



## AGENDA

### CITY COMMISSION MEETING

Tuesday, February 21, 2017

7:00 PM

1. Call to Order.
2. Pledge of Allegiance.
3. Roll Call.
4. Announcements, Acknowledgments and Communications and Reports.  
  
Presentation of the City of Mount Clemens “Local Treasure” Award to Ruthie Stevenson.
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 – Request Approval to Enter into a Funding Agreement with the Suburban Mobility Authority for Regional Transportation (SMART) for Facility Upgrades.  
  
9-B – Request Approval to Enter into a Funding Agreement with the Suburban Mobility Authority for Regional Transportation (SMART) for the Expansion of Services.  
  
9-C – Approve Purchases and Payment of Invoices.
10. Consent Agenda.  
  
10-A – Request Approval of the 2017 Downtown Development Authority Calendar of Events.

11. City Manager's Report.
12. Commissioners' Comments.
13. Adjournment.

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

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

## CITY COMMISSION MEETING

County of Macomb  
State of Michigan

February 6, 2017  
Commission Chambers

A regular meeting of the Mount Clemens City Commission was held on Monday, February 6, 2017 at 7:00 p.m. The meeting was held in the Commission Chambers of the Municipal Building, One Crocker Boulevard, Mount Clemens, Michigan. Present at this meeting were Mayor Barb Dempsey and Commissioners Roger Bunton, Ronald Campbell, Bill "Sonny" Ford, Lois Hill, and Denise Mentzer. Commissioner Laura Kropp was absent. Also in attendance were Lisa Borgacz, Interim City Manager/City Clerk, Michael Murray, City Attorney and Cathleen Martin, Deputy City Clerk.

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

Mayor Dempsey asked for a moment of silence in memory of former Mount Clemens City Assessor and City Commissioner, Gary Blash.

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

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

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

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

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

**ADMINISTRATIVE RESPONSE TO ISSUES OR QUESTIONS RAISED DURING PREVIOUS MEETINGS WAS 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 Work Session of January 17, 2017 and the Regular Meeting of January 17, 2017 as presented. The motion passed unanimously.

**PUBLIC HEARING FOR THE ADOPTION OF A NEW FIVE-YEAR PARKS AND RECREATION PLAN, ITEM 9-A.**

Commissioner Mentzer made a motion, supported by Commissioner Campbell to open the Public Hearing for the Adoption of a New Five-Year Parks and Recreation Plan. The motion passed unanimously.

The public hearing opened at 7:08 p.m.

February 6, 2017

Comments were received by the following resident:

Delores Gosciniak, 250 Euclid

Commissioner Bunton made a motion, supported by Commissioner Hill to close the Public Hearing for the Adoption of a New Five-Year Parks and Recreation Plan. The motion passed unanimously.

The public hearing closed at 7:10 p.m.

**APPROVAL OF RESOLUTION ADOPTING A FIVE-YEAR PARKS AND RECREATION PLAN, WAS CONSIDERED, ITEM 9-B.**

Commissioner Mentzer made a motion, supported by Commissioner Campbell to approve the Resolution Adopting a Five-Year Parks and Recreation Plan. The motion passed unanimously.

**APPROVAL OF A RESOLUTION AUTHORIZING PUBLICATION OF NOTICE OF INTENT TO ISSUE CAPITAL IMPROVEMENT BONDS, ITEM 9-C.**

Commissioner Bunton made a motion, supported by Commissioner Hill to approve the Resolution of Intent and direct the City Clerk to publish a Notice of Intent to Issue Bonds in a newspaper of general circulation in the City. The motion passed unanimously.

**CONFIRMATION OF INTERIM CITY MANAGER'S APPOINTMENT OF UTILITIES DIRECTOR, ITEM 9-D.**

Commissioner Hill made a motion, supported by Commissioner Bunton to confirm the Interim City Manager's appointment of Jeanette Best to the position of Utilities Director, effective February 7, 2017. The motion passed unanimously.

**APPROVAL OF PURCHASES AND PAYMENTS WERE CONSIDERED, ITEM 9-E.**

Commissioner Campbell made a motion, supported by Commissioner Hill to approve purchases and payments of invoices as submitted. The motion passed unanimously.

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

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

In Item 10-A, the agreement for the Macomb County Animal Shelter Services, was approved.

In Item 10-B, the following reappointments were approved:

David Herrington was reappointed to the Retirement Board of Trustees. This is for a 3-year term which expires January 31, 2020.

Fred Henk was reappointed to the Traffic Safety Committee. This is for a 3-year term which expires January 31, 2020.

February 6, 2017

Richard Shoemaker was reappointed to the Traffic Safety Committee. This is for a 3-year term which expires January 31, 2020.

In Item 10-C, the American Cancer Society Strides Against Breast Cancer Macomb County Community Event on Saturday, October 28, 2017, including the closure and the use of the City Hall Parking Lot from 5:00 p.m. on October 27, 2017 through October 28, 2017, 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 meeting adjourned at 7:55 p.m.

