

Table of Contents

Agenda	3
Administrative Response to Issues or Questions Raised During Previous Meetings.	
Administrative Response	5
Approval of Minutes.	
Work Session - May 4, 2015	6
Regular Meeting - May 4, 2015	7
Work Session - May 11, 2015.	11
9-A - Adoption of the Budget Appropriations Resolution and the Millage Rates.	
Agenda Cover.	12
Resolution.	13
Summary of Millage Rates	16
Presentation.	17
9-B - Adoption of the Resolution Revising the 2016 Fiscal Year Water Rates.	
Agenda Cover.	33
Resolution.	34
9-C - Request for Approval to Enter into a Site Access Agreement with AECOM.	
Agenda Cover.	35
Agreement	36
9-D - Resolution Supporting a Charitable Gaming License for the Friends of Macomb County Veteran's Treatment Court.	
Agenda Cover.	42
State Resolution	43
9-E - Approve Purchases and Payment of Invoices.	
Purchases and Payments.	45
Tab #1; Lawson Electric Company, Inc..	48
Tab #2; Ken's Janitorial.	49
Tab #3; Anderson, Eckstein and Westrick, Inc.	50
10-A - Second Reading and Adoption of the Consumers Energy Company Gas Franchise Ordinance.	
Agenda Cover.	52
Proposed Ordinance	53
Notice of Filing	55
10-B - Second Reading and Adoption of Amendment to the Fire Code Ordinance 40.000.	
Agenda Cover.	56
Amended Ordinance	57
Publication Summary	60
10-C - Second Reading and Adoption of Amendment to the Fire Prevention Code Ordinance 40.050.	
Agenda Cover.	61

Amended Ordinance	62
Publication Summary	64
10-D - City Commission Approval of McLeodUSA Telecommunications Services, L.L.C. (a Windstream Company) METRO Act Right-of-Way Permit.	
Agenda Cover.	65
Permit.	66
Map	79
10-E - Request to Adopt a Corrective Resolution Vacating a Portion of a Public Alley.	
Agenda Cover.	80
Resolution.	81
10-F - Resolution to Adopt the 2015-2020 Macomb County Hazard Mitigation Plan.	
Agenda Cover.	83
Resolution.	84
City Manager's Report.	
City Manager Report	85



A G E N D A

CITY COMMISSION MEETING

Monday, May 18, 2015

7:00 PM

1. Call to Order.
2. Pledge of Allegiance.
3. Roll Call.
4. Announcements, Acknowledgments and Communications and Reports.

Presentation of Proclamation Recognizing National Safe Boating Week.
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 - Adoption of the Budget Appropriations Resolution and the Millage Rates.
 - 9-B - Adoption of the Resolution Revising the 2016 Fiscal Year Water Rates.
 - 9-C - Request for Approval to Enter into a Site Access Agreement with AECOM.
 - 9-D - Resolution Supporting a Charitable Gaming License for the Friends of Macomb County Veteran's Treatment Court.
 - 9-E - Approve Purchases and Payment of Invoices.

10. Consent Agenda.

10-A - Second Reading and Adoption of the Consumers Energy Company Gas Franchise Ordinance.

10-B - Second Reading and Adoption of Amendment to the Fire Code Ordinance 40.000.

10-C - Second Reading and Adoption of Amendment to the Fire Prevention Code Ordinance 40.050.

10-D - City Commission Approval of McLeodUSA Telecommunications Services, L.L.C. (a Windstream Company) METRO Act Right-of-Way Permit.

10-E - Request to Adopt a Corrective Resolution Vacating a Portion of a Public Alley.

10-F - Resolution to Adopt the 2015-2020 Macomb County Hazard Mitigation Plan.

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 – May 18, 2015

Administrative Response to Issues or Questions Raised During Previous Meetings

1. FY 2016 Budget – Headlee Rollback Question

A resident inquired about what impact Headlee would have on our budget for FY 2016. The City's millage rate for FY 2016 is not subject to the Headlee Rollback process due to the fact that residents just passed a Charter Amendment raising the maximum millage rate to 20 mills. In other words, the voters recently weighed in and a Headlee Rollback is not in play for the first year of assessment after the election process resulted in a change to the maximum millage rate. Please keep in mind that the City has not experienced sufficient increases in property values to trigger the Headlee Rollback process in recent years.

The first year a Headlee Rollback could affect the millage rate maximum is in FY 2017. Again, that would only occur if property valuations increased sufficiently to trigger a Headlee Rollback.

2. Various Property Issues

A property owner followed up on a compliment the City received regarding the cleanup on Walnut and Court by stating there are other properties with issues in the area. The City is well aware of properties in the area which fit that general description. In fact, there are several properties that are in the foreclosure process currently. The City has also completed a board up of one of these properties. We will continue to monitor these properties and others like them with an eye toward taking proper code enforcement actions and protecting public health and safety.

3. Jermaine Jackson Community Center

Mayor Pro Tem Blash raised a concern regarding the maintenance of the Jermaine Jackson Community Center. There exists an agreement with the School District for the facility and associated maintenance. The City will be conducting a formal exterior inspection the week of May 18th. Depending on the outcome, we will proceed with appropriate action in terms of communicating with the School District.

CITY COMMISSION WORK SESSION

**County of Macomb
State of Michigan**

**May 4, 2015
Conference Room**

A work session of the Mount Clemens City Commission was held on Monday, May 4, 2015, at 6:00 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 Pro-Tem Gary Blash, and Commissioners Roger Bunton, Ronald Campbell, Lois Hill and Denise Mentzer. Absent from the meeting were Mayor Barb Dempsey and Commissioner Joseph Rheker. Also in attendance were Steven Brown, City Manager; Michael Murray, City Attorney; and Lisa Borgacz, City Clerk.

PUBLIC PARTICIPATION WAS CONDUCTED.

**DISCUSSION REGARDING THE FLORAL AVENUE DEVELOPMENT PROJECT
WAS CONDUCTED, ITEM 4-A.**

**DISCUSSION REGARDING A CITY SIDEWALK PROGRAM WAS CONDUCTED,
ITEM 4-B.**

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

The meeting adjourned at 6:56 p.m.

Respectfully submitted,

Gary Blash, Mayor Pro-Tem

Lisa Borgacz, City Clerk

CITY COMMISSION MEETING

**County of Macomb
State of Michigan**

**May 4, 2015
Commission Chambers**

A regular meeting of the Mount Clemens City Commission was held on Monday, May 4, 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 Pro-Tem Gary Blash and Commissioners Roger Bunton, Ronald Campbell, Lois Hill, Denise Mentzer and Joseph Rheker. Absent from the meeting was Mayor Barb Dempsey. 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.

Commissioner Bunton made a motion, supported by Commissioner Hill, to excuse Mayor Dempsey from the meeting. The motion passed unanimously.

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

THE ADOPTION OF THE AGENDA WAS CONSIDERED, ITEM 5.

Commissioner Rheker made a motion to approve the agenda as amended:

1. Consent Agenda Item 10-A – Reappointment of Richard Shoemaker as the Planning Commission Liaison to the Board of Zoning Appeals was moved to General Business Item 9-G.
2. Consent Agenda Item 10-A – Appointment of Mickey McGee to the Historical Commission was moved to General Business Item 9-H.
3. Consent Agenda Item 10-A – Appointment of Wendy Callanan to the Mount Clemens Public Library Board was moved to General Business Item 9-I.

The motion passed.

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 April 20, 2015 and the Work Session of April 20, 2015 as presented. The motion passed unanimously.

May 4, 2015

PUBLIC HEARING TO CONSIDER THE 2016 FISCAL YEAR BUDGET FOR THE CITY OF MOUNT CLEMENS AND THE HEADLEE MILLAGE RATES WAS CONDUCTED, ITEM 9-A.

Commissioner Rheker made a motion, supported by Commissioner Bunton, to open the public hearing to consider the 2016 Fiscal Year Proposed Budget and the Headlee Millage Rates.

The public hearing opened at 7:25 p.m.

Comments were received from the following residents:

Rick Blok, 207 Cambridge
Richard Kaufmann, 1081 Wellesley
Matt Fortier, 165 Floral
Gloria Haller, 260 Cass Avenue
Laura Kropp, 15 Belleview
Laura Fournier, 70 Lodewyck

Commissioner Rheker made a motion, supported by Commissioner Bunton, to close the public hearing on the 2016 Fiscal Year Proposed Budget and the Headlee Millage Rates. The motion passed unanimously.

INTRODUCTION AND FIRST READING OF AN ORDINANCE TO AMEND PROVISIONS OF THE FIRE CODE ORDINANCE 40.000 WAS CONSIDERED, ITEM 9-B.

Commissioner Mentzer made a motion, supported by Commissioner Rheker, to approve the introduction and first reading of the amendment to the Fire Code Ordinance 40.000; and set May 18, 2015, as the date for the second reading and adoption. The motion passed unanimously.

INTRODUCTION AND FIRST READING OF AN ORDINANCE TO AMEND PROVISIONS OF THE FIRE CODE ORDINANCE 40.050 WAS CONSIDERED, ITEM 9-C.

Commissioner Rheker made a motion, supported by Commissioner Bunton, to approve the introduction and first reading of the amendment to the Fire Code Ordinance 40.050; and set May 18, 2015, as the date for the second reading and adoption. The motion passed unanimously.

REQUEST CITY COMMISSION APPROVAL OF A CONTRACT FOR UTILITIES DEPARTMENT MANAGEMENT WAS CONSIDERED, ITEM 9-D.

Commissioner Rheker made a motion, supported by Commissioner Mentzer, to table until the City Commission Meeting of June 1, 2015, the request to enter into a Professional Services Agreement for day-to-day management and oversight of the Utilities Department with F & V Operations and Resource Management for one year on a not-to-exceed basis with an option to extend as approved by the City Commission; and to authorize the Mayor and City Clerk to execute the Agreement as finalized by the City Attorney; to provide the City Manager time to explore other collaborative options. The motion passed unanimously.

May 4, 2015

DIRECT THE CITY MANAGER TO PROVIDE A BUDGET BOOK TO THE FIRE DEPARTMENT WAS CONSIDERED, ITEM 9-E.

Commissioner Rheker made a motion, supported by Commissioner Mentzer, to direct the City Manager to provide the Fire Department with a budget book each fiscal year during the budget process beginning with the fiscal year 2016 budget book.

The vote on the motion was:

Ayes: Rheker, Campbell, Mentzer

Nays: Blash, Bunton, Hill

The motion failed.

APPROVAL OF PURCHASES AND THE PAYMENT OF INVOICES WERE CONSIDERED, ITEM 9-F.

Commissioner Bunton made a motion, supported by Commissioner Hill, to approve purchases and payment of invoices as presented. The motion passed unanimously.

APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS WERE CONSIDERED, ITEM 9-G.

Commissioner Rheker made a motion, supported by Commissioner Campbell, to approve the reappointment of Richard Shoemaker as the Planning Commission Liaison to the Board of Zoning Appeals for a 3-year term, which expires September 30, 2017. The motion passed unanimously.

APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS WERE CONSIDERED, ITEM 9-H.

Commissioner Rheker made a motion, supported by Commissioner Campbell, to approve the appointment of Mickey McGee to the Historical Commission for a 3-year term which expires June 30, 2018. The motion passed unanimously.

APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS WERE CONSIDERED, ITEM 9-I.

Commissioner Rheker made a motion, supported by Commissioner Campbell, to approve the appointment of Wendy Callanan to the Mount Clemens Public Library Board for a 4-year term which expires July 1, 2019.

The vote on the motion was:

Ayes: Hill, Mentzer, Blash, Bunton, Campbell

Nays: Rheker

The motion passed.

May 4, 2015

THE CONSENT AGENDA WAS CONSIDERED, ITEM 10.

Commissioner Hill made a motion, supported by Commissioner Campbell, to approve the consent agenda as presented:

In Item 10-B, a request to approve the 2015 Anton Art Center Art Fair on June 6 and June 7, 2015, including the closure of Macomb Place from 6:30 a.m. on Saturday, June 6, 2015 until 8:00 p.m. on Sunday, June 7, 2015 and use of the Roskopp Parking Lot in cooperation with the Public Services Department was approved.

The motion passed unanimously.

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 9:21 p.m.

Respectfully submitted,

Gary Blash, Mayor Pro-Tem

Lisa Borgacz, City Clerk

CITY COMMISSION WORK SESSION

**County of Macomb
State of Michigan**

**May 11, 2015
Conference Room**

A work session of the Mount Clemens City Commission was held on Monday, May 11, 2015, at 6:30 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 Pro-Tem Gary Blash, and Commissioners Roger Bunton, Ronald Campbell, Lois Hill, Denise Mentzer and Joseph Rheker. Absent from the meeting was Mayor Barb Dempsey. Also in attendance were Steven Brown, City Manager; Michael Murray, City Attorney; and Lisa Borgacz, City Clerk.

