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# AGENDA

## CITY COMMISSION MEETING

Monday, January 4, 2016

7:00 PM

1. Call to Order.
2. Pledge of Allegiance.
3. Roll Call.
4. Announcements, Acknowledgments and Communications and Reports.  
  
Presentation of the Mount Clemens Beautification Snowflake Awards.
5. Adoption of Agenda.
6. Public Participation.
7. Administrative Response to Issues or Questions Raised During Previous Meetings.
8. Approval of Minutes.
9. General Business.  
  
9-A - Public Hearing and Action on a Request to Vacate a Portion of a Public Alley.  
  
9-B - Commission Appointment of a City Commissioner.  
  
9-C - Approve Purchases and Payment of Invoices.
10. Consent Agenda.

10-A - Appointments to Boards, Committees and Commissions.

- Appointment of Commissioner Laura Kropp as Delegate to the Southeast Michigan Council of Governments.
- Appointment of Commissioner Denise Mentzer as Alternate Delegate to the Southeast Michigan Council of Governments.

10-B - Request Approval of Agreement with AKT Peerless for Environmental Consulting Services.

10-C - City Commission Approval of the Fiscal Year 2016 Specialized Services Operating Assistance Program Third-Party Contract between Suburban Mobility Authority for Regional Transportation (SMART) and the City of Mount Clemens.

11. City Manager's Report.

12. Commissioners' Comments.

13. Adjournment.

The City of Mount Clemens will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon one week-notice to the City of Mount Clemens. Individuals with disabilities requiring auxiliary aids should contact the City of Mount Clemens by writing or calling the following:

City Clerk's Office  
One Crocker Boulevard  
Mount Clemens, Michigan 48043  
586.469.6818, Extension 310  
911 - TDD

## **EXPLANATION OF AGENDA – January 4, 2016**

### **Administrative Response to Issues or Questions Raised During Previous Meetings**

1. UPDATE - Blighted Property at Northbound Gratiot and Robertson

City Administration did set a meeting for the first week of January with the subject property owner to discuss the issues associated with this property. An update should be possible coming out of that meeting.

2. Sidewalk/Streetlight Inquiry

As a reminder, City Commission agreed to fund \$50,000 in the Fiscal Year 2016 (FY 2016) Budget to cover costs that would be associated with stepped up enforcement action on sidewalk issues. Administration split this funding level into 2 phases of action, one during Fall 2015 and the other in Spring 2016.

This funding in the FY 2016 Budget was intended to do 2 things:

- Address sidewalk issues with the funding provided
- Allow an evaluation of this initial experience as the Commission looks at whether to establish a long-run, systematic plan to address sidewalks in the City, i.e. a “Sidewalk Program”

The DPS will once again evaluate the resident inquiry about a street light request for North Avenue at Elizabeth.

**CITY COMMISSION WORK SESSION**

**County of Macomb  
State of Michigan**

**December 21, 2015  
Conference Room**

A work session of the Mount Clemens City Commission was held on Monday, December 21, 2015 at 5:45 p.m. The meeting was held in the Conference Room of the Municipal Building, One Crocker Boulevard, Mount Clemens, Michigan. Present at this meeting were Mayor Barb Dempsey, and Commissioners Roger Bunton, Ronald Campbell, Lois Hill, Laura Kropp and Denise Mentzer. Also in attendance were Steven Brown, City Manager, Michael Murray, City Attorney, Lisa Borgacz, City Clerk and Brian Tingley, Community Development Director.

The meeting was called to order at 5:45 p.m.

**PUBLIC PARTICIPATION WAS CONDUCTED.**

**REGIONAL TRANSIT AUTHORITY (RTA) GRATIOT TRANSIT STUDY  
PRESENTATION WAS CONDUCTED.**

Commissioner Campbell made a motion, supported by Commissioner Bunton, to adjourn the meeting.

The meeting adjourned at 6:40 p.m.

Respectfully submitted,

---

Barb Dempsey, Mayor

---

Lisa Borgacz, City Clerk

## CITY COMMISSION MEETING

County of Macomb  
State of Michigan

December 21, 2015  
Commission Chambers

A regular meeting of the Mount Clemens City Commission was held on Monday, December 21, 2015, at 7:00 p.m. The meeting was held in the Commission Chambers of the Municipal Building, One Crocker Boulevard, Mount Clemens, Michigan. Present at this meeting were Mayor Barb Dempsey and Commissioners Roger Bunton, Ronald Campbell, Lois Hill, Laura Kropp and Denise Mentzer. Also in attendance were Steven Brown, City Manager, Michael Murray, City Attorney and Lisa Borgacz, City Clerk.

The meeting was called to order at 7:00 p.m.

**ANNOUNCEMENTS, ACKNOWLEDGEMENTS, COMMUNICATIONS AND REPORTS WERE ADDRESSED, ITEM 4.**

**THE ADOPTION OF THE AGENDA WAS CONSIDERED, ITEM 5.**

Commissioner Hill made a motion, supported by Commissioner Campbell, to approve the agenda as presented. The motion passed unanimously.

**PUBLIC PARTICIPATION WAS CONDUCTED, ITEM 6.**

**ADMINISTRATIVE RESPONSE TO ISSUES OR QUESTIONS RAISED DURING PREVIOUS MEETINGS WERE RECEIVED, ITEM 7.**

**APPROVAL OF MINUTES WAS CONSIDERED, ITEM 8.**

Commissioner Hill made a motion, supported by Commissioner Bunton, to approve the minutes of the City Commission regular meeting of December 7, 2015 and the special meeting of December 14, 2015, as presented. The motion passed unanimously.

**SECOND READING AND ADOPTION OF PEDICAB PUBLIC TRANSPORTATION ORDINANCE WAS CONSIDERED, ITEM 9-A.**

Commissioner Bunton made a motion, supported by Commissioner Hill, to approve the second reading and adoption of the Pedicab Public Transportation Ordinance No. 46.400 CONTAINING Paragraph 46.411 – Sec. 11 *Consumption of Alcohol Prohibited*, and approve the ordinance summary for publication.

The vote on the motion was:

Ayes: Hill, Bunton

Nays: Dempsey, Kropp, Mentzer, Campbell

The motion failed.

December 21, 2015

Commissioner Bunton made a motion, supported by Commissioner Kropp, to approve the second reading and adoption of the Pedicab Public Transportation Ordinance No. 46.400 DELETING Paragraph 46.411 – Sec. 11 *Consumption of Alcohol Prohibited*, and approve the ordinance summary for publication.

The vote on the motion was:

Ayes: Kropp, Mentzer, Bunton, Campbell, Dempsey  
Nays: Hill

The motion passed.

**SECOND READING AND ADOPTION OF PUBLIC PARKS AND PARK PROPERTY ORDINANCE WAS CONSIDERED, ITEM 9-B.**

Commissioner Campbell made a motion, supported by Commissioner Bunton, to approve the second reading and adoption of a Public Parks and Park Property Ordinance No. 33.000, and approve the ordinance summary for publication. The motion passed unanimously.

**INTRODUCE RESOLUTION AND SET PUBLIC HEARING DATE FOR A VACATION OF A PORTION OF A PUBLIC ALLEY WAS CONSIDERED, ITEM 9-C.**

Commissioner Kropp made a motion, supported by Commissioner Campbell, to approve the introduction of the Resolution and setting the date of January 4, 2016, for a public hearing to consider a request to vacate portions of a public alley south of Cass Avenue between South Wilson and Moross.

The vote on the motion was:

Ayes: Kropp, Bunton, Campbell, Dempsey  
Nays: Mentzer, Hill

The motion passed.

**COMMISSION APPOINTMENT OF A CITY COMMISSIONER WAS CONDUCTED, ITEM 9-D.**

Ballots were distributed to members of the Commission to conduct the vote to appoint a City Commissioner. The votes were as follows:

Ballot 1:

Commissioner Bunton voted for William Ford  
Commissioner Campbell voted for Laura Fournier  
Mayor Dempsey voted for William Ford  
Commissioner Hill voted for Karan Bates-Gasior  
Commissioner Kropp voted for Laura Fournier  
Commissioner Mentzer voted for Laura Fournier

December 21, 2015

Ballot 2:

Commissioner Bunton voted for William Ford  
Commissioner Campbell voted for Laura Fournier  
Mayor Dempsey voted for William Ford  
Commissioner Hill voted for Karan Bates-Gasior  
Commissioner Kropp voted for Laura Fournier  
Commissioner Mentzer voted for Laura Fournier

Ballot 3:

Commissioner Bunton voted for William Ford  
Commissioner Campbell voted for Laura Fournier  
Mayor Dempsey voted for William Ford  
Commissioner Hill voted for William Ford  
Commissioner Kropp voted for Laura Fournier  
Commissioner Mentzer voted for Laura Fournier

Ballot 4:

Commissioner Bunton voted for William Ford  
Commissioner Campbell voted for Laura Fournier  
Mayor Dempsey voted for William Ford  
Commissioner Hill voted for William Ford  
Commissioner Kropp voted for Laura Fournier  
Commissioner Mentzer voted for Laura Fournier

It was the consensus of the Commission to postpone the vote to the City Commission Meeting of January 4, 2016.

**APPROVAL OF THE PAYMENT OF INVOICES WAS CONSIDERED, ITEM 9-E.**

Commissioner Campbell made a motion, supported by Commissioner Hill, to approve the payment of invoices as presented. The motion passed unanimously.

**THE CONSENT AGENDA WAS CONSIDERED, ITEM 10.**

**THE CITY MANAGER'S REPORT WAS GIVEN, ITEM 11.**

**COMMISSIONERS' COMMENTS WERE RECEIVED, ITEM 12.**

Commissioner Bunton made a motion, supported by Commissioner Mentzer, to adjourn the meeting. The motion passed unanimously.

The meeting was adjourned at 8:09 p.m.

Respectfully submitted,

---

Barb Dempsey, Mayor

---

Lisa Borgacz, City Clerk

**EXPLANATION OF AGENDA – January 4, 2016**

**Agenda Item No. 9-A**

**Public Hearing and Action on a Request to Vacate a Portion of a Public Alley**

This date has been set for a public hearing to consider a request from the property owner of 249 Cass Avenue to vacate two areas of alleys located adjacent to their property between South Wilson and Moross, south of Cass. A notice of the public hearing appeared in the December 29, 2015, edition of The Macomb Daily and was mailed to all affected property owners and utility companies. A copy of the request is enclosed along with a map and the necessary resolution.

**SUBMITTED BY:** Brian L. Tingley  
Community Development Director

**RECOMMENDED MOTION:** Open the public hearing for the request to consider a request to vacate portions of a public alley south of Cass Avenue between South Wilson and Moross.