Respectfully submitted,

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Barb Dempsey, Mayor

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Cathleen Martin, Deputy City Clerk

February 6, 2017

**EXPLANATION OF AGENDA – FEBRUARY 21, 2017**

**AGENDA ITEM NO. 9-A**

**Request Approval to Enter into a Funding Agreement with the Suburban Mobility Authority for Regional Transportation (SMART) for Facility Upgrades**

City Administration has applied for and been awarded a MAP 21 Federal Capital grant for repairs to the City owned property located at 97 Eldredge known as the Dial-A-Ride Office and Garage. The main focus of this grant is for a roof replacement, installation of energy efficient windows, doors, and lighting. The funding will pass through SMART and the agreement has been attached for your review.

The total amount awarded is \$106,630. The Michigan Department of Transportation will fund the match portion of the grant. This is a contractual document between the City of Mount Clemens and SMART which outlines the performance of the projects.

Please be advised that this contract has been reviewed by the City Attorney.

**SUBMITTED BY:** Jeffrey D. Wood, Assistant City Manager/Public Services Director

**RECOMMENDED MOTION:** To approve the contract between the City of Mount Clemens and Suburban Mobility Authority for Regional Transportation (SMART) and to authorize the appropriate City Officials to sign and enter into the agreement.

## **SUBURBAN MOBILITY AUTHORITY FOR REGIONAL TRANSPORTATION AND MOUNT CLEMENS PASS-THROUGH AGREEMENT FOR FACILITY UPGRADES**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_ by and between the Suburban Mobility Authority for Regional Transportation, (hereinafter “SMART”) an instrumentality of the State of Michigan established pursuant to 1967 PA 204, MCL 124.401 et seq. (Act 204); whose address is 535 Griswold Street, Suite 600, Detroit, MI 48226 and the City of Mount Clemens, whose address is One Crocker Boulevard, Mount Clemens, Michigan 48043, for the use of grant funding provided by the Michigan Department of Transportation (hereinafter “MDOT”) and the Federal Transit Administration (hereinafter “FTA”) pursuant to the Moving Ahead for Progress in the 21st Century (49 U.S.C. 5310) (hereinafter “MAP 21” or “§5310” funding). MT. CLEMENS and SMART are (hereinafter collectively referred to as “PARTIES”).

### **RECITALS**

WHEREAS, SMART, pursuant to Act 204, has been vested with the authority to acquire, plan, construct, operate, and maintain transportation systems and facilities within its jurisdiction; and

WHEREAS, MT. CLEMENS is within SMART’s jurisdiction and desires to manage and operate certain public transportation services for purposes consistent with MAP 21 and consistent with SMART’s Program Management Plan; and

WHEREAS, State, Local and Federal authorities have designated SMART as the Federal Transit Administration’s (hereinafter FTA) direct grant recipient within SMART’s jurisdiction; and

WHEREAS, MT. CLEMENS has obtained approval for MAP 21 Federal Capital Grant monies in the amount of \$85,304.00 administered by the FTA, which is matched with \$21,326.00 administered by the Michigan Department of Transportation (hereinafter MDOT), for a total of \$106,630.00, and SMART has agreed to pass through this money to MT. CLEMENS for the purposes and in the manner and amounts recited herein; and

WHEREAS, the purpose of this Agreement is to state the responsibilities and obligations of MT. CLEMENS and SMART, as well as the conditions for MT. CLEMENS’ use of the MDOT and FTA funding passed through by SMART;

NOW THEREFORE, the PARTIES agree as follows:

### **1. FUNDING**

a. SMART is the direct recipient of §5310 and MDOT matching funding. SMART will pass-through to Sub-recipient, this funding for use by MT. CLEMENS as described below. SMART does not guarantee the availability of any funding, and shall not be held liable for the unavailability of any such funding for any reason. Notwithstanding anything to the contrary contained in this Agreement, SMART shall not be liable to MT. CLEMENS, without limitation, for any monies other than those which SMART actually receives as direct

recipient of §5310 or MDOT funds allocated for the Project, nor shall it be liable to MT. CLEMENS for any breach of this Agreement.

b. MT. CLEMENS has received approval for \$85,304.00 in §5310 capital grant funding and \$21,326.00 in MDOT matching funding for a total of \$106,630.00 in available funds. The PARTIES understand and agree that any amounts that are needed to accomplish the PROJECT (as described below) in excess of the total available funds, shall be borne solely by MT. CLEMENS. Even in the event the expected funding is reduced by either the FTA or MDOT, MT. CLEMENS will remain responsible for any costs in excess of the available funds.

c. SMART is not and shall not be held liable for any funding delays and if any funding expected to be made available for the Project is later reduced or eliminated by the FTA or MDOT, SMART will, in its sole discretion, pass through the funding at the reduced level without any liability to MT. CLEMENS whatsoever. Should it be determined that any funding passed through to MT. CLEMENS by SMART under this Agreement shall be refunded to any funding source, MT. CLEMENS shall be liable for the entire refund amount, and shall repay SMART on demand so that SMART can repay the funding source in a timely manner.

## **2. PROJECT**

MT. CLEMENS will use grant funding to replace the roof and install energy efficient windows, lighting, and doors at the City's Dial-A-Ride facility located at 97 Eldredge, Mount Clemens, Michigan. This construction hereinafter referred to as the "PROJECT." MT. CLEMENS shall not use any grant funding for any other purpose. SMART reserves the right to terminate the PROJECT in the event it goes materially beyond the initial scope contemplated above.

