

**City of Eastpointe  
Downtown Development Authority (DDA)**

**Request for Proposals  
DDA District Landscaping and Garden  
Maintenance Services  
DDA - 2021 - 01**

**City Manager  
and DDA Board Chair**  
Elke Doom

The City of Eastpointe Downtown Development Authority (DDA) will be accepting sealed proposals for DDA District Landscaping and Garden Maintenance Services until:

**Wednesday, February 17, 2021 at 2:00 pm.**

All proposals are to be submitted prior to the deadline to be considered.

The City of Eastpointe Downtown Development Authority is distributing this Request for Proposals through the Michigan Intergovernmental Trade Network (MITN) through BidNet Direct at [www.bidnetdirect.com](http://www.bidnetdirect.com), among other sources.

Proposals may be electronically submitted via MITN / BidNet, or may be mailed or hand-delivered in a sealed envelope the name of the Proposal and the name of the individual or company on the outside, to:

Downtown Development Authority  
Attn: Kim Homan  
City of Eastpointe  
23200 Gratiot Avenue  
Eastpointe, MI 48021

The deadline for questions is:

**Wednesday, February 10, 2021, at 2:00 pm.**

The City of Eastpointe Downtown Development Authority (DDA) reserves the right to accept any proposal, reject any and all proposals and to waive any informalities and/or to accept the proposal it considers to be in the best interest of the DDA.

Kim Homan, Economic Development Manager

Request for Proposals issued Thursday, January 28, 2021

**City of Eastpointe  
Formal Proposal to  
Request for Proposals  
City of Eastpointe  
DDA District Landscaping and Garden  
Maintenance Services  
DDA - 2021 - 01**

**Deadline: Wednesday, February 17, 2021 at 2:00 pm.**

**BY:**

Name of Submitter: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State and Zip Code: \_\_\_\_\_

Phone Number: (\_\_\_\_\_) \_\_\_\_\_

Email Address: \_\_\_\_\_

**PLEASE SIGN AND INCLUDE AS A COVER PAGE TO PROPOSAL:**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **I. Introduction**

The City of Eastpointe Downtown Development Authority (DDA) is soliciting proposals from interested contractors to perform comprehensive landscaping and garden maintenance services for the DDA District.

This Request for Proposal has been prepared with the intention of securing the best contractor based on capacity and cost of services. Other variables such as company experience, ability to perform the requested services, and number and experience of employees will also be considered.

## **II. Background and History**

The City of Eastpointe is located near the southeast corner of Macomb County, immediately north of the city of Detroit. It is bound by St. Clair Shores to the east, Roseville to the north and Warren to the west. The city has a population of approximately 32,400 and operates under a council-manager form of government.

The Downtown Development Authority District is centered at the intersection of Gratiot and Nine Mile Road, extending from Couzens, south of Nine Mile, north up to Evergreen, and from Boulder and Liscomb, on the east side of Gratiot, west to Eastpointe High School. (See Attachment A, DDA District Overview Maps). This proposal does not include any landscaping or gardening at the City Hall or at the Police Station and District Court, as that work is part of a separate contract for city buildings.

The DDA District includes a number of landscaped gardens, cement flower planters and tree rings located along the sidewalk areas on Gratiot and Nine Mile Road. Specific areas include: the Children's Garden, south of Nine Mile and adjacent to the Eastpointe Community Credit Union; the Clock Tower and tall planters on the southeast corner of Gratiot and Nine Mile (in front of Rite Aid); the gardens on the Gratiot perimeter of East Brooke Commons; and the tree rings along Gratiot and Nine Mile. (See Attachment B, Aerial Maps of Specific DDA Gardens).

One large aspect of this proposal is the installation, watering and fertilizing of the DDA hanging flower baskets, which will be delivered by the vendor in mid-May. The baskets need to be hung on the DDA decorative lights poles located on Gratiot and Nine Mile Road. Historically, the baskets were watered every day and fertilized as needed with fertilizer provided by the flower basket vendor. In the fall, the baskets need to be taken down and emptied and the empty baskets are to be delivered to the Department of Public Works at 17800 Ten Mile Road.

This proposal does not include the Adopt-A-Garden in the Gratiot median at Nine Mile and does not include grass cutting in any DDA District areas.

It is expected that the successful proposer will provide the overwhelming majority of the work included in this proposal with its own employees. The chosen contractor will report principally to the Economic Development Manager.

### **III. Scope of Work and Conditions**

The following items are intended to represent the typical duties of the contractor selected to be its DDA District Landscaping and Garden Maintenance services provider. This document does not include an exhaustive list of the duties.

#### **General Work to be Completed:**

Spring clean-up of all garden areas, which includes removing dead plantings, dividing perennials as needed, and preparing for new growth and any plantings.

Planting and maintaining the flower beds and standing planters. Installing, watering and fertilizing the hanging flower baskets.

Installing mulch around sidewalk trees, shopping center gardens, and several Gratiot median gardens.

Regular weeding and maintenance of all planters and gardens, and trimming and maintenance of trees and shrubs as needed. Applying weed control and fertilizer as needed.

