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TO: Mayor and Council

FROM: Howard S. Lazarus, City Administrator

CC: Derek Delacourt, Community Services Area Administrator  
John Fournier, Assistant City Administrator  
Craig Hupy, Public Services Area Administrator  
Nick Hutchinson, City Engineer  
Colin Smith, Parks and Recreation Manager

SUBJECT: Council Agenda Responses

DATE: December 3, 2018

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**CA-1 – Resolution Approving a Contract with the Shelter Association of Washtenaw County for the 2018-19 Winter Emergency Shelter and Warming Center (\$72,000.00)**

**Question:** Q1. In past winters the City and County have “each committed up to half of the total cost of recommendations for” emergency winter shelter. Why is the City’s contribution less than half this year? (Councilmember Eaton)

**Response:** City Council approved the funding as part of the budget this summer. It was based on the funding amount from previous years. Costs have increased this year as the Shelter Association has begun committing additional staff to the Warming Centers to ensure that those utilizing the shelter aren’t just spending the night, but are receiving additional services and being assessed including intake so they can be in line for housing placements as they become available.

**Question:** Q2. The memo accompanying the resolution says: “This funding would in effect pay for a portion of the warming center costs from this past winter.” Please explain how this funding relates to the past winter’s shelter costs. (Councilmember Eaton)

**Response:** Apologies for not removing that language from the previous memo. This contract as presented tonight, is for the 2018/2019 warming center which began on Nov. 12, 2018 and continues into March 2019.

**Question:** Q3. Is it true that the Shelter Association reduced services at the Delonis Center last winter because of a shortage of funding? (Councilmember Eaton)

**Response:** In 2016 – the Shelter reduced the number of beds by 27 (upstairs area). As you may recall, those beds were added during the housing crisis and were expected to be removed at some point. That point was 2016. Also note that the Shelter did increase services to Shelter clients in 2017 – again around providing services and assessments to warming center clients. Most of those additional costs were absorbed by SAWC.

**Question:** Regarding CA-1, I'm a bit confused if this covers last winter or this winter. The cover memo indicates that, "This funding would in effect pay for a portion of the warming costs from this past winter", but the first resolved clause states that, "the expenditure of \$72K to assist with the 2018-2019 warming center response cycle." Can you please clarify? (Councilmember Lumm)

**Response:** Please see response above at Question #2.

**CA-2 – Resolution to Recommend Approval of a Construction Contract with Brock & Associates, Inc. for the Riverside Park Boardwalk Replacement Project (\$189,500.00, ITB No. 4544)**

**Question:** Please provide more detail about what's failing on this boardwalk that brought it to the level of needing this maintenance. (Councilmember Bannister)

**Response:** The Riverside Boardwalk has been in place for over 40 years and has reached the end of its useful life. A 2016 inspection of the boardwalk by an outside consultant found that the overall condition of the structure was poor. The deck surface was noted to be twisting with the west end sloping to the north and reversing camber towards the south at the east end. The steel piles were found to have heavy corrosion underneath and at the angles that support the timber stringers. Also, the connection plates for the railing posts were found to have severe section loss due to corrosion. The final recommendation from the 2016 inspection was for complete replacement of the boardwalk and underlying support structure. The primary reason for this is the age of the structure. The section of boardwalk is a crucial piece of the B2B trail. To that end the City applied to the Washtenaw County Parks Commission for a grant to help in the replacement of the boardwalk. Staff very recently found out that the County Parks Commission has agreed to fund 50% of the construction costs of this project, or \$100,000, whichever is less. A project agreement is being worked out, but the construction contract needs to go ahead now so that construction can take place in the least busy time of year and have the least possible impact on B2B users.

**CA-3 – Resolution to Approve a Professional Services Agreement with HDR Michigan, Inc. to Develop and Complete an Odor Study for the Wastewater Treatment Plant, RFP No. 18-26 (\$222,779.00)**

**Question:** Please provide the amount bid by each of the five companies that responded to RFP 18-26. (Councilmember Eaton)

**Response:** Only firms who were interviewed based on their technical proposal score had their fee proposals opened. The three firms interviewed and their fees are listed below:

<b>Firm</b>	<b>FEE</b>
HDR	\$222,779
CH2M/Jacobs	\$218,038
Fishbeck, Thompson, Karr, Huber (FTCH)	\$280,802

Kindly remember that professional services are solicited and offered via a proposal, not a bid.

**Question:** Please provide a discussion of method by which the best value determination was made, including the criteria that support of the recommendation, a summary of any numeric scoring used in the evaluation, the resulting rank-ordering of qualified offerors, and the reasons any offerors were deemed to be non-responsive and/or non-responsible. (Councilmember Eaton)

**Response:** The three firms having the highest rated technical proposal were selected for interview. The remaining firms were not interviewed nor their fee proposals opened. This proposal evaluation process is generally referred to as quality based selection (QBS) that is used by many municipalities including the City of Ann Arbor for procurement of technical consulting services.

**Scored using the following criteria:**

A. Professional Qualifications – 15 points

1. State the full name and address of your organization and, if applicable, the branch office or other subsidiary element that will perform, or assist in performing, the work hereunder. Indicate whether it operates as an individual, partnership, or corporation. If as a corporation, include whether it is licensed to operate in the State of Michigan.
2. Include the name of executive and professional personnel by skill and qualification that will be employed in the work. Show where these personnel will be physically located during the time they are engaged in the work. Indicate which of these individuals you consider key to the successful completion of the

project. Identify only individuals who will do the work on this project by name and title. Resumes and qualifications are required for all proposed project personnel, including all subcontractors. Qualifications and capabilities of any subcontractors must also be included.

3. State history of the firm, in terms of length of existence, types of services provided, etc. Identify the technical details that make the firm uniquely qualified for this work.

**B. Past involvement with Similar Projects – 25 points**

The written proposal must include a list of specific experience in the project area and indicate proven ability in implementing similar projects for the firm **and** the individuals to be involved in the project. A complete list of client references must be provided for similar projects recently completed. The list shall include the firm/agency name, address, telephone number, project title, and contact person.

**C. Proposed Work Plan – 40 points**

Provide a detailed and comprehensive description of how the offeror intends to provide the services requested in this RFP. This description shall include, but not be limited to: how the project(s) will be managed and scheduled, how and when data and materials will be delivered to the City, communication and coordination, the working relationship between the offeror and City staff, and the company's general philosophy in regards to providing the requested services.

