

**FINAL AGENDA FOR THE COUNCIL MEETING
CITY OF PORTAGE
May 25, 2010**

7:30 p.m. Call to Order.

Invocation: Pastor Daniel Teerman of The Bridge in Portage.

Pledge of Allegiance.

Roll Call.

Proclamation: Scleroderma Awareness Month.

- A. Approval of the Special and Regular Meeting Minutes of May 11, 2010.
- * B. Approval of Consent Agenda Motions.
- * C. Communication from the City Manager recommending that City Council approve the Check Register of May 25, 2010, as presented.
- D. Public Hearings:
- E. Petitions and Statements of Citizens.
- F. Reports from the Administration:
 - 1. Communication from the City Manager recommending that City Council approve the Fiscal Year 2010-2011 Budget.
 - * 2. Communication from the City Manager recommending that City Council approve the revised City of Portage – South County Sewer and Water Authority US 131 Corridor Wastewater Conveyance Agreement and authorize the Mayor to sign the revised agreement on behalf of the city.
 - * 3. Communication from the City Manager recommending that City Council adopt the Resolution Supporting Application for Local Bridge Program Funds for replacement of the Kilgore Road Bridge over Portage Creek.
 - * 4. Communication from the City Manager recommending that City Council consider approving:
 - a. The Homestead III Preliminary Plat subject to the condition identified in the April 30, 2010 Department of Community Development report to the Planning Commission; and
 - b. The Homestead III Final Preliminary Plat and accept the detailed engineering plans.
 - * 5. Communication from the City Manager recommending that City Council accept the City Manager recommendation in response to the petition regarding signage on South Westnedge Avenue.
 - * 6. Communication from the City Manager regarding the Purchasing Procedures / Flow Chart – Information Only.
 - * 7. Communication from the City Manager regarding the April 2010 Summary Environmental Activity Report – Information Only.
 - * 8. Department Monthly Reports.
- G. Communications:
- H. Unfinished Business:
- * I. Minutes of Boards and Commissions Meetings:
 - 1. Portage Board of Education Special of April 5, 2010.
 - 2. Portage Historic District Commission of April 7, 2010.
 - 3. Portage Zoning Board of Appeals of April 12, 2010.
 - 4. Portage Environmental Board of April 14, 2010.
 - 5. Kalamazoo County Board of Commissioners Committee of the Whole and Regular of May 4, 2010.
 - 6. Portage Planning Commission of May 6, 2010.

J. Ad Hoc Committee Reports:

1. Communication from the City Council Advisory Board Review Committee recommending that City Council adopt the proposed Ballot Wording Resolution to Amend Section 8.4(a) and 8.4(b) of Chapter 8 of the Charter of the City of Portage, Michigan.

K. New Business:

L. Bid Tabulations:

- * 1. Communication from the City Manager recommending that City Council approve the Phone System Upgrade Project, with equipment provided by Qwest Business and leased through Capital Advantage Leasing at a total five-year lease cost of \$200,454 and authorize the City Manager to execute all documents related to this project on behalf of the city.
- * 2. Communication from the City Manager recommending that City Council approve a two-year contract to the low bidder, Specialty Business Forms, in the amount of \$44,173.73 (total for two years) to print, insert and mail tax bills, assessment notices and personal property tax returns, with the option to renew for three additional one-year periods and authorize the City Manager to execute all documents related to this contract on behalf of the city.
- * 3. Communication from the City Manager recommending that City Council authorize the purchase of 75 Kenwood Model 2212 portable radios for the Police Department from State Systems Radio, Inc., at a cost not-to-exceed \$29,118.75 and authorize the City Manager to execute all documents related to the purchase on behalf of the city.
- * 4. Communication from the City Manager recommending that City Council accept the low bid submitted by Parker-Arntz Plumbing & Heating, Incorporated, of Greenville, Michigan, in the amount of \$10,728 for the installation of radiant heat in Fire Station No. 2 and authorize the City Manager to execute all documents related to this action on behalf of the city.

M. Other City Matters:

1. Statements of Citizens.
2. From City Council and City Manager.
- * 3. Reminder of Meetings:
 - a. Thursday, May 27, 4:30 p.m., Public Media Network Board, 359 S. Kalamazoo Mall, 3rd Floor.
 - b. Wednesday, June 2, 8:15 a.m., Historic District Commission, City Hall Room #2.
 - c. Wednesday, June 2, 6:30 p.m., Park Board, Lexington Green Park.
 - d. Thursday, June 3, 6:30 p.m., Human Services Board, City Hall Room #1.
 - e. Thursday, June 3, 7:00 p.m., Planning Commission, City Council Chambers.
 - f. Tuesday, June 8, 5:45 p.m., Special Meeting to interview youth applicants to fill openings on the Youth Advisory Committee and Boards and Commissions, City Hall Room #1.

N. Materials Transmitted of May 7, 11 and 14, 2010.

Adjournment.



City of Portage Proclamation

SCLERODERMA AWARENESS MONTH

WHEREAS, Scleroderma is a chronic, disabling autoimmune disease in which the soft tissues of the body suffer from an overproduction of collagen and Scleroderma affects many parts of the body including skin, internal organs and blood vessels; and

WHEREAS, an estimated 300,000 Americans suffer from Scleroderma, 80 per cent of whom are women, and African Americans are more susceptible to systemic Scleroderma than non-African Americans; and

WHEREAS, Scleroderma sufferers often experience damage to the heart, lungs, kidneys and the gastrointestinal system and many sufferers develop pulmonary hypertension as a result of constriction of the blood vessels; and

WHEREAS, the estimated total economic impact of Scleroderma treatment exceeds \$1.5 billion annually, the estimated morbidity cost of Scleroderma is \$819,000,000, annually, and the estimated direct cost of Scleroderma is \$462,000,000, annually; and

WHEREAS, there is a need to educate the public about autoimmune diseases, and there is a need for increased research, funding and effective treatments; and

WHEREAS, there is a need to recognize the efforts of health care providers, patients and Scleroderma advocacy organizations to increase awareness of Scleroderma and of the need for increased research on Scleroderma.

NOW, THEREFORE, BE IT RESOLVED that I, Peter Strazdas, Mayor of the City of Portage, do hereby proclaim the month of June, 2010, as **SCLERODERMA AWARENESS MONTH** in Portage.

Signed this 25th day of May 2010

Peter J. Strazdas, Mayor

CITY COUNCIL MEETING SUMMARY

May 11, 2010

PROCLAMATIONS

- ◆ Mayor Strazdas issued a Center of the World for PickleBall Proclamation and a “Parents Who Host Lose the Most: Don’t Be a Party to Teenage Drinking” Month Proclamation.

CHECK REGISTER

- ◆ Approved the Check Register of May 11, 2010, as presented.

PUBLIC HEARINGS

- ◆ Adopted the Resolution to establish a millage rate not-to-exceed 0.0714 mills above the base tax rate as defined by State of Michigan Public Act 5 of 1982.
- ◆ Adopted the 2010 sewer and water rate Resolutions establishing sewer and water utility rates, sewer and water franchise area fees and service fees and charges as outlined in the 2010 Utility Rate Financial Study and as recommended by the Administration and the City Council Water and Sewer Rate Study Committee.

PETITIONS AND STATEMENTS OF CITIZENS

- ◆ Referred the petition from Samuel M. Brown representing Fazoli’s Restaurant, 5709 South Westnedge Avenue, requesting the approval of the use of 4x6 foot banners for businesses along South Westnedge Avenue between Kilgore Road and West Milham Avenue to the Administration for review and report.

REPORTS FROM THE ADMINISTRATION

- ◆ Approved the Community Development Block Grant (CDBG) Program FY 2010-11 Annual Action Plan element of the Consolidated Plan and authorized the Administration to submit the application to the Department of Housing and Urban Development.
- ◆ Approved Contract 10-5306 between the Michigan Department of Transportation and the City of Portage concerning funding for street and utility improvements on West Milham Avenue from 165 feet west of Angling Road to 12th Street; approved an engineering services contract with Driesenga & Associates, Incorporated, for construction inspection and administration on West Milham Avenue from 165 feet west of Angling Road to 12th Street in the not-to-exceed amount of \$126,220; adopted a Resolution authorizing the City Manager to sign Contract 10-5306 on behalf of the city; and authorized the City Manager to sign all other documents relating to both the consultant contract and the Michigan Department of Transportation contract on behalf of the city.
- ◆ Approved the agreement with Consumers Energy for undergrounding overhead utility lines and installation of new streetlights on South Westnedge Avenue from Dawnlee Avenue to I-94 and authorized the City Manager to execute all documents related to the agreement on behalf of the city.
- ◆ Approved the lease of 55 Hewlett Packard replacement computers and 2 Panasonic replacement tough books from Capital Advantage Leasing of Grand Rapids, Michigan, at a lease price of \$61,716.80 and authorized the City Manager to execute all documents related to this action on behalf of the city.
- ◆ Accepted the order of the Construction Board of Appeals to demolish the house located at 10323 Archwood Drive; and authorized the City Administration to take the necessary action to demolish the house at 10323 Archwood Drive, place a lien and assess the property to recover the costs associated with demolition consistent with the ordinance.
- ◆ Set a Special Meeting on Tuesday, June 8, 2010, beginning at 5:45 p.m. to interview youth applicants to fill openings on the Youth Advisory Committee and Boards and Commissions.

AD HOC COMMITTEE REPORT

- ◆ Adopted the Resolution Approving a Fifth Amendment to the Urban Cooperation Act Agreement which established the Public Media Network to permit the City of Portage to become a Member Public Agency and approved a Memorandum of Understanding related thereto; appointed Mayor Pro Tem Sackley and Councilmember Reid, to serve at the pleasure of the City Council, and appointed Don Ramlow to a three-year citizen-at-large position effective immediately with term ending on May 31, 2013, and Jeremy Verehof to a two-year citizen-at-large position effective immediately with term ending on May 31, 2012, to serve on the Public Media Network Board of Directors on behalf of the City of Portage; and authorized the City Manager to execute all documents on behalf of the city.

APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

- ◆ Reappointed William Koopsen and Lawrence Schmidt and appointed George Theodoru to the citizen-at-large position with terms ending June 1, 2013, and appointed Carl Compton to the master electrician position with unfulfilled term ending June 1, 2012, and waived the term limitation and reappointed Bill Miller to the mechanical contractor position with term ending June 1, 2011, to the Construction Board of Appeals; reappointed James Cheesebro and Paul Welch and appointed Mark Siegfried with terms ending May 31, 2013, to the Planning Commission; appointed Ruth Caputo with the unfulfilled term ending October 1, 2010, to the Environmental Board; appointed Matt Tanis with the unfulfilled term ending October 1, 2012, to the Park Board; and appointed Dorie Ehrig with the unfulfilled term ending December 31, 2011, to the Historic District Commission.

BID TABULATION

- ◆ Accepted the low bid submitted by Premier Roofing and Exteriors in the amount of \$40,880 for insulation upgrades in City Hall and the Senior Center and authorized the City Manager to execute all documents related to this action on behalf of the city.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER

- ◆ With regards to her work with Junior Achievement, Councilmember Campbell announced that Mr. Henderson's fifth Grade Class won an award for marketing an Ice Cream Sundae product that included a business plan and advertising.
- ◆ Councilmember Reid acknowledged the extremely well-qualified applicants who interviewed for the various Boards and Commissions and expressed her appreciation to applicants who are willing to volunteer their time.
- ◆ Councilmember Urban recognized the excellent work of Planning Commission Chair Tom Fox, who was replaced because of term limitation. He also recognized the City of Kalamazoo as a favored and cooperative "sister city to the north."
- ◆ Councilmember O'Brien recognized the excellent work of Construction Board of Appeals Chair Tom Wilkinson, who was replaced because of term limitation, mentioned attendance at the Day of Prayer with mayor Pro Tem Sackley and encouraged everyone to attend the Work Day at Bicentennial Park, Friday, May 14, 2010, sponsored by the Builders Association. She also reminded everyone that the Race to the Cure is on May 16, 2010, Downtown, Kalamazoo.
- ◆ City Manager Evans congratulated Parks Director Bill Deming and his staff for receiving a Bronze Award from *American Bicyclist*.
- ◆ Mayor Pro Tem Sackley lamented the passing of *Kalamazoo Gazette* Reporter Charlotte Channing and remembered her as tough, smart, fair, feared and always professional, and expressed kind thoughts to her family.
- ◆ Mayor Strazdas concurred with Mayor Pro Tem Sackley and indicated that Ms. Channing was tenacious and spunky, also. He also mentioned that the City of Portage has eight new Eagle Scouts, announced that Portage Northern Forensics Team won first in the state for the ninth time in a row and expressed his appreciation for the youth and adult engagement in the community in Portage.

COMPLETE MINUTES OF EACH CITY COUNCIL MEETING ARE AVAILABLE ON THE CITY WEBSITE AT PORTAGEM.I.GOV, IN CITY HALL AND IN THE DISTRICT LIBRARY. MINUTES OF CITY BOARDS AND COMMISSIONS ARE AVAILABLE ON REQUEST FROM VARIOUS DEPARTMENTS.

DRAFT

MINUTES OF THE SPECIAL MEETING OF THE PORTAGE CITY COUNCIL OF MAY 11, 2010 - BOARDS AND COMMISSIONS APPLICANTS

Mayor Peter Strazdas called the meeting to order at 5:30 p.m. The following Councilmembers were present: Councilmembers Margaret O'Brien, Patricia Randall, Claudette Reid and Terry Urban, Mayor Pro Tem Ed Sackley and Mayor Peter Strazdas. Councilmember Elizabeth Campbell arrived at 6:43 p.m. Also present were City Manager Maurice Evans and City Clerk James Hudson.

City Council interviewed applicants for the following Boards and Commissions:

- * 5:30-5:38 p.m., Bill Koopsen, Carl Compton, Larry Schmidt and Tom Wilkinson for the Construction Board of Appeals. Discussion followed.
- * 5:39-6:00 p.m., Jim Cheesebro, Paul Welch, Henry Kerr and Mark Siegfried for the Planning Commission. Discussion followed.
- * 6:01-6:24 p.m., Alex Ray, Matt Tanis, Ruth Caputo and Dorie Ehrig for the Environmental Board. Discussion followed.
- * 6:25-6:40 p.m., Don Ramlow, Christine Ballard and George Theodoru for the Public Media Network Board. Discussion followed.
- * 6:41-6:43 p.m., discussion followed regarding applicants for consideration to the Park Board.
- * 6:44-6:50 p.m., City Council interviewed Dorie Ehrig and George Theodoru for the Historic District Commission. Historic District Commission Mark Reile was present for questions. Discussion followed.

Discussion followed regarding the placement of each of the applicants on the various boards and commissions.

ADJOURN: Mayor Strazdas adjourned the meeting at 7:00 p.m.

James R. Hudson, City Clerk

CITY COUNCIL MEETING MINUTES FROM MAY 11, 2010

DRAFT

The Regular Meeting was called to order by Mayor Strazdas at 7:30 p.m.

The City Clerk called the roll with the following members present: Councilmembers Elizabeth A. Campbell, Margaret E. O'Brien, Patricia M. Randall, Claudette S. Reid, Terry R. Urban and Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Also in attendance were City Manager Maurice S. Evans, City Attorney Randall Brown and City Clerk James R. Hudson.

Mayor Strazdas introduced Pastor Mark Cryderman of the Portage Free Methodist Church, who gave the invocation and the City Council and the audience recited the Pledge of Allegiance.

PROCLAMATIONS: Mayor Strazdas issued a Center of the World for PickleBall Proclamation and a "Parents Who Host Lose the Most: Don't Be a Party to Teenage Drinking" Month Proclamation.

APPROVAL OF MINUTES: Motion by O'Brien, seconded by Urban, to approve the April 27, 2010 Special Meeting and Regular Meeting Minutes as presented. Upon a voice vote, motion carried 6 to 0 with Councilmember Reid abstaining. Motion by O'Brien, seconded by Urban, to approve the May 4, 2010 Budget Meeting Minutes as presented. Upon a voice vote, motion carried 7 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Campbell to read the Consent Agenda. Mayor Pro Tem Sackley asked that Item F.5, Construction Board of Appeals Demolition Order, be removed from the Consent Agenda. Motion by Reid, seconded by Urban, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF CHECK REGISTER OF MAY 11, 2010:** Motion by Reid, seconded by Urban, to approve the Check Register of May 11, 2010. Upon a roll call vote, motion carried 7 to 0.

PUBLIC HEARINGS:

PUBLIC ACT 5 OF 1982 (TRUTH IN TAXATION): Mayor Strazdas opened the public hearing and City Manager Maurice Evans stated that this item is the action on the tax levy and the actual public hearing on the budget, and that no final action would be taken since the budget will be adopted at the May 25, 2010 Regular City Council Meeting. Mr. Evans indicated that the fiscal year 2010-2011 contains \$61.8 million in expenditures and this reflects a reduction from the \$66.4 million of fiscal year 2009-2010. He also indicated that it includes \$23 million in the General Fund, down from the \$25 million of fiscal year 2009-2010. He indicated that the goals and objectives of City Council were considered in the development of the budget by a well-organized team who ensured the provision of core services of the City of Portage.

Mr. Evans highlighted some of the negative impacts of the economy on the city budget, including a 4% decrease in property tax revenues, decrease in Act 51 funds, lower state revenue sharing, maintaining a low overall tax rate of 10.7312 mills, a 0.071 millage increase in the municipal street fund owing to the redirection of \$550,000 of Kalamazoo Area Transportation Study (KATS) funding and previously anticipated federal money in the major street fund area. He indicated that this budget maintains the 13% prescribed fund balance by City Council and that this budget places Portage in the lower 25% of all cities in Michigan with a population greater than 25,000 in terms of millage level.

Mr. Evans cited some of the measures used by the Administration to accomplish significant reductions in the budget, including: continuation and reduction of personnel from 215 in 2005-06 to 188 at the present time; reviewed and had a reduction in vendor contracts wherever possible and used the recent SARCOM reduction as an example; always look for operational cost reductions; altered fringe benefit levels in the organization; and, eliminated pay increases for all non-union personnel in both the current fiscal year and the proposed fiscal year. He cited the reductions in flower planting, Christmas

tree lighting, roadside mowing, publication of *Portager* only six times per year and the elimination of the community survey for 2010-11.

However, he said because some of the unpredictable developments with regards to the State of Michigan budget, further negative consequences could result, and less state revenue could be forthcoming should the state issue further reductions. He did indicate that the proposed Capital Improvement Program (CIP) supports approximately \$9.9 million in infrastructure improvements; that Police and Fire services are maintained; streets will be snow-plowed; water and waste water services will continue; parks will be open; curbside recycling, spring clean up and leaf pick-up will take place; and city hall will be open for business. He concluded by letting City Council know that this is a very good, but tight budget and summarized some of the projections in more detail. Mayor Strazdas explained the process and discussion followed.

Mr. Evans asked Mayor Strazdas to allow Finance Director Dan Foecking to explain the tax levy portion of the budget. Mr. Foecking indicated that the proposed tax levy is the same for all of the funds except for the street fund owing to the shortfall in funding that would normally come from KATS and explained. Mayor Strazdas asked for comment from the public. There being no comment, motion by O'Brien, seconded by Campbell, to adjourn the public hearing and adopt the Resolution to establish a millage rate not-to-exceed 0.0714 mills above the base tax rate as defined by State of Michigan Public Act 5 of 1982. Discussion followed. At the request of City Manager Evans, Councilmembers O'Brien and Campbell withdrew the motion. Discussion followed. Motion by O'Brien, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried 6 to 0.

