



## CITY COUNCIL AGENDA ITEM

Date: September 26, 2016

To: Brian Kischnick, City Manager

From: Mark Miller, Director of Economic & Community Development *MM*  
 MaryBeth Murz, Purchasing Manager *MBM*  
 Elaine Bo, Recreation Director *EB*  
 Brian Goul, Assistant Recreation Director *BG*

Subject: Bid Waiver - Three Year Contract of Kitchen Use Agreement with (2) Two Three Year Renewal Options

### History

On November 15, 2010 City Council approved a two-year contract with an option to renew for three (3) additional years to lease the Community Center kitchen to Emerald Food Services, LLC (Res #2010-11-262-J5). The Area Agency on Aging 1-B has a contract with Emerald Food Services, LLC (a 501c3 nonprofit organization) to provide food service for the Senior Citizen nutrition program (Meals on Wheels). The City agreed to allow Emerald Food Service, LLC to use the Community Center Kitchen for the purpose of preparing food for this program. As part of this use, Emerald Food Services, LLC is allocated office space to conduct business associated with the administration of food preparation for this program. The City receives \$19,200.00 in revenue annually for the use of the kitchen space.

On September 24, 2012 City Council approved the three (3) year renewal under the same prices, terms and conditions with the contract expiring September 30, 2015, (Res #2012-09-187-J-6).

On August 24, 2015 City Council approved a one (1) year extension under the same prices, terms, and conditions with the contract expiring September 30, 2016 (Res #2015-08-113-J-9). This contract extension was to coincide with the contract between Emerald Food Service, LLC. and the Area Agency on Aging which expires *September 30, 2016*.

On July 22, 2016 a contract was approved by the Agency on Aging for Emerald Food Services, LLC to be the provider of the Senior Citizen nutrition program (Meals on Wheels) for the next three (3) years with the contract expiring September 30, 2019.

### Purchasing

Emerald Food Service, LLC has been the food service provider for the Area Agency on Aging for 27 years and Emerald Food Service, LLC has had a contract with the City since 2001. It is recommended that a kitchen lease contract between Emerald Food Service LLC and the City of Troy be issued for three (3) years with two three year renewal options to coincide with the Area Agency on Aging contract for the Meals on Wheels program.

### Financial

All financial considerations will remain in place according to the current contract that expires on September 30, 2016.



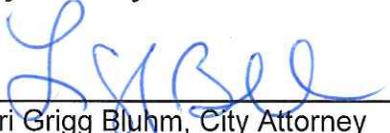
## CITY COUNCIL AGENDA ITEM

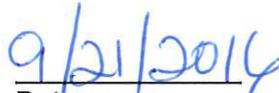
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### Recommendation

It is recommended that City Council approve a three (3) year contract with two three (3) year renewal options between Emerald Food Service LLC and the City of Troy to use the kitchen at the Community Center for the purpose of providing food for the Senior Citizen nutrition program (Meals on Wheels) until September 30, 2019 in accordance with the prices, terms and conditions agreed upon in the attached contract.

### City Attorney's Review as to Form and Legality

  
\_\_\_\_\_  
Lori Grigg Bluhm, City Attorney

  
\_\_\_\_\_  
Date



Advocacy • Action • Answers on Aging

29100 Northwestern Highway  
Suite 400  
Southfield, MI 48034  
800-852-7795  
Fax: 248-948-9691  
www.aaalib.com

July 22, 2016

Kim Haveranek  
Executive Director  
Senior Meals on Wheels  
3179 Livernois  
Troy, MI 48083

Dear Kim Haveranek,

The Area Agency on Aging 1-B (AAA 1-B) Board of Directors is pleased to inform you that your application for the provision of Congregate and Home Delivered Meals service for Fiscal Years 2017 - 2019 has been approved. The Request for Proposals is a competitive bid process in which your application met the overall requirements for service provision as outlined in "Request for Proposals and Operating Standards Manual for Social and Nutrition Services, Fiscal Years 2017 - 2019".

