



Executive Committee Meeting

July 27, 2022, 8:30 AM

**151 Martin Street, Birmingham, MI
City Hall Conference Rooms 202 & 203**

Committee Members: Jeff Hockman, Chair; Richard Astrein, Tom Markus, Amy Pohlod, Bill Roberts, Doug Fehan

Staff: Jana Ecker, BSD Interim Executive Director, Erika Bassett, PR Specialist

AGENDA

1. Welcome and Attendance
2. Approval of Minutes: **May 31, 2022**
3. Public Comment
4. Updates:
 - a) Special Events Committee
 - b) Marketing and Advertising Committee
 - c) Capital Improvements and Maintenance Committee
 - d) Business Development Committee
5. Executive Director Search Update
6. Costar Account Update
7. Request for Proposals for Retail Recruiter
8. Other Business
9. Upcoming Meetings/Events
 - a) Business Development Committee – August 2, 2022 at 8:30 a.m.
 - b) BSD Board Meeting – Thursday, August 4, 2022, at 8:30 a.m.
 - c) Capital Improvements Committee – August 9, 2022, at 8:30 a.m.
 - d) Special Events Committee – August 12, 2022 at 8:30 a.m.
 - e) Advertising Committee – August 18, 2022, at 8:30 a.m.
 - f) Executive Committee – August 24, 2022, at 8:30 a.m.

Executive Committee Meeting Minutes
151 Martin Street, Conference Room 203
May 31, 2022

J. Hockman called the meeting to order at 8:30 a.m.

In Attendance: J. Hockman, T. Markus, B. Roberts, D. Fehan, R. Astrein, J. Ecker

Absent: None

There was no public comment.

Executive Director's Report: Ms. Ecker provided a brief update on the Wayfinding Committee's work, and outlined changes to the committee reporting structure. Ms. Ecker advised that going forward, there will be meeting minutes for each of the committees that report to the BSD board, and these minutes will be in each BSD agenda packet for review, and posted on the BSD's website.

Retail Recruiter Contract: J. Ecker advised that Ms. Ciura has taken the position that she will not sign the 2022-2023 contract approved by the BSD at the May meeting until she has received payment for additional invoices for work and expenses done/accrued after the end of the prior year's contract. J. Ecker advised Ms. Ciura that a full review of her request and contracts would be conducted to determine if such payments were warranted. J. Ecker reported that Ms. Fairbairn of the Manager's Office had conducted a thorough review of each of the retail consultant contracts between the BSD and Ms. Ciura, as well as all invoices submitted and payments made to the consultant. The findings of the review indicate that Ms. Ciura was overpaid each of the past three years in the total amount of \$41,024 over and above the amounts owed to her under the terms of the corresponding contracts. Thus, J. Ecker advised Ms. Ciura via telephone last week that her recommendation to the BSD Board would be to make no further payments under any of the expired contracts, and no payment under the 2022-2023 contract proposed as it had not been executed. T. Markus stated that he also plans to recommend that the BSD Board pass a motion to rescind approval of the 2022-2023 contract with Ms. Ciura based on these findings and recommend that the BSD Board commence the RFP process to solicit proposals from retail recruiters.

Recruitment Process for new Executive Director: J. Hockman inquired about the selection process for the BSD Executive Director position and recommended that a subcommittee of the BSD Board participate in the review and evaluation of candidates along with the Interim Director. J. Ecker stated that the interview panel should also include participation from the Human Resources department. T. Markus advised an HR staff member would be invited to participate. J. Ecker advised that the BSD Board should determine which Board members they would like to participate in the interview panel at the June Board meeting.

Other Business: J. Ecker reported that June is the last month reserved for BSD Board meetings at the Community House. J. Ecker attempting to contact the Community House to determine if the BSD may reserve meeting space at the current rate for its upcoming Board meetings. J. Ecker reported the Baldwin Public Library could be used as an alternate venue if needed.

Meeting adjourned at 9:35 a.m.

NEXT MEETING: Tuesday, June 28, 2022 at 8:30 a.m.

DRAFT

CoStar License Agreement Subscription Form

FOR INTERNAL ONLY: (Ref ID) 799741	
AE:	Rebecca Cadle
Location ID:	204541
Business Code:	Government



Licensee: Birmingham Shopping District		Location ID: 204541	
Address: 151 Martin St		City/State/Zip: Birmingham, MI 48009	
Fax:		Telephone: 2485301200	
Bill-To Contact: Ingrid Tighe		Email for Bill-to-Contact: itighe@bhamgov.org	
USE	BILLING CYCLE	PAYMENT METHOD	
Total No. Sites: 1	<input checked="" type="checkbox"/> Monthly	<input checked="" type="checkbox"/> Check	
Total No. Authorized Users (All Sites): 1	<input type="checkbox"/> Quarterly	<input type="checkbox"/> Automatic Withdrawal	
	<input type="checkbox"/> Yearly		
TERM	COMPS HISTORICAL DATA	KEY TOKENS	
Three Years Initial Term	From (MM/YY): 1/1999 (COMPS Subscribers)	Total Number of Key Tokens: 0	
START DATE			
Immediate Start			
LICENSE TYPE			
Site License			
SCHEDULE			
Site	Market	Product Description	Monthly License Fees (Before Tax)
204541	Detroit	CoStar Suite	\$850.00
Total Monthly Fees From Additional Schedule of Services			
Total Monthly License Fees:			\$850.00
Discounted Monthly License Fees:			Per Note Below


