

**FINAL AGENDA FOR THE COUNCIL MEETING
CITY OF PORTAGE
November 1, 2011**

7:30 p.m. Call to Order.

Invocation: Minister Michael O'Berski of the Oakland Drive Christian Church.

Pledge of Allegiance.

Roll Call.

Proclamations.

A. Approval of the October 18, 2011 Regular Meeting Minutes.

* B. Approval of Consent Agenda Motions.

* C. Communication from the City Manager recommending that City Council approve the Accounts Payable Register of November 1, 2011, 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 consider adoption of the resolution sell a 2.5-acre portion of excess city property at 7130 South Westnedge Avenue to Jason M. Klein & Associates at a purchase price of \$370,000, place the resolution on file with the Office of the City Clerk for 28 days and take final action on December 6, 2011.

* 2. Communication from the City Manager recommending that City Council establish the 2012 Schedule of Regular City Council Meetings.

3. Communication from the City Manager regarding the I-94 Construction Progress and Completion Schedule – Information Only.

* 4. Communication from the City Manager regarding the request of Aisha Turk, 9124 East Shore Drive, to waive the late fee assessed to her 2011 Summer Property Taxes – Information Only.

G. Communications:

1. Communication from Kalamazoo City Manager Ken Collard, Portage City Manager Maurice Evans and Kalamazoo County Administrator Peter Battani regarding the follow-up on Intergovernmental Collaboration/Consolidation/*Purchasing*.

2. Annual Presentation by Senior Citizen Advisory Board Chairperson Ruth Ann Meyer

3. Communication from David Steffens, President of the Long Lake Association, requesting that City Council refer a project for an aquatic plant management program to the Long Lake Governmental Lake Board.

a. Communication from the City Manager recommending that City Council adopt the Resolution Regarding Long Lake Improvement Pursuant to the Inland Lake Improvement Act and direct the Governmental Lake Board for Long Lake to proceed with the necessary steps to improve Long Lake.

H. Unfinished Business:

* 1. Communication from the City Clerk recommending that City Council reconfirm the resolution to grant an easement to Consumers Energy.

to

- * I. Minutes of Boards and Commissions Meetings:
 - 1. Portage Board of Education Special Meeting and Committee of the Whole Work Session of September 12, Special and Regular Meeting of September 26 and Committee of the Whole Work Session of October 10, 2011.
 - 2. Portage Youth Advisory Committee of September 19, 2011.
 - 3. Portage Planning Commission of October 6, 2011.

- J. Ad-Hoc Committee Reports:
 - 1. Communication from the City Manager recommending that the City Council Policy for Use of City Hall dated November 1, 2011, and the City of Portage Application / Agreement for Use of City Hall be adopted.

- K. New Business:

- L. Bid Tabulations:
 - * 1. Communication from the City Manager recommending that City Council approve a one-year contract with AT&T in the amount of \$11,600 for 9-1-1 maintenance, with the option to annually renew provided the terms, conditions and price do not change, and authorize the City Manager to execute all documents related to the contract 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. Wednesday, November 2, 8:15 a.m., Historic District Commission, City Hall Room #1.
 - b. Wednesday, November 2, 6:30 p.m., Park Board, Celery Flats.
 - c. Thursday, November 3, 6:30 p.m., Human Services Board, City Hall Room #1.
 - d. Thursday, November 3, 7:00 p.m., Planning Commission, Council Chambers. CANCELLED
 - e. Wednesday, November 9, 7:00 p.m., Environmental Board, City Hall Room #1.
 - f. Monday, November 14, 6:30 p.m., Youth Advisory Committee, City Hall Room #1.
 - g. Monday, November 14, 7:00 p.m., Zoning Board of Appeals, Council Chambers.

- N. Materials Transmitted of October 14, 2011.

Adjournment.

CITY COUNCIL MEETING SUMMARY

October 18, 2011

PROCLAMATIONS

- ◆ Mayor Strazdas issued a National Red Ribbon Proclamation and a Rotary International World Polio Day Proclamation.

ACCOUNTS PAYABLE REGISTER

- ◆ Approved the Accounts Payable Register of October 18, 2011, as presented.

PUBLIC HEARING

- ◆ Approved Rezoning Application #10-03 and rezoned 1302, 1306 and 1316 East Centre Avenue from OS-1, office service and R-1B, one-family residential, to B-1, local business, and rezoned 1330 East Centre Avenue from R-1B, one-family residential, to OS-1, office service.

REPORTS FROM THE ADMINISTRATION

- ◆ Approved Contract 11-5530 between the Michigan Department of Transportation and the City of Portage concerning funding for street improvements on Romence Road, Constitution Boulevard to South Westnedge Avenue; approved an engineering services contract with Abonmarche Consultants, Incorporated, for construction inspection and administration for street improvements on Romence Road (Constitution Boulevard to South Westnedge Avenue) in the not to exceed amount of \$73,000; adopted a Resolution authorizing the City Manager to sign Contract 11-5530; and authorized the City Manager to sign all other documents relating to the consultant contract and the Michigan Department of Transportation contract on behalf of the city.
- ◆ Renewed a service contract in an amount not to exceed \$24,000 with Sprint Solutions for Nextel mobile phone service through September 3, 2012, and authorized the City Manager to execute all documents related to this action on behalf of the city.
- ◆ Established Friday, December 9, 2011, as the date of the 2011 City Council Goal Setting Session.
- ◆ Received the communication from the City Manager regarding the September 2011 Summary Environmental Activity Report as information only.
- ◆ Received the Department Monthly Reports.

COMMUNICATION

- ◆ Received the October 7, 2011 Communication from Tim Earl, 6862 Shallowford Way, regarding City Council Meeting Invocation practice and directed the City Clerk to contact Mr. Tim Earl to determine his interest in providing the City Council meeting invocation.

UNFINISHED BUSINESS

- ◆ Amended the Code of Ordinances of the City of Portage by amending Chapter 38, Historic Preservation, Article 2, Historic Districts, Section 38-38, Procedure for approval of work; criteria for review; permit (j) Time limits.

BID TABULATIONS

- ◆ Approved the purchase of two 4-wheel drive one-ton pickup trucks, three 4-wheel drive ¾-ton pickup trucks, five police pursuit vehicles and one 60 inch commercial mower through the State of Michigan Purchasing Program (MiDEAL) at a total cost not to exceed \$306,159 and authorized the City Manager to execute all documents related to these purchases on behalf of the city.
- ◆ Approved the purchase of garage door operators from Fawley Door, Inc., of Portage, Michigan, in the amount of \$18,200 for the replacement of 20 garage door operators and 40 remote transmitters for three city fire stations and authorized the City Manager to execute all documents relating to this contract on behalf of the city.

STATEMENTS OF ATTORNEY AND CITY COUNCIL

- ◆ City Attorney Randy Brown noted that regarding the request of a waiver by Ms. Turk that State Law requires that if there is going to be an appeal that this City Council makes that decision, so she does have the right to come before this City Council for a decision, eventually.
- ◆ Councilmember Campbell thanked all of the participants in the Red Ribbon Week effort.
- ◆ Mayor Pro Tem Sackley thanked all of the individuals who offered Invocations since Portage became a city in 1963.
- ◆ Mayor Strazdas thanked the Portage Public School District personnel, City Manager Maurice Evans and staff for their collaboration efforts, especially for the recent renovation of one school building and the construction of three new ones. He also displayed a plaque presented to the City and asked that it be appropriately displayed in City Hall.

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

CITY COUNCIL MEETING MINUTES FROM OCTOBER 18, 2011

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

At the request of Mayor Strazdas, Pastor David Barringer of the Kalamazoo First Assembly of God of Portage provided the invocation and the City Council and the audience recited the Pledge of Allegiance.

The City Clerk called the roll with the following members present: Councilmembers Cory A. Bailes, Elizabeth A. Campbell, Claudette S. Reid and Terry R. Urban, Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Councilmember Patricia M. Randall was absent with excuse. Also in attendance were City Manager Maurice S. Evans, City Attorney Randy L. Brown and City Clerk James R. Hudson.

PROCLAMATIONS: Mayor Strazdas issued a National Red Ribbon Proclamation and a Rotary International World Polio Day Proclamation.

APPROVAL OF MINUTES: Motion by Reid, seconded by Sackley, to approve the October 4, 2011 Special Meeting Minutes as presented. Upon a voice vote, motion carried 5 to 0 with Councilmember Campbell abstaining. Motion by Reid, seconded by Sackley, to approve the October 4, 2011 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 6 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Urban to read the Consent Agenda. Motion by Urban, seconded by Reid, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 6 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF OCTOBER 18, 2011:** Motion by Urban, seconded by Reid, to approve the Accounts Payable Register of October 18, 2011. Upon a roll call vote, motion carried 6 to 0.

PUBLIC HEARING:

REZONING APPLICATION #10-03, (1302, 1306 AND 1316 EAST CENTRE AVENUE): Mayor Strazdas opened the public hearing and introduced Community Development Director Vicki Georgeau, who provided an overview of the request and outlined the location of 1302, 1306 and 1316 East Centre Avenue, on the map enclosed in their Agenda Packets. She provided a background of the process thus far and reviewed the recommendation by the Administration. She summarized the staff report dated August 26, 2011, as further background and referenced a series of maps as visual tools to explain the zoning change requests. Discussion followed.

Mayor Strazdas asked her to address the proposed buffering between properties and the extra traffic concern expressed by the Planning Commission that the rezoning would generate along Lovers Lane considering ingress and egress along Lovers Lane and Centre Avenue and what kinds of protections can the city offer the residents living on Maynard Avenue to ensure that they are not going to be negatively impacted. Ms. Georgeau indicated that during the site plan review process, there would be a requirement that there would be at least a six foot screen that would be opaque year around which could be a combination of a fence, a wall, existing vegetation, or vegetation planted as a supplement to ensure the six foot buffer requirement is met. In addition, she indicated that there is a ten foot wide green strip requirement that would require a certain number of trees every thirty feet. The Planning Commission could also require during that process additional plantings or additional steps if they are concerned about the development project, site layout or specific uses proposed at that time.

With regard to traffic, she indicated that the staff report indicated that if all four parcels were rezoned to B-1 and redeveloped collectively, the 2.5-acre rezoning site could accommodate an approximate 27,000 square foot building based upon a 25% lot coverage and would generate approximately 1,098 vehicle trips per day; however, if an office building were built of the same size, it would generate approximately 486 vehicle trips per day.

She continued by saying if 1302, 1306 and 1316 East Centre Avenue were rezoned B-1 and redeveloped collectively, the 1.6-acre rezoning site could accommodate an approximate 17,400 square foot building based upon a 25% lot coverage that would generate approximately 708 vehicle trips per day; however, if an office building were build of the same size, it would generate approximately 346 vehicle trips per day.

Further, she said if 1330 East Centre Avenue was rezoned OS-1, the 0.9-acre rezoning site could accommodate an approximate 9,801 square foot building based upon a 25% lot coverage that would generate approximately 223 vehicle trips per day.

Finally, she said based on the traffic capacity of East Centre Avenue and Lovers Lane is more than enough to accommodate the extra traffic with regard to the road function to accommodate additional development. She indicated that staff has also discussed the need to have as much coordinated access in order to have as few curb cuts as possible and explained.

Councilmember Reid referenced the concern expressed in the letter from Attorney John L. Barnes dated August 31, 2011, that if 1330 East Centre Avenue were zoned differently than the three parcels to the west, both its value and marketability would be seriously reduced and asked if it were addressed. Ms. Georgeau assured her that it was reviewed by the Planning Commission and explained. Discussion followed.

Mayor Strazdas opened the public hearing for public comment. There being no public comment, motion by Sackley, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried. Motion by Sackley, seconded by Bailes, to approve Rezoning Application #10-03 and rezone 1302, 1306 and 1316 East Centre Avenue from OS-1, office service and R-1B, one-family residential, to B-1, local business, and rezone 1330 East Centre Avenue from R-1B, one-family residential, to OS-1, office service. Discussion followed. Upon a roll call vote, motion carried 6 to 0.

PETITIONS AND STATEMENTS OF CITIZENS: Aisha Turk, 9124 East Shore Drive, indicated that she was here to appeal the penalty she was charged for being late on her tax bill. She indicated she has lived in Michigan for 20 years, three years in Portage, and has never been late. She also indicated that this year she was late by seven days, received a penalty of \$308 and is here to see if City Council can waive that. Mayor Strazdas asked City Manager Evans for a response, including due process for individuals in this circumstance. Mr. Evans indicated that having just received this information tonight, he would like further explanation from Ms. Turk. She indicated that it was the start of the school year, just overlooked it completely and "got it in" seven days late on Friday afternoon. Mayor Strazdas responded that the City Manager was indicating that this perhaps is not the forum to get into the level of detail needed in this matter and offered that it might be appropriate to make an appointment with the City Manager to share more details and specifics, and the City Manager can let her know what he can and can not do. She indicated that she did come over (to City Hall) when she got this bill; that they (staff) said she should come to this meeting; that she could just come and appeal to everybody; and, that she could come tonight. When Mayor Strazdas asked Mr. Evans if he had a response, he indicated that he did not. He also indicated that he would like to talk to staff and be able to correspond or call and convey what he finds out. Mayor Strazdas asked Ms. Turk to communicate directly with the City Manager's Office in order to have the appropriate quality time to review and share the details of the circumstances in order for the City Manager with staff and through his direction may determine what they can and cannot do. Mayor Pro Tem Sackley assured Ms. Turk that her trip was not wasted and that the advice she received from staff was good since the City Manager will take appropriate action.

REPORTS FROM THE ADMINISTRATION:

- * **MICHIGAN DEPARTMENT OF TRANSPORTATION CONTRACT – ROMENCE ROAD (CONSTITUTION BOULEVARD TO SOUTH WESTNEDGE AVENUE:** Motion by Urban, seconded by Reid, to approve Contract 11-5530 between the Michigan Department of Transportation and the City of Portage concerning funding for street improvements on Romence Road, Constitution Boulevard to South Westnedge Avenue; approve an engineering services contract with Abonmarche Consultants, Incorporated, for construction inspection and administration for street improvements on Romence Road (Constitution Boulevard to South Westnedge Avenue) in the not to exceed amount of \$73,000; adopt a Resolution authorizing the City Manager to sign Contract 11-5530; and authorize the City Manager to sign all other documents relating to the consultant contract and the Michigan Department of Transportation contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0.
- * **NEXTEL MOBILE PHONE SERVICE:** Motion by Urban, seconded by Reid, to renew a service contract in an amount not to exceed \$24,000 with Sprint Solutions for Nextel mobile phone service through September 3, 2012, 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 6 to 0.
- * **2011 CITY COUNCIL GOAL SETTING SESSION:** Motion by Urban, seconded by Reid, to establish Friday, December 9, 2011, as the date of the 2011 City Council Goal Setting Session. Upon a roll call vote, motion carried 6 to 0.
- * **SEPTEMBER 2011 SUMMARY ENVIRONMENTAL ACTIVITY REPORT – INFORMATION ONLY:** Motion by Urban, seconded by Reid, to receive the communication from the City Manager regarding the September 2011 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 6 to 0.
- * **DEPARTMENT MONTHLY REPORTS:** Motion by Urban, seconded by Reid, to receive the Department Monthly Reports. Upon a roll call vote, motion carried 6 to 0.

COMMUNICATION:

TIM EARL, 6862 SHALLOWFORD WAY: Mayor Strazdas introduced the item and deferred to City Manager Maurice Evans, who indicated that City Council is in receipt of a communication dated October 4, 2011, from Tim Earl, 6862 Shallowford Way, concerning his discomfort with the content of the City Council Meeting Invocations, particularly those where the individual giving the invocation calls upon a specific deity. Mr. Evans further said that while the City of Portage enjoys the giving of an invocation by a variety of individuals from many denominations as provided to City Council on the attached lists, a secular invocation can be added to the schedule. He also said that it is recommended that the City Clerk be directed to contact Mr. Earl to determine if he is inclined to volunteer in this capacity.

When Mr. Evans deferred to City Clerk James Hudson, he informed City Council that Mr. Earl had been invited to the City Council Meeting via e-mail and provided him with the website where he could review the recommendation to City Council from the City Manager prior to the meeting. Discussion followed.

Mayor Pro Tem Sackley reflected on Mr. Earl's communication, expressed his appreciation for the opportunity to respond, and he noted the sincerity in his concern and request that City Council promote tolerance and inclusiveness. He agreed that at times the individuals who offer the Invocation at the Council Meeting go much further than is needed in "drilling down" to the specifics of their faith and deities as was referenced by Mr. Earl. He reiterated that, as indicated by Mr. Evans, the giving of

an Invocation at City Council Meetings is by a variety of individuals from many denominations and non-denominational entities. He noted that the invitation to Mr. Earl to step up and provide an invocation is a very positive response, and he welcomed the opportunity to hear what Mr. Earl has to say and take inspiration from it.