Motion by Sackley, seconded by Reid, to adopt the Resolution to establish a millage rate not-to-exceed 0.0714 mills above the base tax rate as defined by State of Michigan Public Act 5 of 1982. Discussion followed recognizing the difficult decisions made in order to provide this budget for fiscal year 2011-12. Upon a roll call vote, motion carried 6 to 0.

2010 UTILITY RATE FINANCIAL STUDY: At the request of Mayor Strazdas, City Manager Evans introduced Utilities Engineer Kendra Gwin, who discussed the findings and recommendations of the 2010 Utility Rate Financial Study. Mayor Strazdas asked for some clarifications and cited the arsenic treatment facility, the pass through charges from the City of Kalamazoo, and the need to maintain a working capital. Finance Director Dan Foecking explained and discussion followed. In answer to Mayor Strazdas, Ms. Gwin explained that the City of Portage water and sewer rates place us below the middle when compared with other cities and that with the rate increases would move Portage to the middle, but the other cities in the state will likely have rate increases, also. Discussion followed. Mayor Strazdas asked for comment from the public. There being no further comment, motion by Sackley, seconded by Campbell, to close the public hearing. Upon a voice vote, motion carried 6 to 0.

Motion by Sackley, seconded by Reid, to adopt the 2010 sewer and water rate Resolutions establishing sewer and water utility rates, sewer and water franchise area fees and service fees and charges as outlined in the 2010 Utility Rate Financial Study and as recommended by the Administration and the City Council Water and Sewer Rate Study Committee. Councilmember O'Brien indicated that conservation of water is driving up the unit cost, because the three things driving the costs are out of City Council and citizen control because of the cost of the infrastructure being so high. Mayor Pro Tem Sackley indicated that the struggle with the rate study this year has been the most difficult ever and explained. Upon a roll call vote, motion carried 6 to 0.

PETITIONS AND STATEMENTS OF CITIZENS:

PETITION FOR BUSINESS SIGNAGE ALONG SOUTH WESTNEDGE DURING I-94 CONSTRUCTION - SAMUEL M. BROWN: City Council received the comments from Sam Brown, Muskegon, and owner of Fazoli's Restaurant, 5709 South Westnedge Avenue, who indicated that he has experienced double digit loss in sales because of the construction of the I-94 bridge over South

Westnedge Avenue and a 95% support on the petition from the businesses on South Westnedge Avenue between Kilgore Road and Milham Road and spoke in favor of his petition requesting the approval of the use of 4 x 6 foot banners for businesses along South Westnedge Avenue between Kilgore Road and West Milham Avenue. Discussion followed.

Councilmember Urban indicated that the City Council has to rely on the Zoning Board of Appeals to vary an ordinance, but could write a new ordinance and asked City Attorney Randy Brown for an opinion. Mr. Brown indicated that the ordinance allows signs to direct traffic to these businesses and concurred with Councilmember Urban that City Council can not adopt a resolution that would violate an existing ordinance, so a new ordinance would have to be approved to handle the matter. Discussion followed. Councilmember Urban also expressed a concern regarding being able to write a new ordinance that would be fair to all of the businesses. Discussion followed. Councilmember O'Brien advocated working with MDOT to assist in advertising for the businesses. Discussion followed.

Motion by Reid, seconded by O'Brien, to refer the petition from Samuel M. Brown representing Fazoli's Restaurant, 5709 South Westnedge Avenue, requesting the approval of the use of 4 x 6 foot banners for businesses along South Westnedge Avenue between Kilgore Road and West Milham Avenue to the Administration for review and report. Upon a roll call vote, motion carried 6 to 0.

REPORTS FROM THE ADMINISTRATION:

*** COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

RECOMMENDATION: Motion by Reid, seconded by Urban, to approve the Community Development Block Grant (CDBG) Program FY 2010-11 Annual Action Plan element of the Consolidated Plan and authorize the Administration to submit the application to the Department of Housing and Urban Development. Upon a roll call vote, motion carried 7 to 0.

*** MICHIGAN DEPARTMENT OF TRANSPORTATION CONTRACT – WEST**

MILHAM AVENUE: Motion by Reid, seconded by Urban, to approve Contract 10-5306 between the Michigan Department of Transportation and the City of Portage concerning funding for street and utility improvements on West Milham Avenue from 165 feet west of Angling Road to 12th Street; approve an engineering services contract with Driesenga & Associates, Incorporated, for construction inspection and administration on West Milham Avenue from 165 feet west of Angling Road to 12th Street in the not-to-exceed amount of \$126,220; adopt a Resolution authorizing the City Manager to sign Contract 10-5306 on behalf of the city; and authorize the City Manager to sign all other documents relating to both the consultant contract and the Michigan Department of Transportation contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

*** I-94/SOUTH WESTNEDGE AVENUE INTERCHANGE IMPROVEMENTS:** Motion by Reid, seconded by Urban, to approve the agreement with Consumers Energy for undergrounding overhead utility lines and installation of new streetlights on South Westnedge Avenue from Dawnlee Avenue to I-94 and authorize the City Manager to execute all documents related to the agreement on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

*** COMPUTER REPLACEMENT:** Motion by Reid, seconded by Urban, to approve the lease of 55 Hewlett Packard replacement computers and 2 Panasonic replacement tough books from Capital Advantage Leasing of Grand Rapids, Michigan, at a lease price of \$61,716.80 and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

NOTE: Councilmember Randall was excused and left at 8:05 p.m.

CONSTRUCTION BOARD OF APPEALS DEMOLITION ORDER - 10323

ARCHWOOD DRIVE: Mayor Pro Tem Sackley explained that the structure at 10323 Archwood Drive is across the street from his residence, so he wished to recuse himself from discussion and vote on this matter. Discussion followed. City Manager Evans indicated that this is a Construction Board of Appeals order for the demolition of this property located at 10323 Archwood Drive.

Motion by O'Brien, seconded by Urban, to accept the order of the Construction Board of Appeals to demolish the house located at 10323 Archwood Drive and authorize the City Administration to take the necessary action to demolish the house at 10323 Archwood Drive, place a lien and assess the property to recover the costs associated with demolition consistent with the ordinance. At the request of Councilmember Urban, Mayor Strazdas asked if there was anyone in the audience who wished to speak for or against the demolition order. Discussion followed. Upon a roll call vote, motion carried 5 to 0 with Mayor Pro Tem Sackley abstaining.

*** SPECIAL MEETING TO INTERVIEW YOUTH IN GOVERNMENT APPLICANTS:**

Motion by Reid, seconded by Urban, to set a Special Meeting on Tuesday, June 8, 2010, beginning at 5:45 p.m. to interview youth applicants to fill openings on the Youth Advisory Committee and Boards and Commissions. Upon a roll call vote, motion carried 7 to 0.

MINUTES OF BOARDS AND COMMISSIONS: City Council received the minutes of the following Boards and Commissions:

Portage Human Services Board of April 1, 2010.
Portage Park Board of April 7, 2010.
Portage Planning Commission of April 15, 2010.

AD HOC COMMITTEE REPORTS:

RESOLUTION TO JOIN PUBLIC MEDIA NETWORK: Mayor Strazdas asked for a report from the Committee. Councilmember Reid recused herself from discussion and vote on this matter as her daughter is currently employed by Public Media Network. Mayor Pro Tem Sackley deferred to Councilmember O'Brien for the report. City Attorney Brown interjected that the conflict of interest referred to by Councilmember Reid arises from the fact that her daughter is employed by Public Media Network and pointed out that the contract by itself may not have given rise to a conflict, but the City Council Code of Ethics may disallow discussion and vote. Councilmember O'Brien reviewed some of the history of the Committee, mentioned the requests for proposals process and the expert guidance in the selection process received by the Committee and referred to the actions by City Council over the last few months regarding this matter. She then indicated that Public Media Network is the only contractor who could provide the level of service required, that there was a reduction in cost, and that the Portage Public Schools would still be a partner of the entities involved in this activity. She termed it a win, win, win situation and referred to the Resolution Approving a Fifth Amendment to the Urban Cooperation Act Agreement which established the Public Media Network to permit the City of Portage to become a Member Public Agency and a Memorandum of Understanding. She noted that the membership on the Public Media Network Board consisted of four representatives from the City of Portage, and the Committee sought initially to appoint two Councilmembers and two citizens-at-large and mentioned the Special Meeting of City Council held earlier to interview applicants for the Board.

Mayor Pro Tem Sackley emphasized that this is an historic agreement and reviewed the history of cable television back to the 1960's and the efforts of Fetzer to bring cabled antennae to Kalamazoo County. He explained the service that will be provided in more detail and the plan for expansion, including the contributions and future role of Portage Public Schools in the matter. He also reviewed

some of the opportunities in detail for citizens that will be available and expressed appreciation to Chief Information Officer Devin Mackinder for the yeoman's effort he has given for this cause.

Councilmember O'Brien noted that the start date will be July 1, 2010, if the City Council approves this item. Councilmember O'Brien indicated that Public Media Network Chair Jerry Brown and Executive Director Harry Haasch were present for questions. Discussion followed.

In answer to Mayor Strazdas, Mr. Mackinder indicated that the contract promises to make the service better because there is now a Board of Directors; that there are additional services that will be offered not before offered, hopefully in the City Center area; and that the Committee has plans to maintain and not just walk away so, if there is a lack of service, they will be able to address it.

In answer to Mayor Strazdas, Harry Haasch, 11025 Middlefield, Richland, who asked to be called, "Hap," explained that a performance metric is utilized to measure employee performance; that the number of channels will increase immediately, from two to five; that community involvement promises to increase well over the current 50 clients; that they will be able to track the Portage residents; that they can now teach technical workshops in Portage; that the educational component should develop with the enthusiasm expressed by City Council and Portage Public Schools; and that the representatives from Portage will join the retreat that has been delayed until the Portage representatives could be present. He thanked City Manager Evans, Devin Mackinder and Bob Luders for their assistance and professionalism, even when there was disagreement. Mr. Evans asked about the survey that was reinstated one and one-half years ago, and Hap indicated he wanted to reinstate it and conduct it, if not annually, biannually. Mr. Evans concurred. Discussion followed.

Councilmember Urban asked for a clarification regarding the March 31, 2010, date contained in the contract in the second paragraph of segment #1, wherein the Public Media Network will seek an alternative location for the Government Production Services Unit within the City of Portage in the event an agreement for the use of the Portage Public School's Training and Technology Center cannot be reached. Discussion followed. Hap indicated that he is optimistic that an agreement with Portage Public Schools can be reached; indicated that they have always been willing to respect their construction timeframe; and saw no need to alter the date referenced in the document. City Attorney Brown indicated that the intent is clear, so he does not see a problem. Discussion followed.

Motion by O'Brien, seconded by Sackley, to adopt the Resolution Approving a Fifth Amendment to the Urban Cooperation Act Agreement which established the Public Media Network to permit the City of Portage to become a Member Public Agency and to approve a Memorandum of Understanding related thereto; appoint four individuals to serve on the Public Media Network Board of Directors on behalf of the City of Portage; and authorize the City Manager to execute all documents on behalf of the city. Upon a roll call vote, motion carried 5 to 0 with Councilmember Reid abstaining.

APPOINTMENTS TO THE PUBLIC MEDIA NETWORK BOARD: Mayor Pro Tem Sackley indicated that the Committee thought it prudent to initially have two Councilmembers serve on the Public Media Network Board and explained that it could be reduced to one City Councilmember in the future. Discussion followed. Motion by Campbell, seconded by O'Brien, to appoint Don Ramlow to a three-year citizen-at-large position effective immediately with term ending on May 31, 2013, and Jeremy Vryhof to a two-year citizen-at-large position effective immediately with term ending on May 31, 2012, to the Public Media Network Board of Directors. Upon a roll call vote, motion carried 6 to 0.

Councilmember O'Brien explained that the Committee thought it prudent to nominate two Committee Members to serve on the Public Media Network Board with no staggered terms knowing that appointments take place at the end of each year when reviewed at the City Council Retreat in December. Councilmember Urban asked for a clarification as there was conflict for Councilmember Reid to review the Public Media Network agreement, but she is willing to serve on the Public Media Network Board. Councilmember Reid indicated that they approached Public Media Network to see if there was a conflict if she served on the Board and there was nothing in their by-laws and the Board did not perceive a conflict, and she indicated that she checked with the City Attorney as well.

Motion by Urban, seconded by O'Brien, to appoint Councilmember Claudette Reid and Mayor Pro Tem Ed Sackley, to serve at the pleasure of the City Council, to the Public Media Network Board of Directors. Mayor Strazdas asked for a confirmation of the lack of a conflict of interest from a representative of the Public Media Network Board and Public Media Network Chair Jerry Brown confirmed that what Councilmember Reid said was true and accurate. City Attorney Brown interjected that the decision to enter into the agreement is a far different decision than Councilmember Reid will make while serving on the Board. Councilmember O'Brien asked for an explanation by Mr. Brown and he indicated that the Committee did not make any decisions; that she probably should not have served after City Council passed the Code of Ethics; that he attended these meetings and there was no influence, no bias and no harm; and that if it had been brought up that the daughter worked for the Public Media Network, he would have recommended that she not serve.

Councilmember O'Brien assured everyone that Councilmember Reid had integrity throughout this process and she followed all of Mr. Brown's recommendations. Councilmember Reid indicated that when she began working on this project, her daughter worked for a Boston Massachusetts company and did not join Public Media Network until later in the process. Discussion followed. Upon a roll call vote, motion carried 6 to 0.

NEW BUSINESS:

* **APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS:** Motion by Reid, seconded by Urban, to reappoint William Koopsen and Lawrence Schmidt and appoint George Theodoru to the citizen-at-large position with terms ending June 1, 2013, and appoint Carl Compton to the master electrician position with unfulfilled term ending June 1, 2012, and to waive the term limitation and reappoint Bill Miller to the mechanical contractor position with term ending June 1, 2011, to the Construction Board of Appeals; to reappoint James Cheesebro and Paul Welch and appoint Mark Siegfried with terms ending May 31, 2013, to the Planning Commission; to appoint Ruth Caputo with the unfulfilled term ending October 1, 2010, to the Environmental Board; to appoint Matt Tanis with the unfulfilled term ending October 1, 2012, to the Park Board; to appoint Dorie Ehrig with the unfulfilled term ending December 31, 2011, to the Historic District Commission. Upon a roll call vote, motion carried 7 to 0.

BID TABULATION:

* **CITY HALL AND SENIOR CENTER INSULATION UPGRADES – BID RECOMMENDATION:** Motion by Reid, seconded by Urban, to accept the low bid submitted by Premier Roofing and Exteriors in the amount of \$40,880 for insulation upgrades in City Hall and the Senior Center and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: With regards to her work with Junior Achievement, Councilmember Campbell announced that Mr. Henderson's fifth Grade Class won an award for marketing an Ice Cream Sundae product that included a business plan and advertising.

Councilmember Reid acknowledged the extremely well-qualified applicants who interviewed for the various Boards and Commissions and expressed her appreciation to applicants who are willing to volunteer their time.

Councilmember Urban recognized the excellent work of Planning Commission Chair Tom Fox, who was replaced because of term limitation. He also recognized the City of Kalamazoo as a favored and cooperative "sister city to the north."

Councilmember O'Brien recognized the excellent work of Construction Board of Appeals Chair Tom Wilkinson, who was replaced because of term limitation, mentioned attendance at the Day of Prayer with Mayor Pro Tem Sackley and encouraged everyone to attend the Work Day at Bicentennial Park, Friday, May 14, 2010, sponsored by the Builders Association. She also reminded everyone that the Race to the Cure is on May 16, 2010, Downtown, Kalamazoo.

City Manager Evans congratulated Parks Director Bill Deming and his staff for receiving a Bronze Award from *American Bicyclist*.

Mayor Pro Tem Sackley lamented the passing of *Kalamazoo Gazette* Reporter Charlotte Channing and remembered her as tough, smart, fair, feared and always professional, and expressed kind thoughts to her family.

Mayor Strazdas concurred with Mayor Pro Tem Sackley and indicated that Ms. Channing was tenacious and spunky, also. He also mentioned that the City of Portage has eight new Eagle Scouts, announced that Portage Northern Forensics Team won first in the state for the ninth time in a row and expressed his appreciation for the youth and adult engagement in the community in Portage.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:42 p.m.

James R. Hudson, City Clerk

***Indicates items included on the Consent Agenda.**

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: May 18, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Check Register

ACTION RECOMMENDED: That City Council approve the Check Register of May 25, 2010 as presented.

Attached please find the Check Register for the period May 5, 2010 through May 18, 2010, which is recommended for approval.

c: Daniel S. Foecking, Finance Director

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
05/06/2010	270920	B & B YARDSCAPE	3114		10,450.00
05/13/2010	270921	AT&T	849		3,059.46
05/13/2010	270922	A-1 SIGNS	2873		417.00
05/13/2010	270923	ABONMARCHE CONSULTANTS, INC	597		8,150.24
05/13/2010	270924	ADAMS BUILDING CONTRACTORS, IN	4350		1,093.65
05/13/2010	270925	ADMIRAL LOCK & KEY SERVICE	104		119.02
05/13/2010	270926	AGGREGATE RESOURCES, INC.	2984		609.44
05/13/2010	270927	ALL-STAR WINDOWS & HOME IMPROV	3172		3,895.00
05/13/2010	270928	ALLEGRA PRINT & IMAGING	533		615.79
05/13/2010	270929	ALLIED WASTE SERVICES #249	3078		40,106.15
05/13/2010	270930	AL TOM, RODNEY K	4226		84.00
05/13/2010	270931	AMERICAN HYDROGEOLOGY CORP.	114		8,852.30
05/13/2010	270932	AMERICAN SAFETY & FIRST AID	113		127.08
05/13/2010	270933	ANIMAL REMOVAL SERVICE, LLC	3428		75.00
05/13/2010	270934	AQUATIC SERVICES, INC	744		920.00
05/13/2010	270935	TODD ARBANAS ENTERPRISES INC.	1704		4,750.00
05/13/2010	270936	ARISTA TRUCK SYSTEMS	4459		822.82
05/13/2010	270937	AUTOMATIC DATA PROCESSING	3305		913.41
05/13/2010	270938	AUTOMATIC MICROFILMING CO.	863		5,692.84
05/13/2010	270939	B & B YARDSCAPE	3114		5,225.00
05/13/2010	270940	B S & A SOFTWARE	1148		6,360.00
05/13/2010	270941	Burnham & Flowers Agency, Inc.	999999		200.00
05/13/2010	270942	BANK OF NEW YORK MELLON	3939		325.00
05/13/2010	270943	BEBBE, RON	3018		282.00
05/13/2010	270944	BILL'S LOCK SHOP, INC.	146		80.00
05/13/2010	270945	BOLLINGER INSURANCE	2312		300.00
05/13/2010	270946	BOOTH NEWSPAPERS INC	89		2,177.59
05/13/2010	270947	BORGESS AMBULATORY CARE CORP.	1545		360.00
05/13/2010	270948	BORGESS HEALTH ALLIANCE	151		1,054.00
05/13/2010	270949	BOULIS, ROB	999999		170.00
05/13/2010	270950	BOWERS MANUFACTURING COMPANY	999999		3,680.62
05/13/2010	270951	BRINK WOOD PRODUCTS, INC.	3537		500.00
05/13/2010	270952	BRINK'S, INC	153		227.01
05/13/2010	270953	BRONSON METHODIST HOSPITAL	156		400.00
05/13/2010	270954	BRONSON VICKSBURG HOSPITAL	157		100.00
05/13/2010	270955	BYHOLT INC.	68		2,436.37
05/13/2010	270956	C D W GOVERNMENT, INC.	2690		13.70
05/13/2010	270957	C T ELECTRICAL SERVICES, INC.	2407		927.00
05/13/2010	270958	Collier, Michael	999999		190.00
05/13/2010	270959	CARNEY, JEANNETTE	999999		400.00
05/13/2010	270960	CARRIER & GABLE	1647		1,200.00
05/13/2010	270961	CHARTER COMMUNICATIONS	3080		71.50
05/13/2010	270962	CINTAS CORP.	2206		12.92
05/13/2010	270963	CITY OF PORTAGE	177		3,387.47
05/13/2010	270964	CITY OF PORTAGE	177		300.00
05/13/2010	270965	COCHRAN GLASS AND DOOR, LLC	4547		75.00
05/13/2010	270966	CONSUMERS CONCRETE CORP.	187		342.34
05/13/2010	270967	CONSUMERS ENERGY - KALAMAZOO	190		93,002.00
05/13/2010	270968	CONSUMERS ENERGY-BILL PMT CNT	189		11,891.68
05/13/2010	270969	CROSSROADS CAR WASH	195		403.00
05/13/2010	270970	CROSSROADS EXPERT AUTO SERVICE	4109		3,563.84