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 Name: Max Linnington
 Title: SVP Sales & Customer Service
 Date: Apr 27, 2018
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Licensee

Signature: 
 Print Name: Ingrid S. Tighe
 Title:
 Date: Apr 30, 2018
 Address: 151 Martin St

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AE:	Rebecca Cadle
Location ID:	204541
Business Code:	Government



Address: Washington, DC 20005-4101

Address: Birmingham, MI 48009

Fax #:



Licensee: Birmingham Shopping District	Location ID: 204541
Address: 151 Martin St	City/State/Zip: Birmingham, MI 48009
Total Number of Authorized Users at Site 1	

USERS AT ABOVE LISTED SITE

Contact Name: Ingrid Tighe	Phone: 248-530-1200
Email: itighe@bhamgov.org	Role: User



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13. Passcodes. (a) Licensee will designate a person authorized to determine and change the level of each Authorized User's access to the Licensed Product and designated to ensure that Licensee complies with this Agreement. No Authorized User may access the Licensed Product using any Passcode other than the Passcodes assigned to such Authorized User. No Authorized User may share his assigned Passcodes with any other person nor allow any other person to use or have access to his Passcodes. During the term of this Agreement, Licensee will promptly notify CoStar of any Authorized User's change of employment or contractor status with Licensee, including, without limitation, termination of an Authorized User's employment or contractual service with Licensee, and upon such termination Licensee shall cease using and destroy the Passcodes for such Authorized User. No Authorized User who ceases to be an employee or Exclusive Contractor of Licensee may use any Passcodes in any manner. (b) Each Authorized User's access to the Licensed Product may be limited to a designated computer and requires the Authorized User to access the Licensed Product solely using the Passcodes and, if required by CoStar, Passcodes with two-factor authentication, including, but not limited to, facial recognition authentication. CoStar is under no obligation to confirm the actual identity or authority of any party accessing the Licensed Product under any Passcode or other authentication method.

14. Indemnification. Licensee agrees to defend, indemnify and hold harmless CoStar, its affiliates, and approved assignees, and their partners, directors, officers, employees and agents for all costs and expenses including, without limitation, attorney's fees, associated with the defense and settlement of any threatened, pending or completed claim, demand or action resulting from, arising out of or relating to Licensee's use or application Licensed Product in contravention of the terms of the Agreement, including, without limitation, a claim under any laws, rules or regulations (a "Claim") and shall pay any judgments or settlements based thereon; provided, that CoStar shall give Licensee prompt written notice of the Claim (provided, however, that CoStar's failure to provide such notice shall not relieve Licensee of its indemnification obligations except to the extent it is prejudiced thereby), sole control of the proceedings or settlement, and, at Licensee's expense, reasonable cooperation, information and assistance in the defense or settlement negotiations. CoStar may, at its own expense, reasonably assist in such defense if it so chooses, provided that Licensee shall control such defense and all negotiations relative to the settlement of any such Claim. This Section shall survive the expiration or termination of the Agreement for any reason. Solely with respect to any Claim under any laws, rules or regulations pursuant to the Section above, if for any reason the foregoing indemnity is unavailable to any CoStar Party, CoStar shall be entitled to seek in a court of competent jurisdiction Licensee's contribution to such Claim under any legal or equitable theories available to it.

15. Notices; Invoices. All notices given hereunder will be in writing and delivered by email, personally mailed by registered or certified mail, return receipt requested, or delivered by a well-recognized overnight courier company. If such notice is being delivered to Licensee, such notice shall be delivered to Licensee's physical address specified on the Subscription Form, email address or to such other address as Licensee may specify, and if being delivered to CoStar, shall be delivered to the physical address set forth on the Subscription Form, Attention: CoStar Sales, or to the email address or such other address as CoStar may specify. All notices will be deemed given if delivered personally or by email, on the day of delivery, if mailed by registered or certified mail, three days after the date of mailing, if delivered by a well-recognized overnight courier company, one day after dispatch, and if delivered by overnight international mail, four days after mailing. Licensee agrees that CoStar may include notices on invoices sent to Licensee by regular mail or email. Pursuant to Section 4 of this Agreement, Licensee may deliver notices of termination to CoStar via email at the following address: cancel@costar.com.



beyond CoStar's control, including industrial disputes, acts of God or government, public enemy, war, fire, other casualty, failure of any link or connection whether by computer or otherwise, or failure of technology or telecommunications or other method or medium of storing or transmitting the Licensed Product.

17. User Information. Licensee acknowledges that if it creates any settings, saved searches, fields or functions in the CoStar Product or inputs, adds or exports any data into or from the CoStar Product (collectively, the "User Data"), none of the CoStar Parties shall have any liability or responsibility for any of such User Data, including the loss, destruction or use by third parties of such User Data. Licensee acknowledges that it is Licensee's responsibility to make back-up copies of such User Data. For each licensed site, Licensee is allotted an aggregate amount of 100 megabytes of storage space in the CoStar Product per Authorized User located at that site.

