



# Plymouth City Commission

## Regular Meeting Agenda

Monday, March 15, 2021 7:00 p.m. ONLINE

City of Plymouth  
201 S. Main  
Plymouth, Michigan 48170-1637

www.plymouthmi.gov  
Phone 734-453-1234  
Fax 734-455-1892

### Meeting will be held as a Zoom Webinar

Join Zoom Webinar - <https://us02web.zoom.us/j/86946548544>

**Webinar ID: 869 4654 8544      Passcode – 397798**

International numbers available: <https://us02web.zoom.us/j/kca5sm67xj>

#### Statement on explanation of the reason why the public body is meeting electronically:

On March 10, 2020, the Governor of the State of Michigan declared a State of Emergency across the State of Michigan. As a part of the response to that emergency certain changes were deemed to be reasonable and necessary to protect the public health, safety, and welfare. Due to the on-going emergency situation the Michigan Department of Public Health and Human Services has recently made certain rules about gathering in groups of people. Further, the Michigan Legislature passed legislation to temporarily suspend certain rules, regulations and procedures related to the physical presence at meetings and hearings of public bodies and other governmental entities in Michigan. These public bodies and entities must continue to conduct public business during this emergency. Recently passed legislation has made it possible for public boards to meet electronically. Due to the Public Health declarations the City of Plymouth will have its Boards and Commissions meet electronically as permitted under the newly enacted law that is known as SB1108.

#### 1. CALL TO ORDER

- a. Pledge of Allegiance
- b. Roll Call

#### 2. CITIZENS COMMENTS

- a. Presentation – Michigan Independent Citizens Redistricting Commission (MICRC)

#### 3. APPROVAL OF THE AGENDA

#### 4. ENACTMENT OF THE CONSENT AGENDA

- a. Approval of March 1, 2021 City Commission Regular Meeting Minutes
- b. Approval of February 2021 Bills
- c. Special Event Approval- Knights of Columbus Annual Tootsie Roll Drive, Friday-Sunday, Mar 26-28, 2021
- d. Special Event Approval- Plymouth Historical Society Ghosts of Plymouth Walk, April 24, 2021

#### 5. COMMISSION COMMENTS

#### 6. OLD BUSINESS

#### 7. NEW BUSINESS

- a. Wilcox Fountain in Kellogg Park - Shaw Construction Contract

#### 8. REPORTS AND CORRESPONDENCE

- a. Liaison Reports

#### 9. ADJOURNMENT

*Citizen Comments - This section of the agenda allows up to 3 minutes to present information or raise issues for items not on the agenda. Upon arising to address the Commission, speakers should first identify themselves by clearly stating their name and address. Comments must be limited to the subject of the item.*

*Persons with disabilities needing assistance with this should contact the City Clerk's office at 734-453-1234 Monday through Friday from 8:00 a.m.-4:30 p.m., at least 24 hours prior to the meeting. An attempt will be made to make reasonable accommodations.*

*Consent Agenda- The items on the Consent Agenda will be approved by one motion as Agenda Item #4. There will be no separate discussion of these items unless a Commissioner or citizen so requests, in which case that item will then be placed on the regular agenda.*

City of Plymouth Strategic Plan 2017-2021

**GOAL I - QUALITY OF LIFE**

**OBJECTIVES**

Support the neighborhoods with high-quality customer service  
Engage in collaboration with private entities and surrounding municipalities to implement the Joint Recreation Master Plan  
Improve communication with the public across multiple platforms  
Maintain a high level of cleanliness throughout the City  
Support and host a diverse variety of events that foster community and placemaking

**ONE-YEAR TASKS 2021**

Restore sports and recreational programs that were halted by COVID-19 as soon as possible  
Review and evaluate the special event policy with safety considerations  
Address challenges with the Kellogg Park improvements with safety considerations  
Move Kellogg Park Fountain project forward  
Continue to re-engage service clubs to help enhance parks and public properties  
Increase followers by 2,000 on all our communications platforms  
Develop an internal and external communications plan  
Upgrade City Hall facilities to accommodate remote meetings and remote participation  
Continue investigating multi-modal transportation opportunities  
Revisit noise ordinance

**GOAL II - FINANCIAL STABILITY**

**OBJECTIVES**

Approve balanced budgets that maintain fiscal responsibility  
Advocate for increased revenue sharing with the State of Michigan  
Encourage and engage in partnerships, both public and private, to share costs of services and equipment  
Address the issue of legacy costs  
Seek out and implement efficient and effective inter-departmental collaboration  
Market our successes to attract new economic and investment opportunities

**ONE-YEAR TASKS 2021**

Identify mechanisms for funding sources for capital improvement projects  
Increase funding to the Public Improvement Fund  
Create a potential package for financing emergency structural repairs  
Develop a comprehensive asset management plan that includes a review of the equipment fleet  
Search out other possible revenue streams through continued association with the CWW and the MML  
Develop a financial plan for public safety  
Continue to make extra payments towards legacy costs  
Monitor outside influences on our revenue sources, including unfunded mandates, the 35<sup>th</sup> District Court and the PCCS  
Negotiate three labor contracts

**GOAL III - ECONOMIC VITALITY**

**OBJECTIVES**

Continue to support and improve active, vibrant downtown branding  
Support community and economic development projects and initiatives  
Support a mix of industrial, commercial and residential development  
Reference the Master Plan in economic decision-making

**ONE-YEAR TASKS 2021**

Complete Saxton's development  
Develop municipal parking lot at Saxton's site  
Support development of 23 parcels adjacent to the Starkweather School property  
Continue to administer the grant and the brownfield plan to support the Pulte project's completion  
Finish Redevelopment Ready Community (RRC) certification by the end of the 2021  
Develop an annual training calendar for the Planning Commission, the Historic District Commission, the Zoning Board of Appeals and the DDA, and identify a funding source  
Implement temporary plans to assist businesses in recovery efforts

**GOAL IV - SERVICE AND INFRASTRUCTURE**

**OBJECTIVES**

Support administration and staff by providing professional development opportunities, supplying resources, and maintaining a commitment to recruitment, retention, succession planning  
Support and deliver safe and responsive emergency services  
Maintain a sophisticated and responsive technology to communicate and manage data  
Continually record, maintain, update, and improve City infrastructure

**ONE-YEAR TASKS 2021**

Explore enhanced pedestrian safety opportunities into targeted intersections  
Research funding opportunities for ADA compliance at the PCC  
Implement 2021 infrastructure program  
Continue training for future career development and succession planning  
Conduct a traffic study to determine whether to make additional streets one way  
Update mapping resources including parcel data, completing **50%** by the end of the year  
Update/replace current technology to ensure compliance with new regulations, rules, and operating systems  
Revisit paid parking

# ADMINISTRATIVE UPDATE

To: Mayor & City Commission  
CC: *S:\Manager\Sincock Files\Memorandum - MI Independent Citizens Redistricting Commission - 03-15-21.doc*  
From: Paul J. Sincock -City Manager  
Date: 3/12/2021  
Re: Presentation from Michigan Independent Citizens Redistricting Commission (MICRC)

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The City Commission will recall that in 2018 that voters passed a ballot initiative, for voters and not legislators to take responsibility for redistricting the U.S. Congressional, Michigan House and Michigan Senate districts. The law requires 13 randomly selected Michigan residents that includes four democrats, five independents and four republicans.

The purpose of the plan is to provide districts that are geographically contiguous and to provide no political advantage to any political party, while at the same time provide no advantage or disadvantage to an incumbent elected official or candidate.

We anticipate that Suaan Hammersmith, the Executive Director of the MICRC to Zoom into the meeting on Monday night.

If you have any questions in advance of the meeting please feel free to contact me.