Close the public hearing for the request to consider a request to vacate portions of a public alley south of Cass Avenue between South Wilson and Moross.

Adopt the resolution vacating portions of a public alley south of Cass Avenue between South Wilson and Moross.

December 10, 2015

**City of Mount Clemens**  
**Mr. Brian Tingley**  
**Community Development Director**  
One Crocker Boulevard  
Mount Clemens, Michigan 48043  
(586) 469-6818 ext. 901

**To Whom It May Concern:**

---

We are the Owners of the property located at 249 Cass Avenue. We are in the process of preparing to develop this property and are requesting a resolution to vacate two areas of alleys located on our property that are currently not in use.

There is a 20' wide alley running East and West from Wilson Avenue and runs for approx. 170' along the residential property to the south. We wish to split this in the middle with 10' to our property and 10' to residential property Owner to the South.

In addition, There is a 10' wide alley running North and South from alley located to South and runs for approx. 39'. We wish to obtain all of this area as this it would become a dead-end after the alley split. The residential property to the Southwest becomes a more rectangular property.

We request these changes to allow for the best possible development of our property to enhance the area and also provide a positive result for the adjacent resident to the South.

See attached Survey of alley locations and photograph of existing conditions.

Thank you for your time and consideration.

Sincerely,

  
John Stapleton  
Six Nations Group

cc: file/1546\_alleyletter\_12-09-2015





Current View of Alley Looking East. No Public Access-Land used by Resident

# Macomb County GIS

249 CASS AVE

Wed Nov 25 2015 01:04:12 PM.



**RESOLUTION VACATING A PORTION OF A PUBLIC ALLEY**

**WHEREAS**, it appears that heretofore the City of Mount Clemens, Michigan, has received property by dedication or deed to be used for public alley purposes in the following area: twenty (20) feet of property dedicated as a public alley abutting 249 Cass Avenue and 15 S. Wilson, running east and west approximately 170 feet, and, ten (10) feet of property dedicated as a public alley abutting 249 Cass Avenue and 15 S. Wilson, running north and south approximately 39 feet.

Said vacated portion being platted in Cass Avenue Subdivision, Moross Addition in the City of Mount Clemens, Macomb County, Michigan, according to the plat thereof as recorded in Liber 2, Page 36 of plats, Macomb County Records, lying parallel to and between:

**249 Cass Avenue;** CASS AVENUE SUBDIVISION OF PART OF P C 541 LOTS 176 TO 181 INCL & LOT 4, BLOCK 2 OF MOROSS ADDITION.

**15 S. Wilson;** CASS AVENUE SUBDIVISION OF PART OF P C 541 LOTS 174 & 175

**WHEREAS**, the City Commission of the City of Mount Clemens has been presented with a request to vacate the above described portion of said public alley; and

**WHEREAS**, the City of Mount Clemens has no objection to vacating the above described portion of said public alley; and

**WHEREAS**, the requisite notice of hearing incident to the request for vacating the above described portion of said public alley has been given, and the requisite owners notified, and a public hearing has been held.

**NOW, THEREFORE, BE IT RESOLVED** that the portion of the public alley above described be and the same is hereby vacated; provided, however, that an easement the length and width of the public alley above described is hereby reserved for public utility purposes, if any.

**BE IT FURTHER RESOLVED** that a copy of the within Resolution may be recorded at the Office of the Register of Deeds for the County of Macomb, State of Michigan, and also be forwarded to the State of Michigan Department of Commerce.

Adopted: January 4, 2016

CITY OF MOUNT CLEMENS,  
a Michigan Municipal Corporation,

By: \_\_\_\_\_  
Barb Dempsey, Mayor

By: \_\_\_\_\_  
Lisa M. Borgacz, City Clerk

## **EXPLANATION OF AGENDA – January 4, 2016**

### **Agenda Item No. 9-B**

#### **Commission Appointment of a City Commissioner**

*UPDATE – 4 rounds of paper ballot voting at the 12/21/15 Meeting did NOT result in a Commission appointment to the vacancy.*

At the City Commission Meeting of November 16, 2015, the Commission discussed the guidelines for filling the City Commission vacancy through the appointment process. The vacancy announcement was published in The Macomb Daily on November 22<sup>nd</sup> and in the Journal on November 25<sup>th</sup>. It was also posted on the City's website, cable channel, in the lobby at City Hall and on the City Clerk's counter on November 17, 2015.

Five applications were received by the filing deadline of Friday, December 4, 2015 at 4:00 p.m., and all applications were emailed to the City Commission members at the end of the day on December 4, 2015 for their review. The applicants are:

Karan Bates-Gasior  
Richard Blok  
William Ford  
Laura Fournier  
Steven Knox

All applicants were invited to attend the City Commission Meeting of December 7, 2015, to give a brief introduction of themselves. Interviews were conducted at a Special City Commission Meeting on Monday, December 14, 2015.

Pursuant to City Charter 10.101 – Sec. 65 OFFICERS; QUALIFICATIONS, all applicants meet the following qualifications for office: 1) being a resident of the City for at least 365 days prior to appointment, 2) being a qualified and registered elector of the City, and 3) no person is in default to the City.

The Charter further provides that this vacancy be filled by a majority vote of the remaining members of the Commission (10.109 – Sec. 73 CITY COMMISSION; FILLING VACANCIES, REGULATIONS).

The City Commission will vote by paper ballot, consistent with the practice for Mayor Pro-Tempore. The deadline for the City Commission to make an appointment is January 8, 2016. The appointment is made once an applicant receives four or more votes. The deadline for swearing in is within ten days of appointment.

**SUBMITTED BY:** Steven M. Brown, City Manager

**EXPLANATION OF AGENDA – January 4, 2016**

**Agenda Item No. 9-C**

**APPROVE PURCHASES AND PAYMENT OF INVOICES**

| VENDOR<br>(PURCHASES)   | DESCRIPTION   | FUND/<br>DEPARTMENT/<br>APPROPRIATION                                | ACCOUNT<br>NUMBER | AMOUNT     | CURRENT<br>BALANCE |
|---|---|--|-------------------|------------|--------------------|
| 1.Oudbier Instrument Company<br>4064 South Rolling Ridge<br>Wayland, MI 49348 | Ultra 3 Ultrasonic<br>Measurement<br>System.                      | Sewer-Utilities Fund/<br>Operation of Plant/<br>Contractual Services | 590-53708-818000  | \$2,660.00 | \$54,003.99        |
| 2.HD Supply Waterworks<br>4901 Dewitt<br>Canton, MI 48188                     | Estimated annual<br>Requirement of<br>Water Pipe and<br>Fittings. | Water-Utilities Fund/<br>Transmission/<br>Water Pipe and<br>Fittings | 591-53704-789000  | \$6,527.20 | *\$5,265.63        |
| 3.BS&A Software<br>14965 Abbey Lane<br>Bath, MI 48808                         | Assessing<br>Information<br>Access.                               | General Fund/<br>Information Technology/<br>Software                 | 101-22800-757000  | \$4,200.00 | \$11,816.00        |

| VENDOR<br>(INVOICES)   | DESCRIPTION  | FUND/<br>DEPARTMENT/<br>APPROPRIATION   | ACCOUNT<br>NUMBER | AMOUNT      | CURRENT<br>BALANCE |
|--|--|---|-------------------|-------------|--------------------|
| 1. Michigan Department<br>of Environmental Quality<br>Cashiers Office-NP1<br>P.O. Box 30657<br>Lansing, MI 48909 | National Pollutant<br>Discharge Elimination<br>System<br>NPDES Annual<br>Permit Fee 2016 | Sewer-Utilities Fund/<br>Operation of Plant/<br>Testing Fee-<br>State of Michigan | 590-53708-831000  | \$13,000.00 | \$14,746.52        |

\*Budget amendment to be made at a later date.

**SUBMITTED BY:** Linda A. Kunath, Finance Director/Treasurer

**RECOMMENDED MOTION:** Approve purchases and payment of invoice as presented.

**CITY OF MOUNT CLEMENS**

Tabulation of sealed bids received and opened on Monday, December 21, 2015, for the purchase and installation of one (1) Ultra 3 Ultrasonic Measurement System needed by the Wastewater Treatment Plant:

| BIDDER  | TOTAL COST |
|---|------------|
| 1. Midwest Municipal Instrumentation, Inc.<br>4391 Bonnymede Court<br>Jackson, MI 49201 | \$3,150.00 |
| 2. Oudbier Instrument Company<br>4064 South Rolling Ridge<br>Wayland, MI 49348          | \$2,660.00 |
| 3. UIS SCADA<br>2290 Bishop Circle East<br>Dexter, MI 48130                             | \$3,760.00 |

Linda A. Kunath  
Finance Director/Treasurer

**CITY OF MOUNT CLEMENS**

Tabulation of sealed bids received and opened on Tuesday, December 15, 2015, for our estimated annual requirement of water pipe and fittings:

| Item # | Description   | Quantity | EJ USA, Inc.<br>301 Spring Street<br>P.O. Box 439<br>East Jordan,<br>MI 49727 | Etna Supply<br>529-32 <sup>nd</sup> SE<br>Grand Rapids,<br>MI 49548 | HD Supply<br>Waterworks<br>4901 Dewitt<br>Canton,<br>MI 48188 | Michigan Pipe<br>And Valve<br>4040 Eagles Nest<br>Flushing,<br>MI 48433 |
|--------|---|----------|---|---|---|---|
|        | <b>Ball Valves:</b>   |          |   |   |   |   |
| 1.     | Ford ¾" B44-333M<br>¾" Compression to ¾" Compression                                    | 20 Each  | \$1,149.40  | \$1,155.00  | \$1,110.00  | \$1,276.24  |
| 2.     | Ford B11-333M_NL ¾" Female Pipe<br>Thread to ¾" Female Pipe Thread                      | 20 Each  | \$914.80  | \$919.00  | \$890.00  | \$1,015.53  |
|        | <b>Pack Joint Couplings with Hex Head Screw:</b>  |          |   |   |   |   |
| 3.     | Ford C-44-33, ¾" Compression to Compression   | 20 Each  | \$290.20  | \$291.00  | \$282.40  | \$322.35  |
| 4.     | Ford C-28-33, ¾" MIP TO ¾" FLARE  | 20 Each  | \$211.80  | \$213.00  | \$314.00  | \$250.20  |
| 5.     | Ford C-55-33, ¾" MIP TO ¾" MIP  | 20 Each  | \$319.40  | \$321.00  | \$210.00  | \$362.16  |
| 6.     | Ford Q18-33 ¾" FIP TO 5/8 XXS Compression<br>Or Ford Q38-23 ¾" FIP TO ¾" S Compression  | 20 Each  | \$409.80  | \$430.00  | \$395.00  | \$504.75  |
| 7.     | For Q-18-23-¾" MIP TO ½" XXS or Ford<br>Q38-13, ¾" MIP TO 5/8"S                         | 20 Each  | \$405.60  | \$407.00  | \$395.00  | \$478.55  |
|        | <b>Curb Box Supplies:</b>   |          |   |   |   |   |
| 8.     | Mueller Plug Only 58039 for H10-300 Curb Box  | 20 Each  | \$201.00  | \$50.00   | \$32.00   | No Bid  |
| 9.     | Mueller H.10-300 Curb Boxes Extension Type<br>With Minneapolis Pattern Base 6'6" Length | 20 Each  | \$683.20  | \$720.00  | \$590.00  | No Bid  |
|        | <b>Stainless Repair Sleeves:</b>  |          |   |   |   |   |
| 10.    | Romax – 6" x 7" 111-07240800  | 12 Each  | \$857.16  | \$624.00  | \$453.60  | \$917.40  |
| 11.    | Romax – 6" x 12" 111-07241200   | 12 Each  | \$1,368.60  | \$996.00  | \$705.60  | \$1,466.85  |
| 12.    | Romax – 6" x 20" 111-07240000   | 12 Each  | \$2,276.88  | \$1,656.00  | \$1,149.60  | \$2,671.65  |
|        | <b>TOTAL COST</b>   |          | \$9,087.84  | \$7,782.00  | \$6,527.20  | \$9,265.68  |

Linda A. Kunath  
Finance Director/Treasurer

Proposal for AccessMyGov-Internet Services, Presented to...