18. Choice of Law; Jurisdiction. This Agreement shall be construed under the laws of the District of Columbia without regard to choice of law principles. CoStar irrevocably consents to the exclusive jurisdiction of the federal and state courts located in the District of Columbia for the purpose of any action brought against CoStar in connection with this Agreement or use of the Licensed Product. Licensee irrevocably consents to the jurisdiction and venue of the federal and state courts located in the District of Columbia, or in any State where Licensee's Authorized Users are located, for purposes of any action brought against Licensee in connection with this Agreement or use of the Licensed Product.

19. Miscellaneous. The version of these CoStar Product Terms and Conditions effective as of the time of the parties' full execution of the Agreement shall be attached to, incorporated into and govern the Agreement. The Agreement may not be amended, modified or superseded, nor may any of its terms or conditions be waived, unless expressly agreed to in writing by all parties. This Agreement contains the entire understanding of the parties with respect to the Licensed Product and supersedes any prior oral or written statements by Licensee, CoStar, or their respective representatives and documents with respect to such subject matter; provided, that this Agreement does not supersede any other written license agreement between the parties unless expressly provided herein. Unless otherwise required by applicable law, Licensee agrees to keep the terms of this Agreement strictly confidential. Each party acknowledges that in entering into the Agreement it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement. The foregoing sentences of this Section shall not limit or exclude any liability for fraud. Licensee agrees that CoStar may send to Licensee and its employees, Authorized Users and Exclusive Contractors communications, including, but not limited to, email communications about new features or products, available real estate listings, product feedback and other marketing content, which the email recipient may unsubscribe at any time. Licensee will comply with all laws related to emails Licensee and/or its employees, Authorized Users and Exclusive Contractors send using the Licensed Product, including, but not limited to, the United States' anti-spam law (CAN-SPAM), Canada's anti-spam law (CASL), the United Kingdom's General Data Protection Regulation and Data Protection Act 2018 (UK GDPR), the Data Protection Act 2018 and Privacy and Electronic Communications (EC Directive) Regulations 2003 (PECR), and the European Union's General Data Protection Regulation (EU GDPR) and any other applicable EU directives (as implemented within the relevant EU member state(s)). If any provision of this Agreement not being of a fundamental nature is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remainder of the Agreement will not be affected. If a provision is held to be invalid, illegal or otherwise unenforceable, it shall be deemed to be replaced with an enforceable provision that retains the intent and benefits of the original provision. Licensee acknowledges that in the event of a breach of any of these terms by Licensee, CoStar may suffer irreparable harm and shall be entitled to seek injunctive relief (without the necessity of posting a bond) as well as all other monetary remedies available at law or in equity. The failure of any party at any time to require full performance of any provision hereof will in no manner affect the right of such party at a later time to enforce the same. Headings are for reference only. The English language version of this Agreement shall be binding. Any translated version shall serve for information purposes only. The provisions of Sections 2(b), 2(c), 3, 5, 6(d), 7, and 10 through 19 hereof will survive nonrenewal or termination of this Agreement.



Effective Date: June 1, 2022

If you are a current CoStar subscriber and have executed your agreement prior to June 1, 2022 [click here](#) to access the Terms and Conditions governing your agreement.

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REQUEST FOR PROPOSALS For Retail Recruiter

Sealed proposals endorsed **“Retail Recruiter”**, will be received at the Birmingham Shopping District, ATTN: Jana Ecker, 151 Martin Street, Birmingham, Michigan, 48009; until **Wednesday, July 25, 2022 at 4:00 PM** after which time bids will be publicly opened and read.

The Birmingham Shopping District (the “BSD”) in Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms and/or individuals to represent the BSD in recruiting national and regional retailers and to work with them to locate and establish retail operations within the Birmingham Shopping District. This work must be performed as specified in accordance with the specifications contained in the Request for Proposals (RFP).

The RFP, including the specifications, may be obtained online from the Michigan Inter-governmental Trade Network at <http://www.mitn.info> or at the Birmingham Shopping District, 151 Martin St., Birmingham, Michigan. ATTENTION: Birmingham Shopping District, Interim Executive Director, Jana Ecker.

The acceptance of any proposal made pursuant to this invitation shall not be binding upon the BSD until an agreement has been fully executed.

Submitted to MITN:
Deadline for Submissions:
Interviews:
Contact Person:

June 20, 2022
July 25, 2022 at 4:00pm
Tentatively Thursday, August 4, 2022
Interim BSD Executive Director, Jana Ecker
151 Martin Street
Birmingham, MI 48009
Phone: 248-530-1811
Email: jecker@bhamgov.org