Fall clean-up of all areas, including removal of dead perennials and annuals and preparation for winter weather.

#### **SPECIFICS:**

##### **The Children's Garden:**

*[located on the east side of Gratiot, south of Nine Mile, adjacent to the Eastpointe Community Credit Union]*

- Spring cleaning of all garden areas and removal of dead plantings. Dividing and trimming of perennials for best performance based upon the species.
- Trimming and shaping of trees, shrubs and flowering bushes pursuant to seasonal requirements based upon species of plant.
- Regular weeding and maintenance of all garden areas for the months of April through October.
- Planting of annuals and perennials as requested.
- Fall clean-up of all garden areas, including cutting back perennials and removing dead plantings.

### The Clock Tower and Tall Planters at Gratiot and Nine Mile:

- Spring clean-out and removal of dead plantings.
- Creation and installation of perennials and annuals with varied blooming times for a full season of color in the clock tower and all tall planters.
- Regular weeding and maintenance of the clock tower and tall planters.
- Fall clean-up of the planters, including removing dead annuals and cutting back perennials in preparation for winter weather.

### East Brooke Commons Shopping Mall:

*[the landscaped gardens located along the perimeter sidewalk on the west side of Gratiot, from Nine Mile south to the entrance to the high school at Couzens]*

- Spring cleaning of all garden areas and removal of dead plantings. Dividing and trimming of perennials for best performance based upon the species.
- Trimming and shaping of trees, shrubs and flowering bushes pursuant to seasonal requirements based upon species of plant.
- Regular weeding and maintenance of all garden areas for the months of April through October.
- Fall clean-up of all garden areas, including cutting back perennials and removing dead plantings.

### Sidewalk Tree Rings / Gardens:

- Removal of dead plantings and trimming of perennials within the tree rings along Gratiot and Nine Mile Road in the spring.
- Installation of mulch around the trees within the DDA District along the Gratiot and Nine Mile sidewalks.
- Regular weeding and maintenance of the tree rings throughout the season.
- Planting of flowering annuals or perennials as requested.
- Fall clean-up including removal of dead plantings, cutting back of perennials as required by species, and trimming of trees and bushes in preparation for winter weather.

### Hanging Flower Baskets:

- Coordinate with the flower basket vendor for the delivery of the hanging baskets and fertilizer to a central location in the DDA District at a time that the baskets can be immediately installed on the DDA lights on Gratiot and Nine Mile Road. (Delivery of 60 hanging baskets with fertilizer is usually in mid-May).

- Daily watering of the hanging flower baskets, and fertilization as required. (Watering may be adjusted based upon weather conditions, with more or less frequency depending upon temperatures and the amount of rain received).
- Removal of the hanging baskets, disposal of the dead flowers, and return of the baskets to the Department of Public Works for winter storage in October.

#### Gratiot Median Garden and Nine Mile Refuge Islands:

*[the median garden is near the south end of East Brooke Commons; the two refuge islands are on Nine Mile on each side of Gratiot]*

- Spring cleaning of all garden areas and removal of dead plantings. Dividing and trimming of perennials as needed for best performance based upon the species.
- Trimming and shaping of trees, shrubs and flowering bushes pursuant to seasonal requirements based upon species of plant, and installation of mulch.
- Regular weeding and maintenance of all garden areas for the months of April through October.
- Fall clean-up of all garden areas, including cutting back perennials and removing dead plantings.

#### **Supplies and Materials**

All equipment and supplies needed by the contractor to implement the maintenance services required by the contract will be furnished by the contractor. Materials approved for installation, such as flowers, plantings, mulch and fertilizer, can be charged to the DDA for reimbursement after being approved in writing by the DDA.

#### **Contract Term**

The DDA intends to award this maintenance services contract for a term of three (3) years, however the DDA reserves the right to award the contract for a term that is less than three (3) years.

### **IV. Minimum Qualification and Reference contact Information**

#### **Qualified Personnel**

The selected firm must have available and identify personnel that will be assigned to perform the day-to-day tasks, as well as to manage the contract. The submitted proposal shall identify and outline the past three (3) years of experience that qualify the company and its employees to perform the requirements of this proposal.

#### **Company Background**

The selected company must be skilled and regularly engaged in landscaping and garden maintenance services. The following information must be provided:

1. Company ownership – sole proprietorship, partnership, or incorporation and listing of corporate officers.
2. Location of company office.
3. Number of employees.
4. Name, address, email address and telephone number of the company's point of contact for this solicitation.
5. Company background and why the firm is qualified to provide the services described in this solicitation
6. Length of time the company has been providing the services described in this solicitation.

## **V. Proposal Requirements**

The proposal must describe the methods to be used to accomplish each of the project tasks and services expected, as defined in the Scope of Work. The proposal should also describe the materials, and related costs, that may be necessary to satisfactorily complete the tasks and services.

Please note this Request for Proposals cannot identify each specific, individual task required to successfully and completely implement the scope of work. The DDA will rely on the professionalism and competence of the successful proposing company to be knowledgeable of all the general areas identified in the scope of work.

The following criteria must be observed in submitting a proposal:

- The submittal must not exceed 40 pages, single sided (8 ½" x 11"), including appendices and cover letter.