Councilmember Reid asked if there is any direction or instruction provided to persons who are going to be giving the invocation. She agreed that some of the points made by Mr. Earl are well-made, such as being inclusive instead of exclusive, and being less specific, and indicated that it may be appropriate for City Council to provide a general statement of what we are looking for in an invocation to help assist people in preparing what is most appropriate. Mr. Hudson indicated that the City Clerk Office may let the individual know that it is an Invocation, so it is the invoking a higher power, for support of City Council's decisions and their energies. Councilmember Reid suggested that the City Manager draft a simple statement of direction of the Invocation to help it be more inclusive so that it is not a problem for anyone in our community.

Mayor Strazdas asked City Attorney Randy Brown to express his opinion on the matter and Mr. Brown indicated that it is accepted in the courts that an Invocation is Constitutional, and is accepted throughout the country, so there is no Constitutional issue with the Invocation. Also, he indicated that there is no issue with establishing a policy. However, he did express concern that if City Council establishes a policy, there could be an issue with enforcement as a practical problem for Council. He cited a case where the Council policy stated that the Invocation had to be neutral, that there could be no disparaging of other religions, or no proselytizing, etc., and that particular court found that over time the City had not followed the policy and was engaging in non-Constitutional behavior. Mayor Strazdas attempted to distinguish Councilmember Reid's characterization by referring to it as a guideline and not a policy, but Attorney Brown indicated that if it is written, the courts are going to call it a policy and it will have to be enforced. Discussion followed.

Councilmember Urban expressed his skepticism that anyone who offered an Invocation would temper his or her passion about their beliefs even if City Council did provide a written guideline. Discussion followed. He also indicated that his difficulty with the response of the Administration is that he is not sure that there is any such thing as an Invocation by an atheist. Discussion followed. Mayor Pro Tem Sackley responded it could be just asking a person or thing for assistance or authority, or do a good job and keep it up. Discussion followed.

Motion by Sackley, seconded by Urban, to receive the October 7, 2011 Communication from Tim Earl, 6862 Shallowford Way, regarding City Council Meeting Invocation practice and direct the City Clerk to contact Mr. Tim Earl to determine his interest in providing the City Council Meeting Invocation. Upon a roll call vote, motion carried 6 to 0.

UNFINISHED BUSINESS:

* **AMENDMENT TO THE CODE OF ORDINANCES – HISTORIC DISTRICTS:** Motion by Urban, seconded by Reid, to amend the Code of Ordinances of the City of Portage by amending Chapter 38, Historic Preservation, Article 2, Historic Districts, Section 38-38, Procedure for approval of work; criteria for review; permit (j) Time limits. Upon a roll call vote, motion carried 6 to 0.

* **MINUTES OF BOARDS AND COMMISSIONS:** City Council received the minutes for the following boards and commissions:

- Portage Human Services Board of August 4, 2011.
- Portage Park Board of September 7, 2011.
- Portage Zoning Board of Appeals of September 12, 2011.
- Portage Environmental Board of September 14, 2011.
- Portage Planning Commission of September 15, 2011.

Kalamazoo County Board of Commissioners Committee of the Whole and Regular of
September 20, 2011.

BID TABULATIONS:

* **VEHICLE/EQUIPMENT PURCHASES:** Motion by Urban, seconded by Reid, to approve the purchase of two 4-wheel drive one-ton pickup trucks, three 4-wheel drive ¾-ton pickup trucks, five police pursuit vehicles and one 60 inch commercial mower through the State of Michigan Purchasing Program (MiDEAL) at a total cost not to exceed \$306,159 and authorize the City Manager to execute all documents related to these purchases on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

* **FIRE DEPARTMENT GARAGE DOOR OPERATORS:** Motion by Urban, seconded by Reid, to approve the purchase of garage door operators from Fawley Door, Inc., of Portage, Michigan, in the amount of \$18,200 for the replacement of 20 garage door operators and 40 remote transmitters for three city fire stations and authorize the City Manager to execute all documents relating to this contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL AND CITY ATTORNEY: City Attorney Randy Brown noted that regarding the request of a waiver by Ms. Turk that State Law requires that if there is going to be an appeal that this City Council makes that decision, so she does have the right to come before this City Council for a decision, eventually.

Councilmember Campbell thanked all of the participants in the Red Ribbon Week effort.

Mayor Pro Tem Sackley thanked all of the individuals who offered Invocations since Portage became a city in 1963.

Mayor Strazdas thanked the Portage Public School District personnel, City Manager Maurice Evans and staff for their collaboration efforts, especially for the recent renovation of one school building and the construction of three new ones. He also displayed a plaque presented to the City and asked that it be appropriately displayed in City Hall.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 8:26 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: October 24, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: Accounts Payable Register

ACTION RECOMMENDED: That City Council approve the Accounts Payable Register of November 1, 2011 as presented.

Attached please find the Accounts Payable Register for the period October 9, 2011 through October 23, 2011, which is recommended for approval.

c: Daniel S. Foecking, Finance Director

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
10/14/2011	278215	A I S CONSTRUCTION EQUIP. CO.	640	5,640.70
10/14/2011	278216	A M LEONARD	1382	36.00
10/14/2011	278217	AT&T	849	3,719.20
10/14/2011	278218	ALERT-ALL CORP.	4733	1,587.50
10/14/2011	278219	ALL-PHASE ELECTRIC SUPPLY CO.	108	136.06
10/14/2011	278221	ALLEGRA PRINT & IMAGING	533	1,309.00
10/14/2011	278222	ALLIED MECHANICAL SERVICE	974	1,650.67
10/14/2011	278223	AMERICAN BUSINESS EQUIPMENT, I	112	95.00
10/14/2011	278224	TODD ARBANAS ENTERPRISES INC.	1704	6,535.00
10/14/2011	278225	ARROWHEAD SCIENTIFIC, INC.	3744	110.00
10/14/2011	278226	AUDIMUTE SOUNDPROOFING	4737	786.38
10/14/2011	278227	ADP, INC.	3305	831.99
10/14/2011	278228	AUTOMATION DESIGN & ENTERTAINM	2906	2,680.00
10/14/2011	278229	AUTOMOTIVE CONCEPTS CARSTAR	4399	1,904.98
10/14/2011	278230	B & G DISCOUNT	2225	153.48
10/14/2011	278231	BALKEMA EXCAVATING, INC.	130	2,100.00
10/14/2011	278232	BCHS-HELENET	1732	1,272.18
10/14/2011	278233	BECK, PAT	999999	60.00
10/14/2011	278234	BESCO WATER TREATMENT, INC.	3339	27.50
10/14/2011	278235	BIDDLE, KRISTINE	532	203.09
10/14/2011	278236	BILL'S LOCK SHOP, INC.	146	460.00
10/14/2011	278237	BLUE CROSS/BLUE SHIELD OF MICH	642	113,686.20
10/14/2011	278238	BOOTH NEWSPAPERS INC	89	1,881.23
10/14/2011	278239	BOZELL, ERIN	999999	100.00
10/14/2011	278240	BREAD OF LIFE, LLC	4729	67.16
10/14/2011	278241	BRINK'S, INC	153	251.06
10/14/2011	278242	BRUNSON METHODIST HOSPITAL	156	150.00
10/14/2011	278243	BROWNELL'S INCORPORATED	2677	673.00
10/14/2011	278244	BYCE & ASSOCIATES, INC.	3711	5,000.00
10/14/2011	278245	C B C INNOVIS INC	2887	24.95
10/14/2011	278246	CADWELL APPARELL	1845	1,160.00
10/14/2011	278247	CAMPBELL AUTO SUPPLY	437	18.66
10/14/2011	278248	CAPROSSI CONSTRUCTION	999999	225.00
10/14/2011	278249	CHARTER COMMUNICATIONS	3080	263.17
10/14/2011	278250	CHEM LINK INC	999999	100.00
10/14/2011	278251	CHEMICAL BANK	999999	12.14
10/14/2011	278252	CINTAS CORP.	2206	334.84
10/14/2011	278253	CITY OF GRAND RAPIDS	4702	150.00
10/14/2011	278254	CITY OF KALAMAZOO (TRANS MILLA	4649	3,182.89
10/14/2011	278255	CITY OF KALAMAZOO (TRANS MILLA	4649	3,337.94
10/14/2011	278256	CITY OF KALAMAZOO TREASURER	540	244.62
10/14/2011	278257	CITY OF PORTAGE	177	5,759.15
10/14/2011	278258	CITY OF PORTAGE-FINANCE DEPT	999999	76.28
10/14/2011	278259	CITY OF PORTAGE-FINANCE DEPT	999999	251.40
10/14/2011	278260	COCHRAN GLASS AND DOOR, LLC	4547	240.00
10/14/2011	278261	COMMERCIAL DOOR SERVICES	1688	650.00
10/14/2011	278262	COMSTOCK PUBLIC SCHOOLS	1671	308.92
10/14/2011	278263	CONSUMERS ENERGY	743	42,514.36
10/14/2011	278264	CONSUMERS ENERGY - KALAMAZOO	190	4,994.00
10/14/2011	278265	CONSUMERS ENERGY - KALAMAZOO	190	100.00
10/14/2011	278266	CONSUMERS ENERGY-BILL PMT CNT	189	10,582.69

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
10/14/2011	278267	CORELOGIC	999999	863.63
10/14/2011	278268	CORELOGIC	999999	1,437.07
10/14/2011	278269	COSTAR REALTY INFORMATION, INC	4620	282.00
10/14/2011	278270	CRONKRIGHT, VICTOR & CONNIE	999999	59.84
10/14/2011	278272	CROSSROADS EXPERT AUTO SERVICE	4109	4,458.22
10/14/2011	278273	DE HAAN, RAYMOND	999999	83.05
10/14/2011	278274	JOHN DEERE LANDSCAPES	4448	25.24
10/14/2011	278275	DIESEL INJECTION SERVICE, LLC	1874	36.08
10/14/2011	278276	DOWLING, CHRISTAN	4734	47.00
10/14/2011	278277	EMERGENCY VEHICLE PRODUCTS	2948	801.47
10/14/2011	278278	ENDERICH, RYAN	532	308.58
10/14/2011	278279	ENGINEERING SUPPLY & IMAGING	2615	111.03
10/14/2011	278280	ENVIRONMENTAL SYSTEMS RESEARCH	2069	5,400.00
10/14/2011	278281	FARM N GARDEN	833	38.50
10/14/2011	278282	FAWLEY OVERHEAD DOOR, INC.	690	170.00
10/14/2011	278283	FLETCHER ENTERPRISES	1399	2,322.00
10/14/2011	278284	FREEMAN, CARYL	999999	55.00
10/14/2011	278285	GALL'S, AN ARAMARK COMPANY	25	13.73
10/14/2011	278286	GANNETT MICHIGAN NEWSPAPERS	4508	469.60
10/14/2011	278287	GOD'S LANDSCAPE OF HAMILTON	999999	71.00
10/14/2011	278288	GORBICS, JACQUE	4726	47.00
10/14/2011	278289	GORDON WATER SYSTEMS	517	87.25
10/14/2011	278290	GREENE, MARIYLN	999999	58.00
10/14/2011	278291	GRIFFIN PEST CONTROL, INC.	598	112.00
10/14/2011	278292	HOME DEPOT	691	65.53
10/14/2011	278293	HURLEY & STEWART, LLC	2905	1,584.02
10/14/2011	278294	IERVOLINA, SUSAN	2074	205.00
10/14/2011	278295	INTERNATIONAL CITY MGT. ASSOC.	1198	30.00
10/14/2011	278296	THE IRRIGATOR	2047	2,200.31
10/14/2011	278297	THE ISERV COMPANY LLC	4712	45.00
10/14/2011	278298	J & J LAWN SERVICE, INC.	457	300.00
10/14/2011	278299	JAOUA REALTORS - AIRPORT	999999	50.88
10/14/2011	278300	KALAMAZOO COUNTY ROAD COMMISSI	87	400.00
10/14/2011	278301	KALAMAZOO COUNTY TREASURER	514	37,296.29
10/14/2011	278302	KALAMAZOO LANDSCAPE SUPPLIES	90	799.00
10/14/2011	278303	KALAMAZOO REG'L EDUC SVS AGENG	721	81,502.64
10/14/2011	278304	KALAMAZOO VALLEY COMMUNITY COL	230	22,387.59
10/14/2011	278305	KALAMAZOO VALLEY COMMUNITY COL	230	45.00
10/14/2011	278306	KAMMINGA & ROODVOETS, INC.	4567	168,912.90
10/14/2011	278307	KELLY RADIATOR & AUTO REPAIR	4591	925.83
10/14/2011	278308	KUHN'S YARD & GARDEN CARE, INC	4551	70.96
10/14/2011	278309	LARSCO, INC.	4708	928.00
10/14/2011	278310	LFO'S GOLD LION PRODUCTS, INC.	3116	178.10
10/14/2011	278311	LIGHTING SUPPLY CO.	4728	292.15
10/14/2011	278312	LOCEY SWIM POOL CO.	243	38.40
10/14/2011	278313	LOCEY, JAMES G	999999	27.66
10/14/2011	278314	M & M CUSTOM FABRICATING INC.	4576	22.50
10/14/2011	278315	MAISTO, MARY	999999	825.45
10/14/2011	278316	MCMALLY ELEVATOR CO.	256	187.44
10/14/2011	278317	MENARDS, INC	258	139.99
10/14/2011	278318	MICHIGAN PAVING & MATERIALS CO	3389	219,380.66

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
10/14/2011	278319	MICHIGAN TAX TRIBUNAL	999999	25.00
10/14/2011	278320	MIDWEST GOLF AND TURF	4210	1,008.64
10/14/2011	278321	MIRACLE RECREATION EQUIPMENT	488	1,065.00
10/14/2011	278322	MULDERS LANDSCAPE SUPPLIES INC	286	793.75
10/14/2011	278323	NEW FRESH CLEANING SERVICE	4351	3,360.00
10/14/2011	278324	A NEW LEAF	635	170.00
10/14/2011	278325	NORRIS, ALBERT	999999	7.73
10/14/2011	278326	NYE UNIFORMS	299	1,839.64
10/14/2011	278327	OFFICE DEPOT, INC.	1721	907.71
10/14/2011	278328	OFFICEMAX INCORPORATED	301	180.37
10/14/2011	278329	ONE WAY PRODUCTS	440	1,489.62
10/14/2011	278330	OWEN, VIRGIL	999999	44.00
10/14/2011	278331	PATESEL, TERRY	4455	94.00
10/14/2011	278332	PEERLESS, INC.	1171	112.50
10/14/2011	278333	PETERMAN CONCRETE CO.	310	4,237.40
10/14/2011	278334	PETERS CONSTRUCTION CO.	1638	89,816.28
10/14/2011	278335	PETTY CASH-CITY HALL	767	567.14
10/14/2011	278336	POLLARD, OLIVER	999999	60.00
10/14/2011	278337	PORTAGE PUBLIC SCHOOLS	590	84,493.48
10/14/2011	278338	THE POSTMAN	2633	1,005.00
10/14/2011	278339	POWERPHONE, INC	608	209.00
10/14/2011	278340	PROFESSIONAL TREE SERVICE, INC	321	980.00
10/14/2011	278341	R C M HEADSETS/R C M & ASSOC.	4113	210.00
10/14/2011	278342	RATHCO SAFETY SUPPLY, INC.	327	274.56
10/14/2011	278343	REHMANN GROUP LLC	4654	1,900.00
10/14/2011	278344	RELIABLE MANAGEMENT SYSTEMS, I	4354	331.00
10/14/2011	278345	RENEWED EARTH, INC.	4686	9,916.66
10/14/2011	278347	REPUBLIC WASTE SERVICES OF W M	4443	43,980.04
10/14/2011	278348	RESIDENTIAL OPPORTUNITIES INC.	999999	100.00
10/14/2011	278349	RIDGE AUTO NAPA	438	1,140.98
10/14/2011	278350	ROBERT G WATTS	999999	168.00
10/14/2011	278351	ROCHE, KITTY	999999	100.00
10/14/2011	278352	ROWLEY BROTHERS, INC.	346	526.40
10/14/2011	278353	SAFETY SYSTEMS, INC.	4732	286.00
10/14/2011	278354	ROD SCOTT	2625	240.00
10/14/2011	278355	SNIDER & ASSOCIATES, INC.	4738	890.00
10/14/2011	278356	SODERMAN, ANATASIA	999999	100.00
10/14/2011	278357	STANDARD & POOR'S	1057	6,100.00
10/14/2011	278358	STAP BROS LAWN & LANDSCAPE, INC	366	1,630.00
10/14/2011	278359	STATE OF MICHIGAN (TREASURY)	722	326,129.40
10/14/2011	278360	STATE SYSTEMS RADIO, INC	369	2,787.58
10/14/2011	278361	STEENSMAN LAWN & POWER EQUIPMEN	3222	131.58
10/14/2011	278362	C. STODDARD & SONS INC.	1444	55.00
10/14/2011	278363	SUESS, MS. NORMA	999999	900.00
10/14/2011	278364	T D S METROCOM, LLC	4539	3,000.35
10/14/2011	278365	T-MOBILE USA INC	3665	29.99
10/14/2011	278366	THOMPSON PUBLISHING GROUP	385	428.50
10/14/2011	278367	JOHANNA THOMPSON	4682	300.00
10/14/2011	278368	THOMPSON, PATTI	532	601.35
10/14/2011	278369	TIGER DIRECT, INC.	4272	605.40
10/14/2011	278370	TRACTOR SUPPLY CORP.	2817	59.98

