City of Birmingham
A Walkable Community

MEMORANDUM

Engineering Dept.

DATE: **October 13, 2016**

TO: **Joseph A. Valentine, City Manager**

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

SUBJECT: **Walker Parking Consultants/Engineers, Inc. Agreement**

Birmingham's five parking structures now range in age from 27 to 50 years old. Due to the difficult environment in which they operate, when built, the parking structures had an expected life span of 50 years. Since the late 1980's, the Engineering Dept. has had an ongoing maintenance program focusing on concrete patching and waterproofing that attempts to remove and replace problem areas of the deck and supporting columns before they grow too serious. The projects have typically been conducted at the rate of once per year, focusing on anywhere from half of a building (for the larger, older structures) to 2 in one year (for the newer structures). Due to diligent and ongoing maintenance, all five structures remain in good to excellent condition.

Since 1987, Walker Parking Consultants has been the City's main engineering consultant for all of these projects. The same lead engineer has been overseeing this work for over 20 years, and they are very familiar with all of our facilities, and our expectations. This results in quality restoration projects year after year, with minimal expenses due to time spent on these projects, both for City staff, and the consultant's staff. In 2015, Walker acted as the design engineer and inspector for the restoration of both the Peabody St. and Chester St. Structures. Work this year was originally planned for the N. Old Woodward Ave. Structure. The work was suspended pending the ongoing discussions of the Ad Hoc Parking Development Committee. Walker is also involved in the work planned for this coming year, which is painting of all the structural steel in the Park St. Structure.

Walker Parking Consultants operates under the City's standard operating agreement for consulting services. The last three year renewal of this agreement was in October, 2013. The current rate schedule represents an increase of approximately 5% over the previous rates which have not been increased since 2006. It is recommended that the City of Birmingham continue to engage Walker Parking Consultants/Engineers, Inc., to provide engineering services according to the attached agreement, which will be valid for a three year period. All funding to cover costs charged by Walker will be from the Auto Parking System Fund.

SUGGESTED RESOLUTION:
To approve the agreement between the City of Birmingham and Walker Parking Consultants/Engineers for consulting services related to the maintenance of the City's parking structures for a three year period, with all funding being charged to the Auto Parking System Fund. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City.

CONSULTING AGREEMENT BETWEEN THE CITY OF BIRMINGHAM AND WALKER PARKING CONSULTANTS/ENGINEERS, INC.

AGREEMENT made this 11 day of NOVEMBER, 2016, by and between the CITY OF BIRMINGHAM, whose address is 151 Martin Street, Birmingham, Michigan (hereinafter referred to as the "City") and WALKER PARKING CONSULTANTS/ENGINEERS, INC., whose address is 2121 Hudson Avenue, Kalamazoo, Michigan 49008, (hereinafter referred to as the "Contractor"), to-wit:

1. Contractor shall provide professional parking consultant services under this Agreement as requested from time to time by the City of Birmingham through its Engineer or his/her designee on a project-by-project basis.

2. Payment for professional services rendered under this Agreement shall be made on an hourly basis in accordance with the fee schedule mutually agreed upon prior to the time the work is performed. The City promises and agrees to pay said Contractor for all labor supplied and work performed under this Agreement. Invoices shall be submitted to the City on a monthly basis and shall be paid upon acceptance by the City of the work produced by the Contractor.

3. Written notices regarding this Agreement shall be addressed to the following:

City: City of Birmingham
P.O. Box 3001
Birmingham, Michigan 48012
Attn: City Engineer and City Clerk (one written copy to each)

Contractor: Walker Park Consultants/Engineers, Inc.
2121 Hudson Avenue
Kalamazoo, Michigan 49008
Attn: MATTHEW HUNT

4. This Agreement shall have a term of three (3) years from the date stated above. The City and the Contractor shall each have the right to unilaterally terminate this Agreement on thirty (30) days written notice. In the event of termination, the Contractor shall receive compensation for services to the date the termination takes effect and the City shall be entitled to retain and use the results to the date the termination takes effect and the City shall be entitled to retain and use the results of all information, maps, and recommendations prepared by the Contractor through such date.

5. The Contractor and the City agree that the Contractor is acting as an independent contractor with respect to the Contractor's role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Contractor nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Contractor shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Contractor shall not be considered entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

6. The Contractor acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to,

internal organization, methodology, personnel and financial information, etc.) may become involved. The Contractor recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Contractor agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Contractor shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Contractor further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

7. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. The 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.

8. 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.

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

10. The Contractor agrees that neither it nor its subcontractors will discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to

employment because of race, color, religion, national origin, age, sex, height, weight or marital status. The Contractor shall inform the City of all claims or suits asserted against it by the Contractor's employees who work pursuant to this Agreement. The Contractor shall provide the City with periodic status reports concerning all such claims or suits, at intervals established by the City.

11. 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 their behalf against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, 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 their behalf, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of this Agreement. 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.