REQUEST FOR PROPOSALS For Retail Recruiter

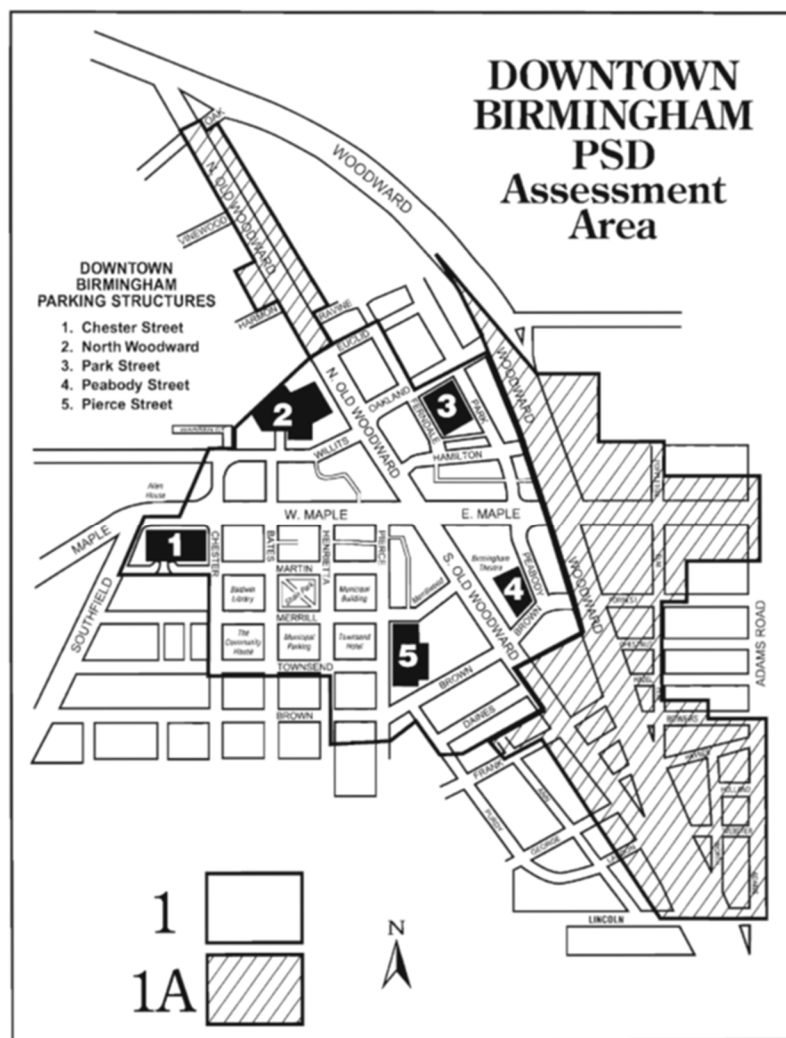
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INTRODUCTION

For purposes of this Request for Proposals (“RFP”), the Birmingham Shopping District will hereby be referred to as “BSD” and the private firm or individual(s) responding to this RFP will hereby be referred to as “Retail Recruiter.”

The BSD in Birmingham, Michigan is accepting sealed bid proposals from qualified professional firms or individuals for retail recruiting to represent the BSD in recruiting national and regional retailers and to work with them to locate and establish retail operations in the downtown Birmingham Shopping District. The boundaries of the BSD are illustrated in the figure below.



All retail recruiting must be performed as specified in accordance with the specifications outlined by the Scope of Work contained in this RFP.

During the evaluation process, the BSD reserves the right to request additional information or clarification from proposers, or to allow corrections of errors or omissions.

At the discretion of the BSD, Retail Recruiters submitting proposals may be requested to make oral presentations as part of the evaluation.

It is anticipated the selection of a Retail Recruiter will be completed by **September 2, 2022**. An Agreement for services will be required with the selected Retail Recruiter. A copy of the Agreement is contained herein for reference, and should be signed by bidders and included with proposals submitted in response to this RFP.

REQUEST FOR PROPOSALS

The purpose of this RFP is to request sealed bid proposals from qualified parties presenting their qualifications, capabilities and costs to provide retail recruiting services to the BSD by attracting and recruiting national and regional retailers and working with them to locate and establish retail operations within the Birmingham Shopping District.

INVITATION TO SUBMIT A PROPOSAL

Proposals shall be submitted no later than **July 25, 2022 at 4:00pm** to:

HAND DELIVERED:

Birmingham Shopping District
ATTN: Jana Ecker, Interim Executive Director
151 Martin Street
Birmingham, Michigan 48009

MAILED:

Birmingham Shopping District
ATTN: Jana Ecker, Interim Executive Director
151 Martin Street
Birmingham, Michigan 48009

One (1) original and one (1) copy of the proposal shall be submitted. *Also, include a digital copy of the RFP on a thumb drive in the packet.* The proposal should be firmly sealed in an envelope, which shall be clearly marked on the outside, **"Retail Recruiter"**. Any proposal received after the due date and time cannot be accepted and will be rejected and returned, unopened, to the proposer. Proposer may submit more than one proposal provided each proposal meets the functional requirements.

INSTRUCTIONS TO BIDDERS

1. Any and all forms requesting information from the bidder must be completed on the attached forms contained herein (see Retail Recruiter's Responsibilities). If more than one bid is submitted, a separate bid proposal form must be used for each.

2. Any request for clarification of this RFP shall be made in writing and delivered to: Jana Ecker, Interim BSD Executive Director, 151 Martin Street, Birmingham, Michigan 48009 or jecker@bhamgov.org. Such request for clarification shall be delivered, in writing, no later than 5 days prior to the deadline for submissions.
3. All proposals must be submitted following the RFP format as stated in this document and shall be subject to all requirements of this document including the instruction to respondents and general information sections. All proposals must be regular in every respect and no interlineations, excisions, or special conditions shall be made or included in the RFP format by the respondent.
4. The contract will be awarded by the BSD to the most responsive and responsible bidder who can best accomplish the requirements of the Scope of Work in an effective and cost efficient manner.
5. Each respondent shall include in his or her proposal, in the format requested, the cost of performing the work. Municipalities are exempt from Michigan State Sales and Federal Excise taxes. Do not include such taxes in the proposal figure. The BSD will furnish the successful firm or individual(s) with tax exemption information when requested.
6. Each respondent shall include in their proposal the following information: Firm name, address, city, state, zip code, telephone number, and fax number. The firm or individual(s) shall also provide the name, address, telephone number and e-mail address of an individual in their organization to whom notices and inquiries by the BSD should be directed as part of their proposal.