PREPARED 10/25/2011 1313731
 PROGRAM: CW350L
 CITY OF PORTAGE

PAGE 4

BANK CODE

FROM 10/09/2011 TO 10/23/2011

* ALL *

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
10/14/2011	278371	TRUGREEN	390	1,002.00
10/14/2011	278372	U S POSTMASTER	392	6,000.00
10/14/2011	278373	UNITED PARCEL SERVICE	545	64.84
10/14/2011	278374	VANGUARD FIRE & SUPPLY CO., IN	3996	266.40
10/14/2011	278375	WEST MICHIGAN REALTORS TITLE	999999	77.30
10/14/2011	278376	WINDEMULLER ELECTRIC, INC.	3061	2,600.00
10/14/2011	278377	WINGFOOT COMMERCIAL TIRE	2613	966.19
10/14/2011	278378	WOLVERINE POWER SYSTEMS	4322	221.75
10/14/2011	278379	XEROX CORPORATION	2684	1,036.99
10/21/2011	278380	American Crime Prevention Inst	999999	1,050.00
10/21/2011	278381	BEGEMAN, CRAIG	999999	250.00
10/21/2011	278382	GALT HOUSE HOTEL	999999	1,320.00

DATE RANGE TOTAL * 1,394,081.48 *

PAYMENT VENDOR		TRANSFER		AMOUNT		TRACE		EFT		BANK	
NO	NO NAME	DATE	DATE			NUMBER	NUMBER	BATCH	BATCH	CODE	CODE
603	ABONMARCHE CONSULTANTS, INC	10/14/2011	10/14/2011	8,554.28	072000320000001	0000001	00				00
604	ADMIRAL LOCK & KEY SERVICE	10/14/2011	10/14/2011	141.10	072000320000002	0000001	00				00
605	AMERICAN SAFETY & FIRST AID	10/14/2011	10/14/2011	118.83	072000320000003	0000001	00				00
606	ANDRUS TRAVEL, GAIL	10/14/2011	10/14/2011	3,960.00	072000320000004	0000001	00				00
607	ANIMAL REMOVAL SERVICE, LLC	10/14/2011	10/14/2011	1,210.00	072000320000005	0000001	00				00
608	B & B YARDSCAPE	10/14/2011	10/14/2011	2,933.00	072000320000006	0000001	00				00
609	BATTERIES PLUS	10/14/2011	10/14/2011	651.06	072000320000007	0000001	00				00
610	BELL EQUIPMENT COMPANY	10/14/2011	10/14/2011	146.25	072000320000008	0000001	00				00
611	BLUE CARE NETWORK-GREAT LAKES	10/14/2011	10/14/2011	63,272.26	072000320000009	0000001	00				00
612	BLUESTONE PSYCH	10/14/2011	10/14/2011	425.00	072000320000010	0000001	00				00
613	CAPITAL ADVANTAGE LEASING	10/14/2011	10/14/2011	2,672.60	072000320000011	0000001	00				00
614	CARRIER & GABLE	10/14/2011	10/14/2011	817.80	072000320000012	0000001	00				00
615	DIAMOND DRILLING & SUPPLY CO.	10/14/2011	10/14/2011	200.00	072000320000013	0000001	00				00
616	GRAINGER INC, W W	10/14/2011	10/14/2011	867.21	072000320000014	0000001	00				00
617	HARTFORD LIFE INSURANCE COMPANY	10/14/2011	10/14/2011	7,891.45	072000320000015	0000001	00				00
618	HEMLER, KAMI	10/14/2011	10/14/2011	94.00	072000320000016	0000001	00				00
619	HI-TECH ELECTRIC CO.	10/14/2011	10/14/2011	425.00	072000320000017	0000001	00				00
620	INDUSCO SUPPLY CO., INC.	10/14/2011	10/14/2011	383.10	072000320000018	0000001	00				00
621	IRISH AYLES ENTERPRISES, LLC	10/14/2011	10/14/2011	7,747.25	072000320000019	0000001	00				00
622	KEHOE, EDWARD J	10/14/2011	10/14/2011	120.00	072000320000020	0000001	00				00
623	KUSHNER & COMPANY, INC.	10/14/2011	10/14/2011	369.43	072000320000021	0000001	00				00
624	MEDEMA, TIMOTHY	10/14/2011	10/14/2011	94.00	072000320000022	0000001	00				00
625	PACIFIC TELEMGT SERVS, JAROTH INC	10/14/2011	10/14/2011	303.00	072000320000023	0000001	00				00
626	PLEUNE SERVICE COMPANY	10/14/2011	10/14/2011	9,762.00	072000320000024	0000001	00				00
627	PRECISION PRINTER SERVICES INC	10/14/2011	10/14/2011	744.70	072000320000025	0000001	00				00
628	QUALITY AIR HEATING & COOLING, INC.	10/14/2011	10/14/2011	444.00	072000320000026	0000001	00				00
629	ROCKFORD CONSTRUCTION CO.	10/14/2011	10/14/2011	7,500.00	072000320000027	0000001	00				00
630	S B F/CORONA GRAPHICS	10/14/2011	10/14/2011	1,404.70	072000320000028	0000001	00				00
631	SAFETY SERVICES, INCORPORATED	10/14/2011	10/14/2011	436.47	072000320000029	0000001	00				00
632	SARCOM, INC	10/14/2011	10/14/2011	1,005.29	072000320000030	0000001	00				00
633	SNELL, DEBRA	10/14/2011	10/14/2011	195.00	072000320000031	0000001	00				00
634	SUBURBAN MECHANICAL	10/14/2011	10/14/2011	177.00	072000320000032	0000001	00				00
635	THOMPSON, HELENE	10/14/2011	10/14/2011	114.00	072000320000033	0000001	00				00
636	U S SIGNAL COMPANY, LLC	10/14/2011	10/14/2011	549.00	072000320000034	0000001	00				00
637	UNITED WATER ENVIRONMENTAL SERVICES	10/14/2011	10/14/2011	167,775.40	072000320000035	0000001	00				00
638	VISION SERVICE PLAN INSURANCE CO	10/14/2011	10/14/2011	2,209.22	072000320000036	0000001	00				00
639	WEST, STEVE	10/14/2011	10/14/2011	141.00	072000320000037	0000001	00				00

GRAND TOTAL:

295,854.40 NO. OF CHECKS:

37

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 24, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: Sale of Property, 7130 South Westnedge Avenue

ACTION RECOMMENDED: That City Council consider adoption of the resolution to sell a 2.5-acre portion of excess city property at 7130 South Westnedge Avenue to Jason M. Klein & Associates at a purchase price of \$370,000, place the resolution on file with the Office of the City Clerk for 28 days and take final action on December 6, 2011.

On March 22, 2011, City Council authorized the City Administration to proceed with efforts to sell a 2.5-acre portion of excess city property at 7130 South Westnedge Avenue. As shown on the attached vicinity map, the parcel is comprised of the former Portage Community Outreach Center (PCOC) facility and vacant property located to the north.

As explained in the attached October 24, 2011 communication from Community Development Director Georgeau, the city received a purchase offer in late July 2011 from Jason M. Klein & Associates, a local financial planning business. After negotiations between the city and the buyer, as well as review by the City Council Property Committee, the attached Real Estate Purchase Agreement has been finalized and signed by the buyer and city.

It is recommended that Council adopt the resolution to sell the 2.5-acre portion of excess city property at 7130 South Westnedge Avenue to Jason M. Klein & Associates at the purchase price of \$370,000, place the resolution on file with the Office of the City Clerk for 28 days and take final action on December 6, 2011.

Attachments: Vicinity Map
Resolution
Communication from the Department of Community Development
Real Estate Purchase Agreement



**CITY OF PORTAGE, MICHIGAN
RESOLUTION NO. 1 TO SELL REAL ESTATE**

Minutes of a regular meeting of the City Council for the City of Portage, Michigan held on _____, 2011 at 7:30 p.m. local time at City Hall in the City of Portage, Michigan.

PRESENT: _____

ABSENT: _____

The following resolution was offered by:

COUNCILMEMBER: _____ and supported by

COUNCILMEMBER: _____.

BE IT RESOLVED that the City of Portage sell the following described property to Jason M. Klein & Associates, for the sum of Three Hundred and Seventy Thousand (\$370,000.00)

Dollars:

All that certain parcel of real estate situated in the City of Portage, County of Kalamazoo and State of Michigan, to-wit:

That part of the Northeast Quarter of Section 16, Township 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan described as: Commencing at the Northeast Corner of said Section 16, thence South on the East line of said Section 16 a distance of 618.75 feet; thence North 89° 41' 30" West 50.00 feet to the West right of way line of South Westnedge Avenue and the point of beginning of the land herein described: thence South on said West right of way 371.25 feet; thence North 89° 41' 30" West 300.00 feet; thence North parallel with said East section line 371.25 feet; thence South 89° 41' 30" East 300.00 feet to the point of beginning. Containing 2.56 acres more or less. *cut*

Subject to survey.

Subject to any and all easements and restrictions of record, or otherwise.

Subject to any facts that may be disclosed in a full and accurate title search.

Assumed the East line of said Section 16 to bear South per Warranty Deed recorded in Liber 1016, Page 277, Kalamazoo County records.

Notes:

The South 165' of the above described parcel is part of the 5 acre parcel of land described in the Release of Right of Way to the Kalamazoo County Drain Commissioner as recorded in Liber 792, Page 321, Kalamazoo County records. The described centerline of the drain lies West of the above described parcel.

The Easement for Highway Purposes described in the Highway Easement Release recorded in Liber 589, Page 10 lies East of and adjacent to the above described parcel.

BE IT FURTHER RESOLVED:

That notice, in substantially the form attached as Exhibit A, be published in a newspaper of general circulation within the City, giving notice of the City's intent to sell the above described premises.

AYES: Councilmember _____

NAYS: Councilmember _____

ABSENT: Councilmember _____

RESOLUTION DECLARED ADOPTED: _____

James R. Hudson, City Clerk

CERTIFICATION

STATE OF MICHIGAN)

)

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 ___ day of _____, 2011, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this ___ day of _____, 2011.

JAMES R. HUDSON, City Clerk

Approved as to Form
Date: 10/26/11
[Signature]

City Attorney

EXHIBIT A

CITY OF PORTAGE, MICHIGAN
NOTICE OF INTENTION TO SELL REAL ESTATE
IN THE CITY OF PORTAGE, MICHIGAN

PLEASE TAKE NOTICE, that on the ____ day of _____, 2011, the City Council of the City of Portage voted to sell property to Jason M. Klein & Associates, for the sum of Three Hundred and Seventy Thousand (\$370,000.00) Dollars.

PLEASE TAKE FURTHER NOTICE that the resolution authorizing this action and the Real Estate Purchase Agreement are on file with the City Clerk and open for public inspection. Said documents will be so held by the City Clerk for twenty-eight (28) days after publication of this notice and may be inspected at the Clerk's office during regular working hours. Any person(s) objecting to this sale should make their objection known to the City Council within twenty-eight (28) days of the publication of this notice. After said twenty-eight (28) day period, the Council may take final action and sell said property.

Dated: _____, 2011

James R. Hudson, City Clerk

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: October 24, 2011

FROM: Vicki Georgeau, Director of Community Development

SUBJECT: Real Estate Purchase Agreement for 7130 South Westnedge Avenue

Attached is an executed Real Estate Purchase Agreement for the 2.5-acre portion of excess city property at 7130 South Westnedge Avenue, comprised of the former Portage Community Outreach Center (PCOC) facility and vacant property located to the north. The agreement with Jason M. Klein & Associates offers a purchase price of \$370,000 and includes several standard contingencies including: a brokerage fee, approval of financing, an inspection period and an approvals period (during which the buyer would obtain site plan and building permits approval).

The buyer has confirmed the proposed use of the existing building will be general office, with approximately 4,100 square feet to be used by Klein & Associates, a local financial planning business, and approximately 1,400 square feet leased for general office space. In addition to substantial renovation of the existing building (as shown in Exhibit B of the Agreement), a deck on the rear of the building may be constructed, and exterior site improvements to the parking lot and landscaping will be undertaken. With regard to the north portion of the property, the buyer does not have specific development plans at this time, but is evaluating potential options for the future use. As requested by the City Council Property Committee, the agreement includes provisions that bind the buyer to an office use of the existing building, requires the buyer to commence the renovation of the building and property within 60 days after closing, and includes an acknowledgement the buyer will comply with the City Code with regard to building and property maintenance requirements after closing.

As background information, in August 2008, City Council authorized the City Administration to proceed with the sale of this property, as there is limited potential for future public use. The property was subsequently marketed for six weeks, but no offers were received. On March 22, 2011, City Council again authorized marketing of the property for sale, with an asking price of \$430,000 (as recommended by the City Assessor and based on an estimated value ranging from \$330,000 to \$390,000). The property now addressed as 7130 South Westnedge Avenue was initially acquired for Capital Improvement Program (CIP) projects that have been accomplished. More recently, to facilitate the relocation of the Portage Community Center, and based on the appraised value at the time, the existing building was purchased in 2006 for \$345,000. Since then, the building has been vacant and the condition has deteriorated to the extent that \$35,000 of CIP funding has been budgeted to demolish the building. The CIP project demolition plans were delayed after two purchase offers were received by the city in late July 2011. The two offers included a proposed purchase price of \$229,000 from the Barton Group, and a proposed initial purchase price of \$325,000 from Jason M. Klein and Associates. The Barton Group declined a counter offer from the City Administration and no further activity has occurred. However, over the past several weeks, negotiations have continued with Jason M. Klein & Associates, and the attached Real Estate Purchase Agreement has been signed by Mr. Klein, who is anxious to move forward with the process to purchase the property.

The offer by Jason M. Klein & Associates represents a net sale price of approximately \$327,000 (\$370,000 minus the brokerage fee and closing expenses such as a title commitment and property survey). This net sale price represents 95% of the \$345,000 expended in 2006 for the acquisition of the PCOC building. In addition, if the sale of the property is approved, the city would forego a planned expenditure of \$35,000 which has been budgeted in the FY 2011-12 CIP for the demolition of the former PCOC building located on the property.

Based on the above, it is recommended that City Council consider approval of the attached Real Estate Purchase Agreement, which has been reviewed and approved by the City Attorney.

Attachment: Real Estate Purchase Agreement with Exhibits A and B

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (the "Agreement") is made and entered into on this 20th day of October, 2011 (the "Execution Date"), by and between The City of Portage, a municipal corporation, of 7900 South Westnedge Avenue, Portage, Michigan 49002, ("Seller"), and Jason M. Klein & Associates, 8175 Creekside Drive, Ste. 226, Portage, Michigan 49024, ("Purchaser").

RECITALS

A. Seller owns real estate located in City of Portage, Kalamazoo County, Michigan, which real estate is generally depicted on Exhibit "A" attached hereto (the "Real Estate"). The boundary and legal description of the Real Estate shall be more particularly defined by the Survey (as defined herein).

B. Seller desires to sell to Purchaser, and Purchaser desires to acquire from Seller, the Real Estate, together with any and all improvements thereon and all easements, rights, appurtenances and hereditaments thereunto belonging (the "Property").

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

ARTICLE ONE PURCHASE PRICE

1.1 The purchase price for the Property ("Purchase Price") shall be the sum of Three Hundred and Seventy Thousand (\$370,000.00) Dollars.

1.2 The parties acknowledge that this Agreement is contingent upon Purchaser obtaining a commitment (the "Commitment") for an SBA-504 Loan (the "Loan"), to facilitate Purchaser's acquisition of the Property, prior to the date which is one hundred twenty (120) days following the Effective Date (as defined herein) (the "Financing Period"), on terms and conditions acceptable to Purchaser in Purchaser's sole discretion (collectively, the "Financing Contingency"). Purchaser shall (i) use reasonable diligence to obtain the Commitment promptly following the Effective Date; and (ii) notify Seller in writing promptly after receipt of the Commitment. If the Commitment has not been obtained by Purchaser prior to the expiration of the Financing Period on terms and conditions acceptable to Purchaser, Purchaser may, at any time thereafter, terminate this Agreement by written notice to Seller, after which the Earnest Money Deposit (as defined herein) shall be refunded to Purchaser and all rights and obligations of the parties hereunder shall terminate. The Financing Period shall run concurrently with the Inspection Period.

ARTICLE TWO PERSONAL PROPERTY AND IMPROVEMENTS

2.1 All personal property that Seller desires to retain shall be removed from the Property before Closing; any remaining personal property shall become the property of Purchaser's pursuant to the Bill of Sale contemplated by Section 6.6f hereof.