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
05/13/2010	270971	Dylhoff, Randy L.	999999		130.00
05/13/2010	270972	DAHMS, WALTER & ETHEL	999999		1,525.00
05/13/2010	270973	DEAN TRAILWAYS OF MICHIGAN	3468		2,080.00
05/13/2010	270974	DELOOF BUILDERS	2545		2,260.00
05/13/2010	270975	DEMOOVER BROTHERS, INC.	210		196.54
05/13/2010	270976	DEVON TITLE AGENCY	999999		80.37
05/13/2010	270977	DIESEL INJECTION SERVICE, LLC	1874		109.14
05/13/2010	270978	DRENTH, JACOB	4542		43.00
05/13/2010	270979	DRISENGA & ASSOCIATES, INC.	3277		650.00
05/13/2010	270980	EAST JORDAN IRON WORKS	226		2,965.38
05/13/2010	270981	EASTMAN KODAK COMPANY INC.	4504		993.00
05/13/2010	270982	EDIE, PHIL	999999		81.00
05/13/2010	270983	EMERGENCY VEHICLE PRODUCTS	2948		265.00
05/13/2010	270984	ENGINEERED PROTECTION SYSTEMS,	2973		166.50
05/13/2010	270985	ENGINEERING SUPPLY & IMAGING	2615		17.00
05/13/2010	270986	ETNA SUPPLY, INC.	692		2,778.77
05/13/2010	270987	FADEK EQUIPMENT, INC.	688		270.00
05/13/2010	270988	FEDEX KINKOS - CAS	541		413.50
05/13/2010	270989	FERRELLGAS, LP	384		36.00
05/13/2010	270990	FIDLAR COMPANIES	219		257.36
05/13/2010	270991	FILMORE EQUIPMENT, INC.	4516		690.72
05/13/2010	270992	FIRST AMERICAN TITLE CO.	386		700.00
05/13/2010	270993	FISHBECK, THOMPSON, CARR & HUB	17		4,599.00
05/13/2010	270994	FLETCHER ENTERPRISES	1399		4,367.00
05/13/2010	270995	FRANCO JR., MARTIN	3019		282.00
05/13/2010	270996	FRIENDS OF PORTAGE SENIOR CENT	464		720.00
05/13/2010	270997	Gelb, Betty Anne	517		17.50
05/13/2010	270998	GORDON WATER SYSTEMS	999999		200.00
05/13/2010	270999	GRAHAM FORESTRY SERVICE, INC.	464		720.00
05/13/2010	271000	GRAHAM, DOROTHY	999999		79.00
05/13/2010	271001	W W GRAINGER INC	699		14.98
05/13/2010	271002	GRIFFIN PEST CONTROL, INC.	598		585.00
05/13/2010	271003	HAMILTON CASTER AND MFG., CO.	4537		854.10
05/13/2010	271004	HAMILTON, SHIRLEY	999999		410.00
05/13/2010	271005	HARTMAN, CHARLES	913		47.00
05/13/2010	271006	HEGWOOD, RALEIGH	999999		592.00
05/13/2010	271007	HEMLER, KEVIN	4543		86.00
05/13/2010	271008	HI-TECH ELECTRIC CO.	1327		2,581.40
05/13/2010	271009	HI-TECH SYSTEMS ENGINEERING	999999		240.52
05/13/2010	271010	HOADLEY, LEO	4228		220.00
05/13/2010	271012	HOME DEPOT	691		1,312.12
05/13/2010	271013	HORTON, DRAPER	4544		40.00
05/13/2010	271014	HOWARD, CINDY	999999		40.00
05/13/2010	271015	ICEMANN ARENA INC	4342		180.00
05/13/2010	271016	IERVOLINA, SUSAN	2074		85.50
05/13/2010	271017	INDIANA WIPING CLOTH, INC.	61		125.00
05/13/2010	271018	INDUSCO SUPPLY CO., INC.	63		521.80
05/13/2010	271019	IYETEK LLC	3901		993.05
05/13/2010	271020	JAGER, RICHARD	999999		700.00
05/13/2010	271021	JOHNSON, BETH	999999		50.00
05/13/2010	271022	Kalamazoo Valley Family Church	999999		50.00
05/13/2010	271022				1,000.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
05/13/2010	271023	Keystone Community Bank	999999	1,000.00
05/13/2010	271024	Koelper, Doug & Heidi	999999	100.00
05/13/2010	271025	KALAMAZOO COUNTY TREASURER	514	1,736.77
05/13/2010	271026	KALAMAZOO COUNTY TREASURER	1117	325.00
05/13/2010	271027	KALAMAZOO LANDSCAPE SUPPLIES	90	814.50
05/13/2010	271028	KALAMAZOO REG'L EDUC SVS AGENG	721	773.51
05/13/2010	271029	KALAMAZOO VALLEY COMMUNITY COL	230	398.34
05/13/2010	271030	KAR LABORATORIES	1899	4,098.00
05/13/2010	271031	KERKSTRA PRECAST, INC.	706	1,710.00
05/13/2010	271032	KNAPP ENERGY, INC.	235	9,513.62
05/13/2010	271033	KOPEC, CASEY	4409	126.00
05/13/2010	271034	KUHL, DAVID	999999	5.00
05/13/2010	271035	KZOO TIRE COMPANY	564	3,012.00
05/13/2010	271036	LAKE, ELISABETH	3778	44.00
05/13/2010	271037	LANDS END	2645	643.70
05/13/2010	271038	LAWSON PRODUCTS, INC	240	865.47
05/13/2010	271039	LEWIS PAPER PLACE, INC.	242	27.10
05/13/2010	271040	LEXISNEXIS/MATTHEW BENDER	2701	147.00
05/13/2010	271041	THE LIFE GUARD STORE	1878	664.00
05/13/2010	271042	LIFELOC TECHNOLOGIES, INC.	3732	66.00
05/13/2010	271043	LUND, STEPHEN	999999	100.00
05/13/2010	271044	LUND, STEPHEN	999999	100.00
05/13/2010	271045	M & K QUALITY TRUCK SALES	2189	53.46
05/13/2010	271046	Martin, Mark Anthony	2741	50.00
05/13/2010	271047	MAGNIOW ASSOCIATES	2189	375.00
05/13/2010	271048	MCDONALD'S USA, LLC	4211	168.46
05/13/2010	271049	MCKAMEY, BEVERLY	999999	100.00
05/13/2010	271050	MCNALLY ELEVATOR CO.	256	254.18
05/13/2010	271051	MEDEMA, TIMOTHY	4406	132.00
05/13/2010	271052	MENARDS, INC	258	15.66
05/13/2010	271053	MI DEPT OF STATE	999999	13.00
05/13/2010	271054	MICHIGAN ASSESSOR'S ASSOC.	763	75.00
05/13/2010	271055	MIDLAND POLICE DEPARTMENT	999999	600.00
05/13/2010	271056	MILLS, DAN	999999	425.00
05/13/2010	271057	MOORS I, LLC	3834	39.09
05/13/2010	271058	MORDAS, DON	4003	141.00
05/13/2010	271059	T MORGAN INC.	376	55.47
05/13/2010	271060	MOTION INDUSTRIES, INC.	4550	8.49
05/13/2010	271061	MULDERS LANDSCAPE SUPPLIES INC	286	130.00
05/13/2010	271062	MUNICIPAL CODE CORPORATION	981	400.00
05/13/2010	271063	NEW FRESH CLEANING SERVICE	4351	5,317.00
05/13/2010	271064	A NEW LEAF	635	85.00
05/13/2010	271065	NICHOLS, ANDREW	4229	452.00
05/13/2010	271067	OFFICE DEPOT, INC.	1721	945.78
05/13/2010	271068	OFFICEMAX INCORPORATED	301	156.40
05/13/2010	271069	OLNEY, PAXTON	2332	42.00
05/13/2010	271070	ONE WAY PRODUCTS	440	387.95
05/13/2010	271071	Pearson, Jim and Connie	999999	100.00
05/13/2010	271072	Pfizer Foundation	999999	100.00
05/13/2010	271073	Ploughman, James M. Julie A.	999999	20.00
05/13/2010	271074	JAROTH - P T S	3957	303.00

BANK CODE

FROM 05/05/2010 TO 05/18/2010

PROGRAM: GM350L
CITY OF PORTAGE

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
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05/13/2010	271075	PARADIGM DESIGN, INC.	3306		2,571.15
05/13/2010	271076	PARIS CLEANERS	1794		1,529.05
05/13/2010	271077	PARKER, KYLE	4557		47.00
05/13/2010	271078	PARKER, ROBERT	2298		94.00
05/13/2010	271079	PEERLESS-MIDWEST, INC.	1231		24,820.00
05/13/2010	271080	PETERS, DONNA	999999		820.00
05/13/2010	271081	PETTY CASH-CITY MANAGER	805		252.46
05/13/2010	271082	PETTY CASH-PARKS	536		362.14
05/13/2010	271083	PORTAGE DISTRICT LIBRARY	810		235.65
05/13/2010	271084	PORTAGE PUBLIC SCHOOLS	590		2,162.85
05/13/2010	271085	THE POSTMAN	2633		989.00
05/13/2010	271086	PRECISION PRINTER SERVICES INC	2584		580.85
05/13/2010	271087	PREIN & NEWHOF	1738		4,916.20
05/13/2010	271088	PRINGLE, JULIANA	999999		100.00
05/13/2010	271089	PRINTING SYSTEMS, INC.	1214		525.72
05/13/2010	271090	PROFESSIONAL TREE SERVICE, INC	321		950.00
05/13/2010	271091	PSCHIGODA, LORAINÉ	999999		50.00
05/13/2010	271092	QUALITY AIR HEATING & COOLING,	3621		832.33
05/13/2010	271093	R C M HEADSETS/R C M & ASSOC.	4113		294.00
05/13/2010	271094	Rowland, Karen	999999		50.00
05/13/2010	271095	RELIABLE MANAGEMENT SYSTEMS, I	4354		331.00
05/13/2010	271096	REPUBLIC WASTE SERVICES OF W M	4443		937.08
05/13/2010	271097	RESIDENTIAL PLUMBING SERVICES,	1977		680.00
05/13/2010	271098	RIDGE AUTO NAPA	438		2,029.17
05/13/2010	271099	RIETH-RILEY CONSTRUCTION CO.,	4386		419.00
05/13/2010	271100	RIGGS, KEVIN	4545		120.00
05/13/2010	271101	RIGHT-WAY RENTAL, INC.	337		260.00
05/13/2010	271102	RINEVELD, VALERIE	999999		64.38
05/13/2010	271103	ROBERTS, BRIAN	2333		334.50
05/13/2010	271104	ROBERTS, CHARLES D	2300		235.00
05/13/2010	271105	ROHRIG, LYNETTE	999999		50.00
05/13/2010	271106	ROMENCE GARDENS, INC	343		684.33
05/13/2010	271107	ROSE PEST SOLUTIONS	634		126.00
05/13/2010	271108	ROTO-ROOTER SEWER & DRAIN SERV	345		346.00
05/13/2010	271109	S.E.P.L.A.	999999		500.00
05/13/2010	271110	Sackley, Edward J. & Janice J.	999999		500.00
05/13/2010	271111	SARCOM, INC.	1194		40,416.67
05/13/2010	271112	SCHMITT, TRACY	532		240.00
05/13/2010	271113	SCHMIDT, TRACY	532		480.00
05/13/2010	271114	SCHOOLMASTER, MARRIETA	999999		42.00
05/13/2010	271115	SCHULTZ, GREG	999999		240.00
05/13/2010	271116	SCHUUR, MAYNARED	999999		176.00
05/13/2010	271117	SECURITY COUNTERMEASURES & TEC	4540		599.00
05/13/2010	271118	DON SEELYE FORD, INC.	218		19.29
05/13/2010	271119	SENSUS METERING SYSTEMS	2273		1,320.00
05/13/2010	271120	SEVERANCE ELECTRIC COMPANY, INC	353		8,792.86
05/13/2010	271121	SHERMAN LAKE YMCA	4388		920.00
05/13/2010	271122	SHERWIN WILLIAMS	356		1,236.25
05/13/2010	271123	SIDING WORLD	4548		1,347.51
05/13/2010	271124	SNELLING PERSONNEL SERVICES	2107		2,115.00
05/13/2010	271125	SOCIETY FOR HUMAN RESOURCE MGM	3581		160.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
05/13/2010	271126	SPRINT NEXTEL	999999		297.17
05/13/2010	271127	STATE SYSTEMS RADIO, INC	369		1,234.85
05/13/2010	271128	STENSMA LAWN & POWER EQUIPMEN	3222		36.90
05/13/2010	271129	SUITS U TAILOR SHOP INC	4237		16.00
05/13/2010	271130	T-MOBILE USA INC	3665		29.99
05/13/2010	271131	THOMPSON, HELENE	4417		114.00
05/13/2010	271132	TOD COLE	999999		349.66
05/13/2010	271133	TOO CLEAN JANITORIAL	2220		1,335.00
05/13/2010	271134	TRACTOR SUPPLY CORP.	2817		870.03
05/13/2010	271135	TRIGO BREAD CO., LLC	4158		83.86
05/13/2010	271136	U S POSTMASTER	392		6,000.00
05/13/2010	271137	U S SIGNAL COMPANY, LLC	3831		549.00
05/13/2010	271138	UNITED PARCEL SERVICE	545		90.95
05/13/2010	271139	UNITED RENTAL	2177		70.00
05/13/2010	271140	UNITED WATER NACO LLC	4304		174,525.51
05/13/2010	271141	USA TODAY	999999		185.00
05/13/2010	271142	VANBELKUM COMPANIES, LLC.	400		269.16
05/13/2010	271143	VANDER VEEN, DONALD	4230		198.00
05/13/2010	271144	VANDERBILT, JOHN	668		188.00
05/13/2010	271145	VESTAL BUILDERS	4239		3,827.70
05/13/2010	271146	WASHCO, LLC	1104		400.00
05/13/2010	271147	WAYKINS, GREG	4231		235.00
05/13/2010	271148	WEST MICHIGAN GLASS SOCIETY	4518		282.00
05/13/2010	271149	WEST, STEVE	4408		146.50
05/13/2010	271150	WIGHTMAN JONES, INC.	3785		2,735.00
05/13/2010	271151	WOLVERINE LAWN SERVICE, INC.	1089		510.27
05/13/2010	271152	WRIGHT, KYLE	999999		42.00
05/13/2010	271153	YODER, ANDREW	4546		120.00
05/13/2010	271154	ZESCO SALES COMPANY LLC	4216		659.74
05/13/2010	271155	360 SERVICES, INC.	637		3,187.85
05/17/2010	271156	STATE TAX COMMISSION	999999		45.00
05/17/2010	271157	TOY BOX STORAGE	3208		900.20

DATE RANGE TOTAL *

612,959.75 *

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: May 17, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Fiscal Year 2010-2011 Budget Approval

ACTION RECOMMENDED: That City Council approve the Fiscal Year 2010-2011 Budget.

Following Council budget review sessions and the public hearing, the adoption of the General Appropriations Act, the Salary and Wage Resolution and the Reimbursement Resolution will complete the Fiscal Year 2010-2011 Budget and authorize implementation beginning July 1, 2010.

The Fiscal Year 2010-2011 Budget is a conservative financial plan that maintains a high level of excellence in service. The ongoing financial challenges of the state economy continue to affect local governments, bringing uncertainty regarding future revenue sharing monies, Act 51 funds and other state and federal awards and entitlements. However, effective financial controls and planning instituted by the City Administration will minimize the affects of future budget challenges.

This budget is a sound financial plan for the community that:

- addresses and meets service demands at the same tax rate as last year for all tax supported funds except the Municipal Streets Fund. The Municipal Streets Fund requires a millage increase due to a decrease in tax base and a decrease in state road funding allocated to Portage. The modest 10.7312 mill levy keeps the city in the position of being in the lowest quarter of all Michigan cities with populations greater than 25,000 in terms of millage level;
- maintains the Council-prescribed fund balance of 13 percent, which contributes to the excellent bond rating of the city;
- adequately supports economic development efforts through \$9.9 million of infrastructure related improvements in the Capital Improvement Program; and
- continues a balanced, efficient, cost-containment approach to service delivery by providing a high level of both municipal and privatized services.

The General Appropriations Act Resolution, which is attached, has been prepared to conform to all requirements of the City Charter and State Statutes. The Salary and Wage Resolution, necessary to establish salary and wage schedules, is also attached. At the recommendation of Bond Counsel John Axe, approval is also requested for the Reimbursement Resolution demonstrating that City Council approves the issuance of bonds after projects are complete in addition to bonding some projects in whole or in part prior to beginning construction. Bond Counsel has indicated that this Resolution helps fulfill one of many due diligence requirements related to bond issuance. In accordance with the timeline prescribed by the City Charter, Council adoption of these three resolutions is recommended.

Attachments

GENERAL APPROPRIATIONS ACT
 RESOLUTION TO ADOPT THE BUDGET
 OF THE CITY OF PORTAGE FOR THE FISCAL YEAR
 JULY 1, 2010 TO JUNE 30, 2011
 AND TO MAKE APPROPRIATIONS THEREFORE

Moved by
 Supported by

WHEREAS, Chapter 7 of the City Charter requires: That the City Manager submit a budget proposal with his recommendation to the City Council; that a public hearing be held on said budget proposal; that the City Council by resolution adopt a budget for the ensuing fiscal year, make an appropriation of the money needed therefore, and designate the sum to be raised by taxation; and

WHEREAS, the Manager has submitted said budget and recommendations and a public hearing has been held thereon;

NOW, THEREFORE, BE IT RESOLVED as provided in Chapter 7 of the City Charter, and in conformity with Public Act 621 of 1978, the Uniform Budgeting and Accounting Act, that the budgets attached hereto and made a part hereof by reference are hereby considered and adopted, to be administered on an activity level, with the exception of the Capital Improvement Fund, which will be administered on a program/project level, as the budgets of the City of Portage to cover the operations and expenditures thereof for the fiscal year July 1, 2010 to June 30, 2011.