AAA 1-B awards funding for Congregate and Home Delivered Meals service for a three year period. Funding is allocated annually, and may be amended at anytime during the fiscal year, thus requiring an adjustment to contract serving levels based on the contracted unit rate. The unit rate will remain the same throughout the three-year cycle.

All AAA 1-B funding level decisions are subject to the availability of funds, the nutrition funding formula and approval of the current Annual Implementation Plan by the AAA 1-B Board of Directors, County Boards of Commissioners, and Michigan Department of Health and Human Services/Aging and Adult Services Agency.

The approved Federal/State funding and pre-contract/contract stipulations for Fiscal Year 2017 are listed below:

**Congregate and Home Delivered Meals**

Serving: Oakland County: Berkley, Beverly Hills, Bingham Farms, Birmingham, Clawson, Franklin, Ferndale, Hazel Park, Huntington Woods, Lathrup Village, Madison Heights, Oak Park, Pleasant Ridge, Royal Oak, Royal Oak Township, Southfield, and Troy

	Federal/State Funding	Units	Clients	Unit Rate	Required Match
Congregate Meals	\$130,242.00	30,645	650	\$4.25	\$14,471.33
Home Delivered Meals	\$803,240.00	188,998	1,272	\$4.25	\$89,248.89
Total	\$933,482.00	219,643	1,922	\$4.25	\$103,720.22

**Pre-Contract Stipulations**

1. Revise and resubmit Targeting Plan for HDM with correct number of projected program participants 60+ - Due 8/12/2016
2. Submit original subcontract request for approval form for the Chinese Community Center - Due 8/12/2016
3. Revise Nutrition Services Chart 3 to include topics on how food choices affect chronic illness and the importance of making wise food choices. - Due 8/12/2016
4. Submit the following as specified in RFP to NDRreports@aaalib.com:  Required Policies & Procedures; 2) Policies & Procedures Checklist;  Articles of Incorporation & federal ID number;  Supplement for Eldercare Funding HMOW Plan (nutrition only); 5) Business Associate Agreement and  Certificate of Insurance (directly from insurance provider). - Due 8/12/2016
5. Revise & resubmit budget to reflect changes in funding, participants and/or units - Due 8/12/2016
6. Submit menus for October & November to AAA 1-B for review/approval - Due 9/1/2016
7. Indirect salaries and executive leadership should be charged to the program proportionally to additional resource and/or other program incomes. - Due 8/12/2016
8. The advance received by participant should be recouped no later than December 31, 2016. - Due 8/12/2016

**Contract Stipulations**

1. Providers are required to provide home delivered meals within 24 hours (1 business day) - Due 9/30/2016
2. Must submit quarterly NAPIS data no later than the 10th of the month following the end of the quarter. - Due 9/30/2016
3. Must submit the last audited financial statements. - Due 9/30/2016
4. Menus for at least 2 months are to be submitted to AAA 1-B for review/approval at least one month prior to the start of the first menu - Due 9/30/2017
5. Funds available must be budgeted to prevent a waiting list for home delivered meals - Due 9/30/2017
6. Contractors with additional funds to support home delivered meals may transfer funds to congregate meals, with prior approval from the AAA 1-B Fiscal and Program Managers, if a waitlist in home delivered meals can still be prevented. - Due 9/30/2017

Enhancing the lives of older adults and adults with disabilities in  
Livingston, Macomb, Monroe, Oakland, St. Clair, and Washtenaw counties since 1974

CBA *VW*

FA *BKN*



## KITCHEN USE AGREEMENT

THIS KITCHEN USE AGREEMENT (the "Agreement") is made as of the \_\_\_\_\_ day of September, 2016, by and between the City of Troy, a Michigan Municipal Corporation, whose address is 500 West Big Beaver Road, Troy, Michigan 48084, ("City"), and Emerald Food Services LLC, a Michigan Corporation, whose address is 3179 Livernois Road, Troy, MI 48084 ("Corporation"), collectively "the Parties."

The Parties entered into an original Kitchen Use Agreement on November 15, 2010, and this Agreement was mutually extended until September 30, 2016. The Parties now want to enter into this new Agreement, so that CORPORATION may continue to prepare meals for the Senior Citizen Nutrition Program, commonly known as Meals on Wheels, hereinafter "PROGRAM."