**Responses to this Request for Proposals** shall be organized into the following five categories:

1. **Information/Background on the Company.** Provide a brief introduction, including the size of the company, number of years in business, availability of the company to perform the tasks and services requested, and the history of the company.
2. **Personnel/Qualifications.** Provide a brief summary of the skills and expertise of the individuals who will work on this project.
3. **Experience/References.** Provide a minimum of three references from other clients for which the company is currently providing, or previously provided, the services described in this solicitation must be provided. References from municipal, county or other governmental agencies are preferred.



4. **Understanding of Scope of Work.** In this section, respondents are to demonstrate their understanding of the tasks and services requested and to provide their approach to accomplish the services described in the solicitation.
5. **Cost Proposal.** All companies shall provide their proposed Scope of Work and Budget for each of the three years.

Proposals shall remain firm for 120 days from the date of opening.

#### **VI. Responsibility of Proposer**

All proposers shall be responsible. If it is found that a proposer is irresponsible (e.g. has not paid taxes, fines, fees, is not a legal entity, submitted a proposal without an authorized signature, falsified any information in the proposal response, etc.), will be cause for rejection of the proposal.

#### **VII. Firm Selection**

- Each proposal will be reviewed by an evaluation committee to determine if it meets the proposal requirements. Failure to meet the requirements of the Request for Proposals may be cause for rejection of the proposal.
- The evaluation committee may, at its sole option, ask for interviews or oral presentations by any proposer participating in this process. Attendance at any such interview will be at the proposer's expense.
- The final selection of a company will be determined following review of all proposals and formal oral presentations, if required. The evaluation committee will make a recommendation of the selected company for a contract to be awarded by the DDA Board.

**Award of Contract:** It is the DDA's intent to award a single contract to the company that can best meet the requirements of this document. The DDA reserves the right to award contract (s) in the best interest of the DDA. It is anticipated that award of the contract will occur in the beginning of March, 2021.

**Public Record:** Proposers must be aware all proposals documents submitted are subject to the Michigan Freedom of Information Act, commonly known as FOIA. Information contained in the proposals may be made public after the review process has been completed, negotiations have concluded and a recommendation for award has been placed on the DDA Board agenda for consideration.

**Cost Related to Proposal Preparation:** The DDA will not be responsible for any costs incurred by the proposer in the preparation or submittal of its respective proposal.

**Proposal Informalities or Defects:** The DDA reserves the right to waive any informality or technical defect in a proposal and to accept or reject, in whole or in part, any or all proposals or to advertise for new proposals, as best serves the interest of the DDA.

**Signed Proposal and Exceptions:** Submission of a signed proposal will be interpreted to mean the proposer has hereby agreed to all the terms and conditions set forth in all of the sheets which make up this Request for Proposals, and any attached sample agreement. Exceptions to any of the language in either the RFP documents or attached sample agreement must be submitted with the proposal and clearly defined. Exceptions to the DDA's RFP document or standard boilerplate language, terms or conditions may be considered in the evaluation process.

### **VIII. Vendor Tax Identification Number**

The selected contractor will be required to submit to the city an Internal Revenue Service Form W-9 for each person or entity to which a payment will be issued. The W-9 is to be completed by the person or entity that is to receive payment. This includes a signature in the certification section.

### **IX. Questions**

Questions from potential proposers, their representatives, agents or anyone else regarding this proposal are to be directed only to the contact person listed immediately below. Contact with any other city employee, commission member, council member or other individual affiliated with the city regarding this proposal may be a reason for rejection of a proposal.

Any question(s) pertaining to this proposal is to be directed in writing or by email to:

Kim Homan, Economic Development Manager  
23200 Gratiot Avenue, Eastpointe, MI 48021  
or via email [khoman@eastpointecity.org](mailto:khoman@eastpointecity.org)

Questions must be received electronically via MITN, or by email no later than:

**Tuesday, February 10, 2021 @ 2:00 pm.**

Interpretations/clarifications considered necessary in response to questions will be resolved by the issuance of a formal addendum to this RFP. Questions received after this date/time will not be answered. Only questions that have been resolved by formal addendum will be binding.

## **X. Bid Submission/ Delivery of Proposal**

Proposals may be submitted via MITN / BidNet or by mailing or hand-delivery of an original and two hard copies of the proposal to:

**Downtown Development Authority  
Attn: Kim Homan  
City of Eastpointe  
23200 Gratiot Avenue, Eastpointe, MI 48021**

Proposals must be received no later than:

**Wednesday, February 17, 2021 @ 2:00 pm.**

The successful proposer will be required to enter into a contractual agreement, inclusive of insurance requirements, with the City of Eastpointe Downtown Development Authority in accordance with the Proposed Contract – Attachment “C” to this Request for Proposals. Any exceptions to the language contained in the RFP or sample agreement must be included in the submitted proposal and clearly defined.

Failure or refusal to enter into an agreement as herein provided or to conform to any of the stipulated requirements in connection therewith shall be just cause for an annulment of the award. If the highest ranked proposer refuses or fails to execute the agreement, the DDA may, at its sole discretion, enter negotiations with and award the contract to the second highest ranked proposer, and so on.

