MAINTENANCE AGREEMENT

This Agreement is made and entered into this <u>SCori</u>day of <u>Javory</u> 2014 by and between the *City of Detroit*, a body public, through its Department of Public Works, (referred to as the "CITY") and *MIDTOWN DETROIT INC*, a Michigan Corporation, 3939 Woodward Avenue, Suite 100, Detroit, Michigan 48201

NOW, THEREFORE, for valuable consideration, including the covenants and undertakings herein contained, it is mutually agreed as follows

1. **Purpose of Agreement**: **MIDTOWN DETROIT INC** represents the owners of certain property(s) adjacent to public right-of-way described as:

All that part of the North/South public alley 20 feet wide in the City of Detroit, County of Wayne, State of Michigan, in the block bounded by Second Boulevard, 100 feet wide, Cass Avenue, 80 feet wide, W. Willis Avenue, 100 feet wide, and W. Canfield Avenue, 100 feet wide; being more particularly described as lying westerly of and abutting the west line of Lots 1-8, inclusive, and lying easterly of and abutting the east line of Lots 9 and 24, Block 97 of the "Subdivision of Blocks 97 and 98 of the Cass Farm", City of Detroit, Wayne County, Michigan, as recorded in Liber 1, Page 259, Plats, Wayne County Records.

Also known as: 4205, 4221, 4251 and 4263 Cass Avenue(s); 441 W. Canfield Avenue, and 444 W. Willis Avenue.

Parcel ID Number(s) 02002216, 02002215.009, 02002214, 02002213, 02000890 and 02000886.010.

Which it intends to have improved as a "Green Alley", accessible to both vehicular and pedestrian traffic. The *City* owns said alley adjacent to the above described property. Since persons entering or exiting from the above described properties may be in use of the *City* owned property, *MIDTOWN DETROIT*, *INC*., agrees to maintain a section of the publicly owned alley as detailed in the plan attached as Exhibit "A" in accordance with Section 11 below.

- 2. **Financial Responsibility.** It is understood that all physical improvements and repairs set forth herein shall be at the sole cost and expense of **MIDTOWN DETROIT INC.**
- 3. Indemnification and Hold Harmless: MIDTOWN DETROIT INC. hereby agrees to indemnify, defend and hold the City harmless from all loss, costs, expense, actions, claims, causes of action, damages and liability (including

attorneys' fees and costs) for injury to or death of any person or persons and for damage to or destruction of property arising from **MIDTOWN DETROIT INC** uses or maintenance of the section of the publicly owned alley as to which it agrees hereby to provide maintenance.

- MIDTOWN DETROIT INC covenants and agrees at its sole cost 4. Insurance: and expense to maintain for the mutual benefit of it and the CITY comprehensive general liability insurance on an occurrence form against claims for bodily injuries (including but not limited to death) or property damage (including but not limited to destruction) occurring upon, in or about the public right of ways described herein, at combined single limits of not less than One Million (\$1,000,0000) Dollars per occurrence, One Million (\$1,000,000) Dollars aggregate, subject to the exclusion set forth in Paragraph 3. Such insurance coverage shall name the City of Detroit as an additional insured and shall provide that the same may not be canceled or materially modified without prior written notice by certified mail to the City to the attention of the City of Detroit, Finance Department, Coleman A. Young Municipal Center, Detroit, MI 48226 Attn: Risk Management Division. Said coverage may be affected by a certificate of insurance issued upon so-called "blanket" coverage, but either a certificate or the original of an insurance policy affecting such coverage. This insurance shall be primary and any such insurance maintained by the CITY shall be secondary and non-contributory and excess over the CITY's comprehensive general liability insurance. **MIDTOWN DETROIT INC** shall be responsible for payment of all deductibles provided however that CITY waives and releases MIDTOWN DETROIT INC from any claims for such deductible amount to the extent the CITY has liability insurance coverage unless this waiver and release causes an increase in the CITY's insurance premiums, in which event the CITY shall give MIDTOWN DETROIT INC written notice of such additional insurance premiums and MIDTOWN DETROIT INC's liability for such deductible shall be waived and released upon the reimbursement to the CITY of such additional premiums. The provision requiring MIDTOWN DETROIT INC to carry such insurance shall not be construed as waiving or restricting the liability of **MIDTOWN DETROIT INC** under this Agreement.
- 5. **Right to Assign**. *MIDTOWN DETROIT INC* may assign its rights and obligations under this Agreement to an unrelated third party upon *City's* prior written consent. Upon such authorized assignment to an unrelated third party, *MIDTOWN DETROIT INC's* obligations under this agreement will cease.
- 6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.
- 7. Entire Agreement. This Agreement constitutes the entire agreement between the parties. Any prior agreements, negotiations or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to or modification of this Agreement shall be of no force and

effect unless it is in writing and signed by an authorized signatory for each of t h e p a r t i e s .