12. The 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 coverages shall be with insurance carriers acceptable to the City of Birmingham. The 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 Agreement, 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 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 Insurance: 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: The Commercial General Liability and Motor Vehicle Liability, 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, all boards, commissions and/or authorities and board members. 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. Professional Liability Insurance: If Professional Liability Insurance is available, Professional Liability Insurance with limits of not less than $1,000,000 per claim if Consultant will provide service that are customarily subject to this type of coverage.

F. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance, Professional 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: Director of Finance, City of Birmingham, P.O. Box 3001, 151 Martin Street, Birmingham, Michigan 48012.

G. Proof of Insurance Coverage: Contractor shall provide the City at the time the Agreement is 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 Insurance;

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

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

4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;

H. 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.

13. 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 the Contractor, the City shall have the right to terminate this Agreement without further liability to the Contractor if the disqualification has not been removed within thirty (30) days after the City has given the 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.

14. If Contractor fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

15. 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. The laws of the State of Michigan shall govern this Agreement, 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.

16. The City shall be the owner of all drawings, reports, specifications and other documents prepared by the Contractor. Any modifications made to these documents by the City shall be clearly marked as such on the modified document. Any modifications made by the City without the prior written consent of the Contractor shall be at the City's sole risk and responsibility.

FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

IN WITNESS WHEREOF, the said parties have caused this Agreement to be executed as of the date and year above written.

CITY OF BIRMINGHAM

By: _____
Rackeline J. Hoff, Mayor

By: _____
Laura M. Pierce, City Clerk

WALKER PARKING CONSULTANTS/
ENGINEERS, INC.

By: _____
Matthew C. Hunt, PE

Its: DIRECTOR OF REGISTRATION

Approved:

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

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

_____
Paul T. O'Meara, City Engineer
(Approved as to substance)

_____
Mark Gerber, Director of Finance
(Approved as to Financial Obligation)

STANDARD BILLING RATES

BASIC SERVICES

WALKER
PARKING CONSULTANTS

PRINCIPAL

Principal	$190.00

PROJECT MANAGEMENT

Senior Project Manager	$185.00
Project Manager	$165.00
Assistant Project Manager	$130.00

PARKING CONSULTANTS

Senior Parking Consultant	$185.00
Parking Consultant	$165.00
Parking Analyst / Planner	$140.00

RESTORATION CONSULTANTS

Senior Restoration Consultant	$185.00
Restoration Consultant	$165.00
Assistant Restoration Consultant	$140.00
Restoration Specialist	$130.00

DESIGN

Senior Engineer / Senior Architect	$170.00
Engineer / Architect	$140.00
Designer	$130.00

TECHNICAL

Senior Technician	$120.00
Technician	$100.00

SUPPORT

Senior Administrative Assistant / Business Manager	$ 95.00
Administrative Assistant	$ 70.00

Subject to annual adjustment on January 1 each year.

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 10/6/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Professional Concepts Insurance Agency, Inc.
1127 South Old US Highway 23
Brighton MI 48114-9861

CONTACT NAME: certs@pciaonline.com
PHONE (A/C, No, Ext): (800)969-4041 FAX (A/C, No): (800)969-4081
E-MAIL ADDRESS: certs@pciaonline.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Travelers Indem. Co of America	25666
INSURER B: Travelers Indemnity Co	25658
INSURER C: XL Specialty Ins. Co.	37885
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Walker Parking Consultants Engineers, Inc.
565 E Swedesford Rd
Suite 300
Wayne PA 19087

COVERAGES

CERTIFICATE NUMBER: 16-17 #14 $1PL $5UMB

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / X OCCUR X Contractural Liability X X,C,U GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / X PRO-JECT / LOC OTHER:	X		6801839L533TIA16 6801847L188 - CA 6802303L828 - FL PACP1848L308 - TX	5/23/2016	5/23/2017	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 300,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
B	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS / SCHEDULED AUTOS X HIRED AUTOS / X NON-OWNED AUTOS	X		BA4887N56416GRP	5/23/2016	5/23/2017	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $ $
B	X UMBRELLA LIAB / X OCCUR EXCESS LIAB / CLAIMS-MADE DED / X RETENTION $ 10,000			CUP1D3197441647	5/23/2016	5/23/2017	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000 $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		VYAKUB3721T82916	5/23/2016	5/23/2017	X PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
C	Professional Liability			DPR9804737	5/23/2016	5/23/2017	Per Claim Aggregate	1,000,000 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: Contracted work with the City of Birmingham, MI Walker Project: 20-0400.00. City of Birmingham is named as additional insured as respects to the General Liability and Auto Liability policies and would apply so long as required within a written contract. The coverage shall be primary and any other insurance maintained by the additional insureds shall be considerd to be excess and non-contributing with this insurance required from contractor under this section. 30 day written notice provided to certificate holder and additional insured's for cancellation of coverages listed. 10 day notice for nonpayment of listed policies.

CERTIFICATE HOLDER

City of Birmingham
151 Martin Street
Birmingham, MI 48009

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Mike Cosgrove/CARRIE Michael Cosgrove

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