Offerors shall be evaluated on the clarity, thoroughness, and content of their responses to the above items.

**D. Fee Proposal - 20 points**

Fee schedules shall be submitted in a separate, sealed, envelope as part of the proposal. Fee quotations are to include the names, title, hourly rates, overhead factors, and any other relevant details. The proposal should highlight key staff and positions that would likely be involved with projects. Offerors shall be capable of justifying the details of the fee proposal relative to personnel costs, overhead, how the overhead rate is derived, material and time.

**Proposal evaluation scores based on the above criteria:**

<b>HDR</b>	<b>91</b>
<b>FTCH</b>	<b>87</b>
<b>CH2M/Jacobs</b>	<b>84</b>

**Question:** Q1. The cover memo indicates that the scope of the odor study goes beyond just the WWTP and includes properties owned by AA and Superior Townships, St. Joes, and WCC. Will any of these organizations be contributing to the costs of the study? (Councilmember Lumm)

**Response:** No they are not contributing to the cost of the study. The effort to locate, monitor and measure odors at locations outside the WWTP property will be minimal. If odor sources are identified at the non-Ann Arbor owned properties, the cost to address those odors will be borne by those entities.

**Question:** Q2. The cover memo also indicates that an odor study in a part of Nichols Arboretum is covered/included in this agreement. Can you please provide a bit more information about that (e.g. location, type of odor, possible source)? (Councilmember Lumm)

**Response:** There have been periodic sewage odors reported in the area of the Nichols Arboretum entrance east of the U of M Hospital. There is a city owned sanitary sewer located in the suspect area and may be the source of odors.

**Question:** Please explain why an outside consultant is needed and list what options could be done "in house" to mitigate odors. (Councilmember Bannister)

**Response:** An outside consultant who is an expert at performing odor studies has experience and capabilities far beyond those of City staff. The consultant will develop a professionally valid plan to investigate the presence and source of odors. If identified, odor source mitigation involving engineered systems may be needed. If the source can be mitigated by WWTP housekeeping, plant staff will implement such housekeeping measures similar to others that have been implemented by staff in the past. In addition, there is a significant cost for professional odor monitoring equipment and laboratory testing of air samples collected during this odor study beyond the capability of City of Ann Arbor laboratory equipment.

### **B-1 – An Ordinance to Amend Section 2:22a of Chapter 27 (Water) and Section 2:42.2 of Chapter 28 (Sanitary Sewer) of Title II of the Code of the City of Ann Arbor (Connection Requirements)**

**Question:** Q1. I had asked at first reading if there was any benchmark data of how other cities (in Michigan or other states) handle annexations of township islands in terms of their timing requirements for connection or terms of payment? The response was that staff could do research to see what we can find before 2nd reading. Can you please share what you've been able to learn? (Councilmember Lumm)

**Response:** Staff was unable to complete the requested research.

**Question:** Q2. In response to another question I'd asked at first reading, it was indicated that the only other city-initiated annexations were the "Round 1" annexations in 2015 and

with those 20, no utility connections were required. Perhaps I'm wrong, but I thought there had been mandatory utility connections as part of recent projects (Geddes for example). Is that correct, and if so, was there any grace period? Also, if there have been voluntary annexations due to failing septic systems (with OK wells) or failing wells (with OK septic), was any grace period granted for the required connection of the non-failing septic or well? (Councilmember Lumm)

**Response:** Yes, you are correct. Mandatory utility connections were required on the Geddes project for existing city parcels. However, these were parcels already in the City of Ann Arbor and new sewer was constructed fronting the parcels. The property owners were made aware of the necessity to connect early in the multiyear process. In accordance with City Code, they were given a 90-day notice to connect. In the event of a failing system, services are provided via an outside city service agreement. Once annexations are complete, the 90-day notices are issued for the non-failing system. Typically, home owners find it more efficient to connect both systems at once.

### **DC-2 – Resolution to Approve 2019 Council Rules**

**Question:** I have a question about Dec 3 agenda item 18-1996, Council Rules for 2019. I am looking for a marked-up changes versions if available, comparing the old and the new version. If this is not available, can you send me an electronic version of the current rules, so that I can try and do my own comparison? I would assume that the Council Rules Committee has such a document. (Councilmember Hayner)

**Response:** There aren't any proposed rule changes in this proposed resolution. No proposed rule changes were submitted. This is an annual resolution to reaffirm. Below is the link to Resolution R-17-470 that approved the 2018 Council Rules for Reference:

<http://a2gov.legistar.com/LegislationDetail.aspx?ID=3291993&GUID=59B1E818-C320-4ACE-99A1-FB986E877063&Options=ID|Text|&Search=council+rules>

**Question:** Regarding DC-2, are there any substantive changes recommended and if so, can you please summarize the changes and rationale? (Councilmember Lumm)

**Response:** Please see the response above.

**Question:** What has been updated/changed? (Councilmember Bannister)

**Response:** Please see the response above.

### **DC-10 – Resolution to Express the City of Ann Arbor's Opposition to SB 1188, the so-called Vegetation Removal Pre-emption Bill**

**Question:** What city policies are potentially threatened by this state bill, i.e. do we have any current restrictions on the removal of vegetation (outside of zoning and other

exemptions not affected by the bill) that protect our trees and green space? (Councilmember Nelson)

**Response:** After a lengthy review with staff we determined that the version of the bill that was passed by the Senate and is currently before the House would have an important negative impact on city ordinances. The upshot is that we have a landmark tree ordinance that requires property owners to take reasonable measures to protect certain species of trees if they are of a certain size. The ordinance is not absolute, however, and property owners are only required to undertake reasonable mitigation efforts. We also currently have powers under the state's zoning laws to require greenspace elements in development for legitimate planning reasons.

The state law would preempt the city in three important ways. First, it would seriously impair our landmark tree ordinance except in residential zoning districts. Our ordinance protects 47 genus and species of trees ranging in size from 8" to 24" in diameter or larger. The proposed bill would protect only 18 genus and species of trees ranging in size from 16" to 36" in diameter or larger and would limit mitigation requirements to only those types of trees. Second, the city's ordinance also protects woodlands, which are native or volunteer concentrations of native, regenerative forest fragments that provide important ecological functions. The proposed bill would prevent us from protecting woodlands entirely, except for landmark trees under the new state law definition that might be within them. Finally, the city currently requires land use buffers and screening consisting of trees and other vegetation on properties as buffers for various reasons, whether they be buffers from roads, from other properties, or from other structures, or for other legitimate planning purposes. The proposed state bill would only allow us to require buffers within property boundary setbacks, which can be rather narrow. This would seriously impair our abilities in this regard.

