



## CITY COUNCIL AGENDA ITEM

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Date: May 7, 2013

To: Brian Kischnick, City Manager

From: Mark F. Miller, Director of Economic & Community Development  
Tom Darling, Director of Financial Services  
MaryBeth Murz, Purchasing Manager  
Susan Leirstein, Purchasing Director

Subject: Standard Purchasing Resolution 3 – Exercise Renewal Option – Building Department Services

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### **History**

On June 7, 2010, Troy City Council awarded a three (3) year Professional Service Agreement to Safebuilt Michigan, Inc., which resulted from a best value process (SOQ/RFP-COT 09-49) and that City Council determined to be in the public's best interest. {CC Res #2010-06-122}

The contract has an expiration date of June 30, 2013, with an option to renew for two (2) additional years provided that SAFEbuilt Michigan, Inc. meets all contract terms and conditions. Since the summer of 2010 when SAFEbuilt started managing the day to day operations of the Building Inspections Department, there was a very smooth transition. That smooth transition was representative of SAFEbuilt's customer service and technological savvy, with a professional culture in providing building inspections and plan review services.

SAFEbuilt provides high quality professional services along with a cost effective method where the building code related permit fees generate revenues to provide payment for services. Once the permit fees surpassed \$ one (1) million, the reimbursement is calculated by providing SAFEbuilt 75% of the eligible permit fees. Based upon this advantageous model, City Administration desired long term stability and asked SAFEbuilt if they would consider a five (5) year renewal. SAFEbuilt agreed and executed the attached Amendment to Professional Services Agreement for Building Inspections Services.

### **Purchasing**

In 2009 the City of Troy issued a best value process, including a Statement of Qualifications (SOQ-COT 09-49) which resulted in a Professional Services Agreement for Building Inspections Services.

This agreement includes a three (3) year duration with the option to renew for two additional years. Both City Administration and SAFEbuilt would like to amend the agreement to extend the term to five (5) years. Most terms and conditions will remain in place; however, it will include adjustments to the annual prevailing rate for rental of City Hall office space and computer/copier/miscellaneous



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equipment. Additional fire protection system inspection and plan review hourly rates were added at \$85.00 per hour. These fire protection services are included only for peak situations and are expected to be used infrequently by the Troy Fire Department.

### **Financial**

SAFEbuilt's compensation will remain the same. SAFEbuilt shall receive seventy-five (75%) of building permit fees, plan review fees, certificate of occupancy fees and inspection fees that are collected by the City each month. The fees are directly related to administering Michigan Building Code.

### **Recommendation**

SAFEbuilt provides professional building inspections and plan review services with exceptional customer service and technological tools. The revenue and billing model where there is a seventy-five (75%) and twenty-five (25%) split of the building department fees offers stability and very little risk for the City of Troy. City Administration recommends City Council adopt the resolution that approves the Amendment to Professional Services Agreement for Building Inspections Services with SAFEbuilt of Michigan.

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

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

\_\_\_\_\_  
Date

**AMENDMENT  
TO  
Professional Services Agreement for Building Inspection Services**

This Amendment ("Amendment") is entered into as of July 1, 2013 ("Effective Date"), and modifies the Professional Services Agreement for Building Inspection Services first effective July 1, 2010 (the "Agreement"), by and between the City of Troy at 500 W. Big Beaver Road, Troy, MI 48084 ("City"), and Safe Built of Michigan with offices at 200 E. Big Beaver Road Troy, MI 48084 ("Contractor"). City and Contractor are collectively referred to herein as the "Parties".

Capitalized terms appearing but not defined in this Amendment have the meanings assigned to them in the Agreement. In consideration of the mutual promises contained herein and in the Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

Section 6.0 titled **LEASING OF CITY PROPERTY – OFFICE SPACE**, paragraph 6.1 Office Space is hereby deleted and replaced with the following:

6.1 Office Space. Specifications require Safe Built to have an office onsite in City Hall. As provided in this section 6.1, the City in its sole discretion may require Safe Built to perform the services of this Agreement at a different location within a City owned building or allow Safe Built to move its offices to non-city owned property within the City of Troy. At the effective date of this Agreement, Safe Built shall be allowed the use City owned property located on the second floor of the City Hall Building, 500 W. Big Beaver Road, Troy, Michigan 48084 consisting of 1551 square feet of space as shown on the attached **Exhibit G** for a rental payment per square foot equal to the annual prevailing rate as calculated by the City each fiscal year. For fiscal year 2013/2014 the rental rate shall be \$16.75 per square foot. . Once the amount of square footage of the rental space is determined, the annual rental rate shall be determined. The annual rental rate shall be paid on a monthly basis in an amount which shall constitute the annual rental rate divided by 12. Lease payments shall be received by the City by the first (1<sup>st</sup>) day of each month that the Agreement is in effect. This space is to be used only for the performances of service as set out in this Agreement and only by individuals performing those services. This provision for lease of the premises runs with the Agreement and shall become null and void at the expiration or termination of the Agreement. During the period of time when this Agreement is in effect, the Parties may renegotiate the amount of rental space needed. The City in its sole discretion may require Safe Built to move to a new location within or outside of City Hall. Safe Built shall be given a minimum of thirty (30) days notice of the intent of the City to require the move to a new location. During that thirty (30) day period, the Parties may renegotiate this leasing provision regarding City owned property or Safe Built may notify the City of its intent to move to a location on non-City owned property; however, that property shall be located within the City of Troy. At the expiration or termination of this Agreement Safe Built shall remove its property and personnel from the leased space and vacate the premises within thirty (30) days of expiration or notice of termination.

Section 8.0 titled **RENTAL OF EQUIPMENT – COMPUTERS, COPIERS AND MISCELLANEOUS**, paragraph 8.2 Rental Payment is hereby deleted and replaced with the following:

8.2 Rental Payment. Annual rental payment for the equipment listed on **Exhibit J** shall be equal to the annual prevailing rate(s) as calculated by the City's Information Technology Department each fiscal year. The use of two (2) printers is included in the computer rental fee. Those payments shall be pro-rated during the first month of the Agreement, if necessary, and thereafter shall be payable in quarterly installments for each year the Agreement is in effect. In addition to the fee for inventory and equipment rental, Safe Built shall reimburse the following fees for connectivity to the City's network for each qualifying computer: 1. annual Netmotion maintenance fee due on July 1<sup>st</sup> of each year and  
2. monthly wireless access fees due as part of the quarterly installment. Safe Built shall also reimburse the monthly Building Department/Inspection phone line charges as part of the quarterly

installment. The fees under this section shall be made payable to the City of Troy and delivered to the City Treasurer, 500 W. Big Beaver Road, Troy, Michigan 48084.

Section 11.0 titled **TERM AND TERMINATION**, paragraph 11.1 Term is hereby deleted and replaced with the following:

- 11.1 Term. This Agreement shall be effective on the 1<sup>st</sup> day of July 2013 at 12:01 a.m., (the "Effective Date") and shall terminate at 11:59 p.m. on the 30th day of June, 2018. At the end of the five (5) year period, and upon mutual agreement of the parties as approved by City Council, this Agreement may be renewed for an additional five (5) years. This Agreement may also be terminated as provided in paragraph 11.3.

**EXHIBIT C – SAFE BUILT SCOPE OF SERVICES** under Other Services is hereby modified to include the following:

- Collect sewer benefit fees, water use adjustments and fees for trees.

**EXHIBIT C – SAFE BUILT SCOPE OF SERVICES** under Customer Service is hereby modified to include the following:

- Building Official must be available by phone or other means 24/7.

**EXHIBIT E – SAFE BUILT HOURLY RATE FEE SCHEDULE** is hereby modified to include the following services:

|                                    |          |
|------------------------------------|----------|
| Fire Protection System Inspection  | \$ 85.00 |
| Fire Protection System Plan Review | \$ 85.00 |

**EXHIBIT J – INVENTORY AND EQUIPMENT** is hereby modified as follows:

Computers:

- 5 Dell workstations
- 4 Dell laptops each with Netmotion software and a wireless device

Printers:

- 1 HP Laserjet 4050
- 2 HP Laserjet 4250

This equipment may change as it is replaced during the term of the contract. If the computer count increases / decreases, so will the annual fee proportionately.

Except as otherwise provided or modified herein, the terms and conditions of the Professional Services Agreement including Exhibits remain in full force and effect. Except as otherwise expressly set forth herein, this Amendment and the Professional Services Agreement constitute the entire and exclusive agreement between the Parties regarding the subject matter hereof, and supersede all prior agreements, oral or written, and all other communications between them relating to the subject matter herein.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their duly authorized representatives and effective July 1, 2013.

**Safe Built of Michigan ("Contractor")**

Witnesses:  
Karen Mack  
[Signature]

Signature: [Signature]  
Printed: Mike McCardie  
Title: President  
Date: 4/30/13

CITY OF TROY, a Michigan Municipal Corporation,

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
By: Dane Slater, Mayor  
\_\_\_\_\_  
By: Aileen Bittner, City Clerk

\_\_\_\_\_  
Brian Kischnick  
Troy City Manager

Resolution Number: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

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

# CITY OF TROY PROFESSIONAL SERVICES AGREEMENT

**This Agreement for Professional Services** ("Agreement") is entered into by and between the **CITY OF TROY**, a Michigan municipal corporation, 500 W. Big Beaver Road, Troy, Michigan 48084, ("City") and **Safe Built of Michigan, Inc.**, ("Safe Built") a corporation of the State of Michigan, licensed to do business in the State of Michigan, whose address is 7111 Dixie Highway, #140, Clarkston, Michigan 48346. City and Safe Built are individually referred to as a "Party" and may be collectively referenced as the "Parties."

## RECITALS AND REPRESENTATIONS

**WHEREAS**, the City has the responsibility under State laws and City Ordinance to adopt and enforce certain building codes and other ordinances, conduct inspections, review site plans, and conduct other professional services as described in this Agreement; and

**WHEREAS**, Safe Built has represented to the City that it has substantial knowledge and experience in the interpretation and application of the City's adopted Code of Ordinances to various building construction and maintenance situations, including but not limited to, the inspection of buildings to determine compliance with State laws and City ordinances, which include building codes, the review of site plans, and all other types of professional services set out in Safe Built's "Scope of Services" provisions of a Response to Request for Proposal (RFP-COT 09-49); and

**WHEREAS**, Safe Built represents that Safe Built has the skill, ability, and expertise to perform the services described in this Agreement; and

**WHEREAS**, the City desires to engage Safe Built to provide the services described in this Agreement subject to the terms and conditions of the Agreement.

**NOW, THEREFORE**, in consideration of the benefits and obligations of this Agreement, the Parties mutually agree as follows:

### 1.0 AGREEMENT

- 1.1 This Agreement shall incorporate by reference as though fully set out herein the City's Request for Proposal (RFP-COT 09-49) and Statement of Qualifications (SOQ-COT-09-49) attached hereto as **Exhibit A** and Safe Built's Response to Request for Proposal attached hereto as **Exhibit B**.
- 1.2 References to "Safe Built" shall include any employees of Safe Built, its contractors, subcontractors, independent contractors.

## 2.0 SERVICES

- 2.1 Services. As directed by and under the supervision of the Assistant City Manager/Economic Development Services for the City, or his/her designee, Safe Built shall provide the City with the services described in **Exhibit C** (the "Services").
- 2.2 Safe Built shall not perform services designated as the responsibility of the City Building Code Official. The responsibilities of the City Building Code Official are set out in Exhibit D ("Duties of City Building Code Official").
- 2.3 Changes to Services. The City may request a change or changes in the Services. Any changes to Services that are mutually agreed upon between the City and Safe Built shall be made in writing which shall specifically designate any changes in compensation for the Services and be made an amendment to the Agreement after approval by City Council. To be effective, any changes must be approved by City Council, and signed by Safe Built and the Mayor and City Clerk.

## 3.0 COMPENSATION

- 3.1 Commencement of Services. Following execution of this Agreement by both Parties and on the Effective Date of July 1, 2010, Safe Built shall be authorized to commence performance of the Services subject to the requirements and limitations on compensation as provided by this Section 3.0 and its subsections. Prior to July 1, 2010 effective date, Safe Built agrees to attend transition training provided by the City at no charge to the City. The purpose of this transition period is to allow Safe Built to do what is necessary to become fully functional for the performance of services under this Agreement by July 1, 2010. During this transition period, Safe Built may begin moving into a mutually acceptable space, to review with current staff procedure and policies; confer with the City's Information Technology Department to set up access to the City's B, S & A software; and to take other actions that are mutually acceptable to both Parties to assure a smooth transition.
- 3.2 Compensation. Safe Built shall receive eighty (80%) of building permit fees, plan review fees, certificates of occupancy fees and inspection fees that are collected by the City each month. The City shall retain the remaining twenty (20%) of the fees. If these fees total over \$1,000,000.00 for any fiscal year (July 1<sup>st</sup> to June 30<sup>th</sup>) then Safe Built's compensation shall be reduced to seventy-five (75%) of the total of building permit fees, plan review fees, certificate of occupancy fees and inspection fees that are collected by the City each month, beginning the July 1<sup>st</sup> of the fiscal year immediately following the fiscal year in which the \$1,000,000.00 total was achieved and continuing through to the termination of the Agreement. The City shall retain the remaining twenty-five (25%) of the fees.
- 3.3 Hourly Fees. Where a permit fee is not collected for the service performed or if Safe Built is required by the City to perform any service not included as part of its Scope of Services outlined in **Exhibit C**, the City shall be responsible for the hourly rate listed in **Exhibit E**. That hourly rate includes pay rate, overhead,

profit, travel necessary to perform the task and all other costs to Safe Built. This hourly rate would also apply to any services for which a fee has been collected but the City has requested that services be performed by Safe Built, when Safe Built is required to perform any service not included as part of its Scope of Services outlined in Exhibit C.

- 3.4 Responsibility for Outstanding Permits. Safe Built shall be responsible for reviewing all permits in the Building Department that have previously been submitted to the Building Department in which fees have already been paid. For those outstanding permits issued prior to July 1, 2010, Safe Built shall be required to complete all work on those permits and inspections at a cost not-to-exceed \$120,000.00, providing no other large commercial work comes in between now and then, in which permit fees exceed \$10,000.00.
- 3.5 Collection of Fees. The City, through the City Treasurer's Office, shall collect Building Department fees from third parties. Safe Built shall at no time accept money, checks or other legal tender from third parties on behalf of the City.
- 3.5.1 No Reimbursable Expenses. No "reimbursable expenses" or other fee, cost, charge, or fee for the value or expense of any materials, goods, travel, mileage, depreciation, or other item related to the performance of the Services shall be paid by the City. Any cost, charge, fee, or expense incurred by Safe Built in the performance of the Services shall be deemed a non-reimbursable cost and shall be borne by Safe Built and shall not be billed or invoiced to the City and shall not be paid by the City.
- 3.5.2 Free or Reduced Cost Services. The Parties recognize and understand that the City is or may be required by law to waive inspection fees on a limited number of projects during a calendar year or may, at its discretion, waive or reduce inspection fees for certain projects that provide a substantial and direct public benefit (e.g., City owned buildings, inspection related to court cases or following up services directed by a court of law). The City shall notify Safe Built of such circumstance(s) at the earliest opportunity and the City may request Safe Built to perform building and inspection services at no cost or at a reduced cost.
- 3.5.3 Increases in Compensation or Addition of Reimbursable Expenses. Any increases or modification of compensation or the addition of a reimbursable expense(s) shall be subject to written amendment of this Agreement approved by City Council and executed by both Parties.
- 3.6 Payment Processing. Safe Built shall submit invoices and requests for payment in a form acceptable to the City. Invoices shall be submitted by the 15<sup>th</sup> of each month unless otherwise approved by this Agreement or in writing by the City. All invoices shall contain sufficient information to account for all Safe Built time (or other appropriate measure(s) of work effort for the Services during the stated period of the invoice. Invoices shall be given to the Assistant City Manager/Economic Development Services with a computation of the fees

received and a total amount on which the eighty (80%) payment request is based. The City shall have forty-five (45) days from receipt of the invoice to issue payment to: Safe Built of Michigan, Inc., 7111Dixie Highway, #140, Clarkston, Michigan 48346 unless there is a dispute as to the amount due and owing. If there is a dispute, the parties shall use the procedures set out in paragraph 3.7.

- 3.7 City's Dispute of Amount of Payment. The City may request additional information from Safe Built substantiating any and all compensation sought by Safe Built before accepting the invoice. When additional information is requested by the City, the City shall advise Safe Built in writing, identifying the specific item(s) that are in dispute and giving specific reasons for any request for information. The City shall pay Safe Built within forty-five (45) days of the receipt of an invoice for any undisputed charges or, if the City disputes an item or invoice and additional information is requested, within thirty (30) days of acceptance of the item or invoice by the City following receipt of the information requested and resolution of the dispute. To the extent possible, undisputed charges within the same invoice as disputed charges shall be timely paid in accordance with this Agreement. Payment by the City shall be deemed made and completed upon hand delivery to Safe Built or designee of Safe Built or upon deposit of such payment in the U.S. Mail, postage pre-paid, addressed to Safe Built.