PJS

# MICHIGAN'S NEW REDISTRICTING PROCESS





# HISTORY OF THE MICRC



- In 2018, Michigan voters passed Proposal 2, a ballot initiative, for voters and not legislators to take responsibility for nonpartisan redistricting and created the Michigan Independent Citizens Redistricting Commission (MICRC).
- Comprised of 13 randomly selected Michigan residents that includes four Democrats, five Independents, and four Republicans.
- The MICRC is responsible for redistricting the U.S. Congressional, Michigan House, and Michigan Senate districts.

# PUBLIC HEARINGS



Before commissioners draft any redistricting plan, the commission shall hold at least 10 public hearings throughout the state of Michigan.



# PURPOSE FOR PUBLIC HEARINGS



1

Inform the public about the redistricting process.

2

Share the purpose and responsibilities of the commission.

3

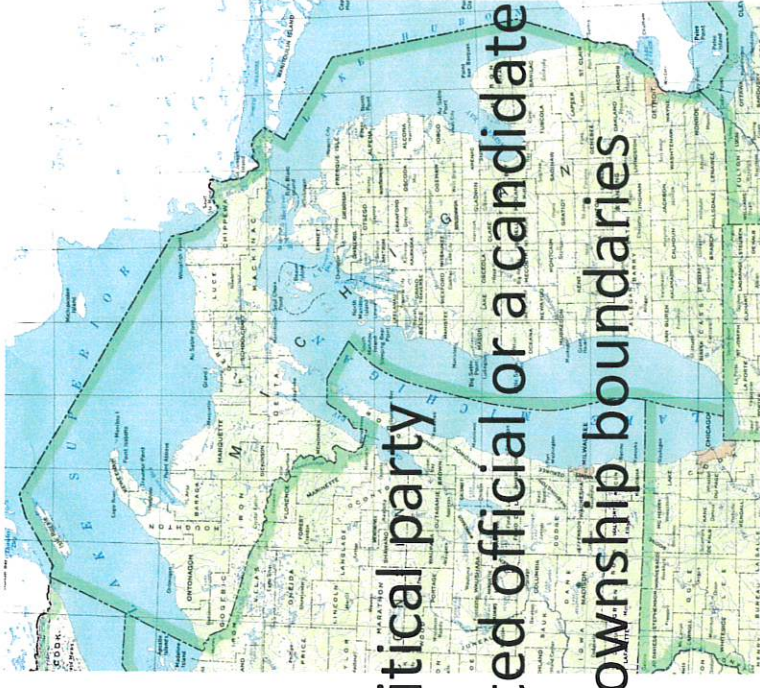
Solicit information from the public about potential redistricting plans.



# REDISTRICTING CRITERIA



1. Equal population; Voting Rights Act
2. Geographically contiguous
3. Communities of interest
4. No disproportionate advantage to any political party
5. No favor or disfavor to an incumbent elected official or a candidate
6. Reflect consideration of county, city, and township boundaries
7. Reasonably compact





# COMMUNITIES OF INTEREST



- Communities of interest may include, but shall not be limited to, populations that share cultural or historical characteristics or economic interests. Communities of interest do not include relationships with political parties, incumbents, or political candidates.

# CONCLUSION



- Send questions, ideas to increase awareness and engagement and/or provide public comments about Michigan’s redistricting process to [Redistricting@michigan.gov](mailto:Redistricting@michigan.gov) or mail them to MICRC/P.O. Box 30318/Lansing, MI 48909.
- Learn more about Michigan’s new redistricting process or obtain more information about the upcoming public hearings please visit [www.michigan.gov/MICRC](http://www.michigan.gov/MICRC).
- Thanks again for this opportunity to talk about the MICRC!



City of Plymouth  
City Commission Regular Meeting Minutes  
Monday, March 1, 2021 - 7:00 p.m.  
In-Person at 525 Farmer and Online Webinar

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City of Plymouth  
201 S. Main  
Plymouth, Michigan 48170-1637

www.plymouthmi.gov  
Phone 734-453-1234  
Fax 734-455-1892

**1. CALL TO ORDER**

- a. Mayor Wolcott called the meeting to order at 7:00 p.m., followed by the Pledge of Allegiance.
- b. Roll Call

Present: Mayor Oliver Wolcott, Mayor Pro Tem Nick Moroz, Commissioners Suzi Deal, Ed Krol, Kelly O'Donnell, Marques Thomey, and Tony Sebastian

Also present: City Manager Paul Sincock, Attorney Robert Marzano, and various members of the City administration

**2. CITIZENS COMMENTS**

There were no citizen comments.

**3. APPROVAL OF THE AGENDA**

Thomey offered a motion, seconded by Sebastian, to approve the agenda for Monday, March 1, 2021.

There was a roll call vote.

Yes: Deal, Krol, Moroz, O'Donnell, Thomey, Sebastian, Wolcott

MOTION PASSED 7-0

**4. ENACTMENT OF THE CONSENT AGENDA**

- a. Approval of February 15, 2021 City Commission Special Meeting Minutes
- b. Approval of February 15, 2021 City Commission Regular Meeting Minutes
- c. Special Event Approval- P-CEP Choirs Year-End Concert and Awards, Tuesday, May 18, 2021
- d. Special Event Approval- Downtown Development Authority Music in the Air Fridays, May 28, 2021- Sept 3, 2021

Moroz offered a motion, seconded by Sebastian, to approve the consent agenda.

There was a roll call vote.

Yes: Deal, Krol, Moroz, O'Donnell, Thomey, Sebastian, Wolcott

MOTION PASSED 7-0

**5. COMMISSION COMMENTS**

Thomey described social media comments regarding the ownership of a building used for fire department training. Fire Chief Steve Ott confirmed that a developer owns the structure and is allowing the department to use it for exercises such as hose advancement before it's torn down.

Krol said he enjoys seeing increased foot traffic downtown.



Sebastian said he recently spoke to the owner of Packaging Corporation of America, who appreciated fire department for quickly extinguishing a fire there.

Moroz said the vaccination clinic that was organized by Wayne County Commissioner Melissa Daub went well and that there might be additional clinics scheduled.

O'Donnell said she was glad to see the school district has planned a choir event at Kellogg Park, and she encouraged other groups to consider doing so as well.

**6. OLD BUSINESS**

There was no old business.

**7. NEW BUSINESS**

a. Cybersecurity Assessment - MiDeal

The following resolution was offered by Thomey and seconded by Sebastian.

RESOLUTION 2021-23

WHEREAS The City of Plymouth has digital assets across multiple departments and multiple facilities; and

WHEREAS The administration continually monitors and reviews their protocols for protecting all the digital assets; and

WHEREAS The State of Michigan MiDEAL program has created the Michigan Cyber Partners program to assist local public entities in the assessment of those protocols.

NOW THEREFORE BE IT RESOLVED that the City of Plymouth through the MiDEAL Michigan Cyber contracts with CyberForce Q of Plymouth Township for Cybersecurity Assessment services in the amount of \$10,000. The funds will be drawn from multiple accounts across multiple funds including the General Fund, Building Fund, Recreation Fund, Water Fund, Street Funds, Cemetery Fund, and Waste/Recycling Fund.

Jeff Sisolak, 939 Penniman, said he was instrumental in the creation of this program and that there are differences in the amount contractors are charging.

There was a discussion about cost vs. value and the importance of using a local company.

There was a roll call vote.

Yes: Deal, Krol, Moroz, O'Donnell, Thomey, Sebastian, Wolcott

MOTION PASSED 7-0

b. St. Patrick's Day Event in The Gathering

RESOLUTION 2021-24

Krol offered a motion, seconded by Sebastian to approve Sean O'Callaghan's request to use The Gathering for an alcohol-serving event on St. Patrick's Day.