ARTICLE THREE
MAINTENANCE OF PROPERTY

Seller shall not commit or allow any waste or nuisance on the Property. Seller shall use all reasonable precaution to prevent waste, damage, or injury to the subject Property. Seller shall not further encumber the Property between the Execution Date of this Agreement and the Closing Date except as contemplated herein with respect to the Conservation Easement and Sanitary Sewer Easement (both terms as defined herein).

ARTICLE FOUR
EARNEST MONEY DEPOSIT

4.1 Purchaser shall deposit with its broker, at the time of execution of this Agreement by Purchaser, earnest money in the amount of Ten Thousand (\$10,000.00) Dollars paid in cash or check representing immediately available funds ("Earnest Money Deposit"). Purchaser's broker shall provide Seller with written documentation that the Earnest Money Deposit has been deposited.

4.2 If the purchase and sale contemplated hereunder is consummated (the "Closing"), the Earnest Money Deposit shall be applied to the purchase price at Closing. The Earnest Money Deposit shall be non-refundable to Purchaser, except for a permitted termination of this Agreement during the Inspection Period, Financing Period, or as otherwise provided herein.

ARTICLE FIVE
REAL ESTATE COMMISSION

5.1 Purchaser and Seller each acknowledge that Purchaser's real estate agent is Midwest Realty Group, LLC (the "Broker"), which is acting as an agent for the Purchaser and that Seller is not represented by an agent or broker. Seller agrees to pay the Broker a brokerage fee in the amount of ten percent (10.0%) of the Purchase Price. Seller shall have no obligation or liability to any agent, broker or finder by reason of the transaction which is the subject matter of this Agreement, except for Seller's obligation to Broker as stated herein.

5.2 The parties acknowledge that other than the Broker disclosed herein, no other real estate broker, sales persons or agents are involved in this transaction and the parties hereby indemnify and hold each harmless from any and all such claims for brokerage fees.

ARTICLE SIX
CLOSING

6.1 Purchaser agrees that this Agreement shall be contingent upon final approval of the Portage City Council. The date of such approval shall be deemed the "Effective Date" of this Agreement. Seller shall provide Purchaser with written notice of such approval or any other disposition of this Agreement by the Portage City Council within one (1) day of such approval or other disposition. Purchaser also agrees that this Agreement must be on file with the Portage City Clerk for twenty-eight (28) days before final approval can be granted by Seller through its City Council. Purchaser agrees that Seller has made no representation or warranty with regard to City Council's final decision. If the Portage City Council decides not to approve the Agreement, this Agreement shall automatically terminate and Purchaser may have return of the Earnest Money Deposit and each party shall assume the responsibility for all costs expended

with regard to this Agreement without further liability to each other and neither party will have any obligation or liability under this Agreement.

6.2 The date of Closing (the "Closing Date") shall take place the earlier of: a) ten (10) days following the expiration of the Financing Period described herein; or b) ten (10) days following Purchaser's written notification to Seller that Purchaser has waived its contingencies and all of the requirements set forth in this Agreement have been fulfilled to the full satisfaction of Purchaser. The Closing shall not take place if this Agreement is terminated as otherwise provided. The Closing shall take place in the title office issuing the title commitment and policy.

6.3 a. If the Closing of the sale is delayed by (i) reasons of delay not the fault of Seller in obtaining a title insurance commitment; or (ii) title defects that can be readily corrected, an adjournment period of thirty (30) days shall be allowed for Closing by written notice from Seller to Purchaser prior to the originally scheduled date for Closing. Possession of the property shall be given at Closing, free and clear of all rights and claims of third parties, subject only to Permitted Encumbrances (as defined herein).

b. If the Closing of the sale is delayed due to Purchaser's lender failing to fund the Loan contemplated by Section 1.2 above, an adjournment period of forty-five (45) days shall be allowed for Closing by written notice from Purchaser to Seller prior to the originally scheduled date for Closing.

6.4 Except as stated in Article Five, Purchaser and Seller shall each pay all of their own costs incurred incident to the preparation, execution and delivery of this Agreement and the performance of their obligations hereunder including, without limitation, the fees of counsel, accountants and consultants, real estate agents, brokers and finders, whether or not the transactions contemplated by this Agreement shall be consummated.

6.5 The parties shall equally divide the fees charged by the closing agent and any escrow fee charged by the title company.

6.6 At Closing:

- a. Seller shall execute and deliver to Purchaser a good and sufficient Warranty Deed in recordable form, conveying marketable fee simple title to the property to Purchaser, subject only to any Permitted Encumbrances (as defined herein).
- b. Seller shall provide whatever documentation which may be reasonably required by legal counsel or the title insurer to warrant that there are no unpaid claims which have created or could lead to the creation of liens on the property, including evidence that all contractors, subcontractors, and supplies have been paid in full and released all liens.
- c. Purchaser shall tender the Purchase Price to Seller as provided for hereunder, as adjusted by any credits or prorations contemplated hereunder.
- d. Each party shall execute a closing statement to evidence the transaction.
- e. If the Seller has not already paid the premium for an ALTA 2006 title policy pursuant to this Agreement, then Purchaser shall receive credit for

the premium, payable to the title company for the issuance of the title insurance policy required hereunder.

- f. Seller shall execute and deliver a Bill of Sale for any personal property.
- g. Seller shall execute and deliver a non-foreign person affidavit, as such term is used in Section 1445 of the Internal Revenue Code and the regulations promulgated thereunder.
- h. Seller shall execute and deliver an affidavit of ownership as required by the title company in order to induce the title company to omit the standard exceptions from Purchaser's title policy.
- i. Seller shall execute and deliver a certificate certifying that Seller's representations and warranties set forth herein are true and correct as of the Closing Date.
- j. Seller shall execute and deliver a valid assignment of contracts, books and records, reports, studies, guaranties, warranties, indemnification rights and other intangible rights and property, if any, which Seller may own in connection with the Property. Seller shall deliver originals, if available (or copies, if not), of the foregoing documents.
- k. The parties shall furnish to each other such other documents as are necessary and appropriate for the consummation of this transaction, and shall indicate that the parties executing the documents have the authority to enter into this Agreement, consummate the sale contemplated hereby, and execute and perform all documents hereunder. If necessary, the parties shall obtain resolution of Board of Directors or appropriate entities authorizing the transaction and naming the party having authority to execute the documents.

ARTICLE SEVEN

INSPECTIONS, ENVIRONMENTAL, APPROVALS

7.1 Purchaser, its employees, agents or representatives, at its sole expense, shall have the right to enter the Property, during normal business hours, and have the Property and improvements located thereon inspected, surveyed, evaluated, analyzed, tested, appraised or assessed for any purpose desired by Purchaser, to determine the suitability for Purchaser's intended use of the Property. Without limiting the generality of the foregoing, Purchaser shall have the right to meet with the City of Portage assessor during the Inspection Period (as defined herein) to discuss matters related to the post-closing assessed value of the Property and other property tax aspects of Purchaser's intended use of the Property; provided, Purchaser acknowledges that Seller makes no representations or warranties in this regard. The inspection period (the "Inspection Period") shall begin on the Effective Date, and shall end sixty (60) days thereafter. Seller shall (i) reasonably cooperate with Purchaser in the course of Purchaser's investigations, (ii) provide such documents relating to the Property as reasonably requested by Purchaser and (iii) make available to Purchaser, upon request, representatives or agents of Seller who are involved in the operation, management or maintenance of the Property. Seller specifically acknowledges that pursuant to this paragraph, Purchaser shall have the right to enter the Property to have a Phase I and/or a Phase II Environmental Study performed.

7.2 During such periods of time as Purchaser is allowed to enter the Property pursuant to the terms of this Agreement, Purchaser shall make commercially reasonable efforts to protect the Property from damage, and Purchaser shall promptly restore or cause to be restored that portion of the Property so damaged to the condition existing prior to such damage. Purchaser shall not permit a construction, mechanic's materialmen's or other lien to be filed against any of the Property as the result of any work, labor, service or materials performed or furnished by, for or to Purchaser, its employees, agents and/or contractors. If any such lien shall at any time be filed against the Property, Purchaser shall, without expense to Seller, cause the same to be discharged of record by payment bonds, order of a court of competent jurisdiction or otherwise, within thirty (30) days of the filing thereof.

7.3 Seller has delivered to Purchaser, or will make available to Purchaser if in Seller's possession within five (5) days of the Execution Date of this Agreement: (i) all existing surveys, drawings, site plans, topography plans and any other drawings or plans related to the Property; (ii) copies of all engineering reports, soil studies, drainage studies, environmental assessments or reports, and wetland and floodplain studies; (iii) copies of all service agreements currently in place with regard to the Property, if any; (iv) copies of all leases and agreements related to the Property, if any, including without limitation any documents, instruments and agreements between the Seller and the Michigan Department of Environmental Quality, and (v) copies of all development, site plan and zoning approvals. The foregoing (i) through (v) are collectively referred to as the "Property Reports". Seller agrees to cooperate with Purchaser to have the Property Reports updated, renewed or certified to Purchaser, at Purchaser's cost, if so desired by Purchaser. Seller hereby represents and warrants that the Property Reports delivered pursuant to this Section 7.3 are the only Property Reports in Seller's possession, to Seller's knowledge.

7.4 If at any time prior to the expiration of the Inspection Period, Purchaser deems the Property or any aspect or condition thereof unsuitable to Purchaser for any reason in Purchaser's sole and absolute discretion, including without limitation any matter disclosed by the Property Reports, the boundaries of the Property or the Easements as depicted by the Survey, or any other aspect or condition of the Property, Purchaser may terminate this Agreement by delivering written notice to Seller of such termination. In the event that such notice shall be given, the Earnest Money Deposit shall be delivered to Purchaser and this Agreement shall be deemed void. If Purchaser shall fail to provide such written notice to Seller prior to the expiration of the Inspection Period, Purchaser shall be deemed to be satisfied with the condition of the Property and shall be obligated to proceed with the transaction in accordance with the other terms and conditions of this Agreement.

7.5 a) The parties acknowledge that this Agreement is contingent upon Purchaser receiving all required approvals for its proposed site plan and all building permits and signage permits for Purchaser's intended use of the Property, including without limitation any approvals that may be necessary or appropriate from the Michigan Department of Environmental Quality, prior to the date which is one hundred twenty (120) days following the Effective Date (the "Approvals Period"), on terms and conditions reasonably acceptable to Purchaser in its reasonable discretion. Purchaser shall use reasonable diligence to obtain the foregoing approvals. If Purchaser is unable to obtain such approvals prior to the expiration of the Approvals Period, then either Purchaser or Seller may terminate this Agreement by delivering written notice to the other party on or before the expiration of the Approvals Period. In the event that such notice shall be given, the Earnest Money Deposit shall be delivered to Purchaser and this Agreement shall be deemed void. If neither Purchaser nor Seller provides such written notice of termination to the other party prior to the expiration of the Approvals Period, Purchaser and Seller shall be obligated to proceed with the transaction in accordance with the other terms

and conditions of this Agreement. The Approvals Period shall run concurrently with the Financing Period and the Inspection Period.

b) Seller makes no representation as to whether the Portage City Council will approve this Agreement, whether the Portage Planning Commission will approve the site plan for the property, or if any approval, permit or license will be granted by the City or any other governmental agency. A denial (or approval with conditions) of the site plan or any other required or necessary approval, permit or license shall not constitute a breach of this Agreement by the Seller or Purchaser or give rise to any independent action for damages against Seller or Purchaser by the other party.

7.6 Purchaser and Seller hereby acknowledge that at or prior to Closing, Seller and Purchaser shall execute and/or enter into (a) a conservation easement for stormwater affecting certain portions of the Real Estate, as generally depicted on Exhibit A attached hereto, which shall provide for the maintenance of such portions of the Real Estate in their natural state (the "Conservation Easement"); and (b) a sanitary sewer easement affecting certain portions of the Real Estate, as generally depicted on Exhibit A attached hereto, which shall permit the installation and use of certain sanitary sewer facilities within such portions of the Real Estate or shall reconfigure the location of existing sanitary sewer easements affecting the Property (the "Sanitary Sewer Easement", and together with the Conservation Easement, the "Easements"). Seller hereby covenants and agrees to provide proposed drafts of the Easements to Purchaser for Purchaser's review as soon as possible following the preparation of the Easements by Seller but not later than five (5) days following the Effective Date of this Agreement. Purchaser and Seller shall negotiate the terms and conditions of the Easements in good faith prior to the close of the Inspection Period. Seller covenants and agrees that Seller shall not execute, enter into or record the Easements or any similar easements affecting the Real Estate without Purchaser's prior written approval of same, including without limitation the final location of the Easements (or the final location of any reconfigured easements on the Property). If any aspect of the Easements are not deemed satisfactory to Purchaser or Seller, including without limitation, the location of the Easements relative to the building located on the Property, in Purchaser's or Seller's sole and absolute discretion, at any time prior to the close of the Inspection Period, Purchaser or Seller shall be entitled to terminate this Agreement by written notice to the other party in which case the Earnest Money Deposit shall be promptly refunded to Purchaser and the parties shall have no further rights or obligations under this Agreement.

ARTICLE EIGHT

TAXES

8.1 The following shall be prorated and adjusted between Seller and Purchaser on the basis that Purchaser is the owner as of the Closing Date, except as otherwise specified:

- a. Current real estate taxes for the Property (except special assessments) shall be prorated to the date of Closing and shall be deemed to cover the calendar year in which they become due and payable. Any charges for electricity, water/sewer, natural gas and sanitation shall be paid by Seller to the Closing date.
- b. Seller may not be subject to transfer taxes as a governmental unit grantor. However, transfer taxes owed, if any, shall be paid by Purchaser.
- c. All other items customarily prorated or required by any other provision of this Agreement to be prorated or adjusted.

- d. The parties acknowledge that the Property may not be subject to ad valorem taxes during the period Seller, as a governmental unit, owned the Property.

8.2 All special assessments, all unpaid installments of any assessments levied prior to the date of Closing shall be paid by Seller. All special assessments, all unpaid installments, levied on or after the date of Closing shall be the responsibility of Purchaser.

ARTICLE NINE REPRESENTATIONS AND WARRANTIES

9.1 Except as otherwise provided or acknowledged in this Agreement, Seller represents, covenants and warrants as follows:

- a. Seller has the right, power and authority to enter into this Agreement and to sell the Property in accordance with the terms hereof (subject to the City of Portage approval contemplated in Section 6.1).
- b. The individuals signing this Agreement and all other documents to be executed pursuant hereto are and shall be duly authorized to sign on behalf of and bind Seller (subject to the City of Portage approval contemplated in Section 6.1).
- c. Seller has no knowledge of any persons or entities claiming a right to possession of the Property.
- d. Seller has good and marketable fee simple title to the Property, free and clear of all liens and other encumbrances other than any Permitted Encumbrances (as defined herein) and subject to the matters contained in the title commitment.
- e. The execution and delivery of and the performance of the obligations of Seller under this Agreement will not violate any contract, indenture, statute, ordinance, judicial or administrative order or judgment applicable to Seller or the Property, and do not and will not require any consent or approval of any person or entity (subject to the City of Portage approval contemplated in Section 6.1).
- f. There is no litigation or proceeding pending or to Seller's knowledge threatened against or involving Seller or the Property, and Seller does not know or have reason to know of any ground for any such litigation or proceeding which could have an adverse impact on Seller's ability to perform under this Agreement or that could adversely affect Purchaser's title or use of the Property.
- g. Seller shall not alter or modify the physical nature of the Property and shall continue to operate the Property in the ordinary course of business and maintain the Property in a state of good condition and repair during the interim between the signing of this Agreement and the Closing Date.
- h. There are no contracts currently in effect with respect to the Property.

- i. There are no leases, tenancies, rights of first refusal, rights of first offer, options or other instruments or agreements with respect to the Property.
- j. There are no underlying land contracts or mortgages with respect to the Property.
- k. No work has taken place on the Property in the last one hundred twenty (120) days that would create a right to a lien against the Property.
- l. To the best of Seller's actual knowledge the Property and Seller: (i) are in full compliance with all requirements of federal, state and local environmental, health or safety laws, regulations and administrative or judicial decrees, as amended (the "Environmental Laws"); (ii) are not the subject of and have not at any time in the past, been the subject of any "Superfund" evaluation or investigation; and (iii) are not the subject of any federal or state investigation or administrative proceeding evaluating whether any remedial action is necessary to respond to a release of any Hazardous Substance (as defined below). "Hazardous Substance" means any toxic or hazardous waste, pollutants or substances, including, but not limited to asbestos, PCB's, petroleum products and byproducts, substances defined or listed as "hazardous substances" or "toxic substances" or similarly identified pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et. seq., and any other hazardous or toxic substances or pollutants regulated under other applicable Environmental Laws.