Please note that this legislation may also impair the City's ability to continue to regulate the removal of a tree that is identified as a historic resource in a local historic district, unless the tree is one of the 18 genus and species of trees named in the state legislation.

The city landmark tree ordinance has resulted in 405 tons of pollution removal per year from preserved trees in our urban forest, a value of \$3.85 million annually. Trees saved from the ordinance have helped remove 257,000 tons of carbon from the air (an economic benefit of \$18.3 million), produced 19,000 tons of oxygen annually, and saved \$416,000 in building energy costs per year. The program in its current form has been an unmitigated success.

**DC-13 - Resolution to Accept an Easement for Public Access at 2502 Packard Street from McKinley, Inc. (8 Votes Required)**

**Question:** Regarding DC-13, can you please provide a bit more information on the public access being conveyed on the site including how large the open space is and what type of space it is/what it will be used for? (Councilmember Lumm)

**Response:** Public access is being made available so that the tot lot / playground site is accessible to both the general public and residents at the George. The tot lot / playground site will be signed "open to the public". The George will be responsible for maintenance. The area of the playground and open space is approximately 9000 square feet.

**DS-1 – Resolution to Petition the State of Michigan Boundary Commission to Annex Various Parcels from the Charter Township of Ann Arbor, the Charter Township of Pittsfield, and Scio Township**

**Question:** Is it true that annexations of more than 100 properties requires the annexations to be subject to a vote by the affected communities? (Councilmember Eaton)

**Response:** No. The possibility of a referendum is tied to the number of people in an area approved for annexation, and a referendum requires a petition to the Boundary Commission. The attached “Process for City Petitions for Annexation” document dated November 15, 2018, includes an explanation. Each of the City’s petitions covers one area. If an area contains fewer than 100 persons and is approved for annexation, the decision is not subject to referendum and is effective immediately. Otherwise, if 25 percent of: (a) the electors in that area, (b) the electors in the remainder of the township, or (c) the electors in the city, file a petition with the Boundary Commission within 30 days after the decision, the Boundary Commission will order a referendum. None of the areas covered by the petitions contains 100 or more residents.

**Question:** Is it possible to delay the required utility connections (water and sewer) but still charge the Capital Recovery Charges but delay the requires hook-ups? (Councilmember Eaton)

**Response:** The timing of the requirement to connect to sanitary sewer is guided in part by the Michigan Public Health Code, and an unlimited delay of the obligation to connect to sanitary sewer could pose a problem. But even without the state law regarding connections to sanitary sewer, collecting Capital Recovery Charges in advance of connection is not an option under current city code. Impacts to the structure of when and how Capital Recovery Charges are imposed and calculated would need to be examined. In addition, an unlimited delay in connection would mean the property would not contribute to the maintenance and replacement cost of the lines and trunk lines that are available to serve it between the date the payment is made and the date the property actually connects. Neighbors and other City customers would bear that cost for the benefit of the non-connected property.

**Question:** In response to a question I asked when this was previously on Council’s agenda October 1st, staff indicated that this resolution is just to petition the state and does not establish specifics with regard to utility connection costs or payment terms/periods. Can you please re-affirm that’s the case and that nothing has changed in terms of the resolution we’re considering tonight? (Councilmember Lumm)



**Response:** Item DS-1 asks Council only to approve petitions to the State Boundary Commission. Item B-1 asks Council to consider an amendment to City ordinances related to the timing of connection requirements. Delaying the connection requirement will inherently delay the timeframe for Capital Recovery Charge payment, because payments do not begin until the connection is made. Neither DS-1, B-1, nor any other item on the December 3 Council agenda relate to connection costs.

**Question:** I'm assuming that if the connection timing ordinance (B-1) passes 2nd reading tonight, that new ordinance would apply to these parcels and they would have an 18 month grace period on the required utility connections – correct? (Councilmember Lumm)

**Response:** Correct.

**Question:** Have there been any conversations since October 1st with property owners or the townships regarding the terms of annexation and/or utility connections and if so, can you please summarize those discussions including any commitments made with regard to the utility connection costs or payment periods? (Councilmember Lumm)

**Response:** City Staff provided those property owners who would be affected by the proposed ordinance amendment (BS-1) a letter (attached) describing the content of the proposed amendment.

No conversations or commitments have been made related to utility connection costs or payment periods. The timeframe for payment of Capital Recovery Charges is established in City Code (Chapter 12, Sec. 1:275).

Staff has responded to questions about the annexation process and from property owners about the unique conditions of their parcel related utility connection.

Staff has conducted further research for township properties already connected to City utilities, and has determined that five parcels on State Street have record of payment or an agreement indicating that additional Capital Recovery Charges for water and/or sanitary will not be due upon annexation. Staff is in the process of contacting affected property owners with the updated information.

**Question:** Please provide the letter or email response that was sent to Mike Moran, Ann Arbor Township Supervisor (along with his original letter), regarding his request to extend connection requirement from 90 days to five years. (Councilmember Bannister)

**Response:** Ann Arbor Township Supervisor Michael Moran provided staff with an email and memo (attached) regarding City Initiated Annexations on September 21, 2018. Staff prepared the September 28, 2018 Memorandum titled Utility Connection Requirements related to City-initiated Annexation (attached) to address questions raised by Mr. Moran and other questions and concerns from community members. Although this memorandum was not provided to Mr. Moran as an email or written communication, staff have been in regular conversation to provide updates via phone calls with Mr. Moran.

**Question:** What section of the MI Public Health Code requires connection within 18 months? How would the City go about asking for an update to the MI Public Health Code? Who are the staff people in Lansing we work with on these issues? Residents are not familiar with this requirement from Lansing and would like more detail. (Councilmember Bannister)

**Response:** Subsection (3) of MCL 333.12753 requires connection of a structure to an available sewer “to be completed promptly but not later than 18 months after the date of occurrence of the last of the following events or before the city ... requires the connection:

“(a) Publication of a notice by the governmental entity which operates the public sanitary sewer system of availability of the public sanitary sewer system in a newspaper of general circulation in the city ... in which the structure is located.