The Event Review Sheet below, which was approved by department heads, is part of the motion.

**EVENT REVIEW FORM**

<b>MUNICIPAL SERVICES:</b>	<input checked="" type="radio"/> <b>Approved</b>	<input type="radio"/> <b>Denied</b>	(list reason for denial)	<b>Initial</b> CP
NO PARKING TO BE POSTED ON 3/15 FOR 3/16 SET UP				
1-2 FTE TO CHECK AREA ON 3/17 & 3/18				
ANY ADDITIONAL CLEAN UP ON 3/18				
BIKE FENCE APPROX \$1,000				
<b>\$250 Bathroom Cleaning Fee Per Day of Event?</b> <input checked="" type="radio"/> YES <input type="radio"/> NO				
Labor Costs: \$	400	Equipment Costs: \$	100	Materials Costs \$
<b>POLICE:</b>	<input checked="" type="radio"/> <b>Approved</b>	<input type="radio"/> <b>Denied</b>	(list reason for denial)	<b>Initial</b> JLC
1 COMMAND OFFICER @ 9.5 HRS - \$87.50				
1 OFFICER @ 2.5 HRS @ \$190				
Labor Costs \$		Equipment Costs \$	1607	Materials Costs \$
<b>FIRE:</b>	<input checked="" type="radio"/> <b>Approved</b>	<input type="radio"/> <b>Denied</b>	(list reason for denial)	<b>Initial</b> [Signature]
No services				
Labor Costs \$		Equipment Costs \$		Materials Costs \$
<b>HVA:</b>	<input checked="" type="radio"/> <b>Approved</b>	<input type="radio"/> <b>Denied</b>	(list reason for denial)	<b>Initial</b> [Signature]
No services				
<b>DDA:</b>	<input checked="" type="radio"/> <b>Approved</b>	<input type="radio"/> <b>Denied</b>	(list reason for denial)	<b>Initial</b> SBP
- NO SERVICES -				
Labor Costs \$		Equipment Costs \$		Materials Costs \$
<b>RISK MANAGEMENT:</b>	<input checked="" type="radio"/> <b>Approved</b>	<input type="radio"/> <b>Denied</b>	(list reason for denial)	<b>Initial</b> WS
Class I - Low Hazard				
Class II - Moderate Hazard				
Class III - High Hazard				
<input checked="" type="radio"/> <b>Class IV - Severe Hazard</b>				

**EVENT NAME:** \_\_\_\_\_ **TOTAL ESTIMATED FEE:** \_\_\_\_\_  
 (Note: All fees are only initial estimates and can increase upon assessment of services after the close of the event).

SITE FEE APPLIED TO ALL EVENTS IS \$100 PER DAY. TOTAL EVENT SITE FEE \$ _____
APPROVED _____ NOT APPROVED _____ DATE _____

Commission members discussed the event, and some were concerned about it being precedent setting. There was also consideration given to the fact that the City has encouraged businesses to find creative ways to increase business.

Ellen Elliott, 404 Irvin, said that an event such as the one requested would be welcome on any day except St. Patrick's Day, since typically there are already intoxicated people in town on that day and that the event revolves around alcohol.

Cynthia Eckley, owner of Frameworks at 833 Penniman, said intoxicated people come to her store on St. Patrick's Day and she fears this event, particularly during the pandemic, would make the problem worse.

Krol and Sebastian agreed to amend the motion to include the following.

AMENDMENT TO RESOLUTION 2021-24

This event is approved as a pilot program that will be reviewed by the City Commission after it takes place.

There was a roll call vote.

Yes: Deal, Krol, Moroz, O'Donnell, Thomey, Sebastian, Wolcott

MOTION PASSED 7-0

**8. REPORTS AND CORRESPONDENCE**

a. Liaison Reports

O'Donnell said the Zoning Board of Appeals and the Planning Commission had a joint training session about how the building official measures grades and roof height.

Moroz said high school students went back to the classroom today.

Wolcott said the DDA's next meeting is Monday, March 8.

State Representative Matt Koleszar said he was thankful for all the work that went into the recent vaccine clinic Summit on the Park. He also said state budget talks are underway and he is hopeful he can secure money to make the Plymouth Cultural Center ADA compliant. Lastly, he said he passed his first bill, which guarantees children of police officers and firefighters who lose their life in the line of duty will be able to go to college tuition free.

Wayne County Commissioner Melissa Daub said 1,000 seniors from Plymouth, Plymouth Township and Canton received vaccines at a clinic she organized. She said she anticipates scheduling more vaccine clinics. Since the call center to schedule appointments was overwhelmed, they will move to an online system at future clinics.

**9. ADJOURNMENT**

Hearing no further discussion, Wolcott asked for a motion to adjourn at 8:19 p.m. A motion to adjourn was offered by Thomey and seconded by Krol.

There was a roll call vote.

Yes: Deal, Krol, Moroz, O'Donnell, Thomey, Sebastian, Wolcott

MOTION PASSED 7-0

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OLIVER WOLCOTT  
MAYOR

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MAUREEN A. BRODIE, CMC, MIPMC  
CITY CLERK





# Special Event Application

ITEM #4.c

City of Plymouth  
201 S. Main  
Plymouth, Michigan 48170-1637

www.plymouthmi.gov  
Phone 734-453-1234  
Fax 734-455-1892

Complete this application in accordance with the City of Plymouth Special Events Policy, and return it to the City Manager's Office at least 21 calendar days prior to the starting date of the event.

**FEES WILL BE CHARGED FOR ALL SPECIAL EVENTS. SEE ATTACHMENT B.**

Sponsoring Organization's Legal Name Knights of Columbus Council 3292

Ph# 734-629-7585 Fax# 734-629-7585 Email GK3292@mi.kofc.org Website www.kofc.org

Address 150 Fair St City Plymouth State MI Zip 48170

Sponsoring Organization's Agent's Name Paul Gellinas Title Grand Knight

Ph# 734-629-7585 Fax# 734-629-7585 Email paul.gellinas@wowway.com Cell# 734-233-1200

Address 7656 Holly Pr City Canton State MI Zip 48187

Event Name Tootsie Roll Drive for Mentally Impaired Children

Event Purpose Raise funds for Special Olympics, Opportunity House & others

Event Date(s) FRI Mar 26 - Sun Mar 28

Event Times 9 AM - 5 PM

Event Location Main/A<sup>2</sup> Tr Main/Penniman Main/A<sup>2</sup> Rd A<sup>2</sup> Rd/Sheldon

What Kind Of Activities? Give out Tootsie Rolls / Accept Donations

What is the Highest Number of People You Expect in Attendance at Any One Time? 2 volunteers

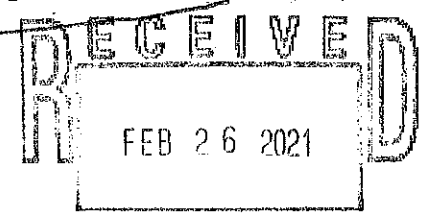
Coordinating With Another Event? YES  NO  If Yes, Event name: \_\_\_\_\_

Event Details: (Provide a detailed description of all activities that will take place. Attach additional sheets if necessary.)

① Knights stand on corners and hold up Tootsie Rolls

② If anyone stops, we give out Tootsie Rolls.

③ We accept any donations - No donation is required for Tootsie Rolls.



