effect. It is agreed that ultimate responsibility and control over the PROJECT rests with the REQUESTING PARTY and local agencies, as applicable.

15. The REQUESTING PARTY agrees that the costs reported to the DEPARTMENT for this contract will represent only those items that are properly chargeable in accordance with this contract. The REQUESTING PARTY also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this contract that apply to the reporting of costs incurred under the terms of this contract.

16. Each party to this contract will remain responsible for any and all claims arising out of its own acts and/or omissions during the performance of the contract, as provided by this contract or by law. In addition, this is not intended to increase or decrease either party's liability for or immunity from tort claims. This contract is also not intended to nor will it be interpreted as giving either party a right of indemnification, either by contract or by law, for claims arising out of the performance of this contract.

17. The parties shall promptly provide comprehensive assistance and cooperation in defending and resolving any claims brought against the DEPARTMENT by the contractor, vendors or suppliers as a result of the DEPARTMENT'S award of the construction contract for the PROJECT. Costs incurred by the DEPARTMENT in defending or resolving such claims shall be considered PROJECT COSTS.

18. The DEPARTMENT shall require the contractor who is awarded the contract for the construction of the PROJECT to provide insurance in the amounts specified and in accordance with the DEPARTMENT'S current Standard Specifications for Construction and to:

- A. Maintain bodily injury and property damage insurance for the duration of the PROJECT.

- B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT and its officials, agents and employees, the REQUESTING PARTY and any other county, county road commission, or municipality in whose jurisdiction the PROJECT is located, and their employees, for the duration of the PROJECT and to provide, upon request, copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume jurisdiction of the highway described as the PROJECT as a result of being named as an insured on the owner's protective liability insurance policy.
- C. Comply with the requirements of notice of cancellation and reduction of insurance set forth in the current standard specifications for construction and to provide, upon request, copies of notices and reports prepared to those insured.

19. This contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the parties hereto and upon the adoption of the necessary resolutions approving said contract and authorizing the signatures thereto of the respective officials of the REQUESTING PARTY, a certified copy of which resolution shall be attached to this contract.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed as written below.

CITY OF PONTIAC

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By _____
Title:

By _____
Department Director MDOT

By _____
Title:



December 29, 2020

EXHIBIT I

CONTROL SECTION	CPMG 63000
JOB NUMBER	208719CON
PROJECT	21A0113

ESTIMATED COST

CONTRACTED WORK

Estimated Cost	\$1,185,765.00
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FORCE ACCOUNT WORK (REQUESTING PARTY)

Traffic Signals, Signing, etc.	\$ 34,999.60
TOTAL ESTIMATED COST (FORCE ACCOUNT, ETC.)	\$ 34,999.60

GRAND TOTAL ESTIMATED COST	\$1,220,764.60
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COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	\$1,220,764.60
Less Federal Funds*	<u>\$1,185,000.00</u>
BALANCE (REQUESTING PARTY'S SHARE)	\$ 35,764.60

*Federal Funds for the PROJECT are limited to an amount as described in Section 5.

NO DEPOSIT

DOT

TYPE B
BUREAU OF HIGHWAYS
03-15-93

PART II

STANDARD AGREEMENT PROVISIONS

SECTION I COMPLIANCE WITH REGULATIONS AND DIRECTIVES

SECTION II PROJECT ADMINISTRATION AND SUPERVISION

SECTION III ACCOUNTING AND BILLING

SECTION IV MAINTENANCE AND OPERATION

SECTION V SPECIAL PROGRAM AND PROJECT CONDITIONS

SECTION I

COMPLIANCE WITH REGULATIONS AND DIRECTIVES

- A. To qualify for eligible cost, all work shall be documented in accordance with the requirements and procedures of the DEPARTMENT.
- B. All work on projects for which reimbursement with Federal funds is requested shall be performed in accordance with the requirements and guidelines set forth in the following Directives of the Federal-Aid Policy Guide (FAPG) of the FHWA, as applicable, and as referenced in pertinent sections of Title 23 and Title 49 of the Code of Federal Regulations (CFR), and all supplements and amendments thereto.
 - 1. Engineering
 - a. FAPG (6012.1): Preliminary Engineering
 - b. FAPG (23 CFR 172): Administration of Engineering and Design Related Service Contracts
 - c. FAPG (23 CFR 635A): Contract Procedures
 - d. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments—Allowable Costs
 - 2. Construction
 - a. FAPG (23 CFR 140E): Administrative Settlement Costs-Contract Claims
 - b. FAPG (23 CFR 140B): Construction Engineering Costs
 - c. FAPG (23 CFR 17): Recordkeeping and Retention Requirements for Federal-Aid Highway Records of State Highway Agencies
 - d. FAPG (23 CFR 635A): Contract Procedures
 - e. FAPG (23 CFR 635B): Force Account Construction
 - f. FAPG (23 CFR 645A): Utility Relocations, Adjustments and Reimbursement

- g. FAPG (23 CFR 645B): Accommodation of Utilities (PPM 30-4.1)
 - h. FAPG (23 CFR 655F): Traffic Control Devices on Federal-Aid and other Streets and Highways
 - i. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments—Allowable Costs
3. Modification Or Construction Of Railroad Facilities
- a. FAPG (23 CFR 140I): Reimbursement for Railroad Work
 - b. FAPG (23 CFR 646B): Railroad Highway Projects
- C. In conformance with FAPG (23 CFR 630C) Project Agreements, the political subdivisions party to this contract, on those Federally funded projects which exceed a total cost of \$100,000.00 stipulate the following with respect to their specific jurisdictions:
- 1. That any facility to be utilized in performance under or to benefit from this contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Federal Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.
 - 2. That they each agree to comply with all of the requirements of Section 114 of the Federal Clean Air Act and Section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.
 - 3. That as a condition of Federal aid pursuant to this contract they shall notify the DEPARTMENT of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this contract is under consideration to be listed on the EPA List of Violating Facilities.
- D. Ensure that the PROJECT is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless modified or deleted by approval of the FHWA.
- E. All the requirements, guidelines, conditions and restrictions noted in all other pertinent Directives and Instructional Memoranda of the FHWA will apply to this contract and will be adhered to, as applicable, by the parties hereto.

SECTION II

PROJECT ADMINISTRATION AND SUPERVISION

- A. The DEPARTMENT shall provide such administrative guidance as it determines is required by the PROJECT in order to facilitate the obtaining of available federal and/or state funds.
- B. The DEPARTMENT will advertise and award all contracted portions of the PROJECT work. Prior to advertising of the PROJECT for receipt of bids, the REQUESTING PARTY may delete any portion or all of the PROJECT work. After receipt of bids for the PROJECT, the REQUESTING PARTY shall have the right to reject the amount bid for the PROJECT prior to the award of the contract for the PROJECT only if such amount exceeds by ten percent (10%) the final engineer's estimate therefor. If such rejection of the bids is not received in writing within two (2) weeks after letting, the DEPARTMENT will assume concurrence. The DEPARTMENT may, upon request, readvertise the PROJECT. Should the REQUESTING PARTY so request in writing within the aforesaid two (2) week period after letting, the PROJECT will be cancelled and the DEPARTMENT will refund the unused balance of the deposit less all costs incurred by the DEPARTMENT.
- C. The DEPARTMENT will perform such inspection services on PROJECT work performed by the REQUESTING PARTY with its own forces as is required to ensure compliance with the approved plans & specifications.
- D. On those projects funded with Federal monies, the DEPARTMENT shall as may be required secure from the FHWA approval of plans and specifications, and such cost estimates for FHWA participation in the PROJECT COST.
- E. All work in connection with the PROJECT shall be performed in conformance with the Michigan Department of Transportation Standard Specifications for Construction, and the supplemental specifications, Special Provisions and plans pertaining to the PROJECT and all materials furnished and used in the construction of the PROJECT shall conform to the aforesaid specifications. No extra work shall be performed nor changes in plans and specifications made until said work or changes are approved by the project engineer and authorized by the DEPARTMENT.

- F. Should it be necessary or desirable that portions of the work covered by this contract be accomplished by a consulting firm, a railway company, or governmental agency, firm, person, or corporation, under a subcontract with the REQUESTING PARTY at PROJECT expense, such subcontracted arrangements will be covered by formal written agreement between the REQUESTING PARTY and that party.

This formal written agreement shall: include a reference to the specific prime contract to which it pertains; include provisions which clearly set forth the maximum reimbursable and the basis of payment; provide for the maintenance of accounting records in accordance with generally accepted accounting principles, which clearly document the actual cost of the services provided; provide that costs eligible for reimbursement shall be in accordance with clearly defined cost criteria such as 49 CFR Part 18, 48 CFR Part 31, 23 CFR Part 140, OMB Circular A-87, etc. as applicable; provide for access to the department or its representatives to inspect and audit all data and records related to the agreement for a minimum of three years after the department's final payment to the local unit.

All such agreements will be submitted for approval by the DEPARTMENT and, if applicable, by the FHWA prior to execution thereof, except for agreements for amounts less than \$100,000 for preliminary engineering and testing services executed under and in accordance with the provisions of the "Small Purchase Procedures" FAPG (23 CFR 172), which do not require prior approval of the DEPARTMENT or the FHWA.

Any such approval by the DEPARTMENT shall in no way be construed as a warranty of the subcontractor's qualifications, financial integrity, or ability to perform the work being subcontracted.

- G. The REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, shall make such arrangements with railway companies, utilities, etc., as may be necessary for the performance of work required for the PROJECT but for which Federal or other reimbursement will not be requested.
- H. The REQUESTING PARTY, at no cost to the PROJECT, or the DEPARTMENT, shall secure, as necessary, all agreements and approvals of the PROJECT with railway companies, the Railroad Safety & Tariffs Division of the DEPARTMENT and other concerned governmental agencies other than the FHWA, and will forward same to the DEPARTMENT for such reviews and approvals as may be required.
- I. No PROJECT work for which reimbursement will be requested by the REQUESTING PARTY is to be subcontracted or performed until the DEPARTMENT gives written notification that such work may commence.

- J. The REQUESTING PARTY shall be responsible for the payment of all costs and expenses incurred in the performance of the work it agrees to undertake and perform.
- K. The REQUESTING PARTY shall pay directly to the party performing the work all billings for the services performed on the PROJECT which are authorized by or through the REQUESTING PARTY.
- L. The REQUESTING PARTY shall submit to the DEPARTMENT all paid billings for which reimbursement is desired in accordance with DEPARTMENT procedures.
- M. All work by a consulting firm will be performed in compliance with the applicable provisions of 1980 PA 299, Subsection 2001, MCL 339.2001; MSA 18.425(2001), as well as in accordance with the provisions of all previously cited Directives of the FHWA.
- N. The project engineer shall be subject to such administrative guidance as may be deemed necessary to ensure compliance with program requirement and, in those instances where a consultant firm is retained to provide engineering and inspection services, the personnel performing those services shall be subject to the same conditions.
- O. The DEPARTMENT, in administering the PROJECT in accordance with applicable Federal and State requirements and regulations, neither assumes nor becomes liable for any obligations undertaken or arising between the REQUESTING PARTY and any other party with respect to the PROJECT.
- P. In the event it is determined by the DEPARTMENT that there will be either insufficient Federal funds or insufficient time to properly administer such funds for the entire PROJECT or portions thereof, the DEPARTMENT, prior to advertising or issuing authorization for work performance, may cancel the PROJECT, or any portion thereof, and upon written notice to the parties this contract shall be void and of no effect with respect to that cancelled portion of the PROJECT. Any PROJECT deposits previously made by the parties on the cancelled portions of the PROJECT will be promptly refunded.
- Q. Those projects funded with Federal monies will be subject to inspection at all times by the DEPARTMENT and the FHWA.

SECTION III

ACCOUNTING AND BILLING

A. Procedures for billing for work undertaken by the REQUESTING PARTY:

1. The REQUESTING PARTY shall establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this contract, said records to be hereinafter referred to as the "RECORDS". Separate accounts shall be established and maintained for all costs incurred under this contract.

The REQUESTING PARTY shall maintain the RECORDS for at least three (3) years from the date of final payment of Federal Aid made by the DEPARTMENT under this contract. In the event of a dispute with regard to the allowable expenses or any other issue under this contract, the REQUESTING PARTY shall thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

The DEPARTMENT, or its representative, may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.

If any part of the work is subcontracted, the REQUESTING PARTY shall assure compliance with the above for all subcontracted work.

In the event that an audit performed by or on behalf of the DEPARTMENT indicates an adjustment to the costs reported under this contract, or questions the allowability of an item of expense, the DEPARTMENT shall promptly submit to the REQUESTING PARTY, a Notice of Audit Results and a copy of the audit report which may supplement or modify any tentative findings verbally communicated to the REQUESTING PARTY at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, the REQUESTING PARTY shall: (a) respond in writing to the responsible Bureau or the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense and, (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE". The RESPONSE shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the REQUESTING PARTY may supply appropriate excerpts and make alternate

arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE shall refer to and apply the language of the contract. The REQUESTING PARTY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

The DEPARTMENT shall make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If the DEPARTMENT determines that an overpayment has been made to the REQUESTING PARTY, the REQUESTING PARTY shall repay that amount to the DEPARTMENT or reach agreement with the DEPARTMENT on a repayment schedule within thirty (30) days after the date of an invoice from the DEPARTMENT. If the REQUESTING PARTY fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the REQUESTING PARTY agrees that the DEPARTMENT shall deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the REQUESTING PARTY under this contract or any other agreement, or payable to the REQUESTING PARTY under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by the DEPARTMENT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The REQUESTING PARTY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest the DEPARTMENT'S decision only as to any item of expense the disallowance of which was disputed by the REQUESTING PARTY in a timely filed RESPONSE.

The REQUESTING PARTY shall comply with the Single Audit Act of 1984, as amended, including, but not limited to, the Single Audit Amendments of 1996 (31 USC 7501-7507).

The REQUESTING PARTY shall adhere to the following requirements associated with audits of accounts and records:

- a. Agencies expending a total of \$500,000 or more in federal funds, from one or more funding sources in its fiscal year, shall comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended.

The agency shall submit two copies of:

The Reporting Package
The Data Collection Form
The management letter to the agency, if one issued by the audit firm

The OMB Circular A-133 audit must be submitted to the address below in accordance with the time frame established in the circular, as revised or amended.

b. Agencies expending less than \$500,000 in federal funds must submit a letter to the Department advising that a circular audit was not required. The letter shall indicate the applicable fiscal year, the amount of federal funds spent, the name(s) of the Department federal programs, and the CFDA grant number(s). This information must also be submitted to the address below.

c. Address: Michigan Department of Education
Accounting Service Center
Hannah Building
608 Allegan Street
Lansing, MI 48909

d. Agencies must also comply with applicable State laws and regulations relative to audit requirements.

e. Agencies shall not charge audit costs to Department's federal programs which are not in accordance with the OMB Circular A-133 requirements.

f. All agencies are subject to the federally required monitoring activities, which may include limited scope reviews and other on-site monitoring.

2. Agreed Unit Prices Work - All billings for work undertaken by the REQUESTING PARTY on an agreed unit price basis will be submitted in accordance with the Michigan Department of Transportation Standard Specifications for Construction and pertinent FAPG Directives and Guidelines of the FHWA.
3. Force Account Work and Subcontracted Work - All billings submitted to the DEPARTMENT for Federal reimbursement for items of work performed on a force account basis or by any subcontract with a consulting firm, railway company, governmental agency or other party, under the terms of this contract, shall be prepared in accordance with the provisions of the pertinent FHPM Directives and the procedures of the DEPARTMENT. Progress billings may be submitted monthly during the time work is being performed provided, however, that no bill of a lesser amount than \$1,000.00 shall be submitted unless it is a final

or end of fiscal year billing. All billings shall be labeled either "Progress Bill Number _____", or "Final Billing".

4. Final billing under this contract shall be submitted in a timely manner but not later than six months after completion of the work. Billings for work submitted later than six months after completion of the work will not be paid.
5. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with Federal monies, the DEPARTMENT will act as billing agent for the REQUESTING PARTY, consolidating said billings with those for its own force account work and presenting these consolidated billings to the FHWA for payment. Upon receipt of reimbursement from the FHWA, the DEPARTMENT will promptly forward to the REQUESTING PARTY its share of said reimbursement.
6. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with non-Federal monies, the DEPARTMENT will promptly forward to the REQUESTING PARTY reimbursement of eligible costs.

B. Payment of Contracted and DEPARTMENT Costs:

1. As work on the PROJECT commences, the initial payments for contracted work and/or costs incurred by the DEPARTMENT will be made from the working capital deposit. Receipt of progress payments of Federal funds, and where applicable, State Critical Bridge funds, will be used to replenish the working capital deposit. The REQUESTING PARTY shall make prompt payments of its share of the contracted and/or DEPARTMENT incurred portion of the PROJECT COST upon receipt of progress billings from the DEPARTMENT. Progress billings will be based upon the REQUESTING PARTY'S share of the actual costs incurred as work on the PROJECT progresses and will be submitted, as required, until it is determined by the DEPARTMENT that there is sufficient available working capital to meet the remaining anticipated PROJECT COSTS. All progress payments will be made within thirty (30) days of receipt of billings. No monthly billing of a lesser amount than \$1,000.00 will be made unless it is a final or end of fiscal year billing. Should the DEPARTMENT determine that the available working capital exceeds the remaining anticipated PROJECT COSTS, the DEPARTMENT may reimburse the REQUESTING PARTY such excess. Upon completion of the PROJECT, payment of all PROJECT COSTS, receipt of all applicable monies from the FHWA, and completion of necessary audits, the REQUESTING PARTY will be reimbursed the balance of its deposit.

2. In the event that the bid, plus contingencies, for the contracted, and/or the DEPARTMENT incurred portion of the PROJECT work exceeds the estimated cost therefor as established by this contract, the REQUESTING PARTY may be advised and billed for the additional amount of its share.

C. General Conditions:

1. The DEPARTMENT, in accordance with its procedures in existence and covering the time period involved, shall make payment for interest earned on the balance of working capital deposits for all projects on account with the DEPARTMENT. The REQUESTING PARTY in accordance with DEPARTMENT procedures in existence and covering the time period involved, shall make payment for interest owed on any deficit balance of working capital deposits for all projects on account with the DEPARTMENT. This payment or billing is processed on an annual basis corresponding to the State of Michigan fiscal year. Upon receipt of billing for interest incurred, the REQUESTING PARTY promises and shall promptly pay the DEPARTMENT said amount.
2. Pursuant to the authority granted by law, the REQUESTING PARTY hereby irrevocably pledges a sufficient amount of funds received by it from the Michigan Transportation Fund to meet its obligations as specified in PART I and PART II. If the REQUESTING PARTY shall fail to make any of its required payments when due, as specified herein, the DEPARTMENT shall immediately notify the REQUESTING PARTY and the State Treasurer of the State of Michigan or such other state officer or agency having charge and control over disbursement of the Michigan Transportation Fund, pursuant to law, of the fact of such default and the amount thereof, and, if such default is not cured by payment within ten (10) days, said State Treasurer or other state officer or agency is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the REQUESTING PARTY from the Michigan Transportation Fund sufficient monies to remove the default, and to credit the REQUESTING PARTY with payment thereof, and to notify the REQUESTING PARTY in writing of such fact.
3. Upon completion of all work under this contract and final audit by the DEPARTMENT or the FHWA, the REQUESTING PARTY promises to promptly repay the DEPARTMENT for any disallowed items of costs previously disbursed by the DEPARTMENT. The REQUESTING PARTY pledges its future receipts from the Michigan Transportation Fund for repayment of all disallowed items and, upon failure to make repayment for any disallowed items within ninety (90) days of demand made by the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold an equal amount from the REQUESTING PARTY'S share of any future distribution of Michigan Transportation Funds in settlement of said claim.

