City of Birmingham
A Walkable Community

MEMORANDUM

Department of Public Services

DATE: **April 3, 2017**

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

FROM: **Lauren A. Wood, Director of Public Services**

SUBJECT: **New Concrete Floor at Springdale Pavilion**

Springdale Pavilion, located at Springdale Park and Golf Course is a highly used Pavilion, available to residents and non-residents for a rental fee. This shelter is available as a facility rental beginning April through October and is consistently booked especially on weekends, especially during the summer months. The concrete floor of the pavilion is in need of replacement. Upon approval and weather permitting, the goal would be to complete this project no later than early May, in time for the busiest rental season. The project scope includes: removal of the existing concrete (66' x 45') and replacement with 6" reinforced concrete on a base. Also, the work includes the addition of edge drain surrounding the concrete to be tied into the catch basin in the parking area by directional bore. This will help to prevent water from settling underneath the concrete, a condition that currently exists and has contributed to the heaving of the concrete floor.

Sealed bids were opened on Tuesday, March 7, 2017 for the Springdale Pavilion, New Concrete Floor. The request for proposal (RFP) was entered into the Michigan Inter-governmental Trade Network (MITN) purchasing system. Five (5) vendors responded submitting the results below.

Company	Proposed Cost	Meet Specifications
Optimum Contracting Solutions	$46,775.00	No
DMC Consultants	$49,350.00	No
Luigi Ferdinandi & Son Cement Co.	**$57,900.00**	**Yes**
Audia Concrete Construction, Inc.	$59,621.00	Yes
Midtown Group, LLC	$69,700.00	No

The three lowest bidders were closely reviewed by an evaluation panel consisting of the Department of Public Services and Department of Engineering staff members. Bids were evaluated by the following criteria, as specified in the bid specifications:

1. Ability to provide services as outlined.
2. Related experience with similar projects, Contractor background, and personnel qualifications.
3. Quality of materials proposed.
4. Overall Costs.
5. References.

This shelter/pavilion is used and rented on a regular basis, over 60 permits per season. Its location is high profile and the quality of work is expected to be superior. Upon review of all of the proposals including whether or not they met the requirements of the RFP, additional information was garnered from the bidders in order to select a vendor to serve the City's best interest. Also, based on the quantity of concrete for this work, we have a general idea of the going rate and what the City should be charged for the work. Two out of the five bidders specialize in concrete work and were within $2,000 of each other; which are Luigi Ferdinandi & Son Cement Co. and Audia Concrete Construction, Inc.

The lowest bidder, Optimum Contracting Solutions, is a general contractor and if awarded this project, is planning on subcontracting the concrete work and the directional boring, which consists of the majority of the scope of work. When questioned about who will be doing the concrete work, they did not know nor did they provide a list of subcontractors with the bid submittal. As part of the requirements in the bid specifications of the Request for Proposal there is language detailing the Contractor's Responsibility requiring that a minimum of 25% of the services be performed by the hired contractor.

The second lowest bidder is a general contractor and would plan on subcontracting the concrete work and the directional boring; as well. The Department of Public Services and Engineering Department agree that the concrete work and the directional bore is the most critical portion of this work, and together make up the largest portion of the scope of work, more than 75%. Neither of the two low bidders meets the qualifier that the Contractor at a minimum of 25% shall perform the project without subletting such work. In addition, the two low bidders did not provide a list of subcontractors with their proposal, as a requirement of the RFP. Overall, the two low bidders did not meet the required specifications as spelled out in the RFP.

Luigi Ferdinandi & Son Cement Co. has performed work for the City of Birmingham in the past and provided references which include the Macomb Township sidewalk program in 2016, Sterling Heights Utility Structure program in 2016, City of Mount Clemens road and sidewalk repair in 2015-2016, Birmingham Public Schools concrete repair in 2015-2016, among others. They performed the City of Birmingham's sidewalk program in 2014, and the City's Engineering Department was satisfied with their performance.

Therefore, we are recommending the 3rd lowest bidder, Luigi Ferdinandi & Son Cement Co, who would be performing the demolition of existing concrete, all new concrete work, and edge drain installation, which is a majority of the project scope of work. After a thorough review of all submitted materials from the bidders, it is determined Luigi Ferdinandi & Son Cement Co. is the lowest responsible and responsive bidder. This selection is based on the ability to provide the service as specified, the experience with the vendor and the quality of the work product, reference checks and the ability to perform in a timely manner.

The Parks and Recreation Board has reviewed this project and timeline at the April 12, 2017 Parks and Recreation Board Meeting and support moving forward with the work. The original budget of $42,000 anticipated the replacement of the concrete flooring only, but we added the edge drain at time of bidding. A budget amendment is not necessary for the increase of $15,900 to this project, since funds are available for this project from the same Capital Projects Fund, account #401-751.001-981.0100. There is $50,000 budgeted in this fund for Adams Park Improvements which will not begin during the 2016-2017 budget year.

SUGGESTED RESOLUTION:

To award the Springdale Pavilion New Concrete Floor Contract to Luigi Ferdinandi & Son Cement Co. in an amount not to exceed $57,900.00. Funds for this project are available in the Capital Projects Fund, account #401-751.001-981.0100. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City upon receipt of required insurances.