1. **TYPE OF EVENT:** Based on Policy 12.2, this event is: *(Weddings Ceremonies – Please Review Section 12.2 f.)*  
 City Operated  Co-sponsored Event  Other Non-Profit  Other For-Profit  Political or Ballot Issue

2. **ANNUAL EVENT:** Is this event expected to occur next year? YES  NO

If Yes, you can reserve a date for next year with this application (see Policy 12.15). To reserve dates for next year, please provide the following information:  
 Normal Event Schedule (e.g., third weekend in July):  
 Next year's specific dates: *Weekends of Columbus Day & Palm Sunday Weekends Oct 8-10 2012 & April 8-10 2012*

\*\*\*See section 12.13 for license & insurance requirements for vendors\*\*\*

- 3. **FOOD VENDORS/ CONCESSIONS?** YES  NO  **OTHER VENDORS?** YES  NO
- 4. **DO YOU PLAN TO HAVE ALCOHOL SERVED AT THIS EVENT?** YES  NO
- 5. **WILL ALCOHOL BE SERVED ON PRIVATE PROPERTY AS PART OF THIS EVENT?** YES  NO
- 6. **WILL YOU NEED ELECTRICITY AND/OR WATER?** YES  NO

**CITY SERVICES REQUIRED?** If needed, please attach a letter indicating all requests for City Services. (see Attachment B)

*N/A*  
*NONE*

7. **AN EVENT MAP IS**  **IS NOT**  attached. If your event will use streets and/or sidewalks (for a parade, run, etc.), or will use multiple locations, please attach a complete map showing the assembly and dispersal locations and the route plan. Also show any streets or parking lots that you are requesting to be blocked off.

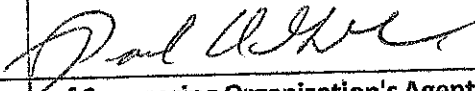
8. **EVENT SIGNS:** Will this event include the use of signs? YES  NO   
 If Yes, refer to Policy 12.8 for requirements, and describe the size and location of your proposed signs: **Please complete a sign illustration / description sheet and include with the application.**  
 Signs or banners approved by the City of Plymouth for Special Events shall be designed and made in an artistic and workman like manner. THE CITY MANAGER MUST APPROVE ALL SIGNS. SIGNS CANNOT BE ERECTED UNTIL APPROVAL IS GIVEN.  
 Signs and/or Banners may be used during the event only. Please refer to Special Event Policy for information related to the installation of banners on Downtown Street Light Poles in advance of event. NO SIGNS ARE ALLOWED IN THE PARK IN ADVANCE OF THE EVENT.

9. **UNLIMITED PARKING:** Are you requesting the removal of time limits on parking (see Policy 12.5)? YES  NO   
 If Yes, list the lots or locations where/why this is requested:

10. **CERTIFICATION AND SIGNATURE:** I understand and agree on behalf of the sponsoring organization that
- a. a Certificate of Insurance must be provided which names the City of Plymouth as an additional named insured party on the policy. (See Policy 12.10 for insurance requirements)
  - b. Event sponsors and participants will be required to sign Indemnification Agreement forms (refer to Policy 12.12).
  - c. All food vendors must be approved by the Wayne County Health Department, and each food and/or other vendor must provide the City with a Certificate of Insurance which names the City of Plymouth as an additional named insured party on the policy. (See Policy 12.13)
  - d. The approval of this Special Event may include additional requirements and/or limitations, based on the City's review of this application, in accordance with the City's Special Event Policy. The event will be operated in conformance with the Written Confirmation of Approval. (see Policy 12.11 and 12.16)
  - e. The sponsoring organization will provide a security deposit for the estimated fees as may be required by the City, and will promptly pay any billing for City services which may be rendered, pursuant to Policy 12.3 and 12.4.

As the duly authorized agent of the sponsoring organization, I hereby apply for approval of this Special Event, affirm the above understandings, and agree that my sponsoring organization will comply with City's Special Event Policy, the terms of the Written Confirmation of Approval, and all other City requirements, ordinance and other laws which apply to this Special Event.

2-25-21  
Date

  
Signature of Sponsoring Organization's Agent

RETURN THIS APPLICATION at least twenty (21) days prior to the first day of the event to: City

Manager's Office  
City Hall  
201 S. Main Street  
Plymouth MI 48170

Phone: (734) 453-1234 ext. 203



11. INDEMNIFICATION AGREEMENT

INDEMNIFICATION AGREEMENT

The Knights of Columbus 3292 (organization name) agree(s) to defend, indemnify, and hold harmless the City of Plymouth, Michigan, from any claim, demand, suit, loss, cost of expense, or any damage which may be asserted, claimed or recovered against or from the Toutle Roll Drive (event name) by reason of any damage to property, personal injury or bodily injury, including death, sustained by any person whomsoever and which damage, injury or death arises out of or is incident to or in any way connected with the performance of this contract, and regardless of which claim, demand, damage, loss, cost of expense is caused in whole or in part by the negligence of the City of Plymouth or by third parties, or by the agents, servants, employees or factors of any of them.

Signature Paul A Helmer

Date 2/26/21

Witness \_\_\_\_\_

Date \_\_\_\_\_

### EVENT REVIEW FORM

<b>MUNICIPAL SERVICES:</b>	<u>Approved</u>	Denied	(list reason for denial)	Initial	CP
NO SERVICES NEEDED					
\$250 Bathroom Cleaning Fee Per Day of Event? <b>YES</b> <span style="margin-left: 100px;"><u>NO</u></span>					
Labor Costs:	\$	Equipment Costs:	\$	Materials Costs:	\$
<b>POLICE:</b>	<u>Approved</u>	Denied	(list reason for denial)	Initial	JCC
NO SERVICES NEEDED					
Labor Costs	\$	Equipment Costs	\$	Materials Costs	\$
<b>FIRE:</b>	<u>Approved</u>	Denied	(list reason for denial)	Initial	JD
NO SERVICES NEEDED					
Labor Costs	\$	Equipment Costs	\$	Materials Costs	\$
<b>HVA:</b>	Approved	Denied	(list reason for denial)	Initial	
<b>DDA:</b>	<u>Approved</u>	Denied	(list reason for denial)	Initial	TB
Labor Costs	\$	Equipment Costs	\$	Materials Costs	\$
<b>RISK MANAGEMENT:</b>	<u>Approved</u>	Denied	(list reason for denial)	Initial	WB
Class I – Low Hazard	CANNOT BE IN STREETS Need certificate of insurance naming City of Plymouth as ADDITIONAL insured				
Class II – Moderate Hazard					
Class III – High Hazard					
Class IV – Severe Hazard					

EVENT NAME: \_\_\_\_\_ TOTAL ESTIMATED FEE: \_\_\_\_\_  
 (Note: All fees are only initial estimates and can increase upon assessment of services after the close of the event).

SITE FEE APPLIED TO ALL EVENTS IS \$100 PER DAY. TOTAL EVENT SITE FEE \$ _____  APPROVED _____ NOT APPROVED _____ DATE _____
--



# Special Event Application

City of Plymouth  
201 S. Main  
Plymouth, Michigan 48170-1637

www.plymouthmi.gov  
Phone 734-453-1234  
Fax 734-455-1892

Complete this application in accordance with the City of Plymouth Special Events Policy, and return it to the City Manager's Office at least 21 calendar days prior to the starting date of the event.