## **3. PROCUREMENT AND REPORTING**

a. MT. CLEMENS shall be responsible for and will work diligently to procure all aspects of the PROJECT. MT. CLEMENS will conduct all procurement in accordance with the FTA and Federal Department of Labor ("DOL") contracting guidelines and certifications. Where it is necessary to obtain the written consent and approval of the SMART, FTA and DOL, such consent and approval shall be obtained by MT. CLEMENS prior to the commencement of any work requiring approval. MT. CLEMENS shall not be relieved of any responsibility for the fulfillment of any portion of the PROJECT that is subcontracted. Nothing contained in this Agreement shall create any contractual relation between any contractor or subcontractor and SMART.

b. The PARTIES agree MT. CLEMENS will submit monthly billings to SMART covering work accomplished under this Agreement. Billings shall be submitted by MT. CLEMENS not later than thirty (30) calendar days after the end of each monthly accounting period. Additionally, MT. CLEMENS shall submit to SMART's Capital and Grants Programs Department a quarterly report as to the status of MT. CLEMENS's projects, within ten (10) calendar days after the end of each quarter. Finally, MT. CLEMENS shall submit a Sub-recipient Fixed Asset Certification to SMART due annually by June 30<sup>th</sup> of each year.



c. SMART shall request MDOT and the FTA to reimburse MT. CLEMENS, through SMART, for actual direct and indirect costs eligible for federal reimbursement, under the applicable provisions of the Federal Regulations, MDOT, and FTA reimbursement guidelines applicable to the Program. All procurement or liability expenses disallowed by either MDOT or the FTA will be borne by MT. CLEMENS.

d. Upon acceptance of an audit by SMART or the FTA, and within thirty (30) days of receipt of a billing, MT. CLEMENS shall repay the funding source any disallowable costs previously dispersed by the funding source under the authorization of the SMART. Any disputes in regard to disallowable items of costs determined by the audit will be resolved through negotiations between MT. CLEMENS, SMART, and the funding source. Final decisions as to audit findings are vested in the funding source.

#### 4. INSURANCE AND INDEMNITY

a. MT. CLEMENS shall provide insurance with the coverage, limits 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 MT. CLEMENS is self-insured, a certificate from the appropriate State agency must be furnished by such agency to SMART. If during the term of the Agreement, the insurance certificate or any required coverage expires or is otherwise modified, MT. CLEMENS 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 MT. CLEMENS' indemnification of SMART.

- (i) Workers' Compensation: MT. CLEMENS 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.
- (ii) General Liability: MT. CLEMENS shall maintain comprehensive general liability insurance with a limit not less than \$2,000,000, including contractual liability. Said policy shall name SMART as Additional Insured.
- (iii) Architectural & Engineering: MT. CLEMENS shall ensure that all architectural and engineering work is conducted by companies who maintain \$5,000,000 in Architectural and Engineering Insurance.

b. MT. CLEMENS shall indemnify, defend, and save harmless, the FTA, MDOT and SMART, their officers, agents, attorneys and employees, and the members of the Board of Directors of SMART, from any and all liability and any and all claims, suits, actions, damages, and costs and attorney fees, resulting from any act, omission, or negligence of, or

chargeable to the FTA, MDOT, SMART, MT. CLEMENS, their officers, agents, employees, subcontractors, successors and/or assigns arising under and/or pursuant to this Agreement or while in violation of the Agreement, and that such indemnification shall not be limited by reason of any insurance coverage.

## **5. MAINTENANCE**

MT. CLEMENS shall maintain and care for the facility, exclusive of any contribution from SMART, in a manner that preserves and enables the use of said facility from the date this Agreement is fully executed and for the remainder of the facility's useful life as determined by SMART.

## **6. FACILITY USE**

MT. CLEMENS hereby warrants the facility shall be used in a manner consistent with the objectives of MAP 21, SMART's Program Management Plan and MT. CLEMENS's Project Submittal (which are each incorporated by reference herein), until the end of the facility's useful life. MT. CLEMENS is permitted to use the facility for other activities so long as such activities do not interfere with the objectives of MAP 21 as described in and in a manner consistent with SMART's Program Management Plan and MT. CLEMENS's Project Submittal.

## **7. AUDIT AND RECORD RETENTION**

a. MT. CLEMENS will establish and maintain accurate records of all expenses incurred for which payment is sought or made under this Agreement, in accordance with generally accepted government accounting principles.

b. MT. CLEMENS will maintain all of its records related to the PROJECT for at least seven (7) years from the date of expenditure or request for reimbursement under this Agreement, whichever is later. This requirement will survive any termination of this Agreement. In the event of a dispute with regard to the allowable expenses or any other issue under this Agreement, MT. CLEMENS will thereafter continue to maintain the records at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired, or until the end of the seven (7) year period, whichever is later.

c. SMART, MDOT, FTA, the U.S. Department of Transportation, and the Comptroller General of the United States, and their authorized representatives shall have access to and the right to inspect, copy, and/or audit the records, at any reasonable time after giving reasonable notice. In connection with such audit and inspection activities, MT. CLEMENS shall afford SMART, MDOT, FTA, the U.S. Department of Transportation, and the Comptroller General of the United States, and their authorized representatives, access to all records and the opportunity to interview MT. CLEMENS's employees concerning any matter relating to this Agreement, and adequate and appropriate workspace.