Both parties hereby mutually agree to extend the entire contract for use of the kitchen space at the Community Center to prepare meals for the PROGRAM. This Extension Agreement for Kitchen Use shall be effective for three (3) years beginning on October 1, 2016 and ending on September 30, 2019.

### SECTION I – Duration of the Agreement

The Agreement shall be in full force during the period commencing on October 1, 2016 and continuing until September 30, 2019, as long as it has not been terminated prior to that date as allowed under this Agreement. The Parties may thereafter mutually agree to extend the Agreement for up to two additional three year terms, as long as Corporation continues to be authorized for the Meals on Wheels Program for covering the City of Troy.

SECTION II – Purpose of the Agreement

The purpose of the Agreement is the use of the Community Center kitchen for on site scratch cooking by the Corporation for the Senior Citizen Nutrition program (Meals on Wheels Program) in Troy and other Oakland County communities.

SECTION III – The City's Responsibilities

- A. The City shall provide to the Corporation the Community Center kitchen and office space designated on the attached Exhibit 1 for the sum of \$1600.00 per month
- B. The City shall provide the use of the kitchen for the sole purpose of conducting a scratch cooking site from Monday through Friday, from 5:00 am to 2:00 pm, (on normal Corporation work days), except holidays observed by the City. The City reserves the right to occupy and use the premises at any time except as provided herein.
- B. City shall maintain the trash receptacles in the kitchen and office area.
- C. The City shall provide for the use of the following equipment currently on site: refrigeration units, ovens, stoves, steam table, sinks, garbage disposals and ice machine.
- D. The City shall pay all utility costs of the Program.
- E. The City shall provide for the general maintenance of the facility except as otherwise provided in this Agreement.
- F. The City shall permit access to the kitchen to the Oakland County Health Department personnel, and Office of Services to the Aging and Area Agency on Aging personnel.

SECTION IV – The Corporation's Responsibilities

- A. The Corporation shall pay the rent on or before the 1<sup>st</sup> day of each month. Checks should be made payable to: City of Troy and delivered or mailed to the Recreation Director, 3179 Livernois Road, Troy, Michigan 48084.
- B. The Corporation shall use the kitchen for the sole purpose of conducting a scratch cooking site from Monday through Friday, from 5:00 am to 2:00 pm,

(on normal Corporation work days), except holidays observed by the City.

- C. The Corporation shall provide all the food and other necessary materials for cooking and preparing the meals to be served.
- D. The Corporation shall provide all the kitchen utensils and equipment necessary for food preparation and cooking which are not currently on the site.
- E. The Corporation shall provide all the paper products, plastic silverware, condiments and other containers and utensils.
- F. The Corporation shall provide for the cleaning of the tables on a daily basis.
- G. The Corporation shall provide for all daily cleaning of the premises.
- H. The Corporation shall provide for the maintenance and cleaning of all kitchen equipment it uses as listed and provided in Section III, Paragraph C, whether owned by the City or the Corporation.
- I. The Corporation shall reimburse the City for a 25% portion of the trash disposal service (SOCCRA charges); any cleaning of the stove and oven hoods, grease trap, ceiling tiles and wall washes in the kitchen within 30 days after presentation of the notice of the cost of those services. The Corporation also agrees to provide their own pest control services, if needed.
- J. The Corporation shall reimburse the City for 50% of the cost of dumpster pick-up services within 30 days after presentation of the notice of the cost of that service.
- K. The Corporation shall not make any building modifications and/or additions, including but not limited to fixtures, door, carpeting, electrical outlets and voice/data connections unless they are approved by the City in advance of installation. Those building modifications and/or additions shall become the property of the City at the expiration or termination of this Agreement. The costs associated with building modifications and/or additions that are necessary to make the space a viable office shall be the responsibility of the Corporation. Equipment brought into the space by the Corporation must also be approved in advance by the City.
- L. The Corporation shall supply the City with copies of all claims, damage or accident reports received by the Corporation, its employees and/or its agents, whether submitted to an insurance company or not, relating to any

damage or accident that occurred or is alleged to have occurred on City owned property within 24 hours of the claim.