**FEES WILL BE CHARGED FOR ALL SPECIAL EVENTS. SEE ATTACHMENT B.**

Sponsoring Organization's Legal Name Plymouth Historical Society

Ph# 734-455-8940<sup>x9</sup> Fax# 734-455-7797 Email director@plymouthhistory.org Website www.plymouthhistory.org

Address 155 S. Main St. City Plymouth State MI Zip 48170

Sponsoring Organization's Agent's Name Elizabeth Kerstens Title Executive Director

Ph# same Fax# same Email same Cell# 734-502-0760

Address same City same State same Zip \_\_\_\_\_

Event Name Ghosts of Plymouth Walk

Event Purpose Fundraiser

Event Date(s) April 24, 2021

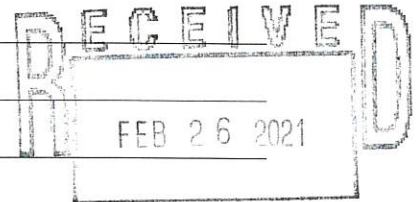
Event Times 4-9 PM

Event Location Around Old Village

What Kind Of Activities? Just walking - it's a tour

What is the Highest Number of People You Expect in Attendance at Any One Time? 30

Coordinating With Another Event? YES  NO  If Yes, Event Name: \_\_\_\_\_



Event Details: (Provide a detailed description of all activities that will take place. Attach additional sheets if necessary.)

There will be costumed historical characters stationed at various spots on Starbuck and Mill Streets in Old Village. The walk takes participants from one station to the next where they hear from each character about that person's connection to Plymouth's past.

**\*\* Please don't charge a fee — we're not using any city services. It's a fundraiser and we can't do it if there's a fee. \*\***



1. TYPE OF EVENT: Based on Policy 12.2, this event is: *(Weddings/Ceremonies - Please Review Section 12.2.f)*

City Operated  Co-sponsored Event  Other Non-Profit  Other For-Profit  Political or Ballot Issue

2. ANNUAL EVENT: Is this event expected to occur next year? YES  NO

If Yes, you can reserve a date for next year with this application (see Policy 12.15). To reserve dates for next year, please provide the following information:

Normal Event Schedule (e.g., third weekend in July): Fourth Saturday in April  
Next year's specific dates: April 23, 2022

\*\*\*See section 12.13 for license & insurance requirements for vendors\*\*\*

3. FOOD VENDORS/CONCESSIONS? YES  NO  OTHER VENDORS? YES  NO

4. DO YOU PLAN TO HAVE ALCOHOL SERVED AT THIS EVENT? YES  NO

5. WILL ALCOHOL BE SERVED ON PRIVATE PROPERTY AS PART OF THIS EVENT? YES  NO

6. WILL YOU NEED ELECTRICITY AND/OR WATER? YES  NO

CITY SERVICES REQUIRED: All needed, please attach a letter indicating all requests for City Services (See Attachment B)

None

7. AN EVENT MAP IS  IS NOT  attached. If your event will use streets and/or sidewalks (for a parade, run, etc.) or will use multiple locations, please attach a complete map showing the assembly and dispersal locations and the route plan. Also show any areas of parking lots that you are requesting to be blocked off.

8. EVENT SIGNS: Will the event include the use of signs? YES  NO   
If Yes, refer to Policy 12.43 for requirements, and describe the size and location of your proposed signs. Please complete a sign illustration/description sheet and include with the application.

Signs or banners approved by the City of Plymouth for special events shall be designed and made in an artistic and workmanlike manner. THE CITY MANAGER MUST APPROVE ALL SIGNS. SIGNS CANNOT BE ERECTED UNTIL APPROVAL IS GIVEN.

Signs and/or banners may be used during the event only. Please refer to Special Event Policy for information related to the installation of banners on Downtown Street Light Poles in advance of event. NO SIGNS ARE ALLOWED IN THE PARKING ADVANCE OF THE EVENT.

9. UNLIMITED PARKING: Are you requesting the removal of time limit on parking (see Policy 12.5)? YES  NO   
If Yes, list the lots or locations where/why this is requested:

10. **CERTIFICATION AND SIGNATURE:** I understand and agree on behalf of the sponsoring organization that
- a. a Certificate of Insurance must be provided which names the City of Plymouth as an additional named insured party on the policy. (See Policy 12.10 for insurance requirements)
  - b. Event sponsors and participants will be required to sign Indemnification Agreement forms (refer to Policy 12.12).
  - c. All food vendors must be approved by the Wayne County Health Department, and each food and/or other vendor must provide the City with a Certificate of Insurance which names the City of Plymouth as an additional named insured party on the policy. (See Policy 12.13)
  - d. The approval of this Special Event may include additional requirements and/or limitations, based on the City's review of this application, in accordance with the City's Special Event Policy. The event will be operated in conformance with the Written Confirmation of Approval. (see Policy 12.11 and 12.16)
  - e. The sponsoring organization will provide a security deposit for the estimated fees as may be required by the City, and will promptly pay any billing for City services which may be rendered, pursuant to Policy 12.3 and 12.4.

As the duly authorized agent of the sponsoring organization, I hereby apply for approval of this Special Event, affirm the above understandings, and agree that my sponsoring organization will comply with City's Special Event Policy, the terms of the Written Confirmation of Approval, and all other City requirements, ordinance and other laws which apply to this Special Event.

2-26-2021  
Date

Elizabeth M. Hartens  
Signature of Sponsoring Organization's Agent

**RETURN THIS APPLICATION at least twenty (21) days prior to the first day of the event to: City**

**Manager's Office  
City Hall  
201 S. Main Street  
Plymouth MI 48170**

**Phone: (734) 453-1234 ext. 203**



11. INDEMNIFICATION AGREEMENT

INDEMNIFICATION AGREEMENT

The Plymouth Historical Society (*organization name*) agree(s) to defend, indemnify, and hold harmless the City of Plymouth, Michigan, from any claim, demand, suit, loss, cost of expense, or any damage which may be asserted, claimed or recovered against or from the Ghosts of Plymouth Walk (*event name*) by reason of any damage to property, personal injury or bodily injury, including death, sustained by any person whomsoever and which damage, injury or death arises out of or is incident to or in any way connected with the performance of this contract, and regardless of which claim, demand, damage, loss, cost of expense is caused in whole or in part by the negligence of the City of Plymouth or by third parties, or by the agents, servants, employees or factors of any of them.

Signature Elizabeth H. Ventas Date 2/26/21

Witness Janet Burns Date 2/26/2021

Pres. Roosevelt  
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Dan Smith  
5

Railroad Jack  
4

John Streng  
3

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7  
Eva Pierce

2  
Charlie Thumme

Liberty

Spring

1  
Carrie Nation

Gazebo

Farmer

8  
Walter Ebert

### EVENT REVIEW FORM

<b>MUNICIPAL SERVICES:</b>	<input checked="" type="radio"/> <b>Approved</b>	<input type="radio"/> <b>Denied</b>	(list reason for denial)	Initial	CP
<i>NO SERVICES NEEDED</i>					
\$250 Bathroom Cleaning Fee Per Day of Event? <b>YES</b> <input type="radio"/> <b>NO</b> <input checked="" type="radio"/>					
Labor Costs: \$	Equipment Costs: \$	Materials Costs	\$		
<b>POLICE:</b>	<input checked="" type="radio"/> <b>Approved</b>	<input type="radio"/> <b>Denied</b>	(list reason for denial)	Initial	AEC
<i>NO SERVICES NEEDED</i>					
Labor Costs \$	Equipment Costs \$	Materials Costs	\$		
<b>FIRE:</b>	<input checked="" type="radio"/> <b>Approved</b>	<input type="radio"/> <b>Denied</b>	(list reason for denial)	Initial	JH
<i>No Services Needed</i>					
Labor Costs \$	Equipment Costs \$	Materials Costs	\$		
<b>HVA:</b>	<input type="radio"/> <b>Approved</b>	<input type="radio"/> <b>Denied</b>	(list reason for denial)	Initial	
<b>DDA:</b>	<input checked="" type="radio"/> <b>Approved</b>	<input type="radio"/> <b>Denied</b>	(list reason for denial)	Initial	TB
Labor Costs \$	Equipment Costs \$	Materials Costs	\$		
<b>RISK MANAGEMENT:</b>	<input checked="" type="radio"/> <b>Approved</b>	<input type="radio"/> <b>Denied</b>	(list reason for denial)	Initial	WB
<u>Class I – Low Hazard</u>	<i>Need certificate of insurance naming City of Plymouth as additional insured</i>				
Class II – Moderate Hazard					
Class III – High Hazard					
Class IV – Severe Hazard					

EVENT NAME: \_\_\_\_\_ TOTAL ESTIMATED FEE: \_\_\_\_\_  
 (Note: All fees are only initial estimates and can increase upon assessment of services after the close of the event).