EVALUATION PROCEDURE AND CRITERIA

The evaluation panel will consist of BSD Board members, BSD staff and any other person(s) designated by the BSD who will evaluate the proposals based on, but not limited to, the following criteria:

1. Ability to provide retail recruiting services as outlined;
2. Retail recruitment experience, experience in other urban downtowns, and other qualifications;
3. Proposed compensation package;
4. Quality of proposal submitted; and
5. References.

Submitted to MITN:

Deadline for Submissions:

Interviews:

Contact Person:

June 20, 2022

July 25, 2022 at 4:00pm

Tentatively Thursday, August 4, 2022

Interim BSD Executive Director, Jana Ecker

TERMS AND CONDITIONS

1. The BSD reserves the right to reject any or all proposals received, waive informalities, or accept any proposal, in whole or in part, it deems best.
2. The BSD reserves the right to request clarification of information submitted and to request additional information of one or more Retail Recruiters.
3. The BSD reserves the right to terminate the Agreement at its discretion should it be determined that the services provided do not meet the specifications contained herein. The BSD may terminate the Agreement at any point in the process upon notice to Retail Recruiter sufficient to indicate the BSD's desire to do so. In the case of such a stoppage, the BSD agrees to pay Retail Recruiter for services rendered to the time of notice, subject to the contract maximum amount.
4. Any proposal may be withdrawn up until the date and time set above for the opening of the proposals. Any proposals not so withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days, to provide the services set forth in the proposal.
5. The cost of preparing and submitting a proposal is the responsibility of the Retail Recruiter and shall not be chargeable in any manner to the BSD.
6. Payment under the Agreement will be made within thirty (30) days after invoice. Acceptance by the BSD is defined as authorization by the designated BSD representative to this project that all the criteria requested under the Scope of Work contained herein have been provided. Invoices are to be rendered each month following the date of execution of an Agreement with the BSD.
7. The Retail Recruiter will not exceed the timelines established herein.
8. The Retail Recruiter shall enter into and execute the Agreement as set forth and attached as Attachment A. The bidder whose proposal is accepted shall be required to furnish all insurance coverages as specified within ten (10) days after receiving notice of such acceptance.

RETAIL RECRUITER'S RESPONSIBILITIES

Each bidder shall provide the following as part of their proposal:

1. Completes and signed all forms requested within this RFP:
 - a. Agreement (Attachment A);
 - b. Bidder's Agreement (Attachment B);
 - c. Cost Proposal (Attachment C); and
 - d. Iran Sanctions Act Vendor Certification Form (Attachment D).

2. Provide a description of completed projects (preferably projects working with municipalities similar to Birmingham and high-end retailers such as those found in the BSD) that demonstrate the ability to attract national and regional retailers to urban downtowns.
3. Provide a written plan detailing the anticipated timeline for completion of the tasks set forth in the Scope of Work.
4. Provide a description of the firm, including resumes and professional qualifications of the principals involved in administering the project.
5. Provide a list of any sub-Retail Recruiters/recruiters to be involved, and details of their qualifications, if applicable.
6. Provide three (3) client references from past projects, include current phone numbers. At least two (2) of the client references should be for projects providing the same or similar services as those included in the Retail Recruiter's proposal for the BSD.
7. Provide a project timeline addressing each section within the Scope of Work and a description of the overall project approach. Include a statement that the Retail Recruiter will be available according to the proposed timeline.

BSD RESPONSIBILITY

1. The Executive Director of the BSD will be the designated representative to work with the Retail Recruiter to coordinate both the BSD's and Retail Recruiter's efforts.
2. The Executive Director of the BSD will be accessible to the Retail Recruiter during regular business hours.

SETTLEMENT OF DISPUTES

The successful bidder agrees to certain dispute resolution avenues/limitations. Please refer to paragraph 22 of the Agreement attached as Attachment A for additional details as to what is required of the successful bidder.

INSURANCE

The successful bidder is required to procure and maintain certain types of insurances. Please refer to paragraph 17 of the Agreement attached as Attachment A for additional details as to what is required of the successful bidder.

CONTINUATION OF COVERAGE

The Retail Recruiter also agrees to provide all insurance coverages as specified. Upon failure of the Retail Recruiter to obtain or maintain such insurance coverage for the term of the agreement, the BSD may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the contract amount. In obtaining such coverage, BSD shall have no obligation to procure the most cost effective coverage but may contract with any insurer for such coverage.