PUBLIC PARTICIPATION WAS CONDUCTED.

REVIEW AND DISCUSSION OF THE PROPOSED 2016 BUDGET WAS CONDUCTED.

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

The meeting adjourned at 7:46 p.m.

Respectfully submitted,

Gary Blash, Mayor Pro-Tem

Lisa Borgacz, City Clerk

EXPLANATION OF AGENDA – May 18, 2015

Agenda Item No. 9-A

Adoption of the Budget Appropriations Resolution and the Millage Rates

A public hearing was held on May 4, 2015, for the City of Mount Clemens 2015-2016 fiscal year budget and the millage rates. The millage rate for the City is as follows: General Fund, 20 mills; Dial-A-Ride .9137; Pension Fund .9137; and Sanitation .3000.

This will make the total City-wide millage levied at **22.1274**. The Downtown Development Authority district will have a millage of **1.6132** mills. The proposed budget was prepared using the maximum allowable millage under the “Headlee” amendment.

SUBMITTED BY: Marilyn J. Dluge, Finance Director

RECOMMENDED MOTION: Adopt the millage rates requested for the 2015 property taxes; and adopt the Budget Appropriations Resolution for the Fiscal Year 2015-2016.

**GENERAL BUDGET APPROPRIATIONS RESOLUTION
FOR FISCAL YEAR 2015-2016**

WHEREAS, Section 10.155 of the City Charter for the City of Mount Clemens provides that a budget shall be adopted for each fiscal year and that said budget shall be adopted by the City Commission of said City in the form of a Resolution; and

WHEREAS, Section 10.155 also states that such resolution shall provide for an appropriation of money budgeted for municipal purposes during the next fiscal year succeeding said resolution's adoption; and

WHEREAS, under said Section 10.155, it is incumbent upon said City Commission for the City of Mount Clemens to budget for the fiscal year from July 1, 2015 to June 30, 2016; and

WHEREAS, a properly drafted and proposed budget has been submitted to the City Commission in compliance with the requirements contained in Section 10.152 of said City Charter and in compliance with requirements of the Uniform Budgeting and Accounting Public Act 621 of 1978, as amended; and

WHEREAS, such budget proposal has been duly filed with the City Commission and becomes a matter of public record available for public inspection with the City Clerk's Office; and

WHEREAS, such proposed budget hearing has been advertised in the C & G Newspaper on April 22, 2015, and a public hearing was held on May 4, 2015, as required by statute and other regulations; and

WHEREAS, the proposed budget, as approved by the City Commission, reflects a total City-wide millage levy of 22.1274 mills and special Downtown Development Authority District millage of 1.6132 mills, as detailed in the adopted tax millage rates; and

WHEREAS, such millage is in accordance with Public Act 5 of 1982; and

WHEREAS, the City Commission has reviewed the City Manager's proposed budget at Budget Workshop Meetings held April 13, 2015; April 20, 2015; and May 11, 2015; and the City Commission has completed its review of the proposed budget for fiscal year 2015-2016.

NOW, THEREFORE, BE IT RESOLVED that the City Commission hereby adopts the estimated revenue budgets for the various funds as summarized in Column I on Attachment A and appropriates funds on a departmental and activity total basis to the various City Departments, Authorities, Commissions and other activities as summarized in Column II on Attachment A.

BE IT FURTHER RESOLVED that for the beginning of each quarterly period during the fiscal year, and more often if required by the Commission, the budget line items as shown in the departmental budget document should be used for comparative reporting purposes.

RESOLUTION DECLARED ADOPTED this 18th day of May, 2015.

Gary Blash, Mayor Pro Tem

Lisa Borgacz, City Clerk

ATTACHMENT A
SUMMARY OF ADOPTED BUDGETS FOR THE FISCAL YEAR OF
JULY 1, 2015 TO JUNE 30, 2016

Fund	Estimated Revenues	Estimated Expenditures
General Fund	10,286,330	10,060,719
Major Street	752,500	1,290,795
Local Street	403,250	445,520
Dial A Ride	489,648	489,270
Public Improvement	60,000	62,900
Tax Increment Finance	195,700	240,000
Downtown Development Authority	383,320	379,325
Automobile Parking System	698,100	697,643
Sewage Disposal System	4,436,000	4,223,560
Water Supply System	3,271,600	2,926,006
Sanitation Fund	902,015	877,935
Ice Arena And Fitness Center	399,780	399,780
Motor Pool Fund	834,340	875,335
Retirement Fund	9,079,148	4,782,000

City of Mount Clemens

Summary of millage rates for the 2016 Fiscal Year Budget

		2015	2016	2016	Truth in Taxation	Truth in Taxation	Millage Rates
	Charter	Headlee	MFR	Truth in Taxation	Override to Headlee		Requested
City Wide Millages:							
Operating - CHARTER	20.00000	20.0000	1.0000	20.0000		0.0000	20.0000
Dial -A-Ride - VOTED	1.00000	0.9137	1.0000	0.9137		0.0000	0.9137
Pension - VOTED	1.00000	0.9137	1.0000	0.9137		0.0000	0.9137
Sanitation PA 298							0.3000
Total City Wide Millages	22.00000	21.82740	1.00000	21.8274		0.00000	22.1274
DDA District Millage:							
District Millage	2.00000	1.6132	1.0000	1.6132		0.0000	1.6132

City of Mount Clemens Fiscal Year (FY) 2016 Budget Information

Introduction

- City is following an established process
- City Manager recommends an annual budget per the Charter
- Mayor and Commission approve the budget
- Adoption by the 3rd Monday in May

The Larger Environment

- Great Recession
- State has reduced revenue sharing payments by 40% since 2000
- Property tax collections are down by 32% since 2010

Local Factors

- City has been under financial stress for many years
- State limits cities to a maximum millage rate of 20; Mount Clemens had been at 15
- City voters approved a Charter Amendment raising the maximum millage rate to 20 in 2014

Proposed Budget Information

- Budget has no salary increases
- Budget includes \$50,000 for an enhanced sidewalk code enforcement program
- Budget reflects Administration's recommendation to levy 20 mills

Additional Information on 20 Mill Decision

- Total City millage is 22.1274
 - 20 mills for general operations
 - 0.9137 mill for pensions
 - 0.9137 for Dial-A-Ride
 - 0.3 for sanitation
 - 0.148 for promotion was eliminated
- 6.1423 increase over FY 2015

What is the Percentage “Tax” Increase

- Some claim it is 38%, 46%, etc.
- City homeowners pay various millages (County, schools, library, etc.) beyond the City millage
- The prior year total mills paid was 46.8612, increases to 53.0035 mills
- Divide 53.0035 by 46.8612, increase in taxes is 13%

Some Residents Question Cost Cutting Efforts

- City cut expenses by nearly 33%, or \$4.3 million, from 2005 to 2012
- Full time employees reduced from 159 in 1999 to 65 currently – cut by 60%
- City eliminated an entire dept. – Parks & Recreation
- Eliminated Police Dept. & contracted with Sheriff, saving \$1 million per year⁸

Additional Information on Cost Cutting

- City expenses in relation to income on a per capita basis – Mount Clemens was lower in FY 2013 than 8 cities under emergency financial management
- DPS has 5.5 fewer employees
- Fire Dept. – no chief, no inspector, 1 less fire fighter; Sheriff cut by 1

Revenue Perspective

- State Revenue Sharing accounts for 14% of revenue and has been cut by 40% since 2000
- Property taxes make up 60% of revenue and are down by 32% since 2010
- Approximately 75% of City revenues have been cut between 32% and 40%

Budget Will Add to Fund Balance BUT

- The projected FY 2016 Fund Balance will still be FAR below the Fund Balance of 3 years ago
- City has to have some ability to address capital needs and maintain our ability to provide high quality services
 - We cannot continue to neglect capital needs
 - We cannot continue to apply Band Aids indefinitely
 - Leaking roofs must eventually be replaced, not patched
 - 30 year old vehicles must be replaced some day
 - The sewer and road systems must be addressed

Examples of Capital Needs

- Fire Department roof replacement - \$130,000
- New A/C system at City Hall - \$190,000
- 2 plow trucks, 1 bucket truck for the DPS (all approximately 30 years old) - \$400,000
- Current BS&A Software is no longer supported and MUST be upgraded - \$40,000

Millage Scenario Summaries

- At 18 mills, City continues to use Fund Balance by hundreds of thousands of dollars per year
- At 19 mills, within 3 years the City is again using Fund Balance to make ends meet
- 20 mills is the only scenario where the City does not use Fund Balance to meet its obligations and has funds available for investment

Additional Investments at 20 Mills

- Administration – over \$100,000 (includes BS&A Software upgrade)
- DPS – nearly \$400,000 (includes bucket truck and road improvements)
- Community Development – over \$100,000 (increased staff to enhance economic development efforts)
- Utilities - \$25,000 (Wastewater Treatment Plant pump)

City Informational Campaign for the Charter Amendment

- The City produced multiple educational documents about the Charter Amendment:
 - brochure
 - Jul/Aug/Sept 2014 Clementimes Newsletter
 - PowerPoint package for presentations
- Each document:
 - Stated the fact that the City could levy less than 20 mills
 - Did provide analysis that ALWAYS focused ONLY on 20 mill scenarios to illustrate the cost of the Charter Amendment

Cost Analysis

- Average City home is valued at \$35,000
- City millage increase is 6.1423
- Cost to the average homeowner is 35 times 6.1423 or approximately \$215
- Difference in cost between 19 mills and 20 mills for the average homeowner is \$35
- Average City tax bill will still be about 15% lower than the average Macomb County tax bill in recent years

EXPLANATION OF AGENDA – May 18, 2015

Agenda Item No. 9-B

Adoption of the Resolution Revising the 2016 Fiscal Year Water Rates

The resolution is to revise the current water rates for the 2016 fiscal year Water Fund budget. The recommended rates of \$3.34 for a consumption and \$8.71 for monthly minimum have been calculated using the annual water consumption and the 2016 fiscal year expenditure budget to include bond disbursements. The 2016 fiscal year budget for the Water Fund and the increase of rates has been reviewed during the City's Budget Workshops.

SUBMITTED BY: Marilyn J. Dluge, Finance Director

RECOMMENDED MOTION: To approve the adoption of the resolution revising the water rates and charges, as presented.

RESOLUTION

RESOLUTION ESTABLISHING AND/OR REVISING WATER RATES & CHARGES

WHEREAS, Code Sections 25.116 Sec. 6 and 25.143 Sec.13 C. authorizes the City Commission to establish water rates and charges by resolution; and

WHEREAS, the City of Mount Clemens provides water supply services; and

WHEREAS, the City Commission has determined that the following rates and charges with respect to water supply services are reasonable and proper; and

WHEREAS, the provisions of this resolution are inapplicable to persons with water supply contracts or agreements to the extent that such contracts or agreements contain terms contrary to the foregoing provisions.

NOW, THEREFORE, BE IT RESOLVED that the following fees and charges are established pursuant to Code Sections 25.116 Sec. 6 and 25.143 Sec. 13 C. of the Code of Ordinances.

WATER SUPPLY RATES & CHARGES

1. Service Charge: \$ 8.71 (Monthly Billings) per inch of meter size (minimum one-inch)
 Service Charge: \$26.13 (Quarterly Billings) per inch of meter size (minimum one-inch)
 and
 Private Fire Line Service Charge: \$ 8.71 (Monthly Billings) per inch of pipe size (minimum one-inch)
 Private Fire Line Service Charge: \$26.13 (Quarterly Billings) per inch of pipe size (minimum one-inch)
2. Consumption Charge (per 100 Cubic Feet): \$3.34
3. If any bill is not paid on or before the due date, a penalty of five percent shall be charged. If any bill is not paid within 20 days after the due date, service shall be discontinued.

BE IT FURTHER RESOLVED that said fees shall become effective July 1, 2015.

ADOPTED: May 18, 2015

CITY OF MOUNT CLEMENS,
a Michigan Municipal Corporation

Gary Blash, Mayor Pro-Tem

Lisa Borgacz, City Clerk

EXPLANATION OF AGENDA – May 18, 2015

Agenda Item No. 9-C

Request for Approval to Enter into a Site Access Agreement with AECOM

AECOM has requested permission to perform an environmental investigation and assessment on behalf of ExxonMobile Global Services Company on City right-of-way located on the west side of Mary Street and a portion of Grand Avenue. AECOM wishes to investigate the property to see whether it has been impacted by a former Pulse Oil facility located at 14 Mary Street, which was leased by ExxonMobile. This facility was utilized for the bulk storage and commercial distribution of petroleum based fuels.