City of Mt. Clemens, Macomb County MI

December 8, 2015

Quoted by: Steve Rennell



*Thank you for the opportunity to quote our software and services.*

*At BS&A, we are focused on delivering unparalleled service, solutions, support, and customer satisfaction. You'll see this in our literature, but it's not just a marketing strategy... it's a mindset deeply embedded in our DNA. Our goal is to provide such remarkable customer service that our customers feel compelled to remark about it.*

*We are extremely proud of the many long-term customer relationships we have built. Our success is directly correlated with putting the customer first and consistently choosing to **listen**. Delivering unparalleled customer service is the foundation of our company.*

BS&A Software  
14965 Abbey Lane Bath MI 48808  
(855) BSA-SOFT / fax (517) 641-8960  
bsasoftware.com

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*Please return all pages, retaining a copy for your records.*

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## Cost Summary

AccessMyGov (AMG)-Internet Services provides a convenient way to display your BS&A databases on the web, giving taxpayers and business professionals a way to access your data at any time.

Included with AMG-Internet Services is an online directory of customers who host data online using our software. The intent of this directory is to provide interested parties with an accessible list of online data. Directory membership is included free with the use of AMG-Internet Services, and is accessed by going to <http://www.accessmygov.com/MunicipalDirectory>.

### Subscription Option

With this option, your municipality pays an Annual Service Fee that covers basic service, including general lookup of your BS&A data. Users of the website pay nothing to view the available data. BS&A sets up your system and configures the website.

Prices based on an approximate parcel count of 6,856. Due to continuous changes and improvements in technology, BS&A Software reserves the right to increase the Annual Service Fee yearly, based on the CPI.

|   |         |
|---|---------|
| <b>Municipality's Annual Service Fee</b>  | \$4,200 |
| (Optional; annual fee) <b>Assessing Property Sale Search</b><br><i>Allows searches for comparable sale data based on query and Neighborhood filters</i> | \$2,100 |

BS&A  
SOFTWARE

## Option; Frequency; Data Selection

### STEP 1: Select Your Option

- Subscription
  - (optional) Assessing Property Sale Search

### STEP 2: Select Your Update Frequency

- Real-time
- Daily

**Internet connection requirements:** AMG-Internet Services requires a high-speed internet connection (cable modem or DSL) to provide **real-time** or **daily** update frequencies.

**Real-time requirements:** BS&A requires that all real-time hosted sites have either an on-staff IT person, or grant BS&A a remote terminal services ability to the machine on which the real-time service is installed. This is necessary to ensure service availability and quality.

### STEP 3: Select the Data to Display

- Animal License
- Assessing
- Assessing Property Sale Search
- Building Department
- Cemetery Management
- Delinquent Personal Property
- Miscellaneous Receivables
- P.R.E. Audit
- Special Assessment
- Tax
- Utility Billing

## Acceptance

### Signature constitutes...

1. An order for products and services as quoted
2. Agreement with the proposed Annual Service Fee (Subscription option)

---

**Signature**

**Date**

### Returning Accepted Proposal to BS&A

*Please return the entire proposal, with signature/date (this page) and contact information (next page) filled out, by any of these methods:*

Mail: BS&A Software  
14965 Abbey Lane  
Bath, MI 48808

Fax: (517) 641-8960

Email: [srennell@bsasoftware.com](mailto:srennell@bsasoftware.com)

**BS&A**  
SOFTWARE

Once your proposal is received, a BS&A representative will contact you to begin the setup process.

## Contact Information

If any mailing addresses are PO Boxes, please also provide a Street Address for UPS/Overnight mail.

If additional contacts need to be submitted, please make a copy of this page.

### Support Contact

Name \_\_\_\_\_ Title \_\_\_\_\_

Phone/Fax \_\_\_\_\_ Email \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

### IT Contact

Name \_\_\_\_\_ Title \_\_\_\_\_

Phone/Fax \_\_\_\_\_ Email \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_



**City of Mount Clemens**  
**Finance Department**  
**MEMORANDUM**

---

**DATE:** December 23, 2015

**TO:** Mayor and Commission

**CC:** Steve Brown, City Manager

**FROM:** Linda A. Kunath, Finance Director/Treasurer

**SUBJECT:** BS&A Software Program – Assessing Information Access

---

BS&A software programs are used by the City in various areas, including Assessing information. Internet access to City of Mount Clemens Assessing property and land search data is currently available at [www.accessmygov.com](http://www.accessmygov.com) website for a \$2 service fee paid to BS&A.

BS&A offers a service subscription model whereby communities pay an annual fee to provide access to property and land search data at no cost to users, which is what most communities in Macomb County do - 19 of 26 communities. The subscription model cost to the City of Mount Clemens is \$4,200.<sup>00</sup> annually.

The subscription model idea is to facilitate opportunities in Mount Clemens by providing property information via the web to residents, property owners and investors, which may evolve to more investment in the City for a modest cost to the City. Having property and data information available will also likely reduce calls to staff, permitting them more time to address and improve other services.

I recommend that the City of Mount Clemens subscribe annually to BS&A Software program for Assessing information in the amount of \$4,200.<sup>00</sup>. Funds are available in the IT Department budget, Account Number 10122800-757000.

**EXPLANATION OF CONSENT AGENDA – January 4, 2016**

**Agenda Item No. 10-A**

**Appointments to Boards, Committees and Commissions**

Southeast Michigan Council of Governments (SEMCOG)

Mayor recommends appointing Commissioner Laura Kropp as Delegate to the Southeast Michigan Council of Governments.

Mayor recommends appointing Commissioner Denise Mentzer as Alternate Delegate to the Southeast Michigan Council of Governments.

**SUBMITTED BY:** Barb Dempsey, Mayor

**RECOMMENDED MOTION:** To approve appointments as presented.

**EXPLANATION OF CONSENT AGENDA – January 4, 2016**

**Agenda Item No. 10-B**

**Request Approval of Agreement with AKT Peerless for Environmental Consulting Services**

AKT Peerless Environmental & Energy Services has provided environmental consulting services for several years to Dickinson Wright PLLC, the City’s environmental attorneys, regarding the methane activity at the former Mount Clemens landfill site. Continuing methane monitoring and reporting to the Environmental Protection Agency (EPA) and the Department of Environmental Quality (DEQ) as well as fine tuning the operation of the active methane venting system are critical stages of the project that make AKT Peerless’ continued professional consulting services necessary.

Dickinson Wright PLLC has further advised that no competitive advantage would occur to the City if these professional services were submitted for requests for proposals and, in fact, the project would suffer significantly if new environmental consulting services were engaged at this time.

Therefore, please find the attached Environmental Services Agreement for calendar year 2016 with AKT Peerless Environmental & Energy Services.

**SUBMITTED BY:** Jeffrey D. Wood, Public Services Director

**RECOMMENDED MOTION:** To approve Dickinson Wright PLLC retaining of AKT Peerless to provide professional consulting services on the City’s behalf for calendar year 2016, pursuant to the attached Environmental Services Agreement.



2600 WEST BIG BEAVER ROAD, SUITE 300  
TROY, MI 48084-3312  
TELEPHONE: (248) 433-7200  
FACSIMILE: (248) 433-7274  
<http://www.dickinsonwright.com>

ANNA M. MAIURI  
AMaiuri@dickinsonwright.com  
(248) 433-7558

December 18, 2015

**VIA E-MAIL AND FIRST CLASS MAIL  
CONFIDENTIAL  
ATTORNEY CLIENT PRIVILEGED DOCUMENT**

Mr. Timothy J. McGahey  
AKT Peerless Environmental & Energy Services  
22725 Orchard Lake Road  
Farmington, MI 48336-3228

Re: Environmental Services Agreement for Environmental Consulting Services to Support the Active Methane Venting System Including Conducting Methane Monitoring for the Former Mount Clemens Landfill for CY2016

Dear Tim:

Dickinson Wright PLLC (“DW”) is pleased to retain AKT Peerless Environmental & Energy Services (“Consultant”) on behalf of our client, the City of Mount Clemens (“Client”), to act as its environmental consultant in connection with the performance of the services described in the scope of work attached hereto as Schedule 1 (the “Scope of Work”). Client agrees to compensate Consultant for the performance of the Basic Services and any Additional Services (as such terms are defined in the Standard Terms and Conditions described below) in accordance with the Standard Fee Schedule attached hereto as Schedule 2 (the “Standard Fee Schedule”) provided however, the Consultant shall perform the Basic Services for a total not-to-exceed contract price of \$33,650.00 (the “Contract Price”).

Schedule 3 sets forth the terms and conditions (the “Standard Terms and Conditions”) pursuant to which all work will be performed. **The Consultant shall submit monthly invoices directly to the client at:**

City of Mount Clemens  
One Crocker Boulevard  
Mount Clemens, Michigan 48043  
**Attention: Jeff Wood**

Mr. Timothy J. McGahey  
AKT Peerless Environmental & Energy Services  
Page 2

with copies to the following address:

Dickinson Wright PLLC  
3600 West Big Beaver Rd, Ste 300  
Troy, Michigan 48084-3312  
**Attention: Anna M. Maiuri, Esq.**

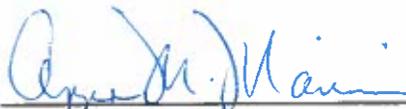
for the professional services completed by the Consultant to date of invoice. Consultant shall look solely to Client for payment and not to DW.