BE IT FURTHER RESOLVED that the sum of \$21,612,600 be raised by taxation by the levy of 10.7312 mills for operations on the taxable value of all real and personal property in the City as follows:

General Operating Fund	7.5000 mills	\$15,105,000
Capital Improvement Fund	2.0000 mills	4,028,000
Curbside Recycling Fund	0.2710 mills	545,800
Leaf Pickup/Spring Cleanup Fund	0.2950 mills	594,100
Municipal Street Fund	<u>0.6652 mills</u>	<u>1,339,700</u>
	<u>10.7312 mills</u>	<u>\$21,612,600</u>

BE IT FURTHER RESOLVED that the City Manager be authorized to transfer necessary amounts between activities/ departments within a fund and make any adjustments within or between funds which do not change ending fund balance. The Capital Improvement Funds shall be considered one fund for the purposes of this provision.

BE IT FURTHER RESOLVED that a copy of this budget resolution be furnished to the City Assessor, who together with the Finance Director shall then proceed to assess and collect the taxes in accordance with the City Charter and State Statutes.

YES:
 NO:
 ABSENT:

 James R. Hudson, City Clerk

CERTIFICATION

STATE OF MICHIGAN)
)SS
 COUNTY OF KALAMAZOO)

I, the undersigned, the duly qualified and acting City Clerk of the City of Portage, Kalamazoo County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said City, held on the 25th day of May, 2010 the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this 25th day of May, 2010

 James R. Hudson, City Clerk

SALARY AND WAGE RESOLUTION
RESOLUTION TO ADOPT THE SALARY AND WAGE SCHEDULES FOR
THE FISCAL YEAR JULY 1, 2010 TO JUNE 30, 2011

Moved by
Supported by

WHEREAS, Section 6.18(a) of the City Charter and Section 248.06 of the City Code require that upon recommendation of the City Manager, the City Council shall establish uniform salary and wage scales for all officers and employees of the City;

NOW, THEREFORE, BE IT RESOLVED that for the period beginning July 1, 2010 and until otherwise directed, salaries and wages shall be established and adjusted as follows:

- (1) Personnel of the following bargaining units shall receive compensation effective July 1, 2010 in accordance with applicable collective bargaining agreements:
International Association of Firefighters (IAFF)
- (2) Personnel of the following bargaining units shall receive compensation in accordance with bargaining agreements to be negotiated during the fiscal year ending June 30, 2011:
Portage Police Officers Association (PPOA)
Portage Police Command Officers Association (PPCOA)
United Auto Workers (Parks and Streets Department Laborers, Operators and Mechanics)
- (3) Department Heads, regular part-time non-union employees, and full-time non-union employees shall receive salary and benefit adjustments as provided for in the Non-union Employee Compensation and Classification Plan, as amended by the 2010-2011 Compensation & Benefit Plan Amendment, and as recommended by the City Manager and adopted with the budget on May 25, 2010. Other part-time and seasonal employees shall receive increases, with each classification to be adjusted separately, as approved by the City Manager. Compensation for the City Manager will be determined by the City Council.

YES:
NO:
ABSENT:

James R. Hudson, City Clerk

CERTIFICATION

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, the undersigned, the duly qualified City Clerk of the City of Portage, Kalamazoo County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said City, held on the 25th day of May, 2010 the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this 25th day of May, 2010.

James R. Hudson, City Clerk

CITY OF PORTAGE

At a regular meeting of the City Council of the City of Portage, Michigan, held on the 25th day of May, 2010, at 7:30 p.m., Eastern Daylight Savings Time, at the City Hall in Portage, Michigan there were:

PRESENT: _____

ABSENT: _____

The following preambles and resolution were offered by _____ and seconded by _____:

**REIMBURSEMENT RESOLUTION
City of Portage**

WHEREAS, there have been prepared and presented to the City Council (the "Council") of the City of Portage, Michigan (the "City"), a description of capital improvements (the "Capital Improvement Project") all as more fully described in EXHIBIT A; and

WHEREAS, it has been estimated that the total cost of the Capital Improvement Project and issuing the Bonds will not exceed \$949,500 to be provided by the proceeds from the sale of bonds by the City; and

WHEREAS, the City proposes to undertake the Capital Improvement Project and to incur taxable or tax-exempt debt (the "Reimbursement Obligations") to finance all or a portion of the costs of the Capital Improvement Project; and

WHEREAS, the City may make certain expenditures for said Capital Improvement Project prior to issuance of the Reimbursement Obligations and may wish to use the proceeds of the Reimbursement Obligations to reimburse all or a portion of said expenditures; and

WHEREAS, it is in the public interest and for the public benefit that the City designate an authorized officer for the purposes of declaring official intent of the City with respect to expenditures.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORTAGE, MICHIGAN, AS FOLLOWS:

1. **Official Intent:** The Director of Finance of the City of Portage (the "Director of Finance") is hereby authorized to declare official intent of the City with respect to reimbursement.

2. **Individual Declarations of Intent:** Each declaration of official intent shall be substantially in the form set forth in APPENDIX I attached hereto and by this reference incorporated herein, and said form may be modified from time to time on the advice of bond counsel to the City and as necessary to conform to requirements of the reimbursement regulations as the same may be adopted by the Internal Revenue Service or amended from time to time, or with the requirements of applicable rulings or regulations relating to tax-exempt borrowings.

3. **Filing Official Intent:** The Director of Finance is hereby directed to file each declaration of official intent in the office of the Clerk of the City of Portage, which location constitutes the customary location of the records of the City which are available to the general public.

4. **Declarations of Intent Available:** The City Clerk is further directed to assure that each declaration of intent is continuously available during normal business hours of the City on every business day of the period beginning the earlier of 10 days after the date of execution of said declaration of intent and ending on the date of issuance of the Reimbursement Bonds.

5. **Conflicting Resolutions.** All resolutions and parts of resolutions in conflict with the foregoing are hereby rescinded.

6. **Effective Date.** This Resolution shall become effective immediately upon its adoption and shall be recorded in the minutes of the City as soon as practicable after adoption.

A roll call vote on the foregoing resolution was then taken, and was as follows:

YES: _____

NO: _____

ABSTAIN: _____

The resolution was declared adopted.

STATE OF MICHIGAN)
)ss.
CITY OF PORTAGE)

CERTIFICATION

The undersigned, being the duly qualified and acting Clerk of the City of Portage, hereby certifies that the foregoing is a true and complete copy of a resolution duly adopted by the City of Portage City Council at its regular meeting held on the day of May 25, 2010, at which meeting a quorum was present and remained throughout and that an original thereof is on file in the records of the City. I further certify that the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, and that minutes of such meeting were kept and will be or have been made available as required thereby.

Clerk, City of Portage

EXHIBIT A

Street Improvements

Trade Centre Way/West Fork Crossing/South Westnedge Avenue	\$850,000
Major Street Reconstruction Program	\$5,000

Equipment Fund Improvements

Vehicles	\$94,500
	<hr/>
	\$949,500

APPENDIX I

FORM OF DECLARATION
OF OFFICIAL INTENT

I, the undersigned Director of Finance of the City of Portage, Michigan, do hereby certify as follows:

1. I am an officer of the City authorized to declare official intent of the City to reimburse expenditures made, prior to the issuance of debt, from the proceeds of said debt.

2. This Declaration relates to the following expenditures (the "Expenditures"):

<u>Amount</u>	<u>General Purpose</u>
\$949,500	as listed in Exhibit A

3. The Expenditures are with respect to property (the "Property") having:

- (A) the following general character, type or purpose:
Street improvement and expansion including sidewalks and replacement equipment for the Equipment Fund.
- (B) the following cost: \$949,500; and
- (C) a reasonably expected economic life at least one (1) year.

4. I understand that a substantial deviation between the above description of the Property for which the Expenditures are being made and the actual Property which is acquired or constructed will invalidate this declaration of official intent with the result that any proceeds of tax-exempt debt which are used to reimburse for the Expenditures will not be deemed to have been expended upon such reimbursement.

5. The City intends to reimburse the Expenditures by incurring taxable or tax-exempt debt (the "Reimbursement Obligations").

6. The expected source of funds that will be used to pay the Expenditures is as follows: Special Assessment Bonds and Limited Tax General Obligation Bonds.

7. The expected source of funds to be used to pay debt service on the Reimbursement Obligation is as follows: Special assessments levied on benefiting properties, utility revenues in the case of utility related debt and part of the Charter provided capital improvement millage plus Act 51 revenues for payment of part of the street improvements and captured tax revenues in the case of the Downtown Development Authority.

8. This declaration of intent is consistent with the budgetary and financial circumstances of the City as of the date hereof in that there are no funds which are now or are reasonably expected to be, (A) allocated on a long-term basis, (B) reserved, or (C) otherwise available pursuant to the City's budget, to pay the Expenditure.

9. The City does not have a pattern of failure to reimburse expenditures for which official intent has been declared in that at least seventy-five percent (75%) of all expenditures made after July 1, 2007, for which the City has declared an intent to reimburse from the proceeds of taxable or tax-exempt debt have been, or are expected to be, so reimbursed.

10. I acknowledge that in the event that the City fails to use the proceeds of Reimbursement Obligations issued within three (3) years of the date hereof to reimburse expenditures the same may adversely affect the ability of the City to use the proceeds of tax-exempt obligations in the future to reimburse for expenditures made prior to the issuance of such obligations.

11. I further acknowledge that unless the Expenditures constitute preliminary expenditures (in the nature of architect services and soil testing but excluding land acquisition) for the Property not in excess of ten percent (10%) of the expected cost of the Capital Improvement Project of which the Property constitutes a part, the Expenditures will be paid within not in excess of two (2) years following the date hereof or, as an alternative, this declaration of intent will be renewed.

12. I further acknowledge that it is expected that the proceeds of Reimbursement Obligations will be used for reimbursement of each Expenditure not later than (A) the date that is one (1) year after the date on which such Expenditure is paid, or (B) the date that is one (1) year after the date on which the Property is placed in service.

13. I further acknowledge that I will assure that the allocation referenced in item 12 (A) will be evidenced by an entry on the records of the City maintained with respect to the Reimbursement Obligations, (B) will specifically identify the Expenditure being reimbursed, and (C) on the advice of the appropriate counsel will be sufficient to relieve the allocated proceeds of the Reimbursement Obligations covered by such entry from any restrictions under the relevant legal documents and applicable state law that apply only to unspent proceeds of Reimbursement Obligations.

14. I further acknowledge that I will assure that except as referenced in item 15 the proceeds of the Reimbursement Obligations that are used to reimburse the Expenditures will not be used, directly or indirectly, (A) to pay debt service on an issue of tax-exempt obligations, (B) to create or increase the balance in a sinking fund established for the payment of debt service on the Reimbursement Obligations or another issue of tax-exempt obligations of the City or to replace funds that have been, are being, or will be so used for reserve or replacement fund purpose, or (C) to reimburse any expenditures or any payment with respect to financing of an expenditure that was originally paid with proceeds of any tax-exempt obligations of the City to any person or entity other than the City.

15. I understand that item 14 does not prohibit the use of those proceeds of the Reimbursement Obligations that are used to reimburse the Expenditures for (A) deposit in a bona fide debt service fund (that is, a fund established to pay debt service on any tax-exempt obligation of the City, other than the Reimbursement Obligation, which is depleted annually except for a reasonable carry over amount not in excess of one (1) year's interest earnings on said fund or one-twelfth (1/12th) of annual debt service), (B) to pay current debt service coming due within the next succeeding one-year period on any tax-exempt obligation of the City, other than the Reimbursement Obligations, or (C) to reimburse for expenditures originally made from the proceeds of a tax-exempt obligation of the City which were not reasonably expected by the City, on the date of issue of such obligation, to be used for such expenditure.

IN WITNESS WHEREOF, the undersigned has executed this declaration of official intent this 26th day of May, 2010.

Daniel S. Foecking
Director of Finance

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: May 20, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: South County Sewer and Water Authority – US 131 Corridor Wastewater Conveyance Agreement

ACTION RECOMMENDED: That Council approve the revised City of Portage – South County Sewer and Water Authority US 131 Corridor Wastewater Conveyance Agreement and authorize the Mayor to sign the revised agreement on behalf of the city.

The South County Sewer and Water Authority (SCSWA) previously requested an intergovernmental agreement with the City of Portage that would allow for a Village of Schoolcraft/Schoolcraft Township connection to the Portage sanitary sewer system and flow-through for treatment at the City of Kalamazoo Water Reclamation Plant. The City Council conducted work sessions on February 14, 2009 and March 11, 2009 to review the request. At the direction of City Council, the City Administration began negotiations with representatives of the SCSWA in March 2009 and concluded negotiations in August 2009. At the SCSWA meeting of September 14, 2009, the SCSWA Board unanimously approved the proposed US 131 Corridor Wastewater Conveyance Agreement. On September 22, 2009, City Council approved the City of Portage – South County Sewer and Water Authority US 131 Corridor Wastewater Conveyance Agreement.

Subsequently, during SCSWA negotiations with the City of Kalamazoo, the City of Kalamazoo requested additional language be included in the City of Portage – South County Sewer and Water Authority US 131 Corridor Wastewater Conveyance Agreement that clarifies previous agreements between SCSWA and the City of Kalamazoo. The revised agreement has been reviewed and is recommended by city staff. The City Attorney has approved the revised agreement as to form and on April 26, 2010 the revised agreement was approved by the City of Kalamazoo. No material changes were made to the previously approved agreement and SCSWA has not been released from any requirements contained in the previously approved agreement.

The revised US 131 Corridor Wastewater Conveyance Agreement represents positive intergovernmental relationships with neighboring municipalities and entities like the City of Kalamazoo and SCSWA. The revised agreement acknowledges the potential regional benefits of extending the regional sanitary sewer system while also addressing issues important to Portage residents and that protect current and future citizens of Portage. It is recommended that City Council approve the revised City of Portage – South County Sewer and Water Authority US 131

Corridor Wastewater Conveyance Agreement and authorize the Mayor to sign the revised agreement on behalf of the City of Portage.

Attachments

AGREEMENT

CITY OF PORTAGE – SOUTH COUNTY SEWER AND WATER AUTHORITY

US 131 CORRIDOR WASTEWATER CONVEYANCE

THIS AGREEMENT, entered into this _____ day of _____, 2010, by and between the CITY OF PORTAGE, Michigan, whose address is 7900 South Westnedge Avenue, Portage, MI, 49002, a Michigan municipal corporation (hereinafter referred to as “PORTAGE”), and the SOUTH COUNTY SEWER AND WATER AUTHORITY, whose address is 7510 East “Q” Ave., Scott, MI 49088, established pursuant to Act 233 of the Public Acts of Michigan of 1955, as amended (hereinafter referred to as “AUTHORITY”);

WITNESSETH:

WHEREAS, the AUTHORITY, as utility agent for the Townships of Brady, Pavilion and Schoolcraft and the Village of Schoolcraft, is responsible for implementing, owning and operating utility projects within the municipal boundaries of its member jurisdictions collectively; and

WHEREAS, PORTAGE owns and operates a sanitary sewer collection and transport system within its corporate limits; and

WHEREAS, PORTAGE and the AUTHORITY presently have Wastewater Disposal Agreements with the City of Kalamazoo, wherein the City of Kalamazoo owns and operates a sewage disposal system, and has capacity to accept, convey, treat, and finally dispose of sanitary sewage from PORTAGE and the AUTHORITY; and

WHEREAS, the parties recognize that the health, safety and welfare of the existing residents and property owners in the Village of Schoolcraft and Schoolcraft Township areas, and in Kalamazoo County in general, will be preserved and protected if public sanitary sewer service and wastewater disposal and treatment services are available; and

WHEREAS, the Wastewater Service Agreement dated January 27, 1986, between PORTAGE and the City of Kalamazoo ("Kalamazoo") provides that PORTAGE may utilize the PORTAGE System to transport Sanitary Sewage originating from other municipalities with the consent of Kalamazoo; and

WHEREAS, PORTAGE maintains the Portage Creek Trunk Sewer within its boundaries serving portions of Texas Township, PORTAGE and the Township of Schoolcraft (Gourdneck Lake Area); and

WHEREAS, both parties deem it desirable that PORTAGE make available as defined and limited by this Agreement capacity in its Portage Creek Trunk Sewer system to permit the AUTHORITY to transport sanitary sewage from the US 131 Corridor of the Township of Schoolcraft and the Village of Schoolcraft as identified in the attached Exhibit A (the "US 131 Corridor Project").

NOW, THEREFORE, PORTAGE and the AUTHORITY agree as follows;

1. For the purpose of this Agreement, the terms defined in this paragraph shall have the meanings hereinafter indicated:
 - A. **SANITARY SEWAGE:** Any liquid or water carried waste received from domestic, commercial and industrial customers, including any infiltration or inflow's that may be present, but exclude any water received from a pipe or other facility intended to convey only water run-off, street wash waters, groundwater and drainage.
 - B. **PORTAGE SYSTEM:** All sanitary sewers, collection and transport systems instrumentalities and properties, or part thereof, used or useful in the collection and transport of sanitary sewage, located within the boundaries of PORTAGE as they now exist or may hereafter exist and owned and/or operated by PORTAGE.
 - C. **AUTHORITY SYSTEM:** All sanitary sewers, collection and transport systems instrumentalities and properties, or parts thereof, used or useful in the collection and/or

disposal of sanitary sewage flowing into and through the PORTAGE SYSTEM, located within the jurisdiction of the Authority as they now exist or as they may hereafter exist, and owned and/or operated by the AUTHORITY.

D. SERVICE AREA: The area within the jurisdiction of the AUTHORITY from which Sanitary Sewage may be discharged to flow into and through the PORTAGE SYSTEM, all as depicted on Exhibit A and described in Exhibit B attached hereto and made a part hereof by this reference. Sanitary Sewage generated outside the service area will not be accepted into the PORTAGE SYSTEM without written amendment to this Agreement executed by both PORTAGE and the AUTHORITY.

2. UNDERTAKING BY PORTAGE: PORTAGE agrees to permit the AUTHORITY one point of connection within Section 29 of PORTAGE at the approximate location of Choral Avenue and Oakland Drive as identified on the attached Exhibit A (the "Connection Point"), and further agrees that the AUTHORITY may discharge a peak flow of 3.0 Cubic Feet Per Second (CFS) of sanitary sewage into the PORTAGE SYSTEM. PORTAGE shall convey said sewage through the PORTAGE SYSTEM to the collection, treatment and disposal system of the City of Kalamazoo. The sanitary sewage the AUTHORITY may discharge at such Connection Point into the PORTAGE SYSTEM shall not exceed the peak flow of 3.0 CFS. If a breach exceeding 3.0 CFS occurs the AUTHORITY shall promptly take all necessary steps to reduce peak flow from the AUTHORITY SYSTEM so that it does not exceed 3.0 CFS peak flow.

3. UNDERTAKING BY AUTHORITY:

A. The AUTHORITY shall pay \$67,951.39 to PORTAGE for use of PORTAGE SYSTEM facilities for peak flow capacity of 3.0 CFS in the Portage Creek Trunk Sewer

as calculated on the attached Exhibit C. This sum shall be paid within one hundred eighty (180) days after complete financing is procured (example: bonds are sold by the County of Kalamazoo) for the US 131 Corridor Sewer Project or upon commencement of construction of the Project, whichever occurs first.