The proposed Site Access Agreement would allow AECOM permission to enter the property to install monitoring wells and take samples from the property, provided they restore the site to as close to its current condition as possible.

SUBMITTED BY: Michael J. Murray, City Attorney

RECOMMENDED MOTION: Approve the attached Site Access Agreement between the City of Mount Clemens and AECOM as presented.

SITE ACCESS AGREEMENT

This Access Agreement ("Agreement") is effective the 27 day of April, 2015 by and between The City of Mount Clemens ("Grantor"), and AECOM ("AECOM"). This Agreement authorizes AECOM, its affiliates, and its environmental consultants (one or more independent contractors hired by, together with their subcontractors) collectively "Grantee" to enter the property located at the west side of Mary Street within the roadway right of way in front of 31 and 11 Mary Street and the West 20 feet of 200 Grand Ave. (Parcel 11-15-228-002), Mount Clemens, Michigan (the "Property"), to perform environmental investigations and other remediation activities on the conditions listed below:

1. **Scope of Work** The work that is the subject of this Agreement is described as follows (collectively referred to as the "Work"):

Grantee may perform the following work:

- Conduct private utility locates. Install soil borings on the property. Collect soil samples during the installation of the soil borings for laboratory analysis. Complete the soil borings as groundwater monitoring wells. Collect groundwater samples from the groundwater monitoring wells for laboratory testing. Utilize groundwater monitoring wells to conduct aquifer testing. The proposed locations of the soil borings / groundwater monitoring wells are presented on the Site Map attached hereto and made a part hereof, being marked Exhibit "A".
- Conduct any and all other activities required by governmental authorities and applicable law.
- After the completion of the Work as determined by governmental authorities, plug and abandon well(s) in compliance with all applicable laws and remove any equipment brought onto the Property in connection with the Work and to restore any portion of the Property damaged by the Work to as close to its condition existing at the time the Work began as is reasonably possible.

2. **Reports** Upon request, Grantee will provide Grantor with completed reports submitted to governmental authorities resulting from the Work at the Property.

3. **Notification of Planned Work** Grantor will be notified at least forty-eight (48) hours in advance of the Work planned on the Property. Grantor will be notified via facsimile or telephone at:

Name:	Jeffrey Wood
Facsimile:	586-469-5363
Phone Number:	586-469-6847 x. 511
E-mail:	jwood@cityofmountclemens.com

4. **Grantor's Access or Use** Grantee in exercising the rights granted hereunder shall not unreasonably interfere with the Grantor's access to or use of the Property.

5. **Rights and Privileges** The rights and privileges granted by this instrument shall cease upon completion of the Work as determined by the governmental authorities, and completion of all restoration work as identified in Article 8 below.

6. **Work Performance** The Work shall be performed in a workmanlike manner.

7. **Assignability** Grantor shall not transfer or assign Grantor's rights or obligations under this Agreement without prior written notice to AECOM. AECOM shall not transfer its rights or obligations under this Agreement to affiliates or other third parties, without prior written notice to Grantor.

8. **Property Restoration** Grantee shall take reasonable precautions to minimize damage to the Property from the Work. AECOM will restore the Property, including Grantor's personal property damaged by the Work, to as close to its condition existing at the time the Work began as is reasonably possible.
9. **Release** AECOM shall release and hold Grantor harmless for loss of or damage to property and equipment, including monitoring wells, of Grantee while such property or equipment is in or on the Property, and shall indemnify and hold Grantor harmless from any damages, loss, injury or cost caused by the acts or omissions of AECOM, its employees, agents, or contractors.
10. **Beneficiaries** This Agreement is binding upon and inures to the benefit of Grantor and Grantee and their respective heirs, executors, administrators, personal representatives, successors, transferees, lessees and assigns. Grantor agrees that any future lease, sublease, conveyance or the like to a third-party will specifically recognize the existence of this Agreement.
11. **Entire Agreement** This Agreement constitutes the parties' entire agreement on this subject. There are no written or oral representations or understandings that are not fully expressed in this Agreement. No change, waiver, or discharge is valid unless in writing and signed by the party against whom it is sought to be enforced.
12. **Statement of Agreement** This Agreement is not and shall not be construed as an admission of any issue of fact or law or as an admission or adjudication of any liability and shall not be admissible in any suit or proceeding except a suit or proceeding to enforce the terms contained herein.
13. **Ownership** Grantor represents that to the best of Grantor's knowledge, it is the only party having present ownership interest in or control of the Property is Grantor. To the best of Grantor's knowledge, there are no known claims against the Property or liens which would interfere with AECOM's work.
14. **Rule of Construction** Grantor and AECOM acknowledge that this Agreement has been negotiated at arm's-length and, therefore, agree that any rule of construction of contracts resolving any ambiguities against the drafting party is waived and shall be inapplicable to this document.
15. **Enforceability** If any part of this Agreement is for any reason found to be unenforceable, all other portions nevertheless remain enforceable.
16. **Waiver** The waiver of any breach of any term or condition of this Agreement does not waive any other breach of that term or condition or of any other term or condition.
17. **Governing Law** This Agreement is governed by and will be construed — and its performance enforced — under Michigan law, without regard for its choice of law principles.
18. **Signatories** This Agreement may be executed in one or more counterparts and by facsimile signatures, each of which shall be deemed an original agreement, but all of which together shall constitute one and the same instrument.
19. **Agreement Execution Authority** Each person executing this Agreement represents that the party on whose behalf the person is executing this Agreement has duly authorized the execution of this Agreement and that such person is authorized to execute the Agreement on behalf of such party.

IN WITNESS HEREOF, the parties hereto are authorized and have executed this Agreement on the day and year first written below.

GRANTEE AECOM

April 27, 2015
Date

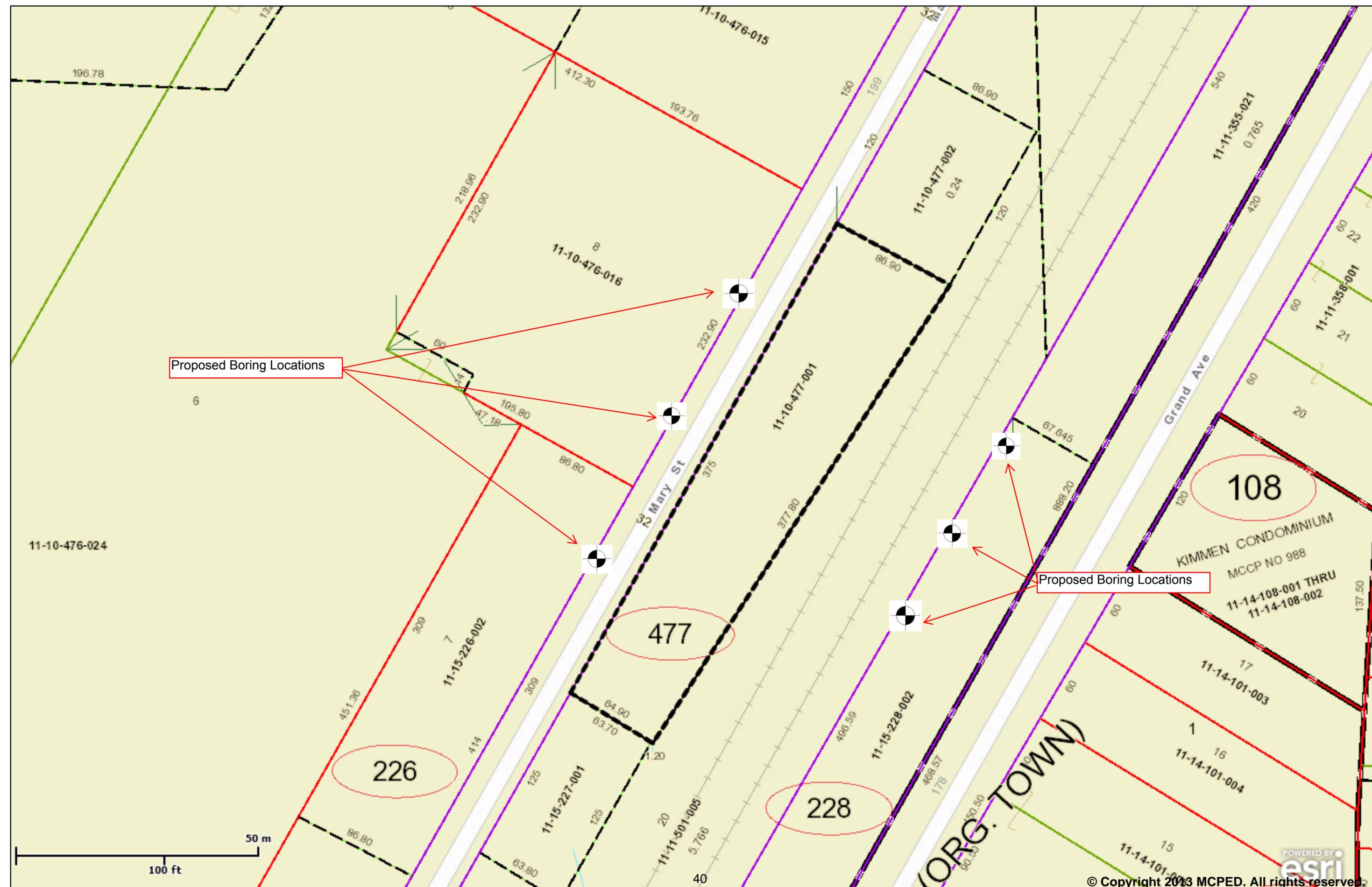
By: 
Name: Thomas Kettinger
Title: : Senior Project Manager

GRANTOR

Date

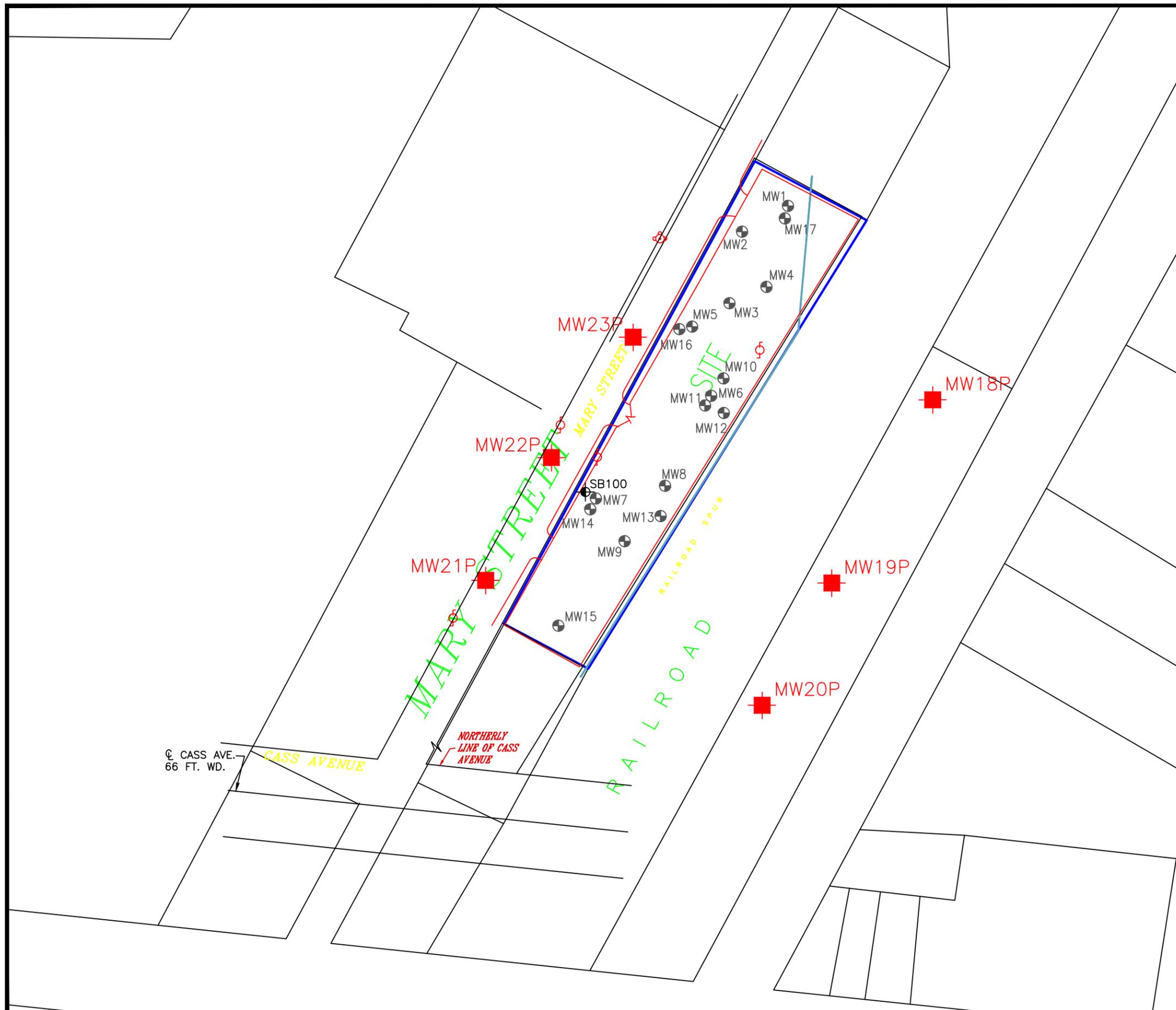
By: _____
Name: _____
Title: _____

EXHIBIT A



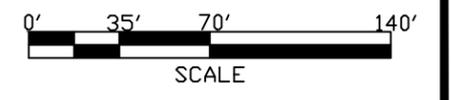
Proposed Boring Locations

Proposed Boring Locations



LEGEND

- MW18P PROPOSED MONITORING WELL LOCATIONS
- PROPERTY BOUNDARY
- PROPERTY BOUNDARY
- R.O.W. LINE
- INACTIVE ETHANOL PIPELINE
- FENCE W/ BARBED WIRE (6')
- ⊕ FIRE HYDRANT
- ⊕ UTILITY POLE
- MONITORING WELL
- ⊕ BORING LOCATION