#### **4.0 SAFE BUILT'S GENERAL RESPONSIBILITIES**

- 4.1 Reference to "Safe Built" under this Section shall include Safe Built employees, contractors, subcontractors, independent contractors, or anyone performing services under this Agreement for Safe Built.
- 4.2 The City shall supply Safe Built with individual identification badges ("ID badges") for each Safe Built employee. The City shall have the discretion to determine the type, size and design for those ID badges. Safe Built shall require that all employees have their ID badges visible to the public at all time while performing services under this Agreement. Lost ID badges shall be immediately reported to the Assistant City Manager/Economic Development Services.
- 4.3 Safe Built shall provide to the City the work telephone numbers of all employees, including any mobile telephones that will be used while performing services under this Agreement.
- 4.4 The City shall provide copies and amendments of the Troy Code of Ordinances, Michigan State Building Codes, street maps or other relevant code books or materials to Safe Built. Those Code of Ordinances, Michigan State Codes, street maps and all other materials shall remain the property of the City and shall be turned into the City at the termination of this Agreement. Safe Built shall become familiar with those codes and any unusual applications of those codes to City issues. Safe Built is obligated to affirmatively request from the City such information that Safe Built, based on Safe Built's professional experience, should reasonably expect is available and which would be relevant to the performance of the Services.

- 4.5 Safe Built shall perform the Services in accordance with this Agreement and shall promptly inform the City concerning ambiguities and uncertainties related to Safe Built's performance that are not addressed by the Agreement.
- 4.6 Safe Built shall employ a sufficient number of employees sufficiently experienced and knowledgeable to perform the Services in a timely and prompt manner and such employees shall at all times act in a professional, polite, and courteous manner to all persons regardless of the circumstances. The City may at its discretion demand the removal of any Safe Built employee from the performance of the Services, and Safe Built shall promptly remove such employee from performance of the Services, in the event that the City determines that Safe Built employee lacks the necessary experience or knowledge, or unjustifiably acts in an unprofessional, impolite, or discourteous manner to any person.
- 4.7 Safe Built shall not allow employees, contractors, or subcontractors that are convicted of specific crimes to do work in the City of Troy. Those crimes include, but are not limited to, fraud, theft, criminal sexual conduct, assaultive or violent behavior, serious moral turpitude, gambling, prostitution, weapons violations, tax evasion, controlled substances, or excessive use of alcohol.
- 4.8 Safe Built shall promptly comply with any written City request for the City or any of its duly authorized representatives to reasonably access and review any books, documents, papers, and records of Safe Built that are pertinent to Safe Built's performance under this Agreement for the purpose of the City performing an audit, examination, or other review of the Services.
- 4.9 Safe Built shall comply with all applicable federal, state and local laws, ordinances, regulations, and resolutions.
- 4.10 Safe Built shall be responsible at Safe Built's expense for obtaining, and maintaining in a valid and effective status, all licenses and permits necessary to perform the Services unless specifically stated otherwise in this Agreement. Safe Built shall supply copies to the City of appropriate licenses and permits for any individual performing services under this Agreement.
- 4.11 If requested by the City, Safe Built shall make the appropriate employees, contractors, subcontractors, agents and independent contractors available for court proceeding, as witnesses, expert witnesses or otherwise, instituted by or involving the City in either criminal or civil matters which involve services performed under this Agreement, including but not limited to, appearances at pre-trials, bench trials, jury trial and at all other times requested by the City.
- 4.12 Safe Built shall make the appropriate employee, contractor, subcontractor, and independent contractor available for consultation with the City Manager and the City Attorney, or their designees, to discuss issues regarding litigation and/or matters of interest to City Council or the public.

## **5.0 PERFORMANCE STANDARDS**

- 5.1 In performing the Services, Safe Built shall use that degree of care, skill, and professionalism ordinarily exercised under similar circumstances by members of the same profession practicing or performing the substantially same or similar services in the State of Michigan. Safe Built represents to the City that Safe Built is, and its employees performing such Services are, properly licensed and/or registered within the State of Michigan—for the performance of the Services (if licensure and/or registration is required by applicable law) and that Safe Built and employees possess the skills, knowledge, and abilities to competently, timely, and professionally perform the Services in accordance with this Agreement. In addition, more specific standards of Safe Built performance are included within **Exhibit F**.
- 5.2 In a timely manner, Safe Built shall inform the Building Code Official of all oral complaints and submit a copy of all written complaints it receives from third parties against any employee, contractor, subcontractor or independent contractor of Safe Built to the Building Code Official and inform the Building Code Official of any responses to the complaint or of any actions taken.
- 5.3 The Parties mutually agree that Safe Built's actions reflect on the reputation of the City. It is imperative to the City that Safe Built treats the City and the public with the utmost fairness and respect. Safe Built shall strictly comply with all the terms and conditions set out in this Agreement. For the first year of the Agreement, the City through the Assistant City Manager/Economic Development Services, or his/her designee, shall conduct three (3) month periodic comprehensive performance reviews of Safe Built's services, including but not limited to: review of the invoicing of services; the nature of the services; the occurrence and nature of complaints against Safe Built and Safe Built's response; the number of inspections completed, the complexity of those inspections, the inspectors' findings and response to the inspections; the number of plan reviews submitted and completed and the comments from the plan reviewer concerning those plans; the nature of the comments and obtaining input from Troy employees regarding Safe Built's performance on the scene, and any other information helpful for a determination as to whether or not there has been compliance with this Agreement.

The first comprehensive performance review will be conducted three (3) months after the execution of this Agreement. If Safe Built is determined by the City to be in compliance with the terms and conditions of the Agreement, the Agreement will continue under the same terms and conditions subject to subsequent three (3) month periodic review until June 1, 2011 as set out in this Paragraph. After June 1, 2011 the City shall conduct six (6) month periodic reviews in the same manner as set forth herein. Failure of the City to terminate the Agreement after any of the periodic reviews does not in any way waive the City's right to conduct subsequent reviews or to take any other actions provided for in this Agreement including, but not limited to, termination of the Agreement.

## **6.0 LEASING OF CITY PROPERTY – OFFICE SPACE**

- 6.1 Office Space. Specifications require Safe Built to have an office onsite in City Hall. As provided in this section 6.1, the City in its sole discretion may require Safe Built to perform the services of this Agreement at a different location within a City owned building or allow Safe Built to move its offices to non-city owned property within the City of Troy. At the effective date of this Agreement, Safe Built shall be allowed the use City owned property located on the second floor of the City Hall Building, 500 W. Big Beaver Road, Troy, Michigan 48084 consisting of up to 2,546 square feet of space as shown on the attached **Exhibit G** for a rental payment of \$16.75 per square feet as the yearly rental rate. Once the amount of square footage of the rental space is determined, the yearly rental rate shall be determined. The yearly rental rate shall be paid on a monthly basis in an amount which shall constitute the yearly rental rate divided by 12. Lease payments shall be received by the City by the first (1<sup>st</sup>) day of each month that the Agreement is in effect. This space is to be used only for the performances of service as set out in this Agreement and only by individuals performing those services. This provision for lease of the premises runs with the Agreement and shall become null and void at the expiration or termination of the Agreement. During the period of time when this Agreement is in effect, the Parties may renegotiate the amount of rental space needed. The rate of \$16.75 per square foot shall be effective until June 30, 2011. After that date, the City in its discretion shall determine the appropriate rental rate per square foot. The City in its sole discretion may require Safe Built to move to a new location within or outside of City Hall. Safe Built shall be given a minimum of thirty (30) days notice of the intent of the City to require the move to a new location. During that thirty (30) day period, the Parties may renegotiate this leasing provision regarding City owned property or Safe Built may notify the City of its intent to move to a location on non-City owned property; however, that property shall be located within the City of Troy. At the expiration or termination of this Agreement Safe Built shall remove its property and personnel from the leased space and vacate the premises within thirty (30) days of expiration or notice of termination.
- 6.2 Building Modifications. Safe Built shall provide all necessary equipment, supplies and building modifications for the office space. All building modifications and additions, including but not limited to, fixtures, doors, carpeting, electrical outlets, and voice/data connections must be approved by the City in advance and shall become the property of the City at the expiration or termination of the Agreement unless the City requires removal of the modification. The costs associated with building modifications shall be the responsibility of Safe Built. Equipment brought into the office space must also be approved in advance by the City.
- 6.3 Maintenance. Safe Built shall maintain the interior of the office space in a clean and neat manner and in compliance with all City ordinances and State law. As part of the lease payment, the City shall remove the trash from designated trash containers from the office. Due to the confidentiality of materials, documents, notes and other written or printed materials, Safe Built shall provide a shredder for all papers containing information of a confidential nature and ensure that such papers are shredded.

- 6.4 Hours of Availability. Safe Built acknowledges that Troy City Hall is open to the public between the hours of 8:00 a.m. to 4:30 p.m. and for morning and evening meetings before or after those hours on certain days. Safe Built acknowledges that on most week-end and holidays, City Hall is closed to the public. Safe Built shall be provided with three (3) keys that open the outer doors of City Hall. Those keys are to be accounted for at all times and are not to be reproduced unless reproduced and replaced by the City. Lost keys shall be immediately reported to the Assistant City Manager/Economic Development Services. Safe Built shall instruct its employees of the importance of locking all outer doors to City Hall upon entering and leaving the building during hours when it is not open to the public. Safe Built waives any claim or cause of action regarding the non-availability of the office space during emergency periods when, due to electrical power outages, police or fire situations or acts of nature that City Hall remains closed to Safe Built.
- 6.5 Taxes. Safe Built shall be responsible for any real property taxes incurred through the leasing of space in a City facility, and personal property taxes assessed against its equipment and inventory.
- 6.6 Telephone Lines and Utility Costs. Safe Built shall pay the monthly Building Department/Inspection phone line on the 1<sup>st</sup> day of each month. The City shall pay all other utility costs.

## 7.0 **Leasing of City Property – Vehicles**

- 7.1 Leasing of Vehicles. Safe Built desires to lease vehicles from the City under the terms and conditions set out in this section. The City will provide five (5) vehicles in good working order by July 1, 2010. Safe Built will be provided with the description and vehicle identification numbers (VIN) for each vehicle. Each vehicle shall remain registered to the City of Troy and the City shall provide municipal license plates. The City in its discretion may substitute a vehicle of a more current model year for any of the vehicles leased by Safe Built upon thirty (30) days written notice to Safe Built of the amount of the lease payment and the availability of the vehicle. The City will provide Safe Built with 2 sets of keys. Any lost keys shall be reported to the Superintendent, Troy Fleet Division, 4693 Rochester Road, Troy, MI 48084. Safe Built shall pay the replacement costs for the keys.
- 7.2 Term of Lease: This leasing provision shall become effective as of the effective date of this Agreement and extend for a one (1) year period to June 30, 2011. Within thirty (30) days prior to the end of the lease term, the Parties shall review the number of City vehicles available and the number of vehicles needed by Safe Built and make adjustments to the number of vehicles needed, if necessary, and the leasing price of those vehicles. Safe Built may either agree to a one (1) year extension of the lease based on the adjusted number of vehicles and price or may terminate the lease Agreement and provide its own vehicles. This same procedure shall be followed on a yearly basis until the termination of this Agreement. If the Agreement is terminated for any reason, this leasing provision becomes null and void and all vehicles shall be returned to

the City within seven (7) days of the termination of the Agreement. Any monies due to the City for lease payments, auto repairs or mileage shall survive the termination of the Agreement. The City will prepare a final invoice for any outstanding charges. Safe Built shall pay the invoice within thirty (30) days of receipt.

- 7.3 Use of vehicle. Safe Built shall use the vehicle listed in this section for the sole purpose of the performance of services under this Agreement by employees of Safe Built within the City of Troy. No personal vehicles shall be used for any service performed under this Agreement. Safe Built employees shall not smoke inside City-owned vehicles. Use of cellular/wireless phones shall be prohibited while a City-owned vehicle is in motion or idling in traffic. Safe Built shall comply with all laws or ordinances prohibiting texting or other types of distracted driving. Safe Built must be in compliance with Administrative Memorandum 1-RM-12, "Safe Use of Cellular and Wireless Telephones", issued June 28, 2005 and any revisions to that Memorandum. All Safe Built employees must acknowledge by signature that they have read and understand the Administrative Memorandum. All drivers shall have current valid State of Michigan driver's licenses and meet the City's "Criteria Used in Assessing Driving Record" attached hereto as **Exhibit H**. Safe Built shall insure those vehicles for automobile coverage which list the City as an additional insured as set out in Section 12 of this Agreement. Those vehicles shall only be driven by employees of Safe Built who are covered under a Safe Built automobile insurance policy.
- 7.4 Use of Vehicle Outside of Troy or For Other Use. Safe Built shall obtain written approval from the Assistant City Manager/Economic Development Services if any of the vehicles listed in Section 7.1 are to be taken out of the City of Troy or are used for purposes other than the performance of services under this Agreement.
- 7.5 Lease payment. Safe Built shall be given a yearly amount for the rental of each vehicle available for use on July 1<sup>st</sup>, 2010. If Safe Built decides to lease those vehicles under the terms and conditions set out herein, it shall pay the City the monthly rental amount for each vehicle. The monthly rental amount shall include usage for a maximum of 1,000 miles per month; however, there shall be no refund to Safe Built of the lease amount if the vehicle is used less than the maximum mileage per month, or if the vehicles are in Safe Built's possession but not used. At the expiration of each one (1) year lease term, Safe Built shall be liable for any excess miles over the total allowed mileage of the Agreement at the rate of .55 cents per mile or the IRS rate in effect at the time of termination. The City shall invoice Safe Built for the excess mileage which shall be paid by Safe Built within thirty (30) days of receipt. All rental payments shall be made payable to the City of Troy and shall be sent to the Superintendent, Troy Fleet Division, 4693 Rochester Road, Troy, Michigan 48084.
- 7.6 Parking of Leased Vehicles and Employee Parking at City Hall. Safe Built shall be allowed to park the City-owned vehicles leased under this provision in a parking area on City property which has been designated by the City on **Exhibit I**. City-owned vehicles shall be parked where designated "City Vehicles" and Safe Built employees shall park where designated "Employee Parking" on **Exhibit I**.

Safe Built shall comply with all parking directives issued as Administrative Memos by the City Manager or his/her designee. Failure to comply with any Administrative Memo or any other directives from the City Manager concerning the parking of vehicles on City Property shall result in a \$25.00 fine for each occurrence.

- 7.7 Gasoline, Oil, Maintenance. The City shall provide gasoline, oil, washer fluid, transmission fluid and other products used in routine maintenance for the leased vehicles described in paragraph 7.1. The City shall also allow Safe Built leased vehicles to use designated car wash businesses to maintain the appearance of the vehicles. Proof of maintenance shall be kept on file with the Fleet Division of the City's Department of Public Works ("DPW") for each vehicle. Gasoline shall be obtained from the City Hall fuel island located at 500 W. Big Beaver Road, Troy, Michigan 48084. Safe Built shall comply with all Administrative Memos and directives concerning the procedure for fill up and use of the gasoline tanks. The City shall not be responsible for any gasoline, oil, washer fluid, transmission fluid and other products that are not obtained from the City Hall fuel island or the DPW.
- 7.8 City Logo. At Safe Built request the vehicles described in paragraph 7.1 shall bear the City of Troy's logo. Each vehicle shall also bear a designation that Safe Built is a contractor of the City. Safe Built and the City shall agree on the appropriate design for the added Safe Built logo. Once affixed to the vehicles the logos and/or designations shall not be altered in any way without the City's permission. Safe Built understands that even though it is an independent contractor performing services for the City that the public is likely to perceive any actions of its Safe Built employees as reflecting on the City. Therefore, at all times that Safe Built employees are driving one of the leased vehicles; employees shall avoid any actions which might be perceived as inappropriate by that driver.
- 7.9 Liability. In addition to providing insurance as set out in Section 12, Safe Built shall be responsible for operator's abuse, negligence and/or any damages to the vehicle beyond normal wear and tear. The Parties shall inspect the vehicles together upon transfer of possession and the City shall prepare a written description of any existing damages to the vehicles, if any. Safe Built shall sign the written description of the vehicles. Thereafter, Safe Built shall be responsible for damages not existing on the date of transfer of possession. All repairs of any nature beyond normal wear and tear of the vehicle or its tires shall be repaired by the City's Fleet Division and Safe Built shall be invoiced for those repairs. Safe Built or its insurance carrier shall be responsible for payment of those repairs. Safe Built shall have thirty (30) days upon receipt of an invoice to pay that amount.
- 7.10 No Warranties. This Agreement does not, and is not intended to include any warranties, promises or guaranties by the City of any nature whatsoever, concerning the fitness of the vehicle for a particular purpose.