## **8. THIRD PARTY BENEFICIARIES**

a. This Agreement is by and between SMART and MT. CLEMENS. It does not, nor is it intended to create any rights to third PARTIES or anyone not a signatory to this Agreement.

b. The PARTIES agree that MT. CLEMENS is wholly independent in relation to the rights and responsibilities set forth in this Agreement. As such, MT. CLEMENS retains the right to exercise full control and supervision of its employees and sub-contractors, if any. MT. CLEMENS warrants that it will not hold itself out as being an agent of SMART or attempt to bind SMART's to any legal obligation.

## **9. NONDISCRIMINATION**

a. MT. CLEMENS shall not discriminate against anyone, including 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. In connection with the performance of this Agreement, MT. CLEMENS shall comply with the provisions of the State of Michigan "Prohibition of Discrimination in State Contracts," MT. CLEMENS 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 Agreement.

b. MT. CLEMENS will carry out the applicable requirements of SMART's Disadvantaged Business Enterprise program and in accordance with 1980 PA 278, MCL 423.321 et seq. MT. CLEMENS in the performance of this Agreement, shall not enter into a contract with a subcontractor, manufacturer, or supplier listed in the register maintained by the State of Michigan and the Department of Labor, of employers who have been found in contempt of court by a Federal Court of Appeals, on not less than three (3) occasions involving different violations during the preceding seven (7) years, for failure to correct an unfair labor practice, as prohibited by Section 8 of Chapter 372 of the National Labor Relations Act, 29 USC 158. SMART may void this Agreement if MT. CLEMENS or a subcontractor, manufacturer or supplier utilized by MT. CLEMENS in the performance of this Agreement, appears in said register during the performance period of this Agreement.

## **10. APPLICATION OF STATE & FEDERAL LAW**

a. As Sub-recipient MT. CLEMENS shall comply with all applicable state and federal laws, regulations, executive orders, circulars, rules, policies, procedures, and directives, whether or not expressly set forth in this agreement, including but not limited to the following, which are incorporated into and made a part hereof: FTA Circular 4220.1F and FTA Circular 5010.1D. The Master Agreement dated October 1, 2014 between FTA and SMART, and all future amendments thereto (hereinafter collectively referred to as MASTER AGREEMENT), are incorporated by reference and made a part of this Agreement. Sub-recipient agrees to be subject to the terms and conditions of the MASTER AGREEMENT that are applicable to a Recipient, all amendments to the MASTER AGREEMENT, as well as any financial assistance agreements between SMART and FTA. MT. CLEMENS shall be subject to 49 CFR Part 18 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), and all Certifications and Assurances for FTA grants and cooperative agreements, as updated annually.

b. MT. CLEMENS and SMART understand that federal requirements, including federal laws, regulations, policies, certifications and assurances, circulars and related administrative practices, may change or be subject to amendment, and that the changed requirements will apply to the PROJECT and this Agreement, as necessary. MT. CLEMENS will include this provision in all subcontracts it finances with grant funds relating to the PROJECT.

## **11. TERM**

This Agreement will be in effect from the date of its execution through the end of the facility's useful life, as determined by SMART.

## **12. PROHIBITION AGAINST ASSIGNMENT, SALE OR LEASE**

MT. CLEMENS will not sublet, or otherwise dispose of, assign its rights to or abandon the facility without the prior written approval of SMART. Notwithstanding any such approval, the assignment will not relieve MT. CLEMENS of its obligations under this agreement.

## **13. TERMINATION**

In the event MT. CLEMENS fails to complete any part of the PROJECT in a manner satisfactory to SMART, if MT. CLEMENS breaches any terms of this Agreement, then SMART may terminate this Agreement. SMART will provide MT. CLEMENS written notice at the address indicated above of such termination and allow fourteen (14) days for MT. CLEMENS to cure any defects identified. If SMART terminates this Agreement, SMART will not reimburse MT. CLEMENS for any additional PROJECT costs. Furthermore, MT. CLEMENS will be responsible for all losses incurred by SMART and/or imposed by the MDOT or FTA, including without limitation, the cost of paying all MDOT or FTA demands for return of the grant funding, SMART's attorney fees and costs and any other damages allowed by law or equity. SMART shall also be entitled to pursue any other remedy available to it, including, but not limited to, withholding funds or off-setting against funds owed to MT. CLEMENS under this Agreement, as well as under any other existing or future agreements(s) between MT. CLEMENS and SMART. This provision shall not limit SMART's ability to seek redress for all losses it may incur as a result of MT. CLEMENS's breach of this Agreement.