AECOM
 Milwaukee Office
 1555 RiverCenter Dr
 Milwaukee, WI
 414.944.6080



PROPOSED WELL LOCATION MAP

EXXONMOBIL OIL CORPORATION
 FORMER PULSE OIL FACILITY
 14 MARY STREET
 MT. CLEMENS, MICHIGAN

Project Number: 6032219 Drawn By: ANS Date: 3/4/2015 Figure No. 1

EXPLANATION OF AGENDA – May 18, 2015

Agenda Item No. 9-D

Resolution Supporting a Charitable Gaming License for the Friends of Macomb County Veteran's Treatment Court

The Friends of Macomb County Veteran's Treatment Court would like to hold a 50/50 raffle at The Fifth Annual LaLonde Charity Golf Open on July 19, 2015. The proceeds from this event will benefit the Friends of Macomb County Veteran's Treatment Court, a 501(c) non-profit organization that provides aid to veterans that suffer from issues related to military service that are involved in the criminal justice system. In order to hold the raffle, it is necessary for the organization to obtain a Charitable Gaming License from the State of Michigan.

The State requires a resolution be approved by the local governmental subdivision in which the organization conducts its principal activities, that the organization is a recognized non-profit organization, operating in the community. A copy of the standard State resolution is attached. The Commission approved a prior resolution for this organization on August 19, 2013.

SUBMITTED BY: Steven M. Brown, City Manager

RECOMMENDED MOTION: To adopt the resolution in support of a Charitable Gaming License for the Friends of Macomb County Veteran's Treatment Court.



Charitable Gaming Division
 Box 30023, Lansing, MI 48909
 OVERNIGHT DELIVERY:
 101 E. Hillsdale, Lansing MI 48933
 (517) 335-5780
 www.michigan.gov/cg

LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES

(Required by MCL.432.103(K)(ii))

At a _____ meeting of the _____
REGULAR OR SPECIAL TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD

called to order by _____ on _____
DATE

at _____ a.m./p.m. the following resolution was offered:
TIME

Moved by _____ and supported by _____

that the request from _____ of _____,
NAME OF ORGANIZATION CITY

county of _____, asking that they be recognized as a
COUNTY NAME

nonprofit organization operating in the community for the purpose of obtaining charitable

gaming licenses, be considered for _____.
APPROVAL/DISAPPROVAL

APPROVAL

DISAPPROVAL

Yeas: _____

Yeas: _____

Nays: _____

Nays: _____

Absent: _____

Absent: _____

I hereby certify that the foregoing is a true and complete copy of a resolution offered and
 adopted by the _____ at a _____
TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD REGULAR OR SPECIAL

meeting held on _____.
DATE

SIGNED: _____
TOWNSHIP, CITY, OR VILLAGE CLERK

PRINTED NAME AND TITLE

ADDRESS

COMPLETION: Required.
 PENALTY: Possible denial of application.

BSL-CG-1153(R6/09)



LOCAL CIVIC ORGANIZATION QUALIFICATION REQUIREMENTS

Please allow at least 8 weeks for the qualification process.

If the organization has never submitted qualifying information as a local civic organization, the following information shall be submitted in the name of the organization prior to being approved to conduct a bingo, millionaire party, raffle, or charity game. A previously qualified organization may be required to submit updated qualification information to assure its continued eligibility under the act.

1. A signed and dated copy of the organization's current bylaws or constitution, including membership criteria.
2. A complete copy of the organization's Articles of Incorporation that have been filed with the Corporations and Securities Bureau, if the organization is incorporated.
3. A copy of the letter from the IRS stating the organization is exempt from federal tax under IRS code 501(c)

OR

copies of one bank statement per year for the previous five years, excluding the current year.

4. A provision in the bylaws, constitution, or Articles of Incorporation that states should the organization dissolve, all assets, and real and personal property will revert:
 - A. If exempt under 501(c)3, to another 501(c)3 organization.
 - B. If not exempt under 501(c)3, to the local government.
5. A revenue and expense statement for the previous 12 month period to prove all assets are used for charitable purposes, i.e. 990's, treasurer's report, audit. Do not send check registers or cancelled checks. Explain the purpose of each expenditure made to an individual. Once the organization has conducted licensed gaming events, the Bureau may require the organization to provide additional proof that all assets are being used for charitable purposes.
6. A copy of a resolution passed by the local body of government stating the organization is a recognized nonprofit organization in the community (form attached).
7. A provision in the bylaws, constitution, or Articles of Incorporation indicating the organization will remain nonprofit forever.

Additional information may be requested after the initial documents submitted have been reviewed. If you have any questions or need further assistance, please call our office at (517) 335-5780.

Act 382 of the Public Acts of 1972, as amended, defines a local civic organization as an organization "that is organized not for pecuniary profit; that is not affiliated with a state or national organization; that is recognized by resolution adopted by the local governmental subdivision in which the organization conducts its principal activities; whose constitution, charter, articles of incorporation, or bylaws contain a provision for the perpetuation of the organization as a nonprofit organization; whose entire assets are used for charitable purposes; and whose constitution, charter, articles of incorporation, or bylaws contain a provision that all assets, real property, and personal property shall revert to the benefit of the local governmental subdivision that granted the resolution upon dissolution of the organization."

EXPLANATION OF AGENDA – May 18, 2015

Agenda Item No. 9-E

APPROVE PURCHASES AND PAYMENT OF INVOICES

VENDOR (PURCHASES)	DESCRIPTION	FUND/ DEPARTMENT/ APPROPRIATION	ACCOUNT NUMBER	AMOUNT	CURRENT BALANCE
1.Lawson Electric 6750 Swartout Clay Township, MI 48001	On 06/18/12, the City Commission Approved a 3-year Agreement with Lawson Electric for Commercial/Industrial Electrical Services, Maintenance and Repair throughout the City. At this time, We are requesting A 3-year extension Under the same Terms, conditions And fees.	Various	Various	Please see Tabulation.	Various

VENDOR (PURCHASES)	DESCRIPTION	FUND/ DEPARTMENT/ APPROPRIATION	ACCOUNT NUMBER	AMOUNT	CURRENT BALANCE
2.Ken's Janitorial P.O. Box 3 Mount Clemens, MI 48046	On 04/05/10, the City Commission Approved a 5-year Extension for Ken's Janitorial for Janitorial Services Throughout the City. At this time, we are Requesting to extend the Agreement for another 5 years. Ken also Performs duties over And above janitorial; Including election set-up, Plumbing, painting, Carpentry, light Electrical, meeting Set-ups, flag lowering/ Raising, Opening/closing Building, Blight board-ups/cleanups, Deliveries between Buildings, etc.	General Fund/ Building Maintenance/ Contractual Services	101-26500-818000	\$13.00/hour 2014-2015 (current)	2015-2016 Fiscal Year
		General Fund/ Parks/ Contractual Services	101-75130-818000	\$13.00/Hour 2015-2016	
		Dial-A-Ride Fund/ Contractual Services	211-29000-818000	\$14.00/Hour 2016-2017 2017-2018 2018-2019	
		Parking Fund/ Contractual Services	585-54600-818000	2019-2020	
		Sewage-Utilities Fund/ Operation of Plant/ Building Maintenance	590-53708-931000		
		Water-Utilities Fund/ Operation of Plant/ Building Maintenance	591-53708-931000		
3.Anderson, Eckstein and Westrick, Inc. 51301 Schoenherr Road Shelby Township, MI 48315	Continuation of Macomb County Billing Meter For Fiscal Year 2015-2016	Sewage-Utilities Fund/ Operation of Plant/ Consultant Services	590-53708-817000	\$19,550.00	2015-2016 Fiscal Year

VENDOR (INVOICES)	DESCRIPTION	FUND/ DEPARTMENT/ APPROPRIATION	ACCOUNT NUMBER	AMOUNT	CURRENT BALANCE
1. Kramer & Murray, P.C. Ruggirello, Velardo, Novara, and Ver Beek, P.C. 65 Southbound Gratiot Mount Clemens, MI 48043	Legal Services For the month of April, 2015	General Fund/ Legal Services/ Legal Fees	101-26600-826000	\$11,270.19	\$42,663.60
		General Fund/ Legal Services/ Legal Fees-Labor	101-26600-826001	\$1,042.75	\$1,050.88
		Sanitation Fund/ Legal Fees	596-52100-826000	\$388.00	\$475.24

SUBMITTED BY: Marilyn Dluge, 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 Tuesday, June 6, 2012, for our estimated annual requirement of Commercial/Industrial Electrical Services and Repairs:

BIDDER	FLAT RATE/ WEEK FOR WATER AND SEWER PLANTS	COST/HOUR ALL OTHER SITES	COST/HOUR EMERGENCY/ AFTER HOURS	PERCENTAGE MARKUP MISCELLANEOUS PARTS
1. Diversified Power, Inc. 4400 Dove Road Port Huron, MI 48060	\$5,806.80	\$88.90/Master \$85.17/Electrician \$85.17/Journeyman \$55.01/Apprentice	\$121.36/Master \$117.11/Electrician \$117.11/Journeyman \$ 70.11/Apprentice	15%
2. J. Ranck Electric, Inc. 23862 Sherwood Centerline, MI 48015	\$3,200.00	\$91.00/Master \$77.00/Electrician \$84.00/Journeyman \$54.00/Apprentice	\$151.00/Master \$138.00/Electrician \$144.00/Journeyman \$ 89.00/Apprentice	10%
3. Lawson Electric Company, Inc. 6750 Swartout Clay, MI 48001	\$1,800.00	\$42.50/Master \$42.50/Electrician \$42.50/Journeyman \$38.00/Apprentice	\$63.75/Master \$63.75/Electrician \$63.75/Journeyman \$57.00/Apprentice	10%
4. Rauhorn Electric, Inc. 17171 – 23 Mile Road Macomb, MI 48042	\$7,262.68	\$86.68/Master \$74.88/Electrician \$74.88/Journeyman \$62.28/Apprentice	\$151.12/Master \$127.61/Electrician \$127.61/Journeyman \$102.39/Apprentice	15%

Marilyn Dluge
Finance Director/Treasurer

**Ken's Janitorial Service
PO Box 3
Mount Clemens Michigan 48046
586-469-7292**

February 21, 2015

I started working for the City of Mount Clemens in 1982 making \$6.00 per hour, as an outside contractor.

I do all the janitorial work for City hall, street department, dial-a-ride, water plant, waste water treatment plant and Wilson School.

My work consists of the following:

Cleaning, mopping floors, emptying garbage, cleaning windows, shoveling snow, salting sidewalks, changing lights, minor plumbing, minor electrical, painting, caulking, delivering boxes, setting up for elections and taking down elections, checking buildings on weekends, taking inventory of city items going to auction, stripping and waxing floors, carpet cleaning, boarding up houses, setting up and taking down City Commission meetings and much more as needed.

I would like the opportunity to have the contract for another five years.