The Consultant must include the following legend at the top of each page of every document: "Confidential/Subject to Attorney-Client Privilege: Do Not Duplicate." Documents which must bear this notice include, but are not limited to, any reports and supporting information such as field notes, records of observations, drafts, drawings, maps, charts, etc. Because the Consultant will be given access to confidential and privileged information, and since the Consultant's communications with DW and with representatives of the Client are intended to be protected by the attorney-client privilege, the Consultant shall ensure that no third parties are given access to such information without first consulting with DW. Any such disclosure would first require the execution of a confidentiality agreement, at the discretion of DW and in substantially the same form as found in Schedule 4 attached hereto.

This letter (the "Engagement Letter"), together with Schedules 1, 2, 3, and 4; the terms of each such Schedule are incorporated herein by this reference, shall serve as our contract once signed and returned by Consultant to DW, and shall also serve as Client's authorization for Consultant to proceed with the performance of the Basic Services. In the event of any conflict between the terms of this Engagement Letter and any of the Schedules hereto, the terms of this Engagement Letter shall be controlling. Consultant agrees to commence the performance of the Basic Services immediately upon authorization.

Very truly yours,

Dickinson Wright PLLC

By:  \_\_\_\_\_

Anna M. Maiuri

Mr. Timothy J. McGahey  
AKT Peerless Environmental & Energy Services  
Page 3

ACKNOWLEDGED, AGREED AND ACCEPTED THIS \_\_\_\_ DAY OF \_\_\_\_ 2016.

**AKT Peerless Environmental & Energy Services**

By \_\_\_\_\_

Its \_\_\_\_\_

AMM:llc  
Enclosures

cc: Mr. Steven M. Brown, City Manager, Mount Clemens  
Mr. Jeff Wood, Director of Public Services, Mount Clemens

**SCHEDULE 1**

Consultant's Scope of Work included in Proposal No. PF-18259-1 dated December 18, 2015.

(See attached.)

**ATTORNEY/CLIENT WORK DOCUMENT  
PRIVILEGED AND CONFIDENTIAL**

December 18, 2015

Jeff Wood  
City of Mount Clemens  
One Crocker Boulevard  
Mount Clemens, Michigan 48043

Subject: Calendar Year 2016 Environmental Consulting Services  
Former Mount Clemens Landfill  
Mount Clemens, Michigan  
Proposal No. PF-18259-1  
Project No. 5214F

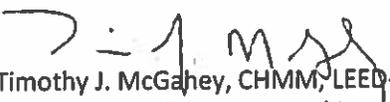
Dear Mr. Wood:

AKT Peerless appreciates the opportunity to present this proposal to provide environmental consulting services in the rendering of legal advice for the former Mount Clemens Landfill through the end of the 2016 calendar year (December 31, 2016).

If you have any questions or need additional information, please contact Tony Anthony or me at (248) 615-1333 or via email at [anthonyt@aktpeerless.com](mailto:anthonyt@aktpeerless.com) and [mogahey@aktpeerless.com](mailto:mogahey@aktpeerless.com).

Sincerely,

**AKT PEERLESS**

  
Timothy J. McGahey, CHMM, LEED-AP  
Vice President Environmental Due Diligence

Enclosure

c.c.: Ms. Anna Maiuri; Dickinson Wright (via email)

**PROPOSAL FOR ENVIRONMENTAL CONSULTING SERVICES  
FORMER MOUNT CLEMENS LANDFILL  
MOUNT CLEMENS, MICHIGAN**

**INTRODUCTION**

AKT Peerless appreciates the opportunity to provide environmental consulting services in the rendering of legal advice for the former Mount Clemens Landfill through the end of the 2016 calendar year (December 31, 2016).

Over the past few years, AKT Peerless worked as a team with Jeff Wood (City Public Services Director) and the City's attorney (Anna Maiuri of Dickinson Wright) to develop a cost-effective solution to mitigate the risk associated with the former landfill. In 2011 and 2012, we engaged the USEPA to install an active methane mitigation system at the former landfill. This system was funded by the USEPA and resulted in a significant reduction of uncontrolled methane migration at the former landfill. It is imperative that the system be properly monitored and controlled to maintain these reduced methane levels.

The USEPA and MDEQ require that the City of Mount Clemens continue monitoring and maintain the system. In 2013 and 2014, as an additional cost reduction measure, AKT Peerless successfully trained city employees to conduct monthly methane screening. This approach resulted in a significant reduction (over \$30,000) in AKT Peerless' contractor fees last year. In addition, AKT Peerless and Dickinson Wright successfully negotiated a reduced sampling and reporting schedule with the MDEQ in 2014, and a reduced meeting schedule in 2015. As presented in this proposal, AKT Peerless proposes a slight reduction in the proposed fees for 2016 reflecting the reduced meeting schedule.

The scope of work outlined below was created based on our understanding of regulatory requirements (e.g., USEPA, MDEQ, etc.) and the City of Mount Clemens need to reduce costs. This scope relies heavily on the use of the trained city staff to conduct monthly methane screening, while maintaining AKT Peerless involvement for reporting, groundwater sampling, system modifications (as necessary), and professional expertise. With these principles in mind, the following scope of work was developed to fulfill the City's regulatory requirements for the calendar year 2016.

Following discussion with you, AKT Peerless has also included the costs to prepare the scope of work for the installation of one passive ventilation point on the Holiday Gardens property. AKT Peerless understands that the City of Mount Clemens would like to have AKT Peerless prepare this scope of work and also conduct the oversight; however, that the City will seek a competitive bid for the actual installation. The below scope of work includes these activities to be conducted in January 2016.

**SCOPE OF WORK**

As required by the USEPA and MDEQ, AKT Peerless will provide scope of services outlined in the following table during the 2016 calendar year:

| Month (2016) | Task  | Actions  |
|--------------|---|--|
| January      | Methane screening data interpretation<br>Monthly status update report<br>Bi-Annual Technical Advisory Meeting<br><b>*Prepare scope of work for Passive Ventilation Installation on Holiday Gardens Property.<br/>Provide oversight of the installation and prepare documentation of the installation.</b> | Mount Clemens staff will conduct methane screening. AKT Peerless staff will be available to answer questions via telephone during these screening events. The results of the screening will be provided to AKT Peerless so that contour maps can be generated and distributed in monthly and bi-annual progress reports. AKT Peerless will complete all necessary reporting to regulatory agencies (e.g., monthly and bi-annual reports). AKT Peerless will also prepare and attend the Bi-Annual Technical Advisory Meetings (January and July) and any other necessary project meetings as requested by the City of Mount Clemens. |
| February     | Methane screening data interpretation<br>Monthly status update report   |  |
| March        | Methane screening data interpretation<br>Monthly status update report   |  |
| April        | Methane screening data interpretation<br>Monthly status update report   |  |
| May          | Methane screening data interpretation<br>Monthly status update report   |  |
| June         | Methane screening data interpretation<br>Groundwater Monitoring<br>Monthly status update report<br>Bi-annual report   |  |
| July         | Methane screening data interpretation<br>Monthly status update report<br>Bi-Annual Technical Advisory Meeting   |  |
| August       | Methane screening data interpretation<br>Monthly status update report   |  |
| September    | Methane screening data interpretation<br>Monthly status update report   |  |
| October      | Methane screening data interpretation<br>Monthly status update report   |  |
| November     | Methane screening data interpretation<br>Monthly status update report   |  |
| December     | Methane screening data interpretation<br>Monthly status update report<br>Groundwater monitoring<br>Bi-annual report   |  |

The operating active methane mitigation system requires careful adjustment by a trained professional. As observed during previous calendar years, this system will need periodic adjustment based on the results of monthly methane screening and quarterly groundwater monitoring events. Therefore, AKT Peerless will continue to evaluate the monthly and quarterly data and make any necessary adjustments to the system to optimize methane extraction.

**FEES**

The fees and expenses for these changes in scope are \$33,650. All subcontracted services and outside project costs will be billed at a cost plus 8 percent. It is important to note that AKT Peerless has provided "in-kind" services through the involvement of Mr. Tony Anthony (Principal). To date, Mr. Anthony has provided over \$65,000 (over 290 hours) of in-kind consulting toward this project. Mr. Anthony will remain involved and will continue to provide in-kind services as the project progresses.

**LIMITATIONS**

If the client chooses to alter the proposed scope of work, then the client shall advise AKT Peerless, and AKT Peerless shall propose alterations to the scope of work and related fees. The client will authorize AKT Peerless in writing to conduct more or less work than defined in this proposal.

AKT Peerless will provide these services using its commercially reasonable best efforts consistent with the level and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

This proposal and the associated costs are valid for 30 days. After 30 days have elapsed, AKT Peerless reserves the right to alter the scope of work and estimated cost. Changes in the scope of work and the estimated price would be dependent on potential changes in the amount of available site information, regulatory requirements, seasons, economic conditions, etc. If necessary, AKT Peerless will provide an altered scope of work and the associated price estimate for approval prior to initiating project activities.

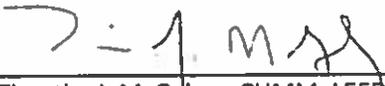
This proposal, including: descriptive material, pricing, discussion of proposed methods to be used or implemented by AKT Peerless, and related information set forth herein are confidential; these items constitute trade secrets of and are proprietary to AKT Peerless. AKT Peerless is submitting this information for informational purposes only, based on the express understanding that it will be held in strict confidence; will not be disclosed, duplicated, or used, in whole or in part, for any purpose other than the evaluation of this information; and will not, in any event, be disclosed to third parties, without prior written consent of AKT Peerless.

**TERMS AND CONDITIONS**

By signing this proposal, the City of Mount Clemens, agrees to the terms and conditions initially agreed upon between AKT Peerless and the City of Mount Clemens (refer to Dickinson Wright Professional Services Agreement with AKT Peerless). AKT Peerless will prepare and render invoices for work performed to date on a monthly basis. All invoices shall be payable within thirty (30) days of invoice date.

**PROPOSAL ACCEPTANCE**

For:  
Environmental Consulting Services for the 2016 Calendar Year  
Former Mount Clemens Landfill  
Mount Clemens, Michigan

This proposal submitted by:   
\_\_\_\_\_  
Timothy J. McGahey, CHMM, LEED-AP  
Vice President Environmental Due Diligence

December 18, 2015

Mr. Jeff Wood  
City of Mount Clemens  
Proposal No. PF-18259-1  
Project No. 5214F  
**Total (Not to Exceed): \$33,650**

\*Note: To date, AKT Peerless has provided over \$65,000 of in-kind services to the City of Mount Clemens for this project. Mr. Anthony will remain involved and will continue to provide in-kind services as the project progresses.