## **14. PRIORITY**

In the event and to the extent of any inconsistency between two or more documents which form part of the Agreement, those documents shall be interpreted in the following order of priority

FTA Circulars  
 MASTER AGREEMENT  
 The Agreement  
 Project Management Plan  
 Program of Projects  
 Community Transit Manual (as amended)  
 Grantee Project Submittal

## 15. MISCELLANEOUS PROVISIONS

a. MT. CLEMENS agrees to notify SMART of any event which may have significant potential impact on the direction, scope, control or cost of the PROJECT.

b. All changes in the direction, scope or character of the PROJECT will be by written amendment to this Agreement signed by duly authorized representatives of the PARTIES and subject to the approval of MDOT and the FTA. Except as otherwise provided in this Agreement, no change in, modification to, or amendment to this Agreement will be of any force or effect unless it is in writing, dated, and signed by the duly authorized representatives of the PARTIES.

c. If any part of this Agreement is determined to be invalid, illegal, or unenforceable, and such determination will not undermine the affect the validity, legality, or enforceability of any other part of this Agreement, and the remaining parts of this Agreement will be enforced as if such invalid, illegal, or unenforceable part were not contained herein.

d. This Agreement may be executed and delivered (including by facsimile transmission) in two or more counterparts, each of which when executed shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

e. This Agreement constitutes the entire agreement between the PARTIES with respect to the PROJECT. All prior agreements and understandings between the PARTIES with respect to the PROJECT are subsumed within this Agreement.

f. Parties' failure to exercise or delay in exercising any right, power or privilege under this Agreement shall not operate as a waiver; nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof.

g. This Agreement shall be governed by the laws of the State of Michigan.

h. This Agreement shall become binding on the PARTIES upon its execution by the duly authorized official(s) for MT. CLEMENS and SMART.

### SUBURBAN MOBILITY AUTHORITY FOR REGIONAL TRANSPORTATION

### CITY OF MOUNT CLEMENS

By:                     John C. Hertel                    

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

Its:                     General Manager                    

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

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

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

**EXPLANATION OF AGENDA – FEBRUARY 21, 2017**

**AGENDA ITEM NO. 9-B**

**Request Approval to Enter into a Funding Agreement with the Suburban Mobility Authority for Regional Transportation (SMART) for the Expansion of Services**

City Administration has applied for and been awarded a MAP 21 Federal Operations grant from the Federal Transit Administration (FTA). The purpose of this grant is to provide the expansion of transportation services to senior and disabled passengers through the program known as the senior shopper. It is the intent of Mount Clemens Dial-A-Ride to expand the services in the shopper route to include Meijer, Kroger, and Wal-Mart. The grant funding will pass through SMART and has been attached for your review.

The total amount awarded is \$54,054. The City of Mount Clemens will be responsible to fund the local match portion of the grant or \$27,027 through in kind services. This is a contractual document between the City of Mount Clemens and SMART which outlines the project.

Please be advised that this contract has been reviewed by the City Attorney.

**SUBMITTED BY:** Jeffrey D. Wood, Assistant City Manager/Public Services Director

**RECOMMENDED MOTION:** To approve the contract between the City of Mount Clemens and Suburban Mobility Authority for Regional Transportation (SMART) and to authorize the appropriate City Officials to sign and enter into the agreement.

# MOVING AHEAD FOR PROGRESS IN THE 21<sup>ST</sup> CENTURY 49 U.S.C. § 5310 FUNDING AGREEMENT

## AGREEMENT BETWEEN SUBURBAN MOBILITY AUTHORITY FOR REGIONAL TRANSPORTATION AND CITY OF MOUNT CLEMENS

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This Agreement (hereinafter “Agreement”) is made between the Suburban Mobility Authority for Regional Transportation (hereinafter “SMART”), an entity organized under the provisions of Act 204 of the Public Acts of 1967, as amended, of 535 Griswold, Suite 600, Detroit, Michigan 48226 and the City of Mount Clemens, whose address is One Crocker Boulevard, Mount Clemens, Michigan 48043, for the use of grant funding provided by the Federal Transit Administration (hereinafter “FTA”), pursuant to the Moving Ahead for Progress in the 21<sup>st</sup> Century (49 U.S.C. 5310) (hereinafter “Map 21” or “§5310”). SMART and Grantee are collectively referred to as the “Parties” herein.

WHEREAS, SMART, pursuant to the provisions of Act 204, has been vested with the authority to acquire, plan, construct, operate and maintain transportation systems and facilities within its jurisdiction; and

WHEREAS, Grantee is within SMART’s jurisdiction and desires to manage and operate certain public transportation services for purposes consistent with Map 21 and consistent with SMART’s Program Management Plan; and

WHEREAS, the purpose of this Agreement is to state the responsibilities and obligations of Grantee and SMART, as well as the conditions for the Grantee’s use of the §5310 funding distributed by SMART;

NOW THEREFORE, the Parties agree as follows:

### 1. THE PROJECT

Grantee shall undertake and complete the public transportation services as detailed in the Project Description which is attached as “**Exhibit A**” and incorporated by reference herein, and in accordance with the terms and conditions of this Agreement. Grantee agrees to use the §5310 funding only for the purposes permitted in FTA Circular C 9070.1G Chapter 3, Section 15 as may be updated or amended. Grantee agrees to provide management of all facets of the project, project assets and any staff (e.g. driver(s)), necessary for the efficient and safe operation of the

transportation services provided. The Project is to be operated in compliance with the Community Transit Manual (as may be periodically amended and which is incorporated into this agreement) and incorporated by reference herein (confirmation of receipt attached as “**Exhibit B**”), FTA guidance, regulation and statute.