B. The AUTHORITY in engineering and constructing a force main and related ancillary facilities and appurtenances from the US 131 Corridor Project (the "AUTHORITY Sewer Project") to the Connection Point shall use the best available technology for odor and corrosion control that is consistent with generally accepted engineering practices. The AUTHORITY shall be responsible for monitoring, servicing and maintaining AUTHORITY facilities within PORTAGE in order to prevent odor nuisance. The AUTHORITY shall monitor the AUTHORITY Sewer Project for odors and shall as necessary promptly abate such odors which upon written request of PORTAGE shall be abated within 72 hours of such request. The AUTHORITY shall pay the cost of all necessary odor abatement of any AUTHORITY facilities located in PORTAGE. If the AUTHORITY fails to abate the odor, PORTAGE may perform such abatement, provided that not less than seven working days' prior notification of the intent to take such corrective actions is provided to the AUTHORITY with a written report detailing the intended corrective action and such action is consistent with generally accepted engineering practices. All costs related to abatement incurred by PORTAGE shall be the responsibility of the AUTHORITY.

C. The AUTHORITY agrees to be liable to PORTAGE for all costs of repair or replacement of the PORTAGE SYSTEM damaged as a result of Sanitary Sewage flow from the AUTHORITY SYSTEM to the PORTAGE SYSTEM and agrees to indemnify

and hold harmless PORTAGE, its agents, officers and elected officials for any claim, injury or loss as a result of damage to personal or real property as a result of unauthorized sanitary sewage from the AUTHORITY SYSTEM to the PORTAGE SYSTEM.

D. A metering station shall be constructed at the Connection Point at a location to be agreed upon by PORTAGE and the AUTHORITY engineers and daily flow records shall be provided to PORTAGE on a monthly basis. The AUTHORITY agrees to read the meter at least weekly, and to maintain an accurate record of all readings taken from said meter, and to keep such records available at all times for inspections upon request by PORTAGE. The meter shall be calibrated semi-annually at the AUTHORITY's expense, with copies of the calibration records provided to PORTAGE. The cost of the metering station installation, maintenance and operation shall be the responsibility of the AUTHORITY.

E. The AUTHORITY shall submit complete design plans and specifications for the AUTHORITY SYSTEM to PORTAGE for review and approval of the general design concepts, which PORTAGE shall either approve or disapprove within thirty (30) days from the date they are submitted, provided, however, such review and approval shall not constitute any assumption of responsibility or liability for the design of the facilities. The AUTHORITY shall cause such design plans and specifications to be approved and a construction permit issued by any state or federal agencies having authority to approve plans and specifications and issue construction permits.

F. PORTAGE may inspect the AUTHORITY SYSTEM upon reasonable notification by PORTAGE.

G. The AUTHORITY shall obtain the insurance required under this paragraph. Contractors and subcontractors of the AUTHORITY in performing work under this Agreement on PORTAGE property shall obtain the insurance required under this paragraph. All insurance coverages shall be with insurance carriers acceptable to PORTAGE. If any insurance is written with a deductible or self-insured retention, the AUTHORITY and its contractors and subcontractors shall be solely responsible for said deductible or self-insurance retention. The purchase of insurance and the furnishing of a certificate of insurance shall not be a satisfaction of the AUTHORITY'S duty to indemnify PORTAGE. The AUTHORITY shall obtain and maintain the following insurance coverage at all times during the term of this Agreement and the AUTHORITY'S contractors and subcontractors shall maintain said insurance during the term of the Permit to do the work in the PORTAGE right-of-way:

- a. Workers compensation insurance in accordance with all applicable statutes of the State of Michigan. Coverage shall include employer's liability coverage.
- b. Commercial General Liability Insurance on a per "occurrence" basis for bodily injury and personal injury, as well as on a per occurrence basis for property damage. The limits of such liability coverage shall be consistent with the liability coverage limits obtained or required by PORTAGE for PORTAGE water and sanitary sewer projects. The minimum coverage to be maintained by the AUTHORITY, based on July 2009 PORTAGE review, shall not be less than \$2,000,000 and shall be reviewed annually by PORTAGE and adjusted as appropriate.
- c. Motor vehicle liability coverage, including Michigan no fault coverage for all

vehicles used in the performance of the Agreement. The limits of liability coverage shall be in conformance with amounts required by PORTAGE policy in effect at the time for a similar scope of work. The minimum coverage to be maintained by the AUTHORITY, based on July 2009 PORTAGE review, shall not be less than \$1,000,000 and shall be reviewed annually by PORTAGE and adjusted as appropriate.

- d. All general liability insurance and automobile liability insurance as described above shall include an endorsement stating that PORTAGE shall be added as a named insured as follows: “The City of Portage, including all elected and appointed officials, boards, commissions, officers and employees, shall be named as an additional insured.”
- e. Workers Compensation Insurance, General Liability Insurance, and Motor Vehicle Liability Insurance as described above shall include an endorsement stating the following:

“It is hereby understood and agreed that this insurance policy may not be canceled by the insurer nor the intention not to renew be stated by the insurer until thirty (30) days after receipt by the City, by certified or registered mail, of a written notice of such intention to cancel or not renew.”
- f. The AUTHORITY shall provide PORTAGE with certificates showing the AUTHORITY has the insurance policies required by this Agreement, said insurance required may be waived if PORTAGE, in its sole discretion, is convinced that the AUTHORITY can provide PORTAGE with protection of a similar value by other

means.

4. COMPENSATION TO PORTAGE:

A. The amount set forth in paragraph 3 shall represent the proportionate share of costs payable by the AUTHORITY to PORTAGE for use of 3.0 CFS peak flow capacity in the PORTAGE SYSTEM.

B. The foregoing compensation to PORTAGE represents compensation for capital costs of existing facilities of the PORTAGE SYSTEM to be used for the transportation of the AUTHORITY Sanitary Sewage flow. The AUTHORITY also agrees to pay PORTAGE its proportionate share, based upon Exhibit C, Column E for each respective pipe segment #1-6, of actual operating, maintenance, repair and replacement cost of facilities of the PORTAGE SYSTEM used by the AUTHORITY; said costs to be determined by the PORTAGE Sanitary Sewage rate setting methodology as supported by PORTAGE financial records. Bills for operation, maintenance, repair and replacement costs shall be mailed to the AUTHORITY, at the address indicated on the first paragraph of this Agreement or such other address provided by the AUTHORITY to PORTAGE, at least quarterly and shall be payable within 30 days of mailing. There shall be a further charge of 10% of the amount of the bill if not paid on or before the due date. All delinquent balances remaining unpaid for six months or more shall be subject to an additional charge of 8% per annum until paid. Service to the AUTHORITY may be discontinued if any bill is not paid within 60 days of the due date; however, such service shall not be discontinued unless a written notice of intent to disconnect shall have been mailed to the AUTHORITY 30 days before discontinuance of service. The AUTHORITY hereby waives any and all claims for damages resulting from such

discontinuance of service, and agrees to indemnify and hold harmless PORTAGE councilmembers, officers, employees and agents against all claims for damages asserted by the AUTHORITY users arising out of or relating to such discontinuance of service. In addition, the AUTHORITY agrees that while such payments are delinquent, no additional connections shall be made to the AUTHORITY System until such amounts delinquent are paid in full.

5. ACCORD WITH THE PORTAGE AND KALAMAZOO CONTRACT:

A. This Agreement is not intended to supplant or in any way supersede the Wastewater Service Agreement dated January 27, 1986 between PORTAGE and Kalamazoo (the "Kalamazoo Contract"), by permitting the AUTHORITY SYSTEM to connect to the PORTAGE SYSTEM for the transport of sanitary sewage from the Service Area for treatment and disposal by Kalamazoo.

B. PORTAGE and the AUTHORITY agree that this Agreement shall not be in derogation of the existing contracts each has with Kalamazoo and that the construction of their respective systems will be built in accordance with, and to the specifications provided in such contracts. The parties further agree that the payments to PORTAGE shall be in addition to any payments either makes to Kalamazoo and that metering and billing for the treatment and disposal of Sanitary Sewage will be done by Kalamazoo as provided for in the contracts with Kalamazoo. PORTAGE and the AUTHORITY agree upon request of Kalamazoo to furnish the meter readings indicating AUTHORITY SYSTEM Sanitary Sewage flow through the PORTAGE SYSTEM.

C. The AUTHORITY agrees that it will not discharge or cause to be discharged industrial wastes into the PORTAGE SYSTEM except as permitted by Kalamazoo's

contract with the AUTHORITY dated July 20, 2004, and that it will pay Kalamazoo directly for treatment of all Sanitary Sewage transported through the PORTAGE SYSTEM for treatment and disposal in Kalamazoo including all applicable surcharges.

6. USE OF RIGHT-OF-WAY: The AUTHORITY shall obtain from PORTAGE a “Permit to Construct, Operate, Use and/or Maintain Within the Right-Of-Way” prior to commencement of construction of the AUTHORITY Sewer Project and the Authority, its contractors and subcontractors, shall comply with all requirements of the permit. The fee paid by the AUTHORITY to PORTAGE for the use of the right-of-way shall be a one-time payment of \$15,000. This sum shall be paid within one hundred eighty (180) days after complete financing is procured (example: bonds are sold by the County of Kalamazoo) for the US 131 Corridor Sewer Project or upon commencement of construction of the Project, whichever occurs first.

7. MAINTENANCE:

A. PORTAGE agrees to provide maintenance, repair, replacement and reconstruction when needed of those portions of the PORTAGE SYSTEM through which sanitary sewage of the AUTHORITY SYSTEM flows pursuant to the terms of this Agreement. The AUTHORITY shall retain ownership of the force main and responsibility for operations and maintenance, repair and replacement of the AUTHORITY Sewer Project. The AUTHORITY shall also be responsible at its cost for relocating its force main within the Oakland Drive right-of-way in PORTAGE if such relocation is requested by PORTAGE to accommodate a PORTAGE initiated public improvement project providing said relocation is reasonable and is in accordance with generally accepted engineering practices. Any surface restoration over the

AUTHORITY facilities located in PORTAGE necessitated by a surface disturbance caused by the AUTHORITY shall be completed at the AUTHORITY'S cost in accordance with the PORTAGE Construction Conditions and Specifications and Details as amended.

B. Upon termination of this Agreement, the AUTHORITY shall, at its cost, within 180 days after termination, at PORTAGE'S option either: a) abandon in place that portion of the US-131 Corridor Sewer Project located in PORTAGE using methods consistent with generally accepted engineering practices, with the right, title and interest to the abandoned force main transferred to PORTAGE; or b) transfer the right, title and interest in the force main and related appurtenances to PORTAGE.

8. OPERATING LIABILITY:

A. PORTAGE will use reasonable diligence to provide and maintain regular uninterrupted service through the PORTAGE System, but does not guarantee uninterrupted service and shall not be liable for injuries or damages caused by such interruption, whether caused by defects in original construction, cave-ins, accidents, repairs, refusal by the City of Kalamazoo to accept Sanitary Sewage for any reason, or any other cause.

B. Should non-permitted Sanitary Sewage from the Service Area of the AUTHORITY System cause damage to facilities owned and operated by PORTAGE, the AUTHORITY assumes full liability for the actual costs of repair or replacement of such facilities of like kind and quality.

9. FUTURE CAPACITY:

A. PORTAGE acknowledges that the AUTHORITY's initial request for capacity through the Portage system was in the amount of 5.0 cubic feet per second, equivalent to 1,200,000 average gallons per day and that the PORTAGE System can currently handle the amount requested by the Authority. However, in order to provide PORTAGE the opportunity to review growth patterns within the Service District and their potential impact upon PORTAGE, when the average daily Sanitary Sewage flow from the AUTHORITY System through the PORTAGE System reaches 350,000 Gallons Per Day (gpd), representatives of PORTAGE and the AUTHORITY will meet to plan for a method of handling additional flows that exceed 437,500 gpd annual average daily Sanitary Sewage flows. PORTAGE agrees it shall not unreasonably deny additional capacity. If no agreement has been reached on how to handle such additional flows when the annual average daily Sanitary Sewage flow from the AUTHORITY System through the PORTAGE System reaches 415,000 gpd, the AUTHORITY agrees that no additional connections to the AUTHORITY System shall be permitted which flow into the PORTAGE System without the approval of PORTAGE. Annual average daily flows shall be calculated by dividing 365 or 366 days into the total annual billed flow for the immediate preceding 12 month period beginning with a 12 month period commencing with the month PORTAGE first receives Sanitary Sewage from the AUTHORITY. Notwithstanding the above, in an effort to reach agreement PORTAGE and the AUTHORITY agree to negotiate in good faith.

B. The AUTHORITY acknowledges that, with respect to capacity at the City of Kalamazoo's wastewater treatment plant, the current AUTHORITY/City of Kalamazoo agreement, dated July 20, 2004, as modified by the INTERGOVERNMENTAL

AGREEMENT FOR PARTICIPATION IN THE GOVERNANCE OF THE KALAMAZOO WASTEWATER SYSTEM, dated September 17, 2002, between the City of Kalamazoo, the Kalamazoo Regional Water and Wastewater Commission (“Regional Commission”) and various other governmental entities named therein and the subsequent allocation of wastewater capacity made by the Regional Commission pursuant to said September 17, 2002 Agreement, provides 490,000 gallons per day of capacity for the AUTHORITY districts through July 20, 2016. The AUTHORITY further acknowledges that to the extent subsection “A” above contemplates the possibility of future AUTHORITY capacity in excess of 490,000 gallons per day, such additional capacity will require the separate, future approval of the City of Kalamazoo.

10. SPECIAL ASSESSMENT: PORTAGE and the AUTHORITY agree that a portion of the project is included in PORTAGE, specifically property addresses at 11000, 10956, 10940, and 10995 Higley Circle, as shown in Exhibit A of this AGREEMENT. If the AUTHORITY elects to construct a project along the frontage of the referenced parcels, the parcels connect to the AUTHORITY System, and the AUTHORITY seeks reimbursement from PORTAGE for the cost of the improvements, the AUTHORITY agrees to accept the amount of PORTAGE assessment rate and the PORTAGE assessment policies in effect at the time. This reimbursement from PORTAGE shall be accepted by the AUTHORITY to be payment in full for all charges and costs associated with providing the referenced parcels to sanitary sewer service. For properties located in PORTAGE and served by the AUTHORITY, the AUTHORITY shall bill and charge PORTAGE customers service charges in the same method and rate as other AUTHORITY customers.

11. EXTENSION: This Agreement shall remain in full force and effect for 40 years from the execution date set forth on page one in the first paragraph hereof unless sooner terminated by the consent of the parties or by either party because of a breach by the other party of a material provision or undertaking herein or the failure to pay when due a payment required hereunder; provided, however, that no termination shall be made until after the expiration of 90 days following written notice of such breach to the offending party, which notice shall specify how the breach can be corrected. PORTAGE may, however, discontinue service for failure to pay, 30 days following written notice to the AUTHORITY. Every 5th year while this Agreement is effective, by written agreement of the parties, an additional five years may be added to the term of the Agreement.
12. CONTINGENCIES: This AGREEMENT will be of no force and effect if the AGREEMENT is not approved by Kalamazoo pursuant to Section 6 of the Wastewater Service Agreement dated January 27, 1986, between PORTAGE and Kalamazoo. Should Kalamazoo fail to approve this AGREEMENT, PORTAGE shall have no liability for any costs and expenses incurred by the AUTHORITY pursuant to this AGREEMENT.
13. SUNSET: Notwithstanding any provision in this Agreement to the contrary this AGREEMENT shall be deemed null and void if all contracts necessary for construction of that portion of the US-131 Corridor Sewer Project consisting of the force main and pump station system necessary to deliver wastewater into the PORTAGE SYSTEM are not awarded by the AUTHORITY within four years of the effective date of this AGREEMENT as identified on page 1, paragraph 1. This deadline shall be extended by the Portage City Council for an additional one (1) year upon written request from the

AUTHORITY (received by PORTAGE no later than 6 months prior to the deadline) showing (1) substantial progress toward project completion and (2) special circumstances beyond the AUTHORITY's reasonable control causing a delay in the AUTHORITY Sewer Project.

14. HOLD HARMLESS:

A. The AUTHORITY agrees to assume all liability and to protect, indemnify and save PORTAGE its successors, assigns, council members, officers, employees and agents (indemnified parties) from and against all actions, claims, damages, demands, judgments, losses, expenses, liabilities and costs of any character or nature, whatsoever, arising out of or resulting from injury or damage to persons or property in connection with any acts or omissions of the AUTHORITY, its agents, elected officials, employees, contractors and subcontractors, in constructing, maintaining, operating and/or repairing the AUTHORITY Sewer Project, provided that if such injury or damage is caused in whole or in part by the acts or omissions of any of the indemnified parties, then AUTHORITY'S indemnification obligation shall be reduced in proportion to the indemnified parties' percentage of responsibility for such injury or damage. The indemnification obligations provided above shall include the payment of all reasonable attorneys fees and other expenses of defense. In addition, the AUTHORITY shall require all contractors and subcontractors who perform work on behalf of the AUTHORITY to indemnify, defend and hold indemnified parties harmless from claims or injuries or damage to persons or property arising out of the exercise of the contractors and/or subcontractors activities. The AUTHORITY shall be obligated to assume such obligation if the AUTHORITY fails to impose such requirement. In providing the indemnification set forth above, the AUTHORITY is not waiving any

defenses otherwise available to it by law; provided such defense is also available to and asserted by the AUTHORITY for the benefit of the indemnified parties. The AUTHORITY shall not be responsible for the indemnification obligation set forth above with respect to any indemnified party to the extent that the indemnified party has waived a defense which was otherwise available to it by law. This indemnification paragraph shall survive the termination of this Agreement.

B. PORTAGE agrees to assume all liability and to protect, indemnify and save AUTHORITY, its successors, assigns, Board members, officers, employees and agents (indemnified parties) from and against all actions, claims, damages, demands, judgments, loses, expenses, liabilities and costs of any character or nature, whatsoever, arising out of or resulting from injury or damage to persons or property in connection with any acts or omissions of PORTAGE, its agents, elected officials and employees taken pursuant to this Agreement, provided that if such injury or damage is caused in whole or in part by the acts or omissions of any of the indemnified parties, then PORTAGE's indemnification obligation shall be reduced in proportion to the indemnified parties' percentage of responsibility for said injury or damage. The indemnification obligations provided in this paragraph shall include the payment of all reasonable attorney's fees and other expenses of defense. In providing the indemnification set forth above, PORTAGE is not waiving any defenses otherwise available to it by law; provided such defense is also available to and asserted by PORTAGE for the benefit of the indemnified parties. PORTAGE shall not be responsible for the indemnification obligations set forth above with respect to any indemnified party to the extent that the indemnified party has waived a defense which was

otherwise available to it by law. This indemnification paragraph shall survive the termination of this Agreement.