ACCEPTANCE: \_\_\_\_\_  
PRINTED NAME: \_\_\_\_\_  
FOR: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

**SCHEDULE 2**

**Standard Fee Schedule**

(See attached.)

**AKT PEERLESS ENVIRONMENTAL & ENERGY SERVICES**

**CONSULTING AND ENGINEERING SERVICES:**

**SCHEDULE OF PROFESSIONAL SERVICES FEES AND LIST OF EQUIPMENT, MATERIAL AND EXPENSE RATES**

January 1, 2014

**Professional Service Fees**

|  | <u>Rate</u>          |
|--|----------------------|
| Principal Environmental & Energy Services        | \$ 220.00/hr         |
| Senior Project Manager                           | 140.00 to 190.00/hr  |
| Senior Environmental Engineer                    | 110.00 to 160.00/hr  |
| Senior Geologist/Hydrogeologist                  | 95.00 to 140.00/hr.  |
| Senior Consultant & Compliance Specialist        | 95.00 to 140.00/hr   |
| Senior Environmental/Energy Consultant           | 95.00 to 140.00/hr.  |
| Senior Incentive Specialist                      | 140.00 to 160.00/hr  |
| Project Manager                                  | 75.00 to 110.00/hr   |
| Incentive Specialist                             | 120.00 to 140.00/hr. |
| Environmental Engineer                           | 90 to 110.00/hr.     |
| Geologist/Hydrogeologist                         | 60.00 to 110.00/hr.  |
| Environmental/Energy Consultant                  | 60.00 to 110.00/hr.  |
| Environmental Consultant & Compliance Specialist | 95.00 to 105.00/hr.  |
| Senior Field Technician                          | 65.00 to 75.00/hr    |
| Field Technician                                 | 55.00/hr             |
| Field/Probe Operator                             | 65.00 to 125.00/hr   |
| Technical Support                                | 65.00 to 95.00/hr    |
| CAD Operator                                     | 55.00 to 80.00/hr    |
| Administrative Support                           | 45.00/hr to 55.00/hr |

**Field Equipment**

|  | <u>Rate</u>  |
|--|--------------|
| Water Level Indicator                                | \$ 35.00/day |
| Interface Probe                                      | 45.00/day    |
| Meter: Low Flow                                      | 125.00/day   |
| Meter: Turbidity                                     | 50.00/day    |
| Meter: Quad Gas Meter                                | 75.00/day    |
| Meter: OVM-Photoionization Detector (PID)            | 75.00/day    |
| Pump: Peristaltic                                    | 35.00/day    |
| Pump: Grundfos/Whale                                 | 50.00/day    |
| Magnetic Locator                                     | 25.00/day    |
| Utility Locator                                      | 100.00/day   |
| Ground Penetrating Radar or Electromagnetic Profiler | 500.00/day   |
| Transit Survey Equipment                             | 75.00/day    |
| Geoprobe® with Operator                              | 1,250.00/day |
| Electricity Generator                                | 75/day       |
| Concrete Core Cutter                                 | 175.00/day   |
| Smoke Machine  | 150.00/day   |
| Field Office and Travel Trailer                      | 150.00/day   |
| Support Vehicle (Local (60-mile radius), full day)   | 75.00/day    |
| Support Vehicle (Over 60-mile radius, full day)      | 150.00/day   |
| Support Vehicle (Out of State, full day)             | 200.00/day   |

**Field Material/Expense**

|                            | <u>Rate</u>   |
|----------------------------|---------------|
| Mileage                    | \$ 0.50/mile  |
| Meals                      | cost plus 15% |
| Lodging                    | cost plus 15% |
| Postage                    | cost plus 15% |
| Report Copies (<200 pages) | 75.00/copy    |

**Field Equipment Air Quality**

|   | <u>Rate</u> |
|---|-------------|
| Environmental Quality Meter                         | \$50.00/day |
| Moisture Meter                                      | 20.00/day   |
| XRF Lead Paint Analyzer (based on project duration) | TBD/day     |
| Dry Calc Pump Calibration Unit                      | 75.00/day   |
| Drager Accuro (colorimetric detector tubes)         | 35.00/day   |
| High Volume Pump (3-30 LPM)                         | 25.00/day   |
| Low Volume Pump 0.5-4 LPM)                          | 25.00/day   |
| EMS IAQ Microbial Sampling Pump                     | 50.00/day   |
| Inspection Bore Scope (fiber optic)                 | 75.00/day   |
| Phase Contrast Microscope (PCM) and Supplies        | 35.00/day   |
| Lead/Cadmium Survey Chip Sampling Kit               | 35.00/day   |

### SCHEDULE 3 Standard Terms and Conditions

These Standard Terms and Conditions are incorporated into and made a part of that certain Engagement Letter to which this Schedule 3 is attached.

1. Definitions. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Engagement Letter.

2. Qualifications. Consultant represents that it employs trained and qualified personnel with experience in providing the services sought by Client and desires to perform the work and related activities pursuant to and in accordance with the Engagement Letter, Schedule 1, Schedule 2 and Schedule 3 thereto (all of such documents, together with each accepted Change Order, are collectively referred to herein as the "Services Agreement.")

3. Basic Services. The Consultant agrees to supply all materials, tools and equipment, and perform such labor and services as are or may be necessary to perform the Scope of Work in accordance with the Standard Fee Schedule. All of the services described in this Section 3 to be performed are hereinafter referred to as the "Basic Services".

4. Additional Services. Changes in the Basic Services may be accomplished after the execution of this Services Agreement pursuant to an accepted "Change Order" (as described in Section 5 below). Any and all work performed outside the scope of the Basic Services shall be hereinafter referred to as "Additional Services" and shall only be performed pursuant to an accepted Change Order. Additional Services shall include, without limitation, any additional work that may be required by Client and shall be performed in accordance with an accepted Change Order. The cost of the Additional Services shall be computed based on the Standard Fee Schedule. In the event the Standard Fee Schedule does not set forth the unit cost of a particular task or service, the cost of such service or task shall be that unit cost customarily charged for that service or task within the industry. The Basic Services and the Additional Services are collectively referred to herein as the "Services." Work performed outside of the Basic Services and not pursuant to an accepted Change Order shall be done at the sole cost and expense of Consultant.

5. Change Orders. A Change Order shall be substantially in form and content of Exhibit "A" attached hereto, and shall specify (a) the Additional Services to be performed; (b) the cost of the Additional Services; (c) any changes in work schedule required to perform the Additional Services; and (d) such other information as Client may reasonably request. An accepted Change Order is a Change Order that has been signed by the Consultant and Client. Each valid Change Order shall be deemed an addendum to the Services Agreement and shall be subject to all of the terms and conditions contained herein. The parties acknowledge and agree that this Services Agreement, the Scope of Work and any valid Change Order shall establish the Consultant's scope of work.

6. Compensation. The Consultant shall perform the Basic Services for a cost not to exceed the Contract Price. The Consultant shall perform the Additional Services for a total cost not to exceed the amount set forth in the accepted Change Order covering those Additional Services.

7. Payment; Notice of Objection. The Consultant's invoices for work performed shall be submitted monthly and terms are net cash, payable within 45 days in U.S. dollars from Client's receipt of the invoice unless a Notice of Objection (as hereinafter defined) is sent to Consultant. Invoices shall be submitted directly to Client with a copy to Client's legal counsel. Client shall either acknowledge that the work invoiced has been performed satisfactorily in accordance with this Services Agreement or notify the Consultant of any objection(s) thereto (the "Notice of Objection") within seven (7) days from Client's receipt of the invoice. A Notice of Objection shall specify the basis for the objection and to the extent possible, shall state practicable steps to be taken to resolve the objection. If the objection is based on poor workmanship or that the invoiced Services were not performed in accordance with the Services Agreement, any and all work performed by the Consultant to remedy the objection shall be performed at the Consultant's sole cost and expense and shall not be invoiced to Client. Once the work that is the subject of a Notice of Objection has been completed, the Consultant shall resubmit the invoice covering such Services performed.

8. Time Schedule. The Consultant shall perform the Services in accordance with the requirements, standards, specifications and schedules set forth in this Services Agreement and any accepted Change Order(s) by the date specified in the Engagement Letter. Upon the occurrence of an event causing, or which may cause, a delay in the performance of the Services, or the discovery of any unforeseen circumstance while performing the Services which may increase the cost of the Services, the Consultant shall promptly notify the Client of such fact and shall: (a) specify the nature of the delay; (b) explain whether and why the delay was or may be caused by an event beyond the Consultant's control; (c) state what actions were taken or will be taken to minimize damage and/or delay; (d) state how further damage or delay can be avoided; (e) state the anticipated length of the delay and the effect the delay will have upon the performance of the Services; and (f) explain why the circumstances could not have been foreseen by the Consultant.

If the delay was caused by a failure of the Consultant (or any subcontractor thereof) to perform the Services the Consultant shall bear the cost of the additional work necessitated by the event which caused the delay in the performance of the Services. Otherwise, the parties hereto shall negotiate in good faith to address the increased costs of such delay or unforeseen circumstance.

If the Client does not promptly receive the notification described in this Section 8, the Consultant shall bear any increase in costs arising out of the delay.

9. Professional Standards. The Consultant is providing professional services to Client as specified in the Services Agreement, any accepted Change Order(s) or under any related agreement, and in accordance therewith, the following provisions shall apply:

The Consultant represents, warrants and covenants to Client that: (a) it knows the nature and scope of the Services and that it is familiar with the type of problems and hazards typically encountered in conducting the Services at a parcel such as the Site; (b) that it has the capability, experience and resources to perform the Services as required hereunder; (c) that the Services will be performed in a timely, professional and workmanlike manner in accordance with the highest professional standards employed in the industry; (d) that all Services shall be performed safely and shall comply with: (i) all applicable federal, state and local laws, ordinances, regulations, orders and directives; (ii) all written policies made available to the parties by the United States Environmental Protection Agency or the Michigan Department of Environmental Quality; (e) that all cost estimates, approvals, recommendations, opinions and decisions by the Consultant have been and shall be made on the basis of the Consultant's experience, qualifications, and professional judgment; and (f) the Contract Price is a fair and adequate price for the performance of the Basic Services. In the event that the Consultant's failure to comply with the technical requirements of the Services, or fails to comply with this Services Agreement, including any Change Order(s), requires the Consultant to perform a particular task again, the Consultant shall be responsible for the costs incident to performing that task again.

10. Confidentiality. The Consultant hereby agrees that the Consultant shall consider all work performed for Client and the results thereof, including, but not limited to, any reports or test results (hereinafter "Confidential Information"), as confidential and proprietary to Client to be shared only with Client and Client's legal counsel. The Consultant agrees that any and all information provided to the Consultant in connection herewith shall also be considered Confidential Information that shall not be disclosed to others.