- M. The Corporation shall allow the City the right to enter and/or inspect the kitchen area at any reasonable time and make repairs and/or improvements as it deems necessary. The expense of periodic maintenance caused by normal wear and tear of the kitchen equipment will be paid by the Corporation. Other repairs will be done at the City's expense unless it is determined that the repair was necessary due to the misuse or negligence of the Corporation, its employees and/or agents in which event the Corporation shall be responsible for the costs of said repair. The City will make every effort to notify the Corporation in advance if non-City employees will be entering onto the premises at the City's request. Any additions, repairs and/or improvements made on the premises shall become property of the City.
- N. The Corporation shall be liable for any personal property taxes assessed against its equipment or inventory.
- O. The Corporation shall secure all necessary insurance and hold the City harmless as set out in Section V, Paragraphs A. and B.
- P. The Corporation shall meet all rules and regulations of the Oakland County Public Health Department for the establishment and maintenance of a scratch cooking site and shall secure the approval of the Oakland County Public Health Department for the operation of the kitchen as a scratch cooking site.
- Q. The President of the Corporation or his/her designee shall meet with the Recreation Director or his/her designee for the City on an annual basis starting in January, 2017 for the purpose of reviewing the adequacy of the service being provided, and as required at any other time.

#### SECTION V – Insurance and Indemnification

- A. The Corporation shall maintain liability insurance in the amount of two million (\$2,000,000.00) dollars for any actions, claims, liability or damages caused to persons and/or property arising out of the operation and/or maintenance of the food service and use of the kitchen and office area in the Troy Community Center, in addition to product liability insurance and worker's compensation. All insurance coverage shall be approved by the City. Certificates of Insurance shall comply with the sample for attached as Exhibit 2. The City shall be named as an additional insured under all policies except worker's compensation. All insurance companies must be licensed and admitted to do business in the State of Michigan. All insurance

set out herein shall be maintained for the duration of the Agreement. Failure to maintain coverage or to continue to maintain coverage shall be considered a breach of contract with immediate termination of the Agreement at the will of the City. The Corporation is responsible for any deductibles under its policies of insurance.

- B. To the fullest extent permitted by law, the Corporation agrees to defend, pay on behalf of, indemnify, and hold harmless the City of Troy, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Troy against any and all claims, demands, suits, or loss, including all costs connected therewith, and for any damages which may be asserted, claimed or recovered against or from the City of Troy, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Troy, by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this contract for and for the preparation and service of meals.
- C. The City shall indemnify, defend, and hold harmless the Corporation from any and all claims against the Corporation resulting from the gross negligence of the City.

#### SECTION VI – Compliance

The City and the Corporation shall comply with all applicable laws, ordinances and regulations of the Federal, State and local governments.

#### SECTION VII – Discrimination Prohibited

Neither the City nor the Corporation shall 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 race, color, religion, national origin, age, sex, height, weight, or marital status pursuant to 1976 P.A. 453, Section 209. The parties shall also comply with the provisions of the Michigan Handicappers Civil Rights Act, 1976 P.A. 220, and the Federal Rehabilitation Act of 1973, P.L. 93-112, which states that no employee or client or otherwise qualified handicapped individual shall, solely by reason of handicap, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The parties shall comply with all other Federal, State or local laws, regulations, and standards, and any amendments thereto, as they may apply to the performance of this Agreement.

No person shall, on the grounds of race, creed, color, sex, age, national origin, height, weight, handicap, or marital status be excluded from participation in, be denied the proceeds of, or be subject to discrimination in the performance of this Lease. The Corporation shall comply with all applicable regulations promulgated pursuant to the Civil Rights Act of 1964.

SECTION VIII – General Provisions

A. Merger or Integration

This Agreement constitutes the entire contract between the parties with respect to the subject matter and there are no other further written or oral agreements with respect to this Agreement.

B. Termination

Either party may at any time during the life of this Agreement, or any extension thereof, terminate this Agreement by giving sixty (60) days notice in writing to the other party of its intention to do so.