C. Nothing in this paragraph is intended by either party to be a waiver of a defense of governmental immunity.

15. **SUCCESSORS:** It is hereby agreed that this Agreement shall be binding upon all successor governmental units, which may assume jurisdiction over all or part of the area now governed by the parties hereto, provided, however, this Agreement may not be assigned by a party without the prior written approval of the other party which approval shall not be unreasonably withheld.
16. **RELATIONSHIP OF PARTIES:** Nothing contained in this Agreement nor any act of the parties shall be deemed or construed by any party or by any third party to create the relationship of principal and agent, of partnership, of joint venture, of joint enterprise, of landlord and tenant, or any association between the parties hereto.
17. **AMENDMENTS:** No change, modification, supplement or addition to any part of this Agreement, including this paragraph, shall be binding on either Portage or the AUTHORITY unless it is in writing and signed by both entities.
18. **THIRD-PARTY RIGHTS:** This Agreement is for the benefit of the parties hereto and is not entered into for the benefit of and shall not be construed to confer any benefit upon any other person or entity.
19. **PRONOUNS:** Words in this Agreement that are singular shall be read as plural whenever the latter would so apply and vice versa.
20. **SEVERABILITY:** In the event any of the provisions of this Agreement are deemed to be invalid or unenforceable, those provisions shall be deemed severable from the

remainder of this Agreement and shall not cause the invalidity or unenforceability of the remainder of this Agreement so long as the original intent and purpose of this Agreement is met including the payment of all amounts to PORTAGE as required by this Agreement. If any provision of this Agreement shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

21. SURVIVAL OF REPRESENTATIONS, WARRANTIES AND INDEMNITIES: All warranties and representation and indemnities made by the parties shall survive payment and performance of the obligations imposed by this Agreement.
22. WAIVER, MODIFICATION OR CANCELLATION: Any waiver, alteration or modification of any of the provisions of this Agreement, or cancellation or replacement of this Agreement, shall not be valid unless in writing and executed by the parties with the same formality as this Agreement. Any waiver by any party of any provision of this Agreement or any right or option under this Agreement shall not be controlling, nor shall it prevent or estop such party from thereafter enforcing such provision, right or option. The failure of any party to insist in any one or more instances upon the strict performance of any of the terms or provisions of this Agreement by another party shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect.
23. INTERPRETATION: No provision in this Agreement is to be interpreted for or against any party because that party or that party's legal representative drafted the provision.
24. FURTHER ASSURANCES: Each of the parties shall execute and deliver to the other parties any documents as may be necessary or desirable for the purpose of giving full

force and effect to the provisions of this Agreement, and shall do all other things necessary to this end, all without charge therefor. If any party shall fail to comply with the provisions of this section, this Agreement shall constitute an actual grant, assignment and conveyance of property and rights in such manner, and with such force and effect, as shall be necessary to effectuate the terms of this Agreement.

25. DUPLICATE, ORIGINALS, COUNTERPARTS: This Agreement and any originals of exhibits referred to herein may be executed in any number of duplicate originals or counterparts, each of which (when the original signatures are affixed) shall be an original but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement is signed and delivered the day and year first above written by authority of PORTAGE CITY COUNCIL given _____, 2010 and of the SOUTH COUNTY SEWER AND WATER AUTHORITY BOARD given _____, 2010.

WITNESS:

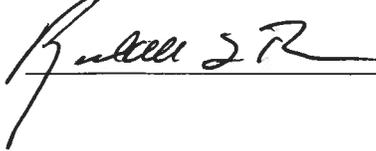
CITY OF PORTAGE, a Michigan municipal corporation

By: _____

Peter J. Strazdas

Its: Mayor

FORM APPROVED:



James Hudson

Its: City Clerk

WITNESS:

SOUTH COUNTY SEWER AND WATER
AUTHORITY, a Michigan municipal body
corporate,



By:  Date 4-13-10

Patrick White

Its: Board Chairman

FORM APPROVED:



By:  Date 4-13-10

Don Ulsh

Its: Secretary

APPROVAL

The foregoing Agreement between the CITY OF PORTAGE and the SOUTH COUNTY SEWER AND WATER AUTHORITY, consisting of twenty (20) typewritten pages and Exhibits A, B, and C is hereby approved by the City of Kalamazoo, Michigan.

Dated: 4/26/10

By: 
Kenneth Collard
Its: City Manager

DESCRIPTION OF PROPERTY

FOR

SOUTH COUNTY SEWER & WATER AUTHORITY

Located in Sections 4, 5, 6, 7, 8, 9, 17, 18, 19, 20, 29, 30, 31 & 32, T. 4 S., R. 11 W.
Schoolcraft Township & Village, Kalamazoo County, Michigan

U.S. 131 Corridor Sanitary Sewer - Proposed Service Area Boundary

Beginning at the Northwest corner of Section 6, T. 4 S., R. 11 W., Schoolcraft Township, Kalamazoo County, Michigan; thence East on the North line of Section 6 to the West line of Section 5; thence East along the North line of Section 5 to the West line of Section 4; thence East along the North line of Section 4 to the East line of the West 1/2 of the Northwest fractional 1/4 of Section 4; thence South along said East line to the Northeast corner of the West 1/2 of the Southwest fractional 1/4 of Section 4; thence South along the East line of said West 1/2 to the North line of Section 9; thence East along said North line to the North and South 1/4 line of Section 9; thence South along said 1/4 line to the East & West 1/4 line of Section 9; thence West along said 1/4 line to the East line of Section 8; thence South along said East line to the North line of Section 17; thence South along the East line of Section 17 to the North line of Section 20; thence South along the East line of Section 20 to the East & West 1/4 line of Section 20; thence West along said 1/4 line to the North & South 1/4 line of Section 20; thence South along said 1/4 line to the North line of Section 29; thence South along the North & South 1/4 line of Section 29 to the North line of Section 32; thence South along the North & South 1/4 line of Section 32 to the East & West 1/4 line of Section 32; thence West along said 1/4 line to the East line of the West 1/2 of the Southwest 1/4 of Section 32; thence South along said East line to the South line of Section 32; thence West along said South line to the East line of Section 31; thence West along the South line of Section 31 to the Southwest corner of Section 31; thence North along the West line of Section 31 to the South line of Section 30; thence North along the West line of Section 30 to the South line of Section 19; thence North along the West line of Section 19 to the South line of Section 18; thence North along the West line of Section 18 to the South line of Section 7; thence North along the West line of Section 7 to the South line of Section 6; thence North along the West line of Section 6 to the place of beginning.

March 27, 2009

Ck'd _____

**South County Sewer & Water Authority (S.C.S.&W.A.)
Share in Portage Creek Interceptor**

6-Apr-09

A	B	C	D	E	F	G	H	
Pipe Segment	Pipe Size (in)	Pipe Capacity (CFS)	S.C.S. & W.A.		Length (Ft.)	Construction (1) Cost (\$)	S.C.S. & W.A. Share	
			Peak CFS	%				
1	Oakland Branch	27	12.00	3.00	25.00%	1710	90,581.74	22,645.44
2	Oakland Branch	30	17.90	3.00	16.76%	3288	174,171.21	29,190.71
Subtotal						4998	264,752.95	51,836.14
3	Southwest Branch	30	17.90	3.00	16.76%	1600	64,733.72	10,849.23
4	Southwest Branch	48	51.00	3.00	5.88%	9363	378,813.65	22,283.16
5	Southwest Branch	54	84.60	3.00	3.55%	1892	76,547.63	2,714.45
Subtotal						12855	520,095.00	35,846.84
6	Portage Creek Trunk	60	95.30	3.00	3.15%	10913	894,506.58	28,158.65
Subtotal						10913	894,506.58	28,158.65
Subtotal							115,841.63	
Engineering Admin Etc.(25%)							28,960.41	
SCS&WA Project Total (1971)							144,802.04	
Less 55% Grant Southwest Branch (2)							(19,715.76)	
Less 55% Grant Portage Creek Trunk (2)							(15,487.26)	
Adjusted Project Total (1971)							109,599.02	
Less Depreciation (38 Yr @ 1%/Yr)							(41,647.63)	
Total Buy In (2009)							\$ 67,951.39	

(1) Construction Cost as found in Prein / Newhof "Portage File" - possibly created in 1998 when reviewing the Davis Creek Interceptor
(2) It is not believed that the Oakland Branch sewer utilized any grant funds, therefore, only the 2 grants are deducted

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: May 17, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Kilgore Road Bridge Replacement - Grant Application

ACTION RECOMMENDED: That City Council adopt the Resolution Supporting Application for Local Bridge Program Funds for replacement of the Kilgore Road Bridge over Portage Creek.

The 2009-19 Capital Improvement Program included a project for the replacement of the Kilgore Road Bridge over Portage Creek. Recently, federal aid to municipalities has increased for the repair, maintenance and replacement of local bridges, such as the Kilgore Road Bridge. Although the bridge is not in immediate need of replacement, the load rating was reduced in 2006 as a result of the normal age deterioration of the structure. Replacement of the structure in a timely fashion is, therefore, recommended. On December 16, 2009, City Council awarded a design engineering contract to Abonmarche Consultants for the bridge replacement.

The Michigan Department of Transportation (MDOT) administers the Local Bridge Program and is currently receiving project applications for bridges to be rebuilt in Fiscal Year 2013-14. Based upon recent inspections and the funding criteria, the bridge has a good chance of qualifying for federal aid for replacement. Bridge replacement construction costs are eligible for up to 95% funding by federal and/or state funds. A requirement of the funding application is an executed resolution of support by the local agency. Attached is a resolution approved by the City Attorney to be submitted with the grant application. While the City Administration previously applied for 2012-13 bridge funds, the project was not approved for funding. However, staff is optimistic that the project will be approved for 2013-14 funding.

It is recommended that City Council adopt a Resolution of Support for Local Bridge Program Funds for the Kilgore Road Bridge replacement over Portage Creek. If the grant application is successful, the City Administration will recommend advancing the project/funding to the 2013-14 fiscal year for construction in the summer of 2014 in the 2011-21 Capital Improvement Program, in anticipation of receipt of federal funds for this project.

Attachment

CITY OF PORTAGE

RESOLUTION SUPPORTING APPLICATION FOR LOCAL BRIDGE PROGRAM FUNDS FOR KILGORE ROAD

Minutes of a regular meeting of the City Council for the City of Portage, Michigan held on _____, 2010 at 7:30 p.m. local time at the City Hall in the City of Portage, Michigan.

PRESENT: _____

ABSENT: _____

The following resolution was offered by:

Councilmember: _____, and supported by:

Councilmember: _____.

WHEREAS, the Kilgore Road Bridge over Portage Creek in the City of Portage, Kalamazoo County, Michigan is in a deteriorated condition and with load restrictions; and

WHEREAS, these structural deficiencies place at risk the motoring public and greatly inconvenience school bus operations, commercial traffic, emergency vehicles and the accomplishment of business activities; and

WHEREAS, the City of Portage staff has prepared an application for Local Bridge Program Funds to replace this structure; and

THEREFORE, BE IT RESOLVED that the City Council of the City of Portage has considered said application and authorizes the submission of same and requests Local Bridge Program Funds for 2013.

THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Portage, Michigan requests affirmative consideration of its application for Local Bridge Program Funds and agrees to provide the necessary local funds for this project and to continue to maintain this structure.

All resolutions or parts of resolutions are, to the extent of any conflict with this resolution, rescinded.

AYES: Councilmember _____

NAYS: Councilmember _____

ABSENT: Councilmember _____

EFFECTIVE DATE: _____, 2010.

James R. Hudson City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of this resolution adopted at a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan held on _____, 2010, the original of which is in the official proceedings of the City Council.

James R. Hudson, City Clerk

Z:\Jody\PORTAGE\RES\Local Bridge Funds Resolution.051710.wpd

APPROVED AS TO FORM

DATE 5/26/2010

Ren
CITY ATTORNEY

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: May 17, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Plat of The Homestead III, 3820 Hollow Wood Drive

ACTION RECOMMENDED: That City Council consider approving:

- a. The Homestead III Preliminary Plat subject to the condition identified in the April 30, 2010 Department of Community Development report to the Planning Commission; and
- b. The Homestead III Final Preliminary Plat and accept the detailed engineering plans.

American Village Development II, LLC, has submitted the preliminary plat and the final preliminary plat showing detailed engineering for the final phase of The Homestead III, a single family subdivision within The Homestead of Portage Planned Development. The Homestead III subdivision is a 23-lot single-family development located east of US-131 and south of West Milham Avenue on approximately 19 acres of land. Attached is a report from the Community Development Director concerning the proposed preliminary plat and the acceptance of detailed engineering plans by City Council. Also attached is the transmittal from the Planning Commission and meeting minutes regarding the review and recommendation by the Planning Commission concerning The Homestead III Preliminary Plat, consistent with the City of Portage Subdivision and Land Division Regulations.

As background, the preliminary plat of The Homestead III was originally reviewed by the Planning Commission and approved by City Council in January 2006. The final preliminary plat and acceptance of detailed engineering plans was approved by City Council in March 2006. Since construction of the plat did not commence within the required time period, the approvals have expired. The applicant is resubmitting the preliminary plat and the final preliminary plat and acceptance of detailed engineering with no changes from the original plat approved in 2006 and has requested concurrent approvals to facilitate the development of this single family residential project. This phase of the project is consistent with the approved tentative plan for The Homestead of Portage Planned Development.

The Planning Commission reviewed the report from the City Administration and held a public hearing on May 6, 2010 after notifying adjacent land owners of the proposed subdivision. The Planning Commission and City Administration recommend that City Council approve the Preliminary Plat of The Homestead III, subject to the condition identified in the April 30, 2010 Department of Community Development report to the Planning Commission.

Finally, the City Administration has reviewed the engineering drawings. The City Administration recommends that the Final Preliminary Plat of The Homestead III with acceptance of detailed engineering plans by the City Council be approved.

Attachment: Department of Community Development Communication

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: May 17, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Preliminary Plat and Final Preliminary Plat with Acceptance of Engineering, The Homestead III Single Family Subdivision, 3820 Hollow Wood Drive

American Village Development II, LLC has resubmitted the preliminary plat and the final preliminary plat showing the detailed engineering of The Homestead III, a 23-lot single-family development located east of US-131 and south of West Milham Avenue. This plat of The Homestead III represents the final phase of the single-family residential portion of The Homestead of Portage Planned Development (PD). The Homestead III preliminary plat was originally reviewed by the Planning Commission and approved by City Council in January 2006. The final preliminary plat with the detailed engineering was approved by City Council in March 2006. Since construction of the plat did not commence within the required time period, the approvals have expired. The applicant is resubmitting the preliminary plat and final preliminary plat of The Homestead III with no changes from the original 2006 approvals. The Homestead III subdivision is consistent with the approved tentative plan of the Homestead of Portage PD.

As background information, the rezoning and tentative plan approval for the 88 acre tract of land for The Homestead of Portage PD, which included four phases of single family residential subdivision and construction of "cottage offices" and a theme restaurant within the northwestern portion of the site, occurred in 2001 (the approved tentative plan is attached). In 2006, a tentative plan amendment was approved that eliminated the originally approved "cottage offices" and designated this area for attached residential condominium units to facilitate the development of the Villas of Secret Gardens project (attached). Construction of the residential condominiums and, also, the theme restaurant has not commenced.

To facilitate the development of The Homestead III subdivision, the developer has requested that the preliminary plat and the final preliminary plat and acceptance of detailed engineering be processed concurrently. Per Sections 42-772 and 42-774 of the Subdivision and Land Division Regulations, the preliminary plat requires Planning Commission review, while the final preliminary plat involves only review by the City Administration prior to City Council approval.

Preliminary Plat: The Planning Commission discussed the preliminary plat during the May 6, 2010 meeting and voted 8-0 to recommend to City Council that the plat be approved subject to the following condition identified in the April 30, 2010 Community Development Department:

1. Construction Vehicle Traffic – In an effort to minimize impacts on the adjacent established residential neighborhoods to the east, construction vehicle traffic associated with plat development will be restricted to West Milham Avenue: No construction vehicle traffic on Hollow Wood Drive and Westcove Drive, east of The Homestead of Portage, will be permitted except for periodic West Milham Avenue project reconstruction activities.

The Planning Commission held a public hearing and the transmittal, minutes of the May 6, 2010 meeting, Department report and related materials are attached for review.

Final Preliminary Plat and acceptance of detailed engineering plans by City Council: The engineering design and construction plans for the public infrastructure portion of the project involve the following utilities and roadways:

- The sanitary sewer system will consist of 8-inch diameter sewer mains and individual laterals constructed to service each lot in accordance with City of Portage requirements. The proposed system will connect to the existing 8-inch sanitary sewer main located in McGillicuddy Lane.
- The water system will consist of 8-inch diameter ductile iron mains and 1¼-inch services to each individual lot. The proposed system will connect to the existing 8-inch water main located in McGillicuddy Lane.
- Thirty-foot wide roadways (measured from backs-of-curb) with asphalt surface in accordance with the Land Division Regulations are proposed. Hollow Wood Drive will be extended to the west and a new cul-de-sac street (Hollow Wood Court) will be constructed. A new cul-de-sac street (Tullymore Lane) will also be extended to the west from McGillicuddy Lane. The western termini of Hollow Wood Drive, Hollow Wood Court and Tullymore Lane cul-de-sacs will contain landscaped islands. Prior to final plat approval, the appropriate documents will be prepared and executed to insure continued maintenance of the islands by the homeowners association.
- The drainage system will consist of storm sewers located within the roadway that will outlet to the existing private storm water retention basin located south and east lots 40 through 45, consistent with preliminary plat approval.

The departments of Community Development, Fire and Transportation & Utilities have reviewed the construction drawings and have determined that the plans are in conformance with city requirements. Based on the administrative review, it is recommended that The Homestead III final preliminary plat and acceptance of the detailed engineering plans by City Council be approved.

These recommended actions will allow the developer to proceed with the actual construction of the subdivision improvements. When construction is complete, the developer will request City Council final approval and the acceptance of all utilities and roadways as public facilities.

Attachments: Planning Commission Transmittal, dated May 17, 2010
Planning Commission Minutes, dated May 6, 2010
Department of Community Development Report, dated April 30, 2010
Preliminary Plat Plans (three pages)
Tentative Plan – The Homestead of Portage (approved 2001)
Tentative Plan – The Homestead of Portage, Villas of Secret Gardens (amended 2006)
Civil Construction Plans, Final Preliminary Plat detailed engineering (nine pages)

TO: Honorable Mayor and City Council
FROM: Planning Commission
DATE: May 17, 2010
SUBJECT: Preliminary Plat of The Homestead III, 3820 Hollow Wood Drive

At the meeting of May 6, 2010, the Planning Commission held a public hearing to review and discuss the Preliminary Plat of The Homestead III, a proposed 23 lot single-family development on approximately 19 acres. The plat of The Homestead No. III represents the final phase of the single-family residential portion of The Homestead of Portage planned development.

The applicant, Mr. Jack Gesmundo, American Village Development, was present to support the plat. No other citizens were present to comment on the proposed preliminary plat. After a brief discussion, the Planning Commission voted 8-0 to recommend to City Council that the Preliminary Plat of The Homestead III, 3820 Hollow Wood Drive, be approved subject to the condition listed in the Department of Community Development staff report dated April 30, 2010.

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION



Thomas Fox
Chairman

 **DRAFT**

PUBLIC HEARINGS:

1. Preliminary Report: Rezoning Application #09-02, 9810 Oakland Drive (eastern portion), 9804, 9818, 9832 and 9842 Oakland Drive and 2180 – 2408 Oakland Farms Trail. Mr. Forth summarized the preliminary staff report dated April 30, 2010 regarding the request received by Hyland Associates, LLC to rezone the east 5.91 acres of 9810 Oakland Drive from R-1C, one family residential to R-1B, one family residential. Mr. Forth also summarized the Planning Commission review on April 1, 2010 and the decision to expand the rezoning consideration to include a total of 25 parcels/lots along Oakland Drive and Oakland Farms Trail comprising approximately 30 acres. Mr. Forth reviewed the surrounding zoning/land use pattern, differences between the R-1A, R-1B and R-1C districts and the impacts of the proposed zoning change.

Mr. Dan Martz (Hyland Associates, LLC) was present to support the rezoning application. Mr. Martz discussed the fragmented zoning pattern in the area, reviewed his March 8th communication that identified supporting reasons for the rezoning request and read two quotes from building publications regarding the state of the housing industry and the shift toward smaller, more affordable dwellings.