4. The DEPARTMENT shall maintain and keep accurate records and accounts relative to the cost of the PROJECT and upon completion of the PROJECT, payment of all items of PROJECT COST, receipt of all Federal Aid, if any, and completion of final audit by the DEPARTMENT and if applicable, by the FHWA, shall make final accounting to the REQUESTING PARTY. The final PROJECT accounting will not include interest earned or charged on working capital deposited for the PROJECT which will be accounted for separately at the close of the State of Michigan fiscal year and as set forth in Section C(1).
5. The costs of engineering and other services performed on those projects involving specific program funds and one hundred percent (100%) local funds will be apportioned to the respective portions of that project in the same ratio as the actual direct construction costs unless otherwise specified in PART I.

SECTION IV

MAINTENANCE AND OPERATION

- A. Upon completion of construction of each part of the PROJECT, at no cost to the DEPARTMENT or the PROJECT, each of the parties hereto, within their respective jurisdictions, will make the following provisions for the maintenance and operation of the completed PROJECT:

1. All Projects:

Properly maintain and operate each part of the project, making ample provisions each year for the performance of such maintenance work as may be required, except as qualified in paragraph 2b of this section.

2. Projects Financed in Part with Federal Monies:

- a. Sign and mark each part of the PROJECT, in accordance with the current Michigan Manual of Uniform Traffic control Devices, and will not install, or permit to be installed, any signs, signals or markings not in conformance with the standards approved by the FHWA, pursuant to 23 USC 109(d).

- b. Remove, prior to completion of the PROJECT, all encroachments from the roadway right-of-way within the limits of each part of the PROJECT.

With respect to new or existing utility installations within the right-of-way of Federal Aid projects and pursuant to FAPG (23 CFR 645B): Occupancy of non-limited access right-of-way may be allowed based on consideration for traffic safety and necessary preservation of roadside space and aesthetic quality. Longitudinal occupancy of non-limited access right-of-way by private lines will require a finding of significant economic hardship, the unavailability of practicable alternatives or other extenuating circumstances.

- c. Cause to be enacted, maintained and enforced, ordinances and regulations for proper traffic operations in accordance with the plans of the PROJECT.

- d. Make no changes to ordinances or regulations enacted, or traffic controls installed in conjunction with the PROJECT work without prior review by the DEPARTMENT and approval of the FHWA, if required.

- B. On projects for the removal of roadside obstacles, the parties, upon completion of construction of each part of the PROJECT, at no cost to the PROJECT or the DEPARTMENT, will, within their respective jurisdictions, take such action as is necessary to assure that the roadway right-of-way, cleared as the PROJECT, will be maintained free of such obstacles.
- C. On projects for the construction of bikeways, the parties will enact no ordinances or regulations prohibiting the use of bicycles on the facility hereinbefore described as the PROJECT, and will amend any existing restrictive ordinances in this regard so as to allow use of this facility by bicycles. No motorized vehicles shall be permitted on such bikeways or walkways constructed as the PROJECT except those for maintenance purposes.
- D. Failure of the parties hereto to fulfill their respective responsibilities as outlined herein may disqualify that party from future Federal-aid participation in projects on roads or streets for which it has maintenance responsibility. Federal Aid may be withheld until such time as deficiencies in regulations have been corrected, and the improvements constructed as the PROJECT are brought to a satisfactory condition of maintenance.

SECTION V

SPECIAL PROGRAM AND PROJECT CONDITIONS

- A. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the acquisition of right-of-way must be under construction by the close of the twentieth (20th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that right-of-way.
- B. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the performance of preliminary engineering must be under construction by the close of the tenth (10th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that preliminary engineering.
- C. On those projects funded with Federal monies, the REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, will provide such accident information as is available and such other information as may be required under the program in order to make the proper assessment of the safety benefits derived from the work performed as the PROJECT. The REQUESTING PARTY will cooperate with the DEPARTMENT in the development of reports and such analysis as may be required and will, when requested by the DEPARTMENT, forward to the DEPARTMENT, in such form as is necessary, the required information.
- D. In connection with the performance of PROJECT work under this contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B", attached hereto and made a part hereof, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this contract.
- E. The parties will carry out the applicable requirements of the DEPARTMENT'S Disadvantaged Business Enterprise (DBE) program and 49 CFR, Part 26, including, but not limited to, those requirements set forth in Appendix C.

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Public Act 453 of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220 of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising such labor union or workers' representative of the contractor's commitments under this Appendix.
6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.

7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor, as well as the contractor itself, and said contractor shall permit access to the contractor's books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.
9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each subcontractor or supplier.

Revised June 2011

**APPENDIX B
TITLE VI ASSURANCE**

During the performance of this contract, the contractor, for itself, its assignees, and its successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

1. **Compliance with Regulations:** For all federally assisted programs, the contractor shall comply with the nondiscrimination regulations set forth in 49 CFR Part 21, as may be amended from time to time (hereinafter referred to as the Regulations). Such Regulations are incorporated herein by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed under the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection, retention, and treatment of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contractor covers a program set forth in Appendix B of the Regulations.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment:** All solicitations made by the contractor, either by competitive bidding or by negotiation for subcontract work, including procurement of materials or leases of equipment, must include a notification to each potential subcontractor or supplier of the contractor's obligations under the contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined to be pertinent by the Department or the United States Department of Transportation (USDOT) in order to ascertain compliance with such Regulations or directives. If required information concerning the contractor is in the exclusive possession of another who fails or refuses to furnish the required information, the contractor shall certify to the Department or the USDOT, as appropriate, and shall set forth the efforts that it made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Department shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to, the following:
 - a. Withholding payments to the contractor until the contractor complies; and/or
 - b. Canceling, terminating, or suspending the contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor shall include the provisions of Sections (1) through (6) in every subcontract, including procurement of material and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Department or the USDOT may direct as a means of enforcing such provisions, including sanctions for non-compliance, provided, however, that in the event a contractor becomes involved in or is threatened with litigation from a subcontractor or supplier as a result of such direction, the contractor may request the Department to enter into such litigation to protect the interests of the state. In addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Revised June 2011

APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

Assurance that Recipients and Contractors Must Make (Excerpts from US DOT Regulation 49 CFR 26.13)

- A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:**

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any US DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

- B. Each contract MDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:**

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

#5

RESOLUTION



City of Pontiac, Michigan

Department of Finance

Mayor Deirdre Waterman

To: Honorable Mayor and City Council

From: Mayor Deirdre Waterman
Sekar Bawa, Treasurer

Date: January 6, 2021

Re: Mayoral Recommendation to City Council to adopt a Resolution to help provide some economic relief to City of Pontiac Residents by waiving of penalty for unpaid property taxes for the winter 2020 property taxes.

Honorable Council President and City Council:

As you know, the COVID-19 pandemic has had a negative impact on the physical and economic condition of many of our residents. As a result of this pandemic, we have seen high levels of unemployment, loss of income and other negative economic impacts that have affected many of our residents. This has led to many incurring unforeseen hardships that make the challenges of daily living even more difficult.

While the City continues to work to maintain our fiscal integrity, we always try and find opportunities to address the well-being of our residents. In order to provide some financial relief, the Administration is recommending that the City takes the necessary steps to waive penalties that are scheduled to be levied against unpaid winter property taxes. This will provide some additional time for our residents to pay their property taxes without incurring the normal penalties.

For the 2020 Tax Year, winter property taxes became payable on December 1, 2020 and are due without penalty by February 15, 2021. As per City Ordinance, on February 16, 2021 a one-time penalty of 3% is to be added on the winter tax balance outstanding as of February 15, 2021. The proposed resolution would allow for taxes to be paid without penalty through February 28th which is the maximum time the City can allow.

In the prior tax year of 2019, the City had late fee penalties of \$27,439 that were levied on unpaid winter property taxes. These penalties were levied against approximately 6,700 parcels. The Administration is recommending to the City Council to waive this late fee for the current tax year in part to help provide some relief to the residents of Pontiac.

Resolution – Waiver of Tax Penalty for Winter 2020 Property Taxes

The Administration, here by requests that the City Council adopts the following resolution:

WHEREAS, In accordance with the City Charter and City Ordinance the Pontiac City Council shall determine the penalty to be levied on the unpaid winter tax balance as of February 14 and the Council determined a 3% late fee penalty to be levied on the delinquent winter tax balance; and

WHEREAS, Many residents of the City of Pontiac City are facing numerous economic challenges due to COVID-19 pandemic; and

WHEREAS, based on the Administration's recommendation, the Pontiac City Council determines that the late fee penalty for unpaid winter property taxes should be suspended for the 2020 winter tax season to help provide some relief to the City's residents;

NOW, THEREFORE, BE IT RESOLVED, that the Pontiac City Council hereby approves suspension of the penalty for unpaid property taxes for the 2020 winter tax season.

#6

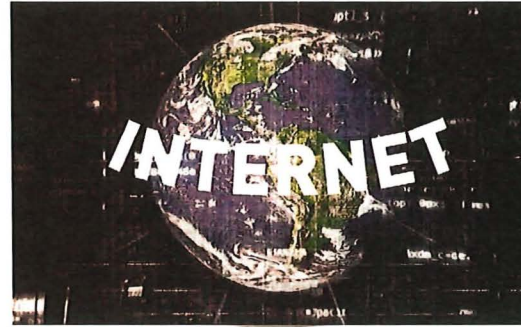
RESOLUTION



Agenda – City of Pontiac Telecommunication Strategy

- Review Current Telecommunications System
- Review New Telecommunication Strategy
- Review New Estimated Costs
- Next Steps

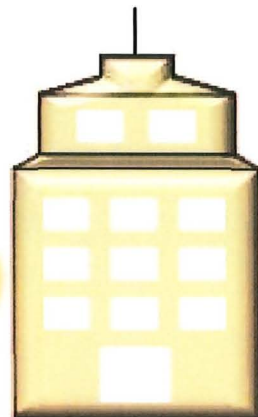
Telecommunications > Today



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Telephone System
In City Hall



City Hall

Dedicated Line through AT&T



Court

Current ShoreTel IP PBX (phone system)

- The Phone system the City is using as of now is nearly 10 Years old.
- The system was the state of the art 10 years ago.
- New technologies have emerged.
- Communications have improved and become less costly with added features.

Current Telecom System Components

- Dated ShoreTel IP PBX and AT&T Voice SIP trunk are used for processing phone calls. It's capable of handling 46 concurrent calls.
- We currently have approximately 106 ShoreTel IP phones.
- ShoreTel system is at capacity today.
- 16 Fax lines used for faxes, these fax lines serve Court and the City Hall.
- 100Mbps AT&T Internet connection at City Hall.
- 50Mbps AT&T connection between City Hall and District Court.

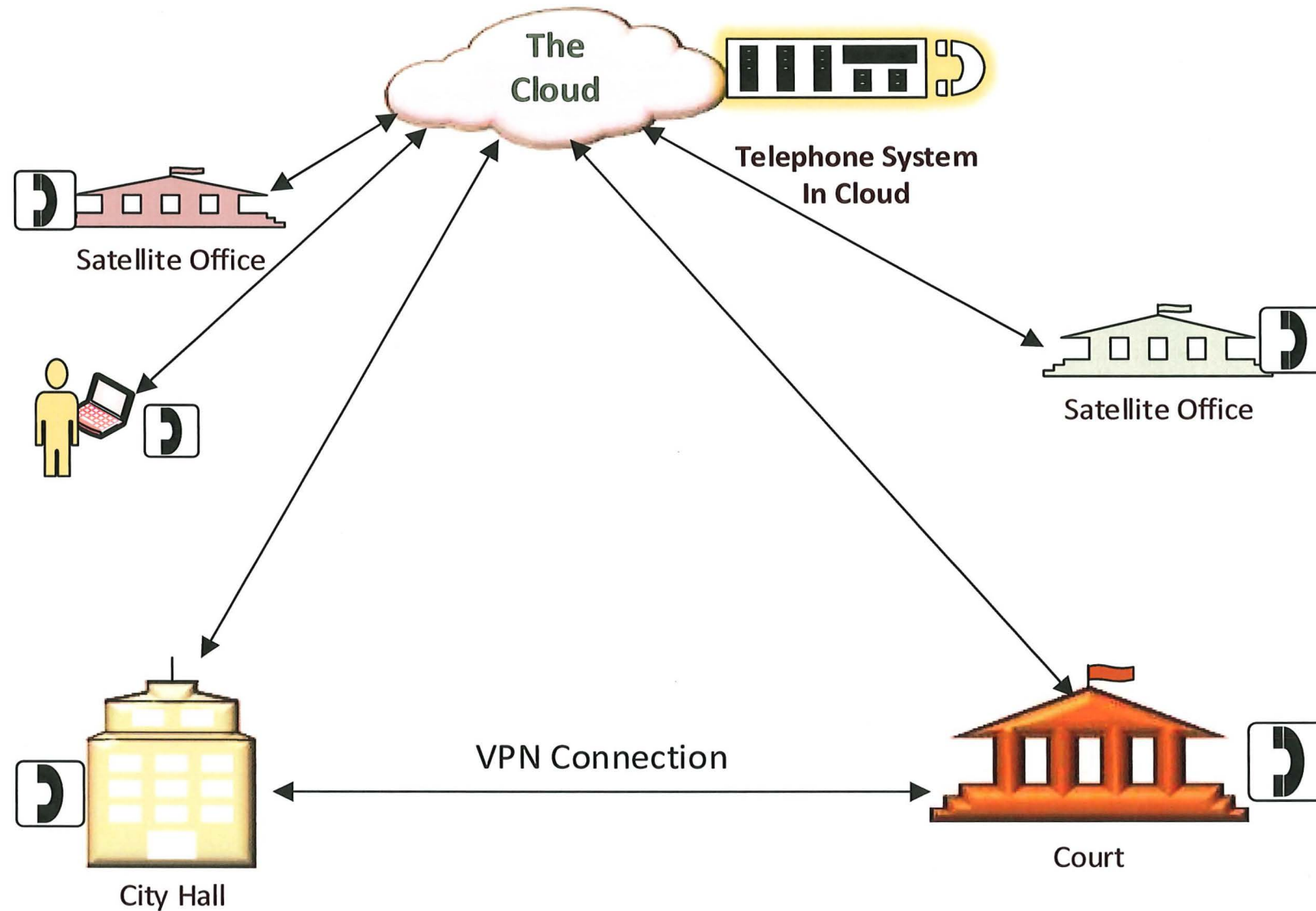
The Cloud

- The Cloud is consumption based (usage) for technology resources from Companies like Microsoft, Google, Amazon and many others.
- Hardware is provided and maintained by the Cloud providers instead of locally at the customer location.
- Many organizations are migrating to Cloud Services.
- UCaaS is a cloud based unified communications as a service solution that will save the City money and add many new features.
- We have contacted several companies, and thoroughly evaluated these new emerging technologies.

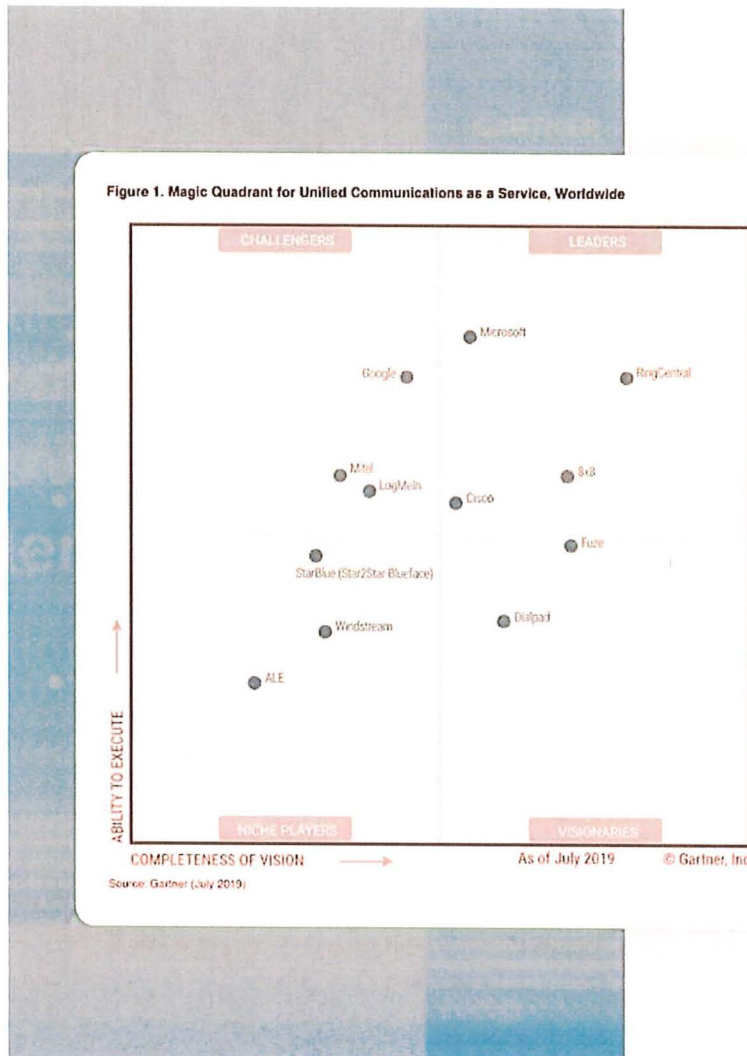


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New Cloud Communication System



Ring Central – Market Leader in Cloud Communications



GARTNER

A Leader in the 2019 Gartner Magic Quadrant for Unified Communications as a Service, Worldwide leadership

This graphic was published by Gartner, Inc. as part of a larger research document and should be evaluated in the context of the entire document. The Gartner document is available upon request from RingCentral. Gartner does not endorse any vendor, product or service depicted in its research publications, and does not advise technology users to select only those vendors with the highest ratings or other designation. Gartner research publications consist of the opinions of Gartner's research organization and should not be construed as statements of fact. Gartner disclaims all warranties, express or implied, with respect to this research, including any warranties of merchantability or fitness for a particular purpose. Gartner, Magic Quadrant for Unified Communications as a Service, Worldwide, Daniel O'Connell, Megan Fernandez, Rafael Benitez, Christopher Trueman, Sebastian Hernandez; 30 July 2019.