EXECUTION OF CONTRACT

Each bidder must include signed copies of the agreement in Attachment A with their response to this RFP. The bidder whose proposal is accepted shall be required to furnish all insurance coverages as specified within ten (10) days after receiving notice of such acceptance. Any contract awarded pursuant to any bid shall not be binding upon the BSD until a written contract has been fully executed by both parties. Failure or refusal to execute the contract shall be considered an abandonment of all rights and interest in the award and the contract may be awarded to another. The successful bidder agrees to enter into the contract as set forth and attached as Attachment A.

INDEMNIFICATION

The successful bidder agrees to indemnify the BSD and various associated persons. Please refer to paragraph 18 of the Agreement attached as Attachment A for additional details as to what is required of the successful bidder.

CONFLICT OF INTEREST

The successful bidder is subject to certain conflict of interest requirements/restrictions. Please refer to paragraph 19 of the Agreement attached as Attachment A for additional details as to what is required of the successful bidder.

EXAMINATION OF PROPOSAL MATERIALS

The submission of a proposal shall be deemed a representation and warranty by the Retail Recruiter that it has investigated all aspects of the RFP, that it is aware of the applicable facts pertaining to the RFP process and its procedures and requirements, and that it has read and understands the RFP. Statistical information which may be contained in the RFP or any addendum thereto is for informational purposes only.

PROJECT TIMELINE

September 2022: Initial meeting to discuss BSD recruitment strategy, refine recruitment plan and timeline, and begin connecting with property owners, target retailers and commercial brokers.

October 2022 – September 2023: Implementation of retail recruitment plan, ongoing reporting and consultation with the BSD.

SCOPE OF WORK

The Retail Recruiter shall perform the following services in accordance with the requirements as defined and noted herein. The Retail Recruiter shall:

1. Act as a representative of the Birmingham Shopping District to recruit national and regional retailers to establish retail operations within the BSD.
2. Develop a retailer recruitment plan consisting of:
 - a. A tenant mix analysis of existing businesses within the BSD;
 - b. Goals for the desired tenant mix within the BSD based on input from and interaction with the BSD Executive Director and BSD Board;
 - c. A target list of national and regional retailers with contact information based on desired tenant mix;
 - d. Target organizations and events to approach and/or attend to promote the BSD and recruit retail tenants (i.e. ICSC, national conferences etc.); and
 - e. Work plan to maintain and update the BSD's listing of available retail properties, with assistance from BSD staff.
3. Develop connections:
 - a. Meet with key commercial property owners and representatives within the BSD, and work to maintain open lines of communication;
 - b. Work with the BSD to host events for retailers, brokers and property owners. Events could include but are not limited to, roundtable discussions, real estate tours and presentations;
 - c. Make connections with targeted retailers, facilitate meetings and tours, assist with the negotiation of leases, and promote the BSD to recruit retail tenants and finalize deals; and
 - d. Help facilitate interactions between property owners/brokers and prospective tenants to recruit retailers and close deals that are acceptable to all parties.
4. Provide regular reporting to the BSD:
 - a. Produce a monthly retailer status report (at an agreed upon date every month) for Executive Director and BSD Board review. Report shall include, but is not limited to:
 - i. Target retailer list;
 - ii. Contacts made with perspective retailers;
 - iii. Appointments scheduled/completed;
 - iv. Visits scheduled/completed;
 - v. Property information (which properties, type and size of space tenant is interested in);

- vi. Anticipated timeline of potential deal;
 - vii. Status of every deal (i.e. initial interest, LOI, signed lease, etc.);
 - viii. Next steps; and
- b. Retail Recruiter shall be in regular contact with the BSD Executive Director and attend BSD Board or Business Development Committee meetings as requested.

Disclaimers:

All work performed on behalf of the BSD becomes the property of the BSD for its exclusive use. This includes, but is not limited to contact information, database updates, available property updates, leasing plans, and retailer lists.

The above scope of work is representative of work expected by the Retail Recruiter. However, both parties acknowledge that the scope of work may expand as needed.

ATTACHMENT A

DRAFT

AGREEMENT
For Retail Recruiter

This AGREEMENT, made this _____ day of _____, 2022, by and between the BIRMINGHAM SHOPPING DISTRICT ("BSD"), having its principal municipal office at 151 Martin Street, Birmingham, MI, and _____, having its principal office at _____ ("Retail Recruiter"), provides as follows:

WITNESSETH:

WHEREAS, the BSD has advertised for bids for the procurement and performance of services required for retail recruiting to represent the BSD in recruiting national and regional retailers and working with them to locate and establish retail operations within the BSD, and in connection therewith has prepared a Request for Proposals ("RFP") which includes certain instructions to bidders, specifications, terms and conditions;

WHEREAS, the Retail Recruiter has professional qualifications that meet the project requirements and has made a bid in accordance with such RFP to perform retail recruiting to represent the BSD in recruiting national and regional retailers and working with them to locate and establish retail operations within the BSD;

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

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposal to perform retail recruiting to represent the BSD in recruiting national and regional retailers and work with them to locate and establish retail operations within the BSD and the Retail Recruiter's proposal in response to said RFP, proposal dated _____, 2022 shall be incorporated herein as Exhibit A and shall become a part of this Agreement, and shall be binding upon both parties hereto.
2. The Retail Recruiter's proposal shall be incorporated herein as Exhibit B and shall become a part of this Agreement, and shall be binding on the parties hereto. In the event there is a conflict between the Proposal and this Agreement, this Agreement shall control.
3. This Agreement shall be for a one (1) year term commencing on the date the BSD executes this Agreement. The Agreement may be affirmatively renewed each year through BSD Board approval in a written addendum. If changes to the existing terms are sought, an amendment to the Agreement must be prepared in writing and signed before any changes are effective.
4. Notwithstanding the foregoing term, either party may terminate this Agreement in writing for any or no reason upon a thirty day (30) written notice to the other party. If the BSD terminates the Agreement under this paragraph, Retail Recruiter will be

compensated for any work already performed up to the date of termination. However, Retail Recruiter shall not perform any new work or incur new costs after the BSD's notice of termination unless specifically authorized by the BSD.