The public hearing was opened by Chairman Fox. One citizen (Ms. Becky Argue, 9708 Oakland Drive) spoke in regards to the proposed rezoning. Ms. Argue stated that she opposed the original rezoning request in 2006-2007 and still opposes the change in zoning to R-1B. Ms. Argue indicated she prefers maintaining the existing R-1C zone and the larger lot and construction standards. No additional citizens spoke in regards to the proposed rezoning. After a brief discussion, a motion was made by Commissioner Welch, seconded by Commissioner Bailes, to adjourn the public hearing for Rezoning Application #09-02 to the May 20, 2010 meeting. The motion was unanimously approved.

PLATS/RESIDENTIAL CONDOS:

1. Preliminary Plat: The Homestead III, 3820 Hollow Wood Drive. Mr. Forth summarized the staff report dated April 30, 2010 regarding the request American Village Development II, LLC to construct The Homestead III subdivision. Mr. Forth stated the preliminary plat represented the final phase of the single-family residential portion of The Homestead of Portage planned development (PD) and involved 23 lots on approximately 19 acres with the westerly extension of Hollow Wood Drive and creation of two new cul-de-sac streets (Hollow Wood Court and Tullymore Lane). Mr. Forth indicated the plat was previously reviewed by the Planning Commission and approved by City Council in 2006. Mr. Forth stated that since construction did not commence within the required time periods, the approvals have expired. Mr. Forth indicated the preliminary plat was being resubmitted for approval with no changes from the original 2006 approval. In response to an email communication from Commissioner Dargitz, Mr. Forth stated that background information regarding the original 2001 PD rezoning/tentative plan approval for The Homestead of Portage PD, 2006 approved tentative plan amendment and initial 2006 approval of The Homestead III preliminary plat was included in the final agenda materials. Mr. Forth reviewed these previous approvals and indicated staff was recommending approval of the preliminary plat subject to the condition listed in the staff report regarding construction vehicle traffic.

Mr. Jack Gesmundo (American Village Development) was present to support the preliminary plat. Mr. Gesmundo briefly discussed the original property acquisition and zoning change from R-1B to PD in 2001. Mr. Gesmundo also discussed the other elements of the PD (multiple family residential condos and theme restaurant) that have not been constructed due to economic and financing issues. The public hearing was opened by Chairman Fox. No citizens spoke in regards to the preliminary plat. A motion was made by Commissioner Patterson, seconded by Commissioner Welch, to close the public hearing. The motion was unanimously approved.

The Commission, staff and applicant discussed issues associated with the PD and proposed plat including construction of only portions of the previously approved tentative plan, phasing, land ownership and the use of performance bonds. After additional discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Welch, to recommend to City Council approval of the Preliminary Plat for The Homestead No. 3, 3820 Hollow Wood Drive, subject to the one condition listed in the Department of Community Development staff report dated April 30, 2010. The motion was unanimously approved.

TO: Planning Commission

DATE: April 30, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Preliminary Plat: The Homestead III, 3820 Hollow Wood Drive.

INTRODUCTION:

The preliminary plat of The Homestead III has been submitted for review and approval. The plat of The Homestead III represents the final phase of the single-family residential portion of The Homestead of Portage planned development (PD). Construction is expected to begin late summer or spring 2011.

Applicant	Lots/Area	Location
American Village Development II, LLC	23 lots/19.37 acres	Southwest ¼ of the Northeast ¼ of Section 7, South of West Milham Avenue and east of US-131.

As background information, the preliminary plat of The Homestead III was originally reviewed by the Planning Commission and approved by City Council in January 2006. The detailed engineering plans were approved by City Council in March 2006. Since construction of the plat did not commence within the required time period, the approvals have expired. The applicant is resubmitting the preliminary plat and detailed engineering plans of The Homestead III with no changes from the original approval. After Planning Commission approval of the preliminary plat, the preliminary plat together with the detailed engineering plans will be forwarded to City Council for review and subsequent approval.

With regard to the detailed engineering plans (street system, municipal water, sanitary sewer, storm sewer, sidewalks and other public improvements), the City Administration has reviewed the plans and all applicable Land Development Regulation requirements have been fulfilled. Consequently, the City Administration will recommend to City Council that the plans be approved. The Land Development Regulations require only City Council approval of the detailed engineering plans.

West Milham Avenue between Angling Road and South 12th Street will be under construction beginning this summer and concluding during the summer of 2011. At this time, the project will be completed in two phases: The first phase involves the roadway segment from Angling to US-131 and the second phase will extend from US-131 to South 12th Street. Depending on roadway construction activities, construction traffic may need to be diverted to Angling Road for brief time periods.

BACKGROUND INFORMATION:

The following is important background information and summarizes the requirements that are applicable to the preliminary plat application. All required improvements will comply with Article 5 – Subdivision and Land Division Regulations of the City of Portage Land Development Regulations.

Approved Tentative Plan	The preliminary plat has been designed consistent with the tentative plan approved by City Council on July 10, 2001.
Street Access	The westerly extension of Hollow Wood Drive and creation of two new cul-de-sac streets (Hollow Wood Court and Tullymore Lane). The proposed landscaped islands located in each cul-de-sac will be maintained by the homeowners association. The appropriate documents will be prepared and recorded prior to final plat approval.

Storm water	Directed to an existing storm water retention facility located east of proposed lots 40 through 45. This existing basin is privately owned and maintained by The Homestead of Portage Homeowners Association.
Public Improvements	All necessary improvements (i.e., water, sanitary sewer, curb-gutter, sidewalks, streetlights and so forth) will be provided pursuant to established ordinance requirements.
Trail Network	With construction of the first phase, an asphalt trail was constructed that connects to the Arbutus Trail neighborhood located to the south. This trail will be relocated and extended to Hollow Wood Drive. Also, the Northwest Portage Bikeway is currently being extended along the Consumers Energy right-of-way located to the north and will terminate at McGillicuddy Lane.
Zoning	PD, planned development. The developer has established minimum 80-foot wide lots (100 foot for corner lots) with 30-foot front, 10-foot side and 40 foot rear setbacks consistent with the adjacent R-1B zoning district to the south and east. Lot sizes will range from 15,200-33,500 square feet.
Environmental impacts	No wetlands, floodplain or other environmental issues are present.
Traffic	A total of 23 single-family residential dwellings can be expected to generate approximately 115-138 vehicles per day (equivalent to 230-276 vehicle trips per day).

PUBLIC NOTICE REQUIREMENTS:

The Homestead III development project is the first preliminary plat received since the Michigan Planning Enabling Act (Public Act No. 33 of 2008) became effective in September 2008. Section 71 of the Act now requires the Planning Commission to conduct a public hearing before taking action on the plat. In accordance with the Act, a public notice was published in the local newspaper and notice was mailed to owners of land immediately adjoining the proposed plat 15 days before the date of the hearing.

RECOMMENDATION:

Submission of the preliminary plat is intended to provide the community with the opportunity to examine existing and proposed conditions pertaining to the development of the subdivision. After approval by the City Council, preliminary plat approval is effective for 12 months.

The proposed plat has been reviewed within the context of the Comprehensive Plan, Land Development Regulations, 2001 approved tentative plan and other applicable ordinance requirements. Based on the above information and subject to any additional information received, staff advises the Planning Commission recommend to City Council that the Preliminary Plat of The Homestead III, 3820 Hollow Wood Drive, be approved subject to the following condition:

1. Construction Vehicle Traffic – In an effort to minimize impacts on the adjacent established residential neighborhoods to the east, construction vehicle traffic associated with plat development will be restricted to West Milham Avenue: No construction vehicle traffic on Hollow Wood Drive and Westcove Drive, east of The Homestead of Portage, will be permitted except for periodic West Milham Avenue project reconstruction activities.

Staff will be present at the Planning Commission meeting to further discuss the proposed subdivision and to answer any questions.

Attachments: Preliminary Plat drawings

Preliminary Plat Plans The Homestead III

Subdivision in the Northeast Quarter of Section 7, T3S, R11W
City of Portage
Kalamazoo County, Michigan

RECEIVED
APR 23 2008
COMMUNITY DEVELOPMENT

OWNER
AVD II, INC.
4200 W. CENTRE AVENUE
PORTAGE, MI 49024
268.329.4800

CONSTRUCTION MANAGER



AVB CONSTRUCTION, INC.
4200 W. CENTRE AVENUE
PORTAGE, MI 49024
268.329.2022

SURVEYOR:



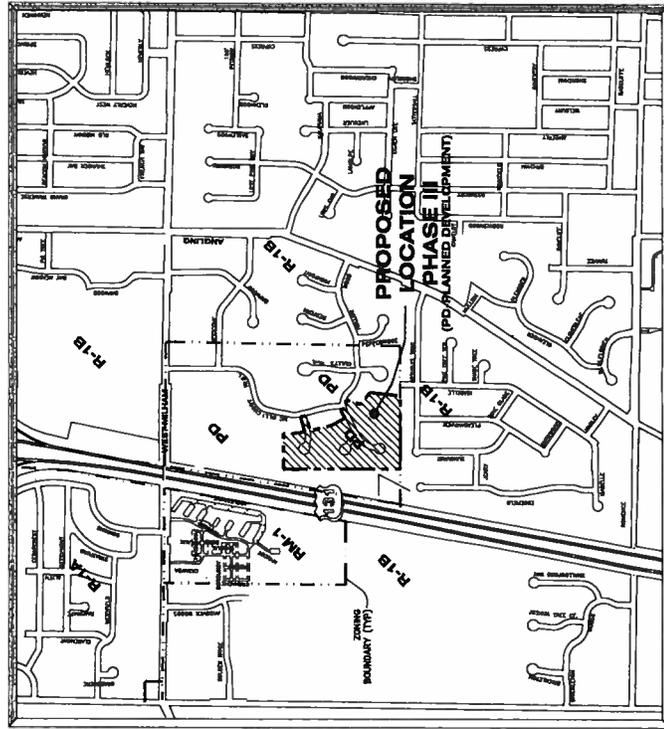
LANDTECH
Professional Surveying & Engineering
1000 W. HURLEY RD. S.W.
PORTAGE, MI 49024

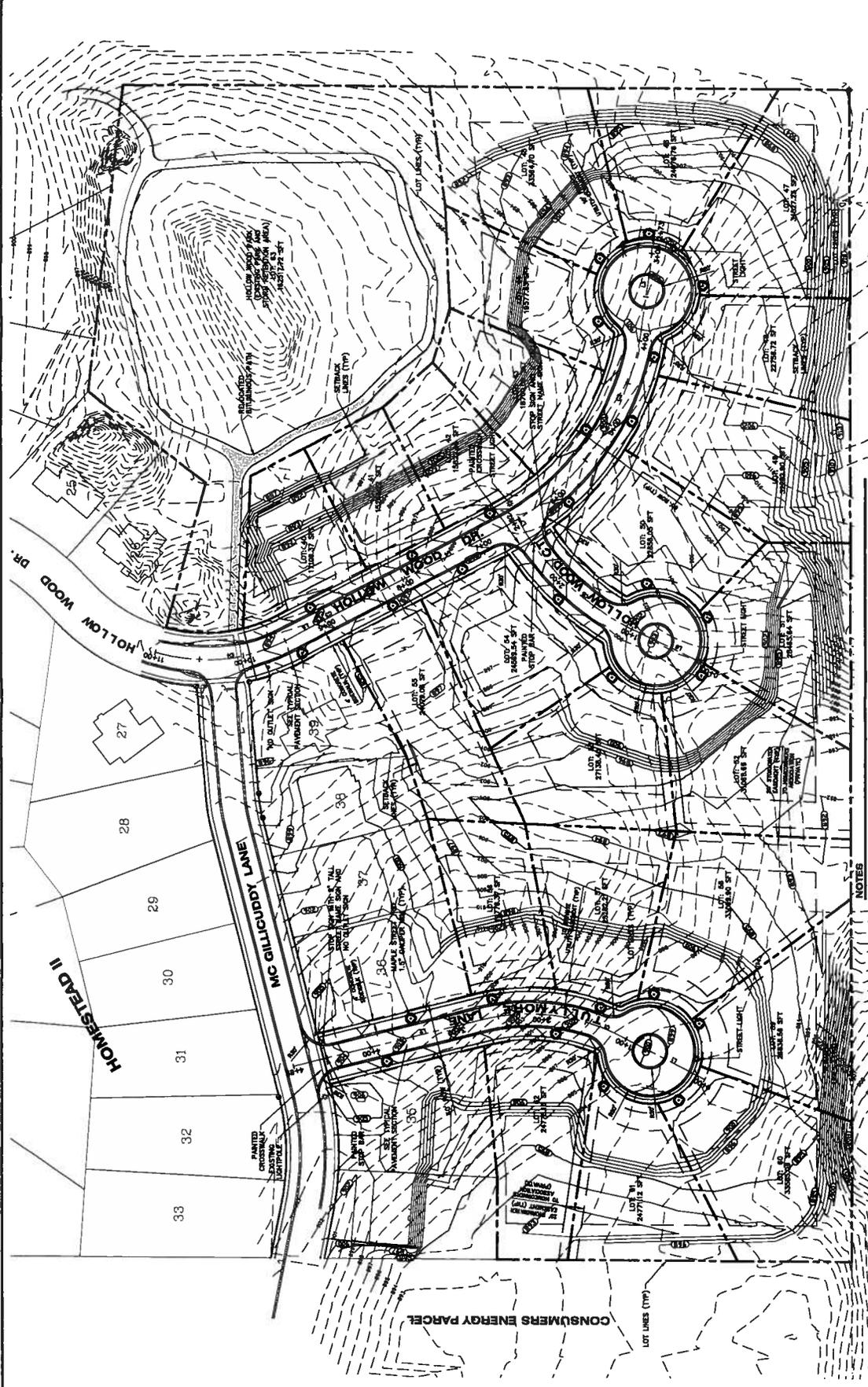
PLANS PREPARED BY:



hurley & stewart

hurley & stewart, llc
350 e. michigan avenue
suite 405
kalamazoo, michigan 49007
269.552.4960 fax 552.4961
www.hurleystewart.com





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 BOSTON, MA 02116
 TEL: 617-252-1100
 FAX: 617-252-1101
 WWW.LANDTECH.COM

SETBACK REQUIREMENTS
 FRONT: 30'
 REAR: 10'
 SIDE: 10'
 WITH @ FRONT SETBACK: 60'

1 inch = 50 ft.

- NOTES**
- ALL SIGNAGE AND STOPPING SHALL BE IN ACCORDANCE WITH THE CURRENT EDITION OF THE MASSACHUSETTS MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES.
 - PLACE FIRE HYDRANT AND NO PARKING THIS SIDE OF STREET SIGNS AT EACH HYDRANT LOCATION AND A NO PARKING THIS SIDE OF STREET SIGN MIDWAY BETWEEN HYDRANTS.
 - PUBLIC STREET SHALL BE 28' WIDE WITH A RIGHT-OF-WAY WIDTH OF 60 FEET. A 4 FOOT CONCRETE SIDEWALK WILL BE PROVIDED ALONG BOTH SIDES OF ROADS AND AROUND THE AREA OF COL-UP-SIGNS. SEE CROSS SECTION.
 - STORM DRAINAGE WILL DISCHARGE INTO THE EXISTING BLAIN IN HOLLOW WOOD PARK. PREVIOUS STORM CALLS AND PHASE 2 OF THE DESIGN SHALL BE CONSIDERED PROVIDED.
 - OUTSIDE THE RIGHT-OF-WAY GRANITE TO BE THE HOMESTEAD HOMEOWNERS ASSOC. FOR CASSEMENTS.
 - A MAINTENANCE AND OPERATIONS AGREEMENT TO BE PREPARED FOR THE COL-UP-SIGNS ISLANDS SIMILAR TO PREVIOUS PHASES OF HOMESTEAD.
 - LIGHT STANDARDS AND UTILITY POLES TO BE LOCATED A MINIMUM OF FIVE FEET FROM BACK-OF-CURB.

CURVE DATA TABLE

CURVE	POINTS	LENGTH	OF CURVE	GROUND	DELTA
C1	300.00	288.81	274.30	153.12/24.44	84.54/3.74
C2	200.00	3.85	3.85	183.92/2.14	0.192/3.87
C3	30.00	12.81	12.81	50.87/1.14	3.22/2.11

UTILITY DATA TABLE

LINE	LENGTH	BEARING
U1	315.79	R232.5/4.66
U2	112.48	N07.7/26.51
U3	42.75	N10.3/30.63
U4	61.33	S84.9/35.81
U5	14.85	S37.9/35.81

**LOT DIMENSIONS
THE HOMESTEAD III
AVD II, INC.**

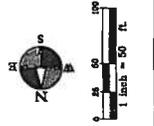
Job No: 05-0489 P.M. 12/11 P.L. 1/28 9/1/05-4/21/10
DESIGN PERMIT NO. 05-0489
PROPOSED PLAY RECREATIONAL
4/21/10
COPYRIGHT © of Hurley & Stewart, LLC

HS
hurley & stewart
350 S. Highland Avenue
Kalamazoo, Michigan 49007
268.552.4980 fax 268.552.4961
www.hurleyandstewart.com

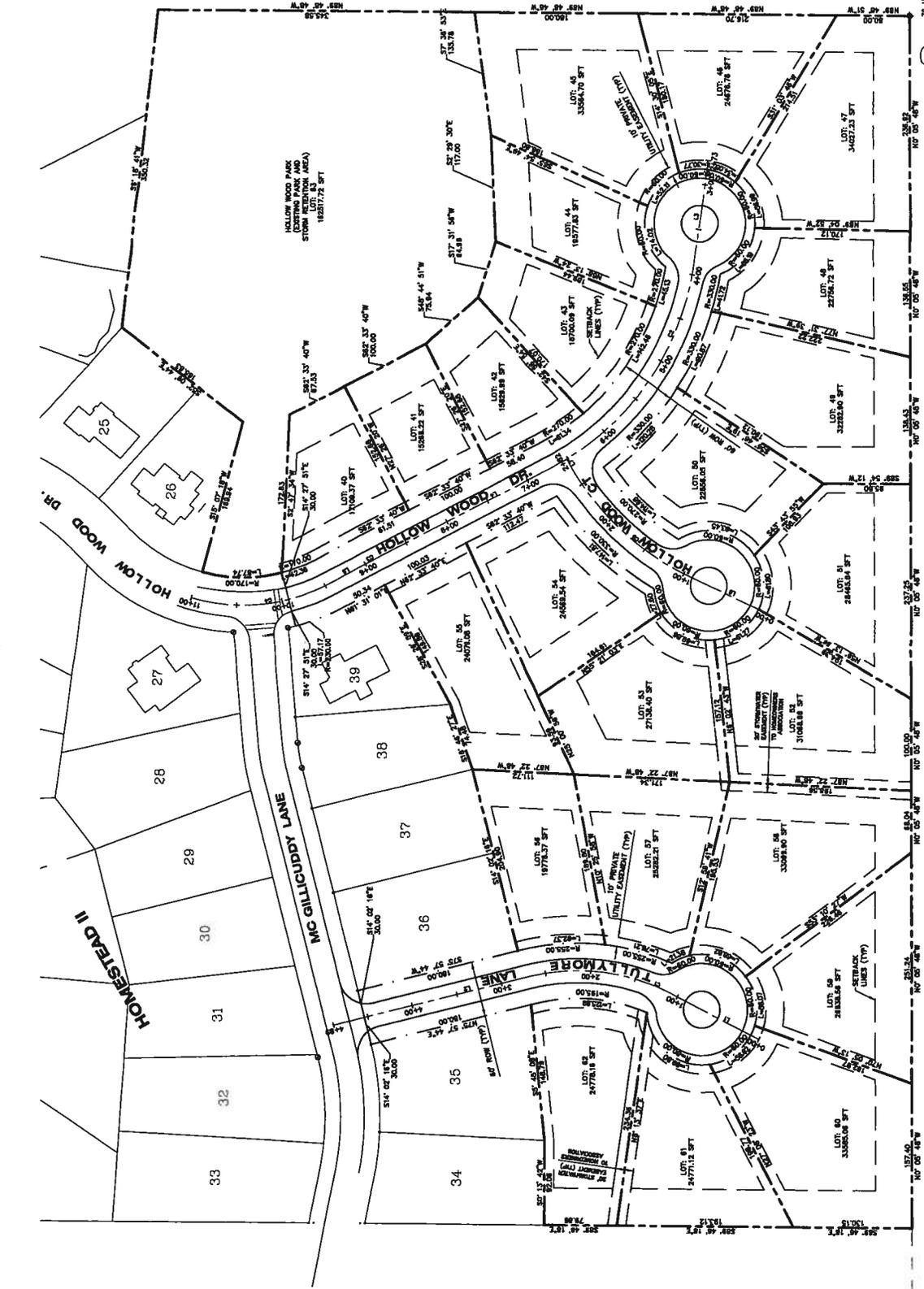
**BEFORE YOU DIG
CALL MISS DIG
1-800-482-7171**