SITE FEE APPLIED TO ALL EVENTS IS \$100 PER DAY. TOTAL EVENT SITE FEE \$ _____  APPROVED _____ NOT APPROVED _____ DATE _____
--



## Administrative Recommendation

---

City of Plymouth  
201 S. Main  
Plymouth, Michigan 48170-1637

[www.plymouthmi.gov](http://www.plymouthmi.gov)  
Phone 734-453-1234  
Fax 734-455-1892

To: Mayor & City Commission  
From: Paul J. Sincock, City Manager  
CC: *S:\Manager\Sincock Files\Memorandum - Wilcox Fountain Shaw Construction Contract Approval 03-15-21.docx*  
Date: March 11, 2021  
RE: Wilcox Fountain in Kellogg Park – Shaw Construction Contract

---

### Background

The City Commission is aware that we have been working with the Wilcox Foundation related to replacing the Rotary Fountain in Kellogg Park, with a new Wilcox Fountain that has been designed by Outside the Lines (OTL) of Anaheim, California. This project has been in the works for several years and most recently our City Attorney's have been able to bring this project to this point. This is a very complex deal from a legal standpoint, and they have been able to take all available measures to minimize risk to the City, while allowing us to accept this generous donation. There are two major construction contracts which have to be awarded in order to move the project forward.

In February, the City Commission approved a contract with OTL, Outside the Lines, Inc. in Anaheim, California for the fountain portion of the project. At that time, we indicated that there would be a second construction contract for Shaw Construction to provide for site prep, construction management and restoration.

The City Attorneys finalized work on the Shaw Construction contract this week and we are prepared to have the City Commission approve the document to allow us to keep the fountain project moving forward.

Our City Attorneys have done an excellent job to work to protect the City's interest. Also, the City has taken all available measures to minimize its risks related to this project.

### Recommendation

The City Administration recommends that the City Commission approve the contract with Shaw Construction related to the Wilcox Fountain in Kellogg Park. We have attached a complete copy of the contract with the agenda packet.

Funding for this expense is coming from the Wilcox Foundation and payments will be made directly from the Foundation to Shaw Construction, based on the previously adopted disbursement agreement that the City Commission and the Wilcox Foundation authorized.

Should you have any questions in advance of the meeting please feel free to contact me.



# AIA<sup>®</sup> Document A105™ – 2017

## **Standard Short Form of Agreement Between Owner and Contractor**

**AGREEMENT** made as of the 15 day of March in the year 2021. All terms and conditions set forth in this Contract shall apply retroactively to the date of Project commencement on about February 1, 2021.

*(In words, indicate day, month and year.)*

**BETWEEN** the Owner:

*(Name, legal status, address and other information)*

City of Plymouth, Michigan  
c/o Oliver Wolcott  
201 S. Main  
Plymouth, Michigan 48170

and the Contractor:

*(Name, legal status, address and other information)*

Shaw Construction and Management 13980 Farmington Rd.  
Livonia, MI 48154

for the following Project:

*(Name, location and detailed description)*

City of Plymouth Kellogg Park Fountain  
777 West Ann Arbor Trail Rd.  
Plymouth, MI 48170

The Architect:

*(Name, legal status, address and other information)*

Russell Design  
114 Rayson St. Suite 2A  
Northville, MI 48167

The Owner and Contractor agree as follows.

### **ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.

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**TABLE OF ARTICLES**

- 1 THE CONTRACT DOCUMENTS
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- 3 CONTRACT SUM
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- 11 TIME
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- 13 PROTECTION OF PERSONS AND PROPERTY
- 14 CORRECTION OF WORK
- 15 MISCELLANEOUS PROVISIONS
- 16 TERMINATION OF THE CONTRACT
- 17 OTHER TERMS AND CONDITIONS

**ARTICLE 1 THE CONTRACT DOCUMENTS**

The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and Contractor;
- .2 the drawings and specifications ("Instruments of Service") prepared by the Architect/Engineer, dated TBD and enumerated as follows:

Drawings:		
<b>Number</b>	<b>Title</b>	<b>Date</b>
Specifications:		
<b>Section</b>	<b>Title</b>	<b>Pages</b>
.3 addenda prepared by the Architect/Engineer as follows:		
<b>Number</b>	<b>Date</b>	<b>Pages</b>

Init.

- 4 written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and
- 5 other documents, if any, identified as follows:

**ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

165 Calendar Days

**§ 2.2 Date of Commencement:**

Unless otherwise set forth below, the date of commencement shall be the date of this Agreement.

*(Insert the date of commencement if other than the date of this Agreement.)*

**§ 2.3 Substantial Completion:**

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work:

*(Check the appropriate box and complete the necessary information.)*

Not later than One Hundred and Sixty Five ( 165 ) calendar days from the date of commencement.

By the following date:

**ARTICLE 3 CONTRACT SUM**

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

Two Hundred and Nineteen Thousand Six Hundred Eighty One Dollars (\$ 219,681.00 ). This is a lump sum not to exceed amount per the proposal attached as Exhibit 1. The contract price is based on allowances. Each individual allowance will be treated as a lump sum not to exceed amount and billed against on a time and material basis.

**§ 3.2**

*(Paragraphs deleted)*

Intentionally Omitted

*(Table deleted)*

**§ 3.3**

*(Paragraphs deleted)*

Intentionally Omitted

**§ 3.4**

*(Paragraphs deleted)*

See, Section § 3.1.

*(Table deleted)*

**§ 3.5**

*(Paragraphs deleted)*

Intentionally Omitted

*(Table deleted)*

**ARTICLE 4 PAYMENTS**

§ 4.1 Based on Contractor's Applications for Payment, the Owner shall pay the Contractor, in accordance with Article 12, as follows:

*(Insert below timing for payments and provisions for withholding retainage, if any.)*

Init.

30 Days, no retainage

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest commencing 30 days after the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.  
*(Insert rate of interest agreed upon, if any.)*

3 %

**ARTICLE 5 INSURANCE- See, Exhibit 2, Certificate of Insurance.**

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than \$ 1,000,000 each occurrence, \$2,000,000 general aggregate, and \$2,000,000 aggregate for products-completed operations hazard and umbrella of \$5,000,000.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than \$1,000,000 per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 5.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 5.1.4 Workers' Compensation at statutory limits.

§ 5.1.5 Employers' Liability with policy limits not less than \$1,000,000 each accident, \$1,000,000 each employee, and \$1,000,000 policy limit.

§ 5.1.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than \$1,000,000 per claim and \$1,000,000 in the aggregate.

The Owner shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis.

**§ 5.1.7 Other Insurance Provided by the Contractor -**

*(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)*

**Coverage**

**Limits**

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property. The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance.

§ 5.3 The Contractor shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Contractor's obligations under Section 8.12.

§ 5.4 Prior to commencement of the Work, Contractor shall provide certificates of insurance showing their respective coverages. See, Exhibit 1.

