City of Birmingham
A Walkable Community

MEMORANDUM

Engineering Dept.

DATE: **July 1, 2015**

TO: **Joseph Valentine, City Manager**

FROM: **Paul T. O'Meara, City Engineer**

SUBJECT: **Martin St. Reconstruction**
Southfield Rd. to Chester St.
Relocation of Traffic Control Equipment

Right-of-way has been acquired, and a contract has been awarded to reconstruct Martin St. adjacent to the Chester St. Structure as a two-way City street. It is anticipated that the work will start in late July. Not included in the construction contract is the relocation of the current traffic control equipment that helps control the flow of vehicles into the Chester St. Structure. Once the road is rebuilt, the parking structure will have one full time lane for inbound traffic, one reversible lane, and two lanes that will be full time for outbound traffic. In order to accommodate the upcoming construction, the existing ticket dispensers, gates, and remote card readers must be removed and relocated into the building.

In the past, there was only one local company equipped to do this type of work, Traffic & Safety Control Systems, Inc. Within the past year, a new company has opened as a competitor, Harvey Electronics. We asked both companies for a price on this work. The new company, Harvey, was significantly less money. Since the staff in the company is experienced with this type of work, we feel confident that they will be able to complete the work competently. All costs for this work will be charged to the Auto Parking System Fund.

An standard agreement outlining the terms of this work has been prepared. The contractor has signed the document, and as of this writing, the original is in the process of being signed by various interested City staff.

It is recommended that Harvey Electonics be authorized to proceed with the relocation of the traffic control equipment from the Martin St. right-of-way and into the Chester St. Parking Structure.

SUGGESTED RESOLUTION:

To approve the agreement with Harvey Electronics to proceed with the relocation of the traffic control equipment from the Martin St. right-of-way and into the Chester St. Parking Structure, for a cost of $7,012.50, charged to the Auto Parking System Fund, account number 585-538.008-981.0100.

AGREEMENT

THIS AGREEMENT ("Agreement"), made this 10 day of July, 2015 by and between the **CITY OF BIRMINGHAM**, having its principal office at 151 Martin Road, Birmingham, MI 48009 ("CITY"), and **HARVEY ELECTRONICS**, whose address is 28245 Beck Unit B 16 Wixom, MI 48393 ("CONTRACTOR"), provides as follows:

WITNESSETH:

WHEREAS, the CITY desires to have certain services provided, which shall be of the type, nature and extent as set forth on Attachment A; and

WHEREAS, CONTRACTOR desires to provide said services for the CITY, which it shall do in accordance with the experience it has attained from providing similar services of this nature, under the terms and conditions hereinafter stated.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. CONTRACTOR shall perform the services as set forth on Attachment A. The type, nature and scope may be changed if mutually agreed upon in writing by CONTRACTOR and the CITY.

2. The CITY shall pay a total of $7,012.50 to CONTRACTOR for the performance of this Agreement, which amount shall compensate CONTRACTOR for all aspects of the services to be performed including, but not limited to, all preparation, coordination, management, staffing and all other services incidental thereto. Payment shall be made to CONTRACTOR pursuant to the schedule contained in Attachment A.

3. All services performed shall be of the highest quality and standards that meet or exceed that which is required and expected in that service industry.

4. CONTRACTOR shall provide and designate one supervisor responsible for the coordination of services provided, who shall handle problem solving and be the contact person for the CITY.

5. This Agreement shall commence immediately after both parties have signed in the place and manner indicated below and shall terminate in accordance with the provisions as set forth in Attachment A.

6. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. CONTRACTOR agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

7. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

8. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by CONTRACTOR without the prior written consent of the CITY. Any attempt at assignment without prior written consent shall be void and of no effect.

9. CONTRACTOR agrees that neither it nor its employees will discriminate against any employee, independent contractor, or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. CONTRACTOR shall inform the CITY of all claims or suits asserted against it by CONTRACTOR's

employees or contractors who work pursuant to this Agreement. CONTRACTOR shall provide the CITY with periodic status reports concerning all such claims or suits, at intervals established by the CITY.

10. To the fullest extent permitted by law, CONTRACTOR and any entity or person for whom CONTRACTOR is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the CITY, its elected and appointed officials, employees and volunteers and others working on behalf of the CITY against any and all claims, demands, suits, or loss, including all costs connected therewith, including reasonable attorney fees, and for any damages which may be asserted, claimed or recovered against or from the CITY, its elected and appointed officials, employees, volunteers or others working on behalf of the CITY, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting solely from the act or omission of the CITY, its elected or appointed officials, employees, volunteers or others working on behalf of the CITY.