“(b) Modification of a structure so as to become a structure in which sanitary sewage originates.”

Subsection (4) allows a city, by ordinance, to require completion of connection within a shorter period of time.

Changes to the MI Public Health Code legislation would be a matter for the state legislature. The City Council Policy Agenda Committee could consider this item for inclusion in their FY19 Policy Agenda, to work with elected delegations at the State level.

**Question:** What is the specific criteria when the Public Services Administration waives the connection requirement? (Councilmember Bannister)

**Response:** The Public Services Administrator does not waive the connection requirement. But if the characteristics of a property make the sewer or water line unavailable for connection, a determination of unavailability can be made. Examples of characteristics that could, likely in combination, make a sewer or water line unavailable are topography such as would prevent proper flow absent an unusual engineering solution, having to cross through a wetland or marshy area, or a great distance between the connection and the structure served that may interfere with proper flow. Those determinations are made on a property-by property basis, looking at the unique characteristics the particular property.

## **DS-2 – Resolution No. 2 - Northside STEAM Safe Routes to School Sidewalk Gap Project - Sidewalk Special Assessment**

**Question:** Is it possible to amend the resolution to remove the 1600 block of Traver from the project without jeopardizing the grant? (Councilmember Eaton)

**Response:** The Director of Safe Routes to School at the Michigan Fitness Foundation stated that any modification to the grant must be something that both the city and school(s) agree upon. If a modification were requested, it must still meet the defined scope and the goals of the original planning process. Finally, it must also meet eligibility standards for the program and constructability standards (AASHTO & ADA). As this

1600 block of Traver was the SRTS committee's #1 priority route, it is questionable if they would be in agreement to eliminate it, and if the City recommends this, many property owners on the other streets may find the decision to remove the #1 priority location in the project to be inequitable.

**Question:** Regarding DS-2, the resolution was postponed November 19th because a neighborhood meeting was scheduled for November 28th. Assuming the meeting took place, can you please provide a summary of the discussion and feedback as well as any changes made or agreements reached? (Councilmember Lumm)

**Response:** The November 28<sup>th</sup> meeting was hosted by Ward 1 Councilmembers. Staff assisted in scheduling and advertising the meeting, but did not prepare a summary of the discussion. The meeting was filmed by CTN, and the video of the meeting is available on-line. No changes to the engineering plans are proposed beyond those that were already made following the first two public meetings.

**Question:** Also on DS-2, in response to my question November 19th regarding tree removal it was indicated that the path has been revised to minimize tree removal, but that “some tree removals are still unavoidable.” How many trees are being removed and are any landmark trees? (Councilmember Lumm)

**Response:** Attached is the Tree Schedule for the Northside STEAM SRTS Sidewalks Project, which shows the trees being removed as well as those being protected. The landmark trees to be removed are highlighted. It should also be noted that the four Black Walnut trees at 1532 Pontiac were requested removals by the property owner so the sidewalk would not be installed against the curb.

**Question:** Is there anything in our city or state standards that would prevent an alternative sidewalk location, borrowing from the width of the street and using the level area at the curb of Traver, rather than on the sloped land of property owners? (Councilmember Nelson)

**Response:** No. The plans already include moving the curb in some places to create space for the proposed sidewalk at locations where the vegetation or topography are particularly challenging.

**Question:** Does the city have any flexibility in how we assess cost for these sidewalks, e.g. greater public subsidy, cost scale other than per-foot? (Councilmember Nelson)

**Response:** As to whether greater public subsidy is permitted, that was addressed in the November 15, 2018 memo from the City Attorney's Office. The short answer is that the City Code generally requires property owners benefitting from new sidewalks to pay for them 100%, and that while the Code allows Council to make exceptions when it determines that the requirement ‘does not accurately reflect the benefit to the city at large and the private benefit,’ we don't think there is anything so unusual about the Northside STEAM SRTS Sidewalks project to warrant the downsides that could ensue from

deviating from this general rule. Altering long-standing practice for other sidewalk improvements, including at least one other Safe Routes to School improvement (Clague Middle School), risks creating a practically and potentially legally binding precedent that could complicate special assessments for sidewalks in the future and could stir up controversy among those who have been specially assessed for sidewalks in the past. As to whether the assessment could be allocated among property owners in a manner other than per-foot, as a general rule, it is theoretically possible: not all special assessments are made on a per foot basis. The important thing, however, is for the manner to correlate with the allocation of private benefits. For sidewalks, per foot is customary and that makes sense given their linear nature.

**Question:** What is the hard deadline for submitting our application in order to receive the federal funds from SRTS? (Councilmember Nelson)

**Response:** The grant involves federal monies that have to be obligated during federal FY19, which ends September 30, 2019. Actual work can continue into the next federal fiscal year. However, the federal government typically has a cut-off for current year obligations in late June or early July, and prior to that time MDOT has to solicit and award a contract. That means we have to get MDOT to approve the plans for the April or May contract letting. Staff has a reasonable expectation that there will be an exchange of comments and responses, so any submittal of plans much later than the end of December or mid-January will place the grant at risk.

**Question:** Please outline what alternatives and next steps all the stakeholders can take if we postpone this resolution and try to seek agreement with the stakeholders? (Councilmember Bannister)

**Response:** City Staff has modified the plans to the extent feasible based on input received from the public meetings while still meeting the goals of the original planning process. Anything beyond minor changes and adjustments to the plans, such as most of the alternative proposals suggested by residents, would require forfeiture of the grant. Also, The Director of Safe Routes to School at the Michigan Fitness Foundation stated that any modification to the grant must be something that both the city and school(s) agree upon. Any modifications must still meet the defined scope and the goals of the original planning process. Finally, it must also meet eligibility standards for the program and constructability standards (AASHTO & ADA).

**Question:** What specifically can be amend and altered at this point? (Councilmember Bannister)

**Response:** Minor changes can still be made to the specifics of the current design. However, any substantial changes in the overall scope of the project would require forfeiture of the grant.