**Request for Proposals**

**ATTACHMENT "A"**

**Downtown Development Authority**

**District Maps**





**Legend**

- DDA Boundary
- Plots



# City of Eastpointe

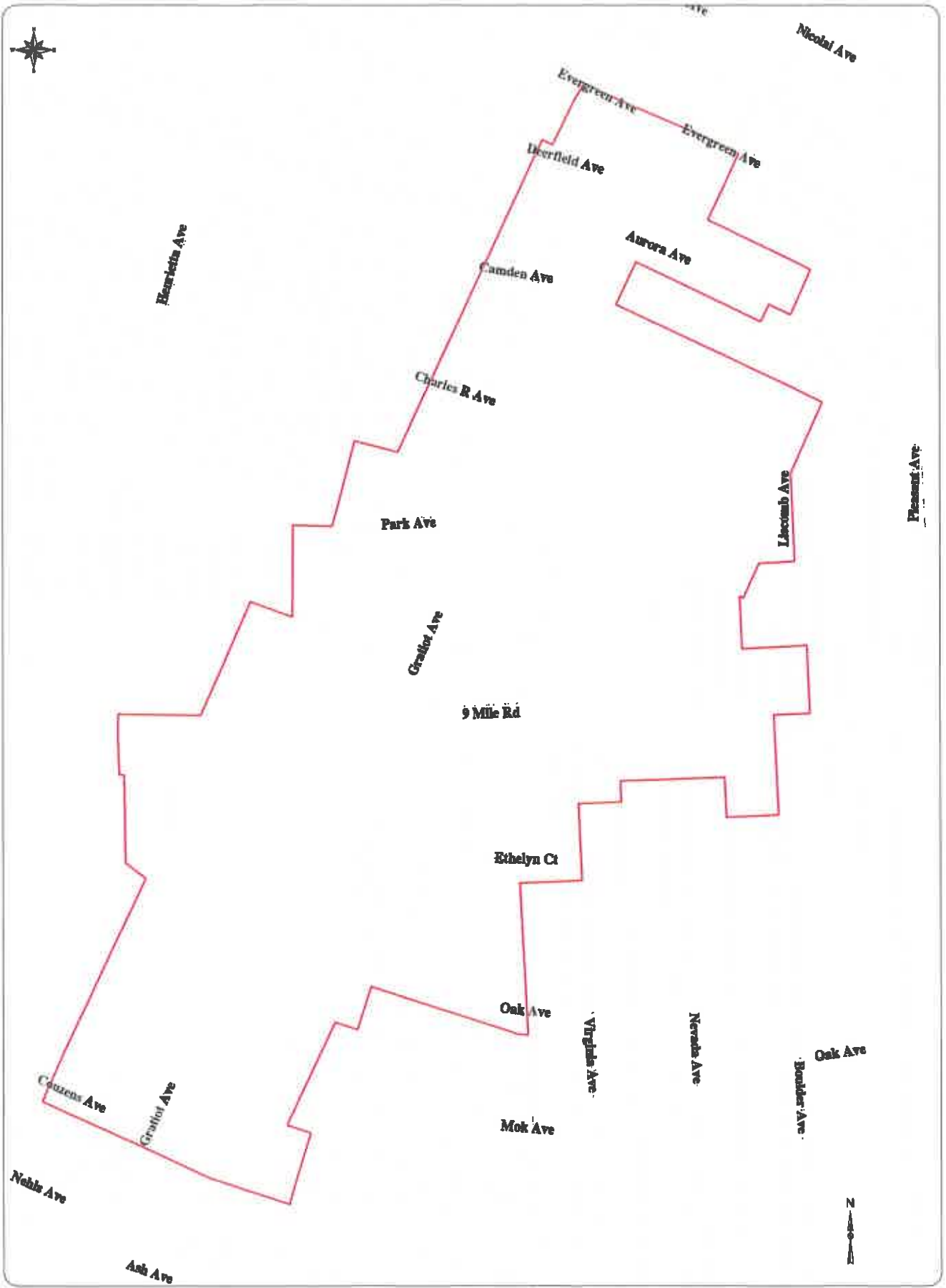
## Downtown Development Authority (DDA) Boundary Map



REFERENCE SHEET NUMBER	PAGE NAME
0	0
<small>           © COPYRIGHT 2016 ANDERSON, ECKSTRIN AND WESTRICK, INC. ALL RIGHTS RESERVED.            © COPYRIGHT 2016 ANDERSON, ECKSTRIN AND WESTRICK, INC. ALL RIGHTS RESERVED.         </small>	
<b>CAUTION</b> <small>           THIS MAP IS NOT TO BE USED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS PREPARED. THE CITY OF EASTPOINTE AND ANDERSON, ECKSTRIN AND WESTRICK, INC. ACCEPT NO LIABILITY FOR ANY ERRORS OR OMISSIONS. THE USER OF THIS MAP SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF EASTPOINTE.         </small>	