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§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the Architect, Architect's consultants, and any of their agents and employees, for damages caused by fire or other causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

## ARTICLE 6 GENERAL PROVISIONS

### § 6.1 The Contract

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

### § 6.2 The Work

The term "Work" includes all architectural and engineering design services required to demolition and prepare the site for the installation of the new fountain, the generation of all required demolition and construction drawings and specifications, i.e. Instruments of Service for the Work, and all construction/services required by the Contract Documents which includes all labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

### § 6.3 Intent

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

### § 6.4 Ownership and Use of Architect's Drawings, Specifications and Other Documents

Documents prepared by the Architect/Engineer are Instruments of Service for use solely with respect to this Project. The Architect/Engineer is the author of the Instruments of Service but upon payment, all common law, statutory, and other reserved rights, including the copyright, shall be transferred to and vested in the Owner. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work.

### § 6.5 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below.  
*(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)*

## ARTICLE 7 OWNER

### § 7.1 Information and Services Required of the Owner

§ 7.1.1 If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

§ 7.1.3 Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.

### § 7.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.

### § 7.3 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such

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default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the Owner may withhold payment, in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction.

**§ 7.4 Owner's Right to Perform Construction and to Award Separate Contracts**

**§ 7.4.1** The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project.

**§ 7.4.2** The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

**ARTICLE 8 CONTRACTOR**

**§ 8.1 Review of Contract Documents and Field Conditions by Contractor**

**§ 8.1.1** Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

**§ 8.1.2** The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the Owner.

**§ 8.2 Contractor's Construction Schedule**

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's information a Contractor's construction schedule for the Work.

**§ 8.3 Supervision and Construction Procedures**

**§ 8.3.1** The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work.

**§ 8.3.2** The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner have made a timely and reasonable objection.

**§ 8.4 Labor and Materials**

**§ 8.4.1** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

**§ 8.4.2** The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

**§ 8.5 Warranty**

The Contractor warrants to the Owner that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5. Nothing in this provision is intended to any way limit the Owner's legal remedies including common law claims such as professional negligence, breach of contract for defective work, or other legal claims/remedies.

**§ 8.6 Taxes**

The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed.

Init.

**§ 8.7 Permits, Fees and Notices**

**§ 8.7.1 Intentionally Omitted**

**§ 8.7.2** The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Owner in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

**§ 8.8 Submittals**

The Contractor shall promptly review, approve in writing, and submit to the Owner shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

**§ 8.9 Use of Site**

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

**§ 8.10 Cutting and Patching**

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

**§ 8.11 Cleaning Up**

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials.

**§ 8.12 Indemnification**

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Owner's consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

**ARTICLE 9 ARCHITECT**

**§ 9.1** The Contractor is the design builder and shall provide all architectural and engineering design services required for the demolition and preparation of the site for the installation for the new fountain.

**§ 9.2** The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

**§ 9.3** Intentionally Omitted

**§ 9.4** Intentionally Omitted

**§ 9.5** The Architect has authority to reject Work that does not conform to the Contract Documents.

**§ 9.6** The Architect will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

**§ 9.7** On written request from either the Owner or Contractor, the Architect will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

Init.

§ 9.8 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from the Contract Documents, and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 9.9 The Architect's duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

#### ARTICLE 10 CHANGES IN THE WORK

§ 10.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing. If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit.

§ 10.2 The Architect may authorize or order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such authorization or order shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall proceed with such minor changes promptly.

§ 10.3 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time may be subject to equitable adjustment.

#### ARTICLE 11 TIME

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract.

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time may be subject to equitable adjustment. Contractor will not be entitled to a change order for any delays.

§ 11.3 Intentionally Omitted

#### ARTICLE 12 PAYMENTS AND COMPLETION

##### § 12.1 Contract Sum

The Contract Sum stated in this Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

##### § 12.2 Applications for Payment

§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 12.2.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to the Owner's interests.

§ 12.3 Intentionally Omitted

Init.



**§ 12.4 Progress Payments**

§ 12.4.1 After the Owner has review and Application for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 Neither the Owner nor the Architect shall have responsibility for payments to a subcontractor or supplier.

§ 12.4.4 A progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

**§ 12.5 Substantial Completion**

§ 12.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

§ 12.5.2 Intentionally Omitted

**§ 12.6 Final Completion and Final Payment**

§ 12.6.1 Upon receipt of a final Application for Payment, the Architect will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the Architect will approve final payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Owner releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

**ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY**

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

**ARTICLE 14 CORRECTION OF WORK**

§ 14.1 The Contractor shall promptly correct Work rejected by the Owner as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

**ARTICLE 15 MISCELLANEOUS PROVISIONS**

**§ 15.1 Assignment of Contract**

Neither party to the Contract shall assign the Contract as a whole without written consent of the other.

Init.

**§ 15.2 Tests and Inspections**

**§ 15.2.1** At the appropriate times, the Contractor shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

**§ 15.2.2** Intentionally Omitted

**§ 15.2.3** Intentionally Omitted

**§ 15.3 Governing Law**

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

**ARTICLE 16 TERMINATION OF THE CONTRACT**

**§ 16.1 Termination by the Contractor**

Intentionally Omitted

**§ 16.2 Termination by the Owner for Cause**

**§ 16.2.1** The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

**§ 16.2.2** When any of the above reasons exist, the Owner, after consultation with the Architect, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may

- .1 take possession of the site and of all materials thereon owned by the Contractor, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

**§ 16.2.3** When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

**§ 16.2.4** If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

**§ 16.3 Termination by the Owner for Convenience**

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

**ARTICLE 17 OTHER TERMS AND CONDITIONS**

*(Insert any other terms or conditions below.)*

**§ 17.1 MEDIATION**

**§ 17.1.1** Claims, disputes, or other matters in controversy arising out of or related to the Contract (the "Claims") shall be subject to mediation as a condition precedent to binding arbitration.

**§ 17.1.2** The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending

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User Notes:

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mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 17.1.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 ARBITRATION

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

This Agreement entered into as of the day and year first written above.

*(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)*

\_\_\_\_\_  
OWNER (Signature)

City of Plymouth, Michigan  
Oliver Wolcott  
201 S. Main Plymouth, Michigan 48170  
*(Printed name and title)*

  
\_\_\_\_\_  
CONTRACTOR (Signature)

Theodore V. Barker, AC  
President  
Shaw Construction and Management

LICENSE NO.:  
JURISDICTION:

Open.09992.80534.25961021-1

Init.

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### **PAGE 1**

**AGREEMENT** made as of the 15 day of March in the year 2021. All terms and conditions set forth in this Contract shall apply retroactively to the date of Project commencement on about February 1, 2021.

...

City of Plymouth, Michigan  
c/o Oliver Wolcott  
201 S. Main  
Plymouth, Michigan 48170

...

Shaw Construction and Management13980 Farmington Rd.  
Livonia, MI 48154

...

City of Plymouth Kellogg Park Fountain  
777 West Ann Arbor Trail Rd.  
Plymouth, MI 48170

...

Russell Design  
114 Rayson St. Suite 2A  
Northville, MI 48167

### **PAGE 2**

- .2 the drawings and specifications ~~prepared by the Architect, dated~~ prepared by the Architect/Engineer, dated TBD and enumerated as follows:

...

- .3 addenda prepared by the ~~Architect~~ Architect/Engineer as follows:

### **PAGE 3**

165 Calendar Days

...

[ ] Not later than One Hundred and Sixty Five ( 165 ) calendar days from the date of commencement.

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...  
~~(\$ )~~Two Hundred and Nineteen Thousand Six Hundred Eighty One Dollars (\$ 219,681.00 ). This is a lump sum not to exceed amount per the proposal attached as Exhibit 1. The contract price is based on allowances. Each individual allowance will be treated as a lump sum not to exceed amount and billed against on a time and material basis.