- 7.11 Breach of Leasing Provision. The City shall report any violations that it becomes aware of under this Section. Safe Built shall have thirty (30) days to take action to correct the violation and prepare a written response to the City setting out its action.
- 7.12 Abuse or Misuse of Vehicle. If Safe Built abuses or misuses any of the City vehicles leased under this Agreement, the City shall have the right to terminate the lease provision of Section 7 immediately and all vehicles shall be returned to the City immediately.
- 7.13 Termination of Employee-Driver. The City shall have the right to demand that a Safe Built employee be prohibited from performance services under this Agreement if that employee is stopped and/or arrested for any traffic violation concerning the use, possession, consumption, of alcoholic liquor or controlled substances or for any violations of State law concerning the death or injury of another person caused or related to the use of a vehicle by the employee. Failure of Safe Built to comply with this provision and prohibit the employee from performing services under this Agreement shall be considered a material breach of this Agreement and the City may terminate the Agreement by thirty (30) days written notice to Safe Built.

## **8.0 RENTAL OF EQUIPMENT – COMPUTERS, COPIERS AND MISCELLANEOUS**

- 8.1 Rental of Equipment. Safe Built desire to rent the inventory and equipment listed on **Exhibit J** from the City under the terms and conditions as set out in this Section.
- 8.2 Rental Payment. Annual rental payment for the equipment listed on **Exhibit J** shall be \$2,785.00 per year per computer. The use of one (1) printer is included in the computer rental fee. Those payments shall be pro-rated during the first month of the Agreement, if necessary, and thereafter shall be payable on the 1<sup>st</sup> day of July for each year the Agreement is in effect. In addition to the fee for inventory and equipment rental, Safe Built shall pay the following fees for connectivity to the City's network for each Dell E6400ATG computer: 1. annual Netmotion Maintenance fee of \$50 due on July 1<sup>st</sup> of each year and 2. a monthly Aircard fee of \$42.00 due on the 1<sup>st</sup> day of each month. Safe Built shall also pay the Building Department/Inspection phone line monthly on the 1<sup>st</sup> day of each month. The fees under this section shall be made payable to the City of Troy and delivered to the City Treasurer, 500 W. Big Beaver Road, Troy, Michigan 48084.
- 8.3 Term of Rental: This rental provision shall become effective as of the effective date of this Agreement and shall terminate upon the termination of the Agreement unless extended in writing by the Parties as part of an extension of the Agreement for services. If the Agreement for services is extended, the Parties will have the option of continuing this rental provision as part of the Agreement. If either Party does not wish to continue this rental provision, it shall give the other Party ninety (90) days written notice prior to the expiration of the Agreement then in place. If the Agreement is terminated for any reason, this

rental provision becomes null and void and all equipment shall be returned to the City within fifteen (15) days of the termination of the Agreement.

- 8.4 Use of equipment. Safe Built shall provide the name of each employee that will be utilizing City computers to initiate the establishment of a network account. Safe Built shall use the equipment listed in this Section for the sole purpose of the performance of services under this Agreement by employees of Safe Built. Each Safe Built employee shall be given a copy of the City's Administrative Memo # 1-T-1, rev. 12-11-09 and any updates and shall sign a statement indicating that they have read and understand that Administrative Memo. In addition, they must also sign an Internet Access Regulations and Acceptable Use Agreement.
- 8.5 Maintenance. The City shall be responsible for all routine maintenance on the equipment. Any repair that is beyond the normal wear and tear of the equipment use shall be the responsibility of Safe Built.

#### **9.0 Use of B S & A Software**

- 9.1 The City is licensed to use BS & A software for its Building Department permit programs. The City has obtained permission from BS & A to allow Safe Built to have access to the City's BS & A software as long as that software is only used by Safe Built to perform the services under this Agreement for the City of Troy only. Safe Built acknowledges that the license to use the BS & A software terminates with the termination of this Agreement.
- 9.2 Safe Built shall provide an original signed statement from each of its employees acknowledging that he/she understands that the BS & A software is the sole property of BS & A and at no time may he/she download, copy, alter, or take other prohibited actions regarding that software. Safe Built is permitted to use standard City software loaded on the City's computers leased under Section 8, for example, Microsoft Office and Outlook email. Safe Built's right to use the software applies only to work performed for the City of Troy and any rights to the use of that software ceased upon their termination by Safe Built and/or the termination of the Agreement.
- 9.3 Safe Built agrees to defend, pay on behalf of, indemnify, and hold harmless the City, its elected and appointed officials, employees, and volunteers against any claims, demands, suits or loss, and for any damages which may be asserted, claimed or recovered against or from the City, its elected and appointed officials, employees or volunteers by reason of any allegation of illegal use or misuse of BS & A's software or a violation of the licensing agreement by Safe Built.

#### **10.0 Miscellaneous Inventory and Supplies**

Safe Built shall supply all of its own office supplies and materials, including, but not limited to, postage, paper, envelopes, letterhead and business cards. Any inventory or supplies not specifically set out in this Agreement as included in any lease, rental or use provisions shall be the responsibility of Safe Built. Any time Safe Built uses the name

"City of Troy" or the City of Troy logo on letterhead, documents, envelopes, business cards, or other printed materials, it must also include a Safe Built designation approved by the Assistant City Manager/Economic Development Services.

## **11.0 TERM AND TERMINATION**

11.1 Term. This Agreement shall be effective on the 1<sup>st</sup> day of July at 12:01 a.m., (the "Effective Date") and shall terminate at 11:59 p.m. on the 31<sup>st</sup> Day of June, 2013. At the end of the three (3) year period, and upon mutual agreement of the parties as approved by City Council, this Agreement may be renewed for up to a two (2) year period. This Agreement may also be terminated as provided in paragraph 11.3.

11.2 Continuing Services Required. Safe Built shall perform the Services in accordance with this Agreement commencing on the Effective Date until such Services are terminated or suspended in accordance with this Agreement. Safe Built shall not temporarily delay, postpone, or suspend the performance of the Services without the written consent of the City Council, City Manager, or a person expressly authorized in writing to direct Safe Built's services.

11.3 City Unilateral Termination. This Agreement may be terminated by the City for any or no reason upon written notice delivered to Safe Built at least ninety (90) days prior to termination. In the event of the City's exercise of the right of unilateral termination as provided by this paragraph:

11.3.1 Unless directed to continue performing work during the ninety (90) day period prior to termination or unless otherwise provided in any notice of termination, Safe Built shall provide no further services in connection with this Agreement after receipt of a notice of termination; and

11.3.2 All finished or unfinished documents, data, studies and reports prepared by Safe Built pursuant to this Agreement shall be delivered by Safe Built to the City and shall become the property of the City; and

11.3.3 Safe Built shall submit to the City a final accounting and final invoice of charges for all outstanding and unpaid Services and reimbursable expenses performed prior to Safe Built's receipt of notice of termination and for any services authorized to be performed by the notice of termination as provided by Section 11.3. Such final accounting and final invoice shall be delivered to the City within thirty (30) days of the date of termination; thereafter, no other invoice, bill, or other form of statement of charges owing to Safe Built shall be submitted to or accepted by the City.

11.4 Termination for Non-Performance. Should a Party to this Agreement fail to materially perform in accordance with the terms and conditions of this Agreement, this Agreement may be terminated by the performing Party if the performing Party first provides written notice to the non-performing Party which notice shall specify the non-performance, provide both a demand to cure the non-performance and reasonable time to cure the non-performance, and state a

date upon which the Agreement shall be terminated if there is a failure to timely cure the non-performance. For purpose of this Section 11.4, "reasonable time" shall be not less than five (5) business days. In the event of a failure to timely cure a non-performance and upon the date of the resulting termination for non-performance, Safe Built prepare a final accounting and final invoice of charges for all performed but unpaid Services and authorized reimbursable expenses. Such final accounting and final invoice shall be delivered to the City within fifteen (15) days of the date of termination; thereafter, no other invoice, bill, or other form of statement of charges owing to Safe Built shall be submitted to or accepted by the City. Provided that notice of non-performance is provided in accordance with this Section 11.4, nothing in this Section 11 shall prevent, preclude, or limit any claim or action for default or breach of contract resulting from non-performance by a Party.

- 11.5 Unilateral Suspension of Services. The City may suspend Safe Built's performance of the Services at the City's discretion and for any reason by delivery of written notice of suspension to Safe Built which notice shall state a specific date of suspension. Upon receipt of such notice of suspension, Safe Built shall immediately cease performance of the Services on the date of suspension except: (1) as may be specifically authorized by the notice of suspension (e.g., to secure the work area from damage due to weather or to complete a specific report or study); or (2) for the submission of an invoice for Services performed prior to the date of suspension in accordance with this Agreement.
- 11.6 Reinstatement of Services Following City's Unilateral Suspension. The City may at its discretion direct Safe Built to continue performance of the Services following suspension. If such direction by the City is made within (30) days of the date of suspension, Safe Built shall recommence performance of the Services in accordance with this Agreement. If such direction to recommence suspended Services is made more than thirty-one (31) days following the date of suspension, Safe Built may elect to: (1) provide written notice to the City that such suspension is considered a unilateral termination of this Agreement pursuant to Section 11.3; or (2) recommence performance in accordance with this Agreement; or (3) if suspension exceeded sixty (60) consecutive days, request from the City an equitable adjustment in compensation or a reasonable re-start fee and, if such request is rejected by the City, to provide written notice to the City that such suspension and rejection of additional compensation is considered a unilateral termination of this Agreement pursuant to Section 11.3. Nothing in this Agreement shall preclude the Parties from executing a written amendment or agreement to suspend the Services upon terms and conditions mutually acceptable to the Parties for any period of time.
- 11.7 Delivery of Notice of Termination. Any notice of termination permitted by this Section 11 and its subsections shall be deemed given as set out in Section 17.13 of this Agreement titled "Notices".

## 12.0 INSURANCE

12.1 Insurance Generally. Safe Built shall obtain and shall continuously maintain during the term of this Agreement insurance of the kind and in the amounts specified as follows:

- The Contactor shall secure and maintain the following ("Required Insurance"):
  - Worker's compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of work under this Agreement, and Employer's Liability insurance with minimum limits of one hundred thousand dollars (\$100,000) each accident, five hundred thousand dollar (\$500,000) disease – policy limit, and one hundred thousand dollars (\$100,000) disease – each employee. Evidence of qualified self-insured status may be substituted for the worker's compensation requirements of this paragraph.
  - Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent Corporations, an Annual Contract Aggregate Limit endorsement, and products and completed operations. The policy shall contain a severability of interest provision, and shall be endorsed to include the Municipality including Architects and Engineers, all elected and appointed officials, all employees and volunteers, boards, commissions and/or authorities and their board members, employees, and volunteers as additional insured. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.
  - Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than of One Million Dollars (\$1,000,000.00) each occurrence with respect to each of Safe Built's owned, hired and non-owned vehicles assigned to or used in performance of the Services. The policy shall contain a severability of interests provision. Such insurance coverage must extend to all levels of subcontractors. Such coverage must include all automotive equipment used in the performance of the Agreement, both on the work site and off the work site, and such coverage shall include non-ownership and hired cars coverage. Such insurance shall be endorsed to name the City as Certificate Holder and name the City, and its elected

officials, officers, employees and agents as additional insured parties.

- Professional Liability (errors and omissions) Insurance with a minimum limit of coverage of One Million Dollars (\$1,000,000) per claim and annual aggregate. Such policy of insurance shall be obtained and maintained for one (1) year following completion of all Services under this Agreement. Such policy of insurance shall be endorsed to include the City as a Certificate Holder.

The Required Insurance shall be procured and maintained with insurers licensed and admitted in Michigan with an A- or better rating as determined by Best's Key Rating Guide. All Required Insurance shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by Safe Built.

12.2 Additional Requirements for All Policies. In addition to specific requirements imposed on insurance by this Section 12 and its subsections, insurance shall conform to all of the following:

12.2.1 Insurance carried or obtained by the City, its officers, or its employees shall be in excess of and not contributory insurance to that provided by Safe Built; provided, however, that the City shall not be obligated to obtain or maintain any insurance whatsoever for any claim, damage, or purpose arising from or related to this Agreement and the Services. Safe Built shall not be an insured party for any City-obtained insurance policy or coverage.

12.2.2 Safe Built shall be solely responsible for any deductible losses for Required Insurance.

12.2.3 No policy of insurance shall contain any exclusion for bodily injury or property damage arising from completed operations.

12.2.4 Every policy of insurance shall provide that the City will receive notice no less than thirty (30) days prior to any cancellation, termination, or a material change in such policy.

12.3 Failure to Obtain or Maintain Insurance. Safe Built's failure to obtain and continuously maintain policies of insurance in accordance with this Section 12 and its subsections shall not limit, prevent, preclude, excuse, or modify any liability, claims, demands, or other obligations of Safe Built arising from performance or non-performance of this Agreement. Failure on the part of Safe Built to obtain and to continuously maintain policies providing the required coverage, conditions, restrictions, notices, and minimum limits shall constitute a material breach of this Agreement upon which the City may immediately terminate this Agreement, or, at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Safe Built to the

City immediately upon demand by the City, or at the City's sole discretion, the City may offset the cost of the premiums against any monies due to Safe Built from the City pursuant to this Agreement.

- 12.4 Insurance Certificates. Prior to commencement of the Services, Safe Built shall submit to the City certificates of insurance for all Required Insurance. Insurance limits, term of insurance, insured parties, and other information sufficient to demonstrate conformance with this Section 12 and its subsections shall be indicated on each certificate of insurance. Certificates of insurance shall reference Safe Built / Building Inspection Services. The City may request and Safe Built shall provide within three (3) business days of such request a current certified copy of any policy of Required Insurance and any endorsement of such policy. The City may, at its election, withhold payment for Services until the requested insurance policies are received and found to be in accordance with the Agreement.

### 13.0 OWNERSHIP OF DOCUMENTS

- 13.1 Any work product, materials, and documents produced by Safe Built pursuant to this Agreement shall be and remains property of the City and shall not be made subject to any copyright unless authorized by the City. Safe Built hereby assigns to the City the copyright to all works prepared, developed, or created pursuant to the Services outlined in this Agreement, including the rights to: (1) reproduce the work; (2) prepare derivative works; (3) distribute copies to the public by sale, rental, lease, or lending; (4) perform the works publicly; and (5) to display the work publicly. Safe Built waives its rights to claim authorship of the works, to prevent its name from being used in connection with the works, and to prevent distortion of the works.

Other materials, methodology and proprietary work used or provided by Safe Built to the City not specifically created and delivered *pursuant to the Services outlined in this Agreement* may be protected by a copyright held by Safe Built and Safe Built reserves all rights granted to it by any copyright. The City shall not reproduce, sell, or otherwise make copies of any copyrighted material, subject to the following exceptions: (1) for exclusive use internally by City staff and/or employees; or (2) pursuant to a request under the Michigan Freedom of Information Act, MCL 15.231 et. seq., or any Federal open records act, to the extent that such statutes apply; or (3) pursuant to law, regulation, or court order. Safe Built waives any right to prevent its name from being used in connection with the Services.

- 13.2 Safe Built will be provided with a copy of the City's Freedom of Information Act ("FOIA") policy. The City is responsible for responses to FOIA requests and Safe Built shall not directly respond to any third parties regarding any received FOIA requests. Upon receipt of a FOIA request, Safe Built shall immediately give that request to the Building Code Official who shall immediately forward it to the City Clerk. Safe Built shall provide specific information requested by the City for response to the FOIA request by the date and time requested by the City Clerk or in a specific format is so requested by the City Clerk.

13.3 If Safe Built receives a claim for damages, a Summons or Complaint, a subpoena or other document concerning a request for money damages, a threat of a law suit, or any court action proceeding, Safe Built shall immediately hand deliver those documents to the City Building Code Official who will immediately hand deliver them to the City Clerk.

#### **14.0 INDEPENDENT CONTRACTOR.**

Safe Built shall perform the Services as an independent contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee or other relationship with the City other than as a contracting party and independent contractor. The City shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for Safe Built or Safe Built's employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not limited to: local, state, or federal income or other tax contributions; insurance contributions (e.g., FICA); workers' compensation; disability, injury, or health; professional liability insurance, errors and omissions insurance; or retirement account contributions.

#### **15.0 CONFLICT OF INTEREST**

Safe Built shall refrain from providing services to other persons, firms, or entities that would create a conflict of interest for Safe Built with regard to providing the Services pursuant to this Agreement. Safe Built shall not offer or provide anything of benefit to any City official or employee that would place the official or employee in a position of violating the public trust as provided under the City Charter, City Code of Ordinance, state or federal statute, case law or ethical principles.