9.2 **"AS IS"**. Purchaser agrees that it has inspected and will continue to inspect and assess the Property and that, except for the representations and warranties in this Article Nine and in the documents to be delivered at Closing, Purchaser will rely solely upon such inspection and assessment in electing whether or not to purchase the Property. **EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES IN ARTICLE NINE AND IN THE DOCUMENTS TO BE DELIVERED AT CLOSING, IT IS UNDERSTOOD AND AGREED BY SELLER AND PURCHASER THAT PURCHASER IS PURCHASING THE PROPERTY "AS IS" AND "WHERE IS", AND WITH ALL FAULTS AND DEFECTS, LATENT OR OTHERWISE, AND, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND IN THE DOCUMENTS TO BE DELIVERED AT CLOSING, SELLER IS MAKING NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, WITH RESPECT TO THE QUALITY, PHYSICAL CONDITION OR VALUE OF THE PROPERTY, THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS IN, ON, UNDER OR ABOUT THE PROPERTY, THE ZONING CLASSIFICATION OF THE PROPERTY, THE COMPLIANCE OF THE PROPERTY WITH APPLICABLE LAW, OR THE LEASE INCOME OR EXPENSES FROM THE PROPERTY. IN ADDITION TO AND NOT IN LIMITATION OF THE FOREGOING, IT IS UNDERSTOOD AND AGREED BY SELLER AND PURCHASER THAT SELLER MAKES NO WARRANTY OF HABITABILITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR ANY PURPOSE WITH REGARD TO THE PROPERTY.** Purchaser recognizes, stipulates and agrees that the provisions of this paragraph are a material inducement to Seller in connection with the execution of this Agreement and the consummation of the transaction contemplated hereby and that, but for the provisions of this paragraph, Seller would not have executed this Agreement or agreed to sell the Property on the terms and conditions contained herein.

9.3 Whenever the word "knowledge" or any deviation thereof is used with regard to any representation or warranty made by Seller, it shall mean the current actual knowledge of any officer or employee of the Seller.

9.4 Post-Closing Development. Purchaser and Seller hereby acknowledge and agree that Purchaser has provided Seller with the preliminary plans for Purchaser's proposed renovation of the Property as prepared by Bosch Architecture, Engineering and Interior Design dated October 6, 2011, attached hereto as Exhibit B, which contemplate use of the Property for general office purposes (the "Plans"). Purchaser hereby covenants and agrees that Purchaser shall make commercially reasonable efforts to commence its renovations at the Property substantially in accordance with the Plans (as they may be modified or altered prior to such commencement in Purchaser's sole and absolute discretion) within sixty (60) days following the Closing Date, subject to events beyond Purchaser's control, including but not limited to, unavailability of financing, acts of God, war, civil commotion, terrorist acts, labor disputes, strikes, fire, flood or other casualty, shortages of labor or material, government regulation or restriction, waiting periods for obtaining governmental permits or approvals, or weather conditions. The obligations set forth above shall affect only that portion of the Real Estate contemplated for development by the Plans and shall not affect any portions of the Real Estate not contemplated for development by the Plans. Purchaser further covenants and agrees that Purchaser shall maintain the Property following the Closing in accordance with all applicable codes and ordinances. Seller's remedies for any material default under the terms and conditions of this Paragraph 9.4 shall be limited to seeking injunctive relief or exercising its police powers with respect to the City of Portage building code, zoning code or other applicable ordinances.

ARTICLE TEN/SURVEY TITLE INSURANCE

10.1 Seller shall, at its expense, within five (5) days after the Effective Date of this Agreement, order a commitment for a 2006 owner's ALTA title policy with standard exceptions from a title company of Seller's choice but reasonably acceptable to Purchaser, insuring title to the Property to be in good and marketable condition, and shall provide a copy of the same to Purchaser upon receipt, together with legible copies of all Schedule B documents if such documents can be provided without additional cost to Seller (collectively, the "Commitment").

10.2 In the event the Commitment or the ALTA Survey reflects that title to the property is not vested in Seller, or if any of the building and/or use restrictions, easements or covenants of record or any other title encumbrances or exceptions or matters shown on the ALTA Survey would interfere with or would be unsuitable for Purchaser's intended use of the Property, Purchaser shall notify Seller in writing of Purchaser's objections to the ("Objections") within ten (10) days after Purchaser's receipt of the later of the Commitment or the ALTA Survey but not later than the close of the Inspection Period. Any matter disclosed by the Commitment or the ALTA Survey which is not an Objection shall be deemed a permitted encumbrance and Purchaser shall have deemed to have waived any Objection to such matter (the "Permitted Encumbrances"). Any matter disclosed in the title commitment that is in the form of an encumbrance that is liquidated in an amount and that can be readily discharged (such as a mortgage) shall not be grounds for termination of this Agreement by Purchaser under this section so long as Seller discharges such encumbrance at Closing. In the event Seller is unwilling or unable to modify, remove or obtain a commitment for title insurance over any Objection, Seller shall provide written notice of the same to Purchaser within ten (10) days following Seller's receipt of Purchaser's Objections and thereafter Purchaser shall have the

option of either: (a) waiving such Objection and proceeding under this Agreement; or (b) terminating this Agreement, after which Purchaser shall receive a return of the Earnest Money Deposit wherein all liability hereunder shall terminate. Purchaser shall make its election of either waiving such Objection or terminating this Agreement within ten (10) days following Purchaser's receipt of Seller's written notice as contemplated by the foregoing sentence. If Seller elects to cure an Objection, Seller shall provide written notice thereof to Purchaser within ten (10) days following Purchaser's Objections and Seller shall prosecute such cure with good faith and reasonable diligence to completion but shall incur no liability to Purchaser if Seller is unable to cure any Purchaser Objections provided that Seller prosecuted the same in good faith. If Seller fails to provide such a notice in response to any of Purchaser's Objections, Seller shall be deemed to have elected to cure the Objection. If Seller is unable to cure any such Objections prior to Closing, Purchaser shall be permitted to elect either (a) or (b) as stated above.

ARTICLE ELEVEN SURVEY AND ALTA SURVEY

Not later than fifteen (15) days following the Execution Date of this Agreement, Seller, at its sole cost and expense, shall cause a boundary survey to be performed of the Real Estate which shall contain a certified legal description of the Real Estate and the location of the proposed Conservation Easement and Sanitary Sewer Easement (the "Survey"), and shall deliver the same to Purchaser. Purchaser shall have until the close of the Inspection Period in which to approve the location and boundaries of the Real Estate, Conservation Easement and Sanitary Sewer Easement, in Purchaser's sole and absolute discretion. Purchaser shall have the right, at its sole cost and expense, to perform an additional survey of the Real Estate in accordance with the 2011 minimum standard detail requirements for ALTA/ACSM land title surveys ("ALTA Survey"), if desired by Purchaser and if so desired Purchaser shall order the ALTA Survey not later than ten (10) days following Purchaser's receipt of the Commitment. If Purchaser disapproves of the location or boundaries of the Real Estate, Conservation Easement or Sanitary Sewer Easement at any time prior to the close of the Inspection Period, in Purchaser's sole and absolute discretion, then Purchaser shall be entitled to terminate this Agreement by written notice to Seller in which case the Earnest Money Deposit shall be promptly refunded to Purchaser and the parties shall have no further rights or obligations under this Agreement. Seller represents and warrants to Purchaser that as of the Closing, the Real Estate, as depicted by the Survey, constitutes a separate and independent parcel for legal and property tax purposes and no land division, boundary line adjustment or governmental approval is necessary or required to establish the Real Estate as a separate and independent parcel. To the extent that any land division, boundary line adjustment or governmental approval is necessary to establish the Real Estate as a separate and independent parcel, any such actions shall be undertaken by Seller at Seller's sole cost and expense and shall be completed prior to the close of the Approvals Period.

ARTICLE TWELVE UNPLATTED LANDS

Seller is transferring to Purchaser all available divisions, if any, under Section 108 of the Land Division Act, but makes no representations as to the number.

ARTICLE THIRTEEN NON-FOREIGN OWNERSHIP

The parties acknowledge that Section 1455 of the Internal Revenue Code provides that a purchaser of a United States real property interest must withhold tax if the seller is a foreign

person or entity. To assure Purchaser that withholding of tax is not required upon the sale of the real property, Seller hereby certifies, and shall reaffirm the same to purchaser by affidavit prior to the Closing of the sale contemplated hereby, that the Seller is not a foreign individual, foreign corporation foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations) and shall certify to and declare in said affidavit the veracity of this information under penalties of perjury.

ARTICLE FOURTEEN **DEFAULT AND REMEDIES**

Any of the parties hereto shall be in default under this Agreement if it shall (a) breach any warranty or representation under this Agreement, or (b) fail to perform any act required under this Agreement without curing such failure within ten (10) days' after receiving written notice from the non-defaulting party.

14.2 In the event Seller shall be in default under this Agreement, Purchaser may (a) elect to terminate this Agreement and receive a refund of the Earnest Money Deposit, including any interest thereon, or consummate the transactions contemplated hereby if such default occurs prior to the Closing Date; (b) institute an action against Seller for specific performance of Seller's obligations hereunder; and (c) pursue any and all remedies at law or in equity which Purchaser may have against Seller.

14.3 In the event of Purchaser's default, Seller shall have the right to terminate this Agreement and retain the Earnest Money Deposit as Seller's sole and exclusive remedy.

ARTICLE FIFTEEN **EMINENT DOMAIN**

Seller shall notify Purchaser within two (2) days if the Property, or any portion thereof, shall be taken or threatened to be taken through the exercise of the power of eminent domain. Upon receiving such notice, Purchaser shall have the right to terminate this Agreement and have returned to them the Earnest Money Deposit made hereunder. If Purchaser should elect to terminate this Agreement, all of the proceeds of the taking shall become the property of Seller. If Purchaser, after receipt of such notice, nevertheless agrees to consummate the purchase and sale contemplated hereunder, the proceeds of taking shall belong to Purchaser.

ARTICLE SIXTEEN **TIME OF THE ESSENCE**

Time is expressly declared to be of the essence of this Agreement. If extensions are not otherwise provided for, the parties may, in writing, agree to further extensions.

ARTICLE SEVENTEEN **EXCHANGE**

Either party shall have the right, at its option, to consummate the transactions contemplated in this Agreement pursuant to a transaction that is structured to qualify as a Like-kind exchange of property within the meaning of §1031 of the Internal Revenue Code of 1986, as amended, including what is known as a "reverse" like kind exchange as long as the non-benefitting party is not adversely affected. The parties agree to cooperate with one another in effecting a qualifying like-kind exchange through a trust or other means as determined by the parties that requests that the transaction be effected through a qualifying like-kind exchange;

provided, however, that the party desiring such treatment, shall bear all additional transaction costs and all reasonable costs and expenses incurred by the other party that are attributable to the closing of a qualifying exchange.

ARTICLE EIGHTEEN MISCELLANEOUS

18.1 **Pronouns.** Whenever words herein are used in the masculine, they shall be read in the feminine or neuter whenever they would so apply and vice versa, and words in this Agreement that are singular shall be read as plural whenever the latter would so apply and vice versa.

18.2 **Entire Agreement; Amendment.** This Agreement represents the entire agreement between the parties. It may not be amended, altered or modified unless done so in writing by the persons against whom enforcement of any waiver, change or modification or discharge is sought.

18.3 **Notices.** All notices and demands required or permitted under this Agreement shall be in writing and shall be served personally or by postage prepaid United States first-class, certified (return receipt requested), or registered mail, addressed to the party at the address indicated herein or to such other place as may be designated by notice given in accordance with this section. Notice shall be deemed to have been given on the earlier of (a) the date when received, or (b) two (2) days after mailing if mailed in the State of Michigan. Notice shall be deemed properly addressed if sent to the following addresses:

If to Seller:
City of Portage
7900 S. Westnedge Avenue
Portage, MI 49002

If to Purchaser:
Jason M. Klein & Associates
8175 Creekside Drive, Suite 226
Portage, MI 49024

18.4 **Headings.** The headings contained herein are for the convenience of the parties and are not to be used in construing this Agreement.

18.5 **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan that are applicable to Agreements made and to be performed in that State.

18.6 **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. 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.

18.7 **Survival of Representations, Warranties and Indemnities.** All warranties and representations and indemnities made by the parties, including without limitation the obligations of Buyer as set forth in Section 9.4 hereof, shall survive Closing.

18.8 **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. 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.

18.9 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, or of any association between the parties hereto, nor shall anything contained in this Agreement or any act of the parties be construed to render any party liable for the debts or obligations of any other party.

18.10 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.

18.11 Indemnity. Each party shall indemnify, defend and hold harmless the other from and against any and all third party claims, actions, liabilities, obligations, damages, penalties, costs, charges and expenses, including reasonable attorneys' fees, arising from loss of life, personal injury or damage to property, and all other third party loss, damage or delay which may arise on or about the Property as a result of the indemnifying party's activities on the Property or otherwise occurring during each party's respective period of ownership of the Property (each, a "Loss"), provided, however, that neither party shall be liable to the other to the extent that any Loss is caused by the gross negligence or willful misconduct of the party seeking indemnification.

18.12 Attorney Fees and Costs. If any party commences an action against another party as the result of a breach or alleged breach of this Agreement, the prevailing party shall be entitled to have and recover from the losing party reasonable attorney fees and costs of suit.

18.13 Cumulative Remedies. All rights, remedies and resources available within this Agreement are separate and cumulative and may be pursued separately, successively or concurrently, and are nonexclusive, and the exercise of any one of them shall in no way limit the exercise of any other which any party may be entitled under the express terms of this Agreement.

18.14 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.

18.15 Assignment. This Agreement is personal to the parties and may not be assigned, sold or otherwise conveyed by any party, provided, however, that Purchaser has the right to a one-time assignment of all of its rights and obligations hereunder to another Michigan limited liability company which has, as its sole member, Jason M. Klein, who is the sole member of Purchaser. Upon delivery of written notice to Seller of such assignment, together with a copy of the assignment instrument, Purchaser shall be forever released and discharged from any and all obligations under this Agreement, and Purchaser's assignee shall be entitled to and subject to all rights and obligations herein. Seller shall have the right to receive and approve of all assignment documents prepared which approval shall not be unreasonably refused. No party shall have any right to commute, encumber or dispose of the right to receive payments or performance under this Agreement. Payments and performance under this Agreement and the

right thereto are expressly declared to be non-assignable and non-transferable, whether by voluntary or involuntary alienation, assignment or transfer.

18.16 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.

18.17 Disclosure. This Agreement is subject to the Michigan Freedom of Information Act.

18.18 Authorization. Each party to this Agreement which is a corporation, limited partnership, general partnership, LLC, PLC, trust or other entity warrants and represents that it is properly authorized by its board of directors, stockholders, partners and/or holders of beneficial interests to enter into this Agreement.

18.19 Fax. The parties agree that the offer, any counteroffer and/or acceptance of any offer or counteroffer may be delivered by use of a fax and the signatures, initials and modifications shall be deemed to be valid and binding upon the parties as if the original signatures, initials and modifications were present on the documents in the handwriting of each party. Neither party shall assert the Statute of Frauds or non-enforceability or invalidity of the Agreement because of fax copies being used, and both parties specifically waive the relinquish any such defense. Each party agrees to provide an original signed document to the other upon request.

ARTICLE NINETEEN EXECUTION AND DELIVERY

This Agreement shall not be effective unless Purchaser executes the Agreement and final approval given by the Portage City Council.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto agree this Agreement shall be effective the day and year first above written.