RingCentral

Evaluation Process

- Key Criteria

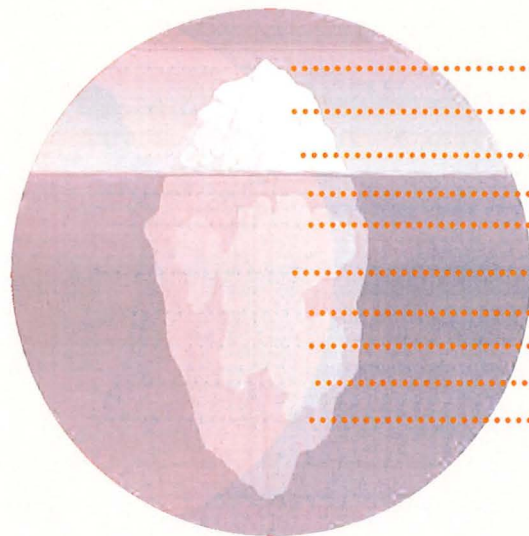
- ✓ On-Premise or Cloud based
- ✓ Cost Effective
- ✓ Telecommunication Costs
- ✓ Easily scalable to allow for City demands
- ✓ Ease of Management & Administration (lower cost of management)
- ✓ Supports mobility and integration with future solution (Microsoft 365)
- ✓ Availability and Redundancy
- ✓ Security
- ✓ Reporting & Audit

Evaluation Process

- Market Solutions Evaluated
 - On Premise
 - Cisco UC – Upper left on magic quadrant, market share leader for on-premise
 - Cloud (UCaaS)
 - 8 x 8 – Gartner Magic Quadrant, upper right quadrant
 - RingCentral - Gartner Magic Quadrant, **leader** in upper right quadrant
- Evaluated all 3 solutions based off key criteria
- RingCentral was the best solution for City
 - RingCentral is a partner with AT&T

Pure cloud advantages

On-premises/managed communications services



..... **PBX hardware & software**
..... **Upgrades**
..... **Web meetings**
..... **Audio conferencing**
..... **Fax**
..... **Telco (PRIs, T1s)**
..... **Local, long distance, toll free**
..... **Multi-location (MPLS, PSTN)**
..... **PBX parts**
..... **Outside services**

Pure Cloud UCaaS



**All-inclusive user pricing,
Uniform user experience**

Innovation
Agility
Speed
Flexibility
Efficiency

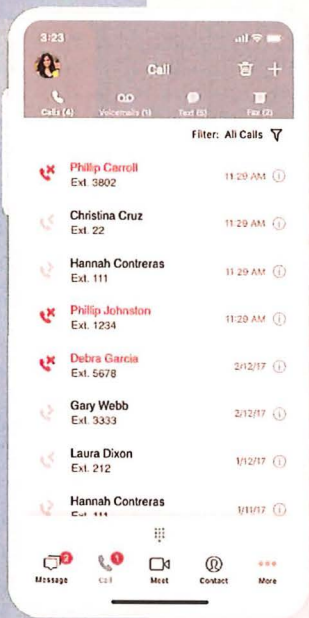
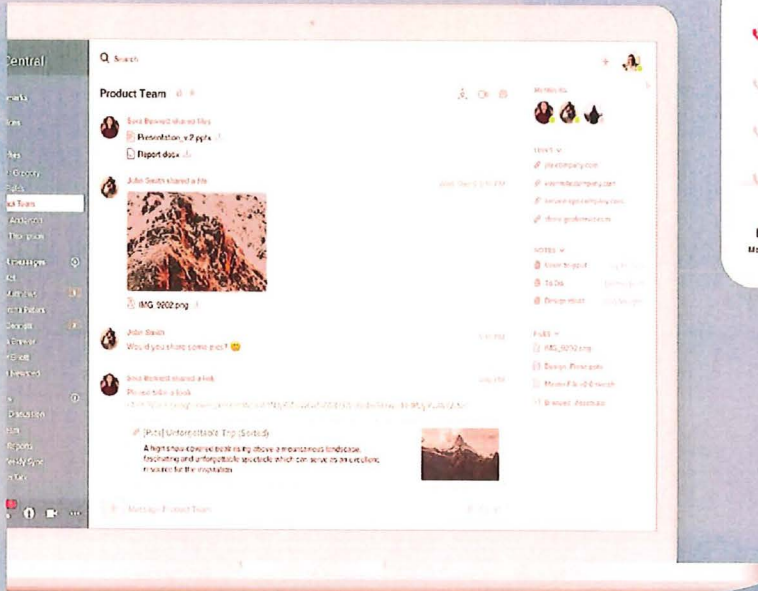
RingCentral solution

- Single “pane of glass” for all communication streams
- Intuitive User & Management Interface
- Open & Integrated Platform
- Industry Leading Reliability – 99.999% uptime SLA
- World-Class Professional Services & Customer Support

CITY OF
Pontiac
MICHIGAN

RingCentral®

CALL



“Hello” never sounded this good.

Enterprise-grade cloud PBX

Mobile and desktop apps

Toll free, vanity, and local numbers

Extensions

Smart routing

IVR self-service

QoS Analytics

Global, secure, reliable

RingCentral

New Telecommunication System Components

- ✓ City Hall will have its own Internet connection of 100Mbps
- ✓ District Court will have its own internet connection of 100Mbps
- ✓ On-Board RingCentral UCaaS Cloud provider for collaboration IP phone system will cost approximately \$26,000/year for services only. New phones and implementation are additional one-time costs.
- ✓ No annual maintenance fees.
- ✓ System is maintained by RingCentral, administered by City IT team.
- ✓ IT has budgeted \$125k for FY20/21 for new system.

New Solution – Estimated Costs

Description	Current Costs - Annually	Projected Annual Cost – UCaaS
AT&T/ShoreTel Costs	\$93,000	
AT&T Costs - New		\$30,000
Ring Central - New		\$26,000
Totals	\$93,000	\$56,000
Annual Estimated Savings		\$37,000

One Time Costs	Estimated Cost
New Phones & Implementation Costs	\$33,000
** IT has budgeted \$125,000 for FY20/FY21 for this project	

New Solution – Estimated Timeline

[illegible]

Telecommunication Strategy

✓ Next Steps

- ✓ Gain Approval from Executive Team
- ✓ Gain Approval from City Council

Thank you for meeting with us Today!





Information Technology

CITY OF PONTIAC

OFFICIAL MEMORANDUM

TO: Honorable City Council President Williams and City Council Members

FROM: Mayor Deirdre Waterman
Information Technology Department

DATE: January 6, 2021

RE: **Resolution to approve the purchase of Ring Central System**

The purpose of this memorandum is to formally request the approval to purchase Ring Central system and associated costs including a one-time professional service fee.

As you are aware during the special presentation on November 5, 2020, the current phone system ShoreTel is at its capacity and is no longer expandable to meet the City of Pontiac telecommunication needs.

For your information, a copy of the proposal from Ring Central and the November 5, 2020, presentation is attached for your review and consideration.

BACKGROUND

Problem:

1. Aging ShoreTel phone system has reached capacity and can no longer be expanded
2. New phone features that have been developed over the last nine years are not available with current system
3. Having the District Courthouse on the existing system requires a costly connection
4. Remote sites are not able to use the City phone system

Solution:

1. Replace on-premises ShoreTel phone system with the cloud-based Ring Central system
2. Replace costly connection with the courthouse with an independent internet connection
3. Install independent firewall at courthouse for site to site communications with city hall

Costs:

1. One-time professional services implementation cost \$7,350.00
2. One-time phone hardware cost \$15,573.16
3. Three year (36 Month) monthly cost for 143 Standard Licenses \$2,749.48 (\$32,993.76/year)

Advantages of new phone system:

1. Cloud-based system has no hardware to maintain and update
2. Ring Central has an industry leading 99.999% uptime
3. Phone numbers are portable and can be used on mobile devices.
4. Expensive dedicated connection to the courthouse will no longer be needed

Savings

Total AT&T savings will be \$27,000.00 /year.

RESOLUTION

Whereas, The City of Pontiac currently uses a phone system that is nearly a decade old and can no longer be expanded to meet the growing needs of the City; and

Whereas, The City can utilize a cloud-based Ring Central system that will result in a savings to the City; and

Whereas, the costs will be a one-time professional services cost of \$7,350, a one-time hardware cost of \$15,573.16, and a 3-year operating agreement for 143 licenses at a total cost of \$32,993.76 per year; and

Whereas, this represents a savings of approximately \$27,000 in services fees from the current system as provided by AT&T;

Now, Therefore, hereby be it resolved that the Pontiac City Council approves the purchase of the Ring Central system and associated costs including a one-time professional services cost of \$7,350, a one-time hardware cost of \$15,573.16, and a 3-year operating agreement for 143 licenses at a total cost of \$32,993.76 per year; and authorizes the Mayor to enter into the agreements to complete this transaction.

Attachments



INITIAL ORDER FORM - OFFICE SERVICES

This Initial Order Form is a binding agreement between RingCentral, Inc. (“**RingCentral**”) and **City of Pontiac**, (“**Customer**” or “**You**”) (together the “**Parties**”), for the purchase of the Services, licenses, and products listed herein. This Initial Order Form is subject to the terms and conditions specified in the applicable Agreement between the Parties. Capitalized terms not defined herein shall have the same meanings as set forth in the applicable Agreement between the Parties.

Service Provider	
Service Provider	RingCentral, Inc.
Address	20 Davis Drive
City, State & Zip Code	Belmont, CA 94002
Country	USA

Customer	
Customer	City of Pontiac
Address	47450 Woodward Ave
City, State & Zip Code	Pontiac, MICHIGAN 48342
Country	United States
Billing Contact Person	
Billing Contact Phone	
Billing Contact E-mail Address	

Service Commitment Period	
Start Date	December 8 th , 2020
Initial Term	36 Months
Renewal Term	36 Months



Payment Schedule	Monthly Payment Schedule
-------------------------	--------------------------

RingCentral Office Services					
Summary of All Services					
Summary of Service	Charge Term	Qty	Rate	Monthly Subtotal	One-time Subtotal
Additional Toll-Free Number	Monthly	1	\$0.99	\$0.99	\$0.00
DigitalLine Unlimited Standard	Monthly	143	\$13.49	\$1,929.07	\$0.00
e911 Service Fee	Monthly	147	\$1.00	\$147.00	\$0.00
Compliance and Administrative Cost Recovery Fee	Monthly	147	\$3.50	\$514.50	\$0.00
DigitalLine Basic	Monthly	4	\$9.99	\$39.96	\$0.00
RingCentral Video	Monthly	1	\$0.00	\$0.00	\$0.00
Polycom Trio 8500 Conference Phone	One - Time	4	\$899.00	\$0.00	\$3,596.00
Polycom VVX-250 Business IP Phone	One - Time	121	\$63.96	\$0.00	\$7,739.16
Polycom VVX-450 Business IP Phone with 1 Expansion Module	One - Time	8	\$409.00	\$0.00	\$3,272.00
Polycom OBi302 ATA	One - Time	14	\$69.00	\$0.00	\$966.00
RingCentral for Desktop	One - Time	14	\$0.00	\$0.00	\$0.00
New Service Amount *				\$2,631.52	\$15,573.16
Total Initial Amount *				\$18,204.68	

* Amounts are exclusive of applicable Taxes and Fees.



Special Terms and Notes:

1) Customer's subscription entitles it to all features that are ascribed to the Office [Standard] Edition as they are described in the RingCentral website, as well as the features that follow:

a) Single Sign-On

b) Custom Roles & Permissions

c) Multi-Site Support

2) As a one-time incentive, RingCentral shall provide Customer with up to 121 Polycom VVX250 devices at a discounted price of \$63.96 each. Thereafter, Customer may purchase additional Polycom VVX250 devices at the discounted price of \$109.00 each, excluding taxes and fees. This incentive offer is subject to the Order Form and the terms of the Agreement.

**Cost Center Billing:**

For customers with cost center billing, it is the customer's responsibility to provide cost center allocation information to RingCentral at least 10 days prior to the issuance of the invoice. After the information is received, it will be reflected on future invoices, but will not be adjusted retroactively on past invoices. If purchasing additional services through the administrative portal, it is the customer's responsibility to assign cost centers at the time of purchase; otherwise, those services will not be allocated by cost center on the next invoice. Please note that cost center allocation is not available for certain items, such as minute bundles and credit memos. For additional questions, please contact the RingCentral invoice billing team at billingsupport@ringcentral.com.

IN WITNESS WHEREOF, the Parties have executed this Initial Order Form above through their duly authorized representatives.

Customer

City of Pontiac

By: _____

Name: _____

Title: _____

Date: _____

RingCentral

RingCentral, Inc.

By: Carson Hostetter

Name: Carson Hostetter

Title: SVP, Field Sales

Date: _____

RingCentral Professional Services

Statement of Work for Implementation Services

This RingCentral Professional Services Statement of Work for Professional Services (this "**SOW**") is executed by RingCentral, Inc. ("**RingCentral**"), and City of Pontiac (the "**Customer**") pursuant to, and is subject to, the RingCentral PS Agreement executed by Customer and RingCentral on or about _____, ____ (the "**PS Agreement**"). Capitalized terms used in this SOW but not otherwise defined shall have the respective meanings given to them in the PS Agreement.

Customer:	City of Pontiac
Quote/SOW Number:	U2020-01809396
Labor Cost:	\$7,350.00 USD

Project Phases:

- **Multiphase Project. - Per Site**

	Scope of the Phase	Value	Completion Criteria
Phase	Each Site listed in the Appendix B of this SOW constitute an independent Project Phase	Rate of \$7,350 allocated by Site per Appendix B (Excluding Taxes and Expenses if applicable (Actuals).	Completion of all Professional Services described in this SOW for each Site.

The following activities shall be performed in accordance with this Statement of Work and the PS Agreement at the location(s) and for the number of Users and Sites indicated in the attached Appendices:

1. **General**

1.1. Assignment of a designated Project Manager ("PM") – The RingCentral PM will act as Single Point of Contact for delivery services, following the Project Management Institute (PMI) standard methodology. The RingCentral Project Manager will be responsible for the following activities in connection with this Statement of Work (SOW):

- Internal and external kickoff session hosted by RingCentral;
- Creation and management of project governance, to include:
 - Project plan and Schedule;
 - Communication plan, resource plan, escalation plan, change plan, test plan;
 - Action and risk register;
- Completing resource assignment and scheduling in alignment with project schedule;
- Set up of project documentation and timelines in collaboration with designated Customer Single Point of Contact;

- v. Identifying, communicating and mitigating project risks and issues;
- vi. Alignment of scope of services with customer expectations during kickoff;
- vii. Developing, reviewing, authorizing, implementing, and managing change requests and interventions (Perform Change Management) to achieve project outputs;
- viii. Facilitating and leading regular status update meetings, organize planning sessions and Customer steering committees, as applicable;
- ix. Completing scoped migration and go live support; and
- x. Performing closure procedures at the conclusion of project activities.

2. RingCentral Office Planning and Design

2.1. RingCentral Planning and Design ("P&D") and Business Requirements Document ("BRD")

RingCentral will initiate the Planning and Design process and introduce the Business Requirements Document to the Customer at the beginning of the project and will consist of structured planning activities for a period of up to two (2) weeks. This process will define and capture the project-wide deployment holistically including all sites and users listed in Appendix A.

- i. RingCentral has included up to two (2) design documentation collection session(s) with this project delivery
- ii. All groups will provide data during their assigned data collection process over a one (1) week period for a total of two (2) supported weeks and contribute to a universal design documentation across all lines of business / business units
- iii. Additional data collections are available to the customer for further breakout via change request at an additional expense if data collection needs to take place by country or user group
- iv. Details within the data collection include:
 - a. Customer Site Information;
 - b. User Upload;
 - c. Data collection for End-User and Administrator Training;
 - d. Porting data;
 - e. Call flow(s);
 - f. Roles and Permissions;
 - g. Delivery Overview;
 - h. Go-Live Readiness Report Card;
- ii. The fully reviewed BRD is signed off by Customer's Project Manager and RingCentral's Project Manager prior to moving to deployment.
 - a. Material changes to the BRD made after mutual execution are available to the customer via change request
- iii. Delay in completing and returning Customer documentation may result in an adjustment of project timeline and additional fees.

2.2 Network Readiness Assessment – RingCentral will provide the Customer with one (1) assessment of the customer's primary Internet Service Provider (ISP) connection to and from RingCentral. This connection will be at the customer's firewall (edge).

- i. RingCentral's Network Engineer will provide the following:
 - a. RingCentral Network Requirements Documentation;
 - b. Satellite installation guide;
 - c. Assistance with satellite installation;
 - d. Document and share results of network assessment for customer reference;
- ii. Site assessments not completed prior to Go-Live will result in the forfeiture of the assessment for this project.

- iii. Additional network assessments or consultations are available to the customer via an executed Change Order and will result in additional fees. This may include additional ISP links or sites.

3. RingCentral Office Build

3.1. RingCentral Basic User Interface (“UI”) Single Phased Build Out

- i. RingCentral will remotely configure the following interfaces in the system (“UI Build Out”) based on the specifications agreed to between the parties in the BRD.
 - a. Up to three (3) locations
 - b. Up to nine (9) Unique Call Flows
 - c. Up to fourteen (14) Call Queue and Ring Groups
 - d. Up to two (2) Custom Roles
 - Service plan must support Custom Roles
 - e. Up to two (2) Templates
- ii. Customization is available to the customer at an additional cost via executed Change Order
- iii. Substitute Caller ID (Spoofing) configuration is not included. It is available at an additional cost via executed Change Order.

4. RingCentral Delivery Services

4.1. Remote Delivery and Go Live Services

- i. RingCentral will provide remote go live services to complete the following:
 - a. Delivery resource during remote Go Live as defined in Appendix B;
 - b. Document open issues in action log;
 - c. Transition into support services;
 - d. Perform closure procedures at the conclusion of project activities
- ii. Customer responsibilities:
 - a. Customer is responsible for handset placement at locations listed in Appendix B
 - RingCentral to provide instructions and best practices for handset placement, test, and endpoint registration
 - b. Customer is responsible for decommission and disposal of any legacy equipment

5. RingCentral Training Services

5.1. Admin Training – RingCentral Professional Services will provide resources to complete the following:

- i. Up to two (2) hours of remote admin training to be provided by a RingCentral University Training Specialist
- ii. Sessions cover the following:
 - a. Building, activating, disabling and deleting users;
 - b. Managing user settings with role, templates, and User groups (if applicable);
 - c. Managing system setup and maintenance via the Admin Portal including phone company info, caller ID, and directory assistance;
 - d. Managing phones and numbers including assisted provisioning;
 - e. Call flow management;
 - f. Reports and call logs; and
 - g. Familiarization with Support/Training/Help resources
- iii. Session recordings are included at no additional cost
- iv. Online, self-service admin training at RingCentral University included at no additional cost
 - h. Webinars & Videos, Getting Started Tutorials, and User Guides

- v. Custom admin training, documentation, and videos available at an additional cost via executed Change Order
- vi. Additional admin sessions are available to the customer via Change Request at an additional charge
- vii. Helpdesk training sessions are available to the customer at an additional cost via executed Change Order
- viii. Customer and RingCentral agree that Professional Services Project Completion Form shall not be withheld by Customer for delays in the delivery of the RingCentral training services

5.2. End User Training - RingCentral Professional Services will provide resources to complete the following:

- i. Any combination of the following one (1) hour remote end user training sessions for a total of up to two (2) sessions to be provided by RingCentral University Training Specialist:
 - a. Standard End User
 - b. Train the Trainer (Standard End User)
 - c. Exec Assistant/Front Desk
 - d. Remote User
- ii. Session recordings included at no additional cost
- iii. Online, self-service end user training at RingCentral University included at no additional cost
 - a. Webinars & Videos, Getting Started Tutorials, and User Guides
- iv. Custom end user training, documentation, and videos available at an additional cost via change request
- v. Additional end user sessions are available to the customer via Change Request at an additional charge
- vi. Customer and RingCentral agree that Professional Services Project Completion Form shall not be withheld by Customer for delays in the delivery of the RingCentral training services

6. Handoff Testing

6.1. System Integration Testing (SIT)

- i. RingCentral will complete System Integration Testing (SIT) following final configuration of RingCentral prior to handoff to the Customer to start User Acceptance Testing (UAT);

6.2. UAT Assumptions

- i. During UAT, the Customer will designate users to complete application testing in mock real-world scenarios to validate the RingCentral build matches the agreed design documentation;
- ii. Customer will define the UAT scenarios or stories by phase and the mutually agreed criteria is recorded as an Appendix in the design documentation prior to mutual execution as the document of record;
 - a. If UAT scenarios are not specified by the Customer, then work is deemed accepted and ready for go live upon notice from RingCentral that the work is complete and ready for testing;
- iii. Customer resources participating in UAT must complete all pre-recorded online training sessions for agent, supervisor, and/or admin related to their job role prior to starting UAT;
 - a. RingCentral Implementation Engineer may provide up to one (1) hour of additional guided training to UAT participants, as requested by the Customer, specific to the test criteria;
- iv. The outcome of all UAT scenarios are documented by the Customer in a written format and provided to RingCentral at completion of testing;