#### **16.0 REMEDIES**

16.1 In addition to any other remedies provided for in this Agreement, and without limiting its remedies available at law, the City may exercise the following remedial actions if Safe Built substantially fails to perform the duties and obligations of this Agreement. Substantial failure to perform the duties and obligations of this Agreement shall mean a significant, insufficient, incorrect, or improper performance, activities or inactions by Safe Built. The remedial actions include:

16.1.1 Suspend Safe Built's performance pending necessary corrective action as specified by the City without Safe Built's entitlement to an adjustment in any charge, fee, rate, price, cost, or schedule; and/or

16.1.2 Withhold payment to Safe Built until the necessary services or corrections in performance are satisfactorily completed; and/or

16.1.3 Deny payment for those services which have not been satisfactorily performed, and which, due to circumstances caused by Safe Built, cannot be performed, or if performed would be of no value to the City; and/or

16.1.4 Terminate this Agreement in accordance with this Agreement.

The foregoing remedies are cumulative and the City, in its sole discretion, may exercise any or all of the remedies individually or simultaneously.

## 17.0 MISCELLANEOUS PROVISIONS

- 17.1 No Waiver of Rights: A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party. The City's approval or acceptance of, or payment for, services shall not be construed to operate as a waiver of any rights or benefits to be provided under this Agreement. No covenant or term of this Agreement shall be deemed to be waived by the City except in writing signed by the City Council or by a person expressly authorized to sign such waiver by resolution of the City Council of the City and any written waiver of a right shall not be construed to be a waiver of any other right or to be a continuing waiver unless specifically stated.
- 17.2 No Waiver of Governmental Immunity: Nothing in this Agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the City, its officials, employees, contractors, or agents, volunteers or any other person acting on behalf of the City and, in particular, governmental immunity afforded or available pursuant to the Michigan Governmental Immunity Act, MCL 691.1401, et. seq.
- 17.3 Affirmative Action: Safe Built will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. Safe Built will take affirmative action to ensure applicants are employed, and employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 17.4 Binding Effect: The Parties agree that this Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives, and assigns.
- 17.5 No Third Party Beneficiaries: Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any agent, sub-consultant or sub-contractor of Safe Built. Absolutely no third party beneficiaries are intended by this Agreement. Any third-party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.
- 17.6 Governing Law, Venue, and Enforcement: This Agreement shall be governed by and interpreted according to the law of the State of Michigan. Venue for any action arising under this Agreement shall be in the 6<sup>th</sup> Judicial Circuit Court, Oakland. If there is any conflict between the language of this Agreement and any exhibit or attachment, the language of this Agreement shall govern.

- 17.7 **Survival of Terms and Conditions:** The Parties understand and agree that all terms and conditions of the Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.
- 17.8 **No Assignment:** Neither Party shall assign all or part of the rights, duties, obligations, responsibilities, or benefits set forth in this Agreement to another party or entity.
- 17.9 **Paragraph Captions:** The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.
- 17.10 **Integration and Amendment:** This Agreement represents the entire and integrated agreement between the City and Safe Built and supersedes all prior negotiations, representations, or agreements, either written or oral, unless specified herein. Any amendments to this must be in writing and be signed by both the City and Safe Built.
- 17.11 **Severability:** Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.
- 17.12 **Incorporation of Exhibits:** Unless otherwise stated in this Agreement, exhibits, applications, or documents referenced in this Agreement shall be incorporated into this Agreement for all purposes. In the event of a conflict between any incorporated exhibit and this Agreement, the provisions of this Agreement shall govern and control.
- 17.13 **Notices:** Unless otherwise specifically required by a provision of this Agreement any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given at the address set forth below or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States Mail properly addressed to the intended recipient.

| <b>If to the City:</b>   | <b>If to Safe Built:</b>  |
|--|---|
| City Manager<br>City of Troy<br>500 W. Big Beaver Road<br>Troy, Michigan 48084 | Mike McCurdie, President<br>Safe Built of Michigan, Inc.<br>7111 Dixie Highway, #140<br>Clarkston, Michigan 48346 |
| With Copy to:<br>City Attorney   | With Copy to:<br>Dave Thomsen, Vice President   |

|  |  |
|--|--|
| City of Troy<br>500 W. Big Beaver Road<br>Troy, Michigan 48084   | Safe Built Michigan, Inc.<br>7111 Dixie Highway, #140<br>Clarkston, Michigan 48346 |
| With Copy to:<br>Assistant City Manager/Economic<br>Development Services<br>City of Troy<br>500 W. Big Beaver Road<br>Troy, Michigan 48084 |  |

**18.0 SPECIAL PROVISIONS**

- 18.1 Indemnification and Hold Harmless. To the fullest extent permitted by law, Safe Built 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 Agreement. The City shall indemnify Safe Built from any claims against Safe Built resulting from the gross negligence of the City. At no time does the City waive its right to governmental immunity.
- 18.2 Force Majeure. Neither Safe Built nor the City shall be liable for any delay in, or failure of performance of, any covenant or promise contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to extent that, such delay or failure is caused by "force majeure." As used in this Agreement, "force majeure" means acts of God, acts of the public enemy, unusually severe weather, fires, floods, epidemics, quarantines, strikes, labor disputes and freight embargoes, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed party.
- 18.3 Authority. The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of City of Troy and Safe Built and bind their respective entities.

THIS AGREEMENT is executed and made effective as provided above.

**CONTRACTOR: Safe Built of Michigan, Inc., a Colorado Corporation,**

By: 

Print Name: Dave Thomsen

Title/Position: Vice President

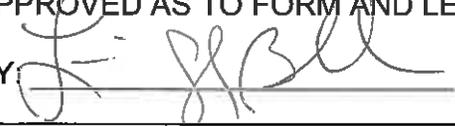
**CITY OF TROY**

BY:   
Mayor Louise E. Schilling

  
John Szerlag, City Manager

RESOLUTION NUMBER: 2010-06-122

APPROVED AS TO FORM AND LEGALITY:

BY:   
Lori Grigg Bluhm, City Attorney

ATTEST:   
Tonni Bartholomew, City Clerk

**AGREEMENT FOR LEASE OF CITY OWNED VEHICLES FOR PERIOD  
OF JULY 1<sup>ST</sup>, 2010 TO JUNE 30, 2011 PURUSANT TO  
PROFESSIONAL SERVICES AGREEMENT FOR BUILDING SERVICES**

Pursuant to Section 7.0 of the Professional Services Agreement between the City of Troy ("City") and Safe Built of Michigan, Inc. ("Safe Built"), which was approved and authorized by City Council on June 7, 2010, the City of Troy offers the following vehicles for use by Safe Built at the listed lease price:

| <b><u>Make and Model</u></b>                 | <b><u>VIN</u></b>               | <b><u>Veh. Number</u></b> |
|--|---------------------------------|---------------------------|
| <b><u>2008 Ford, Escape/ White</u></b>       | <b><u>1FMCU49H68KE54606</u></b> | <b><u>100</u></b>         |
| <b><u>2005 Chevrolet, Malibu / White</u></b> | <b><u>1G1ZS52FX5F280670</u></b> | <b><u>186</u></b>         |
| <b><u>2006 Chevrolet, Malibu / White</u></b> | <b><u>1G1ZT51F36F259255</u></b> | <b><u>187</u></b>         |
| <b><u>2007 Chevrolet, Malibu / White</u></b> | <b><u>1G1ZS57F47F277730</u></b> | <b><u>190</u></b>         |

Safe Built shall pay the City of Troy \$7,899.96 for the period of July 1<sup>st</sup>, 2010 to June 30, 2011 or \$658.33 per month, compensation for the use of EACH vehicle for a total yearly payment of \$31,599.84 for all four (4) vehicles. "Usage" or "use" of the vehicles shall mean "possession" of the vehicles by Safe Built. The lease rate shall be paid quarterly on the fifteen (15<sup>th</sup>) day of the month on July 15, 2010, October 15, 2010, January 15, 2011 and April 15, 2011. Quarterly lease payments shall be \$7,899.96 representing payment for all four (4) vehicles for that quarter. The \$658.33 per month per vehicle shall include usage for a maximum of 1,000 miles per month; however, there shall be no refund to Safe Built of the \$658.33 monthly lease amount per vehicle if Safe Built uses the vehicle less than 1,000 miles per month, or if the vehicle is in Safe Built's possession but not used over holidays, weekends or weekdays. If Safe Built uses the vehicle beyond 1,000 miles per month, TROY will invoice Safe Built on a yearly basis at the expiration of the one (1) year lease term for those additional miles at the rate of \$ .50 per mile or the IRS rate per mile in effect at the end of the lease agreement. Safe Built shall submit payment within thirty (30) days of the invoice date. **All lease payments shall be made payable to the City of Troy and sent to Superintendent, Troy Fleet Division, 4693 Rochester Road, Michigan 48085.**

The City will install or remove equipment from City owned leased vehicles at Safe Built's expense for time and materials. The City will invoice Safe Built for any installation or removal of equipment at the end of the month that the installation or removal was completed. Safe Built shall submit payment within thirty (30) days of the invoice date to the above address.

Within the thirty (30) day period before July 1, 2011, the City shall prepare a new Agreement listing the available vehicles for lease and the lease price which shall cover a one (1) year period.

All other terms and conditions of the Professional Services Agreement shall apply remain in full force and effect.

This Agreement shall terminate if the Professional Services Agreement is terminated and all vehicles shall be immediately returned to the City.

The undersigned represent that he/she has the authority to enter into this Agreement on behalf of Safe Built of Michigan, Inc.

Witness:

Barbara A. Palotta  
Barbara A. Palotta

CITY OF TROY

Louise E. Schilling  
By: Louise Schilling  
Title: Mayor  
Tonni Bartholomew  
Tonni Bartholomew, City Clerk

Witness:

Laura Mack

SAFE BUILT OF MICHIGAN, INC.

David Thomsen  
By: David Thomsen  
Title: V.P.

Dated: 7.9.10

## EXHIBIT C

### SAFE BUILT SCOPE OF SERVICES

Safe Built shall provide the following services:

#### **Administering and Enforcing Permits Issued**

- Meet with applicants for pre-submittal courtesy reviews and to aid in the re-design of deficient submittals.
- Work in unison with the City Fire Department to ensure compliance with any applicable Fire Code and to be certain that all commercial and multi-family residential structures have been properly inspected prior to submitting the draft Certificate of Occupancy to the Building Code Official.
- Provide advice, education and support to the City Council regarding code interpretations and adoptions.
- Provide direction and supervisory support to all Building Department personnel including training to keep all team members proficient in all the currently enforced building codes within the City, as identified in Chapter 3.

Building Inspection is directly responsible for administering and enforcing the permits they issue. Safe Built will be responsible for the processing all of these permits and presenting them to the City of Troy Building Code Official for approval. However Safe Built will assume the duties previously performed by the Director of Building and Zoning, Chief Building Inspector, Building Inspector in the administration and enforcement of the City of Troy Codes unless those duties are to be performed by the City Building Code Official.

The following is a summary of the Department of Building Inspection responsibilities and activities, both for permits they issue and support services for other permits or requirements:

- Chapter 2 Addresses: There is a requirement that applications for building addresses meet all Building Department rules and regulations.
- Chapter 13 Historic Preservation: Enforcement of this Code is shared by the Historic District Commission and the Building Inspection Department. Their representative shall advise Historic Commission of Building permit applications that are under the purview of Chapter 13 are reviewed by the Building Inspection Department who transmits findings to the Commission for their action. The Historic District Commission may direct questions to the Building Inspection Department regarding these applications. The Historic District Commission renders a determination and sends it back, where it is processed as any other Building Permit Application.
- Chapter 19 On Site Sewer Disposal System: Building Department Inspector inspects sewer systems.
- Chapter 20: The Building Department has the responsibility to calculate inspection fees for sewer connections.

- Chapter 47: Building Inspector responsible for certifying conformance for much of the infrastructure for new Trailer Courts (which is now considered manufactured housing).
- Chapter 61 Temporary Merchant License: Along with other Departments, Building Inspection Department reviews the application. Building Inspector confirms that sites, when the License expires, are clear of equipment, vehicles, and debris.
- Chapter 64 Gasoline Stations: Building Inspector reports findings to City Council as part of the Building Permit application process.
- Chapter 67 Dances and Dance Halls: There is a requirement that applications for this use, as required by this Chapter, meet all Building Department rules and regulations.
- Chapter 68 Amusements and Recreation Places: There is a requirement that applications for this use, as required by this Chapter, meet all Building Department rules and regulations.
- Chapter 71 Auto Wash Motor Vehicle Laundry: There is a requirement that applications for this use, as required by this Chapter, meet all Building Department rules and regulations.
- Chapter 73 Drive In Restaurant: There is a requirement that applications for this use, as required by this Chapter, meet all Building Department rules and regulations.
- Chapter 76 Adult Business Use: There is a requirement that all applications for this use, as required by this Chapter, meet all Building Department rules and regulations. There may be a requirement to participate in an appeals hearing, and review proposed alterations to the configuration of adult businesses.
- Chapter 77 Smoking Lounges: Along with other departments, Building Inspection Department reviews smoking lounge license applications.
- Chapter 79 General Building Regulations: Building Inspection Department with the Building Code Board of Appeals.
- Chapter 83 Fences: There is a requirement that applications for fences meet all Building Department rules and regulations.
- Chapter 85 Signs: There is a requirement that applications for signs meet all Building Department rules and regulations. Building Department collects fees, assures related permits have been applied for, and registers contractors. .
- Chapter 88 Nuisances: There is a requirement that applications for Special Work Permits for Construction activity during non work hours (as defined by the code) meet all Building Department rules and regulations.
- Chapter 93 Fire Prevention: There is a requirement that the Building Department review applications to insure compliance with the Building codes.

- Chapter 97 Coin-Operated Amusement Devices: There is a requirement that applications for this use, as required by this Chapter, meet all Building Department rules and regulations.

### **Meeting Attendance**

- City Council when requested.
- City Manager staff meetings.
- Building Code Board of Appeals
- Economic Development Services staff meetings.
- Other meetings as requested by the Assistant City Manager/Economic Development Services or his/her designee.

### **Document Management**

- Coordinate with the City's document imaging contractor.
- Respond to FOIA requests and subpoenas for document and record production as directed by the City Building Code Official.
- Provide records and documents as requested by other departments.
- Prepare documents for scanning and quality control verification of scanned documents returned

### **Reports**

- Provide weekly reports of certificates of occupancy issued
- Provide monthly, bi-annual, fiscal year, and calendar year reports of permit activity
- Provide monthly reports to other agencies (SEMCOG, Census Bureau)
- Provide other reports as requested by the Assistant City Manager/Economic Development Services or his/her designee.

### **Court Action**

Condemnation and other litigation includes up to 16 hours per case. Additional work would be billed at Certified Building Code Supervisor. rate.

### **Other Services**

- Input data including permits and inspections utilizing the B S & A software.
- Use software for tracking of data including permits and inspections.
- Retain and provide all records in electronic and hard copy for the Building Department.
- Provide all permitting, plan review and inspection service within the City.
- Provide all code materials needed for the Building Department and City Clerk.

- Coordinate with other city departments/divisions in the issuance of permits in the City (Planning and Zoning, Licensing).
- Work with City Attorney in issuing notices to vacate unsafe buildings and other issues.
- Provide Building Department reports to City daily, monthly and annually.
- Organize and provide records for storage of all active and inactive legal records for Building Department.
- Creation and update of all Building Department forms.
- Review building permit applications for compliance with building, applicable city building codes, electrical, plumbing and accessibility codes.
- Conduct all inspections, required by City ordinances and resolutions, to ensure life safety and code compliance.
- Provide homeowner training clinics, as necessary.
- Provide all other services that the Building Department is required to perform under State law, the Troy Code of Ordinances, the Troy City Charter, Resolution of City Council or as implied under the duties and scope of services listed in this Agreement.

### **Customer Service:**

- Respond to requests for information (including research of City and County records) about jurisdiction for builders, and general public.
- Assemble and distribute informative materials for the general public and in response to inquiries.
- Provide customer service Monday thru Friday 8:00 a.m. to 4:30 p.m., to design professionals, contractors and homeowners via fax, phone and email regarding code requirements, violations and permit submittal.
- Accept application materials for all Building Department cases.
- Provide information to the public on fee structures, case histories, and status of reviews.
- 2-hour window ETA's provided on request.
- day plan review on residential projects.
- 10 day plan review on small to mid-size commercial projects.
- Provide inspections 5 days a week and on weekends or after-hours on request.
- 100% delivery on next day inspections called in by 4:30 pm.

### **Plans Examiner**

#### **Scope:**

- Create and distribute Plan Review Notices.
- Review submitted plans for construction for compliance to current building codes.
- Coordinate with other City departments/divisions in the plan review and permitting process.
- Maintain all Building Department records pertaining to plan review.
- Verify for zoning compliance including, but not limited to, land use, setbacks, structure and building heights, structure and building dimensions, lot coverage, and parking.

- Confer with Zoning Administrator on matters related to the interpretation of the Zoning Ordinance.