SELLER:

PURCHASER:

CITY OF PORTAGE

JASON M. KLEIN & ASSOCIATES

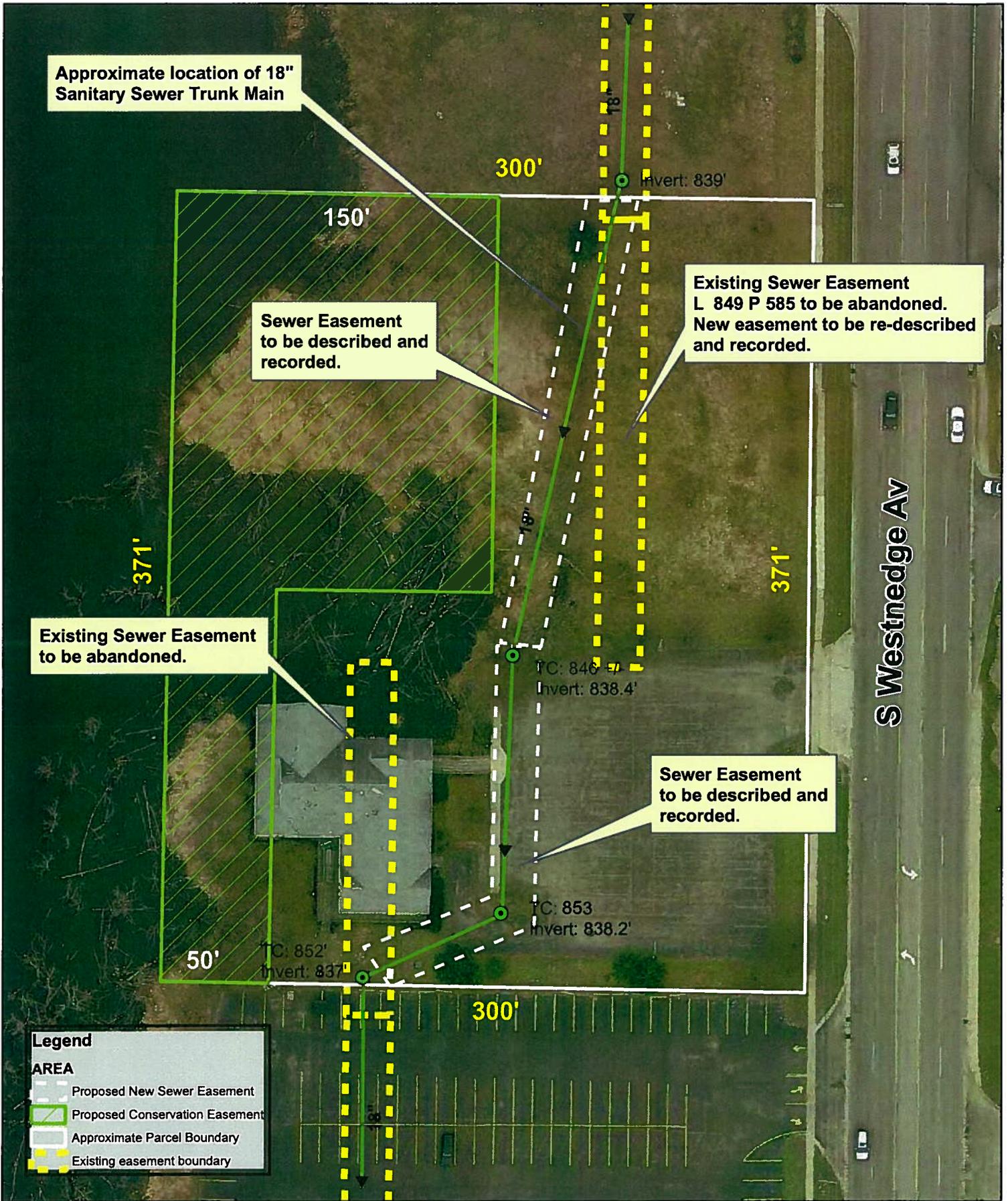
By: Maurice S. Evans
Maurice S. Evans
Its: City Manager

By: [Signature]
Its: _____

EFFECTIVE DATE
(City Council)

Prepared by:
RANDALL L. BROWN
1662 East Centre Avenue
Portage, Michigan 49002
Phone: (269) 323-8812

APPROVED AS TO FORM
DATE 10/24/11
[Signature]
CITY ATTORNEY



Approximate location of 18" Sanitary Sewer Trunk Main

Sewer Easement to be described and recorded.

Existing Sewer Easement L 849 P 585 to be abandoned. New easement to be re-described and recorded.

Existing Sewer Easement to be abandoned.

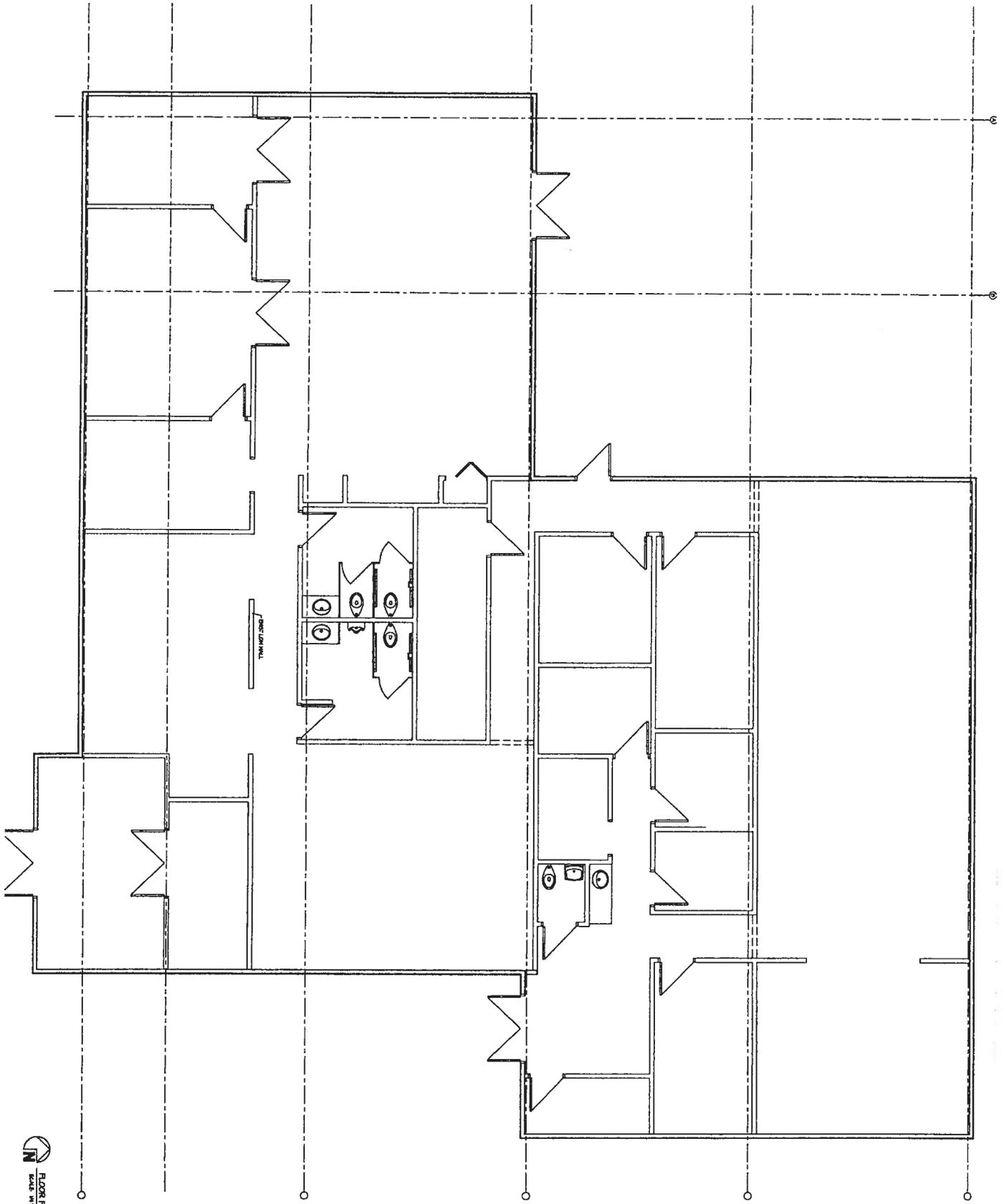
Sewer Easement to be described and recorded.

Legend

AREA

- Proposed New Sewer Easement
- Proposed Conservation Easement
- Approximate Parcel Boundary
- Existing easement boundary





FLOOR PLAN
SCALE: 1/8" = 1'-0"

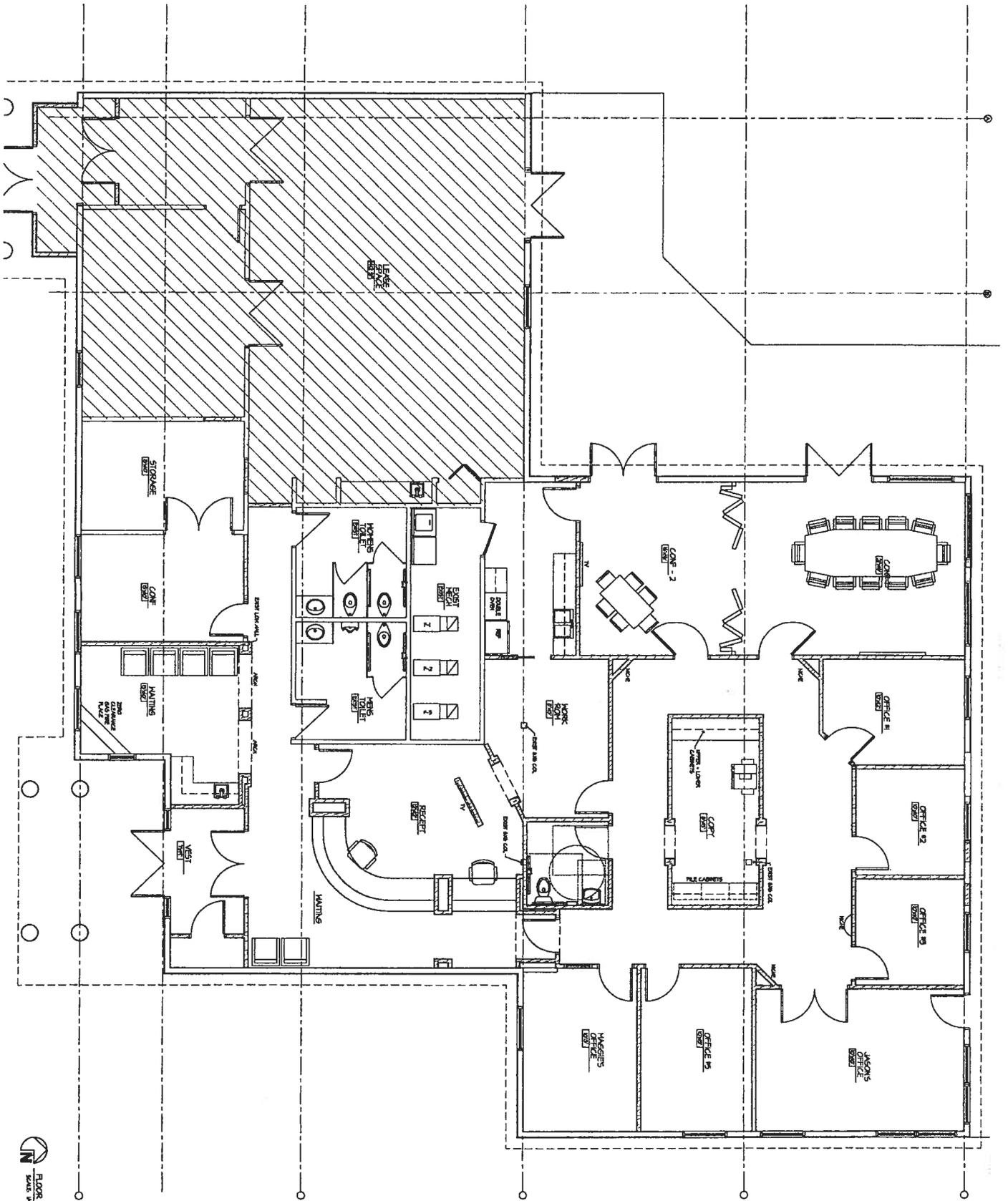
11/04/11
 EXIST
 7/5/11
 FLOOR PLAN

bosch
 PROJECT ENGINEER
 11/04/11
 7/5/11
 FLOOR PLAN

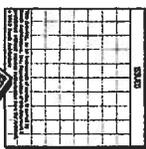
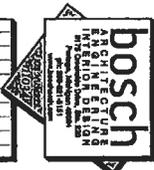
DATE
 7/5/11

PRELIMINARY
 NOT FOR
 CONSTRUCTION
 7/5/11

Jason Klein
 7130 S Westnedge Ave
 Portage, Michigan 49024

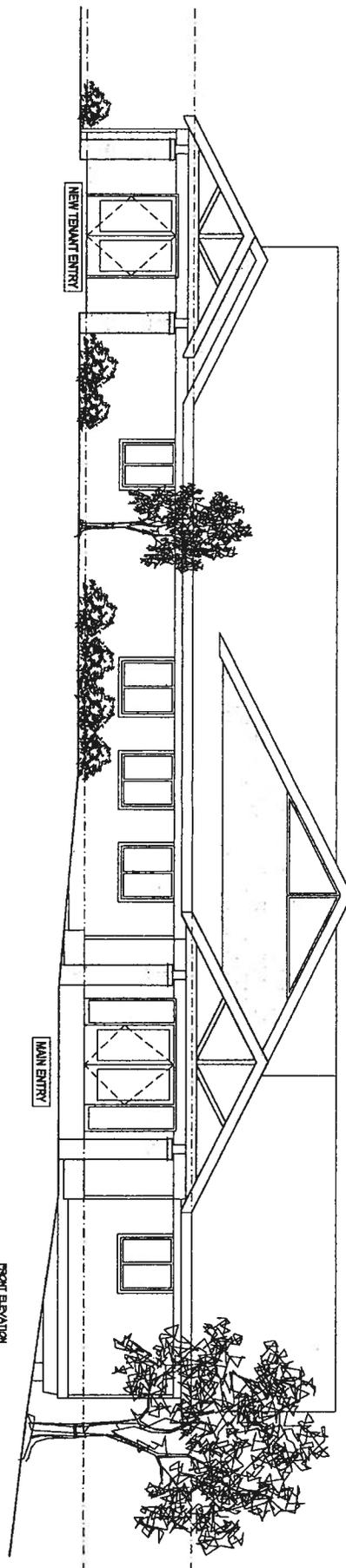


FLOOR PLAN
SCALE: 1/4" = 1'-0"



PRELIMINARY
NOT FOR
CONSTRUCTION
10/6/11

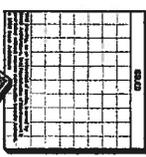
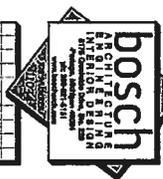
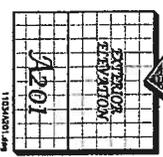
Jason Klein
7130 S. Westnedge Ave
Portage, Michigan 49024



NEW TENANT ENTRY

MAIN ENTRY

FRONT ELEVATION
DATE: 10/6/11



PRELIMINARY
NOT FOR
CONSTRUCTION
10/6/11

Jason Klein
7130 S. Westnedge Ave
Portage, Michigan 49024

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 24, 2011

FROM: Maurice S. Evans, City Manager 

SUBJECT: 2012 City Council Meeting Schedule

ACTION RECOMMENDED: That City Council establish the 2012 schedule of regular City Council meetings.

The City Charter requires the Council to meet twice per month. A proposed meeting schedule for 2012 is recommended as noted below.

- January 10 and 24
- February 14 and 28
- March 13 and 27
- April 10 and 24
- May 8 and 22
- June 12 and 26
- July 10 and 24
- August 14 and 28
- September 11 and 25
- October 9 and 23
- November 6 and 20
- December 4 and 18

Attachment

2012 City Council Suggested Meeting Dates

2012

January						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February						
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March						
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April						
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29	30					

May						
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June						
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July						
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29	30	31				

August						
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September						
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30						

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28	29	30	31			

November						
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25	26	27	28	29	30	

December						
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9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

2nd and 4th Tuesdays

Holidays / City Offices Closed

PPS Spring Break

Suggested Council Meeting Dates

Notes: The suggested meeting dates in November and December are the 1st and 3rd Tuesdays of the month so as to avoid a meeting during the Christmas holiday week. Due to the makeup of the 2012 calendar, a meeting during the Thanksgiving holiday week is unavoidable, unless the Council wishes to hold Council meetings in two consecutive weeks (November 27 and December 4.)

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 26, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: I-94 Construction Progress and Completion Schedule – Information Only

As an update for the Council, attached is a report from Transportation & Utilities Director, W. Christopher Barnes, concerning the progress of the Michigan Department of Transportation (MDOT) I-94 widening and reconstruction project. As you will note, delays have occurred, resulting in postponement of project completion. Importantly, these delays will likely require continuation of the project into the annual holiday traffic season, most probably causing frustration for residents and visitors along with retail business owners in the project area.

In response to these developments, Mayor Strazdas sent the attached communication to MDOT officials recently, urging that efforts to complete the project be redoubled in order to meet the original completion schedule. Additionally, Director Barnes continues to stress to MDOT officials the importance of the holiday shopping season to area retail business owners and the need to have the roadway open and free of impediments for holiday shoppers.

Further updates will be provided to the Council as they become available. In the meantime, an informational news item has been added to the city website concerning the project and will be updated as appropriate. Should Council receive inquiries concerning the project delays, please urge the callers to contact Larry Doyle, the MDOT Transportation Service Center Manager, at 375-3900.

Attachments

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: October 26, 2011

RECEIVED

FROM: W. Christopher Barnes, Director of Transportation & Utilities

WCB

OCT 27 2011

SUBJECT: I-94 Construction Progress and Completion Schedule

**CITY MANAGER'S OFFICE
PORTAGE, MI**

As you know, the current I-94 widening and reconstruction project is approaching completion. According to the Michigan Department of Transportation (MDOT) delays in the construction activities have led to an extension of the projected completion date. Extension of the original completion date will substantially impact seasonal holiday traffic patterns on the South Westnedge Avenue business corridor.

The I-94 widening project has been a lengthy project, with design engineering beginning in 2001. The project consists of multiple construction contracts, beginning in 2006 with the construction of the US-131/I-94 interchange and reconstruction of I-94 to east of Oakland Drive. This project was completed in 2007.