**Question:** Provide list of other mature landscapes in other neighborhoods where significant mature trees and landscaping were removed within the last 5 -10 years. Did staff observe any negative aftermath from those decisions? (Councilmember Bannister)

**Response:** This question goes beyond the scope of the item proposed for Council consideration, and certainly cannot be provided in the short time span available prior to this evening's meeting. However, in general staff carefully considers the impacts of all work in the right of way on drainage, landscaping, and tree preservation. Any unintended consequences due to construction are carefully addressed and mitigated post construction.

**Question:** Please prepare the alternatives to assessing the residents for new sidewalks, for Council review prior to the Dec. 17 meeting. Please include a comprehensive look at the City's needs for sidewalks citywide, including where we don't have consistent signage at cross walks and where lighting is needed. (Councilmember Bannister)

**Response:** Established City policy is to assess property owners for "first-time" road and sidewalk construction. As the City Administrator has previously communicated, investigating a change to this policy would require a large investment of staff time. If Council would like to revise this policy, the City Administrator requests that Council adopt a resolution directing the City Administrator to provide an analysis and recommendations, with the realization that the effort dedicated to this effort would mean other work would have to be postponed.

The request to provide a comprehensive look at the City's needs for sidewalks, signage, and lighting on a citywide basis goes beyond the scope of the item proposed for Council action this evening. However, staff did provide a communication to Council on August 30<sup>th</sup> (attached to the September 4<sup>th</sup> Council agenda) with a prioritized listing of street lighting improvements. Signage and markings are routinely refreshed, upgraded incident to construction, and repaired in response to requests for service via the A2 Fix It.

**Question:** Please provide the detail staff drafted on citywide sidewalk snow removal (I've received an email and would like this information in the Agenda Responses). (Councilmember Bannister)

**Response:** In 2017 the City estimated the cost to maintain the City's 428 miles of sidewalk at \$4,813,804 in the first year and approximately \$2,700,000 in subsequent years. This is based on equipment and material costs as well as an additional 24 FTE needed to perform the work. Because snowfall is unpredictable, full time staff would be needed and available for overtime. The higher costs in the first year are attributed to equipment purchases necessary for start-up. This cost does not include the cost to maintain the equipment nor does it account for fluctuations in salt or fuel prices.

It is anticipated that 1-2 mechanics, at the costs of \$84,500-\$169,000, would also need to be hired for this purpose. The cost also does not include turf restoration that may be needed for damage caused by snow equipment.

The following cities offer some form of snow removal on sidewalks:

Burlington, VT. This City clears snow from 127 miles of sidewalk. If we used their staffing model, we would need to hire an additional 44 staff.

Rochester, NY offers supplemental sidewalk snow removal. Residents are responsible for all snow events less than 4". If 4" or more of new snow falls, the City will clear sidewalks that are 5' in width. The funding for this comes from a fee levied to each property owner, collected with property taxes.

In Rochester and Burlington, snow removal on roads is first priority, followed by downtown sidewalks.

Staff is unaware of any other cities with similar climate that offer sidewalk snow removal. Madison, Boulder, Minneapolis and Grand Rapids all require the property owner to clear sidewalks. Minneapolis is stepping up enforcement this year in hopes of keeping sidewalks more clear.

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**From:** Michael Moran <moran@aatwp.org>

**Sent:** Friday, September 21, 2018 3:00 PM

**To:** Lazarus, Howard <HLazarus@a2gov.org>; Hupy, Craig <CHupy@a2gov.org>; Kahan, Jeffrey <JKahan@a2gov.org>

**Subject:** Letter to City re Forced Annexations 9-21-18

Gentlemen, Please provide a copy of this letter to the Mayor and City Council persons. Thank you for hearing me out on my concerns on this issue.

Michael Moran

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## **Re: Township residents scheduled for Forced Annexation into City**

In 1994, following a lengthy period of conflict over the City of Ann Arbor's annexation policies, the City and Township reached an agreement resolved those issues and established an agreed-upon boundary between them. During the intervening 24 years the Township has released properties for annexation pursuant the agreement and made it clear that it intends to abide by the agreement .

This year the city has notified residents of 57 township residences, most on or around Newport Road and Hampstead Lane that it intends to force annexation of their residences into the City. Many of those residents are upset because, in addition to the additional tax burden of approximately 13 mills, they will also experience very significant costs for connecting to sewer and water utilities. For many of them those costs will include \$30,000 or more just for utility benefit charges. In addition, under my understanding of city code, they will be required to connect to those utilities within 90 days of annexation. While in the past those subjected to forced annexation were close to the utilities, many of the residents that are currently facing forced annexation will also see very high costs for making the actual connections to those utilities because their residences are not close to the street. That results for essentially two reasons—the nature of residential construction in the Township where sewer and water were not available and the distance between their residences and the utilities themselves. Some of the lots at issue are deep, with the result that the residence was placed a significant distance from the front lot line, with the septic system and well connecting at the rear of the residence. As a result, in order to connect to the utilities in the street a contractor must trench all the way from the utility in the street, around the residence, and connect the utilities to the location where their wells and septic previously entered the residence. The alternative is to re-plumb their internal piping in order to permit the connection to made at the front of the residence. Both of those alternatives can be, and in many cases is, very costly. Another factor contributes to causing far more of these now-township residents to see very long connections. I understand that City ordinance states that a utility is “available” if it is within 200 feet of the property line. In most of the situations at issue, the property line is very close to the street where the utilities are, but the residence are significantly from the street and front property line. I believe that this City Ordinance conflicts with Michigan statute. MCL Sec. 12751 defines an "available" sewer as one that passes "not more than 200 feet at the nearest point from a structure in which sanitary sewage originates. (emphasis added). Some residents report that because of the City's current ordinances, and without some relief that they will be faced with a cost of as much as \$80,000 in utility benefit and connection charges within 90 days of being annexed into the City and, at the same time, be faced with a significant 13 mill tax increase.

I propose that the City investigate the possibility of making a few changes in ordinance and policy.

1. Extend the time period for paying the utility benefit charges, which can now be spread over 10 years with interest, to a 20 year pay-back with interest;
2. Revise City ordinance to comply with the state statute, and, even if it does not conflict with state statute, redefine “availability” to mean within 200 feet of a residence instead of the property line;
3. Permit residents that have working septic systems and wells to defer connection to utilities to up to five years after annexation.