### **Building Inspector**

#### **Scope:**

- Daily routing of assigned Inspections.
- Provide all building, mechanical, electrical, and plumbing inspections.
- Documentation of inspections completed.
- Read blueprints for onsite inspections.
- Assisting in Plan Review.
- Return calls from contractors and citizens in reference to code concerns and questions about field inspections.
- Field verify for zoning compliance including, but not limited to, land use, setbacks, structure and building heights, structure and building dimensions, lot coverage and parking.
- Confer with Zoning Administrator on matters related to the interpretation of the Zoning Ordinance.

### **Permit Tech**

#### **Scope:**

- Receive respond to and record inspection requests.
- Assist in maintaining records of all submittals, fees received, reviews and inspections.

## **EXHIBIT D**

### **DUTIES OF CITY BUILDING CODE OFFICIAL**

- Fulfill all duties under the direction of and as designated by the Assistant City Manager/Economic Development Services.
- Provide information, education, and recommendations to the public on how to obtain and maintain building code compliance.
- Issue "Stop Work" orders for work done without a permit.
- Issue "Dangerous Building Notices".
- Review files for buildings being completed and issue Certificate of Occupancy where applicable.
- Review monthly reports and an annual report for work performed and fees collected among other activities, in acceptable City format.
- Meet with applicants for pre-submittal courtesy reviews.
- Work in unison with the City Fire Department to ensure compliance with any applicable Fire Code and to be certain that all commercial and multi-family residential structures have been properly inspected prior to issuing a Certificate of Occupancy.
- Provide advice, education and support to the City Council and department heads regarding code interpretations and adoptions.
- Provide direction and supervisory support to all Building Department personnel.
- Fulfill all the duties and legal requirements set forth by State of Michigan Building Codes and the City of Troy Code of Ordinances.
- Oversee qualified and certified personnel to perform inspections, plan review and Building Code Official duties as required by the State of Michigan.
- Review and respond to all Freedom of Information Act ("FOIA") request in compliance with the City's FOIA procedure and review all subpoenas or requests for any documents or information concerning court cases.
- Review and determine all fee disputes with third parties.
- Facilitate and assist the Building Code Board of Appeals for the City and maintain records.
- Interpret and decide all building codes questions within the Building Department.
- Provide all other services under State law, the Troy Code of Ordinances, the Troy City Charter, Resolution of City Council or as implied under the duties and scope of services listed in this Agreement

## EXHIBIT E

### SAFE BUILT HOURLY RATE FEE SCHEDULE

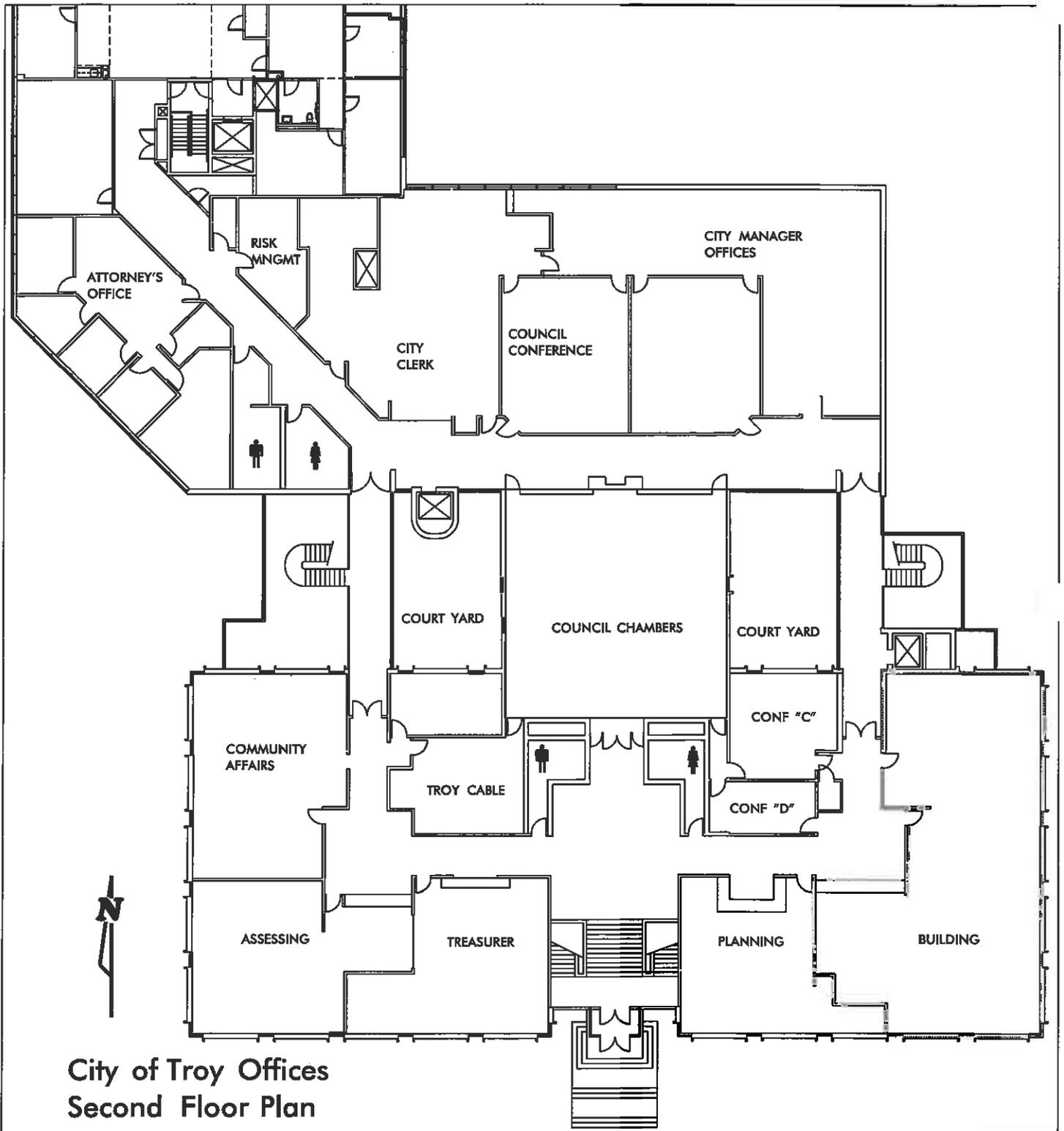
|  |                 |
|--|-----------------|
| Supervisor                               | \$110.00 hourly |
| Plans Examiner                           | \$ 95.00 hourly |
| Inspector:                               |                 |
| Building                                 | \$ 70.00 hourly |
| Electrical                               | \$ 80.00 hourly |
| Plumbing                                 | \$ 80.00 hourly |
| Mechanical                               | \$ 80.00 hourly |
| Permit Technician/Administrative Support | \$ 50.00        |

## EXHIBIT F

### PERFORMANCE STANDARDS

- Provide written reports to City monthly and annually, in form and time line acceptable to the Assistant City Manager/Economic Development Services to include:
  1. Track building permits by number, type and valuation;
  2. Track inspections by number of stops, inspections performed, failed inspections and number of Code violations;
  3. Track plan reviews by number, type and turnaround times;
  4. Track *fees* collected by type; and
  5. Track live plan reviews, meetings with fire department and responses to emergency calls.
- Open office and provide customer service Monday thru Friday 8:00 AM to 4:30 PM;
- Return all customer calls within 24 business hours or before end of next business day;
- Staff on-call for emergency situations;
- 5 day plan review on residential projects;
- 10 day plan review on small to mid-size commercial projects;
- Provide inspections 5 days a week and on weekends or after-hours on request;
- 100% delivery on next business day inspections called in by 4:30 PM;
- Provide 2-hour window estimated time of arrival (ETA) for inspections; and
- Fulfill all scope of work identified in Scope of Services – Exhibit C.

**EXHIBIT G**  
**OFFICE SPACE PLAN**



**City of Troy Offices  
Second Floor Plan**

...\second floor 2D.dgn 9/1/2009 10:22:44 AM

## **EXHIBIT H**

### **CITY'S POLICY "CRITERIA USED IN ASSESSING DRIVING RECORD"**

1. Five (5) or more current points
2. Current suspensions
3. Two (2) or more suspensions on record
4. Driving convictions related to alcohol/narcotic substances, careless driving (excludes "w/o due care"), or reckless driving
5. Multiple (2 or more) failures to appear in Court (FAC)
6. Outstanding warrants
7. Cited by State of Michigan for Unsatisfactory Driving Record (UDR), unless record has been clear for past three years.
8. Individual records evaluated on case-by-case basis in situations where record has been clear for past three years, yet poor early driving history

**EXHIBIT I**

**SAFE BUILT DESIGNATED PARKING AREA**



# ADMINISTRATIVE MEMORANDUM

|  |   |                                    |
|--|---|------------------------------------|
| <b>SUBJECT:</b><br>Troy Civic Center Parking Regulations             |   |                                    |
| <b>DATE OF ORIGINAL ISSUE:</b><br>November 20, 1978                  | <b>EFFECTIVE DATE:</b><br>April 6, 2009 | <b>NUMBER:</b><br>1-G-10           |
| <b>RE-EVALUATION DATE:</b>   | <b>RESCINDS:</b>                        | <b>LAST REVISION DATE:</b><br>2004 |
| <b>DISTRIBUTION:</b><br>Department Directors and City Hall Employees |   |                                    |

~~Completion of the Police Department building addition and relocation of Fire Department personnel to new quarters have resulted in new parking lot configurations around the Civic Center site.~~  
4/01/09

Effective Monday, April 6, 2009 the parking lot at the "Ford and Earl" building on the east side of Civic Center drive is no longer available for City of Troy employee parking. As such, there are changes to employee parking arrangements on the Civic Center campus. Attached is a map that outlines the new parking regulations.  
4/06/09

## EAST PARKING LOT:

~~Parking spaces at the south end of the east City Hall parking lot that were formerly reserved for Fire Department vehicles are now designated employee parking and permit parking. All spaces along the south side of this lot are reserved for department director permit holders and City employees who are active volunteer firefighters. City employees can use all other parking spaces south of the south City Hall driveway of the east parking lot.~~  
4/06/09

Employee parking is allowed in the area north of the north drive (the small lot between the east parking lot and the Library), and south of the south drive, except in the row designated for permit parking (department directors only).

Employee parking is allowed in the area formerly designated for permit parking (department directors only) in the eastern-most row of the east parking lot.

The 9 parking spots in the southern-most row of parking in the east parking lot are designated for permit parking (department directors only).  
4/06/09

**NON-GATED SECTION OF WEST PARKING LOT:**

The first 9 parking spaces on the north side of the non-gated section of the west parking lot are designated for permit parking (department directors only).

Two spaces on the south side of the non-gated section of the west parking lot are designated for City employees who are active volunteer firefighters.

4/06/09

**GATED WEST PARKING LOT:**

Employee parking is permitted in the remaining spaces in the west lot, except in those spaces designated for City vehicles.

4/06/09

**OTHER PARKING:**

City Hall employees with handicapped plates or tags are encouraged to use the four spaces at the west entrance of City Hall. All employees outside of City Hall that visit City Hall for work-related short periods of time are encouraged to park adjacent to the west entrance of City Hall.

2004

**LIBRARY PARKING LOT:**

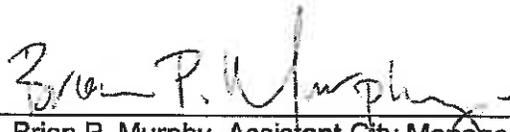
The designated area remains unchanged; employee parking is permitted in the lot north of the building.

4/06/09

Failure to park in areas designated "Employee Parking" as shown on the attached updated map will result in employees being subject to discipline, including suspension and possible discharge.

2004

Approved:



\_\_\_\_\_  
Brian P. Murphy, Assistant City Manager/  
Economic Development Services

COURT

POLICE

LIBRARY

FIRE

CITY HALL

CITY VEHICLES

Town Center Drive

Civic Center Drive

Civic Center Drive

I-75

BIG BEAVER

-  CITY VEHICLES
-  EMPLOYEE PARKING
-  PERMIT PARKING



**CIVIC CENTER  
COMPLEX  
2009**

## EXHIBIT J

### INVENTORY AND EQUIPMENT

#### Computers:

- 4 Dell GX755
- 4 Dell E6400 ATG plus Netmotion and Aircard for each computer

#### Printers:

- 1 HP Laserjet 4050
- 1 HP Laserjet 4250

#### Office Furniture:

- 17 cubical workstations with overhead bins and chairs
- 4 office workstations with overhead bins, desk chairs and 2 "visitor chairs" each
- 14 four drawer lateral files
- 2 five drawer lateral files
- 22 five drawer file cabinets
- 3 seven drawer card files
- 3 seven drawer microfilm files
- 2 microfilm readers/printers

Misc. storage cabinets and storage racks

#### Other:

Access to the City network and all the resources available on it including email, Internet and Equalizer application.

City Standard Desktop Software including MS Office

Maintenance and support of all hardware and software

Use and maintenance of printers, not including consumables

Regular replacement of equipment

**MOTION CARRIED****G. POSTPONED ITEMS:****G-2 Building Department Services****Pending Resolution**

Moved by Kerwin

Seconded by Fleming

RESOLVED, That Troy City Council hereby **APPROVES** the H-4 *Building Department Services – Safe Built Michigan, Inc. Contract* **PENDING** the crafting of language by the City Attorney and signed by Safe Built Michigan, Inc. representatives regarding the 80/20 prorated inspections provision; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AWARDS** the attached three-year contract to provide Building Department Services to the best value proposal submitted by Safe Built Michigan, Inc. of Clarkston, MI, as a result of a best value process, which the Troy City Council determines to be in the public interest, to expire June 30, 2013, with an option to renew for two (2) additional years provided Safe Built Michigan, Inc. has met all the contract terms and conditions in accordance with the Professional Service Agreement dated May 17, 2010, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon the contractor's submission of proper proposal, contract documents and all other specified requirements; and

BE IT FINALLY RESOLVED, That Troy City Council **AUTHORIZES** the Mayor and City Clerk to execute the documents on behalf of the City of Troy.

**Vote on Resolution to Amend Pending Resolution for Building Department Services by Substitution**

Resolution #2010-06-121

Moved by Kerwin

Seconded by Slater

RESOLVED, That Troy City Council hereby **AMENDS** Pending Resolution for Building Department Services by **STRIKING** it in its entirety and **SUBSTITUTING** it with the following:

*RESOLVED, That Troy City Council hereby **AWARDS** a three-year contract to provide complete Building Department Services submitted by Safe Built Michigan, Inc. of Clarkston, MI, as a result of a best value process, and which the Troy City Council determines to be in the public interest, to expire June 30, 2013, with an option to renew for two (2) additional years, provided Safe Built Michigan, Inc. has met all the contract terms and conditions in accordance with the Professional Service Agreement dated June 7, 2010, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and*

*BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon the submission of proper proposal, contract documents and all other specified requirements; and*

*BE IT FINALLY RESOLVED, That Troy City Council hereby **AUTHORIZES** the Mayor and City Clerk to execute the documents on behalf of the City of Troy.*

Yes: Kerwin, McGinnis, Slater, Schilling, Fleming  
No: Howrylak  
Absent: Beltramini

**MOTION CARRIED**

**Vote on Resolution for Building Department Services as Amended by Substitution**

Resolution #2010-06-122

Moved by Kerwin

Seconded by Fleming

RESOLVED, That Troy City Council hereby **AWARDS** a three-year contract to provide complete Building Department Services submitted by Safe Built Michigan, Inc. of Clarkston, MI, as a result of a best value process, and which the Troy City Council determines to be in the public interest, to expire June 30, 2013, with an option to renew for two (2) additional years, provided Safe Built Michigan, Inc. has met all the contract terms and conditions in accordance with the Professional Service Agreement dated June 7, 2010, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon the submission of proper proposal, contract documents and all other specified requirements; and

BE IT FINALLY RESOLVED, That Troy City Council hereby **AUTHORIZES** the Mayor and City Clerk to execute the documents on behalf of the City of Troy.

Yes: McGinnis, Slater, Schilling, Fleming, Kerwin  
No: Howrylak  
Absent: Beltramini

**MOTION CARRIED**

The meeting **RECESSED** at 8:54 PM.

The meeting **RECONVENED** at 9:08 PM.

---

**G-1 Standard Purchasing Resolution 8 – Best Value Award: Golf Course Operations**

Resolution #2010-06-123

Moved by Kerwin

Seconded by Fleming



# CITY COUNCIL ACTION REPORT

June 2, 2010

TO: The Honorable Mayor and City Council

FROM: John Szerlag, City Manager  
John M. Lamerato, Assistant City Manager/Finance & Administration  
Mark F. Miller, Acting Assistant City Manager/Economic Development Services  
R. Brent Savidant, Acting Planning Director  
Peggy Sears, Human Resources Director  
Susan A. Leirstein, Purchasing Director

SUBJECT: Building Department Services

## **Background**

Two months ago, Mark Stimac told the HR director and City management staff that he could not compete with the Safe Built proposal. He was right; he cannot compete at any level, and his current model is not supported by employee concessions. Therefore, his proposal lacks validity.