## 2. FUNDING

SMART, as designated Recipient of §5310 funding, shall pass through designated §5310 funding to Grantee, as described in Exhibit A, and in accordance with SMART’s Program of Projects and subject to the terms and conditions of this Agreement. The Parties agree that SMART’s disbursement of the §5310 funding is contingent upon SMART receiving the funding from FTA and requires a local match from Grantee. If the funding is for mobility management, the local match is provided by the state. SMART will periodically reimburse communities for § 5310 upon receipt of Grantee’s required expense report, as described in Community Transit Manual, and/or other supporting documentation.

The Parties agree that should the §5310 funding amount be reduced by the FTA from that which is anticipated. SMART shall reduce the §5310 funding amount passed through to Grantee by an equal proportion and the Grantee’s match shall be proportionately reduced. Should the program undertaken by Grantee be found to be ineligible for funding, SMART will immediately notify Grantee via certified mail. Within 30 days or less, Grantee shall return all §5310 funding for the declined program to SMART for repayment to the FTA.

## 3. TERM OF THE AGREEMENT

This Agreement shall be effective from the time of signing and shall remain in effect as long as Grantee receives §5310 funding provided by this Agreement. SMART shall have sole discretion to terminate this Agreement upon written notice to Grantee. Within 30 days of receipt of written notice, Grantee shall return all §5310 funding for the terminated program to SMART for repayment to the FTA.

## 4. REVIEW AND APPROVAL OF SUB-CONTRACTORS

The Grantee shall submit any proposal to subcontract any portion of the Project to SMART for its review and approval prior to the execution of the subcontract by the Grantee. Approval by SMART shall not be construed to relieve the Grantee of any responsibility for the fulfillment of any portion this Agreement.

## 5. INDEPENDENT CONTRACTOR

The Parties agree that Grantee is an independent contractor in relation to the rights and responsibilities set forth in this Agreement. As such, Grantee retains the right to exercise full control and supervision over its employees and sub-contractors, if any.



## 6. RECORDS AND AUDITS

Grantee shall keep accurate financial and operating records for the project for at least seven (7) years from the date of expenditure or request for reimbursement, whichever is later. Such records including but not limited to: records of all expenses paid for its operations, records of the use of its services (ridership), all accident reports, maintenance records, dispatch records, personnel records, and all other supporting documents pertaining to the project operation. SMART may request, and Grantee shall permit, SMART or its designee to review all records relating to the project either by formal audit or periodic administrative review.

## 7. NON-DISCRIMINATION

Grantee shall not discriminate against any passenger because of race, color, sex, age, handicap, religion, ancestry, marital status, national origin, place of birth or sexual orientation. Grantee shall comply with the State of Michigan publication "Prohibition of Discrimination in State Contracts," the Civil Rights Act of 1964 (78 Stat. 241), and the Michigan Civil Rights Acts of 1976 (45 P.A. 1976).

The Grantee agrees that it will not discriminate based upon race, color, creed, national origin, sex, age, disability, height, weight, familial status, marital status, or sexual orientation, in accordance with the Title VI of the Civil Rights Act of 1964, section 303 of the Age Discrimination Act of 1975, section 202 of the Americans with Disabilities Act of 1990, 49 U.S.C. section 5332, the Michigan Elliot-Larsen Civil Rights Act, MCLA 37.2101 et seq., and SMART policy. The forgoing shall include, without limitation, employment upgrading, demotion, or transfer, recruitment advertising, layoff or termination, rates of pay or other forms of compensation and/or the selection of training, including apprenticeship.

Grantee shall require similar covenants on the part of any consultant and/or sub-contractor employed in the performance of this Agreement.

## 8. DRIVER TRAINING

All drivers of motor vehicles designed to transport sixteen or more passengers (including the driver) or of vehicles which have a gross combination weight rating of 26,001 pounds or more must have a CDL. Mechanics that drive the vehicles must also have a CDL.

## 9. MAINTENANCE

Grantee shall maintain all project equipment in good working condition, unless it is mutually determined that specific items are no longer feasible to maintain. Grantee agrees that it shall not allow any equipment to be out of service for a period of time in excess of seven (7) days, unless this results from conditions beyond its control. Maintenance shall be carried out in accordance with specifications for the equipment as may be available either from the manufacturer or the maintenance procedures specified by SMART.

## 10. INDEMNIFICATION

Notwithstanding anything to the contrary contained herein, Grantee 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.

## 11. RESTRICTIONS ON LOBBYING

Federal financial assistance may not be used to influence any member of Congress or an officer or employee of any agency in connection with the making of any federal contract, grant, or cooperative agreement. Grantee shall certify its compliance with these restrictions by signing a Lobbying Certification attached as “**Exhibit C.**”

## 12. PRIORITY

Each of the following documents is incorporated by reference into the Agreement. In the event and to the extent of any inconsistency between two or more documents which form part of the Agreement, those documents shall be interpreted in the following order of priority:

FTA Circulars  
The Agreement  
Project Management Plan  
Program of Projects  
Community Transit Manual (as amended)  
Grantee Project Submittal

## 13. GENERAL

This Agreement may be executed and delivered (including by facsimile transmission) in two or more counterparts, each of which when executed shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. This Agreement constitutes the entire agreement between the parties and supersedes all previous understandings and agreements between the parties, whether oral or written. This Agreement may be modified by SMART at its sole discretion and written notice to Grantee.