**ANDERSON, ECKSTRIN AND WESTRICK, INC.**  
 Civil Engineers • Surveyors • Architects  
 1100 West 10th Street, Suite 100  
 Lincoln, NE 68502  
 Phone: 402-441-1001  
 Fax: 402-441-1002  
 Website: www.aewi.com

Map Date: November 8, 2016  
 Map Scale: 1 inch = 100 feet  
 Project No: 0160-0001



**Legend**

- DDA Boundary
- Private

**ANDERSON, ECKSTEIN AND WESTRICK, INC.**  
Civil Engineers • Surveyors • Architects  
14240 Riverchase Lane, Suite 200, Houston, TX 77057  
Phone: 281-485-1100

Project No: 0245-0061

**A FAMILY TOWN**

*City of Eastpointe*

**Downtown Development Authority (DDA) Boundary Map**



REFERENCE SHEET NUMBER	PAGE NAME
0	0

**CAUTION**  
THIS MAP IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. IT IS NOT TO BE USED FOR ANY OTHER PURPOSES. THE CITY OF EASTPOINTE, ALABAMA, AND ITS OFFICIALS, EMPLOYEES, AND AGENTS, SHALL NOT BE LIABLE FOR ANY DAMAGES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM THE USE OF THIS INFORMATION.

**Request for Proposals**

**ATTACHMENT “B”**

**Downtown Development Authority**

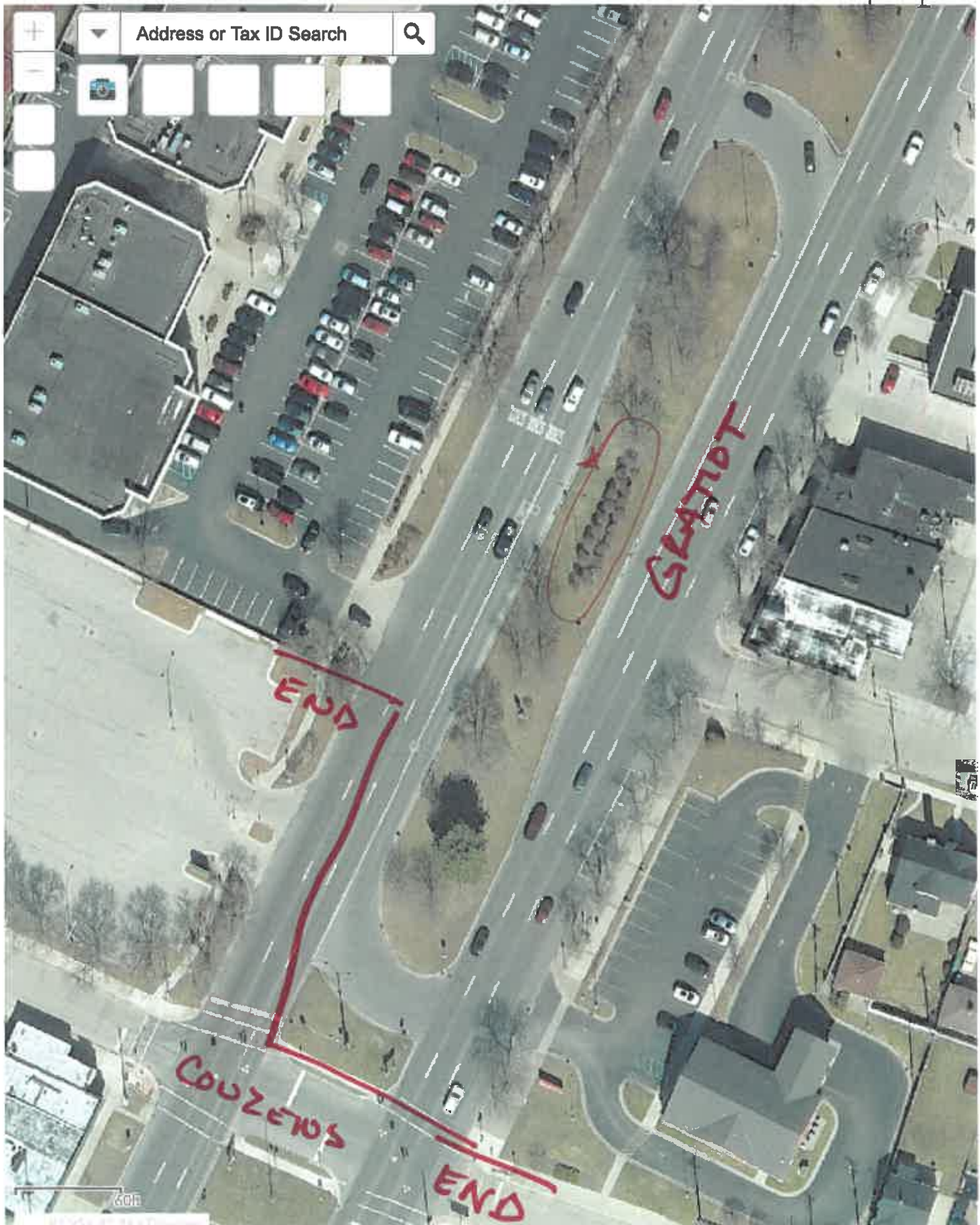
**Locations and Photos**

**of Gardens and Other Areas to be Maintained**



# Parcel Explorer

Macomb County GIS