On May 17, 2010, City Council authorized City management to work with the Building department to submit their last best offer. (Resolution #2010-05-108) The memo dated May 24, 2010, from Mark Stimac presents the Building department's staff proposal. (see Attachment A) It proposes to eliminate two positions - Inspection Supervisor and one (1) Account Clerk I to layoffs. The eight (8) remaining staff would be reduced to 65% of their current pay levels, then share 75% of revenue, once permit fees exceed \$865,000.00 in any fiscal year. (see Attachment B for cost comparisons)

The building department costs remain fixed verses the variable model proposed by Safe Built, who will be paid 80% of the permit fees up to \$1million. Once achieved, compensation will be reduced to 75% at the beginning of the next fiscal year and continue at that level until the Agreement terminates. Safe Built has also agreed to be paid for work in process at a not-to-exceed amount of \$120,000.00 for permits issued and not completed, which currently exceed \$1million in value. This includes the Beaumont Hospital project in which revenue was previously recognized and expenditures would be subsidized from the general fund, if services were performed in-house. If a permit is pulled exceeding \$10,000.00 between now and July 1<sup>st</sup>, 2010, fees to Safe Built would be negotiated.

The Stimac proposal does not address service levels or turnaround times, unlike Safe Built who is being held to a higher standard. Many of the current building department processes are inefficient, as delineated in the Zucker report from 2008. Building department services should be based on demand. Technology should be in the forefront of change. Safe Built intends to expand the use of BS&A for reporting purposes and equip inspectors with laptops for online permitting, scheduling, and infield inspection results. In addition, Safe Built plans on operating under the current permit fee structure, while the building department would be requesting a modification of those fees.

Simply stated, historically, the basic function of local government was to deliver services to the community. That is still being done today. Yet, government needs to re-invent itself by doing more with less. Through structured analysis and isolating sectors where outside resources reduce general fund subsidies, as fiduciaries we have a duty to act responsibly and in the City's best interest.

June 2, 2010

To: John Szerlag, City Manager  
Re: Building Department Services

The decision to determine if the services of the building department should be provided in-house by public employees or contracted-out for delivery by Safe Built is complete. A best value process allows us to evaluate a turn-key operation, which is a conservative \$200,000.00 cheaper than the in-house proposal. The "make verses buy" analysis has reviewed the cost of services, service quality and control, management issues, financial issues, the impact on stakeholders, as well as statutory and regulatory concerns.

**Financial Considerations**

- Fees paid to Safe Built are based on permit and plan review. This revenue based solution guarantees no general fund subsidy for the Building Inspection operations.
- Additional reimbursements from Safe Built include lease of office space, cost for inspection phone line, vehicle leases and rental of equipment estimated at a total of \$91,000 per year, with adjustments made each fiscal year as needed. Lease payments for office space include core service allocations, building maintenance activities and utilities. The building department occupies 2,546 square feet of space; and unless reconfigured will be the same used by Safe Built at \$16.75 per sqft.
- Hourly rates would apply when a permit fee is not collected; such as for license inspections, posted home inspections, or any service not included in the scope of services outlined in Exhibit C of the Agreement. The rates include the pay rate, overhead, profit, travel and all other costs estimated at \$40,500.00 annually.
- For emergency situations additional costs may be incurred, however these costs will be negotiated with Safe Built Michigan, Inc.( i.e. force majeure events)
- At no revenue level will the Staff expenditure proposal generate a more favorable return than Safe Built.

**Legal Considerations**

- The award is contingent upon the firm's submission of properly executed proposal, contract documents, insurance certificates and all other specified requirements.
- Safe Built Michigan, Inc. will submit four (4) signed copies of the attached Agreement at the June 7<sup>th</sup> City Council meeting.

**Recommendation**

- Now, having considered all the facts, City management has negotiated and recommends awarding a three (3) year contract for complete Building Department services with an option to renew for two (2) additional years to the best value proposal submitted by Safe Built Michigan, Inc. of Clarkston, MI, in accordance with the Agreement attached hereto.

Contract reviewed and approved as to legality:

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

\_\_\_\_\_  
Date



## Human Resources Department

DATE: June 1, 2010

TO: Susan Leirstein, Purchasing Director

FROM: Peggy Sears, Human Resources Director

CC: John Lamerato, Assistant City Manager, Finance & Administration  
Mark Miller, Acting Assistant City Manager, Economic Development Services  
John Szerlag, City Manager

SUBJECT: Building Inspection Operations

An analysis of the recent Building Department proposal to compete with SAFEbuilt, Inc. has been completed and results in affirming the recommendation to contract with SAFEbuilt for building inspection services. A description of the analysis follows.

By way of background, when initially offered the opportunity to compete against the private contractor, Mr. Stimac advised that he could not run the department with less than the current staffing level. He further advised that he could not compete with SAFEbuilt. Subsequently, having no proposal from the department for comparison, city administration proceeded to analyze the SAFEbuilt proposal against the current cost of operations. It was deemed to be in the City's best interest, both from an economic and efficiency standpoint, to contract with SAFEbuilt to provide inspection services.

On Monday, May 17, 2010, Mr. Stimac presented to City Council that he could provide a proposal that he believes will compete favorably against the SAFEbuilt proposal. As a result of that discussion, City Council directed management to provide Mr. Stimac the opportunity to submit his proposal for consideration. Mr. Stimac submitted a proposal (attachment A) on May 24, 2010. A comparative analysis was made between the department proposal and the SAFEbuilt proposal using three different revenue assumption levels (attachment B).

Generally, the proposal calls for laying off two employees, reducing staff salaries by 35%, further reducing salaries if the bargaining unit does not agree to the reduction of its two union members' salaries, profit sharing among employees once a threshold permit fee level was attained, and an opportunity to request an increase in permit fees. In making the financial comparison, all overhead costs and revenues were included. The cost of the department proposal includes all operating expenses of a line item budget. The cost of the SAFEbuilt proposal includes the reimbursements to the City for equipment rental (\$2,785 per computer), vehicle rental (which includes gas, oil and maintenance) and rent (\$16.75 per sq. ft).

As demonstrated in the cost comparison using the stated revenue assumption levels, the SAFEbuilt proposal saves between \$183,000 and \$481,000 over the staff proposal. Additionally, the cost of the department proposal increases to the extent current employees do not agree to the proposed salary reductions. Finally, given the proposed 25% profit-sharing component of the department proposal, the department cannot compete at any revenue level.

In addition to the financial savings, the following are important management considerations:

- Union concurrence is required before any salary reduction could be implemented for an employee who is represented by the Michigan Association of Police (MAP) union; therefore, the City cannot unilaterally reduce union employees' wages even if those employees agree to do so;
- To date, 55% of the employees have indicated that they do not accept the proposal submitted by Mr. Stimac. This means that any cost savings proposed by the department proposal would be reduced correspondingly. And, in the case of the union employees, any savings not realized by reducing their salaries would be captured by further reducing the salaries of the remaining employees;
- The functionality of the department will suffer when the environment is such that some employees have significantly reduced wages and some have not; feelings of resentment and low morale are inevitable.

Finally, it is important to note that, should the employees' salaries be reduced by 35%, their resultant salaries would be much lower than what they could potentially earn if hired by SAFEbuilt. These reduced wages, which do not recognize the 10+ years of highly skilled experience, would equate to an average of just 4% over the minimum pay rate that is paid by SAFEbuilt, Inc. for the same work.

Based on the foregoing analysis, it is recommended to privatize the Building Department operations and contract with SAFEbuilt for those services.

## ATTACHMENT A

DATE: May 24, 2010  
TO: Peggy Sears, Human Resource Director  
FROM: Mark Stimac, Director of Building and Zoning  
RE: Building Department Staff Proposal for Building Department Services

The following is an outline of the Building Department Staff proposal for building department services.

1. Two positions within the Building Department would be eliminated. This would be the Inspector Supervisor's position and one of the Account Clerk I position.
2. The base salaries of the remaining staff would be reduced to 65% of current (pre furlough) levels. This will bring us down very close to the \$748,500 budget amount when other departmental costs are added in.
3. Once permit fee revenue exceeds \$865,000 in any fiscal year, 75% of permit revenue will be paid to the Building Department staff on a pro-rated proportional share. Fees reported from the previous month will be paid on the second pay period of the following month.
4. If this arrangement is not acceptable to any bargaining unit involved, then the base wage percentages would be further reduced to meet the budget number and the additional permit revenue would be divided amongst the remaining non-union members.
5. Pay outs for any un-used vacation time in January of 2011 will be based upon  $\frac{1}{2}$  at the current (pre furlough) rate and  $\frac{1}{2}$  based upon the new base salary.
6. Pay outs for any unused sick time in November of 2010 will be based upon  $66 \frac{2}{3}$  (8/12) at the current (pre furlough) rate and  $33 \frac{1}{3}$  (4/12) at the new base salary.
7. After the potential pay outs for unused time noted above in items 5 & 6, future payouts for un-used sick or vacation time shall be based upon the new base salary, however, should any current member of the Building Department staff chose to retire under this agreement, their payouts of un-used sick time, vacation time, or compensatory time will be calculated at the current (pre furlough) rate.
8. The Building Department will be permitted to submit a proposal for review by City Council for a modification of minimum permit fees associated with mechanical, electrical, plumbing, and sewer installation permits.

Please let me know at your earliest convenience when you will be scheduling meeting with the Building Department staff to discuss this proposal.

| Account Number                               | Description                    | 2010 Adopted Budget        | 2011 Department Request | 2011 Pre Millage Proposal | Staff Proposal        |
|--|--------------------------------|----------------------------|-------------------------|---------------------------|-----------------------|
| <b>Fund</b>                                  | <b>101</b>                     | <b>GENERAL FUND</b>        |                         |                           |                       |
| <b>Expenses</b>                              |                                |                            |                         |                           |                       |
| <b>Department</b>                            | <b>371</b>                     | <b>Building Inspection</b> |                         |                           |                       |
| <u>PERSONAL SERVICES</u>                     |                                |                            |                         |                           |                       |
| 7702   | Personal Service               | \$1,075,380.00             | \$673,112.00            | \$642,953.96              | \$367,167.75          |
| 7705   | Holiday                        | \$0.00                     | \$0.00                  | \$0.00                    |                       |
| 7706   | Personal Business              | \$0.00                     | \$0.00                  | \$0.00                    |                       |
| 7707   | S/A Supplement                 | \$0.00                     | \$0.00                  | \$0.00                    |                       |
| 7708   | Union Business                 | \$0.00                     | \$0.00                  | \$0.00                    |                       |
| 7709   | Funeral Leave                  | \$0.00                     | \$0.00                  | \$0.00                    |                       |
| 7710   | Injury Leave                   | \$0.00                     | \$0.00                  | \$0.00                    |                       |
| 7711   | Jury Duty                      | \$0.00                     | \$0.00                  | \$0.00                    |                       |
| 7715   | FICA                           | \$82,130.00                | \$51,723.00             | \$49,415.88               | \$27,812.85           |
| 7717   | Workers Comp and               | \$10,350.00                | \$7,479.00              | \$7,311.47                | \$3,975.40            |
| 7718   | Sick Pay Allowance             | \$61,450.00                | \$42,201.00             | \$42,201.00               | \$22,690.85           |
| 7719   | Hospital and Life Insurance    | \$190,700.00               | \$150,731.00            | \$150,791.31              | \$123,087.00          |
| 7720   | Vacation                       | \$100,550.00               | \$80,114.00             | \$80,114.00               | \$43,629.95           |
| 7722   | Retirement                     | \$231,670.00               | \$180,417.00            | \$174,952.54              | \$98,092.20           |
| <b>Total: PERSONAL SERVICES</b>              |                                | <b>\$1,752,230.00</b>      | <b>\$1,185,777.00</b>   | <b>\$1,147,740.16</b>     | <b>\$686,456.00</b>   |
| <u>SUPPLIES</u>                              |                                |                            |                         |                           |                       |
| 7728   | Office Supplies                | \$4,000.00                 | \$3,000.00              | \$3,000.00                | \$3,000.00            |
| 7730   | Postage                        | \$4,000.00                 | \$3,000.00              | \$3,000.00                | \$3,000.00            |
| 7735   | Photographic Supplies          | \$0.00                     | \$0.00                  | \$0.00                    |                       |
| 7740.015                                     | Operating Supplies Computer    | \$28,300.00                | \$1,880.00              | \$1,880.00                | \$1,880.00            |
| <b>Total: SUPPLIES</b>                       |                                | <b>\$36,300.00</b>         | <b>\$7,880.00</b>       | <b>\$7,880.00</b>         | <b>\$7,880.00</b>     |
| <u>OTHER SERVICE CHARGES</u>                 |                                |                            |                         |                           |                       |
| 7802.070                                     | Contractual Services General   | \$0.00                     | \$6,200.00              | \$6,200.00                | \$6,200.00            |
| 7802.180                                     | Contractual Services Office    | \$4,200.00                 | \$0.00                  | \$0.00                    |                       |
| 7802.200                                     | Contractual Services Property  | \$8,000.00                 | \$0.00                  | \$0.00                    |                       |
| 7814.040                                     | Computer Services Computer     | \$47,350.00                | \$30,640.00             | \$30,640.00               | \$25,068.00           |
| 7816.010                                     | Consultant Services Consultant | \$60,500.00                | \$40,000.00             | \$40,000.00               | \$0.00                |
| 7850.015                                     | Communications Mobile Phones   | \$3,500.00                 | \$2,100.00              | \$2,100.00                | \$1,800.00            |
| 7850.020                                     | Communications Pagers          | \$0.00                     | \$0.00                  | \$0.00                    |                       |
| 7862   | Vehicle Allowance              | \$3,900.00                 | \$3,900.00              | \$3,900.00                | \$0.00                |
| 7901   | Printing                       | \$0.00                     | \$0.00                  | \$0.00                    | \$650.00              |
| 7902   | Books and Magazines            | \$1,000.00                 | \$1,000.00              | \$1,000.00                | \$1,000.00            |
| 7943   | Vehicle Rental-Motor Pool      | \$81,500.00                | \$37,050.00             | \$37,050.00               | \$29,640.00           |
| 7955.105                                     | Miscellaneous Insurance Other  | \$7,000.00                 | \$7,000.00              | \$7,000.00                | \$7,000.00            |
| 7958   | Membership & Dues              | \$2,310.00                 | \$1,100.00              | \$1,100.00                | \$1,100.00            |
| 7960.110                                     | Education & Training General   | \$11,500.00                | \$8,000.00              | \$8,000.00                | \$8,000.00            |
| 7962   | Other                          | \$0.00                     | \$200.00                | \$200.00                  | \$200.00              |
| <b>Total: OTHER SERVICE CHARGES</b>          |                                | <b>\$230,760.00</b>        | <b>\$137,190.00</b>     | <b>\$137,190.00</b>       | <b>\$80,658.00</b>    |
| <u>CAPITAL OUTLAY</u>                        |                                |                            |                         |                           |                       |
| 7978.010                                     | General Equipment General      | \$0.00                     | \$0.00                  | \$0.00                    |                       |
| 7980.010                                     | Office Equipment Office        | \$0.00                     | \$0.00                  | \$0.00                    |                       |
| <b>Total: CAPITAL OUTLAY</b>                 |                                | <b>\$0.00</b>              | <b>\$0.00</b>           | <b>\$0.00</b>             |                       |
| <b>Division Total: Building Inspection</b>   |                                | <b>\$2,019,290.00</b>      | <b>\$1,330,847.00</b>   | <b>\$1,292,810.16</b>     | <b>\$774,994.00</b>   |
| <b>Department Total: Building Inspection</b> |                                | <b>\$2,019,290.00</b>      | <b>\$1,330,847.00</b>   | <b>\$1,292,810.16</b>     | <b>\$774,994.00</b>   |
| <b>Expense Totals</b>                        |                                | <b>\$2,019,290.00</b>      | <b>\$1,330,847.00</b>   | <b>\$1,292,810.16</b>     | <b>\$774,994.00</b>   |
| <b>Fund Total: GENERAL FUND</b>              |                                | <b>(\$2,019,290.00)</b>    | <b>(\$1,330,847.00)</b> | <b>(\$1,292,810.16)</b>   | <b>\$774,994.00</b>   |
| <b>Revenue Grand Totals:</b>                 |                                | <b>\$0.00</b>              | <b>\$0.00</b>           | <b>\$0.00</b>             |                       |
| <b>Expense Grand Totals:</b>                 |                                | <b>\$2,019,290.00</b>      | <b>\$1,330,847.00</b>   | <b>\$1,292,810.16</b>     | <b>\$774,994.00</b>   |
| <b>Net Grand Totals:</b>                     |                                | <b>(\$2,019,290.00)</b>    | <b>(\$1,330,847.00)</b> | <b>(\$1,292,810.16)</b>   | <b>(\$774,994.00)</b> |