I believe that these reasonable proposals will greatly assist your soon-to-be residents to be able to integrate into the City without the serious financial burden that might even force them to sell their homes before being integrated. You should understand that many of these residents were not aware of the 1994 agreement between the City and Township and their forced annexation came as an unwelcome surprise.

I think that given the number of new Council Members that will be elected given the result of the primaries, it might be prudent to ask your staff to fully investigate these proposals and schedule a public meeting with City Council.

I am sorry that I will not be able to attend the City Council meeting scheduled for October 1<sup>st</sup> because I am scheduled for surgery on September 24<sup>th</sup> and will not be well enough healed to attend. A Township Trustee will try to attend that meeting.

Thank you for considering these proposals.

Michael Moran, Ann Arbor Township Supervisor



## MEMORANDUM

TO: City Council

FROM: Howard S. Lazarus, City Administrator

DATE: September 28, 2018

SUBJECT: Utility Connection Requirements related to City-initiated Annexation

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Please see the responses to questions raised about utility connection requirements related to City-initiated annexations. Additional background and details about the City-initiated annexations are available in the [August 2018 memo to City Council](#).

### Summary of responses:

- **Utility Availability and Connection Requirements** – Staff must and will continue to follow the definition of utility availability in City code. Property owners that believe they have unique circumstances hindering utility connection can request staff review.
- **Timeframe for utility connection** – Although a 90-day notice of connection will be issued to property owners after the annexation process is complete, per City code, property owners affected by the proposed City-initiated annexation will have received advance notice of the requirement to connect of close to 12-18 months, which far exceeds 90 days, even if the formal notice to connect is still only 90 days.
- **Capital Recovery Charges** – Staff has provided Round 2 property-owners with information about the Capital Recovery Charges due for utility connections for their properties. The maximum amount of the Capital Recovery Charges for the residential properties is just under \$12,000 for connections to both the water and sanitary sewer systems.
- **Private Contractor Costs** - Private contractor costs to construct the lead from the main to the building are site specific and vary considerably depending on the physical characteristics of each property. Property owners are strongly encouraged to seek multiple quotes directly from experienced, licensed plumbing contractors.

- **Payback period for Capital Recovery Charges** – Per City code, City Council can use its authority, as it has on occasion in the past, to extend the payment period for individual properties.
- **Extension of Payback Period for Previously Connected Properties** – Staff recommend that all properties that connect to City utilities be treated consistently and in accordance with City Code.

## **Utility Availability and Connection Requirements**

Where existing utility service is available, but a parcel is not yet connected to City utilities, the property owner will be required to connect to City utilities.

Per Ann Arbor City Code, utility availability is defined as utilities existing within 200 feet of the property line. Chapter 27, Sec. 2:22a (water) and Chapter 28, Sec. 2:42.2(7)A (sanitary sewer). Neither staff nor City council can alter that requirement without an amendment to City code.

Property owners that believe they have unique circumstances hindering utility connection that would justify staff review, can contact and have already contacted Troy Baughman ([tbaughman@a2gov.org](mailto:tbaughman@a2gov.org)). Final determinations about utility availability will be made by the Public Services Area Administrator, Craig Hupy.

To date, two properties from Round 2 of City-initiated annexations have requested review and have been notified that they will not be required to connect to City utilities under the City code provisions at this time<sup>1</sup>, due to unique physical constraints of their property. The properties that have been provided an exception at this time are 2477 Newport and 2453 Newport.

Vacant properties will not need to connect to City utilities until the property is developed and a structure exists for which water and/or sanitary sewer utilities are required.

Properties where utility lines are not available and/or utility lines are not planned will be addressed if and when utilities are constructed.

## **Timeframe for Utility Connection**

City code requires that property owners connect to City water and sanitary sewer utilities within 90 days after date of official notice to do so. Chapter 27, Sec. 2:22a (water) and Chapter 28, Sec. 2:42.2(7)A (sanitary sewer). Unless City code is amended to change the requirements, staff and City council must follow these requirements.

Property owners potentially facing a utility connection requirement through Round 2 of the City-initiated annexation process were notified of the connection requirement and

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<sup>1</sup> In the event of a future well or septic failure, as determined by Washtenaw County, the County may require these properties to connect.

associated Capital Recovery Charges in a letter mailed on August 3, 2018. An estimated timeline of project milestones for the annexation process is provided below. This timeline illustrates that property owners included in the City-initiated annexation will have gotten advance notice of the utility connection requirement that far exceeds 90 days<sup>2</sup>.

Estimated timeline<sup>3</sup> of City-initiated Annexation Round 2 Process:

- August 3, 2018 – Notification to property owners: utility connection requirements and associated costs.
- August 20, 2018 – Public information meeting including discussion of utility impacts.
- October 1, 2018 – City Council meeting and public hearing
- October 31, 2018 – Target submittal to State Boundary Commission (SBC)<sup>4</sup>
- SBC Legal Sufficiency Meeting (Lansing) – estimated December 2018, or later
- SBC Public Hearing (Ann Arbor) – estimated January-March 2019, or later
- SBC Recommendations Meeting (Lansing) – estimated April 2019, or later
- Notice of final approval from SBC – estimated May 2019, or later
- City of Ann Arbor issues 90-day notices for connection – estimated June 2019, or later (connection deadline: estimated September 2019, or later)

After issuing the notice to connect, City staff will monitor progress toward completion of utility connection. If the deadline falls during winter months (i.e., when construction of the lead would be challenging), it is the City's practice to allow a grace period until physical conditions allow for the utility connection to be made. The City has never had to pursue legal action because a property has failed to proceed with due diligence to make a utility connection in a timely manner.

### **Capital Recovery Charges**

Capital Recovery Charges and tap charges, as well as meter set fees must be paid to the city when a property physically connects to the City utility lines. Copies of the City's current fee schedules are available at [a2gov.org/utilityconnection](http://a2gov.org/utilityconnection). Capital Recovery

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<sup>2</sup> Although the City code's 90-day requirement could be amended, the State of Michigan Public Health Code, Act 368 of 1978, Part 127, Section 333.12753 has an 18-month maximum time limit for connection to a sanitary sewer after a published notice or after a structure requiring sanitary sewer service is built. This provision of the Public Health Code explicitly allows local jurisdictions to impose a shorter timeframe, but not a longer timeframe.

<sup>3</sup> Estimated timeline subject to change at the discretion of the State Boundary Commission.