- a. Any variation in expected results (errors, flaws, failures, adjustments) are provided in writing to the RingCentral Project Manager for review and resolution;
 - b. RingCentral will provide an expected variation resolution date and submit back to the Customer for additional testing;
- v. Upon completion of all UAT scenarios, the Customer will submit final written completion of testing to RingCentral prior to scheduling go live;
 - a. RingCentral will append the design document output to include completed UAT criteria in the final published output document;

6.3. UAT Constraints

- i. The Customer and RingCentral will enact a mutual software / code freeze prior to start of SIT and UAT;
- ii. Customer shall perform UAT within seven (7) calendar days of application handoff from RingCentral for any Deliverables, unless otherwise mutually agreed by the parties considering the nature or scope of the Deliverable in writing prior to start of testing;
- iii. Any Customer changes in software or code following written UAT completion resulting in new application behaviors may result in additional charges to the Customer via Change Request for troubleshooting and issue resolution;
- iv. Additional days of UAT support are available to the Customer via Change Request at an additional charge

6.4. Project and Phase Acceptance

- i. Final phase and project acceptance subject to terms and conditions in RingCentral MSA

7. Hours of Operation

7.1. Standard Service Hours

- i. Unless otherwise specified, pricing assumes that Services will be performed between 8:00 AM to 5:00 PM local site time, Monday-Friday, excluding holidays ("Standard Service Hours")
- ii. Work requested and performed outside Standard Services Hours will be subject to overtime charges via executed Change Order

8. Customer Responsibilities – The Customer is responsible for aspects not specifically included in this Statement of Work. Out of scope items include:

- i. The customers LAN/WAN infrastructure;
- ii. Network minimum requirements for RingCentral as a Service model;
 - a. Quality of Service (QoS) configuration;
 - b. Firewall or Access Control List (ACL) configuration;
 - c. Power over Ethernet (POE) port activation / configuration;
- iii. Configuration and software installation on customer PCs;
- iv. Decommission and disposal of any legacy equipment;
- v. Customizations on individual User endpoints, or phone settings (as defined in section 3.1.v);
- vi. Provide work space for RingCentral on-site personnel (as scoped);
- vii. Overhead paging;
- viii. Postage Machines;
- ix. Credit Card or Point of Sale (POS) Machines;
- x. Door buzzer or Automatic Door Controller;
- xi. Third party SIP phones;
- xii. Headsets;

- xiii. Analog Devices
- xiv. Third party Applications
- xv. Input Registered E911 Address and location information to Service Web
 - a. This is critical information which is used by first responders in case of an emergency hence customer must ensure that the information they are adding to the Service Web is accurate
 - b. For more information, please refer to Appendix D

9. Customer's Telephone Number Porting –The Customer is responsible for authorizing the telephone number porting by RingCentral. RingCentral shall provide guidance on porting data collection and shall assist with submission of porting request(s). This effort pertains to those locations identified in Appendix B. Customer and RingCentral agree that RingCentral is not responsible for the portability of any individual number or group of numbers and the sign-off the Professional Services Project Completion Signoff Document shall not be withheld by Customer for delays in the porting of the numbers.

- i. Notwithstanding the above, the RingCentral Project Manager, upon Customer request, shall assist the Customer with this responsibility by performing the following tasks for each Site:
- ii. The RingCentral Project Manager shall assist the Customer with the initial submission of port requests and shall assist in up to three (3) rejections/resubmissions per location or 90 days from submission, whichever occurs first;
 - a. Any additional port rejections will be the responsibility of the Customer;
 - b. Customer shall provide RingCentral all appropriate Letters of Authorization ("LOA"s), billing information, and authorized signer for each location;
 - c. Porting submissions will include numbers mapped to correct route as "company" numbers or Direct Dial phone numbers;

10. Delays and Changes – Changes to this SOW shall be made only in a mutually executed written change order between RingCentral and Customer (a "**Change Order**," a sample of which is attached as Appendix C to this SOW), outlining the requested change and the effect of such change on the Services, including without limitation the fees and the timeline as determined by mutual agreement of both parties. Any delays in the performance of consulting services or delivery of deliverables caused by Customer, including without limitation delays in completing and returning Customer documentation required during the P&D or completing the BRD, may result in an adjustment of project timeline and additional fees. Any changes or additions to the services described in this SOW shall be requested by a Change Order and may result in additional fees.

11. Project Phasing – The Professional Services may be delivered in one or more phases as set forth in this SOW. This SOW describes the milestones, objectives, Deliverables, Sites, fees and other components that are included in the scope of each phase ("Project Phases"). Customer agrees that the delivery, installation, testing, acceptance and payment for the Professional Services rendered under any one Project Phase is not dependent on the delivery, installation, testing, acceptance and payment for the Professional Services under any other Project Phase. Each Project Phase will be billed upon Acceptance, and Payment for each Project Phase is due in full within the applicable payment period agreed between the parties and is non-refundable.

IN WITNESS WHEREOF, the Parties have executed this RingCentral Professional Services Statement of Work for Implementation Services below through their duly authorized representatives.

Customer

City of Pontiac

By: _____

Name: _____

Title: _____

Date: _____

RingCentral

RingCentral, Inc.

By: _____

Name: _____

Title: _____

Date: _____

**RingCentral Professional Services
Statement of Work for Professional Services
Appendix A
Planning and Design Location**

Planning and Design Location Address(s):	Up to # of Users
Remote	147

**RingCentral Professional Services
Statement of Work for Professional Services
Appendix B**

Site	Address	Number of Users	Deployment Type	Rate per Site
City Hall	47450 Woodward Ave. Pontiac MI 48342	92	Remote	\$ 4,600.00
District Court	70 N. Saginaw St. Pontiac MI 48342	55	Remote	\$ 2,750.00
Total		147		\$ 7,350.00

**RingCentral Professional Services
Statement of Work for Professional Services
Appendix C
Change Order Form for Implementation Services**

This Change Order to the Statement of Work is subject to the Professional Services Agreement (the "**PS Agreement**") by and between Customer and RingCentral with the Effective Date listed below, establishes a change to the project scope or budget. By executing this Change Order, the parties agree to be bound by the terms and conditions set out in the PS Agreement with respect to the Services to be performed under the PS Agreement and Statement of Work ("**SOW**") indicated below as modified by this Change Request.

Effective Date of PS Agreement:	Effective Date of SOW:		
Project Name:	Request Date:	PO Number:	Quote Number:
Customer Name:	Requested By:	Requestor Phone:	Requestor email:
Customer Address:			

Specific Details Explaining the Change:

Change 1

<u>Quantity:</u>	<u>Description:</u>	<u>Professional Services Cost:</u>
Change Order Total:		

Impact on Project Timeline and Scheduled Delivery Date:

Impact on SOW Pricing:

BY SIGNING BELOW, the Parties have each caused this Change Order to be signed and delivered by its duly authorized representative as of the date Customer signs below (the "**Effective Date**").

Customer

RingCentral

By:
Signed: __SAMPLE ONLY__
Title: _____
Date: _____

By:
Signed: __SAMPLE ONLY__
Title: _____
Date: _____

RingCentral Professional Services
Statement of Work for Professional Services
Appendix D

Registration of Address and Notification Information – Emergency Dialing.

Bulk uploading of user data, building extensions, etc. may require input of registered addresses and emergency notification information. By engaging RingCentral for implementation of the Services, Customer agrees to the following:

- I. **Registered Address.** It is Customer's obligation to maintain accurate emergency location information for each Digital Line on its Account. RingCentral will, on Customer's behalf, upload Customer's Users' registered addresses using a list of addresses provided by Customer.
- II. **Emergency Notifications.** For Digital Lines located in the United States, Customer must input and maintain in Service Web a central location for the receipt of emergency notifications generated by its Users placing emergency calls (for further information about this obligation, [click here](#)). RingCentral will, as a part of the upload described in (A) above, also input Customer's emergency notification location, as directed by Customer.
- III. **Customer's Representation and Warranty.** Customer represents and warrants that the registered addresses and emergency notifications location are accurate and acknowledges that any subsequent change to the registered addresses must be carried out by Customer. Customer acknowledges that it may have its own independent legal obligation to ensure the accuracy of the above information and that RingCentral takes no responsibility for the accuracy of the information provided by Customer.



Tony Pacini, Sr. Account Executive - Public Sector
Connect with me: 313-335-3240 | tony.pacini@ringcentral.com



Presented to: City of Pontiac

December 8, 2020

Service Price - 36 Month Term (MRC) - Monthly Pay					
Description	Qty.	List Unit Price	Discounted Unit Price	RingCentral Monthly Amount	RingCentral Annual Amount
RingCentral Office - Standard Licenses**	143	\$25.99	\$13.49	\$1,929.07	\$23,148.84
Softphone, Mobile App, Team Messaging, RC Video, Audio Conferencing, SMS, Fax	143	Included	Included	Included	Included
Basic License - Limited Voice Extension (Conference, Common Area)	4	\$14.99	\$9.99	\$39.96	\$479.52
Usage - Local & Long Distance for US & Canada, 1,000 Toll-Free Minutes	UNLIMITED	Included	Included	Included	Included
Additional Toll-Free Numbers	3	\$4.99	\$0.99	\$2.97	\$35.64
Compliance and Administrative Cost Recovery Fee	147	\$3.50	-	\$514.50	\$6,174.00
E-911	147	\$1.00	-	\$147.00	\$1,764.00
Federal Universal Service Fund Fee	1	-	-	\$115.98	\$1,391.76
RingCentral Office Grand Total*				\$2,749.48	\$32,993.76

*Federal Universal Service Fund Fee (FUSF) charge calculated at time of invoice.

Tax exemption of State & Local taxes pending RingCentral approval of tax exempt certificate

**Includes Premium tier features: Multisite, SSO, Custom Roles and Permissions, Nomadic 911

Phone Hardware (one-time purchase)				
Description	Qty.	List Unit Price	Discounted Unit Price	Total for Units
Phone Hardware - Polycom VVX 250 (General)	121	\$159.00	\$63.96	\$7,739.16
Phone Hardware - Polycom VVX 450 + Expansion Module (Receptionist)	8	\$489.00	\$409.00	\$3,272.00
Phone Hardware - Polycom Trio 8500 (Conference)	4	\$997.00	\$899.00	\$3,596.00
Phone Hardware - Polycom OBI302 ATA (Fax)	14	\$79.00	\$69.00	\$966.00
Total for Phone Hardware Purchase				\$15,573.16

Professional Services (one-time fee/purchase)				
Description	Qty.	List Unit Price	Discounted Unit Price	Total for Units
Professional Services - Remote Project Management, Implementation, & Training	147	-	\$50.00	\$7,350.00
Total for Professional Service Implementation				\$7,350.00

*Final scope of work (SOW) and associated pricing will be developed upon the completion of services discovery conversations

^Subject to change based on final SOW

PRICING VALID FOR 60 DAYS

Polycom Rebate Program			
Description	Qty.	Polycom Rebate	Total for Units
Phone Hardware - Polycom VVX250	121	(\$15.00)	(\$1,815.00)
Phone Hardware - Polycom VVX450	8	(\$40.00)	(\$320.00)
Phone Hardware - Polycom Trio 8500	4	(\$50.00)	(\$200.00)
Total Rebate			(\$2,335.00)

Limit 200 phones

Rebate funds provided directly from Polycom



MASTER SERVICES AGREEMENT

This Master Services Agreement is effective as of the date of last signature ("Effective Date") and made between:

RingCentral, Inc. ("RingCentral")	City of Pontiac ("Customer")
Address: 20 Davis Drive Belmont, CA 94002	Address: 47450 Woodward Avenue Pontiac, MI 48342
Signature: for and on behalf of RingCentral .	Signature: for and on behalf of Customer .
Name:	Name:
Job Title:	Job Title:
Date:	Date:

RingCentral and Customer are together referred to as the "Parties" and each individually as a "Party."

1. The Master Services Agreement ("Agreement") consists of the terms and conditions contained herein, and any Service Attachments applicable to Customer's Services, and any other Attachments agreed by the Parties, are incorporated into and form a part of this Agreement.

- ☒ Exhibit A – Definitions
- ☒ Service Attachment A – RingCentral Office Services
- ☒ Attachment B – Professional Services Agreement
- ☒ Attachment C – Service Level Agreement for Office Services
- ☒ Attachment D – Business Associate Agreement

THE PARTIES AGREE AS FOLLOWS:

2. Ordering and Term

A. Ordering Services. Customer may order the Services set forth in the relevant Attachments, attached hereto, by executing an Order Form in the format provided by RingCentral. Customer must submit the Order Form to RingCentral either in writing or electronically via the Administrative Portal. The Order Form will identify the Services requested by Customer together with: (i) the price for each Service; (ii) scheduled Start Date; (iii) and products rented, licensed or sold to Customer, if any. An Order Form will become binding when it is executed by the Customer and accepted by RingCentral. RingCentral may accept an Order Form by commencing performance of the requested Services. The Services and invoicing for those Services will begin on the Start Date, as identified in the applicable Order Form or on the day Services are ordered via the Administrative Portal. Customer may purchase additional Services, software, and equipment via the Administrative Portal or by executing additional Order Forms.

B. Equipment. Customer may purchase or rent equipment from RingCentral for use with the Services. The terms and conditions that govern any such transaction can be found at:

- (i) Purchase: <http://www.ringcentral.com/legal/ringcentral-hardware-terms-conditions.html>; and
- (ii) Rental: <http://www.ringcentral.com/legal/lease-rental.html>

C. Term of this Agreement. The Term of this Agreement will commence on the Effective Date and continue until the last Order Form is terminated or expires, unless terminated earlier in accordance with its terms.

D. Services Term. The Services Term will begin on the Start Date of the initial Order Form and continue for the initial term set forth in the initial Order Form ("Initial Term"). Upon expiration of the Initial Term, unless otherwise set forth in the Order Form, recurring Services

will automatically renew for successive periods as set forth in the initial Order Form (each a "Renewal Term") unless either Party gives notice of non-renewal at least thirty (30) days before the expiration of the Initial Term or the then-current Renewal Term. The term of any recurring Services added to your Account after the initial Order Form is executed will start on the Start Date in the applicable Order Form, will run coterminously with the then-current Term of any preexisting Services unless otherwise extended in the applicable Order Form, and will be invoiced on the same billing cycles as the preexisting Services.

3. Invoicing and Payment

A. Prices and Charges. All prices are identified in US dollars on the Administrative Portal or in the applicable Order Form unless otherwise agreed by the Parties. Additional charges may result if Customer activates additional features, exceeds usage thresholds, or purchases additional Services or equipment. Customer will be liable for all charges resulting from use of the Services on its Account. Unless otherwise agreed between the Parties, recurring charges for the Services begin on the Start Date identified in the Administrative Portal or in the applicable Order Form and will continue for the Term. Recurring charges (such as charges for Digital Lines, product licenses, minute bundles, and equipment rental fees) will, unless otherwise agreed between the Parties, once incurred, remain in effect for the then-current Term. RingCentral will provide notice of any proposed increase in such charges no later than sixty (60) days before the end of the Initial Term or then-current Renewal Term, and any such increase will be effective on the first day of the next Renewal Term. Administrative Fees that RingCentral is entitled to pass on to its customers as a surcharge pursuant to applicable Law may be increased on thirty (30) days' written notice. Outbound calling rates will be applied based on

the rate in effect at the time of use. Customer may locate the currently effective rates in the Administrative Portal.

B. Invoicing and Payment. Invoices will be issued in accordance with the payment terms set forth in the Order Form. If Customer chooses to pay by credit or debit card, by providing a valid credit or debit card, Customer is expressly authorizing all Services and equipment charges and fees to be charged to such payment card, including recurring payments billed on a monthly or annual basis. In addition, Customer's provided credit card shall be used for any in-month purchases of additional services and products, or where Customer has exceeded usage or threshold limits, any overage charges. Unless otherwise stated in the applicable Order Form, recurring charges are billed in advance in the frequency set forth in the Order Form, and usage-based and onetime charges are billed monthly in arrears. Customer shall make payment in full, without deduction or set-off, within thirty (30) days of the invoice date. Any payment not made when due may be subject to a late payment fee equivalent to the lesser of (i) one and a half percent (1.5%) per month or (ii) if applicable, the highest rate allowed by Law. In no event may payment be subject to delays due to Customer internal purchase order process.

C. Taxes. All rates, fees, and charges are exclusive of applicable Taxes, for which Customer is solely responsible. Taxes may vary based on jurisdiction and the Services provided. If any withholding tax is levied on the payments, then Customer must increase the sums paid to RingCentral so that the amount received by RingCentral after the withholding tax is deducted is the full amount RingCentral would have received if no withholding or deduction had been made. If Customer is a tax-exempt entity, tax exemption will take effect upon provision to and validation by RingCentral of certificate of tax exemption.

D. Billing Disputes. If a Customer reasonably and in good faith disputes any portion of RingCentral's invoice, it must provide written notice to RingCentral within thirty (30) days of the invoice date, identifying the reason for the dispute and the amount being disputed. Customer's dispute as to any portion of the invoice will not excuse Customer's obligation to timely pay the undisputed portion of the invoice. Upon resolution, Customer must pay any validly invoiced unpaid amounts within thirty (30) days. Any amounts that are found to be in error resulting in an overpayment by the Customer will be applied as a billing credit against future invoices. Customer will be reimbursed any outstanding billing credits at the expiration or termination of this Agreement.

4. Provision of the Service

A. General Terms. RingCentral will provide the Services as described in the relevant Service Attachment. RingCentral may enhance, replace, and/or change the features of the Services, but it will not materially reduce the core features, functions, or security of the Services during the Term without Customer's consent.

B. Customer Care

- i. Customer must provide Helpdesk Support to Customer's End Users. RingCentral may require Customer's Helpdesk Support personnel to complete a designated series of training courses on RingCentral's Services. Such training will be provided to Customer online in English at no cost.
- ii. RingCentral will make remote support available to Customer's Helpdesk Support personnel and/or Account Administrators via the Customer Care call center, which will be available 24/7, to attempt to resolve technical issues with, and answer questions regarding the use of the Services. Unless otherwise agreed by the parties, Customer Care support will be provided in English, and onsite and implementation services are not included in the Customer Care support.
- iii. Customer may open a case with Customer Care following the

process in place at the time. Any individual contacting Customer Care on behalf of Customer must be authorized to do so on behalf of the Account and will be required to follow applicable authentication protocols.

C. Professional Services. RingCentral offers a broad portfolio of professional services that includes onsite and remote implementation services; extended enterprise services including dedicated proactive network monitoring and premium technical support; and consulting. Any such services are governed by this Agreement, the Professional Services terms, and any applicable Statement of Work (SOW), which may be attached hereto.

D. Subcontracting. RingCentral may provide any of the Services hereunder through any of its Affiliates or subcontractors, provided that RingCentral will bear the same degree of responsibility for acts and omissions for those subcontractors acting on RingCentral's behalf in the performance of its obligations under this Agreement as it would bear if such acts and omissions were performed by RingCentral directly.

5. Use of the Service

A. Service Requirements. The Services are dependent upon Customer's maintenance of sufficient Internet access, networks and power as set forth in RingCentral's Technical Sufficiency Criteria, available at <https://www.ringcentral.com/legal/policies/technical-sufficiency-criteria.html>. RingCentral will not be responsible for any deficiencies in the provision of the Services if Customer's network does not meet RingCentral's Technical Sufficiency Criteria.