**City of Troy**  
**Budget Position Expenses By GL Account**

Pre Furlough Wages

| 101371371 - Building Inspection - Building |            | Wages -<br>7702 | Longevity | FICA -<br>7715 | WC -<br>7717 | Sick -<br>7718 | H/L -<br>7719 | Vac -<br>7720 | Ret -<br>7722 | Total     |
|--|------------|-----------------|-----------|----------------|--------------|----------------|---------------|---------------|---------------|-----------|
| STIMAC, MARK S                             | 3711110001 | 108,361         | 3,500     | 8,557          | 1,249        | 6,975          | 20,178        | 14,531        | 28,652        | 192,003   |
| GRUSNICK, MITCHELL E                       | 371230001  | 90,585          |           | 6,930          | 571          | 5,831          | 20,034        | 10,933        | 23,191        | 158,075   |
| PAWLOWSKI, RICHARD J                       | 371250001  | 65,720          | 3,500     | 5,295          | 887          | 4,230          | 8,572         | 8,813         | 17,735        | 114,752   |
| BOWERS, GARY L                             | 371250002  | 65,409          | 3,500     | 5,501          | 905          | 4,210          | 4,994         | 8,771         | 26,484        | 119,774   |
| GALBRAITH, DENNIS W                        | 371250008  | 62,347          |           | 4,770          | 821          | 4,013          | 23,229        | 6,689         | 15,962        | 117,831   |
| JOHNSON, GERALD M                          | 371250009  | 60,294          |           | 4,612          | 804          | 3,881          | 20,423        | 6,468         | 15,436        | 111,918   |
| PASTERNAK, PAMELA R                        | 371271001  | 49,610          | 3,500     | 3,987          | 457          | 3,129          | 8,434         | 6,519         | 13,356        | 87,995    |
| NEWMAN, IRENE                              | 371375004  | 41,009          |           | 3,137          | 422          | 2,640          | 17,223        | 4,399         | 10,095        | 78,925    |
| <b>Total</b>                               |            | 543,335         | 14,000    | 42,789         | 6,116        | 34,909         | 123,087       | 67,123        | 150,911       | 1,185,770 |

Department Proposal

| Department Proposal  |            | Wages -<br>7702 | Longevity | FICA -<br>7715 | WC -<br>7717 | Sick -<br>7718 | H/L -<br>7719 | Vac -<br>7720 | Ret -<br>7722 | Total     |
|----------------------|------------|-----------------|-----------|----------------|--------------|----------------|---------------|---------------|---------------|-----------|
| STIMAC, MARK S       | 3711110001 | 70434.65        | 3,500     | 5562.05        | 811.85       | 4533.75        | 20,178        | 9445.15       | 18623.8       | 133089.25 |
| GRUSNICK, MITCHELL E | 371230001  | 58880.25        | 0         | 4504.5         | 371.15       | 3790.15        | 20,034        | 7106.45       | 15074.2       | 109760.65 |
| PAWLOWSKI, RICHARD J | 371250001  | 42718           | 3,500     | 3441.75        | 576.55       | 2749.5         | 8,572         | 5728.45       | 11527.8       | 78814     |
| BOWERS, GARY L       | 371250002  | 42515.85        | 3,500     | 3575.65        | 588.25       | 2736.5         | 4,994         | 5701.15       | 17214.6       | 80826     |
| GALBRAITH, DENNIS W  | 371250008  | 40525.55        | 0         | 3100.5         | 533.65       | 2608.45        | 23,229        | 4347.85       | 10375.3       | 84720.3   |
| JOHNSON, GERALD M    | 371250009  | 39191.1         | 0         | 2997.8         | 522.6        | 2522.65        | 20,423        | 4204.2        | 10033.4       | 79894.75  |
| PASTERNAK, PAMELA R  | 371271001  | 32246.5         | 3,500     | 2591.55        | 297.05       | 2033.85        | 8,434         | 4237.35       | 8681.4        | 62021.7   |
| NEWMAN, IRENE        | 371375004  | 26655.85        | 0         | 2039.05        | 274.3        | 1716           | 17,223        | 2859.35       | 6561.75       | 57329.3   |
| <b>Total</b>         |            | 353167.75       | 14000     | 27812.85       | 3975.4       | 22690.85       | 123087        | 43629.95      | 98092.2       | 686455.95 |

Safe Built - City of Troy Building Inspection Department Proposals  
Cost Comparison

|  | \$887,000<br>Revenue<br>Assumption | \$700,000<br>Revenue<br>Assumption | \$800,000<br>Revenue<br>Assumption | <b>ATTACHMENT B</b><br>\$1,000,000<br>Revenue<br>Assumption |
|--|------------------------------------|------------------------------------|------------------------------------|---|
| Safe Built Expenditure Proposal  | \$ 748,500                         | \$ 600,000                         | \$ 680,000                         | \$ 840,000  |
| Staff Expenditure Proposal   | \$ 774,994                         | \$ 774,994                         | \$ 774,994                         | \$ 876,244  |
| Initial Safe Built Expenditure Savings   | \$ 26,494                          | \$ 174,994                         | \$ 94,994                          | \$ 36,244   |
| Add'l Safe Built Reimbursements:<br>Rent, Admin. Fee,<br>Computers, Vehicle Rental | \$ 91,000                          | \$ 91,000                          | \$ 91,000                          | \$ 91,000   |
| 20% Safe Built Revenue (Fee) Capture   | \$ 177,400                         | \$ 140,000                         | \$ 160,000                         | \$ 200,000  |
| Safe Built Savings   | \$ 294,894                         | \$ 405,994                         | \$ 345,994                         | \$ 327,244  |
| Excess of Revenue Over (Under)<br>Expenditures - Staff Proposal                    | \$ 112,006                         | \$ (74,994)                        | \$ 25,006                          | \$ 123,756  |
| Net Safe Built Savings   | \$ 182,888                         | \$ 480,988                         | \$ 320,988                         | \$ 203,488  |

Assumptions:

\$887,000 Initial revenue forecast was based on 2010-11 permit revenue estimates  
Staff proposal includes a 35% wage reduction and capturing 75% of permit revenue over \$865,000  
Safe Built expenditure proposal includes approx. \$40,000 for non-permit related work

Observation: At no revenue level will the Staff expenditure proposal generate a more favorable return than Safe Built

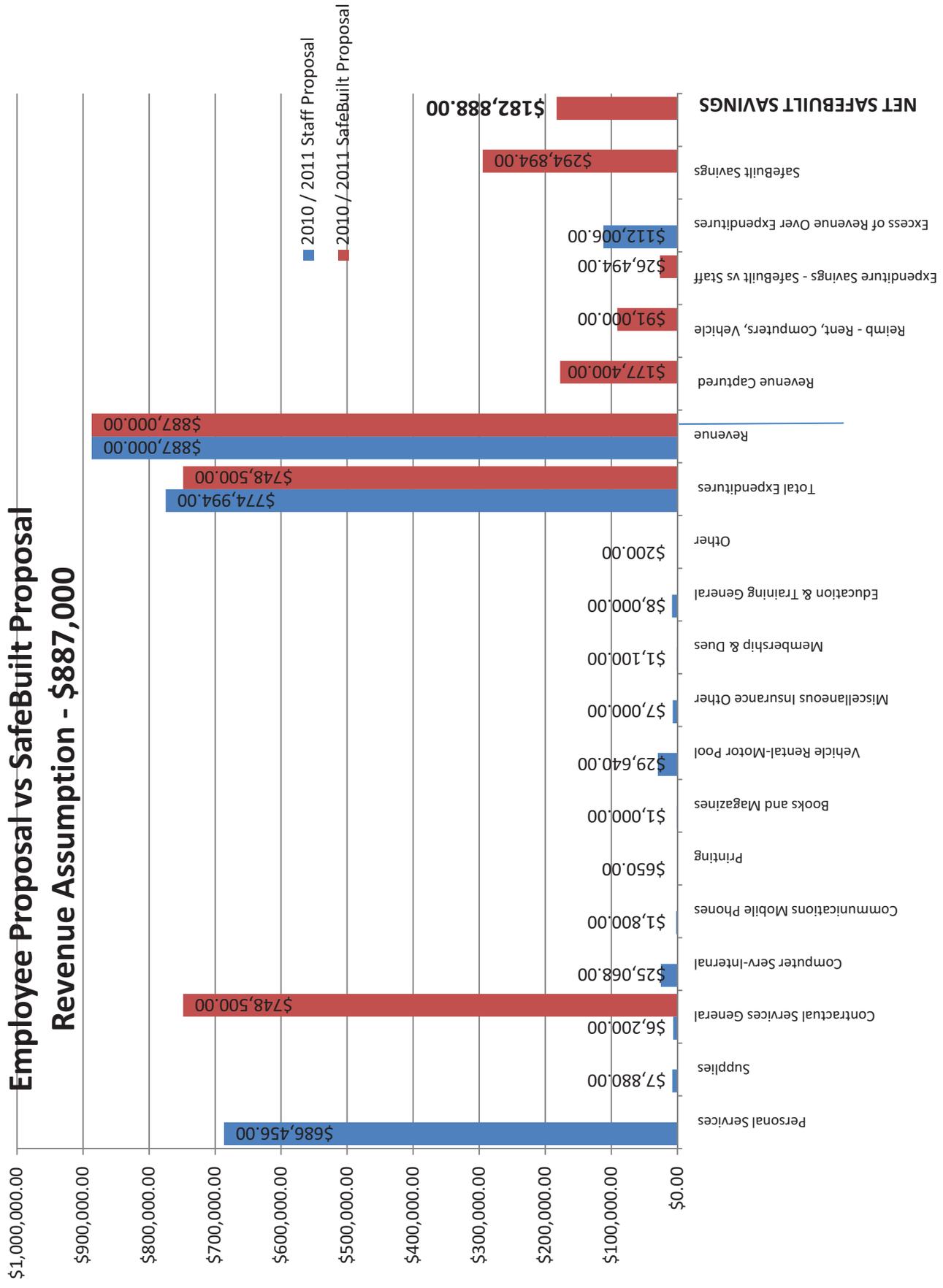
Prepared By John M. Lamerato, Assistant City Manager-Finance and Admin.

**GENERAL FUND**

| Account Number               | Description                     | 2010 Adopted Budget   | 2011 Department Request | 2011 Pre Millage Proposal | Staff Proposal \$700,000 | Staff Proposal \$800,000 | Staff Proposal \$1,000,000 |
|------------------------------|---------------------------------|-----------------------|-------------------------|---------------------------|--------------------------|--------------------------|----------------------------|
| <b>Fund</b>                  | <b>101</b>                      |                       |                         |                           |                          |                          |                            |
| <b>Expenses</b>              |                                 |                       |                         |                           |                          |                          |                            |
| <b>Department</b>            | <b>371</b>                      |                       |                         |                           |                          |                          |                            |
| <b>Business Unit</b>         | <b>371</b>                      |                       |                         |                           |                          |                          |                            |
| <b>PERSONAL SERVICES</b>     |                                 |                       |                         |                           |                          |                          |                            |
| 7702                         | Personal Service                | \$1,075,380.00        | \$673,112.00            | \$642,953.96              | \$367,167.75             | \$367,167.75             | \$367,167.75               |
| 7705                         | Holiday                         | \$0.00                | \$0.00                  | \$0.00                    |                          |                          |                            |
| 7706                         | Personal Business               | \$0.00                | \$0.00                  | \$0.00                    |                          |                          |                            |
| 7707                         | S/A Supplement                  | \$0.00                | \$0.00                  | \$0.00                    |                          |                          |                            |
| 7708                         | Union Business                  | \$0.00                | \$0.00                  | \$0.00                    |                          |                          |                            |
| 7709                         | Funeral Leave                   | \$0.00                | \$0.00                  | \$0.00                    |                          |                          |                            |
| 7710                         | Injury Leave                    | \$0.00                | \$0.00                  | \$0.00                    |                          |                          |                            |
| 7711                         | Jury Duty                       | \$0.00                | \$0.00                  | \$0.00                    |                          |                          |                            |
| 7715                         | FICA                            | \$82,130.00           | \$51,723.00             | \$49,415.88               | \$27,812.85              | \$27,812.85              | \$27,812.85                |
| 7717                         | Workers Comp and                | \$10,350.00           | \$7,479.00              | \$7,311.47                | \$3,975.40               | \$3,975.40               | \$3,975.40                 |
| 7718                         | Sick Pay Allowance              | \$61,450.00           | \$42,201.00             | \$42,201.00               | \$22,690.85              | \$22,690.85              | \$22,690.85                |
| 7719                         | Hospital and Life Insurance     | \$190,700.00          | \$150,791.00            | \$150,791.31              | \$123,087.00             | \$123,087.00             | \$123,087.00               |
| 7720                         | Vacation                        | \$100,550.00          | \$80,114.00             | \$80,114.00               | \$43,629.95              | \$43,629.95              | \$43,629.95                |
| 7722                         | Retirement                      | \$231,670.00          | \$180,417.00            | \$174,952.54              | \$98,092.20              | \$98,092.20              | \$98,092.20                |
|                              | <b>Total: PERSONAL SERVICES</b> | <b>\$1,752,230.00</b> | <b>\$1,185,777.00</b>   | <b>\$1,147,740.16</b>     | <b>\$686,456.00</b>      | <b>\$686,456.00</b>      | <b>\$686,456.00</b>        |
| <b>SUPPLIES</b>              |                                 |                       |                         |                           |                          |                          |                            |
| 7728                         | Office Supplies                 | \$4,000.00            | \$3,000.00              | \$3,000.00                | \$3,000.00               | \$3,000.00               | \$3,000.00                 |
| 7730                         | Postage                         | \$4,000.00            | \$3,000.00              | \$3,000.00                | \$3,000.00               | \$3,000.00               | \$3,000.00                 |
| 7735                         | Photographic Supplies           | \$0.00                | \$0.00                  | \$0.00                    |                          |                          |                            |
| 7740.015                     | Operating Supplies Computer     | \$28,300.00           | \$1,880.00              | \$1,880.00                | \$1,880.00               | \$1,880.00               | \$1,880.00                 |
|                              | <b>Total: SUPPLIES</b>          | <b>\$36,300.00</b>    | <b>\$7,880.00</b>       | <b>\$7,880.00</b>         | <b>\$7,880.00</b>        | <b>\$7,880.00</b>        | <b>\$7,880.00</b>          |
| <b>OTHER SERVICE CHARGES</b> |                                 |                       |                         |                           |                          |                          |                            |
| 7802.070                     | Contractual Services General    | \$0.00                | \$6,200.00              | \$6,200.00                | \$6,200.00               | \$6,200.00               | \$6,200.00                 |
| 7802.180                     | Contractual Services Office     | \$4,200.00            | \$0.00                  | \$0.00                    |                          |                          |                            |
| 7802.200                     | Contractual Services Property   | \$8,000.00            | \$0.00                  | \$0.00                    |                          |                          |                            |
| 7814.040                     | Computer Services Computer      | \$47,350.00           | \$30,640.00             | \$30,640.00               | \$25,068.00              | \$25,068.00              | \$25,068.00                |
| 7816.010                     | Consultant Services Consultant  | \$60,500.00           | \$40,000.00             | \$40,000.00               | \$0.00                   | \$0.00                   | \$0.00                     |
| 7850.015                     | Communications Mobile Phones    | \$3,500.00            | \$2,100.00              | \$2,100.00                | \$1,800.00               | \$1,800.00               | \$1,800.00                 |
| 7850.020                     | Communications Pagers           | \$0.00                | \$0.00                  | \$0.00                    |                          |                          |                            |
| 7862                         | Vehicle Allowance               | \$3,900.00            | \$3,900.00              | \$3,900.00                | \$0.00                   | \$0.00                   | \$0.00                     |
| 7901                         | Printing                        | \$0.00                | \$0.00                  | \$0.00                    | \$650.00                 | \$650.00                 | \$650.00                   |