The Consultant further agrees that it will not, without the prior written consent of Client, publish or otherwise divulge or disclose, or discuss with anyone, the Confidential Information irrespective of the source of such Confidential Information, other than publications thereof to Client and Client's legal counsel, and parties designated by either Client or Client's legal counsel. The Consultant shall take all reasonable precautions to assure that such Confidential Information is not used by or disclosed to others, directly or indirectly, other than as provided herein. Said precautions shall include, but not be limited to, the following: (a) advising all of the Consultant's directors, officers, agents, employees and representatives, including, but not limited to, subcontractors, laboratories, technicians, engineers and consultants retained by the Consultant, of such privileged, confidential, and proprietary status, and securing verbal or written agreements to honor same, (b) refraining from publishing or divulging any such information in breach of the intent hereof, and (c) labeling all written communications and records of such Confidential Information as "Confidential."

11. Insurance. Unless otherwise set forth in the Scope of Work, the Consultant shall maintain insurance coverage in the forms and in at least the amounts specified below, and such policies shall name Client and DW as additional insureds:

|  |  |
|--|--|
| Commercial General Liability                           | \$1,000,000 per occurrence/2,000,000 aggregate |
| Automobile Liability                                   | \$1,000,000 per occurrence/2,000,000 aggregate |
| Professional Errors and Omissions                      | \$1,000,000 per occurrence/2,000,000 aggregate |
| Consultant Pollution Insurance                         | \$1,000,000 per occurrence/2,000,000 aggregate |
| Consultant Liability Coverage                          | \$1,000,000 per occurrence/2,000,000 aggregate |
| Workers' Compensation                                  | \$1,000,000 per occurrence/2,000,000 aggregate |
| Hazardous Waste Transport Insurance<br>(if applicable) | \$1,000,000 per occurrence/2,000,000 aggregate |

The Consultant shall furnish to Client certificates of insurance showing the coverages and limits of liability above stated. The Consultant's insurance shall be primary and not be entitled to contribution from any insurance maintained by Client, if any. The above insurance limits are minimum requirements and do not constitute limits on the Consultant's liability.

As set forth in Section 19(b) below, the Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates or endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

If the Consultant neglects or refuses to provide any insurance required herein, or if any insurance is canceled, Client may, at its option, either terminate this Services Agreement or procure such insurance and adjust the Contract Price downward by the reasonable amount of premiums paid or to be paid.

All insurance shall be written by companies with an AM Best rating of "A" or higher and shall be written on an "occurrence" basis. Such certificates shall not be canceled or reduced in coverage until thirty (30) days written notice of such cancellation or reduction has been received by Client.

12. Indemnification. The Consultant shall indemnify, hold harmless and, at Client's option, defend Client, and its present and future directors, officers, members, shareholders, partners, employees, representatives and agents, including successors and assigns of the foregoing, from and against any and all claims, losses, damages, liabilities and expenses (including costs of defense, arbitration, settlement and reasonable attorneys' fees) for death of or bodily injury to any person, destruction of or damage to any property, loss of any property rights or entitlement, contamination of or adverse effects on the environment, or violation of governmental laws, regulations or orders, if and to the extent they result from, arise out of or are in connection with (a) any negligent or willful act or omission of the Consultant, its directors, officers, members, shareholders, partners, employees, agents, representatives, successors and assigns, or its subcontractors, or (b) the Consultant's breach of any term or provision of this Services Agreement or any accepted Change Order(s). The Consultant shall not be responsible for any claim, loss, damage, liability or expense to the extent caused by the negligence or willful misconduct of Client, its directors, officers, members, shareholders, partners, employees, representatives or agents. The obligations of indemnification imposed by this section shall survive the termination of this Services Agreement and the completion of the Services.

13. Termination. Client may terminate this Services Agreement in whole or from time to time in part, as well as any outstanding accepted Change Order(s) at any time by written notice to the Consultant. Upon such termination, the Consultant agrees to waive any claims for damages, including loss of anticipated profits, on account thereof, and as the sole right and remedy of the Consultant, Client shall pay the Consultant in accordance with Subsection 13(c) below.

(a) Upon receipt of any such notice, the Consultant shall, unless the notice otherwise directs, immediately discontinue the Services on the date and to the extent specified in the notice; place no further orders or contract with subcontractors for material, equipment, services or facilities, except as may be necessary for the completion of such portion of the Services as is not discontinued, if any; promptly make every reasonable effort to procure cancellation upon terms satisfactory to Client of all orders and subcontracts to the extent they relate to the performance of the discontinued portion of the Services and shall thereafter do only such work as may be necessary to preserve and protect work already in progress and to protect materials, plants and equipment on the Site or in transit thereto.

(b) Upon such termination, the obligations under this Services Agreement shall continue as to that portion of the Services already performed and as to bona fide obligations assumed by the Consultant prior to the date of termination.

(c) Upon termination, the Consultant shall be entitled to be paid the full cost of all Services properly completed by the Consultant to the date of termination not previously paid for. Payment of the final amounts due hereunder shall be made in accordance with Section 7 of these Standard Terms and Conditions.

14. Independent Consultant. It is expressly understood that the Consultant is an independent contractor and that neither Consultant nor its employees or subcontractors are servants, agents, employees or representatives of Client. Client shall not be held as a party to any subcontract entered into by the Consultant to perform the Services. The Consultant shall have sole responsibility and control in implementing and supervising the performance of the Services, including all safety matters. The Consultant shall be liable for the acts and omissions of its subcontractors.

15. Handling and Disposal of Generated Waste. Consultant shall test, transport, manage and/or dispose of waste materials generated in the performance of the Services in accordance with this Services Agreement and federal, state and local laws and relevant regulations, including obtaining all necessary permits and preparation of all manifests; the Client will be responsible to sign the manifest. Waste materials as used in this section include, but are not limited to, contaminated samples and/or drilling residuals, discarded safety equipment, safety and/or work clothes, equipment, decontamination wash waters and well purge waters. The Consultant agrees to indemnify and hold harmless Client, its directors, officers, members, shareholders, partners, agents, employees, successors and assigns from and against all claims, losses, damages, liabilities and expenses (including costs of defense, arbitration, settlement and reasonable attorneys' fees) of every type whatsoever, which Client, its directors, officers, members, shareholders, partners, agents, employees, successors and assigns may incur or suffer due to or arising out of or in connection with the Consultant's failure to comply with this Section 15.

16. Samples. Samples, including but not limited to soils, surface and/or groundwater, asbestos, radon and others generated as the result of Services, may contain substances defined as hazardous by federal, state and/or local regulations. The Consultant agrees to dispose of such samples per the procedure outlined in Section 15 of these Standard Terms and Conditions unless such samples have been delivered to Client upon Client's written request therefore.

17. Records and Documents. All reports, documents, information and any materials generated by or furnished to the Consultant under this Services Agreement or any accepted Change Order, as well as any plans, specifications or other similar materials provided to the Consultant or any subcontractor by Client, shall be and remain the property of Client and shall be returned to Client immediately upon Client's request therefore. The Consultant shall not use any such reports, documents or information developed during performance of the Services or any such materials for any other purpose without the prior written consent of Client. Client shall have the unfettered right to make any use it deems appropriate of such reports, documents, information and/or similar materials.

18. Retention of Records. The Consultant shall maintain records and documents relating to performance of the Services hereunder for a period of six (6) years after completion of the Services.

19. Subcontractors.

(a) Engagement of Subcontractors. The Consultant shall not employ the services of or hire any subcontractor that has not first been approved of in writing by Client. The Consultant represents and warrants that it shall not present a subcontract to Client for review and approval unless after due diligence the Consultant shall in good faith believe that the subject subcontractor has sufficient minimum assets and the necessary ability, experience and equipment to satisfactorily perform the services required of it under its subcontract and that the subcontract itself meets the obligations herein imposed.

(b) Insurance. The Consultant shall include in all subcontracts the minimum coverages (as set forth in Section 11 of these Standard Terms and Conditions) and limits of liability to be provided by the subcontractor during the term of said subcontractor's engagement hereunder and until two (2) years after completion of the Services. Insurance provisions contained in all subcontracts, as well as all certificates of insurance provided by any subcontractor, shall be subject to review and approval by Client, which approval will not be withheld unreasonably. Except as Client shall otherwise approve, all such subcontractors shall provide to the Consultant and Client certificates of insurance as required by their subcontract, and such certificates shall require that the policies shall not be canceled or reduced in coverage until thirty (30) days written notice of such cancellation or reduction has been received by the Consultant and Client. In the event either the Consultant or Client receives any such notification, it shall promptly notify the other party. If an insurance policy is canceled or reduced in coverage by any subcontractor performing Services at the Site, the Consultant shall immediately suspend the Services of that subcontractor, and allow the subcontractor seven (7) days within which to secure insurance coverage identical to that provided in the canceled or reduced policy. If the subcontractor fails within seven (7) days to secure insurance coverage identical to that provided in the canceled or reduced policy, the Consultant shall terminate the particular subcontract or assignment at issue and, if necessary, replace the defaulting subcontractor with a separate subcontractor approved by Client. To the extent a temporary stoppage of work is caused by the reduction or cancellation of insurance coverage by a subcontractor or assignee, Client shall not be responsible for any costs related to that work stoppage, except as provided in this subparagraph (b). The Consultant agrees that it will indemnify and hold Client harmless in the event any subcontractor fails to maintain the coverages shown in its certificates of insurance while that subcontractor is performing any Services.

20. Laboratory Subcontractors. The Consultant shall only use laboratories that are and shall be, throughout the performance of the Services, accredited under appropriate accreditation programs and whose methods and analytical results will have adequate quality assurance/quality control ("QA/QC") procedures and back-up to permit evidentiary use of such results in any court or before any tribunal without successful challenge to the accuracy and validity thereof. All Services hereunder shall be performed under the management of persons holding current credentials of an appropriate nature. Client shall retain the right to withdraw approval as to any particular laboratory subcontractor upon any reasonable basis. Upon such withdrawal of approval, the Consultant shall terminate said subcontract and hire a new laboratory subcontractor as herein provided.

21. Notices Received by Consultant. The Consultant shall immediately notify Client of its receipt of any report, citation, notice or other writing (and deliver a copy thereof to Client) by or from any governmental or quasi-governmental authority or from any third party relating to the Site and/or the condition thereof not being in compliance with any applicable environmental law. The Consultant shall also immediately notify Client of any release or threatened release of any hazardous waste (as such term is defined under any federal, state or local law) which occurs on the Site during the term of this Services Agreement.