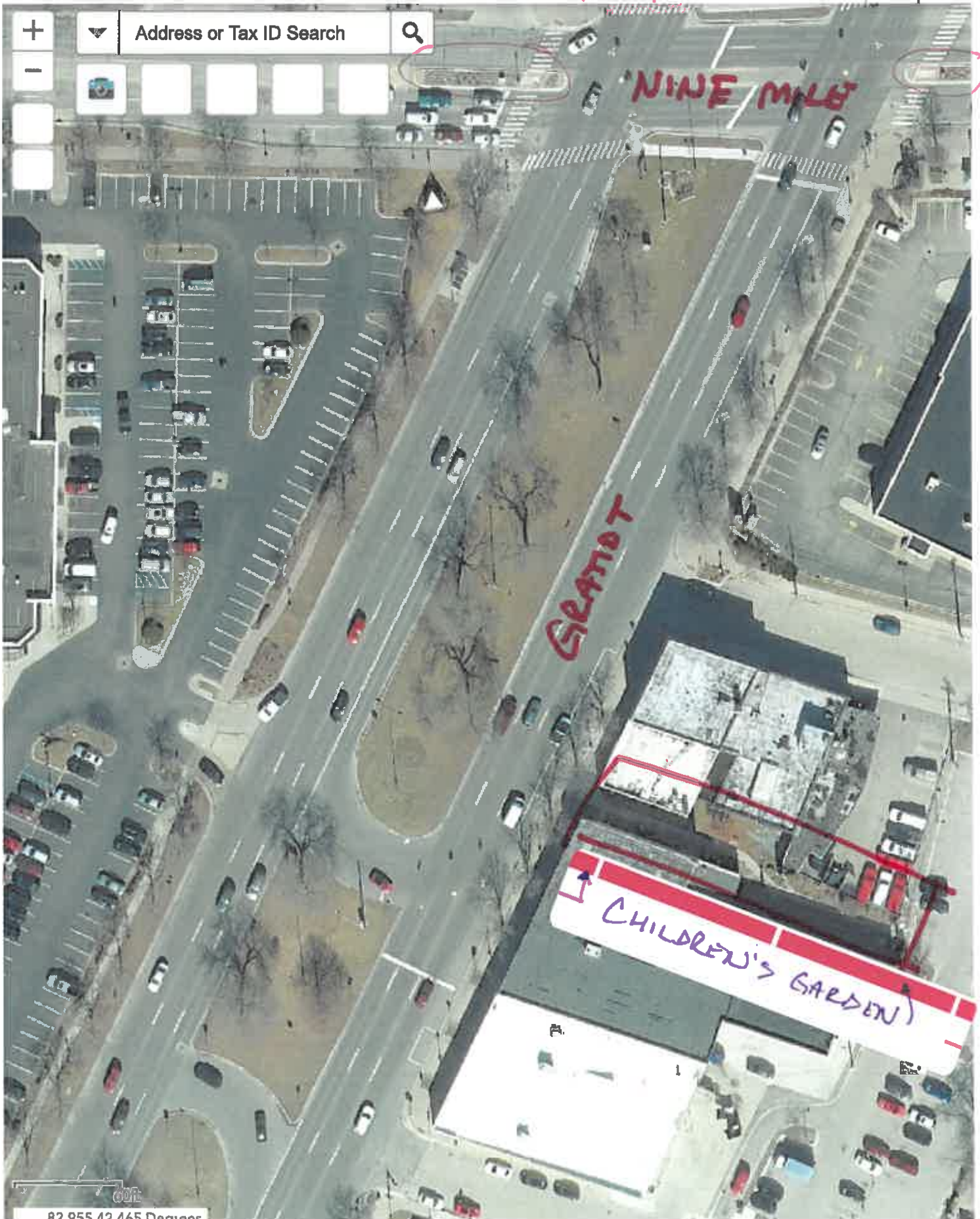
**SOUTH END OF DDA**



# Parcel Explorer

Macomb County GIS

REFUGE ISLANDS





# Parcel Explorer

Alameda County GIS









# Parcel Explorer

Madison County GIS





# Parcel Explorer

22765 Gratiot Ave, Eastpoir X

Show search results for 22765



**Request for Proposals**

**ATTACHMENT "C"**

**Downtown Development Authority**

**Landscaping and Garden Maintenance Services  
Contract**

**SAMPLE AGREEMENT**

**CONTRACT FOR**  
**CITY OF EASTPOINTE**  
**DOWNTOWN DEVELOPMENT AUTHORITY**  
**LANDSCAPING AND GARDEN MAINTENANCE SERVICES**  
**DDA - 2021 - 01**

This City of Eastpointe Downtown Development Authority Landscaping and Garden Maintenance Services Contract (“Agreement”) is agreed to between the **City of Eastpointe Downtown Development Authority, a Michigan Municipal Corporation**, 23200 Gratiot Avenue, Eastpointe, Michigan 48021 (the “DDA”) and \_\_\_\_\_ (“Contractor”), a Michigan company, [*address, city, state zip*]. This Contract is effective on March 15, 2021 (“Effective Date”), and unless terminated, expires on November 15, 2023.