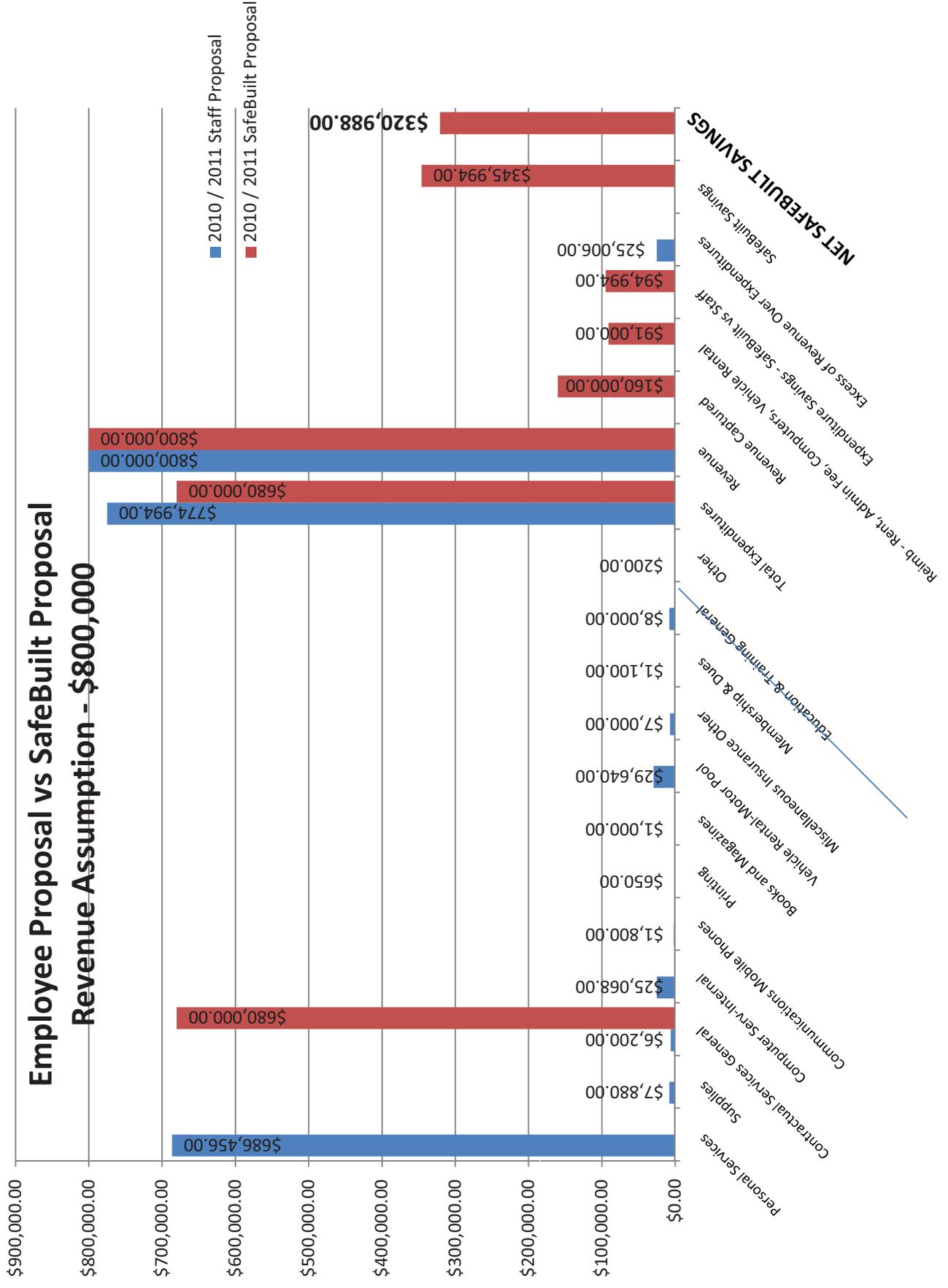
# Employee Proposal vs SafeBuilt Proposal Revenue Assumption - \$887,000



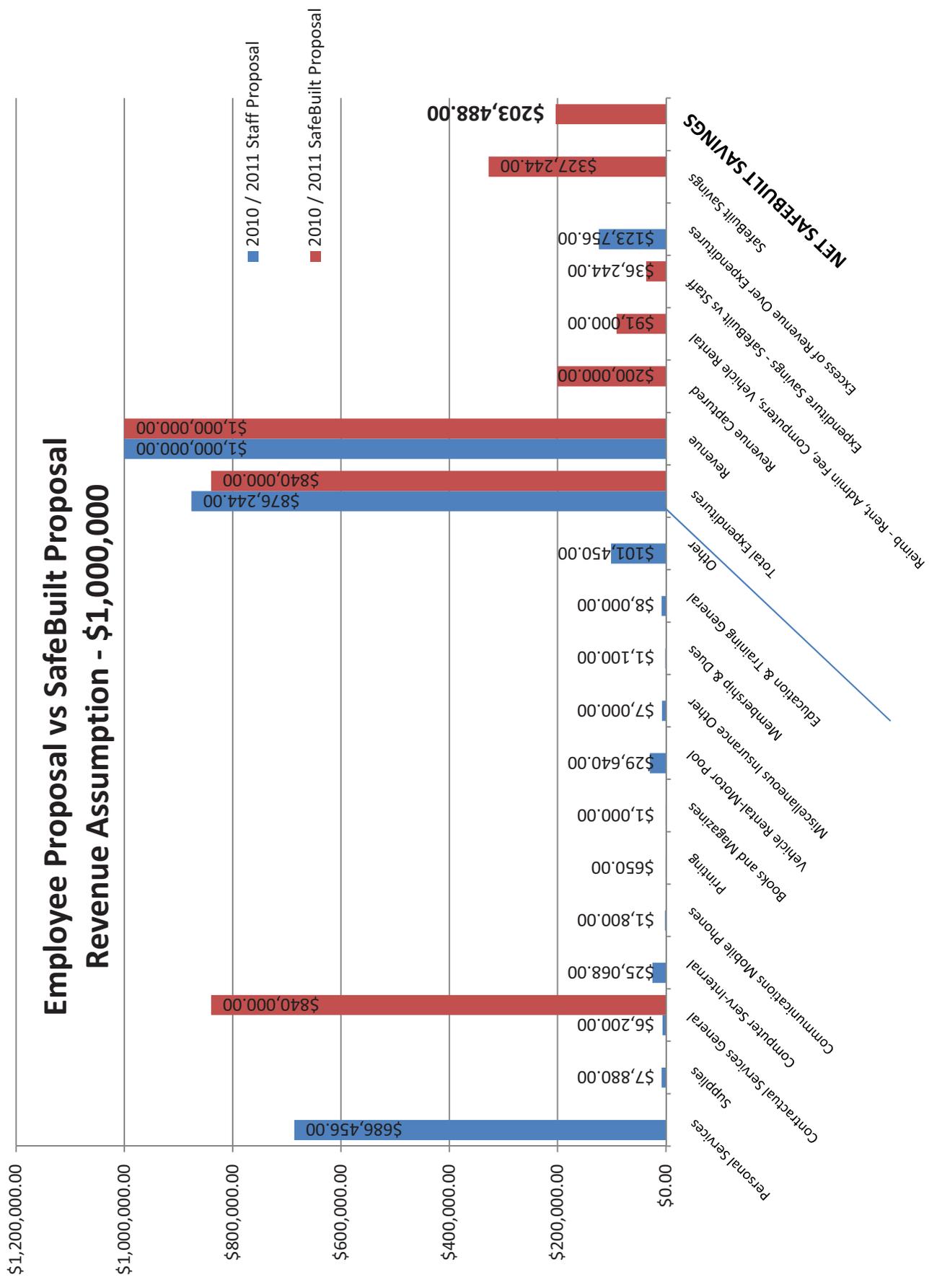


# Employee Proposal vs SafeBuilt Proposal

## Revenue Assumption - \$800,000



# Employee Proposal vs SafeBuilt Proposal Revenue Assumption - \$1,000,000



Date: June 2, 2010  
To: Susan Leirstein, Purchasing Director  
From: Mark F. Miller, Acting Assistant City Manager/Economic Development Services  
Subject: Building Inspections Department Proposal

Mark Stimac, Director of Building and Zoning, submitted a proposal to compete against the Safe Built turnkey proposal. In reviewing Mr. Stimac's proposal I have identified four operational deficiencies contained within the proposal.

1. This proposal includes four inspectors, one for each certification or license. The proposal is silent on how inspections will be handled due to leave time or disability taken by any of the inspectors. Let's say that the electrical inspector takes a two week vacation or the plumbing inspector is medically disabled, how will their inspection workload be covered? It appears the proposal is not valid due to this flaw.
2. There is no determination of what level of inspection or plan review demand the proposal can satisfy and at what cost. If plan review and building inspection activity increases substantially, when would it be necessary to increase staffing levels? The proposal has a basis for increased salaries if the permit fees exceeds \$865,000. This revenue sharing scheme contains a flaw, because it does not identify how a spike in inspections or plan review demand will be handled from a staffing standpoint. The peaks could be handled with either contractual services or additional employees, but the proposal is silent in this regard. Thus there is a cost for high demand situations not identified in the proposal. It appears that the proposal is not valid due to this flaw.
3. The Building Inspections Department is silent regarding technological efficiencies. Is there a commitment by the Building Inspections Department to utilize BS & A Software/Equalizer to its fullest capabilities? What other technological efficiencies is the Department proposing? Technological improvements translate into efficiencies.
4. The Building Inspections Department proposal did not address performance standards. While Safe Built would be contractually committed to the performance standards recommended by Zucker Systems. Will the Department be able to provide an acceptable level of service?

Based upon these findings the Building Inspections Department proposal is not valid. If you have additional questions please feel free to contact me.

CC: John Szerlag, City Manager  
John Lamerato, Assistant City Manager/Finance & Administration  
Peggy Sears, Human Resources Director

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**G. POSTPONED ITEMS:**

G-1 No Postponed Items

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**H. REGULAR BUSINESS:**

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H-1 Appointments to Boards and Committees: None Scheduled

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H-2 Nominations for Appointments to Boards and Committees: None Scheduled

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H-3 Alcohol Sales at the Troy Community Center

Resolution #2010-05-107

Moved by Kerwin

Seconded by Beltramini

RESOLVED, That the Troy City Council **DIRECTS** City Administration to explore the requirements for the serving of alcohol at the Community Center, and to formulate the procedures for alcohol service at the Community Center.

Yes: Schilling, Beltramini, Fleming, Kerwin, McGinnis, Slater

No: Howrylak

**MOTION CARRIED**

The meeting **RECESSED** at 9:46 PM.

The meeting **RECONVENED** 9:57 at PM.

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H-4 Building Department Services – Safe Built Michigan, Inc. Contract

Resolution

Moved by Kerwin

Seconded by Fleming

RESOLVED, That Troy City Council hereby **APPROVES** the H-4 *Building Department Services – Safe Built Michigan, Inc. Contract* **PENDING** the crafting of language by the City Attorney and signed by Safe Built Michigan, Inc. representatives regarding the 80/20 prorated inspections provision; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AWARDS** the attached three-year contract to provide Building Department Services to the best value proposal submitted by Safe Built Michigan, Inc. of Clarkston, MI, as a result of a best value process, which the Troy City Council determines to be in the public interest, to expire June 30, 2013, with an option to renew for two (2) additional years provided Safe Built Michigan, Inc. has met all the contract terms and conditions in accordance with the Professional Service Agreement dated May 17, 2010, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon the contractor's submission of proper proposal, contract documents and all other specified requirements; and

BE IT FINALLY RESOLVED, That Troy City Council **AUTHORIZES** the Mayor and City Clerk to execute the documents on behalf of the City of Troy.

**Vote on Resolution to Postpone Agenda Item H-4 *Building Department Services – Safe Built Michigan, Inc. Contract***

Resolution #2010-05-108

Moved by Howrylak

Seconded by Beltramini

RESOLVED, That Troy City Council hereby **POSTPONES** agenda item H-4 *Building Department Services – Safe Built Michigan, Inc. Contract* until the Monday, June 7, 2010 Regular City Council meeting to allow City Management to work with the Building Department so that they have the opportunity to submit their last best offer.

Yes: Beltramini, Fleming, Howrylak, McGinnis, Slater, Schilling

No: Kerwin

**MOTION CARRIED**

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**H-5 Standard Purchasing Resolution 11: Rejection of Proposals – Code Enforcement Services**

Resolution #2010-05-109

Moved by Beltramini

Seconded by McGinnis

RESOLVED, That Troy City Council hereby **REJECTS** all proposals for SOQ/RFP-COT 10-03, Code Enforcement Services opened February 17, 2010 and March 18, 2010, respectively, and will retain these services in-house through the Planning Department.

Yes: Fleming, Howrylak, Kerwin, McGinnis, Slater, Schilling, Beltramini

No: None

**MOTION CARRIED**

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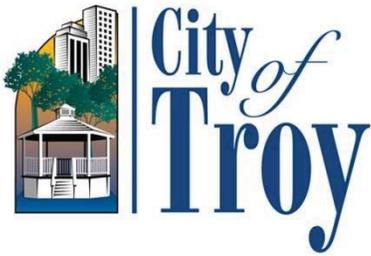
**H-6 Resolution to Postpone Standard Purchasing Resolution 8 – Best Value Award: Golf Course Operations**

Resolution #2010-05-110

Moved by Beltramini

Seconded by Howrylak

RESOLVED, That Troy City Council hereby **POSTPONES** agenda item H-6 *Standard Purchasing Resolution 8 – Best Value Award: Golf Course Operations* until the Regular City Council meeting scheduled for Monday, June 7, 2010.



# CITY COUNCIL ACTION REPORT

May 14, 2010

TO: The Honorable Mayor and City Council

FROM: John Szerlag, City Manager  
John M. Lamerato, Assistant City Manager/Finance & Administration  
Mark F. Miller, Acting Assistant City Manager/Economic Development Services  
R. Brent Savidant, Acting Planning Director  
Peggy Sears, Human Resources Director  
Susan A. Leirstein, Purchasing Director

SUBJECT: Building Department Services

## **Background**

- As a result of City Council action on April 5, 2010, resolution 2010-04-079-H-9, City Management has negotiated a three year contract with an option to renew for two (2) additional years with Safe Built Michigan, Inc. to provide City of Troy building department services.
- In reviewing the contract the City considered three options in regards to the position of Building Code Official. These options are listed below:
  1. The City could allow Safe Built Michigan to provide a complete turn-key operation utilizing a Safe Built Michigan employee as the City's Building Code Official thus challenging the A.G.O. position that the Building Code Official must be an employee of the municipality.
  2. The City could hire Safe Built Michigan's Building Code Official for one dollar thus making the Building Code Official a City of Troy employee.
  3. The City could appoint two Building Inspection Department employees to the Housing and Zoning Inspector positions in the Planning Department. Then appoint one of these Housing and Zoning Inspectors as the City's new Building Code Official. Further, the duties of the Housing and Zoning Inspector position could expand to include providing assistance during Safe Built's transition in assuming building inspection operations; provide historical and social connections to the building and development community; assist monitoring Safe Built's performance and assist community planning functions to potentially reduce planning consultant costs.
- Of the three options considered, City Management agreed option #3 was the best course of action. As a result, two existing Building Inspection Department Employees will be transferred to the Planning Department and assume the Housing and Zoning Inspector positions. One of the new Housing and Zoning Inspectors will be designated the City's new Building Code Official.
- Zucker Systems from San Diego, California prepared the Development Approval/Permit Process Report in 2008 and Mr. Paul Zucker presented City Council 102 recommendations to improve the City of Troy's development approval process. The reorganization of the Planning Department and Building Inspections Department were identified by the report. There was direction to coordinate the zoning ordinance interpretation and administration within the Planning Department, including management of the Board of Zoning Appeals.
- In an effort to continue restructuring and implementation of the Zucker Report, the Inspector Supervisor (Housing and Zoning Inspection) was transferred to the Planning Department. This Housing and Zoning Inspector Supervisor is responsible for supervision of the code enforcement functions, sign permit administration and professional assistance to the Board of Zoning Appeals. To complete the restructuring, the Housing and Zoning Inspectors were also transferred to the Planning Department.

May 14, 2010

To: John Szerlag, City Manager  
Re: Building Department Services

**Background - continued**

- Based upon the statement of qualifications, proposal pricing and contract negotiations City Management recommends approval of the contract to Safe Built providing the best value for the City.

**Financial Considerations**

- Fees paid to Safe Built are based on permit and plan review fees. This revenue based solution guarantees no general fund subsidy for the Building Inspection operations.
- For emergency situations additional costs may be incurred, however these costs will be negotiated with Safe Built Michigan, Inc.
- As part of the privatization process, the Building Department was given a chance to compete for the work against Safe Built's proposal. Based on the 2010 / 2011 budget figures, including personnel services and overhead costs, the City's Building Department proposal of \$1,173,007.00 was unable to match the costs proposed by Safe Built Michigan for a turnkey operation at an estimated annual cost of \$748,500.00.
- By privatizing Building Department services, the estimated savings for the first year of operation will be \$424,507.00 or at least 36%.

**Legal Considerations**

- The award is contingent upon the firm's submission of properly executed proposal, contract documents, insurance certificates and all other specified requirements.
- Safe Built Michigan, Inc. will submit four (4) signed copies of the attached Agreement at the May 17<sup>th</sup> City Council meeting.

**Recommendation**

- City Management has negotiated and now recommends awarding a three (3) year contract for complete Building Department services with an option to renew for two (2) additional years to the best value proposal submitted by Safe Built Michigan, Inc. of Clarkston, MI, in accordance with the Agreement attached hereto.

Reviewed and approved as to legality:

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

\_\_\_\_\_  
Date

Reviewed Scope of Work:

\_\_\_\_\_  
Gary Shripka, Consultant

\_\_\_\_\_  
Date