ATTACHMENT A - AGREEMENT

Springdale Pavilion New Concrete Floor

This AGREEMENT, made this _____day of _____, 2017, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and Luigi Ferdinandi & Son Cement Co, Inc., having its principal office at 16481 Common Rd, Roseville, MI 48066 (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through its Department of Public Services Department, is desirous of having all labor, materials, equipment, tools, transportation and necessary supplies for the installation of a new concrete floor for the Pavilion at the Springdale Golf Course and Park located in the City of Birmingham.

WHEREAS, the City has heretofore advertised for bids for the procurement and performance of services required to remove the existing concrete floor and to install a new concrete floor and edge drain with a tie in to the existing catch basin by directional bore for the Pavilion at the Springdale Golf Course located at the City of Birmingham, and in connection therewith has prepared a request for sealed proposals ("RFP"), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to remove the existing concrete floor and to install a new concrete floor for the Pavilion at the Springdale Golf Course located in the City of Birmingham.

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

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposal to perform to remove the existing concrete floor and to install a new concrete floor for the Pavilion at Springdale Park located at the City of Birmingham and the Contractor's cost proposal dated March 7, 2017 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. The City shall pay the Contractor for the performance of this Agreement in an amount not to exceed $57,900.00, as set forth in the Contractor's March 7, 2017 cost proposal.

3. This Agreement shall commence upon execution by both parties, unless the City exercises its option to terminate the Agreement in accordance with the Request for Proposals.

4. The Contractor shall employ personnel of good moral character and fitness in performing all services under this Agreement.

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 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. The Contractor shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with carriers acceptable to the City of Birmingham.

12. 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: 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 employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that

may be available to the additional insured, whether any other available coverage by primary, contributing or excess.

E. ~~Professional Liability: Professional liability insurance with limits of not less than $1,000,000 per claim if Contractor will provide service that are customarily subject to this type of coverage. (if applicable)~~ NOT Req Per City of Bham

F. ~~Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than $1,000,000, per occurrence preferred, but claims made accepted. (If applicable)~~

G. Owners Contractors Protective Liability: The Contractor shall procure and maintain during the life of this contract, an Owners Contractors Protective Liability Policy with limits of liability not less than $3,000,000 per occurrence, combined single limit, Personal Injury, Bodily Injury and Property Damage. The City of Birmingham shall be "Name Insured" on said coverage. Thirty (30) days Notice of Cancellation shall apply to this policy.

H. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance (and Professional Liability Insurance, if applicable), 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 Director, City of Birmingham, PO Box 3001, 151 Martin Street, Birmingham, MI 48012-3001.

I. Proof of Insurance Coverage: Contractor shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, 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;
   5) If so requested, Certified Copies of all policies mentioned above will be furnished.

J. 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 of Birmingham at least (10) days prior to the expiration date.

K. Maintaining Insurance: Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such

coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

13. 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 and reasonable attorney fees 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 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 of Birmingham.

14. 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.

15. 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.

16. All notices required to be sent pursuant to this Agreement shall be mailed to the following addresses:

City of Birmingham
Attn: Lauren Wood,
Director of Public Services
851 S. Eton, Birmingham, MI 48009

Contractor

17. 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.

18. 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.

WITNESSES:

CONTRACTOR

By: Luigi V. Ferdinandi

Its: V.P

CITY OF BIRMINGHAM

By: _____
Mark Nickita Its: Mayor

By: _____
J. Cherilynn Brown, Its: City Clerk

Approved:

Lauren A. Wood, Director of Public Services
(Approved as to substance)

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

~~Timothy J. Currier~~, City Attorney
(Approved as to form)
MARY M. KUCHAREK
LAW OFFICES OF
BEIER HOWLETT.

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

LUIGI-1 OP ID: DD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 03/31/2017

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
Johnston Lewis Associates, Inc
575 E. Maple Road
Troy, MI 48083
Michael S. Cardella

CONTACT NAME: Michael S. Cardella
PHONE (A/C, No, Ext): 248-528-2400 FAX (A/C, No): 248-528-2414
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Motorists Mutual Insurance	14621
INSURER B : Michigan Insurance Company	10857
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Luigi Ferdinandi & Son Cement
16481 Common Road
Roseville, MI 48066

COVERAGES CERTIFICATE NUMBER: 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			33.301921	03/01/2017	03/01/2018	EACH OCCURRENCE	$	1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$	100,000
	X Primary/Non-Contr						MED EXP (Any one person)	$	7,500
	X Contractual						PERSONAL & ADV INJURY	$	1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$	2,000,000
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$	2,000,000
	OTHER:						Emp Ben.	$	1/3000000
A	AUTOMOBILE LIABILITY			33.301921	03/01/2017	03/01/2018	COMBINED SINGLE LIMIT (Ea accident)	$	1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$	
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$	
	X HIRED AUTOS / X NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$	
								$	
A	X UMBRELLA LIAB X OCCUR			33.301921	03/01/2017	03/01/2018	EACH OCCURRENCE	$	3,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$	3,000,000
	DED X RETENTION $ 0							$	
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WCA8911085	03/01/2017	03/01/2018	X PER STATUTE / OTH-ER		
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N	N/A					E.L. EACH ACCIDENT	$	1,000,000
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$	1,000,000
							E.L. DISEASE - POLICY LIMIT	$	1,000,000

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

Additional Insured under the General Liability when required by written contract: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof.
30 days Notice of Cancellation except 10 for non-payment of premium

CERTIFICATE HOLDER

BIRMI-1

The City of Birmingham
Attn: Finance Director
PO Box 3001
151 Martin Street
Birmingham, MI 48012-3001

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

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