- 8. **Successors and Assigns**. This agreement shall be binding upon the successors and assigns of **MIDTOWN DETROIT INC**. This Agreement is for the exclusive benefit of the parties stated herein shall not be deemed to give any legal or equitable right remedy or claim whatsoever to any other person.
- 9. **Improvement Changes:** Any material changes outside the scope of this agreement by **MIDTOWN DETROIT INC** to the public right of ways described herein shall be subject to the prior approval of the **CITY**.
- 10. The Parties understand that this agreement in no way limits the property rights of the *City* with regard to the subject public alley or the *City's* rights to convey, alter or eliminate said public alley.
- 11. **MIDTOWN DETROIT INC** and its successors or assigns agree perpetually to maintain the subject publicly owned alley and to provide in relation to it the following services:
 - a. Proper alley pavement at all times free and clear of obstructions.
 - b. Snow removal.
- 12. **Historic Designation.** If necessary, this agreement is in accordance with the Historic Designation of that portion of the public alley bounded Second Boulevard, Cass Avenue, W. Willis Avenue and W. Canfield Avenue, which falls within the Cass Corridor Historic District.

MIDTOWN DETROIT INC, a Michigan Corporation

STATE OF MICHIGAN)

COUNTY OF Wayne)

The foregoing instrument was acknowledged before me this 30th day of mucre 2014 by Susan Mosey the authorized member of MIDTOWN DETROIT INC, a Michigan Corporation, on behalf of the company.

Notary Public

County of Whyne

My commission expires: 8-4-2014

When recorded with the Wayne County Register of Deeds, return to:

City of Detroit, Department of Public works City Engineering Division 65 Cadillac Square, Suite 1000 Detroit, Michigan 48226

The City of Detroit, Through its Department of Public Works, City Engineering Division, acknowledge this agreement with said company, until the City of Detroit, through its Department of Public Works, City Engineering Division, deems this agreement void/useless.

By:

Dated: 2/19/14

Richard Doherty, P.E., City Engineer

City of Detroit

Department of Public Works City Engineering Division

Approved as to form & execution.

Assistant Corporation Counsel

City of Detroit, Law Department



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 2/5/2014

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

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

certificate floruer in fleu	oi sucii ei						
PRODUCER			CONTACT Cindy Balfour				
Valenti Trobec C	handler	Inc	PHONE (A/C. No. Ext): (248) 828-3377	AX A/C, No): (248) 828-3741			
1175 W. Long Lak	e, Suit	e 200	E-MAIL ADDRESS: cbalfour@vtcins.com				
			INSURER(S) AFFORDING COVERAGE	NAIC #			
Troy	MI	48098	INSURER A :Secura	22543			
INSURED			INSURER B:				
Midtown Detroit,	Inc.,	DBA: University	INSURER C:				
3939 Woodward, S	te 100		INSURER D :				
			INSURER E :				
Detroit	MI	48201	INSURER F:				
OOVERAGES		CERTIFICATE NUMBER 14/15 CT	C TIME DEVISION NUMBER	DED.			

COVERAGES CERTIFICATE NUMBER:14/15 GL & UMB REVISION NUMBE

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

INSR LTR			ADDL	SUBR WVD			POLICY EXP (MM/DD/YYYY)	LIMITS		-
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A		CLAIMS-MADE X OCCUR			CP3187151	1/1/2014	1/1/2015		\$	Excluded
								PERSONAL & ADV INJURY	\$	1,000,000
l								GENERAL AGGREGATE	\$	2,000,000
ļ.	GEN'L AGGREGATE LIMIT APPLIES PER:							PRODUCTS - COMP/OP AGG	\$	INCLUDED
	X	POLICY PRO- JECT LOC							\$	
	AUTOMOBILE LIABILITY							COMBINED SINGLE LIMIT (Ea accident)	\$	
İ		ANY AUTO						BODILY INJURY (Per person)	\$	
		ALL OWNED SCHEDULED AUTOS							\$	
l		HIRED AUTOS NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	\$	
1									\$	
	X	UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	\$	4,000,000
A		EXCESS LIAB CLAIMS-MADE						AGGREGATE	\$	4,000,000
		DED X RETENTION\$ 10,000			CU3187152	1/1/2014	1/1/2015		\$	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY							WC STATU- OTH- TORY LIMITS ER		
	ANY PROPRIETOR/PARTNER/EXECUTIVE			N/A				E.L. EACH ACCIDENT	\$	
l	(Mandatory in NH)							E.L. DISEASE - EA EMPLOYEE	\$	
	If yes, describe under DESCRIPTION OF OPERATIONS below							E.L. DISEASE - POLICY LIMIT	\$	- A STATE OF THE S

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
RE: Green Alley Project between Second Ave and Cass Ave and between W. Willis Ave and W Canfield Ave

CERTIFICATE HOLDER	CANCELLATION				
City of Detroit Coleman A Young Municipal Center	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.				
2 Woodward Ave Detroit, MI 48226	Alan Chandler/CBALFO Alan-P. Chandler				