Thank you,

**Ken Sepesi
Owner**





ANDERSON, ECKSTEIN AND WESTRICK, INC.
51301 Schoenherr Road, Shelby Township, Michigan 48315
Civil Engineers • Surveyors • Architects 586-726-1234

March 16, 2015

Marilyn Dluge
City of Mount Clemens Finance Director
One Crocker Blvd.
Mount Clemens, Michigan 48043

Reference: **Proposal for Professional Services**
Macomb County Billing Meter for FY 2015/16
July 1, 2015 through June 30, 2016
Mount Clemens

Dear Ms. Dluge:

We are pleased to submit to you our proposal for FY 2015/16 to assist the City of Mount Clemens once again with sewer metering for the Macomb County Billing Meter. As you may know, Anderson, Eckstein and Westrick, Inc. (AEW) has been assisting the City with the billing meter services for several years.

Services To Be Provided

AEW will continue to meter the Macomb County sanitary sewage flow entering the Mount Clemens sanitary system at Joy Boulevard. Information collected from this meter will be utilized by the City to bill the County for the treatment of their sewerage flow from Clinton Township.

Sewer metering will be completed using one of AEW's Area-Velocity (A-V) flow meter. The meter location records the contracted flow now arriving from Clinton Township separate from the wastewater flow received under existing agreements.

The AEW owned Area Velocity flow meter will continue to be provided rent free. The \$7,200.00 a year meter rental charge (\$600.00/month) is once again waived by AEW. The rental waiver is included with the understanding that the City will pay any costs of replacement parts or equipment repairs, when required, to maintain the flow meters operation. The flow meter sensor in the 21" sewer has been subjected to surcharge conditions, which may shorten service life. This proposal includes the annual cost to replace the existing A-V sensor cable, currently estimated at \$1,300.

AEW will continue to be responsible for the operation and maintenance of the billing meter. AEW will retrieve the flow data recorded by the meter and will prepare monthly billings with flow trend graphs for the sewage treatment services the City provides to the County for the Clinton Township flow. If the current meter data does not permit production



Marilyn Dluge
March 16, 2015
Page 2

of an accurate billing due to surcharge conditions, an estimated billing will be provided from averaging historical data for the same period.

Fees For Professional Services

For the 2015/16 budget, we proposed to complete the above services on an hourly basis with an estimated upset limit of \$18,250.00. This fee would cover routine maintenance costs of the A-V flow meters, weekly data collection, analysis, and monthly billing report generation, and will also include providing look back analysis as part of the budget. In addition to the above fees, there will be a \$1,300 fee to replace the A-V sensor cable on the flowmeter. This brings the total project upset limit to \$19,550. Please note that invoicing for the above services will not commence until July 1, 2015

We trust that this proposal meets your needs. Please advise if any modifications or clarifications are required. When you are prepared to authorize us to proceed, please provide our office a signed purchase order.

We thank you for the opportunity to work with you on this project.

Sincerely,

Kyle M. Seidel, PE
Senior Project Engineer

cc: Steven M. Brown, City of Mount Clemens City Manager

EXPLANATION OF CONSENT AGENDA – May 18, 2015

Agenda Item No. 10-A

Second Reading and Adoption of the Consumers Energy Company Gas Franchise Ordinance

The introduction and first reading of this franchise ordinance was addressed at the City Commission Meeting of April 6, 2015.

The first reading was approved, and the Clerk was directed to publish a notice in the Journal newspaper advising residents that the proposed ordinance would be on display in the City Clerk's office for four (4) weeks after publication. The notice was published on April 15, 2015.

If the second reading is approved, the ordinance will be published in the Journal newspaper on May 27, 2015, with the effective date being May 28, 2015, for a period of 30 years. The approved ordinance will replace Ordinance 25.300 – Gas Franchise City of Mount Clemens, Michigan, that was effective July 17, 1985, in its entirety.

SUBMITTED BY: Steven Brown, City Manager

RECOMMENDED MOTION: To approve the second reading and adoption of the Consumers Energy Franchise Ordinance, effective May 28, 2015, for a period of 30 years, and repeal Ordinance 25.300 – Gas Franchise City of Mount Clemens, Michigan, effective July 17, 1985.

CONSUMERS ENERGY COMPANY GAS FRANCHISE ORDINANCE

AN ORDINANCE, granting to CONSUMERS ENERGY COMPANY, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges, waterways, and other public places, and to do a local gas business in the CITY OF MOUNT CLEMENS, MACOMB COUNTY, MICHIGAN, for a period of thirty years.

THE CITY OF MOUNT CLEMENS ORDAINS:

SECTION 1. GRANT, TERM. The CITY OF MOUNT CLEMENS, MACOMB COUNTY, MICHIGAN, hereby grants to the Consumers Energy Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee," the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges, waterways, and other public places, and to do a local gas business in the CITY OF MOUNT CLEMENS, MACOMB COUNTY, MICHIGAN, for a period of thirty years.

SECTION 2. CONSIDERATION. In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

SECTION 3. CONDITIONS. No highway, street, alley, bridge, waterway or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same order and condition as when said work was commenced. All of Grantee's pipes and mains shall be so placed in the highways and other public places as not to unnecessarily interfere with the use thereof for highway purposes.

SECTION 4. HOLD HARMLESS. Said Grantee shall at all times keep and save the City free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the structures and equipment hereby authorized. In case any action is commenced against the City on account of the permission herein given, said Grantee shall, upon notice, defend the City and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.

SECTION 5. EXTENSIONS. Said Grantee shall construct and extend its gas distribution system within said City and shall furnish gas to applicants residing therein in accordance with applicable laws, rules and regulations.

SECTION 6. FRANCHISE NOT EXCLUSIVE. The rights, power and authority herein granted, are not exclusive. Either manufactured or natural gas may be furnished hereunder.

SECTION 7. RATES. Said Grantee shall be entitled to charge the inhabitants of said City for gas furnished therein, the rates as approved by the Michigan Public Service Commission, to which Commission or its successors authority and jurisdiction to fix and regulate gas rates and rules regulating such service in said City, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said City, acting by its City Commission, or by said Grantee.

SECTION 8. REVOCATION. The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.

SECTION 9. MICHIGAN PUBLIC SERVICE COMMISSION, JURISDICTION. Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas service in said City.

SECTION 10. REPEALER. This ordinance, when accepted and published as herein provided, shall repeal and supersede the provisions of a gas ordinance adopted by the City Commission on June 17, 1985 entitled:

AN ORDINANCE, granting to CONSUMERS POWER COMPANY, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local gas business in the CITY OF MT. CLEMENS, MACOMB COUNTY, MICHIGAN.

and amendments, if any, to such ordinance whereby a gas franchise was granted to Consumers Energy Company.

SECTION 11. EFFECTIVE DATE. This ordinance shall take effect upon the later of ten days after enactment or upon publication thereof; provided, however, it shall cease and be of no effect after thirty days from its adoption unless within said period the Grantee shall accept the same in writing filed with the City Clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said City and said Grantee.

We certify that the foregoing Franchise Ordinance was duly enacted by the City Commission of the CITY OF MOUNT CLEMENS, MACOMB COUNTY, MICHIGAN, on the ____ day of _____, 2015.

This ordinance shall take effect on its publication as required by law.

INTRODUCTION AND FIRST READING: April 6, 2015

SECOND READING AND ADOPTION: May 18, 2015

EFFECTIVE DATE: May 28, 2015

City of Mount Clemens
A Michigan Municipal Corporation

Barb Dempsey, Mayor

Lisa Borgacz, City Clerk

CITY OF MOUNT CLEMENS

**NOTICE OF FILING OF PROPOSED GAS FRANCHISE ORDINANCE
FOR PUBLIC INSPECTION**

Notice is hereby given of filing for public inspection in the office of the City Clerk of a proposed ordinance entitled:

CONSUMERS ENERGY COMPANY GAS FRANCHISE ORDINANCE
AN ORDINANCE, granting to CONSUMERS ENERGY COMPANY, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges, waterways, and other public places, and to do a local gas business in the CITY OF MOUNT CLEMENS, MACOMB COUNTY, MICHIGAN, for a period of thirty (30) years.

Said ordinance is on file in the City Clerk's office, One Crocker Boulevard, Mount Clemens, MI 48043, and may be inspected during regular business hours for four weeks after the date of this publication.

Lisa Borgacz
City Clerk

Published: April 15, 2015
The Journal

EXPLANATION OF CONSENT AGENDA – May 18, 2015

Agenda Item No. 10-B

Second Reading and Adoption of Amendment to the Fire Code Ordinance 40.000

At its meeting of May 4, 2015, the City Commission approved the introduction and first reading of the amendment to 40.000 Fire Code Ordinance of Mount Clemens, as presented.

A summary of the Amendment to the Fire Code Ordinance has been prepared for publication as allowed in Charter Section 10.135. The summary has been prepared as a cost savings measure.

SUBMITTED BY: Michael J. Murray, City Attorney

RECOMMENDED MOTION: Approve the second reading and adoption of Amendment to 40.000 Fire Code Ordinance of Mount Clemens, as presented; and approve the ordinance summary for publication.

AMENDMENT TO 40.000 - FIRE CODE CITY OF MOUNT CLEMENS, MICHIGAN

An ordinance of the City of Mount Clemens adopting the 2012 edition of the International Fire Code, including Appendix Chapters A through J, and any cumulative supplements, as published by the International Code Council, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Mount Clemens; providing for the issuance of permits for hazardous uses or operations; amending Ordinance No. 40.000 of the City of Mount Clemens all other ordinances and parts of ordinances in conflict therewith.

THE CITY OF MOUNT CLEMENS ORDAINS:

40.001 - Sec. 1.

ADOPTION BY REFERENCE.

A certain document, three (3) copies of which are on file in the office of the City Clerk of the City of Mount Clemens, being marked and designated as the International Fire Code, 2012 edition, including Appendix Chapters A through J, as published by the International Code Council, be and is hereby adopted as the Fire Code of the City of Mount Clemens, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of a hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the City of Mount Clemens are hereby referred to, adopted, and made part hereof, as fully set out in this ordinance, and with the additions, insertions, deletions and changes, if any, prescribed in section 2 of this ordinance.

(code eff. Oct., 1958; amend. adopt. Jan. 3, 1968, Dec. 20, 1971, Aug. 15, 1974; further amend. Jan., 1978; further amend. eff. June 11, 1981; further amend. eff. Nov. 11, 1987; further amend. eff. Oct. 30, 1997; further amend. eff. Nov. 29, 2001; further amend. eff. March 27, 2008)

40.002 - Sec. 2.

INSERTIONS.

(A) That the following sections of the 2012 International Fire Code are hereby revised:

Section 101.1 Insert: City of Mount Clemens.

Section 109.3. Insert: Guilty of a Misdemeanor punishable by a fine of not more than \$500.00 and/or imprisonment not exceeding 90 days.

Section 111.4. Insert: a fine of not less than \$100.00 and not more than \$500.00.

(B) That the geographic limits referred to in certain sections of the 2012 International Fire Code are hereby established as follows:

- (1) Section 5704.2.9.6.1 (limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited): Shall be limited to areas zoned for storage of said fluids when stored in compliance with the International Fire Code and in compliance with the rules as set out by the Department of Consumer and Industry Services.
- (2) Section 5706.2.4.4 (limits in which the storage of Class I and Class II liquids in above-ground tanks outside of buildings, is prohibited): Shall be limited to areas zoned for storage of said liquids when stored in compliance with the International Fire Code and in compliance with the rules as set out by the Department of Consumer and Industry Services.
- (3) Section 5806.2 (geographic limits in which the storage of Class I and II liquids in above-ground tanks in prohibited): Shall be limited to areas zoned for storage of said liquids when stored in compliance with the International Fire Code and in compliance with the rules as set out by the Department of Consumer and Industry Services.
- (4) Section 6104.2 (limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas): Shall be limited to areas zoned for storage of said fluids when stored in compliance with the International Fire Code and in compliance with the rules as set out by the Department of Consumer and Industry Services.

(ord. eff. Nov. 29, 2001; amend. eff. March 27, 2008)

40.003 - Sec. 3.

REPEALS.

Any and all ordinances of the City of Mount Clemens, or any parts or provisions thereof, to the extent that they are contrary to or inconsistent with the provisions herewith, are hereby expressly repealed. (ord. eff. Nov. 29, 2001; amend. eff. March 27, 2008)

40.004 - Sec. 4.

SEVERABILITY.

That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Mount Clemens hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

(ord. eff. Nov. 29, 2001; amend. eff. March 27, 2008)

40.013 - Sec. 13.

RESERVED.

Editor's note—

An ordinance effective March 27, 2008, repealed § 40.013. Formerly, such section pertained to fires, regulations, and prohibitions; derived from code eff. Oct., 1958; amends. adopt. Jan. 3, 1968, Dec. 20, 1971, Aug. 15, 1974, and Jan. 1978.

40.014 - Sec. 14.

RESERVED.

Editor's note—

Section 2 of an ordinance effective October 30, 1997, repealed § 40.014. Formerly, such section pertained to Christmas trees; disposition and derived from code eff. Oct., 1958; amends. adopt. Jan. 3, 1968, Dec. 20, 1971, Aug. 15, 1974; Jan. 1978.

40.015. - [Sec. 15.]

This ordinance shall take effect on its publication as required by law.

INTRODUCTION AND FIRST READING: May 4, 2015

SECOND READING AND ADOPTION: May 18, 2015

EFFECTIVE DATE: May 28, 2015

City of Mount Clemens,
a Michigan Municipal Corporation

Gary Blash, Mayor Pro-Tem

Lisa Borgacz, City Clerk

SUMMARY FOR PUBLICATION

Amendment to the Fire Code Ordinance 40.000

The City of Mount Clemens has adopted an amendment to 40.000 Fire Code Ordinance, to reflect adoption of the 2012 edition of the International Fire Code as the Fire Code of the City of Mount Clemens, replacing the currently utilized 2006 edition.

EXPLANATION OF CONSENT AGENDA – May 18, 2015

Agenda Item No. 10-C

Second Reading and Adoption of Amendment to the Fire Prevention Code Ordinance 40.050

At its meeting of May 4, 2015, the City Commission approved the introduction and first reading of the amendment to 40.050 Fire Prevention Code Ordinance of Mount Clemens, as presented.

A summary of the Amendment to the Fire Prevention Code Ordinance has been prepared for publication as allowed in Charter Section 10.135. The summary has been prepared as a cost savings measure.

SUBMITTED BY: Michael J. Murray, City Attorney

RECOMMENDED MOTION: Approve the second reading and adoption of Amendment to 40.050 Fire Prevention Code Ordinance of Mount Clemens, as presented; and approve the ordinance summary for publication.

**AMENDMENT TO 40.050 FIRE PREVENTION CODE
CITY OF MOUNT CLEMENS, MICHIGAN ord. eff. May 28, 2015**

An ordinance to adopt a new fire prevention code, the 2012 edition of the National Fire Protection Association (“NFPA”), NFPA 1 (Fire Prevention Code) along with the 2012 edition of NFPA 101 (Life Safety Code) and all appendices replacing “The BOCA National Fire Prevention Code 9th Edition, 1993” ; documents listed in Chapter 2 of that NFPA Code; prescribing regulations governing conditions hazardous to life and property from fire or explosions; providing for the issuance of permits and collections of fees; repealing all other ordinances and parts of ordinances in conflict therewith; providing a penalty; providing a severability clause; and providing an effective date.

40.051 - Sec. 1. ADOPTION OF FIRE PREVENTION CODE.

The 2012 edition of NFPA 1 (Fire Prevention Code) and the 2012 edition of NFPA, 101 (Life Safety Code), 2012 appendices and documents adopted by Chapter 2 of that NFPA Code, one copy of which is on file and is open to inspection by the public in the office of the City Clerk, be and hereby is adopted and incorporated into this article as fully as if set out at length herein, and from the date on which this article shall take effect, the provisions thereof shall be controlling within the jurisdictional limits of the Mount Clemens Fire Department. The same are hereby adopted as the Fire Prevention Code of the City of Mount Clemens for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion and providing for issuance of permits and collection of fees.

40.052 - Sec. 2. VIOLATION AND PENALTY.

Any person, firm, corporation or legal entity that violates disobeys, omits, neglects or refuses to comply with any provision of this code or standard hereby adopted or fails to comply therewith; or who shall violate or fail to comply with any order made thereunder; or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder; or fails to operate in accordance with any certificate or permit issued thereunder; and from which no appeal has been taken; or who shall fail to comply with such an order as affirmed or modified by a court of competent jurisdiction, within the time fixed by the code, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable upon conviction by a fine of not less than \$100.00 nor more than \$500.00 or by imprisonment for not more than 90 days or by both such fine and imprisonment in the discretion of the court. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. Each day that prohibited conditions are maintained shall constitute a separate offense.

40.053 – Sec. 3. REPEAL.

Ordinance numbers 40.051 through 40.055 shall be amended to reflect the adoption of the National Fire Protection Association (NFPA), NFPA 1, Fire Prevention Code. All ordinances or parts of ordinances in conflict hereof are hereby repealed.

40.054 - Sec. 4. CONFLICTS.

If any provision of this ordinance conflicts with other ordinances of the City, this ordinance shall apply and control.

40.055 - Sec. 5. SEVERABILITY.

This ordinance and the various parts, sentences, paragraphs, sections and clauses thereof are hereby declared to be severable. Should any part, sentence, paragraph, section, or clause be declared unconstitutional, null or void by a court of competent jurisdiction, such declaration shall not have any effect on the validity of the remaining parts, sentences, paragraphs, sections and clauses of this ordinance.

40.056 - Sec. 6. LIABILITY.

The fire code official or his designee shall not be liable for any costs or damages incurred as a result of enforcement of any provision of this Code. Costs or damages incurred as a result of enforcement of this code and enforcement measures necessary to ensure the safety of the City and its populace shall be the responsibility of the owner and/or operator of the property, equipment, vehicle, or vessel causing or contributing to a dangerous or hazardous condition or conditions, including pollution or potential pollution of the environment. (*ord. eff. Mar. 30, 1995*)

INTRODUCTION AND FIRST READING: May 4, 2015

SECOND READING AND ADOPTION: May 18, 2015

EFFECTIVE DATE: May 28, 2015

City of Mount Clemens,
a Michigan Municipal Corporation

Gary Blash, Mayor Pro-Tem

Lisa Borgacz, City Clerk

SUMMARY FOR PUBLICATION

Amendment to the Fire Prevention Code Ordinance 40.050

The City of Mount Clemens has adopted an amendment to 40.050 Fire Prevention Code Ordinance, to reflect adoption of the 2012 edition of the National Fire Protection Association (“NFPA”), NFPA 1 (Fire Prevention Code) along with the 2012 edition of NFPA 101 (Life Safety Code) and all appendices, as the Fire Prevention Code of the City of Mount Clemens, replacing the currently utilized BOCA National Fire Prevention Code 9th Edition, 1993.

EXPLANATION OF CONSENT AGENDA – May 18, 2015

Agenda Item No. 10-D

City Commission Approval of McLeodUSA Telecommunications Services, L.L.C. (a Windstream Company) METRO Act Right-of-Way Permit

Attached is an application and permit from McLeodUSA Telecommunications Services, L.L.C., for access to and ongoing use of the public right-of-way for telecommunications providers under the Metropolitan Telecommunications Rights-of-Way Oversight Act, Act No. 48 of Public Acts of 2002, as amended (the “METRO Act”). McLeodUSA Telecommunications Services, L.L.C. is seeking a five year Unilateral METRO Act Permit to construct, install and maintain telecommunications facilities in the City’s right-of-way in accordance with the terms and conditions of the permit.

SUBMITTED BY: Michael J. Murray, City Attorney

RECOMMENDED MOTION: Approve and authorize the execution of the Unilateral METRO Act Right-of-Way permit between the City and McLeodUSA Telecommunications Services, L.L.C.

METRO Act
Unilateral Form
Revised 12/06/02

**RIGHT-OF-WAY
TELECOMMUNICATIONS PERMIT**

This permit issued this ___ day of _____, 20__ by the City of Mount Clemens.

1 Definitions

- 1.1 Date of Issuance shall mean the date set forth above.
- 1.2 Manager shall mean Municipality's [Mayor/Manager/Supervisor/Village President] or his or her designee.
- 1.3 METRO Act shall mean the Metropolitan Extension Telecommunications Right-of Way oversight Act, Act No. 48 of the Public Acts of 2002, as amended.
- 1.4 Municipality shall mean the City of Mount Clemens, MI, a Michigan municipal corporation.
- 1.5 Permit shall mean this document.
- 1.6 Permittee shall mean McLeodUSA Telecommunications Services, LLC [a Telecommunications Company] organized under the laws of the State of Iowa whose address is 4001 Rodney Parham Road, Little Rock, AR 72212.
- 1.7 Public Right-of-Way shall mean the area on, below, or above a public roadway, highway, street, alley, easement, or waterway, to the extent Municipality has the ability to grant the rights set forth herein. Public Right-of-Way does not include a federal, state, or private right-of-way.
- 1.8 Telecommunications Facilities or Facilities shall mean the Permittee's equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify or provide telecommunication services or signals. Telecommunication Facilities or Facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of Part I of Title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communications device.

1.9 Term shall have the meaning set forth in Part 7.

2 Grant

2.1 Municipality hereby issues a permit under the METRO Act to Permittee for access to and ongoing use of the Public Right-of-Way identified on Exhibit A to construct, install and maintain Telecommunication Facilities on the terms set forth herein.

2.1.1 Exhibit A may be modified by Manager upon written request by Permittee.

2.1.2 Any decision of Manager on a request by Permittee for a modification may be appealed by Permittee to Municipality's legislative body.

2.2 Overlapping. Permittee shall not allow the wires or any other facilities of a third party to be overlapped to the Telecommunication Facilities without Municipality's prior written consent. Municipality's right to withhold written consent is subject to the authority of the Michigan Public Service Commission under Section 361 of the Michigan Telecommunications Act, MCL § 484.2361.

2.3 Nonexclusive. The rights granted by this Permit are nonexclusive. Municipality reserves the right to approve, at any time, additional permits for access to and ongoing usage of the Public Right-of-Way by telecommunications providers and to enter into agreements for use of the Public Right-of-Way with and grant franchises for use of the Public Right-of-Way to telecommunications providers, cable companies, utilities and other providers.

3 Contacts, Maps and Plans

3.1 Permittee Contacts. The names, addresses and the like for engineering and construction related information for Permittee and its Telecommunication Facilities are as follows:

3.1.1 The address, e-mail address, phone number and contact person (title or name) at Permittee's local office (in or near Municipality) is Dirk Welte, McLeodUSA, a Windstream Company, 4074 S. Linden, Flint, MI 48507. Phone (810) 691-1035. Email dirk.welte@windstream.com.

3.1.2 If Permittee's engineering drawings, as-built plans and related records for the Telecommunication Facilities will not be located at the preceding local office, the location address, phone number and contact person (title or department) for them is Dirk Welte, McLeodUSA, a Windstream Company, 4074 S. Linden, Flint, MI 48507. Phone (810) 691-1035.

Email dirk.welte@windstream.com.

3.1.3 The name, title, address, e-mail address and telephone numbers of Permittee's engineering contact person(s) with responsibility for the design, plans and construction of the Telecommunication Facilities is Dirk Welte, McLeodUSA, a Windstream Company, 4074 S. Linden, Flint, MI 48507. Phone (810) 691-1035. Email dirk.welte@windstream.com.

3.1.4 The address, phone number and contact person (title or department) at Permittee's home office/regional office with responsibility for engineering and construction related aspects of the Telecommunication Facilities is Michelle McLaughlin, McLeodUSA, a Windstream Company, One Martha's Way, Hiawatha, IA 52233-2402. Phone (319) 790-6910. Email michelle.mclaughlin@paetec.com.

3.1.5 Permittee shall at all times provide Manager with the phone number at which a live representative of Permittee (not voice mail) can be reached 24 hours a day, seven (7) days a week, in the event of a public emergency.

3.1.6 Permittee shall immediately notify Municipality in writing as set forth in Part 12 of any inaccuracies or changes in the preceding information.

3.2 Route Maps. Within ninety (90) days after the substantial completion of new Facilities in a Municipality, a provider shall submit route maps showing the location of the Telecommunication Facilities to both the Michigan Public Service Commission and to the Municipality, as required under Section 6(7) of the METRO Act, MCLA 484.3106(7).

3.3 As-Built Records. Permittee, without expense to Municipality, shall, upon forty-eight (48) hours notice, give Municipality access to all "as-built" maps, records, plans and specifications showing the Telecommunication Facilities or portions thereof in the Public Right-of-Way. Upon request by Municipality, Permittee shall inform Municipality as soon as reasonably possible of any changes from previously supplied maps, records, or plans and shall mark up maps provided by Municipality so as to show the location of the Telecommunication Facilities.

4 Use of Public Right-of-Way

4.1 No Burden on Public Right-of-Way. Permittee, its contractors, subcontractors, and the Telecommunication Facilities shall not unduly burden or interfere with the present or future use of any of the Public Right-of-Way. Permittee's aerial cables and wires shall be suspended so as to not endanger or injure persons or property in or about the Public Right-of-Way. If Municipality reasonably determines that any portion of the Telecommunication Facilities constitutes an undue burden or interference, due to changed circumstances, Permittee, at its sole

expense, shall modify the Telecommunication Facilities or take such other actions as Municipality may determine is in the public interest to remove or alleviate the burden, and Permittee shall do so within a reasonable time period. Municipality will attempt to require all occupants of a pole or conduit whose facilities are a burden to remove or alleviate the burden concurrently.

- 4.2 No Priority. This Permit does not establish any priority of use of the Public Right-of-Way by Permittee over any present or future permittees or parties having agreements with Municipality or franchises for such use. In the event of any dispute as to the priority of use of the Public Right-of-Way, the first priority shall be to the public generally, the second priority to Municipality, the third priority to the State of Michigan and its political subdivisions in the performance of their various functions, and thereafter as between other permit, agreement or franchise holders, as determined by Municipality in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.

- 4.3 Restoration of Property. Permittee, its contractors and subcontractors shall immediately (subject to seasonal work restrictions) restore, at Permittee's sole expense, in a manner approved by Municipality, any portion of the Public Right-of-Way that is in any way disturbed, damaged, or injured by the construction, installation, operation, maintenance or removal of the Telecommunication Facilities to a reasonably equivalent (or, at Permittee's option, better) condition as that which existed prior to the disturbance. In the event that Permittee, its contractors or subcontractors fail to make such repair within a reasonable time, Municipality may make the repair and Permittee shall pay the costs Municipality incurred for such repair.
- 4.4 Marking. Permittee shall mark the Telecommunication Facilities as follows: Aerial portions of the Telecommunication Facilities shall be marked with a marker on Permittee's lines on alternate poles which shall state Permittee's name and provide a toll-free number to call for assistance. Direct buried underground portions of the Telecommunication Facilities shall have (1) a conducting wire placed in the ground at least several inches above Permittee's cable (if such cable is nonconductive); (2) at least several inches above that, a continuous colored tape with a statement to the effect that there is buried cable beneath; and (3) stakes or other appropriate above ground markers with Permittee's name and a toll-free number indicating that there is buried telephone cable below. Bored underground portions of the Telecommunication Facilities shall have a conducting wire at the same depth as the cable and shall not be required to provide the continuous colored tape. Portions of the Telecommunication Facilities located in conduit, including conduit of others used by Permittee, shall be marked at its entrance into and exit from each manhole and handhole with Permittee's name and a toll-free telephone number.
- 4.5 Tree Trimming. Permittee may trim trees upon and overhanging the Public Right-of-Way so as to prevent the branches of such trees from coming into contact with the Telecommunication Facilities, consistent with any standards adopted by Municipality. Permittee shall dispose of all trimmed materials. Permittee shall minimize the trimming of trees to that essential to maintain the integrity of the Telecommunication Facilities. Except in emergencies, all trimming of trees in the Public Right-of-Way shall have the advance approval of Manager.
- 4.6 Installation and Maintenance. The construction and installation of the Telecommunication Facilities shall be performed pursuant to plans approved by Municipality. The open cut of any Public Right-of-Way shall be coordinated with the Manager or his designee. Permittee shall install and maintain the Telecommunication Facilities in a reasonably safe condition. If the existing poles in the Public Right-of-Way are overburdened or unavailable for Permittee's use, or the facilities of all users of the poles are required to go underground then

Permittee shall, at its expense, place such portion of its Telecommunication Facilities underground, unless Municipality approves an alternate location. Permittee may perform maintenance on the Telecommunication Facilities without prior approval of Municipality, provided that Permittee shall obtain any and all permits required by Municipality in the event that any maintenance will disturb or block vehicular traffic or are otherwise required by Municipality.

4.7 Pavement Cut Coordination. Permittee shall coordinate its construction and all other work in the Public Right-of-Way with Municipality's program for street construction and rebuilding (collectively "Street Construction") and its program for street repaving and resurfacing (except seal coating and patching) (collectively, "Street Resurfacing").

4.7.1 The goals of such coordination shall be to encourage Permittee to conduct all work in the Public Right-of-Way in conjunction with or immediately prior to any Street Construction or Street Resurfacing planned by Municipality.

4.8 Compliance with Laws. Permittee shall comply with all laws, statutes, ordinances, rules and regulations regarding the construction, installation, and maintenance of its Telecommunication Facilities, whether federal, state or local, now in force or which hereafter may be promulgated. Before any installation is commenced, Permittee shall secure all necessary permits, licenses and approvals from Municipality or other governmental entity as may be required by law, including, without limitation, all utility line permits and highway permits. Permittee shall comply in all respects with applicable codes and industry standards, including but not limited to the National Electrical Safety Code (latest edition adopted by Michigan Public Service Commission) and the National Electric Code (latest edition). Permittee shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended.

4.9 Street Vacation. If Municipality vacates or consents to the vacation of Public Right-of-Way within its jurisdiction, and such vacation necessitates the removal and relocation of Permittee's Facilities in the vacated Public Right-of-Way, Permittee shall, as a condition of this Permit, consent to the vacation and remove its Facilities at its sole cost and expense when ordered to do so by Municipality or a court of competent jurisdiction. Permittee shall relocate its Facilities to such alternate route as Municipality, applying reasonable engineering standards, shall specify.

4.10 Relocation. If Municipality requests Permittee to relocate, protect, support, disconnect, or remove its Facilities because of street or utility work, or other public projects, Permittee shall relocate, protect, support, disconnect, or remove its Facilities, at its sole cost and expense, including where necessary to such

alternate route as Municipality, applying reasonable engineering standards, shall specify. The work shall be completed within a reasonable time period.

- 4.11 Public Emergency. Municipality shall have the right to sever, disrupt, dig-up or otherwise destroy Facilities of Permittee if such action is necessary because of a public emergency. If reasonable to do so under the circumstances, Municipality will attempt to provide notice to Permittee. Public emergency shall be any condition which poses an immediate threat to life, health, or property caused by any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, water main breaks, hazardous material spills, etc. Permittee shall be responsible for repair at its sole cost and expense of any of its Facilities damaged pursuant to any such action taken by Municipality.
- 4.12 Miss Dig. If eligible to join, Permittee shall subscribe to and be a member of "MISS DIG," the association of utilities formed pursuant to Act 53 of the Public Acts of 1974, as amended, MCL § 460.701 et seq., and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.
- 4.13 Underground Relocation. If Permittee has its Facilities on poles of Consumers Energy, Detroit Edison or another electric or telecommunications provider and Consumers Energy, Detroit Edison or such other electric or telecommunications provider relocates its system underground, then Permittee shall relocate its Facilities underground in the same location at Permittee's sole cost and expense.
- 4.14 Identification. All personnel of Permittee and its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing Permittee's name, their name and photograph. Permittee shall account for all identification cards at all times. Every service vehicle of Permittee and its contractors or subcontractors shall be clearly identified as such to the public, such as by a magnetic sign with Permittee's name and telephone number.

5 Indemnification

- 5.1 Indemnity. Permittee shall defend, indemnify, protect, and hold harmless Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions from any and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, and expenses of any nature (collectively "claim" for this Part 5) (including, without limitation, attorneys' fees) arising out of or resulting from the acts or omissions of Permittee, its officers, agents, employees, contractors, successors, or assigns, but only to the extent such acts or omissions are related to the Permittee's use of or installation of facilities in the Public Right-of-Way and only to the extent of the fault or responsibility of Permittee, its officers, agents, employees, contractors, successors

and assigns.

- 5.2 Notice, Cooperation. Municipality will notify Permittee promptly in writing of any such claim and the method and means proposed by Municipality for defending or satisfying such claim. Municipality will cooperate with Permittee in every reasonable way to facilitate the defense of any such claim. Municipality will consult with Permittee respecting the defense and satisfaction of such claim, including the selection and direction of legal counsel.
- 5.3 Settlement. Municipality will not settle any claim subject to indemnification under this Part 5 without the advance written consent of Permittee, which consent shall not be unreasonably withheld. Permittee shall have the right to defend or settle, at its own expense, any claim against Municipality for which Permittee is responsible hereunder.

6 Insurance

- 6.1 Coverage Required. Prior to beginning any construction in or installation of the Telecommunication Facilities in the Public Right-of-Way, Permittee shall obtain insurance as set forth below and file certificates evidencing same with Municipality. Such insurance shall be maintained in full force and effect until the end of the Term. In the alternative, Permittee may satisfy this requirement through a program of self-insurance, acceptable to Municipality, by providing reasonable evidence of its financial resources to Municipality. Municipality's acceptance of such self-insurance shall not be unreasonably withheld.
- 6.1.1 Commercial general liability insurance, including Completed Operations Liability, Independent Contractors Liability, Contractual Liability coverage, railroad protective coverage and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage, in an amount not less than Five Million Dollars (\$5,000,000).
- 6.1.2 Liability insurance for sudden and accidental environmental contamination with minimum limits of Five Hundred Thousand Dollars (\$500,000) and providing coverage for claims discovered within three (3) years after the term of the policy.
- 6.1.3 Automobile liability insurance in an amount not less than One Million Dollars (\$1,000,000).
- 6.1.4 Workers' compensation and employer's liability insurance with statutory limits, and any applicable Federal insurance of a similar nature.
- 6.1.5 The coverage amounts set forth above may be met by a combination of

underlying (primary) and umbrella policies so long as in combination the limits equal or exceed those stated. If more than one insurance policy is purchased to provide the coverage amounts set forth above, then all policies providing coverage limits excess to the primary policy shall provide drop down coverage to the first dollar of coverage and other contractual obligations of the primary policy, should the primary policy carrier not be able to perform any of its contractual obligations or not be collectible for any of its coverages for any reason during the Term, or (when longer) for as long as coverage could have been available pursuant to the terms and conditions of the primary policy.

- 6.2 Additional Insured. Municipality shall be named as an additional insured on all policies (other than worker's compensation and employer's liability). All insurance policies shall provide that they shall not be canceled, modified or not renewed unless the insurance carrier provides thirty (30) days prior written notice to Municipality. Permittee shall annually provide Municipality with a certificate of insurance evidencing such coverage. All insurance policies (other than environmental contamination, workers' compensation and employer's liability insurance) shall be written on an occurrence basis and not on a claims made basis.
- 6.3 Qualified Insurers. All insurance shall be issued by insurance carriers licensed to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance and surplus line carriers shall be rated A+ or better by A.M. Best Company.
- 6.4 Deductibles. If the insurance policies required by this Part 6 are written with retainages or deductibles in excess of \$50,000, they shall be approved by Manager in advance in writing. Permittee shall indemnify and save harmless Municipality from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished hereunder.
- 6.5 Contractors. Permittee's contractors and subcontractors working in the Public Right-of-Way shall carry in full force and effect commercial general liability, environmental contamination liability, automobile liability and workers' compensation and employer liability insurance which complies with all terms of this Part 6. In the alternative, Permittee, at its expense, may provide such coverages for any or all its contractors or subcontractors (such as by adding them to Permittee's policies).
- 6.6 Insurance Primary. Permittee's insurance coverage shall be primary insurance with respect to Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions (collectively "them"). Any insurance or self-insurance maintained by any of them shall be in excess of Permittee's insurance and shall not contribute to it (where "insurance or self-

insurance maintained by any of them” includes any contract or agreement providing any type of indemnification or defense obligation provided to, or for the benefit of them, from any source, and includes any self-insurance program or policy, or self-insured retention or deductible by, for or on behalf of them).

7 Term

7.1 Term. The term (“Term”) of this Permit shall be until the earlier of:

7.1.1 5 [five years or less] from the Date of Issuance; or

7.1.2 When the Telecommunication Facilities has not been used to provide telecommunications services for a period of one hundred and eighty (180) days by Permittee or a successor or an assignee of Permittee; or

7.1.3 When Permittee, at its election and with or without cause, delivers written notice of termination to Municipality at least one-hundred and eighty (180) days prior to the date of such termination; or

7.1.4 Upon either Permittee or Municipality giving written notice to the other of the occurrence or existence of a default by the other party under Sections 4.8, 6, 8 or 9 of this Permit and such defaulting party failing to cure, or commence good faith efforts to cure, such default within sixty (60) days (or such shorter period of time provided elsewhere in this Permit) after delivery of such notice; or

7.1.5 Unless Manager grants a written extension, one year from the Date of Issuance if prior thereto Permittee has not started the construction and installation of the Telecommunication Facilities within the Public Right-of-Way and two years from the Date of Issuance if by such time construction and installation of the Telecommunication Facilities is not complete.

8 Performance Bond or Letter of Credit

8.1 Municipal Requirement. Municipality may require Permittee to post a bond (or letter of credit) as provided in Section 15(3) of the METRO Act, as amended [MCL § 484.3115(3)].

9 Fees

9.1 Establishment; Reservation. The METRO Act shall control the establishment of right-of-way fees. The parties reserve their respective rights regarding the nature and amount of any fees which may be charged by Municipality in connection with

the Public Right-of-Way.

10 Removal

10.1 Removal; Underground. As soon as practicable after the Term, Permittee or its successors and assigns shall remove any underground cable or other portions of the Telecommunication Facilities from the Public Right-of-Way which has been installed in such a manner that it can be removed without trenching or other opening of the Public Right-of-Way. Permittee shall not remove any underground cable or other portions of the Telecommunication Facilities which requires trenching or other opening of the Public Right-of-Way except with the prior written approval of Manager. All removals shall be at Permittee's sole cost and expense.

10.1.1 For purposes of this Part 10, "cable" means any wire, coaxial cable, fiber optic cable, feed wire or pull wire.

10.2 Removal; Above Ground. As soon as practicable after the Term, Permittee, or its successor or assigns at its sole cost and expense, shall, unless waived in writing by Manager, remove from the Public Right-of-Way all above ground elements of its Telecommunication Facilities, including but not limited to poles, pedestal mounted terminal boxes, and lines attached to or suspended from poles.

10.3 Schedule. The schedule and timing of removal shall be subject to approval by Manager. Unless extended by Manager, removal shall be completed not later than twelve (12) months following the Term. Portions of the Telecommunication Facilities in the Public Right-of-Way which are not removed within such time period shall be deemed abandoned and, at the option of Municipality exercised by written notice to Permittee as set forth in Part 12, title to the portions described in such notice shall vest in Municipality.

11 Assignment. Permittee may assign or transfer its rights under this Permit, or the persons or entities controlling Permittee may change, in whole or in part, voluntarily, involuntarily, or by operation of law, including by merger or consolidation, change in the ownership or control of Permittee's business, or by other means, subject to the following:

11.1 No such transfer or assignment or change in the control of Permittee shall be effective under this Permit, without Municipality's prior approval (not to be unreasonably withheld), during the time period from the Date of Issuance until the completion of the construction of the Telecommunication Facilities in those portions of the Public Right-of-Way identified on Exhibit A.

11.2 After the completion of such construction, Permittee must provide notice to Municipality of such transfer, assignment or change in control no later than thirty (30) days after such occurrence; provided, however,

11.2.1 Any transferee or assignee of this Permit shall be qualified to perform under its terms and conditions and comply with applicable law; shall be subject to the obligations of this Permit, including responsibility for any defaults which occurred prior to the transfer or assignment; shall supply Municipality with the information required under Section 3.1; and shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which Municipality reasonably deems necessary, and

11.2.2 In the event of a change in control, it shall not be to an entity lacking the qualifications to assure Permittee's ability to perform under the terms and conditions of this Permit and comply with applicable law; and Permittee shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which Municipality reasonably deems necessary.

11.3 Permittee may grant a security interest in this Permit, its rights thereunder or the Telecommunication Facilities at any time without notifying Municipality.

12 Notices

12.1 Notices. All notices under this Permit shall be given as follows:

12.1.1 If to Municipality, to City of Mount Clemens, One Crocker Blvd., Mount Clemens, MI 48043.

12.1.2 If to Permittee, to McLeodUSA, Attn: Franchises & Easements, 11101 Anderson Drive, Little Rock AR 72212.

12.2 Change of Address. Permittee and Municipality may change its address or personnel for the receipt of notices at any time by giving notice thereof to the other as set forth above.

13 Other items

13.1 No Cable, OVS. This Permit does not authorize Permittee to provide commercial cable type services to the public, such as "cable service" or the services of an "open video system operator" (as such terms are defined in the Federal Communications Act of 1934 and implementing regulations, currently 47 U.S.C. §§ 522 (6), 573 and 47 CFR § 76.1500).

13.2 Effectiveness. This Permit shall become effective when Permittee has provided any insurance certificates and bonds required in Parts 6 and 8, and signed the acknowledgement of receipt, below.

- 13.3 Authority. This Permit satisfies the requirement for a permit under Section 5 of the METRO Act [MCL 484.3105].
- 13.4 Interpretation and Severability. The provisions of this Permit shall be liberally construed to protect and preserve the peace, health, safety and welfare of the public, and should any provision or section of this Permit be held unconstitutional, invalid, overbroad or otherwise unenforceable, such determination/holding shall not be construed as affecting the validity of any of the remaining conditions of this Permit. If any provision in this Permit is found to be partially overbroad, unenforceable, or invalid, Permittee and Municipality may nevertheless enforce such provision to the extent permitted under applicable law.
- 13.5 Governing Law. This Permit shall be governed by the laws of the State of Michigan.

City of Mount Clemens

By: _____
Its: _____
Date: _____

Acknowledgement of Receipt: Permittee acknowledges receipt of this Permit granted by Municipality.

McLeodUSA Telecommunications Services, LLC

By: Stacy M. Light
Stacy M. Light - OSI Manager
Its: METRO Act Administrator
Date: 4/28/15



McLeodUSA Fiber

Fiber Mileage 1,753 ft (Aerial)
118 ft (Buried)

PLACEMENT

- Aerial
- Underground
- Mount Clemens Municipal Boundary

Proprietary and Confidential
Subject to Change Without Notice

Albers Projection
Central Meridian: -96
1st Std Parallel: 20
2nd Std Parallel: 60
Latitude of Origin: 40

1 in = 0 miles




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EXPLANATION OF CONSENT AGENDA – May 18, 2015

Agenda Item No. 10-E

Request to Adopt a Corrective Resolution Vacating a Portion of a Public Alley

On November 3, 2014, the City Commission adopted a resolution vacating the remaining portion of an alley off of Orchard Street, running parallel to Jones and Brooks streets. Pursuant to statute, the resolution was recorded with the Macomb County Register of Deeds and forwarded to the State of Michigan Department of Commerce. The State objected to the inclusion of the following language in the fifth paragraph of the Resolution, to-wit: ...“and that title to the area so vacated remains in the fee title holders reflected by the records of the Macomb County Register of Deeds”. Therefore, it is necessary to adopt the attached Corrective Resolution Vacating a Portion of a Public Alley, deleting the foregoing objectionable language and record the same with the Register of Deeds, and resubmit to the State of Michigan for filing.

SUBMITTED BY: Michael J. Murray, City Attorney

RECOMMENDED MOTION: Adopt a Corrective Resolution Vacating a Portion of a Public Alley, revising the resolution vacating the remaining portion of an alley off of Orchard Street, running parallel to Jones and Brooks Streets.

THIS INSTRUMENT FILED TO MAKE CORRECTIVE CHANGES TO PRIOR DOCUMENT
FILED ON DECEMBER 16, 2014, IN LIBER 2319, PAGE 863, MACOMB COUNTY RECORDS.

CORRECTIVE 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: sixteen (16) feet of property dedicated as a public alley abutting 130 Jones Street, 128 Jones Street, Vacant Orchard Parcel (05-11-11-438-025) and 31 Orchard, running southeast 118.5 feet parallel with the northeast property line of 128 Jones Street and exiting onto Orchard Street.

Said vacated portion being platted in Assessor's Plat No. 8 in the City of Mount Clemens, Macomb County, Michigan, according to the plat thereof as recorded in Liber 13, Page 12 of plats, Macomb County Records, lying parallel to and between:

130 Jones Street; A/PLAT NO 8 (L13,P12) ALL LOT 70; LOT 82 EXP NELY 103.04 FT, NWLY 10.0 FT OF LOT 82 EXP NLY 103.04 FT, ALL LOT 85; ALSO ALL VAC ALLEY ADJ TO LOT 70.

128 Jones Street; ASSESSORS PLAT NO 8 N 35.0 FT OF LOT 68 & ALL LOT 69.

Vacant Orchard Parcel (05-11-11-438-025); ASSESSORS PLAT NO 8 N 52.0 FT OF LOT 67.

31 Orchard Street; ASSESSORS PLAT NO 8 LOT 86 & S 10 FT OF LOT 87.

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: May 18, 2015

CITY OF MOUNT CLEMENS,
a Michigan Municipal Corporation,

By: _____
Gary Blash, Mayor Pro Tem

By: _____
Lisa M. Borgacz, City Clerk

EXPLANATION OF CONSENT AGENDA – May 18, 2015

Agenda Item No. 10-F

Resolution to Adopt the 2015-2020 Macomb County Hazard Mitigation Plan

The City needs to adopt the updated Macomb County Hazard Mitigation Plan in order to be eligible for hazard mitigation or flood mitigation assistance funding.

The Plan was developed by the Macomb County Office of Emergency Management as a county-wide jurisdictional “all hazards” plan that addresses the needs of the County and each individual City, Township and Village within Macomb County. The Plan must be approved by each local jurisdiction in order for it to be fully compliant and recognized as the official county hazard mitigation plan.

The updated Plan has been attached under separate cover and replaces the 2010-2015 Plan.

SUBMITTED BY: Gregg Shipman, Fire Captain

RECOMMENDED MOTION: To adopt the resolution to accept the proposed Macomb County Hazard Mitigation Plan 2015-2020.

**RESOLUTION TO ADOPT THE
MACOMB COUNTY HAZARD MITIGATION PLAN 2015-2020**

WHEREAS, the City Commission of the City of Mount Clemens recognizes the need to identify the hazards affecting the County and all the citizens within the City of Mount Clemens, County of Macomb, State of Michigan; and

WHEREAS, Macomb County, Office of Emergency Management & Communications in conjunction with the Macomb County Municipalities, the Michigan State Police Emergency Management/Homeland Security Division, and under guidelines provided by the Federal Emergency Management Agency (FEMA), has adopted a Macomb County Hazard Mitigation Plan (“Plan”); and

WHEREAS, the Plan is to reduce and in some cases eliminate or prevent the impact that a natural, technological or weapons of mass destruction event may have on the County; and

WHEREAS, the content of the Plan meets all State and Federal guidelines, having been accepted by the State of Michigan and the United States of America; and

WHEREAS, the Plan must be approved by each local jurisdiction in order for it to be fully compliant and recognized as the official county hazard mitigation plan; and

WHEREAS, according to federal law, any community in Michigan that does not have a hazard mitigation plan in place prior to November 1, 2004, will not be eligible to receive any type of hazard or flood mitigation assistance funding.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Commission of the City of Mount Clemens does hereby approve and adopt the Macomb County Hazard Mitigation Plan for 2015 through 2020 and any and all resolutions in conflict herewith are repealed only to the extent necessary to give full force and effect to the foregoing provisions.

BE IT FURTHER RESOLVED that this Resolution, having been adopted by the Mount Clemens City Commission, will be made a permanent part of the records of the City of Mount Clemens and a signed copy will be presented to the Macomb County Office of Emergency Management.

ADOPTED: May 18, 2015

By: _____
Gary Blash, Mayor Pro-Tem

By: _____
Lisa Borgacz, City Clerk

EXPLANATION OF AGENDA – May 18, 2015

TO: The Honorable Mayor Barb Dempsey and
All City Commissioners

FROM: Steven M. Brown, City Manager

DATE: May 14, 2015

RE: Report from the City Manager’s Office

1. Master Plan Update Status: The recommendation for an award on this bid project will be on the June 1, 2015 Agenda.
2. Strategic Planning Process Update: SEMCOG has provided a draft document for review which is based on the Work Sessions held by the Mayor and Commission. SEMCOG will receive the feedback provided by Mayor and Commission on the draft, incorporate appropriate changes and/or edits and get in touch with City Administration to schedule a presentation of the Strategic Plan at an upcoming Commission meeting, most likely on June 1, 2015.
3. Regional Fire Consolidation Study Update: The bid award has been made to Tri-Data through Macomb County purchasing. A kickoff meeting has been held which covered review and updates of the timeline for this project. Participating communities, including the City, are busily assembling and providing information that has been requested by Tri-Data. Individual meetings with Tri-Data and community representatives are scheduled for next week. Activity on this important study is ramping up with October, 2015 as the projected completion date.
4. Mass Transit Evaluation Process for Macomb County: The Regional Transit Authority (RTA) is holding several Open House events across the area to discuss how to design improved public transit for the region. There is a Macomb County event scheduled as follows:

May 18, 2015
1:00 PM to 7:30 PM
Macomb Community College
Lorenzo Cultural Center in Community Hall
44575 Garfield
Clinton Township, MI 48038

These Open House events are designed to obtain as much public input from as many sources as possible. The RTA website has more information on this and other Open House events and RTA activity in general. The website is: <http://www.rtamichigan.org/>.