

Table of Contents

Agenda	3
Administrative Response to Issues or Questions Raised During Previous Meetings.	
Administrative Response	5
Approval of Minutes.	
Work Session-June 1, 2015.	6
Regular Meeting-June 1, 2015	7
9-A - Presentation and Approval of Strategic Plan as Facilitated by Southeast Michigan Council of Governments (SEMCOG).	
Agenda Cover.	10
9-B - Request Approval of Management Agreement with RT Arena Management, LLC, for the Mount Clemens Ice Arena.	
Agenda Cover.	11
Agreement	12
9-C - Request Approval of Memorandum of Understanding with the Downtown Development Authority for Partial Funding of a City Economic Development Program.	
Agenda Cover.	24
Memorandum of Understanding	25
9-D - Request City Commission Approval of a Contract for Utilities Department Management.	
Agenda Cover.	26
FVOP Proposal	27
Agreement	31
9-E - Request Approval to Enter into Agreements for Inspector Services in the Community Development Department.	
Agenda Cover.	34
Matthew M. Berman.	35
Joseph A. Orr	40
Michael L. Ferron	45
Fusion Electric, Inc.	50
9-F - Request Approval of the 2014/2015 Fiscal Year Budget Amendments for all City Funds.	
Agenda Cover.	55
Budget Amendments	56
Memorandum	57
9-G - Request to Adopt "Procedures and Guidelines" Describing Fees Associated with Freedom of Information Act (FOIA) Requests.	
Agenda Cover.	59
Procedures and Guidelines	60
FOIA Application	69
Summary of FOIA Procedures and Guidelines	70
Cost Itemization Form.	75

9-H - Authorization to Allow the Mount Clemens Public Library to Digitize, Preserve and Make Available to the Public Historical Commission and Historic District Commission Documents.	
Agenda Cover.	77
9-I - Request Approval to Continue the Publication and Distribution of the City Newsletter through C & G Newspapers.	
Agenda Cover.	78
9-J - Approve Purchases and Payment of Invoices.	
Purchases and Payments.	79
Tab #1; Country Oaks Landscape Supply	81
Tab #2; Pumps Plus, Inc.	82
10-A - Request to Approve a Contract Between the City of Mount Clemens and Meridian Contracting Group, Inc., for the Train Depot Roof Replacement Project.	
Agenda Cover.	83
Contract.	84
City Manager's Report.	
City Manager's Report	89



A G E N D A

CITY COMMISSION MEETING

Monday, June 15, 2015

7:00 PM

1. Call to Order.
2. Pledge of Allegiance.
3. Roll Call.
4. Announcements, Acknowledgments and Communications and Reports.
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 - Presentation and Approval of Strategic Plan as Facilitated by Southeast Michigan Council of Governments (SEMCOG).
 - 9-B - Request Approval of Management Agreement with RT Arena Management, LLC, for the Mount Clemens Ice Arena.
 - 9-C - Request Approval of Memorandum of Understanding with the Downtown Development Authority for Partial Funding of a City Economic Development Program.
 - 9-D - Request City Commission Approval of a Contract for Utilities Department Management.

9-E - Request Approval to Enter into Agreements for Inspector Services in the Community Development Department.

9-F - Request Approval of the 2014/2015 Fiscal Year Budget Amendments for all City Funds.

9-G - Request to Adopt "Procedures and Guidelines" Describing Fees Associated with Freedom of Information Act (FOIA) Requests.

9-H - Authorization to Allow the Mount Clemens Public Library to Digitize, Preserve and Make Available to the Public Historical Commission and Historic District Commission Documents.

9-I - Request Approval to Continue the Publication and Distribution of the City Newsletter through C & G Newspapers.

9-J - Approve Purchases and Payment of Invoices.

10. Consent Agenda.

10-A - Request to Approve a Contract Between the City of Mount Clemens and Meridian Contracting Group, Inc., for the Train Depot Roof Replacement Project.

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 – June 15, 2015

Administrative Response to Issues or Questions Raised During Previous Meetings

1. Business Related Noise Complaint

This complaint, regarding a business on Hubbard, was the subject of an earlier resident complaint as well. Enforcement actions and permit activity had already been undertaken by the City to address this situation before either of these citizen complaints was received. Community Development Department activity and results related to this location include the following:

- a water service permit was issued and scheduled for inspection
- outside activity at this location was the subject of a District Court action that resulted from City enforcement activity
- an improper fence installation and subsequent City enforcement activity has led to another District Court date as well
- The owner has pulled building and electrical permits as part of the Certificate of Occupancy process of the City

2. Utilities Process Inquiry

At a recent Commission Meeting, a resident questioned how the Utilities Department handles and bills for activity in the City. The City is responsible for our portion of the water and wastewater systems in the City. Any breakdown associated with our portion of the system is our responsibility, including repair and restoration.

CITY COMMISSION WORK SESSION

**County of Macomb
State of Michigan**

**June 1, 2015
Conference Room**

A work session of the Mount Clemens City Commission was held on Monday, June 1, 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 Barb Dempsey, and Commissioners Roger Bunton, Ronald Campbell, Lois Hill, Denise Mentzer and Joseph Rheker. Absent from the meeting was Commissioner Gary Blash. 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 Mentzer made a motion, supported by Commissioner Bunton, to adjourn the meeting.

The meeting adjourned at 6:47 p.m.

Respectfully submitted,

Barb Dempsey, Mayor

Lisa Borgacz, City Clerk

CITY COMMISSION MEETING

**County of Macomb
State of Michigan**

**June 1, 2015
Commission Chambers**

A regular meeting of the Mount Clemens City Commission was held on Monday, June 1, 2015, at 7:00 p.m. The meeting was held in the Commission Chambers of the Municipal Building, One Crocker Boulevard, Mount Clemens, Michigan. Present at this meeting were Mayor Barb Dempsey and Commissioners Roger Bunton, Ronald Campbell, Lois Hill, Denise Mentzer and Joseph Rheker. Absent from the meeting was Commissioner Gary Blash. 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 Rheker made a motion, supported by Commissioner Bunton, to excuse Commissioner Blash 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, supported by Commissioner Bunton, to approve the agenda as amended:

1. Consent Agenda Item 10-C – Request Approval of the 2015 Daughters of Macomb Parade on Thursday, August 6, 2015, was moved to General Business Item 9-D.

The motion passed unanimously.

PUBLIC PARTICIPATION WAS CONDUCTED, ITEM 6.

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

APPROVAL OF MINUTES WAS CONSIDERED, ITEM 8.

Commissioner Hill made a motion, supported by Commissioner Campbell, to approve the minutes of the City Commission Regular meeting of May 18, 2015, as presented. The motion passed unanimously.

ADOPTION OF THE BUDGET APPROPRIATIONS RESOLUTION AND THE MILLAGE RATES WAS CONSIDERED, ITEM 9-A.

Commissioner Bunton made a motion, supported by Commissioner Mentzer, to adopt the millage rates requested for the 2015 property taxes; and adopt the Budget Appropriations Resolution for the Fiscal Year 2015-2016.

June 1, 2015

The vote on the motion was:

Ayes: Mentzer, Rheker, Bunton, Dempsey, Hill

Nays: Campbell

The motion passed.

REQUEST TO AWARD CONSULTANT CONTRACT FOR MASTER PLAN UPDATE SERVICES WAS CONSIDERED, ITEM 9-B.

Commissioner Mentzer made a motion, supported by Commissioner Hill, to award the contract for consultant services for an update to the Master Plan to LSL Planning, subject to approval of contract language by the City Attorney, at a cost of \$44,823. The motion passed unanimously.

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

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

APPROVAL OF THE 2015 DAUGHTERS OF MACOMB PARADE ON THURSDAY, AUGUST 6, 2015, WAS CONSIDERED, ITEM 9-D.

Commissioner Mentzer made a motion, supported by Commissioner Hill, to approve the Daughters of Macomb annual parade route on Thursday, August 6, 2015, beginning at 9:15 a.m. and lasting approximately one hour. The motion passed unanimously.

THE CONSENT AGENDA WAS CONSIDERED, ITEM 10.

Commissioner Hill made a motion, supported by Commissioner Bunton, to approve the consent agenda as amended:

In Item 10-A, a request to approve the Dates for Regular City Commission Meetings for the 2015/2016 Fiscal Year as presented, was approved.

In Item 10-B, a request to approve Placement of Delinquent Special Assessment Rolls 15-02 and 15-03 on the City Tax Roll for 2015, was approved.

In Item 10-D, a request to approve Holding the 24th Annual Mount Clemens Grand Prix on Saturday, September 12, 2015, with the road closures as listed, and authorize the City Manager to approve a rain date, if necessary, was approved.

The motion passed unanimously.

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

COMMISSIONERS' COMMENTS WERE RECEIVED, ITEM 12.

EXECUTIVE SESSION WAS CONDUCTED, ITEM 13.

June 1, 2015

Commissioner Bunton made a motion, supported by Commissioner Hill, to enter into Executive Session at 8:05 p.m. The motion passed unanimously.

Commissioner Mentzer made a motion, supported by Commissioner Hill, to adjourn Executive Session and return to open session at 8:44 p.m. The motion passed unanimously.

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

The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Barb Dempsey, Mayor

Lisa Borgacz, City Clerk

EXPLANATION OF AGENDA – June 15, 2015

Agenda Item No. 9-A

Presentation and Approval of Strategic Plan as Facilitated by Southeast Michigan Council of Governments (SEMCOG)

The Southeast Michigan Council of Governments (SEMCOG), through Naheed Huq and Trevor Layton, has facilitated the development of a Strategic Plan for the City. This service was provided at no charge as a benefit of SEMCOG membership. The City Commission held a series of work sessions to develop this plan. The City Commission subsequently received the draft plan and provided feedback on same to SEMCOG. At your meeting of June 15, 2015, SEMCOG will make a presentation on the Strategic Plan.

SUBMITTED BY: Steven Brown, City Manager

RECOMMENDED MOTION: To approve and adopt the Strategic Plan as facilitated by the Southeast Michigan Council of Governments.

EXPLANATION OF AGENDA – June 15, 2015

Agenda Item No. 9-B

Request Approval of Management Agreement with RT Arena Management, LLC, for the Mount Clemens Ice Arena

On July 5, 2012, the City Commission approved a Management Agreement with RT Arena Management, LLC, for the Mount Clemens Ice Arena. Said agreement expires July 6, 2015, and RT Arena Management, LLC, has agreed to manage the arena for an additional six (6) years.

Therefore, the City Attorney has drafted the attached Management Agreement between the City of Mount Clemens and RT Arena Management, LLC, which Administration is recommending for approval.

SUBMITTED BY: Steven M. Brown, City Manager

RECOMMENDED MOTION: To approve the Management Agreement with RT Arena Management, LLC, for the management of the Mount Clemens Ice Arena for a period of six (6) years.

MANAGEMENT AGREEMENT

THIS AGREEMENT made and entered into and effective as of the _____ day of _____, 2015, by and between the **CITY OF MOUNT CLEMENS**, a Michigan Municipal Corporation, hereinafter referred to as “City”, and **RT ARENA MANAGEMENT, LLC**, a Michigan Limited Liability Company, whose address is 19955 Chesterbrook Drive, Macomb Township, Michigan 48044, hereinafter referred to as “**Manager**”.

I. ENGAGEMENT OF “MANAGER” TO OPERATE THE CITY OF MOUNT CLEMENS ICE ARENA (“Ice Arena”).

1.01 The City engages Manager to operate, manage and maintain its Ice Arena facility pursuant to its regulations, policies and guidelines of the City now in effect or to be promulgated in the future and Manager hereby undertakes and agrees to perform all service and comply with all provisions of this Agreement for the City, while at the same time using its expertise and abilities to minimize the risk of losses to the City. The current and future policies and guidelines set by the City shall not unreasonably interfere with, impede, or impair the ability of Manger to effectively and soundly manage the Ice Arena.

II. MOUNT CLEMENS ICE ARENA COMPLEX.

2.01 The City is the owner of the Mount Clemens Ice Arena situated in the City of Mount Clemens, County of Macomb, and State of Michigan.

2.02 All necessary governmental and other permits and approvals required for the operation and use of the Ice Arena have been obtained and any such future permits and/or approvals will be obtained by Manager with the aid, approval and cooperation of the City.

2.03 The City has contracted to lease the Ice Arena facility from the Mount Clemens Building Authority and the Mount Clemens Building Authority, pursuant to that Lease, has bonding obligations for the construction of the Ice Arena. Manager and the City understand that the cost of the bond payments to the Building Authority will be an element in the expenses to be paid to the City by Manager and will be treated as an expense before the calculation of any net revenues as hereinafter provided.

III. DUTIES AND AUTHORITY OF MANAGER AND THE CITY.

3.01 Manager hereby agrees to perform and furnish all management services, labor and materials needed to operate, supervise, manage and maintain the aforesaid facility in the most efficient manner consistent with carrying out those purposes. It is the intent of the parties that Manager will have sole authority over the operation of the facility

and all of its related properties, but subject to policies and guidelines established by, or which may from time to time hereafter be established, by the City. Such current and future policies and guidelines shall not unreasonably interfere, impede or impair the ability of Manager to effectively and soundly manage the facility. Any capital expenditure shall require the advance approval of the City. Capital expenditure as used herein is defined as costs that increase the quantity or quality of service through an addition or modification to the ice arena, physical plant, or equipment that will benefit future periods and have a cost in excess of \$1,500.00. The City understands that when losses occur which cannot be met by operating revenues, the City in its sole discretion, may provide the funds necessary to continue the operation, or elect to terminate this Agreement.

3.02 Employees hired by Manager pursuant to the budget referred to in Article IV hereof, will be employees of Manager and not of the City. Manager shall select the number, function, qualifications, and compensation of such employees.

3.03 In the performance of its duties under this Agreement for management, supervision, maintenance, and operation of the facility, Manager shall receive the management fee set forth in paragraph 8.01 hereof and provide the City with the services customarily provided for in such instances in accordance with the provisions of this Agreement. Without in any way limiting the generality of the foregoing, Manager shall perform the following:

(A) Employ, compensate, supervise and discharge all employees and personnel, including without limitation, the manager of said facility. Such authority or any part thereof may be delegated by Manager to one or more persons under its direct supervision.

(B) Maintain and supervise detailed, accurate and complete financial and other books and records of all its activities under this Agreement, including without limitation, the books of account and accounting procedures of the facility, on a departmental basis, but such books of accounts and accounting procedures shall be consistent with and in accordance with the accounting system presently in use by the City.

(C) Negotiate licenses, use agreements, bookings, and advertising agreements for said facility, including food, special event liquor licenses, if any, and pro-shop. Such licenses, use agreements, bookings, advertising agreements, and any other agreement pertaining to the use, operation and occupancy of the facility will be executed by Manager. Manager shall see that proper certificates of insurance evidencing insurance sufficient for coverage of general liability, automobile liability, bodily injury, property damage, and death in an amount pursuant to the terms of paragraph VI (6.01) hereof.

(D) Submit a written report to the City at least monthly, no later than the 15th of the following month (or at such more frequent intervals and times as the City may reasonably request) concerning its activities in the operation, management, supervision and maintenance of the ice arena. Said reports shall be on a departmental basis and shall among others, inter alia, set forth bookings, receipts, expenditures, and such other and further information as the City may reasonably require and/or request.

(E) Rent, lease or purchase all non-capital, event related and ordinary maintenance supplies and equipment pursuant to the budget referred to in Article IV hereof, for and as the property of the City.

(F) Manager agrees to maintain the facility in the condition received, reasonable wear and tear excepted.

(G) Negotiate and enter into service contracts required in the ordinary course of business in operating the facility, including without limitation, contract for electricity, engineering services, gas, telephone, staffing personnel, including guards and ushers, janitorial service, vermin extermination and other services which are reasonably necessary, subject to the approval of the City pursuant to Section 3.01 hereof.

(H) Furnish such supervisory services as are herein set forth in this Agreement as shall ensure that the facility and services shall be operated in a first class manner, and with standards comparable to similar first class facilities, keeping in mind, however, the financial limitations facing the parties and the ability of the facility to provide a return on such capital investments.

(I) Establish prices, rates and rate schedules for the foresaid licenses, use and booking agreements, advertising contracts and concession agreement and any other facility commitments which will be negotiated by Manager in the course of its employment hereunder. The establishment of such prices and rates shall be set so as to avoid losses if reasonably possible.

(J) Prepare a proposed annual budget no later than March 15th for each succeeding fiscal year of the term of this Agreement, in accordance with the policies of the City, and submit the same to the City for review and approval, and comply with the spending limitations imposed on such budget, including supplements thereto as authorized. Manager and City shall, throughout the term of this Agreement, comply with all statutes, ordinances, laws, rules, regulations, orders and requirements of any federal, state or municipal government and appropriate departments, commissions, boards and offices having jurisdiction of the premises respecting the use or manner of use of the facility of the construction, maintenance and operation thereof, as well as with all orders and requirements of the Fire Marshall and underwriters for insurance carriers, or any other body which may hereafter exercise similar functions.

(K) At the express direction of and expense of Manager, institute in Manager's name any and all legal actions or proceedings to collect charges, rents or other income generated by and due and owing to Manager or to cancel or terminate any license, use agreement for breach thereof or default thereunder by any licensee, user, or advertiser of Manager.

IV. BUDGETARY REQUIREMENTS.

4.01 The parties agree that in the event Manager requests a capital improvement, the City will attempt in good faith to include such request in its budget in the event sufficient funds for the same are not available in the Improvement Fund as hereinafter provided.

4.02 The budget proposals submitted by Manger will include, inter alia, separate line item figures for all categories of revenues and expenses required by the City on a departmental basis. Manager may make reasonable adjustment among expense categories during operations, but shall obtain approval from City of any material change to the total expenses. During any period a budget has not been agreed upon by the parties, Manager may continue to operate on the prior year's budget.

4.03 As part of the budget requirements contained herein, Ice Arena revenues shall be held and administered as follows:

(A) Manager to establish, hold and administer the common fund. There is hereby established the Mount Clemens Ice Arena Common Fund (the "Common Fund"), which shall be administered by the Manager on behalf of the City in accordance with the provisions of this Agreement. The Common Fund shall consist of the following funds: Receiving Fund, Operation and Maintenance Fund and Improvement Fund. Manager shall either through its own employees or by contract, retain all funds collected and pay expenses in the manner as provided hereinafter, and shall hold such fund as fiduciary for the City and shall secure a fidelity bond in the amount of One Million (\$1,000,000.) dollars for all persons handling said fund and shall annually provide the City with a copy of the fidelity bond and paid receipt for the same.

(B) Deposits to the Common Fund to be processed as follows: Any and all monies received by the Ice Arena (the "Revenues"), shall be deposited to the Common Fund – Receiving Fund. The Revenues so credited are pledged for the purpose of the following funds and shall be transferred or debited from the Receiving Fund periodically in the manner, in order of priority set forth below, at the time hereinafter specified below.

(C) Operation and Maintenance Fund: Monthly out of the Revenues credited to the Receiving Fund there shall be first set aside in, or credited to a fund to be established, maintained and designated as the Operation and

Maintenance Fund, a sum sufficient to provide for the payment of the next month's expenses of administration, operation and maintenance of the Ice Arena, including such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order. Provided, however, said sum shall not include the management fee provided for in paragraph 8.01 hereof. The total of such expenses shall not exceed the total amount specified in the budget, except by prior approval of the City.

(D) Management Fee: Out of the Revenues remaining in the Receiving Fund, and provisions for the credit or deposit to the Operation and Maintenance Fund, and the Redemption Fund, there shall next be paid to Manager, a monthly management fee as set forth in paragraph 8.01 hereof.

(E) Improvement Fund: There shall be established a separate fund to be known as the Improvement Fund (the "Improvement Fund"). Out of revenues remaining in the Receiving Fund, after provision for the payments, credit or deposit to the Operation and Maintenance Fund, Redemption Fund and Management Fee, as required above, there shall be set aside annually within 30 days of the close of the City's fiscal year in the Improvement Fund, the sum of at least One Hundred Thousand (\$100,000.) dollars, until there is accumulated in such fund the sum of One Million (\$1,000,000.) dollars (the "Maximum Amount"). Except as hereinafter provided, the monies credited to the Improvement Fund shall be used to first make up any deficiencies in the Operation and Maintenance Fund; second to make up any deficiencies in the Management Fee; third for repayment to City the sum of \$594,845.37 for building and equipment improvements previously made; and finally for capital improvements to the Ice Arena. If at any time it shall be necessary to use monies credited to the Improvement Fund for such purposes, then the monies so used shall be replenished from Revenues in the following year or until such amounts have been replenished in full. If at any time there is any excess in the Improvement Fund over the Maximum Amount, such excess shall be transferred to the Receiving Fund.

(F) Surplus Monies. Any Revenues in the Receiving Fund at the end of the operating year after satisfying all requirements of the Operation and Maintenance Fund, payment of Management Fees and the Improvement Fund, shall be applied to the above-referenced indebtedness to the City and the same shall be paid in full within three (3) years of the date herewith. After payment of all of the foregoing, any remaining revenues shall be deemed to be net revenue and shall be distributed pursuant to paragraph 8.01(B) hereof.

4.04 Manager shall inform the City of any condition of which it becomes aware that impairs the structural soundness or sound operating condition of the Ice Arena or otherwise adversely affects the ability of Manager to perform under this Agreement under the supervision of the City's independent accounting firm. The City will, subject

to appropriation, make available the funds necessary to correct such condition in an expeditious manner and within such time as is required under the circumstances, or may at its option elect to terminate this Agreement.

V. RECORDS AND AUDITING.

5.01 (A) Manager shall maintain current, accurate and complete financial records on the modified accrual basis of accounting relating to its activities of the Ice Arena on a departmental basis. Said records shall delineate all activities of the Ice Arena. The systems and procedures used to maintain these records shall include all activities and operations, both direct and indirect, of the Ice Arena. The systems and procedures used to maintain these records shall include system of internal controls as approved by the City's finance director, and all accounting records shall be maintained in accordance with generally accepted governmental accounting principles. All records referred to herein shall be maintained at the office of Manager and shall be made available for inspection and copying at reasonable times by the City's finance director and/or accounting firm and/or auditor as provided for in paragraph 3.03(B) herein.

(B) Manager shall provide the City with detailed reports and records relating to all revenues and expenditures, direct or indirect, of the Ice Arena at least on a monthly basis by the 15th of the following month.

5.02 For each or partial fiscal year of this Agreement, the City may cause to be conducted an audit ("Audit") of Manager's entire operation at the Ice Arena. The Audit shall be conducted by an accountant ("Auditor") chosen by the City and licensed to practice in Michigan at City's expense.

VI. INSURANCE.

6.01 Manager shall obtain, maintain and keep current on behalf of the City all insurance which the City shall determine to be appropriate for a commercial enterprise of this type. All coverage shall include the City of Mount Clemens as Certificate Holder and Additional Insured and provide for Thirty (30) day notice to the City in the event of cancellation.

Items of insurance may be purchased by the City if the parties hereto conclude that it would be less expensive for some of the policies to be purchased in that fashion, in which case the same shall be chargeable to Manager for accounting purposes.

6.02 Manager shall provide the City a certificate or certificates evidencing the coverage required hereunder.

6.03 No coverage may be changed without a written approval of the City and Manager.

VII. RELATIONSHIP OF PARTIES.

7.01 Nothing herein contained is intended or shall be construed in any way to create or establish the relationship of partners or a joint venture between the City and Manager. None of the officers, agents or employees shall be or be deemed to be employees of the City for any purpose whatsoever and Manager shall be solely responsible for their supervision and daily direction and control and for establishing, and paying out of the Operation and Maintenance Fund, their compensation, Federal and State income tax withholding and employee benefits, if any.

VIII. MANAGEMENT FEE OF MANAGER.

8.01 Management Fee. As compensation to Manager for performing all services herein specified, the City shall pay Manager for the term of this Agreement:

(A) A monthly management fee of Three Thousand (\$3,000.00) Dollars for the first two (2) year term of this Agreement, Three Thousand Two Hundred Fifty (\$3,250.00) Dollars for the third and fourth years, and Three Thousand Five Hundred (\$3,500.00) Dollars for the remaining years under this Agreement. It being distinctly understood and agreed by the parties hereto that the foregoing management fee shall be paid only out of revenues remaining, if any, after payment in full of all Operation and Maintenance Fund obligations as hereinabove set forth.

(B) In addition thereto, Manager is to receive five (5%) percent of the first \$100,000.00 of net revenues, ten (10%) percent of the second \$100,000.00 of net revenues, fifteen (15%) percent of the next \$100,000.00 of net revenues, and twenty (20%) percent of all net revenues thereafter. Net revenues as used herein shall be defined as the difference between the revenues earned in connection with the operation of the Ice Arena and the expenditures incurred in funding the Operation and Maintenance Fund, Improvement Fund and Management Fees for the same fiscal period.

IX. TERM OF AGREEMENT.

9.01 The initial term of this Agreement shall be for a Six (6) year period, commencing on the 6th day of July, 2015, and ending on July 5, 2021.

X. COVENANTS OF MANAGER.

10.01 Manager agrees to exert its best efforts in operating, managing, supervising, maintaining and marketing the Ice Arena as agent for the City and to minimize operating costs and maximize revenues. The parties recognize and acknowledge that the interests of the City require booking and management policy which takes account of service and events to generate substantial direct revenues for the Ice Arena, foster an atmosphere to produce attendance at the Ice Arena and contribute economic and civic benefits in the form of increased tourist revenues and

general economic stimulation, keeping in mind throughout that the undertakings of Manager will seek to minimize the possibility of losses in the operation of the Ice Arena.

10.02 Manager shall make available to the City such information as is reasonably required or requested concerning Manager supervision, operation, management, and maintenance of the Ice Arena.

10.03 Manager will comply with all applicable local, state and federal ordinances, statutes, rules and regulations.

10.04 Manager will make its director, manager, or other representative of Manager full familiar with the operations, management and use of the Ice Arena, available to periodically meet with the City on a regular basis in order to discuss operations, management, supervision, maintenance, and use of the Ice Arena, any problems pertaining thereto, and to discuss and resolve any problems which may have arisen in connection therewith.

10.05 Manager shall establish fees for public skating and other ice activities which are reasonable, based upon the public and private purpose and use of the facility, keeping in mind the desire to minimize losses.

XI. INDEMNITIES.

11.01 The Manager agrees to indemnify and save harmless City and its officers, directors, elected and appointed officials, agents, employees and representatives (“City Indemnitees”) from and against any and all liability, loss, damage, interest, judgments, and liens growing out of any and all costs and expenses (including, but not limited to, reasonable counsel fees and disbursements) arising out of or incurred in connection with any and all claims, demand suits, actions or proceedings which may be made or brought against City or any of City’s Indemnitees by reason of or as a result of the negligence or willful act or omission of the Manager or any of its agents (excluding City), servants, or employees or by reason of the failure or omission of the Manager to observe and perform any of its obligations, covenants, and warranties to be observed or performed by it under the terms and provisions of this Agreement or by reason of the execution of this Agreement. City agrees to provide reciprocal indemnification to Manager.

XII. TERMINATION.

12.01 This Agreement may be terminated by either party for material failure of the other party to perform its obligations, covenants and warranties set forth in this Agreement unless such failure is remedied within thirty (30) days after written notice of such failure. In addition thereto, the City may terminate this Agreement upon failure to pay monthly operational and maintenance expenses and/or occurrence of loss on an annual basis.

XIII. APPROVAL OF CONTRACTS.

13.01 Manager shall have the obligation to negotiate all terms and conditions of all contracts necessary for the operation and maintenance of the Ice Arena, subject to approval by the City pursuant to Section 3.01 herein.

XIV. PROCEDURE UPON TERMINATION.

14.01 Upon expiration or termination of this Agreement, Manager shall promptly surrender and deliver to the City, the Ice Arena, and any and all balances in the Receiving Fund, Operation and Maintenance Fund, and Improvement Fund, and any and all equipment, supplies and manuals. Manager shall maintain all records, including all books of account, for at least three (3) years after the close of each fiscal year, and make such records available for inspection and copying by the City at reasonable times, and inventories which are the property of the City, as received, normal wear and tear excepted, and the City shall simultaneously make all payments due Manager as set forth in this Agreement.

14.02 In the event of termination of this Agreement by expiration, Manager at the City's option, and upon ninety (90) days notice, in writing, shall continue to perform under the provisions of this Agreement for a reasonable time, not to exceed six (6) months, so that a replacement might be found by the City.

XV. FORCE MAJEURE.

15.01 Except as otherwise provided, neither party shall be obligated to perform hereunder and neither shall be deemed to be in default if performance is prevented by (a) fire caused by the negligence of either party, earthquake, flood, act of God, civil commotion not occurring at the Ice Arena during or in connection with an event or other matter or condition of like nature, or (b) any law, ordinance, rule, regulation or order of any public or military authority stemming from the existence of economic or energy controls, hostilities, war or governmental law or regulation.

15.02 In the event of a labor dispute which results in a strike, picket or boycott affecting any of the facilities or services described in this Agreement, Manager shall not thereby be deemed to be in default or to have breached any part of this Agreement.

XVI. NOTICES.

16.01 All notices, consents, waivers, directions, requests or other instruments or communications provided for under this Agreement shall be deemed property given if, and only if, delivered personally or sent by registered or certified United States mail, postage prepaid, as follows:

To Manager: RT Arena Management, LLC
Attn: Nick Poliski
19955 Chesterbrook Drive, Macomb Twp. MI 48044

To City: Attn: City Manager
 City of Mount Clemens
 One Crocker Boulevard
 Mount Clemens, MI 48043

Either party may at any time change the address where the notices are to be sent or the party or person to whom notices should be directed by the delivery or mailing to the above person or parties of a written notice stating such change.

XVII. ASSIGNABILITY OF AGREEMENT.

17.01 This Agreement may not be assigned nor sublet, in whole or in part, by either party without prior written consent of the other party.

XVIII. EQUAL EMPLOYMENT OPPORTUNITY

18.01 Neither Manager nor any affiliate of Manager performing services hereunder pursuant hereto will discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin and Manager and such affiliates will take affirmative action to ensure that they are afforded equal employment opportunity without discrimination because of race, creed, sex, color, height, weight, physical handicap, marital status, or national origin. Such action shall be taken with reference, but not limited to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination; rates of any or other form of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.

XIX. MISCELLANEOUS PROVISIONS.

19.01 MODIFICATION AND CHANGES. This Agreement cannot be changed or modified except by agreement, in writing, executed by all parties hereto.

19.02 UNDERSTANDING AND AGREEMENTS. This Agreement constitutes all of the understandings and agreements of whatsoever nature or kind existing between the parties hereto with respect to Manager's management of the City's Ice Arena. Manager makes no guarantee, warranty or representation that there will be profits. However, Manager has indicated that a well designed Ice Arena, properly managed, would be expected to operation without losses, which is the goal sought by the parties hereto.

19.03 HEADINGS. The article and paragraph headings contained herein are for convenience or reference purposes only and are not intended to define, limit or describe the scope or intent of any provision of this Agreement.

19.04 APPROVAL OR CONSENT. Whenever, under any provision of this Agreement, the approval or consent of either party is required, the decision thereon shall be given promptly and such approval, authorization

or consent shall not be unreasonably withheld or arbitrarily. It is further understood and agreed that whenever under any provisions of this Agreement approval or consent is required, the approval or consent shall be deemed to have been duly given if approval or consent is given by the President or Managing Member, on behalf of Manager, and by the City Commission or the City Manager, on behalf of the City.

19.05 GOVERNING LAW. This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the State of Michigan and the City of Mount Clemens.

19.06 BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

19.07 DESIGNATIONS. Whenever the context of this Agreement requires, the masculine gender includes the feminine or neuter and the singular number includes the plural.

19.08 QUALIFICATION TO DO BUSINESS. Manager shall be at all times relevant, duly qualified as required by law to do business in the State of Michigan.

19.09 APPLICABILITY OF GENERAL AND SPECIAL LAW. In case of an inconsistency between the terms of this Agreement and any applicable general or special law, said general or special law shall govern.

19.10 CONTRACT YEARS. For purposes of this Agreement, the term “contract year” will mean a year commencing July 1 and ending June 30. It is understood that the City’s fiscal year is July 1 to June 30.

19.11 CHANGES TO THE CITY OF MOUNT CLEMENS ICE ARENA. Manager shall not make any material structural changes or modifications to the Ice Arena, its fixtures, or equipment, unless prior approval is obtained from City. Manager shall submit detailed drawing of its proposed alterations, additions and/or modifications to the City for written approval prior to making any such changes, modifications or additions to the Ice Arena that are in the best interests of the City, and the City shall use its best efforts not to interfere with, impede, or impair the ability of Manager to effectively and soundly manage the Ice Arena.

19.12 OFFICE SPACE. The City shall provide Manager with necessary office space within the Ice Arena, and such office equipment as can be made available in the complex. Any data, equipment or material furnished by the City to Manager and any such data, equipment or materials that may be acquired by Manager, and when no longer needed for performance of this Agreement, shall be returned to the City.

19.13 CLAUSES. It is agreed that the illegality or invalidity of any term or clause of this Agreement shall not affect the validity of the remainder of this Agreement, and the Agreement shall remain in full force and effect as if such illegal or invalid term or clause were not contained therein.

19.14 EXISTING CONTRACTS. Manager shall accept and agrees to abide by and honor any and all existing City contractual commitments or agreements for events to be held at the Ice Arena.

19.15 SEVERABILITY. If any provision of this Agreement or any portion of such provision or the application thereof to any person or circumstance shall be held to be invalid or unenforceable or shall become a violation of any local, state or federal laws, then the same as to applied shall no longer be a part of this Agreement, but the remainder of the Agreement, such provisions and the application thereof to other persons or circumstances shall not be affected thereby, and this Agreement as so modified shall continue in full force and effect, unless the elimination of such provision detrimentally affects the consideration any party is to receive under this Agreement.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed by their duly authorized officers and/or representatives as of the day and year first written above, as a sealed instrument.

MANAGER:

RT ARENA MANAGEMENT, LLC,
a Michigan Limited Liability Company,

By: _____
NICK POLISKI
Its: Member

CITY:

CITY OF MOUNT CLEMENS, a Michigan Municipal Corporation,

By: _____
BARB DEMPSEY
Its: Mayor

By: _____
LISA BORGACZ
Its: Clerk

EXPLANATION OF AGENDA – June 15, 2015

Agenda Item No. 9-C

Request Approval of Memorandum of Understanding with the Downtown Development Authority for Partial Funding of a City Economic Development Program

As part of our recently completed Fiscal Year 2016 Budget process, the City has budgeted for an economic development program. This program, while City-wide in focus, will also focus on the Downtown Development Authority area. The DDA wanted the added support and assistance afforded by this program and was willing to participate with partial funding of the costs associated with the program for the City which is estimated at \$60,000 per year. The DDA has signed a Memorandum of Understanding which spells out the funding to be provided by the DDA, in the amount of \$20,000 per year.

SUBMITTED BY: Steven Brown, City Manager

RECOMMENDED MOTION: To approve the attached Memorandum of Understanding between the City of Mount Clemens and the Downtown Development Authority (DDA) for partial funding of a City economic development program by the DDA in the amount of \$20,000 per year; and to authorize the Mayor to sign the document.

MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT, made this ____ day of _____, 2015, by and between the **CITY OF MOUNT CLEMENS**, a Michigan Municipal Corporation, hereinafter referred to as "**City**", and the **MOUNT CLEMENS DOWNTOWN DEVELOPMENT AUTHORITY**, a duly organized and authorized authority created under the auspices of the State of Michigan and the City of Mount Clemens, hereinafter referred to as "**DDA**".

WHEREAS, the City is committed to enhancing economic development efforts in the City by implementing an economic development program in its Community Development Department and this program shall include providing support and assistance to the DDA in its activities, programs and marketing efforts directed toward the revitalization of the Downtown area and adjacent properties within the DDA's District Boundaries; and

WHEREAS, the DDA is desirous of receiving such support and assistance and is willing to share in the cost of the City's economic development program.

NOW, THEREFORE, in consideration of the mutual promises and agreements made herein, the parties do hereby agree as follows:

1. The DDA shall pay to the City the annual sum of Twenty Thousand and No/100ths (\$20,000.00) Dollars in equal monthly installments which sum shall be utilized by the City toward the total cost of the economic development program.

2. The City shall prescribe the goals, objectives and responsibilities of the economic development program; provided, however, the DDA may make recommendations to the City regarding the same.

4. The term of this Agreement shall be for a period of one (1) year, commencing with the implementation of the economic development program in Fiscal Year 2016, at which time the above referenced monthly installments shall begin, and shall be automatically renewed for additional one-year terms unless terminated in writing by either party upon ninety (90) days written notice to the other party.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

CITY OF MOUNT CLEMENS,

By: _____
Barb R. Dempsey, Mayor

By: _____
Lisa Borgacz, City Clerk

**MOUNT CLEMENS DOWNTOWN
DEVELOPMENT AUTHORITY,**

By: Stephen R. Saph, Jr.
Stephen Saph, Jr.

Its: Chairman

EXPLANATION OF AGENDA – June 15, 2015

Agenda Item No. 9-D

Request City Commission Approval of a Contract for Utilities Department Management

City Administration has taken several steps to fill the vacancy in our Utilities Director position which was created by the retirement of the prior incumbent. These steps have included a hiring search as well as investigation of various contractual alternatives for providing day-to-day management oversight and direction to our Wastewater Treatment Plant, Water Treatment Plant and the associated collection and distribution function.

City Administration conducted a Request for Qualifications (RFQ) process for management services related to our Utilities Department. As a result of the RFQ, F & V Operations and Resource Management (FVOP) was selected as our preferred respondent and discussions with FVOP for provision of professional services were held.

This item has been discussed at prior Commission Meetings and has been the subject of prior memos as well. I have provided that associated documentation for your review under separate cover.

The last discussion of 05/04/15 requested the investigation of a possible collaboration with a neighboring community. That was thoroughly investigated and it has been determined mutual interest in pursuing this collaboration does not exist due to legal concerns and other issues.

City Administration is recommending that the City finalize a professional services agreement with FVOP for day-to-day management and oversight of our Utilities Department. The agreement will reflect an hourly equivalent rate and a not-to-exceed cost. The hours and costs can be reduced as conditions and performance warrant. Additional information is attached to this Agenda Item.

SUBMITTED BY: Steven M. Brown, City Manager

RECOMMENDED MOTION: 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.



March 12, 2015

Steven M. Brown, City Manager
City of Mount Clemens
One Crocker Boulevard
Mount Clemens, MI 48043

RE: Proposal for Utility Management Services

Dear Steve:

This letter is written in response to your recent Request for Proposals. We have outlined some of the goals and needs as we understand them in the proposal below. We look forward to working with you to improve the operations and management of your water and wastewater systems.

GOALS OF THE CITY

- You would like us to start this assignment by providing oversight as manager of the water treatment, wastewater treatment, water distribution and storage, wastewater collection, lift stations and CSO basin, as well as provide DEQ licensing requirements. We propose to take this assignment for up to a twelve month period that would allow us time to review the issues, staffing, costs, equipment and facilities in greater detail. We would then sit down together and review our recommendations to determine the long term plan and goals. This period is a fraction of the time that is sometimes needed to make the changes permanently and meet the other goals.
- Streamline the operations and maximize efficiency within the water, wastewater and transmission systems.
- Methods we intend to utilize include conducting audits of both the water and wastewater treatment laboratories. The lab audits will encompass quality assurance, accuracy and compliance with MDEQ standards.
- Review and upgrade of the Computerized Maintenance Management System (CMMS). We will focus on the Operations and Maintenance (O&M) procedures, practices, corrective maintenance and housekeeping.
- Evaluate staff, provide and recommend training, and encourage employees to grow technically in their field.
- Provide monthly safety training for your employees.
- Encourage staff to achieve, and advance, certifications and take part in corresponding professional organizations such as Michigan Water Environment Association (MWEA), American Public Works Association (APWA) and Michigan Water Works Association (MWWA).
- Make staff more accountable- endeavor to provide a culture where all staff works together toward common goals.

Based on our conversation with you, we are providing the following Scope of Services and budget.

2960 Lucerne Drive SE, Suite 100
Grand Rapids, MI 49546
P: 616.588.2900
F: 616.977.1005
www.fv-operations.com

SCOPE OF SERVICES

We will provide professional operation management services for the Mount Clemens water, wastewater facilities and transmission systems. We will provide certified operators including a Michigan Municipal Class A Wastewater Operator, a Michigan Class F1 Water Operator and a Michigan Class S2 Water Distribution Operator. The City will continue to support the administrative functions for the existing City staff to be supervised by F & V staff.

BASE SCOPE OF SERVICES

- Direct and supervise the day to day water and wastewater treatment plant activities and the City employees assigned to these facilities. Provide properly certified operators for the water treatment, wastewater treatment and transmission and storage facilities.
- Assist City engineers and City staff in Asset Management and development of the capital improvement plan for City water, wastewater and transmission systems.
- Review and initiate changes to the existing computer maintenance management program.
- Complete a walk-through of the water, wastewater treatment facilities and transmission appurtenances to identify and provide direction for addressing operational or maintenance issues that may be observed.
- Make recommendations to the City regarding maintenance and repairs needed on the water, wastewater treatment and transmission systems including, but not limited to, painting, equipment repair, and building maintenance.
- Review assets of the City facilities and update the asset inventory.
- Provide recommendations and direction to the City staff regarding the OM&M of the Water Filtration Plant and Wastewater Treatment facility, and on optimization of chemical feed rates and equipment operations.
- Provide recommendations and direction to the City staff regarding training needs and assist in mentoring for employee certification.
- Review and recommend assignment of all employees engaged in the operation and maintenance of the City of Mount Clemens Water & Wastewater Treatment Plant.
- Make recommendations regarding site safety and enforce staff compliance with existing OSHA and MIOSHA safety requirements.
- Provide and document one safety training session per month.
- Respond to questions from the City Management Staff and Michigan Department of Environmental Quality.
- Respond to all requests for operations or status reports or other information related to operations. This will include, but not be limited to, reviewing and submitting Monthly Water and Wastewater Operating Reports and other reports as required by the MDEQ, as well as Schedule sampling and monitoring activities in accordance with MDEQ requirements.
- Review and observe laboratory operations, analyses and procedures to monitor compliance with the NPDES permit and all other MDEQ requirements and provide technical lab support.
- Review and recommend procedures for regular housekeeping of buildings and grounds.
- Provide support for water and wastewater treatment process control including chemical, biological and physical treatment processes coincidental with normal operations.
- Provide timely notification of scheduled and unscheduled maintenance activities that impact service such as hydrant flushing, water main breaks, etc.

- Receive and respond to customer inquiries regarding non-billing related operational issues. Cooperate with, and assist, City staff in responding to billing issues as requested.
- Review and update existing emergency response procedures.
- Coordinate and monitor repair activities requiring a third party contractor such as equipment and piping replacement.
- Investigate and remedy pollution incidents, system malfunctions and service complaints as needed.

ADDITIONAL (NON-BASE) SERVICES

- Emergency service to assist on site staff when requested. Provide supplemental operations staff.
- Provide 24-hour-per-day, 7 day-per-week emergency telephone number. Response to emergencies outside normal business hours will be billed as Additional Work.
- Other duties as requested and authorized by the City of Mount Clemens.

RESPONSIBILITIES OF THE CITY OF MOUNT CLEMENS

- Weekly administrative oversight of your operations staff – (potentially including discipline.)
- Provide and pay for all operations items:
 - Electricity
 - Chemicals
 - Laboratory Testing
 - Daily OM&M Checks
 - Generator Fuel
 - Equipment Maintenance
 - Equipment Repair
 - Residuals Disposal
 - Human Resources Activities
- Engineering Services.

SCHEDULE

We are prepared to begin this work within 30 days, upon your approval of our proposal. We would begin some activities sooner than the 30 days.

BUDGET

FVOP proposes to complete the base scope of services for a proposed budget of \$17,000 per month lump sum excluding emergency services. The budget is based on providing an average of 180 hours of staffing per month. Compensation for emergency or other additional services, if requested, will be based on our standard billable rates plus reimbursable expenses. Subcontracted services will be invoiced at cost times 1.10. These proposal rates are valid until one (1) year from the date services commence. An extension of the proposal is possible based on the negotiation of mutually agreeable terms.

If the City of Mount Clemens moves to go forward with a full service operations contract **within the next 270 days**, FVOP will issue a credit of \$15,000 for these services when the full service option comes to fruition.

We thank you for this opportunity and look forward to working with you. If you have any questions regarding this proposal or any FVOP services, please contact Blair Selover at 810.252.8884; bselover@fv-operations.com or Larry Fleis 616.942.3612; lfleis@fveng.com.

Sincerely,

F&V OPERATIONS AND RESOURCE MANAGEMENT, INC.

H. Blair Selover
Associate

Larry J. Fleis PE
President

PROFESSIONAL SERVICES AGREEMENT

F&V OPERATIONS AND RESOURCE MANAGEMENT, INC.

2960 Lucerne Drive SE, Grand Rapids, Michigan 49546

P: 616.588.2900 F: 616.977.1005

This Professional Services Agreement ("PSA") is entered into between F & V Operations & Resource Management, Inc. (FVOP or "Consultant") and the **City of Mount Clemens** ("Owner"), whose address is One Crocker Boulevard, Mount Clemens, MI 48043, where FVOP agrees to provide services for Owner and Owner agrees to pay FVOP, all in accordance with the terms of this PSA.

SERVICES: F&V Operations & Resource Management, Inc. (FVOP), Consultant represents that it employs trained and qualified personnel with experience in providing the operating services sought by Owner and, will perform operations services pursuant to and in accordance with the proposal letter dated February 12, 2015 for the Owner in accordance with these Terms and Conditions.

COMPENSATION: In consideration of the services performed by Consultant, the Owner agrees to pay Consultant **a lump sum fee per month of \$17,000 for base services. Additional services will be provided only with written approval from the Owner on an hourly rate basis plus 1.10 times reimbursable expenses and subcontracted services** unless otherwise negotiated.

FEE DEFINITIONS: The following fee types may apply:

Hourly Rates is defined as individual time multiplied by Consultant's standard billing rates for the individual or employee classification.

Subcontracted Services are defined as Project-related services provided by other parties to the Consultant.

Reimbursable Expenses are defined as actual expenses incurred in connection with the Project, including the cost of sub-consultants as approved by the Owner.

PAYMENT: Owner shall pay Consultant for all Services and reimbursable expenses on a monthly basis, or as otherwise mutually agreed, which shall be due and payable within forty five (45) days of presentation of the invoice. Invoices shall be past due forty five (45) days after presentation, and shall then incur interest at the rate of one percent per month. If Owner objects to any portion of an invoice, Owner shall notify Consultant in writing within five (5) days of presentation. Owner shall identify the disputed charges and shall pay when due that portion of the invoice not in dispute. If the disputed amount of the invoice is resolved in Consultant's favor and not paid by the invoice due date, interest shall be paid by Owner on the disputed amount from the original due date. If the disputed amount is resolved in Owner's favor, any and all work performed by Consultant to remedy the objection shall be performed at Consultant's sole cost and expense and shall not be invoiced to Owner.

AUTHORIZED REPRESENTATIVES: Only authorized representatives of Consultant may execute contracts and amendments to contracts. The Owner shall designate a representative with similar authority.

OWNER RESPONSIBILITIES: Owner shall timely provide Consultant with all applicable information in its possession and to secure information in the possession of others for Consultant to complete the Scope of Services. Owner shall give Consultant prompt oral and written notice whenever Owner notices, discovers or is made aware of any alleged fault, defect or nonconformance in Consultant's services.

CHANGES: For all services which are deemed by the Consultant as changes to the Scope of the Project and/or Scope of Services, a detailed written description of the changes along with budgetary pricing shall be presented to the Owner's Authorized Representative for review. Prior to commencing such work the Consultant shall receive written approval from Owner's Authorized Representative. For all services that were approved by the Owner's Authorized Representative and completed due to changes to the Scope of the Project and/or the Scope of Services, Consultant shall be paid by Owner on an hourly basis at Consultant's customary hourly rates, plus 1.10 times reimbursable expenses, unless otherwise negotiated. If the Project involves a construction phase and the construction period extends beyond the contracted period identified in the Scope of Services, or the contracted completion date, the Consultant shall inform the Owner in writing detailing the description of the changes along with the budgetary pricing for the change and receive written approval from the Owner's Authorized Representative to continue with the proposed services. Once written approval is received from the Owner the services described in the change of work shall continue to be performed and shall be paid by Owner on an hourly basis plus 1.10 times reimbursable expenses. Owner understands and accepts that field techniques and analytical capabilities are evolving and that the standards and regulations are subject to rapid change such that currently acceptable investigative approaches and techniques may become superseded after the time of the signing of this PSA. Such changes will constitute changed conditions requiring adjustment in the Services and Consultant's Compensation.

SUBCONSULTANTS: With written approval from the Owner, Consultant may engage sub-consultants and subcontractors to perform all or any portion of the Services.

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

PROFESSIONAL STANDARDS: The Consultant is providing professional services to Owner as specified in the Services Agreement, or under any related agreement, and in accordance therewith, the following provisions shall apply:

The Consultant represents, warrants and covenants to Owner that: (a) it knows the nature and scope of the Services and that it is familiar with the type of problems typically encountered in conducting the Services; (b) that it has the capability, experience and resources to perform the Services as required hereunder; (c) that the Services will be performed in a timely, professional and workmanlike manner in accordance with the highest professional standards employed in the industry; (d) that all Services shall be performed safely and shall comply with: (i) all applicable federal, state and

local laws, ordinances, regulations, orders and directives; (e) that all cost estimates, approvals, recommendations, opinions and decisions by the Consultant have been and shall be made on the basis of the Consultant's experience, qualifications, and professional judgment; and (f) the Compensation is a fair and adequate price for the performance of the Basic Services. In the event that the Consultant's failure to comply with the requirements of the Services, or fails to comply with this Services Agreement, and requires the Consultant to perform a particular task again, the Consultant shall be responsible for the costs incident to performing that task again.

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

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

INSURANCE: Consultant shall maintain insurance coverage in the forms and in at least the amounts set forth in Exhibit "A" attached hereto and made a part hereof, and such policies shall name Owner as additional insureds.

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

INFORMATION FROM OTHER PARTIES: The Owner and Consultant acknowledge that Consultant may rely on information furnished by other parties in performing its Services on the Project. Consultant shall not be liable for any damages that may be incurred by the Owner in the use of this third party information.

SPREAD OF CONTAMINATION: Owner understands and agrees that Consultant shall not be responsible for any claims or damages which may arise as a result of or from the spread of contamination caused by drilling, sampling or any other activity unless such spread or contamination is substantially caused by the negligence of Consultant.

PERMITS AND APPROVALS: Unless otherwise specifically stated in the Scope of Services, obtaining permits and approvals for the Project is the responsibility of the Owner. Consultant will assist the Owner provided the assistance shall consist of completing and submitting forms as to the results of certain work included in the Scope of Services and the assistance does not include special studies, special research, attendance at meetings with public authorities, special testing or special documentation not normally required for similar projects. If Consultant participates in any way with any permitting process, Consultant provides no guaranty or warranty that any permits or approvals will be provided. Owner shall pay Consultant for all reimbursable expenses regardless of the outcome of approval or denial of permits or other approvals.

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

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

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

(c) Upon termination, the Consultant shall be entitled to be paid the full cost of all Services properly completed by the Consultant to the date of termination not previously paid for.

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

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

DISPUTE RESOLUTION: Claims and disputes in relation to the Project involving claims in the aggregate of less than twenty-five thousand dollars, (\$25,000.00) without interest or attorney's fees and without consideration of counterclaims, shall be decided by a court of competent jurisdiction exclusively in Macomb County, Michigan. Claims and disputes arising in relation to the Project involving claims in the aggregate of greater than twenty-five thousand dollars (\$25,000.00) shall be decided by arbitration in accordance with the applicable rules of the American Arbitration Association. There shall be a single arbitrator. The award shall be final and binding and enforceable in a court of competent jurisdiction. In either arbitration or litigation, the prevailing party shall be entitled to recover its attorney's fees and costs through all levels of appeal. Jurisdiction, venue and the hearing locale for all arbitrations or litigation shall lie exclusively in Macomb County, Michigan.

WAIVER OF RIGHTS: The failure of either party to enforce any provision of these terms and conditions shall not constitute a waiver of such provision nor diminish the right of either party to the remedies of such provision.

GOVERNING LAW: The terms of agreement shall be governed by the laws of the state of Michigan.

ASSIGNMENT: Neither party shall assign its rights, interests, or obligations without the express written consent of the other party.

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

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

ELECTRONIC/FACSIMILE SIGNATURES: The signatures on any agreement shall be deemed to be original signatures when transmitted electronically or by facsimile machine or by any other medium. No party shall be required to produce an agreement with an original signature in order to enforce any provision of these terms and conditions.

IN WITNESS WHEREOF, the parties hereto have made and entered into this PSA. To be valid, this PSA must be signed by an authorized representative of F&V Operations and Resource Management, Inc.

OWNER
CITY OF MOUNT CLEMENS

CONSULTANT
F&V OPERATIONS AND RESOURCE MANAGEMENT, INC.

By: _____

By: _____

Title: _____

H. Blair Selover

Title: Regional Manager

By: _____

By: _____

Title: _____

Larry J. Fleis, P.E.

Title: President

Date: _____

Date: _____

EXPLANATION OF AGENDA – June 15, 2015

Agenda Item No. 9-E

Request Approval to Enter into Agreements for Inspector Services in the Community Development Department

Matthew M. Berman will provide Building Official, Building Inspector and Mechanical Inspector services and shall receive an annual fee of \$54,000.00 and be paid bi-weekly for said services.

Joseph A. Orr will provide Plumbing Inspector services and shall receive an annual fee of \$34,000.00 and be paid bi-weekly for said services.

Michael L. Ferron will provide Rental Inspector services and shall receive an annual fee of \$48,000.00 and be paid bi-weekly for said services.

Fusion Electric, Inc. (Robert Bobcean) will provide Electrical Inspector services and shall receive an annual fee of \$34,000.00 and be paid bi-weekly for said services.

With City Commission approval, the one year contracts shall become effective July 1, 2015 and expire on June 30, 2016.

SUBMITTED BY: Brian L. Tingley
Community Development Director

RECOMMENDED MOTION: Approve the Agreements for Inspector Services between the City of Mount Clemens and Matthew M. Berman, Joseph A. Orr, Michael L. Ferron and Fusion Electric, Inc.; and to authorize the Mayor and City Clerk to execute the same.

**AGREEMENT FOR BUILDING OFFICIAL, BUILDING INSPECTOR and
MECHANICAL INSPECTOR SERVICES**

THIS AGREEMENT made this ____ day of June, 2015, by and between **THE CITY OF MOUNT CLEMENS**, a Michigan Municipal Corporation, hereinafter referred to as “**City**”, and **MATTHEW M. BERMAN**, hereinafter referred to as “**Contractor**”.

WHEREAS, the City is seeking the services of a Building Official, Building Inspector and Mechanical Inspector; and

WHEREAS, Contractor is experienced in municipal building inspection, and municipal mechanical inspection, and is desirous of performing said Building Official and Building and Mechanical inspection services.

NOW, THEREFORE, the City and Contractor hereby agree as follows:

I. ENGAGEMENT

The City of Mount Clemens engages the Contractor to act as its Building Official, Building Inspector and Mechanical Inspector, to perform the duties customary to the positions and such other duties as the City may from time to time designate, and the Contractor accepts such engagement upon the terms and conditions set forth in this Agreement.

II. TERM

The term under this agreement shall be for One (1) year beginning the 1st day of July, 2015 and expiring on the 30th day of June, 2016.

III. DUTIES

A. The Contractor, as the Building Official, Builder Inspector and Mechanical Inspector for the City of Mount Clemens, agrees and promises to perform and discharge, well and faithfully, the duties assigned to him in accordance with State law and the ordinances of the City of Mount Clemens. Those duties shall include those generally assigned to the chief building official of a governmental municipality and the mechanical inspection official of a governmental municipality.

B. The Contractor shall devote such time, attention and energies to the business of the City

of Mount Clemens as is necessary for the Contractor to satisfactorily perform his duties as the Building Inspector and the Mechanical Inspector.

IV. COMPENSATION

In consideration of the services to be performed by Contractor, City agrees to pay Contractor the annual sum of Fifty Four Thousand (\$54,000.00) Dollars, the same to be paid in equal bi-weekly installments, commencing July 15, 2015.

V. TERMINATION

A. This Agreement may be terminated by the Contractor at any time; provided, however, that the Contractor give the City of Mount Clemens at least thirty (30) days prior notice of voluntary termination. Any voluntary termination of this agreement by the Contractor as described in this provision shall terminate the rights and obligations of each of the parties hereto.

B. This Agreement may be terminated by the City of Mount Clemens at any time, without cause and without prior notice to the Contractor; provided, however, that the City give the Contractor at least thirty (30) days prior notice of termination, and in such event, City's sole obligation and/or responsibility shall be to pay Contractor any unpaid monthly installments then due.

VI. INDEPENDENT CONTRACTOR STATUS

A. It is understood and agreed that the Contractor is an independent contractor and is doing business as a separate and distinct legal entity. Under no circumstances will the Contractor, its agents and/or employees be considered employees of the City. Contractor has the sole right to control and direct the means, manner and method by which services required by this Agreement will be performed. The parties acknowledge and agree that the City is entering into this Agreement with reliance upon the representations made by Contractor relative to his independent contractor status. The parties hereto are not and in no event shall be deemed to be partners or joint venturers.

The Contractor, as an independent contractor, shall assume full and complete responsibility for and shall exonerate, indemnify and hold the City harmless from and against the payment of any and all of the following which might be applicable to either the Contractor or Contractor's employees, if any. On demand, Contractor shall provide City with proof that such payments have been made:

- (a) State and Federal workmen's compensation insurance premiums;
- (b) Social Security taxes;
- (c) Self-employment taxes;
- (d) Payments of estimated federal, state and local income taxes and single business taxes;
- (e) State and federal unemployment taxes;
- (f) All other obligations that might be imposed upon the City through any source, if an employer-employee relationship were to exist between the City and the Contractor.

B. *Fringe Benefits.* Contractor understands that neither Contractor nor Contractor's employees, if any, are eligible to participate in any employee pension, health, vacation pay, or other fringe benefit plan of City.

C. *Workers' Compensation.* City shall not obtain workers' compensation insurance on behalf of the Contractor or Contractor's employees, if any. If Contractor hires employees to perform any work under this Agreement, Contractor will cover such employees with workers' compensation insurance and provide City with a certificate of workers' compensation insurance before the employees begin work. Contractor shall annually provide to the City, a copy of his and his employee's, if any, Driving Records issued by the Michigan Secretary of State.

D. *Unemployment Compensation.* City shall make no state or federal unemployment compensation payments on behalf of Contractor or Contractors employees or personnel, if any. Contractor will not be entitled to these benefits in connection with work performed under this Agreement. If Contractor files a petition for and receives unemployment compensation, the total amount of unemployment compensation awarded to and received by Contractor shall be deducted from and be an offset against the amount of compensation due and payable to Contractor by City under this Agreement.

E. *Incapacity.* If, during the term of this Agreement, Contractor shall be prevented from performing his duties hereunder by reason of illness or incapacity, then the City shall not be obligated

to pay the Contractor compensation for any such period of absence.

VII. CONFIDENTIALITY

Contractor will not disclose or use, either during or after the term of this Agreement, any proprietary or confidential information of the City, without City's prior written permission except to the extent necessary to perform services on City's behalf.

VIII. NOTICES

Any notice required or permitted to be given under this Agreement shall be sufficient if it is in writing and if it is sent by registered mail, return receipt requested, to the Contractor at his residence or to the City at its principal place of business, to the attention of the City Manager.

IX. DISPUTE RESOLUTION

This Agreement shall be construed under the laws of the State of Michigan and any and all disputes as to the same and/or any portion thereof shall be determined by an appropriate Court of record in the County of Macomb, State of Michigan.

X. ASSIGNMENT PROHIBITED

This Agreement is personal to each of the parties and neither party may assign or delegate any of its rights or obligations under this Agreement without first obtaining the other's written consent.

XI. MISCELLANEOUS

A. This Agreement contains all of the terms and conditions of the contractual relationship between the parties; no amendment, addendums or additions to this Agreement shall be binding unless they are in writing and signed by both parties.

B. This Agreement shall be binding upon the parties, their representatives, successors and assigns.

C. This Agreement abrogates and takes the place of all prior employment contracts and/or understandings that may have existed between the parties hereto.

D. The captions or headings of this Agreement are for convenience and in no way define, limit or describe the scope or intent of this Agreement or any of its sections, nor do they in any way affect this Agreement.

E. Each clause of this Agreement shall be considered separate and independent so that in the event that any clause of this Agreement shall be deemed to be unenforceable under the laws of the State of Michigan, the balance of this Agreement shall remain in full force and effect.

F. The invalidity of all or any part of any sections, sub-sections, or paragraph of this Agreement shall not invalidate the remainder of this Agreement or the remainder of any paragraph or section not invalidated unless the elimination of such subsections, sections, or paragraphs shall substantially defeat the intent and purpose of the parties.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

CITY OF MOUNT CLEMENS,
a Michigan Municipal Corporation,
“City”

By: _____
Barb R. Dempsey
Mayor

By: _____
Lisa Borgacz
City Clerk

“Contractor”:

MATTHEW M. BERMAN

AGREEMENT FOR PLUMBING INSPECTOR SERVICES

THIS AGREEMENT made this ____ day of June, 2015, by and between **THE CITY OF MOUNT CLEMENS**, a Michigan Municipal Corporation, hereinafter referred to as "**City**", and **JOSEPH A. ORR**, hereinafter referred to as "**Contractor**".

WHEREAS, the City is seeking the services of a Plumbing Inspector; and

WHEREAS, Contractor is experienced in municipal plumbing inspection, and is desirous of performing said plumbing inspection services.

NOW, THEREFORE, the City and Contractor hereby agree as follows:

I. ENGAGEMENT

The City of Mount Clemens engages the Contractor to act as its Plumbing Inspector, to perform the duties customary to the position and such other duties as the City may from time to time designate, and the Contractor accepts such engagement upon the terms and conditions set forth in this Agreement.

II. TERM

The term under this agreement shall be for One (1) year beginning the 1st day of July, 2015 and expiring on the 30th day of June, 2016.

III. DUTIES

A. The Contractor, as the Plumbing Inspector for the City of Mount Clemens, agrees and promises to perform and discharge, well and faithfully, the duties assigned to him in accordance with State law and the ordinances of the City of Mount Clemens. Those duties shall include those generally assigned to a plumbing inspection official of a governmental municipality.

B. The Contractor shall devote such time, attention and energies to the business of the City of Mount Clemens as is necessary for the Contractor to satisfactorily perform his duties as the Plumbing Inspector.

IV. COMPENSATION

In consideration of the services to be performed by Contractor, City agrees to pay Contractor the annual sum of Thirty Four Thousand (\$34,000.00) Dollars, the same to be paid in equal bi-weekly installments, commencing July 15, 2015.

V. TERMINATION

A. This Agreement may be terminated by the Contractor at any time; provided, however, that the Contractor give the City of Mount Clemens at least thirty (30) days prior notice of voluntary termination. Any voluntary termination of this agreement by the Contractor as described in this provision shall terminate the rights and obligations of each of the parties hereto.

B. This Agreement may be terminated by the City of Mount Clemens at any time, without cause and without prior notice to the Contractor; provided, however, that the City give the Contractor at least thirty (30) days prior notice of termination, and in such event, City's sole obligation and/or responsibility shall be to pay Contractor any unpaid monthly installments then due.

VI. INDEPENDENT CONTRACTOR STATUS

A. It is understood and agreed that the Contractor is an independent contractor and is doing business as a separate and distinct legal entity. Under no circumstances will the Contractor, its agents and/or employees be considered employees of the City. Contractor has the sole right to control and direct the means, manner and method by which services required by this Agreement will be performed. The parties acknowledge and agree that the City is entering into this Agreement with reliance upon the representations made by Contractor relative to his independent contractor status. The parties hereto are not and in no event shall be deemed to be partners or joint venturers.

The Contractor, as an independent contractor, shall assume full and complete responsibility for and shall exonerate, indemnify and hold the City harmless from and against the payment of any and all of the following which might be applicable to either the Contractor or Contractor's employees, if any. On demand, Contractor shall provide City with proof that such payments have been made:

- (a) State and Federal workmen's compensation insurance premiums;
- (b) Social Security taxes;
- (c) Self-employment taxes;
- (d) Payments of estimated federal, state and local income taxes and single business taxes;
- (e) State and federal unemployment taxes;
- (f) All other obligations that might be imposed upon the City through any source, if an employer-employee relationship were to exist between the City and the Contractor.

B. Fringe Benefits. Contractor understands that neither Contractor nor Contractor's employees, if any, are eligible to participate in any employee pension, health, vacation pay, or other fringe benefit plan of City.

C. Workers' Compensation. City shall not obtain workers' compensation insurance on behalf of the Contractor or Contractor's employees, if any. If Contractor hires employees to perform any work under this Agreement, Contractor will cover such employees with workers' compensation insurance and provide City with a certificate of workers' compensation insurance before the employees begin work. Contractor shall annually provide to the City, a copy of his and his employee's, if any, Driving Records issued by the Michigan Secretary of State.

D. Unemployment Compensation. City shall make no state or federal unemployment compensation payments on behalf of Contractor or Contractors employees or personnel, if any. Contractor will not be entitled to these benefits in connection with work performed under this Agreement. If Contractor files a petition for and receives unemployment compensation, the total amount of unemployment compensation awarded to and received by Contractor shall be deducted from and be an offset against the amount of compensation due and payable to Contractor by City under this Agreement.

E. Incapacity. If, during the term of this Agreement, Contractor shall be prevented from performing his duties hereunder by reason of illness or incapacity, then the City shall not be obligated to pay the Contractor compensation for any such period of absence.

VII. CONFIDENTIALITY

Contractor will not disclose or use, either during or after the term of this Agreement, any proprietary or confidential information of the City, without City's prior written permission except to the extent necessary to perform services on City's behalf.

VIII. NOTICES

Any notice required or permitted to be given under this Agreement shall be sufficient if it is in writing and if it is sent by registered mail, return receipt requested, to the Contractor at his residence or to the City at its principal place of business, to the attention of the City Manager.

IX. DISPUTE RESOLUTION

This Agreement shall be construed under the laws of the State of Michigan and any and all disputes as to the same and/or any portion thereof shall be determined by an appropriate Court of record in the County of Macomb, State of Michigan.

X. ASSIGNMENT PROHIBITED

This Agreement is personal to each of the parties and neither party may assign or delegate any of its rights or obligations under this Agreement without first obtaining the other's written consent.

XI. MISCELLANEOUS

A. This Agreement contains all of the terms and conditions of the contractual relationship between the parties; no amendment, addendums or additions to this Agreement shall be binding unless they are in writing and signed by both parties.

B. This Agreement shall be binding upon the parties, their representatives, successors and assigns.

C. This Agreement abrogates and takes the place of all prior employment contracts and/or understandings that may have existed between the parties hereto.

D. The captions or headings of this Agreement are for convenience and in no way define, limit or describe the scope or intent of this Agreement or any of its sections, nor do they in any way affect this Agreement.

E. Each clause of this Agreement shall be considered separate and independent so that in the event that any clause of this Agreement shall be deemed to be unenforceable under the laws of the

State of Michigan, the balance of this Agreement shall remain in full force and effect.

F. The invalidity of all or any part of any sections, sub-sections, or paragraph of this Agreement shall not invalidate the remainder of this Agreement or the remainder of any paragraph or section not invalidated unless the elimination of such subsections, sections, or paragraphs shall substantially defeat the intent and purpose of the parties.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

CITY OF MOUNT CLEMENS,
a Michigan Municipal Corporation,
“City”

By: _____
Barb R. Dempsey
Mayor

By: _____
Lisa Borgacz
City Clerk

“Contractor”:

JOSEPH A. ORR

AGREEMENT FOR RENTAL INSPECTOR SERVICES

THIS AGREEMENT made this ____ day of June, 2015, by and between **THE CITY OF MOUNT CLEMENS**, a Michigan Municipal Corporation, hereinafter referred to as “**City**”, and **MICHAEL L. FERRON**, hereinafter referred to as “**Contractor**”.

WHEREAS, the City is seeking the services of a Rental Inspector; and

WHEREAS, Contractor is experienced in municipal rental inspection, and is desirous of performing said rental inspection services.

NOW, THEREFORE, the City and Contractor hereby agree as follows:

I. **ENGAGEMENT**

The City of Mount Clemens engages the Contractor to act as its Rental Inspector, to perform the duties customary to the position and such other duties as the City may from time to time designate, and the Contractor accepts such engagement upon the terms and conditions set forth in this Agreement.

II. **TERM**

The term under this agreement shall be for One (1) year beginning the 1st day of July, 2015 and expiring on the 30th day of June, 2016.

III. **DUTIES**

A. The Contractor, as the Rental Inspector for the City of Mount Clemens, agrees and promises to perform and discharge, well and faithfully, the duties assigned to him in accordance with State law and the ordinances of the City of Mount Clemens. Those duties shall include those generally assigned to a rental inspection official of a governmental municipality.

B. The Contractor shall devote such time, attention and energies to the business of the City of Mount Clemens as is necessary for the Contractor to satisfactorily perform his duties as the Rental Inspector.

IV. **COMPENSATION**

In consideration of the services to be performed by Contractor, City agrees to pay Contractor the annual sum of Forty Eight Thousand (\$48,000.00) Dollars, the same to be paid in equal bi-weekly installments, commencing July 15, 2015.

V. TERMINATION

A. This Agreement may be terminated by the Contractor at any time; provided, however, that the Contractor give the City of Mount Clemens at least thirty (30) days prior notice of voluntary termination. Any voluntary termination of this agreement by the Contractor as described in this provision shall terminate the rights and obligations of each of the parties hereto.

B. This Agreement may be terminated by the City of Mount Clemens at any time, without cause and without prior notice to the Contractor; provided, however, that the City give the Contractor at least thirty (30) days prior notice of termination, and in such event, City's sole obligation and/or responsibility shall be to pay Contractor any unpaid monthly installments then due.

VI. INDEPENDENT CONTRACTOR STATUS

A. It is understood and agreed that the Contractor is an independent contractor and is doing business as a separate and distinct legal entity. Under no circumstances will the Contractor, its agents and/or employees be considered employees of the City. Contractor has the sole right to control and direct the means, manner and method by which services required by this Agreement will be performed. The parties acknowledge and agree that the City is entering into this Agreement with reliance upon the representations made by Contractor relative to his independent contractor status. The parties hereto are not and in no event shall be deemed to be partners or joint venturers.

The Contractor, as an independent contractor, shall assume full and complete responsibility for and shall exonerate, indemnify and hold the City harmless from and against the payment of any and all of the following which might be applicable to either the Contractor or Contractor's employees, if any. On demand, Contractor shall provide City with proof that such payments have been made:

- (a) State and Federal workmen's compensation insurance premiums;
- (b) Social Security taxes;
- (c) Self-employment taxes;
- (d) Payments of estimated federal, state and local income taxes and single business taxes;
- (e) State and federal unemployment taxes;
- (f) All other obligations that might be imposed upon the City through any source, if an employer-employee relationship were to exist between the City and the Contractor.

B. Fringe Benefits. Contractor understands that neither Contractor nor Contractor's employees, if any, are eligible to participate in any employee pension, health, vacation pay, or other fringe benefit plan of City.

C. Workers' Compensation. City shall not obtain workers' compensation insurance on behalf of the Contractor or Contractor's employees, if any. If Contractor hires employees to perform any work under this Agreement, Contractor will cover such employees with workers' compensation insurance and provide City with a certificate of workers' compensation insurance before the employees begin work. Contractor shall annually provide to the City, a copy of his and his employee's, if any, Driving Records issued by the Michigan Secretary of State.

D. Unemployment Compensation. City shall make no state or federal unemployment compensation payments on behalf of Contractor or Contractors employees or personnel, if any. Contractor will not be entitled to these benefits in connection with work performed under this Agreement. If Contractor files a petition for and receives unemployment compensation, the total amount of unemployment compensation awarded to and received by Contractor shall be deducted from and be an offset against the amount of compensation due and payable to Contractor by City under this Agreement.

E. Incapacity. If, during the term of this Agreement, Contractor shall be prevented from performing his duties hereunder by reason of illness or incapacity, then the City shall not be obligated to pay the Contractor compensation for any such period of absence.

VII. CONFIDENTIALITY

Contractor will not disclose or use, either during or after the term of this Agreement, any proprietary or confidential information of the City, without City's prior written permission except to the extent necessary to perform services on City's behalf.

VIII. NOTICES

Any notice required or permitted to be given under this Agreement shall be sufficient if it is in writing and if it is sent by registered mail, return receipt requested, to the Contractor at his residence or to the City at its principal place of business, to the attention of the City Manager.

IX. DISPUTE RESOLUTION

This Agreement shall be construed under the laws of the State of Michigan and any and all disputes as to the same and/or any portion thereof shall be determined by an appropriate Court of record in the County of Macomb, State of Michigan.

X. ASSIGNMENT PROHIBITED

This Agreement is personal to each of the parties and neither party may assign or delegate any of its rights or obligations under this Agreement without first obtaining the other's written consent.

XI. MISCELLANEOUS

A. This Agreement contains all of the terms and conditions of the contractual relationship between the parties; no amendment, addendums or additions to this Agreement shall be binding unless they are in writing and signed by both parties.

B. This Agreement shall be binding upon the parties, their representatives, successors and assigns.

C. This Agreement abrogates and takes the place of all prior employment contracts and/or understandings that may have existed between the parties hereto.

D. The captions or headings of this Agreement are for convenience and in no way define, limit or describe the scope or intent of this Agreement or any of its sections, nor do they in any way affect this Agreement.

E. Each clause of this Agreement shall be considered separate and independent so that in the event that any clause of this Agreement shall be deemed to be unenforceable under the laws of the

State of Michigan, the balance of this Agreement shall remain in full force and effect.

F. The invalidity of all or any part of any sections, sub-sections, or paragraph of this Agreement shall not invalidate the remainder of this Agreement or the remainder of any paragraph or section not invalidated unless the elimination of such subsections, sections, or paragraphs shall substantially defeat the intent and purpose of the parties.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

CITY OF MOUNT CLEMENS,
a Michigan Municipal Corporation,
“City”

By: _____
Barb R. Dempsey
Mayor

By: _____
Lisa Borgacz
City Clerk

“Contractor”:

MICHAEL L. FERRON

AGREEMENT FOR ELECTRICAL INSPECTOR SERVICES

THIS AGREEMENT made this ____ day of June, 2015, by and between **THE CITY OF MOUNT CLEMENS**, a Michigan Municipal Corporation, hereinafter referred to as “**City**”, and **FUSION ELECTRIC, INC.**, a Michigan Corporation, 26489 – 34 Mile Road, Richmond, MI 48062 hereinafter referred to as “**Contractor**”.

WHEREAS, the City is seeking the services of a Electrical Inspector; and

WHEREAS, Contractor is experienced in municipal electrical inspection, and is desirous of performing said electrical inspection services.

NOW, THEREFORE, the City and Contractor hereby agree as follows:

I. ENGAGEMENT

The City of Mount Clemens engages the Contractor to act as its Electrical Inspector, to perform the duties customary to the position and such other duties as the City may from time to time designate, and the Contractor accepts such engagement upon the terms and conditions set forth in this Agreement.

II. TERM

The term under this agreement shall be for One (1) year, beginning the 1st day of July, 2015 and expiring on the 30th day of June, 2016.

III. DUTIES

A. The Contractor, as the Electrical Inspector for the City of Mount Clemens, agrees and promises to perform and discharge, well and faithfully, the duties assigned to him in accordance with State law and the ordinances of the City of Mount Clemens. Those duties shall include those generally assigned to an electrical inspection official of a governmental municipality.

B. The Contractor shall devote such time, attention and energies to the business of the City of Mount Clemens as is necessary for the Contractor to satisfactorily perform his duties as the Electrical Inspector.

IV. COMPENSATION

In consideration of the services to be performed by Contractor, City agrees to pay Contractor the annual sum of Thirty Four Thousand and no/100ths (\$34,000.00) Dollars, the same to be paid in equal bi-weekly installments, commencing July 15, 2015.

V. TERMINATION

A. This Agreement may be terminated by the Contractor at any time; provided, however, that the Contractor give the City of Mount Clemens at least thirty (30) days prior notice of voluntary termination. Any voluntary termination of this agreement by the Contractor as described in this provision shall terminate the rights and obligations of each of the parties hereto.

B. This Agreement may be terminated by the City of Mount Clemens at any time, without cause and without prior notice to the Contractor; provided, however, that the City give the Contractor at least thirty (30) days prior notice of termination, and in such event, City's sole obligation and/or responsibility shall be to pay Contractor any unpaid monthly installments then due.

VI. INDEPENDENT CONTRACTOR STATUS

A. It is understood and agreed that the Contractor is an independent contractor and is doing business as a separate and distinct legal entity. Under no circumstances will the Contractor, its agents and/or employees be considered employees of the City. Contractor has the sole right to control and direct the means, manner and method by which services required by this Agreement will be performed. The parties acknowledge and agree that the City is entering into this Agreement with reliance upon the representations made by Contractor relative to his independent contractor status. The parties hereto are not and in no event shall be deemed to be partners or joint venturers.

The Contractor, as an independent contractor, shall assume full and complete responsibility for and shall exonerate, indemnify and hold the City harmless from and against the payment of any and all of the following which might be applicable to either the Contractor or Contractor's employees, if any. On demand, Contractor shall provide City with proof that such

payments have been made:

- (a) State and Federal workmen's compensation insurance premiums;
- (b) Social Security taxes;
- (c) Self-employment taxes;
- (d) Payments of estimated federal, state and local income taxes and single business taxes;
- (e) State and federal unemployment taxes;
- (f) All other obligations that might be imposed upon the City through any source, if an employer-employee relationship were to exist between the City and the Contractor.

B. *Fringe Benefits.* Contractor understands that neither Contractor nor Contractor's employees, if any, are eligible to participate in any employee pension, health, vacation pay, or other fringe benefit plan of City.

C. *Workers' Compensation.* City shall not obtain workers' compensation insurance on behalf of the Contractor or Contractor's employees, if any. If Contractor hires employees to perform any work under this Agreement, Contractor will cover such employees with workers' compensation insurance and provide City with a certificate of workers' compensation insurance before the employees begin work. Contractor shall annually provide to the City, a copy of his and his employee's, if any, Driving Records issued by the Michigan Secretary of State.

D. *Unemployment Compensation.* City shall make no state or federal unemployment compensation payments on behalf of Contractor or Contractors employees or personnel, if any. Contractor will not be entitled to these benefits in connection with work performed under this Agreement. If Contractor files a petition for and receives unemployment compensation, the total amount of unemployment compensation awarded to and received by Contractor shall be deducted from and be an offset against the amount of compensation due and payable to Contractor by City under this Agreement.

E. *Incapacity.* If, during the term of this Agreement, Contractor shall be

prevented from performing his duties hereunder by reason of illness or incapacity, then the City shall not be obligated to pay the Contractor compensation for any such period of absence.

VII. CONFIDENTIALITY

Contractor will not disclose or use, either during or after the term of this Agreement, any proprietary or confidential information of the City, without City's prior written permission except to the extent necessary to perform services on City's behalf.

VIII. NOTICES

Any notice required or permitted to be given under this Agreement shall be sufficient if it is in writing and if it is sent by registered mail, return receipt requested, to the Contractor at his residence or to the City at its principal place of business, to the attention of the City Manager.

IX. DISPUTE RESOLUTION

This Agreement shall be construed under the laws of the State of Michigan and any and all disputes as to the same and/or any portion thereof shall be determined by an appropriate Court of record in the County of Macomb, State of Michigan.

X. ASSIGNMENT PROHIBITED

This Agreement is personal to each of the parties and neither party may assign or delegate any of its rights or obligations under this Agreement without first obtaining the other's written consent.

XI. MISCELLANEOUS

A. This Agreement contains all of the terms and conditions of the contractual relationship between the parties; no amendment, addendums or additions to this Agreement shall be binding unless they are in writing and signed by both parties.

B. This Agreement shall be binding upon the parties, their representatives,

successors and assigns.

C. This Agreement abrogates and takes the place of all prior employment contracts and/or understandings that may have existed between the parties hereto.

D. The captions or headings of this Agreement are for convenience and in no way define, limit or describe the scope or intent of this Agreement or any of its sections, nor do they in any way affect this Agreement.

E. Each clause of this Agreement shall be considered separate and independent so that in the event that any clause of this Agreement shall be deemed to be unenforceable under the laws of the State of Michigan, the balance of this Agreement shall remain in full force and effect.

F. The invalidity of all or any part of any sections, sub-sections, or paragraph of this Agreement shall not invalidate the remainder of this Agreement or the remainder of any paragraph or section not invalidated unless the elimination of such subsections, sections, or paragraphs shall substantially defeat the intent and purpose of the parties.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

CITY OF MOUNT CLEMENS,
a Michigan Municipal Corporation,
“City”

By: _____
Barb R. Dempsey
Mayor

By: _____
Lisa Borgacz
City Clerk

“Contractor”:

FUSION ELECTRIC, INC.

By: _____
Robert Bobcean, Jr., President

EXPLANATION OF AGENDA – June 15, 2015

Agenda Item No. 9-F

Request Approval of the 2014/2015 Fiscal Year Budget Amendments for all City Funds

Attached please find the budget amendments for all City funds. Michigan's Uniform Budgeting and Accounting Act, as amended by P.A. 621 of 1978, require subsequent amendments to the original adopted budget (General Appropriations Resolution) for any activity that exceeds its budget appropriation.

Attached is a memorandum which summarizes the adjustment request in each fund. The complete document has been provided under separate cover.

SUBMITTED BY: Marilyn J. Dluge, Finance Director

RECOMMENDED MOTION: To amend the City of Mount Clemens 2014/2015 fiscal year budgets as submitted.

**REQUEST FOR APPROVAL OF BUDGET AMENDMENT
FOR FISCAL YEAR 2014 - 2015**

The following is the breakdown by Fund of the estimated year-end Revenue and Expenditures.

		<u>Current</u>	<u>Amended</u>
General Fund - 101	Revenue	\$ 8,516,440.00	\$ 9,069,178.00
	Expenditures	\$ 9,639,430.00	\$ 9,840,637.00
	Difference	\$ (1,122,990.00)	\$ (771,459.00)
Major Street - 202	Revenue	\$ 752,500.00	\$ 2,020,275.00
	Expenditures	\$ 959,476.00	\$ 2,215,848.00
	Difference	\$ (206,976.00)	\$ (195,573.00)
Local Street - 203	Revenue	\$ 350,250.00	\$ 349,750.00
	Expenditures	\$ 370,340.00	\$ 365,440.00
	Difference	\$ (20,090.00)	\$ (15,690.00)
Dial-A-Ride - 211	Revenue	\$ 519,738.00	\$ 524,363.00
	Expenditures	\$ 517,836.00	\$ 454,255.00
	Difference	\$ 1,902.00	\$ 70,108.00
Public Improvement Assessment - 245	Revenue	\$ 60,000.00	\$ 56,285.00
	Expenditures	\$ 62,900.00	\$ 59,500.00
	Difference	\$ (2,900.00)	\$ (3,215.00)
TIF - 247	Revenue	\$ 144,800.00	\$ 153,210.00
	Expenditures	\$ 140,000.00	\$ 150,000.00
	Difference	\$ 4,800.00	\$ 3,210.00
DDA - 248	Revenue	\$ 273,700.00	\$ 283,575.00
	Expenditures	\$ 278,125.00	\$ 285,200.00
	Difference	\$ (4,425.00)	\$ (1,625.00)
Auto Park Fd - 585	Revenue	\$ 705,200.00	\$ 662,980.00
	Expenditures	\$ 704,871.00	\$ 649,451.00
	Difference	\$ 329.00	\$ 13,529.00
Sewage Disp - 590	Revenue	\$ 4,404,200.00	\$ 4,472,600.00
	Expenditures	\$ 4,394,653.00	\$ 4,266,629.00
	Difference	\$ 9,547.00	\$ 205,971.00
Water Supply - 591	Revenue	\$ 3,250,600.00	\$ 3,119,925.00
	Expenditures	\$ 2,945,790.00	\$ 3,111,484.00
	Difference	\$ 304,810.00	\$ 8,441.00
Sanitation Fd - 596	Revenue	\$ 902,879.00	\$ 907,409.00
	Expenditures	\$ 917,888.00	\$ 877,917.00
	Difference	\$ (15,009.00)	\$ 29,492.00
Motor Pool Fd - 661	Revenue	\$ 711,400.00	\$ 719,600.00
	Expenditures	\$ 776,143.00	\$ 742,384.00
	Difference	\$ (64,743.00)	\$ (22,784.00)
Retirement Fund - 731	Revenue	\$ 7,260,738.00	\$ 7,051,133.00
	Expenditures	\$ 4,722,175.00	\$ 4,924,675.00
	Difference	\$ 2,538,563.00	\$ 2,126,458.00

MEMORANDUM

DATE: *June 15, 2015*

TO: *Honorable Mayor Dempsey and City Commission*

FROM: *Marilyn J. Dlugie, Financial Director/Treasurer*

SUBJECT: *Brief overview of the Budget Amendments*

This is additional information regarding the 2015 Budget Amendments explaining the variances from the original budget.

General Fund

Revenue

In the General Fund Revenue, we had an increase of approximately \$552,738.00 over what was budgeted. The increases are due to:

- ▶ Refunds from Blue Cross Blue Shield
- ▶ Increase in fringe benefits from Major and Local Street funds
- ▶ Community Development charges for annual rental inspections, building permits and other permit revenue
- ▶ Federal Grants
- ▶ Decreases were realized in Sale of Fixed Assets, Recreation Charges for Services, General Grant/Contribution – PEG funds per contract and Community Development Grants & Contribution – CDBG

Expenses

For expenses we had an overall increase of \$201,207.00. Increases were caused by several items:

- ▶ Increases in Fire Department from Capital Outlay Equipment Grant
- ▶ Parks & Recreation – Disbursement of Earned Wages and Contractual Services
- ▶ Employers Share of Retirement – five (5) year payment plan \$195,923.00
- ▶ Street Lighting reduced by \$50,000.00
- ▶ Reduction in Community Development Block Grant Contractual Services

In reviewing the other departments, you will find that most of them came in at or under their budgeted amount. Overall, the fund balance will be **decreased** by approximately \$771,459.00.

Major Street

In the Major Street fund, you will find a State Grant for the reconstruction of Crocker Street and the expenses for the same.

Local Street

Local Streets saw a reduction in expenses of \$4,900.00.

Dial-A-Ride

Dial-A-Ride experienced a slight increase in revenue and a decrease in expenses due to a reduction of part-time employee wages and health insurance. This added \$68,206 to the fund balance.

Tax Increment Financing (TIF)

TIF received an increase in property taxes and the transfer to the DDA was increased to cover costs.

Downtown Development Authority (DDA)

DDA increased in revenue due to the transfer from TIF.

Expenses had an increase in Public Relations – Special Events caused by additional events added to the venue, but had a decrease in City Services.

Auto Park

Auto Park had a reduction in Parking Meter Receipts, but had an increase in Rent and Royalty.

Expenses were decreased in contractual services because we no longer have parking lot evening attendants. Overall, the fund balance will increase by \$13,200.00.

Sewer and Water Fund

Sewer Fund had an increase in revenue due to Refunds & Rebates and Septic/Vactor charges, but did experience a decrease in sewer disposal charges.

Expenses were reduced in Sewer Transmission and Operation of Plant. This provided a fund balance increase of approximately \$205,971.00.

The Water fund revenue was reduced by \$130,675 mainly due to water sales, but did experience an increase in Refunds & Rebates. Water sales again are down due to a reduction in consumption. Expenditures also increased. This was caused by an emergency roof replacement at the Water Plant, purchase of machinery and equipment, overtime in transmission and contractual services. Unfortunately, we were not able to reduce the deficit as required by the approved deficit elimination plan with the State.

Sanitation and Motor Pool

Sanitation and Motor Pool both added approximately \$40,000 to their fund balance.

Retirement Fund

The Retirement Fund will experience an increase to the Pension fund of approximately \$2,000,000.00.

EXPLANATION OF AGENDA – June 15, 2015

Agenda Item No. 9-G

Request to Adopt “Procedures and Guidelines” Describing Fees Associated with Freedom of Information Act (FOIA) Requests

In December, 2014, the State Legislature made significant changes to the Freedom of Information Act (FOIA), Act 442 of 1976. These changes go into effect on July 1, 2015.

The new regulations require public bodies to establish specific written procedures and guidelines for FOIA requests, including a separate written summary informing the public on how to submit FOIA requests, how to understand the public body’s responses to FOIA requests, deposit requirements, fee calculations and avenues for challenging and appealing the public body’s denial of a request.

The Governor signed the new legislation into law as PA 563 of 2014. Under the new law, municipalities must adopt “Procedures and Guidelines” describing fees associated with FOIA requests.

SUBMITTED BY: Lisa Borgacz, City Clerk

RECOMMENDED MOTION: To adopt the Freedom of Information Act (FOIA) “Procedures and Guidelines” in accordance with PA 563 of 2014, as presented, effective July 1, 2015.

**CITY OF MOUNT CLEMENS
FREEDOM OF INFORMATION ACT PROCEDURES AND GUIDELINES**

Preamble: Statement of Principles

It is the policy of the City of Mount Clemens that all persons, *except those who are serving a sentence of imprisonment*, consistent with the Michigan Freedom of Information Act (FOIA), are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people shall be informed so that they fully participate in the democratic process.

The City of Mount Clemens' policy with respect to FOIA requests is to comply with State law in all respects and to respond to FOIA requests in a consistent, fair and even-handed manner regardless of who makes such a request.

The City of Mount Clemens acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The City of Mount Clemens acknowledges that sometimes it is necessary to invoke the exemptions identified under FOIA in order to ensure the effective operation of government and to protect the privacy of individuals.

The City of Mount Clemens will protect the public's interest in disclosure, while balancing the requirement to withhold or redact portions of certain records. The City of Mount Clemens' policy is to disclose public records consistent with and in compliance with State law.

Section 1: General Policies

The Mount Clemens City Commission acting pursuant to the authority at MCL 15.236 designates the City Clerk as the FOIA Coordinator. He or she is authorized to designate other City staff to act on his or her behalf to accept and process written requests for the City's public records and approve denials.

If a request for a public record is received by facsimile or e-mail, the request is deemed to have been received on the following business day. If a request is sent by e-mail and delivered to a City spam or junk-mail folder, the request is not deemed received until one day after the FOIA Coordinator first becomes aware of the request.

The FOIA Coordinator may, in his or her discretion, implement administrative rules, consistent with State law and these Procedures and Guidelines to administer the acceptance and processing of FOIA requests.

The City is not obligated to create a new public record or make a compilation or summary of information that does not already exist. Neither the FOIA Coordinator nor other City staff are obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.

The FOIA Coordinator shall keep a copy of all written requests for public records received by the City on file for a period of at least one year.

Section 2: Requesting a Public Record

A person requesting to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the City of Mount Clemens must do so in writing. The request must sufficiently describe a public record so as to enable City personnel to identify and find the requested public record.

No specific form to submit a request for public record is required. However the FOIA Coordinator may make available a FOIA Request Form for use by the public.

Written requests for public records may be submitted in person or by mail to the City Clerk's Office. Requests may also be submitted electronically by facsimile and e-mail.

A person may request that public records be provided on non-paper physical media, electronically mailed or otherwise provided to his or her in lieu of paper copies. The City will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format.

A person who makes a verbal, non-written request for information believed to be available on the City's website, where practicable and to the best ability of the employee receiving the request, shall be informed of the pertinent website address.

A person serving a sentence of imprisonment in a local, state or federal correctional facility is not entitled to submit a request for a public record. The FOIA Coordinator will deny all such requests.

Section 3: Processing a Request

Unless otherwise agreed to in writing by the person making the request, within 5 business days of receipt of a FOIA request, the City will issue a response. If a request is received by facsimile, e-mail or other electronic transmission, the request is deemed to have been received on the following business day. The City will respond to the request in one of the following ways:

- Grant the request.
- Issue a written notice denying the request.
- Grant the request in part and issue a written notice denying in part the request.
- Issue a notice indicating the due to the nature of the request the City needs an additional 10 business days to respond. Only one such extension is permitted.
- Issue a written notice indicating that the public record requested is available at no charge on the City's website.

If the request is granted, or granted in part, the FOIA Coordinator will require that payment be made in full for the allowable fees associated with responding to the request before the public

record is made available. The FOIA Coordinator shall provide a detailed itemization of the allowable costs incurred to process the request to the person making the request. A copy of these Procedures and Guidelines shall be provided to the requestor with the response to a written request for public records, provided however, that if these Procedures and Guidelines, and its Written Public Summary are maintained on the City's website, then a website link to those documents may be provided in lieu of providing paper copies.

If the cost of processing a FOIA request is \$50 or less, the requester will be notified of the amount due and where the documents can be obtained.

If based on a good faith calculation by the City, the cost of processing a FOIA request is expected to exceed \$50, or if the requestor has not fully paid for a previously granted request, the City will require a good-faith deposit before processing the request. In making the request for a good-faith deposit the FOIA Coordinator shall provide the requestor with a detailed itemization of the allowable costs estimated to be incurred by the City to process the request and also provide a best efforts estimate of a time frame it will take the City to provide the records to the requestor. The best efforts estimate shall be nonbinding on the City, but will be made in good faith and will strive to be reasonably accurate, given the nature of the request in the particular instance, so as to provide the requested records in a manner based on the public policy expressed by Section 1 of the FOIA.

If the request is denied or denied in part, the FOIA Coordinator will issue a Notice of Denial which shall provide in the applicable circumstance:

- An explanation as to why a requested public record is exempt from disclosure; or
- A certificate that the requested record does not exist under the name or description provided by the requestor, or another name reasonably known by the City; or
- An explanation or description of the public record or information within a public record that is separated or deleted from the public record; and
- An explanation of the person's right to submit an appeal of the denial to either the office of the Mayor or seek judicial review in the Macomb County Circuit Court; and
- An explanation of the right to receive attorneys' fees, costs and disbursements as well as actual or compensatory damages, and punitive damages of \$1,000, should they prevail in Circuit Court.
- The Notice of Denial shall be signed by the FOIA Coordinator.

If a request does not sufficiently describe a public record, the FOIA Coordinator may, in lieu of issuing a Notice of Denial indicating that the request is deficient, seek clarification or amendment of the request by the person making the request. Any clarification or amendment will be considered a new request subject to the timelines described in this Section.

The City shall provide reasonable facilities and opportunities for persons to examine and inspect public records during normal business hours. The FOIA Coordinator is authorized to promulgate rules regarding the manner in which records may be viewed so as to protect City records from

loss, alteration, mutilation or destruction and to prevent excessive interference with normal City operations.

The FOIA Coordinator shall, upon written request, furnish a certified copy of a public record at no additional cost to the person requesting the public record.

Section 4: Fee Deposits

If the fee estimate is expected to exceed \$50.00 based on a good-faith calculation by the City, the requestor will be asked to provide a deposit not exceeding one-half of the total estimated fee.

If a request for public records is from a person who has not fully paid the City for copies of public records made in fulfillment of a previously granted written request, the FOIA Coordinator will require a deposit of 100% of the estimated processing fee before beginning to search for a public record for any subsequent written request by that person when all of the following conditions exist:

- the final fee for the prior written request is not more than 105% of the estimated fee;
- the public records made available contained the information sought in the prior written request and remain in the City's possession;
- the public records were made available to the individual, subject to payment, within the time frame estimated by the City to provide the records;
- 90 days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing;
- the individual is unable to show proof of prior payment to the City; and
- the FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

The FOIA Coordinator will not require an increased estimated fee deposit if any of the following apply:

- the person making the request is able to show proof of prior payment in full to the City;
- the City is subsequently paid in full for the applicable prior written request; or
- 365 days have passed since the person made the request for which full payment was not remitted to the City.

Section 5: Calculation of Fees

A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the City because of the nature of the request in the particular instance, and the City specifically identifies the nature of the unreasonably high costs.

The following factors shall be used to determine an unreasonably high cost to the City:

- The particular request incurs costs greater than incurred from the typical or usual request received by the City.
- Volume of the public record requested.
- Amount of time spent to search for, examine, review and separate exempt from non-exempt information in the record requested.
- Whether public records from more than one City department or various City offices is necessary to respond to the request.
- The available staffing to respond to the request.
- Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

The City may charge for the following costs associated with processing a FOIA request:

- Labor costs directly associated with searching for, locating and examining a requested public record.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed.
- The actual cost of computer discs, computer tapes or other digital or similar media.
- The cost of duplication of publication, not including labor, of paper copies of public records.
- The cost of labor associated with duplication or publication, including making paper copies, making digital copies or transferring digital public records to non-paper physical media or through the Internet or other electronic means.
- The actual cost of mailing or sending a public record.

Labor costs will be calculated based on the following requirements:

- All labor costs will be estimated and charged in 15 minute increments with all partial time increments rounded down.
- Labor costs will be charged at the hourly wage of the lowest-paid City employee capable of doing the work in the specific fee category, regardless of who actually performs the work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. The City may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.
- Overtime wages will not be included in labor costs until agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.

The cost to provide records on non-paper physical media when so requested will be based on the following requirements:

- Computer disks, computer tapes and other digital similar media will be at actual and most reasonably economical cost for the non-paper media.

- This cost will only be assessed if the City has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- In order to ensure the integrity and security of the City's technological infrastructure, the City will procure any requested non-paper media and will not accept non-paper media from the requestor unless provided in its original unopened packaging.

The cost to provide paper copies of records will be based on the following requirements:

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
- The City may provide records using double-sided printing, if cost-saving and available.

The cost to mail records to a requestor will be based on the following requirements:

- The actual cost to mail public records using a reasonably economical and justified means.
- The City may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless requested.

If the FOIA Coordinator does not respond to a written request in a timely manner, the following shall be required:

- Reduce the labor costs by 5% for each day the City exceeds the time permitted under FOIA up to a 50% maximum reduction, if any of the following applies:
 - The late response was willful and intentional
 - The written request, within the first 250 words of the body of a letter, facsimile, e-mail or e-mail attachment conveyed a request for information
 - The written request included the words, characters, or abbreviations for "freedom of information," "information," "FOIA," "copy," or a recognizable misspelling of such, or legal code reference to MCL 15.231 et seq or 1976 Public Act 442 on the front of an envelope or in the subject line of an email, letter or facsimile cover page.
- Fully note the charge reduction in the Detailed Itemization of Costs Form

Section 6: Waiver of Fees

The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because such

can be considered as primarily benefitting the general public.

The FOIA Coordinator will waive the first \$20.00 of the processing fee for a request if the person requesting the public record submits an affidavit stating that they are:

- indigent and receiving specific public assistance; or
- if not receiving public assistance stating facts demonstrating an inability to pay because of indigency.

An individual is not eligible to receive the waiver if:

- the requestor has previously received discounted copies of public records from the City twice during the calendar year; or
- the requestor requests information in connection with other persons who are offering or providing payment to make the request.

An affidavit is a sworn statement. The FOIA Coordinator may make a Fee Waiver Affidavit Form available for use by the public.

A nonprofit organization designated by the State to carry out activities under Subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act, or their successors, if the request meets all of the following requirements:

- is made directly on behalf of the organization or its clients;
- is made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, MCL 330.1931;
- is accompanied by documentation of its designation by the State.

Section 7: Appeal of a Denial of a Public Record

When a requestor believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, he or she may file an appeal of the denial with the Office of the Mayor. The appeal must be in writing, specifically state the word “appeal” and identify the reason or reasons the requestor is seeking a reversal of the denial.

Within 10 business days of receiving the appeal the Mayor will respond in writing by:

- reversing the disclosure denial;
- upholding the disclosure denial; or
- reverse the disclosure denial in part and uphold the disclosure denial in part.
- Under unusual circumstances, such as the need to examine or review a voluminous amount of separate and distinct public records or the need to collect the requested records from numerous facilities located apart from the office receiving or processing the request, the Mayor may issue not more than 1 notice of extension for not more than 10 business days to respond to this appeal.

Whether or not a requestor submitted an appeal of a denial to the Mayor, he or she may file a civil action in the Macomb County Circuit Court within 180 days after the City's final determination to deny the request.

If the court determines that the public record is not exempt from disclosure, the court will award the appellant reasonable attorneys' fees, costs and disbursements. If the court determines that the appellant prevails only in part, the court in its discretion may award all or an appropriate portion of reasonable attorneys' fees, costs and disbursements.

If the court determines that the City arbitrarily and capriciously violated the FOIA by refusing or delaying the disclosure of copies of a public record, it shall award the appellant punitive damages in the amount of \$1,000.

Section 8: Appeal of an Excessive FOIA Processing Fee

If a requestor believes that the fee charged by the City to process a FOIA request exceeds the amount permitted by state law, he or she must first submit a written appeal for a fee reduction to the Office of the Mayor. The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted.

Within 10 business days after receiving the appeal, the Mayor will respond in writing by:

- waiving the fee;
- reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee, accompanied by a certification by the Mayor that the statements in the determination are accurate and the reduced fee amount complies with these Procedures and Guidelines and Section 4 of the FOIA;
- uphold the fee and issue a written determination indicating the specific basis under Section 4 of the FOIA that supports the required fee, accompanied by a certification by the Mayor that the statements in the determination are accurate and the fee amount complies with these Procedures and Guidelines and Section 4 of the FOIA; or
- issue a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Mayor will respond to the written appeal.

Within 45 days after receiving notice of the Mayor's determination of a fee appeal, a requestor may commence a civil action in Macomb County Circuit Court for a fee reduction. If a civil action is filed appealing the fee, the City is not obligated to process the request for the public record until the Court resolves the fee dispute.

If the court determines that the City required a fee that exceeds the amount permitted, it shall reduce the fee to a permissible amount. If the appellant in the civil action prevails by receiving a reduction of 50% or more of the total fee, the court may award all or an appropriate amount of reasonable attorneys' fees, costs and disbursements.

If the court determines that the City has acted arbitrarily and capriciously by charging an excessive fee the court shall also award the appellant punitive damages in the amount of \$500.

Section 9: Conflict with Prior FOIA Policies and Procedures; Effective Date

To the extent that these Procedures and Guidelines conflict with previous FOIA policies promulgated by the Mount Clemens City Commission or the City Administration, these Procedures and Guidelines are controlling. To the extent that any administrative rule promulgated by the FOIA Coordinator subsequent to the adoption of this resolution is found to be in conflict with any previous policy promulgated by the City Commission or the City Administration, the administrative rule promulgated by the FOIA Coordinator is controlling.

To the extent that any provision of these Procedures and Guidelines or any administrative rule promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any State statute, the applicable statute shall control. The FOIA Coordinator is authorized to modify this policy and all previous policies adopted by the City Commission or the City Administration, and to adopt such administrative rule as he or she may deem necessary, to facilitate the legal review and processing of requests for public records made pursuant to Michigan's FOIA statute, provided that such modifications and rules are consistent with State law. The FOIA Coordinator shall inform the City Commission of any change to these Policies and Guidelines.

These FOIA Policies and Guidelines become effective July 1, 2015.

CITY OF MOUNT CLEMENS
One Crocker Boulevard
Mount Clemens, Michigan 48043
(586) 469-6818

FREEDOM OF INFORMATION ACT (FOIA) REQUEST FORM

Requested by: _____
(Name)

(Address)

(Phone)

Description of Public Records Requested: _____

Nature of Request (check one below):

_____ Please provide a copy of the requested public record.

_____ Please allow me an opportunity to inspect the requested public records prior to copying.

I understand that the City will charge me a fee for the cost of searching, examining, reviewing, and copying information, as well as redacting exempt information. Fees will also be charged for paper copies, flash drives, computer discs and postage. Please refer to Statement of Costs for more information, and/or the City of Mount Clemens' FOIA Procedures and Guidelines, which are available on the City's website, www.cityofmountclemens.com.

Signature

Date

PLEASE NOTE:

Copies of documents relating to litigation in which the City of Mount Clemens is a party are not subject to release under the Freedom of Information Act.

CITY OF MOUNT CLEMENS
WRITTEN PUBLIC SUMMARY OF FOIA PROCEDURES AND GUIDELINES

Consistent with Public Act 563 of 2014 amending the Michigan Freedom of Information Act (FOIA), the following is the Written Public Summary of the City's FOIA Procedures and Guidelines relevant to the general public.

1. How do I submit a FOIA request to the City of Mount Clemens?

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the City of Mount Clemens must be submitted in writing.
- A request must sufficiently describe a public record so as to enable the City to find it.
- No specific form to submit a written request is required. However, a FOIA Request form for your use and convenience is available on the City's website at www.cityofmountclemens.com.
- Written requests can be made by delivery to the City Clerk's office in person or by mail.
- Requests can also be made by facsimile by dialing 586-469-7603 for non-Public Safety records and 586-469-6971 for Public Safety records.
- A request may also be submitted by email. To ensure proper response, email requests should contain the term "FOIA" or "FOIA Request" in the subject line and be sent to FOIACoordinator@cityofmountclemens.com

Note: If you are serving a sentence of imprisonment in a local, state or federal correctional facility you are not entitled to submit a request for a public record.

2. What kind of response can I expect to my request?

- Within 5 business days of receipt of a FOIA request the City will issue a response. If a request is received by facsimile or e-mail the request is deemed to have been received on the following business day. The City will respond to your request in one of the following ways:
 - Grant the request.
 - Issue a written notice denying the request.
 - Grant the request in part and issue a written notice denying in part the request.
 - Issue a notice indicating that due to the nature of the request the City needs an additional 10 business days to respond.
 - Issue a written notice indicating that the public record requested is available at no charge on the City's website.
- If the request is granted, or granted in part, the City will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available. If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, the City will require a deposit before processing the request.

3. What are the City's fee deposit requirements?

- If the City has made a good faith calculation that the total fee for the processing the request exceeds \$50.00, the City will require that you provide a deposit in the amount of 50% of the total estimated fee. When the City requests the deposit it will provide you a non-binding best efforts estimate of how long it will take to process the request following receipt by the City of your deposit.
- If the City receives a request from a person who has not paid the City for copies of public records made in fulfillment of a previously granted written request, the City will require a deposit of 100% of the estimated processing fee before it begins to search for the public record of any subsequent written request when all of the following conditions exist:
 - the final fee for the prior written request is not more than 105% of the estimated fee;
 - the public records made available contained the information sought in the prior written request and remain in the City's possession;
 - the public records were made available to the individual, subject to payment within the time frame estimated by the City to provide the records;
 - 90 days have passed since the City notified the individual in writing that the public records were available for pickup or mailing;
 - the individual is unable to show proof of prior payment to the City; and
 - the City has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- The City will not require the 100% estimated fee deposit if any of the following apply:
 - the person making the request is able to show proof of prior payment in full to the City;
 - the City is subsequently paid in full for all applicable prior written requests; or
 - 365 days have passed since the person made the request for which full payment was not remitted to the City.

4. How does the City calculate FOIA processing fees?

- A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the City because of the nature of the request in the particular instance, and the City specifically identifies the nature of the unreasonably high costs.
- The Michigan FOIA statute permits the City to assess and collect a fee for six designated processing components. The City may charge for the following costs associated with processing a request:

- Labor costs associated with searching for, locating and examining a requested public record.
 - Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed.
 - The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media.
 - The cost of duplication or publication, not including labor, of paper copies of public records.
 - Labor costs associated with duplication or publication, which includes making copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
 - The cost to mail or send a public record to a requestor.
- Labor Costs
 - All labor costs will be estimated and charged in 15 minute increments with all partial time increments rounded down.
 - Labor costs will be charged at the hourly wage of the lowest-paid City employee capable of doing the work in the specific fee category, regardless of who actually performs the work.
 - Labor costs will also include a charge to cover or partially cover the cost of fringe benefits.
- Non-paper Physical Media
 - The cost for records provided on non-paper physical media, such as computer discs, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
 - This cost will only be assessed if the City has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- Paper Copies
 - Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
 - The City may provide records using double-sided printing, if cost-saving and available.
- Mailing Costs
 - The cost to mail public records will use a reasonably economical and justified means.
 - The City may charge for the least expensive form of postal delivery confirmation.
 - No cost will be made for expedited shipping or insurance unless requested.

5. How do I qualify for a reduction of the processing fees?

- The City may waive or reduce the fee associated with a request when the City determines that to do is in the public interest because release of the information is considered as primarily benefitting the general public.
- The City may waive the first \$20.00 of the processing fee for a request if you submit an affidavit stating that you are:
 - indigent and receiving specific public assistance; or
 - if not receiving public assistance, stating facts demonstrating an inability to pay because of indigency.
- You are not eligible to receive the \$20.00 waiver if you:
 - have previously received discounted copies of public records from the City twice during a calendar year; or
 - are requesting information on behalf of other persons who are offering or providing payment to you to make the request.
- An affidavit is a sworn statement. For your convenience the City has provided an Affidavit of Indigency form for the waiver of FOIA fees on its website.
- The City will waive the fee for a nonprofit organization which meets all of the following conditions:
 - the organization is designated by the State under federal law to carry out activities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act;
 - the request is made directly on behalf of the organization or its clients;
 - the request is made for a reason wholly consistent with the provisions of federal law under Section 931 of the Mental Health Code; and
 - the request is accompanied by documentation of the organization's designation by the State.

6. How may I challenge the denial of a public record or excessive fee?

- Appeal of a Denial of a Public Record
If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may file an appeal of the denial with the Office of the Mayor. The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons you are seeking a reversal of the denial.

Within 10 business days of receiving the appeal, the Mayor will respond in writing by:

- reversing the disclosure denial;
- upholding the disclosure denial; or
- reverse the disclosure denial in part and uphold the disclosure denial in part.

Whether or not you submitted an appeal of a denial to the Office of the Mayor, you may file a civil action in Macomb County Circuit Court within 180 days after the City's final determination to deny your request. Should you prevail in the civil action the court will award you reasonable attorneys' fees, costs and disbursements. If the court determines that the City acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1,000.00.

○ Appeal of an Excessive FOIA Processing Fee

If you believe that the fee charged by the City to process your FOIA request exceeds the amount permitted by state law, you must first submit a written appeal for a fee reduction to the Office of the Mayor. The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted.

Within 10 business days after receiving the appeal, the Mayor will respond in writing by:

- waiving the fee;
- reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee;
- uphold the fee and issue a written determination indicating the specific basis that supports the required fee; or
- issue a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Mayor will respond to the written appeal.

Within 45 days after receiving notice of the Mayor's determination of the processing fee appeal, you may commence a civil action in Macomb County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or an appropriate amount of reasonable attorneys' fees, cost and disbursements. If the court determines that the City acted arbitrarily and capriciously by charging an excessive fee, the court may also award you punitive damages in the amount of \$500.00.

Need more details or information?

This is only a summary of the City of Mount Clemens' FOIA Procedures and Guidelines. For more details and information, copies of the City of Mount Clemens' FOIA Procedures and Guidelines are available at no charge at the City Clerk's Office and on the City's website, www.cityofmountclemens.com.

CITY OF MOUNT CLEMENS
FREEDOM OF INFORMATION ACT REQUEST
DETAILED COST ITEMIZATION

The City of Mount Clemens has incurred the following cost, which is allowed to be recovered under the Michigan Freedom of Information Act (FOIA), in regard to the FOIA request that you submitted on _____. The following costs are being charged/estimated in compliance with Section 4 of the Michigan Freedom of Information Act, MCL 15.234, according to the City's FOIA Procedures and Guidelines.

- 1. If all or a portion of the requested information is available on the City's website, the City is required to tell you it is available on the website and, where practicable, include a specific address where the information is available. In this case:**

_____ None

_____ Some

_____ All

of the requested material can be found at the following webpage(s):

If the webpage is all the information you need, it is provided without charge. If, however, you still wish to receive a copy of material from the webpage, the usual charge will apply if the City is required to produce copies from the webpage.

All labor costs will be estimated and charged in 15 minute time increments. All partial time increments will be rounded down. If the number of minutes is less than 15, there is no charge.

2. LABOR COST FOR SEARCHING, LOCATING AND EXAMINING:

(15 minute minimum & all labor costs)

Hourly Wage Charged: \$15.34

Charge per fifteen minute increment: \$3.84

OR

Hourly Wage with Fringe Benefit Cost: \$23.01

Charge per fifteen minute increment: \$5.75

Number of Increments: _____

\$ _____

3. LABOR COST FOR REDACTING:

Hourly Wage Charged: \$15.34

Charge per fifteen minute increment: \$3.84

OR

Hourly Wage with Fringe Benefit Cost: \$23.01

Charge per fifteen minute increment: \$5.75

Number of Increments: _____

\$ _____

4. LABOR COST FOR DUPLICATION & PUBLICATION

Hourly Wage Charged: \$15.34

Charge per fifteen minute increment: \$3.84

OR

Hourly Wage with Fringe Benefit Cost: \$23.01

Charge per fifteen minute increment: \$5.75

Number of Increments: _____ \$ _____

5. COST PER PAPER COPY

.10 cents per copy back/front (8 1/2 x 10) and (8 1/2 x 11)

No. of paper copies _____ \$ _____

Larger copies will be actual cost of reproduction \$ _____

6. COST FOR NON PAPER-PHYSICAL MEDIA

Flash Drive _____ \$ _____

Customers Flash Drive _____
(NEW IN UNOPENED PACKAGE)

Comp. Disk: _____ \$ _____

Customers Comp. Disk: _____
(NEW IN UNOPENED PACKAGE)

7. DISCOUNT:

Indigence / Non Profit

No charge for the first \$20.00, if:

1. Affidavit to attest indigence criteria is met.
2. All Nonprofit requirements are met.

- _____

8. MAILING

(Actual cost of mailing records in a reasonable and economical manner)

Cost of least expensive form of postal delivery confirmation: _____ \$ _____
(Weighed and Stamped)

Cost of expedited shipping or insurance only if specifically stipulated by the requestor: _____ \$ _____

SUBTOTAL: \$ _____

9. GOOD FAITH DEPOSIT (If cost exceeds \$50) - _____

TOTAL DUE: \$ _____

Request will be processed, but balance **MUST** be paid before copies may be picked up, delivered, emailed or mailed.

The City's FOIA Procedures and Guidelines are available on the City's website at www.cityofmountclemens.com.

EXPLANATION OF AGENDA – June 15, 2015

Agenda Item No. 9-H

Authorization to Allow the Mount Clemens Public Library to Digitize, Preserve and Make Available to the Public Historical Commission and Historic District Commission Documents

The Historical Commission and Historic District Commission prepare certain documents for public use, such as the annual Homes Tour brochures, walking tour brochures and survey cards of properties. As a means of preserving these documents for historical use, the Mount Clemens Public Library has offered to digitize and make available to the public certain documents and are requesting authorization from the City to do so.

SUBMITTED BY: Brian L. Tingley
Community Development Director

RECOMMENDED MOTION: Move to authorize the Mount Clemens Public Library to digitize, preserve and make available to the public Historical Commission and Historic District Commission documents.

EXPLANATION OF AGENDA – June 15, 2015

Agenda Item No. 9-I

Request Approval to Continue the Publication and Distribution of the City Newsletter through C & G Newspapers

For the past eight years, the City has published a newsletter utilizing C & G Newspapers for the distribution of the newsletter through the *Journal*. We continue to receive very positive feedback from the residents and various readers indicating that they find the articles in the newsletter both informative and useful. For that reason, we would like to continue this publication. The formatting will stay the same.

At this time, we are seeking approval to publish the newsletter at the schedule and rates listed below.

Publication Schedule and Rates:

July, August, September	\$1,250
October, November, December	\$1,250
January, February, March	\$1,390
April, May, June	<u>\$1,390</u>
	\$5,280

The prior rate was \$1,070 per issue, for a total cost per year of \$4,280. This rate had not been changed for five years so the company has been absorbing all cost increases during that time. The new total cost includes an increase of approximately 23.4% which, spread over the 5 year period, equates to a 4.68% per year increase. The cost includes printing and distribution.

SUBMITTED BY: Steven Brown, City Manager

RECOMMENDED MOTION: Move to approve the printing and distribution of the Clementines newsletter on a quarterly basis at a cost of \$1,250 per publication for 2015 and \$1,390 per publication for 2016.

EXPLANATION OF AGENDA – June 15, 2015

Agenda Item No. 9-J

APPROVE PURCHASES AND PAYMENT OF INVOICES

VENDOR (PURCHASES)	DESCRIPTION	FUND/ DEPARTMENT/ APPROPRIATION	ACCOUNT NUMBER	AMOUNT	CURRENT BALANCE
1. Country Oaks Landscape Supply 5904 Dixie Highway Clarkston, MI 48346	Removal and Disposal of Waste Wood Chips, Brush and Logs From the Wastewater Treatment Plant.	Sanitation Fund/ Contractual Services	596-52100-818000	\$25,000.00	\$44,715.65
2. Pumps Plus, Inc. 22162 Lancrest Court Farmington Hills, MI 48335	Lobeline Pump Replacement	Sewer-Utilities Fund/ Retention Basin/ Machinery and Equipment	590-53707-982000	\$23,020.00	*

VENDOR (INVOICES)	DESCRIPTION	FUND/ DEPARTMENT/ APPROPRIATION	ACCOUNT NUMBER	AMOUNT	CURRENT BALANCE
1. Michigan Municipal League P.O. Box 7409 Ann Arbor, MI 48107	Membership Renewal	General Fund/ Community Relations/ Membership and Dues	101-17220-803000	\$6,840.00	\$10,000.00 2015-2016 Fiscal Year
2. Kramer and Murray, P.C. Ruggirello, Velardo, Novara, and Ver Beek, P.C. 65 Southbound Gratiot Mount Clemens, MI 48043	Legal Services For the month of May, 2015	General Fund/ Legal Services/ Legal Fees	101-26600-826000	\$11,112.56	\$30,350.66
		General Fund/ Legal Services/ Legal Fees-Labor	101-26600-826001	\$909.38	\$1,050.88
		Water-Utilities Fund/ Commercial Activities/ Legal Fees	591-53703-826000	\$24.25	*
		Sanitation Fund/ Legal Fees	596-52100-826000	\$30.31	*

*Budget amended.

SUBMITTED BY: Marilyn Dluge, Finance Director/Treasurer

RECOMMENDED MOTION: Approve purchases and payment of invoices as presented.

CITY OF MOUNT CLEMENS

Tabulation of sealed bids received and opened on Tuesday, May 19, 2015, for the Removal and Disposal of Waste Wood Chips, Brush, and Logs at the Wastewater Treatment Plant:

BIDDER	TOTAL COST
1. Country Oaks Landscape Supply 5904 Dixie Highway Clarkston, Michigan 48346	\$25,000.00

Bid posted on MITN.
Bid posted on Cable.
Bid posted on City's Website.

Marilyn Dluge
Finance Director/Treasurer

CITY OF MOUNT CLEMENS

Tabulation of sealed bids received and opened on Tuesday, June 09, 2015, for a replacement Lobeline Pump needed by the Sewage Plant:

BIDDER	MANUFACTURER	DELIVERY	TOTAL COST
1. Pumps Plus, Inc. 22162 Lancrest Court Farmington Hills, MI 48335	Lobeline MR75WM	14-16 Weeks	\$24,277.00
	Lobeline MR75 Requested alternate Due to time constraints And urgency to get Pump.	4-6 Weeks	\$23,020.00
2. Vogelsang USA 7966 State Route 44 Ravenna, OH 44266	Vogelsang USA (alternate)	6-8 Weeks	*\$9,750.00

*Does not meet bid specification.

Marilyn Dluge
Finance Director/Treasurer

EXPLANATION OF CONSENT AGENDA – June 15, 2015

Agenda Item No. 10-A

Request to Approve a Contract Between the City of Mount Clemens and Meridian Contracting Group, Inc., for the Train Depot Roof Replacement Project

At its June 1, 2015, meeting the City Commission approved the selection of Meridian Contracting Group, Inc., as the contractor for the Roof Replacement project at the Train Depot. As part of the grant agreement between the City and the State Historic Preservation Office, the City of Mount Clemens and Meridian Contracting Group, Inc., are required to enter into a contract for this project. The proposed contract has been reviewed by the City Attorney and is enclosed for your review.

SUBMITTED BY: Brian L. Tingley
Community Development Director

RECOMMENDED MOTION: Move to approve the enclosed contract between the City of Mount Clemens and Meridian Contracting Group, Inc., for the Roof Replacement project at the Train Depot; and to authorize the Mayor and City Clerk to sign the same.

**PERFORMANCE CONTRACT
CITY OF MOUNT CLEMENS, MICHIGAN**

This agreement is made and entered into this _____, 2015, by and between the City of Mount Clemens, a Municipal Corporation in the County of Macomb in the State of Michigan, herein referred to as the City and Meridian Contracting Group, Inc., 6149 Trailside Drive, Washington, Michigan 48094, herein after referred to as the Contractor.

WITNESSETH;

WHEREAS the City has advertised for bids for Roof Replacement at the Mount Clemens Train Depot located at 200 Grand Avenue, Mount Clemens, Michigan 48043, within the corporate limits of the City of Mount Clemens, and in connection therewith has prepared certain instructions to bidders and specifications, and

WHEREAS, the Contractor has made a bid in accordance with such advertisement in the amount of Thirty four thousand, seven hundred sixty dollars(\$34,760.00) for Roof Replacement Work at the Historic Mount Clemens Train Depot.

And which bid has been accepted by the City

NOW THEREFORE, and in consideration of the mutual undertakings of the parties hereto, all as herein set forth, it is agreed by and between said parties as follows:

THE SCOPE OF THE WORK:

In compliance with the United States Secretary of Interior's Standards for Rehabilitating Historic Properties (revised 1990) and as part of the larger rehabilitation and reuse strategy for this building and will be paid for in whole or in part with funds authorized by attached agreement, the items elaborated below will be specifically undertaken:

1. ROOF REPLACEMENT:

- a. In accordance with all applicable Federal, State and Local Laws and regulations, remove and dispose of the existing cement asbestos shingles, chimney flashings, drip edges, plumbing boots, penetration flashings and underlying materials down to the roof decking. It is assumed the roofing slates contain asbestos. The contractor will treat them as such in terms of disposal.
- b. Inspect the roof decking and repair damaged and deteriorated decking to match the existing material to create a sound surface ready to receive new roofing system. (Assume 100 Lin. Ft. base bid).
- c. Install new white T-Style, .024 aluminum continuous drip edges at roof perimeter.
- d. Install ice and water protection membrane to three feet inside the exterior wall surface.

- e. Install 30# building felt over remainder of deck surface. Overlap materials in accordance with manufacturer's recommendations.
 - f. Install new 20 oz. copper flashing and counter flashing at each chimney (4 total).
 - g. Install all necessary boots, flashings, and counter flashings, seals, etc., at existing and new roof penetrations to create a water-tight system.
 - h. Install continuous, ridged, nonmetallic, ridge vent per manufacturer's specifications.
 - i. Install new 30-year, 3-tab asphalt roof shingles in accordance with manufacturer's recommendations (color to match the existing material as closely as possible).
 - j. Clean-up work site to pre-work condition and repair damage to building, porch, plantings and site resulting from project work.
 - k. Warranty papers and passed inspection must be submitted with invoice.
2. The contractor and all sub-contractors shall be responsible for maintaining the site in a clean, safe and professional manner. To the extent practical, tools and equipment shall be removed from the work area at the close of each work day and stored in either on-site secured self-contained storage or off-site storage. Unused materials shall be stacked neatly on either the ground or pallets and protected from extreme weather or excessive heat/cold. Debris shall be placed in an on-site dumpster or removed from the site daily. The Subgrantee will include this provision in all subcontracts for any work covered by this Agreement so that the provision will be binding upon each subcontractor.
 3. Permits will need to be pulled on this project at the City of Mount Clemens Building Department, One Crocker Boulevard, Mount Clemens, MI 48043. The fee will be waived.

General Contract Conditions

- 1 It is mutually agreed by and between the parties that the documents consisting of the advertisement for bids, instructions to bidders, November 5, 2014 CG14-424 grant agreement between the City and MSHDA, as amended, general specifications, bid proposal, contract, plans and other documents mentioned in connection with the award of the bid for this project and the contractor's bid shall be incorporated herein by reference and shall become part of this contract and shall be binding upon both parties. If any of the documents are in conflict with one another, the CG14-424 grant agreement between the City and MSHDA shall take precedence.
- 2 The contractor agrees that it will apply for and secure all permits and approvals as may be required from the City of Mount Clemens in accordance with the provisions of the applicable ordinances of said City, the State of Michigan and federal agencies.

- 3 Mount Clemens agrees that it will, upon satisfactory performance of the work under the provisions of this contract and applicable ordinances of the City pay to Meridian Contracting Group, Inc. the amounts specified in its proposal.
- 4 To the fullest extent permitted by law, Meridian Contracting Group, Inc. agrees to defend and hold harmless the City of Mount Clemens and the State of Michigan; their several departments, agents, and employees in connection with the performance of their duties hereunder, and agrees to secure and keep in force the Contractor's expense public liability insurance, property damage insurance, Worker's Compensation insurance, Builders Risk insurance and Michigan No Fault insurance. These are all required under the instructions to bidders and general specifications. Mount Clemens shall be named as insured on all policies of insurance. Meridian Contracting Group, Inc. shall provide a certificate of insurance evidencing coverage of all special insurances to the City prior to initiation of the terms of this agreement.
- 5 If Meridian Contracting Group, Inc. fails to perform its obligations, Mount Clemens may take any and all remedial actions provided in the general specifications or otherwise permitted by law.
- 6 Meridian Contracting Group, Inc. shall hire personnel of good character and fitness to perform the duties under this agreement. It shall, when applicable, comply with the requirements of all federal, state and local laws and ordinances as well as regulations relating to minimum wages, social security, worker's compensation and will not discriminate against any employee or applicant for employment because of race, color, sex, creed or national origin.
- 7 Nothing contained in this agreement shall be held to constitute the parties hereto as partners or authorize either of said parties to contract any debt, liability or obligation for or against or on behalf of the other party to the agreement, other than specifically stated herein. Neither the City of Mount Clemens nor Meridian Contracting Group, Inc., shall be considered or construed as the agent of the other nor shall either have the right to bind the other in any manner whatsoever and this agreement shall not be construed as a contract.
- 8 Meridian Contracting Group, Inc. shall be throughout the term of this agreement, an independent contractor and as such shall be liable for its own actions and neither Meridian Contracting Group, Inc. nor its employees shall be construed as employees of the City of Mount Clemens or the State of Michigan.
- 9 If subsequent to entering into the contract, a City official, his or her spouse, child or parent shall become directly or indirectly interested in the contract, Mount Clemens shall have the right to terminate the contract without further liability if the disqualification has not been removed within thirty (30) days after Mount Clemens has given notification of the disqualifying interest. The City official shall have no vote on any issue involving the contract during the thirty day period.
- 10 Any disputes arising under this contract shall be settled either by commencement of a suit in the Macomb County Circuit Court or by compulsory arbitration at the election of the City of Mount Clemens. If Meridian Contracting Group, Inc. feels aggrieved, it shall advise the City in writing of any dispute arising out of this contract and shall demand that the City elect that the dispute be resolved by submitting it to compulsory arbitration or by commencement of a suit in the Macomb County Circuit Court or any other court having jurisdiction. Mount Clemens shall make its selection within thirty days from the receipt of such notice.

If Mount Clemens elects to have the suit resolved by compulsory arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan with each of the parties appointing one arbitrator and the two thus appointed will appoint a third. The Macomb County Circuit Court or any other court having jurisdiction may render a judgment upon the award of the arbitrators.

In the event that Mount Clemens elects not to have the matter in dispute arbitrated or fails to make such an election, any dispute between the parties may be resolved by filing of a suit in Macomb County Circuit Court. If Mount Clemens feels aggrieved, it shall elect the method of resolving the dispute by either demanding that the matter be arbitrated or by filing a suit in Macomb County Circuit Court.

- 11 Any contract awarded pursuant to any bid shall not be binding upon Mount Clemens until a written contract has been executed by both parties and Meridian Contracting Group, Inc. is in receipt of a City- issued purchase order covering the project indicated in the Request for Bids.
- 12 This agreement shall be binding upon and apply and insure to the benefit of the parties hereto and their respective successors or assigns.
- 13 The contractor is required to keep and maintain all required records for a period of three (3) years after the grant end date or until any audit questions are resolved.
- 14 Compliance with the Copeland Anti Kick Back Act (18 usc 874) by the Contractor and subcontractors is required.

IN WITNESS WHEREOF, the parties execute this Agreement.

CITY OF MOUNT CLEMENS:

Witness:

Barb Dempsey, Mayor

Witness:

Lisa Borgacz, City Clerk

CONTRACTOR:

Witness:

By:
Its:

Witness:

APPROVED:

APPROVED AS TO FORM:

Legal Counsel

EXPLANATION OF AGENDA – June 15, 2015

TO: The Honorable Mayor Barb Dempsey and
All City Commissioners

FROM: Steven M. Brown, City Manager

DATE: June 12, 2015

RE: Report from the City Manager's Office

1. Recent Press Coverage of Economic Development: The City has had some recent and exciting coverage of economic development in our community.

Crain's Detroit recently revisited Mount Clemens as a follow up to an article from 1985 as part of their 30th anniversary issue. One article focused on the dual nature of Mount Clemens in terms of our being an office center/County seat as well as a center for the County and region for entertainment. The second focused on how business owners often start small and grow in Downtown Mount Clemens. I want to congratulate the DDA for all of the fine work they did in both assisting with the pieces and the work done to make them possible in the first place.

Also, the Macomb Daily did an article covering the recent purchase of the Mews building and the Macomb Daily Building. These 2 important properties being in the hands of new ownership offers an opportunity for new attention and activity for the City.

I have included PDF files of the 3 articles for informational purposes.

2. Seasonal Help Update: The City has advertised and filled a variety of seasonal positions in the DPS, Utilities and Public Housing functions. This help is an important complement to our dedicated full-time staff in these areas. Kudos to the departments and Sara Price in Human Resources for successfully completing this process!

Get a peek inside the **JULY 23** business of sports >> **7:30-10 A.M. THE HENRY, DEARBORN** **Plus CRAIN'S CFO of the year AWARDS** **TITLE SPONSOR Bank of America Merrill Lynch**

CRAIN'S DETROIT BUSINESS

Detroit and Southeast Michigan's premier business news and information website

Originally Published: June 06, 2015 8:45 AM Modified: June 08, 2015 7:11 AM

Mount Clemens embraces dual roles: office by day, entertainment by night

By Laura Cassar
Special to Crain's Detroit Business



Photo by EDWARD MAURER Michelle Weiss of the Mount Clemens Downtown Development Authority (left) and the city's mayor, Barb Dempsey, in Mount Clemens. Thirty years after trying to wake up downtown, the city is now letting the market decide its course of development.

Thirty years ago, 31 downtown Mount Clemens business owners paid \$130 apiece to have their names printed on coffee mugs that proclaimed "I love Mount Clemens."

The mugs were part of a campaign to help revitalize their

Snapshot of downtown Mt. Clemens

Owners of a used book store, boutique, and bar talk about doing business in downtown Mt. Clemens. *See story.*

Remaking Mt. Clemens

Selected redevelopment sites:

- The former **Greco Title** building, 118 Cass Ave.: Purchased last year by **SVS Vision Optical**

quiet downtown — to wake things up after the lawyers in the county seat locked up their offices for the day.

Michelle Weiss still has her mug displayed on a shelf in her downtown office.

"This town shut down at 5 p.m.," said Weiss, marketing and events coordinator for the **Mount Clemens Downtown Development Authority**.

The year of the mugs, 1985, *Crain's Detroit Business* reported on the DDA's efforts to bring people downtown at night with live entertainment and to focus on recruiting retail to complement the downtown's predominantly office tenants.

From the archives: Merchants field efforts to keep downtown alive (June 10, 1985)

Weiss, who at the time owned **Natures Accents**, a floral shop, recalls today how in 1985 all the businesses on one main strip, Walnut Street, committed to staying open until 8 p.m. on Thursdays and Fridays — "for a whole year, no matter what; no excuses."

When the year ended, those business owners kept the extended hours and others joined them, in part motivated by the evening entertainment and events that now number more than 50 annually.

But on the roster of downtown businesses, retail is still secondary to office space. And Mount Clemens is starting to realize that's no longer worth worrying about.

Instead, the community is embracing its more market-driven role as a venue for daytime office space and nighttime entertainment uses. That includes finding a buyer for the vacant and bankrupt **Emerald Theatre**, a landmark building in the city.

"You can't change what people want," said Kent Kukuk, the DDA's executive director in the 1990s and 2000s.

"Every town is unique. Mount Clemens is always going to be heavy on office space because of the county seat draw. It's figuring out what your demo is asking for," said Kukuk, who went on to work for the **Michigan Economic Development Corp.** and is now retired. The DDA now operates without an executive director.

That "figuring it out" has taken several iterations over the past three decades. In the late 1980s and early 1990s, openings of nightclubs like **Hayloft** and **Desperado's** led downtown leaders to realize they were an event-driven destination, Weiss said.

By the late 1990s, they were putting a focus on physical changes — adding lights, building brick streets and increasing parking to help make downtown more of a social gathering place.

"People don't expect a downtown to compete with a mall — nor do they want it to," Kukuk said.

"They were looking for a place to gather, someplace social to have a good time, a nice place to walk, so that's what we embraced."

OU campus

Having a place to gather — specifically "milling around town" — is something 82-year-old Gebran "Gabe" Anton wants to see more of.

Anton, a lifelong Mount Clemens resident and business owner, and his business partner Stuart Frankel in 2010 donated space valued at about \$2 million for **Oakland University** to open a Macomb satellite campus. Anton

Centers and now redeveloped into their new headquarters.

- The **Macomb Music Theatre**, formerly the **Emerald Theatre** building, 31-33 N. Walnut St.: Currently vacant. The previous owner went bankrupt, and the property receiver is searching for a new owner.
- The former **Turning Point** building, 213-215 S. Main St.: Purchased by the **Macomb County Rotating Emergency Shelter Team**, or MCREST, in April. It will become a shelter for abused women and children who are transitioning out of abusive situations.
- The former **Detroit Pub**, 76 Macomb Place: Purchased by Scott Atchison and converted into **Abbiho Dining & Spirits**, which opened in September.
- **John Barleycorn's Bar and Grill**, 110-112 Macomb Place: Under contract to be sold to the owners of the nearby **Bath City Bistro Inc.** and the **Orleans Sports Café**. The space will be renovated.

Sources: *Crain's* research, Anton Sowerby & Associates

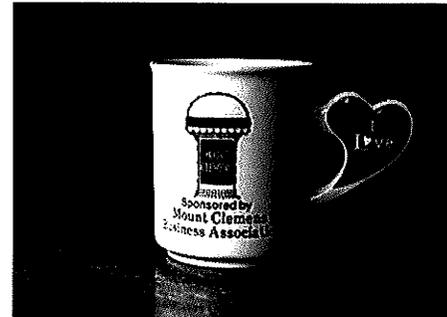


Photo by EDWARD MAURER "I love Mount Clemens" coffee mugs were part of an effort to bring life to downtown.



wants to see that campus expand.

"I'm not a college graduate," said Anton, who took over his family's shoe business at age 17 when his father died. After selling shoes, Anton went on to operate a chain of clothing stores, **Anton's Gentlemen's Apparel**. He is now partner in **Anton Sowerby & Associates**, a real estate brokerage firm downtown.

"Unfortunately, my father died and I had a family to support, but I've always enjoyed the environment a college town creates — like Ann Arbor or East Lansing. That's not easy to duplicate.

"When we gave OU the building, we planted a seed for that."

The satellite campus, inside the former **Towne Square II** building at 20 S. Main St., has 50 faculty members, 900 students and offers seven degree programs.

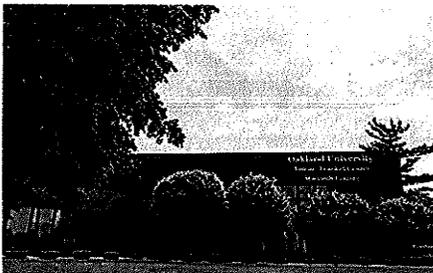


Photo by EDWARD MAURER Oakland University's satellite campus in Mount Clemens.

It's a commuter school, but the students have embraced the community, said Julie Dichtel, Oakland University-Macomb interim executive director. Students participate in downtown parades and volunteer at festivals; an alumni event brought together 350 former students during a fireworks show last summer.

"There's a lot of real estate around there, and I'm hoping OU will buy it and expand here," Anton said. "I would like to see more students."

OU has no specific Mount Clemens expansion plans in the works.

Occupancy rate

Filling some of the downtown's long-empty buildings is a priority. Isam Yaldo, president of **Yaldo Construction** in Farmington Hills, purchased the former Macomb Mews, a mall shuttered in 2010, for \$265,000 in March. Yaldo has plans to turn the second floor into lofts — tentative plans call for about 10 units — with retail and parking on the first floor. It was his first purchase in the city; he said the price and the opportunity to use his creativity to help boost the city were what attracted him.

Real estate broker Joe Sowerby, also at Anton Sowerby & Associates, said that for out-of-town buyers like Yaldo, Mount Clemens is a bargain.

Sowerby said the price per square foot in Mount Clemens has not recovered the way other communities have. What might sell for \$60-\$80 per square foot in St. Clair Shores or Clinton Township can still be priced at \$40-\$50 in Mount Clemens.

The overall downtown occupancy rate is about 65 percent: About 38 percent is office space, about 23 percent retail/restaurant, and the rest is mixed-use.

The vacancies were apparent after the economic downturn of 2008. "It was a real estate tsunami," said Sowerby, who guessed that about 100,000 square feet of business closed up around that time and that "the ripple effect could be felt through all of downtown."

Theater vital component

Perhaps the most prominent empty building is the Emerald Theatre, designed and built in 1921 by C. Howard Crane, who seven years later went on to design the **Fox Theatre** in Detroit. In 2012, the building was purchased and restored by Wally Mona and Marc Beginin, who changed its name to **Macomb Music Theatre**. But the theater closed last fall, and the owners filed for Chapter 11 bankruptcy protection in March.

The theater is for sale for \$1.295 million.

"If we could get the right person in there, the impact on downtown would be huge," Sowerby said. "That's getting 1,200 people down here at night. It's a vital component to this town."

The DDA is hosting a property tour of the theater and more than 15 other properties next month. Weiss said they are hoping to attract at least 25 potential investors.

In addition to the DDA efforts, Macomb County is spending \$65 million on a downtown revitalization plan that includes renovations to the county Circuit Court and administration buildings, as well as replacement of a parking deck.



Photo by EDWARD MAURER Gebran "Gabe" Anton, a lifelong resident of Mount Clemens, donated space for Oakland University to open a Macomb satellite campus.

Steve Cassin, director of the **Macomb County Department of Planning and Economic Development**, said Mount Clemens is one example of the county's economy on the upswing.

"With heavy investment from Oakland University in their satellite campus and the county investing in substantial building improvements, there are lots of reasons to believe that Mount Clemens will become the vibrant, happening downtown it has the potential to become," he said.

Use of editorial content without permission is strictly prohibited. All rights Reserved 2015 www.crainsdetroit.com

CRAIN'S DETROIT BUSINESS

Detroit and Southeast Michigan's premier business news and information website

Originally Published: June 06, 2015 9:00 AM Modified: June 07, 2015 1:04 AM

In Mt. Clemens, business owners start small, eventually re-invest in downtown

By Laura Cassar



Photo by Edward Maurer for Crain's Detroit Business The Apple of my Eye statue in downtown Mt. Clemens.

Editor's note: This is the third in a series of snapshots of downtowns around Southeast Michigan. Read about downtown Plymouth and downtown Rochester.

Read more about downtown Mt. Clemens and its economic development strategy here.

For Mt. Clemens vintage boutique owner Diane Kubik, the business plan is simple: "keep the doors open."

Ten years ago Kubik was shopping — and dreaming — with her sister in Mt. Clemens. They passed an empty storefront and talked about how fun it would be to open a store. At the time, they had no business plan. They used \$5,000 from a home equity loan and opened **Max & Ollie's Vintage Boutique** in a 312-square-foot location on Pine Street. Three years ago the business moved to a 1,200-square-foot location on Macomb Street in the heart of the city, across from Fountain Stage.

"We didn't know the first thing about anything," said Kubik, 57, a native Detroiter, adding that it was the **Mt. Clemens Downtown Development Authority** and the other business owners that helped during those first months. "That support is crucial when you're new and don't know what you're doing. We wouldn't have made it a year in a strip mall."



The store encourages customers to "play dress up" and post their photos on Facebook. In exchange, they get to pick a trinket from the reward basket. "The DDA had a Facebook Boot Camp to help businesses increase their Internet activity," Kubik said. "The DDA keeps an eye on us, helps give us ideas on what works and what doesn't."

Beyond Borders

Lisa Taylor, 47, had worked for **Borders** for 18 years when the store closed and she lost her job in 2011.

"I woke up at 3 a.m. and said to my husband, 'Here's a crazy idea, what if we opened a used book store?'"

Her husband liked the idea, even more so when vinyl was added to the mix. Taylor, a fan of The Beatles, said she "loves records and books just as much" and was willing to share her space with her husband's **Weirdville Records**.

Taylor's last day at Border's was April 23, 2011. She opened **PaperBack Writer** that May.



Photo by Laura Cassar PaperBack Writer shares its space with Weirdville Records.

"I thought I'd sign a three year lease and see what happened," Taylor said. She used \$5,000 from her 401k; friends who worked with her at Borders donated books to get her started. "They'd bring them in like boxes of puppies and ask that I give them a good home."

Taylor bought book cases from a Borders liquidation sale. They started with 950 square feet of space and by August of 2014 needed to move into a larger, 2,900 square foot location on Macomb Place, next to **Max & Ollie's**.

Taylor, who grew up in Utica, now lives in Mt. Clemens. She enjoys the history of the city and the ability to walk or ride her bike to work.

Her advice to potential small business owners is to love what you sell, "share your passion," and to provide service that can't be found in a big box store.

Bar and feather bowling

Mt. Clemens was not part of Paul Boone's original plan.

Living in Harrison Township, Boone looked up and down Gratiot for a location to open a bar and restaurant modeled after Royal Oak's **Fifth Avenue**. He couldn't find anything.

Then one night, out bowling with friends, he "stumbled on Mt. Clemens." The location that now houses his **Orleans Sports Cafe** had a moving sign and his wife, Debbie, looked at the property through the window and said, "This is it."

Boone said they mortgaged everything they had and in 1996 opened the restaurant on Macomb Place, just 10 days after their baby was born.

Although Mt. Clemens wasn't part of the original plan, it turns out it suited the Boones just fine. When Debbie Boone and a couple friends decided they needed feather bowling "on this side of town," their Orleans landlord heard and offered them the building that is now **Bath City Bistro**.

It took a year and a half to remodel the building. They cleared out 45 10-yard dumpsters in the process, which included tearing out the second floor apartments, hand grinding and acid washing the brick interior and cutting windows out of brick walls.

Bath City Bistro opened in October of 2000. It includes three lanes of feather bowling — the lanes are made of ground-up tennis shoes.

Now Boone would like to invest even more in the city he stumbled upon; he'd like to open an Irish pub.

"It makes sense," he said. "The more places there are, the more people come."

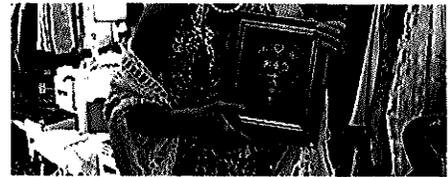


Photo by Laura Cassar Diane Kubik, owner of Max & Ollie's Vintage Boutique in Mt Clemens, is celebrating her 10 year anniversary in business.

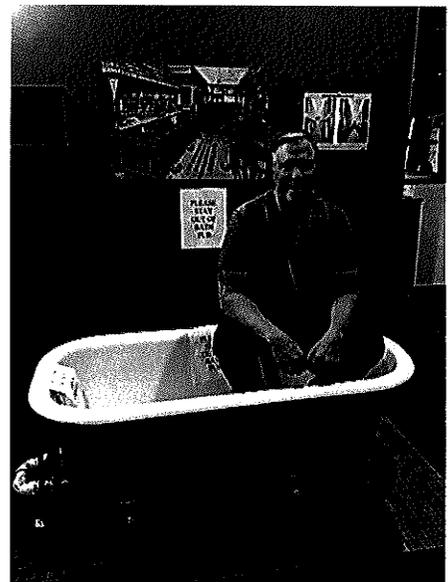


Photo by Laura Cassar Paul Boone, owner of Bath City Bistro and Orleans Sports Cafe in Mt Clemens, enjoys the historical decor of his bistro.

Laura Cassar is a metro Detroit freelance writer. Reach her at lcassar@comcast.net. Follow @AroundTownLaura on Twitter.

Use of editorial content without permission is strictly prohibited. All rights Reserved 2015 www.craigslist.com

The Macomb Daily (<http://www.macombdaily.com>)

Oakland County developer buys two key properties in downtown Mount Clemens

Yaldo has control of Mews, former Macomb Daily buildings

By Mitch Hotts, *The Macomb Daily*

Sunday, June 7, 2015



An Oakland County developer has acquired two key pieces of property in downtown Mount Clemens, but don't look for any immediate signs of progress.

Isam "Sam" Yaldo of Farmington Hills-based Yaldo Construction has purchased the former Macomb Mews building on Main Street and the former Macomb Daily building on Cass Avenue. Both structures have been vacant for years.

"I am optimistic about the entire downtown of Mount Clemens," he said. "Obviously, nothing is going to happen overnight, but it has a good future."

For the 7-story Macomb Daily building, Yaldo is considering a mixed-use development of residential and commercial on the first two floors, along with a new elevator.

"We're going to study it, probably work in sections at a time, starting with a couple of floors and working our way up," Yaldo said. "Once you start talking about the glasswork, heating and cooling -- it's a big undertaking."

Yaldo is buying the building on a land contract from area developer George Adams of Washington Township. He has paid off approximately back taxes and a loan to Talmer Bank for a total price of about \$190,000, according to Adams.

The building has been in disrepair for years with numerous broken windows and graffiti on the walls, and is considered to be the largest single blighted property in Mount Clemens.

It has been vacant since 1994 when The Macomb Daily newspaper moved to other facilities.

Adams purchased the 83-year-old building in 1995 and has invested more than \$500,000 into the property in removing asbestos from the walls. He admittedly had a difficulties keeping up with tax payments on the vacant site after the city turned down several of his development plans over the past two decades.

"I think Sam sees there is great potential in that building," Adams said. "He's a nice guy, a straight shooter. With me out of the picture, maybe the city leaders will have a more favorable opinion of what he may do."

For the two-story Macomb Mews building, Yaldo has talked about demolishing part of the structure, but has not yet decided exactly what to do. He wants to create new lofts on the second floor, along with commercial on the first floor and parking facilities on N. Walnut.

The building formerly was home to a number of businesses including the landmark A.E. Schunke House of Diamonds.

Yaldo purchased the property for about \$265,000.

Valued at just under \$1 million, the Mews building was sold last year to Brian Kramer for about \$140,000, according to public records. With closing costs, the final price was about \$190,000. Kramer, who owns other properties in Mount Clemens, heads the corporation that owns several Rosie O'Grady's pub, One Eyed Betty's in downtown Ferndale and other restaurants.

Mount Clemens Community Development Director Brian Tingley said no formal documents have yet been submitted for either location. In an email, Tingley said he's had "general conversations with (Yaldo) on both buildings."

Downtown Mount Clemens has struggled in the years following the Great Recession of 2008, with a number businesses closing including the Emerald Theatre.

The former vaudeville theater in the early 2000s was active with a number of concerts and shows, which brought sorely needed foot traffic into the city. It was re-named the Macomb Music Theatre when it was purchased by restaurateur Wally Mona and entertainment lawyer Marc Beginin, who invested close to \$2 million in restoring the venue.

However, the theater shut down last year when Beginin and Mona ran into cash-flow problems and they have filed for Chapter 11 bankruptcy.

A number of investors, including Yaldo, are waiting to see what will happen to the theater, which is list for sale for \$1.2 million.

If a new owner takes over the theater and begins promoting concerts there, the downtown would benefit, Yaldo said. He also notes city residents have approved a tax increase to solidify local government operations and Macomb County -- which has its administration buildings downtown -- is also investing in the infrastructure.

"Once the Emerald comes out of bankruptcy, I think everything will fall into place," Yaldo said. "And with the county doing a nice project with their parking deck and other investments, I think all of this is giving us some hope."

URL: <http://www.macombdaily.com/business/20150607/oakland-county-developer-buys-two-key-properties-in-downtown-mount-clemens>

© 2015 The Macomb Daily (<http://www.macombdaily.com>)