MDOT was successful in obtaining American Recovery and Reconstruction Act (ARRA) funds in 2009, which allowed the construction of the current project from east of Oakland Drive to west of Portage Road. The project was planned to be a three season construction project beginning in the summer of 2009 and concluding in the fall of 2011. As a part of the I-94 reconstruction, a new bridge structure was built at the I-94/South Westnedge Avenue interchange. To accommodate the I-94 widening, various South Westnedge Avenue ramp closures have taken place since 2009. In 2010, the eastbound I-94 on and off ramps were closed for the construction season and opened November 19, 2010. In 2011, the westbound I-94 ramps were closed in April and were originally scheduled to re-open in early November 2011.

Recent communication with MDOT indicates construction progress has been slowed due to unfavorable weather conditions. The current construction completion schedule estimates that the I-94/South Westnedge Avenue interchange ramps will potentially be opened on November 19, 2011, depending on the activation of the new traffic signal controlling South Westnedge Avenue and the I-94 on/off ramp traffic. This opening date is one to two weeks behind the original early November opening schedule. MDOT also estimates that the final course of asphalt paving on South Westnedge will be placed between November 21 and December 2, 2011.

As you know, the annual holiday traffic season begins prior to the Thanksgiving holiday and increases substantially on "Black Friday" after Thanksgiving, which this year is on November 25, 2011. At this time, it is estimated that the South Westnedge Avenue interchange ramp traffic will be fully open by Thanksgiving, but the final asphalt paving and pavement markings on South Westnedge Avenue will not be completed. In my judgment, the traffic delays and congestion, as well as quality control issues, make placing the final asphalt course and pavement markings problematic. The traffic congestion caused by paving South Westnedge Avenue at this time of the year will further aggravate motorists and businesses along South Westnedge Avenue.

If you should have any questions, please let me know.

October 20, 2011

Bobbi Welke, P.E., Southwest Region Engineer
Michigan Department of Transportation
1501 West Kilgore Road
Kalamazoo, MI 49001

Mr. Larry Doyle, P.E., TSC Manager
Michigan Department of Transportation
5372 South 9th Street
Kalamazoo, MI 49009

Subject: I-94/South Westnedge Avenue Interchange Project Completion

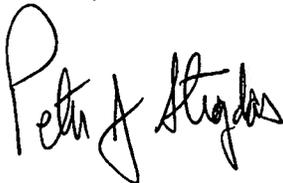
Dear Ms. Welke and Mr. Doyle,

As the latest I-94 construction project comes to an end, I would like to commend your department staff on their efficient and safe execution of the current I-94 construction contract to date. As you are fully aware, the public and local businesses have endured two years of ramp and lane closures at the South Westnedge Avenue interchange.

The original schedule for total project completion was early November 2011; before the start of the annual holiday traffic period. Portage city administrative staff was informed on October 18, 2011 that the new approximate open to traffic date is November 19, 2011 and that there are no firm dates available for activation of the new interchange traffic signal.

As you know, the South Westnedge Avenue business community depends on the I-94 interchange traffic for their continued livelihood. It is imperative that the traffic signal be operational and the interchange opened as soon as possible in advance of the upcoming holiday traffic period to afford the public and local businesses full access to the area. The City of Portage respectfully requests that your staff redouble efforts to meet the original completion schedule given the disruption to another prime shopping season that will otherwise result from a project completion that is further delayed. Your attention to this important matter is requested.

Sincerely,



Peter J. Strazdas
Mayor

c: Maurice S. Evans, City Manager
W. Christopher Barnes, Director of Transportation and Utilities

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 27, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: Summer 2011 Property Tax Bill for 9124 East Shore (Turk) – Information Only

During the regular City Council meeting of October 18, 2011, Ms. Aisha Turk of 9124 East Shore Drive commented that she was attending the meeting in order to appeal the penalty charged to her 2011 Summer Property Tax bill.

As background information, the 2011 Summer Property Tax bills were mailed to all taxpayers of record on July 8, 2011 with a due date of Wednesday, September 14, 2011. After the due date, a three percent interest charge is applied to those accounts with a remaining balance. The Treasury Department received the tax payment for 9124 East Shore Drive on Monday, September 26, 2011.

Late fee notices were mailed by the Treasury Department on October 4, 2011 to those taxpayers who did not make tax payments to the city by the required September 14 deadline. In addition, if an outstanding obligation is not paid by the end of September, by ordinance, a past-due account will incur a one percent interest charge per month until March 1, 2012. After this date, the tax roll is turned over to the Kalamazoo County Treasurer. The City of Portage includes over 16,000 parcels and levies approximately 1,000 late fees each year.

Under Michigan State Statute MCLA 211.44 (4), the City Council has the authority to waive tax bill late fee charges. When Ms. Turk addressed the Council on October 18, 2011 she replied “that it was the start of the school year” and that she had “just overlooked it completely.” No additional information or justification was cited to support the proposed waiver when the City Manager subsequently met with Ms. Turk on October 20, 2011.

However, on October 25, 2011 Ms. Turk paid the balance remaining for 9124 East Shore. As such, no further action is required by City Council.



TO: Kalamazoo City Commission, Portage City Council, and Kalamazoo County Board of Commissioners

FROM: Ken Collard, Kalamazoo City Manager; Maurice Evans, Portage City Manager; Peter Battani, County Administrator (i.e. "Administrative Committee")

RE: Follow-up on Intergovernmental Collaboration/Consolidation – *Purchasing*

DATE: October 28, 2011

INTRODUCTION

The Kalamazoo City Commission, the Portage City Council and the Kalamazoo County Board of Commissioners (the entities) have embarked upon a joint intergovernmental collaboration - consolidation program to help address the economic challenges faced within the greater Kalamazoo region. The specific goal of the program is to broadly identify and implement cost efficiencies, through various collaborative and consolidated means, among the three entities. The initiative generally consists of a review of six major areas for efficiencies including: Public Safety, Economic Development, General Government, Public Works, Community Services and Internal Administrative Operations.

Within the grouping of "Internal Administrative Operations" various subcategories of governmental support services were identified for evaluation, including the "Procurement" function. A review of potential consolidation - collaboration opportunities was undertaken among the entities from a joint purchasing perspective. The specific objective was to identify (expand) potential procurement activities which could optimize taxpayer dollars and reduce purchasing costs if active collaboration was enacted.

The Administrative Committee is also working to review the potential to establish a reverse auction pilot program, despite the dissimilar set of laws, policies and purchasing procedures currently existing among the entities.

JOINT PURCHASING: COLLECTIVE CHALLENGES & OPPORTUNITIES

OPPORTUNITIES

The task was undertaken to list all of the purchasing contracts which have been entered into within the last year and grouped by category of goods and/or service delivery type. In addition, the contracts were further sorted by perceived ease of collaboration. The results of the review identified opportunities to increase current joint purchasing efforts and further expand collaboration among the entities. More specifically, approximately 35 similar contracts were identified (many duplicate among the entities) that can be targeted for consolidation. Contracts such as copy paper, office supplies, towing services, rubbish, dry cleaning, janitorial services, pavement marking, mowing services, traffic signal maintenance and others were distinguished. In this regard, an effort could be undertaken over the next several years to cooperatively bid these similar contracts under a single umbrella as the individual contracts begin to expire. A plan could be developed to “meld” and “align” the future contracts towards an integrated bid and purchase within that timeframe.

The review also illustrated that a majority of the contracts among the entities are for dissimilar goods and services. Whereas some of the entities require such contracts for medical examination and inmate-related services, other entities do not. Information technology software systems vary among the entities, which necessitates varied agreements with an assortment of software companies. Furthermore, each entity has chosen to manage certain service deliveries like utilities, information technology and legal counsel within its respective organizations differently, creating contrary purchasing and contracting needs.

The potential for further collaboration exists; however, it is dependent upon each entity’s desire to continue collaboration versus maintaining individual preferred contracts. As the examination of purchasing structures between the entities deepens, additional contracts with the potential for partnership may also be realized.

CHALLENGES

The review also identified several existing challenges that could hinder additional collaborative purchasing accomplishments. First, all three entities were formed separately at individual times resulting in independently developed sets of procurement policies and procedures. Differences remain among the entities concerning various bidding, authorization, and contracting procurement policies, especially with regard to contracting under restrictive organizational statutes, charters and ordinance requirements. Variations among each entity’s policies for “bidding” and “authorization” processes will require the Administrative Committee

to distinguish between “joint bidding” and “joint contracting” collaboration objectives. These policies entail authorized signatories, permissible contract responsibilities, stipulated rules of delegation of authority and authorized legal responsibilities. In addition, construction/wage ordinances were identified and discussed as they pertain to establishing the recommended areas for collaboration.

A number of social and cultural organizational programs and policies have also been incorporated into the procurement function of all three entities, by governing decree. The types and number of these organizational policies vary among the entities but collectively include: MBE - Minority Business Enterprise; WBE - Women Business Enterprise; LBE - Local Business Enterprise (Local Preference); Ex-Convict Policy (exclusion/non-exclusion); and, Expanded Non-Discrimination (sexual orientation, gender identification).

In addition, discussions were held with three separate groups regarding the potential of initiating a reverse auction “pilot” program. During the initial review, it became apparent that the best application for this initiative lies within the purchase of well-defined commodities, such as copy paper, light bulbs, etc. The review identified concerns with the approach that reverse auction vendors charge the contracting community to participate in the process. Other complexities noted related to vendor pre-qualification and potential disqualification from the process. In summary, it is anticipated that an organization can be chosen to support a successful pilot program to include the defined commodity type purchases described above.

RECOMMENDATION

Several policy issues were identified which need further review and direction by the Administrative Committee in an effort to address organizational procurement policies.

Pending endorsement from the governing bodies, the administrators will begin pursuing consolidation-collaboration of the initial assembly of approximately 35 contracts accessible for launching a joint purchasing program. It is therefore recommended that the Kalamazoo County Commission, the Kalamazoo City Commission and the Portage City Council accept this communication as a foundation document that will be used as a future reference point with regard to collaborative purchasing efforts.

October 26, 2011

Long Lake Association
5019 South Long Lake Drive
Portage MI 49002

City of Portage and Pavilion Township

Ladies and Gentlemen:

On behalf of the Long Lake Riparians, we are writing to open a dialog with the City of Portage and Pavilion Township regarding the need for an Aquatic Plant Management Program for Long Lake.

Since 2004 Long Lake Association Members have been diligently monitoring the presence of three invasive species, Eurasian Milfoil, Phragmites and Purple Loosestrife that inhabit our lake; as well as keeping an eye on the steady increase of nuisance native plant growth.

Long Lake currently contains a healthy and diverse aquatic plant community consisting of at least 21 native species. However, a 2010 study identified the existence of new exotic invasive species, Starry Stonewort. These four invasive species have the potential to threaten native plants and the health of our lake.

Starry Stonewort is a very prolific invasive species and will require herbicide treatments to eradicate it. Starry Stonewort has a tendency to colonize in deeper water and can form dense mats several feet thick.

Eurasian milfoil is especially problematic in that it often becomes established early in the growing season and can grow at greater depths than most plants. Eurasian milfoil often forms a thick canopy at the lake surface that can degrade fish habitat and can seriously hinder recreational activity.

Phragmites and Purple Loosestrife are less prolific, but still need to be controlled with sound aquatic plant management strategies. Once introduced into a lake system, these four species have the potential to out-compete and displace more desirable plants and become the dominant species in the lake.

In September a newsletter that included a postage prepaid postcard survey card was sent to approximately 328 Riparians. The mailing updated everyone on the status of our ongoing studies and to survey the support for this project. To date, 68 voted to support the project, 26 voted against the project and 14 said they were undecided and requested more information.

At our Annual Meeting held on September 27th, by show of hands 41 people voted to support the project and 2 voted against. A gentleman who voted against the project voiced his concern about the effect of using herbicides and their impact on fishing in the lake. The second individual objected to the project based on their opinion that the Riparians should not have to pay for the project. She stated the monies should come from the State of Michigan, Kalamazoo County or the City of Portage or Pavilion Township.

Based on the survey findings and the strong support received at our Annual Meeting, the Long Lake Association supports the establishment of a Special Assessment District for the purpose of implementing an aquatic plant management program that focuses on the eradication and control of the four invasive vegetation species in Long Lake.

We respectfully request that the City of Portage and Pavilion Township refer the information contained herein to the Governmental Lake Board for a formal review of the project. We know that establishing aquatic plant management programs can take approximately two years to implement. Time is of the essence and the need to take action is upon us.

Long Lake and the surrounding lakes are important assets to our county. These aquatic ecosystems must be protected not only for us, but for the future generations of Kalamazoo County.

We would be happy to meet with you and share our knowledge and concerns regarding this issue. Please let us know if you have any further questions or need additional information.

Best regards,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

David Steffens, President
Long Lake Association

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 28, 2011

FROM: Maurice S. Evans, City Manager

SUBJECT: Long Lake Improvement – Aquatic Plant Management

ACTION RECOMMENDED: That City Council adopt the Resolution Regarding Long Lake Improvement Pursuant to the Inland Lake Improvement Act and direct the Governmental Lake Board for Long Lake to proceed with the necessary steps to improve Long Lake.

City Council received a communication from the Long Lake Association at the November 1, 2011 City Council meeting requesting that Council refer a request for aquatic plant management in Long Lake to the Long Lake Governmental Lake Board.

The City Attorney has prepared the attached Resolution Regarding Long Lake Improvement Pursuant to the Inland Lake Improvement Act. It is recommended that City Council adopt the resolution and direct the Governmental Lake Board of Long Lake to proceed with the necessary steps to improve Long Lake.

CITY OF PORTAGE

RESOLUTION REGARDING LONG LAKE IMPROVEMENT PURSUANT TO THE INLAND LAKE IMPROVEMENT ACT

Minutes of a regular meeting of the City Council for the City of Portage, Michigan held on _____, 2011 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, Long Lake is a public inland lake located in the City of Portage and Pavillion Township as defined by the Inland Lake Improvement Act of 1966 as amended; and

WHEREAS, the Long Lake Association ("LLA") has represented to the City Council that four invasive plant species are present in the lake and can threaten native plant growth, degrade fish habitat, hinder recreational activity and generally have a negative and harmful effect to the health of the lake.

WHEREAS, the LLA has represented to the City Council that an Aquatic Plant Management Program that focuses on the eradication and control of the four invasive vegetation species would likely maintain the quality and usefulness of Long Lake by area residents and preserve its longevity as a viable asset to the City of Portage; and

WHEREAS, the City Council, on its own motion under the Act and pursuant to a request made by the LLA desires to improve Long Lake for the protection of the public health, safety and welfare, the conservation of the natural resources of the City and to preserve property values around the lake;

NOW, THEREFORE, BE IT RESOLVED that the City Council considers it expedient to have Long Lake improved and hereby directs the Long Lake Governmental Lake Board ("LLGB") for Long Lake to proceed with necessary steps under the Act.

BE IT FURTHER RESOLVED that if not already accomplished, the LLGB shall elect a chairperson and secretary. A majority of the members of the LLGB shall constitute a quorum. The concurrence of a majority of any matter within the duties of the LLGB shall be required for the determination of that matter.

BE IT FURTHER RESOLVED that the City of Portage desires the LLGB to determine the scope of any proposed project, including an engineering feasibility report and an economic study report and estimate of cost and any other determination and/or investigation allowed by or required by the Act and provide its finding to the City Council;

BE IT FURTHER RESOLVED that the LLGB shall initiate proceedings as described in the Act to accomplish the lake improvement as described, including establishing a special assessment district of all lands benefitted by the lake improvement.

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: _____, 2011.

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 _____, 2011, the original of which is in the official proceedings of the City Council.

James R. Hudson, City Clerk

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 25, 2011

FROM: James R. Hudson, City Clerk

SUBJECT: Resolution to Convey Easement - Consumers Energy

ACTION RECOMMENDED: That City Council reconfirm the resolution to grant an easement to Consumers Energy.

On October 4, 2011, City Council adopted Resolution No. 1 to grant an easement to Consumers Energy on city-owned property for the undergrounding of utilities on South Westnedge Avenue. The Notice of Intention to Grant the Easement was published in the *Kalamazoo Gazette* on October 5, 2011. The statute provides that should no objection be received during the 28-day period following such publication, the City Council shall grant final approval. No objections have been filed with the City Clerk.

It is recommended that City Council adopt Resolution No. 2 to grant an easement to Consumers Energy on city-owned property for the undergrounding of utilities on South Westnedge Avenue.

Attachments: Communication from City Manager dated September 26, 2011
Map of 5441 South Westnedge Avenue
Resolution No.1 dated October 4, 2011
Resolution No.2

c Maurice S. Evans, City Manager

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: September 26, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: Consumers Energy Easement, 5441 South Westnedge Avenue

ACTION RECOMMENDED: That City Council:

- a. adopt a resolution to grant an easement to Consumers Energy on city-owned property for the undergrounding of utilities on South Westnedge Avenue;
- b. place the resolution on file with the City Clerk for 28 days; and
- c. take final action on November 1, 2011.

As part of the planned improvements to the I-94/South Westnedge Avenue interchange, a new traffic signal will be installed to control the access ramps to and from I-94 as well as South Westnedge Avenue. In order for Consumers Energy to provide electric power to the traffic signal controller, an easement is required for the placement of buried conduit and cable on city-owned property addressed as 5441 South Westnedge Avenue. A 12-foot wide easement along South Westnedge Avenue and a 23 foot easement along Amos Avenue has been requested by Consumers Energy. The easement will not impact any future development of the subject parcel.