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, the DDA agrees to retain the Contractor, and Contractor agrees to provide services to the DDA as follows:

**AGREEMENT**

**Scope of Services.** In compliance with all terms and conditions of this Agreement, the Contractor shall provide Landscaping and Garden Maintenance Services within the DDA District as described in the Scope of Work and Budget and incorporated herein by reference, which includes the agreed upon schedule of performance and the schedule of fees.

Contractor warrants that all services and work shall be performed in a competent, professional and satisfactory manner in accordance with all standards prevalent in the industry. In the event of any inconsistency between the terms contained in the Scope of Work and Budget and the terms set forth in the main body of this Agreement, the terms set forth in the main body of this Agreement shall govern.

**Time of Essence.** Time is of essence in the performance of this Agreement.

**Schedule of Performance.** All services rendered pursuant to this Agreement shall be performed pursuant to the agreed upon schedule of performance set forth in the Scope of Work.

**Changes.** In the event any change or changes in the Scope of Work is requested by the DDA, the parties hereto shall execute a written amendment to this Agreement, setting forth with particularity all terms of such amendment, including, but not limited to any additional fees. An amendment may be entered into for the following reasons:

1. To provide for revisions or modifications to documents or other work product or work when documents or other work product or work is required by enactment or revision of law subsequent to the preparation of any documents, or other work product, or work,

2. To provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in the Contractor's profession.
3. All proposed cost over-runs (increases to the contract) must be approved by the DDA in writing in advance of the work being commenced.

**Notice.** Any notice, demand, request, consent, approval, or communication either party desires or is required to give to the other party or any person shall be in writing and either served personally or sent by certified mail, return receipt requested, to the addresses set forth below. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated seventy-two (72) hours after the time of mailing, if mailed as provided for in this Section.

**To City:** City of Eastpointe  
Attention: Kim Homan, Economic Development Manager  
23200 Gratiot Avenue  
Eastpointe, MI 48021  
[Khoman@eastpointecity.org](mailto:Khoman@eastpointecity.org)

**To the Contractor:** (to be inserted)

**Compensation of Contractor.** For services rendered pursuant to this Agreement, Contractor shall be compensated and reimbursed, in accordance with the schedule of fees set forth in the Scope of Work and Budget.

**Method of Payment.** In any month in which the Contractor wishes to receive payment, the Contractor shall no later than the first week following the month that services were provided, submit to the DDA in a form approved by the DDA, an invoice for services rendered for the prior month. Payments shall be based on the schedule as set forth in the Scope of Work for authorized services performed. The DDA shall pay the Contractor for all proper expenses thereon, which are approved by the DDA consistent with this Agreement, within Net forty-five (45) days of receipt of the Contractor's invoice.

**Appropriations.** This Agreement is subject to and contingent upon funds being appropriated by the Downtown Development Authority for each fiscal year covered by this Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to the DDA.

The following are a list of standard contract terms and conditions that Contractor agrees to:

1. **Duties of Contractor.** Contractor must perform the services and provide the deliverables described this Agreement. Contractor must furnish all labor, equipment and other supplies necessary for the performance of the Scope of Work. Materials



such as plants, mulch and other goods approved in writing to be installed by the DDA will be invoiced to the DDA for reimbursement.

Contractor must: (a) perform the work in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; and (c) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Agreement;

2. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the DDA from claims that may arise out of, are alleged to arise out of, or result from Contractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the DDA; and (c) be provided by a company with an A.M. Best rating of "A-" or better, and a financial size of VII or better.

The Contractor shall provide proof of insurance to meet these requirements and in a form acceptable to the DDA and the City's Risk Manager.

Required Limits	Additional Requirements
<b>Commercial General Liability Insurance</b>	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add "the Downtown Development Authority of the City of Eastpointe" as additional insureds.
<b>Automobile Liability Insurance</b>	
<u>Minimum Limits:</u> \$1,000,000 Per Accident	Contractor must have their policy endorsed to add "the Downtown Development Authority of the City of Eastpointe" as additional insureds.
<b>Workers' Compensation Insurance</b>	
<u>Minimum Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
<b>Employers Liability Insurance</b>	

<u>Minimum Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	
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This Section is not intended to and is not to be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Agreement (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the DDA).

3. **Staffing.** The DDA may require Contractor to remove or reassign personnel by providing written notice to Contractor.
4. **Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Agreement. Contractor, its employees, and agents will not be considered employees of the DDA. No partnership or joint venture relationship is created by virtue of this Agreement. Contractor, and not the DDA, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor.
5. **Assignment.** Contractor may not assign this Agreement to any other party without the prior approval of the DDA. Upon notice to Contractor, the DDA, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Agreement to any other party. If the DDA determines that a novation of the Agreement to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
6. **Stop Work Order.** The DDA may suspend any or all activities under the Agreement at any time. The DDA will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the DDA will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Agreement. The DDA will not pay for work performed, Contractor's lost profits, or any additional compensation during a stop work period.
7. **Termination for Cause.** The DDA may terminate this Agreement for cause, in whole or in part, if Contractor, as determined by the DDA: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the DDA to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches

being material breaches within this Agreement will not be construed to mean that other breaches are not material.

