

MAINTENANCE AGREEMENT

This Agreement is made and entered into this 13th day of October 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 E. Forest Avenue, 70 feet wide, Garfield Avenue, 60 feet wide, Woodward Avenue, 120 feet wide, and John R Avenue, 84 feet wide; being more particularly described as lying Easterly of and abutting the East line of Lot 1 and the Northerly 55.00 feet of Lot 2, and lying Westerly of and abutting the West line of Lot 3 of "Brooks and Carlisle's Subdivision of Park Lots 34 and 35 and part of Park Lot 33", City of Detroit, Wayne County, Michigan, as recorded in Liber 1, Page 245, Plats, Wayne County Records.

Also known as: 52 E. Forest Ave., 4650 Woodward Ave., and part of 4630 Woodward Ave.

Parcel ID Number(s) 01001217, 01004222 and 01004219-21

Which it intends to have improved as a "Green Alley", with limited vehicular and unobstructed 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 said described 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.

4. **Insurance:** **MIDTOWN DETROIT INC** covenants and agrees at its sole cost 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 (\$1,000,000) 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.

MIDTOWN DETROIT INC, a Michigan Corporation

BY: *Alan J. May*
It's Authorized Member

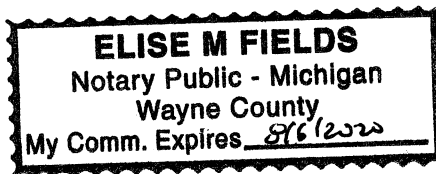
STATE OF MICHIGAN)
)SS
COUNTY OF Wayne)

The foregoing instrument was acknowledged before me this 13th day of October, 2014 by Susan T. Mosny the authorized member of MIDTOWN DETROIT INC, a Michigan Corporation, on behalf of the company.

Elise M Fields
Notary Public

County of Wayne, MI

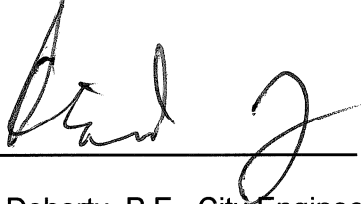
My commission expires: 8/6/2020



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: 10-15-14

Richard Doherty, P.E., City Engineer
City of Detroit
Department of Public Works
City Engineering Division

Approved as to form & execution.

By: 
Assistant Corporation Counsel

Dated: 10-20-14

City of Detroit, Law Department