11. CONTRACTOR shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required by this paragraph. All certificates of insurance shall be with insurance carriers licensed and admitted to do business in the State of Michigan. All certificates of insurance shall be with insurance carriers acceptable to the CITY. CONTRACTOR shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance: CONTRACTOR shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

B. Commercial General Liability Insurance: CONTRACTOR shall procure and maintain during the life of this Agreement, Commercial General Liability

Insurance on an "Occurrence Basis" with limits of liability not less than $1,000,000 per occurrence for combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: CONTRACTOR shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than $ 1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be *Additional Insureds*: The City of Birmingham, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary and any other insurance maintained by the additional insureds shall be considered to be excess and non-contributing with this insurance required from CONTRACTOR under this Section.

E. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal shall be sent to: Finance Department, City of Birmingham, P.O. Box 3001, 151 Martin Street, Birmingham, Michigan 48012.

F. Proof of Insurance Coverage: CONTRACTOR shall provide the CITY at the time the contracts are returned for execution, Certificates of Insurance and/or policies, acceptable to the CITY, as listed below.

1. Two (2) copies of Certificate of Insurance for Workers' Compensation;

2. Two (2) copies of Certificate of Insurance for Commercial General Liability;

3. Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;

4. If so requested, Certified Copies of all policies mentioned above will be furnished.

G. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, CONTRACTOR shall deliver renewal certificates and/or policies to the CITY at least (10) days prior to the expiration date.

12. If, after the effective date of this Agreement, any official of the CITY or spouse, child, parent or in-law, of such official or employee shall become directly or indirectly interested in this Agreement, or the affairs of CONTRACTOR, the CITY shall have the right to terminate this Agreement without further liability to CONTRACTOR if the disqualification has not been removed within thirty (30) days after the CITY has given CONTRACTOR notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

13. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL §600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. This Agreement shall be governed by the laws of the State of Michigan and the arbitration shall take place in Oakland County, Michigan. In the event that the

parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

14. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties, except as specifically set forth herein. No supplement, modification, addition, deletion or waiver of this Agreement or any provision of this Agreement shall be binding unless executed in writing by both parties to be bound thereby.

15. To the fullest extent permitted by law, the CONTRACTOR and any entity or person for whom the CONTRACTOR is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the CITY OF BIRMINGHAM, its elected and appointed officials, employees and volunteers and others working on behalf of the CITY OF BIRMINGHAM 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 and the CITY OF BIRMINGHAM, its elected and appointed officials, employees, volunteers or others working on behalf of the CITY OF BIRMINGHAM, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this contract. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the CITY OF BIRMINGHAM.

The said parties have caused this Agreement to be executed as of the date and year above written.

THE CITY OF BIRMINGHAM

By: _____
Stuart L. Sherman, Mayor

By: _____
Laura Pierce, City Clerk

HARVEY ELECTRONICS

By: _____

Its: V. President 7-10-15

APPROVED:

_____
Joseph A. Valentine, City Manager
(Approved as to substance)

_____
[Department Head]
(Approved as to substance)

_____
Timothy J. Currier, City Attorney
(Approved as to form)

_____
Mark Gerber, Director of Finance
(Approved as to financial obligation)

O:\Birmingham\CONTRACTS & REAL ESTATE\Contracts\Miscellaneous Contracts\2015\(TJC) 2015.06.25 Agreement re Harvey Electronics.doc

VENDOR CERTIFICATION THAT IT IS NOT AN "IRAN LINKED BUSINESS"

Pursuant to Michigan law, (*the Iran Economic Sanctions Act, 2012 PA 517, MCL 129.311 et seq.*), before accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must first certify that it is not an "IRAN LINKED BUSINESS, as defined by law.

Vendor	
Legal Name	Harvey electronic control LTD.
Street Address	28243 beck rd. unit B-16
City	Wixom
State, Zip	MI 48393
Corporate I.D. Number / State	38-2517534
Taxpayer I.D. #	46-5520879

The undersigned, with: 1) full knowledge of all of Vendors business activities, 2) full knowledge of the requirements and possible penalties under the law MCL 129.311 et seq. and 3) the full and complete authority to make this certification on behalf of the Vendor, by his/her signature below, certifies that: the Vendor is NOT an "IRAN LINKED BUSINESS" as required by MCL 129.311 et seq., and as such that Vendor is legally eligible to submit a bid and be considered for a possible contract to supply goods and/or services to the County of Oakland.

Signature of Vendor's Authorized Agent: _____

Printed Name of Vendor's Authorized Agent: Jason Wiitala

Witness Signature: Joyce Prisbylla

Printed Name of Witness: Joyce Prisbylla