B. Use Policies. Customer and its End Users may use the Services only in compliance with this Agreement, applicable Law, and the Use Policies referenced below, which are incorporated into and form part of this Agreement. Customer must ensure that its End Users comply with the Use Policies. Any breach of this Section (Use Policies) will be deemed a material breach of this Agreement. RingCentral may update the Use Policies from time to time and will provide notice of material updates to Customer at the email address on file with the Account. All updates will become effective thirty (30) days after such notice to Customer or upon posting for non-material changes. Customer may object to a modification that negatively impacts its use of the Service by sending written notice ("Objection Notice") to RingCentral within thirty (30) days from the date of the notice of modification. If the Parties cannot reach agreement, then either Party may terminate the affected Services without penalty with a thirty (30) days written notice to the other Party.

- i. **Acceptable Use Policy.** The Services must be used in accordance with RingCentral's Acceptable Use Policy, available at <https://www.ringcentral.com/legal/acceptable-use-policy.html>. Notwithstanding anything to the contrary in this Agreement, RingCentral may act immediately and without notice to suspend or limit the Services if RingCentral reasonably suspects fraudulent or illegal activity in the Customer's Account, material breach of the Acceptable Use Policy, or use of the Services that could interfere with the functioning of the RingCentral Network provided such suspension or limitation may only be to the extent reasonably necessary to protect against the applicable condition, activity, or use. RingCentral will promptly remove the suspension or limitation as soon as the condition, activity or use is resolved and mitigated in full. If Customer anticipates legitimate but unusual activity on its Account, Customer should contact Customer Care in advance to avoid any Service disruption.
- ii. **Emergency Services.** RingCentral's policy governing the provision of emergency services accessed via the Services is

available at <https://www.ringcentral.com/legal/emergency-services.html>.

- iii. Numbering Policies. The provision, use, and publication of numbers used in conjunction with the Services are governed by RingCentral's Numbering Policies, available at <https://www.ringcentral.com/legal/policies/numbering-policy.html>.

6. Termination

A. Termination for Cause. Either Party may terminate this Agreement and any Services purchased hereunder in whole or part by giving written notice to the other Party: i) if the other Party breaches any material term of this Agreement and fails to cure such breach within thirty (30) days after receipt of such notice; ii) at the written recommendation of a government or regulatory agency following a change in either applicable Law or the Services; or iii) upon the commencement by or against the other Party of insolvency, receivership or bankruptcy proceedings or any other proceedings or an assignment for the benefit of creditors.

B. Effect of Termination. If Customer terminates the Services, a portion of the Services, or this Agreement in its entirety due to RingCentral's material breach under Section 6(A) (Termination for Cause), Customer will not be liable for any fees or charges for terminated Services for any period subsequent to the effective date of such termination (except those arising from continued usage before the Services are disconnected), and RingCentral will provide Customer a pro-rata refund of any prepaid and unused fees or charges paid by Customer for terminated Services. If this Agreement or any Services are terminated for any reason other than as a result of a material breach by RingCentral or as otherwise permitted pursuant to Section 6(A) or as set forth in Section 14(J) (Regulatory and Legal Changes) the Customer must, to the extent permitted by applicable Law and without limiting any other right or remedy of RingCentral, pay within thirty (30) days of such termination all amounts that have accrued prior to such termination, as well as all sums remaining unpaid for the Services for the remainder of the then-current Term plus related Taxes and fees.

7. Intellectual Property

A. Limited License

- i. Subject to, and conditional upon Customer's compliance with, the terms of this Agreement, RingCentral grants to Customer and its End User, a limited, personal, revocable, non-exclusive, non-transferable (other than as permitted under this Agreement), non-sublicensable license to use any software provided or made available by RingCentral to the Customer as part of the Services ("Software") to the extent reasonably required to use the Services as permitted by this Agreement, only for the duration that Customer is entitled to use the Services and subject to the Customer being current on its payment obligations.
- ii. Customer will not, and will not allow its End Users, to: (a) sublicense, resell, distribute or assign its right under the license granted under this Agreement to any other person or entity; (b) modify, adapt or create derivative works of the Software or any associated documentation; (c) reverse engineer, decompile, decrypt, disassemble or otherwise attempt to derive the source code for the Software; (d) use the Software for infringement analysis, benchmarking, or for any purpose other than as necessary to use the Services Customer is authorized to use; (e) create any competing Software or Services; or (f) remove any copyright or other proprietary or confidential notices on any Software or Services.

B. IP Rights

- i. RingCentral's Rights. Except as expressly provided in this Agreement, the limited license granted to Customer under Section 7(A) (Limited License) does not convey any ownership or other rights or licenses, express or implied, in the Services (including the Software), any related materials, or in any Intellectual Property and no IP Rights or other rights or licenses are granted, transferred, or assigned to Customer, any End User, or any other party by implication, estoppel, or otherwise. All rights not expressly granted herein are reserved and retained by RingCentral and its licensors. The Software and Services may comprise or incorporate services, software, technology or products developed or provided by third parties, including open source software or code. Customer acknowledges that misuse of RingCentral Services may violate third-party IP rights.
- ii. Customer Rights. As between RingCentral and Customer, Customer retains title to all IP Rights that are owned by the Customer or its suppliers. To the extent reasonably required or desirable for the provision of the Services, Customer grants to RingCentral a limited, personal, non-exclusive, royalty-free, license to use Customer's IP Rights in the same. Customer must provide (and is solely responsible for providing) all required notices and obtaining all licenses, consents, authorizations or other approvals related to the use, reproduction, transmission, or receipt of any Customer Content that includes personal or Confidential Information or incorporates any third-party IP rights.

C. Use of Marks. Neither Party may use or display the other Party's trademarks, service mark or logos in any manner without such Party's prior written consent.

8. Confidentiality

A. Restrictions on Use or Disclosures by Either Party. During the Term of this Agreement and for at least one (1) year thereafter, the Receiving Party shall hold the Disclosing Party's Confidential Information in confidence, shall use such Confidential Information only for the purpose of fulfilling its obligations under this Agreement, and shall use at least as great a standard of care in protecting the Confidential Information as it uses to protect its own Confidential Information.

Each Party may disclose Confidential Information only to those of its employees, agents or subcontractors who have a need to it in order to perform or exercise such Party's rights or obligations under this Agreement and who are required to protect it against unauthorized disclosure in a manner no less protective than required under this Agreement. Each Party may disclose the other Party's Confidential Information in any legal proceeding or to a governmental entity as required by Law.

These restrictions on the use or disclosure of Confidential Information do not apply to any information which is independently developed by the Receiving Party or lawfully received free of restriction from another source having the right to so furnish such information; after it has become generally available to the public without breach of this Agreement by the Receiving Party; which at the time of disclosure was already known to the Receiving Party, without restriction as evidenced by documentation in such Party's possession; or which the Disclosing Party confirms in writing is free of such restrictions.

Upon termination of this Agreement, the Receiving Party will promptly delete, destroy or, at the Disclosing Party's request, return to the Disclosing Party, all Disclosing Party's Confidential Information in its possession, including deleting or rendering unusable all electronic files and data that contain Confidential Information, and upon request will

provide the Disclosing Party with certification of compliance with this subsection.

9. Data Protection

A. Data Privacy. RingCentral respects Customer's privacy and will only use the information provided by Customer to RingCentral or collected in the provision of the Services in accordance with: (a) the Privacy Notice, available at <http://www.ringcentral.com/legal/privacy-notice.html>, and (b) RingCentral's Data Processing Addendum, available at <https://www.ringcentral.com/legal/dpa.html>, each of which are hereby incorporated by reference. RingCentral may update the Privacy Notice and Data Processing Addendum from time to time and will provide notice of any material updates to the Customer as required by applicable Laws at the email address on file with the Account. Such updates will be effective thirty (30) days after such notice to Customer.

B. Data Security. RingCentral will take commercially reasonable precautions, including, without limitation, technical (e.g., firewalls and data encryption), administrative and physical measures, to help safeguard Customer's Account, Account Data, and Customer Content against unauthorized use, disclosure, or modification. Customer must protect all End Points using commercially reasonable security measures. Customer is solely responsible to keep all user identifications and passwords secure. Customer must monitor use of the Services for possible unlawful or fraudulent use. Customer must notify RingCentral immediately if Customer becomes aware or has reason to believe that the Services are being used fraudulently or without authorization by any End User or third party. Failure to notify RingCentral may result in the suspension or termination of the Services and additional charges to Customer resulting from such use. RingCentral will not be liable for any charges resulting from unauthorized use of Customer's Account.

C. Software Changes. RingCentral may from time to time push software updates and patches directly to Customer's device(s) for installation and Customer will not prevent RingCentral from doing so. Customer must implement promptly all fixes, updates, upgrades and replacements of software and third-party software that may be provided by RingCentral. RingCentral will not be liable for inoperability of the Services or any other Services failures due to failure of Customer to timely implement the required changes.

10. Limitations of Liability

A. Excluded Damages. IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES OR ITS OR THEIR SUPPLIERS BE LIABLE FOR INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO: (1) LOSS OF USE OR LOSS OF DATA; (2) LOSS OF BUSINESS OPPORTUNITIES, REVENUES OR PROFITS; OR (3) COSTS OF PROCURING REPLACEMENT PRODUCTS OR SERVICES, IN ALL CASES WHETHER ARISING UNDER CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR ANY OTHER THEORY OF LIABILITY, AND EVEN IF SUCH PARTY HAS BEEN INFORMED IN ADVANCE OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN.

B. Liability Caps. EXCEPT AS SET FORTH HEREIN, THE TOTAL CUMULATIVE LIABILITY OF THE PARTIES UNDER THIS AGREEMENT WILL NOT EXCEED THE AMOUNTS PAID OR PAYABLE UNDER THIS AGREEMENT DURING THE PREVIOUS SIX (6) MONTHS. LIMITATIONS UNDER THIS SECTION 10(B) (DIRECT DAMAGES) WILL NOT APPLY TO: I) FEES OWED BY CUSTOMER; II) EITHER PARTY'S LIABILITY FOR INFRINGEMENT OF THE OTHER PARTY'S IP RIGHTS; III) EITHER PARTY'S LIABILITY RESULTING FROM GROSS NEGLIGENCE, FRAUD, OR WILLFUL OR CRIMINAL MISCONDUCT; IV) CUSTOMER'S LIABILITY RESULTING FROM USE OF THE SERVICES IN BREACH OF THE ACCEPTABLE USE

POLICY OR EMERGENCY SERVICES POLICY; OR VI) EITHER PARTY'S LIABILITY ARISING FROM DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE, OR FOR ANY OTHER LIABILITY WHICH MAY NOT BE RESTRICTED, LIMITED OR EXCLUDED PURSUANT TO APPLICABLE LAW.

11. Indemnification

A. Indemnification by RingCentral

- i. RingCentral shall indemnify and hold harmless the Customer and its Affiliates for Indemnifiable Amounts, and shall defend any third-party claims or causes of action (a "Third Party Claim") to the extent such Third Party Claim arises out of or alleges that the Services, as provided by RingCentral, infringe or misappropriate the patent, copyright, trademark, or trade secret rights of a third party.
- ii. RingCentral will have no obligations under subsection (i) above to the extent the Third Party Claim arises from: (a) use of the Services in combination with data, software, hardware, equipment, or technology not provided or authorized by RingCentral in writing unless any of the foregoing are necessary for the proper operation of the Services; (b) modifications to the Services not made by RingCentral; (c) Customer Content; (d) failure to promptly install any updates of any software or firmware or accept or use any modified or replacement items provided free of charge by or on behalf of RingCentral; (e) breach of the Agreement; or (f) a Third Party Claim brought by Customer's Affiliate, successor, or assignee.
- iii. If such a Third-Party Claim is made or appears possible, Customer agrees to permit RingCentral, at RingCentral's sole discretion and expense, to (a) modify or replace the Services, or component or part thereof, to make it non-infringing or (b) obtain the right for Customer to continue to use the Services. If RingCentral determines that neither alternative is commercially reasonable, RingCentral may terminate this Agreement in its entirety or with respect to the affected Service, component or part (a "Discontinued Component"), effective immediately on written notice to Customer, in which case Customer will not owe any fees or charges relating to the Discontinued Component for any period subsequent to the date of such termination, and will be entitled to receive a refund of any prepaid but unused fees relating to the Discontinued Component. In the event the removal of the Discontinued Component does not substantially affect Customer's use of the Services, the refund or fee abatement pursuant to the foregoing shall be a reasonable portion of the total fees owed by Customer for the Services as a whole based on the significance of the Discontinued Component to the total value of the Services as a whole. RingCentral's obligations under this Sub-Section will be RingCentral's sole and exclusive liability and Customer's sole and exclusive remedies with respect to any actual or alleged intellectual property violations.

B. Indemnification by Customer. Customer shall indemnify, and hold harmless RingCentral and its Affiliates for Indemnifiable Amounts, and shall defend any Third Party Claims arising out of or in connection with: (i) material violation of applicable Law by the Customer, its Affiliates, or their respective End Users in connection with their use of the Services; (ii) use of the Services in breach of the Use Policies; (iii) failure to promptly install any updates of any software or firmware or accept or use modified or replacement items provided free of charge by or on behalf of RingCentral; or (iv) Customer Content.

C. Defense and Indemnification Procedures. Any Party seeking indemnification under this Section 11 (the "Indemnified Party") shall provide the Party from which it seeks such indemnification (the

"Indemnifying Party") with the following: (a) prompt written notice of the Third-Party Claim, (b) sole control over the defense and settlement of the Third-Party Claim, and (c) reasonable information, cooperation, and assistance (at the Indemnifying Party's sole expense except for the value of the time of the Indemnified Party's personnel) in connection with the defense and settlement of the Third-Party Claim. The Indemnified Party's failure to comply with the foregoing obligations will not relieve the Indemnifying Party of its defense or indemnification obligations under this Section 11 (Indemnification) except to the extent that the Indemnifying Party is materially prejudiced by such failure. The Indemnified Party will have the right to participate (but not control), at its own expense, in the defense of such Third-Party Claim, including any related settlement negotiations. No such claim may be settled by the Indemnifying Party without the Indemnified Party's express written consent (not to be unreasonably withheld, conditioned, or delayed) unless such settlement includes a full and complete release of all claims and actions against the Indemnified Party by each party bringing such Third-Party Claim, requires no admission of fault, liability, or guilt by the Indemnified Party, and requires no act by the Indemnified Party other than the payment of a sum of money fully indemnified by the Indemnifying Party.

12. Warranties

A. RingCentral Warranty. RingCentral will provide the Services using a commercially reasonable level of skill and care, in material compliance with all applicable Laws and otherwise subject to the terms of this Agreement. To the extent permitted by Law, RingCentral shall pass through to Customer any and all warranties RingCentral receives in connection with equipment provided to Customer by or on behalf of RingCentral.

B. Customer Warranty. Customer's and its End Users' use of the Services must always comply with all applicable Laws and this Agreement.

C. Disclaimer of Warranties. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT AND TO THE FULLEST EXTENT PERMITTED BY LAW, THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE," AND RINGCENTRAL MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, QUIET ENJOYMENT, AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING OR USAGE IN TRADE, TOGETHER WITH SIMILAR WARRANTIES, WHETHER ARISING UNDER ANY LAW OR OTHERWISE. TO THE EXTENT THAT RINGCENTRAL CANNOT DISCLAIM ANY SUCH WARRANTY AS A MATTER OF APPLICABLE LAW, THE SCOPE AND DURATION OF SUCH WILL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW.

13. Dispute Resolution

A. Governing Law. This Agreement, and any dispute, claim or cause of action (whether in contract, tort or statute) ("Dispute") arising out of or in connection with this Agreement shall be governed by, and construed in accordance with the Laws of the State of Michigan, excluding conflict of law principles. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement or Customer's use of the products or Services.

B. Good Faith Attempt to Settle Disputes. In the event of a Dispute, each Party shall appoint a duly authorized representative who shall use all reasonable endeavors to resolve in good faith any Dispute within reasonable timescales.

C. Arbitration. If the Parties do not reach settlement or otherwise resolve a Dispute within a period of sixty (60) days, then, upon notice by any Party to the other(s), the Dispute shall be settled exclusively by

arbitration administered by the American Arbitration Association ("AAA") under the AAA Rules of Arbitration (the "Rules"). The number of arbitrators shall be one (1), to be mutually agreed by the Parties or, if no agreement is reached within fifteen (15) days after commencement of the arbitration, selected by the AAA in accordance with the Rules. The place of arbitration shall be Pontiac, Michigan. The language of the arbitration shall be English, and all written materials in connection with such arbitration, including but not limited to all pleadings and evidence, shall be available in the English language. The law to be used by the arbitrator shall be the Laws of the State of California without regard to conflict of law principles. The arbitrator's decision shall be final and binding, and judgment on any award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitrator may award the prevailing party its reasonable attorneys' fees and costs in connection with the arbitration. Except to the extent required by Law, neither Party nor the arbitrator (if any) may disclose the existence, content, or results of, or any communications in connection with, any arbitration or Dispute hereunder without the prior written consent of both Parties. A Party may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim, injunctive, or conservatory relief without breach of this arbitration agreement and without any abridgment of the powers of the arbitrators in the event of acts or breaches of this Agreement that such Party believes may cause irreparable harm or with respect to which such Party believes monetary damages would not provide adequate compensation.

D. Exclusions from Arbitration. Notwithstanding the provisions of Section 13.C, RingCentral shall have the right to: (i) apply to any court of competent jurisdiction to secure a lien or take other similar action in connection with a Dispute related to amounts payable by Customer to RingCentral pursuant to Section 3 (Invoicing and Payment) of the Agreement; or (ii) initiate an action in small claims court for Disputes relating to Customer's payment obligations to RingCentral pursuant to Section 3 (Invoicing and Payment) of the Agreement, provided, however, if such a claim is transferred, removed or appealed to a different court, RingCentral reserves the right to require binding arbitration of the Dispute pursuant to the terms of Section 13.C of the Agreement.

E. Equitable Relief. Any breach of either Party's IP Rights may cause that Party irreparable harm for which monetary damages will be inadequate and such Party may, in addition to other remedies available at Law or in equity, obtain injunctive relief without the necessity of posting a bond or other security, proof of damages, or similar requirement, in addition to any other relief to which such Party may be entitled under applicable Law.

14. Miscellaneous

A. Relationship of the Parties. RingCentral and Customer are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between RingCentral and Customer.

B. Assignment. Neither Party may assign the Agreement or any portion thereof without the other Party's prior written consent (which such consent may not be unreasonably withheld or delayed), however either Party may assign the Agreement and all of that Party's rights and obligations thereunder without consent (a) to an Affiliate; (b) to the Party's successor or surviving entity in connection with a merger, acquisition, consolidation, sale of all or substantially all of its assets used in connection with the provision of Services under this Agreement; or (c) as part of the transfer or disposition of more than fifty percent (50%) of a Party's voting control or assets. This Agreement will bind and inure to the benefit of the Parties, and their permitted assigns and successors.

C. Notices. Except where otherwise expressly stated in the Agreement, all notices or other communications must be in English and are deemed to have been fully given when made in writing and delivered in person, upon delivered email, confirmed facsimile, or five days after deposit with an reputable overnight courier service, and addressed as follows: To RingCentral at RingCentral, Inc., Legal Dept., 20 Davis Drive, Belmont, CA 94002 USA, with a copy to legal@ringcentral.com, and to Customer at either the physical address or email address associated with the Customer Account. Customer acknowledges and agrees that all electronic notices have the full force and effect of paper notices. The addresses to which notices may be given by either Party may be changed (a) by RingCentral upon written notice given to Customer pursuant to this Section or (b) by Customer in the Administrative Portal.