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work:  
~~(Itemize the Contract Sum among the major portions of the Work.)~~

Intentionally Omitted

**Portion of the Work**

**Value**

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner:

~~(Identify the accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)~~

Intentionally Omitted

§ 3.4 Allowances, if any, included in the Contract Sum are as follows:

~~(Identify each allowance.)~~

See, Section § 3.1.

**Item**

**Price**

§ 3.5 Unit prices, if any, are as follows:

~~(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)~~

Intentionally Omitted

**Item**

**Units and Limitations**

**Price per Unit (\$0.00)**

...  
§ 4.1 Based on Contractor's Applications for ~~Payment certified by the Architect, Payment~~, the Owner shall pay the Contractor, in accordance with Article 12, as follows:

**PAGE 4**

30 Days, no retainage

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest from ~~commencing 30 days after the date payment is due~~ at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.

...  
3 %

## **ARTICLE 5 — INSURANCE**

**ARTICLE 5 INSURANCE- See, Exhibit 2, Certificate of Insurance.**

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than ~~(\$ )~~ each occurrence, ~~(\$ )~~ general aggregate, and ~~(\$ )~~ aggregate for products-completed operations hazard, \$ 1,000,000 each occurrence, \$2,000,000 general aggregate, and \$2,000,000 aggregate for products-completed operations hazard and umbrella of \$5,000,000.



§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than ~~(\$—)~~ \$1,000,000 per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

...

§ 5.1.5 Employers' Liability with policy limits not less than ~~(\$—)~~ each accident, ~~(\$—)~~ each employee, and ~~(\$—)~~ \$1,000,000 each accident, \$1,000,000 each employee, and \$1,000,000 policy limit.

§ 5.1.6 ~~The Contractor Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than \$1,000,000 per claim and \$1,000,000 in the aggregate.~~

The Owner shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis.

§ 5.1.7 Other Insurance Provided by the Contractor -

...

§ 5.4 Prior to commencement of the Work, ~~each party~~ Contractor shall provide certificates of insurance showing their respective coverages. See, Exhibit 1.

PAGE 5

The term "Work" means the construction and services required by the Contract Documents, and includes all other includes all architectural and engineering design services required to demolition and prepare the site for the installation of the new fountain, the generation of all required demolition and construction drawings and specifications, i.e. Instruments of Service for the Work, and all construction/services required by the Contract Documents which includes all labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

...

Documents prepared by the Architect are instruments of the Architect's service. Architect/Engineer are Instruments of Service for use solely with respect to this Project. The Architect shall retain Architect/Engineer is the author of the Instruments of Service but upon payment, all common law, statutory, and other reserved rights, including the copyright, the copyright, shall be transferred to and vested in the Owner. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Architect.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the Architect may withhold or nullify a Certificate for Payment Owner may withhold payment, in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by the Architect.

PAGE 6

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the Architect-Owner.

...

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work.

...

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner, through the Architect, the Owner the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner or Architect have made a timely and reasonable objection.

...

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5. Nothing in this provision is intended to any way limit the Owner's legal remedies including common law claims such as professional negligence, breach of contract for defective work, or other legal claims/remedies.

PAGE 7

§ 8.7.1 ~~The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work.~~ Intentionally Omitted

§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Architect-Owner in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

...

The Contractor shall promptly review, approve in writing, and submit to the Architect-Owner shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

...

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's Owner's consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

...

§ 9.1 ~~The Architect will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.~~ Contractor is the design builder and shall provide all architectural and engineering design services required for the demolition and preparation of the site for the installation for the new fountain.

...

~~§ 9.3 The Architect will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.~~Intentionally Omitted

~~§ 9.4 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor.~~Intentionally Omitted  
PAGE 8

§ 10.3 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall may be subject to equitable adjustment.

...

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time ~~shall be subject to equitable adjustment.~~may be subject to equitable adjustment. Contractor will not be entitled to a change order for any delays.

~~§ 11.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.~~Intentionally Omitted

...

§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner ~~or Architect~~ may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

...

#### § 12.3 Certificates for Payment

~~The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole. If certification or notification is not made within such seven day period, the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.~~Intentionally Omitted

PAGE 9

§ 12.4.1 After the Architect has issued a Certificate Owner has review and Application for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

...

§ 12.4.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

...

~~§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the Architect and the Architect will make an inspection to determine whether the Work is substantially complete. When the Architect determines that the Work is substantially complete, the Architect shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.~~Intentionally Omitted

...

~~§ 12.6.1 Upon receipt of a final Application for Payment, the Architect will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment.~~approve final payment.

~~§ 12.6.2 Final payment shall not become due until the Contractor submits to the Architect~~Owner releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

...

~~§ 14.1 The Contractor shall promptly correct Work rejected by the Architect~~Owner as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

PAGE 10

~~§ 15.2.2 If the Architect requires additional testing, the Contractor shall perform those tests.~~Intentionally Omitted

~~§ 15.2.3 The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Contract is executed. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.~~Intentionally Omitted

...

~~If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.~~Intentionally Omitted

...

## § 17.1 MEDIATION

§ 17.1.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract (the "Claims") shall be subject to mediation as a condition precedent to binding arbitration.

§ 17.1.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 17.1.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

**§ 15.4 ARBITRATION**

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

PAGE 11

City of Plymouth, Michigan  
Oliver Wolcott  
201 S. Main Plymouth, Michigan 48170  
*(Printed name and title)*

Theodore V. Barker, AC  
President  
Shaw Construction and Management  
*(Printed name and title)*

...

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## **Certification of Document's Authenticity**

*AIA® Document D401™ – 2003*

I, \_\_\_\_\_, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:25:40 ET on 03/10/2021 under Order No. 4376279274 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A105™ – 2017, Standard Short Form of Agreement Between Owner and Contractor, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

\_\_\_\_\_  
*(Signed)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Dated)*

RESOLUTION

The following Resolution was offered by \_\_\_\_\_ and seconded by

\_\_\_\_\_.

WHEREAS The City of Plymouth owns Kellogg Park in the heart of the City and Wilcox Foundation Is desirous of replacing the water feature fountain in Kellogg Park with a new Wilcox Fountain, and

WHEREAS The new Wilcox Fountain is being designed and constructed by Outside The Lines (OTL) Of Anaheim, California, and

WHEREAS Site preparation, restoration and construction management will be handled by Shaw Construction, and

WHEREAS The City Attorney's Office has worked with all parties in this matter to bring The Shaw Construction contract to the City Commission for adoption.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby authorize a contract between the City of Plymouth and Shaw Construction to provide certain construction services related to the Wilcox Fountain in Kellogg Park.

BE IT FURTHER RESOLVED THAT The City Clerk of the City shall include a complete copy of the approved contract with the official meeting minutes of this City Commission meeting.



# CITY OF PLYMOUTH

201 S. Main  
Plymouth, Michigan 48170-1637

ITEM #8.a

[www.plymouthmi.gov](http://www.plymouthmi.gov)

Phone 734-453-1234  
Fax 734-455-1892

A regular meeting of the Zoning Board of Appeals was held on  
Thursday, March 4, 2021  
at 7:00 P.M. online via Zoom to consider the following requests:

Z21-05 Non-Use Variance Request for 1294 Maple

Side yard setback

Zoned: R-1, Single Family Residential

Applicant: Nathan Johns

APPROVED: with restrictions/conditions Yes 4 No 0 1 absent

Z21-06 Non-Use Variance Request for 629 Herald

Front yard setback

Zoned: R-1, Single Family Residential

Applicant: Metaxia and Brandon Morris

APPROVED: with restrictions/conditions Yes 4 No 0 1 absent

Submitted by

Ed Krol

THE CITY OF HOMES

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