C. Modification

No variation or modification of the Agreement, and no waiver of its provisions shall be valid unless in writing and signed by the duly authorized officers of both parties.

D. Assignment or Delegation

No assignment or delegation of this Agreement shall be made in whole or in part, without the written consent of the City being first obtained.

E. Independent Contractor Provision

The relationship of the Corporation to the City shall be that of an independent contractor. No partnership, association or joint enterprise shall arise between the Corporation and the City as a result of any provision of this Agreement, nor shall any provision be construed as making an employee of the Corporation an employee of the City or an employee of the City an employee of the Corporation.

F. Designation of Representatives

The Corporation designates its President or his/her designee as its representative to convey complaints and grievances pertaining to the

execution of this Agreement. The City designates the Recreation Director or his/her designee as its representative for same. The Corporation representative may be reached by phone at 248-689-0001. The City's representative may be reached by phone at 248-524-3484.

G. Material Breach

Any breach of promise or covenant contained herein shall be construed as a material breach and shall be the basis for immediate termination of this Agreement by the non-breaching party.

SECTION IX – Disputes

The City shall notify the Corporation in writing of its intent to pursue a claim against the Corporation for breach of any terms of this Agreement. No suit may be commenced by the City for breach of this Agreement prior to the expiration of ninety (90) days from the date of mailing of the notification. Within the ninety (90) day period, the City, at the request of the Corporation, shall meet with an appointed representative of the Corporation for the purpose of attempting to resolve the dispute.

SECTION X – Notice

All written notices to be given under this Agreement shall be mailed by certified mail, return receipt requested, to the other party at its last known address or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five days subsequent to mailing.

IN WITNESS WHEREOF, The City and the Corporation have executed this Agreement as of the date set forth above.

CORPORATION:

EMERALD FOOD SERVICES, INC.

BY:   
Kim Haveranek

Position: President

Date: 9/20/2016

Attest: 

Date: 9/20/16

CITY:

CITY OF TROY, MICHIGAN

BY: \_\_\_\_\_  
Dane M. Slater

Position: Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
M. Aileen Dickson, City Clerk