D. Force Majeure. Excluding either Party's payment obligations under the Agreement, neither Party will be responsible or liable for any failure to perform or delay in performing to the extent resulting from any event or circumstance that is beyond that Party's reasonable control, including without limitation any act of God; national emergency; third-party telecommunications networks; riot; war; terrorism; governmental act or direction; change in Laws; fiber, cable, or wire cut; power outage or reduction; rebellion; revolution; insurrection; earthquake; storm; hurricane; flood, fire, or other natural disaster; strike or labor disturbance; or other cause, whether similar or dissimilar to the foregoing, not resulting from the actions or inactions of such Party.

E. Third-Party Beneficiaries. RingCentral and Customer agree that there will be no third-party beneficiaries to this Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

F. Headings, Interpretation. The headings, section titles, and captions used in the Agreement are for convenience of reference only and will have no legal effect. All defined terms include related grammatical forms, and, whenever the context may require, the singular form of nouns and pronouns include the plural, and vice versa. The Parties agree that this Agreement will be deemed to have been jointly and equally drafted by them, and that the provisions of this Agreement therefore should not be construed against a Party or Parties on the grounds that the Party or Parties drafted or was more responsible for drafting the provision(s).

G. Anti-Bribery. Each Party represents that in the execution of this Agreement and in the performance of its obligations under this Agreement it has complied and will comply with all applicable anti-bribery Laws and regulations, including, without limitation, the U.S. Foreign Corrupt Practices Act, the UK Bribery Act and similar applicable Laws.

H. Family Education Rights and Privacy Act (FERPA). Customer Content when in-transit on the RingCentral Network and when at-rest within RingCentral Data Centers may contain communications and/or educational records pertaining to students in connection with the performance of the Services pursuant to the Agreement. RingCentral shall only use or disclose such Customer Content as is reasonably necessary to provide the Services or for RingCentral to otherwise perform its obligations under the Agreement

I. Export Control. Any services, products, software, and technical information (including, but not limited to, services and training) provided pursuant to the Agreement may be subject to U.S. export Laws and regulations. Customer will not use, distribute, transfer, or transmit the services, products, software, or technical information (even if incorporated into other products) except in compliance with U.S. and other applicable export regulations.

J. Regulatory and Legal Changes. In the event of any change in Law, regulation or industry change that would prohibit or otherwise

materially interfere with RingCentral's ability to provide Services under this Agreement, RingCentral may terminate the affected Services or this Agreement or otherwise modify the terms thereof.

K. Entire Agreement. The Agreement, together with any exhibits, Order Forms, Use Policies and Privacy Notice, and Attachments, each of which is expressly incorporated into this Agreement with this reference, constitutes the entire agreement between the Parties and supersedes and replaces any and all prior or contemporaneous understandings, proposals, representations, marketing materials, statements, or agreements, whether oral, written, or otherwise, regarding such subject.

L. Order of Precedence. In the event of any conflict between the documents comprising this Agreement, precedence will be given to the documents in the following descending order: (i) the applicable Order Form; (ii) the applicable Service Attachment; (iii) the main body of this Agreement; (iv) Use Policies and Privacy Notice incorporated by reference in this Agreement; and (v) and any other document expressly referred to in this Agreement which governs the Services.

M. Amendments. Except as otherwise provided, this Agreement may only be modified by a written amendment executed by authorized representatives of both Parties. In no event will handwritten changes to any terms or conditions, including in the applicable Order Form, be effective.

N. Severability and Waiver. In the event any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, such provision(s) will be stricken and the remainder of this Agreement will remain legal, valid and binding. The failure by either Party to exercise or enforce any right conferred by this Agreement will not be deemed to be a waiver of any such right or to operate so as to bar the exercise or enforcement of any such or other right on any later occasion. Except as otherwise expressly stated in this Agreement, all rights and remedies stated in the Agreement are cumulative and in addition to any other rights and remedies available under the Agreement, at Law, or in equity.

O. Publicity. Subject to Customer's prior written approval, which may not be unreasonably withheld or denied, in each instance, and notwithstanding anything to the contrary in this Agreement, RingCentral may identify Customer as a customer (including use of any Customer logo or trademark) and may refer to this Agreement during its earnings calls and in connection with its business deals, press releases, and marketing and/or promotional materials.

P. Execution. Each Party represents and warrants that: (a) it possesses the legal right and capacity to enter into the Agreement and to perform all of its obligations thereunder; (b) the individual signing the Agreement and (each executable part thereof) on that Party's behalf has full power and authority to execute and deliver the same; and (c) the Agreement will be a binding obligation of that Party. Each Party agrees that an Electronic Signature, whether digital or encrypted, is intended to authenticate this Agreement and to have the same force and effect as manual signatures.

Q. Counterparts. This Agreement may be executed electronically and in separate counterparts each of which when taken together will constitute one in the same original.

R. Survival. The rights and obligations of either Party that by their nature would continue beyond the expiration or termination of this Agreement or an Order Form will survive expiration or termination of this Agreement or the Order Form, including without limitation payment obligations, warranty disclaimers, indemnities, limitations of liability, definitions and miscellaneous.

EXHIBIT A

DEFINITIONS

Definitions. Capitalized terms used in this Agreement but otherwise not defined have the following meaning:

i. **"Account"** means the numbered account established with RingCentral and associated with Customer and the Services provided to Customer under this Agreement. For billing and convenience purposes, multiple services, Digital Lines, or End Users may be included in a single billing account, and/or a single Customer may have multiple billing accounts encompassing different geographic locations, business units, or other designations as requested by Customer and accepted by RingCentral.

ii. **"Account Administrator"** means the person(s) who have been granted authority by Customer to set up, amend, or otherwise control settings and/or make additional purchases for the Account via the Administrative Portal. Account Administrators may have varying levels of Account rights, skills, or permissions.

iii. **"Account Data"** means: any business contact information provided with the Account; RingCentral-generated logs of calling or other metadata developed or collected in the provision of the Services; configuration data; and records of Digital Lines and any Services purchased under this Agreement.

iv. **"Administrative Fees"** means any administrative recovery fees, 911 cost recovery fees and the like separately charged by RingCentral to Customer.

v. **"Administrative Portal"** means the online administrative portal through which Account Administrators control settings and/or make additional purchases for the Account.

vi. **"Affiliate(s)"** means a person or entity that is controlled by a Party hereto, controls a Party hereto, or is under common control with a Party hereto, and "control" means beneficial ownership of greater than fifty percent (50%) of an entity's then-outstanding voting securities or ownership interests.

vii. **"Attachment (s)"** means documents appended to the contract containing additional terms for products and Services. Attachments and the terms and conditions contained therein are part of this Agreement.

viii. **"Confidential Information"** means any information disclosed by or on behalf of the Disclosing Party) to the Receiving Party that should reasonably be considered as confidential given the nature of the information and the circumstances surrounding its disclosure.

ix. **"Customer Care"** means Customer support operations delivered by RingCentral and/or its subcontractors.

x. **"Customer Content"** means the content of calls, facsimiles, SMS messages, voicemails, voice recordings, shared files, conferences or other communications transmitted or stored through the Services.

xi. **"Digital Line"** means a phone number assigned to an End User or a specifically designated location (e.g., conference room) and the associated voice service for inbound and outbound calling that permits an End User generally to make and receive calls to and from the public switched telephone network as well as to and from other extensions within the same Account.

xii. **"Disclosing Party"** means the Party disclosing Confidential Information or on whose behalf Confidential Information is disclosed by such Party's agents, including but not limited to, its Affiliates, officers, directors, employees and attorneys.

xiii. **"Dispute"** has the meaning set forth in Section 13(A) (Good Faith Attempt to Settle Disputes).

xiv. **"Electronic Signatures"** means an electronic sound, symbol, or process, including clicking a digital button to accept, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.

xv. **"End Point"** means an application or device through which any End-User might access and/or use any of the Services, including without limitation IP Desk Phones, Desktop Clients, Web Clients, Mobile Applications, and Software Integrations.

xvi. **"End User"** means an individual user to whom Customer makes the Services available, and may be a natural person, and may include but is not limited to Customer's employees, consultants, clients, external users, invitees, contractors and agents.

xvii. **"Helpdesk Support"** shall mean the performance of the following tasks:

- Standard feature/functionality ("how to") support for End Users (i.e. call forwarding, voice mail set-up, etc.);
- Standard management of the Admin Interface within the product; and
- Support all moves, adds, changes and deletes of employees.

xviii. **"Indemnifiable Amounts"** means all (X) damages and other amounts awarded against the Indemnified Party by a court of competent jurisdiction pursuant to a final judgment or a final award of an arbitral body in connection with such Third-Party Claim; (Y) any amounts payable by the Indemnified Party or its Affiliates pursuant to a binding, written agreement settling the Third Party Claim, provided such agreement is approved in advance in writing by the Indemnifying Party; and (Z) all reasonable costs and expenses paid to third parties by the Indemnified Party or its Affiliates in connection with the Indemnified Party's or its Affiliates' attorneys' fees and related expenses.

xix. **"Indemnifying Party"** and **"Indemnified Party"** have the meanings set forth in Section 11(C) (Defense and Indemnification Procedures).

xx. **"Initial Term"** has the meaning set forth in Section 2(D) (Services Term).

xxi. **"Intellectual Property Rights"** or **"IP Rights"** means all common law and statutory rights (whether registered or unregistered, or recorded or unrecorded, regardless of method) arising out of or associated with: (a) patents and patent applications, inventions, industrial designs, discoveries, business methods, and processes; (b) copyrights and copyright registrations, and "moral" rights; (c) the protection of trade and industrial secrets and Confidential Information; (d) other proprietary rights relating to intangible property; (e) trademarks, trade names and service marks; (f) a person's name, likeness, voice, photograph or signature, including without limitation rights of personality, privacy, and publicity; (g) analogous rights to those set forth above; and (h) divisions, continuations, continuations-in-part, renewals, reissuances and extensions of the foregoing (as applicable).

xxii. **"Law"** means any law, statute, regulation, rule, ordinance, administrative guidance, treaty or convention, or court or administrative order or ruling of any governing Federal, State, local or non-U.S. governmental body with jurisdiction over the Services.

xxiii. **"Order Form(s)"** means a request for Service describing the type and quantity of Services required by Customer and submitted and accepted by the Parties in accordance with Section 2(A) (Ordering Services). The Order Form may be presented and executed via the Administrative Portal.

xxiv. **"Receiving Party"** means the Party or its agents, including, but not limited to its Affiliates, officers, directors, employees and attorneys receiving Confidential Information.

xxv. **"Renewal Term"** has the meaning set forth in Section 2(E) (Services Term).

xxvi. **"RingCentral Network"** means the network and supporting facilities between and among the RingCentral points of presence ("PoP(s)"), up to and including the interconnection point between the RingCentral's network and facilities, and the public Internet, private IP networks, and the Public Switched Telephone Network (PSTN). The RingCentral Network does not include the public Internet, a Customer's own private network, or the PSTN.

xxvii. **"Service(s)"** means all services provided under this Agreement and set forth in one or more Order Form(s).

xxviii. **"Start Date"** means the date so identified in the relevant Order Form or the date on which Customer orders Services via the Administrative Portal.

xxix. **"Taxes"** means any and all federal, state, local, municipal, foreign and other taxes and fees charged or collected from Customers, including but not limited to any Universal Service Fund, TRS and 911 taxes and fees.

xxx. **"Term"** means the Initial Term plus any Renewal Terms.

xxxi. **"Third Party Claim"** has the meaning set forth in Section 11(A) (Indemnification by RingCentral).

xxxii. **"Use Policy"** refers to any of the policies identified in Section 5(B) (Use Policies).

SERVICE ATTACHMENT A

SERVICE ATTACHMENT – RINGCENTRAL OFFICE SERVICES

This Service Attachment is a part of the Master Services Agreement (the "Agreement") that includes the terms and conditions agreed by the Parties under which RingCentral will provide to the Customer the RingCentral Office Services as described under the applicable Order Form.

1. Service Overview. RingCentral Office is a cloud-based unified communications service that includes enterprise-class voice, fax, text, call handling, mobile apps, and BYOD capability that integrates with a growing list of applications. RingCentral Office includes:

- Voice Services, including extension-to-extension calling and the ability to make and receive calls to and from the public switched telephone network (PSTN)
- Video and audio-conferencing service, including screen sharing
- Collaboration Tools, including One-to-One and Team Chat, File Sharing, task management, SMS/Texting (where available) and other innovative tools

RingCentral Office Services may be accessed from a variety of user End Points, including IP Desk Phones, Desktop Clients, Web Clients, Mobile Applications, and Software Integrations.

2. Office Purchase Plans.

A. Tiers of Service. RingCentral Office is made available in several pricing tiers, which are described more fully at <https://www.ringcentral.com/office/plansandpricing.html>. While RingCentral offers unlimited monthly plans for some of its products and services, RingCentral Services are intended for regular business use. "Unlimited" use does not permit any use otherwise prohibited by the Acceptable Use Policy, available at <https://www.ringcentral.com/legal/acceptable-use-policy.html>, including trunking, access stimulation, reselling of the Services, etc.

B. Minute and Calling Credit Bundles. Minute Bundles, e.g., Toll Free Minute Bundles, can be purchased in incremental buckets of minute in addition to any number of minutes included with the purchased tier. Inbound Toll-Free minutes are deducted from included minutes, purchased Minute Bundles, or charged as overage at the rates currently in effect.

International Calling Credit Bundles can be purchased in addition to any base amount included with the purchased tier. International External Calls are charged against Calling Credits on the Account per destination rates, or as overage once Calling Credits are exceeded. Currently effective rates are available at <https://www.ringcentral.com/support/international-rates.html>.

Extension-to-Extension Calls within the Customer account never incur any usage fee and are unlimited, except to the extent that such calls are forwarded to another number that is not on the Customer account. Additional Calling Credits may be purchased through the Auto-Purchase feature, which can be selected for automatic purchase in various increments on the Administrative Portal. Auto-Purchase is triggered when the combined usage of all End Users on an Account exceeds the total Calling Credits or when End Users make calls with additional fees (e.g., 411). Minute Bundles and Calling Credit Bundles expire at the end of month and cannot roll over to the following month. Auto-Purchased Calling Credits expire twelve (12) months from date of purchase. Bundles may not be sold, transferred, assigned, or applied to any other customer.

3. Operator Assisted Calling, 311, 511 and other N11 Calling. RingCentral does not support 0+ or operator assisted calling (including, without limitation, collect calls, third party billing calls, 900, or calling card calls). The Services may not support 211, 311, 411, 511 and/or N11 calling in one or more service areas. Additional charges may apply for these calls.

4. Directory Listing Service. RingCentral offers directory listing (the "Directory Listing Service"). If Customer subscribes to the Directory Listing Service, RingCentral will share certain Customer Contact Data with third parties as reasonably necessary to include in the phone directory ("Listing Information"). This information may include, but is not limited to, Customer's company name, address, and phone numbers. Customer authorizes RingCentral to use and disclose the Listing Information for the purpose of publishing in, and making publicly available through, third-party directory listing services, to be selected by RingCentral or third-party service providers in their sole discretion. Customer acknowledges and agrees that by subscribing to the Directory Listing Service, Customer's Listing Information may enter the public domain and that RingCentral cannot control third parties' use of such information obtained through the Directory Listing Service.

i. **Opt Out.** Customer may opt out of the Directory Listing Service at any time; however, RingCentral is not obligated to have Customer's Listing Information removed from third-party directory assistance listing services that have already received Customer's information.

ii. **No Liability.** RingCentral will have no responsibility or liability for any cost, damages, liabilities, or inconvenience caused by calls made to Customer's telephone number; materials sent to Customer, inaccuracies, errors or omissions with Listing Information; or any other use of such information. RingCentral will not be liable to Customer for any use by third parties of Customer's Listing Information obtained through the Directory Listing Service, including without limitation the use of such information after Customer has opted out of the Directory Listing Service.

5. RingCentral Global Office. RingCentral Global Office provides a single communications system to companies that have offices around the world, offering localized service in countries for which Global Office is available. Additional information related to Global Office Services is available at <http://www.ringcentral.com/legal/policies/global-office-countries.html>. This section sets forth additional terms and conditions concerning RingCentral's Global Office for customers that subscribe to it.

A. Emergency Service Limitations for Global Office. RingCentral provides access to Emergency Calling Services in many, but not all, countries in which RingCentral Global Office is available, allowing End Users in most countries to access Emergency Services (911 in the United States and Canada, 999/112 in the United Kingdom and throughout the European Union, and any other applicable Emergency Services number). Emergency Services may only be accessed within the country in which the Digital Line is assigned, e.g., an End User with a Digital Line assigned in Ireland may dial Emergency Services only within Ireland. Access to Emergency Calling Services in

RingCentral Global Office countries, where available, is subject to the Emergency Services Policy, available at <https://www.ringcentral.com/legal/emergency-services.html>. Customer must make available and will maintain at all times traditional landline and/or mobile network telephone services that will enable End Users to call the applicable Emergency Services number. Customer may not use the RingCentral Services in environments requiring fail-safe performance or in which the failure of the RingCentral Services could lead directly to death, personal injury, or severe physical or environmental damage.

B. Global Office Provided Only in Connection with Home Country Service. RingCentral provides Global Office Service only in connection with Services purchased in the Home Country. RingCentral may immediately suspend or terminate Customer's Global Office Services if Customer terminates its Digital Lines in the Home Country. All invoicing for the Global Office Services will be done in the Home Country on the Customer's Account, together with other Services purchased under this Agreement, using the Home Country's currency. Customer must at all times provide a billing address located in the Home Country. RingCentral will provide all documentation, licenses, and services in connection with the Global Office Service in English; additional language support may be provided at RingCentral's sole discretion.

C. Relationships with Local Providers. In connection with the provision of RingCentral Global Office Services, RingCentral relies on local providers to supply certain regulated communication services; for example (i) for the provision of local telephone numbers within local jurisdictions; (ii) to enable you to place local calls within local jurisdictions; and (iii) to enable You to receive calls from non-RingCentral numbers on Customer's Global Office telephone number(s), by connecting with the local public switched telephone

network. RingCentral's locally licensed affiliates provide all telecommunications services offered to Customer within the countries in which such affiliates are licensed; in some cases, RingCentral may obtain services from locally licensed providers on Customer's behalf. RingCentral, Inc., is responsible for all contracting, billing, and customer care related to those services.

6. Definitions. Terms used herein but not otherwise defined have the meanings ascribed to them in the Agreement. For purposes of this Service Attachment, the following terms have the meanings set forth below:

A. "Digital Line" means a phone number assigned to an End User or a specifically designated location (e.g., conference room) and the associated voice service for inbound and outbound calling that permits the End User generally to make and receive calls to and from the public switched telephone network as well as to and from other extensions within the same Account.

B. "End Point" means an application or device through which any End-User might access and/or use any of the Services, including without limitation IP Desk Phones, Desktop Clients, Web Clients, Mobile Applications, and Software Integrations.

C. "Extension-to-Extension Calls" means calls made and received between End Points on the Customer Account with RingCentral, regardless of whether the calls are domestic or international.

D. "External Calls" means calls made to or received from external numbers on the PSTN that are not on the Customer Account with RingCentral.

E. "Home Country" means the United States or the country that is otherwise designated as Customer's primary or home country in the Order Form.

SERVICE ATTACHMENT B

SERVICE ATTACHMENT – RINGCENTRAL PROFESSIONAL SERVICES AGREEMENT

This Service Attachment is a part of the Master Services Agreement (the “Agreement”) that includes the terms and conditions agreed by the Parties under which RingCentral will provide the RingCentral Professional Services to Customer.

In the event of any conflict between the provisions of the Agreement and the provisions of this Professional Services Agreement (the “PS Agreement”), such provisions of this PS Agreement will prevail.