The invalidity or unenforceability of any provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

Parties' failure to exercise or delay in exercising any right, power or privilege under this Agreement shall not operate as a waiver; nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof.

The Parties agree that the responsibilities and benefits under this Agreement shall not be assigned unless such assignment is approved by SMART in advance in writing. This agreement does not and is not intended to confer any rights or remedies upon any person other than the parties.

Parties agree to follow all applicable State and Federal laws. This Agreement shall be governed by the laws of the State of Michigan.

The Parties acknowledge that they have read and understand this Agreement and that the signatories below have affixed their signatures and affirmed that they are authorized to execute this Agreement, for the purpose of binding their respective Principals. This Agreement shall become effective upon the date the Agreement is signed by both Parties.

**SUBURBAN MOBILITY AUTHORITY  
FOR REGIONAL TRANSPORTATION**

**CITY OF MOUNT CLEMENS**

\_\_\_\_\_  
By:           John C. Hertel          

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

Its:           General Manager          

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

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

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

**Exhibit A**

SMART shall pass through the specified amount of funds to Grantee for the project(s) as described below:

<b><u>Project Category</u></b>	<b><u>Federal</u></b>	<b><u>State</u></b>	<b><u>Local</u></b>	<b><u>Total</u></b>
Operating	\$27,027	0	\$27,027	\$54,054

<b><u>Project Category</u></b>	<b><u>Project Description</u></b>
Operating	Expansion of Service - Fund a Saturday and weekday Senior Shopper. Expand to include shopping areas previously not available to riders.

**Exhibit C**

**LOBBYING CERTIFICATION**

By signing below, the Grantee certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions (as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96).

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

The Grantee hereby certifies the truthfulness and accuracy of this statement and all disclosures made hereunder, if applicable.

Signature of Grantee's Authorized Official: \_\_\_\_\_

Name and Title of Grantee's Authorized Official: \_\_\_\_\_

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

**EXPLANATION OF AGENDA – FEBRUARY 21, 2017**

**AGENDA ITEM NO. 9-C**

**Approve Purchases and Payment of Invoices**

VENDOR (PURCHASES)	DESCRIPTION	FUND/ DEPARTMENT/ APPROPRIATION	ACCOUNT NUMBER	AMOUNT	CURRENT BALANCE
1.Lacal Equipment 901 West Pike Street Jackson Center, OH 45334	Estimated annual Requirement of Street Sweeper Parts	Motor Pool Fund/ Department of Public Services/ Repair Parts	661-44100-784000	\$6,861.32	\$15,758.72
2.JC Landscaping and Sprinkler System Service, Inc. 118 Grove Park Mount Clemens, MI 48043	Lawn Mowing Services to Require Sites to Conform To the City's Codes and Ordinances	General Fund/ Community Development and Planning/ Contractual Services	101-72100-818000	\$22.00/Residential \$22.00/Commercial \$36.00/Hour Additional Services	*

VENDOR (INVOICES)	DESCRIPTION	FUND/ DEPARTMENT/ APPROPRIATION	ACCOUNT NUMBER	AMOUNT	CURRENT BALANCE
1.Duperon Corporation 1200 Leon Scott Court Saginaw, MI 48601	Emergency purchase of repair parts needed For our Dubois- Cooper Bar Screen #2	Sewer-Utilities Fund/ Operation of Plant/ Repair and Replacement Parts	590-53708-779000	\$655.00	\$31,027.18
		Sewer-Utilities Fund/ Operation of Plant/ Contractual Services	590-53708-818000	\$1,064.61	\$122,253.69
2.O'Reilly Auto Parts 10 North Groesbeck Mount Clemens, MI 48043	Miscellaneous Automotive supplies Needed by various departments for the Month of January, 2017	Various	Various	\$1,542.93	Various

VENDOR (INVOICES)	DESCRIPTION	FUND/ DEPARTMENT/ APPROPRIATION	ACCOUNT NUMBER	AMOUNT	CURRENT BALANCE
3. 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 January, 2017	General Fund/ Legal Services/ Legal Fees	101-26600-826000	\$10,312.50	\$45,999.81
		General Fund/ Legal Services/ Legal Fees	101-26600-826001	\$1,531.25	*
		Downtown Development Authority Fund/ Legal Fees	248-69200-826000	\$618.75	*
		Water-Utilities Fund/ Operation of Plant/ Legal Fees	591-53703-826000	\$368.75	*
		Sanitation Fund/ Legal Fees	596-52100-826000	\$25.00	\$6,984.85

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

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

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



**CITY OF MOUNT CLEMENS**

Tabulation of sealed bids received and opened on Tuesday, February 7, 2017, for our estimated annual requirement of Street Sweeper Parts needed by the Department of Public Services:

BIDDER	TOTAL COST
1. Bell Equipment Company 78 Northpointe Drive Lake Orion, Michigan 48359	\$8,584.84
2. Laca Equipment 901 West Pike Street Jackson Center, Ohio 45334	\$6,861.32