Date: \_\_\_\_\_

# Troy Community Center Rentable Space

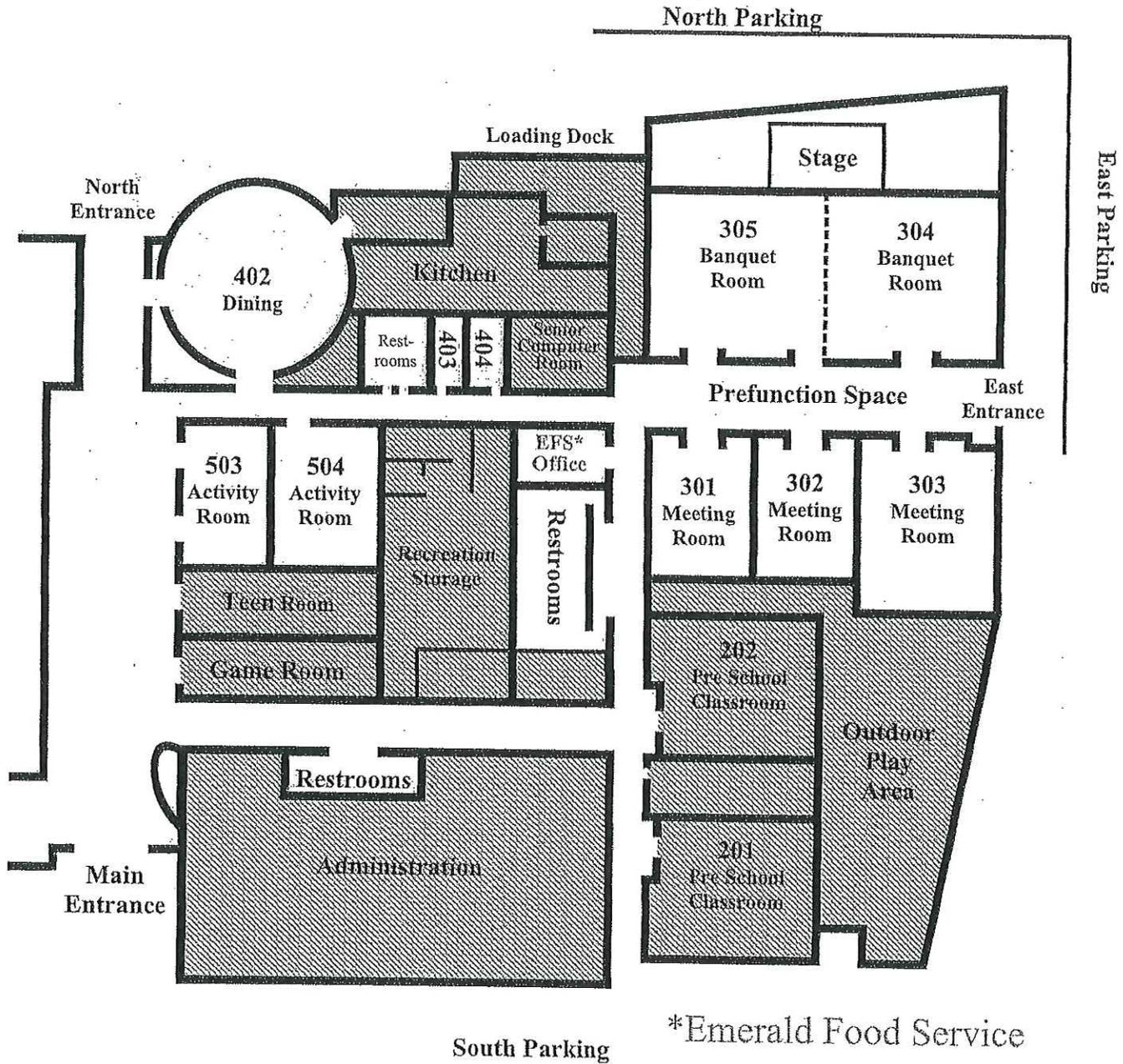


Exhibit 1

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)

PRODUCER Complete  <u>Sample Certificate</u>	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.  INSURERS AFFORDING COVERAGE
INSURED Complete	INSURER A: XYZ Company INSURER B: ABC Company INSURER C: INSURER D: INSURER E:

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR Additional Insured - City of Troy - use wording below  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC	0001	XX-XX-XX	XX-XX-XX	EACH OCCURRENCE	\$ 1,000,000
					FIRE DAMAGE (Any one fire)	\$
					MED EXP (Any one person)	\$
					PERSONAL & ADV INJURY	\$ 1,000,000
					GENERAL AGGREGATE	\$ 1,000,000
					PRODUCTS - COM/OP AGG.	\$ 1,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	0002	XX-XX-XX	XX-XX-XX	COMBINED SINGLE LIMIT (Ea accident)	\$ 500,000
					BODILY INJURY (Per person)	\$
					BODILY INJURY (Per accident)	\$
					PROPERTY DAMAGE (Per accident)	\$
					AUTO ONLY - EA ACCIDENT	\$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$
					AUTO ONLY: AGG	\$
A	<b>EXCESS LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE RETENTION \$	0003	XX-XX-XX	XX-XX-XX	EACH OCCURRENCE	\$ 1,000,000
					AGGREGATE	\$ 1,000,000
						\$
						\$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>	0004	XX-XX-XX	XX-XX-XX	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
					E.L. EACH ACCIDENT	\$ 100,000
					E.L. DISEASE - EA EMPLOYEE	\$ 100,000
	<b>OTHER</b>				E.L. DISEASE - POLICY LIMIT	\$ 500,000

**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS**

Additional Insured under General Liability and Excess Liability: City of Troy including Architects and Engineers, all elected and appointed officials, all employees and volunteers, boards, and commissions and/or authorities and their board members, employees and volunteers on ISO Form B or broader.

CERTIFICATE HOLDER	Y	ADDITIONAL INSURED; INSURER LETTER: A	CANCELLATION
City of Troy 500 W. Big Beaver Rd. Troy, MI 48084			SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED OR MATERIALLY CHANGED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT.
			AUTHORIZED REPRESENTATIVE