1. Service Overview. RingCentral shall provide the implementation, installation, consulting, configuration services and other professional services (“Professional Services”) as described and agreed upon in writing between the Parties pursuant to a statement of work (“Statement of Work” or “SOW”).

2. Project Phases. The Professional Services may be delivered in one or more phases. The SOW will specify the milestone, objectives, Sites, fees and other components that are included in the scope of each phase (“Project Phase”). The Professional Services may also be provided on a time and material basis (“T&M Services”) paid by the hour based on the then current T&M Services hourly rate offered by RingCentral, as specified in the relevant SOW. Customer agrees that the delivery, installation, testing, acceptance and payment for the Professional Services rendered under any one Project Phase is not dependent on the delivery, installation, testing, acceptance and payment for the Professional Services under any other Project Phase. Each Project Phase will be billed upon Acceptance, and payment for each Project Phase is due in full within the applicable payment period agreed between the parties and is non-refundable.

3. Customer Sites and Site Visits. In the event the Parties agree that the Professional Services must be performed at one or more Customer facility(ies) (“Site(s)”), the Site(s) will be separately identified in the applicable SOW. Each visit to a separate Customer Site will be considered a separate “Site Visit”. When so stipulated in the SOW, each Site may constitute a Project Phase. Customer has the following obligations with respect to all Site Visits:

- a. Customer will maintain and ensure safe working conditions at each Site and shall promptly inform the RingCentral project manager of any known hazardous conditions at any Site prior to any visit by RingCentral Personnel.
- b. Customer shall ensure that all Site hardware and network environment meets or exceeds the requirements set forth in the Statement of Work and in “RingCentral VoIP Network Requirements and Recommendations” which can be found at: https://support.ringcentral.com/s/article/9233?language=en_US
- c. Customer shall provide RingCentral with all reasonable information, cooperation, and assistance that RingCentral requests in connection with performing the Services, including without limitation providing RingCentral with access to Customer’s systems and networks and related system and network administrators. Any failure on the part of Customer to provide the cooperation requested by RingCentral, or to provide the information or hardware and software environment required, may result in the need for a Change Order to contemplate additional fees and extended timelines to accommodate Customer’s failure to do so.
- d. Customer shall ensure that at least ten (10) business days prior to a Site Visit or as otherwise agreed in the applicable SOW, the Customer Project Manager shall provide to the RingCentral Project Manager the following information for the Site to be visited:

- i. the first and last name, extension number, and email address for delivery of message notification emails of each End User for which the Services are to be implemented at the Site and any other information that RingCentral requests to configure the digital lines that are part of such Services to be implemented (this information needs to be in the form of a Microsoft Excel file suitable for use with the Plan Service’s bulk configuration utility);
- ii. written or illustrated diagrams of Customer’s current and proposed dial plans and data and call flows; and
- iii. information related to configurations, equipment, and deployment requirements for the Site, as requested by RingCentral.

4. Late Site Visit Change. The Parties acknowledge and agree that Customer’s cancellation or change of the dates of a Site Visit at any time during the ten (10) business days immediately prior to the date that the Site Visit is scheduled to take place (a “Late Site Visit Change”) will cause RingCentral to incur expenses and losses (including without limitation RingCentral’s costs in rescheduling the Site Visit and/or loss of opportunity for other business during the period during which such Site Visit was to take place). Accordingly, Customer agrees that for each Late Site Visit Change, Customer shall incur (at the time of cancellation or change) and be liable for, as liquidated damages, an amount equal to eight (8) hours of RingCentral T&M Services at RingCentral’s then-current T&M Services hourly rate, as well as any Service Expenses that have already been expended by RingCentral. The Parties acknowledge and agree that this amount is a fair, reasonable, and appropriate pre-estimate of the losses that RingCentral will incur as a result of any single Late Site Visit Change.

5. Professional Services Acceptance. Each SOW will identify the specific criteria required for the completion of each Project Phase (“Completion Criteria”). Unless otherwise agreed between the parties in the SOW, upon RingCentral’s completion of the Professional Services for each Project Phase, RingCentral will review the Completion Criteria with Customer and will present to the Customer the Professional Services Project Completion Signoff Form (“PCF”) for that Project Phase. Notwithstanding anything to the contrary in this PS Agreement or any SOW, RingCentral’s obligations under any Project Phase are deemed accepted and the Professional Services under such Project Phase shall be considered completed in full and billable upon any of the following (“Acceptance”):

- a. **Customer executes the PCF.**
- b. If RingCentral presents Customer with the PCF and the Customer fails to execute the PCF within three (3) days, unless the Customer provides to RingCentral, within those three (3) days, with a detailed description of the items that are outstanding or that are materially non-conforming with the Completion Criteria applicable to the specific Project Phase. If RingCentral timely receives a rejection notice, then RingCentral will complete or re-perform any portion of the non-conforming Professional Services and re-submit the PCF for the Project Phase to the

Customer for Acceptance as described above. If RingCentral timely receives from the Customer a second rejection notice, and RingCentral, in its reasonable discretion determines that the Professional Services for the Project Phase were properly completed in accordance with the Completion Criteria, acceptance of the Project Phase will be deemed to have been occurred.

- c. **Production Use:** Unless otherwise agreed in writing between the parties, production use will constitute Acceptance for all purposes of this PS Agreement.
- d. **T&M Services.** Acceptance for T&M Services, if applicable and used in a SOW, is deemed to have occurred upon performance.

6. Payment

- a. The SOW will set forth the fees that the Customer will pay to RingCentral for each Project Phase, and the rates for T&M Services. Customer will compensate RingCentral fees and expenses for the Services as set forth in the applicable SOW. Customer acknowledges and agrees that all fees and charges shall be due and payable without any deduction, withholding, or offset of any kind, including without limitation for any levy or tax.
- b. **Invoicing and Payment of Professional Services fees.** Except to the extent otherwise provided in a SOW or this Section, all amounts due under this PS Agreement for Professional Services other than T&M Services, shall be invoiced upon Acceptance of each Project Phase. T&M Services will be invoiced Monthly in arrears. The payment term for each invoice is set forth in the Agreement.
- c. **Service Expenses.** In addition to the fees and expenses set forth in the applicable SOW, Customer agrees to reimburse RingCentral for its fixed travel, meal, and lodging expenses incurred in connection with any Site Visit ("Service Expenses"). Travel, meal, and lodging expenses shall be invoiced upon Acceptance of each Project phase, alongside all other amounts due under this PS Agreement, on a per-trip/per resource basis. RingCentral shall, after Customer request, provide information verifying the deployment of on-site resources and expenditure of Service Expenses.
- d. **Additional Fees.** Customer agrees to incur and be liable for any additional fees or other amounts not provided for in this PS Agreement or the applicable SOW. These Additional fees may include, but are not limited to the following:
 - i. For any additional Site Visit(s) not included in the SOW, the Customer agrees to pay on a T&M Services basis, with a minimum fee equal to eight (8) hours of RingCentral per day at the then-current T&M Services hourly rate.

7. Changes to SOWs

Changes to any applicable SOW shall be made only in a mutually executed written change order between RingCentral and Customer (a

"Change Order"), outlining the requested change and the effect of such change on the Services, including without limitation the fees and the timeline as determined by RingCentral in its reasonable discretion. RingCentral shall have no obligation to commence work in connection with any Change Order until the Change Order is agreed upon by both Parties in writing. RingCentral has no obligation to provide any Professional Services outside the scope of an SOW.

8. Enterprise Support

As part of the Professional Services provided, Customer may purchase Enterprise Support services from RingCentral for use with the Services. The terms and conditions that govern the Enterprise Support can be found at: <https://www.ringcentral.com/legal/enterprise-service-attachment.html>.

9. Term and Termination

- a. **Term.** This PS Agreement shall remain in effect for as long as the Agreement is in effect, unless terminated in accordance with this Section.
- b. **Termination.** Either Party may terminate this PS Agreement, in whole or in part, with thirty (30) days' advance written notice to the other Party. Unless otherwise specified in the termination notice, the termination of one SOW or Project Phase shall not necessarily result in the termination of, or otherwise affect, any other SOW or Project Phase.
- c. **Effect of Termination.** In the event that this PS Agreement, a SOW, or a Project Phase is terminated, in whole or in part, for any reason other than for RingCentral's material breach of this PS Agreement, Customer shall be obligated to pay RingCentral for:
 - i. any Professional Services and T&M Services that have been rendered up until the effective date of the termination;
 - ii. all applicable Service Expenses incurred; and
 - iii. (50%) of the fees for any other Professional Services not yet performed, due under the Project Phase(s) being cancelled, if termination of the PS Agreement, SOW, or a Project Phase occurs within one hundred and eighty (180) days of execution of the applicable SOW. If termination occurs after one hundred and eighty (180) days of execution of the applicable SOW, Customer shall owe all outstanding fees for any Professional Services not yet performed pursuant to the SOW, due under the Project Phase being cancelled.
- d. **Post-Termination Notice Wrap-Up.** Upon receiving or providing notice of termination of this PS Agreement, RingCentral shall be relieved of and excused from any obligation to continue to perform Services or to perform under any then-current SOWs or Project Phase.

ATTACHMENT C

SERVICE LEVEL AGREEMENT FOR RINGCENTRAL OFFICE SERVICES

This Service Level Agreement for Office Services (the "Office SLA") is a part of the Master Services Agreement (the "Agreement") that includes the Service Availability levels RingCentral commits to deliver on the RingCentral Network for RingCentral Office Services.

1. Overview

RingCentral will maintain the following performance levels:

Performance Level	
Voice Services Availability (Monthly Calculation)	99.999%
Quality of Voice Service (Monthly Calculation)	3.8 MOS Score

2. Minimum Eligibility

Customer is entitled to the benefits of this Office SLA only to the extent that Customer maintains a minimum of fifty (50) Digital Lines under the Office Service Attachment with a minimum twelve (12) month Term. This Office SLA shall not apply to any period of time where Customer does not meet the foregoing requirements.

3. Service Delivery Commitments

a. Calculation of Service Availability for Voice Services

Service Availability = $[1 - ((\text{number of minutes of Down Time} \times \text{number of Impacted Users}) / (\text{total number users} \times \text{total number of minutes in a calendar month}))] \times 100$

Availability shall be rounded to nearest thousandth of a percent in determining the applicable credit. Service Credits for Down Time will not exceed 30% MRC.

b. Calculation of Service Credits

Customer is entitled to the Accelerated Service Credits calculated based on the table below:

b.1 Accelerated Service Credit Table

Voice Service Availability	Service Credits
≥ 99.999 %	0% MRC
≥ 99.500 and < 99.999%	5% MRC
≥ 99.000 and < 99.500%	10% MRC
≥ 95.000 and < 99.000%	20% MRC
< 95.000%	30% MRC

c. No Cumulative Credits

Where a single incident of Down Time affects Office Services and any other Services provided by RingCentral and covered under a separate service level agreement executed between the parties, resulting in Service Credits under both agreements, Customer is entitled to claim Service Credits under one of the agreements, but not for both.

Service Credits to be paid under this Office SLA will be calculated based Customer's RingCentral Office MRC only and will not include any other fees paid by RingCentral for any other Services, (e.g., Contact Center Services). Service Credits may not exceed the total MRC paid for the relevant Services.

d. Qualifying for Service Credits.

Service Credits for Down Time will accrue only to the extent:

- Down Time exceeds 1 minute;
- Customer reports the occurrence of Down Time to RingCentral by opening a Support Case within twenty-four (24) hours of the conclusion of the applicable Down Time period;
- RingCentral confirms that the Down Time was the result of an outage or fault on the RingCentral Network; and
- Customer is not in material breach of the Agreement, including its payment obligations.
- Customer must submit a written request for Service Credits to Customer Care within thirty (30) days of the date the Support Case was opened by Customer, including a short explanation of the credit claimed and the number of the corresponding Support Case;

4. Quality of Service Commitments

- Quality of Service Targets.** RingCentral will maintain an average MOS score of 3.8 over each calendar month for Customer Sites in the Territory, except to the extent that Customer endpoints connect via public WiFi, a low bandwidth mobile data connection (3G or lower), or Customer uses narrowband codecs such as G.729.
- Quality of Service Report:** Customer may request a Quality of Service Report for the preceding calendar month by submitting a Support Case. RingCentral will endeavor to provide the Quality of Service Report within five (5) business days.
- Diagnostic Investigation:** If the Quality of Service Report shows a failure to meet the target 3.8 average MOS as calculated under this Section, RingCentral will use industry-standard diagnostic techniques to investigate the cause of the failure. Customer shall cooperate with RingCentral in this investigation fully and in good faith.
- Diagnostic Remediation.** Based on its investigation, RingCentral will provide a reasonable determination of the root cause(s) of any failure for the quality of service to meet the target MOS of 3.8. RingCentral will resolve any root cause(s) on the RingCentral Network; Customer shall timely implement settings or other resolution advised by RingCentral to improve the quality of service.

5. Chronic Service Failures

- a. **Service Availability:** Customer may terminate the Agreement without penalty, and will receive a pro-rata refund of all prepaid, unused fees in the following circumstances if RingCentral fails to meet a Service Availability of at least 99.9% on the RingCentral Network for Voice Services during any three (3) calendar Months in any continuous 6-Month period, and customer has timely reported Down Time as set forth herein.
- b. **Quality of Service:** Customer may terminate the affected Customers Sites under its Agreement without penalty, and will receive a pro-rata refund of all prepaid, unused fees in the following circumstances if RingCentral fails to meet a minimum 3.5 MOS, as measured in duly requested Quality of Service Reports, for the affected Customer Sites within four (4) months of the date of Customer's initial Support Case requesting a Quality of Service Report, except that such right inures only to the extent that Customer has complied fully and in good faith with the cooperation requirements and timely implemented all suggestions from RingCentral, in RingCentral's sole reasonable judgment.
- c. To exercise its termination right under this Office SLA, Customer must deliver written notice of termination to RingCentral no later than ten (10) business days after its right to terminate under this Section accrues.

6. Sole Remedy

The remedies available pursuant to this Office SLA (i.e. the issuance of credits and termination for chronic service failure) shall be Customer's sole remedy for any failure to meet committed services levels under this Office SLA.

7. Definitions

Terms used herein but not otherwise defined have the meanings ascribed to them in the Agreement. For purposes of this Service Level Agreement, the following terms have the meanings set forth below:

- a) **"Down Time"** is an unscheduled period during which the Voice Services for RingCentral Office on the RingCentral Network are interrupted and not usable, except that Down Time does not include unavailability or interruptions due to (1) acts or omissions of Customer; (2) an event of a Force Majeure; or (3) Customer's breach of the Agreement. Down Time begins to accrue after one (1) minute of unavailability, per incident.
- b) **"Impacted User"** means a user with a Digital Line affected by Down Time. In the event that due to the nature of the incident it is not possible for RingCentral to identify the exact number of users with a Digital Line affected by Down Time, RingCentral will calculate the Impacted Users on a User-Equivalency basis as defined below.
- c) **"MOS"** means the Mean Opinion Score, determined according to the ITU-T E-model, as approved in June 2015, rounding to the nearest tenth of a percent. MOS provides a prediction of the expected voice quality, as perceived by a typical telephone user, for an end-to-end (i.e. mouth-to-

ear) telephone connection under conversational conditions. MOS is measured by RingCentral using network parameters between the Customer endpoint, e.g., the IP Phone or Softphone, and the RingCentral Network, and will accurately reflect quality of the call to the caller using the Voice Services.

- d) **"MRC"** means the monthly recurring subscription charges (excluding taxes, administrative or government mandated fees, metered billings, etc.) owed by Customer to RingCentral for Office Services for the relevant month. If customer is billed other than on a monthly basis, MRC refers to the pro-rata portion of the recurring subscription charges for the relevant calendar month. MRC does not include one-time charges such as phone equipment costs, set-up fees, and similar amounts, nor does it include any charges or fees for services other than Office Services.
- e) **"Quality of Service Report"** means a technical report provided by RingCentral, detailing MOS and related technical information.
- f) **"RingCentral Network"** means the network and supporting facilities between and among the RingCentral points of presence ("PoP(s)"), up to and including the interconnection point between the RingCentral's network and facilities, and the public Internet, and the PSTN. The RingCentral Network does not include the public Internet, or the Public Switched Telephone Network (PSTN).
- g) **"Service Availability"** is the time for which Voice Services for RingCentral Office are available on the RingCentral Network, expressed as a percentage of the total time in the relevant calendar month, and calculated as set forth above.
- h) **"Service Credits"** means the amount that RingCentral will credit a Customer's account pursuant to this Office SLA.
- i) **"Site"** means a physical location in the Territory at which Customer deploys and regularly uses at least five (5) RingCentral Digital Lines. A Digital Line used outside such physical location for a majority of days in the relevant calendar month, such as home offices, virtual offices, or other remote use, will not be included in the line count for this purpose.
- j) **"Support Case"** means an inquiry or incident reported by the Customer, through its Helpdesk Support, to Customer Care via the designated Customer Care portal.
- k) **"Territory"** means those countries in which Customers subscribes to RingCentral Office or Global Office Services.
- l) **"User-Equivalency"** means the calculation made by RingCentral to estimate the percentage of the Voice Services impacted by the Down Time. RingCentral may use number of calls, network, device information, vendor and customer reports, and its own technical expertise to make these calculations.
- m) **"Voice Services"** means the audio portion of the Services, across endpoints, including the Softphone, and IP desk phone.

ATTACHMENT D

RINGCENTRAL BUSINESS ASSOCIATE AGREEMENT

RingCentral, Inc. and Customer (each a **"Party"** and collectively the **"Parties"**) hereby agree to the following terms and conditions of this Business Associate Agreement (this **"BAA"**), which is attached to the RingCentral Master Service Agreement (the **"Agreement"**) and is effective as of the execution date of this BAA (the **"BAA Effective Date"**).