Linda A. Kunath  
Finance Director/Treasurer

**CITY OF MOUNT CLEMENS**

Tabulation of sealed bids received and opened on Tuesday, February 7, 2017, for Lawn Mowing Services to Require Sites to Conform to the City's Codes and Ordinances:

BIDDER	COST/ RESIDENTIAL LOT	COST / COMMERCIAL LOT	ADDITIONAL ITEMS/HOUR
1. Excel Landscaping, LLC 38355 Hazel Harrison Township, Michigan 48045	\$23.50	\$28.50	\$18.00
2. Gratiot Landscaping and Home Improvement, LLC 28373 Waverly Street Roseville, Michigan 48066	\$36.00	\$48.00	\$58.00
3. JC Landscaping and Sprinkler System Service, Inc. 118 Grove Park Mount Clemens, Michigan 48043	\$22.00	\$22.00	\$36.00

Linda A. Kunath  
Finance Director/Treasurer

**EXPLANATION OF AGENDA – FEBRUARY 21, 2017**

**CONSENT AGENDA ITEM NO. 10-A**

**Request Approval of the 2017 Downtown Development Authority Calendar of Events**

The Mount Clemens Downtown Development Authority is requesting authorization of the proposed 2017 Calendar of Events. This schedule of events includes events wholly produced and promoted by the Mount Clemens Downtown Development Authority and those events produced in partnership with other organizations. The entire list of events, dates, and event boundaries is attached.

This request is to also authorize the temporary closing of required city streets as described in the attached document. Final street closures will be coordinated with the Department of Public Services and the City Manager.

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

**RECOMMENDED MOTION:** Approve the 2017 Calendar of Events for Downtown Mount Clemens as presented by the Mount Clemens Downtown Development Authority, with final street closures to be coordinated with the Department of Public Services and City Manager.

## 2017 Calendar of Events Downtown Mount Clemens

<u>Date</u>	<u>Event Name</u>	<u>Location</u>
May 12 - 13	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 13	Spring Fun Saturday & Kiwanis Bike Rodeo	Macomb Place between Pine St. and SB Gratiot
TBA	Downtown Sight & Sound Concert	Macomb Place includes closure of Macomb Place between Pine and SB Gratiot and the north entrance to the Macomb Place parking lot
June 2	Bud Light Classic Car Registration Night & Cruise	NE corner of North Main at Market
June 3	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 23	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 J 24-Jun-17
TBA	Downtown Sight & Sound Concert	Macomb Place includes closure of Macomb Place between Pine and SB Gratiot and the north entrance to the Macomb Place parking lot
TBA	Uptown Friday Night Concert	Fountain Stage and immediate surrounding area includes closure of Macomb Place between Walnut and Pine
July 19 thru September 20	Wednesday Farmers Market	Roskopp Parking Lot along SB Gratiot and Pine Free parking for customers during Market 1pm - 6pm
TBA	Uptown Friday Night Concert	Fountain Stage and immediate surrounding area includes closure of Macomb Place between Walnut and Pine
TBA	Uptown Friday Night Concert	Fountain Stage and immediate surrounding area includes closure of Macomb Place between Walnut and Pine
TBA	Downtown Sight & Sound Concert	Macomb Place includes closure of Macomb Place between Pine and SB Gratiot and the north entrance to the Macomb Place parking lot
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Sept 22 - 24	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 28	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 17	Christmas Open House	Macomb Place between Walnut and Pine includes closing of Macomb Place between Walnut and Pine
Nov 18	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
Nov 25	Small Business Saturday	Macomb Place between Walnut and Pine includes closing of Macomb Place between Walnut and Pine
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 2 - 4, 2018	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 AGENDA – FEBRUARY 21, 2017**

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

**FROM:** Lisa Borgacz, Interim City Manager

**DATE:** February 16, 2017

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

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1. City Commission Meeting: The next regular City Commission Meeting will be held on TUESDAY, February 21, 2017 at 7:00 p.m. due to City offices being closed on Monday, February 20, 2017 in observance of President's Day. Refuse pickup will remain on schedule throughout the month.
2. City Commission Work Session: A work session is scheduled for Monday, March 6, 2017. The meeting will begin at 6:00 p.m. for discussion regarding the assessment of energy, utility and operational efficiency at City buildings by Johnson Controls.
3. Local Treasure Award: The City Commission has chosen two nominees, Ruthie Stevenson and Dan Nevin/Thomas Nevin Jewelers, as recipients of the 2017 Local Treasure Award. Ms. Stevenson's award will be presented at the City Commission meeting of Tuesday, February 21, 2017, and Mr. Nevin/Thomas Nevin Jeweler's award will be presented at the City Commission meeting of Monday, March 20, 2017.
4. St. Patrick's Day Event Change: The Downtown Development Authority's St. Patrick's Day Event that was scheduled to take place on Friday, March 17, 2017, has been changed to take place on Saturday, March 18, 2017. The event, which is sponsored by 99.5 WCSX, will run from 10 a.m. until 9 p.m., with bands starting at 11 a.m., and games and activities running throughout the day.
5. Animal licenses: Just a reminder that the 2017 dog and cat licenses are available in the Treasurer's Office at City Hall. Licenses renewed after February 28, 2017 will be subject to late penalty fees.