8. **General Indemnification.** Contractor must defend, indemnify and hold the DDA harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Agreement; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).
9. **Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
10. **Governing Law.** This Agreement is governed, construed, and enforced in accordance with Michigan law, and all claims relating to or arising out of this Agreement are governed by Michigan law.
11. **Integrated Agreement.** This Agreement contains all of the agreements of the parties and cannot be amended or modified except by written agreement.
12. **Amendment.** This Agreement may be amended at any time by the mutual consent of the parties by an instrument, in writing.
13. **Non-Exclusivity.** Nothing contained in this Agreement is intended nor will be construed as creating any requirements contract with Contractor. This Agreement does not restrict the DDA from acquiring similar, equal, or like work from other sources.
14. **Dispute Resolution.** The parties will endeavor to resolve any Agreement dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators, Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to the City Manager if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the City Manager and either concludes that resolution is unlikely or fails to respond within 15 business days. **Severability.** If any part of this Agreement is held

invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Agreement and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Agreement will continue in full force and effect.

15. **Waiver.** Failure to enforce any provision of this Agreement will not constitute a waiver.

16. **Force Majeure.** Neither party will be in breach of this Agreement because of any failure arising from any disaster or acts of god that are beyond their reasonable control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the DDA may immediately contract with a third party.

[Remainder of page intentionally left blank]

Dated this \_\_\_\_ day of March, 2021

**DOWNTOWN DEVELOPMENT AUTHORITY**

\_\_\_\_\_  
Elke Doom, Board Chair, Downtown Development  
Authority, City of Eastpointe

STATE OF MICHIGAN     )  
  ) SS:  
COUNTY OF MACOMB     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of March, 2021, by Elke Doom, Board Chair, Downtown Development Authority, City of Eastpointe.

\_\_\_\_\_  
Notary Public,  
\_\_\_\_\_ County, Michigan.  
My Comm. Exp.: \_\_\_\_\_  
Acting in Macomb County,

Dated this \_\_\_\_ day of March, 2021

**CONTRACTOR**

\_\_\_\_\_  
By:  
Its:

STATE OF MICHIGAN     )  
  ) SS:  
COUNTY OF MACOMB     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of March, 2021, by \_\_\_\_\_, Its: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public,  
\_\_\_\_\_ County, Michigan.  
My Comm. Exp.: \_\_\_\_\_  
Acting in Macomb County,

**AGREEMENT FOR DDA LANDSCAPING AND  
GARDEN MAINTENANCE SERVICES**

**EXHIBIT "A"**

**Contractor's Scope of Work and Budget  
including Design and Costs for Materials**

**CITY OF EASTPOINTE**  
**DOWNTOWN DEVELOPMENT AUTHORITY (DDA)**  
**LANDSCAPING AND GARDEN MAINTENANCE SERVICES**  
**EXHIBIT "A"**

**Contractor:** \_\_\_\_\_ **Dated:** \_\_\_\_\_

**Proposed Scope of Work and Budget:**

For each of the following DDA District areas, please provide a description of the work to be done to meet the DDA's requirements, the proposed seasonal schedule, the design and types of plantings where applicable, and the annual cost for the work.

**Children's Garden:**

Description of work:

Seasonal Schedule:

Annual cost: 2021: \_\_\_\_\_ 2022: \_\_\_\_\_ 2023: \_\_\_\_\_

Proposed design and plantings, and cost:

**Clock Tower and Tall Planters at Gratiot and Nine Mile:**

Description of work:

Seasonal Schedule:

Annual cost: 2021: \_\_\_\_\_ 2022: \_\_\_\_\_ 2023: \_\_\_\_\_

Proposed design and plantings, and cost:

**East Brooke Commons Shopping Mall – Gratiot sidewalk gardens:**

Description of work:

Seasonal Schedule:

Annual cost: 2021: \_\_\_\_\_ 2022: \_\_\_\_\_ 2023: \_\_\_\_\_



**Sidewalk Tree Rings / Gardens:**

Description of work:

Seasonal Schedule:

Annual cost: 2021: \_\_\_\_\_ 2022: \_\_\_\_\_ 2023: \_\_\_\_\_

**Hanging Flower Baskets:**

Description of work:

Seasonal Schedule:

Annual cost: 2021: \_\_\_\_\_ 2022: \_\_\_\_\_ 2023: \_\_\_\_\_

**Gratiot Median Garden and Refuge Islands:**

Description of work:

Seasonal Schedule:

Annual cost: 2021: \_\_\_\_\_ 2022: \_\_\_\_\_ 2023: \_\_\_\_\_

**Additional Costs:**

Please indicate the hourly labor costs, for any additional work to be done as approved in writing by the DDA: \$ \_\_\_\_\_

Please list any other expenses that may be incurred for additional work requested by the DDA:

**AGREEMENT FOR DDA LANDSCAPING AND  
GARDEN MAINTENANCE SERVICES**

**EXHIBIT "B"**

**Contractor's Insurance Provisions**