22. Assignment. The Consultant shall not assign any of its rights or obligations under this Services Agreement or any document executed in connection herewith, including, without limitation, Change Orders, without the prior written consent of Client.

23. Applicable Law and Dispute Resolution. This Services Agreement shall be interpreted and the rights and obligations of the parties shall be determined in accordance with the laws of the State of Michigan.

24. Entire Agreement. This Services Agreement constitutes the entire understanding and agreement between the parties hereto relating to the subject matter hereof and supersedes any and all prior agreements, whether written or oral, of the parties.

25. Severability. If any portion of this Services Agreement is judged illegal, invalid, or unenforceable, such illegality, invalidity or unenforceability shall not affect any other portion of this Services Agreement.

Standard Terms and Conditions

Change Order No. \_\_\_\_\_

Change Orders  
Additions/Deletions

Project No.

Date:

Requested By:

Site:

**Reason for Additional Services:**

**Description of Change Order:**

**Cost of Additional Services:**

Total Cost of Change Order No. \$ \_\_\_\_\_

This Change Order is hereby made a part of and incorporated into the Services Agreement between Client and Consultant dated \_\_\_\_\_. All work performed pursuant to this Change Order shall be performed in accordance with and shall be governed by the terms and conditions of said Services Agreement.

Agreed to and accepted:

“Consultant”

“Client”

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**SCHEDULE 4**

**Privilege and Confidentiality Agreement**

(See attached.)

BLOOMFIELD 9993-2 1478878v2

## PRIVILEGE AND CONFIDENTIALITY AGREEMENT

This Agreement is made this 18<sup>th</sup> day of December, 2015 between Dickinson Wright PLLC (the "Firm") and undersigned AKT Peerless Environmental & Energy Services ("Consultant") concerning Consultant's agreement to maintain as confidential certain information provided by the Firm to Consultant.

### WITNESSETH

WHEREAS, the Firm represents the City of Mount Clemens ("Client") with regard to providing environmental legal services concerning the former City of Mount Clemens Landfill.

WHEREAS, the Firm needs technical assistance and advice concerning the property, to assist the Firm in representation of Client;

WHEREAS, the Consultant has expressed an interest in providing such technical assistance and advice to the Firm ("Work");

WHEREAS, such information as will be provided by the Firm to the Consultant, must remain privileged and confidential, so that it is protected by the attorney work product doctrine and the attorney-client privilege;

WHEREAS, such information that the Consultant will obtain, discover, or generate during the course of the Work must remain confidential; and

In consideration of the Firm tendering the Consultant's services constituting the Work, the Consultant hereby agrees and covenants as follows:

1. All information, materials, or documents regarding the Firm or Client, its personnel or activities, including, but not limited to, the information included in the environmental assessment, health and safety assessment and the information developed or discovered during the course of the Work, if any ("Confidential Information"): (a) shall be maintained as Client's confidential property, (b) shall not be used for Consultant's own benefit, (c) shall not be disclosed, in whole or in part, to any non-party to this Agreement, except with permission from the Firm, and (d) shall not be provided or revealed to any governmental agency or body, except at the direction of the Firm.

2. The Consultant further agrees that it will not, without the prior written consent of Client, publish or otherwise divulge or disclose, or discuss with anyone, the Confidential Information irrespective of the source of such Confidential Information, other than publications thereof to Client and Client's legal counsel, and parties designated by either Client or Client's legal counsel. The Consultant shall take all reasonable precautions to assure that such Confidential Information is not used by or disclosed to others, directly or indirectly, other than as provided herein.

3. At the completion of the Work or upon receipt of written request of the Firm, the Consultant must return to the Firm all original documents and written information provided to or

prepared by the Consultant in connection with this matter. The Consultant may retain a copy of the documents and written information for its files.

4. The Consultant shall label every document with the following legend at the top of every page: "Confidential/Subject to the Attorney-Client Privilege: Do Not Duplicate."

5. The Consultant's obligation under this Agreement to maintain confidentiality shall not apply to such information:

(a) disclosed in a patent copyright, or otherwise contained in the public domain through no fault of the Consultant; and

(b) obtained by the Consultant in writing from a non-party lawfully in possession of it and under no confidentiality obligations as to it.

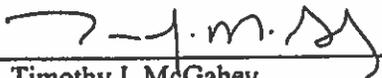
6. The Consultant shall take all reasonable precautions to assure that the Confidential Information is not used by or disclosed to others, directly or indirectly. Said precautions shall include advising all of Consultant's directors, officers, employees, agents, and representatives, including but not limited to, attorneys, subcontractors, laboratories, technicians, engineers and consultants retained by the Consultant, of such privileged, confidential, and proprietary status, and securing written agreements to honor same. In the event the Consultant subcontracts any of the Work, such subcontractors shall sign a confidentiality agreement in the form of this Agreement.

7. The party that has substantially prevailed in any action brought to enforce this Agreement shall be entitled to collect its costs of enforcement of this Agreement from the other party, including reasonable attorney's fees. Consultant acknowledges that breach of this Agreement would cause Client immediate and irreparable harm for which payment of money would not adequately compensate Client. Therefore, Client shall be entitled, in addition to any other remedies available at law or in equity, to injunctive relief for any such breach without proof of actual damages or the posting of bond or other security.

8. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

ACCEPTED AND AGREED TO:

**AKT PEERLESS ENVIRONMENTAL & ENERGY SERVICES**

BY:   
Timothy J. McGahey

DATED: 12/18/15

ITS: Vice President Environmental Due Diligence

**DICKINSON WRIGHT PLLC**

BY: 

DATED: 12-18-15

ITS: ATTORNEY FOR CITY OF MOUNT CLEMENS

BLOOMFIELD 9993-2 1343797v3

**EXPLANATION OF CONSENT AGENDA – January 4, 2016**

**Agenda Item No. 10-C**

**City Commission Approval of the Fiscal Year 2016 Specialized Services Operating Assistance Program Third-Party Contract between Suburban Mobility Authority for Regional Transportation (SMART) and the City of Mount Clemens**

Attached is the Fiscal Year 2016 Specialized Services Operating Assistance Program Third-Party Contract between the SMART and the City of Mount Clemens. This contract is the same as the Fiscal Year 2015 contract and has been reviewed by the City Attorney's Office and the City's insurance carrier.

The contract outlines the obligation of funds from the Michigan Department of Transportation through SMART to provide public transportation services to persons with disabilities and senior citizens.

**SUBMITTED BY:** Jeffrey D. Wood, Public Services Director

**RECOMMENDED MOTION:** Approve the Fiscal Year 2016 Specialized Services Operating Assistance Program Third-Party Contract between Suburban Mobility Authority for Regional Transportation and the City of Mount Clemens, as presented; and to authorize the execution of the Contract by the appropriate City officials.

**SPECIALIZED SERVICES OPERATING ASSISTANCE PROGRAM  
THIRD-PARTY CONTRACT**

**THIS AGREEMENT** is made and entered between the Suburban Mobility Authority For Regional Transportation (hereinafter referred to as “**AUTHORITY**”), and City of Mount Clemens (hereinafter referred to as “**SUBRECIPIENT**”).

**SECTION 1. - DEFINITIONS**

|                             |   |
|-----------------------------|---|
| <b>PROGRAM</b>              | Means the Michigan Specialized Services Operating Assistance program designed primarily for seniors and handicapped individuals as defined under Section 10e(4) (d) (ii) of Act 51, of the Public Acts of 1951, as amended. |
| <b>DEPARTMENT</b>           | Means the Michigan Department of Transportation.  |
| <b>BUREAU</b>               | Means the Bureau of Urban and Public Transportation of the Michigan Department of Transportation.   |
| <b>AUTHORITY</b>            | Means the Suburban Mobility Authority for Regional Transportation.  |
| <b>PROJECT</b>              | Means the providing of SPECIALIZED SERVICES.  |
| <b>SPECIALIZED SERVICES</b> | Means public transportation services primarily designed for persons who are handicapped or who are sixty-five (65) years of age or older.   |
| <b>STATE</b>                | Means the State of Michigan.  |
| <b>SUBRECIPIENT</b>         | Means the organization which will provide the transit services with funds received under this Contract.   |
| <b>APPLICATION</b>          | Means the AUTHORITY’s application, submitted in cooperation with the SUBRECIPIENT, for funding from this PROGRAM for the period from October 1, 2015 to September 30, 2016.   |

## **SECTION 2. - PURPOSE**

The purpose of this Contract is to pass through operating assistance funding received from the DEPARTMENT PROGRAM, to the SUBRECIPIENT. The transit services provided shall be as described in the APPLICATION submitted by the SUBRECIPIENT through the AUTHORITY and approved for funding by the DEPARTMENT.

## **SECTION 3. - FUNDING**

The AUTHORITY is only obligated to provide funds under this Contract to the extent that, funds for the PROGRAM are made available to it by the DEPARTMENT. The AUTHORITY's maximum obligation for the provision of funds to the SUB-RECIPIENT for eligible contract costs is THIRTEEN THOUSAND, EIGHT HUNDRED NINETEEN DOLLARS (\$13,819) as determined by the DEPARTMENT.

The maximum amount of the AUTHORITY funds to be given the SUBRECIPIENT shall not be increased without a prior written amendment to this contract. DEPARTMENT funds made available to the AUTHORITY, through legislative appropriation, are based on projected revenue estimates. In the event that revenue actually received is insufficient to support the appropriation, it may necessitate a reduction in the maximum amount of said funds available to the SUBRECIPIENT. In such event, the AUTHORITY reserves the right, without notice, to reduce the maximum obligation of funds for the SUBRECIPIENT by the amount of any reduction by the DEPARTMENT to the AUTHORITY.

## **SECTION 4. - BUDGET ADJUSTMENTS**

Budget adjustments must be requested in writing by the SUBRECIPIENT. Upon receipt of the request, the AUTHORITY shall have thirty-five (35) business days to provide written approval or disapproval of the budget adjustment. If no action is taken within thirty-five (35) working days, the budget adjustment shall be deemed approved. Expenditure of funds in excess of any line-item will not be considered an eligible PROJECT cost. The addition of any new line-item, or any line-item changes which represent a deviation from the PROJECT as described in the APPLICATION, shall require a prior written amendment to this contract.

## **SECTION 5. - PROJECT COSTS AND REVENUES**

The SUBRECIPIENT shall complete and submit to the AUTHORITY the information required by the DEPARTMENT, on the quarterly reporting form (available on-line at SMARTbus.org), within ten (10) days after the end of each state of Michigan fiscal year quarter. Failure to provide the quarterly report within thirty (30) days after the end of each state of Michigan fiscal year quarter, may result in a loss of a portion of or all funding. The AUTHORITY reserves the right to withhold payment of PROJECT funds if the SUBRECIPIENT fails to file reports as required in this paragraph.