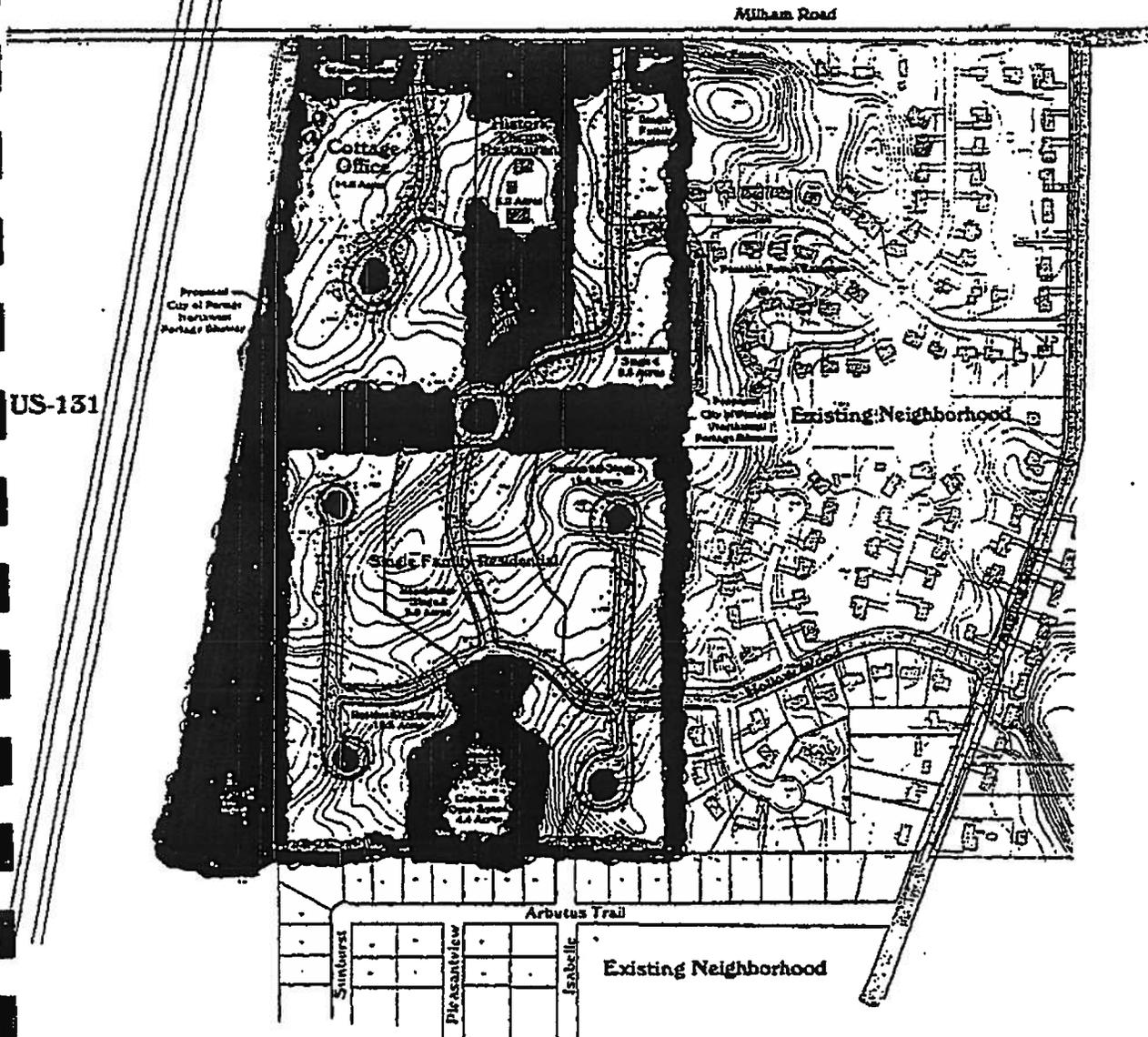
72 HOURS
ADVANCE NOTICE OF ANY EXCAVATION WORK
REQUIRED FROM ANYONE WHOSE WORK MAY
AFFECT UNDERGROUND UTILITIES. MISS DIG
CANNOT GUARANTEE THE DEPTH OR LOCATION OF
FIELD WORK PERFORMED BY
LANDTECH PROFESSIONAL SURVEYING



1 inch = 50 ft



Tentative Plan
The Homestead of Portage
(approved 2001)

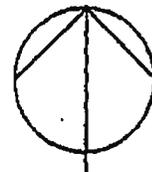


The Homestead of Portage

Scale: 1" = 500'-0"
Date: May 8, 2001

Presented by: American Village Builders

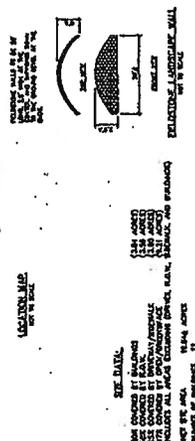
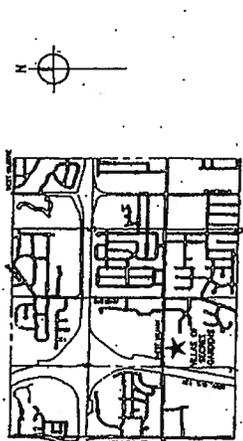
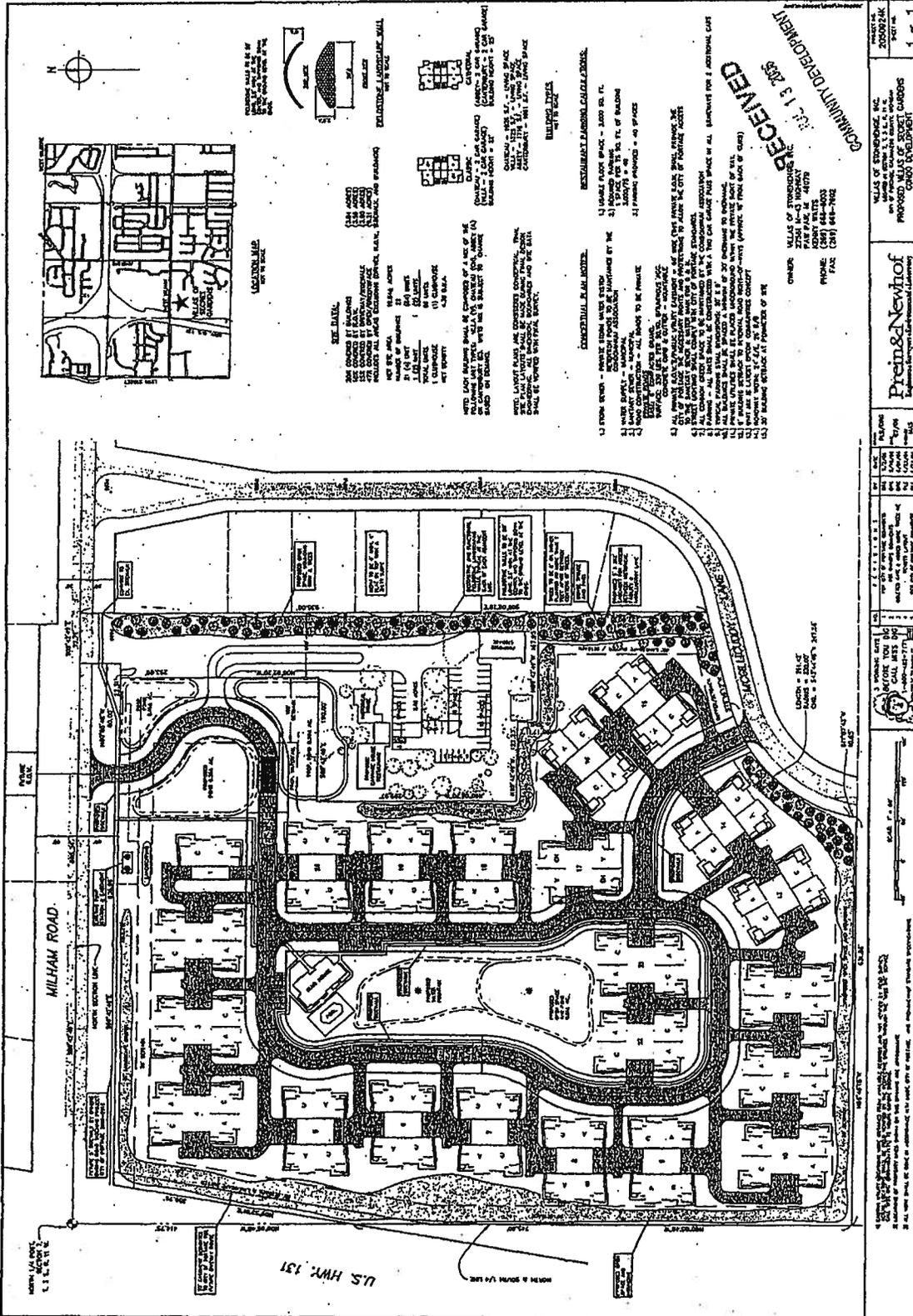
North



Tentative Plan Amendment

The Homestead of Portage (Villas of Secret Gardens)

(approved 2006)



THE PLAN:
 THE CONCRETE DRIVE SHALL BE CONCRETE WITH A FINISH OF POLISHED CONCRETE. THE DRIVE SHALL BE 12 FEET WIDE AND 12 FEET HIGH. THE DRIVE SHALL BE 12 FEET WIDE AND 12 FEET HIGH. THE DRIVE SHALL BE 12 FEET WIDE AND 12 FEET HIGH.

LANDSCAPING:
 THE LANDSCAPING SHALL BE PLANTED WITH TREES AND SHRUBS. THE LANDSCAPING SHALL BE PLANTED WITH TREES AND SHRUBS. THE LANDSCAPING SHALL BE PLANTED WITH TREES AND SHRUBS.

PARKING:
 THE PARKING SHALL BE PLANTED WITH TREES AND SHRUBS. THE PARKING SHALL BE PLANTED WITH TREES AND SHRUBS. THE PARKING SHALL BE PLANTED WITH TREES AND SHRUBS.

RESTAURANT PLANNING CALCULATIONS:
 1) NUMBER OF SEATING - 100 SEATING
 2) NUMBER OF SEATING - 100 SEATING
 3) NUMBER OF SEATING - 100 SEATING
 4) NUMBER OF SEATING - 100 SEATING

CONFIDENTIAL PLAN NOTES:
 1) THIS PLAN IS SUBJECT TO THE CITY OF PORTAGE, WISCONSIN. THIS PLAN IS SUBJECT TO THE CITY OF PORTAGE, WISCONSIN. THIS PLAN IS SUBJECT TO THE CITY OF PORTAGE, WISCONSIN.

RECEIVED
 PLANNING DEPARTMENT
 MAY 13 2008
 OWNER: VILLAS OF SECRET GARDENS
 1300 MILHAM ROAD
 PORTAGE, WI 54981
 PHONE: (920) 844-7000
 FAX: (920) 844-7002

PREIN&NEWHOF
 ENGINEERS, ARCHITECTS, PLANNERS
 1000 MILWAUKEE AVENUE
 MILWAUKEE, WI 53233
 PHONE: (414) 224-1000
 FAX: (414) 224-1002

RECEIVED
 PLANNING DEPARTMENT
 MAY 13 2008

OWNER: VILLAS OF SECRET GARDENS
 1300 MILHAM ROAD
 PORTAGE, WI 54981
 PHONE: (920) 844-7000
 FAX: (920) 844-7002

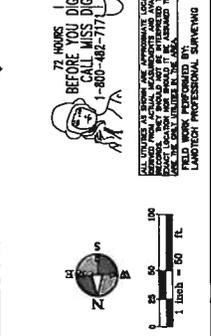
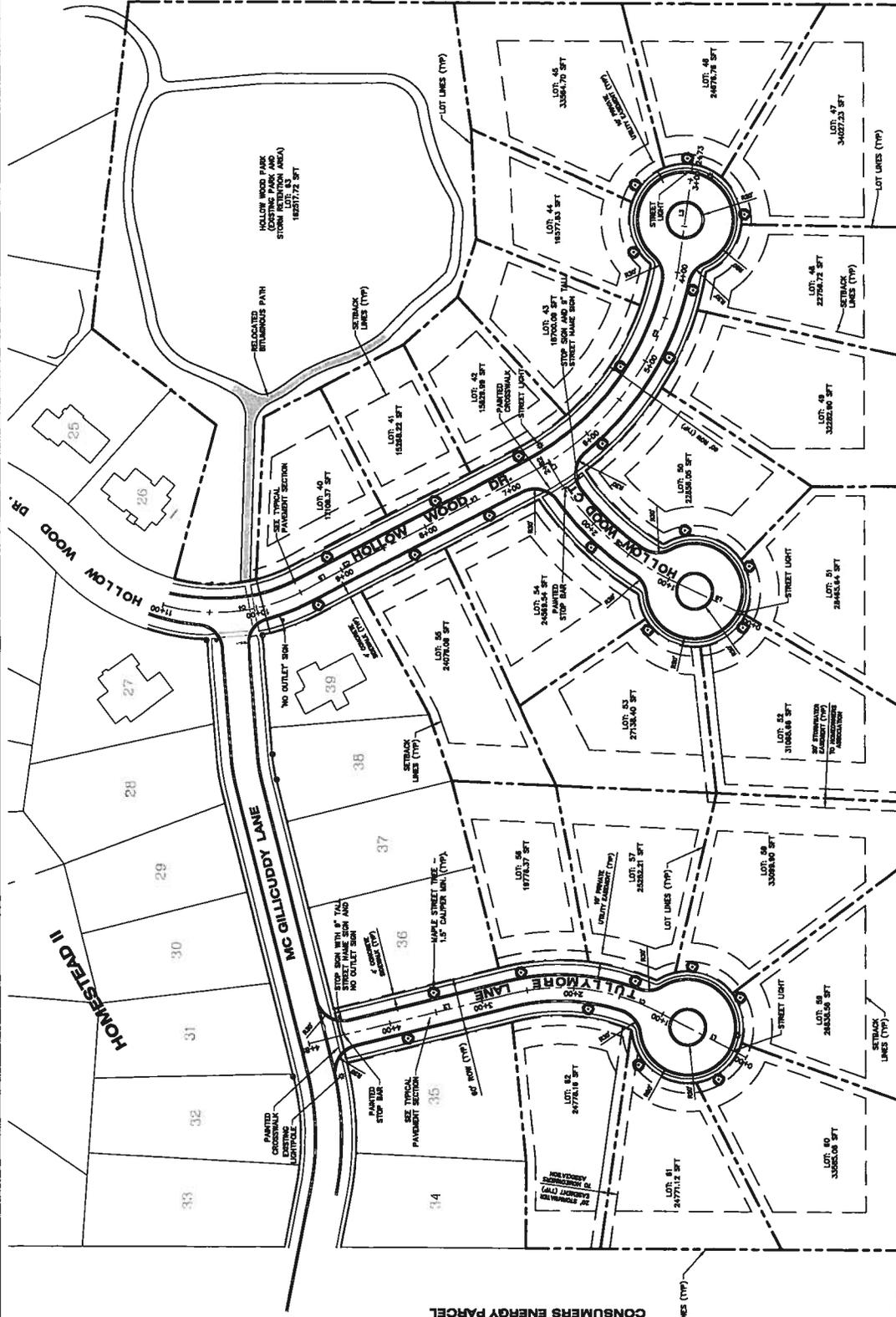
SCALE: 1" = 40'

DATE: MAY 13, 2008

BY: [Signature]

FOR: [Signature]

PROJECT: VILLAS OF SECRET GARDENS
 TENTATIVE PLAN AMENDMENT



SETBACK REQUIREMENTS
 FRONT: 30'
 REAR: 40'
 SIDE: 10'
 WITH 6' FRONT SETBACK

- NOTES**
1. ALL SIGNAGE AND STRIPING SHALL BE IN ACCORDANCE WITH THE CURRENT EDITION OF THE MICHIGAN MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES.
 2. PLACE FIVE HYDRANT AND TWO PARKING THE SIZE OF STREET SIGNS AT EACH HYDRANT LOCATION AND A TWO INCH HYDRANT AND TWO PARKING THE SIZE OF STREET SIGN BETWEEN HYDRANTS.
 3. PUBLIC STREET SHALL BE 25' WIDE WITH A RIGHT-OF-WAY WIDTH OF 40 FEET. A FOOT CONCRETE SIDEWALK SHALL BE PROVIDED ALONG BOTH SIDES OF ROADS AND AROUND THE ISLAND OF CAL-RC-PARK. SEE CROSS SECTION.
 4. INCLUDED PHASE 3 IN DESIGN PLAN. SEE CALCULATIONS PROVIDED.
 5. THE 30' STORM WATER EASEMENT GRANTOR TO BE THE HOMESTEAD HOMEOWNERS ASSOC. FOR EASEMENTS OUTSIDE THE RIGHT-OF-WAY.
 6. A MAINTENANCE/INDICATION AGREEMENT TO BE PREPARED FOR THE CAL-RC-PARK ISLANDS SIMILAR TO PREVIOUS PHASES OF HOMESTEAD.
 7. LIGHT STANDARDS AND UTILITY POLES TO BE LOCATED A MINIMUM OF FIVE FEET FROM BACK-OF-CURB.

CURVE DATA TABLE

CURVE	RADIUS	LENGTH	CHORD	ARC	DELTA
C1	2262.00'	162.20'	111.71'	53.222222°	90.71°
C2	3000.00'	288.81'	228.01'	53.222222°	90.71°
C3	3000.00'	174.81'	135.52'	53.222222°	90.71°
C4	3000.00'	174.81'	135.52'	53.222222°	90.71°

TANGENT DATA TABLE

LINE	LENGTH	BEARING
L1	128.99'	S84.32410°E
L2	219.18'	N72.37454°E
L3	200.00'	N87.17105°E
L4	211.49'	N67.51705°E
L5	49.73'	S84.32410°E
L6	41.93'	S84.32410°E
L7	110.83'	S84.32410°E

CONSUMERS ENERGY PARCEL
 LOT LINES (ALL)