<sup>4</sup> If City Council takes action on October 1 to approve the City-initiated Annexation petitions for submittal to the State Boundary Commission (SBC), staff is targeting the October 31 submittal deadline to the SBC. Although staff can submit petitions to the SBC for a subsequent review cycle, staff recommends that petition submittal be completed in a timely manner because the petition materials have been prepared based on the current standards and expectations.

Charges for parcels in Round 2 City-initiated annexation<sup>5</sup> are at most \$5,274 for water connection and \$6,707 for sanitary sewer connection (total of \$11,981 per parcel).

**Private Contractor Costs**

The property owner must hire a licensed plumbing contractor that is registered with the City’s Planning and Development Services Unit to install the service leads to complete the physical connection from the structure to the City utility line. Other than through the issuance of required permits and related inspections, the City is not involved in this work. Costs can vary considerably depending on the physical characteristics of a property. Property owners are strongly encouraged to seek multiple quotes from different plumbing contractors.

**Payback period for Capital Recovery Charges**

Existing City Code (Chapter 12, Sec. 1:275) provides for Capital Recovery Charges to be paid over a period of up to 15 years depending on the total amount due. The schedule of installment payments provided in City Code is:

Total amount of special and single lot assessment(s)	Number of years for installments
Up to \$1,200.00	1 year
Greater than \$1,200.00 up to \$2,400.00	2 years
Greater than \$2,400.00 up to \$3,600.00	3 years
Greater than \$3,600.00 up to \$4,800.00	4 years
Greater than \$4,800.00 up to \$6,000.00	5 years
Greater than \$6,000.00 up to \$7,200.00	6 years
Greater than \$7,200.00 up to \$8,400.00	7 years
Greater than \$8,400.00 up to \$9,600.00	8 years
Greater than \$9,600.00 up to \$10,800.00	9 years
Greater than \$10,800.00 up to \$12,000.00	10 years
Greater than \$12,000.00 up to \$13,200.00	11 years

<sup>5</sup> Estimated Capital Recovery Charges provided are based on 2018 figures; these estimates are subject to change depending on the year that the utility connection is completed. The City anticipates updating these charges in 2-3 years.

Total amount of special and single lot assessment(s)	Number of years for installments
Greater than \$13,200.00 up to \$14,400.00	12 years
Greater than \$14,400.00 up to \$15,600.00	13 years
Greater than \$15,600.00 up to \$16,800.00	14 years
Greater than \$16,800.00	15 years

City Code states that the number of installments allowable for payment will be determined by the schedule provided, unless otherwise specified by City Council. Historically, Council has adhered to the payment requirements established by City Code except by rare exception for an individual property when decided by Council (in accordance with Chapter 12, Sec.1:275).

**Extension of Payback Period for Previously Connected Properties**

A suggestion or request was made to extend the payback period for properties that have recently connected to City water or sewer, outside of the City-initiated Annexation Project. None of those property owners requested an extension of the payback time period. If they had, the request would have been forwarded to City Council to consider under Sec. 1:275 of City Code. Staff recommends that all properties be treated consistently, and in accordance with City Code.

**PROCESS FOR CITY PETITIONS FOR ANNEXATION**  
**November 15, 2018**

The Home Rule City Act prescribes how the City can petition the State Boundary Commission to annex properties. In short, the City must submit a petition—in the form and with the substance required by the Commission—for each area the City wants to annex. Elimination of township islands is a primary purpose for annexation and the Commission, and state law provides for annexations “to eliminate free standing islands of [a charter] township completely surrounded by an annexing city, or to straighten or align the exterior boundaries of the city or village in a manner that the charter township and city or village contain uniform straight boundaries wherever possible.”

The Commission holds three meetings. If it determines at the first meeting that the City’s petitions are legally sufficient, the Commission then holds a public meeting locally, at which affected property owners may address the Commission. The hearing will likely be in City Council chambers. The Commission will mail notices to affected and nearby property owners in advance. The Commission also accepts written comments on the proposed annexation(s) until the close of that public hearing, and comments received by the City Clerk will be submitted to the Commission. At the third meeting, held in Lansing, the Commission will decide to recommend to the Licensing and Regulatory Affairs Director to grant, modify, or deny annexation of the areas identified in the petitions. The state-mandated process thus entitles affected property owners to be heard. The City provided additional opportunities for affected property owners to be heard and to get information, as City staff reached out to property owners with letters, set up an information page on the City’s website, and held the August 20, 2018, information meeting, and City Council held a public hearing on the proposed annexations on October 1, 2018. This same process was followed the last time.

Each of the City’s petitions covers one area. If an area contains fewer than 100 persons and is approved for annexation, the decision is not subject to referendum and is effective immediately. Otherwise, if 25 percent of: (a) the electors in that area, (b) the electors in the remainder of the township, or (c) the electors in the city, file a petition with the Commission within 30 days after the decision, the Commission will order a referendum.

To limit the number of proceedings and to avoid repeat notices to properties near different properties being annexed, the Commission asked the City to maximize the number properties in each proceeding, which the City is doing. The staff time required to prepare surveys, legal descriptions, and other details of the petitions precludes including more properties at one time.

After the annexation of a property is approved, City Council will rezone it according to City zoning classifications. As with properties already in the city, when City water or sanitary sewer lines are or become available, the City sends a notice requiring connection. Capital Recovery Charges are due at the time of connection, but payments may be deferred for up to 15 years (based on a \$1,200/year payment). The payment period is based on the total of all amounts due for capital improvements (water, sanitary sewer, road, sidewalk, storm sewer). City Code allows City Council to alter the time period. The foregoing procedures, based on City Code, are standard practice for cities and have been followed by the City for years.

Proposed amendments to City Code would delay the 90-day notice for 18 months after an annexation is final for connection to a line that is in place on the date the annexation becomes final.



# CITY OF ANN ARBOR, MICHIGAN

301 East Huron, P.O. Box 8647, Ann Arbor, Michigan 48107-8647

[www.a2gov.org](http://www.a2gov.org)

Community Services Area – Planning

(734) 794-6000 x42198

Dear Property Owner:

On October 1, 2018, City Council held a public hearing on the proposal to initiate annexation of township island properties into the City's jurisdiction by petitions to the State Boundary Commission. Your property, at the above address, is one of the properties included in those annexation petitions.

City Council postponed their decision and will consider the resolution to approve the petitions at their December 3, 2018 meeting, which begins at 7:00 p.m. at City Hall (301 E. Huron Street) in the second floor Council Chambers.

In response to concerns raised at the October 1 meeting about impacts to property owners as a result of utility connection requirements, City staff has proposed [an ordinance to amend section 2:22a of Chapter 27 \(Water\) and section 2:42.2 of Chapter 28 \(Sanitary Sewer\) of Title II of the Code of the City of Ann Arbor](#). The revision would require an 18-month delay after the completion of City-initiated annexations before the 90-day notice to connect to City water or sewer is sent. Please contact Troy Baughman ([tbaughman@a2gov.org](mailto:tbaughman@a2gov.org) 734-794-6000 ext 43798) with questions about this proposed ordinance amendment.

City Council approved the proposed ordinance at first reading at their November 19, 2018 meeting. The second reading of the ordinance, and a public hearing on the proposed ordinance, are on the agenda for the December 3, 2018 City Council meeting. Approval at second reading is the final step to adopt the ordinance.

Please contact Jeff Kahan ([jkahan@a2gov.org](mailto:jkahan@a2gov.org) 734-794-6000 ext 42614) with questions about the annexation process.

Sincerely,

Derek Delacourt  
Community Services Area Administrator



**Tree Schedule**

\* n/a - information not available

**Proposed new trees:**

**Selection and location of proposed trees will be decided with each property owners before Final Plans**

- |                                           |                                                 |
|-------------------------------------------|-------------------------------------------------|
| Acer griseum, 1 3/4 inch                  | Paperback Maple - when under overhead wires     |
| Celtis occidentalis, 1 3/4 inch           | Hackberry                                       |
| Gymnocladus dioicus, 1 3/4 inch           | Kentucky Coffeetree                             |
| Malus Prairie Fire, 1 3/4 inch            | Crabapple - when under overhead wires           |
| Prunus serrulata Kwanzan, 1 3/4 inch      | Kwanzan Cherry - when under overhead wires      |
| Quercus macrocarpa, 1 3/4 inch            | Bur Oak                                         |
| Syringa reticulata Ivory Silk, 1 3/4 inch | Japanese Tree Lilac - when under overhead wires |
| Syringa vulgaris, #5 cont.                | Common Lilac - to replace Shrub removals        |

Address	Tree Removal			Tree Protection (Removals TBD if Roots >2" cut)		
	CL Station	Species	Size	CL Station	Species	Size
909 John A. Woods	1+28 LT	n/a	11"			
	1+52 LT	n/a	12"			
	1+55 LT	n/a	8"			
	1+58 LT	n/a	8"			
1609 Traver St.	2+39 LT	Siberian Elm	12"			
	2+41 LT	Siberian Elm	7"			
	2+55 LT	Autumn Brilliance Serviceberry	3"			
1615 Traver St.	3+53 LT	n/a	12"			
1627 Traver St.				4+80 LT	Sugar Maple	24"
1629 Traver St.	5+43 LT	n/a	12"	5+16 LT	n/a	9"
	5+05 LT	Shrub		5+35 LT	n/a	15"
1631 Traver St.	6+02 LT	Shrubs		5+71 LT	Sugar Maple	40"
1633 Traver St.				6+93 LT	n/a	4"
				6+93 LT	n/a	6"
				6+93 LT	n/a	4"
				6+94 LT	n/a	5"
1639 Traver St.	7+05 LT	n/a	5"			
	7+11 LT	n/a	11"			
	7+20 LT	Shrub				
1643 Traver St.	7+80 LT	Common Hackberry	2"	8+13 LT	Tuliptree	27"
1600 Traver St.	0+91 RT	n/a	9"	0+70 RT	n/a	20"
	1+36 RT	n/a	7"	0+74 RT	n/a	12"
	1+65 RT	n/a	7"	0+78 RT	n/a	7"
				0+82 RT	n/a	12"
				0+96 RT	n/a	22"
				1+32 RT	n/a	6"
				1+59 RT	n/a	6"
				1+75 RT	n/a	8"
1616 Traver St				1+82 RT	n/a	7"
1626 Traver St.	5+56 RT	n/a	9"	4+34 RT	Black Walnut	27"
	5+61 RT	n/a	4"	5+32 RT	n/a	5"
	5+83 RT	n/a	6"	5+72 RT	n/a	5"
	5+86 RT	n/a	5"			
	5+91 RT	n/a	8"			
	5+93 RT	n/a	7"			
1634 Traver St.	6+22 RT	n/a	7"			
	6+22 RT	n/a	5"			
	6+23 RT	n/a	5"			
	6+23 RT	n/a	12"			
	6+42 RT	n/a	8"	6+34 RT		6"
	6+48 RT	n/a	4"			
	6+54 RT	n/a	12"	6+63 RT	Black Walnut	30"
	6+62 RT	n/a	12"			
1642 Traver St.	6+97 RT	Shrub				
	6+99 RT	Black Walnut	24"			
	7+05 RT	Shrub				
	7+08 RT	Shrub				
	7+40 to 7+70 RT	Shrubs				
	7+95 RT	Shrub				
1650 Traver St.				8+23 RT	n/a	32"
				8+94 RT	Evergreen	15"
				9+65 RT	Eastern Arborvitae	8"
				9+70 RT	Eastern Arborvitae	8"
				9+70 RT	n/a	8"
815 Barton Dr		Siberian Elm	24"		Walnut	18"
821 Barton Dr		Maple	24"		Siberian Elm	20"
823 Barton Dr		Spruce (might just trim to 10')	11"			
701 Brookside		Shrubs			n/a	26"
					n/a	2"
					n/a	2"
					n/a	5"
					n/a	14"
704 Brookside		Evergreen - trim to 10'	7"		Maple	16"
2055 Pontiac Trl					Maple	24"
					Maple	24"
					Apple	6"
729 Brookside					Coffeetree	2"
					Spruce	3"
					Apple	2"
1532 Pontiac Trl (Owner preferred tree removal to placing sidewalk next to curb)					Walnut	54"
					Walnut	13"
					Walnut	27"
					Walnut	26"
1529 Pear St					Walnut	26"
					Spruce - trim to 10'	8"
					n/a	24"
					n/a	24"
					n/a	24"
				Spruce	5"	
				n/a	19"	
				n/a	18"	