If the SUBRECIPIENT also receives funding under 1951 P.A. 51, Section 103(4)(a); MCL 247.660(e)(4)(a); MSA 9.1097(10)(f)(4)(a), as amended, or 1951 P.A. 51, Section

10(e)(4)(d)(iv); MCLA 247, 660(e)(4)(d)(iv); MSA 9.1097 (10) (f)(4)(d)(iv); as amended their cost allocation plans must be submitted to the BUREAU for approval. Any PROJECT costs in excess of revenues reported on the quarterly reporting form will **not** be eligible under any other state and federal program administered by the AUTHORITY or the DEPARTMENT.

### **Section 6. - BILLING, PAYMENTS AND QUARTERLY REPORTS**

Notwithstanding the provisions set-forth in Section 3 of this contract, the AUTHORITY shall provide to the SUBRECIPIENT the State funds designated for the eligible project costs incurred in performance of this contract within ten (10) business days of the receipt of said funds from the DEPARTMENT.

The AUTHORITY may appropriately reduce payments if written reports submitted by the SUBRECIPIENT as required under this section indicate that the level of service described in the APPLICATION has been reduced.

Actual reimbursement shall be based on a rate per mile, or one-way passenger trips of SPECIALIZED SERVICES up to the maximum amount provided for herein.

The actual reimbursement method selected by the SUBRECIPIENT is \$4.07 per passenger.

Should the per mile rate method be selected by SUBRECIPIENT, actual reimbursement may be subject to change, per BUREAU reimbursement rate modifications.

### **SECTION 7. - TERMINATION OR SUSPENSION**

For any violation of this contract or legislative change, the AUTHORITY may, by thirty (30) days written notice, suspend any and all of the rights and obligations under this contract until such time as the event or condition resulting in such suspension has ceased or been corrected, or the AUTHORITY may, by thirty (30) days written notice to the SUBRECIPIENT, terminate any and all of the rights and obligations under this contract.

### **SECTION 8. - ACCOUNTING RECORDS, AUDITS, AND DOCUMENTATION**

#### **(a) Establishment and Maintenance of Accounting Records**

The SUBRECIPIENT shall maintain books, records, documents, and other accounting records in accordance with generally accepted governmental accounting principles. Said records shall be sufficient to properly reflect all costs of whatever nature claimed to have been incurred or anticipated to be incurred in the performance of the identified PROJECT. To facilitate the administration of the PROJECT, separate records shall be established and maintained. The SUBRECIPIENT shall assure that the records to support the miles traveled and the passengers carried as reported pursuant to Section 6 of this Agreement are established and maintained.

(b) Audit

The SUBRECIPIENT shall permit the AUTHORITY and/or the DEPARTMENT or the authorized representatives of the AUTHORITY to audit all data and records relating to the performance of this contract. The SUBRECIPIENT shall retain and allow access to, and require its contractors to retain and allow access to all data and records pertaining to the PROJECT for a period of not less than six (6) years after the final payment by the AUTHORITY pursuant to the AGREEMENT.

The period of access, examination, and retention of data and records which relate to litigation or the settlement, of claims arising out of the performance of this contract, or costs of this contract as to which exception has been taken by the AUTHORITY or the DEPARTMENT or the authorized representative of the AUTHORITY or the DEPARTMENT, shall continue until such litigation, claims, or exceptions have been disposed of.

(c) Costs Supported by Documentation

PROJECT costs shall be supported by properly executed canceled checks, invoices or vouchers evidencing the nature and propriety of the charges.

(d) Accuracy of Financial Documentation

If a third-party contract is required for rendering of the services herein, then the SUBRECIPIENT is responsible for the accuracy of the financial and non-financial data and reports submitted for reimbursement.

(e) Revenue Expense Guidelines

If the SUBRECIPIENT also receives funding under 1951 P.A. 51, Section 10e(4)(a); MCL 247.660(e)(4)(a); MSA 9.1097(10)(f)(4)(a), as amended or 1951 P.A. 51, Section 10(e)(4)(d)(iv); MCLA 247.660(e)(4)(d)(iv); MSA 9.1097(10)(f)(4)(d)(iv), as amended, determination of PROJECT costs shall be in conformity with the criteria set forth in "Local Public Transit Revenue and Expense Manual". All other providers of service shall use the "Revenue, Expense and Nonfinancial Data Definition Manual for Less Specialized Services Agencies".

**SECTION 9. - THIRD-PARTY CONTRACT PROCEDURE**

The SUBRECIPIENT shall not enter into contracts with third parties for provision of services herein without prior written approval from the AUTHORITY; notice of potential third-party contracts shall be submitted to the AUTHORITY for approval in writing. Approval or denial of said third-party contract will be submitted, in writing, to SUBRECIPIENT by the AUTHORITY.

Approval does not constitute an assumption of liability, a waiver or an estoppel to enforce any of the requirements of this contract, nor shall any such approval by the AUTHORITY be construed as a warranty of the third-party's qualifications, professional standards, ability to perform the work being subcontracted, or financial integrity.

## **SECTION 10 - ACCESS**

SUBRECIPIENT agrees to provide, and will require its contractors to provide, access by the AUTHORITY and/or the DEPARTMENT to all technical data, reports, documents and work in progress pertaining to the PROJECT. Copies of technical data and reports shall be provided by the SUBRECIPIENT or its contractors to the AUTHORITY upon request.

## **SECTION 11. - INDEMNIFICATION**

Notwithstanding any other provision in this Agreement, SUBRECIPIENT shall indemnify, defend and save harmless AUTHORITY, its officers, agents, employees, and members of its Board of Directors from any and all claims, losses and damages, including costs and attorney fees occurring or resulting from any act, omission or negligence of or chargeable to the parties, their officers, agents, employees, subcontractors, successors and/or assigns arising out of and/or pursuant to this Agreement.

## **SECTION 12. - ENTIRE AGREEMENT**

This Agreement, along with any exhibits, addendums, schedules, and amendments hereto, merges and concludes the entire agreement of SUBRECIPIENT and the AUTHORITY. Any previous communications, whether oral or written, are superseded through by this document. The SUBRECIPIENT and AUTHORITY acknowledge, by executing this document, that said parties have not relied on any representation, assertion, guarantee, warranty, ancillary contract or other assurance, except those set out in this AGREEMENT. SUBRECIPIENT hereby waives all rights and remedies, at law or in equity, which may arise as the result of said party's reliance on such representation, assertion, guarantee, warranty, ancillary contract or other assurance, provided that no clause herein shall be construed as a restriction or limitation of said party's right to remedies associated with the gross negligence, willful misconduct or fraud of any person or party taking place prior to, or contemporaneously with, the execution of this Agreement.

## **SECTION 13. - PROHIBITED DISCRIMINATION**

In connection with the acceptance of this contract, the SUBRECIPIENT (hereinafter in Appendix "A" referred to as the "Contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix "A", dated August, 1985, which is hereby incorporated by reference. The SUBRECIPIENT further covenants that it will comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and will require similar covenants on the part of any contractor or subcontractor employed in the performance of the PROJECT for which this contract is made.

## **SECTION 14. - MBE/WBE**

In accordance with 1980 P.A. 278, MCL 423, 321 *at seq*; MSA 17.458(21) *et seq*, the SUBRECIPIENT, in the performance of this Agreement, shall not enter into a contract with a

subcontractor, manufacturer, or supplier listed in the register maintained by the STATE, Department of Labor, of employers who have been found in contempt of court by a federal court of appeals, on not less than three (3) occasions involving different violations during the preceding seven (7) years, for failure to correct an unfair labor practice, as prohibited by Section 8 of Chapter 372 of the National Labor Relations Act, 29 U.S.C. 158. The AUTHORITY may void this contract if the name of the SUBRECIPIENT, or the name of a subcontractor, manufacturer, or supplier utilized by the SUBRECIPIENT in the performance of this contract subsequently appears in the register during the performance period of this contract.

#### **SECTION 15. - MISCELLANEOUS PROVISIONS**

(a) If any provision of this contract is held invalid, the remainder of this contract shall not be affected, if any such remainder continues to conform to the provisions and requirements of applicable law.

(b) The SUBRECIPIENT shall commence, carry on, and complete the PROJECT in accordance with all applicable laws. Nothing in this contract shall require the SUBRECIPIENT to observe, comply, or do any other thing in contravention of any STATE, Local or Federal law.

(c) The SUBRECIPIENT warrants that it has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of SPECIALIZED SERVICES required to be performed under this contract. The SUBRECIPIENT further warrants that in the performance of this contract, no person having any such interest shall be employed.

(d) None of the funds, materials, property, or services obtained by the AUTHORITY or the SUBRECIPIENT under this contract shall be used for any partisan political activity, or to further the election or defeat of any political activity or candidate for public office.

(e) The SUBRECIPIENT shall not assign any interest in this contract without the prior written approval of the AUTHORITY, however, that compensation due to the SUBRECIPIENT under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment shall be furnished promptly to the AUTHORITY in writing. Any such assignment does not relieve the SUBRECIPIENT of its obligations under this contract.

(f) If the SUBRECIPIENT enters into any contracts with other governmental agencies for the purposes of providing SPECIALIZED SERVICES outside of its jurisdictional boundaries, as defined and provided by law, it shall immediately provide the BUREAU with a copy of any contracts and true copies of any resolutions passed by its governing board which relate to the providing of service under such contracts.

#### **SECTION 16. - TERM OF CONTRACT**

Upon execution, this contract shall cover the period commencing October 1, 2015, and extending through September 30, 2016.

The SUBRECIPIENT agrees to notify the AUTHORITY of any event which may have significant potential impact on PROJECT progress, direction, control or cost.

**SECTION 17. - Execution**

This Contract shall become binding on the parties hereto upon the execution thereof by the duly authorized official(s) for the SUBRECIPIENT and the AUTHORITY; and upon the adoption of a resolution approving said Contract and authorizing the signatures thereto of the respective official(s) of the SUBRECIPIENT, a certified copy of which resolution shall be attached to this Contract.

**City of Mount Clemens**

**SMART**

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

By: John C. Hertel, General Manager

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## APPENDIX A PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Act. No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an 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. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980 the contractor hereby agrees not to discriminate against an employee or applicant for employment tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A branch of the above covenants shall be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontractors to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as in herein before set forth in section 1 of this Appendix.
3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not b limited to the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, marital status or disability that is unrelated to the individuals ability to perform the duties of a particular job or position.
5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.
6. The contractor will comply with relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.
7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission, and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated, and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an exiting contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.
9. The contractor will include, or incorporate by reference, the provisions of the forgoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

*\*The Civil Rights Commission referred to as the Michigan Civil Rights Commission*