The accompanying resolution has been prepared by the City Attorney. The resolution, if approved by City Council, will be on file with the City Clerk for 28 days as required by the City Charter. This matter will then be placed on the November 1, 2011 City Council meeting for final action.

Attachments

South Westledge Avenue

Amos Avenue

Proposed Easement to Consumers Energy

R/W

23'

5441 South Westledge Avenue
(former gas station)

12'

R/W



1 inch = 20 feet

Path: R:\GISAD\MINI\work\projects\DEPT\STU\consumers_esm\5441_westledge.mxd

Legend



Proposed Easement

5441 South Westledge Avenue

**CITY OF PORTAGE
RESOLUTION NO. 1 TO GRANT EASEMENT**

At a regular meeting of the Council of the City of Portage, Kalamazoo County, Michigan, held at the City Hall in said City on the 4th day of October, 2011 at 7:30 p.m. local time.

PRESENT: Councilmembers Bailes, Campbell, Reid and Urban, Mayor Pro Tem Sackley and Mayor Strazdas.
ABSENT: Councilmember Randall.

The following resolution was offered by:

COUNCILMEMBER: Sackley and supported by

COUNCILMEMBER: Reid.

WHEREAS, Consumers Energy, in conjunction with improvements to the I-94/South Westnedge Avenue interchange is providing electrical service at the City's request;

WHEREAS, Consumers Energy is requesting an easement on City property for the installation of conduit and cable in conjunction with the project;

BE IT RESOLVED that the City of Portage grant an easement to Consumers Energy to install conduit and cable used in the installation of electrical services lines on South Westnedge Avenue, which land is in the City of Portage, County of Kalamazoo, State of Michigan, described as follows:

A parcel of land situated in the Northwest quarter of Section 8, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan and more particularly described as follows:

The North 23 feet and the West 12 feet of Lot 18 of Assessor's plat of DeBoer Homestead Acres, City of Portage, Michigan Section as recorded Liber 14 of Plats on Page 6, Kalamazoo County Records.

BE IT FURTHER RESOLVED, that notice, in substantially the form attached as Attachment "A", be published in a newspaper of general circulation within the City, giving notice of the City's intent to grant the above described easement.

AYES: Councilmember Bailes, Campbell, Reid and Urban, Mayor Pro Tem Sackley and Mayor Strazdas

NAYS: Councilmember None.

ABSENT: Councilmember Randall

RESOLUTION DECLARED ADOPTED: October 4, 2011.


James R. Hudson, City Clerk

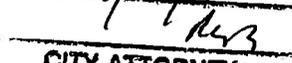
CERTIFICATION

STATE OF MICHIGAN)
)
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 4th day of October, 2011, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this 5th day of October 2011.


James R. Hudson, City Clerk

APPROVED AS TO FORM
DATE 9/23/11

CITY ATTORNEY

ATTACHMENT A

CITY OF PORTAGE
NOTICE OF INTENTION TO GRANT EASEMENT
IN THE CITY OF PORTAGE, MICHIGAN

PLEASE TAKE NOTICE, that on the ____day of _____, 2011, the City Council of the City of Portage voted to grant an easement for the installation of electric lines on South Westnedge Avenue to Consumers Energy Company of Jackson, Michigan.

A parcel of land situated in the Northwest quarter of Section 8, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan and more particularly described as follows:

The North 23 feet and the West 12 feet of Lot 18 of Assessor's plat of DeBoer Homestead Acres, City of Portage, Michigan Section as recorded Liber 14 of Plats on Page 6, Kalamazoo County Records.

PLEASE TAKE FURTHER NOTICE that the resolution authorizing this action is on file with the City Clerk and open for public inspection. Said resolution will be so held by the City Clerk for twenty-eight (28) days after publication of this notice and may be inspected at the Clerk's Office during regular working hours. Any person(s) objecting to this transaction should make their objection known the City Council. After said twenty-eight (28) day period, the Council may take final action and grant the easement.

Dated: _____, 2011

James R. Hudson, City Clerk

**CITY OF PORTAGE, MICHIGAN
RESOLUTION NO. 2 TO GRANT EASEMENT**

Minutes of a regular meeting of the City Council for the City of Portage, Michigan held on _____, 2011 at 7:30 p.m. local time at City Hall in the City of Portage, Michigan.

PRESENT: _____

ABSENT: _____

The following resolution was offered by:

COUNCILMEMBER: _____ and supported by

COUNCILMEMBER: _____.

WHEREAS, the City Council adopted a Resolution stating its interest to grant an Easement located in the City of Portage;

WHEREAS, notice of the City's intent to grant such Easement and Right-of-Way was published in a newspaper of general circulation in the City for the period of time required by City Charter;

NOW, THEREFORE, BE IT RESOLVED that the City of Portage grant an Easement on the following described property to Consumers Energy:

A parcel of land situated in the Northwest quarter of Section 8, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan and more particularly described as follows:

The North 23 feet and the West 12 feet of Lot 18 of Assessor's plat of DeBoer Homestead Acres, City of Portage, Michigan Section as recorded Liber 14 of Plats on Page 6, Kalamazoo County Records.

AYES: Councilmember _____

NAYS: Councilmember _____

ABSENT: Councilmember _____

RESOLUTION DECLARED ADOPTED: _____

James R. Hudson, City Clerk

CERTIFICATION

STATE OF MICHIGAN)
)
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 ____ day of _____, 2011, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this ____ day of _____, 2011.

JAMES R. HUDSON, City Clerk

Approved as to Form
Date: 9/23/11
[Signature]

City Attorney

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: November 1, 2011

FROM: Maurice S. Evans, City Manager

SUBJECT: City Hall Use Policy – Revised Proposed Policy (**Agenda Item J.1.**)

ACTION RECOMMENDED: That the City Council Policy for Use of City Hall dated November 1, 2011 and the City of Portage Application / Agreement for Use of City Hall be adopted.

A question was raised concerning the suggested City Hall Use Policy as recommended by the City Council Customer Service Committee – specifically, Section D.1. The recommended paragraph as originally presented is as follows:

During normal business hours (Monday through Friday from 8 a.m. to 5 p.m.) and any special holiday hours there is no fee for the use of City Hall.

A change to the recommended paragraph has been made as follows:

During normal business hours (Monday through Friday from 8:00 a.m. to 5:00 p.m.) there is no fee for the use of City Hall.

The phrase *and any special holiday hours* was added to the paragraph by the committee during the review process in an effort to indicate that on holidays when City Hall is open for business (Columbus Day, Veterans' Day, etc.) there would be no fee. The City Council Customer Service Committee Chairperson Campbell has reviewed the paragraph and approved the removal of the noted phrase. A revised City Hall Use Policy is attached for the consideration of the Council.

Attachment

CITY COUNCIL POLICY FOR USE OF CITY HALL

A. Intent of Policy. It is the City's intent to allow the use of specific locations of City Hall for only limited purposes according to the policy below. By allowing this limited use, the City does not intend the City Hall to become a location which is open to public assembly and debate¹. In this regard, the City still will continue to specifically prohibit uses of City Hall not in strict compliance with this policy. The City Manager, or his authorized designee, has full authority to implement this City Council Policy for Use of City Hall.

B. Use of City Hall is Limited to the Following:

1. The sole use of City Hall is for the purpose of conducting official City business on behalf of the City, including meetings of City Council and other City boards and commissions, as well as to provide for the legislative and administrative operations and programs of the City. Therefore, City Councilpersons and City staff conducting official City business, programs and activities shall have priority use over all City Hall facilities.² The City Manager, or his authorized designee, has full authority to cancel scheduled events at any time due to an act of God, catastrophic events, emergencies or other unforeseen circumstances.
2. Elected officials whose constituents include City of Portage residents may use City Hall subject to the limitations and exclusions contained in this policy and only if the use is for a meeting or special event which is related to and within the elected official's responsibilities as an elected official.
3. Civil ceremonies (weddings) are permitted in the City Council Chambers during normal business hours (Monday through Friday from 8:00 a.m. to 5:00 p.m.) subject to the availability of the Council Chambers and by appointment with the Mayor. No candles, decorations or rice/confetti are permitted.

C. Uses Prohibited. All other uses are strictly prohibited and include, but are not limited to, the following:³

1. The use of City Hall under Section (B)(2) above shall not be permitted: i) within 90 days of a primary or general election in which the elected official is a candidate; or ii) subsequent to the elected official's declaration of candidacy for election or reelection to an elected position.

¹ In essence, this policy does not establish City Hall as a "public forum" under Michigan law. It is the City's intent that the City Hall is still a non-public forum.

² The conditions and limitations contained in this City Council Policy for Use of City Hall do not apply to the use of City Hall for official City business and any other related use described in Section (B)(1).

³ The prohibitions do not apply if permitted at a meeting subject to the Open Meetings Act or if permitted under any State or Federal law or City ordinance.

2. Activities by persons or organizations for election, campaign, or political purposes.
3. Purposes contrary to Federal, State or City law.
4. Activities involving fund-raising, advertising, promoting or selling of merchandise or services for profit or not for profit, including charitable gaming.
5. Public rallies.
6. Activities by persons or organizations for religious purposes.
7. Any other use not consistent with the general business purpose of City Hall.

D. Fees and times for Use of City Hall. The following fees apply for the use of City Hall:

1. During normal business hours (Monday through Friday from 8:00 a.m. to 5:00 p.m.) there is no fee for the use of City Hall.
2. If contracted services or City staff need to be scheduled for the use of City Hall, the fee is for the actual costs associated with staffing City Hall (at a rate of \$17.50 per hour) and any necessary janitorial services required as a result of the use.
3. No use of City Hall shall begin before 7:00 a.m. nor continue past 10:00 p.m.
4. No use of City Hall shall be held on Sunday or holidays when City Hall is closed.
5. Any use of City Hall which will incur fees shall be required to submit a \$100.00 deposit prior to the event and will receive an invoice for actual associated costs after the event.

E. Areas for Use of City Hall.

1. The use of City Hall shall take place only in one or more of the following areas: i) City Council Chambers; ii) lobby of City Hall; iii) Conference Room 1; iv) Fountain area and v) Green Space/Grounds.
2. No event, activity or meeting shall be held in any other location in City Hall, including the parking lot or any grounds of the City Hall property.

F. Application required:

1. All persons, groups or organizations using City Hall under this Policy shall make application for such use on an application approved by the City Manager.
2. The information in the application shall include, but is not limited to: i) contact information for the person, group or organization making the application; ii) the responsible person or entity; iii) the number of persons expected to be in attendance; iv) the purpose of the event or meeting; v) the permitted area of the City Hall needed; and vi) a statement that the person, group or organization

agrees to hold the City of Portage, its agents, officers, elected officials, employees and

representatives, harmless from any and all claims by any person arising from the use of the facility.

G. Request to Use City Hall.

1. All requests for the use of City Hall shall be made to the Office of the City Clerk at 7900 South Westnedge Avenue, Portage Michigan 49002; (269) 329-4411.
2. All requests for use of City Hall shall be approved by the City Manager.
3. If use of City Hall is denied by City Manager, the applicant may appeal the City Manager's denial to City Council by written request filed with the City Clerk within ten (10) days of the City Manager's denial. The City Council shall decide the appeal within thirty (30) days of receipt of the appeal.

REVISED November 1, 2011

CITY OF PORTAGE
APPLICATION/AGREEMENT FOR USE OF CITY HALL

1. Persons or Organizations ("Applicant") using City Hall: _____

2. Mailing address of Applicant: _____
City: _____ Zip: _____
3. Telephone number for Applicant: _____
4. Contact person for Applicant: _____
5. Telephone number of contact person: (H)_____ (W)_____ (C)_____
6. Date City Hall is to be used: _____, 20____.
7. Hours City Hall is to be used: From: _____ To: _____
8. Purpose for which City Hall will be used: _____

9. Areas of City Hall desired: Lobby___ Council Chambers___ Conference Room 1 ___
Fountain Area___ Green Space / Grounds___
10. The Applicant:
 - A. Agree(s) to indemnify, defend and hold the City harmless from and against any damage, liability or claim of any person or entity for injury to person or property or death arising in any way out of the use of the City Hall by Applicant, his/her/its officers, directors, guests, members, employees, agents or assignees.
 - B. Agrees to release from all liability the City of Portage, its agents, officers, elected officials, employees and representatives for damage to the property of any person or entity participating in the activities applied for herein, as well as for the death or injury of any such person or entity occurring as a result of the use of the facilities as applied for herein.
 - C. Agrees to pay for all damages to City property or equipment over and above normal wear and tear.
 - D. Assumes full responsibility for the conduct of the group during the time this facility is being used.
 - E. Understands that the City of Portage reserves the right to exercise the supervisory authority and to prevent unauthorized or illegal activities on City property.
 - F. Agrees to leave the premises in the same condition as they were upon arrival.

- G. Agrees to abide by the City Council Policy for Use of City Hall.
 - H. Applicant represents that it has the power and authority to enter into this Agreement and assume the obligations and rights so conferred.
 - I. In the event of an emergency decision, that decision is to be made by the City Manager or designee. If the City Manager or designee is not available, the Building Supervisor will make the emergency decision which he or she deems to be in the best interest of the City, and then promptly thereafter give written notice of the decision to the City Manager with reasons for that decision.
11. Applicant has read and agrees to the following City Hall Use Rules:
- A. Any individual or group using the Building shall always conduct themselves in a lawful and legal manner.
 - B. No one will be permitted to enter the Building bare footed at any time.
 - C. No smoking, drugs, or drinking of alcoholic beverages or possession of the same will be permitted at any time.
 - D. Areas not specifically reserved shall not be entered or occupied by the applicant, the group, any of its individuals, or any participants and guests.
 - E. Youth shall be supervised at all times by a responsible adult. Playing in halls, restrooms, or elevators by children is prohibited. Children attending meetings or activities in the Building must be supervised at all times by a responsible adult who is present.
 - F. Open flames, lighted candles, glitter, rice, confetti, graphite, paint, hay , straw, corn stalks, grass, palm fronds, and other similar materials ARE NOT allowed in the Building.
 - G. Tables and chairs are provided in the Building. Heavy items are to be carried when moved to avoid damage to the floor. Tables, chairs, and other equipment are not to be taken from the Building for any reason.
 - H. Hallways, stairways, exits, rest rooms and other traffic areas are to remain free of tables, chairs, boxes and other items at all times.
 - I. No nails, tape or tacks may be used on the walls.
 - J. Pictures, plaques, flags, blinds, light fixtures, furniture, etc. are not to be removed or rearranged.
 - K. The party reserving the facility is responsible for the conduct of participants and guests.
 - L. Meetings and activities shall end on time. Sufficient time shall be scheduled for cleanup within the scheduled room at the conclusion of the activity.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 24, 2011

FROM: City Council Customer Service Committee
Councilmember Elizabeth Campbell (Chair)
Councilmember Cory Bailes
Councilmember Patricia Randall

SUBJECT: City Council Policy for Use of City Hall

ACTION RECOMMENDED: That the City Council Policy for Use of City Hall and the City of Portage Application / Agreement for Use of City Hall be adopted.

The City Council Customer Service Committee, along with City Manager Evans and City Attorney Brown, met several times to consider a City Council policy for the use of City Hall by outside groups / individuals. As a result, the attached policy and application were developed and are presented for consideration by the City Council.

The Committee considered a requirement that individuals and organizations provide proof of liability insurance; however, the Committee believes it would not be practical for building users, particularly individuals, to meet this obligation. The lack of an insurance requirement does leave the city vulnerable to some extent.

The City Council Customer Service Committee recommends that City Council adopt the City Council Policy for Use of City Hall and the City of Portage Application / Agreement for Use of City Hall.

Attachments

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 26, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: AT&T – Police Positron 9-1-1 Contract

ACTION RECOMMENDED: That City Council approve a one-year contract with AT&T in the amount of \$11,600 for 9-1-1 maintenance, with the option to annually renew provided the terms, conditions and price do not change, and authorize the City Manager to execute all documents related to the contract on behalf of the city.

The Positron 9-1-1 system is a critical portion of the Police/Fire Emergency Dispatch Center. This system provides radio and telephone communications, including 9-1-1 services for the entire dispatch center. The system includes 9-1-1 lines, console equipment, 9-1-1 ALI (Automatic Location Information), and ANI (Automatic Number Identification).

Service to date by AT&T for the Positron 9-1-1 system has been outstanding since its implementation. The current contract price for this system is \$11,250. AT&T is a sole source provider for this type of maintenance.

It is recommended that City Council renew the one-year maintenance contract with AT&T for \$11,600, with the option to renew annually, and authorize the City Manager to execute all documents related to this contract.

MATERIALS TRANSMITTED

Friday, October 14, 2011

1. Communication from the City Manager regarding the Citizen Comment Summary for September 2011 – Information Only.
2. Communication from the City Manager regarding new Connecting to Municipal Water and Sewer brochures – Information Only.



Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager