

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

MICHIGAN DEPARTMENT OF
ENVIRONMENTAL QUALITY,

Plaintiff,

No. 18-862-CE

v

HON. WANDA M. STOKES

CITY OF DETROIT, CITY OF DETROIT
BUILDING AUTHORITY, AND
DETROIT LAND BANK AUTHORITY,

Defendants.

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Michigan Department of Attorney General
Environment, Natural Resources
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SECOND MODIFICATION TO CONSENT JUDGMENT

WHEREAS, on December 19, 2018, the Court approved and entered the Consent Judgment signed by Plaintiff Michigan Department of Environmental Quality (DEQ) and Defendants the City of Detroit, the City of Detroit Building Authority (DBA), and the Detroit Land Bank Authority;

WHEREAS, Paragraph 6.3 of the Consent Judgment states that within twelve months after the Effective Date of the Consent Judgment, Defendants may submit to the DEQ a proposal for a supplemental environmental project pursuant to the DEQ's Policy and Procedures for Supplemental Environmental Projects for Penalty Mitigation, and that if the DEQ approves the proposal, then the Parties shall modify this Consent Judgment pursuant to Paragraph 13.3;

WHEREAS, the DEQ has been renamed the Michigan Department of Environment, Great Lakes, and Energy (EGLE) pursuant to Executive Order 2019-02 signed by Governor Gretchen Whitmer on February 4, 2019;

WHEREAS, Defendants submitted to EGLE a proposal for a supplemental environmental project within twelve months after the Effective Date of the Consent Judgment that includes planting trees and shrubs in Detroit between Interstate 75 (I-75) and Clark Park to create a vegetative buffer that, among other things, absorbs air pollution;

WHEREAS, EGLE approved Defendants' proposal for a supplemental environmental project and the Court, pursuant to the Parties' stipulation, entered a First Modification of Consent Judgment on May 6, 2020;

WHEREAS, the Paragraph 6.3 of the modified Consent Judgment states that the City of Detroit shall implement a Supplemental Environmental Project (SEP), the Clark Park Vegetative Barrier, in accordance with all provisions of Appendix B, which is attached to the First Modification of Consent Judgment;

WHEREAS, Appendix B states, among other things, the following: (1) the City of Detroit shall expend \$89,200 to construct a vegetative buffer of Norway Spruce, Green Giant Arborvitae, and Viburnum Lentago at Clark Park in the City of Detroit ("Vegetative Buffer SEP") to reduce transport of particulate matter emissions from automobiles, trucks, and buses; (2) the Vegetative Buffer SEP shall be located at the southern border of Clark Park, along W. Fisher Service Drive between Clark Avenue and Scotten Avenue; (3) the Vegetative Buffer SEP shall include planting 14 Norway Spruce each 15 feet tall, 59 Green Giant Arborvitae each 8 feet tall, and 20 Viburnum Lentago each 3 feet tall; (4) the City of Detroit shall plant the Norway Spruce, Green Giant Arborvitae, and Viburnum Lentago by November 15, 2020; (5) by November 15, 2022, the City of Detroit shall replace any Norway Spruce, Green Giant Arborvitae, and Viburnum Lentago that fail to survive; and (6) the City of Detroit shall complete the Vegetative Buffer SEP by December 1, 2022;

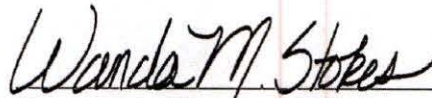
WHEREAS, the COVID-19 pandemic has delayed the City of Detroit's implementation of the Vegetative Buffer SEP;

WHEREAS, the Parties have agreed to revise the schedule for implementation of the Vegetative Buffer SEP and have prepared an updated

version of Appendix B, which is attached hereto and which provides, among other things, the following: (1) the City of Detroit shall plant the Norway Spruce, Green Giant Arborvitae, and Viburnum Lentago by June 21, 2021; (5) by June 21, 2023, the City of Detroit shall replace any Norway Spruce, Green Giant Arborvitae, and Viburnum Lentago that fail to survive; and (6) the City of Detroit shall complete the Vegetative Buffer SEP by July 7, 2023;

NOW THEREFORE, Appendix B of the First Modification to Consent Judgment, is hereby replaced by the updated version of Appendix B, which is attached to this Second Modification of Consent Judgment

IT IS SO ORDERED THIS 9th day of July, 2021.



Honorable Wanda M. Stokes
Circuit Court Judge

STIPULATION

The parties hereby stipulate to the entry of this Second Modification of Consent Judgment.

FOR PLAINTIFF Michigan Department of Environment, Great Lakes and Energy:

By: Mary Ann Dolehanty Dated: June 28, 2021
Mary Ann Dolehanty, Director
Air Quality Division
Michigan Department of Environment,
Great Lakes, and Energy

By: Neil D. Gordon Dated: July 2, 2021
Neil D. Gordon (P56374)
Assistant Attorney General
Environment, Natural Resources
and Agriculture Division,
Michigan Department of Attorney General

FOR DEFENDANT City of Detroit:

By: CNR
Charles Raimi
Deputy Corporation

Dated: 6/24/21, 2021

FOR DEFENDANT City of Detroit Building Authority:

By: Floyd E. Allen
Floyd E. Allen
Attorney for City of Detroit Building Authority

Dated: 6/24/21, 2021

by C. Raimi w/ consent

FOR DEFENDANT Detroit Land Bank Authority:

By: Sharon R. Newlon
Sharon R. Newlon
Attorney for Detroit Land Bank Authority

Dated: 6/24/21, 2021

by C. Raimi w/ consent

LF: Detroit Asbestos & Demolition/#2017-0165608-A-G/Second Modification of Consent Judgment 2020-06-14

Appendix B

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Consent Judgment

Michigan Department of Environmental Quality v City of Detroit
Ingham County Circuit Court, Case No.

Clark Park Vegetative Buffer

- I. The City of Detroit shall comply with the requirements of this Appendix in fulfilling its obligations under Section VI (Settlement Amount and Supplemental Environmental Project) of the Consent Judgment as modified by the First Modification to Consent Judgment.
- II. The City of Detroit shall expend \$89,200 to construct a vegetative buffer of Norway Spruce, Green Giant Arborvitae, and Viburnum Lentago at Clark Park in the City of Detroit ("Vegetative Buffer SEP") to reduce transport of particulate matter emissions from automobiles, trucks, and buses. The Vegetative Buffer SEP shall be located at the southern border of Clark Park, along W. Fisher Service Drive between Clark Avenue and Scotten Avenue. The location of the Vegetative Buffer SEP is shown in Exhibit 1.
- III. The Vegetative Buffer SEP shall include planting 14 Norway Spruce each 15 feet tall, 59 Green Giant Arborvitae each 8 feet tall, and 20 Viburnum Lentago each 3 feet tall. The location of the plants is shown in Exhibit 1. Additional details for the Vegetative Buffer SEP are included in Exhibit 2.
- IV. The City of Detroit shall plant the Norway Spruce, Green Giant Arborvitae, and Viburnum Lentago by June 21, 2021. By June 21, 2023, the City of

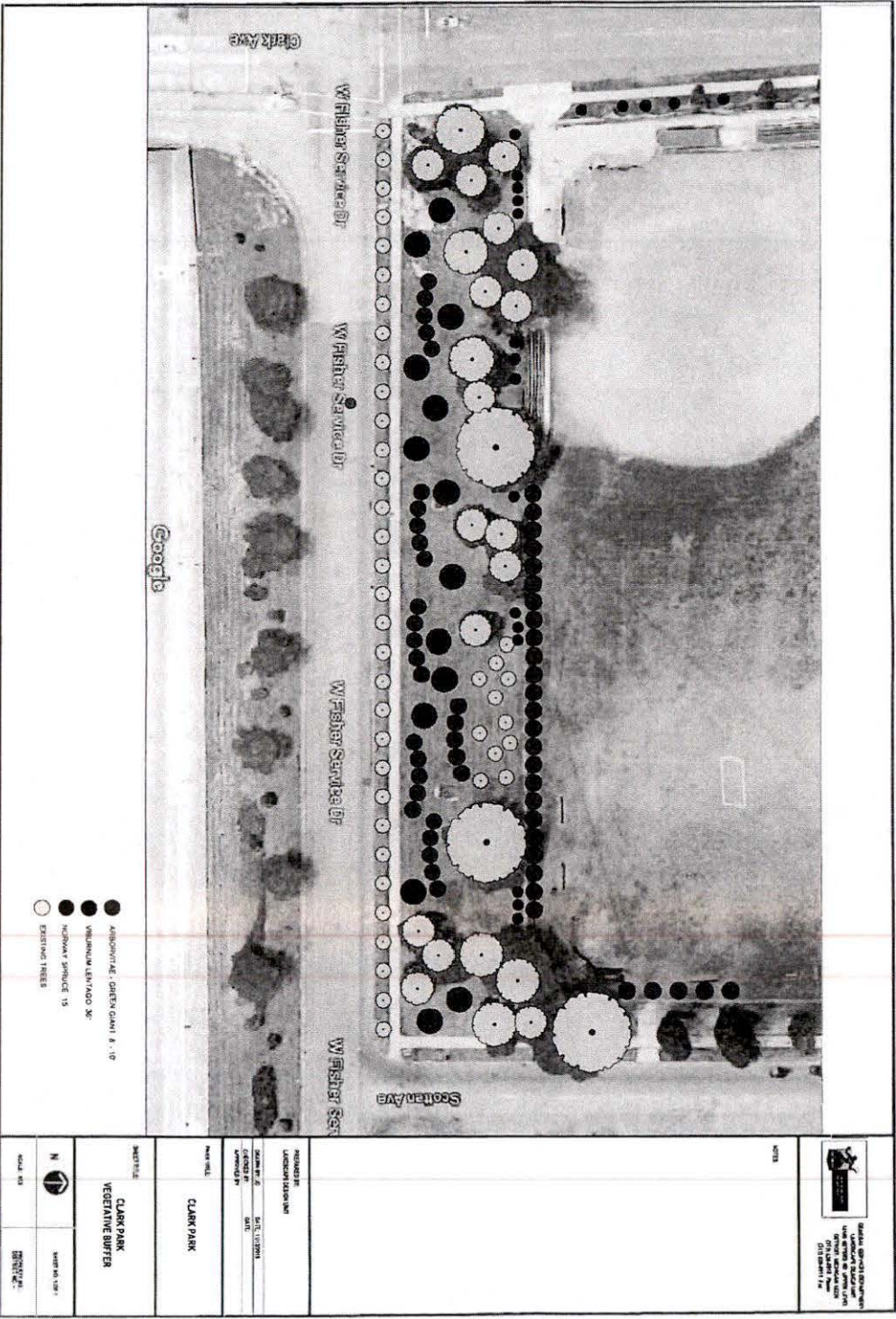
Detroit shall replace any Norway Spruce, Green Giant Arborvitae, and Viburnum Lentago that fail to survive.

V. The City of Detroit shall complete the Vegetative Buffer SEP by July 7, 2023.

LF: Detroit Asbestos & Demolition/#2017-0165608-A-G/Appendix B to Second Modification of Consent Judgment 2020-06-

EXHIBIT 1

to Appendix B – Supplemental Environmental Project



STATE OF OREGON DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION PLANNING AND RESEARCH DIVISION
 800 NE Oregon Street, Suite 200
 Portland, Oregon 97232-3150
 (503) 325-3800

DATE:

PROJECT:	CLARK PARK VEGETATIVE BUFFER
DATE:	10/2014
DRAWN BY:	[redacted]
SCALE:	1/8" = 1'-0"

PROJECT:	CLARK PARK VEGETATIVE BUFFER
DATE:	10/2014
DRAWN BY:	[redacted]
SCALE:	1/8" = 1'-0"

PROJECT:	CLARK PARK VEGETATIVE BUFFER
DATE:	10/2014
DRAWN BY:	[redacted]
SCALE:	1/8" = 1'-0"

EXHIBIT 2

to Appendix B – Supplemental Environmental Project

WHCanon

Landscape Company

Landscape Proposal
Job: Clark Park Vegetative Buffer
Detroit, MI

Report date: 12/19/2019

Description	Size	Mea	Qty	Bid Unit Price	Total Bid Price
Plantings					
Norway Spruce	15' ht	ea	14	1,160.00	16,240.00
Green Giant Arborvitae	8' ht	ea	59	415.00	24,485.00
Viburnum Lentago	36"	ea	20	70.00	1,400.00
Misc					
Supply and install plant mix for shrubs		cy	2	95.00	190.00
Supply and install mulch for shrubs		cy	2	65.00	130.00
Additional time to hand dig due to utilities		ls	1	4,650.00	4,650.00
Seed restoration		ls	1	4,995.00	4,995.00
Hand Watering - 16 occurrences		occ	16	875.00	14,000.00
Winter Protection - Wilt Pruf/Burlap - First & Second Year		ls	1	4,550.00	4,550.00
Two Year Maintenance on Plantings - Includes fertilization, weeding & re-mulching once		year	2	5,175.00	10,350.00
Two Year Warranty		year	2	3,555.00	7,110.00
Clean Up/GC/Mobilization		ls	1	1,100.00	1,100.00
Total Base Landscape					89,200.00

NOTES / QUALIFICATIONS:

- * Includes hand digging for 49 plants due to the location of underground utilities.

01-Construction Bids/ Detroit Beautification 2019 - Rogell/Clark Park Vegetative Buffer

36700 Northline Road
 Romulus, Michigan 48174

p 734.941.3900
 f 734.941.5609

www.whcanon.com