RECITALS

Whereas, Customer has, pursuant to the Agreement, purchased one or more services covered by this BAA listed in Annex A (the **"Services"**);

Whereas, Customer desires to comply with the Health Insurance Portability and Accountability Act of 1996 (**"HIPAA"**), as amended, along with applicable provisions of the Standards for Privacy of Individually Identifiable Health Information (the **"Privacy Rule"**) and applicable provisions of the Security Standards for the Protection of Electronic Protected Health Information (**"Security Rule"**) (collectively the **"HIPAA Rules"**) and, in compliance with the HIPAA Rules, Customer desires to safeguard Customer's PHI created, transmitted, received, or maintained by Customer using the Customer's Account (**"Account"**);

Whereas, as a business associate (as that term is defined in the HIPAA Rules) RingCentral wishes to accommodate Customer's desire to safeguard PHI that Customer creates, receives, transmits, or maintains using the RingCentral Services, by entering into this BAA, which meets the requirements of 45 C.F.R. §§ 164.314(a) and 164.504(e);

Now, therefore, in consideration of the mutual covenants and representations, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. **Obligations of RingCentral.** RingCentral agrees:

- a) subject to the provisions of Section 2, to use and disclose Customer's PHI only in connection with the provision of the Services purchased by Customer as part of or related to Customer's Account(s), as required by law, or for any other purpose permitted by the Agreement, or this BAA, provided that RingCentral may not use or disclose Customer's PHI in a manner that would violate the requirements of subpart E of 45 C.F.R. Part 164 if done by Customer;
- b) not to use or further disclose Customer's PHI other than as permitted or required by this BAA, or as required by law;
- c) where required by the HIPAA Rules, to make reasonable efforts to use, disclose, and request only the minimum necessary amount of PHI;
- d) to use appropriate safeguards and comply, where applicable, with subpart C of 45 C.F.R. Part 164 with respect to the protection of Electronic PHI, to prevent use or disclosure of Customer's PHI other than as provided for by this BAA;
- e) to report to Customer any use or disclosure of Customer's PHI not provided for by this BAA of which RingCentral becomes aware, including any breach of unsecured PHI as required by 45 C.F.R. § 164.410, and any security incident involving Customer's PHI of which RingCentral becomes aware; provided, however, that notwithstanding the

foregoing, the Parties agree that this BAA serves as notification, and that no further notification is required, of the ongoing existence of Unsuccessful Security Incidents. For purposes of this BAA, an **"Unsuccessful Security Incident"** includes, without limitation, activity such as pings and other broadcast attacks on RingCentral's firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above, so long as such activity does not result in unauthorized access, use, acquisition, or disclosure of Customer's PHI;

- f) to ensure that any subcontractor that creates, receives, maintains or transmits Customer's PHI on behalf of RingCentral agrees to substantially the same restrictions and conditions that apply to RingCentral with respect to such PHI, as required by the HIPAA Rules;
- g) to the extent that RingCentral has been delegated under the Agreement and is to carry out an obligation of Customer under Subpart E of 45 C.F.R. Part 164, RingCentral will comply with the requirement(s) of Subpart E of 45 C.F.R. Part 164 that apply to Customer in the performance of such delegated obligation;
- h) to the extent that: (i) Customer provides advanced written notice to RingCentral that RingCentral will maintain PHI in a "Designated Record Set" as defined in the HIPAA Rules (and with the understanding that the Parties do not intend for RingCentral to maintain PHI in a Designated Record Set); and (ii) the Designated Record Set (if any) maintained

by RingCentral is not duplicative of records maintained by Customer; RingCentral agrees to:

- a. upon receipt of a written request from Customer, make available to Customer to inspect and/or obtain a copy of Customer's PHI maintained by RingCentral in a Designated Record Set, as required under 45 C.F.R. § 164.524, for so long as RingCentral maintains such PHI in a Designated Record Set; and
 - b. upon receipt of a written request from Customer, provide such information to Customer for amendment and incorporate amendments to PHI maintained by RingCentral in a Designated Record Set as agreed to by Customer under 45 C.F.R. § 164.526, for so long as RingCentral maintains such PHI in a Designated Record Set.
- i) to the extent no disclosure exceptions apply under 45 C.F.R. § 164.528, to maintain and to make available to Customer the information required for Customer to provide an accounting of disclosures in accordance with 45 C.F.R. § 164.528;
 - j) in the event any individual delivers directly to RingCentral a request for an amendment to PHI, access to PHI, or an accounting of disclosures of PHI, to promptly forward such individual request to Customer;
 - k) to make its internal practices, books, and records relating to the Use and Disclosure of Customer's PHI available to the Secretary (as defined in the HIPAA Rules) for purposes of determining Customer's compliance with 45 C.F.R. Part 164, Subpart E; and
 - l) upon termination of this BAA for any reason, if feasible, to return or destroy all PHI received from Customer, or created or received by RingCentral on behalf of Customer, in connection with this BAA, to the extent it has not been already erased, returned or destroyed, and retain no copies thereof, or, if in RingCentral's opinion such return or destruction is not feasible, to extend the protections of this BAA to the PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible.
2. **Permitted Uses and Disclosures of PHI.** Notwithstanding the other provisions of this BAA, RingCentral is permitted to use or disclose Customer's PHI for its proper management and administration of RingCentral services or to carry out its legal responsibilities, provided that RingCentral may only disclose PHI for such purposes if: (i) the disclosure is required by law or (ii) RingCentral obtains reasonable assurances from the person to whom the PHI is disclosed that the information will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies RingCentral when the confidentiality of the PHI has been breached.
3. **Obligations of Customer.** Customer will:
- a) as between the Parties, assume sole responsibility for obtaining any consent, authorization, or permission that may be required by the HIPAA Rules, or any other applicable laws or regulations prior to using the Services to create, receive, maintain, or transmit PHI, or otherwise provide PHI to RingCentral. Without limiting the foregoing,

in the event Customer transmits PHI via text message, or any other method of electronic transmission of PHI (including email or any attachment to email) as part of the Services, Customer agrees to notify the patient whose PHI is to be transmitted that such transmission is not secure and to obtain such individual's consent or authorization, consistent with applicable law, before transmitting any such PHI;

- b) use, disclose, request, and otherwise provide to RingCentral and RingCentral employees only the minimum amount of PHI necessary for RingCentral to provide Services;
 - c) notify RingCentral, in writing, of any limitation(s) in Customer's notice of privacy practices that may affect RingCentral's Use or Disclosure of Customer's PHI;
 - d) notify RingCentral, in writing, of any changes in, or revocation of, permission by an individual to use or disclose any of his or her PHI, to the extent that such changes may affect RingCentral's Use or Disclosure of Customer's PHI;
 - e) notify RingCentral, in writing, of any restriction on the use or disclosure of PHI that Customer has agreed to in accordance with 45 C.F.R. §164.522, to the extent that such restriction may affect RingCentral's use or disclosure of Customer's PHI; and
 - f) not request that RingCentral use or disclose Customer's PHI in a manner that would not be permissible under the HIPAA Rules if done by Customer.
4. **Effect of Limitations and Restrictions.** The Parties agree that in the event RingCentral believes that any limitation(s) or restriction(s) on the use or disclosure of PHI disclosed by Customer pursuant to Section 3 may materially impair RingCentral's ability to provide Services or materially affect RingCentral's costs of providing Services, the Parties will promptly negotiate in good faith an amendment to Agreement that is necessary to adjust RingCentral's obligations and/or reflect RingCentral's increased costs. In the event such negotiations are unsuccessful, RingCentral may terminate this BAA and the Agreement without penalty or further obligation to RingCentral.
5. **Customer Integrations.**
- a) Notwithstanding any provision to the contrary in any agreement between the Parties, this BAA applies only to Services offered by RingCentral as described in Annex A.
 - b) Pursuant to the limitations contained in the Agreement between the Parties and applicable RingCentral policies, Customer may choose to, at its own risk, use third party or Customer's own applications, services, devices, APIs, or any other technology (whether utilized by Customer or a third party on behalf of Customer and whether implemented by RingCentral or not) which integrate with the Services or that transfer data to or from the Services ("Customer Integrations").
 - c) Customer understands and agrees that Customer Integrations are outside the scope of the Parties' primary agreement and of this Business Associate Agreement.
 - d) Notwithstanding any provision to the contrary in any

agreement between the Parties, RingCentral has no responsibility or liability for, and disclaims any warranties or representations relating to, any Customer Integrations.

- e) For the avoidance of doubt, RingCentral will have no obligations or liability for the privacy, security, confidentiality, availability, or integrity of any Customer Integrations, or any PHI or other data processed, handled, sent, stored, created, received, maintained, or transmitted in connection with any Customer Integrations or through any applications, services, devices, APIs, or any other technology not provided within RingCentral Services.

6. **Term.** The term of this BAA (the "**BAA Term**") commences on the BAA Effective Date and runs conterminously with the term of the Agreement, unless sooner terminated by either Party in accordance with Section 7.

7. **Termination.**

- a) **Automatic BAA Termination.** Termination or expiration of the Agreement for any reason will result in the termination of this BAA.
- b) **Direct BAA Termination.** In the event that either Party violates a material term of this BAA, the other Party may terminate the BAA, provided that the non-breaching Party provides written notice to the breaching Party of such breach and provides the breaching Party with an opportunity to cure the breach or end the violation. If such violation is not cured within thirty (30) days, the non-breaching Party may terminate this BAA. In the event that the BAA is terminated pursuant to this section, either Party may terminate the Agreement.

8. **Miscellaneous.**

- a) **Definitions.** All capitalized terms used herein but not otherwise defined have the meanings ascribed to them in the Agreement. Subject to the immediately foregoing sentence, any other terms that are not defined in this BAA or the Agreement but that are defined under the HIPAA Rules have the same meaning as defined under the HIPAA Rules. For purposes of this BAA, "**PHI**" means "protected health information" as that term is defined in the HIPAA Rules, limited to such information created, received, maintained, or transmitted by RingCentral for or on behalf of Customer.
- b) **No Third Party Beneficiaries.** Nothing in this BAA, express or implied, is intended to confer or will confer upon any person or entity other than the Parties any right, benefit, or remedy as a third party beneficiary or by any other nature whatsoever under or by reason of this BAA.
- c) **Notices.** All notices or other communications to be given under this BAA are deemed given when emailed.

To Customer: The postal and email address on file at the time of notice for an Account

To RingCentral: RingCentral, Inc.

Attn.: Legal Department
20 Davis Drive
Belmont, California 94002
HIPAA@ringcentral.com

- d) **Modification.** No modification or amendment of this BAA will be effective unless set forth in a document specifically referencing this BAA that is executed by both Parties.

- e) **Counterparts.** This BAA may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

- f) **Entire Agreement.** RingCentral will be bound by the terms of this BAA only to the extent that: (i) Customer is a "Covered Entity" or "Business Associate" (as these terms are defined in the HIPAA Rules) pursuant to HIPAA; and (ii) RingCentral is acting as Customer's "Business Associate" (as that term is defined in the HIPAA Rules) pursuant to HIPAA. This BAA, together with the Agreement, states the entire understanding and agreement between the Parties with respect to the subject matter hereof, and supersedes and replaces all prior and contemporaneous understandings or agreements, written or oral, regarding such subject matter.

ANNEX A

LIST OF RINGCENTRAL SERVICES COVERED BY THIS BAA

If purchased, the following Services are covered by this BAA:

- RingCentral Office
- RingCentral Contact Center
- RingCentral Video (RCV)

#7

**COMMUNICATION
FROM THE
MAYOR**

CONVERSATIONS WITH THE MAYOR

Small Business Resources

Current Updates on Business Support and Relief Programs



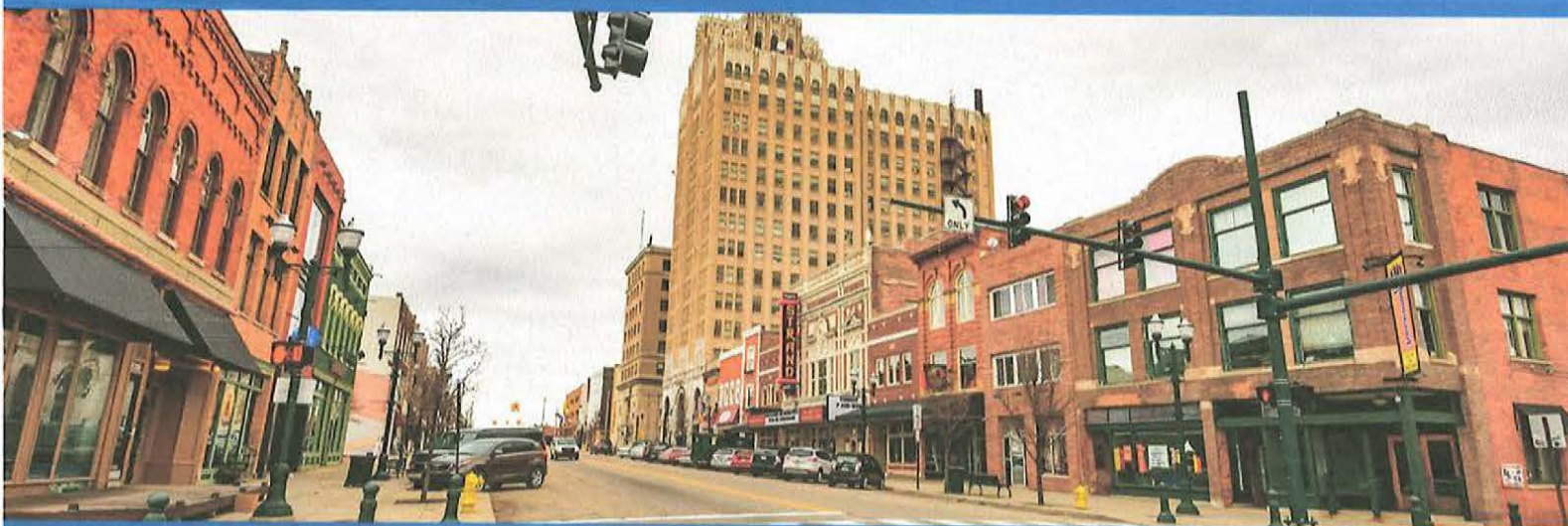
Straight Talk, Real Answers
Join Us on ZOOM!



WEDNESDAY • JANUARY 13 • 2021
1:00 PM

Topics of discussion

- Resource Guide for Covid-19 Grant Funding
- Downtown Support: Social District, Extended Outdoor Dining, Free Parking
- Health Update: Vaccination Protocol
- Pontiac Covid-19 Direct Relief Waivers



Where to view or access information

- Pontiac Website – Economic Development Page
- Pontiac's You Tube Page
- Mayor Waterman's Facebook Page
- PontiaConnect App
- Hotline (248) 758-3300 / economicdevelopment@pontiac.mi.us

Hosted By: Mayor Deirdre Waterman & Mark S. Lee

#8

**COMMUNICATION
FROM THE
MAYOR**

EXECUTIVE ORDER

No. 2020-01

TEMPORARY COVID-19 OUTDOOR DINING STANDARDS

WHEREAS the novel coronavirus (COVID-19) is a respiratory disease easily spread from person to person presenting a public health concern that requires extraordinary protective measures and vigilance;

WHEREAS the spread of COVID-19 has resulted in the State of Michigan declaring a State of Emergency under Section 1 of Article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, and the Emergency Powers of the Governor Act, 1945 PA 302, as amended, as evidenced in Executive Order 2020-4 and Executive Order 2020-100;

WHEREAS the City of Pontiac is committed to encouraging economic activity and assisting local businesses impacted by the COVID-19 pandemic to ease back into operation while containing the spread of COVID-19; pursuant to Executive Order 2020-97; and Executive Order 2020-110;

WHEREAS the City of Pontiac seeks to assist and ensure that establishments permitted to open to the public have the ability to accommodate social distancing guidelines currently in force within the State of Michigan; and Executive Order 2020-110 allows restaurants and bars to reopen on June 8, 2020, but Michigan Gov. Gretchen Whitmer has also signed Executive Order 2020-143, closing indoor service at bars whose revenues from alcohol sales exceed 70% throughout most of lower Michigan indefinitely;

WHEREAS to stimulate the recovery of the restaurant business in the City and to support local restaurants, the enforcement of certain provisions of the City's ordinances regulating the serving of food and drink outdoors on private property and public sidewalks should be temporarily suspended, as set forth further herein.

Therefore, pursuant to the authority granted to me by City Charter Section 4.101, *The Mayor*, which designates me as the Chief Executive Officer of the City of Pontiac, and City Ordinance 2.539, *Outdoor Sidewalk and Patio Dining*, which authorizes the City to administratively issue revocable permits for outdoor sidewalk and patio dining, I hereby declare and order that all food and drink establishments lawfully in existence as of the date of this order will be permitted to operate temporary outdoor dining areas in accordance with the following standards:

1. Establishments may add new or expanded outdoor dining areas to compensate for lost interior seating as a result of COVID-19 related restrictions, accommodate social distancing and/or to allow for phased reopening;
2. The addition of new or expanded outdoor dining areas shall not result in an increase to the total number of seats or maximum occupancy of the food and drink establishment as previously approved by the City;

3. The food and drink establishment shall be properly licensed by state and local agencies to perform any activities, sales, and services;
4. Any sales and/or consumption of food and/or alcoholic beverages shall be in compliance with the provisions of any federal, state, and/or local laws and regulations governing same;
5. The food and drink establishment shall comply with all applicable laws relating to litter, noise, and other livability matters. In addition to the foregoing, no amplified music shall be permitted in outdoor dining areas. The City may impose additional conditions or limitations relating to noise on the establishment when such additional conditions or limitations are necessary or appropriate based on the location of the outdoor dining area and the proximity of such area to residential areas;
6. Existing off-street parking areas may be used for outdoor dining, but there must be a physical barrier or separation to protect customers from vehicle traffic, such as bollards or planter boxes;
7. Food and drink establishments located in multi-tenant buildings or on sites with multiple uses may establish outdoor dining areas, only with written permission of the property owner; however, such outdoor dining areas shall generally be located adjacent to or directly in front of the establishment, with limited extension beyond the frontage of the establishment being site specific and dependent on owner permission;
8. An outdoor dining area may be located on a public sidewalk immediately adjacent to the establishment; however, a minimum of 6 feet of unobstructed, pedestrian access along the sidewalk shall be maintained. The City shall not be held liable or responsible for any type of damage, theft, or personal injury which may occur as a result of operating on a public sidewalk;
9. Outdoor dining areas shall not encroach into or interfere with required handicapped parking spaces;
10. Outdoor dining areas shall not interfere with safe pedestrian and vehicular access or access required to be maintained under the Americans with Disabilities Act;
11. Outdoor dining areas shall not encroach within or interfere with fire and other emergency access;
12. If a tent or canopy is to be used it must be fire rated and the fire rating for the tent must be approved prior to erection of same;
13. The City may impose other conditions or limitations on a food and drink establishment to protect against adverse impacts from noise, traffic, parking, or fire, and to protect persons with disabilities;

14. All establishments seeking new or expanded outdoor dining areas in accordance with this Resolution must submit an application for administrative approval by the City. Applications for administrative approval shall include the following information:

- a) A plan view drawing of the proposed outdoor dining area showing all fixtures and furnishings with all distances clearly marked for pedestrian paths and between seating, and including the following;
 - 1. Reconfigure the layout of the entire outdoor dining area, to the maximum extent practical, to provide a minimum 6 foot wide clear pedestrian walking path adjacent to the dining area;
 - 2. Reconfigure tables and chairs to allow seating for patrons only in accordance with social distancing guidelines in effect;
 - 3. Remove all previously approved chairs and other seating that does not meet social distancing guidelines;
 - 4. Install temporary signage to encourage compliance with social distancing guidelines;
 - 5. Provide a temporary hand sanitizing station adjacent to the outdoor dining area; and,
 - 6. Provide a temporary service station outdoors that includes a trash receptacle and disinfecting wipes or other supplies for the cleaning of tables and chairs between patrons and of high touch points in the outdoor dining area.
- b) Written permission from the property owner, if the food and drink establishment is not the property owner; and,
- c) Proof of insurance to include coverage of the new or expanded outdoor dining area.

Food and drink establishment owners/operators are responsible for ensuring that the standards set forth in this Order and any conditions required as part of the administrative approval are followed. The City Planner may deny or revoke any approval granted pursuant to this Order when, in the judgement of the City Planner, the outdoor dining area is non-compliant. Such determinations may be appealed in writing to the Mayor.

15. Plans must comply with the 2015 International Fire Code.

IT IS FURTHER ORDERED that the City of Pontiac will waive all application fees for new or expanded outdoor dining areas permitted in accordance with this Order.

IT IS FURTHER ORDERED that, except as herein specifically provided, all ordinances of the City of Pontiac in effect at the time of the issuance of this Resolution, and as they may be subsequently amended, shall remain in force. Failure to comply with all the ordinances of the City

may result in enforcement action.

IT FURTHER ORDERED that this Order is subject to suspension, modification, or amendment at any time with or without notice based on a determination that additional conditions or limitations shall be required to protect against adverse impacts associated with new or expanded outdoor dining areas. All approvals governed by this Order shall automatically expire on October 31, 2020 at 11:59:59 p.m., unless such approval is otherwise suspended, modified, amended, or extended in accordance with this Order or any subsequent Executive Orders in conflict with or rescinded by the Governor of the State of Michigan.

Deirdre Waterman, Mayor

Date: