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# A G E N D A

## CITY COMMISSION MEETING

Monday, August 17, 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 - Introduction and First Reading of an Ordinance Authorizing the Rezoning of Property Located at 269 North Groesbeck and 295 North Groesbeck from MU Multi-Use to GC General Commercial.
  - 9-B - Approval of the FY 2016 Purchase of Service (POS) Operating Agreement Between Suburban Mobility Authority for Regional Transportation and the City of Mount Clemens for the Mount Clemens Dial-A-Ride.
  - 9-C - Adoption of a Resolution Supporting House Bills 4725 and 4726 of 2015.
  - 9-D - Approve Purchases and Payment of Invoices.

10. Consent Agenda.

10-A - Request Approval of an Amended 2015 Downtown Development Authority Calendar of Events.

10-B - Request Approval of a Resolution Honoring Gary Blash for His Service on the City Commission.

10-C - Request by Church of Living God for Use of the Fountain Stage on Sunday, September 13, 2015.

11. City Manager's Report.

12. Commissioners' Comments.

13. Executive Session.

13-A – To Discuss Attorney/Client Privileged Correspondence.

13-B – Annual City Manager Performance Evaluation (Executive Session at request of City Manager).

14. 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 – August 17, 2015**

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

1. Maintenance Concerns Regarding Kenneth D. Kirkum Memorial Park (formerly known as Wilson Park)

A resident thanked the DPS for improvement work done at this park but also raised concerns about weeds and paver issues. The Department of Public Services has addressed these concerns.

## CITY COMMISSION MEETING

County of Macomb  
State of Michigan

August 3, 2015  
Commission Chambers

A regular meeting of the Mount Clemens City Commission was held on Monday, August 3, 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, Lois Hill, Denise Mentzer and Joseph Rheker. Absent from the meeting were Commissioners Gary Blash and Ronald Campbell. Also in attendance were Steven Brown, City Manager, Michael Murray, City Attorney and Lisa Borgacz, City Clerk.

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

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

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

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

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

Commissioner Bunton made a motion, supported by Commissioner Hill, to approve the minutes of the City Commission Regular meeting of July 20, 2015, as presented.

The vote on the motion was:

Ayes: Hill, Rheker, Bunton, Dempsey

Nays: Mentzer

The motion passed.

**ACCEPTANCE OF THE LETTER OF RESIGNATION FROM THE MOUNT CLEMENS CITY COMMISSION SUBMITTED BY COMMISSIONER GARY R. BLASH WAS CONSIDERED, ITEM 9-A.**

Commissioner Rheker made a motion, supported by Commissioner Bunton, to accept Gary R. Blash's letter of resignation from the Mount Clemens City Commission effective August 3, 2015. The motion passed unanimously.

August 3, 2015

**APPROVAL OF A RESOLUTION OF INTENT AUTHORIZING THE CITY OF MOUNT CLEMENS TO PARTICIPATE IN THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION REDEVELOPMENT READY COMMUNITIES PROGRAM WAS CONSIDERED, ITEM 9-B.**

Commissioner Bunton made a motion, supported by Commissioner Hill, to approve the attached resolution supporting participation in the Michigan Economic Development Corporation (MEDC) Redevelopment Ready Communities Program. The motion passed unanimously.

**REQUEST AUTHORIZATION TO PURCHASE THE TAX REVERTED PROPERTY AT 12 MURDOCK PLACE WAS CONSIDERED, ITEM 9-C.**

Commissioner Rheker made a motion, supported by Commissioner Bunton, to approve the purchase of the tax reverted property at 12 Murdock Place for the approximate price of \$13,042.08. The motion passed unanimously.

**REQUEST TO COMMIT MATCHING FUNDS TOWARDS A MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY COASTAL ZONE MANAGEMENT GRANT APPLICATION WAS CONSIDERED, ITEM 9-D.**

Commissioner Hill made a motion, supported by Commissioner Bunton, to commit up to \$5,000 in matching funds for a Coastal Zone Management grant application to be submitted by the Clinton River Watershed Council. The motion passed unanimously.

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

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

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

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

In Item 10-A, the following appointments were approved:

Jacob Femminineo Jr. was reappointed to the Planning Commission for a 3-year term, expiring June 30, 2018, was approved.

Robert Leslie was reappointed to the Planning Commission for a 3-year term, expiring June 30, 2018, was approved.

In Item 10-B, a request to approve the closure of Lodewyck Street between Church and Robertson on August 22, 2015 from 4:00 p.m. – 11:00 p.m. for a Block Party, was approved.

In Item 10-C, a request to hold the 24<sup>th</sup> Annual Anton Art Center ArtParty on Thursday, September 17, 2015 from 5:30 p.m. – 8:30 p.m., and allow the closure of Macomb Place

August 3, 2015

between Southbound Gratiot Avenue and Pine Street from 6:00 p.m. on Wednesday, September 16, 2015 through 6:00 a.m. on Friday, September 18, 2015, was approved.

In Item 10-D, a request to approve the street closure of North Esplanade between Balmoral and Hampton on September 19, 2015 from 1:00 p.m. – 6:00 p.m. for a Block Party, was approved.

The motion passed unanimously.

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

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

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

The meeting was adjourned at 7:56 p.m.

Respectfully submitted,

---

Barb Dempsey, Mayor

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Lisa Borgacz, City Clerk

**EXPLANATION OF AGENDA – August 17, 2015**

**Agenda Item No. 9-A**

**Introduction and First Reading of an Ordinance Authorizing the Rezoning of Property Located at 269 North Groesbeck and 295 North Groesbeck from MU Multi-Use to GC General Commercial**

On August 4, 2015, the Planning Commission held a public hearing on a rezoning request for property located at 269 and 295 North Groesbeck. The request would rezone the property from MU Multi-Use to GC General Commercial. The properties are located on the west side of Groesbeck Highway, across from the Mount Clemens Community Center and athletic fields. The Master Plan has this property designated as Commercial and Office. The General Commercial zoning would allow for a greater number of commercial uses for the site. The Planning Commission passed a 7-0 motion recommending that the City Commission approve this request.

No comments against the proposed rezoning were presented by the public. One neighboring property owner expressed their support.

All related documentation is attached for your review.

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

**RECOMMENDED MOTION:** Approve the introduction and first reading of an ordinance authorizing the conditional rezoning of 269 North Groesbeck and 295 North Groesbeck from MU Multi-Use to GC General Commercial.

CITY OF MOUNT CLEMENS  
AMENDMENT TO THE ZONING ORDINANCE

THE CITY OF MOUNT CLEMENS ORDAINS:

ARTICLE 6, Section 15.061 Sec 6.1, ZONING MAP

SEC. 1. That Article 6, Section 15.061, Sec 6.1, of the Zoning Ordinance of the City of Mount Clemens, being a Zoning Map indicating land use, be, and it hereby is, amended to rezone those certain parcels of land below described:

Premises in the City of Mount Clemens, County of Macomb, State of Michigan:

The rezoning of 269 N. Groesbeck (05-11-10-279-012) and 295 N. Groesbeck (05-11-10-279-006) from MU Multi-Use District to GC General Commercial District. Said property is more particularly described as:

ASSESSORS PLAT NO. 41 LOTS 7, 8 & 9.

SEC. 2. That Article 6, Section 15.061 Sec 6.1, be, and it hereby is, amended to conform to the aforesaid zoning, and that the boundaries of the above-described property are hereby designated and zoned as described above.

SEC. 3. Except as herein amended, all other provisions of the Zoning Ordinance of the City of Mount Clemens, including Article 6, Zoning Districts and Zoning Map, shall remain in full force and effect.

SEC. 4. The within Ordinance shall take effect ten (10) days after its adoption.

SEC. 5. A copy of this Ordinance may be purchased or inspected at the City Clerk's Office, One Crocker Boulevard, Mount Clemens, Michigan, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday.

Introduction and First Reading: August 17, 2015  
Second Reading and Adoption: September 8, 2015  
Effective Date: September 18, 2015

THE CITY OF MOUNT CLEMENS,  
A Michigan Municipal Corporation

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

By \_\_\_\_\_  
Lisa Borgacz, City Clerk



**COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING COMMISSION REPORT  
MEETING DATE – AUGUST 4, 2015**

**REPORT DATE:** 7/28/2015  
**FILE NO:** V150335  
**AGENDA ITEM:** VI(1)  
**ASSIGNED STAFF:** Brian Tingley, Community Development Director   
**APPLICANT:** S & R Creations, Inc.  
**ADDRESS:** 269 & 295 N. Groesbeck  
**ZONING:** M-U Multi Use  
**REQUEST TYPE:** Zoning Map Amendment  
**REQUESTING:** Rezoning from MU Multi-Use to GC General Commercial

**ATTACHED ITEMS:**

- *Site Plan Review Application – File No. V15035*
- *Future Land Use Map*

**OVERVIEW**

The applicant is proposing to rezone two parcels of land from MU Multi-Use to GC General Commercial. The two parcels are under common ownership and contain a commercial building across a shared property line. The two parcels are 269 N. Groesbeck (1.093 acres) and 295 N. Groesbeck (0.872 acres) with a combined 1.965 acres.

The parcels are located on the west side of Groesbeck Highway, across from the City baseball fields.

The Master Plan has the subject area designated as “Commercial and Office”. The Master Plan identifies both the Multi-Use and General Commercial Zoning Districts as being compatible with this designation.

**SURROUNDING ZONING/LAND USES**

North: Multi Use Zoning – *Apartment Complex/Automobile Services*  
East: Multi Use Zoning – *Athletic Fields*  
South: Multi Use/General Commercial Zoning – *Commercial/Restaurant*  
West: Multi Use Zoning – *Automobile Services/Single Family Residential*





**STAFF COMMENTS FOR CONSIDERATION**

1. The property contains a large commercial structure.
2. The property has frontage along a major State Highway.
3. Classification of the property as General Commercial is in line with the Future Land Use designation and similar to surrounding land uses.

**COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION:** We recommend that the Planning Commission pass a motion recommending that the City Commission approve the rezoning of 269 and 295 N. Groesbeck from MU Multi Use to GC General Commercial, File No. V150335.

**EXPLANATION OF AGENDA – August 17, 2015**

**Agenda Item No. 9-B**

**Approval of the FY 2016 Purchase of Service (POS) Operating Agreement Between Suburban Mobility Authority for Regional Transportation (SMART) and the City of Mount Clemens for the Mount Clemens Dial-A-Ride**

Attached is the FY 2016 Purchase of Service (POS) contract between SMART and the City of Mount Clemens for the Mount Clemens Dial-A-Ride. This contract outlines the operating arrangements between SMART and the Mount Clemens Dial-A-Ride. Please note that SMART will continue to subsidize the project up to \$41,284 in Municipal and Community Credits for operating costs.

Exhibit A of this contract reflects the fare increase for “Full Fare” from \$2.00 to \$3.00, “One-way Half-Fare” from \$1.00 to \$1.50 and “Youth Fare” from \$1.50 to \$2.00. Senior Citizen fares will not experience a rate increase. Exhibit B is a summary of the budget. There are no changes in the budget from the prior year. Exhibit C reflects that the City of Mount Clemens will be receiving three new buses provided by SMART to replace three of the older buses in the fleet.

This contract has been reviewed by the City Attorney’s office as well as the City’s insurance carrier.

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

**RECOMMENDED MOTION:** Approve the FY 2016 Purchase of Service (POS) Operating Agreement between Suburban Mobility Authority for Regional Transportation and the City of Mount Clemens as presented; and to authorize the execution of the contract by the appropriate City officials.

**PURCHASE OF SERVICE  
OPERATING AGREEMENT  
BETWEEN  
SUBURBAN MOBILITY AUTHORITY FOR REGIONAL TRANSPORTATION  
And The  
CITY OF MOUNT CLEMENS  
For The  
MOUNT CLEMENS DIAL-A-RIDE**

THIS CONTRACT is made and entered into as of the date hereinafter appearing, by and between the SUBURBAN MOBILITY AUTHORITY for REGIONAL TRANSPORTATION, an entity organized and existing under the provisions of Act 204 of the Public Acts of 1967, as amended, hereinafter referred to as "SMART", and the CITY OF MOUNT CLEMENS, a public body, hereinafter referred to as the "CONTRACTOR."

WITNESSETH:

WHEREAS, SMART, pursuant to the provisions of Act 204, Public Acts of 1967, as amended, has been empowered to acquire, plan, construct, operate and maintain transportation systems and facilities within its jurisdiction; and

WHEREAS, the CONTRACTOR is desirous of managing and operating certain public transportation services within the service area, as described in Exhibit "A" (Service Area and Program), attached hereto and made a part hereof, hereinafter called the "PROJECT"; and

WHEREAS, the purpose of this Contract is to state the terms and conditions under which the services in the PROJECT will be undertaken;

NOW, THEREFORE, in consideration of the mutual covenants, and representations contained herein, the parties agree as follows:

1. THE PROJECT

The CONTRACTOR shall undertake, carry out and complete the public transportation services of the PROJECT in accordance with the terms and conditions of this Contract, and as are more specifically described in Exhibit "A", attached hereto and made a part hereof, and in conformance with the Budget as set forth in Exhibit "B", attached hereto and made a part hereof.

The CONTRACTOR agrees to furnish management services reasonably required by SMART and necessary for the efficient operation of the PROJECT under the policies, standards and procedures established by SMART.

2. TERM OF CONTRACT

This Agreement shall become effective as of July 1, 2015 and remain in effect through June 30, 2016, subject to the termination provisions below.

3. INDEPENDENT CONTRACTOR

The city of Mount Clemens is an independent contractor and retains the right to exercise full control and supervision over its employees, their compensation and discharge; and agrees to be solely responsible for all matters relating to payment of such employees, including compliance with social security, withholding, and all other regulations governing such matters. The CONTRACTOR agrees to be responsible for its own acts and dishonest or fraudulent misconduct of, or intentional torts committed by its employees during the life of this Contract.

4. PERSONNEL AND OTHER ASSISTANCE

The CONTRACTOR will furnish a Project Manager, who shall be selected and serve in that capacity with the approval of SMART, at the expense of the CONTRACTOR, and shall provide the active management of the transit system for and on behalf of SMART. This approval shall not be unreasonably withheld.

5. REVIEW AND APPROVAL OF SUBCONTRACTING

The CONTRACTOR shall submit any proposal to subcontract any portion of the PROJECT to SMART for its review and approval. Any third-party responses to the proposal shall be submitted to SMART for its information. Third-party contracts to undertake any work contemplated under this Contract, and any amendments thereto, shall be approved by SMART prior to the execution of the subcontract by the CONTRACTOR. Approval by SMART shall not be construed to relieve the CONTRACTOR of any responsibility for the fulfillment of this Contract.

6. PROJECT ACCOUNTS AND REPORTING

The CONTRACTOR shall report all required financial and operating data to SMART in such manner and at such time(s) as prescribed in the "Community Transit Manual", hereinafter referred to as the ADMINISTRATIVE MANUAL, including future revisions of same. The ADMINISTRATIVE MANUAL is also incorporated into this contract by reference.

7. MAINTENANCE OF RECORDS

The CONTRACTOR shall keep time sheets and other personnel records, invoices, canceled and voided checks, journals, accident reports, maintenance records, dispatch records and all other supporting documents pertaining to the PROJECT operation for three (3) years from the date of the final payment by SMART under this Contract.

8. AUDIT OF ACCOUNTS AND RECORDS

The CONTRACTOR shall permit SMART or its authorized representative to audit CONTRACTOR'S accounts and records pertinent to PROJECT operations at any reasonable time during the life of the contract and any reasonable time within six (6) years from the date of final payment by SMART under this Contract. Such audit may extend to the records or related entities and subcontractors to the extent necessary to verify charges to the PROJECT.

9. COMPLIANCE WITH LAWS

The CONTRACTOR shall in the performance of this Contract, comply with applicable State, Federal and Local statutes, ordinances and regulations.

10. DRIVER'S TRAINING

The CONTRACTOR'S employees must receive initial drivers training and refresher training every three (3) years thereafter. To fulfill the training requirements, SMART offers the CONTRACTOR three (3) options:

- A. Individual Driver Training: New drivers: \$25.00 per student driver plus, if necessary, the actual hourly rate of an additional in service operator/trainer. Refresher training: \$10.00 per student driver.
- B. Train the Trainer: \$1,145.00 per trainer/student. There will be additional costs associated with the option paid directly to the National Safety Council.
- C. Training Consultant: The CONTRACTOR may employ a private firm or utilize such services from another source. Such program must use the SMART Small Bus training program or an equivalent approved by SMART.

11. NON-DISCRIMINATION

The CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, sex, age, handicap, religion, ancestry, marital status, national origin, place of birth, or sexual orientation. The CONTRACTOR shall take affirmative action to ensure that applicants are employed and that employees are treated during their employment without regard to their race, color, sex, age, handicap, religion, ancestry, marital status, national origin, place of birth, or sexual orientation. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants, employment notices to be provided by SMART setting forth the provisions of this non-discrimination clause. In connection with the performance of this Contract, the CONTRACTOR shall comply with the provisions of the State of Michigan "Prohibition of Discrimination in State Contracts", and any additional provisions, as required by law. CONTRACTOR further covenants that it will comply with the Civil Rights Act of 1964 (78. Stat. 252) and the Michigan Civil Rights Acts of 1976 (Act No. 454, PA 1967) and will require a similar covenant on the part of any consultant and/or subcontractor employed in the performance of this Contract.

12. INTEREST OF MEMBERS OF CONGRESS

No member of or delegate of the Congress of the United States shall be permitted any share or part of this Contract or to any benefit arising therefrom.

13. INTEREST OF PUBLIC OFFICIALS

No member, officer or employee of any public body, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or the benefits thereof.

14. SECTION 13 (c ) AGREEMENT

The CONTRACTOR agrees to abide by the terms and conditions of any agreement entered into by SMART pursuant to 49 USC 5333(b), "13 (c)", of the Federal Transit Act, as amended, in the performance of its obligations hereunder.

15. PROJECT EQUIPMENT AND/OR FACILITIES PROVIDED BY SMART

SMART shall provide, without charge, equipment and/or facilities to the CONTRACTOR as specified in Exhibit "C" attached hereto and made a part hereof, subject to the following terms and conditions:

- (A) Exhibit "C" (Project Equipment) may be revised from time to time, as necessary.
- (B) The CONTRACTOR shall use PROJECT equipment and/or facilities only for services as specified in Exhibit "A" (Service Area and Program) and for necessary activities directly connected with the performance of such services.
- (C) Title to all property, real or personal, relating to the PROJECT shall remain with SMART, whether such items are provided directly by SMART or purchased by the CONTRACTOR on SMART's behalf with funds supplied under this Contract. SMART has the right to repossess PROJECT equipment and to reassign items of equipment as required for the best interest of SMART.
- (D) SMART retains the sole right to determine the style, color, location, etc. of all painting, logos, and lettering to be applied to SMART equipment and facilities.
- (E) SMART shall be responsible for the replacement of equipment, if it is mutually determined by SMART and the CONTRACTOR that such equipment is no longer economically feasible to maintain.
- (F) SMART will provide a central reserve of vehicles for use, as available, by the CONTRACTOR and also other contractors for similar projects. Such central reserve vehicles may be temporarily assigned for use in the PROJECT in the event that a regular PROJECT vehicle is out of service for an extended period, i.e. for major maintenance or accident repairs.

16. EQUIPMENT MAINTENANCE

The CONTRACTOR shall maintain all PROJECT equipment in good working condition, unless it is determined by SMART and the CONTRACTOR that specific items of equipment are no longer feasible to maintain. CONTRACTOR agrees that it will not allow any equipment to be out of service for a period of time in excess of seven (7) calendar days,

unless this results from conditions beyond its control. Maintenance shall be carried out in conformance with specifications for such equipment, as may be available either from its manufacturer, or the maintenance procedures specified by SMART.

17. INSURANCE AND INDEMNIFICATION

I. Vehicle Insurance

The CONTRACTOR shall advise SMART in writing of its decision to select Option A or Option B at the time of signing this contract, and shall provide a minimum of 60 days notice prior to the proposed effective date of a change from one Option to another.

OPTION A: SMART Provided Insurance

CONTRACTOR may be included in SMART's vehicle insurance programs described below, and be charged a "premium" accordingly. Premiums are predicated by the pooled loss experience of all SMART-owned vehicles and are assessable based on retrospective rating.

1. Physical Damage:

SMART shall provide comprehensive and collision insurance on a book value basis for all SMART-owned vehicles. Purchase of Service CONTRACTORS pay \$1,000 deductible per occurrence for each damaged vehicle. On any loss that exceeds the deductible, SMART reserves the right to either repair the vehicle or replace it with one from SMART's central maintenance reserve. The CONTRACTOR is responsible for payment of the deductible, regardless of the book value of the vehicle. In the event a vehicle has no remaining book value (and thus no insurance), SMART will pay repair costs in excess of the deductible paid by CONTRACTOR, or replace it with a maintenance reserve vehicle.

2. Vehicle Liability:

SMART warrants that it is a qualified self-insurer for vehicle liability, with a self-insured retention per occurrence of \$1,000,000 and excess vehicle liability insurance in the amount of \$10,000,000 per occurrence. Said self-insurance and excess insurance shall include the CONTRACTOR as an additional insured with respect to operation of SMART-owned vehicles, to the extent that use of PROJECT equipment is within the scope of the PROJECT as defined in this contract.

OPTION B: CONTRACTOR-Provided Insurance

CONTRACTOR may purchase its own vehicle insurance, provided it provides the coverage, limits of liability, and conditions described below. Any and all insurance must be written with an insurer admitted and licensed in the State of Michigan and approved by SMART's Manager of Risk Management. Proposed insurance carriers should have a Best's rating of "A VI" or above, however, SMART reserves the right to accept or reject any proposed carrier. SMART must be provided with certificates of insurance prior to the effective date of said coverage, and must be provided a complete copy of the insurance policy(ies) within the thirty (30) days following their effective date.

Coverage must be primary and non-contributory and provide a waiver of subrogation in favor of SMART. If the CONTRACTOR is self-insured, a certificate from the appropriate State agency must be furnished by such agency to SMART. If during the term of the contract, the insurance certificate or any required coverage expires or is otherwise modified, the CONTRACTOR is responsible for immediately providing a renewed certificate of insurance to SMART. The purchase of insurance coverage or furnishing the aforesaid certificate to SMART shall not be a satisfaction of the CONTRACTOR'S indemnification of SMART.

1. Physical Damage

CONTRACTOR shall purchase vehicle physical damage insurance, including comprehensive and collision coverage, for SMART-owned vehicles for the greater of actual cash value or book value of the vehicle. SMART shall be named as Loss Payee on the policy, and be provided with a minimum of 30 days prior written notice of cancellation. CONTRACTOR shall be responsible for the payment of any deductible and SMART will not be obligated to pay for repairs to the vehicle.

2. Vehicle Liability

CONTRACTOR shall purchase vehicle liability insurance for SMART-owned vehicles, including \$5,000,000 per occurrence Bodily Injury/Property Damage (CSL is acceptable), and Michigan No-Fault protection. SMART shall be named as Additional Insured on the liability policy and be provided a minimum of 30 days prior written notice of cancellation.

II. Insurance Other Than Vehicular

Regardless of option selection for SMART-owned vehicle insurance, the CONTRACTOR shall purchase the following insurance and provide SMART with certificates of insurance including 30 days notice of cancellation or change in coverage.

1. Workers' Compensation

CONTRACTOR shall maintain statutory Workers' Compensation and \$500,000 Employer's Liability insurance for all employees, and require such insurance for all employees of any sub-contractors.

2. General Liability

CONTRACTOR shall maintain comprehensive general liability insurance with a limit not less than \$1,000,000, including contractual liability. Said policy shall name SMART as Additional Insured.

3. Other State or Federally Funded Vehicles

CONTRACTOR shall maintain insurance on any vehicle not titled or registered to SMART, but for which State or Federal dollars are used to support the purchase of the non-SMART-owned vehicle, including vehicle liability with a limit not less than \$5,000,000 combined single limit. Said policy shall name SMART as Additional Insured.

18. INDEMNIFICATION

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

19. SERVICE SCHEDULING AND INTERRUPTION

SMART shall establish scheduling of service to be provided, based on recommendations of the CONTRACTOR. Such scheduling shall specify vehicles in service at various times, and total revenue vehicle hours and miles to be operated per day, week, month, etc., and will be adjusted seasonally or at other appropriate times. For a particular operating day, CONTRACTOR shall have authority to amend the scheduling established

by SMART, by increasing or decreasing vehicles hours scheduled that day by up to 10% of the standard number of vehicle hours scheduled or by five vehicle hours, whichever is less.

In the event that the CONTRACTOR deems it necessary to add or cancel service beyond the limitations above, prior approval of the designated SMART administrative officer must be obtained. In the event that a severe service interruption results from catastrophe, weather or other Act of God, or work stoppage, CONTRACTOR shall notify SMART within one hour of its occurrence.

20. PASSENGER FARES AND OTHER REVENUE

The CONTRACTOR shall collect passenger fares as specified in Exhibit "A". Any such fares shall include the provision of half fares to elderly and handicapped individuals during at least off-peak periods, in accordance with Federal and State law. Such fares will exclusively be determined by the SMART Board of Directors, and may be modified by action of that Board at such times as it may deem necessary.

21. ADVANCE

A schedule of advance funds to be provided under this Contract and any prior contracts is included in Exhibit "B" Summary. This contract continues any prior advance funds. The balance of advance funds shall be deducted at the latest date necessary to recoup the entire advance by the end of the Contract term unless a successor contract has been entered into between the parties which provides for the continuance of this advance.

22. DIRECT PAYMENT OF COSTS BY SMART

SMART may pay directly to the provider of goods and/or services such costs of PROJECT operation as it may determine to be appropriate. Such costs may include, but are not limited to:

- (A) utilities and major repairs to the operating facility
- (B) radio and telephone system charges
- (C) insurance on PROJECT equipment and facility
- (D) bulk purchase of fuel and oil
- (E) parts and supplies for vehicle maintenance

Payments made by SMART under this paragraph shall reduce SMART's payment obligation hereunder to the extent of the amount paid.

23. COMPENSATION FOR OPERATING COSTS

The parties acknowledge that some expenses, as set forth in Exhibit "B", may be paid with Municipal Credit and Community Credit funds.

SMART may also subsidize the net cost of the PROJECT up to a maximum of an amount to be determined and approved by SMART's Board of Directors, as specified in Exhibit "B". Said subsidy shall be paid under the terms and conditions agreed upon between both parties.

24. TERMINATION BY LEGISLATIVE OR COURT ACTION

This Contract shall be cancelled, effective immediately, upon either Legislative or Court action causing a termination and/or reduction of State and/or Federal funds to SMART.

25. TERMINATION OF CONTRACT FOR CAUSE

If either party hereto, through any cause within its control, shall fail to fulfill in timely and proper manner its obligations under this Contract or shall violate any of the covenants, agreements or stipulations herein. The party without fault shall give the other party prompt written notice of such default, setting forth the facts in reasonable detail; and in the event that the allegedly defaulting party has not remedied such default within thirty (30) days, the non-defaulting party shall have the right to terminate this agreement for cause. If such right of termination for cause is exercised, the party without fault shall have no further liability to the other party excluding repayment of an advance if by CONTRACTOR. and shall be entitled to damages sustained by such breach including costs and attorney fees sustained in an effort to collect their damages, if any.

26. GENERAL CONDITIONS OF TERMINATION OR EXPIRATION

- (A) If SMART exercises the right to terminate this Contract for cause, or because of conditions beyond the control of SMART, such termination shall have immediate effect upon receipt of written notice by the CONTRACTOR.
- (B) Upon notification of termination of this Contract, the CONTRACTOR shall not incur new obligations for the period after the effective date of termination, and shall cancel as many outstanding obligations as possible.
- (C) Upon either termination or expiration, the CONTRACTOR shall submit final billings, reports, and other information requested by SMART within thirty (30) days from the effective date of such termination or expiration. After audit and payment of such final billings by SMART, SMART shall be under no further obligation to the CONTRACTOR.
- (D) Any notification of termination required hereunder shall be made only in writing and delivered by certified mail, return receipt requested, to the following party, as the case may be:

- (1) If to SMART:

SUBURBAN MOBILITY AUTHORITY for REGIONAL  
TRANSPORTATION  
535 Griswold, Suite 600  
Detroit, Michigan 48226  
Attention: John Hertel, General Manager

- (2) If to the CONTRACTOR:

MOUNT CLEMENS DIAL-A-RIDE  
City of Mount Clemens  
97 Eldredge Street  
Mount Clemens, MI 48043  
Attention: Ms. Carol Dolan, Supervisor

- (E) In the event of termination or expiration of this Contract, the CONTRACTOR shall cooperate with SMART in an orderly transition from its involvement in the Project operation, to include but not be limited to: Inventory of all goods, records and equipment including rolling stock, and all other actions necessary for an orderly transition. Further, CONTRACTOR shall provide written notification to SMART of all claims and legal actions pending against the CONTRACTOR with respect to the PROJECT.

27. COUNTERPARTS OF CONTRACT

This Contract may be executed in several counterparts, each of which shall be deemed to be an original.

28. SEVERABILITY AND INTENT

Should any part of this Contract be declared to be invalid, unconstitutional or beyond the authority of either party to enter into or carry out, such decision will not affect the validity of the remainder of this Contract, which will continue in full force and effect.

This Contract is not intended to be a third-party beneficiary Contract and confers no rights on anyone other than SMART and the CONTRACTOR.

29. ASSIGNMENT

This Contract shall not be assigned, transferred or pledged by either party without the prior written consent of the other party. However, this Contract shall be binding upon the successors or assigns, of the respective parties.

Mount Clemens Dial-A-Ride  
Fiscal Year 2016 Purchase of Service Operating Agreement

30. EFFECT

This Contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the CITY OF MOUNT CLEMENS (CONTRACTOR) and the SUBURBAN MOBILITY AUTHORITY for REGIONAL TRANSPORTATION (SMART).

This is the complete Agreement of the parties and may only be amended in a writing signed by both parties.

SUBURBAN MOBILITY AUTHORITY  
for REGIONAL TRANSPORTATION

By \_\_\_\_\_  
John C. Hertel, General Manager

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

CITY OF MOUNT CLEMENS

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

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

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

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

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

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

## APPENDIX A

### PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

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

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

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

**Exhibit A**

**SERVICE AREA AND PROGRAM**

**SERVICE PROGRAM FOR MOUNT CLEMENS DIAL-A-RIDE  
OPERATED BY THE CITY OF MOUNT CLEMENS**

**For the Period of July 1, 2015 through June 30, 2016**

**Definition:** Local curb-to-curb transportation between any two points in the service area provided on demand-responsive or subscription basis. Weekday fixed route service is provided in accordance with the schedule attached to Exhibit “A”.

**Eligible Users:** Persons requesting a ride within eligible service area.

**Service Level:** Demand-responsive, advance reservation and subscription service is available during regular hours within the service area. Passengers are best served by calling sixty (60) minutes prior to their desired arrival time.

Drivers will provide curb-to-curb service for all passengers, which includes minor physical assistance for packages, etc., or minor support for limited impaired passengers when boarding and alighting from the vehicle. Such assistance begins and ends at the curb. If curbs or sidewalks are not at the site, then assistance will be to or from a point which, in the judgment of the driver, is sufficiently removed from the road and other hazards so as to be adequately safe for the affected elderly and/or disabled passenger. At no time shall the driver be out of direct sight of the vehicle, nor shall the driver go farther than the immediate vicinity of the vehicle, nor shall the driver enter a residence or building to assist a passenger.

**Fare Structure:** For those passengers not sponsored by agency funds, fares are determined by the number of fare zones traveled, as follows:

<u>Number of Zones</u>	<u>One-Way Full-Fare</u>	<u>One-Way Half-Fare</u>	<u>Youth-Fare</u>
1 or 2	\$3.00	\$1.50	\$2.00

“Elderly” shall mean persons 65 years of age or older.  
“Disabled” shall apply to persons who are mentally, physically, or otherwise health-impaired persons who cannot meet the mental and/or physical requirements of non-specialized, general public transportation. No charge for children 4 years of age and under (all children must be accompanied by an adult). Fare payment may be cash, SMART tickets, or SMART passes. All transfers for full fare riders cost \$.25; disabled riders and seniors are free.

Mount Clemens Dial-A-Ride  
Fiscal Year 2016 Purchase of Service Operating Agreement

**Dispatching  
Mode:**

Transportation is initiated by prescheduled service, via a base dispatching system.

**Standards:**

Service Delivery will conform to the following standards for quality demand-responsive system performance:

**On-Time Arrivals:** The arrival time quoted to passengers shall be a 15 minute window. Actual vehicle arrival time shall be within this window 94% of the time. No more than 5% of arrivals shall be later than the end of the window; no more than 1% of the arrivals shall be prior to the beginning of the window, in which case the bus shall wait for the passenger until the early time quoted.

**Ride Time:** 90% of all trips shall be completed (pick-up to drop-off) within 30 minutes.

**Wait Time:** The average wait time for ASAP calls shall not be greater than 30 minutes for 90% of such calls.

**Dwell Time:** The minimum dwell time when drivers must wait for passengers is as follows:

**General Public** - 1 minute to acknowledge, 1 minute to board

**Elderly and Handicapped** - 1 minute to acknowledge, 2 minutes to board

**Non-Ambulatory** - 1 minute to acknowledge, 3 minutes to board

**No Shows:** The percent of “No Shows” to total calls should not exceed 5% of total calls on a weekly basis.

**Penalties:** any rider who has a no show ride will be required to pay a no show fee of \$1.00 in addition to the normal fare for their next ride. Frequent no shows by a rider will be subject to review for suspension of riding privileges for 30 days with additional no show activity possibly resulting in permanent suspension.

**Missed Services:** The percent of Actual Vehicle Hours vs. Scheduled Vehicle Hours should not be less than 95%.

**Vehicle Appearance:** (a) All vehicles shall appear clean and well maintained, both inside and out, at all times. (b) Proper destination signage shall be displayed at all times.

**Vehicle Operators:** (a) Drivers shall be in full uniform and conduct themselves in a professional manner at all times. (b) All drivers shall score at least an 80% on the Small Bus Rodeo test routine. (c) At any given time, no less than 100% of the driver force shall have completed or enrolled in Driver Certification procedures.

These standards are intended to establish reasonable and feasible goals for systems performance over the term of this Contract. Performance standards are subject to change during the term of this Contract.

**Service Hours:** 6:00 a.m. to 6:00 p.m. Monday through Friday. 10:00 a.m. to 2:30 on Saturday. Service will not operate on the following days:

New Years Day	Labor Day
New Years Eve	Thanksgiving Day
Memorial Day	(also the Day after)
July 4 <sup>th</sup>	Christmas Day
Martin Luther King Day	Christmas Eve

**Service Area:** Area bounded by the City of Mount Clemens.

### **SYSTEM SIZE AND RESOURCES**

**Fleet:** There are Seven (7) service vehicles. Six (6) are regularly scheduled for revenue service. One (1) vehicle is held in maintenance reserve but may be scheduled for revenue service to meet extraordinary demand.

**Facilities:** 97 Eldredge, Mount Clemens, MI 48043

**Maintenance:** The majority of work including any road service calls will be provided by SMART Macomb staff. Minor repairs, servicing and cleaning will be handled by Mt. Clemens DPW staff.

**Operation:** City of Mount Clemens

**Evaluation:** SMART and the City of Mount Clemens

**Customer Feedback:** Processed according to procedures outlined in the “SMART Community Transit Manual.”

**Standards:** SMART

**Exhibit B**

**BUDGET SUMMARY**

- (A) SMART shall subsidize the net cost of the PROJECT (Gross cost less all revenues, contributions, grants, and subsidies from sources other than SMART) up to a maximum subsidy of Forty One Thousand, Two Hundred Eighty Four Dollars (\$41,284.00) in Municipal Credit (\$16,880) and Community Credit (\$24,404) funds, as outlined in the “Municipal Credit and Community Credit Contract for FY 2016.” Said subsidy shall be paid in twelve equal monthly installments over the term of this Contract, less the amount of SMART paid expenses including SMART’s Administrative Fee of 5% of the Municipal Credit allocation (\$844).
- (B) A “Project Budget” will be provided with the “Municipal Credit and Community Credit Contract for FY 2016.”

**Exhibit C**

**PROJECT EQUIPMENT PROVIDED BY SMART**

**VEHICLES:**

<b><u>SMART NO.</u></b>	<b>DESCRIPTION/YEAR/MAKE</b>	<b><u>VEHICLE NO.</u></b>
22138	2003 Eldorado Aerotech	1FDXE45F52HB75736
31020	2011 Eldorado Aerotech	1GB6G5BL5B1149709
32107	2012 Champion Challenger	1FDFE4FS2CDA90482
32108	2012 Champion Challenger	1FDFE4FS0CDA90481
35100	2015 Champion Challenger	1GB6G5BL7F140855
35101	2015 Champion Challenger	1GB6G5BL9F140789
35102	2015 Champion Challenger	1GB6G5BL1F140074

# MUNICIPAL CREDIT and COMMUNITY CREDIT CONTRACT for FY - 2016

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I, Jeffery D. Wood, as the Public Services Director of the City of Mount Clemens (hereinafter, the "Community") hereby apply to SMART and agree to the terms and conditions herein, for the receipt and expenditure of **Municipal Credits** (Section 1 below), and **Community Credits** (Section 2 below); and further agree that the **Purchase of Service Operating Agreement** between the parties is incorporated herein by reference. A description of the service the Community shall provide hereunder is set forth in Exhibit A, and the operating budget for that service is set forth in Exhibit B, both of which are attached hereto and incorporated herein.

1. The Community agrees to use \$16,036 in **Municipal Credit** funds as follows:

- |  |                                  |
|--|----------------------------------|
| (a) Transfer to _____<br><small>TRANSFeree COMMUNITY</small>                           | Funding of: \$ _____             |
| (b) Van/Bus Operations<br>(Including Charter and Taxi services)                        | At the cost of: \$ <u>16,036</u> |
| (c) Services Purchased from SMART<br>(Including Tickets, Shuttle Services/Dial-a-Ride) | At the cost of: \$ _____         |

**Total \$16,036**

SMART intends to provide Municipal Credit funds under this contract to the extent funds for the program are made available to it by the Michigan Legislature pursuant to Michigan Public Act 51 of 1951. Municipal Credit funds made available to SMART through legislative appropriation are based on projected revenue estimates. In the event that revenue actually received is insufficient to support the Legislature's appropriation, it will result in an equivalent reduction in funding provided to the Community pursuant to this Contract. In such event, SMART reserves the right, without notice, to reduce the payment of Municipal Credit funds by the amount of any reduction by the legislature to SMART. All funding must be spent by September 30, 2017; all funds not spent by that date will revert back to SMART pursuant to Michigan Public Act 51 of 1951, for expenditure consistent with Michigan law and SMART policy.

2. The Community agrees to use \$24,404 in **Community Credit** funds available as follows:

- |  |                                  |
|--|----------------------------------|
| (a) Transfer to _____<br><small>TRANSFeree COMMUNITY</small>                           | Funding of: \$ _____             |
| (b) Van/Bus Operations<br>(Including Charter and Taxi services)                        | At the cost of: \$ <u>24,404</u> |
| (c) Services Purchased from SMART<br>(Including Tickets, Shuttle Services/Dial-a-Ride) | At the cost of: \$ _____         |
| (d) Capital Purchases  | At the cost of: \$ _____         |

**Total \$24,404**

# MUNICIPAL CREDIT and COMMUNITY CREDIT CONTRACT for FY - 2016

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Capital purchases permitted with Community Credits are subject to applicable state and federal regulations, and SMART policy, including procurement guidelines. When advantageous, SMART may make procurements directly. Reimbursement for purchases made by Community requires submission of proper documentation to support the purchase (i.e. purchase orders, receiving reports, invoices, etc.). Community Credit dollars available in FY 2016, may be required to serve local employer transportation needs per the coordination requirements set forth in the aforementioned Master Agreement. All Community Credit funds must be spent by June 30, 2018 unless approval from SMART General Manager is obtained to extend Community Credits for an additional 2 years to allow accrual for major capital projects; any funds not spent by that date may revert back to SMART for expenditure consistent with SMART policy.

This agreement shall be binding once signed by both parties.

City of Mount Clemens

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

Date \_\_\_\_\_

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

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

Date \_\_\_\_\_

Its: City Manager \_\_\_\_\_

Suburban Mobility Authority for  
Regional Transportation

Date \_\_\_\_\_

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

John C. Hertel  
General Manager

## APPENDIX A PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

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

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

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

**EXPLANATION OF AGENDA – August 17, 2015**

**Agenda Item No. 9-C**

**Adoption of a Resolution Supporting House Bills 4725 and 4726 of 2015**

Attached is a resolution supporting House Bills 4725 and 4726 of 2015 which would seek to repeal the Fireworks Safety Act and ban the sale and use of consumer fireworks, with the exception of fireworks displays that are authorized as part of a permitting process by each individual municipality as a function of local control.

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

**RECOMMENDED MOTION:** Move to adopt the attached resolution supporting House Bills 4725 and 4726 of 2015 as presented.

## RESOLUTION SUPPORTING HOUSE BILLS 4725 and 4726 of 2015

**WHEREAS**, the following preamble and resolution was offered by Commissioner \_\_\_\_\_ and supported by Commissioner \_\_\_\_\_ at a meeting of the Mount Clemens City Commission on the 17<sup>th</sup> day of August, 2015.

Members Present:

Members Absent:

- A. In 2011, the State of Michigan enacted the Fireworks Safety Act, which became effective on January 1, 2012.
- B. The Act authorizes the retail sale of “consumer fireworks” and prohibits municipalities from regulating such sales.
- C. The Act authorizes the use of “consumer fireworks” for a minimum of 30 days per year, and with the exception of specific overnight hours, prohibits municipalities from regulating such use during those 30 days.
- D. The Act has had a profound negative impact on the quality of life for many residents of the City of Mount Clemens, whose neighborhoods have again this year endured additional fireworks-related noise, litter and disturbance of the peace. This intrusion occurs well beyond the 30 days authorized by the Fireworks Safety Act.
- E. The Act wholly failed to consider its impact on local police, fire and community relations resources, each of which was impacted substantially by the volumes of calls and complaints relating to the sales and use of consumer fireworks.
- F. The extra work associated with addressing the complaints and calls, as well as the extra work associated with preparing and adopting an ordinance to address the many extraneous fireworks-related issues that municipalities are still permitted to regulate, cost the taxpayers significant sums and amounted to an unfunded mandate for which no reimbursement has been forthcoming from the State. The cumulative statewide cost that the State of Michigan has imposed on its municipalities far exceeds any incremental revenues generated from the sales of consumer fireworks.
- G. In addition to creating extra work for police, fire, planning, code enforcement and legal officials, the process established for allowing retail sales also created extensive confusion relating to registration and licensing, local and state inspections and monitoring of temporary locations for full compliance with the Act’s sales and financial requirements.
- H. In its current form, the Act encourages less reputable vendors to take advantage of the confusion by establishing temporary sales locations without obtaining a State certificate to do so.
- I. The Act also encourages less reputable vendors to engage in unlawful sales practices because no system is in place to monitor or inspect each vendor’s operations.

- J. The Act also encourages fraud, because no system is in place to monitor or inspect each vendor's sales and each vendor's collection and remittance of the mandatory sales taxes and safety fund fees.
- K. The erosion of local control and home rule authority inflicted by the Act has tied the hands of City officials, caused harm to City residents and preempted any reasonable regulations that could protect neighborhoods, minimize blight and ensure the public's health, safety and welfare.
- L. Beyond question, the Act has diminished the quality of life in the City of Mount Clemens and most of the communities in the State of Michigan by trading off the health, safety and welfare of residents for the benefit of business who profit from the sale of consumer fireworks. The Fireworks Safety Act remains an ill-conceived and an indefensible piece of legislation that needs to be repealed.
- M. House Bills 4725 and 4726 of 2015 would, if enacted by the Michigan Legislature and the Governor, repeal the Fireworks Safety Act and ban the sale and use of consumer fireworks, with the exception of fireworks displays that are authorized as part of a permitting process by each individual municipality as a function of local control.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Mount Clemens hereby requests that the Michigan Legislature and the Governor enact House Bills 4725 and 4726 of 2015 and urges all concerned citizens to participate in the online petition for the repeal of the Fireworks Safety Act, found at <http://petitions.moveon.org/sign/repeal-the-michigan-firework>.

**BE IT FURHER RESOLVED** that this Resolution, having been adopted by the Mount Clemens City Commission, will be made a permanent part of the records of the City of Mount Clemens and signed copies will be forwarded to the Governor of the State of Michigan and to the City's representatives in the Michigan House and Senate.

**Adopted:** August 17, 2015

By: \_\_\_\_\_  
 Barb Dempsey  
 Mayor of Mount Clemens

By: \_\_\_\_\_  
 Lisa Borgacz  
 City Clerk

# HOUSE BILL No. 4725

June 16, 2015, Introduced by Reps. Yanez, Derek Miller, Moss, Faris, Liberati, Garrett, Hoadley, Greig, Lane, Chirkun and Sarah Roberts and referred to the Committee on Regulatory Reform.

A bill to amend 1927 PA 175, entitled  
 "The code of criminal procedure,"  
 by amending section 11b of chapter XVII (MCL 777.11b), as amended  
 by 2012 PA 124.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER XVII

2

Sec. 11b. This chapter applies to the following felonies

3

enumerated in chapter 28 of the Michigan Compiled Laws:

4	M.C.L.	Category	Class	Description	Stat Max
5	28.214(6)(b)	Pub trst	F	Unauthorized disclosure of information from LEIN - subsequent offense	4
6	28.293(1)	Pub ord	E	False information when applying for state ID	5
7	28.293(2)	Pub ord	D	False information when applying for state ID - second offense	7

HOUSE BILL No. 4725

1	28.293 (3)	Pub ord	C	False information when applying for state ID - third or subsequent offense	15
2	28.295 (1) (a)	Pub ord	D	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for 10 years or more	10
3	28.295 (1) (b)	Pub ord	E	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by more than 6 months	5
4	28.295 (2)	Pub ord	E	Selling counterfeited or forged state ID card or possessing counterfeited or forged state ID card with intent to deliver to another person or possessing 2 or more counterfeited or forged state ID cards	5
5	28.295 (5)	Property	H	Using stolen state ID card to commit felony	Variable
6	28.295a (1)	Pub ord	H	False representation to obtain or misuse personal information	4
7	28.295a (2)	Pub ord	G	False representation to obtain or misuse personal information - second offense	7
8	28.295a (3)	Pub ord	C	False representation to obtain or misuse personal information - third or subsequent offense	15

1	28.308	Pub saf	E	False certification or statement in application for enhanced driver license or enhanced official state personal identification card	5
2	<del>28.422(16)</del> 28.422(13)	Pub saf	F	Forgery on pistol - license application	4
3	28.422a(5)	Pub saf	F	False statement on pistol sales record	4
4	28.425b(3)	Pub saf	F	False statement on concealed pistol permit application	4
5	28.425j(2)	Pub saf	F	Unlawful granting or presenting of pistol training certificate	4
6	28.425o(6)(c)	Pub saf	F	Carrying concealed pistol or electro-muscular disruption device in prohibited place - third or subsequent offense	4
7	28.435(14)(c)	Pub saf	G	Firearm sale without trigger lock, gun case, or storage container - third or subsequent offense	2
8	<del>28.454(1)</del>	<del>Pub saf</del>	G	<del>Consumer fireworks certificate violation</del>	<del>2</del>
9	<del>28.468(1)(c)</del>	<del>Pub saf</del>	E	<del>Michigan fireworks safety act violation causing serious impairment</del>	<del>5</del>
10	<del>28.468(1)(d)</del>	<del>Pub saf</del>	G	<del>Michigan fireworks safety act violation causing death</del>	<del>15</del>
11	28.516(2)	Pub saf	F	False statement on concealed firearm certificate application	4
12	28.729(1)(a)	Pub ord	F	Failure to register as a sex offender, first offense	4

1	28.729(1)(b)	Pub ord	D	Failure to register as a sex offender, second offense	7
2	28.729(1)(c)	Pub ord	D	Failure to register as a sex offender, third or subsequent offense	10
3	28.729(2)	Pub ord	F	Failure to update sex offender registration information	2
4	28.734(2)(b)	Pub trst	G	Student safety zone violation involving work or loitering - subsequent offense	2
5	28.735(2)(b)	Pub trst	G	Student safety zone violation involving residency - subsequent offense	2
6	28.754(1)	Pub ord	F	False report of a child abduction	4

7           Enacting section 1. This amendatory act does not take effect  
8 unless Senate Bill No. \_\_\_\_ or House Bill No. 4726 (request no.  
9 00860'15) of the 98th Legislature is enacted into law.

# HOUSE BILL No. 4726

June 16, 2015, Introduced by Reps. Yanez, Derek Miller, Moss, Faris, Liberati, Garrett, Hoadley, Greig, Lane, Chirkun and Sarah Roberts and referred to the Committee on Regulatory Reform.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding sections 243f, 243g, 243h, 243i, and 243j; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 243F. (1) AS USED IN THIS CHAPTER:

2 (A) "CLASS B FIREWORKS" MEANS TOY TORPEDOES, RAILWAY  
3 TORPEDOES, FIRECRACKERS OR SALUTES THAT DO NOT QUALIFY AS CLASS C  
4 FIREWORKS, EXHIBITION DISPLAY PIECES, AEROPLANE FLARES,  
5 ILLUMINATING PROJECTILES, INCENDIARY PROJECTILES, INCENDIARY  
6 GRENADES, SMOKE PROJECTILES OR BOMBS CONTAINING EXPELLING CHARGES  
7 BUT WITHOUT BURSTING CHARGES, FLASH POWDERS IN INNER UNITS NOT  
8 EXCEEDING 2 OUNCES EACH, FLASH SHEETS IN INTERIOR PACKAGES, FLASH  
9 POWDER OR SPREADER CARTRIDGES CONTAINING NOT MORE THAN 72 GRAINS  
10 OF FLASH POWDER EACH, AND OTHER SIMILAR DEVICES.

HOUSE BILL No. 4726

1 (B) "CLASS C FIREWORKS" MEANS TOY SMOKE DEVICES, TOY CAPS  
2 CONTAINING NOT MORE THAN .25 GRAINS OF EXPLOSIVE MIXTURE, TOY  
3 PROPELLANT DEVICES, CIGARETTE LOADS, TRICK MATCHES, TRICK NOISE  
4 MAKERS, SMOKE CANDLES, SMOKE POTS, SMOKE GRENADES, SMOKE SIGNALS,  
5 HAND SIGNAL DEVICES, VERY SIGNAL CARTRIDGES, SPARKLERS, EXPLOSIVE  
6 AUTO ALARMS, AND OTHER SIMILAR DEVICES.

7 (C) "FIREWORKS" MEANS A DEVICE MADE FROM EXPLOSIVE OR  
8 FLAMMABLE COMPOSITIONS USED PRIMARILY FOR THE PURPOSE OF  
9 PRODUCING A VISIBLE DISPLAY OR AUDIBLE EFFECT, OR BOTH, BY  
10 COMBUSTION, DEFLAGRATION, OR DETONATION.

11 (2) EXCEPT AS PROVIDED IN SUBSECTION (3) AND SECTIONS 243G,  
12 243H, AND 243I, A PERSON, FIRM, PARTNERSHIP, OR CORPORATION SHALL  
13 NOT OFFER FOR SALE, EXPOSE FOR SALE, SELL AT RETAIL, KEEP WITH  
14 INTENT TO SELL AT RETAIL, POSSESS, GIVE, FURNISH, TRANSPORT, USE,  
15 EXPLODE, OR CAUSE TO EXPLODE ANY OF THE FOLLOWING:

16 (A) A BLANK CARTRIDGE, BLANK CARTRIDGE PISTOL, TOY CANNON,  
17 TOY CANE, OR TOY GUN IN WHICH EXPLOSIVES ARE USED.

18 (B) AN UNMANNED BALLOON THAT REQUIRES FIRE UNDERNEATH TO  
19 PROPEL IT AND IS NOT MOORED TO THE GROUND WHILE ALOFT.

20 (C) FIRECRACKERS, TORPEDOES, SKYROCKETS, ROMAN CANDLES,  
21 BOTTLE ROCKETS, WHISTLING CHASERS, ROCKETS ON STICKS, OR OTHER  
22 FIREWORKS OF SIMILAR CONSTRUCTION.

23 (D) FIREWORKS CONTAINING AN EXPLOSIVE OR INFLAMMABLE  
24 COMPOUND OR A TABLET OR OTHER DEVICE COMMONLY USED AND SOLD AS  
25 FIREWORKS CONTAINING NITRATES, FULMINATES, CHLORATES, OXALATES,  
26 SULPHIDES OF LEAD, BARIUM, ANTIMONY, ARSENIC, MERCURY,  
27 NITROGLYCERINE, PHOSPHORUS, OR A COMPOUND CONTAINING THESE OR

1 OTHER MODERN EXPLOSIVES.

2 (3) A PERMIT IS NOT REQUIRED FOR ANY OF THE FOLLOWING:

3 (A) FLAT PAPER CAPS CONTAINING NOT MORE THAN .25 OF A GRAIN  
4 OF EXPLOSIVE CONTENT PER CAP, IN PACKAGES LABELED TO INDICATE THE  
5 MAXIMUM EXPLOSIVE CONTENT PER CAP.

6 (B) TOY PISTOLS, TOY CANNONS, TOY CANES, TOY TRICK NOISE  
7 MAKERS, AND TOY GUNS OF A TYPE APPROVED BY THE DIRECTOR OF THE  
8 DEPARTMENT OF STATE POLICE IN WHICH PAPER CAPS AS DESCRIBED IN  
9 SUBDIVISION (A) ARE USED AND THAT ARE SO CONSTRUCTED THAT THE  
10 HAND CANNOT COME IN CONTACT WITH THE CAP WHEN IN PLACE FOR THE  
11 EXPLOSION AND THAT ARE NOT DESIGNED TO BREAK APART OR BE  
12 SEPARATED SO AS TO FORM A MISSILE BY THE EXPLOSION.

13 (C) SPARKLERS CONTAINING NOT MORE THAN .0125 POUNDS OF  
14 BURNING PORTION PER SPARKLER.

15 (D) FLITTER SPARKLERS IN PAPER TUBES NOT EXCEEDING 1/8 INCH  
16 IN DIAMETER, CONE FOUNTAINS, AND CYLINDER FOUNTAINS.

17 (E) TOY SNAKES NOT CONTAINING MERCURY, IF PACKED IN  
18 CARDBOARD BOXES WITH NOT MORE THAN 12 PIECES PER BOX FOR RETAIL  
19 SALE AND IF THE MANUFACTURER'S NAME AND THE QUANTITY CONTAINED IN  
20 EACH BOX ARE PRINTED ON THE BOX; AND TOY SMOKE DEVICES.

21 (F) POSSESSION, TRANSPORTATION, SALE, OR USE OF SIGNAL  
22 FLARES OF A TYPE APPROVED BY THE DIRECTOR OF THE DEPARTMENT OF  
23 STATE POLICE, BLANK CARTRIDGES OR BLANK CARTRIDGE PISTOLS  
24 SPECIFICALLY FOR A SHOW OR THEATER, FOR THE TRAINING OR  
25 EXHIBITING OF DOGS, FOR SIGNAL PURPOSES IN ATHLETIC SPORTS, OR  
26 FOR USE BY MILITARY ORGANIZATIONS, AND ALL ITEMS DESCRIBED IN  
27 SUBSECTION (2) USED BY RAILROADS FOR EMERGENCY SIGNAL PURPOSES.

1 (G) THE SALE OF FIREWORKS, PROVIDED THEY ARE TO BE SHIPPED  
2 DIRECTLY OUT OF STATE UNDER REGULATIONS OF THE UNITED STATES  
3 DEPARTMENT OF TRANSPORTATION COVERING THE TRANSPORTATION OF  
4 EXPLOSIVES AND OTHER DANGEROUS ARTICLES BY MOTOR, RAIL, AND  
5 WATER.

6 SEC. 243G. (1) THE LEGISLATIVE BODY OF A CITY, VILLAGE, OR  
7 TOWNSHIP, UPON APPLICATION IN WRITING, ON FORMS PROVIDED BY THE  
8 BUREAU OF FIRE SERVICES CREATED IN SECTION 1B OF THE FIRE  
9 PREVENTION CODE, 1941 PA 207, MCL 29.1B, MAY GRANT A PERMIT FOR  
10 THE USE OF FIREWORKS OTHERWISE PROHIBITED BY SECTION 243F, WITHIN  
11 THE CITY, VILLAGE, OR TOWNSHIP, MANUFACTURED FOR OUTDOOR PEST  
12 CONTROL OR AGRICULTURAL PURPOSES, OR FOR PUBLIC DISPLAY BY  
13 MUNICIPALITIES, FAIR ASSOCIATIONS, AMUSEMENT PARKS, OR OTHER  
14 ORGANIZATIONS OR GROUPS OF INDIVIDUALS APPROVED BY THE CITY,  
15 VILLAGE, OR TOWNSHIP AUTHORITY, IF THE APPLICABLE PROVISIONS OF  
16 THIS ACT ARE COMPLIED WITH. THE PERMITS MUST BE ON FORMS PROVIDED  
17 BY THE BUREAU OF FIRE SERVICES. AFTER A PERMIT HAS BEEN GRANTED,  
18 SALES, POSSESSION, OR TRANSPORTATION OF FIREWORKS FOR THE  
19 PURPOSES DESCRIBED IN THE PERMIT ONLY MAY BE MADE. A PERMIT  
20 GRANTED UNDER THIS SUBSECTION IS NOT TRANSFERABLE AND SHALL NOT  
21 BE ISSUED TO AN INDIVIDUAL UNDER THE AGE OF 18 YEARS.

22 (2) THE LEGISLATIVE BODY OF A CITY, VILLAGE, OR TOWNSHIP,  
23 UPON APPLICATION IN WRITING, MAY GRANT A PERMIT, ON FORMS  
24 PROVIDED BY THE BUREAU OF FIRE SERVICES, TO A RESIDENT WHOLESALE  
25 DEALER OR JOBBER TO HAVE IN HIS OR HER POSSESSION WITHIN THE  
26 CITY, VILLAGE, OR TOWNSHIP, FIREWORKS OTHERWISE PROHIBITED BY  
27 SECTION 243F, FOR SALE ONLY TO HOLDERS OF PERMITS AS PROVIDED IN

1 THIS SECTION. A PERMIT GRANTED UNDER THIS SUBSECTION IS NOT  
2 TRANSFERABLE, NOR SHALL A PERMIT BE ISSUED TO AN INDIVIDUAL UNDER  
3 THE AGE OF 18 YEARS.

4 (3) BEFORE A PERMIT FOR A PYROTECHNIC DISPLAY IS ISSUED, THE  
5 PERSON APPLYING FOR THE PERMIT SHALL FURNISH PROOF OF FINANCIAL  
6 RESPONSIBILITY BY A BOND OR INSURANCE IN AN AMOUNT, CHARACTER,  
7 AND FORM CONSIDERED NECESSARY BY THE LOCAL GOVERNING AUTHORITY TO  
8 SATISFY CLAIMS FOR DAMAGES TO PROPERTY OR PERSONAL INJURIES  
9 ARISING OUT OF AN ACT OR OMISSION ON THE PART OF THE PERSON OR AN  
10 AGENT OR EMPLOYEE OF THE PERSON, AND TO PROTECT THE PUBLIC.

11 (4) A PERMIT SHALL NOT BE ISSUED UNDER THIS ACT TO A  
12 NONRESIDENT PERSON TO CONDUCT A PYROTECHNIC DISPLAY IN THIS STATE  
13 UNTIL THE PERSON HAS APPOINTED IN WRITING A RESIDENT MEMBER OF  
14 THE BAR OF THIS STATE OR A RESIDENT AGENT TO BE THE LEGAL  
15 REPRESENTATIVE UPON WHOM ALL PROCESS IN AN ACTION OR PROCEEDING  
16 AGAINST THE PERSON MAY BE SERVED.

17 (5) THE LOCAL GOVERNING AUTHORITY SHALL RULE ON THE  
18 COMPETENCY AND QUALIFICATIONS OF OPERATORS OF PYROTECHNIC  
19 DISPLAYS, AS THE OPERATOR HAS FURNISHED IN HIS OR HER APPLICATION  
20 FORM, AND ON THE TIME, PLACE, AND SAFETY ASPECTS OF THE DISPLAYS  
21 BEFORE GRANTING PERMITS.

22 SEC. 243H. TRANSPORTATION OF FIREWORKS INTRASTATE SHALL BE  
23 MADE ONLY WITH THE PERMITS PROVIDED FOR IN THIS ACT AND AS  
24 FOLLOWS:

25 (A) IN ACCORDANCE WITH UNITED STATES DEPARTMENT OF  
26 TRANSPORTATION REGULATIONS FOR TRANSPORTATION OF EXPLOSIVES AND  
27 OTHER DANGEROUS ARTICLES BY MOTOR, RAIL, AND WATER, INCLUDING

1 SPECIFICATIONS FOR SHIPPING CONTAINERS.

2 (B) IN NONPASSENGER CARRYING VEHICLES, IN CHARGE OF A  
3 COMPETENT DRIVER NOT LESS THAN 18 YEARS OF AGE, THAT ARE EQUIPPED  
4 WITH A 15-POUND CARBON DIOXIDE OR A 10-POUND DRY CHEMICAL FIRE  
5 EXTINGUISHER; AND IN OR NEAR WHICH SMOKING IS PROHIBITED WHILE  
6 LOADING, UNLOADING, OR TRANSPORTING FIREWORKS.

7 SEC. 243I. (1) FIREWORKS KEPT AT THE SITE OF A WHOLESALER,  
8 DEALER, OR JOBBER, EXCEPT FOR A RETAILER WHO HAS GOODS ON HAND  
9 FOR SALE TO THE PUBLIC IN A SUPERVISED DISPLAY AREA, SHALL BE  
10 STORED IN A 1-STORY, NONCOMBUSTIBLE BUILDING WITHOUT A BASEMENT,  
11 WHICH BUILDING IS WEATHER RESISTANT, WELL VENTILATED, AND  
12 EQUIPPED WITH A STRONG DOOR KEPT SECURELY LOCKED EXCEPT WHEN OPEN  
13 FOR BUSINESS.

14 (2) THE LOCATION OF A STORAGE BUILDING UNDER SUBSECTION (1)  
15 MUST BE APPROVED BY THE LOCAL GOVERNING AUTHORITY HAVING  
16 JURISDICTION AND BE LOCATED NOT LESS THAN THE FOLLOWING DISTANCES  
17 FROM INHABITED BUILDINGS, PASSENGER RAILROADS, AND PUBLIC  
18 HIGHWAYS ACCORDING TO THE NUMBER OF POUNDS OF FIREWORKS STORED,  
19 ROUNDED TO THE NEAREST  
20 POUND:

21 NET WEIGHT OF	22 DISTANCE FROM		23 DISTANCE FROM	
24 FIREWORKS	25 PASSENGER RAILWAYS		26 INHABITED BUILDINGS	
	AND PUBLIC HIGHWAYS			
	CLASS C	CLASS B	CLASS C	CLASS B
	FIREWORKS	FIREWORKS	FIREWORKS	FIREWORKS
26 POUNDS	FEET	FEET	FEET	FEET

1	100 OR LESS	25	200	50	200
2	101 TO 200	30	200	60	200
3	201 TO 400	35	200	70	200
4	401 TO 600	40	200	80	208
5	601 TO 800	45	200	90	252
6	801 TO 1,000	50	200	100	292
7	1,001 TO 2,000	58	230	115	459
8	2,001 TO 3,000	62	296	124	592
9	3,001 TO 4,000	65	352	130	704
10	4,001 TO 5,000	68	400	135	800
11	5,001 TO 6,000	70	441	139	882
12	6,001 TO 8,000	73	509	140	1,018
13	8,001 TO 10,000	75	565	150	1,129
14	10,001 TO 15,000	80	668	159	1,335
15	15,001 TO 20,000	83	745	165	1,490
16	20,001 TO 30,000	87	863	174	1,725
17	30,001 TO 40,000	90	953	180	1,906
18	40,001 TO 50,000	93	1,030	185	2,060
19	50,001 TO 60,000	95	1,095	189	2,190
20	60,001 TO 80,000	98	1,205	195	2,410
21	80,001 TO 100,000	100	1,300	200	2,600
22	100,001 TO 150,000	105	1,488	209	2,975
23	150,001 TO 200,000	108	1,638	215	3,275
24	200,001 OR MORE	110	1,765	220	3,530

25           (3) A PERSON SHALL NOT CAUSE OR ALLOW SMOKING, MATCHES, OPEN  
26 FLAMES, SPARK-PRODUCING DEVICES, OR FIREARMS INSIDE OF OR WITHIN  
27 50 FEET OF A BUILDING USED FOR THE STORAGE OF FIREWORKS. A PERSON  
28 SHALL NOT STORE COMBUSTIBLE MATERIALS WITHIN 50 FEET OF A

1 BUILDING USED FOR THE STORAGE OF FIREWORKS.

2 (4) THE INTERIOR OF A BUILDING USED FOR THE STORAGE OF  
3 FIREWORKS SHALL BE KEPT CLEAN AND FREE FROM DEBRIS AND EMPTY  
4 CONTAINERS. A PERSON SHALL NOT USE A BUILDING USED FOR THE  
5 STORAGE OF FIREWORKS FOR THE STORAGE OF ANY METAL TOOLS OR ANY  
6 COMMODITY OTHER THAN FIREWORKS.

7 (5) A PERSON SHALL NOT PROVIDE A BUILDING USED FOR THE  
8 STORAGE OF FIREWORKS WITH HEAT OR LIGHTS, EXCEPT THAT IF LIGHTS  
9 ARE NECESSARY, AN ELECTRIC SAFETY FLASHLIGHT OR SAFETY LANTERN  
10 MUST BE USED.

11 (6) A BUILDING USED FOR THE STORAGE OF FIREWORKS MUST BEAR  
12 LETTERING ON EACH SIDE AND TOP IN LETTERS NOT LESS THAN 4 INCHES  
13 HIGH, THE WORDS "EXPLOSIVES-KEEP FIRE AWAY".

14 (7) A BUILDING USED FOR THE STORAGE OF FIREWORKS MUST BE  
15 UNDER THE SUPERVISION OF A COMPETENT PERSON WHO IS NOT LESS THAN  
16 18 YEARS OF AGE.

17 (8) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (2),  
18 SALUTES THAT DO NOT QUALIFY AS CLASS C FIREWORKS ARE CONSIDERED  
19 TO BE HAZARDOUS MATERIAL AND MUST BE STORED IN ACCORDANCE WITH  
20 RULES FOR THE STORAGE AND HANDLING OF HAZARDOUS MATERIAL  
21 PROMULGATED UNDER SECTION 3C OF THE FIRE PREVENTION CODE, 1941 PA  
22 207, MCL 29.3C.

23 SEC. 243J. A PERSON THAT VIOLATES A PROVISION OF SECTIONS  
24 243F TO 243I OR THAT VIOLATES THE TERMS OF A PERMIT ISSUED UNDER  
25 THOSE SECTIONS IS GUILTY OF A MISDEMEANOR.

26 Enacting section 1. The Michigan fireworks safety act, 2011  
27 PA 256, MCL 28.451 to 28.471, is repealed.

**EXPLANATION OF AGENDA – August 17, 2015**

**Agenda Item No. 9-D**

**APPROVE PURCHASES AND PAYMENT OF INVOICES**

No purchases at this time.

VENDOR (INVOICES)	DESCRIPTION	FUND/ DEPARTMENT/ APPROPRIATION	ACCOUNT NUMBER	AMOUNT	CURRENT BALANCE
1.Stark’s Service & Hardware, Inc. 328 Cass Avenue Mount Clemens, MI 48043	Miscellaneous Equipment and Supplies picked Up in the month Of July, 2015.	Various	Various	\$1,915.10	Various
2.Kramer & Murray, P.C. Ruggirello, Velardo, Novara, and Ver Beek, P.C. 65 Southbound Gratiot Mount Clemens, MI 48043	Legal fees for The month of July, 2015.	General Fund/ Legal Services/ Legal Fees	101-26600-826000	\$10,773.06	\$130,000.00
		General Fund/ Legal Services/ Legal Fees-Labor	101-26600-826001	\$3,273.75	\$5,000.00
		Water-Utilities Fund/ Commercial Activities/ Legal Fees	591-53703-826000	\$163.69	\$500.00

**SUBMITTED BY:** Marilyn Dluge, Finance Director/Treasurer

**RECOMMENDED MOTION:** Approve payment of invoices as presented.

**EXPLANATION OF CONSENT AGENDA – August 17, 2015**

**Agenda Item No. 10-A**

**Request Approval of an Amended 2015 Downtown Development Authority Calendar of Events**

The Mount Clemens Downtown Development Authority (DDA) 2015 Calendar of Events was approved on March 16, 2015, and amended on April 20, 2015 and July 20, 2015. The DDA is now requesting approval of an amended calendar to include a date change for the Macomb County Santa Parade from Friday, November 27, 2015 to Saturday, November 21, 2015.

The change has been highlighted in red and underlined in the attached document.

**SUBMITTED BY:** Michelle Weiss  
Marketing & Event Coordinator  
Mount Clemens Downtown Development Authority

**RECOMMENDED MOTION:** Approve the amended 2015 Calendar of Events for Downtown Mount Clemens as presented by the Mount Clemens Downtown Development Authority.

## 2015 Calendar of Events Downtown Mount Clemens

<u>Date</u>	<u>Event Name</u>	<u>Location</u>
May 8-9	Mount Clemens Made in Michigan Show	Macomb Place includes closure of Macomb Place between North Main and SB Gratiot and authorization to erect special signage
May 9	Spring Fun Saturday & Kiwanis Bike Rodeo	Fountain Stage, immediate surrounding area and closure of Macomb Place between North Main and Walnut
June 3	Nashville in the Neighborhood Concert	Macomb Place includes closure of Macomb Place between Pine and SB Gratiot and the north entrance to the Macomb Place parking lot
June 5	Bud Light Classic Car Registration Night & Cruise	NE corner of North Main at Market
June 6	Summer Fun Saturdays	Fountain Stage and immediate surrounding area in conjunction with the Mount Clemens Art Fair
June 6	Bud Light Classic Car Show & Cruise Night	North Main between Cass and Welts and Market Street between Cherry and NB Gratiot Includes closure of Macomb Place between North Main and Walnut
June 10	Nashville in the Neighborhood Concert	Macomb Place includes closure of Macomb Place between Pine and SB Gratiot and the north entrance to the Macomb Place parking lot
June 26	Independence Day Fireworks and Riversight and Sound Concert	Clinton River Park and public streets and sidewalks - streets to include First Street, Crocker Boulevard, Cass Avenue, North Main to Market and NB Gratiot to Market. Additional street closures, if needed, to ensure public safety and traffic flow. Rain Date June 27, 2015
July 1	Nashville in the Neighborhood Concert	Macomb Place includes closure of Macomb Place between Pine and SB Gratiot and the north entrance to the Macomb Place parking lot
July 10	Uptown Friday Night Concert	Fountain Stage and immediate surrounding area includes closure of Macomb Place between Walnut and Pine
July 15 thru September 16	Wednesday Farmers Market	Roskopp Parking Lot along SB Gratiot and Pine Free parking for customers during Market 2pm - 6pm
July 17	Uptown Friday Night Concert	Fountain Stage and immediate surrounding area includes closure of Macomb Place between Walnut and Pine
July 24	Uptown Friday Night Concert	Fountain Stage and immediate surrounding area includes closure of Macomb Place between Walnut and Pine
July 31	Uptown Friday Night Concert	Fountain Stage and immediate surrounding area includes closure of Macomb Place between Walnut and Pine
Aug 5	Nashville in the Neighborhood Concert	Macomb Place includes closure of Macomb Place between Pine and SB Gratiot and the north entrance to the Macomb Place parking lot
Aug 14	Uptown Friday Night Concert	Fountain Stage and immediate surrounding area includes closure of Macomb Place between Walnut and Pine
Aug 21	Uptown Friday Night Concert	Fountain Stage and immediate surrounding area includes closure of Macomb Place between Walnut and Pine
Aug 26	Nashville in the Neighborhood Concert	Macomb Place includes closure of Macomb Place between Pine and SB Gratiot and the north entrance to the Macomb Place parking lot

Aug 30	Mount Clemens Cycling Event	Roskopp Lot - B
Sept 25-27	Downtown Oktoberfest	Macomb Place between Pine and SB Gratiot and the Macomb Place Parking Lot by the Anton Art Center. Closed Thursday PM September 24 for tent set-up.
Oct 24	Halloween Spooktacular	Fountain Stage and immediate surrounding area includes closing of Macomb Place between North Main and Pine and New between Walnut and Cherry
Nov 20	Christmas Open House	Macomb Place between Walnut and Pine includes closing of Macomb Place between Walnut and Pine
<b><u>Nov 21</u></b>	Macomb County Santa Parade	South Main and North Main between Robertson and NB Gratiot includes closing of South Main and North Main between above-mentioned streets
Dec 31	Macomb County New Year's Eve Gala	North Main between Market and Macomb Place includes closing of North Main between Macomb Place and Market and Walnut between Macomb Place and New and New between Walnut and Cherry
Feb 5-7, 2016	Mount Clemens Ice Carving Show	Macomb Place sidewalks, Fountain Stage and Cherry Street Mall includes closure of Macomb Place between Walnut and Pine

**EXPLANATION OF CONSENT AGENDA – August 17, 2015**

**Agenda Item No. 10-B**

**Request Approval of a Resolution Honoring Gary Blash for His Service on the City Commission**

Gary Blash has served on the City Commission for nearly six years, since 2009.

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

**RECOMMENDED MOTION:** Approve resolution honoring Gary Blash for his years of service on the City Commission.

**EXPLANATION OF CONSENT AGENDA – August 17, 2015**

**Agenda Item No. 10-C**

**Request by Church of Living God for Use of the Fountain Stage on Sunday, September 13, 2015**

Church of Living God, located in Clinton Township, is requesting the use of the Fountain Stage for a gospel concert on Sunday, September 13, 2015, from 6:00 p.m. to 8:30 p.m. This request would include the use of the electrical outlets, but no road closures.

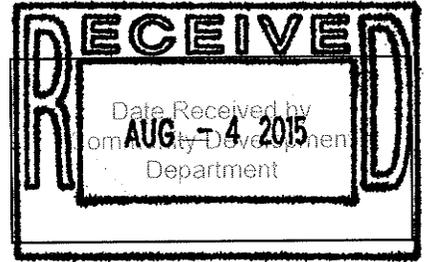
A Certificate of Liability Insurance naming the City as an additional insured will be required prior to the event.

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

**RECOMMENDED MOTION:** Move to approve the use of the Fountain Stage by Church of Living God on September 13, 2015, from 6:00 p.m. to 8:30 p.m.



**CITY OF MOUNT CLEMENS**  
**APPLICATION FOR SPECIAL EVENT APPROVAL**  
 ONE CROCKER BLVD., MOUNT CLEMENS, MI 48043  
 (586) 469-6818 EXT. 901 FAX (586) 469-7695  
[www.cityofmountclemens.com](http://www.cityofmountclemens.com)



**NOTE: A COMPLETE AND DETAILED SITE PLAN/SITE MAP OF THE PROPERTY SHOWING THE EVENT AREA IS REQUIRED. PLAN MUST SHOW LOCATIONS OF SIGNS, TENTS OR ANY STRUCTURES, AMUSEMENT RIDES, FOOD SERVICES, PARKING AREA, THE LOCATION OF EXISTING BUILDINGS, ETC. REQUEST WILL NOT BE REVIEWED UNTIL THIS PLAN IS RECEIVED. IF A TENT IS TO BE ERECTED, SPECIFICATIONS ARE REQUIRED. ADDITIONAL PERMITS MAY BE REQUIRED FOR BUILDING, ELECTRICAL AND MECHANICAL, IF APPLICABLE.**

Sponsoring Organization's Legal Name: Church of Living God  
 Address: 4248 Colchester City Clinton Twp State MI Zip 48036  
 Phone: Office: \_\_\_\_\_ Cell: 586-219-9253 Email: Fayvan@ATT.NET

Sponsoring Organization's Agent's Name: \_\_\_\_\_  
 Address: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Phone: Office: \_\_\_\_\_ Cell: \_\_\_\_\_ Email: \_\_\_\_\_

Event Name: Religious Gospel Concert  
 Event Purpose: Worship and Praise, Singing  
 Event Location: Downtown Mt. Clemens  
 Event Date: Sunday Sept 13, 2015  
 Event Time(s): Sunday event 6-8:30 pm

**GIVE A DETAILED DESCRIPTION OF THE PROPOSED SPECIAL EVENT: (use back or attach additional sheets if necessary)**  
I would like to have a gospel service like the Friday night concerts, but on Sunday evening and let it be strictly gospel.  
Rejoice in the Lord

IS THE EVENT OPEN TO THE GENERAL PUBLIC  YES  NO  
 NUMBER OF PEOPLE PROPOSED TO ATTEND OR PARTICIPATE EACH DAY: all are welcome  
no set numbers.  
 WILL ELECTRIC EQUIPMENT BE USED AND/OR WILL WATER HOOK-UPS BE REQUIRED  YES  NO  
 IF YES, PLEASE DESCRIBE THE PROPOSED LOCATION(S):  
The garage just electric for the music equipment

WILL TENTS BE USED DURING THE EVENT? \_\_\_\_\_ YES  NO

WILL THE EVENT HAVE FOOD OR OTHER VENDORS? \_\_\_\_\_ YES  NO

\*\*\* ALL FOOD VENDORS MUST BE APPROVED BY THE MACOMB COUNTY HEALTH DEPARTMENT.

WILL ALCOHOL BE SERVED OR SOLD AT THE EVENT? \_\_\_\_\_ YES  NO

\*\*\*IF YES, PLEASE PROVIDE PROOF OF LIQUOR LIABILITY INSURANCE AND APPROVAL BY THE LCC

WILL ANY CITY SERVICES BE REQUIRED FOR THIS EVENT? \_\_\_\_\_ YES  NO

IF YES, DESCRIBE IN DETAIL THE TYPE OF SERVICES REQUESTED:

\*\*\*THE CITY MAY CHARGE THE ACUTAL COST OF PROVIDING THESE SERVICES FOR THE EVENT.

*Just use electric outlet*

IS ANY SIGNAGE PROPOSED? \_\_\_\_\_ YES  NO

IF YES, NOTE LOCATIONS OF ANY SIGNS PROPOSED ON THE MAP PROVIDED WITH THIS APPLICATION.

CERTIFICATION AND SIGNATURE: I understand and agree on behalf of the sponsoring organization that

- a) A Certificate of Insurance must be provided which names the City of Mount Clemens as an additional insured party on the policy.
- b) All food vendors must be approved by the Macomb County Health Department
- c) The approval of this Special Event may include additional requirements and/or limitations, based on the City's review of this application. The event will be operated in conformance with the approved guidelines from the City Commission. Such additional requirements may include but are not limited to the procurement of permits and/or inspections in regards to health services, electric or water services, fire issues, or a certificate of use from the building department. Please note: You should contact the Mount Clemens Fire Inspector regarding specific tent requirements well in advance of your event. A certificate of Flame Resistance for the Tent needs to be provided 10 days prior to the date of event/sales.

As the duly authorized agent of the sponsoring organization, I herby apply for the approval of this Special Event, affirm the above understandings, and agree that my sponsoring organization will comply with the City's Special Event Policy, the terms of the approval as given by the City Commission, all other City requirements, ordinances and other laws which apply to this Special Event.

*Alice F. VanW*  
Applicant's Signature

*07/27/2015*  
Date

*Alice F. VanW*  
Printed Name of Applicant

<b>For City Use Only:</b>
Approved _____
Approved, with Conditions _____
Denied _____
Date of City Commission Decision _____

## EXPLANATION OF AGENDA – August 3, 2015

**TO:** The Honorable Mayor Barb Dempsey and  
All City Commissioners

**FROM:** Steven M. Brown, City Manager

**DATE:** August 14, 2015

**RE:** Report from the City Manager’s Office

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1. Website Update: This week, we have worked to correct discrepancies between where the pages of the City website display and what the website displayed as the “addresses” for the pages. The discrepancies did not greatly impact the usability of our website. However, these corrections do result in more continuity and a more professional construction for the website. During the course of making these corrections, users of the website may have experienced non-working pages and broken links for short periods of time.

As mentioned previously, the City is interested in feedback on the new website. To further publicize this fact, we have placed an announcement at the top of each page of the website requesting feedback. As covered in the announcement and at the prior Commission Meeting, anyone with feedback can contact the City as follows:

- by email at [sbrown@cityofmountclemens.com](mailto:sbrown@cityofmountclemens.com)
  - by telephone at (586) 469-6818 ext. 7
2. Career Opportunities with the City: We had previously announced that the City had job opportunities we were seeking outside candidates for. The following includes an additional position as well as the original 3 positions covered at the last meeting:
    - Finance Director/Treasurer (currently expected to close 08/21/15)
    - Human Resources Director (currently expected to close 08/28/15)
    - Economic Development Specialist (currently expected to close 08/28/15)
    - Planner (new opportunity, currently expected to close 08/28/15)

We encourage anyone who is interested to apply. Also, please pass on the news about these exciting opportunities to anyone you know who may be interested. The postings can be found on the City website, CareerBuilder, Monster, the Michigan Municipal League website as well as many other job search sites. The goal of all of this advertising and posting activity and expense is to attract a large, diverse and well-qualified group of applicants for these exciting opportunities to work with the City.

3. Road Work - Market Street: Initial work on the mill and cap repaving of Market Street from Northbound Gratiot Avenue to North Avenue has started this week. We expect activity to begin more in earnest the week of August 17th.
4. Mass Transit Evaluation Process for Macomb County: The Regional Transit Authority (RTA) continues to hold meetings and otherwise evaluate the possibility of providing rapid transit on Gratiot, including through Mount Clemens. Most recently, a bus tour of the possible route was provided on a SMART bus. Participants visited possible station locations throughout Macomb County, evaluated pros and cons, discussed other aspects of the project, etc. Mount Clemens was the source of a great deal of discussion throughout this event. We received a couple handouts covering possible alignments in Mount Clemens and proposed station locations and comparing different options for how the transit would be provided. I have provided those handouts by separate cover to the Mayor and Commission due to the size of the first handout. Please provide your feedback on the handouts including the notes added by City Administration.

Interested citizens can visit the following section of the RTA website for more information on this process:

<http://www.rtamichigan.org/best-projects/gratiot-avenue/>