5. The BSD shall pay the Retail Recruiter for the performance of this Agreement in an amount not to exceed \$_____, as set forth in the Retail Recruiter's _____, 2022 proposal. This fee will consist of a base pay of \$_____/year, which shall be paid to the Retail Recruiter in the form of a monthly retainer in the amount of \$_____. In addition, under specific circumstances, additional bonus incentives as set forth in Exhibit A (**Attachment D to RFP**) may be paid to the Retail Recruiter for the execution of a lease with a national and/or regional retailer to operate a retail establishment within the BSD. Business expenses must be approved in advance by the Executive Director of the BSD and may be reimbursed up to a maximum of \$5000 per agreement year. The total of all payments for base pay, bonus incentives and reimbursement of business expenses shall not exceed a total of \$_____ in one year. Under this Agreement, Retail Recruiter may not collect a commission, bonus, fees or any other type of payment from other parties other than the BSD.
6. This Agreement shall commence upon execution by both parties, unless the BSD exercises its option to terminate the Agreement in accordance with the Request for Proposals and paragraph 4 of this Agreement.
7. The Retail Recruiter shall employ personnel of good moral character and fitness in performing all services under this Agreement.
8. The Retail Recruiter and the BSD agree that the Retail Recruiter is acting as an independent, third party Retail Recruiter with respect to the Retail Recruiter's role in providing services to the BSD pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Retail Recruiter nor its employees shall be construed as employees of the City of Birmingham ("City") or BSD. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the BSD nor the Retail Recruiter shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Retail Recruiter shall not be entitled or eligible to participate in any benefits or privileges given or extended by the City and BSD, or be deemed an employee of the City or BSD for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.
9. The Retail Recruiter acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information,

etc.) may become involved. The Retail Recruiter recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the BSD. Therefore, the Retail Recruiter agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Retail Recruiter shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Retail Recruiter further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement. Some retailers may require the use of a Non-Disclosure Agreement (NDA). In the case of a NDA, Retail Recruiter agrees to keep information pertaining to the retailer and transaction confidential as specified by the parameters of the NDA.

10. The Retail Recruiter shall follow all of the City's COVID-19 safety protocols while on City property. Additionally, the Retail Recruiter or any employees thereof which will be in physical contact with BSD or City staff must have current vaccinations against COVID-19. The BSD, at its discretion, may ask for proof of vaccination of the Retail Recruiter or their staff. Failure to provide proof of vaccination when requested will cause the BSD to request un-vaccinated personnel to leave, request alternate staff, and if the Retail Recruiter or their staff is unable to comply, this violation of safety protocols will constitute a breach of contract by the Retail Recruiter.
11. The Retail Recruiter agrees to abide by all Federal, State and local laws, including the Birmingham Ethics Ordinance. Further, the Retail Recruiter acknowledges that he/she has read the Birmingham Ethics ordinance prior entering into this contract.
12. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. The Retail Recruiter agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.
13. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.
14. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by the Retail Recruiter without the prior written consent of the BSD. Any attempt at assignment without prior written consent shall be void and of no effect.
15. The Retail Recruiter agrees that neither it nor any of its staff or Retail Recruiters will discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. The Retail Recruiter shall inform the BSD of all claims or suits asserted against it by the Retail Recruiter's employees who work pursuant to

this Agreement. The Retail Recruiter shall provide the BSD with periodic status reports concerning all such claims or suits, at intervals established by the BSD.

16. The Retail Recruiter shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with carriers acceptable to the BSD.
17. The Retail Recruiter shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:
 - A. Workers' Compensation Insurance: Retail Recruiter shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.
 - B. Commercial General Liability Insurance: Retail Recruiter shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than **\$1,000,000** per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Retail Recruiters Coverage; (D) Broad Form General Liability Extensions or equivalent.
 - C. Motor Vehicle Liability: Retail Recruiter shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
 - D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be *Additional Insureds*: Birmingham Shopping District, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.
 - E. Professional Liability: Professional liability insurance with limits of not less than \$1,000,000 per claim if Retail Recruiter will provide services that are customarily subject to this type of coverage.
 - F. Owners Retail Recruiters Protective Liability: The Retail Recruiter shall procure and maintain during the life of this contract, an Owners Retail Recruiters Protective Liability Policy with limits of liability not less than \$3,000,000 per occurrence,

combined single limit, Personal Injury, Bodily Injury and Property Damage. The Birmingham Shopping District shall be "Named Insured" on said coverage. Thirty (30) days notice of cancellation shall apply to this policy.

G. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance (and Professional Liability Insurance, if applicable), as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal, shall be sent to: Birmingham Shopping District, 151 Martin Street, Birmingham, MI 48009.

H. Proof of Insurance Coverage: Retail Recruiter shall provide the BSD at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the BSD, as listed below.

- 1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;
- 2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
- 3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
- 4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance;
- 5) If so requested, Certified Copies of all policies mentioned above will be furnished.

I. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Retail Recruiter shall deliver renewal certificates and/or policies to the BSD at least (10) days prior to the expiration date.

J. Maintaining Insurance: Upon failure of the Retail Recruiter to obtain or maintain such insurance coverage for the term of the Agreement, the BSD may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the BSD shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

18. To the fullest extent permitted by law, the Retail Recruiter and any entity or person for whom the Retail Recruiter is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the BSD, the BSD and City elected and appointed officials, employees and volunteers and others working on behalf of the BSD and City of Birmingham against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from and the BSD, its elected and appointed officials, employees, volunteers or others working on behalf of the BSD, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any

way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the BSD.

19. If, after the effective date of this Agreement, any official of the BSD or City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Retail Recruiter, the BSD shall have the right to terminate this Agreement without further liability to the Retail Recruiter if the disqualification has not been removed within thirty (30) days after the BSD has given the Retail Recruiter notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.
20. If Retail Recruiter fails to perform its obligations hereunder, the BSD may take any and all remedial actions provided by the general specifications or otherwise permitted by law.
21. All notices required to be sent pursuant to this Agreement shall be mailed to the following addresses:

**BIRMINGHAM SHOPPING
DISTRICT**

Attn: Interim Executive Director,
Jana Ecker
151 Martin Street
Birmingham, MI 48009
248-530-1811

RETAIL RECRUITER

(Insert Retail Recruiter Information)

22. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds \$1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL§600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. The laws of the State of Michigan shall govern this Agreement, and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

23. Procurement for the BSD will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the BSD.

IN WITNESS WHEREOF, the said parties have caused this Agreement to be executed as of the date and year above written.

WITNESS:

RETAIL RECRUITER:

By: _____

Title: _____

STATE OF MICHIGAN)
) ss:
COUNTY OF OAKLAND)

On this _____ day of _____, 20____, before me personally appeared _____, who acknowledged that with authority on behalf of _____ to do so he/she signed this Agreement.

Notary Public

County, Michigan
Acting in _____ County, Michigan
My commission expires: _____

BIRMINGHAM SHOPPING DISTRICT

By: _____

Geoffrey Hockman

Title: BSD Chairman

Approved:

Jana Ecker, Interim BSD Exec. Director
(Approved as to substance)

Thomas Markus, City Manager
(Approved as to substance)

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

Mary Kucharek, City Attorney
(Approved as to form)

ATTACHMENT B - BIDDER'S AGREEMENT

For Retail Recruiter

In submitting this proposal, as herein described, the Retail Recruiter agrees that:

1. They have carefully examined the specifications, terms and Agreement of the Request for Proposal and all other provisions of this document and understand the meaning, intent, and requirement of it.
2. They will enter into a written contract and furnish the item or items in the time specified in conformance with the specifications and conditions contained therein for the price quoted on this proposal.

PREPARED BY
(Print Name)

DATE

TITLE

AUTHORIZED SIGNATURE

E-MAIL ADDRESS

COMPANY

ADDRESS

PHONE

NAME OF PARENT COMPANY

PHONE

ADDRESS

ATTACHMENT C - COST PROPOSAL

For Retail Recruiter

In order for the bid to be considered valid, this form must be completed in its entirety. The cost for the Scope of Work as stated in the Request for Proposal documents shall be as follows:

COMPENSATION CHART FOR AGREEMENT YEAR		
Base Pay:	\$_____ / year	Payable in monthly installments
Bonus Incentives:	\$_____ bonus for a signed lease with a retailer on the target list	One time bonus payment for each qualifying lease
	\$_____ for a signed lease with a retailer identified on the target market segment list	One time bonus payment for each qualifying lease
	\$_____ for a signed lease with a retailer not on the target list or target market segment list	One time bonus payment for each qualifying lease
Business Expenses:	Maximum: \$5000 / year	Must be approved in advance
Total Maximum Compensation:	\$_____ *	

*** Total compensation to Retail Recruiter, including base pay, bonus incentives and business expenses not to exceed \$_____ per year.**

Firm Name_____

Authorized signature_____ Date_____

ATTACHMENT D - IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM
For Retail Recruiter

Pursuant to Michigan Law and the Iran Economic Sanction Act, 2012 PA 517 ("Act"), prior to the BSD accepting any bid or proposal, or entering into any contract for goods or services with any prospective Retail Recruiter, the Retail Recruiter must certify that it is not an "Iran Linked Business", as defined by the Act.

By completing this form, the Retail Recruiter certifies that it is not an "Iran Linked Business", as defined by the Act and is in full compliance with all provisions of the Act and is legally eligible to submit a bid for consideration by the BSD.

PREPARED BY
(Print Name)

DATE

TITLE

AUTHORIZED SIGNATURE

E-MAIL ADDRESS

COMPANY

ADDRESS

PHONE

NAME OF PARENT COMPANY

PHONE

ADDRESS

TAXPAYER I.D.#